

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Please

The Honorable Robert E. Hood, Circuit Court Judge

Appellate Case No. 2020-000581

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SC Court of Appeals

Harland Jones.....Appellant,

v.

Karen Robinson Respondent.

RECORD ON APPEAL – VOLUME III

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1 STATE OF SOUTH CAROLINA

2 -----x

3 HARLAND JONES

4 Plaintiff,

5 Civil Action No.

6 -against-

2018-CP-40-01518

7 KAREN ROBINSON,

8 Defendant.

9 -----x

10 December 5, 2019

11 Richland, S.C.

12
13 B E F O R E:

14 HONORABLE ROBERT E. HOOD

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

16 LANE JEFFRIES, ESQ.

17 RONALD RICHTER, ESQ.

18 ERIC BLAND, ESQ.

19 BRETT BAYNE, ESQ.

20
21
22
23 Aileen Butler

24 Official Court Reporter

1 THE COURT: All right, we are on the record in
2 2018-CP-40-1518, Harland Jones versus Karen Robinson.
3 Mr. Jefferies is here representing the plaintiff and
4 Mr. Bayne is representing the defendant. This is a
5 Rule 59(E) motion to reconsider the Court's previous
6 Order.

7 MR. RICHTER: Your Honor, Ronnie Richter and Eric
8 Bland appearing for the Anastopoulo Law Firm and its
9 attorney's. As you know they were subject of the
10 sanctions as well. We're going to make the primary
11 argument. We're not making an appearance on behalf of
12 the plaintiff. I understand those attorneys will
13 adopt the arguments that we make.

14 THE COURT: Okay.

15 Mr. RICHTER: If that's okay with Your Honor?

16 THE COURT: That's great. Happy to hear from you
17 Mr. Richter or any combination. I know sometimes Mr.
18 Bland he likes to talk to, so if he needs to jump in
19 at all that won't bother me at all.

20 MR. BLAND: Thank you, Your Honor.

21 THE COURT: You're welcome.

22 MR. RICHTER: Judge, we've had the honor of
23 appearing before you many times in the past. We've
24 always found you to be a very measured and deliberate
25 judge. We were contacted about this matter. We read

1 the order and I have to say it struck us, kind of wow!
2 How did we get here. It's such a severe sanction to
3 have issued so obviously you were impressed and moved
4 that some bad conduct had occurred to lead up to that
5 action.

6 Your Honor, I think respectfully the way we handle
7 matters in Circuit Court in South Carolina puts you at
8 a handicap always. You don't get the benefit of
9 seeing a case port to port. You're always somewhat
10 reliant upon the history as it's reported to you and
11 by the historians who are reporting it to you. And so
12 I think in the order you're coupling together a
13 history that respectfully is not supported by the
14 record. And there are several key elements to that
15 history that I want to call to your attention and urge
16 you with a better view of the history to vacate the
17 sanction. Especially that part of the sanction that
18 dismisses the plaintiff's case.

19 Now, there is a monetary sanction as well, but the
20 primary focus of our request to you is to ask you to
21 please reconsider your striking the plaintiff's case.

22 Your Honor, I will jump around your order a little
23 bit and I will focus on really three separate subject
24 matters. The first one of which is the order's
25 treatment of mediation and the ADR rules. So we know

1 that mediation is our Vegas, it's our fight club. We
2 understand the rule. Nobody talks about what happens
3 in mediation. That rule is reflected in Rule 8 of the
4 ADR rules on confidentiality which makes it clear that
5 the parties are not to introduce any evidence of any
6 communication that takes place in mediation.

7 Now, there are some limited carve outs to that rule
8 and we think the two that come closest to this
9 circumstance are numbers five and six. So for number
10 five, you can report conduct if it's offered to report
11 or prove professional misconduct. And when we present
12 CLE's on this subject matter on ethics and when I've
13 heard it presented by others I've always understood it
14 one way, and that is the rules of professional conduct
15 go with us into mediation. We're not protected by
16 that cloak of silence from acting outside of those
17 rules. So if, for example, in mediation I were to
18 threaten a criminal prosecution to gain an advantage
19 of the civil context, I would not be protected by the
20 cloak of silence around mediation. That is reportable
21 conduct and Rule 5 is there specifically for that
22 purpose. I don't think it comes into play here. I've
23 not heard in the context of the mediation and we'll
24 get into that, that any attorney from the Anastopoulo
25 Law Firm violated any rule of professional conduct.

1 So I don't see the application of 8(C)(5) here.

2 So the next one is 8(C)(6). In a report or
3 inquiry from the Chief Administrative judge for the
4 purposes of a possible violation of these rules.
5 Well, Your Honor, that falls back on the one we just
6 talked about. So first, we have to have a possible
7 violation of these rules. And so what is that
8 possible violation that would invite counsel to share
9 with you the context of conversations that took place
10 in the inner sanctum, and according to the Order --
11 well, this whole discussion begins here and I found
12 this, this was a process of us trying to deconstruct
13 this order to try and figure out how we got here.

14 And so this whole discussion on the ADR and what
15 happened at mediation kind of begins with this sense
16 from the order. Plaintiff's counsel and plaintiff's
17 counsel's firm has a history of demanding and
18 compelling strict compliance with ADR Rule 6 by the
19 defendant.

20 Your Honor, I don't know what the factual
21 predicate is for that. I found it somewhat misplaced
22 in the order that we would reflect outside of this
23 case on an alleged history regarding ADR. I don't see
24 how that comes to bear and I question what the record
25 basis is for a finding like that in the order. But we

1 go forward from there to discussing the actual
2 violation that invited your inquiry into the substance
3 of the mediation and that is Rule 6(B)(3) that
4 requires that at mediation the parties counsel of
5 record be present. And as the order explains there
6 are three counsel of record. We had Eric Poulin, we
7 had Mr. Willy and Mr. Jefferies. The order says any
8 one of those could have satisfied 6(B)(3). But Your
9 Honor, that's not exactly what 6(B)(3) says. What 6
10 (B)(3) says is the counsel of record shall be present
11 unless otherwise agreed to by the mediator and the
12 parties. That's what the rule says. And so did these
13 parties agree to a cast of characters that did not
14 include one of the named counsel of record in the
15 case. And the answer to that is absolutely. I'm not
16 sure you have this, Your Honor. I want to offer you a
17 copy of the agreement to mediate.

18 THE COURT: Okay. (Handed up.)

19 MR. RICHTER: And I've provided a copy to counsel
20 as well. So in the agreement to mediate - so picture
21 again the, complaint was you guys didn't show up. You
22 sent Gus instead. That was the complaint. That's a
23 6(B)(3) violation. That invites, Your Honor, to
24 inquire as to what took place at a mediation. Well,
25 in the mediation agreement, the undersigned parties

1 and their attorneys hereby agree that the above matter
2 shall be submitted to a mediated settlement conference
3 pursuant to the applicable rules, blah, blah, blah.
4 This is the agreement to mediate and significantly on
5 the signature page, this agreement to mediate is
6 signed before the commencement of the mediation. All
7 right. And so it's apparent to everyone there who's
8 there and who's not there. It's apparent to Mr. Bayne
9 that Gus Anastopoulo is there and the three people he
10 says should have been there in accordance with Rule
11 6(B) were not there.

12 Your Honor, by any definition of waiver that I
13 know, if Gus's appearance at the mediation was a
14 violation of this rule, and I say that it is not
15 because the Rule expressly says unless otherwise
16 agreed and this is an agreement. If that was a foot
17 foul, if that was a violation, I can't imagine a
18 clearer waiver than the agreement to proceed with Gus
19 there and with the other gentleman not there then
20 signing the agreement to mediated. And so, that is
21 your key to Pandora's box. That is the foul upon
22 which they say it is now appropriate for us to tell
23 you, Your Honor, of what actually took place.

24 THE COURT: And you understand this was never
25 presented to the Court in any way, shape or form in

1 the last hearing.

2 MR. RICHTER: I did not understand that.

3 THE COURT: It was never argued. It was never put
4 forth to the Court. The Court never saw this
5 document.

6 MR. RICHTER: Yes, sir.

7 THE COURT: Didn't even know it existed.

8 MR. RICHTER: Yes, sir.

9 THE COURT: Okay.

10 MR. RICHTER: I apologize if I misstated the
11 record.

12 THE COURT: No, I wasn't saying that you did. I
13 just wanted to make sure that you knew no one was
14 showing me this document in the last hearing.

15 MR. RICHTER: Well, I just thought for my sake if
16 was Judge Richter and it's not I would want to know
17 this.

18 THE COURT: Your fine. Keep going

19 MR. RICHTER: Yes. All right. So again, going
20 back to what allows the Court to know about the
21 content of the conversation in the mediation and the
22 rule violation that is cited for that purpose is Rule
23 6. We say we're already in compliance because the
24 parties have agreed to this cast of characters. But
25 even there, if we're going to report anything to you,

1 the report to you is going to be, we think they
2 violated Rule 6 because Gus came and they didn't. But
3 the record goes so far beyond that. Now we get into
4 the actual content of what took place in the course of
5 the mediation.

6 I respectfully, judge, I think you're now in a
7 place that you shouldn't be. I don't think that rule
8 violation happened. Even if it did I don't think it
9 invites you to now have the content of the
10 conversation. And respectfully further, I disagree
11 with the Court's view of what transpired and the
12 effect it should have in the proceedings because what
13 the Order says - and I won't go through every litany
14 of what Gus said or didn't say, but the crescendo is
15 this statement. That at some point Gus Anastopoulo
16 supposedly said, I think we as the plaintiff have a
17 one in ten chance in winning. And the Court's Order
18 says that that is found to be an open and brazen
19 violation of Rule 11. And that's even footnoted
20 further and the order goes further to say, that if the
21 claim being made has a best of ten percent chance of
22 success it's the undersign's opinion the claim can't
23 possibly meet the requirements of rule 11.

24 Your Honor, first, again, you shouldn't have been
25 there. You shouldn't have heard that. But even

1 having heard it, I have to disagree with you that if
2 that was said that represents a violation of Rule 11.
3 I've been an attorney for 26 years. I've won cases I
4 never thought I was going win. I've lost cases that I
5 couldn't imagine losing. I've brought cases on the
6 outset that I thought were some of the best cases I've
7 ever had that fizzled in my hands. And every trial
8 lawyer here has had the same experience. I have had
9 cases walking into mediation where the mediator asked
10 me as plaintiff's counsel, if you try this case ten
11 times what you think is going to happen? And I said
12 in all candor, I think I'm going to lose most of the
13 time. That does not mean that the case was frivolous.
14 Some times cases don't discover out the way that you
15 think they're going to. In this case there were
16 witnesses that we thought would materialize who did
17 not. Who presence may have greatly altered that
18 counsel's view of how this case would proceed. At the
19 end of the day -- and we'll get into the merits of the
20 case. It really became a he said, she said about how
21 the accident happened. And Your Honor, if he is
22 saying one thing and she is saying something else even
23 if her story is better, more credible, more plausible
24 then his and most likely to prevail, that does not
25 render the plaintiff's case frivolous. So the

1 paramount duty remains the duty to prosecute the claim
2 the plaintiff claims. It's not to say this case is
3 weaker today than I think it's going to be so I am
4 going to cut and run. So even if it's said, I think I
5 have a one in ten chance of winning that does not
6 render it frivolous. And clients that I meet with as
7 plaintiff's counsel, I routinely say to them, your
8 lawsuit is a paper ship that we are going to set a
9 sail upon the ocean. It's going to start taking on
10 water the second we launch. Every now and then we are
11 going to get to port to port safely but you can bet
12 it's never better than the day we just filed. I've
13 said that for 26 years. I don't think that means when
14 the cases lose momentum, or defenses come into view
15 that I didn't see at the outset that my case becomes
16 frivolous. And Your Honor, I will go a step further.
17 The South Carolina Frivolous Proceedings Act and Rule
18 11 are really just codifications of the rule we all
19 know as lawyers, which is our rule of professional
20 conduct 3.1. It says, we are not to prosecute claims
21 that we think lack merit. They need to have a good
22 basis in fact and a good basis in law and if we ever
23 feel as counsel that's not true our obligation is to
24 leave. Even when you look at 3.1 and the comments of
25 3.1 this is what they say. The filing of an action

1 taken for a client is not frivolous merely because the
2 facts have not -- the facts have not first been fully
3 substantiated or because the lawyer expects to develop
4 vital evidence through discovery.

5 An action is not frivolous even though the lawyer
6 believes that the client's position ultimately will
7 not prevail. And if Gus said one thing at the
8 mediation, which is again one thing that you shouldn't
9 have heard, is that I think I'm probably not going to
10 prevail.

11 Now, Your Honor, I can't tell you how many times
12 I've been in a plaintiff's mediation where defense
13 counsel said to me and my client right across the
14 table, unabashedly, when you win we're just going to
15 appeal it forever. So, the threat is I am going to
16 prosecute a frivolous appeal for the purpose of
17 financially weakening you and holding you economic
18 hostage and for that reason you should accept less
19 value for the case today than what it's truly worth.
20 Is that frivolous? Is that sanctionable? Is that
21 something that any Circuit Court Judge wants to find
22 themselves in the middle of? I can't imagine that on
23 a going forward basis you want to be sole arbiter
24 ration of what was said in mediation and whether it
25 was in good faith or bad faith. I can't imagine that.

1 And I fear the precedent that it sets in mediation.
2 If it's going to be that easy to peek beneath the
3 sheets. Again, the violation if there was one was
4 Rule 6, and that was clearly waived. There was no
5 other basis for you to be invited into that
6 conversation. Even having heard the conversation it's
7 not sanctionable.

8 Now, going further, was the action frivolous?
9 Well, it survived a summary judgement motion in front
10 Judge Couch. It survived a summary judgement motion
11 in front of Judge Manning. It survived a motion for a
12 directed verdict motion in front of Judge Manning.
13 And the plaintiff actually won on a partial motion for
14 directed verdict. And yet the order says that this is
15 an open and brazen violation of Rule 11 suggesting
16 that by Gus saying I think I have a one in ten chance
17 of winning, that the case is per se as a matter of law
18 frivolous and sanctionable.

19 Your Honor, I respectfully disagree that the
20 conduct of the case itself bears out that that is not
21 true. So that finding is not supported ultimately by
22 the record. And these rulings were not had on the
23 back or on the basis of an alleged unidentified
24 eyewitness and we will get into that. That's a
25 separate issue that we have in the new order.

1 These rulings are not based on, I got some
2 unidentified guy that I hope is going to come to trial
3 and for that reason I don't want you to bring a
4 summary judgement. That did not happen.

5 So on the merits -- on the merits of the argument
6 that the plaintiff said one thing and the defense said
7 something else the Court has to eschew at each stage
8 saying that's a material issue of fact and that is for
9 the jury to decide.

10 This firm has a client who wants to prosecute that
11 claim. It's meritorious if only based on the strength
12 of the testimony of the plaintiff regardless of the
13 strength of the testimony of the defendant. And the
14 consequence of that part of ruling in the order is
15 significant. So we get to the sanction section is
16 what the order provides. The defendant has sought
17 full sanctions for plaintiff's repeated discovery
18 abuses. We'll get to that.

19 Failure to comply with rulings and orders of this
20 Court. We're going to follow up on that -- and for
21 ADR violations.

22 The Court agrees based upon the totality of the
23 circumstances sanctions pursuant to Rule 37 for
24 violations of the ADR rules and Rule 11 and discovery
25 rules are warranted.

1 Now going forward the cause and effect. You found
2 that the ADR rulings were violated. You found that
3 constitutes sanctionable conduct. And here's where
4 the Order ultimately says on that. The only proper
5 remedy is to strike the complaint with prejudice
6 pursuant to Rule 10(B) and 37(B)(2)(C). So it is on
7 the strength of this alleged ADR violation that the
8 Order says, I think the appropriate sanction here is
9 to strike the complaint.

10 Your Honor, again, we don't see a violation at all.
11 We don't believe that you should have been there. We
12 think the key that unlock Pandora's box here was
13 misplaced. And that even if Gus said what he said in
14 the mediation, it is to us an impossible leap of logic
15 to say that it is therefore sanctionable per se as a
16 violation of Rule 11. And for those reasons we ask
17 you to please to revisit your rulings as it relates to
18 the ADR and vacate the striking of the complaint.

19 Now, I want to move on to another section of the
20 Order that looms large and that is the alleged
21 repeated discovery abuses. So, Your Honor, when the
22 case -- an I'm going back to your order. The case is
23 filed and an answer and counterclaim is presented on
24 May 22, 2018. Answer and counterclaim May 22, 2018.
25 In response to the answer and counterclaim there is a

1 motion to dismiss the counterclaim by the plaintiff.
2 And the counterclaim was, we think your case is
3 frivolous. The motion to dismiss is brief and the
4 plaintiffs in that brief say this, discovery in this
5 case is expected to reveal witnesses to the events
6 giving rise to the subject motor vehicle collision.
7 That's what it says. The line above it is not what it
8 says. The order provides that the plaintiff claimed
9 to have eyewitnesses to the accident. That is not
10 true. What the plaintiff said is exactly what the
11 plaintiff said. And it's in a motion to dismiss
12 that's in the infancy of the case. Discovery is
13 expected to reveal witnesses. So the only thing we
14 ask Your Honor to do at this point of time in the case
15 is to accept that when counsel signed that there was a
16 good faith basis to believe that they think discovery
17 is going to reveal witnesses. That's all they said to
18 the Court which is materially different then saying I
19 have witnesses. It says what it says. But this is
20 the beginning of what becomes a false narrative about
21 what the plaintiff's were saying about who the
22 witnesses in the case would be and who not be
23 witnesses. We're at the infancy of the case. I
24 expect to find witnesses. That's what he said to the
25 Court. Going forward, written discovery is propounded

1 between the parties. The defense obviously is saying
2 tell me who these people are. The plaintiff's are
3 derelict in answering that discovery. They're late.
4 There's no question about it. A motion to compel is
5 filed. They should have done better than that. They
6 should have answered that timely. But even the order
7 says that by November 7, 2018 in discovery responses
8 the plaintiff admits that they don't have any of the
9 witnesses referenced in the July 5th motion. So July
10 5th I expect discovery is going to find witnesses. By
11 November 7th in responses to formal discovery the
12 plaintiff says, I agree. We've looked. We can't find
13 them. We don't have any of those witnesses and that
14 should be the end of the story but it's not.

15 Fast forward several months. March of 2019. The
16 plaintiff's deposition is taken. Now we can't evade
17 privilege here, so we don't know what counsel's good
18 faith basis was to say, I think the discovery is going
19 to find witnesses for us. But this is not an invasion
20 of privilege and it is some insight as to why that
21 representation was made.

22 The order says that during his deposition the
23 plaintiff himself said there's a guy named Alex who
24 witnessed the accident. Now, he also says I can't
25 give you Alex's last name. I don't know where he

1 lives. I don't have a mailing address. I don't have
2 a phone contact and I don't have any way to get in
3 touch with Alex. So, in answering a question of
4 counsel at a deposition the plaintiff they ask, do you
5 know of any witnesses to the accident? And on
6 discovery we've already said we don't have any. The
7 plaintiff answers honestly there's this guy Alex. I
8 don't know his last name. I don't have his phone
9 number. I don't know where he is. Judge, that's not
10 a witness. If you want to know why these witnesses we
11 expected to revealed were not ultimately revealed, we
12 can't write in a discovery response we name a guy
13 named Alex, whose address we don't have, whose last
14 name we don't know. We don't have a phone number for
15 him and we don't know how to get in touch with him.
16 So, yes, on November 7th of 2018 we said we don't have
17 any witnesses. In March of '19 when the plaintiff
18 says, yeah, this guy Alex witnessed this accident that
19 does not represent a supplement to discovery. That
20 does not change the earlier answer. It was an answer
21 to a question asked in a deposition and here is where
22 that answer goes.

23 In the Order as a result of these new disclosure
24 by plaintiff, defendant was required to file a second
25 motion to compel. That's not true. There's no

1 requirement to compel anything here. That's not a
2 supplement to discovery. Alex, whoever he is, is not
3 made a witness to the case by that testimony. Now,
4 I'm not faulting them for having filed the motion but
5 for the Order to say that you have to file a motion
6 because the plaintiff in a disposition referred to
7 some guy named Alex who he can't identify as a
8 witness, there's a disconnect there. You didn't have
9 to do that but you did and that's fine. But again, we
10 will get into this false narrative about unidentified
11 witnesses and the role in the case.

12 We go further. The defendants sent request for
13 admissions and we, the plaintiff, gave this answer;
14 after conducting written discovery it appears the
15 defendant was no longer traveling in the lane of
16 oncoming traffic. So there's a debate about how the
17 accident happened.

18 Your Honor, do you know the facts of the accident
19 itself?

20 THE COURT: It's like a bicycle turning and a car
21 hits.

22 MR. RICHTER: So we're going to get to this
23 further into the presentation of this, but not to beat
24 it to death. It's a bicycle versus auto collision.
25 Two-lane highway, double yellow line divided road.

1 Plaintiff on the bicycle says, I'm intending to turn
2 left in front of oncoming traffic and I signal with my
3 hand that I'm going to turn left. A lady in a blue
4 car sees me, slows down and signals that it's safe for
5 me to go. As I go by, he is struck by a lady in a
6 grey car, who is not the lady in the blue car. Okay.
7 So the reasonable inference from that-- and this is
8 what was argued at summary judgement and we will get
9 to that argument -- the reasonable inference is
10 somebody behind the blue car got impatient, came
11 around and struck the bicyclist. That's the
12 reasonable inference. Is it weak? We're not here to
13 weigh evidence. That was the plaintiff's testimony.
14 It was good enough for Judge Couch to get by summary
15 judgement. It was good enough for Casey Manning to
16 get by summary judgement. It was good enough to make
17 it all the way to the jury. But those are the facts
18 of the case.

19 So, we come back to April 9, 2009. After
20 conducting written discovery it appears the defendant
21 was no longer traveling in the lane of oncoming
22 traffic when she wrongfully struck the plaintiff.
23 Nevertheless it was defendant's illegal passing
24 maneuver in which she unlawfully traveled into the
25 lane. This is the the theory of the case and what the

1 comment in the Order after that is, this answer was
2 given following the deposition in which the plaintiff
3 admitted he did not witness the accident and that is
4 not true. This is what he says in his deposition.
5 Well, that's not true in part. Okay. He definitely
6 says that he doesn't remember the moment of impact.
7 He rolled over the top of the car. He had serious
8 injuries. Over two hundred thousand dollars in
9 medical bills. Head trauma. So he definitely says, I
10 don't remember the moment of impact, but he remembers
11 a lot. He did not say I don't recall the accident.
12 This is from his deposition. Do you recall the actual
13 accident and the events that happened? Answer yes. I
14 can recall what I did up to what I did.

15 Your Honor, there is an ellipsis in here. I'm
16 telling you the testimony is all over the board so we
17 cut and paste it. He definitely says at some point, I
18 don't know what happened at the moment of impact. But
19 this is what he does know. So I put my hand out to
20 turn left in front of a car and when I put my hand out
21 to turn left in front of the car letting the car know
22 I was turning in front of them I looked over at the
23 car and the lady to let her know I was turning in
24 front of her. So I put my hand out. So it was the
25 cars behind her. So she slowed down and let me know

1 that I could turn in front of her. So when she slowed
2 down, let me know it was all right to turn in front of
3 her I proceeded to turn in front of her. The next
4 thing I know I had a heavenly experience.

5 He goes on. You mention there was some kind of
6 cars traveling behind her vehicle. Meaning the car
7 that let him pass. Do you know how many cars? At
8 that time I believe it was two. So there is some
9 traffic behind the car that's telling him go ahead,
10 you can pass. When you mention the car being driven
11 by a woman who may have been your wife's cousin, is
12 that the vehicle that hit you? No. That's the
13 vehicle I was going to turn in front of. So he
14 recalls the vehicle that let him turn in front was the
15 not the vehicle that hit him. So it had to be another
16 vehicle and the reasonable inference is it was a
17 vehicle that was behind that car who got impatient who
18 came around in a passing maneuver and struck him.

19 Do you know what color the car would have been --
20 and then there's a dialogue back and forth. The car
21 is blue. That's what he says. The car that let him
22 go in front was a blue car. The car that struck him
23 was a grey car. The car that struck him was a car
24 being driven by the defendant. And he's is crystal
25 clear that the car that let him go by was not the

1 defendant. So these are the facts and circumstantial
2 evidence that create the inference that the defendants
3 vehicle had to have passed the blue vehicle and struck
4 the bicyclist. Is that going to win in front of a
5 jury? I don't know. Is it a one in ten chance?
6 That's not the issue. The issue is that doesn't
7 render the case frivolous. Nor does it render it
8 sanctionable. Nor is it dependable upon an identified
9 eyewitness who never materialized. It's he said, she
10 said without regard to which story you think is more
11 plausible.

12 Going back to the Order. It continues as a result
13 of these responses in discovery the defendant asked
14 this question. Admit there is no deposition testimony
15 witnesses or other material to support the allegation
16 asserted that it was the defendant's illegal passing
17 maneuver that caused the accident. Plaintiff's
18 answered responding only with denied. And the order
19 takes exception with the denial. Of course it's
20 denied. We just saw the plaintiff's deposition
21 testimony and the reasonable inferences to be derived
22 therefrom support the theory that it was an illegal
23 passing maneuver that caused the accident. That's a
24 proper denial. But it is fettered in the order as yet
25 another step along this path of frivolous discovery

1 abuse and it is not. That is a proper denial.

2 Now we go Judge Couch. Judge Couch -- and again
3 Your Honor, I feel like you guys are handicapped the
4 way we do it in our Circuit Court. It's a bouncing
5 ball. There are several judges who weighed in at
6 different points in this case. Significantly, Judge
7 Couch has two matters before him. He has got a motion
8 for summary judgement and he has got a motion to
9 compel. Right. We will start with the summary
10 judgement. And this is what's in the Order.
11 Plaintiff relied on the unidentified and an unnamed
12 eyewitness in his argument against summary judgement
13 and summary judge was denied.

14 Your Honor, you have this separately as one of our
15 submissions. That is the transcript of the hearings's
16 before Judge Couch. It is 24 pages long. The first
17 are the arguments pertaining to the summary
18 judgement. And we can do this however is most
19 convenient to the Court. Your Honor, it is not in
20 there. There is not an argument by counsel relying on
21 unidentified witnesses in order to survive summary
22 judgement. That does not happen in those 17 pages.
23 This is a part of the record. This is actually the
24 response in opposition to summary judgement that was
25 submitted by the plaintiffs. In their briefing to the

1 Court they do not say that we're relying on some
2 unidentified eyewitness in order to overcome summary
3 judgement. I would urge Your Honor to read the 17
4 pages. I will give you a couple of highlights. Page
5 eight is where Mr. Jeffries first addresses the Court
6 after hearing defense's motion for summary judgement.
7 Starts on line 20 and I'll skip to line 23. It is not
8 about weighing the evidence. They have two witnesses.
9 We have one. That's what Mr. Jeffries says to the
10 Court and the one is the plaintiff. No unidentified
11 witnesses that we expect to materialize in support of
12 the claim.

13 Your Honor, that continues if you refer to -- I
14 beg the Court's indulgence. Line 11. I'm sorry page
15 11, line 13 and this is where Mr. Jeffries is
16 describing to Judge Couch the factual scenario that I
17 just described to you. Line 13, he's turning left in
18 front of somebody that is not the defendant. He
19 testified to this. He testified there were two cars
20 behind that car that he was turning in front of.
21 That's the last thing he remembers. There's no
22 dispute that the defendant hit the plaintiff.
23 Everybody agrees to that. The Court, but we're not a
24 res ipsa loquitur state. Mr. Jeffries, exactly, Your
25 Honor, we're not. Res ipsa would apply here but we

1 don't need res ipsa. What applies here is simply the
2 fact that we're entitled to first, reasonable
3 inferences drawn from the testimony, and second, at
4 trial we would be entitled to the circumstantial
5 evidence.

6 Page 12, at the top. So here is a reasonable
7 inference. If we take what the plaintiff says is
8 true, which we have to, as he turned left in front of
9 the slowing down car that had cars behind him the next
10 thing that happens is the plaintiff gets hit by the
11 defendant and everybody agrees to that. That scenario
12 is so common it's in our driver's manual. Impatient
13 drivers behind a slowing car that passes. It's in our
14 driver's manual how common that is. That's the only
15 inference. If what he says is true, meaning the
16 plaintiff, he turned in front of some car that wasn't
17 the defendant, and we're all agreeing the defendant
18 hit him, the defendant had to pass the other car.
19 There's no way around it.

20 Your Honor, there's no reference or argument that
21 unnamed, unidentified fact witnesses advanced to Judge
22 Couch for the purpose of avoiding summary judgement or
23 upon which Judge Couch relies in denying summary
24 judgement. In fact, if we fast forward to page 13 at
25 the bottom, here's the Court now turning to defense

1 counsel to ask about that argument. Line 21. Let me
2 ask the defendant about this. The Court, is his
3 testimony that he turned in front of someone else and
4 all of a sudden he got hit by them? Mr. Delaney on
5 the top of the next page. That is his testimony, that
6 he turned in front of his wife's cousin. And then
7 ultimately, if you turn to page 17, Your Honor. This
8 is the end of the argument on summary judgement in
9 front of Judge Couch. Line six. The Court says,
10 anything further? Mr. Delaney, no, sir, Your Honor.
11 I clearly don't believe that this is any type of
12 material issue of fact. There's just nothing out
13 there. It's conjecture and speculation. The Court,
14 well, there's enough that is going to get you past a
15 motion for summary judgement. So I'm going to deny
16 the motion. I'm not again weighing the evidence. But
17 in the course I don't disagree with you you have some
18 strong arguments. I am not weighing that today. I'm
19 just deciding whether or not there are facts for the
20 jury to decide. Mr. Jeffries, thank you, Your Honor.
21 The Court, the motion for summary judgement is denied.
22 Your Honor, the order that you signed says plaintiff
23 relied on unidentified and unnamed eyewitnesses in his
24 arguments against summary judgement and summary
25 judgement was denied, and that is absolutely not true.

1 It is demonstratively unsupported by the record. But
2 this goes forward. All of these things effect the
3 Order and ultimate outcome. So it builds on itself so
4 we will continue from there.

5 We move onto the motion to compel which is pages
6 18 through 24 of the same transcript that you have.
7 In the motion itself to compel, this is from the
8 motion to compel. They're asking for a sanction for
9 the late disclosure of Alex. It's even in quotes.
10 This is from their motion. The case is scheduled for
11 trial. The plaintiff admits knowing about Alex. The
12 defendant requests this Court to Order plaintiffs to
13 produce Alex and all information in possession of
14 plaintiff related to Alex and in addition plaintiff
15 further requests reasonable attorney fees and costs
16 for bringing this motion.

17 The motion to compel was all about Alex. And what
18 you were you told and what the order ultimately finds
19 is that Judge Couch -- an agreement with counsel and
20 Judge Couch was had over the treatment of these
21 unidentified witnesses and then our team immediately
22 violated that, kind of thumbed their noses at Judge
23 Couch by doing exactly what he told them not to do.
24 So we will go forward from there.

25 So the motion to compel is, tell me about Alex.

1 Produce Alex. If you can't do it I want a sanction.
2 This is the argument in front of Judge Couch. "The
3 Court: Well, I mean, what I would do is I would bar
4 them from presenting the witness to give you time to
5 be prepared if they don't produce the person by a
6 certain point in time. Mr. Bayne: Certainly Judge.
7 Mr. Jeffries: And we agree with that, Your Honor.
8 We're perfectly comfortable not being able to use that
9 witness."

10 So the entire argument is about Alex. Whether
11 Alex can be used at trial or not. Judge Couch gave
12 them a deadline in which to either identify Alex or be
13 barred from using Alex. And Mr. Jeffries agreed with
14 that. That's fair.

15 The order is signed July third. When the order
16 issues it says this, "Not that we're limiting it to
17 Alex, but we're going to limit the plaintiff's ability
18 to use any other unidentified witness at trial."
19 Well, that wasn't the subject matter of the motion to
20 compel. It wasn't the subject matter of the argument
21 before the Court and it doesn't reflect the agreement
22 on the record between counsel and the Court as it
23 relates to Alex. So this is July 3rd right before the
24 July 4th holiday. This order issues in the morning.
25 By that afternoon a 59(e) is produced asking Judge

1 Couch to revisit this order as not being reflective of
2 what was agreed to at the time of the hearing. Judge
3 Couch issues a secondary order denying the Rule 59.
4 I'm not going to reconsider that.

5 Your order finds, Your Honor, that with regards to
6 the order denying the 59 on the motion to compel,
7 plaintiff did not appeal this order and it is now
8 final including the findings therein. Your Honor,
9 respectfully that was at best a Discover Order. It
10 was purely interlocutory. There would have been no
11 right to appeal at that time and it was plaintiff's
12 counsel's belief, which I think is well founded by the
13 law, that Discovery Orders are never final until the
14 trial. It's the trial judge who will ultimately
15 determine the admissibility of evidence and it
16 routinely happens that witnesses are identified after
17 a scheduling order or discovery order that says no
18 more witnesses after this date. And in fact we have a
19 case in South Carolina, it's the Jumper versus Hawkins
20 case. We actually have a Jumper test. And what the
21 Jumper test says is we hold that even in the face of a
22 pretrial order mandating of a disclosure of a witness
23 by a certain date a trial judge is required to
24 consider and evaluate the following factors before
25 imposing the sanction of excluding a witness. There's

1 a five-stage test. So, the case law is clear. Even
2 if Judge Couch's order says what it says, that I got a
3 cutoff date and if you don't identify witnesses by
4 this date you can not use them. There is still a test
5 by which you can later name a witness and ask the
6 trial judge to evaluate these factors and determine
7 whether or not that witness can be used.

8 Now, I'm telling you this because again, the order
9 is issued July 3rd. Judge Couch's Rule 59 Motion is
10 made July 3rd. July 4th is the holiday. July 5th new
11 witnesses are named. Not Alex. Not a fact witness.
12 Not an eyewitness. So having received that order
13 plaintiff's counsel did what you would expect him to
14 do. Oh, my gosh, he's seeking to exclude every other
15 witness. Is there anybody we need in this case that
16 who is not yet named. Well, the plaintiff's primary
17 caretaker after the accident was his wife. She had
18 died several months earlier. And so, she was going to
19 play the role of the witness to explain kind of the
20 day in the life. This is what he was like before
21 accident. This is what he's like now. They
22 identified witnesses to replace that witness and they
23 did it on July 5th. Now that's not thumbing your nose
24 at Judge Couch. At the time they did that there's a
25 pending Rule 59 and there's very solid case law

1 authority for the proposition that even if that order
2 does stand it's proper to name a new witness and to
3 ask the trial judge to consider these factors as to
4 whether or not you can use that person. This person
5 is not Alex. This person is not an eyewitness and
6 this person is a replacement for someone who is going
7 to play that role. There's nothing dark or nefarious
8 about that. But again, it weaves it's way in to this
9 false narrative that we're trying to rely on these
10 unidentified witnesses to bolster our case and we're
11 not.

12 This all culminates, Your Honor, with a trial
13 before Judge Manning and with the question of whether
14 or not before Judge Manning Mr. Jeffries discharged
15 his duty of candor. I am proud to say that I was a
16 law clerk for Judge Manning when I was a student and
17 he was a lawyer in Lexington. There is no bigger
18 Casey Manning fan than Ronnie Richter.

19 On the record, Judge Manning is asking Lane
20 Jeffries about what Judge Couch ordered and he's doing
21 a good job of pinning Mr. Jeffries down. Did he say
22 this, yes or no, and Mr. Jeffries is trying to get his
23 shots out. Sometimes with you guys in a robe we don't
24 get all our shots out, but he's trying to get his
25 shots out and give the context of what happened. And

1 this is some of the dialogue. Well, here is the
2 witness we name. Let me back up.

3 In the pretrial brief to Judge Manning we
4 identified this Tracy Randolph. She's going to be the
5 person who is going to replace the wife who passed
6 away to come in and say this is what his life is like
7 now. Okay. Obviously defense counsel objects. No
8 problem with that. It's their right to object.

9 In your order there is a cut and paste of some of
10 the dialogue between Judge Manning and Mr. Jeffries.
11 This is one of those cut and paste that appears in the
12 court's order and it ends with this; line 15. Did you
13 meet the deadline imposed by Judge Couch, yes or no?
14 Mr. Jeffries yes, Your Honor." Okay. Which is not
15 true. Which is not true. The next line is important.
16 Not cited in your order. Line 18, "Can I explain how
17 because that's important?" Right. Now, I don't know
18 why that's omitted from your order, but what Mr.
19 Jeffries is trying to explain to Judge Manning is that
20 Judge Couch's order went way beyond what -- we
21 complied with what we -- what was ordered in the Court
22 room. The order didn't reflect that. Rule 59 didn't.
23 It's now up to you as the trial judge. These are the
24 shots we're trying to get out. We are trying to
25 discharge this duty of candor. That line can not

1 explain how because it's important.

2 Question, this is cited in your order. "But my
3 question to you is simple. Did you disclose these
4 names before Judge Couch's order or not? Yes or no?"
5 Answer, "Yes, Your Honor. We disclosed them on --
6 pardon me. The Court: All right. Stop." All right.
7 Judge Manning is frustrated that it's obvious that the
8 formal disclosure of these names is after the deadline
9 imposed by Judge Couch. What he's not getting is the
10 context of that's not what we had agreed to. The
11 order didn't reflect what happened at the hearing and
12 you still have the ultimate discretion to admit the
13 witness or not. So this is cited in your order. This
14 language is not.

15 "Mr. Jeffries: We --

16 THE COURT: Wait. No. You stop. Stop, please.
17 Mr. Bayne, now both of y'all can't be right. Who's
18 telling me the truth? Mr. Bayne: Judge, Judge Couch
19 issued his ruling from the bench on May 7th to
20 disclose by June 1st. They didn't do that."

21 Not cited in your order from Mr. Jeffries. "That
22 is correct. The order was memorialized on July 3rd.
23 We disclosed the witness on July 5th, and not just the
24 name, but the name and address of Treacy Randolph,
25 which is what we had at the time." So he does say to

1 Judge Manning. The order was memorialized on the 3rd.
2 We disclosed on the 5th. That is omitted from your
3 order in the cut and paste of the dialog that happened
4 with the Court. And again, the context that Mr.
5 Jeffries was trying to get out, he never got his shots
6 off are, all he argued about with Judge Couch is Alex.
7 What we agreed on the record was Alex. The order
8 comes out. It says all witnesses, and not for nothing
9 judge, even if he said that it's up to you as the
10 trial judge applying the Jumper factors. All right,
11 so, this becomes important in the case: "The Court:
12 It doesn't matter whether you knew it or not. He had
13 a cutoff date that you didn't meet. Mr. Jeffries:
14 That's correct, Your Honor." There was a cutoff date.
15 That's correct Your Honor. Now after the Jumper case
16 there are cases -- and I'm not complaining about
17 anything Judge Manning did, but there are cases
18 reversing trial court judges in the same circumstance
19 for not fully applying the Jumper test in evaluating
20 all these factors about a late named witness and are
21 they going to be accepted or not accepted. Eric tried
22 a case one time where an expert was submitted on day
23 three of a two-week trial.

24 THE COURT: When was that argued to Judge Manning?

25 MR. RICHTER: The Jumper factors?

1 THE COURT: Yeah.

2 MR. RICHTER: Never.

3 THE COURT: Right.

4 MR. RICHTER: It never was.

5 THE COURT: So you're turning the facts to fit
6 your legal scenario when there's no record before the
7 Court that was ever argued to Judge Manning.
8 Notwithstanding, you can still consider these five
9 factors in determining whether or not our witnesses
10 are appropriate. No one makes that is argument.

11 MR. RICHTER: No, sir, nobody made that argument.
12 The issue is, was there a good faith basis after the
13 date of Judge Couch's. Is is flaunting Judge Couch's
14 orders or is there a good faith basis upon which you
15 can identify a witness even after a discovery order
16 that says this is the last date. And there is legal
17 authority for that.

18 THE COURT: I don't dispute the Jumper factors
19 exist and that a Court can consider that. But no one
20 argued that in front of Judge Manning.

21 MR. RICHTER: I agree Judge.

22 THE COURT: And no one argued that in front of me
23 the last time we did a hearing.

24 MR. RICHTER: I agree.

25 THE COURT: These words did not exist when this

1 hearing took place and they did not exist in front of
2 Judge Manning. If you were preparing the case for
3 trial you would have showed up with Judge Manning with
4 a ten-page brief going through all the Jumper factors
5 and this is why we believe this witness is admissible
6 and relevant and all the things that you're suppose to
7 consider.

8 MR. RICHTER: Yes, sir.

9 THE COURT: In considering that and handed it up.
10 There would have been a record of it. You know, I
11 practiced law in front of Judge Manning. I mean, we
12 don't live in vacuum. I know that Judge Manning can,
13 you know, can put you on the spot and I understand
14 that.

15 MR. RICHTER: And that's fine.

16 THE COURT: And I'm not saying that doesn't exist
17 because that would be silly. But these coherent
18 thought through arguments are not what's going on. Is
19 did you follow Judge Couch's order which says disclose
20 by June 1st and the answer is yes.

21 MR. RICHTER: The answer -- the answer is
22 initially yes.

23 THE COURT: Right.

24 MR. RICHTER: The answer does become --

25 THE COURT: I didn't do it.

1 MR. RICHTER: I mean, very clear that he said the
2 3rd. We did it on the 5th. He's trying to get his
3 shots out. He really is. That's what it appears to
4 me. I respect your view if you don't see it the same
5 way.

6 THE COURT: No, I just wanted to make sure we're
7 clear. Even the last time you were in front of me
8 there wasn't any of this. There was none of this
9 taking place.

10 MR. RICHTER: Your Honor, I'm only suggesting to
11 you now to the extent that the order seems to conclude
12 that this was more a flaunting of Judge Couch's
13 authority. I really don't view it that way because I
14 don't view the act of naming a witness after a date
15 like that is being something that's volitive of a
16 court order because I would know that I would have
17 legal authority there with me.

18 THE COURT: Why are you naming -- why is the
19 plaintiff naming witnesses a year after the case is
20 filed when clearly they've known that the wife is
21 deceased. She can not be the witness for a loss of
22 enjoyment of life or whatever category you want to put
23 that into. That should have been disclosed within a
24 few weeks of the wife passing. But it's just not.
25 And then after at least two motions to compel about

1 witnesses. And I understand that your position is
2 they were about Alex but I mean, the general concept
3 of a motion to compel is about the defense in the
4 standard rules of discovery that if you go over to
5 Supreme Court you can write down, say, please tell us
6 all of your names of all of your witnesses.

7 MR. RICHTER: Your Honor, I think we see it
8 exactly the same way. I really do. I think in a
9 perfect world you would like to think that in real
10 time you are acting faster. I think the gut check
11 moment here was when Judge Couch's order issued and it
12 said witnesses, plural, when all we had been talking
13 about was Alex. And then it makes sense you are going
14 to go back and say, oh, my gosh, was there hole in my
15 case or not and you see it, yes, I should have
16 identified her sooner because I knew the wife has
17 passed away but now we got to do it because now it's
18 front and center. So in a perfect world, yeah, I
19 think we would all liked to have seen more immediate
20 action there but I don't how that leads us ultimately
21 to the sanction of I am going to strike your pleading
22 and I am going to assess you fines and penalties which
23 is where we're ultimately going.

24 THE COURT: Let's keep going. All right. I'm
25 following what you are saying.

1 MR. RICHTER: Thank you, judge. This is just
2 again, the same history of the motion that were
3 survived. These were survived without Treacy
4 Randolph. She was disallowed from the trial.

5 THE COURT: That's the woman who replaced the
6 wife?

7 MR. RICHTER: Right. And it's just a damages
8 witness. So to survive the directed verdict motion
9 and to win a direct verdict motion was done without
10 the benefit of that testimony which was denied. And
11 so I think it's much to do about nothing. Ultimately,
12 that we late identified her and she was removed. It
13 becomes important when Mr. Jeffries is front of Judge
14 Manning and that dialogue is taking place because you
15 do want absolute candor with the Court. I agree with
16 you on that. So, I think it would have been better
17 served for him to start with the answer and then give
18 the explanation, but he's trying to explain the
19 context. It does get disclosed to Judge Manning that
20 it is late named witness. But again, Your Honor. I
21 don't see that as an offense that warrants the
22 punishment that comes.

23 The case ultimately ends in a mistrial. And the
24 mistrial was based on this argument in closing. "The
25 judge is going to be very clear with you that what has

1 been paid is not the measure of damages. If that were
2 were the case, Mr. Jones would have zero dollars in
3 damages." A seasoned defense counsel would know that
4 when talking about collateral source is improper. We
5 would know the outcome of this case accept that's the
6 basis upon which the case gets mistried.

7 Returning to your order. "Despite two orders from
8 Judge Benjamin, a ruling from Judge Couch, an order
9 from Judge Couch, and pre-trial and trial rulings by
10 Judge Manning, plaintiff continues to violate
11 discovery rules and willfully ignore the prior orders
12 of this court. Plaintiff has acted in bad faith, with
13 willful disobedience of numerous court orders and
14 rulings, and with gross indifference toward the court
15 and counsel highlighted herein."

16 Your Honor, again, respectfully I don't think the
17 the record reflects that. I think, the ADR component
18 should never have been featured in this order at all.
19 The second motion to compel was something that defense
20 counsel choose to do. That is there right. Having
21 said in formal discovery in November of 2018 we have
22 no eye-witnesses. Even if the plaintiff said there's
23 a guy name Alex. I can't tell you where he is. I
24 don't know how to get in touch with him that does not
25 necessitate any motion practice and it is through that

1 motion practice that the false narrative is created
2 that the plaintiff's team is somehow relying on this
3 unidentified witness to advance the case along and
4 that never happens. There is no reliance upon this
5 unidentified witness. The case was simply he said she
6 said about how the accident happened and that does not
7 render a case frivolous. If that were true half the
8 cases tried here would be frivolous. And even if it
9 was counsel's honest opinion of the strength of the
10 case that I'm going to lose most of the time the
11 continued prosecution of that case is not
12 sanctionable. That lawyer is duty bound to continue
13 with that case. If there is a good faith basis and
14 the good faith basis is I have to accept my client's
15 version of the case and if the jury accepts that
16 version we're going to win and if the jury doesn't
17 we're not. But you don't have the right to just cut
18 and run because the case didn't materialize as strong
19 as you would liked it to have. It's a better case
20 with an eye-witness. It's not a no case without one.

21 Your Honor, we ask that you reconsider your order.
22 I don't think at the time you wrote the order that you
23 could have contemplated the tentacles that it has. We
24 lawyers are terrible gossips. I don't think there's a
25 subject matter more talked about around the State then

1 your order right now. I know it was picked up on the
2 FITSNews. They can be present today. I don't know.
3 But there is much being done and said with that order.
4 It was being taught at the U.S.C. Law School in Ethics
5 on how not to do things. That's the consequence of a
6 court's order. That's the power of it. But more than
7 anything else, I think you want to get it right and I
8 think you want to rely upon what is being told to you.
9 I'm trying to call strikes and balls here. I'm not an
10 apologist for everything that happened in the case,
11 but I can't imagine that it warrants the death penalty
12 for the claim, the momentary sanction that is
13 something else. But first and foremost we ask you
14 please reconsider reinstating the plaintiff's claim
15 so we can forward.

16 If you feel you've been mislead by any of this
17 that's certainly within your province to find that.
18 If you feel like a momentary sanction is appropriate
19 that's certainly within your province to do that.
20 First and foremost we want to make sure that the
21 plaintiff's rights are protected here.

22 THE COURT: Thank you, Mr. Richter.

23 MR. RICHTER: And Your Honor, I think Mr. Jeffries
24 on behalf of the plaintiff -- I'm not arguing for the
25 firm. I'm making a limited appearance but he wants to

1 adopt our arguments in support of the plaintiff as
2 well.

3 THE COURT: Okay. Is that right Mr. Jeffries?

4 MR. JEFFRIES: That's correct, Your Honor, and if
5 I may, I just have one point of clarification because
6 I want to make sure we're very clear on the candor
7 with Judge Manning with respect to the Couch order.
8 When Judge Manning heard the motion to compel it was
9 May, May 7th as I recall, and this is reflected in the
10 transcript. The argument again as counsel said was
11 about Alex. I agreed, yes, 30 days we don't name
12 Alex. In 30 days, June 1st, we can't use Alex and we
13 never attempted to use Alex. That was the oral
14 instruction from the bench on June 1st. We never
15 learned about Alex. We didn't disclose Alex. We
16 didn't attempt to use Alex. The first we heard
17 anything about other witnesses was in the proposed
18 order that Mr. Bayne submitted and I immediately sent
19 an email to the judge and said Judge, and to Mr.
20 Bayne, I don't think this proposed order comports with
21 Your Honor's instructions from the bench.
22 Nonetheless, Judge Couch signed it on July 3rd. At
23 that point, holy cow. It says, disclose all the
24 witnesses. That's what he decided to sign over my
25 objection. At that time we filed the Rule 59 and we

1 immediately disclosed these other witnesses that we
2 had not agreed during the hearing to disclose. There
3 was no agreement about anyone except for Alex. It
4 wasn't about these damages witnesses. So when we get
5 to trial and Judge Manning asked the question and he
6 insists on a yes/no. The question doesn't admit
7 strictly of a yes/no answer. We complied with what
8 the judge told us to do from the bench. By when he
9 told us to do it, which is name this guy or don't use
10 him. We did that. Later a written order comes out
11 that says name these other people by last month.
12 Well, that's not possible to comply with that part
13 technically because it's last month, but we
14 immediately named these other people as fast as we
15 could. Within a day. A business day. So when Judge
16 Manning pinned me down I gave the answer of the
17 choices between yes and no, the one that was most
18 closest to saying it right and then I attempted
19 multiple times to explain why I gave that answer.
20 Because it is important. Part was complied with.
21 Part was impossible to comply with on time but
22 complied with immediately thereafter. And as you look
23 through that trial transcript as that conversation
24 goes on I am very, very clear about who was disclosed
25 when. When Judge Manning says was this the date?

1 That is correct, Your Honor. That's the date. It's
2 after this date that Judge Couch said. There is no
3 misleading of Judge Manning whatsoever. We were fully
4 transparent as to who we disclosed and what we
5 disclosed. So I just want to be clear on that.

6 THE COURT: Thank you, Mr. Jeffries.

7 MR. JEFFRIES: Thank you.

8 MR. BLAND: Your Honor, can I say something?

9 THE COURT: Of course you can. I didn't think we
10 were going to make it through the hearing without you
11 you saying something.

12 MR. BLAND: I am not going to touch on the merits.

13 THE COURT: I say that in jest. You know that.

14 MR. BLAND: I've appeared before you in many cases
15 and whether for better or worse you tend to write
16 orders that are long and from a lawyer's standpoint I
17 like that because I like to know what the
18 justification is whether it was Major Mike
19 Livingston's case, whether it's all star cases we
20 appeared before you, there's a factual basis for you
21 your rules. And I am not going to cast dispersions on
22 opposing counsel because I have been in his position
23 when I had a winning order that I had to write. And
24 you write them in compliance with you duty and candor
25 to court. In compliance with Rule 11. In compliance

1 with the rules, but you slant them. And whether you
2 include all deposition testimony or all of the
3 testimony and arguments in a court transcript that's
4 always subject to debate. But you've always appeared
5 to me the being the judge that wants to get it right
6 as Ronnie said. So that even after you go through all
7 your analysis here and you may reach the same
8 conclusion, you will not sleep at night if the grounds
9 for your ruling are not correct and I think Mr.
10 Richter showed that the basis for you to even
11 entertain the type of remedy that you gave to the
12 defendants based on the mediation that is beyond
13 dispute. I understand that you said, well nobody gave
14 me that document and I understand you said, well
15 nobody has given me the Jumper factors, you know. The
16 fact of the matter is I know who Judge Hood is and I
17 know you're not going to sleep at night. And you know
18 where this the case is going ultimately. The stakes
19 are so big here for this law firm and the defendants
20 and how they view this law firm. I think you want to
21 get the reasoning, however you decide this Rule 59 you
22 want to get it right.

23 THE COURT: Thank you, Mr. Bland. Anything else
24 from the plaintiff?

25 We have been going for about an hour. Let's take

1 a short break for court staff and let them go to
2 restroom and whatnot and start back in about ten
3 minutes. Is that okay Mr. Bayne?

4 MR. BAYNE: That's fine, Your Honor.

5 THE COURT: Let's take a short ten-minute break.

6 (WHEREUPON, there was a short recess.)

7 THE COURT: Mr. Bayne are you ready?

8 MR. BAYNE: Yes, sir. Thank you, judge. Brett
9 Bayne on behalf of the defendant, Karen Robinson. I
10 want to start by sort of outlining that I know Mr.
11 Richter and Mr. Bland are knew to the file and we've
12 had a few conversations that I think have been
13 productive, but I appreciate their reasonableness in
14 attempt to try and sort of work within the structure
15 of these issues because I know there's sort of a lot
16 of moving pieces and a lot going on with this. That
17 being said, what we have is your order that was issued
18 based on a hearing that was held -- I believe it was
19 either September or October when we did that. And
20 then we have as a result of that order two motions
21 that were filed by Mr. Jeffries on behalf of the
22 plaintiff's, Rule 59 motion and motion for sanctions
23 relating to what was put into the order. The sum of
24 those motions and its about 50 or 60 pages of material
25 is that the order is improper and that the order

1 contains misrepresentations because the plaintiff is
2 being sanctioned for not being able to find witnesses.
3 That there were misrepresentations made about Judge
4 Couch's motion for summary judgement and order. That
5 there was misrepresentations made about Judge
6 Benjamin's motion to compel and Rule to Show Cause and
7 then I made a post on Twitter about a movie. I want
8 to start within the context of that Rule 59. The
9 primary assertion that runs through both of those
10 motions is that I the plaintiff, the law firm are
11 being punished because there are at least two
12 witnesses to this accident, that we just can't find.
13 And it's unfair that be used against us. And in the
14 memorandum that Mr. Jeffries filed that refrain is
15 common. For example, despite diligent efforts nobody
16 has been able to positively identify or locate either
17 of these eye-witness. To this date neither plaintiff
18 nor his counsel have any information regarding their
19 whereabouts. Plaintiff was never able to provide the
20 eye-witness's location, plaintiff's counsel at that
21 time, and has not been able to since.

22 Defendant filed another motion to compel seeking
23 to force plaintiff to do something that could not be
24 done to identify those witnesses. There's never been
25 any allegation that the plaintiff or his counsel know

1 where to locate the eye-witnesses. There is no
2 evidence that the plaintiff's counsel concealed this
3 eye-witness. Plaintiff still does not know the
4 identity of the eye-witnesses and has never been able
5 to locate them. Alex was still and remains unlocated.
6 The order did not require plaintiff to locate Alex. A
7 requirement that would have been impossible. These
8 eye-witnesses can not be located. There's more within
9 that motion, but that's the sampling of what is
10 contained in that 59 and it forms the basis of why the
11 plaintiff seeks to have those sanctions either removed
12 or withdrawn or altered or amended, but those
13 statements are not true. As to Alex we know that
14 because we can look at the trial testimony from Judge
15 Manning's trial. Before we get to that, that refrain
16 of we've never been able to find these people is
17 contained in the pretrial with Judge Manning. For
18 example, Mr. Jeffries told Judge Manning. Mr. Jones
19 also testified that Alex lived in a shack in woods
20 near Winnsboro. He did not know an address. He did
21 not know a phone number. We attempted to find Alex.
22 We would love to have a witness. We did not find
23 Alex. No Alex. We found shacks in the woods but we
24 did not find Alex. That is contained in the pretrial
25 presentation to Judge Manning relating to the

1 exclusion of witnesses and the discussion of these
2 orders.

3 The very last part of Mr. Jones, the plaintiff's
4 direct examination he is asked about Alex. "Was it
5 Alex that was with you the day you got hit?"

6 THE COURT: Is this the trial?

7 MR. BAYNE: This is the trial transcript, Your
8 Honor. This is on page 169. And before I read that
9 and why it's important is we've seen the deposition of
10 Mr. Jones and in that deposition he says, "Alex saw
11 it". In the deposition he says Alex sent me pictures.
12 He texted them to me. Alex is an eyewitness to this
13 accident. Alex is one of the two eye-witnesses that
14 are referenced all the way back in June when they say
15 discovery is expected to reveal eye-witnesses but they
16 just don't say that. The next sentence is, who saw
17 speeding? Who saw swerving? Who saw driving in the
18 opposite side of the road. Those statements show that
19 it's not just we're going to find witnesses. We know
20 we going to see witnesses that say these things and
21 that's important because what Mr. Jones testifies to
22 in his deposition is he's known about Alex. That's
23 the eye-witness they're talking about all the way back
24 in June. In his deposition after we go to Judge
25 Benjamin, we get the Rule to Show Cause. They say

1 there are no witnesses. That's when Mr. Jones says
2 wait, wait, there is. It's Alex. And Alex saw the
3 accident. That's on March 7, 2019. We get all the
4 way to August with trial on page 169. There's a
5 question by Mr. Jeffries. "Was it Alex that was with
6 you that day you got hit that came over to the house
7 or do you remember? Yes, it was him. Okay. Did you
8 try to find Alex after that so he can come testify?
9 Yes. Did you find him? Yeah, yeah. He said he
10 didn't see anything. Okay. So it was no good for him
11 to come here and testify if he didn't see anything.
12 Yes." That concluded the direct examination of Mr.
13 Jones. So in that moment on March 7, 2019, Mr. Jones
14 tests in his deposition and says Alex is a witness.
15 Alex saw this.

16 We get to trial in August and he says, "Yeah, my
17 friend Alex was going to be the witness but he
18 actually didn't see anything." So between March and
19 August they found Alex. Mr. Jones says that, "Yeah,
20 we found him." Mr. Jeffries suborns that testimony of
21 him. "Did you find him? I did. What did he say? I
22 didn't see it. So that's why we didn't bring him
23 here. Correct." So in that time span between March
24 and we go to Judge Couch. We go in front of Judge
25 Lee. We have pretrial with Judge Manning. All of

1 that time the plaintiff is asserting, I have a witness
2 named Alex. I can't find him. The morning of the
3 trial we had a witness named Alex. We've never been
4 able to find him. Middle of trial oh, yeah, we found
5 him. He didn't see anything. So, we have that. We
6 start with that eye-witness and we know from the
7 testimony at trial from the plaintiff that they did
8 find this guy. And so the repeated assertions that
9 have been made in all these motions that this is
10 unfair because they're being punished for not finding
11 witnesses, they found him. They talked to him. They
12 interviewed him. They knew who he was. They never
13 disclosed him and they continued to represent to this
14 court that each judge before that's heard this that
15 they didn't know where he was, or who he was, or how
16 to get a hold of him and that wasn't true.

17 The second eye-witness was the wife's cousin that
18 was Lettie Jackson. Mr. Richter discussed -- and I'm
19 kind of jumping around here, but Lettie Jackson was
20 part of that July 5th disclosure that came two days
21 after Judge Couch filed his order. So Lettie Jackson
22 in addition to Treacy Randolph who they highlighted,
23 there was an additional witness their named Lettie
24 Jackson. And Lettie Jackson was listed and what they
25 said about Miss Jackson was, Lettie Jackson will

1 testify as to Lettie's knowledge of the relevant facts
2 and circumstances.

3 THE COURT: I thought Mr. Jones said in his
4 deposition that it was his wife's cousin who let him
5 pass in front of him?

6 MR. BAYNE: He did. He said my wife's cousin --

7 THE COURT: She would be a direct witness to the
8 event.

9 MR. BAYNE: She would absolutely be an eye-witness
10 and the discussion we had on the plaintiff'S
11 presentation was that the July 5th disclosure
12 contained know eye-witness. It did. It contained
13 Lettie Jackson. Now on July 5th when Lettie Jackson
14 is named there is no information about her. In the
15 memorandum I filed we -- I attached an email we sent
16 just a few minutes after getting that disclosure on a
17 Friday afternoon, three days before trial because we
18 were suppose to start trial on Monday July 8th which
19 come into this whole disclosure in the first place.
20 But on July 5th when they named Treacy Randolph to
21 replace the wife. They also named someone named
22 Lettie Jackson but don't tell us who she is or how to
23 get a hold of her. We go all the way to trial with
24 Judge Manning and that is where for the first time
25 they revealed Lettie Jackson is in fact the wife's

1 cousin. Mr. Jones testifies to that. In fact in his
2 deposition, we jump back. "Do you know who the female
3 was you're referring to? When my wife was living at
4 the time she said it was her cousin. Who is her
5 cousin? The lady in the car. What is the name of
6 your wife's cousin? I don't know that name right now."

7 So March 7, 2019, in the deposition they don't
8 know who the wife's cousin is. They know she exists.
9 They don't know who she is.

10 At trial -- again March to August -- at trial "Now
11 that lady driving that car that slowed down you turned
12 in front of was that the defendant Mrs. Robinson? No.
13 Who was it? They said she was my wife's cousin. Do
14 you know her name? Lettie Jackson." So, again we go
15 back to the deposition on March 7th after we've had
16 the Rule to Show Cause where they say there are no
17 witnesses and on March 7th Mr. Jones says actually
18 there are two. There's Alex. I don't know where he
19 is. There's my wife cousin I don't know who she is.
20 On July 5th they identify a Lettie Jackson without any
21 identifying information. We ask. They don't respond.
22 We go trial and we find out at trial that they have
23 found Alex between March and August even though they
24 they told Judge Manning and every other judge before
25 they had not. Could not. They found the wife's

1 cousin because Mr. Jones testifies my wife's cousin,
2 that's Lettie Jackson. So again, that connection
3 isn't made until we're in the middle of trial that
4 there is in fact a wife's cousin. She exists. She has
5 a name and presumably they know where she is because
6 they have identified her in discovery as a witness who
7 will testify at trial three days later when they
8 identified her on July 5th for trial that was set to
9 start on July 8th with Judge Lee. Between July 5th
10 and the date of trial they never give us any more
11 information about Miss Jackson. And all of that is--
12 the point of all that is, judge, the continued
13 representation that occurs, we never been able to find
14 these people. We don't know who they are. We don't
15 know where they are. It's unfair because we can't
16 find witnesses. Their client testified they did at
17 trial. We found them. We found Alex. He didn't see
18 anything so that's why we didn't bring him. My wife's
19 cousin is Lettie Jackson which means on July 5th they
20 knew who she was and didn't tell us about it. Those
21 were the witnesses who were the eye-witnesses that we
22 know of that we have been able to deduce.

23 Those were the witnesses -- part of the witnesses
24 that we discussed in the Motion to Compel relating to
25 Judge Couch where he issued that order. And what's in

1 that order, what it's the ruling is name witnesses by
2 June 1st and there has been discussion about
3 interpretation of that language and what it meant.
4 But the clearest interpretation of that is Mr.
5 Jeffries himself -- and this is on page 13 of that
6 memorandum. It's an email sent by Mr. Jeffries on May
7 13th, six days after the hearing. And what he says
8 is, what I recall Judge Couch instructing me to put in
9 the order is that plaintiff must comply with your
10 discovery requests by identifying known fact witnesses
11 on or before June one. So we have the hearing with
12 Judge Couch. He requests an order. The order is
13 submitted and Mr. Jeffries's own recollection of that
14 hearing and his understanding on May 13th whether the
15 hearing transcript is read one way or the other, but
16 his own understanding is I have to identify all known
17 fact witnesses by June one. Not Alex only. All of
18 them. He doesn't do it. He knows on that day that
19 Lettie Jackson could be named. That Alex could be
20 named. That Treacy Randolph could be named. But he
21 waits until July 5th, three days before trial is set
22 to start only after Judge Couch issues his order.
23 Which brings us to the order.

24 So the order that exists from Judge Couch contains
25 a ruling that all witnesses that are unidentified must

1 be identified or they are barred from trial. And that
2 was by June one. The plaintiff disagrees with that.
3 They say that wasn't the scope despite what Mr.
4 Jeffries has said I believed the scope to be. They're
5 asserting that's not the scope. The proper time to
6 address that was in their Rule 59 motion to Judge
7 Couch. That argument was never made to Judge Couch.
8 The Rule 59 motion does not contain any challenge to
9 the scope of the witnesses that are excluded. It only
10 contains a challenge to the timing of it. In other
11 words, I think it's not a direct quote but it's close
12 is, we would H.G. Well's style time machine to go back
13 and comply with this order. But there's never a
14 direct challenge made to Judge Couch that is wait,
15 wait, wait, wait, that wasn't what we discussed. It
16 was only suppose to be these two witnesses or Alex.
17 Not all unidentified witnesses. That argument has
18 never been made in front of Judge Lee, in front of
19 Judge Manning or in front of you in our last hearing
20 until this 59 is filed. And what they're seeking to
21 do is go back and rewrite Judge Couch's order which
22 while I agree is probably not appealable directly from
23 that discovery order, is a final order that the 59
24 itself was never filed on and it makes that order
25 final for purposes of pursuing this case to it's

1 logical end point.

2 So the argument that the order from Judge Couch
3 was different then what it was when he goes in front
4 of Judge Manning and says, yes, we complied with that
5 order. Mr. Richter admitted that was not true when
6 they said that. And he goes in front of Judge Manning
7 and Judge Manning says did you name them by June one
8 and he says, yes, we did and that wasn't true. What
9 we have is the challenge being made to that isn't that
10 the order is wrong is that we want to rewrite that
11 order going back and the time to do that was in July
12 when the 59 was filed and that was not done.

13 The summary judgement from Judge Couch is the next
14 portion of this. So we have the eye-witness issue.
15 We know that despite the assertions that they never
16 found these people they did. That's revealed by Mr.
17 Jones at trial. For summary judgement the issue is
18 that Mr. Jeffries asserts that he didn't argue about
19 these eye-witness. These are unidentified witnesses
20 and what he's really saying I Lane Jeffries I didn't
21 say that out loud to Judge Couch in that hearing so it
22 was never an issue. It is in their memorandum. It is
23 throughout the deposition of the defendant-- or the
24 plaintiff was submitted into evidence after hearing.
25 Some excerpts-- and this is on page 15 of our

1 memorandum, are cutouts from the actual memorandum
2 filed by Mr. Jeffries for that. "When you mention the
3 car being driven by a woman who may have been your
4 wife's cousin is that the vehicle that hit you? No.
5 That's the vehicle I was going to turn in front of."
6 There is four of those cutouts from deposition
7 contained in the memorandum in opposition to summary
8 judgement referencing these unknown witnesses. That
9 was part record before Judge Couch. And then again
10 during the course of that hearing Mr. Jeffries offered
11 up the full deposition of Mr. Jones and he references
12 it. He says this is in his deposition page 14,
13 pardon me page 29, lines 17 through 22. The question
14 was "When you mention the car being driven by a woman
15 who may have been your wife's cousin is that the
16 vehicle that hit you? "No" he says. "That's the
17 vehicle I was going to turn in front of." That's that
18 same cutout in the memorandum. But in the hearing he
19 hands up the deposition. He says, here's what he says
20 about the wife's cousin. Here is what he says about
21 unidentified witnesses. To stand here and file a 59
22 and argue that there's a misrepresentation that
23 occurred about what was presented to Judge Couch is a
24 little ridiculous when you look at what was actually
25 presented to Judge Couch.

1 The arguments on summary judgement are not just
2 what we say to the Court but it's what is submitted.
3 What is filed. The whole reason we file memorandums
4 in support and memorandums in opposition and we make
5 exhibits and we hand up evidence is so the Court in
6 addition to the oral argument will review these
7 documents and will weigh them and make a decision.
8 The presumption being that Judge Couch when he made
9 his decision relied upon the evidence that was
10 presented to him which includes the reference
11 throughout to those unidentified witnesses. So to
12 stand here and say that Judge Couch before him never
13 was any discussion about these unidentified witnesses
14 is just not supported by the record.

15 The third part of this Rule 59 deals with the
16 Judge Benjamin motion to compel and the Judge Benjamin
17 Rule to Show Cause that was issued. And the sequence
18 of events that occurred there is that we served
19 discovery. We served the initial set of
20 interrogatories on June 5, 2018 and on June 5, 2018 we
21 served, as Your Honor quoted in the prior part of this
22 hearing a little bit earlier, it contains that
23 standard tell us who your witnesses are; name address,
24 date of birth, blood type, et cetera. All the things
25 that we need to know to conduct an investigation. We

1 got no answer to that. So we filed a motion to compel
2 on August 10th. And August 14th we served a second
3 set of interrogatories referencing that June filing
4 where they said we have witnesses who are going to say
5 -- we expect to have witnesses who will say she was
6 swerving. She was speeding. She was driving
7 erratically. She was in the opposite side of the
8 lane. Very specific allegations that they make about
9 the expected witnesses.

10 That hearing went forward on October 1st with
11 Judge Benjamin and during that hearing both sets of
12 that discovery were heard by Judge Benjamin; the June
13 5th and the August 14th. She considered both. We
14 asked her to consider both. There was no objection to
15 that. She issued an order ordering responses to both
16 sets of discovery and it's in there.

17 Your Honor, the only one that we know for sure
18 that has not been answer is the supplemental request
19 for identification of the witnesses that have been
20 represented to have seen this accident.

21 Judge Benjamin says, "All right. Thank you." And
22 Mr. Jeffries says, "We will provide that, Your Honor,
23 certainly." So part of this 59 and the motion for
24 sanctions is that the defense counsel misrepresented
25 what was in front of Judge Benjamin and misrepresented

1 there was a motion to compel filed because they failed
2 to name witnesses. There was a motion to compel. And
3 at the hearing in front of Judge Benjamin she heard
4 both sets of discovery; the one filed on June 5th and
5 the one filed on August 14th and encompassed that into
6 that August 10th motion to compel and she ordered
7 responses for both and the plaintiff agreed. What we
8 have from there is no response was ever given. Judge
9 Benjamin issued that Rule to Show Cause for their
10 failure to comply and then that is when we get this
11 November, there aren't any witnesses. And the
12 position taken from that point forward has been we
13 abandoned those witnesses as of November 2018. That's
14 a moot issue from that point forward, except it's not.
15 And it's not because when we depose the plaintiff in
16 March of '19 he says no, no. There's two
17 eye-witnesses. There is Alex and my wife's cousin.
18 We ask for them. They don't give them to us. We go
19 to motion to compel. They don't give them to us.
20 They name one of them we find out July 5th. We go
21 trial and at trial they say, yeah, we found him. They
22 didn't see anything. So it's not a moot issue as of
23 November 2018 and it's not a moot issue because they
24 brought it back up in the deposition. They brought it
25 back up at trial and they've never identified these

1 people that they located.

2 The sum of -- that's essentially the sum of the 59
3 is those discovery issues. The final prong obviously
4 is the ADR issue and under the ADR issue it was a part
5 of the Bigger motion that was filed dealing with both
6 ADR abuse, the discovery abuse, the Rule 11 issues.
7 And in the ADR an attorney who is not counsel of
8 record appeared at the mediation. And the position
9 now seems to be that there was a consent to that by
10 going forward with mediation. Of course the opposite
11 of that would have been we get up and walk out and of
12 one who has come from all over leaves and then there's
13 a motion for sanctions gets filed by the plaintiff for
14 walking away from the mediation.

15 We proceeded with the mediation and the context of
16 that mediation and the discussion there was disclosed
17 to Judge Newman in a sealed memorandum pursuant to
18 Rule 8, that we believe there's a violation of these
19 rules. Rule 8 says you can disclose what occurred to
20 the Chief Administrative Judge which is what we did.
21 We in fact -- I think within some of the evidence says
22 we reached out to her to verify how do we do this to
23 make sure this doesn't become a public issue. And
24 then it became obviously an issue in the hearing. It
25 made its way into the order. But the context of what

1 was done at the mediation is important because it
2 shows not only was Mr. Anastopulo who was present, not
3 counsel of record, but it showed his lack of
4 understanding with the file and it also showed that he
5 didn't have any authority to actually do anything at
6 the mediation and Mr. Jeffries at the last hearing
7 revealed that for the first time to us. He said --
8 this is on page 44 of that transcript is, Gus didn't
9 take the position -- different position from ours,
10 that I was responding to Your Honor point about. He
11 followed my instructions and the instructions of Eric
12 Poulin. So the rules at least for the defendants and
13 our clients are, we have to have people there that
14 have full settlement authority with a good attempt to
15 try and resolve this case. The plaintiff -- there's a
16 counterclaim against the plaintiff. They didn't have
17 somebody there to do that because Mr. Anastopulo who
18 was present based on Mr. Jeffries representations to
19 Your Honor at our last hearing was, he was there
20 following orders. He was there to do this, do this
21 and leave. So that's not a good faith mediation.
22 That's not a counsel of record whose presence is
23 required by Rule 6 and that's not somebody whose there
24 with the ability to actually try to negotiate and
25 resolve a case that has a ten percent chance of

1 winning if that's what it's going to be. And that's
2 what's required by those rules.

3 So the ADR issue -- if the issue is, well, judge,
4 we don't want the distinctive language used by Mr.
5 Anastopoulo in the order. The order itself can be
6 maintained without that because what we have is -- is
7 essentially admission that he was not counsel of
8 record. That he was there without it and we have the
9 testimony -- or the statements, not the testimony, by
10 Mr. Jeffries that Mr. Anastopoulo was there following
11 marching orders on what to do during the mediation and
12 then to leave essentially once those offers were made.

13 So that essentially solves that ADR issues which
14 is if the Court sees fit based on what Mr. Richter has
15 asked for the court can remove the specific statements
16 from that order if needed. But our position is they
17 give context to the bigger picture which is that the
18 person who appeared there was not the counsel of
19 record. He didn't have a good faith basis for
20 appearing and he didn't have the requisite authority
21 and knowledge of the case to proceed with that. And
22 then the final piece of the puzzle is obviously the
23 motions for sanctions that's been filed. And the
24 importance of that I think is that the plaintiff is
25 here and is asking the Court to reasonably reconsider

1 the order and is asking the Court to weigh and measure
2 what it is. But the plaintiff's first response to
3 your order wasn't to file a 59 motion. It was to file
4 for sanctions alleging misconduct and
5 misrepresentation to Your Honor based on things that
6 are contained in our filings and that made there way
7 into your order. And we have gone through those
8 because it's the same as the 59. It's the eye-witness
9 issue, it's the Judge Couch order, and it's the Judge
10 Benjamin issue. And all of those things that are
11 contained in our filings and that Your Honor put into
12 an order are supported by the record. They contain
13 direct quotations from the hearing transcripts, from
14 the trial transcripts, and from the orders of the
15 Court. They're not interpretations of those. They
16 are direct quotes and comments from either the judge
17 or from the plaintiff's counsel or from the plaintiff
18 himself on that issue. And like I said, I think that
19 gives us sort of a bigger picture view of this, is the
20 first reaction to your order is not to come and say we
21 think this is too harsh. We think that there should
22 be some mitigation. We think here's something you
23 overlooked. They had three weeks to do that between
24 when the order was -- the proposed order was submitted
25 and when Your Honor finally authored and finalized the

1 order. Not one time in those three weeks between
2 October 10th when it was submitted and October 31st
3 when it was filed did the plaintiff reach out and say,
4 judge, we think this is incorrect. Judge, we think
5 this is wrong.

6 Judge, here's an additional piece of information
7 that actually gives clarity to this. Nothing. There
8 was never a single objection made to the proposed
9 order. There was never a counter order submitted that
10 would say we actually think this is what the order
11 should be. The response was, let's file for
12 sanctions. And that's the motion that was filed first
13 that day and then about four or five hours later the
14 59 was filed with the myriad of exhibits.

15 If Your Honor needs any additional argument on the
16 sanctions of motion I would be happy to deal with that
17 specifically to the personnel postings of counsel
18 otherwise I will skip over that.

19 THE COURT: I'm a fine with that.

20 MR. BAYNE: Okay. And so judge, in sum without
21 getting to repetitive, what we have is a case where
22 the facts today are the same facts they were the last
23 time we heard this case. The same facts they've been
24 from the beginning as they continued to be developed
25 along the way; is that there are two eye-witnesses for

1 sure that were unidentified. One until July 5th. One
2 until trial, where they said, oh, yeah, we found him.
3 He didn't see anything. And it's that wild goose
4 chase that they put us on starting in June until trial
5 and then beyond that based on the continued
6 representation that there are witnesses, there are
7 witnesses, there are witnesses, there witnesses, but
8 we can't find them. We found them. They didn't see
9 anything. Still never identified. And the take away
10 there is that everything is contained within the
11 motions and the orders are supported by the record.
12 It's contained in the record.

13 We would ask that Your Honor in reviewing that, go
14 back and review that and maintain the order as is
15 because there is not a material fact that was changed
16 that would result in the reversal of that order or the
17 changing of that order.

18 THE COURT: Thank you Mr. Bayne.

19 MR. BAYNE: Thank you, judge.

20 MR. RICHTER: Can I respond very briefly?

21 THE COURT: Yes, sir.

22 MR. RICHTER: Just a couple of points I think are
23 of moment, Your Honor. First, the ADR issue does loom
24 particularly large here because as the order reads the
25 authority by which the complaint was stricken was Rule

1 10(B) of the ADR many rules and the authority to
2 sanction that's incorporated therein under Rule
3 37(B) (2) (C). And so the striking of the complaint as
4 written in this order flows from that violation.

5 Your Honor, I can't overemphasize the significance
6 of the foot foul that they complain of is you sent Gus
7 and that's not what Rule 6 says. And I think rule 59
8 allows to you entertain that -- now I know it was
9 before you previously that you have the agreement to
10 mediate. I think Rule 59 allows to you consider that.
11 And yes, clearly, if that was a violation the parties
12 agree otherwise to allow Gus to participate and that
13 is a waiver. It's not even a waiver. It is
14 compliance with the rule because the rule says counsel
15 of record will attend unless agreed to otherwise.
16 When that case of characters shows up and everybody
17 signs and they mediate that is agreeing to otherwise.
18 And Your Honor, that is not -- even if that is the
19 violation, that is not the invitation to swing the
20 door wide open. I mean, if that's the matter you are
21 going to bring to the court's attention to complain
22 about what you are going to say is, I think you
23 violated the ADR rules by having Gus there. But
24 that's not what they do. Instead they pollute the
25 record with everything that Gus supposedly said in the

1 context of that mediation and there is no place for
2 that in this record. And again, I can't imagine that
3 the Circuit Court wants to find itself arbitrating
4 what takes place in the context of mediation that is
5 agreed to between the parties.

6 THE COURT: Well, we wouldn't be having this
7 conversation if an attorney of record showed up at the
8 hearing.

9 MR. RICHTER: Your Honor, I also don't think we
10 would be having this conversation if you had the
11 benefit of that agreement to mediate that you didn't
12 last time. I think you would have agreed with me
13 then.

14 THE COURT: Not one single lawyer in the room can
15 tell me why out of the three to four attorneys that
16 are listed on every single filing that they filed none
17 of them could be there. Nobody can tell me that and
18 what Mr. Jeffries said to me in the last hearing was,
19 it doesn't matter. He did what we told him to do. So
20 who cares.

21 MR. RICHTER: Your Honor, I can't tell you why
22 they weren't there.

23 THE COURT: Right.

24 MR. RICHTER: And I do purport to, but I do
25 purport to tell you is if that's the nature of the

1 violation that is not sufficient to open the door to
2 hear everything that happened and even if you do
3 consider what happened I still don't see where that
4 rises to a sanctionable offense to warrant the
5 striking of the complaint.

6 And just a final parting comment, Your Honor.

7 THE COURT: So what do you think should happen
8 when you're trying a case and you learn about the
9 other opposing sides' witness and what they were going
10 to say while another witness is on the witness stand?

11 MR. RICHTER: Well, Your Honor --

12 THE COURT: You know, this isn't criminal defense
13 work. This is civil work. We're all suppose to know
14 what everybody is going to say. I can't imagine Mr.
15 Bland's reaction in Court if a witness sat on this
16 witness stand and said, oh, yeah, I did talk to a
17 witness and he didn't see anything.

18 MR. BL: Well, judge, I would like to think that I
19 would preempted that first with a motion in limine and
20 if the plaintiff -- the dots that are being connected
21 here are the plaintiff volunteers a statement in his
22 testimony.

23 THE COURT: He didn't volunteer the statement.
24 Mr. Jeffries asked him the question. This wasn't Mr.
25 Jones running off on a rabbit trail. You know, out of

1 control witness. He got asked a direct question.

2 MR. RICHTER: Fair enough.

3 THE COURT: About Alex and thank God Mr. Jones
4 decided to tell the truth.

5 MR. RICHTER: Well, I think I would have been
6 preempted that with a motion in limine. I think I
7 would have objected.

8 THE COURT: But for Mr. Jones telling the truth,
9 on the witness stand in the trial nobody in this room
10 right now would know what the truth is. You know why,
11 because its been hidden. Its been intentionally,
12 strategically and willfully hidden from the other
13 side. Just like the wife's cousin, intentionally,
14 willfully and strategically hidden from the other
15 side. And we would never know right now that Alex was
16 found and that Alex didn't see anything but for Mr.
17 Jones telling the truth on the witness stand.

18 MR. RICHTER: I think I would have impeached Mr.
19 Jones with his prior testimony.

20 THE COURT: Sure.

21 MR. RICHTER: I think I would have moved for a
22 mistrial if I felt that it was prejudicial to my
23 cause. So just to answer your question what would I
24 have done.

25 THE COURT: Yeah, you would have been shocked and

1 especially since it would have been information that
2 would have been favorable to your client's cause of
3 action. It would have been shocking. We would have
4 all been shocked. In criminal, that's the big
5 difference. In criminal you don't get to dispose
6 people. It's just another world and we all know that.
7 But in Civil Court, I mean, it's just shocking.

8 MR. RICHTER: That's right.

9 THE COURT: Keep going. Go ahead. I want to hear
10 from you.

11 MR. RICHTER: Well, Your Honor, still the death
12 penalty is of the greatest concern to us.

13 THE COURT: And I say this, and I know everything
14 we do in here is on the record so, I don't know why I
15 say I want to make sure I'm heard on this. In my life
16 the number of civil cases that I've ever dismissed was
17 only one other one where there were some egregious --
18 the attorney basically admitted to me I didn't know if
19 I had a case or not. That's what discovery is for.
20 And it was a shocking employment case. I don't take
21 this sanction lightly. When the proposed order came
22 in I didn't sign it the second that it came in the
23 door. So I am a very aware of the very stiff
24 sanctions and I want everybody to also understand
25 that's why I agreed. Ninety percent of the motions to

1 consider you all filed in your lives you get a Form 4
2 a few weeks later that says it's denied. Right? And
3 that's why I wanted the opportunity to do this hearing
4 because this is a very serious situation to me and I
5 know that there are more people in play then just the
6 people in this room.

7 Mr. Jones health and well being and future case is
8 in play. Miss Robinson has had a law suit filed
9 against her that, you know, has very large numbers
10 attached to it. So I do take it very cautiously. I
11 don't want you to think that --

12 MR. RICHTER: Not at all.

13 THE COURT: -- you know, that is something that
14 popped up in my head.

15 MR. RICHTER: Judge, I think to the extent that
16 your order strikes the pleading based on an ADR
17 violation, respectfully, I don't think that you can
18 get there from here. That's my argument to you. What
19 remains is your view of how discovery unfolded and I'm
20 asking you if that conduct stands alone that the crime
21 -- the punishment is just disproportionate to the
22 crime. And would ask you reconsider on that basis.

23 THE COURT: Thank you. Yes, sir, Mr. Bland. Happy
24 to hear from you.

25 MR. BLAND: I think on the ADR issue, the fact

1 that they went forward with the mediation to me is
2 indicative that they accepted Gus as a participate on
3 behalf of the plaintiff. They had the absolute right
4 even after they started. Once they started mediating
5 if they realized that Gus didn't have any knowledge of
6 the facts and really no independent authority and was
7 sitting there just to go through the process they
8 should have stopped the process right there and said
9 we're making a motion that there wasn't a good faith
10 mediation. But to go through the entire mediation I
11 think there is absolute waiver.

12 As to what took place in Court, there's no
13 question that that's your discretion to say, wait a
14 minute. Somebody is misleading. Somebody is holding
15 somebody in the pocket. But you had the right to
16 question Lane to say, hey, wait a minute. Were you
17 sandbagging here and the question is you could have
18 done a number of things. You could have instructed
19 the jury. You could have made a jury charge that
20 would have rendered a lot of the testimony null and
21 void. Again, not to reargue it, but we are talking
22 about a death penalty that has spiraling
23 circumstances. You know, repercussion for all those
24 involved including attorneys.

25 THE COURT: I understand.

1 THE COURT: Thank you Mr. Bland. Anything you
2 would like to add Mr. Jeffries?

3 MR. JEFFRIES: Yes, Your Honor. Just a couple
4 things briefly.

5 I think it's important to note there are, contrary
6 to what Mr. Bayne said, there are absolutely false
7 factual representations made to the Court. I'll
8 highlight those.

9 THE COURT: I want you to be very careful --

10 MR. JEFFRIES: I will, Your Honor.

11 THE COURT: -- before you do this.

12 MR. JEFFRIES: Yes, Your Honor.

13 THE COURT: I want you to talk to your attorneys
14 briefly before you do this.

15 MR. RICHTER: Can we take a brief recess?

16 THE COURT: Yes.

17 (WHEREUPON, there was a short recess.)

18 THE COURT: We are back on the record. Anything
19 further from you, Mr. Jeffries?

20 MR. JEFFRIES: Thank you, Your Honor. May it
21 please the Court. I had become a little sidetracked
22 in that argument and the matter I was about to bring
23 up is really more appropriate for the motion for
24 sanctions which I understand is going to be heard at
25 later date. So at this time the plaintiff will rest

1 on the record.

2 THE COURT: All right, that is perfectly fine.

3 Mr. Bayne, do you want a final word?

4 MR. BAYNE: Yes, just very, very briefly, and I
5 don't know in the long run it matters so much for it
6 but to clean up a couple of issues.

7 The trial testimony where Alex was revealed to
8 have been discovered was objected to during the course
9 of the trial. That's on page 168 of that trial
10 transcript. So there was an objection. It was
11 overruled and then those questions were asked again
12 just for Your Honor's reference there.

13 The final two points, the original -- the motion
14 that brings us here that was filed and it was filed
15 under seal -- I don't think it was technically ever
16 under seal, but it was served directly upon Judge
17 Newman. The request in there in the final paragraph
18 is given the repeated discovery abuses and violations
19 found by Judge Benjamin, Judge Couch and now given the
20 mediation abuses, and so the context of the entire
21 motion-- and when you look at Judge Couch's order is
22 that there may be additional sanctions. It goes back
23 to the chief administrative judge. She gave it to
24 Judge Manning. Judge Manning's mistrial happened.
25 That negated all that, and then it came back before

1 Your Honor. That was part of the motion. All of that
2 has been discussed. And final point, judge, is Mr.
3 Bland just made a reference to the mediation itself
4 and was there discussion of Gus's appearance. Exhibit
5 C of that memorandum that was filed that's in the
6 record is an email sent on the day of the mediation at
7 1:33 p.m. to Mr. Jeffries, out lining the improper
8 appearance, outlying the Rule 6 violation and
9 requesting at that time that Mr. Jeffries' client or
10 Mr. Jeffries pay the mediation costs so we didn't have
11 to file a motion. He refused to do so. And that
12 necessitated the filing of the motion. But it was
13 raised immediately upon becoming apparent that the
14 person they had sent who was not counsel of the record
15 also didn't have the authority to settle and didn't
16 have the requisite knowledge for the case. That's why
17 we sent the email. Never responded to. That's why we
18 had to file the motion.

19 Then filing the motion we brought in the issues
20 that were pending based on Judge Couch's ruling in the
21 order. So I just want to kind of clean a couple of
22 those issues up.

23 THE COURT: Okay.

24 MR. BAYNE: Thank you, judge.

25 Mr. Bland: That was after they mediated the case

1 though. It wasn't stopping the mediation. It was
2 going through the mediation concluding it and then
3 sending the email.

4 THE COURT: I remember that from last time.

5 MR. RICHTER: Your Honor, may I offer the Court a
6 paper copy of PowerPoint the presentation.

7 THE COURT: Yes. Would you give Mr. Bayne a copy
8 of it to. Thank you. Very much.

9 All right. Thank you. I am going to process
10 through everything and so just give me some time to
11 put all my thoughts together, go back through the
12 order. I usually like to rule quickly, but it's going
13 to take me a little longer then the rest of this week
14 to sort through this. So I think kind of Christmas
15 break will be a good time when the Court is down for a
16 couple of weeks and I can really sit down and go
17 through everything one more time before I make my
18 final decision. So don't expect anything in a couple
19 of days or something like. So have a little bit of
20 patience with me.

21 MR. RICHTER: Thank you, Your Honor.

22 MR. JEFFRIES: Thank you, Your Honor.

23 MR. BAYNE: Thank you.

24 THE COURT: Have a nice day. Thank you all for
25 coming in today. I know it wasn't a regularly

1 scheduled hearing and I appreciate you all for coming
2 in.

3 END OF TRANSCRIPT
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CERTIFICATION

I, the undersigned Aileen Butler, Official Court Reporter for the 16TH Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings in the captioned case, in the Civil Court for Richland County, South Carolina, on the 5th day of December, 2019.

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

May 5, 2020

S/ *Aileen Butler*

STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

COUNTY OF RICHLAND

- - -

HARLAND JONES,

Plaintiff,

vs.

KAREN ROBINSON,

Defendant.

CIVIL ACTION NO.:

2018-CP-40-01518

DEPOSITION OF KAREN ROBINSON

DATE TAKEN: Wednesday, August 29, 2018

TIME BEGAN: 12:17 p.m.

TIME ENDED: 2:27 p.m.

LOCATION: McAngus, Goudelock & Courie, LLC
1320 Main Street, 10th Floor
Columbia, South Carolina

REPORTED BY: Deidre Osborne
EveryWord, Inc.
P.O. Box 1459
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I N D E X

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E X H I B I T S

PLAINTIFF'S	DESCRIPTION	MARKED
1	Google Map Printout	36
2	Colored Photograph	50
3	Google Map Image from iPad	56
4	Copy of Driver's License	76
5	Colored Photographs	76

1 (It is hereby stipulated and agreed by and
2 between counsel for the respective parties that
3 this deposition is being taken in accordance with
4 the South Carolina Rules of Civil Procedure and
5 that the deponent waives reading and signing of
6 this deposition transcript.)

7 - - -

8 KAREN ROBINSON, after having been first duly
9 sworn, was examined and testified as follows:

10 - - -

11 EXAMINATION

12 - - -

13 BY MR. JEFFERIES:

14 Q. Good afternoon, Ms. Robinson. My name is
15 Lane Jefferies. I'm with the Anastopoulo Law Firm.
16 We represent the plaintiff, Mr. Harland Jones, in
17 this matter which arises out of a motor
18 vehicle/pedestrian collision on June 7th of 2017. So
19 I just want to run through a few things. I don't
20 know if you've done this before. Have you ever been
21 in a deposition before?

22 A. No.

23 Q. All right. I'll just give you a few things
24 that'll make this a little easier and quicker for all
25 of us. The first thing is, I'm going to ask you a

1 series of questions. After I'm done with all that,
2 your attorneys, the other attorneys in the room,
3 might ask you some questions. If you can, if it's a
4 yes-or-no question, start your answer with a yes or a
5 no, and then if you need to explain, go on and
6 explain, and explain as much as you like, but it
7 really helps us all understand the transcript if you
8 begin with a yes or a no. Does that make sense?

9 A. Yes.

10 Q. All right. The other thing is -- you're
11 doing well at this so far -- is, unlike we do in
12 normal conversation, please be sure to answer with a
13 yes or a no as opposed to a head shake or a uh-huh or
14 a huh-uh because that's very difficult for the court
15 reporter to write that down. Make sense?

16 A. Yes.

17 Q. Great. Another thing you're doing great at
18 so far that we don't normally do in conversation is
19 you're letting me finish my questions before you
20 answer, and I'm going to do my very best to let you
21 finish your answer before I ask another question. So
22 if I step on your toes, I'll apologize. I'll be
23 quiet and let you finish, and if you can, do the same
24 for me just so it makes the transcript easier to
25 read. Make sense?

1 A. Yes.

2 Q. Cool. Other things we'll deal with if and
3 when they come up so we don't have to go through a
4 bunch of instructions. Just a few things before we
5 get started. You're going to be sworn in.

6 MR. JEFFERIES: And we haven't done that
7 yet, right?

8 THE COURT REPORTER: We have.

9 MR. JEFFERIES: We have?

10 THE COURT REPORTER: Yes.

11 MR. JEFFERIES: Oh, she's sworn. Okay.

12 Cool. As I was paying attention to other things
13 while she got sworn in.

14 BY MR. JEFFERIES:

15 Q. So you're sworn in. So you know you have an
16 obligation to tell the truth, right?

17 A. Yes.

18 Q. And you're going to tell the whole truth.

19 A. Yes.

20 Q. And you're not going to include anything
21 that isn't the truth.

22 A. No.

23 Q. All right. The other thing that you're
24 going to do, if you can help me out with this, is if
25 you have a question about one of my questions, if you

1 don't understand it or I wasn't clear, I was vague or
2 something like that, ask me to clarify it. Don't ask
3 your own attorney or anyone else. Just ask me, and
4 I'll clarify it, and I'll continue to clarify it
5 until you do understand it. I -- sometimes I'm not
6 the best at asking questions, so if it doesn't make
7 sense, just tell me. Is that okay?

8 A. Yes.

9 Q. All right. If you do answer, then what
10 we're all going to conclude from that is that you
11 actually understood the question. Is that fair?

12 A. Yes.

13 Q. All right. Based on that, based on the
14 answer, we're going to conclude that you understood
15 it based on the fact you said you're going to tell
16 the truth and the whole truth and then nothing but
17 the truth. Do you agree that there's no reason that
18 you would give a different answer to the same
19 question depending on who asks it?

20 A. No.

21 Q. Do you agree you would give the same
22 answer --

23 A. Yes.

24 Q. -- to the same question? Okay. Good. Just
25 want to make sure we're -- we're clear on that.

1 Sometimes people give different answers depending
2 whether their attorney or another attorney asks it,
3 so we want to avoid that.

4 All right. I think we are ready to get
5 started with substantive questions. Ms. Robinson, on
6 June 7th of 2017 you were driving west on what's
7 described as Secondary Road 734; is that -- is that
8 correct?

9 A. I don't recall the 734.

10 Q. Right. I think it might be Bluff Road or
11 Old Bluff Road. Does that sound familiar?

12 A. Yes.

13 Q. What do y'all call -- in that area call
14 that?

15 A. Old Bluff Road.

16 Q. Old Bluff Road? Okay.

17 All right. So June 7, 2017, you were
18 driving west on Old Bluff Road about 9:30 in the
19 morning, correct?

20 A. Yes.

21 Q. And where were you going to as you were
22 driving west on Old Bluff Road?

23 A. My dentist.

24 Q. Where's your dentist located?

25 A. Atlas Road.

1 Q. What's your dentist's name?

2 A. Dr. Gandhi.

3 Q. How do you spell his last name?

4 A. G-h-a-n-i.

5 Q. All right. And you had an appointment that
6 morning with your dentist, Dr. Gandhi?

7 A. It was not an appointment. It just was a
8 consultation of a procedure I was questioning.

9 Q. And what time were you supposed to go see
10 Dr. Gandhi?

11 A. It wasn't no certain time. I was just going
12 to go up there that morning.

13 Q. Okay. And as you headed west on Old Bluff
14 Road toward Dr. Gandhi's office, where had you been
15 coming from?

16 A. My home.

17 Q. And your home address is what?

18 A. 442 Old Bluff Road, Hopkins.

19 Q. How long have you lived there at 442 Old
20 Bluff Road in Hopkins?

21 A. All my life.

22 Q. All right. So as you were headed west on
23 Old Bluff Road at about 9:30 in the morning,
24 Mr. Jones was riding his bicycle east on Old Bluff
25 Road; is that correct?

1 A. Yes.

2 Q. And at about 9:30 in the morning as you were
3 driving west on Old Bluff Road, Mr. Jones was riding
4 his bicycle east on Old Bluff Road. You hit
5 Mr. Jones on his bicycle, correct?

6 A. No.

7 Q. Did Mr. Jones hit you?

8 A. Yes.

9 Q. What part of your car did Mr. Jones hit?

10 A. The front.

11 Q. Help me understand that. The front of your
12 car struck Mr. Jones?

13 A. Mr. Jones crossed into my path.

14 Q. Okay. I'm sorry. Maybe I didn't ask the
15 question the way -- because I think you might have
16 misunderstood it. My question wasn't how it
17 happened. It's what happened. We'll get to how it
18 happened and why later. What I'm trying to figure
19 out is did Mr. Jones run into you or did you run into
20 him?

21 A. I don't recall.

22 Q. Do you recall whether there was physical
23 contact between Mr. Jones and his bicycle and your
24 car?

25 A. There was contact. I was heading west.

1 Mr. Jones was heading east.

2 Q. And then --

3 A. And we collided.

4 Q. Collided.

5 And you don't recall how you collided?

6 A. Mr. Jones drove his bike in front of my
7 path, and we collided.

8 Q. So while you were driving -- make sure I
9 understand. While you were driving west on Old Bluff
10 Road, the front of your car struck Mr. Jones,
11 correct?

12 A. Yes.

13 Q. Okay. Was there damage to your vehicle?

14 A. Yes.

15 Q. And where was the damage on your vehicle?

16 A. The windshield, the top.

17 Q. Anywhere else on your vehicle?

18 A. And the hood.

19 Q. All right. Was there any damage to either
20 side of your vehicle?

21 A. No.

22 Q. Any damage to the back of your vehicle?

23 A. No.

24 Q. So all the damage to your vehicle was -- was
25 there damage to the bumper of your -- front bumper of

1 your vehicle?

2 A. The tag, license tag. The tag I have in the
3 front.

4 Q. So some damage, not major to the bumper.

5 A. Not major.

6 Q. The major damage to the windshield, the hood
7 and the top, right?

8 A. Yes.

9 Q. Okay. Now, when your front of your vehicle
10 struck Mr. Jones, what part of Mr. Jones did you
11 strike? Was it his right side? The front of him?
12 The left side? Hit him from behind? How did you
13 strike him?

14 A. Rephrase that question.

15 Q. So Mr. Jones was on his bike --

16 A. Yes.

17 Q. -- right? All right.

18 When the front of your vehicle struck
19 Mr. Jones' bike, did you hit the right side of the
20 bike or the left side or was it head-on? How was it?

21 A. It was the middle.

22 Q. The middle of the bike.

23 A. Yes.

24 Q. Was it the right side of the bike or the
25 left side of the bike?

1 A. It was the right side.

2 Q. Right side. All right.

3 So the right side middle of the bike,
4 correct?

5 A. As I can recall.

6 Q. All right. And when you say "middle,"
7 that's like where the pedals are and the seat.

8 A. Yes.

9 Q. Like not the front tire, not the back tire,
10 but the pedals and the seat area of the bike?

11 A. Yes.

12 Q. Okay. You ever heard that kind of collision
13 referred to as a T-bone collision?

14 A. No.

15 Q. Never heard that term before, "T-bone"?
16 Somebody getting T-boned in an intersection, you ever
17 heard of that?

18 A. Not really.

19 Q. All right. So the front of your vehicle,
20 the bumper, the windshield, the top hood, struck the
21 right side middle of Mr. Jones' bike area where the
22 pedals and the seat are; is that correct?

23 A. As I can recall, that's to my best
24 knowledge.

25 Q. Okay. After your car struck the right side

1 of Mr. Jones on his bicycle, tell me what happened
2 next.

3 A. Everything stopped.

4 Q. And what do you mean by that, "everything
5 stopped"?

6 A. My car had stopped. I just froze for a
7 minute.

8 Q. After you struck the right side of
9 Mr. Jones' bicycle, did you -- you hit the brakes?

10 A. Everything stopped. My car stopped, and we
11 just stopped.

12 Q. Okay. Did your car stop from the force of
13 the collision, like it -- as if you had run into a
14 brick wall, or did you have to then hit the brakes
15 and bring your car to a stop?

16 A. I mashed on my brakes.

17 Q. And from the point where the front of your
18 car struck the right side of Mr. Jones on his
19 bicycle, how long did it take your car then to come
20 to a stop?

21 A. Immediately it stopped.

22 Q. Like within a foot?

23 A. I don't know what a foot is, but he was
24 right in my path.

25 Q. I mean a foot like a unit of measure. A

1 foot. A piece of paper is 11 inches, so a foot's
2 just a shade more than that. So did your car stop in
3 that distance from the time you struck Mr. Jones, or
4 did it take further for it to stop?

5 A. From the end of that table to -- to me.

6 Q. Which is -- that looks like, what, about 6
7 or 7 feet, maybe 8 feet, something like that?

8 A. I don't recall feets. I don't measure.

9 Q. Well, just give it a rough guess. Three,
10 four, five -- about five sheets of paper from one
11 edge of this table to the other. Is that about the
12 distance?

13 A. Yes.

14 Q. All right. Could be a little more, could be
15 a little less, but about that far?

16 A. Yeah.

17 Q. Sheet of paper is 11 inches, so whatever 5
18 times 11 is. 55 inches.

19 All right. So the front of your car strikes
20 the right side of Mr. Jones' bicycle. You mash the
21 brakes and come to a stop in about 55 inches. When
22 you came to a stop, where was Mr. Jones and his
23 bicycle?

24 A. Mr. Jones was on the side, and his bike was
25 in the front.

1 Q. Mr. Jones was to the side of your vehicle?

2 A. Yes.

3 Q. All right. Which side?

4 A. The right side.

5 Q. The right side.

6 And Mr. Jones' bicycle was in front of your
7 vehicle?

8 A. Yes.

9 Q. And was it still making contact with your
10 vehicle?

11 A. No.

12 Q. How far away roughly was it from your
13 vehicle?

14 A. I don't measure in inches/feets, and it was
15 in the front.

16 Q. Thinking about the length of your car, was
17 it a car length in front of your car?

18 A. Not that long.

19 Q. Not that far. So within a car length in
20 front of your car.

21 A. Half maybe.

22 Q. Maybe half?

23 A. Yeah.

24 Q. All right. And Mr. Jones, himself, was to
25 the right side of your vehicle. And was he up by the

1 front of it or back by the back of it or whereabouts?

2 A. He was on the side in the front.

3 Q. So toward like where the front tire is, that
4 area to the side?

5 A. In the front. As I can recall, in the front
6 on the side of the ditch.

7 Q. Okay. Was he -- and your car -- you were
8 driving a four-door Nissan; is that right?

9 A. Sentra, yes.

10 Q. Nissan Sentra? All right.

11 So when you're sitting in the driver's seat
12 of your four-door Nissan Sentra, was Mr. Jones like
13 outside the pass- -- the front passenger window or
14 did you have to kind of look your head back, seeing
15 back kind of even with the back seat or behind you?
16 Whereabout was he?

17 A. In the front on the side.

18 Q. Okay. And how far off to the side was he?
19 Was he right beside the vehicle?

20 A. In the ditch. That's -- from what I can
21 recall, it was in the ditch. I glanced, and it was a
22 quick glance. I pretty much -- showing everything
23 because I didn't take a good look.

24 Q. Okay. So he was down in the -- he wasn't up
25 on the pavement still? He was down in the ditch?

1 A. Yes.

2 Q. Okay.

3 A. The ditch is that close.

4 Q. All right. So after the front of your car
5 struck the right side of Mr. Jones on his bicycle,
6 everybody came to a rest. Mr. Jones in the ditch,
7 you in your car on the pavement. What did you do
8 next?

9 A. I got out my car.

10 Q. And after you got out of your car, what did
11 you do?

12 A. I glanced, and I seen Mr. Jones, and I just
13 started screaming.

14 Q. Did you call 911 at that time?

15 A. I couldn't get myself together. The person
16 that was behind Mr. Jones end up having to call
17 because I was too nervous and shaken.

18 Q. That's understandable certainly. You had a
19 phone in the car with you. You could --

20 A. Yes.

21 Q. Okay. All right. The person you just
22 described that was behind Mr. Jones, that person
23 was -- was that person on a bicycle, there were in a
24 car, or what were they doing?

25 A. They were in a car.

1 Q. They were in a car.

2 So they were traveling east on Old Bluff
3 Road like Mr. Jones was.

4 A. Yes.

5 Q. Okay. And did you know this person that was
6 behind Mr. Jones?

7 A. They -- we all live on the same road.

8 Q. And what was that person's name that was
9 behind Mr. Jones?

10 A. Ms. Michelle Murray.

11 Q. Michelle Murray.

12 So you and Mr. Jones and Michelle Murray all
13 live on the same road?

14 A. Yes.

15 Q. Near to each other?

16 A. Not near each other, but...

17 Q. But near enough that y'all know that each
18 other exists, right?

19 A. Yes.

20 Q. All right. Are y'all friends?

21 A. We know of each other. I know of
22 Ms. Murray. I know of Mr. Jones. All us attend the
23 same school.

24 Q. All y'all's children go to the same school?

25 A. All our -- we attended school.

1 Q. Oh, y'all went to school together.

2 A. Yes.

3 Q. Okay. Where did y'all go to school
4 together?

5 A. Hopkins Middle -- Junior High then. Lower
6 Richland High School.

7 Q. Gotcha. Were y'all friends in high school
8 together?

9 A. We was friends as of schoolmates. That's
10 it.

11 Q. Gotcha. So Ms. Murray, do you -- aside from
12 having gone to high school with Ms. Murray, do you
13 have any other kind of relationship with Ms. Murray?

14 A. No, I don't.

15 Q. Y'all friends on Facebook?

16 A. Yes, we are.

17 Q. Do y'all go to church together?

18 A. No, we don't.

19 Q. Do y'all do anything in the community
20 together, any clubs or anything together?

21 A. No.

22 Q. Prior to June 7th of 2017, immediately after
23 you struck Mr. Jones on his bike, when was the last
24 time you had seen Ms. Murray?

25 A. Probably the grocery store. I can't recall.

1 Or passing, blowing the horn.

2 Q. If you saw her at the grocery store, was
3 that weeks ago, months ago?

4 A. I said "prior."

5 Q. Right.

6 A. Not that I did. I can't recall.

7 Q. Okay. Do you remember ever talking to
8 Ms. Murray on the telephone?

9 A. No.

10 Q. No, you don't remember or, no, you didn't
11 talk to her?

12 A. No, I didn't talk to her.

13 Q. Do you know what her phone number is?

14 A. No.

15 Q. You don't have it in your phone or anything?

16 A. No.

17 Q. Okay. All right. So tell me what
18 Ms. Murray did from the moment I guess she got out of
19 her car. What happened next?

20 A. She jumped out, and she told me to call, but
21 I couldn't because I was nervous and shaking. I
22 couldn't even find -- I didn't have my purse when I
23 jumped out, so she end up calling.

24 Q. So Ms. Murray called 911, and then what
25 happened?

1 A. Waited.

2 Q. And how long did y'all have to wait?

3 A. I can't recall. I had a niece that was on
4 her way to my mom house, and she stopped, and I sit
5 there with her.

6 Q. And then did the police come first or the
7 ambulance, or who came first?

8 A. I can't recall.

9 Q. How did Mr. Jones leave the scene of the
10 collision? Did he go in a ambulance or how did --
11 were you still there when he left?

12 A. Yes.

13 Q. All right. He left in an ambulance?

14 A. Yes.

15 Q. And then after he left, how did you leave?

16 A. By car.

17 Q. In your car?

18 A. No.

19 Q. What happened --

20 A. My niece.

21 Q. Oh, pardon me.

22 A. My niece car.

23 Q. Your niece. Okay. Your niece got you and
24 took you somewhere.

25 Okay. What happened with your car?

1 A. It was towed.

2 Q. It was towed away. All right.

3 Was it ultimately repaired, or was it
4 totaled?

5 A. It was repaired.

6 Q. It was repaired.

7 As you were driving west on Old Bluff Road
8 that morning on June 7, 2017, where was your
9 telephone?

10 A. In my purse.

11 Q. And your purse was in your car?

12 A. Yes.

13 Q. Whereabouts in your car?

14 A. Passenger seat.

15 Q. Passenger seat.

16 Was your purse the type that you like zip
17 closed or snap closed, or does it just stay open like
18 a bag?

19 A. I can't recall.

20 Q. Prior to the moment -- scratch that. I'll
21 ask that a different way.

22 At the moment that your car struck Mr. Jones
23 on his bicycle, were you using your telephone?

24 A. No.

25 Q. Weren't talking on the phone?

1 A. No.

2 Q. Weren't texting?

3 A. No.

4 Q. Weren't checking Facebook?

5 A. No.

6 Q. Weren't Facetiming someone?

7 A. No.

8 Q. Weren't doing anything. It was just in your
9 purse?

10 A. Yes.

11 Q. Okay. Prior to impact, when was the last
12 time you had used your phone for something?

13 A. Maybe that morning.

14 Q. So time of the collision was about 9:30.
15 Had you used your phone in the minutes leading up to
16 the collision, or was it an hour before? Maybe more
17 than that?

18 A. Can't recall.

19 Q. At the time that your vehicle struck
20 Mr. Jones on his bicycle, how long had you been
21 driving? How long ago had you left your house?

22 A. 5-6 minutes.

23 Q. Had you used your phone at all for anything
24 during that 5 to 6 minutes between the time you left
25 your house and the time that you struck Mr. Jones?

1 A. No.

2 Q. Not for anything at all?

3 A. I don't recall.

4 Q. Is there anything -- I know some of my --
5 and it's okay if you don't recall. I don't recall a
6 lot of things at the age of almost 50. Seems to get
7 worse every year. But you've mentioned -- there were
8 a number of times I've asked a question you've said,
9 "I don't recall." Is there anything you can think of
10 that would cause you between today and the time we go
11 to trial to recall some of these things? Anything
12 that might jog your memory?

13 A. Meaning towards what?

14 Q. Well, toward anything you don't recall
15 today. See? And I'm sure this isn't you, but I have
16 seen with -- with other folks that we take a
17 deposition, and they don't remember anything at all.
18 They just have no memory, and then we get to trial,
19 and they have this crystal clear memory like they
20 brought an encyclopedia with them, and I always
21 wonder how their memory got so good between
22 deposition and trial.

23 So I'm sure that's not you. That's why I
24 just want to ask: Is there anything -- if there were
25 a document or something, anything that would jog your

1 memory to help you remember some of these, if you
2 might know what that would be?

3 A. What do you need a answer to?

4 Q. Pardon me?

5 A. What do you need a answer specific to?

6 Q. Oh, I'm just thinking of all the things you
7 don't recall. Like I think you just said you don't
8 recall whether you used the phone from the time you
9 left the house until the time you struck Mr. Jones.
10 If you don't remember, that's fine. Is there
11 anything that would help you remember that?

12 A. I could have been on Facebook that morning
13 before I got into my car.

14 Q. Okay.

15 A. That's on the phone.

16 Q. If we wanted to have a look at your phone
17 records just for the morning of the accident, not --
18 not even the whole day, just for the morning of the
19 collision, would that be okay with you?

20 MR. DELANEY: Object to the form.

21 BY MR. JEFFERIES:

22 Q. Do you have any objection, I guess, to us
23 requesting your phone records?

24 A. Speak with my attorney.

25 Q. But you don't have any objection. So if

1 it's okay with him, it's okay with you?

2 A. I'm giving you the answer that I best can
3 give you is, I don't have -- my phone was in my purse
4 that morning.

5 Q. Oh, I understand. I just wanted to see your
6 phone records for that day. If I were to subpoena
7 those, would you have any objection to my doing that?

8 A. If you want to, you can subpoena them.

9 Q. Okay. I appreciate that. That'll make that
10 easy. That'll figure out when those phone calls
11 were.

12 After the collision, after the time -- I
13 know you didn't call 911, but after Ms. Murray called
14 911, do you remember when the next phone call you
15 made was or the next time you used your phone for
16 anything, text, phone call, anything at all?

17 A. After the accident, if I'm sure, and I'm not
18 really sure, I probably called my sister because I
19 was nervous.

20 Q. Right. Understood. Okay. Do you know your
21 sister's number off top of your head or you're like
22 me? You have it in your phone and just hit the
23 button?

24 A. I have my sister number, yes.

25 Q. Tell me what your sister's number is.

1 A. It's 803-603-5232.

2 Q. 803-603-5232; is that correct?

3 A. It's either -- I didn't call her cell phone.

4 I called my mother house where she was at.

5 Q. Oh, I gotcha. What is -- what is that
6 number at your mother's house?

7 A. 803-783-1536.

8 Q. 1536.

9 And that's like a regular
10 hang-on-the-wall --

11 A. Yes.

12 Q. -- kind of phone?

13 And while I'm writing this down, remind me
14 again what your telephone number is.

15 A. 803-724-9742.

16 Q. 9742. 803-724-9742.

17 And who is your cell phone provider? Is
18 that like Verizon or Sprint or --

19 A. Sprint.

20 Q. Sprint?

21 A. Sprint.

22 Q. All right. Let's talk just a little bit
23 about before the collision. You're driving west on
24 Old Bluff Road. How far away, as best you can tell,
25 was Mr. Jones when you first saw him on his bicycle?

1 A. As I approached him?

2 Q. Yeah. Like when you first noticed him off
3 in the distance, how far away was he? Was he just
4 right there 10 feet in front of you, or did you see
5 him a mile up ahead, just a little tiny guy on a bike
6 in the distance? How -- where in that range was he?

7 A. Almost probably to you or that door.

8 Q. Oh. So, close?

9 A. Yes.

10 Q. Okay. And that's 30 feet maybe from us to
11 the door?

12 A. I'm giving you a guess amount, but...

13 Q. And it doesn't have to be exact. I mean, I
14 know it can't be exact, but you're saying he wasn't a
15 half a mile away or a quarter of a mile away. He was
16 within a few car lengths away when you first saw him?
17 And I don't want to put words in your mouth. I just
18 want to give you some kind of frame of reference to
19 say how --

20 A. I'm trying. I don't do distances. I don't
21 do inches. I don't do feets. I'm guessing that
22 amount is by -- from yours, probably the door. It
23 was pretty close.

24 Q. I can't bring the door into the courtroom,
25 so I've got to figure out another way to measure

1 that. I could pace it off. Let's just do that.
2 Let's do the length of this room. Then we'll know.
3 I'm going to count to myself so the court reporter
4 doesn't have to write this down. I get almost 21
5 feet, so let's just call it 21 feet. Does that sound
6 about right? Is that close to how far away he was
7 when you first saw him, the length of --

8 A. That was last year.

9 Q. Pardon?

10 A. That was last year. And my -- I'm trying to
11 give you the best of my knowledge. I can't give you
12 distance. I can't give you feets, but I just know
13 that it was all of a sudden that he crossed in front
14 of my vehicle.

15 Q. Okay. So, yeah. That's a good way of
16 getting at it then. Did you see him -- I know you
17 say he crossed in front of you. Did you see him
18 before that or was that the first time you saw him,
19 just in the moment before the front of your car
20 struck him?

21 A. I seen him on the side coming up, and I seen
22 the car behind him.

23 Q. As you saw Mr. Jones on the side coming up,
24 coming east on Old Bluff Road, was he riding in the
25 middle of that lane or on the left side or on the

1 right side or off on the shoulder?

2 A. He was on the left side.

3 Q. His left or your left? Like was he toward
4 the center of the road or was he off toward like the
5 ditch on the far side of the road?

6 A. He was on the left side of the highway --
7 the road.

8 Q. All right. Let's do -- let's see if I can
9 find a picture here. That way that might be easier.
10 Bear with me a moment.

11 All right. So I'm looking at a Google Maps
12 shot of Old Bluff Road which looks like a pretty long
13 road. My understanding is the collision occurred
14 between where Old Bluff Road intersects Bluff Road
15 and where it intersects Lost John Road. Does that
16 sound about right?

17 A. Yes.

18 Q. And do you remember where between those?
19 Was it down toward the -- toward the Baptist church
20 or was it close -- a little further north?
21 Whereabouts was it? What was it near? Do you recall
22 what it was closest to? Where on Old Bluff Road it
23 was?

24 A. It's past the church.

25 Q. Maybe let's look at this together, see if we

1 can -- all right. So my understanding is you were
2 driving west which would be really kind of northwest
3 I guess it is. You were driving -- church would have
4 been down here in the bottom right. You were driving
5 away from the church up here toward Bluff Road. Is
6 that right?

7 A. Yes.

8 Q. Okay. Had you got yet to -- I don't know
9 what any of these side roads are called. Let's find
10 a side road, try to figure out in here where it
11 happened. So it's between -- it's between this
12 church and the intersection of Bluff Road and Old
13 Bluff Road, right?

14 A. Yes.

15 Q. All right. Do you remember whereabouts in
16 there it was? Any kind of landmark we could look
17 for?

18 A. Houses.

19 Q. Do you know some of the folks that live
20 along that stretch of the road?

21 A. Everybody pretty much know everybody.

22 Q. All right. So let's see if this helps. It
23 looks like there's a section here where a big old
24 power line crosses the road where all the trees are
25 cut out. Had you gotten to that section yet or were

1 you still down to the south of the...

2 A. I don't recall where.

3 THE COURT REPORTER: I didn't hear what you
4 said. "I don't recall" what? I didn't hear you.

5 THE WITNESS: I can't see what he's talking
6 about.

7 BY MR. JEFFERIES:

8 Q. All right. So here's the -- are you
9 familiar with the -- looks like -- the Zion Pilgrim
10 Baptist Church job site is what it says. Are you
11 familiar with that church?

12 A. Yes.

13 Q. All right. And as you drove along Old Bluff
14 Road, was the church on the right side of your car or
15 the left side of your car?

16 A. Right side.

17 Q. It was on the right. Okay.

18 So after the church, go into the woods for a
19 little bit, and then there's a clearing to the left.
20 It looks like there's a house and quite a number of
21 cars. Had you passed that little clearing?

22 A. Yes.

23 Q. All right. After you passed that little
24 clearing to the left, back into the trees. And then
25 all of a sudden, the trees stop because there's an

1 area where a power line goes through. Had you passed
2 through that stretch of the road where there are no
3 trees on either side?

4 A. Yes.

5 Q. All right. And you're back into the trees.
6 Road makes kind of a gentle turn to the left, and it
7 goes a little ways, and the next landmark is a road
8 that goes off to the left. It doesn't -- I don't see
9 a name of that little road that goes off to left.
10 Had you gotten to that road that goes off to the left
11 yet?

12 A. I believe so.

13 Q. All right. So after we pass that -- and you
14 go through an area where there are trees on either
15 side, and then the trees stop, and it looks like
16 there's some trailers and houses and other things on
17 the right, a big field on the left. Had you gotten
18 to that area where the trailers and houses are on the
19 right and a big field is on the left?

20 A. Yes.

21 Q. Okay. You passed that. Okay. Now we're
22 almost to where we intersect Bluff Road. Had you
23 gone back into where the trees are on either side of
24 the road, this little stretch here?

25 A. Yes.

1 Q. All right. Then the next thing is a house
2 on your right. Had you passed that house on your
3 right?

4 A. I can't recall. What house is that?

5 Q. The only house on your right after you pass
6 all the -- you know all these trailers and houses and
7 all that? You know where that area is on the right?

8 A. Yes.

9 Q. Okay. So the very next house. Had you
10 passed another house on your right?

11 A. No.

12 Q. Okay. So if that's right, you would be
13 somewhere between this house and trailers and this
14 house up here; is that right? Somewhere in that
15 stretch of the road?

16 A. Yes.

17 Q. Okay. All right.

18 MR. DELANEY: I might help out. We actually
19 have a Google printout with the latitude and
20 longitude where it was reflected in the accident
21 report.

22 BY MR. LEWIS:

23 Q. That appears to be placed right in front of
24 that house. Do you remember the accident being right
25 in front of a house?

1 A. Yes.

2 Q. Okay. And do you think this house here on
3 my iPad is the same house on this sheet of paper that
4 Mr. Delaney just showed us?

5 A. Yes.

6 Q. Okay. Well, let's go ahead and mark this.

7 MR. JEFFERIES: If you don't mind, Andy,
8 let's mark this as Exhibit 1.

9 - - -

10 (Google Map Printout marked Plaintiff's Exhibit
11 Number 1, for identification.)

12 - - -

13 MR. DELANEY: There's a whole slew of
14 photographs of the accident scene. You got
15 those, right?

16 MR. JEFFERIES: Yes. Yeah. I'll look at
17 those in a second. I just want to place it on
18 the -- on the map here and not rely on what an
19 officer may or may not have gotten right.

20 BY MR. JEFFERIES:

21 Q. So we're going to mark this Google Map as
22 Exhibit 1. There's a little red dot on there
23 indicating the latitude and longitude from the police
24 report. And you're telling -- telling me, if I
25 understand you correctly, when we look at my iPad,

1 that's right here in front of this house on Old Bluff
2 Road; is that right?

3 A. Whatever marking is --

4 Q. You believe that the marking is correct?

5 A. Yes.

6 Q. Okay. I'll take a screenshot of this real
7 quick.

8 And so the accident was right in here, is
9 that right, where I put that yellow arrow?

10 A. I'm not good with maps, but I'm -- that
11 morning I left my car. I didn't see anything. If
12 they have pictures, which I've seen pictures, that's
13 the only knowledge that I do have. I didn't want to
14 see anything that morning.

15 Q. So let me make sure I understand,
16 Ms. Robinson. Your -- your only knowledge of where
17 your vehicle struck Mr. Jones' bike is based on what
18 you learned after the fact from the police reports
19 and your attorneys?

20 MR. DELANEY: Object to the form.

21 MR. JEFFERIES: What's wrong with the form
22 of the question?

23 MR. DELANEY: Go ahead and answer it.

24 I mean, you're implying that she wasn't
25 there. She knows where the accident happened.

1 She was there. You're asking her to pinpoint it
2 where it is on a map which is virtually
3 impossible.

4 MR. JEFFERIES: I'm just asking where it
5 happened. She doesn't know where it happened in
6 a mile-long stretch of road. Trying to figure
7 out where -- if she knows where the accident
8 happened.

9 MR. DELANEY: And I'm giving you the
10 latitude and longitude from the accident report.
11 That's the best approximation that we have.

12 MR. JEFFERIES: All right.

13 MR. DELANEY: There's also a number of
14 photos that were taken in the roadway if you'd
15 like to ask her about those.

16 MR. JEFFERIES: I'd love to ask her about
17 those. First I want to find out whether she
18 knows where the accident happened and whether
19 she's --

20 MR. DELANEY: I believe she's answered it as
21 best she can.

22 BY MR. JEFFERIES:

23 Q. All right. So tell me your best answer. Do
24 you know -- can you tell me where the acc- -- exact-
25 -- not exactly. Can you tell me approximately where

1 the collision happened, where your car struck
2 Mr. Jones' bicycle? Either on this Exhibit 1 or on
3 this iPad, can you just circle an area where it
4 happened for me?

5 A. Right there.

6 Q. All right. I'll let you just take a pen and
7 circle that area.

8 All right. It looks like you've drawn a
9 circle just right around that red symbol from the
10 Google Map. Is that right?

11 A. Yes.

12 Q. Okay. We'll come back to that in a moment.

13 Ms. Robinson, you've indicated when you
14 first saw Mr. Jones he was riding his bicycle east on
15 Old Bluff Road and that he was approximately 30 feet
16 away from you when you first saw him; is that
17 correct?

18 A. I didn't give no feets.

19 Q. Well, we're going to have to figure out the
20 distance somehow. Can you give it to me any way you
21 like? Any kind of distance. Car lengths. The
22 length of -- I don't know -- how wide your house is.
23 Something we could measure because I can't go into
24 court and just tell them it's as big as this
25 conference room because we can't take the conference

1 room in there.

2 And it doesn't have to be exact. Just the
3 best you can do. A mile away. A 100 yards. 5 feet.
4 Whatever it is. Some kind of distance. And if you
5 have no idea at all, that's fine. Just tell me you
6 have no idea at all, and I'll move on.

7 A. I don't have any idea.

8 Q. All right. From the time you first saw
9 Mr. Jones, how long was it before you struck him with
10 your vehicle? How many -- was it minutes? Seconds?
11 Hours? I'm guessing it wasn't hours. Minutes?
12 Seconds? How long was it?

13 A. About 5-7 seconds.

14 Q. All right. During the 5 to 7 seconds from
15 the time you first saw Mr. Jones until the time of
16 the collision, did you watch Mr. Jones that entire
17 time or did you see him intermittently or see him
18 maybe just once?

19 A. He was on the opposite side of the road. He
20 just swerved in front of my car.

21 Q. I understand that. My question was, though:
22 Did -- from the time you first saw him until the time
23 that your vehicle struck him on his bicycle, did you
24 have a view of him the entire time? Did you watch
25 him for those entire 5 to 7 seconds, or was he out of

1 view, or did you look away?

2 I'll give you an example. Here's what I'm
3 talking about. I remember when my son was young. He
4 was playing around the pool, and he came out, and I
5 warned him not to get close to the pool, but he said
6 he was going to walk wide around it, and I said,
7 "Okay. Be sure you walk wide around it."

8 And I watched him literally every second. I
9 didn't take my eyes off him even once because he was
10 a 2-year-old kid. Even once as he walked around that
11 pool. All right. So that's what I mean by watched
12 constantly versus I saw him, and then I looked at
13 something else, and then I saw him again, and I
14 looked at something else.

15 So I'm just wondering which of those it was.
16 Did you see the entire 5 to 7 seconds or did you look
17 away a little bit? Either answer is fine. I'm just
18 curious which it is.

19 A. I didn't look away. I looked -- I was
20 looking straight ahead as I --

21 Q. All right. So you saw --

22 A. -- should.

23 Q. Oh, pardon me?

24 A. As I should.

25 Q. All right. So you were looking straight

1 ahead. You -- from the time you first saw Mr. Jones,
2 you saw him that entire 5 to 7 seconds until his bike
3 and your -- front of your car went boom?

4 A. As I recall.

5 Q. All right. What did he do during those 5 to
6 7 seconds? What did Mr. Jones do?

7 A. You talking to me?

8 Q. Yeah. What did he do? What did Mr. Jones
9 do during the 5 to 7 seconds that you watched him,
10 from the time you first saw him until the time when
11 the front of your car struck the right side of his
12 bicycle?

13 A. He crossed into the path.

14 Q. Did he do anything before that? Was he
15 crossing the moment you saw him, or was he riding
16 straight and then crossed? What happened?

17 A. He was riding straight, and then he turned
18 in the front of my vehicle.

19 Q. All right. So in the 5 to 7 seconds you
20 observed Mr. Jones, he was riding straight. Then he
21 turned in front of your vehicle. How long before
22 your vehicle struck Mr. Jones did he turn in front of
23 your vehicle?

24 A. I can't give you times and seconds.

25 Q. Was it instantaneous, or was it 6 seconds

1 before you struck him?

2 A. That day Mr. Jones was on his correct side
3 of the path, and he crossed into my path. That's
4 all.

5 Q. And when you saw him cross, was it just like
6 this, boom? You just hit him just like that, or was
7 there some period of time he crossed, you're coming
8 up, you're coming up, you hit him?

9 A. As I was coming up, Mr. Jones was on his
10 side coming east, and I was going west. Mr. Jones
11 crossed over in the front all of a sudden where I
12 didn't have time to do anything.

13 Q. All right. So after Mr. Jones turned into
14 your path, you said you didn't do anything? You
15 didn't --

16 A. I mashed on my brakes, applied my brakes.

17 Q. You did -- okay. So you did hit the brake.
18 You had time to hit the brake, but that was it? Not
19 time to stop but time to hit the brake.

20 A. I hit my brake, and my car stopped.

21 Q. But not in time to avoid striking Mr. Jones,
22 right? Did you hit the -- did you hit the brake
23 before or after the collision?

24 A. Mr. Jones was in my path, and I hit my
25 brakes to stop --

1 Q. And --

2 A. -- because it happened all of a sudden.

3 Q. Okay. So Mr. Jones is in your path. You
4 hit the brakes. Before you can get stopped, you hit
5 Mr. Jones; is that right?

6 A. I just know that he was directly in front of
7 my car.

8 Q. Well, I think we all agree on that part.
9 I'm just -- and it doesn't matter which way it is.
10 I'm just trying to figure out which way it is,
11 whether you hit the brakes before striking Mr. Jones
12 or whether you struck Mr. Jones and then hit the
13 brakes.

14 A. I hit my brakes before.

15 Q. Before. Okay.

16 Do you remember hearing any kind of --

17 A. No tire marks. No skid marks.

18 Q. No tire marks, no skid marks. Okay.

19 Besides hitting the brake, did you do
20 anything else to avoid striking Mr. Jones?

21 A. I veered over just a inch.

22 Q. Why did you veer over just an inch?

23 A. To try not -- because I saw him in my path.

24 Q. Was veering over just an inch enough to miss
25 him?

1 A. In that quick second, I thought he would
2 have stopped.

3 Q. He would have stopped in your path?

4 A. He shouldn't have been in my path, but I
5 thought he would have stopped.

6 Q. Before he got in your path.

7 A. I don't know.

8 Q. You veered -- when you say you veered over
9 just an inch, is that what you thought it would take
10 to miss him, or is that all there was time to do?

11 A. That's all there was time to do.

12 Q. Aside from hitting your brake and veering
13 just an inch, did you do anything else to avoid
14 striking Mr. Jones?

15 A. Mr. Jones didn't give me time to do
16 anything.

17 Q. I'm sorry. That wasn't exactly my question.
18 My question was: Did you do anything else? Whether
19 or not there was time --

20 A. I didn't have time to do anything because
21 Mr. Jones came directly in my path.

22 Q. So you didn't blow the horn.

23 A. Didn't have time to blow no horn. He was
24 directly in my path. It's not like it was a dog or a
25 cat, but he drove right in the front of my path.

1 Q. How fast were you going as you drove west on
2 Old Bluff Road --

3 A. 40 miles.

4 Q. Pardon me?

5 A. 40 miles per hour.

6 Q. What's the speed limit on Old Bluff Road?

7 A. 45.

8 Q. And you were going 5 miles an hour under the
9 speed limit?

10 A. Yes.

11 Q. Why were you going 5 miles an hour under the
12 speed limit?

13 A. Because I believe in safety on my road.

14 Q. And how did you know that you were going 40
15 miles an hour?

16 A. I don't go over the speed limit.

17 Q. I understand that. My question was
18 actually: How did you know you were going 40 miles
19 an hour?

20 A. That's how -- I deal with that road every
21 day. I go 40 miles every day.

22 Q. All right. So in order to go 40 miles
23 because you believe in safety on your road, how do
24 you control the speed of the car? How do you know
25 when to speed up or slow down to stay right at 40?

1 A. I know to stay right at 40.

2 Q. I got that part. My question was: How do
3 you know when the car's going 40 miles an hour?

4 A. There's a speed on your car that let you
5 know what --

6 Q. The speedometer.

7 A. Yeah.

8 Q. Okay. Prior to striking Mr. Jones, when was
9 the last time you looked at the speedometer?

10 A. I don't have to look down. I know my car.

11 Q. And how does knowing your car help you
12 determine that you're going exactly 40 miles an hour?

13 A. I can set my car to where it needs to go, 40
14 miles per hour, but I know my foot on my gas is 40
15 miles per hour.

16 Q. So you -- when you said earlier you were
17 going 40 miles per hour, that wasn't based on the
18 speedometer or anything else other than where your
19 foot was on the gas?

20 A. My foot is on the gas. I'm pretty sure you
21 know how fast you're going in a car and what's the
22 speed limit on -- you're opposed to go, right?

23 Q. Well, it's not a question about what I know
24 because I didn't hit Mr. Jones on his bike. I'm
25 trying to find out how you knew you were going 40

1 miles an hour, whether it's the speedometer or you
2 had a GPS on your phone or based on how your foot was
3 on the gas, whatever it is. I just want to --

4 A. It's between 40 and 45. It's still under
5 45.

6 Q. Okay. A moment ago you said you were going
7 40, not between 40 and 45. Is it between 40 and 45,
8 or is it 40?

9 A. The speed limit is 45 on my highway. I was
10 going approximately 40 to -- that's 40-ish. That's
11 not 45. That's not 46.

12 Q. Okay. So you weren't -- when you said 40
13 earlier, you meant 40-ish. I gotcha. So sometime
14 between -- could you have been going slower than 40?

15 A. I could have.

16 Q. Lot slower?

17 A. Possible.

18 Q. 30?

19 A. I cannot recall all that of what you're
20 asking, but I know I wasn't going over 45 miles per
21 hour.

22 Q. All right. So you were going less than 45,
23 but you don't know how much less.

24 A. I know my speed limit on my road is less --
25 basically not what I was doing over that.

1 Q. Could you have been going as slow as 5 miles
2 an hour?

3 A. Next question.

4 Q. It doesn't matter to me what your answer is.
5 I just need to know your answer.

6 A. 40 miles.

7 Q. Exactly? That's what I'm trying to figure
8 out. When you -- just trying to narrow it down. You
9 say you weren't going more than 45. Were you going
10 as slow as 5, as slow as 10, as slow as 15? Just
11 whatever that range is, I just...

12 MR. DELANEY: I'm going to object. She's
13 answered that question about five different
14 times, and you just continue to rephrase the
15 question whenever --

16 MR. JEFFERIES: Andy, she hasn't answered
17 the question at all.

18 MR. DELANEY: She said between 40 and 45.
19 We can go back and have the record -- if you want
20 to take this up with the judge, that's fine.
21 You've asked the question. It's time to move on.

22 MR. JEFFERIES: As you know, there is no
23 asked and answered objection --

24 MR. DELANEY: I understand that.

25 MR. JEFFERIES: -- in South Carolina.

1 MR. DELANEY: There's also badgering of the
2 witness. If you want to take this up with Judge
3 Hood, I've got his cell phone. We can call him
4 right now.

5 MR. JEFFERIES: No need to do that.

6 MR. DELANEY: Okay.

7 MR. JEFFERIES: If you want to instruct her
8 not to answer, then you can file a motion, et
9 cetera, or I can move on. If she knows she was
10 going something less than 45, I'm fine with that.
11 I'm just trying to narrow it down.

12 MR. DELANEY: She's answered it.

13 BY MR. JEFFERIES:

14 Q. Ms. Jones, I want to show you a picture your
15 attorney's provided to us. It's marked -- it looks
16 like a Bates numbered Defendant 177.

17 MR. DELANEY: You want to mark it?

18 MR. JEFFERIES: We can mark that one as the
19 original. Then I'm going to make some marks,
20 notations on this one. If you want to add this
21 as Exhibit 2, that would be great.

22 - - -

23 (Colored Photograph marked Plaintiff's Exhibit
24 Number 2, for identification.)

25 - - -

1 BY MR. JEFFERIES:

2 Q. All right. Ms. Robinson, do you recognize
3 this picture that's shown as Defendant's 177.

4 A. Yes.

5 Q. All right. And is that your car there with
6 the -- looks like damage to the windshield, to the
7 roof?

8 A. Yes.

9 Q. All right. And in front of your car is
10 Mr. Jones' bicycle; is that right?

11 A. Yes.

12 Q. All right. Can you show me if it's on here?
13 If it's not on here, tell me that. We'll see if we
14 can find a better photo. Can you show me where you
15 say Mr. Jones turned when he turned in front of you
16 into your lane? Can you just point that out on
17 there? And you can use this if you want to,
18 whatever's easier.

19 A. It's right there going across, I guess.

20 Q. All right. So right -- right in this area
21 here a little past where this gentleman is standing?
22 Like right in there? Is that about right? And I
23 know you can't be exact, but there versus way down
24 here where the fellow in the green shirt is or way up
25 here. It's like right in here somewhere?

1 A. (Witness indicating).

2 Q. I'm going to see if I can draw a little line
3 on there.

4 MR. DELANEY: Are you going to send us a
5 copy of this?

6 MR. JEFFERIES: Yeah. We'll put it in as an
7 exhibit.

8 MR. DELANEY: Why don't you have her mark on
9 the one that actually is an exhibit rather than
10 on the iPad that can be -- not going to be in the
11 possession of the court reporter?

12 MR. JEFFERIES: I'm going to email it to her
13 instantaneously.

14 MR. DELANEY: Okay.

15 MR. JEFFERIES: Plus, we can erase on here
16 if we don't like what we're seeing. If she
17 doesn't think that she put it in the right spot,
18 she can change it. All right. Just like I just
19 drew that on there.

20 BY MR. JEFFERIES:

21 Q. All right. See, you're saying like right in
22 here, ma'am? Is that about right? Right there about
23 where that yellow dot is?

24 A. Had to be back a little farther.

25 Q. Like --

1 A. I --

2 Q. And we can give a range in here. It doesn't
3 have to be exact. I'm just trying to give an idea
4 where it happened. Like maybe up this way a little
5 bit?

6 A. I'm not really sure. No. Over --

7 Q. Over this way a little further. Like maybe
8 in here somewhere? Where that dot is? Somewhere in
9 there maybe?

10 A. Yeah.

11 Q. All right. When Mr. Jones was -- before he
12 turned, was he over here near the yellow line or over
13 here near where this guy is standing or kind of in
14 the middle?

15 A. Beside where the white line is at.

16 Q. Oh, over here on the white line. Okay. So
17 he was kind of coming like -- like that before he
18 turned?

19 A. Yeah.

20 Q. Okay. And I know that's not exact. All I
21 was trying to figure out there was whether he was
22 near the white line or near the yellow line or more
23 in the middle. All right. So he was near the white
24 line when he turned. And I drew it kind of sharp.
25 Did he turn sharp like that or did he turn --

1 A. Yes.

2 Q. -- gently? He turned sharp. All right.

3 And then he came and what? Crossed the
4 yellow line?

5 A. Yes.

6 Q. And then crossed in front of your car like
7 that, and then you hit the brakes. Before you could
8 stop, you hit him. The bike flew forward and landed
9 where it's shown in the picture?

10 A. Yes, I guess. I mean, I didn't see -- I'm
11 guessing.

12 Q. All right. And it's okay if you don't -- if
13 you don't remember exactly.

14 A. Because the bike hit the windshield, and
15 then it was all in my face when it hit, so...

16 Q. I understand. I understand it had to be a
17 little unnerving.

18 And Mr. Jones, you said, was -- would be
19 down like in the ditch over here somewhere? Like not
20 on the pavement?

21 A. I think it wasn't on the pavement.

22 Q. All right. But he wasn't clear out in the
23 wood or anything?

24 A. No.

25 Q. All right. So somewhere. I'll just mark

1 that in green. So somewhere in this area over here?
2 And I know this isn't precise. It's just to give us
3 an idea where the people and stuff were that aren't
4 currently in the picture.

5 A. I can't give a exact. Yeah. It was about
6 in there.

7 Q. Approximately in there.

8 A. In there.

9 Q. Off the pavement, not --

10 A. Yes.

11 Q. -- into the trees.

12 A. Off the pavement.

13 Q. All right. I'm just going to mark that as
14 Exhibit 3.

15 We all -- and we can put this in the record.
16 We all agree that you are estimating -- I'm not
17 trying to hold you to the fact that it's right where
18 that green dot was is where he was found. That's
19 just an estimate of more or less where he was. He
20 was off the pavement, not into the trees.

21 Same thing with exactly where he would have
22 turned. It's in a range somewhere, but the important
23 part is, if I understand you correctly, he was riding
24 right near the white line. He turned sharply and
25 came across the yellow line into your path. Is that

1 right?

2 A. He came in.

3 Q. Okay. Let's mark that Exhibit 3.

4 - - -

5 (Google Map Image from iPad marked Plaintiff's
6 Exhibit Number 3, for identification.)

7 - - -

8 MR. JEFFERIES: Andy, I'll email that to you
9 right now if you'd like.

10 MR. DELANEY: Okay.

11 MR. JEFFERIES: I'm sending it to you right
12 now. I'll get a copy out to everybody here in a
13 second.

14 MR. DELANEY: Okay.

15 BY MR. JEFFERIES:

16 Q. All right. Ms. Robinson, you talked a
17 little bit ago about your speed. In the 5 to 7
18 seconds that you observed Mr. Jones before your
19 vehicle struck his bicycle, were you able to make any
20 observation about his speed, how fast he was riding?

21 A. No.

22 Q. Can you say whether -- at all whether he was
23 like riding -- and I know you might not be able to do
24 miles per hour. If he was riding really fast or
25 really slow or just kind of normal speed.

1 A. I can't give a exact speed of what he was
2 doing, no.

3 Q. Were you even -- not -- if not an exact,
4 which I understand, even an approximate speed. Like
5 was he dressed up in racing gear with like the helmet
6 and the bright colors and the fancy shoes?

7 A. No. He didn't have none of that on.

8 Q. Pardon me?

9 A. He did not have any of that on.

10 Q. Okay. So you don't have any reason to
11 believe he was doing anything other than riding at a
12 normal speed, not unusually fast or unusually slow?

13 A. He just had a big straw hat on his head,
14 floppy straw hat.

15 Q. Anything else you noticed about him as he
16 rode along?

17 A. No.

18 Q. Do you remember what he was wearing?

19 A. I just seen the straw hat.

20 Q. Just the straw hat?

21 Nothing about his -- like the color of his
22 shirt or anything like that?

23 A. I believe it was a white shirt.

24 Q. All right. Long pants or short pants?

25 A. Can't recall.

1 Q. Don't remember?

2 Do you remember what kind of car Ms. Murray
3 was driving?

4 A. She has a black car. That's all I know of.
5 Don't know what kind, make and model, it is.

6 Q. When you first saw Mr. Jones 5 to 7 seconds
7 ahead of the collision, where was Ms. Murray's car?

8 A. Behind him.

9 Q. And it might be hard to tell from your
10 perspective looking at them both in a line, but could
11 you tell: Was she close behind him or a long way
12 behind him or whereabouts?

13 A. She was behind him. Not close but behind
14 him like -- like people who rides behind people who
15 is on a bike.

16 Q. Okay. So like a safe distance behind him?

17 A. Yes.

18 Q. Okay. Before you saw Mr. Jones on his bike,
19 had you seen Ms. Murray's car further off in the
20 distance? I know a car's bigger than a bike. Might
21 be a lot easier to notice. Had you noticed her in
22 the distance?

23 A. I noticed Mr. Jones and Ms. Murray.

24 Q. Same time?

25 A. Yes.

1 Q. All right. Did Ms. Murray look like she was
2 waiting to pass Mr. Jones, or was she just following
3 him down the road, or could you tell?

4 A. How could I tell if she was waiting to pass
5 him? I mean...

6 Q. Oh, I don't know. You might not have been
7 able to tell. I was just curious if you could
8 observe anything about what she was doing. Like
9 sometimes you'll see somebody come up on a bicyclist,
10 and you can tell they're kind of swerving back and
11 forth. They look antsy to pass.

12 A. No.

13 Q. She look like any of that?

14 A. No.

15 Q. Okay. So she was a safe distance behind
16 Mr. Jones. When Mr. Jones who was riding, you said,
17 on the white line, he -- not on the white line. Near
18 the white line. When he turned left, before he got
19 to your lane he'd have to pass in front of
20 Ms. Murray's car, right?

21 A. Yes.

22 Q. Did she -- as best you could tell, did you
23 see her do anything to avoid hitting Mr. Jones?

24 A. She wasn't that close, I guess.

25 Q. Okay. But you didn't see her -- see the

1 front of her car dip down or anything where she hit
2 her brakes?

3 A. No.

4 Q. No?

5 Didn't hear any brakes squealing?

6 A. No.

7 Q. Didn't see her swerve or anything?

8 A. No.

9 Q. Hear her blow her horn?

10 A. No.

11 Q. Nothing like that?

12 I don't remember if your attorney gave us a
13 copy of your driver's license.

14 MR. JEFFERIES: I'm sure we asked for one,
15 Andy. Did y'all send one over to us, front and
16 back?

17 MR. DELANEY: I'm not sure if we did or not.
18 We can get you one.

19 BY MR. JEFFERIES:

20 Q. If I could have -- do you happen to have it
21 with you today, your driver's license?

22 A. Yes.

23 Q. Can I see it for just a second? And I'll
24 get a copy from your attorney, but if I could see it
25 for a moment --

1 MR. DELANEY: It's okay.

2 BY MR. JEFFERIES:

3 Q. -- that would speed things along. Thank
4 you, ma'am.

5 Ms. Jones, I'm looking at the driver's
6 license you just handed to me. It looks like it
7 doesn't expire until September 21 of 2026, and it was
8 issued July 20 of 2016. So it would have been issued
9 almost a year before this wreck; is that right?

10 A. Yeah.

11 Q. Wreck was in -- I'm sorry?

12 A. Yeah.

13 Q. Okay.

14 A. I mean, that's what it says.

15 Q. Yeah. All right. And on the back of your
16 driver's license under the section for Restrictions,
17 it says, "Corrective lenses." Tell me about that.
18 Tell me about -- and I see you're wearing glasses
19 today while we're talking together. And tell me
20 about why you wear corrective lenses.

21 A. To read.

22 Q. You read -- you use them to read?

23 A. Small things that I can't see.

24 Q. All right. So you have trouble seeing
25 things like up close or small things or what? Or do

1 you --

2 A. Medicine bottle.

3 Q. Pardon me?

4 A. That's it. Just medicine bottles, like that
5 small writing on the medicine bottle.

6 Q. On June 7 of 2017, when this collision
7 occurred, did you have on that same pair of glasses
8 you're wearing today?

9 A. Yes.

10 Q. And were you wearing that pair of glasses as
11 you drove west on Old Bluff Road?

12 A. I don't have to wear my glasses while I'm
13 driving. That's just for reading.

14 Q. Okay. So my question was: Were you wearing
15 your glasses?

16 A. No.

17 Q. No.

18 So as you drove west on Old Bluff Road
19 approximately 9:30 in the morning, you were not
20 wearing any kind of eyeglasses or contact lenses or
21 anything else?

22 A. No.

23 Q. No, you were not wearing them.

24 A. No.

25 Q. Right? Nothing -- no glasses.

1 When was the last time you went to your eye
2 doctor?

3 A. I can't recall, but I can get it. We can
4 look it up.

5 Q. Any idea even roughly? Like last year, last
6 couple years, five years?

7 A. Probably last year.

8 Q. Do you remember -- and you might not. Do
9 you remember whether it was before or after this
10 wreck?

11 A. Can't recall.

12 Q. All right. Who's your eye doctor?

13 A. I went to Apex.

14 Q. Apex?

15 And where is Apex located?

16 A. Parklane.

17 Q. Parklane?

18 A. Yes.

19 Q. That's a road in --

20 A. Columbia.

21 Q. In Columbia. Oh. Apex on Parklane in
22 Columbia.

23 A. Yes.

24 Q. Okay. And do you see a particular doctor
25 there?

1 A. No.

2 Q. If I were to ask your attorney to produce
3 your records from your doctor there at Apex, would
4 you have any objection to him doing that?

5 A. It's okay.

6 Q. I'm just asking whether you would have any
7 objection. I'll deal with Andy on whether he has any
8 objection. But do you have any objection to him
9 doing that?

10 A. No.

11 Q. No. Okay.

12 Your home there on -- on Old Bluff Road, is
13 that a home you own? Is it a home you rent?

14 A. Right now I'm staying with my sister.

15 Q. Okay. But you don't own a home --

16 A. No.

17 Q. -- like separately? Okay.

18 Tell you what I'd like to do, Ms. Robinson.
19 I think you'll be glad to hear this. We've been at
20 this for a little while. Why don't we take a little
21 break. You can use the bathroom, whatever, have a
22 drink. I'm going to look through my notes. I might
23 have a few more questions for you. Probably not that
24 many more.

25 But if you'd like to take a break, we can do

1 that. The only thing I'll tell you while we're
2 taking a break is, of course, you can talk to your
3 attorney, but if you talk about the case, then I get
4 to ask you what y'all talked about, so he's probably
5 going to suggest that you don't do that. You can
6 talk about the weather or other things.

7 MR. JEFFERIES: So let's take a break. Go
8 off the record for a little bit.

9 - - -

10 (There was a recess from 1:41 to 1:55.)

11 - - -

12 BY MR. JEFFERIES:

13 Q. All right. Ms. Robinson, we're just back on
14 the record after a brief break. Few things I wanted
15 to follow-up with you on, and then we'll be finished
16 for the afternoon. On June 7, 2017, after your
17 vehicle struck the side of Mr. Jones' bicycle and
18 he's in the ditch, did you have any opportunity to
19 talk to Mr. Jones?

20 A. No, I didn't.

21 Q. Did you have any opportunity or did you go
22 over and examine him in any way?

23 A. No.

24 Q. No kind of interaction with him?

25 A. No.

1 Q. Were you able to make any observation at all
2 about whether he was injured or -- and, if so, how
3 badly?

4 A. No.

5 Q. Do you have any kind of medical training
6 yourself?

7 A. No.

8 Q. So you don't -- you, yourself -- I'm not
9 talking about your attorneys, but you, yourself,
10 don't have any knowledge one way or the other as to
11 the extent of Mr. Jones' injuries; is that correct?

12 A. The doctors, I guess, could tell you. But
13 after the incident, I got out. I glanced at him, and
14 he had his eyes open and was looking at me, so he was
15 okay.

16 Q. So the extent of your -- just to make sure
17 I'm clear, the extent of what you know about his
18 condition after the wreck was that he was alive and
19 conscious, but you don't know any more than that,
20 right?

21 A. No.

22 Q. Okay. Ms. Robinson, do you feel like you
23 have any responsibility for this wreck?

24 A. I'm sorry that he came out in the front of
25 me and he was injured.

1 Q. Do you feel at all responsible that he was
2 injured?

3 A. No.

4 Q. Looking back on it, if you could do anything
5 differently that day, would you do anything
6 differently?

7 A. No.

8 Q. Nothing you'd change? Wouldn't drive a
9 different speed?

10 A. No.

11 Q. Wouldn't slow down when you first saw a
12 bicyclist on the road? Nothing -- nothing at all
13 you'd change?

14 A. There's nothing to change, no.

15 Q. We talked earlier about speed, and just to
16 confirm, what I understand you told me about speed
17 was that you don't really know exactly what speed you
18 were going, but it could have been as much as 45. It
19 just wasn't more than 45; is that correct?

20 A. 40 miles.

21 Q. Pardon me?

22 A. 40 miles, what I --

23 Q. 40 miles per hour.

24 A. Yes.

25 Q. But could have been 45 but wasn't more than

1 45?

2 A. Not more than 45, no.

3 Q. Not more than 45. Okay.

4 Do you agree with me that regardless of what
5 the speed limit is, if you -- a driver chooses to
6 drive faster than a safe speed that they're creating
7 a danger that doesn't need to be created?

8 A. Yes, I do.

9 MR. DELANEY: Object to the form.

10 BY MR. JEFFERIES:

11 Q. Pardon me? You can go ahead and answer it.
12 I'll re- -- I'll say the question again just to be
13 clear, subject to Andy's objection, of course.

14 Do you agree with me that regardless of the
15 speed limit a driver who chooses to drive faster than
16 a safe speed is creating a danger that does not need
17 to be created?

18 MR. DELANEY: Object to the form.

19 BY MR. JEFFERIES:

20 Q. Do you agree with that?

21 A. I don't know how to answer that.

22 Q. No. I'm afraid you have to answer.

23 MR. DELANEY: I don't think she said -- "I
24 don't know how to answer that."

25 BY MR. JEFFERIES:

1 Q. Oh. "I don't know how to answer that." I'm
2 just asking if you agree. You could tell me yes, no.
3 You can tell me you don't know if you agree. But I
4 think those are your three answers. So for an -- for
5 example, it wasn't raining on the day of this
6 accident, was it? There was no rain?

7 A. Not that I can recall.

8 Q. All right. So I'll use this as an example.
9 Speed limit on a road might be 60 miles an hour,
10 let's say, but there's a driving rainstorm. You
11 can't see more than just a few feet in front of you,
12 so a safe speed would be something less than that.
13 Let's say the safe speed is only 20 because it's
14 raining so hard. Would you agree with me that a
15 driver that chose to drive faster than that safe
16 speed is creating a danger that just doesn't need to
17 be created?

18 MR. DELANEY: Object to the form.

19 THE WITNESS: I don't know how to give you a
20 answer to that.

21 BY MR. JEFFERIES:

22 Q. Well, I'll ask you about yourself. If
23 you're driving, let's say, in the rain, do you drive
24 faster than what you consider to be a safe speed?

25 MR. DELANEY: Object to the form.

1 BY MR. JEFFERIES:

2 Q. You go ahead and answer. Just in your own
3 experience. I'm asking about what you do. So on a
4 road, you're driving. Say the speed limit's 60, but
5 it's raining really, really hard. Do you drive
6 faster than what you consider to be a safe speed?

7 MR. DELANEY: Same objection.

8 MR. JEFFERIES: What's the objection? I'm
9 just asking about what she does.

10 MR. DELANEY: Well, you hadn't defined what
11 a safe speed is for her.

12 MR. JEFFERIES: She can define it any way
13 she likes.

14 MR. DELANEY: Okay.

15 BY MR. JEFFERIES:

16 Q. I'm just asking her if -- do you,
17 Ms. Robinson, when conditions are different than
18 normal, maybe it's heavy rain, whatever, do you drive
19 faster than what you consider to be a safe speed?

20 A. It was not raining.

21 Q. I'm sorry. That wasn't my question. I'm
22 asking you about what you do as a driver. Do you
23 drive faster than what you consider to be a safe
24 speed?

25 A. I pull on the side.

1 Q. In heavy rain?

2 A. Yes.

3 Q. Yeah. All right. Well, that's sometimes a
4 smart thing to do. So are you saying you do not
5 drive faster than what you consider to be a safe
6 speed?

7 A. I drive what the speed limit is supposed to
8 be.

9 Q. Regardless of the conditions? Or do you
10 take those conditions into account?

11 A. Yes.

12 Q. You take the conditions into account.

13 A. Yes.

14 Q. All right. So if a safe speed were lower
15 than the speed limit because of the situation, do you
16 drive at the speed limit or do you drive at the safe
17 speed?

18 A. Is this for the accident?

19 Q. No. I just mean in general. Your general
20 habit.

21 A. Whatever the weather is I, guess.

22 Q. So that's -- is that a "yes," you drive at
23 the safe speed for the conditions?

24 A. Yes.

25 Q. And why do you do that? Why do you drive --

1 A. Safe.

2 Q. To be safe; is that right? Is that what you
3 said?

4 A. Yes.

5 Q. Okay. So would it be unsafe to drive faster
6 than the safe speed?

7 A. Yes.

8 MR. DELANEY: Object to the form.

9 BY MR. JEFFERIES:

10 Q. And do you agree with me that the safe speed
11 could be less than the speed limit depending on the
12 situation?

13 A. Is this concerning the accident?

14 Q. Pardon me?

15 A. Is this for the accident?

16 Q. I mean as a general proposition. Is it
17 possible that the safe speed could be less than the
18 speed limit depending on the conditions, the
19 situation?

20 MR. DELANEY: Object to the form.

21 THE WITNESS: (No response.)

22 BY MR. JEFFERIES:

23 Q. You want me to ask it again?

24 A. No.

25 Q. All right. So do you agree with me that

1 depending on the situation, the safe speed to drive
2 could be less than the posted speed limit?

3 A. Depending on the weather.

4 Q. Could it depend on anything besides the
5 weather?

6 A. Depending on the weather.

7 Q. Would it matter if, for instance, children
8 were playing near the side of the road? Could the
9 safe speed be less than the posted speed limit even
10 though the weather's fine because children were
11 playing near the side of the road?

12 A. Yes.

13 Q. Could the safe speed be less than the posted
14 speed limit even though the weather's fine because
15 maybe you see a intoxicated person by the side of the
16 road?

17 A. I didn't see none of those things on that
18 day.

19 Q. I understand that. I'm just asking about
20 reasons that the safe speed might be less than the
21 posted speed limit. Would you agree with me that
22 there's a lot of reasons that the safe speed might be
23 less than the posted speed limit?

24 A. Would you drive fast if you seen kids, the
25 weather's bad? Do you lower your speed?

1 Q. Should I?

2 A. Should you?

3 Q. The question -- I'm asking a question.
4 Should I slow down based on conditions to a safe
5 speed that's in some --

6 A. The condition that morning was fair.

7 Q. The weather.

8 A. Yes.

9 Q. All right. I'll ask it once more, but I'll
10 stop so Andy doesn't object because I don't think I
11 actually got the answer yet. So the question is: Do
12 you agree with me that the safe speed can be
13 something less than the posted speed limit depending
14 on the situation or the conditions other than the
15 weather, in addition to the weather? There are other
16 things to consider when determining the safe speed.

17 A. Next question.

18 Q. You just don't want to answer that one?

19 A. It has nothing to pertain to this incident.

20 Q. If the answer is, "I don't know," you can
21 say, "I don't know." It's fine. I just need you to
22 answer the question. "Yes," "no," "I don't know."

23 A. I don't know how you want me to answer that
24 so...

25 Q. Truthfully.

1 A. Okay.

2 Q. That's all -- all I need. It doesn't
3 matter. It's your opinion whether you think the safe
4 speed can be something other than the posted speed
5 limit depending on the situation and the conditions.

6 A. Yes, I do.

7 Q. You do. Okay.

8 Your attorney provided us with a series of
9 pictures. I'm not going to look at every single one
10 of them unless you want to. He provided us with a
11 series of photos, and they're all labeled
12 consecutively Defendant's 172 through Defendant 215.
13 And if you want to, I'm glad for you to look through
14 all of these. They appear to be pictures of the
15 accident scene and of your car and of the bicycle and
16 Mr. Jones. Do you agree that these are all what they
17 appear to be, pictures of the accident scene, and
18 that they're all accurate pictures of the way the
19 scene looked that day on June 7, 2017?

20 A. Yes.

21 Q. Okay. I'm going to put the picture I took
22 of your driver's license in as Exhibit 4, and we'll
23 put this whole series of pictures we just talked
24 about, Defendant's 172 through 215, in as Exhibit 5,
25 and I'll email those to everybody so they have them.

1 - - -

2 (Copy of Driver's License marked Plaintiff's
3 Exhibit Number 4, for identification.)

4 - - -

5 (Colored Photographs marked Plaintiff's Exhibit
6 Number 5, for identification.)

7 - - -

8 BY MR. JEFFERIES:

9 Q. Ms. Robinson, are you aware that the State
10 of South Carolina sometimes places restrictions on
11 people's ability to drive? For instance, a young
12 child when they first get their driver's license
13 might not be able to drive after dark or a person
14 who's hard of hearing might not be able to drive
15 without wearing their hearing aid. Are you aware of
16 those sorts of restrictions?

17 A. I mean, I'm pretty sure they're out there.

18 Q. Do you know the reason behind those
19 restrictions that the State of South Carolina places
20 on citizens' ability to drive?

21 A. Accidents.

22 Q. If someone violated one of those
23 restrictions on their license and an accident
24 occurred as a result, would you agree with me that
25 that person would be at fault in causing that

1 accident?

2 MR. DELANEY: Object to the form.

3 BY MR. JEFFERIES:

4 Q. I can repeat the question if you like.

5 A. I don't know how to answer that for you.

6 Q. Just whether you agree or not or if you
7 don't know if you agree.

8 A. (Witness shaking head.)

9 Q. All right. I'll say it again so we get it
10 on the record nice and evenly because we talked over
11 each other a little. Do you agree with me that if a
12 person violates one of the restrictions on their
13 license to drive and an accident occurs as a result
14 of violating that restriction that that person is at
15 fault to some degree in causing that accident?

16 MR. DELANEY: Object to the form.

17 BY MR. JEFFERIES:

18 Q. Do you know?

19 A. No.

20 Q. So you said, no, you don't know?

21 A. I said I don't know how to answer that for
22 you.

23 Q. It's just whether you agree or not. Do you
24 agree or do you not?

25 MR. DELANEY: She's answered it twice. "I

1 don't know how to answer that question for you."

2 That's her answer.

3 MR. JEFFERIES: That's her answer, is "I
4 don't know"? Fine. If her answer is, "I don't
5 know," I don't know.

6 BY MR. JEFFERIES:

7 Q. I'll give you an example, and if you don't
8 know this, that's fine. I'm not going to give you a
9 whole laundry list of examples. So if a person had a
10 restriction on their driver's license, said they're
11 hard of hearing, they can't drive without their
12 hearing aid, and an accident occurred because that
13 person didn't hear another driver blowing the horn,
14 would they be at fault to some degree in that
15 accident because they violated that restriction?

16 MR. DELANEY: Object to the form.

17 THE WITNESS: (No response.)

18 BY MR. JEFFERIES:

19 Q. It's okay if you don't know the answer.

20 A. I don't know how to answer that for you.

21 Q. Do you think it's important to obey the law
22 with respect to driving your vehicle?

23 A. Yes.

24 Q. And why do you think it is important to obey
25 the law with respect to driving your vehicle?

1 A. Accidents.

2 Q. To prevent accidents?

3 A. Yes.

4 Q. And would you agree with me that if someone
5 violates the law with respect to driving their
6 vehicle and an accident occurs as a result of that
7 violation that that person is at fault to some degree
8 in causing that accident?

9 MR. DELANEY: Object to the form.

10 BY MR. JEFFERIES:

11 Q. You want me to repeat it? If you don't
12 know, it's okay to say you don't know. "Yes," "no,"
13 or, "I don't know."

14 A. I don't know how you want me to answer that.

15 Q. It's not how I want you to answer it. It's
16 whether you agree, disagree or don't know.

17 A. I don't know.

18 Q. You don't know?

19 A. No.

20 Q. Okay. You don't know how fast Mr. Jones was
21 riding his bicycle before you struck him? I think
22 that's what you said earlier. Is that correct?

23 A. I don't know.

24 Q. And you don't know how far away Mr. Jones
25 was when you first saw him; is that correct?

1 A. I just know that I was going west. He was
2 coming east. He turned within seconds in the front
3 of my car without knowledge.

4 Q. And you don't know any more than that?

5 A. Mr. Jones was coming into the wrong side of
6 the traffic. That's what I know.

7 Q. And you don't know how far away he was,
8 though? To get back to my question, you don't know
9 how far away he was when you first saw him. It's
10 okay if you don't know. I just want to confirm it.

11 A. That would not answer anything when he
12 swiftly turned in front of me.

13 Q. My question was: Am I correct in my
14 understanding that you don't know how far away
15 Mr. Jones was when you first saw him?

16 A. I can't -- I can't give you the exact
17 distance, no.

18 Q. Can you give me an approximate one or not?

19 A. I seen Mr. Jones on the side of the road. I
20 seen the black car behind Mr. Jones. I'm driving as
21 normal. Mr. Jones crossed my path.

22 Q. So as to my question --

23 A. In lieu, I think Mr. Jones did not see my
24 car. Gray car, gray pavement, floppy hat. So
25 Mr. Jones could have been out of his mind that

1 morning and had done drive a little too much on the
2 bicycle and thought he was in the front of his house.
3 That's what I re- -- think that Mr. Jones had done,
4 got a little delusional from riding the bike too
5 much.

6 Q. You think he was delusional?

7 A. Yes.

8 Q. Confused?

9 A. Yes.

10 Q. You think he was incapacitated mentally in
11 any way?

12 A. That's just my take on it. Nobody else's.

13 Q. And that's based on your observations of
14 Mr. Jones?

15 A. That just my take on it.

16 Q. You saw him that day, I think you said, for
17 5 to 7 seconds before the collision. So -- and I'm
18 not challenging your observation. I'm just asking.
19 Your observation that he was delusional or confused,
20 mentally incapacitated, that's based on --

21 A. To turn in front of a moving car, yes.

22 Q. Based on your observations of him that day;
23 is that right?

24 A. Other people also seen Mr. Jones riding too
25 much that morning.

1 Q. All right. So what I'm wondering is not
2 what other people think about Mr. Jones that day, but
3 you mentioned you thought he was confused or
4 delusional or mentally incapacitated. What -- is
5 that based on what you saw of him that day?

6 A. No. For somebody to probably come in the
7 path of a oncoming car as quick as he did...

8 Q. Couldn't it just be because he didn't see
9 you, not that he was confused or incapacitated?

10 A. So that mean Mr. Jones was still out of his
11 rights of crossing the path of my car.

12 Q. Yeah. I was just asking because you --
13 nobody had brought that up before. Nobody had said
14 he was delusional, and you mentioned it, so I was
15 just asking. I mean, it's fine. We can all pass
16 judgment on whether people are delusional or not. I
17 was just asking where -- why you thought that, that
18 Mr. Jones was delusional.

19 A. I mean, anybody would do -- think that.
20 That's my opinion of somebody that drives their bike
21 in the front of a oncoming car all of a sudden.

22 Q. Any other basis --

23 A. I know you're his attorney, but right now
24 you're pinning it as I am at fault, and --

25 Q. Well, I'm not trying to pin it any

1 particular way. I just want to find out what you
2 know so we can know it before we head into trial. Is
3 there -- and there can be other reasons. I mean, if
4 you've observed Mr. Jones acting delusionally in the
5 past, I mean, that can be a reason. I'm not judging
6 your reasons. I just want to know what they are.
7 Have you observed him acting delusionally in the
8 past?

9 A. No.

10 Q. Or confused or anything like that in the
11 past?

12 A. Just what other people have said.

13 Q. People in the neighborhood told you that?

14 A. Yes.

15 Q. When you first saw Mr. Jones, did you
16 recognize -- and his floppy hat coming down the road,
17 did you recognize that it was Mr. Jones?

18 A. No.

19 Q. When did you realize it was Mr. Jones?

20 A. After.

21 Q. After.

22 All right. So we've talked a great deal
23 about a number of things. There were a lot of things
24 that you indicated you didn't know or didn't recall.
25 We won't go back through all those unless you want

1 to. Is there anything that you can think of that
2 between now and the time of trial will cause your
3 memory to reappear, to suddenly you know how far away
4 something was or how long it took or whatever? Is
5 there anything that would cause that to happen?

6 A. No.

7 Q. And everything we've talked about here
8 today, all the questions I've asked, you've
9 understood the questions?

10 A. Best of my knowledge.

11 Q. Is there any question that you're confused
12 about you want to go back and have me go over?

13 A. No.

14 Q. And every question I've asked you you've
15 answered it truthfully?

16 A. Yes.

17 Q. And told me the whole truth?

18 A. Yes.

19 Q. Is there any reason -- and I don't suspect
20 that there is, but is there any reason at all that
21 you wouldn't be able to -- to answer truthfully or do
22 anything like that today because of some medication
23 you were taking or alcohol or anything like that?

24 A. No.

25 Q. Okay. When you leave out of here today, how

1 are you going to get home? Are you going to drive?

2 A. Yes.

3 Q. Glasses you were wearing to read, are you
4 going to wear those when you're driving out of here
5 today?

6 A. They're reading glasses.

7 Q. So you're not going to wear them while
8 you're driving?

9 A. They're reading glasses.

10 Q. That wasn't my question. But you're not
11 going to wear them while you're driving?

12 A. No.

13 MR. JEFFERIES: Okay. Ms. Robinson, that's
14 all I have for you now. I may have some
15 follow-up questions after your attorney if he has
16 some. Otherwise -- otherwise, I'm just going to
17 get you to take a look at a couple exhibits, make
18 sure I've identified them properly, and then
19 we'll be done.

20 - - -

21 EXAMINATION

22 - - -

23 BY MR. DELANEY:

24 Q. So just real quickly, Ms. Robinson. You
25 asked Mr. Jefferies a question, and his response was

1 he's not blaming you for this accident. But, indeed,
2 he actually is suing you on behalf of Mr. Jones; is
3 that right?

4 A. Yes.

5 MR. DELANEY: Okay. That's all the
6 questions I have.

7 MR. JEFFERIES: I like that, Andy. That's
8 good.

9 MR. DELANEY: Credit to Mr. Bayne.

10 MR. JEFFERIES: All right. Let's just make
11 sure we got the exhibits right since I did a
12 couple on the -- on this iPad. Exhibit 1 is this
13 Google -- Google sheet with a little red dot on
14 it, and Ms. Robinson circled the little red dot.
15 Exhibit 2 is Defendant's 177, a picture of the
16 vehicle and the bicycle. Exhibit 3 is the same
17 as Exhibit 2 with some markings on it. I'll
18 email that out to everybody.

19 - - -

20 REEXAMINATION

21 - - -

22 BY MR. JEFFERIES:

23 Q. Exhibit 4 is a picture of the front and
24 back, Ms. Robinson, of your driver's license. Can
25 you -- do you agree that that is the front and this

1 is the back --

2 A. Yes.

3 Q. -- of your driver's license?

4 A. Yes.

5 Q. Yes. Okay.

6 MR. JEFFERIES: So that would be Exhibit 4.
7 Exhibit 5 is simply those photographs provided by
8 opposing counsel, Defendant's 172 through, I
9 think, 215 in Exhibit 5.

10 BY MR. JEFFERIES:

11 Q. And, Ms. Robinson, one follow-up question to
12 Mr. -- Mr. Delaney's question simply is: You
13 understand when I say I'm not blaming you, I'm saying
14 I'm not sitting in this room blaming you for this
15 accident. I'm in the room trying to discover what
16 the truth is, and if the truth comes out that one
17 party's all at fault and one party's not at fault at
18 all, then that's the direction we got to go, and vice
19 versa, and that all we're trying to do here is
20 discover the facts because we weren't there. We
21 didn't see it happen.

22 You understand that, right? I'm not judging
23 you today. I hope -- I hope I didn't come across as
24 judging you today. I'm just -- you understand that
25 my job is just to find out what the facts are because

1 I wasn't there?

2 A. Yes.

3 MR. JEFFERIES: All right. I appreciate it.
4 Unless you guys have some follow-ups to that,
5 we're done.

6 MR. DELANEY: That's it.

7 MR. JEFFERIES: Cool. Thanks.

8 THE COURT REPORTER: Mr. Delaney, did you
9 want to order a copy of this?

10 MR. DELANEY: Please, yeah.

11 THE COURT REPORTER: And, Mr. Harrell?

12 MR. HARRELL: I don't need a copy.

13 THE COURT REPORTER: Okay.

14 - - -

15 (Witness excused.)

16 - - -

17 (Deposition concluded at 2:27 p.m.)

18 - - -

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CERTIFICATE OF REPORTER

I, Deidre Osborne, Court Reporter and Notary Public for the State of South Carolina at Large, do hereby certify:

That the foregoing deposition was taken before me on the date and at the time and location stated on page 1 of this transcript; that the deponent was duly sworn to testify to the truth, the whole truth and nothing but the truth; that the testimony of the deponent and all objections made at the time of the examination were recorded stenographically by me and were thereafter transcribed; that the foregoing deposition as typed is a true, accurate and complete record of the testimony of the deponent and of all objections made at the time of the examination to the best of my ability.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof. Witness my hand, I have hereunto affixed my official seal this 10th day of September, 2018, at Lexington County, South Carolina.



Deidre Osborne,
Court Reporter
Notary Public
State of South Carolina at Large
My Commission Expires:
June 12, 2019

Exhibit

Page 1

STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

COUNTY OF RICHLAND

HARLAND JONES,

Plaintiff,

vs. CIVIL ACTION NO. 2018-CP-40-01518

KAREN ROBINSON,

Defendant.

VIDEO

DEPOSITION OF: HARLAND JONES

DATE: March 6, 2019

TIME: 1:09 P.M.

LOCATION: Law Offices of
McAngus Goudelock & Courie
1320 Main Street
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18 ALSO PRESENT:

19 Pamela R. Crabtree, Videographer
20 Paris Jones
21
22
23
24
25

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1 THE VIDEOGRAPHER: We are now on the
2 record. Today is March 6, 2019. The approximate
3 time is 1:09 p.m. This is the video deposition of
4 Harland Jones taken by the court -- taken by counsel
5 for the defendant. The location is 1320 Main
6 Street, 10th Floor, Columbia, South Carolina. My
7 name is Pamela Crabtree, legal videographer and
8 notary. I am familiar with provisions of Rule 30(h)
9 pertaining to videotaped depositions.

10 This deposition is taken in the matter
11 of Harland Jones, plaintiff, versus Karen Robinson,
12 defendant, in the Court of Common Pleas, Civil
13 Action Number 2018-CP-40-01518, State of South
14 Carolina, County of Richland. In accordance with
15 Rule 30(h)(3), the witness has the right to be shown
16 the videotaped deposition unless waived by the
17 witness and parties.

18 Will counsel please introduce yourselves
19 for the record, after which the court reporter will
20 swear in the witness?

21 MS. TOWLE: My name is Monica Towle.
22 I'm here on behalf of the defendant, Karen Robinson.

23 MR. HARRELL: Rogers Harrell with Murphy
24 & Grantland.

25 MR. JEFFERIES: Lane Jefferies with the

1 Anastopoulo Law Firm for the plaintiff.

2 HARLAND JONES,
3 being first duly sworn, testified as follows:

4 EXAMINATION

5 BY MS. TOWLE:

6 Q. Good afternoon, Mr. Jones. My name is
7 Monica Towle and I represent the defendant in this
8 matter, Karen Robinson. How are you doing this
9 afternoon?

10 A. Taking it one day at a time.

11 Q. I understand. You understand that
12 you're here for an accident that happened on June 7,
13 2017; is that correct?

14 A. Correct.

15 Q. And who did you bring with you here
16 today?

17 A. My attorney.

18 Q. And then I understand there's another
19 gentleman here with you. His name is Paris Jones;
20 is that correct?

21 A. Yes. Paris Jones.

22 Q. And who is Paris Jones?

23 A. He's my nephew.

24 Q. Do you intend on calling him as a
25 witness at the trial of this case?

1 A. No.

2 MR. JEFFERIES: We do not.

3 THE WITNESS: No.

4 BY MS. TOWLE:

5 Q. All right. Now from time to time during
6 your deposition, I may refer to the accident that
7 happened. When I say the accident, do you
8 understand that I'm referring to the accident that
9 happened on June 7, 2017?

10 A. Yes.

11 Q. Have you ever been deposed before, had
12 your deposition taken?

13 A. No.

14 Q. All right. I'm going to go over just a
15 few ground rules for you so that you understand what
16 we're doing here today. This is my opportunity to
17 talk to you before this case may go to trial so that
18 I understand what your testimony may be. Do you
19 understand that you're under oath here today?

20 A. Yes.

21 Q. So do you understand that you're sworn
22 to tell the truth?

23 A. Yes.

24 Q. And you understand that there's a court
25 reporter taking down everything that's said today?

1 A. Yes.

2 Q. And that you're also being recorded on
3 video today?

4 A. Yes.

5 Q. So it's important whenever I ask you a
6 question that you verbally say yes or no. You're
7 doing a great job so far. You understand that?

8 A. Yes.

9 Q. Rather than ever saying uh-huh, huh-uh,
10 try to vocalize that answer. I'll catch it if it
11 happens and I'm not picking on you, we just need a
12 clear record. You understand?

13 A. Yes.

14 Q. All right. I will try not to speak over
15 you, if you can also try not to speak over me and
16 just allow me to finish my question before you
17 answer. Okay?

18 A. Correct.

19 Q. If I ever speak too fast or you don't
20 understand a question, just ask me to rephrase.
21 Okay?

22 A. Okay.

23 Q. If you need a break for any reason, let
24 me know and we'll say so and go off of the record.
25 Okay?

1 A. Correct.

2 Q. If you have a question about the
3 testimony, please direct that question to me rather
4 than your attorney. Okay?

5 A. Correct.

6 Q. You understand that, if you do ask for
7 assistance from your attorney during this
8 deposition, I'll be able to ask about that?

9 A. Correct.

10 Q. Have you understood all the instructions
11 so far?

12 A. Yes.

13 Q. All right. And the other thing is there
14 might be an objection from time to time. If your
15 attorney objects, but does not instruct you not to
16 answer, you understand that you have to answer that
17 question. Okay?

18 A. Repeat that.

19 Q. If there's an objection to form that
20 comes up, an attorney says objection to form, you
21 still have to answer that question. Okay?

22 A. Okay.

23 Q. Are you currently under the influence of
24 any medication or drugs that would impair your
25 ability to testify truthfully today?

1 A. No.

2 Q. Have you consumed any alcohol today?

3 A. No.

4 Q. Have you consumed any drugs today?

5 A. No.

6 Q. Is there anything that would impair your
7 ability to testify truthfully?

8 A. No.

9 Q. Do you have any vision issues?

10 A. Yes. I can't see clearly out of my left
11 eye and I barely can see out of my left eye.

12 Q. And is that with glasses that you still
13 have vision trouble?

14 A. I can't see 20/20 with glasses.

15 Q. How long have you had those vision
16 issues?

17 A. Ever since I was small.

18 Q. Do you have any issues hearing?

19 A. No.

20 Q. Do you have any memory issues?

21 A. No.

22 Q. Other than what you discussed with your
23 attorney, I don't want to hear anything about that,
24 did you speak with any witnesses prior to today's
25 deposition to prepare for this deposition?

1 A. No.

2 Q. Did you review any documents to prepare
3 for this deposition?

4 A. No.

5 Q. Can you please state your full name for
6 the record?

7 A. Harland Jones, H-a-r-l-a-n-d, Jones,
8 J-o-n-e-s.

9 Q. And what is your date of birth?

10 A. [REDACTED]

11 Q. So how old are you today?

12 A. Fifty.

13 Q. What is your cell phone number?

14 A. It's a new one. (803) 521-0319.

15 Q. When did you get that new cell phone
16 number?

17 A. About two, three months ago.

18 Q. Prior to that, did you have the same
19 cell phone number that you had at the date of the
20 accident?

21 A. No. It was 4 -- (803) 479-0313.

22 Q. Prior to that phone number, was the
23 phone number that you had the same one that you had
24 at the date of the accident?

25 A. Yes. That was the same number.

1 Q. Do you recall what that number was?

2 A. That was the same number.

3 Q. The 479-0313 --

4 A. Yes.

5 Q. -- was the time of the accident?

6 A. Yes.

7 Q. Who was your provider for that cell
8 phone?

9 A. Verizon.

10 Q. Is Verizon still your cell phone
11 provider?

12 A. Yes.

13 Q. What's your current address?

14 A. 144 Old Bluff Road, Hopkins, South
15 Carolina 29061.

16 Q. How long have you lived at that address?

17 A. Since 190 -- since '04, 2004.

18 Q. What was your prior address before that?

19 A. 2409 Two French Court.

20 Q. What city was that in?

21 A. Columbia.

22 Q. How long did you live there?

23 A. Basically all my life.

24 Q. Are you originally from Columbia, South
25 Carolina?

1 A. Yes.

2 Q. Are you currently married?

3 A. No. My wife died like two, three weeks
4 ago.

5 Q. And what was her name?

6 A. Linda Jones.

7 Q. And how did she pass?

8 A. Deceased. She had tumors and her lung
9 collapsed.

10 Q. How long were you married?

11 A. About 16 years.

12 Q. Did you have any prior marriages?

13 A. No.

14 Q. Did you have any children?

15 A. No.

16 Q. What family members do you have in
17 Richland County by blood or marriage? Do you have
18 many?

19 A. Yeah. My -- my sister, Catherine Jones,
20 and my sister, Cynthia Neal, and her kids, Tracy --
21 Tracy Foster and Latheren. I don't -- I forget her
22 marriage last name.

23 Q. What was the last name that you just
24 mentioned, Ather?

25 A. Foster.

1 Q. Foster? So other than the last names
2 Neal, Foster and Jones, do you have any family
3 members by blood or marriage over the age of 18 in
4 Richland County?

5 A. That's it.

6 Q. Where did you go to high school?

7 A. Lower Richland.

8 Q. Did you graduate high school?

9 A. Yes.

10 Q. When did you graduate?

11 A. June 1987.

12 Q. Did you have any further education after
13 that?

14 A. Went to truck driving school.

15 Q. Where did you do that?

16 A. In Spartanburg, South Carolina.
17 Columbia, South Carolina.

18 Q. Did you say Spartanburg or Columbia?

19 A. Spartanburg.

20 Q. Other than truck driving school and high
21 school, do you have any other education?

22 A. That's it.

23 Q. Are you a member of any organizations in
24 the county, Richland County?

25 A. As in?

1 Q. Civic organizations, church groups,
2 anything like that?

3 A. Yeah, I go to church.

4 Q. What church do you go to?

5 A. Apostle by Faith.

6 Q. Do you have any role at that church?

7 A. Yes. I'm an elder.

8 Q. What do you do as an elder?

9 A. Oversee the church and oversee who's in
10 the church, oversee people in the church.

11 Q. How many elders are there at your church
12 roughly?

13 A. About three.

14 Q. Other than the church that you attend,
15 are there any other organizations that you can think
16 of right now that you're a part of?

17 A. Not that I can think of right now.

18 Q. Have you ever been in the military?

19 A. No.

20 Q. Are you currently employed?

21 A. No.

22 Q. When is the last time you had a job?

23 A. I think it's 2008.

24 Q. What were you doing in 2008?

25 A. Working at Dollar General.

1 Q. And why did you stop working at that
2 time?

3 A. Because we was traveling with the
4 ministry.

5 Q. Where were you traveling?

6 A. All over.

7 Q. Were you traveling over all the state,
8 all over the nation or different countries?

9 A. Well, we been to all of the states and
10 we went to about three or four countries.

11 Q. And when you say we, is that a church
12 group that you went with?

13 A. Yeah. Church group, with my wife at
14 that time.

15 Q. What was your position at Dollar
16 General?

17 A. A traveling stocker.

18 Q. How long did you do that?

19 A. I'd say for about a year.

20 Q. What were you doing before that?

21 A. I was traveling with the ministry.

22 Q. Are you paid to travel with the
23 ministry?

24 A. No.

25 Q. What sorts of income did you have during

1 the time that you weren't working but you were
2 traveling with the ministry?

3 A. Excuse me?

4 Q. You mentioned that, before Dollar
5 General, you were traveling with the ministry;
6 right?

7 A. Uh-huh.

8 Q. Did you have any source of income at
9 that time?

10 A. No, huh-uh.

11 Q. Where else have you worked before Dollar
12 General?

13 A. Patterson. Let me see. I worked on a
14 temporary service doing odds and end jobs with the
15 temp service.

16 Q. What type of odds and end jobs did you
17 do?

18 A. I work at the apartment complex picking
19 up paper and with the maintenance crew.

20 Q. How long did you do temporary jobs?

21 A. About six months.

22 Q. What other type of employment have you
23 had?

24 A. Besides Dollar General?

25 Q. Besides the temporary jobs and your

1 employment at Dollar General, have you worked
2 anywhere else?

3 A. Yeah. Patterson Fan. I worked there
4 for about eight to nine years.

5 Q. What did you do there?

6 A. I was the head spray painter and they
7 laid me off.

8 Q. You had any other type of employment
9 before?

10 A. Yeah. I was working at Versch Lock,
11 where they made lock for the ambulance doors.

12 Q. What was that? I'm sorry, sir.

13 A. Versch Lock.

14 Q. Versch Lock?

15 A. Yeah, yeah. Versch, V-e-r-c-h (sic), I
16 think.

17 Q. And what were you doing at Versch Lock?

18 A. Machine operator. That's all I can
19 remember right now.

20 Q. But you were not employed at the time of
21 the accident; correct?

22 A. No, huh-uh.

23 Q. Have you ever received unemployment?

24 A. Yes.

25 Q. When did you receive unemployment?

1 A. When I -- when I stopped working at
2 Versch Lock.

3 Q. How long did you receive unemployment?

4 A. For almost a year.

5 Q. Any other time that you've received
6 unemployment?

7 A. No.

8 Q. Have you ever filed a workers'
9 compensation claim?

10 A. When I was working at Versch Lock, when
11 I received the unemployment.

12 Q. So were you injured at Versch Lock?

13 A. No, huh-uh.

14 Q. Have you ever been injured at work and
15 filed a claim as a result of that?

16 A. No, huh-uh.

17 Q. Do you use any type of social media?

18 A. Well, I use Facebook.

19 Q. Is your Facebook account your name,
20 Harold Jones?

21 A. Harland Jones.

22 Q. Harland Jones?

23 A. Yes, uh-huh.

24 Q. Do you use any other type of social
25 media?

1 A. No.

2 Q. So you don't use Twitter?

3 A. No.

4 Q. Don't use Instagram?

5 A. I don't use it; but I can have an
6 account there, but I don't use it.

7 Q. So you do have an Instagram account?

8 A. Yeah. But I don't use it.

9 Q. Is the name Harland Jones the name of
10 that account as well?

11 A. Yes.

12 Q. Any other social media that you have
13 used in the past?

14 A. No, not that I know of.

15 Q. Have you ever posted anything on the
16 Internet about this accident?

17 A. No, huh-uh.

18 Q. Do you follow other organizations on
19 Facebook?

20 A. As in?

21 Q. Do you follow groups that you're a part
22 of, your church or anything like that on Facebook?

23 A. Yeah. My church. Might follow some
24 friends.

25 Q. To your knowledge, have any of your

1 friends posted anything on the Internet about this
2 accident?

3 A. Not to my knowledge.

4 Q. To your knowledge, has your church
5 posted anything about this accident?

6 A. Not to my knowledge.

7 Q. Do you have any type of criminal
8 history?

9 A. No.

10 Q. You ever been arrested for a crime?

11 A. No.

12 Q. Have you ever filed a lawsuit before,
13 other than this one?

14 A. No.

15 Q. Have you ever been sued before?

16 A. Yeah.

17 Q. What have you been sued for?

18 A. Mainly over bills.

19 Q. When do you recall being sued over
20 bills?

21 A. About a year or two ago.

22 Q. What type of bills were those?

23 A. Charge card bills, loan company bills
24 and stuff.

25 Q. Have those claims resolved?

1 A. Yeah. They won the case.

2 Q. Other than loan and credit card lawsuits
3 that you had a year or two ago, have you been a part
4 of any other lawsuit?

5 A. Not that I know of, not -- not that I'm
6 aware of.

7 Q. Have you ever filed an insurance claim?

8 A. Yeah.

9 Q. When have you filed --

10 A. As in?

11 Q. Have you ever been hurt or had property
12 damage or anything like that that you contacted your
13 insurance about and filed a claim?

14 A. Not that I'm aware of.

15 Q. Now, I'd like to talk about this
16 accident that happened on June 7, 2017. Do you know
17 about what time the accident happened?

18 A. Well, I don't know what time.

19 Q. Do you know if it was in the morning or
20 the afternoon?

21 A. I believe it was in the evening.

22 Q. What were you doing the day of the
23 accident?

24 A. What was I doing?

25 Q. Do you know what time you woke up that

1 morning, the day of the accident?

2 A. I can't remember right now.

3 Q. Is there a general time that you wake up
4 in the morning?

5 A. About six, seven o'clock in the morning.

6 Q. And that's typical for most mornings?

7 A. Yes.

8 Q. And do you know what you had planned for
9 that day, June 7, 2017?

10 A. Yes. As I always do, me and my partner
11 would go out and look for odd jobs to do.

12 Q. When you say your partner, who are you
13 referring to?

14 A. I don't -- I can't -- I don't know his
15 real name, correct real name; but we call him Alex.

16 Q. How long have you known Alex?

17 A. About six, seven months.

18 Q. So is it about six or seven months at
19 the time of the accident that you knew him?

20 A. Yes.

21 Q. So you were spending time with Alex on
22 the day of the accident; is that correct?

23 A. Yes, uh-huh. We was going out to look
24 for odds and ends to do.

25 Q. Where were you going to look for odds

1 and ends to do?

2 A. Around Columbia, South Carolina.

3 Q. How were you traveling with Alex?

4 A. By -- by one of my cars in my yard.

5 Q. So you were driving that day?

6 A. He was.

7 Q. So Alex was driving one of your vehicles
8 that day?

9 A. Uh-huh.

10 Q. Do you know which vehicle that was?

11 A. My Suburban, yellow Suburban. About
12 1996 Suburban, yellow.

13 Q. Do you recall where you and Alex went
14 that day?

15 A. We didn't go nowhere.

16 Q. So you planned on going with Alex --

17 A. Uh-huh.

18 Q. -- to look for odds and end jobs?

19 A. Uh-huh.

20 Q. Is that a yes?

21 A. Yes.

22 Q. Did you ever end up meeting up with Alex
23 on the day of the accident?

24 A. Yes.

25 Q. When did you meet up with Alex that day?

1 A. He come over to my house early that
2 morning, as he usually do.

3 Q. After he came over to your house that
4 morning, what happened?

5 A. I told him -- we went outside and I told
6 him to hold on, as I usually tell him to hold on.
7 Let me take my bike and ride up the street, as I
8 usually do. I ride up the street and ride back down
9 to the house and get off the bike, then we go.

10 Q. What were you riding your bike up the
11 street for?

12 A. To get exercise, as I normally do.

13 Q. How far up the street do you ride your
14 bike for exercise?

15 A. To the end. Until it go to the highway.

16 Q. So is that until Bluff Road meets the
17 highway?

18 A. Yes. Shop. Yeah, uh-huh.

19 Q. What highway does Bluff Road meet?

20 A. Shop Road, I believe.

21 Q. Shop Road?

22 A. I believe. Don't quote me. I think
23 that's what it is.

24 Q. Do you know approximately how far that
25 distance is?

1 A. From my house to?

2 Q. To the end, where it meets the highway.

3 A. About a half a mile or something.

4 Q. Once you make it about a half mile to
5 where it meets the highway, do you turn back around?

6 A. Yeah.

7 Q. Then when you turn back around, do you
8 ride your bike back to your house?

9 A. Yes.

10 Q. Is that what you did on the day of the
11 accident?

12 A. Yes.

13 Q. Do you recall getting on your bike and
14 riding up to the highway that day?

15 A. Uh-huh.

16 Q. You do recall that?

17 A. Yes.

18 Q. Do you recall turning around and riding
19 back to your home?

20 A. Yes.

21 Q. How far down the road were you when the
22 accident happened?

23 A. About a -- about a house away from my
24 house.

25 Q. And when you were bicycling, was there

1 anybody else with you?

2 A. No.

3 Q. When you were traveling on your bicycle,
4 where were you in relation to the road? Were you in
5 a lane or on the side of the road?

6 A. On the side of the road.

7 Q. Was this a shoulder that you were on or
8 what -- what kind of materials were you traveling
9 on?

10 A. It was like the side of the road,
11 pavement.

12 Q. So you were on pave -- pavement?

13 A. Uh-huh.

14 Q. What was the weather like that day?

15 A. It was calm.

16 Q. When you say calm, what do you mean?

17 A. It wasn't raining or cloudy.

18 Q. Was the sun out yet?

19 A. Yeah. The sun was -- the sun was coming
20 out.

21 Q. Do you know about what time that would
22 have been?

23 A. I can't recall right now.

24 Q. Do you recall the actual accident and
25 the events that happened?

1 A. Yes. I can recall what I did -- up to
2 what I did.

3 Q. When you say you can recall up to what
4 you did, what does that mean? What do you recall?

5 A. Want me to tell you what happened?

6 Q. Yes.

7 A. When I was riding my bike back down the
8 street towards my house, I normally turn left
9 because I normally ride on the right side of the
10 street, so I normally turn left. So I put my hand
11 out to turn left in front of the car. And then when
12 I put my hand out left to turn in front of the car,
13 letting the car know that I was turning in front of
14 them, I looked over at the car and the lady and let
15 her know that I was turning in front of her, so I
16 put my hand out.

17 So it was cars behind her, so she slowed
18 down and let me know that I could turn in front of
19 her. So when she slowed down, let me know that it
20 was all right for me to turn to front of her, I
21 proceeded to turn in front of her. The next thing I
22 know, I had a heavenly experience. Would you care
23 for me to tell you that?

24 Q. In a moment. I want to make sure I
25 understand what you've testified to so far. So you

1 were traveling down the road and you said that there
2 was a car with a woman in it. What car are you
3 referring to? What did it look like?

4 A. I can't recall what it looked like right
5 now.

6 Q. And this car that you saw with a woman
7 in it, was it in the other lane of travel?

8 A. Yeah. It was going -- it was going my
9 direction in the other lane.

10 Q. And you mentioned that there were cars
11 behind this vehicle. Do you recall what any of
12 those cars looked like?

13 A. No, huh-uh.

14 Q. Were there any cars in your lane of
15 travel?

16 A. No, huh-uh.

17 Q. Do you know, who was the female in the
18 car that you're referring to?

19 A. No. My -- when my wife was living at
20 that time, she said it was her cousin.

21 Q. Who is her cousin?

22 A. The lady in the car.

23 Q. Who -- what is the name of your wife's
24 cousin?

25 A. I don't know the name right now.

1 Q. When you mentioned the car being driven
2 by a woman who may have been your wife's cousin, is
3 that the vehicle that hit you?

4 A. No. That's the vehicle I was going to
5 turn in front of.

6 Q. So you planned to turn in front of this
7 vehicle. Did you begin a turn in front of this
8 vehicle?

9 A. When she gave me the signal.

10 Q. What signal did she give you?

11 A. Slowing down.

12 Q. So when you say she gave you a signal,
13 are you referring to her vehicle decreasing in
14 speed?

15 A. Yeah. She slowed down.

16 Q. Did she make any type of hand gesture at
17 you?

18 A. No. She just slowed down. Letting me
19 know it was all right for me to turn in front of her
20 by slowing down.

21 Q. Before she started slowing down, do you
22 know approximately how fast she would have been
23 going?

24 A. No.

25 Q. Was there a significant change of speed

1 when she slowed down?

2 A. Yeah.

3 Q. Did she actually come to a stop?

4 A. No. She just slowed all the way down.

5 Q. When you say she slowed all the way
6 down, approximately how far away was she from you?

7 A. I can't -- it was a -- I can't recall
8 right now, but she was a good little ways.

9 Q. Can you say about how many car lengths
10 she was away from you?

11 A. I'd say about one car length.

12 Q. Do you remember anything about that
13 vehicle? If it was a car or a van, a truck, any
14 detail like that?

15 A. Yeah. It was a car.

16 Q. Do you know what color that car would
17 have been?

18 A. I would hate to guess because I might be
19 wrong because I don't remember right now.

20 Q. So you have no recollection of what
21 color that car might have been?

22 A. Like I say, I would guess that I think I
23 remember; but I might be wrong.

24 Q. Well, that's fine. The guess that you
25 have, what color is that?

1 A. Blue.

2 Q. And you said that you saw a women inside
3 that vehicle. Do you know what that woman looked
4 like?

5 A. She was like an older woman that I
6 guess. I don't remember.

7 Q. You know what race she was?

8 A. African-American.

9 Q. You know what color her hair would have
10 been?

11 A. No, I don't remember that.

12 Q. You remember anything she was wearing?

13 A. No.

14 Q. Did you see anybody else in that
15 vehicle?

16 A. No, huh-uh.

17 Q. You mentioned that your wife at the time
18 said it may have been her cousin. Did she explain
19 to you why she said that?

20 A. No, she didn't explain to me.

21 Q. Did she tell you if she ever talked to
22 her cousin about it?

23 A. Yeah, I think she did.

24 Q. She tell you about that conversation?

25 A. She just told me that she wasn't going

1 to testify, that she wasn't getting into it.

2 Q. What do you mean by that?

3 A. That's what she just told me. That she
4 wasn't going to testify because she wasn't going to
5 get in -- get involved in that situation.

6 Q. So your wife -- wife told you that her
7 cousin did not want to testify because she did not
8 want to get involved; is that correct?

9 A. Yeah, uh-huh.

10 Q. And you don't know this cousin's name?

11 A. I can't remember, huh-uh.

12 Q. Do you know anything about where this
13 cousin lives?

14 A. No. I heard recently that she was in
15 the hospital with cancer. And I don't know whether
16 she passed or not.

17 Q. When you say that she's your wife at the
18 time's cousin, do you know how she's related?
19 What -- which side she's a cousin on or anything
20 like that?

21 A. No.

22 Q. You mentioned that there were some cars
23 traveling behind her vehicle. Do you know how many
24 cars you saw?

25 A. At that time, I believe it was two.

1 Q. Do you remember anything about the two
2 vehicles behind this woman's car?

3 A. No, huh-uh. I believe it was two. I'm
4 not sure.

5 Q. Do you know if they were cars, trucks,
6 vans, anything like that?

7 A. It was cars.

8 Q. Do you know who the drivers of those
9 vehicles were?

10 A. No, huh-uh.

11 Q. So after you proceeded to turn in front
12 of the vehicle that was slowing, what happened next?

13 A. As I -- as I -- after -- as I proceeded
14 to turn in front of the car, next thing I know, I
15 was in heaven. And when I was in heaven, I looked
16 up and I saw these pretty roses and flowers. And I
17 said, don't see nothing like this unless you dead.
18 And this voice behind me -- I couldn't turn around
19 or move or see who was talking, but this voice
20 behind me said that's because you -- you is dead.
21 So when I looked up, I saw Jesus about as close as
22 my hand close. (Indicating.)

23 And when I saw Jesus, I looked at him
24 and he looked at me. And he was sitting on his gold
25 throne, gold and white throne. And there was this

1 hole right there besides his chair. And I looked
2 down in this hole. And now this hole was from
3 heaven to earth. And I saw this person laying over
4 my body wearing this gold and white robe at our
5 church and the women wear the tams. So that person
6 with that gold and white robe with a tam on her head
7 was laying across my body.

8 And I said, well, who is that laying
9 across my body? And the voice behind me said, it's
10 your wife. She don't want you to feel the pain that
11 you're going through. And at the house, I call her
12 Pretty Lady. And I put my hands together. I said,
13 pray, Pretty Lady, pray. Next thing I know, I was
14 in the bed with my hand lift up. And that's all I
15 can remember.

16 Q. So before this heavenly experience you
17 had, you mentioned that you recalled starting a
18 turn; is that correct? Were you turning your
19 bicycle across --

20 A. Yes.

21 Q. -- the lane of traffic?

22 A. Uh-huh.

23 Q. So you recall raising your hand for a
24 turn signal; right?

25 A. Uh-huh.

1 Q. And then you recall beginning a turn; is
2 that correct?

3 A. Yeah.

4 Q. Do you know what made contact with you
5 at the accident?

6 A. Do I know what made contact with me?

7 Q. Do you recall what vehicle hit you?

8 A. No. I was told what vehicle had hit me.

9 Q. The vehicle that you mentioned with the
10 woman inside of it, who may have your wife's cousin,
11 do you know whether or not that is the vehicle that
12 hit you?

13 A. No, that ain't the vehicle that hit me.

14 Q. And how do you know that?

15 A. Because that wasn't what told -- told to
16 me.

17 Q. Do you recall seeing any vehicle hit
18 you?

19 A. No.

20 Q. If the last thing that you remember is
21 turning in front of this vehicle, what makes you
22 think that another vehicle hit you?

23 A. I was told another vehicle hit me.

24 Q. What were you told?

25 A. I was told that the lady that we're

1 speaking of hit me. And I was showed some -- I was
2 shown some pictures of it, of her car.

3 Q. And you know that that is not the car
4 that you turned in front of?

5 A. Yeah, I know that because her car is
6 still drivable.

7 Q. How do you know that her car is still
8 drivable?

9 A. Because the car came to my house --
10 passed my house a couple of times.

11 Q. When did you see this car come past your
12 house a couple of times?

13 A. When I got out of the hospital and I was
14 walking around and I able to walk around outside.

15 Q. You mentioned that you saw some pictures
16 from this accident of the actual vehicle that hit
17 you. Did you ever see that vehicle or recall ever
18 seeing that vehicle on the day of the accident?

19 A. No, huh-uh. I didn't see anything.

20 Q. When you were turning, where exactly
21 were you turning into?

22 A. I was turning on the other side of the
23 road, go to my house.

24 Q. So once you got to other side of the
25 road, how were you going to proceed to your house?

1 A. By going straight.

2 Q. So were you turning right into the area
3 where you live?

4 A. No, huh-uh.

5 Q. So when you say you're going to go
6 straight, can you explain me to the area that you
7 would have traveled after you completed your turn
8 left?

9 A. I was going to turn in front of her car
10 and I was going to still on -- the left side of the
11 road for about a block or so before I turned to my
12 house.

13 Q. Why do you turn there to go up a block
14 to your house?

15 A. Because that's what I felt like doing at
16 the time.

17 Q. Is that always how you get back to your
18 house, turning at that location?

19 A. Excuse me?

20 Q. You mentioned that you turned left a
21 block before you got to your house. Is that always,
22 when you're riding your bicycle, where you turn to
23 go to your house?

24 A. No, that's not always.

25 Q. Is that something that you do often?

1 A. I got to turn to get to my house, but
2 that ain't -- that ain't the same place I turn
3 often.

4 Q. Had you turned at that location any time
5 prior to the accident?

6 A. Not that I can remember. I could turn
7 there. I don't -- I don't remember which location
8 that I turned when I turn.

9 Q. So is there any particular reason you
10 would have chose to turn at that precise location?

11 A. So maybe. I don't know. I mean, I
12 guess that's the particular location that I decided
13 to turn at that point in time.

14 Q. But you're not sure why that -- that was
15 the location you decided to turn?

16 A. No, huh-uh.

17 Q. Do you know who Michell Murray is?

18 A. Huh-uh.

19 Q. Is that a no?

20 A. Yeah. I don't.

21 Q. Do you remember at any point there being
22 a vehicle behind you during your bike ride on the
23 day of the accident?

24 A. Behind me as in what? As in on the side
25 of the street?

1 Q. When you were riding your bicycle back
2 to your house, was there ever another vehicle in
3 your same lane of travel during that trip back to
4 your house?

5 A. No, not that I know.

6 Q. At the time of the collision, did you
7 see anybody change lanes or anything like that?

8 A. No.

9 Q. So what would you say that the very last
10 thing you remember from the accident is?

11 A. Very last thing I remember is turning in
12 front of that car, beginning to turn.

13 Q. And as you were beginning that turn, how
14 far would you say the car was away from you?

15 A. I couldn't tell you.

16 Q. As you're beginning that turn, how fast
17 would you say that car was going?

18 A. I couldn't tell you.

19 Q. How fast were you going?

20 A. I wasn't going fast at all.

21 Q. While you were driving your bike that
22 day, were you tired at all?

23 A. No, huh-uh.

24 Q. Were you under any type of stress?

25 A. No, huh-uh.

1 Q. Was there anything abnormal about that
2 day?

3 A. No, huh-uh.

4 Q. Had you taken any medication that day?

5 A. No, huh-uh.

6 Q. Were you prescribed any medication?

7 A. No.

8 Q. Would you have drank any alcohol before
9 you rode your bike that day?

10 A. No.

11 Q. Would you have done any drugs before you
12 rode your bike that day?

13 A. No.

14 Q. On the day of the collision, you never
15 saw any of the damage to the vehicle or anything
16 like that, did you?

17 A. No, huh-uh. No.

18 Q. Do you know where your bike ended up
19 after the collision?

20 A. No.

21 Q. You mentioned that you saw some photos
22 of this accident; right?

23 A. Just recently.

24 Q. And are those photos from this lawsuit
25 that you saw?

1 A. I just saw a couple of photos. I
2 couldn't really look -- like look at all the photos.
3 I saw like two or three of them.

4 Q. Were you looking at them for the
5 purposes of this lawsuit?

6 A. No.

7 Q. And who was showing you photos?

8 A. My friend, Alex.

9 Q. How did Alex have photos of this
10 accident?

11 A. Because he took the pictures of it.

12 Q. Was he showing you these pictures on his
13 phone or on -- on what?

14 A. On my -- on my phone.

15 Q. So did he send you -- text you these
16 pictures?

17 A. Yes.

18 Q. What was in these pictures he texted
19 you?

20 A. The car and -- the car and myself, when
21 I was hit, laying on the ground.

22 Q. So you have photographs of you laying on
23 the ground after this collision?

24 A. Yes.

25 Q. Those photos are on your cell phone?

1 A. Yes.

2 Q. Have you turned those photographs over
3 to your attorney?

4 A. No.

5 Q. All right. I'm going to ask that you
6 please provide those photographs to your attorney so
7 he can provide those to us. Okay?

8 A. Okay.

9 (This page contains information to be
10 supplied by counsel and/or the deponent.)

11 BY MS. TOWLE:

12 Q. Do you have your cell phone with you
13 here today?

14 A. Yes, but I don't know whether those --
15 because I changed cell phones and I don't know
16 whether they got loaded on my cell phone or not.

17 Q. If possible at a recess of this
18 deposition, I would like you to look at your cell
19 phone and see if we have those photos with us in
20 case they're relelvant to this deposition. Okay?

21 A. Okay.

22 Q. How many pictures would you say you
23 looked at that your friend Alex gave you?

24 A. Two or three.

25 Q. When would you say that you looked at

1 these pictures with Alex?

2 A. Last week sometime.

3 Q. Why was last week the first time Alex
4 would have shown you these pictures?

5 MR. JEFFERIES: Object to the form of
6 the question.

7 BY MS. TOWLE:

8 Q. You can still answer.

9 A. Repeat the question.

10 Q. Why would last week have been the first
11 time Alex would have shown you these pictures.

12 A. Well, he --

13 MR. JEFFERIES: Same objection.

14 THE WITNESS: He wanted to show -- he
15 want to been showed me the pictures, but I just
16 didn't want to look at them; but he just. . .

17 BY MS. TOWLE:

18 Q. So before he showed those pictures last
19 week, did you know he had pictures related to this
20 accident?

21 A. Yeah, because he told me.

22 Q. When did he first tell you he had
23 pictures related to this accident?

24 A. Right after he saw me.

25 Q. When you say right after he saw you,

1 what time are you referring to?

2 A. When I was able to listen to him and
3 talk to him.

4 Q. So while you were still recovering from
5 the accident?

6 A. Uh-huh.

7 Q. Would that have been in the first couple
8 of months after the accident then?

9 A. Yes.

10 Q. Do you still see Alex often?

11 A. I don't really see him no more now.

12 Q. Did you see him much following the
13 accident?

14 A. Yeah, I seen him.

15 Q. How often did you see him immediately
16 following the accident?

17 A. About every day.

18 Q. And why would you see him every day?

19 A. I guess he wanted to check on me and see
20 how I was doing.

21 Q. Was he checking on you when you were at
22 the hospital?

23 A. I don't know nothing about the hospital.

24 Q. Was he checking on you when you were
25 recovering at your house?

1 A. I don't remember. I don't remember much
2 until I came through it.

3 Q. When did you come through?

4 A. I don't remember.

5 Q. You said that you don't see Alex as
6 often as you once did. When did you stop seeing
7 Alex as much?

8 A. He just stopped coming over.

9 Q. Do you know why he stopped coming over?

10 A. No.

11 Q. Do you have Alex's phone number?

12 A. He changed his number.

13 Q. When did he change his number?

14 A. I don't know.

15 Q. Are you saying you don't have his new
16 number?

17 A. No.

18 Q. How do you know he changed his number
19 and you don't have his new number?

20 A. Because I tried to call him one day and
21 the operator said that that number is not in
22 service.

23 Q. Have you seen him since that time you
24 tried to call him?

25 A. No, huh-uh.

1 Q. Do you know where Alex lives?

2 A. Yes.

3 Q. Where does Alex live?

4 A. In Winnsboro.

5 Q. Do you know where in Winnsboro Alex
6 lives?

7 A. I don't know the exact -- I don't know
8 the name of the road that they live on.

9 Q. And do you know anything about the area
10 in Winnsboro Alex lives at, other than it being in
11 Winnsboro?

12 A. They live down on Winnsboro Road. You
13 got to go straight down Winnsboro Road. That's all
14 I know.

15 Q. You know any landmarks near his home or
16 anything like that?

17 A. No. Nothing but woods.

18 Q. Do you know what his house looks like?

19 A. Yeah, uh-huh.

20 Q. What's his house look like?

21 A. It's a little shack back in the woods.

22 Q. What color is the shack in the woods?

23 A. I don't know. I done forgot.

24 Q. Who does Alex live with?

25 A. By hisself.

1 Q. How old would you say Alex is?

2 A. About in his '50s.

3 Q. Do you know if Alex has any type of job
4 in the area?

5 A. No, huh-uh.

6 Q. Do you know anyone that Alex still
7 socializes with in the area?

8 A. I guess he socialize with his neighbor
9 that live next door to him.

10 Q. Does Alex go to your church or anything?

11 A. No, huh-uh.

12 Q. Do you know if Alex goes to church?

13 A. I don't know what church he go to. He
14 might visit church to church.

15 Q. So other than the photographs that Alex
16 sent you from the accident, have you seen any other
17 photographs from the accident?

18 A. No, huh-uh.

19 (Off-the-record conference.)

20 (DFT. EXH. 1, Photographs Bates Stamped
21 Def-172, 176, 180 and 194, was marked
22 for identification.)

23 BY MS. TOWLE:

24 Q. Mr. Jones, I just handed you what was
25 marked as Exhibit 1. There's a Bates label at the

1 bottom that says Def-172 on the first page, 176 on
2 the second page, 180 on the third page, and 194 on
3 the fourth page. Do you see that?

4 A. Uh-huh.

5 Q. These are some photographs that we have
6 from immediately following the accident. Looking at
7 the first photo --

8 A. I don't have the rest of them.

9 Q. What did you say, sir?

10 A. I don't have rest of them here. All I
11 have is these.

12 Q. Those are all the photos. That's what
13 I'm referencing, sir.

14 A. Oh.

15 Q. Looking at the first photo, do you
16 recognize either one of those cars in that picture?

17 A. No, huh-uh.

18 Q. And do you recall seeing either one of
19 those cars on the day of the accident?

20 A. No, huh-uh.

21 Q. Do you recognize the bicycle?

22 A. Yeah. That's the bike I was riding.

23 Q. Do the cars in these photos look like
24 the cars that were in the photos that Alex showed
25 you?

1 A. Yeah, uh-huh.

2 Q. Now, looking at the first photo,
3 Defendant's 172 of Exhibit 1. The vehicle in that
4 photo on the left side. Looking at that vehicle, is
5 it in the proper lane of travel?

6 A. I don't know which way the car is
7 coming.

8 Q. So we're looking at the vehicle from the
9 front. Looking at that vehicle from that direction,
10 does it looks like the vehicle would be traveling in
11 the right lane?

12 A. Yeah.

13 Q. And would the right lane that it's
14 traveling in be the proper lane of travel?

15 A. Yeah, uh-huh.

16 Q. And your bicycle in that photo, it's
17 also in that same lane; right?

18 A. Yeah, uh-huh.

19 Q. Your bicycle is immediately in front of
20 that vehicle?

21 A. That's what it look like.

22 Q. Do you recognize any of the people in
23 that first photograph that I handed you? That's the
24 one marked 17 -- 172 at the bottom.

25 A. They're too far away. I can't see close

1 up.

2 Q. So looking at the people in those
3 photos, you can't -- you can't tell who those people
4 are?

5 A. No, not just looking at it right --
6 right now.

7 Q. And looking at the vehicles in those
8 photos, do you recognize any of those vehicles from
9 vehicles in the community?

10 A. No, huh-uh.

11 Q. Looking at the photo, Defendant's 180 of
12 Exhibit 1, the close up of your bicycle.

13 A. (Complying.)

14 Q. When you look at that photograph, are
15 you able to identify that as your bicycle that you
16 were riding on the day of the accident?

17 A. Yeah. Because that's my bicycle because
18 I bought it.

19 Q. The vehicle that's also in that
20 photograph, is that the vehicle that you remember
21 turning in front of?

22 A. No, I don't remember.

23 Q. You have some memory of a vehicle that
24 you turned in front of. Can you say for certain if
25 that was a different vehicle?

1 A. I don't remember.

2 Q. So when you were referring to a vehicle
3 earlier that you turned in front of, is it possible
4 that you were remembering this vehicle pictured in
5 this photograph?

6 MR. JEFFERIES: Object to the form of
7 the question.

8 THE WITNESS: I don't remember.

9 BY MS. TOWLE:

10 Q. Now, looking at a picture of that
11 vehicle from behind, that's Defendant's 194 of
12 Exhibit 1. If you'd take a look at that photograph
13 with me, the picture of the car from behind.

14 A. Uh-huh.

15 Q. Now, looking at that picture, is that
16 vehicle in the right lane of travel?

17 A. It's in the right lane. Yeah. I would
18 say it was -- it is.

19 Q. It is in the right-hand lane?

20 A. Yeah.

21 Q. And the right-hand lane is the proper
22 lane for a vehicle to be traveling; right?

23 A. I would say it is.

24 Q. So that's a yes?

25 A. Yes.

1 Q. And based on all the photos that I
2 handed you in Exhibit 1, your bicycle is immediately
3 in front of that vehicle; correct?

4 A. Yes.

5 Q. And after looking at all of those
6 photographs, you can't tell me who any of the people
7 in those photos are, can you?

8 A. Not just by looking at them like that,
9 no. Not by just looking at it like that, I can't
10 tell you. When I look at it like that, I can't tell
11 you.

12 Q. That's all the questions I have about
13 that, those photos. Okay? So after the collision,
14 you mentioned that you had a heavenly experience.

15 A. Uh-huh.

16 Q. When is the next thing that you remember
17 after that heavenly experience?

18 A. Like I said, I woke up with my hand lift
19 up in the air in my living room in a bed, in a
20 hospital bed, I guess. I woke up with my hand lift
21 up in the air. That's all I remember.

22 Q. After you woke up with your hand in the
23 air in your living room, do you -- did you have any
24 other type of memory issues from that point forward?

25 A. As in?

1 Q. You mentioned that you didn't remember
2 what happened at the hospital or anything before
3 when you woke up; is that correct?

4 A. Yeah. I don't know whatever happened
5 after that. Don't know what -- what went on.

6 Q. After you woke up with your hand in the
7 air in your hospital bed at home, do you remember
8 all the events that happened after that?

9 A. After I had my hand lift up?

10 Q. Yes, sir.

11 A. Not completely.

12 Q. Do you know how long after the accident
13 it was that you woke up in your hospital bed at
14 home?

15 A. Excuse me?

16 Q. The first time you woke up after your
17 heavenly experience at home, do you know how long
18 after the accident that was?

19 A. No, huh-uh.

20 Q. Do you know who called 911 after the
21 accident?

22 A. No.

23 Q. Have you ever spoken after this accident
24 to Ms. Robinson, the defendant in this case?

25 A. No, I hadn't seen her.

1 Q. Did you know her prior to this accident?

2 A. I know of her.

3 Q. How did you know of her?

4 A. Through her brother.

5 Q. Who's her brother?

6 A. He was riding in the car with her, as he
7 said he was.

8 Q. What is her brother's name? Do you
9 know?

10 A. I can't remember his name.

11 Q. Did you know her brother from the
12 community?

13 A. Yes, uh-huh.

14 Q. Where had you met her brother before?

15 A. Well, he used to work at the store that
16 I used to go to all the time.

17 Q. What store is that?

18 A. Walmart. And, now, he's working at
19 Sam's. Last time I knowed, he was working at Sam's
20 Club.

21 Q. So you had met him at Walmart and Sam's
22 Club before?

23 A. Uh-huh.

24 Q. Had you ever met Ms. Robinson before?

25 A. Yeah, uh-huh.

1 Q. Do you recall speaking to any responding
2 officers to the accident?

3 A. Huh-uh.

4 Q. Is that --

5 A. No.

6 Q. Did you ever speak with Michell Murray
7 after the accident?

8 A. Don't know who that is. No.

9 Q. Did you speak to any witnesses to this
10 accident afterwards?

11 A. No.

12 Q. Have you ever spoken publically about
13 this accident?

14 A. Not publically, no.

15 Q. Who have you talked to about this
16 accident, other than your attorneys?

17 A. Family, in-house family.

18 Q. So all the conversations you recall
19 about this accident have been at your house or your
20 family's house?

21 A. Uh-huh. Yes.

22 Q. Do you recall being transported by EMS
23 after the accident?

24 A. No.

25 Q. What injuries did you have as a result

1 of this accident?

2 A. I don't remember having no injuries; but
3 what I was told, I was -- I had broken legs. I was
4 just all messed up. My lungs, my -- everything just
5 messed up from the inside out, I was told.

6 Q. Do you know what surgeries you had to
7 have as a result of this accident?

8 A. They said -- I was told I had to have
9 monthly surgeries.

10 Q. Monthly surgeries on what?

11 A. On my legs, inside, outside.

12 Q. When you say you were told that you had
13 to have monthly surgeries on the inside and outside
14 of your legs, who told you that?

15 A. My wife.

16 Q. So was she telling you that you'd
17 previously had monthly surgeries before you woke up?

18 A. Yeah, before I woke up.

19 Q. You know about any other surgeries that
20 you may have had?

21 A. No.

22 Q. After you woke up, do you -- did you
23 have any other type of surgery?

24 A. Not that I'm aware of.

25 Q. When you first woke up after this

1 accident, were you in pain?

2 A. Yes.

3 Q. What type of pain did you have?

4 A. Hurting pain.

5 Q. Where were you hurting?

6 A. All over really.

7 Q. When you say you were hurting all over,
8 what do you mean? Can you describe that a little
9 bit for me?

10 A. Yes. From my -- from my stomach on down
11 to my legs.

12 Q. What type of pain were you having from
13 your stomach down to your legs?

14 A. Like somebody was hitting me with a
15 hammer or something.

16 Q. Were you able to move your legs at this
17 time?

18 A. No, not that I can recall.

19 Q. Could you move your arms?

20 A. Yes.

21 Q. Could you sit up?

22 A. Not at the present time. Not that I can
23 recall.

24 Q. Do you know how long it took before you
25 were able to sit up on your own?

1 A. No.

2 Q. Do you know how long it took before you
3 were able to stand?

4 A. No.

5 Q. Do you know how long it took before you
6 were able to walk?

7 A. No.

8 Q. Were you using a wheelchair at any time?

9 A. Yes.

10 Q. How long were you using a wheelchair?

11 A. About a month.

12 Q. When you say about a month, is that one
13 month after the time that you had woken up from --
14 in the bed at home?

15 A. Yes.

16 Q. After you were done using the
17 wheelchair, did you have to use any other type of
18 device to help you get around?

19 A. Yes. It was one of them mobile
20 wheelchairs. Then I went from the mobile wheelchair
21 to a walking stick, then from a walking stick to
22 walking on my own.

23 Q. How long did you use a walking stick
24 for?

25 A. About a month or two.

1 Q. Do you have to use a walking stick
2 anymore?

3 A. Not unless I have to.

4 Q. When you say not unless you have to,
5 what are some of the instances where you need to use
6 a walking stick?

7 A. If I feel -- if I feel that I'm wobbling
8 or something.

9 Q. How often does that happen?

10 A. Not very often.

11 Q. How many times a month would you say
12 that you have to use a walking stick?

13 A. About twice a month.

14 Q. What type of things are you doing where
15 you need to use the walking stick?

16 A. If I'm outside walking.

17 Q. So is it the type of ground you're
18 walking on or what makes you have to use it
19 sometimes?

20 A. When I walk a little bit too much, might
21 have to use it. So I got to limit my walking at
22 times.

23 Q. You say that you have to limit your
24 walking at times. About how far can you walk
25 usually where you don't have to use a walking stick?

1 A. I don't -- I don't count the miles or
2 whatever.

3 Q. Are there certain times you take the
4 walking stick with you and certain times you don't?

5 A. No. If I don't need it, I don't need
6 it.

7 Q. You mentioned that you had pain from
8 your stomach to your legs when you woke up. Any
9 other type of pain that you can describe to me that
10 you had following the accident?

11 A. Not that I can recall.

12 Q. How long did it take for that pain to
13 improve?

14 A. I still have it from time to time.

15 Q. What kind of pain do you still have from
16 time to time?

17 A. Like -- like somebody hitting me with a
18 hammer, a throbbing pain.

19 Q. Where do you have this throbbing pain?

20 A. In my hip.

21 Q. Is it a certain side of your hip?

22 A. On the left side of my hip where they
23 had to put the plate at.

24 Q. Any other part of your body still hurt
25 sometimes?

1 A. Yeah. Down there in my leg, where my
2 ankle at.

3 Q. What type of pain do you have around
4 your ankle?

5 A. Throbbing pain. In my leg, a throbbing
6 pain.

7 Q. When you say a throbbing pain in your
8 leg, is it just around your ankle or other parts of
9 your leg, too?

10 A. My leg, straight up and down my leg.

11 Q. Is it your entire leg?

12 A. Yeah.

13 Q. Is it just your left leg that you have
14 the pain from time to time?

15 A. It's where I had the surgery done.

16 Q. Anywhere else you still experience pain?

17 A. No, not -- what I told you.

18 Q. How often would you say that you
19 experience throbbing pain in your left hip?

20 A. If I lay on it too much and it get
21 cloudy and rainy.

22 Q. Any other circumstances where your left
23 hip begins to throb, other than laying on it too
24 much or it being cloudy and rainy?

25 A. No.

1 Q. How many times a month would you say
2 that you experience that left hip pain?

3 A. All the time.

4 Q. Have you had that pain today?

5 A. Yes.

6 Q. Did you have that pain yesterday?

7 A. Yes.

8 Q. If you were to rate your left hip pain
9 on a scale of one to ten, ten being the absolute
10 worse, what level of pain do you typically
11 experience in your left hip?

12 A. About a seven.

13 Q. The left leg pain that you have, how
14 often do you experience that pain?

15 A. Often.

16 Q. Does anything make that left leg pain
17 better?

18 A. If I take the pain medicine they give
19 me.

20 Q. How often do you take pain medicine?

21 A. When I need it.

22 Q. How often do you need it?

23 A. About once a week.

24 Q. What is that pain medicine that you take
25 about once a week?

1 A. What they -- I can't call the name of
2 it, but what the doctor prescribed me.

3 Q. Is it a prescription medication?

4 A. Uh-huh.

5 Q. Do you know what that prescription
6 medication looks like?

7 A. No.

8 Q. Do you know what doctor prescribed you
9 with that pain medication?

10 A. Well, now, Dr. Ashley is who I see now.

11 Q. What practice is that? What facility?
12 Do you know?

13 A. As in?

14 Q. What's the name of the doctor's office
15 that you go to?

16 A. It's the neighborhood doctor, right
17 around the corner from me.

18 Q. And you know the doctor as Dr. Ashley;
19 is that correct?

20 A. Dr. Ash.

21 Q. Ash? Do you know Dr. Ash's full name?

22 A. No, huh-uh.

23 Q. Is that a family doctor then? Primary
24 doctor?

25 A. Yeah.

1 Q. After you woke up at your home following
2 the accident, what type of treatment do you remember
3 getting for your injuries?

4 A. I don't remember.

5 Q. Do you remember any type of physical
6 therapy?

7 A. Huh-uh. No.

8 Q. Do you remember any other visits to the
9 hospital?

10 A. When I go to checkup, get the checkup.

11 Q. Where do you remember going for
12 checkups?

13 A. Richland Memorial.

14 Q. Do you remember how often you would go
15 to Richland Memorial for checkups?

16 A. Not right offhand.

17 Q. Do you still go to Richland Memorial for
18 checkups?

19 A. I go to Dr. Ash now.

20 Q. Do you know when the last time you were
21 seen at Richland Memorial would have been?

22 A. No, I couldn't tell you.

23 Q. Do you know if you've been at Rich --
24 been to Richland Memorial in the last year?

25 A. Yeah.

1 Q. Why do you say that?

2 A. Because they called me the miracle guy.

3 Q. When did they call you the miracle guy?

4 A. Every time they see me.

5 Q. Do you know how many times you would

6 have gone in the last year to Richland Memorial?

7 A. No, huh-uh.

8 Q. You said you know that you went there in

9 the last year. Would that have been at the

10 beginning of the year, towards the end of the year?

11 Do you know anything like that?

12 A. No, huh-uh.

13 Q. Anywhere else that you went to for

14 treatment after your accident?

15 A. Not that I know of.

16 Q. When did you start seeing Dr. Ash?

17 A. She's a family doctor. After I stopped

18 seeing -- after I stopped going to Richland

19 Memorial, I started going to Dr. Ash, a family

20 doctor.

21 Q. And do you know around what time that

22 would have been that you started going to see her?

23 A. No.

24 Q. This accident happened on June 7, 2017.

25 Would you have see Dr. Ash in 2017?

1 A. I don't know when I started seeing her.

2 Q. So you can't --

3 A. I don't know. I couldn't tell you the
4 date.

5 Q. So you can't tell me whether you started
6 seeing her in 2017 or 2018?

7 A. I can't tell you that right offhand.

8 Q. But were you seeing her by 2018 at
9 least?

10 A. I couldn't tell you the dates or the
11 time. Not without me asking questions, asking my
12 wife or somebody.

13 Q. So you don't know if you started seeing
14 her this year?

15 A. I would have to ask questions. I
16 wouldn't know.

17 Q. Any other treatment that we haven't
18 discussed that you had for your injuries that you
19 can recall?

20 A. No.

21 Q. And do you know how long you were
22 hospitalized after the accident?

23 A. No, huh-uh.

24 Q. As we sit here today, are you -- are you
25 all right? Would you like to get a drink of water

1 or anything?

2 A. I'm all right.

3 Q. All right. If you need to take a break
4 at any time, just let me know. Okay?

5 A. Uh-huh.

6 Q. As we sit here today, are you able to
7 walk now?

8 A. Yeah. Not -- not like I used to, but
9 I'm able to walk.

10 Q. Are you able to stand up on your own?

11 A. Yes.

12 Q. You able to kick your legs?

13 A. Kick them out? Yes, slowly.

14 Q. Other than Dr. Ash, are you seeing any
15 other medical professionals?

16 A. No.

17 Q. When was the last time you've been to a
18 doctor?

19 A. Had to go to Doctors Care for a sinus
20 cold because my doctor wasn't in.

21 Q. When was that?

22 A. About two weeks ago.

23 Q. Other than that visit, when was the last
24 time you had been to a doctor?

25 A. None.

1 Q. You don't know how long it had been?

2 A. I went to my doctor and, if my doc
3 wasn't there, I seen somebody in there, in the
4 facility where my doctor work at.

5 Q. Do you know when the last time you saw
6 Dr. Ash was?

7 A. About a week or two ago.

8 Q. When you go and visit Dr. Ash, are those
9 regular checkup visits, are they related to the
10 accident?

11 A. Both.

12 Q. And tell me what you go and see Dr. Ash
13 for then.

14 A. Regular checkups and about the accident.

15 Q. What has Dr. Ash prescribed to you?

16 A. She prescribes pain medicine and some
17 diabetic medicine. That's about it.

18 Q. When you say that you see her for
19 regular checkups and related to this accident, how
20 often would those visits be?

21 A. I would say about three or four times a
22 year.

23 Q. Do you have another visit scheduled at
24 this time?

25 A. Not unless she -- not unless she put it

1 down.

2 Q. Do you know of any doctor visits you
3 have scheduled right now?

4 A. No, huh-uh.

5 Q. Do you know of any treatment that you've
6 been recommended that you haven't done?

7 A. No, huh-uh.

8 Q. Have you been referred to any other
9 doctors?

10 A. Not right now.

11 Q. Have you ever had any injuries to your
12 leg prior to this accident?

13 A. No, not that I know of.

14 Q. You have any injuries to your hip prior
15 to this accident?

16 A. Not that I know of.

17 Q. Do you currently have any memory issues
18 related to this accident?

19 A. I forget things sometime. I forget
20 things.

21 Q. What do you mean you forget things from
22 time to time?

23 A. Like if I'm supposed to -- when I'm
24 supposed to do something, I forget what I was
25 supposed to do. Or if I did something, I got to go

1 back and ask them did I do it right or what did I
2 do, stuff like that.

3 Q. Had you had any of those types of issues
4 before the accident?

5 A. No.

6 Q. Have you talked to a doctor about these
7 memory issues?

8 A. Yes. They said come from the accident.

9 Q. Who told you that?

10 A. Dr. Ash.

11 Q. When did Dr. Ash say that these memory
12 issues came from the accident?

13 A. When?

14 Q. When were you told that?

15 A. When I was talking to her.

16 Q. Do you recall when that was?

17 A. No. I -- I can't recall what visit that
18 was.

19 Q. Did the doctor tell you if anything
20 could be done about this issue?

21 A. It'll have to be healed. Would have to
22 heal with time.

23 Q. Were you given any type of diagnosis
24 related to the memory issues?

25 A. Not that I know of. As I say, I forget

1 a lot, so things probably took -- things probably
2 took places that I don't remember.

3 Q. And you had never had any type of issue
4 with remembering things before this accident?

5 A. No, huh-uh.

6 Q. You ever have any type of issues with
7 confusion before the accident?

8 A. No, huh-uh.

9 Q. Any issues with delusion before the
10 accident?

11 A. No, no.

12 Q. You ever been treated for depression?

13 A. No.

14 Q. You ever suffered from depression?

15 A. No.

16 Q. Have you ever seen a therapist?

17 A. No.

18 Q. Any type of mental health care provider?

19 A. No.

20 Q. Had you ever been in any type of
21 accident before this?

22 A. Car accidents.

23 Q. Had you been in multiple car accidents
24 before this?

25 A. I wouldn't say multiple, but I'd say car

1 accidents.

2 Q. What car accidents do you recall being
3 in?

4 A. Say what car accidents that I. . .

5 Q. You mentioned that prior to this
6 accident you had been involved in another motor
7 vehicle accident; is that right?

8 A. Uh-huh.

9 Q. What motor vehicle accidents do you
10 recall being in?

11 A. All the vehicles probably I have cause
12 like -- it ain't been no big motor -- it ain't been
13 a big accident. Probably hit somebody or somebody
14 hit us or something like that that I can recall
15 right now.

16 Q. So you don't recall any serious car
17 accidents?

18 A. No, huh-uh.

19 Q. They'd just be fender bender type
20 accidents?

21 A. Uh-huh. Yes.

22 Q. Have you ever been in a car accident and
23 then transported by EMS or anything like that
24 before?

25 A. Not that I can recall right now.

1 Q. Since this accident that happened on
2 June 7, 2017, have you been in any car accidents?

3 A. Not that I can recall right now.

4 Q. You ever had any type of slip and fall
5 before?

6 A. Often.

7 Q. Did you have slip and falls before this
8 car accident that happened on June 7, 2017?

9 A. I probably have, but not that I can
10 recall right off the bat.

11 Q. Anything that would have caused any type
12 of emergency care, going to the ER or anything like
13 that?

14 A. Not that I can recall right now.

15 Q. Any type of falls that would have caused
16 you to go get medical attention after this accident?

17 A. Not that I can recall right now.

18 Q. Prior to this accident, had you ever
19 been hospitalized before?

20 A. Yes.

21 Q. What have you been hospitalized for?

22 A. I had surgery done down to my testicle
23 that I can remember.

24 Q. Other than that surgery, do you recall
25 any other hospitalizations?

1 A. Not that I can recall right now.

2 Q. Had you ever broken a bone before?

3 A. No. I fractured one.

4 Q. What did you fracture before?

5 A. My pelvis bone.

6 Q. When did you fracture your pelvis bone?

7 A. When I was in high school.

8 Q. How did you fracture your pelvis bone in
9 high school?

10 A. By running track.

11 Q. Did you have to have surgery on that?

12 A. No, huh-uh.

13 Q. What type of treatment did you have for
14 that fracture?

15 A. They just gave me a walking cane. The
16 canes they use to walk with and some pain medicine.
17 That was it.

18 Q. So was it a cane or a crutch that you
19 had?

20 A. Crutch. Crutch. They told me not to
21 run track no more.

22 Q. So other than treatment with pain
23 medicine and walking with a crutch for a little
24 while, did you have any other treatment for that
25 pelvis bone fracture?

1 A. No.

2 Q. Any other type of fractures that you've
3 had in the past?

4 A. Not that I can remember.

5 Q. Had you ever had any type of physical
6 therapy before this accident?

7 A. Huh-uh. No, not -- not -- not that I
8 can recall.

9 Q. You ever gone to a chiropractor before
10 this accident?

11 A. Yeah. When I got in the car accidents.

12 Q. How many times have you been to -- or
13 how many different accidents have you been to a
14 chiropractor for before this?

15 A. I think there were two or three that I
16 can recall.

17 Q. Do you know how long before the accident
18 it would have been that you had been to a
19 chiropractor?

20 A. No.

21 Q. You know if it would have been more or
22 less than five years prior to the accident?

23 A. More or less.

24 Q. Do -- do you know if it would be more
25 than five years prior to the accident the last time

1 you've been to a chiropractor?

2 A. Probably been more.

3 Q. How do your injuries currently affect
4 you today?

5 A. I can't do what I used to do.

6 Q. What can't you do?

7 A. I can't work like I used to do. I can't
8 walk like I used to do.

9 Q. What type of working limitations do you
10 have?

11 A. I can't -- I can't -- I can't lift up
12 what I used to lift up. I can't hold up what I used
13 to hold up. I can't move what I used to could move.

14 Q. You said that you can't lift up things
15 like you used to. When you try to lift up
16 something, what keeps you from being able to lift
17 it?

18 A. A pain in my left leg hurt me.

19 Q. So if you lift something that's too
20 heavy, it hurts your leg?

21 A. Uh-huh.

22 Q. Is that if you lift it with either arm
23 you have that type of pain?

24 A. Yes.

25 Q. How much would you say that you can

1 currently lift?

2 A. It'd have to be very little.

3 Q. What's something that you can give me an
4 example of that you used to be able to lift, but you
5 can't lift anymore now?

6 A. I used to go outside and lift up trees.
7 I would lift up bricks and logs and -- bricks and
8 logs and trees and tree logs and. . .

9 Q. So currently you can't lift up bricks
10 anymore?

11 A. No, huh -- no. Cannot.

12 Q. What were you lifting bricks, logs and
13 trees for prior to this accident?

14 A. Cleaning up around my house.

15 Q. So now what do you do to get those types
16 of things picked up?

17 A. I get my nephew or somebody to do it for
18 me now.

19 Q. And when you said that, were you
20 referring to Paris?

21 A. Yes. Paris Jones. Mostly Paris Jones.

22 Q. What other types of things do you have
23 to get help with now because of your injuries?

24 A. Cleaning up around my house and cleaning
25 up in my house.

1 Q. What type of inside clean up can you not
2 do anymore?

3 A. I can't -- I can't bend down completely
4 and get up under the bed like I used to.

5 Q. You weren't employed, making any type of
6 money at the time of the accident; right?

7 A. No.

8 Q. So you're not claiming any type of lost
9 wages from this?

10 A. No.

11 Q. Not claiming any type of missed
12 employment opportunities?

13 A. No.

14 Q. Other than the impact you told me about
15 cleaning up around the house and outside of the
16 house, any other type of impact that you have to
17 your everyday life from this accident?

18 A. I can't drive. I can't cook like I used
19 to. Well, they won't let me cook. And I can't
20 drive my car. They won't left me drive my car. The
21 doctor told me not to drive my car.

22 Q. Did you always drive before the
23 accident?

24 A. Yes.

25 Q. And you mentioned that your friend Alex

1 was coming over to your house and he was going to be
2 driving you guys that day. Why was Alex planning on
3 driving that day?

4 A. Because he drive all the time for us
5 when it's time for us to go to work.

6 Q. Alex was always the one that drove you?

7 A. Yes.

8 Q. Why was Alex the one that drove you?

9 A. Because he be the one that I work with.

10 Q. Why wouldn't you be the one driving?

11 A. Because I don't want to.

12 Q. Why wouldn't you want to?

13 A. Because I don't.

14 Q. You didn't really like driving?

15 A. No, I don't want to drive. I hire -- I
16 hire him to work for me, so he do as I instruct him
17 to do. And I instruct him to drive the car.

18 Q. Did you pay Alex?

19 A. Did I pay him? Of course.

20 Q. What type of stuff were you paying Alex
21 for?

22 A. For the work that he do.

23 Q. What type of work is that?

24 A. Whatever we do that day.

25 Q. How much would you pay Alex?

1 A. That between me and him.

2 Q. So you won't tell me how much you were
3 paying Alex?

4 A. No. That's between -- I don't think
5 that's necessary. That's between me and him.

6 Q. You understand that your deposition here
7 today, that I get to ask you any question and that
8 you are sworn to tell the truth under oath today;
9 right?

10 A. Yes.

11 Q. Are you refusing to answer the question
12 of what --

13 MR. JEFFERIES: I'm going to object.
14 It's im -- in what way is that possibly relevant to
15 the lawsuit in this case?

16 MS. TOWLE: Well, he just mentioned that
17 there was a witness to this accident that we might
18 be able to locate, that we might call as a witness.

19 MR. JEFFERIES: So that wage is relevant
20 how?

21 MS. TOWLE: If your client is paying
22 this person, I think that is relevant to this case.
23 That's why I'm asking.

24 MR. JEFFERIES: And you can ask the
25 witness when he comes.

1 MS. TOWLE: So you're -- you're allowing
2 your witness to refuse to answer that?

3 MR. JEFFERIES: Yeah. That's
4 confidential between he and that guy. If you never
5 find that guy, it -- it doesn't matter at all. If
6 we do find the guy -- I want to look for him, too.
7 If we find the guy, we can ask him what he made.
8 He's tell us, too.

9 MS. TOWLE: If your witness knows that
10 answer, I'm asking that question on the record
11 today. So are you going to ask for protection for
12 that?

13 MR. JEFFERIES: She's allowed to ask you
14 the question. If you remember, you probably need to
15 say it. If you don't remember it, you don't
16 remember, whatever. It's entirely up to you if you
17 want to answer the question.

18 THE WITNESS: The minimum -- the minimum
19 that I know that I normally I pay him, if he don't
20 do too much work, if he don't really do nothing, I
21 pay him like \$35 a day, 30 to \$35 a day.

22 BY MS. TOWLE:

23 Q. So you mentioned that when you're
24 working with Alex, he would drive you around. Other
25 days, were you driving your vehicle?

1 A. Yes.

2 Q. So how often would you say before the
3 accident you would drive?

4 A. If he ain't around, I drive myself
5 around.

6 Q. And how often would that have been prior
7 to the accident?

8 A. Every day if he ain't around.

9 Q. At the time of the accident, how often
10 was he around?

11 A. He comes around when -- at the time --
12 time before the accident, he came around every day.
13 And when he leaves and I got to go somewhere, I get
14 up and get in the car and go.

15 Q. Have you been able to drive at all since
16 this accident?

17 A. No.

18 Q. What doctor has specifically told you
19 that you cannot drive?

20 A. Dr. Ash.

21 Q. You also mentioned that you can't cook
22 anymore. Why can't you cook?

23 A. They won't let me. They won't allow me
24 to cook.

25 Q. Who won't allow you to cook?

1 A. At that time, my wife would not allow me
2 to cook.

3 Q. What -- did you cook before that?

4 A. Yes.

5 Q. What reason was it that you couldn't
6 cook anymore?

7 A. They told me I'm not allowed to cook
8 because of the accident. I might sit down and
9 forget something or forget I got it cooking. They
10 just wouldn't allow -- they just won't allow me to
11 cook right now.

12 Q. So it was memory issues that they were
13 worried about?

14 A. I don't know what they worried about,
15 but they won't allow me to cook right now.

16 Q. But other than potentially forgetting
17 that you're cooking something, you can't think of
18 any other reason why you can't cook?

19 A. Correct.

20 Q. Any other type of thing that you have
21 difficulty doing now because of the accident?

22 A. No, not -- not that -- not that I can
23 think of.

24 Q. Any type of future treatment that you
25 have planned because of the accident?

1 A. As in?

2 Q. Future medical treatment that you plan
3 to pursue as a result of the accident.

4 A. Medical treatment? No, huh-uh. No.

5 Q. Have you filed for any type of
6 disability as a result of this accident?

7 A. Yes.

8 Q. When did you do that?

9 A. What day? My wife and them handled
10 that. I don't know when they did it.

11 Q. Do you know if there was a finding of
12 disability?

13 A. I don't know. I don't know the outcome
14 of it, what they doing or whatever.

15 Q. When you say they're doing it, your wife
16 and who else are you referring to?

17 A. My wife and whoever else she had with
18 her, working with her. I don't know who that may
19 be, but I know she not doing it by herself. She
20 wasn't doing it by herself.

21 Q. So you mean she would have hired
22 somebody to help her out with that or do you mean
23 like friends would be helping her?

24 A. She may be asking the doctor, friends.
25 I don't know.

1 Q. Do you know if you ever actually filed
2 for disability?

3 A. I -- I haven't, but they doing it. I
4 don't know what they doing or how they doing it.

5 Q. Do you recall any paperwork or anything
6 like that that you signed?

7 A. Not yet.

8 Q. Am I correct that you don't have your
9 wheelchair anymore? Don't use that at all?

10 A. Huh-uh. No.

11 Q. You have a walker that you use at all?

12 A. No.

13 Q. You still have a cane?

14 A. Yes.

15 Q. Are you on Medicare or Medicaid?

16 A. I think I'm on Med -- I'm on Medicaid.

17 Q. Were you on Medicaid at the time of the
18 accident?

19 A. No.

20 Q. When did you get on Medicaid?

21 A. After the accident.

22 Q. What happened to your bike as a result
23 of the accident?

24 A. I don't know. It can't be driven no
25 more.

1 Q. You still have it?

2 A. I don't know where it is, tell you the
3 truth.

4 Q. Did you ever see it after the accident?

5 A. No.

6 Q. You know if you ever tried to pay for
7 any repairs or replacement of that bike?

8 A. No.

9 MS. TOWLE: I'm going to show you some
10 answers we've gotten in the discovery in this case.
11 (DFT. EXH. 2, Plaintiff's First Response
12 to Defendant Karen Robinson's First Set
13 of Interrogatories, was marked for
14 identification.)

15 THE COURT REPORTER: Defendant's 2.
16 BY MS. TOWLE:

17 Q. You've just been handed a document
18 labeled Defendant's 2, titled plaintiff's first
19 response to defendant Karen Robinson's first set of
20 interrogatories. Have you ever seen that document
21 before?

22 A. No, I haven't.

23 Q. All right. I want to walk through some
24 of these for you. So that you know, these are
25 questions that were sent, directed towards you by my

1 client, Karen Robinson, seeking some answers related
2 to this case. Okay?

3 Number 1. We asked you to list
4 witnesses related to this case. You listed
5 plaintiff, yourself, medical care providers, Linda
6 Jones, Michell Murray, police and first responders,
7 and my client, the defendant.

8 Are those all the witnesses that you
9 know related to this accident?

10 A. Yes.

11 Q. In response to Question 5, we asked you
12 about the medical costs that you incurred related to
13 this accident and you listed costs from the EMS,
14 Palmetto Health Richland Hospital, Dr. Luis, and Eau
15 Claire Cooperative Health Centers.

16 Is there any other costs that you know
17 of that you have incurred as a result of this
18 accident?

19 A. Not that I can know.

20 MR. JEFFERIES: Can we go off the record
21 for just a second?

22 THE VIDEOGRAPHER: We are off the record
23 at 2:59 p.m.

24 (Off-the-record conference.)

25 THE VIDEOGRAPHER: We are back on the

1 record at 3 o'clock p.m.

2 BY MS. TOWLE:

3 Q. All right, Mr. Jones. We just went on a
4 break and were discussing some of the medical
5 records I was asking you about. And I understand
6 that there could potentially be medical bills that
7 are related based on your visits to Dr. Ash.

8 MR. JEFFERIES: Lane Jefferies for the
9 plaintiff. That's correct. Dr. Ash, there may be
10 some others. There may be some other hospital
11 visits or whatever. These discovery requests are
12 obviously from September 2018. So if there's
13 anything that wasn't on here, we'll supplement on
14 that. If you want to re-depose him just as to those
15 additional medical bills, we're glad to make him
16 available for that.

17 (This page contains information to be
18 supplied by counsel and/or the deponent.)

19 MS. TOWLE: All right. So we do reserve
20 the right to re-depose the witness should more
21 information be disclosed regarding visits to Dr. Ash
22 or any other medical provider.

23 MR. JEFFERIES: That's correct and
24 re-depose him on those issues, not across the board.

25 MS. TOWLE: Of course.

1 MR. JEFFERIES: That's fine.

2 MR. TOWLE: All right. And then we'd
3 like to go off the record for a break at this time.

4 MR. JEFFERIES: Thanks.

5 THE VIDEOGRAPHER: This concludes Tape 1
6 of the deposition of Harland Jones. We are off the
7 record at 3:01 p.m.

8 (Off-the-record conference.)

9 (A recess transpired.)

10 THE VIDEOGRAPHER: This is the beginning
11 of Media 2 of the deposition of Harland Jones. We
12 are back on the record at 3:18 p.m.

13 BY MS. TOWLE:

14 Q. Mr. Jones, this is Monica Towle again.
15 I represent the defendant in this matter. I had
16 asked you a few questions about how your day-to-day
17 life has changed from this accident. Has your
18 sleeping patterns changed at all?

19 A. Yes.

20 Q. How has your sleep changed?

21 A. I can't sleep as -- as I used to could
22 sleep. I used to get in the bed and read a book and
23 go straight to sleep. Now, seems like I can't go to
24 sleep at all really. I be up half the night.

25 Q. Do you spend more or less time in the --

1 in the bed now after this accident?

2 A. More.

3 Q. How much more time are you spending
4 laying down after this accident?

5 A. I find myself laying in bed during the
6 daytime more than I need. Sometimes I just make
7 myself get up and go outside, because I -- I don't
8 want to lay in the bed all day.

9 Q. I handed you prior to our break your
10 responses to our first set of interrogatories. That
11 document is still in front of you. If you could,
12 please turn to Page 4 of Exhibit 2.

13 A. (Complying.)

14 Q. And I'm referencing Number 12. You
15 answered that you had at the time of these answers
16 an upcoming appointment with a neurologist. Do you
17 remember that visit with a neurologist?

18 A. No, I don't remember.

19 Q. Do you know if you ever went and saw
20 that neurologist?

21 A. Not that I can remember.

22 Q. Do you ever recall seeing a neurologist
23 as a result of this accident?

24 A. Not that I can remember.

25 Q. Now, I want to make sure I understand

1 your testimony about what you saw during the moments
2 leading up to the accident. You -- were you
3 traveling and your bicycle in the right lane at the
4 time of the accident?

5 A. Yes.

6 Q. You said that you lifted your arm and
7 you were about to turn left; right?

8 A. Correct.

9 Q. And you remember starting to turn left;
10 right?

11 A. Yes.

12 Q. And do you remember crossing over the
13 yellow lines into the next lane of traffic?

14 A. Not that I can remember. I remember
15 turning, leaning over to turn; but I don't, no.

16 Q. So you remember up and to the point that
17 you were leaning to turn?

18 A. Yes.

19 Q. You were leaning to turn in front of a
20 vehicle that was going in the opposite direction; is
21 that right?

22 A. Correct.

23 Q. And then your plan was then to cross the
24 double yellow lines into the other side of the road;
25 is that right?

1 A. Correct.

2 Q. But all you remember is up and to the
3 point where you were about to turn to cross those
4 yellow lines?

5 A. Correct.

6 Q. Now, I want to direct your attention to
7 your answer to Question 30 on Page 9. We asked you
8 to describe the accident referenced in the complaint
9 in a narrative detail. And your response was that
10 plaintiff was riding his bicycle, which plaintiff
11 did every morning. Defendant attempted to pass a
12 vehicle and defendant crossed over into plaintiff's
13 lane, striking plaintiff and causing plaintiff to
14 suffer serious injuries and property damage.

15 Did I read that correctly? Is that how
16 you read it?

17 A. Read it again.

18 Q. If you could follow along with me, the
19 answer to Question 30 on Page 9.

20 A. Uh-huh.

21 Q. I want to make sure that you're on the
22 right page, sir. Are you on the page that says nine
23 at the bottom of Exhibit 2?

24 A. That's correct.

25 Q. The top of the page. If you could flip

1 your page one page over.

2 A. (Complying.)

3 Q. And do you -- are you able to see this
4 document clearly?

5 A. No, not clearly.

6 Q. And what makes it difficult for you to
7 see this document?

8 A. Kind of blurry.

9 Q. And is it -- do you have some vision
10 issues that make it difficult to read it?

11 A. Well, I had vision difficulty all the
12 time; now I'm just having them even more now.

13 Q. Who is your eye doctor?

14 A. Was H. Rubin, but they done gone out of
15 business now.

16 Q. Who was that? I'm sorry.

17 A. Was -- I was seeing H. Rubin on Garners
18 Ferry Road.

19 Q. H. Rubin --

20 A. Yeah.

21 Q. -- on Garners Ferry?

22 A. Yeah. But they done gone out of
23 business now.

24 Q. When did they go out of business that
25 you recall?

1 A. I don't know how long.

2 Q. After you -- after they went out of
3 business, who you did start seeing for your eyes?

4 A. Well, I went to Walmart to look at some
5 glasses.

6 Q. Other than H. Rubin and Walmart, have
7 you been anywhere else for vision?

8 A. No.

9 Q. Which Walmart did you go to?

10 A. Right there on Garners Ferry Row --
11 Road.

12 Q. When is the last time you were seen at
13 the Walmart for your vision?

14 A. I just went there just to look at some
15 glasses. I didn't go to get checked. I made an
16 appointment, but I didn't make the appointment.

17 Q. So you have not been seen at the Walmart
18 by a doctor?

19 A. Huh-uh. No.

20 Q. So the only eye doctor that you have
21 seen is that at H. Rubin on Garners Ferry?

22 A. Correct.

23 Q. When is the last time that you recall
24 seeing H. Rubin?

25 A. Four or five years ago.

1 Q. So you have not had a vision checkup in
2 the last four or five years?

3 A. Correct.

4 Q. And when you did have that vision
5 checkup, were you prescribed glasses?

6 A. Correct.

7 Q. Has your vision changed at all since
8 that last prescription?

9 A. Not until after this accident.

10 Q. And what do you mean by that?

11 A. I mean, I was -- my vision didn't
12 change; but after this accident, like the vision is
13 kind of blurry now.

14 Q. Have you spoken to any doctors about
15 blurry vision?

16 A. Not yet. That's why I went to Walmart.

17 Q. When was it that you went to that
18 Walmart looking at glasses?

19 A. About two weeks ago.

20 Q. You ever talked to Dr. Ash about vis --
21 vision issues?

22 A. Yes.

23 Q. What has Dr. Ash told you about your
24 vision?

25 A. She said maybe I needed to go see an eye

1 doctor.

2 Q. Were you told that before the accident?

3 A. No.

4 Q. So no doctor before the accident told
5 you you needed to go see an eye doctor?

6 A. Not Dr. Ash.

7 Q. You say not Dr. Ash. Was there another
8 doctor?

9 A. No, no other doctor.

10 Q. All right. I think you got turned to
11 the right page on there. I was talking to you about
12 Question 30. We asked you to explain the accident
13 in detail and you said, plaintiff was riding his
14 bicycle, which plaintiff did every morning.
15 Defendant attempted to pass a vehicle and defendant
16 crossed over into plaintiff's lane, striking
17 plaintiff and causing plaintiff to suffer serious
18 injuries and property damage.

19 Now, when did you see defendant attempt
20 to pass a vehicle? Did you see that?

21 A. The defendant?

22 Q. I represent the defendant in this case,
23 Ms. Robinson. Did you see her vehicle at -- at all
24 prior to the accident? Do you recall ever seeing
25 her vehicle?

1 A. No.

2 Q. Do you recall seeing any vehicle attempt
3 to make a pass around another vehicle while you were
4 riding your bike?

5 A. No.

6 Q. So do you know why that would be the
7 answer that you provided in discovery?

8 MR. JEFFERIES: Object to the form of
9 that question.

10 BY MS. TOWLE:

11 Q. You still need to answer.

12 MR. JEFFERIES: I'm going to instruct
13 him not to answer because he -- he didn't write that
14 answer. We wrote that answer. And anything he
15 would know about it, he knows from talking to his
16 attorneys. I'd point out to you that it does not
17 say describe what you eye witnessed. It says,
18 describe how the accident referred to in the
19 complaint happened. So it necessarily will contain
20 things other than what he witnessed with his own
21 eyes.

22 MS. TOWLE: And I understand that. The
23 rules actually prescribe the interrogatories be
24 answered by the party, not the party's attorneys.
25 So I'm trying to make sure, since these are supposed

1 be his answers, the facts that form the basis of it.
2 I can re-read the full question if that makes you
3 more comfortable, but --

4 MR. JEFFERIES: You can absolutely ask
5 him --

6 MS. TOWLE: So what are you specifically
7 saying that you are instructing your witness not to
8 answer?

9 MR. JEFFERIES: What I'm telling him is
10 he can't speculate about how those words got on that
11 sheet of paper and he can't talk about what he and I
12 discussed.

13 MS. TOWLE: Okay.

14 MR. JEFFERIES: But if you want to find
15 of this he actually witnessed with his own eyes,
16 which I think you've already done; but if you want
17 to go over it again, absolutely.

18 MS. TOWLE: I want to ask him --

19 MR. JEFFERIES: If he saw it.

20 MS. TOWLE: -- why he answered this way
21 because this is his answer he provided. And you're
22 telling me that if I ask him why he answered it this
23 way --

24 MR. JEFFERIES: That gets into
25 attorney/client privilege stuff. You can't -- he's

1 not going to answer that.

2 MS. TOWLE: This is an answer from a
3 party. Are you saying that that's not what Rule 33
4 prescribes, that this is the answer from the party?

5 MR. JEFFERIES: Listen, we can debate
6 this all day long. I'm telling you I'm not -- I'm
7 instructing him not to answer a question --

8 MS. TOWLE: I'll rephrase.

9 MR. JEFFERIES: -- that relates to the
10 advice I gave him. If you want to ask him about
11 what of this --

12 MS. TOWLE: I'll rephrase.

13 MR. JEFFERIES: -- he saw, you're free
14 to ask him that.

15 BY MS. TOWLE:

16 Q. Without going into the conversations
17 that you had with your attorney or anything that
18 your attorney wrote, in describing this accident,
19 can you say whether the defendant attempted to pass
20 a vehicle on the day of the accident?

21 A. I didn't see her.

22 Q. Do you have any reason, other than what
23 you've talked to with your attorney, to believe that
24 the defendant attempted to pass another vehicle?

25 A. I didn't see her.

1 Q. Do you know of any witness that saw her?

2 A. No.

3 Q. So do you have any reason to believe
4 that the defendant attempted to pass a vehicle?

5 A. No, I -- I don't have no reason.

6 Q. Did you see the defendant cross over the
7 yellow line into the opposite lane of travel?

8 A. I didn't see her do anything.

9 Q. Do you know of any witness that saw the
10 defendant cross over the yellow line into the
11 opposite lane of travel?

12 A. I was told.

13 Q. Who told you that?

14 A. Alex.

15 Q. Where was Alex at the time of the
16 accident?

17 A. He was looking down the street at me.

18 Q. So you are saying that Alex witnessed
19 this accident from your house?

20 A. Yes.

21 Q. He was standing at your house at the
22 time of the accident?

23 A. Yes.

24 Q. Standing at your house, can you see the
25 area where the accident took place?

1 A. Yes.

2 Q. I'd like to refer you to Exhibit 1 that
3 I entered previously. These are photographs from
4 the scene of the accident. Can you see your home
5 from any of these photographs?

6 A. No.

7 Q. So how from your home would you be able
8 to see this area where the accident took place?

9 A. You could stand out there in front of my
10 house and look down the street.

11 Q. So standing out in front of your house,
12 where would you have to be standing?

13 A. Out in front of my house.

14 Q. Would you be in your yard, on the side
15 of the road? Where would you have to stand to be
16 able to see this area?

17 A. Come outside the gate. Come outside to
18 the road.

19 Q. In looking at those photographs, can you
20 tell me where your house is on those photographs?

21 A. Down the street.

22 Q. Can you circle any area of any of those
23 photographs where your house is?

24 A. I can't tell you one way or another.
25 It's close.

1 Q. Do you know where your house is from
2 this area looking at these photos?

3 A. If I tell you, I'd be wrong. So I don't
4 want to be wrong, but it's on that road.

5 Q. When did you talk to Alex about this
6 accident, when he told you what he saw?

7 A. When I came through, completely through.

8 Q. When did Alex tell you that he witnessed
9 this accident?

10 A. When I came completely through.

11 Q. When you were asked about witnesses to
12 this accident, why have you never mentioned Alex?

13 A. Excuse me?

14 Q. In discovery, we asked you for a list of
15 all the witnesses to this accident. Alex was not on
16 that list. Do you know why?

17 A. I couldn't tell you.

18 Q. Previously I went over Question 1 with
19 you, listed out all the witnesses. You told that
20 was all the witnesses you knew.

21 A. I tell you, I forget from time to time.
22 I tell you, my memory.

23 Q. So other than what you say Alex
24 witnessed, what evidence do you have that the
25 defendant ever crossed into your lane of travel?

1 A. What they told me.

2 Q. When you say they told you, who are you
3 referring to?

4 A. From what Alex told me.

5 Q. Can you tell me precisely what Alex told
6 you about what he saw?

7 A. He told me that he saw the car when it
8 came across the line when I was turning. That when
9 I was turning, the car came, the car hit me cause it
10 came past the double line to pass the other cars,
11 speed up to get in front of the other cars. Then he
12 said, when I went to go make my turn, the car had
13 hit me. That's all I can remember him telling me.

14 Q. But you acknowledge in those photos, the
15 car is not across the double lines; right?

16 A. Excuse me?

17 Q. The position of the car in the
18 photographs of Exhibit 1 is on the correct side of
19 the road, not across the double lines; right?

20 A. I don't know whether that's the car or
21 not. I told you, I don't know whether that's the
22 car or not.

23 Q. So you do not know is that's the car
24 that hit you?

25 A. Yeah. I can't.

1 Q. Looking at the photo that's a close up
2 of your bike, that's Defendant 180 of Exhibit 1, can
3 see the dent that is in the windshield of that
4 vehicle?

5 A. From what he showed me, the car was
6 messed up more than that.

7 Q. Do you see that that vehicle is damaged?

8 A. When he showed me, the car was messed up
9 more than that.

10 Q. What do you mean?

11 A. The front of the car was messed up more
12 than that.

13 Q. So are you saying that you don't believe
14 that this is the vehicle that hit you?

15 A. I don't know. The car -- from what he
16 showed me, the car was messed up more than that.

17 Q. And what who showed you?

18 A. Alex.

19 Q. And that's from the pictures that he
20 texted you on your phone?

21 A. Yes.

22 Q. Looking at the picture that we have from
23 discovery, this vehicle that is in that photo is on
24 the correct side of the road and not across the
25 yellow lines; is that correct?

1 A. Correct.

2 MR. JEFFERIES: In other words, these
3 aren't all the pictures shown. You sent us this
4 one, too. (Indicating.) This might be the one he
5 was looking at which shows the damage --

6 MS. TOWLE: And you'll have an
7 opportunity to ask him any questions --

8 MR. JEFFERIES: Well, I --

9 MS. TOWLE: -- you'd like, but right now
10 I'm asking him questions about these photos so --

11 MR. JEFFERIES: Well, Ms. Towle, let's
12 be fair. Let's not mislead the witness.

13 MS. TOWLE: I'm not misleading the
14 witness. If you'd like to ask him questions, you'll
15 have your opportunity.

16 MR. JEFFERIES: I appreciate that.
17 Thank you.

18 BY MS. TOWLE:

19 Q. Looking at the photographs that we have
20 that I have shown you, that vehicle is on the
21 correct side of the road, not across the yellow
22 lines?

23 A. At the present time.

24 Q. So that's a yes, at that time?

25 A. At that time.

1 Q. The next question that you answered in
2 discovery to Question 31. You provided a series of
3 events that you said lead to the cause of the
4 accident. I wanted to walk through those with you.
5 To (a), you said in failing to keep a proper lookout
6 while operating her vehicle then and there existing.

7 What evidence do you have that the
8 defendant failed to keep a proper lookout?

9 A. What evidence do I have that she failed
10 to keep a proper lookout?

11 Q. Yes.

12 A. I don't have any evidence. She hit me.

13 Q. But you did not -- you do not recall
14 seeing her; correct?

15 A. No, huh-uh. That's what I was told.

16 Q. So other than Alex, who told you
17 anything -- and your attorney, who told you anything
18 about the events that took place during the
19 accident?

20 A. Correct.

21 Q. Just Alex?

22 A. Correct.

23 Q. I want to show you some amendments that
24 you made to these responses.

25 (DFT. EXH. 3, Plaintiff's Amended

Responses to Defendant's First Set of Interrogatories, was marked for identification.)

THE COURT REPORTER: Defendant's 3.

BY MS. TOWLE:

Q. I've just hand you what's been marked as Defendant's 3.

MR. JEFFERIES: Have a copy of three?

MS. TOWLE: I just thought I handed you one.

MR. HARRELL: That's three.

BY MS. TOWLE:

Q. Have you ever seen this document before?

A. No, I haven't.

Q. In this document, some answers were changed to -- for your response to Number 6 and Number 8 of the original interrogatories. Your original answer to 6 stated, when asked, please provide a detailed explanation of the plaintiff's alleged physical disability, if any, as a result of the incident in question.

You originally stated, among other things, plaintiff is bound permanently to a wheelchair, has severe memory loss and can no longer take care of himself as a result of the accident.

1 That was then amended to say, plaintiff has a
2 wheelchair and a walker to assist him as needed.
3 Plaintiff suffers from severe memory loss and can no
4 longer take care of himself.

5 Do you know what caused you to change
6 your answers to your interrogatories?

7 A. My change -- my change of response, me
8 taking care of myself.

9 Q. So at the time that you originally
10 answered discovery responses, were you permanently
11 bound to a wheelchair?

12 A. I couldn't take care of myself at the
13 time. At the first time, I couldn't take care of
14 myself.

15 Q. The first document I handed to you was
16 your original answers to discovery dated September
17 28, 2018. At that time, were you permanently bound
18 to a wheelchair?

19 A. Yeah. I couldn't take care of myself.

20 Q. So your testimony today is that, from
21 the time of the accident until September 28, 2018,
22 you were permanently bound to a wheelchair?

23 A. I don't know the time or the date, but I
24 know I couldn't take care of myself for a while.

25 Q. How long were you permanently bound to a

1 wheelchair?

2 A. I don't know how long. You really would
3 have to ask the doctor and my lawyer and all that
4 for all that because I don't know.

5 Q. So you don't know why your answer
6 changed to at one point saying you were permanently
7 bound to a wheelchair?

8 A. I know I was at one point in time.

9 Q. And you also stated now that you have a
10 wheelchair and a walker to assist as needed. Has
11 that since changed?

12 A. No. When I need it, I need to get it.

13 Q. But you no longer use a wheelchair, do
14 you?

15 A. No.

16 MS. TOWLE: I'd like to go off the
17 record for a minute.

18 THE VIDEOGRAPHER: We are off the record
19 at 3:43 p.m.

20 (Off-the-record conference.)

21 THE VIDEOGRAPHER: We are back on the
22 record at 3:44 p.m.

23 MS. TOWLE: I'd like to hand you your
24 answers to our second set of interrogatories.

25 There's a copy for you.

1 (DFT. EXH. 4, Plaintiff's Answer to
2 Defendant's Second Set of
3 Interrogatories, was marked for
4 identification.)

5 THE COURT REPORTER: Defendant's 4.

6 BY MS. TOWLE:

7 Q. You've just been handed Defendant's 4,
8 that's plaintiff's answers to defendant's second set
9 of interrogatories. And I'd like to ask you about
10 those answers that you provided on November 7, 2018.
11 The first question asked to you is to state the full
12 name and address and contact information, including
13 telephone number and e-mail address, of the
14 witnesses and/or witnesses referenced in Page 2 --
15 or Paragraph 2, Page 5 of plaintiff's notice of
16 motion and motion to dismiss and memorandum and law
17 thereof.

18 For reference, you specifically asserted
19 to the Court, discovery in this case is expected to
20 reveal witnesses to the events giving rise to the
21 subject motor vehicle collision who believe
22 defendant was speeding, that the defendant was not
23 paying attention to the roadway at the time of the
24 collision and/or that defendant attempted to
25 unlawful pass a vehicle immediately in front of her

1 at the time she, defendant, unlawful caused
2 plaintiff to strike defendant's vehicle.

3 Your response to that was none. Is that
4 still your response or is that response correct?

5 A. What are you trying to ask me?

6 Q. We asked you to provide us any witnesses
7 who could say that the defendant was speeding, not
8 paying attention to the roadway or attempting to
9 pass another vehicle at the time of the collision as
10 that was what was represented to the Court. When
11 asked, you said none.

12 Are there any witnesses that you know of
13 that could testify that the defendant was not paying
14 attention, that she was speeding or that she was
15 unlawfully attempting to pass a vehicle?

16 A. Yeah. I mean, she was unlawfully --
17 trying to unlawfully pass a vehicle when she crossed
18 the double line.

19 Q. And who -- what witnesses do you have to
20 support that?

21 A. Alex.

22 Q. And is there any reason that, when we
23 asked you to provide that answer to interrogatories,
24 you never provided Alex name?

25 A. As I tell you, he could tell you more

1 than I can tell you. And at that time, my memory
2 was messed up. For a minute there, my memory was
3 messed up, so I couldn't really answer that with my
4 memory messed up.

5 Q. You knew that Alex was a witness to this
6 accident immediately following the accident; right?
7 You spoke with him?

8 A. Yes. He told me after I came through.

9 Q. And that was a couple of months after
10 the accident?

11 A. Yeah.

12 Q. And so you knew a couple of months after
13 the accident that Alex witnessed this; right?

14 A. That's what he told me.

15 Q. And he -- you say that he told you that
16 the defendant crossed the double yellow line a
17 couple of months after the incident; right?

18 A. Yes.

19 Q. So why, when we asked you in discovery
20 in November of 2018, did you say that there were no
21 witnesses to that?

22 A. He had to be a -- I don't know because I
23 told my memory is messed up.

24 Q. So you're not sure why Alex's name was
25 not provided in discovery?

1 A. I can't tell you right now at this point
2 in time.

3 MS. TOWLE: I believe that's all the
4 questions I have at this time, but if you can just
5 give me a moment to go off the record and then I'll
6 confirm back on the record.

7 MR. JEFFERIES: Sure.

8 THE VIDEOGRAPHER: We are off the record
9 at 3:49 p.m.

10 (A recess transpired.)

11 (Off-the-record conference.)

12 THE VIDEOGRAPHER: We are back on the
13 record at 3:53 p.m.

14 BY MS. TOWLE:

15 Q. Mr. Jones, we previously discussed some
16 photographs that you may have on your phone. And
17 during the break, you looked through your phone and
18 am I correct that you were unable to find
19 photographs on the phone that you have with you
20 today?

21 A. Correct.

22 Q. And I discussed this with your attorney
23 and I understand that you will be attempting to find
24 those photographs on your other phone?

25 A. Correct.

1 Q. And if you find those photographs, you
2 will turn those over to your attorney?

3 A. Correct.

4 MR. JEFFERIES: He will. And assuming
5 he finds them, we'll make him available for a
6 deposition focused on those photographs. I can't
7 guarantee that he'll find them; but if he finds
8 them, we'll get them to you and open it back up for
9 you.

10 MS. TOWLE: So we reserve the right
11 should any photographs be subsequently produced in
12 discovery to re-notice the deposition and ask him
13 about those photographs produced, as well the -- any
14 medical records or bills that we discussed before.

15 MR. JEFFERIES: Absolutely. Those two
16 areas.

17 MS. TOWLE: All right. That is all the
18 questions I have at this time. Thanks you, Mr.
19 Jones.

20 EXAMINATION

21 BY MR. JEFFERIES:

22 Q. Mr. Jones, I have just a few follow-up
23 questions for you. The defendant in this matter,
24 Karen Robinson, do you know Karen Robinson?

25 A. Not right off the bat.

1 Q. Is she -- are you related to her in any
2 way?

3 A. No.

4 Q. Is she your wife's cousin?

5 A. No.

6 Q. Is she your cousin?

7 A. No.

8 Q. Okay. Defense counsel asked, when she
9 showed these photos marked Defendant's 180, 194,
10 172, and 176, if you could see your house in the
11 photos and you said, no, you could not see your
12 house in the photos. Do you remember that?

13 A. Correct.

14 Q. Now, in the photos, there's -- for
15 instance, in 194, there's a police car parked in the
16 middle of the road and some other cars parked at the
17 side. Do you agree with that?

18 A. Uh-huh.

19 Q. And in 172, I don't know if that's an
20 ambulance. There's some kind of white vehicle with
21 a red light on it parked there and some other cars
22 parked all the way across the road. Do you see
23 that?

24 A. Uh-huh.

25 Q. All right. The date of the wreck, were

1 there a bunch of police cars and ambulances parked
2 all the way across the road when you got hit?

3 A. I don't remember. I don't -- I didn't
4 see nothing. I don't remember.

5 Q. You didn't see any police cars or
6 anything?

7 A. I don't remember nothing.

8 Q. All right. So could it be that the
9 reason you can't see your house in this picture is
10 there's a bunch of cars parked halfway across the
11 picture here?

12 MS. TOWLE: Object to the form.

13 BY MR. JEFFERIES:

14 Q. That if they weren't there, maybe you
15 could see your house?

16 A. Probably so, yeah.

17 Q. When you rode down the road on your
18 bicycle, you were looking ahead of you, I take it?

19 A. Yes.

20 Q. Were you looking behind you for any
21 reason?

22 A. No. I didn't have no reason to look
23 behind.

24 Q. And you don't have any mirrors on your
25 bike that let you look behind you?

1 A. No.

2 Q. Okay. You've said you were told that
3 Defendant Karen Robinson hit you?

4 A. Yes.

5 Q. And that turned out to be right? Did
6 you know that Karen Robinson agrees that she's the
7 one that hit you?

8 A. Yes.

9 MS. TOWLE: Object to the form.

10 MR. JEFFERIES: What's wrong with the
11 form of that question.

12 MS. TOWLE: It was compound. You asked
13 two questions. You said and that turned out to be
14 right and then the other question, so I was
15 objecting to the form.

16 MR. JEFFERIES: I'll try again.

17 Q. Did you know that Karen Robinson agrees
18 that she hit you?

19 A. Yes.

20 Q. Okay. So that's not really in dispute,
21 is it?

22 A. No.

23 MR. JEFFERIES: All right. That's all I
24 have.

25 EXAMINATION

1 BY MS. TOWLE:

2 Q. I have one further thing I want to
3 clarify looking at those photographs. Is it your
4 testimony that, if a photograph was taken from this
5 same angle, but there were not police or first
6 responders there, that your house would be visible
7 from that angle?

8 A. That what he asked me.

9 Q. But is that what your testimony is?

10 A. I didn't say. I said I couldn't tell
11 you. I could answer that question because I don't
12 know.

13 Q. So you don't know if your house is
14 beyond those vehicles?

15 A. I couldn't tell you.

16 MS. TOWLE: That's all I have.

17 MR. JEFFERIES: That's all I have.

18 THE VIDEOGRAPHER: This concludes this
19 deposition of Harland Jones. We are off the record
20 at 3:57 p.m.

21 (The witness, after having been advised
22 of his right to read and sign this transcript,
23 waives that right.)

24 (The deposition was concluded at 3:57
25 p.m.)

CERTIFICATE OF REPORTER

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I, Wanda K. Cecil, Certified Court Reporter and Notary Public for the State of South Carolina at Large, do hereby certify that the foregoing transcript is a true, accurate, and complete record.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 13th day of March, 2019 at Columbia, Richland County, South Carolina.



Wanda K. Cecil

Wanda K. Cecil
Certified Court Reporter
My Commission expires
December 28, 2026

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South Carolina Rules of Civil Procedure

Part V. Depositions and Discovery

Court Rule 30

(e) Submission to Witness; Changes; Signing.

When the testimony is fully transcribed the deposition shall be submitted to the witness for examination and shall be read to or by him unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness within 30 days of its submission to him, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed unless on a motion to suppress under Rule 32(d)(4) the court holds

that the reasons given for the refusal to sign
require rejection of the deposition in whole or in
part.

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Exhibit

ELECTRONICALLY FILED - 2019 Jul 08 9:13 AM - RICHLAND - COMMON PLEAS - CASE#2018CP4001518

From: Brett Bayne brett.bayne@mgclaw.com 
Subject: Harland Jones vs. Karen Robinson (Claim No.: 0459413365)
Date: May 10, 2019 at 11:12 AM
To: teamjefferies@googlegroups.com
Cc: Andy Delaney ADelaney@mgclaw.com

BB

Lane,

Attached is the proposed order. Let me know if there are any issues. If not, I will submit it to the Court for filing.

Brett



Brett Bayne, Attorney
brett.bayne@mgclaw.com
1320 Main Street, 10th Floor
Columbia, SC 29201
Main: 803-779-2300 | Direct: 803-227-2281 | Fax: 803-748-0526
VCARD | BIO

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Proposed Order
Grantin...pel.doc

Exhibit

ELECTRONICALLY FILED - 2019 Jul 08 9:13 AM - RICHLAND - COMMON PLEAS - CASE#2018CP4001518

RC

From: Couch, Roger L. rcouchj@sccourts.org
Subject: Re: Harland Jones vs. Karen Robinson (Claim No.: 0459413365)
Date: June 21, 2019 at 5:00 PM
To: Brett Bayne brett.bayne@mgclaw.com
Cc: teamjefferies@googlegroups.com, Andy Delaney ADelaney@mgclaw.com, rharrell@murphygrantland.com

I will make a ruling next week. R. Couch

Sent from my iPhone

On Jun 14, 2019, at 3:27 PM, Brett Bayne <brett.bayne@mgclaw.com> wrote:

*** EXTERNAL EMAIL: This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. ***

Judge Couch,

Please let us know if we can submit any other documents or anything related to the proposed order. We are up for trial on July 8 in Richland County and we would need to have the order in place by then as it relates to discovery requests.

Brett H. Bayne
Attorney
O: 803-227-2281
C: 214-405-8175

Sent from my iPad

Brett Bayne, Attorney
brett.bayne@mgclaw.com
1320 Main Street, 10th Floor
Columbia, SC 29201 US
Main: 803-779-2300 | Direct: 803-227-2281 | Fax: 803-748-0526
On May 28, 2019, at 2:56 PM, Brett Bayne <brett.bayne@mgclaw.com<mailto:brett.bayne@mgclaw.com>> wrote:

Judge Couch,

I am following up on this proposed Order. The ruling from the bench called for a June 1 deadline for Plaintiff to name his previously unidentified witnesses. The proposed Order submitted contains that same deadline. As June 1 is approaching, we just wanted to check in on the filing of the order so that the June 1 deadline is memorialized.

Please let us know if you need any other information.

Brett

From: Brett Bayne <brett.bayne@mgclaw.com<mailto:brett.bayne@mgclaw.com>>
Sent: Tuesday, May 14, 2019 4:32 PM
To: 'rcouchj@sccourts.org<mailto:rcouchj@sccourts.org>' <rcouchj@sccourts.org<mailto:rcouchj@sccourts.org>>
Cc: 'teamjefferies@googlegroups.com<mailto:teamjefferies@googlegroups.com>' <teamjefferies@googlegroups.com<mailto:teamjefferies@googlegroups.com>>; Andy Delaney <ADelaney@mgclaw.com<mailto:ADelaney@mgclaw.com>>
Subject: Harland Jones vs. Karen Robinson (Claim No.: 0459413365)

Judge Couch,

Attached is the proposed Order you requested on this Motion to Compel on the hearing conducted on May 8. As you will recall, this specific matter dealt with the identification of witnesses in response to discovery requests relating to a bicycle on car accident. This proposed Order encompasses the information set out in the unopposed memorandum filed on March 7 in this case as well as the outcome of the hearing last week.

I have circulated a copy to Mr. Jeffries for review. He objects to portions of the Order as "...far more broad than what Judge Couch instructed, and it includes numerous purported factual findings that the Judge didn't make (and for which there is no evidentiary support in any event)." We disagree with that as each factual assertion is contained in the memorandum or was addressed at the hearing and was not contested by Plaintiff. As we cannot reach a resolution, we are submitting the Order as written subject to his objections.

I have attached a copy of the unopposed filed memorandum that is referenced in the Order as well for your review, should you need it.

Please let me know if you have any questions or if I can provide anything else.

Brett
<Proposed Order Granting Motion to Compel.doc>
<24011767.pdf>

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# Exhibit

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RC

**From:** Couch, Roger L. [rcouchj@sccourts.org](mailto:rcouchj@sccourts.org)  
**Subject:** RE: Harland Jones vs. Karen Robinson (Claim No.: 0459413365)  
**Date:** June 24, 2019 at 3:33 PM  
**To:** Brett Bayne [brett.bayne@mgclaw.com](mailto:brett.bayne@mgclaw.com)  
**Cc:** [teamjefferies@googlegroups.com](mailto:teamjefferies@googlegroups.com), Andy Delaney [ADelaney@mgclaw.com](mailto:ADelaney@mgclaw.com), [rharrell@murphygrantland.com](mailto:rharrell@murphygrantland.com)

I will be happy to sign the proposed Order, please file it in the clerk's que for my electronic signature. R. Couch

---

**From:** Brett Bayne [<mailto:brett.bayne@mgclaw.com>]  
**Sent:** Friday, June 21, 2019 4:37 PM  
**To:** Couch, Roger L. <[rcouchj@sccourts.org](mailto:rcouchj@sccourts.org)>  
**Cc:** [teamjefferies@googlegroups.com](mailto:teamjefferies@googlegroups.com); Andy Delaney <[ADelaney@mgclaw.com](mailto:ADelaney@mgclaw.com)>; [rharrell@murphygrantland.com](mailto:rharrell@murphygrantland.com)  
**Subject:** RE: Harland Jones vs. Karen Robinson (Claim No.: 0459413365)

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Judge Couch,

Happy Friday. At the risk of annoyance, which I sincerely apologize in advance for, I am following up again on this proposed order. We were unsuccessful at mediation today and this case will be tried on July 8. Your ruling on the Motion to Compel and the discovery violations relates directly to the ability to call witnesses at trial. As you will recall, you provided Plaintiff until June 1 to identify any other witnesses. As of today, June 21, there still has never been any supplemental discovery or identification of witnesses. We just want to make sure this Order is in place for the trial judge for the week of July 8.

Please let me know if you need anything else from us.

Brett

---

**From:** Brett Bayne <[brett.bayne@mgclaw.com](mailto:brett.bayne@mgclaw.com)>  
**Sent:** Friday, June 14, 2019 3:27 PM  
**To:** [rcouchj@sccourts.org](mailto:rcouchj@sccourts.org)  
**Cc:** [teamjefferies@googlegroups.com](mailto:teamjefferies@googlegroups.com); Andy Delaney <[ADelaney@mgclaw.com](mailto:ADelaney@mgclaw.com)>; [rharrell@murphygrantland.com](mailto:rharrell@murphygrantland.com)  
**Subject:** Re: Harland Jones vs. Karen Robinson (Claim No.: 0459413365)

Judge Couch,

Please let us know if we can submit any other documents or anything related to the proposed order. We are up for trial on July 8 in Richland County and we would need to have the order in place by then as it relates to discovery requests.

Brett H. Bayne  
Attorney  
O: 803-227-2281  
C: 214-405-8175

Sent from my iPad

On May 28, 2019, at 2:56 PM, Brett Bayne <[brett.bayne@mgclaw.com](mailto:brett.bayne@mgclaw.com)> wrote:

Judge Couch,

I am following up on this proposed Order. The ruling from the bench called for a June 1 deadline for Plaintiff to name his previously unidentified witnesses. The proposed Order submitted contains that same deadline. As June 1 is approaching, we just wanted to check in on the filing of the order so that the June 1 deadline is memorialized.

Please let us know if you need any other information.

Brett

---

**From:** Brett Bayne <[brett.bayne@mgclaw.com](mailto:brett.bayne@mgclaw.com)>  
**Sent:** Tuesday, May 14, 2019 4:32 PM

**To:** 'rcouchj@sccourts.org' <rcouchj@sccourts.org>  
**Cc:** 'teamjefferies@googlegroups.com' <teamjefferies@googlegroups.com>; Andy Delaney <ADelaney@mgclaw.com>  
**Subject:** Harland Jones vs. Karen Robinson (Claim No.: 0459413365)

Judge Couch,

Attached is the proposed Order you requested on this Motion to Compel on the hearing conducted on May 8. As you will recall, this specific matter dealt with the identification of witnesses in response to discovery requests relating to a bicycle on car accident. This proposed Order encompasses the information set out in the unopposed memorandum filed on March 7 in this case as well as the outcome of the hearing last week.

I have circulated a copy to Mr. Jeffries for review. He objects to portions of the Order as "...far more broad than what Judge Couch instructed, and it includes numerous purported factual findings that the Judge didn't make (and for which there is no evidentiary support in any event)." We disagree with that as each factual assertion is contained in the memorandum or was addressed at the hearing and was not contested by Plaintiff. As we cannot reach a resolution, we are submitting the Order as written subject to his objections.

I have attached a copy of the unopposed filed memorandum that is referenced in the Order as well for your review, should you need it.

Please let me know if you have any questions or if I can provide anything else.

Brett



**Brett Bayne, Attorney**  
[brett.bayne@mgclaw.com](mailto:brett.bayne@mgclaw.com)  
 1320 Main Street, 10th Floor  
 Columbia, SC 29201  
**Main:** 803-779-2300 | **Direct:** 803-227-2281 | **Fax:** 803-748-0526  
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<Proposed Order Granting Motion to Compel.doc>

<24011767.pdf>

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 For more options, visit <https://groups.google.com/d/optout>.

IN THE STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FOR THE 5TH JUDICIAL CIRCUIT

CASE NO: 2019-CP-40-01518

HARLAND JONES,

Plaintiff,

v.

KAREN ROBINSON,

Defendant.

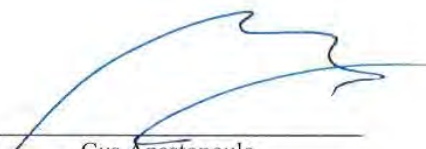
AFFIDAVIT OF GUS ANASTOPOULO

Personally appeared before me who, being duly sworn states and deposes as follows:

1. My name is Gus Anastopoulos.
2. I am an attorney with the Anastopoulos Law Firm.
3. I've been an employee of the Anastopoulos Law Firm since 2015.
4. I was sworn in as a South Carolina licensed attorney on November 27, 2018.
5. I've been actively involved in the subject case throughout, first as a law clerk, and currently as an attorney.
7. I have and continue to consult regularly on this case with fellow attorneys Lane Jefferies, Roy Willey, Eric Poulin, and others in our firm.
8. Specifically, I consulted with the aforementioned attorneys in preparation for mediation in this case, and we reached a consensus as to our mediation strategy.
9. On June 21, 2019 I appeared at mediation, and acted in accordance with our strategy.
10. As to Plaintiff's claims against Defendant, in which Plaintiff had roughly \$244,000 in medical bills among other damages, our initial offer to settle was [REDACTED]
12. In response, the Defendant [REDACTED]
13. With respect to Defendant's counterclaim against Plaintiff, in which Defendant presented no medical bills whatsoever, and property damage only in the amount of \$8,000 (of which Defendant only paid \$100 personally), Defendant demanded roughly [REDACTED]
14. Plaintiff is indigent, and as he was riding a bicycle at the time of the wreck, he did not have any applicable insurance.

15. Brett Bayne, counsel for Defendant, stated that [REDACTED]
16. I considered Mr. Bayne's statements to be an improper threat, and mediation was concluded shortly thereafter with the parties at an impasse.

FURTHER AFFIANT SAYETH NAUGHT.


Gus Anastopoulos

Sworn to before me this 27th day of
September, 2019



Notary Public for South Carolina

My Commission Expires 12/28/2028



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Brett Bayne
@bretthbayne

When you impasse the mediation

Peace was never an option



8:43 AM · Jul 5, 2019 · Twitter for iPhone

ELLECTRONICALLY FILED - 2019 Sep 27 3:19 PM - RICHLAND - COMMON PLEAS - CASE#2018CP4001518

Defense Attorney: Why don't you
give me a demand and we'll see if
we can get the case resolved.
Every Plaintiff's Attorney:

@attorneyproblems

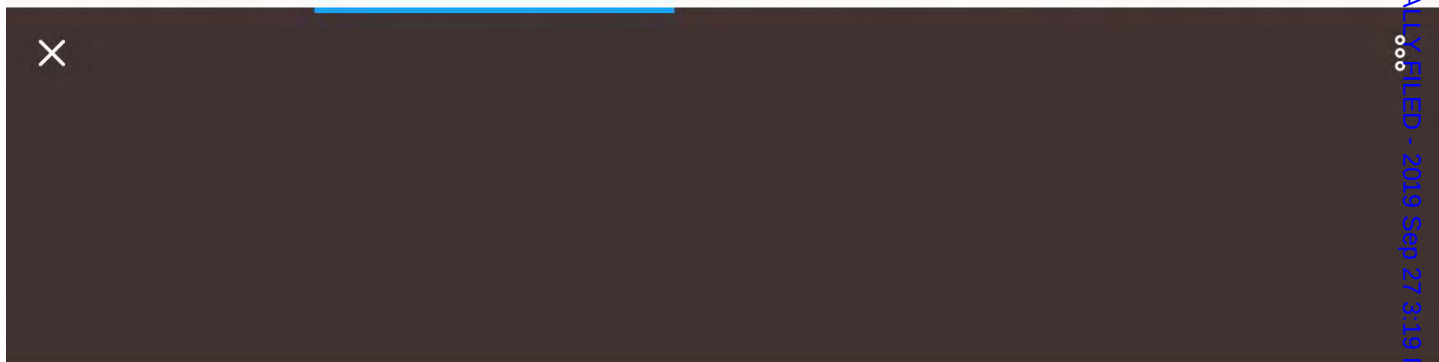


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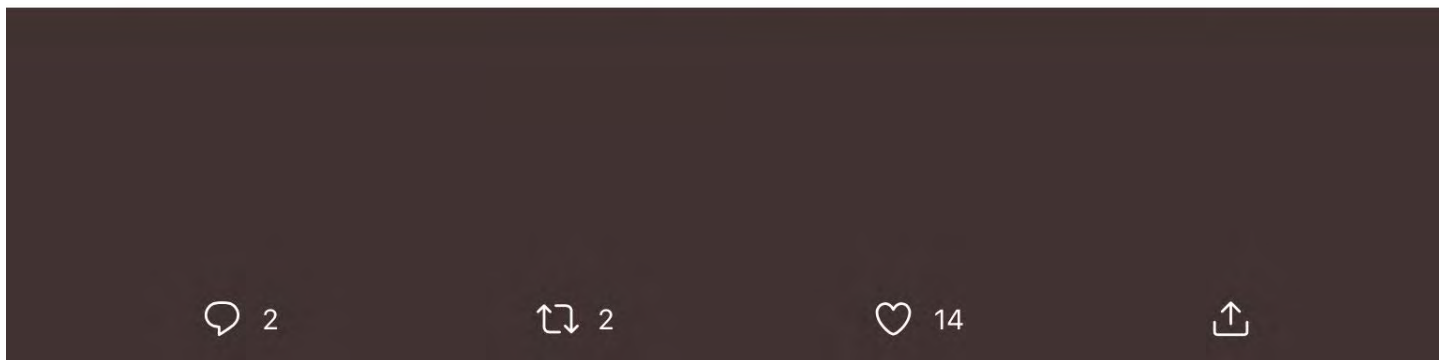
1

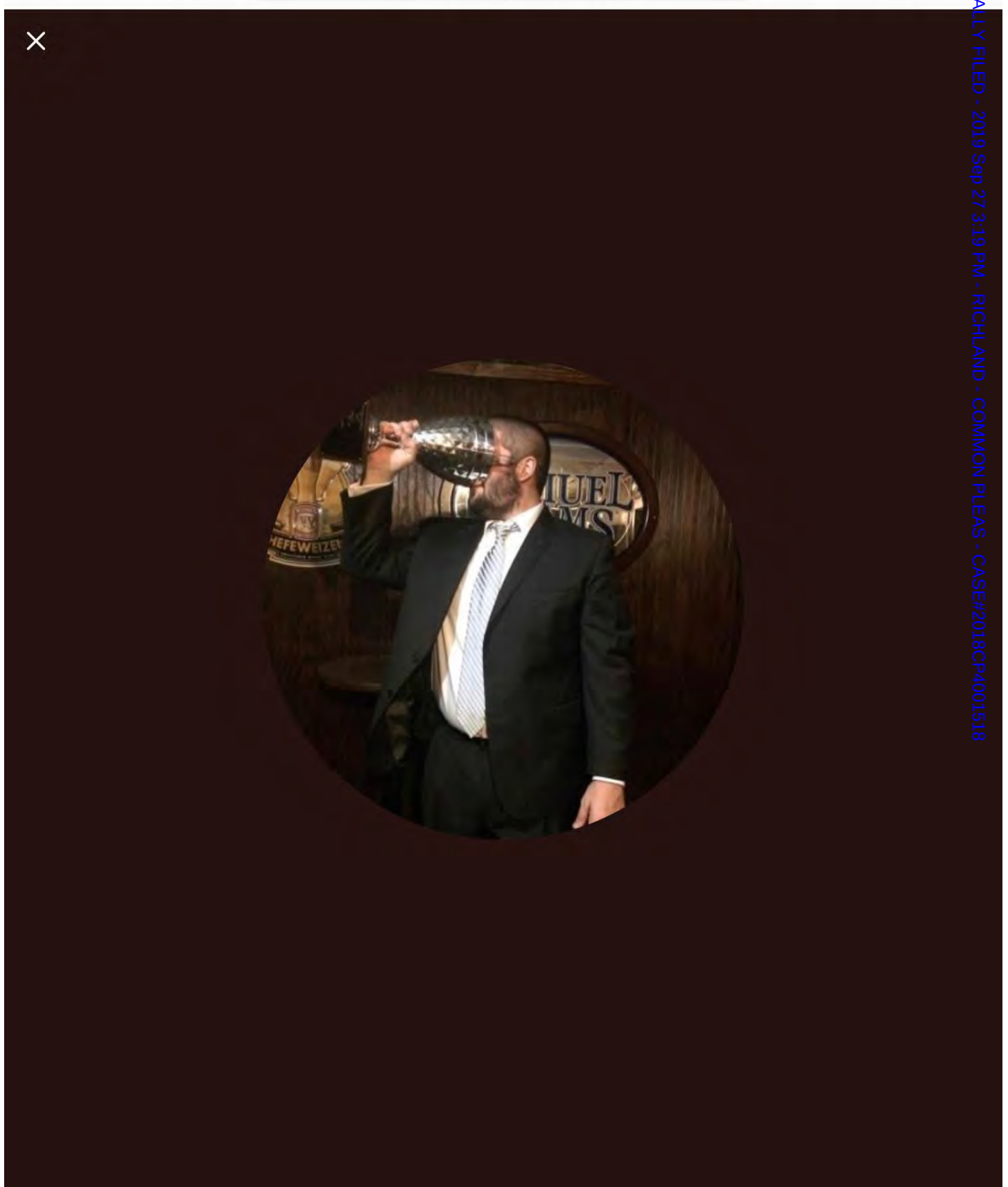
15





When you're up against an opposing counsel you kinda like





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Brett Bayne Retweeted



UofSC School of Law @UofSCLaw · Mar 19

2011 #UofSCLaw alumnus, attorney @MGCLaw, and @USCLawMockTrial coach @bretthbayne has been named 2019 Lawyer of the Year by @SCLawyersWeekly. Congratulations, Brett! 🎉



6

14



Brett Bayne @bretthbayne · Mar 15

I'm rarely speechless. Tonight I was. Honored to be named @SCLawyersWeekly Lawyer of the Year. It speaks to all those who've mentored and encouraged me throughout my career and to Laura who hasn't stabbed me yet over the longhours with @USCLawMockTrial



Verizon 2:00 PM 23%

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Jeremy Virgil
Ben Yeroushalmi

April 22, 2019

Brett Bayne
McAngus, Goudelock & Courie LLC
1320 Main Street Meridian, 10Th Floor
Columbia, SC 29201

**RE: The National Trial Lawyers
Top 40 Under 40 Civil Plaintiff Trial Lawyers
Membership Invitation**

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- Potential referrals from other members of The National Trial Lawyers and inquiries from individuals contacting The National Trial Lawyers directly

If you have any questions or would like assistance initiating your membership, please contact your Membership Director Isabelle Aultman at IAultman@TheNTL.Org or 205-453-7745. We look forward to partnering with you as a member of this premier, invitation only group of trial lawyers.

Sincerely,
The National Trial Lawyers

Dustin Herman
President
Cleveland, OH

Stephen Burg
Immediate Past President
Englewood, CO

Colin Jones
President Elect
Los Angeles, CA

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South Carolina, USA Joined July 2018

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Brett Bayne @bretthbayne · Oct 6, 2018

"Cross examination is about domination of the spirit." - Abraham H. Parnassus



1

8



Brett Bayne @bretthbayne · Jul 5

When you impasse the mediation

Peace was never an option



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**Brett Bayne** @bretthbayne · Oct 6, 2018

"Cross examination is about domination of the spirit." - Abraham H. Parnassus



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**Brett Bayne** @bretthbayne · Jul 5

When you impasse the mediation

Peace was never an option



11

**Brett Bayne** @bretthbayne · Jul 4

Costco and Sams ran out of briskets yesterday, so we're improvising





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When you're up against an opposing counsel you kinda like



2



2



14

**Brett Bayne** @bretthbayne · May 12

It spits hot fire





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1



3

[Show this thread](#)**Brett Bayne** @bretthbayne · May 27

Ribeye Caps



2



14

[Show this thread](#)**Brett Bayne** @bretthbayne · May 26

For those located in SC, he also got in trouble during Army Air Corps flight training when he decided for fun he should fly his plane under the original Cooper River Bridge around in 1942.



4



8

[Show this thread](#)**Brett Bayne** @bretthbayne · May 26

My grandfather was in command of a base in England outside London from '63-64. A 15-16 year old kid by the name of Prince Charles would come by the airfield weekly begging to go up in an American plane. So he finally took him up in a B-29. Just strapped him in and went up.

**Amanda Deibert** 🏳️🌈🇺🇸 @amandadeibert · May 24

What's a cool bit of family history you know? Can be family of origin of



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2



4



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Brett Bayne @bretthbayne · May 27





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**Brett Bayne** @bretthbayne · Jun 7

New @Arteflame grill insert for the @WeberGrills kettle.



3

**Brett Bayne** @bretthbayne · Jun 1

cc @JosephPBias @JDickey1914

**UofSC Law Library** @UofSCLawLib · May 31

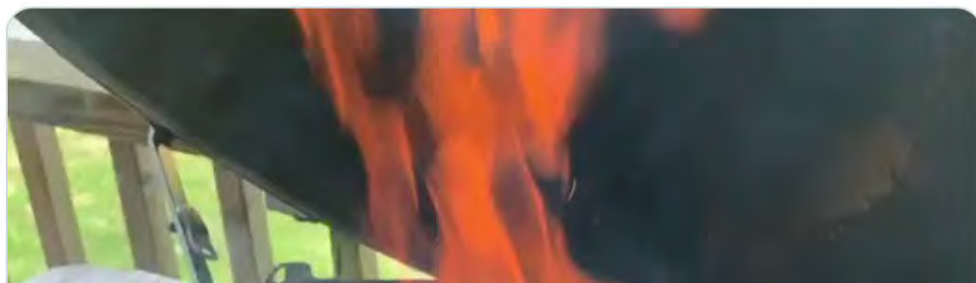
And a visiting @uofsc law prof: @deathntaxesprof

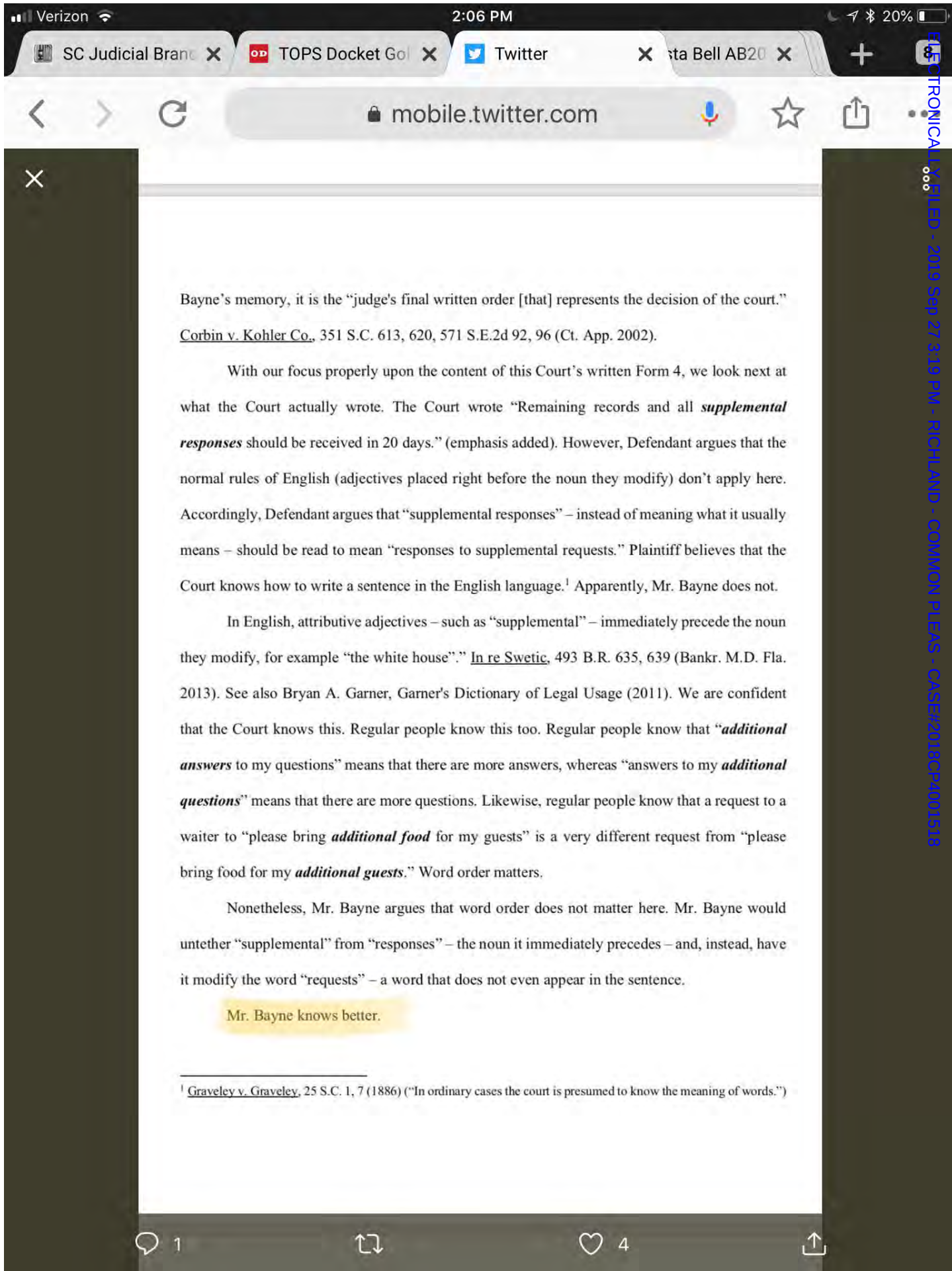
Did we miss anyone else?

[Show this thread](#)

2

6

**Brett Bayne** @bretthbayne · May 27



Bayne's memory, it is the "judge's final written order [that] represents the decision of the court." Corbin v. Kohler Co., 351 S.C. 613, 620, 571 S.E.2d 92, 96 (Ct. App. 2002).

With our focus properly upon the content of this Court's written Form 4, we look next at what the Court actually wrote. The Court wrote "Remaining records and all *supplemental responses* should be received in 20 days." (emphasis added). However, Defendant argues that the normal rules of English (adjectives placed right before the noun they modify) don't apply here. Accordingly, Defendant argues that "supplemental responses" – instead of meaning what it usually means – should be read to mean "responses to supplemental requests." Plaintiff believes that the Court knows how to write a sentence in the English language.¹ Apparently, Mr. Bayne does not.

In English, attributive adjectives – such as "supplemental" – immediately precede the noun they modify, for example "the white house". In re Swetic, 493 B.R. 635, 639 (Bankr. M.D. Fla. 2013). See also Bryan A. Garner, *Garner's Dictionary of Legal Usage* (2011). We are confident that the Court knows this. Regular people know this too. Regular people know that "*additional answers* to my questions" means that there are more answers, whereas "answers to my *additional questions*" means that there are more questions. Likewise, regular people know that a request to a waiter to "please bring *additional food* for my guests" is a very different request from "please bring food for my *additional guests*." Word order matters.

Nonetheless, Mr. Bayne argues that word order does not matter here. Mr. Bayne would untether "supplemental" from "responses" – the noun it immediately precedes – and, instead, have it modify the word "requests" – a word that does not even appear in the sentence.

Mr. Bayne knows better.

¹ Graveley v. Graveley, 25 S.C. 1, 7 (1886) ("In ordinary cases the court is presumed to know the meaning of words.")



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Brett Bayne Retweeted

**South Carolina Bar** @SCBAR · Jan 10

Congrats to Brett Bayne of @MGCLaw for receiving the Trial & Appellate Advocacy Award! This award recognizes lawyers who demonstrate dedication to the furtherance of the art and techniques of trial and spend significant time and effort to educate and train attorneys.



1

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Brett Bayne Retweeted

**MGCLaw** @MGCLaw · Jan 8

Congratulations to #MGCLaw attorney Meredith Cushing on being recognized in Business North Carolina's "Legal Elite"! ow.ly/aGgD30neUih





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**MGCLaw** @MGCLaw · Jan 11Congratulations to [#MGCLaw](#) attorney Brett Bayne for receiving the SC Bar Trial and Appellate Advocacy Award!

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17



Brett Bayne Retweeted

**Ryan Knapp** @RyanJamesKnapp · Jan 10Proud to welcome 2x National Champ [@renfrowhunter](#) to the MGC Sports Family! [#ALLIN](#) [#GoTigers](#) [@ClemsonFB](#)

Hunter Renfrow

JN

From: Newman, Jocelyn jnewmanj@sccourts.org
Subject: RE: Harland Jones v. Karen Robinson
Date: August 7, 2019 at 12:59 PM
To: Lane Jefferies lane@akimlawfirm.com, Brett Bayne brett.bayne@mgclaw.com
Cc: Newman, Jocelyn Secretary (Ebony Martin) jnewmansc@sccourts.org, Rogers E. Harrell, III rharrell@murphygrantland.com, Andy Delaney ADelaney@mgclaw.com, TeamJefferies teamjefferies@googlegroups.com, teamrem@googlegroups.com, PAUL GUNTER GUNTER.PAUL@richlandcountysc.gov

Counsel, please be here on Monday morning at 9:00 for the roster meeting. You should be prepared to argue all outstanding motions. If the motions for summary judgment are denied, you should be prepared to begin trial immediately following the motions hearing. I'll see you then.

Thanks,

Jocelyn Newman
 Circuit Court Judge

From: Lane Jefferies [mailto:lane@akimlawfirm.com]
Sent: Thursday, July 25, 2019 3:09 PM
To: Brett Bayne <brett.bayne@mgclaw.com>
Cc: Newman, Jocelyn <jnewmanj@sccourts.org>; Newman, Jocelyn Secretary (Ebony Martin) <jnewmansc@sccourts.org>; Rogers E. Harrell, III <rharrell@murphygrantland.com>; Andy Delaney <ADelaney@mgclaw.com>; TeamJefferies <teamjefferies@googlegroups.com>; teamrem@googlegroups.com
Subject: Re: Harland Jones v. Karen Robinson

*** **EXTERNAL EMAIL:** This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. ***

Dear Judge Newman —

Unfortunately, both the 29th and 31st are less than a week away. In addition, plaintiffs counsel is scheduled to travel on the 29th to West Virginia in preparation for morning depositions in a federal case on the 30th, and already on a motions roster in Charleston on the 31st and then headed to a CLE in Hilton head immediately thereafter for the remainder of the week. Plaintiff would respectfully request that the hearings be set in the usual course of the Court's business.

Best,
 Lane

Sent from my iPhone
 Dictated, not read

On Jul 25, 2019, at 14:10, Brett Bayne <brett.bayne@mgclaw.com> wrote:

Judge Newman,

I apologize for my confusion the first time around. The nature of the urgency the first time was that we were facing the July 4th week with court closed and then trial set to start July 8. I believe I poorly tried to convey flexibility with the scheduling options to accommodate the compressed window and the limited availability of judges in Richland during that time and it came across as a withdrawal of the request. I certainly did not mean to indicate we had changed our mind and we certainly did not intend to waste your time with scheduling it.

To avoid any other special setting or extra time out of the court's schedule, if you would permit, would it be possible to be placed on the CPNJ Motions Roster for July 29 or 31 or on the CPNJ Motions Roster for August 12 (it does not appear there are any CPNJ Motions the week of August 5). The trial is currently set for August 12, but that would give flexibility of another date.

Brett

<119072514105101699.jpg>

Brett Bayne, Attorney
brett.bayne@mgclaw.com
 1320 Main Street, 10th Floor
 Columbia, SC 29201
Main: 803-779-2300 | **Direct:** 803-227-2281 | **Fax:** 803-748-0526
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<119072514105101199.png>

From: Newman, Jocelyn <jnewmanj@sccourts.org>

Sent: Thursday, July 25, 2019 1:43 PM

To: Brett Bayne <brett.bayne@mgclaw.com>

Cc: Newman, Jocelyn Secretary (Ebony Martin) <jnewmansc@sccourts.org>; Rogers E. Harrell, III <rharrell@murphygrantland.com>; Andy Delaney <ADelaney@mgclaw.com>; lane@akimlawfirm.com

Subject: RE: Harland Jones v. Karen Robinson

Brett,

Are these not the motions that I went out of the way to schedule, only to be told "never mind"? If so, I'm not particularly inclined to create a special time for their hearing. Please let me know whether you actually want a hearing date and time this go 'round.

Thanks,

Jocelyn Newman
Circuit Court Judge

From: Brett Bayne [<mailto:brett.bayne@mgclaw.com>]

Sent: Wednesday, July 24, 2019 5:06 PM

To: Newman, Jocelyn <jnewmanj@sccourts.org>

Cc: Newman, Jocelyn Secretary (Ebony Martin) <jnewmansc@sccourts.org>; Rogers E. Harrell, III <rharrell@murphygrantland.com>; Andy Delaney <ADelaney@mgclaw.com>; lane@akimlawfirm.com

Subject: RE: Harland Jones v. Karen Robinson

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Judge Newman,

I am following back up on this matter Judge Lee's continuance of trial on July 8 based on the pending Rule 59 motion filed by Plaintiff. Earlier today Judge Couch filed an Order denying the Rule 59 Motion. I have attached a copy if you need it.

This matter has actually already been reset onto a roster for August 12. However, we still have a Motion for Sanctions and a Motion for Summary Judgment which need to be heard. I have attached both. Further, on page 7 of Judge Couch's Order filed earlier today, the determination of sanctions for the discovery violations is referred to the Chief Administrative Judge for Richland County. If possible, we would ask to have a hearing set with Your Honor prior to the August 12 trial date where we can address that issue, our separate Motion for Sanctions, and our Motion for Summary Judgment.

If you need anything further from us on this matter, please let me know.

Brett

<image001.jpg>

Brett Bayne, Attorney
brett.bayne@mgclaw.com
1320 Main Street, 10th Floor
Columbia, SC 29201
Main: 803-779-2300 | **Direct:** 803-227-2281 | **Fax:** 803-748-0526
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<image002.png>

From: Brett Bayne <brett.bayne@mgclaw.com>

Sent: Thursday, June 27, 2019 3:16 PM

To: Newman, Jocelyn <jnewmanj@sccourts.org>

Cc: Newman, Jocelyn Secretary (Ebony Martin) <jnewmansc@sccourts.org>; Rogers E. Harrell, III

CC: Newman, Jocelyn Secretary (Ebony Martin) <jnewmansc@sccourts.org>, Rogers E. Harrell, III <rharrell@murphygrantland.com>; Andy Delaney <ADelaney@mgclaw.com>; lane@akimlawfirm.com
Subject: Re: Harland Jones v. Karen Robinson

Judge Newman,

Sounds good. Thank you for your assistance with attempting to set it. We will address the issues during pretrial with the trial judge.

Brett H. Bayne
 McAngus, Goudelock & Courie
 Attorney
 O: [803-227-2281](tel:803-227-2281)
 C: [214-405-8175](tel:214-405-8175)

Sent from my iPhone

On Jun 27, 2019, at 3:13 PM, Newman, Jocelyn <jnewmanj@sccourts.org> wrote:

I offered tomorrow because you represented on the face of the motion that an expedited hearing was needed. If it can wait until after trial, so be it. It will not be heard by Judge Nettles tomorrow; instead, it will be heard at the time of trial.

Thanks,

Jocelyn Newman
 Circuit Court Judge

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

From: Brett Bayne [<mailto:brett.bayne@mgclaw.com>]
 Sent: Thursday, June 27, 2019 3:09 PM
 To: Newman, Jocelyn <jnewmanj@sccourts.org>
 Cc: Newman, Jocelyn Secretary (Ebony Martin) <jnewmansc@sccourts.org>; Rogers E. Harrell, III <rharrell@murphygrantland.com>; Andy Delaney <ADelaney@mgclaw.com>; lane@akimlawfirm.com
 Subject: Re: Harland Jones v. Karen Robinson

Judge Newman,

Thank you for updating us. I am perfectly amenable with Judge Nettles hearing it tomorrow morning. But we can also have it heard either pre or post trial by Judge Lee or another judge later, if necessary.

Brett H. Bayne
 McAngus, Goudelock & Courie
 Attorney
 O: 803-227-2281 <<tel:803-227-2281>>
 C: 214-405-8175 <<tel:214-405-8175>>

Sent from my iPhone

Brett Bayne, Attorney
brett.bayne@mgclaw.com
 MGC Law Insurance Defense
 1320 Main Street, 10th Floor
 Columbia, SC 29201 US
 Main: 803-779-2300 | Direct: 803-227-2281 | Fax: 803-748-0526 On Jun 27, 2019, at 2:15 PM, Newman, Jocelyn <jnewmanj@sccourts.org> <<mailto:jnewmanj@sccourts.org>>> wrote:

Folks,

I am not scheduled to have court again until July 15, at which time I'll be in Kershaw. I will not have court again in Richland until July 22. If you believe this to be urgent, I can ask Judge Nettles if he will hear the motion tomorrow morning at 9:30. Otherwise, no one will be available to hear it until at least July 8 (when Judge Lee will be here for a CP term). Please advise.

Thanks,

Jocelyn Newman
 Circuit Court Judge

From: Brett Bayne [<mailto:brett.bayne@mgclaw.com>]

Sent: Thursday, June 27, 2019 11:53 AM

To: Newman, Jocelyn <jnewmanj@sccourts.org><<mailto:jnewmanj@sccourts.org>>; Newman, Jocelyn Law Clerk () <jnewmanlc@sccourts.org><<mailto:jnewmanlc@sccourts.org>>; Newman, Jocelyn Secretary (Ebony Martin) <jnewmansc@sccourts.org><<mailto:jnewmansc@sccourts.org>>

Cc: 'Rogers E. Harrell, III' <rharrell@murphygrantland.com><<mailto:rharrell@murphygrantland.com>>; Andy Delaney <ADelaney@mgclaw.com><<mailto:ADelaney@mgclaw.com>>; lane@akimlawfirm.com<<mailto:lane@akimlawfirm.com>>

Subject: Harland Jones v. Karen Robinson

*** EXTERNAL EMAIL: This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. ***

Judge Newman,

Earlier today I filed a Motion for Sanctions related to the Mediation in this case. That filed Motion is attached. As the discussion of the Motion contains communications made during the mediation, in an abundance of caution and to ensure compliance with SCADR Rule 8, I did not submit the Memorandum or Exhibits to the Public Index with the Motion. I am sending those directly to you to avoid them being publicly posted.

We are on the trial roster for the week of July 8 and are prepared to go forward with trial at that time. We have requested an expedited hearing date to have the mediation sanction issue resolved in advance of trial as one of the possible sanctions we have sought is to strike the Complaint. We can be available tomorrow or anytime next week (although, with the Fourth of July that may not be possible) if the court instructs.

Please let me know if you need anything else or have any questions.

Brett

<image001.jpg>

Brett Bayne, Attorney

brett.bayne@mgclaw.com<<mailto:brett.bayne@mgclaw.com>>

1320 Main Street, 10th Floor

Columbia, SC 29201

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REPLY TO ANN STREET OFFICE  
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# ANASTOPOULO

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\*OF COUNSEL

April 4, 2019

**Sent Via E-Mail and U.S. Mail**

J. Andrew Delaney  
McAngus Goudelock & Courie, LLC  
P.O. Box 12519  
Columbia, SC 29211

RE: Harland Jones v. Karen Robinson  
Case No.: 2018-CP-40-01518

Dear Mr. Delaney:

Enclosed for service upon you, please find Plaintiff's First Response to Defendant's First Set of Requests for Admission. If you should have any questions, please do not hesitate to contact us.

Sincerely,



Ivey Franklin  
Law Clerk to Lane D. Jefferies

Enclosures as stated

cc: Rogers Edward Harrell

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**Columbia:** 1201 Main Street, Suite 1100, Columbia, South Carolina 29201 \* **Raleigh, NC:** 8801 East Park Drive, Suite 301, Raleigh, NC 27617

**Wilmington, NC:** Appointment Only

IN THE STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

IN THE COURT OF COMMON PLEAS  
FOR THE 5TH JUDICIAL CIRCUIT  
CASE NO: 2018-CP-40-01518

HARLAND JONES,

Plaintiff,

v.

KAREN ROBINSON,

Defendant.

**PLAINTIFF'S RESPONSE TO  
DEFENDANT'S SECOND SET OF  
REQUESTS FOR ADMISION**

**TO: DEFENDANT KAREN ROBINSON AND ALL COUNSEL OF RECORD**

I Admit Defendant was within her lane of travel – not Plaintiff's lane of travel – at the time of the collision.

**ANSWER: Plaintiff did not see Defendant strike him. Plaintiff admits that after Defendant struck him, Defendant's car was found pointed west in the westbound lane of travel, and Plaintiff's body was found alongside the westbound lane of travel.**

You have alleged " Defendant caused Plaintiff to strike the front of Defendant's vehicle by unlawfully travelling into the lane of oncoming traffic." Admit this allegation from your Complaint is not true.

**ANSWER: Denied. After conducting written discovery and depositions, it appears that Defendant was no longer travelling in the lane of oncoming traffic when she wrongfully struck Plaintiff. Nonetheless, it was Defendant's illegal passing maneuver, in which she unlawfully travelled in the lane of oncoming traffic, which caused her to strike Plaintiff immediately after she returned to the westbound lane of travel.**

You have alleged " Defendant crossed over into Plaintiff's lane of travel, thereby causing Plaintiff to strike the front of Defendant's vehicle by unlawfully travelling into the lane of oncoming traffic." Admit this allegation from your June 5, 2018 Motion is not true.

**ANSWER: Denied. After conducting written discovery and depositions, it appears that Defendant was no longer travelling in the lane of oncoming traffic when she wrongfully struck Plaintiff. Nonetheless, it was Defendant's illegal passing maneuver, in which she unlawfully travelled in the lane of oncoming traffic, which caused her to strike Plaintiff immediately after she returned to the westbound lane of travel.**

**CERTIFICATE OF SERVICE**  
THE UNDERSIGNED HEREBY CERTIFIES  
THAT (S)HE SERVED A COPY OF THE  
PLEADING OR FOREGOING PAPERS ON  
ALL COUNSEL OF RECORD THIS 4th  
DAY OF April 2019  
[Signature]

Respectfully Submitted,

**ANASTOPOULO LAW FIRM, LLC**



Roy T. Willey, Jr., Esquire

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Eric M. Poulin, Esquire

S.C. Bar No.: 100209

Lane D. Jefferies, Esquire

S.C. Bar No.: 101764

Kenneth T. David, Esquire

S.C. Bar No.: 103434

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**ATTORNEYS FOR THE PLAINTIFF**

Dated at Charleston, SC  
This 6 day of April, 2019

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

The Honorable Robert E. Hood, Circuit Court Judge

Appellate Case No. 2020-000581

**RECEIVED**

**Jan 04 2021**

**SC Court of Appeals**

Harland Jones.....Appellant,

v.

Karen Robinson .....Respondent.

**CERTIFICATE OF COUNSEL**

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

Respectfully Submitted,

s/ Meliah Bowers Jefferson

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*Attorneys for Appellant Harland Jones*

Dated: December 7, 2020