

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Robin B. Stillwell, Circuit Court Judge

Appellate Case No. 2016-000548
Case No. 2013-CP-23-6522

RECEIVED

AUG 17 2017

SC Court of Appeals

Madel C. Rivero, as Personal Representative for the
Estate of Lilia Lorena Blandin, ... Respondent,

v.

Sheriff Steve Loftis, in his capacity as
Sheriff of Greenville County, ... Appellant.

RECORD ON APPEAL - VOLUME I

Andrew F. Lindemann
DAVIDSON & LINDEMANN, P.A.
1611 Devonshire Drive
Post Office Box 8568
Columbia, South Carolina 29202
(803) 806-8855

Counsel for Appellant

John S. Nichols
Blake A. Hewitt
BLUESTEIN NICHOLS THOMPSON
& DELGADO, LLC
1614 Taylor Street
Post Office Box 7965
Columbia, South Carolina 29202
(803) 779-7599

Counsel for Respondent

Russell W. Harter, Jr.
Carly H. Davis
CHAPMAN, HARTER & HARTER, P.A.
14 Lavinia Avenue
Post Office Box 10224
Greenville, South Carolina 29603
(864) 233-4500

Counsel for Appellant

Daniel J. Farnsworth, Jr.
FARNSWORTH LAW OFFICES, LLC
2 Williams Street
Post Office Box 8719
Greenville, South Carolina 29604
(864) 250-9119

Daniel W. Luginbill
J. Christopher Wilson
WILSON & LUGINBILL, LLC
Post Office Box 1150
Bamberg, South Carolina 29003
(803) 245-7799

Counsel for Respondent

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Robin B. Stillwell, Circuit Court Judge

Appellate Case No. 2016-000548
Case No. 2013-CP-23-6522

Madel C. Rivero, as Personal Representative for the
Estate of Lilia Lorena Blandin, ... Respondent,

v.

Sheriff Steve Loftis, in his capacity as
Sheriff of Greenville County, ... Appellant.

RECORD ON APPEAL - VOLUME I

Andrew F. Lindemann
DAVIDSON & LINDEMANN, P.A.
1611 Devonshire Drive
Post Office Box 8568
Columbia, South Carolina 29202
(803) 806-8855

Counsel for Appellant

John S. Nichols
Blake A. Hewitt
BLUESTEIN NICHOLS THOMPSON
& DELGADO, LLC
1614 Taylor Street
Post Office Box 7965
Columbia, South Carolina 29202
(803) 779-7599

Counsel for Respondent

Russell W. Harter, Jr.
Carly H. Davis
CHAPMAN, HARTER & HARTER, P.A.
14 Lavinia Avenue
Post Office Box 10224
Greenville, South Carolina 29603
(864) 233-4500

Counsel for Appellant

Daniel J. Farnsworth, Jr.
FARNSWORTH LAW OFFICES, LLC
2 Williams Street
Post Office Box 8719
Greenville, South Carolina 29604
(864) 250-9119

Daniel W. Luginbill
J. Christopher Wilson
WILSON & LUGINBILL, LLC
Post Office Box 1150
Bamberg, South Carolina 29003
(803) 245-7799

Counsel for Respondent

INDEX

VOLUME I

Verdict Form.....	1
Order issued by Judge Robin H. Stilwell, filed February 10, 2016	3
Order Concerning Defendant Greenville Sheriff Post-Trial Motions, filed February 11, 2016.....	9
Form 4 Order issued by Judge Robin H. Stilwell, filed February 17, 2016	16
Original Transcript of <i>voir dire</i>	20
Sworn Statement of Michael Cornish	47
Copy of Jury List	65
Redacted and unredacted Incident Report of incident on June 23, 2015	81
Affidavit of Russell W. Harter, with attachments	86
Disc of 911 Call with Certification of Authenticity from Simpsonville Police Department	96
Affidavit of Jennifer Skipper	98
Affidavit of Jonathan Edwards	100
Affidavit of David Tedrow	102
Affidavit of defense counsel dated December 15, 2015	104
Written Transcript of 911 call	107
Order on Defendant's Motion to Alter or Amend Judgment and/or Motion for Reconsideration, filed March 24, 2016.....	112
Complaint, filed December 19, 2013	114

Answer of Sheriff Steve Loftis, in his Capacity as Sheriff of Greenville County and Tim Gault, in his Capacity as Interim Director of Greenville County Emergency Medical Services, filed February 17, 2014	158
Defendant's Motion for Judgment Notwithstanding the Verdict and a New Trial Pursuant to S.C.R.C.P. Rule 50 and Rule 59, filed October 12, 2015	167
Defendant's Motion for Judgment Notwithstanding the Verdict and/or in the Alternative New Trial Nisi with Remittitur Pursuant to S.C.R.C.P. Rule 50 and Rule 59, filed October 12, 2015	176
Defendant's Motion for Judgment Notwithstanding the Verdict and a New Trial Absolute Pursuant to S.C.R.C.P. Rule 50 and Rule 59, filed October 12, 2015	180
Plaintiff's Memorandum in Reply to Defendant Greenville Sheriff Office's Post-Trial Motions, filed October 26, 2015	185
Defendant's Motion Pursuant to South Carolina Rules of Civil Procedure, Rule 60(b), filed November 20, 2015	195
Defendant's Amended and Supplemental Motion Pursuant to South Carolina Rules of Civil Procedure, Rule 5, filed November 20, 2015	198
Plaintiff's Memorandum in Opposition to Defendant's Motion for a New Trial Pursuant to Rules 59 and 60, SCRPC, dated December 16, 2015	201
Defendant's Motion to Alter or Amend Judgment and/or Motion for Reconsideration, filed February 25, 2016	211
Transcript of December 17, 2015 Motion Hearing	213
Trial Transcript	249
Patricia Sullivan	
Direct Examination by Mr. Luginbill	287
Cross Examination by Mr. Harter	322

Re-Direct Examination by Mr. Luginbill	340
Re-Cross Examination by Mr. Harter	349
Neil Logan	
Direct Examination by Mr. Wilson	357
Cross Examination by Mr. Harter	368
Re-Direct Examination by Mr. Wilson	382
Re-Cross Examination by Mr. Harter	387
David Picone	
Direct Examination by Mr. Luginbill.....	389
Cross Examination by Mr. Harter	419
Re-Direct Examination by Mr. Luginbill	440
Kevin Tyner	
Direct Examination by Mr. Luginbill.....	452

VOLUME II

Chelsea Blandin	
Examination by the Court.....	484
Direct Examination by Mr. Farnsworth	489
Cross Examination by Mr. Harter	504
Madel Rivero	
Direct Examination by Mr. Farnsworth	511
Cross Examination by Mr. Harter	540
Re-Direct Examination by Mr. Farnsworth.....	553

Melvin L. Tucker

Direct Examination by Mr. Luginbill.....	554
Cross Examination by Mr. Harter	582
Re-Direct Examination by Mr. Luginbill	617

Barbara Headen

Direct Examination by Mr. Wilson	625
Cross Examination by Mr. Harter	627

Kim Selvy

Direct Examination by Mr. Farnsworth	628
Cross Examination by Mr. Harter	635

Jenna Spencer

Direct Examination by Mr. Wilson	644
Cross Examination by Mr. Harter	652

Michael Ward

Direct Examination by Mr. Luginbill.....	657
Cross Examination by Mr. Harter	663
Re-Direct Examination by Mr. Luginbill	669
Re-Cross Examination by Mr. Harter	671

Defendant's Motion for Directed Verdict	673

Jack Ryan

Direct Examination by Mr. Harter	692
Cross Examination by Mr. Luginbill.....	747

Re-Direct Examination by Mr. Harter.....	789
Re-Cross Examination by Mr. Luginbill.....	796
Defendant's Motion for Directed Verdict.....	799
Closing Statements	818
Charging of the Jury	819
Verdict	838
Plaintiff's Trial Exhibit #1	842
Plaintiff's Trial Exhibit #2	843
Plaintiff's Trial Exhibit #3	847
Plaintiff's Trial Exhibit #4	848
Plaintiff's Trial Exhibit #5	849
Plaintiff's Trial Exhibit #6	852
Plaintiff's Trial Exhibit #7	853
Plaintiff's Trial Exhibit #8	857
Plaintiff's Trial Exhibit #9	860
Plaintiff's Trial Exhibit #10	869
Plaintiff's Trial Exhibit #13	879
Plaintiff's Trial Exhibit #23	881
Defendant's Trial Exhibit #1.....	882
Certificate of Counsel	
Certificate of Compliance	

STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

COUNTY OF GREENVILLE

C.A. No. 2013-CP-23-6522

MADEL C. RIVERO, AS PERSONAL
REPRESENTATIVE OF THE ESTATE
OF LILIA LORENA BLANDIN,

PLAINTIFF

VS.

SHERIFF STEVE LOFTIS, IN HIS
CAPACITY AS SHERIFF OF
GREENVILLE COUNTY.

DEFENDANT.

1. Was the defendant grossly negligent?
☒ YES - Go to Question 2
☐ NO - Stop deliberations
2. Was the defendant's gross negligence a proximate cause of the plaintiff's injuries?
☒ YES - Go to Question 3
☐ NO - Stop deliberations
3. Was the plaintiff negligent?
☒ YES - Go to Question 4
☐ NO - Go to Question 7
4. Was the plaintiff's negligence a proximate cause of the plaintiff's injuries?
☒ YES - Go to Question 5
☐ NO - Go to Question 7
5. Using the combined negligence that proximately caused the plaintiff's injuries as one hundred percent (100%), what percentage of that negligence is attributable to the plaintiff and what percentage is attributable to the defendant? [The percentage must add up to 100%. It is not necessary for each defendant to be assigned a percentage of negligence. It is perfectly acceptable for a defendant to be assigned a zero percentage (0%).]

Plaintiff _____ %

Defendant _____ %

Total _____ %

6. Was the plaintiff's negligence greater than fifty percent?

YES - Stop deliberations

NO - Go to Question 7

7. Please state the amount of damages, if any, sustained by the plaintiff. [Do not reduce the plaintiff's total damages based on the percentage of negligence by any party. After you have answered these questions, the judge will compute the amount of damages for which the defendant is responsible based on the percentage of the defendant's negligence which you have decided proximately caused the plaintiff's injuries. You are to determine only the total amount of the plaintiff's damages and enter that amount below.]

\$250,000.00 Actual Damages - Survival Action

\$500,000.00 Actual Damages - Wrongful Death Action


FOREPERSON

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

Madel C. Rivero, as Personal
Representative for the Estate of Lilia
Lorena Blandin,

Plaintiff,

v.

Sheriff Steve Loftis, in his capacity as
Sheriff of Greenville County,

Defendant.

IN THE COURT OF COMMON PLEAS FOR
THE THIRTEENTH JUDICIAL CIRCUIT

Case No. Case No. 2013-CP-23-6522

ORDER

This matter is before the court on two post-trial motions filed by Defendant, Sheriff Steve Loftis, in his capacity as Sheriff of Greenville County. The first motion is pursuant to Rule 59, SCRPC, on the ground of newly discovered evidence that a juror failed to disclose information in response to a *voir dire* question that would have caused Defendant to request that she be struck for cause or would have been a material factor in Defendant's use of its peremptory jury strikes. Defendant also filed a motion pursuant to Rule 60(b), SCRPC, for relief from the jury's verdict, again based upon alleged juror misconduct in failing to disclose information during *voir dire* that would have caused Defendant to request that the juror be struck for cause or would have been material to Defendant's jury strikes.

On December 17, 2015, the court held a hearing on these motions. Present for the Defendant were Russell W. Harter and Carly H. Davis of Greenville, South Carolina. Present for the Plaintiff were J. Christopher Wilson of Bamberg, South Carolina, Daniel J. Farnsworth, Jr., of Greenville, South Carolina, and John S. Nichols of Columbia, South Carolina. After hearing arguments and carefully considering the submissions of counsel, Defendant's motions are

denied.¹

BACKGROUND

This was a wrongful death case in which the jury returned a verdict for Plaintiff against Defendant. During *voir dire*, the court asked the following question of the jury panel:

Is there anyone among you who has been a victim of criminal domestic violence?

In response to this question, one juror alerted the court that she had been in "a criminal domestic relationship" and that she could "not likely" be fair and impartial in this case. No other potential juror responded to this question.

After the verdict Defendant made several post-verdict motions. While those motions were pending Defendant made additional motions pursuant to both Rule 59 and Rule 60, SCRPC, asserting a juror, Robin Burns, had willfully failed to disclose that she had been a victim of criminal domestic violence in response to the *voir dire* question above.² Defendant asserts that the *voir dire* question required her to respond, and that had she responded Defendant would have used the information to challenge her for cause or would have used a peremptory strike to remove her.

The court denies Defendant's motions for the reasons set forth below.

¹ Plaintiff waived any objection to the following items being admitted at the hearing for the limited purpose of determining whether any further hearings are warranted: The affidavits of the Simpsonville Police Officers, the affidavit of a 9-1-1 operator, the 9-1-1 tape itself, a certified transcript of the 9-1-1 tape, and defense counsel's several affidavits. Plaintiff, however, objected to any sworn statement from juror Michael Cornish that Defendant submitted. The court sustains the objection to the statement, finding it inadmissible as set forth herein, but the remainder of the submissions were considered without objection.

² A party is permitted to amend a Rule 59 motion within a reasonable time after discovery of evidence of alleged juror bias and prejudice. *Gray v. Bryant*, 298 S.C. 285, 379 S.E.2d 894 (1989).

I. THE JUROR'S SWORN STATEMENT

Defendant proffered a sworn statement from juror Charles M. Cornish, Jr., one of the twelve jurors seated in this case. Plaintiff objected on the ground that the sworn statement was improper and inadmissible. The court agrees.

Rule 606(b), SCRE, expressly bars juror testimony regarding deliberations in any inquiry into the validity of a verdict. The Rule provides:

Upon an inquiry into the validity of a verdict or indictment, a juror may not testify as to any matter or statement occurring during the course of jury's deliberations or to the effect of anything upon that or any other juror's mind or emotions as influencing the juror to assent to or dissent from the verdict or indictment or concerning the juror's mental processes in connection therewith, except that juror may testify on the question whether extraneous prejudicial information was improperly brought to the jury's attention or whether any outside influence was improperly brought to bear upon any juror. Nor may a juror's affidavit or evidence of any statement by the juror concerning a matter about which the juror would be precluded from testifying be received for these purposes.

SCRE, Rule 606(b) (emphasis added). See also *Lynch v Carolina Self Storage*, 409 S.C. 146, 760 S.E.2d 111 (Ct. App. 2014) (noting Rule 606(b), SCRE, is the same as the federal rule, and finding testimony of alleged misconduct by other jurors during deliberations to be inadmissible under rule 606(b)); *Warger v. Shauers*, 574 U.S. ___, 135 S. Ct. 521 (2014) (US Supreme Court found an affidavit of a juror to establish that the jury foreperson had lied about her impartiality to award damages based on comments the foreperson had made during deliberations concerning the foreperson's own daughter having been involved in a fatal accident and that "a lawsuit would have ruined her life" because Rule 606(b), Fed.R.Civ.P. barred this type of juror testimony which went to the jury's deliberation process).

Mr. Cornish's proffered statement under oath is not admissible under Rule 606(b). The statement references only conversations that purportedly arose during the course of deliberations,

and Mr. Cornish's individualized interpretations of those purported conversations. These statements are purely intrinsic to the deliberation process and the proffered evidence is, therefore, inadmissible pursuant to Rule 606(b).

II. DEFENDANT'S MOTION FOR NEW TRIAL

A party seeking a new trial based upon the disqualification of a juror must show: (1) the fact of disqualification; (2) the grounds for disqualification were unknown prior to verdict; and (3) the moving party was not negligent in failing to learn of the disqualification before verdict. *Gray v. Bryant*, 298 S.C. 285, 288, 379 S.E.2d 894, 896 (1989), citing *Thompson v. O'Rourke*, 288 S.C. 13, 339 S.E.2d 505 (1986).

The court finds that Defendant failed to establish the "fact of disqualification" of Juror Burns as required by *Gray v. Bryant*. The court reviewed the 9-1-1 incident report, the 9-1-1 tape and transcript, and the affidavits of the officers who responded to the call from Ms. Burns' home. All of this evidence indicates clearly and unequivocally that Juror Burns was not a victim of Criminal Domestic Violence. The question the court posed in *voir dire* was clear and unambiguous, and there is no evidence that Ms. Burns, either objectively or subjectively, concealed information. Simply put, the record in this case, and the public record in general, clearly indicate that Ms. Burns was not the victim of Criminal Domestic Violence. Accordingly, Defendant has failed to establish the "fact of disqualification" so as to obtain a new trial based upon disqualification of a juror.

Furthermore, after the court had published a brief summary of the allegations in this case, which included the fact that a wife had been killed by her husband, the court posed the following final question in *voir dire*:

All right, ladies and gentlemen, is there anyone among you who for whatever reason feels as though you could not be a fair and impartial juror in the trial of this case and render a verdict in accordance with the law as I give it to you?

Although one juror responded who had previously indicated her inability to be impartial, Juror Burns did not respond. By failing to respond, Juror Burns clearly indicated that she could be fair and impartial in the trial of the case, notwithstanding her prior experiences. Defendant has failed to show that Juror Burns' failure to respond during *voir dire* was untruthful or deceitful so as to rise to the level of an intentional concealment of information. *See State v. Kelly*, 331 S.C. 132, 502 S.E.2d 99 (1998) (finding no intentional concealment where question would not elicit the information appellant claimed was intentionally concealed).

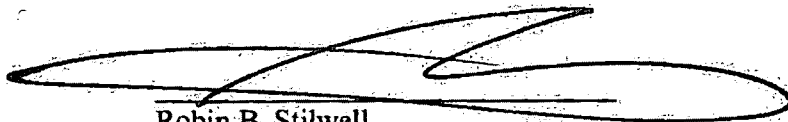
The court agrees that had the Defendant known of Juror Burns' experience with the police concerning an argument with her husband, the Defendant would surely have used a peremptory challenge to strike Ms. Burns. However, having determined that there was no concealment or non-disclosure, the point is moot. *See, e.g., Johnson v. Finney*, 246 S.C. 366, 143 S.E.2d 722 (1965) (it becomes unnecessary for court to decide question where issue is made moot and academic).

Finally, following the hearing the court took the Defendant's motions under advisement and reviewed all materials submitted by both parties. Defendant requested that the court hold a hearing, summon Juror Burns to appear and question Ms. Burns further about the *voir dire* process. After very careful consideration of Defendant's request and the record in this case, the court finds that no additional evidentiary hearing in this matter is required.

CONCLUSION

For the foregoing reasons, Defendant's motions pursuant to Rules 59 and 60 on the ground of juror misconduct are

DENIED.

A handwritten signature in black ink, appearing to read 'Robin B. Stilwell', is written over a horizontal line.

Robin B. Stilwell
Circuit Court Judge

February 9, 2016

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Madel C. Rivero, as Personal
Representative for the Estate of Lilia
Lorena Blandin,

Plaintiff,

vs.

Sheriff Steve Loftis, in his capacity as
Sheriff of Greenville County,

Defendant.

IN THE COURT OF COMMON PLEAS

Civil Action No: 2013-CP-23-6522

FILED
FEB 11 PM 4 29
CLERK OF COURT
JULIA M. SUMMER
JULIA M. SUMMER
JULIA M. SUMMER

ORDER CONCERNING DEFENDANT

GREENVILLE SHERIFF

POST-TRIAL MOTIONS

This matter is before the Court on seven (7) Motions filed by the Defendant as set out below. The parties submitted written arguments to the Court for consideration.

With respect to the following Motions filed by Defendant Greenville Sheriff, the Court finds that the jury's verdict of \$750,000.00 for Plaintiff's survival claim should be reduced, after credit for all applicable offsets and pursuant to the S.C. Tort Claims Act, and judgment should be entered against Defendant for \$300,000.00 on the survival claim. Similarly, the jury's verdict of \$500,000.00 for Plaintiff's Wrongful Death claim should be reduced, after credit for all applicable offsets and pursuant to the S.C. Tort Claims Act, and judgment should be entered against Defendant for \$300,000.00 on the wrongful death claim. Therefore, the Court grants the relief sought by Defendant in the Motions listed below and orders that judgment be entered against the Defendant on the Survival claim for \$300,000.00 and the Wrongful Death claim for \$300,000.00 :



1. Defendant's Motion for Offset and Remittitur of Verdict (filed October 12, 2015 at 3:24 pm)
2. Defendant's Motion to Alter or Amend (filed October 8, 2015 at 2:11 pm)
3. Defendant's Motion for Offset and Remittitur of Verdict (filed October 8, 2015 at 2:09 pm)
4. Defendant's Motion to Alter or Amend (filed October 12, 2015 at 3:23 pm)

With respect to the following Motions, the Court denies the Motions for the reasons set forth herein:

5. Defendant's Motions for JNOV and New Trial (filed October 12, 2015 at 3:24 and 3:25 pm)

To recover in a survival action in South Carolina, Plaintiff must establish some evidence of "conscious pain and suffering." Camp v. Petroleum Carrier Corp., 204 S.C. 133, 28 S.E.2d 683 (1944). Our courts do not require an extensive showing to support a finding of conscious pain and suffering, but merely some evidence – "a scintilla" – of conscious pain and suffering to submit the matter to the jury for determination. Croft v. Hall, 208 S.C. 187, 37 S.E.2d 537 (1946). If there is any evidence from which a jury could reasonably conclude a decedent experienced conscious pain and suffering, the issue must be submitted to the jury. Vereen v. Liberty Life Ins. Co., 306 S.C. 423, 412 S.E.2d 425 (Ct. App. 1991) (quoting Croft v. Hall). There is no requisite time period, degree or manner of "conscious pain and suffering" that is necessary to support a survival award. Scott v. Porter, 340 S.C. 158, 530 S.E.2d 389 (Ct. App. 2000) (citing Holston v. Sisters of Third Order of St. Francis, 165 Ill.2d 150, 650 N.E.2d 985 (1999)).

AS
2

The Court found at trial and finds now that Plaintiff produced sufficient evidence of Lilia Blandin's conscious pain and suffering to submit the Survival cause of action to the jury. Testimony from Kim Selvy and Barbara Headen showed that Lilia Blandin fought against her attacker and yelled, "Please stop!" after being stabbed. Testimony of the medical examiner explained the "defensive" stab wounds on Lilia's body and how those wounds indicated she fought back against her attacker. The medical examiner testified that Lilia's death would not have been immediate, lasting as long as a few minutes, during which she would have endured conscious pain and suffering. The evidence presented to the jury on this issue, as well as the reasonable conclusions to be drawn from such evidence, support the submission of the survival claim to the jury and the jury's finding of a survival award.

For these reasons, Defendant's Motion is denied.

6. **Defendant's Motion for JNOV and/or In The Alternative New Trial Nisi Remittitur**

Unless the jury's award for survival is "excessive," remittitur would not be appropriate. Hunter v. Staples, 335 S.C. 93, 515 S.E.2d 261 (Ct. App. 1999). A jury's determination of award on a survival action should be given great deference. Russ v. Blanchard, 310 S.C. 375, 426 S.E.2d 802 (1993). Considering the testimony and evidence concerning the survival cause of action, some of which is noted above, the Court finds the jury award of \$750,000.00 (which will be reduced to \$300,000.00) is not excessive. For these reasons, Defendant's Motion is denied.

7. **Defendant's Motion for JNOV and New Trial (filed October 12, 2015 at 3:24 pm).**



Generally, statutes that create or define the duties of public office do not create a duty of care toward individuals. Parker v. Brown, 195 S.C. 35, 10 S.E.2d 625 (1940); Jensen v. Anderson County DSS, 304 S.C. 195, 403 S.E.2d 615 (1990) (rehearing denied 1991); Arthurs ex. rel. Estate of Munn v. Aiken County, 346 S.C. 97, 551 S.E.2d 579 (2001). However, our courts have recognized an exception to the "public duty rule." Arthurs, *infra*; Jensen, *infra*. Steinke v. SC Dept. Labor Licensing and Regulation, 336 S.C. 373, 520 S.E.2d 142 (1999) (rehearing denied 1999).

Patricia Sullivan's duties and obligations arose, not from statute, but from GCSO General Order 238. The "public duty rule" is therefore inapplicable to her actions or inactions. Failure to follow internal policies and guidelines of an entity is evidence of negligence. Madison, ex rel. Bryant v. Babcock Center, 371 S.C. 123, 638 S.E.2d 650 (2006).

With respect to the deputies' failure to investigate and arrest, Plaintiff claimed their duties arose from both GCSO General Order 238 and S.C. Code Ann. §16-25-70. As such, the "public duty rule" may be applicable to claims of a duty existing pursuant to §16-25-70, but it would not apply to the common law duty to follow the GCSO policies and procedures. Madison, *supra*. Because Defendant did not request a special interrogatory verdict form, the Court is unable to determine whether the jury found GCSO was grossly negligent for violating its own policies, §16-25-70, or both. Plaintiff submitted evidence to support a finding by the jury of a violation of either GCSO Order 238 and SC Code §16-25-70.

Because Plaintiff's claims involved a violation of statute as a basis for a finding of a violation of duty, the Court considered the public duty rule and whether a "special

duty" exception existed. Under Arthurs, a "special duty" exists if the Court so finds after consideration of a six-part test adopted in Jensen. See also, Edwards v. Lexington Sheriff Dep't, 386 S.C. 285, 688 S.E.2d 125 (2010).

The Court has considered the six part Arthurs test in this case. The essential purpose of the CDV Act is to protect against domestic violence and imposes upon law enforcement officers a non-discretionary duty to arrest a suspect where there is sufficient evidence domestic violence has occurred and there is a physical manifestation of injury. Further, the officer may arrest any time there is probable cause, even without a physical manifestation of injury. In the instant case, each officer testified that if Ms. Blandin, Ms. Rivero, or the children had indicated that an assault had occurred, under the totality of the circumstances, Avery Blandin would have been arrested for CDV. Additionally, both experts testified that if the jury believed the testimony of [REDACTED] Blandin and Ms. Rivero, the deputies would have had no discretion and should have arrested Avery Blandin.

Next, the CDV Act defines a clearly identifiable, limited class of persons to be protected, namely victims of criminal domestic violence. Lilia Blandin was a person within the class of persons to be protected because there was evidence she was a victim of domestic violence on December 9th, when the officers were on the scene. Law enforcement officers are aware of the likelihood of harm to class members upon their failure to fulfill their duties. In this case, Deputy Tyner and Deputy Picone testified about their knowledge of the cycle of domestic violence and that failure to stop that cycle with arrest or intervention would likely result in an escalation of violence against Lilia. Both the Defendant's expert witness and Plaintiff's expert witness testified that the most

effective way to stop the cycle of violence from escalating is to incarcerate the offender, even for a short time.

Finally, the deputies are given sufficient authority to act in circumstances - i.e. arrest - under S.C. Code Ann. §16-25-70 (A) or (B). There was evidence in this case from which the jury could have found that the deputies had a non-discretionary duty to arrest, or, in the alternative, that the deputies were grossly negligent in deciding not to arrest when they had probable cause, and therefore the authority, to do so.

After the Court determines the existence of a duty, matters of breach of duty and causation are generally factual issues for jury determination. Martasin v. Hilton Head Health System, 364 S.C. 430, 613 S.E.2d 795 (Ct. App. 2005)(rehearing denied 2005)(cert. denied 2006); Hill v. York County Sheriff's Dept., 313 S.C. 303, 437 S.E.2d 179 (Ct. App. 1993) (rehearing denied 1993)(cert. denied 1994). The testimony of the child [REDACTED] Blandin, Ms. Madel Rivero, and both experts are more than sufficient to establish probable cause for the arrest, and thus a breach of duty upon failure to arrest. State v. George, 323 S.C. 496, 476 S.E.2d 903 (1996)(rehearing denied 1996); State v. Moultrie, 316 S.C. 547, 451 SE2d 34 (Ct. App. 1994).

As to causation, the evidence presented to the jury in the form of expert and lay witness testimony supported the jury's determination of causation. Several witnesses, including both parties' experts and Deputy Picone and Deputy Tyner, testified about the cycle of domestic violence. There was evidence that Avery Blandin only became violent when intoxicated. There was evidence that had Avery been arrested on December 9, 2011, he would likely have still been in jail on December 10, 2011 when he killed Lilia. Proximate causation does not have to be shown with exact certainty. Koester v. Carolina

Rental Center, Inc., 313 S.C. 490, 443 S.E.2d 392 (1994)(rehearing denied 1994); Hill,
infra.

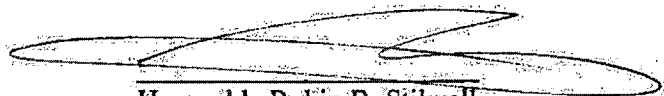
Defendant raised several defenses and immunities under the S.C. Tort Claims Act and S.C. Code Ann. § 16-25-70. The Court has considered Steinke and other applicable law, the pleadings, the evidence submitted, the arguments of counsel and requested charges, and finds that a "gross negligence" standard applies to Defendant's duties in this case. The Court instructed the jury several times on "gross negligence" prior to the verdict. The determination of whether Defendant's actions were "grossly negligent" was for jury determination, and the Court will not disturb the verdict. Clark v. SC Dept. of Public Safety, 632 S.C. 377, 608 S.E.2d 573 (2005)(rehearing denied 2005). Plaintiff produced sufficient evidence to support the jury's determination that Defendant was grossly negligent, and thus, liable.

For these reasons, Defendant's Motion is denied.

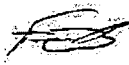
IT IS THEREFORE ORDERED:

Judgment shall be entered in favor of Plaintiff against Defendant for \$300,000.00 (Three Hundred Thousand and 00/100ths Dollars) on the Survival claim and for \$300,000.00 (Three Hundred Thousand and 00/100ths Dollars) on the Wrongful death claim.

AND IT IS SO ORDERED.



Honorable Robin B. Stilwell
Circuit Court Judge

 9 2016
November 9, 2015
Greenville, SC

FORM 4

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2013CP2306522

FILED-CLERK OF COURT

Madel C Rivero

Lilia Lorena Estate Of
Blandin PAUL B. WICKENS

Steve Loftis

Tim Gault

Sheriff Of Greenville
County
Emergency Medical
Services Greenville
County

2016 FEB 17 PM 2:43

Woodforest National
Bank

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: ☐ Plaintiff ☐ Defendant
☐ Self-Represented Litigant

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. ☐ See Page 2 for additional information.
- ☐ **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: _____
- ☐ **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:

ORDER INFORMATION

Attached hereto are documents and materials upon which the Court relied in making its post-trial determination regarding the Plaintiff's Motion to Vacate for Juror Misconduct. The attachment includes eleven specific documents set forth below:

1. Original transcript of *voir dire*;
2. Sworn statement of Michael Cornish;
3. Copy of jury list;
4. Redacted and unredacted Incident Report of incident on June 23, 2015;
5. Affidavit of Russell W. Harter, Jr., with attachments;
6. Disc of 9-1-1 call with Certification of Authenticity from Simpsonville Police Department;
7. Affidavit of Jennifer Skipper;
8. Affidavit of Jonathan Edwards;
9. Affidavit of David Tedrow;
10. Affidavit of defense counsel dated December 15, 2015; and
11. Written transcript of 9-1-1 call.

These documents are specifically included and incorporated into the record as materials relied upon by the Court in its decision.

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

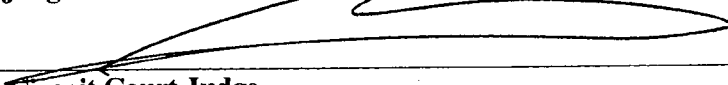
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

2158

2/9/2016


Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on 2/14/16, and a copy mailed first class or placed in the appropriate attorney's box on 2/14/16, to attorneys of record or to parties (when appearing pro se) as follows:

Daniel Joseph Farnsworth Jr. Farnsworth Law Offices, LLC
P.O. Box 8719 Greenville, SC 29604

J. Christopher Wilson Wilson & Luginbill, LLC P.O. Box
1150 Bamberg, SC 29003

Daniel W. Luginbill Wilson & Luginbill, LLC P.O. Box 1150
Bamberg, SC 29003

John S. Nichols 1614 Taylor St. Columbia, SC 29201

Russell W. Harter Jr. Chapman, Harter & Harter, P.A. PO
Box 10224 Greenville, SC 29603

Grenville D. Morgan Jr. McAngus Goudelock & Courie,
L.L.C. P.O. Box 2980 Greenville, SC 29602

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

Paul B. Wickensimer Greenville County Clerk Of
Court - Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

CHAPMAN, HARTER & HARTER, P.A.

ATTORNEYS AT LAW
RUSSELL W. HARTER, JR.



14 LAVINIA AVENUE
P.O. Box 10224 (29603)
GREENVILLE, SOUTH CAROLINA 29601

MAIN: (864) 233-4500
FAX: (864) 232-1710
RWHJR@CHHLAW.NET

January 27, 2016

The Honorable Robin B. Stilwell
Greenville County Courthouse
305 East North Street
Greenville, South Carolina 29601

Mr. David Luginbill
Mr. Christopher Wilson
Wilson & Luginbill, LLC
PO Box 1150
Bamberg, South Carolina 29003

Mr. John S. Nichols
Bluestein, Nichols, Thompson & Delgado,
LLC
PO Box 7965
Columbia, South Carolina 29202

Mr. Daniel J. Farnsworth, Jr.
Farnsworth Law Offices, LLC
PO Box 8719
Greenville, South Carolina 29604

Re: Madel C. Rivero as PR of the Estate of Lilia Lorena Blandin vs. Sheriff Steve Loftis, in his capacity as Sheriff of Greenville County
C/A No.: 2013-CP-23-06522

Dear Judge Stilwell,

Pursuant to your instructions in yesterday's email, I am submitting at this time, an index and all of the referenced documents to be included as part of the record in the above-mentioned matter.

Thank you for your assistance! Warmest personal regards.

Very truly yours,

Russell W. Harter, Jr.

INCLUDED IN THE RECORD:

1. Original transcript of *voir dire*;
2. Sworn statement of Michael Cornish;
3. Copy of jury list;
4. Redacted and un-redacted Incident Report of incident on June 23, 2015;
5. Affidavit of Russell W. Harter, Jr. with attachments;
6. Disc of 9-1-1 call with Certification of Authenticity from Simpsonville Police Department;
7. Affidavit of Jennifer Skipper;
8. Affidavit of Jonathan Edwards;
9. Affidavit of David Tedrow;
10. Affidavit of defense counsel dated December 15, 2015;
11. Written transcript of 9-1-1 call.

**DEFENDANT'S
EXHIBIT 1**

ORIGINAL TRANSCRIPT OF *VOIR DIRE*

COUNTY OF GREENVILLE

)
) COURT OF COMMON PLEAS
) 2013-CP-23-06522

ORIGINAL

vg.

F) PARTIAL
) TRANSCRIPT OF RECORD

SHERIFF STEVE LOFTIS, IN IS)
CAPACITY AS SHERIFF OF)
GREENVILLE COUNTY)
DEFENDANT)

B E F O R E:

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

RUSSELL W. HARTER, JR., ESQ.
CARLY H. DAVIS, ESQ.
Attorneys for the Defendant

Volume I of II

1 There were no witnesses.

2 There were no exhibits.

3
4
5 » > O < «

6
7 Jury Qualification 4
8 Certificate of Reporter 26

1 THE COURT: All right, ladies and gentlemen,
2 welcome upstairs to courtroom six. Good to see you
3 again. As I promised you downstairs, we are going to
4 pick a jury for the first case that is up this week.
5 I remind you that you remain under the oath that you
6 took downstairs. Now, when I ask you questions,
7 again, the process will essentially be the same. And
8 that is, when I ask you a question, if the answer is
9 in the affirmative, I'll ask you stand up and state
10 your name and your juror number and then respond to
11 the question appropriately. Now, I would ask that
12 each time you stand up, state your name and your
13 juror number because now the court reporter is taking
14 down everything that is being said in the courtroom.
15 And it's important that for the record, that it's
16 clear who responded to what question.

17 All right, ladies and gentlemen, the case that
18 we are calling to bar today is Madel C. Rivero,
19 Personal Representative of the Estate of Lilia
20 Blandin vs. Sheriff Steve Loftis in his capacity as
21 Sheriff of Greenville County. Additional
22 Defendants --

23 Do all the additional Defendants remain in this
24 caption?

25 MR. HARTER: That's the only one, Your Honor.

1 THE COURT: All right, ladies and gentlemen,
2 that's Case No. 2013-CP-23-6522. Ladies and
3 gentlemen, this is a case in which Mrs. Lilia Blandin
4 was stabbed to death inside Wal-Mart on Whitehorse
5 Road on December 10th, 2011. The Plaintiff contends
6 that Lilia Blandin was killed as a result of
7 Greenville County Sheriff's Office negligently
8 failing to arrest her husband the day before her
9 murder. The sheriff's office contends that there was
10 no legal basis to arrest Mrs. Blandin's husband on
11 December 9th, 2011, based on the information they had
12 at the time.

13 Now, ladies and gentlemen, the reason I read to
14 you that very basic allegations one to the other, is
15 so that you can answer this question intelligently.
16 Is there anyone among you who has any prior
17 knowledge, any prior opinion, any prior disposition
18 regarding the allegations or the parties in this
19 lawsuit?

20 There was no response.

21 Ladies and gentlemen, is there anyone among you
22 who has heard any media reports regarding this
23 incident?

24 There was no response.

25 Heard or read?

1 There was no response.

2 Okay. All right. Ladies and gentlemen, in this
3 case the Plaintiff is Ms. Madel C. Rivero.

4 Have I pronounced that right?

5 MR. FARNSWORTH: Yes, sir, Your Honor.

6 THE COURT: Ms. Madel C. Rivero, as Personal
7 Representative of the Estate of Lilia Lorena Blandin.
8 Is there anyone among you who has a personal,
9 professional or family relationship with Ms. Rivero
10 or with the deceased, Mrs. Blandin?

11 There was no response.

12 Ladies and gentlemen, in this case Ms. Rivero is
13 represented by Mr. Christopher Wilson and Mr. Daniel
14 Luginbill of Wilson and Luginbill, LLC of Bamberg,
15 South Carolina. They are also -- the Plaintiff is
16 also represented by Mr. Daniel Farnsworth of the
17 Farnsworth Law Firm in Greenville, South Carolina.
18 I'll ask you, is there anyone among you who has a
19 personal, professional or family relationship with
20 any of the attorneys for the Plaintiff?

21 There was no response.

22 Ladies and gentlemen, the Defendant in this case
23 is Sheriff Steve Loftis. Is there anyone among you
24 who has a personal or professional relationship or
25 family relationship with Sheriff Loftis? Or with

1 anyone employed within his office?

2 All right, let the record reflect no affirmative
3 response.

4 Ladies and gentlemen, the Defendant is
5 represented by Mr. Russell W. Harter, Jr. and Carly
6 Harter Davis of Chapman, Chapman and Harter, P.A. in
7 Greenville, South Carolina. Is there anyone among
8 you who has a personal, professional or family
9 relationship with defense counsel?

10 There was no response.

11 Ladies and gentlemen, I'm going to read for you
12 a list of potential witnesses in this case. Now,
13 this may be inclusive but it may have a few more than
14 will actually testify, maybe a few less. Because
15 each case kind of takes on a life of its own from
16 time to time. But these are potential witnesses.
17 After I've read them out, I'll ask you the same
18 question of whether you have a personal,
19 professional, family relationship with any of them.

20 Kevin Tyner, David Picone, Jan Kiser, Neil
21 Logan, Mark McCoy, Jeff Granner, Jim Perry, Jason
22 Cassel, Patricia Sullivan, Antonio Bailey, Roger
23 Dobbs, Sheriff Steve Loftis, Jenna Spencer, Avery
24 Blandin, Madel Rivero, Lilia Blandin, [REDACTED]
25 Blandin, [REDACTED] Blandin, [REDACTED] Blandin, Juana

1 Hamby, Jorge Vasquez, Leroy Hamby, Dr. Mike Ward,
2 Melvin Tucker, John "Jack" Ryan. Ladies and
3 gentlemen, I'll ask you, is there anyone among you
4 who has a personal, professional or family
5 relationship with any of those potential witnesses?

6 All right, sir, if you would stand and state
7 your name and juror number, please.

8 PROSPECTIVE JUROR: Clyde Lacount, number 36.
9 Jeff Granner.

10 THE COURT: Okay. All right, sir, what's the
11 nature of your relationship with him?

12 PROSPECTIVE JUROR: Friends.

13 THE COURT: Okay. Do you think knowing that
14 fact that you can still be a fair and impartial juror
15 in the trial of this case?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: Okay, thank you, for telling me,
18 sir. I appreciate that.

19 Anybody else?

20 Ladies and gentlemen, I'll ask you--

21 MR. WILSON: Your Honor.

22 THE COURT: Yes, sir.

23 MR. WILSON: Can we approach one moment, please?

24 THE COURT: Sure.
25

1 (WHEREUPON, an off-the-record bench conference
2 was held in the presence of the jury but out of
3 the hearing of the jury.)

4 THE COURT: All right, ladies and gentlemen of
5 the jury, I apologize for that pause. That's my
6 fault. The attorneys had given me an additional list
7 of names that I had among all this paperwork that
8 I've already accumulated up here, so I apologize for
9 it. Additional witnesses may include Barbara Headen,
10 Emma Jean Whitener, Neil Logan, G. Richard Thompson,
11 Ph.d, Jenna Spencer, Anthony Tuggle and Kim Selvy.
12 Ladies and gentlemen, any of you have a personal,
13 professional or family relationship with any of those
14 additional proposed witnesses?

15 Okay, let the record reflect no affirmative
16 response.

17 Ladies and gentlemen, is there anyone among you
18 who is a personal friend, political contributor or
19 political supporter of Sheriff Steve Loftis, The
20 Greenville County Sheriff?

21 There was no response.

22 Ladies and gentlemen, is there anyone among you
23 who has--

24 MR. LUNGINBILL: Judge --

25 THE COURT: Yes, sir.

1 MR. LUNGINBILL: Would you clarify that, Judge?

2 THE COURT: Yes, sir, I'll read it again.

3 Anyone among you is a personal friend, political
4 contributor or political supporter of the Sheriff,
5 Steve Loftis?

6 PROSPECTIVE JUROR: I'm a political supporter.

7 THE COURT: All right. Will you stand up and
8 state your name and juror number for the record,
9 please, sir?

10 PROSPECTIVE JUROR: Yes, Frank Raddis.

11 THE COURT: And your juror number?

12 PROSPECTIVE JUROR: 59.

13 THE COURT: Okay. All right. And you are a
14 political supporter of the sheriff, sir?

15 PROSPECTIVE JUROR: Yes, sir.

16 THE COURT: Okay. Have you contributed money to
17 his campaign, sir?

18 PROSPECTIVE JUROR: No, sir.

19 THE COURT: Okay. Do you think given the fact
20 that you're a political supporter of his that it
21 would affect your ability to be fair and impartial
22 and objective in this case, sir?

23 PROSPECTIVE JUROR: No, sir.

24 THE COURT: Okay. I appreciate you letting me
25 know, thank you.

1 Okay, anyone else?

2 There was no response.

3 All right, is there anyone among you that has
4 ever been employed by or had an immediate family
5 member or close personal friend who is employed as a
6 law enforcement officer or a 911 operator? Okay,
7 there might be several of you. So, y'all just stand
8 up and as you answer you can just sit back down.

9 Yes, sir.

10 PROSPECTIVE JUROR: Juror number 25, Charles
11 Harrigan.

12 THE COURT: Yes, sir.

13 PROSPECTIVE JUROR: My college roommate is now a
14 police officer for Greenville City police.

15 THE COURT: Do you think that you can still be
16 fair and impartial on this case, sir?

17 PROSPECTIVE JUROR: Yes, sir.

18 THE COURT: All right, thank you for telling me.
19 I appreciate it.

20 Yes, sir.

21 PROSPECTIVE JUROR: Jeff White, juror No. 78.

22 THE COURT: Yes, sir.

23 PROSPECTIVE JUROR: One of my coworkers had a
24 son who was employed with the Greenville County
25 Police Department.

1 THE COURT: Okay. Do you think that you can
2 still be fair and impartial in this case, sir?

3 PROSPECTIVE JUROR: I do.

4 THE COURT: Thank you, I appreciate it, sir.
5 Yes, sir.

6 PROSPECTIVE JUROR: William Snyder, juror No.
7 64. I was previously a law enforcement officer in
8 the municipality of Fountain Inn and multiple friends
9 in the department.

10 THE COURT: Okay, do you think that you can
11 still be fair and impartial in this case, sir?

12 PROSPECTIVE JUROR: Yes, sir.

13 THE COURT: Thank you for telling me that, I
14 appreciate it.

15 Yes, sir.

16 PROSPECTIVE JUROR: Benjamin Poole, number 57, I
17 believe.

18 THE COURT: Yes, sir.

19 PROSPECTIVE JUROR: Uncle was a police chief and
20 officer in the State of Michigan.

21 THE COURT: Okay. Do you think that you can be
22 fair and impartial in this case, sir, given that
23 fact?

24 PROSPECTIVE JUROR: Yes, sir.

25 THE COURT: Thank you, I appreciate you telling

1 me.

2 Yes, sir.

3 PROSPECTIVE JUROR: Louise Brody, No. four. My
4 father is a retired police officer and chief of
5 police.

6 THE COURT: Do you think that you can still be
7 fair and impartial in this case, sir?

8 PROSPECTIVE JUROR: Yes, sir.

9 THE COURT: Okay. Thank you for telling me, I
10 appreciate it.

11 Anyone else?

12 There was no response.

13 All right, is there anyone among you who would
14 tend to hold the testimony of a law enforcement
15 officer in higher regard or believe it to be more
16 credible than the testimony than a member of the
17 general public?

18 All right, let the record reflect no affirmative
19 response.

20 And I think I've already asked you this but it's
21 worth stating again. Has anyone read, seen or heard
22 anything about this December 10th, 2011 incident at
23 Wal-Mart on Whitehorse Road?

24 Okay, let the record reflect --

25 Oh, you have? Okay. Stand up and give me your

1 name and juror number, please.

2 PROSPECTIVE JUROR: Kyle Martin, 43.

3 THE COURT: Okay. Have you heard media reports
4 is that correct, sir?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: Okay. Read it in the newspaper, see
7 it on the news?

8 PROSPECTIVE JUROR: Well, at the time my
9 step-daughter was actually working there when it
10 happened.

11 THE COURT: Okay. All right. So, you heard
12 from it -- from an account with an employee of
13 Wal-Mart?

14 PROSPECTIVE JUROR: Yes, my step-daughter that
15 was an employee at the time and on the news.

16 THE COURT: Okay. Do you think that you can
17 still be fair and impartial in this case, sir?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: Okay. Good enough, thank you for
20 telling me.

21 Yes, sir.

22 Either of you.

23 PROSPECTIVE JUROR: Number 10.

24 THE COURT: Yes, sir.

25 PROSPECTIVE JUROR: Seen it on the news. In the

1 newspaper.

2 THE COURT: Okay, do you think that you can
3 still be fair and impartial having seen it on the
4 media?

5 PROSPECTIVE JUROR: Yes, sir.

6 THE COURT: Okay. Thank you for telling me, I
7 appreciate it.

8 Yes, sir.

9 PROSPECTIVE JUROR: Travis Norman, juror No. 49,
10 I seen it the news, media on it.

11 THE COURT: Okay, do you think having seen it on
12 the news that you can still be fair and impartial,
13 sir?

14 PROSPECTIVE JUROR: I think I could.

15 THE COURT: Okay, thank you for telling me,
16 appreciate it, sir.

17 Yes, ma'am.

18 PROSPECTIVE JUROR: Priscilla Winley, juror No.
19 80, I saw it on the news.

20 THE COURT: Okay, you think you can still be
21 fair and impartial in this case, ma'am?

22 PROSPECTIVE JUROR: Yes, sir.

23 THE COURT: Okay, thank you, I appreciate it.
24 Anyone else?

25 There was no response.

1 Is there anyone on the jury panel who believes
2 that lawsuits can influence governmental
3 organizations or companies to operate more safely?

4 All right, let the record reflect no affirmative
5 response.

6 Is there anyone among you or a member of your
7 family, to your knowledge, ever brought a lawsuit or
8 asserted a claim against a law enforcement agency or
9 officer, 911 officer, dispatcher or communication
10 officers or first responder?

11 All right, let the record reflect no affirmative
12 response.

13 Is there anyone among you who has been a victim
14 of criminal domestic violence?

15 Yes, ma'am.

16 PROSPECTIVE JUROR: Heidi Letterman, juror No.
17 40.

18 THE COURT: Yes, ma'am.

19 PROSPECTIVE JUROR: My first marriage of eight
20 years was a criminal domestic relationship.

21 THE COURT: Do you think that you can still be
22 fair and impartial in this case, ma'am?

23 PROSPECTIVE JUROR: It's not likely.

24 THE COURT: Okay, I appreciate you telling me
25 that. Thank you.

1 All right, anyone else?

2 There was no response.

3 All right, is there anyone among you or a member
4 of your family, to your knowledge, ever been stopped
5 or arrested by a law enforcement officer for anything
6 other than a minor traffic violation?

7 Yes, ma'am, name and juror number?

8 PROSPECTIVE JUROR: Jo Rae Jetton, juror No. 33.

9 THE COURT: Okay. All right. And, ma'am,
10 having been stopped, did you have any problems with
11 an investigating officer or an arresting officer or
12 law enforcement?

13 PROSPECTIVE JUROR: Are you talking about a
14 vehicle thing?

15 THE COURT: Anything other than a vehicle stop.
16 If it was just a traffic -- a minor traffic
17 violation, you don't need to worry about it.

18 PROSPECTIVE JUROR: I was--

19 THE COURT: You don't have to tell me what it
20 was.

21 PROSPECTIVE JUROR: Okay.

22 THE COURT: All you have to do is say yes or no.
23 The purpose of me asking you these questions isn't to
24 embarrass you or pry into your personal business. It
25 influences what the strikes are that the attorneys

1 will make. So, really, what I'm asking you is, have
2 you ever been stopped or arrested for something other
3 than a minor traffic violation? And if so, did you
4 have issues with law enforcement?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: Okay. All right. And can you tell
7 me would that experience affect your ability to be
8 fair and impartial in the case before the Court
9 today?

10 PROSPECTIVE JUROR: I don't think it would
11 affect me, no.

12 THE COURT: Okay. All right, thank you for
13 telling me. I do appreciate it.

14 Yes, ma'am.

15 PROSPECTIVE JUROR: I'm Heidi Letterman, juror
16 No. 40, yes, I have.

17 THE COURT: Okay. All right. Why you say, Yes,
18 you have. You had issues and problems with law
19 enforcement officers?

20 PROSPECTIVE JUROR: Uh-huh.

21 THE COURT: Okay. And I know you've already
22 stated to me that you thought you had some issues
23 with this case and that it would affect your
24 objectivity. Would that still continue to affect
25 your objectivity?

1 PROSPECTIVE JUROR: Yes, sir.

2 THE COURT: Okay, thank you, I appreciate it.

3 Yes, sir.

4 PROSPECTIVE JUROR: Judge, I'm Benjamin Smith,
5 juror No. 63. And I guess to, you know, go with your
6 question, my brother, he had a CDV charge against him
7 and I was there. And it wasn't his fault and I saw
8 it. So, the police came and talked to them and it
9 was just kind of -- yeah.

10 THE COURT: Okay. Do you think given that fact
11 that you can still be fair and impartial in this
12 case?

13 PROSPECTIVE JUROR: Yeah.

14 THE COURT: Okay, thank you for telling me, I
15 appreciate it.

16 Okay, if you've responded in the affirmative
17 already to this question in some form, you don't have
18 to respond again. But I'll pose a more specific
19 question to you and general question. Have you or
20 any member of your family, to your knowledge, ever
21 had a bad experience with a police officer or a law
22 enforcement officer or a 911 or a communication
23 specialist or a dispatcher officer?

24 Yes, sir.

25 PROSPECTIVE JUROR: Juror number 25, Charles

1 Harrigan.

2 THE COURT: Yes, sir.

3 PROSPECTIVE JUROR: My brother filed a complaint
4 against a Greenville County officer.

5 THE COURT: Okay. Do you think you can still be
6 fair and impartial in this case given that fact, sir?

7 PROSPECTIVE JUROR: Most likely.

8 THE COURT: All right, thank you, sir, I
9 appreciate it.

10 Anyone else?

11 And I know there are a couple of you that have
12 already responded so you don't need to respond again.
13 Anyone else? Okay. All right, ladies and gentlemen,
14 is there anyone among you who for whatever reason
15 feels as though you could not be a fair and impartial
16 juror in the trial of this case and render a verdict
17 in accordance with the law as I give it to you?

18 Yes, ma'am, and you've already stated that
19 clearly and I appreciate it.

20 Okay. Okay, gentlemen, any additional questions
21 of voir dire?

22 MR. WILSON: None from the Plaintiff, Your
23 Honor.

24 THE COURT: Did I miss one, Mr. Harter?

25 MR. HARTER: I don't think you did, Judge.

1 Thank you.

2 THE COURT: All right.

3 Okay, ladies and gentlemen, at this point the
4 attorneys are now reviewing the strike sheets that
5 have been prepared by the Clerk's Office. When you
6 were qualified this morning, after qualification, the
7 clerk generated a random listing of jurors. So, the
8 attorneys could make strikes in this case.
9 Subsequent to the voir dire, the attorneys are
10 reviewing those lists to determine what strikes they
11 will actually make in this case. Now, your names are
12 listed in random order. They're not in alphabetical
13 order and they're not in order of your juror numbers.
14 Each side will get four strikes. The Plaintiff will
15 strike first, then the Defendant will have the
16 opportunity to strike.

17 When they strike they strike by number -- by the
18 number in sequence that it was arranged by the Clerk
19 of Court's Office. So, you won't know whether you're
20 stricken or not. If you're juror No. 5 and you hear
21 the attorneys say, We strike No. 5, it's not going to
22 be you, it's going to be No. 5 on this list. So, you
23 will never know if you've been stricken or not. When
24 the attorneys indicate to me that they're ready, then
25 we'll begin those strikes. But I'll give them some

1 latitude in looking over the list.

2 You ready?

3 MR. WILSON: Judge.

4 THE COURT: Yeah?

5 MR. WILSON: Let's just approach the bench.

6 (WHEREUPON, an off-the-record bench conference

7 was held in the presence of the jury but out of

8 the hearing of the jury.)

9 (WHEREUPON, an on the record bench conference

10 was held in the presence of the jury but out of

11 the hearing of the jury.)

12 MR. WILSON: Did you excuse Ms. Letterman?

13 THE COURT: Yeah, she indicated that she

14 couldn't be impartial so we're going to take her off

15 the list. So, you'll execute your first strikes

16 between 1 and 21, excluding No. 6.

17 (WHEREUPON, the bench conference concluded.)

18 THE COURT: Okay, y'all want one or two?

19 MR. HARTER: We want two.

20 THE COURT: All right, Madam Clerk, your show.

21 THE CLERK: Plaintiff strikes first.

22 MR. WILSON: Please excuse juror No. 10.

23 THE CLERK: Plaintiff strikes 10.

24 MR. HARTER: Defendant strikes No. 17.

25 THE CLERK: Defendant strikes 17.

1 MR. WILSON: Please excuse No. 11.
2 THE CLERK: Plaintiff strikes 11.
3 MR. HARTER: Defendant strikes No. 3.
4 THE CLERK: Defendant strikes 3.
5 MR. WILSON: Please excuse No. 13.
6 THE CLERK: Plaintiff strikes 13.
7 MR. HARTER: Defendant strikes No. 21.
8 THE CLERK: Defendant strikes 21.
9 MR. WILSON: Please -- just one moment, please.
10 Please excuse No. 7.
11 THE CLERK: Plaintiff strikes 7.
12 MR. HARTER: Defendant strikes No. 8.
13 THE CLERK: Defendant strikes 8.
14 Now, we'll get the first alternate from 22, 23
15 and 24.
16 MR. WILSON: Please excuse No. 22.
17 THE CLERK: Plaintiff strikes 22.
18 MR. HARTER: Defendant strikes 24.
19 THE CLERK: Defendant strikes 24.
20 And our second alternate will come from 25, 26
21 and 27.
22 MR. WILSON: Please excuse No. 25.
23 THE CLERK: Plaintiff strikes 25.
24 MR. HARTER: Defendant strikes No. 27.
25 THE CLERK: Defendant strikes 27.

1 Gentlemen, I'll call these back to you.

2 Plaintiff strikes 7, 10, 11, 13, 22 and 25.

3 Defendant strikes 3, 8, 17, 21, 24 and 27.

4 MR. WILSON: That's correct.

5 MR. HARTER: That is correct.

6 THE COURT: All right, counsel, any matters of
7 law or issues to take up with regard to the
8 qualification or selection of this jury?

9 MR. WILSON: Could we have just one moment,
10 please, Your Honor?

11 THE COURT: Yes, sir.

12 MR. WILSON: None from the Plaintiff, Your
13 Honor.

14 MR. HARTER: None from us.

15 THE COURT: All right, good enough.
16 Call them forward.

17 THE CLERK: Ladies and gentlemen, when I call
18 your name, please, bring your things and have a seat
19 in our jury box. Charles Cornish, Darrell
20 Washington, Keith O'Connell, Hans Hansen, Robin
21 Burns, Bobby Chapman, Jeffrey White, Juliette
22 Phillips, Corbitt Johnson, Alexandria Nunweiler,
23 Pearl Collins, Amanda Carden. Our first alternate is
24 Benjamin Poole. Second alternate is Taylor Higgins.

25 THE COURT: All right, ladies and gentlemen, my

1 condolences to those of you who didn't make it on
2 this jury, better luck next time. We may be calling
3 another jury this week, it really all depends on how
4 long this trial lasts. So, what I'll ask you to do
5 is go back downstairs to your jury coordination room
6 and I think Judy is going to dismiss you almost
7 immediately. But I think she's got some certain
8 points of business to take up with you. So, thank
9 you for coming up. If I don't see you again, thank
10 you for your service on jury duty. And I hope y'all
11 have a good week. If I don't see you again, a good
12 weekend.

13 (WHEREUPON, the jury venire was excused at
14 approximately 11:35 a.m.)

15 THE COURT: All right. Counsel, I know that we
16 had discussed earlier this morning y'all have a few
17 matters to take up pre-trial. Are those motions,
18 issues, still outstanding?

19 MR. WILSON: They are, Your Honor.

20 THE COURT: Can we still do our opening
21 statements before those matters are resolved?

22 MR. WILSON: No, Your Honor.

23 MR. HARTER: I think we could, but.

24 THE COURT: All right. All right.

25 Ladies and gentlemen, what I'm going to do is

1 I'm going to take a short -- I'm going to ask y'all
2 to take a short break. Mr. Anderson will show you
3 where your jury room is and get you acquainted with
4 the logistics of the courthouse. And I'm going to do
5 one of two things. I'm either going to bring you
6 back in and do a brief opening charge on the law and
7 opening statements, or I'm going to release you for
8 lunch. It really depends on how much time this is
9 going to take. If it's going to take a substantial
10 amount of time, I'm going to let y'all go and bring
11 you back. If I can get it done in about ten minutes,
12 I'm going to go ahead and proceed, okay. So, you'll
13 know in just a few minutes. Okay. All right.
14 Thank you.

15 (WHEREUPON, the jury left open court at
16 approximately 11:37 a.m.)

17 (WHEREUPON, the requested portion of the
18 proceedings were concluded.)
19
20
21
22
23
24
25

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

I, APRIL P. HERRON, Official Court Reporter for
the Thirteenth Judicial Circuit of the State of South
Carolina, do hereby certify that the foregoing is a true,
accurate and partial Transcript of Record of the
proceedings had and evidence introduced in the trial of
the captioned case, relative to appeal, in the Court of
Common Pleas for Greenville County, South Carolina, on the
28th day of September, 2015.

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

November 13, 2015


APRIL P. HERRON, Court Reporter

**DEFENDANT'S
EXHIBIT 2**

SWORN STATEMENT OF MICHAEL CORNISH

STATE OF SOUTH CAROLINA)
: IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE)

Madel C. Rivero, as Personal)
Representative of the Estate)
of Lilia Lorena Blandin,)

Plaintiff,)

-vs-

C.A. No. 2013-CP-23-06522

Sheriff Steve Loftis, in his)
capacity as Sheriff of Greenville)
County; Tim Gault, in his)
capacity as interim Director of)
Greenville Emergency Medical)
Services; Wal-Mart Stores, Inc.;)
Wal-Mart Stores East, LP;)
Wal-Mart Associates, Inc.; and)
Woodforest National Bank,)

Defendants.)

SWORN STATEMENT OF MICHAEL CORNISH

NOVEMBER 18, 2015

Irveta J. Shouse/GWC

119 Jones Avenue • Greenville, South Carolina 29601
864/303-1723

Michael Cornish
November 18, 2015

2

SWORN STATEMENT OF MICHAEL CORNISH

THE FOLLOWING is a transcript of the sworn statement of Michael Cornish, given in the above-captioned matter at the hour of 6:05 p.m. on Wednesday, November 18, 2015, in the offices of Chapman, Harter & Harter, P.A., Attorneys at Law, 14 Lavinia Street, Greenville, South Carolina.

IRVETA J. SHOUSE, Reporter

APPEARANCES:

CHAPMAN, HARTER & HARTER, P.A.
14 Lavinia Avenue
Post Office Box 10224
Greenville, SC 29603
BY Russell W. Harter, Jr., Esquire
Carly Harter Davis, Esquire

.....On behalf of the Defendant
Sheriff Steve Loftis

IRVETA J. SHOUSE/GWC
119 JONES AVENUE
GREENVILLE, SOUTH CAROLINA 29601

1 MICHAEL CORNISH, having first been duly sworn to
2 tell the truth, testified on his oath as follows:

3 EXAMINATION

4 By Mr. Harter:

5 Q. Your full name, please?

6 A. Charles Michael Cornish.

7 Q. Mr. Cornish, I'm gonna speak with some formality
8 here. My name is Rusty Harter. As you know, I'm a lawyer here
9 in Greenville. I'm gonna be asking you to share some
10 information with us by way of a sworn statement. And you
11 understand that the court reporter is here this evening and
12 she's taking down everything that's said; she will create a
13 verbatim transcript which will be a statement, by you, under
14 oath, as to the information we're talking about. You
15 understand that?

16 A. Yes.

17 Q. I'm gonna ask you to make sure you communicate
18 verbally with us tonight. And now, if you will, give me your
19 home address, please.

20 A. [REDACTED] Greenville, South Carolina, 29607.

21 Q. And how old are you?

22 A. Thirty-seven.

23 Q. You're a resident of Greenville County, of course.

24 A. I am.

25 Q. And, Mr. Cornish, you served as a juror in a recent

IRVETA J. SHOUSE/GWC
119 JONES AVENUE
GREENVILLE, SOUTH CAROLINA 29601

1 trial in Greenville County involving the Blandin Estate and the
2 Greenville County Sheriff's Office; is that correct?

3 A. Yes.

4 Q. And I think following that trial ---and I believe
5 the date was approximately October 26th of 2015--- I believe
6 you called my office to communicate with me some information
7 that you wanted to share concerning what had occurred with
8 respect to jury selection in the case; is that correct?

9 A. Yes.

10 Q. Michael, will you tell us what prompted you to make
11 that call to me back on October 26th, 2015?

12 A. I will. During the deliberations, we were of course
13 in there for a total of probably seven or eight hours, and ---

14 Q. Let me interrupt you, because I'm gonna ask you:
15 Will you tell me what prompted you? Was there some person or
16 some event that prompted you to call me?

17 A. Yes. It came out in the deliberation that three of
18 the jurors had been a part of domestic violence in the past.
19 And I do remember a question during the jury selection about
20 domestic violence, and people were supposed to raise their
21 hands and express if they were ever a part of it. And during
22 the deliberation it came out that three other jurors had been a
23 part of it, and I don't recall them coming forward during the
24 jury selection.

25 Q. And do you know the names or can you identify any of

IRVETA J. SHOUSE/GWC
119 JONES AVENUE
GREENVILLE, SOUTH CAROLINA 29601

1 those three jurors who you had concerns about?

2 A. I can.

3 Q. Okay. Can you just kind of go, name each one if you
4 can, and then discuss what you remember that juror may have
5 indicated about their involvement in any prior CVD incident?

6 A. I can. The two names I remember, one was a female,
7 first name was Robin. She was the foreperson. The second
8 juror was a male; his name was Keith. I do not know his last
9 name. The third one, I cannot remember her name, but I do
10 remember that she was a resident of Lander (sic) and she worked
11 for a dermatologist's office as a nurse or an assistant.

12 Q. Do you mean Lander or Landrum?

13 A. Landrum. I'm sorry. Landrum.

14 Q. And did you bring to my attention your concerns
15 about each one of these three jurors as having served on the
16 case?

17 A. I did, yes.

18 Q. And why were you concerned that these jurors were
19 participating in the trial of the case?

20 A. Well, because I remembered, when this started coming
21 out, that that question was asked by the judge during the
22 selection process, that if you had been a part of domestic
23 violence...I don't remember the exact wording of the question.
24 One, because it didn't pertain to me, I've never been around
25 it, so I just didn't remember the complete question. But I do

IRVETA J. SHOUSE/GWC
119 JONES AVENUE
GREENVILLE, SOUTH CAROLINA 29601

1 remember it came out as --- if they had been involved in
2 domestic violence. And it came out as they had been.

3 Q. And so, as I understand it, you found out during the
4 deliberations that these jurors had some domestic violence
5 incident?

6 A. Right.

7 Q. And were you concerned that they had not brought
8 that to the attention of the Court when the jury was selected?

9 A. Correct.

10 Q. Is that a capsulization of things?

11 A. Yes.

12 Q. I don't mean to be pointing the question, but is
13 that ---

14 A. No, that is. Yes.

15 Q. Did you feel like --- or what were your feelings as
16 to whether or not these jurors should have come forward with
17 information during the selection process of the jury?

18 A. Well, I feel that, certainly, you come forward if
19 that's asked of you during the selection process. That
20 dictates how the jury is selected.

21 Q. Okay. Now, if we could, can we go one by one with
22 these jurors and tell us, so that we can have a record and
23 share it with the Court, as to what your concerns were?

24 A. Yes, sir.

25 Q. Okay. As to the first person you identified?

IRVETA J. SHOUSE/GWC
119 JONES AVENUE
GREENVILLE, SOUTH CAROLINA 29601

1 A. The first person, like I say, her name is Robin.
2 She was the foreperson of the jury. I don't remember her last
3 name. But it came out during deliberation that she had called
4 the police ---and I don't know how many years ago or how far
5 back it was--- but I think it was her current husband --- or
6 relationship. I think it was her husband at the time. I know
7 that she had the phone ripped out of her hands. I don't know
8 if that's when she called the police, or if it was when she was
9 calling the police that it was ripped out of her hands. But
10 she had commented that the police were there for...it was
11 either a one-hour or a two-hour investigation. And she
12 stressed how long and thorough the police were involved in her
13 investigation.

14 And then another part that came out, and this is
15 where I am a little foggy on these details ---

16 Q. Did this Robin person, did she say anything else
17 other than what you've told us about?

18 A. Yes. I mean, she was --- she said ---

19 Q. About her incident. About hers.

20 A. Yes. She said, "You don't understand how scary this
21 is until you're a part of this domestic violence." And so she
22 was certainly, in my opinion, biased, being involved or a part
23 of it.

24 Q. Okay.

25 A. And I think there was another incident where she had

IRVETA J. SHOUSE/GWC
119 JONES AVENUE
GREENVILLE, SOUTH CAROLINA 29601

1 witnesses...and I cannot remember the details, but it was
2 either...I don't know if it was her or her mother, but at some
3 point she had witnessed or been a part of somebody having a gun
4 held to their head in another domestic violence incident.

5 Q. This was the same juror you're referring to.

6 A. This was the same juror.

7 Q. That was the forelady.

8 A. Yes.

9 Q. Okay.

10 A. So the best I can recall, there are two instances
11 that she brought up during deliberation. One was the phone
12 being ripped out where the police were called and they
13 investigated it. And I don't believe anybody was arrested
14 during that time. But then it also came up that she had been a
15 part of, or witnessed...and I don't think it was her, but it
16 may be her mother, or somebody, that had a gun to their head by
17 a partner.

18 Q. All right. Anything else about that information?

19 A. No.

20 Q. And I don't want to know anything other than what
21 this juror may have indicated about their ---

22 A. No. I mean, she was --- no.

23 Q. Okay.

24 A. I mean, she certainly shared that with us. I mean,
25 she felt pretty strongly about the events that had taken place

IRVETA J. SHOUSE/GWC
119 JONES AVENUE
GREENVILLE, SOUTH CAROLINA 29601

1 in her life.

2 Q. Did you think that she was communicating information
3 to you that you interpreted that she was a victim of criminal
4 domestic violence?

5 A. Yes.

6 Q. Okay. Anything else you want to tell us about that
7 one?

8 A. No. I mean, other than those two cases, those two
9 incidents that we've just discussed.

10 Q. Okay. The other jurors that you had concern about
11 when you called me?

12 A. Right. The second one was a male. His name was
13 Keith, and I just can't recall his last name. He had witnessed
14 when he was a child ---and I don't know how old he was--- but
15 his mother and I believe it was his step-father ---it sounded
16 like it happened quite frequently--- that they would get in
17 domestic disputes. And he brought up the point that he handled
18 it differently; that he didn't get the police involved, that he
19 actually got involved himself and he was the one that would get
20 in between the two parties and separate, try to mediate the
21 situation.

22 Q. That's the extent of what you ---

23 A. That's really the extent.

24 Q. Okay.

25 A. From what I gathered through the discussions we had

IRVETA J. SHOUSE/GWC
119 JONES AVENUE
GREENVILLE, SOUTH CAROLINA 29601

1 is, to me, it sounded like it was an ongoing situation, it
2 wasn't a one-time event. From what I can gather and recall.

3 Q. Okay.

4 A. He didn't go into many details about the hitting,
5 fighting, police being involved, but there were definitely
6 altercations where he would get involved personally and get in
7 between the two parties.

8 Q. All right. Did you indicate any concern about any
9 other jurors?

10 A. Yes. There was one other juror and, like I say, I
11 cannot recall her name. I do know that she is from the Landrum
12 area and works for a dermatologist office. She also came out
13 and said that she had been a part of domestic violence through
14 ...it was either her boyfriend or an ex-husband. And I
15 couldn't tell you for sure which one it was. And it could be
16 her current husband. But it sounded like it was years ago.
17 And she didn't go into a whole lot of detail about the events
18 that took place. But she definitely let it be known that she
19 had been a part of it and let us know her thoughts about
20 domestic violence.

21 Q. Did she mention that she had been a victim of
22 domestic violence? Or how did you take her comments?

23 A. Yes. Yes, she said she had been a victim of
24 domestic violence.

25 Q. Did she provide any more details about that?

IRVETA J. SHOUSE/GWC
119 JONES AVENUE
GREENVILLE, SOUTH CAROLINA 29601

1 A. She, personally, didn't get into a whole lot of
2 detail about what type of violence, no. If I remember right,
3 he would kind of beat on her and hit her, or something along
4 those lines. But, no, she did not go into as much detail as
5 the other two jurors. But she did make it a point to let it be
6 known that she had been a part of domestic violence. And
7 during the deliberation some people had actually asked her
8 questions about ---

9 Q. Okay, let's don't --- I'm just interested in what
10 she said, not what people asked her.

11 A. Right. Right.

12 Q. I don't mean to cut you off.

13 A. No, that's fair.

14 Q. Okay. Now I want to just kind of ask you, have you
15 communicated to us what you considered to be concerns about the
16 jury selection process and when this information came to your
17 attention?

18 A. Yes.

19 Q. And is this the information that caused or prompted
20 you to call me about these issues?

21 A. Yes, sir.

22 Q. Now, did anybody in the case at all try to contact
23 you to solicit information about anything that happened in the
24 jury deliberations or anything about the jury composition?

25 A. No.

IRVETA J. SHOUSE/GWC
119 JONES AVENUE
GREENVILLE, SOUTH CAROLINA 29601

1 Q. I want to make sure. I didn't contact you, you
2 contacted me.

3 A. Right. Yes, I definitely contacted you. But I need
4 to clarify that. I did get a letter from the other attorney, I
5 guess the plaintiff's attorney, requesting feedback, if I was
6 interested. But other than that, I've had no personal contact
7 with anybody. But I certainly reached out to you to express my
8 concerns.

9 Q. And I want to ask you: When was it that this
10 information concerning the individual jurors --- when did that
11 come to light in the process?

12 A. It was later in the deliberation process. It was
13 probably... The day runs together so much. But it was in the
14 three to five hour mark if I had to put a time on it. It was
15 later in the deliberation when people were really pushing their
16 issues.

17 Q. And I just want to ask you --- and I know you've
18 crystallized what was said to you. Did you have the
19 impression, after the information came to light, that Ms.
20 Burns, or Robin, the forelady, had been a victim of criminal
21 domestic violence?

22 A. Ask that question again, please?

23 Q. Yeah. When you contacted me, did you indicate that
24 you felt that the forelady had been a victim of criminal
25 domestic violence?

IRVETA J. SHOUSE/GWC
119 JONES AVENUE
GREENVILLE, SOUTH CAROLINA 29601

1 A. Yes.

2 Q. And did you also indicate to me that you felt that
3 there was another female juror on the panel who was also a
4 victim of criminal domestic violence?

5 A. Right. Yes.

6 Q. And did you indicate to me that there was a male
7 juror on the panel that was not a victim of criminal domestic
8 violence but a witness to criminal domestic violence?

9 A. Right.

10 Q. Is that right?

11 A. Yes.

12 Q. And, of course, I believe I told you that I would
13 inquire about it, that I would be requesting the transcript
14 from the trial, and that I would be back in touch with you.

15 A. Yes, sir. And that was my big concern, was how the
16 question was asked initially. And that's why I was hesitant to
17 speak up during the deliberation process itself, because I
18 couldn't recall the specifics of the question.

19 Q. I understand.

20 A. So that's really what brought this to...

21 Q. Okay. You weren't clear about the question and you
22 brought it up at a later point in time; is that right?

23 A. Yes. After the trial.

24 Q. All right. And did I also understand that you had
25 talked to your father-in-law? Is that right?

IRVETA J. SHOUSE/GWC
119 JONES AVENUE
GREENVILLE, SOUTH CAROLINA 29601

1 A. Right.

2 Q. Can I ask you about that? Is that okay? Will you
3 tell us how and why and how that evolved?

4 A. Yes. Well, they were here a week or two after the
5 trial, I don't remember the exact date, but just visiting for
6 the weekend. And he is a practicing attorney in Columbia,
7 South Carolina. And he was just interested in the case. And I
8 told him about the case and I told him a concern that I had is,
9 the jury selection process. And he said two things. He said,
10 "Well, you really should have said something during the
11 deliberation process, because that was not right." And he
12 said, "If I were you," he said, "I would not hesitate to
13 contact the attorneys and let them know as well. He said, "The
14 jury's not being truthful under oath." And I believe we were
15 under oath at the time.

16 Q. And then you later brought this to my attention.

17 A. Right. I believe a day or two later I contacted
18 you.

19 Q. I've got that down as October 26th. Would that be
20 about right?

21 A. That sounds right.

22 Q. Mr. Cornish, is there anything else you would like
23 to add or say? And, as I told you, I'm interested in the
24 information you have. I plan to share this with the Court and
25 with the other side and it may be something that will be

IRVETA J. SHOUSE/GWC
119 JONES AVENUE
GREENVILLE, SOUTH CAROLINA 29601

1 addressed. Is there anything else you would like to say or add
2 to this information?

3 A. No, I think we've pretty well covered it.

4 Q. And I'm sure you'd be glad to answer any further
5 questions that anybody or the judge might have concerning this,
6 if they chose to ask you to.

7 A. Yes. Yes, sir.

8 Q. I want to again thank you for coming forward with
9 this information, and thank you for coming here to give this
10 statement to us. And unless you have some questions, we'll
11 close the record and I'll let the court reporter prepare the
12 transcript from this sworn statement interview and we'll ask
13 you to sign it, maybe tomorrow.

14 A. Okay.

15 Q. Okay?

16 A. I'll do that.

17 MR. HARTER: Thank you again. I appreciate
18 it.

19 THE WITNESS: Thank you.

20

21 (Recorded Concluded at 6:28 p.m.)

22

23

24

25

IRVETA J. SHOUSE/GWC
119 JONES AVENUE
GREENVILLE, SOUTH CAROLINA 29601

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE) C E R T I F I C A T E

Be it known that I took the sworn statement of
MICHAEL CORNISH;

That I was then and there a Notary Public in and
for the State of South Carolina-at-Large;

That by virtue thereof, I was duly authorized to
administer an oath;

That the witness was by me first duly sworn to
testify the truth, the whole truth, and nothing but the truth
concerning the matter in controversy aforesaid;

That the foregoing transcript of pages 3 through 15
is a true and correct transcript of the testimony given in this
matter;

That I am not related to nor an employee of any of
the parties hereto, nor a relative or employee of any attorney
or counsel employed by the parties hereto, nor interested in
the outcome of this action.

WITNESS MY HAND AND SEAL this 18th day of November,
2015.

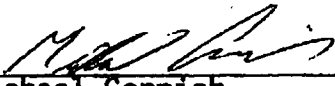


Irveta J. Shouse
Notary Public for South Carolina
My Commission Expires: 07/24/2022

IRVETA J. SHOUSE/GWC
119 Jones Avenue
GREENVILLE, SOUTH CAROLINA 29601

IN RE: Rivero (Blandin) v. Loftis, et al

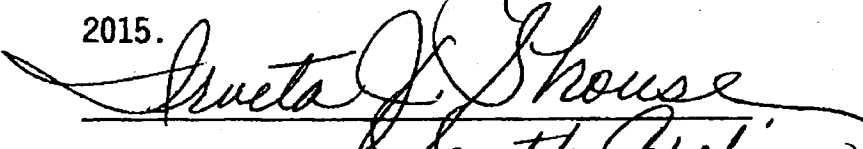
I, MICHAEL CORNISH, have read the foregoing pages 3 through 15 and believe them to be a true and accurate transcription of the testimony given by me in the above matter on November 18, 2015.



Michael Cornish

SUBSCRIBED and SWORN to before

me this 19th day of November
2015.



Notary Public for South Carolina

My Commission Expires: 07/24/2022

**DEFENDANT'S
EXHIBIT 3**

COPY OF JURY LIST

Sept. 28, 2015

**ATTORNEY
(short)
JUROR
LIST**

(PLEASE NOTE: The listings are in alphabetical sequence)

Disclaimer:

*The attached information is intended only for the person
or entity to which the clerk of court has authorized for trial use only.
It does contain proprietary/personal, and confidential material.
Please do not share this information with anyone outside your office.
We strive to protect the privacy of our jurors at all times.*

Greenville County Courthouse
Attorney List

SEPT 28 2015

Sorted By Name

JUROR #	NAME	RACE	SEX	DOB	ADDRESS
1	Anderson, Karen D				
3	Bowers, Michael A				
4	Brody, Louis D				
5	Burns, Robin J				
7	Carden, Amanda L				
9	Castle, Gregory S				
10	Chapman, Bobby N				
12	Chebatoris, Annette T				
14	Collins, Pearl R				
15	Cornish, Charles M Jr.				
21	Gibson, Bryant G				
24	Hansen, Hans O				
25	Harrigan, Charles W				
27	Henderson, James A				
28	Higgins, Taylor L				
29	Horak, Grace M				
33	Jetton, Jo Rae				
34	Johnson, Corbitt L				
35	Kelley, Calvin Jr.				
36	Lacount, Clyde L II				
40	Letterman, Heidi D				
42	Luthi, Joan L				
43	Martin, Kyle E				
48	Murphree, Nathaniel R				
49	Norman, Travis D				
50	Nunweiler, Alexandria K				

File: Attorney List_Name.rpt v6.1

**Greenville County Courthouse
Attorney List**

SEPT 28 2015

Sorted By Name

JUROR #	NAME	RACE	SEX	DOB	ADDRESS
51	O'connell, Keith W				
52	O'connor, Mary B				
55	Phillips, Juliette N				
57	Poole, Benjamin N				
58	Powers, Wayne H				
59	Raddish, Franklin D				
61	Roundtree, April L				
62	Skiba, Judith L				
63	Smith, Benjamin R				
64	Snyder, William A				
68	Tessmann, Sarah M				
70	Threlkeld, Kerry N				
71	Tiemey, Andrew M				
73	Varaska, John V				
75	Walden, Anthony B				
76	Washington, Darrell K				
78	White, Jeffrey B				
80	Winley, Priscilla N				

Total Number of Jurors: 44

Sept. 28, 2015

**DETAILED
JUROR
LIST**

(PLEASE NOTE: The listings are in alphabetical sequence)

Disclaimer:

***The attached information is intended only for the person
or entity to which the clerk of court has authorized for trial use only.
It does contain proprietary/personal, and confidential material.
Please do not share this information with anyone outside your office.
We strive to protect the privacy of our jurors at all times.***

JUROR INFORMATION SECTION (PLEASE PRINT OR TYPE CLEARLY)		BEGINNING WEEK OF: 09/28/2015	JUROR NUMBER: 3
CITY, COUNTY, STATE OF BIRTH GREENVILLE SC	AGE [REDACTED]	YEAR OF BIRTH [REDACTED]	# OF CHILDREN 2
MARRIED ☒ SINGLE ☐ WIDOWED ☐ DIVORCED ☐	YOUR OCCUPATION WAREHOUSE LEAD		PRESENT OR FORMER EMPLOYER [REDACTED]
LEVEL OF FORMAL EDUCATION COMPLETED HIGH SCHOOL	NAME OF SPOUSE THERESA Bowers		# OF YEARS [REDACTED]
SPOUSE'S OCCUPATION SHIFT SUPERVISOR	SPOUSE'S PRESENT OR FORMER EMPLOYER [REDACTED]		# OF YEARS [REDACTED]
HAVE YOU EVER SERVED ON A ☐ CIVIL JURY, OR ☐ CRIMINAL JURY? IF SO, WHEN?	HAVE YOU EVER BEEN A PARTY TO A CIVIL LAWSUIT? ☐ YES ☒ NO		
HAVE YOU EVER BEEN CONVICTED OF A CRIME? (OTHER THAN A MINOR TRAFFIC OFFENSE) ☐ YES ☒ NO			
NAME AND/OR ADDRESS CORRECTION: If the information below is incorrect, please write in the correct information in the space provided to the left.			
		BOWERS, MICHAEL A [REDACTED] [REDACTED]	
		NBR-3	

JUROR INFORMATION SECTION (PLEASE PRINT OR TYPE CLEARLY)		BEGINNING WEEK OF: 09/28/2015	JUROR NUMBER: 4
CITY, COUNTY, STATE OF BIRTH	AGE [REDACTED]	YEAR OF BIRTH [REDACTED]	# OF CHILDREN [REDACTED]
MARRIED ☐ SINGLE ☐ WIDOWED ☐ DIVORCED ☐	YOUR OCCUPATION Mortgage Banker		PRESENT OR FORMER EMPLOYER [REDACTED]
LEVEL OF FORMAL EDUCATION COMPLETED High School	NAME OF SPOUSE Monica Brady		# OF YEARS 2
SPOUSE'S OCCUPATION Customer Service	SPOUSE'S PRESENT OR FORMER EMPLOYER [REDACTED]		# OF YEARS 3
HAVE YOU EVER SERVED ON A ☐ CIVIL JURY, OR ☐ CRIMINAL JURY? IF SO, WHEN?	HAVE YOU EVER BEEN A PARTY TO A CIVIL LAWSUIT? ☐ YES ☒ NO		
HAVE YOU EVER BEEN CONVICTED OF A CRIME? (OTHER THAN A MINOR TRAFFIC OFFENSE) ☐ YES ☒ NO			
NAME AND/OR ADDRESS CORRECTION: If the information below is incorrect, please write in the correct information in the space provided to the left.			
		BRÖDY, LOUIS D. [REDACTED] [REDACTED]	
		NBR-4	

JUROR INFORMATION SECTION (PLEASE PRINT OR TYPE CLEARLY)		BEGINNING WEEK OF: 09/28/2015	JUROR NUMBER: 5
CITY, COUNTY, STATE OF BIRTH Greenville, S.C.	AGE [REDACTED]	YEAR OF BIRTH [REDACTED]	# OF CHILDREN 0
MARRIED ☐ SINGLE ☐ WIDOWED ☐ DIVORCED ☐	YOUR OCCUPATION Provider Service Rep.		PRESENT OR FORMER EMPLOYER [REDACTED]
LEVEL OF FORMAL EDUCATION COMPLETED High School	NAME OF SPOUSE John Burns		# OF YEARS 1 1/2
SPOUSE'S OCCUPATION Disabled	SPOUSE'S PRESENT OR FORMER EMPLOYER N/A		# OF YEARS [REDACTED]
HAVE YOU EVER SERVED ON A ☒ CIVIL JURY, OR ☐ CRIMINAL JURY? IF SO, WHEN? Many years ago	HAVE YOU EVER BEEN A PARTY TO A CIVIL LAWSUIT? ☐ YES ☒ NO		
HAVE YOU EVER BEEN CONVICTED OF A CRIME? (OTHER THAN A MINOR TRAFFIC OFFENSE) ☐ YES ☒ NO			
NAME AND/OR ADDRESS CORRECTION: If the information below is incorrect, please write in the correct information in the space provided to the left.			
		BURNS, ROBIN L. [REDACTED] [REDACTED]	
		NBR-5	

JUROR INFORMATION SECTION (PLEASE PRINT OR TYPE CLEARLY)		FOR TERM BEGINNING WEEK OF: 09/28/2015	JUROR NUMBER: 7
CITY, COUNTY, STATE OF BIRTH Hendersonville, Henderson, NC		AGE [REDACTED]	YEAR OF BIRTH [REDACTED]
YOUR OCCUPATION Medical Assistant		# OF CHILDREN 1	MARRIED ☒ SINGLE ☐ WIDOWED ☐ DIVORCED ☐
LEVEL OF FORMAL EDUCATION COMPLETED 12 th grade		PRESENT OR FORMER EMPLOYER [REDACTED]	# OF YEARS 2+
SPOUSE'S OCCUPATION Painter		NAME OF SPOUSE Adam Carden	SPOUSE'S PRESENT OR FORMER EMPLOYER [REDACTED]
HAVE YOU EVER SERVED ON A ☐ CIVIL JURY, OR ☐ CRIMINAL JURY? IF SO, WHEN?		HAVE YOU EVER BEEN A PARTY TO A CIVIL LAWSUIT? ☐ YES ☒ NO	
		HAVE YOU EVER BEEN CONVICTED OF A CRIME? (OTHER THAN A MINOR TRAFFIC OFFENSE) ☐ YES ☒ NO	
NAME AND/OR ADDRESS CORRECTION: If the information below is incorrect, please write in the correct information in the space provided to the left.			
		CARDEN, AMANDA L [REDACTED] [REDACTED] NBR-7	

JUROR INFORMATION SECTION (PLEASE PRINT OR TYPE CLEARLY)		FOR TERM BEGINNING WEEK OF: 09/28/2015	JUROR NUMBER: 10
CITY, COUNTY, STATE OF BIRTH Greenville, South Carolina		AGE [REDACTED]	YEAR OF BIRTH [REDACTED]
YOUR OCCUPATION retired truck driver		# OF CHILDREN 2	MARRIED ☒ SINGLE ☐ WIDOWED ☐ DIVORCED ☐
LEVEL OF FORMAL EDUCATION COMPLETED 8 th grade		PRESENT OR FORMER EMPLOYER [REDACTED]	# OF YEARS 24
SPOUSE'S OCCUPATION Order-filler (retired)		NAME OF SPOUSE Alma Jeanette Chapman	SPOUSE'S PRESENT OR FORMER EMPLOYER [REDACTED]
HAVE YOU EVER SERVED ON A ☐ CIVIL JURY, OR ☐ CRIMINAL JURY? IF SO, WHEN? No		HAVE YOU EVER BEEN A PARTY TO A CIVIL LAWSUIT? ☐ YES ☒ NO	
		HAVE YOU EVER BEEN CONVICTED OF A CRIME? (OTHER THAN A MINOR TRAFFIC OFFENSE) ☐ YES ☒ NO	
NAME AND/OR ADDRESS CORRECTION: If the information below is incorrect, please write in the correct information in the space provided to the left.			
		CHAPMAN, BOBBY N [REDACTED] [REDACTED] NBR-10	

JUROR INFORMATION SECTION (PLEASE PRINT OR TYPE CLEARLY)		FOR TERM BEGINNING WEEK OF: 09/28/2015	JUROR NUMBER: 12
CITY, COUNTY, STATE OF BIRTH Pittsburgh, Allegheny, P.A.		AGE [REDACTED]	YEAR OF BIRTH [REDACTED]
YOUR OCCUPATION Executive Assistant - Unemployed		# OF CHILDREN 2	MARRIED ☒ SINGLE ☐ WIDOWED ☐ DIVORCED ☐
LEVEL OF FORMAL EDUCATION COMPLETED 12		PRESENT OR FORMER EMPLOYER [REDACTED]	# OF YEARS 19
SPOUSE'S OCCUPATION Engineer - Retired		NAME OF SPOUSE Richard	SPOUSE'S PRESENT OR FORMER EMPLOYER [REDACTED]
HAVE YOU EVER SERVED ON A ☒ CIVIL JURY, OR ☐ CRIMINAL JURY? IF SO, WHEN? Not sure - 8 yrs ago		HAVE YOU EVER BEEN A PARTY TO A CIVIL LAWSUIT? ☐ YES ☒ NO	
		HAVE YOU EVER BEEN CONVICTED OF A CRIME? (OTHER THAN A MINOR TRAFFIC OFFENSE) ☐ YES ☒ NO	
NAME AND/OR ADDRESS CORRECTION: If the information below is incorrect, please write in the correct information in the space provided to the left.			
		CHEBATORIS, ANNETTE T [REDACTED] [REDACTED] NBR-12	

JUROR INFORMATION SECTION (PLEASE PRINT OR TYPE CLEARLY)		BEGINNING WEEK OF: 09/28/2015		JUROR NUMBER: 14	
CITY, COUNTY, STATE OF BIRTH Prosser, Benton, Washington		AGE [REDACTED]	YEAR OF BIRTH [REDACTED]	# OF CHILDREN 1	MARRIED SINGLE WIDOWED DIVORCED ☒ ☐ ☐ ☐
YOUR OCCUPATION Production Coordinator		PRESENT OR FORMER EMPLOYER [REDACTED]			# OF YEARS 33
LEVEL OF FORMAL EDUCATION COMPLETED Two years of College		NAME OF SPOUSE Richard D. Collins			
SPOUSE'S OCCUPATION Filling Machine Specialist		SPOUSE'S PRESENT OR FORMER EMPLOYER [REDACTED]			# OF YEARS 23
HAVE YOU EVER SERVED ON A ☐ CIVIL JURY, OR ☐ CRIMINAL JURY? IF SO, WHEN?		HAVE YOU EVER BEEN A PARTY TO A CIVIL LAWSUIT? ☐ YES ☒ NO			
		HAVE YOU EVER BEEN CONVICTED OF A CRIME? (OTHER THAN A MINOR TRAFFIC OFFENSE) ☐ YES ☒ NO			
NAME AND/OR ADDRESS CORRECTION: If the information below is incorrect, please write in the correct information in the space provided to the left.					
			COLLINS, PEARL R [REDACTED] [REDACTED]		
			NBR-14		

JUROR INFORMATION SECTION (PLEASE PRINT OR TYPE CLEARLY)		FOR TERM BEGINNING WEEK OF: 09/28/2015		JUROR NUMBER: 15	
CITY, COUNTY, STATE OF BIRTH Greenville SC		AGE [REDACTED]	YEAR OF BIRTH [REDACTED]	# OF CHILDREN 2	MARRIED SINGLE WIDOWED DIVORCED ☒ ☐ ☐ ☐
YOUR OCCUPATION Residential Contractor		PRESENT OR FORMER EMPLOYER [REDACTED]			# OF YEARS 3
LEVEL OF FORMAL EDUCATION COMPLETED College Degree		NAME OF SPOUSE Sam E Cornish			
SPOUSE'S OCCUPATION Pharmaceutical Sales		SPOUSE'S PRESENT OR FORMER EMPLOYER [REDACTED]			# OF YEARS 12
HAVE YOU EVER SERVED ON A ☐ CIVIL JURY, OR ☐ CRIMINAL JURY? IF SO, WHEN?		HAVE YOU EVER BEEN A PARTY TO A CIVIL LAWSUIT? ☐ YES ☒ NO			
		HAVE YOU EVER BEEN CONVICTED OF A CRIME? (OTHER THAN A MINOR TRAFFIC OFFENSE) ☐ YES ☒ NO			
NAME AND/OR ADDRESS CORRECTION: If the information below is incorrect, please write in the correct information in the space provided to the left.					
			CORNISH, CHARLES M JR [REDACTED] [REDACTED]		
			NBR-15		

JUROR INFORMATION SECTION (PLEASE PRINT OR TYPE CLEARLY)		FOR TERM BEGINNING WEEK OF: 09/28/2015		JUROR NUMBER: 24	
CITY, COUNTY, STATE OF BIRTH Brooklyn, NY		AGE [REDACTED]	YEAR OF BIRTH [REDACTED]	# OF CHILDREN 4	MARRIED SINGLE WIDOWED DIVORCED ☒ ☐ ☐ ☐
YOUR OCCUPATION Process Manager		PRESENT OR FORMER EMPLOYER [REDACTED]			# OF YEARS 4
LEVEL OF FORMAL EDUCATION COMPLETED Masters of Business		NAME OF SPOUSE Ingrid Hansen			
SPOUSE'S OCCUPATION Registered Nurse		SPOUSE'S PRESENT OR FORMER EMPLOYER [REDACTED]			# OF YEARS 16
HAVE YOU EVER SERVED ON A ☐ CIVIL JURY, OR ☐ CRIMINAL JURY? IF SO, WHEN?		HAVE YOU EVER BEEN A PARTY TO A CIVIL LAWSUIT? ☐ YES ☒ NO			
		HAVE YOU EVER BEEN CONVICTED OF A CRIME? (OTHER THAN A MINOR TRAFFIC OFFENSE) ☐ YES ☒ NO			
NAME AND/OR ADDRESS CORRECTION: If the information below is incorrect, please write in the correct information in the space provided to the left.					
			HANSEN, HANS O [REDACTED] [REDACTED]		
			NBR-24		

INFORMATION FOR YOU WILL BE MADE AVAILABLE ONLY TO OFFICERS OF THE COURT

JUROR INFORMATION SECTION (PLEASE PRINT OR TYPE CLEARLY)		WEEK OF: 09/28/2015					
CITY, COUNTY, STATE OF BIRTH Greenville, Greenville, SC	AGE [REDACTED]	YEAR OF BIRTH [REDACTED]	# OF CHILDREN 0	MARRIED	SINGLE	WIDOWED	DIVORCED
YOUR OCCUPATION Auto Engineer				PRESENT OR FORMER EMPLOYER [REDACTED]		# OF YEARS 6	
LEVEL OF FORMAL EDUCATION COMPLETED Associates of Science				NAME OF SPOUSE [REDACTED]			
SPOUSE'S OCCUPATION [REDACTED]				SPOUSE'S PRESENT OR FORMER EMPLOYER [REDACTED]		# OF YEARS [REDACTED]	
HAVE YOU EVER SERVED ON A ☐ CIVIL JURY, OR ☐ CRIMINAL JURY? IF SO, WHEN?		HAVE YOU EVER BEEN A PARTY TO A CIVIL LAWSUIT? ☐ YES ☒ NO					
		HAVE YOU EVER BEEN CONVICTED OF A CRIME? (OTHER THAN A MINOR TRAFFIC OFFENSE) ☐ YES ☒ NO					
NAME AND/OR ADDRESS CORRECTION: If the information below is incorrect, please write in the correct information in the space provided to the left.							
				HARRIGAN, CHARLES W NBR-25			

JUROR INFORMATION SECTION (PLEASE PRINT OR TYPE CLEARLY)		WEEK OF: 09/28/2015	JUROR NUMBER: 28
CITY, COUNTY, STATE OF BIRTH Anderson, SC	AGE [REDACTED]	YEAR OF BIRTH [REDACTED]	# OF CHILDREN 0
YOUR OCCUPATION Teacher		PRESENT OR FORMER EMPLOYER [REDACTED]	
LEVEL OF FORMAL EDUCATION COMPLETED Associates Degree		NAME OF SPOUSE N/A	
SPOUSE'S OCCUPATION N/A		SPOUSE'S PRESENT OR FORMER EMPLOYER N/A	
HAVE YOU EVER SERVED ON A ☐ CIVIL JURY, OR ☐ CRIMINAL JURY? IF SO, WHEN?		HAVE YOU EVER BEEN A PARTY TO A CIVIL LAWSUIT? ☐ YES ☒ NO	
		HAVE YOU EVER BEEN CONVICTED OF A CRIME? (OTHER THAN A MINOR TRAFFIC OFFENSE) ☐ YES ☒ NO	
NAME AND/OR ADDRESS CORRECTION: If the information below is incorrect, please write in the correct information in the space provided to the left.			
		HIGGINS, TAYLOR L NBR-28	

JUROR INFORMATION SECTION (PLEASE PRINT OR TYPE CLEARLY)		WEEK OF: 09/28/2015	JUROR NUMBER: 33
CITY, COUNTY, STATE OF BIRTH Columbia, Richland, SC	AGE [REDACTED]	YEAR OF BIRTH [REDACTED]	# OF CHILDREN 2
YOUR OCCUPATION Writer, homemaker		PRESENT OR FORMER EMPLOYER [REDACTED]	
LEVEL OF FORMAL EDUCATION COMPLETED High School graduate		NAME OF SPOUSE James S. Jetton	
SPOUSE'S OCCUPATION Hooping Assoc.		SPOUSE'S PRESENT OR FORMER EMPLOYER [REDACTED]	
HAVE YOU EVER SERVED ON A ☐ CIVIL JURY, OR ☐ CRIMINAL JURY? IF SO, WHEN?		HAVE YOU EVER BEEN A PARTY TO A CIVIL LAWSUIT? ☐ YES ☒ NO	
		HAVE YOU EVER BEEN CONVICTED OF A CRIME? (OTHER THAN A MINOR TRAFFIC OFFENSE) ☐ YES ☒ NO	
NAME AND/OR ADDRESS CORRECTION: If the information below is incorrect, please write in the correct information in the space provided to the left.			
		JETTON, JO RAE NBR-33	

JUROR INFORMATION SECTION (PLEASE PRINT OR TYPE CLEARLY)		BEGINNING WEEK OF: 09/28/2015		NUMBER: 34	
CITY, COUNTY, STATE OF BIRTH: Spartanburg, Spartanburg County, S.C.		AGE: [REDACTED]	YEAR OF BIRTH: [REDACTED]	# OF CHILDREN: [REDACTED]	MARRIED ☐ SINGLE ☐ WIDOWED ☐ DIVORCED ☐
YOUR OCCUPATION: Production Manager		PRESENT OR FORMER EMPLOYER: [REDACTED]			# OF YEARS: 7
LEVEL OF FORMAL EDUCATION COMPLETED: High School Diploma - 1 yr college		NAME OF SPOUSE: Martha Elaine Johnson			
SPOUSE'S OCCUPATION: UNEMPLOYED		SPOUSE'S PRESENT OR FORMER EMPLOYER: [REDACTED]			# OF YEARS: 4 mo.
HAVE YOU EVER BEEN IN A COURT CASE? ☐ CIVIL JURY, OR ☐ CRIMINAL JURY IF SO WHEN? (May 2000)		HAVE YOU EVER BEEN A PARTY TO A CIVIL LAWSUIT? ☐ YES ☒ NO			
		HAVE YOU EVER BEEN CONVICTED OF A CRIME? (OTHER THAN A MINOR TRAFFIC OFFENSE) ☐ YES ☒ NO			
NAME AND/OR ADDRESS CORRECTION: If the information below is incorrect, please write in the correct information in the space provided to the left.					
			JOHNSON, CORBITT L [REDACTED] [REDACTED] NBR-34		

JUROR INFORMATION SECTION (PLEASE PRINT OR TYPE CLEARLY)		FOR TERM BEGINNING WEEK OF: 09/28/2015		JUROR NUMBER: 40	
CITY, COUNTY, STATE OF BIRTH: Greenville, SC		AGE: [REDACTED]	YEAR OF BIRTH: [REDACTED]	# OF CHILDREN: 2	MARRIED ☐ SINGLE ☐ WIDOWED ☐ DIVORCED ☒
YOUR OCCUPATION: EHS Specialist		PRESENT OR FORMER EMPLOYER: [REDACTED]			# OF YEARS: 5 months
LEVEL OF FORMAL EDUCATION COMPLETED: High School Diploma		NAME OF SPOUSE: N/A			
SPOUSE'S OCCUPATION: [REDACTED]		SPOUSE'S PRESENT OR FORMER EMPLOYER: [REDACTED]			# OF YEARS: [REDACTED]
HAVE YOU EVER BEEN IN A COURT CASE? ☐ CIVIL JURY, OR ☐ CRIMINAL JURY IF SO WHEN? [REDACTED]		HAVE YOU EVER BEEN A PARTY TO A CIVIL LAWSUIT? ☐ YES ☒ NO			
		HAVE YOU EVER BEEN CONVICTED OF A CRIME? (OTHER THAN A MINOR TRAFFIC OFFENSE) ☐ YES ☒ NO			
NAME AND/OR ADDRESS CORRECTION: If the information below is incorrect, please write in the correct information in the space provided to the left.					
Heidi Letterman [REDACTED] [REDACTED]			LETTERMAN, HEIDI D [REDACTED] [REDACTED] NBR-40		

JUROR INFORMATION SECTION (PLEASE PRINT OR TYPE CLEARLY)		FOR TERM BEGINNING WEEK OF: 09/28/2015		JUROR NUMBER: 42	
CITY, COUNTY, STATE OF BIRTH: Savannah, Chatham Co. GA		AGE: [REDACTED]	YEAR OF BIRTH: [REDACTED]	# OF CHILDREN: 1	MARRIED ☒ SINGLE ☐ WIDOWED ☐ DIVORCED ☐
YOUR OCCUPATION: Sales / Owner		PRESENT OR FORMER EMPLOYER: [REDACTED]			# OF YEARS: 2
LEVEL OF FORMAL EDUCATION COMPLETED: College Graduate		NAME OF SPOUSE: Giuseppe (Sam) Luthi			
SPOUSE'S OCCUPATION: Sales / Owner		SPOUSE'S PRESENT OR FORMER EMPLOYER: [REDACTED]			# OF YEARS: 2
HAVE YOU EVER BEEN IN A COURT CASE? ☒ CIVIL JURY, OR ☐ CRIMINAL JURY IF SO WHEN? 1996		HAVE YOU EVER BEEN A PARTY TO A CIVIL LAWSUIT? ☒ YES ☐ NO			
		HAVE YOU EVER BEEN CONVICTED OF A CRIME? (OTHER THAN A MINOR TRAFFIC OFFENSE) ☐ YES ☒ NO			
NAME AND/OR ADDRESS CORRECTION: If the information below is incorrect, please write in the correct information in the space provided to the left.					
			LUTHI, JOAN L [REDACTED] [REDACTED] NBR-42		

JUROR INFORMATION SECTION (PLEASE PRINT OR TYPE CLEARLY)		BEGINNING WEEK OF: 09/28/2015		NUMBER: 43	
CITY, COUNTY, STATE OF BIRTH Greenville S.C.		AGE [REDACTED]	YEAR OF BIRTH [REDACTED]	# OF CHILDREN 2	MARRIED ☒ SINGLE ☐ WIDOWED ☐ DIVORCED ☐
YOUR OCCUPATION Truck Driver (Long Dist)		PRESENT OR FORMER EMPLOYER [REDACTED]			# OF YEARS 8
LEVEL OF FORMAL EDUCATION COMPLETED 12th Grade		NAME OF SPOUSE Jimmy Martin			
SPOUSE'S OCCUPATION Head Start Center Manager		SPOUSE'S PRESENT OR FORMER EMPLOYER [REDACTED]			# OF YEARS 16
HAVE YOU EVER SERVED ON A ☒ CIVIL JURY, OR ☐ CRIMINAL JURY? IF SO, WHEN? 2005		HAVE YOU EVER BEEN A PARTY TO A CIVIL LAWSUIT? ☐ YES ☒ NO			
		HAVE YOU EVER BEEN CONVICTED OF A CRIME? (OTHER THAN A MINOR TRAFFIC OFFENSE) ☐ YES ☒ NO			
NAME AND/OR ADDRESS CORRECTION: If the information below is incorrect, please write in the correct information in the space provided to the left.					
			MARTIN, KYLE E [REDACTED] [REDACTED] NBR-43		

JUROR INFORMATION SECTION (PLEASE PRINT OR TYPE CLEARLY)		FOR TERM BEGINNING WEEK OF: 09/28/2015		JUROR NUMBER: 49	
CITY, COUNTY, STATE OF BIRTH Washington, D.C.		AGE [REDACTED]	YEAR OF BIRTH [REDACTED]	# OF CHILDREN 2	MARRIED ☐ SINGLE ☐ WIDOWED ☒ DIVORCED ☐
YOUR OCCUPATION Retired		PRESENT OR FORMER EMPLOYER [REDACTED]			# OF YEARS 25
LEVEL OF FORMAL EDUCATION COMPLETED High School		NAME OF SPOUSE			
SPOUSE'S OCCUPATION		SPOUSE'S PRESENT OR FORMER EMPLOYER			# OF YEARS
HAVE YOU EVER SERVED ON A ☐ CIVIL JURY, OR ☐ CRIMINAL JURY? IF SO, WHEN?		HAVE YOU EVER BEEN A PARTY TO A CIVIL LAWSUIT? ☐ YES ☒ NO			
		HAVE YOU EVER BEEN CONVICTED OF A CRIME? (OTHER THAN A MINOR TRAFFIC OFFENSE) ☐ YES ☒ NO			
NAME AND/OR ADDRESS CORRECTION: If the information below is incorrect, please write in the correct information in the space provided to the left.					
			NORMAN, TRAVIS D [REDACTED] [REDACTED] NBR-49		

JUROR INFORMATION SECTION (PLEASE PRINT OR TYPE CLEARLY)		FOR TERM BEGINNING WEEK OF: 09/28/2015		JUROR NUMBER: 50	
CITY, COUNTY, STATE OF BIRTH Allentown, Lehigh County, PA		AGE [REDACTED]	YEAR OF BIRTH [REDACTED]	# OF CHILDREN —	MARRIED ☐ SINGLE ☒ WIDOWED ☐ DIVORCED ☐
YOUR OCCUPATION Dance Choreographer		PRESENT OR FORMER EMPLOYER [REDACTED]			# OF YEARS 1
LEVEL OF FORMAL EDUCATION COMPLETED Bachelor's		NAME OF SPOUSE			
SPOUSE'S OCCUPATION		SPOUSE'S PRESENT OR FORMER EMPLOYER			# OF YEARS
HAVE YOU EVER SERVED ON A ☐ CIVIL JURY, OR ☐ CRIMINAL JURY? IF SO, WHEN?		HAVE YOU EVER BEEN A PARTY TO A CIVIL LAWSUIT? ☐ YES ☒ NO			
		HAVE YOU EVER BEEN CONVICTED OF A CRIME? (OTHER THAN A MINOR TRAFFIC OFFENSE) ☐ YES ☒ NO			
NAME AND/OR ADDRESS CORRECTION: If the information below is incorrect, please write in the correct information in the space provided to the left.					
			NUNWEILER, ALEXANDRIA K [REDACTED] [REDACTED] NBR-50		

ALL INFORMATION REMAINS AVAILABLE ONLY TO OFFICERS OF THE COURT

JUROR INFORMATION SECTION (PLEASE PRINT OR TYPE CLEARLY)		BEGINNING WEEK OF	09/28/2015		JUROR NUMBER	31		
CITY, COUNTY, STATE OF BIRTH Chicago, Cook, IL		AGE	YEAR OF BIRTH	# OF CHILDREN	MARRIED	SINGLE	WIDOWED	DIVORCED
YOUR OCCUPATION Accountant		PRESENT OR FORMER EMPLOYER						# OF YEARS 5
LEVEL OF FORMAL EDUCATION COMPLETED Masters of Science		NAME OF SPOUSE Robin O'Connell						
SPOUSE'S OCCUPATION Director of Operations		SPOUSE'S PRESENT OR FORMER EMPLOYER						# OF YEARS 8
HAVE YOU EVER SERVED ON A ☐ CIVIL JURY, OR ☐ CRIMINAL JURY? IF SO, WHEN?		HAVE YOU EVER BEEN A PARTY TO A CIVIL LAWSUIT? ☐ YES ☒ NO						
		HAVE YOU EVER BEEN CONVICTED OF A CRIME? (OTHER THAN A MINOR TRAFFIC OFFENSE) ☐ YES ☒ NO						
NAME AND/OR ADDRESS CORRECTION: If the information below is incorrect, please write in the correct information in the space provided to the left.								
				O'CONNELL, KEITH W NBR-51				

JUROR INFORMATION SECTION (PLEASE PRINT OR TYPE CLEARLY)		FOR TERM BEGINNING WEEK OF	09/28/2015		JUROR NUMBER	52		
CITY, COUNTY, STATE OF BIRTH Lakeland Florida		AGE	YEAR OF BIRTH	# OF CHILDREN	MARRIED	SINGLE	WIDOWED	DIVORCED
YOUR OCCUPATION Title Abstractor		PRESENT OR FORMER EMPLOYER						# OF YEARS 25
LEVEL OF FORMAL EDUCATION COMPLETED Associates degree		NAME OF SPOUSE N/A						
SPOUSE'S OCCUPATION N/A		SPOUSE'S PRESENT OR FORMER EMPLOYER N/A						# OF YEARS
HAVE YOU EVER SERVED ON A ☐ CIVIL JURY, OR ☐ CRIMINAL JURY? IF SO, WHEN?		HAVE YOU EVER BEEN A PARTY TO A CIVIL LAWSUIT? ☐ YES ☒ NO						
		HAVE YOU EVER BEEN CONVICTED OF A CRIME? (OTHER THAN A MINOR TRAFFIC OFFENSE) ☐ YES ☒ NO						
NAME AND/OR ADDRESS CORRECTION: If the information below is incorrect, please write in the correct information in the space provided to the left.								
				O'CONNOR, MARY B NBR-52				

JUROR INFORMATION SECTION (PLEASE PRINT OR TYPE CLEARLY)		FOR TERM BEGINNING WEEK OF	09/28/2015		JUROR NUMBER	55		
CITY, COUNTY, STATE OF BIRTH Toccoa, Stephens GA		AGE	YEAR OF BIRTH	# OF CHILDREN	MARRIED	SINGLE	WIDOWED	DIVORCED
YOUR OCCUPATION Project Manager		PRESENT OR FORMER EMPLOYER						# OF YEARS 1
LEVEL OF FORMAL EDUCATION COMPLETED High School		NAME OF SPOUSE N/A						
SPOUSE'S OCCUPATION N/A		SPOUSE'S PRESENT OR FORMER EMPLOYER N/A						# OF YEARS N/A
HAVE YOU EVER SERVED ON A ☐ CIVIL JURY, OR ☐ CRIMINAL JURY? IF SO, WHEN?		HAVE YOU EVER BEEN A PARTY TO A CIVIL LAWSUIT? ☐ YES ☒ NO						
		HAVE YOU EVER BEEN CONVICTED OF A CRIME? (OTHER THAN A MINOR TRAFFIC OFFENSE) ☐ YES ☒ NO						
NAME AND/OR ADDRESS CORRECTION: If the information below is incorrect, please write in the correct information in the space provided to the left.								
				PHILLIPS, JULIETTE N NBR-55				

JUROR INFORMATION SECTION (PLEASE PRINT OR TYPE CLEARLY)		FOR TERM BEGINNING WEEK OF: 09/28/2015	JUROR NUMBER: 57
CITY, COUNTY, STATE OF BIRTH Greenville, SC		AGE: [REDACTED]	YEAR OF BIRTH: [REDACTED]
YOUR OCCUPATION Engineer		# OF CHILDREN: [REDACTED]	MARRIED ☐ SINGLE ☒ WIDOWED ☐ DIVORCED ☐
LEVEL OF FORMAL EDUCATION COMPLETED Masters		NAME OF SPOUSE [REDACTED]	
SPOUSE'S OCCUPATION [REDACTED]		SPOUSE'S PRESENT OR FORMER EMPLOYER [REDACTED]	
HAVE YOU EVER SERVED ON A ☐ CIVIL JURY, OR ☐ CRIMINAL JURY? IF SO, WHEN?		HAVE YOU EVER BEEN A PARTY TO A CIVIL LAWSUIT? ☐ YES ☒ NO	
		HAVE YOU EVER BEEN CONVICTED OF A CRIME? (OTHER THAN A MINOR TRAFFIC OFFENSE) ☐ YES ☒ NO	
NAME AND/OR ADDRESS CORRECTION: If the information below is incorrect, please write in the correct information in the space provided to the left.			
		POOLE, BENJAMIN N [REDACTED] [REDACTED]	
		NBR-57	

JUROR INFORMATION SECTION (PLEASE PRINT OR TYPE CLEARLY)		FOR TERM BEGINNING WEEK OF: 09/28/2015	JUROR NUMBER: 61
CITY, COUNTY, STATE OF BIRTH Greenville, SC		AGE: [REDACTED]	YEAR OF BIRTH: [REDACTED]
YOUR OCCUPATION Account Specialist		# OF CHILDREN: 4	MARRIED ☐ SINGLE ☒ WIDOWED ☐ DIVORCED ☐
LEVEL OF FORMAL EDUCATION COMPLETED MBA		NAME OF SPOUSE [REDACTED]	
SPOUSE'S OCCUPATION N/A		SPOUSE'S PRESENT OR FORMER EMPLOYER [REDACTED]	
HAVE YOU EVER SERVED ON A ☐ CIVIL JURY, OR ☐ CRIMINAL JURY? IF SO, WHEN?		HAVE YOU EVER BEEN A PARTY TO A CIVIL LAWSUIT? ☐ YES ☒ NO	
		HAVE YOU EVER BEEN CONVICTED OF A CRIME? (OTHER THAN A MINOR TRAFFIC OFFENSE) ☐ YES ☒ NO	
NAME AND/OR ADDRESS CORRECTION: If the information below is incorrect, please write in the correct information in the space provided to the left.			
		ROUNDTREE, APRIL L [REDACTED] [REDACTED]	
		NBR-61	

JUROR INFORMATION SECTION (PLEASE PRINT OR TYPE CLEARLY)		FOR TERM BEGINNING WEEK OF: 09/28/2015	JUROR NUMBER: 62
CITY, COUNTY, STATE OF BIRTH Wheeling (Ohio) W. VIRGINIA		AGE: [REDACTED]	YEAR OF BIRTH: [REDACTED]
YOUR OCCUPATION Retired homemaker		# OF CHILDREN: 1	MARRIED ☒ SINGLE ☐ WIDOWED ☐ DIVORCED ☐
LEVEL OF FORMAL EDUCATION COMPLETED College Assoc Degree		NAME OF SPOUSE Thomas J. Skiba	
SPOUSE'S OCCUPATION Retired USPS		SPOUSE'S PRESENT OR FORMER EMPLOYER [REDACTED]	
HAVE YOU EVER SERVED ON A ☐ CIVIL JURY, OR ☒ CRIMINAL JURY? IF SO, WHEN? 1998		HAVE YOU EVER BEEN A PARTY TO A CIVIL LAWSUIT? ☐ YES ☒ NO	
		HAVE YOU EVER BEEN CONVICTED OF A CRIME? (OTHER THAN A MINOR TRAFFIC OFFENSE) ☐ YES ☒ NO	
NAME AND/OR ADDRESS CORRECTION: If the information below is incorrect, please write in the correct information in the space provided to the left.			
		SKIBA, JUDITH L. [REDACTED] [REDACTED]	
		NBR-62	

JUROR INFORMATION SECTION (PLEASE PRINT OR TYPE CLEARLY)		FOR TERM BEGINNING WEEK OF: 09/28/2015		JUROR NUMBER: 63	
CITY, COUNTY, STATE OF BIRTH Richmond GA		AGE	YEAR OF BIRTH	# OF CHILDREN	MARRIED SINGLE WIDOWED DIVORCED
YOUR OCCUPATION Pest Control		PRESENT OR FORMER EMPLOYER			# OF YEARS
LEVEL OF FORMAL EDUCATION COMPLETED 12th grade		NAME OF SPOUSE Nicole Smith			
SPOUSE'S OCCUPATION Child Care		SPOUSE'S PRESENT OR FORMER EMPLOYER			# OF YEARS
HAVE YOU EVER SERVED ON A ☐ CIVIL JURY, OR ☐ CRIMINAL JURY? IF SO, WHEN?		HAVE YOU EVER BEEN A PARTY TO A CIVIL LAWSUIT? ☐ YES ☒ NO			
		HAVE YOU EVER BEEN CONVICTED OF A CRIME? (OTHER THAN A MINOR TRAFFIC OFFENSE) ☐ YES ☒ NO			
NAME AND/OR ADDRESS CORRECTION: If the information below is incorrect, please write in the correct information in the space provided to the left.					
			SMITH, BENJAMIN R. NBR-63		

JUROR INFORMATION SECTION (PLEASE PRINT OR TYPE CLEARLY)		FOR TERM BEGINNING WEEK OF: 09/28/2015		JUROR NUMBER: 64	
CITY, COUNTY, STATE OF BIRTH DANVILLE, LOZGRUE, PENNSYLVANIA		AGE	YEAR OF BIRTH	# OF CHILDREN	MARRIED SINGLE WIDOWED DIVORCED
YOUR OCCUPATION TEST ENGINEER		PRESENT OR FORMER EMPLOYER			# OF YEARS
LEVEL OF FORMAL EDUCATION COMPLETED BACHORS OF SCIENCE		NAME OF SPOUSE JENNIFER SNYDER			
SPOUSE'S OCCUPATION Asst. Manager		SPOUSE'S PRESENT OR FORMER EMPLOYER			# OF YEARS
HAVE YOU EVER SERVED ON A ☐ CIVIL JURY, OR ☐ CRIMINAL JURY? IF SO, WHEN?		HAVE YOU EVER BEEN A PARTY TO A CIVIL LAWSUIT? ☐ YES ☒ NO			
		HAVE YOU EVER BEEN CONVICTED OF A CRIME? (OTHER THAN A MINOR TRAFFIC OFFENSE) ☐ YES ☒ NO			
NAME AND/OR ADDRESS CORRECTION: If the information below is incorrect, please write in the correct information in the space provided to the left.					
			SNYDER, WILLIAM A. NBR-64		

JUROR INFORMATION SECTION (PLEASE PRINT OR TYPE CLEARLY)		FOR TERM BEGINNING WEEK OF: 09/28/2015		JUROR NUMBER: 68	
CITY, COUNTY, STATE OF BIRTH Allen Park, MI		AGE	YEAR OF BIRTH	# OF CHILDREN	MARRIED SINGLE WIDOWED DIVORCED
YOUR OCCUPATION Substitute teacher		PRESENT OR FORMER EMPLOYER			# OF YEARS
LEVEL OF FORMAL EDUCATION COMPLETED elementary ed. college degree		NAME OF SPOUSE Eric Tessmann			
SPOUSE'S OCCUPATION Project manager		SPOUSE'S PRESENT OR FORMER EMPLOYER			# OF YEARS
HAVE YOU EVER SERVED ON A ☐ CIVIL JURY, OR ☐ CRIMINAL JURY? IF SO, WHEN?		HAVE YOU EVER BEEN A PARTY TO A CIVIL LAWSUIT? ☐ YES ☒ NO			
		HAVE YOU EVER BEEN CONVICTED OF A CRIME? (OTHER THAN A MINOR TRAFFIC OFFENSE) ☐ YES ☒ NO			
NAME AND/OR ADDRESS CORRECTION: If the information below is incorrect, please write in the correct information in the space provided to the left.					
			TESSMANN, SARAH M. NBR-68		

JUROR INFORMATION SECTION (PLEASE PRINT OR TYPE CLEARLY)		WEEK OF: 09/28/2015	MARRIED SINGLE WIDOWED DIVORCED			
CITY, COUNTY, STATE OF BIRTH Brooklyn, NY	AGE [REDACTED]	YEAR OF BIRTH [REDACTED]	# OF CHILDREN 2	☒	☐	☐
YOUR OCCUPATION Legal Assistant	PRESENT OR FORMER EMPLOYER [REDACTED]					# OF YEARS 18
LEVEL OF FORMAL EDUCATION COMPLETED Associate Degree	NAME OF SPOUSE Jesse Threlkeld					
SPOUSE'S OCCUPATION Athletic Trainer	SPOUSE'S PRESENT OR FORMER EMPLOYER [REDACTED]					# OF YEARS 1
HAVE YOU EVER SERVED ON A ☐ CIVIL JURY, OR ☐ CRIMINAL JURY? IF SO, WHEN? UNO	HAVE YOU EVER BEEN A PARTY TO A CIVIL LAWSUIT? ☒ YES ☐ NO credit card					
HAVE YOU EVER BEEN CONVICTED OF A CRIME? (OTHER THAN A MINOR TRAFFIC OFFENSE) ☐ YES ☒ NO						
NAME AND/OR ADDRESS CORRECTION: If the information below is incorrect, please write in the correct information in the space provided to the left.						
					THRELKELD, KERRYN [REDACTED] [REDACTED] NBR-70	

JUROR INFORMATION SECTION (PLEASE PRINT OR TYPE CLEARLY)		FOR TERM BEGINNING WEEK OF: 09/28/2015	JUROR NUMBER 76
CITY, COUNTY, STATE OF BIRTH GREENVILLE, GREENVILLE, S.C.	AGE [REDACTED]	YEAR OF BIRTH [REDACTED]	# OF CHILDREN 2
YOUR OCCUPATION Mail Clerk	PRESENT OR FORMER EMPLOYER [REDACTED]		# OF YEARS 202
LEVEL OF FORMAL EDUCATION COMPLETED High School Grad	NAME OF SPOUSE Melody Washington		
SPOUSE'S OCCUPATION Batch Release Admin	SPOUSE'S PRESENT OR FORMER EMPLOYER [REDACTED]		# OF YEARS 9
HAVE YOU EVER SERVED ON A ☐ CIVIL JURY, OR ☐ CRIMINAL JURY? IF SO, WHEN?	HAVE YOU EVER BEEN A PARTY TO A CIVIL LAWSUIT? ☐ YES ☒ NO		
HAVE YOU EVER BEEN CONVICTED OF A CRIME? (OTHER THAN A MINOR TRAFFIC OFFENSE) ☐ YES ☒ NO			
NAME AND/OR ADDRESS CORRECTION: If the information below is incorrect, please write in the correct information in the space provided to the left.			
		WASHINGTON, DARRELL K. [REDACTED] [REDACTED] NBR-76	

JUROR INFORMATION SECTION (PLEASE PRINT OR TYPE CLEARLY)		FOR TERM BEGINNING WEEK OF: 09/28/2015	JUROR NUMBER 78
CITY, COUNTY, STATE OF BIRTH GREENSBORO N.C. GUILFORD CO.	AGE [REDACTED]	YEAR OF BIRTH [REDACTED]	# OF CHILDREN 2 step children
YOUR OCCUPATION FUNERAL DIRECTOR	PRESENT OR FORMER EMPLOYER [REDACTED]		# OF YEARS 32
LEVEL OF FORMAL EDUCATION COMPLETED TRADE SCHOOL DIPLOMA	NAME OF SPOUSE PATRICK A. White		
SPOUSE'S OCCUPATION COORDINATOR OF PARENT ENGAGEMENT	SPOUSE'S PRESENT OR FORMER EMPLOYER [REDACTED]		# OF YEARS 12
HAVE YOU EVER SERVED ON A ☒ CIVIL JURY, OR ☐ CRIMINAL JURY? IF SO, WHEN? 1981	HAVE YOU EVER BEEN A PARTY TO A CIVIL LAWSUIT? ☐ YES ☒ NO		
HAVE YOU EVER BEEN CONVICTED OF A CRIME? (OTHER THAN A MINOR TRAFFIC OFFENSE) ☐ YES ☒ NO			
NAME AND/OR ADDRESS CORRECTION: If the information below is incorrect, please write in the correct information in the space provided to the left.			
		WHITE, JEFFREY B. [REDACTED] [REDACTED] NBR-78	

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE. IT IS THE POLICY OF THE U.S. DEPARTMENT OF JUSTICE TO MAKE ALL INFORMATION CONTAINED HEREIN AVAILABLE TO THE PUBLIC UNLESS IT IS DETERMINED THAT DISCLOSURE WOULD BE DETRIMENTAL TO THE NATIONAL DEFENSE.

NAME (LAST, FIRST, MIDDLE) Ft. Sill, OK Cumarche		BEGINNING WEEK OF 09/28/2015		NUMBER 80	
CITY, COUNTY, STATE OF BIRTH Ft. Sill, OK Cumarche	AGE [REDACTED]	YEAR OF BIRTH [REDACTED]	# OF CHILDREN 2	MARRIED ☒ SINGLE ☐ WIDOWED ☐ DIVORCED ☐	
YOUR OCCUPATION Sales Manager	PRESENT OR FORMER EMPLOYER [REDACTED]			# OF YEARS 16	
LEVEL OF FORMAL EDUCATION COMPLETED 2 years college	NAME OF SPOUSE Richard				
SPOUSE'S OCCUPATION Retired	SPOUSE'S PRESENT OR FORMER EMPLOYER [REDACTED]			# OF YEARS 20	
HAVE YOU EVER BEEN ARRESTED ON A ☐ CIVIL ARREST ☐ CRIMINAL ARREST no		HAVE YOU EVER BEEN A PARTY TO A CIVIL LAWSUIT ☐ YES ☒ NO			
		HAVE YOU EVER BEEN CONVICTED OF A CRIME (OTHER THAN A MINOR TRAFFIC OFFENSE) ☐ YES ☒ NO			
NAME AND OR ADDRESS CORRECTION: If the information below is incorrect, please write in the correct information in the space provided to the left. VALLEY, ARIZONA					

**DEFENDANT'S
EXHIBIT 4**

**REDACTED AND UN-REDACTED INCIDENT REPORT
OF INCIDENT ON JUNE 23, 2015**

AGENCY I.D.

SIMPSONVILLE POLICE DEPARTMENT

SC0230500

INCIDENT REPORT

CASE NUMBER

05-15-011483

NCIC

INO. ENTD.

E V E N T	INCIDENT TYPE		COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM
	1. 90F - FAMILY OFFENSES, NONVIOLENT		☒ YES ☐ NO	☐ YES ☐ NO	20		☐ Individual ☐ Business ☐ Financial Inst ☐ Government ☐ Relig. Orgn. ☐ Soc. Public ☐ Other ☐ Unknown ☐ Police Off.
	2.		☐ YES ☐ NO	☐ YES ☐ NO			
V I C T I M	3.		☐ YES ☐ NO	☐ YES ☐ NO			
	INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)				ZIP CODE	WEAPON TYPE	
	INCIDENT DATE	24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISPATCH DATE/TIME 24 HR. CLOCK	
06/23/2015		1900		06/23/2015	2030	DISP. DATE	DISP. TIME
						06/23/2015	1928
						TIME ARRIVED	DEPART. TIME
						1932	2045
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX	AGE
BURNS, ROBIN		SE			W	F	54
ADDRESS		CITY		STATE	ZIP CODE	LOCATION NO.	
						A	
V I C T I M	VICTIM'S NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX
	BURNS, ROBIN					W	F
	ADDRESS		CITY		STATE	ZIP CODE	LOCATION NO.
						A	
HEIGHT		WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.		
ADDRESS		CITY		STATE	ZIP CODE	LOCATION NO.	
						A	
VISIBLE INJURY (VICT. 1) ☐ YES ☒ NO EXPLAIN -							
VICTIM (NO. 1) USING: ALCOHOL: ☐ YES ☐ NO ☒ UNK. DRUGS: ☐ YES ☐ NO ☒ UNK.							
☐ TWO-MAN VEH. ☐ ONE-MAN VEH. ☐ DETECTIVE/PLASMT. ☐ OTHER ☐ ALONE ☐ ASSISTED J - This Jurisdiction S - State O - Out of State U - Unknown							
S U B J E C T	☒ SUSPECT		SUBJECT NAME (LAST, FIRST, MIDDLE)		RACE	SEX	AGE
	☐ RUNAWAY		BURNS, JOHN		W	M	55
	☐ WANTED		FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.				
☐ WARRANT		ADDRESS		CITY	STATE	ZIP CODE	LOCATION NO.
☐ ARREST							
☐ JAIL		SUBJECT (NO. 1) USING: ALCOHOL: ☐ YES ☐ NO ☒ UNK.		ARRESTED NEAR OFFENSE SCENE ☐ YES ☒ NO		DATE/TIME OF OFFENSE	
☐ SUMMONS		DRUGS: ☐ YES ☐ NO ☒ UNK. TYPE:		TOTAL # ARRESTED		DATE/TIME OF ARREST	
				0		06/23/2015 1900	
Offenses:							
FAMILY OFFENSES, NONVIOLENT							
SEE SUPPLEMENTAL.							
N A R R A T I V E							

Date Entered: 06/24/2015 03:53:05 AM		Last Modified: 06/24/2015 04:22:27 PM		JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY		JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY	
Print Date: 11/18/2015 02:48:33 PM							
P	TYPE (GROUP)					TOTAL VALUE	
R	Burned						
O	Count/Forged						
P	Dealt/Damaged						
E	Recovered						
R	Seized						
T	Stolen						
Y	Unknown						
A	SUBJECT IDENTIFIED	SUBJECT LOCATED	ACTIVE	ADAM CLOSED	ARRESTED UNDER 18	EX-CLEAR UNDER 18	
M	☒ YES ☐ NO	☒ YES ☐ NO	☐ UNFOUNDED		☐ ARRESTED 18 AND OVER	☐ EX-CLEAR 18 AND OVER	
I	REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ ANVILE - NO CUSTODY						
N	REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER		DATE	UNIT NUMBER
I	PTL D A TEDROW	06/24/2015	D5	CPL A K RANDOLPH		06/24/2015	D2
S	FOLLOW-UP INVESTIGATION OFFICER						
T	☐ YES ☐ NO						

INCIDENT REPORT SUPPLEMENTAL

Page #: 1

Case Number: 05-15-011483

Officer: 00255 TEDROW, D

Date Entered/Changed: 06/24/2015

Reviewer: 00334

Review Date: 06/24/2015

DETAILED STATEMENT OF INVESTIGATION: ON 06/23/2015 AT APPROXIMATELY 1928 HOURS I, PFC DAVID TEDROW, WAS DISPATCHED TO [REDACTED] IN REFERENCE TO A DOMESTIC ISSUE. WHEN I ARRIVED, ALONG WITH K9 OFC J. EDWARDS, I MET WITH THE COMPLAINANT, ROBIN BURNS.

SHE STATED THAT HER AND HER HUSBAND, JOHN BURNS, HAD AN ARGUMENT OVER JOHN SITTING ON THE SUN PORCH ALL DAY PLAYING GAMES ON HIS PHONE. ROBIN WAS ON THE PHONE TALKING WITH HER SISTER IN MAULDIN AND JOHN GRABBED THE PHONE AWAY FROM HER BECAUSE HE SAID SHE WAS LYING ABOUT WHAT HAD HAPPENED.

K9 OFC EDWARDS TALKED WITH JOHN CONCERNING HIS ANGER. BOTH PARTIES AGREED TO TRY AND BE MORE UNDERSTANDING TO EACH OTHERS NEEDS. ROBIN STATED THAT SHE WOULD PROBABLY GO STAY AT HER SISTERS HOUSE FOR THE NIGHT JUST TO LET THINGS CALM DOWN.

AGENCY I.D.
SC0230500

SIMPSONVILLE POLICE DEPARTMENT
INCIDENT REPORT

CASE NUMBER

05-15-011483

NCIC

INQ. ENTD.

E V E N T	INCIDENT TYPE		COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM ☒ Individual ☐ Business ☐ Financial Inst. ☐ Government ☐ Relig. Orgn. ☐ Soc./Public ☐ Other ☐ Unknown ☐ Police Off.
	1. 90F - FAMILY OFFENSES, NONVIOLENT		☒ YES ☐ NO	☐ YES ☐ NO	20		
	2.		☐ YES ☐ NO	☐ YES ☐ NO			
	3.		☐ YES ☐ NO	☐ YES ☐ NO			
V I C T I M	INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)					ZIP CODE	WEAPON TYPE
	SIMPSONVILLE SC					29681	
	INCIDENT DATE	24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISPATCH DATE/TIME 24 HR. CLOCK	
	06/23/2015	1900		08/23/2015	2030	DISP. DATE	DISP. TIME
					06/23/2015	1928	1932
							2045
	COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX
	BURNS, ROBIN		SE		☒ S ☐ O ☐ U	W	F
	ADDRESS		CITY		STATE	ZIP CODE	LOCATION NO.
			SIMPSONVILLE		SC	29681	A
# 1	VICTIM'S NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX
	BURNS, ROBIN				☒ S ☐ O ☐ U	W	F
	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.		
	ADDRESS		CITY		STATE	ZIP CODE	LOCATION NO.
			SIMPSONVILLE		SC	29681	A
	VISIBLE INJURY (VICT. 1) ☐ YES ☒ NO EXPLAIN -						
	VICTIM (NO. 1) USING: ALCOHOL: ☐ YES ☐ NO ☒ UNK. DRUGS: ☐ YES ☐ NO ☒ UNK.						
	☐ TWO-MAN VEH. ☐ ONE-MAN VEH. ☐ DETECTIVE/SPLASMT. ☐ OTHER ☐ ALONE ☐ ASSISTED J - This Jurisdiction S - State O - Out of State U - Unknown						
	S U B J E C T	☒ SUSPECT		SUBJECT NAME (LAST, FIRST, MIDDLE)		RACE	SEX
☐ RUNAWAY		BURNS, JOHN		W	M	55	
☐ WANTED		FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.					
☐ WARRANT		ADDRESS		CITY	STATE	ZIP CODE	
☐ ARREST				SIMPSONVILLE	SC	29681	
☐ JAIL		SUBJECT (NO. 1) USING: ALCOHOL: ☐ YES ☐ NO ☒ UNK.		ARRESTED NEAR OFFENSE SCENE ☐ YES ☒ NO		DATE/TIME OF OFFENSE	
☐ SUMMONS		DRUGS: ☐ YES ☐ NO ☒ UNK. TYPE:		TOTAL # ARRESTED		DATE/TIME OF ARREST	
				0		06/23/2015 1900	
N A R R A T I V E		Offenses: FAMILY OFFENSES, NONVIOLENT					
	SEE SUPPLEMENTAL.						

Date Entered: 06/24/2015 03:53:05 AM		Last Modified: 06/24/2015 04:22:27 PM		JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY		JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY	
Print Date: 11/23/2015 02:33:05 PM							
P R O P E R T Y	TYPE (GROUP)					TOTAL VALUE	
	Burned						
	Count/Forged						
	Dest/Damaged						
	Recovered						
	Seized						
A D M I N I S T	SUBJECT IDENTIFIED	☒ YES ☐ NO	SUBJECT LOCATED	☒ YES ☐ NO	☐ ACTIVE ☒ ADM. CLOSED	☐ ARRESTED UNDER 18	☐ EX-CLEAR UNDER 18
					☐ UNFOUNDED	☐ ARRESTED 18 AND OVER	☐ EX-CLEAR 18 AND OVER
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE - NO CUSTODY							
REPORTING OFFICER(S)		DATE	UNIT NUMBER	APPROVING OFFICER		DATE	UNIT NUMBER
PTL D A TEDROW		06/24/2015	D5	CPL A K RANDOLPH		06/24/2015	D2
FOLLOW-UP INVESTIGATION OFFICER							
☐ YES ☐ NO							

INCIDENT REPORT SUPPLEMENTAL

Page #: 1

Case Number: 05-15-011483

Officer: 00255 TEDROW, D

Date Entered/Changed: 06/24/2015

Reviewer: 00334

Review Date: 06/24/2015

DETAILED STATEMENT OF INVESTIGATION: ON 06/23/2015 AT APPROXIMATELY 1928 HOURS I, PFC DAVID TEDROW, WAS DISPATCHED TO [REDACTED] IN REFERENCE TO A DOMESTIC ISSUE. WHEN I ARRIVED, ALONG WITH K9 OFC J. EDWARDS, I MET WITH THE COMPLAINANT, ROBIN BURNS.

SHE STATED THE HER AND HER HUSBAND, JOHN BURNS, HAD AN ARGUMENT OVER JOHN SITTING ON THE SUN PORCH ALL DAY PLAYING GAMES ON HIS PHONE. ROBIN WAS ON THE PHONE TALKING WITH HER SISTER IN MAULDIN AND JOHN GRABBED THE PHONE AWAY FROM HER BECAUSE HE SAID SHE WAS LYING ABOUT WHAT HAD HAPPENED.

K9 OFC EDWARDS TALKED WITH JOHN CONCERNING HIS ANGER. BOTH PARTIES AGREED TO TRY AND BE MORE UNDERSTANDING TO EACH OTHERS NEEDS. ROBIN STATED THAT SHE WOULD PROBABLY GO STAY AT HER SISTERS HOUSE FOR THE NIGHT JUST TO LET THINGS CALM DOWN.

**DEFENDANT'S
EXHIBIT 5**

**AFFIDAVIT OF RUSSELL W. HARTER, JR.
WITH ATTACHMENTS**

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE Madel C. Rivero, as Personal Representative of the Estate of Lilia Lorena Blandin, Plaintiff, v. Sheriff Steve Loftis, in his capacity as Sheriff of Greenville County; Tim Gault, in his capacity as interim director of Greenville County Emergency Medical Services; and Woodforest National Bank, Defendants.	IN THE COURT OF COMMON PLEAS C. A. NO. 2013-CP-23-06522 AFFIDAVIT OF RUSSELL W. HARTER, JR.

PERSONALLY APPEARED before me RUSSELL W. HARTER, JR., who first being duly sworn, deposes and states as follows:

1. That your deponent was trial counsel for the defendant in the above matter.
2. That on October 26, 2015, your deponent received a telephone call from Charles Michael Cornish, Jr., expressing concern and information with respect to the composition of the jury, raising possible issues as to responses provided during voir dire. That your deponent, on October 27, 2015, requested a transcript of the voir dire from the court reporter. (See letter attached). That on October 27, 2015, the court reporter advised that she was out of town due to a family emergency and indicated that the requested information could not be

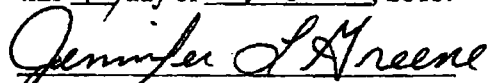
provided at that time. That in follow-up communications with the court reporter, counsel for the defendant obtained the voir dire transcript on Friday, November 13, 2015.

Further your deponent sayeth not.


Russell W. Harter, Jr.

SWORN TO BEFORE ME

this 19 day of Nov, 2015.


Notary Public for South Carolina

My Commission Expires: May 28, 2020

CHAPMAN, HARTER & HARTER, P.A.
ATTORNEYS AT LAW
RUSSELL W. HARTER, JR.

14 LAMAR AVENUE
P.O. Box 10224 (29603)
GREENVILLE, SOUTH CAROLINA 29601



PHONE (864) 233-4500
FAX (864) 332-1710
EVIDENCE ROOM AVAIL

October 27, 2015

April P. Herron
Thirteenth Circuit Court Reporter
The Honorable Robin B. Stilwell
P.O. Box 17675
Greenville, SC 29607

Re: *Madel C. Rivero as PR of the Estate of Lilia Lorena Blandin vs. Sheriff Steve Loftis, in his capacity as Sheriff of Greenville County, Tim Gault, in his capacity as Interim Director of Greenville County Emergency Medical Services, et al.*
Civil Action Number: 2014-CP-23-06522
IRF Claim No.: 03841
Date of Loss: 12/09/2011

Dear April:

This is to request a copy of the directed verdict motions of the hearing before The Honorable Robin Stilwell on October 1, 2015. Enclosed is my firm's check in the amount of \$26.50.

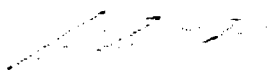
This is to also request a transcript of the entire jury selection process, including *voir dire*, strikes by the plaintiff and defendant, and that portion where the jury is selected and seated. Please advise as to the cost associated with this request and I will be happy to send you a check.

Could you please put a rush on this request in that I have just become aware of a matter that I may need to take up with the judge concerning jury selection? Also, please let me know when this is ready and I will make arrangements to pick it up.

Warmest personal regards.

Yours very truly,

CHAPMAN, HARTER & HARTER, P.A.



Russell W. Harter, Jr.

rwhjr:ps
Enclosure

Patty F. Sanders

From: Herron, April P. [AHerron@sccourts.org]
Sent: Tuesday, October 27, 2015 4:03 PM
To: Patty Sanders
Subject: RE: Blandin/Rivero v. Loftis, et al.

?Patty, I am out of town due to a family emergency. I am checking my email on another computer and cannot open the attachment. Please advise what this is in regards to.

Thanks.

April P. Herron
Thirteenth Circuit Court Reporter
The Honorable Robin B. Stilwell
P.O. Box 17675
Greenville, SC 29607

From: Patty F. Sanders <psanders@chhlaw.net>
Sent: Tuesday, October 27, 2015 9:54 AM
To: Herron, April P.
Cc: rwhjr@chhlaw.net
Subject: Blandin/Rivero v. Loftis, et al.

April,
Please see attached letter from Rusty.
If you will let us know when the information is ready, we will make arrangements to pick it up.
Thanks.
Patty

Patty Flanary Sanders
Paralegal to Russell W. Harter, Jr.
PLEASE NOTE NEW CONTACT INFORMATION:
Chapman, Harter & Harter, P.A., 14 Lavinia Avenue, (29601), P. O. Box 10224, Greenville, SC 29603; 864
233-4500, ext. 24 864/232-1710 (fax) email psanders@chhlaw.net<mailto:psanders@chhlaw.net>

CONFIDENTIAL & PRIVILEGED

Unless otherwise indicated or obvious from the nature of the following communication, the information contained herein is attorney-client privileged and confidential information/work product. The communication is intended for the use of the individual or entity named above. If the reader of this transmission is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error or are not sure whether it is privileged, please immediately notify us by return e-mail and destroy any copies, electronic, paper or otherwise, which you

may have of this communication.

~~~ CONFIDENTIALITY NOTICE ~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.



Mail Calendar Contacts

Deleted Items  
Drafts [28]  
Inbox (789)  
Junk E-Mail  
Sent Items

Click to view all folders

CHH  
Deleted Messages  
Outbox  
Sent Messages  
Manage Folders...

Reply Reply to All Forward Move Delete Close

**FW: Blandin/Rivero v. Loftis, et al.**  
Patty F. Sanders [psanders@chhlaw.net]

Sent: Tuesday, October 27, 2015 6:03 PM  
To: Russell W. Harter, Jr.

See April's response that I have highlighted in red below.

Patty Flanary Sanders  
Paralegal to Russell W. Harter, Jr.

PLEASE NOTE NEW CONTACT INFORMATION:

Chapman, Harter & Harter, P.A., 14 Lavinia Avenue, (29601), P. O. Box 10224, Greenville, SC 29603; 864 233-4500, ext. 24  
864/232-1710 (fax)  
email psanders@chhlaw.net

CONFIDENTIAL & PRIVILEGED

Unless otherwise indicated or obvious from the nature of the following communication, the information contained herein is attorney-client privileged and confidential information/work product. The communication is intended for the use of the individual or entity named above. If the reader of this transmission is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error or are not sure whether it is privileged, please immediately notify us by return e-mail and destroy any copies, electronic, paper or otherwise, which you may have of this communication.

-----Original Message-----

From: Herron, April P. [mailto:AHerron@sccourts.org]  
Sent: Tuesday, October 27, 2015 4:52 PM  
To: Patty Sanders  
Subject: RE: Blandin/Rivero v. Loftis, et al.

Patty,

As stated in my earlier email, I am out of town due to a family emergency and will not return until November 9, 2015. The only way I can send that transcript to you is via PDF. However, I do not have wireless connection to send that file from my computer. I

11/19/2015

FW: Blandin/Rivero v. Loftis, et al. - Outlook Web Access Light

am going to be somewhere tomorrow afternoon that I might be able to have internet access. If so, I will send you the directed verdict motions via PDF. Either way, I will advise.

In regards to your request for the jury selection process, I will not be able to provide the information as to costs, etcetera until I return on 11-9-2015, as I do not have access to those files at this time. I am sorry for any inconvenience this may cause.

Thank you.

April P. Herron  
Thirteenth Circuit Court Reporter  
The Honorable Robin B. Stilwell  
P.O. Box 17675  
Greenville, SC 29607

From: Patty F. Sanders <psanders@chhlaw.net>  
Sent: Tuesday, October 27, 2015 4:06 PM  
To: Herron, April P.  
Subject: RE: Blandin/Rivero v. Loftis, et al.

Sure, here is the letter:

October 27, 2015

April P. Herron  
Thirteenth Circuit Court Reporter  
The Honorable Robin B. Stilwell  
P.O. Box 17675  
Greenville, SC 29607

Re: Madel C. Rivero as PR of the Estate of Lilia Lorena Blandin vs. Sheriff Steve Loftis, in his capacity as Sheriff of Greenville County, Tim Gault, in his capacity as interim Director of Greenville County Emergency Medical Services, et al.

Civil Action Number: 2014-CP-23-06522

IRF Claim No.: 03841

Date of Loss: 12/09/2011



- Mail**
- Calendar**
- Contacts**
- Deleted Items
- Drafts** [28]
- Inbox** (789)
- Junk E-Mail
- Sent Items
- Click to view all folders ▾
- CHH
- Deleted Messages
- Outbox
- Sent Messages
- Manage Folders...

Reply Reply to All Forward Move Delete Close

**RE: Rivero v. Loftis**

Herron, April P. [AHerron@sccourts.org]

**Sent:** Wednesday, October 28, 2015 2:51 PM**To:** Russell W. Harter, Jr.**Attachments:** [dvrivero.pdf \(50 KB\)](#) [Open as Web Page]

Rusty, thanks for you understanding. I was able to access the internet so am sending you the directed verdict motion pdf. Hope this helps.

Thanks!

April P. Herron  
Thirteenth Circuit Court Reporter  
The Honorable Robin B. Stilwell  
P.O. Box 17675  
Greenville, SC 29607

---

**From:** Russell W. Harter, Jr. <rwhjr@chhlaw.net>

**Sent:** Tuesday, October 27, 2015 6:06 PM

**To:** Herron, April P.

**Subject:** Re: Rivero v. Loftis

April Patty just told me you are in Fla with family emergency please address that situation ... and deal with my request when convenient .. hope all is ok April

*April P. Herron  
Circuit Court Reporter  
P.O. Box 17675  
Greenville, SC 29606*

November 13, 2015

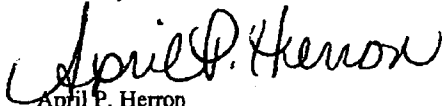
**Mr. Russell W. Harter Jr.**  
Chapman, Harter & Harter, P.A.  
PO Box 10224  
Greenville, SC 29603

**JUDGE:** Robin B. Stilwell  
**DATE TAKEN:** September 28, 2015  
**LOCATION:** Greenville  
**CASE:** Rivero v. Loftis

Dear Mr. Harter:

Once getting started on the Transcript of Record in the above-entitled case, I discovered that the pre-trial motions were in with the jury qualification and selection process. So, the length of the transcript was actually 26 pages as opposed to the 42 pages that I estimated in my letter to you dated November 10, 2015. Also, per your request of receiving the transcript ASAP and upon your payment received November 12, 2015, I did an overnight expedite, making the amount \$6.25 per page as opposed to \$4.25 per page, making the amount due \$165.50 as opposed to \$181.50. Please find inclosed a refund in the amount of \$16.00.

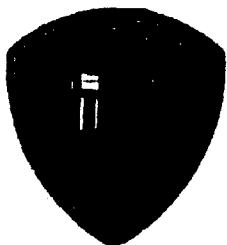
Sincerely,

  
April P. Herron  
Circuit Court Reporter

ASCII disk or E-Mail available for \$35.00

**DEFENDANT'S  
EXHIBIT 6**

**DISC OF 9-1-1 CALL WITH CERTIFICATION OF  
AUTHENTICITY FROM SIMPSONVILLE POLICE  
DEPARTMENT**



# Simpsonville Police Department

*Keith P. Grounsell*

*Chief of Police*



December 11, 2015

Patty Flanary Sanders  
Parelegal  
Chapman, Harter & Harter  
14 Lavinia Avenue  
Greenville, South Carolina 29603

Re: Affidavit - Incident Report - 05-15-011483

Dear Patty:

In reference to the 911 call that was mailed to the Law Firm of Chapman, Harter & Harter in reference to Incident Report - 05-15-011483 - I confirm that the recording is a true copy for Incident Report - 05-15-011483 - dated June 23, 2015 at 1928 hours from the Simpsonville Police Department.

Respectfully,

*Arthur J. Owens*  
Arthur J. Owens  
Captain of Administration  
Simpsonville Police  
405 East Curtis Street  
Simpsonville, South Carolina 29681  
(864) 228-2595

Sworn before me on this date 12-14 2015

*Richard J. Sutton*

My Commission Expires:

*Dec 18, 2020*

County Greenville State SC

**DEFENDANT'S  
EXHIBIT 7**

---

**AFFIDAVIT OF JENNIFER SKIPPER**

STATE OF SOUTH CAROLINA )

**AFFIDAVIT OF JENNIFER SKIPPER**

COUNTY OF GREENVILLE )

PERSONALLY APPEARED before me Jennifer Skipper who, first being duly sworn,  
deposes and states as follows:

1. That your deponent is a dispatcher with the City of Simpsonville Police Department.
2. That your deponent has reviewed the recording of the 911 call received by the Dispatch Office on June 23, 2015 originating from [REDACTED] Simpsonville, South Carolina (Case No. 05-15-011483), involving Robin Burns and John Burns, and said recording is a true and exact copy of the call which was received and taken by your deponent on June 23, 2015.

  
Jennifer Skipper

Sworn to before me this 16  
day of December, 2015.

  
Notary Public for South Carolina

My Commission Expires: Jan 18, 2020



**DEFENDANT'S  
EXHIBIT 8**

**AFFIDAVIT OF JONATHAN EDWARDS**

On 06/23/2015 at approximately 1928 hrs, I, PFC Edwards, along with PFC Tedrow, arrived at the Burn's residence in reference to a disturbance. Upon our arrival, PFC Tedrow spoke with Mrs. Robin Burns (complainant) separately, while I spoke with Mr. John Burns in the outdoor sunroom area. Both of the Burns had been drinking alcohol. While speaking with Burns, he stated that his wife called because she got mad that he took her phone away from her. When asked to explain, he stated that he had been purchasing games on his phone and playing them (ie. Poker) He stated that she got mad at him for playing on his phone all the time. From what I can recall, Mr. Burns had knocked or snatched a phone out of Mrs. Burns hand while she was on the phone with her sister. I believe that he stated he snatched it out, according to him, so that he could talk to her sister and explain what was going on (very limited recollection). I believe this was the reason why Mrs. Burns called.

I do recall that she did not seem threatened in any way as she kept coming into the sunroom area. Mr. Burns, however, was very adamant about telling his side of the story and putting the blame on Mrs. Burns. He wanted to explain things that happened months and years ago to which we advised him to explain what happened that day. We stayed on scene for way longer than what we should have for this incident, making sure that the Burns were on the same page as to how to handle the situation and Mrs. Burns was comfortable prior to our leaving.

There was no evidence of any Domestic Violence and no one was charged.

Mr. Burns arrived at the police department after this incident to speak with PFC Tedrow and have him to change what he wrote. He was advised multiple times that the report would not be changed, due to this being our account of the incident and the fact that no one was charged and this was not a domestic issue. Mr. Burns was very displeased with the fact that the report did not state everything he wanted it to.

These are the only facts that I can remember. I did not speak with Mrs. Burns. I did advise Mr. Burns that they may need to have marriage counseling if they are having so many problems.

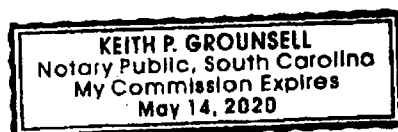
End of Statement

PFC Jonathan Edwards, Simpsonville Police Dept.  
DATE: 12/14/2015

SIGNED

*[Signature]* <sup>C7</sup>/<sub>258</sub>

NOTARY:



*[Signature]* 12-14-2015  
Exp. 5-14-2020

**DEFENDANT'S  
EXHIBIT 9**

**AFFIDAVIT OF DAVID TEDROW**

On June 24, 2015 at approximately 1928 hours I was dispatched to [REDACTED] in reference to a possible domestic issue. Myself and K-9 Officer Edwards both arrived on scene at the same time. As I approached the house I could hear nothing coming from the house that would signify any argument possibly occurring at the time.

I made contact with the complainant, Robin Burns, she stated that she and her husband, John Burns, had an argument over him sitting on the sun porch all day playing games on his cellphone. She stated that she called her sister in Mauldin and John grabbed the phone away from her and stated that she was lying about what had happened. I continued to talk with Robin in the living room and Ofc Edwards went to talk with John on the sun porch.

Robin stated the she and John have had arguments in the past and that she was getting tired of always fighting. I asked her if there was any physical violence today and she stated that there was only arguing. She stated that her husband spent a lot of time sitting on the sun porch and she felt she was working more than him. She stated that he was also under the care of a doctor for mental issues. She then stated that she was worried as John kept weapons in the house and this worried her. I asked her what she wanted me to do while I was here today. She wanted me to take the guns. I explained that I could not take his property unless they were an immediate danger. I had Robin stay in the living room and went to the sun porch to see what John had to say.

John pretty much stated the same thing as Robin did about them always arguing but he placed the blame on Robin. He also stated that Robin had mental issues and was also seeing a doctor. John kept insisting that he wanted to tell us his story as he felt she was hurting his reputation by calling the police. I told John that we were only here to ensure that they were both safe and no one was hurt. Every time myself and Ofc Edwards would attempt to end the call and leave John would state he had more to tell us, most of which had nothing to do with this call.

Robin had agreed she would leave for now and go stay with her sister in Mauldin and John agreed to have a family member take the guns so they were not in the house.

A couple of hours later John Burns called me at the police department and stated that Robin had not gone to her sister's house and he wanted me to make her leave. I explained to him that I could not force either of them to leave and that if she changed her mind that was up to her. He then started to ask if charges had been filed against him. I explained no charges had been filed and that I was required to file a report only. He started to ask me what Robin had said about him as he was worried that he was in trouble. I told John that he could obtain a copy of the report if he wanted to see it.

Approximately two weeks later, John Davis contacted me by coming to the police department. He stated that he wanted everything he had told us about his wife put into the report. I tried to explain to him that the information he had given us was not relevant to the reason I had been called to their home. He stated that he felt I was taking her side. He kept insisting that it was important that his side of the story be told. That was the last contact I had with John Burns.

David Tedrow  
PFC David Tedrow D5/255

Personally appeared before me & sworn to  
this 16<sup>th</sup> day of December, 2015

Jennifer L. Greene

Notary Public for the State of South Carolina  
103  
Volume 1 of 11

**DEFENDANT'S  
EXHIBIT 10**

**AFFIDAVIT OF DEFENSE COUNSEL DATED  
DECEMBER 15, 2015**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                             |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>STATE OF SOUTH CAROLINA</p> <p>COUNTY OF GREENVILLE</p> <p>Madel C. Rivero, as Personal Representative of the Estate of Lilia Lorena Blandin,</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>Sheriff Steve Loftis, in his capacity as Sheriff of Greenville County; Tim Gault, in his capacity as interim director of Greenville County Emergency Medical Services; and Woodforest National Bank,</p> <p style="text-align: center;">Defendants.</p> | <p>IN THE COURT OF COMMON PLEAS</p> <p>C. A. NO. 2013-CP-23-06522</p> <p style="text-align: center;"><b>AFFIDAVIT<br/>OF<br/>RUSSELL W. HARTER, JR.</b></p> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|

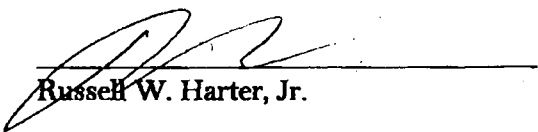
FILED-CLERK OF COURT  
CLERK OF COURT  
2015 DEC 15 AM 11 57  
PAUL B. WHALENSHAW

PERSONALLY APPEARED before me RUSSELL W. HARTER, JR., who first being duly sworn, deposes and states as follows:

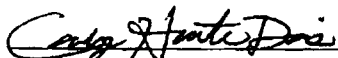
1. That your deponent was trial counsel for the defendant in the above matter.
2. That your deponent has received and reviewed the recording of a 911 call and a transcript of the 911 call made to a law enforcement agency on June 23, 2015 by a juror who was ultimately seated at trial in the above matter. (The tape was received on December 11, 2015). That had the juror in question disclosed this information at *Voir Dire*, the undersigned counsel would have requested that said juror be excused for cause and, if not excused for cause, counsel would have used a strike to prevent this juror from being seated

at trial. Further, had your deponent been aware of a call for assistance made by the juror in question and/or had the juror disclosed information in the incident report related to that call, your deponent would have requested the juror be excused for cause or counsel would have used a strike to prevent her from being seated at trial. That your deponent was totally unaware at the time of jury selection of the information contained in the 911 call dated June 23, 2015 or the incident report of that call and your deponent was totally unaware that the juror in question was a victim of criminal domestic violence, or that the juror in question had been involved in any type of criminal domestic violence whatsoever.

Further your deponent sayeth not.

  
Russell W. Harter, Jr.

SWORN TO BEFORE ME  
this 14 day of December, 2015.

  
Notary Public for South Carolina  
My Commission Expires: 2/20/23

**DEFENDANT'S  
EXHIBIT 11**

**WRITTEN TRANSCRIPT OF 9-1-1 CALL**



911 Call  
December 14, 2015

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GREENVILLE )

Transcript of Recorded  
911 Call

Recording Provided by  
Chapman, Harter & Harter, P.A.  
14 Lavinia Ave.  
Greenville, SC 29601

Transcribed by: Joy E. McCurley

**911 Call  
December 14, 2015**

Page 2

911 CALL

**Q. Simpsonville 911. What's the address of your emergency?**

**A. Yes, it's [REDACTED].**

**Q. [REDACTED] what?**

**A. [REDACTED].**

**Q. Okay, what's going on?**

**A. Actually my husband and I got in an argument and he ... I was calling my sister and he ripped the phone out of my hand and twisted my wrist.**

**Q. Okay. Are you injured? Do you need an ambulance?**

**A. I'm ... No, I'm not injured, I don't think. No.**

**Q. Okay, what was your name?**

**A. Robin Burns.**

**Q. Mrs. Burns what's your telephone number?**

**A. It's 963-7356. And my husband has ... I attempted to leave him several months ago and he proceeded to call me, follow me to my sister's home, where I tried to escape to and said he was going to commit suicide.**

**Q. Okay. Is he still there at the residence now?**

**A. He was here. When I started to call you, he said he was going to leave.**

**Q. Okay. You said that he ripped the phone out of your hand?**

**911 Call  
December 14, 2015**

Page 3

A. And twisted my wrist to get the phone out of my hand.

Q. What's his name?

A. John Burns.

Q. Alright Mrs. Burns, I'm going to go ahead and get an officer on the way to you, okay?

A. Thank you.

Q. Thank you. Bye-bye.

A. Bye-bye.

911 Call  
December 14, 2015

Page 4

STATE OF SOUTH CAROLINA)

: C E R T I F I C A T E

COUNTY OF GREENVILLE)

This is to certify that this transcript, consisting of 3 pages is a true and correct transcript of the said statements given; Said statements were transcribed from a recording provided by The Office of Chapman, Harter & Harter, P.A.

I further certify that I am not related to nor an employee of any of the parties hereto, nor a relative or employee of any attorney or counsel employed by the parties hereto, nor interested in the outcome of this action.

WITNESS MY HAND AND SEAL this 12th day of  
December, 2015.

---

Joy E. McCurley

Notary Public for South Carolina

My Commission Expires: 05/05/2025

STATE OF SOUTH CAROLINA

IN COURT

IN THE COURT OF COMMON PLEAS

COUNTY OF GREENVILLE

S.C.

THIRTEENTH JUDICIAL CIRCUIT

Madel C. Rivero, as Personal  
Representative of the Estate of  
Lilia Lorena Blandin,

Plaintiff,

vs.

Sheriff Steve Loftis, in his capacity as  
Sheriff of Greenville County,

Defendant.

**ORDER ON DEFENDANT'S MOTION  
TO ALTER OR AMEND JUDGMENT  
AND/OR  
MOTION FOR RECONSIDERATION**

C.A. No.: 2013-CP-23-06522

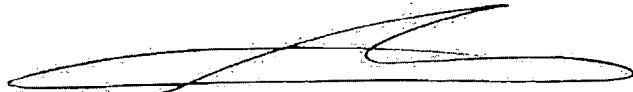
This matter comes before the Court pursuant to the Defendant's Motion to Alter or Amend Judgment and/or Motion for Reconsideration. Specifically, the Defense has asked for clarification regarding rulings on post-trial motions. The Court shall address the Defense's requests in the order presented.

1. *The Court has not addressed the Defendant's argument that there was no credible evidence that the deputies or 911 operator acted with gross negligence.* It is not the role of the Court to determine the credibility of evidence. The Court simply determines whether there is evidence upon which the jury could have reached its verdict. As specifically stated on the record in response to the Defendant's Motions for Directed Verdict, this Court views the evidence in the light most favorable to the non-moving party. This Court would reassert that rationale provided on the record pursuant to the Defendant's Directed Verdict Motion and would further state that there was evidence in the record upon which the triers of fact could determine that the Plaintiff had met its burden of proof.

2. *The Court has not addressed the sovereign immunity defenses asserted by the Defendant pursuant to the South Carolina Tort Claims Act. Specifically, the Defendant raised defenses under Sections 15-78-60(4), (5), (6), and (20), none of which include a gross negligence exception. Those defenses are not specifically addressed in the Court's Order. The Court would defer to the transcript of record. However, upon information, recollection, and belief, those specific provisions of the statute were specifically addressed at trial and were charged to the jury. This Court finds that the statute provides immunity under those sections enumerated in the Defense's Motion and acknowledged that by and through a specific charge to the jury. The jury could, and apparently did, find for the Plaintiff under alternate sections of statute and other provisions of law.*

NOW, THEREFORE, having clarified the ruling, the Court respectfully denies the Defendant's Motion to Alter or Amend and/or for Reconsideration.

**AND IT IS SO ORDERED.**



ROBIN B. STILWELL

March 24, 2016  
Greenville, South Carolina.

)

)

)

)

)

)

)

)

)

)

1

1

1

(

)

)

)

)

)

)

1

1

3

D

2. The Plaintiff, Madel C. Rivera, mother of Lilia Blandin and personal representative of the estate of Lilia Blandin, also brings this wrongful death and survival action, based on the acts and omissions of Wal-Mart Stores, Inc., Wal-Mart Stores East, LP, Wal-Mart Associates, Inc., and Woodforest National Bank, for the injuries and wrongful death of Lilia Blandin on December 10, 2011.

### **PARTIES AND JURISDICTION**

3. This is a claim for damages pursuant to the South Carolina Wrongful Death Act, S.C. Code § 15-51-10, and pursuant to the South Carolina Tort Claims Act, S.C. Code § 15-78-10 to 15-78-190 (Supp. 2002), to recover damages for personal injuries and property damages sustained by the Plaintiff's decedent.

4. All of the acts, omissions, and events complained of took place within Greenville County, South Carolina, and within the venue of this Court.

5. Madel Rivera is Lilia Blandin's mother, and the duly appointed personal representative of the estate of Lilia Blandin, having been so appointed by the Probate Court of Greenville County on October 12, 2012. (Reference Greenville Probate Court File No. 2011ES23023892), is presently serving in that capacity, and is entitled to maintain this action.

6. At the time of her death, Lilia Lorena Blandin, deceased, was approximately 38 years of age and a resident of Greenville County, South Carolina.

7. Lilia's three young children, a son, [REDACTED] Blandin, (age 10, at the time of his mother's death); a daughter, [REDACTED] Blandin, (age 7); and her baby girl, [REDACTED] Blandin, (age 3, at the time of Mrs. Blandin's death), are the legal beneficiaries of this wrongful death claim pursuant to S.C. Code § 15-51-20.



8. Deputies David Picone and K.J. Tyner were at all times relevant to this complaint acting within the course and scope of their employment with the Greenville County Sheriff's Office.

9. Greenville County 911 Operator, Patricia Sullivan, and other 911 operators, were at all times relevant to this complaint acting within the course and scope of their employment with the Greenville County Sheriff's Office, or in the alternative, acting within the course and scope of their employment with Greenville County Emergency Medical Services 911.

10. Defendant Steve Loftis was and is the constitutionally elected Sheriff of Greenville County, South Carolina, and is sued in this action in his official capacity as Sheriff. The Greenville County Sheriff's Office is an agency of Greenville County organized and existing under the laws of the State of South Carolina, and is a political subdivision or entity within the meaning of the South Carolina Tort Claims Act.

11. Defendant Tim Gault, upon information and belief, was and is the interim director of Greenville County Emergency Medical Services, and is sued in this action in his official capacity as Director. Greenville County Emergency Medical Services is an agency of Greenville County organized and existing under the laws of the State of South Carolina, and is a political subdivision or entity within the meaning of the South Carolina Tort Claims Act.

12. The Defendant, Woodforest National Bank, is a privately held bank headquartered in The Woodlands, Texas. Upon information and belief, Woodforest National Bank has over 788 branches in 17 different states including 32 locations in the State of South Carolina.

13. The Defendant, Wal-Mart Stores, Inc., is a corporation organized and existing under the laws of the State of Delaware, authorized to do business in the State of South Carolina, with a principal place of business in Bentonville, Arkansas.

14. The Defendant, Wal-Mart Stores East, LP, is a corporation organized and existing under the laws of the State of Delaware, authorized to do business in the State of South Carolina, with a principal place of business in Bentonville, Arkansas.

15. The Defendant, Wal-Mart Associates, Inc., is a corporation organized and existing under the laws of the State of Delaware, authorized to do business in the State of South Carolina, with a principal place of business in Bentonville, Arkansas.

16. The Defendants, Wal-Mart Stores, Inc., Wal-Mart Stores East, LP, and Wal-Mart Associates, Inc., are hereinafter referred to in this Complaint collectively as Defendant Wal-Mart.

17. All parties, matters and things complained of herein are within the jurisdiction of this Court.

18. On or about December 10, 2011, the Plaintiff LILIA BLANDEN, entered the Defendant Wal-Mart's store, located at 6134 White Horse Road, in Greenville County, South Carolina, for work at her place of employment, Defendant Woodforest National Bank, located within the premises owned, occupied, leased, and/or in all other ways controlled by Defendant Wal-Mart for the purpose of business dealings with and for the benefit of the Defendants, Wal-Mart and Woodforest National Bank; and that the Plaintiff's decedent, LILIA BLANDIN, therefore was owed duties of reasonable care due to her status as an invitee, or in the alternative a licensee, at all times relevant to this complaint.

## STATEMENT OF FACTS

19. On the morning of December 9<sup>th</sup>, 2011, Greenville County Deputies David Picone and K.J. Tyner responded to a call involving a domestic assault at Lilia and Avery Blandin's residence, at [REDACTED], Simpsonville, South Carolina, in Greenville County.

20. The decedent in this action, Lilia Blandin, called Greenville County 911 at approximately 10:11 am on the morning of December 9<sup>th</sup>, 2011, to report that she needed someone's help. Mrs. Blandin stated that her husband, Avery Blandin, had assaulted her and threatened to kill her, and that her husband had been arrested before for domestic violence, but was out of jail now.

21. Ms. Blandin explained to Greenville County 911 Communications Specialist, Patricia Sullivan, that the offender was in the house at that moment, and she was trying to leave the house, so that she doesn't have to stay with him any longer. She told the 911 Operator that she tried to get her stuff out, but he 'beat her on her stomach'...and told her 'he was going to kill her', but that her child was still inside the home. Lilia continued to explain that she wanted to get her child, but that she didn't want to go back inside the house, because she knew that the offender 'would put her in a room and continue to beat her'.

22. Greenville County 911 Communications Specialist, Patricia Sullivan, during this emergency 911 call, interrupted Lilia repeatedly and disregarded her allegations of domestic abuse and threats by her husband to kill her. Sullivan told Lilia to 'slow down' and said to Ms. Blandin, "you said your husband is at the house...and you want to go get your things, is that what you're saying?..."

23. Lilia Blandin then politely said that yes, but that her husband had threatened her all night,...that she had to sleep in her car, and...that her child was asleep inside the house in her bedroom.

24. Greenville County 911 Operator, Patricia Sullivan, then again interrupted Lilia by saying..."Listen to me... you're going to get your clothing or you're going to get a child? Mrs. Blandin then stated that she wanted to get her child out of the house, but then repeated again to the Greenville County 911 Operator that she didn't want to go inside the home, because her husband had already hit her in the stomach and he told her he was going to kill her.

25. The 911 Operator again interrupted her caller as she was repeating the allegations of domestic violence, then said ..."O.K."... and asked for Mrs. Blandin's home address, the spelling of her name, and her phone number, and told Lilia that she would need to wait for the Sergeant to call her back, instead of immediately dispatching deputies to the scene for a domestic assault and battery incident. After approximately twenty-four (24) minutes later, no call had been made to Lilia Blandin by a Sergeant. However, Greenville County 911 operator, Patricia Sullivan, after those twenty-four (24) minutes passed, to ask why Mrs. Blandin's sister had also called 911 regarding this matter.

26. Mr. Blandin had already, on two previous occasions been arrested for assaulting Lilia, those Criminal Domestic Violence charges still being pending and awaiting a trial date at the time of this emergency 911 call to the Greenville County Sheriff's Office.

27. Greenville County Communications Specialist Operator, Patricia Sullivan, failed to inquire about Mrs. Blandin's repeated allegations of domestic assault during the emergency 911 call, failed to dispatch deputies to the victim's home.

28. Further, Greenville County 911 Operator, Patricia Sullivan, failed to discover or relay information to responding deputies that the victim had in place an Order allowing No Contact by the husband to Mrs. Blandin, on each of her husband's two recent Domestic Violence arrests. Upon information and belief, those No Contact Orders had been placed on Mr. Blandin as conditions of his release from custody on both of the two pending Criminal Domestic Violence arrests with the decedent as his victim.

29. Greenville County Communications Specialist Operator, Patricia Sullivan, mischaracterized the emergency call and entered notes into the 911 Call Record as a 'child custody' matter. Operator Sullivan ignored Lilia's claims that she had been assaulted, that her life had been threatened and that Mr. Blandin had been to jail for committing domestic violence against her before.

30. After no county deputies responded, the decedent's sister, Juana Hamby, called Greenville County 911 a second time, approximately twelve minutes after Lilia Blandin had placed her initial emergency 911 call. Greenville County 911 operator, Neil Logan, answered Ms. Hamby's call and was told that her sister was having a problem with her husband and that she tried to go inside the house for her little girl, but that her husband wanted to kill her. The recording of this call seems to indicate that Operator Logan was unaware that 911 had received a call about this same incident earlier that morning. Ms. Hamby explained that her sister, Lilia, had already called earlier that morning, but that no deputies had responded, and that her sister was outside of her house

waiting because she was scared to go back in. This call at approximately 10:23 a.m. does not appear on the Greenville County 911 call records.

31. During a third call recording on minute later... Ms. Hamby explained to the Greenville County 911 Operator, Neil Logan that her sister, Lilia Blandin, was outside of her house in her car and had slept in the car all night. Juana Hamby continued to describe to the 911 operator that Lilia's husband was acting crazy, that he was in prison before, and "now he is like...crazy". The Greenville County 911 Operator, Neil Logan, took Ms. Hamby's name and the recording ends.

32. A fourth call recording from Greenville County 911, then approximately fifteen (15) minutes after Lilia Blandin's initial emergency 911 call to the Greenville County Sheriff's Office, appears to record no discussion.

33. A fifth Greenville County 911 call recording then captures a continued conversation between Juana Hamby and 911 operator, Neil Logan, wherein the operator asks why Lilia had slept in her car. Juana explained it was because her husband was crazy last night and that he tried to kill her. Operator Logan then asks Juana what her sister's name is, and she tells him Lilia Blandin and provides her address again. Greenville County 911 operator, Neil Logan, then says...alright, we'll get somebody out there", as if there was no knowledge at Greenville County 911 that an initial call had been placed by Lilia Blandin earlier that morning.

34. Greenville County 911 call dispatch records indicate that operator Neil Logan then entered a notation in the CAD reports that ..."sister (Juana Hamby) called to advise that 1024 is outside the house and that the husband has threatened 1089B to her...1024 has slept in the car all night because husband wouldn't let her in and was

1081". This notation was also inaccurate and incomplete, as Lilia and her sister did not say that her husband would not let her in the house, but that he had threatened her all night, and she slept in her car, and that he had hit her when she tried to go inside.

35. Approximately eight (8) minutes later, at 10:35 am, Greenville County Sheriff's Office 911 Operator, Patricia Sullivan, called Lilia asking whether Ms. Blandin was at her house, asking her... 'you're not at your house, correct?'... Lilia politely explained that she was outside her house, as she had said during her initial call. Operator Sullivan told Ms. Blandin to wait outside, claiming ... "that's what I think I told you last time", which she had not, in fact, advised her during their initial call. Greenville County 911 Operator Sullivan did not respond to or acknowledge any of Lilia's repeated descriptions of being beaten and threatened by her husband, or sleeping in her car overnight out of fear of her husband hurting her. 911 Operator Sullivan did not inquire about any of Ms. Blandin's domestic violence claims, did not ask if her husband had any weapons in the house, or if he was under the influence of drugs or alcohol, failing to show any concern for her safety.

36. Lilia explained that she had been outside waiting for deputies to respond, and began to say... 'but, he tried'... Greenville County 911 Operator, Sullivan, again interrupted Ms. Blandin and asked who is Juana, and if Lilia's sister had also called 911. Lilia said that she had spoken with her sister, Juana, and that Juana agreed to call 911 again because "they know how he's been aggressive." Operator Sullivan again interrupted Lilia and seemed to scold her about having her sister, Juana, calling again to 911, saying ... "she doesn't have to call also... and again that ... 'you don't need to have her call also'... Greenville County 911 Operator, Patricia Sullivan, told her not to go

back inside the house, and again told her that the Sargent would be calling her back, again failing to dispatch deputies promptly to her home to investigate Lilia's claims of domestic violence by her husband.

37. During calls with Greenville County 911 operators, by Lilia Blandin and her sister, Juana Hamby, 911 operators failed to respond to or inquire further about the repeated references to physical abuse and threats to her life that Lilia and her sister reported to 911 operators on the morning of Friday, December 9<sup>th</sup>, 2011.

38. Finally, at approximately 10:47 a.m., approximately thirty-six (36) minutes after Lilia's initial emergency call to Greenville County 911, two deputies arrived at the scene. Upon their arrival at the residence, Deputies David Picone and K.J. Tyner made contact with the decedent, Lilia Blandin, and her husband Avery Blandin.

39. Deputies David Picone and K.J. Tyner, spoke with Avery and Lilia Blandin, and concluded that there was no evidence of any threats or assault and battery against Mrs. Blandin. The deputies failed to interview any of the children, two of whom had heard his threats toward their mother, and seen their father hit their mother the night before and the morning that Lilia Blandin called 911. One of the deputies even dismissed Lilia's mother's pleas for them to arrest Mr. Blandin, because he had hit her and threatened to kill her, by explaining that Lilia's claims that her husband hit her were ... "only her story".

40. Deputies David Picone and K.J. Tyner failed to follow the established procedure and General Orders of the Greenville County Sheriff's Department when responding to the home on the morning of October 9<sup>th</sup>, 2011. Deputies David Picone and K.J. Tyner collected identification from Lilia Blandin and Avery Blandin and spoke



with each of them, then left the incident scene without making an arrest of Avery Blandin for either the allegations of threats made by Mr. Blandin towards Mrs. Blandin, or the physical violence that Lilia Blandin had reported. The two sheriff's deputies failed to properly consider what had been advised by both Lilia Blandin and her sister, Juana, in their calls to Greenville County 911 that morning, and the allegations made again at the scene, and the surrounding circumstances concerning prior abuse against Lilia Blandin by her husband.

41. Deputies David Picone and K.J. Tyner further also failed to investigate, discover or consider the fact that Avery Blandin had, at the time of this incident, been previously charged on two other recent occasions with beating and threatening the life of Lilia, which were awaiting trial, and dismissed Lilia Blandin's allegations that Mr. Blandin had beaten her and threatened to kill her before they arrived.

42. Deputies David Picone and K.J. Tyner, during their investigation at the home the day before, also failed to determine whether the victim had a current Protection Order or Restraining Order in place, or inquire whether there were No Contact Orders in place requiring Mr. Blandin to stay away from Mrs. Blandin. Avery Blandin, upon information and belief, had been placed on two separate No Contact Orders when he had been released from custody on his two previous Domestic Violence incidents against Lilia over the prior seventeen (17) months, one less than six (6) weeks prior to this incident occurring on October 20, 2011, and another occurring on July 8, 2010.

43. The responding deputies should have been aware that there would be No Contact Orders in place against Mr. Blandin, called to confirm them, and arrested him for being in violation of those Orders, alone. Such No Contact Orders are put in place as a

condition of bond in virtually every domestic violence arrest, requiring an offender arrested for Domestic Violence to stay away from the victim and make no contact with her during the pendency of those criminal matters.

44. Deputies David Picone and K.J. Tyner either neglected to seek information concerning the existence of No Contact Orders against Mr. Blandin after being put on notice that prior domestic violence had been committed by the offender against Lilia Blandin, or, as claimed by a representative of the Sheriff's Office, after actually being made aware of the two (2) pending charges of Domestic Violence against Lilia, the deputies neglected to make an arrest for the violation of the two (2) No Contact Orders, themselves.

45. After getting some of their belongings, Lilia and her children left the home with Lilia's mother, Madel Rivera. As they drove away, Lilia received a call from her husband, Avery Blandin, on her cell phone and he was heard laughing loudly by the occupants of the Mrs. Rivera's car.

46. Later that afternoon, when Lilia returned with her Mother and children to see if her husband was away from the house and to attempt to get more of the children's things, Lilia noticed that the tires on her minivan that had remained in the driveway were slashed. Lilia quickly retrieved some other belongings from the van and left without going into the home.

47. When urged by her mother to call the Sheriff's Office about her tires being slashed, she responded, "Oh, Momma, they'll just say its only my version, again". The next morning Lilia and her mother awoke at her mother's home to find a tire on her mother's car slashed.

48. At approximately 1:15pm that next day, December 10, 2011, the offender, Avery Blandin, walked into Lilia's place of employment at Woodforest Bank, located in the Wal-Mart store, located at 6134 White Horse Road, in Greenville County, and stabbed Mrs. Blandin to death with a long kitchen knife, pulling her over a desk and stomping on her head and neck.

49. Mr. Blandin walked out of the Wal-Mart store and drove away. He was later found hiding from law enforcement officers and arrested for the violent assault against his wife. Lilia Blandin was transported to Greenville Memorial Hospital, where she died shortly thereafter from her wounds.

50. On October 7<sup>th</sup>, 2013, Avery Blandin plead guilty to murdering Lilia Blandin, and received a prison sentence of 35 years.

51. Deputies David Picone and K.J. Tyner also further violated the established procedures and General Orders of the Greenville County Sheriff's Office by neglecting to complete an incident report as required on all allegations of criminal domestic violence. A supplemental incident report was submitted by one of the deputies only after Ms. Blandin was murdered by her estranged husband, and over two full days after the deputies had left the Blandin residence without having made an arrest, as they should have.

52. Deputies David Picone and K.J. Tyner also further violated the established procedures and General Orders of the Greenville County Sheriff's Office by neglecting to include in a report, verbal statements made by all persons present, using quotes when possible.

53. Deputies David Picone and K.J. Tyner also further violated the established procedures and General Orders of the Greenville County Sheriff's Office by neglecting to include in a report those prior instances of emotional or physical abuse by the suspect reported by the victim.

54. Deputies David Picone and K.J. Tyner also further violated the established procedures and General Orders of the Greenville County Sheriff's Office by neglecting to report a description of the scene, to include where and when prior incidents of Domestic Violence had occurred between the offender and the victim.

55. Deputies David Picone and K.J. Tyner also further violated the established procedures and General Orders of the Greenville County Sheriff's Office by neglecting to document in a report all persons present at the scene, neglecting to document giving the victim a report case number, victim assistance form, and order of protection instruction form.

56. Deputies David Picone and K.J. Tyner also further violated the established procedures and General Orders of the Greenville County Sheriff's Office by neglecting to attempt to get a written statement from the offender during their investigation of this incident, or attempt to take written statements from any witnesses, including the children, who had seen their father hit their mother, or the victim, herself, at the time of their response.

57. Deputies David Picone and K.J. Tyner further neglected to arrange for photographs for visible signs of injury to persons to include the victim, the areas of her body which she had claimed had been beaten, or any photographs at the scene regarding the circumstances outlined by Lilia Blandin and her family.

58. The Wal-Mart store where the murder of Lilia Blandin occurred on Saturday, December 19, 2011, and located at 6134 White Horse Road, Greenville, South Carolina, (hereinafter referred to as 'the Wal-Mart Store') had previously operated as a twenty-four (24) hour store, but due to the criminal activity and vast number of crimes occurring at that location, the store chose to reduce their hours of operation and begin closing at 11pm each night.

59. The Wal-Mart store is located in an area known to Wal-Mart employees, managers, and supervisors for being a problem area with higher than normal crime rates.

60. Upon information and belief, other businesses in and around the area that the Wal-Mart store is located have added increased security measures to deter crime, including armed security personnel.

61. During the thirty-six (36) month period prior to Plaintiff's decedent's murder, Eight Hundred Fifty-Four (854) crimes were reported occurring at Defendant Wal-Mart's store.

62. Despite the numerous crimes committed at Defendant Wal-Mart's store, upon information and belief, Defendant Wal-Mart made little or no efforts to deter potential crimes, other than reducing the hours of the store. Defendant failed to employ any uniformed security staff, off-duty police officers, armed security staff, or other reasonable methods of crime deterrence, none of which were present in the Wal-Mart Store at the time Avery Blandin walked into the store and into the area of Woodforest National Bank, which leased business space from the Wal-Mart Store, and brutally stabbed his wife to death, pulling her over a desk and stomping on her head and neck.

63. Defendant Wal-Mart's published Statement of Ethics claims that they are, "...committed to the health and safety of our customers...", yet the Wal-Mart store made the most minimal efforts, if any, to protect customers from the foreseeable and expected criminal acts continuing to take place on their premises.

64. Immediately after Plaintiff's decedent was brutally murdered in the plain view of Wal-Mart shoppers and employees, Defendant Wal-Mart chose to continue its busy Christmas shopping sales rather than close its doors temporarily, to await the securing of the scene, clean up the blood splattered area, calm its customers and employees, or as a gesture to the family of the Lilia Blandin, after their loved one had been slain.

65. Defendant Woodforest National Bank employed Lilia Blandin for approximately two (2) years prior to her death. On the morning of December 10, 2011, after Plaintiff arrived to work, her estranged husband, Avery Blandin, began calling Plaintiff's decedent on the Bank's business phone. Over the course of approximately the next three (3) hours, Avery Blandin repeatedly called Defendant Woodforest National Bank's phone line approximately fifty (50) times.

66. Despite receiving such an alarming number of phone calls from Lilia's estranged husband the morning of Plaintiff's death, none of Defendant Woodforest National Bank's employees or managers took any steps to increase security or protect Mrs. Blandin.

67. Defendant Woodforest National Bank knew or should have known that there was a risk to Plaintiff's decedent's safety based on the numerous harassing phone calls to

the Defendant's phone, and Lilia's discussions with co-workers concerning the history of violence between she and her husband, Avery Blandin.

68. However, no employee, manager, or supervisor took any action in response to the repeated calls from Avery Blandin, including but not limited to calling law enforcement or notifying Defendant Wal-Mart of a potential threat.

69. There was no negligence on the part of the decedent, Lilia Blandin, that caused or contributed to her injuries.

### **Legal Theories of Recovery**

#### **FOR A FIRST CAUSE OF ACTION**

(Wrongful Death and Survival Action: Recklessness,  
Gross Negligence, Willfulness or Wantonness)

#### **As To Sheriff Steve Loftis, in his capacity as Sheriff of Greenville County**

The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.

70. The Defendant is statutorily liable for the acts, omissions and exercise of discretion of Deputies David Picone and K.J. Tyner, and Greenville County 911 Operator, Patricia Sullivan, and other 911 operators, while acting within the course and scope of their employment.

71. In each and every particular act of negligence alleged and/or committed by Deputies David Picone and K.J. Tyner, and Greenville County 911 Operators, under the Doctrine of Principal-Agent, Master-Servant, and/or Respondeat Superior.

72. Defendant Sheriff Steve Loftis owed the public, and particularly the victims of domestic abuse, a duty to protect the public and such victims, as stated in the

Greenville County Sheriff's Office own 'General Orders', as follows:

**GENERAL ORDER 238 – CRIMINAL DOMESTIC VIOLENCE**

**“PURPOSE: It is the policy of the Greenville County Sheriff's Office to provide immediate assistance to victims of domestic violence, protect victims from further abuse, and take appropriate action against offenders.”**

73. Defendant Sheriff Steve Loftis owed a duty to victims of domestic violence, as set out in his own General Orders, policies and department rules, and pursuant to South Carolina Code of Laws Section 16-25-70, and to have mandatory arrests made when there is:

- a. physical manifestation of injury to a victim of domestic violence with probable cause that a crime has occurred, with physical manifestation of injury to mean evidence that supports an allegation that the injury occurred, whether or not the injury is visible. (General Order 238), or
- b. a violation of an order of protection issued under the Protection From Domestic Abuse Act with physical manifestation of injury to the victim with probable cause. (General Order 238).

74. Additionally, Defendant Sheriff Steve Loftis owed a duty to victims of domestic violence, pursuant to South Carolina Code of Laws, Section 16-25-70, to have his deputies make an arrest for a domestic assault or battery, if the officer has probable cause to believe that the person has freshly committed domestic violence, even if the act did not take place in the presence of the officer.



75. South Carolina Code of Laws, Section 16-25-70, further sets out that the officer may, if necessary, verify the existence of probable cause related to a violation pursuant to the provisions of this chapter by telephone or radio communication with the appropriate law enforcement agency. Confirming the two prior incidents of Domestic Violence against Lilia by her husband, and his violation of two (2) Orders for No Contact with Mrs. Blandin, should have been considered along with her allegations of threats and physical abuse to establish probable cause for Mr. Blandin's arrest.

76. Further, Section 16-25-70 provides that a law enforcement agency must complete an investigation of an alleged violation of this chapter even if the law enforcement agency was not notified at the time the alleged violation occurred. If an arrest warrant is sought, the law enforcement agency must present the results of the investigation and any other relevant evidence to a magistrate who may issue an arrest warrant if probable cause is established.

77. South Carolina Law defines 'probable cause' for an arrest as not requiring a deputy to find enough evidence sufficient for an offender to be found guilty of that crime beyond a reasonable doubt, but only finding sufficient facts and circumstances to warrant a prudent man or woman in believing that the offender had committed an offense.

78. Furthermore, the Law of South Carolina, pursuant to South Carolina Code of Laws, Section 16-25-20, makes an offender guilty of Criminal Domestic Violence when he makes a mere threat to kill or an offer to cause physical harm to a spouse or household member, when one has the apparent present ability under circumstances reasonably creating fear of imminent peril. Physical violence alone is not required under

South Carolina law to support and arrest and conviction for Criminal Domestic Violence.

Greenville County Sheriff's Deputies, David Picone and K.J. Tyner

79. Deputies David Picone and K.J. Tyner owed a duty to properly investigate, consider allegations and circumstances surrounding those allegations made by Lilia Blandin, make required reports of domestic abuse allegations, and make mandatory arrests of an offender when the evidence, as it had in this instance, established that a violent crime had probably occurred, as had been clearly alleged in this incident.

80. Deputies David Picone and K.J. Tyner were further reckless, grossly negligent, willful or wanton in that their actions were in violation of Greenville County Sheriff's Office own established "General Orders", policies and department rules concerning properly and thoroughly investigating allegations of domestic violence crimes, when to make an arrest for Criminal Domestic Violence and when to make reports of such allegations.

81. Deputies David Picone and K.J. Tyner, were reckless, grossly negligent, willful or wanton and breached their duties by not thoroughly investigating the circumstances surrounding this incident and the allegations made by Lilia Blandin and others at the scene of this incident before dismissing Lilia Blandin's complaints, and by not considering the circumstances surrounding this incident, including the records of prior arrests for domestic violence committed by the offender against the victim that occurred.

82. Greenville County Sheriff's Deputies, David Picone and K.J. Tyner breached their duties and were reckless, grossly negligent, willful or wanton by failing to

arrest Avery Blandin for even being at the house with the victim and violating the No Contact Orders that had been placed on him after both of his prior, pending arrests for Criminal Domestic Violence against Lilia.

83. Deputies David Picone and K.J. Tyner breached their duty and were reckless, grossly negligent, willful or wanton in failing to exercise the degree of care and prudence any reasonable law enforcement officer would have exercised under the same or similar circumstances.

84. Greenville County Sheriff Steve Loftis, and Deputies David Picone and K.J. Tyner, further breached their duty to the public, to victims of Domestic Violence and to Lilia Blandin, and were reckless, grossly negligent, willful and wanton, in intentionally misstating what had actually occurred during the deputies' investigation at the Blandin home on the morning of Friday, December 9<sup>th</sup>, 2011. Although no incident report was filed after the deputies left the Blandin home on that morning, as was required by their General Orders, a Supplemental Report was later filed by Deputy K.J. Tyner after Lilia's murder the next day, and two days after the incident at the Blandin home.

85. Such Supplemental Report was full of misstatements and misrepresentations by the deputies, in an apparent attempt to conceal their fault in failing to arrest Avery Blandin for and his beating of Lilia that morning and the repeated threats to Lilia's life throughout night before and that morning, those threats that were carried out the very next day.

86. Deputies David Picone and K.J. Tyner, were reckless, grossly negligent, willful or wanton and breached their duties by misrepresenting in their Supplemental Report, filed two days after failing to arrest Avery Blandin when called out to the home

on December 9<sup>th</sup>, 2011, that Lilia Blandin stated that neither threats had been made, nor had her husband assaulted her. Lilia Blandin had just called 911, just over a half-hour before deputies arrived, stating clearly and repeatedly on this audio recorded call that her husband had threatened her all night, had beat her in her stomach, and that she had slept out in her car all night because she was afraid to go back in the house because he would continue to beat her.

87. The Greenville County Sheriff's Office Supplemental Report contained false statements that Lilia Blandin told them that her husband, Avery, locked her out of the house the night before. Lilia Blandin had her keys to her house with her while she slept in her car overnight with her two young daughters, even while her husband, Avery Blandin, had taunted her from the door of the home, telling her to come in the house. Lilia she remained in the minivan with her two young daughters the entire night, out of fear for what her husband may do to her if she stayed inside. Mrs. Blandin had to conserve fuel during the night while still trying to heat the vehicle for her and the young girls, by repeatedly running the engine and heater, then shutting it off periodically to keep from running out of gasoline. Lilia Blandin let herself into the house the next morning, while her husband still slept. She woke her son and tried gathering some things for her and her children, when her husband awoke, grabbed her and hit her in the stomach, all of which she had just stated in her emergency 911 call before the deputies arrived.

88. The Greenville County Sheriff's Office Supplemental Report also mischaracterized the incident as a 'domestic dispute involving the custody of the children', instead of a domestic violence call. The Supplemental Report stated that Avery Blandin had refused to let her have the children the night before, which were all

inside at the time. However, Lilia Blandin had her two young daughters, ages 3 and 7, with her while they slept in the minivan all night for fear of being beaten or killed if she stayed in the home. Late that night, after her husband had bloodied her nose by striking her in the face, she gathered her two youngest children to leave, but her 10 year old son didn't want to leave, so Lilia slept in her minivan in the driveway of her home, with her two daughters, because she didn't want to leave her son alone at the house.

89. Greenville County Sheriff's Office Supplemental Report also misstated Lilia had decided to call 911 the next morning in order to handle the issue of custody of the children. Lilia Blandin called the morning of December 9<sup>th</sup>, asking for help to get her baby girl out of the house, but also repeatedly referenced the threats that her husband had made to kill her throughout the night, and that he had beat her in the stomach. Audio Recordings of the emergency 911 calls clearly document Lilia's allegations of assault and battery by Avery Blandin overnight and into the morning she called 911.

90. Greenville County Sheriff's Office Supplemental Report also included a statement that Lilia told the deputies that she woke up the next morning and her husband, Avery, would still not give her the children. Mrs. Blandin's two daughters were still with her in the minivan that morning when she awoke. Lilia let herself into the home the next morning to wake her son and get some of their things, hoping her husband would not awaken. As she got her son and one of her daughters into the car, her husband found Lilia the downstairs bathroom, grabbed her and hit her in the stomach, which is consistent with what she reported to the Greenville County 911 operator during her emergency 911 call the morning of December 9<sup>th</sup>, 2011.

91. The Greenville County Sheriff's Office Supplemental Report also stated untrue statements that Lilia Blandin told them that shortly before the deputies arrived after her 911 call the next morning, that her husband came out of the home and the children got in the car with her. Two of Lilia's children had been in the minivan with her all night, and only when she went quietly into the house the next morning, which she was not locked out of, contrary to what the Supplemental Report states, did the two young daughters go inside with their Mom to try to get some of their things, get their brother without waking Mr. Blandin.

92. The Greenville County Sheriff's Office Supplemental Report also stated false statements that Lilia Blandin told them that "her husband had made threats to hurt her or kill her in the past, but she could not state a time or exact working that had been used". Lilia had stated during her recorded 911 call, just over a half-hour before, then asked her sister to call 911 again about 12 minutes later when no deputies had responded, both callers clearly stating that Lilia's husband had threatened to kill her the night before and Lilia stating several times during her call to 911 that her husband had hit her. And further, when Lilia's mother arrived, her mother, herself, asked one of the deputies why they weren't arresting Avery, after he had hit her in the stomach just that morning and had been arrested for hitting her before. The deputy told Lilia's mother that... "that's just her story". The deputies failed to mention in the Supplemental Report that they had even talked with Lilia's mother at the incident scene.

93. Defendant Sheriff Steve Loftis was grossly negligent, careless, reckless, willful or wanton by breaching his duty to protect victims of domestic violence by failing to properly train and supervise Deputies David Picone and K.J. Tyner to follow the

Sheriff's Department's 'General Orders', procedures and rules regarding properly investigating this incident and make a detention of a violent offender after allegations of Domestic Violence, thereby protecting the safety of Greenville County citizens.

94. Greenville County Sheriff's Deputies, David Picone and K.J. Tyner, were inadequately trained or supervised concerning their duties regarding properly investigating this incident and make a detention of a violent offender after allegations of Domestic Violence, thereby protecting the safety of Greenville County citizens

95. Defendant Sheriff Steve Loftis' own Greenville County Sheriff's Office 'General Orders' define an employee's "Neglect on Duty" to be a failure to comply with any orders, directives, regulations, etc. oral or written.

96. Defendant Sheriff Steve Loftis was reckless, grossly negligent, willful or wanton by breaching his duty to protect victims of domestic violence by entrusting Deputies David Picone and K.J. Tyner with the responsibility of protection service to the citizens of Greenville County, when the Sheriff's Office knew, or through the exercise of ordinary care, should have known this officer was reckless, grossly negligent, willful and wanton in the administration of their duties.

97. Lilia Blandin's death was a direct and proximate result of Deputy Picone's and Deputy K.J. Tyner's acts and omissions on December 9<sup>th</sup>, 2011.

98. Greenville County Sheriff's Deputies David Picone's and Deputy K.J. Tyner's recklessness, gross negligence, willfulness or wantonness in failing to arrest Avery Blandin when called to the Blandin home on December 9, 2011, was a direct and proximate cause of the death of decedent, Lilia Blandin. But for the acts and omissions of Deputies David Picone and K.J. Tyner, Lilia Blandin's death on the following day,

December 10, 2011, would not have occurred.

99. As a direct and proximate result of the negligence, recklessness, gross negligence, willfulness or wantonness of Greenville County Sheriff's Deputies David Picone and K.J. Tyner, the Plaintiff's decedent received severe injuries from which she suffered excruciating pain and anguish and subsequently died, all to her damage in such substantial sums as the Court may determine.

100. As a direct and proximate result of the negligence, gross negligence, recklessness, willfulness or wantonness of Greenville County Sheriff's Deputies David Picone and K.J. Tyner, as aforesaid, Lilia Lorena Blandin was severely injured and subsequently died, causing her statutory beneficiaries, [REDACTED] Blandin, [REDACTED] Blandin, and [REDACTED] Blandin, to incur and suffer extreme mental shock, emotional pain, mental anguish and suffering; wounded feelings, grief and sorrow; pecuniary and economic loss; loss of decedent's ability to earn income for the support, maintenance, care and protection, education and protection of her children, and pecuniary loss, loss of companionship and deprivation of the benefit and comfort of Ms. Blandin's presence, guidance and society, and to incur funeral and medical expenses, and all to their damage in such substantial sums as a jury at the trial of this action this should determine.

#### Greenville County 911

101. Greenville County 911 Communications Specialist, Patricia Sullivan, and other 911 Operators owed the public and this victim a duty to properly and efficiently handle emergency calls from the victim and her family when those calls were received and according to the Greenville County Sheriff's Office General Orders, are to give



domestic violence priority over other routine calls for service, and dispatch at least two deputies to each incident when possible. (See Greenville County Sheriff's Office General Order 238)

102. Greenville County 911 Communications Specialist, Patricia Sullivan, and other 911 Operators owed a duty, specifically, and pursuant to their "General Orders", to make an effort to determine and relay the following information to the responding deputies:

- a. Any serious injury requiring EMS.
- b. Whether the suspect is present, the suspect's description, vehicle description and possible whereabouts.
- c. Whether weapons are involved or accessible
- d. Whether the suspect is under the influence of drugs or alcohol.
- e. Whether there are children currently present in the home.
- f. Whether the victim has a current Protection Order or Restraining Order in effect.
- g. The complaint history at the dispatched location.

(See Greenville County Sheriff's Office General Order 238)

103. Greenville County 911 Operator, Patricia Sullivan, and other Greenville County 911 operators, were reckless, grossly negligent, willful or wanton in failing to make diligent efforts to determine what had occurred concerning the incident Lilia Blandin and her family had reported and in failing to relay that information to responding deputies.

104. Greenville County 911 Operator, Patricia Sullivan, and the other

Greenville County 911 operators, were reckless, gross negligence, willful or wanton in failing to properly recognize, inquire about, and promptly follow established protocol in determining what had occurred that lead to the emergency calls being made regarding the incident at the Blandin home on December 9, 2011, and further failing to immediately dispatch deputies to respond to the home.

105. Greenville County 911 Communication Specialist, Patricia Sullivan, and other 911 operators, were reckless, grossly negligent, willful or wanton in failing to relay to the responding officers any of the following:

- h. Any serious injury requiring EMS.
- i. Whether the suspect is present, the suspect's description, vehicle description and possible whereabouts.
- j. Whether weapons are involved or accessible
- k. Whether the suspect is under the influence of drugs or alcohol.
- l. Whether there are children currently present in the home.
- m. Whether the victim has a current Protection Order or Restraining Order in effect.
- n. The complaint history at the dispatched location.

(See Greenville County Sheriff's Office General Order 238)

106. Defendant Sheriff Steve Loftis owed a duty to the public and victims of domestic abuse to properly train his deputies, staff and 911 communication specialists to effectively receive calls, dispatch deputies, relay vital and important information, investigate allegations of domestic abuse and criminal activity, and make arrests when they should be made.

107. Defendant Sheriff Steve Loftis was reckless, grossly negligent, willful or wanton by breaching his duty to protect victims of domestic violence by failing to properly train or supervise Greenville County 911 Operators to follow the Sheriff's Department's 'General Orders', procedures and rules regarding receiving emergency calls and determining their type and character, obtaining necessary information from callers, reporting allegations of Domestic Abuse and Violence, dispatching deputies promptly to investigate allegations of Domestic Violence, and relaying vital information to responding deputies concerning the same.

108. Greenville County 911 Operators were inadequately trained or supervised concerning their duties regarding obtaining necessary information from callers, reporting allegations of Domestic Abuse and Violence, dispatching deputies promptly to investigate allegations of Domestic Violence, and relaying vital information to responding deputies.

109. Defendant Sheriff Steve Loftis' own Greenville County Sheriff's Office 'General Orders' define an employee's "Neglect on Duty" to be a failure to comply with any orders, directives, regulations, etc. oral or written.

110. Defendant Sheriff Steve Loftis was reckless, grossly negligent, willful or wanton by breaching his duty to protect victims of domestic violence by entrusting Greenville County 911 Operator, Patricia Sullivan, and other Greenville County 911 operators, with the responsibility of protection service to the citizens of Greenville County, when the Sheriff's Office knew, or through the exercise of ordinary care, should have known these 911 Operators were reckless; grossly negligent, willful or wanton in the administration of their duties.

111. Lilia Blandin's death was a direct and proximate result of Greenville County 911 Operator, Patricia Sullivan's, and other Greenville County 911 operators' acts and omissions on December 9<sup>th</sup>, 2011.

112. Greenville County 911 Operator, Patricia Sullivan's, and other Greenville County 911 operators', recklessness, gross negligence, willfulness or wantonness was a direct and proximate cause of the death of decedent, Lilia Blandin. But for the acts and omissions of Greenville County 911 Operators, Patricia Sullivan, and other Greenville County 911 operators, on Friday, December 9<sup>th</sup>, 2011, Lilia Blandin's death on the following day would not have occurred.

113. As a direct and proximate result of the negligence, recklessness, gross negligence, willfulness or wantonness of Greenville County 911 Operators, Patricia Sullivan, and other Greenville County 911 operators, the Plaintiff's decedent received severe injuries from which she suffered excruciating pain and anguish and subsequently died, all to her damage in such substantial sums as a jury at the trial of this action may determine.

114. As a direct and proximate result of the negligence, gross negligence, recklessness, willfulness or wantonness of Greenville County 911 Operators, Patricia Sullivan, and other Greenville County 911 operators as aforesaid, Lilia Lorena Blandin was severely injured and subsequently died, causing her statutory beneficiaries, [REDACTED] Blandin, [REDACTED] Blandin, and [REDACTED] Blandin, to incur and suffer extreme mental shock, emotional pain, mental anguish and suffering; wounded feelings, grief and sorrow; pecuniary and economic loss; loss of decedent's ability to earn income for the support, maintenance, care and protection, education and protection of her

children, and pecuniary loss, loss of companionship and depravation of the benefit and comfort of Ms. Blandin's presence, guidance and society, and to incur funeral and medical expenses, and all to their damage in such substantial sums as a jury at the trial of this action this should determine.

**FOR A SECOND CAUSE OF ACTION**  
(Wrongful Death and Survival Action: Recklessness,  
Gross Negligence, Willfulness or Wantonness)

**As To Tim Gault, in his capacity as Director of Greenville County  
Emergency Medical Services**

The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.

115. Defendant EMS Director, Tim Gault, owed a duty to the public and victims of domestic abuse to properly train his staff, 911 Operators and communication specialists to effectively receive calls, dispatch law enforcement officers, relay vital and important information, investigate allegations of domestic abuse and criminal activity.

116. Greenville County 911 Communications Specialist, Patricia Sullivan, and other 911 Operators owed the public and this victim a duty to properly and efficiently handle emergency calls from the victim and her family when those calls were received and according to the Greenville County Sheriff's Office General Orders, are to give domestic violence priority over other routine calls for service, and dispatch at least two deputies to each incident when possible.

(See Greenville County Sheriff's Office General Order 238)

117. Greenville County 911 Communications Specialist, Patricia Sullivan, and other 911 Operators owed a duty pursuant to their "General Orders", to make an effort to determine and relay the following information to the responding deputies:

- a. Any serious injury requiring EMS.
- b. Whether the suspect is present, the suspect's description, vehicle description and possible whereabouts.
- c. Whether weapons are involved or accessible
- d. Whether the suspect is under the influence of drugs or alcohol.
- e. Whether there are children currently present in the home.
- f. Whether the victim has a current Protection Order or Restraining Order in effect.
- g. The complaint history at the dispatched location.

(See Greenville County Sheriff's Office General Order 238)

118. Greenville County 911 Communication Specialist, Patricia Sullivan, and other 911 operators, were reckless, grossly negligent, willful or wanton in failing to make diligent efforts to determine what had occurred concerning the incident that Lilia Blandin and her family had reported and in failing to relay that information to responding deputies.

119. Greenville County 911 Operator, Patricia Sullivan, and the other Greenville County 911 operators, were reckless, gross negligence, willful or wanton in failing to properly recognize, inquire about, and promptly follow established protocol in determining what had occurred that lead to the emergency

calls being made regarding the incident at the Blandin home on December 9, 2011, and further failing to immediately dispatch deputies to respond to the home.

120. Greenville County 911 Communication Specialist, Patricia Sullivan, and other 911 operators, were reckless, grossly negligent, willful or wanton in failing to inquire about or relay to the responding officers any of the following:

- a. Any serious injury requiring EMS.
- b. Whether the suspect is present, the suspect's description, vehicle description and possible whereabouts.
- c. Whether weapons are involved or accessible
- d. Whether the suspect is under the influence of drugs or alcohol.
- e. Whether there are children currently present in the home.
- f. Whether the victim has a current Protection Order or Restraining Order in effect.
- g. The complaint history at the dispatched location.

(See Greenville County Sheriff's Office General Order 238)

121. Greenville County 911 Communication Specialist, Patricia Sullivan, and other 911 operators, were reckless, grossly negligent, willful or wanton in failing to accurately note and relay information concerning what Lilia Blandin and her family had reported concerning the Domestic Violence incident at the Blandin home on the morning of Friday, December 9<sup>th</sup>, 2011.

122. Defendant Greenville Emergency Medical Services Director, Tim Gault, was reckless, grossly negligent, willful or wanton by breaching his duty to

protect victims of domestic violence by entrusting Greenville County 911 Operator, Patricia Sullivan, and other Greenville County 911 operators, with the responsibility of protection service to the citizens of Greenville County, when the Sheriff's Office knew, or through the exercise of ordinary care, should have known these 911 Operators were reckless; grossly negligent, willful or wanton in the administration of their duties.

123. Lilia Blandin's death was a direct and proximate result of Greenville County 911 Operator, Patricia Sullivan's, and other Greenville County 911 operators' acts and omissions on December 9<sup>th</sup>, 2011.
124. Greenville County 911 Operator, Patricia Sullivan's, and the other 911 operator's recklessness, gross negligence, willfulness or wantonness was a direct and proximate cause of the death of decedent, Lilia Blandin. But for the acts the acts and omissions of Greenville County 911 Operator, Patricia Sullivan, and other 911 operators, Lilia Blandin's death on the following day, December 10, 2011, would not have occurred.
125. As a direct and proximate result of the negligence, recklessness, gross negligence, willfulness or wantonness of Greenville County 911 Operators, Patricia Sullivan, and other Greenville County 911 operators, the Plaintiff's decedent received severe injuries from which she suffered excruciating pain and anguish and subsequently died, all to her damage in such substantial sums as a jury at the trial of this action may determine.
126. As a direct and proximate result of the negligence, gross negligence, recklessness, willfulness or wantonness of Greenville County 911 Operators,



Patricia Sullivan, and other Greenville County 911 operators as aforesaid, Lilia Lorena Blandin was severely injured and subsequently died, causing her statutory beneficiaries, [REDACTED] Blandin, [REDACTED] Blandin, and [REDACTED] Blandin, to incur and suffer extreme mental shock, emotional pain, mental anguish and suffering; wounded feelings, grief and sorrow; pecuniary and economic loss; loss of decedent's ability to earn income for the support, maintenance, care and protection, education and protection of her children, and pecuniary loss, loss of companionship and deprivation of the benefit and comfort of Ms. Blandin's presence, guidance and society, and to incur funeral and medical expenses, and all to their damage in such substantial sums as a jury at the trial of this action this should determine.

**FOR A THIRD CAUSE OF ACTION**

(Wrongful Death and Survival Action: Negligence, Recklessness,  
Gross Negligence, Willfulness or Wantonness)

**As To Wal-Mart Stores, Inc., Wal-Mart Stores East, Inc.,  
and Wal-Mart Associates, Inc.,**

The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.

127. The Defendant in the conduct of their business engages in the sale of goods, services, or a combination thereof;
128. The Defendant has a duty to properly train management and staff to act prudently;

129. The Defendant has a duty to provide security on the premises;
130. The Defendants have a duty to prevent recurring crimes on the premises, through the implementation of appropriate policies and procedures;
131. The Defendant owed a duty not to create dangerous conditions on the property or allow them to exist, but did so anyway, namely the criminal activity at the location;
132. The Defendant breached the duties owed to persons on its premises by failing to exercise the amount of care and prudence a reasonable business would have exercised in the same or similar circumstances by failing to employ adequate security;
133. By failing to hire and/or staff their premises with adequate security personnel knowing that the store had a history of high crime incidents in an effort to deter recurring crimes on the premises;
134. In failing to properly train their management and security staff on protocol for responding to a criminal act on the premises;
135. In failing to properly supervise their management and security staff;

136. In the failure to adhere to and employ existing policies and procedures regarding security on the premises;
137. In failing to employ and/or educate employees on proper policies and procedures to prevent injuries to persons;
138. In failing to take reasonable steps to prevent injuries on the premises, such as by not hiring security personnel;
139. In failing to prevent injuries on the premises;
140. In failing to take safety precautions to warn of or eliminate foreseeable unreasonable risks;
141. Defendant knew or should have known of a potential threat to persons, namely the Plaintiff, on their premises due to recurring criminal acts, and was negligent for failing to take reasonable precautions to prevent a potential security threat;
142. For failing to take proper action after being aware of a sequence of conduct sufficient to enable Defendant to act on behalf of Plaintiff's safety;
143. In failing to provide notice to customers that the store's location was located in an area known for its high rate of crime, specifically that the crimes were frequently committed at the store;
144. By negligently allowing injury to the Plaintiff knowing that a risk of great bodily harm to Plaintiff was present and

foreseeable due to the numerous crimes previously reported at that location;

145. In failing to provide notice to customers that the store's location was located in an area known for its high rate of crime, specifically at that store's location;

146. In such other particulars as the evidence at trial may show; and

147. In all other ways being negligent.

148. Lilia Blandin's death was a direct and proximate result of the acts and omissions of Wal-Mart Stores, Inc., Wal-Mart Stores East, Inc., and Wal-Mart Associates, Inc., on December 10<sup>th</sup>, 2011.

149. The negligence, recklessness, gross negligence, willfulness or wantonness of Wal-Mart Stores, Inc., Wal-Mart Stores East, Inc., and Wal-Mart Associates, Inc., was a direct and proximate cause of the death of decedent, Lilia Blandin. But for the acts and omissions of Wal-Mart Stores, Inc., Wal-Mart Stores East, Inc., and Wal-Mart Associates, Inc., Lilia Blandin's death on Friday, December 10<sup>th</sup>, 2011, would not have occurred.

150. As a direct and proximate result of the negligence, recklessness, gross negligence, willfulness or wantonness of the Defendant Wal-Mart Stores, Inc., Wal-Mart Stores East, Inc., and Wal-Mart Associates, Inc., as aforesaid, the Plaintiff's decedent received severe injuries from which she suffered excruciating pain and anguish and subsequently lead to her death, all to her damage in such substantial sums as a jury at the trial of this action may determine.

151. As a direct and proximate result of the negligence, gross negligence, recklessness, willfulness or wantonness of the Defendants as aforesaid, Lilia Lorena Blandin was severely injured and subsequently died, causing her statutory beneficiaries, [REDACTED] Blandin, [REDACTED] Blandin, and [REDACTED] Blandin, to incur and suffer extreme mental shock, emotional pain, mental anguish and suffering; wounded feelings, grief and sorrow; pecuniary and economic loss; loss of decedent's ability to earn income for the support, maintenance, care and protection, education and protection of her children, and pecuniary loss, loss of companionship and depravation of the benefit and comfort of Ms. Blandin's presence, guidance and society, and to incur funeral and medical expenses, and all to their damage in such substantial sums as a jury at the trial of this action and should determine.

152. Further, due to the negligence, recklessness, gross negligence, willfulness or wantonness of the Defendants Wal-Mart Stores, Inc., Wal-Mart Stores, East, Inc., and Wal-Mart Associates, Inc., as aforesaid, Plaintiff is informed and believes that as to these Defendants, Plaintiff's decedent should be vindicated and said Defendants should be made an example of, to deter those Defendants and others from committing like acts and omissions in the future, and that the Estate of Lilia Lorena Blandin is entitled to exemplary or punitive damages, in such amount as a jury at the trial of this action should determine.

**FOR A FOURTH CAUSE OF ACTION**  
(Wrongful Death and Survival Action: Negligence, Recklessness,  
Gross Negligence, Willfulness or Wantonness)

**As To Defendant Woodforest National Bank**

The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.

148. Woodforest National Bank, in the conduct of their business, engages in the sale of financial products, banking services, or a combination thereof;
149. Woodforest National Bank has a duty to properly train management and staff to act prudently;
150. The Defendant has a duty to provide security on the premises;
151. The Defendant breached the duties owed to persons on its premises by failing to exercise the amount of care and prudence a reasonable business would have exercised in the same or similar circumstances to respond to a foreseeable criminal act – namely by failing to take reasonable steps after Plaintiff's husband threateningly called her place of employment approximately thirty (30) times the morning of Plaintiff's death;
152. In failing to properly train their management and security staff on protocol for responding to a foreseeable criminal act – namely by failing to take action after the repeated phone calls to Plaintiff's place of employment.;

153. In failing to take reasonable steps to prevent injuries on the premises -- namely by failing to take action after the repeated phone calls to Plaintiff's place of employment;
154. In failing to take safety precautions to warn of or eliminate foreseeable unreasonable risks;
155. Defendant knew or should have known of a potential threat to Plaintiff, and was negligent for failing to properly notify authorities of a potential security threat after receiving repeated phone calls from Plaintiff's husband;
156. For failing to take proper action after being aware of a sequence of conduct sufficient to enable Defendant to act on behalf of Plaintiff's safety;
157. In failing to properly supervise their management and security staff;
158. By negligently allowing injury to the Plaintiff knowing that a risk of great bodily harm to Plaintiff was present and foreseeable;
159. In failing to provide notice to customers that this bank's location was located in a store known for its high rate of crime;
160. In failing to hire competent management and security staff;
161. In failing to employ and/or educate employees on proper policies and procedures to prevent injuries to persons;

162. In such other particulars as the evidence at trial may show;

163. In all other ways being negligent.

164. Lilia Blandin's death was a direct and proximate result of the acts and omissions of Woodforest National Bank on December 10<sup>th</sup>, 2011.

165. The negligence, recklessness, gross negligence, willfulness or wantonness on the part of Woodforest National Bank, was a direct and proximate cause of the death of decedent, Lilia Blandin. But for the acts and omissions of Woodforest National Bank, Lilia Blandin's death, on Saturday, December 10<sup>th</sup>, 2011, would not have occurred.

166. As a direct and proximate result of the negligence, recklessness, gross negligence, willfulness or wantonness of the Defendant Woodforest National Bank, as aforesaid, the Plaintiff's decedent received severe injuries from which she suffered excruciating pain and anguish and subsequently died, all to her damage in such substantial sums as the Court may determine.

167. As a direct and proximate result of the negligence, gross negligence, recklessness, willfulness or wantonness of the Defendants as aforesaid, Lilia Lorena Blandin was severely injured and subsequently died, causing her statutory beneficiaries, [REDACTED] Blandin, [REDACTED] Blandin, and [REDACTED] Blandin, to incur and suffer extreme mental shock, emotional pain, mental anguish and suffering; wounded feelings, grief and sorrow; pecuniary and economic loss; loss of decedent's ability to earn income for the support, maintenance, care and protection, education and protection of her children, and pecuniary loss, loss of companionship and deprivation of the benefit and comfort of Ms. Blandin's presence, guidance and society, and to incur funeral and



medical expenses, and all to their damage in such substantial sums as a jury at the trial of this action this should determine.

168. Further, due to the negligence, recklessness, gross negligence, willfulness or wantonness of the Defendant Woodforest National Bank, as aforesaid, Plaintiff is informed and believes that as to Defendant Woodforest National Bank, Plaintiff's decedent should be vindicated and said Defendants should be made an example of, to deter those Defendants and others from committing like acts and omissions in the future, and that the Estate of Lilia Lorena Blandin is entitled to exemplary or punitive damages, in such amount as a jury at the trial of this action should determine.

#### **PRAYER FOR RELIEF**

**WHEREFORE**, the Plaintiff prays for judgment against the Defendants, jointly and severally, as set forth below:

(A) For compensatory damages in such sums as are necessary to fully compensate the Estate of Lilia Lorena Blandin for the severe injuries and damages sustained by Mrs. Blandin, and that caused or contributed to her violent and brutal death, together with such punitive damages as a Jury and this Court should lawfully determine against Defendants, plus all costs and expenses incurred in the bringing and prosecution of this action, under the Plaintiff's Survival Claim;

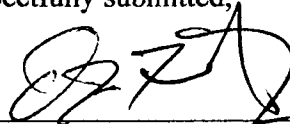
(B) For compensatory damages in such sums as are necessary to fully compensate the statutory beneficiaries of Lilia Lorena Blandin for the death of Mrs. Blandin, that caused or contributed to her violent and brutal death, together with punitive damages as Jury and this Court should lawfully determine against Defendants, plus all

costs and expenses incurred in the bringing and prosecution of this action, under the Plaintiff's Wrongful Death Claim; and

(C) For such other and further relief as this Honorable Court deems just and proper.

The Plaintiff demands a trial by jury.

Respectfully submitted,



Daniel J. Farnsworth, Jr. (S.C. Bar No. 6922)

**FARNSWORTH LAW OFFICES, LLC**

Attorney for the Plaintiff

2 Williams Street

Post Office Box 8719

Greenville, South Carolina 29604

(864) 250-9119 telephone

(864) 250-9120 facsimile

[Dan@FarnsworthLawOffices.com](mailto:Dan@FarnsworthLawOffices.com)

December <sup>9<sup>th</sup></sup>, 2013  
Greenville, South Carolina

FILED - CLERK OF COURT  
 STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
 GREENVILLE CO. S.C.  
 COUNTY OF GREENVILLE )  
 2014 FEB 17 AM 9 32  
 THIRTEENTH JUDICIAL CIRCUIT

|                                          |   |                                   |
|------------------------------------------|---|-----------------------------------|
| Madel C. Rivero, as Personal             | ) | C/A NO.: 2013-CP-23-06522         |
| Representative of the Estate of Lilia    | ) |                                   |
| Lorena Blandin,                          | ) |                                   |
|                                          | ) |                                   |
| Plaintiff,                               | ) |                                   |
|                                          | ) | <b>ANSWER OF SHERIFF STEVE</b>    |
|                                          | ) | <b>LOFTIS, IN HIS CAPACITY AS</b> |
| vs.                                      | ) | <b>SHERIFF OF GREENVILLE</b>      |
|                                          | ) | <b>COUNTY AND TIM GAULT,</b>      |
| Sheriff Steve Loftis, in his capacity as | ) | <b>IN HIS CAPACITY AS INTERIM</b> |
| Sheriff of Greenville County;            | ) | <b>DIRECTOR OF GREENVILLE</b>     |
| Tim Gault, in his capacity as interim    | ) | <b>COUNTY EMERGENCY</b>           |
| director of Greenville County            | ) | <b>MEDICAL SERVICES</b>           |
| Emergency Medical Services;              | ) |                                   |
| Wal-Mart Stores, Inc., Wal-Mart Stores   | ) | (Jury Trial Requested)            |
| East, LP and Wal-Mart Associates, Inc.   | ) |                                   |
| and Woodforest National Bank,            | ) |                                   |

The above defendants, hereinafter referred to as Sheriff Steve Loftis and Tim Gault, would respectfully show unto the Court as follows:

**FOR A FIRST DEFENSE**

1. That except as is expressly admitted, modified, or explained herein, strict proof is demanded of each and every allegation of the plaintiff's Complaint and except as is admitted, modified or explained herein, the allegations of the plaintiff's Complaint are denied and strict proof thereof is demanded.
2. That as to the allegations of paragraph 1 of the plaintiff's Complaint, these defendants are without sufficient information with which to admit or deny the relationship

of Madel Rivero to Lilia Blandin and these defendants are without sufficient information with which to admit or deny Madel Rivero's status as personal representative. That further in response to the allegations of the plaintiff's Complaint and the section entitled "Preface," it is admitted, upon information and belief, that Sheriff Loftis is the sheriff of Greenville County and has certain duties and responsibilities established by law. That it is admitted, upon information and belief, that Tim Gault is the interim director of Greenville County Emergency Medical Services but, upon information and belief, Tim Gault in his capacity as interim director of Greenville County Emergency Medical Services is not a proper party and/or defendant to this action. That further, upon information and belief, Deputies David Picone and K. L. Tyner are and were at relevant times deputies of the Sheriff of Greenville County. That further, upon information and belief, at times and dates relevant hereto, Patricia Sullivan was a communications specialist for Sheriff Loftis. That, upon information and belief, to the extent the Complaint alleges acts or omissions by David Picone, K.L. Tyner or Patricia Sullivan, those individuals are answerable to Sheriff Steve Loftis ultimately and/or pursuant to applicable law.

3. That further, upon information and belief, on or about December 9, 2011 at approximately 10:13 an individual identifying herself as Lilia Blandin called 911 and made a report requesting assistance. That, upon information and belief, on December 9, 2011 there were communications at different times between communications specialists

and Lilia Blandin as well as a communication between a communication specialist and an individual identifying herself as Lilia Blandin's sister. That said communications, upon information and belief, were recorded and/or transcribed. That, upon information and belief, the 911 calls prompted a response by law enforcement and, upon information and belief, on December 9, 2011 at approximately 10:30, Deputies Tyner and Picone responded to the call of a domestic disturbance, arriving at the scene of [REDACTED] [REDACTED] in Greenville County, South Carolina. That, upon information and belief, Deputies Tyner and Picone conducted a proper and appropriate investigation and interviewed Lilia Blandin as well as Avery Blandin. That although the parties reported that there had been a disagreement and/or argument, the investigation of Deputies Picone and Tyner revealed that no assault had occurred to Lilia Blandin and/or Avery Blandin and there was no basis at that time and/or probable cause at that time to make an arrest for any crime and/or criminal domestic violence. That, upon information and belief, Deputies Picone and Tyner were present while Lilia Blandin collected items from the home for herself and her children and left with her mother with plans to stay elsewhere. That, upon information and belief, the communications to 911 make reference to various allegations of abuse and/or threats. Communications ultimately resulted in the investigation and response to the call by Deputies Tyner and Picone. That, upon information and belief, deputies of Sheriff Loftis timely responded to Lilia Blandin's call for service and based upon the information presented in the course of their interviews

with Lilia Blandin and Avery Blandin, there were no grounds for any arrest. That, upon information and belief, on December 10, 2011 at approximately 1:20 p.m., Avery Blandin entered a Wal-Mart Store located at 6134 White Horse Road, Greenville County, South Carolina, approached Lilia Blandin in a bank service area and stabbed her with a knife, causing fatal wounds. That, upon information and belief, Avery Blandin was later apprehended and charged with the murder of Lilia Blandin, was convicted and is under sentence.

4. These defendants deny any breach of any duty of care on their part resulting in the tragic death of Lilia Blandin. That further, these defendants deny that they committed any acts or omission which were a proximate cause of the damages referenced in the plaintiff's Complaint. These defendants deny they are in any way liable for the claims set forth in the plaintiff's Complaint. That as is expressly admitted, modified or explained herein, the allegations of the plaintiff's Complaint consisting of paragraphs 1 through 168 are denied and strict proof thereof is demanded. That further these defendants incorporate by reference their response to the Preface of the plaintiff's Complaint as fully as if repeated verbatim in the response to the allegations of paragraphs 1 through 168 of the plaintiff's Complaint.

5. That these defendants reserve the right to amend and modify their response to the allegations of the plaintiff's Complaint, paragraphs 1 through 168 and these defendants anticipate filing and serving an Amended Answer to the plaintiff's Complaint

within ten (10) days.

**FOR A SECOND DEFENSE**

6. That the allegations of the plaintiff's Complaint fail to state fact sufficient to constitute a cause of action.

**FOR A THIRD DEFENSE**

7. That these defendants did not owe to the plaintiff any duty of care as is alleged in the Complaint and the Complaint should therefore be dismissed.

**FOR A FOURTH DEFENSE**

8. That the defendants herein did not breach any duty of care owed to the plaintiff as is alleged in the plaintiff's Complaint and the plaintiff's Complaint should be dismissed.

**FOR A FIFTH DEFENSE**

9. That defendant Tim Gault in his capacity as interim director of Greenville County Emergency Medical Services is not a proper party and/or defendant and any such claims should be dismissed.

**FOR A SIXTH DEFENSE**

10. That any claims against these defendants are subject to the provisions of the South Carolina Tort Claims Act and these defendants therefore plead and assert the South Carolina Tort Claims Act as a complete and absolute defense and bar to the claims set forth in the plaintiff's Complaint. That these defendants specifically plead and assert all

statutes of limitations, conditions of recovery, limitations of recovery, exclusions from liability, and caps or limits on damages as are set forth in the South Carolina Tort Claims Act.

**FOR A SEVENTH DEFENSE**

11. That specifically, but without limitation, the within defendants plead and asserts the provisions of S.C. Code Ann. § 15-78-60(1)(2)(3)(4)(5)(6)(20)(21)(23) and (25).

**FOR AN EIGHTH DEFENSE**

12. That specifically, but without limitation, these defendants plead and assert the provisions of S.C. Code Ann. § 15-78-30 as a complete and absolute defense and/or bar to the allegations of the plaintiffs' Complaint.

**FOR A NINTH DEFENSE**

13. That these defendants plead and assert provisions of S.C. Code Ann. §15-78-70 as a bar and/or defense to the allegations of the plaintiff's Complaint.

**FOR A TENTH DEFENSE**

14. That these defendants plead and assert provisions of S.C. Code Ann. §15-78-100 as a bar and/or defense to the allegations of the plaintiff's Complaint.

**FOR AN ELEVENTH DEFENSE**

13. That these defendants plead and assert provisions of S.C. Code Ann. §15-78-120 as a bar and/or defense to the allegations of the plaintiff's Complaint.



**FOR A TWELFTH DEFENSE**

14. That these defendants plead and assert provisions of S.C. Code Ann. §15-78-170 as a bar and/or defense to the allegations of the plaintiff's Complaint.

**FOR A THIRTEENTH DEFENSE**

15. That to the extent the damages and/or injuries referred to in the plaintiff's Complaint resulted from acts or omissions by parties over which these defendants had no control and/or authority, same are asserted as a bar and/or defense to the allegations of the plaintiff's Complaint against these defendants.

**FOR A FOURTEENTH DEFENSE**

16. That these defendants plead and assert that the sole and proximate cause of the unfortunate death of Lilia Blandin was due to the criminal acts of Avery Blandin and not these defendants.

**FOR A FIFTEENTH DEFENSE**

17. That to the extent discovery reveals that Lilia Blandin knew of any threats of harm and/or additional threats of harm for her well-being by Avery Blandin, to the extent Lilia Blandin failed to take reasonable precautions for her safety and welfare, same may constitute negligence on her part and, if so, these defendants plead and assert the negligence and/or comparative fault of Lilia Blandin as a bar and/or defense to the allegations of this suit.

18. That these defendants therefore plead and assert that to the extent discovery

discloses same, the comparative fault of Lilia Blandin is plead and asserted as a bar to any recovery by the plaintiff from these defendants and/or affirmatively in mitigation of any damages sought to be recovered by the plaintiff from these defendants.

**FOR A SIXTEENTH DEFENSE**

19. That these defendants plead and assert the public duty rule and/or public duty doctrine as a bar and/or defense to the allegations set forth in the plaintiff's Complaint.

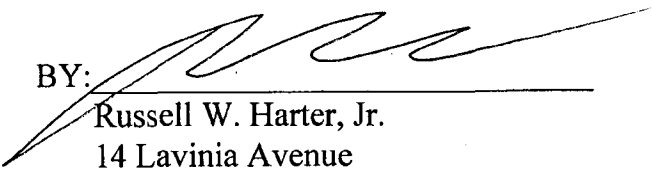
Wherefore, these defendants pray as follows:

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

Respectfully submitted,

**CHAPMAN, HARTER & HARTER,**

P.A.

BY: 

Russell W. Harter, Jr.  
14 Lavinia Avenue  
P. O. Box 10224  
Greenville, SC 29603  
864/233-4500  
864/232-1710 (fax)  
[rwhjr@chhlaw.net](mailto:rwhjr@chhlaw.net)

**ATTORNEY FOR DEFENDANTS  
SHERIFF STEVE LOFTIS, IN HIS  
CAPACITY AS SHERIFF OF**

**GREENVILLE COUNTY AND  
TIM GAULT, IN HIS CAPACITY  
AS INTERIM DIRECTOR OF  
GREENVILLE COUNTY  
EMERGENCY MEDICAL  
SERVICES**

Greenville, South Carolina

February 10, 2014

STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE

FILED-CLERK OF COURT  
OFFICE IN THE COURT OF COMMON PLEAS  
PAUL S. WOODLUM

2015 OCT 12 PM 3 24

Madel C. Rivero, as Personal  
Representative for the Estate of Lilia  
Lorena Blandin,

Civil Action No. 2013-CP-23-6522

Plaintiff,

vs.

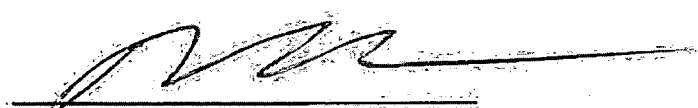
Sheriff Steve Loftis, in his capacity as  
Sheriff of Greenville County;

Defendant.

**NOTICE AND MOTION OF  
DEFENDANT FOR JUDGMENT  
NOTWITHSTANDING THE VERDICT  
AND A NEW TRIAL PURSUANT TO  
S.C.R.C.P. RULE 50 AND RULE 59**

The defendant moves for an Order of Court to alter or amend any Judgment entered or to be entered in the above matter on the grounds and authority more fully set forth in the Defendant's Motion for Judgment Notwithstanding the Verdict and a New Trial Pursuant to S.C.R.C.P. Rule 50 and Rule 59 attached and incorporated herein.

Respectfully submitted,

  
Russell W. Harter Jr., SC Bar #2778  
Carly H. Davis, SC Bar #100112  
Chapman, Harter & Harter, P.A.  
14 Lavinia Avenue  
Post Office Box 10224 (29603)  
Greenville, SC 29601  
Telephone: (864) 233-4500  
Facsimile: (864) 232-1710  
E-Mail: rwhjr@chhlaw.net  
**ATTORNEYS FOR DEFENDANT**

October 12, 2015  
Greenville, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Madel C. Rivero, as Personal  
Representative for the Estate of Lilia  
Lorena Blandin,

Plaintiff,

vs.

Sheriff Steve Loftis, in his capacity as  
Sheriff of Greenville County;

Defendant.

FILED-CLERK OF COURT

GREENVILLE, S.C.

PAUL B. D. IN THE COURT OF COMMON PLEAS

2015 OCT 12 PM 3 24

Civil Action No. 2013-CP-23-6522

**DEFENDANT'S MOTION FOR  
JUDGMENT NOTWITHSTANDING  
THE VERDICT AND A NEW TRIAL  
PURSUANT TO S.C.R.C.P. RULE 50  
AND RULE 59**

Subject to any other post-trial motions timely filed or to be filed, the defendant moves for an Order of Court granting Judgment Notwithstanding the Verdict and a New Trial pursuant to S.C.R.C.P. Rule 50 and Rule 59.

**I. THE DEFENDANT HAD NO DUTY UNDER THE CIRCUMSTANCES OF THIS CASE WHICH WOULD GIVE RISE TO LIABILITY UNDER THE SOUTH CAROLINA TORT CLAIMS ACT AND/OR UNDER S.C. CODE § 16-25-70, ET SEQ.**

The "public duty rule" recognizes that, generally, statutes which create or define the duties of a public office create no duty of care towards individual members of the general public; however, an exception to the general rule exists when the statutory duty is owed to individuals rather than to the public at large. *Arthurs ex rel. Estate of Munn v. Aiken Cnty.*, 346 S.C. 97, 551 S.E.2d 579 (2001). In determining whether a special duty arises from a statute so as to remove a public officials' immunity from a private cause of action arising out of special duty, the court should consider the following six-part test:

1. Whether the essential purpose of statute is to protect against the particular type of harm;

2. Whether the statute, either directly or indirectly, imposes on the specific public officer a duty to guard against or not cause that harm;
3. Whether the class of persons the statute intends to protect is identifiable before the court;
4. Whether the plaintiff is a person within protected class;
5. Whether the public officer knows or has reason to know the likelihood of harm to members of class if he fails to do his duty; and
6. Whether the officer is given sufficient authority to act in circumstances or he undertakes to act in exercise of his office.

The Court in *Arthurs* did not reach the question as to whether under different circumstances the CDV act could be the basis of a special duty. Applying the six-part test, the defendant submits that there is no duty under the facts and circumstances of this case.

The plaintiff's negligence claim revolves around two theories, the first being the Patricia Sullivan miscategorized the 911 call as a child custody case rather than a domestic dispute. The second theory is that the officers should have arrested Avery Blandin on December 9, 2011. In regards to plaintiff's first claim and in light of the factors set forth in *Arthurs ex rel. Estate of Munn v. Aiken Cnty.*, Patricia Sullivan did not have any special duty to act under the CDV statute because as a 911 operator, she lacks the necessary authority required to arrest anyone, including Avery Blandin.

S.C. Code Ann. § 15-25-70 is a criminal statute providing a description of the offense of Criminal Domestic Violence and providing for penalties for Criminal Domestic Violence offenses. Section 15-25-70 provides for warrantless arrests in certain limited circumstances. Section 15-25-70 (B) provides that a law enforcement officer must arrest with or without a warrant if physical manifestation of injury to the victim is present, and if the officer has probable

cause to believe that the person is committing or has freshly committed a misdemeanor or felony under the provisions of the act.

Section 16-25-70(A) provides that a law enforcement officer may arrest with or without a warrant if the officer has probable cause to believe that a suspect is committing or has freshly committed domestic violence as defined by the statute. Under subsection (A) an arrest is not mandatory; hence there is no duty and/or authority to act.

In this case there was no evidence whatsoever that Mrs. Blandin had "physical manifestations" of any injury. In fact, the testimony was to the contrary. Without a physical manifestation of injury, even if there is arguable probable cause, a law enforcement officer has no duty to make a mandatory arrest, and in this case, there was no duty imposed on either of the deputies involved to arrest the husband on December 9, 2011 [absence of prong #2].

Law enforcement in this case further, did not have sufficient authority to act under the circumstances because again there was no physical manifestation of injury to give rise to a mandatory arrest in this situation and because there was an absence of probable cause [absence of prong #6].

The six-prong test to determine whether a special duty exists is not satisfied under the facts of this case and in light of the provisions of S.C. Code Ann. § 16-25-70. Because there is an absence of a special duty, the defendant respectfully requests that the Court grant Judgment Notwithstanding the Verdict and enter Judgment in favor of the defendant. Alternatively, the defendant requests that the Court grant a new trial.

**II. THERE WAS NO CREDIBLE EVIDENCE OF GROSS NEGLIGENCE AS A MATTER OF LAW AND THERE WAS NO EVIDENCE OF A BREACH OF ANY LEGAL DUTY OWED BY THE SHERIFF'S OFFICE TO THE ESTATE.**

To the extent it is argued that Section 16-25-70 provides a special duty in this case, subsection (I) provides that law enforcement officers are not liable for any acts and/or omissions under S.C. Code Ann. § 16-25-70 unless their actions or exercise of discretion amount to gross negligence, recklessness, willfulness, and/or wantonness. For purposes of governmental entity liability, gross negligence is defined as the failure to exercise slight care; it is the intentional, conscious failure to do something which it is incumbent upon one to do or the doing of a thing intentionally that one ought not to do. *Clyburn v. Sumter County School Dist.* 17, 311 S.C. 521, 429 S.E.2d 862 (Ct. App. 1993). Further, a defendant is grossly negligent if he is so indifferent to consequences of his conduct as not to give slight care to what he is doing. *Jackson v. South Carolina Dept. of Corrections*, 390 S.E.2d 467.

Sheriff's Office Communications Specialist received a call for service on December 9, 2011 and two officers responded to the Blandin residence. There is no evidence whatsoever that between the time of Mrs. Blandin's initial call and the time law enforcement arrived, that she sustained any injuries and/or harm. Further, the undisputed evidence is that two officers responded to the Blandin residence and were at the Blandin residence for approximately 28 minutes.

Further, it is undisputed that the officers separated Mr. and Mrs. Blandin and questioned them as to what events had transpired. Having been told that there had been no conduct which would amount to probable cause for an arrest of CDV and the officers remained on scene until Mrs. Blandin left. Further, Mrs. Blandin was given information regarding the process to obtain an Order of Protection. Although the Personal Representative testified with respect to her recollection of events while briefly on scene, the Personal Representative did not and could not provide facts which would amount to probable cause to justify an arrest of the decedent's



husband. Because the actions of Greenville County Sheriff's Office were not grossly negligent as a matter of law, the defendant requests that the Court grant Judgment. Notwithstanding the Verdict and enter Judgment in favor of the defendant; alternatively, the defendant requests that the Court grant a new trial.

**III. AS A MATTER OF LAW, THERE WAS NO PROBABLE CAUSE TO ARREST AVERY BLANDIN ON DECEMBER 9, 2011.**

Probable cause is said to exist when the facts and circumstances known to an officer would warrant the belief of a prudent person that the arrestee had committed or was committing an offense. *State v. Moultrie*, 316 S.C. 547, 552, 451 S.E.2d 34, 37 (Ct. App. 1994); *Taylor v. Waters*, 81 F.3d 429 (4<sup>th</sup> Cir. 1996). "Probable cause" is defined as a good faith belief that a person is guilty of a crime when this belief rests on such grounds as would induce an ordinarily prudent and cautious man, under the circumstances, to believe likewise." *Jones v. City of Columbia*, 301 S.C. 62, 65, 389 S.E.2d 662, 663 (1990). "The determination of probable cause is not an academic exercise in hindsight." *Jackson v. City of Abbeville, Riley's BP, and Angela McCurry*, 366 S.C. 662, 623 S.E.2d 656, S.C.App. (2005); *George*, 323 S.C. at 509, 476 S.E.2d at 911. Probable cause is determined at the time of the arrest, based on the facts and circumstances known to the arresting officer and objectively measured. *State v. George*, 323 S.C. 496, 476 S.E.2d 903, 911 (1996); *Deaton v. Leath*, 279 S.C. 82, 302 S.E.2d 335 (1983); *Jackson v. City of Abbeville, Riley's BP, and Angela McCurry*, 366 S.C. 662, 623 S.E.2d 656, S.C.App. (2005). Probable cause requires more than a "bare suspicion" but less than evidence necessary to convict. *United States v. Gray*, 137 F.3d 765, 769 (4<sup>th</sup> Cir. 1998).

On December 9, 2011, the Sheriff's Office had absolutely no authority to arrest Avery Blandin absent probable cause. Much of the plaintiff's case hinged on hindsight as to what

occurred on December 10, 2011 at Mrs. Blandin's workplace. Hindsight cannot and should not be used to judge the actions of officers on scene on December 9, 2011.

There was no physical manifestation of any injuries to Ms. Blandin, there was no Order of Protection in place, and the facts, even viewed in the light most favorable to the plaintiff simply do not amount to sufficient probable cause to arrest.

It is respectfully submitted that as a matter of law absent probable cause the officers had no ability, opportunity, and/or authority to, in any way, take action on December 9, 2011, that would have and/or could have prevented Mrs. Blandin's murder.

The defendant respectfully requests that the Court grant Judgment Notwithstanding the Verdict and enter Judgment in favor of the defendant; alternatively, the defendant requests that the court grant a new trial.

**IV. ANY ALLEGED ACTS AND/OR OMISSIONS OF GREENVILLE COUNTY SHERIFF'S OFFICE WAS NOT, AS A MATTER OF LAW, THE PROXIMATE CAUSE OF THE MURDER OF LILIA BLANDIN ON DECEMBER 10, 2011.**

In *Thomas v. South Carolina Department of Highways and Public Transportation*, 320 S.C. 400, 465 S.E.2d 578 (Ct. App. 1995), the Court of Appeals held that speculation about the criminal actions of a third party tortfeasor in relation to the enforcement of a statute was insufficient to establish causation for a plaintiff's injuries. The Court of Appeals, in affirming the grant of a directed verdict, held that, "[b]efore a plaintiff can recover in a negligence action, the plaintiff must prove, among other things, causation in fact.... Causation in fact is proved by establishing the injury would not have occurred 'but for' the defendant's negligence." *Id.* at 402, 465 S.E.2d at 580 (citations omitted). The question as to whether Mrs. Blandin's death could have and/or would have been prevented is simply a matter of speculation.

An expert can speak to the subject, however, an expert's offer of what is foreseeable is

inadequate and suspect at best. *See McBeth v. TNS Mills, Inc.*, 318 S.C. 388, 458 S.E.2d 52 (S.C. Ct. App. 1995).

Mrs. Blandin's murder resulted from the criminal actions of a third party, Avery Blandin, and there is no way that a jury could have rationally concluded that but for the failure of officers to arrest him on December 9, 2011, Lilia Blandin would not have been killed.

As a matter of law, the defendant respectfully submits that there is no proximate cause between the alleged acts and/or omissions of the Sheriff's Office and the murder of Lilia Blandin. Accordingly, the defendant requests that the Court enter Judgment Notwithstanding the Verdict and enter Judgment in favor of the defendant; alternatively, the defendant respectfully requests that the Court grant a new trial.

**V. THE PROVISIONS OF S.C. CODE ANN. §15-78-60 APPLY AND PROVIDE IMMUNITY FOR THE GREENVILLE COUNTY SHERIFF'S OFFICE.**

Regardless of any alleged negligence that arguably could exist on behalf of the defendant, the defendant is entitled to immunity as a matter of law.

The provisions of S.C. Code Ann. §15-78-60 (4)(5)(6) and (20) apply. Specifically, S.C. Code Ann. §15-78-60 provides in pertinent part that the governmental entity is not liable for a loss resulting from:

(4) adoption, enforcement, or compliance with any law or failure to adopt or enforce any law, whether valid or invalid, including, but not limited to, any charter, provision, ordinance, resolution, rule, regulation, or written policies;

(5) the exercise of discretion or judgment by the governmental entity or employee or the performance or failure to perform any act or service which is in the discretion or judgment of the governmental entity or employee;

(6) civil disobedience, riot, insurrection, or rebellion or the failure to provide the method of providing police or fire protection;

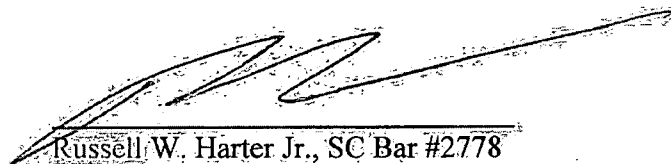
(20) an act or omission of a person other than an employee including but not limited to the criminal actions of third persons;

S.C. Code Ann. §15-78-60 (4),(5),(6), (20).

Even if these provisions are read in light of a gross negligence standard, the facts of this case are not such as to preclude application of the immunities preserved by S.C. Code Ann. § 15-78-60.

The defendant requests that the Court grant its motion for Judgment Notwithstanding the Verdict and enter Judgment in favor of the defendant; alternatively, the defendant requests that the Court grant a new trial.

Respectfully submitted,



Russell W. Harter Jr., SC Bar #2778  
Carly H. Davis, SC Bar #100112  
Chapman, Harter & Harter, P.A.  
14 Lavinia Avenue  
Post Office Box 10224 (29603)  
Greenville, SC 29601  
Telephone: (864) 233-4500  
Facsimile: (864) 232-1710  
E-Mail: [rwhjr@chhlaw.net](mailto:rwhjr@chhlaw.net)  
**ATTORNEYS FOR DEFENDANT**

October 12, 2015  
Greenville, South Carolina

FILED - COURT  
STATE OF SOUTH CAROLINA, GREENVILLE IN THE COURT OF COMMON PLEAS  
FALL 2. 2015  
COUNTY OF GREENVILLE

2015 OCT 12 PM 3 25

Madel C. Rivero, as Personal  
Representative for the Estate of Lilia  
Lorena Blandin,

Plaintiff,

vs.

Sheriff Steve Loftis, in his capacity as  
Sheriff of Greenville County;

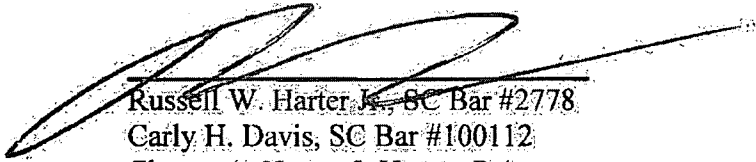
Defendant.

Civil Action No. 2013-CP-23-6522

**NOTICE AND MOTION OF  
DEFENDANT FOR JUDGMENT  
NOTWITHSTANDING THE VERDICT  
AND/OR IN THE ALTERNATIVE  
NEW TRIAL NISI WITH  
REMITTITUR PURSUANT TO  
S.C.R.C.P. RULE 50 AND RULE 59**

The defendant moves for an Order of Court to alter or amend any Judgment entered or to be entered in the above matter on the grounds and authority more fully set forth in the Defendant's Motion for Judgment Notwithstanding the Verdict and/or in the Alternative for a New Trial Nisi with Remittitur Pursuant to S.C.R.C.P. Rule 50 and Rule 59 attached and incorporated herein.

Respectfully submitted,



Russell W. Harter Jr., SC Bar #2778

Carly H. Davis, SC Bar #100112

Chapman, Harter & Harter, P.A.

14 Lavinia Avenue

Post Office Box 10224 (29603)

Greenville, SC 29601

Telephone: (864) 233-4500

Facsimile: (864) 232-1710

E-Mail: [rwhjr@chhlaw.net](mailto:rwhjr@chhlaw.net)

**ATTORNEYS FOR DEFENDANT**

October 12, 2015  
Greenville, South Carolina

FILED-117 COURT  
GREENVILLE S.C.  
STATE OF SOUTH CAROLINA IN THE COURT OF COMMON PLEAS  
COUNTY OF GREENVILLE 2015 OCT 12 PM 3 25

Madel C. Rivero, as Personal  
Representative for the Estate of Lilia  
Lorena Blandin,

Plaintiff,

vs.

Sheriff Steve Loftis, in his capacity as  
Sheriff of Greenville County,

Defendant.

Civil Action No. 2013-CP-23-6522

**DEFENDANT'S MOTION FOR  
JUDGMENT NOTWITHSTANDING  
THE VERDICT AND/OR IN THE  
ALTERNATIVE NEW TRIAL NISI  
WITH REMITTITUR PURSUANT TO  
S.C.R.C.P. RULE 50 AND RULE 59**

Subject to any other post-trial motions timely filed or to be filed, the defendant moves for an Order of Court granting Judgment Notwithstanding the Verdict and/or in the alternative, a new trial nisi with Remittitur.

The Jury verdict of \$750,000 as to the Survival Claim of the Estate should by operation of law be reduced pursuant to the South Carolina Tort Claims Act to \$300,000. The verdict, nevertheless, even if reduced to the Tort Claims Act cap of \$300,000, is excessive under the facts of this case.

South Carolina allows for an award of damages for pain and suffering to compensate the injured person for physical discomfort and the emotional response to the sensation of pain caused by a physical injury. *Boan v. Blackwell*, 343 S.C. 498, 541 S.E.2d 242 (2001). The test of a survival action in South Carolina is whether the decedent suffered conscious pain and suffering. *Camp v. Petroleum Carrier Corp.*, 204 S.C. 133, 139, 28 S.E.2d 683, 685 (1944).

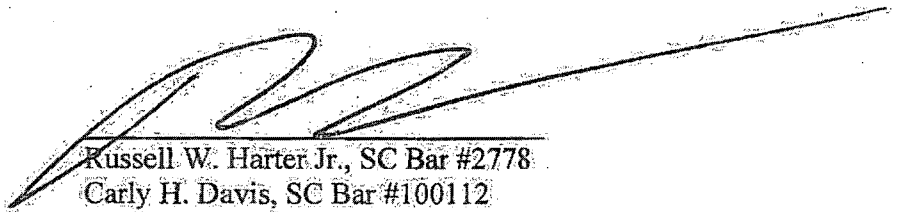
In this case, the decedent was attacked and her assailant inflicted fatal stab wounds which resulted in her death within minutes. The undisputed testimony at trial is that the decedent was unconscious within a matter of minutes, and further the evidence at trial indicated that she

"immediately was unconscious and quickly lost pulses and stopped breathing." It is admitted that the decedent had an opportunity to appreciate she was being attacked just seconds before she received fatal stab wounds to her chest, but in all fairness an award for conscious pain and suffering in this case of the verdict awarded (\$750,000) reduced to the Survival Action cap under the Tort Claims Act (\$300,000) is simply not supported by the credible evidence in this case, and is excessive given the very brief interval of time when the decedent could possibly have been conscious.

For the reasons indicated, the defendant moves for a Judgment Notwithstanding the Verdict as to the plaintiff's Survival Action claim and/or in the alternative, that the Court grant a new trial nisi remittitur finding and ordering that the Survival Action verdict of \$750,000 is grossly excessive, and that a Survival Action award of \$300,000 for this particular claim is likewise excessive under these circumstances.

The defendant requests that the Court grant the defendant Judgment Notwithstanding the Verdict and enter judgment in favor of the defendant. Alternatively, the defendant requests that the Court remit and reduce the survival claim amount to a sum not to exceed \$50,000.

Respectfully submitted,



Russell W. Harter Jr., SC Bar #2778

Carly H. Davis, SC Bar #100112

Chapman, Harter & Harter, P.A.

14 Lavinia Avenue

Post Office Box 10224 (29603)

Greenville, SC 29601

Telephone: (864) 233-4500

Facsimile: (864) 232-1710

E-Mail: [rwhjr@chhlaw.net](mailto:rwhjr@chhlaw.net)  
**ATTORNEYS FOR DEFENDANT**

October 12, 2015  
Greenville, South Carolina



STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE

FILED IN COURT  
IN THE COURT OF COMMON PLEAS  
PAUL J. HARTER

2015 OCT 12 PM 3 25

Madel C. Rivero, as Personal  
Representative for the Estate of Lilia  
Lorena Blandin,

Civil Action No. 2013-CP-23-6522

Plaintiff,

vs.

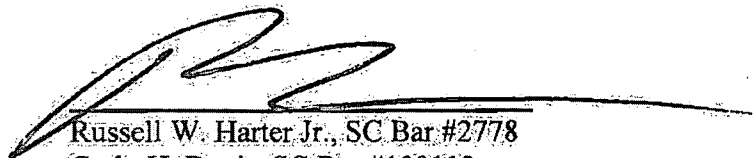
Sheriff Steve Loftis, in his capacity as  
Sheriff of Greenville County;

Defendant.

**NOTICE AND MOTION OF  
DEFENDANT FOR JUDGMENT  
NOTWITHSTANDING THE VERDICT  
AND A NEW TRIAL ABSOLUTE  
PURSUANT TO S.C.R.C.P. RULE 50  
AND RULE 59**

The defendant moves for an Order of Court to alter or amend any Judgment entered or to be entered in the above matter on the grounds and authority more fully set forth in the Defendant's Motion for Judgment Notwithstanding the Verdict and a New Trial Absolute pursuant to S.C.R.C.P. Rule 50 and Rule 59 attached and incorporated herein.

Respectfully submitted,



Russell W. Harter Jr., SC Bar #2778  
Carly H. Davis, SC Bar #100112  
Chapman, Harter & Harter, P.A.  
14 Lavinia Avenue  
Post Office Box 10224 (29603)  
Greenville, SC 29601  
Telephone: (864) 233-4500  
Facsimile: (864) 232-1710  
E-Mail: [rwhjr@chhlaw.net](mailto:rwhjr@chhlaw.net)  
**ATTORNEYS FOR DEFENDANT**

October 12, 2015  
Greenville, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Madel C. Rivero, as Personal  
Representative for the Estate of Lilia  
Lorena Blandin,

Plaintiff,

vs.

Sheriff Steve Loftis, in his capacity as  
Sheriff of Greenville County;

Defendant.

FILED - CLERK OF COURT  
S.C.  
IN THE COURT OF COMMON PLEAS

2015 OCT 12 PM 3 25

Civil Action No. 2013-CP-23-6522

**DEFENDANT'S MOTION FOR  
JUDGMENT NOTWITHSTANDING  
THE VERDICT AND NEW TRIAL  
ABSOLUTE PURSUANT TO S.C.R.C.P.  
RULE 50 AND RULE 59**

Subject to any other post-trial motions timely filed or to be filed, the defendant moves for an Order of Court granting Judgment Notwithstanding the Verdict and/or in the alternative, a new trial absolute.

**I. THE JURY VERDICT OF \$750,000 AWARDED FOR THE SURVIVAL CAUSE OF ACTION WAS EXCESSIVE, SHOCKING TO THE CONSCIENCE, AND WAS THE RESULT OF PASSION, PREJUDICE, OR CAPRICE.**

The South Carolina Survival Statute provides that a cause of action for injuries to a person shall survive the person's death, with damages being recoverable by the legal representative of the deceased. S.C.Code Ann. § 15-5-90 (1976). Damages in a Survival Action include recovery for the deceased's conscious pain and suffering and medical expenses. *Smalls v. S. Carolina Dep't of Educ.*, 339 S.C. 208, 216, 528 S.E.2d 682, 686 (Ct. App. 2000); *See generally Baker v. Sanders*, 301 S.C. 170, 391 S.E.2d 229 (1990) (ruling that the Tort Claims Act does not preclude a Survival Action for conscious pain and suffering and medical expenses when an injured person later dies as a result of the tort).

In South Carolina, an award of damages for pain and suffering is intended to compensate the injured person for physical discomfort and the emotional response to the sensation of pain caused by a physical injury itself. *Boan v. Blackwell*, 343 S.C. 498, 541 S.E.2d 242 (2001). In South Carolina, the cause of action for physical injury survives, even if the injured person does not, and the established law of South Carolina recognizes pain and suffering as damages in such survival actions, but the law requires that it be proven and that it be consciously suffered. *Camp v. Petroleum Carrier Corp.*, 204 S.C. 133, 28 S.E.2d 683 (1944). Speculation is not allowed.

The test of a survival action in South Carolina is whether the decedent suffered conscious pain and suffering. *Camp v. Petroleum Carrier Corp.*, 204 S.C. 133, 139, 28 S.E.2d 683, 685 (1944). South Carolina case law provides illustrative examples of when a Survival Action has evidentiary support for and of conscious pain and suffering.

In *Camp*, the evidence considered by the Supreme Court was that a man was heard groaning from within a car before he died of injuries sustained in the wreck. There was no evidence, however, that he was "conscious of pain and suffering." 204 S.C. at 138, 28 S.E.2d at 685. Thus, the claim for conscious pain and suffering was rejected in that case. Conversely, in *Scott v. Porter*, 340 S.C. 158, 530 S.E.2d 389 (Ct. App. 2000), conscious pain and suffering was established by testimony when the child in question spoke to his mother and made clear he was in conscious pain. Likewise, conscious pain and suffering between injury and death was established in the cases of *Vereen v. Liberty Life Ins. Co.*, 306 S.C. 423, 412 S.E.2d 425 (Ct. App. 1991) (shooting victim crawled away leaving an eight foot trail of blood and clutched leaves and pine needles to his chest wound); *Smalls v. South Carolina Department of Education*, 339 S.C. 208, 528 S.E.2d 682 (Ct. App. 2000) (child moved fingers when spoken to); and *Croft v. Hall*, 208 S.C. 187, 37 S.E.2d 537 (1946) (daughter opened eyes in response to mother's

voice). However, cases of death upon impact have never been accepted as appropriate for an award of damages for conscious pain and suffering in South Carolina.

In this case, there was testimony that the decedent was attacked by her assailant with a knife and suffered multiple stab wounds. The testimony, however, is very clear that the decedent died within a few minutes, and further, the medical examiner stated that he could not testify which stab wounds were received by the decedent in what order. He confirmed that she had multiple stab wounds to her chest and torso, severing her aorta, and he further opined without any contradiction, that she would have become unconscious and unresponsive within minutes. Even further, first responders indicated that it was "[r]eported that pt immediately was unconscious and quickly lost pulses and stopped breathing." She also received the lowest possible rating on the Glasgow Coma Scale when EMS arrived.

It is appreciated that the jury heard this evidence and it is appropriate to view the evidence in a light most favorable to the plaintiff; however, for a jury in this circumstance to award \$750,000 for the very brief interval of possible or conceivable conscious pain and suffering is the result of the jury's reaction not to the damages sustained by the decedent, but rather a result of passion, prejudice, and caprice given the undisputed evidence at trial.

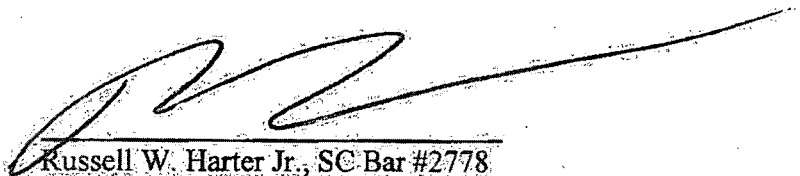
There is no evidence that Mrs. Blandin screamed, gasped for air, spoke, moaned, or moved at any time after she was stabbed. She was unconscious before the attack was over and there is no evidence otherwise.

The unfortunate circumstances surrounding the husband's attack of Mrs. Blandin obviously inflamed the jury, causing them to respond with this verdict out of emotion as opposed to the actual facts that were before them. That being said, the defendant respectfully submits that

the Survival Claim award of \$750,000 is excessive and unsupported by the facts presented in this case:

Accordingly, the defendant respectfully requests that the Court grant Judgment Notwithstanding the Verdict, and enter judgment in favor of the defendant. Alternatively, the defendant requests that the Court grant a new trial absolute.

Respectfully submitted,



Russell W. Harter Jr., SC Bar #2778

Carly H. Davis, SC Bar #100112

Chapman, Harter & Harter, P.A.

14 Lavinia Avenue

Post Office Box 10224 (29603)

Greenville, SC 29601

Telephone: (864) 233-4500

Facsimile: (864) 232-1710

E-Mail: [rwhjr@chhlaw.net](mailto:rwhjr@chhlaw.net)

**ATTORNEYS FOR DEFENDANT**

October 12, 2015  
Greenville, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

FILED - CLERK OF COURT  
GREENVILLE CO. S.C.  
PAUL D. HICKENSTIMER  
IN THE COURT OF COMMON PLEAS

2015 OCT 26 PM 8 56

Madel C. Rivero, as Personal  
Representative for the Estate of Lilia  
Lorena Blandin,

Plaintiff,

vs.

Sheriff Steve Loftis, in his capacity as  
Sheriff of Greenville County; Tim Gault, in  
his capacity as interim Director of  
Greenville Emergency Medical Services;  
Wal-Mart Stores, Inc.; Wal-Mart Stores  
East, LP; Wal-Mart Associates, Inc.; and  
Woodforest National Bank,  
Defendants.

Civil Action No. 2013-CP-23-6522

**PLAINTIFF'S MEMORANDUM  
IN REPLY TO DEFENDANT  
GREENVILLE SHERIFF OFFICE'S  
POST-TRIAL MOTIONS**

**TO: RUSSELL W. HARTER, JR., ATTORNEY FOR DEFENDANT GREENVILLE  
SHERIFF OFFICE**

Defendant filed numerous Motions, some of which seem to be repetitive. To the extent that Plaintiff has failed to respond to any Motion of Defendant by oversight, Plaintiff would object to such Motion for the reasons set forth herein. With respect to the post-trial Motions filed by Defendant both on October 8, 2015 and October 12, 2015, Plaintiff responds as follows:

**1. Defendant's Motion for Offset and Remittitur of Verdict (filed  
October 12, 2015 at 3:24 pm)**

Plaintiff agrees that Defendant Greenville Sheriff Office is entitled to an offset or reduction against the wrongful death and survival verdicts, respectively, for monies paid in settlement of survival and wrongful death claims, respectively, by settling parties WalMart and Woodforest National Bank. Plaintiff asserts that offset or reduction of the settlement amounts against each verdict will not reduce the Defendant Greenville County Sheriff Office's obligation for payment of the verdict below the \$300,000.00 Tort Claims

Act cap on either the wrongful death or survival causes of action. Pursuant to Court Order, Plaintiff has already provided the attorney for Greenville County Sheriff Office with the amounts and allocations for the WalMart settlement and Woodforest National Bank settlement. Plaintiff will provide such information to the Court also as necessary. Both the WalMart settlement and the Woodforest National Bank settlement contain confidentiality provisions. To the extent that Defendant Greenville County Sheriff Office seeks reduction or offset, and to the extent that such offset or reduction does not reduce the entry of judgment on the survival and/or wrongful death verdicts below the \$300,000.00 statutory Tort Claims Act caps, Plaintiff consents to the Motion.

**2. Defendant's Motion to Alter or Amend (filed October 8, 2015 at 2:11 pm)**

To the extent that Defendant seeks to enter judgment on the verdicts for wrongful death and survival for \$300,000.00 each, after taking into account any offset or reduction issues, Plaintiff consents to the Motion.

**3. Defendant's Motion for Offset and Remittitur of Verdict (filed October 8, 2015 at 2:09 pm)**

See #1 above.

**4. - Defendant's Motion to Alter or Amend (filed October 12, 2015 at 3:23 pm)**

See #2 above.

**5. Defendant's Motion for JNOV and New Trial (filed October 12, 2015 at 3:24 and 3:25 pm)**

It is axiomatic that in order to recover in a survival action in South Carolina, Plaintiff must establish some evidence of "conscious pain and suffering." Camp v.

Petroleum Carrier Corp., 204 S.C. 133, 28 S.E.2d 683 (1944). Our courts do not require an extensive showing to support a finding of conscious pain and suffering, but merely some evidence – “a scintilla” – of conscious pain and suffering to submit the matter to the jury for determination. Croft v. Hall, 208 S.C. 187, 37 S.E.2d 537 (1946). If there is any evidence from which a jury could reasonably conclude a decedent experienced conscious pain and suffering, the issue must be submitted to the jury. Vereen v. Liberty Life Ins. Co., 306 S.C. 423, 412 S.E.2d 425 (Ct. App. 1991) (quoting Croft v. Hall). There is no requisite time period, degree or manner of “conscious pain and suffering” that is necessary to support a survival award. Scott v. Porter, 340 S.C. 158, 530 S.E.2d 389 (Ct. App. 2000) (citing Holston v. Sisters of Third Order of St. Francis, 165 Ill.2d 150, 650 N.E.2d 985 (1999)).

There was clearly evidence of Lilia’s conscious pain and suffering sufficient to submit the Survival cause of action to the jury. Testimony from bystanders and witnesses showed that Lilia Blandin fought against her attacker and yelled, “Please stop!” **after** being stabbed. The medical examiner explained the “defensive” stab wounds on Lilia’s body and how those wounds indicated she fought back against her attacker. Even though the medical examiner could not pinpoint exactly how long Lilia would have survived after the fatal wound, he testified that her death would not have been immediate, lasting as long as a few minutes, during which she would have endured conscious pain and suffering. The evidence presented to the jury on this issue, as well as the reasonable conclusions to be drawn from such evidence, support the jury’s finding of a survival award.

6. **Defendant’s Motion for JNOV and/or In The Alternative New Trial Nisi Remittitur**



For the reasons set forth in #5 above, Plaintiff asserts a survival award is appropriate in this case. Furthermore, the evidence presented supports the jury's award of \$750,000.00 for the survival claim. Unless the jury's award for survival is "excessive," remittitur would not be appropriate. Hunter v. Staples, 335 S.C. 93, 515 S.E.2d 261 (Ct. App. 1999). Where there is at least a "scintilla of evidence tending to prove" the elements, the matter is for the jury. Smalls v. SC Dept of Education, 339 S.C. 208, 528 S.E.2d 682 (Ct. App. 2000)

Considering Lilia suffered 14 identifiable defensive stab wounds prior to the fatal injury, the testimony that she would have lived some minutes after the fatal blow and would have been self aware of her own impending death, and the testimony regarding her screams for help, a \$750,000.00 verdict (which will be reduced to \$300,000.00) is not excessive. A jury's determination of award on a survival action should be given great deference. Russ v. Blanchard, 310 S.C. 375, 426 S.E.2d 802 (1993). Defendant focuses on the relatively short amount of time between the attack and Lilia's death. However, our Courts have found that, absent an excessive award, the trial Court is to be concerned only with the existence or nonexistence of evidence to support a survival claim – not the length of time between injury and ultimate death. The amount to be awarded is generally left to the jury's determination, absent a showing the award was based on passion, prejudice, caprice or some other improper motive. Smalls, *infra*. Short periods of time of conscious pain and suffering have supported significant awards, and the jury's award here is not excessive as to warrant action by the Court. Scott v Porter, 340 S.C. 158, 530 S.E.2<sup>nd</sup> 389 (Ct. App. 2000) (citing with approval New Prospect Drilling Co. v. First

Commercial Trust, N.A. 332 Ark. 466, 966 S.W.2d 233 (1998)(affirming \$1,000,000 in conscious pain and suffering for time period between period of accident and before paramedics arrived)); Holston v Sisters of the Third Order of St. Francis, 165 Ill.2d 150 209 Ill.Dec. 12, 650 N.E.2d 985 (1995)(affirming \$1,000,000 conscious pain and suffering award where evidence could allow jury to infer suffering of only several hours).

**7. Defendant's Motion for JNOV and New Trial (filed October 12, 2015 at 3:24 pm).**

Defendant asserts that it had no duty to Plaintiff, specifically referring to the South Carolina Tort Claims Act and S.C. Code Section 16-25-70 (CDV Arrest Statute) and the "public duty rule" as barring its liability. Generally, statutes that create or define the duties of public office do not create a duty of care toward individuals. Parker v. Brown, 195 S.C. 35, 10 S.E.2d 625 (1940); Jensen v. Anderson County DSS, 304 S.C. 195, 403 S.E.2d 615 (1990) (rehearing denied 1991); Arthurs ex. rel. Estate of Munn v. Aiken County, 346 S.C. 97, 551 S.E.2d 579 (2001). However, our courts have clearly recognized an exception to the "public duty rule." Arthurs, *infra*; Jensen, *infra*. Steinke v. SC Dept. Labor Licensing and Regulation, 336 S.C. 373, 520 S.E.2d 142 (1999) (rehearing denied 1999).

First, Patricia Sullivan's duties and obligations arose, not from statute, but from GCSO Order 238. The "public duty rule" is therefore inapplicable to her actions or inactions. Rather, Ms. Sullivan's duty stems from her job duties as a 911 operator for defendant, Greenville County Sheriff's Office. When a caller interacts with a 911 operator, that operator has a duty to follow the policies and procedures of the GCSO, and a failure to do so is evidence of negligence. Madison, ex rel. Bryant v. Babcock Center, 371 S.C. 123 638 S.E.2d 650 (2006). With respect to the deputies' failure to investigate

and arrest, their duties arise from both GCSO Order 238 and SC Code Section 16-25-70.

As such, the “public duty rule” may be applicable to claims of a duty existing pursuant to Section 16-25-70, but it would not apply to the common law duty to follow the GCSO policies and procedures. Madison, supra.

Even applying the Public Duty Rule to the deputies’ statutory obligations, there are clearly exceptions to the Rule. Under Arthurs, a “special duty” exists if the Court so finds after consideration of a six-part test adopted in Jensen. To establish a duty arising from statute, a plaintiff must establish; (1) an essential purpose of the statute is to protect against a particular kind of harm; (2) the statute, either directly or indirectly, imposes on a specific public officer a duty to guard against or not cause that harm; (3) the class of persons the statute intends to protect is identifiable before the fact; (4) the plaintiff is a person within the protected class; (5) the public officer knows or has reason to know the likelihood of harm to members of the class if he fails to do his duty; and (6) the officer is given sufficient authority to act in the circumstances or he undertakes to act in the exercise of his office. Arthurs, supra; Edwards v. Lexington Sheriff Dep’t, 386 S.C. 285, 688 S.E.2d 125 (2010). In Arthurs, the Supreme Court was presented with the opportunity to hold as a matter of law that Section 16-25-70 could never be the source of a duty to an individual, but they specifically declined to do so, limiting the decision to the facts of that case in holding the facts did not support a violation even if a duty were found to have existed.

Here, the trial Court properly considered the six-part test and found a special duty was owed by the Defendant to Lilia Blandin. Therefore, the case was properly submitted to the jury to determine if plaintiff presented evidence that this duty was violated. To the

extent that any duty of Defendant stems solely from GCSO Order 238, the “public duty rule” is not implicated. Because the verdict form did not have a special interrogatory, we have no way of knowing whether the jury found GCSO was grossly negligent for violating its own policies, Section 16-25-70, or both. Because there was evidence to support violation of both, Defendant’s Motion for a new trial for a lack of duty should be denied.

In applying the six part test to the facts of this case, it is clear the essential purpose of the CDV Act is to protect against domestic violence and imposes upon law enforcement officers a non-discretionary duty to arrest a suspect where there is sufficient evidence domestic violence has occurred and there is a physical manifestation of injury. Further, the officer may arrest any time there is probable cause, even without a physical manifestation of injury. In the instant case, each officer testified that if Ms. Blandin, Ms. Rivero, or the children had indicated that an assault had occurred, under the totality of the circumstances, Avery Blandin would have been arrested for CDV. Additionally, both experts testified that if the jury believed the testimony of [REDACTED] Blandin and Ms. Rivero, the deputies would have had no discretion and should have arrested Avery Blandin. Next, the CDV Act defines a clearly identifiable, limited class of persons to be protected, namely victims of criminal domestic violence. Lilia Blandin was a person within the class of persons to be protected because there was evidence she was a victim on domestic violence on December 9<sup>th</sup>, when the officers were on the scene. Law enforcement officers are aware of the likelihood of harm to class members upon their failure to fulfill their duties. In this case, Deputy Tyner and Deputy Picone testified about their knowledge of the cycle of domestic violence and that failure to stop that cycle

with arrest or intervention would likely result in an escalation of violence against Lilia. Both the Defendant's expert witness and Plaintiff's expert witness testified that the most effective way to stop the cycle of violence from escalating is to incarcerate the offender, even for a short time. Finally, the deputies are given sufficient authority to act in circumstances - i.e. arrest - under S.C. Code Section 16-25-70 (A) or (B). As discussed above, there was evidence in this case that the deputies had a non-discretionary duty to arrest, and under any interpretation of the evidence, had the authority to arrest if there was evidence amounting to probable cause.

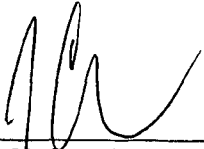
After determination by the Court of the existence of a duty, matters of breach of duty and causation are generally factual issues for jury determination. Martasin v. Hilton Head Health System, 364 S.C. 430, 613 S.E.2d 795 (Ct. App. 2005)(rehearing denied 2005)(cert. denied 2006); Hill v. York County Sheriff's Dept., 313 S.C. 303, 437 S.E.2d 179 (Ct. App. 1993) (rehearing denied 1993)(cert. denied 1994). Defendant argues in its Motion that there was no probable cause to arrest on December 9, 2011. The testimony of the children and Ms. Rivero are more than sufficient to establish probable cause. State v. George, 323 S.C. 496, 476 S.E.2d 903 (1996)(rehearing denied 1996); State v. Moultrie, 316 S.C. 547, 451 SE2d 34 (Ct. App. 1994). Probable cause is a factual determination generally reserved for the jury's determination. Jones v. City of Columbia, 301 S.C. 62, 389 S.E.2d 662 (1990). The jury was charged on the definition of probable cause, and by finding the Defendant was grossly negligent, the jury inherently determined the deputies violated their duty to Lilia. The jury determination of whether probable cause existed, considering the totality of the circumstances and the information at the officers' disposal, and therefore ultimately the jury's determination that Defendant

breached its duty, should not be disturbed because evidence exists to support those determinations.

As to causation, the evidence presented to the jury in form of expert and lay witness testimony supported the jury's determination of causation. Several witnesses, including both parties' experts and Deputy Picone and Deputy Tyner, testified about the cycle of domestic violence. There was evidence that Avery Blandin only became violent when intoxicated. There was evidence that had Avery been arrested on December 9, 2011, he would likely have still been in jail on December 10, 2011 when he killed Lilia. It is obvious Avery could not have killed Lilia on December 10<sup>th</sup> if he was still jail. Proximate causation does not have to be shown with exact certainty. Koester v. Carolina Rental Center, Inc., 313 S.C. 490, 443 S.E.2d 392 (1994)(rehearing denied 1994); Hill, *infra*.

Finally, Defendant argues that the S.C. Tort Claims Act grants immunity to Defendant in this action. Defendant raised defenses and immunities under the S.C. Tort Claims Act implicating a "gross negligence" standard, and as such, the Court must read all Tort Claims defenses and immunities under a "gross negligence" standard. Steinke, *infra*. The Court instructed the jury several times on "gross negligence" prior to the verdict. The determination of whether Defendant's actions were "grossly negligent" was for jury determination. Clark v. SC Dept. of Public Safety, 632 S.C. 377, 608 S.E.2d 573 (2005)(rehearing denied 2005). In addition, S.C. Code Section 16-25-70(I), which Defendant raised, and which was charged to the jury, provides a "gross negligence" standard before liability can be imposed upon a law enforcement officer for an act, omission or exercise of discretion under the Section 16-25-70.

Plaintiff agrees the verdict must be reduced to \$300,000 for both the Wrongful Death cause of action and the Survival cause of action. Plaintiff asserts the remaining Motions must be denied and the jury's verdict should stand, as modified.

  
\_\_\_\_\_  
J. Christopher Wilson  
Daniel W. Luginbill  
**Wilson & Luginbill, LLC**  
P.O. Box 1150  
Bamberg, S.C. 29003  
(803) 245-7799  
Attorneys for Plaintiff

October 21, 2015  
Bamberg, SC

  
\_\_\_\_\_  
Daniel J. Farnsworth, Jr.  
**FARNSWORTH LAW OFFICES, LLC**  
2 Williams St.  
P.O. Box 8719  
Greenville, SC 29604  
(864) 250-9119  
Attorneys for Plaintiff

|                                                                                                                                                                                                      |                                                                                                                |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------|
| STATE OF SOUTH CAROLINA                                                                                                                                                                              | IN THE COURT OF COMMON PLEAS                                                                                   |
| COUNTY OF GREENVILLE                                                                                                                                                                                 | C. A. NO. 2013-CP-23-06522                                                                                     |
| Madel C. Rivero, as Personal Representative of the Estate of Lilia Lorena Blandin,                                                                                                                   | <b>NOTICE OF MOTION<br/>AND MOTION PURSUANT TO<br/>SOUTH CAROLINA RULES OF<br/>CIVIL PROCEDURE, RULE 60(b)</b> |
| Plaintiff,                                                                                                                                                                                           |                                                                                                                |
| v.                                                                                                                                                                                                   | FILED-CLERK OF COURT<br>GREENVILLE CO. S.C.<br>PAUL B. WICKENSIMMER<br>15 NOV 20 PM 2 22                       |
| Sheriff Steve Loftis, in his capacity as Sheriff of Greenville County; Tim Gault, in his capacity as interim director of Greenville County Emergency Medical Services; and Woodforest National Bank, |                                                                                                                |
| Defendants.                                                                                                                                                                                          |                                                                                                                |

YOU WILL PLEASE TAKE NOTICE THAT the defendant, Sheriff Steve Loftis, in his capacity as Sheriff of Greenville County, will move, on the tenth day after service hereof, or at such time as is set by the court, for an order pursuant to Rule 60(b) of the South Carolina Rules of Civil Procedure requesting relief from any order, verdict, judgment and/or proceeding in the above matter and, more particularly, the jury verdict previously rendered in this cause, based upon newly discovered evidence that one or more jurors on the trial jury may have failed to disclose in *voir dire* information that is required and information, if disclosed, would have been a material factor in the use of the defendant's strikes for cause and/or preemptory strikes.



This motion is based on the ground that the trial court conducted *voir dire* in the above case as appears in the transcript attached hereto, consisting of twenty-five (25) pages. The court's *voir dire* inquired, at page 25 of the transcript, as to whether or not any member of the jury panel had been a victim of criminal domestic violence and, further, at page 19 of the transcript, the trial court inquired of the jury panel as to whether any members of the panel felt they could not be fair and/or impartial jurors.

It has come to the attention of counsel for the defendant that juror No. 5 may not have made proper disclosure to the court and counsel during *voir dire* and that juror No. 7 has not, or may not have, made proper disclosure to the court and counsel during *voir dire* as appears from the Sworn Statement of Charles M. Cornish, Jr., which is attached and made a part of this motion (sealed).

Investigation has revealed an Incident Report relative to Juror No. 5 which is included as an attachment to this motion (sealed).

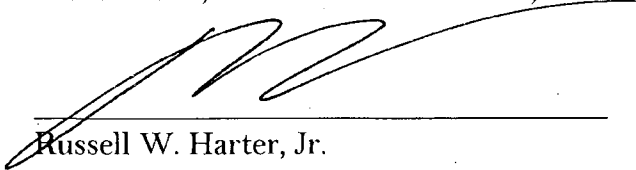
If and to the extent Juror No. 5 and/or Juror No. 7 failed to provide accurate disclosure during *voir dire*, the failure to do so has resulted in prejudice to the defendant. Further, inquiry into the issues raised in this motion is essential and absolutely necessary to insure fundamental fairness and justice in these proceedings.

The defendant moves, accordingly, for an order of Court and relief from any judgment, order and/or verdict in these proceedings and the defendant requests that the court conduct a proper evidentiary inquiry into the issues raised in this motion and, upon a proper showing, that the defendant be granted a new trial. Further, the defendant respectfully requests leave

of court to file supporting documents under seal, if appropriate, and for leave to supplement this motion to the extent additional relevant information is obtained.

Respectfully submitted,

CHAPMAN, HARTER & HARTER, P.A.



---

Russell W. Harter, Jr.

14 Lavinia Avenue

Post Office Box 10224

Greenville, SC 29603

864/233-4500

864/232-1710 (fax)

E-mail: [rwhjr@chhlaw.net](mailto:rwhjr@chhlaw.net)

**ATTORNEY FOR DEFENDANT**

**SHERIFF STEVE LOFTIS,**

**IN HIS CAPACITY AS SHERIFF OF  
GREENVILLE COUNTY**

November 20, 2015

Greenville, South Carolina

**Attachments to this Motion:**

1. *Voir Dire* transcript, pp. 1 - 25;
2. Jury List (Sealed);
3. Sworn Statement (Sealed);
4. Incident Report (Sealed); and
5. Affidavit of Russell W. Harter, Jr., with attachment.

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                      |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>STATE OF SOUTH CAROLINA</p> <p>COUNTY OF GREENVILLE</p> <p>Madel C. Rivero, as Personal Representative of the Estate of Lilia Lorena Blandin,</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>Sheriff Steve Loftis, in his capacity as Sheriff of Greenville County; Tim Gault, in his capacity as interim director of Greenville County Emergency Medical Services; and Woodforest National Bank,</p> <p style="text-align: center;">Defendants.</p> | <p>IN THE COURT OF COMMON PLEAS</p> <p>C. A. NO. 2013-CP-23-06522</p> <p style="text-align: center;"><b>AMENDED AND<br/>SUPPLEMENTAL<br/>NOTICE OF MOTION<br/>AND MOTION PURSUANT TO<br/>SOUTH CAROLINA RULES OF<br/>CIVIL PROCEDURE, RULE 59</b></p> <p style="text-align: right;">FILED-CLERK OF COURT<br/>GREENVILLE CO. S.C.<br/>PAUL B. WICKENSIMER<br/>2015 NOV 20 PM 2:19</p> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

YOU WILL PLEASE TAKE NOTICE THAT the defendant, Sheriff Steve Loftis, in his capacity as Sheriff of Greenville County, will move, on the tenth day after service hereof, or at such time as is set by the court, for a new trial pursuant to Rule 59, South Carolina Rules of Civil Procedure, based upon newly discovered evidence that one or more jurors on the trial jury may have failed to disclose in *voir dire* information that is required and information, if disclosed, would have been a material factor in the use of the defendant's strikes for cause and/or preemptory strikes.

This motion is based on the ground that the trial court conducted *voir dire* in the above case as appears in the transcript attached hereto, consisting of twenty-five (25) pages. The

court's *voir dire* inquired, at page 25 of the transcript, as to whether or not any member of the jury panel had been a victim of criminal domestic violence and, further, at page 19 of the transcript, the trial court inquired of the jury panel as to whether any members of the panel felt they could not be fair and/or impartial jurors.

It has come to the attention of counsel for the defendant that juror No. 5 may not have made proper disclosure to the court and counsel during *voir dire* and that juror No. 7 has not, or may not have, made proper disclosure to the court and counsel during *voir dire* as appears from the Sworn Statement of Charles M. Cornish, Jr., which is attached and made a part of this motion (sealed).

Investigation has revealed an Incident Report relative to Juror No. 5 which is included as an attachment to this motion (sealed).

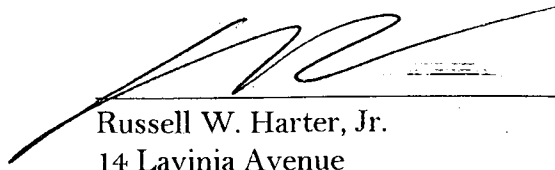
If and to the extent Juror No. 5 and/or Juror No. 7 failed to provide accurate disclosure during *voir dire*, the failure to do so has resulted in prejudice to the defendant. Further, inquiry into the issues raised in this motion is essential and absolutely necessary to insure fundamental fairness and justice in these proceedings.

The defendant requests that the court conduct a proper evidentiary inquiry into the issues raised in this motion and, upon a proper showing, that the defendant be granted a new trial. Further, the defendant respectfully requests leave of court to file supporting documents under seal, if appropriate, and for leave to supplement this motion to the extent additional relevant information is obtained.

Respectfully submitted,

Page 2 of 3

CHAPMAN, HARTER & HARTER, P.A.



Russell W. Harter, Jr.  
14 Lavinia Avenue  
Post Office Box 10224  
Greenville, SC 29603  
864/233-4500  
864/232-1710 (fax)  
E-mail: [rwhjr@chhlaw.net](mailto:rwhjr@chhlaw.net)  
**ATTORNEY FOR DEFENDANT  
SHERIFF STEVE LOFTIS,  
IN HIS CAPACITY AS SHERIFF OF  
GREENVILLE COUNTY**

November 20, 2015

Greenville, South Carolina

**Attachments to this Motion:**

1. *Voir Dire* transcript, pp. 1 - 25;
2. Jury List (Sealed);
3. Sworn Statement (Sealed);
4. Incident Report (Sealed); and
5. Affidavit of Russell W. Harter, Jr., with attachment.

|                                          |   |                                     |
|------------------------------------------|---|-------------------------------------|
| STATE OF SOUTH CAROLINA                  | ) |                                     |
|                                          | ) | IN THE COURT OF COMMON PLEAS        |
| COUNTY OF GREENVILLE                     | ) |                                     |
|                                          | ) |                                     |
| Madel C. Rivero, as Personal             | ) |                                     |
| Representative for the Estate of Lilia   | ) | Civil Action No. 2013-CP-23-6522    |
| Lorena Blandin,                          | ) |                                     |
|                                          | ) |                                     |
| Plaintiff,                               | ) |                                     |
| vs.                                      | ) | <b>PLAINTIFF'S MEMORANDUM IN</b>    |
|                                          | ) | <b>OPPOSITION TO DEFENDANT'S</b>    |
| Sheriff Steve Loftis, in his capacity as | ) | <b>MOTION FOR A NEW TRIAL</b>       |
| Sheriff of Greenville County;            | ) | <b>PURSUANT TO RULES 59 and 60,</b> |
|                                          | ) | <b>SCRCP</b>                        |
| Defendants.                              | ) |                                     |

To: Russell W. Harter, Jr., Attorney for the Defendant.

Plaintiff, by and through her undersigned counsel of record offers this Memorandum in Opposition to Defendant's New Trial Motion pursuant to Rules 59 and 60, SCRCP. For the reasons set forth below, Plaintiff asserts the Motion is without merit and should be denied.

On November 20, 2015, Defendant filed a Motion for a New Trial pursuant to Rule 60, SCRCP, claiming newly discovered evidence that one or more jurors on the trial jury may have failed to disclose information during *voir dire*, and if disclosed, the information would have been a material factor in the use of defendant's strikes for cause and/or preemptory strikes. Defendant also filed an Amended and Supplemental Notice of Motion and Motion pursuant to Rule 59, SCRCP, seeking the same relief on the same grounds.

In support of the Motions, Defendant attached the *voir dire* transcript, a jury list, the Statement under Oath of Charles M. Cornish, Jr., (one of the twelve trial jurors), an Incident Report dated June 23, 2015, involving a Non-Violent Domestic call involving Robin Burns (the jury foreperson), and an affidavit of Defendant's attorney, Russell W. Harter, Jr., setting forth various dates when he received information and documents. Defendant subsequently, on

December 11, 2015, (21 days after filing of his Motion) provided the Court a copy of the audio from a June 23, 2015, "911" call involving juror Robin Burns. On December 14, 2015, (24 days after filing his Motion), Mr. Harter provided the Court with a second affidavit; filed December 15, 2015, alleging that he would have exercised his strikes to remove Ms. Burns. On December 15, 2015, Mr. Harter provided a transcript of the 911 call from Ms. Burns. Later that day, at 8:10 p.m. (hardly 36 hours prior to the scheduled hearing on Defendant New Trial Motion), Mr. Harter provided a letter to the Court, with copies to most of Plaintiff's counsel, indicating his intent to provide additional affidavits from Jonathan Edwards and Officer Tedrow, the two Simpsonville police officers who responded to Ms. Burns' call for service. The contents of those affidavits are unknown to Plaintiff as of the date of this Memorandum.

The crux of Defendant's Motion for a New Trial is that one or more trial jurors failed to respond affirmatively to the following question the Court posed to the jury venire during *voir dire*: "Have any among you been the victim of criminal domestic violence?". Defendants aver that these jurors should have responded in the affirmative and, had they done so, Defendant would have moved to strike them for cause or would have exercised a peremptory strike to keep them from being seated as trial jurors. For the reasons set forth below, the Court should deny Defendant's Motion.

As an initial matter, Defendant has attached the sworn statement of Charles M. Cornish, Jr., who was also a juror in this case. Mr. Cornish testified in his statement, in response to suggestive questions posed by Mr. Harter outside the presence of any counsel for the Plaintiff and without any opportunity for cross-examination, concerning statements that were allegedly made during the deliberation process. Defendant now seeks to use those juror statements to overturn a unanimous verdict the jury reached after eleven (11) hours of deliberation. It is well settled law that Mr. Cornish's testimony may not be admitted as evidence to set aside the verdict.

As a basic principle, Mr. Corning's account of statements allegedly made by other jurors during deliberations is rank hearsay. Placing Mr. Cornish under oath and having him repeat the alleged statements on prompting from Mr. Harter makes them no less hearsay. As these statements meet no exception to the South Carolina Rules of Evidence regarding hearsay, the entire recorded statement of Mr. Cornish must be excluded.

More specifically, Rule 606(b), SCRE, expressly bars juror testimony regarding deliberations in any inquiry into the validity of a verdict. The Rule provides:

Upon an inquiry into the validity of a verdict or indictment, *a juror may not testify as to any matter or statement occurring during the course of jury's deliberations* or to the effect of anything upon that or any other juror's mind or emotions as influencing the juror to assent to or dissent from the verdict or indictment or concerning the juror's mental processes in connection therewith, except that juror may testify on the question whether extraneous prejudicial information was improperly brought to the jury's attention or whether any outside influence was improperly brought to bear upon any juror. Nor may a juror's affidavit or evidence of any statement by the juror concerning a matter about which the juror would be precluded from testifying be received for these purposes.

SCRE, Rule 606(b). (emphasis added).

The gravity of Defendant's attempt to introduce hearsay evidence of juror deliberation is apparent. The United States Supreme Court, interpreting FRE Rule 606(b), which is essentially identical to our state Rule 606(b), has dealt with this issue head on and found that testimony regarding internal jury deliberations cannot be used to attack the validity of a verdict.

In *Warger v. Shauers*, 574 U.S. \_\_\_, 135 S.Ct. 521, 190 L.Ed.2d 422 (2014), the U.S. Supreme Court held that a juror's affidavit regarding the foreperson's conduct during deliberations was not admissible under FRE Rule 606(b). In *Warger*, Plaintiff tried to introduce an affidavit of a juror to establish that the jury foreperson had lied about her impartiality to award damages based on comments the foreperson had made during deliberations concerning the



foreperson's own daughter having been involved in a fatal accident and that "a lawsuit would have ruined her life." The Court specifically found that Rule 606(b) barred this type of juror testimony because the proffered testimony went to the jury's deliberation process.

The federal courts have barred such testimony based on the sound public policy argument that to do so, "would open the door to the most pernicious arts and tampering with jurors." *Warger*, at 527, citing *McDonald v Pless*, 238 U.S. 264, 35 S.Ct. 783 (1915). The Court noted that the purpose of the rule was to address "concerns that the use of deliberations evidence to challenge verdicts would represent a threat to both jurors and finality in those circumstances not covered by the Rule's express exceptions." *Warger*, at 528. Defendant's Motions are the very mischief the Rule seeks to prevent.

In *Tanner v U.S.*, 107 S. Ct. 2739, 97 L.Ed.2d 90 (1987), the U.S. Supreme Court drew the distinction between external and internal influences, for determining whether to allow juror deliberation testimony to attack a verdict. In *Tanner*, a criminal defendant argued that there was widespread alcohol and drug use by the jurors during his trial, thus rendering them incompetent to perform their duties. The District Court allowed testimony from court personnel and defendant's attorney, but would not allow the testimony of any of the jurors themselves, relying on Rule 606(b). The Court contrasted the admission of juror deliberations testimony, and internal influence, with juror testimony concerning outside influences, such as attempted bribery of jurors, evidence of information brought into the jury room but not admitted into evidence, etc. As *Tanner* held, "There is little doubt that post-verdict investigation into juror misconduct would in some instances lead to the invalidation of verdicts reached after irresponsible or improper juror behavior. It is not at all clear, however, that the jury system could survive such efforts to perfect it. Allegations of juror misconduct, incompetency, or inattentiveness, raised for the first time days, weeks, or months after the verdict, seriously disrupt the finality of the process."

*Tanner*, at 2748.

This is exactly what Defendant is attempting to do in this case. The Defendant has obtained, without warrant, subpoena, or even a FOIA request, complete histories of any calls for service from those jurors implicated through the inadmissible testimony of one juror, made weeks after the verdict. Defendant's Motion seeks to have a full evidentiary hearing, presumably involving direct and cross examination of those jurors singled out by the Defendant, to determine if these jurors intentionally withheld material information in response to a very specific question during *voir dire*. This unchecked intrusion into the private lives of the jurors singled out has but one purpose: to avoid the finality of the decision made by all twelve of the jurors, including Mr. Cornish. The Greenville County Sheriff's Office seeks to avoid this responsibility at the expense of the jury system itself by harassing those jurors who do serve and discouraging those yet called to serve from doing so. This is exactly the type of inquest the *Tanner* Court was worried about and declared could not, and should not, take place.

The South Carolina courts have adopted the internal versus external distinction for admitting juror testimony to attack a verdict. In *Lynch v Carolina Self Storage*, 409 S.C. 146, 760 S.E.2d 111 (Ct. App. 2014), the Court of Appeals reviewed the affidavit of a juror to determine if contained evidence that extrinsic evidence had been admitted into the jury room. The affidavit contained testimony of alleged misconduct by other jurors *during deliberations*, but those portions were found to be inadmissible under rule 606(b). The Court of Appeals specifically focused on whether the juror's testimony indicated the jury considered evidence outside of that presented at trial. Finding the affidavit did not support any such extrinsic evidence, the Court of Appeal upheld the denial of the motion for a new trial on the ground of juror misconduct. Of note, the Court of Appeals specifically found that Rule 606(b), SCRE, is the same as the federal rule, as noted in the comments to the Rule.

Applying Rule 606(b) to this case, it is clear that Mr. Cornish's statement under oath is inadmissible. The statement references only conversations that purportedly arose during the course of deliberations, and his individualized interpretations of those conversations. This is purely intrinsic to the deliberation process and is, therefore, inadmissible. The Court should consider no part of his Statement under Oath.

Defendant next offers the Incident Report and Supplemental Report dated June 6, 2015, obtained by Defendant without subpoena, FOIA request, or release signed by the parties to the report - and offered without foundation - as an exhibit to Defendant's Motions. Defendant offers this as extrinsic evidence that juror Robin Burns intentionally failed to respond during *voir dire* when asked: "Is there anyone among you who has been the victim of criminal domestic violence?"

When determining whether or not a juror has intentionally concealed the truth during *voir dire*, the court must determine whether the question presented to the jury on *voir dire* is reasonably comprehensible to the average juror and whether the subject of the inquiry is of such significance that the juror's failure to respond is reasonable under the circumstances. *State v Woods*, 345 S.C. 583, at 588, 550 S.E.2d 282, at 284 (2001), *Lynch, supra*. The question then becomes whether the Incident Report is sufficient extrinsic evidence to establish Ms. Burn's intent to deceive by remaining silent when asked if she had been the victim of criminal domestic violence.

Looking to the Incident Report itself, the incident type is classified as "90F – Family Offenses, Nonviolent." On its face, this document purports to describe something different than Criminal Domestic Violence. While Ms. Burns is listed as both the Complainant and Victim, this is more a function of the form, which is pre-printed with those labels. The narrative, where the responding officer sets out the specifics of this call, also labels the incident "Family Offenses,

Nonviolent.” The narrative section then directs the reader to the Supplemental Report filed with the Incident Report. The Supplemental Report does not refer to Ms. Burns as a “victim,” rather it describes an argument that culminated in her husband allegedly grabbing the phone out of her hand while she was talking with her sister. There were no allegations made or described that Mr. Burns in any way harmed Ms. Burns. Therefore, this evidence fails to establish that Ms. Burns was a “victim of criminal domestic violence.” Additionally, the term “criminal domestic violence” was not defined for the jurors, and CDV has a specific definition in the law. S.C. Code Ann. § 16-25-20 (Supp. 2014). Thus, Ms. Burns’ silence during *voir dire* was appropriate and reasonable.

Defendant has also obtained, without subpoena, FOIA request, or release, the audio recording of the 911 call which initiated the Simpsonville Police Department’s visit to the home. As an initial matter, this evidence is untimely under Rules 6(d) and 59(c), SCRCP, and thus should be excluded from the Court’s consideration. If the Court does consider the information, Plaintiff would stress that Ms. Burns is calm throughout and denies being injured, noting only that her wrist was “twisted” when the phone was taken from her. The contents of the call do not rise to level of criminal domestic violence, as that phrase would be interpreted by a reasonable juror.

Ultimately, Defendant is asking this Court to find that Ms. Burns should have understood this incident to be an instance of “criminal domestic violence” when the Simpsonville Police Department did not consider it so. As Mr. Harter strenuously pointed out throughout the trial of this case, no arrest can be made if there is no probable cause that a crime has been committed. Since the Incident Report indicates no arrest for criminal domestic violence was made, then under Defendant’s own theory the Court should infer no evidence of the crime of criminal domestic violence existed at the time. South Carolina is a mandatory arrest state, and if there

was evidence to support probable cause, the officers should have made an arrest. See S.C. Code Ann. § 16-25-70 (Supp. 2014).

As reasonable police officers responding to the 911 call did not believe Ms. Burns was the victim of criminal domestic violence, logic dictates Ms. Burns was also reasonable in believing she was not a victim of criminal domestic violence. Accordingly, she was correct and truthful in keeping her silence following the question “[i]s there anyone among you who have been the victim of criminal domestic violence.” That is, there is no evidence that Ms. Burns did not act reasonably in remaining silent when the Court asked the question regarding criminal domestic violence. Therefore, Defendant’s Motion for a New Trial on the grounds that Ms. Burns intentionally concealed the truth during *voir dire* must be denied.

Plaintiff also notes that the court asked one final *voir dire* question: “is there anyone among you who for whatever reason feels as though you could not be a fair and impartial juror in the trial of this case and render a verdict in accordance with the law as I give it to you?” All twelve of the jurors who rendered the verdict currently under attack by the Defendant remained silent following this question. There is no evidence, whatsoever, that all twelve of them were intentionally concealing their true feelings.

“The first part of the *Woods* test requires a showing of intentional concealment because it is not a juror’s responsibility to anticipate what an attorney might be seeking by asking a particular question. Rather, the juror’s responsibility is only to disclose information that reasonably should be disclosed in response to a question that is reasonably comprehensible.” *Lynch*, at 157. Defendant bears the burden of showing, through *admissible* evidence, that the *voir dire* question was reasonably comprehensible in that it unambiguously applied to the juror’s particular situation and that the juror intentionally failed to disclose information. *Lynch, supra*; *Woods, supra*. Defendant has offered the 911 recording and a transcript of it as well, and seeks

to offer two additional untested affidavits from Officers Edwards and Tedrow, the contents of which are unknown. This evidence is all untimely under Rules 6(d) and 59(c) SCRPC, and should be excluded from consideration. The Incident Report, being the only admissible evidence offered, simply does not support the allegation Defendant makes. Because the Defendant has failed to meet the first part of the *Woods* test, the Court's inquiry must end.

In conclusion, Rule 606(b), SCRE mandates that Mr. Cornish's testimony is inadmissible and the Court should not consider it as support for Defendant's Motions. The evidence regarding the June 23, 2015, 911 call is untimely and should be excluded, but in any event fails to establish Ms. Burns was a victim of criminal domestic violence, or would have reasonably believed she was a victim of criminal domestic violence so as to require her to respond to the question in the affirmative. The affidavits of Officers Edwards and Tedrow should also be excluded as untimely. The only extrinsic evidence produced by Defendant, the Incident Report from June 23, 2015, does not establish that any juror intentionally concealed information during *voir dire*.

As the Supreme Court of South Carolina expressed:

The occurrence of a significant degree of jury misconduct calling for the admission of juror testimony has proved to be quite rare. *See State v. Pittman*, 373 S.C., at 554-55, 647 S.E.2d, at 158 (suggesting that the mine-run of prejudicial jury misconduct cases involve internal coercion based on race or gender bias). For this reason, we think trial courts are justified in exercising a degree of caution before entertaining such evidence in an attack on a jury's verdict. As the court stated in *McDonald*:

But let it once be established that verdicts solemnly made and publicly returned into court can be attacked and set aside on the testimony of those who took part in their publication and all verdicts could be, and many would be, followed by an inquiry in the hope of discovering something which might vindicate the finding. Jurors would be harassed and beset by the defeated party in an effort to secure from them evidence of facts which might establish misconduct ...[and] the result would be to make was intended to be a private deliberation the constant subject of public investigation ... [T]he argument in favor of receiving such evidence is not only very strong but unanswerable – when looked at solely from the standpoint of the

private party who has been wronged by such misconduct. The argument, however, has not been sufficiently convincing to induce legislatures generally to repeal or to modify the rule. For, while it may often exclude the only possible evidence of misconduct, a change in the rule would open the door to the most pernicious arts and tampering with jurors. The practice would be replete with dangerous consequences. It would lead to the grossest fraud and abuse and no verdict would be safe.

*State v Schumpert*, 378 S.C. 62, 69-70, 661 S.E.2d 369, 383 (2008) (citing *McDonald v. Pless*).

Accordingly, the verdict must stand and Defendant's Motions pursuant to SCRCP Rules 59 and 60 must be denied.

---

J. Christopher Wilson  
Daniel W. Luginbill  
**Wilson & Luginbill, LLC**  
P.O. Box 1150  
Bamberg, S.C. 29003  
(803) 245-7799  
Attorneys for Plaintiff

---



John S. Nichols  
Bluestein, Nichols, Thompson & Delgado, LLC  
P.O. Box 7965  
Columbia, SC 29202  
(803) 779-7599

---

Daniel J. Farnsworth, Jr.  
**FARNSWORTH LAW OFFICES, LLC**  
2 Williams St.  
P.O. Box 8719  
Greenville, SC 29604  
(864) 250-9119  
Attorneys for Plaintiff

Bamberg, South Carolina

December 16, 2015

STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS  
Civil Action No.: 2013-CP-23-06522

Madel C. Rivero, as Personal  
Representative of the Estate of  
Lilia Lorena Blandin,

Plaintiffs,

v.

Sheriff Steve Loftis, in his capacity as  
Sheriff of Greenville County,

Defendant.

NOTICE OF MOTION AND  
MOTION TO ALTER OR AMEND  
JUDGMENT AND/OR MOTION  
FOR RECONSIDERATION

FILED - CLERK OF COURT  
COURT OF COMMON PLEAS  
PAUL B. WOODWARD, CLERK  
FEB 25 PM 3:53

TO: THE HONORABLE ROBIN B. STILWELL

DANIEL W. LUGINBILL, ESQUIRE, J. CHRISTOPHER WILSON, ESQUIRE,  
DANIEL J. FARNSWORTH, JR., ESQUIRE, AND JOHN S. NICHOLS, ESQUIRE, COUNSEL  
FOR PLAINTIFF

YOU WILL PLEASE TAKE NOTICE that the undersigned attorneys for the Defendant Sheriff Steve Loftis, in his capacity as Sheriff of Greenville County will move before the Honorable Robin B. Stilwell at such time and place as may be set by the Court, for an Order, pursuant to Rule 59(e), SCRCF, altering, amending, and/or reconsidering the Order Concerning Defendant Greenville Sheriff's Post Trial Motions, filed February 11, 2016. Counsel for the Defendant received written notice of entry of the Order on February 16, 2016.

The Defendant's motion is based upon the following grounds:

The Order Concerning Defendant Greenville Sheriff's Post Trial Motions does not address each of the grounds for relief as set forth in the Defendant's Post-Trial Motions. The purpose of this

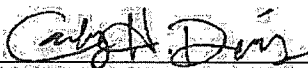


motion is to respectfully request that the Court address each of the grounds raised by the Defendant so that such issues are properly preserved for appellate review. Specifically, the Defendant requests the Court to issue a ruling on the following grounds as set forth in the post-trial motion:

1. The Court has not addressed the Defendant's argument that there was no credible evidence that the deputies or 911 operator acted with gross negligence.
2. The Court has not addressed the sovereign immunity defenses asserted by the Defendant pursuant to the South Carolina Tort Claims Act. Specifically, the Defendant raised defenses under Sections 15-78-60(4), (5), (6), and (20), none of which include a gross negligence exception. Those defenses are not specifically addressed in the Court's Order.

The Court is respectfully requested to alter or amend its current Order to specifically address these grounds for a JNOV.

The Defendant's motion is based upon the pleadings filed in this case; the trial record; the Order Concerning Defendant Greenville Sheriff's Post Trial Motions, filed February 11, 2016; the Defendant's Post-Trial Motions; the rules of court; and such other matters as may be properly presented to the Court at the time of the hearing.

  
RUSSELL W. HARTER, JR.  
CARLY H. DAVIS  
CHAPMAN, HARTER & HARTER, P.A.  
14 Lavinia Avenue  
Post Office Box 10224  
Greenville, South Carolina 29603  
(864) 233-4500

*Counsel for Defendant Sheriff Steve Loftis, in his  
capacity as Sheriff of Greenville County*

February 25, 2016

STATE OF SOUTH CAROLINA )

COUNTY OF GREENVILLE )

) COURT OF COMMON PLEAS  
) 2013-CP-23-6522  
)  
)  
)

MADEL C. RIVERO, AS PERSONAL )  
REPRESENTATIVE FOR THE ESTATE )  
OF LILIA LORENA BLANDIN )  
PLAINTIFF)

**ORIGINAL**

vs. )

) TRANSCRIPT OF RECORD  
)

SHERIFF STEVE LOFTIS, IN HIS )  
CAPACITY AS SHERIFF OF )  
GREENVILLE COUNTY )  
DEFENDANT)

December 17, 2015  
Greenville, South Carolina

B E F O R E:

THE HONORABLE ROBIN B. STILWELL, Judge.

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

RUSSELL W. HARTER, JR., ESQ.  
Attorney for the Plaintiff

JOHN S. NICHOLS, ESQ.  
J. CHRISTOPHER WILSON, ESQ.  
Attorneys for the Defendant

April P. Herron  
Official Court Reporter

1                   There were no witnesses.

2                   There were no exhibits.

3

4

» > o < «

5

Certificate of Reporter . . . . . 36

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 THE COURT: Okay. Mr. Harter, if you would  
2 announce the name of the case and the case number for  
3 the record.

4 MR. HARTER: Your Honor, this is the matter of  
5 Madel C. Rivero, as personal representative of the  
6 estate of Lilia Lorena Blandin vs. Sheriff Steve  
7 Loftis, in his capacity as Sheriff of Greenville  
8 County.

9 THE COURT: Okay.

10 MR. HARTER: The other defendants were settled  
11 out before trial. And action number is  
12 2013-CP-23-06522.

13 THE COURT: Okay, good enough. Okay, thank you,  
14 Mr. Harter, obviously I have a substantial knowledge  
15 of the factual scenario of this case having sat  
16 through trial. So, I'll be happy to hear your  
17 motion, sir.

18 MR. HARTER: Okay. Your Honor, as you know,  
19 this motion deals strictly with an issue regarding  
20 disclosure by a juror. We have provided a lot of  
21 information. We filed some affidavits with our  
22 motions and there were some that we wanted to submit  
23 under seal. We did a motion under seal for that.  
24 And throughout the process we have submitted some  
25 information to the Court and to opposing counsel.

1 And I'd like to hand up at this time a list of what  
2 exhibits we would like to make a part of the record.

3 THE COURT: Okay.

4 MR. HARTER: Today for purposes of this case.

5 THE COURT: Yes, sir.

6 MR. HARTER: Let me say, Judge, a couple of  
7 things right before I get started. This deals  
8 strictly with an issue regarding the seating of a  
9 juror in the trial of this case. And I want to tell  
10 you at the outset, I read opposing counsel's motion  
11 and I just want you and them to understand that this  
12 issue regarding the juror possible disclosure issue,  
13 came to light in a phone call to me by Michael  
14 Cornish, he was a juror in the case. I did not reach  
15 out to him, I did not make any inquiry, this was a  
16 call that was totally unsolicited by me.

17 THE COURT: Okay, sir.

18 MR. HARTER: I felt obligated to look into it  
19 when it came about; and as you know, I requested a  
20 copy of the transcript from the court reporter.

21 THE COURT: Yes, sir.

22 MR. HARTER: And then we had, at some point, a  
23 conference. I also want to tell you and opposing  
24 counsel this. That the Greenville County Sheriff's  
25 Office was not involved in any way in the fact

1 finding mission that I have directed in this case to  
2 gather information. It was something that I did in  
3 my capacity as an advocate and I actually considered  
4 what I was doing somewhat as an officer of the court,  
5 quite frankly, Judge. We had a conference call and I  
6 believe I brought this information to y'all's  
7 attention. And at that time I didn't know whether  
8 there was going to be anything to it or not to tell  
9 you the truth.

10 It's a very unusual -- been doing this for 39  
11 years, I've had some issues come up with jurors  
12 before but I've never quite had this present itself  
13 just like this. And I, frankly, kind of did not know  
14 exactly the best way to handle it, but I tried to  
15 handle it as best I could, being appreciative that  
16 some of the information that would be at issue here  
17 might be sensitive, you know. It involves some  
18 personal stuff. I don't want to get afar afield with  
19 it. Also -- and I hope opposing counsel will  
20 understand this, too.

21 When I set about doing my due diligence on this  
22 issue, I made a calculated decision, Your Honor, that  
23 whatever I was able to come up with, good, bad or  
24 indifferent, whether it supported me or didn't  
25 support me, hear this. Because I, frankly, believe

1           that this is an issue that deserves attention now.  
2           And it goes to the basic, conceivably, a breach of  
3           integrity of our jury system. And I know that these  
4           other lawyers may think that I was, at the last  
5           minute, doing an infusion of affidavits and whatnot.  
6           The affidavits -- and, Judge, by the way, here they  
7           are, I'm sorry.

8           THE COURT: Okay.

9           MR. HARTER: The affidavits that I -- I'm filing  
10          later affidavits -- I'm filing them as soon as we get  
11          them.

12          THE COURT: Yes, sir.

13          MR. HARTER: Those affidavits don't really help  
14          me, you know. Important [indiscernible] directly  
15          support my position. But I just saw it as my role,  
16          frankly, to look into and to bring it forward,  
17          whatever it is.

18          THE COURT: Okay.

19          MR. HARTER: And so, that's the way I went about  
20          it. I know there's been some claim that I didn't get  
21          all of the affidavits to everybody at the same time  
22          or with my motion. But I will tell you when this  
23          came up, I felt somewhat to be on the horns of a  
24          dilemma. Rule 60 says you got to file your motion  
25          within a reasonable length of time. After you become

1       aware of circumstances. I felt an obligation to  
2       certainly do that. And when I filed my motion I  
3       based it on the information that had. And I have  
4       supplemented that information, providing it to the  
5       Court and to both sides as the precess went along.

6               So, that is where, you know, we are kind of with  
7       the record at this point.

8               THE COURT: Okay.

9               MR. HARTER: And I do have everything, Judge,  
10       that I delineated on that sheet. As part of the  
11       record I'd like to mark this, you know, as we go  
12       through.

13              THE COURT: Here's what I'm going to do. I'm  
14       going to short circuit you a little bit.

15              MR. HARTER: Okay.

16              THE COURT: Today, I don't know that we're going  
17       to come to any conclusion in this matter. I know  
18       that having read the case law, there's no requirement  
19       for a evidentiary hearing. But I do think that it  
20       is, based on what I have read, a better practice.  
21       And in as much as this case, there's a reasonable  
22       expectation that the appellate courts of the State of  
23       South Carolina will be looking at this issue that we  
24       establish a full and complete record. So, I will  
25       tell you today, all I'm worried about, all I really



1 want to accomplish, is what the law is that bears  
2 upon the issue from each perspective, and then, how  
3 should we proceed moving forward. I have thoughts  
4 and ideas, but I want to hear from you.

5 MR. HARTER: Okay.

6 THE COURT: It's your case. And I don't  
7 necessarily want go through all of these -- all of  
8 this evidence because I think, really, it's incumbent  
9 upon us to have a evidentiary hearing. Understand, I  
10 don't want to have a evidentiary hearing. Just like  
11 I don't want to take the trash out every Friday  
12 morning but I got, okay. So, I think we're going to  
13 have to have it and I wanted y'all to come today so  
14 we could talk it through. And we could define the  
15 manner and mechanism of proceeding if we need to.  
16 So, I'll hear from you on the law and your  
17 suggestion.

18 MR. HARTER: Thank you. Thank you. I  
19 appreciate that, Judge.

20 THE COURT: Yes, sir.

21 MR. HARTER: And I do want to be very direct  
22 about this, I think there's some controlling law that  
23 we've read. And I know this is not the kind of  
24 things courts want to do. They're reluctant to do  
25 this, I know that. I know that. But there are times

1           that I think our case law recognizes that there are  
2           times that you do need to step in. And in this case,  
3           I believe the controlling law that I understand, is  
4           we get direction from the Court of Appeals and the  
5           Supreme Court. And I focused on the Lynch case.  
6           That was one of the cases that opposing counsel cited  
7           in their memo. And in the Lynch case, the Court sets  
8           forth what I believe are -- is a two-prong test.

9           Judge, can I ask something real quickly?

10          THE COURT: Sure.

11          MR. HARTER: I have Jennifer Sawyer Skipper  
12          here, who is the dispatcher who handled the tape.

13          THE COURT: Yes, sir.

14          MR. HARTER: She is here at my request.

15          THE COURT: Yes, sir.

16          MR. HARTER: We're not going to go into that.  
17          Can I excuse her? She has a child with a medical  
18          procedure going on right now.

19          THE COURT: Absolutely. Absolutely.

20          MR. HARTER: Thank you.

21          THE COURT: Good luck to you, ma'am.

22          MS. SKIPPER: Thank you.

23          THE COURT: Merry Christmas.

24          MR. HARTER: Thank you, Your Honor.

25          Thank you, Ms. Skipper.

1           But the Lynch case has a two-prong catch. The  
2 first prong is whether there was an intentional  
3 concealment of information in voir dire by a juror.  
4 And the second is whether the concealed information  
5 would have been a material factor in the use of a  
6 parties' preemptory strikes. I think that's the  
7 established law.

8           Now, as to the question of whether or not  
9 there's an intentional concealment. It looks like  
10 the cases of Lynch and Woods, look at the question  
11 that the Court -- they look at the question and not  
12 necessarily the answer. But they look at the  
13 question to determine whether or not the question  
14 presented is reasonably comprehensible to the average  
15 juror and the subject of the inquiry is of such a  
16 significance that the failure to respond is  
17 unreasonable. Is the question comprehensible and  
18 reasonable to a average juror?

19           Unlike some of my questions, Judge, I think your  
20 question at voir dire was very simple, it was very  
21 direct. It was one of the questions that we asked  
22 for in voir dire. And the question was appointed and  
23 specific.

24           On Page 15 of the transcript it says, Is there  
25 anyone among you who has been a victim of criminal

1 domestic violence?

2 Now, from my recollection of the record, there  
3 was a juror who had already identified herself  
4 before, but this juror got up and said that a husband  
5 had been in a marriage that was -- that she had  
6 experienced domestic violence. And she was -- as I  
7 remember correctly there was another gentleman who  
8 got up and said he had some knowledge about a CDV  
9 incident involving his brother. Law enforcement had  
10 come out or relative. And anyway, he identified  
11 himself. And he provided that information.

12 As to Ms. Burns, she did not come forward with  
13 any of that information at that time. And this was  
14 on September the 28th of 2015 at the time of the  
15 trial. Now, I won't go into it but her response --  
16 actually, the information that we have been able to  
17 glean from our investigation is that there was a call  
18 to law enforcement on June the 23rd of the 2015.  
19 Which was just three months before. But I submit  
20 that the question that was put to Ms. Burns was very  
21 direct, Was -- is there anyone among you who has been  
22 a victim of criminal domestic violence?

23 I will tell you, if I had -- if that information  
24 had come forward, I would have moved to disqualify  
25 her, Judge, for cause; or I would have used a

1 preemptory strike. Because that information, that  
2 question -- and as you recall, we kind of narrowed  
3 down the voir dire. We did the magic marker thing.  
4 And -- but and it did make us focus on what's  
5 important here. And we did, Judge. And that  
6 question went to the very guts and the heart of the  
7 case as I see it. Was she a victim of criminal  
8 domestic violence?

9 Now, I know we're not -- maybe, maybe not, you  
10 know. We got information that is little bit unclear  
11 about that in the record. I know you don't to talk  
12 about it but we do have information. But I do  
13 believe that that question was very specific and  
14 direct to her. And I think that he should have  
15 responded to that question even -- certainly, if she  
16 was the victim. Because it's right appointed, you  
17 know. And if she was -- if she was not a victim and  
18 it was something less than that but it was a call out  
19 there to law enforcement and a disturbance, a family  
20 issue, well, you got a little gray area there. But I  
21 still think that a reasonable juror, that question  
22 was comprehensible enough to another juror, some bell  
23 or whistle went off with him.

24 So, I think the question is there. I think that  
25 if the evidence shows that she didn't answer that

1 question correctly and that would be a fact finding  
2 thing, I believe, for the Court to do. And I will  
3 tell you, I believe that would be the way to handle  
4 it, Judge. Is to do an evidentiary hearing and  
5 inquire about Ms. Burn as a juror.

6 I will tell you that we, frankly, didn't find  
7 anything else on the other juror. But based on what  
8 Mr. Cornish says, I believe a inquiry, maybe, about  
9 her might be [indiscernible]. I definitely believe  
10 for Ms. Burns -- if we're going to talk about the law  
11 a little bit more, the question comes up and, you  
12 know, the other part of the issue is whether or not  
13 Mr. Cornish can, you know, whether his affidavit or  
14 statement is something to rely on. Or for you to  
15 consider or should it be something that's  
16 inadmissible under Rule 606?

17 And I believe -- and I believe this. In this  
18 case, what you have in front of you is information  
19 regarding that would raise a question as to  
20 Ms. Burns' -- whether she appropriately disclosed or  
21 not in voir dire what had happened before. That  
22 information is based on the 911 transcript where she  
23 made the statement herself two times that, He twisted  
24 my wrist. Now, that information is from a separate  
25 source other than Mr. Cornish is his capacity as a

1 juror. Yet, we found out about it from him but the  
2 evidence that supports that comes from ~~some source~~  
3 other than Mr. Cornish, as a juror.

4 Now, even, if, however, Mr. Cornish's -- I will  
5 also say that under our case law, the fact -- Rule  
6 606 is not an absolute prohibition for the Court to  
7 consider an affidavit or sworn statement or  
8 information from a juror in the context of what we're  
9 talking about here. And I'm talking about the -- I  
10 think it's in Woods. I'm sorry, I think it's in the  
11 Lynch case, Judge. If the matter does not involve  
12 internal deliberations of the jury, then Rule 606  
13 does not come in in absolute as a complete probation  
14 against a juror providing evidence or an affidavit  
15 about another juror's conduct.

16 And in this case, we're not talking about the  
17 decision making process in deliberations back there.  
18 We're not talking about who said what or why they did  
19 it or anything like that. We're talking about the  
20 composition of the panel. It's just like a game,  
21 Your Honor. You're in a game, if you play the game,  
22 it doesn't matter what the score is, it doesn't  
23 matter who wins, it doesn't matter who loses. If  
24 you find out that a person's ineligible, you got to  
25 do something about it. And I think that's pretty

1 much the analogy of what we're talking about here. I  
2 think under the Lynch case law and under the Woods  
3 case law, that there is a significant issue.

4 And actually, because I matched this case up  
5 with the facts of the Woods case and the Lynch case,  
6 we have a lot stronger position here than those folks  
7 did in their case. And I know, it's always an uphill  
8 battle, you know. But -- and -- but I think that if  
9 there is -- if there's an intentional -- and I think  
10 the Woods case points this out, if there is an  
11 intentional --

12 The Woods case says, Where the juror's failure  
13 to disclose information is without justification,  
14 i.e. intentional, the juror's bias will be inferred.

15 Okay. I just think, and as I understand reading  
16 the law here, and fortunately, I haven't been in this  
17 area a whole lot, you know. This is a very fact  
18 driven issue. And Your Honor, I think based on what  
19 you have in front of you that there is -- that there  
20 is a -- the proper course for us all to take to know  
21 and to know and to get to the root of this issue.  
22 Again, it may not be here, you know. Is to do an  
23 evidentiary hearing. I think that certainly an  
24 inquiry into Ms. Burns' question, you know, about her  
25 disclosures would be appropriate. Maybe



1 [indiscernible], I don't know. It depends, Judge, on  
2 how you look at the law on that.

3 And again, I don't know Mr. Nichols very well or  
4 whatnot. I hope nobody thinks that I'm trying to be  
5 a sore loser in trying to meddle into this system  
6 that we love and that we serve. Everything I've  
7 done, I hope, in the context of this case has been  
8 honorable. And I know they don't know me, but I've  
9 tried to handle this the way I thought it should be  
10 handled. And, you know, it's an uphill battle. But  
11 sometimes we have to step in and there has to be a  
12 guardian. And we're all guardians of this process.  
13 And it does not matter who wins or who loses, it  
14 really doesn't. What matters is the truth and we've  
15 said that, whatever that is. But I think we need to  
16 look for it.

17 THE COURT: Okay, thank you. I appreciate it.

18 Yes, sir, Mr. Nichols.

19 MR. NICHOLS: Thank you, Judge. We sent a --

20 THE COURT REPORTER: I'm sorry, can I get your  
21 name?

22 MR. NICHOLS: John Nichols.

23 THE COURT REPORTER: Thank you.

24 MR. NICHOLS: We sent a memorandum around last  
25 night, but I've got a hard copy, if you would like.

1 THE COURT: Sure.

2 MR. HARTER: I've got a copy, Your Honor.

3 THE COURT: Okay. All right.

4 Thank you, very much.

5 MR. NICHOLS: Judge, I'll be very brief--

6 THE COURT: Yes, sir.

7 MR. NICHOLS: -- frankly. We provided with a --  
8 there was actually a decision at the U.S. Supreme  
9 Court on this, Judge. Justice Sotomayor wrote the  
10 [indiscernible] decision which we've cited there.

11 THE COURT: Okay.

12 MR. NICHOLS: And I realize the federal rule is  
13 slightly different now but the rule is essentially  
14 the same as South Carolina's rule. I heard -- I  
15 heard a number of things that I think are  
16 interesting. But our position, first off, an  
17 evidentiary hearing in this type of thing is proper,  
18 to begin with. Particularly, based on a motion  
19 that's been made. But in any event, what's been  
20 presented to you would say that it would be warranted  
21 in this case. I mean, we've been provided the  
22 affidavits and we objected to those affidavits.  
23 Because, frankly, Judge, those affidavits demonstrate  
24 why you don't do exactly what's trying to be done in  
25 this case.

1           Let me say this. Just a few things. Counsel  
2           said that this information came to him from  
3           Mr. Cornish, who was one of the jurors. Well, that's  
4           exactly the type of internal discussion he --  
5           Mr. Cornish is relating something that he thinks he  
6           heard in the jury room during deliberations. And  
7           that triggers this, how did he put it? Fact finding  
8           mission. These fact finding missions are exactly  
9           what the U.S. Supreme Court and our State Supreme  
10          Court says you don't do based on something that you  
11          hear about internal deliberations.

12           Now, the Lynch and the Woods case, there was  
13          information from outside of the court that came into  
14          the jury room and formed part of the deliberation.  
15          Rule 606 says, Well, you can talk about that but  
16          you're not supposed to go into the minds of the  
17          jurors during their deliberation. That's exactly  
18          what's going on here. Perhaps, we're trying to do it  
19          through these extraneous affidavits from police  
20          officers or a 911 person and all.

21           But, Judge, frankly, it reminds me of the one  
22          phone case. It's sort of the fruit of the poisonous  
23          tree. You start with the improper juror  
24          communication about internal deliberations and use  
25          that to go on this fact finding mission and then

1 cloak in it what we call external evidence in order  
2 to get out of the prohibition that's found in Rule  
3 606. That's coming in the back door when the front  
4 door is barred. And the Court shouldn't allow this.  
5 The Court should not allow this.

6 The law is fairly straightforward that we're not  
7 supposed to be going into the minds of the jurors to  
8 find out -- these jurors deliberated 11 hours from  
9 what I understand. There was a unanimous verdict. I  
10 haven't seen the record yet but as far as I know,  
11 nobody indicated that they were forced into reaching  
12 this verdict. Which from I understand, Mr. Cornish,  
13 through some extraneous conversations decided that he  
14 needed to call Mr. Harter. That's the very kind of  
15 thing we are not supposed to be doing. We are  
16 officers of the court, we are supposed to protect the  
17 process.

18 And this kind of fact finding mission into the  
19 backgrounds of jurors, after the trial, because you  
20 don't like the result, which is what's going on here,  
21 is the very thing that the U.S. Supreme Court, State  
22 Supreme Court has told us we're not supposed to be  
23 doing. If you allow this, you will be opening a door  
24 that could lead to all kinds of mischief and the  
25 courts have warned us about that. They said this

1 kind of case, this kind of inquiry, this kind of  
2 inquest into the backgrounds of jurors, whether or  
3 not they responded to questions is the kind of thing  
4 that they don't want us to do.

5 I did hear counsel say, I think she should have  
6 responded, nonetheless.

7 Well, he may think that. But the key here is,  
8 would she have thought that? I mean, we're standing  
9 here saying that she lied to this Court. And she  
10 lied to everyone in here. So, it's a pretty serious  
11 accusation against this juror. We're saying that she  
12 sat on her hands when she knew that she should have  
13 responded to this question that was being asked by  
14 the Court. So, we're going to have to get inside her  
15 mind and see the very question that's asked. There  
16 weren't questions asked around the nuance of the  
17 question.

18 She was asked very specifically about criminal  
19 domestic violence. Which is a very specific term in  
20 the law. It's defined in the statute. Case law tells  
21 us what criminal domestic violence is. These  
22 affidavits, which aren't proper, but they're there.  
23 Frankly, they help us. Both of these officers said  
24 they saw no evidence of violence. If trained  
25 officers don't see any evidence of violence, then you

1        have -- and it's a criminal domestic violence, one of  
2        them said, We told her to go get marriage counseling.

3                They were a little irritated because her husband  
4        kept saying, Wait a minute, you need to put this in  
5        the report. He was concerned that he was going to  
6        get arrested. No, nobody was going to get arrested  
7        because we didn't see any reason to arrest anyone.  
8        We didn't see any criminal domestic violence. Well,  
9        if the police officers are engaging in that, I mean,  
10       they kept saying this call lasted longer than it  
11       should have lasted because there was no there there,  
12       so to speak.

13               And so, we're expecting now a lay juror to  
14       interpret a very specific question to mean that she  
15       should stand up after she's heard a couple of other  
16       folk describe what criminal domestic violence is when  
17       they responded. She remembers calling them, maybe  
18       she remembers the 911. But it's not criminal -- had  
19       you asked for any other crime, should she have stood  
20       up and said, Yeah, we made a call to 911, my husband  
21       and I were fighting and yanked the phone out of my  
22       hand. I was trying to call my sister.

23               Judge, I think it's incredible to expect that  
24       she would have understood and she should have said  
25       something. But that's what we're saying. We're

1       saying that she knew, we're getting in her head,  
2       we're not to be concerned with what I think she  
3       should have done or what Mr. Harter thinks she should  
4       have done, but what she thinks she should have done.  
5       And that's why these types of inquiries are not  
6       proper. That's why Rule 606 says what it is. That's  
7       why the federal rule says what it says and why the  
8       court has told us not to go into this kind of  
9       inquisition into the backgrounds of the jury.

10             And so, we think this whole thing is improper.  
11       I understand that you're concerned that you should  
12       have a evidentiary basis for the Appellate Court to  
13       look at. I would ask you -- or, really, if you can  
14       set the perimeters a week, is that evidentiary  
15       hearing going to be confined to these police officers  
16       who are now being proffered that extraneous evidence  
17       even though the internal deliberation evidence is  
18       what lead -- the trail that led right to them. Or  
19       we've got to be proffering affidavits from these  
20       jurors. Or we've got to get Mr. Cornish's live  
21       testimony, or we going to call the other 11 jurors,  
22       including the effected juror? I have--

23             THE COURT: That's one of the questions that I  
24       was going to pose to y'all.

25             MR. NICHOLS: Well, Judge, we would object to

1       that. I think that is exactly what the courts have  
2       told us you're not supposed to do. When people come  
3       to jury service, are they going to have, sort of,  
4       disclaimer hanging over them that they don't know if  
5       the things that they say in the privacy of that room,  
6       which can get pretty -- pretty personal and pretty  
7       heated at times, could be aired in public because  
8       somebody doesn't like the verdict that they  
9       ultimately reached.

10       And the courts have said, No, don't to that. We  
11       would object. I just think it's entirely improper.

12       THE COURT: If we do an evidentiary hearing,  
13       I'll tell you, it will be limited to things outside  
14       of the jury's deliberations. That is questions and  
15       examination would be confined to the salient issues.  
16       That is, was there a failure to disclose? Was it  
17       intentional failure to disclose? And then, I don't  
18       think we have to have any evidentiary hearing about  
19       whether it's material or not. I think that simple  
20       representation does that. But I want you to know, I  
21       want you to know, that I haven't decided that  
22       absolutely. Okay. I don't want to have a hearing  
23       and I don't want to overturn a jury's verdict. But  
24       right now we have two competing interests. And that  
25       is the sanctity of jury verdicts versus the



1 fundamental fairness of proceedings before the Court.  
2 And I've just got to decide how to navigate between  
3 the two.

4 MR. NICHOLS: Okay.

5 THE COURT: And that's all -- today, that's all  
6 I'm trying to do.

7 MR. NICHOLS: Judge, as I understand, the  
8 affidavits were just handed to me, under seal. And I  
9 understand you haven't seen those affidavits.

10 THE COURT: I haven't.

11 MR. NICHOLS: Okay.

12 THE COURT: And I haven't read the 911. I've  
13 reviewed the transcript but at this point that's  
14 about all that I've done. Okay.

15 MR. NICHOLS: You reviewed the transcript--

16 THE COURT: From the voir dire.

17 MR. NICHOLS: Okay.

18 MR. HARTER: I will tell you, the 911  
19 transcript, the 911 tape, is, I will submit to you,  
20 the basis of where I think we go with an evidentiary  
21 hearing. And Judge, I'm not talking about what  
22 happened back in that jury room, I'm talking about  
23 what happened here in this courtroom when those  
24 questions were asked.

25 THE COURT: I gotch you.

1           MR. HARTER: But I don't know whether -- do we  
2           want to mark those things now?

3           THE COURT: I don't want to mark anything.

4           MR. HARTER: Okay. And I --

5           THE COURT: Let me tell you what I want to do.  
6           I want to let Mr. Nichols finish.

7           MR. HARTER: Oh, I'm sorry.

8           I apologize.

9           MR. NICHOLS: That's okay, Judge.

10          MR. HARTER: I'm sorry.

11          MR. NICHOLS: You asked me a question, I think  
12          Mr. Harter --

13          THE COURT: That's all right, I know. I know.

14          MR. NICHOLS: I didn't feel he was interrupting  
15          me.

16          Well, I guess, I just want to close with that  
17          I'd ask you to look at what's been provided. We had  
18          objected because Rule 59(c) says that those should  
19          have been attached to the motion. But, frankly, I  
20          think when you see those affidavits, when you see  
21          them against the 911 transcript, which you're going  
22          to apparently look at --

23          THE COURT: Do you want me to look at them?

24          MR. NICHOLS: Well --

25          THE COURT: Here's the problem that I have right

1           now. I mean, you kind of reference some of these  
2           affidavits --

3           MR. NICHOLS: Right.

4           THE COURT: To which I haven't seen. Which  
5           apparently contrast your position.

6           MR. NICHOLS: Yes, sir.

7           THE COURT: So, I don't know whether to look at  
8           them or not. Because, you know, ab initio, I am very  
9           reluctant to overturn the jury's verdict. But if a  
10          party comes in and makes essentially a prima facie  
11          assertion that there was a material misrepresentation  
12          to the court, I almost have to look at it.

13          MR. NICHOLS: Right.

14          THE COURT: So, the question is, you know, what  
15          do I look at? I mean, I have to look at something.  
16          And what I don't want to do is use very technical  
17          rules which would preclude the court from effecting  
18          fundamental fairness in a court proceeding.

19          MR. NICHOLS: Judge, it reminds me of a story I  
20          once heard where somebody said don't think of an  
21          elephant. And the first thing you think of is an  
22          elephant. And our difficulty here is that this  
23          extraneous prima facie case, and I'm putting that in  
24          your quotes because the record's not going to show  
25          that, but the prima facie case derives from

1       inappropriate evidence. Inappropriate -- it's the  
2       inquiry from Cornish or the statement from Cornish  
3       regarding, Hey, when we were in the jury room, we  
4       heard this. That kicks it all out.

5               And I realize that it's a little bit different  
6       from the exclusion of the rule under the Forth  
7       Amendment. But I think there's a good parallel there  
8       that when you're looking at the evidence that should  
9       not be for the court, the evidence that is improper  
10      under Rule 606, and you claim that it then leads you  
11      to something that would then support this type of  
12      inquisition, that that's improper. Now, if somebody  
13      comes to you and says, Hey, one of the jurors brought  
14      in a medical journal one day that had -- nobody had  
15      talked about and started saying, Hey, I know what  
16      this particular procedure is all about. That's the  
17      kind of thing that they're talking about in Woods and  
18      Lynch. That people bring extraneous things into the  
19      jury room. Or they bring a Bible in. Or they bring  
20      something into the jury room that should not -- and I  
21      have nothing against the Bible, I don't mean that as  
22      a--

23               THE COURT: I understand.

24               MR. NICHOLS: But something that they're not --  
25      or they gone and done some internet look and they run

1 something on Wikipedia or something to come in and  
2 say, This is what this case is about. That's what  
3 they're looking for. And that's the kind of juror  
4 misconduct that 606 allows you to go into. But  
5 whether you are saying that a jury lied to this  
6 Court, and I want to be plain on that. You're  
7 accusing a juror of lying to this Court about --  
8 because she sat silent when she should have spoken  
9 up. That's the kind of thing that I think the courts  
10 don't want you to get into their minds and try to  
11 figure out what judgment should she have made when  
12 she heard this very specific question about criminal  
13 domestic violence. Knowing what she knew about this  
14 911 call and what the officers may or may not have  
15 told her when they arrived on the scene. And you'll  
16 see that in those affidavits.

17 THE COURT: Yes, sir.

18 MR. NICHOLS: So, I really don't have anything  
19 else to say. But, of course, we'll abide by whatever  
20 you tell us we need to do. But I just want this  
21 record to show that we object to this entire process.

22 THE COURT: Okay.

23 MR. NICHOLS: Thank you.

24 THE COURT: Yes, sir.

25 MR. HARTER: Very briefly, Judge.

1 THE COURT: Yes, sir.

2 MR. HARTER: And we're not talking about the  
3 internal deliberations. And I appreciate everything  
4 Mr. Nichols said. But our court, somebody's got to  
5 be the guardian of the sanctity of what happens.  
6 We're talking about whether or not -- I'm not saying  
7 that she lied, I'm just asking you to look at the  
8 record, and I'm asking the Court to make that  
9 determination. Because I believe there is a prima  
10 facie showing. If you read the transcript from the  
11 911 tape on June 23, 2005 and you compare that with  
12 her testimony.

13 Again, we provided the information that we got.  
14 You know, this is -- this is something that runs  
15 deeper and broader than this case. But, to be very  
16 clear, in the Lynch case, which they cite in their  
17 brief, our court says in some cases, our courts have  
18 considered the testimony of jurors in deciding  
19 whether a juror intentionally concealed information  
20 during voir dire. And in each of these cases,  
21 however, Rule 606 was not an issue because the  
22 matters to which jurors testified did not involve  
23 internal deliberations of the jury. And we're not  
24 talking about internal deliberations. We're talking  
25 about the composition of the jury.

1 THE COURT: Okay.

2 MR. HARTER: I believe that a limited inquiry to  
3 Ms. Burns with -- concerning the 911 call in that  
4 event, by interviewing Ms. Burns, the 911 dispatcher,  
5 I don't know that it needs to extend to the officer  
6 but I think it could. I think it could be very  
7 limited to that. And I believe -- and that's where I  
8 focused with my motion, Judge. I mean, my motion, we  
9 knew what knew when we filed the motion. And we  
10 focused on it now. This is not -- this is not a  
11 inquisition. We're here to hopefully get to the  
12 bottom of what is a concern. Judge, thank you for  
13 your time.

14 And thank you, gentlemen.

15 THE COURT: Yes, sir.

16 MR. NICHOLS: Can I respond to one thing, Judge?

17 THE COURT: Sure.

18 MR. NICHOLS: Briefly.

19 THE COURT: Sure.

20 MR. NICHOLS: The inquiry into Ms. Burns, I  
21 guess we need to figure out what that may look like.  
22 Are we're going to ask Mr. Burns to come in here and  
23 offer testimony? Are we going to try to get their  
24 children or their family members or their friends or  
25 their pastor and try to figure out what she was.

1       telling everybody at the time? And then we're going  
2       to go in and find out from her what she was thinking  
3       whenever she heard that question and why -- I mean,  
4       this is, you know. . .

5           THE COURT: We're going to define that. You  
6       know, if we're going to do that, we're going to be  
7       very, very sensitive about an inquisition into a  
8       jurors thought process and her life and all of the  
9       other issues. We're not going to conduct any  
10      discovery, we're not going to make it into a new  
11      case. I want y'all to talk about how you would do  
12      it. My thought is this. My thought is that we --  
13      that I issue a court subpoena, together with a letter  
14      to her, calling her to court one day. Instructing  
15      her that she is not in trouble. That there are  
16      questions regarding representations made of jury  
17      qualification. That both sides give me a list of  
18      questions from which I can elect to ask her on the  
19      record. And those essentially will be -- those will  
20      be tailored to whether, in fact, she made an  
21      intentional misrepresentation to the court. It would  
22      be a very limited inquiry, all right.

23           Now, that's my thought on the whole matter.  
24      Now, the rest of all of this material in a  
25      evidentiary hearing may be able to be presented as



1 part of the record. And y'all can look at that and  
2 decide whether, in fact, you want to do that or not.  
3 And then make a decision based upon all of the  
4 evidence that bears upon the issue. But we're not  
5 going to make a new case out of it. I'm not going to  
6 allow the parties to issue subpoenas, to conduct  
7 depositions or to bring anybody else to the courtroom  
8 other than those people who have been specifically  
9 directed by a court subpoena. By court subpoena.  
10 Okay.

11 Now, again --

12 Yes, sir.

13 MR. HARTER: I was just going to ask one  
14 question.

15 THE COURT: Sure.

16 MR. HARTER: And I don't know whether this is a  
17 proper question or not, I don't know. But I wonder,  
18 and I know based on information that Ms. Burns -- or  
19 that maybe counsel, you know, being good lawyers,  
20 trying to, you know, be better lawyers, but sent out  
21 queries to jurors and if they got any feed back from  
22 them. I would wonder if any feed back came from  
23 Ms. Burns that would bear on this. And I would just  
24 question that. I have not spoken to Ms. Burns, I  
25 have no intention to and I don't know whether there

1 was any response--

2 THE COURT: That is what --

3 MR. HARTER: -- to that --

4 THE COURT: -- anything like that. And y'all  
5 can talk to me about it.

6 MR. WILSON: Judge, I'll just go ahead and tell  
7 you now as an officer of the court, we wrote all the  
8 jurors, as is my practice in every case. I'll be  
9 glad to provide a copy of the letter if you want to  
10 see it that basically says, In an effort to gain feed  
11 back and improve our skills and get your opinions on  
12 jury service on this case in particular. If you  
13 would like to speak with us, please contact us at  
14 your convenience and call us if you need to.

15 I think is what is says.

16 THE COURT: Yeah.

17 MR. WILSON: And I don't know, Your Honor, how  
18 many jurors, because I think that maybe I spoke with  
19 Mr. Luginbill but we had contact from, I believe,  
20 more than one juror. I know Ms. Burns is a juror  
21 that called our office. And she spoke with  
22 Mr. Luginbill about this case and there was no  
23 discussion of any issue that Mr. Harter is raising in  
24 his motion on this before the Court. She was talking  
25 about the facts of the case and her impression of the

1 evidence and whether she liked the way it was  
2 presented and whether the board was big enough to see  
3 the screen. But nothing about any of this matter  
4 here, Your Honor.

5 THE COURT: Okay.

6 MR. WILSON: And if you want an affidavit to  
7 that effect, we'll be happy to provide that.

8 THE COURT: Okay.

9 MR. HARTER: That's fine, I accept that. And I  
10 just brought that up because --

11 THE COURT: This is what I want y'all to do. I  
12 want y'all to talk. Decide how you would conduct an  
13 evidentiary hearing and how you would like to do it.  
14 I told you what my preference is. And then after  
15 Christmas, during the week between Christmas and New  
16 Years, perhaps we have a conference call. It can be  
17 an ad hoc conference call. Y'all can call me at any  
18 time. Y'all come up afterwards, I'll give you my  
19 cell phone. And y'all just call me whenever you want  
20 to and we'll talk through it and see what the  
21 mechanism should be.

22 Again, I don't want to conduct an inquisition  
23 into juror conduct. But the problem is, if alleged  
24 juror misconduct or intentional misrepresentation  
25 drops into my lap, what am I to do with it? What am

1 I to do with it? And again, we have the competing  
2 interest of the finality of jury verdicts and the  
3 sanctity of deliberations. And the court's ultimate  
4 role in fundamental fairness to all the parties that  
5 come before the court.

6 Now, this may be something that the Appellate  
7 Courts, The Supreme Court of the State will opine on  
8 and issue some guidance, going to give us public  
9 policy regarding how far we should go. But I think  
10 right now my inclination is to at least establish a  
11 record so that they can make an informed decision so  
12 that all of the bar will know how to proceed in these  
13 instances. Okay.

14 So again, y'all get back to me and tell me how  
15 you want to conduct an evidentiary hearing. I told  
16 y'all my opinion, y'all tell me whether that suits  
17 you, okay.

18 MR. HARTER: Thank you, Judge.

19 THE COURT: All right, thank you.

20 MR. NICHOLS: Thank you, Judge.

21 THE COURT: Yes, sir.

22 Y'all have great day and have a Merry Christmas.

23 (WHEREUPON, the proceedings were concluded.)  
24  
25

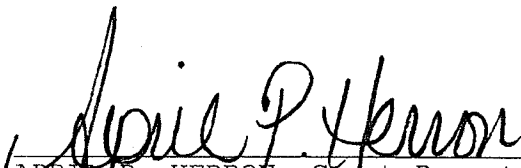
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA       )  
COUNTY OF GREENVILLE       )

I, APRIL P. HERRON, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Greenville County, South Carolina, on the 17th day of December, 2015.

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

August 26, 2016

  
APRIL P. HERRON, Court Reporter

STATE OF SOUTH CAROLINA )

COUNTY OF GREENVILLE )

) COURT OF COMMON PLEAS

) 2013-CP-23-06522

) MADEL C. RIVERO, AS PERSONAL )

) REPRESENTATIVE OF THE ESTATE )

) OF LILIA LORENA BLANDIN )

) PLAINTIFF)

vs. )

) TRANSCRIPT OF RECORD

) SHERIFF STEVE LOFTIS, IN IS )

) CAPACITY AS SHERIFF OF )

) GREENVILLE COUNTY )

) DEFENDANT)

COPY

September 28 - October 1, 2015  
Greenville, South Carolina

B E F O R E:

THE HONORABLE ROBIN B. STILWELL, Judge; and a  
jury.

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

DANIEL J. FARNSWORTH, JR., ESQ.

DANIEL W. LUGINBILL, ESQ.

J. CHRISTOPHER WILSON, ESQ.

Attorneys for the Plaintiff

RUSSELL W. HARTER, JR., ESQ.

CARLY H. DAVIS, ESQ.

Attorneys for the Defendant

APRIL HERRON

Official Court Reporter

1 INDEX OF WITNESSES

2

3 PATRICIA SULLIVAN

4 Direct By Mr. Luginbill . . . . . 87  
 Cross By Mr. Harter . . . . . 123  
 5 Redirect By Mr. Luginbill . . . . . 141  
 Recross By Mr. Harter . . . . . 150

6 NEIL LOGAN

7 Direct By Mr. Wilson . . . . . 157  
 Cross . . . . . 169  
 8 Redirect By Mr. Wilson . . . . . 183  
 Recross By Mr. Harter . . . . . 188

9 DAVID PICONE

10 Direct By Mr. Luginbill . . . . . 190  
 Cross By Mr. Harter . . . . . 220  
 11 Redirect By Mr. Luginbill . . . . . 241

12 KEVIN TYNER

13 Direct By Mr. Luginbill . . . . . 253

14 [REDACTED] BLANDIN

15 Examination By The Court . . . . . 285

16 [REDACTED] BLANDIN

17 Direct By Mr. Farnsworth . . . . . 290  
 Cross By Mr. Harter . . . . . 305

18 MADEL RIVERO

19 Direct By Mr. Farnsworth . . . . . 312  
 Cross By Mr. Harter . . . . . 341  
 20 Redirect By Mr. Farnsworth . . . . . 354

21 MEL TUCKER

22 Direct By Mr. Luginbill . . . . . 355  
 Cross By Mr. Harter . . . . . 383  
 23 Redirect By Mr. Luginbill . . . . . 418

24 BARBARA HEADEN

25 Direct By Mr. Wilson . . . . . 426  
 Cross By Mr. Harter . . . . . 428

|    |                                              |      |
|----|----------------------------------------------|------|
| 1  | KIM SELVY                                    |      |
| 2  | Direct By Mr. Farnsworth . . . . .           | .429 |
| 3  | Cross By Mr. Harter . . . . .                | .436 |
| 4  | JENNA SPENCER                                |      |
| 5  | Direct By Mr. Wilson . . . . .               | .445 |
| 6  | Cross By Mr. Harter . . . . .                | .453 |
| 7  | MICHAEL WARD                                 |      |
| 8  | Direct By Mr. Luginbill . . . . .            | .458 |
| 9  | Cross By Mr. Harter . . . . .                | .464 |
| 10 | Redirect By Mr. Luginbill . . . . .          | .470 |
| 11 | Recross By Mr. Harter . . . . .              | .472 |
| 12 | JACK RYAN                                    |      |
| 13 | Direct By Mr. Harter . . . . .               | .493 |
| 14 | Cross By Mr. Luginbill . . . . .             | .548 |
| 15 | Redirect By Mr. Harter . . . . .             | .590 |
| 16 | Recross By Mr. Luginbill . . . . .           | .597 |
| 17 | » > o < «                                    |      |
| 18 | Opening Statement by Mr. Luginbill . . . . . | 50   |
| 19 | Opening Statement by Mr. Harter . . . . .    | 67   |
| 20 | Closing Statement by Mr. Luginbill . . . . . | .619 |
| 21 | Closing Statement by Mr. Harter . . . . .    | .642 |
| 22 | Closing Statement by Mr. Luginbill . . . . . | .660 |
| 23 | Jury Charge . . . . .                        | .666 |
| 24 | Verdict . . . . .                            | .705 |
| 25 | Certificate of Reporter . . . . .            | .708 |

#### PLAINTIFF EXHIBITS

| 18 | <u>NO</u> | <u>DESCRIPTION</u>                | <u>ID</u> | <u>EV</u> |
|----|-----------|-----------------------------------|-----------|-----------|
| 19 | 1         | CD 12/9/11 Lilia Blandin 911 Call | 48        | 49        |
| 20 | 2         | Transcript                        | 48        | 49        |
| 21 | 3         | CD 12/9/11 Juana Hamby 911 Call   | 48        | 49        |
| 22 | 4         | CD 12/9/11 Juana Hamby 911 Call   | 48        | 49        |
| 23 | 5         | Transcript                        | 48        | 49        |
| 24 | 6         | CD 12/9/11 Patricia Sullivan Call | 48        | 49        |
| 25 | 7         | Transcript                        | 48        | 49        |



|    |    |                                             |     |     |
|----|----|---------------------------------------------|-----|-----|
| 1  | 8  | GCSO Incident Recall 12/9/11                | 48  | 49  |
| 2  | 9  | GCSO Incident Detail 12/9/11                | 48  | 49  |
| 3  | 10 | GCSO General Order 238                      | 48  | 49  |
| 4  | 13 | 10/31/11 Bond Order - Avery Blandin         | 48  | 49  |
| 5  | 14 | Photograph                                  | 48  | 49  |
| 6  | 18 | Six Photographs                             | 48  | 49  |
| 7  | 22 | Birthday Card                               | 48  | 49  |
| 8  | 23 | Deputy Tyner's Supplemental Report 12/11/11 | 48  | 49  |
| 9  |    |                                             |     |     |
| 10 | 24 | Economic Analysis                           | 442 | 442 |
| 11 | 25 | Photograph                                  | 48  | 49  |
| 12 | 26 | Photograph                                  | 48  | 49  |
| 13 | 27 | Photograph                                  | 48  | 49  |
| 14 | 28 | Photograph                                  | 444 | 444 |

15

16

## DEFENDANT EXHIBITS

|    |           |                    |           |           |
|----|-----------|--------------------|-----------|-----------|
| 17 | <u>NO</u> | <u>DESCRIPTION</u> | <u>ID</u> | <u>EV</u> |
| 18 | 1         | Arrest Warrant     | 489       | 492       |

19

20

## COURT EXHIBITS

|    |           |                    |           |           |
|----|-----------|--------------------|-----------|-----------|
| 21 | <u>NO</u> | <u>DESCRIPTION</u> | <u>ID</u> | <u>EV</u> |
| 22 | 1         | Note from Jury     | 695       | 695       |
| 23 | 2         | Note from Jury     | 697       | 697       |
| 24 | 3         | Note from Jury     | 700       | 700       |

25

1           THE COURT: All right, ladies and gentlemen,  
2 welcome upstairs to courtroom six. Good to see you  
3 again. As I promised you downstairs, we are going to  
4 pick a jury for the first case that is up this week.  
5 I remind you that you remain under the oath that you  
6 took downstairs. Now, when I ask you questions,  
7 again, the process will essentially be the same. And  
8 that is, when I ask you a question, if the answer is  
9 in the affirmative, I'll ask you stand up and state  
10 your name and your juror number and then respond to  
11 the question appropriately. Now, I would ask that  
12 each time you stand up, state your name and your  
13 juror number because now the court reporter is taking  
14 down everything that is being said in the courtroom.  
15 And it's important that for the record, that it's  
16 clear who responded to what question.

17           All right, ladies and gentlemen, the case that  
18 we are calling to bar today is Madel C. Rivero,  
19 Personal Representative of the Estate of Lilia  
20 Blandin vs. Sheriff Steve Loftis in his capacity as  
21 Sheriff of Greenville County. Additional  
22 Defendants --

23           Do all the additional Defendants remain in this  
24 caption?

25           MR. HARTER: That's the only one, Your Honor.

1           THE COURT: All right, ladies and gentlemen,  
2           that's Case No. 2013-CP-23-6522. Ladies and  
3           gentlemen, this is a case in which Mrs. Lilia Blandin  
4           was stabbed to death inside Wal-Mart on Whitehorse  
5           Road on December 10th, 2011. The Plaintiff contends  
6           that Lilia Blandin was killed as a result of  
7           Greenville County Sheriff's Office negligently  
8           failing to arrest her husband the day before her  
9           murder. The sheriff's office contends that there was  
10          no legal basis to arrest Mrs. Blandin's husband on  
11          December 9th, 2011, based on the information they had  
12          at the time.

13                 Now, ladies and gentlemen, the reason I read to  
14          you that very basic allegations one to the other, is  
15          so that you can answer this question intelligently.  
16          Is there anyone among you who has any prior  
17          knowledge, any prior opinion, any prior disposition  
18          regarding the allegations or the parties in this  
19          lawsuit?

20                 There was no response.

21                 Ladies and gentlemen, is there anyone among you  
22          who has heard any media reports regarding this  
23          incident?

24                 There was no response.

25                 Heard or read?

1           There was no response.

2           Okay. All right. Ladies and gentlemen, in this  
3 case the Plaintiff is Ms. Madel C. Rivero.

4           Have I pronounced that right?

5           MR. FARNSWORTH: Yes, sir, Your Honor.

6           THE COURT: Ms. Madel C. Rivero, as Personal  
7 Representative of the Estate of Lilia Lorena Blandin.  
8 Is there anyone among you who has a personal,  
9 professional or family relationship with Ms. Rivero  
10 or with the deceased, Mrs. Blandin?

11          There was no response.

12          Ladies and gentlemen, in this case Ms. Rivero is  
13 represented by Mr. Christopher Wilson and Mr. Daniel  
14 Luginbill of Wilson and Luginbill, LLC of Bamberg,  
15 South Carolina. They are also -- the Plaintiff is  
16 also represented by Mr. Daniel Farnsworth of the  
17 Farnsworth Law Firm in Greenville, South Carolina.  
18 I'll ask you, is there anyone among you who has a  
19 personal, professional or family relationship with  
20 any of the attorneys for the Plaintiff?

21          There was no response.

22          Ladies and gentlemen, the Defendant in this case  
23 is Sheriff Steve Loftis. Is there anyone among you  
24 who has a personal or professional relationship or  
25 family relationship with Sheriff Loftis? Or with

1 anyone employed within his office?

2 All right, let the record reflect no affirmative  
3 response.

4 Ladies and gentlemen, the Defendant is  
5 represented by Mr. Russell W. Harter, Jr. and Carly  
6 Harter Davis of Chapman, Chapman and Harter, P.A. in  
7 Greenville, South Carolina. Is there anyone among  
8 you who has a personal, professional or family  
9 relationship with defense counsel?

10 There was no response.

11 Ladies and gentlemen, I'm going to read for you  
12 a list of potential witnesses in this case. Now,  
13 this may be inclusive but it may have a few more than  
14 will actually testify, maybe a few less. Because  
15 each case kind of takes on a life of its own from  
16 time to time. But these are potential witnesses.  
17 After I've read them out, I'll ask you the same  
18 question of whether you have a personal,  
19 professional, family relationship with any of them.

20 Kevin Tyner, David Picone, Jan Kiser, Neil  
21 Logan, Mark McCoy, Jeff Granner, Jim Perry, Jason  
22 Cassel, Patricia Sullivan, Antonio Bailey, Roger  
23 Dobbs, Sheriff Steve Loftis, Jenna Spencer, Avery  
24 Blandin, Madel Rivero, Lilia Blandin, [REDACTED]  
25 Blandin, [REDACTED] Blandin, [REDACTED] Blandin, Juana

1 Hamby, Jorge Vasquez, Leroy Hamby, Dr. Mike Ward,  
2 Melvin Tucker, John "Jack" Ryan. Ladies and  
3 gentlemen, I'll ask you, is there anyone among you  
4 who has a personal, professional or family  
5 relationship with any of those potential witnesses?

6 All right, sir, if you would stand and state  
7 your name and juror number, please.

8 PROSPECTIVE JUROR: Clyde Lacount, number 36.  
9 Jeff Granner.

10 THE COURT: Okay. All right, sir, what's the  
11 nature of your relationship with him?

12 PROSPECTIVE JUROR: Friends.

13 THE COURT: Okay. Do you think knowing that  
14 fact that you can still be a fair and impartial juror  
15 in the trial of this case?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: Okay, thank you, for telling me,  
18 sir. I appreciate that.

19 Anybody else?

20 Ladies and gentlemen, I'll ask you--

21 MR. WILSON: Your Honor.

22 THE COURT: Yes, sir.

23 MR. WILSON: Can we approach one moment, please?

24 THE COURT: Sure.

25

1 (WHEREUPON, an off-the-record bench conference  
2 was held in the presence of the jury but out of  
3 the hearing of the jury.)

4 THE COURT: All right, ladies and gentlemen of  
5 the jury, I apologize for that pause. That's my  
6 fault. The attorneys had given me an additional list  
7 of names that I had among all this paperwork that  
8 I've already accumulated up here, so I apologize for  
9 it. Additional witnesses may include Barbara Headen,  
10 Emma Jean Whitener, Neil Logan, G. Richard Thompson,  
11 Ph.d, Jenna Spencer, Anthony Tuggle and Kim Selvy.  
12 Ladies and gentlemen, any of you have a personal,  
13 professional or family relationship with any of those  
14 additional proposed witnesses?

15 Okay, let the record reflect no affirmative  
16 response.

17 Ladies and gentlemen, is there anyone among you  
18 who is a personal friend, political contributor or  
19 political supporter of Sheriff Steve Loftis, The  
20 Greenville County Sheriff?

21 There was no response.

22 Ladies and gentlemen, is there anyone among you  
23 who has--

24 MR. LUNGINBILL: Judge --

25 THE COURT: Yes, sir.

1 MR. LUNGINBILL: Would you clarify that, Judge?

2 THE COURT: Yes, sir, I'll read it again.

3 Anyone among you is a personal friend, political  
4 contributor or political supporter of the Sheriff,  
5 Steve Loftis?

6 PROSPECTIVE JUROR: I'm a political supporter.

7 THE COURT: All right. Will you stand up and  
8 state your name and juror number for the record,  
9 please, sir?

10 PROSPECTIVE JUROR: Yes, Frank Raddis.

11 THE COURT: And your juror number?

12 PROSPECTIVE JUROR: 59.

13 THE COURT: Okay. All right. And you are a  
14 political supporter of the sheriff, sir?

15 PROSPECTIVE JUROR: Yes, sir.

16 THE COURT: Okay. Have you contributed money to  
17 his campaign, sir?

18 PROSPECTIVE JUROR: No, sir.

19 THE COURT: Okay. Do you think given the fact  
20 that you're a political supporter of his that it  
21 would affect your ability to be fair and impartial  
22 and objective in this case, sir?

23 PROSPECTIVE JUROR: No, sir.

24 THE COURT: Okay. I appreciate you letting me  
25 know, thank you.



1           Okay, anyone else?

2           There was no response.

3           All right, is there anyone among you that has  
4           ever been employed by or had an immediate family  
5           member or close personal friend who is employed as a  
6           law enforcement officer or a 911 operator? Okay,  
7           there might be several of you. So, y'all just stand  
8           up and as you answer you can just sit back down.

9           Yes, sir.

10          PROSPECTIVE JUROR: Juror number 25, Charles  
11          Harrigan.

12          THE COURT: Yes, sir.

13          PROSPECTIVE JUROR: My college roommate is now a  
14          police officer for Greenville City police.

15          THE COURT: Do you think that you can still be  
16          fair and impartial on this case, sir?

17          PROSPECTIVE JUROR: Yes, sir.

18          THE COURT: All right, thank you for telling me.  
19          I appreciate it.

20          Yes, sir.

21          PROSPECTIVE JUROR: Jeff White, juror No. 78.

22          THE COURT: Yes, sir.

23          PROSPECTIVE JUROR: One of my coworkers had a  
24          son who was employed with the Greenville County  
25          Police Department.

1 THE COURT: Okay. Do you think that you can  
2 still be fair and impartial in this case, sir?

3 PROSPECTIVE JUROR: I do.

4 THE COURT: Thank you, I appreciate it, sir.  
5 Yes, sir.

6 PROSPECTIVE JUROR: William Snyder, juror No.  
7 64. I was previously a law enforcement officer in  
8 the municipality of Fountain Inn and multiple friends  
9 in the department.

10 THE COURT: Okay, do you think that you can  
11 still be fair and impartial in this case, sir?

12 PROSPECTIVE JUROR: Yes, sir.

13 THE COURT: Thank you for telling me that, I  
14 appreciate it.

15 Yes, sir.

16 PROSPECTIVE JUROR: Benjamin Poole, number 57, I  
17 believe.

18 THE COURT: Yes, sir.

19 PROSPECTIVE JUROR: Uncle was a police chief and  
20 officer in the State of Michigan.

21 THE COURT: Okay. Do you think that you can be  
22 fair and impartial in this case, sir, given that  
23 fact?

24 PROSPECTIVE JUROR: Yes, sir.

25 THE COURT: Thank you, I appreciate you telling

1 me.

2 Yes, sir.

3 PROSPECTIVE JUROR: Louise Brody, No. four. My  
4 father is a retired police officer and chief of  
5 police.

6 THE COURT: Do you think that you can still be  
7 fair and impartial in this case, sir?

8 PROSPECTIVE JUROR: Yes, sir.

9 THE COURT: Okay. Thank you for telling me, I  
10 appreciate it.

11 Anyone else?

12 There was no response.

13 All right, is there anyone among you who would  
14 tend to hold the testimony of a law enforcement  
15 officer in higher regard or believe it to be more  
16 credible than the testimony than a member of the  
17 general public?

18 All right, let the record reflect no affirmative  
19 response.

20 And I think I've already asked you this but it's  
21 worth stating again. Has anyone read, seen or heard  
22 anything about this December 10th, 2011 incident at  
23 Wal-Mart on Whitehorse Road?

24 Okay, let the record reflect --

25 Oh, you have? Okay. Stand up and give me your

1 name and juror number, please.

2 PROSPECTIVE JUROR: Kyle Martin, 43.

3 THE COURT: Okay. Have you heard media reports  
4 is that correct, sir?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: Okay. Read it in the newspaper, see  
7 it on the news?

8 PROSPECTIVE JUROR: Well, at the time my  
9 step-daughter was actually working there when it  
10 happened.

11 THE COURT: Okay. All right. So, you heard  
12 from it -- from an account with an employee of  
13 Wal-Mart?

14 PROSPECTIVE JUROR: Yes, my step-daughter that  
15 was an employee at the time and on the news.

16 THE COURT: Okay. Do you think that you can  
17 still be fair and impartial in this case, sir?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: Okay. Good enough, thank you for  
20 telling me.

21 Yes, sir.

22 Either of you.

23 PROSPECTIVE JUROR: Number 10.

24 THE COURT: Yes, sir.

25 PROSPECTIVE JUROR: Seen it on the news. In the

1 newspaper.

2 THE COURT: Okay, do you think that you can  
3 still be fair and impartial having seen it on the  
4 media?

5 PROSPECTIVE JUROR: Yes, sir.

6 THE COURT: Okay. Thank you for telling me, I  
7 appreciate it.

8 Yes, sir.

9 PROSPECTIVE JUROR: Travis Norman, juror No. 49,  
10 I seen it the news, media on it.

11 THE COURT: Okay, do you think having seen it on  
12 the news that you can still be fair and impartial,  
13 sir?

14 PROSPECTIVE JUROR: I think I could.

15 THE COURT: Okay, thank you for telling me,  
16 appreciate it, sir.

17 Yes, ma'am.

18 PROSPECTIVE JUROR: Priscilla Winley, juror No.  
19 80, I saw it on the news.

20 THE COURT: Okay, you think you can still be  
21 fair and impartial in this case, ma'am?

22 PROSPECTIVE JUROR: Yes, sir.

23 THE COURT: Okay, thank you, I appreciate it.

24 Anyone else?

25 There was no response.

1           Is there anyone on the jury panel who believes  
2           that lawsuits can influence governmental  
3           organizations or companies to operate more safely?

4           All right, let the record reflect no affirmative  
5           response.

6           Is there anyone among you or a member of your  
7           family, to your knowledge, ever brought a lawsuit or  
8           asserted a claim against a law enforcement agency or  
9           officer, 911 officer, dispatcher or communication  
10          officers or first responder?

11          All right, let the record reflect no affirmative  
12          response.

13          Is there anyone among you who has been a victim  
14          of criminal domestic violence?

15          Yes, ma'am.

16          PROSPECTIVE JUROR: Heidi Letterman, juror No.  
17          40.

18          THE COURT: Yes, ma'am.

19          PROSPECTIVE JUROR: My first marriage of eight  
20          years was a criminal domestic relationship.

21          THE COURT: Do you think that you can still be  
22          fair and impartial in this case, ma'am?

23          PROSPECTIVE JUROR: It's not likely.

24          THE COURT: Okay, I appreciate you telling me  
25          that. Thank you.

1 All right, anyone else?

2 There was no response.

3 All right, is there anyone among you or a member  
4 of your family, to your knowledge, ever been stopped  
5 or arrested by a law enforcement officer for anything  
6 other than a minor traffic violation?

7 Yes, ma'am, name and juror number?

8 PROSPECTIVE JUROR: Jo Rae Jetton, juror No. 33.

9 THE COURT: Okay. All right. And, ma'am,  
10 having been stopped, did you have any problems with  
11 an investigating officer or an arresting officer or  
12 law enforcement?

13 PROSPECTIVE JUROR: Are you talking about a  
14 vehicle thing?

15 THE COURT: Anything other than a vehicle stop.  
16 If it was just a traffic -- a minor traffic  
17 violation, you don't need to worry about it.

18 PROSPECTIVE JUROR: I was--

19 THE COURT: You don't have to tell me what it  
20 was.

21 PROSPECTIVE JUROR: Okay.

22 THE COURT: All you have to do is say yes or no.  
23 The purpose of me asking you these questions isn't to  
24 embarrass you or pry into your personal business. It  
25 influences what the strikes are that the attorneys

1 will make. So, really, what I'm asking you is, have  
2 you ever been stopped or arrested for something other  
3 than a minor traffic violation? And if so, did you  
4 have issues with law enforcement?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: Okay. All right. And can you tell  
7 me would that experience affect your ability to be  
8 fair and impartial in the case before the Court  
9 today?

10 PROSPECTIVE JUROR: I don't think it would  
11 affect me, no.

12 THE COURT: Okay. All right, thank you for  
13 telling me. I do appreciate it.

14 Yes, ma'am.

15 PROSPECTIVE JUROR: I'm Heidi Letterman, juror  
16 No. 40, yes, I have.

17 THE COURT: Okay. All right. Why you say, Yes,  
18 you have. You had issues and problems with law  
19 enforcement officers?

20 PROSPECTIVE JUROR: Uh-huh.

21 THE COURT: Okay. And I know you've already  
22 stated to me that you thought you had some issues  
23 with this case and that it would affect your  
24 objectivity. Would that still continue to affect  
25 your objectivity?



1 PROSPECTIVE JUROR: Yes, sir.

2 THE COURT: Okay, thank you, I appreciate it.

3 Yes, sir.

4 PROSPECTIVE JUROR: Judge, I'm Benjamin Smith,  
5 juror No. 63. And I guess to, you know, go with your  
6 question, my brother, he had a CDV charge against him  
7 and I was there. And it wasn't his fault and I saw  
8 it. So, the police came and talked to them and it  
9 was just kind of -- yeah.

10 THE COURT: Okay. Do you think given that fact  
11 that you can still be fair and impartial in this  
12 case?

13 PROSPECTIVE JUROR: Yeah.

14 THE COURT: Okay, thank you for telling me, I  
15 appreciate it.

16 Okay, if you've responded in the affirmative  
17 already to this question in some form, you don't have  
18 to respond again. But I'll pose a more specific  
19 question to you and general question. Have you or  
20 any member of your family, to your knowledge, ever  
21 had a bad experience with a police officer or a law  
22 enforcement officer or a 911 or a communication  
23 specialist or a dispatcher officer?

24 Yes, sir.

25 PROSPECTIVE JUROR: Juror number 25, Charles

1 Harrigan.

2 THE COURT: Yes, sir.

3 PROSPECTIVE JUROR: My brother filed a complaint  
4 against a Greenville County officer.

5 THE COURT: Okay. Do you think you can still be  
6 fair and impartial in this case given that fact, sir?

7 PROSPECTIVE JUROR: Most likely.

8 THE COURT: All right, thank you, sir, I  
9 appreciate it.

10 Anyone else?

11 And I know there are a couple of you that have  
12 already responded so you don't need to respond again.  
13 Anyone else? Okay. All right, ladies and gentlemen,  
14 is there anyone among you who for whatever reason  
15 feels as though you could not be a fair and impartial  
16 juror in the trial of this case and render a verdict  
17 in accordance with the law as I give it to you?

18 Yes, ma'am, and you've already stated that  
19 clearly and I appreciate it.

20 Okay. Okay, gentlemen, any additional questions  
21 of voir dire?

22 MR. WILSON: None from the Plaintiff, Your  
23 Honor.

24 THE COURT: Did I miss one, Mr. Harter?

25 MR. HARTER: I don't think you did, Judge.

1 Thank you.

2 THE COURT: All right.

3 Okay, ladies and gentlemen, at this point the  
4 attorneys are now reviewing the strike sheets that  
5 have been prepared by the Clerk's Office. When you  
6 were qualified this morning, after qualification, the  
7 clerk generated a random listing of jurors. So, the  
8 attorneys could make strikes in this case.  
9 Subsequent to the voir dire, the attorneys are  
10 reviewing those lists to determine what strikes they  
11 will actually make in this case. Now, your names are  
12 listed in random order. They're not in alphabetical  
13 order and they're not in order of your juror numbers.  
14 Each side will get four strikes. The Plaintiff will  
15 strike first, then the Defendant will have the  
16 opportunity to strike.

17 When they strike they strike by number -- by the  
18 number in sequence that it was arranged by the Clerk  
19 of Court's Office. So, you won't know whether you're  
20 stricken or not. If you're juror No. 5 and you hear  
21 the attorneys say, We strike No. 5, it's not going to  
22 be you, it's going to be No. 5 on this list. So, you  
23 will never know if you've been stricken or not. When  
24 the attorneys indicate to me that they're ready, then  
25 we'll begin those strikes. But I'll give them some

1 latitude in looking over the list.

2 You ready?

3 MR. WILSON: Judge.

4 THE COURT: Yeah?

5 MR. WILSON: Let's just approach the bench.

6 (WHEREUPON, an off-the-record bench conference  
7 was held in the presence of the jury but out of  
8 the hearing of the jury.)

9 (WHEREUPON, an on the record bench conference  
10 was held in the presence of the jury but out of  
11 the hearing of the jury.)

12 MR. WILSON: Did you excuse Ms. Letterman?

13 THE COURT: Yeah, she indicated that she  
14 couldn't be impartial so we're going to take her off  
15 the list. So, you'll execute your first strikes  
16 between 1 and 21, excluding No. 6.

17 (WHEREUPON, the bench conference concluded.)

18 THE COURT: Okay, y'all want one or two?

19 MR. HARTE: We want two.

20 THE COURT: All right, Madam Clerk, your show.

21 THE CLERK: Plaintiff strikes first.

22 MR. WILSON: Please excuse juror No. 10.

23 THE CLERK: Plaintiff strikes 10.

24 MR. HARTE: Defendant strikes No. 17.

25 THE CLERK: Defendant strikes 17.

1 MR. WILSON: Please excuse No. 11.  
2 THE CLERK: Plaintiff strikes 11.  
3 MR. HARTER: Defendant strikes No. 3.  
4 THE CLERK: Defendant strikes 3.  
5 MR. WILSON: Please excuse No. 13.  
6 THE CLERK: Plaintiff strikes 13.  
7 MR. HARTER: Defendant strikes No. 21.  
8 THE CLERK: Defendant strikes 21.  
9 MR. WILSON: Please -- just one moment, please.  
10 Please excuse No. 7.  
11 THE CLERK: Plaintiff strikes 7.  
12 MR. HARTER: Defendant strikes No. 8.  
13 THE CLERK: Defendant strikes 8.  
14 Now, we'll get the first alternate from 22, 23  
15 and 24..  
16 MR. WILSON: Please excuse No. 22.  
17 THE CLERK: Plaintiff strikes 22.  
18 MR. HARTER: Defendant strikes 24.  
19 THE CLERK: Defendant strikes 24.  
20 And our second alternate will come from 25, 26  
21 and 27.  
22 MR. WILSON: Please excuse No. 25.  
23 THE CLERK: Plaintiff strikes 25.  
24 MR. HARTER: Defendant strikes No. 27.  
25 THE CLERK: Defendant strikes 27.

1           Gentlemen, I'll call these back to you.

2           Plaintiff strikes 7, 10, 11, 13, 22 and 25.

3           Defendant strikes 3, 8, 17, 21, 24 and 27.

4           MR. WILSON: That's correct.

5           MR. HARTER: That is correct.

6           THE COURT: All right, counsel, any matters of  
7           law or issues to take up with regard to the  
8           qualification or selection of this jury?

9           MR. WILSON: Could we have just one moment,  
10          please, Your Honor?

11          THE COURT: Yes, sir.

12          MR. WILSON: None from the Plaintiff, Your  
13          Honor.

14          MR. HARTER: None from us.

15          THE COURT: All right, good enough.

16          Call them forward.

17          THE CLERK: Ladies and gentlemen, when I call  
18          your name, please, bring your things and have a seat  
19          in our jury box. Charles Cornish, Darrell  
20          Washington, Keith O'Connell, Hans Hansen, Robin  
21          Burns, Bobby Chapman, Jeffrey White, Juliette  
22          Phillips, Corbitt Johnson, Alexandria Nunweiler,  
23          Pearl Collins, Amanda Carden. Our first alternate is  
24          Benjamin Poole. Second alternate is Taylor Higgins.

25          THE COURT: All right, ladies and gentlemen, my

1       condolences to those of you who didn't make it on  
2       this jury, better luck next time. We may be calling  
3       another jury this week, it really all depends on how  
4       long this trial lasts. So, what I'll ask you to do  
5       is go back downstairs to your jury coordination room  
6       and I think Judy is going to dismiss you almost  
7       immediately. But I think she's got some certain  
8       points of business to take up with you. So, thank  
9       you for coming up. If I don't see you again, thank  
10      you for your service on jury duty. And I hope y'all  
11      have a good week. If I don't see you again, a good  
12      weekend.

13               (WHEREUPON, the jury venire was excused at  
14               approximately 11:35 a.m.)

15           THE COURT: All right. Counsel, I know that we  
16      had discussed earlier this morning y'all have a few  
17      matters to take up pre-trial. Are those motions,  
18      issues, still outstanding?

19           MR. WILSON: They are, Your Honor.

20           THE COURT: Can we still do our opening  
21      statements before those matters are resolved?

22           MR. WILSON: No, Your Honor.

23           MR. HARTER: I think we could, but.

24           THE COURT: All right. All right.

25           Ladies and gentlemen, what I'm going to do is

1 I'm going to take a short -- I'm going to ask y'all  
2 to take a short break. Mr. Anderson will show you  
3 where your jury room is and get you acquainted with  
4 the logistics of the courthouse. And I'm going to do  
5 one of two things. I'm either going to bring you  
6 back in and do a brief opening charge on the law and  
7 opening statements, or I'm going to release you for  
8 lunch. It really depends on how much time this is  
9 going to take. If it's going to take a substantial  
10 amount of time, I'm going to let y'all go and bring  
11 you back. If I can get it done in about ten minutes,  
12 I'm going to go ahead and proceed, okay. So, you'll  
13 know in just a few minutes. Okay. All right.  
14 Thank you.

15 (WHEREUPON, the jury left open court at  
16 approximately 11:37 a.m.)

17 THE COURT: Okay. How many motions do y'all  
18 have?

19 MR. WILSON: Judge, it's -- I'm sorry, Your  
20 Honor, it's six issues that are all laid out right  
21 there.

22 THE COURT: All right.

23 MR. WILSON: Mr. Harter has a copy of that.  
24 Judge, I think some of them are probably agreeable as  
25 we go through them.



1 THE COURT: Okay.

2 Bring them in, please.

3 (WHEREUPON, the jury came into open court at  
4 approximately 11:45 a.m.)

5 MR. HARTER: Can I take up something?

6 THE COURT: Sure.

7 (WHEREUPON, Mr. Harter had an off-the-record  
8 conversation with Mr. Wilson.)

9 THE COURT: All right, ladies and gentlemen, I'm  
10 going to take this opportunity to give you an opening  
11 charge. That is to tell you how we will conduct this  
12 case and generally the rules and procedures that we  
13 will follow during the conduct of the case. Take me  
14 about 15 minutes. When I'm done, when I'm done, I'll  
15 release you to lunch and then ask you to come back in  
16 an hour or hour and a half, depending on how much  
17 time we need. Now, ladies and gentlemen, I always  
18 find that it is helpful on the front end of the case  
19 for me to give you some idea of the process and the  
20 procedure that we will follow in the conduct of the  
21 case. And then I'll also explain to you what your  
22 role is as jurors in the case.

23 So, we'll start there. Your role as jurors in  
24 the trial of the case is to be the triers of fact.  
25 The finders of the fact. You will determine what the

1 facts are in this case based on the evidence that is  
2 presented at trial. Now, you have the sole and  
3 exclusive responsibility and authority to determine  
4 what the facts are. The parties will introduce  
5 evidence in the case. You will take that evidence,  
6 you will weigh and value it. You will determine  
7 what's credible and what is not credible. And from  
8 that you will determine what the facts are. After  
9 you have determined what the facts are, in your sole  
10 and exclusive discretion, then you will apply the  
11 law as I give it to you to the facts as you determine  
12 them to be and come to a verdict.

13 Now, I've told you, you are the judges of the  
14 facts. But I am the judge of the law. So, I just  
15 told you you will apply the law as I give it to  
16 the facts as you determine those -- as you determine  
17 them to be. Now, I'm the judge of the law. Which  
18 means that during the conduct of this trial I'll make  
19 sure we're following the appropriate procedure. and  
20 I'll make sure we're following the law, the rules of  
21 evidence and the rules of court.

22 Now, during the conduct of the trial, it will be  
23 necessary for me to make rulings on motions that are  
24 made by counsel. Now, when I rule on a motion, I  
25 necessarily am going to rule for someone and against

1        someone else. I don't want you to take from that  
2        that I have a preference or bias one way or the  
3        other. I truly don't. But when a motion is made  
4        then I must necessarily make a decision. And I'm  
5        making an objective decision based on my  
6        understanding of the law and on my understanding of  
7        the rules of evidence. But understand I'm just a  
8        fair and impartial umpire calling balls and strikes.  
9        And I don't have any stake in the outcome of this  
10       trial. And I don't have any opinion about what your  
11       decision should be.

12            If during the course of this trial I say  
13       anything that gives you the impression that I have an  
14       opinion about what the facts are in this case or  
15       about what your decision should be, disregard that  
16       because I can assure you my only, my only interest in  
17       this case is to ensure that both the Plaintiff and  
18       the Defense and all of you as well have a fair trial  
19       in this case.

20            Now, ladies and gentlemen, when this trial  
21       begins what will happen is the attorneys will have  
22       the opportunity to make brief opening statements to  
23       you. Now, those opening statements, generally  
24       speaking, are intended as a way for the attorneys to  
25       introduce themselves, their clients and their theory

1 of the case. Now, those opening statements are not  
2 evidence. That's advocacy, introductions, arguments  
3 posed by the attorneys. Those arguments, those  
4 introductions and even the questions that are posed  
5 during the conduct of a trial by attorneys are not  
6 evidence. The evidence is what is produced on the  
7 stand. Either by way of testimony from witnesses or  
8 introduction through that testimony.

9 So, after each party has the opportunity to give  
10 you opening statements, then the Plaintiff will have  
11 the opportunity to present her case. Now, the  
12 Plaintiff goes first because generally speaking the  
13 Plaintiff has the burden of proof. So, what the  
14 Plaintiff will do is call witnesses to the stand.  
15 They will call their first witness. That witness  
16 will come forward to the witness chair, take the oath  
17 of a witness and will testify. The Plaintiff will  
18 examine that witness, meaning the Plaintiff will ask  
19 that witness questions. The defense will have the  
20 opportunity to cross-examine that very same witness.

21 By and through the testimony of that witness,  
22 the parties may introduce additional evidence such as  
23 documents, such as video tapes, audio tapes, actual  
24 physical objects, evidence can take a lot of  
25 different forms. And you may see evidence introduced

1 in this case in several different forms. I can't  
2 tell you right now because I'm in the same position  
3 that you're in, which is I don't know what the  
4 evidence is going to be because I've haven't heard  
5 any of these witnesses or seen any of the evidence  
6 either. But that evidence will be introduced through  
7 the testimony and the introduction of the case.

8 After the first witness has been called and all  
9 the questions have been exhausted, then the next  
10 witness will be called. Again, that witness will  
11 take the oath of the witness, examination,  
12 cross-examination and then we will move on to the  
13 next witness. Ladies and gentlemen, after the  
14 Plaintiff has had the opportunity to present all the  
15 evidence that it deems necessary and appropriate,  
16 then the defense will have the opportunity to then  
17 call witnesses to the stand and introduce evidence as  
18 well. After the Defense rests, then under certain  
19 circumstances and from time to time the Plaintiff  
20 will put up rebuttable or reply evidence from time to  
21 time. If that is going to happen I'll let you know.  
22 Usually that's very surgical and it's designed to  
23 address a specific point that's made by the Defense.

24 After having heard all of the testimony from  
25 both parties and after all the evidence has been

1       presented, then the attorneys will have the  
2       opportunity to make closing arguments to you. Now  
3       closing arguments are just like opening statements,  
4       which is it's not evidence. You will have heard all  
5       the evidence that will be presented in the case at  
6       that point. And they will simply be commenting on  
7       the evidence that has been presented. Arguing in  
8       attempting to pursued you to their respective sides.

9       After you've heard closing arguments from  
10      counsel, then I will give you a closing charge on the  
11      law. The reason I wait till the very end is because,  
12      as I've already told you, I don't know what evidence  
13      is going to be presented in this case. And the  
14      charge on the law that I give you will relate to the  
15      evidence that's presented. And I don't what the  
16      evidence is going to be yet. So, at the end I'll  
17      give you a closing charge on the law relevant to the  
18      evidence that's been presented in this case.

19      After I give you a closing charge on the law,  
20      then I'll ask you to return to jury room and you can  
21      begin your deliberations. Now, it's very important  
22      for you to know that you cannot begin any  
23      deliberations, any conversations, any considerations  
24      about the evidence in this case until such time as I  
25      tell you to at the end of the trial.

1           Now, at the end of the trial is probably going  
2           to be on Thursday, if I had to guess right now.  
3           Don't know for sure but that's my guess right now.  
4           So during the intervening period, when we're taking  
5           breaks or when you are being released from lunch or  
6           going home, it's not appropriate for you to discuss  
7           the case with your fellow jurors or with anyone  
8           outside of the jury either. I've heard over the last  
9           several weeks judges commenting on jurors saying we  
10          weren't discussing the case, we were just talking  
11          about the witnesses. Well, just to clear up any  
12          confusion, talking about the witnesses and what they  
13          said is talking about the case. Okay.

14          So, keep your powder dry. You're going to have  
15          all the time that you want to discuss the case. I  
16          promise you that. And when the trial is over, you  
17          can discuss it casually with anyone you'd like to  
18          discuss it with. But during the pendency of the  
19          trial, don't begin any deliberations or discussions  
20          regarding the case.

21          Now, I recognize that through your common sense  
22          you probably know why that is. But at the risk of  
23          insulting your intelligence, I'm going to state it  
24          any way. You know that in your life, you know, that  
25          you cannot make any informed or intelligent decision

1       until an unless you've heard all of the evidence or  
2       all of issues and all the facts that bear upon the  
3       issue. You know that probably at some point in your  
4       life you had a child or a brother or sister, or  
5       parents, friends, whoever, who have come to you and  
6       said Hey, you're not going to believe this and have  
7       told you some story. And you were convinced of what  
8       they told you. Until you heard the other side of the  
9       story. And once you heard the other side of the  
10      story, it changes the completion of the issue  
11      entirely. Well, a trial is the same way. And it's  
12      important that you hear everything before you begin  
13      making any determination. Keep your powder dry, hear  
14      from both sides, hear all of the evidence, hear the  
15      arguments. And then, hear the law as it relates to  
16      the evidence, then you can begin making an informed  
17      and intelligent decision on this case.

18           Now, we're going to take regular breaks  
19      throughout the case. I don't intend to keep you as  
20      hostage in that jury box for the next three days.  
21      All right. Because I don't want to be hostage up  
22      here. I usually take breaks about every hour to an  
23      hour and a half depending on where the testimony is,  
24      where a witness is in his or her testimony, where we  
25      are in our day, okay. But I generally find that



1       between an hour, hour and a half is about the right  
2       amount of time for us to take a pause and to refresh,  
3       then come back into the courtroom, okay. We'll take  
4       regular lunch breaks. We'll take those about midday,  
5       whether it's 12 or 1:00. Again, depending on the  
6       evidence, the witnesses. And we'll try to end at a  
7       regular business day, that is 5:00. If we're going  
8       to go a little bit past 5:00, I'll try to tell you as  
9       early in the day as possible so you can make  
10      arrangement. But I'm hopeful that we're not going to  
11      do that. I'm hopeful giving the posture of this case  
12      that we're going to be ending about 5:00 everyday  
13      unless there's just some constraint that visits upon  
14      us that we have to address, okay.

15               During all of our breaks, please don't discuss  
16      the case. Again, not among yourselves or with your  
17      significant others. Okay. When you go home, I  
18      recognize that your wife or your husband or your  
19      friend, whomever, is going to invite you to discuss  
20      the case. They'll say, come on, come on, tell me  
21      what's going on? What are you seeing? Don't discuss  
22      it with them. Because what happens is that once you  
23      begin to tell them, okay, here's the case and this is  
24      what it's about, as far as I know, that then --  
25      invariably they ask a question. And then you respond

1 to the question. And before you know it, you're  
2 making qualitative determinations about the evidence  
3 that you saw. So, just tell them, I can't discuss it  
4 now but I'll discuss it with you when the trial is  
5 over.

6 Also, don't conduct any self help. I know that  
7 I asked you questions specifically about whether you  
8 had seen anything in the media about this case. I  
9 don't know whether you can get on your computer or  
10 your smart phone and do a goggle search and find out  
11 anything about this case. I suspect that it's stale.  
12 That is that any media reports happened a long time  
13 ago and you couldn't find them, but don't even try.  
14 Because that would taint your deliberations. The  
15 only thing that's appropriate for your consideration  
16 in this case is that which is presented in trial  
17 under the rule of court and the rules of evidence.  
18 If you go out and conduct self-help, then you will  
19 have tainted your deliberations and we'll just have  
20 to stop and start again. So, I'll charge you don't  
21 do that.

22 When you go home, when you take breaks, watch  
23 Monday night football, have a good time. You know,  
24 talk to your spouse about kids and things of that  
25 sort, don't talk the case, okay. Don't try to find

1 out anything about the case. During the course of  
2 the trial, if you need to take a break for whatever  
3 reason let me know. You are the 14 most important  
4 people in this courtroom. So, it's important that  
5 you're payings attention. So, if you need to take a  
6 break for whatsoever reason, even if it's two minutes  
7 after we've we already come back in on the record,  
8 get my attention, get the bailiffs attention and let  
9 us know. Because I would much rather you be paying  
10 attention to what's happening on the witness stand  
11 than thinking, Boy, I wish they would be quite  
12 because I'm not focused and I need to take a break.  
13 Let me know, we'll take a break and come back in.  
14 Okay.

15 All right. Ladies and gentlemen, the last thing  
16 we're going to do before I release you for lunch is  
17 ask the clerk of court to swear you in. Now, you've  
18 already taken an oath this morning the tell the  
19 truth. This is a different oath. This is to verily  
20 and truthfully try the case in accordance with the  
21 law as I give it to you.

22 So, Ms. Coker, I ask you to administer the oath.

23 THE CLERK: Ladies and gentlemen, please stand  
24 and raise your right hand for the oath in this case.  
25 The response will be I will.

PATRICIA SULLIVAN-DIRECT BY MR. LUNGINBILL

1 worked for an agency for two years or longer, your  
2 certification is valid. You don't recertify every certain  
3 amount of years.

4 Q Do you continue to get trained by Greenville  
5 County?

6 A We get training on different things, but not  
7 necessarily on everything that you would in the Academy.  
8 We have certain classes that we may attend. The last  
9 class that we attended was a class, which is basically  
10 dealing with mental health, people that may call in.

11 Q Okay. Well, let me ask you if you remember  
12 being taught some specific things.

13 A Okay.

14 Q Were you taught that one of the things an  
15 operator must do is be very careful not to become  
16 complacent or jaded in fielding these calls?

17 A Yes, that's correct.

18 Q Okay. And were you also taught the requirements  
19 of General Order 238?

20 A Yes. We get revisions of any new general orders  
21 or policies and procedures. We have to agree -- not  
22 necessarily agree, I'm sorry, but we have to review them  
23 and sign off that we understand what's in the information.

24 Q Let me show you the part -- it's a little bit  
25 highlighted, it's not in yellow, but it's sort of shaded

PATRICIA SULLIVAN-DIRECT BY MR. LUNGINBILL

1 there. This is under what is domestic violence. And just  
2 let the jury know if you were trained on that part.

3 A Yes. Yes, I was trained on understanding  
4 domestic violence and what is classified as a domestic  
5 violence call.

6 Q Okay. So, even though this is a 2013 -- out of  
7 a 2013 manual, it's the same thing you were taught when  
8 you went through?

9 A Yes, it's basic information. And yes, that  
10 information that is on that form, on that sheet, yes,  
11 that's the information that we were taught.

12 Q Okay. And as part of what you learned, you had  
13 to identify what domestic violence is, correct?

14 A Yes, that's correct.

15 Q And domestic violence is essentially when there  
16 is people living in the same household who are committing  
17 acts of violence against each other?

18 A Or intimate partners that are no longer living  
19 in the same household, but have cohabited, that is  
20 correct. We were taught that.

21 Q So, you would agree with me that Lilia Blandin  
22 and Avery Blandin qualified as household members?

23 A Yes, they did qualify as household members.

24 Q And if Avery Blandin had punched Lilia Blandin  
25 in the stomach, that would meet the definition of criminal

PATRICIA SULLIVAN-DIRECT BY MR. LUGINBILL

1 domestic violence, correct?

2 A That would be, yes, domestic violence.

3 Q What about threats? Can threats meet the  
4 definition of domestic violence?

5 A If it's something that's occurring at that  
6 moment, then yes. If somebody is being threatened, yes,  
7 that could meet the definition.

8 Q Okay. Now, when you went through, were you  
9 taught about the four categories and theories of domestic  
10 violence?

11 MR. HARTE: I'm sorry, what is she looking at?

12 MR. LUGINBILL: It's the next page, four  
13 categories and theories of domestic violence.

14 MR. HARTE: Under the general orders?

15 THE WITNESS: No, this is information from the  
16 Academy.

17 I don't know if -- it has been over 10 years  
18 since I've been in the Academy. I don't know if this  
19 information was there at that time. But I do  
20 understand the basic information regarding physical  
21 abuse, sexual, emotional and psychological abuse.

22 Yes, I understand that general basic information.

23 BY MR. LUGINBILL:

24 Q That information that's on that -- on that  
25 sheet?

PATRICIA SULLIVAN-DIRECT BY MR. LUNGINBILL

1 A Yes.

2 Q That comports with your training?

3 A Yes.

4 Q Okay. Thank you. And usually -- the physical  
5 abuse aspect of it, were you trained that it generally  
6 escalates?

7 A Yes, we understand that physical abuse can  
8 escalate.

9 Q And were you trained on the cycle of abuse?

10 A Yes, we understand that. Yes, we were trained  
11 on that at the Academy.

12 Q And were you trained that some of the risk  
13 factors include low income?

14 A No. If I remember correctly, at the Academy,  
15 they said it does not matter what the income status of a  
16 person is, that from -- people even at the higher income  
17 brackets that there's still domestic violence in those  
18 relationships, also. So no, they didn't base it on income  
19 factors.

20 Q How about alcohol or drug use?

21 A Yes, they said that that can be one of the  
22 contributing factors.

23 Q Financial pressures, unemployment, things like  
24 that?

25 A Well, I would assume pressure, period. Not

PATRICIA SULLIVAN-DIRECT BY MR. LUNGINBILL

1 necessarily financial, but pressure period could be some  
2 of the contributing factors to domestic violence.

3 Q Is it your understanding that part of your job  
4 is to sort of set the tone for the call?

5 A Yes. But also, the caller, when they call in,  
6 they may have already said certain things or they may  
7 already be at a certain state, but I have to understand  
8 everything. So yes, if you're saying my tone or anything  
9 like that dealing with the caller -- there's certain  
10 different tones that you use for different callers, so  
11 yes.

12 Q In Mr. Harter's opening, one of the things he  
13 said is you don't have the benefit of a real time  
14 transcript running in front of you; is that right?

15 A That's correct.

16 Q But you do have the ability to sort of control  
17 the conversation, correct? In fact, that's what you're  
18 trained to do?

19 A Yes, we're trained to try to take control of the  
20 conversation if at all possible.

21 Q And part of the reason for that is so that you  
22 can ask the questions that you need to to get to the  
23 important part of the call, correct?

24 A That's correct.

25 Q If you have a call that's somewhat about custody



PATRICIA SULLIVAN-DIRECT BY MR. LUNGINBILL

1 or somewhat about clothing retrieval and you have a call  
2 that at the same time is about threats of death and  
3 beating, are you trained to take the death and beating as  
4 the most serious possibility?

5 A I'm trained to listen to everything the caller  
6 has said, not just whether they're referring to threats of  
7 death and beating versus referring to items and child  
8 custody. I have to listen to everything that they've said  
9 and decide on what is needed.

10 Q Are you trained to err on the side of caution?

11 A Yes, I'm trained to err on the side of caution,  
12 but I cannot take and make a call a priority call that is  
13 not a priority call at that moment. I have to base it on  
14 everything the caller has said. And if it's not a  
15 priority call, because of the fact that I want it to be  
16 one does not necessarily negate the fact that it's not.  
17 That's a sergeant's decision to make if I have put a call  
18 in for child custody to determine whether or not it  
19 actually is.

20 Q We're going to subject the jury to the full tape  
21 one more time here.

22 A Okay.

23 (WHEREUPON, the 911 call tape was published to  
24 the jury.)

25 BY MR. LUGINBILL::

PATRICIA SULLIVAN-DIRECT BY MR. LUNGINBILL

1           Q     Now, Ms. Sullivan, what about that call led you  
2     to believe that it was an items call and not a domestic  
3     violence call?

4           A     Okay. At the beginning of the call, she tells  
5     me that her husband has been arrested for criminal  
6     domestic violence and he's at the house now. She also  
7     says that her child is in the house and she tried to get  
8     her things and she does not want to go into the house  
9     because she's afraid that if she goes in there that he is  
10    going to beat her up. So, when she says that he is at the  
11    house now, I'm thinking that that whole incident that she  
12    is saying regarding being beat up or anything like that is  
13    something that's already been taken care of, he has been  
14    arrested and that she wants to go inside and get her  
15    things. Because she says that I'm not at the house. So,  
16    that's what led me to believe that it was a child custody  
17    call.

18          Q     Let me stop you there. Did you -- she was --  
19    she said that the husband had been arrested for CDV,  
20    correct?

21          A     Yes, correct.

22          Q     And that he was at the house?

23          A     Yes.

24          Q     And she very clearly did not want him there?

25          A     She says that she does not want to be there.

PATRICIA SULLIVAN-DIRECT BY MR. LUNGINBILL

1 She does not want to go into the house and get her things  
2 because he will take and beat her if she goes in, that  
3 he's threatened to beat her if she goes into the house.

4 Q Would you agree with me that leaving your child  
5 in the home with somebody who is a domestic abuser is  
6 something no mother should do?

7 A Yes, I would agree with that.

8 Q So, there's a risk to that child based on what  
9 was just described to you, isn't there?

10 A Well, there's a potential risk to that child,  
11 but she did not say anything about the fact that the child  
12 had been threatened. The child had been in the house all  
13 night long with him. And this is the next day that she's  
14 calling and saying that she wants to go into the house now  
15 and get the child. So, if she felt that the child was in  
16 danger that night when this incident occurred or whenever  
17 it had occurred, she would have called then to indicate  
18 she wanted to go get the child.

19 Q Was it your understanding that the threat of  
20 death and the beating took place that night?

21 A I was understanding that there had been -- I  
22 don't necessarily know about the beating because I didn't  
23 quite understand everything she said at the beginning of  
24 the call, but I was under the impression that he had  
25 threatened her last night or there had been some incident

PATRICIA SULLIVAN-DIRECT BY MR. LUNGINBILL

1 last night.

2 Q And you were in control of the conversation,  
3 correct?

4 A At the beginning of the call, I was not because  
5 she called in, she gave a bunch of information at the  
6 beginning of the call. But after I spoke to her and asked  
7 her to slow down, then I was in control of the call.

8 Q And you could have asked specifically when did  
9 he hit you?

10 A Well, she had already told me that he had been  
11 arrested. Yes, I could have asked specifically did it  
12 occur today, but I did not ask that because she had told  
13 me at the beginning that he was out of jail now and at the  
14 house and that she was not and that she had been in her  
15 car all night.

16 Q If she had told you that he had beaten her last  
17 night and it's now 10:00 in the morning, why isn't that a  
18 domestic violence call?

19 A It is not a call that is in progress. She wants  
20 to go get her child, that was what her concern was. She  
21 wanted to go into the house to get her child. That is not  
22 a domestic violence call because it's not anything that's  
23 in progress that will fall under domestic violence rules  
24 that we use to decide on how we're going to handle our  
25 calls for service.

PATRICIA SULLIVAN-DIRECT BY MR. LUNGINBILL

1           Q     Is it your testimony here today under oath that  
2     it is a policy of the Greenville County Sheriff's  
3     Department to only treat in progress domestic violence as  
4     domestic violence calls?

5           A     Well, this was not a violence call at that  
6     moment. So, if it's an already-occurred call, it could  
7     still be treated as a domestic violence. But I did not  
8     understand her to say that he had beat her. I understood  
9     her to say that he had been arrested for the domestic  
10    violence and that he had -- he was out of jail now. So, I  
11    did not understand her to say that this was an in-progress  
12    assault call or anything like that. I understood the call  
13    as a threat and she did not want to be threatened, that's  
14    why she wanted to go get her child.

15          Q     Is it not your job to make sure you understand  
16    that before you decide how to classify the call?

17          A     I thought I did understand the call correctly  
18    and that's the reason that I put it in as a child custody  
19    call.

20          Q     Are you telling the jury that as you sit here  
21    today you were incorrect?

22          A     No, I'm not telling the jury that I'm incorrect.  
23    I'm telling the jury that based on the entirety of the  
24    call, everything that she said to me that that call was a  
25    child custody call and that's the reason I put it in that

PATRICIA SULLIVAN-DIRECT BY MR. LUNGINBILL

1 way.

2 Q What new information did you have after Neil  
3 Logan changed it that prompted you to change it back to a  
4 custody call exactly one minute after Mr. Logan made it a  
5 domestic call?

6 A There was not any additional new information  
7 that I had. I was still under the impression that it was  
8 domestic -- excuse me, that it was a call for custody. I  
9 wanted to speak to Mrs.-Blandin before we had officers  
10 responding to information that may be incorrect. So,  
11 that's the reason I put the call back in as a call for a  
12 sergeant to decide on whether or not we'll respond.

13 And in the meantime, while I was doing that, I  
14 was calling Mrs.-Blandin back to get further and make sure  
15 there was nothing that was going on additional to when I  
16 had originally spoken to Mrs.-Blandin.

17 Q I want you to look at the transcript that's  
18 going to be coming up here in a second. This is the part  
19 we just listened to, correct?

20 A Yes.

21 Q All right. She tells you she needs help. My  
22 husband has been arrested for domestic violence and he's  
23 out of jail. He's at my house. And she said, I took my  
24 clothes, I tried to leave. I tried to get my stuff and he  
25 beat me on the stomach and told me he was going to kill

PATRICIA SULLIVAN-DIRECT BY MR. LUNGINBILL

1 me. Now, my baby is on the second floor and I have to go  
2 get her, but I don't want to go inside because I know he's  
3 going to put me in that room and he's going beat me up.

4 A Uh-huh.

5 Q Two things I want to ask you about. So, it's  
6 your testimony here today that you believe that this stuff  
7 here happened the night before?

8 A Yes. I understood the call -- and I don't  
9 necessarily know if it was a beating that happened the  
10 night before or if she is saying that this is what is  
11 going to happen if she goes into the house, that if she  
12 goes into the house, this would happen because of the fact  
13 that there is some broken English and there's the accent.  
14 I understood part of what she was saying and I took it as  
15 if she goes into the house, this is what is going to  
16 happen. Because part of -- the center of the  
17 conversation, it was a little confusing as to the way she  
18 was saying it. But then, I did understand her clearly  
19 when she said if I go into the house, this is what is  
20 going to happen to me.

21 Q She was afraid she was going to get beat up if  
22 she went in, right?

23 A Yes, if she goes into the house.

24 Q And she was afraid she was going to get beat up  
25 because she had just gotten beat up?

PATRICIA SULLIVAN-DIRECT BY MR. LUNGINBILL

1           A     Well, I did not understand her to have just been  
2 beaten. I understood her to have had an incident where he  
3 had been arrested and that if she goes back into the  
4 house, there's going to be another incident.

5           MR. LUGINBILL: Scroll down. All right. Stop  
6 it right there.

7 BY MR. LUGINBILL:

8           Q     So, what you clarified was is your husband at  
9 the house and you want to go get your things; is that what  
10 you're saying?

11          A     Yes.

12          Q     All right. Then she says, Yes, but he has  
13 threatened me all night. So, that's recent, correct?

14          A     Well, if -- no, it's not recent. This is 10  
15 something in the morning. If he had threatened her all  
16 night, then she would have been on the phone that night.  
17 So no, this is not recent. She is calling hours later,  
18 so no, I don't consider that recent.

19          Q     I had to sleep in my car, so my baby went back  
20 on top and she was lying asleep in the bedroom, but I'm  
21 not at the house.

22                 And then you cut her off. She was trying to  
23 tell you some more stuff here, correct, but you took  
24 control of the conversation again?

25          A     I didn't realize that I cut her off but she said



PATRICIA SULLIVAN-DIRECT BY MR. LUGINBILL

1 that she is not at the house and the baby had went inside  
2 and she wanted to go in to get the baby.

3 And she said, But I'm not at the house.

4 I didn't think I had cut her off. I thought she  
5 was finished making her statement.

6 Q You would agree with me that the first thing you  
7 did up here when you first spoke to her was you asked her  
8 if she wanted to get her things, correct?

9 A Yes.

10 Q Then she told you some more stuff about being  
11 threatened and you said, You want your clothes or do you  
12 want your child, correct?

13 A. Yes. Because I heard her say stuff and I didn't  
14 assume that she was referring to the child as stuff when  
15 she said that.

16 Q Okay.

17 MR. LUGINBILL: Scroll down. Stop, go back up.

18 There you go.

19 BY MR. LUGINBILL:

20 Q Then she reiterates, she tells you a second  
21 time, I don't want to go inside the house because he's  
22 already hit me in the stomach and he's told me he's going  
23 to kill me. This is the second time she's told you he's  
24 going to kill me, correct?

25 A Yes. Again, I am going with the very beginning

PATRICIA SULLIVAN-DIRECT BY MR. LUNGINBILL

1 of her conversation where she says in the very beginning  
2 her husband is at the house, he had been arrested for  
3 criminal domestic violence. I'm going with the very  
4 beginning of that information that she told me. And based  
5 on that information when she says he is going to kill her,  
6 I'm thinking that she's referring to the incident that  
7 happened prior and that she is not at the house and she  
8 still just wants to get her child.

9 Q Do you believe you were wrong in that  
10 assumption?

11 A No, I don't.

12 Q You still believe that he did not threaten her  
13 on the morning of the 9th?

14 A I don't know when he threatened her. I believe  
15 that he had threatened her. I believe there had been  
16 threats probably in the past and even probably that night,  
17 but it was not anything that was immediate at that moment  
18 that was a threat.

19 Q Did you ask the when question?

20 A It was not necessary for me to ask the when  
21 question because she had told me that it had happened that  
22 night. That anything that had happened, it had happened  
23 that night. This is the next morning. So, when was  
24 already occurred.

25 Q You agree with me that she was afraid to go back

PATRICIA SULLIVAN-DIRECT BY MR. LUNGINBILL

1 in, correct?

2 A Yes, I most definitely agree with you that she  
3 was afraid to go back in. That's why she told me she was  
4 not at the house and that's why I told her the second time  
5 I called her to make sure when she was -- told -- when I  
6 heard the update regarding the call from Ms. Hamby, I made  
7 sure that I explained to her, Don't go into the house,  
8 don't go back inside the house.

9 Q This is from General Order 238. And these are  
10 the communication specialist's responsibilities?

11 A Yes.

12 Q So, these would be your responsibilities,  
13 correct?

14 A Yes, correct.

15 Q And you have been trained on this?

16 A That's correct.

17 Q You would agree with me that it is your duty  
18 when you're on the phones to do this when you have a  
19 domestic violence call, correct?

20 A When I have a domestic violence call, correct.

21 Q And it's your testimony today that you didn't do  
22 any of this because this was not a domestic violence call?

23 A That is correct. Also, domestic violence call  
24 is based on for a domestic call to be in progress. It has  
25 to be something that's immediate. This was not anything

PATRICIA SULLIVAN-DIRECT BY MR. LUNGINBILL

1 that was immediate. She --

2 Q Well, let me ask you before we get into that  
3 based on what you just said. It wasn't in progress?

4 A Correct.

5 Q So, have you been trained by Greenville County  
6 Sheriff's Office that if the abuse occurred 15 minutes ago  
7 that that's not in progress?

8 A It's not an in-progress call, it's a  
9 just-occurred call, so there could still be situations  
10 where the person could still be in harms way.

11 Q All right. That's a good answer. If you  
12 believe the person is in harms way, should General Order  
13 238 be followed?

14 A Yes.

15 Q So, it's your testimony today that you did not  
16 believe that Lilia Blandin or her children were in harms  
17 way?

18 A I did not believe Mrs. Blandin was in harms way.  
19 As for her child, if the child was in harms way at that  
20 moment, then she would have said nothing to indicate that.  
21 But no, I did not believe Mrs. Blandin was in harms way  
22 because I did not believe Mrs. Blandin was at the house.

23 Q Whose job is it to get the important information  
24 out, the caller or the call taker?

25 A It's a mutual bond with both of us when they

PATRICIA SULLIVAN-DIRECT BY MR. LUNGINBILL

1 call in. They're going to give me information, I'm going  
2 to, as the call taker, question them. And she gave me  
3 information that based on that information I understood  
4 what she was saying as a child custody call.

5 Q Would you agree with me that if you had asked  
6 these questions, you would have had a better idea of  
7 whether or not this was a domestic violence call?

8 A I would have still based on that information  
9 understood the call to be a child custody call because the  
10 incident, such as any serious injuries or EMS required.  
11 She was not in any situation where this was going on at  
12 this moment. If she was injured, she would have indicated  
13 that at that moment. Whether the suspect is present, I  
14 took it to be that she was not there at the residence.  
15 Were there weapons involved? She told me that she was not  
16 at the residence, so how would she know if there were any  
17 weapons involved in the incident if she is not there.

18 Q Let me stop you there for a minute.

19 MR. HARTER: I'm sorry, I think she's still  
20 talking.

21 THE COURT: You still answering, ma'am?

22 THE WITNESS: Yes, I am still answering.

23 THE COURT: You can continue.

24 THE WITNESS: Okay. Whether the suspect is  
25 under any drugs or influence of alcohol? She's

PATRICIA SULLIVAN-DIRECT BY MR. LUNGINBILL

1 not -- based on what she said, she's not as the  
2 residence. Whether the children are currently  
3 presence in the home? I already know the child was  
4 in the house. She had told me that information.  
5 Whether or not there was a current protection order?  
6 No, I did not ask her that because I didn't think the  
7 call was a domestic violence call. And the complaint  
8 history at the dispatch location, she had already  
9 told me that there had been prior incidents of CDV.  
10 So, I had the information. Other than the protection  
11 order, that's the only information that I did not  
12 have.

13 BY MR. LUGINBILL::

14 Q The information on serious injury, you never  
15 asked her if she was hurt, correct?

16 A No, I did not ask her if she was hurt because of  
17 the fact that she told me at the beginning of the call  
18 that he had threatened her. So no, I did not ask her if  
19 she was hurt because it was a threat.

20 Q Was the hitting in the stomach a threat or was  
21 that an actual assault?

22 A A hit to the stomach, yes, that is an actual  
23 assault, but I took that as an incident that had already  
24 occurred and had been handled by the officers.

25 Q So, you made an assumption?

PATRICIA SULLIVAN-DIRECT BY MR. LUNGINBILL

1           A     Yes, based on the information she had gave me, I  
2 understood that to have already occurred.

3           Q     Well, did you also assume she didn't have an  
4 injury?

5           A     Well, based on the fact that it was a threat,  
6 yes, I didn't take it as had any injuries.

7           Q     But she had been punched, correct?

8           A     If she had been punched that night and the  
9 incident had already occurred and the officers had already  
10 handled it, then she would have let the officers know that  
11 the incident had occurred and she was injured. But I did  
12 not take what she said as something that was in progress  
13 or that the injuries was something that's going on now.  
14 So no, I did not ask her if she was injured because of the  
15 fact that I'm taking it as a threat, that she was trying  
16 to avoid any future threats or any current threats.

17          Q     To be fair, Ms. Sullivan, you already told me in  
18 your testimony today just a couple of minutes ago, that  
19 you assumed if she was hurt she would have told you?

20          A     Yes, if she was hurt, but she did not tell me  
21 anything about being hurt. And based on what she had told  
22 me, I did not think that she was injured because of the  
23 fact that I am going with the information that she's told  
24 me he had already been arrested and was at the house now.  
25 So, I'm thinking that that strike to the stomach that

PATRICIA SULLIVAN-DIRECT BY MR. LUNGINBILL

1 she's talking about was something that had already  
2 occurred and he's out of jail for that hitting her to the  
3 stomach.

4 Q If it had happened that night, why would you  
5 think he was already out of jail and back in the house?  
6 How would that be possible?

7 A It's quite possible. Usually, when somebody is  
8 arrested for criminal domestic violence, they are out of  
9 jail again within several hours. You know, that happens.  
10 That's just the way it is. And we deal with that. We  
11 went out to calls multiple times where somebody has  
12 already been out. But based on what she was saying, she  
13 had avoided the house because of the fact that she did not  
14 want any additional incidents with her husband.

15 Q That's why the complaint history is important,  
16 correct?

17 A That's correct.

18 Q And you didn't ask about that or research that,  
19 correct?

20 A I did not research that, but she told me that he  
21 was out of jail and I put that information in the second  
22 call when I -- after I had called Mrs. Blandin back, I put  
23 that information in there saying that there had been prior  
24 incidents of domestic violence.

25 Q Let's go to the incident recall. While he's



PATRICIA SULLIVAN-DIRECT BY MR. LUNGINBILL

1 doing that, you would agree with me that you did not know  
2 where Mrs.-Blandin was, correct?

3 A That's correct, I did not know where  
4 Mrs.-Blandin was. I knew that based on what she said that  
5 she was not at the house, but I did not know where she  
6 was. I knew that she was also in her van because she told  
7 me that she had slept in her van. So, I knew she was  
8 mobile.

9 Q And you didn't ask her where she was?

10 A No. She just told me she's not at the house and  
11 that's the information that I went with.

12 Q All right. Once we have this entered, called to  
13 advise that the caller is outside the house -- outside the  
14 house, correct?

15 A Yes.

16 Q And that the husband has threatened to kill her?

17 A Uh-huh.

18 Q Caller has slept in the car all night because  
19 the husband wouldn't let her in and was 1081, what is  
20 that?

21 A He's causing a problem.

22 Q Okay. So, based on that, he changed it back;  
23 correct?

24 A He changed it from a child custody call to a  
25 domestic call and updated the call for service.

PATRICIA SULLIVAN-DIRECT BY MR. LUNGINBILL

1 Q Let me stop you. Mr. Logan actually entered  
2 this information into the system so that the officers  
3 would know why he was changing it, correct?

4 A Yes.

5 Q I assume that's the proper procedure to do that.  
6 If you're going to make a change, you don't just do it,  
7 you tell people why you're doing it, right?

8 A Well, yes. You want them to understand why  
9 there's going to be a change in the status of a call.

10 Q Okay. And confirmed that she's outside and  
11 waiting?

12 A Uh-huh.

13 Q That's yours, correct?

14 A That's correct, that's my comment that I put in.  
15 And that also -- then I note that she is referring to a  
16 prior incident and that is referring to the comment that  
17 Ms. Hamby had made up there regarding the threats to kill  
18 her and that the threats to -- that he's causing a 1081 or  
19 disturbance.

20 Q But you changed it at 10:29 --

21 A Yes.

22 Q -- exactly one minute after he set it as a  
23 domestic call?

24 A Yes.

25 Q And you've already testified today that you had

PATRICIA SULLIVAN-DIRECT BY MR. LUNGINBILL

1 no new information?

2 A That's correct, I did not have any new  
3 information. And that's why I changed it back to a 1021  
4 because a sergeant was put on that call as a 1021. I  
5 changed it back, called Mrs.-Blandin to confirm the  
6 information. And in the meantime, right after I changed  
7 it back to call Mrs.-Blandin to confirm, Eleanor has put  
8 the call up for dispatch. So, I'm on the phone with  
9 Mrs.-Blandin, Eleanor is dispatching the call and I'm  
10 updating the call, so, yes.

11 Q So yes?

12 A Yes, I changed the information to a 1021 before  
13 I called Mrs.-Blandin. And then after I got off the phone  
14 with Mrs.-Blandin and saw that units were being  
15 dispatched, I changed it again. So yes, I changed the  
16 call base before I had any additional information.

17 Q Did you believe any of this information was  
18 false?

19 A No, I did not believe the information was false.  
20 I believed the information was true to the knowledge that  
21 Ms. Hamby had, but I was speaking to Mrs.-Blandin, a  
22 person that's actually there. Ms. Hamby is only going --  
23 calling in and giving her information and Mrs.-Blandin  
24 actually is able to tell me information at the time as to  
25 what is going on and who it was involving.

PATRICIA SULLIVAN-DIRECT BY MR. LUNGINBILL

1           Q     This part right here that the caller is outside  
2 the house?

3           A     Uh-huh.

4           Q     That was not what you understood initially,  
5 correct?

6           A     No, that's not correct. That's not what I  
7 understood. I understood that she was not at the house.

8           Q     So this -- Mr. Logan has a fairly critical piece  
9 of information that you didn't have. He has the where  
10 question answered, correct?

11          A     He has -- yes, he has the information as to  
12 where Mrs.-Blandin is at.

13          Q     So, he now knows that she's right outside the  
14 house. The husband who's threatened to kill her is inside  
15 the house on the same property and that there's a child in  
16 the house with him. That's what he knows, correct?

17          A     He knows this based on third party information,  
18 yes. He has that information, but he's assuming this. I  
19 wanted to speak to Mrs.-Blandin and actually confirm where  
20 she's at and what is going on because based on what she  
21 told me last time, she was not at the house. Neil, when  
22 he entered his information in, he's getting this from a  
23 sister that's not there, who's assuming that Mrs.-Blandin  
24 is directly outside the house. I can't go on assumption  
25 of where she's at. I needed to confirm actually where.

PATRICIA SULLIVAN-DIRECT BY MR. LUGINBILL

1 she's at and that's when I called her back. She tells me  
2 that yes, she's outside the residence. And I tell her  
3 to -- do not go back inside the residence. So, still  
4 nothing has happened from when I had initially spoke to  
5 her to when I called her back.

6 Q And you changed it before you found out any  
7 additional information?

8 A That's correct, I did change it before I found  
9 out any additional information.

10 Q Now, this should be the transcript, Exhibit 7,  
11 where you called her back?

12 A Yes, that's correct.

13 Q All right. All right. And you confirm you're  
14 not at your house, that's what you're asking, correct?

15 A Correct. Yes.

16 Q Now, when you ask this question, you had already  
17 seen on the incident recall that she was, in fact, at her  
18 house, correct?

19 A I had seen on the incident recall that Neil had  
20 spoke to a sister who said that she was at her house. I  
21 wanted to speak to Mrs. Blandin to find out where she was  
22 and if she's at her house.

23 Q Okay.

24 MR. LUGINBILL: Go up.

25 BY MR. LUGINBILL:

PATRICIA SULLIVAN-DIRECT BY MR. LUGINBILL

1 Q And you found out that she was, indeed, at her  
2 house, correct?

3 A That's correct, I did find out that.

4 Q She was outside?

5 A Uh-huh.

6 Q Then you said, Don't go back into the house  
7 because I think that's what I told you last time?

8 A Yes.

9 Q We can agree you did not tell her that?

10 A That is correct. And I did not tell her that,  
11 but I thought I had spoke to Mrs. Blandin and told her  
12 that. But I did tell her the second time around, Don't go  
13 back inside the house.

14 Q Okay.

15 MR. LUGINBILL: Let's go back up. Keep going.

16 BY MR. LUGINBILL:

17 Q Now, you ask her who Juana is?

18 A Yes, that's correct.

19 Q She says, She's my sister.

20 Okay. Now, I'm going to stop right there. I'm  
21 still outside waiting, but he tried -- and then you cut  
22 her off again. Is there some reason why you didn't want  
23 to know what he tried to do?

24 A No, I didn't realize that I cut her off.

25 Q You are a telecommunication specialist, correct?

PATRICIA SULLIVAN-DIRECT BY MR. LUNGINBILL

1           A     That's correct.

2           Q     So, you cut her off and she apologizes to you.

3                     Who is Juana?

4                     Juana is my sister. And she starts to tell you  
5 something else and you again cut her off.

6           MR. LUGINBILL: Go up.

7 BY MR. LUGINBILL:

8           Q     And Lilia says she spoke with her sister, she  
9 said she's going to call the police because they know he's  
10 being, presence tense, aggressive with me.

11                    And then you responded, If you're outside, you  
12 need to let your sister know that because what you're  
13 referring to happened before that you're not in the house  
14 with him because she called back and she thought you were  
15 in the house with him.

16                    Did Juana Hamby tell Mr. Logan that she thought  
17 Lilia was in the house?

18           A     I, actually, did not know what Ms. Hamby told  
19 Neil when she spoke to him. I was just going on based on  
20 the thought that if she was outside and the sister was  
21 saying that he was being aggressive and that he's  
22 threatened to kill her that this was something that Neil  
23 was updating based on something that's going on now, not  
24 something that had already occurred as what I was going  
25 on.

PATRICIA SULLIVAN-DIRECT BY MR. LUGINBILL

1 Q You would agree with me, however, that that's  
2 not what she says, correct? You've now been shown the  
3 transcript of Ms. Hamby's call to Mr. Logan, correct?

4 A Yes --

5 Q You've seen those?

6 A -- I've seen those transcripts.

7 Q And you've heard those tapes?

8 A Yes, I've heard the tapes.

9 Q And you're aware that -- today, you're aware  
10 that she specifically said that she's outside the house?

11 A Yes, that she tells Neil that she's outside the  
12 house.

13 Q So, you were incorrect about that?

14 A Well, I was going still based on the fact that  
15 she's outside the house, but that she had been inside the  
16 house, that she had tried to go inside the house to get  
17 the child.

18 Q Okay.

19 MR. LUGINBILL: Go back up.

20 BY MR. LUGINBILL:

21 Q And then you said don't ever -- basically, you  
22 said, Don't ever call again?

23 A No, I did not tell --

24 MR. LUGINBILL: Go back up.

25 BY MR. LUGINBILL:



PATRICIA SULLIVAN-DIRECT BY MR. LUNGINBILL

1 Q Right there. You don't need to let her call,  
2 also, that's what I'm trying to say.

3 A I did not tell her don't ever call again. What  
4 I was saying was we're getting information from Ms. Hamby.  
5 Ms. Hamby is calling and telling us something that is  
6 different than what Mrs.-Blandin is telling us.  
7 Mrs.-Blandin is there on scene. She's able to provide us  
8 with any information that we need. Ms. Hamby is the only  
9 one giving us information either based on her opinion or  
10 assumptions that she's making that is going on, not  
11 something that she's actually seeing at this time.

12 So, I'm not telling her don't call again. I'm  
13 telling her that we need to speak to you and deal with you  
14 on this issue, that with your sister calling in that the  
15 call is getting confusing and we need to understand what  
16 is going on.

17 Q Ms. Sullivan, isn't it true that the call didn't  
18 get confusing, the call got clarified when she called?

19 A No.

20 Q It got less confusing --

21 MR. HARTER: Let her finish.

22 BY MR. LUGINBILL:

23 Q Isn't that true?

24 A No, that's not true. When Ms. Hamby called in,  
25 again, she's giving us information from a point that she

PATRICIA SULLIVAN-DIRECT BY MR. LUNGINBILL

1 is not there. I'm talking to Mrs.-Blandin who's told me  
2 information that we needed to know and the information  
3 she's told me that we needed to know is for a child  
4 custody call. Mrs.-Blandin is calling in referring to a  
5 domestic violence call and that's not why Mrs.-Blandin --  
6 excuse me, Ms. Hamby is calling in referring to a domestic  
7 violence call that's already been taken care of and  
8 Mrs.-Blandin just wants to get her child.

9 Q Let me ask you this, you've used that term  
10 several times today, the domestic violence had already  
11 been taken care of. What do you mean by that?

12 A The husband had been arrested, he was out of  
13 jail and that Mrs.-Blandin wanted to go in and get her  
14 child. That's what I'm referring to when I say it's been  
15 taken care of.

16 Q But he was there?

17 A He was there.

18 Q And she was scared of him?

19 A She was scared of him, yes, correct. Because he  
20 had assaulted her and she did not want to be assaulted  
21 again, so she wanted to go get her child in a safe manner.

22 Q That sounds like it's taken care of?

23 A The domestic violence portion of her call from  
24 previously, yes, that has been taken care of. The getting  
25 her child in a safe manner has not. And that's the reason

PATRICIA SULLIVAN-DIRECT BY MR. LUNGINBILL

1 I put the call in the way I did.

2 Q Let's listen and just let it run to the call you  
3 made.

4 A Okay.

5 (WHEREUPON, a 911 call was published to the  
6 jury.)

7 BY MR. LUGINBILL:

8 Q Is it fair to say that it wasn't until you  
9 called back that you realized Lilia was at the house?

10 A Yes, that's correct.

11 Q Did you think you had made a mistake at that  
12 point and that this really was a domestic violation  
13 situation?

14 A No, I still do not believe the call was domestic  
15 violence because I still understood her to be outside the  
16 residence, in a safe place because of the fact that she  
17 was in her car, she can pull off if she needed to. And  
18 she just wanted to get her child.

19 Q Could you personally get in trouble if you  
20 classified something as an items call, custody call and it  
21 turned out it was a domestic violence call and the  
22 violence happened before an officer could call back?

23 A If -- okay, could you rephrase that?

24 Q Take these exact facts.

25 A Okay.

PATRICIA SULLIVAN-DIRECT BY MR. LUNGINBILL

1 Q You said somebody will have to call you?

2 A Yes, correct.

3 Q So, somebody at some point would have called her  
4 to arrange a time for an officer to come to come get her  
5 child, correct?

6 A Yes, a sergeant would have called her back.

7 Q That's how you expected this incident to go?

8 A Yes.

9 Q If you were wrong and it really was a domestic  
10 violence call and she's there in the driveway and he's in  
11 the house and this person who you know is out of jail on a  
12 domestic violence charge injures that child or injures  
13 her, could you personally have been in trouble for  
14 mischaracterizing that call?

15 A Yes, I could have been in trouble for  
16 mischaracterizing a call that was actually a domestic call  
17 that was in progress or something that's just occurred,  
18 yes.

19 Q And isn't that why you called back to make sure  
20 you didn't make a mistake?

21 A No, I called back to make sure Mrs.~Blandin was  
22 not at that house and that there was nothing that was  
23 differently going on than what Neil had spoke to some  
24 person that's not there. And that speaking to  
25 Mrs.~Blandin, confirming that there was nothing different

PATRICIA SULLIVAN-DIRECT BY MR. LUNGINBILL

1 going on at this moment that I needed to stay on the phone  
2 with Mrs. Blandin. So no, I was not trying to make sure I  
3 was covering myself, to make sure she was not in an  
4 abusive relationship at that particular second.

5 Q Isn't that why you said, You're not at the  
6 house, correct?

7 A Well, because --

8 Q You wanted to make sure you were right?

9 A I'm making sure that I understood her when she  
10 said that the first time that she was not at the house.  
11 So, that's the reason that I called her back. Because at  
12 the beginning, she tells me that she's not at the house.  
13 When I called her back, I'm making sure that that's still  
14 the same statement, that she is not at that house.

15 Q And the reason you said -- and the reason you  
16 said, Don't go back in because that's what I told you last  
17 time. Is because you wanted to make sure she hadn't gone  
18 back into that house between the time you talked to her  
19 the first time and the second time because now that you  
20 know she's there with the abuser, the threat of violence  
21 and the threat of injury is a lot more immediate than you  
22 originally thought it was?

23 A Well, it could potentially be, yes.

24 Q Which means it's really a domestic violence  
25 call, not a custody call?

PATRICIA SULLIVAN-DIRECT BY MR. LUGINBILL

1           A     No, because of the fact that she -- even though  
2 she is at the house, she is not in the house. There is  
3 nothing going on that is putting her in any immediate  
4 danger. If she was in any immediate danger, she could  
5 call us back and let us know that I called in earlier, now  
6 he's either outside or I'm inside and things have  
7 escalated. That was nothing that had called -- changed  
8 from my initial call to when I called back to confirm with  
9 Mrs.-Blandin where she was -- not only where she was at,  
10 but what was going on now from the initial call. So, she  
11 was still safe. So no, there was not any domestic  
12 violence at that moment.

13           Q     If she's at the house and he's at the house, it  
14 would take just a matter of seconds for him to come out  
15 and hurt her if he wanted to; isn't that right?

16           A     Yes, he could come out at any minute.

17           MR. LUGINBILL: Thank you, Ms. Sullivan.

18           THE COURT: Do you have any questions?

19           MR. HARTER: I will, Your Honor.

20           THE COURT: Any of y'all need to take a break  
21 before we start cross-examination? Don't be bashful.  
22 Usually when I ask that question, I'm looking for  
23 somebody to bail me out, okay. So, go ahead and  
24 raise your hands.

25           All right. Y'all take a break and we'll come

PATRICIA SULLIVAN-DIRECT BY MR. LUNGINBILL

1 back in when you're ready in about 10 minutes or so.

2 Please don't discuss the case.

3 (WHEREUPON, the jury left open court at  
4 approximately 4:00 p.m.)

5 THE COURT: All right, Ms. Sullivan, you can  
6 take a break, too, but since you're under oath you  
7 can't discuss your testimony with anyone.

8 THE WITNESS: Can I step down for just a second?

9 THE COURT: Yeah, you're on break just like  
10 everybody else, yes, ma'am.

11 Okay. We'll be back in when the jury is ready.

12 (WHEREUPON, a short break was taken.)

13 (WHEREUPON, the jury came into open court at  
14 approximately 4:14 p.m.)

15 THE COURT: You may proceed, sir.

16 MR. HARTER: Ready for me, Judge?

17 THE COURT: Yes, sir.

18 CROSS-EXAMINATION

19 BY MR. HARTER:

20 Q Patricia, let me ask you a few questions. Let  
21 me get a little background information from you, if you  
22 will.

23 A Sure.

24 Q And if you can, can you kind of pull that mic up  
25 just a little bit? You can pull it up to you and make

## PATRICIA SULLIVAN-CROSS BY MR. HARTER

1     sure --

2           A     Okay.

3           Q     -- old people like me can hear.

4           A     Okay.

5           Q     Will you tell the ladies and gentlemen of the  
6 jury a little bit about yourself? Where do you live?

7           A     My name is Patricia Sullivan, I live in  
8 Greenville, South Carolina. I've lived here all my life.

9           Q     Tell me a little bit about your education.

10          A     I completed high school. I've had some  
11 continuing education courses through jobs that I've had  
12 either with the sheriff's office or other jobs that I've  
13 had in the past.

14          Q     Okay. And you all are what is called a  
15 communication specialist; is that correct?

16          A     Yes, I'm a communication specialist. I'm also  
17 the training officer for communications on my shift.

18          Q     Okay. And how long have you been employed with  
19 the sheriff's office as a communication specialist?

20          A     Thirteen years approximately.

21          Q     Okay. Now, do you work a set shift or how do  
22 y'all deal with that?

23          A     We rotate shifts every six weeks, but I am  
24 assigned to a set shift. I work Delta Platoon.

25          Q     Okay. Now, back in December of 2011, we know



## PATRICIA SULLIVAN-CROSS BY MR. HARTER

1 you took a 911 call from Mrs. Blandin?

2 A Yes, that's correct.

3 Q 10:13 in the morning?

4 A Yes, that's correct.

5 Q Now, tell the jury a little bit about the  
6 environment or the setting or how you're set up, or how  
7 the communication room looks when you're there?

8 A It's a large room. It's -- we call it quads,  
9 where they have four seats where you have a radio position  
10 set up with each radio, channel one, channel two, channel  
11 three and channel four, and also, the supervisor's  
12 channel. I was sitting at the supervisor's channel that  
13 day. Then you have positions that are behind me -- sorry.  
14 Positions that are behind me and then positions that are  
15 to the right of me.

16 Q Okay. Now, as you became a communication  
17 specialist, did you attend the Criminal Justice Academy?

18 A Yes, I attended for a week.

19 Q Okay. Do you remember when that was, Patricia?

20 A It was either 2002, 2003, I'm not exactly sure.  
21 Because it was like the winter part of it, but I'm not  
22 exactly sure when it was.

23 Q Okay. Have you continuously been in  
24 communications with the sheriff's office for those past 13  
25 years?

PATRICIA SULLIVAN-CROSS BY MR. HARTER

1           A     Yes, that's the only job that I've held is  
2     communications at the sheriff's office.

3           Q     Okay. Now, I think you may have suggested this  
4     before, but let me clarify a little bit. You get 911  
5     calls from the county; is that right?

6           A     Yes. We receive emergency and nonemergency  
7     calls from the citizens of Greenville County.

8           Q     Okay. And now, those calls that you receive, do  
9     you -- you don't have any kind of real time transcription  
10    of it popping up, do you?

11          A     No. We get the calls in, we listen to the  
12    caller, any clarification on what -- you know, try and  
13    understand what the caller is saying and we place calls in  
14    the system for service for officers to respond to or if  
15    another service is needed or that service to be performed.

16          Q     Okay. Now, Patricia, we had a chance to hear  
17    the actual 911 call that morning between you and  
18    Mrs.~Blandin?

19          A     Yes.

20          Q     Okay. Anything about her accent or her English  
21    that was problematic for you?

22          A     At the beginning when she was speaking faster,  
23    yes, it was difficult to understand her. That's when I  
24    asked her to slow down so that I could understand her more  
25    clearly.

## PATRICIA SULLIVAN-CROSS BY MR. HARTER

1           Q     Now, if she didn't speak English at all, you  
2     could have or would have done something different with  
3     that call?

4           A     Yes, if Mrs. Blandin was not an English speaker  
5     at all, we would have gotten her over to the language line  
6     so that the language line interpreter could translate what  
7     she was actually saying. But since Mrs. Blandin was an  
8     English speaker, even though there was some difficulty  
9     understanding her, she spoke enough English to be able to  
10    assist her.

11          Q     Okay. And now, tell the jury as a communication  
12    specialist when you get a call, what do you see your role  
13    to be, Patricia? What do you see your function to be?

14          A     I see my job is to help the citizen to be able  
15    to decide on what is needed and how to best handle their  
16    situation at that time.

17          Q     Is it your position then that you are -- you're  
18    to kind of determine what's needed with that call and to  
19    route it to somebody somewhere for the appropriate  
20    response?

21          A     Yes. I consider myself as a go-between between  
22    the citizens and whatever services that they need.

23          Q     Okay. Now, it is sometimes necessary that you  
24    filter through the call to find out what's going on and do  
25    you have to exercise your common sense and judgment in

## PATRICIA SULLIVAN-CROSS BY MR. HARTER

1 doing that?

2 A Yes. Some callers, you have to question more.  
3 Some callers call in and they give you all the information  
4 that you need. If the information is not there, then you  
5 have to go and question the caller. So yes, sometimes you  
6 do have to filter through everything that they're saying  
7 and also question the caller if necessary.

8 Q And what is actually happening is being put on a  
9 thing called an incident recall, right?

10 A Yes. We don't recall everything that the caller  
11 is saying on the incident recall, but you summarize what  
12 is needed and decide on how to handle the call.

13 Q Okay. And this shows the primary event or the  
14 call came in at 10:13, right?

15 A Yes.

16 Q And you had this call with Mrs.~Blandin that  
17 we -- what we've heard about, heard part of, which was the  
18 first call. And then you entered that as a child custody  
19 call; is that right?

20 A That's correct.

21 Q And that would have resulted in an officer  
22 calling Mrs.~Blandin back to speak directly with her to  
23 address what the concern was?

24 A Yes, that's correct. The sergeant would have  
25 called her back and decided on whether or not we would be

## PATRICIA SULLIVAN-CROSS BY MR. HARTER

1 able to assist her by going to get the child or if further  
2 assistance was needed.

3 Q Now, then we know -- or we learn there was a  
4 1028 call from Juana Hamby, sister, that gave some  
5 additional information. That call came to Neil Logan,  
6 right?

7 A Yes, that's correct.

8 Q And then you saw that call and then -- or you  
9 saw that he changed it from a 1021 call to a 1080 call,  
10 right?

11 A That's correct.

12 Q And that changed the priority from a three to a  
13 one?

14 A Yes, that's correct.

15 Q And that was at 10:28?

16 A That's correct.

17 Q Okay. And that call, it changed the character  
18 of the call and the call would result in and did result in  
19 the dispatcher sending two deputies as quickly as possible  
20 to the residence?

21 A Yes. Once the call was changed from a call for  
22 a sergeant to an actual call for a domestic call, yes, it  
23 was then dispatched out by a dispatcher.

24 Q Okay. Now, I think you told Mr. Luginbill a  
25 little bit about this call. This is the call that when

## PATRICIA SULLIVAN-CROSS BY MR. HARTER

1 you saw it or realized that you identified it as a third  
2 party call?

3 A Yes.

4 Q From somebody else?

5 A Yes.

6 Q And that call had information about Mrs.~Blandin  
7 being threatened by her husband?

8 A Yes.

9 Q But it didn't have anything about custody or  
10 children in there, did it?

11 A No, it does not.

12 Q Okay. And then as a result of what Neil did,  
13 the dispatcher immediately sent units out to the  
14 residence, right?

15 A Yes.

16 Q Okay. Now, regardless of whether you  
17 characterized it correctly or incorrectly, that response  
18 was initiated by the sheriff's office when that call came  
19 in; is that right?

20 A Yes. Someone was responding to the call. Once  
21 Neil changed it from a call for child custody to a  
22 domestic violence, somebody was responding.

23 Q Then I think you said you called Mrs.~Blandin  
24 back to clarify what was going on and what was happening;  
25 is that correct?

## PATRICIA SULLIVAN-CROSS BY MR. HARTER

1           A     That's correct.

2           Q     Okay. And you spoke directly with her and we  
3 have the transcript and the recording from that call?

4           A     Yes, that's correct. I called her back and  
5 spoke directly to Mrs.~Blandin herself.

6           Q     Okay. Now, let me ask you something. If you  
7 look at the incident recall, a couple of things are  
8 happening, aren't there?

9           A     Yes.

10          Q     At 10:28, there's a call from the sister; is  
11 that right?

12          A     Yes.

13          Q     And that involves Neil being connected to the  
14 call, right?

15          A     Yes, that's correct.

16          Q     Okay. And then at 10:36, units are sent; is  
17 that right?

18          A     Yes, the call has been pulled up to be  
19 dispatched.

20          Q     And then at 10:37, you're speaking with  
21 Mrs.~Blandin?

22          A     Yes, I'm speaking with Mrs.~Blandin between  
23 those times.

24          Q     Okay. Now, Patricia, are you absolutely  
25 infallible about the calls you take and the decisions you

## PATRICIA SULLIVAN-CROSS BY MR. HARTER

1 make and how you characterize things?

2 A No, I'm not. You know, we take calls based on  
3 what we understand the caller to say and that's why we  
4 send officers out to get information on scene.

5 Q And when an officer is -- and in this case, you  
6 know that Deputies Picone and Tyner, two trained sheriff's  
7 uniform patrol officers, were dispatched to that location,  
8 right?

9 A Yes, that's correct.

10 Q And is it sometimes that you learn that the call  
11 that initially comes in can be very different from what  
12 the officers find when they get out there, does that  
13 happen sometime?

14 A That happens quite often.

15 Q It is your expectation that this call -- when a  
16 deputy is going to respond to a location that they're  
17 going to do their own needed investigation to deal with  
18 that?

19 A Yes. They're the law enforcement officers.  
20 They're the ones that's trained for understanding the law,  
21 so they're going to respond and do what they need to do  
22 for their job.

23 Q And you're a conduit of information?

24 A Yes. I put the call in based on what the caller  
25 has said and what I understand and the officers get out.



## PATRICIA SULLIVAN-CROSS BY MR. HARTER

1 there and they do their investigations.

2 Q Okay. Now, Patricia, I believe that you were  
3 asked about the 911 calls and the transcript from the 911  
4 calls for about 35 or 40 minutes just now, right?

5 A Yes, approximately, yes.

6 Q You were taken through several lines and  
7 isolated sections of that call; weren't you?

8 A Yes.

9 Q You were shown Exhibits 5, 7, and 2, which  
10 represent transcripts from that call, right?

11 A Yes.

12 Q Okay. You talked to Mr. Luginbill about that?

13 A Yes.

14 Q All right. And this exhibit shows that this  
15 transcript of this call was done by a certified court  
16 reporter September 24th, 2015, right? Look at that. See  
17 that?

18 A September 24th?

19 Q Yeah.

20 A Okay.

21 Q Okay. Now, do you have any idea how long it  
22 took this court reporter to figure out and decipher what  
23 was being said by the caller?

24 A I know the original transcript had some  
25 information in it that was not -- that's different than

PATRICIA SULLIVAN-CROSS BY MR. HARTER

1 this transcript, so I'm not sure how long, but I know it's

2 --

3 Q You've got no idea how long it took this person  
4 to figure out what was being said, do you?

5 A No.

6 Q And you actually -- as part of this case, there  
7 was a -- there was a transcript of that call created by  
8 the sheriff's office in connection with the murder  
9 investigation that might be a little different from that,  
10 right?

11 A Yes.

12 MR. HARTER: Okay. Now, if you don't mind, can  
13 we play the first 911 call?

14 (WHEREUPON, a 911 call was published to the  
15 jury.)

16 BY MR. HARTER:

17 Q Now, Patricia, we know that you ultimately had  
18 to decipher and filter through the language issue and the  
19 accent and we know how you determined the call to be  
20 categorized?

21 A Yes.

22 Q Did you appreciate or feel that the caller at  
23 that time was hysterical or in a situation where you were  
24 hearing anything in the background that would be alarming  
25 to you at that moment?

## PATRICIA SULLIVAN-CROSS BY MR. HARTER

1           A     No. There was no noise in the background. And  
2 as you can hear at the very beginning of the tape, we  
3 don't -- as soon as somebody dials 911 -- I want to  
4 explain. As soon as somebody dials 911, that phone line  
5 starts recording. Even if we have not picked the line up,  
6 that phone is recording. There is nothing in the  
7 background. When that phone is ringing on my end and  
8 she's talking, I don't hear -- now, I don't hear anything.  
9 I can hear her talking to someone, but I don't hear  
10 anything indicating that there is any immediate threat to  
11 her. When I spoke to her, there did not sound like to be  
12 any immediate threat to Mrs.~Blandin. She sounded -- even  
13 though she was upset, she was still a calm upset.

14           Q     Okay. Now, then after that, I believe we  
15 discussed Neil Logan has a call that he deals with and he  
16 receives a call from Ms. Hamby?

17           A     Yes, that's correct. Neil spoke to Ms. Hamby  
18 after I spoke to Mrs.~Blandin.

19           Q     And then your call back to Mrs.~Blandin, you're  
20 checking on her welfare; is that right?

21           A     Yes. I wanted to make sure that there was no  
22 change in the status from when I originally spoke to  
23 Mrs.~Blandin to when Neil spoke to Ms. Hamby because yes,  
24 sometimes calls do change.

25           Q     Okay.

PATRICIA SULLIVAN-CROSS BY MR. HARTER

1 A But in this case, it had not.

2 Q And let me ask you, do you feel like -- do you  
3 feel like in your exchange with Mrs. Blandin that you were  
4 curt with her, that your tone of voice was inappropriate,  
5 did you feel like that after hearing it, listening to it?

6 A No, I don't hear anything differently in my  
7 voice than I would any other child custody call or any  
8 other normal call for service. I think that I'm being  
9 professional with her. I don't think I'm trying to be  
10 rude or to cut her off intentionally. I spoke to her and  
11 I thought the whole time the call was professional.

12 Q Okay. And let me ask you, we've heard and  
13 looked at a general order that is 238?

14 A Yes, General Order 238.

15 Q Okay. And I believe General Order 238 is --  
16 it's a directive from the sheriff's office and it pertains  
17 specifically to criminal domestic violence?

18 A That's correct.

19 Q And if there's a specific criminal domestic  
20 violence call, then these things would be triggered,  
21 right?

22 A Yes.

23 Q Okay. Let's take a look at General Order 238.  
24 And there is a section on Page 3. Okay. Page 3 has a  
25 section. Now, 238 applies to officers who respond, but

PATRICIA SULLIVAN-CROSS BY MR. HARTER

1 there's also a section that applies to communication  
2 folks; is that correct?

3 A That's correct.

4 Q Such as yourself?

5 A Yes.

6 Q In this section, it says, Communication center  
7 responsibilities. And then it says, Communication  
8 specialists are to give domestic violence priority over  
9 other routine calls and dispatch at least two deputies to  
10 each incident when possible. Okay. Then it lists a few  
11 things that are steps or measures to be taken or things  
12 you're supposed to make an effort to determine?

13 A Yes.

14 Q All right. Now, tell the jury why you did not  
15 do those things specifically in this case on December the  
16 9th, that morning?

17 A Because after listening to Mrs.-Blandin's entire  
18 call, I understood the call to be a child custody call and  
19 not a domestic violence call that was in progress.

20 Q And right or wrong, that was your judgment at  
21 the time?

22 A Yes, that was my judgment based on what I heard,  
23 what Mrs.-Blandin said, the noises in the background,  
24 everything, all my training. I understood the call to be  
25 a child custody call.

## PATRICIA SULLIVAN-CROSS BY MR. HARTER

1 Q All right. Now, Patricia, you spoke back with  
2 her again?

3 A Yes.

4 Q A call that you initiated because you were  
5 uncertain?

6 A Well, yes. I was uncertain as to what was going  
7 on then since I had spoke to Mrs. Blandin the first time.

8 Q Okay. And when you spoke to her that second  
9 time, did she sound any more upset, was there anything  
10 about the tone of her voice or anything in the background  
11 or anything like that that disturbed you or alerted you to  
12 any additional concern?

13 A No, actually she sounded calmer the second time  
14 around that I spoke to her than the first time.

15 Q Okay. And this is Exhibit No. 7, if this is an  
16 accurate recount of the transcript -- will you read for  
17 the jury what is the last -- one of the last things she  
18 says to you?

19 A She tells me I'm outside, I'm just waiting to  
20 somebody to help me get my little girl.

21 Q According to this exhibit, it says, I'm outside.  
22 I'm just waiting to somebody help me get my little girl?

23 A Yes, that's what she says.

24 Q Then you said, Okay. Well then, the sergeant  
25 will be calling you back.

PATRICIA SULLIVAN-CROSS BY MR. HARTER

1 And she says, Okay. And then she says, Thank  
2 you.

3 And you say, Thank you?

4 A Yes.

5 Q Patricia, when did you first listen to the 911  
6 tape? Would it have been after this lawsuit was filed?

7 A Yes, when I found out that the sheriff's office  
8 was being sued based on my actions and also the deputies  
9 actions that day. I didn't remember the call. I  
10 remembered the incident that happened at Wal-Mart but I  
11 did not remember what was said on my part and what was  
12 said on Mrs. Blandin's part. So, I listened to the call  
13 then.

14 Q Have you listened to it over and over and over  
15 and over again throughout this case?

16 A Yes, I've listened to it several times since the  
17 case has been going on.

18 Q Okay. And when you listened to it over and over  
19 and over and over and you know what happened after the  
20 fact, do you get somewhat of a different picture maybe  
21 about what's going on?

22 A I understand that, you know, we responded to a  
23 call based on what she said. But after listening to it  
24 over and over and over again, I still hear that this call  
25 was a child custody call.

## PATRICIA SULLIVAN-CROSS BY MR. HARTER

1           Q     And as you listen to it over and over and over  
2 multiple times, if you do that, do you have the  
3 opportunity to pick up on things because you're listening  
4 to it multiple times over and over that maybe you didn't  
5 have the benefit or the appreciation or awareness of at  
6 the moment you're keying the call in the communications?

7           A     Yes. When I listened to the tapes, there were  
8 certain things that I did not hear her say at the  
9 beginning of the call that she said. After you've  
10 listened to the tape several times when she calls in, yes,  
11 I heard what she said, the general gist of everything she  
12 said, but there's still certain things that I've missed.  
13 After I've listened to this tape I don't know how many  
14 times, there are things that I can pick up now that she's  
15 saying clearly that I did not hear at the time.

16          Q     You did the best you could with the information  
17 you were given, did what you thought what was right that  
18 day, that morning?

19          A     Yes, I did.

20               MR. HARTER: Thank you, Patricia, I appreciate  
21 it.

22               Thank you, Judge.

23               THE COURT: Yes, sir.

24               Any redirect?

25               MR. LUGINBILL: Yes, Your Honor.



PATRICIA SULLIVAN-CROSS BY MR. HARTER

1 THE COURT: Okay.

2 REDIRECT EXAMINATION

3 BY MR. LUGINBILL:

4 Q Did I understand you to say that you called  
5 Mrs. Blandin back primarily to check on her welfare?

6 A Yes.

7 Q If this was just a custody call, why would there  
8 have been any question that she was in danger?

9 A Well, the call had been changed. The call had  
10 been changed from what I put it in as a custody call to a  
11 domestic call. So, I did not know what was going on since  
12 when I spoke to her until when I called her back to make  
13 sure that there was no change.

14 Q That's the transcript of your call, correct?

15 A Yes.

16 Q Can you tell the jury where you asked her how  
17 she was?

18 A No, I don't ask her how she is. I ask her where  
19 she's at and she's saying that I'm still outside.

20 Q If the purpose of your call was to check on her  
21 well being, why didn't you ask her if she was okay?

22 A Because she says I'm still outside.

23 Q Outside the residence?

24 A Yes. She's still outside. And that's when I  
25 realize that she's actually outside the residence and

## PATRICIA SULLIVAN-REDIRECT BY MR. LUNGINBILL

1 not -- and that's when I asked her, I say, So, you're  
2 outside the residence?

3 And she says, Yes.

4 Q After you saw the call change by Mr. Logan, did  
5 you talk to anybody else before you decided to change it?

6 A No.

7 Q Do you recall telling me in your deposition that  
8 you spoke with Mr. Logan?

9 A Yes. I'm sorry, I spoke to Mr. Logan. He came  
10 and told me that he had spoke to Ms. Hamby, so yes, I  
11 spoke to him regarding his update and the call. But I did  
12 not speak to anyone else regarding whether or not I should  
13 change the call I should say.

14 Q You spoke to Mr. Logan within the one minute  
15 after he entered this into the system and you changed it  
16 back?

17 A Well, he came right over to me after he got off  
18 the phone with her and told me that the sister had came in  
19 and spoke to -- he had called -- excuse me, the sister had  
20 came in and that -- had called in and he had spoke to the  
21 sister. He came over right after he got off the phone  
22 with her and told me this. The room may be big, but it's  
23 not so big that it would have taken him a long time to  
24 come up to me and say, Patricia, Ms. Hamby -- correction,  
25 Ms. Hamby has called in and told me this.

## PATRICIA SULLIVAN-REDIRECT BY MR. LUNGINBILL

1           So I changed the call back to a 1021 because  
2   that's the call the sergeant was on. And then I called  
3   Mrs.-Blandin back right after I speak to Neil and then  
4   made the decision that this is still a child custody call  
5   and left it as a 1021 until I noticed that there were  
6   officers in route. And then I just went ahead and changed  
7   it back to a 1080 because of the fact that officers were  
8   already responding as a domestic call.

9           Q    It's your testimony that in the one minute  
10   between the time he typed in his information and made the  
11   changes to the call, he then immediately got up from his  
12   station, walked over to your station --

13          A    Yes.

14          Q    -- told you the same information that he had  
15   just typed in, which then prompted you to say, Oh, no,  
16   change it right back. Why did you do that?

17          A    Well, I saw that the -- excuse me, I saw that  
18   the sergeant was on the call as a 1021. He's getting  
19   third-party information. He told me that Ms. Hamby's  
20   sister had called -- excuse me, Mrs.-Blandin's sister,  
21   Ms. Hamby, had called in. So, she's not there. So, I  
22   wanted to change it back to a 1021 because the sergeants  
23   do not -- the sergeants do not have calls for 1080's that  
24   they're going to call back. So, I changed it back  
25   immediately to a 1021 until I could get -- until I could

PATRICIA SULLIVAN-REDIRECT BY MR. LUNGINBILL

1 speak to Mrs. Blandin and clarify what was going on.

2 Q Let me try this without all the 10 codes. Is it  
3 your --

4 A I'm sorry.

5 Q My understanding of your testimony, you are  
6 saying that the reason you immediately changed it back  
7 even after you were told by a fellow operator that there's  
8 maybe a different character of this call than what you  
9 initially assumed it was, that you're changing it back  
10 because you don't what the lieutenant or sergeant or  
11 whoever it was that was supposed to call back at some  
12 later point in time to have to do that?

13 A No, I'm not saying that I changed it back  
14 because I don't want them to call her back. I changed it  
15 back because of the fact that this call was third-party  
16 information. The sister is not there, so I wanted to  
17 speak to the sister. So, until I spoke to the sister to  
18 confirm her status, I changed it as a 1021. And when I  
19 did speak to the sister and confirmed what was going on, I  
20 left it as a 1021 and then I noticed that officers were  
21 responding. So, after I noticed the officers were  
22 responding, I changed it back to a domestic call.

23 Q Would you agree with me that the worst possible  
24 thing that could happen if you had just left it alone is  
25 that officers come out there and decide it's not a

## PATRICIA SULLIVAN-REDIRECT BY MR. LUNGINBILL

1 domestic violence call and go on their way? Isn't that  
2 the worst possible thing that could have happened if you  
3 had simply left what Neil Logan did alone?

4 A Well, the call -- if I would have just left the  
5 call as a domestic call, then the officers still would  
6 have responded even with the ten code of 1021 with her  
7 already having dispatched the call. So yes, that's the  
8 worst thing -- you know, they still would have responded,  
9 but I wanted to make sure Mrs. Blandin was safe and that  
10 there was no change in it. So that's why I still called  
11 her back.

12 Q But you didn't ask how she was?

13 A No, I did not.

14 But she said, I'm still outside.

15 Indicating that she had not been inside the  
16 residence. To my understanding, she was still outside  
17 waiting for a sergeant to call.

18 Q If you had left it as a 1021, you would have  
19 been required to answer those seven questions, correct?

20 A If I would have left it as a 1080?

21 Q Somebody would have needed to?

22 A Yes, that information would have -- if  
23 Mrs. Blandin would have told me that there had been  
24 something differently than when I had spoke to her  
25 initially, yes, I would have then went into following up

PATRICIA SULLIVAN-REDIRECT BY MR. LUNGINBILL

1 on, are you okay? Are you injured? Are there any weapons  
2 involved? Yes, I would have went into that.

3 Q And then she could have told you about the  
4 hitting and the threats and when it happened and you would  
5 have had that information, correct?

6 A Yes. But she told me based on the fact of the  
7 initial call and the call from the second time around that  
8 she's still outside, that nothing basically had changed  
9 from when I originally put the call in. So, it was still  
10 a 1021 for child custody.

11 Q And if you would have had that information, you  
12 could have relayed that information to the officers and  
13 they would have had in their minds this is a potential  
14 domestic situation and we have a potentially violent  
15 person that we're going to have to interact with, correct?

16 A Neil had information in his call indicating that  
17 there was a potential violent person, so they were  
18 responding out to Neil's call, not my call. The  
19 sergeant --

20 Q The code -- I'm sorry. Go ahead.

21 MR. HARTER: I think she was talking.

22 BY MR. LUGINBILL:

23 Q Go ahead, finish.

24 A Okay. I was going to say they were responding  
25 out to Neil's call, not my call. My call was a call for

## PATRICIA SULLIVAN-REDIRECT BY MR. LUNGINBILL

1 the sergeant to call her back. Neil's call was a domestic  
2 call. And in Neil's call, it indicates that there was a  
3 threat. And even in my update that indicates that there  
4 was a prior history, so the officers did go out there  
5 knowing that there was prior history of CDV. And also,  
6 information regarding the fact that there could be a  
7 incident going on at this moment.

8 Q Mr. Harter pointed out the transcripts that  
9 we've been using today were done by a certified court  
10 reporter?

11 A Yes.

12 Q Do you understand that that means that she  
13 basically takes an oath that these are correct to the best  
14 of her abilities?

15 A Yes.

16 Q And she doesn't have a favoritism to one side or  
17 the other, her job is to get the facts out and tell the  
18 truth what about the tapes say, correct?

19 A Yes.

20 Q Now, the sheriff's department, you indicated  
21 they also did some transcripts, correct?

22 A I saw a transcript. I didn't know who did the  
23 transcript until I was told I believe last week.

24 Q And those other transcripts that we talked about  
25 when we did your deposition and, I'm sure, prior to your

## PATRICIA SULLIVAN-REDIRECT BY MR. LUNGINBILL

1 deposition when you were getting prepared, those were done  
2 by the sheriff's department, correct?

3 A Now I know that information, yes.

4 Q And you would agree with me that those  
5 transcripts had some errors in them, correct?

6 A Yes, they did.

7 Q But the one that we presented today, to the best  
8 of your understanding, after listening to the tapes and  
9 reading the transcript, you believe it to be accurate?

10 A Yes.

11 Q Did you have trouble understanding the call?

12 A Yes, at the beginning, I had trouble  
13 understanding Mrs. Blandin. She was speaking faster. Her  
14 accent at that particular moment was a little bit thicker  
15 and the English was more broken. When I asked her to slow  
16 down, the call was more clear and I understood what she  
17 said. But at the beginning, also, of the call I  
18 understood bits -- I understood bits of what she was  
19 saying. And I understood that she was saying that her  
20 husband had been arrested, that he was out of jail now and  
21 that she wanted to get some stuff. But I also heard  
22 something about some children. So yes, I understood the  
23 call, but some of it was a little bit difficult to  
24 understand.

25 Q And you didn't ask any questions about who,



## PATRICIA SULLIVAN-REDIRECT BY MR. LUNGINBILL

1 where, when and what; did you?

2 A She had told me that information at the  
3 beginning of the call when she said -- when, when she  
4 indicated she had been in the car all night. She told me  
5 where because of her address. She did not tell me where  
6 she was, she told me where she was not. So, I did not  
7 have that information. She told me who was involved and  
8 told me that it was her husband. And that she wanted to  
9 get her child.

10 Q And that he had threatened to kill her?

11 A Yes, and that he threatened her.

12 Q And had punched her?

13 A Well -- yes, that he had punched her and  
14 threatened her. But I took that information based on the  
15 fact that she had said that he was out of jail and now at  
16 the house as something that had already been taken care of  
17 by the officers and that this is something separate that  
18 she wanted to do. She wanted to now go to the house to  
19 get her child.

20 Q And the who, the what, the when and the where  
21 that you say were answered in the initial part of the  
22 call, that's the part of the call that you only understood  
23 bits and pieces of, correct?

24 A Well, I understood most of the call, but yes, I  
25 understood what she said and that's the part that I

## PATRICIA SULLIVAN-REDIRECT BY MR. LUNGINBILL

1 understood.

2 Q And you're not infallible?

3 A No, most definitely not.

4 Q And if you make a mistake and as a result  
5 someone is injured, the county has the duty to make it  
6 right, correct?

7 A If I make a mistake and cause someone to be  
8 injured, then yes, unfortunately, yes.

9 Q Okay.

10 MR. LUGINBILL: Thank you.

11 THE COURT: Any recross, sir?

12 RE CROSS-EXAMINATION

13 BY MR. HARTER:

14 Q That's the Court and jury's determination,  
15 though, isn't it?

16 A Yes, the jury would make that determination as  
17 to whether or not I made a mistake.

18 Q Okay. And there was no mistake but that two  
19 deputies responded to this call, no doubt, right?

20 A No.

21 Q So, even if you mischaracterized the call, right  
22 or wrong, two deputies responded to a disturbance call and  
23 are charged with investigating the case?

24 A Yes, the officers are the investigators.  
25 They're the ones that get out there and make the decision

## PATRICIA SULLIVAN-RECROSS BY MR. HARTER

1 as to the information.

2 Q And this incident occurred back December of  
3 2011, that's almost four years ago?

4 A Yes.

5 Q And regardless of whether you had communications  
6 or what you and Neil talked about, if you talked, where he  
7 was, where you were, his -- the way he coded the call, it  
8 got answered by two deputies showing up, right?

9 A Yes, he coded the call as a domestic call and  
10 units responded as a domestic call.

11 MR. HARTER: Thank you, Patricia.

12 THE COURT: Okay. All right.

13 Thank you, Ms. Sullivan. Appreciate you being  
14 here. You may step down.

15 MR. WILSON: Your Honor, she was here under our  
16 subpoena, we have no objection to her being excused  
17 and released.

18 MR. HARTER: My subpoena, too, but --

19 THE COURT: Okay. All right.

20 Ms. Sullivan, everybody's giving you a pass.  
21 You can get out of here if you want to. I'd tell you  
22 to get out of here while the gettings good, okay.

23 THE WITNESS: Yes, sir.

24 THE COURT: All right, ladies and gentlemen,  
25 it's five till 5:00. I don't think we're going to be

1       able to get in another witness this afternoon. So,  
2       let's go ahead and adjourn for the evening. I ask  
3       you to be back here tomorrow morning at 9:15, at  
4       9:15. And we'll try to start as promptly thereafter  
5       as possible.

6               Again, when you go home tonight, please don't  
7       discuss the case. Somebody invariably, without  
8       question, is going to offer and invite you to discuss  
9       the case. Don't do it. You can discuss it later.  
10      You can discuss it after the case is over, but don't  
11      do it yet. I hope y'all have a great evening. Enjoy  
12      Monday night football. I'll see you back here  
13      tomorrow morning, okay.

14             (WHEREUPON, the jury left open court at  
15             approximately 4:56 p.m.)

16             THE COURT: Okay, counsel, anything additional  
17             this afternoon?

18             MR. WILSON: Your Honor, if we could take about  
19             10 minutes and kind of clear everybody out. We've  
20             got the children here. They're a freshman and a  
21             seventh grader. I would just like to bring them in  
22             and let them see the courtroom so they get a feel for  
23             it so they're not overwhelmed when they have to come  
24             do it live.

25             THE COURT: That's not a problem. And I will

1 tell you as well that, you know, I start -- I like to  
2 start at, you know, 9:00 or 7:30 or 7:00, but I  
3 recognize that I'm not like most people. So, I start  
4 a little bit later to give y'all an opportunity to do  
5 things like that and just to make sure you're ready  
6 to go. So, you can also bring them any morning that  
7 you want to as well.

8 MR. WILSON: What we're trying to do is not get  
9 them out of school any more than have to be.

10 THE COURT: Yes, I understand.

11 MR. WILSON: We need literally 10 minutes to  
12 bring them in and show it to them --

13 THE COURT: I'm not suggesting you can't do it  
14 this afternoon. I'm saying you can do it more than  
15 once if you want to.

16 MR. WILSON: Thank you.

17 THE COURT: And in as much as I'll be here  
18 early, if y'all need anything from me, let me know.

19 MR. WILSON: How early can we get in?

20 THE COURT: You can usually get in at 8:30.  
21 Okay. So, if y'all need me between 8:30 and 9:15,  
22 let me know. If there's some issue that you need to  
23 be resolved, get the bailiff to come back and get me,  
24 okay. All right.

25 MR. WILSON: Thank you, Judge.

1 THE COURT: Yes, sir, y'all have a great  
2 evening.

3 MR. HARTER: Judge?

4 THE COURT: Yes, sir.

5 MR. HARTER: Can I ask one question for planning  
6 purposes?

7 THE COURT: Yes, sir.

8 MR. HARTER: I know you've got an expert, I've  
9 got an expert, too, that's out of state. If  
10 possible, we can coordinate -- you'll have your guy  
11 tomorrow?

12 MR. LUGINBILL: Ours will be here tomorrow. I  
13 anticipate tomorrow will be Neil Logan, the two  
14 officers and the expert. That pretty much takes the  
15 day.

16 THE COURT: Okay. All right. Based on your  
17 witness list then, that's about 40 percent of your  
18 case?

19 MR. LUGINBILL: Yeah, really, that will be the  
20 liability portion. Then I think we just have Madel  
21 and the three children after that and maybe one or  
22 two scene witnesses to establish the elements of the  
23 survival part.

24 MR. WILSON: Judge, if we get through those  
25 witnesses tomorrow, we will be finished midday on

1 Wednesday. We might be finished in the morning, but  
2 we would definitely be finished 2:00 or 3:00 o'clock.

3 THE COURT: Okay. Are you two law partners or  
4 are you married? Because you're always hitting each  
5 other and giving each other cross looks at one  
6 another and interrupting.

7 MR. WILSON: As much time as we spend together--  
8 (WHEREUPON, everyone was talking over one  
9 another.)

10 MR. HARTER: -- specifically plan on that.

11 MR. LUGINBILL: Your Honor, one thing that might  
12 speed it up and, obviously, you can agree or not  
13 agree, but we wanted to put in the autopsy report  
14 part of -- I don't mind redacting some of the more  
15 gruesome parts of it and I don't need the  
16 photographs, but there is a part in there that talks  
17 about defensive wounds. That's really all I would  
18 like to put in.

19 Mr. Harter, you wanted us to call somebody. We  
20 have --

21 MR. HARTER: Yeah, Mike Ward. He won't be long,  
22 he'll be quick.

23 THE COURT: Okay. All right.

24 MR. HARTER: Then I'm going to plan on my guy  
25 Wednesday because we've got schedule issues..

1 THE COURT: That's fine with me. I'm here for  
2 y'all. Okay. Y'all have a great evening and I'll  
3 see you tomorrow.

4 (WHEREUPON, the proceedings were concluded for  
5 the day to be reconvened on Tuesday, September  
6 29, 2015.)  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25



1                   September 29, 2015

2           THE COURT: All right, good morning. Hope  
3 everybody is doing well. Anything before we bring  
4 the jury in?

5           MR. WILSON: No, Your Honor.

6           MR. HARTER: No, Your Honor.

7           THE COURT: All right, if they're ready, bring  
8 them in.

9           (WHEREUPON, the jury came into open court at  
10 approximately 9:17 a.m.)

11          THE COURT: All right, good morning, everyone.  
12 I hope you had a great evening. Let's go ahead and  
13 get back to work.

14          All right. Mr. Luginbill, Mr. Wilson, you may  
15 call your next witness.

16          MR. WILSON: Your Honor, we would call Mr. Neil  
17 Logan.

18          THE BAILIFF: Put your left hand on the Bible  
19 and raise your right hand and face the clerk.

20                 NEIL LOGAN, after being duly sworn,  
21 testified as follows:

22          THE CLERK: State your name, please.

23          THE WITNESS: Neil Logan.

24                   DIRECT EXAMINATION

## NEIL LOGAN-DIRECT BY MR. WILSON

1 BY MR. WILSON:

2 Q Good morning, Mr. Logan, how are you doing?

3 A Fine, and yourself?

4 Q Good, thank you. I want to get a little bit of  
5 background information about you for the jury. Tell the  
6 jury your full name, please.

7 A Neil Logan.

8 Q And where do you live?

9 A I live at Three River Summit Drive in  
10 Simpsonville, South Carolina.

11 Q Where do you work now?

12 A I work for the Advanced Auto Parts in Five  
13 Forks.

14 Q Now, back in 2011, you were employed with  
15 Greenville County E911?

16 A Yes, I was.

17 Q And you had been employed with E911 for some  
18 years prior to 2011?

19 A I started there in 2009.

20 Q Okay. And I think you worked there up until  
21 about May of 2012?

22 A Correct.

23 Q Okay. Prior to that time, you had some  
24 experience in law enforcement, you were a police officer?

25 A Yes, I was.

NEIL LOGAN-DIRECT BY MR. WILSON

1 Q How long were you in law enforcement?

2 A Thirty-three years?

3 Q What type positions, what type jobs?

4 A I started as a part-time officer and rose  
5 through the ranks to chief of police of the department.

6 Q So you had experience in going on calls and  
7 handling paperwork and investigating cases? I mean, you  
8 had experience from ground up to administration, correct?

9 A Yes.

10 Q Okay. Now, back in December of 2011, you were  
11 involved -- on December the 9th of 2011, you were involved  
12 in a telephone call to E911 from Juana Hamby, Lilia  
13 Blandin's sister; do you remember that?

14 A Yes.

15 Q Okay. The jury has heard this call, but I'm  
16 going to let you listen to it this morning and I want to  
17 let the jury listen to it again. This is going to be  
18 Plaintiff's Exhibit No. 3 and 4 that's being played and  
19 I'm going to show you what's Plaintiff's Exhibit 5, which  
20 is a transcript of this call. I just want you to follow  
21 along as the tape plays, please.

22 (WHEREUPON, the 911 call was published to the  
23 jury.)

24 BY MR. WILSON:

25 Q Mr. Logan, is that the telephone call that you

NEIL LOGAN-DIRECT BY MR. WILSON

1 were involved in with Ms. Juana Hamby December the 9th,  
2 2011?

3 A That's a portion of it, yes.

4 Q Now, let's put the transcript up, Exhibit No. 5.  
5 You've got Exhibit 5 there with you?

6 A Yes.

7 Q Okay. Now, Mr. Logan, we're looking on the  
8 screen here Exhibit No. 5. When this call comes in,  
9 you're gathering information from Ms. Hamby, correct?

10 A Correct.

11 Q Let's look at what type of information you  
12 gathered from Ms. Hamby. She tells you that her sister  
13 has a problem and that she's located at [REDACTED]  
14 [REDACTED] in Simpsonville; is that correct?

15 A That's correct.

16 Q And what else -- did she tell you that she's  
17 having a problem with her husband?

18 A Yes.

19 Q Okay. And did she tell you in this call that  
20 her sister is at the house, but is outside the house and  
21 slept in the car all night?

22 A Yes, she does.

23 Q Okay. And she tells you -- let's go down a  
24 little bit further. And she tells you that her husband  
25 has said that he wanted to kill her and she slept in the

NEIL LOGAN-DIRECT BY MR. WILSON

1 car all night long; do you recall that?

2 A Yes.

3 Q So, you're gathering this information and you're  
4 processing this information as you receive the call,  
5 correct?

6 A Correct.

7 Q Okay. Now, this information caused you to take  
8 action with respect to this call, didn't it?

9 A Yes.

10 Q Okay. Now, let's talk a little bit about how  
11 911 operates. When a calls comes in, a file or an  
12 incident is opened on the computer system; is that how it  
13 works?

14 A An entry is made in the CAD system based upon  
15 the address of the call.

16 Q And you can see the information in the CAD  
17 system? You can access it and view it?

18 A Yes.

19 Q And any of the other 911 operators, can they  
20 also access and view the information in the CAD system?

21 A Yes.

22 Q So, when you took this call, were you able to  
23 see that there was already an opened incident or an opened  
24 call from a prior telephone call from Lilia Blandin?

25 A It was a call for service at this address.

NEIL LOGAN-DIRECT BY MR. WILSON

1 Q Okay. And you were able to see that?

2 A I was able to see the address. As I recall, you  
3 can see the address, the location and the classification  
4 of the call.

5 Q And you were able to see that Ms. Patricia  
6 Sullivan would have handled that prior phone call from  
7 Lilia Blandin?

8 A Yes.

9 Q Okay. Now, let's take that down. I want to  
10 show you what's Plaintiff's Exhibit No. 8. And this is  
11 kind of small, so it's probably going to be easier to look  
12 on the screen here. Look at No. 8. Mr. Logan, what I'm  
13 looking at right here, 1028, is that your -- what you did  
14 in response to the phone call from Juana Hamby?

15 A Right, that's what I typed into the narrative  
16 section of the CAD.

17 Q Okay. Let's go back up a little bit then, prior  
18 time. So, you would have been able to see that  
19 Ms. Sullivan had at 10:13 entered a child custody call and  
20 classified it as a code 21?

21 A Yes.

22 Q Then right here after the phone call you  
23 received from Juana Hamby, you gathered this information  
24 and then you would have changed that to a code 21 --  
25 excuse me, changed it from a code 21 to a code 80?

NEIL LOGAN-DIRECT BY MR. WILSON

1 A Yes.

2 Q Twenty-one is an items call?

3 A It's an item or custody related call.

4 Q And 80 is a domestic violence or domestic  
5 disturbance situation?

6 A Correct.

7 Q You also would have changed it from a three  
8 priority to a one priority?

9 A No, I would not.

10 Q Okay. What happens there?

11 A The system automatically changes the priority.

12 Q Okay. So, when you enter this information, the  
13 system changes it to a priority one?

14 A Yes.

15 Q And that's considered a higher priority or a  
16 more serious call that requires more attention?

17 A Yes.

18 Q Okay. And you did that based on the information  
19 you gathered from Juana Hamby?

20 A Correct.

21 Q Even though Juana Hamby wasn't at the scene,  
22 even though she was a third person, you felt that  
23 information was important and vital to the incident that  
24 had been called in about?

25 A I felt that based on the information she was

NEIL LOGAN-DIRECT BY MR. WILSON

1 getting and giving to me that it warranted to have the  
2 call have someone sent to that address.

3 Q And you felt that it warranted that call being  
4 coded as a code 80, a domestic disturbance call?

5 A Correct.

6 Q Okay. Mr. Logan, when a call comes in, if you  
7 receive information from that call and you're not sure how  
8 to treat that call, if you've got a choice between a  
9 couple of different classifications that that call could  
10 be, do you generally err on the side of caution or on the  
11 side of safety as to how you classify that call?

12 A I don't understand what you mean by  
13 classification, if you're talking about classification as  
14 to priority or the classification where the call fits in?

15 Q Where the call fits in?

16 A Based on the information that's given, you  
17 determine whether it's an assault or a drug involvement or  
18 a motor vehicle involvement and using the 10 codes, you  
19 would classify it based on the information given to you.

20 Q Sure. But if a call comes in and you're not  
21 sure whether to classify that call as a custody or an  
22 items call, or a domestic disturbance call, don't you err  
23 on the side of caution and classify it as a domestic  
24 disturbance call?

25 A Custody or articles is diff -- information that



NEIL LOGAN-DIRECT BY MR. WILSON

1 you would be given would be such that it would indicate  
2 that it didn't need any immediate action and follow the  
3 SOP of the sheriff's office and that's why you would  
4 classify it as a custody which required a sergeant to call  
5 that person.

6 Q Sure. But if you have a call that is very close  
7 in nature and you can't determine from the information  
8 you've gathered if it's a custody or an items call or if  
9 it's a domestic disturbance or a domestic violence call,  
10 don't you err on the side of caution?

11 A Well, obviously, in this case, it appeared to be  
12 a domestic disturbance, the threat of some violence and  
13 was classified as such.

14 Q And that's why you classified it as a domestic  
15 call?

16 A Yes.

17 Q Okay. Now, the information that is contained  
18 here on the CAD, that's information that every  
19 communication specialist in the 911 office can see; is  
20 that correct?

21 A I'm not quite sure that they can see all that  
22 detail. You have to open up the call, which would expand  
23 the screen to basically see some of these steps. But as a  
24 911 operator or call taker, as I was, all you're seeing is  
25 line items or addresses and I believe the classification

NEIL LOGAN-DIRECT BY MR. WILSON

1 of the call. If you click on that screen, it will open it  
2 up and give you some more detail.

3 Q So, when you get a call that pertains to [REDACTED]  
4 [REDACTED], you see that there's already an open  
5 file for [REDACTED] and you can click on that and  
6 open up the rest of the information?

7 A Correct. It gives the line item at the top  
8 there, 10:26 says location [REDACTED].  
9 That would show there and then a classification of the  
10 initial call, which was a 21, which is a custody or  
11 articles-type call.

12 Q And then each communication specialists could  
13 access the rest of the information by clicking on the --

14 A They could open the call up, yes.

15 Q Open the call, okay. So, after you took this  
16 information, Ms. Patricia Sullivan would have either  
17 received some notification that there had been a change in  
18 the classification from code 21 to code 80 where she would  
19 have been able to click on the icon or the call and see  
20 that you changed that, correct?

21 A Correct.

22 Q So, this is information that would have been  
23 available -- this information about the call you took is  
24 information that would have been available to  
25 Ms. Sullivan?

NEIL LOGAN-DIRECT BY MR. WILSON

1 A Yes.

2 Q The information that you enter or that any of  
3 the communication specialists enter in this incident  
4 detail is entered into the CAD?

5 A Yes.

6 Q And that information is also available to  
7 officers who are responding to the scene?

8 A I believe it is through their mobile data  
9 terminals. I'm not positive how much they actually can  
10 see.

11 Q But they can see the basic information, the  
12 codes, and the priority?

13 A Yes.

14 Q Okay. And I believe you said -- I want to make  
15 sure I understood. You said you changed the  
16 classification to domestic disturbance because there was a  
17 threat of violence or a threat of the husband to kill?

18 A There was an indication of violence or a threat.  
19 And that it -- at that point, being that it was between a  
20 husband and wife then it classified as a domestic  
21 disturbance.

22 Q Okay. Now, Mr. Logan, you see here on the CAD  
23 where at 10:29, one minute after you changed that priority  
24 to one and the code to 80, Ms. Sullivan changed that  
25 priority back to 21 and a priority three?

NEIL LOGAN-DIRECT BY MR. WILSON

1 A Yes.

2 Q She changed it back from domestic to custody?

3 A She changed the classification from 1080 to a  
4 1021. The CAD system changed the priority automatically.

5 Q All right. And she didn't talk with you before  
6 she made that change, did she?

7 A I don't recall talking, a conversation. In this  
8 room, there's 12 different stations, so oftentimes, what  
9 happens is when someone makes a change to a call and it  
10 was someone else's call, they may shout out, did you  
11 change my call? And that happens quite often.

12 Q But in this situation, you don't recall Ms. --

13 A She may have -- I don't recall having a  
14 conversation with her. She may have and subsequently  
15 opened up the call to see the additional information.

16 Q Okay. Give me just one moment, please  
17 Mr. Logan. Mr. Logan, you wouldn't have initiated any  
18 conversation with Ms. Sullivan about the call or your  
19 change of the coding or the classification of the call?

20 A When I was taking the call --

21 Q Yes, sir --

22 A -- or subsequent to the call?

23 Q When you were taking it or subsequent?

24 A No, I would have taken the information --  
25 because it was a second caller, I would have taken it as

NEIL LOGAN-DIRECT BY MR. WILSON

1 any normal call to the call center. Taken the  
2 information, determined what was going on there, entered  
3 it into the CAD and created a call. In this case, a call  
4 was already created at that address. So, all I did was  
5 update that call with the additional information and  
6 reclassify it.

7 MR. WILSON: Okay. All right. I believe that's  
8 all the questions I have, Mr. Logan. I appreciate  
9 your time. Mr. Harter will have some questions.

10 THE COURT: Mr. Harter.

11 MR. HARTER: Thank you, Your Honor.

12 THE COURT: Yes, sir.

13 CROSS-EXAMINATION

14 BY MR. HARTER:

15 Q Good morning, Neil, how you doing?

16 A Good morning. Fine.

17 Q Neil, you have experience in law enforcement  
18 operations as well as you spent time actually doing  
19 communication calls as a communication specialist with the  
20 Greenville County Sheriff's Office; haven't you?

21 A Yes, I do.

22 Q Okay. And for me, can you pull that mic a  
23 little bit closer to you, please? I want to ask you, how  
24 long did you actually work with the sheriff's office in --  
25 you worked in communications at the sheriff's office? You

1 never worked in actually other operations; did you?

2 A I was a call taker, not a dispatcher, a call  
3 taker.

4 Q And you had specific training about that?

5 A Yes, sir.

6 Q And how many years did you do call taking with  
7 the sheriff's office?

8 A I worked there from 2009 to 2012, but during  
9 that time was only about nine months a year. I would take  
10 the summers off.

11 Q You'd take the summers off to go be with your  
12 family in part of the country?

13 A Yes.

14 Q Now, in terms of this call -- or in terms of  
15 your role as a communication specialists, tell the jury  
16 kind of what you think or what you perceived your  
17 responsibility is in that chain of communications, Neil?

18 A My responsibilities -- there's 12 consults. So,  
19 through a computerized phone system, each consult gets a  
20 call as they come in. When a call rings at my station, I  
21 answer it, determine, you know, what's going on basically,  
22 who, what, where, when and how kind of information is  
23 gathered. Classify the call, whether it's a first aid  
24 call, whether it's a noise complaint, whether it's a  
25 domestic violence call or whatever, and type in the

1 information, classify it. And basically, at that point,  
2 it gets sent to the CAD and it's visible at the screen of  
3 the radio dispatchers in the area where this call is  
4 located in the county.

5 Q Okay. It is your role to basically gather  
6 information, filter what the issue is, what the caller's  
7 problem is and generate some kind of response  
8 appropriately?

9 A Correct. It's basically I gather the  
10 information. I kind of whittle it down and put it in the  
11 narrative section.

12 Q Do you kind of analyze or characterize the call  
13 based on any one particular thing or do you try to listen  
14 to the caller, evaluate exactly what's going on at the  
15 time, consider what you're hearing and view the call and  
16 characterize it based on the total call itself?

17 A Yes, you basically -- in this particular case,  
18 it was a very calm voice. There was no background. There  
19 was no screaming. There was no yelling. There's types of  
20 calls that we do get that's all you get is screaming and  
21 yelling and you have to filter that out to try and  
22 determine. In this case, it was a very calm call.  
23 Information was given. It was clarified by me as to where  
24 this was occurring, who was involved. And basically,  
25 that's what you do. You have to filter out the

1 information and whittle it down to a simple text that you  
2 put into the call.

3 Q And depending on what you do, you know that call  
4 is going to get a response, right?

5 A Yes. Once you put it into the system, it's  
6 going to get a response.

7 Q And based on your 30 plus years in law  
8 enforcement, have you had or do you know of experiences  
9 where you get to a call and it's something entirely  
10 different than what you got dispatched and what you found?

11 A Oh, yes.

12 Q Happens frequently?

13 A Yes.

14 Q And is that why you rely on trained uniform  
15 patrol officers who respond to calls to make ultimately a  
16 decision as to what's going to happen there?

17 A Correct. The decision is not made by the  
18 caller, it's made by the officers that go out and  
19 determine the facts. And they will either reclassify the  
20 call if need be. If it wasn't what it was initially  
21 classified as, they'll indicate a change of classification  
22 and put it in their reports.

23 Q So, you're not the where all and end all of  
24 what's going to happen and be dealt with with this call?

25 A No, we're not.



1 Q Okay. Let me just ask if we can listen to  
2 Ms. Hamby's call again.

3 (WHEREUPON, a 911 call was published to the  
4 jury.)

5 BY MR. HARTER:

6 Q All right. Neil, I want to ask you, did I just  
7 hear that recording say we'll get somebody out there?

8 A Yes.

9 Q Did you tell her that?

10 A Yes, I did.

11 Q Okay. I want you to look at the transcript,  
12 Plaintiff's No. 5. Is that transcript complete?

13 A No, it is not.

14 Q It doesn't include information that we just  
15 heard on that tape that we'll get somebody out there,  
16 right?

17 A No, it does not.

18 Q Okay. Now, did this call get answered by two  
19 deputies going to the scene without delay?

20 A Yes.

21 Q Okay. Regardless of how it was initially  
22 characterized, right or wrong, it got a priority one  
23 response with two deputies going to the scene; is that  
24 right?

25 A Correct.

1           Q     Okay. Now, let's look at the incident recall  
2 for a minute. Before I do, so whoever created this  
3 transcript, apparently, didn't get it exactly right; did  
4 they?

5           A     No, there's a second page to that transcript.

6           Q     Okay. You were asked about this and this is the  
7 incident recall, this is the CAD. This is kind of a track  
8 or trail to give us a footprint of what's going on, right?

9           A     Yes.

10          Q     Primary event call comes in, Patricia Sullivan  
11 takes it at 10:13, calls it a child custody call, right?

12          A     Correct.

13          Q     And then if it's a child custody call -- right  
14 or wrong, if it's a child custody call, is it appropriate  
15 that an officer call back, a sergeant call back to -- is  
16 that the way you handle those calls?

17          A     That's the policy, yes.

18          Q     Okay. And so it was assigned to Mark McCoy, it  
19 appears?

20          A     Correct.

21          Q     To be the person to call her back?

22          A     Right. He's the sergeant in that area.

23          Q     Okay. Then there's a second call -- then  
24 there's the call that you take at 10:28. And this is the  
25 CAD entry that you make, right?

1 A Yes.

2 Q Okay. And you saw the call had been a 21, a  
3 1021, and you changed it to a 1080. And you told the  
4 jury, I think, why you did that and what was going on in  
5 your mindset, right?

6 A Yes, I did.

7 Q Now, when you talked to Ms. Hamby -- when you  
8 talked to Ms. Hamby on the phone, what she's telling you  
9 is that the husband has threatened to kill her sister,  
10 right?

11 A Yes.

12 Q Is that what you glean the guts of the call to  
13 be is about a threat to kill somebody as opposed to  
14 something about clothes and going in to get my child?

15 A Yes.

16 Q Okay. You filtered that information, right?

17 A Correct.

18 Q The main part of that call then to you -- that  
19 you were impressed with is the quote, threat to kill?

20 A Yes.

21 Q Okay. But you also appreciated and knew a  
22 couple of things; didn't you? You knew that Ms. Hamby was  
23 not with Mrs. ~Blandin at the time, correct?

24 A Right, she was not there.

25 Q You know Mrs. ~Blandin was not in the house at

1 the time?

2 A Yes.

3 Q And you knew that Ms. Hamby was giving just  
4 third-hand information?

5 A Yes.

6 Q Okay. But in any event, you characterized it or  
7 classified it as a 1080 and that's the way it got dealt  
8 with?

9 A Correct.

10 Q Okay. Now, there's been some -- there was a  
11 call back --

12 MR. HARTER: Can we come up just a little bit?

13 Oh, I'm sorry, I apologize.

14 BY MR. HARTER:

15 Q There was a call back at 10:37 and this is when  
16 Ms. -- I'm sorry, Patricia Sullivan calls back and speaks  
17 again with Mrs. Blandin; do you see that?

18 A Yes.

19 Q Okay. Now -- and it's been pointed out that she  
20 changed the call back to a quote, custody call, to a 1021  
21 at some point, right?

22 A Correct.

23 Q Okay. Now, tell the jury, if she changed the  
24 call back to a 1021, what did that have to do -- did that  
25 cancel the deputies response --

1 A No.

2 Q -- to your call as you characterized it?

3 A No, it did not.

4 Q Did it in any way change the way that call was  
5 responded to? It was responded to with two deputies and  
6 it was responded to as a priority and go without delay,  
7 right?

8 A Correct.

9 Q Okay. And I'm not going to jump back to hear  
10 the tape -- audio again, but in the 911 -- in the call  
11 that Ms. Hamby made to you, in that call, she mentioned a  
12 threat. She didn't mention anything about her sister  
13 having told her I was punched in the stomach or I was hit  
14 anywhere; did she?

15 A No.

16 Q Obviously, her sister's telling you she's talked  
17 to her --

18 A Right.

19 Q -- before she made the call?

20 A Right.

21 Q And when you get the call from the sister who's  
22 concerned about her, she doesn't mention anything about  
23 Mrs. Blandin having said I've been punched or hit in the  
24 stomach, right?

25 A Correct.

1           Q    And Ms. Hamby is calling -- she's not saying I'm  
2   in route, she's calling and passing this information on?  
3   She's not saying I'm going to my sister's house; is she?

4           A    No, she's not.

5           Q    Okay. Neil -- and you -- is it sometimes  
6   difficult when you folks are in that control room there  
7   talking with people to figure out exactly what's going on  
8   and is your job somewhat of a challenge?

9           A    It is, because you have a bunch of variables  
10   that come into play here and it's hard to decipher  
11   sometimes what the calls are actually about.

12          Q    Okay. And there's a mobile data terminal that  
13   law enforcement has in their vehicles, right?

14          A    Yes.

15          Q    That's what we call -- everybody shortened it to  
16   a MDT?

17          A    Correct.

18          Q    It's like a computer that's there that will pop  
19   up information that they can access, right?

20          A    Correct.

21          Q    And the deputies that would respond to this call  
22   could access the text of what Patricia entered and the  
23   text of what you entered; is that correct?

24          A    Correct.

25          Q    Okay. Now, you never spoke to Mrs. Blandin?

1 A No, I did not.

2 Q Okay. And now, did you have the occasion to  
3 listen to the dialogue and the call between Patricia  
4 Sullivan and Mrs.-Blandin later?

5 A Yes.

6 Q After this lawsuit got going?

7 A Correct.

8 Q Okay. You had a chance to listen to Patricia's  
9 call; is that right?

10 A That's correct.

11 Q Okay. And listen to her interaction with  
12 Mrs.-Blandin?

13 A Correct.

14 Q Okay. Now, having --

15 MR. WILSON: Your Honor?

16 THE COURT: Yes, sir.

17 MR. WILSON: Could we approach one moment?

18 THE COURT: Sure, absolutely.

19 (WHEREUPON, an off-the-record bench conference  
20 was held in the presence of the jury but out of  
21 the hearing of the jury.)

22 BY MR. HARTER:

23 Q Neil, you've responded -- you've taken a lot of  
24 calls through your years as a communication specialist,  
25 right?

1           A     As a communication specialists working in  
2     Greenville County. I was never a -- in that job  
3     classification in my prior law enforcement experience.

4           Q     Okay. But you'd been doing it here in  
5     Greenville?

6           A     Yes, sir.

7           Q     As a communication specialist?

8           A     Yes.

9           Q     Okay. And you had a chance to listen to, after  
10    this lawsuit was initiated, the actually 911 call and the  
11    dialogue between Patricia Sullivan and Mrs.~Blandin,  
12    right?

13          A     Yes, I did.

14          Q     Do you have an opinion as to whether or not  
15    Patricia -- can you understand why she would have  
16    characterized that as a 21 call as opposed to a  
17    disturbance call?

18          A     In listening to that conversation --

19          Q     Can you scoot that mic up, please?

20          A     In listening to that conversation, it was very  
21    broken English. It was difficult to understand some  
22    things. But I did notice that in the conversation,  
23    Patricia asked her several times was she at the house and  
24    she said no, she was not at the house.

25          Q     And did you -- even in retrospect and hindsight,



1 can you see how she would have called it an items call  
2 instead of a disturbance call when that call came in?

3 A Oh, yes. Because in that conversation, she was  
4 talking about she wanted to get her daughter.

5 Q And her things?

6 A And her things. And that is a fairly common  
7 call that comes into the sheriff's office regarding  
8 articles. Not so much in domestics, but in any kind of a  
9 disturbance where people have lived together or whatever  
10 and they want to go to that location, it is the policy  
11 that that information, you know, is classified as a  
12 custody or articles thing and is made a 21 and a sergeant  
13 has to speak with that person.

14 Q Excuse me, just a minute. Can I look at the 911  
15 CAD just for a quick second? Incident recall, I'm sorry.

16 A This here?

17 Q Yes, I'm sorry. Neil, will you look at that and  
18 just tell me, during a short interval of time, do you see  
19 that three different people are addressing that call or  
20 involved in that call? We have at 10:28, the call from  
21 the sister. We have a dispatch to the residence. And we  
22 have Ms. -- or Patricia Sullivan calling back and having  
23 another follow-up conversation with Mrs.-Blandin?

24 A Yes.

25 Q Okay. So, several people are dealing with

1 that -- or, at least, three people are dealing with that  
2 call at the same time?

3 A Yes.

4 Q Okay.

5 MR. HARTER: Bear with me a second, Your Honor,  
6 I'm about through.

7 BY MR. HARTER:

8 Q Can we look at General Order 238, please.  
9 General Order 238 addresses criminal domestic violence.  
10 And, actually, Neil, if I understand you correctly,  
11 there's a section, the section called communication center  
12 responsibilities. These are specific questions that if  
13 there is a -- if a true criminal domestic violence call,  
14 the general orders and directives say that these things  
15 should be addressed, to give domestic violence priority,  
16 an effort made to determine and relay the following  
17 information in response to the deputies.

18 Now, here, you characterized this call as a  
19 disturbance call. You told us before what was done. Did  
20 you feel it necessary to go through items one through  
21 seven in these general orders when you took the call and  
22 did what you did?

23 A Well, it says effort is to be made. You're not  
24 going to ask all of those specifically one through seven.  
25 On this particular call, five out of the seven was

1 addressed in the information that was given to me.

2 Q So, you're tuned into getting information, not  
3 necessarily in response to pointed questions, but as  
4 information gets passed on, you can mentally check off  
5 these things; is that right?

6 A Correct. And in this case, there was no  
7 indication that anyone was injured. There was no  
8 indication of, you know, background and screaming like  
9 someone's hurt. So, it wasn't necessarily -- you know, I  
10 wasn't going to ask the question is EMS required. First  
11 of all, she wasn't even at the scene, so I don't know if  
12 she would have even known that.

13 Q And again, how this call was handled, changed  
14 had nothing to do with the response that was initiated?

15 A No.

16 MR. HARPER: Okay. Thank you. Those are all  
17 the questions I have.

18 MR. WILSON: Just a little bit, Your Honor.

19 THE COURT: Sure.

20 REDIRECT EXAMINATION

21 BY MR. WILSON:

22 Q Mr. Logan, now, you testified earlier it's a  
23 challenge sometimes in the E911 office. You've got all  
24 these variables, 12 different stations, a number of calls  
25 coming in at the same time, multiple people working on the

NEIL LOGAN-REDIRECT BY MR. WILSON

1 same calls, information may be coming from different  
2 sources, a lot of activity at one time; is that correct?

3 A Correct.

4 Q That's the variables that you're talking about?

5 A Yes.

6 Q And sometimes that can be a challenge to handle  
7 these calls and figure out how to decipher the  
8 information, how to analyze the information, how to code  
9 the information, how to classify the information?

10 A It's going to be a challenge. I want to say the  
11 variables, you know, language is a variable, background  
12 noise is a variable, you know, yelling and screaming,  
13 whatever such as that is a variable.

14 Q Okay. And so, that's part of the reason why in  
15 your job, when you have a close call or a question about  
16 how to classify a call, you err on the side of caution,  
17 you err on the side of safety? That's why you classified  
18 this call as a domestic disturbance call?

19 A Yes.

20 Q Now, the mobile data -- the mobile data  
21 terminals that the officers have that Mr. Harter was  
22 talking to you about a moment ago, that's the computer  
23 that sits in the sheriff's patrol car?

24 A Correct.

25 Q And it's kind of right there -- you've seen them

NEIL LOGAN-REDIRECT BY MR. WILSON

1 before, it's kind of right there at the officer's side on  
2 the right side of the steering wheel?

3 A Yes.

4 Q And the information -- the text that you or any  
5 other communication specialist enters in to the CAD, the  
6 text of the call is something that's accessible on the  
7 MDT, I think that's what you testified to?

8 A I do believe it is accessible, yes.

9 Q And the code and the priority is also accessible  
10 on the MDT?

11 A Yes.

12 Q Okay. Now, you said you have read the  
13 transcript and you've heard the tape of the telephone  
14 call, the initial call that Lilia Blandin made to 911, the  
15 call that Ms. Sullivan took?

16 A Yes.

17 Q And you said you understood under those  
18 circumstances how she classified that as a custody or an  
19 items call?

20 A Yes.

21 Q Okay. But then you gathered additional  
22 information from Ms. Hamby in the phone call that you  
23 took?

24 A Correct.

25 Q And then you clarified that call? You clarified

## NEIL LOGAN-REDIRECT BY MR. WILSON

1 that situation?

2 A The information that Ms. Hamby gave me was the  
3 first time I had any knowledge of any information at that  
4 address.

5 Q But that information clarified the situation or  
6 gave additional information about the situation of that  
7 call at [REDACTED]?

8 A I don't know that it gave additional information  
9 at that call. It gave me fresh information at that  
10 address.

11 Q And then I think you said that you clarified --  
12 that the call was clarified by you?

13 A It was classified by me based on the information  
14 given to me as a domestic disturbance.

15 Q So, in addition to the information that  
16 Ms. Sullivan gathered in the initial phone call, you  
17 received additional information about the call from  
18 Ms. Hamby?

19 A Yes. But I did not know what information  
20 Ms. Sullivan gathered. I was not privileged to that.

21 Q Well, you could see the information that she had  
22 entered in the text on CAD?

23 A All I could see was reference child custody,  
24 that's it.

25 Q Okay. And then you gathered the information

NEIL LOGAN-REDIRECT BY MR. WILSON

1 that Ms. Hamby gave, which was -- even if you didn't know  
2 what Ms. Sullivan knew, that was information additional  
3 about that call? It may not have been additional  
4 information to you, but it was additional information  
5 about the situation?

6 A It was the additional information at that  
7 address, yes.

8 Q And that's what caused you to clarify the call  
9 and classify it as a domestic disturbance?

10 A Based on the information given to me that there  
11 was a threat of bodily harm, I classified it as a domestic  
12 disturbance.

13 Q Okay. And how you classify that call dictates  
14 the actions that you as a communication specialists take?

15 A I don't follow your question.

16 Q Well, I mean, General Order 238 sets out a set  
17 of guidelines that are supposed to be followed by  
18 communication specialists in domestic disturbance calls,  
19 correct? We just went through that with Mr. Harter a  
20 little while ago.

21 A Right. Those things should be addressed if you  
22 can address them and you can get that information, yes.

23 Q So, if you classify something as a domestic  
24 disturbance call, there's certain types of steps that  
25 you're supposed to take, certain type of procedures you're

## NEIL LOGAN-REDIRECT BY MR. WILSON

1 supposed to follow, a certain type of information that  
2 you're supposed to gather?

3 A Yes. And those seven steps, I believe five of  
4 them were addressed.

5 Q Sure. But the classification of the call sets  
6 the tone and dictates how the call is to be handled and  
7 how the information is to be handled?

8 A I believe classification of a call sets the  
9 priority of a response to the call.

10 Q Okay. And that sets -- that sets in tone how  
11 the call is going to be handled going forward?

12 A Correct.

13 MR. WILSON: Just one moment, please, Your  
14 Honor, if I could?

15 THE COURT: Sure.

16 MR. WILSON: That's all the questions,

17 Mr. Logan, thank, you very much.

18 THE COURT: Mr. Harter.

19 MR. HARTER: Thank you, Your Honor.

20 THE COURT: Yes, sir.

21 RE CROSS-EXAMINATION

22 BY MR. HARTER:

23 Q Neil, was -- did Eleanor dispatch somebody to  
24 this call even before the 10 code was changed or posted?

25 A Yes.



## NEIL LOGAN-RECROSS BY MR. HARTER

1 Q And that was a priority one call? Two deputies  
2 without delay, right?

3 A Could you repeat your question?

4 Q Yeah. Eleanor dispatched two deputies without  
5 delay even before the 10 codes were changed out, right?

6 A Before it was changed from an 80 back to a 21?

7 Q Right.

8 A Yes.

9 Q Okay. Now, you said something about the  
10 Eleanor -- the Juana Hamby call, it set the tone for the  
11 priority of the response, right? The response priority?

12 A The response priority is set by the call  
13 classification.

14 Q Does the priority or the classification of the  
15 call tell the deputies -- are they expected to investigate  
16 whatever the call is when they get there?

17 A Yes.

18 Q Fully and completely interview the people,  
19 interact with them?

20 A Yes.

21 MR. HARTER: Thank you. That's all we've got.

22 THE COURT: All right, sir.

23 You may step down! Thank you, sir, I appreciate  
24 you being here.

25 MR. LUGINBILL: Your Honor, we ask Mr. Logan be

## NEIL LOGAN-RE CROSS BY MR. HARTER

1       excused.

2               MR. HARTER: I think I have him under subpoena,  
3       too, but I hopefully won't need him again.

4               THE COURT: Thank you. You are relieved of your  
5       responsibilities under the subpoena, Mr. Logan.  
6       Thank you for being here.

7               Anyone need to take a break before the next  
8       witness? Anybody?

9               (There was no response.)

10              THE COURT: You may call your next witness, sir.

11              MR. LUGINBILL: Your Honor, we would call David  
12       Picone.

13              THE CLERK: Sir, place your left hand on the  
14       Bible, raise your right hand, please.

15                      DAVID PICONE, after being duly sworn,  
16       testified as follows:

17              THE CLERK: State your name, please.

18              THE WITNESS: David Picone.

19              THE CLERK: Thank you, please be seated.

20                      DIRECT EXAMINATION

21       BY MR. LUGINBILL:

22              Q     Good?

23              A     Yes, sir.

24              Q     Officer Picone, if one spouse is alleged to have  
25       punched another spouse, is that a domestic violence call?

DAVID PICONE-DIRECT BY MR. LUGINBILL

1           A     You go through probable cause. You have to have  
2     some facts also to back that up. Not just a mere punching  
3     would result in an arrest. If you know the facts, talk to  
4     the other party and there's some other facts that reach  
5     probable cause, yes.

6           MR. HARTER: Can you pull that microphone up  
7           closer to you for me?

8     BY MR. LUGINBILL:

9           Q     My question was this, if you have an allegation  
10    that you're responding to that one spouse has allegedly  
11    punched the other spouse, are you responding at that point  
12    to a domestic violence call?

13          A     Yes.

14          Q     If you have allegations that one spouse has  
15    allegedly threatened to kill the other spouse, is that a  
16    domestic violence call?

17          A     Yes, it is.

18          Q     All right, sir. Now, when you were in route,  
19    you were not told that there had been allegations of one  
20    spouse punching or threatening to kill the other, correct?

21          A     On the CAD report, I believe there was a little  
22    bit of information on there about that.

23          Q     And are you telling this jury that you  
24    specifically looked at it?

25          A     Yes, sir. It would have came up on my in-car,

DAVID PICONE-DIRECT BY MR. LUGINBILL

1 what we call MDT. It's kind of like a laptop.

2 Q It is your testimony today that you were aware  
3 prior to arriving at the scene that Mr. Blandin had  
4 allegedly punched Mrs.-Blandin and threatened to kill her?

5 A No, not that he punched her. It was a -- can I  
6 look at this?

7 Q Sure.

8 A Well, the incident recall log, there's a couple  
9 notes in here that dispatch put in here that I was able to  
10 look at before arriving on the scene.

11 Q My question is did you actually look at it?

12 A Yeah, it would have came up on my MDT as I  
13 respond to the call. And this information would have been  
14 information that dispatch would have told me over the  
15 radio. But there's nothing in here about punching in the  
16 stomach.

17 Q All right. And in the initial call that was  
18 taken by Ms. Sullivan, was there any information put in  
19 about those threats?

20 A The initial call by Ms. Sullivan, the first  
21 thing that's in the incident recall at 10:13 says  
22 something in reference to child custody.

23 Q When's the first time you became aware that  
24 Mr. Blandin had killed Mrs.-Blandin?

25 A That would have been the following day.

DAVID PICONE-DIRECT BY MR. LUGINBILL

1 Q How did you find out?

2 A I believe Deputy Tyner had told me this had  
3 occurred. I think he saw it on his computer in his car  
4 about an incident at Wal-Mart.

5 Q Do you remember telling me during your  
6 deposition was the way you found out about it was the  
7 news?

8 A No. I said -- you asked me in my deposition  
9 about the lawsuit.

10 Q We'll get to it in a minute. We'll go back to  
11 that in a minute. You talked about probable cause when  
12 you first started answering my question, do you recall  
13 that?

14 A Yes, sir.

15 Q What is your definition of probable cause?

16 A Those are facts that law enforcement obtains  
17 through the course of their investigation that would lead  
18 a reasonable person to believe the accused is either  
19 committing a crime or has committed a crime or in the  
20 process of committing a crime.

21 Q Facts that would lead a reasonable person to  
22 believe that a crime has been committed?

23 A Uh-huh, yes, sir.

24 Q When you're looking at the definition of  
25 probable cause on scene, you're required to take the facts

DAVID PICONE-DIRECT BY MR. LUGINBILL

1 that you have and the totality of the circumstances,  
2 correct?

3 A Yes.

4 Q You can't look at one fact here and disregard  
5 all the rest or only look at this one and not the other?  
6 You have to look at everything together, correct?

7 A Yes.

8 Q The facts that you had available to you at the  
9 scene were that Lilia Blandin had called in upset and had  
10 made statements that her husband that threatened to kill  
11 her and had punched her in the stomach, correct?

12 A No.

13 Q That was not a fact that you had?

14 A No, it was not.

15 Q But that was a fact that Greenville County  
16 Sheriff's Office had through Ms. Sullivan, correct?

17 A If it's on 911, yes.

18 Q But she didn't tell you that?

19 A No.

20 Q You had the fact that he was out on bond for two  
21 prior CDVs, correct?

22 A I didn't know about two prior CDVs. I was aware  
23 of one prior CDV.

24 Q And that was just five weeks earlier, correct?

25 A Somewhere around there.

DAVID PICONE-DIRECT BY MR. LUGINBILL

1 Q And you were aware through your education,  
2 training and experience that most people who are out on  
3 bond on CDV in Greenville County are placed under a no  
4 contact order with the victim, correct?

5 A Yes.

6 Q And so you would have known that he should not  
7 really be there at all?

8 A Once we got there and we did our investigation,  
9 we determined that the two parties had reconciled. So,  
10 that no contact order is something that I can't make an  
11 arrest on.

12 Q We'll get to that in a minute. But you knew  
13 under the Magistrate Judge, he had been ordered not to  
14 have any contact with his wife, you knew that, right?

15 A Yes.

16 Q And you also knew from the incident recall that  
17 Mr. Blandin had allegedly threatened to kill Mrs. Blandin,  
18 correct?

19 A Well, we can go over that and I can kind of  
20 explain what I perceive everything to say on this.

21 Q When you arrived at the scene, what you had was  
22 husband has threatened to 1089B, correct?

23 A That's what it says.

24 Q That's what you knew. Are telling me you had  
25 information from another source prior to arrival?

## DAVID PICONE-DIRECT BY MR. LUGINBILL

1           A     There was another -- there's three different  
2 lines on this incident recall. And if you read each  
3 line -- I can explain how the second line is a lot  
4 different than that third line. Now, as I go, obviously,  
5 I take into consideration what's being said, but it's my  
6 job once I get there to do a full investigation. Dispatch  
7 isn't going to be the ones on scene, I am.

8           Q     You were being called to a 911 domestic violence  
9 call, correct?

10          A     Yes.

11          Q     That's the only reason you were going to that  
12 address?

13          A     That's what it was entered as in the CAD, yes,  
14 sir.

15          Q     And for you, under your training, that triggers  
16 General Order 238, correct?

17          A     Not necessarily.

18          Q     You have to do the investigation to determine if  
19 it applies, correct?

20          A     You start the investigation, but doesn't mean  
21 that your investigation is going to lead you to the reason  
22 why you're going there in the first place.

23          Q     As you're driving to Lilia Blandin's house, you  
24 are under the assumption and belief that this is a  
25 domestic violence call, right?



DAVID PICONE-DIRECT BY MR. LUGINBILL

1           A     Yes.

2           Q     So, I'm assuming that you've been trained when  
3     it's a domestic violence call, these are things that I  
4     need to keep in mind? These are my responsibilities on  
5     this call, correct?

6           A     Yes.

7           Q     Okay. The first part is for your own safety,  
8     use caution. You don't know what you're getting into yet,  
9     correct?

10          A     That's correct.

11          Q     And, in fact, what you did know was that there  
12     was a threat of one spouse killing the other, which is  
13     potentially an extremely dangerous situation for you,  
14     correct?

15          A     Yes.

16          Q     They want you to restore order by gaining  
17     control of the situation, correct?

18          A     Yes.

19          Q     All right. Again, for your own safety and the  
20     safety of everyone else, they want you to get control of  
21     any weapons that are on the scene, correct?

22          A     Yes.

23          Q     Does anybody need medical attention? And you  
24     asked them, right, are you hurt? Do I need to get you  
25     somebody?

DAVID PICONE-DIRECT BY MR. LUGINBILL

1           A     Through the conversation, we asked if anybody  
2     had been assaulted or hit.  Nobody said anything, so I  
3     didn't need to call EMS.

4           Q     And it's your testimony that Mrs.~Blandin --  
5     that you asked her specifically have you been hit?

6           A     Yes.

7           Q     And she said no?

8           A     Yes, sir.

9           Q     All right.  Identify all persons, including  
10    children, present, correct?

11          A     Yes, sir.

12          Q     And you knew there were three children present  
13    once you got there?

14          A     I did.

15          Q     Did you get their names, ages or any other  
16    information?

17          A     No, because we weren't investigating a domestic  
18    violence.

19          Q     And you quit -- well, let me ask you this, when  
20    did you quit investigating it as a domestic violence?

21          A     Once we separated both parties.  Once we talked  
22    to each person individually.  Once both people did not say  
23    that anybody had been abused, hit, punched, kicked,  
24    threatened.  Their visual, what we saw on their persons.  
25    There was no visual injuries.  Their clothes didn't seem to

DAVID PICONE-DIRECT BY MR. LUGINBILL

1 be in any kind of scuffle. At that point, when both  
2 parties are separated and both parties give the same story  
3 and both of them stated there weren't any kind of assault,  
4 there's no reason to go any further into the  
5 investigation.

6 Q And during your investigation, you had your  
7 microphone activated on your lapel, correct?

8 A Yes, sir. That is a common practice I do on  
9 every call I go to.

10 Q And it was recording exactly what Lilia Blandin  
11 said, correct?

12 A It should have, yes.

13 Q So, when you asked her did your husband punch  
14 you and she said no, that would have been recorded onto a  
15 VHS tape?

16 A That should have been.

17 Q Should have been?

18 A Can I explain?

19 Q Yes. It should have been, correct?

20 A Yes. Can I explain a little further into that?

21 Q Sure.

22 A Now, when I respond to all calls -- in a  
23 domestic violence call, it's not a policy of the sheriff's  
24 office to activate your camera. Now, the common practice  
25 for myself is every call I get out on, I turn my camera

DAVID PICONE-DIRECT BY MR. LUGINBILL

1 on, okay. On this day -- these camera systems are old.  
2 I've had times where I thought I turned it on and it  
3 didn't activate. That's something I can't control. I  
4 know for a fact when I exited my vehicle, I hit the button  
5 that would activate it. I don't know if it ever came on.  
6 It should have been on the entire time I was there. Once  
7 I left that call, I never reviewed my tape. We're not  
8 supposed to review them in the car because it can mess the  
9 tape up. I never reviewed my tape. The next day when we  
10 found out about this, didn't think anything about it.  
11 It's just a common practice for myself to do, so.

12 Q The next day when you found out about this, this  
13 being the murder?

14 A Yes, sir. Excuse me.

15 Q The next day after the murder, in fact, you were  
16 told to do a supplemental report, correct?

17 A I was.

18 Q Because you didn't do an incident report here,  
19 right?

20 A No, because --

21 Q Incident report to be completed on allegation of  
22 CDV. You didn't do one?

23 A No, because it wasn't a CDV.

24 Q And you had a tape -- or you believed you had a  
25 type, should have had a type that would have proven it

DAVID PICONE-DIRECT BY MR. LUGINBILL

1 wasn't CDV, correct?

2 A Yes.

3 Q No question about it, it would have proven that?

4 A No question.

5 Q And that tape was given to your supervisor,  
6 correct?

7 A Eventually it would have, yes.

8 Q And I'm sure you said well, gosh, Mr --  
9 Lieutenant, if you want me to do a supplemental report  
10 about what happened out there, I've got the whole thing on  
11 tape, do you want that, too?

12 A No.

13 Q You didn't tell him that?

14 A No.

15 Q Did you tell anybody you had the whole incident  
16 on tape?

17 A I didn't -- never looked at it, so I don't know  
18 if it actually recorded or not.

19 Q Wouldn't that have been important to know?

20 A It might have been, but it's not required to  
21 have my camera on. Like I said, it's a common practice  
22 for me to do. So, that is not something I go back in my  
23 mind and think hey, this call I had the camera turned on.  
24 The camera -- not only did I have that incident on there,  
25 but there's no telling how many more hours worth of

DAVID PICONE-DIRECT BY MR. LUGINBILL

1 footage I had on there after that. I didn't turn it in  
2 exactly that day.

3 Q Well, that's my point. You knew on the 10th or  
4 the 11th that Avery Blandin had killed Lilia Blandin?

5 A Yes.

6 Q And you knew you had a tape of exactly what  
7 happened out there, correct?

8 A That's correct.

9 Q And you have been told by your bosses, we need  
10 you to do a supplemental report because it's important for  
11 us to know what happened out there, right?

12 A I was just told to do what we did on that call.

13 Q Because it was -- it must have been important or  
14 there would have been no reason to do the report, correct?

15 A I'm guessing. I was just told to do one, so I  
16 did one.

17 Q If it was important enough for you to do a  
18 supplemental typed-up report, why would you not have given  
19 them the tape that would have shown exactly what happened,  
20 no question?

21 A Because it never crossed my mind. Like I said,  
22 it's just something -- I turn my camera on all the time,  
23 didn't cross my mind.

24 Q And you turned the tape in, correct?

25 A I did, yes.

DAVID PICONE-DIRECT BY MR. LUGINBILL

1 Q And you did your report, correct?

2 A Yes.

3 Q And both of those are missing now?

4 A Yes, sir.

5 MR. LUGINBILL: Your Honor, without taking a  
6 break and going back and getting his sealed  
7 transcript, can I just have him -- can I show him his  
8 --

9 THE COURT: I don't have an issue with that.  
10 Do you have a problem with that?

11 MR. HARTER: Tell us what page and show it to  
12 him and me.

13 THE COURT: You're going to read the deposition  
14 transcript, sir? Mr. Luginbill, are you going to  
15 read the deposition transcript?

16 MR. LUGINBILL: I'm going to give him the  
17 transcript.

18 THE COURT: Ladies and gentlemen, Mr. Luginbill  
19 intends to ask the witness questions regarding  
20 deposition testimony. Now, a deposition is an  
21 out-of-court statement under oath taken for the  
22 purposes of either preparation for trial or taken for  
23 purposes of introduction at trial. In a deposition,  
24 one or another party may notice a deposition and  
25 direct a witness to appear at -- usually, it happens.

DAVID PICONE-DIRECT BY MR. LUGINBILL

1 at one of the attorney's offices. At that time, a  
2 court reporter, a certified court reporter, just like  
3 Ms. Herron here, will show up and the witness will  
4 take the oath of a witness and then will respond to  
5 questions under oath.

6 When either of the attorneys refer to deposition  
7 testimony or the transcript of a deposition,  
8 understand that that is just evidence that you  
9 receive into the record just like any other piece of  
10 evidence. That is, you determine what weight it has,  
11 you determine how valuable it is. It's just like any  
12 other piece is evidence. I wanted to make sure you  
13 understood what exactly he's referring to when he  
14 talks about deposition testimony.

15 Go ahead, Mr. Luginbill.

16 MR. LUGINBILL: Thank you, Your Honor.

17 MR. HARTER: What page, I'm sorry?

18 MR. LUGINBILL: I'll call the page out before I  
19 do it.

20 MR. HARTER: Okay.

21 BY MR. LUGINBILL:

22 Q When you were responding to this, I believe you  
23 told me that you were responding to a -- initially, it was  
24 to a CDV, correct?

25 A Yes.



DAVID PICONE-DIRECT BY MR. LUGINBILL

1 Q At any point did you run the criminal history on  
2 Mr. Blandin?

3 A No, I did not.

4 Q And is that required to know under General Order  
5 238?

6 A That is if you make an arrest. You have to --  
7 to run a criminal history. For dispatch to run a criminal  
8 history, they have to have a certain reason to do so. So  
9 as we weren't applying this general order because there  
10 was no domestic violence call we were on, I can't just run  
11 a criminal history.

12 Q In trying to determine the totality of the  
13 circumstances for probable cause, his criminal history  
14 would have been part of that totality of the circumstance,  
15 correct?

16 A If we were on a domestic violence call, yes.

17 Q As part of determining whether or not you were  
18 on a domestic violence call, that would have been  
19 important to know?

20 A His criminal history?

21 Q Yes.

22 A Yes, if I was on a domestic violence call, yes.

23 Q It's part of the investigative process, correct?

24 A No. That is something that -- the criminal  
25 history is taken into consideration after a primary

DAVID PICONE-DIRECT BY MR. LUGINBILL

1 aggressor on a domestic violence call is arrested to  
2 determine the charges and prior history. There was no  
3 domestic violence on this call, so we didn't run his  
4 criminal history.

5 Q And that's based entirely upon what you say  
6 Mrs. Blandin told you?

7 A And Mr. Blandin, yes, sir.

8 Q Well, we would expect Mr. Blandin to lie to us,  
9 though, wouldn't we?

10 A I've never dealt with Mr. Blandin before, so I  
11 couldn't say that.

12 Q Do people who are committing crimes generally  
13 come right out and say hey, did you hit your wife? Oh,  
14 absolutely, I punched her right in the mouth?

15 A Actually, they do.

16 Q Do you also get a lot of people that say nope,  
17 wasn't me, we were just arguing, didn't happen?

18 A That's true, too.

19 Q And you did not identify the children, correct?

20 A Did not.

21 Q In fact, you didn't even speak to the children?

22 A That is correct.

23 Q And you did no incident report, correct?

24 A That is correct.

25 Q When did you first find out that Lilia had told

## DAVID PICONE-DIRECT BY MR. LUGINBILL

1 911 that she had been assaulted?

2 A Lilia told 911 she had been assaulted?

3 Q Yeah.

4 A Several weeks or whatever afterwards, I believe  
5 I saw something on the news about this case. I didn't --

6 Q Did Officer Tyner tell you she had made  
7 reference to it?

8 A In a previous case, yes. Not on this case.

9 Q So, Tyner told you that Yes, she told me he hit  
10 her but it was the case back in October?

11 A Yes, he made mention to me that he had looked up  
12 the report from October, I believe it was, and in that  
13 report, there was something about she being assaulted.

14 Q And punched in the stomach?

15 A I believe so.

16 Q You had on the CAD report that he had threatened  
17 to kill her. When did you think that occurred?

18 A I didn't know. I mean, obviously, before I  
19 arrived. It was on the CAD.

20 Q Did you ask?

21 A Once we got there and we separated the parties,  
22 like I said, we talked to everybody -- not everybody,  
23 excuse me, but we talked to Mr. and Mrs. Blandin and asked  
24 both of them had anybody made threats, had anybody been  
25 assaulted, punched, hit in any sort of way and both of

DAVID PICONE-DIRECT BY MR. LUGINBILL

1     them said no, it was just an argument.

2           Q     Did you ask her why she changed her story from  
3     when she called 911?

4           A     No. Like I said, in the incident recall, both  
5     times that she calls, she never makes any reference about  
6     being assaulted in her 911 calls that are on CAD.

7           Q     That are on CAD?

8           A     That I have seen, yes.

9           Q     Since this case has started, have you heard the  
10    911 calls?

11          A     Yes.

12          Q     She does, in fact, tell the 911 operator that  
13    she was threatened -- that her husband was threatening to  
14    kill her and had punched her in the stomach, correct?

15          A     Well, I listened to the 911 calls, I don't know  
16    if everybody else has as well, they're kind of hard to  
17    hear what's going on. There's a lot of broken English.  
18    There's several different phone calls. There's different  
19    references in each phone call. I feel like dispatch with  
20    the information they had at that time appropriately gave  
21    us what we needed to get out there and figure out what was  
22    going on.

23          Q     Did Mrs. Blandin tell dispatch that her husband  
24    had threatened to kill her?

25          A     It's broken up. I believe she does.

DAVID PICONE-DIRECT BY MR. LUGINBILL

1 Q Okay. And nobody asked why she was changing her  
2 story, correct?

3 A No.

4 Q Did you speak with Ms. Rivero, Madel?

5 A I was present when Deputy Tyner was sitting  
6 there talking to her, yes.

7 Q Did you hear the conversation?

8 A Yes.

9 Q Did she ask you -- when she was talking to  
10 Tyner, did she ask Deputy Tyner, Why aren't you taking  
11 this man to jail, he's hit my daughter, he's threatened to  
12 kill her?

13 A No, I do not remember that.

14 Q Does she ask specifically, Why is he not going  
15 to jail?

16 A No.

17 Q Would you have been close enough for your mic to  
18 pick up that conversation?

19 A Possibly.

20 Q Did either you or Deputy Tyner tell Mrs. Blandin  
21 and her daughter that's just your story, you don't have  
22 any evidence, we're not arresting him?

23 A Absolutely not. I would never say that.

24 Q In this case, with the 911 call making  
25 allegations of abuse and threats of death, the recent CDV.

DAVID PICONE-DIRECT BY MR. LUGINBILL

1 history, the bond order violation that was happening right  
2 in front of you, a victim that is scared to go back in the  
3 house -- and you would agree me she did say on the call  
4 she didn't want to go back in the house because she was  
5 afraid to be beaten up, correct?

6 A Yes, sir.

7 Q Multiple prior calls to that residence,  
8 substance abuse by the abuser, is that -- would you have  
9 had probable cause?

10 A No.

11 Q If you had interviewed the children and they  
12 said I watched my dad punch my mother in the stomach twice  
13 last night, would that have been probable cause?

14 A That possibly could have been, yes, sir.

15 Q If those children had told you that, would you  
16 have made the arrest?

17 A Possibly.

18 Q Now, you agree with me the children were  
19 witnesses, correct? They were there in the household?

20 A I don't know if they were inside the household  
21 the whole time. If you listen to her phone call, she  
22 talks about sleeping in the van all night long, which she  
23 told us that on scene. And I believe there was one child  
24 inside the house and two inside the van from what I'm  
25 gathering. So, I don't know who saw what.

DAVID PICONE-DIRECT BY MR. LUGINBILL

1 Q But you didn't ask?

2 A No, because like I said, once we got there and  
3 we separated the parties and both parties never mentioned  
4 anything about assault or domestic violence that occurred,  
5 there's no reason to get the children involved and get  
6 these children upset over something that didn't happen.  
7 Once we figured out no domestic violence ever occurred, we  
8 were there to handle the child custody at that point after  
9 that.

10 Q You would agree with me that if Lilia had told  
11 you that Avery had punched her in the stomach and  
12 threatened to kill her that you would have had probable  
13 cause for an arrest, correct?

14 A Yes.

15 Q And you would agree with me if you have probable  
16 cause, he has to go? You have no discretion over that?

17 A Absolutely.

18 Q But you're not telling this jury if the children  
19 had told you that then you would have, in fact, had  
20 probable cause?

21 A That's not necessarily the fact. I mean, like I  
22 said, she didn't tell us anything. He didn't tell us  
23 anything. So there's no point of involving the children.  
24 We're not there --

25 Q I understand your testimony, my question is --

DAVID PICONE-DIRECT BY MR. LUGINBILL

1 MR. HARTER: Objection.

2 THE COURT: Hold on.

3 MR. HARTER: I think Deputy Picone was still  
4 talking.

5 THE COURT: Okay.

6 Mr. Picone, you can continue answering the first  
7 question, sir.

8 THE WITNESS: Yes, sir.

9 Can you repeat the question, please?

10 BY MR. LUGINBILL:

11 Q If you had testimony from the kids?

12 A Yes, sir.

13 Q And I understand you say you didn't ask them and  
14 I understand why. But if the children had told you, if  
15 you had asked them and they said yes, I saw my dad hit my  
16 mom last night in the stomach, would that have been  
17 probable cause?

18 A That would have been part of it, yes.

19 Q Would he have gone to jail that night if you had  
20 that information?

21 A Not necessarily.

22 Q Why not?

23 A Because there's not -- obviously, if you have  
24 testimony from the children, they said that, yes, but you  
25 still have the adults that are involved, both of them are



DAVID PICONE-DIRECT BY MR. LUGINBILL

1 saying that nothing occurred. There's no physical  
2 manifestation of injury at that point.

3 Q Physical manifestation of injury is not just  
4 torn clothing and busted lips, correct?

5 A It's not. It can be visible or nonvisible  
6 injures.

7 Q And if you punch somebody in the stomach, that  
8 doesn't always leave a clear bruise, does it?

9 A No, it doesn't.

10 Q In fact, that's something that people that abuse  
11 their wives know? You've come across that before in your  
12 experience, correct?

13 A I mean, I can't recall if I've ever come across  
14 a case where somebody's been punched in the stomach.

15 Q But if Lilia had told you, that would have been  
16 it, he would have been gone?

17 A Yes, that would have played into it, yes. And I  
18 would have talked to the children at that point.

19 Q Did you see any signs of alcohol use on  
20 Mr. Blandin?

21 A I don't believe so.

22 Q He didn't seem drunk or smell hung over or  
23 anything like that?

24 A No, he seemed like he was carrying on a  
25 conversation and understood what I was talking about and

DAVID PICONE-DIRECT BY MR. LUGINBILL

1 didn't show any signs of intoxication.

2 Q You've done custody calls before, obviously. Is  
3 it your training that when you have a married couple and  
4 no Family Court order, you're not allowed to decide which  
5 spouse the child goes with; is that right?

6 A That is correct.

7 Q And we don't know where your supplemental report  
8 is?

9 A I don't but I can explain a little bit about the  
10 supplemental report and the reason why it might not be  
11 located.

12 Q Well, what you told me earlier, as I understand,  
13 was you typed it up and you sent it to the central  
14 computer, correct?

15 A What I did was I was asked to write a  
16 supplemental record with no case number on it. If it had  
17 a case number on it, then it would have been linked to a  
18 certain case, which would have been put in records. So,  
19 when I typed my supplemental report, I talked about what  
20 we did the day before at the residence. And after I typed  
21 my supplemental report, we are to send that report, any  
22 report to our uniform patrol office. So, I hit print  
23 button and it sends that to that printer.

24 Once I did that, I contacted one of my  
25 supervisors, don't know which one, and let them know that

DAVID PICONE-DIRECT BY MR. LUGINBILL

1 I was supposed to do this, the supplemental report is  
2 upstairs. I was told okay and that's the last I heard of  
3 it. I've had reports in the past even with case numbers  
4 that have been lost. I mean, it's not a perfect system.  
5 Things get lost in all the paperwork that goes around, but  
6 I know for a fact that I did do one.

7 Q And the reason you were told to do one is  
8 because there was a murder investigation?

9 A Yes.

10 Q And this is a murder investigation that got a  
11 little bit of publicity at the time here in Greenville  
12 County, did it not?

13 A It did.

14 Q So, you have what would be at the time sort of a  
15 higher profile case and you were told by someone, you  
16 don't remember who?

17 A No.

18 Q To do the supplemental report and you were  
19 specifically told to leave the case number off?

20 A Yes. Because that's a totally different  
21 incident location, a totally different date. There was  
22 no -- there was no report -- incident report done because  
23 there was no crime committed on that date. So, you're not  
24 going to associate a case number with this case with this  
25 address because there was no crime.

DAVID PICONE-DIRECT BY MR. LUGINBILL

1           Q     And you did what you were supposed to do, you  
2 typed it in, you sent it off and told them okay, I've done  
3 it, it's there for you, correct?

4           A     I did.

5           Q     And you are purely speculating as to why it  
6 didn't get to where it was supposed to go?

7           A     Yes, sir.

8           Q     You have no idea?

9           A     I don't.

10          Q     And you have no idea why your tape wasn't  
11 produced to us or made available, correct?

12          A     Like I said, I've explained that it's common  
13 practice for me to turn my tape on. I never thought about  
14 going back and even looking to see if there was anything  
15 on my tape. That's just something I do every time I get  
16 out of the car.

17          Q     And the reason you do that is so that there's a  
18 record of what happened, correct?

19          A     Yes.

20          Q     So, if you've got a suspect in front of you that  
21 said David Picone called me a blanky, blank, blank,  
22 blanky, blank, blank, blank, you can say, no, sir, that  
23 didn't happen, let me go show you the tape, right?

24          A     Yes, sir.

25          Q     So, you had an incident one day prior to a

DAVID PICONE-DIRECT BY MR. LUGINBILL

1 murder where the suspect and the victim were recorded by  
2 you, correct?

3 A Like I said, I'm assuming that it was recorded.  
4 I turned the microphone on or should have, but I never  
5 went back and even looked.

6 Q And you were told to do a supplemental report  
7 because somebody thought that that incident was important  
8 to this murder investigation or to some subsequent civil  
9 case that may have come out of it, correct?

10 MR. HARTER: Object to the form -- I'm sorry.

11 THE COURT: Go ahead.

12 MR. HARTER: I'm sorry.

13 MR. LUGINBILL: Okay.

14 THE WITNESS: Can you repeat that, I'm sorry?

15 BY MR. LUGINBILL:

16 Q Somebody called you and told you to do a  
17 supplemental report because they thought that your  
18 interactions with the victim and the subject of this  
19 murder just one day prior would be relevant to this murder  
20 investigation, correct?

21 A Correct.

22 Q And might also be relevant to whether or not you  
23 and Deputy Tyner did what you were supposed to do that day  
24 involving this death, correct?

25 A No.

DAVID PICONE-DIRECT BY MR. LUGINBILL

1 Q You didn't think it had anything to do with  
2 anything?

3 A No. If that would have been the case and they  
4 didn't think we did our job, I would have been told to go  
5 back and write an actual report.

6 Q It's your testimony that you had no idea  
7 whatsoever that the department could potentially be sued  
8 for failing to arrest Avery Blandin when they had him  
9 there on a call where he had alleged to kill his wife one  
10 day before he actually did? It's your testimony today  
11 that the thought of a civil suit was completely out of  
12 your mind?

13 A That is my testimony. Because I don't have any  
14 interaction with -- I don't do civil suits every day.  
15 Plus, I answer calls all day everyday and I don't -- my  
16 mind frame when I answer calls isn't, am I going to be  
17 sued? It's to handle the call that I'm on and if somebody  
18 needs to be arrested to make the arrest. Now, I didn't  
19 make an arrest on this day -- or we didn't make an arrest  
20 because there was no domestic ever occurred.

21 Q But you run that tape because that tape has the  
22 truth of what happens on your calls, correct?

23 A You said I ruined the tape?

24 Q You run the tape. The reason you record and  
25 make that tape is because that has the truth of what

DAVID PICONE-DIRECT BY MR. LUGINBILL

1 happened on your call?

2 A I run the tape on every call I go to.

3 Q And you want the truth? You want the actual  
4 truth on that tape, correct?

5 A Absolutely.

6 Q But we don't have that truth today, do we?

7 A We don't have it.

8 MR. LUGINBILL: Please answer any questions  
9 Defense may have.

10 MR. HARTER: May we have a few minutes, Your  
11 Honor?

12 THE COURT: You want to take a break?

13 MR. HARTER: Yes, sir.

14 THE COURT: Let's take a short break, ladies and  
15 gentlemen. We'll come back and resume testimony in  
16 just a few minutes.

17 (WHEREUPON, the jury left open court at  
18 approximately 10:48 a.m.)

19 THE COURT: All right. We'll be in recess until  
20 the jury's ready.

21 Officer, you can take a break, too. You just  
22 can't discuss your testimony with anybody.

23 THE WITNESS: Yes, sir, I'm fine. I've been  
24 standing out in the hallway all day.

25 THE COURT: Okay. Suit yourself, suit yourself.

DAVID PICONE-DIRECT BY MR. LUGINBILL

1 (WHEREUPON, a short break was taken.)

2 (WHEREUPON, the jury came into open court at  
3 approximately 11:00 a.m.)

4 THE COURT: All right. Mr. Harter, your  
5 witness, sir.

6 MR. HARTER: Thank you, Your Honor.

7 THE COURT: Yes, sir.

8 CROSS-EXAMINATION

9 BY MR. HARTER:

10 Q David, if you don't mind, how about tell the  
11 jury a little bit about yourself. Where do you live?

12 A Currently live in Simpsonville, South Carolina.

13 Q Are you married?

14 A Yes, I am.

15 Q Do you have children?

16 A One child, almost two years old, a little boy.

17 Q How long -- how long have you been with the  
18 Greenville County Sheriff's Office?

19 A Be nine years in February 2016.

20 Q Okay. And if you don't mind, tell the jury a  
21 little bit about where you grew up and your educational  
22 background?

23 A Yes, sir. I was actually born in Connecticut.  
24 My family moved to Spartanburg, South Carolina, when I was  
25 five. I've lived there most of my life until I -- I went



## DAVID PICONE-CROSS BY MR. HARTER

1 to Burns High School. I graduated high school in 2002,  
2 went to Newberry College. And end of 2002, I got a  
3 football scholarship where I was a kicker, so I got  
4 partial on that. I graduated Newberry in 2006 in December  
5 with a Bachelor of Arts in history and a minor the  
6 sociology. From there, I applied to the Greenville County  
7 Sheriff's Office as well as some other agencies and they  
8 were the first to offer a position, so I took it. Then I  
9 went to the Academy in February of 2007.

10 Q 2000?

11 A 2007, the Police Academy.

12 Q So, you had a degree from Newberry and you went  
13 into law enforcement; is that right?

14 A Yes.

15 Q And when you went into law enforcement, you  
16 actually got hired before you went to the Academy; is that  
17 right?

18 A That's correct.

19 Q Isn't that the way it works?

20 A It is.

21 Q And then you went to the Criminal Justice  
22 Academy in Columbia, right?

23 A Yes.

24 Q Would you tell the jury a little bit about what  
25 that Academy training is and was and how long it lasted?

## DAVID PICONE-CROSS BY MR. HARTER

1           A     It last nine weeks at that time. When I went,  
2     it was a nine-week class or course. First three weeks,  
3     you basically just go over case law in South Carolina,  
4     learn the laws. You have a test at the end of every  
5     Friday and if you pass your tests, obviously, you move on  
6     to the next week. After the first three weeks, it's more  
7     of learning how to drive patrol vehicles, qualifications  
8     in firearms, learning techniques on how to arrest people,  
9     doing things such as like hand-to-hand combat.

10          Q     Dealing with the things you typically would be  
11     confronted with when you had to go out and do your job,  
12     right?

13          A     Yes.

14          Q     Okay. And once you graduated from the Criminal  
15     Justice Academy, you were and became a certified law  
16     enforcement officer; is that correct?

17          A     That's correct.

18          Q     And you finished the Academy in 2008?

19          A     No, 2007.

20          Q     2007?

21          A     Yeah, it was towards the end of May, early  
22     June 2007.

23          Q     Now, when you finished the Academy and you  
24     started work with the sheriff's office, let me ask you, do  
25     you have periodic training, in-service training or annual

DAVID PICONE-CROSS BY MR. HARTER

1 training with the Greenville County Sheriff's Office?

2 A Yes, once a year for three days.

3 Q And you are -- and when you came with the  
4 sheriff's office, you started in what's called uniform  
5 patrol?

6 A Yes, I was assigned to uniform patrol.

7 Q Now, tell these folks how and why you went into  
8 law enforcement in the first place and why you're there  
9 now, David?

10 A I had a buddy of mine who was -- actually, a  
11 roommate of mine in college who was interested in law  
12 enforcement. I had always been interested, wasn't quite  
13 sure if I wanted to do it or not. And then he started  
14 doing some internships and I became -- he was telling me  
15 about it, so it kind of sparked my interest a little bit  
16 more. I've always been the type of person I just like to  
17 help people. I think I'm a good person and I like to do  
18 what's right and make sure that victims get justice.

19 Q Now, tell the jury a little bit about what being  
20 in uniform patrol -- are you in uniform patrol now?

21 A I'm not.

22 Q What is your position now?

23 A Currently, I'm assigned as an investigator in  
24 criminal investigative division. And my primary duties,  
25 I'm assigned to crimes against children unit.

## DAVID PICONE-CROSS BY MR. HARTER

1 Q So, you wear civilian clothes most of the time  
2 when you go to work?

3 A Yes, I basically look like this.

4 Q But at the time that you investigated this  
5 incident at the Blandin residence, you were in uniform  
6 patrol?

7 A Yes.

8 Q Tell the jury what uniform patrol really is and  
9 what y'all did.

10 A Uniform patrol is basically the front line of  
11 the sheriff's office. They're going to be the ones who  
12 are going to be dispatched to calls in progress. Usually  
13 take the initial reports. Ride around and deter criminal  
14 activity, look for moving violations, things like that.

15 Q How long were you in uniform patrol?

16 A Six years.

17 Q Okay. And then you now are an investigator  
18 investigating children's crimes?

19 A Yes.

20 Q Crimes against children?

21 A Yes, I've been promoted to master deputy and I'm  
22 assigned to crimes against children.

23 Q Okay. Do you have any other positions with the  
24 sheriff's office or in the community, any other things  
25 that you do?

## DAVID PICONE-CROSS BY MR. HARTER

1 A Yes.

2 Q Special service?

3 A Yes, sir.

4 Q What is that?

5 A I'm in two specialized units at the sheriff's  
6 office. I'm on the dignitary protection team, which I  
7 guess you can say it's kind of a fancy word or whatever,  
8 fancy little thing. But it's just any dignitary that  
9 comes into town, presidents, governors, senators,  
10 whatever, we might assist their security and provide  
11 further security for them and help with traffic detail,  
12 things like that.

13 Q Anything else?

14 A Yes, I also -- recently, I was just put in the  
15 hostage negotiator on the SWAT team. I had to go through  
16 interview process for that and I was picked out the other  
17 candidates who applied.

18 Q Do you get extra compensation for those  
19 positions?

20 A No, sir.

21 Q Okay. All right. David, had you before  
22 December 9, 2011, had the occasion to respond to criminal  
23 domestic violence calls before?

24 A Many.

25 Q Okay. Had you conducted arrests or done arrests

DAVID PICONE-CROSS BY MR. HARTER

1 before of people following investigations of criminal  
2 domestic violence?

3 A Yes.

4 Q Okay. At the time that you went to the Blandin  
5 residence on the morning of December the 9th of 2011, did  
6 you determine whether or not at the time you were there  
7 information led you to believe there was probable cause to  
8 arrest anybody for criminal domestic violence?

9 A There was not probable cause.

10 Q And you know what probable cause is?

11 A Yes, sir.

12 Q Okay. Now, when we -- when you went to the  
13 Blandin residence, you were dispatched by the sheriff's  
14 office. And there's a thing called an incident recall  
15 that we have looked at before -- and let me just ask --  
16 let me just stop for a second. We took a break a little  
17 while ago, right?

18 A Yes, sir.

19 Q You and I didn't talk at all, did we?

20 A No, sir.

21 Q You were admonished by the Judge not to talk and  
22 nobody talked to you about the case while we were on  
23 break?

24 A Yes, sir. I actually sat in the courtroom the  
25 entire time.

## DAVID PICONE-CROSS BY MR. HARTER

1 Q All right. Let's look at the incident recall  
2 for a moment. And you see -- well, maybe we won't. The  
3 incident recall -- well, you got it?

4 A Yeah.

5 Q The incident call is the same thing we call the  
6 CAD record. And you have available to you in your vehicle  
7 part of this information on your mobile data terminal,  
8 correct?

9 A That's correct.

10 Q And as you're responding to the call, you  
11 don't -- you see and know about the stuff that's bolded,  
12 correct?

13 A Yes.

14 Q Like child custody, you see that?

15 A Yes, bold is set to show up on my computer.

16 Q And the next call at 10:24 is bolded, you would  
17 see that, correct?

18 A That's correct.

19 Q And then before you got there, you would also  
20 see the third section about the third call that's bolded,  
21 right?

22 A Yes, sir.

23 Q And also, when you're responding to the call,  
24 you're hearing information over dispatch? You're hearing  
25 information on your radio, too?

DAVID PICONE-CROSS BY MR. HARTER

1           A     Yes.

2           Q     So, as you respond to this call, you had  
3 information before you got there about what was possibly  
4 involved; is that right?

5           A     Yes.

6           Q     Okay. Now, when you got to the call -- when you  
7 and Kevin Tyner got to the call, what did you see -- or  
8 what -- when you go to a call like this, what do you see  
9 as y'all's responsibility when you get there and get out  
10 on the ground?

11          A     To make a determination -- to start a fresh  
12 investigation, open-minded investigation --

13               THE COURT: You need some water, sir?

14               THE WITNESS: Thank you.

15               THE COURT: Yes, sir.

16 BY MR. HARTER:

17          Q     Okay. I forget where I was. Okay. Okay. When  
18 you get to the call, what do you see your role to be?

19          A     I take into consideration what's already been  
20 told to me, but it's my job to basically start a fresh  
21 investigation. I'm the person there. I need to determine  
22 the facts present and determine if there's a crime being  
23 committed.

24          Q     And you told Mr. Luginbill about what you did  
25 when you got there, y'all separated these parties and you



DAVID PICONE-CROSS BY MR. HARTER

1 talked to them. Based on what you were told by Lilia  
2 Blandin and her husband, did you determine whether or  
3 not -- was it your understanding that nobody had been  
4 assaulted, nobody had been threatened, nobody had been  
5 punched or hit or injured that night?

6 A That's what our investigation revealed.

7 Q And I bundled it up, but did anybody report to  
8 you anything that would suggest that there was a CDV  
9 incident that night or that day?

10 A No.

11 Q Okay. And when you did the questioning process,  
12 Deputy Tyner was what -- he was the primary officer,  
13 correct?

14 A Yes. There's a primary officer and then there's  
15 a backup officer.

16 Q Okay. And the primary officer usually is the  
17 contact officer, right?

18 A Yes, he usually is the one who's going to handle  
19 most of the call.

20 Q And the backup officer is usually the cover  
21 officer, right?

22 A That's correct.

23 Q And this call -- now, who was backup and who was  
24 cover?

25 A I was backup and cover.

## DAVID PICONE-CROSS BY MR. HARTER

1           Q     All right. Now, let me ask you, who got there  
2 first?

3           A     I arrived first.

4           Q     All right. And what did you find when you got  
5 there?

6           A     As I exited my vehicle and I started to make an  
7 approach to the house to locate the parties there, I  
8 observed two vehicles where there was a female sitting in  
9 one vehicle and a male sitting in another vehicle and they  
10 were arguing through the windows.

11          Q     So, they were -- people were outside the house  
12 and inside vehicles?

13          A     Yes.

14          Q     Separated vehicles?

15          A     Yes.

16          Q     And this is broad daylight, correct?

17          A     10:30 in the morning, yeah.

18          Q     What did you do when you got there?

19          A     Deputy Tyner, who was the primary officer on  
20 this case, he actually arrived about a minute after I got  
21 there. So, when he arrives, our -- we separated both  
22 parties. I took Mr. Blandin inside the residence and he  
23 took Mrs. Blandin and talked with her, I believe in the  
24 front yard or somewhere around the front yard.

25          Q     And then did y'all end up switching?

## DAVID PICONE-CROSS BY MR. HARTER

1 A Yes.

2 Q You talked to her a little bit and he talked to  
3 him?

4 A Yeah. The reason for that was, like I said,  
5 Deputy Tyner was the primary officer, so he was going to  
6 want to talk to both parties. So, we switched and had  
7 conversations with the other half.

8 Q Okay. I think you told Mr. Luginbill that when  
9 you got there, you determined this was not a CDV or  
10 criminal domestic violence call?

11 A Yes. After we did our interviews with both  
12 parties and determined that, yes.

13 Q And that was based on the information you were  
14 given at the time?

15 A Yes.

16 Q Now, you were shown and asked to look at General  
17 Order 238. And you were asked some specific questions  
18 about the parts of General Order 238 that would be  
19 involved if you're investigating a CDV call, right?

20 A That's right.

21 Q Okay. Look at the next page, please. Okay. At  
22 the bottom of this page, it says responding officer's  
23 responsibility. And it says, When responding to a  
24 criminal domestic violence call every effort will be made  
25 to -- and then I believe they click off a number of

## DAVID PICONE-CROSS BY MR. HARTER

1 things, right?

2 A That's right.

3 Q And it includes restoring control, it includes  
4 interviewing the parties that are there, written  
5 statements, arrange photographs, do an incident report and  
6 make an arrest when appropriate, okay. Now, what I want  
7 to ask you, David, is once you got there, once you got  
8 there and talked to these folks, did you perceive that you  
9 needed to do these things under General Order 238 and/or  
10 why not?

11 A No, I did not.

12 Q Why?

13 A The reason being is 238 is specifically for  
14 criminal domestic violence calls. Like I said, when we  
15 get on scene, it's our job to determine the facts of  
16 what's there and what's going on. Nobody made any mention  
17 to us about being assaulted, threatened in any way. So  
18 therefore, this general order wasn't applying to this call  
19 because we weren't there investigating a domestic  
20 violence.

21 Q Okay. Did you see any reason based on what you  
22 were told to interview the children?

23 A No.

24 Q For the reasons you stated earlier?

25 A I did not.

## DAVID PICONE-CROSS BY MR. HARTER

1           Q     Now, I want to ask you, when you did respond to  
2     this location, did you do any background investigation  
3     through NCIC?

4           A     Yes, we did.

5           Q     Okay. And what did the NCIC background  
6     investigation indicate?

7           A     Do you want me to explain NCIC?

8           Q     Yeah.

9           A     NCIC stands for the National Crime Information  
10    Center. Basically, it holds information that we can -- we  
11    run your name, date of birth. It will show if you have  
12    any kind of warrants, if you're wanted. It can tell if  
13    vehicles are stolen, endangered persons. Then on top of  
14    that, it also shows if there's an order of protection or  
15    restraining order that has been issued by a court.

16          Q     Okay. Now, let me ask you if you will, let's  
17    look at -- this is part of the general order of the  
18    sheriff's office. And it has, I think, on the next page  
19    some mandatory provisions for an arrest.

20          A     Yes, sir.

21          Q     Okay. Now, let me stop and ask you to look at  
22    this right here.

23          A     Okay.

24          Q     It says South Carolina is a mandatory arrest  
25    state. Mandatory arrest is applicable in three

DAVID PICONE-CROSS BY MR. HARTER

1 situations. Physical manifestation of injury to a victim  
2 of domestic violence with probable cause, violation of a  
3 restraining order issued under the harassment and stalking  
4 statute, or violation of an order of protection issued  
5 under the protection from Domestic Abuse Act with physical  
6 manifestation of injury to the victim with probable cause.  
7 And that mandates an immediate arrest and that authorizes  
8 and directs a warrantless arrest. You don't have to go  
9 ask a Magistrate, you do it, right?

10 A That's right.

11 Q Now, in check with NCIC, would NCIC tell you if  
12 there was a restraining order?

13 A It would, yes, sir.

14 Q Was there any restraining order?

15 A There was not.

16 Q Would checking NCIC tell you whether there was  
17 an order of protection in place?

18 A It would have told me, yes, sir.

19 Q Did the NCIC check indicate that there was any  
20 Order of Protection in place?

21 A No.

22 Q Did you feel there was any physical  
23 manifestation of injury either observable by you or  
24 reported to you?

25 A Absolutely not.

## DAVID PICONE-CROSS BY MR. HARTER

1           Q     Okay. All right. Thank you. David, let me now  
2 ask you a little bit about the issue regarding your report  
3 and the question about the activation of your microphone,  
4 okay?

5           A     Yes, sir.

6           Q     I think you told us that it is just your routine  
7 practice now to activate your recording device when you go  
8 to a call when you get out of your vehicle?

9           A     It is.

10          Q     Okay. Now, the sheriff's office has certain  
11 specific times that y'all are supposed to or required to  
12 do that, right?

13          A     That's right.

14          Q     Okay. And one of them is on a traffic stop,  
15 right?

16          A     Yes.

17          Q     And actually, the camera stuff, the camera in  
18 cars came about as a result of changes in the DUI  
19 enforcement law, right?

20          A     Yes.

21          Q     And so, the cameras in the cars and your mic are  
22 by policy activated in a traffic stop and in a suspicious  
23 person investigation?

24          A     That's right.

25          Q     Is that right?

## DAVID PICONE-CROSS BY MR. HARTER

1           A     Yes, sir.

2           Q     So, you weren't required to activate your audio  
3 or your mic in this case?

4           A     I was not.

5           Q     Okay. But you did because you do that all the  
6 time?

7           A     I do do that all the time.

8           Q     Now, these are VHS tapes, right?

9           A     They are.

10          Q     And tell the jury, if you have an incident or a  
11 tape or information that you specifically think or  
12 appreciate is that significant, that is going to be  
13 evidence in the case, what do you do with the tape?

14          A     I place it in property and evidence.

15          Q     You pull the tape and you place the tape in  
16 property and evidence?

17          A     Yes, sir.

18          Q     Right then and there?

19          A     Yes, right after I get done with my call.

20          Q     Okay. Whether you're through with the tape or  
21 not?

22          A     Yes, sir.

23          Q     Now, in this situation, after you learned that  
24 Mrs. Blandin had been murdered and after you were told to  
25 write a report, did you place this tape into property and



DAVID PICONE-CROSS BY MR. HARTER

1 evidence?

2 A No.

3 Q And tell the jury why not.

4 A Usually, if I place a tape in property and  
5 evidence, that's a case I've written a report on and  
6 that's a case that I'm going to have to go to court for  
7 and testify in the investigation that I did. I didn't  
8 initially write an incident report on it. I didn't make  
9 an arrest in the case, so it never crossed my mind to ever  
10 put it in property and evidence.

11 Q It just didn't -- you didn't think to do that at  
12 that point?

13 A No, sir.

14 Q And now, the tape -- would the tape -- would you  
15 have kept the tape in your in-car camera and run that tape  
16 out to the end?

17 A Yes, until there was no more able to record on,  
18 yes, sir.

19 Q Then what -- according to policy, what did or  
20 would you do with that tape?

21 A According to our policy, once our tape is  
22 finished recording, we're to turn it into our supervisor,  
23 whether it be one of our sergeants or our lieutenant, and  
24 that tape is then put on a shelf in our lieutenant's  
25 office for, I believe, it's 90 days. Then after the

DAVID PICONE-CROSS BY MR. HARTER

1 90-day period is over, they destroy them.

2 Q Okay. Did you ever tell anybody, did you ever  
3 go to anybody and say, Hey, there may be information about  
4 this interview or this interaction on my tape or my  
5 camera?

6 A No, I did not.

7 Q Okay. Now, I believe the next day or a day or  
8 sometime later, you were asked to write a report; is that  
9 right?

10 A That's right.

11 Q Okay. And you and Kevin Tyner were asked to do  
12 reports; is that right?

13 A Yes, sir.

14 Q Okay. And you told the jury about doing a  
15 report and you created that report and you sent it to a  
16 printer; is that correct?

17 A That's right.

18 Q All right. Now, is it significant that there  
19 was no case number on the report that you did?

20 A Yes.

21 Q And what is the significance of that, tell these  
22 folks?

23 A Like I said, a case number would show that it's  
24 associated with a certain incident. This was more or less  
25 just wanting to know what we did or what happened at the

DAVID PICONE-CROSS BY MR. HARTER

1 house the day before. It wasn't tied into the incident  
2 that happened at Wal-Mart and it wasn't tied into the  
3 incident that happened at the house. It was more or less  
4 just describing what happened at the house.

5 Q Were you -- would you consider yourself involved  
6 in the murder investigation?

7 A No, I was not involved in that.

8 Q Okay. Now, when you did that report, you said  
9 you sent it to a printer. Did you send it to another  
10 computer or did you send it to a printer?

11 A I would have sent it to a printer.

12 Q Okay. And did you keep off or print off a copy  
13 of that report, put it with any of your personal stuff or  
14 did you hand it to anybody that you're aware of?

15 A No.

16 Q Okay. Now, the computer that you had --

17 A Yes, sir.

18 Q -- at that time, do you know if it was backed up  
19 anywhere? Do you still have the computer or when did  
20 you -- what happened to your computer?

21 A I don't know if it backs up anywhere. What I  
22 would have done -- what I would do with my reports, I  
23 would save them to the computer. But like I said, I had  
24 got off uniform patrol in 2012, towards the end of 2012,  
25 so that computer that I had at the time was taken from me

DAVID PICONE-CROSS BY MR. HARTER

1 because I no longer needed it because I wasn't going to be  
2 driving a marked patrol car any more. And they would have  
3 most likely wiped everything off the computer to give to  
4 another officer who would be taking my position on uniform  
5 patrol.

6 Q All right. And so you changed positions in  
7 2012?

8 A Yes, sir, it was towards the end of 2012, end of  
9 2012.

10 Q Okay. If this lawsuit was filed in 2013, would  
11 this lawsuit had been filed after you changed your  
12 position with the sheriff's office and gave up your  
13 computer?

14 A Yes, sir.

15 Q Okay. David, you were asked why you didn't have  
16 the foresight or the hindsight to specifically isolate the  
17 information on your -- on the tape having to do with this  
18 incident and why you didn't immediately then and there  
19 perceive hey, this is information I need to have and I  
20 need to make sure it's saved. Okay?

21 A Yes, sir.

22 Q Now, at the time that you made those -- at the  
23 time -- at that point in time, were you aware, had you  
24 seen news articles in the paper about somebody's going to  
25 sue the Greenville County Sheriff's Office over this?

DAVID PICONE-CROSS BY MR. HARTER

1 A No.

2 Q Did you have any idea then and there at the time  
3 that that was happening that oh, man, there's going to be  
4 a lawsuit against the sheriff's office and I'm going to be  
5 blamed for stuff? Did that even cross your mind, David  
6 Picone?

7 A No.

8 Q December 9, 2011, if you believed you had  
9 probable cause to arrest anybody at that incident  
10 location, would you have done it?

11 A Yes. I take my job seriously. And if there was  
12 a reason to arrest anybody at that time, we would have  
13 made an arrest.

14 Q Okay. And if you -- if you felt there was  
15 probable cause, you would have arrested somebody, wouldn't  
16 you?

17 A Without a doubt.

18 MR. HARTER: Thank you.

19 Thank you, Judge.

20 THE COURT: Yes, sir.

21 Redirect, sir?

22 MR. LUGINBILL: Thank you, Your Honor.

23 REDIRECT EXAMINATION

24 BY MR. LUGINBILL:

25 Q Deputy Picone, the fact that you and Tyner were

DAVID PICONE-REDIRECT BY MR. LUGINBILL

1 out there on that call must have been important to  
2 somebody or they wouldn't have had you do a supplemental  
3 report, correct?

4 A Yes.

5 Q Clearly, it was important to somebody up the  
6 chain of command?

7 A I don't know to who.

8 Q And you turned in that tape and your report to  
9 a -- or you turned in the tape to your lieutenant, right?

10 A Can I clarify that?

11 Q Sure.

12 A I believe I told you specifically my lieutenant,  
13 but what I meant by that was a sergeant or lieutenant  
14 would have gotten my video tape. But the lieutenant is  
15 where the -- his office is where the videos are being  
16 stored.

17 Q Okay. How long does it take you to fill up a  
18 tape?

19 A It would take a couple of shifts. I mean,  
20 they're eight-hour tapes. So, I believe they're eight --  
21 they're either four or eight-hour tapes. So, it depends  
22 on how proactive I'm being or how many calls I'm being  
23 dispatched to. So, a couple days, week.

24 Q And you keep multiple tapes in your car?

25 A Yes, sir.

DAVID PICONE-REDIRECT BY MR. LUGINBILL

1           Q     So, when one runs out, you don't run back to the  
2 office and get another one, you swap the tapes and keep  
3 doing your job, right?

4           A     That's right.

5           Q     So, you would have had that tape in your squad  
6 car until such time as you turned it, correct?

7           A     That's right.

8           Q     So, we can assume that on the day she was  
9 murdered, which was one day after your incident with her,  
10 she would have -- you would have known that that  
11 conversation was in your car in your possession, correct?

12          A     Possibly.

13          Q     Okay. And you were asked to do a supplemental  
14 report either one day or maybe two days, you don't  
15 remember exactly when, after the murder, correct?

16          A     One or two days, yes, sir.

17          Q     So, in that one or two days, you would have  
18 probably most likely still had that tape, even if it  
19 wasn't still recording, you would have probably still had  
20 it in your squad car, correct?

21          A     Either that or it could have been in my  
22 lieutenant's office, but yes, it would have been  
23 accessible.

24          Q     And then once you sent that report off, told  
25 somebody it's on the printer and you saved a copy to your

DAVID PICONE-REDIRECT BY MR. LUGINBILL

1 computer, it's your testimony today that it never crossed  
2 your mind that the information that you were writing about  
3 was actually preserved as it happened precisely and was  
4 riding around in the trunk of your car?

5 A Can you repeat that one more time?

6 Q As you typed up that supplemental report that  
7 you testified to, right?

8 A Yes.

9 Q You've got like PDF, you pull it up and fill in  
10 the blanks, you send it to the printer and you told  
11 Mr. Harter you saved a copy to your laptop, right?

12 A Yes, that's right.

13 Q So, as you're describing in your own words what  
14 actually happened, you had in your possession what  
15 actually happened recorded, right?

16 A Yeah. I didn't need the video tape to write  
17 down what I knew happened.

18 Q And it's your testimony that it didn't cross  
19 your mind that that might be important?

20 A That's my testimony.

21 Q When you interviewed Mr. Blandin, were you in  
22 the home or outside?

23 A I was in the home.

24 Q Would there have been any reason you would not  
25 have arrested Mr. Blandin if you had information



DAVID PICONE-REDIRECT BY MR. LUGINBILL

1 indicating that Mr. Blandin had either threatened or  
2 assaulted his wife on the night of the 8th going into the  
3 morning of the 9th of December 2011?

4 A With probable cause, no, no reason at all.

5 Q If you had information -- I want to make sure  
6 you understand the question of fact. If you had  
7 information, incriminating information indicating that  
8 Mr. Blandin had either punched his wife and/or threatened  
9 to kill her on the night of the 8th going into the morning  
10 of the 9th, would you have made an arrest?

11 A Yes.

12 Q And if he was arrested, you would agree with me,  
13 he would not have been out of jail to kill her on the  
14 10th?

15 A I don't agree with you on that.

16 Q We talked about that a little bit in your  
17 deposition. Somebody who is already out on a CDV bond and  
18 who is arrested for a subsequent CDV, are they likely to  
19 get a personal recognizance bond in your experience?

20 A Not a personal recognizance, no.

21 Q Is the Magistrate likely to revoke the original  
22 bond that he now knows has been violated and that person  
23 is standing right in front of him?

24 A I can't answer that.

25 Q In your experience, do the courts just take

## DAVID PICONE-REDIRECT BY MR. LUGINBILL

1 people who have now three -- would have been had you made  
2 the arrest, three unresolved criminal domestic violence  
3 cases against the same person and just say I'll let you  
4 go?

5 A I can't answer what a Judge is going to do but I  
6 can tell you that this is not a charge that is a no bonded  
7 charge. He would have had a bond set if he was charged  
8 with domestic violence. And he had no prior convictions,  
9 so you're talking about a CDV first. So, he would have  
10 had a bond set. He would have had the opportunity to get  
11 a bondsman or whoever to get him out of jail. So, we  
12 can't say that he wouldn't have been able to get out of  
13 jail.

14 Q Okay. You agree with me it would not have been  
15 a PR bond?

16 A I agree with you on that.

17 Q And given the history, it would have been a  
18 somewhat significant bond?

19 A Like I said --

20 Q More than just a fine, correct?

21 MR. HARTER: Let him finish.

22 THE WITNESS: We can't assume that. We don't  
23 know which Judge is going to be looking over the  
24 case. We can't assume that a Judge is going to do  
25 that.

## DAVID PICONE-REDIRECT BY MR. LUGINBILL

1 BY MR. LUGINBILL:

2 Q And you don't go to the bond hearing, correct?

3 A We don't.

4 Q More likely than not, if he's arrested on the  
5 9th with that history, is he out on the morning of the  
6 10th?

7 A I can't answer that because I don't know.

8 Q Can't or won't?

9 A I'm not going to answer something that I can't  
10 say for sure. I know he would have had a bond set.

11 Q You would agree with me, at least, that if he  
12 was in jail, he wouldn't have been out to kill her?

13 A If he's in jail, yes.

14 Q And probable cause exists under the totality of  
15 the circumstances, correct?

16 A With all considerations, everything you take --  
17 everything that you collect, yes, the totality of the  
18 circumstances.

19 MR. LUGINBILL: One minute.

20 THE COURT: Yes, sir.

21 BY MR. LUGINBILL:

22 Q And probable cause, you have to do an  
23 investigation to get that, correct?

24 A Yes, sir.

25 Q And when you're going out on a CDV call, which

DAVID PICONE-REDIRECT BY MR. LUGINBILL

1 is what you were doing -- you were dispatched to a CDV  
2 call or domestic disturbance call, correct?

3 A Yes.

4 Q And your responsibilities are listed for you in  
5 this order, correct?

6 A Yes, sir.

7 Q And it specifically says you will make effort --  
8 you will make every effort, which I read as being more  
9 than just casual, it's not if you want to do it, it's you  
10 need to really try to do this, right?

11 A Which we did. We did a lot of that stuff.

12 Q Okay.

13 MR. LUGINBILL: Go down. Stop.

14 BY MR. LUGINBILL:

15 Q Privately interview the parties, including child  
16 witnesses, right?

17 A Go back to your pointer. Where are you at?

18 Q Privately interview all parties, that's why you  
19 separated them?

20 A That's why we separated them.

21 Q And that includes child witnesses, correct?

22 A If there's an allegation of domestic violence,  
23 yes.

24 Q Okay. All right. Then they go --

25 MR. LUGINBILL: Next one down.

## DAVID PICONE-REDIRECT BY MR. LUGINBILL

1 BY MR. LUGINBILL:

2 Q Attempt to take written statements from all  
3 witnesses.

4 Again, you didn't take any written statements  
5 because you had already determined at this point that it  
6 was not a CDV, correct?

7 A That is correct.

8 Q So, you essentially -- you didn't do the entire  
9 investigation?

10 A I did the investigation to the point where there  
11 was no domestic violence. So, there's no need to further  
12 investigate that if there's not one present.

13 Q And the proof of that would have been on that  
14 tape?

15 A It could have been, it could have not been.

16 Q How do you handle it if you've got the --

17 MR. LUGINBILL: Move back up.

18 BY MR. LUGINBILL:

19 Q You're trained there's essentially four kinds of  
20 evidence, right? There's exculpatory evidence, which when  
21 you're investigating, you find out that the suspect you're  
22 investigating didn't do anything wrong. There's  
23 incriminating evidence where you find out that the person  
24 did do what you think they did or what you're  
25 investigating. There's neutral evidence, which doesn't

## DAVID PICONE-REDIRECT BY MR. LUGINBILL

1 really do anything as far as whether or not the crime is  
2 being committed. And then there's sort of the ambiguous  
3 evidence where you have to do more investigation, right?

4 A Uh-huh.

5 Q That's how you were trained when you were doing  
6 your investigations?

7 A Yes, sir.

8 Q The children saying that he had been -- that he  
9 had punched her and threatened to kill her, that would be  
10 incriminating evidence, correct?

11 A Yes.

12 Q Her saying that he didn't would be exculpatory  
13 evidence, correct?

14 A Yes, sir.

15 Q When you have a difference like that, you have  
16 to continue your investigation, correct?

17 A That's true.

18 Q And what you did was you got to the first  
19 exculpatory, he didn't hit me, which is what you say she  
20 said, and you stopped, correct?

21 A We talked to both parties. Like I said, based  
22 on their demeanors, their appearance, no allegations of  
23 any assaults, I didn't feel like there was any other need  
24 to investigate a domestic violence.

25 Q And you had -- on the scene, you personally had

## DAVID PICONE-REDIRECT BY MR. LUGINBILL

1 no idea that she had initially said he had hit her and  
2 threatened in the 911 call?

3 A That's right.

4 Q But you did know that there was an allegation of  
5 a threat that he would kill her in the second 911 call?

6 A Yes.

7 Q But you didn't ask her why she changed her  
8 story?

9 A Like I said, there's a third 911 call where  
10 that's changed. Second 911 call is third-hand knowledge,  
11 somebody who's not there. And the first and third 911  
12 calls are actually from the person who called 911, who is  
13 Mrs. Blandin.

14 Q That 911 call was actually initiated by the  
15 operator, correct?

16 A Which one?

17 Q The third call?

18 A Yes.

19 Q And it does -- she never asked her when this  
20 happened, when did he assault you, does she?

21 A I don't know.

22 Q I mean, you actually don't have any information  
23 from that call, do you?

24 A I have information on the CAD report that  
25 mentions some threats and some other things. But like I

## DAVID PICONE-REDIRECT BY MR. LUGINBILL

1 said previously, I take this into consideration, but my  
2 job is once I get on scene to start an investigation  
3 freshly.

4 Q When you got there, in your mind the totality of  
5 the circumstances, you had a custody call, to domestic,  
6 back to custody, right?

7 A Yes.

8 Q That's what you were aware of when you got  
9 there?

10 A That is.

11 MR. LUGINBILL: I think that's all I've got,  
12 Your Honor.

13 THE COURT: Any recross, sir?

14 MR. HARTER: No, sir. Thank you.

15 THE COURT: Thank you, Officer. You may step  
16 down. I appreciate your being here. Okay.

17 All right, Mr. Luginbill, you may call your next  
18 witness.

19 MR. LUGINBILL: We call Deputy Tyner.

20 THE BAILIFF: Place your left hand on the Bible,  
21 raise your right hand, face the clerk, please.

22 KEVIN TYNER, after being duly sworn,  
23 testified as follows:

24 THE CLERK: State your name, please.

25 THE WITNESS: Kevin Joel Tyner.



DAVID PICONE-REDIRECT BY MR. LUGINBILL

1 THE CLERK: Thank you, please be seated.

2 DIRECT EXAMINATION

3 BY MR. LUGINBILL:

4 Q Deputy Tyner, if one spouse allegedly punched  
5 the other spouse, that's a domestic violence situation,  
6 correct?

7 A It would be a domestic violence situation if one  
8 spouse had allegedly hit the other spouse. We would  
9 investigate it as a domestic violence situation and go  
10 through based on what we found there.

11 Q All right. How about if they threatened to kill  
12 them?

13 A We would investigate it as a domestic violence  
14 situation based on the conditions of the threat and what  
15 was said and how it was said. It could be based on what  
16 evidence we found to support that threat.

17 Q And the way you conduct that investigation would  
18 be guided, at least, in part by General Order 238,  
19 correct?

20 A Sure.

21 Q And 238 requires you to do certain things, one  
22 of which is interview everybody at the scene, correct?

23 A It does if we determine that we have a domestic  
24 violence situation. Now, if you look at the totality of  
25 the general order, the common sense interpretation would

KEVIN TYNER-DIRECT BY MR. LUGINBILL

1 say that we get there on scene based on what we receive  
2 when we respond to that call. When we get there, we  
3 investigate the situation. If we get no information when  
4 we're there that this is a domestic violence situation and  
5 is only a domestic dispute, then this general order does  
6 not apply to what we do there on the scene.

7 Q Well, you would agree with me that the first 911  
8 call when Mrs. Blandin calls into 911, she makes  
9 allegations of being hit and of being threatened with her  
10 life, correct?

11 A There were things said in the first 911 call  
12 when you look back on it that she did make statements of  
13 he hit me and threatened me. But it's hard to --  
14 listening to it, it is very difficult to make that out the  
15 first time you listen to it.

16 Q And that's -- and you've indicated that would be  
17 a domestic violence call, correct?

18 A Well, dispatch takes the information. They  
19 receive a phone call. Based on the totality of that phone  
20 call and what they feel like that phone call is telling  
21 them, the complainant in that call is telling them is  
22 going on on the scene, they would get information to us.  
23 Now, based on the information we received, I'm going into  
24 this as though it's a domestic dispute or a domestic  
25 disturbance and I'm going to determine whether there is

KEVIN TYNER-DIRECT BY MR. LUGINBILL

1 domestic violence that has occurred, yes.

2 Q The very first sentence of General Order 238  
3 says, When responding to a domestic violence call,  
4 deputies will make every effort, right, and then there's a  
5 list of things you're supposed to do?

6 A It does say that in there. But as I said, when  
7 I get information that what is -- what is on -- when I'm  
8 dispatched to a call, I get information over the radio,  
9 which in this case, it's a little bit vague as far as  
10 radio traffic goes, and then I get information, which is  
11 on the incident recall which would be sent to my computer.  
12 It's fairly vague as to what's going on. The information  
13 we get is from a third party.

14 When I get there, I'm going to talk to people on  
15 scene. I'm going to determine whether domestic violence  
16 has occurred. If I determine domestic violence has  
17 occurred or if I feel as though there's a reason to talk  
18 to everybody, including children, on the scene, then I  
19 will do so. In my -- from my point of view, a domestic  
20 situation, even a domestic argument is very detrimental to  
21 kids. So when I get there, I try to keep the kids --

22 MR. LUGINBILL: Your Honor --

23 THE WITNESS: Give me one second. I just --

24 MR. LUGINBILL: Your Honor, I've let this go on  
25 for this entire trial. I'm trying not to be rude to

KEVIN TYNER-DIRECT BY MR. LUGINBILL

1 anyone here, I respect what they do. But when I ask  
2 questions and then they go off way afield. I would  
3 like the Court to admonish the witnesses to answer my  
4 question and then they can add things that are  
5 relevant to the question if they need to. We're now  
6 five, six steps removed from my question. Again, I'm  
7 not trying to be rude to anyone, I don't want to do  
8 that, but I would like for the witnesses to answer my  
9 question first and then they can qualify if they need  
10 to because that's what the rules say.

11 THE COURT: Yes, sir.

12 MR. HARTER: I think he has a right to answer  
13 the question, Judge. If he doesn't like the answer,  
14 then he can say it's not responsive and come back to  
15 it. He's got a right to explain -- I respectfully  
16 submit he's got a right to give a full answer because  
17 he's here to tell the truth.

18 THE COURT: I agree, I overrule.

19 You may proceed, sir.

20 THE WITNESS: Okay. We're interviewing everyone  
21 on the scene. I interviewed the two people on the  
22 scene that were adults that had information that I  
23 felt which was pertinent to the call. After  
24 interviewing these two people, I didn't feel as  
25 though there was any need for me to talk to the

KEVIN TYNER-DIRECT BY MR. LUGINBILL

1 children based on the information I was getting.

2 Like I said, I feel like it's detrimental to  
3 talk to kids and to get kids further involved in the  
4 situation when they have already been traumatized by  
5 what maybe they have already seen. And if I'm not  
6 getting information that leads me to believe I need  
7 to further my investigation by talking to these  
8 children, I don't do so.

9 BY MR. LUGINBILL:

10 Q If nothing had happened, what would the kids be  
11 traumatized by telling you about?

12 A Well, like I said, there had been an argument  
13 the night before, which led to Mrs. Blandin sleeping  
14 outside in the van. She was clear to me about this  
15 argument. She said that there was a disturbance. This  
16 disturbance happened over an issue she said that -- she  
17 was very vague about what it was over. I know it was --  
18 started an argument over some money and some other issues  
19 and that she was going to leave, which furthered the  
20 argument. He had been intoxicated the night before. She  
21 said based on prior incidents -- he had been intoxicated  
22 in most prior incidents where she had been abused by him.  
23 And she did not -- when she come outside to put stuff into  
24 her van, he locked the door. When she went to go back  
25 inside, she found out that the door was locked. She

KEVIN TYNER-DIRECT BY MR. LUGINBILL

1 didn't want to try to further the incident by doing so.  
2 If you -- you know, in layman's terms, she was trying to  
3 be the bigger person and step away from the incident and  
4 try to let things cool off. As she did so, she stayed in  
5 the van. I would consider that to be something -- if the  
6 kids were in the house, that would be something that would  
7 traumatize the kids.

8 Q Would you consider her staying in the van while  
9 they slept in their bed to be traumatizing to them?

10 A The fact that there was an argument leading up  
11 to this which caused her to make this decision -- I feel  
12 like if there's an argument that's heated enough for her  
13 to feel as though she needed to sleep outside and ends in  
14 him locking her out of the house, I feel like that could  
15 be traumatizing to the kids.

16 Q So, you're telling this jury that you knew he  
17 had been intoxicated the night before?

18 A Yeah, she was pretty clear about that. And I  
19 think he actually told me that as well.

20 Q And you're aware that he had prior CDVs?

21 A I was aware of that. Based on her statements to  
22 me, she told me about prior CDV incidents.

23 Q Based on your training and experience, it was  
24 likely -- you knew it was likely that he had a no contact  
25 order?

KEVIN TYNER-DIRECT BY MR. LUGINBILL

1           A     I knew it was possible that he had a no contact  
2     order. Based on the fact that he had been arrested for  
3     CDV. Her statement to me was that -- I can't remember if  
4     she said it happened in October or if she said sometime  
5     around the month before then. It's hard for me to  
6     remember specific statements that were made based on the  
7     fact at this point it's almost four years. She talked  
8     about the fact that one had happened in October about a  
9     month before then. She talked about how things had  
10    happened in the past. She said that in that incident the  
11    month before then, he had assaulted her and she had called  
12    the sheriff's office. The sheriff's office had come out  
13    and arrested him for that.

14           Q     Isn't it true that she told you she was scared  
15    to go back in the house?

16           A     She stated that if she -- she felt as though if  
17    she went back into the house things could possibly  
18    escalate and she based this on the fact that things had  
19    occurred in the past. And his pattern was he gets  
20    intoxicated, arguments occur, he gets angry, more and more  
21    angry, and then things develop into physical violence.  
22    She said that she noticed sort of the pattern of him  
23    getting angry, so she wasn't going to try to push anything  
24    anymore. Based on her statements to me, there was nothing  
25    he did that was an affirmative or direct action which

KEVIN TYNER-DIRECT BY MR. LUGINBILL

1 could be construed in my eyes as an offer or attempt to  
2 offer harm or injury to her during that incident the night  
3 before.

4 Q Again, it's your testimony and I understand that  
5 you asked her specifically, did he threaten to kill you  
6 and she said no?

7 A I asked her specifically -- well, I asked her  
8 specifically did he threaten you. I can't remember  
9 specifically asking 100 percent whether I said kill or  
10 not. I did specifically ask did he threaten you and she  
11 said no.

12 Q But you knew according -- from the incident  
13 recall that there was an allegation he had threatened to  
14 kill her?

15 A Yes. If you look at that, it says that her  
16 sister made this allegation. And the third party was not  
17 there.

18 Q And that would be a logical question to ask --  
19 if you knew that allegation was out there, that would have  
20 been a logical question for you to ask, yes?

21 A I don't remember if I asked anything about the  
22 sister or not at this point in time. I may have asked  
23 where she was or something. I did ask her specifically,  
24 Did he threaten you? Did he harm you? And I can't  
25 remember -- like I said, I can't remember 100 percent the



KEVIN TYNER-DIRECT BY MR. LUGINBILL

1 words I would have used. Typically, I would say things  
2 of, Did he hit you? Did he threaten you? I said those  
3 things specifically and she said no to me both of those  
4 times.

5 Q And it's your testimony that she told you that  
6 all the kids were in the house and only she was in the  
7 van?

8 A At one point in time, I believe that was the  
9 case and then when they came out the next morning is when  
10 all three got in the van with her.

11 Q So, it's your understanding and your belief that  
12 she told you the kids did not spend the night with her in  
13 the car?

14 A Yes, based on what she was telling me, that was  
15 the case. That's the reason she waited outside because  
16 she didn't want to leave without her three children.

17 Q Was it just one child or all three that was in  
18 the house?

19 A Based on her statements to me, throughout the  
20 night, all three were inside. She never clarified to me,  
21 she just said before we arrived that morning, they had all  
22 gotten in the car with her. I don't remember going into  
23 specifics as to when one came out or if one came out or  
24 two came out and then another one came out later. I can't  
25 remember her being specific about all of that. But I know

KEVIN TYNER-DIRECT BY MR. LUGINBILL

1 during the course of the night, she was pretty specific  
2 about the three of them being inside.

3 Q Did you ask her why she changed her story?

4 A Did I ask her why she changed her story?

5 Q She told 911 that there had been a threat and  
6 she had been assaulted, but she's telling you 20 minutes  
7 later that she wasn't. Did you ever ask her why she  
8 changed her story?

9 A No, sir. Like I said, I was never told  
10 specifically about the fact that she made these statements  
11 of threats or abuse to 911.

12 Q Did you ask her why is your sister telling 911  
13 that he's threatening to kill you?

14 A Like I said, I can't remember if I asked  
15 specific questions about the sister. I think I, at least,  
16 asked where is your sister? But based on the fact that  
17 I'm talking to her and her husband, also, the fact that  
18 she's told me either police or sheriff's office has come  
19 out to my house before. I have told them about domestic  
20 violence before. Based on the fact that he's been  
21 arrested by the sheriff's office and by other law  
22 enforcement officers, she's been forthcoming about  
23 assaults before and about possible threats. I don't know  
24 the exact specifics of these prior incidents, but I  
25 believe she's told police about domestic violence before.

KEVIN TYNER-DIRECT BY MR. LUGINBILL

1           Then, also after speaking with her and  
2   Mr. Blandin, their stories -- I didn't see any  
3   contradictions in their stories or reasons to go further  
4   and say I think she's lying to me or anything like that.  
5   Everything that I was asking her seemed to match up with  
6   what he was saying. And then on top of that, she's told  
7   police before that she's been assaulted. She's called us  
8   out before for assaults and he's gone to jail for those.  
9   So I assumed based on those things and after speaking with  
10  both of them that I'm getting the truth from both of them.

11         Q    Did you have any trouble understanding her?

12         A    She has an accent, she did, but I had no reason  
13   to believe from talking to her that I didn't -- that we  
14   weren't communicating clearly with each other.

15         Q    She did tell you that Avery had made threats to  
16   her, correct?

17         A    Excuse me?

18         Q    She told you that Avery had threatened her,  
19   correct?

20         A    She didn't -- not in this incident. I  
21   specifically said, Has he threatened you? Has he harmed  
22   you?

23               She said, No. She said, He has in the past.  
24   And she said this and that. She talked about the October  
25   incident. And everything she said about -- everything she

KEVIN TYNER-DIRECT BY MR. LUGINBILL

1 said other than that was about incidents that had occurred  
2 further in the past before then.

3 Q You were asked to do a supplemental report after  
4 her murder, correct?

5 A That's correct.

6 Q And you were told not to put a case number on  
7 it?

8 A That's correct.

9 Q And you used your computer to fill it out and  
10 you sent it to the central printer, correct?

11 A That's correct. The next day after this  
12 incident occurred -- well, the next day after the Wal-Mart  
13 incident occurred, Investigator Whaley, who's an  
14 investigator with homicide, came out to the residence at  
15 125 North Orchard Farms Avenue and did a search warrant on  
16 the residence. As he did so, I responded to the residence  
17 because -- when investigators respond out, they respond in  
18 unmarked cars and they're also in suits and ties,  
19 generally, or something that would not designate them as a  
20 law enforcement officer. So, they request uniform  
21 detectives to respond as they do so, just basically to  
22 prevent any confusion, neighbors don't think there's a  
23 burglary happening at the house or something like that.

24 So when I did so, I told Investigator Whaley the  
25 fact that we had been out there the day before and we had

KEVIN TYNER-DIRECT BY MR. LUGINBILL

1 interacted with them. He said -- I basically told them  
2 the gist of what had occurred, the fact that I got a  
3 statement from both of them that it was just an argument  
4 and it was over child custody. She left. She decided  
5 that she was going to leave for good. And then he asked  
6 me to just do a supplemental report, which would be a  
7 report on our computer was done. The program is actually  
8 called Omni-Form, which is similar to a PDF file. You  
9 would have different blocks that you would go into, click  
10 on that block and fill it out, then you go on down.  
11 There's one large block that would be where you would fill  
12 out a narrative report.

13 Generally, a lot of times -- I shouldn't say a  
14 lot of times; sometimes investigators will ask you to do  
15 that if you're doing something that's in reference to a  
16 different incident. And then they will -- what happens is  
17 when we finish it, it prints off to our uniform patrol  
18 office, which is at the law enforcement center, the  
19 sheriff's office. Our sergeant would get it and would  
20 take it over to the investigators. And that's what  
21 Investigator Whaley asked me to do.

22 Q Let's go ahead and take a look at that report.

23 MR. HARTER: You got copy of it?

24 MR. WILSON: It's Exhibit 23.

25

KEVIN TYNER-DIRECT BY MR. LUGINBILL

1 BY MR. LUGINBILL:

2 Q This is Exhibit 23 that I'm showing you now,  
3 which is your supplemental report, I believe?

4 A Yes, sir.

5 Q You recognize this document as being yours?

6 A Yes, sir, I do.

7 Q You indicate that you respond, you say when.  
8 You arrive on the scene shortly after Deputy Picone. You  
9 observed Avery sitting in a Mitsubishi Ontario and she's  
10 in a minivan?

11 A If you're sitting in the driveway, she's on the  
12 right-hand side if you're looking from the road towards  
13 the house. So, if you're standing in the road as you  
14 would be pulling into the driveway, they're both facing  
15 the house. She's in the right-hand side in the white  
16 minivan. I can't remember the make and model. He's on  
17 the left-hand side in a Mitsubishi Ontario SUV. I can't  
18 remember the color on that. So, he's sitting in the  
19 driver's side on that side. She's sitting in the driver's  
20 side of the van on the passenger side of the SUV. His  
21 passenger side window is lowered. Her driver's side  
22 window is lowered.

23 Q Could you make out what they were saying?

24 A I remember they were talking back and forth,  
25 arguing back and forth. I was walking up, Deputy Picone

KEVIN TYNER-DIRECT BY MR. LUGINBILL

1 was kind of also talking, so I don't remember any of the  
2 words that were actually said. Couldn't have been  
3 anything that I would have recognized as key to my  
4 investigation that would have, you know, said -- we listen  
5 for certain things, such as you hit me or you said this to  
6 me or something that's going to get us into what they  
7 would call excited utterances under the law, which is a  
8 hearsay exception under the law. So, we listen for those  
9 type of things. I don't remember hearing anything of that  
10 nature or else I would have documented it and further  
11 investigated those statements. I just remember them  
12 saying things back and forth to each other. It wasn't  
13 extremely heated, it was just kind of a -- about a normal  
14 volume, I would say, that they were talking back and forth  
15 to each other. And you could clearly tell it was a  
16 dispute to a certain extent.

17 Q In responding to this domestic incident, were  
18 there -- according to your CAD, you had a threat of  
19 violence. Did you come with lights on?

20 A No, we do not respond with lights and sirens  
21 unless life is immediately in jeopardy. So if they would  
22 have said husband has a gun and he's threatening to shoot  
23 her or he's choking her or something of this nature, we  
24 would, but not in this situation.

25 Q And you did not have your mic activated,

KEVIN TYNER-DIRECT BY MR. LUGINBILL

1 correct?

2 A I did not -- you're talking about the in-car  
3 camera?

4 Q Yes.

5 A No, I did not have mine activated. General  
6 orders -- I can't remember the exact one now that says  
7 that you only have to have your mic activated in a traffic  
8 stop if you get out with a suspicious person. And just to  
9 kind of define suspicious person, it would be, for  
10 instance, say we're driving down the road and we see a  
11 person walking down the road who matches the description  
12 of somebody who just committed a crime somewhere. So,  
13 we're getting out with somebody, a suspicious person or  
14 maybe it's somebody walking down the road in the middle of  
15 the night and we're going to get out and talk to. We're  
16 mandated by policy to have our camera on in our car for  
17 those two incidents, no others. Sometimes it's suggested  
18 to do so just to document different incidents, but --

19 Q You didn't --

20 A -- that's the only time. No, I did not.

21 Q All right. I want to go over some of this. It  
22 was your understanding they had argued the night before,  
23 correct?

24 A Yes, sir, that's correct.

25 Q So, from a timeline standpoint, the incident



KEVIN TYNER-DIRECT BY MR. LUGINBILL

1 started the night previously?

2 A That's correct, yes, sir.

3 Q All right. She tells Avery she's going to leave  
4 and that became even more angry, correct?

5 A Excuse me?

6 Q She told Avery she was leaving him and the  
7 argument then became heated?

8 A Yes, sir, that's correct.

9 Q She stated that Avery locked her out, correct?

10 A That's correct, yes, sir.

11 Q That he refused to let her have her children.  
12 And is it your understanding that it was all the children  
13 or just one?

14 A Based on my understanding, all three of them  
15 were inside the house at that point in time. As I said, I  
16 don't remember -- I don't think she said anything as far  
17 as when one may have come out or two may have stayed in or  
18 something of that nature. But I know at one point, all  
19 three -- I believe she said all three were inside.

20 Q All right. And she said specifically she did  
21 not want to go back in. And it picks up right here where  
22 Lilia stated she did not want to go back into the house  
23 because she was worried that the incident may escalate.  
24 That's your term, I assume?

25 A That what it says, yes. I'm sure -- like I

KEVIN TYNER-DIRECT BY MR. LUGINBILL

1 said, it's been four years now, I can't remember the exact  
2 wording she used. If you look at this incident report,  
3 it's to document an incident that happened the day before  
4 a murder. At that point in time, I thought I was doing  
5 just this specific dispute and I didn't realize all this  
6 was going to come out of it or I may have been a little  
7 more detailed of what I put in there. But yes, generally  
8 speaking, she was afraid that things may escalate to  
9 become physical if she tried to go back inside and push  
10 the argument, I guess if you want to use that term.

11 Q So, she was scared of her husband?

12 A She knew that he was capable of violence towards  
13 her in certain instances, yes.

14 Q She told you that just before you got there or  
15 shortly before you got there that Avery then let the  
16 kids -- children get in the car, correct, or gave her back  
17 whichever child he was keeping in the house at the time?

18 A Yes, shortly before we got there. I guess all  
19 three of them were in the car. And like I said, she  
20 didn't say -- I don't know if someone had come out earlier  
21 or not, but before we got there, all three of them had  
22 gotten into the car with her.

23 Q Did it concern you at all that somebody with a  
24 history of domestic violence was essentially holding one  
25 of his own children hostage from the mother?

KEVIN TYNER-DIRECT BY MR. LUGINBILL

1           A     Well, if you look further down, at one point, I  
2     asked Lilia why she had not called the night before and  
3     she stated she did not feel as though she needed to at  
4     that point. When we get there, the children are already  
5     outside. And like I said, I asked her why she didn't call  
6     the night before. We could have come out and tried to  
7     help her with the kids so she could leave and wouldn't  
8     have slept in the car all night. And she just said that  
9     she didn't feel like she needed to at that point in time.  
10    She felt like he would eventually calm down and let the  
11    kids come out and she could leave with them.

12           Q     You asked Lilia specifically if any threats had  
13    been made or if Avery had assaulted her and she stated  
14    neither had occurred, correct?

15           A     That's correct, that's what it says.

16           Q     But then you move on to say, she stated Avery  
17    has made threats to hurt her or kill her in the past, but  
18    she couldn't tell you exactly when, correct?

19           A     Yeah. She was clear to me that things had  
20    occurred in the past. Like I said, she mentions an  
21    incident in October. I can't remember, like I said, the  
22    exact wording she would have used, then having a prior --  
23    or about a month before then or it happened sometime in  
24    October. But she had mentioned the incident in October  
25    and she mentioned distant past as far as -- I think a lot

KEVIN TYNER-DIRECT BY MR. LUGINBILL

1 of times she was referring to things that were over a year  
2 old.

3 Q So, are you telling the jury that she did tell  
4 you about the October 31st incident?

5 A She mentioned -- she didn't mention October 31st  
6 by date, but she did mention that incident had occurred  
7 approximately in October.

8 Q And that would be an exact time, correct?

9 A Time frame, yes, sir.

10 Q Okay. Would you consider that to be the distant  
11 past?

12 A When I say distant past, I mean it's not an  
13 immediate thing that had just occurred. It's things that  
14 deputies had already dealt with based on her statements to  
15 me. It's not something that -- she's not telling me that  
16 a domestic violence had occurred that I need to handle as  
17 the deputy on scene as far as something that would provoke  
18 me to think probable cause exist that I needed to make an  
19 arrest for domestic violence against Mr. Blandin.

20 Q Now, you indicated that you advised Lilia how to  
21 get an order of protection, correct?

22 A I did, yes, sir.

23 Q But you did not give her any paperwork to do  
24 that, you just told her where to go?

25 A I can't remember now if I did or not.

KEVIN TYNER-DIRECT BY MR. LUGINBILL

1 Basically, the Greenville County Sheriff's Office has  
2 paperwork that we'll give to victims of domestic violence.  
3 The reason I may have given her this paperwork is because  
4 she had showed signs to me that she wanted to leave and  
5 she wanted to leave for good. This paperwork would be  
6 specific to have information on how to obtain an order of  
7 protection. It has specific information on how to obtain  
8 a resisting arrest, which in her case would be an Order of  
9 Protection giving the household relationship, husband and  
10 wife. The reason I may have given this to her is because  
11 it would have this information on that. I wouldn't have  
12 to write it down on a piece of paper, it's already readily  
13 available that I can hand to her and give her and she can  
14 leave knowing this information.

15 Offhand, I can't remember 100 percent whether I  
16 did or didn't. It's something that I often do in  
17 situations such as this when there's a domestic abuse that  
18 doesn't rise to domestic violence and these people are  
19 showing interest in going to get an order of protection.

20 Q If there had been an order of protection in  
21 place when you arrived on the scene, would you have  
22 arrested Avery?

23 A Yes, I would have.

24 Q Would you have -- in your training, it would  
25 have been nondiscretionary at that point, correct?

KEVIN TYNER-DIRECT BY MR. LUGINBILL

1           A     That's correct. State law mandates that I make  
2     an arrest if an order of protection is in place and I can  
3     determine that that order of protection is in place.

4           Q     I want to show you how it's listed in 238. On  
5     number three -- it's right behind you. I think you have  
6     238 in front of you as well. If not, I can certainly give  
7     it to you.

8           A     I don't think so.

9           Q     This is number 10. You can take a look at it  
10    there instead of here. This is under the mandatory arrest  
11    section, correct?

12          A     That's correct.

13          Q     And it says it's issued under the violence  
14    protection from Domestic Abuse Act. That's the kind that  
15    comes from the Family Court?

16          A     Yes.

17          Q     But then it says you have to have physical  
18    manifestations of injury to the victim with probable  
19    cause, correct?

20          A     That's what the general order says. I don't  
21    believe that state law actually mandates that we have  
22    physical manifestation of injury with probable cause if an  
23    Order of Protection exists. If an Order of Protection  
24    exist, an Order of Protection and charged with domestic  
25    violence, it would be a violation of an Order of

KEVIN TYNER-DIRECT BY MR. LUGINBILL

1 Protection.

2 Q And, in fact, if you have physical manifestation  
3 with probable cause, you're supposed to arrest anyway  
4 under the law, correct?

5 A If I have physical manifestation of injury with  
6 probable cause and an Order of Protection, I would charge  
7 him with violation of Order of Protection and the correct  
8 charge of criminal domestic violence.

9 Q And under the totality of the circumstances that  
10 you knew of, you had an individual who was intoxicated the  
11 night before, who gets violent when he's intoxicated  
12 according to his wife. You have a wife who has called 911  
13 and made an allegation that he threatened to kill her, or,  
14 at least, somebody has relayed to you that she made that  
15 allegation, correct?

16 A The sister, yes.

17 Q The sister. You have him in violation of a bond  
18 order right in front of you. And I understand that  
19 Greenville County does not enforce those --

20 A I don't have knowledge of it specifically at  
21 that time.

22 Q You suspected it, correct?

23 A It could have been. I mean, I don't know how  
24 much I was thinking about that at that point in time.  
25 Like I said, they were back together, mutually back

KEVIN TYNER-DIRECT BY MR. LUGINBILL

1 together based on her statements.

2 Q You knew he had prior -- I'm sorry.

3 MR. HARTER: Your Honor, he was still talking.

4 THE COURT: Were you still answering, sir?

5 THE WITNESS: Yes, sir.

6 THE COURT: All right, go ahead.

7 THE WITNESS: Based on her statements, they were  
8 mutually back together. If I'm not mistaken -- she  
9 didn't tell me this, but she actually bonded him out  
10 of jail. There's a possibility, and at that point in  
11 time, I'm not 100 percent certain, as to whether that  
12 bond court is in place still. On top of that, she's  
13 showing signs to me based on her statements to me  
14 that she has decided to go back into a mutual  
15 relationship with him. It's not as though he's at  
16 the house against her will trying to force himself on  
17 her at that point in time.

18 Q I thought your report said she was trying to  
19 leave?

20 A Yeah, she was trying to leave at that point in  
21 time, but this is 30, 40 days after the no contact order  
22 had been in place if it was put in place by the Magistrate  
23 Court. During those -- based on her statements to me,  
24 during that time period, she had allowed him to come back  
25 into the house. I don't know if the Judge would even



KEVIN TYNER-DIRECT BY MR. LUGINBILL

1 enforce that order based on that incident, the fact that  
2 she's complacent to him being back around her. And number  
3 two, I don't specifically have information to tell me one  
4 way or another. Because once the -- once the court --

5 For instance, somebody gets charged, a Judge can  
6 put a no contact order as a condition of a bond. If he  
7 finds out information to say otherwise, he can revoke the  
8 bond. Once that charge is dismissed through court -- so  
9 for instance, if she drops the charges and if the Court  
10 dismisses them before the court takes place, that bond  
11 court -- or that bond condition is no longer in place and  
12 he would no longer have his bond revoked to go back to  
13 jail for that. If the trial had already occurred for that  
14 and had been dismissed in some other way, that bond  
15 condition would no longer be in place. At that point in  
16 time, I'm not sure if that's in place or not. So, I'm  
17 unsure whether that bond condition is in place.

18 Q Did you ask her?

19 A No. Like I said, based on her story to me,  
20 she's back there on her own freewill. The fact that she's  
21 been back around him for that long -- had she come up to  
22 me and said he's under a no contact order, he's not  
23 supposed to be around me, I'm here and I've been living  
24 here with my kids and he just showed up today and I want  
25 to go get this bond revoked so he goes back to jail, I

KEVIN TYNER-DIRECT BY MR. LUGINBILL

1 would make every effort to try to help her do so. But at  
2 that point in time, she never made the statements to me  
3 that that was in place and I was unsure if it was or not.  
4 So, I didn't have any reason to go forward with that.

5 Q She was scared to go back in, correct?

6 A During the argument, yes, sir. And I don't know  
7 if necessarily -- well, sure, if you want to label it that  
8 way, yes. She felt as though things could escalate if she  
9 went back into the house based on prior incidents that had  
10 occurred.

11 Q In fact, she tells the first 911 operator that  
12 If I go back in, he's going to put me in a room and beat  
13 me up.

14 That's what she told the 911 operator 20 minutes  
15 before you got there, correct?

16 A Based on the transcript of the call.

17 Q Sounds like somebody who's scared to go back in,  
18 right?

19 A She felt as though he may assault her if she  
20 went back inside. I think I've been clear about that,  
21 yes, sir.

22 Q And it's your testimony today that with all that  
23 information, you chose to stop viewing this as a domestic  
24 call and just treat it as a custody call and that's why  
25 you didn't take all the steps of 238?

KEVIN TYNER-DIRECT BY MR. LUGINBILL

1           A     Like I said, when I get there, I talk to her and  
2 I talk to him. And it's kind of a prolonged incident, 28  
3 minutes that I was there. I talked to her initially.  
4 Stepped her away from the car, out of sound -- we could  
5 see the kids, but the kids can't hear what we're talking  
6 about. I'm talking to her. She gives me the information  
7 I've already relayed to you that the argument occurred the  
8 night before. She felt as though based on prior  
9 incident -- he's intoxicated. She felt like if she went  
10 back into the house, things could escalate after he had  
11 locked the door. She mentioned to me that deputies had  
12 responded before and helped her and he has gone to jail  
13 based on these things. And then number three, I talked to  
14 him and their stories seemed to match. I don't notice any  
15 contradictions in their story.

16               So, I have a woman who's told me that there's an  
17 argument, based on prior incidents, not something that he  
18 specifically did today, except for the fact that he was  
19 drinking and the fact that they had an argument was the  
20 only thing she gave to me that would say that caused her  
21 to have these fears. And these are things that mainly --  
22 that have led up to incidents in the past. She says in  
23 order to prevent things from escalating, she stayed  
24 outside and tried to just mainly wait it out unless he  
25 would let her have the kids earlier in the night so that

KEVIN TYNER-DIRECT BY MR. LUGINBILL

1 she could leave. Based on all those things, I didn't feel  
2 as though she was lying to me. All those things seem to  
3 tell me that she was being forthcoming.

4 Q Did you have a chance to talk to Ms. Rivero, the  
5 mother.

6 A Did I have a chance to talk to her? Yeah, we  
7 talked briefly when she got there. The reason she had to  
8 actually respond to the scene was because -- basically  
9 anytime we get out with -- pretty well with any people for  
10 anything mostly, we'll run them through our dispatch.  
11 We'll give dispatch their name and their date of birth.  
12 Dispatch will run them through what's called NCIC, which  
13 is the National Crime Information Center, which we're  
14 called back up with active warrants. Sometimes it could  
15 be our warrants, but, typically, what we're looking for  
16 through NCIC is outstanding warrants from other  
17 jurisdictions. So, if Spartanburg County or even  
18 somewhere in the State of Tennessee had issued a warrant  
19 for one of them, it would pop up. It would also pop up  
20 with an order of protection and it would pop up with a  
21 restraining order.

22 So, I run her through dispatch and Deputy Picone  
23 runs Avery while he's talking to him. Both of their  
24 licenses -- one of the things they do when they run these  
25 names, date of births is their license will pop back.

KEVIN TYNER-DIRECT BY MR. LUGINBILL

1 Both of them popped back or come back with South Carolina  
2 licenses and both of them are suspended due to failure to  
3 pay insurance, so therefore we can't let her leave.

4 Mrs. Blandin [sic] does arrive on the scene and when she  
5 does arrive on the scene, I talk to her briefly, yes, sir.

6 Q And didn't she, in fact, say, Why aren't you  
7 taking Avery to jail?

8 A She did not say that.

9 Q Didn't she tell you, He's hit my daughter, why  
10 aren't you taking him to jail?

11 A She did not say that to me.

12 Q You would agree with me that if Lilia Blandin  
13 had told you she had been hit in the stomach on the night  
14 of the 8th and then again the morning of the 9th and that  
15 Avery had threatened to kill her in that time frame, in  
16 the totality of the circumstances, that would have given  
17 you probable cause, correct?

18 A I would have had to have done a complete  
19 investigation. Had she told me those things, I would have  
20 done an investigation further into the incident. I have  
21 to determine probable cause. After I gather all the  
22 things, if I clearly have probable cause that it  
23 occurred -- so for instance, say, I look at somebody and  
24 they have a swollen eye and they say he hit me in the eye.  
25 That gives me probable cause clearly all day. And under

KEVIN TYNER-DIRECT BY MR. LUGINBILL

1 the law, it says that based on that I have probable cause  
2 and physical manifestation of injury, which would be the  
3 swollen eye, you may take somebody to jail. Allegations  
4 in and of themselves -- I would take everything into  
5 account, but during the process of my job, I've been lied  
6 to before, so just specific verbal statements, it could,  
7 but I'm not necessarily going to say for sure.

8 Q It would have caused you to do a little bit more  
9 investigation, correct?

10 A Sure, yes, sir.

11 Q All right. And one of the things -- because  
12 then you still would have been under 238. At that point,  
13 you're clearly investigating a civil domestic violence  
14 charge, correct?

15 A Absolutely, yes, sir.

16 Q So, you would have done your job and you would  
17 have interviewed all the witnesses on the scene, which  
18 would have included the children at that point?

19 A Absolutely, yes, I would have done that.

20 Q And if the children had corroborated her story  
21 and said yes, I saw dad hit her in the stomach the night  
22 before and I saw him hit her again this morning, that  
23 would have corroborated Lilia's story and then under the  
24 totality of the circumstances, you would have had probable  
25 cause, can we agree on that?

KEVIN TYNER-DIRECT BY MR. LUGINBILL

1           A     Yeah, if all those things had occurred, yes,  
2     sir.

3           Q     Okay. And at that point, the arrest would have  
4     been made, he would have gone to jail and in all  
5     likelihood, Mrs. Blandin -- Ms. Lilia would still be with  
6     us, correct?

7           A     In all -- I can't say for sure that would have  
8     prevented the murder, but if I would have had probable  
9     cause that criminal domestic violence had occurred, I  
10    would have made an arrest.

11           MR. LUGINBILL: Thank you.

12           MR. HARTER: Your Honor, I will preserve my  
13    questions for Kevin Tyner for my case.

14           THE COURT: Okay.

15           Officer, you can step down. Thank you very  
16    much.

17           THE WITNESS: Thank you, Judge.

18           THE COURT: All right. What does that say, does  
19    that say 12:30, 12:45?

20           Okay. Ladies and gentlemen, let's go ahead and  
21    take a break for lunch. If y'all would please be  
22    back at 1:30 and we'll resume the introduction of  
23    evidence in this case. Please don't discuss the case  
24    or conduct any self-help. Enjoy your lunch.

25

KEVIN TYNER-DIRECT BY MR. LUGINBILL

1 (WHEREUPON, the jury left open court at  
2 approximately 12:30 p.m.)

3 THE COURT: All right. Counsel, anything  
4 further before we adjourn for lunch?

5 MR. HARTER: Nothing from us, Your Honor.

6 THE COURT: Okay. I'll see y'all back at 1:30.  
7 Have a great lunch.

8 (WHEREUPON, a lunch break was taken.)

9 THE COURT: Okay, let's call the jury in,  
10 please.

11 Mr. Farnsworth, how old is this child?

12 MR. FARNSWORTH: She's 10 years old -- 11 now.  
13 11 in October.

14 THE COURT: Okay.

15 Is there any question of capacity that needs to  
16 be resolved by the Court?

17 MR. HARTER: I'd like you to address that,  
18 Judge. We're talking about events that occurred when  
19 she was seven -- seven, six or a little bit younger.

20 THE COURT: Tell the jury to go back.

21 Okay. So, let's call Miss Blandin up.

22 Miss Blandin, you want to come on up.

23 If you'll swear her in.

24 THE CLERK: Place your left hand on the Bible,  
25 raise your right hand.