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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

_____

APPEAL FROM SUMTER COUNTY
Court of Common Pleas

Kristi F. Curtis, Circuit Court Judge

_____

Case No. 2022-000703

_____

Progressive Northern Insurance Company, …..……. Respondent,

v.

Gloria Oliver, Richard Prothro, and Sharon Prothro, Defendants,
Of Whom Gloria Oliver is the …..…… Appellant.

_____

RECORD ON APPEAL
VOLUME 1

_____

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STATE OF SOUTH CAROLINA	IN THE COURT OF COMMON PLEAS
COUNTY OF SUMTER	CIVIL ACTION NO: 2019-CP-43-00105
Progressive Northern Insurance Company, Plaintiff, v. Gloria Oliver, Richard Prothro and Sharon Prothro, Defendant.	**ORDER**

The above-referenced matter came before the Court upon Progressive Northern Insurance Company's ("Progressive") Motion for Summary Judgment. The Court heard arguments on the Motion via videoconference on September 14, 2020. Appearing on behalf of the Plaintiff was Sarah E. Caiello, Esquire. Appearing on behalf of Defendant Gloria Oliver was J. Thomas McElveen, III, Esquire.[1] After the hearing, the Court indicated it would deny Progressive's Motion and that its ruling would also include a finding of uninsured motorist coverage for the Defendant Oliver. However, because Oliver had not filed her own dispositive motion at the time of the hearing on Progressive's Motion, the parties agreed to allow Oliver to file her own motion, after which the Court would enter its written decision. Oliver then filed her Motion for Summary Judgment on July 12, 2021, with a proposed Order also submitted through the electronic filing system with the Clerk of Court.

After Oliver submitted her Motion, but before this Court had an opportunity to issue a written decision, the South Carolina Supreme Court rendered a decision in the case of *United Services Auto. Ass'n v. Pickens*, 434 S.C. 60, 862 S.E.2d 442 (Aug. 11, 2021). Progressive

[1] The Court entered default against Defendants Richard Prothro and Sharon Prothro on April 25, 2019. Because these Defendants are in default, the judgment herein shall apply equally to them as to Defendant Oliver.

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submitted this case decision to the Court as supplemental authority. The parties then both submitted a series of emails to the Court addressing the impact of the *Pickens* decision.

The case appeared on the non-jury roster meeting held on January 10, 2022, after which the Court requested the parties to submit additional briefing on the issue. Counsel for both parties appeared at the roster meeting.

After reviewing the record, legal memoranda and hearing the able arguments of counsel, the court finds that Progressive is entitled to judgment in its favor. Therefore, the Court enters judgment in favor of Progressive for the reasons set forth below.

Progressive issued an automobile liability policy to its named insured Sharon Prothro. As the named insured, Sharon Prothro made the decision to execute a form titled "**Named Driver Exclusion Election**" naming Richard Prothro as an excluded driver. The form was approved by the South Carolina Department of Insurance in accordance with South Carolina Code § 38-77-340. In the form, Sharon Prothro declared that Richard's license had been turned in to the DMV. The form stated: "No coverage is provided for <u>any</u> claim arising from an accident or loss involving a motorized vehicle being operated by an excluded person." (emphasis added). The parties do not dispute the validity of the form or its execution. The sole question before the Court is the legal effect of the exclusion on Gloria Oliver's claim for uninsured motorist coverage.

Progressive's Named Driver Exclusion endorsement states in plain and unambiguous terms that Progressive "will not provide coverage for <u>any</u> claim arising from an accident or loss involving a motorized vehicle being operated by that excluded driver." Gloria Oliver's claim arises from an accident or loss involving a motorized vehicle operated by Richard Prothro—the excluded driver. Therefore, according to the plain terms of the contract entered into between Progressive and its named insured, no coverage applies to Gloria Oliver's claims.

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Gloria Oliver argues that the named driver exclusion renders the vehicle uninsured, thus entitling her to uninsured motorist ("UM") coverage. She then argues that the named driver exclusion cannot apply to a UM claim of a guest passenger.

The Supreme Court in *Pickens* specifically addressed whether a named driver exclusion applies to claims for UM coverage of passengers in the vehicle operated by the excluded driver, holding: "We hold the reasoning expressed in *Knight* applies equally here: **where the parties agree to exclude coverage when a named driver is operating a vehicle, that exclusion extends to all forms of coverage in the policy**." 434 S.C. at 65, 862 S.E.2d at 445 (emphasis added). After acknowledging that South Carolina Code § 38-77-150(A) mandates UM coverage in all automobile insurance policies, the Supreme Court held: "[h]owever, excluding a named driver from all forms of coverage—even mandatory coverage—is permitted by section 38-77-340 and therefore does not violate section 38-77-150." *Id.* at 66, 862 S.E.2d at 445. Thus, the Supreme Court in *Pickens* held that a named driver exclusion applies to all coverage under the policy, including what would otherwise be mandatory UM coverage.

Oliver argues that she must be provided UM coverage because she was a guest passenger, thus making her a statutory insured under South Carolina Code § 38-77-30. *See* S.C. Code § 38-77-30(7) (defining "insured" to include "any person who uses with the consent . . . of the named insured the motor vehicle to which the policy applies and a guest in the motor vehicle to which the policy applies . . .."). However, the opening line of South Carolina Code § 38-77-340 explicitly states that the exclusion applies "Notwithstanding the definition of 'insured' in Section 38-77-30 . . .." Moreover, the agreement, "when signed by the named insured, is binding upon **every insured to whom the policy applies** and any substitution or renewal of it." S.C. Code Ann. § 38-77-340 (emphasis added). In *Pickens*, the Supreme Court relied on this very language to hold that

the public policy behind the UM statute could not be used to override the effect of the named driver exclusion. 434 S.C. at 66-67, 862 S.E.2d at 445 ("We believe section 38-77-340 expressly answers that argument . . .").

The parties do not dispute that Prothro was an excluded driver operating the insured vehicle at the time of the accident. Therefore, in the words of the statute and the Supreme Court in *Pickens*, the excluded driver endorsement "is binding upon *every insured* to whom the policy applies." S.C. Code § 38-77-340 (emphasis added); *Pickens*, 434 S.C. at 66–67, 862 S.E.2d at 445. Therefore, Oliver is not entitled to any coverage, whether liability or UM coverage, that would otherwise exist under the Progressive policy but for the operation of the insured vehicle by an excluded driver.

The plain language of the statute, as interpreted by the Supreme Court in *Pickens*, leaves no room for Oliver's arguments to the contrary. The question of whether she was an innocent guest passenger is irrelevant. The sole question is whether the excluded driver was operating the vehicle at the time of the collision. Because he was, the exclusion applies.

In fact, this case presents an even more compelling argument for non-coverage than *Pickens*. In *Pickens*, the vehicle was struck by a John Doe motorist. Although the excluded driver may have been driving at the time of the collision, he was not at fault in causing the collision. In contrast, it is undisputed that Richard Prothro caused the accident in this case—while drunk and while operating without a license. If Oliver could simply shift Progressive's exposure from liability coverage over to UM coverage, then the entire purpose of the excluded driver statute would be defeated. As the Supreme Court has repeatedly held, the purpose of the statute is to provide "the named insured the opportunity to pay lower premiums when a bad driver would otherwise be included within the policy . . ." *Pickens*, 434 S.C. at 67, 862 S.E.2d at 445 (citations omitted). If Progressive could be forced to pay for damages caused by the excluded driver's

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operation of the vehicle under the UM provisions of the policy, then the statutory goal is defeated. Instead of charging less money on premiums, Progressive could simply take the increased liability premium for Richard Prothro being an insured and charge that increased premium as UM coverage. There would be no savings, and the statutory goal would not be met. Therefore, the facts in this case are even more compelling than those at issue in *Pickens*.

At its heart, Oliver's argument is one of public policy. She stresses the burden a passenger would face if they had to ask the driver whether the driver was insured before agreeing to ride in his or her vehicle. However, the Supreme Court in *Nationwide Insurance Company of America v. Knight*, 433 S.C. 371, 585 S.E.2d 633 (2021), held that courts cannot use public policy to override the plain terms of an insurance contract. In *Knight*, an estate sought underinsured motorist ("UIM") coverage for a motorcyclist hit by a drunk driver. The motorcyclist had UIM coverage on the motorcycle, but he was listed as an excluded driver on his wife's Nationwide policy. The estate argued Nationwide's named driver exclusion violated public policy to the extent it applied to UIM coverage. The Supreme Court disagreed, holding: "To be clear, this Court has no authority to invalidate an automobile insurance policy provision simply because we believe it is inconsistent with our own notion of 'public policy.'" 858 S.E.2d at 635. "Rather, the General Assembly establishes the public policy relating to automobile insurance and enacts statutes to let the public and the courts know what that policy is." *Id.* Therefore, "[w]hen an insured challenges a policy provision on the ground the provision violates public policy, the Court's authority is limited to determining whether the policy provision violates a statute." *Id.* In other words, if application of the named driver exclusion to UM coverage here does not violate a statute, then the named driver exclusion must be enforced according to its plain terms. As the Supreme Court held in *Pickens*: "where the parties agree to exclude coverage when a named driver is operating a vehicle, that

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exclusion extends to all forms of coverage in the policy." 434 S.C. at 65, 826 S.E.2d at 445. Therefore, "denial of UM coverage to [an insured] did not violate section 38-77-340." *Id.* Because the exclusion does not violate any statute, Oliver cannot use a general notion of public policy to overcome the plain language of the exclusion.

Based on the above, this Court finds that Progressive is entitled to summary judgment in its favor.

IT IS SO ORDERED.

The Honorable Kristi F. Curtis

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Sumter Common Pleas

Case Caption: Progressive Northern Insurance Company VS Gloria Oliver , defendant, et al

Case Number: 2019CP4300105

Type: Order/Summary Judgment

So Ordered

s/ Kristi F. Curtis, Circuit Court Judge, No. 2762

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2019CP4300105

Progressive Northern Insurance Company
PLAINTIFF(S)

Gloria Oliver et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT**. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☑ **DECISION BY THE COURT**. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **STAYED DUE TO BANKRUPTCY**

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

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

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

The Defendant Gloria Oliver's Motion to Reconsider is DENIED.

ORDER INFORMATION

This order ☑ ends ☐ does not end the case. ☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 04/25/2022 .

Richard Prothro
Sharon Prothro

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

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Court Reporter:

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

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Sumter Common Pleas

Case Caption: Progressive Northern Insurance Company VS Gloria Oliver , defendant, et al

Case Number: 2019CP4300105

Type: Order/Electronic Form 4

So Ordered

s/ Kristi F. Curtis, Circuit Court Judge, No. 2762

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STATE OF SOUTH CAROLINA

COUNTY OF SUMTER

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO: 2019-CP-43-00105

Progressive Northern Insurance Company,

Plaintiff,

v.

Gloria Oliver, Richard Prothro and Sharon Prothro,

Defendant.

ORDER OF DEFAULT AS TO DEFENDANTS RICHARD PROTHRO AND SHARON PROTHRO

It appearing from the Affidavit of Default and accompanying Affidavit of Service that Defendants Richard Prothro and Sharon Prothro in this matter have been served with a Summons and Complaint and that the Defendants Richard Prothro and Sharon Prothro have failed to serve an Answer within the 30-day period within which to respond;

Accordingly, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendants Richard Prothro and Sharon Prothro are and should be held in default and that a damages hearing should be scheduled by the Sumter County Clerk of Court as soon as is practicable.

IT IS SO ORDERED!

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Sumter Common Pleas

Case Caption: Progressive Northern Insurance Company VS Gloria Oliver , defendant, et al

Case Number: 2019CP4300105

Type: Order/Entry of Default

So Ordered

S/George M. McFaddin, Jr., #2759

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STATE OF SOUTH CAROLINA

COUNTY OF SUMTER

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO: 2019-CP-43-

Progressive Northern Insurance Company,

Plaintiff,

v.

Gloria Oliver, Richard Prothro and Sharon Prothro,

Defendant.

SUMMONS
(Declaratory Judgment)

TO: THE DEFENDANTS ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is hereby served upon you, and to serve a copy of your Answer to the said Complaint upon the subscribers at 4406-B Forest Drive, Post Office Box 6648, Columbia, South Carolina 29260 within thirty (30) days after the service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, Plaintiff(s) will apply to the Court for the relief demanded in the Complaint and judgment by default will be rendered against you for the relief demanded in the Complaint.

This the 23rd day of January, 2019 in Columbia, South Carolina.

MURPHY & GRANTLAND, P.A.

S/Wesley B. Sawyer

Wesley B. Sawyer, Esquire (SC Bar #100229)
J.R. Murphy, Esquire (SC Bar #7941)
PO Box 6648
Columbia, South Carolina 29260
(803) 782-4100
wsawyer@murphygrantland.com
Attorneys for the Plaintiff

Columbia, South Carolina
January 23, 2019

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STATE OF SOUTH CAROLINA	IN THE COURT OF COMMON PLEAS
COUNTY OF SUMTER	CIVIL ACTION NO: 2019-CP- 43-
Progressive Northern Insurance Company, Plaintiff, v. Gloria Oliver, Richard Prothro and Sharon Prothro, Defendants.	**COMPLAINT** **(Declaratory Judgment)**

Plaintiff, Progressive Northern Insurance Company (hereinafter "Progressive") seeks declaratory relief to determine the rights of the parties, and alleges and shows as follows:

JURISDICTION & VENUE

1. Progressive is an insurance company organized and existing under the laws of the State of Wisconsin with its principal place of business in the State of Ohio. Progressive is authorized to transact business in the State of South Carolina, including writing policies of insurance.

2. Upon information and belief, Defendant Gloria Oliver is a citizen and resident of Sumter County, South Carolina.

3. Upon information and belief, Defendant Richard Prothro is a citizen and resident of Sumter County, South Carolina.

4. Upon information and belief, Defendant Sharon Prothro is a citizen and resident of Sumter County, South Carolina.

5. This matter is brought pursuant to Rule 57 of the South Carolina Rules of Civil Procedure and pursuant to the Uniform Declaratory Judgment Act, S.C. Code Ann. §15-53-10

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through 15-53-140; there is a real and justiciable controversy between the parties and by these proceedings, Plaintiff asks this court to inquire into and declare the rights and obligations of the parties hereto arising out of the facts set forth below.

6. Venue is proper in Sumter County pursuant to S.C. Code Ann. §15-7-30 as a substantial part of the events or omissions giving rise to this action occurred in Sumter County, South Carolina.

FACTS

7. Progressive issued a personal auto policy, Policy No. 55178995, to Sharon Prothro with effective dates of April 2, 2016 to October 2, 2016. The policy lists a 1996 Ford Contour as the insured vehicle. The policy lists Richard Prothro as an excluded driver. A copy of the policy declarations page and Named Driver Exclusion Election form are attached hereto as Exhibit A.

8. The Progressive policy provides coverage to certain persons who qualify as insureds for liability arising out of certain risks under the insuring agreement and excludes certain risks through the policy exclusions and the excluded driver endorsement. Progressive craves reference to the policy for all of the terms, conditions, and provisions therein and incorporates them by reference herein.

9. The Progressive policy provides in pertinent part:

INSURING AGREEMENT

> In return for **your** payment of the premium, **we** agree to insure you subject to all the terms, conditions and limitations of the policy. **We** will insure you for coverage and the limits of liability shown on the policy's **declarations page**. **Your** policy consists of the policy contract, **your** insurance application, the **declarations page**, and all endorsements to this policy.
>
> ***
>
> **Named Driver Exclusion Endorsement**
> If **you** have asked **us** to exclude any person from coverage under this policy, then **we** will not provide coverage for any claim arising from an accident or loss involving a motorized vehicle being operated by that excluded driver. This

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includes any claim for damages made against **you**, a **relative**, or any other person or organization that is vicariously liable for an accident arising out of the operation of a motorized vehicle by the excluded driver.

***

Named Driver Exclusion Election
You have named the following persons as excluded drivers under this policy:

RICHARD PROTHRO

***

10. On July 19, 2018, Gloria Oliver, filed suit in the Sumter County Court of Common Pleas against Richard Prothro and Sharon Prothro, styled as: Gloria Oliver v. Richard Prothro and Sharon Prothro, Civil Action No. 2018-CP-43-01323 (hereinafter the "underlying action").

11. The complaint in the underlying action alleges that on July 24, 2016 Defendant Richard Prothro was operating a 1996 Ford automobile with Defendant Gloria Oliver as a passenger when they were involved in a collision. The complaint in the underlying action alleges that the 1996 Ford automobile collided with multiple vehicles. The complaint in the underlying action alleges that Defendant Gloria Oliver sustained injuries as a result of the collision.

12. The complaint in the underlying action alleges that, at the time of the collision, Defendant Richard Prothro was operating the vehicle while his driver's license was suspended. The complaint in the underlying action alleges that Defendant Sharon Prothro was the owner of the 1996 Ford automobile involved in the collision, and Defendant Sharon Prothro had entrusted the vehicle to Defendant Richard Prothro to drive.

13. The complaint in the underlying action alleges a negligence/gross negligence cause of action against both of the Prothros and a negligent entrustment cause of action against Sharon Prothro.

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14. Upon information and belief, the 1996 Ford automobile Defendant Richard Prothro was operating at the time of the July 24, 2016 accident was the 1996 Ford Contour listed on the Progressive policy.

15. Upon information and belief, the Defendants have or will make claims for coverage under the Progressive policy for the July 24, 2016 accident.

FOR A FIRST DECLARATION

16. Plaintiff repeats and realleges each and every one of the allegations set forth above as if set forth verbatim herein.

17. The Named Insured Sharon Prothro executed a Named Driver Exclusion Election form listing Richard Prothro as an excluded driver.

18. The Named Driver Exclusion Form executed by Sharon Prothro fully conformed to the requirements of South Carolina Code § 38-77-340.

19. Therefore, the Progressive policy excludes coverage for any claim arising from an accident or loss involving a motorized vehicle being operated by Richard Prothro.

20. The July 24, 2016 accident at issue in the underlying action involved a 1996 Ford automobile being operated by Richard Prothro.

21. Therefore, Progressive is entitled to a declaration that its policy provides no coverage for any claims arising out of the July 24, 2016 accident.

WHEREFORE, Progressive requests that this Court inquire into these matters and declare that the Progressive policy does not provide any coverage for claims arising out of the July 24, 2016 automobile accident, and Progressive has no duty to defend or indemnify the Prothros under the liability coverage with respect to any claims arising out of the July 24, 2016 accident, nor does it have any duty to cover or compensate Defendant Oliver under any uninsured or alleged

underinsured motorist bodily injury or property damage coverage, together with the costs of this action and such other and further relief as the Court may deem just and proper.

MURPHY & GRANTLAND, P.A.

s/*Wesley B. Sawyer*
J.R. Murphy, Esquire (SC Bar #7941)
Wesley B. Sawyer, Esquire (SC Bar # 100229)
PO Box 6648
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Attorneys for the Plaintiff

January 23, 2019

Columbia, South Carolina

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JIM ROBERTSON INS
35-D E. WESMARK BLVD
SUMTER, SC 29150

PROGRESSIVE AUTO

Policy Number: 55178995
Underwritten by:
Progressive Northern Insurance Co
March 7, 2016
Policy Period: Apr 2, 2016 - Oct 2, 2016

SHARON PROTHRO
111 CRESCENT AVE
SUMTER, SC 29150

1-803-773-3311
JIM ROBERTSON INS
Contact your agent for personalized service.

progressiveagent.com
Online Service
Make payments, check billing activity, update policy information or check status of a claim.

1-800-274-4499
To report a claim.

Auto Insurance Coverage Summary

This is your Renewal Declarations Page

The coverages, limits and policy period shown apply only if you pay for this policy to renew.

Your coverage begins on April 2, 2016 at 12:01 a.m. This policy expires on October 2, 2016 at 12:01 a.m.

Your insurance policy and any policy endorsements contain a full explanation of your coverage. The policy contract is form 9611A SC (10/14). The contract is modified by forms A048 SC (07/11) and Z195 (07/05).

Underwriting Company

Progressive Northern Insurance Co
P.O. Box 6807
Cleveland , OH 44101
1-800-876-5581

Drivers and household residents

	Additional information
Sharon Prothro	Named insured
Richard Prothro	excluded driver



Continued

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Outline of coverage

1996 FORD CONTOUR
VIN **1FALP6536TK110998**
Garaging ZIP Code: 29150
Primary use of the vehicle: Pleasure

	Limits	Deductible	Premium
Liability To Others			$245
Bodily Injury Liability	$25,000 each person/$50,000 each accident		
Property Damage Liability	$25,000 each accident		
Uninsured Motorist			20
Bodily Injury	$25,000 each person/$50,000 each accident		
Property Damage	$25,000 each accident	$200	
Underinsured Motorist			47
Bodily Injury	$25,000 each person/$50,000 each accident		
Property Damage	$25,000 each accident	$0	
Subtotal policy premium			**$312.00**
South Carolina Uninsured Motorist Fund charge			1.00
Total 6 month policy premium and fees			**$313.00**
Discount if paid in full			-66.00
Total 6 month policy premium if paid in full and fees			**$247.00**

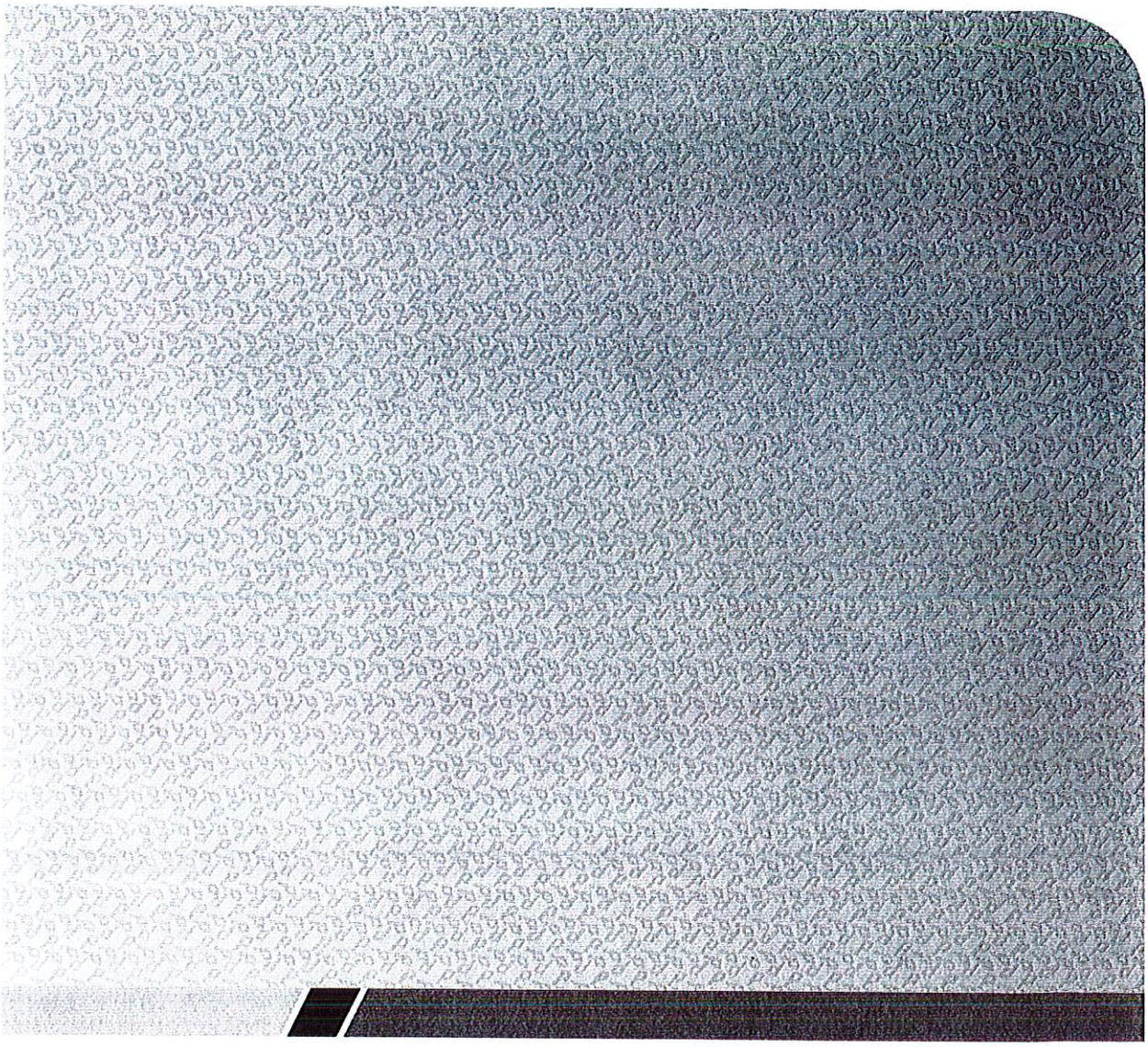
Premium discounts

Policy	
55178995	Continuous Insurance: Diamond, Three-Year Safe Driving and Five-Year Accident Free

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9611A SC 1014

SOUTH CAROLINA
AUTO POLICY



Form 9611A SC (10/14)
version 2.0

PROGRESSIVE®
DRIVE®Insurance

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IMPORTANT NOTICE

IN ADDITION TO THE INSURANCE COVERAGE REQUIRED BY LAW TO PROTECT YOU AGAINST A LOSS CAUSED BY AN UNINSURED MOTORIST, IF YOU HAVE PURCHASED LIABILITY INSURANCE COVERAGE THAT IS HIGHER THAN THAT REQUIRED BY LAW TO PROTECT YOU AGAINST LIABILITY ARISING OUT OF THE OWNERSHIP, MAINTENANCE, OR USE OF THE MOTOR VEHICLES COVERED BY THIS POLICY, AND YOU HAVE NOT ALREADY PURCHASED UNINSURED MOTORIST INSURANCE COVERAGE EQUAL TO YOUR LIABILITY INSURANCE COVERAGE:

1. **YOUR UNINSURED AND UNDERINSURED MOTORIST INSURANCE COVERAGE HAS INCREASED TO THE LIMITS OF YOUR LIABILITY COVERAGE AND THIS INCREASE WILL COST YOU AN EXTRA PREMIUM CHARGE; AND**

2. **YOUR TOTAL PREMIUM CHARGE FOR YOUR MOTOR VEHICLE INSURANCE COVERAGE WILL INCREASE IF YOU DO NOT NOTIFY YOUR AGENT OR INSURER OF YOUR DESIRE TO REDUCE COVERAGE WITHIN TWENTY DAYS OF THE MAILING OF THE POLICY OR THE PREMIUM NOTICE, AS THE CASE MAY BE;**

3. **IF THIS IS A NEW POLICY AND YOU HAVE ALREADY SIGNED A WRITTEN REJECTION OF SUCH HIGHER LIMITS IN CONNECTION WITH IT, PARAGRAPHS (1) AND (2) OF THIS NOTICE DO NOT APPLY.**

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SOUTH CAROLINA AUTO POLICY

INSURING AGREEMENT

In return for **your** payment of the premium, **we** agree to insure **you** subject to all the terms, conditions and limitations of this policy. **We** will insure **you** for the coverages and the limits of liability shown on this policy's **declarations page. Your** policy consists of the policy contract, **your** insurance application, the **declarations page**, and all endorsements to this policy.

GENERAL DEFINITIONS

The following definitions apply throughout the policy. Defined terms are printed in boldface type and have the same meaning whether in the singular, plural, or any other form.

1. "**Additional auto**" means an **auto you** become the owner of during the policy period that does not permanently replace an **auto** shown on the **declarations page** if:
   a. **we** insure all other **autos you** own;
   b. the **additional auto** is not covered by any other insurance policy;
   c. **you** notify **us** within 30 days of becoming the owner of the **additional auto**; and
   d. **you** pay any additional premium due.

   An **additional auto** will have the broadest coverage **we** provide for any **auto** shown on the **declarations page**. If **you** ask **us** to insure an **additional auto** more than 30 days after **you** become the owner, any coverage **we** provide will begin at the time **you** request coverage.
2. "**Auto**" means a land motor vehicle:
   a. of the private passenger, pickup body, or cargo van type;
   b. designed for operation principally upon public roads;
   c. with at least four wheels; and
   d. with a gross vehicle weight rating of 12,000 pounds or less, according to the manufacturer's specifications.

   However, "**auto**" does not include step-vans, parcel delivery vans, or cargo cutaway vans or other vans with cabs separate from the cargo area.
3. "**Auto business**" means the business of selling, leasing, repairing, parking, storing, servicing, delivering or testing vehicles.
4. "**Bodily injury**" means bodily harm, sickness, or disease, including death that results from bodily harm, sickness, or disease.
5. "**Covered auto**" means:
   a. any **auto** or **trailer** shown on the **declarations page** for the coverages applicable to that **auto** or **trailer**;
   b. any **additional auto**;
   c. any **replacement auto**; or
   d. a **trailer** owned by **you**.
6. "**Declarations page**" means the document showing **your** coverages, limits of liability, **covered autos**, premium, and other policy-related information. The **declarations page** may also be referred to as the Auto Insurance Coverage Summary.

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7. "**Occupying**" means in, on, entering or exiting.
8. "**Personal vehicle sharing program**" means a system or process, operated by a business, organization, network, group, or individual, that facilitates the sharing of private passenger motor vehicles for use by individuals, businesses, or other entities.
9. "**Property damage**" means physical damage to, destruction of, or loss of use of, tangible property.
10. "**Rated resident**" means a person residing in the same household as **you** at the time of the loss who is not a **relative**, but only if that person is both:
    a. listed in the "Drivers and household residents" section on the **declarations page**; and
    b. not designated as either an "Excluded" or a "List Only" driver.
11. "**Relative**" means a person residing in the same household as **you**, and related to **you** by blood, marriage or adoption, and includes a ward, stepchild, or foster child. **Your** unmarried dependent children temporarily away from home will qualify as a **relative** if they intend to continue to reside in **your** household.
12. "**Replacement auto**" means an **auto** that permanently replaces an **auto** shown on the **declarations page**. A **replacement auto** will have the same coverage as the **auto** it replaces if the **replacement auto** is not covered by any other insurance policy. However, if the **auto** being replaced had coverage under Part IV—Damage To A Vehicle, such coverage will apply to the **replacement auto** only during the first 30 days after **you** become the owner unless **you** notify **us** within that 30-day period that **you** want **us** to extend coverage beyond the initial 30 days. If the **auto** being replaced did not have coverage under Part IV—Damage To A Vehicle, such coverage may be added, but the **replacement auto** will have no coverage under Part IV until **you** notify **us** of the **replacement auto** and ask **us** to add the coverage.
13. "**Ride-sharing activity**" means the use of any vehicle to provide transportation of persons or property in connection with a **transportation network company** from the time a user logs on to, or signs in to, any online-enabled application, software, website or system until the time the user logs out of, or signs off of, any such online-enabled application, software, website or system, whether or not the user has accepted any passenger(s) or delivery assignment, including the time the user is on the way to pick up any passenger(s) or property, or is transporting any passenger(s) or property.
14. "**Trailer**" means a non-motorized trailer, including a farm wagon or farm implement, designed to be towed on public roads by an **auto** and not being used:
    a. for commercial purposes;
    b. as an office, store, or for display purposes; or
    c. as a passenger conveyance.
15. "**Transportation network company**" means a corporation, partnership, sole proprietorship, or other entity that uses any online-enabled application, software, website or system to connect drivers with clients or passengers to facilitate and/or provide transportation or delivery services for compensation or a fee.
16. "**We**," "**us**" and "**our**" mean the underwriting company providing the insurance, as shown on the **declarations page**.

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17. "**You**" and "**your**" mean:
    a. a person shown as a named insured on the **declarations page**; and
    b. the spouse of a named insured if residing in the same household at the time of the loss.

PART I—LIABILITY TO OTHERS

INSURING AGREEMENT

If **you** pay the premium for this coverage, **we** will pay damages for **bodily injury** and **property damage** for which an **insured person** becomes legally responsible because of an accident.

Damages include prejudgment interest awarded against an **insured person**.

We will settle or defend, at **our** option, any claim for damages covered by this Part I.

ADDITIONAL DEFINITION

When used in this Part I:
"**Insured person**" means:
a. **you**, a **relative**, or a **rated resident** with respect to an accident arising out of the ownership, maintenance or use of an **auto** or a **trailer**;
b. any person with respect to an accident arising out of that person's use of a **covered auto** with the permission of **you**, a **relative**, or a **rated resident**;
c. any person or organization with respect only to vicarious liability for the acts or omissions of a person described in a. or b. above; and
d. any "Additional Interest" shown on the **declarations page** with respect only to its liability for the acts or omissions of a person described in a. or b. above.

ADDITIONAL PAYMENTS

In addition to **our** limit of liability, **we** will pay for an **insured person**:
1. all expenses **we** incur in the settlement of any claim or defense of any lawsuit;
2. interest accruing after entry of judgment, until **we** have paid, offered to pay, or deposited in court, that portion of the judgment which does not exceed **our** limit of liability. This does not apply if **we** have not been given notice of suit or the opportunity to defend an **insured person**;
3. the premium on any appeal bond or attachment bond required in any lawsuit **we** defend. **We** have no duty to purchase a bond in an amount exceeding **our** limit of liability, and **we** have no duty to apply for or furnish these bonds;
4. up to $250 for a bail bond required because of an accident resulting in **bodily injury** or **property damage** covered under this Part I. **We** have no duty to apply for or furnish this bond; and
5. reasonable expenses, including loss of earnings up to $200 per day, incurred at **our** request.

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EXCLUSIONS—READ THE FOLLOWING EXCLUSIONS CAREFULLY. IF AN EXCLUSION APPLIES, COVERAGE WILL NOT BE AFFORDED UNDER THIS PART I.

Coverage under this Part I, including **our** duty to defend, will not apply to any **insured person** for:

1. **bodily injury** or **property damage** arising out of the ownership, maintenance or use of any vehicle or trailer while being used:
   a. to carry persons or property for compensation or a fee; or
   b. for retail or wholesale delivery, including, but not limited to, the pickup, transport or delivery of magazines, newspapers, mail or food.

   For damages arising out of the ownership, maintenance, or use of a **covered auto**, this exclusion applies only to those damages in excess of the minimum limit mandated by the motor vehicle financial responsibility law of South Carolina. This exclusion does not apply to shared-expense car pools;
2. any liability assumed under any contract or agreement by **you**, a **relative**, or a **rated resident**;
3. **bodily injury** to an employee of that **insured person** arising out of or within the course of employment. This exclusion does not apply to domestic employees if benefits are neither paid nor required to be provided under workers' compensation, disability benefits, or similar laws;
4. **bodily injury** or **property damage** arising out of an accident involving any vehicle while being maintained or used by a person while employed or engaged in any **auto business**. For damages arising out of the ownership, maintenance, or use of a **covered auto**, this exclusion applies only to those damages in excess of the minimum limit mandated by the motor vehicle financial responsibility law of South Carolina. This exclusion does not apply to **you**, a **relative**, a **rated resident**, or an agent or employee of **you**, a **relative**, or a **rated resident**, when using a **covered auto**;
5. **bodily injury** or **property damage** resulting from, or sustained during practice or preparation for:
   a. any pre-arranged or organized racing, stunting, speed or demolition contest or activity; or
   b. any driving activity conducted on a permanent or temporary racetrack or racecourse;
6. **bodily injury** or **property damage** due to a nuclear reaction or radiation;
7. **bodily injury** or **property damage** for which insurance:
   a. is afforded under a nuclear energy liability insurance contract; or
   b. would be afforded under a nuclear energy liability insurance contract but for its termination upon exhaustion of its limit of liability;
8. any obligation for which the United States Government is liable under the Federal Tort Claims Act;
9. **bodily injury** or **property damage** caused by an intentional act of that **insured person**, or at the direction of that **insured person**, even if the actual injury or damage is different than that which was intended or expected. For damages arising out of the ownership, maintenance, or use of a **covered auto**, this exclu-

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sion applies only to those damages in excess of the minimum limit mandated by the motor vehicle financial responsibility law of South Carolina;

10. **property damage** to any property owned by, rented to, being transported by, or in the charge of that **insured person**. This exclusion does not apply to a rented residence or a rented garage;
11. **bodily injury** or **property damage** arising out of the ownership, maintenance or use of any vehicle owned by **you** or furnished or available for **your** regular use, other than a **covered auto** for which this coverage has been purchased;
12. **bodily injury** or **property damage** arising out of the ownership, maintenance or use of any vehicle owned by a **relative** or a **rated resident** or furnished or available for the regular use of a **relative** or a **rated resident**, other than a **covered auto** for which this coverage has been purchased. This exclusion does not apply to **your** maintenance or use of such vehicle;
13. **bodily injury** or **property damage** arising out of **your**, a **relative's**, or a **rated resident's** use of a vehicle, other than a **covered auto**, without the permission of the owner of the vehicle or the person in lawful possession of the vehicle;
14. **bodily injury** or **property damage** arising out of the use of a **covered auto** while leased or rented to others or given in exchange for any compensation, including while being used in connection with a **personal vehicle sharing program**. This exclusion does not apply to the operation of a **covered auto** by **you**, a **relative**, or a **rated resident**;
15. **bodily injury** or **property damage** caused by, or reasonably expected to result from, a criminal act or omission of that **insured person**. This exclusion applies regardless of whether that **insured person** is actually charged with, or convicted of, a crime. However, this exclusion will apply only to those damages in excess of the minimum limit mandated by the motor vehicle financial responsibility law of South Carolina. For purposes of this exclusion, criminal acts or omissions do not include traffic violations; or
16. **bodily injury** or **property damage** arising out of the ownership, maintenance or use of any vehicle or trailer while being used for **ride-sharing activity**. This exclusion does not apply to shared-expense car pools.

LIMITS OF LIABILITY

The limit of liability shown on the **declarations page** for liability coverage is the most **we** will pay regardless of the number of:

1. claims made;
2. **covered autos**;
3. **insured persons**;
4. lawsuits brought;
5. vehicles involved in the accident; or
6. premiums paid.

If **your declarations page** shows a split limit:

1. the amount shown for "each person" is the most **we** will pay for all damages due to **bodily injury** to one person resulting from any one accident;

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2. subject to the "each person" limit, the amount shown for "each accident" is the most **we** will pay for all damages due to **bodily injury** sustained by two or more persons in any one accident; and
3. the amount shown for "property damage" is the most **we** will pay for the total of all **property damage** resulting from any one accident.

The "each person" limit of liability applies to the total of all claims made for **bodily injury** to a person and all claims of others derived from such **bodily injury**, including, but not limited to, loss of society, loss of companionship, loss of services, loss of consortium, and wrongful death.

If the **declarations page** shows that "combined single limit" or "CSL" applies, the amount shown is the most **we** will pay for the total of all damages resulting from any one accident. However, without changing this limit of liability, **we** will comply with any law that requires **us** to provide any separate limits.

The limits of liability under this Part I shall not be reduced by payments made under Part II—Medical Payments Coverage. However, no one is entitled to duplicate payments for the same elements of damages.

We will not pay under this Part I any expenses paid or payable under Part II—Medical Payments Coverage.

If multiple auto policies issued by **us** are in effect for **you**, **we** will pay no more than the highest limit of liability for this coverage available under any one policy.

An **auto** and attached **trailer** are considered one **auto**. Therefore, the limits of liability will not be increased for an accident involving an **auto** that has an attached **trailer**.

FINANCIAL RESPONSIBILITY LAWS

When **we** certify this policy as proof of financial responsibility, this policy will comply with the law to the extent required. The **insured person** must reimburse **us** if **we** make a payment that **we** would not have made if this policy was not certified as proof of financial responsibility.

OTHER INSURANCE

If there is any other applicable liability insurance or bond, **we** will pay only **our** share of the damages. **Our** share is the proportion that **our** limit of liability bears to the total of all applicable limits. However, any insurance **we** provide for a vehicle or trailer, other than a **covered auto**, will be excess over any other collectible insurance, self-insurance, or bond.

OUT-OF-STATE COVERAGE

If an accident to which this Part I applies occurs in any state, territory or possession of the United States of America or any province or territory of Canada, other than the

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one in which a **covered auto** is principally garaged, and the state, province, territory or possession has:

1. a financial responsibility or similar law requiring limits of liability for **bodily injury** or **property damage** higher than the limits shown on the **declarations page**, this policy will provide the higher limits; or
2. a compulsory insurance or similar law requiring a non-resident to maintain insurance whenever the non-resident uses an **auto** in that state, province, territory or possession, this policy will provide the greater of:
   a. the required minimum amounts and types of coverage; or
   b. the limits of liability under this policy.

ARBITRATION OF PROPERTY DAMAGE LIABILITY CLAIMS

Any party to a disputed **property damage** liability claim may submit the claim to arbitration in accordance with South Carolina law.

PART II—MEDICAL PAYMENTS COVERAGE

INSURING AGREEMENT

If **you** pay the premium for this coverage, **we** will pay the reasonable expenses incurred for necessary **medical services** received within three years from the date of a **motor vehicle** accident because of **bodily injury**:

1. sustained by an **insured person**; and
2. caused by that **motor vehicle** accident.

We, or someone on **our** behalf, will determine:

1. whether the expenses for **medical services** are reasonable; and
2. whether the **medical services** are necessary.

ADDITIONAL DEFINITIONS

When used in this Part II:

1. "**Insured person**" means:
   a. **you**, a **relative**, or a **rated resident**:
      (i) while **occupying** an **auto**; or
      (ii) when struck by a **motor vehicle** or a trailer while not **occupying** a self-propelled motorized vehicle; and
   b. any other person while **occupying** a **covered auto** with the permission of **you**, a **relative**, or a **rated resident**.
2. "**Medical services**" means medical, surgical, dental, x-ray, ambulance, hospital, professional nursing, and funeral services, and includes the cost of eyeglasses, hearing aids, pharmaceuticals, orthopedics, and prosthetic devices.
3. "**Motor vehicle**" means a land motor vehicle designed for use principally on public roads.

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EXCLUSIONS—READ THE FOLLOWING EXCLUSIONS CAREFULLY. IF AN EXCLUSION APPLIES, COVERAGE WILL NOT BE AFFORDED UNDER THIS PART II.

Coverage under this Part II will not apply to **bodily injury**:

1. sustained by any person while **occupying** a **covered auto** while it is being used:
   a. to carry persons or property for compensation or a fee;
   b. for retail or wholesale delivery, including, but not limited to, the pickup, transport or delivery of magazines, newspapers, mail or food; or
   c. for **ride-sharing activity**.
   This exclusion does not apply to shared-expense car pools;
2. arising out of an accident involving a vehicle while being maintained or used by a person while employed or engaged in any **auto business**. This exclusion does not apply to **you**, a **relative**, a **rated resident**, or an agent or employee of **you**, a **relative**, or a **rated resident**, when using a **covered auto**;
3. to any person resulting from, or sustained during practice or preparation for:
   a. any pre-arranged or organized racing, stunting, speed or demolition contest or activity; or
   b. any driving activity conducted on a permanent or temporary racetrack or racecourse;
4. due to a nuclear reaction or radiation;
5. for which insurance:
   a. is afforded under a nuclear energy liability insurance contract; or
   b. would be afforded under a nuclear energy liability insurance contract but for its termination upon exhaustion of its limit of liability;
6. for which the United States Government is liable under the Federal Tort Claims Act;
7. sustained by any person while **occupying** any vehicle or trailer while located for use as a residence or premises;
8. if workers' compensation benefits are available for the **bodily injury**;
9. sustained by any person while **occupying** or when struck by any vehicle owned by **you** or furnished or available for **your** regular use, other than a **covered auto** for which this coverage has been purchased;
10. sustained by any person while **occupying** or when struck by any vehicle owned by a **relative** or a **rated resident** or furnished or available for the regular use of a **relative** or a **rated resident**, other than a **covered auto** for which this coverage has been purchased. This exclusion does not apply to **you**;
11. to **you**, a **relative**, or a **rated resident,** while **occupying** any vehicle, other than a **covered auto**, without the permission of the owner of the vehicle or the person in lawful possession of the vehicle;
12. to any person while **occupying** a **covered auto** while leased or rented to others or given in exchange for any compensation, including while being used in connection with a **personal vehicle sharing program**. This exclusion does not apply to the operation of a **covered auto** by **you**, a **relative**, or a **rated resident**;
13. caused directly or indirectly by:
    a. war (declared or undeclared) or civil war;

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b. warlike action by any military force of any government, sovereign or other authority using military personnel or agents. This includes any action taken to hinder or defend against an actual or expected attack; or
c. insurrection, rebellion, revolution, usurped power, or any action taken by a governmental authority to hinder or defend against any of these acts;

14. caused directly or indirectly by:
    a. any accidental or intentional discharge, dispersal or release of radioactive, nuclear, pathogenic or poisonous biological material; or
    b. any intentional discharge, dispersal or release of chemical or hazardous material for any purpose other than its safe and useful purpose; or
15. caused by, or reasonably expected to result from, a criminal act or omission of an **insured person**. This exclusion applies regardless of whether the **insured person** is actually charged with, or convicted of, a crime. For purposes of this exclusion, criminal acts or omissions do not include traffic violations.

LIMITS OF LIABILITY

The limit of liability shown on the **declarations page** for Medical Payments Coverage is the most **we** will pay for each **insured person** injured in any one accident, regardless of the number of:

1. claims made;
2. **covered autos**;
3. **insured persons**;
4. lawsuits brought;
5. vehicles involved in the accident; or
6. premiums paid.

No one will be entitled to duplicate payments under this policy for the same elements of damages.

Any amount payable to an **insured person** under this Part II will be reduced by any amount paid or payable for the same expense under Part I—Liability To Others or Part III—Uninsured/Underinsured Motorist Coverage.

If multiple auto policies issued by **us** are in effect for **you**, **we** will pay no more than the highest limit of liability for this coverage available under any one policy.

UNREASONABLE OR UNNECESSARY MEDICAL EXPENSES

If an **insured person** incurs expenses for **medical services** that **we** deem to be unreasonable or unnecessary, **we** may refuse to pay for those expenses and contest them.

If the medical service provider sues the **insured person** because **we** refuse to pay expenses for **medical services** that **we** deem to be unreasonable or unnecessary, **we** will pay any resulting defense costs, and any resulting judgment against the

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insured person, subject to the limit of liability for this coverage. **We** will choose the counsel. **We** will also pay reasonable expenses, including loss of earnings up to $200 per day, incurred at **our** request.

The **insured person** may not sue **us** for expenses for **medical services we** deem to be unreasonable or unnecessary unless the **insured person** paid the entire disputed amount to the medical service provider or the medical service provider has initiated collection activity against the **insured person** for the unreasonable or unnecessary expenses.

OTHER INSURANCE

If there is other applicable **auto** medical payments insurance, **we** will pay only **our** share of the loss. **Our** share is the proportion that **our** limit of liability bears to the total of all applicable limits. However, any insurance **we** provide for an **insured person occupying** a vehicle or trailer, other than a **covered auto**, will be excess over any other **auto** insurance providing payments for **medical services**.

PART III—UNINSURED/UNDERINSURED MOTORIST COVERAGE

INSURING AGREEMENT—UNINSURED MOTORIST COVERAGE

If **you** pay the premium for this coverage, **we** will pay for damages that an **insured person** is legally entitled to recover from the owner or operator of:

1. an **uninsured motor vehicle** because of **bodily injury**:
   a. sustained by an **insured person**;
   b. caused by an accident; and
   c. arising out of the ownership, maintenance or use of an **uninsured motor vehicle**; or
2. an **uninsured motor vehicle** because of **property damage**:
   a. caused by an accident; and
   b. arising out of the ownership, maintenance, or use of an **uninsured motor vehicle**.

INSURING AGREEMENT—UNDERINSURED MOTORIST COVERAGE

If **you** pay the premium for this coverage, **we** will pay for damages that an **insured person** is legally entitled to recover from the owner or operator of:

1. an **underinsured motor vehicle** because of **bodily injury**:
   a. sustained by an **insured person**;
   b. caused by an accident; and
   c. arising out of the ownership, maintenance, or use of an **underinsured motor vehicle**; or
2. an **underinsured motor vehicle** because of **property damage**:
   a. caused by an accident; and
   b. arising out of the ownership, maintenance, or use of an **underinsured motor vehicle**.

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We will pay under this Part III only after the limits of liability under all applicable liability bonds and policies have been exhausted by payment of judgments or settlements.

NOTICE REQUIREMENT

Any judgment or settlement for damages against an owner or operator of an **uninsured motor vehicle** or an **underinsured motor vehicle** that arises out of a lawsuit brought for which **we** have not received notice in accordance with South Carolina law is not binding on **us**.

ADDITIONAL DEFINITIONS

When used in this Part III:

1. "**Insured person**" means:
   a. **you**, a **relative**, or a **rated resident**;
   b. any person while operating a **covered auto** with the permission of **you**, a **relative**, or a **rated resident**;
   c. any person **occupying**, but not operating, a **covered auto**; and
   d. any person who is entitled to recover damages covered by this Part III because of **bodily injury** sustained by a person described in a., b. or c. above.
2. "**Underinsured motor vehicle**" means a land motor vehicle or trailer of any type to which liability insurance or a bond applies at the time of the accident with limits of liability that equal or exceed the minimum amounts required by the South Carolina motor vehicle financial responsibility law, but which are less than the amount of the damages sustained by the **insured person** in the accident.
   An "**underinsured motor vehicle**" does not include any vehicle or equipment:
   a. operated on rails or crawler treads;
   b. designed mainly for use off public roads, while not on public roads;
   c. while located for use as a residence or premises; or
   d. that is an **uninsured motor vehicle**.
3. "**Uninsured motor vehicle**" means a land motor vehicle or trailer of any type:
   a. to which no liability bond, cash deposit, security, or liability policy in at least the amounts of coverage required by South Carolina law applies at the time of the accident;
   b. to which a liability bond or policy applies at the time of the accident, but the bonding or insuring company:
      (i) denies coverage;
      (ii) is or becomes insolvent;
      (iii) is in delinquency proceedings, suspension, or receivership; or
      (iv) is financially unable to fully satisfy a judgment rendered in favor of an insured person;
   c. to which a liability bond or policy applies at the time of the accident, but its limit of liability is less than the minimum limit of liability specified by the financial responsibility law of the state in which the **covered auto** is principally garaged; or

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d. that is a hit-and-run vehicle whose owner or operator cannot be identified and which causes an accident resulting in **bodily injury** to an **insured person**, or **property damage** to the property of an **insured person**, provided:
   (i) the **insured person**, or someone on his or her behalf, reports the accident to the police or civil authority within 24 hours or as soon as practicable after the accident; and
   (ii) if the **bodily injury** or **property damage** was not caused by physical contact between the vehicle operated by the unidentified operator and the **insured person**, or a vehicle occupied by the **insured person**, there must be independent corroborative evidence by a witness to the accident who executes a signed affidavit attesting to the truth of the accident to prove that the **bodily injury** or **property damage** was proximately caused by the negligent or intentional actions of the unidentified operator of the motor vehicle. The testimony of the owner or operator of the **covered auto** shall not constitute independent corroborative evidence. No recovery will be provided under this Part III if the **insured person** was negligent in failing to determine the identity of the other motor vehicle and its driver at the time of the accident.

An "**uninsured motor vehicle**" does not include any vehicle or equipment:

a. owned or operated by a self-insurer under any applicable motor vehicle law, except a self-insurer that:
   (i) is or becomes insolvent; or
   (ii) fails to qualify as a self-insurer under South Carolina law;
b. owned by any governmental unit or agency, except when:
   (i) operated by a person without property authorization; or
   (ii) a cause of action against that governmental unit or agency arising out of a motor vehicle accident is barred by the Tort Claims Act of South Carolina;
c. operated on rails or crawler treads;
d. designed mainly for use off public roads, while not on public roads;
e. while located for use as a residence or premises;
f. that is an **underinsured motor vehicle**; or
g. that is a **covered auto**.

EXCLUSIONS—READ THE FOLLOWING EXCLUSIONS CAREFULLY. IF AN EXCLUSION APPLIES, COVERAGE WILL NOT BE AFFORDED UNDER THIS PART III.

Coverage under this Part III will not apply:

1. to **bodily injury** sustained by any person while using or **occupying** a **covered auto** while being used:
   a. to carry persons or property for compensation or a fee;
   b. or retail or wholesale delivery, including, but not limited to, the pickup, transport or delivery of magazines, newspapers, mail or food; or
   c. for **ride-sharing activity**.

   This exclusion does not apply to shared-expense car pools;

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2. to **bodily injury** sustained by the owner of a motor vehicle if:
   a. the **bodily injury** is sustained while using or **occupying** that owned motor vehicle; and
   b. if uninsured motorist coverage or underinsured motorist coverage, as the case may be, has not been purchased for that motor vehicle;
3. to **bodily injury** sustained by **you**, a **relative**, or a **rated resident** while using any vehicle, other than a **covered auto**, without the permission of the owner of the vehicle or the person in lawful possession of the vehicle;
4. to **bodily injury** arising out of the use of a **covered auto** while being used in connection with a **personal vehicle sharing program**. This exclusion does not apply to the operation of a **covered auto** by **you**, a **relative**, or a **rated resident**; or
5. directly or indirectly to benefit any insurer or self-insurer under any of the following or similar laws:
   a. workers' compensation law; or
   b. disability benefits law.

Coverage under this Part III will not apply to **property damage**:

1. sustained while a **covered auto** is being used:
   a. to carry persons or property for compensation or a fee;
   b. for retail or wholesale delivery, including but not limited to, the pickup, transport, or delivery of magazines, newspapers, mail, or food; or
   c. for **ride-sharing activity**.

   This exclusion does not apply to shared-expense car pools;
2. resulting from, or sustained during practice or preparation for:
   a. any pre-arranged or organized racing, stunting, speed, or demolition contest or activity; or
   b. any driving activity conducted on a permanent or temporary racetrack or racecourse;
3. to a **covered auto** for which insurance:
   a. is afforded under a nuclear energy liability insurance contract; or
   b. would be afforded under a nuclear energy liability insurance contract but for its termination upon exhaustion of its limit of liability;
4. to a trailer;
5. to any motor vehicle owned by **you**, a **relative**, or a **rated resident** if uninsured motorist coverage or underinsured motorist coverage, as the case may be, has not been purchased for that motor vehicle; or
6. sustained while a **covered auto** is being used in connection with a **personal vehicle sharing program**. This exclusion does not apply to the operation of a **covered auto** by **you**, a **relative**, or a **rated resident**.

LIMITS OF LIABILITY

The limit of liability shown on the **declarations page** for Uninsured Motorist Coverage or Underinsured Motorist Coverage, as the case may be, is the most **we** will pay regardless of the number of:

1. claims made;

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2. **covered autos**, but only with respect to **insured persons** other than **you**, a **relative**, or a **rated resident**;
3. **insured persons**;
4. lawsuits brought;
5. vehicles involved in the accident; or
6. premiums paid, but only with respect to **insured persons** other than **you**, a **relative**, or a **rated resident**.

When **you**, a **relative**, or a **rated resident** are not **occupying** an **auto** and sustain **bodily injury** caused by the owner or operator of an **uninsured motor vehicle** or **underinsured motor vehicle**, **our** limit of liability shall not exceed the limit of liability shown on the **declarations page** for any one **covered auto**.

If **your declarations page** shows a split limit:
1. the amount shown for "each person" for "bodily injury" is the most **we** will pay for all damages due to **bodily injury** to one person;
2. subject to the "each person" limit, the amount shown for "each accident" is the most **we** will pay for all damages due to **bodily injury** sustained by two or more persons in any one accident; and
3. the amount shown for "property damage" is the most we will pay for the aggregate of all **property damage** caused by any one accident.

The "each person" limit of liability includes the total of all claims made for **bodily injury** to an **insured person** and all claims of others derived from such **bodily injury**, including, but not limited to, loss of society, loss of companionship, loss of services, loss of consortium, and wrongful death.

If the **declarations page** shows that "combined single limit" or "CSL" applies, the amount shown is the most **we** will pay for the total of all **bodily injury** damages resulting from any one accident. However, without changing this total limit of liability, **we** will comply with any law that requires **us** to provide any separate limits.

The amount of damages payable for **bodily injury** under this Part III will be reduced by all sums:
1. paid because of **bodily injury** by or on behalf of any persons or organizations that may be legally responsible;
2. paid under Part I—Liability To Others; and
3. paid or payable because of **bodily injury** under any disability benefits law or similar law.

We will not pay under this Part III any expenses paid or payable under Part II—Medical Payments Coverage.

The limit of liability for **property damage** to a **covered auto** is the lowest of:
1. the actual cash value of the **covered auto** at the time of the accident;
2. the amount necessary to replace the **covered auto**;

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3. the amount necessary to repair the **covered auto** to its pre-loss condition; or
4. the limit of liability shown on the **declarations page** for Uninsured Motorist Property Damage or Underinsured Motorist Property Damage, whichever applies.

The amount of damages payable for **property damage** under this Part III will be reduced by all sums paid because of **property damage** by or on behalf of any persons or organizations that may be legally responsible, including, but not limited to, all sums paid under Part I—Liability To Others.

We shall not pay for **property damage** to the extent that such damages are paid or payable under any other property damage or physical damage insurance, including all sums paid or payable under Part IV—Damage To A Vehicle.

Payments for **property damage** under this Part III are subject to the following provisions:
1. any amount payable under this Part III for **property damage** shall be subject to the applicable deductible shown on the **declarations page**; and
2. no more than one deductible shall be applied to any one accident.

No one will be entitled to duplicate payments for the same elements of damages.

OTHER INSURANCE

If there is other applicable uninsured or underinsured motorist coverage, **we** will pay only **our** share of the damages. **Our** share is the proportion that **our** limit of liability bears to the total of all available coverage limits. However, when **you**, a **relative**, or a **rated resident** are **occupying** a motor vehicle other than a **covered auto** and sustain **bodily injury** covered under this Part III, **our** coverage shall be excess to the coverage applicable to the motor vehicle that **you**, the **relative**, or the **rated resident** are **occupying**, and **our** total limit of liability under this policy shall not exceed **our** limit of liability for one **auto**.

However, when **you**, a **relative**, or a **rated resident** are operating, or **occupying**, a motor vehicle that is owned by **you**, a **relative**, or a **rated resident** but is not a **covered auto**, in that case, **our** total limit of liability will be the lesser of the limit of liability listed on the **declarations page** or the amount of Uninsured Motorist Coverage or Underinsured Motorist Coverage, as the case may be, on the vehicle involved in the accident.

ARBITRATION FOR BODILY INJURY CLAIMS

If **we** and an **insured person** cannot agree on:
1. the legal liability of the operator or owner of an **uninsured motor vehicle** or **underinsured motor vehicle**; or
2. the amount of the damages sustained by the **insured person**;

this will be determined by arbitration if **we** and the **insured person** mutually agree to arbitration prior to the expiration of the bodily injury statute of limitations in the state in which the accident occurred.

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If **we** and the **insured person** mutually agree to arbitration, each party will select an arbitrator. The two arbitrators will select a third. If the two arbitrators cannot agree on a third arbitrator within 30 days, then on joint application by the **insured person** and **us**, the third arbitrator will be appointed by a court having jurisdiction.

Each party will pay the costs and fees of its arbitrator and any other expenses it incurs. The costs and fees of the third arbitrator will be shared equally.

Unless both parties agree otherwise, arbitration will take place in the county in which the **insured person** resides. Local rules of procedure and evidence will apply.

A decision agreed to by two of the arbitrators will be binding with respect to a determination of:

1. the legal liability of the operator or owner of an **uninsured motor vehicle** or **underinsured motor vehicle**; and
2. the amount of the damages sustained by the **insured person**.

The arbitrators will have no authority to award an amount in excess of the limit of liability.

We and an **insured person** may agree to an alternate form of arbitration.

ARBITRATION FOR PROPERTY DAMAGE CLAIMS

An **insured person** may submit a disputed **property damage** claim to arbitration in accordance with South Carolina law.

PART IV—DAMAGE TO A VEHICLE

INSURING AGREEMENT—COLLISION COVERAGE

If **you** pay the premium for this coverage, **we** will pay for sudden, direct and accidental loss to a:

1. **covered auto**, including an attached **trailer**; or
2. **non-owned auto**;

and its **custom parts or equipment**, resulting from **collision**.

In addition, **we** will pay the reasonable cost to replace any child safety seat damaged in an accident to which this coverage applies.

INSURING AGREEMENT—COMPREHENSIVE COVERAGE

If **you** pay the premium for this coverage, **we** will pay for sudden, direct and accidental loss to a:

1. **covered auto**, including an attached **trailer**; or
2. **non-owned auto**;

and its **custom parts or equipment**, that is not caused by **collision**.

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A loss not caused by **collision** includes:
1. contact with an animal (including a bird);
2. explosion or earthquake;
3. fire;
4. malicious mischief or vandalism;
5. missiles or falling objects;
6. riot or civil commotion;
7. theft or larceny;
8. windstorm, hail, water or flood; or
9. breakage of glass not caused by **collision**.

In addition, **we** will pay for:
1. reasonable transportation expenses incurred by **you** if a **covered auto** is stolen; and
2. loss of use damages that **you** are legally liable to pay if a **non-owned auto** is stolen.

A combined maximum of $900, not exceeding $30 per day, will apply to these additional benefits. The additional benefit for transportation expenses will not apply if **you** purchased Rental Reimbursement Coverage for the stolen **covered auto**.

Coverage for transportation expenses and loss of use damages begins 48 hours after **you** report the theft to **us** and ends the earliest of:
1. when the **auto** has been recovered and returned to **you** or its owner;
2. when the **auto** has been recovered and repaired;
3. when the **auto** has been replaced; or
4. 72 hours after **we** make an offer to settle the loss if the **auto** is deemed by **us** to be a total loss.

We must receive written proof of transportation expenses and loss of use damages.

INSURING AGREEMENT—ADDITIONAL CUSTOM PARTS OR EQUIPMENT COVERAGE

We will pay for sudden, direct and accidental loss to **custom parts or equipment** on a **covered auto** for which this coverage has been purchased. This coverage applies only if **you** have purchased both Comprehensive Coverage and Collision Coverage for that **covered auto** and the loss is covered under one of those coverages. This coverage applies in addition to any coverage automatically provided for **custom parts or equipment** under Comprehensive Coverage or Collision Coverage.

INSURING AGREEMENT—RENTAL REIMBURSEMENT COVERAGE

We will reimburse rental charges incurred when **you** rent an **auto** from a rental agency or auto repair shop due to a loss to a **covered auto** for which Rental Reimbursement Coverage has been purchased. This coverage applies only if **you** have

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purchased both Comprehensive Coverage and Collision Coverage for that **covered auto** and the loss is covered under one of those coverages.

Additional fees or charges for insurance, damage waivers, optional equipment, fuel, or accessories are not covered.

This coverage is limited to the each day limit shown on the **declarations page** for a maximum of 30 days.

If Rental Reimbursement Coverage applies, no other coverage under this policy for rental expenses will apply.

Rental charges will be reimbursed beginning:
1. when the **covered auto** cannot be driven due to a loss; or
2. if the **covered auto** can be driven, when **you** deliver the **covered auto** to an auto repair shop or one of **our** Service Centers for repairs due to the loss;

and ending the earliest of:
1. when the **covered auto** has been returned to **you**;
2. when the **covered auto** has been repaired;
3. when the **covered auto** has been replaced;
4. 72 hours after **we** make an offer to settle the loss if the **covered auto** is deemed by **us** to be a total loss; or
5. when **you** incur 30 days worth of rental charges.

You must provide **us** written proof of **your** rental charges to be reimbursed.

INSURING AGREEMENT—LOAN/LEASE PAYOFF COVERAGE

If **you** pay the premium for this coverage, and the **covered auto** for which this coverage was purchased is deemed by **us** to be a total loss, **we** will pay, in addition to any amounts otherwise payable under this Part IV, the difference between:
1. the actual cash value of the **covered auto** at the time of the total loss; and
2. any greater amount the owner of the **covered auto** is legally obligated to pay under a written loan or lease agreement to which the **covered auto** is subject at the time of the total loss, reduced by:
   a. unpaid finance charges or refunds due to the owner for such charges;
   b. excess mileage charges or charges for wear and tear;
   c. charges for extended warranties or refunds due to the owner for extended warranties;
   d. charges for credit insurance or refunds due to the owner for credit insurance;
   e. past due payments and charges for past due payments; and
   f. collection or repossession expenses.

However, **our** payment under this coverage shall not exceed the limit of liability shown on the **declarations page**. The limit of liability is a percentage of the actual cash value of the **covered auto** at the time of the loss.

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This coverage applies only if **you** have purchased both Comprehensive Coverage and Collision Coverage for that **covered auto** and the loss is covered under one of those coverages.

INSURING AGREEMENT—PET INJURY COVERAGE

If **you** have purchased Collision coverage for at least one **covered auto** under **your** policy, and if **your pet** sustains injury or death while inside a **covered auto** or **non-owned auto** at the time of a loss covered under Collision or Comprehensive coverage, **we** will provide:

1. up to $1,000 for reasonable and customary veterinary fees incurred by **you**, a **relative**, or a **rated resident** if **your pet** is injured in, or as a direct result of, the covered loss; or
2. a $1,000 death benefit if **your pet** dies in, or as a direct result of, the covered loss, less any payment **we** made toward veterinary expenses for **your pet**.

In the event of a covered loss due to the theft of a **covered auto** or **non-owned auto**, **we** will provide the death benefit provided **your pet** is inside that auto at the time of the theft and **your pet** is not recovered.

ADDITIONAL DEFINITIONS

When used in this Part IV:

1. "**Collision**" means the upset of a vehicle or its impact with another vehicle or object.
2. "**Custom parts or equipment**" means equipment, devices, accessories, enhancements and changes, other than those that are offered by the manufacturer specifically for that **auto** model, or that are installed by the auto dealership as part of the original sale of a new **auto**, that:
   a. are permanently installed or attached; and
   b. alter the appearance or performance of the **auto**.
3. "**Mechanical parts**" means operational parts on a vehicle that wear out over time or have a finite useful life or duration typically shorter than the life of the vehicle as a whole. **Mechanical parts** do not include external crash parts, wheels, paint, or windshields and other glass.
4. "**Non-owned auto**" means an **auto** that is not owned by or furnished or available for the regular use of **you**, a **relative**, or a **rated resident** while in the custody of or being operated by **you**, a **relative**, or a **rated resident** with the permission of the owner of the **auto** or the person in lawful possession of the **auto**.
5. "**Your pet**" means any dog or cat owned by **you**, a **relative**, or a **rated resident**.

EXCLUSIONS—READ THE FOLLOWING EXCLUSIONS CAREFULLY. IF AN EXCLUSION APPLIES, COVERAGE WILL NOT BE AFFORDED UNDER THIS PART IV.

Coverage under this Part IV will not apply for loss:

1. to any vehicle while being used:
   a. to carry persons or property for compensation or a fee;

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b. for retail or wholesale delivery, including, but not limited to, the pickup, transport or delivery of magazines, newspapers, mail or food; or
c. for **ride-sharing activity**.

This exclusion does not apply to shared-expense car pools;

2. to a **non-owned auto** while being maintained or used by a person while employed or engaged in any **auto business**;
3. to any vehicle resulting from, or sustained during practice or preparation for:
   a. any pre-arranged or organized racing, stunting, speed or demolition contest or activity; or
   b. any driving activity conducted on a permanent or temporary racetrack or racecourse;
4. to any vehicle for which insurance:
   a. is afforded under a nuclear energy liability insurance contract; or
   b. would be afforded under a nuclear energy liability insurance contract but for its termination upon exhaustion of its limit of liability;
5. to any vehicle caused by an intentional act committed by or at the direction of **you**, a **relative**, a **rated resident**, or the owner of a **non-owned auto**, even if the actual damage is different than that which was intended or expected;
6. to a **covered auto** while it is leased or rented to others or given in exchange for compensation, including while being used in connection with a **personal vehicle sharing program**. This exclusion does not apply to the operation of a **covered auto** by **you**, a **relative**, or a **rated resident**;
7. due to destruction or confiscation by governmental or civil authorities of any vehicle because **you**, any **relative**, or any **rated resident** engaged in illegal activities;
8. to any vehicle that is due and confined to:
   a. wear and tear;
   b. freezing;
   c. mechanical, electrical or electronic breakdown or failure; or
   d. road damage to tires.

   This exclusion does not apply if the damage results from the theft of a vehicle;
9. to portable equipment, devices, accessories, and any other personal effects that are not permanently installed. This includes, but is not limited to:
   a. tapes, compact discs, cassettes, DVDs, and other recording or recorded media;
   b. any case or other container designed for use in storing or carrying tapes, compact discs, cassettes, DVDs, or other recording or recorded media;
   c. any device used for the detection or location of radar, laser, or other speed measuring equipment or its transmissions; and
   d. CB radios, telephones, two-way mobile radios, DVD players, personal computers, personal digital assistants, or televisions;
10. to any vehicle for diminution of value;
11. to any vehicle caused directly or indirectly by:
    a. war (declared or undeclared) or civil war;
    b. warlike action by any military force of any government, sovereign, or other authority using military personnel or agents. This includes any action taken to hinder or defend against an actual or expected attack; or

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c. insurrection, rebellion, revolution, usurped power, or any action taken by a governmental authority to hinder or defend against any of these acts;

12. to any vehicle caused directly or indirectly by:
    a. any accidental or intentional discharge, dispersal or release of radioactive, nuclear, pathogenic or poisonous biological material; or
    b. any intentional discharge, dispersal or release of chemical or hazardous material for any purpose other than its safe and useful purpose; or
13. to any vehicle caused by, or reasonably expected to result from, a criminal act or omission of **you**, a **relative**, a **rated resident**, or the owner of a **non-owned auto**. This exclusion applies regardless of whether **you**, the **relative**, the **rated resident**, or the owner of the **non-owned auto** is actually charged with, or convicted of, a crime. For purposes of this exclusion, criminal acts or omissions do not include traffic violations.

LIMITS OF LIABILITY

1. The limit of liability for loss to a **covered auto**, **non-owned auto**, or **custom parts or equipment** is the lowest of:
    a. the actual cash value of the stolen or damaged property at the time of the loss reduced by the applicable deductible;
    b. the amount necessary to replace the stolen or damaged property reduced by the applicable deductible;
    c. the amount necessary to repair the damaged property to its pre-loss condition reduced by the applicable deductible; or
    d. the Stated Amount shown on the **declarations page** for that **covered auto**.

    However, the most **we** will pay for loss to:
    a. **custom parts or equipment** is $1,000 unless **you** purchased Additional Custom Parts or Equipment Coverage ("ACPE"). If **you** purchased ACPE, the most **we** will pay is $1,000 plus the amount of ACPE **you** purchased.
    b. a **trailer** is the limit of liability shown on the **declarations page** for that **trailer**. If the **trailer** is not shown on the **declarations page**, the limit of liability is $500.
2. Payments for loss to a **covered auto**, **non-owned auto**, or **custom parts or equipment** are subject to the following provisions:
    a. If coverage applies to a **non-owned auto**, **we** will provide the broadest coverage applicable to any **covered auto** shown on the **declarations page**.
    b. If **you** have elected a Stated Amount for a **covered auto**, the Stated Amount is the most **we** will pay for all loss to that **covered auto**, including its **custom parts or equipment**.
    c. Coverage for **custom parts or equipment** will not cause **our** limit of liability for loss to an **auto** under this Part IV to be increased to an amount in excess of the actual cash value of the **auto**, including its **custom parts or equipment**.
    d. In determining the amount necessary to repair damaged property to its pre-loss condition, the amount to be paid by **us**:
        (i) will not exceed the prevailing competitive labor rates charged in the area where the property is to be repaired and the cost of repair or replacement parts and equipment, as reasonably determined by **us**; and

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(ii) will be based on the cost of repair or replacement parts and equipment which may be new, reconditioned, remanufactured or used, including, but not limited to:
(a) original manufacturer parts or equipment; and
(b) nonoriginal manufacturer parts or equipment.

e. To determine the amount necessary to repair or replace the damaged property as referred to in subsection 1., the total cost of necessary repair or replacement may be reduced by unrepaired prior damage. Unrepaired prior damage includes broken, cracked or missing parts; rust; dents; scrapes; gouges; and peeling paint. The reduction for unrepaired prior damage is the cost of labor, parts and materials necessary to repair or replace damage, deterioration, defects, or wear and tear on exterior body parts, windshields and other glass, wheels, and paint, that existed prior to the accident and that is eliminated as a result of the repair or replacement of property damaged in the loss.

f. To determine the amount necessary to repair or replace the damaged property as referred to in subsection 1., an adjustment may be made for betterment or depreciation and physical condition on:
(i) batteries;
(ii) tires;
(iii) engines and transmissions, if the engine has greater than 80,000 miles; and
(iv) any other **mechanical parts** that are nonfunctioning or inoperative.
We will not make an adjustment for the labor costs associated with the replacement or repair of these parts.

g. The actual cash value is determined by the market value, age, and condition of the vehicle at the time the loss occurs.

3. No deductible will apply with respect to damage to automobile safety glass.
4. Duplicate recovery for the same elements of damages is not permitted.
5. Any amount paid or payable to a person under this Part IV for **property damage** to an **auto** shall be reduced by any amount paid for that **property damage** to the **auto** under Part III—Uninsured/Underinsured Motorist Coverage.
6. The following additional limits of liability apply to Pet Injury coverage:
   a. The most **we** will pay for all damages in any one loss is a total of $1,000 regardless of the number of dogs or cats involved.
   b. If **your pet** dies in, or as a direct result of, a covered loss, **we** will provide a death benefit of $1,000, less any payment **we** made toward veterinary expenses for **your pet**.
   c. No deductible shall apply to this coverage.

PAYMENT OF LOSS

We may, at **our** option:
1. pay for the loss in money; or
2. repair or replace the damaged or stolen property.

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At **our** expense, **we** may return any recovered stolen property to **you** or to the address shown on the **declarations page**, with payment for any damage resulting from the theft. **We** may keep all or part of the property at the agreed or appraised value.

We may settle any loss with **you** or the owner or lienholder of the property.

NO BENEFIT TO BAILEE

Coverage under this Part IV will not directly or indirectly benefit any carrier or other bailee for hire.

LOSS PAYABLE CLAUSE

Payment under this Part IV for a loss to a **covered auto** will be made according to **your** interest and the interest of any lienholder shown on the **declarations page** or designated by **you**. At **our** option, payment may be made to both jointly, or to either separately. However, if the **covered auto** is not a total loss, **we** may make payment to **you** and the repairer of the **auto**.

The lienholder's interest will not be protected:

1. where fraud, misrepresentation, material omission, or intentional damage resulting in a denial of coverage by **us** has been committed by or at the direction of **you** or any person seeking coverage; or
2. where the loss is otherwise not covered under the terms of this policy.

If this policy is cancelled, nonrenewed or voided, the interest of any lienholder under this agreement will also terminate.

OTHER SOURCES OF RECOVERY

If other sources of recovery also cover the loss, **we** will pay only **our** share of the loss. **Our** share is the proportion that **our** limit of liability bears to the total of all applicable limits. However, any insurance **we** provide for a **non-owned auto**, or **trailer** not shown on the **declarations page**, will be excess over any other collectible source of recovery including, but not limited to:

1. any coverage provided by the owner of the **non-owned auto** or **trailer**;
2. any other applicable physical damage insurance; and
3. any other source of recovery applicable to the loss.

APPRAISAL

If **we** cannot agree with **you** on the amount of a loss, then **we** or **you** may demand an appraisal of the loss. Within 30 days of any demand for an appraisal, each party shall appoint a competent appraiser and shall notify the other party of that appraiser's identity. The appraisers will determine the amount of loss. If they fail to agree, the disagreement will be submitted to a qualified umpire chosen by the appraisers.

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If the two appraisers are unable to agree upon an umpire within 15 days, **we** or **you** may request that a judge of a court of record, in the county where **you** reside, select an umpire. The appraisers and umpire will determine the amount of loss. The amount of loss agreed to by both appraisers, or by one appraiser and the umpire, will be binding. **You** will pay **your** appraiser's fees and expenses. **We** will pay **our** appraiser's fees and expenses. All other expenses of the appraisal, including payment of the umpire if one is selected, will be shared equally between **us** and **you**. Neither **we** nor **you** waive any rights under this policy by agreeing to an appraisal.

PART V—ROADSIDE ASSISTANCE COVERAGE

INSURING AGREEMENT

If **you** pay the premium for this coverage, **we** will pay for **our** authorized service representative to provide the following services when necessary due to a **covered emergency**:

1. towing of a **covered disabled auto** to the nearest qualified repair facility; and
2. labor on a **covered disabled auto** at the place of disablement.

If a **covered disabled auto** is towed to any place other than the nearest qualified repair facility, **you** will be responsible for any additional charges incurred.

ADDITIONAL DEFINITIONS

When used in this Part V:

1. "**Covered disabled auto**" means a **covered auto** for which this coverage has been purchased that sustains a **covered emergency**.
2. "**Covered emergency**" means a disablement that is a result of:
   a. mechanical or electrical breakdown;
   b. battery failure;
   c. insufficient supply of fuel, oil, water, or other fluid;
   d. flat tire;
   e. lock-out; or
   f. entrapment in snow, mud, water or sand within 100 feet of a road or highway.

EXCLUSIONS—READ THE FOLLOWING EXCLUSIONS CAREFULLY. IF AN EXCLUSION APPLIES, COVERAGE WILL NOT BE AFFORDED UNDER THIS PART V.

Coverage under this Part V will not apply to:

1. more than three **covered emergencies** for any single **covered auto** in a six-month period;
2. the cost of purchasing parts, fluid, lubricants, fuel, or replacement keys, or the labor to make replacement keys;
3. installation of products or material not related to the disablement;

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4. labor not related to the disablement;
5. labor on a **covered disabled auto** for any time period in excess of 60 minutes per disablement;
6. towing or storage related to impoundment, abandonment, illegal parking, or other violations of law;
7. assistance with jacks, levelers, airbags or awnings;
8. labor or repair work performed at a service station, garage, or repair shop;
9. auto storage charges;
10. disablement that occurs on roads not regularly maintained, sand beaches, open fields, or areas designated as not passable due to construction, weather, or earth movement;
11. mounting or removing of snow tires or chains;
12. tire repair;
13. disablement that results from an intentional or willful act or action by **you**, a **relative**, or the operator of a **covered disabled auto**;
14. any **covered auto** while being used in connection with **ride-sharing activity**;
15. any **covered auto** while being used in connection with a **personal vehicle sharing program**; or
16. a trailer.

UNAUTHORIZED SERVICE PROVIDER

When service is rendered by a provider in the business of providing roadside assistance and towing services, other than one of **our** authorized service representatives, **we** will pay only reasonable charges, as determined by **us**, for:

1. towing of a **covered disabled auto** to the nearest qualified repair facility; and
2. labor on a **covered disabled auto** at the place of disablement;

which is necessary due to a **covered emergency**.

OTHER INSURANCE

Any coverage provided under this Part V for service rendered by an unauthorized service provider will be excess over any other collectible insurance or towing protection coverage.

PART VI—DUTIES IN CASE OF AN ACCIDENT OR LOSS

For coverage to apply under this policy, **you** or the person seeking coverage must promptly report each accident or loss even if **you** or the person seeking coverage is not at fault. **You** or the person seeking coverage must provide **us** with all accident or loss information, including time, place, and how the accident or loss happened. **You** or the person seeking coverage must also obtain and provide **us** the names and addresses of all persons involved in the accident or loss, the names and addresses of any witnesses, and the license plate numbers of the vehicles involved.

If **you** or the person seeking coverage cannot identify the owner or operator of a vehicle involved in the accident, or if theft or vandalism has occurred, **you** or the

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person seeking coverage must notify the police within 24 hours or as soon as practicable.

A person seeking coverage must:

1. cooperate with **us** in any matter concerning a claim or lawsuit;
2. provide any written proof of loss **we** may reasonably require;
3. allow **us** to take signed and recorded statements, including sworn statements and examinations under oath, which **we** may conduct outside the presence of **you** or any other person seeking coverage, and answer all reasonable questions **we** may ask as often as **we** may reasonably require;
4. promptly call to notify **us** about any claim or lawsuit and send **us** any and all legal papers relating to the claim or suit;
5. attend hearings and trials as **we** require;
6. take reasonable steps after a loss to protect the **covered auto**, or any other vehicle for which coverage is sought, from further loss. **We** will pay reasonable expenses incurred in providing that protection. If failure to provide such protection results in further loss, any additional damages will not be covered under this policy;
7. allow **us** to have the damaged **covered auto**, or any other damaged vehicle for which coverage is sought, inspected and appraised before its repair or disposal;
8. submit to medical examinations at **our** expense by doctors **we** select as often as **we** may reasonably require; and
9. authorize **us** to obtain medical and other records.

PART VII—GENERAL PROVISIONS

POLICY PERIOD AND TERRITORY

This policy applies only to accidents and losses occurring during the policy period shown on the **declarations page** and that occur within a state, territory or possession of the United States of America, or a province or territory of Canada, or while a **covered auto** is being transported between their ports.

CHANGES

This policy contract, **your** insurance application (which is made a part of this policy as if attached hereto), the **declarations page**, and all endorsements to this policy issued by **us**, contain all the agreements between **you** and **us**. Subject to the following, the terms of this policy may not be changed or waived except by an endorsement issued by **us**.

The premium for this policy is based on information **we** received from **you** and other sources. **You** agree to cooperate with **us** in determining if this information is correct and complete, and to promptly notify **us** if it changes during the policy period. If this information is determined by **us** to be incorrect, incomplete, or if it changes during the policy period, **you** agree that **we** may adjust **your** policy information and premi-

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um accordingly. Changes that may result in a premium adjustment are contained in **our** rates and rules. These include, but are not limited to, **you**, a **relative**, or a **rated resident** obtaining a driver's license or operator's permit, or changes in:

1. the number, type or use classification of **covered autos**;
2. the persons who regularly operate a **covered auto**;
3. the persons of legal driving age residing in **your** household;
4. the residents in **your** household;
5. an operator's marital status;
6. **your** mailing address and **your** residence address;
7. the principal garaging address of any **covered auto**;
8. coverage, deductibles, or limits of liability; or
9. rating territory or discount eligibility.

The coverage provided in **your** policy may be changed only by the issuance of a new policy or an endorsement by **us**. However, if during the policy period **we** broaden any coverage afforded under the current edition of **your** policy without additional premium charge, that change will automatically apply to **your** policy as of the date the coverage change is implemented in **your** state.

If **you** ask **us** to delete a vehicle from this policy, no coverage will apply to that vehicle as of the date and time **you** ask **us** to delete it.

DUTY TO REPORT CHANGES

You must promptly report to **us** all changes, including additions and deletions, in policy information. This includes, but is not limited to, changes in:

1. **your** mailing address or **your** residence address;
2. the principal garaging address of any **covered auto**;
3. the residents in **your** household;
4. the persons of legal driving age residing in **your** household;
5. the persons who regularly operate a **covered auto**;
6. an operator's marital status; or
7. the driver's license or operator's permit status of **you**, a **relative**, or a **rated resident.**

SETTLEMENT OF CLAIMS

We may use estimating, appraisal, or injury evaluation systems to assist **us** in adjusting claims under this policy and to assist **us** in determining the amount of damages, expenses, or loss payable under this policy. Such systems may be developed by **us** or a third party and may include computer software, databases, and specialized technology.

TERMS OF POLICY CONFORMED TO STATUTES

If any provision of this policy fails to conform to the statutes of the state listed on **your** application as **your** residence, the provision shall be deemed amended to conform

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to such statutes. All other provisions shall be given full force and effect. Any disputes as to the coverages provided or the provisions of this policy shall be governed by the law of the state listed on **your** application as **your** residence.

TRANSFER OF INTEREST

The rights and duties under this policy may not be transferred to another person without **our** written consent. However, if a named insured shown on the **declarations page** dies, this policy will provide coverage until the end of the policy period for the legal representative of the named insured, while acting as such, and for persons covered under this policy on the date of the named insured's death.

FRAUD OR MISREPRESENTATION

This policy was issued in reliance upon the information provided on **your** insurance application. **We** may void this policy at any time, including after the occurrence of an accident or loss, if **you**:

1. made incorrect statements or representations to **us** with regard to any material fact or circumstance;
2. concealed or misrepresented any material fact or circumstance; or
3. engaged in fraudulent conduct;

at the time of application. This means that **we** will not be liable for any claims or damages that would otherwise be covered unless **we** have certified this policy as proof of financial responsibility. If **we** have certified this policy as proof of financial responsibility, nothing in this provision shall affect coverage under Part I—Liability To Others up to the minimum limit mandated by the motor vehicle financial responsibility law of South Carolina for an accident that occurs before **we** notify **you** that the policy is void. If **we** void this policy, **you** must reimburse **us** if **we** make a payment.

Any changes **we** make at **your** request to this policy after inception will be made in reliance upon information **you** provide. If **you**:

1. make incorrect statements or representations to **us** with regard to any material fact or circumstance;
2. conceal or misrepresent any material fact or circumstance; or
3. engage in fraudulent conduct;

in connection with a requested change **we** may void the policy or reform it as it existed immediately prior to the requested change. **We** may do this at any time, including after the occurrence of an accident or loss.

When **we** have not voided or reformed the policy, **we** may still deny coverage for an accident or loss if **you**, in connection with the policy application, in connection with any requested change, or at any time during the policy period, have concealed or misrepresented any material fact or circumstance or engaged in fraudulent conduct and that concealment, misrepresentation, or fraudulent conduct was material to a risk **we** assumed.

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We may deny coverage for an accident or loss if **you** or a person seeking coverage has concealed or misrepresented any material fact or circumstance, or engaged in fraudulent conduct, in connection with the presentation or settlement of a claim. However, this shall not affect coverage under Part I—Liability To Others up to the minimum limit mandated by the motor vehicle financial responsibility law of South Carolina, for any injured person who has not knowingly concealed or misrepresented any material fact or circumstance.

PAYMENT OF PREMIUM AND FEES

If **your** initial premium payment is by check, draft, electronic funds transfer, or similar form of remittance, coverage under this policy is conditioned on payment to **us** by the financial institution. If the financial institution upon presentment does not honor the check, draft, electronic funds transfer, or similar form of remittance, this policy may, at **our** option, be cancelled from its inception by notice of cancellation or rescission. This means **we** will not be liable under this policy for any claims or damages that would otherwise be covered if the check, draft, electronic funds transfer, or similar form of remittance had been honored by the financial institution. Any action by **us** to present the remittance for payment more than once shall not affect **our** right to void this policy.

In addition to premium, fees may be charged on **your** policy. **We** may charge fees for installment payments, late payments, and other transactions. Payments made on **your** policy will be applied first to fees, then to premium due.

CANCELLATION

You may cancel this policy during the policy period by calling or writing **us** and stating the future date **you** wish the cancellation to be effective.

We may cancel this policy during the policy period by mailing a notice of cancellation to the named insured shown on the **declarations page** at the last known address appearing in **our** records, stating the specific reason for cancellation. Notice will be mailed at least 15 days before the date of cancellation.

We may cancel this policy for any of the following reasons within the first 60 days of the initial policy period:

1. a premium payment by check, draft, electronic funds transfer, or similar form of remittance is not honored upon presentment;
2. **you** produce proof that **you** have sold or otherwise disposed of a **covered auto**, or surrendered its tags and registration;
3. **you** have secured another policy that satisfies the financial responsibility laws of the State of South Carolina; or
4. **you** fail to pay when due:
   a. the premium for the policy;
   b. an installment of the premium; or
   c. an installment payment under a premium service contract.

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After the policy has been in effect for more than 60 days, but before the policy has been in effect for more than 90 days, **we** may cancel this policy for any reason.

After this policy is in effect for more than 90 days, or if this is a renewal or continuation policy, **we** may cancel only for one or more of the following reasons:

1. nonpayment of premium;
2. loss of driving privileges through suspension or revocation of an operator's license issued to **you**, any driver in **your** household, or any regular operator of a **covered auto**; or
3. any other reason permitted by law.

Proof of mailing will be sufficient proof of notice. If this policy is cancelled, coverage will not be provided as of the effective date and time shown in the notice of cancellation. For purposes of cancellation, this policy is neither severable nor divisible. Any cancellation will be effective for all coverages for all persons and all vehicles.

CANCELLATION REFUND

Upon cancellation, **you** may be entitled to a premium refund. However, **our** making or offering of a refund is not a condition of cancellation.

If this policy is cancelled, any refund due will be computed on a daily pro rata basis. However, if this policy is cancelled at **your** request any refund due will be computed on a 90% of a daily pro rata basis. Earned premium is calculated on a daily basis. **We** will supply a copy of the table to **you** on request.

When **you** renew this policy, **we** will waive **our** right under the policy to calculate cancellation refunds on a 90% of a daily pro rata basis; instead, any refund of premium following a cancellation that may apply to the renewal policy will be calculated on a daily pro rata basis.

NONRENEWAL

If neither **we** nor one of **our** affiliates offers to renew or continue this policy, **we** will mail notice of nonrenewal stating the specific reason for nonrenewal to the named insured shown on the **declarations page** at the last known address appearing in **our** records. Proof of mailing will be sufficient proof of notice. Notice will be mailed at least 15 days before the end of the policy period.

LEGAL ACTION AGAINST US

We may not be sued unless there is full compliance with all the terms of this policy.

We may not be sued for payment under Part I—Liability To Others until the obligation of an insured person under Part I to pay is finally determined either by judgment after trial against that person or by written agreement of the insured person, the

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claimant, and **us**. No one will have any right to make **us** a party to a lawsuit to determine the liability of an insured person.

If **we** retain salvage, **we** have no duty to preserve or otherwise retain the salvage for any purpose, including evidence for any civil or criminal proceeding.

OUR RIGHTS TO RECOVER PAYMENT

We are entitled to the rights of recovery that the insured person to whom payment was made has against another, to the extent of **our** payment. That insured person may be required to sign documents related to the recovery and must do whatever else **we** require to help **us** exercise those recovery rights, and do nothing after an accident or loss to prejudice those rights.

However, **we** may not assert rights of recovery:
1. for amounts paid as Underinsured Motorist Coverage benefits; or
2. for amounts paid as Medical Payments Coverage benefits.

When an insured person has been paid by **us** and also recovers from another, the amount recovered will be held by the insured person in trust for **us** and reimbursed to **us** to the extent of **our** payment. If **we** are not reimbursed, **we** may pursue recovery of that amount directly against that insured person.

If an insured person recovers from another without **our** written consent, the insured person's right to payment under any affected coverage will no longer exist.

If **we** elect to exercise **our** rights of recovery against another, **we** will also attempt to recover any deductible incurred by an insured person under this policy unless **we** are specifically instructed by that person not to pursue the deductible. **We** have no obligation to pursue recovery against another for any loss not covered by this policy.

We reserve the right to compromise or settle the deductible and property damage claims against the responsible parties for less than the full amount. **We** also reserve the right to incur reasonable expenses and attorney fees in pursuit of the recovery.

If the total recovery is less than the total of **our** payment and the deductible, **we** will reduce reimbursement of the deductible based on the proportion that the actual recovery bears to the total of **our** payment and the deductible. A proportionate share of collection expenses and attorney fees incurred in connection with these recovery efforts will also reduce reimbursement of the deductible.

These provisions will be applied in accordance with state law.

JOINT AND INDIVIDUAL INTERESTS

If there is more than one named insured on this policy, any named insured may cancel or change this policy. The action of one named insured will be binding on all persons provided coverage under this policy.

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BANKRUPTCY

The bankruptcy or insolvency of an insured person will not relieve **us** of any obligations under this policy.

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PROGRESSIVE®
DRIVE® Insurance

9611A SC 1014

Medical Payments Coverage Endorsement

Your policy is amended as follows:

Part II - Medical Payments Coverage

The following is deleted under the Limits of Liability provision:

No one will be entitled to duplicate payments under this policy for the same elements of damages.

Any amount payable to an **insured person** under this Part II will be reduced by any amount paid or payable for the same expense under Part I - Liability To Others or Part III - Uninsured/Underinsured Motorist Coverage.

All other terms, limits and provisions of this policy remain unchanged.

Form A048 SC (07/11)

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Named Driver Exclusion Endorsement

If **you** have asked **us** to exclude any person from coverage under this policy, then **we** will not provide coverage for any claim arising from an accident or loss involving a motorized vehicle being operated by that excluded driver. This includes any claim for damages made against **you**, a **relative**, or any other person or organization that is vicariously liable for an accident arising out of the operation of a motorized vehicle by the excluded driver.

All other terms, limits and provisions of this policy remain unchanged.

Form 2195 (07/05)

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Named Driver Exclusion Election

You have named the following persons as excluded drivers under this policy:

RICHARD PROTHRO Date of Birth: May 6, 1955

No coverage is provided for any claim arising from an accident or loss involving a motorized vehicle being operated by an excluded person. This includes any claim for damages made against any named insured, resident relative, or any other person or organization that is vicariously liable for an accident or loss arising out of the operation of a motorized vehicle by the excluded driver.

This form must be signed by the named insured.

I understand and agree that this Named Driver Exclusion election shall apply to this policy and any renewal, reinstatement, substitute, amended, altered, modified or replacement policy with this company or any affiliated company, unless a named insured revokes this election.

I declare that either the driver's license of the excluded persons named in this Named Driver Exclusion election has been turned into the Department of Motor Vehicles, or that an appropriate policy of liability insurance or other security as may be authorized by law has been properly executed in the name of the person to be excluded.

Signature of named insured **Date**

X Sharon J. Prothro 4-2-09

Form 9330 SC (04/07)

Claim # 1652237341

Continued

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ELECTRONICALLY FILED - 2019 May 15 6:01 PM - SUMTER - COMMON PLEAS - CASE#2019CP4300105

STATE OF SOUTH CAROLINA	IN THE COURT OF COMMON PLEAS
COUNTY OF SUMTER	CIVIL ACTION NO: 2019-CP-43-00105
Progressive Northern Insurance Company, PLAINTIFF, vs. Gloria Oliver, Richard Prothro and Sharon Prothro, DEFENDANTS.	**ANSWER OF DEFENDANT GLORIA OLIVER** (Non-Jury)

The Defendant Gloria Oliver, answering the Complaint of the above-named Plaintiff, and responding to the allegations as follows:

1. Defendant Gloria Oliver denies each and every allegation of the Plaintiff's Complaint not hereinafter admitted, denied, or specifically qualified, and demands strict proof thereof.

2. Defendant Gloria Oliver admits the allegations set forth in paragraph one (1) of the Complaint.

3. Defendant Gloria Oliver admits the allegations set forth in paragraph two (2) of the Complaint.

4. Defendant Gloria Oliver admits the allegations contained in paragraph three (3) of the Complaint.

5. Defendant Gloria Oliver admits the allegations set forth in paragraph four (4) of the Complaint.

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6. Defendant Gloria Oliver is without sufficient information and belief as to either admit or deny certain parts of the allegations set forth in paragraph five (5) of the Plaintiff's Complaint and therefore denies the same and demands strict proof thereof.

7. Defendant Gloria Oliver admits the allegations set forth in paragraph six (6) of the Complaint.

8. Defendant Gloria Oliver is without sufficient information and belief as to either admit or deny certain parts of the allegations set forth in paragraph seven (7) of the Plaintiff's Complaint and therefore denies the same and demands strict proof thereof.

9. Defendant Gloria Oliver is without sufficient information and belief as to either admit or deny certain parts of the allegations set forth in paragraph eight (8) of the Plaintiff's Complaint and therefore denies the same and demands strict proof thereof.

10. Defendant Gloria Oliver is without sufficient information and belief as to either admit or deny certain parts of the allegations set forth in paragraph nine (9) of the Plaintiff's Complaint, which purports to be an excerpt from an automobile insurance policy provided by the Plaintiff, and therefore denies the same and demands strict proof thereof.

11. Defendant Gloria Oliver admits the allegations set forth in paragraph ten (10) of the Complaint, with the exception of the styling of the parties, which reads "Gloria D. Oliver vs. Richard Prothro and Sharon Prothro" in the complaint in the underlying action.

12. Defendant Gloria Oliver admits so much of paragraph eleven (11) of the Plaintiff's Complaint as states that the complaint in the underlying action alleges that Defendant Richard Prothro was operating a 1996 Ford vehicle in which Defendant Gloria Oliver was a passenger on or about July 24, 2016 and on which date multiple collisions occurred and Defendant Gloria Oliver sustained injuries as a result thereof. The allegations in paragraph eleven (11) of the Plaintiff's

Complaint were not excerpted verbatim from the complaint in the underlying action; therefore, Defendant Gloria Oliver is without sufficient information and belief as to either admit or deny certain parts of the allegations set forth in paragraph eleven (11) of the Plaintiff's Complaint and must deny the same and demand strict proof thereof.

13. Defendant Gloria Oliver admits so much of paragraph twelve (12) of the Plaintiff's Complaint as states that the complaint in the underlying action alleges that Defendant Richard Prothro was operating a vehicle while his driver's license was suspended, that Defendant Sharon Prothro was the owner of the 1996 Ford automobile involved in the collision, and that Defendant Sharon Prothro had entrusted the vehicle to Defendant Richard Prothro to drive; however, the allegations in paragraph twelve (12) of the Plaintiff's Complaint were not excerpted verbatim from the complaint in the underlying action, which qualifies each of these particular allegations with "upon information and belief." Therefore, Defendant Gloria Oliver is without sufficient information and belief as to either admit or deny certain parts of the allegations set forth in paragraph twelve (12) of the Plaintiff's Complaint and must deny the same and demand strict proof thereof.

14. Defendant Gloria Oliver admits the allegations set forth in paragraph thirteen (13) of the Complaint.

15. Defendant Gloria Oliver is without sufficient information and belief as to either admit or deny certain parts of the allegations set forth in paragraph fourteen (14) of the Plaintiff's Complaint and therefore denies the same and demands strict proof thereof.

16. Defendant Gloria Oliver is without sufficient information and belief as to either admit or deny certain parts of the allegations set forth in paragraph fifteen (15) of the Plaintiff's Complaint and therefore denies the same and demands strict proof thereof.

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17. Defendant Gloria Oliver denies the allegations contained in paragraphs 16, 17, 18, 19, 20, and 21 of the Plaintiff's Complaint.

18. Defendant Gloria Oliver denies the allegations and prayer for relief contained in the remaining unnumbered paragraph(s) of the Plaintiff's Complaint.

FOR A FIRST AFFIRMATIVE DEFENSE
(Failure to State Facts Sufficient)

19. That the Plaintiff's Complaint fails to state facts sufficient to constitute a cause of action and the Complaint should be dismissed pursuant to the provisions of South Carolina Rules of Civil Procedure Rule 12(b)(6).

FOR A SECOND AFFIRMATIVE DEFENSE
(Prematurity/failure to obtain determination of liability and damages)

20. That the Plaintiff has failed to allow the prosecution of the underlying claim which is relevant to the instant action to a conclusion, and, therefore, the amount of legal damages is unknown and this action is premature.

FOR A THIRD AFFIRMATIVE DEFENSE
(Legal Validity)

21. That the validity of Plaintiff's first declaration as stated in paragraphs 16, 17, 18, 19, 20, and 21 of the Plaintiff's Complaint has been determined invalid by applicable South Carolina statutory law and/or South Carolina jurisprudence, as Defendant Gloria Oliver, clearly established as a "guest" in the automobile referenced above on the date referenced above as defined by applicable South Carolina law, is entitled to relevant coverage provided within the automobile insurance policy issued by Progressive Northern Insurance Company (but not in any way limited to *only* the Progressive Northern Insurance Company policy in controversy) which included the automobile referenced in the complaint in the underlying action which was involved in the July 24, 2016 incident as described in the complaint in the underlying action.

BRYAN LAW FIRM OF SC, L.L.P.

By: s:/J. Thomas McElveen, III

J. Thomas McElveen, III
Attorney for the Defendant
17 East Calhoun Street
P. O. Box 2038
Sumter, SC 29151
(803) 775-1263

Sumter, South Carolina
May 15, 2019

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STATE OF SOUTH CAROLINA	)	
	)	COURT OF COMMON PLEAS
COUNTY OF SUMTER	)	2019-CP-43-00105
	)	
	)	
	)	
	)	
	)	
PROGRESSIVE NORTHERN INSURANCE COMPANY,	)	
PLAINTIFF,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
GLORIA OLIVER, RICHARD PROTHRO AND SHARON PROTHRO,	)	
DEFENDANTS.	)	
	)	

September 14, 2020
Via WEBEX

B E F O R E:

THE HONORABLE KRISTI F. CURTIS, JUDGE.

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

SARAH CAIELLO, ESQ.
Attorney for the Plaintiff

JOSEPH MCELVEEN, ESQ.
Attorney for the Defendant

Proceedings Recorded by DCRP
Transcribed by Penny M. Johnson

I N D E X

(There were no witnesses called.)

E X H I B I T S

(There were no exhibits submitted.)

P R O C E E D I N G S

(WHEREUPON, the proceedings were held via WebEx.)

COURT REPORTER'S NOTE: Due to remote platform interruption and video-audio interference throughout the hearing, those instance are denoted with "audio distortion" in the transcript.

THE COURT: I understand -- someone brought to our attention that Richard and Sharon Prothro are in default?

MS. CAIELLO: That's correct, Your Honor.

THE COURT: And I don't think that -- I don't think our clerk's office would notify them. I know, of course, the roster would be published, but did y'all have an issue with -- I understand neither one of y'all would have notified them?

MS. CAIELLO: That's correct, Your Honor.

MR. MCELVEEN: Your Honor, I would not notify them because, frankly, they are defendants in the underlying tort claim right now with my client as the Plaintiff and they're represented by Jeff Crudup in Greenville. So I can't have any sort of influence or any sort of contact with them whatsoever because this case we're talking about now is obviously a coverage issue. It pertains to underlying tort claim.

THE COURT: I just -- I'm pretty sure our clerk's office would not notify them of this hearing if they're in

default. Has someone actually moved to have an entry of default or anything like that?

MS. CAIELLO: The default has been entered, Your Honor. I can pull up the date on it if you just bear with me for one minute. I know we have entered default. We have not sought default judgment against them at this time because I think we knew we needed to get -- that Ms. Oliver would still disagree with our position, so we waited and held off on that. But the order of default went into effect, it looks like, April 25th of 2019.

THE COURT: So what's y'all's position as to whether we can go forward today without having notified them with their being in default?

MS. CAIELLO: My understanding --

MR. MCELVEEN: Your Honor -- go ahead, I'm sorry.

MS. CAIELLO: You can go ahead.

THE COURT: Ms. Caiello, let me hear from you first, ma'am.

MS. CAIELLO: My position is, my understanding of the rules is that a party that's in default does not need to be served with those notices. Certainly, that's best practice in general is to serve and be careful in that regard, but since they have -- default has been entered against them, my understanding is it wouldn't necessarily harm anything at this point.

I think particularly since -- it's in the record at this point, there's deposition testimony from last, I guess, December in which they pretty much admitted what Progressive is dealing with here with the named driver exclusion form and that sort of thing. So I'm not sure that even if there is some sort of issue here that it would be prejudicial to them were they to not have the notice.

THE COURT: Mr. McElveen?

MR. MCELVEEN: Your Honor, from my standpoint, we don't really have a position because this that we're dealing with today is not our Motion. The only thing I would say is that, obviously -- because, again, my client is a plaintiff in an underlying tort claim that, you know, is kind of companion to this case and the Prothros are both defendants. Our position is that anything -- any default issue with the Prothros in this declaratory judgment action shouldn't have any kind of bearing or effect on my client because she can't control that. I mean, I can't call the Prothros and tell them listen, you need to answer in this case because if you don't you'll be in default. I can't do that. I can't ethically do that.

But I will say when we took depositions on December 2nd of last year, I will say that both the Prothros seemed very confused about kind of which was which. They understood they had been sued by my client, Ms. Oliver, but I believe

one or both of them, you know, really didn't understand why they were there for two depositions on December 2nd, 2019 until that was kind of explained to them. I'm not sure they could separate the DJ action from the underlying tort claim. That's my impression from the deposition testimony, at least, but I can't really talk to them about that.

THE COURT: Well, let me go ahead and hear from y'all on the Motion.

Ms. Caiello, since it's your Motion, I'll hear from you first.

MS. CAIELLO: Yes, Your Honor. I appreciate that.

I think this case comes down to two very important facts. And before I talk about those, I want to double check, I know that Mr. McElveen ("audio distortion") last week and it appears to me that the issue -- the legal issues have been narrowed down, which I appreciate.

In our Motion, we had filed and kind of made a couple of arguments. One, on the sufficiency of the named driver exclusion form, that it does apply to the statutory requirements. And it does not appear that Ms. Oliver has challenged that at this point. So if that comes up later in this argument, I'm going to save any time addressing that for later because it doesn't appear to me to be in dispute, that the forms are sufficient.

So to me, the narrow issue is whether the appropriate

form actually applies to these facts that are given. And I think the two facts that are really important here are that Richard Prothro was excluded as a driver under Ms. Sharon Prothro's Progressive policy effective April 2nd of 2009. And we have the Affidavit from the local agent that affirmed that that is correct. We also have Sharon Prothro and Richard Prothro's deposition testimony that he was excluded on that date and has never been added to her policy at this time.

So under 38-77-340, that exclusion applies to this. That 38-77-340 provides that a named driver exclusion properly filled out, all of that, applies to all insureds, notwithstanding the definition of an insured under 38-77-30, and it applies when a vehicle is operated by the person designated on that form. It also applies to any substitution or renewal of those policies. So like I said, from April 2nd, 2009, he has not been added to Ms. Prothro's policy, so Mr. Prothro is still an excluded driver under that policy.

On July 24th, 2016, this is the second fact that's important, there was an accident. Mr. Prothro was driving the vehicle and Ms. Oliver, Mr. McElveen's client, was a passenger in that vehicle.

Those are the two important facts here. Nothing else matters because this is a coverage case. What does the

policy say? What does the statute say? And who was driving? That's what's important.

So in this situation, like I said earlier, it doesn't matter how Ms. Oliver is claiming to be an insured, the point is she's claiming to be an insured of some type, specifically, to be a guest under 38-77-30; and yet, in 38-77-340, we see the first sentence, notwithstanding the definition of insured in section 38-77-30. Then we skip down a little bit, it's a long sentence in that statute, but it says that that named driver exclusion applies to all insureds who the policy would be applicable to.

So no matter how she's claiming to be an insured, the named driver exclusion applies and does not provide coverage for this accident.

I think that's all I've got to say at this point. I would direct the Court, there has been a recent order from the Court of Common Pleas, I believe it came in February of 2020, it's in a case, USAA vs. Pickens, and I've got the case number for Your Honor. It's 2019-CP-40-03702.

And in that case, it's straight on point. The named insured was trying to exclude her son and excluded her son and, ultimately, an accident occurred and someone was trying to get uninsured motorist coverage. And the court in that case -- it is out of Richland County. The court in that case found that the named driver exclusion form did apply

even to UM coverage, and there was no coverage in that case.

We believe that's straight on point in this case where Ms. Oliver is trying to seek that UM coverage in light of a named driver exclusion.

THE COURT: Okay. Thank you, Ms. Caiello.

Mr. McElveen.

MR. MCELVEEN: Thank you, Your Honor. Can you hear me?

THE COURT: Yes, sir.

MR. MCELVEEN: Your Honor, I understand Ms. Caiello's point that she's looking at the policy exclusion, which we have not contested the validity of the policy exclusion, we've contested its applicability to this particular set of facts. And she's also mentioned to you the statutory authority on this.

But, Your Honor, I think you also have to consider two additional things in this. Number one is I think you need to be aware of the facts in this case. I think you also need to look at some of the case law, specifically, from the Supreme Court on very similar issues.

Your Honor, if I may, I'd like to kind of run through the facts on this really fast with you. I tried to kind of encapsulate a lot of that in my brief, but as she said earlier, this stems from a July 24th, 2016 wreck.

Basically, what happened is, my client, whose name is Gloria Oliver, she does not have a license. She does not

have a vehicle. And that morning, Mr. Richard Prothro came by her house with her momma, who had ridden there with Mr. Prothro. From my client's testimony, Your Honor, what happened was she was making them breakfast and she was missing some ingredients, so she asked if they would run her down to the Wal-Mart neighborhood market, which Mr. Prothro agreed to do.

So she gets in the vehicle, she rides to the neighborhood market on Bultman Drive. She goes in and gets her groceries. And when she gets back into the vehicle, that's when Mr. Prothro, basically, started driving the vehicle at a pretty high rate of speed in reverse and just striking multiple objects in the Wal-Mart parking lot. I think he hit a tree, some other structures in the parking lot and, at least, two to three vehicles. And she was injured in that collision.

Of course, law enforcement responded. You can look at the police report and the FR10, which is usually the initial information I'm given when I get a new case, it list Progressive as the insurance company and it list Sharon Prothro as the owner of the vehicle.

So naturally, we submitted -- you know, we put Progressive on notice that we had a liability claim. And I believe on -- a couple months later, on September 26th of that year, Progressive denied the liability claim.

Progressive denies liability on that case because UM or uninsured motor's claim.

And so around January 24th of 2017, we sent a letter to Progressive requesting that they give us more grounds for denial of the claim. And, basically, on February 6th of 2017, we got a letter back from Progressive saying that there was no coverage because Richard Prothro was an excluded driver.

So around January 8th of 2018, we submitted an uninsured motorist claim to Progressive citing the Auto Owners vs. Rollison case that I've also cited in my brief. I want to talk about that in just a second, Your Honor. But on January 16th of 2018, we then got a letter from Progressive that also denied our uninsured motorist claim.

In July of 2018, we filed suit. Jeff Crudup, brought up earlier, he answered my complaint, is currently defending the Prothros in the underlying tort case. And we also served Progressive as uninsured motorist carrier on December 5th, 2019. And in January of 2019, Progressive filed this DJ action.

Your Honor, on December 2nd of 2019, we took six depositions. Basically, we took a deposition of Gloria Oliver as the plaintiff in the underlying tort case, and then Richard and Sharon Prothro as defendants. And then Nationwide -- I'm sorry, Progressive took all three parties'

depositions kind of right after that in the coverage case.

And so, the depositions get a little confusing, Your Honor. I submitted them all as exhibits in this case. I did not provide case cites -- I don't provide cites for deposition pages and lines in my brief because it, frankly, got a little too cumbersome for the brief, but if you'd like me to submit that separately, I can.

Your Honor, the facts in this case, basically, there wasn't not a whole lot of disagreement. But what did come out is that since he's been an excluded driver, which was back, I believe, in April of 2009, Richard Prothro and Gloria -- Richard Prothro testified and Gloria Prothro -- or Sharon Prothro agreed that he had driven that vehicle some 168 times since then. She also and he also said that the keys to the vehicle were readily available to him, that they were on the dresser top in the bedroom. And Sharon Prothro testified that she knew he was driving that vehicle almost every time he did it.

And, Your Honor, his license had been suspended, I think, for over ten years. He testified he had two DUIs or more since then. And that was the reason for the suspension. Ms. Prothro knew about that, also. Both of them also testified that he had been drinking pretty substantially the night before the wreck and even the morning of the wreck before he left the house. Sharon

Prothro testified that she was aware of that, and she testified that she didn't do anything more to stop him from driving the vehicle other than saying stop, don't do that. And so, Your Honor, we do have a negligent claim here also against Sharon Prothro in the underlying tort action.

But what's more interesting than that and more important in this case, I believe, is that Gloria Oliver, my client, testified she had no way -- she had no way of knowing that Richard Prothro was not an insured driver of that vehicle. She thought the vehicle belonged to Richard Prothro. She had seen him driving it before. Richard Prothro and Sharon Prothro testified that Gloria Oliver should have no reasonable way to know that he was an excluded driver of the vehicle potentially not covered by liability insurance.

So I think those are important things to note, Your Honor. And that's important because in this situation, Gloria Oliver is a guest passenger in the vehicle. She was riding with permission from Richard Prothro, who was driving the vehicle that was owned by his wife.

And, Your Honor, we certainly understand the statutory construction here, obviously, and we believe that if you look at Code Section 38-77-30, we believe that Gloria Oliver is certainly a guest passenger of that vehicle. That's under subsection 7 of 38-77-30, but we also do acknowledge

that in 38-77-340, you know, it outlines the process for excluding a driver.

Now, Your Honor, a few things I want you to think about the case law. First of all, Ms. Caiello just cited, I believe, an order from a case that came out pretty recently. I read that order, but I don't see how it has any value from the standpoint of precedent in this case.

They've also cited two Court of Appeals opinions in their brief. One is Lincoln General vs. Progressive, that's a 2013 Court of Appeals case. They've also cited Nationwide Insurance vs. Knight. My understanding is the Supreme Court recently granted cert on that case, Your Honor.

The difference, Your Honor, between those two cases and the cases we've cited is number one, they're Court of Appeals cases. Number two, they deal with multiple car wrecks -- multiple car accidents. They also deal with situations where a wife or a fiance -- the husband or fiance of a wife or fiance was driving the vehicle where that spouse was excluded. So they don't involve guest passengers in those cases, Your Honor.

But, Your Honor, if you look at the two cases we've cited, which are the Unisun case and the Rollison case. The Rollison case is from 2008 cites Unisun. Your Honor, in the Rollison case, it actually involved a guest passenger and the policy that they were arguing, the uninsured motorist

policy they were arguing did include an exclusion for personal injury.

In that case, the younger grandson, I think, was driving the car that was -- or vehicle that was insured under a garage policy. A passenger in that vehicle was injured. Ultimately, the Supreme Court said the exclusion was not valid and that the guest passenger was entitled to uninsured motorist coverage.

Your Honor, in the Unisun case, very similar, another case where it involved a permissive use question, but it involved a guest passenger that was injured when another driver drove the vehicle without permission. And again, Your Honor, the Supreme Court extended coverage in that case.

Now, I understand and appreciate that we're talking about a policy exclusion -- a driver exclusion in this case that we're talking about today. There is not a lot of difference in those two Supreme Court cases, which are talking about -- talking about permissive use language in them.

But, Your Honor, I would turn your attention in particular to the Unisun case because it's the only uninsured motorist coverage. And reading from the Unisun case, what it says is, the uninsured motorist statute does not appear to contemplate single-car accidents. We do not

believe, however, the legislature intended an otherwise insured passenger to lose coverage when an unauthorized driver takes the wheel. It goes on to say, you'll reject the statutory interpretation, but to accept it would lead to a result so plainly absurd that it could not have been intended by the legislature that would defeat the plain legislative intention.

So Your Honor, when you look at the Unisun and Rollison opinions, I'm not going to tell you that if you granted summary judgment today, you would overturn those opinions, but I think it would severely frustrate the public policy position that the Supreme Court has put forth in both those cases. And that is basically, it's absurd, number one, to punish a guest passenger when they have no idea about coverage.

And if you're going to do that, then you're going to create a precedent that would say every time you get in a vehicle and you're not familiar with the insurance coverage, you better be asking the driver about whether or not the vehicle is insured. You better be asking to look at a copy of the declarations page.

So I just think that if you exclude a guest passenger, an innocent guest passenger like Gloria Oliver in a case like this, then you're doing exactly what the Supreme Court has warned against in Rollison and in Unisun. You're

creating this absurd result where in South Carolina, you know, a lot of folks have transportation issues, a lot of folks are unable -- they have to rely on others for transportation. So I think you would be creating this absurd standard, to quote the Supreme Court, where you'd just be requiring way too much. In this case, giving an insurance company way too much protection, but not the innocent party involved.

THE COURT: Well, I guess, my question, Mr. McElveen, is if the insurance company is ultimately going to have to pay, then the guest passenger would be in really no different position than if they had hit another vehicle and you have a driver of another vehicle who gets hit and -- or a passenger in another vehicle who gets hit where this excluded driver is driving. I mean, if Progressive is going to have to cover it anyway, then haven't we undercut the whole statutory opinion that says you can exclude drivers and if you do it the right way, then the insurance company does not have to provide that coverage?

MR. MCELVEEN: I think that's a little different, Your Honor, because if you're driving a vehicle where you're excluded and you have no liability coverage, then the uninsured motorist coverage, which is applicable to Gloria Oliver as a guest passenger in this case, would certainly not be applicable to another vehicle.

I mean, if you hit another vehicle and you're at fault, yeah, we see plenty of cases like that where the liability company will deny you as an excluded driver, but then assuming the vehicle you hit has the legal limits, at least, they're going to have $25,000 -- I mean, 25/50 uninsured motorist coverage for the vehicle you hit.

So, I mean, there is a big difference, I believe, Your Honor between a single car wreck like we're talking about in this situation and a wreck involving multiple vehicles.

And Your Honor, I should also point out that reading from, again, the Unison case, which cites Gunnels vs. American Liberty Insurance, which is a 1968 case, that one says that the uninsured motorist statute is remedial in nature enacted for the benefit of injured persons, and is to be liberally construed so that the purpose intended may be accomplished.

So again, I understand what the statute says, but I think when we're talking about this issue, we can't ignore what the case law says. I think the Supreme Court on this public policy argument, if nothing else, has been very clear in the Rollison and Unisun opinions.

THE COURT: Thank you.

Ms. Caiello, do you want to respond, ma'am?

MS. CAIELLO: Yes, Your Honor, I would. Just a couple of things briefly. I think it's important those cases, the

Rollison and Unison cases, Mr. McElveen said it, those are permissive use cases. And I think they're important and they're good law, but they are not applicable to this situation in the same way that he has argued.

Regardless of whether Ms. Oliver was a guest in this situation, that would just define how she's an insured under 38-77-30. We all agree on that. If she's an insured, potentially, there's coverage here, except when there is an excluded driver form executed pursuant to 38-77-340. Rollison does not address whether an excluded driver form provides coverage for a guest in a permissive user's vehicle or in a nonpermissive user's vehicle.

But even if Mr. Richard Prothro had driven this car as many times as he has testified to, since that excluded driver's form was executed, he's a permissive user, but that doesn't mean he's now not an excluded driver.

The excluded driver statute allows these insurance companies to provide insurance for otherwise uninsurable people. If it's going to be so greatly expensive to insure these individuals because the rest of their family who have bad driving records come into play there, then the insurance companies could just say oh, that's just a fact of life, which means all of these people like Ms. Sharon Prothro would be uninsured. It might make it even worse in South Carolina.

But the situation here is that these named driver exclusions allow for these people to name and disclose, get a lower premium, they can afford it, they get insurance and they go on their way. But they know and those excluded drivers typically know, too, as Mr. Richard Prothro did in this case, that if the excluded driver drives, they're not going to be covered.

So I think I agree to some extent with -- I think the questions that you asked, Your Honor, I think the concern that a decision against Progressive in this case would not be ("audible distortion") to UM coverage. And I think that's a very valid concern. There's no limiting principle if the excluded driver did not apply in this case.

I think part of the public policy in South Carolina for named driver exclusion statute, you have to have balance. If you're excluding under liability coverage, you're excluding them from coverage that's aimed at protecting all of the other South Carolina residents and nonresidents who are driving in our state. But if you then with the same hand grant UM coverage for an excluded driver, in this situation, you're protecting ("audible distortion"), and I think that's problematic. I think that goes against the public policy of South Carolina.

I think the Supreme Court has not issued a ruling on named driver exclusions in UM cases. This is different from

permissive use. I think that's because there's materially a difference with what is being insured and what the insurance companies are agreeing to when they insure an individual. So I think that has to be taken into account.

The statutory language, I just don't see how you really get around it in the UM cases or the liability cases. When there's a properly executed named driver exclusion form, it has to apply in all situations. The statute says that there's no coverage under a policy when there's a named driver -- excluded driver who is driving, and that's the very situation that we have here.

THE COURT: Thank you.

Mr. McElveen, anything else, sir?

MR. MCELVEEN: Yes, ma'am, Your Honor. Again, I can appreciate and understand the arguments that Progressive makes in this case, but I think what we can't ignore is the things we just talked about. My client, Gloria Oliver, has no way to know these things unless some sort of duty is going to be placed upon her to have some sort of inquisition every time she gets in a vehicle. Again, I think that's the public policy the Supreme Court wanted to avoid.

So Your Honor, I, again, think that the two cases I've cited is pretty analogous to the situation we have before you now, Your Honor. But in the two cases that were cited by Ms. Caiello in her brief, again, those are Court of

Appeals cases. But in those cases, it's the excluded driver who was looking for the coverage. I mean, it's just a totally separate ball of wax, Your Honor.

I certainly understand also that you have to do certain things in order to keep rates low, I understand that. I understand the necessity of policy exclusions, but when they start impacting people who are completely innocent guest passengers, I think you have a problem.

Your Honor, you know, on December 2nd, 2019, when we took these depositions, the Prothros testified that they still had Progressive covering them as their insured even though Progressive had sued them in this DJ action.

Your Honor, I've also since learned that despite the fact that the Prothros told me on December 2nd, 2019, that Richard Prothro was no longer driving, that he's subsequently got another DUI conviction.

So I don't know if Progressive is still their insurer or not or what's happened since December because that's the last time we spoke to the litigants in this case, but, Your Honor, at some point in time, you know, the insurance company has got to have some sort of responsibility, especially when you talk about an innocent guest passenger who has no idea, again, about the ins and outs of the policy.

THE COURT: I do want to read through the cases that

you both have cited. I'm going to read through the deposition excerpts, Mr. McElveen, that you've provided as well, and take it under advisement.

MS. CAIELLO: Your Honor, if I could, could I just say one more thing?

THE COURT: Sure.

MS. CAIELLO: I would direct your attention, if you wouldn't mind, to that Pickens case I provided earlier. It is a guest passenger case. It came out after we had submitted our briefing on it and I hadn't had a chance to get a reply written out to the Court before this hearing based on Mr. McElveen's submissions. So I would submit that to you, it is a guest passenger case. It's dead on point here.

And then I would also just finish out by saying that if Progressive doesn't provide coverage in this case, Ms. Oliver is still free to pursue a negligence action against the Prothros. This does not bar that. It just simply acknowledges the relationship between the insurance company and its insureds.

And I think that's important to keep in mind here, the insurance company is not saying you can never go after the Prothros. The insurance company is simply saying I'm not responsible for the payment for Mr. Prothro, and I think that's important to keep in mind as well.

THE COURT: I understand that.

And Mr. McElveen, I know you've pointed out that that's a circuit court opinion and it does not have precedential value --

MR. MCELVEEN: That's correct, Your Honor.

THE COURT: -- you're just pointing it out for what it's worth, so I appreciate that.

Again, I will look carefully at the case law and its statute and at the depositions and I will get a ruling to you pretty quickly. We don't have too -- well, in Sumter, we don't have too bad of a schedule. We're also in Lee County and Kingstree this week. But I'll take is under advisement. Thank you so much.

MS. CAIELLO: Thank you, Your Honor.

MR. MCELVEEN: Thank you, Your Honor.

THE COURT: Appreciate it.

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

I, PENNY M. JOHNSON, do hereby certify that the foregoing transcript is a true and correct record of the recorded proceedings; that said proceedings were transcribed to the best of my ability from the audio recording and supporting information; and that I am neither counsel for, related to, nor employed by any of the parties to this case, and I have no interest, financial or otherwise, in its outcome.

June 7, 2022

Penny M. Johnson
Penny M. Johnson
Court Reporter III

ELECTRONICALLY FILED - 2019 Sep 13 1:58 PM - SUMTER - COMMON PLEAS - CASE#2019CP4300105

STATE OF SOUTH CAROLINA	IN THE COURT OF COMMON PLEAS
COUNTY OF SUMTER	CIVIL ACTION NO: 2019-CP-43-00105
Progressive Northern Insurance Company, Plaintiff, v. Gloria Oliver, Richard Prothro and Sharon Prothro, Defendant.	**PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

TO: J. THOMAS MCELVEEN, III, ESQUIRE, ATTORNEY FOR THE PLAINTIFF AND TO THE PLAINTIFF ABOVE-NAMED:

YOU WILL PLEASE TAKE NOTICE that the undersigned, as attorneys for the Plaintiff, Progressive Northern Insurance Company, will move before the presiding judge of the Sumter County Court of Common Pleas at the Sumter County Courthouse at 10:00 a.m. on the tenth (10th) day after service hereof, or as soon thereafter as counsel may conveniently be heard, for an Order granting summary judgment in favor of the Plaintiff on grounds that there is no genuine issue as to any material fact.

This Motion is made pursuant to Rule 56 of the South Carolina Rules of Civil Procedure and will be supplemented and supported by such affidavits, depositions, discovery responses, memoranda of law, and such other documents as appropriate.

MURPHY & GRANTLAND, P.A.

s/Sarah E. Caiello
J.R. Murphy, Esquire (SC Bar #7941)
Sarah E. Caiello, Esquire (SC Bar #103864)
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Attorneys for the Plaintiff

Columbia, South Carolina
September 13, 2019

ELECTRONICALLY FILED - 2021 Jul 12 2:50 PM - SUMTER - COMMON PLEAS - CASE#2019CP4300105

STATE OF SOUTH CAROLINA	IN THE COURT OF COMMON PLEAS
COUNTY OF SUMTER	CIVIL ACTION NO: 2019-CP-43-00105
Progressive Northern Insurance Company, PLAINTIFF, vs. Gloria Oliver, Richard Prothro and Sharon Prothro, DEFENDANTS.	**NOTICE OF MOTION AND DEFENDANT GLORIA OLIVER'S CROSS-MOTION FOR SUMMARY JUDGMENT**

TO: WESLEY B. SAWYER, ESQUIRE, JOHN R. MURPHY, ESQUIRE, AND SARAH E. CAIELLO, ESQUIRE, ATTORNEYS FOR PLAINTIFF PROGRESSIVE NORTHERN INSURANCE COMPANY:

YOU WILL PLEASE TAKE NOTICE that the Defendant Gloria Oliver, by and through her undersigned attorney, will move before the Court on the tenth (10th) day after service of this Notice of Motion and Cross-Motion for Summary Judgment, exclusive of the date of such service, or as soon thereafter as counsel may be heard, for an Order of Summary Judgment in favor of the Defendant Gloria Oliver and thereby dismissing Plaintiff Progressive Northern Insurance Company's Complaint pursuant to Rule 56 of the South Carolina Rules of Civil Procedure, along with findings that uninsured motorist (UM) coverage provided by Progressive Northern Insurance Company pursuant to policy number 55178995 is applicable to claims for damages sustained by Defendant Gloria Oliver as a result of an automobile collision which occurred on July 24, 2016 and that Progressive Northern Insurance Company's named driver exclusion shall not prevent Defendant Gloria Oliver, an innocent guest passenger, from recovering UM coverage provided by Progressive Northern Insurance Company under its aforementioned policy.

This Motion is made pursuant to Rule 56 of the South Carolina Rules of Civil Procedure

and is supplemented and supported by such affidavits, depositions, discovery responses, memoranda of law, South Carolina jurisprudence, case law, and statutory authority, and such other documents as appropriate.

Defendant Gloria Oliver further moves that the Court's previous October 6, 2020 ruling on Progressive Northern Insurance Company's Motion for Summary Judgment which was heard on September 14, 2020 be applied to Defendant Gloria Oliver's instant Cross-Motion for Summary Judgment pursuant to the consent of counsel for Progressive Northern Insurance Company and undersigned counsel for Defendant Gloria Oliver which was expressed during an October 23, 2020 status conference with the Honorable Kristi F. Curtis, Circuit Court Judge.

BRYAN LAW FIRM OF SC, L.L.P.

By: s/ J. Thomas McElveen, III

J. Thomas McElveen, III
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Sumter, South Carolina
July 12, 2021

ELECTRONICALLY FILED - 2021 Jul 12 2:50 PM - SUMTER - COMMON PLEAS - CASE#2019CP4300105

ELECTRONICALLY FILED - 2022 Jan 18 12:59 PM - SUMTER - COMMON PLEAS - CASE#2019CP4300105

STATE OF SOUTH CAROLINA	IN THE COURT OF COMMON PLEAS
COUNTY OF SUMTER	CIVIL ACTION NO: 2019-CP-43-105
Progressive Northern Insurance Company, PLAINTIFF, vs. Gloria Oliver, Richard Prothro, and Sharon Prothro, DEFENDANTS.	**DEFENDANT GLORIA OLIVER'S SUPPLEMENTAL MEMORANDUM IN OPPOSITION TO PLAINTIFF PROGRESSIVE NORTHERN INSURANCE COMPANY'S MOTION FOR SUMMARY JUDGMENT AND IN SUPPORT OF DEFENDANT GLORIA OLIVER'S CROSS-MOTION FOR SUMMARY JUDGMENT**

TO: WESLEY B. SAWYER, ESQUIRE, JOHN R. "J.R." MURPHY, ESQUIRE, AND SARAH E. CAIELLO, ESQUIRE, ATTORNEYS FOR PLAINTIFF PROGRESSIVE NORTHERN INSURANCE COMPANY:

Defendant Gloria Oliver ("Oliver"), in further opposition to Progressive Northern Insurance Company's Motion for Summary Judgment and in support of her subsequent Cross-Motion for Summary Judgment, states as follows:

FACTS / PROCEDURAL POSTURE

On July 24, 2016, Defendant Oliver was riding as a guest passenger in a 1996 Ford Contour automobile which was owned by Defendant Sharon Prothro and being operated by Defendant Richard Prothro, and which was insured by Progressive Northern Insurance Company ("Progressive") under policy number 55178995. This incident occurred in the parking lot of the Wal-Mart Neighborhood Market located at or near 615 Bultman Drive in Sumter, South Carolina. Defendant Richard Prothro, who upon information and belief was operating the automobile while under the influence of alcohol and/or intoxicating substances and while under suspension of his driver's license, recklessly drove the automobile in reverse at a high rate of speed, struck a natural

area of the parking lot, collided with two trees, and struck multiple vehicles in the parking lot before finally coming to a stop. Defendant Oliver sustained bodily injury as a result of this incident.

The South Carolina Department of Motor Vehicles Form "FR-10" Notice of Requirement and the South Carolina Traffic Collision Report Form generated by the investigating officers with the City of Sumter Police list Defendant Richard Prothro as the driver of the 1996 Ford automobile, Defendant Sharon Prothro as its owner, and Progressive as the insurance company providing automobile insurance coverage.

Shortly after receiving notice of Defendant Oliver's liability claim, Progressive issued a letter dated September 26, 2016 denying the liability claim, which is attached as Exhibit A. In a January 24, 2017 letter attached as Exhibit B, undersigned counsel for Defendant Oliver requested a written response from Progressive confirming Progressive's denial of the claim as well as the grounds on which Progressive denied Defendant Oliver's claim as the liability insurance company providing coverage on the vehicle involved in the July 24, 2016 collision.

In a letter dated February 6, 2017, attached as Exhibit C, Progressive stated that "no coverage would be provided for any claim for damages against any named insured" due to the fact that Defendant Richard Prothro was an excluded driver.

In reply, undersigned counsel for Defendant Oliver submitted an "Uninsured Motorist Claim / Demand" dated January 8, 2018 (attached as Exhibit D) which gave reference to the Supreme Court of South Carolina's ruling in Auto Owners Insurance Company v. Rollison, 378 S.C. 600, 663 S.E.2d 484 (2008) and pointed out to Progressive that since Defendant Oliver was a guest passenger of driver Defendant Richard Prothro, and since Progressive had previously denied Defendant Oliver's liability claim, Defendant Richard Prothro was thereby rendered an uninsured motorist for purposes of liability coverage as it pertained to the July 24, 2016 collision.

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In a January 16, 2018 letter, a copy of which is attached as Exhibit E, Progressive also denied Defendant Oliver's uninsured motorist (UM) claim.

On July 19, 2018, Defendant Oliver filed a Summons and Complaint in the Sumter County Court of Common Pleas naming Defendant Richard Prothro and Defendant Sharon Prothro as defendants (Gloria D. Oliver vs. Richard Prothro and Sharon Prothro, Case No.: 2018-CP-43-1323) in a tort action underlying the instant declaratory judgment action.

Personal service upon Defendant Richard Prothro and Defendant Sharon Prothro was perfected on August 3, 2018.

On September 4, 2018, Jeffrey M. Crudup, Esquire filed an Answer on behalf of Defendants Richard Prothro and Sharon Prothro in the underlying tort action.

On December 5, 2019, Defendant Oliver perfected service upon Progressive as UM carrier through the South Carolina Department of Insurance, pursuant to S.C. Code Ann. § 38-77-150.

Jeffrey M. Crudup, Esquire filed an Answer on behalf of Progressive on December 16, 2019 in the underlying tort action.

Progressive filed the instant declaratory judgment action on January 23, 2019, alleging, in part, that Progressive automobile insurance policy number 55178995, issued to Defendant Sharon Prothro, does not provide any coverage for claims arising out of the July 24, 2016 automobile collision, and perfected personal service upon Defendant Oliver on March 16, 2019.

Defendant Oliver filed a timely Answer to Progressive's Complaint in the instant declaratory judgment action on May 15, 2019.

On September 13, 2019, Progressive filed a Motion for Summary Judgment, and filed a Memorandum in Support of its Motion for Summary Judgment on October 21, 2019, along with attached exhibits.

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On December 2, 2019, six depositions were taken of the three Defendants in the instant action. The deposition of Gloria D. Oliver (as Plaintiff in the underlying tort action, a copy of which is attached as Exhibit F) and the depositions of Richard Prothro and Sharon Prothro (as Defendants in the underlying tort action, copies of which are attached as Exhibit G and Exhibit H, respectively) were obtained, as well as depositions of Defendant Oliver, Defendant Sharon Prothro, and Defendant Richard Prothro in the instant declaratory judgment action, attached respectively as Exhibit I, Exhibit J, and Exhibit K.

On December 2, 2019, Gloria Oliver testified that she did not have a driver's license nor a vehicle, and that she relied on others for transportation (Exhibit I, pp. 10-11). She testified that she knew Richard Prothro, but did not know Sharon Prothro (Exhibit F, pp. 20, 45-46). She testified that on the morning of the July 24, 2016 collision, Richard Prothro visited her home along with Defendant Oliver's uncle, and that she was going to make breakfast for them when she realized that she was missing some ingredients required to prepare the meal (Exhibit F, pp. 19-22). She testified that Richard Prothro agreed to drive her to the Wal-Mart Neighborhood Market to get the things she needed, and that she had finished her shopping when the collision subject of the underlying tort action occurred (Exhibit F, pp. 21-24). Gloria Oliver testified that she understood the 1996 Ford Contour involved in the wreck which was insured by Progressive to belong to Richard Prothro, that Richard Prothro had said that the vehicle was his, that she had observed him driving it in the past, and that she had never spoken with Sharon Prothro about the automobile (Exhibit F, pp. 46-47; Exhibit I, page 10). Further, Gloria Oliver stated that she had never received any indication that there might not be insurance coverage on the vehicle as of July 24, 2016 (Exhibit F, pp. 47-49; Exhibit I, pp. 9-10).

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On December 2, 2019, Richard Prothro testified that he had not had a driver's license in ten years and that his license had originally been suspended due to driving under the influence conviction(s) (Exhibit G, pp. 18-20; Exhibit K, pp. 4-5), but that he continued to drive a vehicle insured by Progressive some 168 times between April 2, 2009 (the date on which Progressive contends that Richard Prothro was listed as an excluded driver on automobile insurance policy number 55178995) and July 24, 2016 (Exhibit G, pp. 20, 80-81). Richard Prothro testified that he had ready access to keys to the vehicle by virtue of the fact that the keys were typically left on the dresser in his and Sharon Prothro's bedroom, and that Sharon Prothro was aware that he was driving over the course of this period roughly one-third of the time (Exhibit G, pp. 44-50, 81). Richard Prothro testified that he was consuming alcohol the evening prior to the July 24, 2016 wreck, and that he had also consumed a half pint of vodka within the three-hour period immediately preceding the wreck (Exhibit G, pp. 63-67). He testified that Sharon Prothro was aware that he was consuming alcohol on the evening prior to the wreck, and that she was aware that he was driving the 1996 Ford Contour on the morning of the July 24, 2016 wreck (Exhibit G, pp. 45-48, 66). Richard Prothro testified that he did not believe that Gloria Oliver would have any way to know that he was an excluded driver under the Progressive policy in question, and that he did not think that Gloria Oliver should have asked him if he was a covered driver prior to getting into the 1996 Ford Contour on the morning of July 24, 2016 (Exhibit G, pp. 54-55; Exhibit K, pp. 12-13).

On December 2, 2019, Sharon Prothro testified that she was aware that Richard Prothro's driver's license had been suspended for over ten years, but that he continued to drive and that when he was driving the 1996 Ford Contour, she was aware of it (Exhibit H, pp. 34, 36-39, 41-42, 62). She agreed that Richard Prothro had driven on some 168 occasions between April 2, 2009 and July

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24, 2016 (Exhibit H, pp. 41-42, 62). Sharon Prothro testified that the keys to the vehicle were not hidden some place in the Prothros' house, but, rather, they remained in the same place most of the time (Exhibit H, pp. 40-41, 45). She testified that she was aware that Richard Prothro had been drinking alcohol the night before the July 24, 2016 collision and during the morning of the collision, and that she believed him to be under the influence of alcohol when he left the Prothros' residence around 9:00 a.m. or 10:00 a.m. on the morning of the wreck (Exhibit H, pp. 44-45, 57). Nonetheless, Sharon Prothro testified that she did nothing to prevent Richard Prothro from taking the 1996 Ford Contour on the morning of the July 24, 2016 wreck other than telling him to stop (Exhibit H, pp. 42-46,57). Sharon Prothro testified that she believed Gloria Oliver to have been a guest passenger in her automobile at the time of the July 24, 2016 collision (Exhibit J, page 24), and that Gloria Oliver would have no way to know that Richard Prothro was an excluded driver pursuant to her automobile insurance coverage with Progressive which was applicable on the date of the collision (Exhibit H, pp. 55-56, 73; Exhibit J, pp. 22-24).

On September 11, 2020, Defendant Oliver filed a Memorandum in Opposition to Progressive's Motion for Summary Judgment, along with attached exhibits.

A hearing on Progressive's Motion for Summary Judgment was held before the Honorable Kristi F. Curtis, Circuit Court Judge, on September 14, 2020 via WebEx. Arguments were presented at the hearing by Sarah E. Caiello, Esquire on behalf of Progressive and by undesigned counsel for Defendant Oliver. Following the hearing, the matter was taken under advisement by the Court.

On October 6, 2020, the Court notified the attorneys for the parties that Progressive's Motion for Summary Judgment was denied.

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On October 12, 2020, counsel for Progressive contacted undersigned counsel for Defendant Oliver with the proposal that, based upon the Court's denial of Progressive's Motion for Summary Judgment and in the interest of judicial economy, undersigned counsel for Defendant Oliver file a Cross-Motion for Summary Judgment to which the Court's October 6, 2020 ruling would be applied by consent on behalf of Defendant Oliver and Progressive.

This proposal was presented to the Court by counsel for Progressive and undersigned counsel for Defendant Oliver at a status conference which was conducted via WebEx on October 23, 2020, at which time all parties present consented to having the Court's October 6, 2020 ruling apply to a Cross-Motion for Summary Judgment to be filed on behalf of Defendant Oliver.

Defendant Oliver's Cross-Motion for Summary Judgment was filed on July 12, 2021, along with a Memorandum in Support of her Cross-Motion for Summary Judgment and supporting exhibits as previously referenced herein; a proposed Order Granting Defendant Gloria Oliver's Cross-Motion for Summary Judgment was submitted to the Court the following day, on July 13, 2021.

On July 28, 2021, Sarah E. Caiello, Esquire, counsel for Progressive, sent an e-mail to the Court (attached as Exhibit L) requesting that the Court hold its October 6, 2020 ruling in abeyance, citing the fact that the Supreme Court of South Carolina had recently affirmed a South Carolina Court of Appeals decision which had been previously relied upon by Progressive in support of its Motion for Summary Judgment: Nationwide Insurance Company of America v. Knight, 433 S.C. 371, 858 S.E.2d 633 (2021).

Just over two hours later, undersigned counsel for Defendant Oliver responded to the Court with an e-mail summarily distinguishing the facts of the instant case and the cases previously relied

upon in support of Defendant Oliver's position with the Supreme Court of South Carolina's decision in Knight (attached as Exhibit M).

On August 20, 2021, J.R. Murphy, Esquire sent an e-mail to the Court, "prior to the entry of an Order from your Honor in hopes of avoiding a Motion to Reconsider (e-mail attached as Exhibit N)," again advising of the Supreme Court of South Carolina's opinion in the previously mentioned Knight case, and also advising of the Supreme Court's affirmation of another Court of Appeals decision in United Services Automobile Association v. Pickens, 434 S.C. 60, 862 S.E.2d 442 (2021).

Several hours later, undersigned counsel for Defendant Oliver responded to the Court with another e-mail distinguishing the facts of the instant case and the cases previously relied upon in support of Defendant Oliver's position with the Supreme Court of South Carolina's decisions in Knight and Pickens (e-mail attached as Exhibit O).

On August 20, 2021, undersigned counsel for Defendant Oliver also responded to the Court via e-mail addressing the effect of the Supreme Court of South Carolina's opinion in Pickens after receiving a request from the Court to do so via e-mail a few hours earlier on that same date (e-mail attached as Exhibit P).

During the October 25, 2021 term of the Court of Common Pleas for Sumter County, the tort action underlying the instant declaratory judgment action (Gloria D. Oliver vs. Richard Prothro and Sharon Prothro, Case No.: 2018-CP-43-1323) was called for a jury trial, and a jury was selected by the parties. Prior to the start of trial, a settlement was reached pursuant to the terms of a written Memorandum of Understanding which was executed on behalf of the parties on October 31, 2021 and which included terms and conditions of settlement that are dependent upon the outcome of the instant declaratory judgment action.

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On January 4, 2022, J.R. Murphy, Esquire sent a letter to the Court requesting another status conference to discuss the issues with the Court (attached as Exhibit Q).

On January 4, 2022, undersigned counsel for Defendant Oliver sent a letter to the Court in response to the letter to the Court from J.R. Murphy, Esquire which was received earlier on that same day (attached as Exhibit R).

On January 10, 2022, the parties received instructions from the Court to forward any other information to the Court within ten (10) days.

STANDARD

Summary judgment is appropriate when the pleadings, depositions, affidavits, and discovery on file show there is no genuine issue of material fact such that the moving party must prevail as a matter of law. Rule 56(c), South Carolina Rules of Civil Procedure. "When determining if any triable issues of fact exist, the evidence and all reasonable inferences must be viewed in the light most favorable to the non-moving party." Fleming v. Rose, 350 S.C. 488, 567 S.E.2d 860 (2002). In order to withstand a motion for summary judgment in cases applying the preponderance of the evidence burden of proof, the non-moving party is only required to submit a mere scintilla of evidence. Hancock v. Mid–South Mgmt. Co., Inc., 381 S.C. 326, 330, 673 S.E.2d 801, 803 (2009).

When evidence is susceptible to more than one reasonable inference, the issue should be submitted to the jury, rather than resolved at summary judgment stage. Murphy v. Tyndall, 384 S.C. 50, 681 S.E. 2d 28 (S.C. App. 2009). Summary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law. Gadson v. Hembree, 364 S.C. 316, 613 S.E.2d 533 (2005), citing Middleborough Horizontal Property Regime Council of Co-Owners v. Montedison, 320 S.C. 470, 465 S.E.2d 765 (Ct.App.1995). Even

where there is no dispute as to evidentiary facts, but only as to the conclusions or inferences to be drawn from them, summary judgment should be denied. Montgomery v. CSX Transportation, Inc., 376 S.C. 37, 656 S.E.2d 20 (2008).

Since summary judgment is a drastic remedy, it should be cautiously invoked so no person will be improperly deprived of a trial of the disputed issues. Murphy v. Tyndall, at 54, 30.

ARGUMENT

The facts, evidence, and testimony in the underlying tort action related to the instant declaratory judgment action dictate that Gloria Oliver was a guest passenger in the 1996 Ford Contour which was insured by Progressive, owned by Sharon Prothro, and being driven by Richard Prothro at the time of the July 24, 2016 wreck, even by the admission of Progressive's named insured, Sharon Prothro.

S.C. Code Ann. § 38-77-30(7) provides that "[i]nsured means the named insured and, while resident of the same household, the spouse of any named insured and relatives of either, while in a motor vehicle or otherwise, and any person who uses with the consent, expressed or implied, of the named insured the motor vehicle to which the policy applies *and a guest in the motor vehicle to which the policy applies* or the personal representative of any of the above [emphasis added]."

When Progressive denied Defendant Gloria Oliver's liability claim on the basis of a policy exclusion, the 1996 Ford Contour was deemed uninsured, at-fault motorist Defendant Richard Prothro deemed an uninsured driver, and Gloria Oliver's resulting claim deemed a UM claim. Citing Gunnels v. American Liberty Ins. Co., 251 S.C. 242, 247, 161 S.E.2d 822, 824 (1968), the Supreme Court of South Carolina held in Unisun Insurance Company v. Schmidt, 339 S.C. 362, 529 S.E.2d 280 (2000) that the uninsured motorist statute "is remedial in nature, enacted for the

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benefit of injured persons, and is to be liberally construed so that the purpose intended may be accomplished."

In the opinion which is most factually analogous to the instant action, Auto Owners Ins. Co. v. Rollison, 378 S.C. 600, 663 S.E.2d 484 (2008), the Supreme Court of South Carolina reversed a ruling from the circuit court that a commercial general liability policy did not provide coverage for the underlying motor vehicle collision as a matter of law because that policy contained an exclusion for bodily injury arising out of the use of the automobile. In Rollison, the Supreme Court opined, in part, that *a passenger can only rely on the driver's representations regarding his status as a permissive user, and that a determination of whether a passenger qualifies as a "guest" under S.C. Code Ann. § 38-77-30(7) must be viewed from the passenger's perspective*. Rollison, at 611, 489-490; the Court also pointed out that according to Unisun, "an invited passenger of a non-permissive driver may, but not necessarily, qualify as a 'guest' *for the purposes of uninsured motorist coverage* [emphasis added]." Id., at 611, 490.

Further, the Rollison opinion states that, "We believe that to define 'guest' otherwise would lead to an absurd result which would require a passenger to specifically inquire whether the driver either owned the vehicle or had permission from the named insured to drive the vehicle. *Clearly, such an interpretation would be contrary to the intention of the Legislature as well as the remedial purpose and inclusive nature of the uninsured motorist statute* [emphasis added]." Id.,at 612, 490. Requiring or imposing a duty upon an innocent guest passenger such as Gloria Oliver, along with any other innocent guest passengers in South Carolina under the same or similar circumstances, to make specific inquiries as to whether or not a host driver is listed on a vehicle's policy as an excluded driver would be equally absurd as a matter of public policy, and the South Carolina

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General Assembly chose to require no such inquiry or investigation of an insured in the fourth category of § 38-77-30(7) – a guest passenger such as Gloria Oliver.

The evidence and testimony in this case and in the underlying tort action overwhelmingly dictate that on the morning of July 24, 2016, Gloria Oliver was riding as a guest passenger in the 1996 Ford Contour insured by Progressive by virtue of the invitation and permission of Richard Prothro, whom she reasonably believed to be in rightful possession (and even ownership) of the automobile, whom she believed had the authority to allow her to ride in the vehicle, and whom she had absolutely no way of knowing was a purported excluded driver under the Progressive automobile insurance policy which covered the vehicle. An endorsement or adoption of Progressive's position in this case would impose an absurdly burdensome duty upon innocent guest passengers in South Carolina – many of whom must rely on others for transportation to obtain food and other necessities, to attend school, or to keep medical appointments, just to name a few examples – by requiring them to ask a litany of questions of countless host drivers and to demand production and inspection of an applicable and up-to-date automobile insurance policy prior to stepping into any automobile as a guest passenger, while also requiring them to possess much more than a rudimentary understanding of South Carolina automobile insurance law and/or applicability of an automobile insurance policy's coverage. With very specific regard to UM coverage extending to innocent guest passengers such as Gloria Oliver, this is precisely the type of absurd result the Supreme Court of South Carolina has previously prohibited in the Unisun and Rollison opinions.

As mentioned, following the Court's October 6, 2020 ruling denying Progressive's Motion for Summary Judgment, Progressive has suggested that the Court's prior ruling should be vacated and has based this opinion on two recent opinions of the Supreme Court of South Carolina:

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Nationwide Insurance Company of America v. Knight, 433 S.C. 371, 858 S.E.2d 633 (2021) and United Services Automobile Association v. Pickens, 434 S.C. 60, 862 S.E.2d 442 (2021). As has been previously stated in prior communication to the Court, the facts of the Knight and Pickens cases are not congruent nor even analogous with the facts of the instant matter; furthermore, these opinions do not vacate and should not frustrate the Supreme Court's prior decisions in Unisun and Rollision, upon which Defendant Oliver has relied and which include facts much more akin to the case at bar (particularly Rollison).

The Knight case was no more applicable to the instant case now than it was as a South Carolina Court of Appeals opinion cited by Progressive in its prior memoranda and during oral arguments at the hearing which was held on September 14, 2020. In Knight, a policyholder had willingly and knowingly executed a policy exclusion which listed her husband as an excluded driver, yet she attempted to recover underinsured motorist (UIM) benefits under the same policy after her husband was tragically killed in a motorcycle collision. The policyholder in Knight made a mutual agreement with the insurance company to exclude her husband and the facts of the case certainly did not involve a passenger or "guest" as did the facts in Rollison.

Despite the fact that Pickens involves a dispute over uninsured motorist (UM) coverage, the facts of the case are an even further stretch than Knight when attempting to compare them to the case at bar. In Pickens, a policyholder who had willingly and knowingly executed a policy exclusion which listed her son as an excluded driver attempted to recover UM benefits under the same policy after she was injured in a collision with an unknown driver *while riding with her son, the driver she has knowingly excluded*. Despite the fact that she was the same person who executed the exclusion, knowingly allowed her son to drive the insured vehicle, and even rode with him as a passenger, the claimant in Pickens nonetheless pursued a claim. Again, and as was the case in

Knight, the policyholder in Pickens made a mutual agreement with the insurance company to exclude the person who was driving her automobile, and the facts of the case certainly did not involve a "guest passenger" as did the facts in Rollison; rather, and as the court noted, it would violate public policy to allow Pickens to recover UM when she was the person who executed the exclusion yet knowingly allowed [the excluded driver] to drive her vehicle. Pickens, at 67, 445.

The facts in the Knight and Pickens cases stand in sharp contrast with the facts in the Rollison case and in the case in dispute here. The instant case involves a guest passenger, and the fact that Progressive has directed the Court's attention to the more recent Supreme Court of South Carolina opinions in Knight and Pickens still does nothing to change the fact that the Rollison opinion remains dispositive here. As such and for the reasons discussed herein, a reversal of the Court's October 6, 2020 ruling would lead to an "absurd result" similar to what the Supreme Court warned against in Rollison.

CONCLUSION

For the above stated reasons, it is clear from the evidence and the testimony of the parties in the present case and in the underlying tort action – while viewing the evidence and all reasonable inferences in the light most favorable to Defendant Oliver, since Progressive was the original moving party and Defendant Oliver's Cross-Motion for Summary Judgment was only filed pursuant to a request made on behalf of Progressive – that the Court's October 6, 2020 ruling denying Progressive's Motion for Summary Judgment was appropriate, as is the application of the Court's October 6, 2020 ruling to the Cross-Motion for Summary Judgment filed on behalf of Defendant Oliver at the request of counsel for Progressive.

There is not even a mere scintilla of evidence from which a trial judge or jury could infer that Defendant Gloria Oliver was anything other than an innocent guest passenger in the 1996 Ford

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Contour automobile insured by Progressive when she was injured in the July 24, 2016 wreck, and that Gloria Oliver was an eligible insured for uninsured motorist coverage pursuant to the Progressive automobile insurance policy which covered the vehicle on that date. Further and as discussed herein, this matter has previously been ruled upon and counsel for Progressive and for Defendant Gloria Oliver have previously consented to having the Court's October 6, 2020 ruling that followed the September 14, 2020 hearing on Progressive's Motion for Summary Judgment applied to Defendant Oliver's Cross-Motion for Summary Judgment. In its attempt to have the Court's October 8, 2020 ruling vacated by citing two more recent opinions of the Supreme Court of South Carolina which are not analogous to the facts of the instant case, Progressive continues to ignore the Supreme Court's opinion in Rollison.

Defendant Gloria Oliver therefore requests that the Court affirm its October 6, 2020 ruling denying Progressive's Motion for Summary Judgment and apply the ruling to Defendant Oliver's Cross-Motion for Summary Judgment as previously agreed upon at the suggestion of counsel for Progressive, that the Court rule that that UM coverage provided by Progressive pursuant to policy number 55178995 is applicable to claims for damages sustained by Defendant Gloria Oliver as a result of an automobile collision which occurred on July 24, 2016 and that Progressive's named driver exclusion shall not prevent Defendant Gloria Oliver, an innocent guest passenger, from recovering UM coverage provided by Progressive under its aforementioned policy, and that the Court dismiss the instant declaratory judgment action commenced by Progressive's Complaint filed on January 23, 2019, with prejudice.

Signature page immediately follows

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BRYAN LAW FIRM OF SC, L.L.P.

By: s:/J. Thomas McElveen, III

J. Thomas McElveen, III
Attorney for Defendant Gloria Oliver
17 East Calhoun Street
Post Office Box 2038
Sumter, South Carolina 29151
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Sumter, South Carolina
January 18, 2022

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PROGRESSIVE CLAIMS
2624 CORPORATE CENTER DRIVE
SUITE 20
MYRTLE BEACH, SC 29577

PROGRESSIVE

Underwritten By:
Progressive Northern Insurance Company

Claim Number: 16-5237341
Loss Date: July 24, 2016
Document Date: September 26, 2016
Page 1 of 1

BRYAN LAW FIRM
17 E CALHOUN ST
SUMTER, SC 29151

claims.progressive.com
Track the status and details of your claim, email your representative or report a new claim.

Important information about your claim

I've finished reviewing your claim. Unfortunately, after investigating all the available information, I was unable to find valid coverage for this incident and we won't be able to pay your claim. If you have your own insurance carrier, you may want to check with them to see if you have coverage under that policy.

If you have any questions or additional information that might help me find coverage for this incident, please call me at the number below.

Thank you,

DANIELLE GAMACHE
Claims Department
1-843-213-3912
1-800-PROGRESSIVE (1-800-776-4737)
Fax: 1-843-448-7239
dgamach1@progressive.com
Fax [illegible]

DEFENDANT'S EXHIBIT A

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FIN 45-3953021

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Paralegal: enesbitt@bryanlaw.com

January 24, 2017

Progressive Claims
2024 Corporate Centre Dr., Ste. 201
Myrtle Beach, SC 29577
ATTN: Danielle Gamache

RE:		
	Our client:	Gloria Oliver
	Your Insured Driver:	Richard Prothro
	Your Insured:	Sharon Prothro
	Claim No.:	16-5237341
	Date of wreck:	7/24/2016

Dear Ms. Gamache:

I represent Gloria Oliver in the above mentioned automobile wreck.

My current understanding is that Progressive intends to deny my client's claim based on your positon that Richard Prothro, who was driving the at-fault vehicle which was owned by your insured, did not have permission from the owner/your insured, Sharon Prothro, to drive the vehicle.

This position seems somewhat curious in light of the fact that Mr. Prothro claims a Sumter address while Ms. Prothro also claims a Sumter address, and to my knowledge the vehicle was not reported to authorities as stolen on or around July 24, 2016. If I am mistaken about this and you are in possession of an incident report which would memorialize that Ms. Prothro's vehicle was indeed stolen, I hereby request that you provide me with a copy of same.

In any event, if it remains Progressive's position to deny this claim, I hereby request a letter from Progressive which confirms your denial as well as the grounds on which Progressive denies my client's claim as the liability insurance company for the vehicle which was at fault in the above-captioned collision.

I will look forward to hearing from you in this regard.

Signature on following page



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With kind regards, I am

Sincerely,

J. THOMAS McELVEEN, III

JTMcIII/ewn
Enclosures

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PROGRESSIVE CLAIMS
2024 CORPORATE CENTRE DRIVE
SUITE 201
MYRTLE BEACH, SC 29577

PROGRESSIVE®

590614 13774 1 MB 0 423 CLTRS01Q 050 013774

Underwritten By:
Progressive Northern Insurance Company

Claim Number: 16-5237341
Loss Date: July 24, 2016
Document Date: February 6, 2017
Page 1 of 1

BRYAN LAW FIRM
17 E CALHOUN ST
SUMTER, SC 29151

claims.progressive.com
Track the status and details of your claim, e-mail your representative or report a new claim.

Claim Information

I am writing in response to your letter dated January 24, 2017. In your letter you asked for the grounds on which our coverage denial was decided.

The police report confirms that Richard Prothro was operating the 1996 Ford Contour at the time of the accident. When our insured, Sharon Prothro, purchased her policy on April 2, 2009 she decided to exclude Richard Prothro from the policy. She agreed and acknowledged that no coverage would be provided for any claim for damages against any named insured arising out of the operation of a motorized vehicle by the excluded driver, Richard Prothro.

Unfortunately since Mr. Prothro was operating the vehicle at the time of loss Progressive will be unable to honor any coverage for any claim arising out of this accident.

DANIELLE GAMACHE
Claims Department
1-843-213-3912
1-800-PROGRESSIVE (1-800-776-4737)
Fax: 1-843-448-7239

Form 7587 XX (01/08) - SC

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DEFENDANT'S EXHIBIT C

RECEIVED
FEB 10 2017

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THOMAS M. BULTMAN**
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*Certified Circuit Court Mediator
**Certified Family Court Mediator
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January 8, 2018

Progressive
Attn: Danielle Gamache
2024 Corporate Centre Dr., Ste. 201
Myrtle Beach, SC 29577

RE:		
	Our Client:	Gloria Oliver
	Your Insured:	Sharon Prothro
	Your Driver:	Richard Prothro
	Your Claim No.:	16-5237341
	Date of Loss:	July 24, 2016

UNINSURED MOTORIST CLAIM / DEMAND

Dear Ms. Gamache:

I am writing pursuant to Progressive's decision to deny liability coverage on behalf of your insured driver and/or your insured in connection with the above-referenced automobile wreck which was caused by Richard Prothro on or about July 24, 2016.

As you know, this case involves a wreck that occurred at approximately 9:35 a.m. in the parking lot of the Wal-Mart Neighborhood Market located at 615 Bultman Drive in Sumter, South Carolina. This incident occurred when Richard Prothro, who was driving a vehicle which was insured by Progressive at the time, traveled southbound in reverse at a high rate of speed and struck two (2) trees and four (4) parked vehicles. As you also know, my client Gloria Oliver was a guest passenger in the vehicle being operated by Mr. Prothro, which was insured by Progressive.

I am now ready to discuss settlement of the bodily injury claim of Gloria Oliver. Since Progressive has previously denied the liability claim filed on behalf of my client, I am now submitting this demand under the uninsured motorist (UM) portion of your policy, as Ms. Oliver was a guest passenger in your insured vehicle at the time this wreck occurred. Further, since Progressive has denied my client's liability claim, Mr. Prothro has been rendered an uninsured motorist for purposes of liability coverage as it pertains to this matter. I am thereby submitting this uninsured motorist claim pursuant to the Supreme Court of South Carolina's ruling in *Auto Owners Insurance Company v. Rollison*, 378 S.C. 600, 663 S.E.2d 484 (2008). I am enclosing a copy of the *Auto Owners Insurance Company v. Rollison* opinion for your review. Additionally, enclosed for your review are copies of Ms. Oliver's medical bills and medical records reflecting the treatment she received for the injuries suffered in this wreck. I have listed below the amounts of the medical bills we are claiming:



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Gloria Oliver's bills are:

Palmetto Health Tuomey	$897.00
Professional Services of Tuomey	$545.00
Physicians Health & Injury Clinic	$1,072.00
TOTAL	**$2,514.00**

Taking into account the specials in this case, the pain and suffering factor involved, and the likelihood of an award of punitive damages due to the reckless conduct of the at-fault driver in this case, at this time I would be willing to recommend settlement of my client's claim in exchange for a tender of the uninsured motorist (UM) policy limits provided by Progressive and applicable to the instant claim, which I understand to be $25,000.00/$50,000.00.

As soon as you have reviewed all of the above information, I would appreciate you contacting me to discuss settlement of this claim.

With kind regards, I am,

Sincerely,

J. THOMAS McELVEEN, III

TM/ewn

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PROGRESSIVE CLAIMS
2024 CORPORATE CENTRE DRIVE
SUITE 201
MYRTLE BEACH SC 29577

PROGRESSIVE

Gloria Oliver

Underwritten By:
Progressive Northern Insurance Company

Claim Number: 16-5237341
Loss Date: July 24, 2016
Document Date: January 16, 2018

BRYAN LAW FIRM
JOSEPH T MCELVEEN
17 E CALHOUN ST
SUMTER SC 29151

claims.progressive.com
Track the status and details of your claim, e-mail your representative or report a new claim.

Claim Information

Please be advised that I am in receipt of your Uninsured Motorist Claim Demand for the above-mentioned loss. As previously advised, due to the excluded driver operating the insured's vehicle at the time of loss, no coverage will apply under this policy.

If your client has her own auto insurance, a claim should be made to her insurance carrier.

Please contact me with any questions. Thank you.

DANIELLE GAMACHE
Claims Department
1-843-213-3912
1-800-PROGRESSIVE (1-800-776-4737)
Fax: 1-843-448-7239
dgamach1@progressive.com

Form Z587 ++ (01/08) - SC

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STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
COUNTY OF SUMTER) C/A NO.: 2018-CP-43-1323

Gloria D. Oliver,

Plaintiff,

vs.

Richard Prothro and Sharon Prothro,

Defendants.

Deposition of GLORIA D. OLIVER, taken by Doris Tompkins Brown, Certified Verbatim Reporter and Notary Public in and for the State of South Carolina, commencing at 3:10 P.M. on December 2, 2019 at the offices of The Bryan Law Firm, LLP, 17 East Calhoun Street, Sumter, South Carolina.

APPEARANCES

ON BEHALF OF THE PLAINTIFF: Thomas E. McElveen, III
The Bryan Law Firm, LLP
Post Office Box 2038
Sumter, South Carolina

ON BEHALF OF THE DEFENDANTS: Jeffrey M. Crudup
Clarkson Walsh & Coulter
Post Office Box 2219
Mount Pleasant, S. C.

Doris Tompkins Brown
Certified Verbatim Reporter
Post Office Box 853
Sumter, South Carolina 29151
(803) 499-2434

COPY COPY

DEFENDANT'S EXHIBIT F

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ON BEHALF OF PROGRESSIVE

NORTHERN INSURANCE

COMPANY

Sarah E. Caiello

Murphy & Grantland, P.A.

Post Office Box 6648

Columbia, South Carolina

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* * * * *

(COURT REPORTER'S NOTE: --- INDICATES INTERRUPTION, INCOMPLETE PHRASE, TRAILING OFF, INCOMPLETE SENTENCE)

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The deposition of Gloria Oliver is being taken pursuant to Notice and in accordance with the South Carolina Rules of Civil Procedure and Amendments as adopted by the Supreme Court which shall control the taking of said deposition and its use thereof.

Counsel, with the specific consent of the witness, waives the reading and signing of the deposition prior to the time it is filed with the Court.

(Gloria Oliver, having been duly sworn, testifies as follows:)

EXAMINATION BY MR. CRUDUP:

Q. Good afternoon, Ms. Oliver.

A. Good afternoon.

Q. How you doing?

A. Good.

Q. Good. We met a minute ago. For the record, my name is Jeff Crudup. I'm going to take your deposition today. Have you ever been deposed before? Have you ever been in a situation like this?

A. No.

Q. Okay. I have a couple quick rules that will probably make the whole process go a little bit faster for you. First, please try to make your answers verbal. It is just hard for her to write down when you are not speaking. I know when you are nodding your head, but

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she doesn't; okay?
A. Okay.
Q. So, if I get on you and say -- oh, was that a yes or a no, I'm not trying to be mean, it's just I need her -- I need a clear record; okay?
A. (Nods head affirmatively).
Q. Is that a yes?
A. Yes. Yes.
Q. That's fine. Two, you are going to know the answers to some of the questions before I'm done with it. And you will probably -- I will probably know some of your answers before you are done with them. Just try to let me finish my whole question because if we are talking over each other, the same thing; it is just hard for her to take it down. Okay?
A. Yes.
Q. Three, I am required by South Carolina to tell you now that you are under oath, if you have questions, you have to address them to me as opposed to your attorney; okay?
A. Yes.
Q. And fourth, well, two more things. One, if you need to take a break -- I don't think this is going to take all that long; I apologize for being late myself -- but if you need to take a break, just let me know; okay?

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A. Yes.
Q. And last, if I ask you a question and you answer it, I am going to assume you understood the question; is that fair?
A. Okay.
Q. Okay. I don't want to hear anything about what you might have talked about with your attorney. But other than speaking to your attorney, what did you do to prepare today before you came here today?
A. What I did today before I came here?
Q. What did you do to prepare for your deposition; did you look at any records, did you talk to anyone other than your attorney?
A. I haven't speak to no one.
Q. Okay. Did you look at your medical records?
A. No, not today, no.
Q. Okay. Where are you from originally?
A. Sumter, South Carolina.
Q. Have you lived here all your life?
A. Yes, sir.
Q. Did you ever move away?
A. No.
Q. Okay.
A. Take trips, went visiting, but I never moved.
Q. Okay.

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A. I've been on trips.
Q. Okay. So, at the -- and when I say "this accident," I'm going to be talking about the accident that we are -- that forms the basis of this lawsuit; is that fair?
A. Uh-huh (affirmative response).
Q. Do you understand that?
A. Yes, sir.
Q. Okay. So, at the time of this accident, where were you living?
A. At 43 Harry Avenue, Sumter, South Carolina.
Q. How long have you lived there?
A. Seven years.
Q. So, and I might have asked that in artfully. So, you have been there for the last seven years?
A. Yeah, I was staying there when this accident take place. That's where I was living at for seven years.
Q. Oh, and that's -- so, my question is, had you been there for seven years before the accident or have you been there for the last seven years?
A. No. I've been there total in all seven years.
Q. And before you lived there, where did you live?
A. Okay. I move -- I'm at my -- my new address. I move from 43 Harry Avenue to 216 Thomas Drive. I moved from there. I moved to Thomas Drive over there off of Alice Drive.

Q. When did you move?
A. I move from 43 -- I can't -- I'm not -- I can't really remember the year. But it was like in Two Thousand -- this is 2019; so, it was like around about the -- about the '16, '17, '18, -- '19. About -- about between '17 and '16. 2017 or '16.
Q. Okay.
A. Either one of those. And I move from 243 Harrison Street and I moved at 216 Thomas Drive off of Alice Drive.
Q. I understand.
A. Uh-huh (affirmative response).
Q. So, you were living at 43 Harry at the time of this accident?
A. Yes, I was living right there.
Q. All right. Who else were you living with at the time?
A. I was in my own -- that was my apartment.
Q. Okay.
A. Uh-huh (affirmative response).
Q. Did you have a car or truck at the time?
A. No, I don't have a vehicle at all. I don't even have a driving License.
Q. That was going to be my next question.
A. No.
Q. Do you have any children?

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A. Yes.
Q. How many children do you have?
A. I have one son.
Q. How old is he?
A. He's fifteen (15).
Q. And you said fifteen (15)?
A. Yes, sir.
Q. And where does he live?
A. With me.
Q. And so, did he live with you at the time of this accident?
A. Yes, sir, he was there.
Q. Okay.
A. But he was not in the car with me at the time. He was at the house. That was in the morning time when they took me to Wal-Mart to pick up some breakfast that morning.
Q. I understand. So, your son was living with you. Was anybody else living with you at the time?
A. No. Uh-uh (negative response). Just me and my son lived there.
Q. Okay.
A. No.
Q. Did you go to high school in Sumter?
A. Yes, sir.

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Q. Did you graduate from high school?
A. No.
Q. What was the highest grade you got to?
A. Eleventh grade.
Q. And what year would you have graduated if ---
A. Class of '85.
Q. What made you leave school?
A. Well, I got in some trouble with some girls and they kicked me out for the rest of the year, and they had me going to PAL and, you know, things got messed up between there.
Q. So, you never went back?
A. No, I never went back.
Q. Did you ever take any classes like GED classes, that kind of thing?
A. Yeah, I have, but -- at Tech, but I didn't finish. I was going to the Resource Center.
Q. Okay. Did you ever take the GED test?
A. No, I didn't take it. Uh-uh (negative response).
Q. Okay. So, do you work now; are you employed?
A. No.
Q. When was the last time you were employed?
A. I haven't worked like since -- what's this -- 2019 -- over ten years, I haven't worked.
Q. Okay. So, prior -- well, what was the last job that

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you did have; what do you remember doing?
A. I was doing custodian.
Q. Where was that?
A. Thomas Sumter Academy private school on 521.
Q. And when you say custodian, what kind of -- what were you actually doing?
A. Custodian.
Q. Yeah, what does that mean exactly?
A. Cleaning classrooms, cleaning the bathrooms; janitor work.
Q. Got you.
A. Cleaning.
Q. And what made you stop working as a custodian?
A. I got in an accident and I hurt my leg. I broke my -- I missed and fell and got a knee replacement.
Q. So, that would have been about -- you said about ten years ago?
A. I got the knee replacement in 2000; so, uh-huh (affirmative response).
Q. Did you work after the knee replacement?
A. No, I couldn't.
Q. All right. So, if you got the knee replacement in 2000, is it fair to say you haven't worked for the last nineteen (19) years or so?
A. Maybe 2002 that I think that I got the knee

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replacement. I think it was 2002, because I had my baby in 2004. So, I got that in 2002, the knee replacement. Uh-huh (affirmative response).

Q. And where did this -- you said you fell?

A. I fall.

Q. Where did you fall?

A. On my -- coming out my auntie's trailer. I had on some heels, and my leg went the opposite way and I broke -- knock my knee bone out of place; so, they had to give me a knee replacement.

Q. Do you remember where -- where you had the knee replacement surgery?

A. I had it at Tuomey in Sumter.

Q. Okay. Prior to working as a custodian, did you work anywhere else?

A. No, I didn't do nothing else after that.

Q. Did you do anything before you were a custodian?

A. No.

Q. How long did you work as a custodian?

A. I did about a year and a half out there.

Q. And you said prior to that, you didn't do -- that was ---

A. No, because of my leg and that's -- that's it. I didn't do anything.

Q. Okay. Did -- have you ever had any jobs other than

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custodian at the school?
A. No, I didn't had no more jobs since then.
Q. No, I'm not saying since then. I'm saying ever.
A. No. No. No.
Q. Okay.
A. No.
Q. If we have a trial, I need to know if you are related to anybody on the jury. So, other than the name Oliver, are you related to people in Sumter County with other last names either by blood or by marriage?
A. Yeah, I'm related to people in Sumter.
Q. Okay. What are -- what are some of the last names that you are related to?
A. To -- I related to the Cummings, the Taylor's and the Anderson's.
Q. And they are all in Sumter?
A. Uh-huh (affirmative response).
Q. Okay.
A. Yes, sir.
Q. Have you ever been involved in any car accidents other than the one we are here to talk about today?
A. Yes.
Q. Okay. How many accidents were you in prior to the car accident we are here to talk about today?
A. This is the second one.

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Q. So, the one we are here to talk about today is the second one?
A. Yeah, this is the second one we're talking about today.
Q. Okay. So, you had one accident before that?
A. Yes.
Q. Okay. When was that about?
A. 2009.
Q. Okay. What happened in 2009?
A. My sister let me drive her car to go to the laundromat. Well, I shouldn't have been driving; I didn't have a driving License and -- but I still took it upon myself and went -- to go on to the dryer on Guignard, me and my son, and that's when the lady -- when I was going to take the left turn to turn, and she ran the red light and knocked the whole fender off the car.
Q. Was it -- are you saying it was the front part or the back part?
A. She did the front. I was going to turn, ---
Q. Uh-huh (affirmative response).
A. -- and she came straight across; she ran the light.
Q. Okay.
A. That's when she hit me.
Q. And did she hit the front part of your car?

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A. She hit the front part. She knocked the whole front part off.
Q. Did the police come to the scene?
A. Yes.
Q. Did the ambulance and EMS come to the scene?
A. Yes.
Q. Did you go to the hospital?
A. Yes.
Q. What hospital did you go to?
A. Tuomey.
Q. And what did you hurt in that accident?
A. In that accident, I didn't really got -- I like -- just like my neck in that accident and just my knee -- my leg got like twist up under the steering wheel. In that accident, my baby got -- he start bleeding internally inside. My baby was in the back seat, and he was -- he was like two, three years old during that period of time. I'm not -- and he got pinned up in the back seat; the seat belt like lock him in too tight; so, he had a little urinal infection.
Q. So, you said you hurt your neck and you also hurt ---
A. My leg.
Q. -- your leg. Which leg?
A. The -- the leg that I had the surgery on, my left leg.
Q. And that was my next question. So, the surgery -- the

knee replacement you had, that was your left knee?
A. Yes.
Q. You said you went to the hospital for that. Did you treat with any doctors afterwards; did you go to see anyone after the hospital?
A. Yeah, I went to the -- for my neck, yeah, I was going to chiropractors. I went a few times.
Q. Do you remember which chiropractor you went to?
A. I went to one on -- did I went to the chiropractor for this -- no. I don't think -- I didn't go to chiropractor for the neck. I just went and been checked out and I got treated at Tuomey Hospital. With that -- me and my baby got treated at Tuomey. I didn't went to a chiropractor.
Q. Okay.
A. I don't remember, recall that I went there.
Q. Did you seek any treatment for your leg after that?
A. Only thing, they just give me like some pain pills. That's all.
Q. Okay.
A. And they treated my baby. They give him some -- some liquid medicine and some pills to flush his urine because he had a little bit of blood in his urine, and they did that.
Q. Okay. About how long do you think you were at Tuomey

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at the time; when you went there, how long were up there?

A. We were up there about a good four hours because that day we -- when it happened, it was sort of packed in the afternoon. About a good four to three hours we was there.

Q. Okay. After this accident, have you ever been involved in any other car accidents?

A. No.

Q. Okay.

A. Uh-huh (affirmative response).

Q. As a result of the accident you had, that first -- the first one, ---

A. Uh-huh (affirmative response).

Q. -- in 2009, ---

A. Uh-huh (affirmative response).

Q. -- did you file a lawsuit?

A. Yes.

Q. Do you remember who was your -- who your lawyer was?

A. (Points at Mr. McElveen).

Q. Mr. McElveen?

A. Uh-huh (affirmative response).

Q. Got you. Do you remember the name of the person that hit you?

A. No, I didn't know all of that. No.

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Q. Was it here in Sumter?
A. Yes.
Q. Have you ever filed a Workers' Compensation claim?
A. No.
Q. And other than the lawsuit from 2009, have you ever filed a lawsuit before?
A. No.
Q. Have you ever been a Defendant in a lawsuit?
A. No.
Q. We are going to talk about this in greater detail in a minute, but can you tell me what parts of your body you claim were injured in this accident?
A. My -- it was below -- it was my back ---
Q. Uh-huh (affirmative response).
A. -- and my -- it was -- my back was aching because I got -- he was going backwards in the accident. I was going like this (witness indicates), but the most part was my neck and my leg.
Q. So, you said your back, your neck and what was ---
A. And my leg.
Q. Was it your left leg?
A. Yes.
Q. Have you ever injured your back before this accident?
A. Well, I have. When I had my -- when I had my son, I had an epidural that the needle stick in my spine, ---

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Q. An epidural?
A. -- I have an epidural in my back, and so, that really like had me, you know, had my back sort of aching me a little more but until I got in the accident, that's when, you know, I had the more feeling of my body; I start aching.
Q. And you told me that you hurt your neck in that 2009 accident?
A. Basically, I just got, yeah, my neck just like went to the side, and I had to wear a neck brace.
Q. Oh, okay.
A. Uh-huh (affirmative response).
Q. Now, you mentioned you hurt your back. What part of your back are you talking ---
A. Be lower -- be lower of my back. It be the lower of my back.
Q. So, the lower part of your back?
A. Uh-huh (affirmative response).
Q. Other than the birth of your son, have you ever been hospitalized for any reason?
A. Well, yes.
Q. What have you been hospitalized for?
A. I was in there -- I was having bad cramps in my stomach and they told me there was too much greasy food, and they had to put me in there for a couple

days to give me an IV, you know, and I stayed in there for like three days.

Q. Okay.

A. Uh-huh (affirmative response).

Q. Would that -- was that also at Tuomey?

A. That was at Tuomey.

Q. Are you on any medications today?

A. Yes.

Q. What are you on?

A. I have high blood, borderline diabetic and cholesterol.

Q. Any other medications?

A. No.

Q. Were you on any medications at the time of this accident?

A. No. Uh-uh (negative response). Nope.

Q. So, on the day of the accident, where were you going?

A. To Wal-Mart.

Q. And where had you come from before this?

A. Well, he picked me up from my house and I leave my house; they came to my house that morning and I asked them to take me to Wal-Mart.

Q. Okay. So, let me -- let me back up for a second. Who -- when you say "they," who picked you up?

A. Richard Prothro and my uncle, James Anderson. They

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was riding together and they came to my house that morning, and when my uncle knock on the door and I let him in, and so -- and I didn't had the right stuff in there. I want to make breakfast for us that morning, but I didn't had all the stuff that I needed. So, that's when I asked Richard Prothro to take me to Wal-Mart.

Q. So, why were they coming over in the first place?

A. Well, my uncle come by my house. He comes and stops by, and I make breakfast for him in the morning, him and his friends, you know.

Q. Okay.

A. They stop by like that. They come by and see me.

Q. Okay.

A. So, I wanted to make some breakfast for them that morning when they came, and I didn't had all the ingredients; so, I asked him to take me to Wal-Mart.

Q. Okay. So, you said that -- was it Richard -- let me back up. Have you ever been in Richard's -- driven by Richard before?

A. Excuse me?

Q. Have you ever been driven by Richard before?

A. No, I know -- I knew Richard.

Q. Oh, you did.

A. Uh-huh (affirmative response).

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Q. Okay. Had you ever been driven by him; had you ever been in a car when he was driving before?
A. No -- yeah, I done ride with Richard before to the store. Yeah, he was gonna take me and my uncle because he's like one of my uncle's friends. He's a, you know, -- and he been around the family.
Q. I got you.
A. Uh-huh (affirmative response).
Q. Okay. So, in your own words, tell me -- tell me what happened.
A. With the accident?
Q. Uh-huh.
A. Okay. Richard came by my house, him and my Uncle James came by the house around about 9:00 o'clock that morning. I was sitting in my living room. They knock on the door. I answered and let my uncle in. And I told them that I -- I don't -- I would -- I said, "I would have make you all some breakfast, but I don't have every -- everything to prepare the meal with." So, I said, "Richard, would you take me to Wal-Mart to pick up a few things from the store?" He said, "Yes, I will take you." So, Richard took me to Wal-Mart. I went inside Wal-Mart to get the things that I needed. So, when I came back out to put my bags in the car, I got on Richard's side in the back seat of

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the car. And that's when Richard and -- my uncle was in the front seat. So, Richard cranked the car, but he ---

Q. I don't mean to -- can I just ask you questions as we are going along?

A. Uh-huh (affirmative response).

Q. So, you were on the driver's side of the back?

A. Yeah. I was on his side in the back.

Q. Okay.

A. And I put my bags on this side beside me (witness indicates) in the back that I purchased out of Wal-Mart. And I got in the car and Richard cranked the car and everything. I sat back and less than about two -- two minutes, Richard was going -- he had the car in reverse when he should have had it in drive going forward. So, Richard put the car in reverse and mashed the gas and I don't know what take control of him or what caused him to do that, but he started going backwards and he start hitting other cars in the parking lot. So, he hit about three -- he hit about four cars. So, he hit -- when he hit the third car, I jumped out of the back because I already take two -- he done hit two cars when I'm back there; so, you know, them yellow things in Wal-Mart, he was like, he back up, he -- he bumped one of those. So, when he

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did that, that's when I jump out the back seat and, you know, the buggy rack, I grabbed hold when I jump out the back seat of Richard's car because he had a lull and I jump out and I grabbed where the buggies -- I grabbed hold on to that, and I must have twist my leg down holding on because I jumped out the vehicle. And that's when the people start come running and one guy ran up to the car and throw the car in park; you know, a guy ran up to the car and he throw it in park. So, when he throw it in park, that's when everybody, the supervisor and the stuff came out of Wal-Mart and they came over to the car. They was asking me was I'm all right because I was sitting on the edge. And my back -- but when he did it because he was hitting them cars and my back was hurting and I had a headache from it, you know, and that's -- I was crying and my bags was all over the ground that I had, you know, from the car because they fall out the car. And a girl that I knew that I used to go to church with, she was there at the store at the time. So, she walk up to me and ask me, "Is you all right, Gloria," and I tell her "no, I'm hurting a little bit. I'm sore." So, that's when she contact -- she had know my family. So, she contact my family and let them knew that I was in an accident at Wal-Mart. So, when I look around, my

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sister and my niece pull up on me and they helped me off the ground and they took me to Tuomey that -- that morning. That morning, they took me to Tuomey. That was July the 24th. They took me to Tuomey and that's when I got treated for that.

Q. Okay. So, let me -- I have a couple questions about what you told me. So, when you said you jumped out; so, you had -- I assume you closed the door before all of this happened; correct?

A. I didn't close no door. I just jump out -- I just open the back door because he already ---

Q. No, I mean before you -- before the car started in reverse.

A. Yes, I had came and got in the car, shut -- closed the door. Ready -- ready to go.

Q. Okay. Did you put your seat belt on?

A. I didn't have on a seat belt.

Q. Okay.

A. No.

Q. So, when he starts to back up, you said he hits two cars and then you actually get out of the car?

A. He hit -- he hit about three cars before I could get out the car because he was going for the fourth car, but I was out the car. And then he hit the yellow -- the big yellow stand in Wal-Mart, he backed up and hit

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that; he bumped that, and that's when I jump out the car and grab on to the buggy holder.

Q. And when you were saying -- I'm not understanding that word. You said you grabbed on to what?

A. You know like -- you know where they put the carts at, the buggies that's in the Wal-Mart parking lot?

Q. Yes.

A. So, he was like close up by one of those.

Q. Okay.

A. And I jump out of it and I hold on to that.

Q. Got you.

A. Uh-huh (affirmative response).

Q. And then when you grabbed that, did he not -- is it at that point where somebody came out and -- and put the car in park?

A. Yeah, and that's when a guy -- a guy ran up and reach in the window and throw the car in park. And that's when everybody came over and the next officer pull up on the scene, and they went to talk to him and they spoke to me and they asked me did I want to go with the paramedics, you know, to the -- the Tuomey. So, my sister said, "No, we've got her; we're going to take her straight up there, and that's what they did; they took me straight to Tuomey. We left the scene and went straight to Tuomey.

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Q. Okay.

MR. CRUDUP: I'm going to have to -- go off the record a second.

(OFF THE RECORD).

MR. CRUDUP: We can go back on the record.

EXAMINATION BY MR. CRUDUP CONTINUED:

Q. Sorry about that. So, I have two questions about the actual accident. You kind of sounded like you were saying -- I guess I wasn't clear -- how many cars do you think were hit before you got out of the car?

A. Three.

Q. Okay. Was there another car that was hit after you got out or did he hit the something else?

A. When I got out, I think he hit another car after I got out.

Q. Okay.

A. Uh-huh (affirmative response).

Q. And you said after the accident, you -- did you talk to the officers there?

A. Yeah, I spoke -- well, the officer came and told me -- he was asking me was I'm okay, do I need the paramedics or whatever, but at that time, that's when my family all pulled up on the scene and brought me up to Tuomey.

Q. Okay. So, did you speak to the officer, though, at the scene?
A. Yeah, he asked me, you know, he was asking if I'm all right, do I need a paramedic or whatever. But at the time, my family had already pulled up, and I left with them.
Q. Okay. And you said that -- and it sounds like who you were describing was a man; it was a -- was a male officer?
A. Yeah, it was a man.
Q. Can you describe him for me?
A. I don't really remember that offhand. I know ---
Q. Tall, short, white, black?
A. I think he was -- he was white and he was a short officer. I don't really know. I didn't really glance -- I glance him, but I didn't really look at him.
Q. And you said that your family took you to Tuomey?
A. Uh-huh (affirmative response).
Q. When you said "your family," who specifically took you?
A. My niece took me. Uh-huh (affirmative response).
Q. And what is your niece's name?
A. Adrienne.
Q. Do you know what her last name is?
A. Yes.

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Q. What is it?
A. Cummings.
Q. Do you know where she lives?
A. Adrienne is not here anymore. Adrienne is like -- her and her fiance' got together; so, I think they moved down to Atlanta.
Q. Okay. Do you still have her phone number?
A. No, I haven't -- she's changed numbers so much; so, I haven't speak to Adrienne in about six months since she left with her and her fiance' and her kids. And my sister pass, the one who was on the scene with us that came to get me and that took me to Tuomey, I lost her April the 22nd.
Q. Oh, I'm sorry to hear that.
A. Yeah, she passed.
Q. Could you describe the impact for me? In other words, when he was hitting those cars, could you describe that for me; what did it feel like?
A. It was like a boom, boom, you know. Boom. We was going backward, boom. Boom. You know.
Q. And you said that your Uncle James was in the front seat?
A. Yes.
Q. Did he get out of the car as well or did he stay in the car?

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A. He got -- he got out. He got out after the third car, and when I told you a guy came and throw it in park, that's when James got out. Uh-huh (affirmative response).

Q. About how fast do you think you were going when you got out of the -- when you jumped out, how fast was the car going?

A. He was going -- he had a little speed because he had his foot on the gas. It seemed like he couldn't move his foot off the gas; so, we was going -- he had a little speed, about a thirty-five (35) or forty (40) speed. I mean, he was going backwards. He had a little speed on him.

Q. And when you said he was going backwards, did he go directly back out of his parking spot?

A. I meant, where he was parking his car; right. He could have drive forward, but he didn't. He went back, and that's how he hit the other cars going backwards, where the other cars was parked. These cars was parked that he hit.

Q. Okay. So, my question is, was he -- did he go straight back or was he turning?

A. No, he just went straight. He just back up and went straight back; then we start going from side to side, you know, different level hitting cars, like, you

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know, side to side.
Q. Okay. So, you said that there were family members that you talked to. How -- how did they get there? I probably might have forgotten. How did they get there?
A. Talking about my family members?
Q. Yes.
A. I told you I ran into one of my girlfriends that was at the store that I used to go to church with, and she was at the Wal-Mart during that period of time and she came over and asked me was I'm okay and that's when she contact my sister and my niece.
Q. And what is that girlfriend's name?
A. That's -- her name is Angie.
Q. Do you know what her last name is?
A. What's her -- Angie got married. I'm not gonna lie. She married; so, I don't know her married name.
Q. Do you know what her phone number is?
A. No, I never know. I never -- you know, we see each other from time to time when I do go to church. I don't see her that often, you know.
Q. When you said that she called your other family members, ---
A. Yeah.
Q. -- how did she call?

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A. She had a cell phone, and Angie called my sister, the one deceased. Angie call her number. She called my sister, Leslie, and told Leslie that Gloria was in an accident at Wal-Mart.
Q. Got you. Did you have a cell phone at the time?
A. Did I had a cell phone at the time?
Q. Uh-huh (affirmative response).
A. I had one, but I think it was off during that period of time. Uh-huh (affirmative response). I'm not -- I had one. I think it was off. I'm not sure, did I got it back on -- I'm not sure that I got it back on during that period of time. But I did have one.
Q. And you said that you went straight from Wal-Mart to Tuomey?
A. Yes.
Q. What did they do for you at Tuomey?
A. Treated me. Give me some pain medicine and an ice-pack and basically give me a prescription to get some Ibuprofen for pains.
Q. Did they do any X-rays or any -- any MRIs?
A. I think they did an MRI on me, but they didn't do an X-ray. I'm not sure; no, they didn't do an X-ray.
Q. Did they tell you what was wrong at the hospital?
A. I had my muscles -- I had muscles problem.
Q. Like sprains?

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A. Uh-huh (affirmative response).

MR. McELVEEN: Ms. Oliver, try to say yes or no.

A. Yes. I'm sorry.

Q. After you went to Tuomey, did you seek any medical treatment with anyone else?

A. No.

Q. So, about how long after the accident was it before your leg started to feel back to the way it was?

A. My leg still bothers me right now to today. I'm still having problem with my leg. My leg still ache me.

Q. And that was my next question. In what ways does it still bother you?

A. Like on the side and in the middle or the front.

Q. And have you seen any doctors for your knee?

A. Since that period of time?

Q. Yes.

A. No. No, I didn't went back to the doctor because I was afraid they'll probably want to cut me in that same spot to go back in there.

Q. And what about your neck, did that get back to the way it was?

A. Yeah, my neck start feeling a little better.

Q. How long did it take?

A. Maybe for a month I start feeling a little back muscle

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spasm, and it start back feeling normal.
Q. Okay. And what about your lower back, how long did it take for that to get better?
A. I'm still having problems with my lower back. Yeah, I'm still having -- I'm having major problems with that. Uh-huh (affirmative response). My back still bother me.
Q. After going to Tuomey, did you go to see any doctors for your lower back?
A. No, but the doctor that I go to, I told him about my back.
Q. What doctor do you go to?
A. I go to Family Health Center, and my doctor is Mr. Richard Hall.
Q. Did you say Richard Horne?
A. Hall. Hall.
Q. Hall?
A. Uh-huh (affirmative response). Yes.
Q. And he is your primary care physician?
A. Yes.
Q. How long have you gone to see Dr. Hall?
A. Well, I haven't had -- I change my other doctor, he transferred to Pinewood at the other Family Health Center, Mr. Robert Epps. That was my doctor. So, after Mr. Robert Epps moved to Pinewood, that's when

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I got Richard, because I didn't want to -- I didn't have no transportation to travel to get to my doctor; so, I want to keep it close in town to be convenience for me.

Q. Sure. And when did you first start to see Dr. Hall?

A. Well, I don't see Dr. Hall until February the 2nd. I see him every three months.

Q. Do you remember when the first -- how long ago it was the first time you saw him?

A. I saw him in August the last time I see him.

Q. Okay. What about the very, very first time you saw him when your doctor moved away and you first started seeing him, when did that happen?

A. When I went with Dr. -- let's see -- I can't -- I can't remember that day. I'm ---

Q. What are we talking about -- was it years ago or was it relatively recent?

A. It was -- well, it's -- it's about a year. I really -- I can't -- I guess about a year. About a year.

Q. Okay. So, in the time of this accident, who -- what was your -- who was your primary care doctor?

A. When this accident take place?

Q. Yes.

A. Mr. Robert Epps was my doctor.

Q. And did you -- you say you saw -- did you see him

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regularly, too?
A. I see Mr. Robert Epps every three months.
Q. What is it for?
A. My -- the high blood pressures, my diabetes and my cholesterol.
Q. Got you.
A. Uh-huh (affirmative response).
Q. Did you ever see him specifically for your knee or back or your neck?
A. No. No. Uh-uh (negative response).
Q. Do you currently do anything for your knee, any exercises?
A. Yeah, I walks. Uh-huh (affirmative response).
Q. How much do you walk?
A. Well, I walk in the park. I go to Memorial Park. I probably walk around the track about two times. Uh-huh (affirmative response).
Q. And do you -- I think you might have told me this and I apologize if you did. Did your back ever get back to the way it was before the accident?
A. No.
Q. Okay. What do you do for your back?
A. I'm taking pain pills for my back.
Q. What kind of pain pills?
A. The Ibuprofen.

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Q. Is that over-the-counter or is that prescribed?
A. I got that from my doctor.
Q. Are there things you claim that you can't do now that you used to be able to do?
A. Well, I can't stand on my leg too long. And I can't bend or lift anything that's, you know, too heavy or you know; yeah, I can't do those no more, because I have problems.
Q. Has anyone told you what is wrong with your knee, why -- why it is that it doesn't work as well as it did before?
A. Has anyone told me what's wrong with my knee -- I had a knee replacement and I have screws in my -- on the side of my leg; so, ---
Q. Okay. So, you think that is -- that is what is causing your knee -- the knee pain that you have now?
A. No. I mean, I was having these pains, but after I got in the accident, it's like a little more pressure, you know what I'm saying, because I had a hit. It hit the front of my knee, you know, where I had the accident is where I had the surgery at. That's -- that's where my leg got hit, you know, in the door. And ---
Q. What part -- what part of the car hit your knee?
A. That's when I -- when I opened the -- when I opened the car door to jump out, that's when my -- my front

leg like hit the end of the door.
Q. Uh-huh (affirmative response).
A. Yeah.
Q. So, before the accident, you were having knee pain, but it -- there was -- there is more pressure now you said?
A. Yeah, it's more pressure now. Yes, since I hit it in that spot where I had the surgery at. Uh-huh (affirmative response).
Q. And you told me that your back is still bothering you?
A. Yes.
Q. Has any doctor told you what is wrong with your back, why it is still bothering you?
A. Well, he told me that maybe I need to have surgery because maybe one of my -- my spine might be twist from that; so, I maybe need to have surgery.
Q. Have you followed up with him on that at all?
A. Well, we spoke about it, but I haven't decide to take the surgery.
Q. About when do you think you spoke about it?
A. We spoke about it once -- the last time that I went to visit him for my appointment.
Q. Why have you never spoken about that before your last appointment with him?
A. Excuse me?

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Q. You said the first time you spoke with him about surgery, your back possible surgery on your back, was the last time you saw him?
A. Yes.
Q. Did you talk to him about that before that time?
A. No, I didn't talk about -- I talked about it with him after I been in the accident -- I spoke with him about that.
Q. And I understand that. What I'm trying to figure out is, when is the first time your doctor spoke to you about surgery?
A. When I told him about my back has bothered me since I had the accident and the epidural, and that's when he said maybe -- my doctor done give me X-ray and he said one of my -- my spine was twist and he wanted to knew if I want to have the surgery. So, I keep putting it off because I -- I'm not, -- you know, I feel afraid, not that I -- I don't want to go through it.
Q. And did you say you think that it might have something to do also with the epidural that you had when you had your kid?
A. Yeah. Well, I did had the epidural and the epidural did had my back aching, you know, a little, but after I got in the accident, that really make it -- you know, I had more pains.

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Q. When was the last time you saw a doctor for your back, your neck or your knee?
A. I haven't seen since one I went to the chiropractors; I haven't seen no one else.
Q. When did you go to see the chiropractor?
A. I went -- well, I got set up with the chiropractors in -- this happened in July; so, I guess they see me in -- in August when I had the appointment to come in. I think I came in that August. They set me up with appointment. And I went there for like about -- I think I -- I'm not really sure. I went -- I think I went between six or four weeks. Between that, I'm not really sure that -- I went to the chiropractors on Broad Street.
Q. All right. You said you got set up. Who referred you to the chiropractor?
A. Who referred me to the chiropractor?
Q. Uh-huh (affirmative response).
A. When I came -- when I came here to do my claim, ---

MR. MCELVEEN: I'll object to any sort of disclosure of communications that are -- are subject to attorney/client privilege.

MR. CRUDUP: Oh, sure, yeah.

Q. I'm just trying to figure out who sent you to the

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chiropractor. Can you tell -- can you tell me? Does that make any sense? I don't want to -- I don't want you to tell me anything about what you might have talked about with your attorney.

A. Uh-huh (affirmative response).

Q. But I want to make sure I'm understanding. Maybe I'll ask you. Did your attorney refer you to the chiropractor?

MR. MCELVEEN: Object to the form.

Q. You can answer that. Does it make sense?

A. No.

Q. Okay. Let me see if I can ---

MR. CRUDUP: Can we go off the record for a second?

(OFF THE RECORD).

EXAMINATION BY MR. CRUDUP CONTINUED:

Q. Ms. Oliver, I just -- I want to understand how -- let me back up. Have you ever gone to see that chiropractor before this accident?

A. No.

Q. Okay. So, why did you go to that chiropractor after the accident?

A. I think I was -- I was assigned to go to that chiropractor.

Q. Okay. Please don't be offended. I have to ask

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everybody this. Have you ever been arrested before?

A. Yes.

Q. How many times have you been arrested?

A. About three, four.

Q. And when is the first time you remember being arrested?

A. When me and this girl had a fight and she jump on me and I fight her back, and that's my first time on assault. Then we went -- me and her been with some friends shoplifting. And then I was driving without a driving License.

Q. Can you remember any other times?

A. And basically shoplifting, driving without a driving License, and me and the girl have a fight. That's basically it.

Q. Okay. When -- when you say you were in a fight, was that back in high school you said?

A. Uh-huh (affirmative response). Like in '95 or something.

Q. And then the shoplifting, when about did that happen?

A. That happen like last -- last year.

Q. And what happened with those? Did that get resolved in some way?

A. Yeah, I took -- we took -- carry -- went to Wal-Mart and I bought two wooden lamps, and the girl at the

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cash register made a mistake and say that she took out -- she took out for one and she didn't punch in the other one; so, I went to walk out the door to push my stuff out the -- outside. That's when they brought me back in and that -- and they charged me with that because I went outside, but the girl made the mistake but I still had to pay the price for it. And they charged me for that.

Q. And did that get resolved?

A. Yeah, we take care of it. Uh-huh (affirmative response).

Q. And you said you also got arrested once for driving without a License?

A. Yes.

Q. When did that happen?

A. In 2009.

Q. Was that from that accident?

A. Yes.

Q. Okay. Have you ever been treated for any drug or alcohol abuse?

A. No.

Q. And have you ever seen any psychologist or psychiatrist?

A. Well, I was going through some problems and they set me up to go to Mental Health Center to -- for a

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conference because I lost -- like, my brother got killed and that really like take effect of me and they had me set -- they set me up to go to Mental Health Center for counseling, and I went through the program.

Q. And when about was that?

A. That's back in -- in the '90's.

MR. CRUDUP: Can we go off the record for a second?

MR. McELVEEN: Sure.

(OFF THE RECORD).

EXAMINATION BY MR. CRUDUP CONTINUED:

Q. You said that your uncle was in the front seat when this happened?

A. Yes, sir.

Q. Is he still in the area?

A. My uncle?

Q. Uh-huh (affirmative response).

A. I haven't seen him -- I don't be seeing him like that; so, I'm not really sure.

MR. CRUDUP: All right, Ms. Oliver., those are all the questions I have. Thank you.

MS. OLIVER: Thank you.

EXAMINATION BY MR. MCELVEEN:

Q. Ms. Oliver, I just have a few follow-up questions I

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want to ask you about. You said that this wreck that we are here for, does July 24th, 2016 sound about right?

A. Yes, sir.

Q. And the Collision Report, which is not evidence, says it happened around 9:30 -- 9:35 in the morning. Would you argue with that time?

A. Was I ---

Q. Would you argue with that being the right time?

A. Yeah. Yeah, that was the right time because we went to the store.

Q. Okay. So, it was in the morning?

A. Yeah, it was in the morning.

Q. And ---

A. Yeah.

Q. And you testified that Mr. Richard Prothro picked you up, your uncle was in the front -- front passenger seat; is that right?

A. Yes.

Q. And he took you to Wal-Mart?

A. Yes.

Q. Okay. Did you all go anywhere else besides Wal-Mart?

A. We didn't go nowhere else. We didn't make it out the parking lot after that. We didn't.

Q. Okay. How did Mr. Prothro do driving to Wal-Mart?

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A. He was doing good. Normal. He drive like a normal person all the way there. But once I came back out to get in the car with my bags, that's when everything take place right there in the parking lot.

Q. Was there anything that he did on the way to Wal-Mart that would cause you any alarm?

A. No, he didn't do nothing. He was driving like a normal person to Wal-Mart.

Q. Did he have any trouble parking the vehicle?

A. No.

Q. But -- and so, the issues didn't come until after you had already been in the store and come back out?

A. And that's when the accident take place.

Q. Okay. And I might have missed this, but how long have you known Richard Prothro?

A. I know him for a minute because I told you he like a family, being at and around the family and stuff. I've known him for a minute.

Q. Okay. And do you know his wife ---

A. No, I don't know her like that. No.

Q. Her name is Sharon Prothro?

A. Yeah, but I don't know her like that.

Q. You don't know her?

A. No, not like that. I've seen her, but I don't know

her like that.
Q. Have you ever ridden with her before?
A. No. No.
Q. All right. And so, let's talk about the day this wreck happened, July 24, 2016. When they came and got you, whose -- whose vehicle did you believe it was?
A. He say it was his.
Q. Mr. Prothro's vehicle?
A. Uh-huh (affirmative response).
Q. Is that a yes?
A. Yes.
Q. Okay.
A. I'm sorry.
Q. Have you ever talked to Sharon Prothro about that vehicle?
A. No.
Q. Had you ever talked to Richard Prothro about that vehicle ---
A. No.
Q. -- prior ---
A. No.
Q. Let me finish the question; okay. I want to make sure -- we can understand each other here, but I want to make sure the court reporter can understand everything.

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A. I'm sorry.
Q. So, had you ever talked to Richard Prothro about that vehicle before July 24th, 2016?
A. No.
Q. Had you ever seen Richard Prothro driving that vehicle before July 24th, 2016?
A. Yes, I been see him driving that vehicle before.
Q. You had seen him drive it before?
A. Yes.
Q. How many times do you think you had seen him driving that vehicle before that?
A. A few -- I seen him a few times driving it, you know, coming down Broad Street because I been living on Harrison Street; so, he used to ride down Broad Street and I used to walk to the schoolhouse to get my baby during that period of time, and I'd see him driving it.
Q. All right. Did -- did any -- did any -- did anybody give you any indication whatsoever that there may not be insurance coverage on that vehicle as of July 24th, 2016?
A. No.
Q. Okay. Did Richard Prothro ever tell you that there wasn't insurance on the vehicle?
A. No.

Q. Did Sharon Prothro ever tell you there wasn't insurance on the vehicle?
A. No.
Q. Did your uncle, who was in the car that day, ever tell you or indicate to you that there may not be insurance on that vehicle?
A. No.
Q. Did anybody ever tell you that?
A. No.
Q. Okay. And I'm going to show you a piece of paper that I would like to mark as Plaintiff's Exhibit Number One on this deposition.

MR. McELVEEN: Where it was signed right here.

MR. CRUDUP: Okay.

Q. Let me ask you, have you ever -- have you seen this before? You can look it over. Have you ever seen it before now?
A. No.
Q. And what this is is, it's -- it is an exclusion that has been provided by Mr. -- Mr. Prothro and Mrs. Prothro's attorney in this case ---
A. Uh-huh (affirmative response).
Q. -- that is purportedly some sort of exclusion. You have never seen this before?

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A. No.
Q. And has anybody ever made you aware of this before?
A. No.
Q. Today is the first time you have ever seen this?
A. It's the first.
Q. Okay.

MR. McELVEEN: Can I mark that as Plaintiff's Exhibit Number One? You can keep that copy.

COPY OF NAMED DRIVER EXCLUSION MARKED PLAINTIFF'S EXHIBIT NUMBER ONE.

A. First I ever seen that paper.
Q. All right.

MR. MCELVEEN: Thank you, ma'am, and I have nothing further. I have nothing further.

MR. CRUDUP: I have -- that's all.

MS. OLIVER: All right. Thank you.

(THERE BEING NO FURTHER QUESTIONS, THE DEPOSITION WAS CONCLUDED AT 4:22 P.M.).

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STATE OF SOUTH CAROLINA)
) CERTIFICATE
COUNTY OF SUMTER)

I, Doris Tompkins Brown, Certified Verbatim Reporter and Notary Public in and for the State of South Carolina, certify that I did have Gloria D. Oliver appear before me commencing at 3:10 P.M. on December 2, 2019 at the offices of the Bryan Law Firm of SC, LLP, 17 East Calhoun Street, Sumter, South Carolina; that the witness was duly sworn and cautioned to tell the truth; that the foregoing pages constitute a true and accurate transcript of the testimony given at that time and place.

I hereby certify that I am not of counsel or kin to any of the parties to this cause of action, nor am I interested in any manner in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this the 4th of January, 2020.

Doris Tompkins Brown, CVR
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission expires: 4-02-2025

Named Driver Exclusion Election

You have named the following persons as excluded drivers under this policy:

RICHARD PROTHRO

Date of Birth: May 6, 1955

No coverage is provided for any claim arising from an accident or loss involving a motorized vehicle being operated by an excluded person. This includes any claim for damages made against any named insured, resident relative, or any other person or organization that is vicariously liable for an accident or loss arising out of the operation of a motorized vehicle by the excluded driver.

This form must be signed by the named insured.

I understand and agree that this Named Driver Exclusion election shall apply to this policy and any renewal, reinstatement, substitute, amended, altered, modified or replacement policy with this company or any affiliated company, unless a named insured revokes this election.

I declare that either the driver's license of the excluded persons named in this Named Driver Exclusion election has been turned into the Department of Motor Vehicles, or that an appropriate policy of liability insurance or other security as may be authorized by law has been properly executed in the name of the person to be excluded.

Signature of named insured **Date**

X Sharon J. Prothro 4-2-09

Form 9330 SC (04/07)

Claim # 165237341

PLAINTIFF'S EXHIBIT 1 12.2.19 Oliver

Continued

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STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
COUNTY OF SUMTER) C/A NO.: 2018-CP-43-1323

Gloria D. Oliver,

Plaintiff,

vs.

Richard Prothro and Sharon Prothro,

Defendants.

Deposition of RICHARD PROTHRO, taken by Doris Tompkins Brown, Certified Verbatim Reporter and Notary Public in and for the State of South Carolina, commencing at 4:36 P.M. on December 2, 2019 at the offices of The Bryan Law Firm, LLP, 17 East Calhoun Street, Sumter, South Carolina.

APPEARANCES

ON BEHALF OF THE PLAINTIFF: Thomas E. McElveen, III
The Bryan Law Firm, LLP
Post Office Box 2038
Sumter, South Carolina

ON BEHALF OF THE DEFENDANTS: Jeffrey M. Crudup
Clarkson Walsh & Coulter
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Mount Pleasant, S. C.

Doris Tompkins Brown
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Certified Verbatim Reporter
Post Office Box 853
Sumter, South Carolina 29151
(803) 499-2434
COPY

DEFENDANT'S EXHIBIT G

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ON BEHALF OF PROGRESSIVE

NORTHERN INSURANCE

COMPANY: Sarah E. Caiello

Murphy & Grantland, P.A.

Post Office Box 6648

Columbia, South Carolina

* * * * *

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Named Driver Exclusion Election	Pl. Ex. 1

* * * * *

(COURT REPORTER'S NOTE: --- INDICATES INTERRUPTION, INCOMPLETE PHRASE, TRAILING OFF, INCOMPLETE SENTENCE)

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The deposition of Richard Prothro is being taken pursuant to Notice and in accordance with the South Carolina Rules of Civil Procedure and Amendments as adopted by the Supreme Court which shall control the taking of said deposition and its use thereof.

Counsel, with the specific consent of the witness, waives the reading and signing of the deposition prior to the time it is filed with the Court.

(Richard Prothro, having been duly sworn, testifies as follows:)

EXAMINATION BY MR. McELVEEN:

Q. Mr. Prothro, good afternoon.

A. Good afternoon.

Q. My name is Thomas McElveen. I work here at the Bryan Law Firm. And I represent Ms. Gloria Oliver in a lawsuit that has been brought against you and also against Sharon Prothro as a result of an incident that happened back on July 24th of 2016.

A. Right.

Q. And a few things I want to ask you. Have you ever given a deposition before?

A. No.

Q. This is your first time doing anything like this?

A. Yes.

Q. Okay. You are doing great so far. The only thing I

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would -- a couple things I would tell you is, when you and I are talking, if I ask you a question that is a yes or no question, please try to say yes or no, which you are -- which you are doing now and which I appreciate because if we say uh-huh or uh-uh or that sort of thing, I'm going to understand what you are saying but the court reporter has a hard time taking that down; okay?

A. Right.

Q. The other thing is, is if you and I get to talking, sometimes in conversation, you know, you might start answering a question before I finish the question or I might ask the next question before you finish your answer. You and I will understand each other, but she has a hard time getting that -- that down. So, can you just be careful about starting your answer until I finish my question?

A. Yes.

Q. And I'm going to try to do my best to not start my next question until you have finished your answer; okay?

A. Okay.

Q. A few things I wanted to ask you also. Are you under the care of a psychiatrist or a mental health professional as of today?

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A. No.
Q. Have you ever had any sort of psychiatric treatment or mental health -- or care for any mental health conditions?
A. No.
Q. Okay. And as we sit here today, are you under the influence of any drugs, alcohol or anything else?
A. No.
Q. Do you take any medications?
A. Yes.
Q. What sort of medications do you take?
A. Allopurinol.
Q. What is that for?
A. Gout.
Q. Gout?
A. Yes.
Q. Anything else that you have to take?
A. No.
Q. Have you taken Allopurinol today?
A. Yes.
Q. Does it -- does it affect your ability to understand ---
A. No.
Q. -- questions and that sort of thing?
A. No.

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Q. Okay. And I -- I ask everyone basically the same questions when I take these depositions, and so, there's no surprises. I'm not here to trick you, I'm not here to argue with you or pick on you. I'm going to ask you questions about your background and kind of who you are, where you came up and where you are from, and the reason I'm doing that is because I want to know if there's folks in Sumter County who may empathize with you if we end up selecting a jury just like your attorney is going to want to know if there are folks that may empathize with Ms. Oliver if we end up in a jury trial for this; okay?

A. Okay.

Q. And then I'm just going to ask you questions basically about what happened on July 24th, 2016. There are some more rules I have to share with you, though. During this deposition, you understand what while you have an attorney who is present today -- I think your -- your wife, Sharon Prothro, is here also?

A. Yes.

MS. PROTHRO: I'm Sharon.

Q. Okay. You understand that, during this deposition, you can't look to anybody else for answers; you are the only person that can answer my questions during the deposition?

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A. Yes.

Q. Okay. And ordinarily -- well, you -- you always have attorney/client privilege with your attorney, okay, and I don't want to know anything that you and your attorney talked about; I don't want to know what you have told him or what he has told you. But if you take a -- if we take a break during this deposition and you talk to your attorney, I will be able to ask you what you talked about just during the time this deposition is going on. Is that okay?

A. Okay.

Q. All right. And if you need a break or something like that, please let me know. I'm happy to give you a break. If you need to walk out, walk around or get some coffee or whatever else, you are welcome to do that. Just let me know; okay?

A. Okay.

Q. The other thing I want to tell you is, do you understand that today while, you know, we're not -- none of us are real dressed up today, we are not in a courtroom, but you understand that this is like an extension of the courtroom?

A. Right.

Q. This is a Court proceeding and that you -- you are under oath today?

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A. Right.
Q. And so, you understand that the same penalties of perjury would apply for not being truthful as it would in a Court of Law?
A. Right.
Q. You understand that, too?
A. Yes.
Q. Okay. And so, if I ask some questions today that -- that you don't understand, that you need me to repeat those questions, please -- please tell me. I will be glad to rephrase a question, I will be glad to restate a question if you need that; okay?
A. Okay.
Q. And so, the last thing I need to ask you right now is, if I ask you a question and you answer my question, I'm going to assume that you understood the question and answered it truthfully because you are under oath today. Is that fair?
A. Right.
Q. Okay. And, Mr. Prothro, if you would, please state your full name for the record.
A. Richard Prothro.
Q. Okay. Do you have a middle name or anything like that?
A. No middle name.

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Q. Just Richard Prothro?
A. I have a son that's Junior. I'm Senior.
Q. Okay. You are Senior and he Is Junior. All right. We can talk about that in a few minutes. Mr. Prothro, what is your date of birth?
A. May the 6th, 1955.
Q. Okay. What is your current residence?
A. 125 West Bartlette Street, Apartment 502.
Q. Okay. How long have you been living there for?
A. Since May.
Q. Since May of this year?
A. This year.
Q. May 2018 -- 2019?
A. Yes.
Q. Okay. Who do you live there with?
A. My wife.
Q. Okay. What is her name?
A. Sharon.
Q. And she is here today?
A. Yes.
Q. Okay. And how long have you and Sharon Prothro been married? Sorry to put you on the spot with her sitting here.
A. Let me see.
MRS. PROTHRO: June the 16th, Two

Thousand ---

MR. MCELVEEN: He's going to have to answer my questions, Ms. Prothro. I'm sorry.

A. Ten years.
Q. What year did you get married; do you recall that?
A. I can't remember.
Q. Been married more than ten years?
A. Ten, I think.
Q. Okay. And I will ask Ms. Prothro questions about that, okay, but you have been married to her for a while?
A. Yes.
Q. Okay. And were you -- were you married as of July 24th, 2016?
A. Yes.
Q. And do you agree that is the day that this incident happened?
A. Yes.
Q. Okay. So, is it -- is it fair that if I say "this incident," we are talking about the incident that happened in the Wal-Mart parking lot on July 24th, 2016?
A. Yes.
Q. That is what we are here for today; right?
A. Right.

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Q. Okay. And so, how many children do you have?
A. One.
Q. And you mentioned already that's -- that's ---
A. Richard Junior.
Q. Richard Prothro, Junior?
A. Yes.
Q. Does he live here in Sumter also?
A. Yes.
Q. How old is he now?
A. Forty-one (41).
Q. Okay. Does he -- does he work somewhere in town?
A. Not right not.
Q. What kind of work does he usually do?
A. He's done construction, he's worked in a grocery store.
Q. Okay. Is he married?
A. Yes.
Q. And what is his wife's name?
A. Michella.
Q. Michella?
A. Yes.
Q. Do you know what she does for a living, what kind of work she does?
A. She doesn't work right now.
Q. What kind of work does she usually do?

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A. She do hair and like -- what's all the stuff with the fingernails and that kind of stuff.
Q. Okay. Do you remember what her name was before she got married to your son, what her last name was?
A. Dicks.
Q. Dicks, D-I-C-K-S?
A. Yes.
Q. Okay. All right. Do they have any children?
A. One.
Q. Is that child over the age of eighteen (18)?
A. No.
Q. Okay. Does the child go to school?
A. He just started to go to preschool.
Q. He just started to go to preschool?
A. Yeah.
Q. Okay. Their child is a young -- so, they have got a young child?
A. Right.
Q. That -- is that your only grand?
A. No.
Q. You have other grands?
A. Yes.
Q. Who -- who are they?
A. He has one in New York.
Q. Okay.

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A. And then he has another one in Sumter besides the youngest one.
Q. Okay. Is that -- is that other child in Sumter over the age of eighteen (18)?
A. No.
Q. Okay. Where does that child go to school?
A. I don't know.
Q. You are not sure?
A. No.
Q. Is that child's mother also Michella or someone else?
A. No, it's not.
Q. Who -- who is the mother of that child?
A. Oh, boy, what's that girl's name? I can't remember.
Q. You don't remember -- do you remember what her last name is?
A. No.
Q. Okay. All right. And what was your -- what was your wife's maiden name before she became Sharon Prothro?
A. Day. Day. D-A-Y.
Q. Okay. D-A-Y. Got you. All right. And were you -- were you born and raised here, Mr. Prothro?
A. In Sumter County.
Q. You were born and raised in Sumter?
A. Mayesville.
Q. Mayesville?

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A. That's Sumter County?
Q. Sumter County, yes, sir.
A. Right.
Q. Have you live anywhere besides Sumter County in your life?
A. No.
Q. But you -- you were born and raised in Mayesville?
A. Right.
Q. Okay. Who -- who were your parents?
A. Will and Gardenia Moore.
Q. Are they still alive?
A. No.
Q. Okay. Well, how did you -- how did you end up with the last name of Prothro?
A. Well, my mother met Roger Prothro in New York and they were married, and she came home before I was born and she married Waddell Moore and he raised me.
Q. Okay. I got you. What kind of work did he, Mr. Moore do?
A. Farm.
Q. How about your mom?
A. Farm.
Q. Either one of them still -- still living?
A. No.
Q. Okay. Do you got any brothers and sisters in Sumter

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County?

A. Yes.

Q. Do you have a bunch of them or just a few?

A. Few.

Q. Okay. Who are -- who are your -- who are your brothers that still live in Sumter County?

A. Roger Prothro, ---

Q. Yes, sir.

A. -- Junior. Franklin Moore. Wendell Moore. Bernadine Moore. And Geraldine Shakur.

Q. And they all live in Sumter now?

A. Yes.

Q. Can you tell me what Roger Prothro -- what kind of work does he do? Roger Prothro, Junior.

A. He's retired.

Q. From where?

A. The City.

Q. Okay. How about Franklin Moore?

A. He's disabled.

Q. He's disabled. What kind of work did he used to do?

A. He was in the military, but when he retired, he was working at Florence Concrete.

Q. Okay. How about Wendell Moore?

A. He works for a grocery store. Kroger. I think it's Kroger.

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Q. How about Bernadine Moore?
A. She don't work.
Q. Okay. How about Geraldine Shakur?
A. She works at Tuomey Hospital.
Q. Okay. And I will kind of cut to the chase on that. What I'm trying to figure out is who your kin is in Sumter County; okay. And so, what I'll -- what I will just ask you is, can you -- can you give me the last names of anybody in Sumter County that you feel like is your kin or that you are related to by blood or marriage? You have already told me Day, Dicks, Moore, Prothro, Shakur; any other names of people that you consider to be your kin, last names?
A. My sister-in-law.
Q. Okay. What was her last name?
A. Patricia Williams.
Q. Williams. Okay. Any other last names?
A. Her husband, James Williams.
Q. Okay.
A. My sister-in-law, Harriet Moore. Geraldine's husband, Abdul Shakur.
Q. Okay. They are all in Sumter?
A. Yes.
Q. Okay. Anybody else?
A. Oh. Roger's wife, Shirley.

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Q. Okay. What was her maiden name?
A. Prothro.
Q. What was her name before she was a Prothro; do you know?
A. I -- I don't remember.
Q. All right. Is there any other last names, people that you consider to be like aunts, uncles, cousins, nieces, nephews, any other last names that we haven't covered? I'm just trying to figure out which families you are related to.
A. Let's see. Cousar.
Q. Cousar. Okay.
A. Ruby Cousar.
Q. C-O-U -- C-O-U-S-A-R?
A. Right. Grandale Titus.
Q. Titus?
A. Yes. Robert Titus.
Q. Okay.
A. Martin Titus.
Q. Any other kin you can think of?
A. That's about all I can think of right now.
Q. All right. And your wife, again, she is sitting here. Maybe she can -- maybe she can pick up the pieces if we are missing any; okay?
A. Right.

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Q. In a few minutes. If you would, Mr. Prothro, I am going to ask you to give me -- give me your Social Security Number.
A. Okay.
Q. I want to go to go off the record to do that; okay?
A. Okay.
MR. McELVEEN: Off the record.
(OFF THE RECORD)
MR. McELVEEN: We can go back on the record.
EXAMINATION BY MR. MCELVEEN CONTINUED:
Q. Mr. Prothro, do you have a Driver's License?
A. No.
Q. Okay. When is the last time you had a Driver's License?
A. Ten years ago.
Q. Ten years ago?
A. Yes.
Q. Okay. So, you have not had a Driver's License since roughly 2009?
A. Yes.
Q. Okay. And is there a reason why you don't currently have a Driver's License?
A. It got suspended.
Q. And it got suspended some time around 2009?

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A. Yes.
Q. Or ten years ago. I'm not going to hold you to the exact date. Why did your License get suspended?
A. DUI.
Q. Okay. You had a DUI conviction some time around ten years ago?
A. Yes.
Q. Okay. And have you had more than one DUI or just one?
A. Two.
Q. Two DUI's. Approximately what years were those?
A. The other one was before that one was about twelve (12) years before that one.
Q. Twelve (12) years?
A. Yes.
Q. But you think that you -- your testimony is that the last DUI you received is -- was about ten years ago?
A. Yes.
Q. That is why you are suspended today?
A. Yes.
Q. Okay. But you -- your suspension should have been up by -- the DUI should have been up before now; right?
A. Yes, but I never went back and get -- get a License.
Q. You never went back and got it?
A. No.
Q. Is there any reason why -- is there any reason why?

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A. Couldn't afford to pay the money.
Q. Okay. Since -- since your License got suspended you said ten years ago, have you driven since then?
A. Yes.
Q. Okay. How many times have you driven since then?
A. Not much.
Q. Not much?
A. No.
Q. Can you -- how many times is not much?
A. Every now and then.
Q. Every now and then?
A. Yeah.
Q. So, in Two Thousand and -- since 2010, that is nine years ago; right?
A. Right.
Q. How many times do you think you have driven in the last nine years?
A. Maybe twice a month.
Q. Twice a month?
A. Yeah.
Q. Since 2009?
A. Yeah.
Q. How many times have you been stopped by law enforcement driving since 2010? Since 2010.
A. Twice.

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Q. Two times?
A. Yes.
Q. And did you get ---
A. One time. One time.
Q. Okay. One time?
A. Yes.
Q. You mean ---
A. Until the wreck.
Q. Okay.
A. And I didn't get stopped then.
Q. Okay. So -- so, law enforcement stopped you one time prior to the wreck that we are talking about today?
A. Right.
Q. Okay. And do you remember what that was for or what happened?
A. He said I didn't give a signal when I turned.
Q. Okay. Did you get any -- did you get any charges from that?
A. Driving Under Suspension.
Q. Okay. And let me ask -- let me ask you this. You -- you testified a second ago that you had one DUI about ten years ago and another one about twelve (12) years ago?
A. Yes.
Q. That is from today's date?

A. Yes.
Q. Okay. Did you ever have any suspensions prior to that? Did you have any -- have any suspensions before that first DUI?
A. No.
Q. You never had a suspension back in 2001?
A. Maybe I did. I can't recall.
Q. Okay. But your -- your testimony today is that you have had two Driving Under the Influence convictions?
A. Yes.
Q. Okay. How far did you go in school, Mr. Prothro?
A. I graduated.
Q. You graduated from high school?
A. Yes.
Q. What high school did you graduate from?
A. Mayewood High.
Q. What year was that?
A. 1973.
Q. Did you go to Mayewood all four years of high school?
A. No. I went to Eastern High in ninth grade and the rest to Mayewood.
Q. Okay. Where did you go to middle school?
A. Mayesville.
Q. Mayesville?
A. Institute. That was from first through eighth grade.

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Q. Got you. All right. Did you go -- have you had any sort of -- any further education since you graduated from high school?

A. No.

Q. You didn't go back for any college or certifications?

A. No.

Q. Nothing like that?

A. No.

Q. Okay. Have you -- have you been working since you graduated from high school?

A. Beg your pardon?

Q. Have you been working since you graduated from high school?

A. Yes.

Q. Tell me where all you have worked. Start with your first job after high school; what did you do?

A. I worked for Georgia Pacific.

Q. How long did you work there for?

A. Three months.

Q. Okay. And why did you end up leaving that job?

A. More -- a better paying job.

Q. A better paying job?

A. Yes.

Q. Where did you go to after that?

A. FCX.

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Q. S?
A. FCX.
Q. FCX. What is that?
A. That's down on Liberty Street down there across from Santee Print; it used to be a feed place and ---
Q. That's where -- that's where you went after you left Georgia Pacific?
A. Yeah.
Q. How long did you work there for?
A. Let's see. It was '73 to 1975.
Q. Okay. Why did you end up leaving that job?
A. Went in the Marine Corps.
Q. You were in the Marine Corps?
A. Yes.
Q. Around 1975?
A. March of '75.
Q. All right. How long were you in the Marines for?
A. Eighty-eight (88) days.
Q. Eighty-eight (88) days?
A. Yes.
Q. What -- why did you end up leaving the Marine Corps?
A. Couldn't adjust to military life.
Q. Okay. Did you get some sort of discharge; what kind of discharge did you get?
A. Honorable.

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Q. Honorable discharge?
A. Yes.
Q. Okay. But no injury or anything like that?
A. No.
Q. Okay. Did you ever get sent anywhere, like, deployed or basic training -- for basic or anything like that?
A. Beg your pardon?
Q. Did you ever get sent for, like, basic training or any deployments or anything like that?
A. No.
Q. You did not?
A. You said did I get ---
Q. Well, I will ask you, did you ever get deployed anywhere?
A. No.
Q. Did you ever -- did you -- did you get through basic training?
A. I went -- not all the way through. I got out of basic training.
Q. Where did you go to Camp LeJeune or somewhere? Where did you go for basic?
A. Parris Island.
Q. Parris Island. I meant Parris Island. Sorry. Okay. So, you got out after eighty-eight (88) days. What did you do after that?

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A. Came home and worked at Santee Print.
Q. Santee Print?
A. Yes.
Q. How long were you there for?
A. About three years, I guess.
Q. Three years?
A. Yes.
Q. Why did you leave Santee Print?
A. Let's see. First job. I just quit.
Q. Okay. Did you go work somewhere after that?
A. Boozer and Wharton Construction Company.
Q. All right. How long were you there for?
A. For about two years and a half.
Q. Same question on that. Why did you end up leaving that job?
A. Quit.
Q. You quit that one, too?
A. Uh-huh (affirmative response).
Q. All right. Was there a reason why?
A. No.
Q. All right. What did you do after that?
A. I think I got the job back -- I worked at Santee twice. I think I went back to Santee Print again.
Q. Okay. How long did you stay that second time around?
A. Probably about two years.

Q. Two years. Why did you leave that time?
A. They fired me.
Q. What was that for?
A. Not coming to work.
Q. Okay. Do you remember about what time -- when that was, what year that would have been?
A. That was in -- some time in the '80's.
Q. Okay. What did you do after -- what did you do after that job?
A. Let's see. I drove a cement mixer for Sumter Concrete.
Q. All right. How long did you do that for?
A. Not quite a year.
Q. All right. And why did you leave that job?
A. Got laid off.
Q. Okay. Did you go somewhere -- did you work somewhere else after that?
A. Florence Concrete.
Q. Florence Concrete, here or in Florence?
A. In Sumter.
Q. In Sumter. When did you start doing that; when did you start working at Florence Concrete?
A. Latter part of '89.
Q. '89. They were in Sumter back then, too?
A. It was Sumter Express Concrete then.

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Q. Okay. How long -- how long did you work for Florence Concrete back -- back then?

A. Probably about a year and a half.

Q. All right. Why did you leave Florence -- why did you leave Florence Concrete?

A. Just quit.

Q. Okay. Where did you work after that?

A. I worked for my brother doing concrete work. James Prothro.

Q. Okay.

A. But he don't live in Sumter.

Q. All right.

A. He had his own concrete business, and I worked for him.

Q. What -- how long did you work there for?

A. Probably ten years.

Q. Okay. Ten years?

A. Yes.

Q. Anywhere else you have worked that we haven't talked about yet?

A. That's about it.

Q. Are you working now?

A. No.

Q. Okay. When is the last time you had a job or you worked?

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A. When I worked for my brother.
Q. You worked for your brother?
A. That's -- that's the last when I worked.
Q. That's the concrete ---
A. Yeah.
Q. -- that's the concrete business that you worked for that you said ten years?
A. Yes.
Q. All right. Can you remember about when -- when is the last time you worked for your brother; how long ago has that been?
A. Oh, about twenty-five (25) years ago.
Q. So -- so, you have not worked in about twenty-five (25) years?
A. I been doing little yard work and stuff like that ---
Q. Okay.
A. -- since then.
Q. Are you disabled or anything like that?
A. Now I am, yes.
Q. You do receive Disability?
A. Yes.
Q. When did you start receiving Disability?
A. About seven years ago.
Q. Okay. And what's -- what is that for; how did you end up receiving Disability?

A. I was -- my body was messed up; they sent me to a Disability doctor, and he said I done messed up the tissues in my body and stuff.
Q. Okay. How did you do that?
A. It just happened. I mean, ---
Q. All right. Going through your work history that you just shared with me, I think the only time you told me you were actually fired from a job was from Santee Print?
A. Yes.
Q. Okay. Have you ever been fired or terminated from any other job besides the one you mentioned to me?
A. Boozer, Wharton and Zeigler.
Q. Okay. What -- what did that involve?
A. Not coming to work.
Q. Okay. Any other job that you got fired from?
A. Those are the only two.
Q. Just those two. Okay. And I ask everybody this question. I'm probably going to ask -- ask your wife the same questions in a few minutes. Please don't get offended by them. I ask everybody these questions. The first question I have is, have you ever been convicted of a crime? And what I mean by convicted is, has a judge or a jury ever found you guilty of a crime anywhere or have you ever pled guilty to a

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crime?
A. No.
Q. No?
A. No.
Q. Okay. So, you have no criminal record?
A. Never been before a judge and jury.
Q. Okay. Well, have you ever been convicted of a crime?
A. Simple stuff.
Q. Okay. Like -- the question is, have you ever been convicted of a crime; so, whether it's simple or complicated, I just need you to answer the question, have you ever been convicted of a crime?
A. Yes.
Q. Okay. What?
A. DUI.
Q. Okay. You mention -- you did mention that earlier. You say you had two DUIs?
A. Yes.
Q. Okay. Anything else?
A. Disorderly conduct.
Q. That's it?
A. Fighting.
Q. Fighting?
A. Yes.
Q. Okay. Any -- anything else?

A. No.
Q. Okay. So, your testimony is that any -- any criminal record that you would have would just have two DUIs on it, a disorderly conduct charge and a charge that is related to fighting?
A. Yes.
Q. Okay. In your life, and besides the ones that you just mentioned to me, have you ever been arrested for anything else that maybe you weren't convicted for?
A. No.
Q. Okay. And let's -- let's talk about your driving record for a second. If I look at -- if I look at your driving record over the last ten years, I know you said you have been suspended for about the last ten years. Am I going to see any sort of driving related offenses on your ten year driving record?
A. No.
Q. Okay. So, no -- no traffic citations over the last ten years?
A. No.
Q. Okay. And were you -- just to kind of get a point of reference, were -- you mentioned your military service when you were in the Marine Corps?
A. Yes.
Q. Were you married then?

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A. No.
Q. Okay. You have been married one time or more than once?
A. Twice.
Q. Twice. Who was your first wife?
A. Betty Lesane.
Q. Okay. When were -- when were you all married?
A. At the courthouse.
Q. Okay. When, like what -- what period of time; what years were you married from?
A. 1977.
Q. That is when you were married?
A. Yes.
Q. Okay. And were you divorced or did something else happen?
A. We got divorced.
Q. You got divorced. When -- when was that?
A. We just got divorced about twelve (12) years ago.
Q. Twelve (12) years ago?
A. Yeah.
Q. Going back to your military stint that you had in the Marines, you said you received an Honorable discharge?
A. Yes.
Q. But you said the military life just didn't suit you?

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A. No.
Q. Why did they let you go? They don't usually let folks go after ninety days in.
A. The reason they let me go, they said I couldn't adjust to military life.
Q. Okay. Was it medical problems you were having or ---
A. No.
Q. Okay.
A. I didn't like it.
Q. I got you. All right. And, Mr. Prothro, do you and your wife attend a church regularly in Sumter County?
A. No.
Q. You don't. Have you -- have you ever had a church in Sumter County that you attended regularly?
A. Years ago.
Q. What church was that?
A. Household of Faith.
Q. All right. Are you a member of any kind of service organizations, clubs, civic groups?
A. No.
Q. Fraternity, Mason group, anything like that?
A. No.
Q. Okay. All right. And I notice today you are not wearing glasses. Do you typically wear eyeglasses?
A. No.

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Q. How -- how is your vision?
A. Good.
Q. No problems with your vision?
A. No.
Q. Okay. And prior to -- prior to -- prior to the collision that we are here for today that happened on July 24th, 2016, had you ever been in any wrecks, car wrecks prior to that, before that?
A. Yes.
Q. Okay. And tell me -- about how many wrecks do you think you have been in prior to that?
A. Three.
Q. Three. And were you driving in any of those wrecks?
A. Two.
Q. Two of them. When did those happen?
A. The first one I was in I wasn't driving; that was 1976.
Q. Yes, sir.
A. But I was told that we was coming from Mayesville to Sumter.
Q. Okay.
A. And a tractor and trailer ran into the car I was in.
Q. Yes, sir.
A. And said -- it was four of us in the car and I was sitting behind the driver and it hit where I was

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sitting at, and the fellow said he thought the car was going to blow up; so, he dragged me out. I had my neck cracked and my head bust open. They had to take a bone from my hip and replace the bone in my neck. And I stayed over in Richland Memorial for a few months. After that, one Sunday, I was taking my girlfriend to church on South Harvin and Fulton and was at the light and the light was messed up, ---

Q. Yes, sir.

A. -- and the people said the light was guiding people into each other and when I came through, me and the other car came together.

Q. When was that one?

A. About -- about 1990.

Q. Did you have a valid Driver's License when that wreck happened?

A. Yes.

Q. You did.

A. Uh-huh (affirmative response).

Q. All right. And you mentioned one other one that you mentioned before this one?

A. Yes.

Q. When was that one?

A. Right there where the Coca-Cola plant at, ---

Q. Yes, sir.

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A. -- I was coming around that curve, and a car pulled in, cut in front of me and hit it in the side.
Q. Okay. And when was that?
A. That was -- that was in the late '70's.
Q. Late '70's?
A. Yes.
Q. So, this wreck that happened in 2016 would have been the first automobile collision that you were involved in in -- since the late '70's?
A. '76. '70. That one over there was later than the '70's on Harvin.
Q. When was that one?
A. Where we -- where the light was guiding us into each other?
Q. Yes, sir.
A. I think that was about 1990.
Q. Okay. You said that. So, you did say that. I apologize. So, a better question would have been, had you -- prior to the wreck that we are here for today on July 24th, 2016, the last time you had been in a motor vehicle wreck would have been 1990 at some point in time?
A. Yes.
Q. Okay. Been in any wrecks since -- since this one that happened in 2016?

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A. No.
Q. Okay. So, your entire life you have been in four wrecks?
A. Yes.
Q. No more, no less?
A. No -- no more, no less.
Q. Okay. Have you ever had to file a claim against someone for injuries you received in a wreck?
A. I didn't file no claim in '76. We just settled.
Q. Settled who?
A. The insurance company.
Q. Okay.
A. And when I had that one over there, they -- they told me that they was going to see that they get me straightened out, but they never did.
Q. Okay. Have you had -- have you had to have a lawyer before for a wreck that happened?
A. No.
Q. You never have had one?
A. No.
Q. Okay. This is the first time you had to have a lawyer?
A. Yes.
Q. Okay. And you never had -- have you ever had a wreck while your License was suspended?

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A. No.
Q. Okay. And let's talk about -- first of all, let's talk about what happened on the day of this wreck, July 24th, 2016. Whose vehicle were you driving that day?
A. My wife's.
Q. Okay. And her name is Sharon Prothro?
A. Right.
Q. Okay. And what kind of vehicle was it?
A. 19 -- I forgot the year -- Contour, Ford Contour.
Q. And whose vehicle was that?
A. Sharon's.
Q. Okay. And I ask this question also. As of July 24th, 2016, were you suffering from any major medical conditions?
A. No.
Q. You told me -- you told me you take medication for gout earlier?
A. Right.
Q. That day, were you taking any sort of medications or anything like that?
A. No.
Q. Okay. So, you were in pretty good physical health?
A. Yes.
Q. Okay. Back at that time, July 24th, 2016, were you

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treating with a psychiatrist or ---

A. No.

Q. Were you treating for any kind of mental health conditions?

A. No.

Q. Nothing like that?

A. No.

Q. Okay. On July 24th, 2016, were you driving that Ford Contour?

A. Yes.

Q. Okay. When is the last time prior -- when is the last time you had driven that vehicle before July 24th, 2016?

A. I think about two weeks before then.

Q. Two weeks before then?

A. Yes.

Q. Okay. How about before that?

A. Maybe a week before.

Q. A week before that?

A. Yes.

Q. Okay. And you mentioned -- you mentioned your current address that you have been living in since May of this year; is that right?

A. Yes.

Q. I didn't ask you this earlier. Where were you living

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prior to moving into the apartment in May?
A. 111 Crescent Avenue.
Q. Okay. Is that the same address that you had when this collision happened on July 24th, 2016?
A. Yes.
Q. How long were you living there for?
A. Twelve (12) years.
Q. Twelve (12) years?
A. Yes.
Q. Who all lived there?
A. Just me and Sharon.
Q. Just you and your wife?
A. Yes.
Q. Okay. And does your wife, does she have a job right now; does she work?
A. No.
Q. Okay. And where -- did she used to work?
A. Yes.
Q. Where did she work?
A. Cooper Tools.
Q. Cooper Tools?
A. Yes.
Q. That is the last job she had?
A. She worked for the Sportsman.
Q. Up on 15?

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A. Yes.
Q. Okay. When's -- when is the last time she -- that she worked; do you recall?
A. No.
Q. Was she working when this -- when this wreck happened?
A. No.
Q. She didn't have a job then?
A. No.
Q. All right. And you all -- the house you lived in on Crescent Avenue, can you describe that house for me? Like how -- how big was it, how many bedrooms did it have; can you describe the house for me?
A. It's a duplex.
Q. Yes, sir.
A. We lived in one side and another family lived in the other side. We had two bedrooms.
Q. I got you. Did it have an upstairs and a downstairs?
A. No.
Q. Just -- just one floor?
A. Right.
Q. All right. Who was the other family that lived next to you?
A. Smalls.
Q. Smalls?
A. Yes.

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Q. Which -- which Smalls? Do you remember their first names?
A. Ms. Marie Smalls.
Q. Marie Smalls?
A. Yes.
Q. Was she -- was she your neighbor back in 2016?
A. Yes.
Q. Around the time this happened?
A. Yes.
Q. Okay. And in your household there at 111 Crescent Avenue, how many vehicles were there?
A. One.
Q. Okay. That -- and that is the same Ford Contour you mentioned earlier?
A. Yes.
Q. Okay. And how -- how long had you just had one vehicle in the household?
A. That's all we ever had.
Q. That is all you ever had?
A. Yes.
Q. So, since you have been married to Ms. Prothro, you have just had one vehicle in the household?
A. Right.
Q. Who owned that vehicle?
A. Sharon.

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Q. Did you have permission to drive the vehicle?
A. What?
Q. Did you have permission to drive the vehicle?
A. No.
Q. You did not?
A. No.
Q. Okay. But you were driving it -- you were driving it on July 24th, 2016?
A. Yes.
Q. You had permission to drive it that day?
A. No.
Q. All right. You mentioned you had driven it two weeks -- two weeks prior to that. Did you have permission to drive the vehicle that day?
A. No.
Q. You mentioned you had it a week prior to that. Did you have permission to drive the vehicle that day?
A. No.
Q. Okay. So, how -- how did you end up driving the vehicle?
A. Just get the key and go.
Q. You just got the key and go. Where was the vehicle -- where was the key kept?
A. On the dresser or somewhere in the house.
Q. Who -- whose dresser?

A. Our dresser. Our dresser.
Q. Okay. So, on July 24th, 2016, did you get the key off the dresser that day?
A. Yes.
Q. Was that dresser in the bedroom -- you and Ms. Prothro's bedroom?
A. Yes.
Q. Okay. And the two weeks prior to that, you said you drove the vehicle that day. Where did you get the key from that day?
A. Probably the same place.
Q. Okay. Let's go back to the week before that. You talked about ---
A. Same place.
Q. The same place. All right. Was -- is that where the key always was?
A. Just about -- most the time.
Q. Was there any other -- was there any other key in the household that went to that Ford Contour?
A. No.
Q. Okay. That's a -- that is the only car you had in the household?
A. Right.
Q. Okay. Where was -- where was Ms. Sharon Prothro when you left the house on July 24th, 2016?

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A. There, asking me not to go.
Q. There, asking you not to go?
A. Yes.
Q. But you did anyway?
A. Yes.
Q. Okay. Where was she two weeks earlier prior to that when you took the car?
A. I can't recall. Maybe -- she might have been next door.
Q. Might have been next door?
A. Yes.
Q. But you can't recall?
A. No.
Q. All right. How about prior to that?
A. I can't recall.
Q. Okay. So, tell me about -- tell me about when you got up on July 24th, 2016. What time did you wake up that morning?
A. Probably about 6:30 that morning.
Q. 6:30 that morning?
A. Yes.
Q. Okay. And what did you do when you got up that morning?
A. Walked around in the yard for a while.
Q. Walked around in the yard for a while?

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A. Yes.
Q. Doing what?
A. Went in the house and got the key.
Q. Okay. But you said you were walking around in the yard for a while first you said; right?
A. Right.
Q. What were you doing walking in the yard?
A. I was kind of angry.
Q. What were you angry about?
A. We had an argument.
Q. Who had an argument?
A. Me and my wife.
Q. First thing that morning?
A. Overnight.
Q. Overnight?
A. I still was mad the next morning.
Q. I understand. What was the argument about?
A. I can't remember what it was about.
Q. It was a bad argument?
A. Not too bad.
Q. It was an overnight argument?
A. Well, no, not overnight.
Q. Okay. But you can't remember what it was about? As we sit here right now, you can't remember what the argument was about?

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A. No.
Q. Okay. But you know you were in an argument?
A. Yes.
Q. All right. And so, you walked around the yard, and then -- then what did you do?
A. Went in the house and -- and grabbed up the keys.
Q. Okay. From the same dresser you mentioned earlier?
A. Yes.
Q. Okay. Did your wife know that you -- you were leaving the house in her vehicle?
A. She knew, but she was trying to get me not to go with it.
Q. Okay. How did she -- how did she try to get you not to go with it?
A. She asked me come back, don't take the car.
Q. Okay. Did she tell you why you shouldn't take the car?
A. No, she was just telling me, "Don't go, don't take the car."
Q. Okay. And, you know, you testified earlier when I asked you, I think you said that, since your License has been suspended, you drove roughly two times a month. Do you remember saying that?
A. Yes.
Q. On every one of those occasions, did your wife try to

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stop you from driving the vehicle?
A. Not all the time.
Q. Okay. How many -- how many times did she -- did she tell -- did she try not -- did she not try to stop you from driving the vehicle?
A. Most of the time, she did try to stop me.
Q. She didn't try to stop you?
A. Most the time she did try to stop me.
Q. She did?
A. Yes.
Q. Did she ever put the keys somewhere else or anything like that?
A. No.
Q. Did she ever hide the keys from you?
A. No.
Q. Okay. Did -- did your wife know that you had a suspended Driver's License?
A. Yes.
Q. You think she knew that for the entire time it was suspended?
A. Yes.
Q. Have you ever had a valid Driver's License since you and Ms. Sharon Prothro have been married?
A. Yes.
Q. You have?

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A. Yes.
Q. How long a period of time did you have a valid Driver's License during the time you were married?
A. Let's see. I had License when we got married. Probably about five years.
Q. Five years?
A. Yes.
Q. Okay. And did she -- did Ms. Prothro know when your License got suspended?
A. Yes.
Q. Okay. Did -- did she know your License was suspended during the entire time it has been suspended?
A. Yes.
Q. Okay. Did she know that you were driving her vehicle at least two times a month as you testified earlier during the time your License was suspended?
A. Yes.
Q. Okay. And so, tell me, you mentioned that you got the keys on that morning on July 24th, 2016, and where -- where did you go?
A. I went by Gloria's uncle's house.
Q. Okay. You are talking about Gloria Oliver, my client?
A. Right.
Q. Who is her uncle?
A. James Cummings.

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Q. James Cummings?
A. Yes.
Q. Okay. How did you know him?
A. I -- Gloria's mother used to be my girlfriend, and James is her uncle.
Q. Okay. How long ago ---
A. And ---
Q. I'm sorry. I didn't mean to interrupt you. Go ahead.
A. And me and him were kind of like buddies; so, when I went -- I got in the car and I went to his house and we went to Gloria's house, and she asked me would she give her a ride to Wal-Mart.
Q. Yes, sir.
A. I said "Okay." We went to Wal-Mart and she went in the store and shopped. Me and James were out in the car. She came out with her groceries and as I was backing out, a car was coming behind me and I don't know how I did this, but what I figure out later was that my foot was on the gas and the brakes at the same time, and as I seen the car coming, I went to mash the brakes and the car back on up and they were yelling, "Look at that car," and I hit it. And the car kept backing and I was just steady mashing and steady going back. And I must have panicked or something and just keep going back and I'm steady mashing, and I realized

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after it happened I realized I was mashing the gas and the brakes at the same time. And what stopped me was a tree.

Q. A tree stopped you?

A. Yeah.

Q. Okay. And I -- I just want to back up and ask you a few -- a few questions about that. So, what time do you think -- you went and you said you picked up Mr. Cummings first?

A. Right.

Q. And then you went straight over to Ms. Oliver's house?

A. Right.

Q. Was that your idea or his idea to go over there?

A. I don't know.

Q. Okay. And at some point in time, you agreed to take Ms. Oliver to Wal-Mart; is that what you said?

A. Right.

Q. Okay. Did she just ask for a ride to Wal-Mart or anywhere else?

A. Just Wal-Mart.

Q. Do you remember why she needed a ride there?

A. To shop, buy groceries.

Q. Do you remember what she needed groceries for?

A. I don't understand.

Q. Yes, sir.

A. I didn't understand you.
Q. Oh, I'm sorry. Do you know what she needed groceries for, anything in particular?
A. I guess just buying groceries.
Q. Okay. So, you -- you gave her a ride?
A. Right.
Q. Okay. And prior -- prior to her being in your vehicle -- well, let me ask you this question. Did you believe that on July 24th, 2016 that you -- that you had insurance, valid insurance, on that vehicle?
A. Did I have valid insurance?
Q. Well, you would agree with me that to drive legally in South Carolina, you need insurance on your vehicle; is that correct?
A. Yes.
Q. You can't drive -- you can't -- you are not supposed to drive without insurance; right?
A. Right.
Q. Okay. So, on July 24th, 2016, when you got in that vehicle and went to Mr. Cummings' house and went to Ms. Oliver's house, did you believe that you were covered by insurance that day?
A. Yes.
Q. You did?
A. No, no, no, no. Because I wasn't on the policy.

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Q. Okay. So, you did not believe you were covered by insurance that day?
A. No.
Q. Okay. Did you ever tell Ms. Oliver on that day that you were not covered by insurance?
A. No.
Q. Did she ever ask you that day if you were covered by insurance?
A. No.
Q. Okay. So, that -- that topic didn't come up?
A. No.
Q. Would Ms. Oliver, who got in your car that day, would she -- would anybody have ever told her to your knowledge that you didn't have insurance on the vehicle or that you were not an insured driver? I'll strike that question and I will ask you an easier way. Are you aware of whether or not Ms. Oliver would have known that you had insurance on the vehicle -- whether or not you had insurance on the vehicle?
A. No. No.
Q. She would not have known?
A. I don't think she would know.
Q. Okay. But you didn't tell her?
A. No.
Q. And she didn't ask you?

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A. No, she didn't ask me.
Q. Okay. And so, would you all have driven straight from her house to the Wal-Mart?
A. Yes.
Q. All right. And you parked in a parking spot, I guess?
A. Right.
Q. And was that the Wal-Mart Neighborhood -- the small Wal-Mart Neighborhood Grocery on Bultman Drive?
A. Right.
Q. Okay. And do you remember what day of the week that was?
A. Sunday.
Q. It was a Sunday. Okay. And how long do you think Ms. Oliver was in the store?
A. Probably about a half hour.
Q. Half hour?
A. About that -- about that long.
Q. Okay. And what did you do while she was in the store?
A. Sit in the car.
Q. Sat in the car?
A. Yes.
Q. With Mr. Cummings?
A. Right.
Q. Did you all talk about anything in particular or do anything in particular or just sat there?

A. Just sat there.
Q. Ms. Oliver -- Ms. Oliver came out at some point?
A. Yes.
Q. Okay. And now I think you -- I want to go back through this and ask you some specific questions. So, she got back in the vehicle with her groceries?
A. Right.
Q. And where was she -- do you remember where she was sitting?
A. In the back seat.
Q. In the back eat?
A. Yes.
Q. Okay. And so, you went to leave?
A. Yes.
Q. All right. And where -- where was -- where was the gearshift on that vehicle?
A. Down on the ---
Q. On the ground so to speak, not -- not on the column?
A. Not on the column.
Q. Okay. And so, you put it in reverse?
A. Yes.
Q. And what did you say happened from there?
A. As I was backing up, a car was turning, and when I went to mash my brakes to stop, the car keep going.
Q. The car kept going?

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A. Yes.
Q. And why do you believe the car kept going?
A. Because my foot was on the gas and the brakes.
Q. Okay. Do you believe that car has -- had any mechanical problems at the time?
A. No.
Q. You don't. You -- how long had you all had that car for?
A. About two years or more.
Q. Two years or more?
A. Yes.
Q. Had you driven it before? Before -- had you driven it before July 24th, 2016?
A. Yes.
Q. Okay. And to -- to your knowledge, have the brakes ever given out on you or your wife?
A. No.
Q. To your knowledge, had the accelerator on the vehicle ever gotten stuck or anything like that?
A. No.
Q. So, you don't think a mechanical problem caused this?
A. No.
Q. Okay. And so, you mentioned you were backing out. How many objects do you believe the vehicle collided with before it stopped?

A. Four.
Q. Four?
A. I think.
Q. Were any of those vehicles; were any of those other vehicles?
A. Yes.
Q. How many other vehicles do you think it hit before it stopped?
A. I think four.
Q. Four. But you said at some point in time you hit a tree as well?
A. Yes.
Q. So, you believe that is what stopped it?
A. Yes.
Q. Okay. And what -- during that -- during that ordeal, from the time you started backing out until the time you said you came to a stop against the tree, how much time do you think went by?
A. Probably about a minute.
Q. A minute went by?
A. Yes.
Q. What do you think the fastest speed you ever got up to during that period of time was?
A. Probably about seven miles an hour.
Q. Seven miles an hour?

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A. Maybe.
Q. Would you consider that to be a high rate of speed?
A. No.
Q. During -- during the time the vehicle was in reverse, do you think it ever got up to a high rate of speed?
A. No.
Q. What would you consider to be a high rate of speed?
A. In reverse?
Q. Reverse or forward.
A. A high rate of speed?
Q. Yes, sir.
A. In a parking lot?
Q. Yes, sir. That's fair.
A. Fifteen (15) miles an hour.
Q. Fifteen (15) miles an hour would be a high rate of speed in reverse in a parking lot?
A. Yes.
Q. You don't believe you were going that fast?
A. No.
Q. Okay. Did you ever get a chance to look at the damage to the other vehicles that were struck in the parking lot?
A. Yes.
Q. Can you describe the damage to those vehicles?
A. Had little bents in the side and stuff.

Q. Little bents in them?
A. Yes.
Q. Were they -- were they all drivable as far as you know from the scene?
A. Yes.
Q. They were?
A. Yes.
Q. Okay. And did any of Wal-Mart's property get struck or destroyed or messed up or anything like that?
A. Just the tree.
Q. One tree?
A. I think it was two.
Q. Two trees. Okay. What did the trees look like? What did the trees look like when you got out; what was the damage to them?
A. Push -- pushed to the side.
Q. Okay. When you were -- when you were backing up during that period of time, you said -- you said about a minute from the time you started backing up until the time your vehicle finally stopped, what was Mr. Cummings doing the whole time?
A. Yelling.
Q. What was he yelling?
A. "Stop. Stop."
Q. Okay.

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A. Both of them were yelling "Stop."
Q. What -- did Mr. Cummings do anything -- did Mr. Cummings do anything during that period of time besides yell?
A. No.
Q. Did Ms. Oliver do anything during that period of time besides yell?
A. No.
Q. She didn't get out of the vehicle?
A. Yes, after -- after -- after it happened, somebody came on up that she knew and she asked them would they give her a ride, and they told her "Yeah." She got her groceries and got out of the car before the cops came there.
Q. Okay. We will talk about that in a second. I want to ask you at what point in time did she -- did she get out of the vehicle?
A. Right after -- right after we stopped and somebody came over, she saw somebody right then ---
Q. Okay.
A. -- and jump out of the car and left.
Q. Let me ask you this question. After she got out of the vehicle, did you continue to back the vehicle up after that?
A. No. I didn't move. I sit right there under the

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steering wheel until the cops came.
Q. So -- so, your testimony is, is that Ms. Oliver did not get out of the vehicle until it was done moving and it was up against the tree or the two trees?
A. Right.
Q. Okay. And so, you said the police came at some point in time?
A. Yes.
Q. What happened then?
A. When he came, I asked him could I get out and check on the peoples' cars that I hit and he told me, "Yeah," and me and him went. People saying, "What's wrong with you"? I was telling them that I'm sorry and I didn't know what happened. And he talked to me and he gave me a ticket for reckless driving, and they took me to the -- to the jail-house.
Q. So, he arrested you?
A. Yes.
Q. Okay. How much -- did you have any -- did you have a chance to talk to anybody else at the scene about it after it happened?
A. No.
Q. How fast do you -- how fast -- after your car came to a stop, how long do you think it took for the police officer or law enforcement officer to get to the

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scene?
A. Probably about ten minutes.
Q. Okay. Ten minutes?
A. Yes.
Q. Your testimony is you sat in the car the whole time?
A. Yes.
Q. And Ms. Oliver got out of the vehicle?
A. Yes.
Q. How about -- how about Mr. Cummings, did he get out the vehicle?
A. No, he didn't get out either. Oh, yeah. Well, no, he didn't get out until the cops got there.
Q. Okay. And what all did the officers do at the scene; did they -- did they give you any field sobriety tests?
A. No.
Q. They didn't do anything like that?
A. No.
Q. Did you ever tell the officer that you had been drinking or anything like that?
A. What?
Q. Did you ever tell the officer that you had been drinking?
A. Yes.
Q. You did. What did you tell the officer?

A. That I had been drinking the night before and that I was upset.
Q. Okay. And the night -- let me ask you this question. In the twelve (12) hours prior to this collision happening, would you agree the collision happened around 9:30 in the morning?
A. Yes.
Q. Okay. Had you consumed alcohol twelve (12) hours prior to this collision?
A. Yes.
Q. So, from 9:30 the previous night until 9:30 that morning, you had consumed alcohol?
A. Yes.
Q. How much did you have?
A. Probably a half a pint.
Q. Half a pint?
A. Yes.
Q. Half a pint of what?
A. Liquor.
Q. Okay. What kind of liquor was it?
A. Vodka.
Q. Half a pint of Vodka?
A. Yeah.
Q. All right. Were you drinking that straight or with something else?

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A. Straight.
Q. All right. When do you think -- when did you consume that?
A. Probably -- probably about -- I had it that morning when I -- when I got up.
Q. Had you had anything the night before?
A. Yes.
Q. What did you have then?
A. Some beer and Vodka.
Q. All right. How much Vodka did you have the night before?
A. Maybe a pint.
Q. All right. How much beer did you have the night before?
A. Probably about four.
Q. Four?
A. Yes.
Q. Bottle or cans?
A. Cans.
Q. What size cans?
A. Twenty-four (24) ounce.
Q. Four twenty-four (24) ounce cans?
A. Yeah.
Q. All right. Do you remember what -- what brand it would have been?

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A. Schlitz Malt Liquor.
Q. Okay. Mr. Prothro, is that what you and your wife were fighting about? You mentioned you all had been in a fight earlier. Is that what you all were fighting about?
A. No.
Q. It was not?
A. No.
Q. But you can't remember what it was that you all were fighting about?
A. Seem like it's coming to me. She told me I was mean because something with -- something was going on. She probably can tell you that.
Q. I can ask her. Did -- did your wife know you had been drinking the night before?
A. Yes.
Q. Did your wife know you had been drinking that morning?
A. I don't know about that morning.
Q. Okay. But you stayed in the house -- you stayed in the house on Crescent Avenue that night; correct?
A. Yes.
Q. Was she staying there that night as well?
A. Yes.
Q. And she was there at some point when you got up and left; right?

A. Yes.
Q. Okay. Which you don't know if she knew you were drinking that morning or not?
A. I don't know.
Q. Where -- where had you been when you consumed the -- the Vodka that morning?
A. Sir?
Q. Where would you have been when you drank the Vodka that morning?
A. Somewhere in the house.
Q. Okay. Somewhere in the house?
A. Yeah.
Q. All right. And so, you said that going back to the scene, you said that when law enforcement came to the scene, they actually arrested you and took you to Sumter Lee County Detention Center?
A. Yes.
Q. And charged you with reckless driving?
A. Right.
Q. Did they charge you with anything else at all?
A. No.
Q. Okay. And did you -- did you have a License then?
A. No.
Q. Do you know why they didn't charge you with Driving Under Suspension?

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A. No.
Q. You might not know, but did you have any conversation about that with the officer at all?
A. No.
Q. Okay. And how long did you have to -- how long did you stay in the jail for over there?
A. Until the next morning.
Q. The next morning?
A. Yes.
Q. So, Monday morning?
A. Yes.
Q. Okay. Did you get a bond set for you or did they just let you go?
A. They let me go.
Q. Okay. What happened -- what happened to that vehicle? What happened to that Ford Contour; do you know?
A. We junked it.
Q. You jumped it?
A. Junked it.
Q. You junked it?
A. Yeah.
Q. Okay. I got you. It was totaled?
A. No, it wasn't totaled. It was drivable, but it was bent up.
Q. Okay. Did -- did your wife ever drive it again after

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July 24th, 2016?

A. Yes.

Q. Your wife did drive it?

A. Yes.

Q. Okay. How -- for how long?

A. Maybe a few days.

Q. A few days?

A. Yes.

Q. Did you ever drive that Ford Contour again ---

A. No.

Q. -- after July 24, 2016?

A. No.

Q. You did not?

A. No.

Q. Okay. So, what -- how long after this wreck did you all get rid of that vehicle or junk the vehicle as you said?

A. It sat in the yard for maybe a month.

Q. A month?

A. Yeah.

Q. Were you all -- was your wife able to get another car after that?

A. Yes.

Q. Okay. What kind of vehicle is that?

A. A Sedona.

Q. Okay. Is she still driving that vehicle?
A. Yes.
Q. Have you ever driven that vehicle?
A. No.
Q. You have never driven it?
A. No.
Q. Okay. Have you -- have you driven any vehicle since July 24th, 2016?
A. No.
Q. Okay. So, if somebody said they saw you driving since July 24th, 2016, they would be lying?
A. Yeah.
Q. Okay. All right.
A. Somebody -- somebody asked me one day, "Are you still driving"? I told them, "Yeah." But I wasn't.
Q. You told somebody you were still driving?
A. Yeah.
Q. Who did you tell that to?
A. Gloria.
Q. When did you tell her that?
A. On Manning Avenue.
Q. Do you remember when that was?
A. Last year sometime.
Q. Is there a reason why you told her that?
A. No.

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Q. Okay. But that wasn't -- that wasn't the truth though?
A. No.
Q. Okay. Bear with me one second.
A. Okay.
Q. Mr. Prothro, do you have any recollection of being arrested for Driving Under Suspension around July 15th, 2016, which would have been about nine days before this -- this incident happened?
A. Being arrested?
Q. Well, I'll scratch that question. Do you remember -- do you remember being charged with Driving Under Suspension on around July 15th, 2016?
A. Yes.
Q. Okay. Were you driving that day?
A. Yes.
Q. All right. And which car were you driving?
A. The same one.
Q. The same Ford Contour?
A. Yes.
Q. Did you have permission to drive it that day?
A. No.
Q. You didn't. Did your wife know you were driving it that day?
A. No. She was next door.

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Q. Okay. So, she didn't know you were driving that day?
A. And I took it and went up the street.
Q. Okay.
A. And on the way back, they stopped me.
Q. Who stopped you?
A. The cop. Said I didn't -- he said that I didn't give a signal at a -- when I was turning.
Q. Okay.
A. And he pulled me over and checked me and my License was suspended.
Q. All right. And took -- and took you to jail for that?
A. No.
Q. They didn't take you to jail for that?
A. No.
Q. They wrote you a ticket for it?
A. Yes.
Q. Did your wife find out about that?
A. Yes.
Q. When did she find out?
A. Right then.
Q. Right them when you got home?
A. They -- they went to the house and got her and have her to come and get the car and -- and let me go home.
Q. Okay. So, you -- you agree with me that wasn't -- that wasn't even two weeks prior to this -- this July

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24th, 2016 wreck, was it?

A. Right.

Q. Okay. Bear with me one second. All right. And the year -- a year prior to this collision happening on July 24th, 2016, do you remember getting a ticket for Driving Under Suspension around April 28th, 2015, which would have been close to a year and three months prior to this wreck; do you remember that one?

A. When was this date?

Q. I'm just asking you if you recall a Driving Under Suspension charge that you had on April 28th, 2015 which would have been almost a year and three months prior to the July 24th, 2016 wreck.

A. Do I remember that -- I can't remember that.

Q. So, you don't -- you don't remember the 2015 charge?

A. Let me think. When they stop me on North Main -- 2015 -- I don't recall that.

Q. Okay. All right. And after July 24th, 2016, have you had any more conversations with anybody else about this collision?

A. No.

Q. Did you ever talk to -- did you ever give a statement to the insurance company about the collision on July 24th, 2016?

A. I didn't.

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Q. You never did?
A. I didn't.
Q. Okay. What happened with your reckless driving charge that you got on July 24th, 2016?
A. What?
Q. What happened with your reckless driving charge that you got on July 24th, 2016?
A. They gave me a fine to pay.
Q. Gave you a fine to pay?
A. Yes.
Q. Did you take care of that?
A. Yes.
Q. Okay. You didn't -- you didn't fight that or anything like that?
A. No.
Q. Okay. Have you -- have you had any sort of traffic incidents or traffic tickets since July 24th, 2016?
A. No.
Q. Okay. And I'm going to ask you a few questions. And I'm getting to the end here, Mr. Prothro. I only get one chance to ask you questions before -- before we go to a trial; so, I want to make sure I ask you everything. Are you -- are you aware of a -- of a claim being filed on behalf of -- on behalf of Gloria Oliver with Progressive Insurance Company as a result

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of the July 24th, 2016 wreck?

A. Yes.

Q. Okay. And are you aware that that claim has been denied by Progressive Insurance Company?

A. Yes.

Q. Okay. And are you -- are you aware that claims were filed not only against the liability coverage of that vehicle, but also the Uninsured Motorist coverage of that Ford Contour?

A. Yes.

Q. You are aware of that?

A. Yes.

Q. And are you aware that -- that Progressive has denied both of those claims?

A. Yes.

Q. And that is why we are here today?

A. Right.

MR. CRUDUP: Objection to the form.

Q. Okay. And you -- you understand that Progressive has a -- you -- has anyone told you that Progressive has a separate lawsuit against you and Ms. Oliver -- and your wife, Ms. Oliver, and my client -- I'm sorry -- you and your wife, Ms. Prothro, and my client, Ms. Oliver over that coverage, are you aware of that lawsuit?

A. No.
Q. You are not aware of that?
A. Uh-uh (negative response).
Q. Okay. And you -- are you aware that my client, Ms. Oliver, has made attempts to settle with Progressive for inside of the coverage that your wife maintained?
A. No, I don't know about it.
Q. Okay. And do you understand that if Ms. -- if Ms. Oliver were to get a verdict against you or your wife and Progressive does not -- if Progressive doesn't -- doesn't end up paying that verdict, that you and your wife will be personally liable for that? You understand that?
A. I hear you.
Q. Has anyone talked to you about that from Progressive? I don't want to know what your lawyer has talked to you about; has anybody talked to you about that with Progressive?
A. No.
Q. Has anyone with Progressive shared with you that we have attempted to settle with them?
A. No.
Q. Okay. Mr. Prothro, are you -- are you aware of your wife signing a -- an exclusion form on your policy that would exclude you as a driver on the Progressive

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policy that covered the Ford Contour that we are talking about today?

A. Could you explain that?

Q. Well, I will just show you the piece of paper right here and I'll -- I will mark this as Plaintiff's Exhibit Number One on this deposition.

COPY OF NAMED DRIVER EXCLUSION ELECTION MARKED PLAINTIFF'S EXHIBIT NUMBER ONE.

Q. Okay. I will show you this, and for identification purposes, I will just -- I will just tell you that it is a Named Driver Exclusion Election that has been provided by your attorney in the course of our Discovery. Have you ever seen that before?

A. Yes.

Q. You have seen that before?

A. Yes.

Q. When is the first time you saw that?

A. I guess when she first took out the insurance.

Q. Okay. You said, "When she first took out the insurance." Who are you talking about; who is she?

A. Sharon.

Q. Okay. She would have told you about this or showed it to you or both?

A. I was in there.

Q. You were with her?

A. Yes.
Q. Okay. You were with her at the insurance agent's office?
A. Yes.
Q. Where was that?
A. It was on -- what is that? I can't think of the name of that street. It's still out there. I can't -- I can't think of the name of that street.
Q. Do you remember when that would have been?
A. No.
Q. You would agree with me that on this Exhibit that is marked Plaintiff's Number One, can you read the date on there?
A. April the 2nd, '09.
Q. And is that the date you were there at the insurance office?
A. Yes.
Q. When your wife purchased insurance?
A. Right.
Q. Did that happen more than once or just one time?
A. Just once.
Q. Okay. And do you recognize that signature?
A. Yes.
Q. I'm going to ask your wife, but does that look like her signature to you?

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A. Yes.
Q. Okay. And so, did somebody -- did somebody at some point in time tell you that you were an excluded driver?
A. Yes.
Q. Who told you that?
MR. CRUDUP: Thomas, could I go off the record for a minute?
MR. McELVEEN: Sure.
(OFF THE RECORD)
MR. McELVEEN: Back on the record.
EXAMINATION BY MR. MCELVEEN CONTINUED:
Q. So, the last question I think I asked you, Mr. Prothro, do you remember sitting there when this -- when this document was signed ten years ago?
A. Yes.
Q. Okay. Did it happen more than once or just the one time?
A. One time.
Q. Did you all have the Ford Contour back in 2009? I'm just wondering back in 2009, are we talking about the same Ford Contour or a separate vehicle?
A. I'm not sure because we had another car before the Contour.
Q. Okay. When this -- this exclusion -- you say you

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think you were there when this was signed?
A. Yes.
Q. Okay. And in the time since that was signed, which is roughly, what, ten years, you agree the wreck, this wreck that we are here for today, happened about seven years after this was signed; right?
A. Right.
Q. How many times do you think you drove in -- in those seven years?
A. Not much.
Q. Okay. Let me -- let me ask you this question. Between April 2nd, 2009 and July 24th, 2016, how many times do you think you drove a vehicle that was insured by -- by Progressive?
A. I couldn't say.
Q. You couldn't say?
A. No.
Q. Okay. Was it more than one time?
A. More than one time.
Q. More than five times?
A. More than five times.
Q. Okay. And so, earlier, I think you testified that since you have been suspended, you probably drove a household vehicle twice a month on average?
A. Yeah.

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Q. All right. So -- so, you agree with me that between April 2nd, 2009 and July 24th, 2016, that is about seven years; right?
A. Yes.
Q. Seven and some change. All right. And eighty-four (84) months twice a month, that's about a hundred and sixty-eight (168) times. Do you think -- do you think you drove more or less than a hundred and sixty-eight (168) times between April 2nd, 2009 and July 24th, 2016?
A. I guess that's about -- about right.
Q. All right. Did your wife know about you driving the car that many times?
MR. CRUDUP: Object to the form.
A. Not all the time.
Q. Or what -- out of -- out of all those times, how many times do you think she knew about it?
A. A lot of times, she won't -- she'd be somewhere and the car be there, and I'd just get in and go.
Q. Okay. So, out of the times that you just said that you have driven the car in this seven year period, how many times do you think she knew you were driving?
A. Maybe a third of the time.
Q. A third of the time. And let me ask you this question. Did you ever have like a separate key that

you got made that she didn't know about?
A. No.
Q. Okay. And so, the key that you used is the same key that she used?
A. Yes.
Q. All right. Was there any other keys that were around the house or hidden anywhere?
A. Oh, I forgot. We had another key made one time because we -- that car, you could crank it up, ---
Q. Yes, sir.
A. -- and let it heat up and while it was heating up, you close the door and it would lock, and we did had another key made.
Q. For the purposes of keeping it locked while it was heating up?
A. Yes.
Q. Is that what you are saying?
A. No, no. While it was running, sometimes, you shut the door and it would just lock with the key in it.
Q. Oh, it was a lock key. I got you.
A. Yes.
Q. So, you needed a backup plan to get in the vehicle?
A. Yeah, right.
Q. When did that start?
A. She can tell you better than me about that because I

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don't -- I can't remember too good.

Q. Who kept up with the keys to the vehicle, to the Ford Contour?

A. She did.

Q. Okay. But you never had like a separate key made that she didn't know about?

A. No.

Q. Okay. All right. And just a few more questions I promise you, Mr. Prothro, and I will stop asking questions. On the day of July 24th, 2016, the incident we are here for today, do you think you did anything to cause the collision?

A. Yes.

Q. What do you think you did to cause the collision?

A. Like I said, I was mashing the brakes and the gas at the same time.

Q. Okay. And do you think there was anybody else that did anything to cause that collision?

A. No.

Q. All right. Do you think my client, Ms. Oliver, did anything to cause that collision?

A. No.

Q. Okay. Do you think she did anything at all to cause any -- any part of this incident to happen on July 24th, 2016?

A. No.

Q. Okay. I appreciate you answering my questions. And you can answer any questions that your attorney may have.

A. Okay.

MR. CRUDUP: I have no questions.

(THERE BEING NO FURTHER QUESTIONS, THE DEPOSITION WAS CONCLUDED AT 6:07 P.M.).

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STATE OF SOUTH CAROLINA)
) CERTIFICATE
COUNTY OF SUMTER)

I, Doris Tompkins Brown, Certified Verbatim Reporter and Notary Public in and for the State of South Carolina, certify that I did have Richard Prothro appear before me commencing at 4:36 P.M. on December 2, 2019 at the offices of the Bryan Law Firm of SC, LLP, 17 East Calhoun Street, Sumter, South Carolina; that the witness was duly sworn and cautioned to tell the truth; that the foregoing pages constitute a true and accurate transcript of the testimony given at that time and place.

I hereby certify that I am not of counsel or kin to any of the parties to this cause of action, nor am I interested in any manner in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this the 6th of January, 2020.

Doris Tompkins Brown, CVR
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission expires: 4-02-2025

Named Driver Exclusion Election

You have named the following persons as excluded drivers under this policy:

RICHARD PROTHRO Date of Birth May 5 1955

No coverage is provided for any claim arising from an accident or loss involving a motorized vehicle being operated by an excluded person. This includes any claim for damages made against any named insured, resident relative, or any other person or organization that is vicariously liable for an accident or loss arising out of the operation of a motorized vehicle by the excluded driver.

This form must be signed by the named insured.

I understand and agree that this Named Driver Exclusion election shall apply to this policy and any renewal, reinstatement, substitute, amended, altered, modified or replacement policy with this company or any affiliated company, unless a named insured revokes this election.

I declare that either the driver's license of the excluded persons named in this Named Driver Exclusion election has been turned into the Department of Motor Vehicles, or that an appropriate policy of liability insurance or other security as may be authorized by law has been properly executed in the name of the person to be excluded.

Signature of named insured **Date**

X Sharon G. Prothro 7-2-19

Form 9330 SC (04/07)

Claim # 1652337341

PLAINTIFF'S EXHIBIT 1

Continued

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STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
COUNTY OF SUMTER) C/A NO.: 2018-CP-43-1323

Gloria D. Oliver,

Plaintiff,

vs.

Richard Prothro and Sharon Prothro,

Defendants.

Deposition of SHARON PROTHRO, taken by Doris Tompkins Brown, Certified Verbatim Reporter and Notary Public in and for the State of South Carolina, commencing at 6:09 P.M. on December 2, 2019 at the offices of The Bryan Law Firm, LLP, 17 East Calhoun Street, Sumter, South Carolina.

APPEARANCES

ON BEHALF OF THE PLAINTIFF: Thomas E. McElveen, III
The Bryan Law Firm, LLP
Post Office Box 2038
Sumter, South Carolina

ON BEHALF OF THE DEFENDANTS: Jeffrey M. Crudup
Clarkson Walsh & Coulter
Post Office Box 2219
Mount Pleasant, S.C.

Doris Tompkins Brown
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DEFENDANT'S EXHIBIT H

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ON BEHALF OF PROGRESSIVE

NORTHERN INSURANCE COMPANY: Sarah E. Caiello

Murphy & Grantland, P.A.

Post Office Box 6648

Columbia, South Carolina

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* * * * *

(COURT REPORTER'S NOTE: --- INDICATES INTERRUPTION, INCOMPLETE PHRASE, TRAILING OFF, INCOMPLETE SENTENCE)

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The deposition of Sharon Prothro is being taken pursuant to Notice and in accordance with the South Carolina Rules of Civil Procedure and Amendments as adopted by the Supreme Court which shall control the taking of said deposition and its use thereof.

Counsel, with the specific consent of the witness, waives the reading and signing of the deposition prior to the time it is filed with the Court.

(Sharon Prothro, having been duly sworn, testifies as follows:)

EXAMINATION BY MR. McELVEEN:

Q. Good evening, Ms. Prothro.

A. How are you?

Q. I'm doing okay. I'm sorry we are here this late.

A. That's all right.

Q. We met earlier. My name is Thomas McElveen. Again, I represent the Plaintiff in this action, Ms. Gloria Oliver, in a lawsuit that has been brought against your husband, Richard Prothro, and against you here in Sumter County.

A. Yes.

Q. It relates to an incident that happened back on July 24th, 2016. And I know that you were sitting here throughout your husband's entire deposition and I appreciate you being here. I have still kind of got

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to go over a few things with you as well.
A. Okay.
Q. Is this your first time doing this?
A. Yes.
Q. And so, I'm going to ask you some of the same questions that you have probably had time to think about. The first one is, are you currently under any sort of care of a psychiatrist, mental health professional or anything like that?
A. Yes.
Q. You are?
A. Yes.
Q. Okay. Can you tell me about that?
A. I go to Santee Mental Health Wateree. I see Dr. Davis and I see the nurse, and I'm on two medications.
Q. Okay. Is there a certain condition that you have that you treat with them for?
A. Anxiety ---
Q. Anxiety?
A. -- and PTSD.
Q. Okay. How long have you been -- how long have you been treating for those conditions?
A. About eight years.
Q. Eight years?
A. Uh-huh (affirmative response). Yes.

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Q. Okay. And I can -- I can assure you, Ms. Prothro, no one wants to ask personal questions or anything like that and that's really not why I'm here today, but I only get one chance to ask you questions before we get to a trial down the road. This is my only shot to ask you questions; so, I'm -- I'm just trying to learn more about you, mainly, for jury selection purposes.

A. I understand.

Q. And so, I don't mean to pry or anything like that, but what sort of medications are you on currently?

A. I take Fluoxetine, 40 milligrams, and I take Prazosin, one milligram.

Q. Okay. And are those for -- are those -- are those for the same conditions that you just told me about?

A. Yes.

Q. Have you taken those today?

A. Yes.

Q. Do they affect your ability to do things, like, drive?

A. No.

Q. Okay. So, you can understand my questions and answer them ---

A. Yes.

Q. -- today with no problems?

A. Yes.

Q. Is today -- other than it being 6:00 o'clock on Monday

night, is today like worse than any other day to take your deposition or is it as good ---

A. No. With the medications, I'm doing fine.

Q. Okay. I don't think there is ever a good day to do this, but I'm just -- I'm asking ---

A. I'm fine. I'm not nervous or anything.

Q. You can handle this today?

A. Yes.

Q. Okay. All right. Are you on any other medications or anything like that today?

A. Yes.

Q. What else are you taking today?

A. I take two high blood pressure medicines. I take Quinapril, 40 milligrams, and I take Amlodipine, ten milligrams. I take Meloxicam for arthritis, fifteen (15) milligrams. And I take Metformin for diabetes.

Q. Okay. And you have taken all that medication within the last twenty-four (24) hours?

A. Yes.

Q. Does that -- does that affect your ability ---

A. Well, one of the mental health medicines, I take it at night when I go to bed.

Q. Okay.

A. All the rest of them I take in the mornings.

Q. Okay. Does any of that medication make you drowsy?

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A. No.
Q. Can you operate a motor vehicle while you are taking that medication?
A. Yes, but when I first take it, I don't have to just get out and drive unless -- and if I have a doctor's appointment, I can get a ride with my sister or I can call transportation from my health insurance.
Q. Okay.
A. I never get under the steering wheel when I'm not able to drive.
Q. Understand. Did you drive here today?
A. Yes.
Q. And you probably got here what, 3:30 today?
A. Yes.
Q. So, you have been here for a while?
A. Yes.
Q. Are you going to have any problems driving home tonight?
A. No.
Q. Okay.
A. I live right down Bartlette Street. I'm going straight home.
Q. Okay. Understand. And just to go over a few things with you again, I know you -- you heard this earlier, but you are doing great. If I ask you a yes or no

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question and your response is yes or no, just try to use that word yes or no so the court reporter here can pick it up.

A. Okay.

Q. I can understand what you are saying.

A. Okay.

Q. The same thing I told your husband about me asking questions, sometimes, I want to jump ahead to the next question before you have finished your answer, and sometimes, ---

A. Right.

Q. -- you are going to know what I'm asking you and you are going to start answering me and I'm going to understand you, but she has a hard time getting that down.

A. Okay.

Q. So, let's try not to talk over each other; okay?

A. Okay.

Q. The other thing is and I know you heard me say this, is that, and I actually told you one time, that you couldn't help Mr. Prothro.

A. I understand.

Q. And I understand why you wanted to try -- you are trying to help, but during the course of this deposition, you can't look to anybody else for -- for

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answers. It's just our -- our rule; okay?

A. Okay.

Q. And you can certainly take a break if you need one.

A. I'm fine.

Q. But if you need one during the deposition, just tell me.

A. I'll let you know if I need one.

Q. Okay. But you understand that if you talk to your attorney -- this is the one time where, if you talk to your attorney during a break, I can ask you about those conversations that you have.

A. Okay.

Q. But I don't want you to tell me anything else that you talked to your attorney about, period; okay?

A. Okay.

Q. That is attorney/client privilege and I'm not allowed to ask questions and you don't have to answer them about that. Okay?

A. Okay.

Q. And you understand also that while we are not in a courtroom today, this is like a Court proceeding. It's -- it's a deposition. You are under oath. You understand that?

A. Yes.

Q. And you understand that the same penalties of perjury

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would apply here as they would in a courtroom if you don't tell the truth?

A. Yes.

Q. Okay. And if I ask you a question and, again, I mean, we have been doing this for a while today. If I ask you a question that you don't understand or you need me to repeat it, just ask me. I'm -- I'm happy to do that.

A. Okay.

Q. I asked several questions of your husband I think that I had to restate or rephrase because I hadn't asked it right. So, if you have a problem with a question, just tell me, but again, if -- if you answer my -- if I ask you a question and you answer it, I'm going to assume that you understood my question and answered it truthfully because you are under oath. Is that fair?

A. That's fair.

Q. Okay. And so, let's just start with, can you state your full name for the record?

A. Sharon Wells Prothro.

Q. Okay. Was Wells your maiden name?

A. Yes. I was -- I was married before. He didn't understand you. That's my pre -- pre first marriage the Day -- that was the Day when he met me, but Wells is my maiden name.

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Q. Day was your first husband?
A. Yes.
Q. Okay. I understand. Wells is -- is your maiden name?
A. Yes.
Q. So, are you from Sumter County also?
A. Yes.
Q. Were you born and raised here?
A. Yes.
Q. Have you lived anywhere besides Sumter County?
A. No.
Q. All right. And the same questions that I asked him earlier. What is your date of birth?
A. 1-22-1957.
Q. Okay. So, you are a little bit younger than your husband?
A. Yes.
Q. All right. And do you know your Driver's License Number?
A. 004455683.
Q. All right. And I'm gong to ask your Social Security Number also. I don't want you to tell me that until we go off the record.
A. Okay.
Q. We will go off the record and you give me that number.
A. Okay.

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(OFF THE RECORD)

MR. McELVEEN: We can go back on the record.

EXAMINATION BY MR. MCELVEEN CONTINUED:

Q. What is your current address?

A. 125 West Bartlette Street, Apartment 502.

Q. All right. And how long have you lived there for?

A. Since May the 6th of this year, 2019.

Q. And who do you live there with?

A. Richard Prothro.

Q. Okay. And prior to that, where did you live?

A. 111 Crescent Avenue.

Q. How long were you all there for?

A. About twelve (12) years.

Q. Okay. Did -- did you all own that property or ---

A. We rented.

Q. You rented. Who -- who did you rent from?

A. Robert Moses.

Q. You just moved out this year?

A. Yes.

Q. Was that the only home that you lived in while you were married or were there other places that you ---

A. No, we lived at 895 Glisson Road.

Q. How long were you all there for?

A. Oh, probably about -- about seven years.

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Q. Seven years. When were you all married?
A. June the 16th of 2008.
Q. Okay. Were -- were you all together before you got married?
A. We've been together about twenty-two (22) years, I think. We stayed together until we got married and we're still together.
Q. Okay. So, you -- you have basically been -- you guys have been together twenty-two (22) years straight through?
A. No.
Q. No breaks or anything like that?
A. No breaks or anything.
Q. How long have you guys lived to -- how long have you and Mr. Prothro lived together?
A. We lived together from about 1999 until now.
Q. Twenty (20) years roughly?
A. Yes.
Q. Okay. And the house that you were -- that you lived in on Crescent Avenue, ---
A. Yes.
Q. -- that was where you lived when this incident happened on July 24th, ---
A. Yes.
Q. -- 2016?

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A. Yes.
Q. Okay. And can you kind of describe that -- that place for me? He mentioned it was a ---
A. It's a duplex. It was another family in one side and we lived in the other side. We had two bedrooms, a kitchen, a living room and bathroom in the hall.
Q. One bathroom or two?
A. One.
Q. One bathroom. Do you know how many square feet that place was?
A. No.
Q. Okay. And not to jump around too much, but your maiden name was Wells. Were your parents from Sumter County also?
A. Yes.
Q. And what part of Sumter County?
A. Off of Tindal Road, 15 South off the Old Manning Road.
Q. Is either of your parents still alive?
A. My mother's alive.
Q. Okay. What is her name?
A. Willie Mae Hastie.
Q. Is that T-Y or T-I-E?
A. T-I-E. They both related, but part of the family spell their names with the Y and some with the other.
Q. Yes, ma'am. So, your mom is Willie Mae Hastie?

A. Yes.
Q. What kind of work did she do?
A. Domestic work.
Q. Does she -- does she live on her own now?
A. She still lives on Tindal Road.
Q. Okay. How about your father, what was his name?
A. My stepfather raised me. His name was Woodrow Hastie, Senior.
Q. Okay. What kind of work did he do?
A. He worked at Georgia Pacific and farmed and retired from Georgia Pacific.
Q. How -- how about your biological father, do you know much about him or ---
A. I knew of him, but he's deceased.
Q. Okay. Do you know what kind of work he did or anything like that?
A. No.
Q. Do you know his name?
A. Yeah, I know his name.
Q. What's his -- what was his name?
A. Julius Lavine.
Q. Julius Lavine was his name?
A. Uh-huh (affirmative response).
Q. So, where did you get -- where did Wells come from?
A. The Wells is my mother's maiden name. She wasn't

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married to my father.
Q. I understand. Okay.
A. Uh-huh (affirmative response).
Q. I understand. All right. And do you have any brothers and sisters?
A. Yes.
Q. Are they here in Sumter County?
A. I have one brother that lives in Elgin. He's -- he's a child support deputy. He works in Columbia.
Q. Okay.
A. And I have a younger sister that lives in Fort Washington, Maryland, and she's an accountant. And I have an older sister that lives here. She's retired from Cooper Tools after thirty-five (35) years.
Q. Okay. What is her name?
A. Patricia Williams.
Q. All right. And I think you might -- he might have mentioned her.
A. That's my sister that he mentioned.
Q. Okay. And what -- who is her husband?
A. James Williams.
Q. What kind of work does he do?
A. He retired from McCrory Construction. He was a heavy equipment operator.
Q. So, not -- not the funeral home Williams?

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A. No.
Q. Okay. All right.
A. Construction.
Q. That is the only sister that you have living here, only sibling you have in Sumter County?
A. In Sumter County, yes.
Q. That's what I'm interested in.
A. Other than -- other than the baby brother that lives in Elgin. He's from Sumter, but he -- he's -- he resides in Elgin.
Q. Yeah, I'm really concerned about the ones who live here now mainly. That's for if we get to a jury trial, ---
A. Okay.
Q. -- I will use that information for Sumter County.
A. Okay.
Q. And so, did you have -- do you have any children?
A. Yes.
Q. How many children do you have?
A. Two.
Q. Okay. And what are -- what are you kids' names?
A. My oldest son is Deron Day. He's in the Air Force. And he resides in Lexington, South Carolina.
Q. Okay. Is he married?
A. Yes.

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Q. Is he married to someone from Sumter or somewhere ---
A. No, someone from Fayetteville.
Q. Okay. And he is with the Air Force you said?
A. Yes.
Q. All right. And what was -- what was your first husband's name?
A. John Day.
Q. Is he from Sumter?
A. Yes.
Q. Is he still alive?
A. Yes.
Q. And what does he do for a living?
A. As far as I know, he's retired. I don't know what he does.
Q. Do you know where he retired from by any chance?
A. No.
Q. Okay. And your other child's name?
A. Martineek Day.
Q. In Sumter County or somewhere ---
A. He's in Florida.
Q. He is in Florida?
A. Yes.
Q. Okay. What kind of work does he do?
A. He drives transit for Amazon.
Q. All right. Is -- is he married?

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A. Yes.
Q. To somebody from Sumter or somewhere else?
A. Someone from Delaware.
Q. Okay. All right. And so, just to kind of cut to the chase on this, what I'm looking for is any -- any last names of kin that you think you have in Sumter County by blood or marriage. Even the ones you don't want to claim; okay?
A. Okay.
Q. Somebody that you feel like you are related to -- you know, my last name is McElveen -- I'm related to Watson's and Brogdon's and Curtises and a lot of different families, distantly. So, anybody that you think you are kin to in Sumter County, what would the last names be?
A. Wells, Hastie. Wells and Hastie and Williams.
Q. Okay. No other last names that you would claim as kin in Sumter County?
A. Smiling.
Q. Smiling's?
A. Yeah.
Q. Okay. S-M-I-L-I-N-G?
A. Yes. My aunt is married to a Smiling.
Q. I got it.
A. My mama's sister.

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Q. Okay. Anybody else?
A. No one else.
Q. Okay. All right. And tell me. how far did you go in school?
A. Twelfth grade.
Q. Twelfth grade; did you graduate?
A. Yes, I graduated.
Q. Where did you graduate from?
A. Furman High School, 1975.
Q. Got it. And did you go there all four years of high school?
A. Yes.
Q. All right. How about middle school?
A. Manchester.
Q. How about -- how about elementary school?
A. Manchester Elementary.
Q. Okay. So, you -- you grew up in Pinewood, around Pinewood?
A. I grew up on Tindal Road, but the children that lived on Tindal Road had to go to Manchester.
Q. I got you. Okay. And did you have any sort of education or training past high school?
A. I have a Home Health Aide Certificate that I used to do that kind of work for a little while. I got that from Sumter Tech and Shaw Tech.

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Q. So, back before Central Carolina ---
A. Yes.
Q. -- and Sumter Tech, you got that?
A. Yes.
Q. Okay. Any other Certificates or training or any Degrees that you have gotten?
A. That's it.
Q. That's it. Okay. Have you ever served in the military?
A. No.
Q. All right. And can you tell me about your -- your job history? So, going back to the first job you had in Sumter County, what would that have been?
A. The first job I ever had in Sumter County was a baby-sitting job. I worked for the Williams, Drakeford's and Irene Williams.
Q. Okay. And how long did you do that for?
A. For about two years.
Q. All right. Where else have you worked in Sumter County?
A. I worked at Georgia Pacific.
Q. How long did you work there for?
A. About a year.
Q. What kind of work did you do there?
A. Feeding dry -- wet veneer into a big dryer to make bed

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rails.

Q. Okay. What did you do after that?

A. Then after that I worked to Burger -- to Young's Market.

Q. Which one? More than one of them?

A. Well, I used to mostly work to the one on Oswego Highway, but I worked at all of them before back then.

Q. Okay. How long did you work for Young's?

A. Probably about eight years.

Q. All right. Anywhere else?

A. Burger King.

Q. How long did you work there for?

A. Eight years.

Q. Which one?

A. On Broad.

Q. All right.

A. Sumter Pigeon Plant.

Q. How long did you work there for?

A. About a year.

Q. Did you work on Broad Street or somewhere else for them?

A. Broad.

Q. Broad Street. What were you doing there?

A. At the Pigeon Plant?

Q. Yes, ma'am.

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A. Plucking feathers off the chickens.
Q. Plucking them off the pigeons; right?
A. Yeah.
Q. Yeah.
A. Chickens, birds.
Q. Yeah. All right. Where else; anywhere else?
A. Cooper Tools.
Q. How long were you there for?
A. Nine years.
Q. All right. What were you doing there?
A. When I first went there, I was a packer, and when I left there, I was a machine op -- machine operator.
Q. Okay Anywhere else you have worked in Sumter County besides the places you have mentioned already?
A. I think that's it.
Q. You mentioned earlier that you had a Certificate or you are Home Health trained?
A. I did a little work of that, but I didn't like it and I didn't continue with it.
Q. Okay. Where would you have done that?
A. Right here in Sumter.
Q. Is there a certain place you did that, though?
A. I went to different homes.
Q. Yeah, I'm asking ---
A. But I can't remember the name of the company; it's

been so many years ago.
Q. But you were working through a company?
A. Yes.
Q. And getting assigned to different homes ---
A. Yes.
Q. -- is what you were doing?
A. Right.
Q. Was it more than one company?
A. Just one company, but I can't remember the name of it.
Q. How long did you do that for?
A. For about six months.
Q. Okay. Were there any other places that you can recall working in Sumter besides the places you have already told me?
A. No.
Q. All right. And you told me a bunch of different jobs. What was the reason for leaving most of those jobs?
A. Most of them?
Q. Yes, ma'am.
A. I was young and I just wanted to change jobs, and if the other job was paying me more, just changing jobs trying to make a living.
Q. Okay. And so, ---
A. And make more money.
Q. Sure. Have you ever been fired from a job -- I don't

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mean being laid off because -- because they closed or whatever else -- has anyone ever terminated you from a job?

A. No.

Q. Never?

A. Never.

Q. Okay. Are you a member of any -- any church? Are you a member of any church in Sumter County?

A. New Bethel Baptist out 15 South, but I hadn't been there lately. But I am a member there.

Q. Okay. How long have you been a member there for?

A. All my life.

Q. All your life?

A. Yes.

Q. And is there any other churches in Sumter County that you have attended regularly but may not have joined?

A. No.

Q. Did you have a home church growing up?

A. Yes, New Bethel Missionary Baptist.

Q. That was it?

A. Yes.

Q. Okay. I got you. To your knowledge, does your -- does your husband have a home church where he grew up? I don't think I asked him that question. Did he ever have a home church when he ---

A. He told me about a church in Mayesville, but I never been to any of his churches before.
Q. Okay.
A. But he used to go to church when he was younger.
Q. Okay. Are you a member of, like, any sort of civic organization, clubs, I mean, I will give you some examples. Like, a sorority or ---
A. No.
Q. -- Civitan, Kiwanis, nothing like that?
A. No.
Q. Okay. What sort of things do you enjoy doing when you have spare time; how do you spend your days?
A. I like to play bingo. I like to read. I like to walk when I have time to try to get my health better. I like to go fishing.
Q. Okay. Those things you still enjoy doing now?
A. That's what I like to do, but I don't get to fish like I want to.
Q. Sure. I don't think anybody does.
A. Yeah.
Q. When is the last time you had a job or you worked?
A. The last time I had a job was when I worked at the Sportsman in 1995.
Q. Okay. So, you haven't -- you haven't had -- you haven't worked since 1995?

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A. No.
Q. Okay. Are you on Disability or anything like that?
A. I'm getting retirement right now.
Q. You get retirement?
A. Yes.
Q. Where do you get retirement from?
A. Social Security.
Q. Okay. You are drawing Social Security already?
A. Yes.
Q. Okay. That is your only income as of right now?
A. My only income.
Q. Okay. How about your husband's income, does he have any income?
A. He's getting the same thing, but we're not getting our full benefits because we didn't have enough work credits what we -- what retirement gives. We're not getting the maximum amount.
Q. Yes, ma'am.
A. Because you have to have -- I guess you probably know -- you have to have at least forty (40) work credits within a ten year period to get your full amount of Social Security.
Q. So, when did you start drawing Social Security?
A. Last -- I turned sixty-two (62) this year; so, I started getting it this year.

Q. Yes, ma'am. How about your husband, do you remember when he started getting it?
A. He turned sixty-two (62) two years ago I think it was; so, he's got it about two years.
Q. Okay. Does he get Disability also or did he get Disability at some point in time?
A. We -- we didn't -- it's -- I don't call that Disability. We got SSI.
Q. Okay. Okay.
A. That's for people that don't have enough work credits in. We didn't -- we didn't qualify for regular Disability.
Q. Okay. And you said that you do suffer from PTSD and anxiety?
A. Yes.
Q. Were you diagnosed with both those conditions around the same time?
A. Yes.
Q. When would that have been?
A. Probably about eight years ago.
Q. About eight years ago?
A. Yes.
Q. Okay. And you mentioned you have a South Carolina Driver's License and you gave me the number earlier. Have you had any -- a License in any other state

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besides South Carolina?
A. Just South Carolina.
Q. Okay. Has your License ever been suspended for any reason?
A. Never.
Q. Never been suspended?
A. Never.
Q. Have you ever had a CDL or Commercial Driver's License?
A. No.
Q. Okay. When do you think -- how long have you had a Driver's License for?
A. About forty-four (44) years.
Q. Forty-four (44) years?
A. Yeah.
Q. All right. And again, please don't take offense to these questions. He asked my client. I asked your husband. I'm going -- I ask everybody these questions.
A. Okay.
Q. Have you ever been convicted of any crime?
A. No.
Q. Okay. Have you ever been arrested for any crime?
A. I've been arrested one time. I was upset and I was walking at night from the house to go to the store and

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I didn't have my identification on me and the Sumter County Police stopped me on the Old Manning Road, and I was walking and they took me to jail because I didn't have any identification to show them who I was.

Q. Who was that?

A. Some policeman. I can't remember his name, but the next morning, they let me go.

Q. How long ago was that?

A. That was probably in 2004.

Q. Did they ever charge you with anything?

A. They didn't have nothing to charge me for.

Q. So, they let you go -- let you go the next day?

A. The next day. And he said he arrested me because I didn't have any identification on me, and I was walking at night.

Q. Did you do anything about it as far as did you retaliate in Civil Court or anything?

A. No, I didn't; I didn't retaliate or do anything about it.

Q. So, they let you go and that was it?

A. That was it.

Q. Okay. Do you remember the officer's name?

A. I can't remember, but I think he's the one that was in an accident somewhere and got killed, the big heavy one.

Q. Okay.
A. A few years ago.
Q. Mr. Nesbitt?
A. I believe so.
Q. Okay. That is the only time you have ever been arrested, though, for anything?
A. Other than me and my husband have gotten in arguments and when they come to see what's going on after I called them and I'm the one that's doing all the talking, and they've arrested me for something like that one time.
Q. Do you remember when that would have been?
A. Probably in 2005.
Q. Okay. Did that happen more than one time?
A. One time.
Q. Just one time?
A. Uh-huh (affirmative response).
Q. Okay.
A. Yes.
Q. So, just -- just the '04 and '05 incidents that you were telling me about is ---
A. Yes.
Q. -- the only time you have ever been arrested?
A. Yes.
Q. Okay. And over the last ten years, let's just say

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since 2009, what does your driving record look like?
A. I have a good driver's record -- driving record.
Q. Do you have all your points on your License?
A. All my points for years.
Q. Okay. And so, I want to talk to you a little bit about prior to -- we are here today because of an incident that happened on July 24th, 2016; would you agree with that date?
A. Yes.
Q. Do you remember that day?
A. Yes.
Q. Okay. And do you remember the events that led up to that?
A. Yes.
Q. Do you have any reason to argue that it was on that date that this happened?
A. Did we have any reason to argue?
Q. Any reason to argue that the incident we are here for today happened ---
A. No. No.
Q. -- on July 24th, 2016?
A. No.
Q. Okay. And prior to that, had you ever been in a motor vehicle collision yourself?
A. Yes, I've been in a motor vehicle collision.

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Q. Okay. And how many have you been in?
A. My son and I -- I picked -- I gave my son a ride home from Pilgrim's Pride; he was working and we were at the light at Broad and Church Street and a lady and her husband ran the light and hit us and total lossed car, but we weren't really hurt.
Q. Okay.
A. And other than that, that's the only accident that I remember.
Q. Prior to July 24th, 2016?
A. Yes. But we wasn't driving that car. I was driving my older son's car.
Q. Okay. Had you ever -- have you ever brought a lawsuit against anybody?
A. No.
Q. You never have brought one?
A. No.
Q. Has anyone ever brought one against you besides this one?
A. No.
Q. Okay. How about since July 24th, 2016?
A. No.
Q. Have you been in any more wrecks since then?
A. No.
Q. Has anybody ever brought a lawsuit against you besides

this one?
A. No.
Q. Okay. And how about as far as what you know with your husband, do you remember when his License was suspended?
A. You mean the first time or ---
Q. What do you know about your husband's License suspensions?
A. The first one probably was around about 2004 or '05, and the second one when he had this last wreck, it was already suspended.
Q. Okay. So, you say "this last wreck," the one we are here for today?
A. Yes.
Q. July 24th, 2016?
A. Yes.
Q. How long had it been suspended when that occurred? How long had his License been suspended when that occurred?
A. Probably since about 2004, something like that.
Q. So, well over ten years?
A. Yes.
Q. Okay. Are you pretty confidant about that?
A. I'm not sure about the time. I just know he had -- had the suspension. I don't have the correct date.

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Q. Okay. And ---
A. I can't remember the correct date.
Q. In your household, since you have been married to Richard Prothro, have you ever had more than one car in the household?
A. We had just that one car and then my son gave me and my younger son his used car together, but we didn't drive it long because that's when we had the accident on Broad and Church.
Q. Okay.
A. And I didn't have -- I didn't even have it for six months and it got total lossed, but other than that, we just had one car in the house.
Q. Okay. And so, the -- the collision that happened that we are here for today, you agree it was the Ford Contour that was involved?
A. Yes.
Q. How long had you had -- how long had you all had that car prior to July 24th, 2016?
A. Probably since 2013.
Q. 2013?
A. Yes.
Q. Okay. You bought that car?
A. Yes.
Q. Was it in your name?

A. Yes.
Q. Okay. And that was around 2013?
A. Yes.
Q. So, when you got that Ford Contour, would Mr. Prothro's License have been suspended at that time?
A. Yes.
Q. Did he ever get it reinstated since then?
A. No.
Q. Okay. Do you have any independent knowledge of why Mr. Prothro's License was suspended?
A. For DUI.
Q. Okay. And how many DUIs did -- are you aware of?
A. Only two.
Q. Two. Do you know when those would have been?
A. The first one he ever got I don't think we were together. But the last one, like I said, was probably in about 2004 or '05.
Q. Okay. So, when -- when the second one happened, you knew about it?
A. The second DUI?
Q. Yes, ma'am.
A. That's the one that I know about.
Q. When did you find out about the first, that he had the first one?
A. The first one I don't think I knew him.

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Q. But did you find out about it at some point in time?
A. He told me about it.
Q. When would that have been?
A. Probably -- probably something like 2000, I guess.
Q. Around 2000, he told you about it?
A. Yes.
Q. Okay. So, you knew about the first one before the second one even happened?
A. Yes.
Q. Okay. And is there anything else that you are aware of about his driving record prior to July 24th, 2016?
A. No.
Q. You knew about the DUIs ---
A. Right.
Q. -- and his License was suspended?
A. Right.
Q. Okay. And so, ---
A. But I heard you ask him about one in -- a second one in 2015. He -- he didn't have but one in 2015. I don't know where that came from.
Q. That was Driving Under Suspension; correct?
A. Yeah, but he only had -- he didn't have two in 2015.
Q. And perhaps I should have asked him this question, too. There's two Richard Prothro's; right?
A. Yes, his son is ---

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Q. His son?
A. Yes. And they -- neither one of them use Senior or Junior, and that's how that probably got mixed up because he did some time for his son before for child support.
Q. Are you aware of his son ever getting a Driving Under Suspension charge?
A. I don't know anything about his driving record.
Q. You wouldn't know one way or the other?
A. No, I know him, but I don't know anything about his driving record.
Q. Okay. I understand. And so, during -- during the time that you had that 1999 Ford Contour; correct?
A. Yes.
Q. All right. You said you think you got it in 2013?
A. Uh-huh (affirmative response).
Q. That is a yes?
A. Yes.
Q. So -- so, at least three years prior to this collision?
A. Yes.
Q. How many times do you think Mr. Prothro had driven that vehicle prior to July 24th, 2016?
A. I can't tell you the exact amount of time, but he never did just drive it like I did. Just every now

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and then, he would take the keys and want to drive it. And I can't really say how many times.

Q. Okay.

A. But he wasn't driving it every day.

Q. Were you aware that he was driving the vehicle?

A. When he was driving it, I was aware of it.

Q. Okay. Were you -- were you home most of the time when he was doing that?

A. Not all the time.

Q. How would you find out about it?

A. Because if the car's gone, I know that he have it.

Q. Okay. How would you know he had it and not somebody else?

A. Because no one else come in our house and get a key but him.

Q. Okay. So, and just -- just to be clear on this. So, had you ever reported that vehicle stolen at any point in time?

A. No, I haven't.

Q. Okay. You have never reported that 1999 Ford Contour as being stolen?

A. No, I haven't.

Q. Okay. And did you ever give -- did you ever give Mr. Prothro permission to drive the vehicle?

A. No.

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Q. You never gave Mr. Prothro ---
A. No.
Q. -- permission?
A. No.
Q. Did he ever ask you permission to drive it?
A. Well, if he asked me and I tell him no, he would still drive it.
Q. Okay. What did you do to prevent him from driving the vehicle?
A. Try to take the keys from him.
Q. Okay. How many sets of keys were there?
A. There were two sets of keys because, like he told you, we needed another key so if the other key got locked up in the car -- we just had one -- two ignition keys.
Q. Who was -- who -- who kept up with the keys?
A. I did.
Q. You did. Where did you usually keep the keys?
A. Usually on the dresser or on the table, just not hidden some place in the house.
Q. Okay. Was that -- during what period of time was that the case? Were you -- were you in the habit of keeping the keys on the counter you said in the bedroom?
A. Yes.
Q. How -- how long had you been keeping them there for?

A. Forever.
Q. How long is forever?
A. Well, most of the time. Sometimes I have them in my pocketbook.
Q. Okay. So, from the time that Mr. Prothro got his License suspended until July 24th, 2016, whether it was the Contour or another vehicle, how many times did -- did he drive your vehicle?
A. Probably about twice or two or three times a month.
Q. So, you wouldn't argue with what he said earlier?
A. No.
Q. Okay. And how many times did -- did you know about it during that period of time?
A. I knew about it most of the time.
Q. Most of the time?
A. Yes.
Q. Okay. And so, did you ever take steps to -- to hide the keys or to keep the keys from him?
A. No.
Q. You never did?
A. No.
Q. So, going back to July 24th, 2016, do you agree that he was driving the vehicle that day?
A. Yes.
Q. All right. And when is -- when is the previous time

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he drove the vehicle? When is the last time he drove it prior to that date that you knew about?

A. About two weeks.

Q. All right. And I'm going to go back, the same question I asked him earlier.

A. Okay.

Q. Two weeks earlier, then how about prior to that?

A. Probably a week.

Q. Okay. How about before that?

A. Probably maybe three weeks.

Q. And again, your testimony is, is that the period of time he was suspended until the time of this wreck, whether it was the Contour or another household vehicle, he drove two or three times a month?

A. Yes.

Q. And you knew about it most of the time?

A. Yes.

Q. Okay. And so, where were you the morning of July 24th, 2016?

A. I was at home that morning and I tried to get him not to drive, but he did anyway.

Q. Okay. And so, I want to ask some specific questions about that. He has already talked to me about what happened. What time did you get up that morning?

A. Probably about -- about the same time he did, about

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6:30.

Q. Had there been any sort of argument the prior night or anything like that?

A. Yeah, we had words.

Q. Do you recall what that was about?

A. I was telling him that he was being mean toward my -- my son, which is his stepson, stuff that had happened in the past; we were just bringing up old conversations, and he got angry about it and just told me -- no, he wasn't mean, he was just trying to make my son behave.

Q. Okay.

A. But my son is grown now. My son wasn't there at that time and that wasn't happening right then. We were just talking about past incidents in our relationship.

Q. And that was the previous -- previous night, July 23rd?

A. And then -- yes, and then it started back over -- over the same stuff that we had been arguing about before.

Q. Okay. And so, that evening of the 23rd, the night before this happened, were you all at home that night?

A. Yes.

Q. Just you and him or anybody else?

A. Just he and I.

Q. Okay. And the day before, which is July 23rd, what

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were -- what were -- where had you all been that day?

A. Mostly at home and maybe went to the store or something and came back. We were home.

Q. Okay.

A. We were home most of the time.

Q. Did you -- did you see or know of Mr. Prothro drinking any alcohol that night?

A. Yes.

Q. The 23rd?

A. Yes.

Q. What did you know about?

A. What did you say?

Q. What did you know about that?

A. What did I know about what?

Q. As far as what he had to drink the night before.

A. He -- like -- he's telling you the truth about the pint. He had drinked out of the pint that night, and then the next morning, what he had left, he drank the rest of it.

Q. You knew about that, too?

A. Yes.

Q. Do you know what time that was?

A. Probably about 9:00, 10:00 in the morning.

Q. 9:00 or 10:00 in the morning?

A. When he left.

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Q. Okay. What time do you think he drank the pint that morning?
A. Probably about anywhere around the time we got up 6:30, 7:30.
Q. Okay. And you were awake then, too; so you know about it?
A. Yes.
Q. Okay. And you said you tried to stop him that morning?
A. Yes.
Q. Tell me where did he go -- where did he go to get the keys that morning?
A. Out of the house.
Q. Where in the house?
A. On the dresser.
Q. The same place they always were?
A. Yes.
Q. Okay. And ---
A. Then I followed him outside and tried to get them back from him.
Q. Okay.
A. But he didn't give them to me and he just took off.
Q. Why were you trying to stop him?
A. Because I didn't want him to drive the car drinking, and I know that I didn't have insurance on there for

him to drive it.
Q. You knew that?
A. Yes.
Q. Did he know you didn't have insurance on there for him to drive?
A. Yes, he did.
Q. How long had he known that for?
A. He's always known that.
Q. Okay. But he continued to drive it?
A. Yes.
Q. And you continued to -- well, you realized that he continued to drive it?
A. Yes.
Q. Okay. And did you do anything else to stop him besides just tell him to stop that morning?
A. No.
Q. You didn't report the vehicle stolen, didn't call any of your friends?
A. No.
Q. Did you call anybody about ---
A. I didn't call anybody.
Q. Okay. Did anybody see you, maybe the neighbors in the duplex or anybody else, did anybody see you trying to stop him from driving that morning?
A. No.

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Q. Okay. And so, what is the next thing that you found out about that day?
A. The next thing that I found out, the cops came and knocked on the door and they asked me if I was Gloria Oliver, and I told them "No, I'm Sharon Prothro." So, he gave me my registration card and everything that he got out the car before they -- after they arrested Richard, and he asked me did I know her and I told him that I knew of her and he asked me did I know where she was, and I said "No." And he said, "Well, she just committed a crime." And I said, "What?" He said, "Well, she was in the car in a wreck with Richard and she ran away from the scene of the accident."
Q. So, someone told you that Gloria Oliver committed a crime?
A. The police that -- the policeman that came and brought me my stuff out the car.
Q. Can you recall who told you that?
A. I don't know his name. But Richard has his papers at the house, his tickets; his name is on the tickets.
Q. Okay. Was he -- did you see his vehicle he was driving in?
A. He was driving a -- a city cop car.
Q. A city cop car?

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A. Yeah.
Q. White car with blue and maybe black on it or something ---
A. Black and gold stripe.
Q. Black and gold?
A. Yes.
Q. Was he a Sheriff's deputy or was he a ---
A. Sheriff deputy.
Q. Okay. You can't recall his name?
A. No, I can't recall his name.
Q. Can you describe how he looked or anything like that?
A. Small built, tall, slim.
Q. Do you remember if he was white, African-American ---
A. White.
Q. White?
A. Yes.
Q. Do you care to guess his age?
A. I don't -- I can't guess his age. I know he's much younger than I am.
Q. Do you know if he had any kind of facial hair or anything like that?
A. I can't remember that.
Q. Okay. So, he told you that someone had committed a crime?
A. Yes, that she ran away from the scene of an accident.

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And he said, "No," -- he was looking me all over and he said, "no, that's not you because she was bigger than you and she had a rag on her head," and that was how that went.

Q. Did he say anything about your husband committing a crime that day or not?

A. Yeah, he told me that Richard was locked up.

Q. Okay.

A. And what happened -- that he was in the wreck at the Neighborhood Wal-Mart and what all happened. And he asked me if I loved Richard, and I told him "Yeah." He said, "Well, the next time, you make sure you keep the keys away from him." And he gave me my stuff and went on.

Q. Okay. And is that the first that you heard about any of this happening?

A. Yes.

Q. So, nobody called you from the scene or anything like that?

A. No.

Q. Did you have a cell phone at the time?

A. Yes, but I don't know anybody that was at that scene that know me and have my number.

Q. So, the first you heard about this was when the officer came to your house?

A. Yes.
Q. Do you remember about what time that would have been?
A. It was that Sunday afternoon, I guess probably about 1:30, 2:00 o'clock.
Q. Okay. And what did you do; did you go down to the jail or anything like that?
A. Not that day. I went down the next morning and I went to the little Court in front of the judge and picked Richard up. After they let him go, I went and picked Richard up. But I caught a ride with a family member and picked him up.
Q. Who was that family member you rode with; do you remember?
A. I don't -- it was a family member's boyfriend. She was working and the guy picked me up, but I don't know his real name. We just call him by nickname.
Q. What -- what is his nickname?
A. Fats.
Q. Fats?
A. Yes.
Q. Okay. All right. And did -- what -- did you ever see that Ford Contour?
A. What?
Q. Did you ever see that Ford Contour after the collision happened?

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A. Yes, I saw it because it was impounded, and after a couple days, Richard and I went and got it out of impound and -- and I drove it for a while after -- after it got back home.

Q. Did anybody from the insurance company ever look -- come and look at the vehicle?

A. I went to the insurance company and they saw me driving it. I went there and I reported the accident.

Q. Okay. To your knowledge, did anybody from the insurance company or anybody else take photographs of the vehicle?

A. I don't remember.

Q. You don't remember any pictures ever being taken of that Ford Contour?

A. No.

Q. Did you take any pictures of it?

A. I did, but I don't have them any more. They were in an old cell phone that I don't have any more.

Q. Okay. So they are gone now?

A. Yes.

Q. Did anybody else take pictures of it, to your knowledge?

A. No.

Q. Okay. And do you have any understanding or has anybody told you what all was damaged in this incident

besides your vehicle?
A. Yes, I was told what was damaged. But there weren't -- there weren't any major damages.
Q. What were you told?
A. I was told that there were -- there were just a couple dents on whatever vehicles that he hit.
Q. A couple dents?
A. Yes.
Q. Did they tell you there was any damage to anything that was in the Wal-Mart parking lot?
A. Yes, the little small palm trees was pushed over. I been there since that happened the same week and I saw that with my -- for myself.
Q. So, you not only got pictures of the Ford Contour -- I mean, you not only got pictures of it, you drove it also for a period of time?
A. I drove it for a good period of time.
Q. Where was the damage to that vehicle after this incident?
A. It was on the -- the rear bumper was pulled off and it might have had a small dent on the side, but it was drivable.
Q. Okay. Did -- did anybody from the insurance company ever compensate you for that vehicle?
A. No.

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Q. Did you ever get any kind of compensation at all for it?
A. No.
Q. To your knowledge, was anybody -- was there any compensation to the owners of the other vehicles who were damaged?
A. I don't know.
Q. You don't know?
A. No.
Q. You don't if your insurance paid on those claims or not?
A. No, I don't.
Q. To your knowledge, was any of the property damage at Wal-Mart -- to your knowledge, did anybody at Wal-Mart ever receive any compensation for property damage?
A. I don't know.
Q. You don't know?
A. No.
Q. You are not saying they did or they didn't, you just don't know?
A. I just don't know.
Q. Okay. And so, did you have a chance to talk to Mr. Prothro about this?
A. About what?
Q. About what happened on July 24th, 2016.

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A. Yes, he talked to me about it.
Q. What did he tell -- what did he tell you?
A. He told me just what happened. He told me that he gave them a ride, and -- and when he got ready to back out, that some kind of way, his foot was mashed -- he was mashing the gas and the -- and the brakes at the same time.
Q. Okay. And ---
A. And he was backing up, and that's how it happened.
Q. All right. And so, Mr. Cummings, I think the first individual that he picked up, do you know Mr. Cummings at all?
A. I've met him before, but I'm not an associate of his. I know that he and Richard know each other real good, but I'm not an associate of his.
Q. If he walked right in here right now and shook your hand, would you know who you were talking to?
A. Yeah, I would speak to him because I know he's a friend of Richard's.
Q. Okay. Do you think -- do you think Mr. Cummings knows about the situation with the insurance not covering ---
A. I don't know what he knows.
Q. You don't know that?
A. No, I don't see him at all.

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Q. Okay. How about my client, Gloria Oliver, do you know ---

A. I don't have anything to do with her either. I don't know what she knows.

Q. Do you know her at all?

A. I know of her. I know that Richard knew them before he knew me. I don't know anything personal about her.

Q. Okay. If you saw her today, would you recognize her?

A. Yes.

Q. Okay. Have you talked to her at all since July 24th, 2016?

A. Only one time she saw me at a gas station on Broad Street and she asked me what was the name of my insurance company a long time after they had the wreck and I told her, and that's it. I told her who my insurance company was and she said "Thank you", and she went on her way and -- and I went on mine.

Q. Okay. And do you -- do you have any knowledge that -- that Ms. Oliver would have known that the vehicle that she was riding in on July 24th, 2016 was not insured?

A. She have no way to know that because I don't know her like that, and we don't socialize.

Q. Okay. So, ---

A. She don't know -- she see me, she don't know me, and I see her, I don't know her. We don't -- we've never

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been around each other before.
Q. So, you -- you have never told her that the ---
A. I've never told her anything other than when she came up to my car. Richard was in there. And she asked me who did I have insurance with, and I told her.
Q. Has -- has any -- has anybody else told you that they have let Ms. Oliver know that Mr. Prothro may not be an insured driver on that vehicle?
A. No.
Q. You are not aware of that?
A. No.
Q. Who all would know that?
A. No one is supposed to know that but me and Richard.
Q. Okay.
A. And he would -- I don't think he went and told anybody anything about any insurance, and I know I don't.
Q. And the folks in the insurance company office would know about it, too; right?
A. Yes.
Q. Okay. And so, did you ever have to give a statement abut this to the insurance company?
A. I don't think so.
Q. And what I mean by that is, did anybody from an insurance company ever ask you to write anything out about what you knew?

A. No.
Q. Okay. Did anybody from the insurance call you and interview you about this?
A. They have called me and asked me about the accident and asked me if I was aware of it and everything, and I have answered their questions.
Q. Okay. All right. And so, let me ask you this. Do you -- do you -- do you think on July 24th, 2016 -- well, I'll scratch that question. Do you think -- do you think folks that don't have valid insurance should be driving?
A. No.
Q. Okay. Do you think folks who are under the influence of alcohol should be driving?
A. No.
Q. Do you think -- did Mr. -- do you -- do you believe, based on your observations, that Mr. Prothro was under the influence of alcohol when he left your house on July 24th, 2016?
A. Yes.
Q. Do you think you should have done more to stop him that morning?
A. Yes.
Q. Okay. To your knowledge, has Mr. Prothro driven since July 24th, 2016?

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A. No.
Q. He never has driven since ---
A. No.
Q. Okay. Do you think you would know about it?
A. I -- yes, I would know about it.
Q. All right. And you -- you said that you got -- you drove the Ford Contour for a little period of time after this happened?
A. Yes, I drove it for a little while after it happened.
Q. How long do you think you drove it for?
A. Probably about July -- probably until October.
Q. Until October of that year?
A. Yes.
Q. Were you able to get a new vehicle after that?
A. That's when I got another vehicle.
Q. Okay. Are you still driving that ---
A. Yes, I'm still the same vehicle I got.
Q. Okay. And to your knowledge, Mr. Prothro hasn't tried -- hasn't tried to drive that vehicle?
A. No, he hasn't because he don't want to get me in any trouble and he don't need to be in any.
Q. Okay. Do you keep the keys in a different place now than you used to?
A. He don't bother -- he don't try to bother the keys. I have them in my pocketbook, and he will not drive.

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Q. Okay. So, you don't keep them on that -- on that same counter any more?
A. I don't hide them, but he does not -- he don't mess with the keys.
Q. Okay. All right. And so, I want to show you this same Exhibit that we showed to everybody else today.
A. Okay.
Q. I can mark this again. It is Plaintiff's Exhibit Number One to this deposition.
A. Okay.

COPY OF NAMED DRIVER EXCLUSION MARKED PLAINTIFF'S EXHIBIT NUMBER ONE.

Q. All right. So, I will hand you that, Ms. Prothro. Do you recall signing that?
A. Yes, I do.
Q. Is -- is that your signature on there?
A. That's my signature, and I remember signing it.
Q. Okay. What date was that?
A. April the 2nd of 2009.
Q. Would you disagree with that date?
A. No, I won't.
Q. Okay. And have you signed another one of those since April -- April 2nd, 2009?
A. I probably have because I've had insurance with them for twelve (12) years.

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Q. Okay. And when you signed -- when you signed this form on April 2nd, 2009, was that the Ford Contour you had then or was that a different car; do you recall?
A. Probably -- that was the Ford Contour.
Q. Okay. And so, do you think you have specifically signed any more of these since 2009 or you think you may have?
A. I can't remember.
Q. And for identification purposes, this is a Named Driver Exclusion Election. Who was sitting there when you signed this?
A. Richard and I and the insurance agent.
Q. Do you know who that would have been?
A. Probably -- as good as I know their names, I can't remember them now.
Q. So, this was over ten years ago; right?
A. Yeah. I -- I know her name, but I can't remember it.
Q. Where is her office?
A. On Wesmark Boulevard.
Q. Okay. So, it is somebody that works for the Progressive Agency over there?
A. Yeah, it's right next door to -- to the Enterprise place.
Q. Okay. Do you still maintain insurance with Progressive ---

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A. Yes.
Q. -- to this day?
A. Yes.
Q. Under this same policy?
A. Yes.
Q. All right. And so, when you signed this, you think Mr. Prothro would have been sitting there and a woman from the insurance agency?
A. Yes.
Q. Did she explain this to you?
A. She explained it to me.
Q. What did she tell you you were signing?
A. I know that Richard was an excluded driver because he don't have a -- he has a suspended License. And she did explain that to me.
Q. Was that the first time that was explained to you or was it ever done before April 2nd, 2009?
A. She's always explained it to me.
Q. Okay. And to him, too?
A. He don't always be with me, but he understand that he's excluded.
Q. Okay. And why -- why was that -- why was he -- why was he excluded from this policy?
A. Because of a suspended Driver's License and the DUI charges.

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Q. Okay. Since this was signed on April the 2nd, 2009 in front of you and Mr. or in front of Mr. Prothro, how many times did he drive between April 2nd, 2009 and July 24th, 2016?
A. I can guess, but I could never tell you how many times he did that.
Q. What would your guess be?
A. Probably about three or four times a month.
Q. Okay. The same numbers that you heard earlier?
A. Yeah. Well, I know that's the truth, yeah.
Q. You don't disagree with any of that?
A. I don't -- I don't disagree with it.
Q. And of that number between April 2nd, 2009 and July 24th, 2016, how many of those times did you know about it?
A. I knew about it most of -- most of the time.
Q. Okay. All right. And are you -- are you aware -- are you aware of a claim that has been filed against Progressive on behalf of my client, Ms. Oliver?
A. Yes.
Q. You are?
A. I've been given notices about it ever since it happened.
Q. By your insurance company?
A. No, by -- from you.

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Q. Okay. From my office?
A. From your office.
Q. Okay. And so, again, I don't want you to tell me anything that you and your attorney talk about; okay?
A. I won't.
Q. That's very important that you don't.
A. I won't.
Q. But as far as your insurance company, has anyone ever told you that Ms. -- Ms. Oliver has offered to resolve this case inside of your coverage?
A. No, no one have ever told me that.
Q. Okay. And has anyone ever told you that -- do you understand the difference between liability coverage and uninsured motorist coverage?
A. Yes.
Q. You do understand the difference?
A. Yes.
Q. What is your understanding is the difference between those two?
A. Liability is just to fix another person's car, but then if I'm in -- if I'm at fault and I do something wrong, they don't cover it.
Q. Okay.
A. For my -- for my vehicle.
Q. Let me ask you this question. Are you -- have you

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been advised by your insurance company -- I'm not asking about your attorney; okay -- have you -- have you been advised by your insurance company that prior to filing a lawsuit, that Ms. Oliver offered to settle within your policy limits ---

A. No.

Q. -- from your liability coverage?

A. No.

Q. And they rejected it?

A. No, no one told me that.

Q. No one told you that. Has anyone ever told you that Ms. Oliver also offered to settle within -- within the limits of your insurance coverage on your uninsured motorist coverage?

A. No. No one told me that.

Q. Okay. All right.

MR. McELVEEN: And I will mark this as Plaintiff's Exhibit Number Two. I'm going to -- wait one second.

MR. CRUDUP: What are you looking for?

MR. MCELVEEN: Yeah, it's a letter from Progressive. Actually, I can give you a copy of it if you want a copy of it.

MR. CRUDUP: No, that's okay.

MR. MCELVEEN: I've got two copies if you

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want it.

MS. CAIELLO: That's fine.

MR. MCELVEEN: Mark that as Plaintiff's Exhibit Number Two.

COPY OF LETTER FROM DANIELLE GAMACHE MARKED PLAINTIFF'S EXHIBIT NUMBER TWO.

Q. Ms. Prothro, this is a letter from an adjuster at Progressive named Danielle Gamache I believe that says, "I was unable to find valid coverage for this incident and we won't be able to pay your claim." Have you ever seen this letter before; has anybody ever showed you that letter before?

A. I can't remember.

Q. Did -- did you know that within about two months of this -- this incident that happened on July 24th, 2016 -- did you know that Progressive had denied my client's liability coverage?

A. No, I didn't know that.

Q. No one told you that?

A. No.

Q. Okay. That's Number Two.

MR. MCELVEEN: Mark this as Plaintiff's Exhibit Number Three.

COPY OF LETTER FROM BRYAN LAW FIRM TO DANIELLE GAMACHE DATED 1-24-17 MARKED

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PLAINTIFF'S EXHIBIT NUMBER THREE.

Q. Ms. Prothro, this is Plaintiff's Exhibit Number Three. It has been marked for identification purposes. It is a letter sent to the same adjuster, Ms. Gamache, I believe with Progressive Claims. And this letter again acknowledges Progressive's position to deny the claim. I will just ask you to look at this letter and ask you if you have ever seen this.

MR. CRUDUP: You're saying if she has ever seen it?

MR. MCELVEEN: If she has ever seen the letter.

Q. Have you ever seen this letter?

A. No.

Q. Has anybody ever told you about this letter before?

A. No.

Q. Okay. And you testified earlier that you -- you never reported your -- you never reported that Ford Contour as stolen?

A. No.

Q. Never ever?

A. Never.

Q. Okay. And did -- did anyone ever tell you from Progressive that we had -- we had requested a letter from Progressive confirming their denial of the claim

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as well as grounds on which Progressive denies the claim for the liability insurance?

A. No.

Q. They never told you that either?

A. No.

Q. Nobody at Progressive ever told you that?

A. No.

Q. Okay. All right. The next one I will hand you is -- this -- all right.

MR. McELVEEN: This is Plaintiff's Exhibit Number Four, I believe.

COPY OF LETTER FROM DANIELLE GAMACHE TO BRYAN LAW FIRM MARKED PLAINTIFF'S EXHIBIT NUMBER FOUR.

MR. McELVEEN: Number Four. Thank you ma'am.

Q. I'm going to hand you this. This is marked Plaintiff's Exhibit Number Four. I think you will see that it is a February 6th, 2017 letter from Progressive. Take a look at that. Have you ever seen that or did anyone ever tell you about that letter?

A. Yes, I kind of remember this.

Q. Okay. And that letter, I think, says that -- you do remember this letter?

A. Uh-huh (affirmative response).

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Q. Someone showed this to you?
A. I think I got one in the mail. No one showed -- showed it to me. I think I was mailed something like this.
Q. You got a copy of that?
A. I don't know where it is.
Q. Okay. You can read along with me for a second.
A. Okay.
Q. It says, "When our insured, Sharon Prothro, purchased her policy on April 2nd, 2009, she decided to exclude Richard Prothro from the policy." Would you agree with that?
A. Yes.
Q. Was that your decision or was that the insurance company's decision?
A. Mines.
Q. It was your decision. Why did you make that decision?
A. Well, I had to make that decision because the insurance company would automatically exclude him because he don't have a Driver's -- he's -- he's under suspension and have the DUI charges.
Q. Okay. All right. All right. So, following that letter we marked as Number Four, this is the last one I think I'm going to ask you about.
A. Okay.

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Q. Yes, it is.

MR. McELVEEN: I will mark this as Plaintiff's Exhibit Number Five, and this should be the last one.

COPY OF LETTER DATED 1-8-18 TO DANIELLE GAMACHE FROM BRYAN LAW FIRM MARKED PLAINTIFF'S EXHIBIT NUMBER FIVE.

Q. This is the last one I've got to show to you, I believe.

A. Okay.

Q. Ms. Prothro, this is Plaintiff's Exhibit Number Five. This is a letter from my office dated January 8th, 2018. Have you ever seen that letter or has anyone ever told you about that letter?

A. Not exactly like this, no.

Q. It is a demand for uninsured -- uninsured motorist benefits ---

A. No.

Q. -- other than liability. You have never seen that?

A. No.

Q. No one ever shared the contents of this letter with you?

A. I don't remember that letter.

Q. From the insurance company?

A. No.

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Q. Okay. All right. And so, again, you -- you are unaware of any offers that have been made on behalf of Ms. Oliver ---

A. Yes, I'm -- I'm unaware of that.

Q. -- in exchange for the coverage in your policy?

A. I don't know anything about that.

Q. Okay. And do you -- do you understand that Progressive Insurance Company, do you understand that we are here right now because my client brought -- brought a claim -- brought a lawsuit against you and against your husband? You understand that; correct?

A. Yes, I understand it, but I don't.

Q. Okay. Do -- do you -- are you aware of the fact that Progressive Insurance Company also brought a separate lawsuit against you and your husband and my client, Ms. Oliver?

A. No.

Q. You are not aware of that?

A. No.

Q. Do you know what that is about or anything like that?

A. No.

Q. Okay. Do you understand on the first lawsuit that we are here for right now that my client has brought against you and against Mr. Prothro, do you understand that if my client gets a verdict and Progressive's

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coverage is not available, then that verdict will be a judgment against you and/or your husband?

A. Uh-huh (affirmative response). But can I ask you one thing?

Q. It depends.

A. I mean, we don't have anything. Where is it coming from?

Q. That is something you need to talk to your attorney about. But -- but you understand in the event that there is no insurance coverage here, if my client got a verdict, ---

A. Right.

Q. -- that could be -- that could end up being a judgment against you and/or your husband?

A. Uh-huh (affirmative response). Well, we don't have any -- any assets; so, I don't know where it would come from. That's what I'm trying to tell you.

Q. And again, I do not want to know what you and your -- what you and your lawyer have talked about.

A. I haven't talked to an lawyer about this.

Q. Well, I don't need to know that.

A. Okay.

Q. I want to know, has anybody from Progressive Insurance ---

A. No.

Q. -- walked you through that?
A. No.
Q. They have not?
A. No.
Q. Okay. Now, based on your understanding of what you know about this collision that happened on July 24th, 2016, do you have any opinions about what caused it?
A. What caused it?
Q. Yes, ma'am.
A. Richard caused it. He -- I mean, what he did cause it; I didn't have anything to do with it.
Q. Okay.
A. And I'm not blaming him; you know, you have the evidence, the police got the records, they know what he did.
Q. Do you think you have any responsibility in this whatsoever?
A. Well, I have responsibility I should have do something about him driving, but I'm not -- I don't -- if I have -- if I am responsible for money, I don't have any.
Q. Okay. And do you -- do you believe that my client, Gloria Oliver, based on what you know, was responsible for causing this collision?
A. Well, Richard was driving the car, and I didn't give her a ride. He gave her a ride.

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Q. Okay.
A. And I feel like, by him giving her a ride, she should have stayed there until the police come so everything could have been accounted for.
Q. Okay. But that is after the collision; right?
A. Yes.
Q. Do you -- do you think she did anything to cause or contribute to this collision itself?
A. I don't think anything about her because I wasn't there.
Q. I understand. To your knowledge, did she ever get arrested or did she ever face any crime as a ---
A. I don't know anything about her personal life. I don't know.
Q. And you don't -- do you have any reason to believe that she knew that -- that Mr. Prothro was an excluded driver on that 1999 Ford Contour?
A. I don't think that she would have been worrying about that and as my knowledge, there's no way for her to know that, and I don't think she asked him that either.
Q. Okay. Do you -- you mentioned you have friends that you play cards with and stuff like that?
A. Who -- I have friends that I play cards with?
Q. Didn't you mention ---

A. Yeah, me and Richard play two man Spades in the house. I don't go out. I don't play cards with -- with anybody in the public. I do what I do at home.
Q. Okay. And the reason -- what I'm getting at is, do you ever have friends that you ride with anywhere?
A. No.
Q. You don't?
A. No.
Q. Have you ever had friends that you rode with?
A. Yeah, when I was a teenager and I'm sixty-two (62) years old now.
Q. Okay. Do you -- do you think if you rode with somebody you should have responsibility to ask them if the car is insured before you get in?
A. I probably should, but I -- I have never done that before.
Q. Do you think most folks do?
A. I don't think nobody do that.
Q. Okay.

MR. McELVEEN: I appreciate you answering all my questions. I don't think I have anything else further, but your attorney may.

MS. PROTHRO: You're welcome.

MR. McELVEEN: Thank you, ma'am.

MR. CRUDUP: I do not.

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MR. McELVEEN: Nothing?

MR. CRUDUP: I have nothing.

(THERE BEING NO FURTHER QUESTIONS, THE DEPOSITION WAS CONCLUDED AT 7:12 P.M.).

STATE OF SOUTH CAROLINA)
) CERTIFICATE
COUNTY OF SUMTER)

I, Doris Tompkins Brown, Certified Verbatim Reporter and Notary Public in and for the State of South Carolina, certify that I did have Sharon Prothro appear before me commencing at 6:09 P.M. on December 2, 2019 at the offices of the Bryan Law Firm of SC, LLP, 17 East Calhoun Street, Sumter, South Carolina; that the witness was duly sworn and cautioned to tell the truth; that the foregoing pages constitute a true and accurate transcript of the testimony given at that time and place.

I hereby certify that I am not of counsel or kin to any of the parties to this cause of action, nor am I interested in any manner in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this the 6th of January, 2020.

Doris Tompkins Brown, CVR
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission expires: 4-02-2025

Named Driver Exclusion Election

You have named the following persons as excluded drivers under this policy:

RICHARD PROTHRO Date of Birth: May 6, 1955

No coverage is provided for any claim arising from an accident or loss involving a motorized vehicle being operated by an excluded person. This includes any claim for damages made against any named insured, resident relative, or any other person or organization that is vicariously liable for an accident or loss arising out of the operation of a motorized vehicle by the excluded driver.

This form must be signed by the named insured.

I understand and agree that this Named Driver Exclusion election shall apply to this policy and any renewal, reinstatement, substitute, amended, altered, modified or replacement policy with this company or any affiliated company, unless a named insured revokes this election.

I declare that either the driver's license of the excluded persons named in this Named Driver Exclusion election has been turned into the Department of Motor Vehicles, or that an appropriate policy of liability insurance or other security as may be authorized by law has been properly executed in the name of the person to be excluded.

Signature of named insured **Date**

X Sharon J. Prothro 4-2-09

Form 9330 SC (04/07)

Claim # 1652373 41

PLAINTIFF'S EXHIBIT
tabbies
1
12-2-19 D. Prothro

Continued

ELECTRONICALLY FILED - 2022 Jan 18 12:59 PM - SUMTER - COMMON PLEAS - CASE#2019CP4300105

PROGRESSIVE CLAIMS
2024 CORPORATE CENTRE DRIVE
SUITE 201
MYRTLE BEACH, SC 29577

PROGRESSIVE

Underwritten By:
Progressive Northern Insurance Company

Claim Number: 16-5237341
Loss Date: July 24, 2016
Document Date: September 26, 2016
Page 1 of 1

BRYAN LAW FIRM
17 E CALHOUN ST
SUMTER, SC 29151

claims.progressive.com
Track the status and details of your claim, e-mail your representative or report a new claim.

Important information about your claim

I've finished reviewing your claim. Unfortunately, after investigating all the available information, I was unable to find valid coverage for this incident and we won't be able to pay your claim. If you have your own insurance carrier, you may want to check with them to see if you have coverage under that policy.

If you have any questions or additional information that might help me find coverage for this incident, please call me at the number below.

Thank you,

DANIELLE GAMACHE
Claims Department
1-843-213-3912
1-800-PROGRESSIVE (1-800-776-4737)
Fax: 1-843-448-7239
dgamach1@progressive.com

Form 2522 XX (1/11) - SC

PLAINTIFF'S EXHIBIT 2

RECEIVED
SEP 26 2016

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BRYAN LAW FIRM OF SC, L.L.P.

Attorneys at Law
17 E. Calhoun Street • P.O. Box 2038
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G. WERBER BRYAN (1914-1990)
A. S. BAHNMULLER
DAVID W. GOLDMAN
JOSEPH T. McELVEEN, JR. *
JOHN P. FORD
THOMAS M. BULTMAN * ^
J. THOMAS McELVEEN, III
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* Certified Circuit Court Mediator
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# Fellow, American Academy of Matrimonial Lawyers

TELEPHONE (803) 775-1263
Ext. 251

TELEFAX (803) 778-1300
EIN 45-3953021

EMAIL: tmcelveen@bryanlaw.com
Paralegal: enesbitt@bryanlaw.com

January 24, 2017

Progressive Claims
2024 Corporate Centre Dr., Ste. 201
Myrtle Beach, SC 29577
ATTN: Danielle Gamache

RE:		
	Our client:	Gloria Oliver
	Your Insured Driver:	Richard Prothro
	Your Insured:	Sharon Prothro
	Claim No.:	16-5237341
	Date of wreck:	7/24/2016

Dear Ms. Gamache:

I represent Gloria Oliver in the above mentioned automobile wreck.

My current understanding is that Progressive intends to deny my client's claim based on your positon that Richard Prothro, who was driving the at-fault vehicle which was owned by your insured, did not have permission from the owner/your insured, Sharon Prothro, to drive the vehicle.

This position seems somewhat curious in light of the fact that Mr. Prothro claims a Sumter address while Ms. Prothro also claims a Sumter address, and to my knowledge the vehicle was not reported to authorities as stolen on or around July 24, 2016. If I am mistaken about this and you are in possession of an incident report which would memorialize that Ms. Prothro's vehicle was indeed stolen, I hereby request that you provide me with a copy of same.

In any event, if it remains Progressive's position to deny this claim, I hereby request a letter from Progressive which confirms your denial as well as the grounds on which Progressive denies my client's claim as the liability insurance company for the vehicle which was at fault in the above-captioned collision.

I will look forward to hearing from you in this regard.

Signature on following page



With kind regards, I am

Sincerely

J. THOMAS McELVEEN, III

JTMcIII/ewn
Enclosures

ELECTRONICALLY FILED - 2022 Jan 18 12:59 PM - SUMTER - COMMON PLEAS - CASE#2019CP4300105

PROGRESSIVE CLAIMS
2024 CORPORATE CENTRE DRIVE
SUITE 201
MYRTLE BEACH, SC 29577

PROGRESSIVE®

500614 13774 1 MB 0 423 CLTRS01Q 050 013774

Underwritten By:
Progressive Northern Insurance Company

Claim Number: 16-5237341
Loss Date: July 24, 2016
Document Date: February 6, 2017

BRYAN LAW FIRM
17 E CALHOUN ST
SUMTER, SC 29151

claims.progressive.com
Track the status and details of your claim, e-mail your representative or report a new claim.

Claim Information

I am writing in response to your letter dated January 24, 2017. In your letter you asked for the grounds on which our coverage denial was decided.

The police report confirms that Richard Prothro was operating the 1996 Ford Contour at the time of the accident. When our insured, Sharon Prothro, purchased her policy on April 2, 2009 she decided to exclude Richard Prothro from the policy. She agreed and acknowledged that no coverage would be provided for any claim for damages against any named insured arising out of the operation of a motorized vehicle by the excluded driver, Richard Prothro.

Unfortunately since Mr. Prothro was operating the vehicle at the time of loss Progressive will be unable to honor any coverage for any claim arising out of this accident.

DANIELLE GAMACHE
Claims Department
1-843-213-3912
1-800-PROGRESSIVE (1-800-776-4737)
Fax: 1-843-448-7239

Form Z587 XX (01/08) - SC

PLAINTIFF'S EXHIBIT
4
10-2-19 S. Prothro

RECEIVED
FEB 10 2017

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BRYAN LAW FIRM OF SC, L.L.P.

Attorneys at Law
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* Certified Circuit Court Mediator
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TELEPHONE (803) 775-1263
Ext.: 251

TELEFAX (803) 778-1300
EIN 45-3953021

Attorney: tmcelveen@bryanlaw.com
Paralegal: cnesbitt@bryanlaw.com

January 8, 2018

Progressive
Attn: Danielle Gamache
2024 Corporate Centre Dr., Ste. 201
Myrtle Beach, SC 29577

PLAINTIFF'S EXHIBIT 5 2-27-19 S. Prothro

RE:

Our Client:	Gloria Oliver
Your Insured:	Sharon Prothro
Your Driver:	Richard Prothro
Your Claim No.:	16-5237341
Date of Loss:	July 24, 2016

UNINSURED MOTORIST CLAIM / DEMAND

Dear Ms. Gamache:

I am writing pursuant to Progressive's decision to deny liability coverage on behalf of your insured driver and/or your insured in connection with the above-referenced automobile wreck which was caused by Richard Prothro on or about July 24, 2016.

As you know, this case involves a wreck that occurred at approximately 9:35 a.m. in the parking lot of the Wal-Mart Neighborhood Market located at 615 Bultman Drive in Sumter, South Carolina. This incident occurred when Richard Prothro, who was driving a vehicle which was insured by Progressive at the time, traveled southbound in reverse at a high rate of speed and struck two (2) trees and four (4) parked vehicles. As you also know, my client Gloria Oliver was a guest passenger in the vehicle being operated by Mr. Prothro, which was insured by Progressive.

I am now ready to discuss settlement of the bodily injury claim of Gloria Oliver. Since Progressive has previously denied the liability claim filed on behalf of my client, I am now submitting this demand under the uninsured motorist (UM) portion of your policy, as Ms. Oliver was a guest passenger in your insured vehicle at the time this wreck occurred. Further, since Progressive has denied my client's liability claim, Mr. Prothro has been rendered an uninsured motorist for purposes of liability coverage as it pertains to this matter. I am thereby submitting this uninsured motorist claim pursuant to the Supreme Court of South Carolina's ruling in *Auto Owners Insurance Company v. Rollison*, 378 S.C. 600, 663 S.E.2d 484 (2008). I am enclosing a copy of the *Auto Owners Insurance Company v. Rollison* opinion for your review. Additionally, enclosed for your review are copies of Ms. Oliver's medical bills and medical records reflecting the treatment she received for the injuries suffered in this wreck. I have listed below the amounts of the medical bills we are claiming:

Gloria Oliver's bills are:

Palmetto Health Tuomey	$897.00
Professional Services of Tuomey	$545.00
Physicians Health & Injury Clinic	$1,072.00
TOTAL	**$2,514.00**

Taking into account the specials in this case, the pain and suffering factor involved, and the likelihood of an award of punitive damages due to the reckless conduct of the at-fault driver in this case, at this time I would be willing to recommend settlement of my client's claim in exchange for a tender of the uninsured motorist (UM) policy limits provided by Progressive and applicable to the instant claim, which I understand to be $25,000.00/$50,000.00.

As soon as you have reviewed all of the above information, I would appreciate you contacting me to discuss settlement of this claim.

With kind regards, I am,

Sincerely,

J. THOMAS McELVEEN, III

TM/ewn

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STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
COUNTY OF SUMTER) CIVIL ACTION NO.: 2019-CP-43-00105

Progressive Northern Insurance Company,

Plaintiff,

vs.

Gloria Oliver, Richard Prothro and Sharon Prothro,

Defendants.

Deposition of GLORIA D. OLIVER, taken by Doris Tompkins Brown, Certified Verbatim Reporter and Notary Public in and for the State of South Carolina, commencing at 4:22 P.M. on December 2, 2019 at the offices of The Bryan Law Firm, LLP, 17 East Calhoun Street, Sumter, South Carolina.

APPEARANCES

ON BEHALF OF THE PLAINTIFF: Sarah E. Caiello
Mur1551XandGrantland, P.A.
Post Office Box 6648
Columbia, South Carolina

ON BEHALF OF THE DEFENDANT:
(Gloria Oliver) J. Thomas McElveen, III
The Bryan Law Firm, LLP
Post Office Box 2038
Sumter, South Carolina

Doris TompkinsBrown
Certified Verbatim Reporter
Post Office Box 853
Sumter, South Carolina 29151
(803) 499-2434

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(Also present but not participating)

Jeffrey M. Crudup
Clarkson Walsh & Coulter
Post Office Box 2219
Mount Pleasant, S.C.

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* * * * *

EXHIBIT INDEX

Named Driver Exclusion Election (Signed in color)	Pl. Ex. 1

* * * * *

(COURT REPORTER'S NOTE: --- INDICATES INTERRUPTION, INCOMPLETE PHRASE, TRAILING OFF, INCOMPLETE SENTENCE)

ELECTRONICALLY FILED - 2022 Jan 18 12:59 PM - SUMTER - COMMON PLEAS - CASE#2019CP4300105

The deposition of Gloria D. Oliver is being taken pursuant to Notice and in accordance with the South Carolina Rules of Civil Procedure and Amendments as adopted by the Supreme Court which shall control the taking of said deposition and its use thereof.

Counsel, with the specific consent of the witness, waives the reading and signing of the deposition prior to the time it is filed with the Court.

(Gloria D. Oliver, having been duly sworn, testifies as follows:)

EXAMINATION BY MS. CAIELLO:

Q. Ms. Oliver, my name is Sarah Caiello. We met a few minutes ago before all this started. And I represent Progressive, an insurance company, in the -- the other case you have got going on. It is the one about the insurance coverage, trying to figure out if there's insurance coverage for the accident; does that make sense?

A. Yes, ma'am.

Q. Okay. Do you remember all the -- the rules of the game for the deposition that -- that they went over earlier about ---

A. Yes.

Q. -- verbal questions -- verbal answers, that sort of thing?

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MR. McELVEEN: And to protect you, I think we should simply put on the record that -- that she literally heard those instructions within the last hour and a half, she recalls those instructions and we're fine.

MS. CAIELLO: Absolutely. Great. Thank you. That's helpful.

Q. So, you just did the deposition in the tort case in this?

A. Yes.

Q. Right. About the accident?

A. Yes.

Q. Great. So, you heard all those -- those rules; we play by those same rules now.

A. Yeah. Yes.

Q. Good deal. Thank you. And I believe that I have a copy here -- you had just finished talking with the other attorneys during that tort deposition about this page. We can mark it as Plaintiff's One in this one as well.

COPY OF NAMED DRIVER EXCLUSION ELECTION MARKED PLAINTIFF'S EXHIBIT NUMBER ONE.

Q. I think the only difference is that one has colored ink for the signature; is that right?

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A. Yes.
Q. Between what you just saw?
A. Yes.
Q. Okay. And you said that you had never seen that before; is that correct?
A. No, I never seen that paper before.
Q. Okay. And that's -- just so that we are all on the same page, that is a document that says Named Driver Exclusion Election at the top?
A. Uh-huh (affirmative response).
Q. That is a yes?
A. Yes.
Q. Okay. Thank you. And it has Ms. Sharon Prothro's signature at the bottom; is that what you see?
A. Yes.
MR. McELVEEN: Object to the form.
Q. Okay. But you see a signature that says Sharon Prothro?
A. Yes, ma'am.
Q. Okay. Good deal. Had you ever been given any documents called a Request to Admit?
A. No.
Q. Have you ever heard of what that might be?
A. No.
Q. Okay. So, have you ever been asked in this lawsuit to

look at this document before today and say that -- yes, this is a signature of Sharon Prothro?

A. No, I've never seen that.

Q. Okay. Had you ever been asked whether that document says Mr. Richard Prothro is excluded from the Progressive policy?

A. No, I never seen that paper.

Q. Okay. So, you had never been asked any questions about that document beforehand?

A. No.

Q. Okay. Are you aware that Progressive has asked any questions of you or attorney about this document?

MR. McELVEEN: Object to the form.

Q. You can answer.

A. No, I'm not aware.

Q. Okay. And do you see the date by Ms. Sharon Prothro's signature on the bottom of that page?

A. Yes.

Q. What is the date?

A. The 4th, the 2nd, '09.

Q. April the 2nd, 2009?

A. Yes.

Q. And that was before this accident occurred; is that correct?

A. That's April the -- my accident happened July the

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24th.

Q. Of what year?

A. Of last year, Two Thousand and --I think 2018.

Q. 2018. So, this document, if it was signed on April the 2nd, ---

A. No, that's not -- let's see. That happened July the -- July the 24th -- this is the '19; so how long ago -- I think it was like the '18.

Q. Your accident was in 2018; is that correct?

A. What's that -- let's see. '18. This '19. '17 -- between the '17 or '18. I'm not really sure ---

Q. Of the year?

A. -- of the year.

Q. Okay.

A. But I definitely know the date was July the 24th, and it happened that morning.

Q. Okay. But it was in either in 2017 or 2018; ---

A. Yeah.

Q. -- that the accident happened?

A. Yes. Apparently. Uh-huh (affirmative response).

Q. But this document is dated in the year of 2009; is that correct?

A. What, this right here?

Q. Right. Plaintiff's Exhibit One that you are looking at right here where it has that signature at the

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bottom and the date that we were just talking about.
A. This accident didn't happen -- didn't happen in April -- April in the -- April the 2nd.
Q. Right. This document has a date that is before your accident occurred; is that correct?
A. Yes, it got the 4th and the 2nd and 2009.
Q. And your accident was in 2018; correct?
A. I pretty sure.
Q. Okay.

MS. CAIELLO: I think that is all I have.

MR. McELVEEN: Just one follow-up.

EXAMINATION BY MR. McELVEEN:

Q. I will just ask this question. You mentioned several times, Ms. Oliver, that the wreck happened on July 24th. Could it have been 2016?
A. Yes, it's -- it happened the 24th between Two Thousand and -- this -- '17, '16, '17, '18, '19. So, it had to been in '16 because it's over two years before my business got handled; so, I think it was like the '16. 2016.
Q. Because -- because in a prior deposition that you recently gave ---
A. Yeah.
Q. -- within in the last hour, I think the question was

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asked to you ---

A. Yeah. I'm sorry. I'm sorry. My mistake.

Q. I just want to make sure we have got the date straight.

A. Yeah. Yeah, that's right.

MS. CAIELLO: I think that was my error. I think I read my date wrong.

A. Yeah.

MS. CAIELLO: So ---

A. I'm sorry. I apologize. It was the '16 because it's -- like right now, it's '19. Yes.

MS. CAIELLO: Okay.

A. '17, '18. Uh-huh (affirmative response).

Q. And the question I will ask you, and without divulging anything that you and I talked about that is protected by attorney/client privilege, I will ask you again, prior -- prior to the date of this wreck which we now agree on was July 24th, 2016, ---

A. Exactly.

Q. -- had anybody ever told you that there might not be insurance on the vehicle that was involved in the wreck that day?

A. No.

Q. Okay. And you testified earlier in a -- another deposition that Richard Prothro was the driver of that

vehicle?
A. Yes.
Q. You testified earlier that you believed that he was the one that owned the vehicle?
A. Yes.
Q. Okay. And as of July 24th, 2016, had anybody ever told you that there was not insurance on that vehicle?
A. No.
Q. Okay. And prior to July 24th, 2016, did anybody ever tell you that there might not be insurance on that vehicle?
A. No.
Q. Okay.
A. No.
Q. And up and to and prior to July 24th, 2016, had -- did you have any reason to believe that the vehicle that -- that you were riding in with Richard Prothro as the driver did not have valid insurance?
A. No. No, I didn't know that.
Q. Okay.
A. No, I didn't know that.

MR. MCELVEEN: That's all I've got.

EXAMINATION BY MS. CAIELLO:

Q. Okay. Real quick here. Just so I -- just real quick. Do you have a Driver's License?

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A. No.
Q. Do you have a car?
A. No.
Q. How do you usually get places?
A. My family takes me around.
Q. Okay. They have their own cars and Driver's Licenses?
A. Exactly.
Q. Okay.
A. Yes.
Q. Which family members usually drive you?
A. Like different ones, cousins, ---
Q. Okay.
A. -- sisters, aunties.
Q. You have got a lot of family in the area?
A. Brothers. Yes.
Q. Okay. Do you usually ask drivers of cars if they have insurance before you ride in those cars?
A. No, I don't ask that kind of question. No.
Q. Do you think it is common that people would do that?
MR. MCELVEEN: Object to the form.
Q. You can still answer.
A. No, because people don't really ask that -- those type of questions, you know. No.
Q. Sure. So, did it occur to you to ask Mr. Richard Prothro that day if he had insurance on the car?

A. No, that didn't even cross my mind. No.
Q. Would that have stopped you from getting in the car?
A. If I had ---
Q. That day?
A. -- if I had known if he told me that, pretty much, but he didn't told me that.
Q. And you didn't think to ask that question?
A. No, I didn't think to ask him that. All I asked him was to take me to Wal-Mart, and that was that.
Q. Okay.

MS. CAIELLO: I think that's it. Thank you.

MR. MCELVEEN: That's it.

MR. CRUDUP: That is really it.

(THERE BEING NO FURTHER QUESTIONS, THE DEPOSITION WAS CONCLUDED AT 4:35 P.M.).

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STATE OF SOUTH CAROLINA)
) CERTIFICATE
COUNTY OF SUMTER)

I, Doris Tompkins Brown, Certified Verbatim Reporter and Notary Public in and for the State of South Carolina, certify that I did have Gloria D. Oliver appear before me commencing at 4:22 P.M. on December 2, 2019 at the offices of the Bryan Law Firm of SC, LLP, 17 East Calhoun Street, Sumter, South Carolina; that the witness was duly sworn and cautioned to tell the truth; that the foregoing pages constitute a true and accurate transcript of the testimony given at that time and place.

I hereby certify that I am not of counsel or kin to any of the parties to this cause of action, nor am I interested in any manner in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this the 4th of January, 2020.

Doris Tompkins Brown, CVR
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission expires: 4-02-2025

Named Driver Exclusion Election

You have named the following persons as excluded drivers under this policy:

RICHARD PROTHRO Date of Birth: May 6, 1955

No coverage is provided for any claim arising from an accident or loss involving a motorized vehicle being operated by an excluded person. This includes any claim for damages made against any named insured, resident relative, or any other person or organization that is vicariously liable for an accident or loss arising out of the operation of a motorized vehicle by the excluded driver.

This form must be signed by the named insured.

I understand and agree that this Named Driver Exclusion election shall apply to this policy and any renewal, reinstatement, substitute, amended, altered, modified or replacement policy with this company or any affiliated company, unless a named insured revokes this election.

I declare that either the driver's license of the excluded persons named in this Named Driver Exclusion election has been turned into the Department of Motor Vehicles, or that an appropriate policy of liability insurance or other security as may be authorized by law has been properly executed in the name of the person to be excluded.

Signature of named insured **Date**

X Sharon J. Prothro 4-2-09

Form 9330 SC (04/07)

Claim # 1652337341

PLAINTIFF'S EXHIBIT 1 12-2-19

Continued

ELECTRONICALLY FILED - 2022 Jan 18 12:59 PM - SUMTER - COMMON PLEAS - CASE#2019CP4300105

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
COUNTY OF SUMTER) CIVIL ACTION NO.: 2019-CP-43-00105

Progressive Northern Insurance Company,

Plaintiff,

vs.

Gloria Oliver, Richard Prothro and Sharon Prothro,

Defendants.

Deposition of SHARON PROTHRO, taken by Doris Tompkins Brown, Certified Verbatim Reporter and Notary Public in and for the State of South Carolina, commencing at 7:17 P.M. on December 2, 2019 at the offices of The Bryan Law Firm, LLP, 17 East Calhoun Street, Sumter, South Carolina.

APPEARANCES

ON BEHALF OF THE PLAINTIFF: Sarah E. Caiello
Murphy and Grantland, P.A.
Post Office Box 6648
Columbia, South Carolina

ON BEHALF OF THE DEFENDANT:
(Gloria Oliver) J. Thomas McElveen, III
The Bryan Firm, LLP
Post Office Box 2038
Sumter, South Carolina

Doris Tompkins Brown
Certified Verbatim Reporter
Post Office Box 853
Sumter, South Carolina 29151
(803) 499-2434

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DEFENDANT'S EXHIBIT J

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(Also present but not participating): Jeffrey M. Crudup
Clarkson Walsh & Coulter
Post Office Box 2219
Mount Pleasant, S. C.

* * * * *

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* * * * *

(COURT REPORTER'S NOTE: --- INDICATES INTERRUPTION, INCOMPLETE PHRASE, TRAILING OFF, INCOMPLETE SENTENCE)

ELECTRONICALLY FILED - 2022 Jan 18 12:59 PM - SUMTER - COMMON PLEAS - CASE#2019CP4300105

The deposition of Sharon Prothro is being taken pursuant to Notice and in accordance with the South Carolina Rules of Civil Procedure and Amendments as adopted by the Supreme Court which shall control the taking of said deposition and its use thereof.

Counsel, with the specific consent of the witness, waives the reading and signing of the deposition prior to the time it is filed with the Court.

(Sharon Prothro, having been duly sworn, testifies as follows:)

EXAMINATION BY MS. CAIELLO:

Q. Ms. Prothro, ---

A. Yes.

Q. -- thank you for your patience today. I know it has been a long afternoon for you.

A. Yes.

Q. My name is Sarah Caiello. I am another attorney; I am involved in the DJ action, Declaratory Judgment action. It is basically where the insurance company is trying to establish whether there is or is not coverage under your car insurance policy in the accident we are here about today. Do you understand that?

A. Yes.

Q. Okay.

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MS. CAIELLO: And I'm just going to ask again if we're okay to stipulate that she was in a tort deposition earlier today, heard all the rules ---

MR. McELVEEN: Yeah, please.

Q. Okay. So ---

MR. McELVEEN: I can say it for the record, too. I mean, we -- from the Defendant's side of this case, at least my client's side, we stipulate that Ms. Oliver was advised of the deposition earlier, seemed to understand them, and we have no issues going forward without re-explaining all of that. Does that work?

MS. CAIELLO: Works for me.

MR. McELVEEN: Okay.

Q. So, just do you remember the rules that we went played by earlier?

A. Yes.

Q. Verbal answers. You are doing great with that.

A. Yes.

Q. Okay. We are going to do our best to not talk over each other, but I'm going to do my best to go quickly. I know that you have been here for a while today. Okay?

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A. Okay.
Q. Okay. And I just have some basic questions. Just following up on some things that you had said in the earlier deposition, I want to make sure I understand them all. I believe you said that you are currently seeing a psychiatrist or a psychologist; is that correct?
A. Yes.
Q. Who is that?
A. Dr. Davis.
Q. And where does Dr. Davis practice?
A. Santee-Wateree.
Q. Okay.
A. Mental Health.
Q. Okay. And what are you seeing him for?
A. For anxiety and PSTD.
Q. Okay. And are you on any medications for those conditions?
A. Yes.
Q. Which ones?
A. Fluoxetine and -- and -- I'm forgetting. Hold on. Prazosin.
Q. Okay. And do those medications -- would they affect you and your ability to give truthful testimony today?
A. No.

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Q. Okay. Do you take those every day?
A. Yes.
Q. Okay. Do you take other medications?
A. Yes.
Q. Which ones were those?
A. I take Amlodipine and Quinapril for blood pressure. I take Meloxicam for arthritis. I take Metformin for Type II diabetes.
Q. Okay. And I think I will just jump right in and ask you -- start asking you a little bit about the policy ---
A. Okay.
Q. -- that you have with Progressive.
A. Okay.
Q. Do you remember applying for that policy?
A. Yes.
Q. When was that?
A. 2009.
Q. Okay. Which -- which insurance company did you have before you had a Progressive policy?
A. I hadn't had insurance in years before that. I can't remember my old insurance company.
Q. Okay. And why did you take out the Progressive policy?
A. Because I had just got a car and I needed insurance,

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and I picked -- chose Progressive.
Q. Why did you choose Progressive?
A. Because I liked the price that they offered me.
Q. That's a good reason to choose ---
A. And that's what I could afford.
Q. And that is a good reason to choose an insurance policy.
MR. McELVEEN: Objection.
Q. I think we all like getting those low rates. So, you don't remember who you had a previous policy with or when it was?
A. No, that's been so many years ago, I wouldn't probably give you the right name or the right date.
Q. Okay. Do you remember if anybody else was on that policy with you?
A. No.
Q. Okay. Was this before you and Mr. Prothro got married?
A. Yes.
Q. Okay. Had you ever had any other policy that listed Mr. Prothro ---
A. No.
Q. -- before the Progressive policy?
A. No.
Q. Okay. You said you remember the day you applied for

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this policy?
A. I remember about the time I applied for it, yes.
Q. Okay. Do you remember how you applied for that policy?
A. I walked in.
Q. And you walked in where?
A. To Progressive on Wesmark Boulevard. Jim Robertson Agency.
Q. And that is here in Sumter?
A. Yes.
Q. Okay. Do you remember who you worked with at that agency, the name of the person?
A. I can't remember her name, no.
Q. But it was a woman?
A. Yes.
Q. Was it Leslie Todd?
A. Leslie.
Q. Leslie. Okay. Had you worked with Leslie before?
A. Well, most -- most of the years -- the years that I've been insured there, I worked with Leslie and the other girl that worked in there with her; I've forgot her name.
Q. Okay. But you worked with Leslie on your policy. Do you still work with her even today on your policy?
A. Both of them. It's three people in there, and

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sometimes Leslie do it and sometimes one of the other ladies do it.

Q. Okay. What do you remember about the day that you went in to apply for the Progressive policy?

A. I remember that I had Richard as an excluded driver.

Q. Okay. How did that come about?

A. I told them about his driving record and -- and he would have to be excluded with his driving record. And he didn't have a License at the time; his License was suspended.

Q. Okay. Was Mr. Prothro with you at that time?

A. One time, yes.

Q. Okay. I'm going to give you what is going to be marked as Plaintiff's Exhibit One.

A. Okay.

COPY OF DRIVER EXCLUSION ELECTION FORM MARKED PLAINTIFF'S EXHIBIT NUMBER ONE.

Q. And you may have already seen this document today, but I'm going to ask you to look over it a minute and I'm going to ask you a few questions when you are ready.

A. I'm ready because I've read it before.

Q. You have read it before?

A. Uh-huh (affirmative response).

Q. Okay. How many times have you read it before?

A. I don't know.

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Q. Is more than once the case that ---
A. Yeah, I read it more than once.
Q. Okay. Do you remember the first time you saw this document?
A. When I took the insurance out.
Q. Okay.
A. When I first took the insurance out.
Q. Okay. And just for the record, this Plaintiff's Exhibit One is the Named Driver Exclusion Election Form for the -- the policy application; is that correct?
A. Right.
Q. Okay. So, you said that you first saw this when you took the policy out, the Progressive policy?
A. Yes.
Q. And was that in 2009?
A. Yes.
Q. Okay. I see there is a signature down at the bottom. Is that your signature?
A. That's my signature.
Q. Okay. What is the middle initial there?
A. Janice. That's my middle name.
Q. My aunt's name is Janice. Okay. So, that's Sharon J. Prothro?
A. Yes.

Q. Is that correct?
A. Yes.
Q. And what is the date right there next to it?
A. 4-2-09.
Q. April 2nd of 2009?
A. Yes.
Q. And that is about when you took out the policy?
A. Yes.
Q. Okay. Do you remember signing this document?
A. Yes.
Q. Where were you when you signed it?
A. I was in one of the customer stations where they talk to you to take out insurance.
Q. At the local agency with Leslie?
A. Yes.
Q. Okay. Here in Sumter?
A. Yes.
Q. And had Leslie explained what this document means to you?
A. Yes, she explained it.
Q. How did she explain that to you?
A. She told me that since Richard didn't have a Driver's License, he would have to be an excluded driver on my policy.
Q. Okay. And do you see -- it's -- it is the next to

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last paragraph here, ---
A. Uh-huh (affirmative response).
Q. -- I believe -- no, I'm sorry, it is the last paragraph here where it says, "I declare that even the Driver's License of the excluded persons named in this Named Driver Exclusion Election has been turned in to the Department of Motor Vehicles." Do you see where it says that?
A. Yes.
Q. And you said that Mr. Prothro's Driver's License was suspended at the time you took out the policy?
A. Yes.
Q. So, you believed that this was appropriate since he did not have a License at that time?
A. Yes.
Q. Okay. And just to clarify here at the top, who is listed as the excluded driver?
A. Richard.
Q. Your husband, Richard Prothro?
A. Yes.
Q. And what is the date of birth that is listed there?
A. 5-6-55.
Q. And is that Mr. Prothro's date of birth?
A. Yes.
Q. So, do you believe this document to refer to your

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husband, Richard Prothro?
A. Yes.
Q. Okay. And do you see here just under where his name is listed where it says that, "No coverage is provided for any claim arising from an accident or a loss involving a motorized vehicle being operated by an excluded person"?
A. Yes.
Q. What do you believe that means?
A. It means that if -- if he's driving a car and he get into an accident that the insurance company's not liable to pay.
Q. Okay. And you saw where it says "a motorized vehicle;" right?
A. Yes.
Q. In that same sentence?
A. Yes.
Q. It doesn't specify any particular car, does it?
A. No.
Q. And then we will go down to that next to the last paragraph. I'm going to read this one, too; it's a little bit long.
A. Okay.
Q. But just follow along and see if this is what it says.
A. Okay.

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Q. "I understand and agree that this Named Driver Exclusion Election shall apply to this policy and any renewal, reinstatement, substitute, amended, altered, modified or replacement policy with this company or any affiliated company unless a named insured revokes this election." Is that what ---

A. Yes.

Q. -- that paragraph says?

A. Yes.

Q. Okay. So, you understand then that this document applies until you as the named insured change it?

A. Yes.

Q. Okay. Did you ever go in and change it?

A. No.

Q. To this day, is Mr. Richard Prothro excluded from your auto insurance?

A. Yes, he's still an excluded driver on my -- on my policy.

Q. Do you still have that same Progressive policy?

A. Yes.

Q. Through Leslie Todd at Jim Robertson Agency?

A. Yes.

Q. And you said that that was your -- your signature ---

A. Yes, that's my signature.

Q. Okay. Let me finish. So, that is your signature at

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the bottom acknowledging ---

A. Yes.

Q. -- all these statements?

A. Yes.

Q. Okay. And you never put Richard on the policy ---

A. No.

Q. -- after -- let me finish one second.

A. I'm sorry.

Q. That's all right. I understand. It's been a long day.

A. Uh-huh (affirmative response).

Q. After April 2nd, 2009, when you signed this document, did you ever revoke this document and put Richard on your policy?

A. No.

Q. And I believe earlier in your other deposition, you said that you had moved into your new apartment where you live now in May of this year, 2019?

A. May the 6th of this year.

Q. Okay. And where did you live before that?

A. 111 Crescent Avenue.

Q. Okay. Is that where you lived when you took out the Progressive policy in 2009?

A. Yes.

Q. Okay. So, you were still living at 111 Crescent

Avenue in January of 2019?
A. Yes.
Q. Okay. I'm going to ask you a question here.
A. Okay.
Q. Do you remember anyone coming to your home on January 28th, 2019 around 6:30 at night?
A. Yes. That was you?
Q. No, no.
A. Okay.
Q. I'm just asking if anyone did. I have never been to your house, for the record.
A. Oh, yes. Oh, yes, I remember. I'm sorry.
Q. Ms. Prothro, this is the first time I have ever met you.
A. Okay.
Q. Just for the record.
A. Yes, I remember.
Q. Okay. Do you remember what happened that night?
A. The only thing I remember is, we went to the door and -- and -- and got the papers from her.
Q. Okay. What papers was that?
A. The papers telling us about Ms. Oliver suing us.
Q. Okay. Do you know if that was about the -- the tort law -- the car accident lawsuit or the lawsuit with Progressive?

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A. I don't know which one. I'm -- I can't remember which one. I know it was one or the other.
Q. Sure. But somebody did come to your house at the end of January to give ---
A. Yeah, somebody delivered papers to -- to -- to us about three times before.
Q. About three times, okay.
A. Yes.
Q. Do you know what all those times were about?
A. About the same thing.
Q. Okay. But you don't know whether it was about the car accident case or the case with the insurance policy, do you?
A. I can't remember.
Q. Okay.
A. But I -- but I know I've got all the papers.
Q. Okay. And you got some in January, end of January 2019?
A. Yes.
Q. Okay.
A. Yes.
Q. So, you can't say for sure that you never received the paperwork about the insurance policy lawsuit?
A. Right.
Q. Okay. You may have?

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A. I may have. I got so many of them; I may have. I don't want to tell you a lie because I know I was getting all the papers that I got. I answered the door and got them.
Q. Okay. I appreciate that.
A. Uh-huh (affirmative response).
Q. Truthful answers. That is what we all want here.
A. Right.
Q. Okay. And that was at your old address?
A. Yes.
Q. That Crescent Avenue?
A. That was all of them were delivered at the old address.
Q. Okay.

MS. CAIELLO: I think that's all the questions I have at this time, but he might have a few more.

MR. McELVEEN: I've got a few.

MS. PROTHRO: Okay.

EXAMINATION BY MR. MCELVEEN:

Q. Ms. Prothro, I want to make sure you understand this.
A. Okay.
Q. Do you know why you give -- why you are giving two separate depositions today?
A. No. Well, yeah, she explained to me. She said one is

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for the insurance company, and the other one is for Ms. Oliver.

Q. Okay. And so, you understand that earlier I took your deposition?

A. Yes.

Q. And you understand Mr. Crudup here is your attorney for that action?

A. Yes.

Q. Right?

A. Yes.

Q. That -- that is the action that my client, Gloria Oliver, brought against you and your husband, Richard Prothro?

A. Yes.

Q. That is what we just did in the last deposition?

A. Yes.

Q. You understand this deposition is because -- I'm basically in the same seat that you are; you realize that this deposition is because Progressive Northern Insurance Company sued my client, Gloria Oliver, as well as you and your husband?

A. Yes, you told me that.

Q. You understand that now?

A. Yes.

Q. Okay. Did you understand that ---

A. Before, no.
Q. Did you understand that on January 28th, 2019?
A. No.
Q. So, do you have -- do you presently -- have you retained an attorney for the -- for the action that Progressive has brought against you ---
A. No, I have ---
Q. -- and my client?
A. No, I haven't.
Q. Has your husband retained an attorney?
A. No.
Q. Okay. And so, for the -- for the other action we are talking about where my -- where my client sued you and your husband, you do have an attorney, right, Mr. Crudup?
A. Yes.
Q. Did -- I don't want to talk about anything that you talked to him about. Was he assigned to you or did you hire him?
A. I didn't hire anybody.
Q. Okay. How -- was -- who assigned Mr. Crudup to you?
A. I don't know.
Q. You don't know?
A. No.
Q. You don't know how he came to represent you?

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A. No.
Q. Okay. Has anybody given you or sent an attorney to you for the action we are here for right now where Progressive has sued you, my client and Mr. Prothro?
A. No.
Q. Nobody gave you an attorney for that?
A. No.
Q. And nobody from Progressive Insurance Company explained to you what was going on with that?
A. No.
Q. Okay. And so, let me ask you this question. Are you aware that Progressive Insurance Company not only sued you, their insured, as well as your husband, but they also filed a Motion to have you in default; are you aware of that?
A. No.
Q. Has anyone ever -- ever made you aware of that?
A. No.
Q. Has anybody ever made you aware that as of -- bear with me one second -- has anyone made you aware that as of approximately April 25th of 2019, that an Order was signed by a Judge stating that you and your husband are in default as a result of not answering the Complaint that Progressive filed against you, my client and Richard Prothro?

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A. No.
Q. No one has made you aware of that?
A. No.
Q. This is the first you have heard of this?
A. The first I can remember.
Q. Okay. So, you have -- so, you have a lawyer for the action that my client has brought against you, but you don't have one for the action -- for the cause of action that Progressive ---
A. No.
Q. -- has brought you and your husband?
A. No.
Q. Okay. I just wanted to make sure I understand that. And you mentioned some -- you answered some more questions from Ms. Caiello just a second ago about the Named Driver Exclusion Election that has already been put into evidence in every deposition today?
A. Yes.
Q. Do you have any reason to believe that my client, Gloria Oliver, knows about that?
A. Knows what?
Q. I will restate the question. Do you have any reason to believe that my client, Gloria Oliver, would have known about that exclusion on or before ---
A. No.

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Q. -- July 24th, 2016?
A. No. No.
Q. That is a no?
A. No.
Q. Do you -- do you have any reason to believe that anybody would have told my client, Gloria Oliver, about that exclusion that has been referenced in this deposition on or before July 24th, 2016?
A. Well, the -- the day -- the day that I told you that I saw her a good while after the accident, she came up to the van and asked me who my insurance -- who was I insured with, and I told her -- and I told her, I said, "Well, they probably won't pay you nothing," I said, "because I only have liability." That's all I told her, and that was it.
Q. Do you have any reason to believe that -- that Gloria Oliver knew that on July 24th, 2016?
A. I don't think she knew that on the 24th of -- the day of the accident because she didn't ask anybody, and she couldn't have asked me because I don't know her like that.
Q. Do you think she -- do you think she has some sort or responsibility to ask that question on July 24th, 2016?
A. I think she probably should have asked.

Q. She should have asked? She should have -- you think she should have asked ---
A. Asked Richard. She couldn't have asked me anything because I knew nothing about him giving her a ride. I was at home.
Q. Would you ever get in somebody's vehicle -- would you ever get in somebody's vehicle and ask them beforehand if they had valid insurance on the vehicle?
A. I probably wouldn't.
Q. Probably wouldn't?
A. No.
Q. So, is there a reason why you think Ms. Oliver should but you shouldn't?
A. No.
Q. Okay. Do you -- would you agree that on July 24th, 2016 that she was a guest in the vehicle that Mr. Prothro was driving?
A. Yes.
Q. Okay. You just -- you just didn't know about it at the time?
A. No, I didn't know about it.
Q. Okay. All right. And not for the first deposition, okay, because you have an attorney; I don't want to know what you talked to Mr. Crudup about, period. Have you talked to anybody to prepare for the

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deposition that we are taking right now?
A. No.
Q. Nobody has talked to you about it?
A. No.
Q. Okay. Nobody from Progressive has talked to you about it?
A. No.
Q. And to be clear, you still have Progressive as your insurance company; is that right?
A. Yes.
Q. Despite the fact that they have sued you?
A. Yes.
Q. Okay.

MR. McELVEEN: Nothing further.

MS. CAIELLO: I have just a few more just very quickly and then we will be done.

MS. PROTHRO: Okay.

EXAMINATION BY MS. CAIELLO:

Q. We talked earlier about this same document, Plaintiff's Exhibit One, the Named Driver Exclusion Election Form, and we -- we read that second paragraph right after your husband's name is listed. It said that "There is no coverage for any claim arising from an accident or loss involving a motorized vehicle being operated by excluded person;" do you remember

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that?
A. Yes.
Q. And you just testified that, when you saw Ms. Oliver after the accident, you had told her that you don't believe that Progressive would provide any coverage; is that correct?
A. Yes, I remember telling her that.
Q. Okay. And you agree that the Named Driver Exclusion Election Form in front of you as Plaintiff's Exhibit One means that there is no coverage on the policy for Richard Prothro?
A. Yes.
Q. Now, if you -- I believe Mr. McElveen had asked you if you would ask anybody before getting in a car with them if they have insurance on the car, and you said "No"; is that right?
A. Right.
Q. Okay. Would you expect then, if the answer was no, they didn't have insurance on the car but you didn't know that, would you expect to get any insurance money if you were involved in an accident in that car?
MR. McELVEEN: Object to the form.
Q. You can answer.
A. I don't know.
Q. So, if you had ridden in a car and didn't know that

someone was an excluded driver and had a form just like this, if you had ridden in that car, would you have expected to get any money from them?

MR. MCELVEEN: Object to the form.

A. If I had known it, I wouldn't expect to get any.

Q. You wouldn't expect it?

A. No.

Q. And just to clarify, you signed this Named Driver Exclusion Form naming your husband on April 2nd, 2009; is that correct?

A. Correct.

Q. And Leslie Todd at the Jim Robertson Agency had explained to you what this form means; is that correct?

A. Yes, she did.

Q. And since April 2nd, 2009, you have not ever elected to put your husband on the policy; is that correct?

A. No.

Q. And the accident that we are here about today occurred in July of 2016; is that correct?

A. Correct.

Q. That is after you had executed this document, signed it; is that correct?

A. Okay.

MS. CAIELLO: No further questions.

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Thank you.

MS. PROTHRO: Okay.

MR. McELVEEN: Thank you, ma'am.

MS. PROTHRO: All right. Thank you all.

(THERE BEING NO FURTHER QUESTIONS, THE DEPOSITION WAS CONCLUDED AT 7:39 P.M.).

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STATE OF SOUTH CAROLINA)
) CERTIFICATE
COUNTY OF SUMTER)

I, Doris Tompkins Brown, Certified Verbatim Reporter and Notary Public in and for the State of South Carolina, certify that I did have Sharon Prothro appear before me commencing at 7:17 P.M. on December 2, 2019 at the offices of the Bryan Law Firm of SC, LLP, 17 East Calhoun Street, Sumter, South Carolina; that the witness was duly sworn and cautioned to tell the truth; that the foregoing pages constitute a true and accurate transcript of the testimony given at that time and place.

I hereby certify that I am not of counsel or kin to any of the parties to this cause of action, nor am I interested in any manner in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this the 4th of January, 2020.

Doris Tompkins Brown, CVR
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission expires: 4-02-2025

Named Driver Exclusion Election

You have named the following persons as excluded drivers under this policy:

RICHARD PROTHRO

Date of Birth: May 6, 1955

No coverage is provided for any claim arising from an accident or loss involving a motorized vehicle being operated by an excluded person. This includes any claim for damages made against any named insured, resident relative, or any other person or organization that is vicariously liable for an accident or loss arising out of the operation of a motorized vehicle by the excluded driver.

This form must be signed by the named insured.

I understand and agree that this Named Driver Exclusion election shall apply to this policy and any renewal, reinstatement, substitute, amended, altered, modified or replacement policy with this company or any affiliated company, unless a named insured revokes this election.

I declare that either the driver's license of the excluded persons named in this Named Driver Exclusion election has been turned into the Department of Motor Vehicles, or that an appropriate policy of liability insurance or other security as may be authorized by law has been properly executed in the name of the person to be excluded.

Signature of named insured **Date**

X Sharon J. Prothro 4-2-09

Form 9330 SC (04/07)

Claim # 165237341

PLAINTIFF'S EXHIBIT 1 12-2-19 A Peters

Continued

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STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
COUNTY OF SUMTER) CIVIL ACTION NO.: 2019-CP-43-00105

Progressive Northern Insurance Company,

Plaintiff,

vs.

Gloria Oliver, Richard Prothro and Sharon Prothro,

Defendants.

Deposition of RICHARD PROTHRO, taken by Doris Tompkins Brown, Certified Verbatim Reporter and Notary Public in and for the State of South Carolina, commencing at 7:39 P.M. on December 2, 2019 at the offices of The Bryan Law Firm, LLP, 17 East Calhoun Street, Sumter, South Carolina.

APPEARANCES

ON BEHALF OF THE PLAINTIFF: Sarah E. Caiello
Murphy and Grantland, P.A.
Post Office Box 6648
Columbia, South Carolina

ON BEHALF OF THE DEFENDANT:
(Gloria Oliver) J. Thomas McElveen, III
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DEFENDANT'S EXHIBIT 15

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Also present but not

participating): Jeffrey M. Crudup

Clarkson Walsh & Coulter

Post Office Box 2219

Mount Pleasant, S.C.

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* * * * *

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* * * * *

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(COURT REPORTER'S NOTE: --- INDICATES INTERRUPTION, INCOMPLETE PHRASE, TRAILING OFF, INCOMPLETE SENTENCE)

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The deposition of Richard Prothro is being taken pursuant to Notice and in accordance with the South Carolina Rules of Civil Procedure and Amendments as adopted by the Supreme Court which shall control the taking of said deposition and its use thereof.

Counsel, with the specific consent of the witness, waives the reading and signing of the deposition prior to the time it is filed with the Court.

(Richard Prothro, having been duly sworn, testifies as follows:)

EXAMINATION BY MS. CAIELLO:

Q. Mr. Prothro, I am Sarah Caiello. I just introduced myself to your wife. I didn't get a chance to meet you earlier before the deposition started. But I'm one of the lawyers in the case involving the insurance policy that we are here about today; okay?

A. Okay.

Q. And again, I will ask Mr. McElveen if we can stipulate that he has heard all the instructions and ---

MR. MCELVEEN: Yeah, he has heard the instructions of a deposition twice now. I think once with him ---

MR. PROTHRO: Yes.

MR. MCELVEEN: -- and once for his wife, and unless he has any questions,

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I'm certainly okay with that.

MS. CAIELLO: Thank you.

Q. Do you have any questions about how we are going to proceed here?

A. No.

Q. Okay. You are doing great with the verbal answers. I appreciate that. And I just want to follow up about the policy, your wife's Progressive policy; okay?

A. Okay.

Q. I believe the testimony earlier was that you were with her in April of 2009 when she took out the policy?

A. Yes.

Q. Do you recall that?

A. Yes.

Q. Okay. And you went into the local agency here and met with Leslie Todd; is that correct?

A. Yes.

Q. Okay. Did you have your own car insurance at that time?

A. No.

Q. Why not?

A. I didn't have a car.

Q. Okay. Did you also -- did you have a License at that time?

A. No.

Q. Why not?
A. It was suspended.
Q. Okay. Why was it suspended?
A. DUI.
Q. Okay. But you went with your wife, Ms. Prothro, to take out the Progressive policy in 2009?
A. Yes.
Q. Okay. Were you there when Leslie explained that you would be excluded from that policy?
A. Yes.
Q. What do you recall of that conversation?
A. That I would be -- what's the word?
Q. Excluded?
A. Excluded from the policy.
Q. Okay. Do you know what that means?
A. Yes.
Q. What does that mean?
A. The insurance wouldn't cover me.
Q. Okay. Does that -- okay. When was your Driver's License suspended?
A. About ten years ago.
Q. Okay. But it was excluded -- I'm sorry -- it was suspended by April of 2009?
A. Yes.
Q. Okay. I'm going to hand you -- it is the exact same

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document we looked at earlier, that you were shown earlier and your wife has been shown and I'm just going to show it to you as well.

MS. CAIELLO: It will be Plaintiff's Exhibit One.

COPY OF DRIVER EXCLUSION ELECTION FORM MARKED PLAINTIFF'S EXHIBIT NUMBER ONE.

Q. You can look over that and let me know when you are ready; I'm going to ask you a couple questions.

A. Okay.

Q. Okay. Have you ever seen this document before -- before today?

A. Yes.

Q. When have you seen it?

A. When she took out the insurance.

Q. In April of 2009?

A. Yes.

Q. Okay. So, are -- is this your name, Richard Prothro, at the top?

A. Yes.

Q. And your date of birth is May 6, 1955?

A. Yes.

Q. That is listed there?

A. Yes.

Q. Is that your wife's signature down at the bottom where

it says Sharon G. Prothro?
A. Yes.
Q. Okay. And that date is April 2nd, 2009; is that correct?
A. Yes.
Q. Okay. And do you see where -- let's see, this last paragraph, I'm going to read that first little bit: "I declare that either the Driver's License of the excluded persons named in this Driver -- Named Driver Exclusion Election has been turned into the Department of Motor Vehicles" -- do you see where that is?
A. Yes.
Q. And you agree that you did not have a Driver's License at that time because it was suspended?
A. Right.
Q. And do you see right under your name where it is listed here at the top, that next paragraph where it says, "No coverage is provided for any claim arising from an accident or loss involving a motorized vehicle being operated by an excluded person"?
A. Yes.
Q. Do you agree that the accident that occurred in July of 2016 involved a vehicle that you were operating?
A. Yes.

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Q. And you agree that this form names you as an excluded driver?
A. Yes.
Q. That same sentence I just read, "No coverage provided for any claim arising out of an accident or loss involving a motorized vehicle," does that specify any particular vehicle or does it just say -- any or a motorized vehicle?
A. Any.
Q. Do you know if your wife has ever done away with this form and added you to her car insurance policy?
A. No, she hasn't.
Q. So, since 2009, your wife has not put you on her car insurance policy?
A. No.
Q. Okay. Do you ever ask anyone when you get in a car with them if they have car insurance on their car?
A. No.
Q. Do you think most people do?
A. No.
Q. Okay. Do you ever volunteer to anyone whether you have car insurance or not?
A. No.
Q. Do you think most people do?
A. No.

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Q. So, at the time of this accident, your wife had already signed this document saying you were not going to be on the car insurance; correct?
A. Yes.
Q. The accident occurred -- sorry -- she signed this form in 2009; is that correct?
A. Right.
Q. And this accident occurred in 2016?
A. Yes.
Q. And between 2009 and 2016, she had never put you on her car insurance policy?
A. No.
Q. And you were aware that you were an excluded driver?
A. Yes.
Q. I am going to ask you this -- one of the same questions I asked her, too. Do you recall anyone coming to your house on January 28th, 2019, this year, around 6:30 at night?
A. Yes.
Q. You recall them giving you some paperwork?
A. Yes.
Q. Do you know what -- whether that was about the lawsuit with the car insurance policy or the lawsuit with the car wreck?
A. I don't recall.

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Q. But you do recall getting that paperwork?
A. Yes.
Q. Okay.
MS. CAIELLO: I think that is all I have.
MR. McELVEEN: Okay.
EXAMINATION BY MR. MCELVEEN:
Q. Just a few follow-up questions for you, Mr. Prothro. We are on the home stretch here, okay, because I asked you a lot of questions earlier in your first deposition related to the car wreck. Do you also understand now that this deposition is not for the car wreck case that Ms. Oliver has brought against you and your wife?
A. Yes.
Q. You understand why we are taking this deposition right now?
A. Yes.
Q. It has got to do with a lawsuit that Progressive Insurance Company brought against you, your wife and my client, Ms. Oliver; is that correct?
A. I understand it now.
Q. When did you come to understand that?
A. In here while we were doing this.
Q. Okay. And so, when you -- when you were served with

something around January 28th, 2019, what did you think that was?

A. I don't know. I didn't read it.

Q. Okay. And are you aware that Progressive Insurance Company has -- has asked that you and your wife be held in default as a result of the action that they brought against you?

A. I -- yeah, I think so.

Q. When did you learn that?

A. Seem like I read it on one of those papers.

Q. Okay. Do you have an attorney for -- do you have an attorney for the lawsuit that has been brought against you ---

A. No.

Q. I've got to finish the question. Do you have an attorney for the lawsuit that has been brought against you by Progressive Insurance Company?

A. No.

Q. You don't. Okay. But you do have one for the lawsuit that my client brought against you and against your wife; correct?

A. No, we don't have any.

Q. Okay. But you -- but you do have a lawyer for the lawsuit that my client has brought against you and Ms. Prothro; is that correct?

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A. Yes.
Q. That is Mr. Crudup; right?
A. Yes.
Q. You do have a lawyer for that?
A. Right.
Q. Okay. And so, the things that Ms. Caiello just asked you about in the testimony you just gave to her, do you have any reason to believe that my client, Gloria Oliver, would have known about any of that on July 24th, 2016?
A. No.
Q. Okay. And just to be clear on that again, did you ever tell Gloria Oliver on July 24th, 2016 or any time prior to that that you were not a covered driver for that ---
A. No.
Q. -- Contour?
A. No.
Q. Okay. To your knowledge, did anybody ever tell Gloria Oliver on July 24th, 2016 or prior to that that you weren't covered on that policy?
A. No.
Q. Okay. And do you -- do you think before she got in that car, Gloria Oliver should have asked you if you were a covered driver?

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A. I don't think so.
Q. Is that a normal thing to ask somebody before you get in a car?
A. No.
Q. Because you knew Ms. Oliver; right?
A. Right.
Q. And she knew who you were; right?
A. Right.
Q. And wasn't her uncle already in the car before she got in there?
A. Yes.
Q. Did he get in the car and ask you questions about your insurance on ---
A. No.
Q. Do you think he knew that you weren't a covered driver when he got in the vehicle?
A. Well, he knew my License was suspended.
Q. Okay. Did he -- did he know that you weren't a covered driver?
A. I don't think so.
Q. Do you think he knew anything about that Exhibit that has been handed -- handed to you as Plaintiff's Exhibit Number One?
A. No.
Q. Okay.

MR. MCELVEEN: That is all I've got.

MS. CAIELLO: I think that's it.

Thank you so much.

(THERE BEING NO FURTHER QUESTIONS, THE DEPOSITION WAS CONCLUDED AT 7:50 P.M.).

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STATE OF SOUTH CAROLINA)
) CERTIFICATE
COUNTY OF SUMTER)

I, Doris Tompkins Brown, Certified Verbatim Reporter and Notary Public in and for the State of South Carolina, certify that I did have Richard Prothro appear before me commencing at 7:39 P.M. on December 2, 2019 at the offices of the Bryan Law Firm of SC, LLP, 17 East Calhoun Street, Sumter, South Carolina; that the witness was duly sworn and cautioned to tell the truth; that the foregoing pages constitute a true and accurate transcript of the testimony given at that time and place.

I hereby certify that I am not of counsel or kin to any of the parties to this cause of action, nor am I interested in any manner in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this the 4th of January, 2020.

Doris Tompkins Brown, CVR
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission expires: 4-02-2025

Named Driver Exclusion Election

You have named the following persons as excluded drivers under this policy:

RICHARD PROTHRO Date of Birth: May 6, 1955

No coverage is provided for any claim arising from an accident or loss involving a motorized vehicle being operated by an excluded person. This includes any claim for damages made against any named insured, resident relative, or any other person or organization that is vicariously liable for an accident or loss arising out of the operation of a motorized vehicle by the excluded driver.

This form must be signed by the named insured.

I understand and agree that this Named Driver Exclusion election shall apply to this policy and any renewal, reinstatement, substitute, amended, altered, modified or replacement policy with this company or any affiliated company, unless a named insured revokes this election.

I declare that either the driver's license of the excluded persons named in this Named Driver Exclusion election has been turned into the Department of Motor Vehicles, or that an appropriate policy of liability insurance or other security as may be authorized by law has been properly executed in the name of the person to be excluded.

Signature of named insured **Date**

X Sharon J. Prothro 4-2-09

Form 9330 SC (04/07)

Claim # 1652373411

PLAINTIFF'S EXHIBIT 1 R Prothro 12.2.19

Continued

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Elizabeth Nesbitt

From: Sarah Caiello <scaiello@murphygrantland.com>
Sent: Wednesday, July 28, 2021 2:57 PM
To: Thomas McElveen; Curtis, Kristi F.; 'kcurtislc@sccourts.org'
Cc: Elizabeth Nesbitt; J. R. Murphy
Subject: RE: Progressive Northern Ins. Co. v. Gloria Oliver et al., 2019-CP-43-00105

Good afternoon all,

Apologies for my delayed response to Mr. McElveen's email below.

I write today to respectfully request the Court hold the Order in abeyance at this time. We do not wish to drag out this litigation further, but we believe holding the Order in abeyance would best serve judicial economy. Progressive has relied on the Court of Appeals' decision in *Knight* to support its MSJ. Since the Court advised last fall that it would deny Progressive's Motion, the Supreme Court has issued an opinion in *Knight*, affirming the Court of Appeals' decision. (Op. No. 28028, Filed May 12, 2021). The Supreme Court also has heard arguments and is preparing to rule on the same issue for UM coverage. We would ask the Court to hold the Order in this case in abeyance until we can submit that authority which may affect the Court's ruling directly.

In the alternative, we'd request an alteration in the proposed order as it relates to the disposition of the case to reflect the Court's granting of Defendant's cross-motion for summary judgment and grant of declaratory relief for the defendant, rather than a dismissal with prejudice.

Respectfully,
Sarah Caiello

M & G
Murphy & Grantland, P.A.
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Columbia, South Carolina 29260
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From: Thomas McElveen <tmcelveen@bryanlaw.com>
Sent: Tuesday, July 13, 2021 8:06 AM
To: Curtis, Kristi F. <kcurtisj@sccourts.org>; 'kcurtislc@sccourts.org' <kcurtislc@sccourts.org>; Sarah Caiello <scaiello@murphygrantland.com>
Cc: Elizabeth Nesbitt <enesbitt@bryanlaw.com>
Subject: Progressive Northern Ins. Co. v. Gloria Oliver et al., 2019-CP-43-00105
Importance: High



Good morning Judge Curtis,

I hope this e-mail finds you doing well. I have attached a proposed order pursuant to instructions received from you towards the end of last year with regard to the case referenced above, and I apologize to you and Ms. Caiello for the delay on my end.

This one was somewhat unusual as you denied Progressive's Motion for Summary Judgment and found that Progressive's UM coverage was applicable to Ms. Oliver's claim for damages as a guest passenger despite Progressive's policy exclusion; shortly after that, the attorneys for Progressive and I came to you in a status conference and asked if you'd be willing to apply your ruling to a Cross-Motion for Summary Judgment to be filed by Defendant Oliver for the sake of moving the case along and not having to essentially try the whole thing all over again, as this is a declaratory judgment action that centers on the applicability of a policy exclusion.

Yesterday I eFiled a Notice of Motion and Cross-Motion for Summary Judgment, along with a Memorandum in Support of Defendant Oliver's motion with attached exhibits. Please let me know if you would like me to make any edits and/or if you would prefer that I go ahead and eFile the proposed order. I just wanted to share it with the Court and opposing counsel before I did that.

Respectfully,

Thomas McElveen

BRYAN LAW FIRM

J. Thomas McElveen, III
17 E. Calhoun St. • P.O. Box 2038
Sumter, SC 29151-2038
Phone: 803-775-1263; Fax: 803-778-1300
Email: tmcelveen@bryanlaw.com

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Cc: Elizabeth Nesbitt; J. R. Murphy
Subject: RE: Progressive Northern Ins. Co. v. Gloria Oliver et al., 2019-CP-43-00105

Importance: High

Good afternoon:

I have also read the Supreme Court's decision in Knight, and the same arguments which were previously made before the Court still hold, as the case is not on-point or analogous with the instant case before the Court. But the Rollison opinion certainly is.

The Knight case revolved around the death of an excluded driver who was driving the insured vehicle when he was tragically killed. In that case, the widow of the excluded driver who was seeking the UIM coverage was also the same person who endorsed the policy exclusion in the first place. Again, our case involves a guest passenger. Nothing in Knight conflicts with or even addresses the Supreme Court's ruling in Rollison.

To be clear and as previously articulated, it's simply not the same issue – namely because Ms. Oliver's (my client) case involves a guest passenger. The Knight case did not.

As to the proposed order which was submitted on behalf of Defendant Oliver, it was drafted pursuant to instructions issued by the Court via e-mail and within the same lines of the memorandum which was submitted on behalf of Defendant Oliver prior to the hearing.

Respectfully,

Thomas McElveen

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DEFENDANT'S EXHIBIT m

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Cc: Elizabeth Nesbitt <enesbitt@bryanlaw.com>; J. R. Murphy <jrmurphy@murphygrantland.com>
Subject: RE: Progressive Northern Ins. Co. v. Gloria Oliver et al., 2019-CP-43-00105

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Respectfully,
Sarah Caiello

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Subject: Progressive Northern Ins. Co. v. Gloria Oliver et al., 2019-CP-43-00105
Importance: High

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Respectfully,

Thomas McElveen

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Thomas McElveen

From: J. R. Murphy <jrmurphy@murphygrantland.com>
Sent: Friday, August 20, 2021 11:26 AM
To: kcurtisj@sccourts.org
Cc: kcurtislc@sccourts.org; Thomas McElveen; Sarah Caiello
Subject: Progressive Northern Ins. Co. v. Gloria Oliver et al., 2019-CP-43-00105
Attachments: USAA v. Pickens.pdf; Nationwide v. Knight.pdf

Judge Curtis,
I am writing on behalf of Progressive Northern in regard to the above matter and to provide supplemental authority to the court for consideration before entry of an order on the cross-motions for summary judgment filed by the parties. If you recall, you originally heard a motion filed by my client on September 14, 2020. You indicated that you intended to hold that the policy provided UM coverage for the accident, and the parties agreed to allow your ruling to apply to Attorney McElveen's subsequently filed MSJ. That motion is now scheduled for a hearing in two weeks before Judge Dickson. I am writing to bring the court's attention to the two recent decisions of the South Carolina Supreme Court. In Nationwide v Knight the court affirmed the court of appeals on a similar case involving UIM coverage. In the very recent case of USAA v Pickens, the court affirmed a lower court ruling that barred UM coverage to the passenger in the automobile being driven by an excluded driver under the policy. This case, in our opinion, is controlling of the issue in front of the court in this case. We are submitting these two opinions to you prior to the entry of an Order from your Honor in hopes of avoiding a Motion to Reconsider. However, if you prefer a second hearing on this matter before filing an Order, we have no objection to one being scheduled.

Thank you in advance for your consideration of our submission. By copy of this email I am advising Attorney McElveen of my communication with the court and providing him a copy of the recent Pickens opinion.

Sincerely,

JR Murphy



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J.R. Murphy, Esquire
jrmurphy@murphygrantland.com
Post Office Box 6648
Columbia, South Carolina 29260
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Elizabeth Nesbitt

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To: J. R. Murphy; kcurtisj@sccourts.org
Cc: kcurtislc@sccourts.org; Sarah Caiello; jcrudup@clarksonwalsh.com
Subject: RE: Progressive Northern Ins. Co. v. Gloria Oliver et al., 2019-CP-43-00105

Importance: High

Judge Curtis:

While I am hesitant to continue a back-and-forth via e-mail regarding an issue that the Court previously ruled upon and a Cross Motion for Summary Judgment to which counsel for Progressive not only consented but actually suggested, it is necessary that I respond to Mr. Murphy's latest e-mail.

The Court will recall that Ms. Caiello argued Progressive's Motion for Summary Judgment on a Declaratory Judgment action which was also filed on behalf of Progressive. Following a hearing, the Court denied that motion, after which Mr. Murphy and Ms. Caiello suggested that the court apply the same ruling to a Cross Motion to be filed on behalf of Ms. Oliver, with no objection from me.

On July 28, 2021 Ms. Caiello e-mailed the Court, at which time she brought the Supreme Court's ruling in Knight to the Court's attention. My response to Ms. Caiello's e-mail was essentially that the Knight case was no more applicable to the instant case now than it was as a Court of Appeals opinion that was not factually analogous to the one at bar – as argued at the hearing.

In the time that has elapsed since Ms. Caiello e-mailed the Court last month, Mr. Murphy has requested that I withdraw my client's claim (which, again, also includes a pending lawsuit against Progressive's insured that arises as a result of a guest passenger being injured due to the gross negligence and recklessness of an impaired driver) based on the Supreme Court's recent opinion in Pickens.

Mr. Murphy's request was and is roundly rejected.

Mr. Murphy is now e-mailing the Court on behalf of Progressive in an attempt to influence a ruling which was previously made by the Court, even after consenting and *requesting* that I file a Cross Motion for Summary Judgment to which the ruling would be applied.

I question the propriety of an attorney who did not argue the motion now attempting to alter the Court's prior ruling via e-mail, after the fact. I also question the appropriateness of continuing to rehash the Court's ruling via e-mail. In my estimation, if Progressive disagrees with the Court's prior ruling, then the appropriate vehicle for Progressive at this point would be to file a Motion for Reconsideration.

However, I have read Pickens and my response to Mr. Murphy's latest e-mail citing that opinion is akin to my previous response to Ms. Caiello's e-mail citing Knight: the facts of the case are not congruent to the facts of the case at bar and should have no bearing on the Court's prior ruling.

Finally, I am not aware that Judge Dickson has a term of court currently scheduled in Sumter County. I am also unclear as to why my Cross Motion for Summary Judgment would appear on a motions roster. The only reason it was even filed was at the request of Mr. Murphy and Ms. Caiello, in the interests of judicial economy. As mentioned several times, we



all conferenced with the Court and everyone agreed that the Court's ruling would be applied to a Cross Motion to be filed by Defendant Oliver.

Respectfully,

Thomas McElveen

NOTE: I am copying Jeffrey M. Crudup, Esquire on this e-mail. He represents the Defendant driver and Progressive's insured in the companion automobile collision case, Gloria D. Oliver v. Richard Prothro and Sharon Prothro, C/A No. 2018-CP-43-1323.

BRYAN LAW FIRM

J. Thomas McElveen, III
17 E. Calhoun St. • P.O. Box 2038
Sumter, SC 29151-2038
Phone: 803-775-1263; Fax: 803-778-1300
Email: tmcelveen@bryanlaw.com

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please print this email only if necessary

From: J. R. Murphy <jrmurphy@murphygrantland.com>
Sent: Friday, August 20, 2021 11:26 AM
To: kcurtisj@sccourts.org
Cc: kcurtislc@sccourts.org; Thomas McElveen <tmcelveen@bryanlaw.com>; Sarah Caiello <scaiello@murphygrantland.com>
Subject: Progressive Northern Ins. Co. v. Gloria Oliver et al., 2019-CP-43-00105

Judge Curtis,
I am writing on behalf of Progressive Northern in regard to the above matter and to provide supplemental authority to the court for consideration before entry of an order on the cross-motions for summary judgment filed by the parties. If you recall, you originally heard a motion filed by my client on September 14, 2020. You indicated that you intended to hold that the policy provided UM coverage for the accident, and the parties agreed to allow your ruling to apply to Attorney McElveen's subsequently filed MSJ. That motion is now scheduled for a hearing in two weeks before Judge Dickson. I am writing to bring the court's attention to the two recent decisions of the South Carolina Supreme Court. In Nationwide v Knight the court affirmed the court of appeals on a similar case involving UIM coverage. In the very recent case of USAA v Pickens, the court affirmed a lower court ruling that barred UM coverage to the passenger in the automobile being driven by an excluded driver under the policy. This

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case, in our opinion, is controlling of the issue in front of the court in this case. We are submitting these two opinions to you prior to the entry of an Order from your Honor in hopes of avoiding a Motion to Reconsider. However, if you prefer a second hearing on this matter before filing an Order, we have no objection to one being scheduled.

Thank you in advance for your consideration of our submission. By copy of this email I am advising Attorney McElveen of my communication with the court and providing him a copy of the recent Pickens opinion.

Sincerely,

JR Murphy

M & G
Murphy & Grantland, P.A.
J.R. Murphy, Esquire
jrmurphy@murphygrantland.com
Post Office Box 6648
Columbia, South Carolina 29260
803-454-1231 dd
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Elizabeth Nesbitt

From: Thomas McElveen
Sent: Friday, August 20, 2021 5:28 PM
To: Curtis, Kristi F.; J. R. Murphy
Cc: Curtis, Kristi F. Law Clerk (Jack Jackson); Sarah Caiello; jcrudup@clarksonwalsh.com
Subject: RE: Progressive Northern Ins. Co. v. Gloria Oliver et al., 2019-CP-43-00105

Importance: High

Judge Curtis,

I have been responding to e-mails this afternoon and actually responded to Mr. Murphy's earlier e-mail directly, before I saw your e-mail.

Pickens involves a mother's claim following injuries suffered while her son was driving a vehicle insured by USAA. The mother sought coverage despite the fact that she was the same person who executed the exclusion yet knowingly allowed her son to drive the insured vehicle. The instant case involves a guest passenger, and Pickens (just like Knight) does nothing to change the fact that the Rollison opinion still remains dispositive here. As such, reversing your previous ruling would lead to an "absurd result" similar to what the Supreme Court warned against in Rollison.

Thanks again, and have a great weekend.

Respectfully,

Thomas McElveen

BRYAN LAW FIRM

J. Thomas McElveen, III
17 E. Calhoun St. • P.O. Box 2038
Sumter, SC 29151-2038
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think before you ink

From: Curtis, Kristi F. <kcurtisj@sccourts.org>
Sent: Friday, August 20, 2021 2:57 PM
To: J. R. Murphy <jrmurphy@murphygrantland.com>
Cc: Curtis, Kristi F. Law Clerk (Jack Jackson) <kcurtislc@sccourts.org>; Thomas McElveen <tmcelveen@bryanlaw.com>; Sarah Caiello <scaiello@murphygrantland.com>
Subject: RE: Progressive Northern Ins. Co. v. Gloria Oliver et al., 2019-CP-43-00105

DEFENDANT'S EXHIBIT P

Mr. McElveen, what is your position on the effect of the recent case of USAA v. Pickens?
I am in Clarendon General Sessions next week hearing pleas and could hear from both parties via WebEx any day next week that suits you all.
Thanks!
Kristi

From: J. R. Murphy <jrmurphy@murphygrantland.com>
Sent: Friday, August 20, 2021 11:26 AM
To: Curtis, Kristi F. <kcurtisj@sccourts.org>
Cc: Curtis, Kristi F. Law Clerk (Jack Jackson) <kcurtislc@sccourts.org>; Thomas McElveen <tmcelveen@bryanlaw.com>; Sarah Caiello <scaiello@murphygrantland.com>
Subject: Progressive Northern Ins. Co. v. Gloria Oliver et al., 2019-CP-43-00105

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Judge Curtis,
I am writing on behalf of Progressive Northern in regard to the above matter and to provide supplemental authority to the court for consideration before entry of an order on the cross-motions for summary judgment filed by the parties. If you recall, you originally heard a motion filed by my client on September 14, 2020. You indicated that you intended to hold that the policy provided UM coverage for the accident, and the parties agreed to allow your ruling to apply to Attorney McElveen's subsequently filed MSJ. That motion is now scheduled for a hearing in two weeks before Judge Dickson. I am writing to bring the court's attention to the two recent decisions of the South Carolina Supreme Court. In Nationwide v Knight the court affirmed the court of appeals on a similar case involving UIM coverage. In the very recent case of USAA v Pickens, the court affirmed a lower court ruling that barred UM coverage to the passenger in the automobile being driven by an excluded driver under the policy. This case, in our opinion, is controlling of the issue in front of the court in this case. We are submitting these two opinions to you prior to the entry of an Order from your Honor in hopes of avoiding a Motion to Reconsider. However, if you prefer a second hearing on this matter before filing an Order, we have no objection to one being scheduled.

Thank you in advance for your consideration of our submission. By copy of this email I am advising Attorney McElveen of my communication with the court and providing him a copy of the recent Pickens opinion.

Sincerely,

JR Murphy

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M&G
MURPHY & GRANTLAND, P.A.

J. R. Murphy
Direct dial 803-454-1231
jrmurphy@murphygrantland.com

January 4, 2022

VIA EMAIL – kcurtissc@sccourts.org
The Honorable Kristi F. Curtis
215 North Harvin Street
Sumter, SC 29150

Re: Progressive Northern Ins. Co. v. Gloria D. Oliver, Richard Prothro and Sharon Prothro

Civil Action No.:	2018-CP-43-00105
Claim No.:	16-5237341
Insured:	Richard & Sharon Prothro
Date of Loss:	07-24-16
Our File No.:	1115-3098

Dear Judge Curtis:

I am writing the court regarding the above-referenced case which appears as case number 9 on the Non-Jury Trial Roster for the week of January 10, 2022. I represent the Plaintiff, Progressive Northern Insurance Company. As Your Honor may recall, Progressive Northern filed a Motion for Summary Judgment on September 13, 2019. You heard the motion and indicated that you were finding coverage in favor of the Defendant Oliver. However, because the Defendant Oliver had not filed her own motion for summary judgment, the entry of an order was delayed while Attorney McElveen filed a motion and submitted a proposed order. In the interim, the South Carolina Supreme Court issued two decisions involving excluded driver endorsements similar, if not identical, to the issue in this case. *United Services Auto. Ass'n v. Pickens*, 434 S.C. 60, 862 S.E.2d 442 (2021) and *Nationwide Ins. Co. of Am. v. Knight*, 433 S.C. 371, 858 S.E.2d 633 (2021). Since no order had yet been filed, I contacted the court to inquire as to whether the court would "rehear" the summary judgment motions in light of these decisions. Your Honor agreed to do so, but the parties could never work out a mutually agreeable time/date for a hearing. Since the case appears on your non-jury roster for next week, I am asking the court for a status conference to discuss the issues.

By copy of this letter, I am advising Attorney McElveen of my communication with the court and of my request.

DEFENDANT'S EXHIBIT

I appreciate your consideration of this matter and look forward to hearing from you at your convenience.

With warm personal regards, I am

Sincerely yours,



J. R. Murphy

JRM/sb

cc: J. Thomas McElveen, III, Esquire (via email)
Jeffrey A. Scheppers

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G. WERBER BRYAN (1914-1990)
A. S. BAUMMULLER (1931-2018)
HOWARD P. KING~
DAVID W. GOLDMAN
JOSEPH T. McELVEEN, JR. *
JOHN P. FORD
J. THOMAS McELVEEN, III
JOHN R. MOORMAN *
* Certified Circuit Court Mediator
~Of Counsel

BRYAN LAW FIRM Est. 1962

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EIN 45-3953021

ATTORNEY: tmcelveen@bryanlaw.com
PARALEGAL: cnesbitt@bryanlaw.com

January 4, 2022

VIA Email to: kcurtisse@sccourts.org
The Honorable Kristi F. Curtis
215 North Harvin Street
Sumter, South Carolina 29150

RE: Progressive Northern Ins. Co. v. Gloria Oliver, Richard Prothro and Sharon Prothro
Case Number: 2019-CP-43-00105

Dear Judge Curtis:

I am writing in response to the most recent letter of today's date from J.R. Murphy, Esquire with regard to the above-captioned matter. Following the Court's ruling and the submission of a proposed order – which was accompanied by a cross-motion filed on behalf of my client, Gloria D. Oliver, at the request of Progressive's counsel following the Court's ruling – counsel for Progressive brought two more recent Supreme Court of South Carolina cases to Your Honor's attention.

There was a significant amount of e-mail correspondence exchanged amongst the Court, counsel for Progressive, and me on August 20, 2021, during which Your Honor inquired as to my position on the two more recent cases cited on behalf of Progressive. My response via e-mail was as follows, in part:

"Pickens involves a mother's claim following injuries suffered while her son was driving a vehicle insured by USAA. The mother sought coverage despite the fact that she was the same person who executed the exclusion yet knowingly allowed her son to drive the insured vehicle. The instant case involves a guest passenger, and Pickens (just like Knight) does nothing to change the fact that the Rollison opinion still remains dispositive here. As such, reversing your previous ruling would lead to an "absurd result" similar to what the Supreme Court warned against in Rollison."

I do not recall the Court ever agreeing to re-hear Progressive's motion for summary judgment on the instant declaratory judgment action which was also filed by Progressive. Our position remains that the matter has been ruled upon previously and that the more recently cited cases should have no bearing upon the Court's prior ruling.

I am certainly agreeable to a status conference as requested by Mr. Murphy in his most recent letter. However, I am leaving tomorrow (Wednesday, January 5, 2022) morning for Orlando, Florida to take a deposition in a Federal Court case which is under a scheduling order, and will not return until late Friday evening or Saturday morning. The South Carolina General Assembly will reconvene beginning next Tuesday, January 11, 2022, but I will do everything I can to work with Mr. Murphy's schedule if the Court wishes to convene a status conference with regard to these issues.

(Signature page to immediately follow)

DEFENDANT'S EXHIBIT B

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With warmest regards, I remain,

Respectfully,



J. THOMAS McELVEEN, III

TMcIII/wp
CC: J.R. Murphy- jrmurphy@murphygrantland.com

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ELECTRONICALLY FILED - 2022 Mar 15 11:59 AM - SUMTER - COMMON PLEAS - CASE#2019CP4300105

STATE OF SOUTH CAROLINA	IN THE COURT OF COMMON PLEAS
COUNTY OF SUMTER	CIVIL ACTION NO: 2019-CP-43-00105
Progressive Northern Insurance Company, PLAINTIFF, vs. Gloria Oliver, Richard Prothro, and Sharon Prothro, DEFENDANTS.	**DEFENDANT GLORIA OLIVER'S MOTION TO RECONSIDER**

TO: WESLEY B. SAWYER, ESQUIRE, JOHN R. "J.R." MURPHY, ESQUIRE, AND SARAH E. CAIELLO, ESQUIRE, ATTORNEYS FOR PLAINTIFF PROGRESSIVE NORTHERN INSURANCE COMPANY:

Defendant Gloria Oliver ("Oliver"), by and through her undersigned counsel, hereby moves pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure for reconsideration of the Court's Order granting Plaintiff Progressive Northern Insurance Company's ("Progressive") Motion for Summary Judgment. This Court electronically signed and filed the Order on March 8, 2022. Therefore, this Motion is timely pursuant to Rule 59(e), SCRCP.

Defendant Oliver respectfully asks the Court to reconsider its Order granting summary judgment, on the basis that the Supreme Court of South Carolina's extension of uninsured motorist coverage to a *guest* passenger despite an exclusion for bodily injury arising out of the use of the vehicle which was contained in the underlying policy in Auto Owners Ins. Co. v. Rollison, 378 S.C. 600, 663 S.E.2d 484 (2008) has been roundly ignored by Progressive, which relies upon two more recent opinions of the Supreme Court of South Carolina in Nationwide Insurance Company

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of America v. Knight, 433 S.C. 371, 858 S.E.2d 633 (2021) and United Services Automobile Association v. Pickens, 434 S.C. 60, 862 S.E.2d 442 (2021).

Defendant Oliver takes exception to the notion in the Order filed March 8, 2022 that the question of whether she was an innocent guest passenger at the time of the collision is irrelevant; rather, it is a glaring and important distinction between the Rollison opinion and the opinions in Knight and Pickens.

In stark contrast to the facts in Rollison, these more recent cases cited by Progressive do not involve innocent and/or unknowing guest passengers, nor do they explicitly overturn or reverse the Supreme Court of South Carolina's logic and holding in Rollison as it pertains to uninsured motorist coverage being extended to guest passengers due to the notions that one who is a "guest" at the invitation of the driver has, by implication, *the consent of the named insured*, that a guest has the consent of the named insured unless he or she has knowledge to the contrary, that a *passenger can only rely on the driver's representations regarding his status as a permissive user*, and that a determination of whether a passenger qualifies as a 'guest' under the statute must be viewed from the passenger's perspective [emphasis added]." Rollison, at 611, 489.

Therefore, Plaintiff Progressive Northern Insurance Company's Motion for Summary Judgment should be denied, as the specific facts involved in the instant case dictate that uninsured motorist coverage provided by Plaintiff pursuant to policy number 55178995 is applicable to claims for damages sustained by Defendant Oliver, a guest passenger.

For the above-stated reasons, Defendant Oliver respectfully moves for reconsideration of Plaintiff Progressive Northern Insurance Company's Motion for Summary Judgment.

Signature page immediately follows

BRYAN LAW FIRM OF SC, L.L.P.

By: s:/J. Thomas McElveen, III

J. Thomas McElveen, III
Attorney for Defendant Gloria Oliver
17 East Calhoun Street
Post Office Box 2038
Sumter, South Carolina 29151
(803) 775-1263
tmcelveen@bryanlaw.com

Sumter, South Carolina
March 15, 2022

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ELECTRONICALLY FILED - 2021 Jul 12 2:50 PM - SUMTER - COMMON PLEAS - CASE#2019CP4300105

STATE OF SOUTH CAROLINA	IN THE COURT OF COMMON PLEAS
COUNTY OF SUMTER	CIVIL ACTION NO: 2019-CP-43-105
Progressive Northern Insurance Company, PLAINTIFF, vs. Gloria Oliver, Richard Prothro, and Sharon Prothro, DEFENDANTS.	**DEFENDANT GLORIA OLIVER'S MEMORANDUM IN SUPPORT OF CROSS-MOTION FOR SUMMARY JUDGMENT**

TO: WESLEY B. SAWYER, ESQUIRE, JOHN R. MURPHY, ESQUIRE, AND SARAH E. CAIELLO, ESQUIRE, ATTORNEYS FOR PLAINTIFF PROGRESSIVE NORTHERN INSURANCE COMPANY:

Defendant Gloria Oliver ("Oliver"), in support of her Cross-Motion for Summary Judgment, states as follows:

FACTS / PROCEDURAL POSTURE

On July 24, 2016, Defendant Oliver was riding as a guest passenger in a 1996 Ford Contour automobile which was owned by Defendant Sharon Prothro and being operated by Defendant Richard Prothro, and which was insured by Progressive Northern Insurance Company ("Progressive") under policy number 55178995. This incident occurred in the parking lot of the Wal-Mart Neighborhood Market located at or near 615 Bultman Drive in Sumter, South Carolina. Defendant Richard Prothro, who upon information and belief was operating the automobile while under the influence of alcohol and/or intoxicating substances and while under suspension of his driver's license, recklessly drove the automobile in reverse at a high rate of speed, struck a natural

area of the parking lot, collided with two trees, and struck multiple vehicles in the parking lot before finally coming to a stop. Defendant Oliver sustained bodily injury as a result of this incident.

The South Carolina Department of Motor Vehicles Form "FR-10" Notice of Requirement and the South Carolina Traffic Collision Report Form generated by the investigating officers with the City of Sumter Police list Defendant Richard Prothro as the driver of the 1996 Ford automobile, Defendant Sharon Prothro as its owner, and Progressive as the insurance company providing automobile insurance coverage.

Shortly after receiving notice of Defendant Oliver's liability claim, Progressive issued a letter dated September 26, 2016 denying the liability claim, which is attached as Exhibit A. In a January 24, 2017 letter attached as Exhibit B, undersigned counsel for Defendant Oliver requested a written response from Progressive confirming Progressive's denial of the claim as well as the grounds on which Progressive denied Defendant Oliver's claim as the liability insurance company providing coverage on the vehicle involved in the July 24, 2016 collision.

In a letter dated February 6, 2017, attached as Exhibit C, Progressive stated that "no coverage would be provided for any claim for damages against any named insured" due to the fact that Defendant Richard Prothro was an excluded driver.

In reply, undersigned counsel for Defendant Oliver submitted an "Uninsured Motorist Claim / Demand" dated January 8, 2018 (attached as Exhibit D) which gave reference to the Supreme Court of South Carolina's ruling in Auto Owners Insurance Company v. Rollison, 378 S.C. 600, 663 S.E.2d 484 (2008) and pointed out to Progressive that since Defendant Oliver was a guest passenger of driver Defendant Richard Prothro, and since Progressive had previously denied Defendant Oliver's liability claim, Defendant Richard Prothro was thereby rendered an uninsured motorist for purposes of liability coverage as it pertained to the July 24, 2016 collision.

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In a January 16, 2018 letter, a copy of which is attached as Exhibit E, Progressive also denied Defendant Oliver's uninsured motorist (UM) claim.

On July 19, 2018, Defendant Oliver filed a Summons and Complaint in the Sumter County Court of Common Pleas naming Defendant Richard Prothro and Defendant Sharon Prothro as defendants (Gloria D. Oliver vs. Richard Prothro and Sharon Prothro, Case No.: 2018-CP-43-1323) in a tort action underlying the instant declaratory judgment action.

Personal service upon Defendant Richard Prothro and Defendant Sharon Prothro was perfected on August 3, 2018.

On September 4, 2018, Jeffrey M. Crudup, Esquire filed an Answer on behalf of Defendants Richard Prothro and Sharon Prothro in the underlying tort action.

On December 5, 2019, Defendant Oliver perfected service upon Progressive as UM carrier through the South Carolina Department of Insurance, pursuant to S.C. Code Ann. § 38-77-150.

Jeffrey M. Crudup, Esquire filed an Answer on behalf of Progressive on December 16, 2019 in the underlying tort action.

Progressive filed the instant declaratory judgment action on January 23, 2019, alleging, in part, that Progressive automobile insurance policy number 55178995, issued to Defendant Sharon Prothro, does not provide any coverage for claims arising out of the July 24, 2016 automobile collision, and perfected personal service upon Defendant Oliver on March 16, 2019.

Defendant Oliver filed a timely Answer to Progressive's Complaint in the instant declaratory judgment action on May 15, 2019.

On September 13, 2019, Progressive filed a Motion for Summary Judgment, and filed a Memorandum in Support of its Motion for Summary Judgment on October 21, 2019, along with attached exhibits.

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On December 2, 2019, six depositions were taken of the three Defendants in the instant action. The deposition of Gloria D. Oliver (as Plaintiff in the underlying tort action, a copy of which is attached as Exhibit F) and the depositions of Richard Prothro and Sharon Prothro (as Defendants in the underlying tort action, copies of which are attached as Exhibit G and Exhibit H, respectively) were obtained, as well as depositions of Defendant Oliver, Defendant Sharon Prothro, and Defendant Richard Prothro in the instant declaratory judgment action, attached respectively as Exhibit I, Exhibit J, and Exhibit K.

On December 2, 2019, Gloria Oliver testified that she did not have a driver's license nor a vehicle, and that she relied on others for transportation (Exhibit I, pp. 10-11). She testified that she knew Richard Prothro, but did not know Sharon Prothro (Exhibit F, pp. 20, 45-46). She testified that on the morning of the July 24, 2016 collision, Richard Prothro visited her home along with Defendant Oliver's uncle, and that she was going to make breakfast for them when she realized that she was missing some ingredients required to prepare the meal (Exhibit F, pp. 19-22). She testified that Richard Prothro agreed to drive her to the Wal-Mart Neighborhood Market to get the things she needed, and that she had finished her shopping when the collision subject of the underlying tort action occurred (Exhibit F, pp. 21-24). Gloria Oliver testified that she understood the 1996 Ford Contour involved in the wreck which was insured by Progressive to belong to Richard Prothro, that Richard Prothro had said that the vehicle was his, that she had observed him driving it in the past, and that she had never spoken with Sharon Prothro about the automobile (Exhibit F, pp. 46-47; Exhibit I, page 10). Further, Gloria Oliver stated that she had never received any indication that there might not be insurance coverage on the vehicle as of July 24, 2016 (Exhibit F, pp. 47-49; Exhibit I, pp. 9-10).

On December 2, 2019, Richard Prothro testified that he had not had a driver's license in ten years and that his license had originally been suspended due to driving under the influence conviction(s) (Exhibit G, pp. 18-20; Exhibit K, pp. 4-5), but that he continued to drive a vehicle insured by Progressive some 168 times between April 2, 2009 (the date on which Progressive contends that Richard Prothro was listed as an excluded driver on automobile insurance policy number 55178995) and July 24, 2016 (Exhibit G, pp. 20, 80-81). Richard Prothro testified that he had ready access to keys to the vehicle by virtue of the fact that the keys were typically left on the dresser in his and Sharon Prothro's bedroom, and that Sharon Prothro was aware that he was driving over the course of this period roughly one-third of the time (Exhibit G, pp. 44-50, 81). Richard Prothro testified that he was consuming alcohol the evening prior to the July 24, 2016 wreck, and that he had also consumed a half pint of vodka within the three-hour period immediately preceding the wreck (Exhibit G, pp. 63-67). He testified that Sharon Prothro was aware that he was consuming alcohol on the evening prior to the wreck, and that she was aware that he was driving the 1996 Ford Contour on the morning of the July 24, 2016 wreck (Exhibit G, pp. 45-48, 66). Richard Prothro testified that he did not believe that Gloria Oliver would have any way to know that he was an excluded driver under the Progressive policy in question, and that he did not think that Gloria Oliver should have asked him if he was a covered driver prior to getting into the 1996 Ford Contour on the morning of July 24, 2016 (Exhibit G, pp. 54-55; Exhibit K, pp. 12-13).

On December 2, 2019, Sharon Prothro testified that she was aware that Richard Prothro's driver's license had been suspended for over ten years, but that he continued to drive and that when he was driving the 1996 Ford Contour, she was aware of it (Exhibit H, pp. 34, 36-39, 41-42, 62). She agreed that Richard Prothro had driven on some 168 occasions between April 2, 2009 and July

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24, 2016 (Exhibit H, pp. 41-42, 62). Sharon Prothro testified that the keys to the vehicle were not hidden some place in the Prothros' house, but, rather, they remained in the same place most of the time (Exhibit H, pp. 40-41, 45). She testified that she was aware that Richard Prothro had been drinking alcohol the night before the July 24, 2016 collision and during the morning of the collision, and that she believed him to be under the influence of alcohol when he left the Prothros' residence around 9:00 a.m. or 10:00 a.m. on the morning of the wreck (Exhibit H, pp. 44-45, 57). Nonetheless, Sharon Prothro testified that she did nothing to prevent Richard Prothro from taking the 1996 Ford Contour on the morning of the July 24, 2016 wreck other than telling him to stop (Exhibit H, pp. 42-46,57). Sharon Prothro testified that she believed Gloria Oliver to have been a guest passenger in her automobile at the time of the July 24, 2016 collision (Exhibit J, page 24), and that Gloria Oliver would have no way to know that Richard Prothro was an excluded driver pursuant to her automobile insurance coverage with Progressive which was applicable on the date of the collision (Exhibit H, pp. 55-56, 73; Exhibit J, pp. 22-24).

On September 11, 2020, Defendant Oliver filed a Motion in Opposition to Progressive's Motion for Summary Judgment, along with attached exhibits.

A hearing on Progressive's Motion for Summary Judgment was held before the Honorable Kristi F. Curtis, Circuit Court Judge, on September 14, 2020 via WebEx, immediately after which the matter was taken under advisement by the Court.

On October 6, 2020, Judge Curtis notified the attorneys for the parties that Progressive's Motion for Summary Judgment was denied.

On October 12, 2020, counsel for Progressive contacted undersigned counsel for Defendant Oliver with the proposal that, based upon the Court's denial of Progressive's Motion for Summary Judgment and in the interest of judicial economy, undersigned counsel for Defendant Oliver file a

Cross-Motion for Summary Judgment to which the Court's October 6, 2020 ruling would be applied by consent on behalf of Defendant Oliver and Progressive.

This proposal was presented to Judge Curtis by counsel for Progressive and undersigned counsel for Defendant Oliver at a status conference which was conducted via WebEx on October 23, 2020, at which time all parties present consented to having the Court's October 6, 2020 ruling apply to a Cross-Motion for Summary Judgment to be filed on behalf of Defendant Oliver.

STANDARD

Summary judgment is appropriate when the pleadings, depositions, affidavits, and discovery on file show there is no genuine issue of material fact such that the moving party must prevail as a matter of law. Rule 56(c), South Carolina Rules of Civil Procedure. "When determining if any triable issues of fact exist, the evidence and all reasonable inferences must be viewed in the light most favorable to the non-moving party." Fleming v. Rose, 350 S.C. 488, 567 S.E.2d 860 (2002). In order to withstand a motion for summary judgment in cases applying the preponderance of the evidence burden of proof, the non-moving party is only required to submit a mere scintilla of evidence. Hancock v. Mid–South Mgmt. Co., Inc., 381 S.C. 326, 330, 673 S.E.2d 801, 803 (2009).

When evidence is susceptible to more than one reasonable inference, the issue should be submitted to the jury, rather than resolved at summary judgment stage. Murphy v. Tyndall, 384 S.C. 50, 681 S.E. 2d 28 (S.C. App. 2009). Summary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law. Gadson v. Hembree, 364 S.C. 316, 613 S.E.2d 533 (2005), citing Middleborough Horizontal Property Regime Council of Co-Owners v. Montedison, 320 S.C. 470, 465 S.E.2d 765 (Ct.App.1995). Even where there is no dispute as to evidentiary facts, but only as to the conclusions or inferences to be

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drawn from them, summary judgment should be denied. Montgomery v. CSX Transportation, Inc., 376 S.C. 37, 656 S.E.2d 20 (2008).

Since summary judgment is a drastic remedy, it should be cautiously invoked so no person will be improperly deprived of a trial of the disputed issues. Murphy v. Tyndall, at 54, 30.

ARGUMENT

The facts, evidence, and testimony in the underlying tort action related to the instant declaratory judgment action dictate that Gloria Oliver was a guest passenger in the 1996 Ford Contour which was insured by Progressive, owned by Sharon Prothro, and being driven by Richard Prothro at the time of the July 24, 2016 wreck, even by the admission of Progressive's named insured, Sharon Prothro.

S.C. Code Ann. § 38-77-30(7) provides that "[i]nsured means the named insured and, while resident of the same household, the spouse of any named insured and relatives of either, while in a motor vehicle or otherwise, and any person who uses with the consent, expressed or implied, of the named insured the motor vehicle to which the policy applies *and a guest in the motor vehicle to which the policy applies* or the personal representative of any of the above [emphasis added]."

When Progressive denied Defendant Gloria Oliver's liability claim on the basis of a policy exclusion, the 1996 Ford Contour was deemed uninsured, at-fault motorist Defendant Richard Prothro deemed an uninsured driver, and Gloria Oliver's resulting claim deemed a UM claim. Citing Gunnels v. American Liberty Ins. Co., 251 S.C. 242, 247, 161 S.E.2d 822, 824 (1968), the Supreme Court of South Carolina held in Unisun Insurance Company v. Schmidt, 339 S.C. 362, 529 S.E.2d 280 (2000) that the uninsured motorist statute "is remedial in nature, enacted for the benefit of injured persons, and is to be liberally construed so that the purpose intended may be accomplished."

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In the opinion which is most factually analogous to the instant action, Auto Owners Ins. Co. v. Rollison, 378 S.C. 600, 663 S.E.2d 484 (2008), the Supreme Court of South Carolina reversed a ruling from the circuit court that a commercial general liability policy did not provide coverage for the underlying motor vehicle collision as a matter of law because that policy contained an exclusion for bodily injury arising out of the use of the automobile. In Rollison, the Supreme Court opined, in part, that *a passenger can only rely on the driver's representations regarding his status as a permissive user, and that a determination of whether a passenger qualifies as a "guest" under S.C. Code Ann. § 38-77-30(7) must be viewed from the passenger's perspective*. Rollison, at 611, 489-490; the Court also pointed out that according to Unisun, "an invited passenger of a non-permissive driver may, but not necessarily, qualify as a 'guest' *for the purposes of uninsured motorist coverage* [emphasis added]." Id., at 611, 490.

Further, the Rollison opinion states that, "We believe that to define 'guest' otherwise would lead to an absurd result which would require a passenger to specifically inquire whether the driver either owned the vehicle or had permission from the named insured to drive the vehicle. *Clearly, such an interpretation would be contrary to the intention of the Legislature as well as the remedial purpose and inclusive nature of the uninsured motorist statute* [emphasis added]." Id.,at 612, 490. Requiring or imposing a duty upon an innocent guest passenger such as Gloria Oliver, along with any of the countless number of innocent guest passengers in South Carolina under the same or similar circumstances, to make specific inquiries as to whether or not a host driver is listed on a vehicle's policy as an excluded driver would be equally absurd as a matter of public policy, and the South Carolina General Assembly chose to require no such inquiry or investigation of an insured in the fourth category of § 38-77-30(7) – a guest passenger such as Gloria Oliver.

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The evidence and testimony in this case and in the underlying tort action overwhelmingly dictate that on the morning of July 24, 2016, Gloria Oliver was riding as a guest passenger in the 1996 Ford Contour insured by Progressive by virtue of the invitation and permission of Richard Prothro, whom she reasonably believed to be in rightful possession (and even ownership) of the automobile, whom she believed had the authority to allow her to ride in the vehicle, and whom she had absolutely no way of knowing was a purported excluded driver under the Progressive automobile insurance policy which covered the vehicle. An endorsement or adoption of Progressive's position in this case would impose an absurdly burdensome duty upon countless innocent guest passengers in South Carolina – many of whom must rely on others for transportation – by requiring them to ask a litany of questions of countless host drivers and to demand production and inspection of an applicable automobile insurance company prior to stepping into any automobile as a guest passenger, while also requiring them to possess beyond a rudimentary understanding of South Carolina automobile insurance law and/or applicability of an automobile insurance policy's coverage. With very specific regard to UM coverage extending to innocent guest passengers such as Gloria Oliver, this is precisely the type of absurd result the Supreme Court of South Carolina has previously prohibited in the Unisun and Rollison opinions.

CONCLUSION

For the above stated reasons, it is clear from the evidence and the testimony of the parties in the present case and in the underlying tort action – while viewing the evidence and all reasonable inferences in the light most favorable to Progressive – that Defendant Oliver's Cross-Motion for Summary Judgment should be granted. There is not even a mere scintilla of evidence from which a trial judge or jury could infer that Defendant Gloria Oliver was anything other than an innocent guest passenger in the 1996 Ford Contour automobile insured by Progressive when she was injured

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in the July 24, 2016 wreck, and that Gloria Oliver was an eligible insured for uninsured motorist coverage pursuant to the Progressive automobile insurance policy which covered the vehicle on that date. Further and as discussed herein, this matter has previously been ruled upon and counsel for Progressive and for Defendant Gloria Oliver have previously consented to having the Court's October 6, 2020 ruling that followed the September 14, 2020 hearing on Progressive's Motion for Summary Judgment applied to Defendant Oliver's Cross-Motion for Summary Judgment.

Defendant Gloria Oliver therefore requests that the Court grant her Cross-Motion for Summary Judgment, that the Court rule that that UM coverage provided by Progressive pursuant to policy number 55178995 is applicable to claims for damages sustained by Defendant Gloria Oliver as a result of an automobile collision which occurred on July 24, 2016 and that Progressive's named driver exclusion shall not prevent Defendant Gloria Oliver, an innocent guest passenger, from recovering UM coverage provided by Progressive under its aforementioned policy, and that the Court dismiss the instant declaratory judgment action commenced by Progressive's Complaint filed on January 23, 2019, with prejudice.

BRYAN LAW FIRM OF SC, L.L.P.

By: s:/J. Thomas McElveen, III

J. Thomas McElveen, III
Attorney for Defendant Gloria Oliver
17 East Calhoun Street
Post Office Box 2038
Sumter, South Carolina 29151
(803) 775-1263
tmcelveen@bryanlaw.com

Sumter, South Carolina
July 12, 2020

PROGRESSIVE CLAIMS
2624 CORPORATE CENTER DRIVE
SUITE 20
MYRTLE BEACH, SC 29577

PROGRESSIVE

Underwritten By:
Progressive Northern Insurance Company

Claim Number 16-5237341
Loss Date July 24, 2016
Document Date: September 26, 2016
Page 1 of 1

BRYAN LAW FIRM
17 E CALHOUN ST
SUMTER, SC 29150

claims.progressive.com
Track the status and details of your claim, send your representative or report a new claim.

Important information about your claim

I've finished reviewing your claim. Unfortunately, after investigating all the available information, I was unable to find valid coverage for this incident and we won't be able to pay your claim. If you have your own insurance carrier, you may want to check with them to see if you have coverage under that policy.

If you have any questions or additional information that might help me find coverage for this incident, please call me at the number below.

Thank you,

DANIELLE GAMACHE
Claims Department
1-843-213-3912
1-800-PROGRESSIVE (1-800-776-4737)
Fax: 1-843-448-7239
dgamach1@progressive.com
Fax [illegible]

DEFENDANT'S EXHIBIT A

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JOHN P. FORD
THOMAS M. BUETMAN *
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TELEPHONE (803) 775-1263
Ext. 251

TELEFAX (803) 778-1300
FIN 45-3953021

EMAIL: tmcelveen@bryanlaw.com
Paralegal: enesbitt@bryanlaw.com

January 24, 2017

Progressive Claims
2024 Corporate Centre Dr., Ste. 201
Myrtle Beach, SC 29577
ATTN: Danielle Gamache

RE:		
	Our client:	Gloria Oliver
	Your Insured Driver:	Richard Prothro
	Your Insured:	Sharon Prothro
	Claim No.:	16-5237341
	Date of wreck:	7/24/2016

Dear Ms. Gamache:

I represent Gloria Oliver in the above mentioned automobile wreck.

My current understanding is that Progressive intends to deny my client's claim based on your positon that Richard Prothro, who was driving the at-fault vehicle which was owned by your insured, did not have permission from the owner/your insured, Sharon Prothro, to drive the vehicle.

This position seems somewhat curious in light of the fact that Mr. Prothro claims a Sumter address while Ms. Prothro also claims a Sumter address, and to my knowledge the vehicle was not reported to authorities as stolen on or around July 24, 2016. If I am mistaken about this and you are in possession of an incident report which would memorialize that Ms. Prothro's vehicle was indeed stolen, I hereby request that you provide me with a copy of same.

In any event, if it remains Progressive's position to deny this claim, I hereby request a letter from Progressive which confirms your denial as well as the grounds on which Progressive denies my client's claim as the liability insurance company for the vehicle which was at fault in the above-captioned collision.

I will look forward to hearing from you in this regard.

Signature on following page



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With kind regards, I am

Sincerely,

J. THOMAS McELVEEN, III

JTMcIII/ewn
Enclosures

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PROGRESSIVE CLAIMS
2024 CORPORATE CENTRE DRIVE
SUITE 201
MYRTLE BEACH, SC 29577

PROGRESSIVE®

500614 13774 1 MB 0 423 CLTRS01Q 050 013774

Underwritten By:
Progressive Northern Insurance Company

Claim Number: 16-5237341
Loss Date: July 24, 2016
Document Date: February 6, 2017

BRYAN LAW FIRM
17 E CALHOUN ST
SUMTER, SC 29151

claims.progressive.com
Track the status and details of your claim, e-mail your representative or report a new claim.

Claim Information

I am writing in response to your letter dated January 24, 2017. In your letter you asked for the grounds on which our coverage denial was decided.

The police report confirms that Richard Prothro was operating the 1996 Ford Contour at the time of the accident. When our insured, Sharon Prothro, purchased her policy on April 2, 2009 she decided to exclude Richard Prothro from the policy. She agreed and acknowledged that no coverage would be provided for any claim for damages against any named insured arising out of the operation of a motorized vehicle by the excluded driver, Richard Prothro.

Unfortunately since Mr. Prothro was operating the vehicle at the time of loss Progressive will be unable to honor any coverage for any claim arising out of this accident.

DANIELLE GAMACHE
Claims Department
1-843-213-3912
1-800-PROGRESSIVE (1-800-776-4737)
Fax: 1-843-448-7239

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DEFENDANT'S EXHIBIT C

RECEIVED
FEB 10 2017

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BRYAN LAW FIRM OF SC, L.L.P.

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Ext.: 251

TELEFAX (803) 778-1300
FIN 45-3953021

Attorney: tmcelveen@bryanlaw.com
Paralegal: cnesbitt@bryanlaw.com

January 8, 2018

Progressive
Attn: Danielle Gamache
2024 Corporate Centre Dr., Ste. 201
Myrtle Beach, SC 29577

RE:		
	Our Client:	Gloria Oliver
	Your Insured:	Sharon Prothro
	Your Driver:	Richard Prothro
	Your Claim No.:	16-5237341
	Date of Loss:	July 24, 2016

UNINSURED MOTORIST CLAIM / DEMAND

Dear Ms. Gamache:

I am writing pursuant to Progressive's decision to deny liability coverage on behalf of your insured driver and/or your insured in connection with the above-referenced automobile wreck which was caused by Richard Prothro on or about July 24, 2016.

As you know, this case involves a wreck that occurred at approximately 9:35 a.m. in the parking lot of the Wal-Mart Neighborhood Market located at 615 Bultman Drive in Sumter, South Carolina. This incident occurred when Richard Prothro, who was driving a vehicle which was insured by Progressive at the time, traveled southbound in reverse at a high rate of speed and struck two (2) trees and four (4) parked vehicles. As you also know, my client Gloria Oliver was a guest passenger in the vehicle being operated by Mr. Prothro, which was insured by Progressive.

I am now ready to discuss settlement of the bodily injury claim of Gloria Oliver. Since Progressive has previously denied the liability claim filed on behalf of my client, I am now submitting this demand under the uninsured motorist (UM) portion of your policy, as Ms. Oliver was a guest passenger in your insured vehicle at the time this wreck occurred. Further, since Progressive has denied my client's liability claim, Mr. Prothro has been rendered an uninsured motorist for purposes of liability coverage as it pertains to this matter. I am thereby submitting this uninsured motorist claim pursuant to the Supreme Court of South Carolina's ruling in *Auto Owners Insurance Company v. Rollison*, 378 S.C. 600, 663 S.E.2d 484 (2008). I am enclosing a copy of the *Auto Owners Insurance Company v. Rollison* opinion for your review. Additionally, enclosed for your review are copies of Ms. Oliver's medical bills and medical records reflecting the treatment she received for the injuries suffered in this wreck. I have listed below the amounts of the medical bills we are claiming:



Gloria Oliver's bills are:

Palmetto Health Tuomey	$897.00
Professional Services of Tuomey	$545.00
Physicians Health & Injury Clinic	$1,072.00
TOTAL	**$2,514.00**

Taking into account the specials in this case, the pain and suffering factor involved, and the likelihood of an award of punitive damages due to the reckless conduct of the at-fault driver in this case, at this time I would be willing to recommend settlement of my client's claim in exchange for a tender of the uninsured motorist (UM) policy limits provided by Progressive and applicable to the instant claim, which I understand to be $25,000.00/$50,000.00.

As soon as you have reviewed all of the above information, I would appreciate you contacting me to discuss settlement of this claim.

With kind regards, I am,

Sincerely,

J. THOMAS McELVEEN, III

TM/ewn

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PROGRESSIVE CLAIMS
2024 CORPORATE CENTRE DRIVE
SUITE 201
MYRTLE BEACH SC 29577

PROGRESSIVE

Gloria Oliver

Underwritten By:
Progressive Northern Insurance Company

Claim Number 16-5237341
Loss Date July 24, 2016
Document Date January 16, 2018

BRYAN LAW FIRM
JOSEPH T MCELVEEN
17 E CALHOUN ST
SUMTER SC 29151

claims.progressive.com
Track the status and details of your claim, e-mail your representative or report a new claim.

Claim Information

Please be advised that I am in receipt of your Uninsured Motorist Claim Demand for the above-mentioned loss. As previously advised, due to the excluded driver operating the insured's vehicle at the time of loss, no coverage will apply under this policy.

If your client has her own auto insurance, a claim should be made to her insurance carrier.

Please contact me with any questions. Thank you.

DANIELLE GAMACHE
Claims Department
1-843-213-3912
1-800-PROGRESSIVE (1-800-776-4737)
Fax: 1-843-448-7239
dgamach1@progressive.com

Form Z587 ++ (01/08) - SC

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STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
COUNTY OF SUMTER) C/A NO.: 2018-CP-43-1323

Gloria D. Oliver,

Plaintiff,

vs.

Richard Prothro and Sharon Prothro,

Defendants.

Deposition of GLORIA D. OLIVER, taken by Doris Tompkins Brown, Certified Verbatim Reporter and Notary Public in and for the State of South Carolina, commencing at 3:10 P.M. on December 2, 2019 at the offices of The Bryan Law Firm, LLP, 17 East Calhoun Street, Sumter, South Carolina.

APPEARANCES

ON BEHALF OF THE PLAINTIFF: Thomas E. McElveen, III
The Bryan Law Firm, LLP
Post Office Box 2038
Sumter, South Carolina

ON BEHALF OF THE DEFENDANTS: Jeffrey M. Crudup
Clarkson Walsh & Coulter
Post Office Box 2219
Mount Pleasant, S. C.

Doris Tompkins Brown
Certified Verbatim Reporter
Post Office Box 853
Sumter, South Carolina 29151
(803) 499-2434

COPY COPY

DEFENDANT'S EXHIBIT F

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ON BEHALF OF PROGRESSIVE

NORTHERN INSURANCE

COMPANY

Sarah E. Caiello

Murphy & Grantland, P.A.

Post Office Box 6648

Columbia, South Carolina

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* * * * *

EXHIBIT INDEX

Named Driver Exclusion Election	Pl. Ex. 1

* * * * *

(COURT REPORTER'S NOTE: --- INDICATES INTERRUPTION, INCOMPLETE PHRASE, TRAILING OFF, INCOMPLETE SENTENCE)

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The deposition of Gloria Oliver is being taken pursuant to Notice and in accordance with the South Carolina Rules of Civil Procedure and Amendments as adopted by the Supreme Court which shall control the taking of said deposition and its use thereof.

Counsel, with the specific consent of the witness, waives the reading and signing of the deposition prior to the time it is filed with the Court.

(Gloria Oliver, having been duly sworn, testifies as follows:)

EXAMINATION BY MR. CRUDUP:

Q. Good afternoon, Ms. Oliver.

A. Good afternoon.

Q. How you doing?

A. Good.

Q. Good. We met a minute ago. For the record, my name is Jeff Crudup. I'm going to take your deposition today. Have you ever been deposed before? Have you ever been in a situation like this?

A. No.

Q. Okay. I have a couple quick rules that will probably make the whole process go a little bit faster for you. First, please try to make your answers verbal. It is just hard for her to write down when you are not speaking. I know when you are nodding your head, but

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she doesn't; okay?
A. Okay.
Q. So, if I get on you and say -- oh, was that a yes or a no, I'm not trying to be mean, it's just I need her -- I need a clear record; okay?
A. (Nods head affirmatively).
Q. Is that a yes?
A. Yes. Yes.
Q. That's fine. Two, you are going to know the answers to some of the questions before I'm done with it. And you will probably -- I will probably know some of your answers before you are done with them. Just try to let me finish my whole question because if we are talking over each other, the same thing; it is just hard for her to take it down. Okay?
A. Yes.
Q. Three, I am required by South Carolina to tell you now that you are under oath, if you have questions, you have to address them to me as opposed to your attorney; okay?
A. Yes.
Q. And fourth, well, two more things. One, if you need to take a break -- I don't think this is going to take all that long; I apologize for being late myself -- but if you need to take a break, just let me know; okay?

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A. Yes.
Q. And last, if I ask you a question and you answer it, I am going to assume you understood the question; is that fair?
A. Okay.
Q. Okay. I don't want to hear anything about what you might have talked about with your attorney. But other than speaking to your attorney, what did you do to prepare today before you came here today?
A. What I did today before I came here?
Q. What did you do to prepare for your deposition; did you look at any records, did you talk to anyone other than your attorney?
A. I haven't speak to no one.
Q. Okay. Did you look at your medical records?
A. No, not today, no.
Q. Okay. Where are you from originally?
A. Sumter, South Carolina.
Q. Have you lived here all your life?
A. Yes, sir.
Q. Did you ever move away?
A. No.
Q. Okay.
A. Take trips, went visiting, but I never moved.
Q. Okay.

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A. I've been on trips.
Q. Okay. So, at the -- and when I say "this accident," I'm going to be talking about the accident that we are -- that forms the basis of this lawsuit; is that fair?
A. Uh-huh (affirmative response).
Q. Do you understand that?
A. Yes, sir.
Q. Okay. So, at the time of this accident, where were you living?
A. At 43 Harry Avenue, Sumter, South Carolina.
Q. How long have you lived there?
A. Seven years.
Q. So, and I might have asked that in artfully. So, you have been there for the last seven years?
A. Yeah, I was staying there when this accident take place. That's where I was living at for seven years.
Q. Oh, and that's -- so, my question is, had you been there for seven years before the accident or have you been there for the last seven years?
A. No. I've been there total in all seven years.
Q. And before you lived there, where did you live?
A. Okay. I move -- I'm at my -- my new address. I move from 43 Harry Avenue to 216 Thomas Drive. I moved from there. I moved to Thomas Drive over there off of Alice Drive.

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Q. When did you move?
A. I move from 43 -- I can't -- I'm not -- I can't really remember the year. But it was like in Two Thousand -- this is 2019; so, it was like around about the -- about the '16, '17, '18, -- '19. About -- about between '17 and '16. 2017 or '16.
Q. Okay.
A. Either one of those. And I move from 243 Harrison Street and I moved at 216 Thomas Drive off of Alice Drive.
Q. I understand.
A. Uh-huh (affirmative response).
Q. So, you were living at 43 Harry at the time of this accident?
A. Yes, I was living right there.
Q. All right. Who else were you living with at the time?
A. I was in my own -- that was my apartment.
Q. Okay.
A. Uh-huh (affirmative response).
Q. Did you have a car or truck at the time?
A. No, I don't have a vehicle at all. I don't even have a driving License.
Q. That was going to be my next question.
A. No.
Q. Do you have any children?

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A. Yes.
Q. How many children do you have?
A. I have one son.
Q. How old is he?
A. He's fifteen (15).
Q. And you said fifteen (15)?
A. Yes, sir.
Q. And where does he live?
A. With me.
Q. And so, did he live with you at the time of this accident?
A. Yes, sir, he was there.
Q. Okay.
A. But he was not in the car with me at the time. He was at the house. That was in the morning time when they took me to Wal-Mart to pick up some breakfast that morning.
Q. I understand. So, your son was living with you. Was anybody else living with you at the time?
A. No. Uh-uh (negative response). Just me and my son lived there.
Q. Okay.
A. No.
Q. Did you go to high school in Sumter?
A. Yes, sir.

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Q. Did you graduate from high school?
A. No.
Q. What was the highest grade you got to?
A. Eleventh grade.
Q. And what year would you have graduated if ---
A. Class of '85.
Q. What made you leave school?
A. Well, I got in some trouble with some girls and they kicked me out for the rest of the year, and they had me going to PAL and, you know, things got messed up between there.
Q. So, you never went back?
A. No, I never went back.
Q. Did you ever take any classes like GED classes, that kind of thing?
A. Yeah, I have, but -- at Tech, but I didn't finish. I was going to the Resource Center.
Q. Okay. Did you ever take the GED test?
A. No, I didn't take it. Uh-uh (negative response).
Q. Okay. So, do you work now; are you employed?
A. No.
Q. When was the last time you were employed?
A. I haven't worked like since -- what's this -- 2019 -- over ten years, I haven't worked.
Q. Okay. So, prior -- well, what was the last job that

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you did have; what do you remember doing?
A. I was doing custodian.
Q. Where was that?
A. Thomas Sumter Academy private school on 521.
Q. And when you say custodian, what kind of -- what were you actually doing?
A. Custodian.
Q. Yeah, what does that mean exactly?
A. Cleaning classrooms, cleaning the bathrooms; janitor work.
Q. Got you.
A. Cleaning.
Q. And what made you stop working as a custodian?
A. I got in an accident and I hurt my leg. I broke my -- I missed and fell and got a knee replacement.
Q. So, that would have been about -- you said about ten years ago?
A. I got the knee replacement in 2000; so, uh-huh (affirmative response).
Q. Did you work after the knee replacement?
A. No, I couldn't.
Q. All right. So, if you got the knee replacement in 2000, is it fair to say you haven't worked for the last nineteen (19) years or so?
A. Maybe 2002 that I think that I got the knee

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replacement. I think it was 2002, because I had my baby in 2004. So, I got that in 2002, the knee replacement. Uh-huh (affirmative response).

Q. And where did this -- you said you fell?

A. I fall.

Q. Where did you fall?

A. On my -- coming out my auntie's trailer. I had on some heels, and my leg went the opposite way and I broke -- knock my knee bone out of place; so, they had to give me a knee replacement.

Q. Do you remember where -- where you had the knee replacement surgery?

A. I had it at Tuomey in Sumter.

Q. Okay. Prior to working as a custodian, did you work anywhere else?

A. No, I didn't do nothing else after that.

Q. Did you do anything before you were a custodian?

A. No.

Q. How long did you work as a custodian?

A. I did about a year and a half out there.

Q. And you said prior to that, you didn't do -- that was ---

A. No, because of my leg and that's -- that's it. I didn't do anything.

Q. Okay. Did -- have you ever had any jobs other than

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custodian at the school?
A. No, I didn't had no more jobs since then.
Q. No, I'm not saying since then. I'm saying ever.
A. No. No. No.
Q. Okay.
A. No.
Q. If we have a trial, I need to know if you are related to anybody on the jury. So, other than the name Oliver, are you related to people in Sumter County with other last names either by blood or by marriage?
A. Yeah, I'm related to people in Sumter.
Q. Okay. What are -- what are some of the last names that you are related to?
A. To -- I related to the Cummings, the Taylor's and the Anderson's.
Q. And they are all in Sumter?
A. Uh-huh (affirmative response).
Q. Okay.
A. Yes, sir.
Q. Have you ever been involved in any car accidents other than the one we are here to talk about today?
A. Yes.
Q. Okay. How many accidents were you in prior to the car accident we are here to talk about today?
A. This is the second one.

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Q. So, the one we are here to talk about today is the second one?
A. Yeah, this is the second one we're talking about today.
Q. Okay. So, you had one accident before that?
A. Yes.
Q. Okay. When was that about?
A. 2009.
Q. Okay. What happened in 2009?
A. My sister let me drive her car to go to the laundromat. Well, I shouldn't have been driving; I didn't have a driving License and -- but I still took it upon myself and went -- to go on to the dryer on Guignard, me and my son, and that's when the lady -- when I was going to take the left turn to turn, and she ran the red light and knocked the whole fender off the car.
Q. Was it -- are you saying it was the front part or the back part?
A. She did the front. I was going to turn, ---
Q. Uh-huh (affirmative response).
A. -- and she came straight across; she ran the light.
Q. Okay.
A. That's when she hit me.
Q. And did she hit the front part of your car?

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A. She hit the front part. She knocked the whole front part off.
Q. Did the police come to the scene?
A. Yes.
Q. Did the ambulance and EMS come to the scene?
A. Yes.
Q. Did you go to the hospital?
A. Yes.
Q. What hospital did you go to?
A. Tuomey.
Q. And what did you hurt in that accident?
A. In that accident, I didn't really got -- I like -- just like my neck in that accident and just my knee -- my leg got like twist up under the steering wheel. In that accident, my baby got -- he start bleeding internally inside. My baby was in the back seat, and he was -- he was like two, three years old during that period of time. I'm not -- and he got pinned up in the back seat; the seat belt like lock him in too tight; so, he had a little urinal infection.
Q. So, you said you hurt your neck and you also hurt ---
A. My leg.
Q. -- your leg. Which leg?
A. The -- the leg that I had the surgery on, my left leg.
Q. And that was my next question. So, the surgery -- the

knee replacement you had, that was your left knee?
A. Yes.
Q. You said you went to the hospital for that. Did you treat with any doctors afterwards; did you go to see anyone after the hospital?
A. Yeah, I went to the -- for my neck, yeah, I was going to chiropractors. I went a few times.
Q. Do you remember which chiropractor you went to?
A. I went to one on -- did I went to the chiropractor for this -- no. I don't think -- I didn't go to chiropractor for the neck. I just went and been checked out and I got treated at Tuomey Hospital. With that -- me and my baby got treated at Tuomey. I didn't went to a chiropractor.
Q. Okay.
A. I don't remember, recall that I went there.
Q. Did you seek any treatment for your leg after that?
A. Only thing, they just give me like some pain pills. That's all.
Q. Okay.
A. And they treated my baby. They give him some -- some liquid medicine and some pills to flush his urine because he had a little bit of blood in his urine, and they did that.
Q. Okay. About how long do you think you were at Tuomey

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at the time; when you went there, how long were up there?

A. We were up there about a good four hours because that day we -- when it happened, it was sort of packed in the afternoon. About a good four to three hours we was there.

Q. Okay. After this accident, have you ever been involved in any other car accidents?

A. No.

Q. Okay.

A. Uh-huh (affirmative response).

Q. As a result of the accident you had, that first -- the first one, ---

A. Uh-huh (affirmative response).

Q. -- in 2009, ---

A. Uh-huh (affirmative response).

Q. -- did you file a lawsuit?

A. Yes.

Q. Do you remember who was your -- who your lawyer was?

A. (Points at Mr. McElveen).

Q. Mr. McElveen?

A. Uh-huh (affirmative response).

Q. Got you. Do you remember the name of the person that hit you?

A. No, I didn't know all of that. No.

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Q. Was it here in Sumter?
A. Yes.
Q. Have you ever filed a Workers' Compensation claim?
A. No.
Q. And other than the lawsuit from 2009, have you ever filed a lawsuit before?
A. No.
Q. Have you ever been a Defendant in a lawsuit?
A. No.
Q. We are going to talk about this in greater detail in a minute, but can you tell me what parts of your body you claim were injured in this accident?
A. My -- it was below -- it was my back ---
Q. Uh-huh (affirmative response).
A. -- and my -- it was -- my back was aching because I got -- he was going backwards in the accident. I was going like this (witness indicates), but the most part was my neck and my leg.
Q. So, you said your back, your neck and what was ---
A. And my leg.
Q. Was it your left leg?
A. Yes.
Q. Have you ever injured your back before this accident?
A. Well, I have. When I had my -- when I had my son, I had an epidural that the needle stick in my spine, ---

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Q. An epidural?
A. -- I have an epidural in my back, and so, that really like had me, you know, had my back sort of aching me a little more but until I got in the accident, that's when, you know, I had the more feeling of my body; I start aching.
Q. And you told me that you hurt your neck in that 2009 accident?
A. Basically, I just got, yeah, my neck just like went to the side, and I had to wear a neck brace.
Q. Oh, okay.
A. Uh-huh (affirmative response).
Q. Now, you mentioned you hurt your back. What part of your back are you talking ---
A. Be lower -- be lower of my back. It be the lower of my back.
Q. So, the lower part of your back?
A. Uh-huh (affirmative response).
Q. Other than the birth of your son, have you ever been hospitalized for any reason?
A. Well, yes.
Q. What have you been hospitalized for?
A. I was in there -- I was having bad cramps in my stomach and they told me there was too much greasy food, and they had to put me in there for a couple

days to give me an IV, you know, and I stayed in there for like three days.

Q. Okay.

A. Uh-huh (affirmative response).

Q. Would that -- was that also at Tuomey?

A. That was at Tuomey.

Q. Are you on any medications today?

A. Yes.

Q. What are you on?

A. I have high blood, borderline diabetic and cholesterol.

Q. Any other medications?

A. No.

Q. Were you on any medications at the time of this accident?

A. No. Uh-uh (negative response). Nope.

Q. So, on the day of the accident, where were you going?

A. To Wal-Mart.

Q. And where had you come from before this?

A. Well, he picked me up from my house and I leave my house; they came to my house that morning and I asked them to take me to Wal-Mart.

Q. Okay. So, let me -- let me back up for a second. Who -- when you say "they," who picked you up?

A. Richard Prothro and my uncle, James Anderson. They

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was riding together and they came to my house that morning, and when my uncle knock on the door and I let him in, and so -- and I didn't had the right stuff in there. I want to make breakfast for us that morning, but I didn't had all the stuff that I needed. So, that's when I asked Richard Prothro to take me to Wal-Mart.

Q. So, why were they coming over in the first place?

A. Well, my uncle come by my house. He comes and stops by, and I make breakfast for him in the morning, him and his friends, you know.

Q. Okay.

A. They stop by like that. They come by and see me.

Q. Okay.

A. So, I wanted to make some breakfast for them that morning when they came, and I didn't had all the ingredients; so, I asked him to take me to Wal-Mart.

Q. Okay. So, you said that -- was it Richard -- let me back up. Have you ever been in Richard's -- driven by Richard before?

A. Excuse me?

Q. Have you ever been driven by Richard before?

A. No, I know -- I knew Richard.

Q. Oh, you did.

A. Uh-huh (affirmative response).

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Q. Okay. Had you ever been driven by him; had you ever been in a car when he was driving before?
A. No -- yeah, I done ride with Richard before to the store. Yeah, he was gonna take me and my uncle because he's like one of my uncle's friends. He's a, you know, -- and he been around the family.
Q. I got you.
A. Uh-huh (affirmative response).
Q. Okay. So, in your own words, tell me -- tell me what happened.
A. With the accident?
Q. Uh-huh.
A. Okay. Richard came by my house, him and my Uncle James came by the house around about 9:00 o'clock that morning. I was sitting in my living room. They knock on the door. I answered and let my uncle in. And I told them that I -- I don't -- I would -- I said, "I would have make you all some breakfast, but I don't have every -- everything to prepare the meal with." So, I said, "Richard, would you take me to Wal-Mart to pick up a few things from the store?" He said, "Yes, I will take you." So, Richard took me to Wal-Mart. I went inside Wal-Mart to get the things that I needed. So, when I came back out to put my bags in the car, I got on Richard's side in the back seat of

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the car. And that's when Richard and -- my uncle was in the front seat. So, Richard cranked the car, but he ---

Q. I don't mean to -- can I just ask you questions as we are going along?

A. Uh-huh (affirmative response).

Q. So, you were on the driver's side of the back?

A. Yeah. I was on his side in the back.

Q. Okay.

A. And I put my bags on this side beside me (witness indicates) in the back that I purchased out of Wal-Mart. And I got in the car and Richard cranked the car and everything. I sat back and less than about two -- two minutes, Richard was going -- he had the car in reverse when he should have had it in drive going forward. So, Richard put the car in reverse and mashed the gas and I don't know what take control of him or what caused him to do that, but he started going backwards and he start hitting other cars in the parking lot. So, he hit about three -- he hit about four cars. So, he hit -- when he hit the third car, I jumped out of the back because I already take two -- he done hit two cars when I'm back there; so, you know, them yellow things in Wal-Mart, he was like, he back up, he -- he bumped one of those. So, when he

did that, that's when I jump out the back seat and, you know, the buggy rack, I grabbed hold when I jump out the back seat of Richard's car because he had a lull and I jump out and I grabbed where the buggies -- I grabbed hold on to that, and I must have twist my leg down holding on because I jumped out the vehicle. And that's when the people start come running and one guy ran up to the car and throw the car in park; you know, a guy ran up to the car and he throw it in park. So, when he throw it in park, that's when everybody, the supervisor and the stuff came out of Wal-Mart and they came over to the car. They was asking me was I'm all right because I was sitting on the edge. And my back -- but when he did it because he was hitting them cars and my back was hurting and I had a headache from it, you know, and that's -- I was crying and my bags was all over the ground that I had, you know, from the car because they fall out the car. And a girl that I knew that I used to go to church with, she was there at the store at the time. So, she walk up to me and ask me, "Is you all right, Gloria," and I tell her "no, I'm hurting a little bit. I'm sore." So, that's when she contact -- she had know my family. So, she contact my family and let them knew that I was in an accident at Wal-Mart. So, when I look around, my

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sister and my niece pull up on me and they helped me off the ground and they took me to Tuomey that -- that morning. That morning, they took me to Tuomey. That was July the 24th. They took me to Tuomey and that's when I got treated for that.

Q. Okay. So, let me -- I have a couple questions about what you told me. So, when you said you jumped out; so, you had -- I assume you closed the door before all of this happened; correct?

A. I didn't close no door. I just jump out -- I just open the back door because he already ---

Q. No, I mean before you -- before the car started in reverse.

A. Yes, I had came and got in the car, shut -- closed the door. Ready -- ready to go.

Q. Okay. Did you put your seat belt on?

A. I didn't have on a seat belt.

Q. Okay.

A. No.

Q. So, when he starts to back up, you said he hits two cars and then you actually get out of the car?

A. He hit -- he hit about three cars before I could get out the car because he was going for the fourth car, but I was out the car. And then he hit the yellow -- the big yellow stand in Wal-Mart, he backed up and hit

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that; he bumped that, and that's when I jump out the car and grab on to the buggy holder.

Q. And when you were saying -- I'm not understanding that word. You said you grabbed on to what?

A. You know like -- you know where they put the carts at, the buggies that's in the Wal-Mart parking lot?

Q. Yes.

A. So, he was like close up by one of those.

Q. Okay.

A. And I jump out of it and I hold on to that.

Q. Got you.

A. Uh-huh (affirmative response).

Q. And then when you grabbed that, did he not -- is it at that point where somebody came out and -- and put the car in park?

A. Yeah, and that's when a guy -- a guy ran up and reach in the window and throw the car in park. And that's when everybody came over and the next officer pull up on the scene, and they went to talk to him and they spoke to me and they asked me did I want to go with the paramedics, you know, to the -- the Tuomey. So, my sister said, "No, we've got her; we're going to take her straight up there, and that's what they did; they took me straight to Tuomey. We left the scene and went straight to Tuomey.

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Q. Okay.

MR. CRUDUP: I'm going to have to -- go off the record a second.

(OFF THE RECORD).

MR. CRUDUP: We can go back on the record.

EXAMINATION BY MR. CRUDUP CONTINUED:

Q. Sorry about that. So, I have two questions about the actual accident. You kind of sounded like you were saying -- I guess I wasn't clear -- how many cars do you think were hit before you got out of the car?

A. Three.

Q. Okay. Was there another car that was hit after you got out or did he hit the something else?

A. When I got out, I think he hit another car after I got out.

Q. Okay.

A. Uh-huh (affirmative response).

Q. And you said after the accident, you -- did you talk to the officers there?

A. Yeah, I spoke -- well, the officer came and told me -- he was asking me was I'm okay, do I need the paramedics or whatever, but at that time, that's when my family all pulled up on the scene and brought me up to Tuomey.

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Q. Okay. So, did you speak to the officer, though, at the scene?
A. Yeah, he asked me, you know, he was asking if I'm all right, do I need a paramedic or whatever. But at the time, my family had already pulled up, and I left with them.
Q. Okay. And you said that -- and it sounds like who you were describing was a man; it was a -- was a male officer?
A. Yeah, it was a man.
Q. Can you describe him for me?
A. I don't really remember that offhand. I know ---
Q. Tall, short, white, black?
A. I think he was -- he was white and he was a short officer. I don't really know. I didn't really glance -- I glance him, but I didn't really look at him.
Q. And you said that your family took you to Tuomey?
A. Uh-huh (affirmative response).
Q. When you said "your family," who specifically took you?
A. My niece took me. Uh-huh (affirmative response).
Q. And what is your niece's name?
A. Adrienne.
Q. Do you know what her last name is?
A. Yes.

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Q. What is it?
A. Cummings.
Q. Do you know where she lives?
A. Adrienne is not here anymore. Adrienne is like -- her and her fiance' got together; so, I think they moved down to Atlanta.
Q. Okay. Do you still have her phone number?
A. No, I haven't -- she's changed numbers so much; so, I haven't speak to Adrienne in about six months since she left with her and her fiance' and her kids. And my sister pass, the one who was on the scene with us that came to get me and that took me to Tuomey, I lost her April the 22nd.
Q. Oh, I'm sorry to hear that.
A. Yeah, she passed.
Q. Could you describe the impact for me? In other words, when he was hitting those cars, could you describe that for me; what did it feel like?
A. It was like a boom, boom, you know. Boom. We was going backward, boom. Boom. You know.
Q. And you said that your Uncle James was in the front seat?
A. Yes.
Q. Did he get out of the car as well or did he stay in the car?

A. He got -- he got out. He got out after the third car, and when I told you a guy came and throw it in park, that's when James got out. Uh-huh (affirmative response).
Q. About how fast do you think you were going when you got out of the -- when you jumped out, how fast was the car going?
A. He was going -- he had a little speed because he had his foot on the gas. It seemed like he couldn't move his foot off the gas; so, we was going -- he had a little speed, about a thirty-five (35) or forty (40) speed. I mean, he was going backwards. He had a little speed on him.
Q. And when you said he was going backwards, did he go directly back out of his parking spot?
A. I meant, where he was parking his car; right. He could have drive forward, but he didn't. He went back, and that's how he hit the other cars going backwards, where the other cars was parked. These cars was parked that he hit.
Q. Okay. So, my question is, was he -- did he go straight back or was he turning?
A. No, he just went straight. He just back up and went straight back; then we start going from side to side, you know, different level hitting cars, like, you

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know, side to side.
Q. Okay. So, you said that there were family members that you talked to. How -- how did they get there? I probably might have forgotten. How did they get there?
A. Talking about my family members?
Q. Yes.
A. I told you I ran into one of my girlfriends that was at the store that I used to go to church with, and she was at the Wal-Mart during that period of time and she came over and asked me was I'm okay and that's when she contact my sister and my niece.
Q. And what is that girlfriend's name?
A. That's -- her name is Angie.
Q. Do you know what her last name is?
A. What's her -- Angie got married. I'm not gonna lie. She married; so, I don't know her married name.
Q. Do you know what her phone number is?
A. No, I never know. I never -- you know, we see each other from time to time when I do go to church. I don't see her that often, you know.
Q. When you said that she called your other family members, ---
A. Yeah.
Q. -- how did she call?

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A. She had a cell phone, and Angie called my sister, the one deceased. Angie call her number. She called my sister, Leslie, and told Leslie that Gloria was in an accident at Wal-Mart.

Q. Got you. Did you have a cell phone at the time?

A. Did I had a cell phone at the time?

Q. Uh-huh (affirmative response).

A. I had one, but I think it was off during that period of time. Uh-huh (affirmative response). I'm not -- I had one. I think it was off. I'm not sure, did I got it back on -- I'm not sure that I got it back on during that period of time. But I did have one.

Q. And you said that you went straight from Wal-Mart to Tuomey?

A. Yes.

Q. What did they do for you at Tuomey?

A. Treated me. Give me some pain medicine and an ice-pack and basically give me a prescription to get some Ibuprofen for pains.

Q. Did they do any X-rays or any -- any MRIs?

A. I think they did an MRI on me, but they didn't do an X-ray. I'm not sure; no, they didn't do an X-ray.

Q. Did they tell you what was wrong at the hospital?

A. I had my muscles -- I had muscles problem.

Q. Like sprains?

A. Uh-huh (affirmative response).

MR. McELVEEN: Ms. Oliver, try to say yes or no.

A. Yes. I'm sorry.

Q. After you went to Tuomey, did you seek any medical treatment with anyone else?

A. No.

Q. So, about how long after the accident was it before your leg started to feel back to the way it was?

A. My leg still bothers me right now to today. I'm still having problem with my leg. My leg still ache me.

Q. And that was my next question. In what ways does it still bother you?

A. Like on the side and in the middle or the front.

Q. And have you seen any doctors for your knee?

A. Since that period of time?

Q. Yes.

A. No. No, I didn't went back to the doctor because I was afraid they'll probably want to cut me in that same spot to go back in there.

Q. And what about your neck, did that get back to the way it was?

A. Yeah, my neck start feeling a little better.

Q. How long did it take?

A. Maybe for a month I start feeling a little back muscle

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spasm, and it start back feeling normal.
Q. Okay. And what about your lower back, how long did it take for that to get better?
A. I'm still having problems with my lower back. Yeah, I'm still having -- I'm having major problems with that. Uh-huh (affirmative response). My back still bother me.
Q. After going to Tuomey, did you go to see any doctors for your lower back?
A. No, but the doctor that I go to, I told him about my back.
Q. What doctor do you go to?
A. I go to Family Health Center, and my doctor is Mr. Richard Hall.
Q. Did you say Richard Horne?
A. Hall. Hall.
Q. Hall?
A. Uh-huh (affirmative response). Yes.
Q. And he is your primary care physician?
A. Yes.
Q. How long have you gone to see Dr. Hall?
A. Well, I haven't had -- I change my other doctor, he transferred to Pinewood at the other Family Health Center, Mr. Robert Epps. That was my doctor. So, after Mr. Robert Epps moved to Pinewood, that's when

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I got Richard, because I didn't want to -- I didn't have no transportation to travel to get to my doctor; so, I want to keep it close in town to be convenience for me.

Q. Sure. And when did you first start to see Dr. Hall?

A. Well, I don't see Dr. Hall until February the 2nd. I see him every three months.

Q. Do you remember when the first -- how long ago it was the first time you saw him?

A. I saw him in August the last time I see him.

Q. Okay. What about the very, very first time you saw him when your doctor moved away and you first started seeing him, when did that happen?

A. When I went with Dr. -- let's see -- I can't -- I can't remember that day. I'm ---

Q. What are we talking about -- was it years ago or was it relatively recent?

A. It was -- well, it's -- it's about a year. I really -- I can't -- I guess about a year. About a year.

Q. Okay. So, in the time of this accident, who -- what was your -- who was your primary care doctor?

A. When this accident take place?

Q. Yes.

A. Mr. Robert Epps was my doctor.

Q. And did you -- you say you saw -- did you see him

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regularly, too?
A. I see Mr. Robert Epps every three months.
Q. What is it for?
A. My -- the high blood pressures, my diabetes and my cholesterol.
Q. Got you.
A. Uh-huh (affirmative response).
Q. Did you ever see him specifically for your knee or back or your neck?
A. No. No. Uh-uh (negative response).
Q. Do you currently do anything for your knee, any exercises?
A. Yeah, I walks. Uh-huh (affirmative response).
Q. How much do you walk?
A. Well, I walk in the park. I go to Memorial Park. I probably walk around the track about two times. Uh-huh (affirmative response).
Q. And do you -- I think you might have told me this and I apologize if you did. Did your back ever get back to the way it was before the accident?
A. No.
Q. Okay. What do you do for your back?
A. I'm taking pain pills for my back.
Q. What kind of pain pills?
A. The Ibuprofen.

Q. Is that over-the-counter or is that prescribed?
A. I got that from my doctor.
Q. Are there things you claim that you can't do now that you used to be able to do?
A. Well, I can't stand on my leg too long. And I can't bend or lift anything that's, you know, too heavy or you know; yeah, I can't do those no more, because I have problems.
Q. Has anyone told you what is wrong with your knee, why -- why it is that it doesn't work as well as it did before?
A. Has anyone told me what's wrong with my knee -- I had a knee replacement and I have screws in my -- on the side of my leg; so, ---
Q. Okay. So, you think that is -- that is what causing your knee -- the knee pain that you have now?
A. No. I mean, I was having these pains, but after I got in the accident, it's like a little more pressure, you know what I'm saying, because I had a hit. It hit the front of my knee, you know, where I had the accident is where I had the surgery at. That's -- that's where my leg got hit, you know, in the door. And ---
Q. What part -- what part of the car hit your knee?
A. That's when I -- when I opened the -- when I opened the car door to jump out, that's when my -- my front

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leg like hit the end of the door.
Q. Uh-huh (affirmative response).
A. Yeah.
Q. So, before the accident, you were having knee pain, but it -- there was -- there is more pressure now you said?
A. Yeah, it's more pressure now. Yes, since I hit it in that spot where I had the surgery at. Uh-huh (affirmative response).
Q. And you told me that your back is still bothering you?
A. Yes.
Q. Has any doctor told you what is wrong with your back, why it is still bothering you?
A. Well, he told me that maybe I need to have surgery because maybe one of my -- my spine might be twist from that; so, I maybe need to have surgery.
Q. Have you followed up with him on that at all?
A. Well, we spoke about it, but I haven't decide to take the surgery.
Q. About when do you think you spoke about it?
A. We spoke about it once -- the last time that I went to visit him for my appointment.
Q. Why have you never spoken about that before your last appointment with him?
A. Excuse me?

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Q. You said the first time you spoke with him about surgery, your back possible surgery on your back, was the last time you saw him?
A. Yes.
Q. Did you talk to him about that before that time?
A. No, I didn't talk about -- I talked about it with him after I been in the accident -- I spoke with him about that.
Q. And I understand that. What I'm trying to figure out is, when is the first time your doctor spoke to you about surgery?
A. When I told him about my back has bothered me since I had the accident and the epidural, and that's when he said maybe -- my doctor done give me X-ray and he said one of my -- my spine was twist and he wanted to knew if I want to have the surgery. So, I keep putting it off because I -- I'm not, -- you know, I feel afraid, not that I -- I don't want to go through it.
Q. And did you say you think that it might have something to do also with the epidural that you had when you had your kid?
A. Yeah. Well, I did had the epidural and the epidural did had my back aching, you know, a little, but after I got in the accident, that really make it -- you know, I had more pains.

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Q. When was the last time you saw a doctor for your back, your neck or your knee?
A. I haven't seen since one I went to the chiropractors; I haven't seen no one else.
Q. When did you go to see the chiropractor?
A. I went -- well, I got set up with the chiropractors in -- this happened in July; so, I guess they see me in -- in August when I had the appointment to come in. I think I came in that August. They set me up with appointment. And I went there for like about -- I think I -- I'm not really sure. I went -- I think I went between six or four weeks. Between that, I'm not really sure that -- I went to the chiropractors on Broad Street.
Q. All right. You said you got set up. Who referred you to the chiropractor?
A. Who referred me to the chiropractor?
Q. Uh-huh (affirmative response).
A. When I came -- when I came here to do my claim, ---

MR. MCELVEEN: I'll object to any sort of disclosure of communications that are -- are subject to attorney/client privilege.

MR. CRUDUP: Oh, sure, yeah.

Q. I'm just trying to figure out who sent you to the

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chiropractor. Can you tell -- can you tell me? Does that make any sense? I don't want to -- I don't want you to tell me anything about what you might have talked about with your attorney.

A. Uh-huh (affirmative response).

Q. But I want to make sure I'm understanding. Maybe I'll ask you. Did your attorney refer you to the chiropractor?

MR. MCELVEEN: Object to the form.

Q. You can answer that. Does it make sense?

A. No.

Q. Okay. Let me see if I can ---

MR. CRUDUP: Can we go off the record for a second?

(OFF THE RECORD).

EXAMINATION BY MR. CRUDUP CONTINUED:

Q. Ms. Oliver, I just -- I want to understand how -- let me back up. Have you ever gone to see that chiropractor before this accident?

A. No.

Q. Okay. So, why did you go to that chiropractor after the accident?

A. I think I was -- I was assigned to go to that chiropractor.

Q. Okay. Please don't be offended. I have to ask

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everybody this. Have you ever been arrested before?

A. Yes.

Q. How many times have you been arrested?

A. About three, four.

Q. And when is the first time you remember being arrested?

A. When me and this girl had a fight and she jump on me and I fight her back, and that's my first time on assault. Then we went -- me and her been with some friends shoplifting. And then I was driving without a driving License.

Q. Can you remember any other times?

A. And basically shoplifting, driving without a driving License, and me and the girl have a fight. That's basically it.

Q. Okay. When -- when you say you were in a fight, was that back in high school you said?

A. Uh-huh (affirmative response). Like in '95 or something.

Q. And then the shoplifting, when about did that happen?

A. That happen like last -- last year.

Q. And what happened with those? Did that get resolved in some way?

A. Yeah, I took -- we took -- carry -- went to Wal-Mart and I bought two wooden lamps, and the girl at the

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cash register made a mistake and say that she took out -- she took out for one and she didn't punch in the other one; so, I went to walk out the door to push my stuff out the -- outside. That's when they brought me back in and that -- and they charged me with that because I went outside, but the girl made the mistake but I still had to pay the price for it. And they charged me for that.

Q. And did that get resolved?

A. Yeah, we take care of it. Uh-huh (affirmative response).

Q. And you said you also got arrested once for driving without a License?

A. Yes.

Q. When did that happen?

A. In 2009.

Q. Was that from that accident?

A. Yes.

Q. Okay. Have you ever been treated for any drug or alcohol abuse?

A. No.

Q. And have you ever seen any psychologist or psychiatrist?

A. Well, I was going through some problems and they set me up to go to Mental Health Center to -- for a

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conference because I lost -- like, my brother got killed and that really like take effect of me and they had me set -- they set me up to go to Mental Health Center for counseling, and I went through the program.

Q. And when about was that?

A. That's back in -- in the '90's.

MR. CRUDUP: Can we go off the record for a second?

MR. McELVEEN: Sure.

(OFF THE RECORD).

EXAMINATION BY MR. CRUDUP CONTINUED:

Q. You said that your uncle was in the front seat when this happened?

A. Yes, sir.

Q. Is he still in the area?

A. My uncle?

Q. Uh-huh (affirmative response).

A. I haven't seen him -- I don't be seeing him like that; so, I'm not really sure.

MR. CRUDUP: All right, Ms. Oliver., those are all the questions I have. Thank you.

MS. OLIVER: Thank you.

EXAMINATION BY MR. MCELVEEN:

Q. Ms. Oliver, I just have a few follow-up questions I

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want to ask you about. You said that this wreck that we are here for, does July 24th, 2016 sound about right?

A. Yes, sir.

Q. And the Collision Report, which is not evidence, says it happened around 9:30 -- 9:35 in the morning. Would you argue with that time?

A. Was I ---

Q. Would you argue with that being the right time?

A. Yeah. Yeah, that was the right time because we went to the store.

Q. Okay. So, it was in the morning?

A. Yeah, it was in the morning.

Q. And ---

A. Yeah.

Q. And you testified that Mr. Richard Prothro picked you up, your uncle was in the front -- front passenger seat; is that right?

A. Yes.

Q. And he took you to Wal-Mart?

A. Yes.

Q. Okay. Did you all go anywhere else besides Wal-Mart?

A. We didn't go nowhere else. We didn't make it out the parking lot after that. We didn't.

Q. Okay. How did Mr. Prothro do driving to Wal-Mart?

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A. He was doing good. Normal. He drive like a normal person all the way there. But once I came back out to get in the car with my bags, that's when everything take place right there in the parking lot.

Q. Was there anything that he did on the way to Wal-Mart that would cause you any alarm?

A. No, he didn't do nothing. He was driving like a normal person to Wal-Mart.

Q. Did he have any trouble parking the vehicle?

A. No.

Q. But -- and so, the issues didn't come until after you had already been in the store and come back out?

A. And that's when the accident take place.

Q. Okay. And I might have missed this, but how long have you known Richard Prothro?

A. I know him for a minute because I told you he like a family, being at and around the family and stuff. I've known him for a minute.

Q. Okay. And do you know his wife ---

A. No, I don't know her like that. No.

Q. Her name is Sharon Prothro?

A. Yeah, but I don't know her like that.

Q. You don't know her?

A. No, not like that. I've seen her, but I don't know

her like that.
Q. Have you ever ridden with her before?
A. No. No.
Q. All right. And so, let's talk about the day this wreck happened, July 24, 2016. When they came and got you, whose -- whose vehicle did you believe it was?
A. He say it was his.
Q. Mr. Prothro's vehicle?
A. Uh-huh (affirmative response).
Q. Is that a yes?
A. Yes.
Q. Okay.
A. I'm sorry.
Q. Have you ever talked to Sharon Prothro about that vehicle?
A. No.
Q. Had you ever talked to Richard Prothro about that vehicle ---
A. No.
Q. -- prior ---
A. No.
Q. Let me finish the question; okay. I want to make sure -- we can understand each other here, but I want to make sure the court reporter can understand everything.

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A. I'm sorry.
Q. So, had you ever talked to Richard Prothro about that vehicle before July 24th, 2016?
A. No.
Q. Had you ever seen Richard Prothro driving that vehicle before July 24th, 2016?
A. Yes, I been see him driving that vehicle before.
Q. You had seen him drive it before?
A. Yes.
Q. How many times do you think you had seen him driving that vehicle before that?
A. A few -- I seen him a few times driving it, you know, coming down Broad Street because I been living on Harrison Street; so, he used to ride down Broad Street and I used to walk to the schoolhouse to get my baby during that period of time, and I'd see him driving it.
Q. All right. Did -- did any -- did any -- did anybody give you any indication whatsoever that there may not be insurance coverage on that vehicle as of July 24th, 2016?
A. No.
Q. Okay. Did Richard Prothro ever tell you that there wasn't insurance on the vehicle?
A. No.

Q. Did Sharon Prothro ever tell you there wasn't insurance on the vehicle?
A. No.
Q. Did your uncle, who was in the car that day, ever tell you or indicate to you that there may not be insurance on that vehicle?
A. No.
Q. Did anybody ever tell you that?
A. No.
Q. Okay. And I'm going to show you a piece of paper that I would like to mark as Plaintiff's Exhibit Number One on this deposition.

MR. McELVEEN: Where it was signed right here.

MR. CRUDUP: Okay.

Q. Let me ask you, have you ever -- have you seen this before? You can look it over. Have you ever seen it before now?
A. No.
Q. And what this is is, it's -- it is an exclusion that has been provided by Mr. -- Mr. Prothro and Mrs. Prothro's attorney in this case ---
A. Uh-huh (affirmative response).
Q. -- that is purportedly some sort of exclusion. You have never seen this before?

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A. No.
Q. And has anybody ever made you aware of this before?
A. No.
Q. Today is the first time you have ever seen this?
A. It's the first.
Q. Okay.

MR. McELVEEN: Can I mark that as Plaintiff's Exhibit Number One? You can keep that copy.

COPY OF NAMED DRIVER EXCLUSION MARKED PLAINTIFF'S EXHIBIT NUMBER ONE.

A. First I ever seen that paper.
Q. All right.

MR. MCELVEEN: Thank you, ma'am, and I have nothing further. I have nothing further.

MR. CRUDUP: I have -- that's all.

MS. OLIVER: All right. Thank you.

(THERE BEING NO FURTHER QUESTIONS, THE DEPOSITION WAS CONCLUDED AT 4:22 P.M.).

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STATE OF SOUTH CAROLINA)
) CERTIFICATE
COUNTY OF SUMTER)

I, Doris Tompkins Brown, Certified Verbatim Reporter and Notary Public in and for the State of South Carolina, certify that I did have Gloria D. Oliver appear before me commencing at 3:10 P.M. on December 2, 2019 at the offices of the Bryan Law Firm of SC, LLP, 17 East Calhoun Street, Sumter, South Carolina; that the witness was duly sworn and cautioned to tell the truth; that the foregoing pages constitute a true and accurate transcript of the testimony given at that time and place.

I hereby certify that I am not of counsel or kin to any of the parties to this cause of action, nor am I interested in any manner in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this the 4th of January, 2020.

Doris Tompkins Brown, CVR
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission expires: 4-02-2025

Named Driver Exclusion Election

You have named the following persons as excluded drivers under this policy:

RICHARD PROTHRO

Date of Birth: May 6, 1955

No coverage is provided for any claim arising from an accident or loss involving a motorized vehicle being operated by an excluded person. This includes any claim for damages made against any named insured, resident relative, or any other person or organization that is vicariously liable for an accident or loss arising out of the operation of a motorized vehicle by the excluded driver.

This form must be signed by the named insured.

I understand and agree that this Named Driver Exclusion election shall apply to this policy and any renewal, reinstatement, substitute, amended, altered, modified or replacement policy with this company or any affiliated company, unless a named insured revokes this election.

I declare that either the driver's license of the excluded persons named in this Named Driver Exclusion election has been turned into the Department of Motor Vehicles, or that an appropriate policy of liability insurance or other security as may be authorized by law has been properly executed in the name of the person to be excluded.

Signature of named insured **Date**

X Sharon J. Prothro 4-2-09

Form 9330 SC (04/07)

Claim # 165237341

PLAINTIFF'S EXHIBIT 1 12.2.19 Oliver

Continued

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STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
COUNTY OF SUMTER) C/A NO.: 2018-CP-43-1323

Gloria D. Oliver,

Plaintiff,

vs.

Richard Prothro and Sharon Prothro,

Defendants.

Deposition of RICHARD PROTHRO, taken by Doris Tompkins Brown, Certified Verbatim Reporter and Notary Public in and for the State of South Carolina, commencing at 4:36 P.M. on December 2, 2019 at the offices of The Bryan Law Firm, LLP, 17 East Calhoun Street, Sumter, South Carolina.

APPEARANCES

ON BEHALF OF THE PLAINTIFF: Thomas E. McElveen, III
The Bryan Law Firm, LLP
Post Office Box 2038
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ON BEHALF OF THE DEFENDANTS: Jeffrey M. Crudup
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DEFENDANT'S EXHIBIT G

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ON BEHALF OF PROGRESSIVE

NORTHERN INSURANCE

COMPANY: Sarah E. Caiello

Murphy & Grantland, P.A.

Post Office Box 6648

Columbia, South Carolina

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Named Driver Exclusion Election	Pl. Ex. 1

* * * * *

(COURT REPORTER'S NOTE: --- INDICATES INTERRUPTION, INCOMPLETE PHRASE, TRAILING OFF, INCOMPLETE SENTENCE)

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The deposition of Richard Prothro is being taken pursuant to Notice and in accordance with the South Carolina Rules of Civil Procedure and Amendments as adopted by the Supreme Court which shall control the taking of said deposition and its use thereof.

Counsel, with the specific consent of the witness, waives the reading and signing of the deposition prior to the time it is filed with the Court.

(Richard Prothro, having been duly sworn, testifies as follows:)

EXAMINATION BY MR. McELVEEN:

Q. Mr. Prothro, good afternoon.

A. Good afternoon.

Q. My name is Thomas McElveen. I work here at the Bryan Law Firm. And I represent Ms. Gloria Oliver in a lawsuit that has been brought against you and also against Sharon Prothro as a result of an incident that happened back on July 24th of 2016.

A. Right.

Q. And a few things I want to ask you. Have you ever given a deposition before?

A. No.

Q. This is your first time doing anything like this?

A. Yes.

Q. Okay. You are doing great so far. The only thing I

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would -- a couple things I would tell you is, when you and I are talking, if I ask you a question that is a yes or no question, please try to say yes or no, which you are -- which you are doing now and which I appreciate because if we say uh-huh or uh-uh or that sort of thing, I'm going to understand what you are saying but the court reporter has a hard time taking that down; okay?

A. Right.

Q. The other thing is, is if you and I get to talking, sometimes in conversation, you know, you might start answering a question before I finish the question or I might ask the next question before you finish your answer. You and I will understand each other, but she has a hard time getting that -- that down. So, can you just be careful about starting your answer until I finish my question?

A. Yes.

Q. And I'm going to try to do my best to not start my next question until you have finished your answer; okay?

A. Okay.

Q. A few things I wanted to ask you also. Are you under the care of a psychiatrist or a mental health professional as of today?

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A. No.
Q. Have you ever had any sort of psychiatric treatment or mental health -- or care for any mental health conditions?
A. No.
Q. Okay. And as we sit here today, are you under the influence of any drugs, alcohol or anything else?
A. No.
Q. Do you take any medications?
A. Yes.
Q. What sort of medications do you take?
A. Allopurinol.
Q. What is that for?
A. Gout.
Q. Gout?
A. Yes.
Q. Anything else that you have to take?
A. No.
Q. Have you taken Allopurinol today?
A. Yes.
Q. Does it -- does it affect your ability to understand ---
A. No.
Q. -- questions and that sort of thing?
A. No.

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Q. Okay. And I -- I ask everyone basically the same questions when I take these depositions, and so, there's no surprises. I'm not here to trick you, I'm not here to argue with you or pick on you. I'm going to ask you questions about your background and kind of who you are, where you came up and where you are from, and the reason I'm doing that is because I want to know if there's folks in Sumter County who may empathize with you if we end up selecting a jury just like your attorney is going to want to know if there are folks that may empathize with Ms. Oliver if we end up in a jury trial for this; okay?

A. Okay.

Q. And then I'm just going to ask you questions basically about what happened on July 24th, 2016. There are some more rules I have to share with you, though. During this deposition, you understand what while you have an attorney who is present today -- I think your -- your wife, Sharon Prothro, is here also?

A. Yes.

MS. PROTHRO: I'm Sharon.

Q. Okay. You understand that, during this deposition, you can't look to anybody else for answers; you are the only person that can answer my questions during the deposition?

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A. Yes.

Q. Okay. And ordinarily -- well, you -- you always have attorney/client privilege with your attorney, okay, and I don't want to know anything that you and your attorney talked about; I don't want to know what you have told him or what he has told you. But if you take a -- if we take a break during this deposition and you talk to your attorney, I will be able to ask you what you talked about just during the time this deposition is going on. Is that okay?

A. Okay.

Q. All right. And if you need a break or something like that, please let me know. I'm happy to give you a break. If you need to walk out, walk around or get some coffee or whatever else, you are welcome to do that. Just let me know; okay?

A. Okay.

Q. The other thing I want to tell you is, do you understand that today while, you know, we're not -- none of us are real dressed up today, we are not in a courtroom, but you understand that this is like an extension of the courtroom?

A. Right.

Q. This is a Court proceeding and that you -- you are under oath today?

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A. Right.
Q. And so, you understand that the same penalties of perjury would apply for not being truthful as it would in a Court of Law?
A. Right.
Q. You understand that, too?
A. Yes.
Q. Okay. And so, if I ask some questions today that -- that you don't understand, that you need me to repeat those questions, please -- please tell me. I will be glad to rephrase a question, I will be glad to restate a question if you need that; okay?
A. Okay.
Q. And so, the last thing I need to ask you right now is, if I ask you a question and you answer my question, I'm going to assume that you understood the question and answered it truthfully because you are under oath today. Is that fair?
A. Right.
Q. Okay. And, Mr. Prothro, if you would, please state your full name for the record.
A. Richard Prothro.
Q. Okay. Do you have a middle name or anything like that?
A. No middle name.

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Q. Just Richard Prothro?
A. I have a son that's Junior. I'm Senior.
Q. Okay. You are Senior and he Is Junior. All right. We can talk about that in a few minutes. Mr. Prothro, what is your date of birth?
A. May the 6th, 1955.
Q. Okay. What is your current residence?
A. 125 West Bartlette Street, Apartment 502.
Q. Okay. How long have you been living there for?
A. Since May.
Q. Since May of this year?
A. This year.
Q. May 2018 -- 2019?
A. Yes.
Q. Okay. Who do you live there with?
A. My wife.
Q. Okay. What is her name?
A. Sharon.
Q. And she is here today?
A. Yes.
Q. Okay. And how long have you and Sharon Prothro been married? Sorry to put you on the spot with her sitting here.
A. Let me see.
MRS. PROTHRO: June the 16th, Two

Thousand ---

MR. MCELVEEN: He's going to have to answer my questions, Ms. Prothro. I'm sorry.

A. Ten years.
Q. What year did you get married; do you recall that?
A. I can't remember.
Q. Been married more than ten years?
A. Ten, I think.
Q. Okay. And I will ask Ms. Prothro questions about that, okay, but you have been married to her for a while?
A. Yes.
Q. Okay. And were you -- were you married as of July 24th, 2016?
A. Yes.
Q. And do you agree that is the day that this incident happened?
A. Yes.
Q. Okay. So, is it -- is it fair that if I say "this incident," we are talking about the incident that happened in the Wal-Mart parking lot on July 24th, 2016?
A. Yes.
Q. That is what we are here for today; right?
A. Right.

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Q. Okay. And so, how many children do you have?
A. One.
Q. And you mentioned already that's -- that's ---
A. Richard Junior.
Q. Richard Prothro, Junior?
A. Yes.
Q. Does he live here in Sumter also?
A. Yes.
Q. How old is he now?
A. Forty-one (41).
Q. Okay. Does he -- does he work somewhere in town?
A. Not right not.
Q. What kind of work does he usually do?
A. He's done construction, he's worked in a grocery store.
Q. Okay. Is he married?
A. Yes.
Q. And what is his wife's name?
A. Michella.
Q. Michella?
A. Yes.
Q. Do you know what she does for a living, what kind of work she does?
A. She doesn't work right now.
Q. What kind of work does she usually do?

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A. She do hair and like -- what's all the stuff with the fingernails and that kind of stuff.
Q. Okay. Do you remember what her name was before she got married to your son, what her last name was?
A. Dicks.
Q. Dicks, D-I-C-K-S?
A. Yes.
Q. Okay. All right. Do they have any children?
A. One.
Q. Is that child over the age of eighteen (18)?
A. No.
Q. Okay. Does the child go to school?
A. He just started to go to preschool.
Q. He just started to go to preschool?
A. Yeah.
Q. Okay. Their child is a young -- so, they have got a young child?
A. Right.
Q. That -- is that your only grand?
A. No.
Q. You have other grands?
A. Yes.
Q. Who -- who are they?
A. He has one in New York.
Q. Okay.

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A. And then he has another one in Sumter besides the youngest one.
Q. Okay. Is that -- is that other child in Sumter over the age of eighteen (18)?
A. No.
Q. Okay. Where does that child go to school?
A. I don't know.
Q. You are not sure?
A. No.
Q. Is that child's mother also Michella or someone else?
A. No, it's not.
Q. Who -- who is the mother of that child?
A. Oh, boy, what's that girl's name? I can't remember.
Q. You don't remember -- do you remember what her last name is?
A. No.
Q. Okay. All right. And what was your -- what was your wife's maiden name before she became Sharon Prothro?
A. Day. Day. D-A-Y.
Q. Okay. D-A-Y. Got you. All right. And were you -- were you born and raised here, Mr. Prothro?
A. In Sumter County.
Q. You were born and raised in Sumter?
A. Mayesville.
Q. Mayesville?

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A. That's Sumter County?
Q. Sumter County, yes, sir.
A. Right.
Q. Have you live anywhere besides Sumter County in your life?
A. No.
Q. But you -- you were born and raised in Mayesville?
A. Right.
Q. Okay. Who -- who were your parents?
A. Will and Gardenia Moore.
Q. Are they still alive?
A. No.
Q. Okay. Well, how did you -- how did you end up with the last name of Prothro?
A. Well, my mother met Roger Prothro in New York and they were married, and she came home before I was born and she married Waddell Moore and he raised me.
Q. Okay. I got you. What kind of work did he, Mr. Moore do?
A. Farm.
Q. How about your mom?
A. Farm.
Q. Either one of them still -- still living?
A. No.
Q. Okay. Do you got any brothers and sisters in Sumter

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County?
A. Yes.
Q. Do you have a bunch of them or just a few?
A. Few.
Q. Okay. Who are -- who are your -- who are your brothers that still live in Sumter County?
A. Roger Prothro, ---
Q. Yes, sir.
A. -- Junior. Franklin Moore. Wendell Moore. Bernadine Moore. And Geraldine Shakur.
Q. And they all live in Sumter now?
A. Yes.
Q. Can you tell me what Roger Prothro -- what kind of work does he do? Roger Prothro, Junior.
A. He's retired.
Q. From where?
A. The City.
Q. Okay. How about Franklin Moore?
A. He's disabled.
Q. He's disabled. What kind of work did he used to do?
A. He was in the military, but when he retired, he was working at Florence Concrete.
Q. Okay. How about Wendell Moore?
A. He works for a grocery store. Kroger. I think it's Kroger.