

RECEIVED

Nov 10 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM AIKEN COUNTY
Eugene C. Griffith, Jr., Circuit Court Judge

Appellate Case No. 2024-000592
Case No. 2020-CP-02-2238

Cassiopia Rhoads, ... Respondent-Appellant,

v.

Aiken County Sheriff's Office, ... Appellant-Respondent.

RECORD ON APPEAL - VOLUME III
(pp. 927-1391)

ANDREW F. LINDEMANN
LINDEMANN LAW FIRM, P.A.
5 Calendar Court, Suite 202
Post Office Box 6923
Columbia, South Carolina 29260
(803) 881-8920

Counsel for Appellant-Respondent
Aiken County Sheriff's Office

FRANCIS M. HINSON, IV
HHP LAW GROUP, LLC
2020 Assembly Street
Columbia, South Carolina 29201
(803) 400-8277

PATRICK J. McLAUGHLIN
WUKELA LAW FIRM
403 Second Loop Road
Post Office Box 13057
Florence, South Carolina 29504
(843) 669-5634

Counsel for Respondent-Appellant
Cassiopia Rhoads

Index

Volume I

Order Dismissing Defendants Southern Health Partners, Inc. and Robert J. Williams, M.D., filed December 28, 2023	1
Order Relating to Post-Trial Motions, filed March 12, 2024	4
Order Reducing Verdict to Statutory Cap, filed March 12, 2024.....	13
Order Granting Defendant’s Motion to Alter or Amend Order and JNOV Motion, filed August 19, 2024.....	19
Order Denying Defendant’s Motion to Reconsider, filed September 19, 2024	29
Verdict Form, filed October 13, 2023	31
Notice of Intent to File Suit, with attachments, filed May 11, 2020.....	32
Summons.....	36
Standard Interrogatories for the Notice of Intent.....	37
Plaintiff’s Responses to Standard Interrogatories for the Notice of Intent	39
Affidavit of Jose A. Vazquez.....	43
Summons and Complaint, filed November 17, 2020.....	47
Answer of Defendants Michael E. Hunt and Aiken County, filed February 4, 2021	80
Defendant Hunt’s Objection to Plaintiff’s Offer of Judgment, filed April 8, 2022.....	90
Defendant's Motion for Summary Judgment, filed September 29, 2023	94
Plaintiff’s Pre-Trial Brief and Request for Pre-Trial Hearing <i>in limine</i> , filed October 3, 2023	98
Plaintiff’s Response in Opposition to Defendant's Motion for Summary Judgment, filed October 5, 2023	105
Exhibit 1: Inmate Grievances.....	131
Exhibit 2: Mary Joyner Deposition Excerpts and Exhibit.....	137

Exhibit 3: Kimberly Haven Kelley Deposition Excerpts and Exhibit	146
Exhibit 4: Tonetta Buggs Deposition Excerpts	169
Exhibit 5: Cassiopia Rhoads Deposition Excerpts	182
Exhibit 6: Deposition Excerpts for Nick Gallam.....	186
December 13, 2022 Rule 30(b)(6) Deposition Excerpts.....	187
September 28, 2023, Deposition Excerpts	191
Exhibit 7: Detention Center Employee Deposition Excerpts.....	202
Deputy Carla Hill Deposition Excerpts.....	203
Deputy Natasha Rivers Deposition Excerpts	206
Deputy Lisa Bauer Deposition Excerpts	208
Lieutenant Jessica Whitaker Deposition Excerpts	211
Deputy Chanate Buchanan Deposition Excerpts	214
Myra Constance Hamilton-Caree Deposition Excerpts.....	217
Tonetta Buggs Deposition Excerpts.....	219
Tamara Erikson Deposition Excerpts.....	222
Nick Gallam Rule 30(b)(6) Deposition Excerpts (December 13, 2022).....	224
Exhibit 8: Brandi Galloway Deposition Excerpts	227
Exhibit 9: Edward O’Bryan, M.D. Deposition Excerpts.....	229
Exhibit 10: Deputy Carla Hill Deposition Excerpts	232
Notice of Motion and Motion to Exclude Expert Witness/Motion in Limine, with exhibit, filed October 8, 2023	245
Aubrey P. Land, R. Deposition Excerpts.....	253
Defendant Hunt’s Pre-Trial Brief, filed October 8, 2023	284

Consent Stipulation of Partial Dismissal with Prejudice and Substitution of a Party, filed October 8, 2023	307
Answer of Defendants Michael E. Hunt and Aiken County, filed October 10, 2023	309
Plaintiff’s Memorandum Regarding S.C. Code §15-78-70(d), filed October 11, 2023	319
Plaintiff’s Post-Trial Motion Regarding Interest and Costs and to Prohibit the Depositing of Funds with the Court Pending Appeal, filed October 23, 2023	323
Exhibit 1: Plaintiff’s Offer of Judgment to Defendant Michael E. Hunt, in his Official Capacity and Representative Capacity as Aiken County Sheriff, filed March 31, 2022	336
Exhibit 2: Various Offers of Judgment in Tort Claims Act Matters	339
Exhibit 3: Affidavit Regarding Costs and Interest	393
Attachment 1: Expenses.....	396
Attachment 2: Interest Calculation	398
Exhibit 4: Order Denying Depositing of Funds into Court <i>Woods v. Horry County School District</i> and S.C. Court of Appeals Opinion No. 2023-UP-244 (filed June 21, 2023).....	400
Exhibit 5: <i>In re Amendments to S.C. Rules of Civil Procedure</i> , 2006 S.C. LEXIS 157 (2006).....	406
Exhibit 6: Excerpts from Initial Brief of Appellant, <i>Owens v. Hunt</i> , Appellate Case No. 2023-000009.....	109
Plaintiff’s Motion for a Determination of Multiple Occurrences, filed October 23, 2023	416
Exhibit 1: Aiken Count Detention Center Inmate Rules and Regulations.....	422
Exhibit 2: <i>Wood v. Horry County School District</i> , Appellate Case No. 2021- 000535, Excerpts from Brief of Appellant	424
Notice of Motion and Motion for Judgment Notwithstanding Verdict, or Alternatively, Motion for New Trial Absolute or Alternatively, Motion for a Reduction of Verdict to the Statutory Cap and for Set-off of Amounts Paid by Settling Parties, filed October 23, 2023	428

Plaintiff’s Memorandum Showing Offer of Judgment Interest is to be Calculated on the Verdict, filed February 26, 2024.....	455
Exhibit 1: Calculation of Interest.....	460

Volume II

Notice of Motion and Motion to Alter or Amend Order and/or Motion to Reconsider, filed March 22, 2024.....	463
Plaintiff’s Response in Opposition to Defendant’s Motion to Alter or Amend Order and/or Motion to Reconsider, filed April 4, 2024	469
Plaintiff’s Memorandum regarding S.C. Code §15-78-70(d) with exhibits, filed May 22, 2024.....	474
Exhibit 1: Health Services Agreement Between Aiken County and Southern Health Partners, Inc.	489
Plaintiff’s Motion and Request for a Hearing, filed May 22, 2024	504
Plaintiff’s Supplemental Exhibits for Plaintiff’s Memorandum regarding S.C. Code §15-78-70(d), filed June 13, 2024.....	506
Exhibit: Wooten by Wooten v. South Carolina DOT, 326 S.C. 516 (Ct. App. 1997).....	512
Exhibit: <i>Smalls v. South Carolina Dep’t of Educ.</i> , 339 S.C. 208 (Ct. App. 2000).....	524
Exhibit: <i>Wade v. Berkeley County</i> , 339 S.C. 513 (Ct. App. 2000)	540
Exhibit: <i>Wade v. Berkeley County</i> , 348 S.C. 224 (2002)	557
Exhibit: <i>Chester v. S.C. Dep’t of Pub. Safety</i> , 388 S.C. 343 (2010).....	565
Exhibit: <i>Rutland v. S.C. DOT</i> , 400 S.C. 209 (2012).....	569
Exhibit: S.C. Code §§ 15-78-20; -30; -40; -60; -70; -80; -90; -100; -110; -120; and -200	577
Exhibit: Excerpt from Jury Trial, October 12, 2023.....	596
Exhibit: 10-page executed <i>Confidential Settlement Agreement and Release</i>	600

Exhibit: 18-04-P, Aiken County Procurement Documents, Bates stamped County-607-619, 622-626	611
Plaintiff’s Motion for Reconsideration, filed August 29, 2024	629
Exhibit 1: Answer of Defendants Southern Health Partners, Inc. and Robert J. Williams, M.D.	644
Exhibit 2: Notice of Intent to File Suit.....	664
Exhibit 3: Proof of ADR for Pre-Suit Mediation	668
Exhibit 4: Motion to Dismiss <i>Dickerson v. SCDMH, et al.</i> , Civil Action No. 2020-NI-40-00079 and Clement Rivers, LLP Letter.....	669
Trial Transcript, October 9-13, 2023.....	673
Plaintiff’s Opening Statement by Mr. Hinson	911

Volume III

Defendant’s Opening Statement by Mr. Lindemann.....	927
Lisa Bauer	
Direct Examination by Mr. McLaughlin.....	959
Cross-Examination by Mr. Lindemann.....	986
Redirect Examination by Mr. McLaughlin	1006
Mary Joyner	
Direct Examination by Mr. McLaughlin.....	1008
Cross-Examination by Mr. Lindemann.....	1012
Redirect Examination by Mr. McLaughlin	1017
Ashley Carver	
Direct Examination by Mr. Hinson	1019
Cross-Examination by Mr. Lindemann.....	1024

Edward O’Bryan, M.D.

Direct Examination by Mr. Hinson	1075
Voir Dire Examination by Mr. Lindemann.....	1079
Continued Direct Examination by Mr. Hinson	1082
Cross-Examination by Mr. Lindemann.....	1108
Redirect Examination by Mr. Hinson	1123

Quereyanna Lincoln

Direct Examination by Mr. McLaughlin.....	1150
Cross-Examination by Mr. Lindemann.....	1153

Carla Hill

Direct Examination by Mr. McLaughlin.....	1166
Cross-Examination by Mr. Lindemann.....	1181
Redirect Examination by Mr. McLaughlin	1203

Kimberly Kelley

Direct Examination by Mr. Hinson	1212
Cross-Examination by Mr. Lindemann.....	1226
Redirect Examination by Mr. Hinson	1250

Cassiopia Rhoads

Direct Examination by Mr. Hinson	1263
Cross-Examination by Mr. Lindemann.....	1275
Redirect Examination by Mr. Hinson	1294
Recross-Examination by Mr. Lindemann	1296

Defendant’s Motion for Directed Verdict.....	1303

Jessica Whitaker

Direct Examination by Mr. Lindemann	1371

Volume IV

Cross-Examination by Mr. McLaughlin	1392

Redirect Examination by Mr. Lindemann.....	1408

Recross-Examination by Mr. McLaughlin.....	1413

Chanate Buchanan

Direct Examination by Mr. Lindemann	1415

Cross-Examination by Mr. Hinson	1427

Nicholas Gallam

Direct Examination by Mr. Lindemann	1433

Cross-Examination by Mr. McLaughlin	1498

Redirect Examination by Mr. Lindemann.....	1502

Cassiopia Rhoads

Rebuttal Examination by Mr. Hinson	1504

Cross-Examination on Rebuttal by Mr. Lindemann.....	1507

Sur-Rebuttal Examination by Mr. Hinson	1509

Defendant's Motion for Directed Verdict.....	1512

Closing by Mr. Hinson.....	1559

Closing by Mr. Lindemann.....	1600

Closing by Mr. McLaughlin	1637

Charge by the Court	1650

Verdict.....	1685

Polling of the Jury	1686
Plaintiff’s Trial Exhibit #1: Excerpts from Plaintiff’s SHP Medical Records	1691
Plaintiff’s Trial Exhibit #2: Excerpts from Plaintiff’s Detention Center Records	1718
Plaintiff’s Trial Exhibit #3: Jail Incident Report and Logbook Excerpts	1736
Plaintiff’s Trial Exhibit #4: Logbook Excerpts.....	1740
Plaintiff’s Trial Exhibit #5: Medical Imaging.....	1761
Plaintiff’s Trial Exhibit #6: Medical Imaging.....	1770
Plaintiff’s Trial Exhibit #7: Medical Imaging.....	1773
Plaintiff’s Trial Exhibit #8: Medical Imaging.....	1779
Plaintiff’s Trial Exhibit #9: Aiken Regional Medical Centers Operative Report	1783
Plaintiff’s Trial Exhibit #10: Medical Imaging.....	1786
Plaintiff’s Trial Exhibit #12: Southern Health Partners Admission Data/History and Physical Form.....	1788
Plaintiff’s Trial Exhibit #16: Aiken Regional Medical Center Bill.....	1790
Defendant’s Trial Exhibit #2: Logbook Excerpts	1792
Defendant’s Trial Exhibit #3: Logbook Excerpts	1795
Defendant’s Trial Exhibit #4: Logbook Excerpts	1799
Defendant’s Trial Exhibit #5: Logbook Excerpts	1802
Defendant’s Trial Exhibit #6: Aiken County Sheriff’s Office Detention Division Inmate Rules and Regulations	1804
Defendant’s Trial Exhibit #7: Minimum Standards Excerpts	1806
Court’s Exhibit #2: Plaintiff’s Responses to Defendant’s Interrogatories.....	1810
Defendant’s Request to Charge #7	1826
Judge Griffith’s Written Jury Charges	1827

Volume V

Transcript of the Deposition of Captain Nicholas Gallam, taken December 13, 2022	1862
Transcript of the Deposition of Dr. Edward O'Bryan, taken March 31, 2023.....	1968
Hearing Transcript, June 13, 2024	2206
Certificate of Counsel	
Certificate of Compliance	

Defendant's Opening Statement by Mr. Lindemann

JURY TRIAL - VOL. 2

1 hear this case and decide what is owed and what is
2 reasonable to expect of people who are being detained
3 in our local detention center. Thank you.

4 THE COURT: Mr. Lindemann?

5 THE WITNESS: Thank you, Your Honor. May it
6 please the Court?

7 THE COURT: Yes, sir.

8 MR. LINDEMANN: Good morning, ladies and
9 gentlemen of the jury. Well, I guess it's good
10 afternoon at this point. And thank you for your
11 patience and, obviously, your assistance with this
12 lawsuit. Ladies and gentlemen, my name is Andrew
13 Lindemann, as I introduced myself to you yesterday.
14 I'm an attorney out of Columbia. And it's my pleasure
15 to represent the Aiken County Sheriff's Office in this
16 case. The Aiken County Sheriff's Office is named in
17 this case because the sheriff in Aiken County operates
18 the Aiken County Detention Center. In South Carolina,
19 there are certain local detention centers that are run
20 by a county, certain ones are run by the sheriff.
21 Here in your home county of Aiken County, it's
22 operated by the sheriff.

23 And as you've heard, this lawsuit involves an
24 inmate by the name of Cassi Rhoads, seated right here,
25 who was booked into the Aiken County Detention Center

Defendant's Opening Statement by Mr. Lindemann

JURY TRIAL - VOL. 2

1 on May 3rd, 2019. This case involves issues regarding
2 the medical care that she received during that time.
3 What you will notice is that the Aiken County
4 Detention Center is the only party in this room. What
5 plaintiff's counsel failed to mention, but it's very
6 important for you to know from the outset and for you
7 to understand that, in order to provide medical care,
8 the Aiken County Detention Center contracted with a
9 group called Southern Health Partners. And Southern
10 Health Partners provides the medical doctors, the
11 nurses, the healthcare providers, the medical
12 clinicians that provide medical care for the inmates.

13 So you heard for a good bit -- I didn't time it
14 -- 15, 20 minutes about issues regarding the quality
15 of the medical care that Cassi Rhoads received. Yet,
16 the party who provided the medical care -- the doctor
17 and the nurses that were employed not by Aiken County
18 Sheriff's Office, but that were employed by Southern
19 Health Partners -- they're not here in this courtroom.
20 Now, you're going to hear ultimately in this case from
21 the judge that the Aiken County Sheriff's Office is
22 not what's called vicariously liable. That means
23 we're not liable for any type of negligence or gross
24 negligence that was committed by any of the healthcare
25 providers. That probably was lost on you during that

Defendant's Opening Statement by Mr. Lindemann

JURY TRIAL - VOL. 2

1 opening argument from Mr. Hinson. What this case is
2 about is the actions of the correctional officers, who
3 are all deputies incidentally of -- of the sheriff's
4 department, deputies just like we have deputies around
5 the courthouse. And with me today also is Captain
6 Nick Gallam, and Nick is the jail administrator. He
7 is a captain with the sheriff's office. And so what
8 this case is about is the conduct of the correctional
9 staff. That is what you need to focus on.

10 So what's important in this particular case to
11 understand is that Ms. Rhoads was a heroin addict.
12 She came into the detention center and immediately was
13 placed on detox. And based on the fact that she was
14 on detox, she was actually seen at least twice a day,
15 sometimes three times a day, by the nursing staff. So
16 all the way from -- excuse me -- all the way from --
17 I'm getting a little cottonmouth, I apologize -- from
18 May 3rd to May 13th, she was seen multiple times a day
19 by the nursing staff. So this is not a case where she
20 was denied access to medical care. She was seen for
21 those 13 days. She put in sick call requests. Those
22 documents that you saw that are called grievances,
23 those are sick call requests that go directly to
24 medical, to the medical providers. Again, not
25 employees of the sheriff's office, not correctional

Defendant's Opening Statement by Mr. Lindemann

JURY TRIAL - VOL. 2

1 officers, not jail administrators. They go to the
2 medical people who are not in this courtroom. And
3 they responded to that and provided medical care to
4 her. This is again -- to reemphasize, this is not a
5 case where she was denied medical care by any type of
6 correctional staff. She was seen multiple times. In
7 fact, you're going to hear testimony of over 20
8 different medical encounters, 20 different times in
9 the course of 30 days, that she was seen by medical.

10 In addition to that, twice-a-day rounds are made
11 by the nurses passing out medication. So she had
12 access to the nurses at least twice a day in her unit
13 while she was passing out -- while they were passing
14 out medications. Ultimately, she was seen by
15 Dr. Robert Williams. Again, Dr. Williams is not the
16 employee of the sheriff's office. He's an employee of
17 Southern Health Partners. She was seen by him on May
18 23rd, and at that point in time, she had a bump that
19 had formed on the side of her head. And he examined
20 her in person. This was pre-COVID. He examined her
21 in person. He diagnosed her with a hematoma, and he
22 provided her a course of treatment. Ultimately, there
23 was follow-up by the nurses on several different
24 occasions after that. There was follow-up on the
25 20th of May, there was follow-up on the 30th of May

Defendant's Opening Statement by Mr. Lindemann

JURY TRIAL - VOL. 2

1 that you will hear about, as well as on June 2nd.

2 So continually through this period of time, as
3 far as the correctional staff understood it, she had a
4 medical condition. She had a bump on her head. It
5 was diagnosed as a hematoma. Of course, the medical
6 -- the correctional staff aren't privy to her private
7 medical information. That's information between her
8 and the doctors and the nurses -- again, not our
9 employees -- and those particular -- those particular
10 doctors and nurses were providing her treatment.
11 That's what the correctional staff saw, that's what
12 the correctional staff knew, that she had a condition
13 for which she was receiving medical care. And so what
14 you will ultimately hear is exactly what plaintiff's
15 counsel previewed. The law recognizes that medical
16 staff -- I mean, I'm sorry -- correctional staff who
17 are not medically trained, they're not doctors and
18 nurses, do not have the right or the responsibility to
19 override decisions by the medical -- by the medical
20 staff.

21 In South Carolina, in order to practice
22 medicine, in order to practice nursing, you are
23 licensed. You go through training. You go through a
24 lot of education. Correctional staff are trained in
25 other ways. They are not trained to make medical

Defendant's Opening Statement by Mr. Lindemann

JURY TRIAL - VOL. 2

1 decisions. They cannot legally make medical
2 decisions. So in this particular case, they had the
3 right to rely on the fact that she was being followed
4 by medical, she was receiving a substantial amount of
5 medical care. As I indicated, over 20 -- you'll hear
6 evidence of over 20 encounters over the course of 30
7 days. And ultimately, the correctional officers
8 followed, as they had the right to, they followed the
9 advice of the medical providers. Now ultimately, the
10 plaintiff challenges whether or not the medical
11 providers provided the appropriate care or not.
12 Again, they're not in this courtroom. What they're
13 challenging is whether or not the correctional
14 officers, the non-medically trained personnel, should
15 have overridden the decisions of the medical providers
16 and sought some other type of course of treatment for
17 her.

18 I would submit to you that not only does the law
19 not require it, the law doesn't allow it. And the
20 reason for that is common sense. If you have medical
21 providers who are providing a certain course of
22 treatment, you don't want non-medically trained people
23 interfering with that. You don't want non-medically
24 trained people making medical decisions that they're
25 not trained and that they are not qualified to make.

Defendant's Opening Statement by Mr. Lindemann

JURY TRIAL - VOL. 2

1 Again, you'll hear evidence about the reliance on the
2 medical personnel.

3 Now, in this particular case, the law recognizes
4 that correctional facilities, including local
5 correctional facilities, they can be difficult places
6 to run. They have a lot -- they have a lot of
7 challenges, you have a lot difficult people that you
8 obviously detain. And so ultimately, as the judge
9 will charge you in this case, the law actually holds
10 in South Carolina and provides in South Carolina that
11 the sheriff's office cannot be held liable for
12 negligence. The standard is a higher standard called
13 gross negligence. And for you understand as you hear
14 the evidence -- for you to understand the significance
15 of that, I think is important for you to understand
16 the difference between gross negligence and
17 negligence. Gross negligence is an absence of even
18 slight care. It's a conscious wrongdoing that you
19 know that you're committing and doing something wrong.
20 Simple negligence, on the other hand, is inadvertent.
21 It's making a mistake of judgment. So there's a
22 significant difference between the two. Now, I'm not
23 suggesting I want you to know the difference between
24 the two because obviously, that's going to be
25 important as you listen to the evidence and you weight

Defendant's Opening Statement by Mr. Lindemann

JURY TRIAL - VOL. 2

1 the evidence, ultimately, at the end of the case. And
2 I'm not suggesting to you that anybody was negligent.
3 But I'm certainly suggesting to you that nobody was
4 grossly negligent.

5 Again, the evidence will show you that
6 Ms. Rhoads was being followed by medical, she was
7 receiving medical care, a substantial amount of
8 medical care. And to the extent that the medical
9 providers were making an incorrect diagnosis or making
10 decisions that ultimately may have not been correct,
11 again, that's not something that non-trained medical
12 people would know. So you need to look at this case
13 not only with common sense, I would suggest to you,
14 but you need to look at it very carefully based upon
15 the viewpoint of who this case is against, and don't
16 miss the point that this case is not against the
17 medical providers. It's against the correctional
18 staff who are trying to do their job, doing it to the
19 best of their ability in sometimes difficult
20 situations, trying to follow the advice of the medical
21 providers. That's what this case is about.

22 Now, ladies and gentlemen, I you know it's been
23 a long morning and I do appreciate your -- your
24 patience. And I also very much want to tell you, on
25 behalf of the sheriff's office, the sheriff as well as

Defendant's Opening Statement by Mr. Lindemann

JURY TRIAL - VOL. 2

1 Captain Gallam who is also here today, we definitely
2 appreciate your -- your jury service this week.
3 Obviously, our system of justice in the United States
4 can't work without the ability to have citizens like
5 you provide service as jurors. So I do want to thank
6 you. From the beginning of this case, we will
7 certainly try to present the case as quickly and
8 efficiently as possible. I thank you for your
9 attention here this morning. But I would encourage
10 you to keep focus on who this case is against and what
11 the allegations are that they contend the -- the
12 correctional officers did wrong, and remember the fact
13 that correctional officers do have the right to rely
14 on medical decisions and, in fact, should rely on the
15 medical decisions that are made by the doctor and the
16 nurses, the people who are trained to do so. Thank
17 you very much.

18 THE COURT: All right. Folks, it's not quite 25
19 after 12:00. I think it's a great opportunity to take
20 a lunch break, because I'm very hungry. So you all
21 can put your notepads in the jury room and take a
22 lunch break. I'm going to suggest because it's hard
23 to get everybody in and out of the courtroom like
24 that, how about we reconvene at 1:45. That will be an
25 hour and 20 minutes. That will give us a few extra

JURY TRIAL - VOL. 2

1 minutes just for getting in and out. So you all be
2 back at 1:45. That should give you enough time to get
3 you something to eat, run home and eat. You can eat
4 wherever you like. You don't have to eat together.
5 So if want to go to a restaurant and something or go
6 home and get something or do whatever. You don't have
7 deep. We've got a break 'til 1:45. Don't talk about
8 the case.

9 (The jury exited the courtroom.)

10 THE COURT: We'll stand at east until 1:45.

11 (Off the record.)

12 (Recess.)

13 (On the record.)

14 THE COURT: All right. Ms. Davis is ready. So
15 Mr. Lindemann, you said you had something you wanted
16 to put on the record?

17 MR. HINSON IV: Your Honor, plaintiff has two
18 exhibits that I believe we'll move in, I believe,
19 without objection and save a little bit of time.
20 Plaintiff's Exhibit 1, which are the records from the
21 time period of the May and early June detention, the
22 medical records for May and early June, and
23 Plaintiff's Exhibit 2, which are the incident reports
24 and disciplinary record from the detention center from
25 and early June. I believe that's without objection.

JURY TRIAL - VOL. 2

1 (Plaintiff's Exhibits 1 and 2 were offered
2 for admission into evidence.)

3 MR. LINDEMANN: That's correct, Your Honor.

4 MR. HINSON IV: And he did -- Your Honor, we --
5 I had to redact a copy, but this is the copy that does
6 make -- use the word "heroin" in it.

7 THE COURT: And those have been marked as
8 Plaintiff's 1 and 2?

9 MR. HINSON IV: Well, as soon as, I guess, this
10 -- this lovely lady right here gets to mark them for
11 us.

12 THE COURT: Lakesha's surname, I believe, is
13 Davis.

14 MR. HINSON IV: Ms. Davis.

15 THE COURT: So, Ms. Davis.

16 MR. HINSON IV: Ms. Davis, yes, sir. And
17 Ms. Davis or Your Honor, where would you like the
18 exhibits to be, here or over there?

19 THE COURT REPORTER: If you need them to make
20 reference to them, just be sure that when you're done
21 with them to just give them back to me and then I'll
22 retain them.

23 THE COURT: If you take them -- if you take them
24 away from her, he's got a gun, he'll get them back.
25 You push him in the mud and get them away from him.

JURY TRIAL - VOL. 2

1 MR. HINSON IV: I have done it before I will not
2 do it again.

3 MR. LINDEMANN: Are you ready for me, Your
4 Honor?

5 THE COURT: All right. Now, we're ready for
6 you.

7 MR. LINDEMANN: Your Honor, I believe the first
8 witnesses that they're going to call is Lisa Bauer,
9 who is a correctional officer -- or a deputy and
10 correctional officer with the Aiken County Sheriff's
11 Office. And they're doing me a favor actually getting
12 her up and out of here. She is scheduled to be on
13 vacation this week and this case has kind of spoiled
14 that. But Mr. McLaughlin handed me what he planned to
15 use for exhibits, and one of which is a Southern
16 Health Partners document called, "Inmate Medical
17 Services Information and Resource Guide for
18 Correctional Officers." There's no evidence that this
19 was ever provided to any correctional officers with
20 the Aiken County Detention Center. I think in every
21 deposition that was taken, this was made and exhibit
22 and they were asked, and that includes Deputy Bauer.
23 You know, I don't know the -- you know, I would
24 submit to the Court that it's not relevant to go in to
25 with the witnesses a document that they have never

JURY TRIAL - VOL. 2

1 seen and were never provided, and it's certainly not
2 something that was generated by the sheriff's office.
3 So I'm not sure what the relevance of it is, and I
4 figured we'd raise this issue before we brought the
5 jury out as opposed to having to sending them back out
6 again.

7 THE COURT: Your witness, Mr. McLaughlin?

8 MR. MCLAUGHLIN: Yes, sir, Your Honor, that's
9 true. But we -- we -- do intend -- Andrew, may I ask
10 very briefly, what about the other two exhibits? Are
11 you okay with those?

12 MR. LINDEMANN: Yeah. I -- I don't have a
13 problem with -- with those documents.

14 MR. MCLAUGHLIN: Okay. Okay. So we two other
15 ones that he's okay with. This one right here, the
16 "SHPCO Resource Guide," Judge. He's right. We asked
17 every single witness did they ever see this. We asked
18 just about all the witnesses, too, if they had ever
19 seen another manual "southern Health Partners Policies
20 and Procedures Manual for Health Services in Aiken
21 County Detention Center," I believe is the way it's
22 captioned in the title. Here's the important of it.
23 That's right. Every single one of them is going to
24 say, nope, never seen it, can't tell you anything
25 about it. That's relevant in this case because the

JURY TRIAL - VOL. 2

1 minimum standards, which they testify that their
2 facility needs to comply -- that Captain Gallam will
3 testify to that, that's what he's testified to --
4 that's part of the minimum -- that's part of the scope
5 of work requirements that they put into the contract
6 with SHP is that they comply with the minimum
7 standards. Those minimum standards have a section --
8 I think it's 1021 of the minimum standards --

9 THE COURT: All right. So the correctional
10 officers don't know anything about it?

11 MR. MCLAUGHLIN: But it says what minimum
12 standards require are that you have written policies
13 and procedures that deal with certain things, that
14 they be in writing, that they be at the facility, and
15 that they be readily available to all personnel. The
16 fact that these are the only ones that address certain
17 things that the minimum standards require be in
18 writing and be readily available to personnel, these
19 SHP policies are the only ones that address certain
20 things required, and that none of the guards know
21 anything about it, that's relevant to gross negligence
22 because it shows that you know that you're not even
23 complying with the minimum standards you have. So we
24 -- we -- I intend to --

25 THE COURT: Well, then how -- I'm going to ask a

JURY TRIAL - VOL. 2

1 real dumb question. How does a document given to the
2 healthcare providers matter to the correctional
3 officers?

4 MR. MCLAUGHLIN: I mean, it's a -- it's a manual
5 for a guide for them. But that they -- the minimum
6 standards require that certain written requirements,
7 certain things that have to be done under the medical
8 section of the minimum standards, actually are in
9 writing and are available to everyone at the facility,
10 so that if Captain Gallam had concerns with how a
11 third-party contractor was providing medical care to
12 his inmates, he could go -- if he had decided we don't
13 have our own addressing this, we're going to use
14 SHP's, then he can go and he can find it and he can
15 look at and he can see whether or not they're
16 complying, i.e., whether or not his own facility is
17 complying with the minimum standards.

18 THE COURT: But he's not supervising them.

19 MR. MCLAUGHLIN: No, sir, but he's supervising
20 his own staff. And he has admitted that being in
21 compliance in the minimum standards, that's what they
22 have to do, the facility. His testimony -- ye was
23 asked by Mr. Long, the minimum standards don't apply
24 to Southern Health Partners, they apply to you all,
25 don't they? And he testified that that's right. So

JURY TRIAL - VOL. 2

1 they have to make sure the minimum standards are being
2 complied with. The minimum standards require policies
3 and procedures on certain things. The minimum
4 standards require those policies and procedures be
5 there at the facility and be readily available to all
6 personnel, all personnel, not just medical, all
7 personnel.

8 And the fact that none of these guards, none of
9 these supervisors even know of the existence of the
10 only policies and procedures that address some of the
11 things that are required to be in writing, we believe
12 is evidence of gross negligence, because it's evidence
13 that you're not complying with the minimum standards,
14 and you know you're not complying with minimum
15 standards because you don't even know you if you've
16 got any written in policies and procedures on them.
17 That's the pitch.

18 MR. LINDEMANN: All right. There are a
19 number of -- number of issues with that, Your Honor.
20 First of all, one of the arguments that we made
21 yesterday at summary judgment on there. Your Honor
22 hasn't ruled on that, but we made the point to the
23 Court that the minimum standards themselves -- and we
24 cited that Myrtle Beach Hospital versus the City of
25 Myrtle Beach case where the South Carolina Supreme

JURY TRIAL - VOL. 2

1 Court specifically was talking about the minimum
2 standards, and that they did not have the force of law
3 in this state. They are not regulations. They've
4 never been adopted as regulations. And so I'm not
5 certain how they establish a legal duty. And plus,
6 the question of whether or not they establish a legal
7 duty, as we've been going over and over in this case,
8 falls on the Court. And I don't believe that the
9 Court has made that ruling that there is a -- some
10 sort of a legal duty in this particular case dealing
11 with the -- with the minimum standards.

12 But again, just to highlight what the Supreme
13 Court said, they said, quote, "These minimum standards
14 have never been subject to the legislative scrutiny
15 afforded regulations under the administrative
16 procedures act. Instead, they are merely the product
17 of the county association adopted by the department of
18 corrections, an executive agency. They cannot validly
19 be viewed as expressing anything about legislative
20 intent." And then we also cited the Court the part of
21 the administrative procedures act, 1-23-10, subsection
22 4, the APA's definition of a regulation, which
23 specifically says, quote, "Policy or guidance issued
24 by an agency other than in a regulation does not have
25 the force or effect of law."

JURY TRIAL - VOL. 2

1 So number one, I don't believe the minimum
2 standards is something that's even going to be
3 relevant to -- to the jury in this particular case,
4 and certainly not without the Court ruling as a matter
5 of law that it establishes some type of legal duty.
6 And I would submit that that would be contrary to what
7 the Supreme Court has indicated in the statutory law
8 that I just cited.

9 THE COURT: Which case were you all citing on
10 those minimum standards case? I remember reading it.

11 MR. LINDEMANN: I'm sorry?

12 THE COURT: Which case is that we're talking
13 about?

14 MR. LINDEMANN: I's called Myrtle Beach Hospital
15 versus City of Myrtle Beach. It's a --

16 THE COURT: That's right.

17 MR. LINDEMANN: -- 2000 case from the South
18 Carolina Supreme Court.

19 THE COURT: It's in here somewhere.

20 MR. LINDEMANN: Next, Your Honor, if I could,
21 the -- the portion that deals with medical procedures
22 states in 1052 of the minimum standards, it says,
23 "Each facility or its contracted medical provider
24 shall develop and implement written standard governing
25 procedures which are approved by the responsible

JURY TRIAL - VOL. 2

1 physician or medical authority for the following," and
2 then it lists a number of different subtitles. In
3 this particular case, Your Honor -- and this is not it
4 -- there is policies and procedures. I mean, we
5 identified it as an exhibit to potentially use in this
6 case -- again, depending on lot of legal rulings from
7 this Court -- there is a policy and procedure manual
8 that Southern Health Partners promulgated for the
9 Aiken County Detention Center.

10 This is not it. This is some document that --
11 and again, I certainly will object to authenticity
12 because they aren't even presenting anybody from
13 Southern Health Partners to testify to what this is.
14 But I can tell the Court, because this was a big issue
15 that they tried to raise in their case against
16 Southern Health Partners. But this is a document that
17 was prepared. It's copywrited in 2000, as you can see
18 -- I'm sorry -- it's effective 2012. It's copyrighted
19 2007. That's it's a document that could be used in --
20 to be provided to correctional officers.

21 The testimony is undisputed that it was never
22 provided in the Aiken County Detention Center.
23 There's nothing in the minimum standards, even if it
24 does have the force or effect of law, that requires
25 this document to be provided to correctional officers.

JURY TRIAL - VOL. 2

1 So this is totally a red herring, like a lot of the
2 evidence, that I think we're going to be dealing with
3 in the next few days. It's a red herring. I mean,
4 it's not relevant and it's a red herring. But
5 certainly, the sheriff's office shouldn't be held
6 responsible for a document that is SHP promulgates and
7 didn't provide to anybody in this case. And
8 certainly, I don't think it's appropriate for a
9 witness to be asked about whatever the content of this
10 document is.

11 THE COURT: All right. How do you all get this
12 thing in again?

13 MR. MCLAUGHLIN: Your Honor, section 1021 of the
14 minimum standards. And I'll -- I'll --

15 THE COURT: Is that part of this book?

16 MR. MCLAUGHLIN: No, sir. These are the minimum
17 standards. This -- this --

18 THE COURT: All right. You all keep saying
19 minimum standards. What the hell are you talking
20 about?

21 MR. MCLAUGHLIN: Okay. This right here, Your
22 Honor. I'll pass up a copy to you.

23 THE COURT: I mean, there's -- minimum standards
24 means like for admission into college. I mean, you
25 all got to remember, I just got thrown in this pool

JURY TRIAL - VOL. 2

1 yesterday.

2 MR. MCLAUGHLIN: Your Honor, so these are -- if
3 you look at 1000 -- section 1001, which is on the
4 fourth page of this, the general instruction section
5 of these minimum standards, it lays out the statutory
6 authority for it, 1001. "The authority to establish
7 and enforce the standards and requirements herein,
8 unless otherwise noted, is based upon South Carolina
9 Code of Laws 1976, as amended, sections 24-9-10
10 through 24-9-50." And then it actually has those
11 statutes in there, Your Honor. If you flip over one
12 more page to the next one under administration and
13 management section, 1021, "Manual of policies and
14 procedures, A, each facility shall have written a
15 manual of all policies and procedures for the
16 operation of the facility. Each policy and procedure
17 should be reviewed annually and updated as needed.
18 Documentations of these reviews shall be maintained.
19 These policies and procedures shall be made readily
20 available to all personnel."

21 Then if you look in B, Your Honor, all those
22 subsections right there, it's saying, "The following
23 standards require written policies and procedures."
24 And the key ones about medical are the 2051 through
25 2056, Judge, and that's what's the rest of this --

JURY TRIAL - VOL. 2

1 these excerpts are that we passed up to you. And you
2 can see all of those are within the medical services
3 section. And you can see, Your Honor, the 2052, for
4 example, the medical procedures. "Each facility or
5 its contracted medical provider shall develop and
6 implement written standard operating procedures which
7 are approved by the responsible physician or medical
8 authority for the following." And it lists
9 subsections A through JS.

10 Some of those policies and procedures deal with
11 medical that was not given to Cassi. That section
12 1021 makes it clear that you've got to have these
13 things in writing, and they've got to be at the
14 facility, and it's got to be readily available to all
15 personnel. It doesn't matter if it's medical. These
16 set the -- the floor for how we're going to operate
17 our detention facilities in South Carolina, and this
18 authority comes from statute. It sets the floor for
19 it. This is what we're going to require you have on
20 site. This is the access we're going to require you
21 to have for all the people on the site to these
22 things. And so again, we believe that it goes towards
23 gross negligence to show that if these people don't
24 know these things exist -- because some of these
25 things in the subsections are only dealt with in SHP's

JURY TRIAL - VOL. 2

1 policies and procedures.

2 Now, some of them they've got their own stuff
3 that could address it, that's true. They've got their
4 own policies and procedures that address some of these
5 things. And, in fact, address a lot of the things
6 that aren't medical that are required to be in
7 writing. But some of the medical things that are
8 required are only addressed in Southern Health
9 Partners' policies and procedures. And the fact that
10 they don't know what those policies and procedures are
11 about we believe shows that they're not in compliance
12 with the minimum standards. And these are standards
13 that Captain Gallam is familiar with, that Captain
14 Gallam has testified apply to the facility, and they
15 have to be in compliance with. That's why they
16 required that as part of their request for proposals
17 when they put this bid out to SHP. You've got to
18 comply with the minimum standards. So that's why we
19 believe it's relevant. Is a self-authenticating
20 document, we believe. But that's our argument, Your
21 Honor.

22 MR. LINDEMANN: All right. This document that
23 they want to put into evidence aren't policies and
24 procedures. So I'm a little bit at a loss at this
25 circular reasoning that's being provided to the Court.

JURY TRIAL - VOL. 2

1 So again, the minimum standards don't have the force
2 of law. What he cited to you, Your Honor in 1070 --
3 excuse me.

4 THE COURT: Is this in the statute or something
5 are not?

6 MR. LINDEMANN: They're not.

7 THE COURT: They look like they are, but they're
8 not.

9 MR. LINDEMANN: Well, they're not. I mean, you
10 can read it from the Supreme Court themselves.
11 They've never been adopted like -- for -- by
12 regulation. I mean, Your Honor, is well aware. I
13 think you were in the legislature, were you not?

14 THE COURT: No, I was not.

15 MR. LINDEMANN: You were not? Okay.

16 THE COURT: I ran one time. I got sent home.

17 MR. LINDEMANN: I didn't mean to bring that up,
18 Your Honor.

19 THE COURT: All right. All right.

20 MR. LINDEMANN: But -- but ultimately, I mean
21 obviously, regulations receive legislative approval as
22 well. I mean, that's -- that's the whole idea behind
23 what the Supreme Court says in the Myrtle Beach
24 Hospital case. The minimum standards have never been
25 subject to legislative scrutiny afforded regulations

JURY TRIAL - VOL. 2

1 under the ACA. And the ACA specifically says if
2 you've got policies or guidelines issued by an agency,
3 they don't have the force or effect of law. But
4 beside that, Your Honor, what these minimum standards
5 that he's pointing to say is that there needs to be
6 policies and procedures that are developed, including
7 medical. The section on medical procedures, which is
8 1052, which is what I read to you says, "Each facility
9 or its contract medical provider shall develop and
10 implement written standard operating procedures which
11 are approved by the responsible physician or medical
12 authority for the following."

13 And there are policies and procedures that were
14 exactly this. They were developed and implemented by
15 our contract medical provider, which is Southern
16 Health Partners. But this document isn't it. I mean,
17 this document is some type of resource that Southern
18 Health Partners never gave to anybody at the -- never
19 used. You know, the bottom line is, I think it was
20 produced in previous litigation with plaintiff's
21 counsel and that's how they knew of its existence.
22 But the -- the bottom line is, it has nothing to do
23 the minimum standards, so I don't even know why
24 they're trying to justify the admissibility of this
25 document by using the minimum standards.

JURY TRIAL - VOL. 2

1 MR. MCLAUGHLIN: Your Honor, for example, one of
2 the 2052 medical procedures from the minimum standards
3 is receiving screening, see 2053. You flip over to
4 2053 and it is a sectional all about screening, right?
5 If you look at page 7 of this resource manual that we
6 passed up to you from SHP, medical screening intake
7 information forms. These are Southern Health Partners
8 written policies, procedures, and guidelines to help
9 know how to do things.

10 Now, there's another manual that we -- we want
11 to put in too, and ask the one he's talking about, the
12 policies and procedures. We think this is part of
13 their policies and procedures. These are the resource
14 guide for correctional officers. If they want to say
15 -- they're all going to say, nope, never seen it,
16 didn't even know existed, don't know what it says in
17 it, couldn't tell you how to find it if -- if my life
18 depended on it. They're going to say that about the
19 other one. Hey, I have a question for Mr. Lindemann.
20 Is he stipulating that the other one comes in, the
21 Southern Health Partners policies and procedures for
22 Aiken County Detention Center?

23 MR. LINDEMANN: Well, that's a separate issue
24 completely --

25 (Cross-talk.)

JURY TRIAL - VOL. 2

1 MR. MCLAUGHLIN: Because if he's not --

2 (Cross-talk.)

3 MR. MCLAUGHLIN: -- that comes in? Then we
4 would ask that the Court find -- that the Court find
5 as a matter of law that they're not in compliance with
6 the minimum standards, because they don't have any
7 written policies and procedures addressing these
8 things, like the minimum standards say they're
9 supposed to.

10 THE COURT: All right. Well, it doesn't -- what
11 he said he's going to argue about admissibility, not
12 whether it's there. I mean, I'm not sure I
13 misunderstood that, but I may have.

14 MR. LINDEMANN: I don't believe it's the
15 appropriate stage to be asking the Court to -- to, you
16 know, determine as a matter of law any type of legal
17 issues. But I don't believe Your Honor has even ruled
18 on the written policies, you know, our motion for
19 summary judgment dealing with any claims dealing with
20 written policies. But again, minimum standards do not
21 establish what the legal duty is. The Supreme Court
22 says they don't have the force -- or the statute says
23 they don't have the force of law. The Supreme Court
24 indicates they don't show any legislative intent.

25 MR. MCLAUGHLIN: It -- it doesn't have to be law

JURY TRIAL - VOL. 2

1 to establish a standard. These guys admit that
2 they're supposed to comply with this. I mean, think
3 about all the cases we have that -- that -- what is
4 it, like, you know, Jinks, Fairfield -- Fairchild,
5 Caldwell, K-Mart, all things where an entity has its
6 own standards that establishes the care they should
7 provide or the duties that they have to people. And
8 if you can take those internal policies and procedures
9 and show that they didn't meet them, then you can show
10 that they didn't meet their duty or responsibility to
11 their employees or to their customers or whoever. I
12 mean, there's a long line of case law doing that.

13 These minimum standards that the general
14 assembly authorized that the -- the association of
15 counties to come up with. And there's a long history.
16 These are just excerpts. There's a lot more of
17 history in the code about what authority there is, and
18 then also in the beginning of these saying, listen,
19 these weren't about -- so Caldwell v. Kmart, Judge,
20 306 South Carolina 27, "A violation of internal
21 policies and procedures can be evidence of
22 negligence." And so the issue is, they're not law,
23 Judge, so they don't apply to us. No. Just because
24 they're not -- they haven't gone through the specific
25 think about to be a regulation doesn't mean that

JURY TRIAL - VOL. 2

1 they're a standard that they have adopted. They've
2 adopted it. Captain Gallam has testified that they --
3 they have to be in compliance with the minimum
4 standards.

5 And the reason why, Judge, is because their
6 subject to being -- the get in -- they're subject to
7 being inspected by the department of corrections,
8 which has set the same statutory scheme that empowers
9 the department of corrections to come inspect them.
10 And if they find that they're not even complying with
11 the minimum standards, they can be shut down. Now,
12 does that happen? Well, that's a whole 'nother kettle
13 of fish, right? But they admit that this sets a
14 standard for them to meet. Whether or not the law
15 says they've got to meet it or anything, they've
16 accepted it as their standard.

17 MR. LINDEMANN: That's still not a policy under
18 the minimum standards, so I'm not even sure why we're
19 fighting over this about policies. We can deal with
20 policies if that ever becomes an issue. And again,
21 like I said, that was part of our summary judgment
22 motion which I understand Your Honor probably has that
23 part still under advisement. But the bottom line is,
24 this isn't K-Mart. And quite frankly, in Doe versus
25 Walmart stores, which I cited to the Court, the

JURY TRIAL - VOL. 2

1 Supreme Court has explained that there's is a
2 difference between the legal standard of care --
3 legal duty of care and a standard of care. And the
4 Court says, "If no duty has been established, evidence
5 as to the standard of care is irrelevant. Only when
6 there is a duty would a standard of care need to be
7 established." Because what was being argued here is
8 there was no legal duty but the plaintiff's counsel
9 was trying to use Walmart's policies to try to say
10 that created a duty of care. The Supreme Court said
11 no, there's a difference. I mean, obviously, there's
12 -- you know, standard of care means something totally
13 different than a legal duty of care, and it said that
14 the standard of care may be established by policies,
15 procedures that sort of thing.

16 But that, you've got to first jump that. You've
17 got to find that there is a legal duty. And as we
18 argued yesterday, there is no legal duty based upon
19 the minimum standards as the Supreme Court made it
20 very clear. It's never been adopted as a regulation,
21 and it doesn't have the force of law. So if doesn't
22 have the force of law, how does it create a duty legal
23 duty of care? I don't think that's that illogical. I
24 mean, I think that's very logical.

25 MR. MCCLAUGHLIN: Judge, how about we just mark

JURY TRIAL - VOL. 2

1 it for identification? I asked her if she's ever seen
2 it. I assume that her testimony ain't going to
3 change. She's going to say no. And we don't enter
4 it, and we move on and down the road. We address
5 whether or not it gets to come in along with the other
6 one.

7 MR. LINDEMANN: I'll stipulate she's never seen
8 it. That was her deposition testimony. We don't have
9 to do this show in front of the jury with irrelevant
10 and inadmissible evidence.

11 THE COURT: I tend to agree with both of you,
12 but I'm going to -- we'll mark it is a Court's exhibit
13 and try to move on a little bit.

14 (The Court's Exhibit was marked.)

15 MR. MCLAUGHLIN: Thank you, Your Honor.

16 MR. LINDEMANN: And I apologize, Your Honor, but
17 I also wanted to remind the Court that I have -- after
18 this witness, I understand Dr. O'Bryan is going
19 testify. I do have issues of law to take up as far as
20 him.

21 MR. MCLAUGHLIN: I think we're going to try to
22 do Ms. Joyner and -- and Ms. Carver so we can get them
23 in and out because of the time that it will probably
24 take.

25 MR. LINDEMANN: I'm just asking the Court,

JURY TRIAL - VOL. 2

1 before --

2 THE COURT: Before he comes up.

3 MR. LINDEMANN: -- before he comes up that we
4 have a break or whatever.

5 MR. HINSON IV: Can I get that three-ring binder
6 back, Ms. Bauer?

7 MR. MCLAUGHLIN: Your Honor, just for
8 clarification, am I allowed to show that to her and
9 ask her if she's ever seen it to get that evidence in?

10 MR. LINDEMANN: As I said, Your Honor, I'll
11 stipulate she hasn't. That was her deposition
12 testimony.

13 THE COURT: I'm going to say no, stay away from
14 it. We're going to get to it later.

15 MR. MCLAUGHLIN: Yes, sir, Your Honor.

16 THE COURT: All right. We're ready for the
17 jury. Are we ready?

18 MR. LINDEMANN: Yes, Your Honor.

19 THE COURT: Okay. Bring them in.

20 (The jury entered the courtroom.)

21 THE COURT: All right. Call your witness.

22 MR. MCLAUGHLIN: Thank you, Your Honor. The
23 plaintiff would call Deputy Lisa Bauer.

24 (The witness was sworn in.)

25 THE CLERK: Please take a seat in the witness

Lisa Bauer - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 2

1 stand. State your full name for the Court, and spell
2 your last name, please.

3 THE WITNESS: My name is Lisa Ann Bauer,
4 B-A-U-E-R.

5 LISA BAUER
6 was called as a witness, and having been first duly sworn,
7 testified as follows:

8 DIRECT EXAMINATION

9 BY MR. MCLAUGHLIN:

10 Q. Deputy Bauer, I appreciate your patience. I know we
11 promised you that we would call you first so you could get
12 out of here because you said you're going on vacation.
13 And you're probably the one person in this courtroom more
14 frustrated with how long this is taking other than the
15 jury. So I apologize. But I kept my word to you, you
16 first. It just took longer than we thought it would to
17 get here. I just -- I want to start just by letting the
18 jury hear a little bit about your background. Okay?
19 Obviously, you dressed out in uniform today. You work in
20 the Aiken County Detention Center?

21 A. Yes.

22 Q. For the sheriff's department?

23 A. Yes.

24 Q. And your rank is deputy?

25 A. Yes, sir.

Lisa Bauer - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 2

- 1 Q. Okay. Can you tell them when you started with ACDC?
- 2 A. I actually started in March of 2019.
- 3 Q. Was that your first job in corrections, ma'am?
- 4 A. No, actually. I first started working in 2003 in
- 5 Washington State on the West Coast, where I worked there
- 6 for 15 years in the same kind of status.
- 7 Q. And I think you -- you told us in your deposition you
- 8 worked for the -- the -- is it Yakima --
- 9 A. Yes.
- 10 Q. -- County Jail?
- 11 A. Yes.
- 12 Q. Okay. And when did you start working at the Yakima
- 13 County Jail out there on the West Coast?
- 14 A. That was year 2003, October.
- 15 Q. And then when did -- so you started here in Aiken in
- 16 March 2019 --
- 17 A. Mm-hmm.
- 18 Q. -- and you came here to South Carolina and you got the
- 19 job with Aiken County Sheriff's Department, did they put
- 20 you through classroom training out there at Aiken County
- 21 Detention Center?
- 22 A. Yes. Your -- your first few weeks actually start out
- 23 as a classroom training before you even deal with anybody
- 24 in the pods.
- 25 Q. And I imagine they train on a whole host of topics?

Lisa Bauer - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 2

1 A. Yes.

2 Q. And part of the things they train you on is their
3 policies and procedures?

4 A. Yes, sir.

5 Q. How to respond to certain types of situations?

6 A. Right.

7 Q. And they train you on legals?

8 A. Yes.

9 Q. You're expected to know the law?

10 A. Yes, you are.

11 Q. Okay. And then my understanding from some of the
12 discovery done in this case is in addition to kind of that
13 classroom element of the training you get through the
14 Aiken County Sheriff's Office, they also -- I don't know
15 if the term is field training or shadowing. It sounded
16 like maybe they -- those two were the same thing. Is that
17 right?

18 A. It's actually field training. You are working with a
19 corporal who takes you through the facility at different
20 positions, different posts, and basically gives you
21 instructions, teaches you what is expected and how to
22 perform your duties itself as far as even reports and
23 dealing with different situations in the facility.

24 Q. How long does that -- how long are you shadowing
25 somebody?

Lisa Bauer - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 2

1 A. I believe the amount has changed, but I don't
2 remember. It's been too many years. I want to say it's
3 at least 15 working days that you do.

4 Q. Okay.

5 A. And then you've always got that corporal or you've
6 also got your sergeants and lieutenants and fellow
7 deputies that you can always ask questions of, a phone
8 call away or even a radio call away.

9 Q. And then eventually, after you started out there at
10 the detention center and you've been through their
11 training, they send you to Columbia to the --

12 A. The academy.

13 Q. -- to the criminal justice academy?

14 A. Yes.

15 Q. Okay. And then at the criminal justice academy, you
16 go through something called basic detention training --

17 A. Right.

18 Q. -- which is like a three-week course?

19 A. Mm-hmm.

20 Q. Is that a yes?

21 A. Yes. I'm sorry.

22 Q. No. We all know what you meant, but to make things
23 easier for Ms. Davis --

24 A. Right.

25 Q. -- I had to ask you that. And then as a result of

Lisa Bauer - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 2

- 1 going through the three-week basic detention training in
2 Columbia, you actually got your Class 2 Law Enforcement --
3 A. Correct.
- 4 Q. -- Officer Certification for South Carolina?
5 A. Correct, yes.
- 6 Q. Okay. Now, this case is about events that happened
7 May and June of 2019 out there at the detention center.
8 During that time period, what was your role? Were you
9 assigned to a specific squad? Did you have specific job
10 duties? What were you doing in May to June of 2019?
- 11 A. I was assigned to X-ray Squad. My direct lieutenant
12 was Lieutenant Riddell and Sergeant Erickson. But during
13 that time, you also can work overtime or other shifts,
14 which was my overtime shift most of the time was Whiskey
15 Shift, or W Shift, and that was Lieutenant Whitaker and
16 Sergeant Arthurs. Oh, I'm sorry, Sergeant Arthurs is
17 right now. Sergeant Cujon [ph].
- 18 Q. Okay. Very well. And -- and I think you described to
19 me -- or to Mr. Hinson when he took your deposition that
20 you kind of did a lot of relief -- relief duty --
- 21 A. Right.
- 22 Q. -- back then in May and June; is that right?
23 A. Right.
- 24 Q. And you described that to us as basically kind of when
25 folks needed to take their breaks, get their lunch in or

Lisa Bauer - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 2

1 something like that --

2 A. Mm-hmm.

3 Q. -- you'd be sent in to cover for them while they did
4 that?

5 A. Right. You'll go into every one of the different
6 posts and you would relieve the deputy in there for either
7 their 15-minute break or their lunch break, and you just
8 continue through the cycle throughout the day. You'll
9 start with one section with the 15-minute breaks and then
10 you go back and start with the half-hour breaks for
11 everybody, and then the last 15 at the end of the day. By
12 the time you're done, you pretty much have filled your
13 full day by giving breaks to everybody.

14 Q. And -- and just so -- so the jury kind of like -- I
15 know what you're talking about when you say a lot of
16 things because we've lived with this case for a long time,
17 but the jury doesn't. So out there at the detention
18 center, everybody is not housed in one big room.
19 There's -- there's different units but you all refer to
20 them as pods; is that right?

21 A. Right.

22 Q. Okay. And then all the females are housed in one pod?

23 A. Correct.

24 Q. And that's Bravo, B-Pod?

25 A. Yes.

Lisa Bauer - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 2

1 Q. Okay. So the jury kind of understands what the Bravo
2 Pod looks like --

3 A. Okay.

4 Q. -- the way it has been described to us as we were
5 questioning the officers was, you have the -- the gen pop
6 part of Bravo Pod; right?

7 A. Mm-hmm.

8 Q. Is that a yes?

9 A. Yes. I'm sorry. General population, yes.

10 Q. And that's just the regular housing in Bravo Pod?

11 A. Correct.

12 Q. And you kind of have on one side of that regular
13 housing you have cells?

14 A. Yes.

15 Q. And there will be maybe anywhere from three to four
16 female inmates housed in a cell?

17 A. Correct, depending on what their classification is.

18 Q. And there's two tiers; right?

19 A. Correct.

20 Q. Okay. So you've got two tiers of cells, and you've
21 got three to four female inmates in those cells. And then
22 on the other side of that regular gen pop part of B-Pod --

23 A. Mm-hmm.

24 Q. -- it -- it's more like maybe like a dormitory-type
25 situation; right?

Lisa Bauer - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 2

- 1 A. Right. We call it an open pod type of arrangement.
- 2 Q. And what you have there is you have bunks?
- 3 A. Correct.
- 4 Q. And then you'll have, is it like two bunks?
- 5 A. We actually have three bunks in there.
- 6 Q. So three months, and then --
- 7 A. And then there are individual, single bunks -- or
- 8 single beds as well.
- 9 Q. -- and is it -- there's kind of walls between them or
- 10 something?
- 11 A. Yes, partitions.
- 12 Q. Partitions. Do those go all the way from the floor to
- 13 the ceiling, or are they just kind of --
- 14 A. No. They only go part way.
- 15 Q. -- okay. All right. So -- so what -- what -- we'll
- 16 call that gen pop B-Pod.
- 17 A. Okay.
- 18 Q. So in gen pop B-Pod you've got cells, some folks are
- 19 housed in cells --
- 20 A. Right.
- 21 Q. -- and you've got some folks that are just dormitory
- 22 style in bunks?
- 23 A. The dormitory style would be gen pop, the ones that
- 24 are in the cells would be classified depending on whatever
- 25 their situation. They could be classified as disciplinary

Lisa Bauer - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 2

1 detention or they can be classified as medical
2 segregation. It just depends on their personal
3 classification.

4 Q. Well, and then you've got two tiers on the -- on the
5 dormitory style, too; right?

6 A. Correct.

7 Q. And then you have a desk where the officer, the pod
8 officer sits and watches everybody?

9 A. Right.

10 Q. And then behind that desk where the pod officer sits
11 and watches everybody, is the -- the solitary confinement
12 part of B-Pod; right?

13 A. They call it B-Max.

14 Q. B-Max. And there's big windows back there behind that
15 desk so the officer can turn and look and see what's --

16 A. Correct.

17 Q. -- going on in -- in B-Max?

18 A. It basically covers the whole section. So you don't
19 have a partition that's going to block your view. You can
20 see into the whole area.

21 Q. And then in B-Max, there are -- is it three --

22 A. Four.

23 Q. -- four cells. So if you were working B-Pod and you
24 turned around and you looked through that -- that window,
25 you'd see four cell doors?

Lisa Bauer - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 2

1 A. Correct.

2 Q. And cell doors have the little windows in them so you
3 can see into the cell somewhat?

4 A. Right.

5 Q. Okay. Then the -- the B-Max is where people get put
6 for disciplinary reasons?

7 A. Right.

8 Q. Do they get put in there for medical, too?

9 A. They have occasionally. It just depends on the
10 circumstance.

11 Q. Okay. When -- when Mr. Hinson took your deposition
12 back in March of last year, he asked you a question and it
13 was basically along the lines of, at some point in time
14 did you notice anything with Cassi's appearance. And do
15 you remember in response to that question explaining to
16 him a request you had from another deputy?

17 MR. LINDEMANN: Your Honor, I object. This is
18 an improper impeachment, to use the deposition, that
19 he's using it for impeachment. And it doesn't seem
20 like there's been a question asked to --

21 THE COURT: Yeah. Rephrase the question and
22 don't lead her.

23 MR. MCLAUGHLIN: Sure.

24 BY MR. MCLAUGHLIN:

25 Q. Do you recall being asked if, in response to a

Lisa Bauer - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 2

1 question, explaining --

2 MR. LINDEMANN: Your Honor, he's still -- he's
3 still asking about a deposition, and this doesn't seem
4 to be impeachment.

5 BY MR. MCLAUGHLIN:

6 Q. At some point --

7 THE COURT: Don't ask a leading question.
8 Rephrase your question.

9 BY MR. MCLAUGHLIN:

10 Q. Were you ever requested by another deputy at Aiken
11 County Detention Center to look at Cassi Rhoads?

12 A. Yes.

13 Q. Would you explain to the jury how that came about, who
14 asked you, why they asked you, and what you saw, what you
15 did in response to that request from that other deputy?

16 A. I was actually working relief that night and went into
17 B-Pod to basically give her a break. That was Deputy
18 Hill, who is now Corporal Hill. And she'd asked me to go
19 back. And at the time, I don't remember if she said the
20 name or if she just said the inmate in B-Max 1. And she
21 said, when you get a chance during your check, would you
22 take a look at her and see if you see what I see. My
23 reply was, okay. She didn't lead me into giving a choice
24 of what it was that she saw. She just said, let me know
25 if you see what I see.

Lisa Bauer - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 2

1 So she goes on her break. I do a security check.
2 Actually, I believe at the time, medical was in there
3 doing med pass. So after medical left, I finished doing a
4 security check, which is when you go through whole
5 facility checking on all the closed-cell inmates, checking
6 on everybody at their bunk, and that also includes B-Max,
7 which we consider closed cells. When I went back there,
8 she was laying down. She had -- I'm not specific what it
9 was, but I believe it was a T-shirt wrapped around her
10 head and covering her eyes. A lot of inmates will do that
11 because the lights are on and they want to sleep, so they
12 cover their eyes.

13 So I remember talking to her through the window asking
14 how you doing, how are things going. I wasn't directly
15 saying tell me if there's something wrong, it was just how
16 are you doing. And when she stood up, she pulled it up
17 off her eyes talking to me and just telling me she's got a
18 really bad headache. I said, oh, well, what's going on?
19 That's when she unwrapped off of her head and she says,
20 I've just got a really bad headache, my head hurts. At
21 that time that she took the wrap off was when I had
22 noticed it looked like -- and I say about the cup of my
23 hand, because it was a swollen area just above her ear on
24 the side of her head. But I didn't notice it when she had
25 the wrap around it. I noticed it when she took the wrap

Lisa Bauer - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 2

1 off. And I said, well, what's going on? And she says, I
2 don't know. I've just got a really bad headache. And I
3 said, okay. I said, are you doing okay other than that?
4 And she said, yeah. She said it was just -- just a severe
5 headache. I said, okay. I'll let Deputy Hill know what's
6 going on. So she wrapped her head back up, laid back
7 down.

8 When Deputy Hill came back from her break, I had told
9 her, yeah, I noticed she had some swelling on the side of
10 her head. I said it looked like it was, like, right over
11 here above her ear area. I said, but with the sheet or
12 towel or shirt, whatever she had wrapped on it, it didn't
13 appear to be that noticeable, it's when she took it off.
14 And she says, okay, yeah. She says, will you go to
15 Lieutenant Whitaker and let her know what you saw? Okay,
16 I can do that.

17 Since I was relief person, I didn't remember if I
18 actually went to another pod and relieved somebody before
19 I went to Lieutenant Whitaker, but I did manage to go to
20 Lieutenant Whitaker and I told her. I said, Deputy Hill
21 asked me to tell you I saw -- and I don't remember if I
22 knew her name at the time when I left, but I said inmate
23 in B-Max 1. And I said she had it looked like some
24 swelling right here on the side of head. I said it's
25 just above the ear. I said it wasn't noticeable when it

Lisa Bauer - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 2

1 was covered, but when she took it off, I could see there
2 was some swelling there. And at the time, Lieutenant
3 Whitaker just basically replied, okay, thanks. And then I
4 went back to doing my duties of relief breaks for
5 everybody at that point. I didn't have any more question
6 or anything at that point from Deputy Hill when I went and
7 did her other breaks. And of course, since I'm relieving
8 all the other pods, I don't know what was taking place
9 after that, because I wasn't back to Bravo Pod until much
10 later doing her other break.

11 Q. When -- and -- and you said that deputy now Corporal
12 Hill, that's Carla Hill?

13 A. Yes.

14 Q. Okay. When -- when Carla asked you to take a look at
15 Cassi, did she tell you that she had seen the swelling, or
16 did she leave it kind of open and just ask you to look at
17 her?

18 A. I believe she left it open. I don't think she
19 directed me anything specific. I don't believe there was
20 any acknowledgment as to what she had really seen other
21 than when I came back after -- or when she came back from
22 break and I came to her and said this is what I saw.

23 Q. And when you came back to her and told her what you
24 saw when she asked you to go speak to Lieutenant Whitaker,
25 I think you explained to -- to the jury earlier that

Lisa Bauer - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 2

- 1 Whitaker was over Whiskey Squad?
- 2 A. Whiskey Shift, yes.
- 3 Q. Okay. Did -- did Carla work for Whiskey?
- 4 A. Yes.
- 5 Q. Okay. So Whitaker would have been her lieutenant --
- 6 A. Right.
- 7 Q. -- her shift lieutenant?
- 8 A. Mm-hmm, yes.
- 9 Q. Is that a yes? Okay. And so -- and that's why your
- 10 shift lieutenant would have been Eric Riddell?
- 11 A. Riddell, yes.
- 12 Q. Because you were on X-ray?
- 13 A. Right, but I was working overtime that night --
- 14 Q. Okay.
- 15 A. -- Whiskey Shift.
- 16 Q. Okay. The -- did she tell you -- she being Ms. Hill,
- 17 Deputy Hill, now Corporal Hill --
- 18 A. Right.
- 19 Q. -- did Corporal Hill tell you why she wanted you to go
- 20 say something to Whitaker?
- 21 A. I don't believe she did. I don't remember for sure.
- 22 It was such a short conversation that we had. It was just
- 23 more direct as to will you go to Lieutenant Whitaker and
- 24 tell her what you saw.
- 25 Q. Was there ever any remarks made by Corporal Hill to

Lisa Bauer - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 2

1 you about there being any type of allegations that
2 whatever was -- when you came back and said, yeah, I see
3 some swelling, that there were any types of allegations
4 that that swelling was the result of Cassi self-harming?

5 A. I don't recall if she said that or not.

6 Q. Okay. And then I believe you said Lieutenant Whitaker
7 said okay?

8 A. Right. She acknowledged what I said, basically.

9 Q. All right.

10 MR. MCLAUGHLIN: May I approach, Your Honor --

11 THE COURT: Sure.

12 MR. MCLAUGHLIN: -- the witness? Andrew, 3 and
13 4, are you fine for those to be in? It's these two.

14 MR. LINDEMANN: Yeah. I -- Your Honor, and I
15 have no objections. Just on Plaintiff's Exhibit 4,
16 those are just portions of -- of the -- of the log?
17 Okay. I mean, it's not complete copies for each day.

18 MR. MCLAUGHLIN: I'll get her to explain that.

19 THE COURT: So Plaintiff's 3 and 4 are going to
20 be admissible?

21 MR. MCLAUGHLIN: I believe that's the
22 stipulation.

23 MR. LINDEMANN: Yeah.

24 (Plaintiff's Exhibits 3 and 4 were offered
25 for admission into evidence.)

Lisa Bauer - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 2

1 THE COURT: Okay. Three and four are
2 admissible. It's not a full record of some type.

3 (Plaintiff's Exhibits 3 and 4 were
4 admitted into evidence.)

5 BY MR. MCLAUGHLIN:

6 Q. Deputy Bauer --

7 A. Yes.

8 Q. -- I want to show you, these two documents. And I'm
9 going to show you, though -- I guess maybe the -- the best
10 way to do it is to show you 4 first.

11 A. Okay.

12 Q. Do you recognize what 4 is?

13 A. Yes. This is a one of our daily logs. We have a
14 logbook that when you start shift you'll make your entries
15 as your times when you do checks, when medical comes in,
16 when -- just at a glance -- when another corporal comes in
17 for something, usually to classify people. It's basically
18 a logbook to give information for you to refer back to
19 when you've done something for that day. Like I said,
20 your security checks, medical coming in.

21 Q. Would it be fair to say it kind of is there to
22 document the comings and goings of the pod?

23 A. Right.

24 Q. And anything that -- that may be notable, the -- the
25 pod officer would note that in the logbook?

Lisa Bauer - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 2

- 1 A. Correct.
- 2 Q. Okay. And just what Mr. Lindemann was just talking
- 3 about so we'll let the jury know --
- 4 A. Mm-hmm.
- 5 Q. -- I would tell you, do you see the first date on this
- 6 first page?
- 7 A. Yes.
- 8 Q. And what is that for the jury?
- 9 A. It's May 3rd.
- 10 Q. May 3rd of 2019?
- 11 A. Yes.
- 12 Q. And then if we go all the way back to here, I would
- 13 represent to you that this is the -- let's see --
- 14 A. June 2nd.
- 15 Q. June 2nd, 2019?
- 16 A. Right.
- 17 Q. And so just so the jury knows, a logbook for that time
- 18 period --
- 19 A. Mm-hmm.
- 20 Q. -- would -- would probably be a lot more pages --
- 21 A. Yes.
- 22 Q. -- than just this one, isn't it?
- 23 A. Yeah.
- 24 Q. Okay. And so --
- 25 A. It -- yeah.

JURY TRIAL - VOL. 2

1 Q. -- if I told you that that -- those are excerpts that
2 just reference either Ms. Rhoads or medical coming and
3 going from the B-Pod, would that seem to be probably about
4 accurate?

5 A. Yes.

6 Q. Okay. All right. Fair enough.

7 A. Basically, it gives us a reference as to -- like, I'd
8 come on shift. I can come back and see what's taken place
9 the shift before me with these little interim actions here
10 of what took place.

11 Q. Okay. And then the next -- the next exhibit I want to
12 show you is Plaintiff's Exhibit No. 3.

13 A. Okay.

14 Q. And so the first thing I'm going to ask you about
15 are the first two pages of this exhibit.

16 A. Okay.

17 Q. Okay? And so if you will look at that and if -- do
18 you recognize that two-page document?

19 A. Yes.

20 Q. Okay. And tell the jury what that document is.

21 A. The top one, basically, is an incident report sheet.
22 It gives your date and time and whatever the incident was
23 as to a medical response. This one here specifically is a
24 medical response. And this has the supervisor's notation
25 on it as to when they responded to the medical call. The

Lisa Bauer - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 2

- 1 second page looks to be my report to the medical call.
- 2 Q. And -- and what's the date of the document?
- 3 A. It looks 5/30 of 2019.
- 4 Q. So May 30th of 2019 --
- 5 A. Right.
- 6 Q. -- there was an incident in B-Pod and you were
- 7 involved in it --
- 8 A. Mm-hmm.
- 9 Q. -- and you were involved in the creation of that
- 10 document?
- 11 A. Yes.
- 12 Q. Okay. And -- and the -- would it be fair to say those
- 13 reports, those documents, are reports that you guys fill
- 14 out every day or fairly commonly?
- 15 A. Fairly common, yeah. If there's any kind of response
- 16 that we have to call for somebody for a backup, like this
- 17 here, like I said, a medical or some kind of issue, we
- 18 have to fill out an incident report stating who responded,
- 19 what took place, and who was involved in the whole
- 20 situation.
- 21 Q. And so -- and -- and to save you from having to read
- 22 -- read this -- well, I'll tell you what. If you'll turn
- 23 over to the second page, that comments section there --
- 24 A. Yes.
- 25 Q. -- those are your comments, ma'am?

Lisa Bauer - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 2

1 A. Yes.

2 Q. Would you mind reading those for the jury?

3 A. On 5/30/19, I, Deputy Bauer, was working in B-Pod
4 when, at approximately 15:31, Inmate -- I don't want to
5 mess up her name.

6 Q. I believe it's Quereyanna.

7 A. -- Quereyanna Jamerson was out for recreation in
8 B-Max. She started yelling through the glass in B-Max
9 saying that Inmate Cassiopeia Rhoads had just fallen in
10 her assigned cell. Inmate Jamerson secured into her
11 assigned cell. I entered the -- entered and could clearly
12 see Inmate Rhoads lying on the floor by the door, possibly
13 having a seizure. I called by radio for medical
14 assistance in B-Max 1. Lieutenant Riddell, Sergeant
15 Erickson, Nurse Donna, Nurse Cody arrived and evaluated
16 Inmate Rhoads. When Lieutenant Riddell, Sergeant
17 Erickson, Nurse Donna, and Nurse Cody left, I was advised
18 she was medically cleared.

19 Q. Those comments that you generated back on May 30th of
20 2019, are those all accurate and truthful to the best of
21 your knowledge?

22 A. To the best of my knowledge, yes.

23 Q. Okay. When that incident occurred on May 30th of
24 2019, were you aware that that was the fourth documented
25 incident of Cassi fainting or losing consciousness since

JURY TRIAL - VOL. 2

1 May 8th?

2 A. No, I wasn't.

3 Q. Were you aware of the five inmate grievances to
4 medical that Cassi had filled out describing something
5 going on with her head?

6 A. No, I wasn't.

7 Q. The last two pages of that document, I want to -- I
8 want you to look at those. Do you recognize those last
9 two pages?

10 A. Yes.

11 Q. And -- and I pulled a -- Deputy Bauer, what I did was
12 I pulled the two pages I believe are the logbook entries
13 for that incident report and just attached them to that
14 that exhibit for you. They would have been in that other
15 exhibit, but I put on that one.

16 A. Right.

17 Q. Would that be a fair description of what that is?

18 A. Yes.

19 Q. Okay. So the -- on the bottom of -- of that page, the
20 -- the first page of the logbook entry that's attached to
21 that Exhibit 4, do you see the entry for 15:31?

22 A. Yes.

23 Q. Okay. And that's the same time you put on the
24 incident report; right?

25 A. Correct.

Lisa Bauer - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 2

1 Q. Okay. And so would you read to the jury what your
2 entry was in the logbook?

3 A. 15:31, called med -- medical -- for B-M 1 Rhoads,
4 Cassiopeia.

5 Q. Okay. And is that your handwriting, ma'am?

6 A. Yes, it is.

7 Q. And -- and then what's the 15:40. What is that?

8 A. Medical staff, Lieutenant Riddell, Sergeant Erickson
9 left. I believe it says something about Rhoads. And I
10 don't think it got printed out.

11 Q. Okay. How about going over to the next page. There's
12 two entries. I wanted to ask you about the entry for
13 17:50 and the entry for 18:45. Are both those your
14 handwriting, first?

15 A. Yes, they are.

16 Q. Okay. Would you tell the jury what your entry at
17 17:50 was?

18 A. 17:50, security check complete. Inmate Rhoads is
19 standing and talking, complaining of headache.

20 Q. And how about for 18:45?

21 A. 18:45, check on B-Max 1, Rhoads is talking, still
22 complaining of headaches. Medical has been advised.

23 Q. And, Deputy Bauer, I know it's hard because this was a
24 long time ago and nobody's memory is perfect. And -- and
25 I know that -- that it's hard to figure out when things

JURY TRIAL - VOL. 2

1 occurred.

2 A. Mm-hmm. Yes.

3 Q. Can you tell the jury whether or not that incident of
4 Cassi falling occurred before or after Ms. Hill asking you
5 to go look at Cassi and then report what you saw to
6 Whitaker?

7 A. I actually looked back on my schedule as to when I
8 worked for relief on Whitaker's shift, and this took place
9 afterwards.

10 Q. So --

11 A. This took place after --

12 Q. -- and when you say --

13 A. -- dealing with Carla.

14 Q. -- you went back and looked on your work schedule,
15 would that be after the deposition?

16 A. Yes.

17 Q. Okay. Well, that's great. Do you know -- when you
18 looked at your work schedule, do you know when it was that
19 this conversation happened with Hill?

20 A. It was the 28th. It was actually only a couple of
21 days before.

22 Q. Okay. So May 28th is when Hill asked you to -- to go
23 look at Cassi?

24 A. Yes.

25 Q. Okay. And so --

Lisa Bauer - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 2

1 (Noise interruption, possibly microphone
2 feedback.)

3 MR. MCLAUGHLIN: -- it's not me. I don't think
4 it is.

5 BY MR. MCLAUGHLIN:

6 Q. And listen, the answer may be how do you think of it.
7 Okay? I don't know. But kind -- you know, the thing that
8 kind of pops in my mind is, you know, you had -- you had
9 been asked by Ms. Hill --

10 A. Yes.

11 Q. -- to take a look at this inmate --

12 A. Yes.

13 Q. -- and now you have an incident just two days later --

14 A. Yes.

15 Q. -- where this inmate fell out?

16 A. Uh-huh.

17 Q. Right?

18 A. Yes.

19 Q. Did -- did you say anything to Riddell, because
20 Riddell was lieutenant.

21 A. Right.

22 Q. And Riddell responded to the May 30th?

23 A. Yes.

24 Q. Okay. And did you say anything to Riddell about, you
25 know, Hill -- you know, the other night I was in here and

Lisa Bauer - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 2

1 I was relieving Hill, and Hill asked me to go look at this
2 gal, and I did. And when I looked at her, something was
3 going on with her head. And she asked me to say something
4 to Whitaker. Did you relay that at all to Riddell?

5 A. I honestly don't remember if I did, because when
6 medical responders come in, I'm actually controlling the
7 doors and keeping the pod itself under control. So I'm
8 not back there with them during this time.

9 Q. And I get that. You explained that to us last time.
10 Like, I couldn't go in to check on her because I've got a
11 duty at that point in time to keep out everybody else.

12 A. Right.

13 Q. But one thing that I don't know that we explained to
14 the jury about B-Pod, but so they know. Outside of those
15 four little cells that they have, there's kind of like a
16 little -- what is it, maybe from here to that ledge right
17 there, or maybe here to the end of the jury box?

18 A. Roughly.

19 Q. -- of the --

20 A. It's the length of the four cells, basically.

21 Q. -- and so it's maybe about from here to there wide?

22 A. Right. And then you have another section that goes
23 back where the shower is.

24 Q. And so but when they have break time, like you -- you
25 explain in your -- your report that -- that she goes by Q.

Lisa Bauer - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 2

- 1 A. Yeah.
- 2 Q. Q was in rec time. Basically what that is, is Q was
3 out in front of those four cells in B-Max just kind of --
4 that -- her rec time was kind of doing whatever she can do
5 in this little bitty area; right?
- 6 A. Pretty much.
- 7 Q. Okay. All right. And so when Q starts banging on the
8 glass, if these are the four cells --
- 9 A. Mm-hmm. Yes.
- 10 Q. -- and -- excuse me -- Cassi is in B-Max 1?
- 11 A. Right.
- 12 Q. So is that down here or is that down here?
- 13 A. My desk is right here. She's right directly behind
14 me, B-Max 1 is.
- 15 Q. B-Max 1 is here?
- 16 A. Right.
- 17 Q. And so Q turns and starts banging on the glass to get
18 your attention?
- 19 A. I don't remember if she actually banged, because I
20 wrote that she just hollered or yelled.
- 21 Q. She starts hollering at you, didn't she?
- 22 A. Yeah.
- 23 Q. Okay. All right. And then you got up. Before you
24 can even go in, you've got to say, hey, Q, get back in
25 your cell --

Lisa Bauer - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 2

1 A. Correct.

2 Q. -- because you've got to secure her?

3 A. Safety wise.

4 Q. Okay. And I get -- I get the whole thing. Listen, I
5 kinda one once they come and they take over, I've got a
6 job to do and I've got to go do it?

7 A. Right.

8 Q. Did -- did you raise -- did -- did -- did that come up
9 at all in conversations afterwards, the whole thing about
10 listen, she just fell out and -- and I was looking -- and
11 I was asked to look at her just a few days before? Did
12 that come up at all?

13 A. I honestly don't remember if it did or not.

14 Q. Okay. Fair enough. I beg your indulgence one second,
15 please. Ms. Bauer, I'm so sorry we interrupted your
16 vacation. And I'm so sorry that it took so long to get
17 you to today. Thank you very much. I appreciate it.

18 CROSS-EXAMINATION

19 BY MR. LINDEMANN:

20 Q. Now, Deputy Bauer, the medical care that was provided
21 at the Aiken County Detention Center, that was provided by
22 personnel with Southern Health Partners; is that correct?

23 A. Yes.

24 Q. Okay and was medical care provided 24/7?

25 A. Yes. We had somebody on staff, even during night

Lisa Bauer - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 2

1 shift.

2 Q. Okay. So and -- and when you say night shift, how
3 many shifts are there in a day?

4 A. There's two.

5 Q. And how --

6 A. Two 12-hour shifts, from 7:00 a.m. to 7:00 p.m. and
7 7:00 p.m. to 7:00 a.m.

8 Q. All right. And so there -- there are nurses who are
9 on staff 24/7?

10 A. Yes.

11 Q. All right. Is there also a doctor who is on call?

12 A. As far as I know, he's on call but in the facility,
13 not every time -- not every day.

14 Q. Right. But he had certain office hours, for lack of a
15 better term, when he was on -- present at the facility?

16 And again, I'm asking about back --

17 A. Yes.

18 Q. -- in 2019.

19 A. Yes.

20 Q. All right. As far as -- you've described a little bit
21 for the jury what a relief officer does. Can you
22 elaborate, maybe, on what a pod officer does?

23 A. Yes.

24 Q. When you're in charge of the pod such as when you were
25 on May 30th, what kind of duties does that entail?

Lisa Bauer - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 2

1 A. Being a pod officer, you're in charge of basically
2 keeping the pod in order. You're controlling when they
3 come out for their rec time, because classifications are
4 not allowed to intermingle. You're only allowed to have
5 general population out on rec. Everybody else has to stay
6 at their bunks. If you have general population at their
7 bunk, you're letting out the individual cells as to their
8 classification as well. You're basically maintaining
9 order and making sure there's no arguments or
10 inappropriate discussions going on. You're also checking
11 on those people. When one group is out on rec, you're
12 going to check the rest of the pod during your security
13 checks, making sure everything is going good as well.

14 You can interact with them, talk to them, treat them
15 like human beings. You know, basically see how they're
16 doing, see how they're feeling, if there's any kind of
17 concerns and so forth. You deal with medical pass when
18 medical staff comes in. They have medication that they
19 pass out to the inmates. You also deal with feeding time.
20 You have trays that come in. You also have what they have
21 called as helper inmates. They call them blues or CPs.
22 They come and help you serve trays. You'll have generally
23 a population out at the big seating area, and you have to
24 serve those that are in the cells, so you'll bring trays
25 and serve them in there as well. And then you pick them

Lisa Bauer - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 2

1 up, supervise the cleaning, and then start with your
2 recreation for the inmates again.

3 Q. And when -- you know, you testified that, obviously,
4 you were the pod officer on May 30th when --

5 A. Yes.

6 Q. -- there was a medical issue with Ms. Rhoads. How is
7 -- when there's a medical issue, how does a pod officer
8 respond to that?

9 A. Basically, like in this situation here, I went back to
10 verify there was something in fact that was taking place.
11 I immediately called for responders through the radio. I
12 stepped back out into the main pod. And everybody has to
13 go back to their bunk, so I have to make sure that
14 everybody returns back to their bunks or back to their
15 cells, wherever they're housed at. Then, I'm also
16 controlling the doors, which is a door to access the
17 medical staff and supervisors and so forth coming in
18 responding for the call. During that time, I have to
19 still control and maintain the pod, keeping them seated,
20 keeping things quiet so they can hear what's going on back
21 there. Basically, making sure nobody else has any issues
22 going on. And then I have to control a door as well for
23 them to get back into the medical response that's taking
24 place back there, because she's behind, actually, two
25 different closed doors, the one that goes into that area

JURY TRIAL - VOL. 2

1 and then her door itself. So I have to access those doors
2 for staff.

3 Q. And when there is a medical issue like that, when you
4 say you call for first responders, does that include the
5 medical staff that's in place at the detention center at
6 that time?

7 A. Yes. The response call would be I need medical
8 responders in Bravo Pod. In this situation that was
9 exactly what was called, was medical responders to Bravo
10 Pod.

11 Q. And in response to that, two nurses appeared? This is
12 talking about the May 30th incident?

13 A. Yes. It was my lieutenant, my sergeant, and two
14 medical nurses that arrived.

15 Q. Is that typically how medical issues, when you call
16 for medical responders, is that typically how it was
17 handled?

18 A. Yes, because they're carrying bags for whatever they
19 feel may be needed for the emergency.

20 Q. And ultimately, as the pod officer, are you relying on
21 the medical staff for providing the medical care, the
22 evaluation, the assessment, that sort of thing?

23 A. Yes.

24 Q. That's not something you do yourself?

25 A. No. I don't have any kind of medical training like

Lisa Bauer - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 2

1 that, no.

2 Q. And I was about to ask you that. Do you have any type
3 of medical training whatsoever?

4 A. The only training we get, generally, is CPR and just
5 your basic first aid.

6 Q. Okay. Obviously, you're not a medical doctor or a
7 nurse; is that correct?

8 A. No.

9 Q. And that's what Southern Health Partners furnishes for
10 the detention center?

11 A. Correct.

12 Q. On the -- the incident on May 30th itself, when the
13 medical responders are evaluating and providing any type
14 of care for the inmate -- in this case, Ms. Rhoads --

15 A. Yes.

16 Q. -- were you present when that was going on?

17 A. No. I'm actually at my desk. Because she's behind me
18 and behind two, basically, partitions; the glass right
19 here and then in her cell itself. So I'm outside of all
20 of that controlling the pod, the rest of the pod.

21 Q. And in this particular case, actually, two nurses
22 responded, Nurse Cody and Nurse Donna; correct?

23 A. Yes.

24 Q. And that's just referencing them informally. Donna --
25 Nurse Donna is actually Donna Wright; is that correct?

Lisa Bauer - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 2

1 A. I believe so. I only know them, basically, by first
2 names.

3 Q. Okay.

4 A. Just like most of them know me by last name.

5 Q. And Donna Wright was -- or who you referred to as
6 Nurse Donna, she's somebody who was regularly working at
7 Aiken County Detention Center; correct?

8 A. Correct.

9 Q. And that would have been true for this -- for the
10 month of May?

11 A. I would say so, yes.

12 Q. That -- the last sentence, though, of your portion of
13 the incident report states that, quote, I was advised she
14 was medically cleared.

15 A. Correct.

16 Q. By whom and when were you provided that information?

17 A. I'm not definite which one spoke. Usually, it's my
18 lieutenant that lets me know. I believe the nurses were
19 discussing something as they were walking out. And I was
20 told -- you know, I'm not specific on which one, but I was
21 told that she is clear to stay, you can go ahead and
22 resume normal activity. So when they exited and left, I'm
23 making notation of what time they leave and the fact that
24 they said she's good to stay.

25 Q. And is a reference to using -- well, you used the term

Lisa Bauer - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 2

1 "medically cleared." Is that a reference to the fact that
2 the medical personnel -- in this case, the two nurses --
3 authorized her to remain on the unit?

4 A. Yes, because they were the ones that did the
5 evaluation on the medical responder call I did.

6 Q. Okay. Ultimately, let me turn your attention and go
7 backwards two days to May 28th.

8 A. Yes.

9 Q. That was the day, I think you testified, that you were
10 a relief officer?

11 A. Yes.

12 Q. And I won't get you to do this again. I think you did
13 a good explanation of what a relief officer does. So on
14 that particular day as a relief officer, you would be in
15 B-Pod several times during the shift, but for very brief
16 periods; is that correct?

17 A. Correct, a total of three times. We get two 15-minute
18 breaks and a lunch break in between.

19 Q. Okay.

20 A. It's a half hour.

21 Q. Were they specific times of day where those -- where
22 the relief officer would come into the -- the unit and
23 relieve the actual pod officer?

24 A. It's actually not a specific time. You'll start doing
25 relief breaks at a certain time in the morning and try to

Lisa Bauer - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 2

1 get the 15 minutes done within a specific time, and then
2 you start your lunch breaks at a specific time and try to
3 get those done, so then you can get your 15-minute breaks
4 in before the end of the day, and not trying to put
5 somebody a 15-minute break before they leave 15 minutes
6 from there, so. Most of the time, the first break starts
7 at 8:30. That's when you start doing your 15s.
8 Lunchtime, 11:00, and then your last one is usually about
9 3:00.

10 MR. LINDEMANN: And, Your Honor, I just gave
11 Mr. McLaughlin a copy of two pages of log notes. As I
12 understand it, just for the jury's explanation and Mr.
13 McLaughlin has already indicated, that what has been
14 marked as Plaintiff's Exhibit No. 4 are not complete
15 log notes for various shifts. And so what I ask for
16 to be marked as Defendant's Exhibit No. 1 is actually
17 the complete log notes -- it's two pages -- for that
18 particular shift on May 28th.

19 (Defendant's Exhibit 1 was offered for
20 admission into evidence.)

21 THE COURT: Okay. Anything?

22 MR. MCLAUGHLIN: No objection.

23 THE COURT: Defendant's 1 is in without
24 objection. It's another portion of the log notes.

25 (Defendant's Exhibit 1 was admitted into

Lisa Bauer - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 2

1 evidence.)

2 MR. LINDEMANN: May I approach, Your Honor?

3 THE COURT: Sure.

4 BY MR. LINDEMANN:

5 Q. Deputy Bauer, let me hand you what's been marked as
6 Defendants Exhibit No. 1. Do you recognize that document?

7 A. Yes.

8 Q. Looking at what's been marked as Defendant's Exhibit
9 No. 1, that -- does that reflect -- that document reflect
10 when you, for lack of a better word, checked into B-pod --

11 A. Yes.

12 Q. -- to do relief duty?

13 A. Yes. It shows all of them.

14 Q. Okay. So there are three different places where you
15 actually, again, for lack of a better word, checked into
16 that particular pod?

17 A. Correct.

18 Q. All right. If you could, tell the jury what time
19 during that particular shift you did your first stint on
20 the relief?

21 A. The very first break was 09:13 and it ended roughly
22 09:26 when Deputy Hill returned.

23 Q. Okay. So the entry that's -- that's listed as 09:13,
24 and that would be 9:13 the morning?

25 A. Correct.

Lisa Bauer - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 2

- 1 Q. You all use military time; right?
- 2 A. Yes, we do.
- 3 Q. Okay. It says, Deputy Bauer in for break; correct?
- 4 A. Correct.
- 5 Q. And that's in your handwriting?
- 6 A. Yes.
- 7 Q. All right. And then at 9:18, there's another entry.
- 8 What does it say?
- 9 A. It says, medical has left.
- 10 Q. Medical has left the unit --
- 11 A. The unit.
- 12 Q. -- is that right?
- 13 A. Yes.
- 14 Q. Do you have any recollection of what medical was doing
- 15 on the unit?
- 16 A. I'm figuring at that time of the morning, they were
- 17 probably in doing the medical pass for that morning part
- 18 of the day.
- 19 Q. Okay.
- 20 A. And they were probably already in there when I came
- 21 in. That's why I didn't put the note that they entered.
- 22 I just put the note when they had left the pod -- or left
- 23 the unit.
- 24 Q. And prior to your first entry there is -- a couple of
- 25 lines up -- there is an entry that says medical enters,

Lisa Bauer - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 2

1 does it not?

2 A. Yes.

3 Q. And that would be in Deputy Hill's handwriting?

4 A. Correct.

5 Q. All right. And at what time did medical enter the
6 unit?

7 A. That says 08:45, or 8:45 in the morning.

8 Q. All right. You just made a reference to med pass.

9 What are you referring to with med pass?

10 A. Basically, people in the pod have medication
11 prescribed to them, whether it is for whatever health
12 issues they have. They also have medication that medical
13 has prescribed to them for detoxing just to help them go
14 through detox. Sometimes somebody may have a cold and
15 they've gone to medical and they've got medication to help
16 with a cold. So it's a specific time in the morning,
17 usually, that medical hits every pod with their med pass,
18 and then we either take them to the closed-up cells or we
19 have general population to come down for their meds.

20 Q. And does med pass include both prescription and
21 nonprescription medication?

22 A. Yes.

23 Q. Okay. And an inmate within the Lexington -- excuse
24 me, not Lexington -- Aiken County Detention Center can't
25 keep their own medication on their person or within their

Lisa Bauer - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 2

1 cell; is that right?

2 A. No. They're not allowed. The only thing they can
3 purchase, I believe, is off the canteen is aspirin, and
4 it's a very limited amount that they have with that.

5 Q. All right. But as far as prescription medication --

6 A. No.

7 Q. -- okay. And the reason for that is why?

8 A. Because inmates will trade them. Basically, they say
9 sell them, but they don't have money. They basically sell
10 them for canteen. Somebody will give them a honey bun for
11 whatever prescription they have because somebody's
12 thinking they can get high from it. So they'll purchase
13 somebody else's medication just to get that buzz off of
14 it.

15 Q. And so in order to prevent those types of things from
16 happening, medication to be used for improper purposes,
17 that's why the nurses dispense the medication one does at
18 a time; is that right?

19 A. Correct.

20 Q. And that's done during med pass?

21 A. Correct.

22 Q. And how --

23 A. We have to stand and supervise to make sure they take
24 their medication with their tongue and so forth to make
25 sure they're not hiding it.

Lisa Bauer - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 2

1 Q. So they can't hoard the medication?

2 A. Right.

3 Q. And med pass occurs how many times a day?

4 A. You have one in the morning and one in the evening.

5 Q. And that's true for every pod?

6 A. Yes.

7 Q. And that would include B-Pod?

8 A. Correct.

9 Q. And so at least from -- from what you can recall or
10 tell from those log notes, this looks like it would be the
11 morning med pass?

12 A. Correct.

13 Q. And it looks like the nurse -- does a nurse do the med
14 pass?

15 A. Yes.

16 Q. So it would look like a nurse would have been on the
17 unit that day for 40 minutes; is that right?

18 A. Roughly, yeah.

19 Q. All right. All right. So going back to your -- your
20 involvement as a relief officer, you arrived at 9:13 in
21 the morning and Deputy Hill returns at 9:26, according to
22 those log notes; correct?

23 A. Yes.

24 Q. All right. Do you believe it was, at that particular
25 time when you relieved her, that you had the conversation

Lisa Bauer - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 2

1 with Deputy Hill that you have testified about, or do
2 believe it's one of the other times you relieved her?

3 A. I'm not definite. I'm thinking that it was that time
4 just because it was the first break of the day. So that's
5 why I'm feeling that was possibly the first time that she
6 had said something to me about it.

7 Q. All right. And so when is the next time that you did
8 any type of relief for Deputy Hill that -- during that
9 shift?

10 A. The next time would have been, it looks like, 1:00
11 when count was called. And the entry also talks about
12 Corporal Buggs come in to interview three inmates during
13 that time.

14 Q. All right. And the -- that shows, then, that Deputy
15 Hill returned at 13:20, which would be 1:20?

16 A. Correct.

17 Q. And then lastly, is there an additional point where
18 you provided any type of relief break that day?

19 A. 16:28 was when I entered, and then our dinner trays
20 also came in at 16:40.

21 Q. Okay. And are those the two entries in your
22 handwriting?

23 A. Yes.

24 Q. So that would have been 16:28, so that would be 4:28
25 in the afternoon?

Lisa Bauer - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 2

1 A. Yes.

2 Q. And 16:40 is when the dinner came?

3 A. Correct.

4 Q. All right. So those -- that document is the periods
5 of times when you would have been on that on a particular
6 relief?

7 A. Correct.

8 Q. All right. Now, you testified earlier that you
9 determined that this was the day that you had that
10 conversation with Deputy Hill. And understanding you
11 based that upon the shift rosters?

12 A. Correct.

13 Q. And so on that particular day, Deputy Hill, for that
14 shift, was assigned to B-Pod and you were a relief
15 officer?

16 A. Yes.

17 Q. You were -- I think you were asked regarding medical
18 requests that are made by inmates. When a medical -- a
19 sick call request is made by an inmate, how is that done?

20 A. Usually, it's placed on the kiosk. When they come out
21 for their rec time, they'll go into the kiosk and there's
22 an area that you can go to medical. You can request a
23 sick call or you can request information from medical, and
24 you can request information from several areas of the
25 facility through the kiosk.

Lisa Bauer - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 2

1 Q. And -- and when a kiosk is directed specifically to
2 medical, is that something that you, as a correctional
3 officer, have access to?

4 A. No.

5 Q. Do you have access to the medical records that are
6 maintained by Southern Health Partners?

7 A. I have no access whatsoever.

8 Q. Okay. And your understanding of the reason for that
9 is what?

10 A. HIPAA laws would be my understanding.

11 Q. Basically privacy laws?

12 A. Yes.

13 Q. And so, specifically, when somebody makes a request
14 for a sick call, unless the inmate lets you know that, it
15 goes directly to medical and doesn't go to you?

16 A. Right.

17 Q. And then it's up to the medical personnel, the nurses,
18 in order to respond to that?

19 A. Yes.

20 MR. LINDEMANN: I beg the Court's indulgence.

21 BY MR. LINDEMANN:

22 Q. Let me to get you to explain one another thing. You
23 mentioned earlier, you used the word "classification" when
24 you were talking about the different aspects of B-Pod,
25 that you have the open bunks, you have the cells, and then

Lisa Bauer - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 2

1 you have B-Max.

2 A. Yes.

3 Q. And you indicated that depending on classification.

4 For people who aren't -- don't have a lot of knowledge

5 about corrections, what is -- what is -- are you referring

6 to there?

7 A. Classification is basically what an inmate's status or
8 arrangement as to how they will be housed. When they

9 first come in, they are considered green. That is their

10 first status. From there, classification talks to them

11 and goes through whatever their requirements are to decide

12 where this person is going to be housed as to will they go

13 to general population, will they go to a designated cell

14 area. It all depends on, as far as I know, it depends on

15 their work history -- I mean, their -- their inmate

16 history. It depends on their current charges, past

17 charges, all these different things go into what

18 classification decides them to do as to their housing.

19 Q. All right. And there's actually a classification

20 officer?

21 A. Yes. We have two of them, actually.

22 Q. All right. At that point in time, was one of those

23 Tonetta Buggs?

24 A. Yes.

25 Q. Ultimately -- I'm going to switch gears for you again.

Lisa Bauer - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 2

1 I'm going to go back -- and I apologize for this -- move
2 back to the -- the May 30th incident. And again, then,
3 you were the actual B-Pod officer; correct?

4 A. On the 30th, yes.

5 Q. All right. If you could look at the -- the log notes
6 that are part of Exhibit 4 -- I'll find those for you real
7 quickly, if you don't mind -- and I'm referring to the
8 page that's Bates-numbered -- which is the little number
9 at bottom of the page, for the jury's benefit --
10 County 960. This particular log note reflects when you
11 requested the medical responders to -- to arrive; correct?

12 A. Right.

13 Q. And I think you testified earlier that was at 15:31,
14 which would be 3:31 in the afternoon; correct?

15 A. Yes.

16 Q. All right. So this would have been a day shift?

17 A. Correct.

18 Q. All right. And then later, on the next page, before
19 your shift ended, there are a couple of other entries
20 dealing with Mr. Rhoads; correct?

21 A. Yes.

22 Q. It looks like -- is -- is that 17 --

23 A. 17:50.

24 Q. 17:50. I'm sorry. A little trouble with the
25 handwriting. And that reads what? What did you write

Lisa Bauer - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 2

1 there?

2 A. Security check complete. Inmate Rhoads is standing
3 and talking and complaining of headaches.

4 Q. All right. And then at 16:35 there's another
5 reference to medical at 16:35, meaning --

6 A. 18:35.

7 Q. 18:35 -- I'm sorry -- which, of course, would be 6:35
8 right near -- near the end of the stretch.

9 A. Right.

10 Q. And what does it say there?

11 A. Security check, and then it says medical came in to
12 give meds to -- and the name is marked out.

13 Q. All right. And I'll represent to --

14 A. Left, continued security check.

15 MR. LINDEMANN: -- to the Court and to the jury
16 that that's somebody who is -- it's not Ms. Rhoads.

17 THE WITNESS: Right.

18 MR. LINDEMANN: It's somebody we had to provide
19 -- protect -- protect -- provide them privacy and
20 protection.

21 BY MR. LINDEMANN:

22 Q. But it does show that medical came back onto the unit;
23 correct?

24 A. Yes.

25 Q. All right. And -- and then ultimately, at 18:45, your

Lisa Bauer - Redirect Examination by Mr. McLaughlin

JURY TRIAL - VOL. 2

1 last entry for the night, you referenced Mr. Rhoads there;
2 is that correct?

3 A. Yes. I made another check on B-Max 1. Rhoads is
4 talking, still complaining of headache. Medical has been
5 advised.

6 Q. All right. And when you say medical has been advised,
7 how would you gone about doing that?

8 A. I probably would have called them by phone and spoke
9 to whoever it was that answered the phone call and told
10 them that I checked on Ms. Rhoads again and she's still
11 just complaining of a headache, nothing looks any
12 different as far as that. Basically, giving them an
13 update on how she's doing.

14 Q. So you were relaying what you observed about Ms.
15 Rhoads at that point in time?

16 A. Correct.

17 Q. All right. Thank you, Ms. Bauer -- Deputy Bauer. I
18 have no further questions. But I do join in apologizing
19 for disrupting -- disrupting your vacation plans.

20 REDIRECT EXAMINATION

21 BY MR. MCLAUGHLIN:

22 Q. Mr. Lindemann took my copy. I just need to circle the
23 one you said you thought it was that Carla told you.
24 Could you tell me that again so I can circle it? That's
25 the only question I've got for you.

Lisa Bauer - Redirect Examination by Mr. McLaughlin

JURY TRIAL - VOL. 2

- 1 A. On what?
- 2 Q. Sure. The -- the 9:51 page that he gave to you and he
- 3 walked you through.
- 4 A. I believe it was this first time.
- 5 Q. Okay. So starting at when?
- 6 A. I would have come in to do her break.
- 7 Q. At 9:13?
- 8 A. At 9:13.
- 9 Q. Okay.
- 10 A. And medical was already there, so we would have
- 11 finished med pass at 9:18. Medical had left.
- 12 Q. Okay.
- 13 A. Then going for the 9:25, I would have basically --
- 14 after medical left, I would have completed a check which
- 15 would have taken me back there.
- 16 Q. And then 9:26, is Hill coming back in?
- 17 A. Yes.
- 18 Q. That's when you think it happened? That's -- I'm so
- 19 sorry.
- 20 A. That's okay.
- 21 Q. Thank you so much. Enjoy your vacation, ma'am. Okay?
- 22 THE COURT: All right. Deputy, you may step
- 23 down and head out.
- 24 THE WITNESS: Thank you. Thank you very much.
- 25 MR. MCLAUGHLIN: And we certainly have no issue

Mary Joyner - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 2

1 with her being excused, Your Honor.

2 THE WITNESS: Do you need those?

3 THE COURT: All right, folks. We are -- we
4 started before you all came in here, so I'm ready for
5 a break. So you all step in the jury room. We'll
6 talk about the case and hope to have you right back in
7 here. We'll take about ten minutes from my time on
8 that clock.

9 (The jury exited the courtroom.)

10 (Off the record.)

11 (Recess.)

12 (On the record.)

13 (The jury entered the courtroom.)

14 THE COURT: That was a long enough break. I
15 didn't want to take too long because we had a long one
16 this morning. So anyway, call your next witness.

17 MR. MCLAUGHLIN: Thank you, Your Honor. The
18 plaintiffs call Mary Joyner.

19 (The witness was sworn in.)

20 THE CLERK: Please take a seat in the witness
21 stand. State your full name for the Court, and spell
22 your last name, please.

23 THE WITNESS: Hello. My name is Mary Joyner.
24 It's J-O-Y, as in yellow, N-E-R.

25 //

Mary Joyner - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 2

1 //

2 MARY JOYNER

3 was called as a witness, and having been first duly sworn,
4 testified as follows:

5 DIRECT EXAMINATION

6 BY MR. MCLAUGHLIN:

7 Q. Ms. Joyner, do you know Cassi Rhoads?

8 A. Yes, I do.

9 Q. How do you know Cassi?

10 A. I met here in Aiken County Detention Center.

11 Q. Would that have been during May and June of 2019?

12 A. Yes.

13 Q. During -- and is that because -- did you work there or
14 were you a guest of Aiken County?

15 A. I was an inmate.

16 Q. Okay. And during the time that -- that you were
17 detained at Aiken County Detention Center, were you also
18 in B-Pod?

19 A. I was.

20 Q. Okay. During the -- the May to June 2019 time, did
21 you notice any physical changes going on with Cassi?

22 A. Absolutely. It was very noticeable.

23 Q. Could you explain to the jury what you saw?

24 A. During the time that she was there -- I was there for
25 the entirety of this incident -- she lost color in her

Mary Joyner - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 2

1 skin. She started falling out, fainting, having seizures.
2 She had a very pale look about her. You know, when
3 somebody is sick, you can tell they were yellow-grayish
4 color to them. You know something is wrong with them.
5 She started -- she was a little slower, like she's acting
6 sick. And of course, the growth on the side of her head
7 that appeared during that time.

8 Q. Could -- could you describe the growth on the side of
9 Cassi's head how it appeared to you?

10 A. It was quite large. During that time, it grew to be,
11 I would say, like a baseball on the side of her head right
12 here.

13 Q. The -- at some point in time, Cassi went into B-Max.
14 The jury has heard that. This growth on the side of
15 Cassi's head, could you see it just with your plain old
16 eyes?

17 A. Yes. I could see it from all the way across the pod.

18 Q. Did you -- were able to see this growth on the side of
19 her head before she went to B-Max?

20 A. Yes.

21 Q. Do you have any medical training at all?

22 A. I do not.

23 Q. Looking at Cassi and seeing what you saw, did you have
24 any concerns about Cassi's well-being?

25 A. Yes.

Mary Joyner - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 2

1 MR. LINDEMANN: Your Honor, objection. That's
2 not relevant whether she had concerns or not.

3 THE COURT: I think she can answer that, but not
4 further than concerns. I agree with you on there.

5 MR. LINDEMANN: All right. Thank you.

6 MR. MCLAUGHLIN: Fair enough.

7 THE COURT: I'll overrule as to that question.

8 MR. MCLAUGHLIN: Yes, sir.

9 BY MR. MCLAUGHLIN:

10 Q. Are you -- are aware of why Cassi went to B-Max?

11 A. Yes. She had a peaceful protest seeking medical care.
12 She pulled a chair out and sat in front of the desk that
13 is the CO's desk. And she basically stated calmly -- she
14 was not violent or aggressive or even defiant. She said,
15 I will not go back to my bunk until I have received a
16 medical care. I know something is wrong. And instead of
17 giving her medical care, they put her in B-Max and locked
18 her down.

19 Q. How do you know that?

20 A. I watched it happen. It was right in front of me. I
21 watched it from my bunk.

22 Q. Thank you, Ms. Joyner. Answer any questions
23 Mr. Lindemann may have.

24 A. Okay.

25 //

Mary Joyner - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 2

1 //

2 CROSS-EXAMINATION

3 BY MR. LINDEMANN:

4 Q. Ms. Joyner, do you just used the term "peaceful
5 protest." Is that a term that Ms. Rhoads' attorneys used
6 with you?

7 A. No. That's a term I use.

8 Q. Okay. But that's something you -- you actually met
9 with them, even before you gave a deposition; correct?

10 A. Yes.

11 Q. And you -- your testimony is you coined that phrase?

12 A. Yes.

13 Q. All right. The -- so you were at the detention center
14 in 2019, May of 2019?

15 A. Yes.

16 Q. When did you get there?

17 A. I was there from March 10th until June 3rd.

18 Q. Until June 3rd?

19 A. Yes.

20 Q. All right. On that's actually the second occasion a
21 bit in the detention center.

22 A. Yes.

23 Q. All right. And that was actually a second occasion
24 you've been in the detention center?

25 A. Yes.

Mary Joyner - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 2

- 1 Q. And you were initially in the detention center on a
2 conviction on a drug charge; correct?
- 3 A. Yes, misdemeanor meth.
- 4 Q. Misdemeanor methamphetamine?
- 5 A. Yeah.
- 6 Q. And then ultimately, the second time in 2019, you were
7 there because you violated the probation for that first
8 charge; correct?
- 9 A. Yes.
- 10 Q. Is that correct?
- 11 A. Yes, sir.
- 12 Q. All right. Now, where were you housed in B-Pod during
13 May of 2019 while Mr. Rhoads was there?
- 14 A. General population.
- 15 Q. And that would be the open bunks?
- 16 A. Yes, sir.
- 17 Q. Did that ever -- was your classification ever changed
18 during that particular month?
- 19 A. No, sir.
- 20 Q. Now, you've testified that Ms. Rhoads went into B-Max.
21 I don't know that you specifically said the date. Do you
22 know the date that that happened?
- 23 A. I don't recall the exact day.
- 24 Q. All right. The -- the officers who were involved in
25 that, you just said they. Do you know who was involved?

Mary Joyner - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 2

1 A. I don't remember who locked her down, specifically.

2 Q. My understanding is, you never had a conversation --
3 you testified -- the judge allowed you to testify you had
4 concerns about Ms. Rhoads. You never had any discussions
5 with any sergeant or lieutenant where you expressed those
6 concerns, did you?

7 A. No, sir.

8 Q. And I believe you never saw Cassi talking or overheard
9 Cassi talking with any type of a sergeant or supervisor --
10 a sergeant or a lieutenant, any type of supervisor about
11 her medical issues; correct?

12 A. I don't recall.

13 Q. You don't recall?

14 A. Correct.

15 Q. Now, in your experience being in B-Pod, nurses came in
16 to B-Pod at least twice a day for med pass; correct?

17 A. Correct.

18 Q. And they'd be there for anywhere from 15 to 30 minutes
19 doing med pass?

20 A. Correct.

21 Q. Did you have access to the nurses during med pass?

22 A. No, sir.

23 Q. Were you under any type -- were you receiving any type
24 of medication?

25 A. No.

Mary Joyner - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 2

- 1 Q. But you actually saw them acting on a daily basis?
- 2 A. Mm-hmm.
- 3 Q. Is that a yes?
- 4 A. Yes, sir. Sorry.
- 5 Q. All right. And that's -- that was during morning
- 6 shift or day shift as well as night shift?
- 7 A. Correct.
- 8 Q. You testified that you described Ms. Rhoads' color of
- 9 her skin as pale and that she appeared sickly. Were you
- 10 aware that she was a heroin addict?
- 11 A. Yes.
- 12 Q. All right. And were you aware that when she came in
- 13 to the detention center she was placed on detox?
- 14 A. Yes, sir.
- 15 Q. All right. And was it during that period of time that
- 16 you described her as sickly looking?
- 17 A. No. She looked different.
- 18 Q. So she didn't look sickly during detox?
- 19 A. Detox looks different than it does when you're ill.
- 20 Q. All right. You still --
- 21 A. It's a different skin color.
- 22 Q. -- did she look sickly during detox?
- 23 A. I would say so.
- 24 Q. You would say so?
- 25 A. Mm-hmm.

Mary Joyner - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 2

1 Q. All right. And do you know how long her detox period
2 was?

3 A. I'm not sure.

4 Q. And after she had been placed into the B-Max 1 cell,
5 the B-Max cell --

6 A. Mm-hmm.

7 Q. -- you no longer had any contact with her; correct?

8 A. Correct.

9 Q. All right. And you weren't able -- you didn't
10 recreate with her; correct?

11 A. Mm-mm.

12 Q. Is that correct?

13 A. Correct.

14 Q. And you didn't see her, you weren't around her; is
15 that correct?

16 A. The only time that I could see Cassi when she was in
17 B-Max was when she went to the showers. There was a
18 window that we could see her.

19 Q. And how often did that occur?

20 A. I can't say specifically. Any time she showered,
21 which happen less frequently as time went on because she
22 wasn't able to shower.

23 Q. All right. So if the -- if she went into B-Max on May
24 24th -- and I know you don't know the date -- and she left
25 the detention center on June 2nd, do you have any idea how

Mary Joyner - Redirect Examination by Mr. McLaughlin

JURY TRIAL - VOL. 2

1 many times you would have seen her during that period of
2 time?

3 A. I can't say for sure.

4 Q. But it would have only been if she took a shower?

5 A. Right.

6 Q. And I assume that would not be direct contact, close
7 contact?

8 A. Correct.

9 Q. How far away would you see her if she was making her
10 way to a shower?

11 A. I would have been across the pod. I can't say for
12 sure how many feet that is, but I was on the opposite side
13 of B-Pod.

14 Q. So from the period of time she went into B-Max until
15 she left on June 2nd, you didn't have any real
16 opportunities to observe her closely. Is that a fair
17 statement?

18 A. Yes, that's fair.

19 Q. All right. Thank you, ma'am. I appreciate your
20 testimony.

21 MR. MCLAUGHLIN: Very briefly.

22 REDIRECT EXAMINATION

23 BY MR. MCLAUGHLIN:

24 Q. The few times what limited viewing you had of her
25 through that window to B-Max, were you able to see that

Mary Joyner - Redirect Examination by Mr. McLaughlin

JURY TRIAL - VOL. 2

1 baseball-sized growth you described?

2 A. Yes. It was growing, and she was obviously degrading
3 physically.

4 Q. When was the last time you saw Cassi in the Aiken
5 County Detention Center?

6 A. I mean, the last time was when she was finally being
7 wheeled away to the hospital on June 2nd.

8 Q. So you saw them taking her out?

9 A. (No audible response.)

10 Q. Is that a yes?

11 A. Yes, sir.

12 Q. And were you any less concerned about her condition at
13 that point in time?

14 A. No, sir. I was very concerned.

15 Q. Thank you.

16 THE COURT: All right. You may step down.

17 THE WITNESS: Thank you.

18 MR. HINSON IV: I would like to call Ashley
19 Carver.

20 (The witness was sworn in.)

21 THE CLERK: Please take a seat in the witness
22 stand. State your full name for the Court, and spell
23 your last name, please.

24 THE WITNESS: My name is Ashley Carver,
25 C-A-R-V-E-R.

Ashley Carver - Direct Examination by Mr. Hinson

JURY TRIAL - VOL. 2

1 //

2 ASHLEY CARVER

3 was called as a witness, and having been first duly sworn,
4 testified as follows:

5 DIRECT EXAMINATION

6 BY MR. HINSON IV:

7 Q. Good afternoon, Ms. Carver.

8 A. Good afternoon.

9 Q. Could you just briefly introduce yourself to the jury,
10 where you're from, how old are you?

11 A. Well, I'm from Aiken County. I'm 31 years old.

12 Q. And do you know Ms. Cassiopia -- Cassi Rhoads?

13 A. I do.

14 Q. How did you meet her?

15 A. Well, originally I think we kind of had mutual friends
16 before we were incarcerated together, but didn't really
17 know each other, just kind of knew each other. And then
18 when we were incarcerated together, we got pretty close in
19 friendship.

20 Q. We you incarcerated together in May and early June
21 of 2019?

22 A. Yes, sir.

23 Q. Were you there -- the record in this case is going
24 show Cassi came in on May 3rd and left on June 2nd. Were
25 you there that entire time?

Ashley Carver - Direct Examination by Mr. Hinson

JURY TRIAL - VOL. 2

1 A. Yes, sir.

2 Q. (Unintelligible.) Were you there working or you there
3 as a guest that wasn't allowed to leave?

4 A. I was a guest that wasn't allowed to leave.

5 Q. And, Ms. Carver, during that time, did you notice any
6 changes in Cassi's appearance over those in 31 days?

7 A. Absolutely.

8 Q. Can you tell this jury your observations of how Cassi
9 looked during that time?

10 A. Like they've said, there was growth on the side of her
11 head. I'd say it was probably about a half of softball on
12 the side of her head. But over time, it gradually -- it
13 kept getting bigger and bigger. And she constantly
14 complained of headaches, you know, just wanting to lay
15 down with the covers over her and didn't really want to
16 talk too much, just wanted to be left alone. And just
17 kind constantly complained about headaches and wanting to
18 see somebody, always putting it in on the kiosk and asking
19 -- every time somebody came, a different person came in
20 the pod, she's ask for help.

21 MR. LINDEMANN: Your Honor, object to hearsay.

22 She's talking about what other people have said.

23 BY MR. HINSON IV:

24 Q. Did you observe her asking for help?

25 A. I did, absolutely, numerous of times.

Ashley Carver - Direct Examination by Mr. Hinson

JURY TRIAL - VOL. 2

1 THE COURT: So overruled as to that. That's not
2 a violation of hearsay.

3 MR. HINSON IV: Thank you, Your Honor.

4 BY MR. HINSON IV:

5 Q. And you described it as a half a softball. So I just
6 want to make sure, I understand. So if we took a softball
7 and cut it in half and stuck it --

8 A. Right.

9 Q. -- on the side of her head?

10 A. Yes.

11 Q. And did it get bigger beyond that?

12 A. I think it started off smaller than that and got to
13 about half a softball.

14 Q. And do you have any medical training of any type?

15 A. Only high school sports medicine.

16 Q. Okay. Did you have kids?

17 A. I do.

18 Q. Knowing Cassi and being locked up with her, did you --
19 and seeing Cassi, seeing this thing on the side of her
20 head, did you have concerns about her?

21 A. Absolutely.

22 MR. LINDEMANN: Your Honor, same objection as
23 before. I mean, I don't know what the relevance of
24 this witness having concerns.

25 THE COURT: I'm going to allow the concern

Ashley Carver - Direct Examination by Mr. Hinson

JURY TRIAL - VOL. 2

1 question, but that's it.

2 MR. HINSON IV: I'll leave it there, Your Honor.

3 BY MR. HINSON IV:

4 Q. From your observation of how she appeared, did you
5 have concerns about her health?

6 A. Absolutely.

7 Q. Did this thing on the side of her head, did it look
8 like it would hurt?

9 A. Yes.

10 Q. Do you remember an incident where Cassi refused to go
11 back to her bunk or back to her cell?

12 A. Yes, sir.

13 Q. Were you present for that?

14 A. I was.

15 Q. Tell us what you remember about that.

16 A. I remember her saying that she was going to take that
17 chair and sit right there and just be calm about it and
18 tell them that she wants medical help that, you know, what
19 they're doing isn't working, the Tylenol isn't working,
20 ice packs aren't working. She wants medical help, and she
21 was going to sit there until she got it.

22 Q. And you observed her saying those things?

23 A. I did.

24 Q. Were those statements made to guards or to medical at
25 that point?

Ashley Carver - Direct Examination by Mr. Hinson

JURY TRIAL - VOL. 2

1 A. To the guard.

2 Q. By your observation, did Cassi make it known that the
3 medical care she was receiving she felt was inadequate for
4 the needs she had?

5 A. Yes.

6 MR. LINDEMANN: Your Honor, objection.

7 That's --

8 THE COURT: I'm going to sustain that objection.

9 MR. HINSON IV: I just asked if she heard that
10 statement.

11 THE COURT: I understand what you asked. You
12 can rephrase it if you want to.

13 MR. HINSON IV: All right. Thank you, Your
14 Honor.

15 BY MR. HINSON IV:

16 Q. Earlier, there was some testimony about Cassi going to
17 B-Max. Just generally, what is B-Max?

18 A. You're behind a -- it's like a glass wall, and the
19 cells are behind there.

20 Q. Is it kind of like solitary confinement?

21 A. Yes.

22 Q. When she was in B-Max, would you be able to see her
23 when she'd shower?

24 A. Yes.

25 Q. Could you still observe this deformity on her head?

Ashley Carver - Cross Examination by Mr. Lindemann

JURY TRIAL - VOL. 2

1 A. Yes. And they also let some of like the trustee
2 inmates back there to sweep. I got to go back there one
3 day just to help sweep and clean up the outside area of
4 it, and I could see her through the little window, and it
5 was -- it was getting bigger.

6 Q. By the time it gets to this half a softball on her
7 head, if she was standing across the room, would you be
8 able to observe it?

9 A. Yes, sir.

10 Q. Did to begin infect -- impact her eye?

11 A. Yes, sir. The whole side of her face you could tell
12 that it -- you know, it was caused from the swelling.

13 Q. Ms. Carver, was it tough for you to come here today?

14 A. Yes, sir.

15 MR. LINDEMANN: Your Honor, objection. That's
16 not relevant.

17 THE COURT: Sustained.

18 MR. HINSON IV: No further questions,
19 Ms. Carver.

20 THE WITNESS: Thank you.

21 CROSS-EXAMINATION

22 BY MR. LINDEMANN:

23 Q. Ms. Carver, when were you in the -- well, what -- what
24 were the times that you were in the Aiken County Detention
25 Center around May of 2013 [sic]? Like, when did you

Ashley Carver - Cross Examination by Mr. Lindemann

JURY TRIAL - VOL. 2

- 1 arrive there?
- 2 A. I'm not sure of the exact dates.
- 3 Q. How long did you spend in there?
- 4 A. Five months, I believe.
- 5 Q. All right. And ultimately, did you plead or were you
- 6 convicted of a charge that you were there for?
- 7 A. Yes, sir.
- 8 Q. All right. And what was that?
- 9 A. I was there for probation violation.
- 10 Q. And probation violation, for what type of offense?
- 11 A. Possession of methamphetamines or cocaine.
- 12 Q. All right. And as I understand it, you and Ms. Mary
- 13 Joyner, who just testified, you all were cellmates; is
- 14 that right?
- 15 A. We had -- we wasn't in a cell, but we were out on the
- 16 same bunk.
- 17 Q. Okay. You were in the same partitioned area?
- 18 A. Yes, sir.
- 19 Q. All right. And was that in -- in May of 2019?
- 20 A. Yes, sir.
- 21 Q. And ultimately, I know you -- you were here when you
- 22 just heard Ms. Joyner testify; is that correct?
- 23 A. Yes, sir.
- 24 Q. All right. And she testified that after May
- 25 24th, assuming that's the day of the -- that she was put

Ashley Carver - Cross Examination by Mr. Lindemann

JURY TRIAL - VOL. 2

1 into B- Max -- and certainly, the records will show that
2 -- but you no longer had access to where you could
3 physically interact with Ms. Rhoads; is that correct?

4 A. Right.

5 Q. And would you agree with that? I mean, was that the
6 same for you as well?

7 A. Yes, other than the one time that they let me go back
8 there to help clean up.

9 Q. All right. And you didn't actually interact with her
10 at that time; correct?

11 A. I think I just waved at her through the window.
12 Correct.

13 Q. All right. And what date was that?

14 A. I have no idea an exact date.

15 Q. All right. I don't have any further questions. Thank
16 you.

17 MR. HINSON IV: No further questions, Your
18 Honor.

19 THE COURT: You're free to go, Ms. Carver.

20 THE WITNESS: Thank you.

21 MR. HINSON IV: The plaintiff calls -- the
22 plaintiff calls Dr. Edward O'Bryan.

23 MR. LINDEMANN: Your Honor, if you may recall,
24 there was a matter of law you needed to take up.

25 THE COURT: I remember that. We need to do that

JURY TRIAL - VOL. 2

1 right now don't we? All right. You all step in the
2 jury room. I've got something to take care of before
3 this witness testifies. Don't talk about the case.
4 I'll have you back in here shortly.

5 (The jury exited the courtroom.)

6 THE COURT: All right. The jury is out of the
7 room.

8 MR. LINDEMANN: Thank you, Your Honor. Your
9 Honor, this -- this touches on some of the issues that
10 we've already talked about of the case. Obviously,
11 the -- give me one second here -- Your Honor, the
12 plaintiffs identified Dr. O'Bryan in their answers to
13 interrogatories as follows. And I do have a copy of
14 that -- those answers to interrogatories that we've
15 referred to multiple times, and I'm going to want to
16 attach those as a Court's exhibit. But ultimately --
17 ultimately, Your Honor, they identified him as follows
18 as an expert: "Dr. O'Bryan is a physician,
19 board-certified by the American Board of Internal
20 Medicine and the -- and with experience in healthcare
21 administration and in correctional medicine. Dr.
22 O'Bryan will testify that the defendants and their
23 employees, agents were negligent, grossly negligent,
24 reckless and/or wanton with regard to Ms. Rhoads'
25 healthcare needs during her detention In May-June,

JURY TRIAL - VOL. 2

1 2019. He will testify that Ms. Rhoads' need for
2 additional medical care would have been obvious and
3 appreciable by a layperson."

4 So there are number of issues to raise here,
5 Your Honor under Rule 704 and 702 as to this witness.
6 Certainly, I'm not -- not intending to challenge his
7 qualifications. But he was initially named as an
8 expert in this case to testify as to the standard of
9 care for the Southern Health Partners doctor and
10 nurses. His background includes two years working for
11 one of their competitors, which was Wellpath even
12 though, as I understand it, he didn't work actually in
13 institutions. He was an executive at their offices in
14 -- in Nashville. But ultimately, Your Honor, this is
15 no longer a medical malpractice case, as we have
16 discussed. I believe, and the position that the
17 defendant is taking, is that the whole issues of
18 medical malpractice, whether there's been a breach of
19 the standard of care by parties who are no longer in
20 this case and are not in this courtroom to defend
21 themselves, that that is not relevant to any issues
22 that are left to be decided in this litigation, and
23 such evidence will simply serve to confuse the jury.

24 I think -- with all due respect to my colleagues
25 over here, I think some of that came out in opening

JURY TRIAL - VOL. 2

1 statement where, instead of referring to Southern
2 Health Partners, they referred to them as "they,"
3 giving the impression -- the incorrect impression that
4 will need to be corrected as this case goes on -- that
5 the medical providers themselves were somehow
6 affiliated with the Lexington -- I mean, the Aiken
7 County Sheriff's Office. And as Your Honor well
8 knows, liability under the tort claims act is limited
9 to the actions of employees, not independent
10 contractors, but employees. So ultimately, in this
11 particular case, it is absolutely irrelevant as to
12 whether or not Dr. Williams and the various nurses
13 working for Southern Health Partners violated any
14 medical or nursing standards of care.

15 As what is relevant is ultimately whether or not
16 the correctional officers violated some legal duty, as
17 we've discussed completely. And on that point, Your
18 Honor, I would call your attention to paragraph --
19 page 220 of Mr. O'Bryan's deposition. The very first
20 question I asked him in my two or three page
21 cross-examination -- there may have been a few more
22 pages on that -- I asked him, quote, have you been
23 retained to offering any opinions regarding the
24 standard of care, either under state law or under
25 federal law, for the detention officers and jail

JURY TRIAL - VOL. 2

1 administrators? And he said, you mean now or ever?

2 And I said -- question -- no, no, in this case. And

3 he said, oh, no.

4 So he testified in his deposition that he was

5 not offering any opinions regarding the standard of

6 care, either under state law or federal law,

7 regarding my clients. So I'm not certain what he's

8 here to testify to other than primarily to end up

9 confusing the jury. And a couple of additional

10 points, because I know the Court is well aware of, we

11 have a stipulated -- consent stipulation of dismissal

12 that has been filed that dismisses any vicarious

13 liability claims. And I don't believe a vicarious

14 liability claim could be brought. But the bottom line

15 is, they have stipulated to the dismissal of any

16 vicarious liability claim for the acts or omissions of

17 Southern Health Partners or its employees. So

18 ultimately, it appears to me that Mister -- Dr.

19 O'Bryan will simply be testifying to the acts or

20 omissions of a party that has settled out for whom my

21 client is not liable and cannot be liable in this

22 case.

23 THE COURT: Okay. Let's stop right there.

24 MR. LINDEMANN: Okay. I've got a couple of more

25 points, but I'm happy to do it in sections.

JURY TRIAL - VOL. 2

1 THE COURT: Let's do it in sections. I can keep
2 better organized than if you give me four or five. I
3 keep these two straight.

4 MR. LINDEMANN: Certainly. Thank you, Your
5 Honor.

6 THE COURT: It was standard of care of the
7 healthcare people does not retained [sic] to the
8 standard of care on administrators and correctional
9 officers. That's your two points?

10 MR. LINDEMANN: Correct.

11 MR. HINSON IV: Your Honor, I don't intend to
12 put Dr. O'Bryan on the stand, and I don't -- and ask
13 him if anybody from the Aiken County Sheriff's Office
14 violated the standard of care for a deputy. That is
15 not the intent for his testimony. What Mr. Lindemann
16 glosses over is the part about the sequelae and the
17 failure to deliver appropriate healthcare services in
18 a timely manner. In other words, the failure to get
19 her to where she needed to be in a timely manner
20 caused her injury and damages, two things I still have
21 to prove in this case. I have to prove that had they
22 gotten her healthcare -- appropriate healthcare --
23 when they needed to, when should have, that her
24 outcome would have been different, that she wouldn't
25 have had to have this brain surgery, that she wouldn't

JURY TRIAL - VOL. 2

1 have a hole in her head. Dr. O'Bryan can certainly do
2 that.

3 Also, Your Honor, the plaintiff's entire case --
4 entire case -- a large portion of our case is that her
5 injury -- her ongoing medical problem -- was obvious
6 to a layperson at some point. I mean, we just had two
7 -- two lay people come and talk about this. Dr.
8 O'Bryan can explain to the jury the process by which
9 an infectious abscess on the side of the head, it
10 doesn't happen overnight. It wouldn't happen -- she
11 goes to the hospital on -- on June 2nd. And that on
12 June -- it wouldn't have been like on June 1st she
13 looked okay and on June 2nd she didn't. This would
14 have been days and days and weeks of her looking like
15 crap, quite frankly. And that is relevant to the case
16 of her appearance. We don't intend to ask him what's
17 the standard of care for a correctional officer.

18 So I think this is much ado about nothing. I
19 still have to prove causation and damages. And what
20 her appearance would have been is relevant to this
21 case. Plus, I have to prove that these medical -- the
22 medical care that she received was -- was reasonable
23 and necessary. And he can say, yes, this what has to
24 -- he's an internal medicine physician. He's -- he's
25 a generalist. He can --

JURY TRIAL - VOL. 2

1 THE COURT: All right. Well, I'm going to do
2 this. So what if a layperson can say she looks like
3 she's got a lump in her head? So what? There's a
4 nurse in there twice a day looking at her. How is
5 that jury going to distinguish it? It looks the same
6 to whoever it is. How is he going to say, in my
7 professional opinion, the nurse screwed up? He
8 already has because you settled the case. How is he
9 going to say, well, the correctional -- now, he's
10 offering an opinion otherwise. That -- that's
11 troubling to me.

12 MR. HINSON IV: Well, Your Honor, it has come
13 out in this case now that one of the things -- that
14 one of the reasons that the nurses weren't giving the
15 appropriate standard -- their excuse, at least, for
16 not giving the appropriate standard of care is we
17 thought she was self-harming.

18 THE COURT: Whose fault is that?

19 MR. HINSON IV: If I would -- if I can, Your
20 Honor.

21 THE COURT: Yeah. You yanked it out.

22 MR. HINSON IV: This -- this man --

23 THE COURT: No. I wanted you to answer -- I
24 wanted you to answer without him, because that's what
25 he kept saying.

JURY TRIAL - VOL. 2

1 MR. HINSON IV: I'm saying, he's worked in
2 corrections for nearly his entire career. He's
3 currently, I think, director of correctional medicine
4 education at MUSC.

5 THE COURT: Whatever. Don't keep telling about
6 all of his qualifications. I've got it. He's an
7 expert. He looks nice. He has a pretty picture.

8 MR. HINSON IV: The point is -- the point is,
9 Your Honor, in -- handsome man, no doubt. The point
10 is, he can explain how this works, meaning the nurses
11 will only see the patient for a few moments, maybe a
12 few minutes, ten at the most, whatever it is. I'm not
13 going to say. And if the -- if the guards understand
14 -- and they did -- that the nurses are under the
15 misapprehension that she is self-harming -- that the
16 way this system is supposed to work is that the nurses
17 are relying on the guards to come and say, we don't
18 see her self-harming, you've got to rethink this.
19 That's the way this system works. It is -- it is a --
20 a system of -- where information is supposed to flow
21 both ways. The nurses are supposed to say, we need to
22 see this patient on Tuesday at 10:00 here and we've
23 give her medicine, and the guards are supposed to say,
24 this is what we're observing about this patient. And
25 that wasn't what was going on. He doesn't have to say

JURY TRIAL - VOL. 2

1 the guards violated the standard of care in order to
2 explain to the jury how the process is supposed to
3 work.

4 THE COURT: I don't believe he could be offered
5 as an expert in that field. He's offered as a medical
6 expert as to the medical conduct, not to the
7 corrections department correction conduct.

8 MR. HINSON IV: But it explains, Your Honor, how
9 the -- how --

10 THE COURT: I know why you want it, but you
11 didn't put it out there to begin with. You don't want
12 him to use your expert. Well, he wants to because he
13 didn't say so. Now, he's -- you're wanting to use
14 this guy going up a different lane of traffic, which
15 is correctional expertise and what the correction
16 department should have done or should have asked or
17 whatever. You -- you were in one lane, and then you
18 moved over to the other lane. I think he'd be a great
19 witness, but I'm not sure you're entitled to it.

20 MR. HINSON IV: Well, Your Honor, if you won't
21 allow us to talk about the process should work, which
22 we think -- I mean, Mr. Lindemann, this was -- and
23 Mr. Long thoroughly examined this topic in his
24 deposition. I feel like I'm now being -- I mean, so
25 often I see these disclosures like, the expert will

JURY TRIAL - VOL. 2

1 talk about the issues in this case. I mean, they're
2 just absurdly vague, absurdly vague. We gave a pretty
3 -- he's going to talk about what the appropriate
4 standard of care is. He's going to talk --
5 essentially, we're saying he's going to talk about how
6 this process is going to work. He does think the
7 nurse screwed up. He doesn't think it was really
8 reasonable for them to have believed that there was
9 self-harm.

10 THE COURT: All right.

11 MR. HINSON IV: But the point is, if that's what
12 they believed and the guards know that's not true, the
13 -- the way the process is supposed to work is
14 information is supposed to flow both directions.

15 THE COURT: And no -- I mean, we don't even know
16 that yet. I'm not going to ask that question. It's
17 not been testified to as what communication was
18 between the COs and the -- the treating nurses.
19 That's not been presented to me. That's out of
20 outside of my knowledge right now.

21 MR. HINSON IV: It will come in in this case.
22 It will. I mean, we -- it's kind of a chicken or the
23 egg kin of thing. I mean, he's read the deposition
24 testimony. He has -- he has gathered information to
25 say this is how the process will work -- is supposed

JURY TRIAL - VOL. 2

1 to work -- or the process didn't work the way it was
2 supposed to work, I guess, is essentially the -- the
3 point. He has worked in corrections and correctional
4 medicine for the substantial portion of his career.
5 We don't have to put up on the stand to say the guards
6 violated the standard of care or violated the legal
7 duty in order to benefit the jury and explain how
8 things work in a jail. His testimony will aid the
9 jury in this case, Your Honor, and that's -- that's
10 kind of the quintessential bar for an expert witness.
11 He has the qualifications, he has the education, the
12 training, the background to offer information to the
13 jury on how this process will work or should work.

14 MR. LINDEMANN: I just want to make sure the
15 Court was aware, but you actually picked up on it.
16 There's no evidence about this self-harming. Quite
17 frankly, Your Honor, I'm not sure that's coming in
18 because it's a total red herring. Ms. Rhoads
19 testified that she didn't self-harm. As I recall,
20 Donna Wright's deposition was she never indicated that
21 she self-harmed.

22 THE COURT: The two -- two roommates didn't see
23 her self-harm.

24 MR. LINDEMANN: That's right. And to the extent
25 that Ms. Hill -- Deputy Hill is the only person who

JURY TRIAL - VOL. 2

1 raised the issue. She says that Nurse Donna told her
2 that. Nurse Donna is not a party to this case
3 anymore, nor is her employer. So I don't even know
4 how that comes in. It would be pure hearsay.

5 THE COURT: Yeah.

6 MR. LINDEMANN: And nobody's taking that
7 position. I mean, it's -- it's total red herring to
8 confuse the jury.

9 THE COURT: I would get that.

10 MR. HINSON IV: Your Honor, that is the point.
11 The very fact that Nurse Hill is -- yes, that -- that
12 -- Ms. Hill is being told by Nurse Donna the patient
13 is self-harming, that is the -- that's the problem
14 here. Nurse Donna thinks the patient is self-harming.
15 She isn't, but that's what her mistaken belief is.

16 THE COURT: And that caused her mistreatment.

17 MR. HINSON IV: How does that call for --

18 THE COURT: No, no. That's what caused the
19 mistreatment.

20 MR. HINSON IV: Well, in this case the case, the
21 case that we're here for today, Your Honor, is -- what
22 also caused the mistreatment is that when Ms. Hill
23 heard that, when she heard that the nurse was basing
24 her course of treatment on misinformation, Ms. Hill
25 didn't say, whoa, whoa, whoa, that isn't true. Well,

JURY TRIAL - VOL. 2

1 can you -- I mean, you take your child to the doctor
2 and the doctor says, oh, my goodness, your child has
3 this rash, they've been in poison ivy. And you think,
4 gosh, my child hasn't even been outside for two weeks
5 because of whatever reason. You've got an obligation
6 to say, Doc, I don't think that's right, because my
7 child hasn't been outside in two weeks. I get it.
8 That's just off-the-cuff. There's an obligation to
9 give that information to the medical provider. Nurse
10 Hill [ph] didn't give any information. She knew --
11 she knew -- that this wasn't right. She's with her
12 every day for 12 hours. She's talking to other guards
13 and they're gabbing and they're saying, she isn't
14 self-harming. Yet, they don't take that information
15 and give it to the nurse. And that's the way the
16 process is supposed to work.

17 MR. LINDEMANN: And, Your Honor, that is
18 absolutely not supported by the evidence. What the
19 evidence is going to show is that Ms. Hill actually
20 returned for two weeks off and that's what -- so she
21 wasn't there for this period of time like was just
22 falsely explained to you. So -- but ultimately,
23 there's no allegation how self-harm.

24 MR. HINSON IV: I just told him.

25 MR. LINDEMANN: There's none. I mean, and I

JURY TRIAL - VOL. 2

1 know they want to argue that we should have treated
2 her like she was self-harming.

3 THE COURT: No. He's saying -- he' saying this.
4 Because the guards observed her, the roommates
5 observed her, and they should have told the nurse, oh,
6 by the way, I know you think she's self-harming, but
7 she's not. That's what they want you to -- to --
8 that's what they're trying to present.

9 MR. HINSON IV: Absolutely.

10 MR. LINDEMANN: Well, quite frankly, the only
11 person who ever heard of self-harming who testified to
12 it is -- is Deputy Hill, and she hadn't even been
13 there for the two weeks before that. That's half the
14 reason she asked Ms. Bauer, will you go take a look at
15 her. But again, I don't know how any of that is
16 relevant. I mean, Your Honor, has picked up on that.
17 There's no evidence that that's impacted the care that
18 was provided. And if it did, that's on Southern
19 Health Partners, not on us.

20 MR. HINSON IV: It is on them. They're not
21 giving the nurses the information they need, and the
22 information is supposed to flow both ways. It is on
23 -- I'm not saying Southern Health Partners didn't
24 screw up. A lot of times in cases like this --

25 THE COURT: We all -- we all can agree with

JURY TRIAL - VOL. 2

1 that.

2 MR. HINSON IV: -- yeah. And a lot of times in
3 a situation like this, it takes everybody not doing
4 their job properly for an outcome this terrible to
5 happen. And in this situation, part of the negligence
6 that occurred that ended in my client having
7 7 centimeters by 5 centimeters of her skull removed
8 was that the nurses weren't -- excuse me -- the guards
9 weren't speaking up and saying, this whole thing is
10 wrong, she's not self-harming. They needed to go in
11 to their -- I mean -- but we can establish that
12 through other witnesses.

13 THE COURT: All right. Here's -- all right.
14 Here's what I can't follow. She's got an injury.
15 It's getting worse. The nurses are coming by there
16 twice a day, giving her medicine regularly. I don't
17 know if it's twice a day, but regularly, perhaps twice
18 a day. What's stopping the nurse from treating her,
19 regardless of the cause?

20 MR. HINSON IV: What's stopping the nurse from
21 treating her --

22 THE COURT: Well, she's self-harming, so I'm not
23 going to help her.

24 MR. HINSON IV: No.

25 THE COURT: I mean, that's what you're telling

JURY TRIAL - VOL. 2

1 me.

2 MR. HINSON IV: No. What is happening -- so
3 this lady has this big bump on the side of her head,
4 right? She --

5 THE COURT: And you'd think she'd use the other
6 side of her head.

7 MR. HINSON IV: -- the nurse, for whatever
8 reason --

9 THE COURT: I mean, how --

10 MR. HINSON IV: -- is thinking that she's
11 banging her head against the wall or the toilet or
12 whatever it may be.

13 THE COURT: -- that's what I'm saying.

14 MR. HINSON IV: And so she's not treating it
15 like it's an infectious abscess.

16 THE COURT: I understand. Well, think about
17 where I'm at. And I didn't say it as a joke at all.
18 I did not mean it as a joke.

19 MR. HINSON IV: No, no. I --

20 THE COURT: But if that thing is so big and so
21 sore, she wouldn't be able to bang her head against
22 the wall. She'd be using something else, her hand or
23 kicking or something. If she's going to self-harm,
24 she'd have more than one injury.

25 MR. HINSON IV: I couldn't agree with you more.

JURY TRIAL - VOL. 2

1 It is an absurd conclusion that they came to. I don't
2 understand.

3 THE COURT: And that's their conclusion.

4 MR. HINSON IV: But our case -- and maybe we're
5 wrong. Maybe the jury disagrees with us, Your Honor,
6 and they're out there for two minutes and they come
7 back in. But our case is, if you know something like
8 that and you -- and you -- you haven't just -- to
9 use -- you, the guard have to use common sense and
10 good judgment and say --

11 THE COURT: You see, you're putting common sense
12 there, but you've got to put that nurse under her duty
13 of whatever care standard she's got just like I just
14 did. If it's that sore and that big, she's not
15 self-harming the same spot every day. There's no way.
16 Your foot hurts, you limp. You don't keep stomping
17 it.

18 MR. HINSON IV: This case has some horrible
19 medicine being provided. I couldn't agree more. It
20 is outrageous how bad the medicine was that was
21 provided, and that's part of our case, Your Honor.
22 But that is an act of negligence, dang bad these
23 nurses and doctors were. I don't know why, but they
24 were awful. And the separate act of negligence is
25 these folks who were the guards who were with her on

JURY TRIAL - VOL. 2

1 12 hour shifts, who eventually were saying -- should
2 have said, how the -- why is this happening to this
3 young lady. They should have spoken up.

4 THE COURT: Here's where I'm not following you.
5 I don't understand why the nurses assumption that the
6 lady is self-harming, everybody except her believes
7 she was not, how that is relevant to her failing to
8 get medical treatment properly? Explain to me why
9 that is.

10 MR. HINSON IV: Okay.

11 THE COURT: That's where I'm losing you.

12 MR. HINSON IV: Okay. Thank you, Your Honor.
13 I'm happy to explain. So here's what happens. So
14 this is from Carla Hill's deposition, and we -- we
15 will play this testimony. We have it in video
16 (unintelligible). We're going to play this video of
17 testimony. Carla Hill tells Whitaker, which is her
18 supervisor --

19 MR. MCLAUGHLIN: That's Nurse Donna. That's
20 where she tells Nurse Donna. But she's also testified
21 that she told Whitaker.

22 MR. HINSON IV: -- okay. So she tells Whitaker.

23 THE COURT: Whitaker is the lieutenant?

24 MR. HINSON IV: She's the lieutenant.

25 THE COURT: Okay.

JURY TRIAL - VOL. 2

1 MR. HINSON IV: And everybody is telling --
2 telling these deputies, the folks that are with her
3 all the -- everybody knew the -- the -- the command
4 staff is saying, stay in your lane, stay in your lane,
5 stay in your lane.

6 THE COURT: And that's what I'm telling you.
7 You realize I'm telling you to --

8 MR. HINSON IV: This why we're going to try to
9 get Haven Kelley up on the stand tomorrow. And she's
10 going to say she went as far as she could without --
11 without worrying her job was going to be like -- just
12 everything she could trying to get people to listen,
13 but the command staff just kept saying, stay in your
14 lane, stay in your lane. And that's how it's
15 relevant, Your Honor.

16 THE COURT: -- and you need a doctor to come in
17 and tell me that?

18 MR. HINSON IV: No. All he's going to say is --

19 THE COURT: No, no, he's not. He's going to say
20 something else.

21 MR. HINSON IV: Well, he's right here. I think
22 we can -- we can -- we can instruct him to -- to keep
23 it -- to keep his testimony wherever Your Honor would
24 -- would have him. But I don't intend to ask him, did
25 the guards that do wrong. I don't intend to ask him

JURY TRIAL - VOL. 2

1 that. I do intend to ask him, if you will let me, how
2 is the process supposed to work. You've worked in
3 corrections, how is the process supposed to work. I
4 don't have to ask him that next question. I'd love
5 to. I -- I had read the room. I know you don't want
6 me to ask it. I will not ask it. But I think it's
7 totally appropriate for this -- for this physician,
8 who's worked in correctional medicine, to explain it's
9 a two-way street of information, that -- we, the
10 healthcare staff are only there for a few minutes a
11 day at most. The guards are there hours, literally 24
12 hours a day. It's supposed be a two-way street on
13 communication. That's all I need to ask him, Your
14 Honor, to get this -- the relevant -- the relevant
15 evidence out there. And plus, again, we've still got
16 causation and damages I need to get him up there for,
17 too.

18 MR. LINDEMANN: Your Honor, I asked that
19 question. I couldn't have been more clear, have you
20 been retained to offer any opinions regarding the
21 standard of care under state law or under federal law
22 -- with both cases been deposed at the same time --
23 for detention officers and jail administration --
24 administrators. And he said, "Oh, no," after having
25 to clarify it. In this case, oh, no.

JURY TRIAL - VOL. 2

1 MR. HINSON IV: He will not --

2 MR. LINDEMANN: And --

3 MR. HINSON IV: Excuse me. I'm sorry. I
4 thought you were done.

5 MR. LINDEMANN: -- and then my testimony -- my
6 questioning was very brief after that. It goes a
7 total of about five or six pages, most of which was
8 covered by the fact that he testified that he and Mr.
9 Hinson wrote his report together, which isn't really
10 pertinent to this case, because we don't -- to this
11 Court -- but it's pertinent in federal court where
12 they require reports. But anyway, so I didn't have a
13 full opportunity to explore this. Why not? Because I
14 did what you normally do when you take an expert, you
15 try to figure out what the parameters are of their
16 opinions, and he said he didn't have any. He --

17 THE COURT: You're saying the parameter, though,
18 of the other expert -- Dr. Whoever it is -- Falks,
19 Fowlkes or something -- that you're objecting to his
20 use. It's similar.

21 MR. HINSON IV: It is similar. He's -- he's --

22 THE COURT: It's very similar.

23 MR. HINSON IV: -- literally trying to add an
24 entire area of testimony. I'm not trying to get him
25 to say anybody violated the standard of care. His

JURY TRIAL - VOL. 2

1 question is, are you going to talk about the standard
2 of care meaning, are you going to say my folks, the
3 guards, violated the standard of care? This -- this
4 good doctor right here is not going to take the stand
5 today and say the guards violated the standard of
6 care. It will not come out. If it comes out of his
7 mouth, it will shock me. That is not the testimony I
8 intend to elicit. I don't intend to ask him, did
9 anybody working for the -- for the sheriff's
10 department do wrong? It's not coming out. We're not
11 asking it.

12 MR. LINDEMANN: But he's going to try to
13 backdoor it the way he said it a minute ago that he's
14 going to -- he's literally going to ask him, how is it
15 supposed to work.

16 MR. HINSON IV: And then through other
17 witnesses, we will show then how it works.

18 MR. LINDEMANN: Yeah, how it's supposed to work
19 is another -- is another way of saying what's the
20 standard of care medically.

21 THE COURT: Do you want to proffer?

22 MR. HINSON IV: Yes, Your Honor.

23 THE COURT: All right. I think that's what we
24 do. We're killing this jury, and they're blaming me.

25 MR. HINSON IV: So call him to the stand?

JURY TRIAL - VOL. 2

1 THE COURT: Yes. Call him up and let's place
2 him under oath to proffer testimony. I think we ought
3 to do that.

4 MR. LINDEMANN: Is it possible to do other
5 witnesses and then do that after we let the jury go so
6 we can save some time?

7 MR. HINSON IV: This is his only day he can
8 testify.

9 THE COURT: Okay.

10 MR. HINSON IV: Dr. O'Bryan.

11 (The witnesses sworn and.)

12 THE CLERK: Please take a seat in the witness
13 stand. State your full name for the Court, and spell
14 your last name, please.

15 THE WITNESS: It's Edward O'Bryan, O-B-R-Y-A-N.

16 PROFFERED TESTIMONY

17 BY MR. HINSON IV:

18 Q. Dr. O'Bryan, please tell the Court your education and
19 background.

20 A. Sure.

21 THE COURT: If you want to stipulate him as an
22 expert. Let's just get to the point.

23 MR. HINSON IV: Okay. Well, I'm trying to
24 establish he can give this testimony. That he has
25 the --

JURY TRIAL - VOL. 2

1 THE COURT: I think Mr. Lindemann thought he
2 did.

3 MR. HINSON IV: Okay.

4 THE COURT: He's going to make sure he wasn't
5 going to.

6 MR. LINDEMANN: Well, I don't know that he has
7 experience, actually, within detention centers, Your
8 Honor.

9 THE COURT: All right. Well, let's do it.
10 Let's --

11 MR. HINSON IV: Your Honor -- I'm getting --

12 THE COURT: All right.

13 BY MR. HINSON IV:

14 Q. Have you worked in correctional medicine?

15 A. Yes.

16 Q. Tell us just briefly how in your capacity in which
17 you've work in correctional medicine.

18 A. Sure. I've served as an attending physician at the
19 Charleston County Detention Center in Charleston for about
20 ten years, intermittent work there. And then took over as
21 the EVP of clinical operations of Wellpath, which is the
22 largest correctional medicine company in the United
23 States.

24 Q. What is EVP?

25 A. Executive vice resident of clinical operations, so

JURY TRIAL - VOL. 2

1 essentially, chief medical officer-type position.

2 Q. And what do you presently? Do have any work in
3 correctional medicine?

4 A. Yes. At the Medical University of South Carolina, I
5 server as the chief of the division of correctional
6 health, which is a new division.

7 Q. And when you were working with the -- you said
8 Charleston County Detention Center?

9 A. Correct.

10 Q. Did you -- just tell us what you did in that role.

11 A. Sure. Clinically, I went end and, you know, evaluated
12 patients, spoke to patients, caregivers, correctional
13 staff, nurses, techs, everyone associated.

14 Q. Okay. And did you have the occasion to interact with
15 correctional staff?

16 A. Yes.

17 Q. And in your work at the Charleston County Detention
18 Center, you said, for ten years, did -- were there --
19 well, how is information flow supposed to work? Like,
20 when -- when the healthcare provider decides a course of
21 treatment for a patient, just generally, how does that --
22 how does that take place?

23 A. Sure. I mean, the course, it's -- it's -- I'm
24 probably best off giving an example, maybe, I guess. It
25 would be if someone come in with high blood pressure, for

JURY TRIAL - VOL. 2

1 example, you know, you see the patient. Correctional
2 officers bring the patient back, see the patient, you find
3 out what's going, you give them treatment. You evaluate
4 them, give them treatment, and then that treatment is
5 passed on to the clinical team, like the nurses who pass
6 the meds and things like that, and then they're put back
7 their units.

8 Q. All right. And if a person on the outside has concern
9 that their doctor or nurse has -- has -- didn't fully
10 appreciate something or misunderstood something,
11 obviously, it goes to say that the person on the outside
12 can get in the car go back to their doctor's office or
13 could pick up the phone and call their doctor's office.
14 In correctional medicine, if there has been a
15 misappreciation are a misunderstanding of something, how
16 is that -- how does that process, how would it work?

17 A. So I guess the main difference is that you have the
18 freedom of movement, we'll call it, in the -- in the
19 community where if you have a problem, a problem like --
20 like we had here with an abscess, you -- you could get
21 friends and family or go yourself to the emergency
22 department, of course. In this situation, you really
23 don't have that, so you rely on others to alert, typically
24 the correctional officers. Either yourself or your
25 cellmates alert the correctional officers to you're having

JURY TRIAL - VOL. 2

1 a need and they walk you through the process to getting
2 medical attention.

3 Q. In your decade working as a boots-on-the-ground
4 healthcare provider in a detention center, have you had
5 occasion where correctional officers came up to you and
6 said -- related concerns to you?

7 A. Oh, yeah, quite frequently.

8 Q. And have you as a result, on occasion there have been
9 occasions where you changed your course of treatment?

10 A. Yes.

11 MR. HINSON IV: Your Honor, that's -- that's
12 essentially -- that's -- that's what Mr. Lindemann is
13 so worried about. I -- I don't intend to ask what the
14 standard of care is for a guard.

15 MR. LINDEMANN: Yeah, he's not asking it in
16 those terms, but he's asking it in a roundabout way.
17 He just asked him, how is it supposed to work. That's
18 the standard of care.

19 MR. HINSON IV: Your Honor, I have to prove
20 causation. And part of the causation in this case is
21 that had people spoken up, the result would have been
22 different. And that goes to this -- this issue that
23 has someone spoke up -- like Dr. O'Bryan just
24 testified, he's had times where people brought
25 information to him and he changed his course of

JURY TRIAL - VOL. 2

1 treatment. That goes to us being able to prove
2 causation in this case. I don't know how else to do
3 it. I mean, this -- if I don't get that testimony,
4 he's going to say there was -- plaintiff hasn't proven
5 it would make any difference if the guard spoke up.

6 THE COURT: Any questions?

7 MR. LINDEMANN: Yeah, if I could just add. It's
8 not a denial of medical care claim where the guard
9 said nothing. It's not an Iko that you read earlier.
10 The -- I think what should be very clear from all of
11 this is that the medical staff knew of her situation
12 and was following it. Whether they diagnosed it and
13 treated it correctly is a different story. But their
14 notice and knowledge of her condition in order to
15 follow it should be pretty undisputed on this record.
16 And quite frankly, I don't know that it needs expert
17 medical testimony, anyway. If they want to argue
18 that, they can -- they can use these records, they can
19 bring in Nurse Donna and get her to say I didn't know
20 this is going on. But they're not. That's not part
21 of their case. It's a total red herring as I said.

22 THE COURT: All right. You can step down. All
23 right. Two things: I don't think you need an expert
24 to testify to that and, secondly, you didn't qualify
25 him as an expert. I tried to help you, and then you

JURY TRIAL - VOL. 2

1 didn't.

2 MR. HINSON IV: You mean just then?

3 THE COURT: Yeah.

4 MR. HINSON IV: Well, Your Honor, kindly -- I'm
5 sorry. I thought we were just trying to understand
6 the way -- I misunderstood what your -- what your
7 instruction was.

8 THE COURT: Well, I mean --

9 MR. HINSON IV: Your Honor, then I would --

10 THE COURT: -- it is not much case to try. I'm
11 just trying to get it moving, and you all are really,
12 really, really throwing --

13 MR. HINSON IV: -- I was -- since we didn't have
14 a jury to have the Court instruct on the --

15 THE COURT: I think Mr. Lindemann noticed.

16 MR. HINSON IV: -- what an expert was, I didn't
17 think it was necessary to -- to Your Honor. You were
18 able to hear the evidence and decide for yourself if
19 he's an expert. But, Your Honor, I would proffer
20 Dr. Edward O'Bryan as an expert in correctional
21 medicine. I mean, I'm sorry if I -- I didn't realize
22 you were asking me to actually ask that question at
23 that point.

24 THE COURT: I thought it was an issue when
25 Mr. Lindemann said I'm not going to stipulate to his

JURY TRIAL - VOL. 2

1 credentials because -- as to correctional medicine.

2 MR. HINSON IV: Again, Your Honor, I --

3 THE COURT: I tried --

4 MR. HINSON IV: -- if that is a sticking point,
5 then I would just respectfully ask you to allow me
6 correct that -- that minor error and not, then, commit
7 legal malpractice.

8 THE COURT: I don't think -- I don't think
9 that's -- that's a legal malpractice error. It's just
10 an observation. I don't think you need an expert to
11 say you can see something obvious and it should been
12 -- people should talk and communicate. That's with
13 every business in the world.

14 MR. HINSON IV: But Your Honor --

15 THE COURT: Grocery store.

16 MR. HINSON IV: -- but Mister --

17 THE COURT: -- courtroom.

18 MR. HINSON IV: -- but -- but the whole defense
19 in this case, Your Honor, has become, we have a right
20 to rely on medical, end of story, end of analysis,
21 nothing more, it should never be questioned. And he
22 can testify, that's not the way this process really
23 works. That's -- it's an unfettered just carte
24 blanche-never-question-it that he, himself, the way
25 the process is supposed to work with people who have

JURY TRIAL - VOL. 2

1 boots on the ground will come back to medical with
2 and, on occasion, when they have concern with using
3 good judgment and common sense, and relay those
4 concerns to medical, that it's is a two-way street.
5 That's all we have to -- he has that experience as a
6 -- these -- these 12 folks who have never been to jail
7 don't understand how that process works. It at least
8 aids the jury in understanding the issue in this case.
9 If their -- if their defense hadn't now become we have
10 this unfettered right to allow medical, I probably
11 wouldn't need it. But he's going to -- he's been
12 telling this jury since the opening that -- that it's
13 just unquestioned, never question medical, end of
14 analysis.

15 MR. LINDEMANN: If I could point out one thing,
16 Your Honor. That's -- number one, that's not my
17 defense all of the sudden in the case. It's been that
18 way for two-and-half years. Number two, they've named
19 a corrections expert. The reason why they're trying
20 to make him a corrections expert now -- and I know
21 Your Honor hasn't ruled on my motion to exclude
22 Mr. Land, but Mr. Land is supposed to be the
23 corrections expert, not Mister -- Dr. O'Bryan. And
24 that's the way the case was discovered. It should be
25 fairly obvious. I can't help it that Mr. Land is

JURY TRIAL - VOL. 2

1 allowed to re-witness again. I know Your Honor hasn't
2 ruled on that yet. But you can't all of the sudden
3 take this doctor, after he testified to me that he
4 wasn't offering any opinions on this, and make him an
5 expert on corrections.

6 MR. HINSON IV: The first sentence of our
7 disclosure says, "Dr. O'Bryan is physician, board
8 certified with the American Board of Internal Medicine
9 and with the experience in healthcare administration
10 and in correctional medicine." I mean, we've talked
11 about it all along how we works in this field. He --
12 he --

13 THE COURT: I know what you said. I just don't
14 think you need an expert to do that. And I don't
15 think that what he's going to testify to should be
16 presented to the jury to assist them. I don't think
17 to assist them in understanding that people should
18 communicate. That should be patently obvious with
19 common sense and good judgment. That's my -- that's
20 my observation. You all can keep arguing. I've made
21 up my mind.

22 MR. HINSON IV: I understand, Your Honor. I --

23 THE COURT: I mean, you all can go five more
24 times. I'm going to sit here and say the same thing
25 five more times. I've got this one right -- or I've

JURY TRIAL - VOL. 2

1 got to decide it. I don't know if I have it right.

2 MR. HINSON IV: All right. Well, Your Honor, I
3 was still then -- I respect to ruling. I think it
4 assists -- there's plenty of things I think that maybe
5 why you, per se, don't have to have an expert on.
6 There's tons of things you don't have to have an
7 expert on. Nonetheless, they assist the jury in
8 understanding the issues. And this may be one of
9 them. I would submit it would be immensely helpful
10 for them to understand the process that -- I've never
11 -- I've never been a detainee in the detention, thank
12 goodness. The way I'm going right now, I might be
13 before the end of the night.

14 THE COURT: All of you. I will call in.

15 MR. LINDEMANN: I know the administrator.

16 THE COURT: I know the guy with the guns.

17 MR. HINSON IV: I just would submit, Your
18 Honor --

19 THE COURT: I don't think -- I don't see it
20 assisting at the finder of fact. I don't think it's
21 necessary.

22 MR. HINSON IV: -- for them to understand how --
23 how communication is supposed to work in the jail?

24 THE COURT: You all have discussed that already.
25 You've talked 'til the -- no, I don't.

JURY TRIAL - VOL. 2

1 MR. HINSON IV: Okay.

2 THE COURT: He's never worked in this jail.

3 I've made my ruling. I'm sorry you don't like it, but
4 I'm sticking with it, right or wrong.

5 MR. HINSON IV: Okay. Your Honor, I --

6 THE COURT: I think you made a thorough record
7 of it and I think I made a thorough finding of my
8 bases of why I'm.

9 MR. HINSON IV: Your Honor, I --

10 THE COURT: -- not allowing it.

11 MR. HINSON IV: I renew my objection and we can
12 still call him, hopefully, for causation and damages.

13 THE COURT: Just call your witnesses.

14 MR. HINSON IV: Yeah.

15 THE COURT: I'm not going to pre-rule on things
16 I haven't heard yet.

17 MR. HINSON IV: Okay.

18 THE COURT: Who are you calling next?

19 MR. LINDEMANN: Well, there -- there was one
20 additional point. If he's not going to be offering
21 opinions regarding the standard of care for Southern
22 Health Partners, I mean, essentially what they're
23 calling him to do is to testify as to a records review
24 as to what the treating physicians did and whether
25 there's causation from that. The best evidence rule

JURY TRIAL - VOL. 2

1 would be instead of having this witness come in and
2 interpret somebody else's records, you call the
3 treating physician and have them testify as to what
4 they did. I don't know of the use of an expert, Your
5 Honor, to come in and basically be a substitute for
6 the treating physicians. So that's all that's left.
7 And again, I know he was named in order to be a
8 standard of care witness against Southern Health
9 Partners, but that's gone. So all that's left is here
10 are the medical records from Aiken Regional, this is
11 what happened to her. He's not an appropriate witness
12 for that. I don't know that you can -- I mean --

13 THE COURT: Let me hear him on it.

14 MR. HINSON IV: Your Honor, I have to prove
15 damage and causation. I certainly could bother -- we
16 could track down the physicians that were her surgeon
17 and who was her radiologist and who was her ER. We --
18 we could track down all of those people and bother 15
19 different -- not 15 -- but a lot of people's time, or
20 we can call a medical expert to summarize and explain
21 to the jury the course of treatment that she had to
22 have and had it been -- had she been provided
23 appropriate care earlier, the course of treatment
24 would have been different. I mean, that's standard in
25 any medical malpractice case.

JURY TRIAL - VOL. 2

1 THE COURT: But wasn't all that put up in the
2 settlement? Didn't you all pack that away?

3 MR. HINSON IV: No, Your Honor, because our case
4 here is -- had -- had the guards --

5 THE COURT: The nurse?

6 MR. HINSON IV: -- advocated for this lady, she
7 would have been -- she would have gotten appropriate
8 treatment days and days and days earlier.

9 THE COURT: How do you know that?

10 MR. HINSON IV: How do I know that?

11 THE COURT: Yes. The nurse would have said, you
12 know, if somebody would have said something to me, I
13 would have put her in the hospital two weeks before.

14 MR. HINSON IV: You know what, Your Honor, I
15 don't have a crystal ball and I can't say that. I
16 can't say that for 100 percent certainty that that
17 would be true. It is a reasonable conclusion to come
18 that if - for this jury to come to that had people
19 advocated for this young lady, even if eventually it
20 was just command staff saying, you know what, I've got
21 my guards saying she's not self-harming. These folks
22 are with her 24 hours a day, and I've got this nurse
23 who's saying she's self-harming. I'm going to believe
24 my guards over this nurse who sees her for two
25 minutes. And I would have -- and this thing looks

JURY TRIAL - VOL. 2

1 awful on her head, and I'm going to get her over to
2 Aiken Regional. The worst thing that happens is they
3 tell them -- they tell us nothing -- nothing more
4 needs to be done.

5 But the medical care -- it is our case here that
6 the medical care that she ultimately had to have --
7 again, this huge craniotomy -- wouldn't have been --
8 would never have been necessary had simply the folks
9 -- both Southern Health Partners and their acts of
10 negligence or the guards doing what they should have
11 done. And we think they were grossly negligent. We
12 have a higher standard. It took both of them screwing
13 up for this outcome to occur. And again, Your Honor,
14 the jury may disagree with us at the end of the day,
15 but we have a valid claim that there was gross -- that
16 had appropriate -- appropriate action been taken by
17 the folks who were charged with her care -- and I know
18 I've got to prove gross negligence -- but had
19 appropriate action occurred, she would have been at
20 Aiken Regional Medical Center days and days and days
21 earlier.

22 MR. LINDEMANN: And I don't think he addressed
23 my point. My point being, you can't hire an expert to
24 come in and interpret somebody else's medical records.
25 Now, you can if you're trying to prove a medical

JURY TRIAL - VOL. 2

1 malpractice case. And he kind of misspoke and said --
2 called it a medical malpractice case. It's not that
3 anymore. And ultimately, so what's left is Dr.
4 O'Bryan is going to come in and testify as to the
5 treatment she received and interpret the medical
6 records that he didn't write. And Your Honor has
7 tried many more cases than all of us multi times. You
8 don't bring a record reviewer because that's -- no
9 offense to Dr. O'Bryan, that's what he's become in
10 this case -- to come in and testify as to what the
11 records are. You bring in the treating physicians,
12 the people who wrote it, the people who saw it. And
13 they're the ones who are appropriate experts, not a
14 hired gun, not somebody you hire. And there was
15 nothing that prevented them from taking a -- a
16 deposition or trial under Rule 30 -- we have a special
17 rule for that in South Carolina, it happens in every
18 personal injury case of any substance -- and bring
19 those people into testify as to their treatment.
20 They're not biased, they don't -- aren't being paid
21 for their testimony. And ultimately, they can
22 interpret their own records. I mean, it's basically a
23 best evidence argument on top of being an
24 inappropriate basis for expert testimony.

25 THE COURT: Guard, just cut the record off for a

JURY TRIAL - VOL. 2

1 minute, just so we can sit here.

2 (Off the record.)

3 (Recess.)

4 (On the record.)

5 THE COURT: I don't think you need an expert to
6 say they should have communicated better. For what
7 purpose do you want to offer him now?

8 MR. HINSON IV: Your Honor, I have to -- I want
9 to offer him for damages and causation. He issued a
10 report in this case. It addressed damages and
11 causation, because we have kind of a suit up companion
12 federal case. And, Your Honor, yes, I want him to --
13 the jury doesn't know -- I mean, what an abscess -- I
14 mean, they may have heard the term, but he -- I need
15 to have a doctor explain to the jury what an abscess
16 is, what the treatment is for abscess, how the
17 treatment changes if you don't get appropriate medical
18 -- appropriate care in a timely manner.

19 And ultimately, we know she's taken to Aiken
20 Regional on June 2nd. We just heard testimony that
21 guards had concern about her so much that they're
22 talking amongst themselves on May 28th. So Dr.
23 O'Bryan, had this abscess been treated on May 28th --
24 you don't have to get into the standard of care. Just
25 had it been treated on May 28th, would the outcome

JURY TRIAL - VOL. 2

1 have been appreciably different? And he can explain
2 to the jury how it wouldn't have been nearly this
3 degree of bone destruction, how the -- how the abscess
4 could have been treated with high-dose antibiotics,
5 but not required neurosurgery at that point. I have
6 to prove that it would have made a difference had the
7 -- had the guards done something. And the way I prove
8 it would have made a difference is by putting an MD or
9 DO on the stand.

10 The other thing he can talk about is how this
11 will impact her. I mean, how the -- the headaches she
12 has, it all kinds of jives into -- to -- I mean, she's
13 had this word-finding difficulty that -- that she has
14 from time to time, and what the different parts of the
15 brain do. I mean, we've gotten an internal medicine
16 physician whose being kind of a generalist so we don't
17 have to march up a radiologist and march up a
18 neurosurgeon. He can explain to the jury with his
19 education, training and background all these different
20 medical concepts and explain to the jury what she went
21 through, why it was necessary, and that these medical
22 bills, the vast majority of them would have been
23 avoided had treatment been provided just a few days
24 earlier.

25 THE COURT: All right. Mr. Lindemann?

JURY TRIAL - VOL. 2

1 MR. LINDEMANN: Your Honor, as far as -- as far
2 as the causation expert, I understood it to be
3 Marshall White. I don't know if they're bringing
4 Dr. White or not, but that's the way the case was --
5 was discovered. Ultimately, Your Honor, as I
6 indicated, my concerns are related to the fact that
7 the way this case went through discovery, he was a
8 standard of care expert in a medical malpractice case.
9 The counter -- the counter expert from Southern Health
10 Partners was Doctor -- was Dr. Fowlkes that we talked
11 about yesterday. Ultimately, they settled the
12 malpractice case.

13 So what they're trying to do is now try to
14 salvage something for Dr. O'Bryan to do, which is, in
15 essence, to testify regarding the medical care that
16 she ultimately received and to try to tie that back to
17 I don't know what, because the way it was -- the way
18 it was stated in answers to interrogatories through
19 the acts or omissions of the correctional staff which,
20 of course, he said in his deposition he wasn't
21 offering any opinions on that. So to my knowledge, he
22 hasn't offered any opinions based upon the causation
23 of anything that the correctional staff did, and that
24 in reality what he is attempting to do with this
25 witness is to get him to testify and interpret that

JURY TRIAL - VOL. 2

1 the care that she received at Aiken Regional medical
2 Center. And my argument to the Court is, that makes
3 him no more than a record reviewer, not someone who
4 should be replacing the treating physician who
5 actually wrote the records, did the treatment, did the
6 surgery, made the findings, et cetera. But you don't
7 hire an expert, essentially, to basically read
8 somebody else's or interpret somebody else's medical
9 records.

10 They were very capable of taking a video
11 deposition for trial of the -- of the treating
12 physician, the neurosurgeon. The didn't do so. I
13 didn't know why they didn't do so, but they didn't do
14 so. That would be the appropriate witness for that,
15 Your Honor.

16 MR. HINSON IV: Your Honor?

17 THE COURT: Yes, sir.

18 MR. HINSON IV: There was a report provided in
19 this case. We agreed -- the parties agreed that we
20 would essentially go through the discovery path
21 together on the federal case and the state case,
22 because it would be a gigantic waste of resources
23 otherwise. In the federal case, his report states,
24 "The delay in appropriately assessing, diagnosing,
25 treating, and arranging for more advanced care for the

JURY TRIAL - VOL. 2

1 abscess on the side of Ms. Rhoads head caused this
2 patient significant bodily injury." And it goes on
3 and it goes on and on. They have known that this was
4 something he was going to talk about since -- since
5 months ago. It was in his report. And, Your Honor --

6 THE COURT: All right. Wait. Let me ask you
7 this. How is he going to distinguish who calls that?

8 MR. HINSON IV: Your Honor?

9 THE COURT: Was it the failure of the nurse?

10 MR. HINSON IV: That's up to the jury. What he
11 is going to say is --

12 THE COURT: How do they -- how to they tear that
13 apart?

14 MR. HINSON IV: -- but, Your Honor, if he says
15 five more -- five days earlier would have made an
16 enormous difference in her -- the -- the care she
17 needed, then we can prove to the jury that at least
18 five days earlier somebody should have been advocating
19 to get this young lady to be seen in the ED at Aiken
20 Regional Medical Center. That's how it's relevant.
21 That's how it's --

22 THE COURT: Now, let me ask you this. If you do
23 that, you're not going to prevent him from saying, the
24 nurse is saying here, she saw it too. He gets that
25 right.

JURY TRIAL - VOL. 2

1 MR. HINSON IV: Absolutely. I don't disagree
2 with that. I mean, if I were Mr. Lindemann, I would
3 throw shade on the nurses all day long, too. But that
4 doesn't change -- but we had two -- we have two claims
5 in this case, one of which is -- one of which is
6 settled.

7 THE COURT: I'm aware that.

8 MR. HINSON IV: Yeah. So --

9 THE COURT: I mean you've heard that.

10 MR. HINSON IV: Yes. We have settled the
11 medical malpractice claim. But the claim that there
12 was gross negligence with regard to the care and the
13 -- what was owed to Ms. Rhoads, that remains. And we
14 have to be able to prove that had they not been
15 grossly negligent in overlooking this serious medical
16 need that -- that we've heard witnesses say you could
17 see it --

18 THE COURT: Oh, yeah. We got that. Don't --

19 MR. HINSON IV: -- from across the room.

20 THE COURT: -- you -- you have to keep telling
21 me that. I got it. It was noticeable.

22 MR. HINSON IV: Okay. I gotcha. And so I have
23 to -- we have to prove that had that -- had that been
24 done, we'd have this little -- little pittance of a
25 bill. It would have been they took her, they drained

JURY TRIAL - VOL. 2

1 the abscess, they gave her some antibiotics. And you
2 know, it just would have been practically nothing. It
3 would have been a trip to the doctor's office. But
4 because they waited so doggone long, we've got
5 \$341,000 in bills. I have to prove that. I cannot
6 prove that through anybody else but in physician.

7 And if I called the radiologist, the radiologist
8 is going to go, I don't know. If I called the ER
9 doctor, he's going to go, I don't know. I -- this
10 gentleman can summarize it all. He -- that's what
11 experts often do. I mean, whether it's a products
12 liability case where the person has been burned, you
13 put up an expert on the stand and say, can you explain
14 to the jury the process of the, you know, recovery
15 from burns that Mr. Smith went through. And they
16 explain to the -- you don't have to prove that every
17 single doctor that touched -- I mean, can you -- think
18 about it.

19 In like cases with like MUSC or these big
20 teaching hospitals where dozens -- I mean, literally
21 dozens of doctors see a patient over the course of a
22 long -- a long hospital stay. We shouldn't have to
23 bring every single doctor to the stand just to talk
24 about every single thing that happened. That's what
25 we hire experts to do in these situations like this.

JURY TRIAL - VOL. 2

1 MR. LINDEMANN: Your Honor --

2 MR. HINSON IV: And if Mr. Lindemann's argument
3 is right, man, there's going to be a lot of
4 inconvenience to doctors all the time. It's going to
5 be terrible.

6 MR. LINDEMANN: Your Honor, if I can correct --
7 I believe Mr. Hinson probably inadvertently made this
8 error. But if you look at page 17 of his report --
9 and that's where he was just reading from -- the -- it
10 was the first sentence in a section that's titled,
11 "The Medical Defendants Errors and Omissions Caused
12 Injury and Damages to Ms. Rhoads." The first sentence
13 that he read the latter part of to Your Honor starts
14 with, "The medical defendants' gross delay in
15 appropriately assessing, diagnosing, treating and
16 arranging more advanced care for the abscess on the
17 side of Ms. Rhoads' head caused this patient
18 significant bodily injury." Offering opinions as to
19 the medical defendants, they're gone. So I asked him,
20 did he offer any opinions as to the correctional
21 staff. And again, there aren't any in his report,
22 either, if they're relying on this report. So -- and
23 to suggest that he's offering those opinions, I
24 certainly didn't get advance notice that all of the
25 sudden this report was applicable to -- to the

JURY TRIAL - VOL. 2

1 correctional staff.

2 MR. HINSON IV: Your Honor, we're not offering
3 -- we're not asking him to offer opinions on the delay
4 of Southern Health Partners. We've settled that case.
5 But the word "delay" is still the point. The point he
6 has testified to in his report is that the delay in
7 providing care caused injury.

8 THE COURT: Okay. If I let him testify, he gets
9 full run at him --

10 MR. HINSON IV: Thank you, Your Honor.

11 THE COURT: -- including that report. That's
12 what you're getting into.

13 MR. HINSON IV: I understand. I mean, we've
14 acknowledged -- what I would offer, Your Honor, if --
15 if he starts -- there may be some door-opening,
16 depending on what Mr. Lindemann asks. But that --
17 that's -- I don't know what --

18 MR. LINDEMANN: Well, that's not the point, Your
19 Honor.

20 MR. HINSON IV: -- Mr. Lindemann's questions are
21 going to be.

22 MR. LINDEMANN: I mean, this jury is going to be
23 need to be told why Southern Health Partners isn't
24 here.

25 THE COURT: Yeah. We're getting real close. I

JURY TRIAL - VOL. 2

1 think we're past that point, but yeah, I agree with
2 you.

3 MR. LINDEMANN: Well, I'm glad to hear that,
4 because I'm more than happy to let them know that.

5 THE COURT: Yeah. You all carefully danced
6 around it. And I think the jury knows. I'm not going
7 asked them. But if you call it and you say delay is a
8 cause to these injuries and that's his testimony, I
9 think he gets the report as cross-examination.

10 MR. HINSON IV: Your Honor, I have to -- I have
11 prove causation. I don't know any other way to do it,
12 so I will accept that risk.

13 THE COURT: All right.

14 MR. LINDEMANN: And so just making sure I don't
15 overstep the Court's bounds, so I can go into the fact
16 that he wrote this report against Southern Health
17 Partners and they were part of this lawsuit?

18 THE COURT: Sure. I think that's opened the
19 door.

20 MR. LINDEMANN: Thank you.

21 THE COURT: And he's got his door cracked --
22 looking for a crack, too.

23 MR. HINSON IV: I'm looking for a crack. Yes,
24 Your Honor.

25 THE COURT: All right. Bring in the jury from

Edward O'Bryan, M.D. - Direct Examination by Mr. Hinson

JURY TRIAL - VOL. 2

1 the cool room.

2 (The jury entered the courtroom.)

3 THE COURT: I give you all an A+ for not leaving
4 one behind. Is that -- is that room cooler? Has it
5 gotten better? I apologize for that. I generally keep
6 the courtroom cool and hope the rest of the courthouse
7 is cool. Okay. Call your witness, please.

8 MR. HINSON IV: May it please the Court?

9 THE COURT: Yes.

10 MR. HINSON IV: The plaintiff calls Dr. Edward
11 O'Bryan to the stand.

12 (The witness was sworn in.)

13 THE CLERK: Please take a seat in the witness
14 stand. State your full name for the Court and spell
15 your last name, please.

16 THE WITNESS: Edward O'Bryan, O-B-R-Y-A-N.

17 DIRECT EXAMINATION

18 BY MR. HINSON IV:

19 Q. Good afternoon, Dr. O'Bryan. Would you please
20 introduce yourself to our jury?

21 A. Sure. I'm Dr. Edward O'Bryan. I go by Ed. I'm from
22 Florence, South Carolina. I've been pretty much in South
23 Carolina most of her life, but you know.

24 Q. And tell us little bit about your education, training
25 and background, just starting with where did you go to

Edward O'Bryan, M.D. - Direct Examination by Mr. Hinson

JURY TRIAL - VOL. 2

1 college and just kind of take us -- take us through your
2 education. And then we'll talk about your career
3 afterwards.

4 A. All right. I went to college at Davidson outside of
5 Charlotte where Steph Curry went. The only famous alumni
6 there. I then went to MUSC in Charleston, after which I
7 did my residency at MUSC and one year of research, and
8 began practicing at the VA hospital in the emergency
9 department, and MUSC directly after.

10 Q. And did you do any sort of -- well, what's a
11 residency?

12 A. The residency is the three years of training post
13 medical school. Well, I shouldn't say three. Three to
14 seven.

15 Q. And you did a residency?

16 A. Correct. I did a residency in internal medicine.

17 Q. And generally, what is internal medicine?

18 A. Internal medicine is probably the kind of doctor that
19 most people on the jury would go to, an adult doctor, for
20 the majority. General medicine, but then can
21 subspecialize from there.

22 Q. Is it fair to call an internal medicine doctor a
23 generalist? How would you describe it?

24 A. Sure.

25 Q. Is that fair?

Edward O'Bryan, M.D. - Direct Examination by Mr. Hinson

JURY TRIAL - VOL. 2

- 1 A. Yeah, it's fair.
- 2 Q. And do you hold board certification.
- 3 A. Yes, in the American Board of Internal Medicine.
- 4 Q. And do you have any other qualifications in any other
- 5 field of medicine besides internal medicine?
- 6 A. I have a state qualification in South Carolina in
- 7 emergency medicine. So I've practiced emergency medicine
- 8 for almost 16 years as well. And so I have a dual
- 9 certification in South Carolina for both.
- 10 Q. And take us through kind of your -- your work career,
- 11 your -- as a physician.
- 12 A. Sure. So after training, I went to work at the VA
- 13 hospital, the Ralph H. Johnson VA Hospital in Charleston.
- 14 And that's with MUSC, so I'd became faculty on both. So I
- 15 started a faculty in MUSC in right around 2008. I
- 16 maintained faculty position at MUSC through that time. I
- 17 was promoted to associate professor. And it goes -- it
- 18 goes, instructor, assistant professor, associate
- 19 professor, and then full professor. And so I maintained
- 20 that position at MUSC. And in the interim, I also went to
- 21 business school and got my MBA and did some other things
- 22 along the way.
- 23 Q. And what do you do presently?
- 24 A. So presently, I have two positions. I'm the chief
- 25 medical officer of Graham Healthcare Capital, which is a

Edward O'Bryan, M.D. - Direct Examination by Mr. Hinson

JURY TRIAL - VOL. 2

1 private equity group based out of Nashville. And we
2 essentially go and try to help medical practices -- I
3 don't know -- get better, I'll say. And then I also am
4 the chief of the division of correctional healthcare at
5 the Medical University of South Carolina.

6 Q. And in your education, training and experience, have
7 you learned how to read imaging studies in medicine; CTs
8 MRIs, x-rays, that sort of thing?

9 A. Yes.

10 Q. And have you, in your experience in internal medicine,
11 are you familiar with abscesses and infectious processes?

12 A. Yes.

13 MR. HINSON IV: Your Honor, plaintiff would
14 offer Dr. Edward O'Bryan as an expert in the field of
15 internal medicine.

16 THE COURT: Any voir dire?

17 MR. LINDEMANN: Thank you, Your Honor.

18 THE COURT: All right. Ladies and gentlemen of
19 the jury, what that means is Dr. O'Bryan has been
20 offered. He can testify as to things he's done, seen,
21 observed as if he, you know, was an eye witness to
22 something. But he can also offer opinions in his
23 field of expertise, which has now been determined to
24 be internal medicine. So in that regard, he can offer
25 opinions in that field of study because of his

Edward O'Bryan, M.D. - Voir Dire Examination by Mr. Lindemann

JURY TRIAL - VOL. 2

1 education and experience. Continue.

2 MR. LINDEMANN: Your Honor, can I do my voir
3 dire?

4 THE COURT: Oh. I thought you said I had none.
5 I'm sorry. I misunderstood you.

6 MR. LINDEMANN: Okay. I'm sorry. I do have some
7 questions.

8 THE COURT: All right. I may do that again. So
9 he's not been so qualified yet. He gets to ask some
10 questions about his qualifications.

11 MR. LINDEMANN: I'm sorry for that confusion,
12 Your Honor.

13 VOIR DIRE EXAMINATION

14 BY MR. LINDEMANN:

15 Q. Just real quickly, Dr. O'Bryan, I understand that
16 you've produced a CV in this case; is that correct?

17 A. I believe so. I'm not sure the date of it.

18 Q. All right. I'm happy to show it to you. It doesn't
19 look like you date -- first, tell the jury what a CV is.

20 A. I'd say the resume or curriculum vitae or -- is what
21 it stands for. But it's just basically your history of
22 work and education.

23 Q. All right. A do you -- do you show what -- what date
24 that you did that?

25 A. It looks like this one was a couple of years old, I'd

JURY TRIAL - VOL. 2

1 say, roughly.

2 Q. And ultimately, I think you testified that your work
3 history includes working for Wellpath; is that correct?

4 A. That's correct.

5 Q. And Wellpath is a competitor of Southern Health
6 Partners; correct?

7 A. I think Wellpath operates in different locations,
8 typically, than Southern Health Partners.

9 Q. Wellpath works -- covers correctional facilities in
10 the State of South Carolina, does it not?

11 A. Typically of the larger size. So Wellpath does not
12 look at Southern Health Partners as a direct competitor,
13 to my knowledge.

14 Q. The Richland County Detention Center and the Alvin S.
15 Glenn Detention Center up until last year was Wellpath
16 contractor -- contracted; correct?

17 A. As far as I know.

18 Q. All right. And all of your work experience has been
19 administrative, has it not?

20 A. In what regard?

21 Q. Well, I'm asking you.

22 A. No. I mean, I think I've never not done clinical
23 work. I've done administrative work on top of clinical
24 work. And the majority of the administrative work in
25 situations like a correctional institution, like a

Edward O'Bryan, M.D. - Voir Dire Examination by Lindemann

JURY TRIAL - VOL. 2

1 Wellpath, is actually clinical administrative work. You
2 have quality oversight, looking at clinical cases, making
3 sure things are done appropriately, things like that. But
4 during that time, I've still done emergency medicine
5 shifts, you know, clinical care, seeing patients in
6 clinic, all the kind of stuff.

7 Q. All right. And was that at MUSC?

8 A. MUSC, correct. Mostly.

9 Q. Have you ever been in private practice?

10 A. I have done some things in private practice, but never
11 a majority.

12 Q. All right.

13 MR. LINDEMANN: I don't have any further
14 questions, Your Honor, as far as him being tendered as
15 an expert in internal medicine. I have no objection.

16 THE COURT: All right. Now, we'll reaffirm that
17 he's been found by the Court -- that's me -- based
18 upon his presentation and curriculum vitae, the
19 summary of his work experience, he's qualified in the
20 field -- expert field of internal medicine to offer
21 opinions in that field. All right.

22 DIRECT EXAMINATION (Cont'd.)

23 BY MR. HINSON IV:

24 Q. Dr. O'Bryan, what is an abscess in the sense of
25 medicine?

JURY TRIAL - VOL. 2

1 A. Sure. I think in a -- in a -- I'll say in a
2 colloquial sense. I'll start it that way. I mean, a lot
3 of people come, especially in the emergency department,
4 and say I have a spider bite. I think that's a common way
5 people say abscesses. A lot of spiders don't bite, for
6 the record. But it's basically a red area on your skin
7 that typically starts as something like a blocked sweat
8 gland, or it can be an insect bite, or a hair follicle
9 that kind of gets ingrown or something like that. And
10 then you get an infection, usually, around the skin. And
11 sometimes they go away, right? Sometimes you put some
12 cream on there or maybe you'll go to your doctor and take
13 an antibiotic and it will go away.

14 But frequently, the infection gets trapped underneath
15 the skin layer and then you develop an abscess under
16 there, which is a collection of kind of bacteria and your
17 body's way of walling off the infection to try to keep it
18 from spreading to the rest of your body. But as you know,
19 it becomes swollen, you know, tender and painful and all
20 of that.

21 Q. And where can abscesses be on the body?

22 A. Anywhere.

23 Q. If timely treated, what is the treatment for an
24 abscess?

25 A. Early identification of an abscess would just -- I

JURY TRIAL - VOL. 2

1 would say there's three. I would say that really early
2 identification could be something as simple as maybe you
3 put an antibiotic cream on there, maybe just antibiotic
4 for a few days. You know, your body gets rid of it,
5 hopefully, on its own with a little bit of help. Down the
6 road from that as abscesses grow larger, the treatment is
7 typically an incision and drainage. And that's when you
8 go in and they, you know, numb it up and stick a scalpel
9 in there and drain the bad stuff out, and sometimes put
10 some packing in there to make sure it doesn't close up too
11 quick, and then usually give antibiotics at that time,
12 too.

13 Q. If untreated, can abscesses cause significant injury?

14 A. Oh, yeah. Untreated abscesses can cause, I mean, very
15 significant injury that can lead to death.

16 Q. Dr. O'Bryan, tell us what you reviewed in your efforts
17 to testify in this case. Tell us what materials you've
18 looked at and reviewed.

19 A. Sure. I've looked at all of the materials from the
20 detention center, all of the records, medical records, all
21 the -- all the documentation that I saw from correctional
22 officers and from the health staff there. I also looked
23 at some previous medical records, as well as all the
24 records from Aiken Hospital. There may be a few other
25 things I'm forgetting, but that's the majority.

JURY TRIAL - VOL. 2

1 Q. Have you reviewed the deposition testimony?

2 A. Yes.

3 Q. Have you reviewed statements by other detainees and
4 inmates?

5 A. Yes.

6 Q. Have you reviewed medical imaging done for Ms. Rhoads
7 at the Aiken County -- or at the Aiken Regional Medical
8 Center?

9 A. Yes.

10 MR. HINSON IV: May I approach the witness, Your
11 Honor?

12 THE COURT: Sure.

13 BY MR. HINSON IV:

14 Q. And, Dr. O'Bryan, I've got four different sets of --
15 essentially, these are -- they're now photographs done at
16 CVS. But could you identify what we are looking at in
17 these -- well, first, I'm going to give you these three
18 different stacks, essentially.

19 A. Sure. These are different cuts, different angles of
20 views -- I don't know if you have these -- of MRIs.

21 Q. And let's see. Well, who are they of?

22 A. Oh. They're of Ms. Rhoads.

23 MR. HINSON IV: And, Your Honor, we would offer
24 these photographs into evidence as Plaintiff's
25 Exhibits -- collectively, as Plaintiff's Exhibits

JURY TRIAL - VOL. 2

1 whatever the next three numbers are.

2 (Plaintiff's Exhibits 5, 6, and 7 were
3 offered for admission into evidence.)

4 THE COURT: Do you have any objection to these
5 three images? Do you want to see which three he's
6 got?

7 MR. LINDEMANN: Your Honor, I have a copy, Your
8 Honor. They weren't given to me ahead of time, so
9 give me one moment here. Your Honor, I don't have any
10 objection. They -- they appear to be multiple images
11 of the same thing, but...

12 THE COURT: All right. Just let the court
13 reporter mark them and that way we'll know which
14 numbers they are, and then I'll make my finding.

15 MR. HINSON IV: And --

16 THE COURT: Hang on.

17 MR. HINSON IV: Oh, sorry.

18 THE COURT: I want her to get this done. She's
19 using her hands, so you hush.

20 THE COURT REPORTER: And this will be 5, 6, and
21 7.

22 MR. HINSON IV: Five, six, and seven. Thank
23 you.

24 THE COURT: All right. So 5, 6, and 7 are
25 admitted without objection. And ladies and gentlemen

JURY TRIAL - VOL. 2

1 of the jury, you all will get these in the jury room.

2 Okay?

3 (Plaintiff's Exhibits 5, 6, and 7 were
4 admitted into evidence.)

5 BY MR. HINSON IV:

6 Q. And, Dr. O'Bryan, because -- for obvious reasons, I've
7 -- I've had some of these blown up for the jury. And it
8 might be better if you could --

9 MR. HINSON IV: -- Your Honor, could the witness
10 step down and --

11 THE COURT: Sure.

12 MR. HINSON IV: -- explain to the jury what
13 we're looking at here?

14 THE COURT: Sure.

15 BY MR. HINSON IV:

16 Q. And so, Dr. O'Bryan, this is from one of the exhibits,
17 and I'm not exactly sure what the number, how they went.
18 This is the CT done on June 2nd, 2019?

19 THE COURT: Not on there.

20 THE WITNESS: That's not one of these three.

21 MR. HINSON IV: Oh, I'm sorry.

22 THE WITNESS: These are all -- these are all
23 three --

24 THE COURT: Show him which ones you got. Take
25 him over there and that way, he'll pull up the right

JURY TRIAL - VOL. 2

1 picture. So this is going to be offered as No. 8?

2 MR. HINSON IV: Yes, Your Honor. It's the CT.
3 It's the June 2nd CT. So these are from -- we offer
4 these as Exhibit 8.

5 (Plaintiff's Exhibit 8 was offered for
6 admission into evidence.)

7 MR. LINDEMANN: No objection, Your Honor.

8 THE COURT: Lakesha, is it one or several?

9 BY MR. HINSON IV:

10 Q. Dr. O'Bryan, do you --

11 THE COURT: Hang on, hang on, hang on. Hang on.

12 MR. HINSON IV: -- I'm so sorry, Your Honor.

13 THE COURT: Yeah, yeah. Let Lakesha -- can you
14 handle that? Okay. If we need to make them separate
15 as 8-A, B, and C, we can do that as well.

16 MR. HINSON IV: I think that would be a great
17 idea, Your Honor.

18 THE COURT: All right. That way, they're
19 distinguishable, because as sure as we don't...

20 MR. HINSON IV: And at the same time, if it
21 would be okay, we could do it once the jury has left
22 for the day. That way, we can get them all addressed.

23 THE COURT: So these are three, 8-A, B, and C,
24 admitted without objection. All right.

25 (Plaintiff's Exhibits 8-A, 8-B, and 8-C

JURY TRIAL - VOL. 2

1 were admitted into evidence.)

2 BY MR. HINSON IV:

3 Q. Dr. O'Bryan, do you do any teaching? Have you done
4 teaching in your career?

5 A. Yes.

6 Q. If you will, tell us what we're looking on that CT
7 done at Aiken Regional Medical Center in the evening of
8 June 2nd, 2019.

9 A. So in a general sense, this is just demographics of
10 this patient and when it happened, so on June 2nd, when
11 she first went to the hospital, I believe. And what you
12 see here. This CT scan is mostly showing bone. CT scans
13 are little bit better for bone. They do show stroke and
14 stuff like. That's what you get really quick in the ER.
15 It's the one that's a really fast x-ray machine,
16 essentially. Everything backwards on it because you're
17 taking a view of the patient's feet looking up, right is
18 left, left is right. So I know that sounds strange, but
19 the left side of the picture is actually the right side of
20 the picture because you're kind of looking from their feet
21 up, right?

22 Q. So which way are the eyes facing?

23 A. So in this one, the right side up of the x-ray. So
24 basically what you're seeing here is this is the skull,
25 and this gray area in the middle is all the brain. So

JURY TRIAL - VOL. 2

1 basically, it looks kind of just like a blob of gray,
2 because it's anything that's not bone. This one is
3 specifically looking at bone. The whit is the bone. And
4 as you can see, the bone should be a nice circle that's
5 connected all the way around, but on this one you can see
6 here the bone is not connected right here, and there's
7 destruction of the bone. And then outside of the bone,
8 there's all this extra tissue. Even though it looks at
9 same as what the brain tissue looks like, all it means is
10 it's soft tissue. So it could be -- in this picture, you
11 don't know what it is -- it could be fat, you know, it
12 could be a tumor, or it could be an abscess. It could be
13 a lot of different things, hematoma. You wouldn't know in
14 this picture.

15 Q. All right. And, Dr. O'Bryan, don't go back up just
16 yet. What do you call that particular slice, like the
17 direction that MR -- the CT machine is going?

18 A. This is axial.

19 Q. Axial. All right. And so let me show you an axial
20 image, then. This is also into evidence as one of those
21 new four exhibits from the MRI done.

22 MR. HINSON IV: I'll show you, Mr. Lindemann
23 right here, it's axial image 17 of 26.

24 BY MR. HINSON IV:

25 Q. And so, Dr. O'Bryan, now that we're looking at --

JURY TRIAL - VOL. 2

1 well, just generally, what is the difference between an
2 MRI and a CT?

3 A. So if you have a CT that's abnormal, typically you
4 might do an MRI. An MRI is a much more complicated
5 procedure. It's not a procedure. It's a much more
6 complicated image where you're in the big magnet and it
7 takes a long time, 20 or 30 minutes, very tight. A lot of
8 people who are claustrophobic can't get in there. But
9 it's basically -- for lack of a better term -- it
10 polarizes and repolarizes itself with a giant magnet
11 allows us to capture images. It's very odd. You should
12 Google it.

13 But what it does, it gives you significantly more
14 detail, you can tell, of what's going, especially inside
15 the brain and then even outside the brain. So in this,
16 it's the opposite. The bone is black and white is
17 actually fluid or soft tissue. So what you see here is
18 the same thing. Now, you can get some detail about what
19 this is, right? So now you know it's not brain. It
20 doesn't look anything like this. You also know that it
21 goes through the skull here, this -- this abscess, and
22 then it's actually pushing. You can see a little bit to
23 where kind of goes into the brain itself. What that is,
24 is an epidural abscess. So now we know that this abscess
25 pushes into the brain and goes through the bone and

JURY TRIAL - VOL. 2

1 connects with the inside. It's actually walled off from
2 the brain tissue itself, because there's a little layer of
3 tissue of kind of connective tissue that kind of protects
4 the brain between the bone and the brain.

5 Q. So with all the materials you've reviewed in this
6 case, do we know what that stuff -- what is there, what is
7 that stuff there?

8 A. So this is a MRSA abscess. And MRSA is methicillin
9 resistant staphylococcus aureus. You've probably all
10 heard of it. It's all -- all over the news now. It's a
11 common skin pathogen. It's found commonly in skin
12 abscesses.

13 Q. And do you have an opinion to -- well, Doctor, I
14 should have asked this earlier. Do you agree that all
15 opinions you'll give today you will only give them unless
16 you hold them to a reasonable degree of medical certainty?

17 A. Yes.

18 Q. And do you agree all of the opinions you've given to
19 (unintelligible) all the opinions you've given prior to
20 this moment were all given to a reasonable degree of
21 medical certainty?

22 A. Yes.

23 Q. This MRSA abscess, from all the depositions you've
24 read and the medical records you've look at, and your
25 education, training and background, do you have an opinion

JURY TRIAL - VOL. 2

1 as to what things might have caused it? What was the
2 source or nidus or cause of this happening?

3 A. Sure. I'd say the most common cause in the hair or
4 head is an ingrown hair. It's the most common cause. So
5 a small ingrown hair. It might look like a pimple at
6 first and then gets that MRSA bacteria in there. If the
7 body can't really kill it on its own, then it gets walled
8 off. And if it's untreated for a prolonged period of
9 time, it can cause a very, very bad outcome where it eats
10 into the bone.

11 Q. Is there anything that the patient did that was her
12 fault to cause her to get this abscess?

13 A. No. These are --

14 MR. LINDEMANN: Objection, Your Honor. I don't
15 think he's qualified to answer that.

16 MR. HINSON IV: But he's already answered.

17 MR. LINDEMANN: He doesn't know what she did or
18 didn't do.

19 THE COURT: I don't know that he's reviewed --
20 what did he review again? Just summarize it for me.

21 MR. HINSON IV: He's reviewed all the deposition
22 transcripts in this case. He's reviewed the medical
23 records. Essentially, the medical records, all the
24 deposition transcripts, and the jail records. He --
25 I'll rephrase.

JURY TRIAL - VOL. 2

1 //

2 BY MR. HINSON IV:

3 Q. Have you seen anything that you would say the patient
4 herself caused this abscess?

5 A. Yeah. I can say in a general sense. I don't think
6 this location -- I don't see any reason to think it's
7 anything that she could have done to cause it.

8 Q. Okay. Besides a hair follicle, what are some other
9 possibilities.

10 A. It could be a bug bit, it could be a scrape, maybe a
11 little cut is a possibility. And some people maybe have a
12 blocked sweat gland or something like that. You just
13 never know sometimes. But they're very common.

14 Q. I'm going to give you another image here. This is
15 also from the MRI of June 3rd, 2019. This is axial image
16 19 of 26. So could you explain for us what we're talking
17 about when we say 19 of 26 -- and the one we just had
18 before was 17 of 26 -- what we're talking about?

19 A. Sure. You're coming up from the bottom, so you're
20 just a little further up on the head. And they'll start
21 the images -- they'll say, like, 1, 2, 3, 4, 5, 6, 7, 8,
22 9, 10 -- so we know where we are when we're looking on the
23 cuts.

24 Q. All right. And anything further that you can see in
25 this image?

JURY TRIAL - VOL. 2

1 A. Yeah. This image is a little -- it's a slightly
2 different variation where the fluid -- they've, I guess,
3 attenuated the image to where certain things stand out.
4 And I think you all can more likely than not see there's a
5 giant -- and I use the word "giant," but I mean -- I use
6 that. It's actually a medical term. We would say this is
7 a giant abscess. It's an epidural abscess inside through
8 the bone into the brain space. And you can see that
9 circle there that's a little darker. That is the actual
10 abscess stuff, like the bacteria, you know, your body's --
11 the white blood cells are trying to break it down, so all
12 of that pus, essentially is in there.

13 And what it's doing here, you can also tell, if you
14 look, there's all these nice -- we call them gyrations --
15 in the brain where the brain tissue, you know, it looks
16 kind of spongy, right? And there's areas of -- of fluid
17 in the brain between all the little areas of -- of tissue.
18 And this has grown into the brain and so it's pushed. you
19 can see it's kind of squished some of these little areas
20 where there should be fluid. and so it's actually pushing
21 brain tissue, it's so thick. It's pushing brain tissue
22 toward the other side of the brain.

23 Q. Is there a term for that in medicine?

24 A. We typically will call it a midline shift. And it's really
25 -- it can happen in other things. It can happen in, you

JURY TRIAL - VOL. 2

1 know, strokes with a brain bleed and stuff like that. And
2 it's very important, because if it goes over time, what
3 will happen is, it will keep pushing and it will push --
4 there's nowhere for things to go in the brain, right,
5 except for down the spinal cord. So sometimes it will
6 push the brainstem down the spinal cord and cause death.

7 Q. I'm going to show you just a couple of more. As a
8 matter of fact, I'll let you choose which ones -- which
9 ones you like best or do you want use both?

10 A. You're choice.

11 Q. All right. I'm just trying to get this jury out so
12 they can get to their families this evening. So we're
13 going to show 24 and 24 of the -- what's this -- corona.
14 And so, Doc, again, tell us what we're looking at there.

15 A. So in this one you can tell this is her right ear. So
16 you can kind of see we're looking -- as opposed to looking
17 up, now we're looking in. Like, if you were looking at my
18 head, you're kind of looking like that. And so, the same
19 thing. So here's the spinal cord like we talked about
20 down here. Neck, spinal cord, obviously the brain. The
21 bone is black here, and then the bone destruction is here.
22 The white stuff you see where there was bone is fluid.

23 So -- and then this little line is that little --
24 remember that little layer I was telling you about that
25 kind of surrounds the brain between the bone and the brain

JURY TRIAL - VOL. 2

1 called the dura? this is that. The dura has gotten
2 pushed in from this large abscess outside the head. It's
3 eaten through the bone and pushed into the brain and
4 thereby -- I think you can see it on this image.

5 Q. Dr. O'Bryan, this medical event that we're looking at
6 on these images, MRI and CT, are they something that would
7 take only a short time to develop from the start of an
8 absence to what we're looking at there?

9 A. This takes a prolonged period of time. You know, most
10 abscesses that you get you could pop them or drain them
11 pretty quickly and they'll never -- this will never
12 happen. This is very rare.

13 Q. In your career, have you ever seen anything quite like
14 this?

15 A. I'll say --

16 MR. LINDEMANN: Object to the form of the
17 question. I'm not sure that's relevant whether he's
18 ever seen this before.

19 THE COURT: I'll sustain that. Keep moving.

20 MR. HINSON IV: All right.

21 BY MR. HINSON IV:

22 Q. How long, to your estimate, would this -- well, let me
23 ask it this way. What we're looking at right now is an
24 MRI. Would that be this -- what we're seeing there in the
25 MRI, would it be visible if two people were standing -- if

JURY TRIAL - VOL. 2

1 -- if we were looking at the person who has that -- in
2 this case, of course, it's Cassi -- if we were looking at
3 that, would it be visible to us?

4 A. Yes. So this piece inside the skull would not, but
5 this piece you can see, as compared to the other side of
6 her head, protrudes way outside of even the ear.

7 Q. Would that hurt?

8 A. Yes. That would be extremely painful.

9 Q. What would you kind of generally estimate would it
10 hurt? What would it feel like?

11 A. Well, you know -- I mean, people -- people say they
12 want that like a hole in the head. I mean, it's literally
13 a hole in the head. I can't think of many things more
14 painful. I mean, how sensitive is your skull? You know,
15 if you nick your -- you know, if you nick -- get a nick in
16 your head and it bleeds, or if you get hit in the head. I
17 mean, it's incredibly painful. There's a lot of nerve
18 endings around the skull, tons of nerve -- and then, not
19 only that, and then you're penetrating into the brain
20 itself, which is the home of all the nerves.

21 So in this area of the brain, which is the parietal,
22 you're going to have -- it's where sensation comes in.
23 Like, your touch is there. If you had a stroke in this
24 area, you would have trouble with sensation, touch, things
25 like that. Also memory is there, partially. So you could

JURY TRIAL - VOL. 2

1 have problems with all those things.

2 Q. Thank you, Dr. O'Bryan. I'll let you take the stand
3 again. From -- well, the jury -- well, could you just
4 summarize for us the treatment that was necessary as a
5 result of this abscess that we've looked at in these
6 radiology images?

7 A. Sure. For this particular abscess, since it's eaten
8 through the skull and involves the brain, you're looking
9 at an emergent neurosurgical consultation, obviously,
10 admission to the hospital, imaging, IV antibiotics. The
11 first thing you do is get the antibiotics, get the surgeon
12 involved -- a neurosurgeon -- who would go in there.

13 And usually, they give you some antibiotics to let it
14 cool down a little bit, and then they go down in there and
15 drain all the infection, right? And then they have to
16 remove, typically, the area of the skull where it's all
17 kind of broken down and been eaten through, because that
18 infection then lives in the bone itself, so you have to
19 remove the piece of bone. And then, typically, what you
20 would do is maybe go back and later and put a plate in or
21 something like that.

22 MR. LINDEMANN: Your Honor, I believe the
23 question was what was done in her case, not typically
24 what's -- what's done.

25 THE COURT: Yeah. I think -- I think --

JURY TRIAL - VOL. 2

1 MR. LINDEMANN: I mean, that would be the only
2 thing that's relevant is what was done in her case.

3 THE COURT: -- done here. Okay. Let's -- we'll
4 confine it to what happened here.

5 MR. HINSON IV: All right, Your Honor. Your
6 Honor, may I approach the witness?

7 THE COURT: Sure.

8 BY MR. HINSON IV:

9 Q. Dr. O'Bryan, can you identify that document that I
10 just handed to you?

11 A. This is an operative report on Mrs. Rhoads.

12 Q. All right. And with this part of the materials you
13 reviewed in your preparation to come talk to the jury
14 today about Ms. Rhoads' injury?

15 A. Yes.

16 Q. All right.

17 MR. HINSON IV: The plaintiff would move that as
18 the next exhibit numerically.

19 (Plaintiff's Exhibit 9 was offered for
20 admission into evidence.)

21 MR. LINDEMANN: I beg the Court's indulgence.
22 No objection, Your Honor.

23 THE COURT: I think it will be Exhibit 9. It
24 will be marked as Exhibit 9 and it will be admitted
25 without objection.

JURY TRIAL - VOL. 2

1 (Plaintiff's Exhibit 9 was admitted into
2 evidence.)

3 MR. HINSON IV: Thank you, Your Honor.

4 THE COURT: Hang on. Just let Lakesha get it.

5 BY MR. HINSON IV:

6 Q. Dr. O'Bryan, what -- what's the name of the procedure
7 that Ms. Rhoads required?

8 A. She had a right parietal craniectomy for abscess.

9 Q. And could you just briefly describe what they did,
10 what -- what the surgical team had to do to address this
11 abscess on the side of her head?

12 A. Sure. Essentially, they put a large incision through
13 the skin around where the abscess was over -- over the
14 parietal area. And that's just the region of the -- of
15 the head. Typically -- well, I should say in this case,
16 it was in a semicircular fashion. Went in, drained the
17 abscess itself, evacuated the contents of the abscess --
18 excuse me -- maybe under suction. Went into the epidural
19 space, also got the abscess out of there, that piece that
20 was kind of pushing into the brain, and then removed all
21 the skull around that area, and took a margin of skull
22 that was not actively infected as well to make sure there
23 was no infection tracking over.

24 MR. HINSON IV: May I approach, Your Honor?

25 THE COURT: Yes, sir.

JURY TRIAL - VOL. 2

1 BY MR. HINSON IV:

2 Q. Dr. O'Bryan, I'm going to show you two images that
3 were done on a CT post surgery. Could you identify what
4 we're looking at there?

5 A. Yes. This is a CT scan done on -- let's see -- it
6 looks like 18th of October, and this is another CT scan,
7 not dissimilar to the one we looked at first. But in this
8 one, the surgery has been done and you can see that white
9 line represents bone. And where there's no white line,
10 there's no bone. So that's the skull that was taken out.

11 MR. HINSON IV: The plaintiff would move those
12 two photographs from the medical record in as
13 Plaintiff's Exhibit 10-A and B.

14 (Plaintiff's Exhibits 10-A and 10-B were
15 offered for admission into evidence.)

16 MR. LINDEMANN: No objection.

17 THE COURT: And that's without objection? Okay,
18 without objection.

19 (Plaintiff's Exhibits 10-A and 10-B were
20 admitted into evidence.)

21 BY MR. HINSON IV:

22 Q. So, Dr. O'Bryan, I think we'll --

23 MR. MCLAUGHLIN: Wait, wait, wait.

24 THE COURT REPORTER: Just a minute.

25 MR. HINSON IV: -- I'm so sorry. Ms. Davis, I

JURY TRIAL - VOL. 2

1 apologize. I'm so sorry.

2 THE COURT REPORTER: It's okay.

3 //

4 BY MR. HINSON IV:

5 Q. And, Dr. O'Bryan, I think we can try and move as
6 quickly as I can because I know -- all right. Is today
7 something special for you?

8 A. Oh, yeah. Today is my birthday. You know, we can
9 sing after.

10 Q. I want to try to get you back to your family and these
11 folks back to theirs. And so tell us, for this, what we
12 just moved in as Exhibit 10, what -- what are we looking
13 at here, from here to here?

14 A. So just, essentially, the white is bone, the -- the
15 dark is where bone used to be.

16 Q. How big is the hole in Ms. Rhoads' skull today?

17 A. It looks like to be specific, it's a minimum of 9 by
18 5 centimeters, which roughly is -- oh, here's a ruler.

19 Q. Could you show us what we're talking about, the size
20 of the hole?

21 A. So at a minimum -- oh, sorry -- roughly this big by
22 roughly this -- I mean, essentially, it's basically the
23 size of my fist. That's -- that's the hole, because it's
24 -- it's not in one dimension, of course, right? It's a
25 circle, so...

JURY TRIAL - VOL. 2

1 Q. And, Dr. O'Bryan, could you identify what we're
2 looking at there?

3 A. This is a bill from Aiken Medical Center.

4 Q. On what are -- does this -- does this bill relate to
5 the treatment that occurred in early --

6 MR. LINDEMANN: Your Honor, I don't know that he
7 can lay a foundation as to the bill from Aiken
8 Regional Medical Center. I mean, I'm not raising an
9 authenticity argument, I'm just -- he wasn't the
10 treating physician. He wasn't the one who did this
11 work. He's not the one who made the charges. I'm not
12 certain how he's qualified to offer opinions on this.

13 MR. HINSON IV: Your Honor, I intend to have him
14 testify that the -- the treatment related to this bill
15 was reasonably necessary as a result of this abscess.
16 I think a physician is the perfectly appropriate
17 person to say in these -- these treatments and the
18 charges related thereto relate to -- to this abscess.

19 MR. LINDEMANN: He may certainly be able to
20 testify as to what is reasonable care that is needed,
21 but as far as the charges go, Your Honor --

22 THE COURT: Right. The charge can go in another
23 way.

24 MR. LINDEMANN: -- he had nothing to do with
25 that.

JURY TRIAL - VOL. 2

1 THE COURT: I think he's right. So as to
2 reasonable and necessary, sure.

3 MR. HINSON IV: Okay. So --

4 THE COURT: But your client can say as much.

5 MR. HINSON IV: We can accomplish that through
6 her.

7 BY MR. HINSON IV:

8 Q. Dr. O'Bryan, the services that are listed on this
9 document, do they relate to the care of this abscess that
10 we're looking out on these CTs?

11 A. Yes.

12 Q. Were -- was that care reasonable and necessary to
13 address -- the care itself, not the charges -- was it
14 reasonable and necessary to address this abscess?

15 A. Yes.

16 Q. And, Dr. O'Bryan, earlier, you talked about the way
17 the abscess can be addressed, medically treated, if caught
18 timely. Would all these treatments have been necessary
19 had this abscess been caught in a timely manner?

20 A. No.

21 Q. From your experience as a physician, what would be the
22 approximation of what the medical bill would have been to
23 perform an abscess and drain -- or a drainage like you
24 discussed earlier?

25 A. Sure. The average emergency department bill for an

JURY TRIAL - VOL. 2

1 incision and drainage of an abscess is right around \$300.

2 Q. Okay. Doctor --

3 MR. LINDEMANN: Your Honor, I don't believe he's
4 qualified to answer that. I mean, again, that's an
5 Aiken County. I mean, he's just saying general.

6 THE COURT: I think -- think it's allowed. He's
7 worked in the emergency department, primarily, and
8 still does, so I'm going to allow that.

9 MR. HINSON IV: Thank you.

10 THE COURT: It's just an estimate.

11 BY MR. HINSON IV:

12 Q. Dr. O'Bryan, I'm going to show you a calendar from May
13 of 2019, and I have it right here. You may see there's
14 the 1st of June and the 2nd of June. This is kind of a
15 little funny calendar, admittedly. It's not what you
16 usually see. June 2nd, that's the day Mr. Rhoads went to
17 the hospital; correct?

18 A. Correct.

19 Q. At what point, from your view of all the materials,
20 did this abscess more likely than not, to a reasonable
21 degree of medical certainty, become so large and so
22 invasive that all that medical treatment would have still
23 been necessary? Phrased another way, had it been caught,
24 at what point would the -- the more minor procedure you
25 just discussed have been the appropriate care?

JURY TRIAL - VOL. 2

1 A. So what you look for is to make sure it doesn't get
2 through the skull into the brain. And should it not, you
3 can treat with IV antibiotics and a simple incision and
4 drainage. Typically, I think in this scenario, probably
5 the 28th-ish would be a good marker.

6 Q. Okay. So in other words, had she been provided the
7 care you just discussed with the incision and drainage and
8 some antibiotics on the 28th, the care we're looking at on
9 that medical bill, that care wouldn't have been necessary?

10 A. A different care wouldn't have been necessary.

11 Q. A lesser or greater care, had it been treated on the
12 28th?

13 A. Lesser.

14 Q. How much lesser?

15 MR. LINDEMANN: Your Honor, again, I think he's
16 asking --

17 MR. HINSON IV: I'll withdraw that.

18 THE COURT: Fair enough. It's withdrawn.

19 BY MR. HINSON IV:

20 Q. Just a couple more questions for you, Dr. O'Bryan. We
21 -- have you looked at some graphics, some medical
22 illustrations that would assist this jury in better
23 explaining or better showing this epidural -- or this
24 abscess on the side of her head?

25 A. Yes.

JURY TRIAL - VOL. 2

1 MR. LINDEMANN: Your Honor, none of this was
2 produced. In fact, can we have a sidebar real quick?

3 THE COURT: Yes, come on up.

4 (Sidebar off the record.)

5 MR. HINSON IV: Thank you, Your Honor.

6 BY MR. HINSON IV:

7 Q. Very briefly, Dr. O'Bryan. This medical illustration,
8 tell us what we're looking at.

9 A. Yes. Same -- same type image of the brain, but in
10 illustrative format. And essentially, the green is the
11 pus. You can see that. And part of the pus goes into the
12 brain. That's the epidural abscess. And the brain --
13 excuse me, the brain cavity area. And then the other pus
14 on the outside is the abscess that started outside and
15 then eventually ate through the skull and worked its way
16 inside.

17 Q. Is the abscess that we're looking out on that image
18 something that would have been developing for weeks?

19 A. Yes.

20 MR. HINSON IV: No further questions at this
21 time, Your Honor.

22 THE COURT: All right.

23 MR. LINDEMANN: And, Your Honor, as far as the
24 logistics go, if he's not available tomorrow, I mean,
25 it's about 20 to 6:00.

Edward O'Bryan, M.D. - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 2

1 THE COURT: How long are you going to be?

2 MR. LINDEMANN: I don't know, but I feel like
3 I'm at a little bit of a disadvantage, and I certainly
4 don't want to keep the jury here unnecessarily.

5 THE COURT: I don't either. And he's not
6 available tomorrow?

7 MR. HINSON IV: Your Honor, we thought we'd go
8 put him -- put him up in the a.m., in fact, and I
9 apologize. We tried to work with Mr. Buchanan, who
10 had to go on vacation and -- and --

11 THE COURT: Yeah, I understand. I understand,
12 and all those other things we dealt with. All right.
13 Folks, can you all tolerate 20, 25 minutes to get this
14 done? All right. We're in it together. Go ahead.

15 MR. LINDEMANN: All right. Thank you, Your
16 Honor.

17 CROSS-EXAMINATION

18 BY MR. LINDEMANN:

19 Q. Dr. Bryan, I'm going to try to -- O'Bryan, excuse
20 me -- I'm going to try to make it quick for everybody's
21 sake because it's been a long day. And in this particular
22 case, you were not retained to offer any type of opinions
23 against my client, the Aiken County Sheriff's Office, were
24 you?

25 A. Correct.

JURY TRIAL - VOL. 2

1 Q. You were hired to offer opinions against Southern
2 Health Partners; correct?

3 A. Correct.

4 Q. All right. And when you did your report in this case,
5 Southern Health Partners was a defendant in the case;
6 correct?

7 A. Yes.

8 Q. And I know you testified earlier that you didn't think
9 Wellpath was a competitor of Southern Health Partners, but
10 you -- certainly both companies did the same work;
11 correct?

12 A. Yes, both correctional healthcare.

13 Q. All right. And you still do the same?

14 A. Yes.

15 Q. And you have since left Wellpath?

16 A. Correct.

17 Q. And what was the reason for you leaving Wellpath?

18 A. I wanted to pursue some different career
19 opportunities.

20 Q. Again, when you did your report in this case, you
21 we're actually working for Wellpath, a competitor of
22 Southern Health Partners?

23 A. Potentially. Actually, I'm not sure. I don't think I
24 was, actually, but I can look back. But...

25 Q. Well, the CV you produced certainly indicated -- and

JURY TRIAL - VOL. 2

1 I'm happy to show you the first page of it in one second.

2 A. Do you know the dates that the CV came through?

3 Q. Well, we asked that earlier and --

4 A. Yeah, I don't know.

5 Q. -- you don't date these things. But it said 2020 to
6 present, does it not?

7 A. Correct. But I'm not sure that was -- I thought I was
8 working for Wellpath at the time.

9 Q. And in your deposition, I specifically asked you if
10 you were going offer any opinions regarding the
11 correctional staff at the Aiken County Sheriff's Office
12 and you told me you were not; correct?

13 A. Correct.

14 Q. Now obviously, Dr. O'Bryan, when you did your report,
15 your report was directed against Southern Health Partners;
16 correct?

17 A. Well, I think my report -- I don't know if they were
18 directed against this -- I'm not really sure how to
19 interpret that. But my report, essentially, spoke to
20 Southern Health Partners issues of medical malpractice in
21 conjugation with the overall system whereby correctional
22 officers and Southern Health Partners, the vendor, worked
23 together to try to deliver the best care to the patients.

24 Q. And you offered opinions in that case that it was
25 Southern Health Partners acts or omissions that caused

Edward O'Bryan, M.D. - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 2

1 injury to Ms. Rhoads; correct?

2 A. Yes. Southern Health Partners certainly, in my
3 opinion, is guilty of medical malpractice.

4 Q. All right. And in that same report and in your same
5 testimony previously in this litigation, you offered no
6 such opinions about the Aiken County Sheriff's Office;
7 correct?

8 A. I don't recall what I said in my deposition, but I
9 don't recall -- oh, in written statement, you mean?

10 Q. Well, let me -- let me ask you this. Page 17 -- this
11 is a copy of you report that you did?

12 A. Yes, sir.

13 Q. Read to the jury what the -- the caption is for Item
14 No. 3 on page 17.

15 A. The underlined part?

16 Q. Yeah --

17 A. Okay.

18 Q. -- all of the underlined part.

19 A. "The medical defendant's errors and omissions caused
20 injury and damages to Mr. Rhoads."

21 Q. All right. It didn't say anything about the Aiken
22 County Sheriff's Office, did it?

23 A. Correct.

24 Q. You have come in here today and offered opinions
25 regarding Ms. Rhoads' medical care that she received at

JURY TRIAL - VOL. 2

- 1 the Aiken Regional Medical Center; correct?
- 2 A. Yes.
- 3 Q. And you were not her treating physician there; right?
- 4 A. Correct.
- 5 Q. In fact, you've never been her treating physician?
- 6 A. Correct.
- 7 Q. You're a hired expert?
- 8 A. Correct.
- 9 Q. And you're paid for your testimony?
- 10 A. Well, I'm not technically paid, no, but I'm here
- 11 giving testimony.
- 12 Q. Is it your testimony you're not charging an hourly
- 13 rate for your testimony?
- 14 A. No. They're making a donation to a nonprofit.
- 15 Q. Your -- well, in your report, you indicated you're
- 16 charging \$400 an hour; correct?
- 17 A. But that will go to a -- it's just a donation, so.
- 18 But it's been a long day. I feel like I should take some,
- 19 but I'm still going to give it to the nonprofit.
- 20 Q. It doesn't say that in your report.
- 21 A. Right. I don't know what it says, but I'm telling you
- 22 the truth right now.
- 23 MR. LINDEMANN: I beg the Court's indulgence.
- 24 BY MR. LINDEMANN:
- 25 Q. If you would, read to the jury where it says "fee

Edward O'Bryan, M.D. - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 2

1 structure and compensation."

2 A. So fee structure and compensation. Oh, this is my
3 original report in 2022.

4 Q. But there's only been one report you've done; correct?

5 A. Correct. "Providing testimony by deposition or a
6 trial at the rate of \$400 an hour."

7 Q. I want you to read the whole sentence the way you
8 wrote it.

9 A. "My compensation to be paid for my time spent working
10 on' -- oops, I had a typo -- 'spent working on this case,
11 including the review of medical records, deposition
12 transcripts, other materials, as well as providing
13 testimony by deposition or at trial is at the rate of 400
14 an hour."

15 Q. All right. So it says nothing about contributions to
16 charity, does it?

17 A. No. Sometimes cases are bad enough to where it just
18 isn't right to take the money. I've seen something like
19 this in Africa, but never here in the United States. And
20 so of times like this, I feel like I should give the money
21 to charity, and that's what I do.

22 Q. So, Dr. O'Bryan so we just established, obviously, you
23 weren't the -- the treating physician, yet you're
24 testifying about the medical care that was provided to at
25 Aiken Regional; correct?

Edward O'Bryan, M.D. - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 2

1 A. The care at Aiken Regional was excellent, correct.

2 Q. And the -- the actual neurosurgeon who did the
3 operation is Dr. James Dillon; correct?

4 A. Yes.

5 Q. Do you have reason -- understanding as to why you're
6 testified as to Dr. Dillon's care as opposed to him
7 testifying himself for this?

8 A. I'm summarizing what happened to the patient. I'm not
9 testifying to his medical care, whether it was relevant or
10 appropriate or not.

11 Q. Well, weren't you offering opinions as to the medical
12 care that he provided?

13 A. Yes.

14 Q. Including testifying as to his operative note?

15 A. I was testifying -- well, I read what the operative
16 was. I didn't testify to the quality of the operation.

17 Q. Well, I'm not challenging the quality. I'm asking
18 you, are you testifying as to what Dr. Dillon did in his
19 stead instead of his him testifying here?

20 A. I'm reading this report.

21 Q. Okay. Which is ultimately what we've done here is
22 you've interpreted his report as opposed to him
23 interpreting his report?

24 A. Yeah, and that's common for experts to do in a medical
25 practice.

Edward O'Bryan, M.D. - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 2

1 Q. You're not testifying as a medical expert in a medical
2 malpractice case either, though, are you?

3 A. No, in medical practice in general. Like we -- you
4 know, you get referred to a subspecialist. Every
5 doctor reads the report of every subspecialist, hopefully,
6 that you get referred to. And so that's our jobs, is
7 reading other doctors' reports all day long.

8 Q. All right. Dr. O'Bryan, you testified earlier that
9 the -- the bill that was showed to you from Aiken Regional
10 Medical Center, that all of the care that was provided
11 there was reasonable and necessary. Is that your
12 testimony?

13 A. Yes.

14 Q. All right. And you didn't put together that bill, did
15 you?

16 A. No.

17 Q. And you have no knowledge as to what those billable
18 amounts were, those came from Aiken Regional Medical
19 Center, did they not?

20 A. I mean, I have -- I have knowledge of what -- of
21 medical billing, but I didn't put this bill --

22 Q. Well, that wasn't my question. My question is, you
23 didn't have any knowledge, anything to do with this bill
24 itself, did you?

25 A. No. And your second question was, do I have knowledge

JURY TRIAL - VOL. 2

1 about medical billing, and the answer is yes.

2 Q. All right. That wasn't the second part of my
3 question, but that's fine. Now, as far as the different
4 elements of this particular bill, so your testimony to the
5 jury is based on simply the statements where it says, for
6 instance, anesthesia, ultrasound, physical therapy.
7 You're suggesting to this jury that just based on
8 information, you can testify it's reasonable and
9 necessary?

10 A. Yes.

11 Q. All right. Now, the normal course of care for someone
12 like Mr. Rhoads is to have surgery and then ultimately to
13 do the post surgery antibiotic care outside the hospital
14 setting; correct?

15 A. Well, typically, you would have -- the antibiotics
16 would be done in the hospital in their IV until you feel
17 like you've cleared the infection a significant enough
18 amount to transition to pills, and then you could take the
19 pills home is the best -- the best -- way to do it.

20 Q. And typically, someone is not in the hospital for six
21 weeks, are they, for this surgery?

22 A. That depends. I mean, we've definitely had people in
23 the hospital for that long.

24 Q. Well, let me ask you this. They were looking to
25 discharge Ms. Rhoads on -- in fact, let me make sure I

JURY TRIAL - VOL. 2

1 have the -- the right date. You're familiar with the --
2 the records from Aiken Regional Medical Center, are you
3 not?

4 A. Yes.

5 Q. All right. And they did a discharge plan for her
6 on -- I beg the Court's indulgence -- on June
7 17th; correct?

8 A. As far as I can recall.

9 Q. All right. And that discharge plan was for her to,
10 like normal patients, to be able to do the antibiotic, the
11 postsurgical antibiotic therapy from that point on from
12 home; correct?

13 A. The document is a little -- I don't remember. There's
14 about a thousand pages in the Aiken record. If you want
15 to show it to me, that's fine, but otherwise I don't --

16 Q. You're telling this jury that you've looked at
17 everything the billing is all reasonable and necessary;
18 correct?

19 A. Which is very different then you asking me if I
20 remember one sentence out of 1,000 pages.

21 Q. All right. Do you know when she actually was
22 discharged from the hospital?

23 A. I can't remember the day.

24 Q. Do you know what were the circumstances of her
25 discharge from the hospital?

Edward O'Bryan, M.D. - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 2

1 A. I think I recall some circumstances surrounding her
2 discharge.

3 Q. And what were those circumstances?

4 MR. HINSON IV: Objection, Your Honor. Can we
5 approach?

6 THE COURT: I think that will be sustained.
7 That's not relevant.

8 MR. HINSON IV: All right.

9 MR. LINDEMANN: Your Honor, I'm not
10 understanding your ruling on that.

11 THE COURT: I think that question is the
12 pretrial matter we took up, and I'm going to sustain
13 his objection as it not being relevant.

14 MR. HINSON IV: Thank you, Your Honor.

15 MR. LINDEMANN: All right. I apologize, Your
16 Honor. I don't recall that being your ruling on that
17 particular issue.

18 THE COURT: It was a motion in limine. I didn't
19 rule until I got into the flow of the case. That's
20 what I -- we discussed pretrial.

21 MR. LINDEMANN: All right. Thank you, Your
22 Honor.

23 BY MR. LINDEMANN:

24 Q. So ultimately, they looked into discharging her, but
25 they couldn't discharge her home because of her history of

Edward O'Bryan, M.D. - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 2

1 intravenous drug use; correct?

2 A. I don't -- I don't recall that part.

3 MR. HINSON IV: Same objection.

4 MR. LINDEMANN: Well, Your Honor, that's
5 mitigation for why she was in the hospital as long as
6 she was.

7 THE COURT: All right. You all come over here
8 real quick.

9 (Sidebar off the record.)

10 MR. HINSON IV: Thank you, Your Honor.

11 MR. LINDEMANN: Thank you, Your Honor.

12 BY MR. LINDEMANN:

13 Q. Dr. O'Bryan, so do you recall in the records, as far
14 as discharge plan, that there was a recognition that
15 because of Ms. Rhoads history of IV drug use that the home
16 IV therapy -- the IV therapy was the antibiotic therapy at
17 home; right?

18 A. Right.

19 Q. That that couldn't be at home because of her history?

20 A. If you can show me. I mean, I...

21 Q. It's the note at the bottom.

22 A. Yeah. It says -- let's see here. This is a social
23 work note inquiring as to how long the patient will need
24 IV therapy. And it says cannot -- quoting -- "Home IV --

25 THE COURT: That's -- he didn't ask you to

Edward O'Bryan, M.D. - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 2

1 publish it to the jury, he's just asking you a
2 question.

3 THE WITNESS: I'm sorry.

4 BY MR. LINDEMANN:

5 Q. What I have asked you is correct, she had a history of
6 IV drug use; correct?

7 A. Correct.

8 Q. And it says, "Therefore, social worker cannot
9 coordinate home IV therapy;" correct?

10 A. Yeah. Many home IV therapy companies don't do
11 long-term IV antibiotics to people with a history of drug
12 use.

13 Q. And it says, "Patient openly admits that IV therapy at
14 home would be a temptation to her."

15 A. That's great. That's -- I'm glad she admitted that.

16 Q. All right.

17 A. Some don't.

18 Q. That's what it says, does it not?

19 A. That's awesome. It shows a lot of insight.

20 Q. But that's what it says; correct?

21 A. Yes.

22 Q. All right. And that's the report from Aiken Regional
23 Medical Center; correct?

24 A. Yes.

25 Q. And as a result of that, instead of going home and not

JURY TRIAL - VOL. 2

1 incurring a hospital bed on June 20th -- or, I'm sorry,
2 June 17th -- she continued to have to stay in the hospital
3 until she left simply to receive her IV therapy; correct?

4 A. I believe she was transitioned -- you can look in the
5 bill -- but to a status called "bedded outpatient" where
6 she's just billed for the IV therapy in a similar fashion
7 to whether she was -- if she would have been a patient at
8 home getting the home IV therapy.

9 Q. And usually, that's reflected on this -- on this bill?

10 A. I believe I saw later in the note. And you can feel
11 free to look through all the records.

12 Q. Well, can you point me to what you're referring to --

13 A. I can't.

14 Q. -- instead of speculating?

15 A. No, I can't. But -- and I'll say this -- and it's
16 also very common what we do -- is we don't like to bill
17 people for acute inpatient beds when they're not getting
18 acute inpatient services, so we will switch them to
19 something called "bedded outpatient" where they're in a
20 bed, but they're getting, basically, outpatient level of
21 care.

22 Q. But you don't -- and you're saying typically. You
23 don't know whether or not that was done by Aiken Regional
24 Medical Center, do you?

25 A. Well, I would argue you don't know it wasn't. So I'm

Edward O'Bryan, M.D. - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 2

1 telling you what's -- and my opinion is probably a little
2 more weighty, because I see it done a lot. I don't know
3 that...

4 Q. And so your testimony is, she was not charged for a
5 hospital room for the entire time that she was there?

6 That's your testimony?

7 A. My testimony is what's common is --

8 Q. Yeah, your testimony is what's common --

9 A. -- right.

10 Q. -- but how is it in this case?

11 A. Yeah. And what I thought I saw later in the case was
12 that -- I think her bill would be a lot higher if she were
13 charged for an acute hospital bed every single day for
14 that amount of time. But like I say, that's just what I
15 think I saw later on, but I can't point to the specs.

16 Q. You can't tell me what you saw?

17 A. No, not the specs.

18 Q. And when did she -- when did she leave the hospital?

19 A. I don't remember the discharge date.

20 MR. LINDEMANN: I beg the Court's indulgence.

21 I'm going to eliminate some things. No -- no further
22 questions, Your Honor. Thank you.

23 REDIRECT EXAMINATION

24 BY MR. HINSON IV:

25 Q. Dr. O'Bryan, if Ms. Rhoads had been taken to a medical

Edward O'Bryan, M.D. - Redirect Examination by Mr. Hinson

JURY TRIAL - VOL. 2

1 center, like Aiken Regional, to address her abscess, be it
2 by guards, nurses, whoever it may be on at least the
3 28th of May or earlier, would the vast majority of this
4 medical treatment have not been necessary?

5 A. Yes.

6 Q. No further questions.

7 THE COURT: All right. You may step down. All
8 right, folks, we're done for the day. I'd like to
9 start back tomorrow at 9:30. Remember, you can't
10 discuss the case among yourselves, at home with
11 anybody. If somebody asks you what's going on, the
12 judge says I can't talk about the case and we'll leave
13 it at that. We'll see you in the morning.

14 (The jury exited the courtroom.)

15 THE COURT: All right. The jury is out of the
16 room. Anything before we see you in the morning at
17 9:30?

18 MR. HINSON IV: Nothing from the plaintiff, Your
19 Honor.

20 MR. LINDEMANN: Nothing from the defense, Your
21 Honor.

22 THE COURT: Just an observation, I was watching
23 the jurors. They are not excited. See you all in the
24 morning.

25 (The proceedings were adjourned until 9:30)

JURY TRIAL - VOL. 2

a.m., October 11, 2023.)

1 CERTIFICATE OF TRANSCRIBER

2
3 I, Sandra J. Early, a court-approved
4 transcriber, do hereby certify that I transcribed the
5 electronic recording of the foregoing proceedings in
6 Docket No. 2020-CP-02-02238 held on October 10, 2023,
7 before the Honorable Eugene Griffith, and that said
8 transcript is true and correct, all to the best of my
9 knowledge and ability.

10 I further certify that I am not related to nor
11 the employee of any of the parties hereto, nor related
12 to or employed by any attorney or counsel employed by
13 the parties hereto, nor interested in the outcome of
14 this action.

15
16
17
18 April 25, 2024

19 *Sandra J. Early*
20

21 Sandra J. Early

22 Transcriber
23
24
25

1 STATE OF SOUTH CAROLINA) IN THE 2ND CIRCUIT COURT
2 COUNTY OF AIKEN) DOCKET NO.: 2020-CP-02-02238
3

4 -----
5 CASSIOPIA RHOADS,)
6)
7 Plaintiff,)
8)
9 versus)
10)
11 AIKEN COUNTY SHERIFF'S OFFICE,)
12)
13 Defendant.)
14 -----

15
16 J U R Y T R I A L

17 VOLUME NO. 3
18

19
20
21 DATE: October 11, 2023
22 TIME: 9:50 a.m. to 4:56 p.m.
23 LOCATION: South Carolina Circuit Court No. 2
24 JUDGE: Eugene Griffith, Jr.
25 TRANSCRIBED BY: Sandra J. Early

LEGAL EAGLE

Post Office Box 5682
Greenville, South Carolina 29606
(864) 467-1373
depos@legaleagleinc.com

A P P E A R A N C E S

FOR THE PLAINTIFF, CASSIOPIA RHOADS:

FRANCIS M. HINSON IV, ESQUIRE
HHP Law Group, LLC
942 Gervais Street
Columbia, South Carolina 29205
Phone: (803) 400-8277
E-mail: brink@hhplawgroup.com

PATRICK J. MCLAUGHLIN, ESQUIRE
Wukela Law Office
P.O. Box 13057
Florence, South Carolina 29504
Phone: (843) 669-5634

FOR THE DEFENDANT, AIKEN COUNTY SHERIFF'S OFFICE:

ANDREW LINDEMANN, ESQUIRE
P.O. Box 6923
Columbia, South Carolina 29260
Phone: (803) 881-8920
E-mail: andrew@ldlawsc.com

I N D E X

Proceedings.....	5
Certificate of Transcriber.....	242

<u>WITNESSES:</u>	<u>DX</u>	<u>CX</u>	<u>RDX</u>	<u>RCX</u>
Quereyanna Lincoln	25	28		
Carla Hill	41	56	78	
Kimberly Kelley	87	101	125	
Cassiopia Rhoads	138	150	169	171

E X H I B I T S

<u>Plaintiff's:</u>	<u>Off/Mvd</u>	<u>Admitted</u>
11 - Blank calendar, May 2019	8	8
12 - Photo of plaintiff in hospital, post-op	98	99
*12 - Inmate health assessment form	145	146
*13 - Photo of plaintiff in hospital, post-op	145	146
*14 - Photo of plaintiff with her grandfather	145	146
*15 - Medical bill	146	147

(*Mis-numbered exhibits.)

E X H I B I T S (Cont'd.)

<u>Defendant's:</u>	<u>Offered</u>	<u>Admitted</u>
2 - Logbook entry, night shift, 5/31/2019	77	77
3 - Logbook entry, 5/19/2019	107	107
4 - Logbook entry, 5/23/2019	117	118
5 - Logbook entry, 6/1/2019	118	118
6 - Inmates Rules and Regulations sheet		158

(Exhibits retained by counsel.)

(THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL.
SUCH MATERIAL IS REPRODUCED AS READ OR QUOTED BY
THE SPEAKER.)

JURY TRIAL - VOL. 3

1 MR. HINSON IV: Your Honor, yesterday, in
2 cross-examination, Mr. Lindemann made the comment or
3 asked a question that involved the word "settlement,"
4 and it was something to the effect of, you know, you
5 were aware there's been a settlement with Southern
6 Health Partners, the medical provider at the jail.
7 And, Your Honor, we just think it inappropriate to
8 talk about a settlement. It invites the jury to
9 speculate about how much money my client may have
10 already received. We have to -- we recognize that the
11 jury has heard that, you know, Southern Health
12 Partners was a party and that there was a claim
13 against Southern Health Partners. But to talk about
14 and use this word "settlement" or imply that there has
15 already been money received we think is inappropriate.

16 To the degree the cat is already out of the bag,
17 though, Your Honor, we would just ask that it be
18 halted. Let's put the brakes on that at this point.
19 I did not stand up and object at the time because it
20 would have only highlighted the issue in front the
21 jury.

22 THE COURT: Okay.

23 MR. HINSON IV: I'm not asking for mistrial, I'm
24 just asking you to put the brakes on it.

25 MR. LINDEMANN: All right. First of all, Your

JURY TRIAL - VOL. 3

1 Honor, I do not recall using -- using that term. I
2 brought up the fact with Dr. O'Bryan, and that was
3 based on Your Honor's ruling in limine before Dr.
4 O'Bryan testified that I could address with him the
5 fact the Southern Health Partners had been previously
6 part of this case. I mean, if that came out --

7 THE COURT: You said something to the extent --
8 and I looked at Mr. Hinson and he -- I could see him
9 leaning a little bit up, and you kept right on going
10 and he just backed away. I watched his body language.
11 He about stood up.

12 MR. LINDEMANN: Okay.

13 THE COURT: So you said something that made him
14 almost stand up.

15 MR. LINDEMANN: All right.

16 THE COURT: And -- and there wasn't an objection
17 made. We moved forward. Let's just go forward with
18 don't mention the settlement that they're not --
19 they're there not here.

20 MR. LINDEMANN: That's right. And, Your Honor,
21 at some point, you know, I was -- I was going to
22 address this issue with the Court, because I do
23 believe it's appropriate -- and we don't necessarily
24 need to do it now, but before it goes to the jury --
25 to give the jury an instruction, not of the amount,

JURY TRIAL - VOL. 3

1 obviously, that was settled. But I think is
2 appropriate for them to learn and not be speculating
3 as to why they're not here. And I -- I do think that
4 that is an appropriate explanation for the Court to be
5 able to provide, again, obviously, using judicial
6 notice. But again, I wasn't planning on making that
7 argument the first thing this morning, but it's
8 something to -- to bear in mind.

9 THE COURT: Okay. Well, let's -- let's steer
10 clear of a resolution or a settlement for the next --
11 until we get to that point in the trial.

12 MR. LINDEMANN: That will be fine, Your Honor.

13 MR. HINSON IV: Thank you, Your Honor. Just
14 another little housekeeping matter so I don't forget
15 and the jury is back and it's too late. We have a --
16 just a calendar from May of 2019. And obviously,
17 dates when things happened, how long she looked bad,
18 when she went -- when she was booked, et cetera, is
19 important in this case. And we would ask -- and I
20 don't know exactly what -- if we can enter this into
21 stipulated buy -- stipulation just so the jury back
22 there can -- can look at these dates and --

23 MR. LINDEMANN: I have no problems with that,
24 Your Honor.

25 MR. HINSON IV: Okay.

JURY TRIAL - VOL. 3

1 THE COURT: Yeah. It's just a blank calendar?

2 MR. LINDEMANN: It's just a blank calendar.

3 MR. HINSON IV: Just -- just a blank calendar,
4 yeah. So we would enter this as whatever the next
5 number is. It's just one of them. I don't need to
6 introduce six of them or 12 or the whole year of 2019.

7 THE COURT REPORTER: That will be 11.

8 MR. HINSON IV: Thank you.

9 (Plaintiff's Exhibit 11 was offered and
10 admitted into evidence.)

11 MR. HINSON IV: And, Your Honor, we filed two
12 briefs yesterday regarding a couple of issues.

13 MR. MCCLAUGHLIN: It was more like late last
14 night or early this morning.

15 MR. HINSON IV: A lot of caffeine on this side.
16 But, Your Honor, this issue with the minimum standards
17 keeps coming up. And yesterday, I believe Mr.
18 Lindemann said that they didn't have -- that they
19 hadn't been adopted by the legislature. And let me
20 hand this up, Your Honor. This is the -- the briefs
21 that were filed last -- last night or early this
22 morning. As an initial matter --

23 THE COURT: All right. Now, I'm going to say
24 this in jest, but I want this on the record. It was a
25 late night and you all were working, and the caption

JURY TRIAL - VOL. 3

1 on you all's memorandum is to Eugene C. Griffith
2 Junior, Defendant, and it's count -- that's hilarious.

3 MR. HINSON IV: To -- to his honor and the
4 plaintiffs and counsel, is how it was intended.

5 THE COURT: Okay. All right. Now --

6 MR. MCLAUGHLIN: It was not alcohol induced.

7 MR. HINSON IV: Man, Your Honor, I want the
8 record to reflect that Mr. McLaughlin hands that to me
9 and I just signed it filed it.

10 THE COURT: Okay. All right. I find that
11 amusing. So now, go ahead with your argument. I
12 understand what you were doing.

13 MR. HINSON IV: Yes. Thank you, Your Honor. So
14 the Myrtle Beach case is what he cited from 1998.
15 After 1998, in 2010, Statute 24-9-30 was amended, and
16 that created a statutory authority for the minimum
17 standards. And the minimum standards themselves
18 address that in kind of their preamble. The 24-9-30
19 is how they have been, essentially, adopted into law.
20 Regardless, Your Honor, of whether or not they have
21 been adopted into law, they are still the internal
22 rules that a local detention center has to follow.
23 Caldwell v. Kmart, that's the 306 S.C. 2007 -- that's
24 a 1991 case -- "Holds the defendant's violation of its
25 own internal policies and procedures can be offered as

JURY TRIAL - VOL. 3

1 evidence intending to show negligence." Madison v.
2 Babcock Center, a 2006 Supreme Court case says that --
3 and this is a quote -- "A court may establish and
4 define the standard of care by looking at' -- and it
5 goes on to say -- 'a defendant's own policies and
6 guidelines."

7 And, Your Honor, this is -- I would just show
8 the Court -- this is a -- well, I handed up -- what
9 number is in here? Here we go. This is a PowerPoint
10 presentation from the jail. This is not -- this is
11 not our document. This is the jail's own PowerPoint
12 presentation that they use training their officers.
13 And in that document, Your Honor, they address that
14 they have to follow the minimum standards. So the
15 third page sets forth that they are required to follow
16 these minimum standards. And interestingly, it even
17 addresses this 24-9 that says -- it talks about
18 section 24-9-10 through 24-9-40, which obviously
19 includes 24-9-30. So, Your Honor, the long and short
20 of it is, our position is they are the law in South
21 Carolina. And even if they weren't, the jail is
22 acknowledging they're supposed to follow them. And
23 per our case law, an adoption of internal policies is
24 at least some evidence -- if it's violated, of course
25 -- tending to show negligence. So we think they're at

JURY TRIAL - VOL. 3

1 least relevant in this case, particularly since the
2 jail has, by their own acknowledgment, adopted them
3 and has to follow them. This is also -- there was
4 some testimony about the 30(b)(6) deposition we took at
5 the sheriff's office.

6 THE COURT: All right. Mr. Lindemann?

7 MR. LINDEMANN: All right. Your Honor, I think
8 we've been through this numerous times. I don't think
9 they've given you anything new, but let me just touch
10 on what they said. Again, I'll cite the Court again
11 to Doe versus Wal-Mart Stores, which talks about --
12 and they cite the Kmart case. This is the Wal-Mart
13 case. This is the more -- much more recent authority
14 than they have cited. And it goes -- it's a 2011 case
15 from the Supreme Court, not from the Court of Appeals.
16 And the Supreme Court does say, "To establish a
17 standard of care' -- not a legal duty, a standard of
18 care -- 'a court can consider evidence of statutes,
19 administrative regulations, industry standards, or a
20 defendant's own policy and guidelines."

21 MR. LINDEMANN: That's for a standard of care.

22 THE COURT: So can --

23 MR. LINDEMANN: The Supreme Court says.

24 THE COURT: -- can they do that just what --
25 what you just said with these minimum standards? Are

JURY TRIAL - VOL. 3

1 you okay with that?

2 MR. LINDEMANN: No, I don't think they can.

3 THE COURT: Okay. Well, continue. You must not
4 have gotten to the punchline.

5 MR. LINDEMANN: Yeah. Well, because that's the
6 standard of care. This is a legal duty that's going
7 to -- that the Court has to decide and whether or not
8 there's a legal duty for them to follow them. Once a
9 duty has been established, you can present evidence.
10 And again, they're talking about standards that -- or
11 policies, internal policies like Wal-Mart having
12 internal policies. And in fact, this case is right on
13 point, because the Supreme Court says, we don't care
14 what Walmart's internal policy says, it doesn't
15 establish the legal duty of care. In fact, they found
16 no legal duty of care because you first have to find a
17 legal duty. And in fact, the Supreme Court, in the
18 last paragraph, the last sentence in that paragraph
19 says, "It follows that if no duty has been established
20 evidenced as to a standard of care, it's irrelevant."
21 Only once -- "Only when there is a duty, would a
22 standard of care need to be established."

23 So the -- the whole problem here, Your Honor, is
24 you can't rely on the minimum standards as
25 establishing a legal duty because it's not law. And

JURY TRIAL - VOL. 3

1 I've already quoted the -- the Court. I don't know
2 that the Supreme Court could have been any more clear
3 in the Myrtle Beach Hospital case. They said, "These
4 minimum standards' -- they're referring to the minimum
5 standards for the local detention facilities -- 'have
6 never been subject to legislative scrutiny afforded
7 regulations under the ACA. Instead, they are merely
8 the product of the county association adopted by the
9 department of corrections and executive agencies.
10 They cannot validly be used as expressing anything but
11 legislative intent."

12 THE COURT: I actually read that case this
13 morning twice.

14 MR. LINDEMANN: Okay. And then we've also cited
15 a section from the ACA that says, "Policies or
16 guidelines don't have the force or effect of law."
17 And of course, minimum standards weren't adopted by
18 the -- as a policy of the detention center. And this
19 PowerPoint where they're doing education doesn't say
20 that, but they do reference the minimum standards.
21 But that doesn't make them a policy of the detention
22 center. They simply say minimum standards have been
23 designated. The way he framed it is that this thing
24 -- this PowerPoint says somehow they've adopted them.
25 They haven't adopted them. Now, they do have a policy

JURY TRIAL - VOL. 3

1 manual, which we submit complies with the minimum
2 standards. And to the extent there's a policy issue
3 in this case -- and I don't believe that there is but
4 -- ultimately, potentially, the policies can be
5 addressed. But you can't -- what they want to do is
6 treat the minimum standards like it's law, and it's
7 not law. The Supreme Court has clearly said that.

8 MR. HINSON IV: Your Honor?

9 THE COURT: Yeah.

10 MR. HINSON IV: I think Mr. Lindemann is
11 complaining what we're trying to use these minimum
12 standards for. The legal duty, we have address that.
13 And I think the Court has already said, surely the
14 sheriff's office owes some legal duty to the folks who
15 are -- who are detained or incarcerated within the
16 walls of the jail. That has to be, otherwise we're --
17 we're not the United States of America and what I
18 think of this country if there's not some legal duty
19 owed to make some reasonable effort to keep detainees
20 safe and to provide them reasonable care. So we're
21 not offering these minimum standards to establish the
22 legal duty. While I won't -- I do think they probably
23 go to that, that's not our point right now. The point
24 is, we would like to be able to discuss them in this
25 case. They are at least some evidence of the standard

JURY TRIAL - VOL. 3

1 of care that needs to be exercised in that jail. They
2 are literally the minimum standards required, and
3 that's all we're -- we're trying to offer them for.

4 THE COURT: Why can't they use them in that
5 fashion, Mr. Lindemann?

6 MR. LINDEMANN: Well, I mean, the only thing
7 that I know of that they're trying to argue, Your
8 Honor -- and again, it's not relevant -- is this is
9 requirement for -- for a history and physical after 14
10 days. And of course, that fell on Southern Health
11 Partners even though that she was seen, you know,
12 probably about 20 times during her detox. They didn't
13 technically do a 14-day history and physical. I don't
14 know how that falls on -- falls on us, anyway,
15 number one. And number two, I don't know how that
16 proximately caused any damage. I mean, they have
17 their medical expert just saying -- they never asked
18 him any questions about a history and physical, and
19 they never asked him any questions about --

20 THE COURT: Well, that's legal argument. I
21 mean, that's closing argument. I don't disagree with
22 you. But why can't they use this as a standard of
23 care, presumably?

24 MR. LINDEMANN: Well, again, I think they're
25 using it as a -- there is no legal duty that this

JURY TRIAL - VOL. 3

1 Court -- I mean, I understand that Your Honor still
2 has the legal duty question under advisement. Maybe
3 I'm -- I may be incorrect about that.

4 THE COURT: Well, under advisement means I will
5 leaning towards the first thing we decided, but I
6 can't wait and say I've got under advisement the
7 entire trial and say you all can't do anything outside
8 that. If I can -- and I think I'm going to, and I'll
9 let you all now Friday when I decide. How about that.

10 MR. LINDEMANN: I understand that. And I guess
11 that's part of the quandary I'm in, because they are
12 trying to use this as a -- as to establish a legal
13 duty and the Court hasn't determined that the minimum
14 standards establish any type of legal duty. And quite
15 frankly, I don't think you can because of the Myrtle
16 Beach case. I mean they're not even regs.

17 MR. HINSON IV: They don't have to be regs or
18 statutes.

19 THE COURT: I thought this is kind of like.

20 MR. LINDEMANN: Yes, they do.

21 THE COURT: -- this -- this is evidence of
22 standard of care like the Kmart case. Well, Kmart
23 employers were trained. And potentially -- that Kmart
24 was in Newberry. I remember the case.

25 MR. HINSON IV: Thank you, Your Honor. Our --

JURY TRIAL - VOL. 3

1 our point is --

2 THE COURT: Somebody's got to train these --
3 these correctional officers. They don't just around
4 and look good.

5 MR. LINDEMANN: There's nothing in the minimum
6 standards about -- talk -- that have anything to do
7 with sending them to the hospital if they -- what
8 they're trying to harp on is this 14-day history and
9 physical that Southern Health Partners didn't do, and
10 they've already sued and recovered from on that.

11 THE COURT: I tend to agree. That's probably
12 not relevant. I mean --

13 MR. LINDEMANN: Well, and that's -- other than
14 that, I don't know what else they're going to use it
15 for. And that's why I think a lot of this is a bit of
16 a moot point, because if that's what they're using it
17 for, it shouldn't come in anyway.

18 MR. HINSON IV: Your Honor, it is relevant to
19 this case.

20 THE COURT: The 14-day physical, I don't -- I
21 mean --

22 MR. HINSON IV: If you'll give me just one
23 minute?

24 THE COURT: Well, I didn't presume you were
25 doing that because --

JURY TRIAL - VOL. 3

1 MR. LINDEMANN: He is.

2 MR. HINSON IV: We're not done with our
3 case-in-chief yet, Your Honor. The minimum standards
4 establish that there's supposed to be a 14-day history
5 and physical. We have another witness that's going to
6 come testify, Haven Kelley. She transports -- not
7 transports -- she escorts folks for their 14-day
8 physical as part of her job at the Aiken County
9 Detention Center. She is -- while she is not the nurse
10 performing it, she has knowledge that these standards
11 require it because she's involved in making sure that
12 it takes place. Our position is that when it didn't
13 take place for -- for -- for Ms. Rhoads, not only did
14 it not take place within the 14-days, it didn't take
15 place within the 31 days, ever.

16 THE COURT: I mean --

17 MR. HINSON IV: This should have been --

18 THE COURT: -- all right. Well --

19 MR. HINSON IV: -- brought to the attention,
20 that -- look --

21 THE COURT: -- I'm still missing this. You've
22 been arguing it's open and obvious, it's huge, you can
23 see it from across the room. And now, you're talking
24 about physical to check her cholesterol is going to
25 clue them in to something that's open and obvious.

JURY TRIAL - VOL. 3

1 Why is that relevant? I mean, so what?

2 MR. HINSON IV: Because, Your Honor,
3 Mr. Lindemann has said they saw her 20 times, 20-plus
4 times. What we're talking about for the vast majority
5 of those 20 times is they come, they hand her an
6 ibuprofen, they take her blood pressure, and that's
7 it. It lasts 45 seconds, a minute. If this history
8 and physical had been done, there is a reasonable
9 inference that can be made that it would have brought
10 to the attention of the folks who are supposed to be
11 taking -- the primary folks, acknowledging the medical
12 providers, that she is sicker than they realize. But
13 this 14-day history and physical never took place, and
14 the guards, who know that there's supposed to be
15 14-day physical, never said and made sure this got
16 corrected, why has nobody escorted Ms. Rhoads from her
17 cell down to medical to make sure she gets her 14-day
18 physical? The nurses don't go get her. They're not
19 allowed to just walk through the cell. It is the
20 guards that go get her and take her to the 14-day
21 physical.

22 THE COURT: You all -- you all keep going in
23 different directions. It's so hard for me to follow
24 this.

25 MR. HINSON IV: Your Honor, I -- there's

JURY TRIAL - VOL. 3

1 multiple ways there were screw-ups. We don't have a
2 one-theory case. There's a lot of screw-ups here that
3 lead to this terrible result. So you're right, Your
4 Honor, we are arguing it's so obvious that somebody
5 should have spoken up. We're also arguing there was
6 this screw-up of not even getting her the 14-day
7 physical done. It was not one error that led to this
8 calamity.

9 MR. LINDEMANN: Your Honor, one point real
10 quick. They would need their medical -- and he says
11 there's a reasonable inference that it would have been
12 caught on the 14-day. There's know reasonable
13 inference it would have been caught on the 14-day
14 physical. They needed the medical person to say if
15 she'd got their 14-day physical something else would
16 have happened and that proximately caused any harm.

17 THE COURT: Well, I mean, didn't -- didn't this
18 exhibit that was a log of some type that somebody was
19 taking notes on by the deputy say something about a
20 knot on the side of her head? Is that not notice to
21 the -- that the deputies are taking it down and the
22 medical people should see that?

23 MR. HINSON IV: Your Honor, there's a --

24 THE COURT: That's what -- I mean -- I'm really,
25 really, really -- I wished you all hadn't

JURY TRIAL - VOL. 3

1 (unintelligible).

2 MR. HINSON IV: There's plenty of people sitting
3 at the jail with a knot on side of their head, Your
4 Honor.

5 THE COURT: All right. I need a break.

6 (Off the record.)

7 (Recess.)

8 (On the record.)

9 THE COURT: All right, folks. I apologize for
10 getting so frustrated with you all. I've been
11 assigned a ton of general sessions court over the last
12 five years, and I've tried two civil cases, probably,
13 in that time. And I don't know how many general
14 sessions cases. We've all got tons of them. As you
15 all well know, this case got dropped in my lap without
16 any warning whatsoever Monday morning, and I've been
17 uphill since then, so I'm frustrated by that fact in
18 particular. That's not you all's fault. But I wish I
19 would have read all this stuff over the weekend. So
20 that's just frustrating to me. So if it comes across
21 I'm frustrated with you all, I'm frustrated with the
22 situation. So for that, I just let you all know that.

23 MR. MCLAUGHLIN: Thank you, Your Honor.

24 MR. HINSON IV: Thank you, Your Honor.

25 MR. LINDEMANN: Thank you, Your Honor.

JURY TRIAL - VOL. 3

1 THE COURT: I'm frustrated, no question about
2 it. Now, can we get this case done and my frustration
3 not get in the way? That's what I'm trying to decide.
4 So let's try and move forward. Let's try to keep
5 these jurors in the courtroom rather than the back
6 room, because we've done a really good job of letting
7 them not do their work.

8 So with that said, the legal duty is still under
9 advisement. I believe I can still decide that later.
10 The minimum standards, I believe under the Kmart case,
11 Caldwell versus Kmart, Ms. Caldwell was a spouse of a
12 county council member. That's how I remembered it.
13 And I had just finished working for Judge Moore in
14 July that year as his law clerk. And so this case was
15 tried in September after I left her. I missed it.
16 Nevertheless, that's just aside. I think these
17 minimum standards are relevant for showing the
18 standard of care. They're not going to establish a
19 legal duty. They're not going to do that. So I've
20 made that record. Let's try to go forward.

21 MR. HINSON IV: Thank you, Your Honor.

22 MR. MCLAUGHLIN: Judge, before we bring the jury
23 out, I think Andrew mentioned something about
24 something with Hill, if you want to go ahead -- and
25 time-wise. Because our plan is to put Ms. Lincoln up

JURY TRIAL - VOL. 3

1 first, an inmate. We -- we believe she'll be
2 relatively quick. And then call Ms. Hill and do Ms.
3 Hill so -- so that we don't yo-yo the -- the jury.
4 Ms. Lincoln is going to be as quick as we can. If
5 Andrew wants to bring up whatever issues he has about
6 Carla.

7 MR. LINDEMANN: Is up to Your Honor if you want
8 to do it now. I mean, I don't want to have any
9 frustration. I don't want to keep the jury out there.

10 THE COURT: Let's get -- let's the jury done,
11 because I think they're as frustrated as we are. I
12 hope you all are not frustrated. But if my
13 frustration is bleeding over to you all, again, I
14 apologize for that.

15 MR. MCLAUGHLIN: You all -- you all keep on
16 having to go to a sidebar, and I get to sit here like
17 I'm not doing -- I'm -- I'm fine.

18 MR. LINDEMANN: All -- all I would ask is, can
19 we take a quick break after this first witness so it
20 doesn't look like I'm sending the jury out?

21 THE COURT: Yeah.

22 MR. LINDEMANN: Because I tried to avoid that
23 yesterday with Dr. O'Bryan, and then it ended up being
24 me sending the jury out.

25 THE COURT: Yeah, I'm --

JURY TRIAL - VOL. 3

1 MR. LINDEMANN: I don't want them to punish my
2 client for what they think is delays that --

3 THE COURT: -- I -- I don't want anybody
4 published -- punished for the delays. I've tried to
5 accept most of that responsibility myself, because I
6 do my best to take care of jurors. All right. Let's
7 bring the jury in.

8 MR. LINDEMANN: There was a ruling in limine;
9 yes or no, I can ask her if she's at SCDC? My
10 understanding is that you said I could.

11 MR. HINSON IV: Your Honor, my understanding is
12 that they're not going to allow here to change into
13 street clothes, so we -- we withdraw that motion in
14 limine.

15 THE COURT: You won't have to ask her.

16 MR. LINDEMANN: All right.

17 MR. MCLAUGHLIN: You left it up to the -- the
18 bailiff folks, Judge, and they let us know that
19 they're staying -- they're saying it's just declined.

20 THE COURT: Okay. There you are.
21 Mr. Lindemann, you may ask if you like, but I don't
22 think you'll have to.

23 MR. HINSON IV: I hope that lowers your
24 frustration.

25 THE COURT: Yeah, that helps.

Quereyanna Lincoln - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 3

1 (The jury entered the courtroom.)

2 THE COURT: All right, folks. Welcome back.

3 We'll continue on. Call your next witness.

4 MR. MCLAUGHLIN: Thank you, Your Honor. The
5 plaintiff will call Quereyanna Lincoln.

6 (The witness was sworn in.)

7 THE CLERK: If you'll take a seat in this
8 witness box right here. State your full name for the
9 Court, spelling your last.

10 MR. MCLAUGHLIN: Be careful of that step right
11 there, Ms. Lincoln.

12 THE WITNESS: My name is Quereyanna Lincoln.
13 Last name Lincoln, L-I-N-C-O-L-N.

14 THE COURT: All right. You're going to talk to
15 him.

16 QUEREYANNA LINCOLN
17 was called as a witness, and having been first duly sworn,
18 testified as follows:

19 DIRECT EXAMINATION

20 BY MR. MCLAUGHLIN:

21 Q. Ms. Lincoln, were you at the Aiken County detention
22 center in May to June of 2019?

23 A. Yes.

24 Q. Do you know Cassi Rhoads?

25 A. I do.

Quereyanna Lincoln - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 3

1 Q. All right. During May and June of 2019, did you
2 interact at all with Cassi at Aiken County Detention
3 Center?

4 A. Yes.

5 Q. All right. Could you tell the jury how you were able
6 to interact with her and whether or not you noticed
7 anything about her physical condition?

8 A. Yes. I was in B-Max, which is an area behind the
9 population where I was separated. And I could see her
10 through a tinted glass when he came up to the kiosk,
11 because I have nothing else to do but to look out the
12 window all day. So when I seen her come to the kiosk, I
13 stopped her and spoke to her and, of course, asked her why
14 she was there, and I saw that there was a red spot on her
15 head. And you know, I asked her if she was okay, and we
16 talked for a while, and she went back in her cell. So --
17 but the days that she were there, as the days went on, I
18 would hear her complain. She would tell me that, you know
19 her head hurt, her body hurt. And at some point, I guess,
20 that she -- they med-sec'd her because she kept
21 complaining, so she started to rec in B-Max, where I was.

22 And you know, I just seen her head get bigger and
23 bigger and bigger. And it was awful. It was really bad.
24 And then one day, we were talking. I was at her cell and
25 she just passed out. And I got scared, so I started

Quereyanna Lincoln - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 3

1 beating the windows and just trying to get her help,
2 because I didn't know what was wrong. But I know when she
3 woke up that morning, I came out on rec and when I walked
4 past her cell and I saw her, her head was -- she look like
5 Stewie. she looked just like Stewie.

6 Q. Would you -- would you explain to the jury who you
7 mean by Stewie in case they don't know who you're talking
8 about?

9 A. The baby off the Family Guy cartoon. Yeah, her head
10 looked just like Stewie. It was -- I've never seen
11 anything like it, and I hope I never see it again. And
12 she said -- I asked her, I said, are you okay? And she
13 said, look, and she pointed -- she did this. And when she
14 did it, it just went in and it stuck there, and it was
15 just like a little hole there the whole time, and it never
16 came back out. And I said oh, no, no. Like, you need to
17 -- need to be seen. And so I would ask, and she would ask
18 and nothing until she passed out. And when she passed
19 out, that's when they took her out and I hadn't never seen
20 her again after that. I never knew what happened to her
21 or anything. In fact, I thought she had died because she
22 looked so bad.

23 Q. Thank you, Ms. Lincoln. No further questions. Please
24 answer any Mr. Lindemann may have.

25 //

Quereyanna Lincoln - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 CROSS-EXAMINATION

2 BY MR. LINDEMANN:

3 Q. Good morning.

4 A. Good morning.

5 Q. Just a little bit of background. Obviously, you're in
6 the South Carolina Department of Corrections at the
7 present time; is that correct?

8 A. I am. Mm-hmm.

9 Q. And what you serving time for, ma'am?

10 A. Neglect of a vulnerable adult, and assault and battery
11 of a high and aggravated nature.

12 Q. All right. And the neglect of the vulnerable adult
13 resulting in death, is that what the charge was or the
14 conviction?

15 MR. MCLAUGHLIN: Objection, Your Honor.

16 MR. LINDEMANN: Your Honor, I mean, I'm --

17 THE COURT: I'll allow the one question.

18 BY MR. LINDEMANN:

19 Q. Is that correct, ma'am?

20 A. Yes.

21 Q. All right. And you're serving a sentence of how long?

22 A. 18 years.

23 Q. Okay. And before you were sentenced to SCDC, you were
24 in the Aiken County Detention Center?

25 A. Yes, sir.

Quereyanna Lincoln - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 Q. Is that while you were waiting to stand trial?

2 A. Yes.

3 Q. All right. And so when did you go into the detention
4 center itself?

5 A. In 2016.

6 Q. Okay. And so ultimately, you were still there in May
7 of 2019 waiting for a trial?

8 A. Yes.

9 Q. And ultimately, when did you leave the Aiken County
10 Detention Center?

11 A. In August of -- July of 2019.

12 Q. And Ms. Rhoads was in the detention center from May
13 3rd to June 2nd of 2019. During that entire 30 days, were
14 you in B-Max?

15 A. Yes. Sometimes I was in B-Max with her and other
16 times she was in general population and I was in B-Max.
17 But yes, I was in B-Max the whole time.

18 Q. All right. And while you were in B-Max, you were in a
19 cell by yourself; correct?

20 A. Yes.

21 Q. All right. You did not actually -- you couldn't
22 interact with Ms. Rhoads or the other inmates within
23 B-Pod; correct?

24 A. Yes, I could.

25 Q. And how did you interact with them?

Quereyanna Lincoln - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

- 1 A. We can see through the glass. We do it all the time,
2 even officers. That's how we'll get the officers'
3 attention. Because if we press the button, sometimes we
4 press the button, it will be blinking all day long, all
5 day long. They'll see it and they won't, you know, they
6 won't answer us. So when there's an officer that comes in
7 that I know that will answer me, we will, hey, can you
8 come here. And that's how we interact.
- 9 Q. So there's a glass door in the cell; right?
- 10 A. Yes.
- 11 Q. That's what you're referring to?
- 12 A. There's a glass door in the cell and there's a window
13 outside of that as well.
- 14 Q. When you're in B-Max, you're not out on the pod, are
15 you?
- 16 A. No, but I can still communicate with people that's in
17 the pod.
- 18 Q. All right. And you said you were able to see if she
19 had access to the kiosk while she was in B-Pod?
- 20 A. Well, she was standing in front of the kiosk. I'm not
21 sure if she was using it or if her she was waiting to
22 speak to an officer or not, but she was standing in that
23 general area where the kiosk was, yes.
- 24 Q. All right. The kiosk is by the officer's desk?
- 25 A. Yes.

Quereyanna Lincoln - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 Q. And the officer's desk is right in front of the B-Max
2 cells; correct?

3 A. Yep.

4 Q. Do you know when Ms. Rhoads was placed in the B-Max
5 herself?

6 A. It was a couple of days after she had gotten there.
7 It was a couple of days. Because I know every time
8 medical comes in, they lock the whole pod down, so I was
9 able to see every time, you know, medical was coming and
10 going. And the times that she would keep asking for help,
11 I was able to see that. So it was a couple of days after
12 she had gotten there and she was -- you know, kept asking
13 for help and asking for help. And then they just put her
14 in B-Max, I assume because, you know, she was med sec'd or
15 she was getting on their nerves, because that happens.

16 Q. And that's just an assumption on your part, you have
17 no knowledge of that. right?

18 A. No, sir. I was in B-Max and I don't -- I'm not an
19 officer, but I've been there for three years and seen how
20 they do things. Yeah.

21 Q. You didn't -- you didn't know the circumstances that
22 led to her being put in B-Max; correct?

23 A. Yeah, I did. I just -- I mean, I -- I was being told.
24 I did know firsthand.

25 Q. Okay.

Quereyanna Lincoln - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 A. But yes, I was asking.

2 Q. Well, I'll just ask you, what do you know firsthand?

3 That's what -- that's what you can testify to.

4 A. I know what I seen when medical kept coming and going,
5 because every time medical enters the pod, the whole pod
6 stops. Everybody has to go back to their bunk. We have
7 to -- you know, and so we stand here and we watch every
8 time medical comes in. I watched them go in. And
9 sometimes they'll bring her out into the open pod and take
10 her blood pressure, which is normally what they always do.
11 They give her Asmees [ph], Tylenol and they send her back
12 in her cell.

13 Q. All right. So you saw her receiving attention from
14 the nurses on numerous occasions during that month?

15 A. I saw them take her blood pressure and give her
16 Tylenol.

17 Q. Okay. The -- the incident that you were referring to
18 where you actually saw her, I guess, faint, is that what
19 you were testifying about?

20 A. Yes.

21 Q. All right. And do you know a day that was?

22 A. No, not exactly.

23 Q. All right. It looks like the day, according to the
24 records, was May 30th. Do you have any reason to dispute
25 that?

Quereyanna Lincoln - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 A. No.

2 Q. All right. And who was on duty? Who was the pod
3 officer? Do you recall that?

4 A. I think that pod officer was actually on a break. I
5 want to say it might have been Ms. Hill. I can't
6 remember, thought, that was so long ago.

7 Q. All right. Ultimately, whoever the pod officer was
8 got medical to come tend to Ms. Rhoads?

9 A. No, it was an emergency. It was -- when she passed
10 out, it was an emergency. So it was not a situation where
11 the officer would go and get help. It was, I need
12 responders and I need them now.

13 Q. Right. And the responders did respond. The nurses
14 did respond and did tend to her. You saw that; correct?

15 A. No. I saw them come and take her out. Like, I saw
16 responders. I saw officers. Officers were there. I
17 didn't -- medical might have came later, but officers made
18 there first.

19 Q. So you believe the incident that you were testifying
20 about that only the officers came and took her out to
21 medical?

22 A. No. What I'm saying is I only seen officers first.
23 Medical may have came, but they didn't get there first.
24 The officers were the first people there trying to help
25 her and attend to her. Because there was so many people

Quereyanna Lincoln - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 there, all of the officers responded.

2 Q. Okay. And ultimately, medical was there as well?

3 A. Yes, they did come.

4 Q. All right. Because I understood that you said a
5 minute ago that she was taken out to medical. You're
6 saying -- was she taken out to medical, or did medical
7 come to her?

8 A. I'm not sure. I don't know.

9 Q. Okay. But that's the extent of your recollection of
10 that incident?

11 A. Yes.

12 Q. During the period of time that you were in the Aiken
13 County Detention Center, you spent a good bit of time in
14 B-Max; correct?

15 A. Yes.

16 Q. And you spent a good bit of time in B-Max because you
17 were basically convicted of disciplinary offenses within
18 these within the institute -- within the facility;
19 correct?

20 A. Not all -- not all the time but, yes.

21 Q. When you were in B-Max, it was because of
22 disciplinary; correct?

23 A. Yes.

24 Q. You were in a good bit of trouble during the period of
25 time you there; fair enough?

Quereyanna Lincoln - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 A. If you say So.

2 Q. Well, you had disciplinaries that resulted in you
3 being put in B-Max; correct.

4 A. Sometimes, yes. Sometimes, no.

5 Q. And during the entire period of time Ms. Rhoads was
6 there, you were in B-Max for disciplinary reasons?

7 A. During that time, yes.

8 Q. Okay. Thank you, ma'am.

9 MR. MCLAUGHLIN: Ms. Lincoln, no further -- no
10 further questions. Thank you very much for coming.

11 THE COURT: Thank you, ma'am. Be careful
12 stepping down. All right. Do we need a quick break
13 right here because the next witness is here; is that
14 right?

15 MR. MCLAUGHLIN: That's correct.

16 THE COURT: Okay. All right. You all step in
17 the jury room real quick. We've got -- I need to take
18 a break and then we'll have you right back in here.

19 (The jury exited the courtroom.)

20 THE COURT: All right. All right. We've got to
21 get going. I want a break, too. All right.

22 MR. LINDEMANN: Real quickly, Your Honor, we
23 touched on this yesterday, this whole idea of
24 self-inflicting. The -- where the self-inflicting
25 issue came -- came into play, as Your Honor has

JURY TRIAL - VOL. 3

1 already been advised, Ms. Hill testified in her
2 deposition that she was -- she was told by Nurse Donna
3 Wright that there was a suspicion that -- or Donna
4 Wright suspected that there might be self-inflicting
5 going on. There is no evidence of that. The
6 plaintiff denies it. I can tell you, Donna Wright
7 denied it in her deposition. You know, to me, this is
8 basically a red herring and intended to -- well, maybe
9 not intended to, but will have the result of confusing
10 the jury to bring this whole self-inflicting issue
11 into play. And the reason for that is I anticipate,
12 just based on how discovery went, plaintiff's counsel
13 is going to want to put in evidence -- particularly
14 with Captain Gallam, and I think there's some
15 designations for Captain Gallam -- about how you
16 handle a self-inflicting -- an inmate who is
17 inflicting harm on themselves.

18 And so ultimately, my concern is the plaintiff
19 is going to try to argue she was self-inflicting --
20 even though she denies that she was and there's no
21 evidence of it -- and we didn't follow our protocols
22 for a self-inflicting inmate. So I think you can
23 generally see my concern here --

24 THE COURT: How are --

25 MR. LINDEMANN: -- and I think.

JURY TRIAL - VOL. 3

1 THE COURT: -- hang on, hang on. Stop.

2 MR. LINDEMANN: Thank you.

3 THE COURT: As I understand the self-inflicting
4 thing is, the nurse is the one that expounded the idea
5 and none of the -- none of correctional officers
6 observed it.

7 MR. MCLAUGHLIN: Your Honor, the whole point of
8 the self-inflicting is that what the testimony was
9 from Hill was that that's what triggered her to ask
10 Bauer to look at her, and then for her to go to the
11 Lieutenant Whitaker --

12 THE COURT: Right.

13 MR. MCLAUGHLIN: -- and ask Bauer to go to
14 Lieutenant Whitaker.

15 THE COURT: Right.

16 MR. MCLAUGHLIN: So for them to do what they're
17 supposed to do on the correctional side if they have
18 an issue. And what the testimony was from Hill was
19 that, A, it was so obvious when she went to Whitaker
20 that Whitaker said, we'll, I'll go to medical. And
21 then eventually, Whitaker came back and -- you know, I
22 said, well, what did Whitaker ever say to you? And he
23 was like, well, she was, like, are you sure you're
24 really watching her. And, yes, we're watching her.
25 And not only that, I've talked to all the inmates and

JURY TRIAL - VOL. 3

1 nobody says it. So -- so the importance of the
2 self-inflicting is, is that's what triggered the
3 on-the-ground COs to be concerned themselves about
4 Cassi and to send it up the chain.

5 THE COURT: Right. And they did that.

6 MR. MCLAUGHLIN: And they did that. And then
7 the sheriff's office didn't do anything on that. That
8 they're being told by their own --

9 THE COURT: Now -- now, we're not going to --
10 we're not going to go through all the past, because
11 nobody disagrees with what you just said. That's
12 consistent with the deposition testimony. But you're
13 not going to run out and say, all right, when you do
14 have a self-inflicting person, what are you supposed
15 to do, are you supposed to do this, that, and the
16 other. They did what they did. If it's not
17 self-inflicting, then failing to follow the
18 self-inflicting protocol is not an issue.

19 MR. MCLAUGHLIN: Well, Your Honor, I see what
20 you're saying. I -- I would say that that's
21 indicative, too, of the sheriff's department not doing
22 anything at -- once -- once it got into the Whitaker
23 part of the chain, right? Once it got in the Whitaker
24 part of the chain, it apparently died on the
25 correctional side.

JURY TRIAL - VOL. 3

1 THE COURT: So -- so I don't think there's an
2 objection to that. Where -- what are you objecting
3 to? I mean, there's no self-inflicting.

4 MR. LINDEMANN: Yeah. I mean, my -- my
5 objection is -- and I don't have a problem with the
6 testimony that, you know, obviously Deputy Bauer has
7 already testified that Deputy Hill asked her to take a
8 look at her.

9 THE COURT: And they did.

10 MR. LINDEMANN: And they did. And so
11 ultimately, what I'm trying to avoid here -- because
12 they did a lot of discovery on this, and I believe
13 some of are designated through Captain Gallam or, you
14 know, talking about putting people in restraint
15 chairs, and all of that. And quite frankly, that's
16 making an issue out of something that there is no
17 issue. I mean, Cassi herself testifies, no, I didn't
18 self inflict any of this.

19 MR. MCLAUGHLIN: I'll -- I'll say this. I'm not
20 going to ask her about restraint chairs.

21 MR. LINDEMANN: Well, I mean, I'm -- they --
22 yes -- they would -- she wasn't asked about it, but
23 Captain Gallam was. But again, that's my concern of
24 opening up this can of worms --

25 THE COURT: I agree with you.

JURY TRIAL - VOL. 3

1 MR. LINDEMANN: -- and confusing the jury.

2 THE COURT: As long as you don't go to, well,
3 you know, normally, in a typical self-inflicting
4 thing, this is what we see, and then run off into that
5 crap. That's -- that's not relevant.

6 MR. MCLAUGHLIN: Just -- but, Your Honor, as far
7 as Deputy Hill is concerned, it's just that that was
8 the -- the reason given to her and that that reason
9 was so concerning to her that, A, she --

10 THE COURT: And that's fine.

11 MR. MCLAUGHLIN: -- that -- that she pushed back
12 on medical on it and then took it up her chain of
13 command to say, these guys are wrong. And that's --
14 that's what I'm going to get into with her.

15 THE COURT: Okay.

16 MR. MCLAUGHLIN: Thank you, Your Honor.

17 MR. LINDEMANN: All right. I appreciate that.

18 THE COURT: All right.

19 MR. MCLAUGHLIN: Can we take a quick bathroom
20 break?

21 THE COURT: Yes.

22 (Off the record.)

23 (Recess.)

24 (On the record.)

25 (The jury entered the courtroom.)

Carla Hill - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 3

1 THE COURT: Call your next witness, please.

2 MR. MCLAUGHLIN: Thank you, Your Honor. The
3 plaintiff will call Deputy Carla Hill.

4 (The witness was sworn in.)

5 THE CLERK: Please take a seat in the witness
6 box. State your full name for the Court, spelling
7 your last. Watch your step.

8 THE WITNESS: My name is Corporal Carla Hill.

9 CARLA HILL

10 was called as a witness, and having been first duly sworn,
11 testified as follows:

12 DIRECT EXAMINATION

13 BY MR. MCLAUGHLIN:

14 Q. Corporal Hill, good morning.

15 A. Good morning.

16 Q. I'm sorry. When I called you as a witness, I said
17 deputy. I forgot you had been promoted since we first met,
18 so my apologies. Okay?

19 A. All right.

20 Q. All right. Listen, let's start by -- I want the jury
21 to hear a little bit about your background. Obviously,
22 you work at the Aiken County Detention Center?

23 A. Yes, sir.

24 Q. Okay. And -- and you're a -- a deputy there that
25 works in corrections -- or a corporal there now that works

Carla Hill - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 3

- 1 in corrections?
- 2 A. Yes, sir.
- 3 Q. Okay. When did you start at ACDC?
- 4 A. I believe it was 2016.
- 5 Q. Okay. And then, obviously, you started at the rank of
- 6 deputy?
- 7 A. Yes, sir.
- 8 Q. And now you are a corporal?
- 9 A. Yes, sir.
- 10 Q. And when did you get your bump?
- 11 A. Probably two or three years ago.
- 12 Q. Okay. Fair enough. And back in June -- May or June
- 13 of 2019, would you have been a deputy or a corporal?
- 14 A. I was a deputy.
- 15 Q. Okay. And was -- ACDC, was that your first job
- 16 working in corrections?
- 17 A. No, sir.
- 18 Q. Okay. Well, where was your first job working in
- 19 corrections?
- 20 A. Grovetown, Georgia.
- 21 Q. Okay. And was that in a facility kind of like ACDC?
- 22 A. No, sir.
- 23 Q. Okay. Have was that different?
- 24 A. It's a lot smaller. We had no medical staff, and it
- 25 was indirect supervision. We watched cameras from the

Carla Hill - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 3

- 1 booking desk.
- 2 Q. Okay. How long did you work there at Grovetown?
- 3 A. Seven years.
- 4 Q. I'm sorry?
- 5 A. Seven years.
- 6 Q. Okay. And when you came here to South Carolina and
- 7 you got your job at ACDC, did they put you through
- 8 training?
- 9 A. Yes, sir.
- 10 Q. Okay. Did you go through the classroom training?
- 11 A. I did.
- 12 Q. Okay. And the jury has already heard a little bit
- 13 about that. And you went through the same shadowing in
- 14 your field training?
- 15 A. Yes, sir.
- 16 Q. Okay. And then eventually, you got sent to Columbia
- 17 to the criminal justice academy?
- 18 A. Yes, sir.
- 19 Q. And you got your Class 2 Certification from the CJA
- 20 after taking the three-week basic detention training
- 21 course?
- 22 A. Yes, sir.
- 23 Q. Okay. Do you remember Cassi?
- 24 A. I do.
- 25 Q. And do you remember Cassi's detention at ACDC from May

Carla Hill - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 3

1 to June of 2019?

2 A. Yes, sir.

3 Q. Okay. Will you tell the jury -- well, let me ask you
4 this. I imagine you have a lot of inmates come through.

5 A. Lots.

6 Q. Okay. Why does Cassi stand out from that particular
7 detention of her? Why do you remember her?

8 A. Because she ended up with complaining of a lot of
9 medical issues. She was, you know, having swelling in her
10 head. And that was basically what -- why I remember about
11 it.

12 Q. The medical issue she had, did she complain about
13 them?

14 A. Yes. She was complaining about having headaches,
15 being nauseous.

16 Q. Did she complain to you about those?

17 A. Yes, she did.

18 Q. And did she complain that -- are you aware of whether
19 or not she complained to the medical staff about them?

20 A. Well, I advised her she needed to put it on the kiosk
21 to make medical aware, because as a pod deputy, we're not
22 allowed to call medical directly. We have to go through
23 our shift command. And if it's something that's not very
24 traumatic or needing an immediate response, they have to
25 put it on the kiosk.

Carla Hill - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 3

1 Q. Okay. And you -- did you notice anything about
2 Cassi's appearance? You mentioned swelling.

3 A. Mm-hmm.

4 Q. Could you describe the swelling that you noticed for
5 the jury?

6 A. Okay. It started off with just, like, a slight bump.
7 Then I was gone for, like, two weeks. And when I came
8 back, you couldn't really see the -- the knot itself
9 because the hair was over it. But you could see that it
10 was, like, swollen from there.

11 Q. Okay. Do you remember asking Deputy Bauer to take a
12 look at Cassi?

13 A. I did.

14 Q. Okay. And why did you ask Deputy Bauer to take a look
15 at Cassi?

16 A. Because I knew Deputy Bauer came from a corrections
17 facility also and she's had prior experience. And she
18 had, I felt, maybe a little bit more experience than what
19 I would have had. And I couldn't see any -- anywhere
20 where she was self-harming like they was trying to, you
21 know, say that may have been the cause of. And she
22 looked --

23 Q. Can I pause you one second? You used the term "they."

24 A. I'm sorry.

25 Q. I think the jury probably knows by now who "they" is,

Carla Hill - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 3

1 but would you tell the jury who, when you say "they"
2 say -- said Cassi was self harming, who do you mean by
3 "they"?

4 A. Medical and the nursing staff, one nurse in
5 particular, Nurse Donna.

6 Q. Nurse Donna?

7 A. Yes, sir.

8 Q. Okay. And so -- and so just to kind of -- I'm sorry
9 to interrupt you --

10 A. No, that's fine.

11 Q. -- but you -- Nurse Donna had told you that the cause
12 of this swelling on Cassi's head was that Cassi was doing
13 it to herself?

14 A. That's it. She said that's what she believed it was.

15 Q. And you had a concern about whether or not that was
16 true, and that's why you asked Bauer to take a look at
17 Cassi?

18 A. Correct. I -- I -- the last thing I would want is an
19 inmate that I'm in charge of to be harming themselves and I
20 not -- not catch it and not stop it.

21 Q. Sure. At the time you asked Hill to look -- or Bauer
22 to look at Cassi, she was very swollen, wasn't she?

23 A. She was -- she was a lot swollen. She was more -- I'm
24 not going to say -- she was more swollen when I came back
25 from the two weeks, and that was the first time I had seen

Carla Hill - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 3

1 her in two weeks. And I don't know if it's because I had
2 not seen her and I wasn't used to her being swollen,
3 that -- that it really was pronounced that she was
4 swollen.

5 Q. And when I asked you to describe on a regular, daily
6 object of what the swelling was like, you told me that it
7 was like a grapefruit on the side of her head.

8 A. Yeah, because I was given the option of a tennis ball,
9 a baseball. And it wasn't perfectly round. It was more
10 oblong like a grapefruit because it was this way, but you
11 really couldn't see how large it was because her hair came
12 out and came down around it. But her hair was over it.

13 Q. Okay. And it was pronounced enough, this deformity on
14 her head, that you could look at her with your own two
15 eyes and see something was wrong?

16 A. You could see the swelling, yes, sir.

17 Q. Okay. Did you -- when you asked Bauer to take a look
18 at Cassi --

19 A. Mm-hmm.

20 Q. -- did you tell her what you wanted her to look for?

21 A. I told her -- I said, and Nurse Donna is saying she's
22 self-inflicting, and that's something I don't want to
23 miss. I don't want to miss somebody hurting themselves.
24 Can you see if you see anything that you think looks like
25 she's self-inflicting this.

Carla Hill - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 3

1 Q. Did you believe Cassi was doing that to herself?

2 A. No, sir, I did not.

3 Q. At some point in time, you -- you explained -- you
4 explained to me that -- that you pushed back on Donna
5 saying that?

6 A. Yeah. It's -- I said, no one is telling me she's
7 doing this. She's in a -- in a cell with three other
8 females. If they were doing it, somebody would tell me if
9 she was doing it to herself, because no one wants to be in
10 there with someone they -- they deem a little off.

11 Q. Sure. Yes. I probably wouldn't want to be locked up
12 with somebody who was banging their head to the point it
13 was swelling up like a grapefruit, do you?

14 A. Right.

15 Q. Fair enough. And -- and when -- when you're working,
16 you're -- you're in there for 12 hour shifts; right?

17 A. Yes, sir.

18 Q. So other than the breaks you have, like when Bauer
19 came to give you your break --

20 A. Mm-hmm.

21 Q. -- you're around these inmates for 12 hours at a pop?

22 A. Yes, sir.

23 Q. And do you -- would you like to think that if you had
24 an inmate under your care for 12 hours, you'd notice if
25 they were begging their heads like that?

Carla Hill - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 3

- 1 A. Yes, sir.
- 2 Q. Okay. And -- and you, in fact, we're so concerned
3 that you -- you went and kind of interviewed the other
4 inmates that she was around to see if they knew -- if they
5 could say that she was self-harming; right?
- 6 A. Yes, sir.
- 7 Q. All right. And all the inmates, they did not support
8 that that was happening at all, did they?
- 9 A. No.
- 10 Q. And they told you that Cassi was really sick?
- 11 A. Yeah.
- 12 Q. Had -- and -- and at some point, you relayed to Donna,
13 listen, I -- I'm not -- I'm not a nurse, but she ain't
14 doing this to herself?
- 15 A. I did. I said, now wait, I've talked to everyone in
16 the cell and everyone is saying that she's not doing it.
17 And then she told me, well, she must be doing it while
18 they're sleep.
- 19 Q. While everybody was asleep?
- 20 A. Mm-hmm.
- 21 Q. What -- did that happen before or after you asked
22 Bauer to take a look at her?
- 23 A. That would be after.
- 24 Q. Okay. So -- so -- so after Bauer took a look at her
25 and -- and confirmed what you thought --

Carla Hill - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 3

- 1 A. Mm-hmm.
- 2 Q. -- that's when you push back on Nurse Donna?
- 3 A. Mm-hmm.
- 4 Q. Is that a yes?
- 5 A. Yes, sir. I'm sorry.
- 6 Q. No, that's okay. I'm just trying to make Ms. Davis'
- 7 job easier. Okay?
- 8 A. Okay.
- 9 Q. So you also explained to me that you -- these same
- 10 concerns you -- you just explained you took them up your
- 11 chain of command, didn't you?
- 12 A. Yes, sir.
- 13 Q. And you told Lieutenant Whitaker --
- 14 A. Yes.
- 15 Q. -- about your concerns?
- 16 A. Yes, sir.
- 17 Q. Now, did you tell Lieutenant Whitaker about these
- 18 concerns before or after the Bauer conversation?
- 19 A. Before.
- 20 Q. And -- and that -- that seems reasonable to me,
- 21 because it sounds like maybe -- well, let me ask you.
- 22 Were you concerned that you needed somebody to back your
- 23 opinion with Whitaker based on the response she gave you
- 24 when you told her the first time?
- 25 A. I don't think I needed someone to back my opinion, but

Carla Hill - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 3

1 I wanted to be sure. You don't want to say somebody's
2 wrong if they're not. You've got to know that you're --
3 you're doing your due diligence to find out one way or the
4 other.

5 Q. And I think when you explained it to me before, was
6 you didn't want to miss something that was important?

7 A. Exactly.

8 Q. So did you talk to Whitaker after Bauer -- you asked
9 Bauer to take a look at her?

10 A. I don't believe I made -- made contact with Whitaker,
11 and I'm not really sure. I'm pretty sure Whitaker told me
12 that she had talked to medical and they said they were
13 taking care of it.

14 Q. And of course, you continued to -- to work in B-Pod
15 and be around Cassi even after all that; right?

16 A. Yes, sir.

17 Q. And did Cassi's situation, whatever was being taken
18 care, did it improve Cassi's situation at all?

19 A. I believe -- no. I didn't see them doing anything.
20 It doesn't mean they weren't. It just -- I personally
21 never seen them.

22 Q. And that's all you can testify to, Corporal Hill, is
23 what you know. Based on your observations of Cassi
24 afterwards, did she get better or did she get worse?

25 A. I think it was, I believe, the next day that I had to

Carla Hill - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 3

1 call responders because she had passed out in cell.

2 Q. I believe -- I believe we found out, but we weren't
3 quite sure when -- when we talked the first time of when
4 this all happened. But yesterday on the stand, Deputy
5 Bauer explained that she went and kind of pulled her
6 rosters or whatever and it sounds like that this would
7 have been on the 28th -- May 28th -- when you asked her
8 to -- to go look at Cassi. And then I believe you --
9 there was an incident where she fell out --

10 A. Mm-hmm.

11 Q. -- that you were involved with and maybe it was the
12 30th. Does that sound about right?

13 A. Yes, sir.

14 Q. Okay. And then, of course, you're aware that by June
15 2nd, Cassi's situation had deteriorated to the point that
16 she was taken to the hospital?

17 A. Yes, sir.

18 Q. Okay. The -- let's see -- this is Plaintiff's Exhibit
19 No. 2.

20 MR. MCLAUGHLIN: May I approach, Your Honor?

21 THE COURT: Mm-hmm.

22 BY MR. MCLAUGHLIN:

23 Q. Actually, that same day -- excuse me. I said the
24 30th. And now I remember this, because there's logbook
25 entries. That same day, the -- the 28th, that -- that I

Carla Hill - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 3

1 believe Deputy Bauer testified that she was relieving you,
2 there was this incident right here. Do you remember this
3 incident? This is Plaintiff's Exhibit No. 2, and it's the
4 incident report from May 28th?

5 A. Yes, sir.

6 Q. Okay. And so this was an incident where -- let's
7 see -- those comments on -- on the second page of the
8 incident report, you created these comments?

9 A. Yes, sir.

10 Q. Okay. Would you read those for the jury real quick,
11 ma'am, please?

12 A. Okay. On 8/28/19, I, Deputy Hill was on my duty
13 station in B-Pod. At approximately 14:43, Lena Brown,
14 B-Max 4, began to yell and beat on the window. I asked
15 her what was going on. Inmate Brown stated, "She fell
16 down, she fell down. I was talking to her and then she
17 just hit the floor." I advised Inmate Brown to lock into
18 her cell. Upon checking on Cassiopia Rhoads, she was
19 laying on the floor and would not answer when I called her
20 name. I called for medical responders to Bravo Pod. At
21 approximately 14:44, Lieutenant Whitaker, Deputy Harris,
22 and Nurse Donna entered. After opening B-Max Door 1,
23 Inmate Rhoads began to talk with Lieutenant Whitaker.
24 Nurse Donna confirmed that her vitals were good. Nurse
25 Donna stated that she would make contact with the doctor.

Carla Hill - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 3

- 1 All responders exited at 14:52 has no issues.
- 2 Q. So that incident happened at what time?
- 3 A. It started at a quarter-to-3:00, at 2:43, in the
- 4 afternoon.
- 5 Q. In the afternoon. And so that would have been how far
- 6 through your shift?
- 7 A. Over halfway, probably three-fourths of the way.
- 8 Q. I'm going to show you what's been marked as
- 9 Defendant's Exhibit No. 1. Do you recognize what those
- 10 documents are, ma'am?
- 11 A. Yes. They're logbook entries.
- 12 Q. And is that the logbook entry for that day?
- 13 A. Yes, sir.
- 14 Q. Okay. And so is that incident report that you did, is
- 15 that reflected in the logbook entry for that day at all?
- 16 A. It is.
- 17 Q. And could you tell the jury which one that is on the
- 18 logbook entry?
- 19 A. It's going to be this one right here, 14:43.
- 20 Q. And just read for -- read for the jury what that one
- 21 says.
- 22 A. Medical emergency called, B-Max 1 on the floor.
- 23 Q. Okay. All right. Thank you. Corporal Hill, was that
- 24 fall, that incident report, did that happen before you
- 25 asked Deputy Bauer to take a look, or did that happen

Carla Hill - Direct Examination by Mr. McLaughlin

JURY TRIAL - VOL. 3

1 after?

2 A. It was after.

3 Q. So you had already talked to Whitaker. You had
4 already pushed back on Nurse Donna, and then that incident
5 happened?

6 A. Yes, sir.

7 Q. Okay. Did you -- and listen, first off, on behalf of
8 Cassi, thank you for -- for what you did do. And -- and I
9 don't want you to take this is me attacking you at all,
10 because thank you for trying. Did you, at any point in
11 time, when that happened after you had already, like, man
12 I've already, you know, complained, nothing's happening,
13 now she's fallen out. Did -- did -- did you make any
14 further attempt to go up the chain at all?

15 A. I -- I believe I just kept notes of what was going on
16 as best as I could and tried to -- to keep an extra vigil
17 on Cassi, trying to make sure that she was good.

18 Q. Every time -- you complained directly to medical about
19 what was going on; right?

20 A. Yes, sir.

21 Q. And every time that you complained to medical, their
22 response to you was, she's got to go through the kiosk?

23 A. Mm-hmm.

24 Q. Is that a yes?

25 A. Yes, sir. I'm sorry.

Carla Hill - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 Q. That's okay. It's all right. You complained to
2 medical, you complained up your chain of command.
3 Corporal Hill, I've got to think that if there was
4 anything that you knew else that you cold have done, you
5 would have done it?

6 A. Yes, sir.

7 Q. Did you know of anything else you could have done to
8 help her?

9 A. No, sir, I did not.

10 Q. All right. Thank you very much.

11 A. Thank you.

12 Q. Answer any questions that Mr. Lindemann may have.

13 CROSS-EXAMINATION

14 BY MR. LINDEMANN:

15 Q. Good morning, Corporal Hill.

16 A. Good morning.

17 Q. Let me start by getting a little bit -- introduce
18 yourself a little bit more to the jury. I know you've
19 talked about your -- your background at Grovetown, so your
20 correction background. But tell the jury a little bit
21 about yourself personally.

22 A. I'm married with children. I do this job because I
23 love this job. If it was about money, I would be
24 someplace else. It's about having a calling to help
25 somebody, and this is the best place to start.

Carla Hill - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

- 1 Q. And where are you from originally?
- 2 A. From West Virginia.
- 3 Q. Okay. When did you first come to Aiken County?
- 4 A. When I was 20 years old, so 40 years ago.
- 5 Q. All right. So you were living in Aiken County when
- 6 you were working in Georgia at Grovetown?
- 7 A. No. I actually lived in Grovetown for 17 of those 40
- 8 years. I'm sorry.
- 9 Q. Oh, okay. So before that, you lived in Aiken and then
- 10 you came back?
- 11 A. Yes, sir. I lived in Aiken and then I moved to
- 12 Grovetown, and then I move back to Aiken to be with my
- 13 father.
- 14 Q. I got you. And so you've got family here?
- 15 A. Yes, sir. My children are here. I moved here with my
- 16 father because he was terminally ill.
- 17 Q. I'm -- I'm definitely sorry to hear that. So when is
- 18 it that you moved back to Aiken County?
- 19 A. 2016.
- 20 Q. Okay. And that's when you got employment at the
- 21 sheriff's office?
- 22 A. Yes, sir.
- 23 Q. All right. And you had -- so you had -- as you
- 24 indicated, you previously had been a deputy over in
- 25 Grovetown, Georgia?

Carla Hill - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

- 1 A. Yes, sir.
- 2 Q. And maybe I missed it, but how many years did you work
3 at that jail in Grovetown?
- 4 A. Seven.
- 5 Q. Seven. And the Grovetown jail is a different type of
6 facility than the Aiken County Detention Center?
- 7 A. Yes, sir. They had no medical staff whatsoever. Any
8 issues that we came across, we simply called EMS.
- 9 Q. Okay. So do you recall how big of a facility it was,
10 how many beds it was rated for?
- 11 A. Maybe 20.
- 12 Q. Okay. So a very small jail?
- 13 A. Very small. A city jail, misdemeanor charges only.
- 14 Q. Got you. And of course, when you came to Aiken County
15 Detention Center, they had a medical contractor 24/7;
16 correct?
- 17 A. Yes, sir.
- 18 Q. All right. And so there were at least nurses on staff
19 around the clock?
- 20 A. Yes, sir.
- 21 Q. And during the day, it would be potentially more than
22 one nurse; correct?
- 23 A. Yes, sir.
- 24 Q. There typically was?
- 25 A. Yes, sir.

Carla Hill - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 Q. And there was also Dr. Williams. Dr. Williams, who
2 was on call and made actual visits once a week to the
3 facility?

4 A. Yes, sir.

5 Q. Was it once a week, or did he come more than once a
6 week?

7 A. As far as I remember, it was every Friday.

8 Q. All right. And the doctor and the nurses that we've
9 been talking about, they're all part of Southern Health
10 Partners; correct?

11 A. That's correct, sir.

12 Q. Okay. And there's been a good bit of talk -- and
13 we'll go into it in a little bit more detail -- about
14 Nurse Donna. Is that a reference to Donna Wright?

15 A. Yes, sir.

16 Q. And Donna Wright was a nurse with Southern Health
17 Partners?

18 A. Yes, sir.

19 Q. Okay. So she was not employed by the sheriff's
20 office?

21 A. No, sir.

22 Q. Is that correct, what I said?

23 A. Yes, sir.

24 Q. Okay. Now -- and you understand Mr. Rhoads came in
25 on -- on May 3rd, 2019, and left on June 2nd, 2019; is

Carla Hill - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 that right?

2 A. Yes, sir.

3 Q. All right. And during that period of time, I think
4 you indicated that you were gone yourself for a couple
5 weeks?

6 A. Yes, sir.

7 Q. Do you -- do you know specifically what part of May
8 those two weeks were?

9 A. It was -- May 15th was the first day I was out, and I
10 came back May the 27th.

11 Q. Okay. So your first day back was May 27th?

12 A. Yes, sir.

13 Q. Now, obviously, this case involves B-Pod, or as I've
14 heard you call it, Bravo Pod earlier.

15 A. Correct.

16 Q. Is that -- we're talking about the same thing?

17 A. Yes. And when we -- when we speak it, we say Bravo
18 because it's the phonics so you don't get it confused with
19 B and D Pod, because if you do call responders, you don't
20 want them going to the wrong pod.

21 Q. So you all -- the -- the lingo within the facility is
22 Bravo?

23 A. Yes. And -- if you're writing it, then it's B-Pod.

24 Q. Got you. When Ms. Rhoads first came in you were -- on
25 a few of the days after she first came in, you were the

Carla Hill - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 pod officer in B-Pod; correct?

2 A. Yes, sir.

3 Q. All right. And you understood that she came in and
4 was placed on detox; correct?

5 A. Yes, sir.

6 Q. And what does that mean, exactly, to be placed on
7 detox?

8 A. It means you're detoxing off narcotics.

9 Q. Okay.

10 A. You're -- you're able to have withdrawals, nausea,
11 diarrhea, shakes, hallucinations. You watch for all of
12 that.

13 Q. And so specifically with Ms. Rhoads, did you observe
14 her physical condition as she was going through the detox,
15 the days that you were on duty?

16 A. Yes.

17 Q. And what you did what you recollect about that?

18 A. She had an upset stomach. I know they were coming in
19 and checking her blood pressure. She had an episode where
20 she was saying she had a headache and a nose bleed and --
21 but there was no blood when she was wiping her nose. You
22 know, it was just your basic detox scenario.

23 Q. Okay. And ultimately, you went on vacation right at
24 the end of her detox; correct?

25 A. Correct.

Carla Hill - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 Q. Okay. Because your last day, I think, was the 14th
2 before you went on vacation; is that right?

3 A. Yes. Yes.

4 Q. Okay. And then you came back on the 27th?

5 A. Yes, sir.

6 Q. And then we've talked at length about the 28th, but I
7 want to go through that since there was some -- I think
8 Mr. McLaughlin inadvertently called it May 30th, but it
9 was May 28th. You actually didn't work May 30th, did you?

10 A. No, sir.

11 Q. Okay. So do you recall, after you came back, how
12 many -- how many days you actually were in B-Pod other
13 than, you know, before Cassi left?

14 A. Maybe two or three days.

15 Q. Okay. If the roster shows --

16 A. I'm not sure. Correct.

17 Q. -- if the roster shows the 27th, 28th, and 31st, would
18 you -- does that sound about right?

19 A. Yes, sir.

20 Q. Okay. And you weren't there in the first part of June
21 when she actually was taken to the hospital, were you?

22 A. No, sir.

23 Q. Is that correct?

24 A. Yes, sir.

25 Q. Okay. Let me ask you -- let me ask you a few

Carla Hill - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 questions about the 28th. I know the jury has heard a
2 little bit about it already. And do you have Defendant's
3 Exhibit No. 1 in front of you? And let me ask you a few
4 questions about that. Specifically, what is a logbook and
5 how do you use a logbook?

6 A. Our logbook was our way of keeping up with everything
7 that happened during the day. We would log our checks,
8 our counts, anything that stood out from the ordinary,
9 anything that the next shift would need to know in order
10 to do their shift, or anything that just kind of really
11 stood out to us.

12 Q. Okay. And you also -- it's basically times, using
13 military times, as to when certain things occur; is that
14 right?

15 A. Correct.

16 Q. And so you -- you have certain security checks you
17 have to do, and that's recorded in the logbook?

18 A. Correct.

19 Q. And you have certain duties to do like when food comes
20 you've got to feed the inmates. That's recorded as well?

21 A. Yes, sir.

22 Q. All right. And ultimately -- I know the jury has
23 heard about this from Deputy Bauer -- but when you're
24 working a 12-hour shift, you get relieved three different
25 times during that shift; correct?

Carla Hill - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

- 1 A. Correct.
- 2 Q. Okay. And on the 28th, Deputy Bauer was your relief?
- 3 A. Correct.
- 4 Q. And in this particular document, that actually
- 5 reflects when Deputy Bauer came to the unit; correct?
- 6 A. Yes, sir.
- 7 Q. And the first time she came was at 9:15 -- 9:13 in the
- 8 morning?
- 9 A. Yes, sir.
- 10 Q. All right. And prior to that -- let me ask you this.
- 11 As far as the nurses go to do mad pass, med pass happens
- 12 twice a day, once on morning shift, once on night shift;
- 13 is that right?
- 14 A. Yes, sir.
- 15 Q. And is that documented, typically, in the logs when
- 16 medical comes in?
- 17 A. Yes, sir.
- 18 Q. And on this particular day, you -- you actually logged
- 19 in when medical came in to do med pass; correct?
- 20 A. Yes.
- 21 Q. And it says, at 8:45 medical enters?
- 22 A. Yes.
- 23 Q. And that's a reference to one of the nurses entering?
- 24 A. Yes, sir.
- 25 Q. And you believe it Nurse Donna Wright that day?

Carla Hill - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 A. Yes, sir.

2 Q. Okay. Do you believe the conversation you've already
3 testified to with Nurse Wright occurred that morning?

4 A. Yes, sir.

5 Q. And that caused you then, very shortly thereafter, to
6 ask for Deputy Bauer to essentially give you a second
7 opinion?

8 A. Yes, sir.

9 Q. All right. There is -- no, as far as between the time
10 that Nurse Donna spoke to you and you went on break and --
11 and had that conversation with Deputy Bauer, do you
12 believe you talked to Lieutenant Whitaker and that
13 interim, or was it after your break?

14 A. I believe, if memory serves me right, it was while I
15 went down to go on my break. I ran into her in the
16 hallway, and I was talking to her there.

17 Q. Okay. So that was after you had already had the
18 conversation with Deputy Bauer?

19 A. Yes.

20 Q. Because you had the conversation with Deputy Bauer
21 after she came to relieve you. It was right before you
22 left the unit?

23 A. Yes, sir.

24 Q. Okay. So you believe you saw Lieutenant Whitaker,
25 which you've already testified to, then, just a few

Carla Hill - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 minutes later?

2 A. Yes.

3 Q. All right. And -- and then ultimately, it looks like
4 medical was still in the unit when you went on break. And
5 by medical, I mean the nurse, Nurse Donna.

6 A. Yes.

7 Q. Because I think Deputy Whitaker actually noted when
8 she left at 9:18; correct?

9 A. Yes. Mm-hmm.

10 Q. All right. And that's in Deputy Bauer's handwriting?

11 A. It is.

12 Q. All right. And so there was a question, too, about
13 that there was an incident where first responders were --
14 were called to the unit. And I just want to make sure --
15 clear to the jury what day that was, because I think,
16 initially, Mr. McLaughlin might have said May 30th. But
17 it was actually on this same day, May 28th, wasn't it?

18 A. Yes, sir.

19 Q. All right. And ultimately -- well, what time of the
20 day did that -- did that occur?

21 A. 2:44, 2:43.

22 Q. All right. And you have it listed here on the log
23 notes. It says, "Lieutenant Harris, and medical entered;"
24 is that right? Is that with the entry says?

25 A. Yes, sir. It's Lieutenant, Harris and medical.

Carla Hill - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 Q. Oh, okay. So it's --

2 A. I'm writing fast here.

3 Q. Oh, okay. And I'm glad you said that, because now
4 that I think about it, I don't know a Lieutenant Harris.
5 So there was a Lieutenant, Harris -- that's referring
6 to sergeant --

7 A. Another Deputy. He's a deputy.

8 Q. -- a deputy. Okay. And then medical --

9 A. Mm-hmm.

10 Q. -- and that would be, again, Donna Wright?

11 A. Yes, sir.

12 Q. All right. And then you showed that when they
13 actually left, and it says, "medical cleared;" is that
14 correct?

15 A. Yes, sir.

16 Q. All right. And because of that incident, you did an
17 incident report as well that I believe you've already
18 testified to it; is that right?

19 A. Yes, sir.

20 MR. LINDEMANN: I beg the Court's indulgence.

21 BY MR. LINDEMANN:

22 Q. And on this incident report, which is part of the
23 packet that's Plaintiff's Exhibit No. 2, at the end, you
24 indicate that when medical left she was clear. There were
25 no issues, I think, is what words you used.

Carla Hill - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 A. Yes, sir.

2 Q. All right. And Lieutenant Whitaker would have
3 reported that as well; correct?

4 A. Yes, sir.

5 Q. And so -- and there's a supervisor's review of that
6 particular incident report that she did; correct?

7 A. Yes, sir.

8 Q. Okay. So again, in your logbook when you say
9 lieutenant entered, that was actually Lieutenant Whitaker?

10 A. Yes.

11 Q. And when -- when the nurse was tending to Ms. Rhoads,
12 is that something that you were present for, or did you
13 have other duties as a pod officer to take care of in the
14 pod?

15 A. I had other duties as the pod officer. At that time,
16 Cassiopeia was in B-Max 1.

17 Q. Right.

18 A. And that was back behind the officers desk with --
19 separated by a glass partition. So I had to stay out with
20 the main pod because, at the time, I believe there was
21 probably about 60 or 70 other females out there that you
22 had to keep an eye on.

23 Q. All right.

24 A. So you had to keep them calm and at their bunks,
25 quiet, so medical could do what they had to do and

Carla Hill - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 everyone could hear what was going on with that -- with
2 that call in there.

3 Q. So you didn't hear anything that actually was said
4 between the nurse and Ms. Rhoads?

5 A. No. No, sir. I was in the pod.

6 Q. All right. But ultimately, you were told that as they
7 were leaving that she was clear to stay?

8 A. Yes, sir.

9 Q. And that came from Nurse Donna, the medical provider?

10 A. Yes, sir.

11 Q. Ultimately -- well, let me you ask this. There were
12 -- there were questions to you about the conversation with
13 Nurse Donna that morning about Nurse Donna expressing to
14 you that there the potential that she was self-inflicting.
15 Did Nurse Donna actually say there/s evidence of her
16 self-inflicting, or did she just raise that as a
17 possibility?

18 A. She said, I think that she's doing this, she's harming
19 herself, she's doing --

20 Q. I'm sorry?

21 A. -- she said, I think she's doing this to herself.

22 Q. Okay. And you did not see any evidence of that?

23 A. No, sir.

24 Q. And I think the questions that you answered earlier
25 indicated you did your own investigation by not only

Carla Hill - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 asking the deputy asking Deputy Bauer for her opinion, you
2 actually checked to see if anybody had seen her ever do
3 that?

4 A. Correct. I talked to her roommates. Because the last
5 thing you want to somebody to hurt themselves when
6 you're -- when you're there and could have stopped it.

7 Q. All right. So ultimately, you didn't find that she
8 was self-inflicting?

9 A. I did not.

10 Q. All right. And you don't know if anybody on the
11 correctional staff, meaning the officers, who believed
12 that she was self-inflicting?

13 A. No, sir, I did not find anyone like that.

14 Q. The only person who even raised the possibility of
15 that was Nurse Donna?

16 A. Yes, sir.

17 Q. And again, she's an employee of Southern Health
18 Partners; correct?

19 A. Yes, sir.

20 Q. Okay. The shift roster showed that the -- the last
21 day that you were on duty before Ms. Rhoads left the
22 facility was on the evening shift doing night shift of --
23 of May 31st. Does that sound right?

24 A. Yes, sir.

25 Q. All right.

Carla Hill - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 MR. LINDEMANN: I like to have this marked as
2 defendants Exhibit 2, Your Honor.

3 THE COURT: Okay.

4 MR. LINDEMANN: It's a log entry for that shift.

5 BY MR. LINDEMANN:

6 Q. Corporal let me hand you what's been marked as
7 defendants Exhibit No. 2. Do you recognize that as the --
8 the logbook -- the logbook pages?

9 A. Yes, sir.

10 Q. All right. And somewhere here --

11 MR. LINDEMANN: I'd like to get this marked as
12 Defendant's Exhibit 2, Your Honor. It's the log entry
13 for that shift.

14 THE COURT: Okay.

15 MR. LINDEMANN: Thank you.

16 (Defendant's Exhibit 2 was marked and
17 identified.)

18 BY MR. LINDEMANN:

19 Q. Corporal Hill, let me hand you what's been marked as
20 Defendant's Exhibit No. 2. Do you recognize that as a
21 logbook -- the logbook pages?

22 A. Yes, sir.

23 Q. All right. And is this -- it doesn't say May 31st,
24 but given the sequence of it, I can -- I can assure you
25 that it is. But it shows a night shift that you were the

Carla Hill - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

- 1 pod officer; correct?
- 2 A. Yes, sir.
- 3 Q. All right. And is the majority of that log note for
- 4 that particular day -- or that particular shift, is that
- 5 in your handwriting?
- 6 A. Yes, sir.
- 7 Q. And actually, do me a favor and turn to the last page.
- 8 It looks like the next shift was actually dated, and when
- 9 was it dated?
- 10 A. 6/1.
- 11 Q. That would have been the morning shift on 6/1?
- 12 A. Yes, sir.
- 13 Q. All right. So do you agree with me that this -- the
- 14 log notes that you did would have been May 31st, the night
- 15 shift?
- 16 A. Yes, sir.
- 17 Q. Okay. I wanted to clarify for the jury where we got
- 18 that date from. And specifically on this, did you have
- 19 a -- a relief officer during that shift?
- 20 A. I did.
- 21 Q. And who was the relief officer?
- 22 A. Deputy Kelley.
- 23 Q. All right. Do you recall having any conversations
- 24 with Deputy Kelley regarding Ms. Rhoads on that occasion?
- 25 A. No, sir.

Carla Hill - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 Q. And do you believe that if such a conversation had
2 taken place that's something you would recall?

3 A. Yes, sir.

4 Q. And she would have relieved you on three different
5 occasions on that night?

6 A. Yes, sir; two 15-minutes and a 30-minute.

7 Q. And this -- this night shift log notes, they show that
8 actually medical, meaning nurses -- a nurse -- was on
9 the -- on the unit that night; correct?

10 A. Yes, sir.

11 Q. And it looks like they entered at about 21:14, which,
12 if I do my math correctly, is about 9:14?

13 A. Yes, sir.

14 Q. All right. And you actually were on your -- on your
15 break when that happened; correct?

16 A. Yes, sir.

17 Q. So where it says, "medical entered," that's in
18 Ms. Kelley's handwriting?

19 A. Yes, sir.

20 Q. And ultimately, medical was there for, it looks like,
21 about 21 minutes; is that right?

22 A. Yes, sir.

23 Q. And it shows at 9:35 is when medical exited the unit?

24 A. Yes, sir.

25 Q. And that would be in your handwriting; right?

Carla Hill - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

- 1 A. Yes, sir.
- 2 Q. Okay. So obviously, medical was there that evening?
- 3 A. Yes.
- 4 Q. Do you recall which nurse?
- 5 A. I'm not sure.
- 6 Q. And that's fine. Nurse Wright normally worked
- 7 dayshift; correct?
- 8 A. Yes, sir.
- 9 Q. So typically, it would be somebody else at night?
- 10 A. Nurse Shutters.
- 11 Q. Nurse Shutters? Okay. And on this particular shift,
- 12 there's no mention of Ms. Rhoads, no -- no unique
- 13 circumstances with Ms. Rhoads, is there?
- 14 A. No, sir.
- 15 Q. Okay. As you scan it, do you see any reference of
- 16 Ms. Rhoads whatsoever?
- 17 A. No, sir.
- 18 Q. You testified earlier to the -- the -- the size of --
- 19 of what you saw on the side of Ms. Rhoads head.
- 20 A. Yes, sir.
- 21 Q. And I believe you described it as a -- as a grapefruit
- 22 in your deposition.
- 23 A. Yes, sir.
- 24 Q. You're not -- tell the jury what you're trying to
- 25 portray with that -- with that reference.

Carla Hill - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 A. It's -- it's the shape of the grapefruit, it's not --
2 it wasn't completely round. It was more elongated this
3 way. You really couldn't see how big it was because, like
4 I said, Cassi's hair came down over it. So you really
5 couldn't see through the hair the size of it, but you
6 could tell that it was very swollen.

7 Q. Okay. Were you -- you weren't suggesting that it was
8 actually the size of a grapefruit stuck to the side of her
9 head, were you?

10 A. No. It was more like if you would segment the
11 grapefruit and stick the rounded part up, that's what
12 was -- but you couldn't tell, but that was the shape that
13 was under her hair. That was the shape around her hair
14 making.

15 Q. So you were referring more to the circumference, how
16 far around the grapefruit was?

17 A. The -- the length, the oblong -- a grapefruit is not
18 perfectly round. A grapefruit is more like this, and
19 that's when I was referring to. Because I was given the
20 option of a tennis ball, a baseball, and those are all
21 perfectly round, and this was not perfectly round. It
22 was -- it was more spread out.

23 Q. So you're referring to the way the question was asked
24 that suggested was it a golf ball, a baseball or a
25 grapefruit?

Carla Hill - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 MR. MCLAUGHLIN: Objection; leading, Your Honor.

2 THE COURT: He's cross-examining.

3 MR. MCLAUGHLIN: It's -- it's his witness,
4 though on cross-examination.

5 MR. LINDEMANN: Your Honor --

6 MR. MCLAUGHLIN: She's an employee of his
7 client.

8 THE COURT: All right. I'm going to try to
9 explain the answer. I mean, I think she's --

10 BY MR. LINDEMANN:

11 Q. And again, in your deposition, when you were asked
12 that question, you were given the examples of a golf ball,
13 a baseball, or a grapefruit?

14 A. Yes, sir.

15 THE COURT: Since he's rephrased, I'll overrule
16 on it.

17 MR. LINDEMANN: I'm sorry?

18 THE COURT: Since you rephrased, I'm overruling
19 the objection.

20 MR. LINDEMANN: Oh, okay. Thank you, Your
21 Honor. I was worried you had sustained, and I was
22 just -- I'm sorry. I didn't want to ignore your
23 ruling.

24 BY MR. LINDEMANN:

25 Q. And so basically, you picked grapefruit from the three

Carla Hill - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 choices you were given?

2 A. Yes.

3 Q. But what you were trying to convey, not that she had
4 something like the size of my fist sticking out of her
5 head, but that was essentially the size of how round it
6 was?

7 A. The size, yeah.

8 Q. Is that fair?

9 A. Yes.

10 Q. All right.

11 MR. LINDEMANN: I beg the Court's indulgence.
12 Your Honor, I would move into evidence, if I didn't do
13 so, exhibit -- Defendant's Exhibit No. 2. And I
14 apologize if I didn't do so.

15 MR. MCLAUGHLIN: No -- no objection.

16 (Defendant's Exhibit No. 2 was moved for
17 admission into evidence.)

18 THE COURT: Exhibit 2 is in without objection.

19 (Defendant's Exhibit No. 2 was admitted
20 into evidence.)

21 MR. LINDEMANN: Jennifer does a good job of
22 keeping me straight on that.

23 THE COURT: Very well. Any redirect?

24 MR. MCLAUGHLIN: Thank you, Your Honor.

25 //

Carla Hill - Redirect Examination by Mr. McLaughlin

JURY TRIAL - VOL. 3

REDIRECT EXAMINATION

BY MR. MCLAUGHLIN:

Q. Corporal Hill, call you just testified that you -- that you were not trying to describe the size of the swelling when -- when you told me that it was like a grapefruit?

A. You could not see how far it came out. You could see how far her hair came out, and you could see the outline of it, but I could not see behind the window how far that -- that it actually came out.

Q. Okay.

MR. MCLAUGHLIN: Your Honor, at this point in time, I'd like to show Corporal Hill her deposition.

THE COURT: Sure.

BY MR. MCLAUGHLIN:

Q. Corporal Hill, this is -- you know, when we had that little back-and-forth --

A. Mm-hmm.

Q. -- a transcript gets made of it. That's kind of like today when you kept saying mm-hmm, uh-huh, and I'd ask you to say yes?

A. Yeah, yeah.

Q. That was because ultimately --

A. Compared to [ph]?

Q. -- ultimately what happens is it prepares a

JURY TRIAL - VOL. 3

1 transcript. And if you will, ma'am --

2 MR. LINDEMANN: Your Honor, maybe a description
3 of a deposition would be better coming from Your Honor
4 than --

5 THE COURT: Let's just -- just get this done.

6 MR. MCLAUGHLIN: Page --

7 THE COURT: I think we've been over the head
8 thoroughly, but go ahead.

9 BY MR. MCLAUGHLIN:

10 Q. Page 14. Okay?

11 A. Mm-hmm.

12 Q. And so what it does, it has is it has page numbers and
13 line numbers. Okay? So you see there, page --

14 A. Yes.

15 Q. -- if you'll turn it to page 14. Okay? Let's see,
16 page 14.

17 THE COURT: Folks, while they're dillydallying
18 around, everybody's statement was taken like a
19 deposition before the trial. They were placed in a
20 room and ask questions by the lawyers and taken in by
21 a court reporter, just like Ms. Davis, and then typed
22 up for preservation. So the lawyers knew what the
23 questions and answers were going to be in some fashion
24 before the trial. So this deposition is a recordation
25 of questions that were asked about this case earlier.

JURY TRIAL - VOL. 3

1 That's what it is.

2 BY MR. MCLAUGHLIN:

3 Q. All right. Ms. Hill, do you see that page 14? Can

4 you start online 19? Do you see where that is?

5 A. Uh-huh.

6 Q. So here's what we're going to do. Okay? Starting

7 online 19.

8 A. Right here?

9 Q. No. That's 16?

10 A. Oh.

11 Q. That's 14 right there, yes, ma'am. Okay. So do you

12 see how it's question and then it's got answer?

13 A. Yeah.

14 Q. Okay? What I'm going to do is I'm going to read the

15 question, and then if you will read what your answer was

16 for me. Okay?

17 A. Certainly.

18 Q. All right. So question: "And if you compare the size

19 of that swelling to an everyday object -- a golf ball, a

20 baseball, a grapefruit, an orange, anything that could

21 give us a relative idea of how big the swelling was -- are

22 you able to do that at all?" And what was your answer,

23 ma'am?

24 A. Probably the size of a grapefruit.

25 Q. Okay. And then do you also recall during your

JURY TRIAL - VOL. 3

1 deposition looking at images?

2 A. Mm-hmm. Yes, sir.

3 Q. Okay. Do you recall looking at images, MRI images of
4 Cassi --

5 A. Yes.

6 Q. -- that looked like that?

7 A. Yes, sir.

8 Q. And do you recall telling me that the swelling that
9 caused you --

10 MR. LINDEMANN: Your Honor, that's an
11 objectionable use of a deposition. He's going to
12 impeach. Instead of him testifying to what she told
13 him --

14 THE COURT: Isn't that outside the scope of
15 redirect as well?

16 MR. MCLAUGHLIN: Well, it's -- it's going to
17 what -- how she described the swelling, Your Honor.

18 THE COURT: She described it. She's answered
19 that question seven times.

20 MR. MCLAUGHLIN: Okay. Fair enough.

21 BY MR. MCLAUGHLIN:

22 Q. Does -- does -- does the swelling in that picture look
23 like the swelling that caused you to ask Bauer to take a
24 look -- to take a look at Cassi?

25 A. Yes, sir.

JURY TRIAL - VOL. 3

1 Q. Okay. One more thing --

2 A. Okay.

3 Q. -- and then you'll be done. And the reason why I need

4 to ask you this is because you just testified that -- that

5 you then -- that the conversation you had with Whitaker --

6 A. Yes.

7 Q. -- occurred on your break that morning --

8 A. Yes, sir.

9 Q. -- of the 28th; right?

10 A. Yes.

11 Q. Okay. Do you still have the incident reports?

12 A. I do --

13 Q. Okay. Let's see.

14 A. -- right here.

15 Q. Yes, ma'am. All right. So this is Plaintiff's

16 Exhibit No. 2. And I'm going to turn to -- let's see,

17 okay. Beginning on 44, it looks like --

18 A. Yes, sir.

19 Q. -- is the incident from the 28th that you -- that you

20 talked about; right?

21 A. Yes, sir.

22 Q. All right. That last page, which is Bates stamped

23 County page 50 --

24 A. Yes, sir.

25 Q. -- that is a supervisor's review --

JURY TRIAL - VOL. 3

1 A. Yes, sir.

2 Q. -- of the incident; right?

3 A. Yes, sir.

4 Q. And so this was done by Lieutenant Whitaker after you
5 had been on break and you had told Whitaker, medical is
6 saying Cassi is self-harming, that ain't happening, I've
7 talked to the other inmates, I'm not seeing it, it's not
8 happening at all, Cassi has fallen out. You had do have
9 an emergency response to the pod for this --

10 THE COURT: Just ask the question.

11 BY MR. MCLAUGHLIN:

12 Q. Whitaker responds in that -- what did she write up in
13 her supervisor's review of that?

14 A. So (unintelligible) Lieutenant Whitaker responded to
15 medical emergency in B-Pod. When I'd --

16 THE COURT: Slow down.

17 THE WITNESS: Oh, I'm sorry.

18 THE COURT: You can read a lot faster, I'm
19 certain, but just read a little slower so I can
20 understand it.

21 THE WITNESS: "When I arrived in B-Pod, Deputy
22 Hill stated that Inmate Cassiopeia Rhoads was standing
23 at the cell door B-Max 1, and then fell back. When I
24 entered the cell, Inmate Rhoads was laying on the
25 floor and seemed disoriented. She stated that she

JURY TRIAL - VOL. 3

1 believed that she passed out. She also had a swollen
2 place on the right side of her head. Nurse Donna
3 stated that Inmate Rhoads' head had been swollen for
4 some time and that doctor evaluated her last week, but
5 the swelling seemed a little worse. Nurse Donna
6 completed an assessment of Inmate Rhoads and stated
7 that her vitals were all fine and that she was clear
8 to remain in her current housing assignment. She
9 stated that she would call and advise the doctor of
10 the issue Inmate Rhoads was having."

11 BY MR. MCLAUGHLIN:

12 Q. Is there anything in Lieutenant Whitaker's review of
13 this fall -- of Cassi falling out, this emergency
14 response, that at all says my guards are telling me that
15 medical is saying is self-inflicted?

16 A. No, sir, there is not.

17 Q. But you had told Whitaker before she created that
18 document?

19 A. Yes, sir.

20 Q. Thank you. No further questions. Thank you. Thank
21 you again, Corporal Hill.

22 THE WITNESS: All right. Thank you.

23 THE COURT: All right, ma'am. You have a nice
24 day.

25 THE WITNESS: All right. Thank you.

JURY TRIAL - VOL. 3

1 THE BAILIFF: You've got to leave those right
2 there Corporal.

3 THE WITNESS: Okay.

4 THE COURT: How long is you all's next witness?

5 MR. HINSON IV: Your Honor, it will be Captain
6 Kelley, and she might be a little -- I -- I personally
7 could use a -- use a quick bathroom break.

8 THE COURT: All right. That's I was asking for.
9 Let's do -- take a little -- we got a little work
10 done. So let's take a quick break and have you all
11 right back in here. You all -- is the grand jury room
12 cooler? You all like it better? If you want it
13 cooler, you tell me. Yeah, I'll cool that room down.

14 (The jury exited the courtroom.)

15 THE COURT: All right. Will stand at ease for
16 about ten minutes.

17 (Off the record.)

18 (Recess.)

19 (On the record.)

20 THE COURT: All right. What's the estimate of
21 the length of this witness?

22 MR. HINSON IV: Plaintiff's, 30 minutes, Your
23 Honor, may be little less.

24 THE COURT: Okay.

25 MR. HINSON IV: Real quick, Miss -- or Captain

JURY TRIAL - VOL. 3

1 Kelley just asked that she not have to put up her hand
2 on the Bible. That's her preference --

3 THE COURT: Swear or affirm.

4 MR. HINSON IV: -- religion-wise. I wanted to
5 make sure that wouldn't be a problem.

6 THE COURT: Tell her to swear or affirm.

7 MR. HINSON IV: Okay.

8 THE COURT: That's fine. Are you all ready?

9 MR. HINSON IV: Yes, Your Honor.

10 THE COURT: All right. Bring them.

11 (The jury entered the courtroom.)

12 THE COURT: Call you next witness.

13 MR. HINSON IV: The plaintiff calls Captain
14 Kimberly Haven Kelley.

15 (The witness was sworn in.)

16 THE CLERK: Please take a seat in the witness
17 box. State your full name for the Court, spelling
18 your last.

19 THE WITNESS: My name is Kimberly Haven Kelley.
20 Last name is K-E-L-L-E-Y, the correct way.

21 KIMBERLY KELLEY

22 was called as a witness, and having been first duly sworn,
23 testified as follows:

24 //

25 //

Kimberly Kelley - Direct Examination by Mr. Hinson

JURY TRIAL - VOL. 3

1 DIRECT EXAMINATION

2 BY MR. HINSON IV:

3 Q. Good afternoon.

4 A. Good afternoon.

5 Q. Captain Kelley, would you please just introduce
6 yourself to the jury? Your full name, where you're from,
7 where you grew up.

8 A. Kimberly Haven Kelley. I go by Haven, which is my
9 middle name, preferably. I grew up kind of split between
10 Greenville, South Carolina and Lyerly City Georgia. If
11 you haven't heard of it, I don't blame you. I spent the
12 better part of my adult life working in public service. I
13 was a volunteer firefighter for a number of years,
14 corrections for roughly ten years, and I've been in
15 security now for the better part of the last four years.

16 Q. All right. Let's take just a second to go through
17 your work in corrections. How did you -- tell me what you
18 did to begin working in corrections.

19 A. One of my friends that I'd grown up with, her mother
20 was an administrative lieutenant with the Greenville
21 County Detention Center and had encouraged me to apply
22 when I became 21. I got in, went through the training,
23 found out I had a niche for it. I actually earned a merit
24 badge out of my preservice training, top grade out of the
25 entire class. I just loved it.

Kimberly Kelley - Direct Examination by Mr. Hinson

JURY TRIAL - VOL. 3

- 1 Q. And when you say preservice training, where would that
2 have been done.
- 3 A. At the Greenville County Detention Center.
- 4 Q. And how long did your preservice training last?
- 5 A. Three weeks.
- 6 Q. And then after that, where did you go for training?
- 7 A. I continued training. It was three weeks of
8 preservice training in a classroom setting, and then six
9 months of on-the-job training with a facility training
10 officer, followed by a probationary review board test, and
11 then enrollment and placement in the academy for their
12 three-week course there.
- 13 Q. And when you talk about the academy, what do you mean
14 by the term "academy"?
- 15 A. The South Carolina Criminal Justice Academy.
- 16 Q. And where is that located?
- 17 A. In Columbia.
- 18 Q. And how long is the training there at the academy?
- 19 A. Three weeks.
- 20 Q. And then from all that training you just mentioned,
21 did you become familiar that there is something called the
22 minimum standards for local detention facilities in South
23 Carolina?
- 24 A. Yes, sir.
- 25 Q. All right. Tell us what you -- how long you worked at

Kimberly Kelley - Direct Examination by Mr. Hinson

JURY TRIAL - VOL. 3

1 the Greenville County Detention Center.

2 A. The better part of six years.

3 Q. All right. And if you don't remember the exact date
4 that's, okay. But from approximately what month or year
5 to what month and year?

6 A. Well, my service with Greenville County was broken. I
7 was -- I started working there originally in July of 2010.
8 I left the jail in -- I think it was in March of 2014 to
9 go work for BMW briefly, and returned to the jail in
10 September of the same year. And I stayed there until
11 December 2016.

12 Q. All right. And after you left the Greenville County
13 Detention Center's employment in December of 2016, where
14 did you go next?

15 A. Directly to Aiken County Sheriff's Office.

16 Q. And did you leave your work on good terms,
17 essentially, the Greenville County Detention Center?

18 A. I did not submit my two-week notice, no.

19 Q. Well, but you weren't asked to leave?

20 A. No, I was not asked to leave. No.

21 Q. Okay. How long did you work at the Aiken County
22 Detention Center?

23 A. Three years.

24 Q. So from approximately what month to approximately --

25 A. December of 2016 through January of 2020.

Kimberly Kelley - Direct Examination by Mr. Hinson

JURY TRIAL - VOL. 3

- 1 Q. Okay. And so you started, I think you said, July
2 of 2010 all the way to January '20 of working in
3 corrections?
- 4 A. Minus five months, yes.
- 5 Q. So a little shy of ten years?
- 6 A. Yes.
- 7 Q. And after you left Aiken -- well, what rank did you
8 have at your time doing the corrections?
- 9 A. With which facility?
- 10 Q. Well, let's start with Greenville. What rank did you
11 hold?
- 12 A. Facility training officer and transport.
- 13 Q. And at Aiken County, what rank did you hold?
- 14 A. Deputy.
- 15 Q. And after you had left corrections specifically, have
16 you continued to be involved in security and things of
17 that matter?
- 18 A. Yes.
- 19 Q. And tell us what you do now.
- 20 A. I'm a security captain for Dothan Security Services,
21 which is contracted to BMW's main plant in Spartanburg.
- 22 Q. And your rank is captain?
- 23 A. Captain.
- 24 Q. And as a captain, are you over other folks now?
- 25 A. Yes.

Kimberly Kelley - Direct Examination by Mr. Hinson

JURY TRIAL - VOL. 3

1 Q. How many -- how many folks are you -- or how many
2 security officers are you over CAC?

3 A. Forty currently.

4 Q. And in all this training that you're involved of
5 receiving and now giving, does that involve the concept --
6 and this may not be the right term, but -- "if you see
7 something, say something"?

8 A. Absolutely.

9 Q. Tell us what type of things that would involve.

10 A. One of the things that we are trained to look for and
11 recognize is the normal state of operations, so what you
12 would typically see on any given day that would not
13 constitute any sort of marked difference to the way things
14 should be. So anything that would fall outside of that
15 normal state would be considered something we would need
16 to report. So suspicious persons looking around, major
17 maintenance issues, such as water leaks of any sort or
18 flames or smoke, anything that would not generally catch
19 your attention and be like, okay, that's not supposed to
20 be that way would be something you would report on.

21 Q. Including if you saw a fellow security officer that
22 you thought might be impaired?

23 A. Yes.

24 Q. That includes if you thought there might be vermin in
25 the facility?

Kimberly Kelley - Direct Examination by Mr. Hinson

JURY TRIAL - VOL. 3

1 A. Yes, absolutely.

2 Q. And that includes if you thought you saw a detainee
3 are an inmate who you had some worries were suicidal or
4 seriously ill?

5 A. Yes.

6 Q. And is there a chain of command for a deputy what they
7 do if they have that -- they have a concern?

8 A. You're supposed to take it to your immediate
9 supervisor and go from there. So if it -- you know, if
10 you feel like you didn't receive an adequate response with
11 the next in command, then you would move it up the chain
12 from there.

13 Q. And Captain Kelley, you talked about training. Was
14 the training that was given at Greenville Detention
15 Center, how did it compare to the training that you were
16 aware the folks got at Aiken Detention Center?

17 A. Night and day. Where you went through upwards of
18 eight months of training and -- and preparation to take
19 over a unit with Greenville County, you only received
20 really four to five weeks of training with Aiken County.

21 Q. So eight times difference?

22 A. Yeah.

23 Q. In your work at the Aiken County Detention Center, did
24 you ever work in what's called the control room?

25 A. Yes, central control.

Kimberly Kelley - Direct Examination by Mr. Hinson

JURY TRIAL - VOL. 3

1 Q. Tell us what central control is.

2 A. Central control is essentially the -- the eyes and
3 ears of the facility. You have access to all of the
4 cameras inside of the pods, all the intercom systems, and
5 you have control of all of the means of egress to and from
6 the facility.

7 Q. And approximately how many cameras -- if you know the
8 exact number -- but approximately how many cameras were
9 there at the Aiken County Detention Center?

10 A. I would say close to 80.

11 Q. And they'd be back where? Like where are the
12 cameras -- where can you view what's on the cameras?

13 A. In the central control room.

14 Q. How good a resolution do these cameras have? For
15 instance, if there was a camera right there and I was
16 holding a piece of paper, how -- how -- how --

17 A. I would be able to read what was on that piece of
18 paper.

19 Q. From the monitor?

20 A. From the monitor, yes.

21 Q. And did -- we're going to get into it a little bit in
22 just a minute, Captain Kelley, but did you witness
23 Cassiopeia -- Cassi Rhoads, have a large mass on the side
24 of -- right side of her head in May and early June
25 of 2019?

Kimberly Kelley - Direct Examination by Mr. Hinson

JURY TRIAL - VOL. 3

1 A. Yes.

2 Q. Would those cameras have, at least at times, caught
3 images and video of Cassi and been able to show us how bad
4 she looked?

5 A. Undoubtedly.

6 Q. The jury has heard about a barricading incident that
7 took place on the 24th of May, 2019 where Cassi --

8 MR. LINDEMANN: Your Honor, I've got a matter --
9 can we go to sidebar?

10 THE COURT: Sure.

11 (Sidebar off the record.)

12 BY MR. HINSON IV:

13 Q. Captain Kelley --

14 MR. LINDEMANN: Your Honor, just for the record,
15 if we could note my objection. We'll put it on the
16 record at the -- at the next break?

17 THE COURT: Fair enough.

18 MR. LINDEMANN: All right. Thank you.

19 BY MR. HINSON IV:

20 Q. Captain Kelley, the record reflects -- and this jury
21 has heard -- that there was a barricading incident on May
22 24th of 2019. Was it the policy of the Aiken County
23 Detention Center to save the video footage related to a
24 barricading incident?

25 A. Yes.

Kimberly Kelley - Direct Examination by Mr. Hinson

JURY TRIAL - VOL. 3

1 Q. You saw Cassi during this time period in May of 2019;
2 correct?

3 A. Yes.

4 Q. If that video had been saved according to the policy,
5 do you believe the images would show us and this jury just
6 how sick Cassi appeared?

7 A. Absolutely.

8 Q. Thank you. Would it surprise you to learn that we've
9 been told there are no videos in this case?

10 MR. LINDEMANN: Objection, Your Honor.

11 THE COURT: I'm going to overrule -- I'm going
12 to overrule that. He can -- I'm going to let him go
13 with that.

14 THE WITNESS: Yes. In a barricading incident,
15 whether they deploy a tactical team or not, they would
16 have had a handheld digital cam recorder when they
17 responded to the unit to secure the inmate.

18 BY MR. HINSON IV:

19 Q. And the last question on this and then I'll move on,
20 Captain Kelley. If that video had been saved according to
21 the policy you just described, what do you think, from
22 your view of Cassi in this time period, what would it show
23 us?

24 A. It would have shown that she -- her face was grossly
25 misshapen, that she was not at all in good health, and

Kimberly Kelley - Direct Examination by Mr. Hinson

JURY TRIAL - VOL. 3

1 that she was genuinely just wanting help.

2 Q. Did one have to be a doctor or a nurse to understand
3 what you just described?

4 A. No.

5 MR. LINDEMANN: Object to the form, Your Honor.

6 THE COURT: Multiple laypeople described this
7 thing, so overruled.

8 MR. HINSON IV: Thank you, Your Honor.

9 BY MR. HINSON IV:

10 Q. Captain Kelley, did you become concerned about Cassi
11 Rhoads' health in May of 2019?

12 A. Yes.

13 Q. What made you become concerned?

14 A. She had made statements to me that she kept asking for
15 help and they just weren't listening to her, that she was
16 in immense pain. And it was very visually evident that
17 she was infected in some way on the side of her face. She
18 was having dizzy spells, wasn't sure if she was passing
19 out or not, but she had moments where she couldn't
20 remember what was going on, severe headaches, nausea, all
21 the things that you would really associate with either a
22 fever or an infection.

23 Q. And Captain Kelley, you talked about that you are
24 familiar that there was this -- this minimum standard.
25 And I'm not going to ask you about all these 109 pages in

Kimberly Kelley - Direct Examination by Mr. Hinson

JURY TRIAL - VOL. 3

1 this document. But are you familiar with there being a
2 requirement that a detainee or inmate receive a health
3 physical during a certain period of time?

4 A. Yes.

5 MR. LINDEMANN: Your Honor, this witness is not
6 a medical person. I don't know -- I mean, we -- we
7 addressed this issue earlier.

8 THE COURT: I thought that the -- as far as
9 standard of care, it's allowed. So to that end, I
10 overrule the objection. I sustain it as to your legal
11 duty.

12 MR. LINDEMANN: Thank you for that, Your Honor.

13 BY MR. HINSON IV:

14 Q. And now, Captain Kelley, you're not a nurse or a
15 doctor?

16 A. Correct.

17 Q. But do you have some involvement -- some involvement
18 in this 14-day physical evaluation?

19 A. Yes.

20 Q. What's your involvement in that health evaluation, the
21 14-day health evaluation?

22 A. Assisting the nursing staff with access to the inmates
23 if they are assessing and/or escorting them to the medical
24 office for them to be assessed there.

25 Q. Okay. And when you say them, you mean the detainee or

Kimberly Kelley - Direct Examination by Mr. Hinson

JURY TRIAL - VOL. 3

1 the inmate?

2 A. Correct.

3 Q. All right. And in -- in your involvement in taking
4 detainees or inmates to the health staff, do you -- have
5 you viewed what that form looks like?

6 A. Yes.

7 Q. Could you identify the document I've just shown you?

8 A. Yes. This is the -- the health assessment that they
9 have to complete.

10 Q. Okay. So this is the -- the 14-day physical that --
11 or health assessment that would be done. You're not doing
12 it, but you see them going to the nurse's -- detainees
13 going to the nurse's station with this form?

14 A. Well, the nurses have the form in their hands, not the
15 inmates, but yes.

16 Q. I -- okay.

17 MR. HINSON IV: Your Honor, we would move this
18 in as Plaintiff's Exhibit 12.

19 (Plaintiff's Exhibit 12 was moved for
20 admission into evidence.)

21 MR. LINDEMANN: Your Honor, I'm not sure of the
22 relevance. This is a Southern Health Partners
23 document. It's not something that the jail -- I mean,
24 the sheriff's office, it's not their form. The jury
25 has heard multiple times we didn't --

Kimberly Kelley - Direct Examination by Mr. Hinson

JURY TRIAL - VOL. 3

1 THE COURT: I agree with that, but she's
2 identified it. I'm going to let it in --

3 MR. HINSON IV: Thank you, Your Honor.

4 THE COURT: -- 12, subject to your objection.

5 MR. LINDEMANN: Thank you, Your Honor.

6 (Plaintiff's Exhibit 12 was admitted into
7 evidence.)

8 BY MR. HINSON IV:

9 Q. And Captain Kelley, this 14-day physical form -- or
10 health assessment form, would it surprise you to learn
11 that if Cassi was in the detention center for 31 days that
12 that her medical file, which is Exhibit 1, does not have a
13 completed health assessment ever performed?

14 MR. LINDEMANN: Objection, Your Honor. It
15 doesn't matter whether she's surprised or not.

16 THE COURT: Yeah.

17 MR. LINDEMANN: That's not a proper question.

18 THE COURT: I'll overrule -- I mean, I'll
19 sustain that objection.

20 MR. LINDEMANN: Well, thank you.

21 MR. HINSON IV: I'll rephrase it, Your Honor.

22 THE COURT: Yeah, please.

23 BY MR. HINSON IV:

24 Q. In your time working in corrections and being involved
25 in taking detainees to get this health assessment, if

Kimberly Kelley - Direct Examination by Mr. Hinson

JURY TRIAL - VOL. 3

1 Cassi was there for 31 days, should there have been a
2 health assessment done?

3 A. Yes.

4 Q. Captain Kelley, just a minute ago you told us that you
5 became concerned for Cassi. Can you tell us what, if
6 anything, you did to try to advocate for her?

7 A. I spoke with Nurse Brandy Galloway with SHP, I spoke
8 with Nurse Donna Wright with SHP and expressed my concerns
9 to them. I went to my direct supervisor, which was
10 Lieutenant Riddell at that time, and expressed my concern
11 that medical was not providing adequate care for her and
12 that she was going to end up having a major medical
13 incident if we didn't get her seen properly.

14 Q. And what was the outcome of you going to your
15 commanding officer, Lieutenant Riddell? What became of
16 that?

17 A. I kind of got a bit of backlash from it that we are
18 not medical, we don't get to make those calls, and that I
19 just, essentially, needed to stay in my lane.

20 Q. Were you encouraged to speak up at the Aiken County
21 Detention Center if had concerns about a detainee's
22 health?

23 A. If it became a major medical concern that may
24 constitute an emergency, yes.

25 Q. What about a chronic, growing problem?

Kimberly Kelley - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 A. No.

2 Q. Did you have concern about your job security at the
3 Aiken County Detention Center?

4 A. By the demeanor and --

5 MR. LINDEMANN: Objection, Your Honor;
6 relevance. That has nothing to do with this case.

7 THE COURT: Sustained as to relevance. Ask her
8 something else -- or rephrase it to something else.

9 MR. HINSON IV: Yes, Your Honor.

10 BY MR. HINSON IV:

11 Q. How far up the chain did you go voicing your concerns
12 about Cassi's health?

13 A. To Lieutenant Riddell.

14 Q. Why didn't you go any further?

15 A. He made it seem as if there would be some sort of
16 reprimand issued if I tried to take it any further than
17 that, and I just needed to let it go.

18 Q. No further questions. Thank you, Captain Kelley.

19 CROSS-EXAMINATION

20 BY MR. LINDEMANN:

21 Q. Good afternoon. A few additional questions regarding
22 your background. So you are -- just so we're -- I'm clear
23 on the -- the employment that you currently have, you're
24 no longer in law enforcement, you're working for a private
25 security company?

Kimberly Kelley - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

- 1 A. Yes.
- 2 Q. Okay. And how long have you done that?
- 3 A. With this company, a year and a half now.
- 4 Q. All right. After you left the Aiken County Sheriff's
- 5 Office, were you employed in law enforcement at any point
- 6 after that?
- 7 A. No.
- 8 Q. Were you employed in corrections at any point after
- 9 that?
- 10 A. No.
- 11 Q. So you said you're with this current company for about
- 12 a year and half. Have you done other private security?
- 13 A. Yes.
- 14 Q. And what kind of private security is that?
- 15 A. I worked for a company named -- called Andy Frain
- 16 Security with the Columbiana Center Mall in Columbia,
- 17 South Carolina and was the assistant security director
- 18 there for about a year and a half, and then moved back to
- 19 Greenville, South Carolina to be closer to family and
- 20 worked a couple of jobs there before I landed with Dothan
- 21 Security Services.
- 22 Q. So when -- when did you actually live in Aiken?
- 23 A. From November of 2016 through January of 2020.
- 24 Q. All right. So from there, you moved to Columbia?
- 25 A. Yes.

Kimberly Kelley - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

- 1 Q. That's where Columbiana Mall is; correct?
- 2 A. Correct.
- 3 Q. Okay. And then now you live in Greenville?
- 4 A. Yes.
- 5 Q. So when you're being called a captain, that's not a
- 6 captain from any type of governmental position or any type
- 7 of law enforcement position, that's your job title at your
- 8 security company?
- 9 A. Correct.
- 10 Q. Okay. Now, with your period of time during the May
- 11 and the first couple of days of June 2019 at the Aiken
- 12 County Detention Center, did you ever serve as an actual
- 13 pod officer in B-Pod?
- 14 A. Maybe one day in that timeframe.
- 15 Q. All right. And -- and B-Pod, of course, is where the
- 16 female inmates were housed; correct?
- 17 A. Correct.
- 18 Q. All right. And what day was that?
- 19 A. I can't recall the date.
- 20 Q. So there would have been only one day where you were
- 21 actually on that pod for a 12-hour shift?
- 22 A. Correct.
- 23 Q. The shift roster showed that that one day was on May
- 24 19th, the day shift. Do you have any recollection of
- 25 that?

Kimberly Kelley - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 A. Yes.

2 Q. All right. I'm happy to show you the shift log -- I
3 mean the shift rosters. In fact, at some point, I may
4 want to put these into evidence, but I (unintelligible)
5 right now. So -- so you're in -- so on May 19th would
6 have been your one day actually in B-Pod --

7 A. Yes.

8 Q. -- correct? And how was Ms. Rhoads classified?

9 A. I believe she was wearing a red jumpsuit.

10 Q. And what does that signify?

11 A. It could mean disciplinary detention or it could mean
12 medical or -- mental health or medical separation.

13 Q. And where are red jumpsuit inmates housed?

14 A. Typically in the -- the cells on the left side of the
15 pod or in the B-Max area.

16 Q. Okay. And do you recall specifically having
17 interaction with Ms. Rhoads on that one day you were the
18 pod officer?

19 A. Yes.

20 Q. And where was she at?

21 A. Either in B-Max or B-101, which is right directly to
22 the left of the officer's station.

23 Q. So you believe on May 19th she was already in B-Max?

24 A. I'm not sure.

25 Q. Okay. You were asked questions about what's been

Kimberly Kelley - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

- 1 referred to as the barricading incident, which is just for
2 any violation she received and pled guilty for. Do you
3 know what date that occurred?
- 4 A. No.
- 5 Q. Were you present for it?
- 6 A. No.
- 7 Q. So you can't testify from personal knowledge as to how
8 that was handled?
- 9 A. No.
- 10 Q. You don't know who actually responded to it?
- 11 A. No.
- 12 Q. And you don't know what it was about?
- 13 A. No.
- 14 Q. But you offered opinions to this jury of how it should
15 have been handled?
- 16 A. Correct. We have standard operating procedures for
17 barricading incidents.
- 18 Q. But you don't know the circumstances of this
19 particular incident?
- 20 A. It wouldn't have mattered, circumstances or not. We
21 have standard operating procedures that have to be
22 followed in that type of incident.
- 23 Q. Well, different -- different incidents require
24 different approaches, do they not?
- 25 A. Barricading is barricading.

Kimberly Kelley - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 Q. So your contention is you've never used judgment in
2 how you deal with an incident with an inmate?

3 A. That's not what I said.

4 Q. Well, different situations involve different --
5 different circumstances involve different approaches.
6 That was my question.

7 A. Occasionally, yes.

8 Q. Okay. And you have no idea what that situation called
9 for because you weren't there and didn't witness it;
10 correct?

11 A. I did not witness it, no.

12 Q. And you were not there?

13 A. I was not there.

14 Q. Okay. Did that incident occur before or after May
15 19th when you were at the B-Pod, if you know?

16 A. I do not know what day it occurred.

17 Q. But your testimony to the jury is that you believe she
18 was already in B-Max on May 19th?

19 A. Yes.

20 Q. Let me --

21 MR. LINDEMANN: I beg the Court's indulgence.

22 I'm sorry. Your Honor, may I approach?

23 THE COURT: Sure.

24 BY MR. LINDEMANN:

25 Q. I'm going to hand you what's been marked as

Kimberly Kelley - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 Defendant's Exhibit No. 3. Do you recognize that
2 document?

3 A. Yes. This is a logbook entry.

4 Q. And is this a logbook entry that you -- I know that
5 there's several different people's writing, but it's
6 primarily yours?

7 A. Yes.

8 Q. And is this the -- the dayshift on May 19, 2019, that
9 we were just discussing?

10 A. Correct.

11 Q. And does that show you were the pod officer in B-Pod?

12 A. Yes.

13 MR. LINDEMANN: Your Honor, I would ask to move
14 this into evidence.

15 (Defendant's Exhibit 3 was moved for
16 admission into evidence.)

17 MR. HINSON IV: No objection.

18 THE COURT: No objection. Defendant's 3 is in.

19 (Defendant's Exhibit 3 was admitted into
20 evidence.)

21 BY MR. LINDEMANN:

22 Q. All right. And on this particular day -- well, let me
23 ask you this. And take a moment to look at it. Do you
24 see any reference whatsoever to Ms. Rhoads on this
25 logbook?

Kimberly Kelley - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 A. I see a lot of stuff blacked out.

2 Q. Well, I can represent to you that the blacked-out
3 people are people not involved in this litigation and
4 protecting HIPAA rights for other inmates on medical --
5 medical information.

6 A. I do not see anything directly referring to Inmate
7 Rhoads.

8 MR. LINDEMANN: And, Your Honor, just for the
9 jury's benefit when they review this evidence, I was
10 wondering if we could have a stipulation that that's
11 what the -- that's when they see redacted information
12 on these log sheets that it simply the names of other
13 inmates and protecting HIPAA rights.

14 THE COURT: Any problem with that stipulation?

15 MR. HINSON IV: No problem at all.

16 THE COURT: All right. Did you all understand
17 that? It's got names, but not information that going
18 to be able to identify somebody with their Social
19 Security number or whatever that stuff.

20 MR. LINDEMANN: Thank you, Your Honor. I just
21 didn't want the jury to have to take my word for it
22 and didn't want them to think we were hiding anything
23 from them.

24 BY MR. LINDEMANN:

25 Q. So again, ignoring the -- the names that are redacted,

Kimberly Kelley - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 do you see any reference whatsoever to Ms. Rhoads?

2 A. No.

3 Q. All right. And a majority of this is in your
4 handwriting; correct?

5 A. Yes.

6 Q. You would have had relief officers who relieved you
7 that day?

8 A. Yes.

9 Q. In fact, I think it shows that Deputy Keels relieved
10 you for your initial break; is that right?

11 A. Yes.

12 Q. And I believe Deputy Keels then did the -- did the
13 other breaks as well; correct?

14 A. Yes. Yes.

15 Q. And Deputy Keels' writing would be the much larger
16 cursive?

17 A. No.

18 Q. That's not true?

19 A. That's Corporal Buggs. Deputy Keels' is roughly the
20 same size, but not in all caps.

21 Q. Oh, okay. I see that. So for instance, 16:55, that
22 would be Deputy Keels'?

23 A. Correct.

24 Q. All right. And your handwriting is the -- written in
25 all caps for the --

Kimberly Kelley - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

- 1 A. Yes.
- 2 Q. -- correct?
- 3 A. Yes.
- 4 Q. On this particular day, med pass would have occurred
- 5 during your shift; correct?
- 6 A. Yes.
- 7 Q. So medical would have entered for med pass?
- 8 A. They did at 9:01.
- 9 Q. All right. And that's reflected on the -- on the log
- 10 notes?
- 11 A. Correct.
- 12 Q. And it also reflects when med pass -- I mean, when the
- 13 nurse left?
- 14 A. Yes.
- 15 Q. And what time was that?
- 16 A. 9:29.
- 17 Q. And you didn't record any type of communications with
- 18 the nurse at that point in time?
- 19 A. No.
- 20 Q. And you didn't record any type of issues or concerns
- 21 that you had with Ms. Rhoads on that occasion, did you?
- 22 A. No.
- 23 Q. Are you aware of any log notes that you prepared
- 24 that -- that you signed off on that during this period of
- 25 time that made reference to Ms. Rhoads?

Kimberly Kelley - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

- 1 A. Not right off the top of my head, no.
- 2 Q. And you understand log notes -- the purpose of them is
- 3 to advise other officers as to what occurs on the unit, or
- 4 what occurs on that particular unit during that shift;
- 5 correct?
- 6 A. Correct.
- 7 Q. It's also something that's reviewed by supervisors to
- 8 determine what went on during that particular shift?
- 9 A. No, not unless there was an incident that they
- 10 would -- they would need to record and pull the log
- 11 records for.
- 12 Q. So your testimony is supervisors don't look at log
- 13 notes.
- 14 A. No. They'll see that we're doing them and they'll
- 15 sign off that they see that we're doing them, but that's
- 16 as far as it goes unless they need to pull it for
- 17 something more specific.
- 18 Q. You don't know specifically whether a supervisor -- I
- 19 mean, a lieutenant actually would read through the log
- 20 notes --
- 21 A. Yes, I do.
- 22 Q. -- and sign off on what --
- 23 A. Yes, I do.
- 24 Q. -- for every single shift?
- 25 A. They walk in while you are at the pod, pull the

Kimberly Kelley - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 logbook over, sign themselves into the pod, scan through
2 it visually with another few seconds, and then sign that
3 they read it.

4 Q. Well, it would certainly -- the log note would be a
5 good way to document any observations you've made or
6 concerns you had; correct?

7 A. Yes.

8 Q. Okay. And so you didn't do so on May 19th?

9 A. No. No.

10 Q. Now, as far as other interaction that you had with
11 B-Pod during -- between May 3rd and June 2nd, are you
12 aware of any stints that you had as a relief officer
13 during that period of time?

14 A. Yes. It would stand to reason that I relieved the pod
15 several times.

16 Q. All right. Do you recall how many shifts you were a
17 relief officer?

18 A. Not particularly. Not exactly, no.

19 Q. Let me show you -- hold on a second.

20 MR. LINDEMANN: If I could get that marked as

21 Exhibit 4. Thank you.

22 BY MR. LINDEMANN:

23 Q. I'm going to hand you what's been marked as exhibit
24 number -- Defendant's Exhibit No. 4. Do you recognize
25 that document?

Kimberly Kelley - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

- 1 A. It's another logbook entry.
- 2 Q. All right. And that's for dayshift on May 23rd; is
- 3 that correct?
- 4 A. Yes.
- 5 Q. All right. And is there any entries in this logbook
- 6 from you?
- 7 A. Yes.
- 8 Q. And were you the relief officer that day?
- 9 A. I was.
- 10 Q. And what's the first entry on that particular day from
- 11 you?
- 12 A. Maintenance exited. Deputy Kelley relieved for a
- 13 15-minute break.
- 14 Q. And that was reflected at 9:16 a.m.?
- 15 A. Maintenance exited at 9:15 as I was walking in, and at
- 16 9:16, I assumed control of the pod, yes.
- 17 Q. All right. And you were there until how long?
- 18 A. I would say approximately 15 minutes, but it doesn't
- 19 show where I left the pod.
- 20 Q. All right. But -- but certainly, by 10:10 -- 10:19,
- 21 there's different handwriting where certainly Deputy Keels
- 22 was back at that point?
- 23 A. Correct.
- 24 Q. All right. And at the time you entered B-Pod on that
- 25 morning, medical was already present, a nurse was already

Kimberly Kelley - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

- 1 present doing med pass; correct?
- 2 A. Yes.
- 3 Q. All right. And you actually recorded that the nurse
- 4 left at 9:17 that morning?
- 5 A. Correct.
- 6 Q. All right. And then you also have entries later in
- 7 the day -- well, you tell me when. When is the next
- 8 relief that you did?
- 9 A. At noon.
- 10 Q. And that was the -- the lunch -- the 30 break -- the
- 11 30-minute break?
- 12 A. Correct.
- 13 Q. All right. And do you see at 12:33 it shows that
- 14 Cassiopeia Rhoads went to medical?
- 15 A. Correct.
- 16 Q. Is that in your handwriting?
- 17 A. That is.
- 18 Q. So that happened on your -- on your relief break?
- 19 A. Right at the end of it, yes.
- 20 Q. Okay. The very next entry shows that Deputy Keels
- 21 returned; correct?
- 22 A. Yes.
- 23 Q. All right. And you had nothing to do with escorting
- 24 Ms. Rhoads to medical?
- 25 A. I don't know. If she -- if Deputy Keels came in right

Kimberly Kelley - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 at that time, it was possible that I might have gone and
2 taken over that escort, or I would have been the one to
3 walk her down to medical.

4 Q. All right. And do you have any knowledge of her visit
5 with medical on that particular day?

6 A. I couldn't recall, specifically.

7 Q. But in this case, that references that she was
8 actually taken to -- to medical?

9 A. Well, it references that she was placed in the sally
10 port to be escorted to medical.

11 Q. Okay. And that's where she would be -- when you're
12 escorted to medical means to where the medical -- where
13 the Southern Health Partners has their office?

14 A. Correct.

15 Q. And that was in the same facility?

16 A. Yes.

17 Q. Okay. And then later, at 15:35, you had another
18 relief. You relieved Deputy Keels one additional time?

19 A. Yes.

20 Q. All right. During -- in this particular logbook log
21 entry, did you ever record any observations or concerns
22 regarding Ms. Rhoads?

23 A. I did not, no.

24 Q. All right. Well, let me ask you one other question.

25 Do you see on the first page of that particular exhibit at

Kimberly Kelley - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 the top left corner there is a JW?

2 A. Jennifer Whitaker.

3 Q. Okay. So that would be the lieutenant who was -- who
4 was initializing the log notes?

5 A. Yes.

6 Q. And the number under her name -- or her initials, that
7 would be her employee number?

8 A. Correct.

9 Q. And -- thank you. All right. Let me -- let me get
10 you to look at two others real quick. One of them is
11 already into evidence. Let me show you what's already in
12 evidence as a Defendant's Exhibit No. 2. Do you recognize
13 that document?

14 A. It's another logbook entry.

15 Q. All right. And do you -- were -- were you the relief
16 on that particular shift?

17 A. The night shift that started at the bottom of that
18 first page or --

19 Q. Yes, the night shift at the bottom of that page.

20 A. -- okay. Yes.

21 Q. Okay. And that would have been the night shift on May
22 31st of 2019?

23 A. I cannot say for sure. The date is not written on
24 here.

25 Q. Let me ask you, look at the last page. The next shift

Kimberly Kelley - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 is actually dated June 1, the morning shift?

2 A. Okay. Then yes, that would have -- that should have
3 been May 31st.

4 Q. Okay. And ultimately, you provided -- as we said, you
5 weren't the pod officer, you provided relief?

6 A. Correct.

7 Q. Any references that you made on that particular log
8 note regarding any concerns or observations about
9 Ms. Rhoads?

10 A. No.

11 Q. One more real quick.

12 MR. HINSON IV: No objection, Your Honor.

13 MR. LINDEMANN: Oh, Your Honor, I didn't move it
14 in, and I don't think --

15 THE COURT: I thought you said that one was
16 already in.

17 MR. LINDEMANN: -- Defendant's Exhibit 4.

18 THE COURT: So that -- that 4 was the log notes
19 from 5/23?

20 MR. LINDEMANN: That's correct, Your Honor.
21 I'll move those into evidence.

22 (Defendant's Exhibit 4 was moved for
23 admission into evidence.)

24 THE COURT: Thank you. All right. Is there any
25 objection to that one? That was the last one. But

Kimberly Kelley - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 this -- this one was already in, so 2 was already in.

2 MR. HINSON IV: All right. I'll stipulate he
3 can put in as many log entries as he wants.

4 (Defendant's Exhibit 4 was admitted into
5 evidence.)

6 THE COURT: This will be 5.

7 MR. LINDEMANN: I believe she indicated that --
8 no, that's their exhibit.

9 MR. HINSON IV: That was Plaintiff's 11.

10 MR. LINDEMANN: If there's no objection, if I
11 could just move -- go ahead and -- so I don't forget
12 to move in evidence Defendant's Exhibit 5.

13 (Defendant's Exhibit 5 was moved for
14 admission into evidence.)

15 THE COURT: Without objection. It's already
16 been --

17 MR. LINDEMANN: Thank you.

18 THE COURT: -- said twice.

19 (Defendant's Exhibit 5 was admitted into
20 evidence.)

21 BY MR. LINDEMANN:

22 Q. Do you recognize that, Ms. Kelley?

23 A. Yes.

24 Q. All right. Is that another log note?

25 A. Yes.

Kimberly Kelley - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

- 1 Q. And what is that?
- 2 A. I can't tell if that's a six or five, but it's the
- 3 first of some month.
- 4 Q. All right. I'll represent to you it's June 1 of 2019.
- 5 Mr. Rhoads not there on May 1 of 2019.
- 6 A. Okay.
- 7 Q. Does that's showing you being a relief officer?
- 8 A. Yes.
- 9 Q. And that was for B-Pod again?
- 10 A. Correct.
- 11 Q. During that period of time, was medical on the units
- 12 during your relief state where you were providing relief?
- 13 A. I'm sorry. Could you --
- 14 Q. Yeah, that was a horrible question. While you were
- 15 there providing -- providing relief duty, did medical
- 16 enter the unit?
- 17 A. The first one?
- 18 Q. Let me -- let me --
- 19 A. Yes. Yes. I'm sorry. Yes, medical -- medical --
- 20 Q. What time is your first --
- 21 A. I got it, yeah. Medical entered at 21:09.
- 22 Q. -- that's in your handwriting; correct?
- 23 A. Yes.
- 24 Q. And so medical was there. In fact, they exited at
- 25 21:34, so they were there through the entire period when

Kimberly Kelley - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 you were providing relief?

2 A. Yes.

3 Q. And medical entered later that night as well a 23:08,
4 correct, 11:08 p.m.?

5 A. Yes. That's what it says there.

6 Q. All right. And you did two other relief stints, one
7 at 12:26 in the morning and then the other at, it looks
8 like -- it looks like 3:46 in the morning; is that right?

9 A. Yes.

10 Q. All right. It also shows that medical was there also
11 on -- at 4:23 in the morning; correct?

12 A. Yes.

13 Q. So medical was on -- on the unit three different times
14 that morning -- I mean, that evening, the night shift; is
15 that right?

16 A. Yes.

17 Q. All right. And there's no references to Ms. Rhoads on
18 this call, is there?

19 A. Not that I can see.

20 Q. Okay. And so if you had any concerns about
21 Ms. Rhoads' condition or the way she looked, that's
22 something that you could have put on the log notes and you
23 didn't; correct?

24 A. Yes.

25 Q. And Ms. Kelley you -- you never provided any type of

Kimberly Kelley - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 concern or complaint up your chain of command regarding
2 Ms. Rhoads in writing in any way, did you?

3 A. In writing? No.

4 Q. Okay. And you all have e-mail accounts; correct?

5 A. Yes.

6 Q. And you would communicate with other employees of the
7 sheriff's office and the detention center by e-mail;
8 correct?

9 A. I believe so, yes.

10 Q. All right. So if you had wanted to, you could have
11 sent an e-mail up the chain of command expressing any type
12 of concerns like you described to the jury here today?

13 A. I don't recall whether or not I would -- I had sent
14 one to Lieutenant Riddell or not.

15 Q. And you testified previously, did you not, that you
16 had not?

17 A. I honestly, until this moment, forgot that we had
18 e-mail within the Aiken County Sheriff's Office.

19 Q. All right. So you're saying until I just brought that
20 up, the issue of whether or not you communicated by e-mail
21 has never been raised to you?

22 A. Correct.

23 MR. LINDEMANN: I beg the Court's indulgence. I
24 apologize. Can you get me the deposition? Your
25 Honor, may open it --

Kimberly Kelley - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 THE COURT: Sure. Yes.

2 MR. LINDEMANN: -- or allow Madam Clerk to open
3 it?

4 THE COURT: We've probably got something that
5 will do it quicker than having to do it by hand.

6 MR. HINSON IV: Here's your copy right here,
7 Andrew, if you just want to take that one.

8 MR. LINDEMANN: Well, it needs to be -- it needs
9 to be in the record that we used it.

10 BY MR. LINDEMANN:

11 Q. Ma'am, do you remember giving a deposition in this
12 case?

13 A. Yes.

14 Q. All right. And do you recognize that as your
15 deposition?

16 A. Yes.

17 Q. All right. If you could turn to page 92. Starting at
18 line 10, I asked you, "Did you have an e-mail account at
19 that time?" Did I not ask that?

20 A. Yes. And my response was, "I believe so, yes."

21 Q. All right. And my next question, "We're you able to
22 send and receive e-mails up your chain of command?"

23 A. Yes.

24 Q. And your answer was yes; is that correct?

25 A. Yes.

Kimberly Kelley - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 Q. My next question is, "Did you ever send an e-mail
2 about any concerns you had about Cassi Rhoads?" And what
3 was your answer?

4 A. I do not recall about that -- "I do not recall that."

5 Q. And my next question was, "Did you ever send e-mails
6 up your chain of command regarding any issues with the
7 medical care that was being provided at Aiken County
8 Detention Center in 2019?" And what was your answer?

9 A. "I don't recall."

10 Q. So you had the ability to communicate in writing or
11 electronically about concerns -- any concerns that you had
12 about medical care generally about Ms. Rhoads, and you're
13 not aware of ever doing that?

14 A. That's not normal procedure for me, personally. I'm a
15 face-to-face conversation person.

16 Q. And so the only -- the only person in the chain of
17 command that you contend that you spoke with was
18 Lieutenant Riddell?

19 A. Yes.

20 Q. All right. And you never addressed any -- any
21 concerns with anybody above Lieutenant Riddell, did you?

22 A. No.

23 Q. And there are people in the chain of command above
24 him; correct?

25 A. Yes.

Kimberly Kelley - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 Q. Including Captain Nick Gallam, who's seated here
2 today; correct?

3 A. Yes.

4 Q. And you never expressed any concerns to Captain
5 Gallam --

6 A. No.

7 Q. -- either verbally or in writing; is that correct?

8 A. Not that I recall.

9 MR. LINDEMANN: I beg the Court's indulgence.

10 BY MR. LINDEMANN:

11 Q. The concerns that you expressed to the jury that you
12 had here today -- or that you expressed to the jury, did
13 you ever place that in the form of an incident report at
14 any time?

15 A. It wouldn't have gone to an incident report unless
16 there was an actual incident that occurred where medical
17 was called or an emergency was called.

18 Q. So my question is, did you ever place it in the form
19 of an incident report to go to your superiors that way?

20 A. Not that I recall.

21 Q. And incident reports are actually reviewed going up
22 the chain of command; correct?

23 A. Right.

24 Q. Is that correct?

25 A. Well, they're -- they're initially reported to the

Kimberly Kelley - Redirect Examination by Mr. Hinson

JURY TRIAL - VOL. 3

1 supervisor before an incident report is completed. They
2 will let you know if you need to complete an incident
3 report.

4 Q. So you never make a determination whether an incident
5 report is necessary as a deputy, you simply wait for your
6 supervisor to tell you?

7 A. You -- you inform the supervisor of the incident and
8 they advise whether or not they need an incident report
9 completed, or if it's just going to be a documentation.

10 Q. Thank you, Ms. Kelley.

11 MR. HINSON IV: Very brief, Your Honor.

12 THE COURT: Okay.

13 MR. HINSON IV: I imagine these folks are
14 hungry, just like the rest of us.

15 REDIRECT EXAMINATION

16 BY MR. HINSON IV:

17 Q. Captain Kelley, earlier, you were asked about standard
18 operating procedures for barricading incidents. Do you
19 have to witness a barricading incident to know what the
20 standard operating procedure is for what to do with the
21 video footage?

22 A. No.

23 Q. And to be clear, what was the standard operating
24 procedure for video footage for barricading incidents?

25 MR. LINDEMANN: Your Honor, beyond -- beyond the

Kimberly Kelley - Redirect Examination by Mr. Hinson

JURY TRIAL - VOL. 3

1 scope. I didn't go into any of this.

2 MR. HINSON IV: He literally asked her about the
3 standard operating procedures for barricading
4 incidents. And she was there, and she could have
5 testified about what the standard operating procedures
6 were.

7 MR. LINDEMANN: Your Honor, I -- I didn't. I
8 just established that she wasn't there.

9 THE COURT: I think it's allowed. She -- he --
10 we're talking about the judgment, as I recollect, and
11 questions of that nature, so get to your point.

12 MR. HINSON IV: I will.

13 BY MR. HINSON IV:

14 Q. To be clear, what did the standard -- whether or not
15 you were there or not, what did the -- the standard
16 operating procedures require from footage of the video of
17 a barricading incident?

18 A. That an incident report has to be completed and the
19 footage saved along with the incident report.

20 Q. And is that even if the person pleads guilty to
21 barricading?

22 A. I can't answer on that. I don't know for sure.

23 Q. So with regard to a relief officer, just briefly --
24 briefly explain what a relief officer is.

25 A. It's an officer working in an escort position or in

Kimberly Kelley - Redirect Examination by Mr. Hinson

JURY TRIAL - VOL. 3

1 another pod that is sent to relieve the officer working a
2 specific area for their breaks.

3 Q. Okay. And so even if you weren't assigned -- the
4 assigned pod officer in May and early June of 2019, would
5 you have had the occasion to work as a relief officer in
6 B-Pod?

7 A. Yes.

8 Q. And generally, how long would those reliefs -- relief
9 periods be?

10 A. Two 15-minute breaks and a 30-minute break.

11 Q. Okay. So would you have had multiple occasions to
12 interact with Cassi in May and June?

13 A. Yes.

14 Q. All right. When you went up to your lieutenant, did
15 you make any offers of what you were even willing to do
16 for Cassi?

17 A. Yeah. I told him that, you know, if medical --

18 MR. LINDEMANN: Your Honor, this is beyond the
19 scope of -- of -- of cross.

20 MR. HINSON IV: Your Honor, he absolutely asked
21 about the interactions with her officer -- her
22 commanding officer.

23 THE COURT: I think -- I think you did. So
24 rephrase your question about certain items to exactly
25 what your question was.

Kimberly Kelley - Redirect Examination by Mr. Hinson

JURY TRIAL - VOL. 3

1 MR. HINSON IV: All right.

2 BY MR. HINSON IV:

3 Q. Well, as part of your efforts to advocate for Cassi,
4 did you make offers of what you were willing to do?

5 A. I did.

6 Q. And what was that?

7 A. I offered to come in on my day off to transport her if
8 they didn't have anyone else available to transport her to
9 the hospital.

10 Q. And what were you told?

11 A. That's not how things are done.

12 MR. LINDEMANN: Objection, Your Honor. He
13 hasn't even said who it was said to.

14 THE COURT: Well, it -- it -- I think the
15 question envisions it's the supervision officer from
16 what -- what he said, so --

17 MR. HINSON IV: Right.

18 BY MR. HINSON IV:

19 Q. And who is that supervising officer?

20 A. Lieutenant Riddell.

21 Q. And what was the response when you offered to take
22 Cassi to the hospital yourself on your day off of work?

23 A. That's not how we do things, we cannot supersede
24 medical, we do not have the -- we don't have the training
25 and certification to make that determination.

Kimberly Kelley - Redirect Examination by Mr. Hinson

JURY TRIAL - VOL. 3

1 Q. All right. And Captain Kelley, if you had put in this
2 logbook something about Cassi needing medical care, would
3 that have made any difference to how things happened?

4 A. Not --

5 MR. LINDEMANN: Object to the form; purely
6 speculative, Your Honor --

7 THE COURT: I think that's speculation, too, so
8 I'll --

9 MR. HINSON IV: -- as to the knowledge of --

10 THE COURT: -- sustain that.

11 BY MR. HINSON IV:

12 Q. Was there any mechanism that you writing something in
13 the logbook would have -- was there any mechanism in place
14 at the Aiken County Detention Center that you writing
15 something in the logbook would have triggered a review
16 about Cassi's health?

17 A. From my experience, not -- no.

18 Q. All right. Thank you. Captain Kelley, you testified
19 you didn't go any further after Lieutenant Riddell;
20 correct?

21 A. Yeah.

22 Q. Should you have gone further?

23 A. Yes.

24 Q. And what would have been that next step?

25 A. Lieutenant Bowman or Captain Gallam.

Kimberly Kelley - Redirect Examination by Mr. Hinson

JURY TRIAL - VOL. 3

1 Q. And is that what should have happened?

2 A. Yeah.

3 Q. Thank you. I appreciate it. No further questions.

4 THE COURT: You may step down, ma'am. All
5 right, folks. Time for lunch. At least it was 30
6 minutes ago. We'll take a break 'til 2:15, if we can
7 get back here at 2:15. If we're a little bit late,
8 we'll do our best. Let's shoot for 2:15. So don't
9 talk about the case. See you back here at 2:15.

10 (The jury exited the courtroom.)

11 THE COURT: All right. What -- just so I can
12 understand, what you got left?

13 MR. HINSON IV: We're calling Ms. Rhoads to the
14 stand, Your Honor. I think we have a few things we
15 may publish, but that will be it.

16 THE COURT: Okay.

17 MR. HINSON IV: Is that -- is that still the
18 plan?

19 THE COURT: You said you thought you'd finish by
20 Wednesday. I didn't know if all that slowing of --
21 the COVID nonsense that went on -- if you were still
22 on the same timetable.

23 MR. HINSON IV: We're cutting -- were cutting
24 things to try to make it quicker, Your Honor.

25 THE COURT: Okay.

JURY TRIAL - VOL. 3

1 MR. HINSON IV: We actually did have some other
2 witness we were going to call, but --

3 THE COURT: Okay.

4 MR. HINSON IV: -- we are adjusting for how long
5 this is taking.

6 THE COURT: It's taking longer than we all
7 hoped.

8 MR. HINSON IV: Yeah. I mean, I -- I know we
9 talked about -- had lots of arguments Aubrey Land. At
10 this point, unless he's needed in rebuttal, it's not
11 our intention to call him.

12 THE COURT: Okay. All right. Mr. Lindemann?

13 MR. HINSON IV: And not because he's
14 unqualified.

15 THE COURT: Okay.

16 MR. LINDEMANN: You're asking me what -- how
17 many witnesses I have?

18 THE COURT: What do you envision? I mean...

19 MR. LINDEMANN: I -- I -- well, obviously, we'll
20 have to do motions after they rest and then --

21 THE COURT: Well, I wouldn't think anything
22 else. I wasn't asking about that.

23 MR. LINDEMANN: Your Honor, I'm not sure what
24 I'll argue yet, but anyway. I probably have,
25 potentially, likely two -- well, most likely three

JURY TRIAL - VOL. 3

1 witnesses.

2 THE COURT: Okay.

3 MR. LINDEMANN: So I should be able to rest by
4 -- again, I don't know how long will be, but I would
5 think lunch or shortly after lunch tomorrow.

6 THE COURT: All right. Just so you all are
7 aware, I've got a matter common into my town, and I
8 scheduled it at lunchtime tomorrow at 1:00. And it
9 will be here in the courtroom. So, unfortunately,
10 Kadesha and Melissa and I have to work through lunch
11 tomorrow. This is a very important plea I've got to
12 take.

13 MR. MCLAUGHLIN: Would be the Florence case,
14 Judge?

15 THE COURT: Pardon?

16 MR. MCLAUGHLIN: Is that the Florence case?

17 THE COURT: Yes.

18 MR. MCLAUGHLIN: I can just -- I'll be here,
19 too.

20 THE COURT: You're involved with the compliance
21 side, right?

22 MR. MCLAUGHLIN: Yeah. Well -- yeah.

23 THE COURT: All right. So just so you all are
24 aware of that. So we may work 'til 12:00, 12:15 and
25 give Kadesha a break, because the 1:00 thing, it's --

JURY TRIAL - VOL. 3

1 it's a --

2 MR. MCLAUGHLIN: It could take longer.

3 THE COURT: -- it could impact a month of court
4 getting it done, if not more. 600 juror summons is
5 going out for it. That's a lot of postage. And
6 they're not 50-cent stamps, either. This is a packet.
7 So probably \$3 and return, so it's big. All right.
8 Now, we're off the record.

9 (Off the record.)

10 (Recess.)

11 (On the record.)

12 MR. LINDEMANN: Your Honor, just so you know for
13 some additional deposition excerpts we got from them,
14 we filed objections and requests for a couple of
15 additional designations to read under Rule 32. We
16 don't have a way to print them out but we filed it, so
17 that was the best I could do.

18 THE COURT: Okay. We'll deal with it.

19 MR. LINDEMANN: Okay.

20 MR. HINSON IV: If I could, I would ask
21 Mr. Lindemann, I intend to put Ms. Rhoads on the
22 stand. The jury doesn't obviously get to -- well, I
23 guess we could -- but we're not going to have the jury
24 palpate her skull so they can feel how big this hole
25 is. Obviously, I'm not going to ask for that. I have

JURY TRIAL - VOL. 3

1 this demonstrative -- I can ask, you know, Ms. Rhoads
2 does this -- if you feel your skull, does this
3 actively reflect where the hole is.

4 THE COURT: Suits me.

5 MR. HINSON IV: Any objection to it? I'm not
6 going to enter it into evidence.

7 MR. LINDEMANN: I don't even know where that --
8 where that photograph came from. I mean, is that an
9 illustration?

10 MR. HINSON IV: I had a medical illustrator use
11 the images to -- to create this, and Ms. Rhoads can
12 substantiate that that looks -- if she feels her head,
13 that feels like where the hole is.

14 MR. LINDEMANN: I mean, the doctor has already
15 testified that -- it's not a disputed question of
16 fact.

17 MR. HINSON IV: It doesn't --

18 MR. LINDEMANN: I think that's just done to, you
19 know, inflame the jury.

20 THE COURT: It's just to show to the jury. I'm
21 going to let him use it.

22 MR. HINSON IV: Thank you, Your Honor.

23 THE COURT: You can make a record -- if you want
24 to make it for the record, I'll make sure we're on the
25 record, if you want to make it for the record. We are

JURY TRIAL - VOL. 3

1 on.

2 MR. LINDEMANN: Oh, we are on?

3 THE COURT: Yeah. So do you want to say
4 anything further about that?

5 MR. LINDEMANN: No. I think just what I -- I
6 think I've established enough -- what I just commented
7 with my objection just a second ago was recorded?

8 THE COURT: It was.

9 MR. LINDEMANN: Got it. Great. Thank you, Your
10 Honor. And this is demonstrative, we're not putting
11 it into evidence?

12 THE COURT: He did say that.

13 MR. MCLAUGHLIN: Yes, that's correct.

14 THE COURT: Demonstrative only. Not going back
15 in the back.

16 MR. HINSON IV: Absolutely.

17 THE COURT: Are you all ready for the jury?

18 MR. HINSON IV: Yes, Your Honor.

19 MR. LINDEMANN: Yes, Your Honor.

20 THE COURT: Bring them.

21 (The jury entered the courtroom.)

22 THE COURT: I'm keeping my eye on you over
23 there. You all realize I cut I've got the breaks
24 shorter today. I finally got these lawyers
25 understanding what I'm talking about. So moving on.

JURY TRIAL - VOL. 3

1 Call your next witness.

2 MR. HINSON IV: Your Honor, we have one more
3 witness. But before that, we have two quick requests
4 for admissions we'd like to publish to the jury. And
5 I'll take just a second and ask if you would briefly
6 instruct the -- I've given it to Mr. Lindemann.

7 MR. LINDEMANN: That's correct, Your Honor. No
8 objection.

9 THE COURT: Okay. Here's what -- early on we
10 had the deposition things, which were the -- that may
11 be one right there -- they're the sworn statements
12 that are put in the funny sounding envelope that are
13 recorded sworn testimony of any witnesses who could be
14 called. Prior to that, the lawyers exchanged what's
15 called discovery requests, interrogatories, requests
16 to produce, requests to admit. Lawyers can type out
17 questions before they get too deep in the case:
18 Please admit that you live in South Carolina, and the
19 answer is yes or no. Please admit that you do thus
20 and so. They can use those in resolving the case in
21 any fashion. They can also publish them to the jury.
22 So what the plaintiff asked, he'd like to read two
23 requests to admit that the defense admitted. All
24 right. Go ahead.

25 MR. HINSON IV: Your Honor, we would like to

JURY TRIAL - VOL. 3

1 publish to the jury Request to Admit Nos. 1 and 6.
2 Here's a copy for the court reporter. Request to
3 Admit No 1: Admit that, more likely than not, and
4 considering all of the information now available,
5 Cassi Rhoads was suffering from an infectious mass on
6 the right side of her head during at least some of the
7 time during of detainment at the Aiken County
8 Detention Center in May and early June of 2019. The
9 defendant's response: Denied. The plaintiff was
10 diagnosed at Aiken Regional Medical Center with
11 osteomyelitis with subgaleal and epidural abscess.
12 Request to Admit No. 6: Admit that the delay in the
13 diagnosis and treatment of the infectious mass on the
14 right side of Cassi Rhoads' head proximately caused
15 injury to Cassi. The defendant's response: Denied.

16 That concludes our publication, Your Honor.

17 MR. LINDEMANN: Your Honor, since the first
18 request was time -- I mean, he basically said
19 available at this point in time or something to that
20 -- I don't have it right in front of me -- I think it
21 would be appropriate to let the jury know when those
22 requests written for admissions were served.

23 THE COURT: Fair enough.

24 MR. HINSON IV: No objection. The answer was
25 November 21 -- excuse me -- November 29th, 2021.

Cassiopeia Rhoads - Direct Examination by Mr. Hinson

JURY TRIAL - VOL. 3

1 THE COURT: So 23 months ago.

2 MR. LINDEMANN: Thank you, Your Honor.

3 THE COURT: Fair enough. All right.

4 MR. HINSON IV: The plaintiff calls Cassiopeia
5 Rhoads to the stand.

6 (The witness was sworn in.)

7 THE CLERK: If you'll take a seat in the witness
8 box and state your full name for the Court, spelling
9 your last.

10 THE WITNESS: My name is Cassiopeia Rhoads,
11 R-H-O-A-D-S.

12 CASSIOPIA RHOADS

13 was called as a witness, and having been first duly sworn,
14 testified as follows:

15 DIRECT EXAMINATION

16 BY MR. HINSON IV:

17 Q. Good afternoon, Cassi.

18 A. Good afternoon.

19 Q. You need to speak up for these folks. I know this is
20 tough. I'd like to introduce you to our jury, and tell
21 them a little bit about yourself. We'll start with,
22 what's your date of birth?

23 A. [REDACTED]

24 Q. And how old does that make you today?

25 A. 32.

Cassiopeia Rhoads - Direct Examination by Mr. Hinson

JURY TRIAL - VOL. 3

1 Q. And how old would that have made you for the events
2 we're here this week in May and June of 2019?

3 A. 28.

4 Q. Cassi, tell us a little bit more about yourself.
5 Where did you grow up?

6 A. I'm from North Augusta. I went to North Augusta High
7 School. I have a 12-year-old son. His name is Oren.

8 Q. Did you finish high school?

9 A. No.

10 Q. Cassi, let's talk about 2019. Not specifically May
11 and June, just early 2019. Was that a good time in your
12 life?

13 A. Not at all.

14 Q. Why not, Cassi?

15 A. I was making bad decisions. I was on drugs. I lost
16 my dad. It was just -- just a bad time.

17 Q. And as the jury has heard, you were booked into Aiken
18 County Detention Center May 3rd, 2019; is that right?

19 A. Correct.

20 Q. And we won't get into the details, but did you deserve
21 to be there?

22 A. Yes, absolutely.

23 Q. And Cassi, when you were in the detention center, did
24 -- did you get a bump on the side of your head?

25 A. Yes, sir.

Cassiopeia Rhoads - Direct Examination by Mr. Hinson

JURY TRIAL - VOL. 3

1 Q. Do you know what caused it?

2 A. No, sir.

3 Q. And Cassi, in your time there, did that bump get
4 bigger?

5 A. Yes, sir.

6 Q. And as it got bigger, did you bring this to people's
7 attention?

8 A. Yes, sir.

9 Q. Who all did you tell?

10 A. I told the officers, I told the nurses, anybody I
11 could talk to, really.

12 Q. And is this thing -- we've seen pictures. I won't
13 belabor too much. How did it feel?

14 A. It was excruciating. It just -- it felt like there
15 was a crowd of people in my head all the time and just --
16 it was -- it was just excruciating, like someone was
17 pulling my skull apart like -- it was terrible.

18 Q. And was that intermittent or was it constant?

19 A. Constant.

20 Q. And did it begin to impact you or affect you in other
21 ways, Cassi?

22 A. Yes.

23 Q. How?

24 A. I couldn't really get up and do much except for take a
25 shower, and that was rare, so...

Cassiopeia Rhoads - Direct Examination by Mr. Hinson

JURY TRIAL - VOL. 3

1 Q. Did it ever cause you to lose consciousness?

2 A. Yes.

3 Q. Did it in any way impact your sensation, your touch,
4 your ability to use her arms?

5 A. Yes, sir.

6 Q. How so?

7 A. It just made them tingle and it was just -- it's hard
8 to explain. It was just a very weird feeling. It was
9 just -- I don't really know how to explain it.

10 Q. And Cassi, besides the medical staff, who else did you
11 tell about this problem?

12 A. The officers.

13 Q. And generally, what was the response you got?

14 MR. LINDEMANN: Your Honor, objection. I mean,
15 officers? It probably needs to be more specific than
16 just officers.

17 THE COURT: Sure. All right. Clarify that.

18 MR. LINDEMANN: There was a dozen other people
19 who worked there.

20 BY MR. HINSON IV:

21 Q. To the degree you know, who were some of the folks
22 that you complained to and brought this to their
23 attention?

24 A. Ms. Buchanan, Ms. Kelley, Ms. Hill, Ms. Bauer.

25 There -- I think there was an officer name is Hatch or

Cassiopeia Rhoads - Direct Examination by Mr. Hinson

JURY TRIAL - VOL. 3

1 something like that. I talked to her as well.

2 Q. Numerous people?

3 A. Yes. Yes, sir.

4 Q. Cassi, you've obviously been here all week with us,
5 and we've talked about a barricading incident. It's also
6 been referred to as a peaceful protest. Tell us about
7 that event.

8 A. Basically, I wasn't getting the help that I needed.
9 And so I went out -- it was -- it was our rec time, but
10 they let us out, and I went and talked to Ms. Buchanan and
11 I told her I needed help, I needed to go to the hospital,
12 I needed some type of help, and she said that she'll get
13 to it. And so I sat my chair in front of her desk and
14 told her I wasn't going back in my room 'til I got medical
15 help and sent to the hospital.

16 Q. And what was the response you got from the folks in
17 the Aiken County Sheriff's Office?

18 A. They'll get to it. They'll -- they'll get to it
19 later.

20 Q. And what else happened from your refusal to back to
21 your cell?

22 A. They put me in B-Max on solitary.

23 Q. Cassi, describe for us what solitary is like at the
24 Aiken County Detention Center.

25 A. It's horrible. When you're in B-Max, there's people

Cassiopeia Rhoads - Direct Examination by Mr. Hinson

JURY TRIAL - VOL. 3

1 back there screaming and flooding toilets and just doing
2 all kinds of things. And you're in the room by yourself,
3 you get one hour out a day. And it's just a horrible
4 living situation.

5 Q. Now, did you file medical grievances before you went
6 to B-Max?

7 A. Yes, sir.

8 Q. Do you recall how many you filed?

9 A. Five.

10 Q. And after B-Max -- or after you were put in B-Max, the
11 medical record doesn't have any more grievances. Were you
12 able -- to your understanding, were you able to file
13 grievances, medical requests, once you went to B-Max?

14 A. Not to my understanding. If you wanted to file
15 grievances, you had to come out and use the kiosk, and the
16 kiosk is not accessible to people in B-Max.

17 Q. So once you went to B-Max, did you -- did you make any
18 more requests for help, like verbally?

19 A. Yes, verbally.

20 Q. Cassi, the record has established that you finally
21 were taken to the hospital on June 2nd, 2019. And we've
22 heard from Dr. O'Bryan describing kind of in a little more
23 detail and in a little more medical terms of what happened
24 to you once you got to B-Max -- or, excuse me -- once you
25 got to Aiken Regional. Just generally, what did they do

Cassioia Rhoads - Direct Examination by Mr. Hinson

JURY TRIAL - VOL. 3

1 for you once you got to Aiken Regional?

2 A. Well, after they took me in, I had to have surgery
3 where they removed a portion of my skull and then I had to
4 be on vancomycin for six weeks. And I mean, they came in
5 three times a day and put -- gave me IV antibiotics and
6 gave me things for pain.

7 Q. Cassi, you said they removed a portion of your skull.
8 Is that still the case?

9 A. Yes, sir.

10 Q. Can you kind of show the jury where -- where that is?

11 A. About right in here.

12 Q. And then how far down does it go?

13 A. (No audible response)

14 Q. Okay. So I worked to put together -- we just can't
15 have these folks come palpate and feel your skull. It
16 would kind of be awkward, I think, for everybody. Does
17 this graphical image accurately reflect the points you
18 just pointed to on your skull as to where you now have a
19 hole in your skull?

20 A. Yes, sir.

21 Q. Cassi, I want to show you a couple of pictures here.
22 So first, right here, Cassi, what is -- what is that
23 picture there? What does it depict?

24 A. That is me in the hospital after having surgery.

25 Q. Okay. What about this next one?

Cassiopeia Rhoads - Direct Examination by Mr. Hinson

JURY TRIAL - VOL. 3

1 A. That's after I had my surgery as well.

2 Q. All right. And Cassi, what about -- this is from a
3 different time period. What are we looking at there?

4 A. That's me my grandfather before I got on drugs really
5 bad.

6 Q. So this is prediction?

7 A. Yes.

8 Q. All right.

9 MR. HINSON IV: And, Your Honor, we would move
10 these three pictures into -- into evidence as the --
11 the next three numbers.

12 THE COURT: Any objections?

13 MR. LINDEMANN: No, Your Honor.

14 THE COURT: All right. Hand those to Kadesha
15 and let her mark them.

16 MR. HINSON IV: And I will do better job, Your
17 Honor, of not interrupting this lady until she's done
18 with her job. Ms. Davis, I apologize again. I just
19 get so wrapped up.

20 THE COURT REPORTER: These will be 12, 13, and
21 14.

22 (Plaintiff's Exhibits 12, 13 and 14 were
23 moved for admission into evidence.)

24 THE COURT: All right. 12, 13, and 14 will be
25 admitted. I'll let you mark them.

Cassiopeia Rhoads - Direct Examination by Mr. Hinson

JURY TRIAL - VOL. 3

1 (Plaintiff's Exhibits 12, 13, and 14 were
2 admitted into evidence.)

3 BY MR. HINSON IV:

4 Q. Cassi, for the services and medical care you required,
5 the surgery you discussed and everything that came with
6 it, we heard earlier Dr. O'Bryan say that the medical
7 bills related to those -- to that care --

8 MR. LINDEMANN: Objection to him testifying --

9 MR. HINSON IV: I'm sorry.

10 MR. LINDEMANN: -- to with witness was saying.

11 MR. HINSON IV: Withdraw -- I withdraw my
12 question.

13 THE COURT: All right. Ask her to identify.

14 BY MR. HINSON IV:

15 Q. Cassi, could you identify what I have just handed you?

16 A. It is a bill for medical -- medical.

17 Q. For who? Who is the bill to?

18 A. Me.

19 Q. And what is a total there for the -- for the bill?

20 A. \$341,730.79.

21 MR. HINSON IV: Your Honor, we would move the
22 medical bill into evidence as the next plaintiff's
23 exhibit.

24 (Plaintiff's Exhibit 15 was moved for
25 admission into evidence.)

Cassiopia Rhoads - Direct Examination by Mr. Hinson

JURY TRIAL - VOL. 3

1 MR. LINDEMANN: No objection, Your Honor.

2 THE COURT: This will be 15. Could you hand it
3 to her?

4 THE WITNESS: Yes.

5 (Plaintiff's Exhibit 15 was admitted into
6 evidence.)

7 BY MR. HINSON IV:

8 Q. Cassi, today you still have this hole in your skull.
9 What is your understanding of the potential treatment
10 options that you have, if any, for -- for the hole in your
11 skull?

12 A. They would go in and put a plate over it. I'm not
13 really sure how that works, but they would -- they would
14 do something to cover it, some type of plate or -- or
15 something.

16 Q. And I know you're not a physician, but what is your
17 understanding of how much -- approximately how much that
18 procedure would cost to get that plate put on?

19 MR. LINDEMANN: Objection. She doesn't have
20 that -- lack of foundation. She's not a physician, as
21 he said.

22 MR. HINSON IV: But, Your Honor, she can testify
23 her understanding of what -- of what this procedure
24 would cost.

25 THE COURT: How about rephrase it where she --

Cassiopia Rhoads - Direct Examination by Mr. Hinson

JURY TRIAL - VOL. 3

1 where the source of the understanding. So sustained
2 as to the first question.

3 BY MR. HINSON IV:

4 Q. Have physicians related to an approximation of what
5 that procedure would cost?

6 A. Yes, around \$70,000.

7 MR. LINDEMANN: Your Honor, again, that would be
8 hearsay. It's no different. It's a lack of
9 foundation. I mean, you present the testimony of the
10 person with knowledge, and they had a doctor on the
11 stand yesterday. The question about future medical
12 care never came up in his testimony. I don't think
13 she's qualified to testify as to future medical care
14 and certainly not the expense of it, Your Honor.

15 MR. HINSON IV: Your Honor --

16 THE COURT: I'm going to consistently rule and
17 allow the question because we had a question yesterday
18 about testimony of a \$300 charge.

19 MR. HINSON IV: And I'm sorry. So you will
20 allow it?

21 THE COURT: I'm going to allow it.

22 MR. HINSON IV: Okay.

23 BY MR. HINSON IV:

24 Q. Cassi, what's your understanding, then, of what this
25 -- what this procedure would cost?

Cassiopeia Rhoads - Direct Examination by Mr. Hinson

JURY TRIAL - VOL. 3

1 A. Somewhere around \$70,000.

2 Q. Thank you. And Cassi, I want to talk to -- talk to
3 you about how, if at all, all these events in May and June
4 of 2019 have impacted you. Has this infectious abscess
5 become so large that it -- and all the things we talked
6 about already, I won't belabor it. But it grew as big as
7 it did and you had to have this surgery. Have you noticed
8 differences in your health since then?

9 A. Yes. I have trouble with memory and, like, sometimes
10 getting the words that I need, and I have headaches very
11 often.

12 Q. Did you -- did you have word finding difficulty before
13 the events of May-June 2019?

14 A. No, sir.

15 Q. Does this hole in your skull, does it cause you any
16 concern as you go through your life?

17 A. Yes.

18 Q. Tell -- tell us how.

19 A. Well, if someone were to hit me there it could kill
20 me. And the surgery to, like, get it fixed has got a lot
21 of risks as well.

22 Q. What?

23 A. Risks.

24 Q. So brain surgery?

25 A. Yeah.

Cassiopia Rhoads - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 MR. LINDEMANN: Your Honor, can we have a quick
2 sidebar?

3 THE COURT: You may.

4 (Sidebar off the record.)

5 MR. HINSON IV: Thank you, Your Honor.

6 MR. LINDEMANN: Thank you. I appreciate it,
7 Your Honor. I beg the Court's indulgence for one
8 second.

9 CROSS-EXAMINATION

10 BY MR. LINDEMANN:

11 Q. Good afternoon, Ms. Rhoads.

12 A. Good afternoon.

13 Q. That last picture that you had with your grandfather,
14 do you know when that portrays you, at what age?

15 A. I -- I don't know.

16 Q. You don't know?

17 A. No.

18 Q. That wasn't right around the time of your being at the
19 Aiken County Detention Center?

20 A. No, sir.

21 Q. Okay. But you can't give me an idea how much earlier
22 it was.

23 A. I honestly, I don't recall. I -- I don't recall.

24 Q. I understand. Let me just get a little bit -- a
25 little bit more background from you. So you were booked

Cassiochia Rhoads - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 into Aiken County Detention Center on May 3rd, 2019;

2 correct?

3 A. Yes, sir.

4 Q. All right. And you were ultimately convicted of the
5 charges for which you were booked; correct?

6 A. Yes, sir.

7 Q. Okay. And those charges were for forgery; is that
8 correct?

9 A. Before what?

10 Q. Forgery.

11 A. Yes, sir.

12 Q. And I think you described it as shoplifting
13 enhancement.

14 A. Yes, sir.

15 Q. And what does the enhancement mean?

16 A. That I was a repeat offender.

17 Q. Okay. And ultimately, prior to that, you had other
18 convictions or guilty pleas; isn't that right?

19 A. Yes, sir.

20 Q. Okay. And you had actually serve time previously at
21 Leath Correctional Institution with the department of
22 corrections?

23 A. Yes, sir.

24 Q. And that occurred prior to 2019?

25 A. Yes, sir.

Cassiopeia Rhoads - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 Q. When was that, specifically, when you were in the
2 department of corrections?

3 A. From 2014 to 2017.

4 Q. Okay. And what was the -- the conviction for the --
5 you were serving at Leath?

6 A. Forgery and shoplifting.

7 Q. All right. Did you ever have any drug convictions?

8 A. Prior to 2019?

9 Q. Prior to 2019.

10 A. A simple possession of marijuana.

11 Q. Okay. Subsequent to 2019, did you have any?

12 A. Yes, sir.

13 Q. Okay. And what drug charges have you had subsequent
14 to 2019?

15 A. Possession with intent to distribute meth and
16 possession with intent to distribute heroin.

17 Q. And you were convicted and pled guilty to those
18 offenses?

19 A. I was convicted, yes, sir.

20 Q. All right. And you indicated that in 2019 you were a
21 drug addict; correct?

22 A. Yes, sir.

23 Q. Okay. But that didn't start in 2019, did it?

24 A. No, sir.

25 Q. It had gone on for quite some time?

Cassiochia Rhoads - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 A. Yes, sir.

2 Q. And I understand your father passed away in early
3 2019. I understand that. But that's not what caused you
4 to become a drug addict. You had -- it predated that by a
5 number of years; right?

6 A. Yes, sir.

7 Q. All right. And did it predate your incarceration at
8 Leath in 2014?

9 A. Yes, sir.

10 Q. And the drug use, did it include heroin and
11 methamphetamine back in that part of your life?

12 A. Just opiates at that point.

13 Q. Okay. And by opiates, you're talk about oxycodone?

14 A. Yes, sir.

15 Q. Was that after you got out of Leath that you started
16 doing heroin and meth?

17 A. Yes, sir.

18 Q. All right. So ultimately -- strike that. You had
19 some pre-existing history with abscesses before you went
20 to the Aiken County Detention Center; correct?

21 A. Yes, sir.

22 Q. I think you testified that, if remember correctly, you
23 had at least two in 2018.

24 A. Yes, sir.

25 Q. And was on the hip. And I'm not sure if we ever got

Cassiopeia Rhoads - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 where the -- where the other one was located. Is that
2 right, one was on the hip?

3 A. Yeah, under my arm.

4 Q. Oh, under the arm. Okay. And jumping ahead a little
5 bit, as you were communicating with the doctors and nurses
6 with Southern Health Partners at Aiken County Detention
7 Center during the 30 days in May and early June of 2019,
8 you never told any of the -- any of those medical
9 providers, you never told them about the history of
10 abscesses, did you?

11 A. No, sir.

12 Q. And was there a good reason for you not to share that
13 information?

14 A. I guess at the time I didn't think it was relevant. I
15 don't -- I don't -- that's the only thing I can think of,
16 you know. I just didn't think it was relevant.

17 Q. Well -- and we won't go into the details. I mean, I'm
18 happy to, but I'm not going to do that unless the Court
19 allows it. But you had other medical conditions that you
20 did share with the medical providers; right?

21 A. Yes, sir.

22 Q. But you didn't share any of the -- the fact that you
23 just, in the past year, had two abscesses?

24 A. No, sir.

25 Q. So when you went into the Aiken County Detention

Cassiopeia Rhoads - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 Center, based upon your drug addiction, you were placed on
2 detox; correct?

3 A. Yes, sir.

4 Q. And had you ever been on detox before in any type of
5 setting?

6 A. Yes, sir.

7 Q. Can you describe for the jury -- and detox basically
8 means it's a process to help you through the withdrawals
9 from all of the sudden not being able to use heroin; is
10 that right?

11 A. Correct.

12 Q. And ultimately, it causes illness and physical issues
13 going through those withdrawals?

14 A. Yes, sir.

15 Q. And what were the -- the physical symptoms that you
16 were experiencing going through those withdrawals?

17 A. Nausea and vomiting, cold sweats, and, like, restless
18 legs.

19 Q. I'm sorry? The last part.

20 A. Restless legs.

21 Q. Restless legs?

22 A. Right.

23 Q. Anything else?

24 A. No, sir, not --

25 Q. Chills?

Cassiopeia Rhoads - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 A. Yes, sir.

2 Q. Okay. And ultimately, part of the detox process where
3 the nurses checked you at least twice today; correct?

4 A. Yes, sir.

5 Q. And they'd take your vital signs, check on you,
6 provide you medication to help you with the withdrawals?

7 A. Yes, sir. They -- that's what they were was supposed
8 to do.

9 Q. Well, ultimately, you were -- you were checked -- and
10 the medical records are obviously in evidence -- for a
11 period from -- I think it started on May 4th and went
12 through May 13th where you were checked twice a day and
13 met with the nurses twice a day; is that correct?

14 A. Yes, sir.

15 Q. Okay. And ultimately, when you came into the
16 facility, you didn't have any type of bump or bruise on
17 your head; correct?

18 A. Correct.

19 Q. That's something that developed over time once you
20 were in -- in the detention center?

21 A. Yes, sir.

22 Q. And my understanding -- correct me if I'm wrong -- is
23 that you would put in medical sick call requests if you
24 needed to be seen by the nurses and or by Dr. Williams,
25 and you did that using the kiosk; correct?

Cassiopeia Rhoads - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 A. Correct.

2 Q. And the way you use the kiosk is you actually pick
3 where that request is going to go and you would pick
4 medical, and it would go directly to the medical staff;
5 correct?

6 A. Yes, that's right.

7 Q. All right. And you understood that that wasn't going
8 to guards or supervisors, that was going to the medical
9 staff?

10 A. Yes, sir.

11 Q. Okay. And obviously, you understand you had privacy
12 rights for your -- your medical treatment while -- even
13 while in prison; correct?

14 A. Yes, sir.

15 Q. All right. So -- and you knew how to use that kiosk
16 because you'd been able to send grievances; right?

17 A. Yes, sir.

18 Q. In fact, when you entered the -- the Aiken County
19 Detention Center, you get -- and I'm happy to show it to
20 you -- you get a document called inmates rules and
21 regulations, which is like a -- a sheet. And that's
22 multiple copies of the same thing. But it's a sheet front
23 and back with all kinds of information; correct?

24 A. Correct.

25 Q. All right. And one of the things that they actually

Cassiopeia Rhoads - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 give you in writing is about the ability to file
2 grievances --

3 A. Yes, sir.

4 Q. -- is that correct?

5 A. That's correct.

6 Q. All right. And in fact, let me show you -- let me
7 actually just mark this as an exhibit.

8 MR. HINSON IV: No objection, Your Honor.

9 THE COURT: Is that No. 6, Kadesha? All right.
10 It's Defendant's 6, two pages, will be admitted
11 without objection.

12 MR. LINDEMANN: All right. Thank you.

13 (Defendant's Exhibit 6 was marked and
14 admitted into evidence.)

15 MR. LINDEMANN: If you want to staple it, that
16 would be great so doesn't get away from us. I
17 appreciate it. And has this already been moved into
18 evidence, Jennifer?

19 BY MR. LINDEMANN:

20 Q. Let me show you Defendant's Exhibit 6, what we were
21 just referring to. And on the second page -- well, this
22 thing is actually, when you get it, it's front and back,
23 or on the same piece of paper, front back?

24 A. Yes, sir.

25 Q. All right. There's a section called inmates --

Cassiopeia Rhoads - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 inmates requests and grievances. Do you see that on the
2 second page?

3 A. Yes, sir.

4 Q. All right. And let me know if I -- I'm going to
5 publish that to the jury. It's got six different
6 paragraphs, does it not?

7 A. Yes, sir.

8 Q. All right. And correct me if I -- if I don't read it
9 correctly. Let me if I don't read it correctly. The
10 first paragraph says, "If you have a problem or question,
11 you must first contact your housing unit deputy. If the
12 deputy cannot answer the question or concern, you may fill
13 out an inmate request under the appropriate category on
14 the kiosk. Do not submit multiple requests concerning the
15 same issue. Repeated inmate requests will not be
16 accepted." Did I read that correctly?

17 A. Yes, sir.

18 Q. And then it says, "Only one grievance may be filed at
19 any one time on a single incident or item of concern." Is
20 that correct?

21 A. Yes, sir.

22 Q. And it says, "The housing unit deputy will attempt to
23 resolve your grievance. If unsuccessful, you have the
24 right to file a grievance within five days of a grievable
25 event. In order to file a grievance, you must complete an

Cassiopeia Rhoads - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 inmate grievance on the appropriate category on the
2 kiosk."

3 A. That's correct.

4 Q. "You will have five working days after receiving the
5 notice or decision to appeal to the next level of
6 command." Is that right?

7 A. Yes, sir.

8 Q. "Grievances which are submitted to the detention
9 center captain will be answered, and resolutions and
10 decisions made will be filed." Is that right?

11 A. Yes, sir.

12 Q. And it says, "Every attempt made for a resolution will
13 be returned to you in writing." Is that right?

14 A. Yes, sir.

15 Q. All right. And you've already testified, and the jury
16 will see them, the sick call requests that you made, did
17 you ever have file -- in fact, you never filed, isn't it
18 true, any type of grievance on the kiosk that went to
19 either security staff or the jail administrator such as
20 Captain Gallam?

21 MR. HINSON IV: Objection, Your Honor. She's
22 had no way to know what happens to these after she
23 goes to the kiosk. There's no basis.

24 THE COURT: That she --

25 MR. LINDEMANN: Your Honor --

Cassiopia Rhoads - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 THE COURT: I think if she --

2 (Cross-talk.)

3 MR. LINDEMANN: -- testify.

4 THE COURT: -- I think if she knows. I mean,
5 she described the kiosk, so she knows how to --
6 rephrase the question. See if you can lay the
7 foundation.

8 MR. HINSON IV: Thank you, Your Honor.

9 MR. LINDEMANN: All right.

10 BY MR. LINDEMANN:

11 Q. You understood that you -- you had grievance rights,
12 you had the ability to do exactly what that document says;
13 right?

14 A. Correct.

15 Q. And ultimately, during your time at the Aiken County
16 Detention Center in May-June of 2019, you never submitted
17 a grievance through the kiosk system that went to anyone
18 other than directly to medical; correct?

19 A. I was doing what I was told by the officers, to go and
20 put in a medical. And medical, there's a sick call and
21 then there's medical grievances. And so whenever I put in
22 a medical grievance, I was not sure who it went to, but it
23 wasn't the same as a sick call.

24 Q. Well, the -- the documents that are in evidence are
25 sick call requests.

Cassiopia Rhoads - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 MR. HINSON IV: Objection, Your Honor.

2 MR. LINDEMANN: I'm on cross-examination.

3 MR. HINSON IV: Can I sidebar?

4 THE COURT: Sure.

5 (Sidebar off the record.)

6 MR. LINDEMANN: Thank you, Your Honor.

7 BY MR. LINDEMANN:

8 Q. Ms. Rhoads, when you were making your request for
9 medical on the kiosk, would there be a place -- there
10 would be little boxes that would then have a -- a list
11 that would drop down; correct?

12 A. Correct.

13 Q. And one of those would be medical; correct?

14 A. Correct.

15 Q. There would be other ones for other places for it to
16 go in the institution; correct?

17 A. Correct.

18 Q. All right. And so when you made a request for a sick
19 call, you picked medical; correct?

20 A. Correct.

21 Q. And ultimately -- I mean, you've seen the medical
22 records in this case; correct?

23 A. Correct.

24 Q. And the medical sick call requests, you're making
25 requests for a sick call, are you not?

Cassiopeia Rhoads - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 A. Yes, sir.

2 Q. Okay. And just to go back to my original question,
3 you never sent any type of a grievance to anybody in the
4 security staff?

5 A. Correct.

6 Q. That's all I was trying to get to. Now, even after
7 you were off of detox, and I believe detox ended on May
8 13th; is that right?

9 A. I'm not sure of the exact date, but...

10 Q. After ten days?

11 A. Yes, sir.

12 Q. Okay. And so after ten days you did make some sick
13 call requests to the Southern Health Partners nurses;
14 correct?

15 A. Correct.

16 Q. Okay. And you were -- you were seen on several
17 occasions over the course of the next two-and-a-half weeks
18 by the Southern Healthcare nurses; correct?

19 A. Correct.

20 Q. Okay. And those -- I won't belabor them and go
21 through them with you one by one, but those are all
22 reflected in the medical records; correct?

23 A. Correct.

24 Q. And in addition to having sick call with the nursing
25 staff, you also had actually an evaluation directly by

Cassiopeia Rhoads - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

- 1 Dr. Robert Williams; correct?
- 2 A. Yes, sir.
- 3 Q. And that occurred on May 23rd; correct?
- 4 A. I don't know the exact date.
- 5 Q. Do you know the exact date of what's being called the
- 6 barricading incident?
- 7 A. Yes, sir.
- 8 Q. Okay. And incidentally, with the barricading, you --
- 9 you pled guilty to the disciplinary, did you not?
- 10 A. Yes, sir.
- 11 Q. You didn't even ask for hearing, you plead guilty?
- 12 A. No, I didn't and yes, sir, I pled.
- 13 Q. And so do you know what day that was?
- 14 A. May the 24th, I think.
- 15 Q. All right. Was the -- was the -- this evaluation with
- 16 Dr. Williams the day before?
- 17 A. I think so.
- 18 Q. I mean, if the records reflect from Dr. Williams and
- 19 the Southern Health Partner records that it happened on
- 20 May 23rd do you have any reason to dispute that?
- 21 A. No, sir.
- 22 Q. And then ultimately, the last week of May, you had a
- 23 couple of incidents where you fainted on the 28th and
- 24 30th. I know the jury has already heard testimony about
- 25 that; correct?

Cassiopia Rhoads - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 A. Correct.

2 Q. And you were checked out by medical at that point in
3 time; right?

4 A. Yes, sir.

5 Q. Okay. And then on June 2nd you had another incident
6 early afternoon and ultimately that evening, you were sent
7 to the hospital?

8 A. Yes, sir.

9 Q. All right. Going back to the issue of addressing any
10 type of requests to the security staff -- do you
11 understand what I mean by security staff? The nonmedical
12 staff, the guards, the lieutenants, up to Captain Gallam.
13 In fact, have you ever -- did you ever make any type of
14 request of Captain Gallam?

15 A. No, sir.

16 Q. Did you ever speak with him?

17 A. No, sir.

18 Q. During this period of time as well, you were on
19 medication not just during the detox, but also in response
20 to the bump on your head you were provided ibuprofen for
21 pain; correct?

22 A. Yes, sir.

23 Q. And you were provided amoxicillin as an antibiotic;
24 correct?

25 A. Yes, sir.

Cassiopeia Rhoads - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 Q. And so you took those, what, twice a day?

2 A. I think so.

3 Q. Okay. And so each time, as the jury has heard, you
4 can't keep the medication to yourself, you get it during
5 med pass where a nurse actually comes through the unit and
6 provides it to you; correct?

7 A. Correct.

8 Q. And the nurse obviously has to make sure you are who
9 -- who is -- is on the prescription; right?

10 A. Correct.

11 Q. Okay. So whenever nurses were doing med pass, they
12 knew who you were and they were able to look at you
13 because they had to identify you; correct?

14 A. Correct.

15 Q. All right. And as you had your -- as the bump on your
16 head, as it actually grew, that would be, obviously,
17 something that they would see each time they did med
18 pass --

19 A. Okay.

20 Q. -- would you agree with that?

21 A. Yes, sir.

22 Q. Okay. Let me ask you a little bit about a couple of
23 other individuals with a sheriff's office. Lieutenant
24 Riddell, Eric Riddell, one of the shift supervisors. My
25 understanding is you never made any type of request to him

Cassiopeia Rhoads - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 for medical assistance; is that correct?

2 A. That's correct.

3 Q. That's correct?

4 A. That's right.

5 Q. All right. And so you never asked him to go to the
6 hospital, you never asked him for any -- like I said, any
7 medical assistance whatsoever?

8 A. No.

9 Q. In fact, other than Lieutenant Riddell responding, I
10 think, to the incident on May 30th with the nurses, you
11 didn't specifically talk to him one on one at any other
12 point; is that correct?

13 A. Correct.

14 Q. And as far as Lieutenant Whitaker goes, do you know
15 Lieutenant Whitaker is?

16 A. Yes, sir.

17 Q. I believe your -- you have testified that she -- you
18 never made any type of request for medical assistance to
19 her?

20 A. No.

21 Q. Is that correct?

22 A. That's correct.

23 Q. Okay. So you never asked her to take you to the
24 hospital or anything along those lines; correct?

25 A. No, sir.

Cassiopeia Rhoads - Cross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 Q. You know, you spoke generally earlier about that you
2 made requests to officers, and you indicated Buchanan,
3 Hill, Bauer, and Kelley. Specifically as far as Deputy
4 Buchanan, what are you -- how did you make a request to
5 her?

6 A. Verbally.

7 Q. Okay. Ever -- ever make any type of -- well
8 (unintelligible) status, you never made any type of kiosk
9 request to any security staff; right?

10 A. Correct.

11 Q. Okay. And did you ever ask her for medical assistance
12 other than on May 24th?

13 A. No, sir.

14 Q. Okay. So the one time was what we're referring to as
15 the barricading incident?

16 A. Yes, sir.

17 Q. Okay. And other than that, there were no other times
18 that you raised the issue with Deputy Buchanan?

19 A. No other time.

20 Q. All right.

21 MR. LINDEMANN: I beg the Court's indulgence.

22 No further questions. Thank you very much, Ms.

23 Rhoads.

24 //

25 //

Cassiopeia Rhoads - Redirect Examination by Mr. Hinson

JURY TRIAL - VOL. 3

REDIRECT EXAMINATION

BY MR. HINSON IV:

Q. Ms. Rhoads, just a few more questions for you.

Mr. Lindemann went into your drug history. Are you using drugs today?

A. No, sir.

Q. Are you clean today?

A. Yes, sir.

Q. Other -- you had had two other abscesses before.

A. Correct.

Q. What -- do you know the reason of those abscesses?

A. No, sir.

Q. Did those abscesses, did they require you to have hospitalization and surgery?

A. No, sir.

Q. When you go to the kiosk system and you would fill out forms, forms that print out an inmate grievance records, did you have any idea where they went once you typed them into the kiosk?

A. No, sir.

Q. Did you have any idea if they went directly to medical or that they might go to the lieutenant first and then go to medical? Did you have any idea what would happen to them?

A. No, sir.

Cassiopeia Rhoads - Redirect Examination by Mr. Hinson

JURY TRIAL - VOL. 3

1 Q. Now, this exhibit -- this exhibit that Mr. Lindemann
2 handed to you, was the font that small?

3 A. Yes.

4 Q. Did your vision start to get impaired from this
5 abscess?

6 A. Yes, sir.

7 Q. And did you, to the best of your ability, use the
8 kiosk system to request help?

9 A. Yes, sir.

10 Q. Did you know of anything more you could do
11 administratively at the kiosk system besides what you were
12 doing?

13 A. No, sir.

14 Q. Did -- 'til this trial, had you ever met Captain
15 Gallam before?

16 A. No, sir.

17 Q. Did he come by asking if people had any questions --

18 A. No, sir.

19 Q. -- or any concern? He didn't come by?

20 A. No, sir.

21 Q. Did you ever have the opportunity, to your knowledge,
22 to speak with him?

23 A. No, sir.

24 Q. Did Lieutenant Riddell -- we've heard in this case how
25 at that time Deputy Kelley came up to him with concerns

Cassiopeia Rhoads - Recross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 about you. Did Lieutenant Riddell ever come to you and
2 say anything along the lines, I've heard from my deputies
3 concerns about your health, let me -- let me talk to you?

4 A. No, sir.

5 Q. Did that ever happen?

6 A. No, sir.

7 Q. Did Lieutenant Whitaker ever come to you and say, I've
8 heard concerns from my deputies about your health and can
9 I talk to you?

10 A. No, sir.

11 Q. Nothing further. Thank you, Ms. Rhoads.

12 MR. LINDEMANN: Real quick.

13 THE COURT: Very brief.

14 RECROSS-EXAMINATION

15 BY MR. LINDEMANN:

16 Q. As I understand it, you just testified that when you
17 had the two abscesses in 2018 it didn't require care at a
18 hospital. Is that your testimony?

19 A. He's -- I -- I was under the impression that he said
20 hospitalized or surgery done. Hospitalized, to me, means
21 admitted to the hospital.

22 Q. As opposed to being treated in an emergency room?

23 A. Correct.

24 Q. Okay. So you were treated in an -- you were in the
25 hospital being treated for both of those abscesses;

Cassiopia Rhoads - Recross-Examination by Mr. Lindemann

JURY TRIAL - VOL. 3

1 correct?

2 A. Yes, air. They were cut and drained.

3 Q. All right. No further questions. Thank you, ma'am?

4 THE COURT: You may step down.

5 MR. HINSON IV: The plaintiff rests, Your Honor.

6 THE COURT: All right. I've got to put some
7 things and do some legal work. Since the plaintiff
8 has rested, there's some things we've got to do right
9 now, procedurally. So you all step in the jury room
10 and I'll send some information back to you as to how
11 long of a break it will be, maybe 30 minutes. I may
12 let you step outside if you want to. So step in the
13 jury room. You can't discuss the case still at this
14 time, so just relax a little bit. If you want to step
15 outside, feel free to do that.

16 (The jury exited the courtroom.)

17 THE COURT: All right. Now that the jury is out
18 of the courtroom, how long are your motions going to
19 take, do you think?

20 MR. LINDEMANN: I think they're going to take a
21 little while, Your Honor. And quite frankly, nobody
22 gave me the heads up that they were -- I mean, they
23 identified a lot of depositions they were going to
24 read out. My first witness no longer works for us.
25 She works for SCDC. You know, and I -- maybe I was

JURY TRIAL - VOL. 3

1 mistaken in doing that, but I told her that it would
2 be first thing in the morning.

3 THE COURT: So you mean, can I send the jury on
4 home?

5 MR. LINDEMANN: That would be my suggestion.

6 THE COURT: Then that's what I'm going to do,
7 then. That's why I was -- I was wondering if that --

8 MR. LINDEMANN: All right. I appreciate being
9 able to start with our case in the morning because
10 that's how I was thinking I was going to need to do.

11 (Judge Griffith exited the courtroom to
12 release the jury for the day.)

13 (Judge Griffith returned to the
14 courtroom.)

15 THE COURT: All right. I told the jury about
16 what you all are doing. So it's on the record, I told
17 them 9:30 in the morning, don't talk about the case.
18 They were very appreciative.

19 MR. HINSON IV: I bet so.

20 THE COURT: And that room is much cooler than
21 the other room they were in. It's much bigger. All
22 right. That makes it a lot easier to handle this
23 without regard to a jury sitting there waiting on you.

24 MR. LINDEMANN: And, Your Honor, maybe you can
25 help my memory. I know this morning we had a sidebar,

JURY TRIAL - VOL. 3

1 and I noted my objection and I said we'll put it on
2 the record during a break. And I'm getting old. I
3 don't specifically remember what that was. I wish we
4 recorded sidebars.

5 MR. MCLAUGHLIN: I made a note of it. Let me
6 look. I thought I did.

7 THE COURT: Was it the spoliation discussion?

8 MR. LINDEMANN: Oh, I think that's exactly what
9 it was.

10 THE COURT: And I allowed the questions on -- a
11 few questions on the procedures and the act of the --
12 Ms. Kelley knew about, or something along those lines.

13 MR. LINDEMANN: That -- that was exactly what it
14 was, Your Honor. And I just wanted to -- I mean,
15 obviously, we already made of record on Tuesday. I
16 guess it was Tuesday morning -- no, Monday afternoon
17 -- on the -- when we were discussing the various
18 motions in limine. I cited to Your Honor the Austin
19 versus Beaufort County Sheriff's Department case,
20 which lays out the elements needing to be shown for
21 spoliation. And my contention, Your Honor, is,
22 obviously, they cannot show those -- those issues
23 going into this trial. They did not have evidence to
24 show those issues -- those elements, excuse me. And I
25 can pull that case out and -- and -- and re-argue it.

JURY TRIAL - VOL. 3

1 But the bottom line, there is no evidence of any type
2 of existing lawsuit at the time that those videos were
3 written over.

4 In addition to that, Your Honor, ultimately,
5 even if Ms. Kelley is correct -- which she is not --
6 that any type of incident like that is -- is retained,
7 she pled guilty. And in fact, later on, Ms. Kelley
8 actually did correct herself because she was asked,
9 not by me, but luckily, she was asked by opposing
10 counsel whether or not she knew that even though the
11 offense was -- it was a guilty plea, would you still
12 then retain those videos, and she replied she didn't
13 know if it applied when there were a guilty plea.

14 But the bottom line is -- and I -- you know,
15 obviously, the testimony has been allowed in. I just
16 want the record to preserve my objection based on
17 opening -- trying to, essentially, create a spoliation
18 issue where there realistically and logically is not
19 one because there wasn't any ongoing litigation that
20 anybody would know about. And in fact, as I mentioned
21 to Your Honor, there was a verified claim that was
22 filed, but it wasn't filed until, I think, April
23 of 2020, so a substantial amount of time later. But
24 thank you for allowing me to make my record on it.

25 MR. HINSON IV: For all the reasons we argued

JURY TRIAL - VOL. 3

1 earlier, Your Honor, we think it was appropriate and
2 the jury can consider it. And if I look at the -- the
3 elements from Austin v. Beaufort County, I think we've
4 -- we've actually met them. I won't go -- belabor it.
5 The case stands for itself. But well -- the -- the
6 elements include a duty to preserve the evidence
7 arising from contract agreement, statute,
8 administrative rule, voluntary assumption or duty, or
9 some other special circumstances. I -- that's -- I
10 think we've shown that. The video of the barricading
11 incidents supposed to be preserved. That was the --
12 that was the testimony that came in today; the policy
13 was to preserve that video. The existence of pending
14 or potential -- or potential -- civil action. This
15 young lady went to the hospital for a neurosurgery,
16 and she was there for a month. It is reasonable to
17 presume there might be litigation after that,
18 especially after somebody has filed five grievance
19 requests. The existence of potential civil action is
20 certainly there.

21 THE COURT: I've got a question right there,
22 these grievance requests. The inmates who go to a
23 kiosk can say, I need medical, I need to go to sick
24 hall, I need something. Is it called a grievance
25 request from their end, or is that just how the

JURY TRIAL - VOL. 3

1 administration on the administrative side says we've
2 got a request for it, it's just happened, and they tag
3 it as a grievance?

4 MR. HINSON IV: I think --

5 THE COURT: When I think of grievance, I think
6 of Columbia and the -- you know, a disciplinary
7 counsel. And that's just my take on the thing. But
8 grievance has a negative connotation to it, but maybe
9 it shouldn't.

10 MR. HINSON IV: -- I think, Your Honor, we have
11 a factual dispute over that because, I mean, the
12 document says grievance request. I have seen -- I
13 mean, this isn't -- I -- I've never worked in a -- in
14 a jail, but I have seen identical documents to that
15 that says medical sick request. I mean, there -- it's
16 the same computer system, and they say medical sick
17 request. But those don't say that. So I think we at
18 least have a factual dispute as to what she's trying
19 to do when she goes to that.

20 THE COURT: You know --

21 MR. HINSON IV: There just -- otherwise, they're
22 going to say it went away.

23 THE COURT: -- if it just says medical request,
24 it gets the -- at least that would be a nice notice to
25 do it, but to classify it as a grievance just seems

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 kind of odd. But that's neither here nor there.
2 That's not a question for the jury, whether the
3 document that was done is a -- the request was called
4 something. That's not a jury -- jury issue. You all
5 can call it what you want.

6 MR. HINSON IV: I'm going to call it a grievance
7 request because that's what it's title is.
8 Mr. Lindemann is welcome to call it a sick request
9 'til the cows come home.

10 THE COURT: All right. Regarding the spoliation
11 charge that's going to be requested by the plaintiff,
12 I'm going to read that case closely and see if they
13 get it or not. But there was a lot of testimony about
14 the size of the injury or condition. All right. Next
15 issue.

16 MR. LINDEMANN: Are you ready for motions?

17 THE COURT: Yes, sir.

18 MR. LINDEMANN: Thank you, Your Honor. Your
19 Honor, at this time, I would move for a directed
20 verdict on behalf of the defendant, Aiken County
21 Sheriff's Office. It's going to be, obviously, on
22 multiple grounds. This isn't going be the first time
23 you hear a lot of these arguments that were made on
24 Monday. And obviously, I would incorporate the
25 arguments from Monday as well as -- even know I know

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 the appellate courts are expecting me to make those
2 arguments as well, and I can't just refer back to
3 those. But to the extent there are nuances to it, I
4 will certainly rely on the previous discussion, the
5 lengthy discussion on Monday, as well as early Tuesday
6 morning.

7 The first issue, Your Honor, I know Your Honor
8 has struggled with is the issue of whether or not
9 there's a legal duty. Of course, the issue in this
10 case -- the only cause of action in this case is for
11 gross negligence. Ultimately, Your Honor, I would
12 submit to the Court that there is no legal duty that
13 actually governs the factual scenario that the
14 plaintiffs just completed and presented to the jury.
15 This case is not a question about lack of notice.
16 It's not an issue -- not a case about lack of medical
17 care. The case is about, clearly -- I mean, the
18 bottom line is, I don't think there's any dispute that
19 Ms. Rhoads received medical care during her 30 days at
20 the Aiken County Detention Center in May-June of 2019.
21 She clearly -- well, the medical records are now in
22 evidence. I'll have to rely simply on the complaint.
23 The medical records speak for themselves. But show --
24 you know, when I had argued previously 20 encounters,
25 but actually when you count that med passes and you

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 count the detox evaluations on a ten-day basis, there
2 were many more opportunities for her to interact with
3 medical personnel, and it happened almost twice a day,
4 based upon the medical administration records that are
5 a part of Exhibit No. 1.

6 So you know, clearly, this is not a case about
7 the -- that she was denied medical care or that she
8 was denied access to medical care. So what this case
9 boils down to is, in essence, a case of medical
10 malpractice against the Aiken County Sheriff's Office,
11 which the plaintiffs have already agreed in their
12 content and stipulation that the sheriff's office is
13 not vicariously liable for the acts or omissions of
14 the Southern Health Partners doctors and nurses. In
15 addition to that, that would fly in the face up the
16 Court of Appeals decision in Smith versus Regional
17 Medical Center of Orangeburg, as well as 15-78-60,
18 subsection 20, which deals with independent
19 contractors, as well when you apply the definitions in
20 the Faile case, Faile versus DJJ, those cases from the
21 Supreme Court make it very clear that a governmental
22 entity is only liable for the acts or omissions of its
23 employees. The definition of the word "employee"
24 excludes independent contractors, so I don't even have
25 to get an immunity defense. It's simply they're not

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 our employees, and they certainly haven't -- that's an
2 undisputed fact in this particular case.

3 So ultimately, we're not responsible for
4 vicarious, direct, any way we're not responsible for
5 the acts or omissions of Southern Health Partners. So
6 what this case boils down to, Your Honor, is whether
7 there is a legal duty of care for the correctional
8 staff who understands -- and the testimony has been
9 undisputed -- that every correctional person who
10 testified knew that she was receiving medical care,
11 had reported it to medica. There are log notes that
12 show, for instance, Deputy Bauer followed up on the --
13 the 30th. After the incident on May 30th, she
14 followed up later at the end of her shift and actually
15 twice made note in the log notes of what Ms. Rhoads'
16 condition was, that she was alert, that she was
17 talking, complaining of headaches. And she indicated
18 that she responded and reported that to -- to medical.

19 So people know that medical is involved. Each
20 incident that occurred, there was medical that was
21 responded. The -- you know, Deputy Bauer, Deputy
22 Hill. I don't think Deputy Kelley had any involvement
23 with any of those incidents. But the bottom line
24 is -- and she certainly never testified one way or the
25 other whether she knew they were getting medical care.

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 She obviously had discussions.

2 THE COURT: The last deputy?

3 MR. LINDEMANN: The -- the one who's no longer a
4 -- no longer --

5 THE COURT: I thought she testified something
6 about she was on doing break duty one day and saw it.
7 So one of those days late in May.

8 MR. LINDEMANN: Oh, okay. That's right, that's
9 right. And plus, she said that she would talk to the
10 nurses about Ms. Rhoads, so --

11 THE COURT: I think you're correct. All the
12 correctional folks saw interaction with some medical
13 at one time or another.

14 MR. LINDEMANN: -- right. Okay. So I think
15 that's undisputed so it -- it -- why that's important
16 is because the law distinguishes, at least the -- the
17 federal law, which is the only thing that we even got,
18 and I'm not suggesting the federal standard of care,
19 which is much different, would apply under the common
20 law in the State of South Carolina. But as Your Honor
21 knows -- and we're now on Wednesday afternoon -- and
22 you've expressed it pretty -- pretty clear -- pretty
23 clearly, at least by yesterday morning, that you
24 couldn't find any law, they hadn't -- the plaintiffs
25 hadn't produced any law.

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 And I've represented to Your Honor that I can't
2 find any -- any common law, any state that actually
3 has found that there is a duty of care for a
4 correctional officer who knows that an inmate is
5 receiving medical care -- they might not know the
6 nuances of and probably don't know the nuances of it
7 because of HIPAA -- and there are privacy rights that
8 apply to that, too -- but ultimately, know that
9 they're under the care of a doctor or nurse and would
10 have a legal duty to second guess that decision and/or
11 override that decision and seek a different course of
12 treatment, whether it's a second opinion, whether it's
13 taking somebody to a hospital. There is absolutely no
14 case law that has been cited to this Court.

15 And I will represent to the Court, you know, I
16 certainly could have missed something. I'm pretty
17 good with Westlaw, and I'm not infallible. But I feel
18 pretty confident that if there it was out there, I
19 would have probably run across it. The closest that
20 we have -- and I don't know if Your Honor has found
21 any in the interim -- but the closest that we have are
22 the -- are the federal cases, and they should, I would
23 submit to Your Honor, at least give you some
24 foundation in which to rule on this particular issue.
25 And again, we cited a -- a number of different pretty

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 substantial paragraph quotes from about one, two,
2 three, four, five, six different cases, three of them
3 from district courts within the 4th Circuit and two
4 7th Circuit cases and one 3rd Circuit case.

5 And again, just to reiterate what I argued
6 before, I think this is the -- the best quote. It
7 comes from Lewis versus Hoke County, a Middle District
8 of North Carolina case. It says, "Prison officials
9 without medical training are responsible for seeing
10 that prisoners are attended to by medical
11 professionals. They are not responsible for
12 determining the course of treatment or far overruling
13 the opinions of those professionals." I've also cited
14 4th Circuit case law that talks about that you have a
15 right -- when you know that somebody is receiving
16 medical care, you have the right to rely, as a
17 correctional officer, on the medical decision making
18 of those medical clinicians.

19 And again, that's the Miltier versus Beorn case.
20 You know, they obviously -- one of the last things I
21 think we argued Tuesday morning before we started the
22 trial is they tried to suggest to you that the Iko
23 versus Shreve case from the 4th Circuit required a
24 different result. And as I pointed out to Your Honor,
25 in that particular case, there was no medical care

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 that was provided. In fact, the -- the officers --
2 and it was up -- it was on -- at the 4th Circuit, too,
3 based on a qualified immunity argument, which,
4 obviously, we don't have under state law.

5 But ultimately, Your Honor, that case is totally
6 distinguishable. The inmate had just been gassed with
7 pepper spray. And the way that opinion wrote,
8 granted, taking a light most favorable to the
9 plaintiff in that particular case, that it was a
10 substantial amount and that he immediately went into
11 distress, and that there was a nurse present, but she
12 did not take any action whatsoever. And I can pull
13 that case back out and we can discuss in more detail
14 if that helps. But the bottom line is, that couldn't
15 be more different than the evidence that this jury
16 just heard in the plaintiff's case-in-chief.

17 This is -- obviously, number one, it wasn't an
18 immediate incident. It was something that progressed
19 over time. As -- as Dr. O'Bryan testified, it was an
20 infection. It was not something that obviously
21 somebody without medical attention immediately knows
22 how to treat, such as a sliced-open leg or, you know,
23 a leg that's horribly broken. Something that -- I
24 mean, I understand their arguing obviousness, but the
25 obviousness is, in this case, is the -- is the

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 abscess. But security staff is not going to know that
2 that abscess is not being treated properly. I mean,
3 they're not going to have that ability to know
4 ultimately that the -- a different treatment regimen
5 is required or that there was a misdiagnosis made by a
6 doctor. They don't -- they aren't expected to know
7 that and, quite frankly, they don't have the ability
8 to know that.

9 Another facet to why I believe the standard --
10 the -- there is no legal duty in this case -- well,
11 two-fold. Number one, as I indicated to you, the --
12 the federal standard under deliberate indifference
13 actually -- actually says -- and this is, again, the
14 Miltier versus Beorn case -- it's M-I-L-T-I-E-R for
15 the record -- the 4th Circuit specifically indicated
16 that correctional officers who are not -- cannot be
17 held liable where they are not personally involved in
18 the denial of treatment, deliberately interfered with
19 a prison physician's treatment, or tacitly authorized
20 or were indifferent to a prison physician's
21 misconduct. And of course, you've got to recognize
22 that there is misconduct. There's no evidence of any
23 of that, but of course, that's not the standard.

24 But the point I'm trying to make is, is if this
25 Court were to rule that correctional officers in the

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 State of South Carolina, whether they're local level
2 or the department of corrections, have a duty to make
3 medical decisions, to -- to medically -- to -- to
4 challenge medical decisions or second guess medical
5 decisions that are made by clinicians, ultimately,
6 what this Court would be finding is they have a duty
7 to do something that ultimately would violate that
8 inmate's constitutional rights because it would
9 interfere with the prison physician's treatment. In
10 this particular case, there's no evidence that anyone
11 interfered with the prison physician's treatment.
12 There's no evidence that anybody in the correctional
13 staff denied her care. There's no evidence that they
14 interfered in any respect or prevented her from
15 receiving any type of care that the ultimate medical
16 clinicians felt was appropriate.

17 So -- so I make that point, and then I make a
18 lesser point as well but still, I think, just as
19 compelling. At some point -- you know, obviously, in
20 the State of South Carolina, in order to practice
21 nursing or practice medicine, you have to be licensed
22 and you have, obviously, a whole lot of qualifications
23 and credentials that you have to be able to meet.
24 Obviously, correctional officers, certainly ones who
25 don't have the medical training -- and nobody at --

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 I'm not even sure it came out that anybody even had
2 two-part [ph] first aid responder training. But as I
3 indicated on Monday, you know, that was -- that's the
4 extent of -- of the training. But ultimately, you
5 would be treading, if not crossing, the line in
6 expecting these people to practice medicine or
7 practice nursing to actually interfere and seek a
8 different course of treatment.

9 And I think that's actually, you now, it's a
10 lesser point than the ones I made before, but I think
11 it's also pretty significant because your -- it kind
12 of goes back to what I said on Monday. You're running
13 the risk of taking a case, maybe, with bad facts and
14 coming up with a legal duty that doesn't take into
15 account the real world, the typical circumstance --
16 which of course, you know, we're -- we're bound by the
17 same legal duty of care, regardless of what the facts
18 are. But you would be recognizing a duty where I
19 think would be very dangerous because you would have
20 medical people making decision and then you would
21 essentially be authorizing, if not compelling,
22 nonmedical correctional staff, you know, deputies from
23 -- from various sheriffs' departments or correctional
24 officers and ones run by the counties to actually
25 interfere and make medical decisions. And I think

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 doing that would be very significant.

2 THE COURT: Let's deal with these issues one at
3 time. So no legal duty. I need a break before I hear
4 from you.

5 MR. LINDEMANN: All right. Thank you, Your
6 Honor.

7 (Off the record.)

8 (Recess.)

9 (On the record.)

10 THE COURT: All right, Mr. Hinson.

11 MR. HINSON IV: Thank you. May it please the
12 Court, Your Honor.

13 THE COURT: What is the legal duty?

14 MR. HINSON IV: Well, Your Honor, I think you
15 correctly noted the other day when you said there has
16 to be some duty owed to the plaintiff when she's
17 incarcerated, and we think it comes from a number of
18 different places. The tort claims act, while there is
19 a case saying it doesn't legal duties or rights, we
20 still have the tort claims act, at section 25, talking
21 about how if we can prove gross negligence with --
22 with regard to the confinement, that -- well, that's
23 essentially what -- they -- they -- they have a duty
24 not to be grossly negligent with regard to her
25 confinement. And, Your Honor, we passed up this

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 morning -- and if you need another copy, I have one --
2 just kind of our first -- first try, a first draft at
3 a charge on this issue. It's just a one-page
4 document. It begins with, "Under South Carolina, a
5 legal duty to act may be created by statute, status,
6 or some other special circumstance."

7 THE COURT: So this one came early in the
8 morning?

9 MR. HINSON IV: Yes, Your Honor. Well, no.
10 Well, we hand up a paper copy this morning.

11 MR. MCLAUGHLIN: We've got another -- we've got
12 another one, Judge.

13 MR. HINSON IV: It's as simple as -- as simple
14 as just handing it on up.

15 THE COURT: I'll be honest with you, I don't
16 remember that. I remember the thing that came in at
17 12:15 because I read this morning at about 6:15.

18 MR. MCLAUGHLIN: But I don't think -- we didn't
19 -- we didn't send this electronically, Judge. This
20 was handed up when we -- when we passed up copies of
21 the electronic filings to you this morning, we passed
22 it up, too.

23 THE COURT: Okay. It may be here. Thanks for
24 the second copy of it.

25 MR. HINSON IV: So, Your Honor, the tort claims

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 act is a limited waiver of governmental immunity, and
2 the Etheredge v. Richland School District case uses
3 that exact term, "a limited waiver of governmental
4 immunity." And then, you know, it states in pertinent
5 part that the state and agency or political
6 subdivision are liable for their torts in the same
7 manner and to the same extent as a private individual
8 under like circumstances, subject to the limitations
9 upon liability and damages and exemptions of liability
10 and damages contained herein. And then section 25
11 goes on to say, you know, gross negligence relating to
12 the supervision, protection, or control of a person
13 incarcerated, essentially. And so we believe the
14 legal duty is owed, essentially, as set forth out in
15 that statute. There is some -- there is some legal
16 duty to provide reasonable efforts to protect
17 Ms. Rhoads, to protect her from other inmates, to
18 protect her from whatever, from vermin, from -- and in
19 this case, to protect her from inadequate medical
20 care, quite frankly. I mean, she was getting grossly
21 inadequate medical care. We acknowledged that. It
22 became so apparent that we believed there became a
23 legal duty to act, to step up.

24 Now, Mr. Lindemann loves to say that we are
25 asking somebody to practice medicine, essentially.

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 We're not asking anyone to prescribe her vancomycin,
2 we're not asking any correctional officer to perform
3 any medical treatment. But when something is so
4 obvious that it's not being done, someone needs to
5 speak up. There's a duty to act. And Deputy Kelley
6 today talked about they were trained on that. And
7 it's all sorts of things. It's including if you come
8 in and you notice one of your fellow officers is -- is
9 acting funny, are they on some sort of substance.
10 Surely, there's a duty to act. You come in and you
11 see one of your fellow officers is -- appears drunk,
12 appears to be under the -- the -- some sort of
13 substance. Surely, there would be a duty to say, hey,
14 I think we've got to worry about Sergeant So-and-so.
15 Well, if you don't do that and then Sergeant So-and-so
16 goes and hurts someone, hurts an inmate who he or she
17 has immense control over, as in this type of situation
18 where there's an incarcerated person and someone with
19 supervisory authority over them, there has to be a
20 legal duty to act when it's so apparent that there's
21 something wrong.

22 And, Your Honor, Mr. Lindemann, kind of hinted
23 at our theory of our case just now when he said, you
24 know, if -- if -- if a leg was so terribly broken --
25 and then I think he realized he was kind of getting to

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 our point, because we're saying this abscess was so
2 terribly obvious that it was a serious medical need
3 that wasn't being met. Your Honor, today on the
4 stand, Haven Kelley actually said -- I said what
5 should you have done, should you have done more, and
6 she actually acknowledged even as much as she did, she
7 should have done more. She said I should have gone to
8 -- and I can't -- he's the second in charge at the
9 detention center.

10 THE COURT: The one below Gallam.

11 MR. HINSON IV: Yeah. Gallam and then there's
12 Bauer -- or not -- well, it starts with a B. Anyway,
13 the other gentlemen who was the second in charge, and
14 she said I should have done that. She -- she -- her
15 -- her testimony actually established that she had the
16 duty to do more than she did because she knew -- she
17 knew that the care Ms. Rhoads was receiving wasn't
18 sufficient. Your Honor, as you pointed out, I do a
19 lot of medical negligence cases. There's no doubt
20 about that. And I've seen -- I mean, doctors are no
21 -- no different than the rest of us. They get hooked
22 substances. To some degree, I think there's only one
23 -- one profession that does it more and that's the one
24 that -- that we're in right here.

25 But cases where -- where anesthesiologists were

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 terribly hooked on opioids or whatever it may. Let's
2 imagine a situation, Your Honor, where everybody in
3 the jail knows that Dr. So-and-so comes in every
4 Friday and he's high as a kite. High as a kite. We
5 have it on video, he'd just be falling around the
6 jail. Mr. Lindemann have the Court believe he's got
7 an M.D. behind his name, there's no obligation to do
8 anything about it to challenge it in any way.

9 THE COURT: All right.

10 MR. HINSON IV: That can't be the law of our
11 state.

12 THE COURT: You're closing argument on me now.

13 MR. HINSON IV: Well, I'm trying to convince
14 Your Honor that there's some legal duty to act. Your
15 Honor, we acknowledge that it was important in this
16 case for us to establish just how doggone obvious it
17 was that the adequate medical care wasn't being met.
18 That -- that -- we admit that's -- that's a burden
19 that we have to prove in this case to create that duty
20 to say, let's -- let's -- let's talk to the nurses, do
21 you realize what's going on?

22 And also so -- part -- part and parcel to this
23 is the issue relating to the self-care -- or the
24 self-harm, excuse me. There is evidence in this case
25 that the guards knew that the medical staff, for

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 whatever reason, had it all wrong and they weren't
2 doing anything about it. There has to be some -- and
3 maybe we can't prove our case to the jury, but there
4 has to be some legal duty to stand up and say
5 something in a situation like that. And honestly,
6 Your Honor, I would -- I would submit that if you know
7 the nurse's basis is factually wrong -- if you know
8 her basis is factually wrong -- that is, and you don't
9 do anything about it, that's similar to knowing the
10 nurse is coming to work high as a kite and not doing
11 anything about it.

12 THE COURT: All right. I think I said this on
13 Tuesday morning.

14 MR. MCLAUGHLIN: It seems like a week ago.

15 MR. HINSON IV: It does.

16 THE COURT: Was that just yesterday morning?

17 MR. MCLAUGHLIN: That's right. It's hard to
18 believe, ain't it? We're only on Wednesday, Judge.

19 THE COURT: I said it sometime this week. I
20 don't believe -- it wasn't Monday morning because we
21 were dealing with the genius that showed up with the
22 positive test. Wow. That does seem like a week ago.

23 It seems impossible to me that everyone has
24 looked up to try to find a legal duty in this case and
25 everyone has been unsuccessful to find a bright line

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 there. And then we all know the tort claims act can't
2 create a duty. But I believe the way it's written, it
3 refers to a duty of confinement, control, custody,
4 those sort of things. And so the sheriff -- and I say
5 sheriff -- the county detention center. That's a
6 synonym in this case. The law enforcement that runs a
7 detention center has a responsibility -- I would think
8 it's a legal duty -- to protect, control, confine a
9 prisoner, and they must do it in a reasonable matter.
10 But if they can only be held responsible if they're
11 exercising that -- I like the way you've written that
12 -- exercising responsibility in a grossly negligent
13 manner.

14 I can't fathom -- and so I'm finding that there
15 is a duty of the sheriff to do that, or at least I'm
16 going to instruct the jury on that. I could be wrong.
17 I can't fathom there would be no duty whatsoever. It
18 just doesn't -- that flies in the face of common sense
19 of an organized society. It just -- it does. So
20 respectfully, Mr. Lindemann, I understand your
21 argument and I agree with you. I've not read the
22 legal duty, but I'm going to the duty is -- or I'm
23 going to instruct the jury that there's a legal duty,
24 so I'm going to deny you motion for a directed verdict
25 on that issue. (Unintelligible) as a detention center

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 must exercise their responsibilities, and they can be
2 held responsible if they exercise those
3 responsibilities in a grossly negligent matter.
4 Nothing short of that, though. They're not
5 responsible for that.

6 MR. HINSON IV: Your Honor, we've -- we've --
7 we've conceded that we've got to prove the gross
8 negligence. And much as it pains me to put something
9 about that on the record, I want to be
10 (unintelligible) acknowledging such and we will just
11 readily accept that gross negligence is the standard
12 we to have to -- we have to meet.

13 MR. LINDEMANN: How, Your Honor, is that -- I
14 mean, you just can't -- I know you talked yesterday
15 morning about saying, you know, based upon 24-5-10
16 that we argued is implicitly repealed, and I certainly
17 want to be preserved on -- on that issue as well that
18 it's an issue of safety. But ultimately --

19 THE COURT: No, I think it's safely, isn't it?
20 To safely --

21 MR. LINDEMANN: Safe -- safety -- well --

22 (Cross-talk.)

23 THE COURT: -- keep -- not safety keep.

24 MR. LINDEMANN: -- well, that would suggest
25 there's a duty to keep somebody safe, right?

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 THE COURT: Yes.

2 MR. LINDEMANN: Okay. And what does that mean?

3 It means -- you know, it can mean lots of things. I
4 mean, typically, it doesn't mean keep them healthy.

5 It means keeping them from being harmed from other
6 individuals. I mean, particularly in the area of
7 corrections. And again, I -- I don't want to -- you
8 know, obviously I want to protect my record, but at
9 the same time, I don't want to, you know, keep arguing
10 this. And I certainly would ask that my pretrial
11 brief be -- supplement my arguments here today.

12 THE COURT: Absolutely.

13 MR. LINDEMANN: But --

14 THE COURT: Everything you all have submitted.

15 MR. LINDEMANN: -- but I'm still very much
16 struggling with, you know, the legal duty has to be
17 established by the Court. And if it's so broad -- if
18 your -- if your legal duty can be based on the -- the
19 language from the tort claims act saying, you know, I
20 find that -- I mean, I charge you that there's a -- a
21 duty -- I don't even know how you're going to do it --
22 to supervise, protect, control, confine and keep in
23 custody a -- I -- I don't know. See, again, I'm just
24 really struggling on even how that gets articulated
25 without it being total juror nullification, because

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 those are extremely broad terms. I mean, the tort --
2 that's why the tort claims act doesn't create a duty.
3 And quite frankly, this argument that was just made --
4 I wrote down the quote -- "there's a duty not to be
5 grossly negligent." I mean, that's in essence what
6 we're finding here. But --

7 THE COURT: That's in essence what we're
8 finding.

9 MR. LINDEMANN: But that's not a duty. That's
10 -- duty is an element of gross negligence. It's the
11 first element. You can't be grossly negligent if
12 there's no duty. So it's putting the cart before the
13 horse, Your Honor. I mean -- and -- and again, it
14 boils down to you can't just turn this over to a jury
15 and say, you know, do you what you think is -- is
16 right, they had a duty to do something, I can't tell
17 you what they had a duty to do. I mean, that's pure
18 juror nullification. It's just totally -- it's not
19 providing any type of guidance.

20 THE COURT: You've got a good record on this.

21 MR. LINDEMANN: Well, again, Your Honor, I mean,
22 I don't even -- I think I'm entitled to a directed
23 verdict -- but beside that, you know -- because I
24 don't believe that there's been a duty that's been
25 articulated that we breached. I mean, what's the duty

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 that we breached? Let's go to the -- let's go to the
2 second element. What's the duty that we breached?
3 And what is the duty that we breached without acting
4 with at least slight care, with a conscious wrongdoing
5 -- consciousness of wrongdoing? There's no evidence
6 of any of that, either.

7 I mean, we can skip to that and not worry about
8 duty. But there's no evidence of a breach of whatever
9 duty the subsection 25 conjures up. I mean, you've
10 got to -- you've got to tell me what we did -- or
11 they've got to -- they've got to say what we did to
12 breach it. And the only thing they can say is -- the
13 only thing they can say is -- that she had -- that she
14 had a medical condition -- well, in fact, another
15 thing that Mr. Hinson just said is that we had a duty
16 to protect her from receiving inadequate medical care.
17 So that's a way of arguing that we're responsible for
18 the medical provider, we're responsible for medical
19 malpractice.

20 So Your Honor, I mean, in order for you to
21 determine whether there's a breach, whether there's
22 any evidence to support a breach, you've got to look
23 at the duty more specifically than just saying there's
24 a duty for protection, custody, and control. And what
25 did we do to breach? The only thing that they can

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 show that what we did to breach was that we didn't
2 take her to the hospital. Well, that goes all right
3 back to whether or not there was a duty to do so.

4 And incidentally, Your Honor, I mean, as an
5 additional point that I certainly don't want to miss.
6 It's kind of down my line. But they presented -- even
7 if the Court finds a duty and that, therefore, it
8 becomes a standard of care question, they haven't
9 produced the first expert to say that the standard of
10 care required the correctional officers to override
11 the decision of the medical providers and take her to
12 the hospital or for some other type and course of
13 treatment.

14 So even if you get to standard of care which,
15 you know, I submit you don't get that far like in the
16 Doe versus Wal-Mart case. But even if you do, there's
17 no evidence to support that. They didn't call their
18 -- their so-called corrections expert. I understand
19 why, but -- but ultimately, they didn't present any
20 type of -- any type of standards. There's nothing in
21 the minimum standards that addresses this. You know,
22 I know Your Honor says minimum standards is admissible
23 to deal with --

24 THE COURT: Standard of care.

25 MR. LINDEMANN: -- you're damn right -- but the

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 only thing they put that in for is this whole idea of
2 a 14-day history. And of course -- again, I'm jumping
3 ahead a little bit -- but the issue on that is,
4 number one, it wasn't our duty to do the history and
5 physical, it was a medical duty, number one.
6 Number two, if you look at what is encompassed within
7 the Southern Health Partners form for a 14-day history
8 and physical, it's things that they already did
9 through the whole detox. I mean, it's asking them to
10 take vital signs, things of that nature.

11 And -- and ultimately, nothing on here has any
12 type of application to what ultimately happened to
13 her, plus there's no evidence of -- and again, he --
14 he tried to ask -- I think it was Deputy Kelley
15 this -- you know, if this history physical had been
16 done, what -- you know, would it have made a
17 difference? And you know, Your Honor didn't allow
18 that. And there's -- there's no medical testimony.
19 They didn't even ask their medical doctor yesterday,
20 hey, if she had had a history and physical, would you
21 have expected the result to be different? And quite
22 frankly that's pure speculation on top of it.

23 But -- but going back to my original point, if
24 you are looking at the breach of whatever this legal
25 duty is -- and I know you -- it seems like you agree

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 with me, but then you rule against me, Your Honor. I
2 mean, that's -- I guess that's part of -- everybody's
3 talking about being frustrated with this case. That's
4 part of my frustration, with all due respect. But --

5 THE COURT: It's part of mine, too.

6 MR. LINDEMANN: -- but so, you know, what
7 evidence is there of breach? I'm moving for a
8 directed verdict on there's no evidence of a breach of
9 whatever this duty is, because the only thing they're
10 saying that we did wrong, there's no legal duty to do
11 it.

12 And then third of all, Your Honor, there's no
13 evidence of proximate cause. And on top of that, as
14 I've already touched on briefly -- and I want to make
15 certain the record is full of this -- you know,
16 obviously, for acts of negligence, mistake, you know,
17 carelessness, error in judgment, that's all what
18 negligence is, as Your Honor is well aware. At most
19 what occurred here rises to that level. I mean,
20 they've got a burden of proving lack of slight care.
21 They've got a burden of proving conscious wrongdoing.
22 You know, there -- one definition talks about
23 intentional wrongdoing. I mean, gross negligence is a
24 very high standard, and who was grossly negligent?
25 Who have we heard -- we heard testimony from Deputy

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 Bauer, who attempted to help her. We've got testimony
2 from Haven Kelley, who she testified helped her -- I
3 mean, attempted to help her. They made sure medical
4 knew. They made sure medical was aware of her
5 situation. I mean, there's no evidence that anybody
6 with the sheriff's office didn't do that. The -- the
7 records from the incidences where she fell on the 28th
8 and 30th, both Lieutenant Whitaker reported on -- on
9 the 28th -- yeah, on-- on the 28th and -- and
10 specifically was -- in fact let me -- let me use the
11 exact verbiage. Wherever that exhibit is, Exhibit 2.

12 On the -- on the incident on the -- the 28th --
13 let me try to find it. My eyesight is not what it
14 used to be. Lieutenant Whitaker on the 28th reports,
15 "Nurse Donna completed an assessment of Inmate Rhoads
16 and stated that her vitals were all fine and that she
17 was clear to remain in her current housing assignment.
18 She stated that she would call and advise the doctor
19 of the issue Inmate Rhoads was having." So
20 ultimately, she had the understanding that the doctor
21 was going to be consulted. And we know from these
22 medical records he was consulted, and he ordered a CT
23 scan for her. I mean, they weren't ignoring her.

24 And then the -- the results on the 20th -- I'm
25 sorry, on the 30th, May 30th, the supervisor note ends

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 with Lieutenant Riddell writing, "Nurse Donna entered
2 the cell and checked on Rhoads' vital signs. Nurse
3 Donna stated that Rhoads was cleared to remain in the
4 pod. All responders" -- well, there's actually more
5 to this one. I'm not reading the right one. There's
6 one which says that Nurse Donna was going to -- that
7 there was a test that was necessary, or that there was
8 a test.

9 THE COURT: You don't have to rehash all the
10 testimony. I've heard it.

11 MR. LINDEMANN: Okay.

12 THE COURT: But I understand the nurses there --
13 I'm not certain if it was testified every day, but
14 many days twice a day, some days more than twice a
15 day, medical was there 24 hours a day. So I don't
16 know if somebody came up and said the nurse came in or
17 medical came in every single day. Perhaps not. There
18 was regular attention, medical attention, given to the
19 entire pod, including the plaintiff. Regular,
20 routine, it happened --

21 MR. LINDEMANN: Absolutely.

22 THE COURT: -- over and over. That wasn't
23 contradicted. Now, the frustration for the plaintiff
24 is she wanted more care or just relief from her she
25 condition, and she didn't get that. That's what I

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 heard from all of the witnesses.

2 MR. LINDEMANN: But ultimately, Your Honor,
3 again, if we're -- if we're at the -- if we're at the
4 gross negligence to be -- the degree of culpability,
5 that's where I am arguing at this point. I mean, I
6 don't personally believe that any of this evidence
7 gives rise to -- to the level of negligence. Believe
8 me, I don't think there's a breach in the legal duty
9 of care. I've made that clear. And -- and you know,
10 gross negligence is not, as we argued yesterday, it's
11 not a duty, it's a degree of culpability. They
12 require the exact same -- they require the exact same
13 four elements. It's just, you know, you're not liable
14 -- I mean, negligence is a lesser level of
15 culpability.

16 But the standard here, you know, they've agreed
17 to it. It's obviously the law. Because gross
18 negligence, which again, even using their -- their own
19 words here, it requires a conscious, intentional
20 failure to do something, absence of slight care. I
21 mean, I'm at a loss at who failed -- you know, you've
22 got to -- you can't just say, you know, that's one of
23 the flaws of the tort claims act, is you sue the
24 entity and, you know, we've got dozens and dozens of
25 employees. Well, who? You know, and that's why I

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 objected during Ms. Rhoads direct testimony when she
2 said they, they, they or the officers. You can't
3 defend that, you know, who? And you know, she
4 basically said -- well, she didn't basically say it --
5 she said Hill and Buchanan and -- and, ultimately,
6 Kelley and Bauer. Those are the people that -- that
7 she named. The supervisors were Whitaker and Riddell,
8 and we've talked about them. They -- they showed,
9 they made sure she was checked out. You know, whether
10 they made an error or judgment if there was a duty to
11 seek additional care, that's an error of judgment. In
12 addition to that, that would be immune under
13 subsection 5, but I haven't gotten to the tort claims
14 act immunities yet.

15 But -- but the bottom line is, it doesn't rise
16 to the level of gross negligence as a matter of law.
17 So the bottom line is, there are a lot of different
18 levels where I would suggest a directed verdict in a
19 case like this is absolutely appropriate. I did --
20 you know, and again, I don't know how Your Honor wants
21 to handle this. I obviously want to argue -- reargue
22 15-78-70(D). I saw a new memorandum that's been
23 provided to the Court. You know, we have amended our
24 answer, which the Court allowed us to do. I'm not
25 sure it's an affirmative defense, but it doesn't

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 matter anymore. It's been allowed. It's -- and I
2 don't know if you want to hear that also.

3 THE COURT: Let's go back to the -- I want to
4 hear from the plaintiff. What is, in the light most
5 favorable to you, the acts of slight care? We're
6 looking for absence of slight care for gross
7 negligence; right?

8 MR. HINSON IV: Yes, Your Honor.

9 THE COURT: Let's hear it.

10 MR. HINSON IV: So the -- the issue with intent,
11 the intentional conscience failure to do something, of
12 course, as Your Honor knows, it doesn't have to be you
13 intended the consequences, but you're aware of what
14 you're doing. There are, I think three things I would
15 point to Your Honor. One is sergeant -- excuse me --
16 Deputy Kelley going to her supervisor, Riddell.

17 THE COURT: And the supervisor said stay in your
18 lane.

19 MR. HINSON IV: Stay in your lane. He doesn't
20 do anything. He makes the decision not to say, let me
21 go -- let's go look at her. Okay, Deputy Kelley, I
22 can hear you. It sounds like this is somebody that we
23 need to just make sure everything right is, use our
24 good judgment and common sense, because medical
25 providers are people too, and they can make errors.

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 Let's go check it out, let's me and you go check it
2 out.

3 That's not what he says. He chooses to say,
4 stay in your lane. And in fact, he -- her testimony
5 -- Deputy Kelley's testimony was, the way he responded
6 to her, she felt that if she took it any further, her
7 job was in jeopardy. Woo. That was an intentional
8 response by Lieutenant Riddell, and that was not the
9 appropriate response. And I think we don't need
10 expert witness testimony to establish that that's not
11 the appropriate response when someone brings to you
12 concerns to say, I'm doing nothing, stay in your lane.

13 Similarly, Your Honor, there is evidence in this
14 case -- and I won't belabor it -- that the nurses had
15 this misapprehension about what's going on in the
16 cell, and the folks who see cell, who were there in
17 the cell on 12-hour shifts aren't going and taking --
18 they're choosing not to take action going, hey, let's
19 make sure everybody understands, nurses, do you fully
20 comprehend how we aren't seeing this. No one is
21 taking that -- making that -- taking that act, and
22 they're choosing not to take that act. Same with
23 Whitaker, Your Honor, and the other lieutenant, has
24 these concerns brought up to her, doesn't do anything
25 about it in any way or another. Those are all

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 conscious choices. That's the failure to provide
2 slight care. Literally, they do nothing. And we
3 think that is evidence the jury can consider. They
4 might decide it's -- it's not gross negligence. I
5 appreciate Mr. Lindemann's closing argument. I look
6 forward to hearing, hopefully, something like that
7 soon in a few days.

8 MR. LINDEMANN: Your Honor, first of all, the
9 jury never heard any testimony from Riddell or
10 Whitaker. And they -- they had identified a number of
11 deposition excerpts, but didn't use them. So there is
12 no testimony that Riddell didn't respond in this
13 record. There's no evidence that Riddell didn't --
14 didn't -- didn't respond or didn't do anything about
15 it, didn't check out the medicals. There's no -- and
16 we do know that he was with the medical providers on
17 the 30th and was told that she'd seen the doctor,
18 we've ordered -- there's a -- there's a test. There's
19 no reason to conclude, based on this evidence -- I
20 mean there's no ability to conclude on this evidence
21 for a reasonable jury that he was grossly negligent.

22 And the same for Whitaker. They have presented
23 no testimony as to anything that Whitaker didn't do.
24 They're totally speculating on that. And to suggest
25 -- and again, going back to this self-inflicting

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 issue, and I don't know if I have to make this
2 argument because Your Honor has made a number of
3 comments and you don't really view that as particular
4 compelling -- but there's no evidence that, because of
5 the, quote, self-inflicting belief which, quite
6 frankly, hasn't appeared anywhere in the case other
7 than Deputy Hill understood that from Nurse Donna on
8 one morning. But the bottom line is, there's no
9 evidence that they didn't provide medical care to her
10 because they thought she was self-inflicting.

11 THE COURT: Right. If it's -- an injury is an
12 injury.

13 MR. LINDEMANN: Right. So I mean, inmates -- I
14 do a lot of SCDC work. There are a lot of people who
15 commit self-harm there. And, in fact, they have a
16 whole -- they have a whole separate unit for
17 self-injurious behavior inmates. But yeah,
18 ultimately, you do -- you do treat them, definitely.
19 But as we've already discussed in this case, that's
20 not what this case is about. She's not contending
21 that she was -- in fact, she offered no testimony --
22 and I left it alone because she didn't go into it --
23 that she committed a self-injurious acts. And nobody
24 on my side ever believed that she did. And to suggest
25 that we didn't act with at least slight care on that,

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 my goodness. Deputy Hill got a second opinion from
2 another -- another officer and asked her to take a
3 look at it and testified that she went to question
4 inmates about whether or not somebody had actually
5 seen such things. And then she did go back and speak
6 with Nurse Donna about what she found based on what
7 was said.

8 I don't know how the self-injurious behavior
9 thing is evidence of any type of gross negligence.
10 And -- well, those -- those are -- those are my main
11 points. That's what basically rebuts what -- what
12 he's come up with. It just isn't there. And you
13 know, there has to be a reasonable basis for a jury to
14 find gross negligence in this case. I mean, there's a
15 reason why the general assembly said, as I said in my
16 opening, prisons and local detention centers are tough
17 places to run. And ultimately, there is a recognition
18 as the public policy of the State of South Carolina
19 that you have the ability to make errors. You have
20 the ability to make mistakes, errors of judgment. It
21 requires a much heightened standard and a conscious
22 wrongdoing, absence of slight care. And --

23 THE COURT: I'm aware of that.

24 MR. LINDEMANN: -- we don't have that here, Your
25 Honor.

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 THE COURT: All right. Go to your next issue.
2 I'm -- I'm -- that -- that -- that's probably my
3 entire focus on the case is that, is that's tough.

4 MR. LINDEMANN: Your Honor, I did want to -- and
5 again, I don't know if they're still pursuing such
6 claims, but -- and I think this was one of the issues
7 we raised at summary judgment that Your Honor took
8 under advisement, which was the -- the failure to
9 train claim. You know, as we -- as we pointed out in
10 our pretrial brief, cited case law, granted it's case
11 law from the federal district court applying South
12 Carolina law. But you know, they have found that
13 South Carolina doesn't recognize a claim for negligent
14 training separate and apart of one for negligent
15 supervision. They didn't bring a negligent
16 supervision claim, and they didn't attempt to argue
17 that here.

18 THE COURT: Are you still pursuing that? Are
19 you all still pursuing failure to train or negligent
20 training, whichever it was?

21 MR. HINSON IV: Well, we did plead negligent
22 training, Your Honor. And I don't think the law is so
23 fickle that we needed to say the word "supervision,"
24 because of -- but so we think it's at least an element
25 for the jury to consider. And the reason I say that,

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 Your Honor, is because whatever training was provided
2 had not created a culture that folks went up the chain
3 of command and felt empowered to go up the chain of
4 command.

5 We have a deputy who, by the training and
6 culture that had been created, was afraid to go any
7 further, and that is not the way it should be. That's
8 not the way it should be anywhere. And in fact, at a
9 hospital, there were almost -- and there was a
10 hospital that didn't -- I think they're required to
11 have chain-of-command policy. Not just here's --
12 here's the direction you go, but it says in the policy
13 that there can be no retribution taken against
14 somebody for speaking up when they have concerns. And
15 the policy is designed and written so that they feel
16 empowered to do so. That is not what they had at the
17 Aiken County Sheriff's Department in May of 2019. In
18 fact, they had the opposite. So Your Honor, we do
19 think there is a negligence in the training there,
20 that the training wasn't you need to speak up if you
21 see something and you need to know that you -- you
22 might ultimately be wrong if you speak up, but you
23 speak up about something that you have a concern about
24 and you're wrong and that's okay, but you're not going
25 to be punished for speaking up if you have a concern.

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 So, Your Honor, we think it is evidence of the
2 gross negligence in this case. It is at least
3 something the jury should be able to consider.

4 THE COURT: All right. I disagree with you.
5 I'm going direct verdict on that cause of action. I
6 don't -- I don't --

7 MR. HINSON IV: Thank you for hearing me, Your
8 Honor.

9 THE COURT: -- that one is kind of thin.

10 MR. HINSON IV: I attempted to argue for 45
11 minutes more about -- I'll just sit -- sit my butt
12 down.

13 THE COURT: All right. All right. What you got
14 next?

15 MR. LINDEMANN: Your Honor, next is this --
16 again, I think you took this under advisement on
17 Monday, and I don't believe we've heard any evidence
18 of it. So this tort claim about somehow being
19 negligent in failing to enforce the contract with
20 Southern Health Partners. I mean, the contract with
21 Southern Health Partners, to my knowledge, didn't go
22 into evidence.

23 MR. HINSON IV: We withdraw that, Your Honor.

24 THE COURT: All right. So that one is gone as
25 well.

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 MR. LINDEMANN: All right. Along those same
2 lines what was discussed on -- and this is sort of
3 like the part and parcel of this. I just want to make
4 sure we're clear. There was argument on Monday about
5 wanting to pursue some sort of negligence claim based
6 upon procurement, and I know I cited the Lee County
7 case.

8 MR. HINSON IV: Withdraw that, Your Honor.

9 THE COURT: Procurement is DV, or withdrawn,
10 either way. Which is better?

11 MR. MCCLAUGHLIN: We'll give Andrew a win, if you
12 want to, Judge.

13 THE COURT: All right. He got one, so I mean,
14 you all got --

15 MR. HINSON IV: We cry -- we cry uncle, Your
16 Honor.

17 THE COURT: Okay.

18 MR. LINDEMANN: All right, Your Honor. And
19 next, they have in their pleadings at 96(C) a -- in
20 96(C), Your Honor, they have a negligence, this
21 particular dealing with the failure to perform a
22 proper initial intake or medical intake screening.

23 MR. HINSON IV: Uncle, Your Honor.

24 THE COURT: DV, negligent intake is gone.

25 MR. LINDEMANN: They have a -- they have a

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 section -- and this is all in our summary judgment
2 motion as well. But in 96(U), they bring up quality
3 assurance practices, including reviews and audits of
4 critical incidents. There's been no evidence to
5 support any type of claim there.

6 MR. HINSON IV: Withdraw, Your Honor.

7 THE COURT: All right. Audit -- the failure to
8 audit properly is a directed verdict in your favor.

9 MR. LINDEMANN: All right. 96(D) is failure to
10 perform a proper health appraisal of Cassi within 14
11 days. We already talked about that at some length.
12 Obviously, that has to do with the 14-day history and
13 physical. You know, I already started to argue that a
14 little bit earlier. I won't belabor that. But the
15 bottom line is, Your Honor, as I indicated, there's --
16 there's no evidence, number one, that that was a duty
17 that was owed by the sheriff's office. That was a
18 duty that was owned by the medical contractor.

19 MR. HINSON IV: I'm not crying uncle on this
20 one, Mr. Lindemann.

21 MR. LINDEMANN: Oh, well, you don't need to
22 stand up. I'm not finished yet. But --

23 MR. HINSON IV: I thought you were just about
24 done. I'm sorry. I should have known.

25 MR. LINDEMANN: I am not. Anyway, on this

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 particular point, Your Honor, even if you -- let me
2 find my minimum standards. I've got too much
3 paperwork on these pleadings.

4 MR. MCLAUGHLIN: Andrew, if you need it.

5 MR. LINDEMANN: Anyway, the -- the section from
6 the minimum standards that they're relying on is
7 specifically for the -- the medical contractor. It
8 falls within the medical section, if you have a
9 medical contractor that -- who has that
10 responsibility. But again, there's no evidence that a
11 failure to -- to have that history, number one, rises
12 to the level of gross negligence. Number two, I mean,
13 there's an expectation that that's going to be done by
14 your medical provider. Number two [sic], there's no
15 -- there's no evidence -- competent medical evidence
16 -- there's no evidence that that would have made any
17 type of difference. It clearly requires pure
18 speculation on the part of the jury.

19 And lastly, if you look at the form that they
20 put into evidence over objection -- which again, is a
21 Southern Health Partners form, it's not a sheriff's
22 office form -- the information that is required there
23 is something that she had received by May 17th a
24 substantial amount of attention from the nursing staff
25 that satisfies -- and of course, this is a history and

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 physical performed before by nursing, it's not
2 performed by the -- the physician. And that she
3 received, in essence, the -- the equivalent of that
4 through the detox, through the sick calls that she had
5 received. I mean, this is designed -- this -- this
6 requirement is designed to make sure that, you know,
7 people who aren't seeking medical care and have
8 medical problems, that they're not -- that they're not
9 -- that they're not noted. It's not known. And in
10 this particular case, of course, her medical situation
11 was extremely well known to the medical providers long
12 before the 14th day of detainment.

13 THE COURT: Now he's done.

14 MR. HINSON IV: May I stand up?

15 THE COURT: Mm-hmm.

16 MR. HINSON IV: Your Honor, the minimum
17 standards apply to the jail. And the minimum
18 standards use things at times like the responsible
19 physician shall do this, the responsible physician
20 shall do that. However, Your Honor, for the 14-day
21 health appraisal, it does not say the responsible
22 physician shall do that. And the evidence came in
23 today it is the guards who bring the detainees to the
24 medical staff because, Your Honor, the medical staff
25 doesn't know who's there how long they've been there.

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 All of that takes place with the jail. The jail knows
2 who's there, and the jail knows how long they're going
3 to be there. That's who knows that, and that's just
4 axiomatic that the -- and I know it's been a long day.

5 So Your Honor, we do think that it was --
6 there's at least an inference in this that it was the
7 jail's responsibility to make sure that she got this
8 14-day health appraisal. This 14-day health
9 appraisal -- and Your Honor saw it before -- it is
10 much, much more comprehensive than what we're talking
11 about with somebody coming in and checking your blood
12 pressure. The evidence -- I mean, when they're coming
13 to check on her withdrawals, they're checking her
14 blood pressure and checking her -- her heart rate.
15 That is a whole lot different than this history and
16 physical that we're -- this -- this health appraisal
17 that we're talking about.

18 And Your Honor, the evidence in this case is
19 that this young lady was very, very sick, and there is
20 a reasonable inference that can be made -- the jury
21 might decide otherwise -- that had the jail ensured
22 this was done, there would have been a better
23 appreciation of how sick she was. So Your Honor, we
24 do think that it is evidence that the jury should be
25 able to consider that the jail staff was grossly

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 negligent in the -- fulfilling their duties to Ms.
2 Rhoads because it was their duty to see that the
3 14-day health appraisal was done. It was the nurse's
4 job to do it, but it was the jail's job to make sure
5 it took place.

6 MR. LINDEMANN: I don't know if you need to hear
7 further argument, but what he just said is just
8 absolutely false. And not only is there no evidence
9 of it, it's just false. He's actually told you that
10 medical doesn't know who's there. Well, certainly,
11 they knew she was there. There's no evidence to say
12 that medical doesn't know who -- you know, who the
13 inmates are in the facility. That's why there's a
14 medical screening intake form. In fact, it goes
15 directly to medical. But I know I'm outside the
16 record as well, because that hasn't been an issue in
17 this case. They just threw that out to you. But what
18 they threw out to you, in addition to not being
19 supported in the record, it's -- it's -- it's false.

20 The second thing is, Mr. Hinson didn't even
21 address causation. I mean, there's an absolute
22 absence of causation. And he didn't address whether
23 that arises to the level of failure to exercise slight
24 care.

25 Again, this is not a case -- and lastly, Your

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 Honor, to the -- to the extent they're claiming this
2 should have been done, that's their claim against
3 Southern Health Partners. I mean, they made that
4 claim against Southern Health Partners. It's a
5 medical malpractice issue, it's -- it's not an issue
6 appropriate against the correctional staff, even if
7 you find that the minimum standards can be used to
8 establish the standard of care, which I know was Your
9 Honor's earlier ruling.

10 THE COURT: I'm going to sit on that one like I
11 am the other one, the gross negligence like I've not
12 ruled on yet. It seems to me this is part and parcel
13 of the argument that standard of care is this and,
14 therefore, the failure to do that contributes into the
15 gross negligence behavior. I really have difficulty
16 thinking that stands on its own.

17 MR. HINSON IV: Well, Your Honor, I don't think
18 it has to stand on its own to be something for the
19 jury to consider in this case, that -- that there was
20 a gross --

21 THE COURT: Right. But this is a separate cause
22 of action, though.

23 MR. HINSON IV: Your Honor, I'll stipulate we
24 don't intend to bring it as its own cause of action.

25

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 THE COURT: But you're going to argue it, so --

2 MR. HINSON IV: I'm going to argue it's
3 relevant, but I would stipulate in and of itself, it's
4 not its own cause of action.

5 THE COURT: But you've made -- you've made it a
6 cause of action. I'm not reading by the pleadings.
7 Is that a cause of action?

8 MR. HINSON IV: Your Honor, he's -- he has -- he
9 has misrepresented what our case is. Our case --
10 paragraph 96 of our complaint says, "The defendants,
11 Hunt and Aiken County' -- now is Defendant Aiken
12 County Sheriff's Office -- 'was grossly negligent,
13 reckless in the ways including." And we just alleging
14 that's one of the ways that they were grossly
15 negligent. We're not claiming it as its own cause of
16 action.

17 THE COURT: Oh, I thought you were. Okay.

18 MR. HINSON IV: Yeah. This whole thing is he's
19 just trying to keep me from saying that things were
20 negligent. And I'm not going to acknowledge that the
21 failure to ensure she had this 14-day health appraisal
22 even done, that -- that was the sheriff's office.

23 THE COURT: I'm going to leave that alone,
24 because it's sticking with the entire -- I'm going to
25 call it the DV motion. I thought we were going

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 through the cause of action. You're all going through
2 the elements of --

3 MR. HINSON IV: He just literally wants to
4 strike paragraphs out of my complaint, Your Honor.

5 MR. LINDEMANN: Well, Your Honor, I mean, that's
6 how people -- I don't think particularly agree with --
7 but that's the way pleadings are done where they list
8 out some A through D of -- of various particulars of
9 negligence or, in this case, gross negligence that
10 they're claiming. And we've got to know what goes to
11 the jury and what doesn't. I mean, it's treating it
12 like it's a separate cause of action. You're saying
13 you're negligent for this and you're negligent for
14 that and you're negligent for that. You know, if
15 there's no evidence of these --

16 THE COURT: All right. I'm going to leave that
17 one alone because there's evidence -- there's no
18 dispute the 14-day thing wasn't done. It's whether
19 that's a -- I'm not going to chomp on that one yet.

20 MR. HINSON IV: Thank you, Your Honor.

21 THE COURT: And I'm going leave it there but --
22 because that was talked about.

23 MR. LINDEMANN: All right. And then, Your
24 Honor, I assume that you've already ruled on F, which
25 says, "Failure to add adequate standard operating

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 procedures and/or training at ACDC for receiving,
2 screening, or initial intake screening on new
3 detainees"?

4 MR. HINSON IV: We withdraw that as an
5 allegation of one of the ways that the sheriff's
6 office was negligent.

7 MR. LINDEMANN: All right.

8 THE COURT: Okay. Withdrawn.

9 MR. LINDEMANN: G through O -- and I mean, I'm
10 happy to go through each one, but -- they -- they have
11 the same language about adequate procedures and/or
12 training. And G -- and I'll just give you the list so
13 you get a flavor for it -- G is non-emergency medical
14 services. H is emergency medical and dental services.
15 I is emergency nature of -- let's see -- for deciding
16 the emergency nature of illness or injury. J is
17 dental screening, hygiene, examination, and treatment.
18 I hadn't heard anything about dental care.

19 THE COURT: Wasn't there some comment earlier
20 about dental issues that she was complaining about her
21 teeth hurting?

22 MR. HINSON IV: Absolutely, Your Honor.

23 THE COURT: At least I heard that somewhere.

24 MR. HINSON IV: Your Honor, the -- the --

25 MR. LINDEMANN: And they didn't show any

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 evidence of an absence of what -- what this says,
2 simply her saying my teeth hurt.

3 MR. HINSON IV: Your Honor, Plaintiff's
4 Exhibit 1 has multiple -- has a request for her to be
5 seen by the dentist. She's never seen by the dentist.
6 I can't prove the negative. She wasn't seen by the
7 dentist. It didn't happen. So we -- there is
8 evidence that she was never seen by a dentist in this
9 whole 31 days that she was in there, despite having
10 some very, very serious dental issues. Which
11 Dr. O'Bryan said this thing -- this abscess could have
12 begun from a hair follicle, a sweat gland, or even a
13 dental issue. It's -- it's -- it's -- it's evidence
14 in the case.

15 THE COURT: All right. Skip the tooth fairy --
16 I mean the dentist.

17 MR. LINDEMANN: All right. Skip what now?

18 THE COURT: The dentist.

19 MR. LINDEMANN: I missed what you said, Your
20 Honor.

21 THE COURT: Oh. Can we cut the record off?

22 (Off the record.)

23 (On the record.)

24 MR. LINDEMANN: All right, Your Honor. Again,
25 the issue that talks about dental screening, hygiene,

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 examination, and treatment. The next one is first
2 aid, and the next one is chronic care, and then the
3 next one is convalescent care, the next one is medical
4 preventive maintenance, next one is sick calls. And
5 that takes it through O. P is provide medical
6 services program in compliance with the minimum
7 standards. Q is providing medical service program
8 with the ACDC that was in compliance with NCCHC
9 Standards. There's -- none of those standards have
10 put into evidence. Failing to ensure Southern Health
11 Partners met their duties under the contract. I think
12 Your Honor has already thrown that out. Failing to
13 ensure SHP followed their own policies and procedures.
14 I mean, they presented absolutely no testimony of any
15 type of duty for that. And that's sort of enveloped
16 in the same part of failure to enforce a contract.

17 They go back again now, failing to ensure
18 Southern Health Partners provided medical services
19 that adhered to the minimum standards. And failure to
20 regularly follow quality assurance practices, which I
21 think Your Honor has already dealt with.

22 So again, I don't believe that there's evidence
23 to support, number one, any of those. But clearly,
24 there's no evidence to support -- again, I don't know
25 how Your Honor wants to deal with that. I think it's

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 totally legitimate to go through and -- it doesn't
2 have to be a separate cause of action if it's pled.
3 We've got to know what's going to the jury and what's
4 not, what there's evidence to support and what's not.
5 And that's why I raise those things that way. I mean,
6 you know, I can't help it if they didn't -- they pled
7 this thing so general and threw, basically, everything
8 up against the wall to see if something would stick.
9 Well, now, we're at the point in time where did they
10 present any evidence of all these things. I would
11 submit not, and certainly not to rising to the level
12 of gross negligence, so.

13 THE COURT: All right. I'm not going to rule on
14 all of those. I -- maybe I need a copy of the
15 pleading so I can go through and check them off
16 because there's a lot of them there. I'm not -- I can
17 promise you, I didn't hear and enumerate them all in
18 my mind as you were going through them, so I'd like to
19 go through the pleadings --

20 MR. HINSON IV: Thank you, Your Honor.

21 THE COURT: -- at -- at my leisure.

22 MR. HINSON IV: Thank you, Your Honor.

23 MR. LINDEMANN: That will be fine.

24 THE COURT: All right.

25 MR. LINDEMANN: All right. Lastly, Your Honor,

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 real quick. Before I get to 70(D), let me make sure
2 I've got everything else. Yeah. Your Honor, as we --
3 as we've asserted in our summary judgment motion
4 previously, I think this was, again, an issue that I'm
5 not sure Your Honor already ruled on. But just
6 dealing with the policies and procedures in general
7 there, they didn't present any type of expert witness
8 who indicated any deficiency in our policies and
9 procedures. In fact, no policies and procedures, to
10 my knowledge, were put into evidence. In addition to
11 that, Your Honor, I think it requires expert testimony
12 as to indicate that there are policies and procedures
13 that are inadequate or improper or deficient in any
14 way, and they have no expert for that. So I don't
15 even know what policies and procedures they're talking
16 about because, quite frankly, I'm not even going to
17 argue that.

18 THE COURT: I didn't hear you all mention -- so
19 what you all --

20 MR. HINSON IV: Your Honor, the short answer is,
21 we are not making a claim at this stage that there was
22 a failure to have an adequate policy and procedure on
23 any of these particular issues. I will say, the
24 reason this was in here was because the minimum
25 standards require there be policies on a lot of stuff.

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 They literally say you have to have a policy on these
2 things. And at the time, we didn't think they had
3 policies on this stuff. Like, they literally were
4 just refusing to follow the minimum standards that --
5 or failing to follow the minimum standards that were
6 required. We do think there was a failure to have a
7 written policy that enables people and, again,
8 promotes feeling empowered to do the right thing.

9 But all these other ones, we're not -- we're not
10 going to bring this up in the case. So I don't --
11 again, I'm not exactly sure why we're just going
12 through paragraph by paragraph in the way that we are.
13 I mean, they're not individual causes of action,
14 they're just ways we've alleged they were negligent.
15 I think Your Honor has a flavor the allegation we've
16 made. The way this evidence is coming in, what we are
17 alleging was the -- was the negligence. But if we
18 need to continue this, that's at Your Honor and Mr.
19 Lindemann's discretion.

20 MR. LINDEMANN: And again, Your Honor, I'm not
21 trying to waste your time. I've done this for -- when
22 I try cases, I want to nail down exactly -- you know,
23 you join issues with the pleadings and, ultimately,
24 you've got to support them before a directed verdict
25 motion. So again, I mean, I'm not trying to waste

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 Your Honor's time. I'll get to -- I don't know what
2 Your Honor is thinking as far as whether this is an
3 appropriate practice or not, but I can tell you I
4 typically do that because you don't want -- they may
5 be all part of the same cause of action, but they're
6 alleging, in theory, different types of negligence or
7 negligent acts. I mean, I hate when plaintiff's
8 lawyers do this, to be perfectly honest, because it
9 just allows them to say the same thing over and over
10 and over again in different versions. But it is what
11 it is.

12 THE COURT: There's a lot of that going on.

13 MR. LINDEMANN: So as far as policies go, I
14 mean, I don't know if Your Honor --

15 THE COURT: They're not going to argue that, so
16 I'm --

17 MR. LINDEMANN: Okay. All right. Let me -- let
18 me -- let me turn to -- I mean, I have some arguments
19 under -- immunities under the tort claims act, but
20 I'll save those for after my case-in-chief --

21 THE COURT: Okay.

22 MR. LINDEMANN: -- which is the appropriate
23 place to raise them. 15-78-70(D), Your Honor, I know
24 Your Honor heard substantial argument on that already.
25 Just to -- to recap it real quick, that is a provision

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 of the tort claims act. It's a part of the overall
2 scheme that was adopted by the general assembly in
3 allowing governmental entities to be liable in tort.
4 That specifically finds that the taxpayers should
5 ultimately be responsible for the acts of its own
6 employees, and not for the tortious acts of other
7 persons.

8 So ultimately, they adopted 100(C), which
9 requires apportionment between all defendants in a
10 case, and then they adopted as part of that as well,
11 15-78- t70(D) that provides that if there is a
12 settlement of any claim or an action under this
13 chapter -- and again, we've referenced this Court
14 numerous times, Wade versus Berkeley County. The
15 Supreme Court said that was ambiguous that, under this
16 chapter, applies to both that a party who settles out
17 a claim that was brought in a tort claims act action
18 is then barred, as the claim says, to any further
19 action by the claimant against the employer or
20 governmental entity. And the reason they're --

21 THE COURT: The case you just cited, tell me the
22 case again.

23 MR. LINDEMANN: It's called Wade versus Berkeley
24 County.

25 THE COURT: Well, and does it stand for the

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 similar proposition as this, is that plaintiffs sued
2 the provider under negligence and sued the detention
3 center under the tort claims act, cause of action one
4 against one defendant, cause of action two against the
5 other defendant. They're separate causes of action,
6 but, you know, they're overlapping. But does that
7 case stand for that so if they dismiss or settle --

8 MR. LINDEMANN: What happened in Wade, Your
9 Honor, is --

10 THE COURT: -- obviously, I haven't read it.
11 That's why I'm asking.

12 MR. LINDEMANN: -- okay. And -- and I'm happy
13 to leave a copy with you. But what happened in Wade,
14 just to refresh Your Honor's memory, this was the
15 animal control officer who was on his way to work, saw
16 some roadkill and he stopped to tend to it -- there
17 was obviously an issue as to whether or not he was in
18 the scope of his official duties because he was on the
19 way to work -- and caused an accident. Ultimately,
20 the plaintiff in the case, Gerald Wade, initially
21 brought a claim against the employee individually, his
22 own personal -- he was driving his own vehicle, his
23 own personal insurance carrier came in and -- and --
24 and resolved the case. And the plaintiff then turned
25 around after the first case was resolved and brought a

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 second case against Berkeley County and argued that
2 this particular officer was in the scope of his
3 official duties, and Berkeley County brought a motion
4 to dismiss based upon 15-78-70(D).

5 And what the Supreme Court said in that case --
6 which is critical here -- is first of all, they
7 indicated that this chapter is defined as the tort
8 claims act. They said, "We conclude that the general
9 assembly intended under this chapter to modify both a
10 settlement or judgment in an action and a settlement
11 of a claim." But then they went on to say, in this
12 particular case and of these facts, because there was
13 -- the first lawsuit was not brought under the tort
14 claims act -- because it didn't have a governmental
15 entity name -- and it got settled, that 70(D) didn't
16 apply because there wasn't a claim brought under the
17 tort claims act.

18 And so, ultimately, what they said here was, "At
19 the time of the settlement, Wade had only initiated an
20 action against Pierce in his individual capacity, not
21 against the county as Pierce's employer. Accordingly,
22 at the time Wade and Pierce executed the settlement
23 documents, there were no actions under this chapter.
24 Wade and Pierce's settlement did not invoke the
25 provisions of 15-78-70(D), barring Wade from further

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 action against the county."

2 And then they go on to say, "As illustrated by
3 the facts of this case, 15-78-70(D) permits a
4 plaintiff to maintain an action against a governmental
5 employee in his individual capacity, settled, and then
6 pursue an action against a governmental employer for
7 the tort of his employee allegedly committed while in
8 the scope of the employment." So the distinction that
9 the Supreme Court made was that the lawsuit where the
10 settlement occurred had not been brought under the
11 tort claims act. It was a simple wreck case brought
12 under the common law.

13 In this particular case, there's no question
14 this action was brought under the tort claims act. As
15 I mentioned to Your Honor before and detailed in our
16 pretrial brief, the plaintiffs themselves cited the
17 tort claims act in the complaint. Paragraphs 4 and 5
18 reference sections of 15-78 -- I believe -- I believe
19 20 or 30, but as part of the tort claims act. There's
20 no question that both defendants asserted -- or all
21 defendants asserted defenses under the tort claims
22 act, and we've cited the answers of both Southern
23 Health Partners and us for that. There's no motion to
24 strike any of those defenses. The cases brought under
25 the tort claims act. I mean, that's what the

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 equivalent of what they're talking about in -- in
2 Wade.

3 And again, the reason that we have this is
4 because the way this case was brought, if it had been
5 tried with all of the parties in this case, the
6 sheriff's office would have been entitled to
7 apportionment under 100(C). Well, we don't have a
8 right of contribution. 15-78-60 -- 15-38-65 does not
9 give governmental entities the right to contribution.
10 Everybody else has it, we don't. The reason we don't
11 is because we've got 100(C). And ultimately, when Ms.
12 Rhoads settled with Southern Health Partners, we lost
13 the ability to claim apportionment. So what the tort
14 claims act recognizes, and the public policy of the
15 State of South Carolina is, you can settle a case like
16 that, but it's going to bar the claim against a
17 governmental -- any remaining governmental entity.

18 THE COURT: Okay. I understand your position.
19 Let me hear him.

20 MR. HINSON IV: Your Honor, we -- this is what
21 we --

22 THE COURT: I'm going to tell you all right now,
23 I'm going to sleep on this one. but let me hear you.

24 MR. HINSON IV: -- we filed a brief on this,
25 Your Honor. We stand by our brief.

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 THE COURT: Okay.

2 MR. HINSON IV: The -- we did not sue.

3 THE COURT: And that's what you did last night?

4 MR. HINSON IV: Yes, sir. I have a paper copy
5 if you like.

6 THE COURT: Sure. Heck, yeah.

7 MR. HINSON IV: So Your Honor, very briefly, we
8 have not sued Southern Health Partners under the tort
9 claims act. That would be, quite frankly, absurd.
10 They are not a governmental entity. If we had sued
11 Southern Health Partners under the tort claims act,
12 for one, I would be walking myself into a cap -- or
13 walking client into a cap -- and two, they're not a
14 governmental entity. They would have -- they would
15 have said we can't be sued under the tort claims act,
16 we are a private, for-profit corporation out of
17 Tennessee.

18 MR. MCLAUGHLIN: He just argued G to say they
19 couldn't be responsible for Southern Health Partners.

20 MR. HINSON IV: Yeah. I mean, literally, he --
21 Mr. Lindemann has been arguing we can't be responsible
22 for Southern Health Partners, they're not our
23 employee, they are an independent contractor. And
24 that's what the law says. I mean, they -- I agree
25 with that. Southern Health Partners is -- is an

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 independent contractor, and the tort claims act
2 provides it does not apply to independent contractors.

3 So there has not been a settlement in this case
4 under the tort claims act. There has only been a
5 settlement under the common law against Southern
6 Health Partners, or an action. And we haven't brought
7 it. The only action under the tort claims act was
8 against Mr. Lindemann's client that has not yet been
9 settled.

10 THE COURT: Okay.

11 MR. HINSON IV: And I just -- and I would just
12 point out the absurdity of the results that would --
13 that would -- that would befall if Mr. Lindemann's
14 argument were correct. And we addressed this very
15 briefly in our -- in our memo, Your Honor. If there
16 were a three-car car wreck, private citizen gets hit,
17 and there's two -- two at-fault cars; one is the city
18 -- the city trash truck, and the other is a private
19 citizen. And so we bring one lawsuit. I'm suing both
20 because they both kind of screwed up in this
21 intercession and it caused this big wreck.
22 Mr. Lindemann's position would say, I can't possibly
23 settle my case against this private citizen because
24 that's automatically going let the city trash truck
25 off the hook. That can't be the law of South

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 Carolina, Your Honor. That would chill settlements.

2 And secondly, Your Honor, he still gets a --
3 we've -- we've acknowledged -- and I'll say it again
4 -- that we believe he almost certainly is going to
5 have a right to a set off should there be a verdict in
6 this case. And so he does still get that. I mean,
7 the law is clear that non-defendants don't go on the
8 verdict form, anyway. And so he's going to get a
9 settlement. If -- if the jury decides it's worth X,
10 he's going to get to get a set off for Y of what's
11 already been paid. He does get the benefit of the
12 settlement with Southern Health Partners.

13 THE COURT: Okay. All right. I'm sitting on
14 that one, so (unintelligible) argument.

15 MR. HINSON IV: Thank your, Your Honor.

16 MR. LINDEMANN: Here's a copy of the Wade
17 decision, Your Honor.

18 THE COURT: Perfect. Thank you.

19 MR. HINSON IV: We think, if anything, Your
20 Honor, Wade supports plaintiff's position.

21 THE COURT: Okay.

22 MR. LINDEMANN: It certainly does not.

23 THE COURT: That's why you all are advocating
24 diligently.

25 MR. MCLAUGHLIN: That's -- that's one word,

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 isn't it?

2 THE COURT: All right.

3 MR. LINDEMANN: Your Honor, just to protect my
4 record -- I think I indicated earlier -- rely on
5 the -- the memorandum in particular. I didn't get
6 completely through the legal duty because I had the
7 implicit waiver under the sheriff's statute. I also
8 addressed the -- well, I guess we did talk about the
9 tort claims act can't create causes of action or
10 duties. But anyway, if I can be protected with that,
11 that --

12 THE COURT: You're protected.

13 MR. LINDEMANN: -- the arguments in the pretrial
14 are incorporated.

15 THE COURT: Absolutely.

16 MR. LINDEMANN: Thank you, Your Honor.

17 THE COURT: All right. That's all your motions?
18 I think so, but --

19 MR. LINDEMANN: I think so.

20 THE COURT: All right. If you think of
21 something else -- I mean, I'm not ruling on
22 everything, so if you think of something else,
23 tomorrow morning is fine. We'll try to start at 9:30
24 and go through which witnesses you can. I'm probably
25 going to stop at 12:15 to take a short break and give

Defendant's Motion for Direct Verdict

JURY TRIAL - VOL. 3

1 my court reporter a break, because I want to get that
2 crowd from Florence in and out at 1:00, and try to do
3 this plea efficiently. I mean, no sentencing or
4 anything like that, but I want to get the plea
5 accepted, if he's going to do it and get them back on
6 the road. So that's my intent. So that you all know
7 my parameters of what I'm trying to accomplish
8 tomorrow. Any questions about that?

9 MR. LINDEMANN: No, Your Honor.

10 THE COURT: Okay. All right.

11 MR. HINSON IV: None from the plaintiff.

12 THE COURT: All right. Good deal.

13 (The proceedings were adjourned until 9:30
14 a.m., October 12, 2023.)
15
16
17
18
19
20
21
22
23
24
25

1 CERTIFICATE OF TRANSCRIBER

2
3 I, Sandra J. Early, a court-approved
4 transcriber, do hereby certify that I transcribed the
5 electronic recording of the foregoing proceedings in
6 Docket No. 2020-CP-02-02238 held on October 11, 2023,
7 before the Honorable Eugene Griffith, and that said
8 transcript is true and correct, all to the best of my
9 knowledge and ability.

10 I further certify that I am not related to nor
11 the employee of any of the parties hereto, nor related
12 to or employed by any attorney or counsel employed by
13 the parties hereto, nor interested in the outcome of
14 this action.

15
16
17
18 April 25, 2024

19 *Sandra J. Early*
20

21 Sandra J. Early

22 Transcriber
23
24
25

1 STATE OF SOUTH CAROLINA) IN THE 2ND CIRCUIT COURT
2 COUNTY OF AIKEN) DOCKET NO.: 2020-CP-02-02238
3

4 -----
5 CASSIOPIA RHOADS,)
6)
7 Plaintiff,)
8)
9 versus)
10)
11 AIKEN COUNTY SHERIFF'S OFFICE,)
12)
13 Defendant.)
14 -----

15
16 J U R Y T R I A L

17 VOLUME NO. 4
18

19
20
21 DATE: October 12, 2023
22 TIME: 9:43 a.m. to 4:02 p.m.
23 LOCATION: South Carolina Circuit Court No. 2
24 JUDGE: Eugene Griffith, Jr.
25 TRANSCRIBED BY: Sandra J. Early

LEGAL EAGLE

Post Office Box 5682
Greenville, South Carolina 29606
(864) 467-1373
depos@legaleagleinc.com

A P P E A R A N C E S

FOR THE PLAINTIFF, CASSIOPIA RHOADS:

FRANCIS M. HINSON IV, ESQUIRE
HHP Law Group, LLC
942 Gervais Street
Columbia, South Carolina 29205
Phone: (803) 400-8277
E-mail: brink@hhplawgroup.com

PATRICK J. MCLAUGHLIN, ESQUIRE
Wukela Law Office
P.O. Box 13057
Florence, South Carolina 29504
Phone: (843) 669-5634

FOR THE DEFENDANT, AIKEN COUNTY SHERIFF'S OFFICE:

ANDREW LINDEMANN, ESQUIRE
P.O. Box 6923
Columbia, South Carolina 29260
Phone: (803) 881-8920
E-mail: andrew@ldlawsc.com

I N D E X

Proceedings.....	4
Certificate of Transcriber.....	174

<u>WITNESSES:</u>	<u>DX</u>	<u>CX</u>	<u>RDX</u>	<u>RCX</u>	<u>RBLX</u>	<u>SRBLX</u>
Jessica Whitaker	4	25	41	46		
Chanate Buchanan	48	60				
Nicholas Gallam	66	131	135			
Cassiopia Rhoads		140			137	142

E X H I B I T S

<u>Court's:</u>	<u>ID'd</u>	
Record of dentist visits to ACDC	113	
<u>Plaintiff's:</u>	<u>Off/Mvd</u>	<u>Admitted</u>
17 - ACDC Policy No. 102	40	41
<u>Defendant's:</u>	<u>Off/Mvd</u>	<u>Admitted</u>
7 - Excerpt from ACA Standards, medical services	130	131

(Exhibits retained by counsel.)

(THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL.
SUCH MATERIAL IS REPRODUCED AS READ OR QUOTED BY
THE SPEAKER.)

Jessica Whitaker - Direct Examination by Mr. Lindemann

JURY TRIAL - VOL. 4

1 THE COURT: Good morning. I hope you all had a
2 nice evening. And thankfully, today we were waiting
3 on you all, you all weren't waiting on us. All right.
4 So now it's the opportunity for the defense to call
5 any witnesses they wish. Mr. Lindemann, call your
6 witness.

7 MR. LINDEMANN: Thank you, Your Honor. The
8 defendant would call Jessica Whitaker.

9 (The witness was sworn in.)

10 THE CLERK: Please take a seat in the witness
11 stand. State your full name for the Court, and spell
12 your last name, please.

13 THE WITNESS: It's Jessica Louise Whitaker,
14 W-H-I-T-A-K-E-R.

15 JESSICA WHITAKER
16 was called as a witness, and having been first duly sworn,
17 testified as follows:

18 DIRECT EXAMINATION

19 BY MR. LINDEMANN:

20 Q. Good morning, Ms. Whitaker.

21 A. Good morning.

22 Q. Would you please tell the jury a little bit about
23 yourself?

24 A. Well, I worked for Aiken County Detention Center for
25 about, around, eight or nine years. I went to college for

Jessica Whitaker - Direct Examination by Mr. Lindemann

JURY TRIAL - VOL. 4

1 criminal justice. Thought that that would be the path
2 that I took and where I would retire from. It happened
3 not to be o, but I loved my job there. I love my family.

4 Q. Well, let me ask you little bit about that. Are you
5 -- are you from Aiken originally?

6 A. I'm not. I'm from Indiana.

7 Q. All right. And how long have you been in Aiken?

8 A. I moved to Aiken in 2012.

9 Q. Okay. And you just mentioned your family. You have a
10 family?

11 A. My husband. We've been together for 25 years, and I
12 have a 23-old daughter whose birthday is actually today.

13 Q. Oh, wow. And tell the jury a little bit about your
14 educational background. Where did you get your criminal
15 justice degree?

16 A. From Columbia Southern University.

17 Q. Okay. And what year was that?

18 A. 2011 or 2012. Honestly, I can't remember.

19 Q. All right. And, Ms. Whitaker, I guess that would be a
20 good segue. Do you have some memory issues?

21 A. I do. I had a grand mal seizure in 2020. I think
22 it's 2020, 2019 or 2020. I can't remember.

23 Q. It was after the events in this case?

24 A. It was after that. It was -- it was -- it was in
25 September of the year. I think it was 2020 that -- and

Jessica Whitaker - Direct Examination by Mr. Lindemann

JURY TRIAL - VOL. 4

1 due to the grand mal seizure, my neurologist and my family
2 thought that it was better that I quit working for the
3 detention center. And it has kind of done a little bit of
4 damage to my memory.

5 Q. So ultimately, you're -- you're not currently working
6 for the sheriff's office.

7 A. I do not.

8 Q. All right. and you left in -- in late 2020?

9 A. Yes. In, I think, it was November of 2020.

10 Q. All right. And it was for these medical reasons?

11 A. Yes.

12 Q. Ultimately, where are you working now?

13 A. I work for a company called G5 Tech, who works for
14 GTL, who works for department of corrections.

15 Q. So you're still in a correctional setting but in a --
16 for a private contractor?

17 A. Yes.

18 Q. And what does that contractor -- what kind of services
19 do they provide for the department of corrections?

20 A. So I don't work one-on-one with the inmates anymore
21 like I did when I worked for Aiken County. I actually
22 work with the servicing of the tablets, the phones, the
23 inmate phones, just making sure that they're programmed
24 correctly and that the inmates have access to them,
25 they're working, stuff like that.

Jessica Whitaker - Direct Examination by Mr. Lindemann

JURY TRIAL - VOL. 4

- 1 Q. So you're -- you're not a uniformed officer?
- 2 A. No, not at all.
- 3 Q. And you haven't been since you left the Aiken
- 4 Sheriff's Department?
- 5 A. No.
- 6 Q. Is that correct?
- 7 A. Correct. I don't supervise inmates whatsoever now.
- 8 Q. Okay. And so when you -- when is it that you said you
- 9 went to work for the sheriff's office?
- 10 A. 2012, I believe.
- 11 Q. All right. And when you worked for the sheriff's
- 12 office, was it all in the -- as an officer in the
- 13 detention center?
- 14 A. I did. I started as a deputy, a housing unit deputy,
- 15 and then was promoted to a corporal, and then I was
- 16 promoted to a sergeant, and then I was promoted to a
- 17 Lieutenant. So I kind of did all of the aspects of
- 18 supervising the inmates there.
- 19 Q. And is that basically the chain of command to go from
- 20 deputy to corporal to sergeant to lieutenant?
- 21 A. Mm-hmm. Yes.
- 22 Q. And then who's above the lieutenant?
- 23 A. Our direct supervisor was Lieutenant Bowman.
- 24 Q. Okay. And he would be the --
- 25 A. Security lieutenant.

Jessica Whitaker - Direct Examination by Mr. Lindemann

JURY TRIAL - VOL. 4

1 Q. He would be what?

2 A. The security lieutenant.

3 Q. The security lieutenant. Okay. And do you recall
4 when you were promoted to lieutenant?

5 A. Not specifically, no.

6 Q. In May-June of 2019, what this case is about, is when
7 Ms. Rhoads was at the detention center, you held the rank
8 of lieutenant?

9 A. I did.

10 Q. Ultimately, what would be the role of a lieutenant?
11 Can you sort of explain what your function as a lieutenant
12 during that period of time? What kind of things did you
13 do?

14 A. I didn't supervise specific housing units, more as a
15 whole, all of the housing units. So all of the officers
16 who supervised the inmates, I watched over them if they
17 had any issues or anything or were have any problems or
18 couldn't figure anything out, they would come to us. We
19 did the schedules for the staff. Pretty much day-to-day
20 just overseeing everything and just making sure that
21 everything was running smoothly.

22 Q. During your particular shift?

23 A. During my shift.

24 Q. Okay. And the way shifts worked out Aiken County
25 Detention Center, there would be two shifts, night and

Jessica Whitaker - Direct Examination by Mr. Lindemann

JURY TRIAL - VOL. 4

1 day; is that right?

2 A. Four -- four shifts. So we had two that would be on
3 day shift at a time and two that would be on night shift
4 at a time.

5 Q. Okay. And how did that work? They would interchange
6 according to the days?

7 A. Yes.

8 Q. Can you explain that, how that worked?

9 A. Oh, gosh. So --

10 Q. If you recall.

11 A. -- so it was more or less on a two -- kind of two-week
12 rotation. So one shift would work Monday-Tuesday, another
13 shift would work Wednesday-Thursday, then the first shift
14 would work Friday, Saturday and Sunday, and then they
15 would swap.

16 Q. So over the course of -- over the course of two weeks,
17 you'd work, essentially, seven days?

18 A. Seven days, 14 days a month.

19 Q. And those were 12-hour shifts?

20 A. Yes.

21 Q. 7:00 in the morning to 7:00 at night, and then 7:00 at
22 night to 7:00 in the morning?

23 A. Yes, sir.

24 Q. Okay. Did you typically work day shift or night
25 shift, or was it a combination?

Jessica Whitaker - Direct Examination by Mr. Lindemann

JURY TRIAL - VOL. 4

- 1 A. A combination of both every 28 days. We would go 28
2 days of day shift and then 28 days of night shift.
- 3 Q. Okay. Do you recall in the May-June of 2019 timeframe
4 whether you were working day shift or night shift?
- 5 A. I wouldn't -- I don't remember.
- 6 Q. All right. We probably have some documents that will
7 refresh your memory on that. Ultimately, do you have you
8 -- do recall Cassi Rhoads, the plaintiff in this case?
- 9 A. I do.
- 10 Q. Okay. And what do you specifically recall about her?
- 11 A. I remember that she had a medical condition.
12 Specifically dealing with her, I don't really remember
13 specifically dealing with her. I just remember just broad
14 she had a medical condition. She was seeing -- being seen
15 by medical staff. We have hundreds of inmates there, so
16 to remember everything, I -- I don't think anybody really
17 could. But I do remember that part about her.
- 18 Q. And when you're referring to the medical staff, is
19 that the Southern Health Partners doctors and nurses?
- 20 A. Yes, sir.
- 21 Q. Okay. Let me -- let me hand you what's been marked as
22 Plaintiff's Exhibit No. 2. And just so you know, that's a
23 -- a -- series of incident reports for while she -- while
24 she was -- while Ms. Rhoads was at the detention center,
25 some of which involved you, some of which didn't.

Jessica Whitaker - Direct Examination by Mr. Lindemann

JURY TRIAL - VOL. 4

1 A. Okay.

2 Q. But if you -- what I want to ask you about is an
3 incident on May 8th. Do you recall on May 8th, 2019,
4 being the supervisor when there was a report that Ms.
5 Rhoads had fallen? And you can certainly take a moment
6 and look at those -- those records to refresh your memory.

7 A. So I can -- I've read it and I -- I know that I wrote
8 this report, but specifically that day, I don't remember
9 what happened. But reading the report, I -- I know that
10 these things happen because I wrote this report.

11 Q. Okay. And explain that. How -- how -- how do reports
12 get generated? What was the supervisor's responsibilities
13 as far incident reports go?

14 A. So when an incident occurred, the supervisor who was
15 on shift would decide if an incident report needed to be
16 written. And then the staff member who was there when the
17 incident occurred would write a portion of an incident
18 report. And then the supervisor would also write their
19 portion of what happened during that incident.

20 Q. So ultimately, there was a place for the -- in this
21 case, a pod officer to actually provide a -- a summary of
22 what happened, and then a supervisor would review it?

23 A. Yes. Because most generally, the staff member is
24 there and is there when the incident occurs, and then they
25 call us. So they have a little bit more information

Jessica Whitaker - Direct Examination by Mr. Lindemann

JURY TRIAL - VOL. 4

1 because they were there, most of the time, before we were
2 there, because we come because they called us.

3 Q. All right. And the fourth page of that exhibit, was
4 that your supervisor's review for that May 8th, 2019
5 incident?

6 A. Yes.

7 Q. And if you would, would you -- would you read that
8 into the record for the jury?

9 A. Do you want me to read from the top of the page or
10 just what I wrote?

11 Q. Just what you wrote.

12 A. Okay. "I, Lieutenant Whitaker, responded to a call
13 from B-Pod for an inmate who had fallen. When I arrived
14 in B-Pod, Deputy Hill stated that Inmate Cassiopeia Rhoads
15 had fell and was lying on the floor in the B-103. I
16 entered B-103, and Inmate Rhoads was lying on her mat on
17 the floor. She stated that she had fell and hit her head.
18 Nurse Brandy entered and evaluated Inmate Rhoads. Nurse
19 Brandy checked her vitals and stated they were fine.
20 Nurse Brandy also stated that the small knot that was on
21 Inmate Rhoads' head was an injury that she had entered the
22 facility with. Nurse Donna gave Inmate Rhoads some
23 medication and stated that she was clear to remain in her
24 current housing assignment."

25 Q. Okay. And the reference to Nurse Brandy is -- is that

Jessica Whitaker - Direct Examination by Mr. Lindemann

JURY TRIAL - VOL. 4

1 Brandy Galloway?

2 A. Yes.

3 Q. That that would be a nurse employed by Southern Health
4 Partners?

5 A. Yes.

6 Q. And what you're relaying here, is that information
7 that was -- that you observed as far as the -- the medical
8 evaluation that she did?

9 A. Yes.

10 Q. And there's also a reference to a Nurse Donna. Is
11 that Donna Wright? And again, if you don't remember the
12 last name --

13 A. I don't remember her last name. We didn't really use
14 their last names, so I -- I don't remember Donna's last
15 name.

16 Q. Do you remember a Nurse Donna?

17 A. Yes.

18 Q. Okay. So this would -- this would suggest that there
19 were two nurses that actually responded to this call?

20 A. Yes.

21 Q. And so the nurses are the one who actually cleared Ms.
22 Rhoads to remain in the -- in the unit?

23 A. Yes.

24 Q. All right. And is that medical advice you found
25 appropriate to follow?

Jessica Whitaker - Direct Examination by Mr. Lindemann

JURY TRIAL - VOL. 4

1 MR. MCLAUGHLIN: Objection, Your Honor; leading.

2 MR. LINDEMANN: But I said is that.

3 THE COURT: Rephrase it. Sustained as to
4 leading.

5 BY MR. LINDEMANN:

6 Q. What -- what did you do with that information?

7 A. When the nurses said that she was clear, I let her
8 stay in the housing unit. They made a medical decision
9 that she was fine.

10 Q. All right.

11 A. And I wasn't medical staff, so...

12 Q. Do you -- do you have any type of medical training?

13 A. No.

14 Q. Okay. Do you have CPR and first aid?

15 A. Yes.

16 Q. Okay. But other than that, no additional medical
17 training?

18 A. No.

19 Q. And did you rely on the medical staff as far as making
20 medical decisions?

21 A. Absolutely. I am not -- had -- short of first aid and
22 CPR, I don't have any medical training. I'm not a nurse
23 or had any training in anything like that. So we had to
24 rely on the medical staff to make those decisions, because
25 we are not medical staff. So daily, we relied on what

Jessica Whitaker - Direct Examination by Mr. Lindemann

JURY TRIAL - VOL. 4

1 they told us.

2 Q. All right. Let me get you to flip over. There was
3 another incident where you've got a supervisor's review
4 that happened later in the month. You can see the numbers
5 at the bottom. It County -- well, I guess they're not
6 sequential. This was put together by plaintiffs. But if
7 you flip over to the document called County 44. It's an
8 incident report for May 28th.

9 A. Yes.

10 Q. All right. And take a moment to review that.

11 A. Okay.

12 Q. Do you have any recollection of this particular
13 incident?

14 A. No.

15 Q. Okay. The -- the third page over called County 90, is
16 that your supervisor's review?

17 A. Yes.

18 Q. And so if there was a -- a -- a cause for -- for
19 medical such as an incident like this, was it typical for
20 the shift lieutenant on duty to also report?

21 A. Yes.

22 Q. Okay. And that's why you would have reported if you
23 had heard that there was a request for assistance or first
24 responders?

25 A. Yes.

Jessica Whitaker - Direct Examination by Mr. Lindemann

JURY TRIAL - VOL. 4

1 Q. Ultimately, what did -- since you don't have,
2 actually, a memory of it, let me get you to do the same
3 thing and actually read your supervisor's review for this.

4 A. "I, Lieutenant Whitaker, responded to a medical
5 emergency in B-Pod. When I arrived in B-Pod, Deputy Hill
6 stated that Inmate Cassiopeia Rhoads was standing at the
7 cell door B-Max 1 and then fell back. When I entered the
8 cell, Inmate Rhoads was laying on the floor and seemed
9 disoriented. She stated that she believes she had passed
10 out. She also had a swollen place on the right side of
11 her head. Nurse Donna stated that Inmate Rhoads' head had
12 been swollen for some time, and that the doctor evaluated
13 her last week, but the swelling seemed a little worse.
14 Nurse Donna completed an assessment of Inmate Rhoads and
15 stated that her vitals were all fine and that she was
16 clear to remain her current housing assignment. She
17 stated that she would call and advise the doctor of the
18 issue Inmate Rhoads was having."

19 Q. Okay. And again, this supervisor's review would have
20 been prepared by you shortly after the events?

21 A. Yes.

22 Q. Was that typically the same day?

23 A. Yes. We -- we were -- we're instructed by our
24 supervisors that we're supposed to complete these reports
25 that day.

Jessica Whitaker - Direct Examination by Mr. Lindemann

JURY TRIAL - VOL. 4

1 Q. All right. And you actually signed this report and
2 dated it, did you not?

3 A. Yes.

4 Q. And what date did you put on there?

5 A. May 28th, '19.

6 Q. Okay. This would indicate it was signed on the same
7 day as the incident?

8 A. Yes.

9 Q. And ultimately, similar to the ones we've already
10 talked about, this was a call out for first responders?

11 A. Yes.

12 Q. And so you would have reported together with the
13 medical folks?

14 A. The medical staff and other staff that were available
15 to come if they were.

16 Q. Okay. And would you have been present while nurse --
17 in this case, Nurse Donna actually evaluated Ms. Rhoads?

18 A. Yes.

19 Q. So you're -- you're reflecting in this report what you
20 actually observed?

21 A. Yes.

22 Q. And where it says, "Nurse Donna completed an
23 assessment of Inmate Rhoads and stated her vitals were all
24 fine and that she was clear to remain in her current
25 housing assignment," is that something that would have

Jessica Whitaker - Direct Examination by Mr. Lindemann

JURY TRIAL - VOL. 4

1 been verbally told to you by -- by the nurse?

2 A. Yes.

3 Q. And according to your review here, she also indicated
4 that she would be advising or reporting back to -- to the
5 doctor?

6 A. Yes.

7 Q. And did you understand that to be Dr. Williams.

8 A. Yes.

9 Q. Okay. Do you have any reason to believe that she
10 didn't do that?

11 A. No.

12 Q. And what -- what action, if any, did you take in
13 response to what the nurses told you in this particular
14 instance?

15 A. They said that she was clear to stay in the housing
16 unit, so I would have had her stay in the housing unit.

17 Q. Okay. And ultimately, is that information that was
18 provided to by medical that you relied on?

19 A. Absolutely. Every day.

20 Q. Okay. And were you aware that she was being -- had
21 ongoing treatment with medical providers at that time?

22 A. Yes.

23 Q. As a shift lieutenant, would you at times get --
24 information would be passed up the -- the -- the chain of
25 command to you from deputies or sergeants as to concerns

Jessica Whitaker - Direct Examination by Mr. Lindemann

JURY TRIAL - VOL. 4

1 that they may have had with a particular inmate?

2 A. Every day, yes.

3 Q. That was something that happened on a regular basis?

4 A. Oh, yes.

5 Q. Do you recall either Deputy Hill -- do you recall

6 Carla Hill?

7 A. I do.

8 Q. Do you recall Lisa Bauer?

9 A. Yes.

10 Q. Okay. Do you recall earlier that same day on May
11 28th that there had been any type of report to you of
12 concerns about the -- the condition of the bump on the
13 side of Ms. Rhoads' head?

14 A. I don't remember.

15 Q. Okay. If somebody was simply making a verbal report
16 to you about, you know, something that was going on in one
17 of the -- one of the pods, is that typically documented?

18 A. No.

19 Q. Okay. And explain that to the jury. I mean, what --
20 what is typically documented versus other things? What --
21 what typical day-to-day things are --

22 A. Oh, if they said someone -- someone is in here
23 throwing up, if someone says oh, I think someone's sugar
24 is low. Most generally, we -- we don't -- we don't write
25 reports based on that. I would -- in those situations,

Jessica Whitaker - Direct Examination by Mr. Lindemann

JURY TRIAL - VOL. 4

1 which occurred all the time, I would contact medical
2 staff. I would call them on the phone. I would tell them
3 this is the situation have going on, can you take a look
4 at it. And they would say, yes.

5 Q. And how would you communicate with medical?

6 A. I might either call them on the phone. If they didn't
7 answer on the phone, I'd call them on the radio and they'd
8 call me or they'd tell me where they were and I would call
9 them.

10 Q. But as far as either Deputy Hill or Deputy Bauer
11 actually talking to you about -- or mentioning to you
12 about concerns with Mr. Rhoads, you don't have a specific
13 recall of that?

14 A. I don't remember that specifically, but I know that if
15 they brought to me like there's something extra is going
16 on, I know that I would have -- I would have called
17 medical. I called them -- they would tease me because I
18 would call them so often. They'd say, you know, you call
19 me five times a day. But I would call because to make
20 sure everyone was okay. That was kind of the job.

21 Q. And by medical, you're referring to the nursing staff?

22 A. The nursing staff, not the doctor. The nursing staff.

23 Q. And -- and ultimately, later that day, there was this
24 other incident and you, of course, had -- according to at
25 least your review, you had one-on-one interaction with

Jessica Whitaker - Direct Examination by Mr. Lindemann

JURY TRIAL - VOL. 4

1 Nurse Donna at that time?

2 A. Yes.

3 Q. Okay. If a -- if a member of the detention staff -- a
4 deputy, anybody below in the chain of command -- had
5 concerns that they didn't believe that a supervisor was
6 appropriately handling, were there ways to address that
7 within the Aiken County Detention Center through the chain
8 of command?

9 A. Absolutely. We have -- we had a change of command.
10 So you always went to your direct supervisors. If you
11 felt like your direct supervisor wasn't -- was mishandling
12 something, then you could bypass them and go to their
13 supervisor.

14 Q. Okay. Are you aware of -- as far as the -- Ms. Rhoads
15 was concerned, of anyone that would bypass you -- if
16 somebody bypassed you and went up the chain of command,
17 would you typically know that as a lieutenant?

18 A. Oh, yes, because my supervisor would want to know why
19 I wasn't doing my job correctly.

20 Q. And are you aware of any of that occurring as far as
21 Ms. Rhoads is concerned?

22 A. No.

23 MR. MCCLAUGHLIN: Objection, Your Honor. She
24 stated that she has no memory of this outside of the
25 reports.

Jessica Whitaker - Direct Examination by Mr. Lindemann

JURY TRIAL - VOL. 4

1 MR. LINDEMANN: Well, and I've asked her. I
2 mean --

3 THE COURT: Rephrase it and make it clear.

4 BY MR. LINDEMANN:

5 Q. Do you have any memory of that -- of that happening?

6 A. I do not have any memory of that happening, but I feel
7 -- I do remember a lot of stuff from when I worked there.
8 And I think if I was reprimanded -- if I was reprimanded
9 by my supervisor, I think I would remember that because
10 that didn't happen.

11 Q. Okay. Were there -- was there a culture in the
12 detention center where people did try to challenge
13 something up the chain of command that there would be
14 repercussions for that? Do you follow my question?

15 A. Do you mean -- can you repeat it, please?

16 Q. Right. I mean, just -- are you aware of a culture
17 within -- within the detention center itself where either
18 challenging something would be discouraged or would even
19 be subject to discipline for a detention officer?

20 A. Oh, absolutely not. Absolutely not. If -- our
21 supervisors, our -- my lieutenant, the security lieutenant
22 and the captain of the detention center wanted us to do
23 things correctly. So if anyone there found out we were
24 doing things incorrectly, it wouldn't be -- no one would
25 get in trouble for saying something that they felt was

Jessica Whitaker - Direct Examination by Mr. Lindemann

JURY TRIAL - VOL. 4

1 being done wrong. Absolutely not.

2 Q. I mean, how would you describe the culture within the
3 -- within the facility?

4 A. By and large, people were proud of what they did
5 there. They wanted to do a good job and they liked
6 working there. They were good people who were proud of
7 what they did, were happy about their job and wanted to do
8 a good job.

9 Q. If you hadn't developed your -- you own medical
10 issues, would you still be working there?

11 A. Oh, yes. I -- I always thought that I would retire
12 from there. It was heartbreaking when I had to stop
13 working there. It took -- it took a lot for me to make
14 that decision, even after the seizure and after some of
15 the stuff the neurologist said. I still had to sit down
16 with my husband and my daughter for days more or less them
17 convince me that maybe it wasn't the best option, because
18 I still wanted to go back there and work because I loved
19 my job and I loved the people I worked with. I'd never
20 worked with a group of people who were so, like, driven to
21 do a good job. I'd never worked with people like that
22 before.

23 Q. Ms. Whitaker, did you -- again, based on your memory,
24 did you ever interfere or deny any type of access to
25 medical care for Ms. Rhoads?

Jessica Whitaker - Direct Examination by Mr. Lindemann

JURY TRIAL - VOL. 4

1 A. No.

2 MR. MCLAUGHLIN: She doesn't remember Ms.
3 Rhoads, Your Honor. She's already said that. She has
4 no recollection beyond the document.

5 MR. LINDEMANN: Your Honor, she testified at the
6 beginning she does remember her.

7 THE COURT: I thought she testified she did
8 remember her.

9 MR. LINDEMANN: Yes.

10 THE COURT: There were some other things she
11 didn't remember specifics, but she remembers
12 Ms. Rhoads. That her first or second or third
13 question. So recant or reask that question, maybe.

14 MR. LINDEMANN: All right.

15 BY MR. LINDEMANN:

16 Q. And my question is -- well, it's pretty
17 straightforward. Based upon your memory, did you ever
18 take any action or do anything to prevent or deprive
19 Ms. Rhoads of access to medical, access to Southern Health
20 Partners or access to any medical care?

21 A. No.

22 Q. Okay. And is something that you would do?

23 A. No.

24 Q. Okay.

25 MR. LINDEMANN: I beg the Court's indulgence.