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Aug 21 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Hon. B. Alex Hyman, Circuit Court Judge

Common Pleas Case No. 2020-CP-26-01169

Appellate Case No. 2024-001019

V.K., A MINOR, BY AND
THROUGH HIS GUARDIAN
AMBER KOPANSKI.

Appellants,

v.

LASHAUNA BAKER,

Respondent.

Record on Appeal

Howard W. Anderson III (#100329)
TRULUCK THOMASON, LLC
3 Boyce Ave.
Greenville, SC 29601
howard@truluckthomason.com
864-331-1751 (p)
Attorney for Appellant

Ashley Gwin (#100372)
MCANGUS, GOUDELOCK & COURIE LLC
Post Office Box 1349
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Myrtle Beach, South Carolina 29578
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(843) 848-6000
Attorney for Respondent

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Transcript:

Witness: Amber Kopanski

Direct by Ms. Raffaldt	ROA.056
Cross by Mr. Smith	ROA.081
Redirect by Ms. Raffaldt	ROA.085
Recross by Mr. Smith	ROA.087

Witness: Robin Bailey

Direct by Ms. Raffaldt	ROA.095
------------------------------	---------

Witness: V.K.

Direct by Ms. Raffaldt	ROA.106
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Witness: Lashauna Baker

Direct by Mr. Smith ROA.118

Cross by Ms. Raffaldt ROA.124

Exhibits:

Plaintiff's Trial Exhibit 2 ROA.153

Certificate of Counsel ROA.160

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	
	)	CIVIL ACTION NO.: 2017-CP-26-1336
Amber Kopanski and V.K., a minor, by and	)	
through his Guardian Amber Kopanski,	)	
	)	
Plaintiffs,	)	
	)	RULE 40(j) ORDER
vs.	)	
	)	
Lashauna Baker,	)	
	)	
Defendant.	)	

For good cause shown, and by and with the consent of the attorneys for all remaining or present parties, it is:

ORDERED that the above-referenced case be, and hereby is, stricken pursuant to Rule 40(j), South Carolina Rules of Civil Procedure, with leave to restore within one year of the date hereof; and

IT IS FURTHER ORDERED that discovery may continue during the pendency of this dismissal period.

AND IT IS SO ORDERED.

Chief Administrative Judge
Fifteenth Judicial Circuit

Date: _____

I SO MOVE AND CONSENT:

/s/ Amy K. Raffaldt, Esq.
Amy K. Raffaldt, Esq.
The Law Office of Amy K. Raffaldt, Esq.
1341 44th Avenue North, Suite 205
Myrtle Beach, SC 29577
(843) 839-2900 Telephone
(843) 839-2913 Facsimile
amy@raffaldtlawfirm.com

Attorney for Plaintiff

I SO MOVE AND CONSENT:

/s/ G. Michael Smith, Esq.. (e-signed with permission)

G. Michael Smith, Esq.

Thompson & Henry, P.A.

1300 Second Ave., 3rd Floor

P.O. Box 1740

Conway, SC 29528

(843) 248-5741

MSmith@thompsonlaw.com

Attorney for Defendant



Horry Common Pleas

Case Caption: Amber Kopanski , plaintiff, et al VS Lashauna Baker
Case Number: 2017CP2601336
Type: Order/Dismissal Rule 40J

So Ordered

s/ Larry B. Hyman 2152

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	
	)	CIVIL ACTION NO.: 2017-CP-26-1336
	)	
Amber Kopanski and V.K., a minor, by and	)	
through his Guardian Amber Kopanski,	)	
	)	
Plaintiffs,	)	ORDER TO RESTORE ACTION TO
	)	THE GENERAL DOCKET PURSUANT
	)	TO RULE 40(j), SCRPC
	)	
vs.	)	
	)	
Lashauna Baker,	)	
	)	
Defendant.	)	

This matter comes before me on a motion by the Plaintiff for an Order restoring the case to the General Docket pursuant to Rule 40(j) of the South Carolina Rules Civil Procedure.

IT IS ORDERED, pursuant to Rule 40(j) of the South Carolina Rules of Civil Procedure, that the case is restored to the General Docket.

AND IT IS SO ORDERED.

Date

The Honorable Benjamin H. Culbertson
Chief Administrative Judge
Fifteenth Judicial Circuit



Horry Common Pleas

Case Caption: Amber Kopanski , plaintiff, et al VS Lashauna Baker
Case Number: 2017CP2601336
Type: Order/Restore Case To Active Docket

Administrative Judge, Court of Common Pleas,
15th Judicial Circuit
s/Benjamin H. Culbertson, Judge Code 2148

Electronically signed on 2020-02-19 12:07:28 page 2 of 2

ELECTRONICALLY FILED - 2020 Feb 20 11:52 AM - HORRY - COMMON PLEAS - CASE#2017CP2601336
ELECTRONICALLY FILED - 2020 Feb 20 11:58 AM - HORRY - COMMON PLEAS - CASE#2020CP2601169

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2020CP2601169

Amber Kopanski et al
PLAINTIFF(S)

Lashauna Baker
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED** (CHECK REASON): ☐ Rule 12(b), SCRCPP; ☐ Rule 41(a), SCRCPP (Vol. Nonsuit); ☐ Rule 43(k), SCRCPP (Settled);
☐ Other
- ☐ **ACTION STRICKEN** (CHECK REASON): ☐ Rule 40(j), SCRCPP; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (CHECK APPLICABLE BOX):
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

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

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

After the trial of this case, Plaintiffs filed a motion to reconsider and/or for a new trial on May 3, 2024. After carefully considering Plaintiffs' motion, the exhibits included therewith, as well Defendant's memorandum in response to Plaintiffs' motion, the court respectfully DENIES Plaintiffs' motion.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 06/04/2024 .

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

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



Horry Common Pleas

Case Caption: Amber Kopanski , plaintiff, et al VS Lashauna Baker
Case Number: 2020CP2601169
Type: Order/Electronic Form 4

15th Circuit Resident Judge

s/ B. Alex Hyman

Electronically signed on 2024-06-04 08:58:49 page 3 of 3

ELECTRONICALLY FILED - 2024 Jun 04 11:32 AM - HORRY - COMMON PLEAS - CASE#2020CP2601169

ROA.009

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF HORRY
IN THE COURT OF COMMON PLEASJUDGMENT IN A CIVIL CASE
CASE NUMBER

Amber Kopanski V K		Lashauna Baker	
-----------------------	--	----------------	--

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Clerk of Court

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

DISPOSITION TYPE (CHECK ONE)

- ☒ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit);
☐ Rule 43(k), SCRCP (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRCP; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other:

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

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

ORDER INFORMATION

We, the jury, unanimously find in favor of the Defendant.

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk: _____

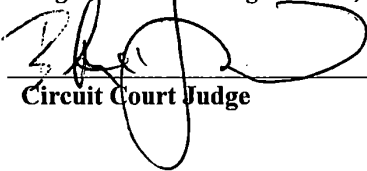
INFORMATION FOR THE JUDGMENT INDEX

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

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

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

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

Note: Title abstractors and researchers should refer to the official court order for judgment details.**E-Filing Note:** In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge

2776

Judge Code

4/23/2024

Date

For Clerk of Court Office Use Only

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

Amy Kristan Raffaldt 1341 44Th Avenue North Suite 205
Myrtle Beach, SC 29577

G. Michael Smith Sr. Thompson & Henry, PA PO Box 1740
Conway, SC 29528
S. Ashley Gwin PO Box 1740 Conway, SC 29528

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter: Sallie Beth Todd

Renee N. Elvis - Clerk of Court

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

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

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

ELECTRONICALLY FILED - 2024 Apr 24 2:05 PM - HORRY - COMMON PLEAS - CASE#2020CP2601169

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)
V.K., a minor, by and through his Guardian)
Amber Kopanski,)
Plaintiff,)
vs.)
Lashauna Baker,)
Defendant.)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTEENTH JUDICIAL CIRCUIT
CIVIL ACTION NO.: 2020-CP-26-01169

VERDICT FORM

We, the jury, unanimously find:

_____ that the Defendant's negligence proximately caused the Plaintiff's damages in the amount of:

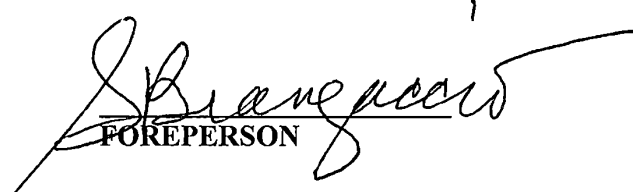
_____ (\$ _____) Dollars.

OR

☒ that the Defendant's negligence did not proximately cause the Plaintiff's damages.

The foreperson, acting on behalf of the unanimous jury, must sign and date this verdict form:

April 23/2024
DATE


FOREPERSON

STATE OF SOUTH CAROLINA

COUNTY OF Horry

Amber Kopanski and V.K., a minor, by and through his
Guardian Amber Kopanski,

Plaintiff(s)

vs.

Lashauna Baker,

Defendant(s)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2017-CP-26-

1336

Submitted By: Amy K. Raffaldt

Address: The Mace Firm

1341 44th Ave. N., Ste. 205

Myrtle Beach, SC 29577

SC Bar #: 101337

Telephone #: (843) 839-2900

Fax #: (843) 839-2913

Other:

E-mail: akr@themacefirm.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- ☒ JURY TRIAL demanded in complaint. ☐ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☒ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|---|--|---|--|
| Contracts
☐ Constructions (100)
☐ Debt Collection (110)
☐ General (130)
☐ Breach of Contract (140)
☐ Fraud/Bad Faith (150)
☐ Failure to Deliver/
Warranty (160)
☐ Employment Discrim (170)
☐ Employment (180)
☐ Other (199) | Torts - Professional Malpractice
☐ Dental Malpractice (200)
☐ Legal Malpractice (210)
☐ Medical Malpractice (220)
Previous Notice of Intent Case #
20 ____ -NI- ____ -
☐ Notice/ File Med Mal (230)
☐ Other (299) | Torts - Personal Injury
☐ Conversion (310)
☒ Motor Vehicle Accident (320)
☐ Premises Liability (330)
☐ Products Liability (340)
☐ Personal Injury (350)
☐ Wrongful Death (360)
☐ Assault/Battery (370)
☐ Slander/Libel (380)
☐ Other (399) | Real Property
☐ Claim & Delivery (400)
☐ Condemnation (410)
☐ Foreclosure (420)
☐ Mechanic's Lien (430)
☐ Partition (440)
☐ Possession (450)
☐ Building Code Violation (460)
☐ Other (499) |
| Inmate Petitions
☐ PCR (500)
☐ Mandamus (520)
☐ Habeas Corpus (530)
☐ Other (599) | Administrative Law/Relief
☐ Reinstate Drv. License (800)
☐ Judicial Review (810)
☐ Relief (820)
☐ Permanent Injunction (830)
☐ Forfeiture-Petition (840)
☐ Forfeiture-Consent Order (850)
☐ Other (899) | Judgments/Settlements
☐ Death Settlement (700)
☐ Foreign Judgment (710)
☐ Magistrate's Judgment (720)
☐ Minor Settlement (730)
☐ Transcript Judgment (740)
☐ Lis Pendens (750)
☐ Transfer of Structured
Settlement Payment Rights
Application (760)
☐ Confession of Judgment (770)
☐ Petition for Workers
Compensation Settlement
Approval (780)
☐ Other (799) | Appeals
☐ Arbitration (900)
☐ Magistrate-Civil (910)
☐ Magistrate-Criminal (920)
☐ Municipal (930)
☐ Probate Court (940)
☐ SCDOT (950)
☐ Worker's Comp (960)
☐ Zoning Board (970)
☐ Public Service Comm. (990)
☐ Employment Security Comm (991)
☐ Other (999) |
| Special/Complex /Other
☐ Environmental (600)
☐ Automobile Arb. (610)
☐ Medical (620)
☐ Other (699)
☐ Sexual Predator (510) | ☐ Pharmaceuticals (630)
☐ Unfair Trade Practices (640)
☐ Out-of State Depositions (650)
☐ Motion to Quash Subpoena in
an Out-of-County Action (660)
☐ Pre-Suit Discovery (670) | | |

Submitting Party Signature:

Amy Raffaldt

Date: 03/01/2017

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCF, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

SCCA / 234 (12/2015)

Page 1 of 2

ROA.013

Effective January 1, 2016, Alternative Dispute Resolution (ADR) is mandatory in all counties, pursuant to Supreme Court Order dated November 12, 2015.

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

Pursuant to the ADR Rules, you are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs.
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR.
Failure to do so may affect your case or may result in sanctions.**

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

Amber Kopanski and V.K., a minor, by and
through his Guardian Amber Kopanski,

Plaintiffs,

vs.

Lashauna Baker,

Defendant.

) IN THE COURT OF COMMON PLEAS
) FOR THE FIFTEENTH JUDICIAL CIRCUIT

) CIVIL ACTION NO.: 2017-CP-26-1336
)

SUMMONS

2017 MAR -1 PM 3:22

YOU ARE HEREBY SUMMONED and notified that an action has been filed against you in this court. You are required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer to this Complaint upon the Plaintiff's Attorney at the address shown below within thirty (30) days after service hereof, exclusive of the day of such service. If you fail to answer the Complaint, the Plaintiff in this action will apply to the Court for the relief demanded in the Complaint and a judgment by default will be rendered against you.

Amy Raffalini

Amy K. Raffalini, Esq. (#101337)

The Mace Firm

1341 44th Ave. N., Ste. 205

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(843) 839-2900 Telephone

(843) 839-2913 Facsimile

akr@themacefirm.com

Horry County, South Carolina
March 1st, 2017

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	
	)	CIVIL ACTION NO.: 2017-CP-26-1336
Amber Kopanski and V.K., a minor, by and	)	
through his Guardian Amber Kopanski,	)	
	)	
Plaintiffs,	)	
	)	COMPLAINT FOR DAMAGES
vs.	)	(Jury Trial Requested)
	)	
Lashauna Baker,	)	
	)	
Defendant.	)	

2017 MAR -1 PM 3:22

COMES NOW the Plaintiffs, **Amber Kopanski and V.K., a minor, by and through his Guardian Amber Kopanski**, complaining of the Defendant, above-named, and do allege and show unto this Honorable Court as follows:

GENERAL ALLEGATIONS

1. The Plaintiffs are citizens and residents of Marion County, South Carolina.
2. Upon information and belief the Defendant, Lashauna Baker, (hereinafter "BAKER") is a citizen and resident of Horry County, South Carolina.
3. This action arises from a motor vehicle collision that occurred on March 3, 2014 in Horry County, South Carolina.
4. This is an action for damages in excess of the sum of Twenty-Five Thousand (\$25,000.00) Dollars, exclusive of interest, costs, statutory penalties, and attorney's fees.

JURISDICTION

5. Jurisdiction is proper in this Honorable Court. Venue is also proper in this circuit as the acts and omissions that are the subject of this action occurred in Horry County, South Carolina.

FACTS

6. On or about March 3, 2014, Plaintiff Amber Kopanski was driving a 1994 Mitsubishi Expo, bearing license number HHA513, and traveling with V.K., her minor child, who was a passenger in the vehicle. Plaintiff KOPANSKI was traveling south on Highway 501 and stopped at a red light. Defendant BAKER, who was driving a 2003 Chevrolet, bearing license number APW126, failed to apply her brakes to stop at the red light and struck Plaintiff KOPANSKI's vehicle. Plaintiff KOPANSKI's vehicle was pushed into the intersection and Plaintiffs were nearly struck by a semi-truck. This collision caused Plaintiff KOPANSKI and Plaintiff V.K. to suffer severe injury.
7. Plaintiffs did not cause or contribute to the collision in any manner, and further had no ability to avoid or prevent the collision.

FOR A FIRST CAUSE OF ACTION AGAINST DEFENDANT BAKER **(Negligence/Negligence *Per Se*)**

8. Plaintiff repeats and re-alleges all of the above paragraphs and all subsequent paragraphs as if each were set forth herein verbatim.
9. Plaintiffs' injuries were the direct, foreseeable, and proximate result of Defendant BAKER's negligent, negligent *per se*, grossly negligent, reckless, wanton, willful, and careless acts and/or omissions in one or more of the following particulars:
 - a. in following Plaintiff KOPANSKI's vehicle too closely;
 - b. in failing to apply or timely apply the brakes;
 - c. in failing to reduce speed to avoid a collision;
 - d. in failing to keep a proper lookout for other vehicles;

- e. in failing to keep her vehicle under proper control;
 - f. in failing to take any evasive action to keep from causing the collision;
 - g. in operating the motor vehicle at a high, dangerous, and excessive rate of speed under the circumstances then and there existing;
 - h. in failing to maintain proper control over the vehicle;
 - i. in failing to sound her horn or otherwise warn of the impending collision;
 - j. in failing to take any preventive action by stopping her vehicle or turning same aside to avoid collision with the vehicle;
 - k. in failing to observe due care and precaution and to maintain proper and adequate control of the motor vehicle;
 - l. in failing to obey the statutory and common laws of the State of South Carolina;
 - m. in failing to exercise reasonable care in the operation of the motor vehicle under the circumstances then and there existing;
 - n. in failing to use the degree of care and caution that a reasonable and prudent person would have used under the circumstances then and there prevailing - all of which were a direct and proximate cause of the damages and injuries suffered by Plaintiff herein, said acts being in violation of the statutory and common laws of the State of South Carolina; and
 - o. in other respects not now known to Plaintiff but which may become known prior to or at the time of trial.
10. As a direct and proximate result of the negligence, negligence *per se*, gross negligence, recklessness, willfulness, and wantonness of Defendant BAKER, Plaintiffs:

- a. suffered serious, painful and permanent bodily injuries, great physical pain and mental anguish, severe and substantial emotional distress, loss of the capacity for the enjoyment of life;
- b. was, is, and will be required to undergo medical treatment and to incur medical costs and expenses in order to alleviate injuries, pain and suffering;
- c. was, is, and will be precluded from engaging in normal activities and pursuits, including a loss of ability to earn money and of actual earnings;
- d. and, otherwise was hurt, injured and caused to sustain losses.

11. As a direct and proximate result of said collision, Plaintiff KOPANSKI's minor son, Plaintiff V.K., incurred doctor's bills, requiring Plaintiff KOPANSKI to expend monies for medications and other medical expenses, all of which Plaintiff KOPANSKI, a parent of the minor child V.K., has paid and/or is obligated to pay, all to both their injury and damage.

12. That by reason of the acts of the Defendant as set forth above, Plaintiffs are informed and believe that they are entitled to an award of actual damages in a reasonable amount, together with punitive damages in an appropriate amount, and for the costs of this action.

WHEREFORE, Plaintiffs demand judgment against the Defendant for damages in an amount in excess of the sum of Twenty Five Thousand Dollars (\$25,000.00), plus interest, costs, and all other awards available under South Carolina law. Plaintiffs demand a trial by jury.

DATED this 1st DAY OF March, 2017.



Amy K. Raffaldt, Esq. (#101337)

The Mace Firm

1341 44th Ave. N., Ste. 205

Myrtle Beach, SC 29577

(843) 839-2900 Telephone

(843) 839-2913 Facsimile

akr@themacefirm.com

Amber Kopanski v. Lashauna Baker, et al.

Case No.: 2017-CP-26-

Page 5

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
) FIFTEENTH JUDICIAL CIRCUIT
 COUNTY OF HORRY) C/A NO.: 2017-CP-26-01336

Amber Kopanski and V.K., a)
 minor, by and through his)
 Guardian Amber Kopanski,)

Plaintiffs)

ANSWER OF DEFENDANT

v.)

(Jury Trial Demanded)

Lashauna Baker,)

Defendant)

TO: PLAINTIFFS AND AMY K. RAFFALDT, ATTORNEY FOR PLAINTIFFS

The Defendant, answering the Complaint of the Plaintiffs herein,
 alleges as follows:

FOR A FIRST DEFENSE

1. Denies each and every allegation of the Complaint not
 hereinafter specifically admitted, qualified or explained.

2. As to Paragraphs 1, 4 and 7 of the Complaint, the Defendant
 does not have information sufficient to form a belief as to the truth
 of the allegations and therefore denies the same and demands strict
 proof thereof.

3. Admits the allegations contained in Paragraphs 2, 3 and 5
 of the Complaint.

4. As to Paragraph 6 of the Complaint, the Defendant admits
 that an accident occurred, but denies the remaining allegations of
 Paragraph 6 and demands strict proof thereof.

5. Denies the allegations contained in Paragraphs 9, 10, 11
 and 12 of the Complaint and demands strict proof thereof.

AS A SECOND AND AFFIRMATIVE DEFENSE

6. Realleges each and every allegation of the First Defense as if set forth herein verbatim.

7. An award of punitive damages against Defendant, directly or by indemnification, under South Carolina law violates the Fifth, Sixth, and Fourteenth Amendments of the United States Constitution and Article I, §3 of the South Carolina Constitution in that:

- a. The judiciary's ability to correct a punitive damage award only upon a finding of passion, prejudice or caprice is inconsistent with due process guarantees;
- b. Any award of punitive damages serving a compensatory function is inconsistent with due process guarantees;
- c. Any award of punitive damages based upon the wealth of the Defendant violates due process guarantees;
- d. The jury's unfettered power to award punitive damages in any amount it chooses is wholly devoid of meaningful standards and is inconsistent with due process guarantees;
- e. Even if it would be argued that the standard governing the imposition of punitive damages exists, the standard is void for vagueness; and
- f. The Plaintiffs' claim for punitive damages violates the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution and Article I, §3 of the South Carolina Constitution in that the amount of punitive damages is based upon the wealth of the Defendant.

WHEREFORE, having fully answered the Complaint of the Plaintiffs herein, the Defendant prays that the Complaint be dismissed, for costs assessed against the Plaintiff and for such other and further relief as this Court may deem necessary, just and proper.

THOMPSON & HENRY, P.A.

s/G. Michael Smith
G. Michael Smith
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ATTORNEYS FOR THE DEFENDANT

Conway, South Carolina

April 26, 2017

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	
	)	CIVIL ACTION NO.: 2020-CP-26-01169
Amber Kopanski and V.K., a minor, by and	)	
through his Guardian Amber Kopanski,	)	
	)	
Plaintiffs,	)	PLAINTIFFS' MOTION TO
	)	RECONSIDER AND/OR FOR NEW TRIAL
	)	PURSUANT TO RULE 59, SCRPC
vs.	)	
	)	
Lashauna Baker,	)	
	)	
Defendant.	)	

PLEASE TAKE NOTICE that the undersigned, as counsel for the Plaintiffs and pursuant to Rule 59(a)(1) and Rule 59(e) of the South Carolina Rules of Civil Procedure, hereby moves this Honorable Court to reconsider its ruling of April 23, 2024 on the Defendant's Motion *in Limine* and/or for a new trial. In support thereof, the Plaintiffs show the following:

RELEVANT FACTUAL/PROCEDURAL HISTORY

1. The Plaintiffs brought this action on March 1, 2017. [Compl.].
2. On March 3, 2014, the Plaintiffs were injured by the Defendant, Lashauna Baker, when she rear-ended the Plaintiffs' vehicle while the Plaintiffs were stopped at a traffic light on Highway 501. [Compl., ¶6]. Pertinent to the pending matter, the minor child ("Vladimir"), suffered injuries due to this accident.
3. Shortly after the accident, Vladimir received treatment for abdominal pain at Pee Dee Pediatrics, MUSC, and Coastal Pediatrics. For over a year following this accident, Vladimir had consistent abdominal issues and received multiple diagnoses, including abdominal pain, constipation, irritable bowel syndrome, rectal bleeding, bloody stool, and colitis/inflammation of the bowel. Vladimir had none of these issues prior to the automobile accident. After receiving medication, Vladimir appeared to be in remission

until approximately three years later in 2018. Previously in 2015, the Plaintiffs were informed following his colitis diagnosis at MUSC that his symptoms could reappear.

4. Vladamir sought treatment at the Cleveland Clinic from 2018 through 2021 where he was diagnosed with colitis, rectal bleeding, abdominal pain, and diarrhea due to malabsorption. Vladamir's symptoms were similar to the symptoms he experienced following the 2014 automobile accident.
5. As this Court is aware based on the admission of exhibits during the proffered testimony of Amber Kopanski on April 23, 2024 which the Plaintiffs would beg reference to, the medical records reflect Vladamir's ongoing treatment for his abdominal/intestinal issues from 2014 through 2021.
6. The Defendant submitted a Motion *in Limine* on April 19, 2024 requesting that the Plaintiffs be prohibited from presenting testimony and/or evidence relating to Vladamir's abdominal/intestinal issues arguing that the Plaintiffs did not have an expert witness to establish a causal relation between the automobile accident and Vladamir's abdominal/intestinal issues.
7. The Plaintiffs submitted a Response to Defendant's Motion *in Limine* on April 22, 2024.
8. This Court took the Motion *in Limine* under advisement on April 22, 2024 and ruled in favor of the Defendant in part on April 23, 2024. Specifically, the Court stated that no testimony and/or evidence of treatment of Vladamir's abdominal/intestinal issues would be permitted after September 22, 2014. As a result, during the trial, the Plaintiffs proffered testimony of Amber Kopanski and evidence for treatment dates following the September 22, 2014 date set forth by this Court.
9. The jury returned a verdict in favor of the Defendant on April 23, 2024.

LAW

“A new trial may be granted to all or any of the parties and on all or part of the issues . . . in an action in which there has been a trial by jury, for any of the reasons for which new trials have heretofore been granted in actions at law in the courts of the State. . . .” Rule 59(a)(1), SCRCPP. “A circuit court may grant a new trial absolute on the ground that the verdict is excessive or inadequate.” *Brinkley v. S.C. Dep’t of Corr.*, 386 S.C. 182, 687 S.E.2d 54 (Ct. App. 2009). “The thirteenth juror doctrine empowers a trial court who believes the verdict is contrary to the evidence to ‘hang’ the jury, thus necessitating a new trial” *Ex Parte Travelers Home & Marine Ins. Co.*, 427 S.C. 238, 244, 830 S.E.2d 718, 721 (Ct. App. 2019).

“A motion under Rule 59(e) long has been viewed as ‘motion for reconsideration’ despite the absence of those words from the rule.” *Elam v. S.C. Dep’t of Transp.*, 361 S.C. 9, 21, 602 S.E.2d 772, 778 (2004). “The purpose of Rule 59(e), SCRCPP, to alter or amend the judgment is to request the trial judge to ‘reconsider matters properly encompassed in a decision on the merits.’” *Arnold v. State*, 309 S.C. 157, 172-73, 420 S.E.2d 834, 842 (1992) (quoting *Budinich v. Becton Dickinson and Co.*, 486 U.S. 196, 200 (1988)). As a result, “a party is usually allowed to ask the court to reconsider its decision even if it means rehashing all or part of an argument previously presented.” *Elam*, 361 S.C. at 21, 602 S.E.2d at 778-79. Thus, a motion for reconsideration is “one final chance not only to call the court’s attention to a possible misapprehension of an earlier argument, but also to revisit a previously raised argument.” *Id.*

ARGUMENT

I. The Plaintiffs are entitled to reconsideration and a new trial as the Defendant’s Motion *in Limine* was untimely under Rule 6(d), SCRCPP, and should not have been considered by this Court.

Pursuant to Rule 6(d) of the South Carolina Rules of Civil Procedure, “[a] written motion other than one which may be heard *ex parte*, and notice of the hearing thereof, shall be served not

later than ten days before the time specified for the hearing, unless a different period is fixed by these rules or by an order of the court.”

In this matter, the Plaintiffs were not served with the Motion *in Limine* until three (3) days before trial. This is against the time requirements set forth in Rule 6(d), SCRCPP. As such, the Defendant should not have been permitted to argue the Motion *in Limine* and the evidence the Plaintiffs intended to present at trial should have been allowed into evidence by this Court.

Therefore, the Plaintiffs are entitled to relief as consideration of the Defendant’s Motion *in Limine* was improper. Specifically, the Plaintiffs are entitled to a new trial as this Court erroneously prohibited the Plaintiffs from introducing otherwise admissible evidence relating to Vladimir’s abdominal/intestinal issues to the jury based on the Defendant’s untimely Motion *in Limine* which greatly prejudiced the Plaintiffs.

II. The Plaintiffs are entitled to reconsideration and a new trial as this Court erred in prohibiting testimony and/or evidence of Vladimir’s treatment for abdominal/intestinal issues following September 22, 2014 as expert testimony is not required to establish a causal relation between the March 3, 2014 automobile accident and Vladimir’s abdominal issues.

Whether an expert is required to establish proximate cause is generally best left to the trial court’s “sense of what knowledge is commonly held by the average juror.” *State v. Jones*, 423 S.C. 631, 638, 817 S.E.2d 268, 271 (2018). “[E]xpert testimony is not necessary to prove negligence or causation so long as lay persons possess the knowledge and skill to determine the matter at issue.” *O’Leary-Payne v. R.R. Hilton Head, II, Inc.*, 371 S.C. 340, 349, 638 S.E.2d 96, 101 (Ct. App. 2006). Expert testimony is only required where a subject is beyond the common knowledge of the jury. *Babb v. Lee Cnty. Landfill*, 405 S.C. 129, 153, 747 S.E.2d 468, 481 (2013). In line with this reasoning, our Supreme Court has held,

there are conditions which the lay mind is not competent to pass upon and in such scientific fields reliance must be had upon expert evidence alone.

There are however situations where the injury occurs soon after the accident, are observable to the ordinary person, and the circumstances are such that the lay mind may draw a reasonable inference of causation. In such cases, a finding of causal connection may be sustained even though in conflict with the medical testimony.

Rollins v. Wunda Weve Carpet Co., 255 S.C. 1, 4, 177 S.E.2d 5, 7 (1970).

Here, Vladamir's abdominal/intestinal issues were "so naturally and directly connected with the accident that proof of causality does not depend upon expert evidence." *Ballenger v. Southern Worsted Corp.*, 209 S.C. 463, 467, 40 S.E.2d 681, 683 (1946) (causal connection sustained based on lay testimony despite contradicting medical/expert testimony); *see also Poston v. Southeastern Construction Co.*, 208 S.C. 35, 36 S.E.2d 858 (1946) (lay testimony that claimant's eyes became runny and inflamed after construction material blew into them and that claimant lost vision in eyes subsequent thereto was sufficient to support an award even though doctor testified vision loss was not related to job injuries).

The Defendant admitted that medical experts are still unsure about the ultimate cause of colitis (*i.e.*, inflammation of the colon). Under that circumstance, an expert attesting to causation would render no assistance to the jury because they are unable to identify any precise cause. Rather, this is a case in which common sense is necessary. Vladamir did not have any abdominal/intestinal issues until after the March 3, 2014 automobile accident. The evidence presented at trial showed that Vladamir was exhibiting abdominal/intestinal issues within a day after the accident. He sought treatment with his pediatrician on March 19, 2014 and at that time confirmed that he had been experiencing diarrhea every day since the automobile accident. (**See Exhibit 1.**) Nothing in Vladamir's prior medical records with his pediatrician show that he had any of these issues before the automobile accident. (**See Exhibit 2.**) His physician at MUSC confirmed that Vladamir's symptoms were likely associated with the automobile accident. (**See Exhibit 3.**) As such, a lay person may draw a reasonable inference of causation when there are injuries occurring soon after

an accident which are observable like the injuries in this case. Vladamir was exhibiting symptoms of constipation, diarrhea, bloody stool, rectal bleeding, and abdominal pain. These symptoms are all within a lay person's knowledge. Furthermore, considering that Vladamir exhibited intestinal issues immediately following the accident, a reasonable inference can be drawn without medical testimony that there is a causal connection between the automobile accident and Vladamir's injury/symptoms/diagnoses.

When Vladamir went into remission in 2015, the Plaintiffs were informed that his symptoms could return. (**See Exhibit 4.**) Ultimately, his symptoms did return in 2018 wherein he sought treatment with Cleveland Clinic for abdominal/intestinal issues for several years. However, based on the Court's ruling as to the Defendant's Motion *in Limine*, the Plaintiffs were not able to present any evidence or testimony of treatment after September 22, 2014. This was prejudicial to the Plaintiffs. This Court based its ruling on a note in the MUSC records stating that Vladamir was back to 100%. (**See Exhibit 5.**) Ms. Kopsanski denied during the trial that she made this statement to MUSC. Furthermore, even if Ms. Kopsanski did, in fact, make this statement, the records are clear that Vladamir was not fully recovered because on November 19, 2014, he was complaining of abdominal pain. (**See Exhibit 6.**) He routinely received treatment at MUSC following November 19, 2014 up to July of 2015. During this time, Vladamir endured numerous medical appointments and treatments including multiple endoscopies and colonoscopies as a result of his abdominal/intestinal issues that arose immediately following the automobile accident. Nonetheless, the Plaintiffs were not allowed to present any of this evidence.

The Plaintiffs should have been allowed to present the details of Vladamir's ongoing abdominal/intestinal issues and treatment to the jury. Instead, the Plaintiffs were halted at an inaccurate irritable bowel syndrome diagnosis from approximately four months after the accident even though Vladamir has received treatment for abdominal/intestinal issues for years. Due to the

Court's ruling, the Plaintiffs were not able to explain Vladamir's continued issues throughout 2014 and 2015 and the reoccurrence of his symptoms from 2018 through 2021. Because Vladamir's medical treatment could not be discussed, the jury was unaware of the extent and severity of the Plaintiffs' ongoing injuries which were more substantial than merely a constipation and an irritable bowel syndrome diagnosis. While the Plaintiffs were able to testify vaguely about Vladamir's symptoms, being unable to corroborate Vladamir's ongoing symptoms with consistent medical treatment caused the Plaintiffs to receive an unfavorable jury verdict as the limited medical records that were allowed to be presented did not show the full scope of Vladamir's symptoms and complaints. (**See Exhibit 7.**) Additionally, this verdict was improper as the limited evidence permitted to be presented showed that Vladamir's abdominal/intestinal issues were caused by the accident as they began immediately following the accident.

Furthermore, the Plaintiffs were not able to seek total relief in the case. The medical bills totaled over \$70,000.00, but the Plaintiffs were only allowed to present a little over \$2,500.00 in medical bills. This, again, belittled the severity of Vladamir's injuries with the jury. Had the Plaintiffs been permitted to present all evidence as requested regarding Vladamir's abdominal/intestinal issues, the Plaintiffs would have requested a verdict of over \$300,000.00. As a result of being limited in the amount of damages they were able to present, the damages figure proposed to the jury had to be significantly reduced.

Therefore, based on the foregoing, the Plaintiffs should have been permitted to introduce testimony as to Vladamir's abdominal/intestinal issues as well as enter the medical records and medical bills that indicated his treatment and diagnoses following September 22, 2014. The Plaintiffs were unduly prejudiced as a result of this evidence being omitted. As such, the Plaintiffs are entitled to reconsideration of this issue and a new trial.

Furthermore, the evidence presented showed the causal relation between Vladamir's abdominal/intestinal issues and the automobile accident, making the jury verdict in error. Therefore, this Court must invoke its "thirteenth" juror authority and grant a new trial in this matter as the jury verdict is contradictory to the evidence.

CONCLUSION

For the reasons stated above, the Defendant respectfully requests this Court void the judgment issued in this case, reconsider its prior ruling on the Defendant's Motion *in Limine*, and grant the Plaintiffs a new trial pursuant to Rule 59(a)(1) and 59(e) of the South Carolina Rules of Civil Procedure.

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Attorney for the Plaintiffs

Horry County, South Carolina
May 3, 2024

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS

COUNTY OF HORRY) 2020-CP-26-01169

Amber Kopanski and V.K., a)
minor, by and through his)
Guardian Amber Kopanski,)

Plaintiffs,)

Transcript of Record

vs.)

APRIL 22 - 23, 2024

Lashauna Baker,)
Defendant.)

B E F O R E:

Honorable B. Alex Hyman
Horry County Courthouse
Conway, South Carolina

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

Amy K. Raffaldt, Esquire
Attorney for Plaintiffs

G. Michael Smith, Sr., Esquire
Attorney for Defendant

Sallie Beth Todd
Official Court Reporter

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E X H I B I T S

NO.	DESCRIPTION	ID	EV	PAGE
PL1	All Medical Records - Proffer Testimony	X		104
PL2	All Medical Bills - Proffer Testimony	X		105
PL1	Redacted Medical Records		X	113
PL2	Redacted Medical Bills		X	114
DEF1	Mike Kelly Letter to Quiros - Proffer	X		109
DEF2	Mike Kelly Letter to Bahan - Proffer	X		109
DEF1	Photo of Plaintiff's Car		X	116
DEF2	Photo of Plaintiff's Car		X	116
DEF3	Photo of Defendant's Car		X	119
DEF4	Defendant's Medical Records		X	122

1 everything you hear.

2 But again, you are the sole fact-finders. If at any
3 point, I rule in a way or somebody objects or stands up,
4 and I sustain an objection or overrule an objection, please
5 disregard that. Again, it is not in any way me showing any
6 opinion as to what I believe this case and -- and what the
7 value of this case may be.

8 Again, I'm not entitled to an opinion, nor do I have
9 one. My job here is to make sure that the law is followed.
10 And again, as I told you at the appropriate time I will
11 give you the law on this case and you'll begin your
12 deliberations at that time. But what we're going to do
13 first is we're going to swear you as a juror for this jury
14 for this case.

15 THE CLERK: Please stand and raise your right hand to
16 be sworn.

17 REPORTER'S NOTE: (WHEREBY JURY IS SWORN)

18 THE CLERK: You may be seated.

19 THE COURT: All right. Thank you, ladies and
20 gentlemen. We'll begin this case with what we call opening
21 statements. You'll hear from the Plaintiff and the
22 Plaintiff's counsel first, and then you'll hear from the
23 Defense. I want to advise you that the evidence comes from
24 the stand and through exhibits. What attorneys say is not
25 facts or evidence to be considered. It is simply their

1 position. It is what they believe they will show through
2 the facts and evidence.

3 So again, I just remind you that what the attorneys
4 say is not evidence. They are not here to testify. They
5 are here to simply put forth what they believe is their
6 cause of action or their defense. So with that being said,
7 I'll allow the Plaintiff to do their opening statement.
8 Yes, ma'am.

9 MS. RAFFALDT: Thank you, Judge.

10 Good morning, everyone. I appreciate you being here
11 and getting through the traffic. I'm sure a lot of you
12 encountered that this morning along with myself.

13 So I'm Amy Raffaldt. I introduced myself yesterday.
14 I represent the Plaintiff Amber Kopanski, as well as her
15 son, V [REDACTED] K [REDACTED] [REDACTED]. First, I want to thank you
16 for your service here today. This is a vital part of our
17 democratic system and is an important civic duty that
18 you're exercising. I know many may feel a bit of unease in
19 serving on the first time for a jury panel. However, this
20 is a system that has been in place for hundreds of years.
21 Believe me, you're not the first ones to do it. And I know
22 that you'll do a great job in in performing your duty here
23 today.

24 And I'm -- I'm confident that you can judge this case
25 based on the evidence, fairly and impartially, and render a

1 verdict in favor of the Plaintiffs in this case.

2 So now I'm going to go into the -- the facts of this
3 particular case that you'll be hearing today. On March 3,
4 2014, V [REDACTED], my client, the minor child in this action,
5 suffered injuries to his neck, back, and abdomen when he
6 was only six years old, as a result of the Defendant's
7 negligence.

8 In short, this is a case about taking responsibility
9 and being accountable for your mistakes. No one's saying
10 that the Defendant is a bad person, that she did this on
11 purpose. But ultimately, when you get on the roadway, any
12 licensed driver takes the risk that they may get into an
13 accident and they have to be held accountable if any
14 damages are sustained. In this case, Amber Kopanski,
15 V [REDACTED]'s mother, was driving with her son. He was in the
16 rear passenger seat. He was wearing his seatbelt and he
17 was in a booster seat.

18 They were traveling on 501 and stopped at a traffic
19 light where you come toward the bridge from Conway to
20 Myrtle Beach. A lot of you may know that area. There's a
21 left turn lane, a middle lane, and a right lane on the side
22 that my clients were on. My client was in the middle lane,
23 going straight, heading toward Myrtle Beach. She came to a
24 complete stop at the traffic light. After stopping and
25 without warning, the Defendant collided into my client's

1 vehicle.

2 The sudden impact caused V [REDACTED] to jolt forward and
3 then backward, a little 6-year-old child and his seatbelt
4 injured his chest, back, and went to his abdomen. The
5 Defendant does not deny that this accident was her fault --
6 and I want to make that clear. She's not saying that she
7 didn't rear-end my client. She's not saying that she --
8 she was paying attention and -- and that it just didn't
9 happen at all. She agrees that there was a collision in
10 this case that she caused.

11 And what the Defense counsel will state is that this
12 is a minor impact collision. And I imagine, and I -- I
13 well know because we've already stipulated into the record
14 that he's going to show you some enlarged pictures and
15 emphasize how there's little to no damage to my client's
16 vehicle and his client's vehicle -- and we don't dispute
17 that there's little damage to the vehicles in this case.

18 And Amber, my client, will attest that the overall
19 damage to her vehicle was about a thousand dollars. We
20 agree that the photographs speak for themselves. However,
21 those photographs do not tell the whole story here. Unlike
22 Amber's van, that could withstand the force of the impact,
23 V [REDACTED]'s little body could not come away without injury.
24 The impact caused his body to jolt backward and forward.
25 He had no chance to brace himself for this collision. He

1 was completely caught off guard and it caused the seatbelt
2 to dig into his abdomen, chest, and neck.

3 And so when your adrenaline's pumping -- of course if
4 anybody has ever been involved in an accident or anyone's
5 ever heard of anyone being involved in an accident, you got
6 a lot of adrenaline going. And he's a young child -- he's
7 scared, he doesn't know what to do, his emotions are high.
8 That was the situation for V [REDACTED].

9 By the next day V [REDACTED]'s symptoms hit him full
10 force. I urge you to keep in mind that before this,
11 V [REDACTED] was a healthy young boy that went to his
12 pediatrician for things like a common cold, a rash, on
13 occasion. He enjoyed school; playing outside. He was a
14 very active, outgoing child. He had never had any stomach
15 issues before. However, by the next day he was in pain.
16 He could barely get out of bed and was back and forth to
17 the bathroom with diarrhea all day long.

18 This was ongoing for over two weeks when his mother
19 was finally able to get him in for an appointment with his
20 pediatrician. It was reported to V [REDACTED]'s pediatrician
21 that he had neck pain and diarrhea since the collision.
22 Amber was directed to give V [REDACTED] a bland diet and start
23 some Pepto-Bismol, kind of routine stuff for a
24 pediatrician, trying to see if that's going to help his
25 symptoms.

1 However, his symptoms persisted and within a month
2 V [REDACTED] was back at the pediatrician again with abdominal
3 pain. He had an X-ray and Amber was told that V [REDACTED] was
4 constipated. She was understandably confused because she's
5 telling the doctor, hey, he's got diarrhea. How can he be
6 constipated if he's going to the bathroom, if the diarrhea
7 just won't stop?

8 Nonetheless, V [REDACTED]'s pediatrician prescribed
9 Relaxin. So what is he doing? He's going to the bathroom
10 even more. But she's trying to listen to what her
11 pediatrician's telling her to do. In the meantime, Amber
12 is doing everything she can and she tried some chiropractic
13 care that maybe help with the symptoms, try to go to a
14 different doctor, see if that's going to help him with his
15 pain, help him with his abdominal issues. Unfortunately,
16 it didn't help him, so she pulled him out after a few
17 sessions.

18 She's a single parent. The father is not involved.
19 She's doing her best working two jobs as an administrative
20 assistant with a tobacco farm and as a home health aide.
21 V [REDACTED] is her only child. She is not used to issues like
22 this. He's never had any problems like this before. And
23 like many other concerned single parents, she called her
24 mom for help. So her mom came to visit her and -- and came
25 into town in Nichols, South Carolina, where Amber was

1 living at the time, and she stayed for an entire month.

2 Robin noticed during that time how V[REDACTED] was in
3 pain every day and making frequent trips to the bathroom.
4 Amber and Robin tried everything they could think of. They
5 fed him a completely bland diet, like it was recommended by
6 the doctor to settle his stomach. They put ice packs on
7 his stomach to ease his pain, and during this time,
8 V[REDACTED]'s in the bathroom for at least an hour on any
9 given day and easily fatigued. He was missing weeks of
10 school.

11 So no doubt she's a concerned parent and -- and a loss
12 of what to do, so she wants to get a second opinion from a
13 physician. And she goes to MUSC, probably one of the most
14 prestigious hospitals in the state -- I think most would --
15 would agree -- and she wanted them to have the best care.
16 So during that initial appointment, she was told that her
17 son had irritable bowel syndrome, and advised to follow up
18 with her doctors in a few months.

19 V[REDACTED] is now 16 years old. There's no guarantee
20 that his condition is not going to return. Right now he's
21 doing well and he seems to be a healthy 16-year-old child
22 enjoying school, and he's in remission. Luckily, he and
23 his family have a medication that helps him when he needs
24 it. And as a result of this unfortunate accident, you
25 know, the medical bills that we are -- we intend to show

1 are about \$1,500.

2 As you'll be told, the Plaintiff has the burden of
3 proof in this case, and we must prove this by a
4 preponderance of the evidence. That's not the beyond a
5 reasonable doubt that you may have heard of in criminal
6 court. That -- beyond a reasonable doubt is a higher
7 standard. Preponderance of the evidence is a greater
8 weight of the evidence. So if you think about it like two
9 scales, if the scale moves in favor of the Plaintiff ever
10 so slightly, that means that you need to decide a verdict
11 in favor of the Plaintiff. If the scales moves to the
12 Defendant, vice versa, then you have to rule in favor of
13 the Defendant.

14 As I stated, and the Defendant has admitted she was at
15 fault for this collision. She failed to pay attention and
16 collided with my client's car, that caused V[REDACTED]'s
17 injury. He didn't have any of these symptoms before. He
18 didn't have any of these issues at all. His pediatric
19 records show he didn't have any of these issues at all.
20 The questions presented to you are the issues of causation
21 and damages. What you must decide is whether V[REDACTED]'s
22 injuries were caused by this accident, and if so, for how
23 much should the Plaintiffs be compensated for that.

24 When all the testimony and evidence is presented, we
25 will be asking you to weigh the evidence and make a

1 determination as to compensation that you believe is fair
2 and reasonable. We trust that you can appropriately weigh
3 the facts in this case, hold the Defendant accountable for
4 the consequences her negligence caused, and render a
5 verdict in favor of the Plaintiffs. Thank you for your
6 service.

7 THE COURT: Thank you, Ms. Raffaldt.

8 MS. RAFFALDT: Thank you.

9 THE COURT: Mr. Smith.

10 MR. SMITH: May it please the court?

11 THE COURT: Yes, sir.

12 MR. SMITH: Ladies and gentlemen, again, my name is
13 Michael Smith and I'm here to represent Ms. Baker. I'm
14 glad we got one issue out of the way for you because in
15 trials there's generally two things you have to prove if
16 you're sitting in the Plaintiff's chair. The first one is,
17 whose fault was the accident? Well, we're taking blame for
18 that. So that issue is out the door. You don't have to
19 worry about it.

20 The second issue is what damages were proximately
21 caused, directly caused by this accident. So to understand
22 that you have to hear testimony, you have to look at
23 evidence and things of that nature. You also need to bring
24 your common sense to the courtroom. And we've chosen you
25 12 -- actually 14, I think -- but because we think that you

1 guys will do exactly that for us. So what we want to do is
2 to lay out the facts for you and my -- you know, what I say
3 is not evidence, but here is evidence.

4 My client on the day of this accident was driving a
5 Chevy Impala. She had been to McDonald's and -- and was
6 leaving McDonald's. She had her boyfriend in the car with
7 her. And she rolled into the back of the Plaintiff. No
8 question about it. She did. You'll hear her testify that
9 she was stopped at the -- at the light there. And I don't
10 know if you've ever been caught in this trap. I've done
11 it. I -- I think everybody has when you stop and think
12 about it. But when you see that green arrow light come on
13 and you're sitting in a red light, sometimes one of the
14 first things we do is take our foot off the brake. And you
15 know what? She did that; she made a mistake. So if you'll
16 look, this is the front of her Chevrolet Impala after she
17 hit the Plaintiff. And if you'll pay close attention when
18 you get this photograph back in the jury room, look at the
19 plastic cover and see if you see even a crack in the
20 plastic cover of this vehicle.

21 Now, the Plaintiff and her son -- her son by the way,
22 I think 6 years old, like I'll be corrected if I'm wrong --
23 in a booster seat, in the back, was riding in this
24 Mitsubishi van. And this is the vehicle that you will hear
25 the Plaintiff say was rear-ended at a speed of between 25,

1 30 miles an hour. So hard that it propelled her into the
2 middle of the intersection.

3 Here's a closeup of that bumper. Now, if you look
4 hard, you can see a little bit of -- of the rubber there
5 that looks like it may have been pushed up. Maybe that was
6 from this accident. I'm not sure. You'll see a whole lot
7 of scratches and dings and nicks all across the back of the
8 bumper. Well, we know that didn't happen because the only
9 part of the car that touched -- only part of that Impala
10 that touched was the license plate cover.

11 But that's the vehicle that the Plaintiffs were in.
12 That's the vehicle that caused all the damage, allegedly,
13 that you're going to hear the Plaintiff testify. That's
14 the vehicle that was propelled into an intersection,
15 according to the Plaintiff, so far into the intersection
16 she was afraid that turning traffic that was coming from
17 501 and turning left onto 378 heading towards Columbia.
18 She was afraid it was going to hit her.

19 Ladies and gentlemen, one of the things that you're
20 going to be asked to do is to judge the truthfulness and
21 the veracity of witnesses. Look at all the evidence and
22 add it all together and see if it makes sense. Because
23 that same person that talks about being hit like an
24 elephant, knocking her into almost the middle of the
25 intersection at a speed of anywhere from 25 or so miles per

1 hour, is the person that's going to tell you that their
2 minor child is still in pain from this accident.

3 Fortunately, you're going to hear about a telephone
4 call that she made to the hospital in September of the year
5 of the accident -- this accident happened in March -- where
6 he says he's back 100 percent. So why are we here? Her 6-
7 year-old child was taken to get chiropractic treatment.
8 And I heard Plaintiff's counsel mention a whole lot about
9 stomach issues in her opening.

10 There are so many stomach ailments out there, ladies
11 and gentlemen, that I'm sure we'll hear -- hear a medical
12 doctor stand up there and tell us within a reasonable
13 degree of medical certainty what's causing all these
14 alleged injuries to the Plaintiff. Because that's their
15 burden of proof. As Defense, we don't have to prove
16 anything. We don't have to prove anything. I've shown you
17 the photographs, we admit it's our fault. They have the
18 burden of proving to you where the damages are.

19 So I'm anxious to talk to the chiropractor and to
20 cross-examine him on why he's doing chiropractic treatment
21 on a 6-year-old. I'm anxious to talk to any doctor who
22 wants to talk to us about any medical condition beyond --
23 they got bumped at what? Five miles an hour or less. So
24 ladies and gentlemen, that's why we're here. That's why it
25 has taken us 10 years to get here. This accident happened

1 in 2014 -- March the 3rd, 2014.

2 And I think when you hear both sides of the case,
3 you'll see why reasonable minds differ. We differ on the
4 value of this case. So we're going to do to y'all what we
5 couldn't do for ourselves and that's try to put a fair and
6 reasonable settlement number for this child -- minor child
7 that was involved in this accident, this accident. And we
8 trust that you will be able to do that for us. And thank
9 you so much.

10 THE COURT: All right. Thank you, Mr. Smith. We're
11 going to take a brief five-minute break. You can go to
12 your jury room and we'll call you back out right before we
13 call the first witness. Okay.

14 REPORTER'S NOTE: (JURY EXITS THE COURTROOM AT
15 10:43AM)

16 THE COURT: All right. I'm -- I normally don't break
17 for that. I received a note that one of the jurors needed
18 to use the restroom, so. Would prefer that than you call
19 your witness and --

20 MS. RAFFALDT: Well, Judge, actually I would like to
21 clarify another thing too --

22 THE COURT: Okay.

23 MS. RAFFALDT: -- so that my client hears it as well.
24 My understanding is in terms of the testimony, the cutoff
25 date is 9/22/2014. You don't want her to -- or any other

1 witness to discuss any issues that minor child had after
2 September.

3 THE COURT: If -- if she wants to testify to the
4 symptoms he's still having, fine. I -- I'm fine with that.
5 But as far as the treatment that -- that were three years
6 after his last treatment, no.

7 MS. KOPANSKI: That would be Cleveland.

8 THE COURT: Cleveland, that's correct.

9 MS. RAFFALDT: What about the treatment that he got
10 from MUSC, Judge, after September? That -- I guess that's
11 why I changed a lot of my opening as well because I wasn't
12 sure what was going to be allowed.

13 THE COURT: And I -- I don't have a problem if you say
14 he continued to -- to treat, but again, I'm -- I put the
15 cutoff at the 22nd. And if she wants to testify that he
16 still had symptoms, that's fine. But again, as to what
17 caused those symptoms, that's the cutoff. I'm not going to
18 let her testify that -- that she's going to make the
19 opinion that this is what caused it.

20 MS. RAFFALDT: So she can only discuss the -- the
21 general treatment that he was receiving at MUSC.

22 THE COURT: Right. And then --

23 MS. RAFFALDT: No Cleveland Clinic testimony at all.

24 THE COURT: That's correct.

25 MS. RAFFALDT: And that just symptoms not diagnoses.

1 Is that --

2 THE COURT: And -- and she can testify that -- if --
3 if this is what she's testifying to, that he didn't have
4 any of these symptoms prior to the accident, I'm fine with
5 that. But for her to make a -- a medically -- a medical
6 statement that would only need to be made by an expert that
7 with any kind of -- of -- she cannot testify that -- in her
8 scope of in her field, her medical knowledge that this is
9 what caused this. Again, I don't have a problem with her
10 testifying to what his symptoms were, when they began, up
11 until at, you know, his treatment at -- at MUSC.

12 I feel certain that Mr. Smith is going to cross-
13 examine her on, did you call on this date and did you tell
14 him that he was doing perfect? I mean, I -- that's my
15 assumption, but yeah. So the limitations are what symptoms
16 he has. Again, she can't go into what colitis is. She can
17 say he was diagnosed with colitis, but as far as what
18 colitis is, what causes colitis, what caused it in him,
19 she's not qualified to do that.

20 MS. RAFFALDT: Okay. Judge, I -- I just wanted to
21 make sure that we didn't overstep bounds --

22 THE COURT: Sure.

23 MS. RAFFALDT: -- with regards to the Court's ruling,
24 and -- and the minor child did have two colonoscopies at
25 MUSC associated with his symptoms. That would be something

1 that she's permitted to testify to as far as this treatment
2 as well.

3 THE COURT: When was that?

4 MR. SMITH: Your Honor, the -- the problem that I have
5 with all of this abdominal testimony -- abdominal-issue
6 testimony, the initial abdominal complaint of a seatbelt
7 sign or something similar to that, it's completely
8 understandable. It's understandable why the pediatrician
9 initially wanted to check it out to see if there's anything
10 wrong with him abdominally.

11 Once all that testing has happened and once they did
12 the ultrasound early on, and once they did the colonoscopy,
13 that -- that's dealing with his colitis. That opens the
14 door to the jury perhaps hearing, well, he didn't have it
15 before he has it afterwards. They're going to do it by a
16 temporal relationship, which is exactly what I think is
17 highly prejudicial to the Plaintiff. Once treatment stops
18 on September 22nd when he's back at 100 percent, all of his
19 other issues that he's being hospitalized for and getting
20 testing done is colitis. That has nothing to do with this
21 motor vehicle accident based on the expert opinions that
22 you've seen in writing.

23 So I think that opens the door to prejudice against my
24 client.

25 THE COURT: When was -- when was the colonoscopy?

1 MS. RAFFALDT: The colonoscopy --

2 MR. SMITH: It was after September of 2014.

3 MS. RAFFALDT: The colonoscopy --

4 THE COURT: And was it after the diagnosis of colitis?

5 MS. RAFFALDT: It was before the diagnosis of
6 Plaintiff. Judge, it was in February of 2015.

7 THE COURT: So six months after? Yeah.

8 MR. SMITH: And colitis is not related. So all this
9 testing, all these complaints about abdominal issues, we
10 know why he is got abdominal issues. He's got abdominal
11 issues because of the colitis. We know that the medication
12 he took for colitis cured his problems. The doctor say
13 colitis is not caused from the accident. So it opens the
14 door up to a lot of sympathy from the jury.

15 THE COURT: When did he begin taking the medication?
16 I mean, I -- I was assuming that it was prior to the
17 September 22nd.

18 MS. RAFFALDT: He started taking the medication after
19 the February diagnosis for -- for the colonoscopy. And
20 then he had another colonoscopy just to check on the
21 inflammation, to see if the medication was working. So
22 that was the second follow-up colonoscopy in June of 2015.
23 And I -- I would note that the last visit before the
24 colonoscopy was November of 2014. So it was only a few
25 months later that he had the colonoscopy because he

1 continued exhibit symptoms.

2 THE COURT: I'm going to stick with my prior ruling of
3 September 22nd if that's when there was the phone call that
4 said he's doing better.

5 MR. SMITH: A hundred percent.

6 THE COURT: Right. Again, as to his symptoms,
7 whatever his symptoms were, she can testify to that. But
8 as to a colonoscopy, I need to hear what she's going to
9 testify before I can kind of rule on that. I mean if it's
10 --

11 MS. RAFFALDT: I guess that's the issue that we're
12 both having, Judge.

13 THE COURT: Right.

14 MS. RAFFALDT: Is we're not -- we're just not sure
15 because of the in-part ruling, how to proceed --

16 THE COURT: Well, and again --

17 MS. RAFFALDT: -- with her testimony.

18 THE COURT: -- as far as the symptoms, she can testify
19 to that. But as far as a medical -- you know, saying what
20 is wrong with him, she's not in any way qualified to say
21 that. That's where you would need -- I mean, neurologist
22 or -- or some type of internist to be able to say that.
23 And again, I -- I'm saying all this without knowing what
24 exactly is in the medical records. So I don't know when
25 this -- so as far as the diagnosis for colitis, that came

1 in February?

2 MS. RAFFALDT: Correct, Judge.

3 MR. SMITH: I've got to check.

4 THE COURT: All right.

5 MS. RAFFALDT: As in November it was constipation and
6 abdominal pain. They didn't -- it was the similar symptoms
7 that he had had the months prior.

8 MR. SMITH: His first diagnosis in July of 2014 was
9 irritable bowel syndrome.

10 THE COURT: Colitis is a -- is -- isn't colitis a type
11 of irritable bowel syndrome?

12 MR. SMITH: It is. It's part of that classification
13 that that can be part of it.

14 THE COURT: And so they treated him then for irritable
15 bowel syndrome; is that right?

16 MS. RAFFALDT: Yes, Judge.

17 THE COURT: And how did they treat him with that? Was
18 it diet -- dietary or was it medication?

19 MS. RAFFALDT: He -- he received probiotics, was my
20 understanding. I'll have to look at the specific --

21 MR. SMITH: They put him on a diet.

22 MS. RAFFALDT: And they put him on a bland diet. I
23 think he still had the MiraLAX at that time because it's --
24 I guess with IBS it's an association between, you know,
25 diarrhea as well as constipation. So then he had ongoing

1 constipation in November. So she got him treatment. He
2 kept having issues, then he started rectal bleeding and
3 having bloody stool, and she took him to the hospital in
4 Conway Medical Center. And then he had this follow-up
5 visit at MUSC. They did the colonoscopy. And that was --

6 THE COURT: So when was his last visit to MUSC?

7 MS. RAFFALDT: July of -- well, July of 2015 is the
8 last documented visit where he had any treatment associated
9 with his symptoms. She had follow-up visits to just talk
10 to the doctors and describe how he's doing and -- and
11 stopped treatment. But he didn't have any like treatment
12 after July, 2015.

13 THE COURT: Mr. Smith, you look like you're looking
14 for something in particular.

15 MR. SMITH: I'm just -- just going through these
16 records, Your Honor, because it is a complicated medical
17 history that we need an expert to help us.

18 THE COURT: Yes, I completely agree.

19 MR. SMITH: And I think that any -- any testimony
20 relating to abdominal issues beyond a seatbelt sign, which
21 is common knowledge to the jury, when a seatbelt tightens
22 up around you, you can get abdominal sores and bruising and
23 things of that nature. Anything beyond that is highly
24 prejudicial to my client because it's going to lead the
25 jury to believe that here 10 years later, this child is

1 suffering from a condition that was not caused from this
2 accident by two of his primary treating doctors.

3 In fact, three of them, Cleveland Clinic says it
4 wasn't related to the accident.

5 THE COURT: I'm going to stick with my prior ruling on
6 -- on that September 22nd date. As far as the colonoscopy
7 and all of that, I'm -- we're not going to get into that.
8 Okay. All right.

9 Ms. Raffaldt, are you prepared to call your first
10 witness?

11 MS. RAFFALDT: I am, Judge.

12 THE COURT: All right. Let's go ahead and bring the
13 jury in.

14 REPORTER'S NOTE: (JURY ENTERS COURTROOM AT 10:53AM)

15 THE COURT: All right. Thank you, ladies and
16 gentlemen.

17 Ms. Raffaldt, you may call your first witness.

18 MS. RAFFALDT: Yes, Judge. The Plaintiff would call
19 Amber Kopanski. Can she go to the witness stand?

20 THE COURT: Yes, yes.

21 MS. KOPANSKI: Okay. Thank you.

22 THE CLERK: Raise your right hand and place your left
23 hand on the Bible.

24 MS. KOPANSKI: Yes.

25 **AMBER KOPANSKI, HAVING BEEN DULY SWORN TESTIFIES AS**

1 **FOLLOWS:**

2 THE CLERK: You may be seated.

3 MS. KOPANSKI: Thank you. Thank you so much.

4 THE CLERK: Just state your name for the Court,
5 please. Just state your name for the Court, please.

6 MS. KOPANSKI: Amber Kopanski.

7 **DIRECT EXAMINATION OF AMBER KOPANSKI BY MS. RAFFALDT:**

8 Q: All right. Ms. Kopanski, you're the plaintiff --
9 you're one of the plaintiffs in this action; is that
10 correct?

11 A: Yes, ma'am.

12 Q: And you're also the guardian as the parent for your
13 son V [REDACTED] K [REDACTED] [REDACTED], that's also a plaintiff in
14 this action; is that also right?

15 A: Yes, ma'am.

16 Q: And how old are you?

17 A: 46.

18 Q: And are you married?

19 A: No.

20 Q: Any children?

21 A: Yes.

22 Q: How many children do you have?

23 A: One.

24 Q: All right. And -- and who was that child, just for
25 the record?

1 A: V [REDACTED] K [REDACTED] [REDACTED].

2 Q: And could you tell the jury a little bit about

3 yourself, where you're from originally? Education?

4 A: Yes. Well, I lived in Nichols, South Carolina.

5 Education, five years of pre-pharmacy. I was going to be a

6 pharmacist.

7 Q: So you graduated high school?

8 A: Oh, yes. At Cal High School.

9 Q: All right. So -- so were you born and raised in Horry

10 County?

11 A: I was born in Ohio.

12 Q: And when did you come to -- when did you come to Horry

13 County?

14 A: Actually, we moved to Charleston, South Carolina first

15 when I was nine and then Hugo took us up to Marion County.

16 Yeah. So I was 11 -- yeah, I was 11 when we came to Marion

17 County.

18 Q: So Marion County is kind of your neck of the woods?

19 A: It's so enough, yes.

20 Q: And when was V [REDACTED] born? Just the year.

21 A: 2007.

22 Q: And can you describe to the jury what you were doing

23 on March 3, 2014, which is why we're here today?

24 A: Yes, thank you. I was going towards Myrtle Beach on

25 501. Yes, ma'am.

1 Q: At an intersection?

2 A: Yes, ma'am. Yep. And I had stopped at the red light,
3 you know, right there by the subway. And there you go. I
4 -- I usually stop at least, you know, two car lengths
5 before because I think that they should redo those lines
6 right there -- you know, right there. yeah, so I stopped,
7 you know, a little bit, you know, before that, you know,
8 two car lengths before that line, at the big line.

9 Q: And this is the intersection right before you get to
10 the bridge to head into Myrtle Beach from Conway; is that
11 right?

12 A: Yeah. Yes, that bridge.

13 Q: All right. And where you can turn on 378 or go to
14 downtown Conway?

15 A: Yep.

16 Q: Is that a yes?

17 A: Yes, ma'am. Sorry.

18 Q: All right. And you said you were stopped at the
19 intersection at a red light?

20 A: Yes.

21 Q: All right. What kind of vehicle were you in?

22 A: A 1994 Mitsubishi Expo.

23 Q: And was it your vehicle? Did you own it?

24 A: I did.

25 Q: And who was with you?

1 A: My son V [REDACTED] Ko [REDACTED] [REDACTED].

2 Q: Okay. And where was Vladimir sitting?

3 A: He was sitting on the back right.

4 Q: Was he in appropriate seating?

5 A: Yes. He was in a booster seat with the three-point

6 seatbelt over him.

7 Q: And how old was he at the time?

8 A: He was six years old.

9 Q: And around what time of day was the accident? Do you

10 recall?

11 A: Yes. Oh, of course. Yeah, it was in the dead of

12 night, 8:54 p.m. Yeah.

13 Q: And what happened?

14 A: Well, I was just sitting there waiting for the light

15 to turn, and then all of a sudden, boom. Got hit in the

16 backseat. I mean, you know, in -- in the back of the car.

17 Got -- I had my foot on the brake and I was plunged forward

18 into oncoming traffic because it was their -- you know,

19 their arrow. So there was a big semi-truck that almost hit

20 us at the same time. I had to put the car in reverse.

21 Q: To get out of the intersection?

22 A: Yes, ma'am.

23 Q: All right. And then what did you do after being hit

24 and -- and recognizing that an accident had just happened?

25 A: I just asked my son, I said, so what just happened,

1 honey? And he said, mama, we've been hit.

2 Q: And did you get out of your car?

3 A: After I backed it up, I was shocked for a second.

4 Everything that was on the dash was put to the floor. I

5 got -- I opened the door and I looked back and it was the

6 person who hit me, you know, in their car. And yes, ma'am,

7 I opened the door.

8 Q: All right. And -- and do you recognize the person

9 that hit you in the courtroom today?

10 A: It's been 10 years, but yeah, I do.

11 Q: All right. And is that the defendant that's sitting

12 near defense counsel at the other table?

13 A: Yes, ma'am.

14 Q: All right. Did you talk to Ms. Baker?

15 A: It was-- yes, it was, you know, very brief

16 conversation. Like I said, it was in the middle of the

17 nighttime, so.

18 Q: Did she say anything to you?

19 A: She said that she was sorry.

20 Q: Did you two decide on calling the police, getting a --

21 getting them to come out to the scene?

22 A: I called the police.

23 Q: And they came to the scene and --

24 A: Yes, ma'am. Yes, ma'am. Absolutely.

25 Q: All right. And have you reviewed the testimony of Ms.

1 Baker regarding the accident, her deposition?

2 A: I have. Yes, ma'am.

3 Q: All right. And -- and they've clarified today and she

4 admitted in her deposition she caused this accident; is

5 that correct?

6 A: Yes, ma'am. Yeah, there's no question.

7 Q: All right. And you two disagree as to how that

8 accident happened. Is that fair to say?

9 A: That is fair to say.

10 Q: And what type of damage was there to your car?

11 A: It was an indention into the plastic of the, you know,

12 the rear view -- I mean --

13 Q: The bumper?

14 A: Yes, ma'am, of the rear bumper.

15 Q: And did you get it fixed?

16 A: I did.

17 Q: And about how much did it cost to repair it?

18 A: Well, that was just, you know, the back of the car.

19 After that accident my engine started messing up as well.

20 So it was just -- you know, it was an itty bitty car, so.

21 Yes, ma'am.

22 Q: All right. Did you ultimately have to get rid of the

23 car?

24 A: I did.

25 Q: And how was your son feeling after the accident?

1 A: He felt horrible.

2 Q: When did he start showing symptoms and what were those
3 symptoms?

4 A: Yes, it was immediately after the impact. He said,
5 mama, my stomach doesn't feel good. And I said God. Yes,
6 ma'am.

7 Q: All right. And -- and what -- I know you said his
8 stomach doesn't feel good. What did he start exhibiting
9 later on?

10 A: He didn't want to eat -- eat, excuse me. He didn't
11 want to -- I had just bought a box of Pop-Tarts and that
12 was his favorite food and he wouldn't eat it, so.

13 Q: And when did that start?

14 A: The next morning. Forgive me.

15 Q: All right. Do you recall -- recall any other symptoms
16 that he had?

17 A: Yeah. He didn't want to drink much and he was in
18 pain. He wasn't too sure what was going on, you know.

19 Q: Where did he say he was in pain?

20 A: Right there, in his --

21 Q: And you're indicating his stomach area?

22 A: Yes, ma'am.

23 Q: Did he have any issues with his bowels at the time or
24 what was going on with it?

25 A: It was just the pain in his stomach, right after that.

1 Q: All right. Did you ultimately go to the pediatrician
2 and seek treatment for his symptoms?

3 A: Yes, ma'am.

4 Q: All right. And -- and where did you go first?

5 A: At what's it called Pee Dee Pediatrics, in between
6 Mullins and Marion in Office 76.

7 Q: And that's doctor who?

8 A: A Dr. Bahan -- or Bahan. I forget how you say his
9 name.

10 Q: Okay. That's B-A-H-A-N?

11 A: Yeah. Yeah, it is.

12 Q: Just to help madam court reporter.

13 A: Thank you.

14 Q: All right. So why didn't you go immediately after the
15 accident when your son started exhibiting symptoms?

16 A: I was a caretaker for two elderly farmers, the Baxley
17 family in Mullins and I was the only person that they had
18 and I -- they didn't have anybody else to help take care of
19 their farm -- you know, the -- of the -- of the two elderly
20 people. So I -- I just mustered on through hoping that
21 everything was going to get better with them and it didn't.
22 And by the time I was done work in my 12 hour to 14 hour
23 shift, the doctors were already gone.

24 Q: Did you try to help him on your own and give him --

25 A: I did.

1 Q: -- some home remedies?

2 A: Yes, ma'am.

3 Q: What did you do?

4 A: The Tylenol for children. That's what I did. Yeah.

5 Q: Did he have any diarrhea during this time?

6 A: It was mostly stomachache and pain and not eating, not

7 drinking. It was just like, you know, what just happened?

8 So we had to, you know, figure out what the heck just

9 happened because he was in the bathroom a lot.

10 Q: All right. When -- what date did you go to Dr. Bahan?

11 A: It was the 19th of March.

12 Q: And when you said he was in the bathroom a lot, were

13 you in there with him or comforting him? What were you

14 doing?

15 A: Well, I was sitting outside the bathroom. Should you

16 say, I want to give the child privacy, you know. Checking

17 on him, making sure he was still alive. He'd been in there

18 for an hour, you know.

19 Q: And this was every day until you saw Dr. Bahan?

20 A: Yes. When we got home from, you know, me working --

21 you know, sometimes I worked 24 hours a day for those

22 people. You know, it was the only one that they had to

23 take care of them.

24 Q: Did you take V [REDACTED] with you?

25 A: I did.

1 Q: Okay. So he was with you at all times when you were -
2 -
3 A: Yeah, he was going
4 Q: -- going for your job?
5 A: Oh, yeah. Yep.
6 Q: All right. And you said you saw Dr. Bahan on March
7 19, 2014?
8 A: I did. Yep, I did.
9 Q: All right. And what did you report to Dr. Behan as
10 far as his symptoms?
11 A: Well, that he was having stomach aches, you know, the
12 bruising, the -- just changed completely my child. He
13 wasn't eating right, he wasn't drinking what right. You
14 know, what -- yeah.
15 Q: Did you seek any follow-up treat? Did he continue to
16 have symptom -- or actually, a better question.
17 A: Yeah.
18 Q: What did Dr. Bahan do to help him with the issues that
19 you were describing?
20 A: He gave him MiraLax. He thought he was constipated.
21 Q: Did -- did you believe he was constipating?
22 A: Of course not.
23 Q: Why not?
24 A: Because he had, you know, the stomachache. You know
25 what start, you know. He didn't eat. You know, didn't

1 drink hardly, you know, after the car accident.

2 Q: And did he have diarrhea?

3 A: Yes, he did.

4 Q: All right. And when did you seek follow-up treatment

5 because of -- well, actually did he have additional issues

6 after you went to the doctor and got a MiraLax?

7 A: Oh, yes. Oh, yes, of course.

8 Q: All right. Did you try doing what the doctor

9 suggested you do?

10 A: I did.

11 Q: Did it help?

12 A: No. No, of course not. No, it didn't.

13 Q: So did you get some follow-up treatment?

14 A: Oh, absolutely.

15 Q: When was that?

16 A: Well, that was for months following after the, you

17 know, the March of 19th. You know, because it --

18 Q: Does April 16th, 2014 ring a bell?

19 A: It does, yes.

20 Q: Would it be easier if you had the medical records in

21 front of you?

22 A: It would be. Thank you.

23 Q: I want you to take a look at number one.

24 A: Okay.

25 Q: That's the Pee Dee records.

1 A: Thank you.

2 Q: Are you able to get to the April 16th date?

3 A: Yes, ma'am. I just got to go through.

4 Q: All right.

5 A: These are just shots.

6 Q: And let me help you just for the sake of time.

7 A: I appreciate that.

8 Q: Yeah. A lot of that is his prior.

9 A: Yeah, just his shot record for school, you know.

10 Q: All right.

11 A: Thank you. I appreciate you.

12 Q: Uh-huh. (Affirmative response) All right. Do you

13 have those records in front of you from that date?

14 A: I do.

15 Q: Do you remember what you described to the doctor based

16 on reviewing the records?

17 A: Yes. That he still had the abdominal pain, you know,

18 nothing changed. It was just getting worse.

19 Q: And -- and so what did the doctor do at that point?

20 A: He, you know, still told me to keep him on the

21 MiraLax. He was gaslighting me. I felt he just wasn't

22 taking care of my child.

23 Q: And -- and did he continue to have issues after that -

24 - that visit?

25 A: Oh, yes.

1 Q: So did you try to take him to a chiropractor?

2 A: Yes, that was in -- in April though.

3 Q: Okay. And how did that go?

4 A: Well, you know, I had never done that before. You

5 know, I -- I said I -- I -- you know, I would try to help

6 the child because his -- you know, he said his neck hurt,

7 you know. And I -- I didn't like it. You know, I said,

8 no, he's too young. So I -- I refrain from that happening.

9 Q: Okay. Did it help him at all, the -- the procedures

10 that the chiropractor was doing?

11 A: You know, it really scared him and I didn't think it

12 was right for six year olds. So I'm like, no. He had no -

13 - it -- it scared him too much, you know.

14 Q: Well, what gave you the idea for a chiropractor?

15 A: Well, he said his neck hurt and he was right in town.

16 Q: So you -- you had gotten a recommendation about him?

17 A: I did, yes. From Ms. Baxley -- Ms. Dorothy Baxley.

18 Q: All right. And after Dr. Bahan and -- and Dr. Falk

19 with Spinal Care Center, the chiropractor, did you get any

20 other treatment for V [REDACTED] or get any second opinions for

21 him?

22 A: Oh, yes, absolutely.

23 Q: All right. Where did you go?

24 A: To MUSC in Charleston.

25 Q: All right. And were you referred to MUSC?

1 A: Well, because, you know, that doctor was just giving
2 him MiraLax. I was like, you know, I might have to take
3 this into my own hands. I said, you know, please can you
4 refer him to MUSC because his -- you know, he's not getting
5 better. He's just getting worse. And they said, sure, no
6 problem.

7 Q: Okay. Was he missing school?

8 A: He was. Yes, he was.

9 Q: How much do you think he missed during the -- the time
10 before you got to MUSC?

11 A: Oh, I would say after two weeks almost. Yeah, they --

12 Q: And this is the latter part of the year; is that
13 correct?

14 A: Yes, it was. Yes, it was. Yeah. He actually missed
15 the last two weeks of school. Yeah. Excuse me.

16 Q: All right. And -- and when did you go to MUSC? When
17 did you get that visit?

18 A: That was in June of 2014.

19 Q: And -- and when did the doctor -- did the doctor
20 evaluate and did you -- what did you describe as far as his
21 symptoms?

22 A: No tests had been done, you know, no labs or anything,
23 you know, like that. And he just, you know, basically
24 said, okay, so we're going to --

25 MR. SMITH: Your Honor, at this point, I'm going to

1 have to object to anything she says a doctor said. That's
2 hearsay.

3 THE COURT: Yeah. You can't testify to something
4 somebody else said.

5 MS. KOPANSKI: Okay.

6 THE COURT: Again, that would be improper. So I'm
7 going to sustain your objection.

8 MS. KOPANSKI: Okay.

9 THE COURT: Can you rephrase the question?

10 MS. KOPANSKI: Thank you.

11 MS. RAFFALDT: Sure, Judge.

12 BY MS. RAFFALDT:

13 Q: What symptoms did you describe to the doctor you saw
14 in MUSC?

15 A: Yes. That he had --

16 MR. SMITH: Your Honor, anything that the doctor said
17 I would object --

18 THE COURT: I -- I don't think that's what he -- she
19 said. She said --

20 MR. SMITH: Can you pull the microphone closer to you?

21 THE COURT: She was asking the symptoms that she gave
22 to the doctor.

23 MS. KOPANSKI: Thank you.

24 THE COURT: Yeah.

25 MS. KOPANSKI: Yes. You know, the pains in his

1 stomach, you know, his lower abdomen and up a little bit
2 more, you know. But it was just painful. He was, you
3 know, lethargic. He wasn't moving, he wasn't playing like
4 he, you know, always does as a child, you know. That he
5 was not eating right. He was, you know, not drinking
6 right. You know, that there was a substantial change in my
7 child. Can you tell me what happened to him?

8 BY MS. RAFFALDT:

9 Q: And did they perform any testing at that visit?

10 A: No ma'am.

11 Q: Were you concerned about your son?

12 A: Yes, absolutely.

13 Q: Had he had any of these type of stomach issues before?

14 A: No, ma'am.

15 Q: So he had never been to the pediatrician about any
16 type of stomach problem?

17 A: No, ma'am. No, ma'am.

18 Q: What kind of treatment had you gone to the
19 pediatrician for V [REDACTED] when he was six years old? So
20 I'm sure you went at some point.

21 A: Of course. You have to about -- you know, state law,
22 they have to have to have --

23 Q: So what treatment did you give him before all this?

24 A: Well, they gave him his shots, you know.

25 Q: Did he have any other treatment like for a cold?

1 A: Oh, yes. He's had, you know, colds before and, you
2 know, strep throat, you know, the basics and stool. But
3 that was it. You know, nothing, you know, abdominal
4 whatsoever.

5 Q: So no treatment for abdominal pain or abdominal issues
6 until after this accident?

7 A: Yes, ma'am.

8 Q: And did the doctor give you a -- a diagnosis or a
9 reasoning for these symptoms?

10 A: No, ma'am. He just said, okay, well, this is the
11 symptoms we have, so we'll work to help your son as best as
12 we can.

13 Q: Would the medical records refresh your recollection on
14 what the doctor may have told you in terms of V [REDACTED]
15 symptoms and his diagnosis?

16 A: Yes, ma'am.

17 Q: All right. If you want to refer to the MUSC records.

18 A: I'm just flipping it over. Okay.

19 MS. RAFFALDT: Judge, if I may approach.

20 THE COURT: Yes.

21 MS. KOPANSKI: Thank you. Okay. Thank you.

22 MR. SMITH: Your Honor, if they're going to make
23 specific references to the records, there's page numbers at
24 the bottom, if they could refer to that page number, so I
25 could keep up.

1 MS. KOPANSKI: Yes, sir.

2 BY MS. RAFFALDT:

3 Q: Can you provide the page number for Mr. Smith please,
4 Amber?

5 A: Page 17 of the MUSC health report -- page 17 of 859.

6 Q: And please let me know when you're done reviewing.

7 A: Yes, ma'am.

8 MR. SMITH: Your Honor, I'm going to object to
9 anything that's in the medical record. She can call
10 doctors from MUSC to testify. This lady can't testify
11 what's in a -- in the medical record of MUSC. It's
12 hearsay.

13 THE COURT: Are you going to introduce the -- their
14 medical record?

15 MS. RAFFALDT: I plan to introduce their medical
16 record, Judge, but I -- at this moment in time, I'm just
17 allowing her to refresh her recollection because it's -- it
18 has been 10 years ago.

19 THE COURT: Well, I'll allow it to be used to refresh
20 -- excuse me -- to refresh her recollection, but not to
21 read directly from it, so.

22 MS. KOPANSKI: Okay. Let me go through it. And I
23 appreciate you because it has been such a long time. Okay.
24 I'm ready.

25 BY MS. RAFFALDT:

1 Q: All right. Do you recall now what the doctor
2 diagnosed your son with?

3 MR. SMITH: Your Honor, a doctor's diagnosis is --
4 that's an expert opinion that requires the doctor to be
5 here. That's hearsay.

6 THE COURT: I'm going to allow her to testify as to
7 this -- as to what she recalls.

8 BY MS. RAFFALDT:

9 A: Yes. It's IBS.

10 Q: All right. And -- and what -- what do you --

11 MR. SMITH: Continue my objection, Your Honor.

12 THE COURT: Yeah.

13 BY MS. RAFFALDT:

14 Q: What do you know IBS to be?

15 A: Irritable bowel syndrome.

16 Q: And was there also constipation mentioned in that
17 record as well?

18 A: That's what they kept saying, you know. Yes, yes,
19 there was.

20 Q: And abdominal pain?

21 A: Yes. Abdominal pain.

22 Q: And -- and what kind of medication was he prescribed
23 or was he ordered to stay on the same medication?

24 A: Yeah. Just MiraLAX the, you know, Tylenol -- you
25 know, children's Tylenol.

1 Q: And after this IBS diagnosis, did you -- did your son
2 continue to have symptoms?

3 A: Yes, he did.

4 Q: All right. And what kind of symptoms did he have?

5 A: The same symptoms. They just got more painful and
6 more, you know, horrible for him.

7 A: And can you --

8 A: It was more constant.

9 Q: -- describe those symptoms again.

10 A: And I thank you. So it was just, you know, pain, you
11 know, discomfort. He didn't want to play. He was very
12 lethargic, sitting on the couch all day, you know, even
13 when I was working, you know. Yeah. He -- he was just,
14 you know, sedentary, you know, he was just sitting still.
15 He was in a bathroom for hours, just pain and it was
16 horrible. He had lost weight as well.

17 Q: How much weight did -- how much weight did he lose?

18 A: He lost 12 pounds.

19 Q: Over the course of how long?

20 A: Four months.

21 Q: And in terms of his ongoing symptoms, when did they
22 finally stop?

23 A: July of 2015.

24 MS. RAFFALDT: And Judge, if I may approach?

25 THE COURT: Yes.

1 REPORTER'S NOTE: (WHEREBY BENCH CONFERENCE WAS HELD)

2 THE COURT: All right, ladies and gentlemen, we're
3 going to take a brief break to take up a matter outside of
4 your presence. It's a matter of law. It doesn't concern
5 you, but again, I ask you not to speak about anything that
6 you've heard on the witness stand. We are still early in
7 this trial. But again, if you'll retire to your jury room,
8 we'll be with you in just a few minutes. Thank you.

9 REPORTER'S NOTE: (JURY EXITS COURTROOM AT 11:18AM)

10 THE COURT: All right. Ms. Raffaldt.

11 MS. RAFFALDT: All right. And -- and if I could just
12 talk to Mr. Smith really quick?

13 THE COURT: Okay.

14 MS. RAFFALDT: Because I want to try to speed it up as
15 much as I can and if we can agree on some things, so maybe
16 I can --

17 REPORTER'S NOTE: (WHEREBY BENCH CONFERENCE WAS HELD)

18 **PROFFERED TESTIMONY OF AMBER KOPANSKI BY MS. RAFFALDT:**

19 Q: Ms. Kopanski, we left off on the IBS diagnosis,
20 correct?

21 A: Yes, we did.

22 Q: All right. And did you get follow-up treatment with
23 MUSC after the IBS diagnosis with Dr. Brownell?

24 A: Yes.

25 Q: All right. And do you recall on November 19, 2014,

1 THE COURT: All right. Thank you, ladies and
2 gentlemen.

3 All right. Ms. Raffaldt, you may continue.

4 MS. RAFFALDT: Thank you, Judge.

5 **CONTINUED DIRECT EXAMINATION OF AMBER KOPANSKI BY MS.**

6 **RAFFALDT:**

7 Q: All right. Ms. Kopanski, I believe we left off with
8 the jury that V [REDACTED] had had symptoms, meaning the
9 diarrhea, the abdominal pain issues, the lethargy, up until
10 July of 2015. Is that accurate based on your testimony
11 when we last left off?

12 A: Yes, ma'am.

13 Q: All right. And -- and as a result of his treatment,
14 did -- actually, let me get these. And V [REDACTED] received
15 treatment that you've -- you've discussed in your testimony
16 regarding his symptoms; is that correct?

17 A: Yes, ma'am.

18 Q: And I'm going to hand up to you what are his records
19 from Pee Dee Pediatrics, Spinal Care Center of Mullins, and
20 MUSC. Are these an accurate reflection of the records and
21 -- and the treatment that V [REDACTED] received during this
22 time period?

23 A: Yes, ma'am.

24 MS. RAFFALDT: Judge, I'd like to enter this in as
25 Plaintiff's 1.

1 THE COURT: Any objection?

2 MR. SMITH: No, objection, Your Honor --

3 THE COURT: All right.

4 MR. SMITH: -- subject to my review.

5 THE COURT: Yeah. Plaintiff's 1 will be admitted into
6 evidence. Thank you, Ms. Raffaldt.

7 (PLAINTIFF'S EXHIBIT 1 IS
8 ADMITTED INTO EVIDENCE.)

9 BY MS. RAFFALDT:

10 Q: And during the course of V [REDACTED]'s treatment, did you
11 also incur medical bills?

12 A: Yes, ma'am. Many.

13 Q: All right. And again --

14 MR. SMITH: Your Honor, let me -- let me state for the
15 record then if those are the records, I do object because
16 it's all hearsay. I thought she was introducing the bills.

17 THE COURT: She introduced the records.

18 MR. SMITH: So I do object to the records as being
19 hearsay, Your Honor.

20 THE COURT: All right. I'm going to --

21 MR. SMITH: If she wants to redact and just put the
22 history of present illness in the record, that is
23 admissible under Rule 803(4). But the balance of those
24 records that contain opinion testimony are not admissible,
25 -- admissible under the business record rule, nor are they

1 admissible because the standard hearsay objection.

2 THE COURT: All right. I'll review them after this.

3 All right.

4 MS. RAFFALDT: Thank you, Judge.

5 BY MS. RAFFALDT:

6 Q: And these are the bills from Pee Dee Pediatrics,
7 Spinal Care Center of Mullins, and MUSC; is that correct?

8 A: Yes, ma'am.

9 Q: All right. And are those an accurate reflection of
10 the bills incurred in this case?

11 A: There's many more.

12 MS. RAFFALDT: All right. I'd like to enter this in
13 as Plaintiff's 2, Judge.

14 THE COURT: Any objection?

15 MR. SMITH: No, sir.

16 THE COURT: Plaintiff's 2 is admitted.

17 **(PLAINTIFF'S EXHIBIT 2 IS**
18 **ADMITTED INTO EVIDENCE.)**

19 BY MS. RAFFALDT:

20 Q: All right. Ms. Kopanski, how did V [REDACTED]'s injuries
21 affect his daily life?

22 A: They affected it 100 percent.

23 Q: And can you describe what you mean by that to the
24 jury?

25 A: Yes. He was not the same child as before the accident

1 and after the accident. He was very lethargic. He was not
2 eating right, not drinking right. He was not playing
3 anymore. He was sitting on the couch, in bed. He was
4 very, very sad. He didn't know what just happened to him,
5 you know. Yeah, he was a whole -- you know, a totally
6 different child.

7 Q: Up until July of 2015?

8 A: Yes, ma'am.

9 Q: So for over a year --

10 A: Yes, ma'am.

11 Q: Is that accurate?

12 A: Yes, ma'am. Yes, ma'am.

13 Q: All right. Did he have any of these issues going on
14 prior to the accident occurring?

15 A: No, ma'am.

16 Q: And is there anything else that you wish to tell the
17 jury?

18 MR. SMITH: Objection, Your Honor. That's not a
19 proper question.

20 THE COURT: I'm going to allow it on a limited scope.

21 BY MS. RAFFALDT:

22 Q: Is there anything else that you wish to tell the jury
23 about V■■■■■■'s injuries?

24 A: I'm just grateful that he did get better.

25 Q: And are you asking Ms. Baker, the defendant in this

1 case, to be held accountable for V [REDACTED]'s injuries, as
2 well as the medical bills that were incurred in this case?

3 A: Yes, ma'am.

4 MS. RAFFALDT: No further questions, Judge.

5 THE COURT: All right. Thank you, Ms. Raffaldt.

6 MR. SMITH: May it please the Court?

7 THE COURT: Yes, sir.

8 **CROSS-EXAMINATION OF AMBER KOPANSKI BY MR. SMITH:**

9 Q: Ms. Kopanski --

10 A: Yes, sir.

11 Q: Let me ask, if you would, to identify photograph
12 that's been marked as number 2 and photograph that's been
13 marked as number 1. You see those?

14 A: Yes, sir.

15 Q: And those are pictures of your car after the accident,
16 before any repairs are made?

17 A: Yes, sir.

18 MR. SMITH: I move to introduce 1 and 2 on the record,
19 Your Honor.

20 THE COURT: Any objection?

21 MS. RAFFALDT: No objection.

22 THE COURT: All right. Defense's Number 1 and Number
23 2 are admitted into evidence.

24 **(DEFENSE EXHIBIT 1 AND 2 ARE**
25 **ADMITTED INTO EVIDENCE.)**

1 BY MR. SMITH:

2 Q: And just to make sure I understand your testimony, you

3 indicated that if the stop bar for the intersection is

4 here, you were two car lengths behind it?

5 A: Yes, sir.

6 Q: So you wouldn't have stopped here. Let's see. You

7 stopped this far back from the stop bar?

8 A: My car was very small and itty bitty. It was a very

9 small compact SUV.

10 Q: I'm about 30 feet away?

11 A: You would have to come up about 8 foot a little bit

12 and that's -- yeah, that's about right. Yes, sir.

13 Absolutely. Yes, sir.

14 Q: So you stopped that far behind the stop bar?

15 A: I do not -- yes. Yes, I did. Yes, sir.

16 Q: And it's your testimony that the collision that caused

17 that damaged knocked you from this point --

18 A: Yes, sir.

19 Q: -- past this point into the intersection?

20 A: Yes, sir. Yes, sir. It did.

21 Q: You've estimated that speed to be between 25 to 35

22 miles per hour in your deposition testimony. Do you recall

23 that?

24 A: Yes, sir.

25 Q: And after seeing those pictures, that's still your

1 testimony?

2 A: Yes, sir.

3 Q: All right. Now, you made a phone call to MUSC
4 according to their records on September 22nd of 2014; is
5 that correct?

6 A: No, sir. That must have been -- yeah, those records
7 were --

8 Q: And you and I have looked at this before?

9 A: Yes, sir.

10 Q: Since MUSC, Medical University of South Carolina,
11 right?

12 A: Yes, sir.

13 Q: Visit date is 9/22/14? Is that what that says?

14 A: Yeah. Yes, sir. It says it on that piece of paper.
15 Excuse me.

16 Q: And on this visit date, under the encounter, it says -
17 - it talks about it being a telephone encounter; is that
18 right?

19 A: That's what it says on that piece of paper.

20 Q: And the piece of paper is dated September 22, 2014, at
21 1:36 p.m.; is that right?

22 A: That's what it's on the piece of paper. Yes, sir.

23 Q: And it says, and I quote, "Mom wanted doctor to know
24 she feels he," and that's your son, right?

25 A: Yes, sir. Yeah, he is. V [REDACTED] K [REDACTED] [REDACTED].

1 Q: "Mom wanted doctor to know he -- she feels he is back
2 at 100 percent since the accident, his appetite has
3 returned and son is doing well." That's what that says; is
4 that correct?

5 A: Yes, sir, it is. Okay.

6 Q: Did you have a chance to look at Ms. Baker's car?

7 A: Yes, sir. I saw the photographs. Yes, sir.

8 Q: Do you recognize that as her car?

9 A: Looks about right.

10 Q: Okay.

11 A: Yes, sir.

12 MR. SMITH: And that's marked as Exhibit 3, and I move
13 to introduce that into the record.

14 THE COURT: Any objection from the Plaintiff?

15 MS. RAFFALDT: No objection, Judge.

16 THE COURT: Defense Number 3 is admitted into
17 evidence.

18 **(DEFENSE EXHIBIT 3 IS**
19 **ADMITTED INTO EVIDENCE.)**

20 MS. KOPANSKI: Thank you, sir.

21 BY MR. SMITH:

22 Q: Now, did you take your son to the emergency room that
23 night?

24 A: No, sir.

25 Q: And I understand you didn't ride to the ambulance

1 because you didn't want to have to leave your car and make
2 arrangements to go to and from, et cetera, et cetera,
3 right?

4 A: Yes, sir.

5 Q: But you could have driven to Conway Medical Center
6 that night. We know where you were. It is just right down
7 the road.

8 A: Yes, sir. It is just down the road.

9 Q: You could have gone there that night had you felt at
10 that moment like your son was in dire straits; is that
11 correct?

12 A: Yes, sir.

13 Q: And you chose not to do that?

14 A: Yes, sir.

15 Q: Okay. In fact, it wasn't until what, 16 days later
16 that you took him to the doctor?

17 A: Yes, sir.

18 MR. SMITH: No further questions.

19 THE COURT: Redirect?

20 MS. RAFFALDT: Briefly, Judge.

21 **REDIRECT EXAMINATION OF AMBER KOPANSKI BY MS. RAFFALDT:**

22 Q: Ms. Kopanski, Mr. Smith mentioned -- mentioned a -- a
23 reference to September 22, 2014 notation in the medical
24 records; is that right?

25 A: Yes, ma'am. Yes, ma'am.

1 Q: Do you recall that in -- in his line of testimony?

2 A: Yes, ma'am.

3 Q: All right. Did you make that phone call?

4 A: I may have reported, you know, in 2015, something like

5 that because it was in 2015 is when he started feeling

6 better after they gave him the medicine.

7 Q: Did you call the doctor's office in September of 2014

8 and say that he was 100 percent?

9 A: No, ma'am.

10 Q: It is your testimony that V [REDACTED]'s symptoms

11 continued until July of 2015; is that right?

12 A: Yes, ma'am.

13 Q: Is that the point when V [REDACTED] was 100 percent?

14 A: He was definitely 100 percent, yes. He was, you know

15 --

16 Q: At that time in July, 2015?

17 A: Yes, ma'am. By the grace of God.

18 Q: He wasn't having any further symptoms or anything like

19 that in July of 2015?

20 A: No, ma'am.

21 Q: All right. But he continued to have symptoms before

22 that time period?

23 A: Yes, ma'am.

24 Q: Including in September of 2014?

25 A: Yes, ma'am. Yes, ma'am.

1 MS. RAFFALDT: No further questions, Judge.

2 MR. SMITH: Just a brief follow-up.

3 **RECROSS EXAMINATION OF AMBER KOPANSKI BY MR. SMITH:**

4 Q: Just a couple of quick things.

5 A: Yes, sir. Yes, sir.

6 Q: Your son's name is correct?

7 A: Yes, sir. It is

8 Q: Date of birth is correct?

9 A: Yes, sir.

10 MR. SMITH: I move to introduce this record, Your
11 Honor. It doesn't say anything other than her history.

12 THE COURT: Okay. Any objection?

13 MS. RAFFALDT: No objection, Judge. I believe -

14 THE COURT: What's -- what's the page number?

15 MS. RAFFALDT: I believe it might be in the record
16 already. So that's fine.

17 THE COURT: All right. So that would be Defense
18 number 3 -- or excuse me -- number 4. Defense Number 4 is
19 admitted.

20 **(DEFENSE EXHIBIT 4 IS**
21 **ADMITTED INTO EVIDENCE.)**

22 THE COURT: Anything else, Mr. Smith?

23 MR. SMITH: No, sir.

24 THE COURT: All right. Ms. Kopanski, you may step
25 down.

1 MS. KOPANSKI: And thank you so much.

2 THE COURT: Yes. Ms. Raffaldt, you can call your next
3 witness.

4 MS. RAFFALDT: Judge, I do need a brief period to
5 speak to them based on --

6 THE COURT: Okay. Why don't we do this? It's 12:05.
7 We'll go ahead and break for lunch. If you can be back
8 here at 1:15, please. We'll hopefully start back directly
9 at 1:15. Again, just a reminder not to speak about any
10 testimony that you've heard, discuss this matter with
11 anybody else, including your fellow jurors until I tell you
12 it's time to begin deliberations. Thank you. We'll see
13 you at 1:15.

14 REPORTER'S NOTE: (JURY EXITS COURTROOM AT 12:03PM)

15 THE COURT: All right. During the break, I'll take a
16 look at this.

17 MR. SMITH: Yes, sir. I would object to any of that
18 coming in as hearsay. There's not been anybody to verify
19 the business records rule and I believe it contains
20 opinions from doctors that would be inadmissible under the
21 business records rule.

22 THE COURT: All right. I'll take a look at it. Your
23 objection is noted.

24 MS. RAFFALDT: And Judge, I -- I would state that we
25 had a certificate of authenticity. I had sent the records

1 that we proposed to stipulate to Mr. Smith. Prior to this
2 trial commencing, my understanding was the primary argument
3 was going to be the motion in limine and that the
4 authenticity of the records was not in question.

5 In terms of the allegation that it's hearsay, I will
6 state that the hearsay exception for statements made for
7 the purposes of diagnosis or treatment would make these
8 records inadmissible for the most part. It is information
9 regarding the statements that my client made to the doctors
10 in order for the doctors to make their opinion as far as
11 the diagnoses.

12 THE COURT: All right, thank you. I'll take a look at
13 them and I'll give you a ruling as soon as I get back. All
14 right.

15 MR. SMITH: Thank you.

16 MS. RAFFALDT: Thank you, Judge.

17 THE COURT: We'll be back -- let's try to start
18 directly at 1:15. Okay.

19 MR. SMITH: Very good.

20 MS. RAFFALDT: Thank you, Judge.

21 (COURT IS IN RECESS)

22 THE COURT: All right. Are we ready to proceed?

23 MR. SMITH: Yes, sir, Your Honor.

24 THE COURT: All right. I did go -- Ms. Raffaldt, I
25 did go through this and I -- I think there may be a few

1 things that we do need to address. It appears that the
2 medical records -- some of them actually have on them the
3 2015 colonoscopy. Let's see here. As for the MUSC
4 documents, page 2 of it down at the bottom, it represent --
5 references surgical history from 2015. The page 15 -- page
6 15 appears to be in the notes. It's a letter to Mark Bahan
7 from Dr. -- I'm trying to remember the name. Naylor
8 Brownell. It just appears that the letter that was written
9 to Dr. Bahan from Dr. Brownell.

10 It goes all the way from page 15 to page 18. I do
11 think that that would be hearsay. It's -- it's again, a
12 letter from a doctor to a doctor. I mean, it even starts
13 out as, Thank you for -- I had the pleasure of seeing your
14 patient. I mean, it's obviously written to another doctor.
15 I think that would be hearsay without an exception. Page
16 32, it -- it's, again -- I don't know if it's a copy of
17 that previous page 2, but it references those same
18 procedures done in 2015.

19 MR. SMITH: That's the computer system that they used.
20 Judge, when it goes back to a certain category, it'll
21 reiterate it. So it takes it from the last entry. And
22 it'll back-feed it into the -- the records. That's why
23 you're seeing stuff that hasn't happened yet.

24 THE COURT: Got you. Got you. And then on page 43,
25 it's that same letter. And that's from Naylor -- Naylor

1 Brownell and it goes from 43 to page 45. Under Rule 803,
2 "Physician's testimony should include only those statements
3 related to him by the patient upon which the physician
4 relied in reaching medical conclusions. However, a medical
5 conclusion would not fall within an exception would be
6 inadmissible."

7 The -- I think there was -- and -- and you may be able
8 to clarify this, Ms. Raffaltdt, it appears that the -- the
9 bulk of the Pee Dee Pediatric stuff is from -- that you put
10 in the record is from 2012.

11 MS. RAFFALDT: That's some of the initial
12 documentation, Judge, because my client testified that
13 there was no prior stomach issues prior to that she sought
14 treatment for.

15 THE COURT: And that that appeared -- I mean, it looks
16 like there's some stuff in here about an insect bite.

17 MS. RAFFALDT: Later on in the records, is more
18 relevant to after the car accident, but the initial records
19 are prior to the accident where there was no issues with
20 abdominal pain.

21 THE COURT: Okay. And I don't see necessarily
22 anything that I believe would fall into that category of
23 making some kind of medical conclusion. Mr. Smith, any --
24 any response?

25 MR. SMITH: Yes, sir. Just in general, I would object

1 to any record or bill coming in that references the -- any
2 kind of abdominal issue whatsoever.

3 THE COURT: Got you.

4 MR. SMITH: I understand Your Honor's ruling from
5 earlier.

6 THE COURT: Have you had a chance to look at the
7 letter from Spinal Care Center of Mullins?

8 MR. SMITH: A letter?

9 THE COURT: It's a -- it appears to be -- well, I'm
10 sorry. I guess it's a -- a record. It's kind of framed
11 almost like a letter, but I guess it is a record. It does
12 appear to be -- 1, 2, 3 -- 4 pages from Mitchell Falk. And
13 here I'll --

14 MR. SMITH: No, that's the chiropractor.

15 THE COURT: It is. Yeah.

16 MR. SMITH: Your Honor, I'll --

17 THE COURT: My -- my issues with it again are that it
18 -- it does appear to -- to somewhat make medical
19 conclusions, even though it does say that the child stopped
20 treating and missed a few appointments.

21 MR. SMITH: Right. Every place where it says,
22 "assessment" or "diagnosis," those are conclusions that are
23 not admissible. The only thing that is admissible to me is
24 the history of the condition. Everything else in that
25 record is -- is inadmissible because it essentially is the

1 basis for the doctor's opinions. He can talk about what he
2 --

3 THE COURT: Has been told.

4 MR. SMITH: Objective findings. Those aren't
5 opinions, necessarily, but all of that it references
6 subjective complaints is admissible. But when it talks
7 about assessment, those kinds of entries are not --

8 THE COURT: What I'm going to do with this that's been
9 marked as Plaintiff's Exhibit 1, Ms. Raffaltdt, I'm going to
10 ask that you and Mr. Smith, maybe during one of our breaks,
11 take a look at it and see if y'all can come to some kind of
12 resolution on what to take out. I do believe Mr. Smith, as
13 far as any kind of medical conclusions, I believe he's
14 correct on that.

15 As far as the historical information, there's a lot of
16 historical information of here, you know, what was told by
17 his mother. I think that that's fine. In regards to the
18 assessments and -- and the treatment plan, I think that the
19 treatment plan may be okay. But there's not a whole lot of
20 that in here. It's more of the assessments. And I do
21 think that, again, that would be hearsay. That's not --
22 there's not an exception for it. So I'm going to just hand
23 this back to you. If y'all two can kind of just kind of
24 get together again at some point. We've got a little bit
25 of time before this goes back to the jury anyway. That way

1 maybe y'all can take a look at I and we can go from there.
2 Okay.

3 MR. SMITH: Thank you, Your Honor.

4 THE COURT: All right. Ms. Raffaldt, other than that,
5 are you ready to proceed with your next witness?

6 MS. RAFFALDT: I am. Judge, can I have two minutes?

7 THE COURT: Yeah.

8 MS. RAFFALDT: I have to drink a lot of water.

9 THE COURT: No, no, no, that's fine. Take your time.
10 Go ahead.

11 MS. RAFFALDT: Sorry. I'll be right back.

12 (COURT IS IN RECESS)

13 MS. RAFFALDT: Sorry about that, Judge.

14 THE COURT: Oh, no problem, Ms. Raffaldt.
15 All right. Let's go ahead and bring in the jury.

16 REPORTER'S NOTE: (JURY ENTERS COURTROOM AT 1:33PM)

17 THE COURT: All right. Thank you, Madam Forelady.
18 Thank you, ladies and gentlemen, I hope that you had a good
19 lunch. I apologize for taking a little longer to bring you
20 back. We had a few matters we needed to take up outside of
21 your presence. We've gotten those taken care of, so
22 hopefully we can proceed accordingly.

23 Ms. Raffaldt, your next witness, please.

24 MS. RAFFALDT: Yes, Judge. We would call Robin
25 Bailey.

1 THE COURT: Okay.

2 THE CLERK: Okay. Can I have you raise your right
3 hand. Place your left hand on the Bible.

4 **ROBIN BAILEY, HAVING BEEN DULY SWORN TESTIFIES AS FOLLOWS:**

5 THE CLERK: Just state your name for the court please.

6 MS. BAILEY: Robin Bailey.

7 THE COURT: All right. Thank you, Ms. Bailey. Yes.

8 MS. RAFFALDT: Thank you, Judge.

9 **DIRECT EXAMINATION OF ROBIN BAILEY BY MS. RAFFALDT:**

10 Q: All right. Ms. Bailey, what is your relationship to
11 Amber Kopanski and V [REDACTED] K [REDACTED]?

12 A: Amber Kopanski is my daughter, and V [REDACTED] K [REDACTED]
13 is my grandson.

14 Q: Okay. And have you been very involved with them
15 through -- throughout V [REDACTED]'s life in other ways?

16 A: Yeah. We're a good family.

17 Q: Okay. So do you know why we're here today?

18 A: Yes, I do.

19 Q: All right. And -- and why are we here? In your
20 opinion?

21 A: To discuss V [REDACTED]'s injuries and pain.

22 Q: So you're aware of the car accident that happened on
23 March 3, 2014?

24 A: Yes, I am.

25 Q: And did you have a chance to see V [REDACTED]'s symptoms

1 during 2014?

2 A: Yes, I did.

3 Q: All right. When did you see those symptoms?

4 A: I saw those symptoms shortly after the accident. I

5 was here in Charleston by chance because my other son had

6 his first son; I had another grandson. And I helped --

7 came down and helped her with the baby. And then they got

8 in that accident and Amber called me up. I think I had

9 about two weeks with the baby and she said she was really

10 worried about how V [REDACTED] was acting.

11 So I said, well, let me -- you know, I'm not too far

12 away. Let me drive down and see how you're doing. I went

13 there and I took care of him while she can go back and

14 forth to her and whatnot.

15 Q: All right. And how long did you stay?

16 A: I have a hard time that I'm down -- three weeks.

17 About two weeks. And then I had to go back because my

18 other daughter-in-law was having a hard time. They weren't

19 getting any sleeps and, you know, they had no idea when

20 newborn baby was. So they asked mom to come back. So I

21 told her I had to go back there and give them about a

22 week's worth of sleep and then I'll be back to help you.

23 Q: So during the two weeks you were there during his --

24 in the initial time after the accident --

25 A: Yes.

1 Q: -- what kind of symptoms did you see?

2 A: Well, it started with his stomachache and then he
3 would -- about a half an hour of that, and then he would
4 have to go to the bathroom. And then he was in the
5 bathroom for just a really long time, more than usual. And
6 we'd come out and he was just kind of lethargic, tired. So
7 we'd lay down on the couch and watch cartoons and like feed
8 him. We were all keeping them on liquid because we were
9 kind of scared about giving them salads. So we were
10 getting them noodle soups and, you know, some oatmeal and
11 just liquid diet.

12 Q: All right. And whenever you say he was in the
13 bathroom for a really long time, about how long would he
14 stay in the bathroom on any given day?

15 A: Well, it took -- I'm going to say -- SpongeBob
16 SquarePants is half an hour. So we would watch that and
17 during that he would start the stomach pains. And then I'd
18 -- I'd pause it and then he would -- I'm going to say about
19 half an hour. It just eventually got longer and longer and
20 we became -- you know, I became concerned about it. You
21 know, it's not normal for a 7-year-old. Usually, they
22 don't even like the bathroom. So I told neighbors, there's
23 something -- something's wrong here, you know.

24 Q: So did you guys do anything after that point? And
25 since you had the concerns, did you do anything afterward

1 to get V [REDACTED] some help?

2 A: Yes. She said it was, and you need to start calling
3 some doctors. Something is not -- is not right. This is
4 not V [REDACTED]. And we'd lay around after the body, after he
5 was in the bathroom and we'd just lay on the couch and
6 watch cartoons and Scooby Doo and all that, you know. Just
7 tried to -- to calm him down because he was -- didn't feel
8 like doing anything, and that wasn't him, you know.

9 Q: And was he in pain most of the time?

10 A: He was in pain at first. Of course, I didn't go in
11 the potty with him. And then he'd come out and he'd be
12 tired, like lethargic tired, you know, did like crawl up
13 and grab his arms and we just watching TV.

14 Q: Did he have multiple episodes a day?

15 A: Not a day. At least one a day at first. Then I just
16 told her he just -- you know, we were waiting for it to go
17 away, you know. And I told her to call the doctor. We saw
18 blood in his stool. That's (inaudible) notice.

19 Q: All right. You said that he had bloody stool?

20 A: Yep.

21 Q: And how often would you come -- I know you said you
22 stayed for two weeks at one point. How often would you
23 come to Nichols, South Carolina?

24 A: Well, after we left the baby -- after I went back --
25 back with her, I stayed for about three weeks or so. And

1 then I had to go back home. I have a husband and life up
2 there and then we'd come back and forth and she said
3 there's something wrong. He's -- he's just not himself. I
4 have to work, now they don't want to keep him in school,
5 you know, because he was missing too much school because of
6 stomach aches.

7 You know, we'd want to go someplace; we couldn't go
8 anywhere, because we tried to go to the zoo. We were very
9 active. We took him to the zoo and stuff like that, you
10 know. We had fun. And he wouldn't -- he couldn't go
11 because he had that stomach ache, which is followed by the
12 hour-long bathroom, which is followed by the you know,
13 lethargic, tired. You know, he'd grab his pillow, cough on
14 the couch, watch TV.

15 Q: Before all this, was he a pretty active child?

16 A: Very. Yeah.

17 Q: What did he used to do?

18 A: He'd ride his bike. We bought him a new bike. He'd
19 go up -- we built them a pond out there with those plastic
20 pools and we put fish in it and combat boats. And he'd --
21 we'd have all his Army men lined up and they'd be shooting
22 the fish. We were always active. We was always doing
23 something. I became concerned that just wasn't him, you
24 know.

25 Q: And that took place after the accident that he --

1 A: Yeah.

2 Q: -- wasn't himself?

3 A: That -- that -- yeah, that's why we were concerned.

4 Q: Had you ever seen any symptoms of abdominal pain in

5 him before the accident of March 3, 2014?

6 A: No, I mean, he was fine. We were riding bikes, you

7 know. I remember that July we had to go -- we were going

8 to go out. We were -- I think we were going to go

9 somewhere at the beach or something. And I went out and

10 bought a bunch of fireworks just to keep him happy, you

11 know, because we couldn't leave the house, because he

12 couldn't get away from the bathroom.

13 Q: All right. And how long did that last? In terms of

14 his symptom, the abdominal pain, frequent trips to the

15 bathroom?

16 A: It lasted long, I'm going to say. Because it happened

17 in 2013, right? '14?

18 Q: 2014.

19 A: So I'm going to say at least 10 years. You know, it

20 just stopped a little bit. But he had this medicine, you

21 know, and that has really helped, and we were really glad

22 about that.

23 Q: All right. So the medicine seemed to get things under

24 control?

25 A: Right, yes.

1 Q: When did he get the medicine? Do you remember?

2 A: I remember, but I remember it was -- it was too long.

3 We waited -- you know, we were -- I thought they -- you

4 know, I was upset they didn't want it prescribed sooner.

5 You know, we waited so long, you know.

6 Q: Do you felt like you waited over a year?

7 A: I thought it was way too long. Right. We've been to

8 like the best doctors. We thought we were, you know. And

9 there was no -- you know, he's only seven, seven and eight.

10 And he was a little stocky kid. He was a good -- good boy.

11 So we went through the homeschooling and -- and he was not

12 feeling good. So he was mean. You know, he just didn't

13 want -- didn't want to study. And he was just learning how

14 to read, you know -- you know. Prime moments in -- in

15 child development with learning to read and whatnot.

16 Q: And when did he start getting homeschooled? Do you

17 remember?

18 A: I think it was 2014. The school said they -- he was

19 missing too much school.

20 Q: And Amber decided to homeschool him?

21 A: Yeah, she said, well, let's -- we don't have any

22 choice. You know, even Pee Dee Academy, you know, that was

23 where -- where she went, said they couldn't take him if you

24 couldn't keep up with the, you know, the correct amount of

25 schooling. You know, attendance, not so many days they

1 said.

2 Q: Right.

3 A: And you couldn't miss any more than one.

4 Q: Did you go to any of the medical appointments that

5 V [REDACTED] went to?

6 A: Yes, I went.

7 Q: All right. Do you remember how you felt at those

8 appointments?

9 A: I felt bad for him. You know, he was confused, didn't

10 know what was going on. I went to one of the -- I think it

11 was a colonoscopy they gave him. Yeah. And I went to --

12 there was the endoscopy too, so it was kind of a double

13 error for him. And he was scared, you know. And he was

14 scared. We were just calming him down. It's okay. We're

15 just trying to find out what's the matter, honey, that's

16 all.

17 Q: And when it comes to the bloody stools, did you

18 witness that directly?

19 A: Right. Amber pulled me in the bathroom. Okay. I --

20 and she said, mom, you got to look at this. And I thought,

21 oh, that's a right wreck. That's something we need to be

22 concerned about. I said, so we need to get him immediate

23 help. You know, again, the dark red is coming, you know,

24 it's old blood. This was new blood, you know. So I said -

25 - so after that he couldn't -- he couldn't flush the toilet

1 until he looked at his bowels open to see if it blood.

2 Q: And then following that he got the medication?

3 A: Yeah. Well, no, it was a while after that. We had to

4 put up with that until I got the new that -- Sulfasalazine,

5 something like that.

6 Q: All right. And that ultimately helped --

7 A: That helped. That helped a lot.

8 Q: Okay. Did he --

9 A: But only for so long. Okay. And then we would go

10 back, get some more medicine. It would help a lot. You

11 know, it wasn't like a constant thing. It was like it

12 helped at first and then it was going to go away. You

13 know, we'd go back, get some more and it would help at

14 first, and then it would kind of go away. You know, he's

15 been messing with this stuff for a long time, you know, he

16 has had problem with school -- going to school long time,

17 so, you know. Because they all had this, you to only --

18 you had to only be absent a certain number of times, you

19 know.

20 Q: So based on what you witnessed 2014 and 2015 were some

21 of the worst periods of his illness?

22 A: Yeah, they were. They were. It was just a pop.

23 Q: So he had a majority of his symptoms during that year

24 timeframe?

25 A: Right. That's when it was like -- like every other

1 day, every day. And we just, you know, trying to tell the
2 school, listen, we don't know what happened. You know, we
3 think maybe it was an accident. We don't know what
4 happened. Bear with us. We're trying, you know. So we
5 did the homeschool. Well, I don't know how to be teacher.
6 We struggled with that. We really did.

7 Q: So did you do the best you could to help V [REDACTED]?

8 A: I did the best I could. Yeah. I -- I just tried to
9 teach him his words, his three letters. He was going over
10 the three letters and the four letter words and -- you
11 know, and in between going to the bathroom. You know, it
12 was -- it was hard. It was hard on -- on my -- my
13 daughter. You know, and I was mom, I was there just take
14 care of him, cooking dinner, cleaning the house, doing that
15 stuff so she can do what she needed to do. Yeah. But he
16 never had any of this before.

17 Q: And do you feel like the doctors were ultimately
18 listening to the complaints that were being made and the
19 symptoms that were being addressed?

20 A: I felt a little bit of gaslighting going on.

21 Q: What was that? I'm sorry.

22 A: I felt a little bit of gaslighting going on. You
23 know, like maybe it's this, maybe it's that, maybe it's
24 this, maybe it's that. And when it's your child, you don't
25 want to hear the maybe. You want to know, okay, what can

1 we do to fix it? With my grandson, you know. Meantime,
2 going back and forth to my other son's house, you know. So
3 it was hectic. And my husband's wondering where his wife
4 is, so it was tough.

5 Q: Well, is it fair to say during the 2014 to 2015 period
6 each time you came to visit or you saw V [REDACTED], he had
7 these issues?

8 A: Right. I came to give him some schooling or to take
9 care of him, so she could try to carry on with her life.

10 MS. RAFFALDT: I don't have any further questions,
11 Judge.

12 THE COURT: All right. Mr. Smith?

13 MR. SMITH: No questions.

14 THE COURT: All right. All right. Ms. Bailey, you
15 may step down.

16 MS. BAILEY: Thank you.

17 THE COURT: Thank you.

18 MS. BAILEY: Can my client come up and help her?

19 THE COURT: Yes.

20 All right. Ms. Raffaldt, you can call your next
21 witness.

22 MS. RAFFALDT: Yes, Judge. We would call the
23 Plaintiff V [REDACTED] K [REDACTED] P [REDACTED].

24 THE COURT: Okay.

25 THE CLERK: Raise your right hand. Place your left

1 hand on the Bible.

2 **V [REDACTED] K [REDACTED], HAVING BEEN DULY SWORN TESTIFIES**

3 **AS FOLLOWS:**

4 THE CLERK: You may be seated. And just state your

5 name for the court please.

6 MR. K [REDACTED]: V [REDACTED] K [REDACTED].

7 **DIRECT EXAMINATION OF V [REDACTED] K [REDACTED] BY MS.**

8 **RAFFALDT:**

9 Q: Hi, V [REDACTED]. How are you doing?

10 A: Good. How are you?

11 Q: All right. You're the plaintiff in this action with

12 your mother, correct?

13 A: Yes, ma'am.

14 Q: And you know why we're here today?

15 A: Yes, ma'am.

16 Q: Is that to discuss the March 13, 2014 accident?

17 A: Yes, ma'am.

18 Q: Do you recall that day?

19 A: No. Well, I remember the initial impact of the car --

20 the actual car accident, Yes, ma'am.

21 Q: All right.

22 THE COURT: Ms. Raffaldt, can I get him just to scoot

23 up just a hair. There you go. Thank you.

24 **BY MS. RAFFALDT:**

25 Q: What do you remember about it, V [REDACTED]?

1 A: I remember us being in an intersection. I don't
2 remember the exact road, but we were in an intersection.
3 We were completely stopped, and I remember just an
4 immediate jolting forward and then jolting back, and then
5 sliding into an intersection where a 18-wheeler was
6 turning, I believe, left. So we were going to -- if not --
7 if we were not stopped, slide into the 18-wheeler.

8 Q: Is this one of the first memories you have as a child?

9 A: Not the first but the first of the accident, yes.

10 Q: When it comes to how you felt afterwards, can you
11 describe that for the jury?

12 A: You mean the feeling of the -- after the accident?

13 Q: Yes.

14 A: I was constantly in pain. If I was not in pain, I was
15 either tired or completely out of energy. If I was in pain
16 -- on a pain scale of one to 10, I was probably either
17 eight or seven. It did vary on the days.

18 Q: Do you remember going to the doctor?

19 A: Very vaguely, but yes.

20 Q: All right. And when you say that you were in pain,
21 what kind of pain were you feeling?

22 A: It was almost like a stabbing. If you were being -- I
23 don't know if people know what this pain, but it was -- is
24 if someone accidentally slipped the finger or poked you
25 with a sharp object.

1 Q: All right. And this is in your abdomen area? Your
2 stomach?

3 A: Yes, ma'am.

4 Q: And that's a constant pain you were in?

5 A: Yes, ma'am.

6 Q: All right. How -- how long do you think that that
7 transpired between the time -- I'm sure you heard your
8 grandmother testify about you getting a prescription. Is
9 it fair to say that that helped you?

10 A: Yes, ma'am.

11 Q: All right. And how long do you think you were in
12 pain?

13 A: I would say -- I don't know the exact dates because
14 this is all blurred to me. But I would say -- I believe it
15 was the first day of the accident to when I got the
16 medicine. I don't know the exact dates, I'm sorry.

17 Q: All right. And with the medicine, did it help make
18 the pain subside?

19 A: Uh-huh.

20 Q: All right. Have you had ongoing issues when you
21 stopped taking the medicine?

22 A: No.

23 Q: All right. So when -- when you were going to the
24 doctor, like do you actually remember going physically to
25 get treatment and -- and telling them about your symptoms?

1 A: I remember very like small minor parts, like snippets
2 of it.

3 Q: And when it comes to your memory, your grandmother
4 testified about some bloody stools that you had, rectal
5 bleeding. I know it's uncomfortable probably to talk about
6 in front of all these people, but do you recall any of
7 that?

8 A: I do remember my mom being very, very anxious and very
9 scared when she first saw that because I remember her
10 reacting and being like, what is happening?

11 Q: Did that scare you?

12 A: Yes.

13 Q: Were you concerned when you were seeing blood in your
14 stool?

15 A: I was mostly confused. I didn't know where this was
16 coming from because I was, again, a small child. I didn't
17 know what was going on.

18 Q: Do you remember being in any pain before as far as
19 your stomach area prior to this accident happening?

20 A: No, ma'am.

21 Q: When it comes to any other symptoms, do you recall
22 having any other symptoms during the 2014 and 2015 period?

23 A: Besides the stomach pain, no.

24 Q: All right. Did you have diarrhea during this time
25 period?

1 A: It -- I don't really remember. I -- I apologize.

2 MS. RAFFALDT: I'm trying to think of the best way to

3 state this, Judge. So when it comes to the treatment that

4 you did receive -- actually, I'm going to strike that.

5 THE COURT: Okay.

6 MS. RAFFALDT: Judge, if I could just look at my

7 notes.

8 THE COURT: Yeah.

9 MS. RAFFALDT: I'm just trying to keep within the

10 scope.

11 BY MS. RAFFALDT:

12 Q: Do you remember having to go to the bathroom a lot?

13 A: Yes, ma'am.

14 Q: All right. What do you remember about that?

15 A: I remember it was just me being on the toilet, which

16 was what my grandmother spoke of. But the pain would be a

17 constant. It wouldn't go away. I was on the restroom.

18 It'd be a constant.

19 Q: So you felt the urge to go to the bathroom, but no

20 relief after you went?

21 A: Yes.

22 Q: All right. How did school go during this time?

23 A: I -- all I remember is hearing things from my mother

24 and just staying home because I could not either have the

25 power to get up, or if I were to get up I would have to use

1 the restroom, which I wasn't allowed to very often in
2 school. And which would make me like miss days.

3 Q: And do you remember being homeschooled?

4 A: Yes.

5 Q: Did that help with things, being able to stay home, go
6 to the bathroom when you wanted to?

7 A: Yes, it did.

8 MS. RAFFALDT: Judge, I don't think I have any further
9 questions.

10 THE COURT: All right.

11 MR. SMITH: No question, Judge.

12 THE COURT: All right. All right. Mr. Kopanski
13 Pratt, you may step down.

14 All right. Ms. Raffaldt, your next witness.

15 MS. RAFFALDT: We have no further witnesses, Judge.

16 THE COURT: All right. Ladies and gentlemen, the
17 Plaintiff has rested in this case. I'm going to ask that
18 you go to your jury room. Again, please do not speak about
19 this case or anything else, anything you've heard on the
20 witness stand, any exhibits. That's not proper at this
21 time. I'll advise you when you may begin deliberations.
22 We have a few matters of law to take up before we continue
23 this trial. Okay?

24 REPORTER'S NOTE: (JURY EXITS COURTROOM AT 1:58PM)

25 THE COURT: All right. Any motions from the Defense?

1 MR. SMITH: Your Honor, I understand that she's not
2 seeking punitive damages. So that's one argument taken
3 care of. The second one, Your Honor, is I've moved for
4 directed verdict on allowing any testimony back to the jury
5 pertaining to abdominal issues. There's been no expert
6 testimony that's been presented that shows that any of the
7 abdominal problems that the Plaintiff had was more likely
8 than not proximately caused from motor vehicle accident.

9 I think any of the treatment -- any of the complaints
10 of stomach pain, there's been no genesis of that pain, no
11 origin of that pain. So without it being related to the
12 motor vehicle accident other than a temporal relationship,
13 I don't think it meets the standard burden of proof for
14 medical necessity.

15 THE COURT: All right. Ms. Raffaldt?

16 MS. RAFFALDT: Judge a -- a lot of the argument that I
17 would have against that is included in our response to the
18 motion in limine, of course. I think that the case law
19 supports that when there is a temporal relationship, then a
20 jury can reasonably infer that there is a causal connection
21 between, in this case, the accident and the ultimate
22 injury.

23 He did not have these stomach -- it's been testified
24 to numerous times by all the witnesses that he didn't have
25 these issues prior to the accident and he developed stomach

1 pain immediately after the accident. I think it's within
2 the realm of possibility that the jury can certainly say
3 that it's related to the accident.

4 THE COURT: All right. Thank you, Ms. Raffaldt.

5 Mr. Smith, respectfully, I'm going to deny your
6 motion. I do think that the evidence that has been
7 presented is mostly diagnostic in nature. The evidence
8 that could have been put forward about colitis and things
9 of that sort since it's been kept out, I do think that
10 because it's diagnostic, the jury can infer that it's
11 related to -- not saying they will -- I'm saying they could
12 infer that it be related to the accident. So for those
13 reasons, I'm going to respectfully deny your motion.

14 MR. SMITH: Thank you, Your Honor.

15 THE COURT: Any other motions?

16 MR. SMITH: No, sir, Your Honor.

17 THE COURT: All right. Anything before we bring the
18 jury back in? Do y'all want to take a minute?

19 MR. SMITH: I don't know that they've had a chance to
20 go to the bathroom yet, so maybe we could look at those
21 medical records.

22 THE COURT: Yeah, if y'all want to look -- take a look
23 at that right now --

24 MS. RAFFALDT: Right.

25 THE COURT: -- that's probably a good -- good time.

1 The other thing is, I -- I don't know how y'all want to do
2 this. We haven't had a charge conference as to what you
3 would like for me to charge.

4 Ms. Raffaldt, you did provide me with some proposed
5 jury instructions, which are pretty much my standards.

6 Given the fact -- I did want to ask y'all this --
7 given the fact that in this case negligence is -- has been
8 admitted, the duty to keep proper lookout and exercise
9 control driver's duty of care --

10 MS. RAFFALDT: I don't believe it's necessary, Judge -
11 -

12 THE COURT: Okay.

13 MS. RAFFALDT: -- now that we've established that it
14 will be admitted. Obviously I was doing that in abundance
15 of caution.

16 THE COURT: But again, I -- I can -- I can charge the
17 jury that in this matter that the Defendant has admitted
18 negligence rather than even charging negligence -- I can
19 still charge negligence, but given that you're not trying
20 to reach punitives, we're not talking about gross
21 negligence. And if negligence is admitted, I don't
22 necessarily know we need to charge that. But that --
23 again, I'll leave that up to y'all.

24 MR. SMITH: I think that's fine. The only charge that
25 I would have is the Sossoman reasonable necessary medical

1 expenses.

2 THE COURT: Yeah. Do you happen to have a copy of
3 that? I can -- I can look --

4 MR. SMITH: It -- it's in your standard charge.

5 THE COURT: Got you. All right. I'll -- I'll have
6 Payne here, but -- so what we've got here is preponderance
7 of the evidence, credibility of witnesses. Do you want me
8 to charge direct and circumstantial evidence or no? I --
9 I'm happy to. It's a relatively long charge that I feel
10 like sometimes they zone out on. But we also have actual
11 damages, pain and suffering, loss of enjoyment of life, and
12 mental suffering. And then obviously what you have
13 suggested about reasonable and necessary. Anything else?

14 MS. RAFFALDT: I don't think so.

15 MR. SMITH: No.

16 THE COURT: Also, as far as a jury verdict,
17 surprisingly enough, it -- it always seems like there's
18 arguments about what the verdict should look like. Do
19 either of you have any suggestions as to what the verdict -
20 - normally, I -- you know, this isn't a situation where we
21 have to -- to determine whether negligence is present, this
22 is more of a damages issue. So either one of y'all as to
23 how the verdict would look, I'm open to.

24 MR. SMITH: My suggestion is old school.

25 MS. RAFFALDT: Okay.

1 MR. SMITH: It's we find for the Plaintiff in the
2 amount of blank dollars or if they don't prove proximate
3 cause of injury, we find for the Defendant.

4 MS. RAFFALDT: I don't have an issue with that, Judge.

5 THE COURT: Okay. Yeah, I think that's probably
6 appropriate in this. All right. Well, let's take -- it's
7 2:05.

8 MR. SMITH: We'll be done with this by 2:15.

9 THE COURT: You think so?

10 MR. SMITH: Yeah.

11 MS. RAFFALDT: Well, why don't we say, do you want to
12 take a look at that right now though?

13 MR. SMITH: Yeah, I'm going through it right now. It
14 won't take --

15 THE COURT: Let -- let's take -- let's take 10 minutes
16 because what we can do is if you're not planning on putting
17 up much -- I'm assuming one witness --

18 MR. SMITH: One witness.

19 MS. RAFFALDT: Probably short. We could go right into
20 close and charge. That way we could potentially give this
21 jury this case by 3:15, 3:30.

22 MR. SMITH: That's perfect.

23 THE COURT: Is that okay? I mean, I don't want to
24 give it to them at 4:30, but 3:15 that would be --

25 MR. SMITH: That's perfect.

1 MS. RAFFALDT: All right. We'll give y'all until 3:15
2 and we'll be right back.

3 (COURT IS IN RECESS)

4 THE BAILIFF: All rise.

5 THE COURT: Keep your seats. Thank you.

6 Mr. Smith, you had mentioned a case in regarding
7 reasonable and necessary. I've checked through our charge
8 book. I don't see it. What was the case you mentioned
9 though, because that --

10 MR. SMITH: Sossomon, S-O-S-S-O-M-O-N, I think.

11 THE COURT: S-O-S-S-O-M-O-N.

12 MR. SMITH: It may be A-M, Sossoman versus Nationwide.
13 And it just says that the charge are reasonable and
14 necessary, which I know you have in your charge.

15 THE COURT: I do, but it's not -- it's not a -- a
16 separate -- one thing that was not in this -- but I do
17 think we need to charge is proximate cause. Oh, I'm sorry
18 Ms. Raffaldt is not in here.

19 REPORTER'S NOTE: (OFF THE RECORD)

20 THE COURT: All right. Anything else before we go
21 ahead and proceed?

22 MR. SMITH: No, sir.

23 THE COURT: All right. All right. Let's go ahead and
24 bring in the jury.

25 REPORTER'S NOTE: (JURY ENTERS COURTROOM AT 2:32PM)

1 THE COURT: All right. Madam Forelady, ladies and
2 gentlemen of the jury, before we broke, the Plaintiff
3 rested their case and now is the time for the Defense to
4 put up their case-in-chief. We'll move forward with that
5 and after that we'll have closing arguments, and at that
6 point, after that I'll charge you on the law. But again,
7 now we'll hear from the Defense.

8 Yes, sir, Mr. Smith.

9 MR. SMITH: Thank you, Your Honor. Call Ms. Baker to
10 the stand.

11 THE CLERK: Please raise your right hand and place
12 your left hand on the Bible.

13 **LASHAUNA BAKER, HAVING BEEN DULY SWORN TESTIFIES AS**
14 **FOLLOWS:**

15 THE CLERK: You may be seated. Just state your name
16 for the Court, please.

17 MS. BAKER: LaShauna Baker.

18 **DIRECT EXAMINATION OF LASHAUNA BAKER BY MR. SMITH:**

19 Q: Hi. Now, Ms. Baker, if you don't mind, if you would
20 let the ladies and gentlemen the jury know where you're
21 from and what you do for a living.

22 A: I'm born and raised in Conway, South Carolina and I
23 work for Horry County schools for the past eight years.

24 Q: Children?

25 A: I have two girls, nine and -- well, about to be nine

1 in a couple weeks and four years old. I'm a graduate of
2 Horry Georgetown and Coastal Carolina University.

3 Q: I think you had the pleasure maybe of -- of actually
4 attending high school with one of my sons?

5 A: Yeah. Conway High graduate 2003.

6 Q: Do you remember being in a motor vehicle accident in
7 March of 2014?

8 A: Yes, sir.

9 Q: And were you driving a white Chevrolet?

10 A: It's gold.

11 Q: A gold? I can't tell.

12 A: Yes.

13 Q: And is that the way it looked after the accident?

14 A: Yes.

15 Q: Did you ever get it fixed?

16 A: No.

17 Q: Was there any damage done to it?

18 A: No.

19 Q: I don't see any cracks on the plastic of the license
20 plate cover there. Were there any cracks on that?

21 A: No, sir.

22 Q: Okay. Do you remember the car that you ran into the
23 back of?

24 A: I don't remember the model, but I do remember how it
25 looked. It was a little small car.

1 Q: Is that it?

2 A: Yes.

3 Q: And I think we've confirmed that the Plaintiff has
4 identified -- is that the way it looked after the accident?

5 A: Yeah.

6 Q: Okay. All right. You've already heard us admit that
7 the accident was your fault. Is that right? Do you agree
8 with that?

9 A: Yes, sir.

10 Q: So tell -- tell us what happened.

11 A: I was actually leaving McDonald's. I was on the way
12 to take my godson home. He lives across the bridge in --
13 well, University Forest, and as I was coming up, this lady
14 here, she was at the stop sign before me at the
15 intersection where Subway is that goes over the bridge on
16 501 -- that crosses 501 and 378. So I came to a stop
17 because it was -- the light was red.

18 Q: Okay. Let me stop you for just a second.

19 A: Yes.

20 Q: Do you know those white painted bars that are in the
21 roadway?

22 A: Yes.

23 Q: Where was she in relation to that bar?

24 A: I can't tell you exactly where she was at. I mean, I
25 know she was behind the white line.

1 Q: Was she two car lengths behind the white line or
2 closer to the white line than that?

3 A: I want to think closer to the white line. I don't
4 remember her being that far off.

5 Q: All right. So you come to a stop?

6 A: Yes.

7 Q: So tell us what happens.

8 A: The light stayed maybe red for about a minute, maybe a
9 little over a minute, but I remember at a complete stop we
10 were -- I was never in motion when I hit her until the
11 light -- my bag fell because we just left McDonald's as I
12 spoke. And as I looked up, I saw the turning light, which
13 is the left side go green. I didn't pay attention right --
14 the light in front of me and I just left my foot off the
15 brakes, never hit the gas. And I rolled into her, the back
16 of her.

17 Q: Okay. Did the impact between your vehicle and her
18 vehicle push her into the middle of the intersection?

19 A: No. I remember getting -- when we got out the car, our
20 cars were literally still right there together. Like when
21 I bumped her, they were still right there together.

22 Q: All right. Do you remember hearing a child in the
23 backseat screaming and crying or anything like that?

24 A: No, sir.

25 Q: Did the police officer offer an ambulance to either

1 one of y'all?

2 A: Yes, he did.

3 Q: And what was the response of the Plaintiff at that

4 time?

5 A: They -- she denied care. She said they were okay.

6 Her son was okay. And they -- they signed a waiver -- we

7 signed a waiver. Everybody was okay.

8 Q: Okay.

9 A: Yes.

10 Q: Did you have any conversation?

11 A: We did.

12 Q: And tell us what the conversation involved.

13 A: She -- we just talked about where I was from, my name,

14 and where she was from and things like that. Her son was

15 standing beside her. My guy son was with me, so he was

16 also staying outside.

17 Q: How old was your godson?

18 A: He was about 14 when that happened.

19 Q: Okay.

20 A: Yeah. We were parked over there at the TitleMax, so

21 that's where we pulled over at and we called the police

22 from there and we conversated until the police got there.

23 And once he got there, he took our reports and everything

24 and that's when he offered care. Ambulance came and we all

25 denied care and everything. We took pictures of the cars

1 and he swapped -- we swapped information. He gave me a
2 report and gave her report.

3 Q: Did she give you any indication as to what her job was
4 or duties or obligations that she had?

5 A: She told me she was a nurse, and she lived in Loris,
6 South Carolina.

7 Q: Okay. Did she say she had to take care of anybody or
8 anything that evening?

9 A: Uh-huh.

10 Q: When you were there at the TitleMax, after this
11 accident had happened, did you notice the child at that
12 time, six years old, screaming and crying or anything like
13 that?

14 A: No.

15 Q: Was he doubled over in pain?

16 A: No, sir.

17 Q: Did either one of them appear anxious?

18 A: They did not. I mean, like I said, we had a great
19 conversation. She didn't seem to -- like, you know, I
20 didn't -- when this all came about, it shocked me because
21 we had a great conversation. She said that, you know, her
22 and her son was okay. She asked him was he okay. He said
23 yes, he was never crying. I never saw anybody crying or
24 yelling or screaming. He's a child and I take care of kids
25 for a living. I would have definitely, you know, noticed

1 that. My godson was there and we never seen nobody crying.
2 Never heard him screaming or crying.

3 Q: Did you get hurt in this accident?

4 A: I did not.

5 MR. SMITH: Thank you, ma'am. That's all I have.

6 THE COURT: Ms. Raffaldt, your witness.

7 MS. RAFFALDT: Thank you, Judge.

8 **DIRECT EXAMINATION OF LASHAUNA BAKER BY MS. RAFFALDT:**

9 Q: All right. Ms. Baker, is it correct that you admit
10 fault for this accident; is that right?

11 A: Yes, ma'am.

12 Q: You admit that you struck my client's car?

13 A: Yes, ma'am.

14 Q: Didn't you ask the individuals that were in the car
15 with you if they were all right?

16 A: I did.

17 Q: If it was such an insignificant car accident, why
18 would you ask them that?

19 A: I mean, it was an accident. It doesn't matter if I
20 barely bumped him or not. I mean, I wanted to make sure
21 everybody's okay. We had to call the police, we had to
22 call the ambulance. A report had to be taken. I wanted to
23 make sure everybody was okay. Whether it was me, them,
24 whoever it was. So I mean, I bumped them. Yes, I did. So
25 that was still considered as an accident. Because if I

1 never bumped him we wouldn't have had to call the police or
2 anything.

3 Q: Right. But you were concerned that somebody could be
4 hurt?

5 A: Yes.

6 Q: All right. I know you said that my client indicated
7 she was a nurse. Could you be mistaken because she was a
8 home health aide at the time?

9 A: No, that's exact words she told me. I also do home
10 health aide too on the side. So no, she never told me
11 that.

12 Q: All right. Have you spoken to her since this accident
13 happened?

14 A: No, ma'am.

15 Q: So you wouldn't be aware or privy to anything that
16 might have happened after the fact in terms of her son
17 having symptoms after the car accident?

18 A: No.

19 Q: No conversation with her, no conversation with any
20 doctors associated with her son, no conversation with her
21 son after this accident happened?

22 A: No, ma'am.

23 MS. RAFFALDT: I don't have any further questions,
24 Judge.

25 THE COURT: All right. Thank you, Ms. Raffaldt.

1 MR. SMITH: Nothing further, Your Honor.

2 THE COURT: All right.

3 MR. SMITH: That's the Defense case.

4 THE COURT: All right. Ms. Baker, you may step down.

5 THE WITNESS: Thank you.

6 THE COURT: Let me get the attorneys to step up here
7 if that's okay.

8 REPORTER'S NOTE: (WHEREBY BENCH CONFERENCE WAS HELD)

9 THE COURT: All right. Thank you. Mr. Smith, your
10 motion was preserved from previous.

11 MR. SMITH: Thank you.

12 THE COURT: All right. Ladies and gentlemen, we are
13 at the point now in the case the defense is closed. We'll
14 now hear closing arguments from both the Plaintiff and the
15 Defense. And then after that I will charge you on the law.

16 Ms. Raffaldt, you may begin.

17 MS. RAFFALDT: And Judge, actually, can we approach
18 one more time?

19 THE COURT: Yes.

20 REPORTER'S NOTE: (WHEREBY BENCH CONFERENCE WAS HELD)

21 THE COURT: Yes, ma'am.

22 MS. RAFFALDT: Thank you, Judge.

23 All right. I won't be long-winded here. It's not an
24 overly complicated case, so I'm not going to prove that it
25 is. It's a car accident. But the Defendant admits that

1 she was at fault for. She collided with my client's car.
2 If my client was so gung-ho about just pointing everything
3 to this accident, she would've went to the hospital
4 immediately. She wanted everything to be fine. She wanted
5 everything to be minor. She certainly didn't want her son
6 to be hurt.

7 Ultimately, he was hurt. And that's just the reality.
8 He didn't have any of these symptoms prior to this car
9 accident whatsoever. No stomach pain. You're going to see
10 in the medical records that you're going to review in --
11 inside the jury room that the medical records show he
12 didn't have any stomach issues. After this accident, he
13 had nothing but stomach issues for an entire year. I would
14 ask you to consider a 6, 7-year-old that's missing out on
15 some prime years of his young life when everybody's
16 supposed to be enjoying it. I wish I was a kid again, but
17 I certainly wouldn't want to be that kid.

18 I wouldn't want to be in the bathroom hours on end. I
19 wouldn't want to have diarrhea and constipation and nausea
20 and abdominal pain all day. I wouldn't want to go to
21 school like that. He had to deal with this for over a
22 year. In fact, I kind of calculated the amount of days
23 based on my client's testimony, which you heard, that he
24 was having symptoms from the day after the accident until
25 about let's say June 15, 2015. That's 468 days.

1 Let's just go with a random figure. A \$100 a day is
2 not much, right? For paying every single day of your life
3 is a \$100 really that much per day? That's \$46,800 for
4 that entire year of his life that he did not get to enjoy.
5 That he was not riding his bicycle outside, that he was
6 sitting there watching SpongeBob SquarePants with grandma
7 all day, laying on the couch. He wasn't basking in the
8 sun, swimming in the swimming pool during the summer.

9 He was homeschooling with his mom. He really wants to
10 do that. So I want to go hang out with my friends at
11 school. He wasn't able to do that. I don't think what
12 he's asking for is much. I understand that it's \$2,500 in
13 medical bills that we were able to introduce to you today.
14 I mean, that's the reality. I mean, total \$2,509. We
15 would certainly ask that the Defendant be accountable for
16 those bills.

17 She admits that she caused this accident. He didn't
18 have any of these issues prior to the time of this
19 accident. To me, it's just -- it's common sense. You want
20 to say that it's so minor, maybe it is. Some people get in
21 really major arrests and they don't get hurt. But some
22 people get in minor accident and they get hurt.
23 Diminishing that just because there's not much damage to
24 the vehicle is a disservice to this child, this child that
25 was hurt. This child that was injured, this child that

1 didn't get to live his life for over a year.

2 So based on that, I would ask you to return a verdict
3 in the amount of the \$46,800 based on the 468 days that he
4 was not able to live as a kid anymore. In addition to
5 holding the Defendant responsible for his medical bills for
6 the \$2,509. And I'm hoping that you can weigh the facts,
7 weigh the evidence, having listened to how concerned his
8 mother was about him, going to MUSC of all places, driving
9 over two hours to make those appointments in order to get
10 him help.

11 I mean, you know, that's not an easy feat for a single
12 parent -- father not involved -- to get treatment for her
13 child that's working two jobs. I mean that -- that's just
14 reality. She was trying to get help for her son, trying to
15 get help for her son. And that's all she was doing. And
16 she shouldn't be penalized for that. Or maybe to feel like
17 she's over exaggerating everything on this accident wasn't
18 a big deal. It was a big deal to her son.

19 And that's why, based on the preponderance of the
20 evidence, which you're going to hear from the judge, I
21 think we've tipped that scale in favor of the Plaintiff.
22 You're going to hear what damages that you can award to my
23 client. Part of those are pain and suffering. A lot of
24 you have probably heard that. Part of those are loss of
25 enjoyment of life. Probably heard of that too. Mental

1 pain and suffering. I mean, this is a 6, 7-year-old child
2 that cannot enjoy his life for overeating. I just want you
3 to think about those things when you are considering the
4 award that I've asked you to award today. Thank you.

5 THE COURT: Thank you, Ms. Raffaltdt.

6 MS. RAFFALDT: Thank you, Judge.

7 THE COURT: Mr. Smith.

8 MR. SMITH: Well, I think they're asking you to award
9 \$46,000 to a young man who alleges he was constipated as a
10 result of this accident. And we didn't know why we were
11 here before that argument. We know now. \$46,000 for a
12 young man that was constipated. And how do we know he is
13 constipated? The medical records that you will have in
14 front of you shows an X-ray, that show his bowels are full
15 fecal matter. Did this wreck cause the constipation.

16 South Carolina requires that whenever there's a unique
17 medical condition you have an expert testify to help you
18 understand what causes certain problems. Now, common sense
19 issues, we don't need. Okay. You get involved in a motor
20 vehicle accident. You didn't hear me say anything about
21 whether his neck was hurt or not, because use your common
22 sense. I asked you to do that when we first started.
23 That's a \$400 bill.

24 But then mom goes, I call it off the chain, and starts
25 this process of wait a minute, my son's constipated, he's

1 sitting for hours at a time, which is not very good for
2 him, I don't think. In the bathroom, and he's constipated.
3 Tell yourself, did you hear an expert witness testify from
4 that witness chair that beyond a reasonable degree of
5 medical certainty, more likely than not, this child was
6 constipated as a result of the motor vehicle accident that
7 caused that kind of damage.

8 That's how much evidence you heard from a medical
9 professional on that issue. Do we doubt that he was
10 constipated? No. The X-ray showed that. Was the
11 constipation caused from the motor vehicle accident?

12 One thing we do know, even though mum disputes, and
13 it's clearly in the records, by September the 22nd of 2014,
14 6 months after this accident, this child is back to 100
15 percent by her own admission. Now, she wants to say that
16 that was a year later, that the MUSC records are wrong, but
17 it's in the records. So what -- what's fair and what's
18 reasonable?

19 Reimbursement of the chiropractor's bills. Even
20 though I think it's silly to send a 6-year-old to a
21 chiropractor, maybe that's a reasonable thing to do. One
22 thing we do know is that sometimes you get that seatbelt
23 sign if you've been in an accident. Sometimes that
24 seatbelt will go across you and the bruise the abdomen.
25 Did you see one picture of a bruised abdomen? Did you hear

1 one smidge of testimony about a bruised abdomen? No.

2 But let's assume this. Let's assume those bills at
3 MUSC for some 1500 bucks for reasonable and necessary to
4 rule out anything significant. And if you take that \$400,
5 if you take the -- the family doctor's bills and you add
6 them all together, that's about 2,500 bucks. Is it
7 reasonable to go get your child checked out? Maybe it'd
8 been more reasonable to get him checked out than I have the
9 accident, but she waited two weeks. But that's okay. So
10 maybe that's reasonable and necessary.

11 And then what do you do for the pain and suffering
12 aspect of it? I can't really make an argument in favor of
13 giving and pain and suffering for his constipation because
14 we didn't hear a doctor say that constipation was caused by
15 the accident. We didn't hear any pain medication. Had
16 there been pain medication? Hey, maybe we could
17 understand. We didn't hear any pain medication. Any of
18 the things that you would think would reasonably follow
19 from a motor vehicle accident, he wasn't treated for.

20 So ladies and gentlemen, what is reasonable? Did he
21 suffer? I didn't ask him. I didn't want to put him in
22 that spot. I would venture to say that if my son was six
23 years old sitting here that I doubt he would have a whole
24 lot of recollection about a motor vehicle accident like
25 that. I didn't want to put him in that spot.

1 Grandma is concerned about her grandson with
2 constipation, I'm sure. But did you hear any evidence that
3 constipation was caused from this wreck? None. So in
4 fairness, pay the medical bills. Reimburse this child's
5 mom for the medicals incurred for that 2,500 bucks. A
6 little bit of pain and suffering perhaps, not there at the
7 scene, not for two weeks of no doctor's appointments.

8 We don't know what happened in that two-week period of
9 time. Something happened between the accident and 16 days
10 later where he got constipated. I don't know why. And I
11 promise you y'all don't know why. And if you don't know
12 why, you can't really compensate him for it. So the
13 fairness -- fairest thing to do is, I think, if you provide
14 the bills, you're covering the bases. If you give him some
15 pain and suffering for whatever his neck went through and
16 whatever may have been a seatbelt sign, that's fine.

17 But ladies and gentlemen, I'm sorry, he's not entitled
18 to the constipation, pain, and suffering because you don't
19 know what caused it. And the judge will tell you that for
20 us to be responsible -- I say us -- for Ms. Baker to be
21 responsible, they have to prove within a reasonable degree
22 of medical certainty, more likely than not, that this
23 accident was the direct and efficient cause of that
24 constipation. Did you hear that medical testimony? The
25 answer is no.

1 So ladies and gentlemen, thank you for your attention.
2 It's been an actually pretty quick trial. Something behind
3 the scenes stuff has been insane that you guys didn't have
4 to be subjected to, but 10 years, and both of these parties
5 are now ready for this thing to be over with, I promise
6 you. Thank you very much for your attention (inaudible).

7 THE COURT: Thank you, Mr. Smith.

8 Ms. Raffaldt, brief response? I'm sorry Ms. Raffaldt,
9 I -- I don't know why I said Raffaldt. My apologies.

10 MS. RAFFALDT: And Judge, I believe that we are both
11 ready for this to be done. I don't want to bore or take
12 any more time from the jury. I think they've heard enough.
13 They know what the evidence indicates. They -- they've
14 heard from Mr. Smith. They've heard my arguments on the
15 case and I feel satisfied that they can do their job.

16 THE COURT: All right. Ladies and gentlemen, now is
17 the time that I'll charge you on the law. I wish that
18 there was a way that I could do this in the form of a joke
19 or a movie or something to make it more entertaining, but
20 unfortunately, the law does not allow that. And I -- I
21 have to read some of these laws verbatim.

22 But again, I remind you what our duties are when we're
23 in this courtroom. You took an oath to be the finders of
24 fact in this case. And I remind you that my duty is to
25 provide you with the law. There have been multiple times

1 in this case where we've had to send you out in order for
2 me to rule on some matters of law.

3 I previously told you before that I don't want you to
4 -- to take that into consideration into anything that you
5 take back into your jury deliberations. Those matters of
6 law are for me to rule on, and they're not anything for you
7 to necessarily bother yourself with.

8 You will -- and once you go back and begin your
9 deliberations, you'll have a chance to look at all the
10 exhibits that have been provided. Those are exhibits that
11 I admitted into evidence. There are some medical bills,
12 there are some medical records, there's some pictures.
13 You'll have a chance to actually put your hands on those
14 and read through those documents. And I -- I implore you
15 to do that. In every case that's tried before this
16 court, though, you are the -- you become the sole finders
17 of facts. Nobody can tell you what the facts are. Mr.
18 Smith can't; Ms. Raffaltdt can't tell you what the facts
19 are. You have to determine what the facts are yourself.
20 And that's through the testimony that you've heard. And
21 again, by looking at the exhibits that you'll be able to
22 see here shortly.

23 I want -- want to first charge you on something called
24 the preponderance of evidence. Some of you may have served
25 at some point on a criminal case. This is different than

1 that. In criminal cases, it is beyond a reasonable doubt.
2 That is the standard. But the burden of proof in this case
3 is by a preponderance of the evidence. Now, a
4 preponderance of the evidence simply means the greater
5 weight of the evidence. It's evidence, which as a whole,
6 shows that the facts sought to be proved is more likely
7 true than not true. As commonly as seen -- you see the
8 scales of justice and you see that tip, it's a 51 percent
9 kind of thing.

10 This case again can be illustrated by those set --
11 that set of scales. If the scales remain even, or if they
12 tip even slightly in favor of the Defendant, then the
13 Plaintiff has failed to meet the burden of proof and would
14 not be entitled to recover in this case. If on the other
15 hand, the scales tip even slightly in favor of the
16 Plaintiff, the Plaintiff will have met the burden of proof
17 and you should return a verdict for the Plaintiff.

18 The preponderance of the evidence is not determined by
19 the number of witnesses. Instead, it must be determined by
20 the greater weight of all of the evidence. Now, next
21 charge you on the credibility of witnesses. You must
22 determine the credibility of the witnesses who have
23 testified in this case. And credibility simply means
24 believability. It becomes your duty as jurors to evaluate
25 the evidence and to determine which evidence convinces you

1 that it's true.

2 In determining the believability of witnesses who have
3 testified in this case you may believe one witness over
4 several witnesses or several witnesses over one witness.
5 You may believe that part of the testimony of a witness and
6 reject the remaining part of the testimony of the same
7 witness. You may believe the testimony of a witness in its
8 entirety, or reject the testimony of a witness in -- in its
9 entirety.

10 You may consider whether the witness has an interest
11 in the result of the trial, whether the witness has
12 prejudice towards either the Plaintiff or the Defendant.
13 The opportunity for the witness to have seen the matters
14 and things about which the witness may testify. And also
15 the way the witness may act on the witness stand.

16 Now, you're going to be provided some documentation
17 that has what we call redactions in it. That means that
18 there are things that may be marked out. Those things are
19 marked out for a legal purpose, and you are not to in any
20 way try to read through any markings or try to insinuate
21 what those things that are marked out may say. Legally,
22 you are not allowed to do that. Those matters have been
23 redacted for a purpose, and you are not to concern yourself
24 with whatever that purpose may be.

25 Now, in this case, the Plaintiff has asserted --

1 asserted in claims that the Defendant was negligence. This
2 case is a little different than others because the
3 Defendant has admitted their negligence. So that is not
4 something that you will have to -- to involve yourself with
5 in determining whether or not the Defendant was negligent.
6 However, the Plaintiff must also prove by a preponderance
7 or greater weight of the evidence that he suffered damages
8 as a result of the Defendant's breach of duty. Negligence
9 is that duty.

10 So while there may be a -- an admitted breach of the
11 duty, you have to determine whether or not, by a
12 preponderance of the -- or greater weight of the evidence,
13 that the damages were proximately caused by the Defendant's
14 breach of duty, meaning that the Defendant's negligence
15 proximately caused the damages that have been claimed.

16 Proximate cause is something that produces a natural
17 chain of events, which in the end brings about the injury.
18 It is the direct cause of the injury. Now, to prove that
19 the Defendant's negligence proximately caused the
20 Plaintiff's injury, the Plaintiff must first prove
21 causation and fact. This is proven by showing that the
22 injury would not have occurred but for the Defendant's
23 negligence.

24 The Plaintiff must also prove legal cause. Legal
25 cause is proven by showing that the injury was foreseeable.

1 This means that the injury occurred as a natural and
2 probable consequence of the Defendant's negligence. The
3 Plaintiff must prove that some injury from the defendant's
4 negligence was foreseeable, but does not have to prove that
5 the particular injury that occurred was foreseeable.

6 However, the Defendant cannot be held responsible for
7 things which could not be expected to happen. Proximate
8 cause does not mean the only cause. The Defendant's act
9 can be proximate cause of the Plaintiff's injury if it was
10 at least one of the direct concurring causes of the injury.

11 I next charge you -- excuse me -- on actual damages.
12 If you decide that the Plaintiff is entitled to a verdict,
13 your next step would be to decide how much money the
14 Defendant should be required to pay. Actual damages are to
15 compensate the Plaintiff for the Plaintiff's injuries or
16 loss and to put the plaintiff as near as possible in the
17 same position that the plaintiff was in before the incident
18 occurred. In other words, actual damages would be the
19 actual losses and expenses which the plaintiff has suffered
20 because of the defendant's negligence.

21 Actual damages would include things like loss of
22 income, out of pocket expenses, medical expenses, future
23 damages resulting from injuries, mental suffering, pain and
24 suffering, personal injury, or lost wages. These are just
25 some of the elements of actual damages that I point out to

1 you by way of illustration. I do not suggest that these
2 are the only possible examples of actual damages, or that
3 the plaintiff has proven any of these damages.

4 I next charge you on pain and suffering. Pain and
5 suffering compensates the plaintiff for physical
6 discomfort, and an emotional response to the sensation of
7 pain caused by the injury itself. There is no definite
8 standard by which to compensate the plaintiff for pain and
9 suffering. You have the authority to determine the amount,
10 if any, to be allowed for pain and suffering using calm and
11 reasonable judgment to ensure that the damages are just and
12 reasonable in light of the testimony and the evidence
13 provided in this case.

14 The plaintiff -- I next charge you on personal
15 injuries. The plaintiff must prove that expenses caused by
16 the injury were necessary and reasonable. Actual damages
17 for a plaintiff who has been physically injured include
18 pain and suffering, both past and future, as well as mental
19 anguish, impairment of health or physical condition, and
20 disfigurement. The plaintiff may also claim lost wages due
21 to absence from work and reduced earning ability for the
22 future. In determining the amount of compensation for
23 personal injuries it is proper to consider past and present
24 aspects of the injury. This would include physical and
25 mental pain and suffering, expenses incurred for necessary

1 medical treatment, loss of time and income which resulted
2 from the impairment of the ability to work and earn a
3 livelihood, the loss of enjoyment of life suffered as a
4 result of the injury, and any other losses which are
5 reflected by the character of the injury. The injured
6 party may recover for those future damages that are
7 reasonably sure to result from the injuries. This
8 principal lies -- the principal underlying compensation for
9 future damages is that only one action can be brought and
10 therefore only one recovery can be had.

11 I next charge you on loss of enjoyment of life. Loss
12 of enjoyment of life compensates the plaintiff for
13 limitations on the plaintiff's ability to participate in
14 and derive pleasure from the normal activities of daily
15 life.

16 Again, I also charge you on mental suffering. Mental
17 suffering, apprehension, shock, fright, emotional upset,
18 humiliation, and anxiety, either present or expected in the
19 future, can be properly considered as elements of damage.

20 Now, as far as the verdict in this case, ladies and
21 gentlemen, all twelve of you must agree on the verdict. It
22 must be unanimous. Your verdict cannot be based on
23 sympathy, passion, prejudice, emotion, or any other
24 consideration not in evidence in this case. It must solely
25 be based on the evidence in this case.

1 Ladies and gentlemen, the verdict form in this case,
2 again as I previously stated, this has to be unanimous. It
3 has to be unanimous of all 12 jurors in this matter. The
4 jury -- the form in this case is a little different than in
5 some cases, again, because negligence has been admitted.
6 But for this verdict you must find whether or not the
7 negligence proximately caused the injuries that have been
8 claimed, and then you must also determine what the damage
9 amount is. So what this verdict will say is: We the jury
10 unanimously find that the plaintiff -- excuse me -- that
11 the defendant's negligence proximately caused the damages
12 in the amount of blank. Or it will say: We the jury
13 unanimously find that the defendant's negligence did not
14 proximately cause the damages claimed. Those are your two
15 determinations that you will see.

16 Before I send you out to begin your deliberations, I
17 have a few matters to take up with the attorneys to see if
18 there is anything else that we need to charge.

19 Mr. Smith, any additions or objections to the jury
20 charge?

21 MR. SMITH: No, sir, Your Honor.

22 THE COURT: Plaintiff?

23 MS. RAFFALDT: Without objection.

24 THE COURT: All right. Ladies and gentlemen, I am
25 going to go ahead and let you go to your jury room. I

1 don't want you to begin deliberations yet until you have
2 received all of the evidence, that way everybody can take a
3 look at it at the same time.

4 Madam Foreman, along with the evidence, we will also
5 bring back the jury verdict form. I do want to take a
6 minute just to say thank you all for your service. Jury
7 service is sometimes not what people necessarily want to
8 do, but I have noticed during the trial of this case that
9 you've all paid close attention, and I really do appreciate
10 that. So again, thank you.

11 If you will return to your jury room, and if we can
12 keep the alternate just out in the hallway for a minute.
13 Okay.

14 REPORTER'S NOTE: (JURY EXITS COURTROOM AT 3:09PM)

15 THE COURT: All right. Is our alternate right there
16 in the hallway?

17 Any objection to releasing the alternate?

18 MR. SMITH: No.

19 MS. RAFFALDT: No objection, Judge.

20 THE COURT: All right. Can you just bring her back in
21 and I'll go ahead and release her?

22 REPORTER'S NOTE: (WHEREBY ALTERNATE JUROR IS BROUGHT
23 INTO COURTROOM)

24 THE COURT: Unfortunately because you are our
25 alternate, I can't let you go back to begin deliberations,

1 but I -- I wanted to tell you, I really do appreciate you
2 being here. I hate that you can't go back there and
3 deliberate this case because I -- I've noticed that you
4 have paid great attention, so I do appreciate that. But
5 you are excused. I -- I think that we're going to tell
6 everybody to call back Wednesday afternoon. So if you'll
7 just call back Wednesday afternoon after 6:00. Okay.

8 ALTERNATE JUROR: Thank you.

9 THE COURT: Thank you.

10 I have my law clerk doing a -- a change on the verdict
11 form. He didn't have proximate cause on there. I think
12 that needs to be on there.

13 MS. RAFFALDT: May I approach?

14 THE COURT: Yes. Yes.

15 MS. RAFFALDT: We've got this all redacted.

16 THE COURT: Okay.

17 THE COURT: Do we need to renew the motions on the
18 record or just state if you want to renew them?

19 MR. SMITH: Yeah. You want to get your motion on the
20 record?

21 MS. RAFFALDT: Sure, we can.

22 THE COURT: Okay. All right.

23 MS. RAFFALDT: Judge, I would ask for a motion for
24 reconsideration, in particular on the issues that we
25 discussed regarding Defense counsel's motion in limine.

1 Obviously during the testimony here as the court got to
2 hear more about what the actual symptoms treatment was,
3 there were -- it is just -- it's a chain of events. It's
4 all related to abdominal history.

5 I think that it's all related to -- or all something
6 that the jury should be able to consider when it comes to
7 their deliberations. I feel like we were cut off kind of
8 right in the middle of it and it -- it skewed the overall
9 argument about the abdominal pain, which I think was
10 prejudicial to my client. And I think that she should have
11 been allowed that evidence in, and that's why we would
12 motion for reconsideration on that issue because based on
13 the testimony, it was all directly relevant to the
14 abdominal pain regardless of the ultimate diagnosis.

15 These were all symptoms that were immediately
16 following the accident and they were consistent symptoms of
17 -- of this child's pain, suffering and the treatment was
18 ongoing. It's not like he had any huge gaps in treatment
19 and I think it's all related.

20 THE COURT: Thank you Ms. Raffaltdt.

21 Mr. Smith, any response?

22 MR. SMITH: Your Honor, I -- I've said it many, many
23 times. There's -- a complicated issue like this needs
24 expert testimony. In this particular case, Dr. Bahan
25 opined that it was not caused from the motor vehicle

1 accident. Dr. Quiros opined it was not caused by the
2 motor vehicle accident. The doctors at the Cleveland
3 Clinic opined it was not caused by the motor vehicle
4 accident.

5 We didn't hear any testimony. I think what Your Honor
6 did was allow the -- the testimony of abdominal issues in,
7 which I even objected to. I think because we did find out
8 after some significant testing, it was colitis, as well as
9 the constipation that showed up on the X-rays, neither of
10 which were caused by the motor vehicle accident. So I -- I
11 would ask Your Honor to reconsider letting any of it as a
12 matter of fact. So that's where I am on that motion, and I
13 would just renew my motions on proximate. There was no
14 evidence to show that the abdominal issues, whether it be
15 constipation or whatever pain he was suffering was
16 proximately caused for the motor vehicle accident. No
17 expert said it was.

18 THE COURT: All right. Ms. Raffaldt, respectfully,
19 I'm going to deny your motion. I -- I understand your
20 argument, I truly do. And Mr. Smith, I'm going to deny
21 your motion and I'm going to go with my previous ruling as
22 proximate cause on the directed verdict motion.

23 MR. SMITH: Thank you, your Honor.

24 THE COURT: All right. Do we have anything else?

25 MS. RAFFALDT: Judge, I just wanted to put on the

1 record we would adopt our response to the motion in limine
2 in addition to the arguments that I made for the Court
3 order.

4 THE COURT: For the record, they are adopted. Thank
5 you, Ms. Raffaldt.

6 MS. RAFFALDT: Thank you, Judge.

7 THE COURT: All right. Well, I'm going to go see if
8 my law clerk has got that verdict.

9 I think the last four cases I've had, at some point,
10 during the trial, they have requested copies of my charge.
11 I don't normally just give it to them. I -- I would not be
12 inclined to just give it to them on this, but it -- it does
13 seem like they -- they've requested a lot, so if they do
14 request it, I probably would be inclined to just give them
15 the whole charge, not just if they wanted one part. I'm
16 one that if they want one part, I'm going to give it all to
17 them. But I can give that to them in a -- a written form.

18 All right. Anything else?

19 MS. RAFFALDT: Thank you, Judge. Thank you.

20 THE COURT: All right.

21 REPORTER'S NOTE: (JURY BEGINS DELIBERATIONS AT
22 3:17PM)

23 (COURT IS IN RECESS)

24 THE COURT: Keep your seats. Do we know where Mr.
25 Smith is?

1 MS. RAFFALDT: He stepped out, Judge, I'm not sure.
2 THE COURT: All right.
3 MS. RAFFALDT: And I'm waiting on my client from the
4 vending machine.
5 THE COURT: Okay. Did they tell you that there's a --
6 they reached a verdict?
7 MS. RAFFALDT: Yes.
8 THE COURT: Okay. All right. Thanks.
9 MR. SMITH: Sorry, Judge.
10 THE COURT: It's all right. Anything else before we
11 bring the jury in?
12 MS. RAFFALDT: No, Judge.
13 THE COURT: All right. From the defense?
14 MR. SMITH: It was Ed Lawson just in case.
15 THE COURT: I didn't -- yeah, tell Ed I'm going to
16 hold him in contempt. Let's bring in the jury.
17 REPORTER'S NOTE: (JURY ENTERS COURTROOM AT 4:01PM)
18 THE COURT: All right. Madam Forelady, I understand
19 that we have a verdict; is that correct?
20 THE FOREPERSON: Yes, sir.
21 THE COURT: All right. All right.
22 THE CLERK: State of South Carolina, County of Horry,
23 in the Court of Common Pleas for the 15th Judicial Circuit
24 Court Civil Action Number 2020-CP-2601169 VK, a minor by
25 and through his guardian Amber Kopanski versus LaShauna

1 Baker. We, the jury, unanimously find that the Defendant's
2 negligence did not proximately cause the Plaintiff's
3 damages. Signed foreperson, Sharon Brangaccio, April 23,
4 2024.

5 THE COURT: All right. Ladies and gentlemen, do you
6 need polling from the Plaintiff?

7 MS. RAFFALDT: Yes. We request a polling, Judge.

8 THE CLERK: When I call your juror number, please
9 stand. I have two questions for you. After you answer,
10 you may be seated.

11 Number 325, is this your verdict, and is this still
12 your verdict?

13 JUROR NUMBER 325: Yes.

14 THE CLERK: You may be seated. Number 99. Is this
15 your verdict, and is this still your verdict?

16 JUROR NUMBER 99: Yes.

17 THE CLERK: 153. Is this your verdict, and is this
18 still your verdict?

19 JUROR NUMBER 153: Yes.

20 THE CLERK: 26. Is this your verdict, and is this
21 still your verdict?

22 JUROR NUMBER 26: Yes.

23 THE CLERK: 163. Is this your verdict and is this
24 still your verdict?

25 JUROR NUMBER 163: Yes.

1 THE CLERK: 318. Is this your verdict, and is this
2 still your verdict?
3 JUROR NUMBER 318: Yes.
4 THE CLERK: 157. Is this your verdict, and is this
5 still your verdict?
6 JUROR NUMBER 157: Yes.
7 THE CLERK: 55. Is this your verdict, and is this
8 still your verdict?
9 JUROR NUMBER 55: Yes.
10 THE CLERK: 30. Is this your verdict, and is this
11 still your verdict?
12 JUROR NUMBER 30: Yes.
13 THE CLERK: 12. Is this your verdict, and is this
14 still your verdict?
15 JUROR NUMBER 12: Yes.
16 THE CLERK: 38. Is this your verdict, and is this
17 still your verdict?
18 JUROR NUMBER 38: Yes.
19 THE CLERK: 97. Is this your verdict, and is this
20 still your verdict?
21 JUROR NUMBER 97: Yes.
22 THE CLERK: 400.
23 THE COURT: I think 400 was our alternate. Yep.
24 THE CLERK: Okay. That's it.
25 THE COURT: All right. Ladies and gentlemen of the

1 jury, again, I want to thank you for your jury service
2 today. Jury service -- juror -- excuse me. Jury service
3 is never an easy thing, but you've reached a unanimous
4 verdict in this case. And nobody can criticize your
5 verdict because you have reached it unanimously.

6 I have told you multiple times throughout this trial
7 that you are not to speak about this or tell anybody about
8 this or discuss this with anybody. You can choose to do
9 that or not do that now. If you'd like to discuss this
10 later with anybody else, you can do so. If you choose to
11 keep your thoughts to yourself, you can certainly do that
12 as well.

13 But again, I thank you so much for your service and
14 your willingness to serve. If you'll go back to your jury
15 room, you are excused. Unfortunately, I can't excuse you
16 for the week. We may have another trial starting Thursday,
17 but I'm going to ask that you call Wednesday night. Okay?
18 But again, thank you so much and y'all are excused.

19 REPORTER'S NOTE: (JURY EXCUSED AT 4:05PM)

20 THE COURT: All right. Post-trial motions? Or I'll
21 be happy to give you 10 days if you'd like.

22 MS. RAFFALDT: Yes, we'll wait for the 10 days, Judge.
23 If anything it would just be another shot at my motion to
24 reconsider --

25 THE COURT: I understand.

1 MS. RAFFALDT: -- based on the motion in limine. And
2 I don't really have any further arguments other than that
3 what I've already argued.

4 THE COURT: Any objections of giving her 10 days?

5 MR. SMITH: No, sir.

6 THE COURT: All right. Anything from the defense?

7 MR. SMITH: No, sir.

8 THE COURT: All right. Again, I -- I congratulate
9 y'all on both sides. Well-tried case. I understand that
10 unfortunately in cases not everybody can win. Not
11 everybody can lose. And I -- I do want y'all both to
12 understand that I appreciate your diligence and what y'all
13 put up. So thank you. All right.

14 MS. RAFFALDT: Thank you, Judge.

15 (COURT IS ADJOURNED)

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PO BOX 22664

HEALTH INSURANCE CLAIM FORM

LONG BEACH, CA 908015664

APPROVED BY NATIONAL UNIFORM CLAIM COMMITTEE (NUCC) 02/12

XXX PICA

PICA XXX

1. MEDICARE ☐ MEDICAID ☒ TRICARE ☐ CHAMPVA ☐ GROUP HEALTH PLAN ☐ FECA BLK LUNG ☐ OTHER ☐		2. PATIENT'S NAME (Last Name, First Name, Middle Initial) K [REDACTED] V [REDACTED]		3. PATIENT'S BIRTH DATE [REDACTED] M [X] F []		4. INSURED'S NAME (Last Name, First Name, Middle Initial) K [REDACTED] V [REDACTED]	
5. PATIENT'S ADDRESS (No. Street) [REDACTED]		6. PATIENT RELATIONSHIP TO INSURED Self [X] Spouse [] Child [] Other []		7. INSURED'S ADDRESS (No. Street) [REDACTED]		8. RESERVED FOR NUCC USE	
CITY NICHOLS		STATE SC		CITY NICHOLS		STATE SC	
ZIP CODE 29581		TELEPHONE (Include Area Code) (843) 6172626		ZIP CODE 29581		TELEPHONE (Include Area Code) (843) 6172626	
9. OTHER INSURED'S NAME (Last Name, First Name, Middle Initial)		10. IS PATIENT'S CONDITION RELATED TO: a. EMPLOYMENT? (Current or Previous) YES [] NO [X] b. AUTO ACCIDENT? YES [] NO [X] c. OTHER ACCIDENT? YES [] NO [X]		11. INSURED'S POLICY GROUP OR FECA NUMBER		12. INSURED'S DATE OF BIRTH [REDACTED] M [X] F []	
a. OTHER INSURED'S POLICY OR GROUP NUMBER		10a. CLAIM CODES (Designated by NUCC)		13. IS THERE ANOTHER HEALTH BENEFIT PLAN? YES [] NO [X] If yes, complete items 7, 9a, and 9d.		14. INSURED'S OR AUTHORIZED PERSON'S SIGNATURE I authorize payment of medical benefits to the undersigned physician or supplier for services described below.	
b. RESERVED FOR NUCC USE		10b. CLAIM CODES (Designated by NUCC)		15. INSURED'S OR AUTHORIZED PERSON'S SIGNATURE I authorize payment of medical benefits to the undersigned physician or supplier for services described below.		16. SIGNATURE ON FILE	
c. RESERVED FOR NUCC USE		10c. CLAIM CODES (Designated by NUCC)		17. IS THERE ANOTHER HEALTH BENEFIT PLAN? YES [] NO [X] If yes, complete items 7, 9a, and 9d.		18. SIGNATURE ON FILE	
3. INSURANCE PLAN NAME OR PROGRAM NAME		10d. CLAIM CODES (Designated by NUCC)		19. IS THERE ANOTHER HEALTH BENEFIT PLAN? YES [] NO [X] If yes, complete items 7, 9a, and 9d.		20. SIGNATURE ON FILE	
READ BACK OF FORM BEFORE COMPLETING & SIGNING THIS FORM.				21. INSURED'S OR AUTHORIZED PERSON'S SIGNATURE I authorize payment of medical benefits to the undersigned physician or supplier for services described below.			
22. PATIENT'S OR AUTHORIZED PERSON'S SIGNATURE I authorize the release of any medical or other information necessary to process this claim. I also request payment of government benefits either to myself or to the party who accepts assignment below.				23. SIGNATURE ON FILE			
SIGNED SIGNATURE ON FILE				DATE 03 20 2014			
14. DATE OF CURRENT ILLNESS, INJURY, or PREGNANCY (LMP) MM DD YY 03 19 2014 QUAL. 431		15. OTHER DATE QUAL. MM DD YY		16. DATES PATIENT UNABLE TO WORK IN CURRENT OCCUPATION FROM MM DD YY TO MM DD YY		17. HOSPITALIZATION DATES RELATED TO CURRENT SERVICES FROM MM DD YY TO MM DD YY	
17. NAME OF REFERRING PROVIDER OR OTHER SOURCE 17a. NPI		18. ADDITIONAL CLAIM INFORMATION (Designated by NUCC)		19. OUTSIDE LAB? YES [] NO [X] \$ CHARGES		20. RESUBMISSION CODE ORIGINAL REF. NO.	
21. DIAGNOSIS OR NATURE OF ILLNESS OR INJURY Relate A-L to service line below (24E) A. 78791 B. C. D. E. F. G. H. I. J. K. L.		22. PRIOR AUTHORIZATION NUMBER		23. PRIOR AUTHORIZATION NUMBER		24. PRIOR AUTHORIZATION NUMBER	
24. A. DATE(S) OF SERVICE From To MM DD YY MM DD YY		B. PLACE OF SERVICE C. EMG D. PROCEDURES, SERVICES, OR SUPPLIES (Explain Unusual Circumstances) CPT/HCPCS MODIFIER		E. DIAGNOSIS POINTER		F. \$ CHARGES	
1 03 19 14 03 19 14 11		99214		A		255 00 1	
2						NPI 1629002282	
3						NPI	
4						NPI	
5						NPI	
6						NPI	
25. FEDERAL TAX ID NUMBER		26. PATIENT'S ACCOUNT NO.		27. ACCEPT ASSIGNMENT? YES [X] NO []		28. TOTAL CHARGE \$ 255 00	
29. AMOUNT PAID \$ 0 00		30. Rptd for NUCC Use 255 00		31. BILLING PROVIDER INFO & PH #		32. MARION PHYSICIAN SERVICES, LLC PO BOX 7872 BELFAST ME 04915780	
33. SIGNATURE OF PHYSICIAN OR SUPPLIER INCLUDING DEGREES OR CREDENTIALS (I certify that the statements on the reverse apply to this bill and are made a part thereof.) MARC BAHAN, MD		34. SERVICE FACILITY LOCATION INFORMATION MARION PHYSICIAN SERVICES, 2845 EAST HWY 76, SUITE 5 MULLINS SC 295746035		35. BILLING PROVIDER INFO & PH #		36. MARION PHYSICIAN SERVICES, LLC PO BOX 7872 BELFAST ME 04915780	
SIGNED 03 20 2014 DATE		37. 1346561263		38. 1588985857		39. 1588985857	

NUCC Instruction Manual available at: www.nucc.org

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APPROVED OMB-0938-11

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ROA.153

PLAINTIFF'S
EXHIBIT

2

4/23/24



PO BOX 22664

LONG BEACH, CA 908015664

HEALTH INSURANCE CLAIM FORM

APPROVED BY NATIONAL UNIFORM CLAIM COMMITTEE (NUCC) 02/12

XXX PICA

PICA XXX

1. MEDICARE ☐ Medicare ☒ Medicaid ☐ TRICARE ☐ CHAMPVA ☐ GROUP HEALTH PLAN ☐ FECA ☐ OTHER		2. INSURED'S ID NUMBER (For Program A Item 1)	
2. PATIENT'S NAME (Last Name, First Name, Middle Initial) K [REDACTED] V [REDACTED]		3. PATIENT'S BIRTH DATE MM DD YY [REDACTED] [REDACTED] [REDACTED]	
3. PATIENT'S ADDRESS (No., Street) [REDACTED]		4. INSURED'S NAME (Last Name, First Name, Middle Initial) K [REDACTED] V [REDACTED]	
5. PATIENT'S RELATIONSHIP TO INSURED Self ☒ Spouse ☐ Child ☐ Other ☐		7. INSURED'S ADDRESS (No., Street) [REDACTED]	
6. PATIENT'S ADDRESS (No., Street) [REDACTED]		8. INSURED'S ADDRESS (No., Street) [REDACTED]	
CITY NICHOLS		CITY NICHOLS	
STATE SC		STATE SC	
ZIP CODE 29581		ZIP CODE 29581	
TELEPHONE (Include Area Code) (843) 6172626		TELEPHONE (Include Area Code) (843) 6172626	
9. OTHER INSURED'S NAME (Last Name, First Name, Middle Initial)		10. IS PATIENT'S CONDITION RELATED TO: a. EMPLOYMENT? (Current or Previous) ☐ YES ☒ NO b. AUTO ACCIDENT? ☐ YES ☒ NO c. OTHER ACCIDENT? ☐ YES ☒ NO	
11. INSURED'S POLICY GROUP OR FECA NUMBER		12. INSURED'S DATE OF BIRTH MM DD YY [REDACTED] [REDACTED] [REDACTED]	
13. OTHER INSURED'S POLICY OR GROUP NUMBER		14. INSURED'S POLICY GROUP OR FECA NUMBER	
15. RESERVED FOR NUCC USE		16. INSURED'S DATE OF BIRTH MM DD YY [REDACTED] [REDACTED] [REDACTED]	
17. RESERVED FOR NUCC USE		18. OTHER ACCIDENT? ☐ YES ☒ NO	
19. INSURANCE PLAN NAME OR PROGRAM NAME		20. IS THERE ANOTHER HEALTH BENEFIT PLAN? ☐ YES ☒ NO	
21. PATIENT'S OR AUTHORIZED PERSON'S SIGNATURE (I authorize the release of any medical or other information necessary to process this claim. I also request payment of government benefits either to myself or to the party who accepts assignment below.) SIGNED SIGNATURE ON FILE		22. INSURED'S OR AUTHORIZED PERSON'S SIGNATURE (I authorize payment of medical benefits to the undersigned physician or supplier for services described below.) SIGNED SIGNATURE ON FILE	
23. DATE OF CURRENT ILLNESS, INJURY OR PREGNANCY (LMP) MM DD YY 04 16 2014		24. OTHER DATE QUAL 04 16 2014	
25. NAME OF REFERRING PROVIDER OR OTHER SOURCE 17a. [REDACTED] 17b. NPI		26. HOSPITALIZATION DATES RELATED TO CURRENT SERVICES FROM MM DD YY TO MM DD YY [REDACTED] [REDACTED] [REDACTED] [REDACTED]	
27. ADDITIONAL CLAIM INFORMATION (Designated by NUCC)		28. OUTSIDE LAB? ☐ YES ☒ NO	
29. DIAGNOSIS OR NATURE OF ILLNESS OR INJURY (Relate A-L to service line below (2nd)) A. 7827 B. 78900 C. [REDACTED] D. [REDACTED] E. [REDACTED] F. [REDACTED] G. [REDACTED] H. [REDACTED] I. [REDACTED] J. [REDACTED] K. [REDACTED] L. [REDACTED]		30. RESUBMISSION CODE ORIGINAL REF. NO.	
31. PRIOR AUTHORIZATION NUMBER		32. PRIOR AUTHORIZATION NUMBER	
33. DATE(S) OF SERVICE From MM DD YY To MM DD YY 04 16 14 04 16 14		34. PROCEDURES, SERVICES, OR SUPPLIES (Explain Unusual Circumstances) CPT/HCPCS MODIFIER 99213	
35. DIAGNOSIS AB		36. CHARGES 172 00 1	
37. RENDERING PROVIDER ID #		38. RENDERING PROVIDER ID #	
39. FEDERAL TAX ID NUMBER SSN EIN [REDACTED] [REDACTED]		40. PATIENT'S ACCOUNT NO. [REDACTED]	
41. SIGNATURE OF PHYSICIAN OR SUPPLIER INCLUDING DEGREES OR CREDENTIALS if entity that the statements on the reverse apply to this bill and are made a part thereof. MARC BAHAN, MD		42. SERVICE FACILITY LOCATION INFORMATION MARION PHYSICIAN SERVICES, 2845 EAST HWY 76, SUITE 5 MULLINS SC 295746035	
43. BILLING PROVIDER INFO & PH # PO BOX 7872 BELFAST ME 049157800		44. TOTAL CHARGE \$ 172 00	
45. AMOUNT PAID \$ 0 00		46. BALANCE DUE \$ 172 00	
47. SIGNATURE OF PHYSICIAN OR SUPPLIER DATE 04 17 2014		48. SIGNATURE OF PHYSICIAN OR SUPPLIER DATE 04 17 2014	

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204251

ROA.154



PO BOX 22664

LONG BEACH, CA 908015664

HEALTH INSURANCE CLAIM FORM

APPROVED BY NATIONAL UNIFORM CLAIM COMMITTEE (NUCC) 12/12

PICA XXX

PICA XXX

1. MEDICARE ☐ (Medicare #)		MEDICAID ☒ (Medicaid #)		TRICARE ☐ (ID # DoD #)		CHAMPVA ☐ (Member #)		GROUP HEALTH PLAN ☐ (ID #)		FECA BLANKING ☐ (ID #)		OTHER ☐ (ID #)		12. INSURED'S ID NUMBER (For Program # Item #)																																																																																																																																																									
2. PATIENT'S NAME (Last Name, First Name, Middle Initial) K [REDACTED] V [REDACTED]												3. PATIENT'S BIRTH DATE [REDACTED]				SEX ☒ M ☐ F																																																																																																																																																							
5. PATIENT'S ADDRESS (No., Street) [REDACTED]												6. PATIENT RELATIONSHIP TO INSURED Self ☒ Spouse ☐ Child ☐ Other ☐				7. INSURED'S ADDRESS (No., Street) [REDACTED]																																																																																																																																																							
CITY NICHOLS						STATE SC						CITY NICHOLS						STATE SC																																																																																																																																																					
ZIP CODE 29581						TELEPHONE (Include Area Code) (843) 6172626						ZIP CODE 29581						TELEPHONE (Include Area Code) (843) 6172626																																																																																																																																																					
9. OTHER INSURED'S NAME (Last Name, First Name, Middle Initial)												10. IS PATIENT'S CONDITION RELATED TO: a. EMPLOYMENT? (Current or Previous) ☐ YES ☒ NO b. AUTO ACCIDENT? ☐ YES ☒ NO c. OTHER ACCIDENT? ☐ YES ☒ NO												11. INSURED'S POLICY GROUP OR FECA NUMBER																																																																																																																																															
a. OTHER INSURED'S POLICY OR GROUP NUMBER												3. EMPLOYMENT? (Current or Previous) ☐ YES ☒ NO												1. INSURED'S DATE OF BIRTH [REDACTED]												SEX ☒ M ☐ F																																																																																																																																			
b. RESERVED FOR NUCC USE												d. AUTO ACCIDENT? ☐ YES ☒ NO												2. OTHER CLAIM TO DESIGNATED BY NUCC																																																																																																																																															
c. RESERVED FOR NUCC USE												e. OTHER ACCIDENT? ☐ YES ☒ NO												3. INSURANCE PLAN NAME OR PROGRAM NAME																																																																																																																																															
4. INSURANCE PLAN NAME OR PROGRAM NAME												10d. CLAIM CODES (Designated by NUCC)												4. IS THERE ANOTHER HEALTH BENEFIT PLAN? ☐ YES ☒ NO If yes, complete items 9, 9a, and 9d.																																																																																																																																															
12. PATIENT'S OR AUTHORIZED PERSON'S SIGNATURE I authorize the release of any medical or other information necessary to process this claim. I also request payment of government benefits either to myself or to the party who accepts assignment below. SIGNED SIGNATURE ON FILE DATE 04 18 2014																								13. INSURED'S OR AUTHORIZED PERSON'S SIGNATURE I authorize payment of medical benefits to the undersigned physician or supplier for services rendered below. SIGNED SIGNATURE ON FILE																																																																																																																																															
14. DATE OF CURRENT ILLNESS, INJURY, or PREGNANCY (LMP): MM DD YY 04 17 2014												QUAL 431												15. OTHER DATE MM DD YY												16. DATES PATIENT UNABLE TO WORK IN CURRENT OCCUPATION FROM MM DD YY TO MM DD YY																																																																																																																																			
17. NAME OF REFERRING PROVIDER OR OTHER SOURCE												17a. [REDACTED]												17b. NPI												18. HOSPITALIZATION DATES RELATED TO CURRENT SERVICES FROM MM DD YY TO MM DD YY																																																																																																																																			
19. ADDITIONAL CLAIM INFORMATION (Designated by NUCC)																								20. OUTSIDE LAB? ☐ YES ☒ NO \$ CHARGES																																																																																																																																															
21. DIAGNOSIS OR NATURE OF ILLNESS OR INJURY Relate A-L to service line below (246) A. 56400 B. C. D. E. F. G. H. I. J. K. L.																								22. RESUBMISSION CODE ORIGINAL REF. NO.																																																																																																																																															
23. PRIOR AUTHORIZATION NUMBER																								24. DATE(S) OF SERVICE From MM DD YY To MM DD YY																																																																																																																																															
25. FEDERAL TAX ID NUMBER																								SSN EIN																								26. PATIENT'S ACCOUNT NO.																								27. ACCEPT ASSIGNMENT? ☒ YES ☐ NO																								28. TOTAL CHARGE \$ 172 00																								29. AMOUNT PAID \$ 0 00																								30. Rsvd for NUCC Use 172 00																							
31. SIGNATURE OF PHYSICIAN OR SUPPLIER INCLUDING DEGREES OR CREDENTIALS (I certify that the statements on the reverse are true to this bill and are made a part thereof.) MARC BAHAN, MD																								32. SERVICE FACILITY LOCATION INFORMATION MARION PHYSICIAN SERVICES, 2845 EAST HWY 76, SUITE 5 MULLINS SC 295746035																								33. BILLING PROVIDER INFO & PH # MARION PHYSICIAN SERVICES, LLC PO BOX 7872 BELFAST ME 049157800																																																																																																																							
SIGNED 04 18 2014 DATE																								3. 1346561263																								3. 1588985857																																																																																																																							

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204567

ROA.155

Spinal Care Center of Mullins
270 South Main Street
Mullins, SC 29574-3120
(843) 464-8700

September 2, 2014

Federal ID # [REDACTED]

Patient #. 12754

RE: V [REDACTED] K [REDACTED]

Insurance ID:

Diagnosis For Accident On 03/03/14

Date	Service Descriptions	Charge	Receipt	Total
03/28/14	72040 X-ray Cervical AP & Lat	70.00		70.00
03/28/14	72100 X-RAY LUMBAR, AP & LAT.	90.00		160.00
03/28/14	99070 Small Ice Pack	5.00		165.00
03/28/14	99204 COMPREHENSIVE EXAM	125.00		290.00
03/31/14	98941 SPINAL 3/4 REGIONS	40.00		330.00
03/31/14	97010 Cold Pack	14.00		344.00
04/01/14	98941 SPINAL 3/4 REGIONS	40.00		384.00
04/01/14	97010 Cold Pack	14.00		398.00
04/01/14	99242 Intermediate Consultation	40.00		438.00
		\$438.00	\$0.00	\$438.00



MUSC Health
PO Box 931736
Atlanta, Ga 31193-1736

Amber Kopanski
PO BOX 82
NICHOLS, SC 29581

Guarantor ID: [REDACTED]

Visit Coverages:

This is not a bill. This is an itemization of your MUSC Health services for:

Patient: K [REDACTED] V [REDACTED]
Hospital Account: [REDACTED]

Admission Date: 07/18/2014
Discharge Date: 07/18/2014

Current Account Balance: 0.00

Professional Charges

Service Date	Diagnosis	Px Code	Px Description	Invoice	Billing Provider	Orig Amt
07/18/14	564.1	99243	OFFICE CONSULTATION, LEVEL III	1011240050	QUIROS, JOSE ANTONIO	273.00
Total professional charges:						273.00

Professional Payments and Adjustments

Description	Amount
Total professional payments and adjustments:	

For inquiries regarding this document, please call 1-843-792-2311.





MUSC Health
PO Box 931736
Atlanta, Ga 31193-1736

A [REDACTED] K [REDACTED]
PO BOX 82
NICHOLS, SC 29581

Guarantor ID: [REDACTED]

Visit Coverages:

This is not a bill. This is an itemization of your MUSC Health services for:

Patient: K [REDACTED] V [REDACTED]
Hospital Account: [REDACTED]

Admission Date: 07/18/2014
Discharge Date: 07/18/2014

564.1 - Irritable bowel syndrome
564.09 - Other constipation
789.00 - Abdominal pain, unspecified site

Current Account Balance: 0.00

Hospital Charges

Date	Rev	Code	Procedure, Description	Qty	Amount
07/18/14	0510	51000001	HB MEDICAL VISIT NEW LEVEL 1	1	80.00
07/18/14	0929	30000001	HB VENIPUNCTURE (PROCEDURE)	1	26.00
07/18/14	0305	85320364	HB HEMOGRAM & AUTODIFF	1	134.00
07/18/14	0301	85311439	HB RIA ASSAY, FREE THYROXINE	1	142.00
07/18/14	0301	85311256	HB THYROID STIMULATING HORMONE	1	202.00
07/18/14	0300	85311629	HB METABOLIC PANEL	1	128.00
07/18/14	0305	85320075	HB WESTERGREN SEDIMENTATION RATE	1	67.00
07/18/14	0302	85360535	HB CRP	1	138.00
07/18/14	0320	32000089	HB XRAY ABDOMEN AP VIEW	1	233.00

Total hospital charges: 1,150.00

Hospital Payments and Adjustments

Description	Amount

Total hospital payments and adjustments:

For inquiries regarding this document, please call 1-843-792-2311.





MUSC Health
PO Box 931736
Atlanta, Ga 31193-1736

Amber Kopanski
PO BOX 82
NICHOLS, SC 29581

Guarantor ID: [REDACTED]

Visit Coverages:

This is not a bill. This is an itemization of your MUSC Health services for:

Patient: K [REDACTED], V [REDACTED]
Hospital Account: [REDACTED]

Admission Date: 07/18/2014
Discharge Date: 07/18/2014

Current Account Balance: 0.00

Professional Charges

Service Date	Diagnosis	Px Code	Px Description	Invoice	Billing Provider	Orig Amt
07/18/14	564.1789.0	74000	X-RAY ABDOMEN 1 VW	1010686210	THACKER, PAUL	49.00
Total professional charges:						49.00

Professional Payments and Adjustments

Description	Amount

Total professional payments and adjustments:

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MUSC PAGE 82 OF 100

ROA.159

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Aug 21 2025

SC Court of Appeals

CERTIFICATE OF COUNSEL

This Record on Appeal contains all material proposed to be included by any of the parties and not any other material. It also complies with the Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings.

Dated this 20th day of August, 2025

V.K., A MINOR, BY AND
THROUGH HIS GUARD-
IAN AMBER KOPANSKI

s/Howard W. Anderson III
Howard W. Anderson III
(#100329)

TRULUCK THOMASON, LLC
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Greenville, SC 29601
howard@truluckthomason.com
864-331-1751 (p)

Counsel for Appellant