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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas
George M. McFaddin, Jr., Circuit Court Judge

Appellate Case No. 2024-001363

Sarah Rock,

Appellant,

v.

Dog Daze of Charleston, LLC
and Charlie Freeman,

Respondents.

RECORD ON APPEAL
VOLUME I

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	Docket No.: 2022-CP-10-5585
	)	
SARAH ROCK,	)	
	)	
Plaintiff,	)	
	)	
v.	)	ORDER GRANTING DEFENDANTS'
	)	MOTION FOR PARTIAL SUMMARY
DOG DAZE OF CHARLESTON, LLC	)	JUDGMENT
AND CHARLIE FREEMAN,	)	
	)	
Defendants.	)	
	)	

This matter came before the Court for a hearing on Defendants' motion for partial summary judgment pursuant to Rule 56 of the South Carolina Rules of Civil Procedure for the claims for emotional distress and pain and suffering. After review of the various memoranda and documents submitted by the parties, the argument of counsel, and the applicable law, the court grants the motion and grants partial summary judgment regarding Plaintiff's claims for emotional distress and pain and suffering.

The recent decision in Fowler v. Fedex Ground Package Sys., 2023 WL 234557 (S.C. Ct. App. 2023) maintained the status quo. South Carolina law does not support a cause of action for emotional distress for injury to one's pet. The Fowler decision cited prior cases that held (a) a dog constituted property or a chattel (State v. Langford, 55 S.C. 322, 326, 33 S.E. 370, 371-72 (1899)); and (b) the general rule is that the measure of damages for injury to personal property is the difference between the market value of the property immediately before and its value immediately after the injury (Duke Power Co. v. Thornton, 303 S.C. 454, 457, 401 S.E.2d 195, 196 (Ct. App. 1991). See "A Short Leash: Measuring Damages for Tortious Injury to Companion Animals," South Carolina Lawyer, Vol. 33, Issue 3, Page 22 (November 2021).

Further, the holding of Kinard v. Augusta Sash & Door Co., 286 S.C. 579, 336 S.E.2d 465 (1985) established the elements of a negligent infliction of emotional

distress claim under South Carolina law. The current claim does not meet those elements. Thusly, this court grants Defendants' motion.

IT IS SO ORDERED.

May __, 2024

Sumter, South Carolina

Judge George M. McFaddin, Jr.



Charleston Common Pleas

Case Caption: Sarah Rock VS Dog Daze Of Charleston Llc , defendant, et al

Case Number: 2022CP1005585

Type: Order/Summary Judgment

So Ordered

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

Electronically signed on 2024-05-28 11:16:28 page 3 of 3

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	Docket No.: 2022-CP-10-5585
	)	
SARAH ROCK,	)	
	)	
Plaintiff,	)	ORDER DENYING PLAINTIFF'S
	)	MOTION FOR RECONSIDERATION
v.	)	
	)	
DOG DAZE OF CHARLESTON, LLC	)	
AND CHARLIE FREEMAN,	)	
	)	
Defendants.	)	
	)	

For the reasons stated below and as part of the order on the summary judgment motion filed May 28, 2024, the Court respectfully denies Plaintiff's motion for reconsideration. The earlier Order granted Defendants partial summary judgment against Plaintiff's claims for emotional distress and pain and suffering. Paragraphs 45, 57, and 70 of Plaintiff's Complaint claimed under each of the three causes of action asserted that "Rock is entitled to an award for her grief, anxiety, and emotional pain and distress damages." Complaint, ¶¶ 45, 57, 70. Paragraph 70 also included a claim for "post-traumatic stress." Complaint, ¶ 70. Plaintiff's claims for damages associated with emotional distress and pain and suffering were most recently decided in the Fowler v. Fedex Ground Package Sys., 2023 WL 234557 (S.C. Ct. App. 2023) decision, which maintained the status quo, and the other case law discussed at the April 16, 2024 hearing and as part of this Order and the earlier Order.

Unfortunately for Plaintiff, South Carolina law does not support a cause of action for emotional distress for injury to one's pet. The Fowler decision cited prior cases that held (a) a dog constituted property or a chattel (State v. Langford, 55 S.C. 322, 326, 33 S.E. 370, 371-72 (1899); and (b) the general rule is that the measure of damages for injury to personal property is the difference between the market value of the property immediately before and its value immediately after the injury (Duke

Power Co. v. Thornton, 303 S.C. 454, 457, 401 S.E.2d 195, 196 (Ct. App. 1991). See “A Short Leash: Measuring Damages for Tortious Injury to Companion Animals,” South Carolina Lawyer, Vol. 33, Issue 3, Page 22 (November 2021).

As stated in Madden v. Petland Summerville, LLC, 2022 WL 2806408 (D.S.C. 2022), Judge David Norton wrote:

Importantly, in South Carolina, as in many states, “[p]ets are considered personal property. Kirchner v. Kirchner, 2005 WL 7083859, at *4 (S.C. Ct. App. Mar. 23, 2005); Richardson v. Fla. Cent. & P.R. Co., 33 S.E.2d 466 (S.C. 1899)....Accordingly, in cases involving injuries to a pet, “courts have limited the award of damages to a dog’s market value” or the pecuniary loss to the owner for the injuries sustained. Bales v. Judelsohn, 2005 WL 7084365, at *1 (S.C. Ct. App. Aug. 30, 2005) (citing 4 Am. Jur. 2d Animals §§ 6 and 165 (1995)). For example, in Bales, the South Carolina Court of Appeals held that “South Carolina law does not support a cause of action for emotional distress for injury to one’s pet” and further held “that a claim for lost wages resulting from injury to an animal is not actionable because a dog is considered personal property under our law.” 2005 WL 7084365 at *1....Although this approach may seem to take an insensitive—or perhaps overly harsh—view of pet ownership, as one court in this state recently observed, “[u]ntil either [the South Carolina legislature] or [] Supreme Court expressly recognizes the right of a pet owner to seek non-economic damages for the death or injury of a pet, this Court must rule as a matter of law that Plaintiff in the present case cannot seek damages for emotional distress, mental anguish, or anxiety at trial.” Fowler v. Fedex Ground Package Sys., Inc., 2019 WL 9573828, at *1 (S.C. Com. Pl. Sep. 23, 2019). Accordingly, it is clear that plaintiffs cannot state a claim in this action for intentional infliction of emotional distress under South Carolina law, and the court dismisses that claim.”

2022 WL 2806408, at *5 (emphasis added).

Further, the inclusion of the Kinard v. Augusta Sash & Door Co., 286 S.C. 579, 336 S.E.2d 465 (1985) decision in the prior Order confirmed that Plaintiff could not

recover under South Carolina law under these facts for a negligent infliction of emotional distress claim. Plaintiff's first cause of action was for "Negligence/Gross Negligence," and, as stated above, she claimed under that cause of action damages for "grief, anxiety, and emotional pain and distress." Complaint, ¶ 45. The Kinard case established the elements of a negligent infliction of emotional distress claim under South Carolina law, and Plaintiff's claim did not meet those elements. For example, she did not witness the event nor was she biologically related to the victim.

For these reasons, this Court respectfully denies the motion for reconsideration.

IT IS SO ORDERED.

July __, 2024

Sumter, South Carolina

Judge George M. McFaddin, Jr.



Charleston Common Pleas

Case Caption: Sarah Rock VS Dog Daze Of Charleston Llc , defendant, et al

Case Number: 2022CP1005585

Type: Order/Other

So Ordered

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

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	Docket No.: 2022-CP-10-5585
	)	
SARAH ROCK,	)	
	)	
Plaintiff,	)	
	)	
v.	)	DEFENDANTS' NOTICE OF
	)	MOTION AND MOTION FOR PARTIAL
DOG DAZE OF CHARLESTON, LLC	)	SUMMARY JUDGMENT
AND CHARLIE FREEMAN,	)	
	)	
Defendants.	)	
	)	

TO PLAINTIFF AND ATTORNEYS FOR PLAINTIFF:

YOU WILL PLEASE TAKE NOTICE THAT, as soon as counsel may be heard, Defendants will move for partial summary judgment pursuant to Rule 56 of the South Carolina Rules of Civil Procedure for the claims related to the claims for emotional distress and/or pain and suffering. Defendants move because no genuine issue exists about any material fact and Defendants are entitled to summary judgment on these issues as a matter of law. Pursuant to the attached case law, Plaintiff cannot recover damages for emotional distress or pain and suffering based upon the unfortunate and understandably upsetting death of her pets. In support of this motion, Defendants crave reference to the pleadings and applicable South Carolina law.

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July 10, 2023

Fowler v. Fedex Ground Package Sys.

Court of Appeals of South Carolina

October 3, 2022, Submitted; January 18, 2023, Filed

Unpublished Opinion No. 2023-UP-020

Reporter

2023 S.C. App. Unpub. LEXIS 25 *; 2023 WL 234557

Bridgett Fowler, Appellant, v. Fedex Ground Package System, Inc. and James K. Ard d/b/a JMK Logistics Corporation, Respondents.

Notice: THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.

Subsequent History: Rehearing denied by Fowler v. Fedex, 2023 S.C. App. Unpub. LEXIS 163 (S.C. Ct. App., Mar. 23, 2023)

Prior History: [*1] Appeal From Horry County, Benjamin H. Culbertson, Circuit Court Judge. Appellate Case No. 2019-001722.

Disposition: AFFIRMED.

Counsel: Tyler Ryan Turner and Mary Allison Caudell, both of Turner & Caudell, LLC, of Columbia, for Appellant.

Dominic Allen Starr, of McAngus Goudelock & Courie, LLC, and Abigail Edwards Saunders, of Maguire Law Firm, both of Myrtle Beach, for Respondents.

Judges: KONDUROS, HEWITT and VINSON, JJ., concur.

Opinion

PER CURIAM: Bridgett Fowler appeals the trial court's grant of summary judgment in favor of Fedex Ground Package System, Inc. and James K. Ard d/b/a JMK Logistics Corporation regarding damages for pain and suffering in this negligence case based upon the unfortunate and understandably upsetting death of her pet dog, Honey Bunny. We affirm.

1. As to the trial court's reliance on late nineteenth-century caselaw and reference to more recent but

unpublished caselaw, we find the circuit court properly examined the law in arriving at its conclusion. See *Cafe Assocs., Ltd. v. Gerngross*, 305 S.C. 6, 9, 406 S.E.2d 162, 164 (1991) ("Summary judgment is appropriate when it is clear that there is no genuine issue of material fact and that the moving party is entitled to a judgment as a matter of law."); *State v. Langford*, 55 S.C. 322, 326, 33 S.E. 370, 371-72 (1899) (considering whether a dog could be the subject of larceny when the relevant [*2] statute required the stealing of property and concluding a dog constituted property or a chattel); *Coleman v. Levkoff*, 128 S.C. 487, 490, 122 S.E. 875, 876 (1924) ("The general rule is that the owner of personal property, injured by the negligence of another, is entitled to recover the difference between the market value of the property immediately before the injury and its market value immediately after the injury."); *Duke Power Co. v. Thornton*, 303 S.C. 454, 457, 401 S.E.2d 195, 196 (Ct. App. 1991) ("As a general rule, the measure of damages for injury to personal property is the difference between the market value of the property immediately before and its value immediately after the injury."); *Hodge v. UniHealth Post-Acute Care of Bamberg, LLC*, 422 S.C. 544, 555-56, 813 S.E.2d 292, 298-99 (Ct. App. 2018) (finding the trial court's examination of an unpublished decision whose reasoning it found persuasive was harmless when the trial court relied on other published cases and the examination was not prejudicial).

2. As to Fowler's allegation the circuit court's order should be reversed based on national trends and public policy, we find the circuit court's decision is in line with national trends considering damages awarded in cases involving the death of a pet and that public policy considerations do not warrant intervention by this court in the absence of legislative action. See Debra D. Burke, *A Clarion Call for Emotional Damages in Loss of Companion Pet Cases*, 15 Tenn. J.L. & Pol'y 250, 252-53 (2021) ("Traditionally, the common law views pets as property. [*3] As a result, damages for the loss of a pet are limited to compensatory damages representing the market value of the property, although some courts

have debated other measurements. Typically, emotional distress damages for the loss of the pet are not recoverable. However, if an egregious and intentional act results in the loss, some courts are willing to allow recovery for the independent tort of the intentional infliction of emotional distress for the outrageous conduct." (footnotes omitted)); *Koester v. VCA Animal Hosp.*, 244 Mich. App. 173, 624 N.W.2d 209, 211 (Mich. Ct. App. 2000) ("There are several factors that must be considered before expanding or creating tort liability [for the death of a pet], including, but not limited to, legislative and judicial policies. In this case, there is no statutory, judicial, or other persuasive authority that compels or permits this [c]ourt to take the drastic action proposed by plaintiff. . . . However, plaintiff and others are free to urge the [l]egislature to visit this issue in light of public policy considerations, including societal sentiment and treatment of pets, and the prospect of public perception that [the] law does not provide a just and fair remedy"); *Fullbright v. Spinnaker Resorts, Inc.*, 420 S.C. 265, 271, 802 S.E.2d 794, 797 (2017) ("Determinations of public policy . . . are chiefly within [*4] the province of the legislature, whose authority on these matters we must respect."); *Taghivand v. Rite Aid Corp.*, 411 S.C. 240, 244, 768 S.E.2d 385, 387 (2015) (recognizing that "[t]he 'primary source of the declaration of the public policy of the state is the General Assembly; the courts assume this prerogative only in the absence of legislative declaration'" (alteration in original) (quoting *Citizens' Bank v. Heyward*, 135 S.C. 190, 204, 133 S.E. 709, 713 (1925))).

AFFIRMED.¹

KONDUROS, HEWITT and VINSON, JJ., concur.

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¹We decide this case without oral argument pursuant to Rule 215, SCACR.

Bales v. Judelsohn

Court of Appeals of South Carolina

June 1, 2005, Submitted; August 30, 2005, Filed

Unpublished Opinion No. 2005-UP-509

Reporter

2005 S.C. App. Unpub. LEXIS 527 *

Frankie Bales and Sandra Bales, Respondents v.
Robert Judelsohn, Appellant.

Notice: THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT AS PROVIDED BY RULE 239(d)(2), SCACR.

Prior History: [*1] Appeal From Charleston County, Thomas L. Hughston, Jr., Circuit Court Judge.

Disposition: APPEAL DISMISSED.

Counsel: Jay S. Masty, of Goose Creek, for Appellant.

Mark Andrew Redmond, of Charleston, for Respondents.

Judges: HEARN, C.J., BEATTY, and SHORT, J.J., concur.

Opinion

PER CURIAM: Frankie and Sandra Bales brought an action against Robert Judelsohn after Judelsohn's dog injured their dog. The jury found for the Bales. Judelsohn appeals. We affirm as modified.¹

FACTS

In September 2000, Judelsohn's dog was involved in a fight with the Bales' dog. Unfortunately, the Bales' dog was injured in the fight and had to be treated for various injuries, incurring a \$1,258.10 veterinary bill. The Bales brought an action seeking damages for reimbursement of the veterinary bill, lost wages, and emotional injuries. The jury found Judelsohn liable for \$5,000 in damages. This appeal followed.

LAW/ANALYSIS

Judelsohn argues the trial court erred by submitting the issues of emotional damages and lost wages to the jury. We agree.

"In an action at law, on appeal of a case tried by a jury, the jurisdiction of this court extends merely to the correction of errors of law, and a factual finding of the jury will not be disturbed unless a review of the [*2] record discloses that there is no evidence which reasonably supports the jury's findings." Townes Assocs., Ltd. v. City of Greenville, 266 S.C. 81, 85, 221 S.E.2d 773, 775 (1976).

We have not found any jurisprudence in South Carolina that addresses damages resulting from an injury to a pet. However, a limited number of cases decided throughout the United States have considered what damages are recoverable due to injuries to a dog. Typically, the courts have limited the award of damages to the dog's market value in view of the general recognition of dogs as personal property. 4 Am. Jur. 2d Animals §§ 6 and 165 (1995); see State v. Langford, 55 S.C. 322, 33 S.E. 370 (1899).

A New York case, with facts similar to the case sub judice, held that the owner of a cat could not recover for mental distress after seeing it attacked by a dog because the dog's owner was not grossly negligent and did not willfully intend to cause the distress. Buchanan v. Stout, 123 A.D. 648, 108 N.Y.S. 38 (N.Y. App. Div. 1908). Any recovery of damages, the court concluded, would be limited to the pecuniary loss to the owner resulting from the death of her cat. Id.; but see Peloquin v. Calcasieu Parish Police Jury, 367 So.2d 1246, 1251 (La. Ct. App. 1979) (holding that an owner of a animal may sue for damages for conversion thereof and "damages may include awards for mental anguish, humiliation, etc. as well as special and/or actual damages."); 4 Am. Jur. 2d Animals § 164 at 508 (1995) (stating that "[a]lthough recovery has been denied for

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

claims based [*3] upon sentimental or fanciful value placed on animals, damages for mental distress are a proper item of recovery for death or injury to animals such as ... dogs, provided that the owner presents sufficient evidence of emotional distress.").

Therefore, we hold that South Carolina law does not support a cause of action for emotional distress for injury to one's pet. Furthermore, we hold that a claim for lost wages resulting from injury to an animal is not actionable because a dog is considered personal property under our law. Thus, we modify the trial court's judgment, awarding damages only for reimbursement of veterinary expenses in the amount of \$1,258.10.

AFFIRMED AS MODIFIED.

HEARN, C.J., BEATTY, and SHORT, J.J., concur.

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State v. Langford

Supreme Court of South Carolina

June 17, 1899, Decided

No Number in Original

Reporter

55 S.C. 322 *; 33 S.E. 370 **; 1899 S.C. LEXIS 98 ***

STATE v. LANGFORD.

Prior History: [***1] Before GAGE, J., Newberry, February, 1899. Reversed.

Indictment against George Langford for stealing a dog, and for burglary in breaking and stealing from a dog house. From order quashing the indictment on demurrer of defendant, the State appeals.

Disposition: Judgment reversed. Case remanded.

Counsel: Messrs. Solicitor T. S. Sease, Eugene S. Blease and Assistant Attorney General U. X. Gunter, for appellant. The latter cites: In indictment for burglary, it is not necessary to specify particular goods stolen: 24 S. C., 116. Old rule that dog was not subject of larceny has been dispelled by eminent Courts: 15 Am. Dec., 355; 86 N.Y. 365; 74 N. W. R., 918. Dogs are made property by statute: Rev. Stat., 224, 228.

Messrs. Johnston & Welch, contra, cite: At common law there could be no larceny of a dog: 14 Rich. 363; 48 Ala., 161; 41 Ark., 479; 79 Ind., 9; 27 Ind., 62; 34 N. H., 523; 4 Park Cr. R., 386; 81 N. C., 527; 26 Ohio St., 400; 8 S. & R., 571; 3 Tex. App., 489; 13 Tex., 55; 100 Mass., 140; 48 Conn., 346. Have we any statute which makes a dog the subject of larceny? 13 S. C., 4; 2 Stat., 478; 12 Stat., 517; 13 Stat., 25; 12 Rich. 251; 21 Stat., 115; 12 Stat., 407; 16 Stat., 631. What is [***2] the meaning of "live stock?" 17 S. W. R., 117; 2 L.R.A., 148; 65 Ia., 336. Statute taxing dogs created no higher property in them than existed under the common law: 54 S. C., 481. Compound larceny is stealing from the dwelling house or from one within two hundred yards and appurtenant to it: 24 S. C., 118; 1 Nott & McC. 283; 45 S. C., 490; 18 S. C., 137. And a count charging compound larceny must so allege: 45 S. C., 488.

Judges: MR. JUSTICE JONES.

Opinion by: JONES

Opinion

[*323] [**371] The opinion of the Court was delivered by

MR. JUSTICE JONES. In this case the State appeals from an order quashing an indictment, containing two counts—one charging burglary of a dog house within 200 yards of and appurtenant to the dwelling of Mary Nichols, with [*324] intent to steal, &c., the goods and chattels of Mary Nichols in the said dog house; the other count charging larceny of a dog of the value of \$ 10 of the proper goods and chattels of Mary Nichols, then and there being found in the said dog house. In sustaining the demurrer to the indictment the Circuit Court held: (1) that larceny cannot be committed of a dog; (2) that the intent to steal goods and chattels, charged in the first count, [***3] necessarily implies the stealing of a dog, because from a dog house, and that the offense of burglary is, therefore, not charged; (3) that it is not compound larceny to steal from a dog house, as alleged in the second count.

1. The first and principal question presented is whether a dog is the subject of larceny. By the old common law, larceny could not be committed of a dog. The reasons assigned for this were the baseness of the nature of such creature; that it was kept for mere whim and pleasure; that being unfit for food, it was of no intrinsic value; that the penalty for the felony of larceny was too severe to apply for the stealing of so contemptible a creature. By the Statute of 10 George III., ch. 18 (George III. was fond of stag hunting), the taking and carrying away of a dog was made punishable, but not as larceny. Under the reasoning satisfactory at that day, it was larceny to steal a tame hawk, but not larceny to steal a tame dog, although it was larceny to steal the hide of a dead dog. Yet by the common law dogs were held to be such property as would sustain an action of trover for their recovery. Civil remedies were permitted for injury to or loss of dogs, and they would [***4] go to

the executors and administrators as property. The reason for the outlawry of dogs in favor of thieves can hardly be regarded as persuasive at this day and here, and such crude application of the principles of the common law must yield to common sense. The fitness of an animal for food is not the only test of its value to mankind; its capacity for useful service in other ways is often the real test of value. Nor is the fact that an animal is kept for the whim and [*325] pleasure of its owner any sort of reason for excluding it from the law of larceny as a thing of no value, for amusement has its valuable uses to man. Neither is it just to say of the dog that its nature is so base as to render it unworthy of protection as absolute property, for Baron Cuvier says the dog is the "completest, the most singular, and the most useful conquest ever made by man." When we are told that the Greeks and Romans employed dogs in war, armed with spiked collars, and that Corinth was saved by war dogs which attacked and checked the enemy until the sleeping garrison were aroused, we better understand Shakespeare's Antony when he said, "Cry havoc, and let slip the dogs of war." We should not [***5] let our contempt for sheep-killing dogs and our dread of hydrophobia do injustice to the noble Newfoundland, that braves the water to rescue the drowning child; to the Esquimaux dog, the burden bearer of the arctic regions; to the sheep dog, that guards the shepherd's flocks and makes sheep raising possible in some countries; to the St. Bernard dog, trained to rescue travelers lost or buried in the snows of the Alps; to the swift and docile greyhound; to the package carrying spaniel; to the sagacious setters and pointers, through whose eager aid our tables are supplied with the game of the season; to the fleet fox hounds, whose music when opening on the fleeing fox is sweet to many ears; to the faithful watch dog, whose honest bark, as Byron says, bays "deep-mouthed welcome as we draw near home;" to the rat-exterminating terrier; to the wakeful fice, which the burglar dreads more than he does the sleeping master; to even the pug, whose very ugliness inspires the adoration of the mistress; to the brag 'possum and coon dog, for which the owner will fight if imposed upon; and lastly, to the pet dog, the playmate of the American boy, to say nothing of the "yaller dog," that defies legislatures. [***6] Of all animals the dog is most domestic. Its intelligence, docility and devotion make it the servant, the companion and the faithful friend of man. The raising and training of dogs are now pursued by many as a business, large sums of money are invested in [*326] them, and they are bought and sold as other property. In this State, by statute, dogs are and

have long been taxed as personal property, according to value and for revenue. As stated in *Salley v. R. R.*, 54 S.C. 481, 32 S.E. 526: "What the law taxes as personal property it will protect as such." This legislation is potent in two ways: (1) If the common law rule, notwithstanding the fallacy of the reasoning upon which it is based, as applied to present conditions, should be held of force in this State, in the absence of modification by statute, then the statute taxing dogs as personal property ad valorem and for revenue is a modification of the common law rule. (2) It brings dogs as personal property and things of value within the meaning of "chattels" in our State as to simple larceny--see 160 Criminal Code, the term "chattel" including all kinds of *property* except freehold, or things parcel thereof, [***7] and perhaps choses in action. In the case of *Ward v. State*, 48 Ala. 161, 17 Am. Rep. 31, holding that there is no such property in dogs as makes them the subject of larceny, the Court was influenced by the absence of any statute modifying the common law, and the fact that [**372] dogs were not taxed as other property in that State. Likewise, in the case of *State v. Doe*, 79 Ind. 9, 41 Am. Rep. 599, the Court, while holding dogs not the subject of larceny, said: "If dogs were taxed in this State (Indiana) as other property for revenue purposes, it would be a strong circumstance to show an intent on the part of the legislature to abrogate the common law rule, and make them the subjects of larceny like any other personal property." In the case of *Mullaly v. People*, 86 N.Y. 365, a strong case in support of the view of this Court, the Court said: "It can scarcely be supposed that the legislature meant to regard dogs as property for purposes of taxation, and yet leave them without protection from thieves." Sustaining our conclusion, among others are the following cases: *State v. Brown*, 9 Baxt. 53, 40 Am. Rep. 81; *Hornsby v. Sampson* (Iowa), 40 L.R.A. 508, [***8] and a very able and exhaustive note on property rights in dogs, beginning at page 503.

[*327] 2. The Circuit Court also erred in holding, "that the intent to steal goods and chattels, charged in the first count, necessarily implies the stealing of a dog, because from a dog house." The first count did not charge intent to steal a dog, but intent to steal the goods and chattels of the prosecutrix in said dog house. It is not a necessary inference that no chattel other than a dog could be in a dog house, as there might have been other chattels there, such, for example, as collar and chain, block and chain, vessel for food and water, &c., or, indeed, any other chattel the proprietor might see fit to place therein. The first count could, therefore, be sustained as a count for burglary, without reference to

the question whether a dog is the subject of larceny. In indictments for burglary with intent to commit larceny, it is not necessary to specify the particular goods and chattels the defendant intended to steal. 3 Enc. Pl. & Prac., 776. It is urged against this that such want or specification would prevent the plea of former acquittal or conviction; but not so, for such plea is available [***9] if the same burglarious breaking and entering is the essential ingredient in both charges.

3. In reference to the second count, we think the Circuit Court correctly held that it failed to charge a compound larceny. In alleging a larceny from "said dog house," this count did not allege that the dog house was appurtenant to and within 200 yards of the dwelling house. This was alleged in the first count, but the rule is that the sufficiency of each count must be determined by its own allegations, without aid from another count. *State v. Johnson*, 45 S.C. 483, 23 S.E. 619. But, nevertheless, it was error to quash the second count, because it was good as a count for simple larceny, and the Court of General Sessions has concurrent jurisdiction in all cases of larceny triable by magistrate. See Constitution, art. 5, sec. 18, applied in reference to larceny of live stock, in the case of *State v. Crosby*, 51 S.C. 247, 28 S.E. 529.

[*328] The judgment of the Circuit Court is reversed, and the case remanded for further proceedings.

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Coleman v. Levkoff

Supreme Court of South Carolina

May 14, 1924, Decided

11513

Reporter

128 S.C. 487 *; 122 S.E. 875 **; 1924 S.C. LEXIS 228 ***

COLEMAN v. LEVKOFF

Prior History: [***1] Before WHALEY, J., County Court, Richland, May, 1923. Affirmed.

Action by J. Bruce Coleman against Mrs. Laz Levkoff. Judgment for plaintiff and defendant appeals.

Disposition: Exceptions overruled. Judgment affirmed.

Counsel: Mr. Frank G. Tompkins, for appellant, cites: Court erred in not directing a verdict: 94 S.C. 143; 34 S.C. 44; 109 S.C. 331. Negligence per se: 108 S.C. 390; 115 S.C. 495. Proximate cause: 94 U.S. 469.

Mr. Thomas H. Moffatt, for respondent, cites: Testimony: 100 S.C. 363; 19 S.C. 70; Lights--City Ordinance Art. 6, page 6; 108 S.C. 472. Contributory negligence a question for the jury: 102 S.C. 468; 109 S.C. 210; 25 S.C. 128. Judge's charge on damage correct: 81 S.C. 478; 61 S.C. 327; 81 S.C. 181; 104 S.E. 178.

Judges: MR. JUSTICE MARION. MESSRS. JUSTICES WATTS and COTHRAN concur. MR. CHIEF JUSTICE GARY did not participate. MR. JUSTICE FRASER, dissenting.

Opinion by: MARION

Opinion

[**875] [488] The opinion of the Court was delivered by MR. JUSTICE MARION.

Action for damages in the sum of \$ 600, on account of injury to his automobile, alleged to have been sustained by plaintiff as result of a collision with defendant's car on Saluda Avenue in the City of Columbia. The plaintiff [***2] ran his car into the car of the defendant about 9 o'clock at night, [489] February 8, 1923, and alleges that the collision and consequent injury to his automobile were caused by the unlawful and negligent

acts of the defendant in improperly parking her automobile in the street "contrary to the rules of prudence and the ordinances of the City of Columbia." Defendant denied plaintiff's allegations of negligence, and set up as defenses (1) the sole negligence of the plaintiff, and (2) the contributory negligence of the plaintiff. Plaintiff recovered verdict for \$ 250, and from judgment thereon the defendant appeals.

The first exception assigns error in the ruling of the trial Judge "permitting in evidence," over defendant's objection, an estimate as to cost of repairing plaintiff's car. [**876] Cooper, a witness for plaintiff, stated that he had made such estimate. He was then asked what the estimate was. Defendant's counsel objected "to the estimate," but stated no ground. Thereafter the witness read an estimate made by him as an employee of the Roddey Motor Company, at plaintiff's request, as to cost of repairing plaintiff's machine. In any view of the measure of damages, [***3] the cost of repairing the injured machine was directly relevant. The condition of the machine after the injury from the viewpoint of what would be required to repair it was a matter clearly within the scope of the inquiry. Defendant's counsel suggests in argument that the estimate was "incompetent as being merely a statement to support testimony of the witness as to what he found actually wrong with the car, and was grossly in excess of the repairs which were proven to have been made." It does not appear that the memorandum was not such a writing as the witness was entitled to use to refresh his memory, nor does it appear that the writing itself was introduced in evidence. See *Gwathmey v. Foor Hotel Co.*, 121 S.C. 237; 113 S.E. 688. The exception must be overruled.

Appellant's second contention (exceptions 6 and 7) is that the presiding Judge erred in charging the jury as to [490] contributory negligence. It is complained that the language of the Judge not only failed to enlighten, but was so worded as to give, the jury an erroneous view. The exceptions fail to point out any specific error, and an examination of the charge complained of fails to [***4] disclose any ground for valid criticism.

Appellant's third contention (exceptions 5 and 9) is that the presiding Judge erroneously instructed the jury as to the measure of damages. The charge complained of is as follows:

"The proper measure would be to take the reasonable market value of the automobile just before the occurrence, and the reasonable market value just after the occurrence, and the difference between those two values in the eyes of the law would make that party whole; that much money figured with what he has left of the property and added to that would make him whole, and in this case, provided it is proven, he would be entitled to reasonable compensation for being out of the use of the car, for the time it would have reasonably taken to fix it and only during that time, and he would be entitled to the reasonable rental value of a like car of this make, or if that could not be gotten, then one as near like it as possible."

Defendant made no specific request to charge, and at the conclusion of the Judge's charge, in response to an inquiry from the Court as to whether counsel desired any further charge, defendant's counsel answered in the negative.

The general rule [***5] is that the owner of personal property, injured by the negligence of another, is entitled to recover the difference between the market value of the property immediately before the injury and its market value immediately after the injury. 17 C. J. 877, § 183; *Sullivan v. City of Anderson*, 81 S.C. 478; 62 S.E. 862. But it is the duty of the owner of property, injured by the negligence of another, to use all reasonable effort to minimize the damage. *Sullivan v. City of Anderson*, *supra*. [*491] *Willis v. Tel. Co.*, 69 S.C. 531; 48 S.E. 538; 104 Am. St. Rep., 828; 2 Ann. Cas., 52. *Jones v. Tel. Co.*, 75 S.C. 208; 55 S.E. 318. If in the discharge of that duty the owner has the property repaired and restored to a condition in which its market value equals or exceeds the market value before the injury, the measure of damages in that case is the reasonable cost of restoring the property to its previous condition, together with the value of the use of the property during the time reasonably required to repair it. As bearing on the question of the value of the use [***6] of the property of which the owner was deprived, the rental value or expense of hiring a substitute for that of which he was deprived is a pertinent consideration. See 17 C. J., 877, 878, §§ 183, 184, and cases cited. If as a result of the repairs the property is not restored to a condition in which its market value is equal to the market value before the injury, then the measure of damages is the

difference in the market value of the property immediately before the injury and its market value immediately thereafter, in its condition of partial restoration, together with the reasonable cost of the repairs made and the value of the use of which the owner was deprived during the time reasonably required to repair the property. *Sullivan v. City of Anderson*, *supra*.

In the case at bar plaintiff had his car repaired at a cost approximately of \$ 250.27. While the presiding Judge's charge was not as full as it might well have been on this phase of the case, we are satisfied that there was no prejudicial error. The amount of the verdict seems to have been for the amount approximately of the plaintiff's bill for the repairs. It does not appear that the amount of the verdict [***7] included anything for the deprivation of the use of the property, and the verdict is certainly not susceptible of the inference that a recovery was allowed for any difference in the market value of the property before and after the injury and also for the cost of repairs. Exceptions 5 and 9 are therefore overruled.

[*492] Appellant's only remaining contention (exceptions 3 and 8) is that the trial Judge erred in not directing a verdict in favor of the defendant, upon the ground that the evidence was open to no other reasonable inference than that the plaintiff's injury was caused either by his sole negligence or by his contributory negligence and willfulness. The contention, as we understand it, is predicated [**877] mainly upon the proposition that plaintiff by his own admission, was driving at a speed in excess of the limit imposed by a city ordinance. Plaintiff testified that he was running about 18 miles an hour, and it appears that the speed limit prescribed by the ordinance was 15 miles an hour. But whether the negligence of the plaintiff in driving at a speed in excess of the prescribed limit, or his negligence in any other particular, was the sole proximate cause [***8] of the collision, or contributed thereto as a proximate cause, was, under the facts in this case, a question for the jury. If the plaintiff had been running at 15 miles per hour instead of 18, can it be said with any degree of certainty that the collision would not have occurred? Did the difference in speed between 15 and 18 miles per hour contribute to the collision to an extent and in a manner that would enable the trial Court to say as a matter of law that without this negligence, which consisted in the slightly excessive speed, the collision would not have occurred? We think the evidence affords no adequate basis for that conclusion. Obviously the effect of speed would depend upon many considerations, such as grade of the street, sufficiency

of the brakes, distance obstruction was seen before brakes were applied, etc. We are clearly of the opinion that the issue was properly submitted to the jury.

All exceptions are overruled, and the judgment of the Circuit Court is affirmed.

MESSRS. JUSTICES WATTS and COTHRAN concur.

MR. CHIEF JUSTICE GARY did not participate.

Dissent by: FRASER

Dissent

MR. JUSTICE FRASER: I must dissent from the opinion of Mr. Justice Marion on two points.

[*493] [***9] 1. I think the trial Judge erred in charging the jury that the measure of damages for the loss of the use of the plaintiff's car was the rental value of another car of similar make, during the time he was deprived of his car for a reasonable time. To my mind there is a great difference in the loss of the use of a car by different men. For instance: One man has a car that he uses only for the purpose of going to and from his place of business. Another man has constant use for his car and must have it at hand at all times. The first man can hire a public hack for 25 cents each way. His loss is 50 cents a day. The other man must rent a car for a day at a time at a rental, say, of \$ 5 per day. One man has lost, by the injury to his car, 50 cents a day, and the other man has lost \$ 5 per day. The purpose of damages is to save a man from loss, and, as the loss is not the same, the damages should not be the same.

The case of *Lester v. Fox Film Corporation*, 114 S.C. 533; 104 S.E. 178, and the cases therein cited, are not in point. In that case the question was not what the plaintiff should have to pay for another film, but the loss of profits.

2. I think there [***10] should have been a directed verdict. The defendant is held for damages solely because she violated the city ordinance and her conduct was negligence *per se*. The plaintiff admits that he also violated the city ordinance, and as a matter of law he also was guilty of negligence *per se*. Now "contributory negligence to any extent will always defeat a recovery." *Copper v. Ry. Co.*, 56 S.C. 91; 34 S.E. 16. That is the law in this State. It is a natural law that the penetrating power of a projectile is increased by an increase of speed. The jury might as well have made a finding that

ignores the law of gravitation. It is a matter of natural law that the unlawful speed increased the injury. It is a matter of state law that the plaintiff was guilty of negligence in his unlawful speed and a matter of natural law that it contributed to the injury. Of course it was for the jury to say whether it was negligence or not for a man, [*494] whose eyesight was not good, to ride with dim lights on his machine, upon a poorly lighted street, but they had no right to find that his driving at an unlawful rate of speed did not thereby contribute to his injury, and contributory [***11] negligence to any extent defeats recovery. To be specific, an automobile running at 18 miles an hour, if it comes into collision with another car, will do and receive more injury than if it were running 15 miles an hour. That the plaintiff was guilty of negligence is admitted. That the negligence contributed to the injury cannot be denied.

For these reasons I dissent.

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STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

SARAH ROCK,

Plaintiff,

v.

DOG DAZE OF CHARLESTON, LLC AND
CHARLIE FREEMAN,

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
Case No.: 2022-CP-10-5585

**PLAINTIFF’S MOTION FOR
RECONSIDERATION OF ORDER
GRANTING MOTION FOR PARTIAL
SUMMARY JUDGMENT**

Pursuant to Rule 56 of the South Carolina Rules of Civil Procedure, Plaintiff, by and through her undersigned counsel, hereby moves this Court to reconsider its May 28, 2024, Order granting Defendants’ Motion for Partial Summary Judgment (the “Motion”) and grant the Plaintiff’s Motion for Reconsideration.

The facts and law overlooked by the Order in regards to Plaintiff’s claims include the following: (1) the Order addresses claims that Plaintiff does not assert and does not address the claims that Plaintiff does assert in this action; (2) the Court did not address Plaintiff’s alternative argument that even if she cannot recover for emotional pain and distress and can only recover the value of her pets, she can recover the actual value of her pets, her pets are unique and irreplaceable property, and she accordingly can recover their sentimental and companionship value to her; (3) the caselaw relied on as the basis for the Order either is not precedential and should not be relied on or is not applicable to the issues here; and, (4) since there is no binding South Carolina law on whether a plaintiff can recover for emotional pain and distress caused by the negligent loss of a pet or can recover the actual value including sentimental and companionship value of a pet, the Court should follow the persuasive authority of decisions from other jurisdictions.

I. The Order Addresses Claims Plaintiff Has Not Made and Does Not Address the Claims Plaintiff Makes.

The Court granted the Motion on the grounds that South Carolina law does not support a cause of action for emotional distress for injury to one's pet and that Plaintiff had not met the elements to establish a claim of negligent infliction of emotional distress. Contrary to the Order, Plaintiff does not assert "a cause of action for emotional distress for injury" to Plaintiff's pets and does not assert a "negligent infliction of emotional distress claim." Rather, Plaintiff asserts three causes of action: negligence, bailment, and breach of contract. For each of those causes of action, Plaintiff seeks to recover for her "grief, anxiety, and emotional pain and distress" (Compl. ¶¶ 45, 57, & 70) and to recover the "actual value" of her two pets including their sentimental and companionship value (Compl. ¶¶ 43, 44, 55, 56, 68, & 69). The Order thus addresses causes of action that Plaintiff does not assert and does not address the issue of whether South Carolina law permits Plaintiff recover damages for her emotional pain and distress and for the actual value including sentimental and companionship value of her pets under any of those three causes of action.

II. The Order Does Not Address Plaintiff's Claim for Damages for the Actual Value of Her Pets Including Their Sentimental and Companionship Value.

In addition to seeking damages for her emotional pain and distress, Plaintiff seeks to recover damages for the actual value of her pets including their sentimental and companionship value. Assuming *arguendo* that South Carolina law does not permit Plaintiff to recover for her emotional pain and distress, South Carolina law does permit Plaintiff to recover the actual value of her pets, including their sentimental and companionship value, and the Order does not address this additional or alternative damages argument.

The nature of the relationship between a pet, especially a dog, and its owner is unique and

irreplaceable, which are two characteristics in property law that make the determination of a property's value include more than its market price. Any personal property that is unique under the law cannot be replaced by a new item of the same type because there is no other such property. Family chinaware, a grandmothers' diamond ring, and quilts or handmade crafts are all examples of how pieces of personal property have more value than the market price of such items. When something means more, it cannot solely be valued at market value, and its value must be measured as the actual value to its owner. If something like family chinaware can be deemed to hold that value, then so should a living animal who spends years with its owner. **A pet, who has spent time with the owner, been a companion of the owner, and become family with the owner, cannot be replaced by another animal of the same breed. Pets, with their companionship and emotional support, are irreplaceable to the owner and no two pets are the same.**

Furthermore, South Carolina law recognizes that where a property "has no actual market value" the owner is entitled to recover the property's "special value to him," and this property valuation rule must apply to pets. *Nelson v. Coleman Co.*, 249 S.C. 652, 659, 155 S.E.2d 917, 921 (1967). In other words, under South Carolina law, a dog owner must be granted the recovery of the actual value of the dog to the owner. Where a dog is negligently killed or injured, the actual value of the dog includes companionship and emotional support. As irreplaceable and unique property, pets have a legal value different from and greater than their market value.

III. The Order Relied on Unpublished Decisions Without Precedential Value in Addition to Decisions Not Related to or Relevant to Plaintiff's Claims.

The Order relies on the recent decision in *Fowler v. Fedex Ground Package Sys.*, 2023 WL 234557 (S.C. Ct. App. 2023). However, *Fowler* is an unpublished and thus "has no precedential value" and "should not be cited or relied on as precedent in any proceeding except as provided by Rule 268(d)(2), SCACR." The Order uses the *Fowler* decision as the main authority supporting

granting the Motion. Not only is *Fowler* improper to cite, but it should not have been used, relied upon, or considered as having precedential value in deciding the Motion. *See* Rule 268(d)(2), SCARC.

The Order also relies on *State v. Langford*, 55 S.C. 322, 22 S.E. 370 (1899), and while that decision does have precedential value and is published, it does not address any of the issues before the Court here. *Langford* addressed the issue of larceny and the old common law rule providing that a dog has *no* value and thus a person cannot be charged with larceny for the theft of a dog. In *Langford*, the Court reject the old common law rule and recognized that dogs are of value to their owners and the property of their owners. As clarified in Plaintiff's Memorandum in opposition to the Motion, *Langford* does not "address the measure of the value of a dog to its owner or whether the owner of a dog can recover for emotional distress" for the injury to one's pet.

Setting aside the unreported, nonbinding cases and the irrelevant decisions relied on by Defendants and the Order, South Carolina does not have any authority on whether the owner of a pet can recover for the emotional distress for the injury to one's pet or whether an owner can recover the actual value of a pet including sentimental and companionship value. Lacking such authority in South Carolina, the Court should look to the common law as generally developed across jurisdictions in the United States and which, as discussed in the following section, indicates a pet owner should be permitted to recover for emotional pain and distress caused by negligent harm to a pet and should be permitted to recover the actual value of a harmed pet including its sentimental and companionship value.

IV. Persuasive Authority from Other Jurisdictions Indicates South Carolina Law Should Permit a Pet Owner to Recover Emotional Distress Damages and the Actual Value of a Harmed Pet.

The Order does not address the decisions from other jurisdictions applying the common law and holding that a pet owner is entitled to recover emotional distress and actual value damages

for harm to a pet. Several states, including Florida, Hawaii, Oregon, Louisiana, and Texas, have recognized that the common law permits an owner of a dog to recover noneconomic damages for the negligent injury to or death of one's pet. The Florida District Court of Appeals held in a case regarding the negligent injury of a dog by a veterinary hospital, that the trial court "did not commit err by including for consideration of the jury the elements of the mental pain and suffering of the plaintiff-owners of the dog." *Knowles Animal Hosp., Inc. v. Wills*, 360 So. 2d 37, 38 (Fla. Dist. Ct. App. 1978). Similarly, the Supreme Court of Hawaii granted recovery to the plaintiff for mental distress that was caused by the negligent death of the plaintiffs' dogs. *Campbell v. Animal Quarantine Station*, 632 P.2d 1066, 1071 (Haw. 1981). In addition to state courts, a federal district court found that the plaintiff could recover for "emotional distress damages arising from Defendant's unlawful seizure of Plaintiffs' dog." *Moreno v. Hughes*, 157 F. Supp. 3d 687, 690 (E.D. Mich. 2016); *see also Henning v. Nicklow*, No. 1:08-cv-180, 2009 WL 2642739, (N.D. Ind. Oct. 30, 2009) (arriving at same conclusion based on similar facts). These decisions from other jurisdictions indicate that the common law as generally developed and applied across the various state and federal courts in the United States permit a pet owner to recover emotional distress and actual value damages for negligent harm to a pet.

Additionally, as discussed in Plaintiff's memorandum in opposition to the Motion, the role of dogs in society and the legal treatment of dogs has developed over time from the old common law rule that dogs are wild beasts that cannot be property, and the decisions from other jurisdictions reflect a further development of the role of dogs in society and a corresponding evolution of the common law. The common law evolves as society evolves, and South Carolina courts have "the right and duty to develop the common law of South Carolina to better serve an ever-changing society as a whole." *State v. Horne*, 282 S.C. 444, 447, 319 S.E.2d 703, 704 (1984). As recognized

by the United States Court of Appeals for the Fourth Circuit:

Dogs have aptly been labeled ‘Man’s Best Friend,’ and certainly the bond between a dog owner and his pet can be strong and enduring. Many consider dogs to be their most prized personal possessions, and still others think of dogs solely in terms of an emotional relationship, rather than a property relationship.

Altman v. City of High Point, 330 F.3d 194, 205 (4th Cir. 2003). This statement reflects a shift in society’s view of dogs. (Aff. of Dr. Leslie Irvine ¶¶12–15.) People value their pets as a part of their family because of their companionship, loyalty, comfort, and strong personalities. Dogs attend vacations with the family, dogs sleep in the same bed as their family, and dogs are with their family through life’s biggest moments. Dogs are no longer seen as merely interchangeable property, and South Carolina’s courts have a duty to bring the common law forwards to reflect such changes in society.

CONCLUSION

For the reasons set forth herein, Plaintiff respectfully requests the Court reconsider the Order, grant the Motion for Reconsideration, and deny Defendants’ Motion.

Respectfully submitted,

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STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

SARAH ROCK,

Plaintiff,

v.

DOG DAZE OF CHARLESTON, LLC and
CHARLIE FREEMAN,

Defendants.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2023-CP-10-5585

**PLAINTIFF'S MEMORANDUM IN
OPPOSITION TO DEFENDANTS'
MOTION FOR PARTIAL SUMMARY
JUDGMENT**

Plaintiff, by and through her undersigned counsel, hereby submits this Memorandum in Opposition to Defendants' Motion for Partial Summary Judgment.

STATEMENT OF FACTS

Plaintiff owned two dogs, Xumi and Reuben, which she regularly boarded at the dog boarding facility owned and operated by defendants Dog Daze of Charleston, LLC and Charlie Freeman ("Defendants"). Ex. A, Depo. of Sarah Rock 40:3–41:20; Ex. B, Depo. of Charlie Freeman 8:18–9:18, 24:16–25:5; Compl. ¶¶4–14; Ans. ¶¶5 & 8. Xumi and Reuben were incredibly valuable to Plaintiff and were like her family members, providing her with companionship, emotional support, and affection. Ex. A, Depo. of Sarah Rock 41:21–42:24. On July 14, 2022, while Xumi and Reuben were boarded at the facility for Plaintiff to travel for work, Defendants' dog got into the area where Xumi and Reuben were located, attacked and killed Xumi, and wounded Reuben. Ex. A, Depo. of Sarah Rock 32:9–33:8 & Ds.' Ex. 9; Ex. B, Depo. of Charlie Freeman 19:12–20:4 & 38:23–54:20 & P.'s Ex. 2; Compl. ¶¶13–27; Ans. ¶¶10–12. The

loss of Xumi and injury to Reuben caused Plaintiff to suffer significant emotional distress, anguish, and suffering. Ex. A, Depo. of Sarah Rock 35:14–39:4; Compl. ¶¶31–37. Plaintiff filed this action to recover for that emotional distress, anguish, and suffering and the corresponding loss of companionship, loss of emotional support, and loss of affection formerly provided by Xumi and Reuben. Compl

STANDARD OF REVIEW

Summary judgment is only appropriate when there is “no genuine issue as to any material fact and [...] the moving party is entitled to judgment as a matter of law.” Rule 56, SCRCP. “The party moving for summary judgment has the burden of clearly establishing the absence of a genuine issue of material fact.” *Miller v. Blumenthal Mills, Inc.*, 365 S.C. 204, 220, 616 S.E.2d 722, 729 (Ct. App. 2005). “In determining whether any triable issues of fact exist, the evidence and all inferences which can reasonably be drawn from the evidence must be viewed in the light most favorable to the non-moving party.” *Koester v. Carolina Rental Center, Inc.*, 313 S.C. 490, 493, 443 S.E.2d 392, 394 (1994). “Because it is a drastic remedy, summary judgment should be cautiously invoked to ensure that a litigant is not improperly deprived of a trial on disputed factual issues.” *Miller*, 365 S.C. at 220, 616 S.E.2d at 729.

ARGUMENT

I. South Carolina Law Has Not Yet Addressed the Damages Recoverable When a Pet Dog is Tortiously Harmed.

Defendants contend that pursuant to the caselaw attached to the Motion, “Plaintiff cannot recover damages for emotional distress or pain and suffering based upon the unfortunate and understandably upsetting death of her pets.” However, the four opinions provided by Defendants

do not support that contention. South Carolina law has not yet addressed the damages a pet owner may recover when a pet dog is tortiously killed or harmed.

First, Defendants rely on the unpublished decision of the Court of Appeals in *Fowler v. Fedex Ground Package System, Inc.* As stated at the top of the decision provided by Defendants, as an unpublished decision, the *Fowler* decision “has no precedential value” and “should not be cited or relied on as precedent in any proceeding except as provided by Rule 268(d)(2), SCACR.” Under Rule 268(d)(2), not only is it improper for Defendants to cite to the *Fowler* decision, but the Court should not consider the *Fowler* decision and *cannot* rely on the *Fowler* decision, with Rule 268(d)(2) stating: “Memorandum opinions and unpublished orders have no precedential value and should not be cited except in proceedings in which they are directly involved.”

Additionally, even were it proper for consideration in this case, the *Fowler* decision does not address the issues before the Court here. The *Fowler* decision addressed only whether a plaintiff could recover “damages for pain and suffering” caused by the death of her pet dog. The *Fowler* decision did *not* consider whether a pet owner can recover for emotional distress caused by the death of her pet dog or what the law recognizes as the value of a pet dog.

Second, Defendants rely on *Bales v. Judelsohn* which is also an unpublished decision that has no precedential effect. *Bales* also acknowledges that there is no “jurisprudence in South Carolina that addresses damages resulting from an injury to a pet.” In other words, there is no South Carolina precedent addressing the damages recoverable when a pet animal is tortiously injured.

Third, Defendants rely on *State v. Langford*, 55 S.C. 322, 33 S.E. 370 (1899), which is a

published, precedential decision, but which does not address any of the issues present in this case. In *Langford*, the issue was whether stealing a dog was larceny. The *Langford* decision first reviewed the old common law rule that a dog had no value and therefore the theft of a dog could not give rise to a larceny charge. The Court rejected that old rule and recognizing the value of dogs to their owners, adopted a common law rule that the theft of a dog is larceny. As discussed in the following sections, the Court's reasoning in *Langford* supports Plaintiff's claims in this case and does not support Defendants' arguments. Here, the key point is that *Langford* did not address the measure of the value of a dog to its owner or whether the owner of a dog can recover for emotion distress and suffering caused by the death or injury of the dog. Rather, *Langford* merely rejected the old position that a dog has no value to its owner and recognized that a dog has a value to its owner.

Fourth, Defendants rely on *Coleman v. Levkoff*, 128 S.C. 487, 122 S.E. 875 (1924), which does not address the value of a dog to its owner or whether the owner of a dog can recover for emotional distress from the death or injury of the dog. *Coleman* concerned damage to an automobile and unremarkably, held that the measure of the damage to the automobile was the diminution in value of the automobile: "the general rule is that the owner of personal property, injured by the negligence of another, is entitled to recover the difference between the market value of the property immediately before the injury and its market value immediately after the injury." As discussed in the following sections, that measure of damages is inapplicable to the death or injury of a pet dog, but here, the key point is that *Coleman* did not address the value of a pet dog or what the owner of a pet dog can recover when the dog is killed or injured by the negligence of

another.

In short, there is no South Carolina authority on whether a pet owner can recover for emotional distress from the loss of a dog or the recoverable value of a pet dog. The Court therefore must look to South Carolina common law generally and ascertain how our State's common law would address the issue. As set forth in the following sections, South Carolina common law indicates that a pet owner is entitled to recover for emotional distress, anguish, and suffering, loss of companionship, loss of emotional support, and loss of affection caused by the loss of a pet dog.

II. South Carolina Law Supports and Should Permit the Recovery of Emotional Distress, Anguish, Suffering, Loss of Companionship, Loss of Emotional Support, and Loss of Affection for the Negligent Killing or Injury of a Dog.

The courts of several states have recognized as a matter of common law that a dog owner can recover noneconomic damages caused by the negligent death of or injury to a pet dog. For example, where a veterinary hospital negligently injured the plaintiffs' dog, the Florida District Court of Appeal held that a trial court "did not commit error by including for consideration of the jury the element of the mental pain and suffering of the plaintiff-owners of the dog." *Knowles Animal Hosp., Inc. v. Wills*, 360 So. 2d 37, 38 (Fla. Dist. Ct. App. 1978). The Supreme Court of Hawaii held that a plaintiff could recover for mental distress caused by the negligent death of the plaintiffs' dog. *Campbell v. Animal Quarantine Station*, 632 P.2d 1066, 1071 (Haw. 1981). Oregon, Louisiana, and Texas courts have similarly held. *See Freedman v. Stride*, 525 P.2d 166, 169 (Or. 1974) (affirming jury verdict of damages for mental anguish caused by veterinarian's conversion of the plaintiff's dog); *City of Garland v. White*, 368 S.W.2d 12, 13–14 (Tex. Civ. App.

1963) (affirming jury award for mental pain and suffering from death of the plaintiff's dog); *Linceum v. Smith*, 287 So. 2d 625 (La. Ct. App. 1973) (affirming jury award for mental anguish caused by conversion of the plaintiff's dog).

Several federal courts have arrived at the same legal conclusion. A federal district court held that as a matter of “federal common law,” where officers killed the plaintiffs’ dog, the plaintiffs were entitled to recover “emotional distress damages arising from Defendant’s unlawful seizure of Plaintiffs’ dog.” *Moreno v. Hughes*, 157 F. Supp. 3d 687, 690 (E.D. Mich. 2016); *see also Henning v. Nicklow*, No. 1:08-cv-180, 2009 WL 2642739, (N.D. Ind. Oct. 30, 2009) (arriving at same conclusion based on similar facts). The *Moreno* decision reasoned that if the plaintiff was not permitted to recover “mental and emotional damages,” the plaintiff would “not be compensated for their ‘actual losses.’” *Moreno*, 157 F. Supp. 3d at 690. The *Moreno* decision also relied on the fact that “some states award emotion damages for injury to pets.” *Id.*

Decisions from other states arriving at the opposite conclusion—holding that the damages recoverable for the negligent loss of a dog are limited to replacement value or fair market value—are the continuation of an outdated legal concept of dogs. As the *Langford* decision discusses, English common law originally considered dogs to be wild beasts incapable of being a person’s property. Margit Livingston, *The Calculus of Animal Valuation: Crafting a Viable Remedy*, 82 Neb. L. Rev. 784, 785 (2004). Developments in the relationship between people and dogs and the changed role of dogs in society since the medieval period that gave rise to the old English common law rule, resulted in courts, like the South Carolina Supreme court in *Langford*, holding that dogs are the property of their owners and have value. *See Langford*, 55 S.C. at —, 33 S.E.

370 at 371; *Salley v. Manchester & A.R. Co.*, 54 S.C. 481, 32 S.E. 526 (1899) (reversing dismissal of civil action for killing the plaintiff's dog on basis dogs are valuable property that can give rise to a civil claim). As *Langford* discussed in terms of whether a thief was immune from prosecution for stealing a dog under the old English common law rule or committed larceny because a dog is valuable property, "[t]he reason for the outlawry of dogs in favor of thieves can hardly be regarded as persuasive at this day and here, and such crude application of the principles of the common law must yield to common sense." *Id.*

While the common law evolved to recognize dogs as valuable property, many jurisdictions saw dogs as interchangeable units for which the recoverable value is limited to the cost to purchase a new dog of the same breed and with the same training as the deceased dog. In earlier times, dogs were valued for the services they provided around the home, rather than for their companionship. Livingston, *Animal Valuation*, 82 Neb. L. Rev. at 785. The old English common law considered any dog the equivalent of any other dog because any dog—controlling for breed, health, and training—can perform the same economic services as any other dog. In some jurisdictions that reasoning has carried forward to the present, but the reasoning is a relic of that outdated view of dogs.

As acknowledged by *Langford* and again more recently, South Carolina courts have "the right and duty to develop the common law of South Carolina to better serve an ever-changing society as a whole." *State v. Horne*, 282 S.C. 444, 447, 319 S.E.2d 703, 704 (1984). As widely acknowledged by courts and the public in American society today, dogs are no longer considered interchangeable animals and are primarily, if not exclusively, valued for their emotional and

companionship value as quasi-family members. As stated by the United States Court of Appeals for the Fourth Circuit:

Dogs have aptly been labeled ‘Man’s Best Friend,’ and certainly the bond between a dog owner and his pet can be strong and enduring. Many consider dogs to be their most prized personal possessions, and still others think of dogs solely in terms of an emotional relationship, rather than a property relationship.

Altman v. City of High Point, 330 F.3d 194, 205 (4th Cir. 2003). Similarly, the Supreme Court of Vermont recognized that “[a] pet dog generally has no substantial market value as such” and “[l]ike most pets, its worth is not primarily financial, but emotional.” *Morgan v. Kroupa*, 702 A.2d 630, 632–33 (Vt. 1997).

That recognition by courts evidences the broader shift in the societal status of dogs in America over the past hundred or so years. As Plaintiff’s expert Dr. Leslie Irvine, a sociologist who has spent decades studying the relationship between people and pets, observes, “[t]he way people value and regard animals, in general, and pets, in particular, has changed, such that both scholars and members of the public recognize their roles as family members, companions, and best friends.” Aff. of Dr. Irvine ¶12; *see also* Sonia S. Waisman & Barbara R. Newell, *Recovery of ‘Non-Economic Damages’ for Wrongful Killing or Injury of Companion Animals*, 7 *Animal L.* 45, 57–64 (2001). Survey research indicates that 97% of American pet owners today regard pets as family members and 50% of Americans today consider pets to be family members equivalent to human family members. Aff. of Dr. Irvine ¶¶13 & 14. In modern American society, “people and pets develop close attachments and rely on each for the emotional support that characterizes kinship.” Aff. of Dr. Irvine ¶15.

Additionally, given the evolved role of dogs in modern society as companion animals, dogs

are no longer viewed as interchangeable, replaceable property. “The bonds between people and pets reflect the characteristics of specific relationships in which each animal is considered a unique individual” and “[a]s with relationships between people, one animal cannot simply ‘replace’ another.” Aff. of Dr. Irvine ¶16. Today, society acknowledges that “an individual’s bond with a particular animal is unique.” Livingston, *Animal Valuation*, 82 Neb. L. Rev. at 806. The rejection of a replacement value approach to damages for the death of a dog follows naturally from this evolved societal view. When dogs are no longer owned for their economic services and instead are owned for companionship and a psychological bond, one dog cannot replace another.

Moreover, due to the unique, irreplaceable nature of a pet dog, the loss of a dog typically causes the dog owner to suffer “significant grief, distress, sadness, depression, helplessness, anger, and guilt.” Aff. of Dr. Irvine ¶17. The loss of a pet dog can be “debilitating and enduring,” can result in “trauma symptoms and other mental health consequences,” especially when the death is sudden and violent. Aff. of Dr. Irvine ¶18.

While the common law is to evolve with and comport with society, the modern valuing of dogs means that the old common law rule that the value of a dog is limited to the cost of a replacement dog no longer comports with modern society. South Carolina courts should reject the approach of some jurisdictions of adhering to a medieval view of dogs that does not comport with modern American society.

The reasoning applied by those state and federal courts holding that the loss of a dog causes recoverable damages for emotional distress, anguish, suffering, loss of companionship, loss of emotional support, and loss of affection, and that the value of a dog includes a component of

emotional support and companionship value applies with equal force in South Carolina. That reasoning should compel a holding that under South Carolina common law, Plaintiff can recover damages for her emotional distress and suffering and her loss of companionship and emotional support caused by the negligent killing and injuring of her dogs.

Given the modern societal view of a pet dog as a unique companion not replaceable by another dog, the loss of companionship and emotional support caused by the negligent killing or injuring of a pet dog—and the commensurate emotional distress, anguish, and suffering—are recoverable under existing South Carolina law. South Carolina law provides that where property is uniquely valuable to the owner, rather than replaceable by a new item of the same type, the owner is entitled to recover the actual value to the owner when the property is negligently destroyed or damaged. Other jurisdictions have employed the same common law rule to arrive at the result that a dog owner is entitled to recover the full value of the dog to the owner—including the companionship and emotional support value of the dog—rather than just the replacement value.

South Carolina law recognizes that where property “has no actual market value” the owner is entitled to recover the property’s “special value to him.” *Nelson v. Coleman Co.*, 249 S.C. 652, 659, 155 S.E.2d 917, 921 (1967). The Supreme Court of South Carolina explained:

Recovery may be had for the loss of destruction of property even though it has no actual market value, in which case the owner is entitled to recover its actual or reasonable value, or its special value to him. Household goods and wearing apparel in the owner’s possession differ from many other items of personal property. They are often more personal to the owner in the sense that another item of equal age, quality, and condition is not interchangeable, in the opinion of the owners generally, with the item damaged or destroyed. In these cases, courts do not limit damages to secondhand market value, but allow the owner to recover either the actual value of the item or its value to the owner excluding any fanciful or sentimental value which the owner may place on the item.

Id. That is the common law rule across jurisdictions, with one of the most widely recognized and authoritative treatises explaining:

Occasionally, chattels have no market value, simply because they are not salable. More often, the market value clearly would not be adequate compensation. In these cases, there may be recovery of the value to the owner, as distinguished from value to others. This is true of family heirlooms and other articles that have a purely personal value to the plaintiff and no one else. It is also true, in general, of clothing, books, pictures, furniture and household goods, which will be worth more to the owner than their value to a second-hand store.

Victor E. Schwartz, *et al.*, Prosser, Wade and Schwartz's Torts 549–50 (11th ed. 2005); *see also*, *e.g.*, *Anzalone v. Kragness*, 826 N.E.2d 472, 477 (Ill. App. Ct. 2005) (“The Restatement and most jurisdictions take a position that in such cases it would be unjust to limit the damages to the fair market value and, instead, use the so-called ‘value to the owner’ . . . as the measure of damages.”); *Shaffer v. Honeywell, Inc.*, 249 N.W.2d 251 (S.D. 1976) (trophies from horse shows); *Brousseau v. Rosenthal*, 443 N.Y.S. 2d 285 (N.Y. Civ. Ct. 1980) (dog); *S. Express Co. v. Owens*, 41 So. 752 (Ala. 1906) (unpublished manuscript).

As discussed previously, in modern society a pet dog cannot be replaced by a new dog. Dogs are unique, irreplaceable property valued for their companionship and emotional support. As such property, under South Carolina law a dog owner must be permitted to recover the actual value to the owner—including the companionship and emotional support value—of the dog to that owner when the dog is negligently killed or injured.

Courts outside South Carolina have employed that common law rule of damages to hold that a dog owner is entitled to recover the actual value of the dog to the owner, including the companionship and emotional support value of the dog, rather than just the cost to obtain a new

dog. For example, in *Brousseau v. Rosenthal*, 443 N.Y.S.2d 285 (N.Y. Civ. Ct. 1980), the court found the proper measure of damage for the death of a dog “must assess the dog’s actual value to the owner in order to make the owner whole.” 443 N.Y.S.2d at 286. The court further concluded that an element of the dog’s actual value to the owner was the loss of companionship provided by the dog. *Id.* Similarly, in *Jankoski v. Preiser Animal Hospital, Ltd.*, 510 N.E.2d 1084 (Ill App. Ct. 1987), the court held that the recoverable damages for the negligent death of a dog is the “actual value of the object to the owner” and one element in the actual value of a dog is the loss of the dog’s companionship. 510 N.E.2d at 1087.

Accordingly, because Xumi and Reuben were Plaintiff’s unique, irreplaceable property of great value to Plaintiff for the companionship, emotional support, and affection they provided her, Xumi and Reuben were unique property for which Plaintiff should be entitled to recover their actual value. Xumi and Reuben were like a family Bible, a grandmother’s wedding dress, or family photographs, all items irreplaceable and of unique value to the owner, except Xumi and Reuben were even more uniquely value. Xumi and Reuben were living animals that could provide companionship, emotional support, and affection. The value of Xumi and Reuben and the service they provide was in large part that companionship, emotional support, and affection and those must be included in determining the actual value to Plaintiff. The emotional distress, anguish, and suffering Plaintiff suffered from Xumi’s death and Reuben’s injury is evidence of the value of the companionship, emotional support, and affection Xumi and Reuben provided. In other words, the emotional distress, anguish, and suffering Plaintiff suffered are the inverse of the companionship, emotional support, and affection that Xumi and Reuben provided.

CONCLUSION

For the reasons set forth herein, the Court should deny Defendants' Motion for Partial Summary Judgment.

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Exhibit A



ESQUIRE
DEPOSITION SOLUTIONS

800.211.DEPO (3376)
EsquireSolutions.com

1 STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
2 COUNTY OF CHARLESTON) DOCKET NO.: 2022-CP-10-5585
3

4 SARAH ROCK,

5 Plaintiff,

6 vs.

7 DOG DAZE OF CHARLESTON, LLC
8 and CHARLIE FREEMAN,

9 Defendants.
10
11
12

13 DEPOSITION OF
14 SARAH KATHERINE ROCK
15
16

17 DATE: January 23, 2024

18 TIME: 9:42 a.m. - 10:51 a.m.

19 LOCATION: Turner Padgett Graham & Laney, PA
20 40 Calhoun Street, Suite 200
Charleston, South Carolina

21 REPORTED BY: Donald L. Whiteley, Jr.
22
23
24
25

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Exhibit 3	Transfer Receipt Dated 07/16/2022 for \$25.00 (1 Page)	19
Exhibit 4	Airline Receipt for \$611.07 (1 Page)	20
Exhibit 5	Copy of Check Dated 08/26/22 From Dog Daze of Charleston, LLC to Sarah Rock for \$3,000 (1 Page)	20
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Exhibit 8	Email Communication From Robyn Stern Re: Xumi (1 Page)	29
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PROCEEDINGS

= = = = =

(SARAH KATHERINE ROCK, having been first duly sworn
as hereinbelow certified, testifies as follows:)

E-X-A-M-I-N-A-T-I-O-N

BY MR. COBB:

Q Good morning. I'm David Cobb. Have you ever
taken -- or given a deposition before?

A No.

Q All right. I'm going to ask you some
questions about you, about the claims and about the
damages that you are asserting. I'm not trying to trick
you, nor am I trying to get you to answer my questions in
any particular way. I also don't think we're going to be
here very long, but if you need to take a break at any
point, let me know.

If I ask you a question that confuses you or
sounds dumb, please just let me know. I'll be happy to
repeat or rephrase the question. Okay?

A Okay.

Q All right. If you do not ask me to clarify a
question, I'm going to assume that you heard and
understood my question. Is that fair?

A Yes.

Q I'm also going to assume that you've given me

1 a truthful response to each question.

2 A I need you to speak a little bit louder.

3 Q Okay. I'm very soft-spoken.

4 MR. WILLIS: Said nobody ever.

5 MR. JORDAN: Please make sure that's on the
6 record.

7 BY MR. COBB:

8 Q Let me have you full name, please.

9 A Sarah Katherine Rock.

10 Q All right. What's your current address?

11 A 1242 Wimbee Drive, Charleston, South Carolina
12 29407.

13 Q All right. And your date of birth?

14 A 4/13/1979.

15 Q All right. Where did you grow up?

16 A In Columbia, South Carolina.

17 Q And where did you go to high school?

18 A Dreier High School.

19 Q "Never fear Dreier." That was the adage.

20 MR. JORDAN: Still is, I'm pretty sure.

21 BY MR. COBB:

22 Q How about after high school?

23 A I went to massage therapy school.

24 Q Okay. And where was that?

25 A In Columbia, South Carolina.

1 Q Okay. When did you move to Charleston?

2 A 2006.

3 Q And do you work here now?

4 A Part time; yes.

5 Q What do you do?

6 A I'm a yoga teacher.

7 Q Okay. And where do you teach?

8 A I teach privately at a building -- an office
9 building, downtown.

10 Q What else do you do in your spare time?

11 A In my spare time I work around my house.
12 Spend time with my dogs. I like to work out. I was
13 teaching Pilates until about a month ago and -- yeah.

14 Q Where were you teaching Pilates?

15 A I teach a form of Pilates called Lagree
16 Fitness at Mega Body. It's on Meeting Street. It was
17 formally called Method 29403.

18 Q All right. And why did that end?

19 A It was no longer enjoyable to me.

20 Q Okay. Why is that?

21 A It -- it just -- it was a bit too stressful
22 for the amount of money that I made.

23 Q All right. Does anyone live with you?

24 A No.

25 Q All right. Do you do any type of charity

1 work on a regular basis or volunteer work?

2 A Not currently.

3 Q How about -- do you attend or participate in
4 any kind of a church or civic organizations?

5 A No.

6 Q What dogs do you have currently?

7 A "Reuben."

8 Q And "Reuben" is a miniature pincher?

9 A He is a Min-Pin/Shih Tzu mix, according to
10 his DNA records.

11 Q Okay.

12 A And "Polly," who is a Maltipoo.

13 Q And I apologize; I have no idea about
14 animals. So what is in a Maltipoo?

15 A So it's a Maltese/poodle mixture.

16 Q And how old is "Polly?"

17 A She'll be a year in February.

18 Q And how old is "Reuben?"

19 A Around three years old.

20 Q Does "Reuben" have any issues that you
21 attribute to the incident that happened in July of 2022?

22 A He -- he's -- he's sensitive around his
23 shoulders where he was -- where the bite marks were. But
24 since he went to like rehab training, he's been better.

25 Q All right. What kind of rehab training did

1 he do?

2 A He did some training with the Doggy Lama
3 Academy for PTSD and aggression after the incident.

4 Q The Doggy Lama Academy?

5 A That is correct.

6 Q All right. Llama: L-L-A-M-A?

7 A I believe so.

8 Q And where is that?

9 A North Charleston.

10 Q And who runs that?

11 A A guy named JR.

12 Q What's JR's last name?

13 A I don't know what his last name is.

14 Q And what kind of things did "Reuben" do at
15 the Doggy Lama Academy?

16 A You -- you would have to ask JR, he -- for
17 specifics. But he spent several weeks with him when I
18 traveled for work, to -- to work on his behavior.

19 Q All right. And did you pay for this
20 training?

21 A I did.

22 Q And how much was that training?

23 A Around \$5,000.

24 Q And how many weeks was this training?

25 A I believe the training was four weeks. But

1 JR and -- "Reuben" would stay with JR when I traveled,
2 even though he doesn't typically board dogs. After what
3 happened, I really struggled boarding my animals; I can't
4 do it.

5 And so he said that he would keep "Reuben"
6 for me and they would continue to work on, you know, what
7 they had learned -- or what "Reuben" had learned when he
8 stayed with them. So when I traveled for work, that's
9 where "Reuben" would go.

10 Q Okay. Where were you working at the time?

11 A I work in the Bahamas, and I work on yachts
12 that travel globally.

13 Q All right. So back in the summer/fall of
14 2022, where were you working?

15 A I was in the Bahamas.

16 Q All right. And what were you doing in the
17 Bahamas?

18 A I'm a massage therapist and wellness
19 professional. I teach yoga, meditation.

20 Q And who were you employed by?

21 A Indigo Island Management.

22 Q And so during the summer of 2022 and the fall
23 of 2022, how long were you gone?

24 A I don't know the approximate dates. But
25 during -- the July trip, it was, I believe, two weeks.

1 Q All right. How about August?

2 A I -- I don't know the approximate, but I know
3 that I did it two -- two trips on a yacht after that.
4 I'd have to look at my calendar.

5 Q All right. What I'm trying to figure out is
6 how long did you -- how long were you in the Bahamas
7 during the -- from July 1, 2022 to the end of the year?

8 A I'd have to look at my calendar.

9 Q Do you have that with you?

10 A Yeah.

11 Q Could you do that?

12 A So tell me again: You want to know when I
13 was there in July?

14 Q July of 2022 through the end of 2022.

15 A So my calendar says that I was in the Bahamas
16 the 5th of July. Oh, no. I'm sorry; that's not 2022.
17 The 7th of July. And I believe I came back to the U.S.
18 on either the 16th or the 17th.

19 Q When did you go back to the Bahamas?

20 A [Searching phone calendar.] I -- I can't
21 find it on my calendar. I'm sorry.

22 Q Well, did you go back to the Bahamas within a
23 couple of weeks of the incident or did you --

24 A No. It was probably a couple of months.

25 Q Okay. Meaning September, October?

1 A Maybe October.

2 Q Okay. And what did you do from July through
3 October?

4 A For what? For work?

5 Q Just in general.

6 A I went to therapy. I went to a trauma
7 retreat in California. I taught yoga and Pilates. I did
8 EMDR therapy.

9 Q All right. And then at some point,
10 Octoberish, you went back to the Bahamas?

11 A Correct.

12 Q All right. And how long were you there?

13 A Just a few days.

14 Q And was that for work?

15 A Yes; it was.

16 Q And is there a way to determine how many
17 times you've been to the Bahamas for work since July of
18 2022?

19 A Yes; there is. But I -- I don't -- I don't
20 seem to have it on my calendar here.

21 Q All right. When's the last time you went to
22 the Bahamas?

23 A Just recently, for the -- Christmas and New
24 Year's.

25 Q And what is that?

1 A I was there from -- I believe I -- I was
2 there from the 20th of December until January 3rd.

3 Q Was that for work or for --

4 A For work.

5 Q All right. And who were you working for
6 then?

7 A Indigo Island Management.

8 Q When you were doing the yacht trips, who were
9 you working for then?

10 A The Hansen family.

11 Q Hansen?

12 A Correct.

13 Q What's the first name?

14 A Dell Loy. D-E-L-L, L-O-Y.

15 Q H-A-N-S-E-N?

16 A Correct.

17 Q And what were you doing for them?

18 A Massage. Yoga. Meditation.

19 Q And how many trips have you taken with them?

20 A With the Hansenses? Probably six or seven.

21 Q All right. Where do they live?

22 A In Utah.

23 MR. JORDAN: Can we go off the record for one
24 sec?

25 MR. COBB: Sure.

1 (Off the record.)

2 BY MR. COBB:

3 Q All right. So does this give us an idea of
4 when "Reuben" was taken to the Doggy Lama Academy?

5 A I can tell you that. It's the Doggy Lama.
6 Did you say Dalai Lama?

7 MR. JORDAN: He did.

8 BY MR. COBB:

9 Q I said Doggy. Doggy.

10 A It's the Doggy --

11 Q I was smart enough to write down Doggy. My
12 drawl may have picked it up as Dalai, but I did write it
13 down.

14 MR. JORDAN: Not Dalai.

15 MR. COBB: I did make that connection, that
16 it was Doggy. Started with a "Y." Doggy Lama.

17 A So "Reuben" -- I believe "Reuben's" first
18 stay or "Reuben's" -- one of "Reuben's" stays was in
19 August.

20 Q Of 2022?

21 A Yes.

22 Q All right. How many stays did he have?

23 A Anytime I traveled between -- for work,
24 anytime I traveled for work or that yoga retreat, that
25 trauma yoga retreat, was -- "Reuben" went to JR.

1 Q Okay. Where did you travel in August of
2 2022?

3 A To Greece.

4 Q Was that work or play?

5 A It was work.

6 Q And what was that work?

7 A I was working for the Hansen family doing
8 yoga, massage and meditation.

9 Q And how long were you in Greece in August of
10 2022?

11 A You know what? I -- I was wrong. I was
12 wrong about "Reuben" being with the Doggy Lama. My mom
13 kept him then.

14 Q Okay.

15 A I was in Greece from the 22nd until the 4th
16 of September.

17 Q Okay. So when did "Reuben" first go to the
18 Doggy Lama Academy?

19 A On my calendar it says that I met with -- I
20 -- on my calendar it says I met with JR on September
21 19th. But I apologize; I don't have the dates. I don't
22 have specifically when he stayed with them.

23 Q Okay. So would it have been at some point
24 after September 19th when "Reuben" first started going to
25 the Doggy Lama Academy?

1 A I don't know.

2 Q Okay. When did you go to California for the
3 trauma retreat?

4 A In August of '22.

5 Q All right. So when in August?

6 A August 12th through the 17th.

7 Q And where was that in California?

8 A In Topanga.

9 Q Where is that?

10 A Topanga, California.

11 Q Yeah. What's that in?

12 A Los Angeles.

13 Q How many other trips outside of South
14 Carolina did you make after July 15th, 2022?

15 A And I know I went to Greece and Croatia for
16 work, went to the Bahamas for work, and I went to
17 California for the retreat.

18 Q Okay. Is the Greece and Croatia trip the
19 same thing we just talked about: August 2022?

20 A Croatia was in the fall.

21 Q All right. When was that?

22 A October.

23 Q How long were you there?

24 A October 22nd through November 4th.

25 Q And who was that with?

1 A The Hansenses.

2 Q And do you continue to work for them?

3 A I do.

4 Q All right. And where did you go in 2023 with
5 them?

6 A We went to -- we went to Europe. We went to
7 -- I flew into France; we went to Italy and Monaco.

8 Q And when was that?

9 A August 6th through August 17th.

10 Q All right. Any other trips since July 15th,
11 2022?

12 A Can you repeat that?

13 Q Any other trips other than going to the
14 Bahamas a couple times for work, going to California for
15 the trauma retreat, going to Greece, Croatia, France,
16 Italy, Monaco? Any other trips you've taken?

17 A Not that I can remember.

18 Q Okay. You mentioned doing something called
19 EMDR. What is that?

20 A It's eye movement -- EMD processing. I -- I
21 can't remember what it stands for, but it's a type of
22 PTSD therapy.

23 Q And where did you have that done?

24 A I did it from my home on -- on Zoom calls.

25 Q And who was the instructor or the Zoom calls?

1 A Her name was Sherri Bentley.

2 Q And where is she from?

3 A I believe she's from Charleston.

4 Q And is she a medical doctor?

5 A You know, I -- I know that she's a certified
6 EMDR therapist. I didn't complete training with her.
7 She had some health issues and we had to stop.

8 Q Do you know how one becomes a certified EMDR
9 trainer?

10 A I don't.

11 Q All right.

12 All right. So let me ask you a couple
13 questions about some of these exhibits. All right.
14 No. 1 is just a blank form.

15 (Initial Paperwork Forms (5 pages), Defendant Dog
16 Daze of Charleston, LLC's Exhibit No. 1 is marked for
17 identification and made part of this deposition.)

18 BY MR. COBB:

19 Q Do you remember completing a form like that
20 when you first boarded your dog with Dog Daze?

21 A No.

22 Q Okay. Did you ever fill out any kind of
23 form?

24 A I believe I did, on line.

25 Q Okay. Do you know what that form said?

1 A No.

2 Q Do you still have a copy of the on-line form?

3 A No.

4 Q Okay. Do any of the five pages look familiar
5 to you?

6 A No.

7 (Invoice of Bahama Hoppers Limited and Payment
8 Receipt (2 pages), Defendant Dog Daze of Charleston,
9 LLC's Exhibit No. 2 is marked for identification and made
10 part of this deposition.)

11 BY MR. COBB:

12 Q Exhibit No. 2 is an invoice of Bahama Hoppers
13 Limited that totals \$1,210. And I assume that was for
14 the trip from Bahamas back --

15 A Correct.

16 Q -- after you were alerted to the incident?

17 A Uh-huh.

18 Q Is that correct?

19 A Yes.

20 Q All right. And Mr. Freeman reimbursed you
21 for that?

22 A Yes.

23 (Transfer Receipt dated 07/16/2022 for \$25.00 (1
24 page), Defendant Dog Daze of Charleston, LLC's Exhibit
25 No. 3 is marked for identification and made part of this

1 deposition.)

2 BY MR. COBB:

3 Q Exhibit 3 says it's a transfer from Odyssey
4 to L-P-I-A for \$25.

5 A It's a taxi. Yes.

6 Q And that's from wherever you were staying to
7 the airport?

8 A It was from the -- I can't remember.

9 Q And Mr. Freeman reimbursed you for that
10 expense?

11 A I believe he reimbursed me for -- yeah, for
12 these.

13 (Airline Receipt for \$611.07 (1 page), Defendant
14 Dog Daze of Charleston, LLC's Exhibit No. 4 is marked for
15 identification and made part of this deposition.)

16 BY MR. COBB:

17 Q Exhibit No. 4 is a Delta receipt for \$611.07.

18 A Uh-huh.

19 Q And what was that for?

20 A The flight from the Bahamas back to South
21 Carolina.

22 Q And then Mr. Freeman reimbursed you for that
23 expense?

24 A Yes.

25 (Copy of Check dated 08/26/22 from Dog Daze of

1 Charleston, LLC to Sarah Rock for \$3,000 (1 page),
2 Defendant Dog Daze of Charleston, LLC's Exhibit No. 5 is
3 marked for identification and made part of this
4 deposition.)

5 BY MR. COBB:

6 Q Exhibit 5 is a check from Dog Daze of
7 Charleston to you dated August 26th, 2022, in the amount
8 of \$3,000, with your signature showing that you cashed
9 the check or deposited the check. Is that correct?

10 A Yes.

11 Q All right. And that was to reimburse you for
12 your flights and other expenses; correct?

13 A For the things you just asked me; yes.

14 Q Okay. Well, there were some additional
15 expenses that we'll talk about in a second.

16 A Okay.

17 Q Correct? There were several expenses for
18 veterinary bills both for -- and I apologize -- "Xumi,"
19 X-U-M-I, and "Reuben" that Mr. Freeman paid for, as well;
20 correct?

21 A Yes.

22 Q I'll mark 6.

23 (Document [Unknown Description] (1 page), Defendant
24 Dog Daze of Charleston, LLC's Exhibit No. 6 is marked for
25 identification and made part of this deposition.)

1 BY MR. COBB:

2 Q And for some reason, the; \$319.75 charge for
3 "Xumi" did not print. That's Exhibit 6.

4 (Transaction Detail Printout dated 07/21/22 to Pet
5 Rest Cemetery (1 page), Defendant Dog Daze of Charleston,
6 LLC's Exhibit No. 7 is marked for identification and made
7 part of this deposition.)

8 BY MR. COBB:

9 Q And then Exhibit 7 is \$162.12. And that --
10 I'm sorry. No; the \$319.75 was for "Reuben" and the
11 \$162.12 expense was for "Xumi." Does that sound
12 accurate?

13 A I believe so. I didn't pay these bills, nor
14 did I see these bills. These were things that were
15 between Mr. Freeman and the emergency vet and the
16 cremation center, so. I have not seen these.

17 Q Okay. But those -- whatever those --

18 A That looks like that's what he paid for, so
19 yes.

20 Q All right. So whatever those expenses were,
21 Mr. Freeman paid for them?

22 A Yeah.

23 Q You did not pay for them?

24 A No; I did not pay for them.

25 Q Did you pay any out-of-pocket expenses

1 associated with "Xumi" after the incident of July 14th,
2 2022?

3 A I can't remember.

4 Q Is that you don't remember if you paid
5 anything or you don't remember any expense that you paid?

6 A I don't remember if I paid anything.

7 Q How about as far as any type of care for
8 "Reuben?" Did you pay for any of those expenses?

9 A Yes.

10 Q And what did you pay for?

11 A His training at Dog Daze as well as his
12 training at the Doggy Lama Academy.

13 Q Any other expenses?

14 A I'm sorry?

15 Q Any other expenses?

16 A I can't remember.

17 Yes: I paid for him to become a certified
18 emotional support animal.

19 Q All right. When did that occur?

20 A I don't remember.

21 Q Who did that?

22 A It was on line.

23 Q And how much was that?

24 A I'd -- I have to go back and look at the --
25 the receipts on my credit card statement. But I had to

1 get a letter from my therapist, so. I had to have a
2 session with my therapist in order to get him approved to
3 be certified and then to go through the certification
4 program.

5 Q How did the dog get certified on line?

6 A I -- I -- I'd have to go back and look at the
7 -- it -- it -- it's -- he's an emotional support dog for
8 me, so it's more what my needs are, I think. So it's
9 just to get him certified.

10 Q Okay. Did the dog have to do anything to
11 become certified other than you validating that that was
12 your dog?

13 A He was trained with JR.

14 Q I have to ask you some questions about
15 "Xumi," and I apologize. When did you first obtain
16 "Xumi?"

17 A I believe it was August of 2019.

18 Q What kind of dog was "Xumi?"

19 A She -- according to her DNA, she was
20 miniature poodle, Bichon, Schnauzer, Shih Tzu.

21 Q All right.

22 A She was a rescue dog.

23 Q And where did you obtain "Xumi?"

24 A I got her from a rescue called Maranatha
25 Animal Rescue.

1 Q Spell that for me.

2 A M-A-R-A-N-A-T-H-A.

3 Q And where is Maranatha Animal Rescue?

4 A It was in Ridgeland, South Carolina.

5 Q And how much did you pay for "Xumi?"

6 A Her adoption fee was \$250. I sponsored her a
7 month prior, but I can't remember how much I paid for
8 her --

9 Q Okay.

10 A That sponsorship.

11 Q And again, I'm not an animal person, so. Did
12 she have any kind of like AKA or, you know, any of that
13 stuff?

14 A Not that I'm aware of; no. Not -- not since
15 I've got her.

16 Q Okay. And I don't mean in any way to
17 minimize it, but was she considered just a mutt dog or
18 just kind of -- I mean I had a dog when I was a kid that
19 was a combination, looked like Scooby-Doo --

20 A No. She was a schnoodle.

21 Q -- that had like 65 different things --

22 A No. Her DNA -- her DNA results -- like I
23 wanted to know what she was because she was so cute and
24 smart, and I wanted to know what she was and have the DNA
25 results. I mean I can give you the percentage of what

1 she was, so. It's a breed called a schnoodle.

2 Q Okay.

3 A Like that's -- if you mix it all together --
4 yeah. So she was 50 percent miniature poodle, Bichon,
5 Schnauzer, Shih Tzu. So, she was, I believe, meant to be
6 that way.

7 Q Okay. Yeah. I remember somebody telling me
8 one time that dogs can have like six or seven different
9 dads or some kind of stuff and just -- not my thing.

10 All right. Did you ever put her in any kind
11 of contest or any kind of competition?

12 A No.

13 Q Okay. Did she ever have any health issues?

14 A No.

15 Q All right. When you adopted her in August of
16 2019, how old was "Xumi?"

17 A I mean they said she was around two.

18 Q Okay.

19 A I don't know for sure.

20 Q And did they give you any information about
21 where "Xumi" came from?

22 A They said that she had been -- I think
23 originally she had been picked up as a stray by the local
24 shelter, like the big shelter. And she was small, and
25 somebody at the shelter had reached out and thought that

1 she would do better by getting adopted at Maranatha. So
2 they picked her up and took her there.

3 Q Did "Xumi" have any significant expenses
4 during the time period that you owned her like surgeries
5 or training or anything?

6 A Just her grooming and her food.

7 Q How about -- when did you obtain "Reuben?"

8 A I got "Reuben" in February.

9 Q Of what year?

10 A Either 2020 or 2021.

11 Q And where did you get "Reuben?"

12 A I got him from Charleston Animal Society.

13 Q Was "Reuben" also a rescue dog?

14 A Yes.

15 Q And how much did you adopt "Reuben" for?

16 A I can't remember.

17 Q Any idea?

18 A Probably between \$150 and \$300. There's a --
19 a standard fee that they charge. I can't remember what
20 it is, though.

21 Q And any background information about
22 "Reuben?"

23 A What I was told was that he was -- he had
24 been surr -- he was an owner surrender, that they just
25 didn't have time for him and he was kept in a crate for

1 over like ten hours a day. And so I adopted him. And he
2 was a puppy; he was about six months old.

3 Q What contact have you had with Mr. Freeman
4 about the incident?

5 A I emailed him shortly after. I don't think
6 I've had any contact with him other than that.

7 Q Have you had any face-to-face contact with
8 him?

9 A I saw him, but I don't think he saw me. I've
10 not spoken to him. But I saw him at a concert.

11 Q Okay. And what concert was that?

12 A It was a show at The Refinery.

13 Q Have you heard him say anything orally about
14 the incident?

15 A No.

16 Q All right. Is the communication you've had
17 with him been by email? Did y'all ever text?

18 A No.

19 Q All right. How about with any other employee
20 of Dog Daze? Have you had any face-to-face --

21 A No.

22 Q -- telephone conversations with anyone?
23 Okay. How about any of your friends? How much contact
24 do you know about with them and Mr. Freeman concerning
25 what happened?

1 A I don't -- I don't really know. I did find
2 out this morning that a client had emailed him, but I was
3 unaware of that until this morning.

4 Q And that's Robyn Stern?

5 A Correct.

6 Q R-O-B-Y-N. Who is Robyn Stern?

7 A She is a friend. She started out as a client
8 at the Pilates studio where I teach.

9 Q All right.

10 (Email Communication from Robyn Stern re: Xumi (1
11 page), Defendant Dog Daze of Charleston, LLC's Exhibit
12 No. 8 is marked for identification and made part of this
13 deposition.)

14 BY MR. COBB:

15 Q And that's the email.

16 A Uh-huh.

17 Q All right. What have you -- and that looks
18 like it's dated -- good Lord. I couldn't find a date on
19 there.

20 What have you said to Robyn Stern about the
21 incident?

22 A You know, I -- I -- I can't remember. I -- I
23 -- I'm -- I'm disappointed that -- that she would have
24 sent that.

25 Q Okay. What have you said to her about the

1 incident or --

2 A That there was no accountability. I know
3 that there was no accountability for what happened to
4 "Xumi." There was -- I -- I don't know what happened to
5 my dogs.

6 I know that when I had started this process,
7 I really wanted to work with Charlie and figure out what
8 happened. And nobody ever told me anything. I waited
9 and waited and waited. And I told --

10 Finally, I got to the point where I was angry
11 and I didn't care who knew. I didn't tell anybody what
12 happened or where. My dogs knew that "Xumi" died -- I
13 mean every -- my friends knew that "Xumi" died; they just
14 didn't know where. And then after months of waiting for
15 some sort of answer from Charlie, people asked me where
16 and I told them where.

17 (Typed Narrative Letter/Memo [undated and unsigned]
18 (2 pages), Defendant Dog Daze of Charleston, LLC's
19 Exhibit No. 9 is marked for identification and made part
20 of this deposition.)

21 BY MR. COBB:

22 Q All right. I'm going to hand you what's been
23 marked as Exhibit No. 9. That's two pages. Have you
24 ever received that document or --

25 A I received it this morning.

1 Q Okay. Had you ever received it before?

2 A No.

3 Q Okay. Did you read it this morning?

4 A I did.

5 Q All right. Does that answer any of your
6 questions?

7 A Not really.

8 Q Okay. And why not?

9 A The first two pages were an explanation of
10 his experience with dogs and behavior. My questions
11 were, why? Why -- why did it happen? Why wasn't anybody
12 there? How long was she dead for? There's a ton of
13 questions that I have that were not answered.

14 Q Did you ever pose those questions to
15 Mr. Freeman?

16 A Not directly.

17 Q Okay. How did you expect answers to
18 questions that you never asked?

19 A I -- I asked these questions to my attorney.
20 My attorney reached out to his attorney, and they were
21 never answered.

22 Q Okay. Was that -- this guy was your first
23 lawyer?

24 A It might have been through Lauren, as well.
25 I don't know. I can't remember.

1 Q Okay. But you never had any direct
2 contact --

3 A No.

4 Q -- with Mr. Freeman --

5 A I didn't.

6 Q -- where you said I have these questions; can
7 you tell me the answers?

8 A No.

9 Q Okay. Again, I'm not trying to criticize
10 anything; I'm just kind of curious. Why go to the lawyer
11 first as opposed to contacting Mr. Freeman?

12 A When -- I got the phone call in the Bahamas.

13 Q Who was the phone call from?

14 A It was from Charlie.

15 Q Okay. And what did he tell you?

16 A I got two voice mails. I was with clients.
17 And I got two voice mails telling -- asking me to call
18 them immediately. And in the Bahamas, I don't have a
19 great signal. And so I remember trying to call them on
20 my cell phone, and I just couldn't get a signal.

21 And the phone that I was able to use was a
22 satellite phone, and there's a delay. I remember being
23 in the office and -- it's a little -- it's pretty blurry.
24 But he was just like, I'm so sorry, I'm so sorry. There
25 was an accident. He said, he's gone.

1 And I thought he was talking about "Reuben."
2 I said, what are you talking about? He was hysterical.
3 I was trying to understand what was going on. And I
4 couldn't figure out -- couldn't process what he was
5 saying. And he said, it's "Xumi." And then he said, I'm
6 so sorry. It was my dog.

7 And I just -- I -- I -- I don't remember much
8 after that.

9 Q And was the phone call from Mr. Freeman
10 within an hour or so of the incident?

11 A I don't know what time the incident happened.
12 The first phone call was from a cell phone, Billings,
13 Montana. And I believe --

14 (At this point Mr. Cobb leaves the room.)

15 COURT REPORTER: Hold on. We're off record
16 at 1023.

17 (Off the record.)

18 A I'm sorry; you'll have to repeat the
19 question.

20 BY MR. COBB:

21 Q So I was just trying to figure out how much
22 time elapsed when --

23 A I don't know.

24 Q Do you remember when you got the call?

25 A The first phone call that I got that I missed

1 was at 3:16 p.m. on July 14th. The second phone call
2 that I missed was at 3:22 on July 14th. And I don't know
3 how long it took me to get back to them, but as soon as I
4 realized that I had missed the calls and that I saw Dog
5 Daze on there, I tried to return the phone call. And I
6 was trying to get a signal, and that's when I went into
7 the office and called them. But I don't know -- all I
8 know is the first call was at 3:16.

9 As far as when the incident happened,
10 nobody's ever told me. I know we did ask for a timeline,
11 and I never got that.

12 Q And did you return the call the same day or
13 was it the next day?

14 A It was the same day.

15 Q Okay. When were the arrangements made for
16 you to return to Charleston?

17 A I don't remember. I mean within that day, I
18 went back. I did -- I didn't finish work, and I was just
19 so sad. I think I tried to make arrangements the next
20 day to come home.

21 Q Okay. And did Mr. Freeman offer --

22 A No.

23 Q -- that or did you demand that he do that?

24 A I went ahead and arranged it myself.

25 Q Okay. Did you ever request that he make the

1 arrangements for you?

2 A No.

3 Q All right. And when did you ask him for
4 reimbursement?

5 A I don't remember.

6 Q Is that something you told him he had to do
7 or is that something that he volunteered to do?

8 A I don't remember. I remember -- I remember
9 asking -- I know that -- that the flight from the
10 Bahamas -- all of the flights, but the -- the flight was
11 taken out of my -- because that was taken out of my pay.
12 And I mentioned that to whoever was helping me at the
13 time, and I received a check.

14 Q Okay. Again, I apologize; I'm not trying to
15 be tacky or anything. Did you have some sort of memorial
16 or service for "Xumi" at some point or --

17 A I did bury her on my birthday last year, in
18 my back yard.

19 Q So 2023?

20 A I had just buried her; yeah.

21 Q Okay. Where was "Xumi" from that time until
22 then?

23 A Her ashes were in a box in my -- in my home.

24 Q All right. So what type of therapy other
25 than the trauma retreat have you been through?

1 A I've been through psychotherapy with Hallie
2 Buchanan.

3 Q I'm sorry?

4 A Psychotherapy, with Hallie Buchanan. She's
5 my therapist. I did something called PSYCH-K with Ellie
6 Boland Richter.

7 Q Is Hallie, H-A-L-L-I-E --

8 A Correct.

9 Q Buchanan?

10 A Correct.

11 Q B-U-C-H-A-N-A-N?

12 A I believe.

13 Q And who is she associated with?

14 A She has her own practice.

15 Q All right. And what type of therapist is
16 she?

17 A I mean she's a psychotherapist. I don't -- I
18 don't know what else you would call it.

19 Q Is she actually a medical doctor?

20 A She's not a doctor.

21 Q What's her training?

22 A I know that she went to The Citadel for --
23 she's -- her psychol -- psychology or -- I'd have to go
24 back and do -- and -- and look at her website.

25 Q And what's the name of her business?

1 A It's just Hallie Buchanan.

2 Q And how long have you been getting therapy
3 from her?

4 A I believe since 2017 or '18.

5 Q I don't mean to pry, but what started the --
6 what precipitated the need for that?

7 A Depression.

8 Q Any particular triggers?

9 A I mean not that I can think of right now.

10 Q Okay. And what other therapy did you do?

11 A I did something called PSYCH-K with Ellie
12 Boland Richter.

13 Q What is that?

14 A It's a type of therapy where you work with
15 your subconscious and the conscious, teaching the --
16 retraining the subconscious wound.

17 Q When did you do that?

18 A I'd have to go back and see when it started.
19 But it was this -- I believe it started in March of 2023.

20 Q And how long did that last?

21 A I did six sessions. And then I did it again
22 in July -- I'm sorry, September. September, October and
23 November. Three more sessions.

24 Q Any other?

25 A Yes. I went and saw a psychiatrist to see if

1 I could get a prescription for anti-anxiety medication.

2 Q Who was that person?

3 A I can't remember her name.

4 Q And did they give you the prescription?

5 A Yeah. Maybe I can look it up. [Reviewing
6 phone.] I can't find her name right now.

7 Q All right. And what medications did she give
8 you?

9 A She prescribed a couple of different things.
10 I can't remember the names of them right now, but one was
11 for -- she said one was prescribed mainly for like public
12 speaking and to help people with anxiety. And I -- I
13 took it a couple times and didn't like it so I didn't
14 continue. I did take Klonopin to help me sleep and when
15 I was having anxiety.

16 Q Who prescribed the Klonopin?

17 A I think my OB.

18 Q Okay. How long have you had the Klonopin
19 prescription?

20 A I mean on and off, probably for years. I
21 don't take it unless I needed it, but.

22 Q But you had that prescription before July of
23 2022?

24 A I tried it. Yeah; I had taken it before.

25 Q Are you taking anything now --

1 A I take Prozac.

2 Q -- for something that you claim is resulting
3 from the July, 2022 incident?

4 A No, no.

5 MR. COBB: I'm going to take a little break.

6 (At this point there is a break in the deposition.)

7 BY MR. COBB:

8 Q Before you started boarding the animals with
9 Dog Daze, did you do any type of research on the facility
10 or research on Mr. Freeman?

11 A I did. I had called around and I had asked
12 other -- other friends that were in the dog industry if
13 they had any recommendations. And one of the people that
14 I had asked about -- Dog Daze is relatively close to my
15 house which was super convenient, was that Charlie was
16 very gruff and that he was very rigid in his programming
17 or the way he ran his business. And that's why I wanted
18 to go there.

19 Q Did you ever have any run-ins with him during
20 the time period that you boarded your dogs?

21 A Ever see him out and about? You mean like --

22 Q No, no. I'm talking about as far as --

23 A Altercations or like fights or anything?

24 Q No, no.

25 A No.

1 Q Any issues or --

2 A No. Huh-uh.

3 Q All right. When did you start boarding your
4 animals with him?

5 A Shortly after I got "Reuben." So when I had
6 "Xumi," she would stay with one of my friends. But when
7 I had two dogs, it was too much to ask to stay with a
8 friend. So once I got "Reuben" and had to start
9 traveling again for work, so it was with Dog Daze.

10 Q Okay. So how much time did the dogs board
11 with Dog Daze before --

12 A They -- several times. They loved going
13 there.

14 Q Okay. And you didn't have any issues?

15 A Never.

16 Q Did you ever go through the facility to see
17 how --

18 A No. It --

19 Q -- it was set up?

20 A It was -- it was -- from what I remember --
21 it was because of COVID -- they were no longer allowing
22 that to happen. It was like you didn't take your food,
23 your bedding, collars, anything. Leashes, everything,
24 you went through the drive-through. They came and got
25 your dog and -- and they brought them out when they were

1 ready to go.

2 Q All right. So can you give me a month and a
3 year as to when you started boarding your animals with
4 Dog Daze?

5 A I mean hopefully it's on their calendar. I
6 mean like I would imagine after I got "Reuben," so. I
7 mean I can [reviewing calendar] ...

8 The -- the first I have it in my calendar is
9 in 2021. I don't know if it was before --

10 Q All right. What month in 2021?

11 A April.

12 Q Okay. And is there a -- do you have any idea
13 how many times you boarded the animals from April of 2021
14 until July --

15 A Not exactly.

16 Q -- of 2022?

17 A I don't have an exact -- an exact.

18 Q Okay. And you would board them any time you
19 had to travel out of town?

20 A Yes.

21 Q Okay. Why have two animals if you did so
22 much traveling?

23 A So I got "Xumi" after my other two animals --
24 I've always had dogs, and I had two dogs pass within six
25 weeks, that were old. And I got "Xumi" three months

1 later. And the rescue group where I got her, all the
2 dogs were free-roaming. They were free-fed. And she
3 loved being around other dogs. She loved it.

4 And so I had her for a long time. It was
5 just her. And any time we would go to the dog park, she
6 was so excited to be around other dogs. And when I was
7 home and -- she just wanted to play with other dogs. And
8 it was when I bought my house. I bought my house so I
9 could have a yard for her to play in.

10 And then we didn't go to the dog park as
11 much, and she was just lonely. And I've always had two
12 dogs, and so I decided I would go get another. And I
13 adopted "Reuben."

14 Q Okay.

15 A And she was in -- it was love at first sight.
16 They were so happy together.

17 Q And you did that, knowing that you were going
18 to have to board him because you were traveling so much?

19 A Uh-huh.

20 Q Right.

21 A That's the nature of my job. Like my job is
22 traveling. I've always had that, for the last ten years.
23 And my dogs -- they bring me a lot of joy and happiness,
24 and so I wanted two dogs.

25 Q And at any point in time after you were told

1 about the incident with "Xumi" did you ever ask to go see
2 where it happened?

3 A I don't remember.

4 Q And what were you told as to what happened?

5 A I was told that there was a dog in heat at
6 the facility, and that it had been raining and the dogs
7 were inside. And I was told that somehow "Xumi" and
8 "Reuben" had gotten out of their enclosure and that
9 "Cosmo" had -- I was told he ate through a door, and that
10 he attacked my dogs and that "Xumi" died.

11 Q Okay. Who told you this?

12 A Charlie.

13 Q All right. Is there anything that you know
14 that makes you think that this was some sort of an
15 intentional --

16 A No.

17 Q Okay. Just a terrible accident?

18 A A terrible accident.

19 Q Okay. Is there anything that anyone has told
20 you or that you have learned that makes you think like
21 this was something that Charlie or his staff wanted to
22 have happen?

23 A No. No.

24 Q Okay. And you agree with me that this is
25 something they clearly did not want to have happen?

1 A Yes. I agree with that.

2 Q All right.

3 A couple little things on the personal side.

4 Who are your parents?

5 A Patricia Wise Rock and William Julian Rock.

6 Q Okay. And do they live in Columbia?

7 A My mother does. My father passed away.

8 Q All right. What did they do, professionally?

9 A My mom was a teacher. She's retired.

10 Q And where did she teach?

11 A When she retired, I believe she was teaching
12 at Pelion High School.

13 Q In beautiful Pelion, South Carolina?

14 A Pelion.

15 Q Pelion. P-E-L-I-O-N?

16 A Uh-huh.

17 Q In Lexington County? Pelion Panthers?

18 A I believe so.

19 Q Okay. And what did she teach?

20 A Special education.

21 Q Okay. And how long did she teach?

22 A Her entire life.

23 Q Okay. Thirty years or so?

24 A Probably.

25 Q And do you remember other schools that she

1 taught in?

2 A Yep. She also taught at Hammond. She taught
3 at Department of Juvenile Justice, and then she taught at
4 Pelion.

5 Q Okay. And how about your dad?

6 A My dad was a real estate appraiser for the
7 State, and then that turned into him becoming an
8 insurance adjuster.

9 Q For what company?

10 A For the State.

11 Q Okay. And do you have any relatives that
12 live in Charleston County?

13 A No.

14 Q Do you have any siblings that live anywhere
15 nearby?

16 A I have a sister that lives in Columbia.

17 Q Okay.

18 All right. That's all I got. Thank you.

19 MR. WILLS: No questions.

20 MR. JORDAN: No questions.

21 (The witness was explained her right to read and
22 sign the transcript of the deposition and chose to waive
23 that right.)

24 (The deposition concludes at 10:51 a.m.)

25

CERTIFICATE OF REPORTER

I, Donald L. Whiteley, Jr., Court Reporter and Notary Public in and for the state of South Carolina, do hereby certify that the aforementioned deposition of SARAH KATHERINE ROCK was recorded by me and transcribed through computer-aided transcription by me to the best of my ability.

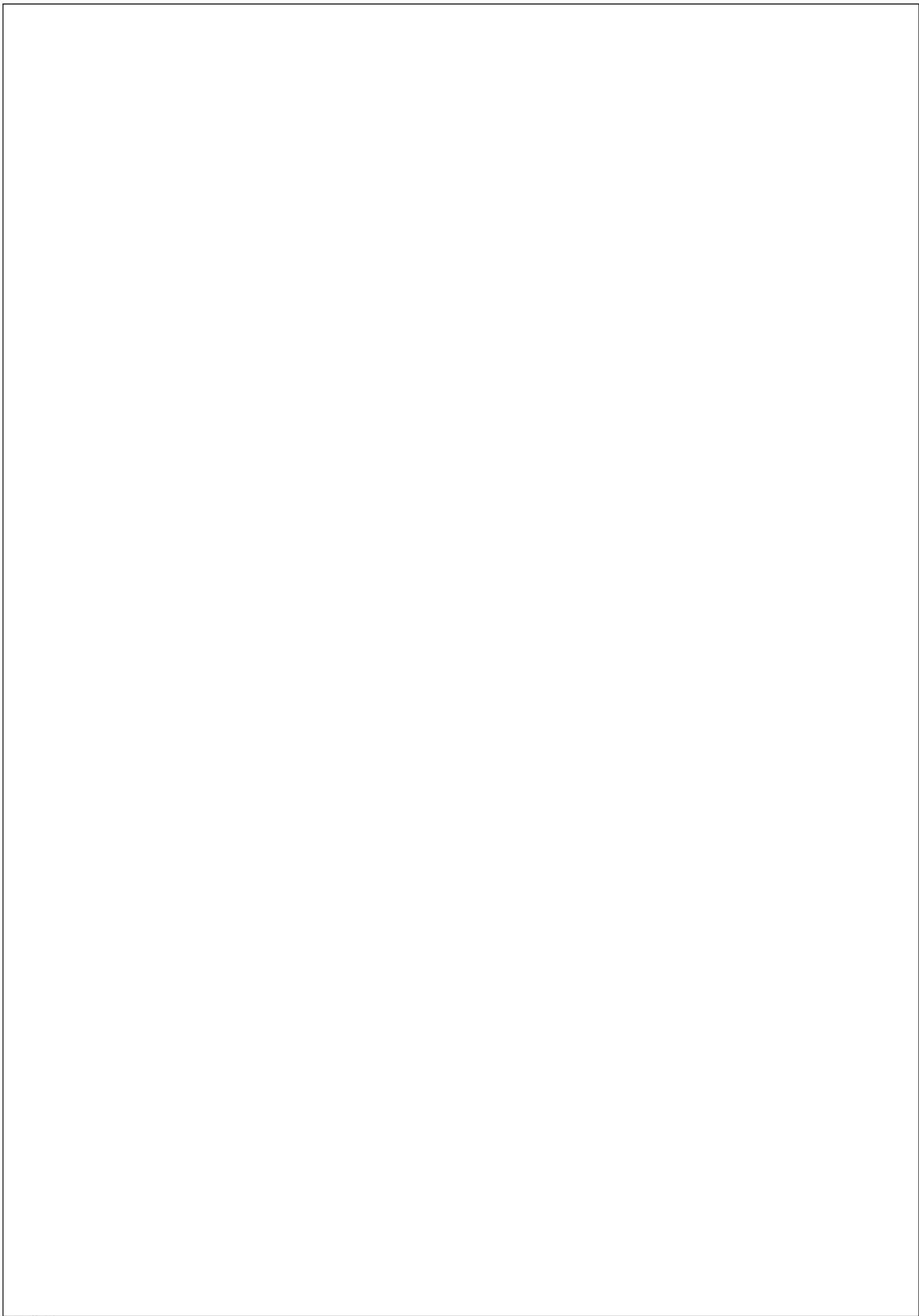
I FURTHER CERTIFY that the foregoing transcript is a true and correct transcript of the testimony given by the said deponent at the time and place specified.

I FURTHER CERTIFY that I am neither attorney nor counsel for, nor related to nor employed by any of the parties to the action in which this deposition is taken, neither am I financially interested in this action.

IN WITNESS WHEREOF, I have set my hand and seal this 2nd day of February 2024.



Donald L. Whiteley, Jr.
Notary Public for South Carolina
Commission Expires: 1/21/2025



Welcome!

Your Name: _____

Dogs:

Name: _____ Breed: _____ Age _____ Weight: _____

Name: _____ Breed: _____ Age _____ Weight: _____

Name: _____ Breed: _____ Age _____ Weight: _____

Name: _____ Breed: _____ Age _____ Weight: _____

Special needs? _____

Medication? _____

Phone: (____) ____ - ____ alt. (____) ____ - ____

Address: _____

Email: _____

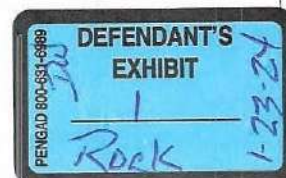
Person(s) other than you authorized to pick-up your dog: _____

Vet last visited: _____

THE RULES:

Your dog must be current on all vaccines, including Kennel Cough (bordetella), DHPP, Rabies and Canine Influenza H3N8/H3N2 (dog Flu). Vaccines must be on-board for at least ONE WEEK prior to boarding, grooming or DDC. No exceptions.

Your dog must be on a monthly flea and heartworm prevention medication. No exceptions. Any dogs brought to Dog Daze with fleas will immediately be given a flea bath at the owner's expense. (\$20)



If your dog has exhibited ANY symptoms of any contagious illness within 48 hours of a scheduled boarding visit, please call and let us know. We will help you make other arrangements. We insist that you NOT expose our clean and safe micro-environment to any known illnesses. Quarantining of a sick animal should be done at a veterinary hospital. Keeping all of our animals safe, healthy and happy is our number one goal. Thank you.

If your dog presents any symptoms of any contagious illness with 48 hours of leaving Dog Daze, please call us and let us know. We will take the appropriate steps to prevent the spread of the pathogen. (843)571-4433

When boarding your dog with us, please do not bring us open bags of dog food. Your dog's food should be in a labeled zip-loc bag or sealable container (tupperware). Please, do not bring more food than your dog can eat during their stay with us. YOU WILL NOT RECEIVE ANYTHING BACK AT THE END OF YOUR STAY, except for a happy dog, of course. Any extra food will be considered a donation. Thank you.

Questions:

- Is your dog neutered /spayed? **Yes/No**
- Is your dog well behaved around other dogs? **Yes / No**
- Has your dog ever showed aggression to any person? **Yes / No**
- Has your dog ever bitten a person? **Yes / No**
- If you are boarding multiple dogs from the same family, can they sleep and eat together in the same run? **Yes / No**
- Is your dog destructive? **Yes / No**
- Does your dog wear a bark suppression system at home? If so, please bring it with you for your dog's stay with us.

If you request a bath for your dog upon departure and need to change your pick-up time, please give us 24hrs notice. We try our best to time the bath and drying process with your arrival, so your dog goes home in perfect shape. If we bath your dog and you extend your stay without notice and your dog gets dirty again, your

dog will be re-bathed and you will be charged again. We don't like sending dirty dogs home.

Does your dog have any phobias, Thunder, Water, Men with hats and beards, etc. If YES, please explain, _____

How did you find out about us?

- | | |
|------------------------------------|---|
| ☐ Yellow Pages | ☐ Facebook |
| ☐ Google | ☐ YELP |
| ☐ A friend | ☐ Word of mouth |
| ☐ Print ads | ☐ Your dog ran away from home and led you here. It happens. 😊 |

Emergency Contact (Other than yourself):

Ph # (____) ____ - ____ Name: _____

Private Playtime- Special Needs

(aka dogs that can't be around the other dogs in group play.)

As you know, our number one goal here at Dog Daze is to keep every dog happy and healthy. Managing canine group play is not always easy, especially when we are dealing with dogs we don't know. If you have ever been to a dog park on a Saturday, you know the difficulties of which I speak. With new dogs, we use an acclimation pen to allow the new dog time to see the pack through a fence. Then, based on that interaction, we make our decision. If your dog shows us multiple non-verbal cues that lead us believe it is unsafe to include your dog in group play, we will put your dog on a "private play" schedule. This decision is 100% up to our discretion. When we put a dog on a "private play" schedule, your dog still gets hours of outside time every day, just not with the other dogs in a group. The reason we charge a little bit extra for Special Needs dogs (\$10 for all dogs), we

dedicate more staff time and much more space to that one dog. Our smallest play yard for private play is 20' x 30'. We always err on the side of caution.

_____ initial and date, please.

RELEASE AND WAIVER: By filling out this application and signing below, I hereby release Dog Daze of Charleston LLC and all associated parties and it's owners, members, investors, officers, managers, employees and agents from any and all liabilities for injuries or illnesses to myself, my dog, or any other property of mine which may arise in any way out of the service and/or products provided by Dog Daze LLC. I understand that this is a full, complete and knowing release with no right of recourse.

Animal Unpredictability: I understand that every dog reacts differently in variable situations. I understand that sometimes dogs bite or cause injury to people or other dogs without warning or provocation. I understand that there are inherent dangers when canines socialize while boarding, attending doggie daycare and grooming, including but not limited to dog fights, dog bites to people or other dogs and the transmission of disease.

Spay/Neuter Policy:

I understand that all dogs must be spayed or neutered to attend Doggie Daycare and socialize with other dogs. My dog must be on a monthly flea, tick and heartworm preventative. My dog must be current on all vaccines: Rabies and DHLPP annually, Bordetella/Kennel cough needs to be administered semi-annually or annually, according to your vet's vaccine requirement.

INDEMNITY: The undersigned, by execution of this document, agrees that he, she or they shall indemnify and defend Dog Daze of Charleston LLC and hold each of them harmless from any claim, demands, causes of actions or damages, including reasonable attorney's fees arising out of any action or damage or injury done or caused by their dog to any animal, individual or individuals while in the care of

Dog Daze of Charleston LLC. Any medical expenses will be my responsibility and I release Dog Daze of Charleston LLC from any charges. Any effort by Dog Daze of Charleston LLC to rectify the situation will not be an admission of guilty, negligence nor responsibility.

MEDICAL EMERGENCIES: In the event of a medical emergency, I understand that full effort will be made to reach me or my emergency contact. However, failing to do so, I give Dog Daze of Charleston LLC full permission to make any needed decision concerning the medical treatment of my dog(s). I authorize urgent veterinary treatment of my dog(s) and I understand that I will be fully responsible for all fees and charges incurred on my behalf. Dog Daze LLC reserves the right to utilize the services of any available veterinary clinic. I understand that a fee of **\$25.00 will be assessed to cover the transportation cost of the trip to and from the vet and to and from the drug store to get medications.** I agree to reimburse Dog Daze of Charleston LLC for the cost of the medications. I understand that Dog Daze of Charleston LLC will (as a courtesy) administer medications to my dog if I request them to do so. I will not hold Dog Daze of Charleston LLC liable in any way in relation to administering medications.

NATURAL DISASTER POLICY: In the event of a natural disaster (ie hurricane, tornado, flooding, etc.) I understand it is my responsibility to pick up my pet in a timely manner and in accordance with any mandatory evacuations. I understand that Dog Daze of Charleston LLC will do everything reasonably possible to secure the safety of my pet during a natural disaster and I agree to indemnify, release and hold Dog Daze of Charleston LLC harmless of any and all liability related to any natural disaster of any sort.

Signature: _____ date: _____

Bahama Hoppers Limited

Lynden Pindling International
Nassau, NP, Bahamas
TIN 100244692

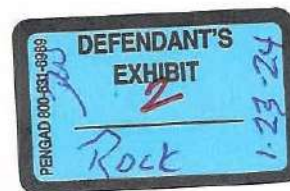
Date	Invoice #
17/07/2022	14758

Bill To
Indigo Island

VAT Invoice

Email - BahamaHoppersCharter@Hotmail.com
www.BahamaHoppers.com

Quantity	Description	Rate	Amount
	0830 NORMANS CAY TO NASSAU VAT at 10% <i>Sarah Rock OUT on Sat 16th</i>	1,100.00 10.00%	1,100.00 110.00
		Total	\$1,210.00





Confirm Create Payment

Payment Information

Payment Name* Other - Bahama Hoppers Limited
Payment Type Business Disbursement
Effective Date July 18, 2022
Debit Account* IIL BSD - 70045*****2*18 BSD

Recipients

Viewing 1 - 1 of 1 Items

<u>Recipient Name</u>	<u>Recipient ID</u>	<u>Account Number</u>	<u>Bank</u>	<u>Amount*</u>	<u>Addendum/Memo</u>
Bahama Hoppers Ltd	201	1060458 BSD	RBC - SPANISH WELLS 05805	1210.00	Indigo island Inv #14758

Total Payment Amount: 1210.00 BSD

Authenticate

Password*

Token Value*

+ 54 Jr

232144

RECEIPT

DATE 16 May 2021 No.

\$ 25.00

RECEIVED FROM

Transfer From Odysey To L.P.1-A DOLLARS

☐ FOR RENT
☐ FOR

Twenty Five Dollars

ACCOUNT	
PAYMENT	30.00
BAL. DUE	

☒ CASH

☐ CHECK
☐ MONEY ORDER
☐ CREDIT CARD

FROM Odysey TO L.P.1-A

BY SMITHS THOMPSON

A-2701
1-16300



< BACK

FILTER

Receipts

SORT RECEIPTS BY

Purchased Date - Newest
to Oldest ▼

PURCHASED FRI, JUL 15, 2022



NAS ▸ CHS



RECEIPT#

0062327202296

TOTAL

\$611.07 USD



1020

DOG DAZE OF CHARLESTON LLC
PIL 843-571-4433
820 DUPONT ROAD
CHARLESTON, SC 29407

DATE 8.26.2022 87-853540

PAY TO THE ORDER OF Sarah Rock \$3,000.00

Three thousand dollars & 00/100 DOLLARS

Pinnacle

FOR Flights / medical Charlie Roseman

ENDORSE HERE

☐ CHECK HERE AFTER MOBILE OR REMOTE DEPOSIT

DATE _____

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
RESERVED FOR FINANCIAL INSTITUTION USE

☐ The security features listed below, are used as the basis for document authentication. Results of document authentication:

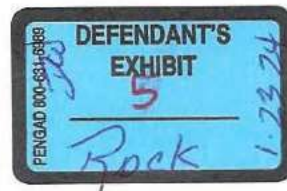
- Security Features:
- Microprint
- Security Thread Paper
- Security System

Results of document authentication:

- Microprint: all text is uniform and clear
- Security Thread Paper: thread is visible and intact
- Security System: all text is uniform and clear

1. The security features listed below, are used as the basis for document authentication. Results of document authentication:

2. The security features listed below, are used as the basis for document authentication. Results of document authentication:



Enter any notes here

Select one ▾

☒ Inquire about this transaction.

☐ No images attached.

OLL FE
01 Dog
er from

BY RAY CT CHARLESTON VETE



78715SD DOG DAZE OF CHARLESTON

Select one

912.80

IKCARD 8715

78715SD DO

Transfer fro

O CINTAS BL

72122 Card#4

IKCARD 8715

78715SD DO

RED BANK R

EK SC 71922

IKCARD 8715

78715SD DO

MINION ENERGY DRAFT 9570248695'S

ARLIE B FREEMAN

Transaction Detail

X

Date

07/21/2022

Amount

-\$162.12

Description

132 RED BANK RD PET REST CEMETE
GOOSE CREEK SC 71922 Card#4008

Memo

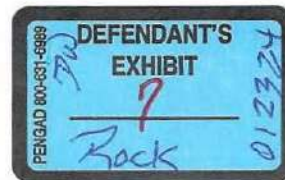
Enter any notes here

Category

Select one ▾

☒ Inquire about this transaction.

☐ No images attached.





ELECTRONICALLY FILED - 2024 Apr 15 10:55 AM - CHARLESTON - COMMON PLEAS - CASE#2022CP1005585

12:31 AM 11 hours ago

Xumi Rock

Robyn Stern <robysrn@me.com>

To: me

When are you going to own up to your Shepard killing my friend's dog?
Spreading the word to never entrust any pups with you.
What happened was inexcusable

Sent from my iPhone

I want to start off by saying that I am beyond sorry that this happened. Putting this into words is an extremely difficult task. I am sorry it has taken this long for me to muster the courage. This is a nightmare. I am going to try to be as detailed as possible about what happened and why, based on what I know about dog behavior. Extreme behavior like this doesn't in a vacuum. There are multiple contributing factors that led to this tragic event. I have read, when something like this happens there is a huge amount of "fuel" that builds up, then there's a match we may not recognize followed by explosive, extreme behavior.

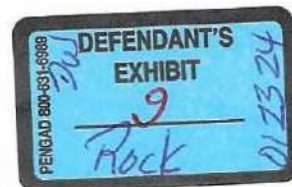
Dogs and their sense of smell.

Smell is the number one way dogs communicate. One eighth of a dog's brain is dedicated to smell. Dog's are affected by the smells in their environment. Especially stress hormones. The stress hormone in dogs is the same stress hormone in humans, Cortisol. The day before this event, both Katie and I were at MUSC. I was dealing with complications from a pace maker defibrillator implant that was put in, that malfunctioned the week before. The device shocked me 14 times and put me in the hospital for three days. Katie was at the Hollings Cancer Center finding out if she had Breast Cancer or not. The day of the accident, Katie was in Kentucky for less than 24 hours to attend her father's funeral. Needless to say, the stress in our household was at an all time high and I believe it was a contributing factor to what happened.

Dogs in estrus. Female dogs in estrus can make male dogs act wildly unpredictable. We don't take dogs on the property that we know are in heat. We were told by a new client that his dog had recently ended her heat. Upon putting her in the yard with other dogs, it was abundantly clear that she was still giving off hormones. The male dogs would not leave her alone. I immediately called the owner to tell him what was happening and he informed me that he was leaving the country and could not come get her. We immediately sequestered the female from the other dogs. Male dogs can smell those estrus hormones at a great distance. I believe having this dog on the property was a contributing factor to this horrible accident.

Another contributing factor, is the weather. It has been hot and raining, so our dogs have not exercised as much as they are used to. Just like people, exercise reduces stress in dogs.

The day of the accident. It was business as usual. It was slightly slower on this day, so I had the staff giving our personal dogs baths. Cosmo is my 4 year old German Shepard. He is my obedience demonstration dog. He has never done anything like this before. After his bath, a newer staff member brought him to me to trim his nails. A process, however small, also increased his stress. After trimming Cosmo's toenails, I instructed a newer staff member where to place Cosmo to complete his grooming. He did not follow my instructions. He put Cosmo in a wire crate. For a hyper intelligent dog like Cosmo, was an easy puzzle to figure out. The place where I assumed Cosmo was placed, was in a different building behind a closed door that Cosmo could not open. The room he was left in was adjacent to the room where Xumi and Ruben were. There should have been a closed door between them. I do not know if Cosmo opened the door or if the door was left open. There are bite marks on the door knob. The room Cosmo was in and the room that Xumi and Ruben were in were full of other dogs in various crates and enclosures. Cosmo had access to roughly a dozen different dogs. Why Xumi? The only two things that Cosmo and Xumi had in common was barrier aggression/cage aggression. When Cosmo was a puppy, he spent his first 16 weeks at a kennel where they never wanted to reduce any dog's "drive". Fence fighting and barrier aggression were never discouraged. Even though Cosmo and his brother Mac, who is a



mobility service dog for a child with Muscular Sclerosis, as puppies were with the other dogs destined for other types of work. He developed this bad habit at an early age. Both Mac and Cosmo scored a zero on a scale of 0-10 on bite work during their puppy testing. When confined, this aggressive posturing is exacerbated. When Cosmo is in a crate, he is more growly and reactive. When Xumi was in a crate, she was more growly and reactive. The gate for the enclosure that Xumi and Ruben were in failed. The metal corner literally spit down the middle and allowed enough give in the gate for Xumi to get out or Cosmo to get in. I'm not sure which.

While this was happening, I was here the whole time and heard nothing. I was 40 or 50 feet away in another building. My staff was at lunch when the accident happened. When they returned from lunch, they went to the back to start working. I was sitting at the desk working and saw Cosmo flash across the screen of one of the security cameras. I immediately ran to the back and Cosmo was going after Ruben. I am not sure, but I believe this is when Ruben sustained his injuries. As far as I know they were sharing space prior to this somehow. As soon as I entered the room, I said "No!" and Cosmo immediately stopped. Cosmo and I were very close and I could immediately tell that he knew that he had done something very terrible. I secured Cosmo and a staff member secured Ruben. I ran to check on Xumi. She was laying right outside of her run and she was already gone. I lost it. But, I got myself together because I wasn't sure how badly Ruben was injured so my focus went to him. I immediately called Sarah and left a message. Then I sent her an email with a request to call me immediately. I jumped in my car and was on the way to the E-vet with Ruben when Sarah called me back. It was horrible. My heart is breaking all over again just typing this. In 20 years of working with dogs every day, I have never had anything like this happen.

The "ifs".

If Katie had been here, she would have been in the back and recognized that Cosmo was not in the correct enclosure. If I had gone to the back, I would have recognized it immediately and moved him to the right spot. If Cosmo had been in the correct enclosure, this never would've happened. If my staff member had followed my directive, this would not have happened. If the staff hadn't been heading to lunch immediately after Cosmo was inappropriately spaced, this may not have happened. If this had happened in the morning or afternoon, there would have been several people there to stop it before it escalated. If I had done a better job of reducing Cosmo's stress overall, this may not have happened. If we did not have a dog in heat on the property, this may not have happened. If both dogs did not have habitual barrier aggression, this may not have happened. If all the doors were closed and secured, this may not have happened. If the run that Xumi and Ruben were in was more secure, this may not have happened. Many things had to go wrong all at once, in succession, for this awful tragedy to occur.

Things we are going to change to make sure nothing like this ever happens again. No one will handle Cosmo except for Katie or myself. All the older enclosures will be replaced with stainless steel Shoreline veterinary grade kennel banks. We will no longer be accepting any female dog that are intact over 6 months of age for any reason. We will train each new employee on Cosmo specifically and we will tell them this story. I want them to see me hurt, it will always hurt forever, so they don't have to, so you don't have to. I am so sorry.

Exhibit B

In the Matter Of:

SARAH ROCK vs DOG DAZE OF CHARLESTON

2022-CP-10-5585

CHARLIE BATTLE FREEMAN

January 23, 2024



ESQUIRE
DEPOSITION SOLUTIONS

800.211.DEPO (3376)
EsquireSolutions.com

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON) DOCKET NO.: 2022-CP-10-5585

SARAH ROCK,

Plaintiff,

vs.

DOG DAZE OF CHARLESTON, LLC
and CHARLIE FREEMAN,

Defendants.

DEPOSITION OF
CHARLIE BATTLE FREEMAN

DATE: January 23, 2024

TIME: 12:40 p.m. - 2:40 p.m.

LOCATION: Turner Padgett Graham & Laney, PA
40 Calhoun Street, Suite 200
Charleston, South Carolina

REPORTED BY: Donald L. Whiteley, Jr.

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A-P-P-E-A-R-A-N-C-E-S

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By: Michael J. Jordan, Esquire
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(843) 920-6669
mjordan@steinberglawfirm.com

For Defendant Dog Daze of Charleston, LLC:

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Charleston, SC 29401
(843) 576-2800
dcobb@turnerpadget.com

For Defendant Charlie Freeman:

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THE LAW OFFICE OF W. WESTBROOK WILLS, III
Post Office Box 822
Folly Beach, SC 29439
(843) 805-6300
wwills@wwillslaw.com

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Exhibit 2	Typed Narrative Letter/Memo [Undated and Unsigned] (2 Pages)	63

Defendant Charlie Freeman's: [Continuing Exhibit Nos.]

Exhibit 10	Transaction Detail Dated 07/15/22, Amount \$319.75 (1 Page)	77
Exhibit 11	Email Dated 07/17/22 From Sarah Rock to Charlie and Katie (1 Page)	79

PROCEEDINGS

= = = = =

(CHARLIE BATTLE FREEMAN, having been first duly
sworn as hereinbelow certified, testifies as follows:)

E-X-A-M-I-N-A-T-I-O-N

BY MR. JORDAN:

Q If you could, state your full name for the
record, please.

A Charlie Battle Freeman.

Q And, Charlie, have you ever had to give a
deposition before?

A No, sir.

Q Okay. Well, today we're going to be asking
you some questions about an action that Sarah Rock has
brought against you and Dog Daze. Do you understand
that?

A I do.

Q If I ask you a question you don't hear, you
don't understand, you don't get what I'm asking or you
need it rephrased, you please let me know. Okay?

A I will.

Q You have to answer all the questions
verbally. Our court reporter can't type out a head nod
or a "uh-huh" or "huh-uh." Okay?

A Gotcha.

1 Q And -- all right. What's your address?

2 A It's 820 Dupont Road, Charleston 29407.

3 Q Say that again.

4 A 820 Dupont Road, 29407.

5 Q That's your residence?

6 A Yes, sir.

7 Q What's the business address?

8 A It's the same address.

9 Q So how does that work? Is there like the
10 business in the front? Do you have a residence in the
11 back or --

12 A Yes. It's on dual-use. We got a tiny house
13 in the back that my wife and I live in.

14 Q How long have you owned 820 Dupont Road?

15 A I don't own the property; I rent it. But
16 I've been in business there, this is the 11th year.

17 Q Okay. And how long have you resided there?

18 A All but one of those years.

19 Q What is your date of birth?

20 A 5/8/71.

21 Q And your social?

22 A XXX-XX-5122 [redacted upon instruction].

23 Q And we'll redact everything but the last four
24 out of the transcript. Okay?

25 Who lives at 820 Dupont, in the residence

1 side?

2 A Just my wife and I.

3 Q What's her name?

4 A Kathleen. Katie.

5 Q How long have you and Katie been married?

6 A About a year and a half.

7 Q Do you have any other relatives in Charleston
8 County?

9 A I have one cousin: Sarah Summers.

10 Q How about Katie; does she have any other
11 relatives here?

12 A No.

13 Q The reason we're asking that is we don't want
14 any of your relatives to end up on the jury pool if we
15 wind up in front of a jury. Okay?

16 A Gotcha.

17 Q Where did you grow up?

18 A A little town outside of Charlotte:
19 Wadesboro, North Carolina. That's with a "D," Wade.

20 Q When did you leave Wadesboro?

21 A 1989.

22 Q Where did you move?

23 A I was on my way to college in Boone.

24 Q Boone, upstate?

25 A I did.

1 MR. JORDAN: Off record for a second.

2 (Off the record.)

3 BY MR. JORDAN:

4 Q Did you leave Boone in '96 when you finished?

5 A I did.

6 Q Okay. And did you move to Charleston at that
7 point?

8 A No, sir. I moved to Yellowstone National
9 Park.

10 Q What did you do there?

11 A I managed a bar and studied wolves. They had
12 just reintroduced the wolves to the park in '96.

13 Q Gotcha. And can you kind of walk me through
14 where you've lived between Yellowstone and Charleston?

15 A I lived in Wyoming for five years, and then
16 Portland, Oregon for a year, and then here. I moved here
17 in 2002.

18 Q And what did you do between getting here in
19 2002 and starting Dog Daze?

20 A From 2002 -- here, on?

21 Q Yeah.

22 A I was -- I was in food and bev. Worked at a
23 bunch of great restaurants in town. Tended bar at the
24 Music Farm. And then, in '04, I opened my first dog
25 business.

1 Q What was that called?

2 A Dog Daze. It was in Mount Pleasant, though.

3 Q How long were you in Mount Pleasant?

4 A About six years.

5 Q Where was it?

6 A 1-0 -- 104 Mill Street.

7 Q Is it still there?

8 A No.

9 Q You just have the one business location in
10 West Ashley?

11 A Actually, I have two businesses, and a
12 charity that I co-founded.

13 Q Okay. Was Dog Daze at any other location
14 other than 104 Mill Street and 820 Dupont Road?

15 A No.

16 Q Okay. And has it always been Dog Daze of
17 Charleston, LLC?

18 A In the last 11 years; yes.

19 Q What's the other business?

20 A It's called The Cool Dog Country Club. It's
21 in North Charleston.

22 Q What's it called?

23 A The Cool Dog Country Club. It's the same
24 business model, just a very different facility.

25 Q When did you start that?

1 A Last July.

2 Q And what's the address of that, please?

3 A 3357 Business Circle.

4 Q Where is that?

5 A It's off of Cross County Road. It cuts
6 between Dorchester and --

7 Q Okay.

8 A -- "Ashley Frustrate."

9 Q And what's --

10 A Ashley Phosphate.

11 Q What's the name of the charity?

12 A It's called the Nomad Music Foundation.

13 Q What is the charitable purpose?

14 A We work with children in crisis and
15 post-conflict zones. So we -- it's music therapy,
16 basically. But we go to places like Afghanistan, Iraq,
17 India, Turkey. Work with kids primarily in UNHCR camps,
18 the refugee camps.

19 Q And are you doing these trips yourself?

20 A I am. Correct.

21 Q When did you start the charity?

22 A 2017.

23 Q And so how often would you go to your --

24 A About once every other year. But COVID kind
25 of threw a curve ball in that kind of travel and we're --

1 a lot -- a lot of our trips have gone to Northern Iraq
2 and with the Kurds. So now, with the situation there,
3 travel for us has kind of got off. So we're planning on
4 a trip to Africa.

5 Q Okay. So how many trips have you taken?

6 A Myself? Two.

7 Q Okay.

8 A Both to Iraq.

9 Q Who else is involved in the Nomad Music
10 Foundation?

11 A Really, it's just one other person: Jerry
12 Joseph, the musician.

13 Q What's his name? Jerry Joseph?

14 A Jerry Joseph. Uh-huh. He plays the guitar
15 and teaches the lessons and I do everything else.

16 Q Is he in a band?

17 A He is, yeah: His band, Jerry Joseph.

18 Q Jerry Joseph?

19 A Yeah. Jerry Joseph, himself. Yeah.

20 Q Okay. And so when you go to these camps,
21 what is your role?

22 A When we're there, logistics, travel, buying.
23 I buy all the instruments, all the gifts, whatever
24 we're -- we're giving away. I handle all travel, visas.
25 Basically operations. Everything. And then when we're

1 there, I film and take all the pictures that we use to
2 then promote and -- and report back to our donors what we
3 -- what we actually did.

4 Q Do you have any trips planned?

5 A Not on the books right now. We're working on
6 Africa: Kenya, probably.

7 Q All right. Let's talk about Dog Daze a
8 little bit more. Can you tell me about like the physical
9 set-up of the facility as it existed back in July of
10 2022?

11 A Well, from the street, there's a U-shaped
12 driveway and then a small cottage that's then connected
13 to another big building that has a long row of
14 indoor/outdoor runs. And then two rooms, and then
15 another little hallway of just indoor runs, and then
16 another small building off the side. So it's kind of a
17 little campus.

18 Q Gotcha. And where's your residence?

19 A In the very back. There's a little tiny
20 house back there.

21 Q Gotcha. You keep calling it a "tiny house."
22 What does that mean?

23 A It's 250 square feet.

24 Q Okay.

25 A So, yeah. Not much bigger than this room.

1 Not -- not as big as this room.

2 Q Were you in the military at all?

3 A No.

4 Q In July of '22, who were your employees? By
5 "your," I mean Dog Daze.

6 A Gotcha. Myself, my wife, a gentleman by the
7 name of Gentle Purdy -- P-U-R-D-Y -- and Rosalyn
8 Chamberlain. And I think that was it. Maybe Tiffany
9 Jacobs.

10 Q Anybody else?

11 A No.

12 Q Okay. And so what was your role in July of
13 '22?

14 A I did everything. I -- I do everything that
15 everybody else does, too, so from bottom to the top.

16 Q What about Katie? What were her
17 responsibilities?

18 A The same thing.

19 Q Okay. What about Gentle?

20 A He was a kennel tech in the back.

21 Q What about Rosalyn?

22 A Same. Same. And then Tiffany was more of a
23 receptionist.

24 Q What does a kennel tech do?

25 A Care for the dogs, feed the dogs, move the

1 dogs around. Clean them. Bathe them.

2 Q Did you have a computer system?

3 A Computers; yes.

4 Q Like would y'all -- do you have like a
5 software program you'd use either for billing or for
6 like --

7 A Yes.

8 Q -- checking the dogs in and out?

9 A Yes.

10 Q What was it called?

11 A Kennel Connection.

12 Q Do you still have that same program?

13 A Yes.

14 Q Does that do billing and kind of keep all the
15 information about the dogs, too?

16 A Correct.

17 Q All right. Can you tell me how the dogs are
18 input into the system? Is it under their owner's name or
19 do they have their own name?

20 A Under the owner's name.

21 Q Okay. Do you have to log into Kennel
22 Connection like with a password and all that?

23 A Not really; no.

24 Q Okay. Do the dog owners have access to get
25 into the Kennel Connection to check what's going on with

1 their dogs and --

2 A Not like that.

3 Q Okay. All right. So tell me what a typical
4 day would be like for a dog who was boarding at Dog Daze
5 back in July '22.

6 A Between 6:30 and 6:45, they'll go outside in
7 the -- their respective yards. We have four big yards
8 and three smaller yards. And if the weather's nice --
9 which in July, it's probably hot. So if the heat index
10 gets to 90, we'll bring them inside in the A/C. But if
11 it's nice, you know, like a day like today, they would
12 stay out 'til between 11:00 and 12:00. And they would
13 come in for their big meal for the day -- bigger meal for
14 the day -- and then they would rest.

15 That's kind of the pattern of life that dogs
16 in the wild -- they're active in the morning, sleep
17 through the heat of the day, active in the evening. And
18 we want them expelling energy. That's the name of the
19 game.

20 So then there's a break from when we feed
21 them. They're just like us, they want to take a nap. So
22 there's a break from noon to 3:00 where the dogs are in
23 their individual runs, getting their individual water
24 breaks and what-not. And then between 2:00 and 3:00,
25 they'll go back out again. And if it's nice, they'll

1 stay out most of the afternoon, depending on weather.

2 And then by 6:00, 6:30, they're back inside,
3 worn out, ready to go to sleep, listen to some classical
4 music and turn in.

5 Q And they're like that until the end of the --
6 until the next morning?

7 A Uh-huh.

8 Q Is that a "yes?"

9 A Yes. Sorry.

10 Q Okay. Happens all the time.

11 Do you have any dog grooming there?

12 A We don't do haircuts. We do baths and
13 toenail trims and ear cleanings. Nothing too
14 sophisticated.

15 Q Okay. You say you have four big yards and
16 three small yards?

17 A Uh-huh.

18 Q What determines what dogs go into which
19 yards?

20 A Typically, the front yard that you can see
21 from the street is for dogs under 20, 25 pounds. And
22 then the big yards across the back -- there's one, two,
23 and three. One is more of a Type A personality, super
24 active dog, Labs and pointers and what-not.

25 It's also -- I have to have a disaster prop

1 for another job that I have. I work for the National
2 Disaster Search Dog Foundation. I'm a canine recruiter,
3 is the name of my job. And all those dogs come out of
4 shelters, and then they end up being rapid response, live
5 recovery, air scenting dogs for FEMA. They're the most
6 highly-trained search and rescue dogs on the planet.

7 And one of the things I have to do in my
8 process is I have to test the dogs and film those tests.
9 And so with that first yard is a disaster prop. It's got
10 big tires and railroad ties and barrels. So that's for
11 those dogs. It's like a skate park for dogs.

12 Then yard two is for the couch potatoes,
13 chilled-out dog. The whole lot -- that whole yard is
14 shaded and they're chilled out.

15 Then yard three is for the adolescents, for
16 the six months to a year and a half. Those dogs need to
17 be -- they're -- they can be super antagonistic so that
18 they can do that to each other. But doing that to the
19 other two groups just doesn't -- doesn't work.

20 Q Gotcha. So that's three of them. Who got --

21 A The smaller yards we either use for little
22 dogs or puppies or any dog that doesn't need a whole ton
23 of space. Any dog that is not good with other dogs, we
24 use those yards. We rotate those in and out.

25 Q Gotcha. And then when the dogs go back

1 inside after their active morning time, where do they --
2 where are they placed?

3 A In runs. They're --

4 Q What does that mean?

5 A A run would be a five-by-five-by-eight with a
6 -- a sliding door that goes out into a concrete run. We
7 don't typically use the concrete runs; we use the yards
8 instead. It's just nicer for the dogs. This is just
9 leftover -- the facility originally was the first ASPCA
10 for Charleston County. It was built in 1955, so. It's
11 got all those runs.

12 Q And you said these -- the inside roads are
13 five-by-five-by-eight?

14 A For big dogs. Uh-huh.

15 Q Okay. What about for the smaller dogs?

16 A Smaller dogs, probably four-by-four-by-four
17 cubes, two of them stacked on each other.

18 Q And when you say -- are these just like
19 cages?

20 A Yeah.

21 Q Okay.

22 A Yeah. Chain link fence. Cinder block walls.

23 Q And how many dogs are in each run?

24 A At the most --

25 Q Or a cage, whatever you want to call it?

1 A Yeah. Gotcha. At the most, two, but only if
2 they're from the same household.

3 Q Okay. Typically, one?

4 A Typically, one; yep. And if two, they have
5 to be of like size and temperament, and they got to be
6 able to eat together in small spaces and lot of stuff
7 like that.

8 Q I forgot to tell you this: If you ever need
9 to take a break, use the restroom, get some water,
10 whatever it is, you just let us know. Okay? You're not
11 trapped in here. We can take a break.

12 In July of 2022, how many dogs did you own?

13 A Did I own? I can't remember when we adopted
14 the girls exactly, so. Probably five.

15 Q Okay. Can you give me their names and I
16 guess current ages --

17 A Okay.

18 Q -- and their breeds?

19 A Okay. "Cosmo" is -- is almost six, so. He's
20 five, and he's a German Shepherd.

21 Q Okay.

22 A "Rocket" is 15. He's also a German Shepherd.
23 We have "Amos," "Amos Moses." He's a chocolate Lab, and
24 he is seven. And we have "Nike," and she's a black Lab,
25 and she's six. And then we have "Jules" -- J-U-L-E-S --

1 and she's a yellow Lab, and she is seven.

2 Q Were all of these dogs at the Dog Daze
3 facility on the day of the incident with "Xumi?"

4 A Yes.

5 Q Okay. And where do you keep these five dogs
6 as compared to what we were talking about earlier? Like
7 what's their location?

8 A The front cottage that used -- that used to
9 be our lobby, coming back from COVID we had to change the
10 way we were doing things so we started doing it curbside.
11 We just didn't want people coming into our living space.
12 I have a bad heart condition and a pacemaker, and so it
13 was just kind of a safety thing.

14 And so they stay up there with us in the
15 cottage. They -- they have time in the yards with other
16 dogs. Usually, it's "Cosmo" and "Amos" or the -- or --
17 if it's playtime, because those guys play hard. Or it's
18 all -- all five of them together, if it's just going out
19 to use the bathroom and coming in. As far as like
20 sleeping arrangements, they all sleep up there in the
21 cottage in the front.

22 Q How many rooms are in the actual cottage?

23 A Three, and a galley kitchen.

24 Q So when you walk in, it's like the lobby
25 area?

1 A Used to be; yeah.

2 Q What is it now?

3 A Storage and office and living space.

4 Q Do y'all still do like curbside pickup?

5 A Yep.

6 Q Okay. Is that where the receptionist sits,
7 still?

8 A Yes.

9 Q Okay. And then what's in -- I mean I'm just
10 going to make some assumptions. But what's in the
11 kitchen? What is in the other two rooms?

12 A One is kind of a storage room/dog room. It's
13 got a bunch of old concert art posters and musical
14 instruments and dog crates. It's just a kind of a
15 catch-all. And then the other room is -- I guess there's
16 a bathroom up there, too -- is more of a living room.
17 Got a pretty sweet vinyl collection, TV, couch.

18 Q Earlier, you said you and your wife have a
19 small house, the 250 square feet in the back?

20 A Uh-huh.

21 Q Like at night are y'all hanging out in the
22 business or y'all hanging out at the -- in the small
23 house?

24 A We hang out in the front.

25 Q Okay.

1 A And then -- then this tiny house is more like
2 our bathroom, shower, closet, bed.

3 Q And so during the day are your five dogs --
4 at least back in July of 2022, they're allowed to walk
5 around the cottage or are they shut off in like a
6 particular room?

7 A In the -- they're either in the living
8 room -- it depends, 'cause there's a lot of dogs coming
9 back and forth, back and forth and back and forth in --
10 in the lobby area. So they're either in the living room
11 or in the crates in the other room, or outside in a yard.

12 Q And you said "other room, in the crates." I
13 assume that's the storage room?

14 A The storage room; yeah.

15 Q Okay. How many crates are in that storage
16 room?

17 A Two.

18 Q Are there any other crates in the cottage?

19 A No.

20 Q When did you first meet Sarah Rock?

21 A I don't know. I would say probably two years
22 before the incident, maybe. Maybe less. I'm not really
23 sure.

24 Q How many like regular customers do you have?

25 A I have about 1,600 active clients.

1 Q And how many of them were coming like
2 multiple times a year?

3 A Most of them.

4 Q Okay. How many dogs can you hold?

5 A It depends on how many from the same
6 household that we double -- can double up. But,
7 typically, about 75. It's -- that's sort of about a
8 good --

9 Q That's sort of max?

10 A A good -- a good running capacity.

11 Q Like on the holidays, 75 is the maximum --

12 A Yeah.

13 Q -- that you'll get?

14 A Yeah. Maybe a little more, depending. It
15 just depends on how they're put together.

16 Q And when Sarah started coming to you, was she
17 bringing both "Xumi" and "Reuben?"

18 A Yes.

19 Q Tell me about "Xumi." What kind of dog was
20 she?

21 A A poodle mix of some kind.

22 Q What was her temperament?

23 A She was not very friendly to any people.
24 More friendly with dogs, but not friendly with people.

25 Q What else can you describe about her?

1 A I mean she on several occasions tried to take
2 a swipe at me or my staff. She was kind of a -- a
3 hands-off kind of dog. It probably took six months or a
4 year of me seeing her on regular basis, 'cause Sarah
5 travels for work so she's gone a lot. Before, she would
6 growl at me when I was feeding her or try to take her to
7 the car or whatever. It was just kind of her M.O.

8 And "Reuben" was really affectionate, so. I
9 would even go to give him affection, and she would growl
10 at me while I was loving on him.

11 Q Okay. But did "Xumi" ever have any problems
12 with the other dogs?

13 A Other than growling and barking every time
14 one walked past; no.

15 Q Okay. What about "Reuben?" What was his
16 temperament?

17 A He was jovial and sweet and awesome.

18 Q And when Sarah would bring the two dogs to
19 board, would they be placed in the same crate together
20 like we talked about earlier?

21 A Yes.

22 Q Okay. And so they would sleep together, eat
23 together, et cetera?

24 A Correct.

25 Q All right. Any problems there?

1 A No. Huh-uh.

2 Q How many times do you think Sarah brought
3 "Xumi" and "Reuben" to board with you before this
4 incident?

5 A Ten or 15.

6 Q And do you feel like you knew those dogs
7 fairly well?

8 A Yeah.

9 Q How big was "Xumi?"

10 A Probably 12 -- ten, 12 pounds.

11 Q And "Reuben?"

12 A Maybe 15 pounds.

13 Q Have you ever had to kick a dog out of the
14 business, like we can't keep this dog anymore?

15 A Yes.

16 Q How often does that happen?

17 A More often than you'd think. I don't know.
18 Once every three months.

19 Q What sort of incident would occur to lead to
20 that?

21 A If we try everything we know and we still
22 can't keep the dog safe from itself. Then if the dog's,
23 you know, tearing at the fence, trying to climb the
24 fence, you know, being aggressive towards me or my
25 staff -- yeah. If they're -- those are the things that

1 -- that get you bounced.

2 We try to work with as many dogs as we can to
3 help them, when we can. But if we can't, you know,
4 especially if it's like a fence-climbing or fence-jumping
5 type situation, that would be one of the -- one of the
6 most common.

7 A lot of people get dogs and they don't even
8 know the dog can climb a fence. They got the dog at the
9 shelter last week. They bring it to me 'cause they're
10 still going on vacation. They don't even really know the
11 dog. That scenario seems to pop up quite a bit.

12 Q And so what do you -- before you bounce the
13 dog, what steps are taken before that, like conversations
14 with the owner or --

15 A For sure. For sure. We tell them -- we tell
16 them what's going on and ask them if they know about the
17 behavior that we're seeing, if they're familiar with it.
18 Sometimes, they tell us the truth; sometimes, they don't.

19 And if we can come to some sort of system on
20 our own -- sometimes we put the dogs on what's called a
21 "supervised-only situation." So if they're out of their
22 run, they're on a leash with somebody the whole time and
23 then -- then they go back to their -- their run.

24 But if they're -- usually it's if they're a
25 danger to themselves. If they're like chewing the fence

1 so bad they're, you know, causing injuries to themselves,
2 that's the kind of stuff that I really can't stop.

3 Q And if a dog is going down that path or
4 you've started those conversations with their owner, is
5 that noted in the Kennel Connection software?

6 A No.

7 Q How do you keep track of it, or how would you
8 keep track of it?

9 A In a system called OneNote. It's a Microsoft
10 note-taking system.

11 Q Tell me about how that would work for you.

12 A OneNote is kind of the catch-all for
13 information so that anyone can sit down at the desk and
14 see where we are with a conversation, onboarding a new
15 client or an incident report, or if something, you know,
16 has gone down that we think is noteworthy. If a client's
17 mad about something, it all goes in there. And it's
18 searchable so we can go back and look at it later.

19 Q Did you have to ever enter "Xumi" or "Reuben"
20 into the OneNote before this incident?

21 A I don't think we had OneNote implemented when
22 this went down, so no. It would have been written down
23 on a legal pad like that.

24 Q Did you ever write anything down about "Xumi"
25 or "Reuben" onto the legal pad?

1 A Not that I can remember.

2 Q Okay. How about any incident reports
3 regarding "Xumi" or "Reuben" before this, the incident in
4 July of '22?

5 A I think we may have had some conver -- I know
6 we definitely had some conversations with Sarah about
7 Xumi's behavior because Sarah approached me probably
8 three or four times about "Xumi" coming for -- both of
9 them coming for board and training to get basic obedience
10 down pat so she could manage that behavior a little bit
11 better, because she knew that -- that "Xumi" was a
12 problem.

13 Q Did it ever rise to a situation where you had
14 to have a return conversation with Sarah like this isn't
15 gonna work or we need to see improvement or anything like
16 that?

17 A Yeah. I do think we circled back around
18 about training, and she just never pulled the trigger on
19 it. And it was ...

20 But I do remember having conversations about
21 being hopeful because "Xumi" was starting to warm up to
22 me -- or at least let me handle her without her growling
23 at me and trying to bite, so. There was some progress
24 there.

25 Q Okay. How many days had "Xumi" been boarded

1 before the incident?

2 A I don't have any idea.

3 Q I understand there was a dog that was
4 potentially still in heat that had been boarded --

5 A Correct.

6 Q -- at that time. Who was that dog owner?

7 A I don't remember the guy's name. He only
8 came that one time. Sarah Rock would probably be a
9 better person to ask. She -- she's the one that
10 recommended him and -- and vouched for him and said
11 please help my friend out.

12 Well, as soon as the dog got there, I
13 recognized that he was in heat -- she was in heat. I
14 called the owner, said, hey, you got to come get your
15 dog. And he said, well, I'm flying to Panama for 48
16 hours and I'll be back, and I don't have an emergency
17 contact that can come and get my dog. So we had to
18 sequester the dog into another part of the -- part of the
19 facility with no other dogs.

20 But it -- when a dog's in estrus, it -- it
21 does -- that doesn't really do it because the hormones
22 are floating around in the air. And by that time, we
23 were already, for lack of a better term -- term,
24 contaminated, and it was not an ideal situation.

25 It's not something we do. We don't take dogs

1 in heat, so. Now we don't even take the females under
2 six months at all.

3 Q Why not?

4 A Because they typically don't go into heat
5 before six months. Some dogs -- a lot of dogs can have
6 what's called a "silent heat." It's an atopic heat where
7 they don't bleed and they don't really swell up, they
8 don't show, but it's the same amount of hormones and --
9 you know.

10 And even when they do go into a regular heat
11 and they bleed, they're not really receptive to a male
12 for the two weeks before that or that two to three weeks.
13 They're really hormonally receptive after that, two weeks
14 after they stop bleeding.

15 The gentleman assured me that the heat was
16 over. He was wrong.

17 Q How did you determine the heat was not over?

18 A She walked out in the yard and every male
19 dog's nose was on her cootch immediately, and that's just
20 not normal.

21 Q What kind of dog was this?

22 A I don't even remember. I'm sorry. It was
23 only there for 48 hours and all this other stuff happened
24 and -- yeah. I'm sorry.

25 Q We were talking about people that worked in

1 the facility at that time. Who was actually working on
2 July 14th, 2022?

3 A Me and Gentle and Rosalyn.

4 Q Anyone else?

5 A No.

6 Q On a typical day, how many employees were
7 working?

8 A Three or four. Katie wouldn't have been
9 there; she was at her father's funeral.

10 Q I saw another name mentioned: Taylor Brown.
11 Who was that? It was in some of your discovery
12 responses.

13 A Taylor Brown? I think Tiffany's married name
14 might have been Brown. Maybe Tiffany Brown?

15 Q So the question was, identify all persons
16 employed or otherwise working at Dog Daze on July 14th,
17 2022. Here's a list: Katie Freeman, Rosalyn
18 Chamberlain, Gentle Purdy, Taylor Brown. You think that
19 might -- supposed to be Tiffany?

20 A Yeah; I think so.

21 Q Is that Tiffany's last name: Brown?

22 A Well, Jake was Brown, but I think she -- she
23 was going through a divorce. And it's either Jacobs or
24 Brown.

25 Q Okay. Does Tiffany still work for you?

1 A No.

2 Q Who's the new receptionist?

3 A Right now it's a lady named Michelle.

4 Q What about Rosalyn; does she still work for
5 you?

6 A No.

7 Q When did she leave?

8 A About two weeks after this incident.

9 Q Okay. And when did Tiffany leave?

10 A Right when it happened, so the next day or
11 so.

12 Q July of 2022?

13 A Yeah.

14 Q Okay. What about Gentle?

15 A Probably a couple months later.

16 Q Okay. Did Rosalyn and Tiffany leave because
17 of the incident?

18 A I don't know why Tiffany left. I never got
19 an explanation. She had worked for me for a while. It
20 was a weird scenario. Tiffany recommended Rosalyn. And
21 then about -- soon after the incident she made a couple
22 of other decisions that were deal-breakers and she had to
23 go.

24 Q Tiffany or Rosalyn?

25 A Rosalyn.

1 Q Okay. What were those decisions?

2 A I witnessed her on the camera. A dog was
3 running at her, and she looped a leash and tried to catch
4 the dog as it ran past. And she is 90 pounds ringing
5 wet. And safety for my staff is really important to me;
6 so is safety for the dogs. And I -- I couldn't see a
7 good outcome if she -- if she had been successful.

8 If she had actually looped an 85-pound dog
9 running full speed (a) it's going to hurt the dog, (b)
10 it's going to hurt her. And -- and that's after this
11 incident and after me sitting everybody down and after me
12 driving home that safety has got to be paramount, she
13 still made that decision. I was like if that's how
14 you're gonna roll, you can't be here.

15 Q Tiffany: Was she terminated or did she leave
16 on her own?

17 A She left on her own.

18 Q Okay. And I think my question was whether
19 Tiffany or Rosalyn left because of the incident with
20 "Xumi?"

21 A No, was the answer.

22 Q Okay. What happened with Tiffany? Why did
23 she leave?

24 A I never got an answer.

25 Q Gentle: What was his reason for leaving?

1 A I fired him.

2 Q For what?

3 A Yelling at me and getting in my face. I was
4 like, it's not -- not gonna work. Sorry.

5 Q So how many employees do you have now other
6 than you and Katie?

7 A We're in the -- the -- the -- the absolute
8 off season so Katie and I can pretty much handle it
9 ourselves. And we've got two people at the other place
10 that we can pull down, if we need. And I'm actually
11 interviewing two people this week.

12 Q What's the absolute off season?

13 A Slowest times are between Thanksgiving and
14 Christmas: Huge depression. And then --

15 Q The slowest times?

16 A Yeah, between Thanksgiving and Christmas.
17 Because everybody travels either Thanksgiving or
18 Christmas.

19 Q Gotcha.

20 A So that's a real slow time. And then right
21 now until Spring Break.

22 Q After the New Year, up until Spring Break?

23 A Yeah. And then Spring Break happens, and
24 then there's a couple little -- Seewee bridge run, a
25 couple things happen, and then Easter. It's hammer down

1 after that. And when the kids get out of school, it
2 really takes off.

3 Q Sure.

4 Do "Cosmo" and "Rocket" and "Amos," "Nike"
5 and "Jules," do they go everywhere together? Like if
6 you're going to put one in -- like outside, you just put
7 all five outside?

8 A Typically; yeah.

9 Q Or if one goes into the storage room, do all
10 five typically go in the storage room?

11 A Typically, we feed "Amos" and "Cosmo"
12 together and the girls and "Rocket" together, or we feed
13 them all in the -- in the living room together. It just
14 depends on how -- how the day's going.

15 "Cosmo" and -- and "Amos" are homies, man;
16 they love each other. So they play hard and they go
17 nuts. With -- and "Rocket" being as old as he is, he
18 wants to play hard, but his wheels just won't let him do
19 it and so he's better with the girls 'cause they're a
20 little more subdued.

21 But it's not -- those dogs never have any
22 problems together. They're -- they eat -- eat in close
23 quarters, they sleep in close quarters, they hang out
24 with us in close quarters.

25 "Cosmo" and "Amos" love playing ball. "Amos"

1 does it 'cause he is a Lab, and I think Cosmo does it
2 just to please me. And they can alternate fetching,
3 which is pretty cool. I'll throw the ball and nobody
4 moves 'til I give them the right command, then they run
5 to get the ball and come back.

6 Q Are your dogs allowed to roam free in the
7 cottage like during the day?

8 A Yeah. At -- at lunch break for sure, early
9 in the morning for sure, and at night. Yeah.

10 Q And do they sleep in the cottage or do they
11 sleep --

12 A Yeah.

13 Q -- over in the --

14 A Yeah. They sleep in the cottage.

15 Q Okay. I understand there's like a closed
16 caption video system in your facility.

17 A Yes.

18 Q How many cameras do you have?

19 A Sixteen.

20 Q And how long do they record for?

21 A Well --

22 Q Are they on the website like where you can go
23 and --

24 A No.

25 Q -- look at it?

1 A No. It's just -- it's just security for us.
2 I had just gotten the system just before this incident,
3 and the way it was explained to me was that I had 30 days
4 of memory time.

5 Well, that ended up not being the case
6 because every time something moves, the cameras start
7 recording. And in a normal situation when a business is
8 closed at night, there's nothing moving around unless you
9 got some other problem.

10 And so it -- it didn't keep -- I guess it got
11 overwritten faster than it should have. And when I
12 called the company to figure out how to retrieve the --
13 the -- this day out, they came and they were like, oh,
14 it's -- it's already been overwritten. I was like, you
15 told me I had 30 days, and we're like ten days in. And
16 they were like, yeah; we're just gonna give you another
17 big chunk of -- another -- another hard drive to have
18 more memory.

19 So now that is covered. It is 30 days now.
20 But it wasn't -- it wasn't what they told me it would be,
21 when this happened.

22 Q Gotcha. So would the incidents have been
23 caught on the TVs?

24 A Yeah. They were.

25 Q Did you watch them?

1 A No.

2 Q How do you know they were captured on there?

3 A Because there's a camera facing down the
4 hallway where -- where "Xumi" was.

5 Q And when did you call the company to come out
6 and pull the video for you?

7 A Like the next week.

8 Q What's the name of this company?

9 A Snap Integrations.

10 Q Where are they located?

11 A West Ashley.

12 Q You got a particular person you use over
13 there?

14 A No.

15 Q And when you said you called them about ten
16 days after the incident, when did they actually come out?

17 A A day or so after that. They're usually kind
18 of Johnny-on-the-spot.

19 Q Was there any video that was able to be saved
20 from July 14th, 2022?

21 A No.

22 Q All right.

23 What time did you discover there was a
24 problem with "Xumi" and "Reuben?"

25 A Probably right at three o'clock.

1 Q P.M.?

2 A Yes.

3 Q And tell me how you discovered there was a
4 problem.

5 A I sat down at my desk -- because this whole
6 time, I was in the cottage. I never left the property; I
7 was there. Yeah.

8 Q So where was "Cosmo" the whole time?

9 A He was in a room adjacent to the hallway that
10 "Xumi" was in.

11 Q In the cottage?

12 A In the -- the back, where the kennels are.

13 Q Okay. Not in the cottage?

14 A Not in the cottage.

15 Q Okay. Was "Xumi" in the cottage?

16 A No.

17 Q Okay. Where is your desk that you --

18 A It's in the cottage.

19 Q Is that in the front room?

20 A Yes.

21 Q Okay.

22 A And I sat down at my desk. And right here is
23 an array of -- of all the camera screens. And I saw
24 "Cosmo" run across one of the cameras and I immediately
25 knew that he was not where he was supposed to be. And so

1 I looked into the back and Rosie was in a panic, not
2 really helping.

3 Q Who was --

4 A Rosie.

5 Q Rosalyn?

6 A Rosalyn; yeah. And that's when I saw "Xumi."

7 Q How long had Rosalyn figured out what was
8 going on before you got there?

9 A Two seconds.

10 Q And how were "Xumi" and "Reuben?"

11 A How were they?

12 Q How were they -- where were they put before
13 this incident?

14 A In one of the runs in the -- the littles'
15 hallway, where the littles go.

16 Q Okay. And how was that locked or secured?

17 A With a -- a -- you locked just like a fence
18 post.

19 Q How did that become unlocked?

20 A I'm not sure. I didn't see it.

21 Q When you got to their run, was the door open?

22 A I think it was. I think it was leaned open.
23 I don't know that it was standing all the way up. I
24 can't remember.

25 Q Was there any damage to the door, gate,

1 whatever we call it?

2 A The only thing that was different was there's
3 like a -- an L-shaped bracket that holds the corners
4 together. It's like a fence. And it was -- it -- so the
5 point where the -- the posts would turn, so it had gotten
6 tweaked somehow.

7 Q How do you think that happened?

8 A I don't know.

9 Q Like if "Cosmo" was pushing, would it have
10 gone in that same direction, to tweak it open?

11 A With the U thing in the middle, I don't know.
12 Never had it. He just never messed with any of those
13 gates.

14 Q So still, to this day, you don't know how
15 "Cosmo" got into the enclosure?

16 MR. WILLS: Object to the form.

17 BY MR. JORDAN:

18 Q Let me just re-ask the question. To this
19 date, do you know how "Cosmo" got into the enclosure?

20 A No.

21 Q Was there any damage to any of the other
22 areas where "Cosmo" was previous to this or where "Xumi"
23 and "Reuben" were?

24 A Any damage?

25 Q Yeah. Physical damage to the facility, not

1 to "Xumi."

2 A That occurred that day, that I'm assuming
3 that "Cosmo" did --

4 Q Yeah.

5 A -- or that we're narrowing it down to? I
6 don't know if he did it, but in the room he was in, the
7 doorknob on the back side has a couple teeth marks in it.
8 But the place was built in 1955 'there's teeth marks and
9 claw marks everywhere.

10 But I don't know. I don't know if he did it.
11 But that was something I noticed 'cause I didn't know if
12 the door had been shut or not.

13 Q And this door we're talking about, is this
14 the storage room door?

15 A No. It -- it's -- do you want me to draw it
16 for you?

17 Q Sure. Let me just back up. Where was
18 "Cosmo" before the incident with "Xumi?"

19 A In a crate, in a different room.

20 Q Okay. Was the crate secured?

21 A Yes.

22 Q Was the room secured?

23 A I don't know. Should have been.

24 Q How did "Cosmo" get out of the crate?

25 A I don't know.

1 Q And how did "Cosmo" get out of the room that
2 was supposed to be secured?

3 A I don't know.

4 Q Does that room have two doors?

5 A Just one.

6 Q And that door was open when y'all got back to
7 it?

8 A Yes.

9 Q Okay. And what do we call this room where
10 "Cosmo" was in the crate?

11 A We call it the grooming room.

12 Q How close is that in proximity to where
13 "Xumi" and "Reuben" were?

14 A Can I borrow your pen?

15 Q Sure.

16 MR. JORDAN: Let me grab a water real fast
17 while you're doing that. Let's go off the record.
18 Thanks.

19 (At this point there is a break in the deposition.)

20 BY MR. JORDAN:

21 Q You have taken a couple of minutes to draw
22 out the facility. Is that fair?

23 A Yeah. Close enough.

24 Q Okay.

25 (Hand-Drawn Diagram (1 page), Plaintiff's Exhibit

1 No. 1 is marked for identification and made part of this
2 deposition.)

3 BY MR. JORDAN:

4 Q We marked that as Exhibit No. 1. You've got
5 an area labeled "cottage." Is the street closest to you?

6 A Yes.

7 Q Okay. All right. What is between the
8 cottage and here?

9 A Yeah. That's a little breezeway.

10 Q Okay. And can you identify where "Xumi" was?

11 A Yeah: Right there.

12 Q You've marked that with an "X." And where
13 was "Cosmo" located?

14 A Right here.

15 Q Okay. Also marked with an "X." Can you
16 circle where "Cosmo" was so we can differentiate?

17 A [Complying.]

18 Q Okay. So how would "Cosmo" have gotten over
19 to "Xumi?"

20 A He would have had to get -- gotten out of his
21 crate, through this door and through this door to get
22 down there.

23 Q Was there any damage to either one of those
24 doors?

25 A This is the one that had the doorknob that

1 was chewed.

2 Q Where was the dog that was in heat?

3 A In the building right here.

4 Q Gotcha. You can just put like a number "2"
5 or something over there. Or what do you call that?

6 A The barn.

7 Q Okay. And you labeled that as "heat?"

8 A Yes.

9 Q Okay. How many other dogs were in the
10 littles' area at that time?

11 A It was pretty full, so. This whole -- this
12 whole side is over -- under four-by-four cubes full of
13 dogs. And there were dogs in here, and another little
14 kennel bank, and maybe another dog in here.

15 Q Do we know, or have you come to any
16 conclusions about, why "Cosmo" attacked "Xumi" instead of
17 any of these other dogs?

18 A The only thing I -- that I -- that I can
19 think of is they both have a condition called barrier
20 aggression or fence aggression. "Fence fighting" is what
21 it's called.

22 Q What does that mean?

23 A I can't describe it to you, but I can show it
24 to you --

25 Q Okay.

1 A -- if you can get on YouTube.

2 Q That's all right.

3 A Well -- okay.

4 Q Just tell me. Tell me --

5 A It's a --

6 Q -- what you know.

7 A It's a -- it's when dogs are confined, or
8 they feel confined, when -- dogs, you know, aren't super
9 smart. So when there's something in front of them that
10 they can't go through, they feel confined.

11 Their number one gear in their brain is the
12 preservation drive. Preservation, procreation,
13 predatory, pack and play. And preservation is just
14 what's going to keep me alive, fight or flight. And so
15 -- and when they realize there's nowhere to flight to,
16 they feel confined, then all that's left is the fight
17 part. So there can be aggression right when there's a
18 barrier.

19 And if you went to YouTube right now there is
20 a -- a hilarious video of these dogs on either side of a
21 big retractable gate and they are going absolutely
22 bananas, aggression -- aggressively, through the fence.
23 And the retractable gate pulls out from in between them
24 and they just look at each other and turn around and walk
25 away. Not what you would think was what would have

1 happened.

2 Q Right.

3 A And she was very, very aggressive.

4 Q "She," who?

5 A "Xumi."

6 Q Okay.

7 A And so was "Cosmo." So that's what -- that's
8 why he only messed with her, didn't mess with "Reuben" at
9 all, and didn't mess with any of these other dogs he had
10 access to.

11 Q Tell me why you think "Xumi" had this barrier
12 aggression. I?

13 A Don't know. But it was -- every time she saw
14 a dog, she growled or barked.

15 Q And what about "Cosmo?" Why do you think
16 Cosmo has barrier aggression?

17 A Well, I had to get him to go to a certain
18 trainer's academy that I wanted him to go to. And they
19 work with a lot of dogs that are service dogs and a lot
20 of dogs that are military dogs: The MARSOC dogs, the
21 Parris Island, the Marine Raider dogs. They do a lot of
22 law enforcement, a lot of Department of Corrections, a
23 lot of tracking and trailing dogs.

24 And they don't ever want to reduce their
25 drive. They don't ever want to tamp that down and stop

1 that at all, so they just let him go bananas. And he had
2 to stay there at the school from week ten to week 16
3 before he could be fully vaccinated to come to my place,
4 because I couldn't have my own puppy not vaccinated at my
5 place, so.

6 I -- I -- yeah. That's -- that's where it
7 came from. It's -- he's been doing it since he was this
8 big, and I've tried everything to break him of it.

9 Q When you say do "it," what does that mean?

10 A Fence fighting.

11 Q Okay. Still?

12 A He's kind of mellowed in his old age a little
13 bit. But we don't even let him share a fence with other
14 dogs now.

15 Q Has "Cosmo" shown any other type of
16 aggressive behavior in the past?

17 A No.

18 Q All right. Let's -- circling back, you said
19 it was about three o'clock. You see Cosmo running
20 around.

21 A Uh-huh.

22 Q You run into Rosalyn. What did she tell you?

23 A Nothing. She was starting to say the word
24 "help" as I opened the door.

25 Q Okay.

1 A And I immediately said, "No." "Cosmo" came
2 to me. I said put "Cosmo" in the yard. Told her to grab
3 "Xumi" -- I mean grab "Reuben." And as I walked in from
4 here into here, that's when I saw "Xumi."

5 Q Was "Xumi" in the enclosure or out of the
6 enclosure?

7 A She was right outside.

8 Q Okay. And what did you observe when you
9 walked up to "Xumi?"

10 A She was gone. She was dead.

11 Q Were there any puncture wounds or --

12 A Yeah.

13 Q -- blood or anything like that?

14 A No blood. None. Yeah. I could tell there
15 was a couple of puncture wounds, but nothing crazy. It
16 wasn't gory or -- none of that.

17 Q Did you check to see if "Xumi" had a
18 heartbeat or if "Xumi" was breathing?

19 A I could tell she wasn't breathing. And then
20 she was -- and her tongue was hanging out. She was gone.

21 Q What do you think happened?

22 A I don't know exactly. I wish I did.

23 Q I know you don't know because you didn't see
24 it, but what do you think "Cosmo" would have done to have
25 killed the dog?

1 A I don't know. He's never done anything like
2 this before. I don't have anything to go on. I've never
3 seen him attack another dog, you know. I don't know.

4 Q What "Reuben" -- did "Reuben" have any
5 injuries?

6 A He did have one small wound. I don't know
7 when it happened. But pretty much immediately I scooped
8 "Reuben" up and started heading to the E-vet because I
9 didn't know what kind of injuries he might have.

10 Q Right.

11 A So my focus immediately went to him.

12 Q Did you take "Xumi," too?

13 A No.

14 Q What did you do with "Xumi?"

15 A I just told Gentle to wrap her up and kind of
16 dry her off a little bit. She was kind of wet. And --
17 yeah. And then I called Sarah immediately.

18 Q What do you mean, she was "kind of wet?"

19 A She either got water spilled on her in the
20 whole process or "Cosmo" licked her. Some -- something
21 happened. She was a little wet. Yeah.

22 Q How many puncture wounds did "Xumi" have?

23 A I only saw one.

24 Q Where was it?

25 A Kind on the side.

1 Q When did you call Sarah?

2 A From the car, on the way to the E-vet.

3 Q Gotcha.

4 A Actually, I called her from the desk, sent
5 her an email and told her to call me. And then I left
6 for the E-vet and she called me back in the car.

7 Q Tell me about that conversation.

8 A That was horrible. It was -- I mean I've
9 been doing this for 20 years. It's the worst thing
10 that's ever happened to me or her, I'm sure. Worst thing
11 that's ever happened to a dog in my care.

12 Q What exactly did you tell Sarah?

13 A That "Xumi" was dead.

14 Q Did you tell her how it happened?

15 A Yep.

16 Q Where is the emergency vet?

17 A It's over -- over there near West Ashley High
18 School.

19 Q Okay. If you need a minute, we can take a
20 break.

21 Do you know which doctor you saw over there?

22 A No.

23 Q Did you tell them about what happened?

24 A I'm sure I did.

25 Q Did you tell the doctors that "Reuben" and

1 "Cosmo" had been in altercation with -- "Xumi" and
2 "Reuben" had been in an altercation with "Cosmo?"

3 A I don't know.

4 Q Did the vet call DHEC about "Cosmo?"

5 A I don't know.

6 Q Did you ever call DHEC about what happened?

7 A No.

8 Q Did you ever have to quarantine "Cosmo?"

9 A No.

10 Q Why not? Why didn't you call DHEC?

11 A I don't think that's part of the rules. I
12 know that's the rules when it's a human bite. I didn't
13 know I had to.

14 Q Okay.

15 Is "Cosmo" still at the facility?

16 A Yes.

17 Q Like every day?

18 A Uh-huh.

19 Q Is that a "yes?"

20 A Yes, sir.

21 Q Did you disclose to any other clients or
22 customers about what happened?

23 A No.

24 Q Did you tell them about -- I mean not that --
25 yeah, about that a dog died or that a dog was killed

1 because of one of the other dogs in your keeping?

2 A No, not -- not my customers.

3 Q As "Cosmo's" owner, do you accept
4 responsibility for "Xumi's" death?

5 MR. WILLIS: Object to the form.

6 A Yeah.

7 BY MR. JORDAN:

8 Q How could "Xumi's" death have been prevented?

9 A I don't know. I wish I did.

10 Q And was her death preventable?

11 A I don't know.

12 Q Were you ever able to figure out how long
13 "Xumi" had been dead before you arrived?

14 A No.

15 Q Was she still warm when you got there?

16 A I don't remember. I mean she was already a
17 little stiff. I don't know -- I don't know how that
18 translates into time.

19 Q How far away is like the -- is the cottage,
20 to get to where "Cosmo" was?

21 A From here to here?

22 Q Yeah. In feet or steps or whatever, maybe?

23 A Maybe 50, 60 feet.

24 Q And to get to "Xumi?"

25 A Another ten feet.

1 Q Like 75 feet or so?

2 A [Non-verbal response.]

3 Q And so how long did it take you to get from
4 the cottage over to where you saw "Xumi" on the closed
5 caption TV?

6 A I mean -- you mean where I saw "Cosmo" --

7 Q It was "Cosmo" --

8 A "Cosmo?" When I saw "Cosmo" to this door,
9 three seconds.

10 Q Was "Cosmo" in the area where "Xumi" was?

11 A He was over there; yeah. He -- well, yeah.
12 All this was open.

13 Q Okay.

14 A And "Reuben" was in there, too.

15 Q Right. And when you got to "Cosmo" and
16 "Reuben," where were they located?

17 A They were in here.

18 Q What do you call that area?

19 A We call it the grandma room because it looks
20 like grandma's house. Got a fireplace, paneling walls.

21 Q Gotcha.

22 Was Sarah distraught when you talked to her?

23 A Of course.

24 Q And is that the last time you talked to her
25 or have you talked to her since?

1 A I have not talked to her since.

2 Q We filed this lawsuit so that Sarah could be
3 compensated for being distraught and the emotional
4 suffering that she's had. Is that something you could
5 think that she should be compensated for?

6 MR. COBB: Objection.

7 MR. WILLS: Object to the form.

8 A I -- I don't -- I don't know how to answer
9 that question. I don't -- I don't -- I don't know.

10 BY MR. JORDAN:

11 Q Are your pets part of your family?

12 A Sure.

13 Q Do you think her pet was part of her family?

14 A Of course.

15 Q And if a family member dies at the hands of
16 somebody else, do you think other family members should
17 be compensated for what they've gone through after that
18 death?

19 MR. COBB: Object to form.

20 MR. WILLS: Object to the form.

21 BY MR. JORDAN:

22 Q You can still answer.

23 A I don't know how to answer the question. I'm
24 not -- I'm not an attorney. I -- I don't -- I don't know
25 if ...

1 Q If your dog was killed by somebody else --
2 you know, let's say it got hit by somebody's car -- would
3 you want to be compensated for your loss?

4 MR. COBB: Objection.

5 A Compensated for my own loss of my dog --

6 BY MR. JORDAN:

7 Q Yeah --

8 A Property?

9 Q Not your property, but all the emotional
10 distraught -- or the emotions you go through and the pain
11 and suffering you would go through following that loss?

12 MR. COBB: Objection.

13 A I don't know how to answer that, man. I just
14 don't. I -- I -- I don't know.

15 BY MR. JORDAN:

16 Q So --

17 A I don't know that it's for me to decide that.

18 Q And I'm just asking your opinion.

19 A Okay.

20 Q So what's your opinion?

21 MR. COBB: Objection.

22 A I've never been in this situation before. I
23 don't know.

24 BY MR. JORDAN:

25 Q Okay. If you put yourself into Sarah's

1 shoes, would you want to be compensated for everything
2 she's going through emotionally?

3 MR. COBB: Objection.

4 A I don't know anything about her emotions and
5 how that plays into this, so. I don't know.

6 BY MR. JORDAN:

7 Q Okay. Well, let me ask you this then. Do
8 you think Sarah's had emotional distress as a result of
9 this incident with "Xumi" and "Cosmo?"

10 MR. COBB: Objection.

11 A I'm sure she has.

12 BY MR. JORDAN:

13 Q And do you think Sarah's had pain and
14 suffering after the loss of "Xumi?"

15 MR. COBB: Objection.

16 A I don't understand -- I -- I don't understand
17 how to answer that because I don't know -- I don't know
18 what pain and suffering is in this regard. I -- I don't
19 -- like I said, I haven't talked to her since.

20 BY MR. JORDAN:

21 Q But you know she was distraught because you
22 said that earlier; right?

23 A At that time, yes; she was. So was I.

24 Q Have you had to go through any therapy or
25 counseling or anything like that because of this

1 incident?

2 A Yeah. I just started recently a sleep study
3 to try to get to be able to sleep better.

4 Q Tell me about why you hadn't been able to
5 sleep.

6 A Just -- I just get anxious at night.

7 Q About what?

8 A Sometimes it's hard to pinpoint. You know,
9 it's a -- it's a -- it could be a -- just a medical
10 condition because I -- I just found out I have a -- a
11 neuro-endocrine tumor that causes spikes in epinephrine,
12 neo-epinephrine, adrenaline, dopamine, stuff like that.
13 So we're trying to figure that out.

14 Q Who's your sleep study with?

15 A MUSC.

16 Q You got a family doctor you see?

17 A I do.

18 Q Who's that?

19 A Chloe Stomski.

20 Q Is that MUSC, also?

21 A Correct.

22 Q Is that the doctor or like the PA?

23 A That's my PA.

24 Q Who's the doctor?

25 A Well, actually, that's my -- my -- my GP, my

1 PA. She's my general practitioner. She's my overall
2 doctor. Then I've gotten kinesiology, heart, pulmonary,
3 heart and sleep study doctor, and now an endo --
4 endocrinologist.

5 Q All that's at MUSC?

6 A Yeah.

7 Q Would you agree or disagree that "Xumi"
8 provided Sarah with companionship and affection?

9 MR. COBB: Objection.

10 A I don't know, because I never really saw
11 "Xumi" be affectionate.

12 BY MR. JORDAN:

13 Q In your interactions with Sarah before this
14 incident and even after, has she always been friendly
15 with you?

16 A Yeah. Kind. I think so.

17 Q Does "Cosmo" provide you with companionship
18 and affection?

19 MR. WILLS: Object to the form.

20 A Yes.

21 BY MR. JORDAN:

22 Q When was the last time you laid eyes on
23 "Cosmo" before the incident?

24 A Probably right around -- a little after noon.
25 He had finished up getting bathed and I gave him a

1 toenail trim. And he was wet so I didn't want him up in
2 the front cottage, and sent him with Rosalyn to go back
3 to his run.

4 Q And so who put him into the run?

5 A She did.

6 Q Did you ever ask her about whether she
7 secured him properly?

8 A I don't remember.

9 Q Any of your employees get written up as a
10 result of this incident?

11 A No. That's not really something that I do.

12 Q But I mean was there a considerable
13 talking-to?

14 A Yeah. Oh, yeah.

15 Q Tell me about that.

16 A I mean we just had to discuss what happened
17 and then how to make sure that it never happened again.

18 Q What did y'all talk about what happened?

19 A Well, a dog got killed, and that's the nuts
20 and bolts of it. So, yeah: Shutting doors, you know,
21 making sure the doors are closed. Just the normal stuff.

22 Q Tell me about the training that happens when
23 somebody starts working for Dog Daze like as a kennel
24 tech.

25 A They shadow a person for probably a week,

1 maybe two. And then we -- we use a -- a system. My
2 wife's a special ed teacher, and it's a system from
3 special ed called PEX, Picture Exchange.

4 So we have a big board, bigger than that
5 photo right there, and magnets that you move over into
6 your column as you do the -- the chores, whatever they
7 are. So we start teaching them different chores. And
8 when they can handle them, then they get more and more
9 magnets moved up in their -- into their column.

10 It's just a way to -- for me to micromanage
11 people or -- or allow them to micromanage themselves.
12 And we give them more and more and more responsibilities
13 as they can handle them.

14 Q Do you have a phone number for Rosalyn?

15 A Yeah, probably in the payroll assistant.

16 Q What about in your phone?

17 A Maybe. [Reviewing phone.] Yeah; I do. It's
18 (702) 427-1153. And "Rosie" is what she goes by.

19 Q Gotcha. Okay. And what about Gentle and
20 Tiffany?

21 A Gentle is (347) 784-7207. (843) for Tiffany.
22 And I have Tiffany Brown in here, so Tiffany Janelle
23 Brown, (843) 531-7225.

24 Q What sort of changes did you make at Dog Daze
25 as a result of this incident?

1 A We just make sure that I don't let -- "Cosmo"
2 normally used to play with the other dogs and be with
3 customers' dogs, and that doesn't happen anymore. I --
4 if we're going to put him out in a yard, someone walks
5 that yard first to make sure -- walks the whole fence
6 line to make sure that there's no dogs that may be got
7 left out there or hid or hiding or whatever.

8 And I make sure that he's getting plenty of
9 exercise and keeping his stress levels down.

10 Q You received your discovery responses last
11 week, and there was like the forms that are typically
12 filled out. Did Sarah sign one of these or fill one of
13 these out?

14 A I'm sure she did.

15 Q Is that something you have?

16 A I haven't been able to lay my hands on it;
17 no.

18 Q Okay. Where is it typically kept?

19 A In a file. But we've -- we started to change
20 our system over to an electronic e-sign system, so. I've
21 just looked and looked. Couldn't find it. And we've
22 pretty much sent them all to the shredder now. Just got
23 everybody's information in it.

24 Q Is it possible she didn't sign one?

25 A No.

1 Q Okay. I've got a two-page statement.

2 That's -- I'm going to mark this as an exhibit.

3 (Typed Narrative Letter/Memo [undated and unsigned]
4 (2 pages), Plaintiff's Exhibit No. 2 is marked for
5 identification and made part of this deposition.)

6 BY MR. JORDAN:

7 Q Exhibit No. 2: What is this document?

8 A This is what was requested by the first
9 attorney that I talked to, and I thought it was going to
10 Sarah.

11 Q When did you write this document?

12 A Like four or five days after the event.

13 Q And where did you send it?

14 A To the attorney that asked for it.

15 Q Okay. And when's the last time you read the
16 statement?

17 A Last night.

18 Q Is everything in there accurate and true?

19 A Yeah.

20 Q So would you agree that it was your
21 responsibility to ensure that "Cosmo" was secured, as the
22 owner of the facility?

23 A As the owner, all of it's my responsibility;
24 yes.

25 Q Would you agree that it was your

1 responsibility to ensure that "Cosmo" didn't attack other
2 dogs, including "Xumi?"

3 A Yes.

4 Q And you sent some money to Sarah: \$3,000.
5 Is that right?

6 A Yes.

7 Q Was that for her out-of-pocket expenses?

8 A She had asked for -- well, I paid for the vet
9 bills, and I paid to have "Xumi" cremated. And then the
10 attorney asked for travel expenses for \$1,800, and I -- I
11 just assumed that there was probably a little more
12 expenses that were going to be incurred and missed
13 work -- I know that she missed some work -- so I gave her
14 a little bit extra.

15 Q Was that --

16 A It seemed like the right thing to do.

17 Q And was that money intended for any other
18 purpose other than just lost wages and out-of-pocket
19 expenses?

20 A I -- I didn't know what it was for. I just
21 -- it just felt like the right thing to do.

22 Q Okay. Have you read the lawsuit?

23 A Yeah, last -- a while back.

24 Q Have you ever read the Answer that was filed
25 on your behalf?

1 A No.

2 Q Okay. Let me ask you about a couple of
3 defenses that were raised here. Okay? Failure to state
4 a claim. Got any idea what that is? Failure to state a
5 claim?

6 A Huh-uh.

7 Q Is that a "no?"

8 A No, sir; I don't know what that is.

9 Q Okay. Contractual waiver. Did Sarah have
10 some sort of contractual waiver?

11 A He just showed it to me.

12 Q But we don't have it; is that fair?

13 A Not right now; no. No.

14 Q Or contractual release? Same thing?
15 Assumption of the risk. What sort of risks
16 did Sarah assume?

17 MR. COBB: Objection.

18 A I mean anytime you put animals together in a
19 place, you know, a -- you know, a bunch of predators,
20 there's a risk.

21 BY MR. JORDAN:

22 Q Economic loss doctrine?

23 MR. COBB: Objection.

24 BY MR. JORDAN:

25 Q You know what that is?

1 A No; I don't.

2 Q Okay. Negligence of others. Was somebody
3 else responsible for what was going on other than Dog
4 Daze?

5 A It's my business. At the end of the day,
6 it's my responsibility.

7 Q Intervening negligence of others. Was there
8 some other entity that was involved other than Dog Daze?

9 A No.

10 Q Unavoidable accident. Was this an
11 unavoidable accident?

12 A I don't know. I don't know what I could have
13 done to make -- to avoid it. I certainly would have. If
14 there was something to be done, I would have done it.

15 Q At the time of this accident, it looks like
16 you had insurance. Do you know the name of the company?

17 A Tapco.

18 Q Are you still -- is your comp -- is Dog Daze
19 still with Tapco?

20 A No. They dropped me a year ago.

21 Q Who do you have coverage with now?

22 A I can't get coverage.

23 Q There's no coverage --

24 A I --

25 Q -- on the business?

1 A No. I -- I can't buy coverage while this is
2 outstanding.

3 Q Do you have an insurance agent that you
4 typically use?

5 A Yes.

6 Q Who's that?

7 A AAA Insurance. Brad -- Bradley Adams.

8 Q Where is he?

9 A He is on Sam Rittenberg.

10 Q Okay. Do you have an internal email system
11 like charlie@dogdaze.com or something like that?

12 A No.

13 Q What email do you use, typically?

14 A Dogdayzinfo@gmail.

15 Q Is that for everybody at the facility, they
16 can access that?

17 A Yeah.

18 Q Do you have a personal email address?

19 A I do.

20 Q What's that?

21 A C.battlefreemani@gmail.

22 Q Are you the second?

23 A I am.

24 Q And is there a period between Battle and
25 Freeman?

1 A No.

2 Q Okay. What's your cell phone number?

3 A I think Sarah's got it, but (843) 324-6945.

4 Q Do you have the same phone you had back in
5 July of 2022?

6 A I do.

7 Q Okay. Where does "Cosmo" go to the vet?

8 A We've gone to several over the years: West
9 Ashley Vet and Bees Ferry.

10 COURT REPORTER: I didn't hear that because
11 of the car. I'm sorry.

12 THE DEPONENT: West Ashley Vet and Bees Ferry
13 are two of the vets he's gone to.

14 BY MR. JORDAN:

15 Q Any others?

16 A Yeah: Charleston Harbor. That's downtown.

17 Q Has he ever had to have surgery or anything
18 like that?

19 A Yeah: At Charleston Harbor, that he did.

20 Q For what?

21 A It's a horrible story. He got a bone stuck
22 in his -- in between his teeth this way and they didn't
23 find it for six weeks. And they pulled two of his teeth
24 out thinking it was a tooth problem, and it wasn't. They
25 just hadn't pulled his mouth open and looked. Yeah. It

1 was why I quit going there.

2 But it was -- and now every time he drinks
3 water, he spouts water out the side of his mouth because
4 he has two missing teeth on the top. It was pretty
5 rough. I feel like I let the dog down.

6 Q You feel like you let the dog down?

7 A Yeah.

8 Q Do you have any facts or knowledge of "Xumi"
9 or "Reuben" provoking "Cosmo" in any way before the
10 incident?

11 A I don't know. I'm -- I'm sure that if he had
12 to walk past her run she would growl and bark so I want
13 to say yes, but I don't have a specific date and time for
14 that.

15 Q Did any of the equipment or cages, kennels,
16 have to be repaired in any way after the incident?

17 A Yeah. I replaced the corner on the -- on the
18 fence.

19 Q You just did that repair yourself?

20 A Yeah.

21 Q Is there anything you think Sarah should know
22 that you'd like to tell to her?

23 A I don't. I think "I'm sorry" is an
24 inadequate answer, but that's my answer.

25 Q Thank you. The lawyers may have some

1 questions for you.

2 MR. WILLS: No?

3 Do you want to catch your breath for a
4 second?

5 THE DEPONENT: Yeah.

6 MR. WILLS: Let's go off record.

7 (Off the record.)

8 E-X-A-M-I-N-A-T-I-O-N

9 BY MR. WILLS:

10 Q Mr. Freeman, you've just -- you talked about
11 "Xumi's" disposition in your testimony. And I believe
12 you testified that "Xumi" exhibited some traits that
13 were -- well, I won't characterize them for you. But you
14 mentioned barrier aggression?

15 A Yes, sir.

16 Q Did "Xumi" exhibit any traits that you were
17 able to -- that you would characterize as aggressive
18 towards other dogs in your time with "Xumi?"

19 A Not as much other dogs as people.

20 Q People?

21 A Yeah.

22 Q Did you ever witness or know about "Xumi"
23 biting a person?

24 A I kind of remember Sarah telling me a story
25 that she had bit somebody.

1 Q Okay. Did "Xumi" ever bite anyone at Dog
2 Daze?

3 A I think she tried a couple times. But I -- I
4 -- I train my people how to handle dogs that behave that
5 way so that they don't get hurt.

6 Q You also mentioned that you remember Ms. Rock
7 approaching you about, you know, looking into this
8 training for "Xumi?"

9 A Several times.

10 Q And I believe -- correct me if I'm wrong --
11 that your testimony was that that training had to do with
12 "Xumi's" behavior.

13 A Correct.

14 Q Do you recall the specifics of the behavior
15 that Ms. Rock wished to address with "Xumi?"

16 A She definitely wanted her to be nicer to
17 people. Yeah.

18 Q Is that something that you would be able to
19 achieve through training?

20 A Sometimes. Yeah. Yep. Sometimes training
21 builds confidence in dogs, and dogs that are insecure are
22 usually the ones that are lashing out at people. So,
23 yeah; that falls more under behavior modifications than
24 training. Training is putting stuff in; behavior
25 modification is taking stuff out.

1 And you can train a dog and have more control
2 and tools to manage behavior, but sometimes you can't
3 change it all the way. But I -- I did see progress with
4 her, just -- but not in a formal training sense.

5 Q With regard to "Cosmo," had "Cosmo" ever been
6 evaluated for biting?

7 A When he was a puppy; yeah. That's why I
8 picked him.

9 Q Can you describe what the test --

10 A Yeah, there are some scientific touch tests
11 and a -- and a whole evaluation that puppies go through.
12 And they test for intelligence and they test for bite
13 work. If the dog is in the training world, it's called
14 "going to their teeth," if they are quick to go to their
15 teeth and to use their teeth as a tool.

16 And he and his brother tested zero on bite
17 work which means they weren't interested in biting
18 anything, and they were both 9 out of 10 on intelligence.

19 Q Okay. And in the statement that we have
20 marked as an exhibit and that you looked at -- I believe
21 you said the last time you read it was last night --

22 A Uh-huh.

23 Q -- you mentioned this bite test, isn't that
24 right?

25 A Uh-huh.

1 Q 0 to 10?

2 A Uh-huh.

3 Q And so just for clarity, 0 on a bite test
4 indicates what?

5 A That they're not willing to use their teeth
6 to get what they want.

7 Q Okay.

8 A They don't bite. This is a test that the dog
9 would take if it was going to go be like a really
10 high-end service dog like a -- his brother, "Cosmo's"
11 brother, is -- is a mobility dog for a child that has
12 muscular sclerosis.

13 And so that's -- that training starts at ten
14 weeks old. The test is at seven. I didn't perform the
15 test; the school that I went to did.

16 Q Okay. So you've got the test that shows that
17 he's not -- he ranks low on biting?

18 A Uh-huh.

19 Q After the test, before the incident that is
20 the issue here, did you ever have any knowledge or
21 experience -- or experience "Cosmo" attacking and biting
22 another dog?

23 A No.

24 Q Did you ever have any knowledge or experience
25 with "Cosmo" attacking and biting another person?

1 A No, absolutely not.

2 Q So you didn't have any knowledge that the dog
3 might attack "Xumi" --

4 A No.

5 Q -- from prior experience with the dog?

6 A No.

7 Q Is that correct?

8 A Yes.

9 Q Okay. And -- got that. You mentioned the
10 cage that "Xumi" was in at the time the occurrence
11 happened, and I believe you said that there was some
12 damage on the corner of the cage. And I may have not
13 followed right, but was it -- I believe your testimony
14 was that there was an edge that was pushed out. Was that
15 on the door or was that on the edge of the --

16 A It's on the door; yeah. On the gate itself.

17 Q Okay. When you say "when I said pushed
18 open," did it look like something had pushed it out from
19 the inside of the cage or did it appear, rather, that
20 something had pushed in to the cage?

21 A It is hard to tell. Could have been from the
22 inside. But, basically, what happened was -- it's a
23 square and it got tweaked like that, so.

24 Q From what you were able to see, would the
25 space that that tweak left be enough for "Cosmo" to get

1 into that cage, him -- his whole body?

2 A No. His whole body? No.

3 Q Could he have gotten his head in?

4 A Maybe.

5 Q Okay.

6 A I don't know --

7 Q I'm going to show you this document, and I
8 don't know if we've marked it already or not, which was
9 -- this is the document that we spoke about earlier that
10 you indicated was -- I believe you indicated that this
11 was an issued standard intake form with a waiver and --

12 A Yes.

13 Q Is that -- okay. It's been marked 1. Yes:
14 Plaintiff's 1.

15 A Okay.

16 Q Defendant's 1. Defendant's 1. Excuse me.
17 It has been marked as Defendant's 1. I'm just going to
18 refer to that. Is that a document that you can obtain or
19 fill out on line?

20 A No.

21 Q No? Okay. Do all of your clients fill out
22 this form?

23 A Yes. They did, at the time.

24 Q Have you ever let anyone board at your -- at
25 Dog Daze that did not fill out one of these forms?

1 A At that time, no.

2 Q Okay. At the time that Ms. Rock became a
3 client which would have been -- I believe you said
4 sometime before the incident, were there any documents
5 that Dog Daze had on line that clients would fill out?

6 A No.

7 Q Okay.

8 MR. WILLS: There it is. And I'm going to
9 show him those three.

10 MR. JORDAN: We already marked those?

11 MR. WILLS: Yep.

12 (Off-the-record discussion re: exhibits.)

13 BY MR. WILLS:

14 Q We're just going to look back at Defendant's
15 6 and 7. And these are -- I believe you spoke about with
16 Mr. Jordan. But all I wanted to do is just kind of get
17 you to authenticate these. Do you -- this one just cut
18 off in print.

19 A Uh-huh.

20 Q But that's the one that got marked. I don't
21 know why; it doesn't even have the date on there. But
22 I'm going to give you another one. I'm going to mark
23 another one because --

24 COURT REPORTER: It would be Exhibit 10.

25 MR. WILLS: Yeah. Just for the sake of

1 getting it -- Okay.

2 MR. COBB: Thank you.

3 MR. WILLS: If that way makes it clear.

4 (Transaction Detail dated 07/15/22, amount \$319.75
5 (1 page), Defendant Charlie Freeman's Exhibit No. 10 is
6 marked for identification and made part of this
7 deposition.)

8 BY MR. WILLS:

9 Q Okay. So Exhibit 10. Do you recognize
10 Exhibit 10?

11 A Yes.

12 Q And can you -- and do you recognize this as a
13 receipt for a payment that you made?

14 A Yeah; I believe that.

15 Q Okay.

16 A At the event?

17 Q All I wanted to see was if that's a true and
18 accurate copy of that bill. Is that a true and accurate
19 copy?

20 A Yes.

21 Q Okay. I will -- Transaction Detail, rather.
22 Can you tell us what this Transaction Detail refers to
23 payment for?

24 A That was for "Reuben," the -- for the wounds
25 on the shoulder.

1 Q Okay.

2 A Other than that, he was fine.

3 Q Okay. And did you pay that directly or did
4 you pay that to Ms. Rock?

5 A Yes. I paid that -- that time.

6 Q Okay. Was that the totality of the cost for
7 the vet --

8 A Yes.

9 Q -- bill?

10 A Uh-huh.

11 Q Okay. And that amount was \$319.75?

12 A Yes.

13 Q Okay. I'm going to ask you a similar
14 question just for authentication purposes with regard to
15 Defendant's No. 7. There it is. Okay. And do you
16 recognize that Transaction Detail?

17 A Yes.

18 Q Okay. And what is that Transaction Detail?

19 A That was for cremating "Xumi."

20 Q Okay. That's a true and accurate copy of
21 that?

22 A Yes.

23 Q Okay. Is that the total -- oh. Again, did
24 you pay that directly --

25 A I did that --

1 Q -- to the service or to Ms. Rock?

2 A To the service.

3 Q Okay. Is that the totality of the bill for
4 that service?

5 A Yes.

6 Q Okay. Thank you.

7 Okay. Again, I'll show you this --

8 MR. WILLIS: I'm not sure if we saw this or
9 not, but I wanted to show him this -- yeah; we've seen
10 it.

11 BY MR. WILLIS:

12 Q This document there, even though it's
13 sideways -- it's kind of weird printing, but I don't
14 believe we marked this one. If --

15 COURT REPORTER: That one's not marked.

16 MR. WILLIS: It's not? If I can mark this as
17 Defendant's 11?

18 (Email dated 07/17/22 from Sarah Rock to Charlie
19 and Katie (1 page), Defendant Charlie Freeman's Exhibit
20 No. 11 is marked for identification and made part of this
21 deposition.)

22 BY MR. WILLIS:

23 Q Okay. Defendant's 11: Is that a document
24 that you -- what is that?

25 A It's an email communication.

1 Q Is that an email communication that you
2 recognize?

3 A Yes.

4 Q Okay. Is that an email communication that
5 you received?

6 A Yes.

7 Q Okay. And who sent that to you?

8 A Sarah Rock.

9 Q Okay. And what date is it?

10 A July 17th.

11 Q Okay. Do you recall how long after the
12 occurrence that communication --

13 A That's the next day, I think.

14 Q The next day. Okay. In reviewing this
15 quickly, does it indicate -- does Ms. Rock indicate to
16 you in there that she wishes that you don't have
17 communication directly with her, but only communicate
18 with her lawyer?

19 A Yeah; it does.

20 Q Okay. It does?

21 A It says she's not in a place to correspond
22 and that Lauren Slocum has kindly offered to be the point
23 of contact.

24 Q And did you respect that request?

25 A Yes, sir; I did.

1 Q Okay. And did you receive that email before
2 or after you sent this statement to her?

3 A After. I mean this was before.

4 Q Before?

5 A And then I sent the statement a couple of
6 days later.

7 Q Okay. Great. Then this is a really bad one,
8 but I'll mark it exhibit --

9 MR. WILLS: I think that was already
10 marked --

11 COURT REPORTER: Yes; it is --

12 MR. WILLS: -- but make sure.

13 COURT REPORTER: Is it this one here?

14 MR. WILLS: Yeah; that's right.

15 COURT REPORTER: That's Exhibit 8.

16 MR. WILLS: Exhibit 8.

17 BY MR. WILLS:

18 Q So I just want to take a look at Defendant's
19 Exhibit 8. That's the copy of it, if you got a
20 microscope. Is this an email communication that you
21 recognize?

22 A Yes.

23 Q Okay. And can you tell us what that email
24 communication is?

25 A This was an email to my new business, not Dog

1 Daze, where this lady I never met --

2 Q Does it say who the lady is?

3 A Robyn Stern.

4 Q Okay.

5 A Never heard of her.

6 Q And over here, I believe, is the date. Can
7 you tell us the date that's on that email?

8 A I don't think there's a date. There's a
9 time. This was -- this was just a month or two ago.

10 Q Okay. Does Robyn Stern identify who she is?

11 A No.

12 Q Okay.

13 A Other than she's a friend of Sarah Rock's.

14 Q Okay. And what else does Robyn say in there?

15 A She asked me when I'm going to own up to my
16 Shepherd killing -- it says, when are you going to own up
17 to your Shepherd killing my friend's dog? Then she says
18 she's spreading the word to never entrust any pups with
19 you, and what happened is inexcusable.

20 Q Okay.

21 A This was -- it happened -- this came into my
22 in box after midnight.

23 Q After midnight?

24 A Uh-huh.

25 Q Okay.

1 A I didn't respond.

2 Q Did you take that email -- how did you take
3 -- I'll ask you that. Was there anything in this email
4 that particularly worried you?

5 A Yeah. She says she's going to attack my
6 business and -- and she's spreading the word. I don't
7 know how she's doing that. But that's the exact opposite
8 of what Sarah Rock says right here when she was -- in her
9 email, where it says I was just hoping to give you a
10 little ease, knowing that I do not want to bring you any
11 pain or suffering.

12 Well, this lady didn't get the memo.

13 Q How is -- for your business, how would you
14 say that most people find out about your business at Dog
15 Daze?

16 A It's either -- either through word of mouth
17 or -- or reviews, Google reviews, Yelp reviews.

18 Q So is it fair to say that somebody who
19 spreads negative comments about not owning up to the
20 business would -- or to the incident, would that affect
21 your business?

22 A For sure. For sure. I -- I -- I'd like one
23 of you guys to tell me what more I could do to own up to
24 this. I've -- I've been -- I feel like I've ...

25 Q Do you say that because you were --

1 A Well, I mean it -- she's obviously gotten
2 this from Sarah Rock. And I don't know what I could do
3 more. I mean I ...

4 Q You've mentioned, as well, that -- in your
5 testimony there in response to Mr. Jordan's questions,
6 that because of this litigation you're not able to be
7 insured.

8 A Correct.

9 Q So at this point right now is your business
10 operating without any insurance?

11 A It is.

12 Q Okay.

13 A And I am not hiring people, and running
14 myself and my wife to the ground, because it's terrifying
15 to have people there working and knowing that any little
16 thing could go wrong and it would be bad.

17 Q Are these part of the -- are these two things
18 -- is the threats of spreading negative reviews about
19 your business and not having any insurance to operate
20 your business, are those some of the things that are
21 keeping you awake at night?

22 A For sure. No doubt about it.

23 Q I guess I asked them all, so that's all the
24 questions I have for you. And maybe Mr. Jordan may have
25 some follow-up.

1 MR. JORDAN: I don't have anything else.

2 (The witness was explained his right to read and
3 sign the transcript of the deposition and chose to waive
4 that right.)

5 (The deposition concludes at 2:40 p.m.)
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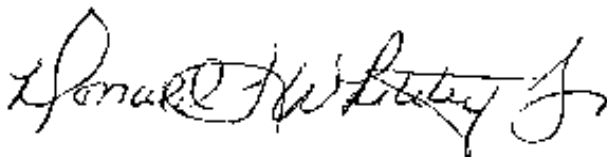
CERTIFICATE OF REPORTER

I, Donald L. Whiteley, Jr., Court Reporter and Notary Public in and for the state of South Carolina, do hereby certify that the aforementioned deposition of CHARLIE BATTLE FREEMAN was recorded by me and transcribed through computer-aided transcription by me to the best of my ability.

I FURTHER CERTIFY that the foregoing transcript is a true and correct transcript of the testimony given by the said deponent at the time and place specified.

I FURTHER CERTIFY that I am neither attorney nor counsel for, nor related to nor employed by any of the parties to the action in which this deposition is taken, neither am I financially interested in this action.

IN WITNESS WHEREOF, I have set my hand and seal this 2nd day of February 2024.



Donald L. Whiteley, Jr.
Notary Public for South Carolina
Commission Expires: 1/21/2025

CHARLIE BATTLE FREEMAN
SARAH ROCK vs DOG DAZE OF CHARLESTON

January 23, 2024
Index: \$1,800..8

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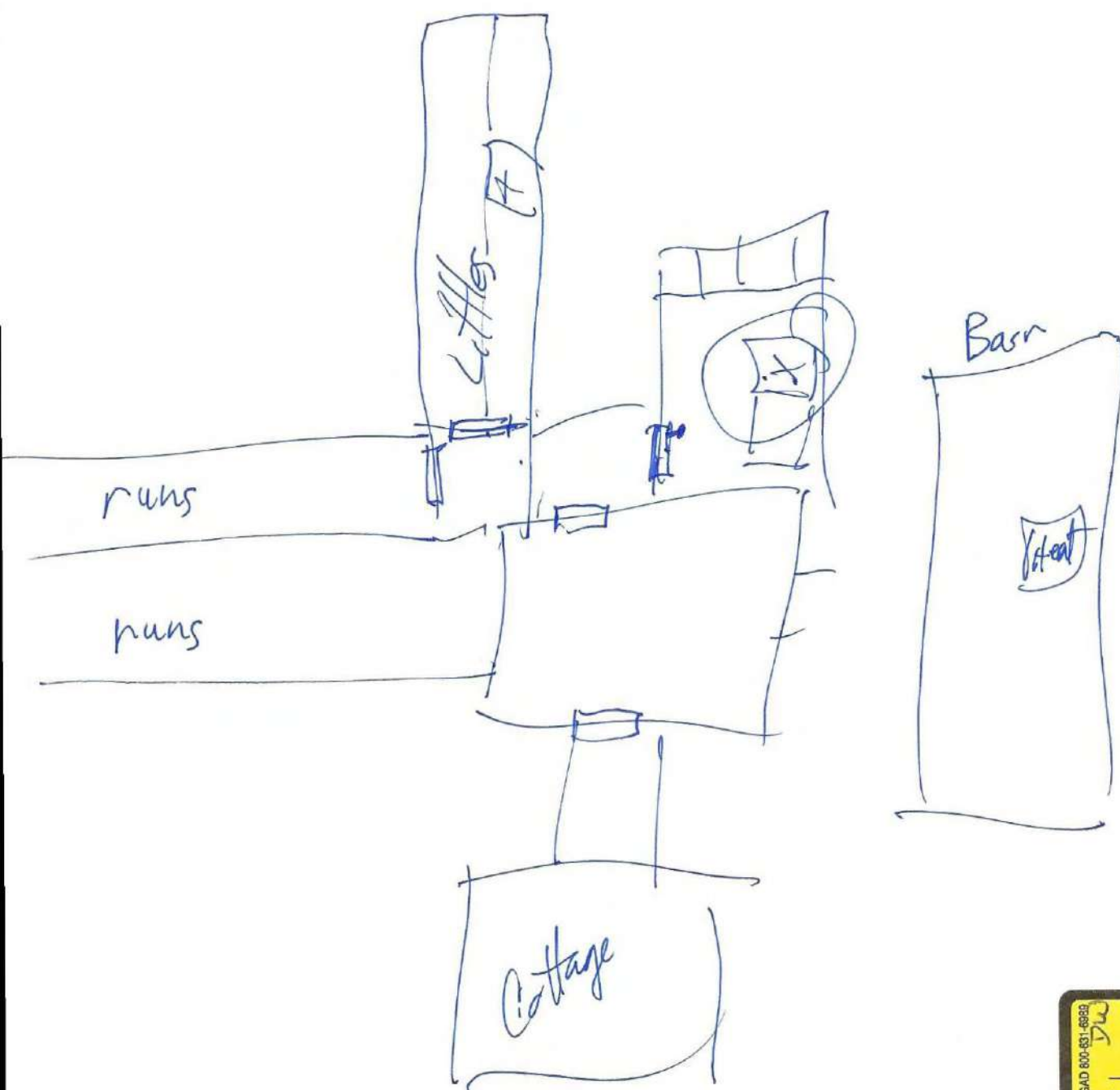
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CHARLIE BATTLE FREEMAN
SARAH ROCK vs DOG DAZE OF CHARLESTON

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I want to start off by saying that I am beyond sorry that this happened. Putting this into words is an extremely difficult task. I am sorry it has taken this long for me to muster the courage. This is a nightmare. I am going to try to be as detailed as possible about what happened and why, based on what I know about dog behavior. Extreme behavior like this doesn't in a vacuum. There are multiple contributing factors that led to this tragic event. I have read, when something like this happens there is a huge amount of "fuel" that builds up, then there's a match we may not recognize followed by explosive, extreme behavior.

Dogs and their sense of smell.

Smell is the number one way dogs communicate. One eighth of a dog's brain is dedicated to smell. Dog's are affected by the smells in their environment. Especially stress hormones. The stress hormone in dogs is the same stress hormone in humans, Cortisol. The day before this event, both Katie and I were at MUSC. I was dealing with complications from a pace maker defibrillator implant that was put in, that malfunctioned the week before. The device shocked me 14 times and put me in the hospital for three days. Katie was at the Hollings Cancer Center finding out if she had Breast Cancer or not. The day of the accident, Katie was in Kentucky for less than 24 hours to attend her father's funeral. Needless to say, the stress in our household was at an all time high and I believe it was a contributing factor to what happened.

Dogs in estrus. Female dogs in estrus can make male dogs act wildly unpredictable. We don't take dogs on the property that we know are in heat. We were told by a new client that his dog had recently ended her heat. Upon putting her in the yard with other dogs, it was abundantly clear that she was still giving off hormones. The male dogs would not leave her alone. I immediately called the owner to tell him what was happening and he informed me that he was leaving the country and could not come get her. We immediately sequestered the female from the other dogs. Male dogs can smell those estrus hormones at a great distance. I believe having this dog on the property was a contributing factor to this horrible accident.

Another contributing factor, is the weather. It has been hot and raining, so our dogs have not exercised as much as they are used to. Just like people, exercise reduces stress in dogs.

The day of the accident. It was business as usual. It was slightly slower on this day, so I had the staff giving our personal dogs baths. Cosmo is my 4 year old German Shepard. He is my obedience demonstration dog. He has never done anything like this before. After his bath, a newer staff member brought him to me to trim his nails. A process, however small, also increased his stress. After trimming Cosmo's toenails, I instructed a newer staff member where to place Cosmo to complete his grooming. He did not follow my instructions. He put Cosmo in a wire crate. For a hyper intelligent dog like Cosmo, was an easy puzzle to figure out. The place where I assumed Cosmo was placed, was in a different building behind a closed door that Cosmo could not open. The room he was left in was adjacent to the room where Xumi and Ruben were. There should have been a closed door between them. I do not know if Cosmo opened the door or if the door was left open. There are bite marks on the door knob. The room Cosmo was in and the room that Xumi and Ruben were in were full of other dogs in various crates and enclosures. Cosmo had access to roughly a dozen different dogs. Why Xumi? The only two things that Cosmo and Xumi had in common was barrier aggression/cage aggression. When Cosmo was a puppy, he spent his first 16 weeks at a kennel where they never wanted to reduce any dog's "drive". Fence fighting and barrier aggression were never discouraged. Even though Cosmo and his brother Mac, who is a



mobility service dog for a child with Muscular Sclerosis, as puppies were with the other dogs destined for other types of work. He developed this bad habit at an early age. Both Mac and Cosmo scored a zero on a scale of 0-10 on bite work during their puppy testing. When confined, this aggressive posturing is exacerbated. When Cosmo is in a crate, he is more growly and reactive. When Xumi was in a crate, she was more growly and reactive. The gate for the enclosure that Xumi and Ruben were in failed. The metal corner literally spit down the middle and allowed enough give in the gate for Xumi to get out or Cosmo to get in. I'm not sure which.

While this was happening, I was here the whole time and heard nothing. I was 40 or 50 feet away in another building. My staff was at lunch when the accident happened. When they returned from lunch, they went to the back to start working. I was sitting at the desk working and saw Cosmo flash across the screen of one of the security cameras. I immediately ran to the back and Cosmo was going after Ruben. I am not sure, but I believe this is when Ruben sustained his injuries. As far as I know they were sharing space prior to this somehow. As soon as I entered the room, I said "No!" and Cosmo immediately stopped. Cosmo and I were very close and I could immediately tell that he knew that he had done something very terrible. I secured Cosmo and a staff member secured Ruben. I ran to check on Xumi. She was laying right outside of her run and she was already gone. I lost it. But, I got myself together because I wasn't sure how badly Ruben was injured so my focus went to him. I immediately called Sarah and left a message. Then I sent her an email with a request to call me immediately. I jumped in my car and was on the way to the E-vet with Ruben when Sarah called me back. It was horrible. My heart is breaking all over again just typing this. In 20 years of working with dogs every day, I have never had anything like this happen.

The "ifs".

If Katie had been here, she would have been in the back and recognized that Cosmo was not in the correct enclosure. If I had gone to the back, I would have recognized it immediately and moved him to the right spot. If Cosmo had been in the correct enclosure, this never would've happened. If my staff member had followed my directive, this would not have happened. If the staff hadn't been heading to lunch immediately after Cosmo was inappropriately spaced, this may not have happened. If this had happened in the morning or afternoon, there would have been several people there to stop it before it escalated. If I had done a better job of reducing Cosmo's stress overall, this may not have happened. If we did not have a dog in heat on the property, this may not have happened. If both dogs did not have habitual barrier aggression, this may not have happened. If all the doors were closed and secured, this may not have happened. If the run that Xumi and Ruben were in was more secure, this may not have happened. Many things had to go wrong all at once, in succession, for this awful tragedy to occur.

Things we are going to change to make sure nothing like this ever happens again. No one will handle Cosmo except for Katie or myself. All the older enclosures will be replaced with stainless steel Shoreline veterinary grade kennel banks. We will no longer be accepting any female dog that are intact over 6 months of age for any reason. We will train each new employee on Cosmo specifically and we will tell them this story. I want them to see me hurt, it will always hurt forever, so they don't have to, so you don't have to. I am so sorry.

Transaction Detail

Date

07/15/2022

Amount

-\$319.75

Description

3484 SHELBY RAY CT CHARLESTON VETE
CHARLESTON SC 71422 Card#4008

Memo

Enter any notes here

☒ Inquire about this transaction.

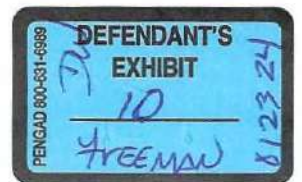
Category

Select one ▾

☐ No images attached.

500.00

Select one



For Charlie and Katie, not staff.

✕ ☰ ☑
Sun, Jul 17, 2022, 3:45 PM ☆ ↶ ⋮

S Sarah Rock sarahrockco@hotmail.com
to me

Dear Charlie and Katie,

I don't know where to begin, what to do, what to say, or how to feel, but I felt like it was important for me to let you both know that I do not hate you. In fact, my heart is breaking for you both in addition to my own pain and heartbreak. I know you are sorry, I could hear the pain and devastation in Charlie's voice and I can't get the calls or that day out of my head. There is so much to be said and done, but I am not in a place where I can do much but grieve the loss of my baby girl right now and take care of Ruben. He is so sad and depressed, easily startled, and he is very sore. I do not want anything to happen to your business or your dogs. I do not want to bring you any more heartache, but things need to change so this never happens again. I have known and trusted you for about 2 years now. I considered us friends and trusted my babies lives with you. Unfortunately, I don't think I can go back. I do not want to ruin your lives or what you have worked so hard to achieve. I know that you are good people and that you love animals and your job. People have asked where the dogs were and I have only told the ones that I recommend Dog Daze to and my closest friends. I have asked them to be mindful and not use the name of your business.

I am trying to move forward and it will take time, but I am hoping that reaching out can give me and you both a little peace to help the healing begin. I don't think I am in a place to correspond, Lauren Slocum has kindly offered to be the point of contact, which you already know. I was just hoping to give you a little ease knowing that I do not want to bring you any pain or suffering.

I am devastated and utterly heartbroken. I am not ok and having a difficult time seeing my life without Xumi. The tragedy behind this makes it so much worse. I just hope I can move forward and find peace about what happened to her and Ruben, and that the pain in my heart and soul goes away.

Sarah

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STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

SARAH ROCK,

Plaintiff,

v.

DOG DAZE OF CHARLESTON, LLC and
CHARLIE FREEMAN,

Defendants.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2022-CP-10-____

COMPLAINT

Plaintiff Sarah Rock (“Rock” or “Plaintiff”), by and through her undersigned counsel, complains of Defendants Dog Daze of Charleston, LLC (“Dog Daze”) and Charlie Freeman (“Freeman”), as follows:

PARTIES, JURISDICTION, AND VENUE

1. Rock resides in Charleston County, South Carolina.
2. The claims in this action arise from Defendants’ acts and omissions at 820 Dupont Road in Charleston County, South Carolina.
3. At all relevant times, Defendants conducted business in Charleston County, South Carolina.
4. At the time of the events giving rise to this action through to the time of the filing of this action, Defendants conducted business from 820 Dupont Road in Charleston County, South Carolina.
5. Dog Daze is a limited liability company organized in, operating under the laws of,

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Complaint

Rock v. Dog Daze of Charleston, LLC, 2022-CP-10-____

and operating from its principal place of business in South Carolina.

6. Freeman resides at 820 Dupont Road in Charleston County, South Carolina.

7. Freeman is the sole member of Dog Daze.

FACTUAL BACKGROUND

8. Defendants operate a dog boarding and daycare facility that purports to “provide the best possible care for your four-legged family member.”¹

9. Rock is not married, does not have children, and regularly travels for work.

10. Prior to July 14, 2022, Rock owned two dogs: Xumi, a 12 pound, approximately 5-year-old miniature poodle and Schnauzer mix, and Ruben, a 16 pound, approximately 2-year-old miniature pinscher and Shih Tzu mix.

11. Xumi and Ruben were Rock’s family members.

12. Xumi and Ruben provided Rock with companionship and affection.

13. Leaving Charleston to travel for her employment, Rock boarded Xumi and Ruben with Defendants on July 7, 2022.

14. At the time of or prior to Rock delivering Xumi and Ruben to Defendants for boarding on July 7, 2022, Defendants agreed to accept Xumi and Ruben, board them, and care for them until Rock returned for them, and Rock agreed to pay Defendants for those services.

15. Freeman owns or owned a German Shepherd dog.

16. On July 14, 2022, Defendant had Xumi and Ruben in a run.

1 Dog Daze, www.dogdazeboarding.com (accessed October 14, 2022) (“At Dog Daze, we provide the best possible care for your four-legged family member.”).

17. Defendant had the German Shepherd in a separate run.
18. Defendant negligently failed to secure the German Shepherd in the run it was placed in.
19. Defendant negligently failed to place Xumi and Ruben in a run secured from access by larger dogs.
20. Defendants left Xumi, Ruben, and the German Shepherd unsupervised.
21. Defendants negligently failed to periodically observe, monitor, or otherwise ensure the safety and welfare of Xumi and Ruben.
22. Defendant negligently failed to periodically observe, monitor, or otherwise ensure the safe containment of the German Shepherd.
23. The German Shepherd chewed escaped from the run it was placed in.
24. At some time between 1:00 p.m. and 3:00 p.m. on July 15, 2022, the German Shepherd entered the run in which Defendant had placed Xumi and Ruben.
25. The German Shepherd attacked Xumi and Ruben.
26. The German Shepherd killed Xumi.
27. The German Shepherd severely injured Ruben.
28. Ruben was transported to a veterinarian and received emergency treatment.
29. On July 14, 2022, while in the Bahamas for work, Rock received a call notifying her of the attack, Xumi's death, and Ruben's injuries.
30. As quickly as possible, Rock left her work, purchased a plane ticket, and flew back to Charleston.

31. Rock experienced and continues to experience extreme grief, anxiety, post-traumatic stress, and emotional pain and distress over the negligent, violent death of Xumi and wounding of Ruben.

32. Rock received professional counseling with a therapist for help with her grief, anxiety, post-traumatic stress, and emotional pain and distress, and she continues to see the therapist.

33. Rock saw a medical doctor and two therapists for help with her grief, anxiety, post-traumatic stress, and emotional pain and distress.

34. Rock was prescribed a benzodiazepine for her grief, anxiety, and emotional pain and distress.

35. Rock suffered weeks of intermittent crying, inability to sleep, loss of appetite, stomach pain, nightmares, inability to focus or concentrate, and weight loss, and more than three months after the attack, she continues, with reduced frequency and intensity, to suffer such conditions.

36. Ruben was lethargic and depressed for months after July of 2022.

37. Ruben required and underwent treatment and training to address difficulties he suffered from Xumi's death.

FOR A FIRST CAUSE OF ACTION
Negligence/Gross Negligence

38. Plaintiff realleges the allegations in the preceding paragraphs as if fully set forth herein.

39. Having undertaken the boarding and care of Xumi and Ruben, Rock's family

members, companions, and property, Defendants owed a duty to Rock to exercise due care in the boarding and care of Xumi and Ruben.

40. Defendants and their employees, agents, servants, or subcontractors were negligent, careless, reckless, and grossly negligent in failing to exercise due care in the boarding and care of Xumi and Ruben including but not limited to the following:

- a. In negligently failing to secure the German Shepherd in the run it was placed in;
- b. In negligently failing to place Xumi and Ruben in a run secured from access by larger dogs;
- c. In negligently failing to periodically observe, monitor, or otherwise ensure the safety and welfare of Xumi and Ruben;
- d. In negligently failing to periodically observe, monitor, or otherwise ensure the safe containment of the German Shepherd;
- e. In negligently boarding a female dog in heat without proper precautions for the affect of that dog on male dogs at the boarding facility;
- f. In failing to act as a reasonably prudent dog boarding facility would in similar circumstances; and
- g. In such other failures as will be shown through discovery and trial in this action.

41. As a direct, foreseeable, and proximate result of the negligence and gross negligence of Defendants and their employees, agents, servants, or subcontractors, Rock suffered the loss of Xumi and severe injury to Ruben and the resulting loss of companionship, grief, anxiety, and emotional pain and distress.

42. The acts and omissions of Defendants and their employees, agents, servants, or subcontractors constitute gross negligence.

43. Rock is entitled to an award of the actual value of Xumi including her sentimental value and the loss of her companionship.

44. Rock is entitled to an award of the diminution in the actual value of Ruben including his sentimental value and the loss of his companionship.

45. Rock is entitled to an award for her grief, anxiety, and emotional pain and distress damages.

46. Rock is entitled to an award of punitive damages.

FOR A SECOND CAUSE OF ACTION

Bailment

47. Plaintiff realleges the allegations in the preceding paragraphs as if fully set forth herein.

48. Rock delivered her personal property, Xumi and Ruben, to Defendants.

49. Pursuant to an express or implied agreement between Rock and Defendants, Rock entrusted the care of Xumi and Ruben to Defendants.

50. Defendants agreed to accept Xumi and Ruben into their care and custody in exchange for Rock's agreement to compensate Defendants.

51. Having accepted Xumi and Ruben into their care and custody, Defendants owed a duty to Rock to exercise due care in the protection and care of Xumi and Ruben.

52. Defendants and their employees, agents, servants, or subcontractors were negligent, careless, reckless, and grossly negligent in failing to exercise due care in the protection and care

of Xumi and Ruben including but not limited to the following:

- a. In negligently failing to secure the German Shepherd in the run it was placed in;
- b. In negligently failing to place Xumi and Ruben in a run secured from access by larger dogs;
- c. In negligently failing to periodically observe, monitor, or otherwise ensure the safety and welfare of Xumi and Ruben;
- d. In negligently failing to periodically observe, monitor, or otherwise ensure the safe containment of the German Shepherd;
- e. In failing to act as a reasonably prudent dog boarding facility would in similar circumstances; and
- f. In such other failures as will be shown through discovery and trial in this action.

53. As a direct, foreseeable, and proximate result of the negligence and gross negligence of Defendants and their employees, agents, servants, or subcontractors, Rock suffered the loss of Xumi and severe injury to Ruben and the resulting loss of companionship, grief, anxiety, and emotional pain and distress.

54. The acts and omissions of Defendants and their employees, agents, servants, or subcontractors constitute gross negligence.

55. Rock is entitled to an award of the actual value of Xumi including her sentimental value and the loss of her companionship.

56. Rock is entitled to an award of the diminution in the actual value of Ruben including his sentimental value and the loss of his companionship.

57. Rock is entitled to an award for her grief, anxiety, and emotional pain and distress damages.

58. Rock is entitled to an award of punitive damages.

FOR A THIRD CAUSE OF ACTION
Breach of Contract

59. Plaintiff realleges the allegations in the preceding paragraphs as if fully set forth herein.

60. Defendants entered into a contract with Rock (the "Contract").

61. An express or implied term of the Contract was that Defendants would protect and care for Xumi and Ruben.

62. Defendants knew that Xumi and Ruben were Rock's family members who provided her with affection and companionship.

63. Defendants knew or reasonably should have known that any harm to Xumi or Ruben would cause Rock to suffer grief, anxiety, and emotional pain and distress.

64. Defendants knew or reasonably should have known that Rock suffering grief, anxiety, and emotional pain and distress was the natural and proximate consequence of Defendants failing to protect and care for Xumi and Ruben.

65. Defendants failed to perform their obligations under the Contract and breached the Contract in allowing the German Shepherd to attack and kill Xumi and injure Ruben.

66. Rock suffered actual and consequential damages as the result of Defendants' breaches of the Contract.

67. Rock is entitled to an award of her actual and consequential damages.

68. Rock is entitled to an award of the actual value of Xumi including her sentimental value and the loss of her companionship.

69. Rock is entitled to an award of the diminution in the actual value of Ruben including his sentimental value and the loss of his companionship.

70. Rock is entitled to an award for her grief, anxiety, post-traumatic stress, and emotional pain and distress damages.

WHEREFORE, Plaintiff demands a jury trial and prays for judgment against Defendants for actual, consequential, and punitive damages and for such other and further relief as this Court deems just and proper.

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Attorneys for Plaintiff

December 5, 2022

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: <u>2022-CP-10-05585</u>
	)	
SARAH ROCK,	)	
	)	
Plaintiff,	)	
	)	
v.	)	DEFENDANTS' ANSWER AND
	)	AFFIRMATIVE DEFENSES
DOG DAZE OF CHARLESTON, LLC	)	
AND CHARLIE FREEMAN,	)	
	)	
Defendants.	)	
_____	)	

COMES NOW, Defendants Dog Daze of Charleston, LLC ("Dog Daze") and Charlie Freeman ("Freeman") (collectively "Defendants") and hereby respond to and answer Plaintiff Sarah Rock's ("Plaintiff") Complaint as follows:

GENERAL DENIAL

1. Defendants deny each and every allegation of the Plaintiff's Complaint not specifically hereinafter admitted.

FOR A FIRST DEFENSE

2. As to the allegations set forth by Plaintiff in the Complaint, Defendants respond as follows:

3. Defendants admit paragraph 1 of the Complaint upon information and belief.

4. Defendants admit only so much of paragraph 2 of the Complaint as alleges the that occurrence giving rise to Plaintiff's action took place at 820 Dupont Road in Charleston County, South Carolina. Defendants deny the remainder of paragraph 2 as stated.

5. Defendants admit the allegations of paragraphs 4, 5, 6, 7, and 8 of the Complaint.

6. Defendants admit the allegations of paragraphs 9 and 10, upon information and belief.
7. Defendants are without information sufficient to admit or deny the allegations of paragraphs 11 and 12, and therefore deny the same.
8. Defendants admit paragraphs 13, 14, 15, and 16 of the Complaint.
9. Defendants deny paragraphs 17, 18, 19, 20, 21, 22, and 23 of the Complaint.
10. Defendants admit paragraph 24, on information and belief.
11. Defendants admit paragraphs 25 and 26 of the Complaint.
12. Defendants admit the German Shepard injured Ruben, but deny such injuries were serious.
13. Defendants admit paragraphs 28, 29, and 30 of the Complaint upon information and belief.
14. Defendants are without information sufficient to admit or deny the allegations of paragraphs 31, 32, 33, 34, 35, 36, and 37 of the Complaint, and therefore deny the same.
15. Paragraph 38 of the Complaint is recital in nature and does not require a response. To any extent paragraph 38 requires a response Defendants deny the same.
16. Paragraph 39 of the Complaint contains a legal conclusion which Defendants are not qualified to admit or deny. Defendants admit that they have a general understanding that they owe a duty of to exercise ordinary care in boarding and caring for Xumi and Ruben.
17. Defendants deny the allegations of paragraph 40 of the Complaint, including subparts (a)-(g).
18. Defendants deny the allegations of paragraphs 41, 42, 43, 44, 45, and 46 of the Complaint.

19. Paragraph 47 of the Complaint is recital in nature and does not require a response. To any extent paragraph 47 requires a response Defendants deny the same.

20. Defendants admit paragraphs 48, 49, and 50 of the Complaint.

21. Paragraph 51 of the Complaint contains a legal conclusion, which Defendants are not qualified to admit or deny. Defendants admit that they have a general understanding that they owe a duty of to exercise ordinary care in boarding and caring for Xumi and Ruben.

22. Defendants deny paragraph 52 of the Complaint, including sub-parts a-f.

23. Defendants deny paragraphs 53, 54, 55, 56, 57, and 58 of the Complaint.

24. Paragraph 59 of the Complaint is recital in nature and does not require a response. To any extent paragraph 59 requires a response Defendants deny the same.

25. Defendants admit paragraph 60 of the Complaint.

26. Defendants deny paragraphs 61, 62, 63, 64, 65, 66, 67, 68, 69, and 70 of the Complaint.

27. Defendants deny the entire “Wherefore” section of the Complaint.

FOR A SECOND AND AFFIRMATIVE DEFENSE
(Failure to State a Claim)

28. Defendants would show that some or all of Plaintiff’s claims fail to state facts sufficient to support a claim for which relief may be granted, and should be dismissed pursuant to SCRCRCP, Rule 12(b)(6).

FOR A THIRD AND AFFIRMATIVE DEFENSE
(Waiver)

29. Defendants would show that some or all of Plaintiff’s claims are barred by contractual waiver.

FOR A FOURTH AND AFFIRMATIVE DEFENSE
(Release)

30. Defendants would show that some or all of Plaintiff's claims are barred by contractual release.

FOR A FIFTH AND AFFIRMATIVE DEFENSE
(Estoppel)

31. Defendants would show that some or all of Plaintiff's claims are barred by the doctrine of estoppel.

FOR A SIXTH AND AFFIRMATIVE DEFENSE
(Assumption of the Risk)

32. Defendants would show that Plaintiff's claims are barred by the doctrine of assumption of the risk.

FOR A SEVENTH AND AFFIRMATIVE DEFENSE
(Economic Loss Doctrine)

33. Defendants would show that some or all of Plaintiff's claims are barred by the Economic Loss Doctrine.

FOR A EIGHTH AND AFFIRMATIVE DEFENSE
(Negligence of Others)

34. Defendants would show that some or all of Plaintiff's injuries or damage may have been caused by the negligence of others for whom one or both Defendants are not responsible or for whose actions they are not liable.

FOR A NINTH AND AFFIRMATIVE DEFENSE
(Intervening/Superseding Negligence of Others)

35. That the injury or damages allegedly suffered by Plaintiff, if any, were due to, and caused by, and were the proximate result of, the intervening and superseding negligence,

willfulness, wantonness, and recklessness of others, and as such constitutes a complete defense to Plaintiff's claims.

FOR A TENTH AND AFFIRMATIVE DEFENSE
(Unavoidable Accident)

36. Defendants would show that any injury and damage sustained by Plaintiff was due to and caused by an unavoidable accident that was unforeseeable or unpreventable.

FOR A ELEVENTH AND AFFIRMATIVE DEFENSE
(Punitive Damages Unconstitutional)

37. Further answering Plaintiff's Complaint and as an affirmative defense, Younger would show the claim of Plaintiff for punitive damages against Younger cannot be sustained because any award of punitive damages under South Carolina law by a jury that (1) is not provided standards of sufficient clarity for determining the appropriateness and the appropriate size of the punitive damages award, (2) is not adequately instructed on the limits of punitive damages imposed by the applicable principles of deterrence and punishment, (3) is not expressly prohibited from awarding punitive damages or determining the amount of an award of punitive damages in whole or in part on the basis of invidiously discriminatory characteristics including the resident wealth and corporate status of the defendants, (4) is permitted to award punitive damages under a standard for determining liability for punitive damages that is vague and arbitrary and does not define with sufficient clarity of the conduct or mental state that makes punitive damages permissible, and (5) is not subject to trial court and appellate court judicial review for reasonableness and furtherance of legitimate purposes on the basis of objective standards would violate this Defendant's due process and equal protection rights guaranteed by the 14th Amendment to the United States Constitution and by the South Carolina constitutional

provisions providing for due process and equal protection and would be improper under the common law and public policies of the State of South Carolina.

FOR A TWELVTH AND AFFIRMATIVE DEFENSE
(Limitation of Punitive Damages)

38. Any punitive damages awarded in this case would be subject to the limitations described in S.C. Code Ann. § 15-32-530.

FOR A THIRTEENTH AND AFFIRMATIVE DEFENSE
(Reservation and Non-Waiver)

39. Younger reserves any additional affirmative defenses as may be revealed or become available to it during the course of their investigation and/or discovery in the case and are consistent with the South Carolina Rules of Civil Procedure.

WHEREFORE, having fully answered the Plaintiff's Complaint, the Defendants pray that the same be dismissed, together with the costs and disbursements of this action, and for such other and further relief as this Court deems proper.

Respectfully submitted,

THE LAW OFFICE OF
W. WESTBROOK WILLS III

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FOLLY BEACH, SC
January 3, 2023

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: <u>2022-CP-10-05585</u>
	)	
SARAH ROCK,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CERTIFICATE OF SERVICE
	)	
DOG DAZE OF CHARLESTON, LLC	)	
AND CHARLIE FREEMAN,	)	
	)	
Defendants.	)	
_____	)	

I certify that on this date I sent a copy of the foregoing *Defendants' Answer and Affirmative Defenses* by electronic service and U.S. Mail in the manner prescribed by the applicable Rules of Civil Procedure, addressed as follows:

F. Elliotte Quinn IV
Michael J. Jordan
The Steinberg Law Firm, L.L.P.
P.O. Box 2670
Summerville, SC 29484

This 3rd day of January 2023.

/s/ W. Westbrook Wills III
W. Westbrook Wills III