

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE) C.A. NO. 2020CP2302877

DUSTIN JAMES LUCAS)
) Plaintiff(s),
versus)
)
MEGHAN SEELY ET AL)
) Defendant(s).
_____)

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SC Court of Appeals

H E A R I N G

Before The Honorable Perry H Gravely

WITNESS: CODY MILLER, ANDRE KNOX, JON CHRISTOPHER
MORTON, JAMES DUSTIN, LUCAS MEGHAN SEELY
DATE: June 9-12, 2025
LOCATION: South Carolina Circuit Court 13
TRANSCRIBED BY: Jane Daniel

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24 (THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL
25 IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

1 PROCEEDINGS

2 THE COURT: All right. Let me pull it up. I guess
3 we'll start with plaintiff's motions first.

4 MR. HAWKINS: Your Honor, I'll cover the 17(a) motion
5 and then I'll hand it off to Sulaiman. We filed a Rule 17(a)
6 motion to substitute real party and interest.

7 THE COURT: Oh, I guess I don't think I have that.

8 MR. HAWKINS: Well, you had sent an email about it,
9 after we filed it last week.

10 MS. TANKERSLEY: Yeah. He had filed it, not with the
11 motion in limine, but a week or -- yeah, a week or so ago.

12 THE COURT: Right. Right.

13 MS. TANKERSLEY: And you sent an email and said you'll
14 address it after the roster meeting.

15 THE COURT: Oh, okay.

16 MR. HAWKINS: So what we did, Judge, is we -- I looked
17 at the rule. I was talking to a colleague of mine about the
18 scenario that we're in, and I looked at the rule, and it
19 looks like to me that the rule contemplates and even added a
20 footnote to allow for this kind of substitution, even if it's
21 on the eve of trial.

22 The reason I think, is that if the real party of
23 interest has to be substituted, the statute of limitations
24 doesn't prevent the substitution if it doesn't change
25 anything else.

1 So in this case, it is uncontested that Mr. Knox is in
2 the scope, of course, of his employment for Southern Lawn
3 Care. State Farm is going to pay the judgment or verdict, so
4 it's not going to affect anything. as far as that goes, the
5 one thing it would affect is if there were a judgment, it
6 wouldn't be against Mr. Knox personally.

7 So they've got 25 and BI. If we get a verdict, you
8 know, for a hundred thousand dollars, the excess is going to
9 be against Knox personally. So it seemed to behoove him, and
10 it would seem to be proper under the rules because, you know,
11 the acts of the employee and scope, of course, are the acts
12 of the company. So that the real party.

13 THE COURT: Brian, I guess I -- my -- now remember
14 that. I forgot it related to this case, but my question back
15 to you also was, is -- is he just doing business at an LLC or
16 Inc or is it just a --

17 MS. TANKERSLEY: He -- he was just an employee. He
18 didn't own the business or --

19 THE COURT: Okay. Was it -- it was it an LLC, right?

20 MS. TANKERSLEY: I don't know the answer to that.

21 MR. HAWKINS: I -- well, I think it is now. I don't
22 know at the time if --

23 THE COURT: I mean isn't that kind of important?

24 MR. HAWKINS: Well, I -- no, I don't think so. And I'm
25 not -- I don't mean that to be flippant or anything.

1 THE COURT: No, I understand.

2 MR. HAWKINS: I -- I think it's not because it's -- the
3 acts of the -- the acts of the employee --

4 THE COURT: No, no. But as far as -- but you have to
5 have the exact name of the party to add on.

6 MR. HAWKINS: Southern Lawn Care.

7 THE COURT: That's not -- that's not even an entity.
8 It has to be either LLC or Inc. Southern Lawn Care, it
9 cannot be a business entity.

10 MR. HAWKINS: Well, I mean, we can figure that out just
11 by -- over -- the first witness is going to be the owner of
12 the company and he's -- he's going to say that Mr. Knox was
13 doing a job for him on the way to a job for him when the
14 wreck happened.

15 THE COURT: All right. I'm sorry. Go ahead.

16 MR. HAWKINS: And it's not going to hurt. You'll hear
17 from her then.

18 THE COURT: Yeah.

19 MR. HAWKINS: Okay.

20 MS. TANKERSLEY: Thank you, your Honor. First, if --
21 if they want to dismiss my client, I think that's great.
22 Happy to have them dismiss. I cannot consent to a
23 substitution of Southern Lawn Care. I do not represent
24 Southern Lawn Care. Have not in any capacity throughout the
25 entirety of this litigation.

1 And I think the Rule 17 motion would be an improper
2 motion anyway if he wants to amend the complaint and -- and
3 add a new party, I think that would be Rule 15. You'd have
4 to serve them.

5 And then they could have whatever defenses they have,
6 but he did not own, was not a partner of Southern Lawn Care
7 in any way. I don't know how long they've had notice of this
8 lawsuit, and if they became the party, I would no longer be
9 the attorney.

10 THE COURT: All right.

11 MR. HAWKINS: Yeah. That -- that's not correct. She
12 would still represent. I mean, that was the driver of the
13 car. She would still represent him the exact same way she's
14 representing him. The only difference would be that the real
15 party in interest would be substituted.

16 State Farm's payment wouldn't change. Her obligations
17 to her client wouldn't change. It would just be a
18 recognition of the fact that his acts, when he was in the
19 scope, of course, don't bind him personally, they bind the
20 entity of the real party in interest.

21 He's still the driver. The insurance company still
22 pays the judgment. She still defends it the same way. It
23 doesn't change anything. And I -- I think it's proper under
24 Rule 17(a). And Rule 15 applies to amendments. That's not
25 the appropriate mechanism for a substitution of real party in

1 interest. That's why Rule 17(a) applies to (inaudible).

2 THE COURT: I mean, but you're changing -- I mean,
3 you're talking about adding a whole new party.

4 MR. HAWKINS: Right. But it all stems from the conduct
5 within the scope of the course of the employee doesn't change
6 anything except the name of the real party in interest
7 substituted for the employee. And it adds the benefit of him
8 not having an excess judgment hung on him.

9 THE COURT: Well, but I mean, but wonder if there's a
10 conflict between this guy and -- I mean, the -- Mr. Knox and
11 his company. I mean, you can't automatically assume that
12 because you had a new party that Ms. Tankersley is going to
13 be the lawyer.

14 MR. HAWKINS: Well, no, I think -- I think she -- I
15 think she would be, and -- and the reason I -- I know that
16 sounds counterintuitive, but the reason I think that, is
17 because it is a car wreck that involves an allegation of
18 negligent conduct while driving.

19 The allegations related to what he did don't change.
20 The only thing that changes is the real party in interest is
21 substituted. It is uncontested. The boss slash owner have
22 acknowledged it. He's acknowledged it. She doesn't contest
23 it.

24 Everybody agrees that this was done in the scope, of
25 course, of his employment. The only thing that's going to

1 change is he won't have an excess judgment against him
2 personally.

3 THE COURT: I mean; I understand that part. But when
4 was the -- when did you figure out if this was the scope of
5 employment?

6 MR. HAWKINS: We took the boss's deposition two weeks
7 ago, I think. But he's -- I took his deposition a long time
8 ago. He's never contested that.

9 THE COURT: Well, I mean, this is -- this is too late
10 in the game to be adding a whole new party. It's not
11 substituting a real party in interest, it's adding any party.
12 So I'm going to deny your motion. I don't believe that falls
13 within 17 or 15.

14 MR. HAWKINS: Thank you, Judge.

15 THE COURT: All right. All right. Yes.

16 MR. AHMAD: Good afternoon, your Honor. Sulaiman Ahmad
17 on behalf of the plaintiff. Your Honor, we have a few
18 housekeeping matters before we address our motions in limine.

19 THE COURT: Yes.

20 MR. AHMAD: If that's all right. Your Honor, pursuant
21 to Rule 615 can we have all witnesses sequestered, barring
22 party representatives?

23 THE COURT: Any issues with that?

24 MS. TANKERSLEY: No, I don't think so. I don't think
25 they need to be sequestered, but I don't --

1 THE COURT: I mean, that's up -- usually my -- my
2 policy is if somebody requests it, unless you tell me a
3 reason not to, then they will be sequestered.

4 MR. AHMAD: Thank you, your Honor.

5 THE COURT: And make sure that all witnesses know,
6 although we're just kind of limited on the number of
7 witnesses here. I only have, I guess only three outside the
8 parties. Make sure all witnesses know that they cannot
9 discuss the -- the case in any testimony in any way
10 whatsoever once the trial starts.

11 MR. AHMAD: Yes, your Honor.

12 THE COURT: Okay.

13 MR. AHMAD: Further, your Honor we just want to get
14 your Honor's preferences for movement about the -- well, are
15 we allowed to move freely?

16 THE COURT: The well?

17 MR. AHMAD: Yes, your Honor.

18 THE COURT: I'm just kidding. I just never heard it
19 called that, I don't think. That -- yeah, you don't have to
20 -- you don't have to ask my permission. I don't really, you
21 know -- even approaching witnesses, I mean, that's not a
22 preference for me.

23 MR. AHMAD: Yes, your Honor. And further we plan on
24 using a PowerPoint during our case in chief. Can we just
25 make that known to the Court and set it up through --

1 THE COURT: Yeah. As long as it meets, you know --
2 there's no issues with the admissibility or anything like
3 that.

4 MR. AHMAD: Yes, your Honor. And we are --

5 THE COURT: And I guess make sure you -- you know --
6 how to use all the -- this to --

7 MR. AHMAD: Yes, your Honor. We -- we've got somebody
8 who's --

9 THE COURT: Okay.

10 MR. AHMAD: -- been familiar with that.

11 THE COURT: Because I -- it's always kind of frustrates
12 them as when they -- when they realize, oh, it didn't quite
13 work when the jury's just sitting there. So make sure
14 (inaudible). Okay.

15 MR. AHMAD: Yes, your Honor. Your Honor, we'd like to
16 bring the Court's attention to plaintiff's motions in limine.
17 In particular, we'd like to start with plaintiff motion in
18 limine number 16 in regards that the plaintiff -- any sort of
19 argument that the plaintiff was comparatively negligent or
20 contributed to the collision. Your Honor, we brought
21 defendant's responses to plaintiff's request to admit. May I
22 approach and tender?

23 THE COURT: Well let me ask you this. Is there --

24 MS. TANKERSLEY: Yes, your Honor. So the issue is not,
25 he was a passenger in the car.

1 THE COURT: Right.

2 MS. TANKERSLEY: Because were arguing that he was
3 comparatively negligent by driving a vehicle in any way,
4 which is what we were responding to with the request to
5 admit. The argument -- and -- and it --

6 THE COURT: Well, I didn't mean to cut him off, I was
7 just seeing if there's any issues. So let me hear from him
8 and then -- okay.

9 MR. AHMAD: Yes -- yes, your Honor. May I approach and
10 tender the request to admit?

11 THE COURT: Yes.

12 (OFF THE RECORD)

13 THE COURT: Well, we can come back to that one.
14 There's no problem.

15 MR. AHMAD: Well, it -- or, your Honor, if you don't
16 mind just --

17 THE COURT: Okay. That's fine.

18 MR. AHMAD: I -- I can talk about it generally too.

19 THE COURT: Okay.

20 MR. AHMAD: Okay. So, your Honor in their request to
21 admit to -- the plaintiff's request to admit, the defense
22 admitted that our client was a passenger in the vehicle and
23 did not contribute in any manner to this collision.

24 They can't subsequently argue contributory negligence
25 or comparative fault due to that admission. And it would be

1 a waste of the Court's time to even allow those sorts of
2 arguments at today's trial.

3 MS. TANKERSLEY: Your Honor, the -- the comparative
4 negligence that I -- I think may come up is that the
5 plaintiff knowingly got into a vehicle, gave his vehicle to
6 his girlfriend at the time to drive, got in that vehicle
7 knowing she was unlicensed, blind, and potentially on drugs.
8 So I -- I think that's a question for the jury.

9 MR. AHMAD: Your Honor, we have several motions in
10 limine in regards to those.

11 THE COURT: Right. Well, I guess we'll have to -- I
12 mean, I'm going to have to -- again, that comes to -- I mean,
13 that's at the end of the trial comparatively -- comparative
14 negligence being a charge. And I mean, I don't know. I -- I
15 might have to do some research on that issue. I'm sure y'all
16 have done it as well. But I don't think that really -- I --
17 I think that's going to come out in our charge conference, I
18 would think. As far as the actual comparative negative part.
19 I know you got some others that we need to talk about.

20 MR. AHMAD: Well, your Honor, we'll just go in order.

21 THE COURT: Okay.

22 MR. AHMAD: So with our first motion in limine your
23 Honor, we would like any sort of discussion of the collision
24 report or officer's opinion on fault to not be admissible at
25 trial here today?

1 THE COURT: Well, how about -- don't y'all have that
2 listed in -- as your -- as an exhibit in your pretrial brief?

3 MR. AHMAD: As it -- and we -- we may bring that up,
4 your Honor, but we probably won't.

5 THE COURT: So you want -- but you want your cake and
6 eat it too.

7 MR. AHMAD: Oh, well, we -- we can stipulate to counsel
8 not mentioning it.

9 THE COURT: Exactly. I mean, that's -- I mean, I think
10 that the law's pretty clear on that, that it's not
11 admissible.

12 MR. AHMAD: Thank you, your Honor. Further --

13 MS. TANKERSLEY: Can I -- I just to be -- to be clear
14 obviously I agree that the accident report is not admissible
15 in evidence, but the officer can -- can refresh his memory
16 and use it while he testifies.

17 THE COURT: Right. As long as he doesn't testified to
18 it.

19 MR. AHMAD: Your Honor, just to clarify again, the
20 officer will not be able to give his opinions as to the
21 collision.

22 THE COURT: As far as I know that -- unless he's
23 qualified, but otherwise he would not be allowed to do that.

24 MR. AHMAD: Yes, your Honor. Second we move to exclude
25 any mention of Seely's license status and reasons for

1 suspension. Your Honor, pursuant to statutory code
2 56-5-6160, evidence of traffic violations in civil actions
3 are inadmissible -- inadmissible.

4 But even further, your Honor any sort of discussion as
5 to the reasons why Ms. Seely was -- had her license suspended
6 would be hearsay as they constitute out of state -- out of
7 court statements being offered for the truth of the matter,
8 your Honor. And they do not fall within any sort of hearsay
9 exception.

10 Further, your Honor, it's there -- this -- these
11 reasons would be irrelevant to today's trial as it is Mr.
12 Lucas against Mr. -- or Mr. Andre Knox. Ms. Seely's license
13 status has nothing to do with the fact that Mr. Knox had hit
14 the plaintiff in the vehicle that -- in which he was a
15 passenger. And it was substantially prejudice the jury by
16 confusing the issues of today's trial.

17 MS. TANKERSLEY: I -- I think the status of her license
18 is very relevant in this case. As I previously mentioned, I
19 think there's a comparative negligence argument that he
20 should not have given his car and -- and gotten in as a
21 passenger to an unlicensed driver. Why it was suspended, I'm
22 -- I'm not as concerned about, but the fact that she had a --
23 no license, no active license.

24 THE COURT: But does that go to actual negligence of a
25 person, whether they had a license or not?

1 MS. TANKERSLEY: I think it can go to the -- the
2 comparative negligence of the plaintiff for getting in the
3 vehicle with somebody who was an unlicensed driver.

4 THE COURT: I mean, the fact whether they had a license
5 or not, does that -- I mean, that doesn't mean that they're a
6 good driver or a bad driver.

7 MS. TANKERSLEY: Well, I think it means that she
8 shouldn't get in a car with them.

9 MR. AHMAD: Your Honor, may have you heard?

10 THE COURT: Yes.

11 MR. AHMAD: Based on that argument alone under 404(b),
12 she's not allowed to use that as evidence of Ms. Seely's
13 character of a prior bad act. But even further than that,
14 your Honor, she's asking the witness to speculate as to his
15 personal knowledge of whether or not Ms. Seely even had a --
16 a suspended license.

17 MS. TANKERSLEY: He testified to it in his deposition.

18 THE COURT: All right. Let me hear from -- I'm going
19 -- I'm going to hold on -- hold that one in advance.

20 MR. AHMAD: Your Honor, further issuance of or non
21 issuance of traffic tickets would be also an admissible
22 pursuant to statutory code. Is that -- or is that
23 acceptable, your Honor

24 MS. TANKERSLEY: The -- the statutory code says
25 convictions are not admissible. They don't say issuance of

1 traffic tickets is not admissible. It's come up every time
2 my defendants have gotten a traffic ticket.

3 THE COURT: So, I mean, do you say that you can get the
4 issuance of the traffic ticket?

5 MS. TANKERSLEY: Yeah, just not whether it was -- there
6 was a conviction or not.

7 THE COURT: I mean, I never -- I've never had that come
8 up actually. Was somebody trying to get the issuance of a
9 traffic ticket in?

10 MS. TANKERSLEY: Well, I believe the idea behind the,
11 the conviction coming is -- is because people will plead
12 guilty to these traffic violations just to pay the fine and
13 get it done. And we don't want to penalize somebody for
14 that.

15 But the issue of whether or not somebody was given a
16 ticket is not conclusive that they -- that they were liable
17 or that they were responsible. They can still argue that
18 they shouldn't have had the ticket, but the fact that they
19 got a ticket, I think is admissible.

20 THE COURT: And you're talking about the ticket in this
21 case?

22 MS. TANKERSLEY: Yes, your Honor.

23 THE COURT: I'm not going to allow it. I'm going to
24 grant the motion in that regard.

25 MR. AHMAD: Thank you, your Honor. Your Honor, further

1 we'd like any sort of discussion of the plaintiff's prior
2 collisions not to be admissible in today's trial pursuant to
3 Rules 402, 403 and 404(b). Your Honor any sort of discussion
4 of the plaintiff's prior collisions are irrelevant in this
5 matter as they do not deal with any fact of consequence in
6 today's trial, given the fact that we are here today due to
7 Andrew -- Andrew. Excuse me, Andrew.

8 MS. TANKERSLEY: Andre.

9 MR. AHMAD: Andre, thank you. Andre Knox's collision
10 with Meghan Seely's vehicle in which the plaintiff was a
11 passenger. This is going to confuse the issues, but even
12 further than that, your Honor, it would violate 404(b) in --
13 in an attempt to use character evidence to attack the
14 credibility of Mr. Lucas.

15 MS. TANKERSLEY: Your Honor, I don't have any intention
16 of introducing any sort of prior collision as evidence in
17 this case, unless they open the door somehow to -- to make
18 that relevant.

19 THE COURT: Okay. All right.

20 MR. AHMAD: Your Honor, next, plaintiff's seatbelt use.
21 Pursuant to statutory code 56- 5-6540, and case law any sort
22 -- such discussion of plaintiff's use or non-use of a
23 seatbelt is not admissible at trial as evidence.

24 MS. TANKERSLEY: I agree that typically speaking, seat
25 belts -- plaintiff's seatbelt usage doesn't come in. But

1 again, if they open the door to that somehow, then I --

2 THE COURT: All right. Then that --

3 MS. TANKERSLEY: -- preserve my right.

4 THE COURT: -- will not be allowed.

5 MR. AHMAD: Your Honor, also prior collisions involving
6 Ms. Seely should not be admissible at trial today pursuant to
7 404(b). Your Honor again, no collision Ms. Seely has ever
8 been involved in except the one related to this lawsuit has
9 any relevance in today's trial. And if -- if it -- if it was
10 admissible at -- or admitted at today's trial, it would
11 substantially prejudice Ms. Seely by using character evidence
12 to hinder her credibility.

13 But even further, your Honor they haven't made any sort
14 of showing of why that should be admissible pursuant to
15 showing motive, identity, existence of a common scheme or
16 plan, absence of mistake or accident or intent. Therefore,
17 pursuant to 404(b), this this type of evidence would not be
18 admissible.

19 MS. TANKERSLEY: Again, I don't have any intention of
20 introducing that, but if they open the door somehow for prior
21 pleadings.

22 THE COURT: All right.

23 MR. AHMAD: Your Honor, finally -- or, well, in
24 addition, Meghan Seely's rehabilitation or alleged drug or
25 alcohol use would also be inadmissible pursuant to Rules 402

1 and 403. There's no expert at today's trial that can go to
2 testify as to whether or not Ms. Seely was under the
3 influence of any sort of illegal drugs.

4 But even further than that, your Honor, it's irrelevant
5 due to the fact that Mr. Lucas was hit by Andre Knox. It
6 would prejudice the jury, confuse the issues and therefore is
7 inadmissible.

8 THE COURT: Now are you talking about drug use in
9 general or just at the time that she was driving?

10 MR. AHMAD: I'm sorry, your Honor. Did you --

11 THE COURT: Oh, yeah. I mean, when you're saying drug
12 use, are you -- I mean, again, are you talking about in
13 general her drug use or are you talking about at the time
14 that she -- at the time of the collision?

15 MR. AHMAD: Both, your Honor. There is no evidence in
16 today's discovery for today's trial whatsoever that goes to
17 show that Ms. Seely was under the influence of any sort of
18 drugs.

19 THE COURT: Okay.

20 MS. TANKERSLEY: Your Honor, the plaintiff testified
21 not only that she was a habitual drug user at the time of
22 this -- in June, 2017 when this accident happened that she
23 was a habitual user of a number of drugs that she submitted
24 herself months after the accident to rehab.

25 But also on the day of the accident, he admitted that

1 the two of them had been at a party where there was drug
2 usage happening.

3 He can testify, of course, that they didn't use drugs
4 at that party, but I certainly think it's up to the jury to
5 decide if they believe that, and whether or not she was on
6 drugs, of course is relevant to her fault in the accident.

7 But not only that her -- her memory and her
8 recollection of what happened in this accident, my client's
9 involvement, and the months that followed the -- she was the
10 girlfriend at the time of the plaintiffs and his damages,
11 what he was going through in the months after this accident
12 as well.

13 THE COURT: So what you're saying is there's -- there's
14 general information that she has used drugs in the past.
15 They're -- they were at a party where drugs were being used,
16 but there's no evidence to say that she was using drugs on
17 that day.

18 MS. TANKERSLEY: He -- he would testify -- plaintiff
19 would testify -- well, actually, I -- I think his testimony
20 in the deposition is inconsistent. I think he says that --
21 that they both used drugs at the party and that they also
22 didn't use drugs at the -- or at the party.

23 THE COURT: I'm going to have to look at that. I mean,
24 generally my -- my gut feeling is that that would not be
25 admissible. But if there -- if -- if there's -- if it's a

1 closer tie in direct evidence of just prior to her or while
2 she was operating the vehicle, then it could be admissible at
3 that point. So I might have to -- I'll -- I'll have to look
4 at that.

5 MR. AHMAD: Your Honor may I be heard?

6 THE COURT: Yes.

7 MR. AHMAD: Pursuant to Rule 404(b), that is precisely
8 the type of evidence that Rule 404(b) attempts to exclude
9 from admission in trial. And further, your Honor, if counsel
10 is allowed to get into that in front of the jury, that will
11 prejudice the jury against my client. Just because someone
12 is a former drug user --

13 THE COURT: Well, now I've said -- I mean -- that's one
14 of the kind of things. I want to see exactly what this
15 evidence is going to be before I'm going to allow it or
16 disallow it.

17 MR. AHMAD: Yes, your Honor.

18 THE COURT: Okay.

19 MR. AHMAD: Your Honor, this leads us into the
20 plaintiff's drug use. The same basis for this is Rules 402,
21 403 and 404(b). We -- or we've cited case law substantially
22 throughout our motion in limine to elicit the fact that
23 there's no testimony here today from an expert witness that
24 goes to show that Mr. Lucas was under the influence of any
25 sort of drugs.

1 But even further than that, your Honor pursuant to
2 Kennedy v. Griffin, the South Carolina Court of Appeals held
3 that the trial court erred in admitting blood test results
4 showing the presence of marijuana in the plaintiff's system
5 when there was no other evidence indicating impairment or
6 that the plaintiff was under the influence. Your Honor, if
7 that type of testimony is allowed in today's trial, it will
8 be -- or reversible pursuant to Kennedy v. Griffin.

9 THE COURT: Okay.

10 MS. TANKERSLEY: Your Honor, his drug use at the time
11 of the accident and after is incredibly relevant in this
12 case. One, obviously it goes to his credibility. Again, his
13 memory of how this accident happened, what his injuries were
14 after, and -- and two, it goes to his injuries. He testified
15 that he -- he had stitches to sew up a laceration on his
16 face.

17 He testified that the -- that procedure, not the
18 accident, caused him trauma and PTSD because he was not
19 allowed any pain meds because he had fentanyl in his system.
20 He admitted in his discovery responses that he consumed
21 marijuana and heroin in the 24 hours preceding this accident.
22 I think both of those things are incredibly relevant in this
23 case.

24 MR. AHMAD: Your Honor, may I be heard?

25 THE COURT: Yes.

1 MR. AHMAD: Your Honor, first of all, you just heard
2 counsel testify that they would use this to undermine the
3 credibility of my client. That directly goes in violation of
4 404(b). But even --

5 THE COURT: No, it's -- I mean, isn't every evidence
6 against you prejudicial. It's got to be substantially more
7 prejudicial than probative, but I mean, she's arguing
8 probative that it is.

9 MR. AHMAD: Your Honor, or -- yes, your Honor. Under
10 403, you're correct, but under 404(b), when you're using it
11 as a character -- a pertinent character trait to show
12 propensity therewith, which she's trying to do, as she's
13 clearly said, that would not be admissible under Rule 404(b).

14

15 But even further, your Honor, there's no evidence
16 whatsoever that goes to show that Mr. Lucas was under the
17 influence of any drugs, because he was given fentanyl by the
18 hospital. That does not make him an illicit drug user. but
19 again, your Honor, if -- the fact of the matter is that Mr.
20 Lucas was a passenger also. Whether or not he used drugs has
21 no bearing on whether or not he was hit by Andre Knox.

22 THE COURT: Well, I mean, that's not what she's arguing
23 that it relates to. She says it's relevant to his pain and
24 suffering, basically.

25 MR. AHMAD: I agree.

1 THE COURT: But the fact that she wouldn't be able to
2 -- he wasn't able to take pain meds because he was on
3 fentanyl and had done heroin that day.

4 MR. AHMAD: But that's not true, your Honor. I mean,
5 even though the testimony we've seen that the hospital gave
6 Mr. Lucas Fentanyl and that directly went to his pain
7 medication. And we're not claiming any trauma associated
8 with -- with the surgery.

9 MS. TANKERSLEY: He testified that the trauma was
10 because of the surgery, not the accident itself. And it's in
11 their discovery responses that he admits he was on heroin and
12 marijuana in the 24 hours preceding the accident.

13 THE COURT: All right. I'm just going to have to look
14 at that then a little bit. That's interesting, clearly. All
15 right. I'll hold that one in advance.

16 MR. AHMAD: Your Honor, additionally, we would like any
17 sort of criminal history or reference to the criminal history
18 of Mr. Lucas to not be admissible here today at trial.
19 Pursuant to Rule 609, your Honor, any such discussion would
20 not be admissible. and further, your Honor, 402 and 403 does
21 not allow that -- these types of convictions in for today's
22 discussion.

23 THE COURT: Is there anything that --

24 MS. TANKERSLEY: Yep. So there -- Rule 609 explicitly
25 permits impeachment with felony convictions in the past 10

1 years. I'm not going to bring up anything that's over 10
2 years old. But it -- it -- I mean, it is allowed under the
3 rule, not prohibited under the rule. He also testified that
4 his criminal history contributed to his post-traumatic stress
5 disorder. So it also goes to his -- his injuries and his
6 damages.

7 THE COURT: What's the extent of his criminal record
8 that is an issue?

9 MS. TANKERSLEY: So there -- it's an extensive criminal
10 record, but that -- I believe there are three convictions
11 that we intend to bring up. Two of them -- I mean, they're
12 all within the past 10 years. I think it's burglary. I -- I
13 have the -- the sentencing sheets, if your Honor wants to see
14 them.

15 THE COURT: Well, if they meet 609, then they are
16 admissible on cross-examination.

17 MR. AHMAD: They -- they don't meet 609, your Honor and
18 counsel's mistaken. Further under 609(b), your Honor,
19 they're attempting to use these as impeachment evidence to
20 attack the credibility and character of my client, your
21 Honor.

22 THE COURT: Exactly. That's what every criminal record
23 is for.

24 MR. AHMAD: Yes, your -- yes, your Honor. But -- but
25 in this instance, burglary is not a crime of dishonesty,

1 which is what Rule 609 is made to do. It's meant to attack
2 crimes of dishonesty or fraud. That's not what we have here
3 today, your Honor.

4 She just stated that she's trying to bring up a -- a
5 charge related to burglary and pursuant to United States v.
6 Smith, burglary, theft, drug possession, robbery are not
7 probative of truthfulness.

8 MS. TANKERSLEY: Do you want -- do you want me to
9 respond?

10 THE COURT: Yes.

11 MS. TANKERSLEY: 609 doesn't say they all have to be
12 crimes of moral turpitude. I think --

13 MR. AHMAD: Before impeachment references.

14 MS. TANKERSLEY: It -- I -- I believe that the rule
15 states that if something is over 10 years old or not a
16 felony, that it can -- that it needs to be a crime of moral
17 turpitude, but otherwise felonies are -- are admissible.

18 THE COURT: All right. I'm -- I'll look at that and
19 let y'all know what I come up with.

20 MR. AHMAD: Yes, your honor. Your Honor. Finally, or
21 additionally financial consequences of judgment or payment of
22 judgment by the defendant is not admissible at today's trial.
23 Pursuant to Rule 411 any sort of discussion of insurance
24 outside of permissible uses would not be allowed in today's
25 trial.

1 And if the defense makes any sort of suggestion that
2 the defendant would have to pay out of pocket, we are free to
3 then discuss the fact that the insurance company will likely
4 pay for most of Mr. Lucas's damages.

5 MS. TANKERSLEY: I'm -- I'm not entirely sure what --
6 what the argument is. Obviously insurance is not admissible.
7 I don't intend to talk about the financial hardship, but we
8 certainly get to say that he's being sued and they're seeking
9 money.

10 They've already said this morning in admissions hearing
11 is that if there's an excess verdict, it's going to be
12 against him. And I -- I think the only way that really
13 financials, his financial stability or instability comes in
14 is if they're arguing punitives. And then of course we get
15 to talk about ability to pay.

16 THE COURT: Okay. Yeah. But I'll just have to see how
17 that plays out. But I mean, yeah. Obviously nothing about
18 insurance.

19 MR. AHMAD: Yes, your Honor. And that goes to our next
20 one, collateral source in payments. It's similar to the last
21 argument. In regards to the collateral source payment, your
22 Honor, any reference of the prior lawsuit against Meghan
23 Seely in which Mr. Lucas recovered should not be mentioned at
24 today's trial as the fact that he's settled this should not
25 be admissible at today's trial.

1 THE COURT: Okay.

2 MS. TANKERSLEY: I'm not intending to bring that up.

3 MR. AHMAD: Additionally, your Honor, we've requested
4 defense counsel refrain from making any references to any of
5 the motions in limine that we've argued here today.

6 MS. TANKERSLEY: I would not do that.

7 THE COURT: Yeah. I'm not sure you can't.

8 MR. AHMAD: Okay. Further, any witnesses that have
9 been subpoenaed by the plaintiff, if they do not appear for
10 the plaintiff's case in chief should not be allowed to appear
11 for the defense's case in chief.

12 MS. TANKERSLEY: I'm not really sure what that's
13 referencing. I don't know who he's subpoenaed, but obviously
14 if I to subpoenaed somebody and they show up under my
15 subpoena, he would be able to cross-examine them.

16 MR. HAWKINS: Yeah, I -- I can tell the Court what
17 that's about. We've been trying to get a hold of this
18 trooper multiple times through multiple numbers. He won't
19 communicate with us, but he communicates with her all the
20 time. In fact, when we talk about when he was going to go
21 testify, she walked out there and called him on his cell
22 phone.

23 So the trooper tried to take our case in the
24 deposition. That's fine. I'll deal with that one on the
25 stand. But the trooper can't not show up because he's got

1 something to do with Columbia and then come testify for her.
2 That's what we're concerned about.

3 As long as all our witnesses that are properly
4 subpoenaed testify in our case, you know, we don't have a
5 problem. But what we don't want to happen is, oh, they
6 couldn't make it or they didn't show up and then she calls
7 him. Because I can see that happening.

8 THE COURT: But I mean -- and you've got him under
9 subpoena.

10 MR. HAWKINS: Got him under subpoena, your Honor.

11 THE COURT: All right. We'll -- we'll work with it.

12 MR. AHMAD: Your Honor --

13 MS. TANKERSLEY: I don't see that happening.

14 THE COURT: Okay. You can (inaudible).

15 MR. AHMAD: Your Honor, finally evidence of preexisting
16 conditions of the plaintiff should not be used by defense
17 counsel to imply plaintiff's injuries were not caused by the
18 wreck. The defendant has provided no expert witnesses, no
19 expert evidence.

20 And therefore they cannot attack the medical causation of
21 plaintiff's injuries. Thus any attempt at trial by the -- or
22 by the defendant to do that should not be admissible in
23 today's trial pursuant to rules 701, 702 and 403.

24 THE COURT: Yes.

25 MR. AHMAD: I -- I think it depends on what his

1 testimony's going to be, your Honor.

2 THE COURT: Yeah. I mean, it kind of -- yeah, that
3 depends on what his testimony is. I mean, that's something
4 I'll have -- I'll have to rule on at the time of questions
5 asking and proper objection has been made.

6 MR. AHMAD: Yes, your Honor. And that -- that is all
7 of the motions in limiting that the plaintiff has for today.
8 And we are also prepared to respond to all of defendant's
9 motion.

10 THE COURT: Thank you. And I guess -- and you may have
11 argued this kind of with your insurance. Collateral source,
12 I think that was one of yours. Did --

13 MR. AHMAD: Yes, your Honor.

14 THE COURT: Did we really -- did we address that? I
15 mean, obviously collateral source generally would not be
16 allowed, you know.

17 MR. AHMAD: I don't think there's anything that --

18 THE COURT: Okay. All right. So that -- so I have --
19 I've got to -- I've got to let you know what my ruling is on
20 the license, Ms. Seely's license and the status, her drug use
21 and plaintiff's drug use, and some clarification on the
22 criminal record. I think those are the ones I've not
23 directly ruled on.

24 MR. AHMAD: Yes, your Honor.

25 THE COURT: Okay.

1 MR. HAWKINS: Your Honor, can I ask a question?

2 THE COURT: Yes.

3 MR. HAWKINS: Would that -- you give us guidance on
4 that for particularly the comparative fault thing before
5 opening. Because if -- the reason I ask that is if in
6 opening she said something like he voluntarily got into a car
7 with somebody who'd been in the house partying, doing drugs,
8 and there's no evidence that she was doing drugs, that would
9 -- the prejudice and cat would be out of the bag. And so
10 will you give us guidance on

11 THE COURT: Yeah, I'll let y'all know what I'm talking
12 before -- before y'all argue. Okay.

13 MS. TANKERSLEY: My turn.

14 THE COURT: Yeah. Let me pull that up that quick. All
15 right. What order do you want?

16 MS. TANKERSLEY: Oh, I think the -- the first one we
17 can do quickly is to exclude the witnesses. It sounds like
18 they're not going to be called So --

19 THE COURT: Okay.

20 MS. TANKERSLEY: -- we'll withdraw that one if -- if
21 that's okay.

22 THE COURT: That's right. All witnesses will be just
23 what was on the -- the defendant's witness. Okay.

24 MR. HAWKINS: Yes, your Honor.

25 MS. TANKERSLEY: Okay. The next one we've got would be

1 our motion in limine regarding insurance. We're asking for
2 an order to exclude any comments, arguments, differences to
3 insurance and opening and closing evidence testimony
4 documents.

5 Insurance has been brought up by the plaintiff in this
6 case through multiple times in motions, depositions,
7 arguments, pleadings references about State Farm, references
8 to cars being totaled. Obviously that -- that violates Rule
9 404, Rule -- I mean 411 and 402.

10 Judge Morgan has already issued an order in this case
11 saying that insurance is not relevant to the -- the matters
12 at issue. They -- opposing counsel filed a -- a memo in
13 response where they seem to say that it could be relevant to
14 establish ownership control or bias which of course is true
15 under the rule. Ownership, control or bias of the vehicles
16 or anything like that is not an issue in this case. So we
17 are asking that insurance be excluded.

18 THE COURT: Yes.

19 MR. AHMAD: I beg the Court's indulgence.

20 THE COURT: Okay.

21 MR. AHMAD: Your Honor, we have no objection.

22 THE COURT: Okay. All right. So no mention of
23 insurance or anything related to any -- any of that field.
24 Yes.

25 MS. TANKERSLEY: All right, your Honor, the next one we

1 have would be motion in limine regarding some social media
2 posts. We're asking that the social media posts that
3 opposing counsel provided to us last week of defendant be
4 excluded as -- as evidence.

5 That they were first produced to us like I said, on
6 Tuesday, I think of last week, this case has been pending
7 five years. There's no indication or information about
8 relevance. No -- no date. It doesn't seem like they were
9 obviously not taken at the scene. And so these pictures of
10 him at like a couple concerts, ask that they be excluded.

11 THE COURT: There are pictures of who?

12 MS. TANKERSLEY: My client, your Honor.

13 THE COURT: Okay.

14 MR. AHMAD: Yes, your Honor.

15 THE COURT: Yes.

16 MR. AHMAD: We would like these pictures in evidence
17 today. You've heard testimony from counsel or defense
18 counsel here today that they intend to attack the credibility
19 of Mr. Lucas. Should they do so we should be allowed to do
20 so as well, given the fact that the defendant is seen in bars
21 holding a weapon. That goes to his propensity towards
22 violence and his character as a whole.

23 THE COURT: But is this a thing -- does this case
24 involve violence?

25 MR. AHMAD: It -- it involves irresponsibility and

1 danger, your Honor. There's -- I mean, that's inherently
2 irresponsible to have a gun in a bar given today's climate.

3 THE COURT: And I don't disagree with you there, but
4 I'm not sure how you can make it relevant or probative in
5 this case. So unless you show me more than that. I'll let
6 you proffer anything you need to proffer. But I'm going
7 grant their motion in limine in that regard.

8 MR. AHMAD: Your Honor may be heard briefly.

9 MS. TANKERSLEY: Yes.

10 MR. AHMAD: Well, in regards to that, will we still be
11 allowed if they choose to or if your Honor admits the
12 evidence of drug use to then get into those photos?

13 THE COURT: I mean, those are two separate issues, but
14 we'll -- I mean, I'll let you proffer what -- I'll let you
15 know what our ruling is and you can proffer anything you need
16 to proffer.

17 MR. AHMAD: Yes, your Honor.

18 MS. TANKERSLEY: Our next motion in limine, your Honor,
19 is about evidence regarding speed or force in this case.
20 Opposing counsel has argued in depositions and -- and a
21 couple hearings about doing math to show the speed of my
22 client's vehicle and that the other driver could have made
23 the turn.

24 He's asked numerous times about the weight of the truck
25 and the trailer indicating again, he'd do math to demonstrate

1 speed. I -- I think Rule 702 would require any of that to be
2 expert testimony.

3 Certainly, a lay witness can't testify as to what an
4 accident reconstructionist would testify to. An engineer
5 would need to look at the placement of the vehicle, the
6 reaction time, the turning distance which are obviously
7 pretty complex calculations.

8 And a -- a general understanding and like statics and
9 dynamics, which I don't think the jury typically has. The
10 witness or witnesses can obviously talk about what they --
11 they think.

12 You know, if a vehicle was moving quickly or something
13 like that. But both of the witnesses in this case, the
14 driver and the plaintiff both testified they didn't see my
15 client's vehicle prior to the case. So obviously they
16 wouldn't be able to testify to speed either.

17 So we're asking for this order in limine to -- to
18 exclude any argument or -- or inferences or references to
19 things that you would need an expert witness to testify when
20 it comes to speed and force.

21 THE COURT: Yes.

22 MR. AHMAD: Your -- your Honor, opposing counsel's
23 mistaken the type of mathematical statements we plan to make
24 are basic elementary level mathematics. Your Honor, pursuant
25 to Horton v. Greyhound Corp, they mentioned in the -- or the

1 Supreme Court even mentions how evidence which is associated
2 to breaking speeds are general knowledge or common knowledge.

3

4 And we plan to discuss the fact that 35 miles per hour
5 is 51 feet per second, and that can be done through -- I
6 mean, basic mathematics could do that. Where it's -- we're
7 not attempting to do K equals one half MV squared or anything
8 like that, your Honor. It's just 60 times 60, your Honor.

9 THE COURT: Ma'am, so again, your -- breaking speed?

10 MS. TANKERSLEY: Oh, well, I --

11 MR. AHMAD: Yes, your Honor.

12 MR. HAWKINS: Your honor, it -- the only math that
13 might come up is how many miles per hour equals feet per
14 second. That's it. And the way you do that, you say 25
15 miles an hour. Okay. 25 times 5280, that's your feet in a
16 -- in 25 miles. How many seconds are in an hour? That's
17 3,600 because of 60 times 60.

18 That's done all the time in wreck cases everywhere.
19 We're not doing anything with brake and speed, anything with
20 the weight of vehicles, anything with anything complicated,
21 none of this falls under 702 at all. This is a basic car
22 wreck case that people do all the time with basic math, with
23 a white order. Any third grader can understand this math.

24 THE COURT: I'm not sure third grader, but.

25 MR. HAWKINS: You just add two-zeros. Six times six is

1 36, and you add two zero. I --

2 THE COURT: All right. I mean, I think --

3 MS. TANKERSLEY: Well, your Honor, the issue with that,
4 if they're trying to do whatever the calculation is he just
5 said, then that gets into, okay, well then breaking speed and
6 how fast could she have turned and -- and how -- how -- the
7 distance that she was in the turn and any measurements you
8 need from the scene. And there is no expert witness to
9 testify to that. There's nobody to cross-examine about any
10 of that evidence.

11 MR. AHMAD: Your Honor, I cited to that case law just
12 as an example in which the Supreme Court has found breaking
13 speeds just to be common knowledge. We don't plan to get
14 into that.

15 THE COURT: How you going to get it? I mean, what
16 witness is going to be,

17 MR. HAWKINS: Your Honor, any witness can. That's what
18 the China case says. It -- it actually uses the 35 miles per
19 hour example. It says the fact that 35 miles per hour is 51
20 feet per second is a fact of mathematical certainty.

21 And they didn't need an expert in that case. They
22 submitted it. I mean, this is done in every wreck case.
23 Anybody who -- who says I put up -- does six -- 60 times 60
24 equal 3,600. Anybody that says no, I say, well, here's a
25 calculator, check my math. I mean, that's done in every

1 trial.

2 THE COURT: I mean, I think, -- I mean again, I mean it
3 sounds like you're --

4 MR. HAWKINS: That -- that is the most basic math.

5 THE COURT: It is, but I mean, it depends on how -- how
6 y'all use that, I guess.

7 MR. HAWKINS: Well, I think -- you know, I was talking
8 to Joe Mooneyham about building that. And he said, "Yeah,
9 you did that with anybody?" And I -- I said, "Yeah, I think
10 you can." So I saw with a couple other lawyers and it
11 certainly doesn't require a math teacher. I mean --

12 THE COURT: Well, what they're saying it doesn't, but
13 it sounds like you plan on using a little more of it.

14 MR. HAWKINS: No, I can -- no, I can hand somebody a
15 calculator, anybody on the stand and say, what is 60 times
16 60, and it will be 3,600. At least in these universe it is.
17 Every single time.

18 THE COURT: I can site Joe Mooneyham, this is the
19 (inaudible).

20 MR. HAWKINS: No, I just -- you know, when I have
21 evidence questions -- because I want to make sure I didn't
22 run into this because this's a nonsensical objection. 702 is
23 for complicated, you know -- stuff engineers come in and --
24 and break down. That has to be broken down and --

25 THE COURT: Well, I guess it's going --

1 MR. HAWKINS: -- this multiplication doesn't.

2 THE COURT: I -- well, I mean, again, I guess it's
3 going to depend on what your question is and how you present
4 it at the time.

5 MR. HAWKINS: Yeah, I mean, I think I -- okay, well one
6 of the questions to one of the witnesses will be, what is six
7 times 60? Do you need a calculator? Do you agree with me
8 that it's 3,600?

9 THE COURT: Okay. I think I'll just have to wait
10 until, you know, you get to third grader on the stand. But
11 then I got to determine whether they're competent.

12 MR. HAWKINS: Well, I guess we'll cross that bridge
13 when --

14 THE COURT: All right. I'll -- I'll address that when
15 the time comes.

16 MR. HAWKINS: Okay.

17 MS. TANKERSLEY: Right, your Honor. Our last one is a
18 motion in limine to strike portions of the plaintiff's
19 complaint.

20 THE COURT: Is this -- was this amended complaint
21 regular complaint?

22 MS. TANKERSLEY: It was the amended complaint.

23 THE COURT: Which was filed and I'm just going to pull
24 it up

25 MS. TANKERSLEY: July 10th, 2023. And specifically,

1 your Honor I'm asking that paragraphs 6, 9, 10, and 11,
2 including footnote 1 be stricken. They include references to
3 insurance, settlement demands and photographs. In our answer
4 to the amended complaint, I noted that we request those
5 paragraphs to be stricken.

6 Now that were in trial, I'm asking they be struck
7 before the trial begins. I certainly think that this is a --
8 wasn't a substantive motion. I believe in their response
9 they argued that motions to dismiss and motion for summary
10 judgment shouldn't be treated or shouldn't be considered for
11 motions in limine.

12 This is not one of those things. It's just, we -- I
13 want to clean up the complaint before we get in front of a
14 jury. The -- the paragraphs that I'm referencing are pretty
15 blatantly against the rules.

16 Footnote 1 says, "The plaintiff seeks recovery for his
17 damages from State Farm and is hopeful that State Farm will
18 protect Mr. Knox by tendering its policy limits of \$25,000
19 prior to the expiration of the time limit demand issued by
20 the plaintiff on June 13th, 2023.

21 The time demand expires on July 18th, 2023, the
22 plaintiff will likely ask the jury to consider a six or seven
23 figure amount at trial and State Farm's standard to tender
24 its policy limits could result in excess verdict against Mr.
25 Knox putting his personal assets in jeopardy." The -- the

1 other paragraphs reference for State Farm and insurance as
2 well. But it's just specifically 6, 9, 10 13 and that
3 footnote.

4 MR. HAWKINS: All right.

5 MR. AHMAD: Your Honor, we have no problem with
6 redacting the amended complaint to -- for any references
7 related to insurance. However, opposing counsel's mistaken
8 regarding all of these paragraphs containing references to
9 insurance. And you can see that in paragraph nine, the
10 defendant crashed into the plaintiff's vehicle with such
11 force that both vehicles were deemed total losses, pictures
12 of the vehicles managed --

13 THE COURT: I mean, total losses. Is that not an
14 insurance term?

15 MR. HAWKINS: No, your Honor. The -- the insurance
16 term would come afterwards. If something is completely
17 destroyed or total loss, that's a loss. It doesn't matter if
18 the insurance company uses it for some other term of art,
19 that -- that's what it is. That's a damage. You can't limit
20 a damage or that would cut out the property part of the
21 claim.

22 THE COURT: No, but mean using a total loss just means
23 that it's -- I mean, I think you got to be careful that
24 that's not a -- been rendered total loss by the insurance
25 company.

1 MR. HAWKINS: Right. I -- no, I agree. You can't say
2 --

3 THE COURT: And that's what you're -- it says deemed a
4 total loss.

5 MR. HAWKINS: Right. I -- I think you can't say State
6 Farm deemed a total loss. But you can say, you know, if it
7 comes up in a question that that car was totaled, that's just
8 a total loss of -- to his -- of his property. It doesn't
9 matter about the collateral source. We have the collateral
10 source rule for that reason.

11 MS. TANKERSLEY: Your Honor, I specifically put in my
12 motion in limine regarding insurance that -- that plaintiff's
13 counsel refrain from using the word total. Total only
14 applies to insurance cases. It simply means that the value
15 of the vehicle is lower than the cost it would be to repair.
16 It's something that the insurance company decides.

17 MR. HAWKINS: Yeah, that's -- that's not true.
18 Something --

19 THE COURT: But I mean -- but -- but a party can
20 testify to that as well, though. But this is not the
21 plaintiff's car, is it? It is a plaintiff's car?

22 MS. TANKERSLEY: No, I -- I think I --

23 MR. HAWKINS: I agree (inaudible).

24 MS. TANKERSLEY: I think a -- a party can testify to
25 the damage that was done to their vehicle. I -- I don't

1 think there could be any arguments or testimony that a
2 vehicle was totaled. That implies insurance.

3 THE COURT: All right. Let me think about that. All
4 right. But obviously no reference to insurance and anything
5 like that. How about the photographs? You actually
6 mentioned the photographs.

7 MS. TANKERSLEY: Yeah, the -- the photographs I -- I
8 think violate the rules. I've never had photographs in a
9 complaint before, but obviously they're kind of sneaking in
10 evidence into a pleading when it's supposed to be a short
11 state -- plain statement of facts. And --

12 THE COURT: I mean are these photographs are coming in
13 anyway.

14 MS. TANKERSLEY: I -- I don't know.

15 MR. HAWKINS: She's -- she's got them in some of the --

16 THE COURT: No, I know that, but I mean the
17 admissibility. I mean, in other words, I'm going to let you
18 put anything in this complaint that's not in the evidence, in
19 your opening statement. In other words, these photographs
20 and -- you know, they're not -- if they're not -- they're not
21 consented to or --

22 MR. HAWKINS: Okay. Yeah. So the authenticity of all
23 these has been admitted to, and I think she's had them on the
24 list of photographs she wanted to stipulate in evidence. I
25 stipulated to about four or five of them.

1 THE COURT: Well, I mean, if they stipulate then you --
2 and I guess we're talking about the -- bringing it up before
3 the -- your opening statements.

4 MR. HAWKINS: Right.

5 THE COURT: Right.

6 MR. HAWKINS: We've got -- we got -- I'll have to look
7 at it. The --

8 THE COURT: Well y'all -- if it's -- if they're
9 admitted to consented to, then that's fine, but otherwise you
10 can't discuss anything in your opening that's not in
11 evidence.

12 MR. HAWKINS: The -- the pictures?

13 THE COURT: Right.

14 MR. HAWKINS: Okay.

15 THE COURT: All right. Anything else?

16 MS. TANKERSLEY: Your Honor, we have a motion for set,
17 but I don't think that needs to be a motion in limine as soon
18 (inaudible) that comes up during trial motion, I'll make the
19 Court aware of it.

20 THE COURT: Okay.

21 MS. TANKERSLEY: And then we -- he would discussed
22 earlier, potentially if we wanted to take up at this point
23 whether the trooper should testify remotely or not.

24 THE COURT: Right. Okay. What's your position on
25 that?

1 MR. HAWKINS: I don't know of any basis for it. He
2 needs to be here in person if he's going to take such harsh
3 positions, he needs to comply with subpoena. I think the
4 subpoena rules require him to be here. She wants a deviation
5 from what the law requires. So I -- I don't know of any
6 reason why we would just say, yeah, you can appear at a
7 trial. It's in person for everybody else apart for him.
8 That doesn't seem fair.

9 MS. TANKERSLEY: Your Honor, I -- I'm not trying to do
10 anything. He just asked for an accommodation and I'm passing
11 it on to the Court.

12 THE COURT: All right. Well again, basically it's up
13 to me. I'm going -- and -- and it sounds like that's a
14 pretty crucial part. And -- and we just -- we -- we'll work
15 around his schedule if needed, but he's going to need to be
16 here.

17 MS. TANKERSLEY: Okay.

18 THE COURT: Due to their subpoena. All right.
19 Anything else before break for lunch?

20 MS. TANKERSLEY: Nothing from me, your Honor.

21 MR. HAWKINS: No, your Honor.

22 THE COURT: I'll let y'all know what I come up with,
23 maybe.

24 MS. TANKERSLEY: Is that 2:00 -- 2:30?

25 THE COURT: Yeah. Be back a few minutes back

1 (inaudible) a little ahead of time just so we can discuss
2 what I've come up with.

3 MS. TANKERSLEY: Okay.

4 (RECESS TAKEN)

5 THE CLERK: Perry Gravely presiding.

6 THE COURT: Thank you. Thank you. Please be seated.

7 I must admit y'all gave me some interesting things to ponder
8 over during lunch. All right. One of the things kind of
9 left a little bit vague was the criminal record, the
10 admissibility of criminal record.

11 And I think 609 is I pretty clear on that. And that
12 is, as long as it's within 10 years, evidence of a crime
13 that's punishable by death or imprisonment in excess of one
14 year, and the evidence has been convicted and the court shall
15 determine whether it's probative value, outweighs its
16 prejudicial value.

17 I mean, that's kind of the only analysis there. And at
18 this point, I'm not sure exactly what the crimes are, but all
19 -- to be generally admissible is that they just have to be
20 over one -- you know, a crime over -- over one year. Yes.

21 MR. HAWKINS: Your Honor, for clarification is that the
22 Court's ruling that it's admissible from impeachment or that
23 she gets to off the cuff just start asking about crimes that
24 don't have anything to do with the wreck.

25 Because the way I understand it, if you -- if you

1 testify about something and if somebody wants to impeach you,
2 they can impeach you, but you can't just go up there, first
3 question, cross-examination, say you got this rap sheet and
4 I'm going to talk to you about it.

5 THE COURT: Well, again, that -- that's where the court
6 comes in, because I have to determine whether the prohibitive
7 value outweighs the prejudicial. And I guess at this point,
8 without knowing what the crimes are, and I -- I'm not sure I
9 can actually make that evaluation until after the parties
10 testified to no one. I think one is -- is the credibility a
11 major issue there. And I mean --

12 MR. HAWKINS: Right. And well, if it is going to be
13 proffered, then that's -- that's one thing. What I'm worried
14 about is letting the cat out of the bag in front of the jury
15 about something that happened that don't have anything to do
16 with whether one car caused a wreck or the other.

17 THE COURT: Well, I mean, I don't think that's --
18 that's not the standard. Doesn't matter what it's caused,
19 it's whether it becomes a credibility issue. So I think the
20 way that -- the only way that I'm going to be able to do this
21 effectively and make sure I have a proper ruling is after the
22 plaintiff testifies, if that's what you want to do, we're
23 just going to have to take a break. And I may have to have
24 you proffer at that point.

25 MS. TANKERSLEY: Do you want me to give you the

1 conviction sheets?

2 THE COURT: No, let's -- let's address it after the --
3 because -- because at this point I still don't know. And the
4 reason I think credibility may or may not be an issue is one,
5 it -- it may depend on the testimony. I think I have to know
6 that before I can properly weigh whether it's probative value
7 outweighs its prejudicial value. So -- all right.

8 Now the other, I think all the rest of the ones I kind
9 of held in advance is really all the kind of the same -- are
10 we -- there's kind of two things. The evidence of any prior
11 drug use or drug use by the plaintiff.

12 Again, I may have to -- I'm going to have to -- that
13 may me have to involve a proffer because I think, again, I'm
14 going to have to carefully weigh the probative value in, in
15 the prejudicial value.

16 And Ms. Tankersley indicated was that it went to some
17 of his treatment and some of his complaints and -- and those
18 type of things. And depending on what the evidence is, it
19 may well be more probative than prejudicial. I don't -- I
20 can't really tell at this point.

21 So that's as to him. As to her, when I say her, the
22 driver of the car, Ms. Seely, okay. I kind of -- I spent a
23 lot of time looking up cases and a lot of the cases are more
24 along the lines of negligent entrustment and those type of
25 things. But there was a case that I found that said the

1 guest in knowingly entrusting his safety to a vehicle who is
2 intoxicated is guilty of conscious failure to exercise due
3 care.

4 MR. HAWKINS: Yeah. And that's our -- that's our
5 point, your Honor. There's no evidence of any drug use by
6 Ms. Seely on the day of this wreck. In fact, the only
7 uncontroverted evidence in the record is that they were at a
8 house party. There may have been drug use there, but she
9 didn't use any drugs and he didn't use any drugs. And
10 there's never been any evidence to the contrary.

11 THE COURT: Well, I thought that she kind of indicated
12 there may be evidence.

13 MR. HAWKINS: I'd like to say that in the deposition
14 because I've never seen any evidence from anybody that she
15 did drugs on that day. And in fact, she can't bring an
16 expert in here to testify about any --

17 THE COURT: Well, I'm (inaudible).

18 MR. HAWKINS: Well -- well, but it's important Judge,
19 because one, there's no testimony that it happened. And two,
20 there's no testimony or evidence that it was in her system.
21 She wasn't charged with DUI, DUAC or anything of the nature
22 at all. It was a wreck case. It didn't involve any
23 intoxication at all. And she's trying to conflate this with
24 a case that does have intoxication as the issue and it
25 doesn't.

1 THE COURT: What evidence do you have that at the time,
2 I guess?

3 MS. TANKERSLEY: He testifies in his deposition. I
4 asked him, "Was there drug usage at the party?" And he said
5 "Yes." And I said, "Who used drugs?" And he said, "Austin --
6 any of us." Austin comment, any of us. And then I asked, did
7 you and Meghan do drugs? And he said, no. But he also
8 testified Austin and any of us.

9 MR. HAWKINS: The testimony is that she didn't do drugs
10 and he didn't do drugs. I don't -- I mean, get --

11 THE COURT: I need to maybe look at that. I don't --
12 and again -- and I think that's -- that's the -- the only
13 kind of issue that I've kind of had -- had to make a
14 determination of. I don't believe that anything dealing with
15 her prior drug use or rehabilitation or the fact that she did
16 not have a driver's license, I'm not sure that that
17 contributes to the accident.

18 So I'm going to grant their motion in limine in that
19 regard. The only information that I think I need to make a
20 decision on is evidence relating to her drug usage before
21 this accident. I mean the -- the day off. And I mean, I
22 think there's a little question about the that. Yes.

23 MR. AHMAD: Your Honor, in our previous discussions for
24 this motion to eliminate we talked about Kennedy v. Griffin,
25 and this is again, a very similar situation where the court

1 of appeals held it reversible where there's no other evidence
2 indicating impairment or that the plaintiff was under
3 influence. That's the same thing here with Ms. Seely.
4 There's no evidence to indicate that she was under the
5 influence because --

6 THE COURT: See that's what I don't know. I mean, I
7 haven't seen the evidence.

8 MR. AHMAD: That's okay. Yes, your Honor. Thank you.

9 THE COURT: And I guess again, we may need to have to
10 take a break after hers then. I want to make sure we're --
11 that we -- we've got it properly addressed. I think probably
12 after her -- we hear her testimony and then I'll review an --

13 MS. TANKERSLEY: Do -- do you want to look at the
14 deposition transcript?

15 THE COURT: Yeah, let me have that while we -- we can
16 be looking at that.

17 MR. HAWKINS: And if we could just on the record, get
18 the page in line because we're going to pull it up.

19 THE COURT: Yeah.

20 MS. TANKERSLEY: It's page 76, line 25, and then page
21 77, lines 1 and 2. So bottom of the first page, top of the
22 second. (Inaudible).

23 MR. AHMAD: You said page 76?

24 MR. HAWKINS: Seely?

25 MR. AHMAD: Seely only goes --

1 MS. TANKERSLEY: No -- no. I'm talking about plan.

2 MR. AHMAD: Oh, okay.

3 THE COURT: Who is Austin? Just --

4 MS. TANKERSLEY: He's the house host.

5 THE COURT: Okay. (Inaudible).

6 MR. AHMAD: Which line is it?

7 MS. TANKERSLEY: I don't know. (Inaudible).

8 THE COURT: I mean, what I'm looking at here, pages 76,
9 page 22, I guess start about 17 over to the next page.

10 MR. HAWKINS: You're on page 70?

11 THE COURT: Six.

12 MR. HAWKINS: Six. Okay.

13 THE COURT: We started at line 17. I don't think you
14 have a definitive evidence that the --

15 MS. TANKERSLEY: I wouldn't say that it is definitive.
16 I'd say it's something that the jury can decide if they want
17 to argue --

18 THE COURT: Said -- well he said any of us. But then
19 specifically "Had you or Meghan had any drugs or alcohol that
20 day?" "No."

21 MS. TANKERSLEY: I -- I know what I -- I think he can
22 testify to that. But he said any of us. They went to this
23 house party, any of us could have consumed drugs. And then
24 --

25 MR. HAWKINS: He didn't say that. It's right here in

1 black and white.

2 THE COURT: It does say any of us.

3 MR. HAWKINS: No, no. It doesn't say any of us did
4 drugs. It's -- she -- she asked if anybody did drugs and he
5 asked for clarification. Then the very next question is, had
6 -- had any --

7 THE COURT: Well, now hold on now.

8 MR. HAWKINS: He says no.

9 THE COURT: "Who do you think would've consumed drugs
10 while y'all were there?" "Austin -- any of us." I mean,
11 that's what he --

12 MR. HAWKINS: That's not him saying any of us did --
13 that doesn't even make any sense. The -- the answer to the
14 question is, did y'all do drugs? And the answer is any of us
15 is asking --

16 THE COURT: Well, I mean -- I mean, I think what --
17 what -- she's quoting it correctly and you tried to say she
18 was not. She quoted it correctly, Mr. Hawkins.

19 MR. HAWKINS: Well, I -- okay, well I -- I --

20 THE COURT: I'm not saying that I'm ruling that way,
21 but I'm just saying she did quote it correctly.

22 MR. HAWKINS: She's saying that -- she's saying that
23 this deposition says they were doing drugs and the very next
24 question says --

25 THE COURT: Well, I know that -- you know, I'm in the

1 process of talking here and analyzing and I'm saying I agree
2 with you, but I'm saying she was quoting it correctly. I
3 don't -- I mean, again, I don't think that this is enough to
4 get that to the jury though.

5 MS. TANKERSLEY: For Meghan's drug usage?

6 THE COURT: Yes.

7 MS. TANKERSLEY: Okay. Does that -- to clarify you --
8 the ruling for plaintiff's drug usage is something that we'll
9 deal with at the time?

10 THE COURT: No, I have to deal with that at the time.
11 I don't see how that pans out as far as his injuries.

12 MS. TANKERSLEY: Okay.

13 MR. HAWKINS: Just real quick on the trigger.

14 MR. HAWKINS: Your Honor, it's been a long hard arduous
15 battle in this case, so I'm sorry.

16 THE COURT: I know. I say. All right. Is everybody
17 ready for the jury? I think I covered all of it.

18 MS. TANKERSLEY: Actually, your Honor, there was one
19 thing or two things I wanted to bring up before you bring
20 them in here. I had put in my pretrial brief and forgot to
21 bring up during motions that we had had a motion for a
22 protective order for my client's deposition that was never
23 ruled upon because there was an appeal in the middle and it
24 just didn't get rescheduled. I didn't know if that needed to
25 be ruled upon before he testifies.

1 THE COURT: Well, I mean, what's the -- I don't -- I
2 don't -- I guess I didn't catch that or know what the issue
3 is.

4 MS. TANKERSLEY: Well, I -- I just, I -- and I -- I
5 don't know if a motion for protective order impacts trial
6 testimony. But to the extent that it does, that motion
7 hasn't been ruled on yet.

8 THE COURT: What was the nature of the protective
9 order?

10 MS. TANKERSLEY: It was -- it's pretty lengthy. But
11 the nature of his questions were insurance driving a wedge,
12 you know, between me and my client, that type of thing.

13 THE COURT: Anything,

14 MR. HAWKINS: Your Honor, I don't think anything --
15 mainly what it was, she didn't bring her client to mediation
16 and there was a -- there was a bunch of issues related to
17 that. We got a -- a case in Supreme Court right now over
18 that.

19 And when I asked questions at the meeting -- at the
20 deposition, you know, did you even know of -- did State Farm
21 even tell you about this mediation? And she would instruct
22 him not answer and questions like that. None of that's going
23 to come up 'cause we're not asking any questions about State
24 Farm insurance.

25 THE COURT: Well, and also mediation, that wouldn't be

1 --

2 MR. HAWKINS: Right. I don't -- we're not going to
3 talk about any of that.

4 THE COURT: Okay.

5 MS. TANKERSLEY: And -- and the second thing, your
6 Honor. Opposing counsel has mentioned that he has a
7 PowerPoint for his opening. If I could just have an
8 opportunity to -- to look at it before they start, if there's
9 -- he mentioned photos and things like that.

10 THE COURT: I mean, did y'all -- have y'all stipulated
11 the photos?

12 MS. TANKERSLEY: We stipulated to a -- he -- he agreed
13 to I think four of mine.

14 MR. HAWKINS: And I think there's four that we agree or
15 -- she's pre-marked it to be in evidence.

16 MS. TANKERSLEY: But, I -- I haven't seen his.

17 THE COURT: I mean, are there --

18 MS. TANKERSLEY: I just want to make sure.

19 THE COURT: Anything you plan on putting in your
20 PowerPoint that is evidence. Tell -- hey, tell jury we'll be
21 with them just a few minutes. We got a couple final things.

22 MR. HAWKINS: Trying to get to the pictures. Okay.
23 Jeanmarie, you want to come over here? Because I got the
24 pictures. I -- I think you want all these in. That one I
25 think we stipulated to.

1 MS. TANKERSLEY: Yes, sir.

2 MR. HAWKINS: (Inaudible).

3 THE COURT: All right. So y'all good?

4 MS. TANKERSLEY: Yes, sir.

5 MR. HAWKINS: Is there normal (inaudible)? They're
6 just four? (Inaudible). Okay. Oh, and a picture of speed
7 limit signs.

8 MS. TANKERSLEY: (Inaudible).

9 THE COURT: All right. Let's now take a second to get
10 that up. What I do is I tell the jury have some preliminary
11 information for them and then I'll turn it over to y'all for
12 opening statements. All right. Is the plaintiff ready?

13 MR. HAWKINS: Plaintiff is ready.

14 THE COURT: All right. Defendant's ready?

15 MS. TANKERSLEY: Yes, your Honor.

16 THE COURT: And you'll have to -- you'll have to plug
17 your -- you want to make sure it is -- you going to use it in
18 your opening?

19 MR. AHMAD: Yes, your Honor.

20 THE COURT: You'll need to make sure it's plugged in.

21 MR. HAWKINS: I think it is. I saw the screensaver
22 come up, I think.

23 THE COURT: Well, then --

24 MR. HAWKINS: Oh, it's not going to appear.

25 THE COURT: All right. There we go. (Inaudible). All

1 right. Are y'all good now?

2 MR. AHMAD: Yes, sir. Yeah, we're good, your Honor.

3 THE COURT: All right. Bring the jury in. You ready
4 to swear at them?

5 THE CLERK: Yes, sir. (Inaudible).

6 THE BAILIFF: Your Honor, we're ready to go.

7 THE COURT: Yes.

8 MR. HAWKINS: Judge, just -- just one question.

9 THE COURT: I'll hold -- yes.

10 MR. HAWKINS: Are are we going to have time because we
11 just heard from one of our witnesses. Are we going to have
12 time for about a 30-minute witness today? Because it's three
13 o'clock. We just want to know what to tell him.

14 THE COURT: It may be difficult. Depends on me. I
15 don't know --

16 MR. HAWKINS: You want us to tell him wait till
17 tomorrow?

18 THE COURT: Yeah, I want to do that. Why don't --
19 yeah, just to be safe. We can have to break the water.

20 MR. HAWKINS: Okay. All right. Thank you.

21 THE COURT: Yes.

22 (JURY ENTERS)

23 THE COURT: All right. Ladies, gentlemen. Thank you
24 for your patience. There's a couple other things I had to go
25 over. I thought we were able to, we were going to finish it

1 up before lunch, but we didn't quite get done.

2 So, sorry, I had to -- well, y'all have to wait a
3 little bit. I do apologize for that. But hold that against
4 me and please do not hold it against either party in this
5 case. At this point, before I give you some preliminary
6 information, I'm going to ask our clerk to administer the
7 oath. Ms. Clerk?

8 THE CLERK: Ladies and gentlemen, please stand and
9 raise your right hand for the oath, the response will be I
10 will.

11 (JURY SWORN)

12 THE JURY: I will.

13 THE CLERK: Thank you. Please be seated.

14 THE COURT: All right. Ladies and gentlemen, now I'm
15 going to tell you just so -- I'll give you a little roadmap
16 is what I call it, and then I'm going to turn it over to the
17 attorneys. First of all, I usually like to start off by kind
18 of letting you know some of the personnel that we have here.

19 You've already met the attorneys and the parties, but
20 seated right in front of me is a court reporter. She takes
21 down all of the testimony and everything said in court.

22 You've already met our clerk who's in charge of
23 administering the oath, in charge of the record with the
24 evidence at this point once it's been presented. To my right
25 is my law clerk who is actually -- it is a lawyer, and he

1 assists with any type of research or anything like that.

2 For your purpose though, the -- the most important
3 people are the individuals in the red coats are bailiffs.
4 And let me tell you, I -- I -- we get to go all over this
5 state and nobody has finer bailiffs than Greenville. They
6 will look after you. If you have any questions or concerns,
7 you direct that to the bailors. Okay. And if there's
8 something I need to get involved in, they'll let me know.

9 All right. So now, introductions aside, what's the --
10 what's your role and what's my role? Okay. My role in this
11 case is to preside over the trial, rule on objections and
12 tell you what the law of the case is. Okay. Rule on
13 objections.

14 Occasionally sometimes in trials there may be -- you
15 may hear objections, and those objections are not to
16 unnecessarily keep things from a jury.

17 Those objections are used -- are based on our rules of
18 evidence. They are very strict rules of evidence, and that's
19 why I'll make rulings on those from time to time. Sometimes,
20 so that we are -- things are properly presented to you under
21 our rules of evidence, or that there -- the -- the evidence
22 is presented the most efficiently, it may -- it may allow --
23 it may require us to take a break outside your presence so
24 that we can make sure everything's in proper order when it is
25 presented to you. So that's -- that's the purpose for that.

1 Finally, I'm to charge you on the law. At the end of
2 the case, I will tell you the law, which you need to apply to
3 this case. All the laws that relate to this case. And
4 that's when I say it's my job to determine what the law --
5 the case is.

6 Your job is to determine the facts of this case. In
7 other words, you will hear evidence from this witness stand
8 by witnesses. There may be stipulation that counsel has.
9 There'll be exhibits. All of that is evidence. And you're
10 to give it the weight and value which you feel is
11 appropriate, and you will apply the law that I gave you to
12 the facts. And that's how you determine a decision.

13 And the decision is in -- will be by way of a verdict
14 that the conclusion of this case. Okay. And you will
15 carefully weigh everything and then come up what you feel
16 should be the verdict. and, and I'll go through that with
17 you. I'll show you the verdict form and I'll kind of go
18 through that with you at the end of the case.

19 How you determine that is the -- the party trying to
20 prove something in this case, the plaintiff to prove their
21 case has a burden of proof. And the defendant in this case
22 may have certain things that they're trying to prove, and
23 they also have a burden of proof. The burden of proof,
24 primarily for most of what we're talking about, is by a
25 preponderance of the evidence. That means more likely than

1 not. Okay.

2 And if any of you have ever been involved in a criminal
3 matter or kind of seeing one on TV or something like that,
4 you may have heard a reference to a burden of beyond a
5 reasonable doubt. That's a much higher standard. And that
6 only applies to criminal cases. Okay. Here we're dealing
7 with by preponderance of the evidence.

8 There may be -- at the conclusion I will -- I'll tell
9 you -- give you a little bit more information about that.
10 There may be certain elements that we may have a little
11 higher burden, but I'll discuss that with you if appropriate
12 at the conclusion of the trial.

13 I'm going to ask that you not take notes. This is not
14 going to be a very long trial. And I think it's important to
15 pay very close attention to all witnesses and, and rely on
16 your memory when you get to the -- to the deliberation stage.
17

18 Now the -- the procedure for trial, we'll start off
19 with opening statements by the attorneys. Opening statements
20 is not evidence. This is their summary of what they they --
21 they feel the case is going to be about. Once they've
22 completed their opening statements and the plaintiff has --
23 has the burden of proof on their claim, on his claim will go
24 first.

25 They'll present the evidence that they feel is

1 appropriate. Then the defense will have the opportunity to
2 present any evidence. And after all the evidence is
3 presented then I will charge -- then we'll have closing
4 arguments, and then I'll charge you on the law. And then at
5 that point you can begin discussing the case.

6 And I'll tell you every time you take a break and we go
7 home at night, do not discuss the case among yourselves or
8 with anyone else. And the reason for that is once you start
9 discussing the case then you're starting to make up your
10 mind. And you don't need to start making up your mind until
11 you've heard all the evidence and the law.

12 And, especially when you talk to somebody else that's
13 not in the -- that's not even involved in the case, like
14 friends or family, then you're getting outside influence,
15 which it, it doesn't that's -- that's totally prohibited. So
16 make sure you don't do that.

17 The same goes with any type of research. Everything
18 that you will need to make your decision you get in this
19 courtroom under our court rules and our rules of evidence.

20 So therefore, don't be Googling the parties. What the
21 law -- excuse me, what the law is, the accident, the road,
22 nothing. All right. Everything that you need to get, you'll
23 get here. So we'll be taking -- and also, again, I'm not
24 aware of any media coverage, but if there is any out there
25 including social media then you're not to be looking at that

1 either.

2 Now, as we go along, we try to take a break every hour,
3 every hour and a half. Now sometimes that kind of depends on
4 where we are. Sometimes a witness may be longer or shorter.
5 It may just -- there may be a reason we have to take a break
6 sooner than. Anybody needs to take a break before we are --
7 looks like we're taking one, let us know, because we realize
8 this is an inconvenience and we want to make it as convenient
9 to you as possible.

10 Like I said, the we try to -- we shoot for closing out
11 the day by five o'clock. If for some reason we've got a
12 witness that is going to go a little past there, I'll talk
13 with you. I'll -- I'll discuss if anybody needs to make any
14 arrangements because I don't want to put anybody -- mess up
15 their personal life too much as possible.

16 And then we can prevent anything like that. We'll
17 start back usually in the mornings or about 9:30. We'll take
18 a break, kind of like what we did today, somewhere around
19 12:30. Again, that may depend on where we are with
20 witnesses.

21 Now the evidence -- again, you're to give the -- each
22 piece of evidence the weight and value which you feel is
23 appropriate. Part of that will be evaluating witnesses.

24 You'll need to determine the credibility of witnesses
25 and that is the believability of witnesses. And finally,

1 when you take your first -- when we take our first break this
2 afternoon, I'm going to ask that you pick a foreperson. A
3 foreperson can be from the original 12 of you, not the
4 alternates. And that's the person that merely leads -- leads
5 any discussion when you begin your deliberation.

6 And if you need to communicate with the Court then
7 that's something that foreperson does. So I'll remind you of
8 that when we take a break. With that being said, I will now
9 turn it over to the attorneys for opening statements.
10 Plaintiff.

11 MR. HAWKINS: Thank you, Judge. May it please the
12 Court? How's everybody doing? Drivers are required to
13 follow basic traffic laws required to go to speed limit. If
14 a driver or motorist doesn't go the speed limit, he goes 50
15 in a 25 and as a result he hurts and injures somebody, then
16 that driver's responsible for the harm that he causes.

17 This is especially true if the car wreck involves a
18 heavy vehicle or a large vehicle like a work truck. The
19 operator of a motor vehicle is operating a large work truck
20 and he goes through a low speed zone packed with businesses
21 and business entrances.

22 And as a result, he hurts somebody because he's
23 speeding and he's responsible for that harm that he causes.
24 The same thing goes for being distracted while driving.

25 We're not allowed to look down at iPads or phones, text

1 without hands free texting or look at social media while
2 we're driving. If a driver does that and he hurts somebody,
3 then that driver is responsible for the harm that he causes.

4 Now I'm going to tell you the story of what happened in
5 this case specifically. The lawn care business and
6 landscaping business is a big industry, just like the soft
7 drink or the big tech industry. It does about \$330 billion a
8 year worldwide.

9 In 2016, a company called Southern Lawn Care started
10 because they want to get in on that industry. And the
11 company takes off. It does well. They start scheduling
12 jobs, scheduling loans, going to different places.

13 Except that -- business is good except when it rains
14 the jobs have to be pushed to subsequent days. So if it
15 rains for a period of time, those jobs have to be done on
16 subsequent days along with the jobs already scheduled. So it
17 causes a rush. It compresses time.

18 June 12th, 13th, 14th of 2017 it rained for three days
19 in a row. The days after that, one of the days, specifically
20 June 17th of 2017, Southern Lawn Care is going to go out for
21 some jobs and it straps down a industrial trailer.

22 A 24-foot double axle industrial trailer, weighs
23 several thousand pounds. It attaches that to an F-250 Super
24 Duty, that weighs even more than a trailer. So you've got a
25 combined weight of at least 13 -- 13,000, 13,500 moving down

1 the road.

2 Southern Lawn Care puts behind the wheel Andre Knox as
3 employee and he's going to go and do the jobs for that day.
4 So he gets in the truck and it's loaded down with riding
5 mowers and lawnmowers and all kinds of equipment. And it's
6 going to be especially important for that truck to obey
7 posted speed limits.

8 The lawn care company is on Rutherford Road, that's
9 where the main office is. So to get to Highway 29, which is
10 Wade Hampton Boulevard, some of y'all are probably familiar
11 with it. You got to go down, Tappan Drive, which runs right
12 beside Walmart.

13 It's a little side road. It's got a lot of entrances
14 to businesses and Walmart and there's constantly people
15 coming and going, you know, mothers with kids, cyclists,
16 pedestrians, there's all kinds of people that use that road.
17 So it's especially important on Tappan drive to go 25 miles
18 per hour or less. If you go faster than that, you're going
19 to cause needless danger. Okay.

20 So Mr. Knox's path takes him along Tappan drive, and he
21 comes up to a curve. You can't see the other side of the
22 curve, obviously. And he's going at a high rate of speed.
23 Well in excess of the posted speed limit. As he traverses
24 that curve. On the other side of it is my client's former
25 girlfriend Meghan Seely, with him in his own car as a

1 passenger and they're turning into Walmart.

2 Mr. Knox never hits the brakes. He hits that car at
3 such a violent and forceful rate that not only does it
4 completely destroy that car and cause immediate catastrophic
5 injuries to at least two of the occupants, it drives it up on
6 two wheels into the next car. That one's completely
7 destroyed. And the wreck was so violent and impactful that
8 the F-250 itself was deemed to be destroyed.

9 It bent the frame of three cars, complete losses,
10 multiple people injured. The EMS that -- that arrived says,
11 obviously going to need more than one vehicle. So multiple
12 EMS, at least two. Firetruck comes, (inaudible), debris
13 everywhere. Y'all going to see some -- some pictures of
14 that. It was a bad wreck.

15 So that's the story of what happened in this case. And
16 when something like that happens and there's an injury
17 because of it, this is the process for -- for putting that
18 injury in front of members of the community so that they can
19 decide the case inside the outcome.

20 We have sued Andre Knox, who was working for Southern
21 Lawn Care and the scope of course of his employment with that
22 lawn company for a violation of several very important safety
23 public -- public safety rules.

24 Now, as we talk through the evidence, you're going to
25 see other common sense and legal rules that were broken, but

1 I'm going to talk to y'all about five of them that the we
2 think are very important and jump out to us. Number one is
3 the rule that requires drivers to go to the posted speed
4 limit.

5 The South Carolina code, and I'll try find the statute
6 section, we -- we've got it somewhere. It's South Carolina
7 code 56-5-1520(G). That requires drivers to operate vehicles
8 at or below posted speed limits. The speed limit on Tappan
9 drive, the DOT came up the speed limit for that road. That's
10 25 miles per hour.

11 And the reason they did that is because families and --
12 or all kinds of drivers, plumbers, school teachers, people
13 taking their elderly parents to Walmart, whatever it is,
14 people are using that road all the time. So it's very
15 important that everybody goes no faster than 25 miles per
16 hour or 36 feet per second. That's very important.

17 That's not only -- that South Carolina statute exists
18 to preserve safety obviously, but when Mr. Knox violated that
19 statute, he also violated an internal company policy. And
20 why is that important? Well, that's important because at the
21 end of trial you're going to hear that violations of statutes
22 and internal policies are both evidence of negligence and
23 references. So that's going to be important. He violated
24 not only a law, but he violated an internal policy.

25 Number two is South Carolina code 56-5-1520(F), which

1 requires motorists to use appropriate care and slow their
2 speed when they're coming to a blind curb. This is
3 especially important for large trucks. If you're in a Honda
4 Civic, it's dangerous. If you're in a Ford F-250, pulling a
5 trailer with lawn mowers and all kind of stuff on it, it's
6 catastrophic. And it was.

7 That statute says you have to -- when you come to a
8 blind curve and you come around it, you have to slow your
9 speed appropriately. The speed limit's 25 miles an hour in
10 this area. You can't come up to it doing 50 miles an hour or
11 whatever he was doing because when you come to the other
12 side, you ain't going to be able to stop even if you're
13 paying attention.

14 Number three, South Carolina code 56-5-520 subsection A
15 prohibits drivers from driving at an unreasonable speed under
16 the circumstances. What were the circumstances? The
17 circumstances were it was five o'clock in the afternoon.
18 Anybody that's gone up Wade Hampton Boulevard five o'clock
19 knows what that means.

20 And the circumstances were there was a Walmart right
21 there and anybody that's got kids has had their kids ask them
22 to go to Walmart. Mothers are taking their kids in and out
23 of Walmart. There's a car with car seats in the back. A car
24 seat in the back of this car would've stood a chance.

25 As it turns out, the occupant of the backseat had a

1 broken pelvis and a broken femur, but it would've been big
2 trouble for the car seat. So it's very important to use
3 appropriate care under the circumstances.

4 And you have circumstances of a 24-foot trailer, F-250
5 going at excessive rate of speed around a curve, late traffic
6 hours by Walmart and other shops.

7 It's very important to follow that statute and that law
8 and it's very important to follow that internal policy
9 because you're going to hear from the owner of Southern Lawn
10 Care. He's also going to tell you that that's a violation of
11 internal policy.

12 Number 4, Southern Lawn Care's employee violated the
13 rule that prohibits drivers from driving while distracted.
14 It's illegal to use electronics and other devices.

15 Now we got Mr. Knox's phone records and -- but when we
16 got this phone records left out was all text and social media
17 data and usage. So we don't know from the phone records what
18 he was doing on his phone. What we do know is that the phone
19 was nearby or in his hand.

20 How do we know that? Because before and after the
21 estimated time of the collision, there's calls coming and
22 going. So we know the phones nearby. We know that for sure
23 and we know that there's no evidence that he ever hit the
24 brakes. And he's going to say probably when he testifies
25 that he did.

1 But I've never seen any pictures up to now of any skid
2 marks or any indication that there were any brakes applied.
3 I've not heard any testimony that there was any tire
4 squealing or anything like that. So that one we don't know,
5 but we'll see what the evidence brings forth and y'all be the
6 ones who decide that's the end of this case.

7 Number five, Mr. Knox violated while he was working for
8 Southern Lawn Care 56 -- South Carolina Code 56-5-2920, which
9 prohibits a disregard for the safety of persons and property.
10 When you come through an area like this that's frequented by
11 parents and families and all kinds of people and you travel
12 at a high rate of speed, that is a disregard for the safety
13 of persons and property. And personally I like to include
14 animals in that because (inaudible).

15 But I think you should exercise care whether or not
16 you're trying to adhere to a statute and you're supposed to
17 exercise the care in the circumstances as part of the
18 internal policy for the company that you're working for.

19 Now, this is the part where I typically thank the
20 jurors and that's not something I'm saying because I think it
21 sounds good or just a lawyer should say, I actually mean it.
22 And I'll tell you why. Most countries don't have juries.
23 Juries are the most powerful group of people that anybody can
24 belong to. Most countries don't like putting any power or
25 decision making in the hands of its citizens.

1 My clients, fellow members of the community. Without
2 you, this system doesn't work at all. And if we didn't have
3 the jury system, then somebody with a lot of power and money
4 and leverage could do whatever it wants and steamroll the
5 other side. The jury is what makes it fair. It evens the
6 playing field.

7 The defense is -- I mean you're going to see when they
8 put up their case, it's a force to be reckoned with. But
9 because there's a jury, we can have a fair system where we
10 present evidence.

11 And so for that reason, I appreciate y'all being here.
12 It's taken my client eight years to get to this point. This
13 claim for negligence and injuries has been denied for eight
14 years and we're finally here in front of his fellow members
15 of the community. And we finally get to ask the rest of the
16 community for some sort of justice.

17 I need to talk to y'all a little bit about the burden
18 of proof, which as his Honor said, is more likely than not.
19 So you imagine two scales and they start off dead even. And
20 during this trial, we're going to start putting our evidence
21 on one side of the scale. And when we tip it, when we move
22 it at all, we've met our burden of proof. It's more likely
23 than not. Now there's not going to be a close question in
24 anybody's mind if I do my job, but the law is if we move it
25 at all.

1 Another way to think about it is if you've got a
2 football field and y'all are sitting as spectators, and
3 here's the 50-yard line right here. It's right down the
4 middle. Let's say we have two sets of kids and they want to
5 play tug of war.

6 And one of them is on one side of the 50-yard line and
7 the other one's on the other side of the 50 yard line and
8 there's a piece of tape right above the 50 yard line. It's
9 dead center above it.

10 When we start pulling, when we move that tape at all,
11 we've met our burden of proof. And you can finally hold the
12 defense accountable for these safety rule violations. It
13 doesn't matter if we move them a millimeter or a mile once we
14 move them, we've done our job and there can be some
15 accountability. Again, I don't think it's going to be a
16 close question if we've done our job and we're going to pull
17 the whole -- whole rope over to our side, but that is the
18 burden of proof.

19 I'm glad that the Judge brought up the comparison
20 between this and a criminal trial. Because that -- criminal
21 trials do have a very high burden of proof.

22 In a criminal trial somebody can cause harm and then
23 they can get out of responsibility simply by raising a doubt.
24 But this is not a criminal trial and a doubt does not create
25 an out. I'll say that again because it's very important.

1 A doubt does not create an out. You can have doubt,
2 somebody might have doubt about an issue, but as long as all
3 of you agree at the end of this case that it's more likely
4 than not that Mr. Ho's conduct contributed to the wreck,
5 there can be accountability.

6 It doesn't have to be the main cause. It doesn't have
7 to be the only cause. It just has to be one of the proximate
8 causes. It's what's called in the law, one of the factors,
9 one of the causes that leads to the injury. As long as we
10 show that more likely than not, it did, you can hold the
11 defense accountable.

12 As -- as it goes, you know, I do the kind of work that
13 I represent lots of different kinds of people in the
14 community, all kinds of different people. And by the time
15 their case gets to me, it's usually the last resort.

16 And sometimes people try to handle claims for injuries
17 and negligence against defendants on their own. And that
18 doesn't go anywhere.

19 Sometimes they give up, sometimes on principle they
20 say, no, I wouldn't do anything. Somebody -- I was riding as
21 a passenger in the car, somebody hit me, this isn't right.
22 And so by the time, if -- if the defense has pushed me here
23 when I talk to y'all, it's the last resort.

24 Now the defense is different. Usually defense in a
25 case like this will pick a law firm to represent the

1 defendant like this. And that's what this law firm does and
2 they're good at it. So everything they say is going to sound
3 reasonable at first, but some of the things that are said are
4 going to raise a red flag. And when that happens, if
5 something doesn't sound right, I want you to pay very close
6 attention to the -- to the evidence that they're talking
7 about.

8 The first thing to pay close attention to, look for a
9 suggestion that downplays Mr. Knox's speed. Mr. Knox is
10 going to admit to you that he was going an excess the speed
11 limit. He's going to admit to you that he was going a speed
12 that mathematically is the difference in there being a wreck
13 and not being a wreck. Now you're going to see the pictures
14 of the aftermath and the fact that there's a lot of speed is
15 going to be apparent. That's evidence that you can consider.

16
17 But you need to watch them to say something like, well,
18 you know, maybe he's going 10 or five miles over the hour --
19 miles per hour over the limit. That's not a big deal. It is
20 a big deal because mathematically 25 miles per hour, it's 36
21 feet per second. And when you jump five miles per hour to
22 30, that's 44 feet per second.

23 That means had Mr. Knox followed the law for one
24 second, one second before impact, Ms. Seely completes the
25 turn with plenty of room to spare. And every time you add

1 more seconds, the distance increases. And every time you add
2 more speed differential, the distance increases.

3 For example, if he was going 50, which he appears to
4 have me going, that's 73 feet per second. That means that in
5 two seconds that car traveled 146 feet. It's not illegal to
6 make a left turn because there are other cars on the road.
7 That's going to be the suggestion by the defense. So watch
8 for that.

9 The second thing you need to watch for is for the
10 defense to argue against a case that is not before you. The
11 defense is going to argue that this is all Meghan Seely's
12 fault. She made a left turn and the analysis is over. It
13 doesn't matter if that guy was blindfolded or drunk or going
14 a hundred miles an hour. She made a left turn so it's over.

15 That's not the case before you. And the Court is going
16 to tell you when you receive instructions that you're to
17 consider all of the proximate causes.

18 Ms. Seely has taken responsibility and the defense
19 probably doesn't like it that I'm telling you this, but the
20 defense -- the -- Ms. Seely has taken responsibility for
21 whatever part she played in the wreck a long time ago. She
22 says in her deposition; we're going to hear from her. I take
23 responsibility. And she also says, I don't think the wreck
24 would happen if he wasn't speeding. And she's going to sit
25 in that witness box, she's going to talk to y'all.

1 So if she's one of the proximate causes, and I don't
2 think she's the main cause, but if she -- even if she's one
3 of the proximate causes, she's certainly not the only
4 proximate cause because the wreck mathematically cannot
5 happen but for the admitted speed. And when you add on the
6 real speed, the more realistic speed, it's even -- it's even
7 -- it's not a close question.

8 The way I like to think about this is, I'm sure some of
9 y'all have kids and I'm sure that some of y'all have had to
10 make a volcano for science class or I did it when I was a
11 little kid. To make that volcano froth and foam that's the
12 result you want. You want it to foam, you want it to be a
13 volcano foam then you got to have two proximate causes.

14 The first proximate cause is the addition of vinegar.
15 And the second proximate cause is the addition of baking
16 soda. It don't froth without both of them. And this wreck
17 can't happen without excessive speed, admittedly of Mr. Knox.
18

19 Watch for any suggestion that Knox wasn't speeding at
20 all. Now he's already testified that -- that he was going to
21 excess speed limit and that's what the eyewitnesses are going
22 to tell you. But there may be a suggestion that there wasn't
23 any speed at all and you'll know that that's not true when
24 you listen to the evidence.

25 Well, first because he admits that he was going faster

1 than the speed limit and at a speed, even when we take his
2 downplay word for it caused the collision. But beyond that,
3 other witnesses are going to say the split second they saw
4 him right before impact he was going faster than the other
5 cars.

6 You're going to hear evidence that Ms. Seely waited,
7 exercising the same care she always does when making a left
8 turn. Two cars passed, fine. And that's when she went to
9 turn. It's only when the red truck going at high rate of
10 speed around that curve came that there was a wreck.

11 Also, pay attention if there's a suggestion that
12 there's no speed or no speeding. Look at the pictures. The
13 pictures show cars demolished, destroyed. The pictures
14 showed debris everywhere. The pictures show the truck with
15 the trailer still attached and there was a lot of speed. But
16 a truck that heavy to pull a trailer, you don't need a lot of
17 speed to do a lot of damage. Violating a law by a little bit
18 is enough to cause a lot of danger.

19 Watch for the defense to suggest or downplay the
20 evidence that Mr. Knox was on his phone. Like I said, we got
21 his phone records, we know the phone was nearby. We know he
22 was making calls that day and there's some conflicting
23 evidence about that. We don't know if the phone for sure was
24 in his hand, but at a minimum he had just made a call,
25 received a call.

1 The calls afterwards can be explained by maybe he was
2 calling people to tell them about the wreck. But it's
3 sandwiched in between a bunch of calls and there's no
4 evidence that there's any application of breaks. So if
5 you're going 25 miles per hour, you look up from, you know,
6 social media or whatever you're going to hit -- at least hit
7 the brakes, there's no evidence that's happened. So watch
8 for that.

9 Watch for the defense to attack a person's right to a
10 jury trial. Sometimes in this courtroom it happens
11 especially, the defense will say in a car wreck case
12 something like, well, they want a money judgment or this is a
13 money grabber.

14 This is all about money because that is specifically
15 the remedy the law provides when you get hurt. The law
16 doesn't provide a time machine. That's what we wish we had.
17 Our client's got permanent scars on his face, on his face.
18 He doesn't want those. He wishes he could go back in time
19 and erase them. But we don't have a time machine.

20 So when the defense starts talking about a money
21 judgment or when the subject of money comes up at all,
22 remember the words of the constitution, the 7th Amendment in
23 any controversy exceeding \$20, the right to a jury trial
24 shall be preserved.

25 That's the only right that appears in both the Bill of

1 Rights and the body of the Constitution. That's how
2 important it was to the framers. So if they bring up money
3 or start -- start talking about a money judgment, that's an
4 attack on the Constitution.

5 The final thing that I'll tell you to be aware of and
6 actually because of some stuff that happens today, there's
7 two more points. But what was going to be the last point is
8 watch for the defense to try to avoid responsibility by
9 talking about an issue that Ms. Seely, the driver had with
10 her left eye. You're going to hear that she had or has was
11 called a coloboma, hope I'm pronouncing that correctly.

12 And it's where the iris doesn't -- some of the tissue
13 -- tissue from the iris is missing just -- it's a birth
14 defect. That means that she has diminished vision in that
15 eye. And that's an easy crutch for the defense because they
16 can say, we'll look at her left eye.

17 The only problem is there were seven other eyes in the
18 car and they all saw this red truck barreling down the road
19 toward them at the exact same time right before the impact,
20 is what the defense describes as a split second.

21 Because he made up so much ground so quickly. If you
22 hear anything about the eye at all that's trying to shift the
23 focus away from the reckless conduct of the defendant,
24 because it was dangerous conduct, it was reckless conduct,
25 it's excessive speed. And regardless of her eye or anything

1 she's got going on with her left eye, it doesn't change the
2 fact that mathematically the wreck can't happen but for the
3 excessive speed.

4 Keep in mind, Seely lives in the area. She makes that
5 turn all the time. She's never had a wreck before, never had
6 a wreck since at that turn. And it's only when Mr. Knox came
7 toward her with the trailer in tow exceeding the speed limit
8 that there was a wreck.

9 There's going to be an attempt in this case to attack
10 my client's character. That's common. And when that happens
11 it's not going to be -- it's not going to be fun. for us,
12 you know, I care about my client, I represent him. An attack
13 on his characters coming. They're going to attack life
14 decisions he's made. And that's -- that's up to them if they
15 -- if they go there.

16 But I want you to keep in mind that we all have access
17 to the justice system. When you're riding in a car, minding
18 your own business and a truck coming towards you around a
19 curb in a high traffic area at peak traffic hours is not
20 following the speed limit, it doesn't have anything to do
21 with life decisions and life choices.

22 Now it's time for me to sit down, y'all probably happy
23 for that. And Ms. Tankersley's going to come up here and
24 talk to y'all for the defense. But before I sit down, I want
25 to say that, you know, it's been eight years. There's never

1 been any accountability or responsibility at all.

2 Mr. Knox didn't even go to check on them after the
3 wreck. He didn't go to the hospital, he never called, nobody
4 from Southern Lawn Care called, nobody did anything and all
5 he was doing was riding in the car, minding his own business.
6 So before I sit down, I hope that the first thing the defense
7 comes up here and does and says we're sorry and we take full
8 responsibility. And with that, I'll turn it over to you, Ms.
9 Tankersley.

10 MS. TANKERSLEY: Good afternoon, y'all. I'm Jeanmarie
11 Tankersley. I'm here on behalf of the defendant Andre Knox.
12 He is the defendant in this case. He's the one that is being
13 sued. I usually keep these opening statements pretty quick,
14 pretty simple. So I'm going to hopefully do that with y'all
15 here today.

16 We are here today and -- and for the next couple days
17 because of a car accident that happened way back in June of
18 2017. We believe very simply and that the evidence that
19 you're going to hear is going to show that Andre did not
20 cause this accident. He is not responsible for plaintiff's
21 damages.

22 Before we get started in the case, I want to explain a
23 few things about the trial process. Dustin Lucas is suing
24 Andre Knox as the judge. And both Mr. Hawkins have explained
25 is a civil action is not a criminal action which means that

1 what we're dealing with in this case is money, not jail time
2 or anything like that. The -- the plaintiff is asking for --
3 for money, they're asking for damages. In this case Mr.
4 Lucas brought this lawsuit.

5 So that means he goes first, as his attorney got to
6 present opening statements first, he'll get to present
7 witnesses first and we follow, we go second.

8 He has the burden of proof in this case. So he, Dustin
9 has to prove to you beyond a preponderance of the evidence
10 that Andre caused the accident that we're here about today.
11 And that that accident caused him the physical injuries that
12 he's alleging. As a defense we don't have to -- we don't
13 have to prove that he didn't cause the accident. He has to
14 meet his burden.

15 I want to be clear that nothing that Mr. Hawkins or I
16 say to you, an opening statement or closing arguments is
17 evidence in this case nothing about he said driving 50 miles
18 per hour that he was potentially texting and driving, maybe
19 looking at an iPad, none of that is evidence. The only thing
20 that is evidence in this case is what you'll hear from the
21 witnesses, what -- that you will see in exhibits.

22 And I believe that the evidence is going to show that
23 on the day of the accident, Mr. Lucas let his girlfriend at
24 the time who was named Meghan Seely drive his vehicle. They
25 were a party at a friend's house. when they decided to take

1 who were essentially two strangers, two people that they met
2 at that party to Walmart.

3 At the same time, my client, Andre Knox, who was
4 employed by Southern Lawn Care, as you heard as -- in a
5 landscaping company.

6 He was driving from MasterTech Automotive on Rutherford
7 Road down this small road called Tappan Drive. He was
8 driving towards Wade Hampton straight down the road. This
9 was a three-minute drive that he was on the road for.

10 I think the evidence is going to show that Andre was
11 driving safely, that he was driving responsibly. There are
12 certainly no evidence he's going 50 miles per hour or an
13 excessive speed or was a reckless driver in any way.

14 What happened is, Meghan Seely quickly approached the
15 entrance to the Walmart. She failed, failed to see my client
16 driving. She illegally turned in front of him on double
17 yellow lines and she caused this accident.

18 You're going to hear from the plaintiff. You're going
19 to hear from my client. You're going to hear from the
20 investigating officer. Potentially you're going to hear from
21 Meghan Seely. And I think based on the information that you
22 hear, which will be the evidence in this case, you'll be
23 asked to determine if the plaintiff proved his burden, if he
24 proved that my client was responsible for this accident.

25 And at the end of the trial, the plaintiff's attorney

1 is going to ask y'all for thousands of dollars to enter a
2 verdict against my client for pain and suffering and for
3 damages for his client for an accident that my client Andre
4 did not cause.

5 What I'm asking you to do is look at the evidence that
6 you'll be presented with over the next couple of days and
7 find in favor of Andre Knox because he did not cause this
8 accident, Meghan Seely did.

9 This is not a he said, she said, my light was red. No,
10 my light was -- or my light was green -- my light was green,
11 your light was red. We know what happened in this case.

12 If Meghan Seely had looked and waited and seen the
13 traffic that was coming in the oncoming lane and not crossed
14 over double yellow lines in front of my client then this
15 accident absolutely never would have happened. So at the end
16 of the trial we're going to ask that you find in favor of
17 Andre Knox. Thank you for your time.

18 THE COURT: All right. Plaintiff, you may call your
19 first witness.

20 MR. HAWKINS: Your Honor, that was the issue we brought
21 to the Court's attention. Do you want to wait till tomorrow?
22 I -- I asked you do you want us to call him today or do you
23 want --

24 THE COURT: Oh, well I misunderstood. I thought, you
25 know -- okay. I misunderstood what you said then. All

1 right. Ladies and gentlemen, I'm going to have to figure
2 this out because obviously we weren't on the same page. Step
3 back in your jury room. Go ahead and just don't discuss the
4 case, but go ahead and pick a fore person and then when you
5 pick that person, write it on a piece of paper and then give
6 it to the bailiff. Okay.

7 THE BAILIFF: You're clear, sir.

8 THE COURT: All right. And I guess I didn't -- I
9 misunderstood. I didn't think you were talking about your
10 first witness. You didn't say it was your first witness. I
11 thought you were like, are we going to have enough time to
12 call one at the end, some 30-minute witness? I didn't take
13 it to mean this was going to be the first witness, sir.

14 MR. HAWKINS: Yeah, I'm -- I'm sorry, your honor. We
15 had --

16 THE COURT: I mean it's 3:30. I don't want to break at
17 3:30.

18 MR. HAWKINS: Well, we could call him and tell him, no,
19 you do need to come. We were on the phone with him and
20 that's -- that's why I asked the Court, you know, because we
21 were telling him to be here at 3:30.

22 THE COURT: Oh, see I didn't -- that -- that was -- I
23 thought you meant like some other, you know -- maybe your
24 second witness. That's kind of -- I thought -- I guess I
25 assumed that.

1 MR. HAWKINS: Yeah, that -- that's why I brought the
2 Court's attention because it -- I knew he would not be that
3 long, but I didn't know if you wanted to put him at the end
4 of the day. And so --

5 THE COURT: I definitely would've had him now.

6 MR. HAWKINS: Right. That's what I was thinking. That
7 it makes practical sense to --

8 THE COURT: So I guess, you know -- if he can get here,
9 if not, you're going to have to call another witness.

10 MR. HAWKINS: I -- we don't have one we can call.

11 THE COURT: You have your client?

12 MR. HAWKINS: The trooper's not -- his is going to take
13 a long --

14 THE COURT: I mean, we, we we're not going to stop at
15 3:30.

16 MR. HAWKINS: Okay. Well we'll call the defendant then
17 if that's what the Court's ruling --

18 THE COURT: Yeah, we need to -- I mean we need to move
19 -- at least call one moment.

20 MR. HAWKINS: Okay.

21 THE COURT: So let's take a short break then. And I'm
22 sorry I didn't -- that's not what I took your question to
23 mean.

24 MR. HAWKINS: Okay. We'll see -- we'll see if we can
25 get a hold of him. If not then we'll move forward with it.

1 (RECESS TAKEN)

2 THE COURT: Okay. All right. Back on the record. I
3 do have -- we have the foreperson is Michael Cheek (ph),
4 number 43. So I'll put that as Court's Exhibit 1.

5 (Court's Exhibit 1 admitted into evidence)

6 THE COURT: Since I obviously misunderstood Mr. Hawkins
7 and in the end he relied on that, I'm going to go ahead and
8 tell the jury that we're going to break for the day, let you
9 call your witness in the morning. So -- and I'd just like to
10 apologize for that. It's just -- it's too many little
11 things, thinking about here. So we're going to -- I'll bring
12 the jury out and tell them that. And actually it's 10:04 now
13 anyway, so bring them out. And plaintiff ready for the jury?

14 MR. HAWKINS: Ready for the jury, your Honor.

15 THE COURT: Defendant?

16 MS. TANKERSLEY: Yes.

17 (JURY ENTERS)

18 THE COURT: All right. Mr. Cheek, I understand you
19 have been appointed as a foreperson, so thank you for serving
20 in that capacity. I forgot to tell you, you don't get paid
21 any more than the rest of them. So as far as seating and the
22 bailiff probably already told you is you have a special seat
23 and the alternates have special seats. The rest of you can
24 sit wherever you need to.

25 Now my wife accuses me of not hearing things that she

1 tells me. And I think now Mr. Hawkins can probably accuse me
2 of that as well. Because what he told me when -- what I
3 heard was totally two different things and I did -- I -- he
4 -- he had another witness coming that he was going to start
5 with today and I didn't hear it that way, and so I told him
6 we wouldn't have time for it.

7 So therefore that witness -- he was told to come in the
8 morning. So that's totally my fault because that's what he
9 told me. Just like I said, as my wife says, I just mishear
10 things sometimes. So blame that on me. But it gives you --
11 we won't -- so we'll go ahead and break early for the day.
12 And we'll start back at 9:30 in the morning. Is that good
13 with everybody?

14 All right. Four rules. Don't discuss the case among
15 yourselves or anyone else. Don't do any type of research.
16 Do not pay any attention, any media or social media if there
17 is any on this. And if anybody contacts you other than
18 somebody from the clerk's office, and let the bailiffs know
19 in the morning. Otherwise, y'all have a good evening. See
20 y'all in the morning.

21 (JURY EXITS)

22 THE COURT: All right. Anything else from the
23 plaintiff?

24 MR. HAWKINS: (Inaudible).

25 THE COURT: Is the door closed?

1 THE CLERK: Yes.

2 THE COURT: Yeah. Okay. Anything else from the
3 defense?

4 MS. TANKERSLEY: No, your Honor.

5 THE COURT: And if y'all could -- and I know this is a
6 little bit early, but any jury charges that y'all could send
7 to my law clerk because he's not going to be here on
8 Wednesday, so.

9 MR. HAWKINS: Okay.

10 THE COURT: I'd like him to get as much of that done
11 beforehand, especially like the various statutes that you
12 plan on -- that you had indicated.

13 MR. HAWKINS: Yes, your Honor. Yes, your Honor.

14 THE COURT: Okay. All right. See y'all in the
15 morning.

16 MR. HAWKINS: Thank you, Judge.

17 THE COURT: And like I said, we -- we've got -- because
18 of another engagement I have, I'll probably break about four
19 o'clock tomorrow. So just plan accordingly.

20 (RECESS TAKEN)

21 (JURY ENTERS)

22 THE COURT: Thank you. Thank you. Please be seated.
23 All right. Good morning, everyone. Plaintiff for -- I've
24 been to many criminal trials. I keep wanting to call you the
25 State. Is the State ready?

1 MR. HAWKINS: State's ready.

2 THE COURT: Defendant's ready?

3 MS. TANKERSLEY: Yes, your Honor.

4 THE COURT: All right. Let the jury in.

5 MR. HAWKINS: Your Honor, should we go get our witness
6 while they're coming in?

7 THE COURT: You ought to.

8 MR. HAWKINS: Okay.

9 (OFF THE RECORD)

10 THE COURT: You ready, sir?

11 MR. HAWKINS: Yes.

12 THE COURT: Come in. Good morning ladies and
13 gentlemen. Hope everybody had a good evening, as we will now
14 begin the evidentiary stage of the trial. So plaintiff, Ms.
15 Hawkins, you may call your first witness.

16 MR. HAWKINS: Thank you, Judge. May please the Court?
17 We call Cuddy Miller.

18 THE COURT: You'll come forward to be sworn.

19 THE CLERK: Place your left hand on the Bible and raise
20 your right hand. CODDY MILLER, first being duly sworn, were
21 examined and testified as follows:

22 THE CLERK: State your name?

23 THE WITNESS: Cuddy Miller.

24 THE CLERK: Thank you. Please be seated.

25

1 DIRECT EXAMINATION BY MR. HAWKINS:

2 Q. Mr. Miller, how are you?

3 A. I'm 30 -- 33.

4 Q. How are you?

5 A. Oh. Oh, how -- I'm doing good.

6 Q. Not -- hey, I went to Blue Ridge, man, it's my fault,
7 you know. Well, so you're 33 and you're doing well?

8 A. Yes.

9 Q. Okay. All right. I'm going to talk to you about a
10 wreck that happened in 2017. You know the wreck I'm talking
11 about?

12 A. Yes.

13 Q. Okay. Are you the owner of Southern Lawn Care?

14 A. Yes, I am.

15 Q. Okay. And you were the owner back then?

16 A. Yes.

17 Q. Okay. Now I want to talk to you a little bit about the
18 truck involved in the wreck.

19 A. Okay.

20 Q. Okay. Obviously because of the wreck, you don't have
21 the truck anymore?

22 A. Correct.

23 Q. Okay. And after the wreck, did the truck go to the
24 junkyard?

25 A. It could have been salvaged. We decided not to salvage

1 it, so we got the insurance claim.

2 Q. And so -- but you don't -- you don't use the truck
3 anymore. I mean, you never were able to use it after that,
4 right?

5 A. No.

6 Q. Okay. And that would be consistent, the -- the -- the
7 -- I guess the damage, the catastrophic damage on that truck,
8 it would be consistent with what you observed with all three
9 vehicles when you went to the scene on June 17th. Is that
10 fair to say?

11 A. Yeah. That's fair to say.

12 Q. Okay.

13 MS. TANKERSLEY: Objection, your Honor. This -- this
14 has all been leading questions thus far.

15 THE COURT: Sustained.

16 MS. TANKERSLEY: Thank you.

17 MR. HAWKINS: Thank you, Judge. I'll try to be more
18 open-ended.

19 BY MR. HAWKINS:

20 Q. Does this photograph seem consistent with what you
21 observed when you went to the scene of the collision?

22 A. I did not see that because I was not there, but they
23 had it -- I mean, that's -- that's what was in the scene.

24 Q. What -- so you went to the scene but you didn't see
25 from this view? Is that what --

1 A. I didn't see from that view.

2 Q. Okay. All right. Well, is that consistent with what
3 the scene looked like? I mean, is that the right place and
4 all that?

5 A. Correct.

6 Q. Okay. Is that fairly and accurately depict the scene
7 at the time of the collision or shortly thereafter?

8 A. Correct.

9 MR. HAWKINS: Okay. Your Honor, I may have this in
10 evidence. And I think it -- I think it's even pre-marked.

11 MS. TANKERSLEY: I -- I haven't -- I don't know if this
12 is -- Yeah. I don't have any objection to it, but it hasn't
13 been marked yet.

14 THE COURT: Okay.

15 MR. HAWKINS: I'll (inaudible).

16 MS. TANKERSLEY: Uh-uh.

17 MR. HAWKINS: Okay.

18 THE COURT: Take this off then. Does it have a marker
19 on it?

20 MS. TANKERSLEY: No.

21 MR. HAWKINS: No. It -- it's got one of our tags. I'm
22 just going to take it off real quick.

23 BY MR. HAWKINS:

24 Q. Okay. Now, did you witness -- was the firetruck
25 already there when you got there?

1 A. Was the firetruck already there when I got there? Yes,
2 it was.

3 Q. It was? Were -- were there multiple ambulances there
4 when you got there?

5 A. I'm not sure.

6 Q. Okay. Well, it's been a while.

7 A. Yeah. I'm -- I'm really not sure.

8 Q. Okay. Did you witness -- and you can see the -- the
9 firemen right here at this -- at this door. Did you witness
10 them cut that -- that rear door off?

11 A. I did not witness it.

12 Q. Okay. Did you notice anything about any of the airbags
13 or anything?

14 A. No, I didn't really get near the vehicle.

15 Q. Okay. I had asked you questions about -- I had asked
16 you questions about the -- the weight of the vehicle and the
17 kind of vehicle it was. Was this a super duty?

18 A. I'm not a hundred percent, but I -- I know it's a Ford
19 F250 7.3 diesel.

20 Q. Okay. Well, the reason I ask you is when I thought it
21 was in -- in your deposition, you corrected me, but then I
22 went back and I looked at some documents and I want to show
23 you this. These are documents related to your -- your truck
24 that was destroyed, correct?

25 A. Correct.

1 Q. Okay. And does that appear to be your truck?

2 A. Yes. Is that -- yes. That -- that sounds about
3 accurate. Yes.

4 Q. Okay. And you can see super duty is written here?

5 A. Yes.

6 Q. Okay. After reviewing these documents, can we agree
7 that this was a Ford super duty F-250 and the appropriate
8 weight for a Ford super duty F-250. Can we agree on that?

9 A. Yeah, we can agree on that.

10 Q. Okay, great. This truck, did it have any hands-free
11 technology?

12 A. No.

13 Q. So on this truck, is it fair to say that if one wanted
14 to use the phone for any reason, that person would have to
15 have the phone in their hand?

16 A. Correct.

17 Q. And that would be true if they were texting while they
18 were driving?

19 MS. TANKERSLEY: Objection, your Honor.

20 THE COURT: Sustained.

21 MS. TANKERSLEY: Thank you.

22 BY MR. HAWKINS:

23 Q. Would that be true if they were texting while they were
24 driving?

25 MS. TANKERSLEY: Same objection --

1 MR. HAWKINS: That's not a leading question.

2 THE COURT: That is a leading question.

3 BY MR. HAWKINS:

4 Q. Would that be true -- okay.

5 THE COURT: Just ask for yes or no.

6 BY MR. HAWKINS:

7 Q. Oh, okay. Thank you, Judge. If someone wanted to text
8 while they were driving this car, would that require them to
9 use their hands?

10 A. Yes.

11 Q. Okay. All right. If someone wanted to look at social
12 media while they were driving --

13 MS. TANKERSLEY: Objection, your Honor. Not only is it
14 leading, there's no foundation for these types of questions.

15 THE COURT: Yes. Sustained.

16 BY MR. HAWKINS:

17 Q. Do you have a smartphone?

18 A. I do.

19 Q. Does it have social media on it?

20 A. Yes.

21 Q. Did Mr. Knox have a smartphone when he worked for you
22 in 2016 and '17?

23 A. Yes.

24 Q. Okay. Are you all friends on Facebook?

25 A. Yes.

1 Q. Okay. Have you all ever used Facebook Messenger with
2 each other?

3 A. Yes. But not back then.

4 Q. Have you all ever texted each other?

5 A. Yes.

6 Q. Okay. Did you all frequently text at the time of the
7 collision?

8 MS. TANKERSLEY: Objection. Your Honor, there's no
9 foundation for asking any questions about social media or
10 texting in this case.

11 THE COURT: I'm going to let him go a little further.
12 Overruled.

13 BY MR. HAWKINS:

14 Q. Did you all send text messages to each other back in
15 2016 and '17 at the time when he, Mr. Knoxville routinely
16 drive your company's work truck?

17 A. No.

18 Q. You all didn't send any text messages back and forth?

19 A. Morning -- morning we did, but not -- morning we did,
20 but not after -- when he -- when I left him, we did not.

21 Q. Okay. Did Southern Lawn Care for you or the defense
22 that you know about bring any data related to the text
23 messages from that time period --

24 MS. TANKERSLEY: Objection, your Honor. This is
25 (inaudible).

1 THE COURT: Yes. Sustained.

2 MR. HAWKINS: Your Honor, can we approach?

3 THE COURT: Yeah.

4 (OFF THE RECORD)

5 THE COURT: Ladies and gentlemen, we're going to have
6 to take up a matter outside your presence, so don't discuss
7 the case and we'll bring you back out in just a few minutes.

8 (JURY EXITS)

9 (OFF THE RECORD)

10 THE BAILIFF: We're clear, sir.

11 THE COURT: All right. Now I'm just arguing back and
12 forth here. I just wanted to figure out, since that's
13 obviously a big issue. So your position on this?

14 MR. HAWKINS: Your Honor, my position is, one of our
15 claims is that, there's evidence to suggest Mr. Knox was
16 distracted while he was driving. We know from his phone
17 records that his phone was nearby. I'm entitled to ask, did
18 you all frequently text at the time the collision took place?

19

20 She, on cross-examination can say, "Were you texting
21 while he was driving?" And he can say, "No," if that's the
22 answer, but I think I'm entitled to build our claim on that,
23 about whether or not there's a -- they texted generally
24 during the time. Just because it's bad for her case, she
25 doesn't get to say I don't get to ask a question about it.

1 THE COURT: Well, I mean you asked that and he's
2 answered it. I -- but you almost sound like you were trying
3 to, I'm not sure, create almost like he was an expert and
4 that he -- you were trying to create this whole speculation
5 through him. Even though from what I understand, there's no
6 evidence that he was texting.

7 MR. HAWKINS: Well, your Honor, we asked for all
8 evidence related to the claims and discovery and we asked --
9 we tried to get all the evidence related to the phone data
10 and the only thing we could get from Verizon was the calls.
11 They left all the text data out. So if that evidence is
12 missing, she can say that's missing. But I -- I'm entitled
13 to say we asked for it and we haven't gotten it from anybody.
14 I mean, if he was -- the fact that they don't include text
15 message data when they send you phone records is not my
16 fault. I try to get the evidence related to that. If
17 there's evidence that he had his phone in his hand and he was
18 using it and he never hit the brakes --

19 THE COURT: But this guy doesn't know what they
20 produced. You asked him, "Do you know that your defense --
21 this defense hadn't produced that or we've asked for?" That's
22 -- that's not a proper question to this guy. He's not the
23 defendant. He's not -- I mean; I know he was connected at
24 one time with this defendant. But I mean, this is not your
25 chance to argue hiding the ball discovery, which is what you

1 sound like you're doing to this jury through this witness.

2 MR. HAWKINS: Yes, your Honor.

3 THE COURT: So --

4 MS. TANKERSLEY: And I'm going to get ahead of this,
5 your Honor. He subpoenaed Verizon's phone records however
6 many years after the accident. Verizon only keeps the call
7 sheet after a certain amount of years. They produced to him
8 what they had available. We were not asked to produce
9 certain text messages or anything like that, nor would we
10 have them 5, 6, 7 years after the accident.

11 So there has been no allegations that we've withheld
12 anything in discovery. There is no basis for alleging that
13 we've withheld anything in discovery or that we're being
14 dishonest about this at all. What he's doing is trying to
15 get the jury to think, oh, there's this missing evidence that
16 they're keeping from them and there's no basis or foundation
17 for that at all.

18 And if his argument is, I get to ask, "Does he text
19 regularly before this accident? Does he text regularly after
20 this accident?" Then certainly I can ask his client, "Did you
21 take heroin regularly before this accident? Did you take
22 heroin regularly after this accident?" Then the jury can
23 infer that he took heroin on the day of the accident.

24 MR. HAWKINS: Your Honor, except that heroin has
25 nothing to do with the wreck, hates he does. If there was

1 texts going back and forth that has -- that's directly
2 related to the wreck, if my client has struggled with
3 addiction issues in the past, that has nothing to do with the
4 wreck here --

5 THE COURT: You -- you can ask this guy if he texts
6 with him at the time. I'm not going to let you get into the
7 fact that, oh you didn't -- because that's where you were
8 going. You were -- you basically -- your question accused
9 them of hiding text and that's not appropriate.

10 MR. HAWKINS: Yes, sir.

11 THE COURT: You can ask if he texts and what he knows
12 about texting with the defendant, but I'm not going to let
13 you get into, you know, use this as a speculation so you can
14 argue to the jury later, "Oh, they didn't provide us with
15 that."

16 MR. HAWKINS: Yes, your Honor.

17 THE COURT: So, all right. You clear? All right.
18 Bring the jury.

19 MR. HAWKINS: Can I come back to the podium?

20 THE COURT: Yeah. Oh, what I was telling you was that,
21 that document reader right there, that elbow thing sticking
22 up and put the (inaudible).

23 MR. AHMAD: Oh, this here?

24 MR. HAWKINS: Exactly, yeah. Always have to turn it
25 on. Huh?

1 MS. TANKERSLEY: Don't get to wear seatbelts.

2 MR. AHMAD: Just -- so just use it.

3 THE COURT: If you want me -- now, that's what I was
4 pointing to publishing there.

5 MR. AHMAD: Yeah. It'll project it.

6 THE COURT: It just has to take a second to come off.

7 MR. AHMAD: Got it. Thank you.

8 THE COURT: And you just have to last know if you want
9 it, and when you get ready to use it, that's all.

10 MR. AHMAD: Yes, your Honor.

11 MR. HAWKINS: Your Honor, are you ready, sir?

12 THE COURT: Yes.

13 (JURY ENTERS)

14 THE COURT: All right. You may proceed.

15 BY MR. HAWKINS:

16 Q. Thank you, Judge. We were talking about your
17 communications with Mr. Knox. So I want to ask you about you
18 all's phone calls with each other. Did you and Mr. Knox
19 frequently communicate on the phone since he was your
20 employee in 2017?

21 A. Yes.

22 Q. Okay. Would you all ever talk to each other -- if you
23 were working at a property together, would you ever call each
24 other from one side of the property to the other? Would
25 there ever be a need for that when you're in someone's yard?

1 A. Yes. If we can't -- if we can't see each other and we
2 need proper communication.

3 Q. Did you ever see any -- when you went to the scene of
4 the collision, did you ever see any evidence of skid marks?

5 A. No.

6 Q. Okay. Do you know if there's any evidence or document
7 anywhere of -- of any application of brakes or skid marks on
8 in this collision?

9 A. I'm not sure.

10 Q. Okay. Well, I -- what I want to know is, do you know
11 of any evidence that exists? Because we haven't seen any, if
12 there is, I want to know if you know about it.

13 A. I do not.

14 Q. Okay. The -- the brake -- the -- let's talk about the
15 trailer that was attached to the F-250. Okay. Was the --
16 the trailer that was attached to the F-250, was that a -- a
17 double axle 24 foot trailer?

18 A. I'm not sure of the length, but yeah, it was a double
19 axle.

20 Q. Was this trailer designed to -- to haul multiple pieces
21 of equipment at a time? In other words, could you put more
22 than one riding lawnmower on this trailer if you wanted to?
23 I mean, it's --

24 A. You can put two.

25 Q. Okay.

1 A. Two (inaudible).

2 Q. Okay. All right. And in this picture even, there's
3 one of the -- is that a scag? The -- the 54 inch scag riding
4 lawnmower on there?

5 A. Yeah, that's a 52 inch.

6 Q. Okay. And when you say you can fit two, you're talking
7 about this room right back here? This -- the trailer's about
8 halfway filled up with this one and you can fit another one
9 behind that?

10 A. Correct.

11 Q. Okay. Do you have any idea how much those weigh?

12 A. I do not.

13 Q. Did I ask you about the trailer brakes? Was this --
14 was this trailer equipped with trailer brakes?

15 A. I'm not sure.

16 Q. Okay. I'm going to hand you a copy of your deposition.
17 Here.

18 THE COURT: You can open it. You can open it.

19 MR. HAWKINS: Okay. Oh, I can use it -- this copy?

20 THE COURT: Yes.

21 MR. HAWKINS: Okay.

22 THE COURT: We have to keep the official copy sealed
23 until we get the Court.

24 BY MR. HAWKINS:

25 Q. Go to your deposition at page 7.

1 MS. TANKERSLEY: Josh, do you mind just swapping with
2 him since he has the official copy and you have your copy?

3 MR. HAWKINS: I have the official copy.

4 MS. TANKERSLEY: No. So he has the official copy to
5 read (inaudible).

6 MR. HAWKINS: Sure.

7 BY MR. HAWKINS:

8 Q. Okay. Go -- go to page 6. And I'm going to -- I'm
9 going to start on line 24. I'm just going to read the
10 question that I asked and it spills over and you give me your
11 answer. Okay. I said it was only standard ball or two ball
12 quarter inch or was it three eighths? And what was your
13 response on page 7? At line 1?

14 A. Yeah. With trailer brakes.

15 Q. Okay. So in addition, and the reason this is important
16 is because we, you know, we're talking about evidence that
17 the any effort was made to stop the truck. Did you see any
18 indication when you went to the scene of the collision of the
19 use of truck brakes or of trailer brakes? Did you see
20 evidence of either one of those brakes being used?

21 MS. TANKERSLEY: Objection, your Honor. He's kind of
22 getting into accident reconstruction expert testimony here.

23 MR. HAWKINS: Whether or not there are skid marks is
24 not accident reconstruction.

25 THE COURT: That's not what you asked though.

1 BY MR. HAWKINS:

2 Q. Okay. Did you see skid marks from the trailer or the
3 truck?

4 A. I mean, I pulled up. I mean, I was looking for skid
5 marks.

6 Q. Okay. Did you see any skid marks at the scene of the
7 collision from the truck where the trailer --

8 A. I guess not.

9 Q. Okay. And the -- the I -- if I recall correctly, the
10 force of this collision bent the frame of your F-250. Is
11 that -- is that fair to say?

12 A. Yes.

13 Q. Have you ever had -- when Knox was working for you,
14 have you ever had any issues with Knox not showing up to
15 work?

16 MS. TANKERSLEY: Objection, your Honor.

17 MR. HAWKINS: Your Honor, this goes directly to
18 credibility. If he says he's going to be at working today,
19 it doesn't show up.

20 THE COURT: We're not going to be editorializing when
21 she's made an objection, okay?

22 MR. HAWKINS: Yes, your Honor.

23 THE COURT: So all I'd like to hear your objection.

24 MS. TANKERSLEY: I don't understand the relevance of
25 him coming to work at any given day. It's not the accident.

1 THE COURT: Yeah, this is -- I mean, this --

2 MR. HAWKINS: That's what I was trying to give.

3 THE COURT: I -- but it's all right. Now I'm going to
4 sustain the objection case. I think 404B and it's not -- I
5 -- I sustained the objection.

6 BY MR. HAWKINS:

7 Q. Did Knox recently have a interview scheduled with your
8 father?

9 MS. TANKERSLEY: Objection, your Honor. Relevance?

10 THE COURT: Sustained.

11 BY MR. HAWKINS:

12 Q. All right. I'll ask you this question then.

13 THE COURT: And let's refrain from making faces, please
14 when I rule.

15 MR. HAWKINS: Yes, your Honor.

16 BY MR. HAWKINS:

17 Q. Did you ever impress upon Andre Knox the importance of
18 following safety rules when he was driving your company
19 truck?

20 A. Yes, I'm the one that trained him.

21 Q. Okay. Well, let's talk about what company policy
22 requires during the operation of one of these heavy work
23 trucks. Okay. Is that fair?

24 A. That's fair.

25 Q. Do you expect employees like Mr. Knox to follow basic

1 traffic laws?

2 MS. TANKERSLEY: Objection, your Honor. All of these
3 are leading questions.

4 THE COURT: Sustained. Leading.

5 BY MR. HAWKINS:

6 MR. HAWKINS: See, yes. I -- I don't know how to ask a
7 yes or no -- I mean; I don't know how it could be more yes or
8 no with that question. It did -- or do you expect them to
9 follow traffic laws; is that leading?

10 THE COURT: Yeah, you just ask you a different way.

11 BY MR. HAWKINS:

12 Q. Okay. Are employees required to follow traffic laws?

13 MS. TANKERSLEY: Same question.

14 THE COURT: I have allowed him.

15 THE WITNESS: Yeah, he was my only employee. I trained
16 him.

17 BY MR. HAWKINS:

18 Q. Okay. If -- if an employee's driving one of your
19 trucks and they're driving down Tappan Drive, do you expect
20 them to follow the speed limit?

21 A. Yes, everybody should.

22 Q. Okay. Is it fair to say that that is when within the
23 policy of how you run your company?

24 A. Yes.

25 Q. Okay.

1 A. It's the law.

2 Q. Okay. Right. That's -- that's what I'm getting to.

3 So if somebody violates the speed limit of 25 miles per hour,
4 not only would that be a violation of law, but is it fair to
5 say that also be a violation of your company policy?

6 A. My company policy? I wasn't -- I wasn't there though.
7 I don't know how fast it's gone.

8 Q. No. I'm asking you if somebody violates the -- the
9 speed law, is that also a violation of company policy since
10 you require employees to follow the speed limit?

11 A. Yes.

12 Q. Okay. Now, do you expect employees to use appropriate
13 care when they're traversing turns and curves?

14 MS. TANKERSLEY: Objection, your Honor. These are all
15 inappropriate hypotheticals.

16 MR. HAWKINS: Your Honor --

17 MS. TANKERSLEY: He can only testify to the things that
18 he's aware of.

19 THE COURT: Right. Sustained.

20 MR. HAWKINS: Your Honor, can we approach?

21 THE COURT: I send the -- I mean, okay, come on.

22 (OFF THE RECORD)

23 MR. HAWKINS: Thank you, Judge.

24 BY MR. HAWKINS:

25 Q. What's the company policy regarding texting and driving

1 also?

2 A. We don't allow it.

3 Q. Okay. Now is that consistent with South Carolina
4 statute that prohibits texting and driving?

5 A. Yes.

6 Q. Okay. This area where we're talking about, you -- you
7 familiar with this area Tappan Drive?

8 A. No. No, what's Tappan Drive.

9 Q. Well, Tappan Drive is the road where the wreck
10 happened.

11 A. Oh, oh, oh, that's the road? Yes.

12 Q. Yeah.

13 A. Yes, I drive it every day.

14 Q. Yeah. And then what's the speed limit on the road?

15 A. 35.

16 Q. It's 25.

17 A. Okay. I -- I don't believe that -- there's no speed
18 limit on the sign on that road. I don't think.

19 Q. This appear to be Tappan Drive.

20 THE COURT: No. Can you mark it?

21 MR. HAWKINS: I -- I'm -- I'm not introducing. Yes,
22 I'm blaming the foundation.

23 THE COURT: Okay. But you -- when you identify it, you
24 have to have it marked to, you know, what you're referring
25 to?

1 MR. HAWKINS: Well, if it gets into --

2 THE COURT: (Inaudible) that way?

3 THE COURT: Yes, 25 minutes.

4 BY MR. HAWKINS:

5 Q. Okay. That's Tappan Drive and the speed limit's 25
6 miles an hour.

7 A. Okay.

8 Q. Right?

9 A. Yes.

10 MR. HAWKINS: Okay. Marked that as Plaintiff's 2.

11 THE COURT: Is this -- oh, is this in -- is this --

12 MS. TANKERSLEY: I -- I haven't seen it.

13 MR. HAWKINS: Same one we talked about.

14 THE COURT: All right.

15 MS. TANKERSLEY: No objection.

16 THE COURT: No objection. Okay. Same without
17 objection. That's Exhibit?

18 MR. HAWKINS: Two.

19 (Plaintiff's Exhibit 2 marked for identification)

20 BY MR. HAWKINS:

21 Q. All right. This -- this area that we're talking about
22 on Tappan Drive, you -- you know what I'm talking about now?

23 A. Yes.

24 Q. Okay. Is Tappan Drive between your office on
25 Rutherford and Wade Hampton Boulevard, is it run between

1 those two thorough affairs?

2 A. Yes.

3 Q. Okay. This area, and you -- and you can see some of
4 the -- some of the businesses back here, or is that the other
5 side of the road from where Walmart is?

6 A. Yes.

7 Q. Okay. Is this area packed with businesses and business
8 entrances and exits?

9 A. Yes.

10 Q. Okay. Is it important for your employees -- well, let
11 me ask you this. Do -- because of where your office is
12 located, do your employees often have to traverse, Tappan
13 Drive?

14 A. No.

15 Q. Okay. Even though it's in close proximity to your
16 office, you're -- you're telling me your employees don't use
17 that road?

18 A. They go that road on the way back.

19 Q. On the way back from a job. Okay. Is that a yes?

20 A. Yes.

21 Q. Okay. All right. So let me rephrase that then. Do
22 your employees typically use tap in drive when they come back
23 to your shop?

24 A. Yes.

25 Q. Okay. Is it important for your employees to go no

1 faster than 25 miles per hour on tap in drive?

2 A. Yes.

3 Q. And is that because the area is loaded with restaurants
4 and shops and businesses that people are constantly
5 accessing?

6 A. Yeah, they should probably be on.

7 Q. Okay. Is traffic in this area typically heavy around
8 5:00 p.m.?

9 A. Yes.

10 Q. Is your understanding that this wreck happened or did
11 you get the -- the alert that this wreck had happened at
12 about 5:00 p.m.?

13 A. I'm not exactly what -- not sure what time it happened.

14 Q. Look at your deposition on page 32. And then look at
15 lines 2 through six. Okay. Now you agree with me a minute
16 ago that the -- the traffic is in fact heavy. I mean, it's
17 probably the heaviest. Is the traffic to your -- to your --
18 the best of your knowledge heaviest around five o'clock?

19 A. Yes.

20 Q. Okay. Do you remember what you were doing when you got
21 the alert that the wreck had taken place?

22 A. I dropped him off, went to Texas Road House. We had no
23 communication. When I got to Texas Road House, two minutes
24 down the road, he called me after the -- after he got wreck
25 and said, "You need to come down here."

1 Q. What were you doing at Texas Road House?

2 A. Bachelor party.

3 Q. All right. So are you telling me that you had worked
4 with Andre earlier that day he took you to Texas Roadhouse?

5 A. No. He dropped --

6 Q. Or -- or explain how it happened. I'm sorry.

7 A. He dropped me off. I had a Letang at the time. He
8 dropped me off. I went to the bachelor party then -- then he
9 continued working, then I went to Texas Road House and I --
10 we all drove separate.

11 Q. Okay. So did Andre Knox drop you off at the shop --

12 A. Yes.

13 Q. -- and then you got your car?

14 A. Yes.

15 Q. And then you went to Texas Roadhouse?

16 A. Yes.

17 Q. And then he took the trailer and went down Tappan
18 Drive?

19 A. Yes.

20 Q. Okay. If it rains -- if you have jobs scheduled for a
21 day and it rains on that day, what happens to those jobs?

22 A. We bump. Well, as long as it's not raining the day of.

23 Q. Okay. If it's raining the day of, you got a job
24 scheduled for today, it rains. What happens to the job for
25 today?

1 A. We reschedule it for tomorrow.

2 Q. Okay. So it has to be pushed to a subsequent day,
3 obviously?

4 A. Correct.

5 Q. Okay. And do you recall it rained on the days prior to
6 -- I know it was a long time ago, but do you recall it
7 raining for three days prior to the -- the day of the wreck?
8 In other words, June 12, 13, and 14, 2017?

9 A. I'm not sure.

10 Q. Okay. You -- you don't remember one way or the other?

11 A. No.

12 Q. Okay. That's fine. Now this is a -- is it fair to
13 categorize -- is it fair to categorize this area Tappan Drive
14 where it's 25 miles per hour and there's a lot of businesses
15 and Walmarts and shops. Is it fair to categorize that as a
16 low speed zone?

17 A. I would say so, yes.

18 Q. Okay. And is it important for employees to exercise
19 caution in low speed zones?

20 A. Yeah, they should call the speed regardless.

21 Q. And is that especially true if they have a heavy work
22 truck with a heavy trailer loaded with equipment?

23 A. Yes.

24 Q. Okay. And -- and why would that be important?

25 A. Just because we can't stop as fast, like the way the

1 weight of the trailer, we can't shop like regular cars.

2 Someone cuts us off; we're going to -- it is going to do
3 damage.

4 Q. Okay. You -- you've driven that F-250 before, right?

5 A. Yes.

6 Q. And have you pulled a trailer behind it?

7 A. Yes.

8 Q. Are you familiar with the way it handles and the way it
9 stops?

10 A. Yes.

11 Q. Can we agree that it would be dangerous even to go 10
12 miles over the speed limit in the truck like that?

13 MS. TANKERSLEY: Objection, your Honor. Calls for
14 speculation.

15 BY MR. HAWKINS:

16 Q. Okay. In your opinion -- in your opinion, from your
17 experience with this truck and the way it stops, do you think
18 it's dangerous to drive that kind of truck with that kind of
19 trailer at even five or 10 miles over the speed limit?

20 MS. TANKERSLEY: Objection, your Honor. Same question.

21 THE COURT: Same question. Sustained.

22 BY MR. HAWKINS:

23 Q. When you drive your truck pulling a trailer, why do you
24 go the speed limit and not 10 miles over the speed limit?

25 A. This is the law.

1 Q. Okay. And is -- is danger or safety a consideration?

2 A. I mean, I don't -- I just think of it's a law like,
3 yeah.

4 Q. Okay.

5 A. When you're telling stuff, you got to be extra careful,
6 right?

7 Q. Yeah. Yeah, exactly. So we agree, right, because is
8 that because there's -- there's more weight on the back of
9 your truck, you know, the back of your truck and the trailer?

10 A. Yes.

11 Q. Okay. So we agree that it would be especially
12 important to follow the law and -- and the speed limit in an
13 area like Tappan Drive packed with businesses. We agree on
14 that?

15 A. Yes.

16 Q. Okay. Did you -- you -- did you see my client's car
17 after the wreck?

18 A. No.

19 Q. You -- you never saw this white infinity when you went
20 to the scene of the collision?

21 A. When I went to the collision, I saw Andre and Scott. I
22 did not go near the car near -- near any of them.

23 Q. What did you see that in addition to your F-250 and
24 trailer, there were two other cars, did you --

25 A. No. I thought it was on the one.

1 Q. Okay. Did you ever go check on any of the victims of
2 the wreck or anything?

3 A. No.

4 Q. Did Andre go check on any of the victims?

5 A. I'm not sure.

6 THE COURT: Ma'am?

7 MS. TANKERSLEY: Speculation.

8 THE COURT: Overruled. I mean, answer.

9 BY MR. HAWKINS:

10 Q. Did any -- did Mr. Knox ever -- did you talk to Mr.
11 Knox after the wreck about what happened?

12 A. I mean I guess he worked for me.

13 Q. Right, right. I'm just -- I just, I know some of these
14 questions seem obvious, but I have to make sure it's on the
15 record and the jury hears it. So did you talk to Mr. Knox
16 about the fact there was a wreck?

17 A. Yes.

18 Q. Did Mr. Knox ever express any interest in going to the
19 hospital and visiting any of the people who were
20 hospitalized?

21 A. I don't know.

22 Q. Okay. Do you remember him doing that?

23 A. No. I don't know.

24 Q. Okay. And obviously this was a -- a serious wreck.
25 Can we agree that this was a serious wreck?

1 A. Yes.

2 Q. Can we agree this wasn't a fender bender?

3 A. No.

4 Q. Okay. Was the in -- well look at your deposition on
5 page 25 and go to line 3. Just read lines 3 through eight.
6 If you don't mind.

7 MS. TANKERSLEY: Hold on, your Honor. I don't know if
8 he's using this as an impeachment, but he doesn't answer
9 question in line 3 is the question that he asks.

10 THE WITNESS: What -- what am I -- what am I reading?

11 MR. HAWKINS: I -- I see. Just one second. Do what,
12 your Honor?

13 THE COURT: You're just publishing his deposition or
14 you got a question?

15 MR. HAWKINS: Well, I asked the question about whether
16 or not he saw the car. He said, no. And there's deposition
17 testimony about where the impact point was on the car when
18 you observed it. So I'm going to ask him about that.

19 MS. TANKERSLEY: The deposition testimony is his
20 testimony and his question.

21 MR. HAWKINS: I mean; I can -- I can hand it up the
22 Court. (Inaudible). Lines 3 through eight.

23 MS. TANKERSLEY: Mr. Hawkins essentially provides
24 testimony that asks the witness if he agrees.

25 MR. HAWKINS: It's just testimony.

1 THE COURT: It's your testimony that -- I mean, you can
2 ask a question but he hadn't. I'll let him. I'm going to
3 vote -- overrule. lines 3 through eight

4 Q. Have you had a chance to look at lines 3 through eight?

5 A. Yeah.

6 Q. All right. So I'm just going to ask you, was the
7 impact point on Mr. Luca's car with a truck struck Mr. Luca's
8 car toward the back half of the car after reading lines 3
9 through eight?

10 A. Yes.

11 Q. Okay. Did you observe -- when you got to the scene of
12 the -- the collision, did you observe any debris and fluids
13 and things like that around -- around the impact point?

14 A. Yeah. My truck.

15 Q. Right. Did you observe glass -- broken glass?

16 A. Yeah, there was glass.

17 Q. Okay. Did you observe any blood anywhere?

18 A. No.

19 Q. Do you remember me asking you if you all would ever
20 call each other when you all were both at the same property?

21 A. Yes.

22 Q. Go to page 45. Look at lines 9 through 13. On line 9,
23 I ask you, "You all never called each other while you all
24 were both at the same property." What was your response?

25 A. Mostly irrigation.

1 Q. On page 45, line 9?

2 A. Okay. "You all never called each other while you were
3 both on the same property?" Then, I said, "No, unless we're
4 maybe doing an irrigation." Like unless we are like -- never
5 cutting grass or anything, we never called each other cutting
6 grass.

7 Q. Okay. And then I asked you, I said, "You wouldn't be
8 on one side of the yard and then call him on the other side
9 of the yard?" What was your response on line 16?

10 A. No, because we're cutting grass.

11 Q. Okay. Do you recall if there was a phone call between
12 you and Mr. Knox earlier the day of the wreck around 2:38
13 p.m.?

14 A. Before the wreck?

15 Q. Yeah. Yeah. Earlier in the day when you all were
16 working together?

17 A. Yeah.

18 Q. You all were working together? Were you all working at
19 the same property?

20 A. Yes. Yeah, we were the only people.

21 Q. Okay. And it's your testimony that you were working at
22 the same property, but you all made a phone call to each
23 other and talked on the phone. That's -- that's your
24 testimony?

25 A. Yeah. I mean, I guess -- I guess -- I mean, I'm not a

1 hundred percent sure what that day was, what job we were
2 doing, but yeah, I mean, if we're cutting grass, if I need
3 them, we -- I call them and --

4 Q. Okay.

5 A. I mean, just whenever. He is my employee, we call each
6 other.

7 Q. Okay. What is your -- what is the company policy on
8 driving at an excessive speed with a trailer and tow that's
9 loaded? What's the company policy on that?

10 A. Drive with caution. Drive the speed limit.

11 Q. Okay. Well what's the -- does your company policy
12 prohibit driving at an excess speed with a loaded truck --
13 trailer?

14 A. Yeah.

15 MR. HAWKINS: Okay. Which -- pre-mark this, your
16 Honor.

17 MS. TANKERSLEY: (Inaudible).

18 MR. HAWKINS: Do you have it?

19 MS. TANKERSLEY: Yes.

20 MR. HAWKINS: I thought (inaudible). Actually, I'm
21 just going to use (inaudible).

22 MS. TANKERSLEY: Okay.

23 BY MR. HAWKINS:

24 Q. Is this picture fairly and accurately depict the scene
25 of the collision?

1 A. Yes.

2 Q. Okay. We have this in evidence, it's already
3 pre-marked.

4 THE COURT: Pre-marked is the -- what you're using,
5 that's not pre-marked.

6 MR. HAWKINS: Right. We -- we --

7 THE COURT: Stipulated to it, but it's not pre-marked.

8 MR. HAWKINS: Well, we had that one, but it was going
9 to be out of order. So I'm -- I'm saying it's pre-marked
10 that we both agree that it's going to be in evidence.

11 MS. TANKERSLEY: There's no objection to that.

12 THE COURT: All right.

13 MR. HAWKINS: That's three, your Honor.

14 THE COURT: All right. Plaintiff's Exhibit 3, and
15 without objection.

16 (Plaintiff's Exhibit 3 admitted into evidence)

17 MR. HAWKINS: You want to see these two?

18 MS. TANKERSLEY: No, no, no. All right. We'll just
19 mark them. I understand what's happening.

20 BY MR. HAWKINS:

21 Q. Okay. Let the jury see this, and we'll start talking
22 about it. (Inaudible). Okay. Is it your understanding from
23 speaking with Mr. Knox and from going to the scene of
24 collision that Ms. Seely was going to turn into this entryway
25 and that your work truck with mister -- oh, your work truck

1 with Mr. Knox in was coming down this way where that car is?

2 A. No. It was going straight.

3 Q. Right. Right. Where the car is?

4 A. Yeah.

5 Q. Okay. Now he came from -- you see that -- that curve
6 back to the left past the car?

7 A. Yeah.

8 Q. That would've been where Mr. Knox came from -- from
9 your understanding, correct?

10 A. Correct. I don't know exactly where he is at, but
11 yeah.

12 Q. Okay. I want to make -- yeah, I just want to make sure
13 this is the view, Tappan Drive. And this is the intersection
14 from your understanding?

15 A. Yes.

16 Q. Where the -- the plaintiff's car is going to turn in
17 and that from the other way from behind that curve, that's
18 where Mr. Knox was coming. From your understanding of what
19 happened?

20 A. Yes.

21 Q. Okay. Okay. Now, obviously you said you -- did you
22 tell me you drive this all the time -- this road?

23 A. Yes.

24 Q. Okay. You can't see cars behind that curve, can you?
25 Can you see cars behind that curve?

- 1 A. Behind that curve?
- 2 Q. Yeah. Can you see cars that hadn't come around that
3 curve yet?
- 4 A. I mean, you can't see them if they're on this side.
- 5 Q. My question is, can you see cars when they have not
6 come around that curve yet?
- 7 A. Yes.
- 8 Q. You can see through that curve?
- 9 A. I mean, I don't know, you got to be in your truck. The
10 truck sits higher. I mean, yes or no. I mean, probably.
- 11 Q. Well, now I'm asking from your experience with this
12 road, let's say you're coming down Tappan Drive, which you do
13 all the time. Can you see cars behind that curve that have
14 not come around the curve yet?
- 15 A. No. You can't.
- 16 Q. Okay. That -- that's -- that's all I'm trying to
17 establish. All right. Have you -- have you ever come --
18 from your shop, have you ever come the other way where you're
19 coming this way?
- 20 A. This way?
- 21 Q. Yeah. Where you're coming toward right handed?
- 22 A. Yes.
- 23 Q. Okay. Before you come around that curve, you can't see
24 what's going in and out of this entryway, can you?
- 25 A. No.

1 MR. HAWKINS: Okay. Your Honor, at this time we don't
2 have any more questions for this witness we tender.

3 MS. TANKERSLEY: All right.

4 THE COURT: Cross-examination.

5 MS. TANKERSLEY: Thank you, your Honor.

6 CROSS-EXAMINATION BY MS. TANKERSLEY:

7 QQ: Cuddy, this is just a very little thing of
8 housekeeping I'm going to ask first, but do you spell your
9 first name? C-O-D-D-Y or C-O-D-Y?

10 A. C-O-D-D-Y.

11 QQ: Okay. Thank you. It's kind of been all over the
12 place in the record and I want to make sure we get it
13 correct. All right. How do you know Andre Knox?

14 A. He submitted an application, I think for ZipRecruiter.

15 Q. And you hired him for -- at Southern Lawn Care?

16 A. Yes.

17 Q. Okay. At -- at the point in time that you hired Andre,
18 had you just recently started that business in the past year
19 or so?

20 A. It was fairly new.

21 Q. Okay. Was he your only employee at that time?

22 A. Yes. I might have had one other one part-time, but
23 yeah, it was a fairly new business.

24 Q. Okay. what was his position at your company?

25 A. He started out as a, like -- started out from the

1 bottom, just doing like -- just pretty much a helper. Then
2 he came to like Brandon Truck as a crew leader.

3 Q. Okay. At the time of the accident that we're here
4 about today, which was June 17th, 2017, he was working for
5 your company at that point?

6 A. Yes.

7 Q. Okay. And he was -- like we've talked about, he was
8 driving a truck that you owned. It was Ford F-250?

9 A. Yeah.

10 Q. Okay. Do you know what year that car was or that truck
11 was?

12 A. I think it was a '01 or '02.

13 Q. Okay. Any issues at all with the brakes in that truck?

14 A. No.

15 Q. And you know that because your father's a mechanic?

16 A. Yeah, my father's a mechanic. I mean, we did
17 everything together.

18 Q. All right. And I -- I -- I think there was some
19 questions about the weight of the truck, but I don't know if
20 that was ever put into evidence. How much do you think that
21 truck weighed, approximately?

22 A. I'm not exactly sure. I mean, a couple thousand
23 pounds.

24 Q. And you would've known that. Do -- do you have to do
25 something with like tags for insurance purposes or -- or

1 ownership with the dealership or something like that?

2 A. Yeah. I'm not -- yeah, we did, but I'm not exactly
3 sure like a hundred percent, like how much it weighed.

4 Q. Okay. All right. Andre was also pulling a trailer
5 that you owned, right?

6 A. Correct.

7 Q. Okay. Do you have any idea how much that trailer
8 weighed?

9 A. No clue.

10 Q. Okay. There was a Scag, that's a riding lawn mower?

11 A. Yeah.

12 Q. In the back, do you know how much that weighed?

13 A. Probably a thousand, maybe a little.

14 Q. All right. I believe you testified that you were the
15 one that trained Andre how to operate the truck and trailer;
16 is that right?

17 A. Correct.

18 Q. What -- what type of training would that entail?

19 A. Every day pretty much training. I taught him how to
20 like back up trailers. I mean, I didn't let him operate the
21 truck until he was fully comfortable, until I saw that once
22 he even operated I was still in the passenger seat making
23 sure everything was like done. I mean, we -- we worked
24 together.

25 Q. Okay. Do you have any issues with him operating that

1 truck and trailer?

2 A. No. He was great.

3 Q. Okay. Fully capable of -- of handling the braking and
4 the backing up and all the other things you do with trucks
5 and trailers?

6 A. Yes.

7 Q. Okay. All right. You testified earlier I believe that
8 you were at the -- the Texas Roadhouse when you were notified
9 about the accident; is that right?

10 A. That's correct.

11 Q. Is that a couple minutes up the road on Wade Hampton?

12 A. Two minutes up the road.

13 Q. Okay. I think you said that you were there for a
14 bachelor party. And I -- I want to be clear because bachelor
15 party kind of connotes some information or assumptions. Were
16 you drinking at all at the Texas Roadhouse?

17 A. No.

18 Q. Okay. Do you drink at all?

19 A. No.

20 Q. Okay. All right. How did you hear about the accident?

21 A. How did I hear about it?

22 Q. Yeah.

23 A. Andre called me -- well, after the accident, after he
24 got hit.

25 Q. Okay. Do you think -- do you know how soon in time

1 after the impact he called you?

2 A. It was probably -- I mean, once that happened I would
3 assume. I mean, he called me shaking pretty much when I
4 came.

5 Q. Pretty immediate?

6 A. Yeah.

7 Q. Okay.

8 A. I came (inaudible).

9 Q. All right. What was your phone number at the time?

10 A. (864) 704-3759.

11 Q. Okay. There was some questions back and forth about
12 Andre's phone usage at the time of this accident. Was he on
13 the phone with you in any capacity at the time that this
14 accident happened?

15 A. No.

16 Q. Okay. He wasn't texting you?

17 A. No.

18 Q. I think that you mentioned something about the truck
19 and trailer kind of being difficult to stop; is that fair?

20 A. Yes.

21 Q. Why is that?

22 A. Why is that? When you got way on the truck and
23 trailer, don't stop like a regular car. It takes an
24 abundance amount of time to like -- it takes a good few extra
25 -- extra seconds to stop a truck and trailer and when you get

1 hit, the impact also is the trailer as well. So I mean, it
2 does a lot of damage.

3 Q. Okay. When you apply the brakes in that type of truck,
4 that type of trailer, is it possible sometimes that the
5 momentum stops, but the weight of the truck keeps going?

6 A. That's correct.

7 Q. Okay. You were asked some questions about violation of
8 company policies. At this time that the accident happened,
9 did Andre get into any trouble with the company for violating
10 any sort of company policies?

11 A. No.

12 Q. To your knowledge, did he violate any company policies?

13 A. Never. He was a good employee.

14 Q. You were also asked a little bit about whether it was
15 raining that week, and I know you can't remember if it was
16 raining eight years ago. And that if it rains on a day that
17 -- that you all are working, the landscaping job gets pushed.
18 And a -- in your general sort of landscaping schedule, do you
19 build in time to allocate for days where there is rain?

20 A. Yes.

21 Q. You all aren't rushed to complete everything all at
22 once if there's been a rain day?

23 A. No.

24 Q. Okay. You were asked a question about Tappan Drive and
25 -- and this -- this curve that approaches near, it looks like

1 an old (inaudible) and -- and the Walmart intersection. Do
2 you have any idea how many feet or yards it is between that
3 intersection and where the curve is in Tappan Drive?

4 A. I don't.

5 Q. Do you have a general estimate?

6 A. A couple yards. I mean, not -- I'm not a hundred
7 percent sure.

8 Q. Okay. Bear with me, I want to make sure I didn't miss
9 anything. You were asked a few questions about you all's
10 calls earlier in the day. Went back and forth about whether
11 or not you all would call each other sometimes if you were at
12 the same site or whether or not that was a normal practice.
13 And I -- I want to make sure that we're clear that that it is
14 possible. You probably don't have any memory if you all had
15 talked to each other that morning; is that fair?

16 A. Yeah, that's fair.

17 Q. Okay. It is not -- based on your testimony; it sounds
18 like it is not unusual for the two of you to call each other
19 if you were on the same property so long as you were not
20 cutting grass at that point in time; is that fair?

21 A. Yeah, that's correct.

22 Q. Okay. You testified, I believe after a couple of
23 questions that he asked regarding you know, wouldn't you
24 assume that your clients -- I mean not your clients, but your
25 employees should drive responsibly and not on excess speed

1 and all of that. Would you also assume that all of the other
2 drivers on the roadway would abide by the traffic laws as
3 well?

4 A. Absolutely.

5 Q. And would not cause a collision with your employee?

6 A. Yes.

7 MS. TANKERSLEY: All right. I don't have any further
8 questions. Thank you, your Honor.

9 THE COURT: All right. Any redirect?

10 MR. HAWKINS: Yes, your Honor, briefly.

11 REDIRECT EXAMINATION BY MR. HAWKINS:

12 Q. Mr. Miller, you were asked questions about your
13 knowledge of the brakes and whether there were any problems,
14 and then your knowledge about what year the truck was and --
15 those are fairly important details. Well, would you agree
16 those are fairly important details?

17 A. Yes.

18 Q. And you said that the truck was a 2001 or 2002?

19 A. Yeah.

20 Q. Okay. Well neither one of those are correct, right?
21 What's the year of the truck?

22 MS. TANKERSLEY: Your Honor ---

23 THE WITNESS: It's a 2000.

24 MR. HAWKINS: Is it 2000?

25 MS. TANKERSLEY: Oh, sorry. You said it's a 2000

1 rather than 2001?

2 THE WITNESS: Yeah. Yeah, it's -- it's a 2000.

3 MS. TANKERSLEY: Okay.

4 BY MR. HAWKINS:

5 Q. And is that a pretty critical piece of information?

6 Because the difference in 2000 and 2001 is a difference in
7 the computer technology?

8 A. No.

9 Q. You -- you don't know they added computer technology in
10 2001?

11 A. I think 2001, 2000 through 2002 were the same. Same
12 motor, same interior, everything.

13 Q. But you had a 2000, right?

14 A. Yes.

15 Q. Okay. And you were asked a question about -- about
16 weight, and weight in the truck and trailer. Would you agree
17 that because of -- you testified how much damage can be done
18 if you don't stop a heavy object at time. Would you agree
19 that in this case the weight is a very important issue?

20 A. Yeah, (inaudible) by anything, the weight is --

21 Q. You just testified that you thought it weighed a couple
22 of thousand pounds, the truck. Ain't that what you said?

23 A. Yes.

24 Q. Okay. We'll go ahead and look at page 15 and then look
25 at lines 15 through 16. I ask you again, how much you think

1 that truck was?

2 MS. TANKERSLEY: I'm sorry. What page did you say it
3 is?

4 MR. HAWKINS: It's page 15. Lines 15 and 16.

5 MS. TANKERSLEY: This isn't --

6 THE WITNESS: I'm not saying anything about weight.

7 BY MR. HAWKINS:

8 Q. I'll find it for you. Hang on one second. Okay.

9 Sorry. I added a one. I should have just said page 5, lines
10 15 and 16.

11 A. Page 5?

12 Q. Yeah. I said you think it was -- I -- I've got the
13 year wrong in here. I said, "10,000 pounds." And what was
14 your answer on 17?

15 A. Yeah. I said, "Yeah, it was somewhere in that range.
16 I wasn't sure."

17 Q. Okay. And you actually corrected me because I had
18 looked up, you know, super duty packages and stuff like that
19 and I come up with 18,000. But you corrected me, didn't you?
20 On this page, to 10,000?

21 A. Yeah, but again, I'm not even -- I a hundred percent
22 sure like -- I never weighed the vehicle.

23 Q. Well that -- that's -- that's fine. I just want to
24 make sure it's clear to the jury we're talking about not
25 something that's a couple of thousand. Is that fair to say?

1 I mean, it's an F-250?

2 A. Yes.

3 MR. HAWKINS: Okay. That -- that's all the questions I
4 have.

5 THE COURT: All right. (Inaudible) questions?

6 MR. HAWKINS: Yes, your Honor.

7 THE COURT: Thank you. You may step down.

8 (OFF THE RECORD)

9 THE COURT: All right ladies and gentlemen, we'll take
10 our morning break here. Don't discuss the case. We'll bring
11 it back out in just a few minutes.

12 (JURY EXITS)

13 (RECESS TAKEN)

14 THE COURT: Plaintiff, you may call your next witness.

15 MR. HAWKINS: Your Honor, we call Mr. Knox this stand.

16 THE COURT: All right. Mr. Knox, you'll come forward
17 to be sworn.

18 THE CLERK: Place your left hand on the bible and raise
19 your right hand.

20 ANDRE KNOX, first being duly sworn, were examined and
21 testified as follows:

22 THE WITNESS: Yes.

23 THE CLERK: State your name please.

24 THE WITNESS: Andre Knox.

25 THE CLERK: Thank you. Please be seated. Thank you.

1 DIRECT EXAMINATION BY MR. HAWKINS:

2 Q. Mr. Knox, how you doing?

3 A. I'm all right. I'm here.

4 Q. Good, good. Sorry we're talking to each other under
5 these circumstances. I want to talk to you about the wreck
6 that happened back in 2017. Okay?

7 A. Okay.

8 Q. All right. before we get started, I want to establish
9 that there's no doubt or anything like that, any -- any
10 uncertainty. Did you work for Southern Lawn Care when this
11 wreck happened?

12 A. Yes.

13 Q. Okay. And -- and just try to talk round into the mic
14 just so they can hear you.

15 A. Yes, I did.

16 Q. Okay. Were you working within the scope and course of
17 your employment when this wreck happened for Southern Lawn
18 Care?

19 A. Yes.

20 Q. Okay. You're acting as an employee?

21 A. Yes.

22 Q. Okay. You're going to do another job that you had
23 scheduled for that day?

24 A. Yes.

25 Q. In your words, an important lawn?

- 1 A. If I recall correctly.
- 2 Q. Okay.
- 3 A. I -- I'm not sure exactly what lawn it would've been.
- 4 Q. Okay. Well, we'll get to that a little bit later on.
- 5 We'll talk about the time of the wreck. Was the time of the
- 6 wreck as far as you remember the peak traffic hours of about
- 7 five o'clock.
- 8 A. A little before that, but yes.
- 9 Q. About 4:58.
- 10 A. A little before that, yes. About 4:55. A little
- 11 before -- yeah.
- 12 Q. Okay. All right. Okay. 4:55. We'll come back to
- 13 that. You testified, I think that you had to use your words,
- 14 "Just come around an S truck or an S-curve with a truck and
- 15 trailer right before the wreck." Is that right?
- 16 A. Yes.
- 17 Q. That would've been immediately before you hit the car
- 18 containing to my client.
- 19 A. That end of the curb is about a football field from the
- 20 entrance to the Walmart.
- 21 Q. Is it your testimony that that's a football field
- 22 between that curve and this entrance?
- 23 A. Between right there and back there, yes.
- 24 Q. And that's your testimony?
- 25 A. That's my testimony.

1 Q. Okay. Did you go measure it?

2 A. I did not.

3 Q. Did anybody go measure it?

4 A. Not that I know of.

5 Q. Okay. I want you to look at -- are these your phone
6 records, the ones I asked you about your deposition?

7 A. Yeah.

8 Q. Okay. What's the time of this call right here?

9 A. 4:55 p.m.

10 Q. Okay. And that's the time that you said the wreck
11 happened, right?

12 A. Yes.

13 Q. Okay. And you were on the phone for a little bit?

14 A. How long's a little bit.

15 Q. I think some of them are minutes and of them three
16 minutes. How long were you on the phone that night?

17 A. At 4:55, one minute.

18 Q. Okay. That's about the time you said the wreck
19 happened?

20 A. That'd be the subsequent phone call to the wreck. Yes.

21 Q. Okay. And there were phone calls. Well, weren't --
22 didn't you give me testimony that the actual notification
23 time was 5:08?

24 MS. TANKERSLEY: Objection, your Honor. He hasn't
25 testified to that.

1 THE COURT: Yeah, I mean --

2 MR. HAWKINS: That's -- that's fine. Okay. We'll --
3 we'll come to it. That's fine.

4 BY MR. HAWKINS:

5 Q. For now can we agree that you say the time of the wreck
6 was 4:55 and that's also --

7 A. Estimated, yes.

8 Q. Oka., And that's also the time that you were on the
9 phone with somebody at 4:55 according to these records?

10 A. Yes.

11 Q. Okay.

12 MS. TANKERSLEY: Has that been --

13 MR. HAWKINS: No.

14 MS. TANKERSLEY: -- marked. Okay.

15 BY MR. HAWKINS:

16 Q. All right. Now, when you came out of the s-curve that
17 -- on Tappan drive, I want to make sure I understand how,
18 kind of how this unfolded correctly. So I'm just going to
19 ask you some questions about that point in time. Okay?

20 A. Okay.

21 MR. HAWKINS: Is that right, your Honor? The original.

22 THE COURT: Yeah.

23 BY MR. HAWKINS:

24 Q. So we're talking about the, the time of the wreck
25 itself. Do you agree that at the time of the wreck when you

1 came around the S-curve, you were going well in excess of the
2 posted speed limit of 25 miles per hour?

3 A. No.

4 Q. Okay. Look at your deposition on page 24 and look at
5 lines 12 through 19. I asked you, you had a trailer and tow,
6 like you said earlier, by every --

7 MS. TANKERSLEY: Objection, your Honor, before he reads
8 this, can we approach briefly?

9 THE COURT: Yes.

10 (OFF THE RECORD)

11 BY MR. HAWKINS:

12 Q. Have you had a chance to look at that?

13 A. Yes.

14 Q. Okay. Now I'm going to omit part of that sentence,
15 okay?

16 A. Uh-huh. Yes.

17 Q. Let me see. Let me make sure I -- I --

18 THE COURT: What page are you on?

19 MS. TANKERSLEY: I'm on page 24, your Honor.

20 THE COURT: Okay.

21 MR. HAWKINS: And I'm at line 12.

22 BY MR. HAWKINS:

23 Q. Okay. Like you said earlier, you're going in excess of
24 25 miles per hour. Anything else -- is there anything wrong
25 about paragraph 6 were incorrect? And what was your answer

1 on line 19?

2 A. My answer was, no.

3 Q. Okay. And did I show you at your deposition a copy of
4 this amended complaint?

5 A. Yes.

6 Q. Okay. And this isn't buried.

7 MS. TANKERSLEY: Objection, your Honor. There was a
8 pretrial issue with this that I think we might need to
9 address.

10 THE COURT: Does that have anything to do with the ones
11 you were concerned about.

12 MS. TANKERSLEY: I think paragraph (inaudible).

13 THE COURT: Yeah, let me --

14 (OFF THE RECORD)

15 MR. HAWKINS: Yes, your Honor.

16 BY MR. HAWKINS:

17 Q. Okay. Now, at your deposition you were under oath --
18 you thought you were under oath today, right?

19 A. Yes.

20 Q. And in your deposition, I -- I went along with you, I
21 showed this to you and I didn't hide anything from you, did
22 I?

23 A. No.

24 Q. This is on the first page of the complaint. Is this
25 buried in any fine print?

1 A. No.

2 Q. Did you have as much time you need to look at paragraph
3 six, these three sentences and make sure everything was
4 correct?

5 A. Yes.

6 Q. And would you agree with me, the -- the question I
7 asked if it was true and accurate, I asked you, the defendant
8 drove well in excess of the posted speed limit of 25 miles
9 per hour and I want to make sure that's what you were telling
10 me was correct in your deposition.

11 A. Can you rephrase that?

12 Q. Sure. I asked you, is there anything wrong or
13 incorrect about paragraph 6 and paragraph 6 says, in
14 pertinent part, "The defendant," that's you, "drove well in
15 excess of a posted speed limit of 25 miles per hour."

16 A. I agreed at the time, because they used a rounded
17 number of about 30 and I didn't want to change my answer in
18 the middle of the deposition.

19 Q. Well, even 30 miles per hour is above the posted speed
20 limit, isn't it?

21 A. And I said about. So I believe I was going
22 approximately the speed limit.

23 Q. So to be clear, you're testifying differently today on
24 a sworn testimony than you did in your deposition, right?

25 A. I said about 30.

1 Q. Yes or no.

2 A. I'm saying about 30.

3 MR. HAWKINS: Your Honor, could you direct the witness
4 to give a yes or no answer?

5 THE COURT: I mean, you don't need to explain, so.

6 THE WITNESS: I'm sorry.

7 THE COURT: Answer his question then you can explain.

8 BY MR. HAWKINS:

9 Q. You're answering differently today under oath than you
10 did at your testimony under oath, correct?

11 A. Yes.

12 Q. Okay. Go ahead and explain.

13 A. I -- I used an estimate because the question was asked
14 six to seven years after the -- the incident.

15 Q. Okay. Thank you. I'm going to ask you about another
16 portion that -- that -- of the amended complaint that I
17 wanted to make sure was true before we came to court. Do you
18 agree with the -- with a statement that Seely attempted to
19 make a left hand turn while you were far enough away that had
20 you been going the speed limit of 25 miles per hour, she
21 would have completed the turn without incident. Do you agree
22 with that statement?

23 A. No.

24 Q. Okay. Go to page 97 in your deposition. Okay. I
25 asked you at line 1, is everything in the amended complaint

1 true and accurate? I -- I -- the exact quote was,
2 "Everything in the amended complaint is true and accurate."
3 Right. And what was your answer on line 7?

4 A. Yes.

5 Q. Okay. And you had an opportunity to look at the
6 amended complaint and all the paragraphs before you answered
7 that question?

8 A. Yes.

9 Q. But now that we're in front of a jury, your answer is
10 different than it was at your deposition. Is that fair to
11 say?

12 A. It's fair to say that, yes.

13 Q. Would you agree that whether or not you're going well
14 in the -- well in excess of this posted speed limit is a
15 central issue to this case. Would you agree with that?

16 A. Uh, no.

17 Q. You don't think it's -- okay? Tell me why?

18 A. I -- I need -- rephrase. I'm sorry.

19 Q. Can we -- you want --

20 A. Repeat the question? I'm sorry.

21 Q. You want any water or anything?

22 A. Yes, please.

23 Q. Okay. That's fine.

24 A. I know it's all (inaudible). Were used to it.

25 Q. I have to do that (inaudible). Can we agree that

1 whether or not you were going well in excess at a posted
2 speed limit of 25 miles per hour is a central and crucial
3 issue in this case?

4 A. No, I did not have adequate time to stop regardless of
5 the speed. I wasn't -- I wasn't going so fast that I
6 couldn't stop if she would not have turned out in front of
7 me.

8 Q. Okay. Well --

9 A. I was in the right way. I was in my own lane. I was
10 not slowing down beforehand.

11 Q. Okay.

12 A. So --

13 Q. You -- you didn't slow down before or after you
14 traversed the curve, right?

15 A. I had -- I had no need to yet. It wasn't at the red
16 light.

17 Q. No, I'm just asking because there's a statute says that
18 you have to slow your speed and slow to the curve -- to the
19 needed speed of the curve. So I'm asking did you -- did you
20 slow down at all?

21 A. Yes. It was a curve. Yes.

22 Q. So now you did slow down?

23 A. Not at the point. I'm confused on where -- what you're
24 asking.

25 Q. Do you think you used appropriate care when you came

1 around the S-curve with the truck and trailer?

2 A. Yes.

3 Q. Okay. But by your own admission, you're going in
4 excess of the posted speed limit? Because you said 30 and
5 the -- we agree that it's 25.

6 A. Okay.

7 Q. Okay. So we're in agreement that -- and even if it's
8 -- even if it's five miles an hour, we agree that you were
9 going above the posted speed limit.

10 A. It's possible. I don't recall exactly.

11 Q. You -- you agree That's what you told me in your
12 deposition. or do we need to go to the patient?

13 A. I -- yes, I know.

14 Q. Okay. All right. So let's just do this now so we can
15 get it out of the way. Do you disagree with me that 25 miles
16 per hour is 36 feet per second, because I can go through the
17 math unless you have any reason to dispute that mathematical
18 fact?

19 A. No, that's -- that's math. Yes.

20 Q. Okay. Great. Do you agree with me that 30 miles per
21 hour is 44 feet per second?

22 A. If that's the math, then yes.

23 Q. Do you want me to go through it and it -- I don't mind.
24 I just -- to cut down on time if you agree with it, I'll just
25 go forward.

1 A. Yeah, I didn't mean -- we're talking about eight feet.

2 Yeah.

3 Q. Okay. Okay. So by that math -- by your math, by your
4 own admission, you're going 30, when you should be going 25.
5 Then had you slowed from 30 to 25, one second before the
6 wreck, Ms. Seely makes the turn without incident, right? I
7 mean, it's just math.

8 A. There's other variables to that. I can't agree to
9 that.

10 Q. You don't agree with the math?

11 A. There's -- there's other variables to the turn. I
12 can't agree with that math. No.

13 Q. Okay, that's fine. Well, can you agree with two
14 seconds then? Had you slowed from 30 to 25, two seconds
15 before the wreck, that's the difference of 16 feet. Can you
16 agree that she makes the turn then?

17 A. That also to me -- there's other variables to that.
18 When she decides to make the turn, that's -- I'm not in
19 control of that.

20 Q. You're in control of your speed?

21 A. I am.

22 Q. And if you're not in her immediate vicinity and you
23 make up that ground at an unreasonable period of time, you're
24 in her vicinity before you're supposed to be. Can we agree
25 -- do you agree with that?

1 A. Yes.

2 Q. Okay. All right. How many seconds -- how many seconds
3 do we need to go back for you to agree that Ms. Seely makes
4 the turn without incident? Because if you -- were going your
5 speed then at three seconds --

6 MS. TANKERSLEY: Objection, your Honor. This was a
7 pretrial issue. This -- this requires --

8 MR. HAWKINS: Basic math.

9 MS. TANKERSLEY: No, it's not basic math.

10 THE COURT: No. No. I sustain.

11 MS. TANKERSLEY: Thank you.

12 THE COURT: I mean that's beyond what you're -- your
13 basic math.

14 MS. TANKERSLEY: Can we approach?

15 THE COURT: Yeah.

16 (OFF THE RECORD)

17 MR. HAWKINS: I'll go to another question.

18 BY MR. HAWKINS:

19 Q. You agree that when you're traveling at 44 feet per
20 second, you're making up eight -- eight feet more for every
21 second than you are at 25 miles per hour, which is 36 feet
22 per second. Do you agree on that?

23 A. Yes.

24 Q. Okay. How many -- how many seconds on Tappan drive,
25 how many seconds are you supposed to be following the law?

1 A. All of them.

2 Q. All of them. From the time you get on Tappan drive all
3 the way until you get to where you hit Ms. Seely, you're
4 supposed to be going no faster than 36 feet per second; is
5 that true?

6 A. Yes.

7 Q. And that's true whether you're traveling at 30 miles
8 per hour, which is your admitted speed, which is 44 feet per
9 second, right?

10 A. Yes.

11 Q. Or if you're going 35 miles per hour, which is 51 feet
12 per second, right?

13 A. Yes.

14 Q. And so if you were going -- let's say you're going 10
15 miles over the speed limit.

16 MS. TANKERSLEY: Objection, your Honor. There's no
17 testimony and evidence --

18 THE COURT: Yes. Sustained.

19 MS. TANKERSLEY: -- 10 miles over the speed limit.

20 MR. HAWKINS: What -- what's the basis. Sorry

21 MS. TANKERSLEY: That there's no testimony and evidence
22 to support his going 10 miles over the speed limit?

23 MR. HAWKINS: Well, there's not going to be until I ask
24 the question.

25 MS. TANKERSLEY: Your Honor.

1 MR. HAWKINS: Your Honor, can I ask him if --

2 THE COURT: But there's no -- I mean I sustained her
3 objection that the only evidence is what's been presented so
4 far and I'm not going to let you go -- you know, keep going
5 on stuff that's not in the evidence. Then --

6 MR. HAWKINS: Okay.

7 THE COURT: Yeah.

8 MR. HAWKINS: All right.

9 BY MR. HAWKINS:

10 Q. Do you -- do it this way? Do you have any reason to
11 dispute that 50 miles an hour is 73 feet per second?

12 A. No.

13 Q. Okay. It's two times 73, 146?

14 A. Yes.

15 Q. All right. That means you would've made up 146 feet
16 that was not legal to make up between where you were far away
17 from Seely and Seely --

18 MS. TANKERSLEY: Objection. Your Honor. This is a
19 hypothetical that he was going 50 or however many miles an
20 hour --

21 THE COURT: Yeah. I'm going to sustain.

22 BY MR. HAWKINS:

23 Q. Okay. All right. If you were going -- well, okay, I
24 won't say anything that involves an if. If 50 miles an hour
25 -- 50 miles an hour. --

1 MS. TANKERSLEY: Your Honor.

2 THE COURT: Again, there's no evidence of that. This
3 is a totally speculative question. I'm going to sustain her
4 objection.

5 MR. HAWKINS: Okay. Even though he agreed that the
6 feet per second?

7 THE COURT: Well -- but -- but --

8 MR. HAWKINS: Okay.

9 THE COURT: That's true. But -- but what you're
10 putting in is that -- about this stuff, that's not in the
11 evidence.

12 BY MR. HAWKINS:

13 Q. Okay. You don't agree with any of the basic math
14 questions I've asked you, do you?

15 MS. TANKERSLEY: Objection. That's not --

16 THE COURT: Yeah. That's not -- that's a total
17 mischaracterization of our whole discussion here in my
18 ruling, the way I feel like.

19 BY MR. HAWKINS:

20 Q. Do you disagree with any of the, the basic mathematical
21 equations that I've posed to you? Do you disagree with
22 anything?

23 A. No.

24 Q. Okay. With a truck this heavy, I mean, you had
25 operated this truck with a trailer and all the equipment a --

1 a lot, right?

2 A. I'm not sure exactly how long from that point to the
3 time that -- I mean yes, enough. I was trained.

4 Q. Okay. You were training?

5 A. I'm not training. I was trained.

6 Q. You were trained. Got you. Okay.

7 A. Any point after that, I was -- didn't drive it on the
8 road until I was comfortable.

9 Q. Okay. Did you hear Mr. Miller testify earlier?

10 A. Yes.

11 Q. Was he correct that it's -- it could be hard to stop
12 these trucks?

13 A. Yes.

14 Q. And so for that reason, is it important to follow the
15 speed limit and not go even five miles over when you're
16 driving a heavy truck with a heavy trailer?

17 A. Yes.

18 Q. And is that because if you don't drive the speed limit
19 and exercise appropriate caution, you can hit somebody?

20 A. Yes.

21 Q. When -- before you came around that s-curve, you
22 couldn't see who was on the other side of the s-curve, could
23 you?

24 A. No.

25 Q. Do you agree -- do you agree with a statement that

1 because you were traveling much, much faster than 25 miles
2 per hour, you crashed into Seely before she could complete
3 her turn. Do you agree with that?

4 A. Repeat the question.

5 Q. Do you agree with the statement that because you were
6 going and I quote, "Much, much faster than 25 miles per
7 hour," you crashed into Seely before she could complete the
8 turn.

9 A. And where's the quote of much, much faster coming from?

10 Q. That is coming from -- that's coming from paragraph 8
11 of the amended complaint that I handed you at your
12 deposition, and asked you if there was anything incorrect
13 about it. And the testimonies on page 97 of your deposition.

14 A. Okay. I -- I agree.

15 Q. Okay. You agree with that?

16 A. Yeah.

17 Q. All right. Okay. Do you agree with the statement that
18 the plaintiff sustained permanent and visual scarring and
19 disfigurement on his face and has incurred medical bills of
20 at least \$20,000?

21 A. Yes.

22 Q. Okay. Now, do you dispute at all that my client's
23 injuries are from the wreck?

24 A. No.

25 Q. What we disagree about is whether the wreck is your

1 fault or Ms. Seely's fault or a combination of the two. Is
2 that what we disagree about?

3 A. Yes.

4 Q. Do you think, because Ms. Seely's already taken
5 responsibility for whatever role she played, do you take any
6 responsibility for the wreck?

7 A. I don't believe that it was my fault. No.

8 Q. Do you think you contributed to the wreck at all?

9 A. No.

10 Q. Do you think if you had been going the speed limit for
11 two seconds before the wreck and been 16 feet farther back
12 the wreck still would've happened?

13 A. Too many variables.

14 Q. Okay. You don't know?

15 A. I don't know. I can't say.

16 Q. And we agree that the trailer and the truck and the
17 equipment, the -- the mowers, all that stuff is a significant
18 amount of weight. We agree on all that?

19 A. A specific number would be nice, but yeah.

20 Q. Okay.

21 A. I agree it's a lot.

22 Q. All right. So we talked a little bit about the --
23 about 51 feet per second. That's a -- is 51 feet per second
24 -- 15 feet per second faster than 36 feet per second?

25 A. I don't want to do the math. You -- this -- it is just

1 too much math.

2 Q. Oh. What's three -- what's three times 15?

3 A. 45.

4 Q. Okay. All right. What's two times 15?

5 A. 30.

6 Q. 30. Okay. 30. Do you know how far 30 feet is

7 A. Approximately?

8 Q. Okay.

9 A. I'm sorry, I couldn't --

10 Q. Will you hold that? Just hold it on the edge of that.

11 I haven't done this in a long time. Tell me when you think

12 I'm at 30 feet.

13 MS. TANKERSLEY: Objection, your Honor.

14 THE COURT: Sustained. I mean, you can show it to him
15 if you want.

16 MR. HAWKINS: Okay. Fine.

17 MS. TANKERSLEY: I -- I want to be clear what the
18 ruling is. Josh is showing what is 30 feet --

19 THE COURT: Yes.

20 MS. TANKERSLEY: -- not my client. Thank you.

21 MR. HAWKINS: Before you think it says -- I -- can I
22 ask him -- I'm asking him about his estimates in all this.

23 THE COURT: No, I mean he -- it's calls for
24 speculation.

25 MR. HAWKINS: Okay.

1 THE COURT: I mean.

2 BY MR. HAWKINS:

3 Q. Okay. Fair enough. If I represent to you that this is
4 30 feet, or excuse me, this is only 25 feet, do you have any
5 reason to disagree with that or you want me to let you come
6 see?

7 A. I don't disagree.

8 Q. Okay. This is two times 15, huh? 30? Or this is a
9 little less than two times 15.

10 A. Yes.

11 Q. I guess two times 15 will be back here. Let me -- let
12 me get back there because I don't -- I don't want to be
13 misrepresented. Is this about where I was standing?

14 A. Approximately. Yes.

15 Q. Let's get another five feet. Okay. Two times 15 is
16 30, right?

17 A. Yes.

18 Q. So either 51 feet per second or 35 miles per hour in
19 two seconds. This is the distance between you and Ms. Seely
20 when we should turn, right?

21 A. I wasn't going 35 miles an hour.

22 Q. Yes or no?

23 A. Yes.

24 Q. Okay. Of course. If we add more speed, we're outside
25 --

1 MS. TANKERSLEY: Objection, your Honor. This line of
2 questioning is out of line.

3 THE COURT: Yeah, sustained.

4 MR. HAWKINS: Yes, your Honor.

5 BY MR. HAWKINS:

6 Q. Okay. Was this a severe impact?

7 A. Moderate.

8 Q. A moderate impact? It destroyed three cars. Do you
9 think it was moderate?

10 A. I mean, explain destroyed. Yes. One car was --

11 Q. Wasn't each of the -- did -- did it -- the owners of
12 each of those three cars, you know, because we -- we've
13 talked about this. The owners of each of those three cars,
14 it was a complete loss to that owner?

15 MS. TANKERSLEY: Objection, your Honor. That's not an
16 evidence.

17 BY MR. HAWKINS:

18 Q. We -- do you have any reason to dispute that each all
19 --

20 MS. TANKERSLEY: He can't ask it that way if it's not
21 in evidence.

22 THE COURT: Just stick with what's in evidence.

23 BY MR. HAWKINS:

24 Q. Would you agree that the wreck demolished Dustin's
25 Infinity?

1 A. Yes.

2 Q. No question about that one.

3 A. No.

4 Q. Okay. Any question that the F-250 sustained
5 significant damage and the frame was down?

6 A. Could use the word salvageable. So I'll go with
7 salvageable.

8 Q. I'm going to show you a picture that was taken at the
9 scene of the collision. Does that fairly and accurately
10 depict the scene of the collision after the wreck?

11 A. Yes.

12 Q. Is that the F-250 you were driving?

13 A. Yes.

14 Q. Is that the Infinity that he hit?

15 A. Yes.

16 MR. HAWKINS: Move to have this in evidence.

17 THE COURT: You have any objection?

18 MS. TANKERSLEY: No.

19 THE COURT: All right. That'll be Plaintiff's Exhibit
20 4.

21 (Plaintiff's Exhibit 4 admitted into evidence)

22 MR. HAWKINS: Yes, your honor. And we'll try to --
23 we'll try to use the technology if that's okay.

24 THE COURT: Okay.

25 BY MR. HAWKINS:

1 Q. Okay. After looking at these pictures, I mean that
2 car's got the door cut off and the F-250's got the hood
3 buckled up and I guess that's where the frame was bent. Is
4 it fair to say that each of these vehicles sustained
5 significant damage?

6 A. Yes.

7 Q. And do you see the debris and -- and the fluids and
8 things and the debris that's a result of the aftermath of the
9 severity of the wreck?

10 A. Yes.

11 Q. Would you describe the impact as jolting?

12 A. I guess, yeah.

13 Q. Okay.

14 A. Most -- most bumps in cars are, yeah. Any (inaudible)
15 kind of -- it happens.

16 Q. Okay. We agreed that -- you agreed a minute ago that
17 we disagree about your speed, but you agreed you were going
18 in excess of the posted speed limit?

19 A. Yes.

20 Q. Okay. Were you speeding or did you feel comfortable
21 speeding because there was a radar detector in the F-250?

22 A. That's not a radar detector.

23 Q. What is it?

24 A. Trailer brake controller.

25 Q. Because we look it up and what we saw, there's a radar

1 detector looks just like this. You're saying it's not,
2 right.

3 A. Because they all look like that, but no, that is not a
4 radar detector.

5 Q. Okay. Going to something else while we're dealing with
6 that. Is it your testimony for the jury that this truck
7 didn't have a radar detector right now?

8 A. Yes.

9 Q. Okay. While we're dealing with some of that, I'm going
10 to ask you if you agree with some of the stuff that we asked
11 your boss about, your former boss. Do you agree that, you
12 know -- we've talked about the speed you were going and the
13 ground you were making up relative to how much -- how fast
14 you could have been going? Do you agree that the law, and I
15 -- I'll go to the specific statute section if you want, but
16 can we agree that the law requires you to go at or below the
17 posted speed limit?

18 A. Yes.

19 Q. That would be especially true in an area like this
20 packed with businesses, pedestrians, cyclists and -- and
21 other people?

22 A. Yes.

23 Q. And that would be especially true in an area like this,
24 in a low speed zone because there are cars constantly
25 accessing businesses and coming out of businesses, right?

1 A. Yes.

2 Q. Okay. Do you agree that your prior employer's policy
3 also requires you to go at or below the posted speed limit?

4 A. Yes.

5 Q. So can we agree that at a minimum, even if we take your
6 number, which is 30, you violated the law and company policy
7 when you went 30 miles per hour in a 25 mile per hour zone?

8 MS. TANKERSLEY: Objection, your Honor. His testimony
9 hasn't been that his speed was exactly 30. It's been that he
10 -- he thinks it was about 30, maybe around it.

11 MR. HAWKINS: He -- he -- we can read it back. He
12 agreed that he violated the posted speed limit. I made sure
13 to ask that question.

14 THE COURT: Well, I mean, but rephrase your question
15 then, based on that.

16 MR. HAWKINS: Okay, fair enough.

17 BY MR. HAWKINS:

18 Q. Can we agree that because you violated the posted speed
19 limit that you violated the law and your company policy when
20 you violated the posted speed limit?

21 A. Yes.

22 Q. Okay. And you, you're aware that a violation of a -- a
23 law is evidence of negligence?

24 MS. TANKERSLEY: Objection, your Honor. It's legal
25 conclusion.

1 THE COURT: That's legal conclusion. Yeah.

2 BY MR. HAWKINS:

3 Q. You agree that the law requires you to use appropriate
4 care for the circumstances?

5 A. What are the circumstances?

6 Q. Well, the circumstances in this case would be cars
7 coming in and out of Walmart, cars coming out of Bojangles,
8 people going the gas station. people on bicycles, mothers
9 pushing strollers.

10 MS. TANKERSLEY: Objection, your Honor. There's no
11 evidence. There's --

12 MR. HAWKINS: He asked me where the --

13 MS. TANKERSLEY: -- people riding by on bicycles,
14 coming in and out --

15 THE COURT: I mean -- I mean, there's no evidence of
16 that.

17 MR. HAWKINS: He asked me what the circumstances are
18 that in that area.

19 THE COURT: Did you just -- oh my God, just come up
20 with every circumstance. She said there's no evidence. So
21 I'm going to sustain the objection.

22 BY MR. HAWKINS:

23 Q. Were there plenty of cars at five o'clock on tap and
24 drive?

25 A. I mean, I -- that was almost 10 years ago. I -- maybe.

- 1 Q. Okay. Is 5:00 p.m. a peak traffic hour of the day?
- 2 A. On week days, yes.
- 3 Q. Okay. Well, so the circumstances would involve, I
- 4 guess the time of the collision. The circumstances would
- 5 involve -- Okay. Do you disagree There's a Walmart?
- 6 A. There's a Walmart. Yes.
- 7 Q. Do you agree -- disagree there's a gas station?
- 8 A. I don't believe there's a gas station there, but --
- 9 Q. Well --
- 10 A. -- maybe not then. Maybe there is now. I don't live
- 11 here now, so I don't know.
- 12 Q. Okay. Where do you live now?
- 13 A. In Florida.
- 14 Q. Okay. We agree that there's a parking lot across the
- 15 road with a bunch of businesses.
- 16 A. Yes.
- 17 Q. Okay. So those are the circumstances. People go to
- 18 those businesses, don't they?
- 19 A. Yes.
- 20 Q. People go to Walmart.
- 21 A. Yes.
- 22 Q. None of these places, to your knowledge, are closed at
- 23 five o'clock, are they?
- 24 A. No.
- 25 Q. Okay. Those are the circumstances. So under those

1 circumstances, is it appropriate for you to use appropriate
2 care and does the law require that?

3 A. Yes.

4 Q. Okay. Does your company policy also require that?

5 A. Yes.

6 Q. If the jury comes to the determination that you
7 violated the rule that requires appropriate care under the
8 circumstances of the road, would you agree that that would
9 give you some liability?

10 MS. TANKERSLEY: Objection, your Honor.

11 THE COURT: Yes. Sustained. That is not an
12 appropriate question.

13 BY MR. HAWKINS:

14 Q. You got a -- you had a smartphone at the time of the
15 wreck, didn't you?

16 A. Yes.

17 Q. You ever watch movies or videos or anything like that
18 on your smartphone?

19 A. No.

20 Q. You've never watched a YouTube video?

21 A. I mean, I have, yeah.

22 Q. Okay.

23 A. You're -- you're building it to ask me if I was doing
24 that at that time, but no,

25 Q. No. I just asked you if you ever had.

- 1 A. Yes, I -- I have watched videos on my phone.
- 2 Q. You have TikTok?
- 3 A. No.
- 4 Q. You ever watched a reel on Instagram?
- 5 A. I don't use Instagram.
- 6 Q. Have you ever seen a reel on Instagram or Facebook?
- 7 A. On Facebook, yes.
- 8 Q. Okay. The truck that you were driving, as far as you
- 9 know, was it taken to the junkyard?
- 10 A. I don't know, some of it.
- 11 Q. All right. Well, as far as you know, when folks went
- 12 out to take pictures like they always do after wrecks, the
- 13 truck would've been the way you left it as far as you know,
- 14 right?
- 15 A. No. I don't know how it would've been.
- 16 Q. Okay. Well, do you have any --
- 17 A. But if Cuddy had access to the truck after the wreck,
- 18 before the pictures, I can't say.
- 19 Q. Do you have any evidence for the jury that this wrecked
- 20 truck was driven after the wreck? Do you have evidence you
- 21 can give the jury?
- 22 A. No.
- 23 Q. Okay. There appears to be to me, and you tell me if
- 24 I'm wrong, a pair of headphones that -- to be used with a
- 25 smartphone in the -- in the driver's seat of the truck you

1 were driving. Is that what that is?

2 A. Those are headphones, yes.

3 Q. Okay. Does that picture, as far as you know, is
4 provided by the defense fairly and accurately depict the --
5 the wreck or the truck after the wreck?

6 A. As far as I -- I would assume so. Yeah.

7 Q. All right.

8 MR. HAWKINS: (Inaudible). I can use your copy if you
9 want. (Inaudible).

10 THE COURT: Any objection?

11 MS. TANKERSLEY: No, your Honor.

12 THE COURT: Okay. In without objection.

13 (Plaintiff's Exhibit 5 admitted into evidence)

14 MR. HAWKINS: Have this in evidence please.

15 BY MR. HAWKINS:

16 Q. I asked you earlier about the estimated time of wreck.
17 I told you we'd come back to that. So look at -- look at
18 page 14. Actually, we don't even need to -- we agree that it
19 was about five o'clock, don't we?

20 A. I mean if about includes before, yes.

21 Q. Okay. And your time is 4:55. So that --

22 A. Approximately.

23 Q. That's pretty close to five o'clock

24 A. Approximately? Yes.

25 Q. Okay. And your testimony for the jury is that at 4:55

1 when you were on the phone with your boss, you made that
2 after the wreck and you weren't on the phone with your boss
3 during the wreck. That's your testimony?

4 A. Yes, that's my testimony.

5 Q. Okay. And I asked your boss about this. We agree that
6 this F -250 didn't have any hands free technology.

7 A. Correct.

8 Q. If you wanted to do anything with the phone, have a --
9 a reel play in or look at social media or text. You would
10 have to have --

11 MS. TANKERSLEY: Objection, your Honor. There's no
12 evidence that he's playing videos in the car.

13 MR. HAWKINS: I'm asking him about the hands free
14 technology and what would be required to use the phone. He's
15 just testified that the truck didn't have hands-free
16 technology.

17 THE COURT: Right. And sustained as far as asking
18 speculative questions about things not in the evidence.

19 MR. HAWKINS: Yes, sir.

20 BY MR. HAWKINS:

21 Q. If you wanted to use your phone for any purpose, would
22 you have to have it in your hand?

23 A. Yes.

24 Q. Okay. Thank you. And had you ever -- is there any
25 evidence you can point to that you ever applied the brakes

1 before the impact?

2 MS. TANKERSLEY: Objection, your Honor. Burden
3 shifting.

4 MR. HAWKINS: No, I -- I can ask if he has evidence he
5 applied brakes.

6 THE COURT: Yeah, I'm -- I'm going to overrule that.

7 MS. TANKERSLEY: That's not the question that he asked.

8 THE COURT: Yeah.

9 BY MR. HAWKINS:

10 Q. Did you apply brakes

11 A. At what point?

12 Q. At any point did you ever look up and apply brakes
13 before the wreck?

14 A. I was looking at the road the whole time. You're
15 implying that I wasn't.

16 Q. Do you have evidence that you used brakes?

17 A. What would the evidence be?

18 Q. Skid marks.

19 MS. TANKERSLEY: Objection, your Honor. Again, its
20 burden ship. If he wants to ask him a few facts, great.

21 THE COURT: Ask him -- ask him the question.

22 BY MR. HAWKINS:

23 Q. Have you -- do you have any pictures of skid marks that
24 were on the road after the wreck?

25 A. No.

1 Q. Okay. Do you have any document or evidence that you
2 can point to for the jury that you applied brakes before the
3 collision?

4 MS. TANKERSLEY: That's the same issue.

5 THE COURT: Ask -- yeah, sustained.

6 MR. HAWKINS: Your Honor, if I'm asking him did he
7 apply brakes and does he have any evidence, I don't know how
8 else to ask that.

9 THE COURT: That's not what you're asking.

10 BY MR. HAWKINS:

11 Q. If you applied brakes, do you have any evidence?

12 A. No.

13 Q. Any -- well, all right. Let me ask you -- let me ask
14 you if you agree with this statement. Ms. Seely was making a
15 turn. Mr. Knox, who was speeding, well leave the next part
16 out, was driving an excess of 25 miles per hour in a Ford
17 F-250 Super Duty, four door crew cab, seven-foot bed pickup
18 truck with a trailer carrying lawnmower in tow slammed into
19 passenger side of the plaintiff's vehicle. Do you agree with
20 that statement?

21 A. Yes.

22 Q. Okay. And -- and you agree with me earlier that as a
23 result of the collision, you don't dispute that my client's
24 sustained significant injuries, including at least a hospital
25 bill for that night and a scar on face. Do you agree with

1 that?

2 A. Yes.

3 Q. We just disagree about whether or not you contributed
4 to the wreck with your speed. Is that the only thing we
5 disagree about?

6 A. I believe so, yes.

7 Q. Did you -- did you ever go check on any of the victims
8 after the wreck?

9 A. No. They never checked on me either.

10 Q. Could you walk around after the wreck?

11 A. I believe so, yes.

12 Q. Did you see that paramedics had to put the other two
13 people in the ambulances? Did you see that?

14 A. No.

15 Q. Okay. If somebody was incapacitated from the wreck,
16 would they be able to come check on you?

17 MS. TANKERSLEY: Objection, your Honor. It's not inn
18 evidence.

19 MR. HAWKINS: He brought -- he brought it up.

20 MS. TANKERSLEY: (Inaudible).

21 THE COURT: No, but still you got -- it's your
22 question. You can ask him a question without speculation.

23 BY MR. HAWKINS:

24 Q. Do you dispute that as a result of the collision, at
25 least two of the passengers of the Infinity were taken by EMS

1 to the hospital. Do you dispute that?

2 MS. TANKERSLEY: He just testified.

3 THE COURT: I'm going to let -- yeah.

4 BY MR. HAWKINS:

5 Q. Do you dispute that?

6 A. No.

7 Q. Do you -- was that a no?

8 A. No.

9 Q. Do you dispute that each one of those had to be put in
10 the ambulance because they were incapacitated because of the
11 wreck? Do you dispute that?

12 MS. TANKERSLEY: Your Honor, he can ask him if he saw
13 these things, but he can't presume that that happened.

14 THE COURT: I'll let him answer if he knows.

15 THE WITNESS: I didn't see no.

16 BY MR. HAWKINS:

17 Q. Okay. Do you dispute that?

18 A. No.

19 Q. Did you ever see my -- my client or his head laid open
20 after the wreck?

21 A. No, not at the scene. No.

22 Q. You didn't go over there to his car or anything?

23 A. No.

24 Q. You didn't go to the hospital, did you?

25 A. I didn't.

1 Q. The guy Anderson with a broken femur and --

2 MS. TANKERSLEY: Objection, your Honor. That is not in
3 evidence.

4 BY MR. HAWKINS:

5 Q. Is it your understanding that one of the passengers
6 suffered a broken pelvis and broken femur?

7 MS. TANKERSLEY: Judge --

8 THE COURT: Sustained.

9 MR. HAWKINS: Can we approach?

10 THE COURT: Yeah.

11 (OFF THE RECORD)

12 BY MR. HAWKINS:

13 Q. Do we -- do we agree that this was significant -- that
14 this was a significant collision with significant injuries
15 and damages involved? Do we agree on that?

16 A. Yes.

17 Q. Just generally F-250 had -- there's been conflicting
18 testimony. It had equipment on it that included at least one
19 heavy duty mower, large 52 to 54 inch Scag industrial mower.
20 Do we agree on that?

21 A. Yes.

22 Q. Okay. That's in addition to the weight of the truck,
23 right?

24 A. Yes.

25 Q. In addition to the weight of the trailer?

1 A. Yes.

2 Q. In addition to the weight of the other equipment on the
3 truck?

4 A. Yes.

5 Q. In addition to the fuel cells with fuel on the truck.

6 A. Yes.

7 Q. All that weight is moving however fast you were moving
8 at the time of the wreck down Tappan drive, right?

9 A. Yes.

10 Q. And some questions we're asking -- asked about rain
11 earlier. If it rains on a day that you're supposed to do a
12 job, do you have to make up that job on a day when it's not
13 raining?

14 A. Yes.

15 Q. It's been a long time ago. Do you have any reason to
16 dispute that a few days before this wreck happened, it had
17 rained for three days?

18 A. I wouldn't know.

19 Q. Okay. Y'all -- you don't know one way or the other?

20 A. No.

21 Q. Okay. If the World Weather report indicates --

22 MS. TANKERSLEY: Objection, your Honor. Hearsay.

23 THE COURT: It is sustained.

24 MR. HAWKINS: It's -- it's subject of a periodical.

25 It's also a regularly kept business record. It's all -- I

1 think that the Court can take judicial notice of the --

2 THE COURT: That's the first I've heard about it. I
3 mean, how many -- don't you have to lay better foundations?

4 MR. HAWKINS: Okay. We'll withdraw that (inaudible).
5 Your Honor. Can we approach?

6 THE COURT: Yes.

7 BY MR. HAWKINS:

8 Q. Okay. The -- the burden of proof for defenses.

9 MS. TANKERSLEY: Come on, Judge.

10 MR. HAWKINS: No. That's their burden. I have to ask
11 if they have any evidence of that, Judge.

12 THE COURT: Well, but this is not -- that's a legal
13 question for the Court. I mean --

14 MR. HAWKINS: Well, they have to --

15 THE COURT: Well, you can ask him a question -- a
16 factual question, but not on the legal word.

17 BY MR. HAWKINS:

18 Q. Okay. All right. Do you have any evidence to support
19 that my client did anything to contribute to this wreck or
20 cause it?

21 A. No.

22 Q. Okay. Because he was a passenger, right?

23 A. Correct.

24 Q. There's no way he could do anything himself to
25 contribute to this wreck, do we agree on that?

1 A. Yes.

2 Q. Okay. At the time of the wreck do I have it correct
3 that the two factors involved in the wreck are Ms. Seely
4 turning and you driving toward her. Are those the only two
5 factors involved?

6 A. I believe so, yes.

7 Q. Okay. Was there any sudden emergency anywhere around
8 you? Was there any dog running out or any -- any person
9 coming out of the road? Was there any sudden emergency
10 anywhere?

11 MS. TANKERSLEY: I'm object to a portion of that
12 question. You can ask about a dog or a person running into
13 the road, but sudden emergency is a legal factor.

14 THE COURT: Okay. Well, I'm not -- I might think it's
15 a general term too, so I'm going to overrule.

16 BY MR. HAWKINS:

17 Q. Were there -- were there any emergencies going on that
18 you -- that affected this in any way?

19 A. No.

20 Q. So the only question that the jury has to consider is
21 did you contribute to the -- were you the --

22 MS. TANKERSLEY: Objection.

23 THE COURT: Sustained. This is not for you to ask this
24 -- what the jury's consider. That is my charge on the law
25 and it's not something appropriate to ask this witness. And

1 you know that. So proceed.

2 BY MR. HAWKINS:

3 Q. My client didn't do anything to contribute to the
4 wreck. Do you agree on that?

5 A. Yes.

6 Q. There was no emergency that popped up that caused you
7 to have to do anything besides just drive your truck down the
8 road?

9 A. Correct.

10 Q. And you had the duty during the time you were driving
11 down the road to go to the speed limit?

12 A. Yes.

13 Q. It would've been illegal to go five or 10 or 15 miles
14 over the speed limit?

15 A. Yes.

16 Q. That would've been more dangerous than going the speed
17 limit?

18 A. Yes.

19 Q. Okay. Do other cars on the road -- at the time you
20 were driving, is it reasonable for other cars on the road to
21 expect you to go to the speed limit?

22 A. Are you saying that if -- yes.

23 Q. Yeah. I'm saying when -- when Ms. Seely was about to
24 turn, was it reasonable for her to expect you to go to the
25 speed limit?

1 MS. TANKERSLEY: Objection. Calls for speculation.

2 THE COURT: I'm going to overrule. I'm going to let
3 him answer.

4 MS. TANKERSLEY: Okay.

5 THE WITNESS: Can you repeat the question?

6 BY MR. HAWKINS:

7 Q. Was it reasonable for Ms. Seely to expect that you
8 would go the speed limit right before the wreck?

9 A. Yes.

10 Q. And is that true whether you were still behind the
11 curve or whether you had just come out of the curve? Is it
12 reasonable for Ms. Seely to expect that you're going the
13 speed limit wherever you are on the road?

14 A. Yes.

15 Q. Can we agree that Ms. Seely doesn't have -- she doesn't
16 have to yield to you if you are 200 yards away? We agree on
17 that.

18 MS. TANKERSLEY: Objection, your Honor. Depends on the
19 circumstances.

20 MR. HAWKINS: Their defense is -- is a failure to
21 yield. I can ask him about it.

22 THE COURT: You can ask him a factual, I think rephrase
23 your question.

24 BY MR. HAWKINS:

25 Q. Okay. Thank you. If -- if Ms. -- if Ms. Seely is

1 about to turn and you're 146 feet away, right? And we're in
2 a 25 mile per hour zone as y'all were, is it reasonable for
3 Ms. Seely to, at 146 feet down the road, expect that you
4 won't go faster than 25?

5 A. Where's that 146 feet coming from?

6 Q. Well, feet per second.

7 A. No. You're guessing where I'm at door where she
8 turned.

9 Q. No, you're -- you're asking me, so I'm going to tell
10 you it's coming from feet per second. That's what 50 miles
11 per hour is. It's --

12 MS. TANKERSLEY: Objection, your Honor.

13 THE COURT: Yeah. Sustained.

14 Q. Okay. Well, don't worry about where it came from, just
15 if you're four -- 146 feet down the road.

16 MR. HAWKINS: Objection.

17 THE COURT: Yeah. I'm going to sustain this.

18 MS. TANKERSLEY: Can we approach?

19 THE COURT: You're assuming facts that are not on the
20 record, asking him a hypothetical question.

21 BY MR. HAWKINS:

22 Q. If you're a long way down the road -- well, you said
23 yourself, you said that -- you -- you claimed that this curve
24 -- you claimed a while ago that the -- the end of this curve
25 is a football field away from the middle of this. That's

1 what you claimed, wasn't it?

2 A. Yes. I've seen better angles of this picture than what
3 you have here.

4 Q. If that's a football field away way, and this is not
5 speculative, this is your words. If that's a football field
6 away, does Ms. Seely who was here have a right to expect you
7 to go no faster than 25 miles per hour?

8 A. Yes.

9 Q. And I mean, obviously it's not a football field, but
10 you said you didn't measure this, right?

11 A. No.

12 Q. You had traversed this curve in this road many times
13 before the wreck happened. Had you?

14 A. I would assume so, yes. I wasn't driving for that or
15 for the company at that point in time. It was within the
16 first, second year of me working there.

17 Q. Well, you had -- you had --

18 A. Traveled it. Yes.

19 Q. You had traveled it before.

20 A. Yes.

21 Q. Right. And can we agree that you should use caution
22 and appropriate care when you come around this curve with a
23 trailer and tow driving the F-250? Can we agree on that?

24 A. Yes.

25 Q. Can we agree that when you come around here, you should

1 go no faster than 25?

2 A. Yes.

3 Q. I won't say any exact amounts, but you shouldn't be
4 going a lot faster than that, right?

5 A. Yes.

6 Q. Because it's hard to stop that truck.

7 A. Correct.

8 Q. And if you don't stop it, you could hit somebody.

9 A. I had no reason to stop right there. But yes,

10 Q. If you don't use appropriate care when you're going
11 that fast, you can make up more feet per second than the law
12 allows, right?

13 A. Yes.

14 Q. And your testimony is still that you, given that math,
15 you -- you didn't contribute to the wreck. That's your
16 testimony?

17 A. Yes.

18 Q. Okay. I am going to ask you a question about that
19 important lawn and if -- if you need it, it's on page 77. I
20 just want to ask you again were you headed to, in your words,
21 an important lawn?

22 A. Yes.

23 Q. Okay. You testified -- so -- so the lawn was
24 important, you wanted to get there, right?

25 A. Yes.

1 Q. Okay. And this was getting toward the end of the day
2 about five o'clock?

3 A. Yes.

4 Q. Okay. That important lawn that you wanted to get done
5 was going to be the last job of the day, wasn't it?

6 A. I -- that's what I said, but like I said, you asked me
7 that six years after. I can't fully -- I -- I don't
8 remember.

9 Q. Is that what you -- is that what you said?

10 A. That's what I said, but I'm going to -- I'm saying I
11 don't fully remember it.

12 Q. Okay.

13 A. Even at this point in time. That was so far, six years
14 after --

15 Q. Okay.

16 A. -- the day that we're speaking on.

17 Q. Yes, sir.

18 A. That a lot of these were, as the best of my memory can
19 put them.

20 Q. But I took this deposition some time ago, didn't I?

21 A. Yes.

22 Q. That would've been closer in time to the actual wreck,
23 right?

24 A. Still six years. Yes.

25 Q. It's closer in time than today?

1 A. Yes.

2 Q. So would your recollection be better closer in time
3 than farther away in time?

4 A. I'm not saying that -- I -- I'm saying that I'm not --
5 I'm agreeing to what I said.

6 Q. Okay. Okay.

7 A. That's -- that's what you want. I'm agreeing to what I
8 said.

9 Q. I want the truth.

10 A. I -- there it is.

11 Q. Seriously, we can agree that you were trying to get to
12 an important lawn.

13 A. Yes.

14 Q. All right. And we can agree that -- that you said it
15 was the last job of the day.

16 A. Yes.

17 Q. Okay. You -- you testified in this page, make sure I'm
18 not getting anything wrong. All right. I asked you earlier
19 if you saw, or maybe I asked your boss, did you see any blood
20 at the scene of the collision on anybody?

21 A. I believe a little bit, but I can't recall from --

22 Q. A little bit. Is that your testimony?

23 A. That's not -- like I said, you -- you told me to turn
24 to a page and then it's on the page.

25 Q. Well, I -- well, I -- on page 80 on 15, I asked you

1 about it line 15 and then -- and then you answered on 17, you
2 see that?

3 A. I did. I said there was blood, yes. But not a
4 tremendous amount.

5 Q. And are you talking about my client or anybody else?

6 A. I don't know. I can't remember where.

7 Q. Did you -- did you testify that the passengers from my
8 client's car were mildly injured? Did you say that?

9 MS. TANKERSLEY: Objection. That's not in evidence.

10 MR. HAWKINS: He saw that. I'm asking him what he saw,
11 your Honor.

12 MS. TANKERSLEY: You didn't ask him what he saw.

13 THE COURT: (Inaudible) didn't ask him what he saw
14 that, did he testify?

15 BY MR. HAWKINS:

16 Q. Did you see -- did you see any injured people at the
17 scene of the collision?

18 A. I can't fully remember. No.

19 Q. Okay. Go to page 80 and start at line 7. I'm going to
20 ask you that -- the question I ask you that then. So it's
21 your testimony that nobody was hurt in the -- in the back. I
22 mean --

23 MS. TANKERSLEY: Objection, your Honor. He hasn't
24 testified to this. He's publishing the deposition
25 improperly.

1 MR. HAWKINS: I'm -- I'm asking him what he saw based
2 on what -- his deposition. He just said -- he just gave a
3 response about what he saw at the scene.

4 THE COURT: All right. I think it's proper -- I think
5 it's proper.

6 BY MR. HAWKINS:

7 Q. Okay. So start again. "So it's your testimony that
8 nobody was hurt in the back -- I mean, the passenger rear
9 person wasn't hurt, that's your testimony?" Question mark.
10 And then what was your answer?

11 A. To my knowledge, yes. That's what it looked like to
12 me.

13 Q. Okay. And -- and so you're saying that there wasn't a
14 lot of injury related to the wreck, is the way I read that.
15 Am I wrong about the response you gave me?

16 A. I used the words to my knowledge. So I -- it's only
17 based on recollection at the time of the deposition.

18 Q. Okay. All right. Look at page 80, and I'm going to
19 start on line 12. How bad were the two people who were
20 injured? How bad did they seem to be injured? What was your
21 answer? 14.

22 A. (Inaudible).

23 Q. Okay. Do you -- do you want to change anything about
24 that answer?

25 A. Like I said, I don't fully know the extent of all the

1 people with all those injuries.

2 Q. Okay. The -- the phone calls -- the phone -- the phone
3 calls right around the time of the wreck, is it true that you
4 called your -- you called Cuddy during or -- after the wreck?
5 Is that -- is number one that true?

6 A. After the wreck. Yes.

7 Q. Okay. And you called your mom's friend.

8 A. No.

9 Q. You called -- you called her your god mom?

10 A. Godmother. Yes.

11 Q. And you called her son?

12 A. Yes.

13 Q. And then you called your wife?

14 A. Yes.

15 Q. And you called your mama?

16 A. Yes.

17 Q. You didn't ever call 911 or anything, right?

18 A. No.

19 Q. Okay. And -- and again, our -- the allegations I asked
20 you earlier about the -- about the speed and -- and the
21 driving and, you know, Seely making the turn. I want to make
22 sure that our allegations that we ask about are correct. Is
23 it your testimony that you -- that our amended complaint has
24 our allegations as true and fair and accurate?

25 MS. TANKERSLEY: Objection, your Honor. He can't admit

1 to the entirety of their amended complaint.

2 MR. HAWKINS: That's fine. I'll withdraw that.

3 BY MR. HAWKINS:

4 Q. Mr. Knox, I'm going to show you a picture of -- of my
5 client's car. The Infinity. Is that the car that you hit?

6 A. Yes.

7 Q. Does that fairly and accurately depict the -- the car
8 that you hit after the wreck?

9 A. Yes.

10 MR. HAWKINS: Does the impact point -- put this so the
11 jury can see.

12 THE COURT: You got to mark it. And --

13 MR. HAWKINS: I'm sorry. I'm sorry. Move to have this
14 in evidence?

15 MS. TANKERSLEY: No objection.

16 THE COURT: Okay. That's exhibit?

17 THE CLERK: Six.

18 THE COURT: Six. Okay.

19 (Plaintiff's Exhibit 6 admitted into evidence)

20 Q. That's after obviously the (inaudible) cutting the door
21 off, right?

22 A. Yes.

23 Q. Is that -- is that impact point as far as where you hit
24 the car from this picture it looks like it's the back half of
25 the car, sort of in the middle, but toward the back a little

1 bit. Is that a -- a fair way to describe the impact point of
2 the car?

3 A. Yes.

4 MR. HAWKINS: I don't have any more questions at this
5 time.

6 THE COURT: Y'all may approach for a second to talk
7 scheduling.

8 (OFF THE RECORD)

9 THE COURT: All right. Ladies and gentlemen, we just
10 did our scheduling, it's 12 o'clock. This may be a good time
11 for us to break for lunch. Don't -- so I'm going to send you
12 out on your own. Don't discuss the case, don't do any
13 research about the case. Don't do any Googling.

14 Don't pay attention to media coverage, including social
15 media, anyone may contact you other than somebody from
16 clerk's office please let the bailiffs know. So otherwise --
17 and I've got another matter that I've got to address. So if
18 you'll be back in at 1:30. All right. Right. See y'all
19 then.

20 (JURY EXITS)

21 THE BAILIFF: Clear, sir.

22 THE COURT: All right, Mr. Knox, you're what I call in
23 the witness bubble. That means once you have started
24 testifying then you cannot discuss your testimony or anything
25 about this case with your attorney or anybody until you've

1 completed testimony.

2 So -- and it's very important that you not violate
3 that. Okay. And I know your attorney knows that too. But
4 there's no discussion about the case or coaching you or
5 preparing your testimony. So that being said, though, you --
6 you can step down.

7 THE WITNESS: Yes, sir. Thank you.

8 THE COURT: All right. See y'all 1:30.

9 MS. TANKERSLEY: Thank you, Judge.

10 MR. HAWKINS: Thank you, Judge.

11 MR. AHMAD: Thank you, your Honor.

12 (RECESS TAKEN)

13 THE COURT: Thank you, may everybody please be seated.
14 They're always very witty and brilliant but he's the best
15 writer. (Inaudible). All right. Is the plaintiff ready to
16 go? Is the defendant ready?

17 MR. HAWKINS: Plaintiff is ready.

18 MS. TANKERSLEY: Yes, your Honor.

19 THE COURT: All right. Mr. Knox, you'll come back and
20 take the stand. All right. Bring the jury in.

21 THE BAILIFF: Yes, sir.

22 (JURY ENTERS)

23 THE BAILIFF: You good, sir.

24 THE COURT: Yes, sir. All right. Ladies and
25 gentlemen, I hope everybody had a good lunch. I meant to

1 tell you a little bit about the scheduling. We're going to
2 probably have to leave -- we're going to have to leave a
3 little bit early today, because of the appointment that I
4 have.

5 So we'll be leaving about 4:00 o'clock, just to let
6 y'all know. Y'all get prepared for that. So -- all right.
7 As you all recall, we were in the middle of Mr. Knox's is
8 (inaudible) but now it's cross-examination by the defendant.
9 You may proceed.

10 MS. TANKERSLEY: Thank you, your Honor.

11 CROSS-EXAMINATION BY MS. TANKERSLEY:

12 Q. All right, Andre. How you doing?

13 A. I'm pretty good.

14 Q. Okay. I know that testifying in trial or public
15 speaking in general can be pretty nerve wracking --

16 A. Yeah.

17 Q. -- and confusing, and so I'm trying to make this as
18 painless as possible, okay?

19 A. Okay.

20 Q. Okay. I want to tell the jury a little bit about
21 yourself before we get into the -- to the accident and what
22 you remember about everything. You're from Greenville
23 originally?

24 A. Yes.

25 Q. Okay. How old are you now?

- 1 A. 27.
- 2 Q. Okay. You went to what high school?
- 3 A. Greenville High.
- 4 Q. All right. Where are you currently living?
- 5 A. Jacksonville, Florida.
- 6 Q. Why did you move to Florida?
- 7 A. My mother-in-law lives there. She kind of nagged me
- 8 and my wife to move down there.
- 9 Q. Why did she nag y'all to move down there?
- 10 A. She's by herself down there and --
- 11 Q. What -- is there a -- a --
- 12 A. My -- and her grandson.
- 13 Q. There we go.
- 14 A. Yeah.
- 15 Q. She wanted her --
- 16 A. She wan't to -- she wants to be --
- 17 Q. -- her grandbaby to be --
- 18 A. -- close to the family.
- 19 Q. All right.
- 20 A. Yeah.
- 21 Q. Okay. So the -- that answers my next question. Are
- 22 you married?
- 23 A. Yes.
- 24 Q. Okay. What's your wife's name?
- 25 A. Sky.

1 Q. Sky. And how many children do y'all have?

2 A. Just one.

3 Q. How old is he now?

4 A. He'll be nine next Month.

5 Q. How old was he at the time of this accident?

6 A. He would've been under a year old.

7 Q. Okay. Where are you working in Jacksonville? What are
8 you doing?

9 A. A place called Euro Spec, I'm a mechanic.

10 Q. Tell me a little bit about your work as a mechanic.

11 A. We just -- we do diagnosis, repair, maintenance on all
12 European stuff, and specialty cars, exotics, stuff like that.

13 Q. Okay. How long have you been working, not necessarily
14 at that place, but as a mechanic in general?

15 A. A little over six years now.

16 Q. Okay.

17 A. Yeah.

18 Q. At Euro Spec, I assume European cars that you're
19 working on?

20 A. Yes.

21 Q. Okay. Are you familiar with American-made cars, or
22 other cars as well as your -- as your -- basically tell me --
23 tell me what your -- your sort of focus is as a mechanic.

24 A. Right -- right now it's European, and before that it
25 was -- it was Japanese with Mazda. So I don't have a whole

1 lot of American experience with vehicles.

2 Q. Got it. Where were you working in June of 2017, when
3 this accident happened?

4 A. Southern Lawn Care.

5 Q. Okay. What were you doing for him then?

6 A. I was -- I guess I was just helping with any kind of --
7 anything. It was just me and him, so whatever kind of jobs
8 came up, we were doing.

9 Q. Okay. And this is before you started training to be a
10 mechanic?

11 A. Yes.

12 Q. Okay. June 17th, 2017, do you know what day of the
13 week that was?

14 A. I think it was maybe a Saturday.

15 Q. Okay. And I -- I know it has been nine years
16 approximately since that accident happened, but do you
17 remember what you were doing that day?

18 A. Like I said, it -- it could have been an array of
19 things, just depending on the day really.

20 Q. But you were working with Cuddy at that time?

21 A. Yes, I was working with Cody.

22 Q. Okay.

23 A. Yeah.

24 Q. All right. Immediately prior to the collision, where
25 were you?

1 A. Immediately prior, I was at the shop, dropping Cuddy
2 off.

3 Q. Okay. And the shop was -- I think he mentioned his dad
4 was a mechanic. Is that what it is?

5 A. Yeah -- yeah. It's a -- a mechanic shop that we just
6 kept our equipment at.

7 Q. Okay. What -- what road was the shop on?

8 A. Rutherford Road.

9 Q. Okay. So when you dropped Cuddy off, you get back in
10 the car, and you're heading to -- I put based on your
11 testimony, to some other job assignment or something, right?

12 A. Yes.

13 Q. Okay. Headed down Tappan Drive?

14 A. Yes.

15 Q. Okay. Driving the Ford F 250 at that time?

16 A. Yes.

17 Q. With a trailer and a lawnmower in the back?

18 A. Yes.

19 MS. TANKERSLEY: Okay. I want to show you -- and I'm
20 going to use the overhead of (inaudible). We have the first
21 four defendant's exhibits pre-marked, so I'm going to mark
22 this one as 5, okay?

23 THE CLERK: Okay.

24 (Defendant's Exhibit 5 marked for identification)

25 BY MS. TANKERSLEY:

1 Q. Okay. I'm -- I'm showing you what's been marked as
2 Defendant's Exhibit 5. Is that the --

3 THE COURT: Hold on.

4 MS. TANKERSLEY: Oh, I'm -- I'm sorry.

5 THE COURT: No, they -- no, these -- these always go
6 off at lunchtime.

7 MS. TANKERSLEY: Oh.

8 THE COURT: You have to punch the little button there.

9 MS. TANKERSLEY: You want me to punch it?

10 THE COURT: No, that's (inaudible). I do miss Mr.
11 Frazier (ph) in here. It starts and he'd stand right away,
12 because he knows exactly what to do.

13 MR. HAWKINS: I think they time out on there own, your
14 Honor.

15 MS. TANKERSLEY: Do you want me to continue just using
16 these for --

17 THE COURT: Well, hand over the evidence so they can
18 see it.

19 MS. TANKERSLEY: Okay.

20 BY MS. TANKERSLEY:

21 Q. Well, let me ask you this before I publish it. I'm
22 going to show you what's been pre-marked as Defendant's
23 Exhibit 5. Does that accurately reflect the photograph of
24 what your truck looked like after this accident happened?

25 A. Yes.

1 MS. TANKERSLEY: Okay. Your Honor, I'd like to
2 introduce him to evidence, Defendant's Exhibit 5.

3 THE COURT: All right. Any objection? (Inaudible).

4 THE CLERK: He's gone.

5 THE COURT: Okay.

6 MR. HAWKINS: No objection.

7 THE COURT: All right. He'll be here in just a second.

8 MS. TANKERSLEY: Okay.

9 THE COURT: Sorry about that.

10 MS. TANKERSLEY: No, it's okay, your Honor.

11 THE COURT: A little technological difficulty. Our
12 expert IT guy. (Inaudible).

13 MS. TANKERSLEY: Yeah, that's the -- that's the
14 expertise.

15 COURT REPORTER: Yeah.

16 THE COURT: That should come on in just a second there.
17 It's admitted.

18 BY MS. TANKERSLEY:

19 Q. Okay. So just so that the jury can see now, this --
20 this photograph is what your truck looked like after the
21 impact; is that right?

22 A. Yes.

23 Q. Okay. And that's the truck you were driving at the
24 time of the accident? (Inaudible).

25 THE COURT: Hold on. I think I'm up a minute.

1 MS. TANKERSLEY: This photo is not that important.

2 THE COURT: That's -- now you're good.

3 MS. TANKERSLEY: Okay. (Inaudible).

4 THE COURT: Now you're good. All right.

5 MS. TANKERSLEY: Well, now I got to do the (inaudible).

6 THE COURT: All right. There you go.

7 MS. TANKERSLEY: There we go. All right. So -- okay.

8 BY MS. TANKERSLEY:

9 Q. Okay. Now, I'm going to show you what I'm going to
10 pre-mark as Defendant's Exhibit 6. This is a screenshot of a
11 -- the photograph that you took at the accident scene?

12 A. Yes.

13 Q. Okay. Is that --

14 MR. HAWKINS: Your Honor, can we approach?

15 THE COURT: Yes.

16 (OFF THE RECORD)

17 BY MS. TANKERSLEY:

18 Q. All right. What you're looking at right there, is that
19 a screenshot?

20 A. Yes.

21 Q. Okay. So a screenshot of a photo that you took at the
22 accident scene?

23 A. Yes.

24 Q. Okay. Does the screenshot show additional information
25 from your phone about -- or Google Drive, about when that

1 photograph was --

2 MR. HAWKINS: I'm going to object on record, your
3 Honor. Not in evidence.

4 THE COURT: Or maybe she's -- she's --

5 MS. TANKERSLEY: I'm laying the foundation.

6 THE COURT: -- asking him.

7 MR. HAWKINS: Well, that -- I'm just going off the
8 earlier -- you know, how we've been doing it.

9 MS. TANKERSLEY: I don't what that means.

10 MR. HAWKINS: Because once the jury -- once the jury
11 sees it, all the expert stuff --

12 THE COURT: Well, he hasn't seen it yet --

13 MS. TANKERSLEY: Well, I haven't published it to the
14 jury.

15 THE COURT: -- and it haven't been published.

16 MR. HAWKINS: That's what I'm trying to prevent.

17 THE COURT: Well, I'm -- okay. Well, I'm going to let
18 her -- I mean, I'll hear from you after she --

19 MR. HAWKINS: All right.

20 BY MS. TANKERSLEY:

21 Q. All right. You took a -- a screenshot of a photo that
22 you took of the accident scene, correct?

23 A. Yes.

24 Q. Okay. And is this Exhibit Number 6 that I've handed
25 you accurately reflect the screenshot from your phone or

1 Google Drive of that photo?

2 A. Yes.

3 Q. Okay. Does it also contain information about when this
4 picture was taken by you?

5 A. Yes.

6 MS. TANKERSLEY: Okay. Your Honor, I'd like to move
7 Defendant's Exhibit 6 into evidence.

8 THE COURT: All right.

9 MR. HAWKINS: Same objection. I don't think it's
10 necessary because we have a picture without all that stuff in
11 the screenshot.

12 THE COURT: All right. I believe she's laid proper
13 foundation. I'm going overrule your objection.

14 MS. TANKERSLEY: Thank you, your Honor.

15 THE COURT: Subject to the objection.

16 (Defendant's Exhibit 5 admitted into evidence)

17 MS. TANKERSLEY: I'd like to publish to the jury.

18 BY MS. TANKERSLEY:

19 Q. Okay. So this is the -- the photograph you took at the
20 scene, right?

21 A. Yes.

22 Q. Okay. And this right here, is that your truck?

23 A. Yes.

24 Q. That's the trailer you were pulling?

25 A. Yes.

1 Q. And there's a ride lawn mower, it looks like, in the
2 back?

3 A. Yes.

4 Q. Which has been referred to a couple times as a Scag. I
5 don't know what that means

6 A. It's just a brand.

7 Q. Okay.

8 A. Yeah, its just a brand.

9 Q. And then this photograph -- or this vehicle right there
10 is the plaintiff's vehicle?

11 A. Yes.

12 Q. Okay. Who is this gentleman right there?

13 A. That's Cuddy Miller.

14 Q. Okay. Do you know who that is?

15 A. I do not.

16 Q. Okay. All right. So this is, like I said, a
17 screenshot (inaudible). Okay. And the screenshot shows what
18 date?

19 A. June 17th, 2017.

20 Q. Is that the date that this photo was taken?

21 A. Yes.

22 Q. Okay. Has the location as what?

23 A. Wade Hampton, South Carolina.

24 Q. All right. And the time as what?

25 A. 5:08 p.m.

1 Q. Okay. So this picture was taken at 5:08 p.m. showing
2 Caddy at the scene, and the fire department being there; is
3 that right?

4 A. Yes.

5 Q. Okay. I'm going to pre-mark Defense Exhibit 7. All
6 right. I am going to hand you what's been pre-marked as
7 Defendant's Exhibit 7. Can you tell me what this is?

8 A. It's a Google Maps with the route from Master Tech
9 Automotive to Walmart.

10 Q. Okay. And Master Tech Automotive, that's the shop you
11 were referring to?

12 A. Yes.

13 Q. Okay. Is this the route that you took on the day that
14 the accident occurred?

15 A. Yes.

16 Q. Okay. Does it have kind of the directions there at the
17 bottom?

18 A. Yes.

19 Q. Okay. This accurately reflects what your route
20 would've been on the day of the accident?

21 A. Yes.

22 MS. TANKERSLEY: Your Honor, I'd like to move Defense's
23 Exhibit 7 into evidence.

24 THE COURT: Any objection?

25 MR. HAWKINS: Your Honor, he's not the author of the

1 document. That's a Google -- that's a -- that's a route that
2 comes up that, you know, anybody could then come up with an
3 address. And so, I don't think he can offer that. He's not
4 the author. He's just offering what, you know, route that
5 he's put in from the point where he was when he took the
6 screenshot. So I don't think the proper person's here to get
7 that into evidence.

8 MS. TANKERSLEY: I don't who the proper person would be
9 for a Google Map.

10 MR. HAWKINS: Well, it's not --

11 MS. TANKERSLEY: It -- it's a demonstrative --

12 MR. HAWKINS: It's not a --

13 MS. TANKERSLEY: -- showing his route.

14 THE COURT: Hold on -- hold on. I'm going to allow it
15 for demonstrative. I mean, it's just a --

16 MR. HAWKINS: Can I have one thing to -- for the
17 record?

18 THE COURT: Yeah.

19 MR. HAWKINS: He can't say that that fair and
20 accurately depicts the things because he wasn't in a
21 helicopter looking down, and that's the view that's shown.
22 So I just want to put that on the record.

23 THE COURT: All right. And subject to that objection.

24 MS. TANKERSLEY: All right.

25 THE COURT: But he did --

1 MS. TANKERSLEY: Thank you, your Honor.

2 THE COURT: -- say that was the route he took. So --

3 MS. TANKERSLEY: Thank you, your Honor.

4 BY MS. TANKERSLEY:

5 Q. All right. So again, this map that we're looking at
6 here shows you traveling from -- this within the route from,
7 you can see on the map, Master Tech Automotive, correct?

8 A. Yes.

9 Q. Okay. Down Rutherford Road, taking a left onto what's
10 Warehouse Court?

11 A. Yes.

12 Q. Okay. And then taking another left onto Tappan Drive,
13 right?

14 A. Yes.

15 Q. And then you're on Tappan Drive, and down here at the
16 bottom of the map, that's where the Walmart is and where the
17 accident happened, correct?

18 A. Yes.

19 Q. Okay. Approximately how long would you have been in
20 the car for -- from the start of your travel there at Master
21 Tech down (inaudible) mile down the road?

22 A. About three minutes. Three to four. The light was
23 red.

24 MS. TANKERSLEY: Okay. And I know this is tedious, but
25 we've got to get all these into evidence. That was 6 --

1 THE CLERK: 7.

2 MS. TANKERSLEY: 7. Okay.

3 BY MS. TANKERSLEY:

4 Q. All right. I have pre-marked Defendant's Exhibits 8,
5 9, 10, 11, 12, and 13. Which I'm going to hand to you. And
6 if you could flip through those, and then I'll ask you some
7 questions.

8 A. Okay.

9 Q. Okay. All right. Did these photo -- well, let me ask
10 you, what are these photographs of?

11 A. Google Maps of Tappan Drive.

12 Q. Okay. And is that the -- the direction that you were
13 heading down on Tappan Drive?

14 A. Yes.

15 Q. Okay. Driving up to where the accident happened?

16 A. Yes.

17 Q. All right. Do these photographs on Google Map
18 accurately reflect the path you took? And I believe they're
19 all from 2017, accurately reflect what your path looked like
20 as you drove up to the intersection?

21 A. Yes.

22 MS. TANKERSLEY: Okay. Your Honor, I'd like to
23 introduce into evidence Defendant's 8 through 13.

24 THE COURT: Any objection?

25 MR. HAWKINS: I haven't seen them.

1 THE COURT: Okay.

2 MR. HAWKINS: Your Honor, I do have an objection.

3 Should we approach?

4 THE COURT: Yeah.

5 (OFF THE RECORD)

6 MS. TANKERSLEY: Thank you, your Honor. All right.

7 Your Honor, I'd like to move Exhibits 8 through 13 into
8 evidence.

9 THE COURT: Right. And they're admitted subject to
10 objection on relevance from plaintiff's counsel.

11 (Defendant's Exhibit 8 through 13 admitted into evidence)

12 MS. TANKERSLEY: Thank you, your Honor.

13 BY MS. TANKERSLEY:

14 Q. All right. I'm going to show you the series of these
15 pictures (inaudible). Okay. This is the direction you were
16 driving down on Tappan Drive; is that correct?

17 A. Yes.

18 Q. Okay. Do you know sort of what's over in this general
19 vicinity?

20 A. I believe that's the backside of the Walmart.

21 Q. Okay. And -- and this building right here, do you know
22 what that is?

23 A. Informally, it was a bylaw. I'm not sure what it's
24 now.

25 Q. Okay. And down here at the end, what is that?

1 A. The intersection to Wade Hampton.

2 Q. Okay. And you can -- you can see straight down there
3 where there's something obstructing your view; is that fair?

4 A. Yes.

5 Q. All right. And this is just the -- the next series
6 down the path. Same thing, we're getting a little bit closer
7 to the Walmart, the bylaw and down the intersection; is that
8 right?

9 A. Yes.

10 Q. All right. Do you know what -- what this intersection
11 is here to the left?

12 A. That would be the entrance to the bylaw.

13 Q. Okay. Do you know, in 2017, was that bylaw still open
14 or was it closed?

15 A. I'm not sure -- I'm not sure.

16 Q. All right. And over here is the -- the, what?

17 A. That's the Walmart parking lot.

18 Q. Okay. So just traveling further down. This light here
19 that you can see at the end of the road, that's the light to
20 Wade Hampton?

21 A. Yes.

22 Q. All right. This is the next step. It still shows your
23 -- your line of sight; is that fair?

24 A. Yes.

25 Q. Okay. Anything obstructing your view at all during

- 1 this time?
- 2 A. No.
- 3 Q. No curve or anything in these photographs?
- 4 A. No.
- 5 Q. All right. Is this the -- the same thing, just further
- 6 down the road?
- 7 A. Yes.
- 8 Q. Okay. What is this photograph here?
- 9 A. This is the entrance to the Walmart.
- 10 Q. Okay. Is --
- 11 A. Another entrance to the bylaw.
- 12 Q. Is this where the accident happened?
- 13 A. Yes.
- 14 Q. Okay. And in -- let me ask you this way. In -- in any
- 15 of these photographs, can you identify where your vehicle was
- 16 when you first saw Meghan Seely turn?
- 17 A. It -- it would be this photo.
- 18 Q. Okay. Where in this photograph, the best you can
- 19 describe to me, where your vehicle was located when you
- 20 noticed her turning
- 21 A. Somewhere between the bottom and the X.
- 22 Q. The bottom, like down here?
- 23 A. Yes.
- 24 Q. And -- and this X right here?
- 25 A. Yes.

1 Q. Okay. So somewhere around here. It's kind of squared.
2 Somewhere around here, you think is where your vehicle was
3 when you saw her turn?

4 A. Yes.

5 Q. Okay. Can you tell me in this photograph when you
6 first noticed her turning, where was she located?

7 A. She would be just to the left of the end of Tappan
8 Drive, in the middle of the screen.

9 Q. The end of Tappan, you mean, like right --

10 A. Yes.

11 Q. -- here?

12 A. Uh-huh.

13 Q. So I'm -- if I put an X right there, does that
14 accurately depict where her vehicle was?

15 A. Yes.

16 Q. All right. If you could, for me, tell the jury how
17 this accident happened.

18 A. I'm traveling down, Tappan to the red light at Wade
19 Hampton, and the car on the left was stopped trying to make a
20 left turn into the Walmart parking lot. I assumed I have
21 right of way moving straight in my lane, and she turns left
22 in front of me.

23 Q. Okay. Did you notice her vehicle before it started to
24 turn?

25 A. Yes, it was signaling.

1 Q. Okay. what did you do when you saw her vehicle start
2 to turn?

3 A. That would be when I started to use my brakes.

4 Q. Okay. What happened when you punched your brakes?

5 A. The wheel stopped but the weight did not.

6 Q. Okay. What -- what.

7 A. So I kind of slid. I -- I -- I instinctually hit them
8 as hard as I could with a car in front of me, which will make
9 all that weight continue to slide regardless of if the wheels
10 on the vehicle stopped.

11 Q. I -- I want to be clear. You instinctively hit what?

12 A. The brake pedal.

13 Q. Okay. So instinctively hit the brake pedal as hard as
14 you could. Let me know if I'm getting this wrong. Momentum
15 -- like to stop the speed of your car, but then your car
16 continued to slide?

17 A. Yes.

18 Q. Is that fair?

19 A. Yes.

20 Q. Okay. And then continued to slide. In this
21 photograph, where did the impact actually occur?

22 A. On -- in the right lane between the X and the end of
23 Tappan Drive.

24 Q. Okay. So --

25 A. About right -- about right there.

1 Q. Okay. Around here is where the accident occurred; is
2 that fair?

3 A. Yes.

4 Q. Okay. Why would the truck keep moving if you had
5 applied the brakes?

6 A. The weight.

7 Q. And there's been a decent amount of discussion about
8 the weight of the truck and the weight of the trailer and the
9 weight of the riding lawn mower. (Inaudible) to say the
10 weight of those three things together is a significant amount
11 of weight; is that fair?

12 A. Yes.

13 Q. So even when you apply the brakes, it can continue to
14 slide forward; is that right?

15 A. Yes.

16 Q. Okay. There's been a lot of discussion thus far in
17 this case about how fast you were going at the time of this
18 accident. How long ago was this accident?

19 A. About nine years now or eight years now.

20 Q. Okay. And when your deposition was taken in 2023, how
21 long ago had the accident --

22 A. It had been six years since the accident.

23 Q. Okay. At six years past the accident or nine years, as
24 we sit here today, do you have any independent recollection
25 of what your speed would have been?

- 1 A. Not now. No.
- 2 Q. Okay. Do you have a general idea as to how fast you
3 think you were going at the time?
- 4 A. Approximately the speed limit.
- 5 Q. Okay. Why do you think that?
- 6 A. It's just normally how I drive, you know, especially in
7 other people's cars. And to -- to this day, I drive other
8 people's cars on a daily basis, so it's just part of -- it's
9 been part of work for the last 10 years for me.
- 10 Q. Okay. Was there any reason why you would've been
11 speeding down that path?
- 12 A. No. I was approaching a red light after that Walmart
13 entrance.
- 14 Q. Okay. When you say a red light, could you have seen
15 back if it was red or if it was green?
- 16 A. No, but either way I would've been -- I had to turn
17 left or right at the -- at the red light. So even if it was
18 green, I don't think that I would be trying to make it a --
19 that's -- it's something that called stale green light. It's
20 -- it is green for a matter of time before you get there, you
21 want to slow down anyway, preparing for it to turn yellow,
- 22 Q. Sterile green light? I've never heard of that.
- 23 A. Stale.
- 24 Q. Oh, stale.
- 25 A. Stale. Yeah.

1 Q. I don't know what sterile green light --

2 A. I think my driving instructor used that when I was in
3 high school and it just stuck with me. So --

4 Q. Interesting. Okay. And so, I -- I -- I -- and the
5 reason I'm asking, I just want to be clear that I -- when I
6 say red light, I mean a traffic light or --

7 A. Yes -- yes.

8 Q. -- but it doesn't necessarily mean that the light was
9 red when you saw it.

10 A. Yes.

11 Q. Okay. All right -- all right. What happened after the
12 impact?

13 A. I called Cuddy to inform him. I made sure that I -- I
14 got out and asked if anyone had called 911 and someone told
15 me that they were on the phone with them. So I was -- I was
16 just kind of waiting for Cuddy to get there, and I called my
17 mom, my god mom, my wife, and my brother, because I was 19,
18 first time I got in a wreck, and I was just, you know, kind
19 of shook up a little bit.

20 MS. TANKERSLEY: Okay. All right. Let's talk about
21 that a little bit. Do you have a -- I think I have some in
22 my bag. Do you have a sticker?

23 THE CLERK: Yes.

24 MS. TANKERSLEY: Okay.

25 THE CLERK: 14.

1 MS. TANKERSLEY: 14. Thank you.

2 THE CLERK: What is it?

3 MS. TANKERSLEY: Oh, the phone records.

4 THE CLERK: Okay.

5 BY MS. TANKERSLEY:

6 Q. All right. I'm going to hand you what I'm pre-marking
7 as Defendant's Exhibit 14. And I know you were showed this
8 earlier by opposing counsel's attorney asked about them some
9 more. Do you know what this is?

10 A. My phone records from that time.

11 Q. From that time of the incident?

12 A. From that --that day. Yes.

13 Q. Day of the accident. Okay.

14 A. That day of the accident.

15 MS. TANKERSLEY: All right. Your Honor, I want to move
16 Defendant's Exhibit 14 into evidence.

17 THE COURT: Any objection?

18 MR. HAWKINS: What is it?

19 MS. TANKERSLEY: The phone records you showed.

20 MR. HAWKINS: No -- no objection.

21 THE COURT: Okay.

22 (Defendant's Exhibit 14 admitted into evidence)

23 MS. TANKERSLEY: Okay. All right. Let me use the
24 screen.

25 BY MS. TANKERSLEY:

1 Q. Okay. So these records show all the calls you made on
2 June 17th, 2017, right?

3 A. Yes.

4 Q. Okay. So it starts off at 2:18 in that morning, which
5 is a very early phone call. Who's that 553?

6 A. That's my wife.

7 Q. Okay. And that -- do you know why you would've been
8 talking to her on the phone at 2:00 in the morning?

9 A. We had an under one-year-old and we didn't live
10 together at the time, so I -- it could have been anything,
11 him screaming in the middle of the night, something. I don't
12 know.

13 Q. Okay.

14 A. I'm not exactly sure. I can't recall.

15 Q. Okay. Y'all live together now (inaudible)?

16 A. Yeah -- yeah.

17 Q. Okay.

18 A. We weren't married at the time.

19 Q. Okay. From 7:20 until, let's say 2:58 p.m., that was
20 all prior to this accident, right?

21 A. Yes.

22 Q. All right. Those were calls that you just made during
23 the work day?

24 A. Yes.

25 Q. Okay. And then we get down here to 4:55 p.m.,

1 864-704-3759. Whose number is that?

2 A. Cuddy Miller.

3 Q. All right. So it's your testimony that as soon as this
4 -- well, not as soon, but -- but when this impact happened,
5 you got -- jumped out of the car, asked someone to call 911,
6 someone affirm they had, and then you called Cuddy Miller; is
7 that fair?

8 A. Yes.

9 Q. Okay. And then all the rest of these calls -- oh,
10 thank you. (inaudible). All right. All the rest of these
11 calls, 4:59 p.m. 5:02, 5:23, 5:29, maybe 5:51, were all
12 those from the scene?

13 A. No, I believe 5:59 and 5:02 would have been possibly
14 the 5:23 and 5:29. I would -- I would say that those were --
15 because my wife picked me up. So the 5:29 would've most
16 likely been --

17 Q. Been the last call from the scene?

18 A. Yeah. Her asking where I was at exactly to pick me up.

19 Q. Oh, and that's her number, the 553?

20 A. Yes.

21 Q. Okay. So 5:29, last call. Your Wife came and got you.
22 So in between that time you called -- who are these other
23 people did you say?

24 A. That's my god brother.

25 Q. Okay. And why'd you call your god brother?

1 A. We lived together at the time.

2 Q. Okay.

3 A. And it's just somebody I relied on, you know, mentally
4 and everything, just --

5 Q. Okay. What about this 349? Who's that?

6 A. That's my -- his mother, my godmother.

7 Q. Okay. And then 553, that's your wife?

8 A. That's my wife, yes.

9 Q. Okay. All right. So you called, I believe, you
10 testified, mom, godmother, god brother, Cuddy because you
11 were nervous, got into an accident and wanted to talk to
12 people; is that fair?

13 A. Yes.

14 Q. Okay. All right. And then the rest of these calls for
15 the rest of the night were dealing with whatever
16 conversations you were having for the rest of the day?

17 A. Yes.

18 Q. All right -- all right. You were asked a couple of
19 questions and I just want to make sure it's clear, as to what
20 injuries you noticed at the scene. What -- what injuries did
21 you see other people having?

22 A. At this point, I can't fully recall, but I didn't do a
23 whole lot of looking in the windows of the cars and
24 everything. You know, I just kind of wanted to step away,
25 make my phone calls, and just go from there. And I had to

1 wait for the -- the highway patrolman, to talk to him. I
2 wasn't going to just leave or anything, but I just wasn't
3 really poking and (inaudible) around what was going on.

4 Q. Okay. Went and sort of sat by yourself at the scene.

5 A. Yes.

6 Q. Did Meghan Seely ever come and talk to you?

7 A. No.

8 Q. Did she ever check on you?

9 A. No.

10 Q. Did she ever apologize to you?

11 A. No.

12 Q. You were asked in -- well actually, before I get to
13 that, I'm going to hand you what's been marked as Defendant's
14 -- pre-marked as Defendant's Exhibit 15, which is a
15 photograph from the wreckage. All right. What is that?

16 A. A screenshot of a photograph that I took back of the --
17 the accident.

18 Q. Okay. Similar to the -- the one that we just talked
19 about?

20 A. Yes.

21 Q. Okay. You took the photograph that's here?

22 A. Yes.

23 Q. And then you took the screenshot that has the
24 identifying information about the photograph?

25 A. Yes.

1 Q. Okay. Does that accurately reflect both the photograph
2 that you took and the screenshot that you took?

3 A. Yes.

4 MS. TANKERSLEY: All right. Your Honor, I'd like to
5 introduce Defendant's Exhibit 15 into evidence.

6 THE COURT: Any objections?

7 MS. TANKERSLEY: I'm sorry. Yeah.

8 MR. HAWKINS: No objection, subject to the -- the last
9 objection of the last picture.

10 THE COURT: So (inaudible).

11 MR. HAWKINS: No new objections.

12 THE COURT: Oh, no new objection --

13 MR. HAWKINS: Yeah.

14 THE COURT: -- I mean.

15 MR. HAWKINS: It was subject -- subject to relevance
16 based on the same things we talked about, all the extra stuff
17 that --

18 THE COURT: Okay.

19 MR. HAWKINS: -- besides the picture. Yeah.

20 THE COURT: All right. Then it's in with that subject
21 to your objection.

22 (Defendant's Exhibit 15 admitted into evidence)

23 MS. TANKERSLEY: Thank you, your Honor.

24 BY MS. TANKERSLEY:

25 Q. Andre, what is this photo of?

1 A. A photo of the -- after the incident.

2 Q. Okay. And -- and is this after you had gotten off the
3 phone with Cody?

4 A. Yes.

5 Q. Okay. Tell me sort of where you were walking from and
6 walking to when you took this picture.

7 A. I had gotten out of the truck. That was just the route
8 that I walked around to be out of the road. And I took a
9 picture as I was passing by.

10 Q. Okay. All right. What's the date this photo was
11 taken?

12 A. June 17th, 2017.

13 Q. All right. And the location?

14 A. Wade Hampton, South Carolina.

15 Q. And the time this photo was taken?

16 A. 4:57 p.m.

17 Q. Okay. So we can confidently say that this -- the
18 accident in this case happened before 4:57 p.m.; is that
19 fair?

20 A. Yes.

21 Q. All right. Andre, I'm going to hand you what I've
22 pre-marked as Defendant's 16, 17, 18, 19 and 20. And this is
23 just for of a housekeeping thing, because this has come up in
24 testimony, but there was a -- a third vehicle involved in
25 this accident; is that right?

1 A. Yes.

2 Q. Okay. Can you flip through those photos for me? Do
3 those photos accurately reflect the damage that was done to
4 the third vehicle that was involved with this accident?

5 A. Yes.

6 MS. TANKERSLEY: Okay. Your Honor, I'd like to
7 introduce, and I'll bring them to you, Josh, Exhibit 16
8 through 20 into evidence.

9 MR. HAWKINS: No objections.

10 THE COURT: Okay. What -- what -- what -- what
11 numbers?

12 MS. TANKERSLEY: 9 -- I'm sorry. 16 through 20, I
13 believe. Yes, your Honor. 16 through 20.

14 (Defendant's Exhibit 16 through 20 admitted into evidence)

15 THE COURT: All right. Exhibit 16 through 20 entered
16 without objection.

17 BY MS. TANKERSLEY:

18 Q. And I'll just -- briefly, so that the jury can see what
19 we're talking about, these are the photos of the third
20 vehicle that was involved, right? The damage that was done
21 to the third vehicle; is that right?

22 A. Yes.

23 Q. Okay. That's the front. Shows the dents. All right.
24 And I don't know that we've talked with the jury really about
25 how this third vehicle got involved. So let's go back to

1 Defendant's Exhibit 13. Just a photo where the accident
2 occurred. Where was this third vehicle when the collision
3 occurred?

4 A. They were coming out of the Walmart parking lot to make
5 a right turn.

6 Q. Okay. So sitting in -- in this intersection?

7 A. Yes.

8 Q. Okay. So if I'm -- well, I don't know how far -- how
9 far back do you think they were?

10 A. Probably about where that tree is.

11 Q. Okay.

12 A. Tree in then the shadow.

13 Q. The tree, and they were sitting there. So when -- when
14 this collision happened, how did that vehicle get involved in
15 the accident?

16 A. Where the truck pushed the car into them.

17 Q. Okay. So Meghan Seeley's driving from over here, turns
18 left. You see her here, hit your brakes, and your slide, the
19 impact occurs here, and then the vehicle -- pushed the
20 vehicle further into that third vehicle; is that right?

21 A. Yes.

22 MS. TANKERSLEY: Okay -- okay. I believe you were
23 asked earlier about -- did y'all introduce that photo that
24 you were saying was a radar detector or something? Did y'all
25 introduce that?

1 MR. HAWKINS: Uh-huh.

2 MS. TANKERSLEY: Okay.

3 BY MS. TANKERSLEY:

4 Q. You were shown a photo earlier when I -- I believe,
5 opposing counsel thought might be a radar detector. You said
6 it was a brake something or another?

7 A. Yeah. A trailer brake controller.

8 Q. What is that?

9 A. It's a device that's connected to the output on the
10 truck to input up the -- the trailers. It plugs in the same
11 way as the lights. You know how your brake lights are
12 attached to the --

13 Q. No.

14 A. -- trailer?

15 Q. I don't.

16 A. The brake lights are all attached to the trailer brakes
17 and all that through like a little short harness on the --
18 the back of the truck.

19 Q. Okay.

20 A. I just plug it in and there's a dial on it. I was
21 never the one to set the pressure on the brake controller.
22 That was something Cuddy had set up already.

23 Q. Okay. So it -- it is some sort of device that connects
24 the truck brakes to the trailer brake, so that when you push
25 the truck brakes, the trailer brakes engage?

1 A. Yes.

2 Q. Okay. Did you have any sort of radar detector in that
3 truck?

4 A. No.

5 Q. All right. You were also shown a photograph
6 Plaintiff's Exhibit 5, which I believe was some headphones
7 potentially on the floor of the truck?

8 A. Yes.

9 Q. Okay. Were those your headphones?

10 A. I couldn't say at this point. I mean, multiple people
11 use the truck.

12 Q. Okay. What would you have -- if they were your
13 headphones or Cody's headphones, I suppose, what would either
14 of you have used headphones for at work?

15 A. We use loud equipment all day. So it's just a way to
16 kind of help our ears.

17 Q. Okay. All right.

18 A. Sometimes -- sometimes it was just ear buds of like
19 noise stopping, but sometimes we listen to music. You know,
20 you're on the lawn mower for hours a day. I mean, just kind
21 (inaudible) noise. You want to avoid that.

22 Q. Okay. I got you. All right. You were asked on direct
23 examination a number of questions dealing with a legal
24 document called an amended complaint. Do you have any idea
25 what an amended complaint is?

1 A. Partially. I don't even know what's -- what it says.
2 An amended complaint, you know, it's just -- they changed
3 what -- how they complain.

4 Q. Hold on. Yeah.

5 A. Or --

6 Q. You don't have to get into like what was amended or
7 anything like that.

8 A. Okay.

9 Q. What I want to talk about really is, do you understand
10 the -- the legal purpose of a -- a complaint in general?

11 A. Uh-huh.

12 Q. Did you file what's called an answer in response?

13 A. No.

14 Q. You personally did not?

15 A. No.

16 Q. That's something that your attorney did on your behalf?

17 A. Yes.

18 Q. Okay. You relied on your attorney to help with any
19 sort of legal terminology, legal issues, legal pleadings; is
20 that fair?

21 A. Yes.

22 Q. Okay. So when you were handed an amended complaint in
23 your deposition and said -- and asked, is this accurate, is
24 this accurate, is this accurate, did you understand what you
25 were being handed?

1 A. Not exactly. No.

2 Q. Okay. You were asked some questions about, you
3 admitted under oath that you were going much, much faster
4 than the speed limit. Were you ever asked that question
5 specifically, were you going much, much faster than the speed
6 limit?

7 A. No.

8 Q. Okay. Were you handed a document that presumably
9 alleged that, and then asked, does this document say
10 everything that it says, and is it all accurate, et cetera,
11 et cetera?

12 A. Yes.

13 Q. Okay. We've talked a little bit about it at the
14 beginning, that speaking in front of people being in a
15 courtroom in general is for attorneys, it's an everyday
16 occurrence, and it's not something that's all that nerve
17 wracking, but for people that are involved in litigation can
18 be quite nerve wracking; is that fair?

19 A. Yes.

20 Q. Are you a little nervous being here today?

21 A. Just a little bit. Yeah.

22 Q. Okay. All right. Were you a little bit nervous
23 sitting in your deposition?

24 A. Yes.

25 Q. Okay. If they are inconsistencies in your deposition

1 or things that you were -- well, let me -- let me backtrack.
2 At the time that you were deposed were you trying to answer
3 the questions to the best of your ability based on your
4 memory six years after this accident?

5 A. Yes.

6 Q. Okay. Do you think that what you said in your
7 deposition was a hundred percent accurate, your memory is
8 crystal clear of exactly how these things went?

9 A. No.

10 Q. Okay. I believe you testified earlier you were asked,
11 you know, "Did you ever slow down? Were you going faster in
12 a curve?" And -- and I want to make sure that the -- your
13 testimony is clear about how you operated during that curve.
14 Would you have slowed down while you were driving through a
15 curve?

16 A. Yes.

17 Q. Okay. And I believe your testimony just now was if you
18 approached -- what did you call the green light?

19 A. A stale -- stale --

20 Q. A stale green light. Whether it's something that maybe
21 is green, but you think it's going to turn red before you get
22 there, would you have slowed down at that point too?

23 A. Yes.

24 Q. Okay. If you were driving somebody's car that wasn't
25 your car, would you drive appropriately?

1 A. Yes.

2 Q. Cuddy was confident in your ability to operate that
3 truck and trailer?

4 A. Yes.

5 Q. There was some discussion about what was deemed an
6 important lawn for you to get to on the day of the accident.
7 Cody's testimony, while you were in here, was that y'all sort
8 of worked in -- to your schedule, that there would be days
9 you couldn't work because of rain; is that fair?

10 A. Yes.

11 Q. Okay. So if it had rained back in June of 2017 would
12 you have been rushed to complete any sort of landscaping
13 jobs?

14 A. No.

15 Q. All right. This was a -- a Saturday, we believe,
16 right?

17 A. Yes.

18 Q. All right. Saturday around 4:30, is that a normal time
19 for you to be working?

20 A. Yes.

21 Q. All right. Past 4:30, past 5:00, is that a normal time
22 for you --

23 A. In summertime, yes.

24 Q. Okay. Why does it matter that it's the summer?

25 A. It's just the peak season for -- that's when the grass

1 grows the most. So --

2 Q. It's when the grass grows.

3 A. Yeah. You know, you got to have -- got to have a cut.

4 So --

5 Q. Sure. You're not out there in the dark because there's
6 sunlight, presumably in June?

7 A. No, not in the dark.

8 Q. Okay. So you can continue to work until the sun goes
9 down?

10 A. Yes.

11 Q. All right. Were you in any way rushed to get to -- to
12 this job that you were going to back in June of 2017?

13 A. No. Being that there was only one left, and I was
14 headed there at 5:00 o'clock, I'd probably getting off
15 earlier than normal.

16 Q. Okay. And your boss knew exactly where you were going
17 when you were going to be there because you had just dropped
18 him off, right?

19 A. Yes.

20 Q. All right. So he wasn't rushing you to get anywhere?

21 A. Right.

22 Q. All right. You testified you didn't call 911. How --
23 how come?

24 A. The first person I asked when I got off the -- out of
25 the truck said that they were on the phone with them.

1 Q. Okay. All right. I think I'm about finished, but I
2 just want to double-check before I give you up. Let me ask
3 you this, obviously we're here today relating to disputing
4 how an accident happened. Do you believe that you were
5 responsible for this accident?

6 A. No.

7 Q. Who do you believe is responsible for this accident?

8 A. Meghan Seely.

9 Q. Okay. Do you believe -- well, your testimony was, with
10 me today, that you believe you were going around the speed
11 limit; is that fair?

12 A. Yes.

13 Q. And that could be a little bit under, that could be a
14 little bit over.

15 A. Yes.

16 Q. Okay. If you were going 30 miles per hour at the time
17 of this accident, do you think if you were going five miles
18 per hour under 25 instead of 30, potentially, do you think
19 you could have avoided this accident?

20 A. I don't believe so.

21 Q. Okay. Did you do everything in your power you could to
22 avoid colliding with Meghan Seely?

23 A. Yes.

24 MS. TANKERSLEY: Okay. One second, your Honor. I just
25 want to double-check my notes. All right. Andre, I'm done

1 with you. Josh probably has some -- Mr. Hawkins probably has
2 some questions for you on redirect.

3 THE COURT: Redirect?

4 MR. HAWKINS: Thank you Judge. One -- one issue for
5 the Court before we start.

6 THE COURT: Okay.

7 MS. TANKERSLEY: Okay.

8 (OFF THE RECORD)

9 THE COURT: All right. Ladies and gentlemen, I'm going
10 to have to address something outside the presence of the --
11 outside of your presence. So if you'll go -- step in the
12 jury room, and don't discuss the case.

13 (JURY EXITS)

14 THE BAILIFF: You're clear, sir.

15 THE COURT: All right. I guess I'll hear from -- from
16 you on your --

17 MR. HAWKINS: Your Honor, it was defendant's testimony
18 that he generally drives the speed limit. That's how he
19 drives, that's the kind of driver he is. And we found
20 citations from '17 and '19 related to speed for the
21 defendant. So that impeaches his testimony that he's
22 generally the driver, he always goes the speed limit. So on
23 the rules of evidence impeachment, I think we're entitled to
24 impeaching on that.

25 THE COURT: I mean, 609 deals with --

1 MS. TANKERSLEY: Criminal convictions.

2 THE COURT: -- criminal conviction. He said 609,
3 that's -- that's criminal convictions of crimes more than a
4 year -- factual by more than a year or dishonesty.

5 MS. TANKERSLEY: I mean, you know, we had this
6 discussion pretrial, that any sort of ticketing -- issuance
7 of tickets is inadmissible, convictions are inadmissible for
8 traffic tickets. So he's going to go on a path of getting
9 into tickets being issued. And I think I'd get to ask Meghan
10 Seely if she was issued a ticket in this accident as well.

11 MR. HAWKINS: And -- and with respect, your Honor,
12 Meghan Seely hasn't testified falsely.

13 THE COURT: Right.

14 MR. HAWKINS: He has. If he says, I'm a generally good
15 driver, and I follow the speed limit, but he's got two
16 convictions that impeach that, I'm entitled to impeach them.
17 Now, if Meghan Seely gets up here and says something
18 impeachable, she can impeach her. But that hasn't happened
19 yet, and this has.

20 MS. TANKERSLEY: Your Honor, for -- I think for any
21 sort of conviction of any traffic ticket or felony or
22 otherwise, we have to have a certified copy of that to ensure
23 that that is what it says it is. Printing off somebody's
24 driving record is not sufficient.

25 MR. HAWKINS: And, your Honor, this would have -- this

1 would mean the requirement of similarity between the past
2 charge of crime and the issue at hand. And it would also be
3 central to the -- to the issues of the testimony. I mean,
4 that is the issue of the testimony, is whether he always goes
5 the speed limit.

6 MS. TANKERSLEY: I -- I assume when he's talking about
7 similar act, he's talking about under punitive damages of --

8 MR. HAWKINS: That's not --

9 MS. TANKERSLEY: Well, similar -- well, I don't know
10 what --

11 THE COURT: I guess the question is, what exactly did
12 he testify to? Is there any way you could find that out?

13 THE CLERK: Oh, I'd have to go back and like, download
14 the audio.

15 THE COURT: And I don't see exactly how -- how he
16 testified.

17 MR. HAWKINS: And, your Honor, let me preemptively say,
18 you know, my client's going to go -- is going to testify and
19 if he opens the door to something, she's going to get an
20 impeachment.

21 THE COURT: But I -- I --

22 MR. HAWKINS: Right. But --

23 THE COURT: Can I, like -- can I wait and hear this to
24 see if the door's have been opened? And that's the whole
25 purpose of (inaudible).

1 MR. HAWKINS: I just want to make a point, your Honor,
2 that the reason I'm trying to do this now is because he's
3 pretty close to the end and once he leaves, you know, he's
4 done. So I -- I don't want to lose that -- that moment.

5 THE COURT: Well, I know that, but I'm -- can I at
6 least listen? Do you think you could find that though
7 (inaudible)? Do you know about where it was?

8 MS. TANKERSLEY: I -- I think I asked him, "Do you have
9 any idea what speed you were going maybe at the time of the
10 accident?" His memory was that he -- he doesn't. And I said,
11 "Do you have a -- " I don't know what I asked.

12 THE COURT: All right.

13 MS. TANKERSLEY: I do you know a general idea of where
14 you were going? It -- it's something along those lines.

15 THE COURT: I think it may have been more a long -- I
16 think he was talking about driving other people's vehicles
17 maybe.

18 MS. TANKERSLEY: Well, and that would obviously be
19 different from --

20 THE COURT: Well, that's what I need -- we need to hear
21 and see if the door's been open.

22 MS. TANKERSLEY: Yeah.

23 THE COURT: So I guess we'll take a break, and download
24 --

25 THE CLERK: I'll download it.

1 THE COURT: I'm sorry.

2 THE CLERK: It's okay.

3 THE COURT: All right. We'll take a break. And again,
4 you're in the witness bubble. You can get down off the
5 bench, go to the bathroom, but you can't discuss your case.

6 MR. HAWKINS: Your Honor, one -- one more thing. Just
7 because she's searching for it --

8 THE COURT: Well, she -- well, she can't search if
9 you're talking.

10 MR. HAWKINS: Well, this is important. He said
11 something about driving other people's vehicle, but the part
12 we're talking about was before that. So I want to make sure
13 that's --

14 THE COURT: Oh, okay.

15 MR. HAWKINS: -- in the record.

16 THE COURT: All right.

17 (RECESS TAKEN)

18 THE COURT: Couple of rules -- rules -- I guess
19 relevant rules that may or may not apply would be 404. And
20 that's kind of characterized as other crimes can be
21 introduced for motive, identity, existence of common scheme
22 or planned absence. I don't think that's what we're talking
23 about here.

24 I think we're talking about here 608 because specific
25 instance of conduct, which would be 608(b) And the case law

1 on that, it's -- it's pretty specific. I found -- it's two
2 cases from South Carolina.

3 Now, specifically quoting from State v. Quattlebaum,
4 338 South Carolina 441. And it says under Rule 608(b),
5 "Specific instance of a witness's misconduct may be inquired
6 into on cross-examination if probative of the witness's
7 character for truthfulness or untruthfulness.

8 The inquiry under 60(b) is limited to those specific
9 instances of misconduct, which are clearly probative of
10 truthfulness or untruthfulness such as forgery, bribery,
11 false pretenses and embezzlement."

12 So I believe under that, and I don't think it -- it
13 doesn't rise to the level of impeachment that is found in
14 609, which has to be a crime, conviction of dishonesty or a
15 conviction of more than one year. So my analysis is, I don't
16 see a basis for the introduction of this traffic record. I'd
17 be glad to hear from you though.

18 MR. HAWKINS: Yeah, your Honor. I just want to make
19 sure it's clear on the -- on the record that even though he
20 said he follows the speed limit, he's a good driver and
21 that's how he drives. And that was not truthful and just
22 used the words from case you decided. Even though that was
23 not truthful.

24 And he testified under oath, we can't show the jury
25 through impeachment that it's not truthful because he's been

1 cited three times for speeding and driving too fast for
2 condition. I just want to make sure that that's on the
3 record. So even though we can show that he was not truthful
4 about that, we don't care to impeach him --

5 THE COURT: Right. But it says you can show that --
6 you can impeach him through misconduct that was untruthful
7 such as forgery, bribery, false intent -- false such as
8 embezzlement.

9 MR. HAWKINS: Such as to me would -- would say that
10 it's not limited to those specific things. I mean, perjury
11 is a pretty big deal. And if he just said something that's
12 demonstrably untrue, that is perjury, that is such as
13 forgery. I mean it's in the same family. It's probably in
14 the same bedroom.

15 THE COURT: I don't -- I don't believe -- I don't
16 believe he's got the -- he got to the level of perjury.

17 MR. HAWKINS: Well that's Court's ruling.

18 THE COURT: Yeah, I mean I think that -- I mean I think
19 that under that I don't -- I don't see a basis

20 MR. HAWKINS: And I -- and I think it's -- I just want
21 put this on too.

22 THE COURT: No.

23 MR. HAWKINS: It -- it's highly probative because he --
24 he just -- he just told a lie on, you know -- under the oath
25 to the jury and now it's out there and I don't get to rectify

1 that, so.

2 THE COURT: Well, I mean, I didn't write the rules of
3 evidence. I just have to interpret them. That --

4 MS. TANKERSLEY: Your Honor, if I could just, again,
5 for purposes of the record, I also want to add, and I
6 understand your ruling, agree with it entirely. Also the
7 problem that we have is we don't have any sort of certified
8 records showing that there was any sort of conviction
9 regarding these citations.

10 MR. HAWKINS: We had it printed out. I can hand that
11 up.

12 THE COURT: Well, I mean -- I mean you can put it in
13 view. Well actually -- actually, it clearly says in the rule
14 that extrinsic evidence would not be admissible anyway. So
15 he could lie again and say, well no I didn't do that. And
16 yet you're stuck with it. That's what the cases say.

17 MR. HAWKINS: Yeah. Right. And Ex Parte Dibble says
18 that you could do all things to reach the ends of justice and
19 you letting a guy lie to the jury, that's not justice.

20 THE COURT: Well, I -- okay, first of all, I'm not sure
21 that the way -- and again, we -- I didn't pull up the record.
22 I'm not sure that saying generally I drive a car the speed
23 limit and then somebody said you have to have prior -- I mean
24 if somebody asked me if I drive the speed limit, I would say
25 yes. And under your theory I'd be lying because I've had

1 speeding tickets.

2 MR. HAWKINS: Well, your Honor --

3 THE COURT: And I just don't think that's -- I mean --

4 MR. HAWKINS: Right. But this is not that case. He
5 said to me, "Yeah, I agree that I was going 30 -- going --
6 going over the speed limit." And then with her, he says, "I
7 think I was going the speed limit." Okay. Well they can
8 determine that waffle on their own.

9 But then when he says "I know I was going the speed
10 limit because that's how I drive." And then we get three
11 instances of tickets because that's not how he drives.
12 That's directly probative to what he just said.

13 THE COURT: Right. But I believe under the rules of
14 evidence --

15 MR. HAWKINS: Okay.

16 THE COURT: -- that conduct would not be admissible.

17 MR. HAWKINS: All right. Thank you, Judge.

18 THE COURT: All right.

19 MR. HAWKINS: Now, I guess I'm up for redirect.

20 THE COURT: Yeah, you were. Yeah. All right. Take
21 the stand. Are we going just for -- while we're breaking?
22 Is it (inaudible) now? We'll have time for another witness.

23 MR. HAWKINS: Well my next witness is my client and
24 he's -- she's going to take a long time with him, so I don't
25 know what the Court will do. I'm going to take about 30

1 minutes with her.

2 THE COURT: Okay.

3 MS. TANKERSLEY: I mean, how long have I taken with
4 anybody else? I don't -- I don't keep track.

5 THE COURT: No. No --

6 MR. HAWKINS: You went on and on with him about where
7 he lives and where -- all the kind of stuff that don't have
8 to do with the trial.

9 MS. TANKERSLEY: Well, that's pretty standard for trial
10 defenses. (Inaudible).

11 THE COURT: Well let's -- hey, let's don't accuse
12 anybody of beating dead horses, Mr. Hawkins. (Inaudible) I
13 had to say that. I'm sorry.

14 MS. TANKERSLEY: Your Honor, if you -- if you think you
15 can get him I'm -- I'm happy certainly to trial plaintiff or
16 if he's got another witness here that he wants to
17 (inaudible).

18 MR. HAWKINS: I don't have anywhere to be. This --
19 this trial is (inaudible).

20 MS. TANKERSLEY: He -- he does.

21 MR. HAWKINS: Well, what you're saying, I don't have
22 any problem. I'm saying whatever y'all want to do is what
23 I'll do.

24 THE COURT: Okay. All right.

25 THE BAILIFF: On the way. Were ready, sir?

1 THE COURT: Yes.

2 THE COURT: All right. All right. Redirect and then
3 take your seat Mr. Hawkins.

4 MR. HAWKINS: Thank you, Judge.

5 REDIRECT EXAMINATION BY MR. HAWKINS:

6 Q. Mr. Knox, you testified a few minutes ago that -- well
7 I asked you when I was asking you questions earlier if you
8 had any evidence of any skid marks, could you -- could you
9 point to a photograph or something where there was a skid
10 mark and what did you tell me?

11 A. No.

12 Q. You also testified that when you got out of the car you
13 didn't call 911, that was your testimony, right?

14 A. Yes.

15 Q. But you were walking around taking these pictures. I
16 mean, you didn't call 911 or check on anybody, but you walked
17 around taking a bunch of pictures, right?

18 A. The person in the picture is the one who told me they
19 were on the phone with -- on 911.

20 Q. Did you take pictures?

21 A. Yes.

22 Q. Why didn't you take a picture of some skid marks if
23 your truck was so heavy with a trailer that it slid you in
24 another car? Why didn't you take pictures of that?

25 A. I don't think about in -- the insurance side of things

1 of that or -- or proving my innocence in this. I wasn't
2 thinking about that at the time of the wreck.

3 Q. But you were walking around taking pictures and you
4 were thinking about that?

5 A. As a passing by. I mean, yeah, the owner wanted to see
6 pictures. He was on his way. But of course I wanted to send
7 him a picture.

8 Q. Your description of this is you saw somebody turn in
9 front of you and you locked down your brakes with trailer
10 brakes and the weight pushed you with all that wave from the
11 -- into the asphalt into the next car. That was your
12 testimony, right?

13 A. Yes.

14 Q. And there wasn't one skid mark.

15 A. No skid marks from any of the cars. No. Not any -- in
16 pictures of them.

17 Q. Between the defense and everybody else has been about
18 200 pictures produced in this case, including the ones you
19 took and other people took, right?

20 A. Yes.

21 Q. Not one picture of a skid mark?

22 A. No.

23 Q. And it's your testimony for this jury that you locked
24 down your brakes with a F-2 50 with a trailer and tow loaded
25 down with lawn equipment. That's your testimony?

1 A. Yes.

2 Q. Can we use that. All right. Did you say that this
3 black area right here is where your truck was when Meghan
4 turned?

5 A. Yes.

6 Q. All right. Regardless of anything else, if your truck
7 reached that spot by going at an excessive speed, you were
8 still speeding, weren't you?

9 A. Presumably, yes.

10 Q. I mean, of course your truck was there at some point
11 because you crashed into Meghan Seely, that's what we're
12 talking about, isn't it?

13 A. Yes.

14 Q. And if you reach that point by going 50 --

15 MS. TANKERSLEY: Objection, your Honor.

16 THE COURT: Yes. Sustained.

17 BY MR. HAWKINS:

18 Q. You agree with me before you said you're going to speed
19 limit, you agree with me earlier that's you were speeding,
20 didn't you?

21 A. Approximately, yes.

22 Q. You agree with me earlier? That doesn't matter what
23 the feet per second are, there's a lot more feet per second
24 and 25 -- between 25 miles per hour and 30 miles per hour.
25 There are more feet per second. Do you agree with --

1 MS. TANKERSLEY: Your Honor, this is outside the scope
2 of redirect. This went over and over and over this in
3 direct.

4 BY MR. HAWKINS:

5 Q. Do you remember me being way back here and asking you
6 where 30 feet is?

7 MS. TANKERSLEY: Your Honor, this --

8 THE COURT: Again, this is not -- this -- you got to be
9 -- your redirect should be related to her across the
10 examination.

11 BY MR. HAWKINS:

12 Q. And -- and also these pictures that we're seeing, what
13 -- what time of the year was the wreck again? It was June.

14 A. June.

15 Q. These pictures don't have any leaves on -- on trees, do
16 they?

17 A. No.

18 Q. I mean, you testified that this fairly and accurately
19 depicts the, the photograph at the time of the collision.
20 But it's winter time in this, sir. I don't know, maybe it's
21 early spring. It's not June. Is it?

22 A. Dated March.

23 Q. In fact, there's no leaves on any of the trees are
24 there? Well, here it is. Here's the one I showed you.

25 A. No.

1 Q. That's a different time of year, huh?

2 A. Yes.

3 Q. Are there any skid marks on either one of these
4 pictures anywhere?

5 A. No. It was dated before the day of the accident.

6 Q. Do you have any pictures from the day of the accident
7 with skid marks?

8 A. No.

9 Q. Okay. Now, you were asked about some statements you
10 gave me about -- I asked you certain things about allegations
11 in your deposition, and you agreed under oath that they were
12 true and accurate and that nothing needed to be changed. You
13 remember telling me that?

14 A. Yes.

15 Q. Okay. Do you remember that I also showed you a letter
16 that we sent to your lawyer?

17 MS. TANKERSLEY: Objection, your Honor.

18 MR. HAWKINS: I'm not putting in note.

19 MS. TANKERSLEY: Objection, your Honor.

20 THE COURT: That has not -- that would've been on
21 direct or cross.

22 MR. HAWKINS: She just asked about --

23 THE COURT: No. No. There was nothing referenced
24 there that was --

25 MR. HAWKINS: Can we please approach.

1 THE COURT: All right.

2 (OFF THE RECORD)

3 BY MR. HAWKINS:

4 Q. Just so we're clear, your testimony to me was that you
5 agreed under oath that you drove well in excess of the posted
6 speed limit of 25 miles per hour. That was your testimony
7 under oath when I took your deposition and earlier today here
8 in court, right?

9 A. Yes.

10 Q. Okay. And regardless of anything on cross, your --
11 your testimony, your sworn testimony earlier today was that
12 the defendant was still far enough from Ms. Seely when the
13 collision occurred, that if the defendant had been traveling
14 the posted speed limit at 25 miles per hour?

15 MS. TANKERSLEY: Objection, your Honor. All this --

16 MR. HAWKINS: This -- she asked about it.

17 MS. TANKERSLEY: He's trying to get a second bite at
18 the apple.

19 THE COURT: Yeah.

20 MR. HAWKINS: She -- she undermined my direct and
21 cross. I'm entitled to say --

22 MS. TANKERSLEY: That's what cross-examination is.

23 MR. HAWKINS: Right. And I'm entitled to say this is
24 the testimony. I mean, he swore it under oath.

25 THE COURT: Well, I mean, all right. I'm going -- I'm

1 going overrule objection.

2 BY MR. HAWKINS:

3 Q. Was it your testimony earlier today that had you been
4 going the posted speed limit of 25 miles per hour instead of
5 what you were going, that Seely would've had completed her
6 turn without incident. Was that your testimony?

7 MS. TANKERSLEY: I want -- objection, clarification.
8 Is that deposition testimony or testimony -- you're saying --

9 MR. HAWKINS: It's his testimony from earlier today
10 when she swore him in and he's under oath.

11 MS. TANKERSLEY: I -- I think that's a misstatement of
12 prior testimony.

13 THE COURT: I mean; he can answer it.

14 BY MR. HAWKINS:

15 Q. Was that your testimony earlier today?

16 A. Yes.

17 MR. HAWKINS: No further questions.

18 THE COURT: All right. Thank you. You may step down.
19 All right. It's three o'clock. If you'll approach. I'm
20 trying to figure out scheduling here. I don't want

21 (OFF THE RECORD)

22 THE COURT: All right. We're trying to decide, because
23 I'm having to leave early. Let me just stay with
24 (inaudible). I'll leave early. so we're trying to figure
25 out if we have a shorter witness that we can put up here

1 thinking we can knock out this afternoon. If we can, then
2 that's what we're going to do. If not, we won't have to
3 restart in the morning.

4 And also I'm -- I'm really complicating matters here,
5 but I am going to -- we're going to start late in the
6 morning. And I'd much rather be here, but I've got to take
7 my 92-year-old dad to see the doctor and discuss some things.
8 So that's why we're going to be a little bit late tomorrow.
9 I don't -- that wasn't our witness. I know y'all looked
10 there anxious, but --

11 MS. TANKERSLEY: We can put (inaudible).

12 THE COURT: Okay. All right. So go back to the jury
13 room right now, don't discuss the case and we'll let you know
14 if we're able to work something out. And don't discuss the
15 case.

16 (JURY EXITS)

17 THE BAILIFF: You are clear, sir.

18 THE COURT: All right. Everybody looked at him when he
19 came in. Oh, that's the witness?

20 MR. HAWKINS: Bill Young is saying, your Honor.

21 THE COURT: I'd like to hear it?

22 MR. HAWKINS: She's going to try to see if she can get
23 here in the next 20 minutes. Does that work?

24 THE COURT: Well, I mean, I don't know. How long are
25 --

1 MR. HAWKINS: I'm only going to take 20 minutes with
2 him.

3 THE COURT: Okay. If he --

4 MS. TANKERSLEY: I can't imagine that the questioning
5 of him will be all that.

6 THE COURT: No, I can't. I mean, I know because it's
7 -- he can only testify what he saw at the thing.

8 MR. HAWKINS: Right.

9 THE COURT: Yeah. If he could get here in 20 minutes,
10 that'll work.

11 MR. HAWKINS: Okay. If they'll tell me what they want
12 me to say. I'm happy to -- just to move and case along.

13 THE COURT: All right. What'd he say?

14 MS. TANKERSLEY: He's in the parking lot.

15 THE COURT: Oh, look at there.

16 MS. TANKERSLEY: He is proactive.

17 THE COURT: All right. We'll just take five minutes
18 then we'll start.

19 (RECESS TAKEN)

20 THE COURT: Okay. All right. Is the plaintiff ready?

21 MR. HAWKINS: Plaintiff is ready.

22 THE COURT: Defense is ready?

23 MS. TANKERSLEY: Yes, your Honor.

24 THE COURT: The jury's ready. Come on in.

25 (Inaudible).

1 THE BAILIFF: You ready, sir?

2 THE COURT: Yes.

3 THE BAILIFF: I'll bring them in. (Inaudible)

4 (JURY ENTERS)

5 THE COURT: All right. Ladies and gentlemen, it worked
6 out well. He was in the parking lot. So we will be able to
7 proceed with one additional witness. Mr. Hawkins, please
8 call your next witness.

9 MR. HAWKINS: Your Honor, we call Trooper Morgan.

10 THE CLERK: Place your left hand on the Bible and raise
11 your right hand.

12 JON CHRISTOPHER MORTON, first being duly sworn, were examined
13 and testified as follows:

14 THE WITNESS: I do.

15 THE CLERK: State your name, please.

16 THE WITNESS: Jon Morton.

17 THE CLERK: Thank you. Please be seated.

18 DIRECT EXAMINATION BY MR. HAWKINS:

19 Q. Trooper Morton, how are you?

20 A. I'm good sir. How are you?

21 Q. I'm good. Thank you for being here. I know it's a
22 little bit inconvenient. We appreciate it.

23 A. Not a problem. I'm glad to be here for you.

24 Q. I'm going to try to keep it as -- as brief as I can.

25 Did you respond to a collision involving Meghan Seely who was

1 driving a Infinity and an Andre Knox who was driving an F-250
2 back on June 17th, 2017?

3 A. Yes.

4 Q. Okay. Do you remember anything about the collision?

5 A. Very little.

6 Q. And when I say that, I know you didn't see the wreck,
7 do you remember anything about the scene of the collision?

8 A. No.

9 Q. Okay. Do you remember that it involved three cars?

10 A. Yes.

11 Q. Okay. Do you remember seeing -- do you remember seeing
12 debris and pieces of -- pieces of metal and hoses and things
13 like that?

14 A. I do remember there was damage. I do not remember the
15 extent.

16 Q. Okay. I'm going to show you a picture. It's been
17 marked as a Plaintiff's 4. Is this consistent now that
18 you're looking at it with your recollection of the scene of
19 the collision?

20 A. Yes.

21 Q. Okay. Right here. See on Exhibit 4, you -- is this
22 the -- the Infinity here with the door missing?

23 A. Yes.

24 Q. And is that F-250 with the Infinity door stuck on it?

25 A. Yes.

1 Q. And is that door -- does that door appear to you to be
2 stuck on that Ford because of the impact of the collision?

3 A. Yes.

4 Q. Okay. And that -- were you there when -- let me put
5 this up so we really can see it. Did you arrive on the scene
6 of the collision before or after the firetruck and the
7 ambulances?

8 A. After.

9 Q. The ambulances and the firetruck were already there?

10 A. I don't recall if the ambulance was still there. I do
11 believe fire personnel was still there.

12 Q. Okay. And I just want to, for the benefit of the jury,
13 this is where the door is stuck on the F-250 from the impact
14 of the collision; is that fair to say?

15 A. Yes.

16 Q. And is that where the door had to be severed from the
17 Infinity because it was fixed to the -- the truck?

18 A. It appears to be. Yes, sir.

19 Q. Did you -- and I don't know if you would've crawled
20 underneath or anything, but did you observe any of the frame
21 damage on the F-250?

22 A. No.

23 Q. Okay. Was there a serious injury involved with this
24 collision?

25 A. Yes.

1 Q. Okay. Did you observe my client at the scene of the
2 collision?

3 A. I don't recall if she was there when I got there.

4 Q. Well, my client is Mr. -- Mr. Lucas.

5 A. I apologize. I don't remember him being there. I -- I
6 don't know if he had already been transported by EMS or not.

7 Q. Okay. So there was a female driver. That's where the
8 confusion is, I think. But -- but you don't know if he had
9 already left the scene of the collision or not?

10 A. No, sir.

11 Q. Okay. Was the other passenger, was he already
12 transported or was he still there?

13 A. The other passenger in the Infinity?

14 Q. Yes, sir.

15 A. I do not recall.

16 Q. Okay. Did you see, when you looked at the -- the cars
17 and the -- did you look at the interior of the cars at all?

18 A. I took -- when I was on scene, I did take pictures of
19 the inside of the car, but I did -- I don't recall sticking
20 my head in and looking.

21 Q. Okay. Is the speed limit -- is the speed limit on this
22 road 25?

23 A. Yes.

24 Q. Okay. And it's not 35 is it?

25 A. No.

1 Q. It would be -- would it be illegal for a car to go 35
2 on that road?

3 A. Yes.

4 Q. And is that because it would be in addition to the law,
5 it would be dangerous to drive 35 on that road; is that fair
6 to say?

7 A. If they were going 10 over the speed limit that would
8 be against the law. Yes, sir.

9 Q. Now you're a highway patrolman, correct?

10 A. Yes, sir.

11 Q. And so I assume that you have familiarity with when a
12 car is supposed to yield or when a car is -- is good to make
13 a left turn is -- are you good with all that?

14 A. Yes.

15 Q. Knowledgeable about it?

16 A. Yes.

17 Q. Okay. There was some talk in opening about a double
18 yellow line that run right beside my -- the car that my
19 client rode in before the driver took a left turn. I want to
20 ask this question for the jury. If there's not an immediate
21 hazard, if there's not an oncoming car, is it against the law
22 to turn over that -- that double yellow line into the parking
23 lot?

24 A. No.

25 Q. Okay. And I -- I can hand the statute if I need to,

1 but I -- I think you can probably just -- probably do this in
2 your sleep. Does the -- does the -- the duty to yield for
3 this car, for Meghan's car, is it -- am I correct in saying
4 that that only arises when an oncoming car is in the -- is an
5 immediate hazard? It has to be close enough to be an
6 immediate hazard; is that fair to say?

7 A. I cannot comment on the exact distance it would take
8 for that -- for it to constitute not to be safe.

9 Q. Okay. Well, I'm going to -- this is just South
10 Carolina code 56-5-2320. And if it's all right with you,
11 will you just -- will you just read just these three lines?

12 MS. TANKERSLEY: Your Honor, I don't think you can ask
13 him about the law, but I don't -- I think he can read --

14 THE COURT: Right. I'm not going to let him publish
15 the law. That's -- that's something I'll do --

16 MR. HAWKINS: Okay.

17 THE COURT: -- in the conclusion.

18 MR. HAWKINS: All right. Thank you. Judge.

19 BY MR. HAWKINS:

20 Q. Is it fair to say that the car Meghan Seely -- or the
21 car where Meghan Seely is, has to yield right of way to an
22 oncoming car if that car constitutes an immediate hazard; is
23 that fair to say?

24 A. Yes.

25 Q. Okay. Do you have any -- do you have any experience

1 with collision reconstruction or anything like that?

2 A. Very little.

3 Q. And I know it don't work on the May team or something,
4 I'm just asking do -- do you --

5 A. Just day to day. Yes.

6 Q. Okay. There's -- there's a dispute in this case about
7 how fast Andre Knox was going. Obviously depending on how
8 fast he was going, he's at a different, you know -- he's at
9 different points on the road at different times. That fair
10 to say?

11 A. Yes.

12 Q. Okay. If I'm Meghan Seely, I'm the driver. If a car
13 is 300 feet away, do I have to yield to that oncoming car?

14 MS. TANKERSLEY: Objection, your Honor. He's getting
15 --

16 THE COURT: Sustained. I mean, you -- that's
17 speculation. And he is not been identified as an expert or.

18 MR. HAWKINS: Right. But he's testified he has --

19 THE COURT: He's giving -- you asked him to give an
20 opinion. Not about the fact, but his opinion. And we --
21 that is not permissible with a fact witness.

22 BY MR. HAWKINS:

23 Q. Did this wreck happen around 5:00 p.m.

24 MS. TANKERSLEY: Objection, your Honor. He wasn't
25 there when the accident happened. He can't speak to exactly

1 what time --

2 THE COURT: Sustained.

3 BY MR. HAWKINS:

4 Q. Did you respond to this collision shortly after 5:00
5 p.m.

6 A. Yes.

7 Q. Did the collision happened shortly before you got there
8 to the best of your knowledge?

9 A. Yes.

10 Q. To the best of your knowledge is the speed limit 25
11 miles in this area because of the businesses and shops and
12 restaurants in the area?

13 A. Yes.

14 Q. Is it appropriate for drivers on this road and any
15 other 25 miles per hour road, is it appropriate for those
16 drivers to expect other drivers to be traveling at 25 miles
17 per hour or less?

18 MS. TANKERSLEY: Objection, your Honor. These are
19 hypotheticals.

20 THE COURT: Sorry. What?

21 MS. TANKERSLEY: These are hypotheticals.

22 THE COURT: Yes. Sustained. It's -- it's not an
23 expert witness. That's what you --

24 MR. HAWKINS: Yes, your Honor.

25 THE COURT: You're trying to turn him into one, but

1 he's not.

2 MR. HAWKINS: Yes, your Honor.

3 BY MR. HAWKINS:

4 Q. All right. Is it fair to say that from what you
5 observed in arriving on the scene and observing the door
6 stuck at the truck and -- and all that kind of stuff that
7 there was evidence from a significant impact; is that fair to
8 say?

9 A. Yes.

10 Q. There was evidence of -- there was evidence of velocity
11 and speed?

12 A. I cannot comment on the exact speed of the truck, but
13 yes, there was -- there was velocity.

14 Q. Okay. It was significant.

15 A. Yes, sir.

16 Q. Would it be fair to say that it was significant and
17 severe enough of an impact that it dislodged pieces of
18 vehicles involved?

19 A. Yes.

20 Q. Some of those pieces are on Exhibit 4 just sitting on
21 the ground there; is that right -- is that fair to say?

22 A. Yes.

23 Q. And there -- would -- would there have been more fluids
24 and more debris behind where the car is that you can't see?

25 A. I can't -- I cannot comment on that.

1 Q. Okay. Can we agree that from what you saw, where the
2 cars were, that -- let me make sure I have this correct.
3 Okay. I've asked you some questions previously about Knox's
4 of speed and all that kind of stuff. Do you recall that? Or
5 what evidence you -- you witnessed related to speed when you
6 got to the collision. Do you recall?

7 MS. TANKERSLEY: Objection. He's trying to publish
8 deposition testimony.

9 THE COURT: Right.

10 MR. HAWKINS: No, I'm not. No, I'm not. I'm -- I'm
11 asking about the fact that I have asked him questions
12 previously about a topic.

13 THE COURT: Well, then if you're going to use the
14 deposition, you ask him a question, then you can use it to --
15 to change it. But show where you're headed for how you're
16 doing this.

17 BY MR. HAWKINS:

18 Q. Is it -- can we agree that one of the factors in the
19 collision as far as the evidence you witnessed was Knox's
20 speed?

21 MS. TANKERSLEY: Objection.

22 THE COURT: Sustained.

23 MR. HAWKINS: Your Honor. He -- I -- I -- that was --
24 no, sustained.

25 MR. HAWKINS: Can we approach.

1 THE COURT: Yeah.

2 (OFF THE RECORD)

3 THE COURT: Sustained.

4 BY MR. HAWKINS:

5 Q. One final question. Is it particularly important for
6 cars on Tappan drive in that 25 mile per hour zone? Is it
7 import -- is it specifically important for heavier cars to
8 make sure they go the speed limit because they have the
9 potential to inflict more damage in a collision?

10 A. It's important for all vehicles to go the speed limit.

11 Q. I'm handing you a deposition. (Inaudible). Go to page
12 25 and look at lines 9 through 15. And just tell me when you
13 got it.

14 A. I'm here.

15 Q. Okay. I just want to ask you, is it particularly
16 important for those heavier cars to obey the speed limit
17 probably even more so than normal sized car because they can
18 inflict more damage in a wreck; is that fair to say?

19 A. Yes.

20 Q. Okay. Thank you.

21 THE COURT: Yes. Cross-examination.

22 MS. TANKERSLEY: Thank you, your Honor.

23 CROSS-EXAMINATION BY MS. TANKERSLEY:

24 Q. Good afternoon.

25 A. Good afternoon.

- 1 Q. Is it Corporal?
- 2 A. Yes.
- 3 Q. Okay. So your rank is Corporal, so --
- 4 A. Yes.
- 5 Q. -- Corporal Morton. All right. How long have you been
- 6 with the Highway patrol?
- 7 A. 11 years next month.
- 8 Q. All right. What sort of certificates or-- or training
- 9 do you have?
- 10 A. Class -- class one law enforcement officer, collision
- 11 investigation and speed and radar and LiDAR operations.
- 12 Q. Okay. Is -- is -- part of your job, I think it's safe
- 13 to assume that you investigate traffic collisions?
- 14 A. Yes.
- 15 Q. Okay. So talking about your investigation in this case
- 16 and if it's helpful at all to refresh your memory, I can hand
- 17 up your report if you want. Okay. Just ignore my
- 18 (inaudible). All right. As part of your investigation into
- 19 this accident, would you have spoken with all the parties
- 20 involved?
- 21 A. Yes.
- 22 Q. Okay. And I believe you testified to this, but there
- 23 were three cars totaled in the accident, correct?
- 24 A. Yes.
- 25 Q. Okay. My client, Andre Knox, was operating a red truck

1 going down Tappan drive; is that accurate?

2 A. Yes.

3 Q. Okay. and then a -- a third vehicle was where? Oh,
4 well I'm sorry. That was a poor question because it didn't
5 narrow down the vehicles. Was there a -- a vehicle that was
6 exiting or stopped at the exit to the Walmart parking lot?

7 A. It appeared so in the diagram. Yes.

8 Q. Okay. All right. What did you observe at the scene?

9 A. I can -- I cannot recall exactly what I saw on the
10 scene.

11 Q. Okay. Do you recall if any parties while you were
12 there were unconscious?

13 A. No.

14 Q. Okay. Part of your job as a state trooper is enforcing
15 the law; is that accurate?

16 A. Yes.

17 Q. Okay. you've been asked a little bit about the law in
18 South Carolina. Is there a law in this case or not in this
19 case, but in this state about yielding the right of way if
20 you make a left turn?

21 A. Yes.

22 Q. Okay. If someone like is driving straight down a
23 roadway, who has the right of way

24 A. Is assuming that the person driving down the -- driving
25 straight down the road has the driver right of way.

1 Q. Way. All right. when you investigated the accident,
2 did you see any evidence at the accident scene that my client
3 was speeding?

4 A. I did not see anything that showed that he was going
5 drastically over the speed limit.

6 Q. Okay. Did you see any signs that he lost control of
7 his vehicle?

8 A. No.

9 Q. Okay. Was there any evidence that he was distracted in
10 any way?

11 A. I don't -- I don't recall that.

12 Q. As I -- I apologize if I've asked you this already or
13 -- or not, but as part of your investigation, you speak to
14 everybody that's at the scene?

15 A. Yes.

16 Q. Okay. Do you recall if my client told you at the scene
17 that he was speeding?

18 A. I don't recall that.

19 Q. Okay. Do you recall if the plaintiff told you at the
20 scene that my client was speeding?

21 A. I don't recall.

22 Q. Wade Hampton Boulevard runs sort of next to Tappan
23 drive; is that right?

24 A. Yes.

25 Q. Wade Hampton Boulevard's pretty busy road.

1 A. Yes.

2 Q. Is Tappan drive the same busyness as Wade Hampton
3 Boulevard?

4 A. I can't really testify on that. I don't know how -- I
5 don't know if the fluctuation of when it gets busy or not.
6 I'm -- I -- I'm assuming it can get busy.

7 MS. TANKERSLEY: Okay. I got you. And your Honor,
8 before I ask this next question I want to approach to make
9 sure.

10 THE COURT: All right. Approach.

11 BY MS. TANKERSLEY:

12 Q. I think it should be my last question. Did the
13 plaintiff at the scene tell you at all why Meghan Seely was
14 driving his vehicle?

15 A. No.

16 MS. TANKERSLEY: That's all the questions I have for
17 you. Appreciate your time.

18 THE COURT: All right. Redirect.

19 MR. HAWKINS: The Court's indulgence, your Honor.

20 REDIRECT EXAMINATION BY MR. HAWKINS:

21 Q. You testified a minute ago you didn't see any evidence
22 of the red truck speeding when you got there.

23 A. Yes.

24 Q. You gave that opinion?

25 A. Yes.

1 Q. Is the speed limit 25?

2 A. Yes.

3 Q. Your estimated speed for knots was 35 --

4 MS. TANKERSLEY: Objection, your Honor.

5 THE COURT: Sustained

6 MR. HAWKINS: Your Honor, she just asked him about
7 evidence of --

8 THE COURT: I've already ruled on that.

9 BY MR. HAWKINS:

10 Q. Okay. Let me ask you about this then. You said that
11 -- you gave an opinion specifically about an oncoming car and
12 a car who's sitting, waiting to make a turn about their duty
13 to yield. Is the car waiting to turn, have the duty to yield
14 if the -- the oncoming car is far enough away where they can
15 make the turn safely?

16 MS. TANKERSLEY: Objection, your Honor. These are the
17 same questions that he was asking.

18 MR. HAWKINS: She asked about this.

19 MS. TANKERSLEY: We have already discussed.

20 THE COURT: Well, you didn't object.

21 MR. HAWKINS: I know because I'm asking the question.

22 THE COURT: Again. Sustained. I got to follow the
23 rules when they are objected to.

24 BY MR. HAWKINS:

25 Q. Were you there when the collision took place?

1 A. No, sir.

2 Q. Okay. Are you given testimony today based on your
3 observations of the collision scene?

4 A. Yes.

5 Q. All the facts and circumstances and things that you
6 witnessed when you got there?

7 A. Yes.

8 Q. Does that include the -- the door of the car stuck to
9 the truck with a bent frame?

10 A. Yes, I did see that.

11 Q. Does that include all the debris that was laying all
12 around you from the impact of the collision?

13 A. I did see debris in the pictures, yes.

14 MR. HAWKINS: Nothing further.

15 THE COURT: Okay. Thank you. You may step down.

16 Thank you. All right, ladies and gentlemen, that's good
17 place for us to break at 3:36, barely 4:00. So don't discuss
18 the case this evening. Don't do any type of research about
19 the case. Do not pay attention to any media coverage.

20 And finally, anybody contacts you other than somebody
21 from the clerk's office then let -- let the bailiff's know
22 more. Like I said, you -- you can sleep in in the morning
23 unless you have to go to work or something, but -- so be in
24 your jury room at 10:30. Okay? All right. Thank you.

25 (JURY EXITS)

1 THE BAILIFF: You're clear, sir.

2 THE COURT: And Mr. Hawkins, I specifically ruled
3 before this trial started that the evidence of the amount of
4 speed or his opinion of the speed could not come in. That
5 was his motion in limine. All -- you know, that was the
6 motion. I kept looking at you. I thought you were going to
7 object to her testimony, but you didn't.

8 MR. HAWKINS: Your Honor, It was out of the bag. He
9 said, I saw no evidence of speeding. I had to impeach him
10 with his prior inconsistent statement.

11 THE COURT: I made a motion --

12 MR. HAWKINS: I don't know what else -- I don't know
13 what else was to say. She brought that --

14 THE COURT: Well, but I made -- I had a ruling. You --
15 the least you could have done is come up here and asked me.
16 Because I'd already ruled specifically on, that no evidence
17 of the amount of speed.

18 MR. HAWKINS: Your Honor, if --

19 THE COURT: I've ruled, I mean, I -- I mean I ruled
20 beforehand and you just went right in there.

21 MR. HAWKINS: I didn't think she was going to say
22 evidence of speeding when we -- it was a motion in limine
23 that he can't offer opinions about whose fault this was.

24 MS. TANKERSLEY: I want --

25 THE COURT: And he didn't offer an opinion.

1 MS. TANKERSLEY: I -- I want to clarify about what my
2 questions were. My questions were based on your observations
3 did you see any evidence of speeding at the collision?

4 MR. HAWKINS: Right. And he -- that is inconsistent
5 with a prior statement. He wrote down he was going 35.

6 MS. TANKERSLEY: But he testified that he thought the
7 speed limit at the time was 35. So he would've put 25 and
8 25.

9 MR. HAWKINS: Yeah, I'm -- I'm ruled against. That's
10 fine. But that is a prior inconsistent statement. I can --
11 I'm entitled to impeach him and that -- yeah, I'm -- okay.
12 I'm ruled against, I accept that.

13 THE COURT: Well, I mean I -- that was specifically --
14 and I disagree with your interpretation of that.

15 MR. HAWKINS: Yes, sir.

16 THE COURT: But I mean, I -- that was a specific ruling
17 beforehand. And it had not been changed.

18 MR. HAWKINS: Yes, your Honor.

19 THE COURT: All right. All right. See y'all at 10:30
20 in the morning. All right.

21 MS. TANKERSLEY: Thank you, your Honor. Good luck with
22 your father.

23 (RECESS TAKEN)

24 THE COURT: All right. Good morning, ladies and
25 gentlemen. Hope everybody had a good evening. And as you

1 will recall, the plaintiff is still in their case in chief.
2 And at this time, Mr. Hawkins, you can call your next
3 witness. Thank you, Judge.

4 MR. HAWKINS: We call Mr. Dustin Lucas to the stand.

5 THE COURT: All right. Come forward and be sworn.

6 THE CLERK: Place your left hand on the Bible and raise
7 your right hand.

8 JAMES DUSTIN LUCAS, first being duly sworn, were examined and
9 testified as follows:

10 THE WITNESS: Yes, ma'am.

11 THE CLERK: State your name, please.

12 THE WITNESS: James Dustin Lucas.

13 THE CLERK: Thank you. Please be seated.

14 THE WITNESS: Yes, ma'am. (Inaudible).

15 DIRECT EXAMINATION BY MR. HAWKINS:

16 Q. Dustin, how are you doing?

17 A. I'm doing good, man.

18 Q. All right. Eight years. We're finally here.

19 A. That's right.

20 Q. You ready?

21 A. Yes, sir.

22 Q. All right. You nervous?

23 A. A little bit, man.

24 Q. Okay. All right. We're going to talk about the wreck
25 and how it happened and then we're going to talk about your

1 treatment, okay?

2 A. Yes, sir.

3 Q. You remember the wreck?

4 A. Yes, sir.

5 Q. Okay. At the time of the wreck who were you in the car

6 with?

7 A. I was with Meghan Seely at the time --

8 Q. Okay.

9 A. -- who was my girlfriend --

10 Q. Okay.

11 A. -- at the time. Myself in the passenger seat.

12 Q. Okay.

13 A. Meghan McClarty (ph), I was sitting behind Meghan

14 Seely.

15 Q. Okay.

16 A. And then William Anderson was sitting behind me in the

17 backseat.

18 Q. Okay. And -- and when y'all were going down the road,

19 was it daytime sun out?

20 A. Yes, sir.

21 Q. Okay. Was everybody looking out the window -- awake?

22 A. Yes, sir.

23 Q. Okay. when you came down Tappan drive do you -- do you

24 remember going down Tappan drive before the wreck?

25 A. Yes, sir.

1 Q. Was Meghan driving normally the way she would always
2 drive?

3 A. Yes, sir.

4 Q. Was she in a hurry or anything?

5 A. No, sir.

6 Q. When y'all were dating, was it common for her to drive
7 your car sometimes.

8 A. Yes, sir.

9 Q. When y'all came to the turn, and I'll just try to use
10 this, in case I need to referee to it.

11 THE COURT: I think it should be ready.

12 MR. HAWKINS: Thank you, Judge. (Inaudible). There we
13 go. Okay.

14 BY MR. HAWKINS:

15 Q. So -- make sure I'm not blocking anybody's view. Okay.
16 So y'all were -- were y'all going to turn left into here?
17 Was -- is that where Meghan was going to turn?

18 A. Yes, sir.

19 Q. And were y'all coming down this way?

20 A. Yes, sir. We were.

21 Q. When she got ready to turn, did she come to a stop?

22 A. Yes sir.

23 MS. TANKERSLEY: Objection, your Honor. (Inaudible)
24 leading questions. Because if at all leading --

25 THE COURT: Right. Try to --

1 MR. HAWKINS: Your -- your Honor, did she come to a
2 stop, it's open-ended. It's a yes or no question.

3 THE COURT: That's a yes or no -- it's leading.
4 (Inaudible). Who, what, when, why, how.

5 MR. HAWKINS: Your Honor, she stopped, didn't she?
6 That -- leading -- what did -- did she come to a stop?

7 THE COURT: Mr. -- It's leading questions, so
8 sustained.

9 MR. HAWKINS: Okay. Thank you, Judge.

10 BY MR. HAWKINS:

11 Q. What happened when begging got right here?

12 A. Two cars began to pass. She stopped and two cars came.

13 Q. Two --

14 A. The opposite side of the road, yes, sir.

15 Q. Two cars passed by?

16 A. Yes, sir.

17 Q. Did they appear to be going to normal speed limit?

18 A. Yes sir. They were.

19 Q. Did they appear to be going a normal speed for the 25
20 mile per hour zone?

21 A. Yes, sir.

22 Q. Did Meghan have any issue with either two of those
23 cars?

24 A. No.

25 MS. TANKERSLEY: Objection, your Honor. These are

1 still all leading questions.

2 THE COURT: That's -- that's a leading question. I'm
3 sorry you don't agree with me, but that's my ruling.

4 MR. HAWKINS: Okay. No problem.

5 BY MR. HAWKINS:

6 Q. All right. And so when you -- when you got here and
7 these two cars passed by without issue, what happened next?

8 A. She began to make a left-hand turn.

9 Q. Okay. Let me ask you a question about that. Did she
10 try to gun it or goose it or anything like that?

11 A. No, sir.

12 Q. Okay. She started to make a left-hand turn, when did
13 you first see Knox?

14 MS. TANKERSLEY: Objection, your Honor, not in
15 evidence.

16 THE COURT: What?

17 MS. TANKERSLEY: Objection, your Honor. Well, one
18 leading, but also he hasn't testified that he saw the
19 vehicle.

20 THE COURT: Yes. Rephrase the question.

21 BY MR. HAWKINS:

22 Q. When you -- when you got here and just started to turn,
23 when did you first see Knox in the red truck?

24 A. From -- I mean approximately 10 feet away from us.

25 Q. Okay. Did you -- how many seconds did you see Knox

1 before the impact? One or two.

2 A. Less than that probably.

3 Q. Okay. Did you see Knox for long enough? And I know
4 that it happened quickly. Did you see Knox long enough to
5 see anything about the rate of speed he was moving?

6 A. Yes, sir. I mean, he covered the -- he covered a lot
7 of ground very quickly.

8 Q. You testified earlier that the other two cars were
9 going normal -- appear to be going the normal speed.

10 A. Yes, sir.

11 Q. Did Knox -- did that truck, when you saw him in that
12 brief period of time, did he appear to be going faster than
13 the two cars?

14 A. Twice as fast.

15 Q. Okay. So would that be about 50 miles per hour?

16 MS. TANKERSLEY: Objection.

17 THE WITNESS: Sustained. He does not know how fast
18 these people are going. He has to testify that -- he's not
19 an expert and he was not going the same -- so sustained. Mr.
20 Hawkins?

21 MR. HAWKINS: Yes, your Honor. The witness testified
22 that the other two cars were going about 25 --

23 MS. TANKERSLEY: Your Honor, he's arguing --

24 THE COURT: I'm going to -- okay, I'm going -- I'm
25 going to send the jury. Jury, if you will, please, step out

1 and don't discuss your case.

2 THE BAILIFF: You are clear, sir.

3 THE COURT: First of all, when I make a ruling is not
4 the opportunity for you to continue arguing Mr. Hawkins.
5 That's all -- we had all that yesterday and I'm not going to
6 allow it again today. Okay. You make your ruling; you've
7 got your objection. This guy has testified what he -- his
8 opinion -- he cannot give opinion on the speed of people
9 going.

10 MR. HAWKINS: Your Honor, can I be heard?

11 THE COURT: Yes.

12 MR. HAWKINS: Your Honor, I -- I think the Court knows
13 me well enough to know that what I'm about to say, does --
14 does not come without thoughtfulness.

15 THE COURT: No, I know. I'm don't take it personal.

16 MR. HAWKINS: And I'm just being forthright and I -- I
17 want this to be on the record and maybe I'm completely wrong,
18 but I feel like we have -- this has been one sided and we
19 have been hamstrung this entire case. He testified and --
20 and the jury's not in here, so I'm just going to tell you --

21 THE COURT: Yeah.

22 MR. HAWKINS: -- what -- the point I was trying to
23 convey. He testified that the cars were going a normal speed
24 from his observation in the 25 mile per hour zone. He then
25 said that truck was going twice as fast.

1 THE COURT: All right. Let me stop you there. That's
2 no speed. That's the normal speed. You -- you can -- first
3 of all, he can't testify. Now if he was going the same
4 direction and he knew how fast he was going and a car was
5 going next to -- but he can't estimate the speed of another
6 vehicle.

7 MR. HAWKINS: Your Honor, I'd like to hand up this case
8 law that says he can.

9 THE COURT: Okay. And -- and I'm sorry that you -- I
10 mean I think that this, you know -- I've ruled against you.
11 I've ruled against her. The whole thing yesterday I know
12 that's a -- that was a beef. I mean, I've told you from the
13 beginning that the speed -- that the officer cannot testify
14 about this speed. I don't -- I don't believe that these
15 changed my mind as to -- based on what the testimony is, that
16 he can estimate the speed. When he said he saw him 10
17 seconds.

18 MR. HAWKINS: He said -- he said 10 feet.

19 THE COURT: Well, I said 10 --

20 MR. HAWKINS: It says it -- Livingston -- the
21 Livingston case, that's a 251 South Carolina 611. It says,
22 admissibility of the defendant's speed estimate, which was
23 based not only on the -- her belief observation, the
24 plaintiff's car, but also the nature of the extent of the
25 impact. So that's a -- that's a brief observation. And he

1 -- he saw the car. I mean he saw the first two cars. He
2 testified about their speed. He saw his car, he --

3 THE COURT: He didn't testify about their speed.

4 MR. HAWKINS: He did. He said they were going to
5 normal speed for the 25 mile per hour zone.

6 THE COURT: That's not telling you how fast they're
7 going.

8 MR. HAWKINS: Normal for the 25 mile per hour zone.

9 THE COURT: No. That's not saying that the speed. No,
10 I'm sorry. I just don't -- that's not even the same thing.

11 MR. HAWKINS: Well, I mean -- and -- and I don't, you
12 know --

13 THE COURT: And then you're just saying twice as fast.

14 MR. HAWKINS: I mean, Judge, I don't know. Does the
15 Court want me to say how fast were they going? Because then
16 she --

17 THE COURT: No, I don't think -- I don't -- again, I'm
18 going to look at this case. I don't think that she -- he can
19 testify how fast they're going.

20 MR. HAWKINS: Well, I mean -- I mean these cases say
21 that he can testify. He doesn't have to be an expert. He
22 can testify about observations of speed.

23 THE COURT: All right. I'm going to -- I'm going to
24 take a break and look at these cases.

25 MS. TANKERSLEY: And your Honor, obviously my position

1 is the -- the same as the Courts that he cannot testify as to
2 an exact speed or an estimate of speed using a number when he
3 did not have a -- a radar gun, he did not have his own -- a
4 doner in his car to say what the speed was opposite of him.

5 He can say he thinks somebody was moving quickly. He
6 thinks somebody was moving slowly. But he cannot testify as
7 to an exact speed.

8 And I -- I want to say for the record, I understand
9 that Mr. Hawkins feels like this has been one sided. I feel
10 like I have had to object to every other question and that
11 after court rulings, he continues to disregard the rulings
12 and I have to continue to object in front of the jury, which
13 is a very frustrating position because I think he's getting
14 things in front of the jury that legally should not be
15 allowed.

16 MR. HAWKINS: I mean that --

17 MS. TANKERSLEY: (Inaudible) yesterday.

18 MR. HAWKINS: Stop -- stop. That's like hitting a
19 woman and saying, why did you make me hit you? You shouldn't
20 be objecting to most of this stuff.

21 THE COURT: Well, I've sustain -- I've sustained most
22 of it.

23 MR. HAWKINS: Well, and your Honor, respectfully, just
24 because we're in this conversation. I don't -- I -- I mean;
25 I mean a -- a -- cop --

1 THE COURT: I'm going to take a -- I'm going to take a
2 -- I'm taking a break with you these cases. So don't discuss
3 your testimony.

4 (RECESS TAKEN)

5 THE COURT: Please be seated. Court's resumed. Well,
6 I have reviewed specifically the Livingston case, and I got
7 to agree with you, Mr. Hawkins. I believe the Livingston
8 case is (inaudible) dead on point on the facts and very
9 instant case and said that, you know, it becomes then
10 probative (inaudible) for the jury and credibility issue.
11 And that's -- you know, that along with other evidence, and
12 there is other evidence, I think, (inaudible) said the
13 evidence in this case, right? (Inaudible).

14 MR. HAWKINS: Thank you -- thank you, Judge.

15 THE COURT: I'm going -- I'm going to allow him to
16 testify and I overrule the objections.

17 MS. TANKERSLEY: Thank you, your Honor.

18 MR. HAWKINS: Your Honor, would it be -- I would like
19 to make one request. Could -- could we let the jury know
20 that I was not completely out of line?

21 THE COURT: I'll tell them that, based on my review
22 that I will allow the (inaudible).

23 MR. HAWKINS: Thank -- thank you, Judge.

24 THE COURT: Okay.

25 MS. TANKERSLEY: Your Honor, can I get just some

1 clarification --

2 THE COURT: Yeah.

3 MS. TANKERSLEY: -- on the -- because I don't have this
4 case in front of me. I assume the --

5 THE COURT: You want to look at it? I mean, I can --

6 MS. TANKERSLEY: Well, no, it's okay. I just need to
7 --

8 THE COURT: Okay.

9 MS. TANKERSLEY: -- know the extent of ruling that he's
10 allowed to testify as to the speed that he thinks the
11 vehicles that he saw were going. But is he allowed --

12 THE COURT: And the ---

13 MS. TANKERSLEY: -- to testify?

14 THE COURT: -- and the defendant.

15 MS. TANKERSLEY: Okay.

16 THE COURT: Yeah. I'm sorry. Yeah, come back up here.

17 MR. HAWKINS: Your Honor, I mentioned to him he was in
18 the bubble. So --

19 THE COURT: Oh, okay. Yeah.

20 MR. HAWKINS: -- just for the record.

21 (JURY ENTERS)

22 THE COURT: All right. Ladies and gentlemen, after
23 further discussions, additional research, I have reversed
24 myself on my previous ruling. So in light of that, the --
25 the question can be asked and y'all, if you can proceed.

1 MR. HAWKINS: Thank you, Judge.

2 BY MR. HAWKINS:

3 Q. Did you observe Mr. Knox moving immediately before the
4 impact?

5 A. Yes, sir.

6 Q. In your observation, how fast do you think he was
7 going?

8 A. Twice as fast as the first two vehicle he passed.

9 Q. Okay. How fast do you think the first two vehicles
10 were going?

11 A. Approximately 25 miles an hour.

12 Q. Okay. So does that mean you think he was going about
13 50 miles per hour?

14 A. Yes, sir. 50 miles per hour.

15 Q. You don't know for sure?

16 A. No.

17 Q. Okay. What did it feel like when you got hit?

18 A. Like (Inaudible).

19 Q. Do you know -- when -- when you got hit by the car,
20 when you got hit by the truck and trailer, did it move the
21 car you were in?

22 A. Yes, sir. It did.

23 Q. How far do you think it moved the car you were in?

24 A. I'd say, 20 feet maybe.

25 Q. Okay. Would that be the distance from where the impact

1 was to where the Kia was?

2 A. Yes, sir.

3 Q. The Kia Sorento?

4 A. Yes, sir. The Kia Sorento was (inaudible).

5 Q. What -- what words would you use to describe the -- the
6 nature of the impact?

7 A. (Inaudible).

8 Q. Okay.

9 A. Abrupt.

10 Q. Okay. All right. What -- after the impact, what is
11 the first thing that you noticed?

12 A. That I had a scar -- or, I mean, a wound above my left
13 eye.

14 Q. Okay. Now are you talking about -- are you talking
15 about the wound associated with the scar here?

16 A. Yes, sir. (Inaudible).

17 MR. HAWKINS: Yeah, if you could -- if -- if it pleases
18 the Court, I might have the witness come around to show the
19 jury the scar.

20 THE COURT: Okay.

21 BY MR. HAWKINS:

22 Q. We'll go to this side first, and just pull your hair
23 back. Then come over here, please.

24 A. Yes, sir.

25 Q. I'm going to ask you a couple questions, while you

1 stand right here.

2 A. Yes, sir.

3 Q. All right. The -- the scars related to this collision
4 that we're going to talk about, are they above your eyebrow?

5 A. Yes, sir.

6 Q. Did -- does it run down the side --

7 THE COURT: Mr. Hawkins, the court reporter needs to be
8 able to hear his responses, so --

9 MR. HAWKINS: Yes, your Honor. I -- I'll just come up
10 here.

11 BY MR. HAWKINS:

12 Q. And does -- does the scar run down side of your eye?

13 A. Yes, sir.

14 Q. And then end of your cheek here?

15 A. Yes, sir.

16 MS. TANKERSLEY: Objection. Your Honor, all of these
17 are leading.

18 THE COURT: Yeah, I mean, you're just --

19 MR. HAWKINS: okay -- okay.

20 THE COURT: -- leading.

21 BY MR. HAWKINS:

22 Q. And then -- and then where -- where else do you have
23 scars?

24 A. Well, my -- my eyelid got a laceration.

25 Q. Okay. Go ahead and shut that eyelid. Okay. And --

1 and anywhere else?

2 A. My nose.

3 Q. Okay. Come back to the witness stand.

4 A. Yes, sir.

5 Q. After -- well, describe for the jury what you noticed
6 about the wound above your eye and to the side of your eye.

7 A. That, well, from here to here, was hanging down and I
8 could see my bone.

9 Q. You saw a piece of your bone inside the wound?

10 A. Yes, sir.

11 Q. Was it bleeding?

12 A. Profusely.

13 Q. Anything about your -- did -- did the wreck affect your
14 glasses at all?

15 A. Yes, sir. My -- my left hand ends and my glasses,
16 basically -- the whole pair of glasses got destroyed, but the
17 left one was embedded into my actual eye, (inaudible) right
18 here.

19 Q. When you say your eye, do you -- you mean the area
20 inside your --

21 A. Yes, sir.

22 Q. Okay. Was -- was it the frame or the lens?

23 A. It was the actual -- it was the lens.

24 Q. Okay. Were -- were the glasses destroyed?

25 A. They were gone.

1 Q. And then did the lens -- is that what -- is that what
2 caused this indentation?

3 A. Yes, sir.

4 Q. Okay. And was -- from -- from the way you described
5 it, was the wound open?

6 A. Yes, sir.

7 Q. Okay. Were you -- were you -- then what happened next?

8 A. I think, I can't quite remember exactly what happened
9 next, you know what I'm saying? In the actual timeline.

10 Q. Okay.

11 A. The next thing I remember is Meghan Seely got out of
12 the car.

13 Q. Okay. Did you ever get an ambulance or anything like
14 that?

15 A. Yes. They -- I -- after I -- oh, I came to, Meghan had
16 got out of the vehicle, and (inaudible).

17 Q. Okay. Did you do that on your own or was -- or did
18 they put you there?

19 A. No, they put me there.

20 Q. Okay. Were they able to do anything to get the
21 bleeding slowed?

22 A. I -- I do believe this was removed. The lens was
23 removed, and then I think I was hooked up to something or
24 something like that.

25 Q. Okay. Where did the ambulance take you?

- 1 A. Grenville Memorial Hospital.
- 2 Q. Okay. This was back in -- what year was this?
- 3 A. 2017.
- 4 Q. Okay. All right. Did you spend the night?
- 5 A. Yes, sir.
- 6 Q. Did they stitch up your eye?
- 7 A. Yes, sir.
- 8 Q. Okay. Did you receive sutures?
- 9 A. Yes, sir. A lot of them.
- 10 Q. Okay. Was there -- after -- after the event, just
- 11 describe -- describe -- after you had been stitched up,
- 12 describe that for the jury and -- and --
- 13 A. I mean, I thought I looked like Frankenstein. I mean,
- 14 I'm going to be deformed for the rest of my life.
- 15 Q. Okay. Did you receive treatment at Grenville Memorial?
- 16 A. Yes, sir. I had two follow up -- follow ups.
- 17 Q. Okay. What -- what all -- what all treatment did you
- 18 -- or what all parts of your head did you receive treatment
- 19 for?
- 20 A. Lacerations and head trauma.
- 21 Q. Okay.
- 22 A. Brakes in my (inaudible). I think that -- that's all I
- 23 can recall right now.
- 24 Q. Did you ever did -- did you ever get any scans of your
- 25 sternum or anything?

1 MS. TANKERSLEY: Objection, your Honor. Leading.

2 THE COURT: Yeah. That's your -- that an answer.

3 That's -- the whole part is leading.

4 MR. HAWKINS: Did --

5 THE COURT: Ask another question.

6 BY MR. HAWKINS:

7 Q. Did you -- did you ever get any other treatment for any
8 other parts of your body?

9 A. No, sir.

10 Q. Did you ever -- did a -- did a surgeon or a doctor or
11 anything ever come talk to you?

12 A. A plastic surgeon actually worked on me --

13 Q. Okay.

14 A. -- after they got me to the ER.

15 Q. All right. I'm going to hand you an itemization. We
16 provided this to the defense.

17 A. Yes, sir,

18 Q. I'm going to ask you about some of your charges, okay?

19 A. Okay.

20 Q. Look -- look through this and let me know if this looks
21 like an accurate accounting of the charges from the night
22 after you -- after the wreck when you went to the hospital.

23 A. Yes, sir.

24 Q. Well -- well, look and make sure for the jury. I know
25 we've seen it before, but they have to know that you're

1 checking.

2 A. Okay.

3 Q. Okay. See the next page.

4 A. Okay. \$20,215.68.

5 Q. Okay.

6 A. (inaudible).

7 Q. And just -- because it was a little bit jumbled, can

8 you -- can you say that more clearly?

9 A. \$20,000 -- \$20,215.68.

10 Q. Okay. Is that the treatment just for that night?

11 A. Yes, sir.

12 Q. Okay. Does that include -- well -- I'm just -- play it

13 safe. Can you read each one of these bold so we know --

14 MS. TANKERSLEY: Objection, your Honor. I can't -- I

15 don't know what this document is.

16 MR. HAWKINS: You've been provided that in discovery.

17 THE COURT: Well, can you show her which one you're

18 talking about?

19 MS. TANKERSLEY: Just because you provided it doesn't

20 mean it's admissible in evidence.

21 MR. HAWKINS: I didn't put it in evidence.

22 MS. TANKERSLEY: You're having a (inaudible).

23 MR. HAWKINS: You did the same thing (inaudible).

24 THE COURT: Excuse me. We're not going argue with each

25 other.

1 MR. HAWKINS: Your Honor, I don't know if we need to
2 approach --

3 MR. HAWKINS: I think that we do.

4 THE COURT: Okay.

5 (OFF THE RECORD)

6 BY MR. HAWKINS:

7 Q. All right. So we -- we've talked about your hospital
8 bill from the night of the wreck. I want to talk about the
9 other damages that we're claiming, okay?

10 A. Yes, sir.

11 Q. All right. Since the wreck going forward, have you
12 experienced embarrassment because of these scars?

13 A. Yes, sir.

14 Q. Have you experienced humiliation?

15 MS. TANKERSLEY: Objection. All of these are leading
16 questions.

17 THE COURT: Yeah, It's sustained.

18 BY MR. HAWKINS:

19 Q. Tell tell the jury how having these scars has affected
20 your life.

21 A. It affected my mental health, affected my visual
22 appearance, my confidence, I mean, it affected me a human
23 being.

24 Q. Your dating life?

25 A. Absolutely.

1 Q. And, you know, do you have any indication that -- have
2 you seen any indication from any source that the scars are
3 going to diminish any overtime?

4 A. No, I think (inaudible).

5 THE COURT: I couldn't hear you.

6 THE WITNESS: I think that I'll be -- the -- the scars
7 will be there until I pass away.

8 THE COURT: Okay.

9 BY MR. HAWKINS:

10 Q. Okay.

11 A. Yes, sir.

12 Q. Have you ever -- have you ever had a, any personal
13 reflection or anything where you looked in the mirror at the
14 scar?

15 A. Yes, sir.

16 Q. Have you ever -- has that ever caused you to become
17 emotional?

18 MS. TANKERSLEY: Objection. (inaudible).

19 MR. HAWKINS: Okay. What --

20 MS. TANKERSLEY: Your Honor, (inaudible).

21 BY MR. HAWKINS:

22 Q. Okay. What was the result of you looking in the mirror
23 at your -- your scar?

24 A. Every -- I mean, every -- once in a while I would
25 (inaudible) and, I mean, it made me cry. I was scared -- I

1 was -- I was scared I was going to be disfigured for the rest
2 of my life.

3 Q. All right. Was -- was there any -- was -- was -- with
4 the injuries that you sustained, was there any -- ever any
5 glass involved?

6 A. Yes, sir. Shards of glass and -- I don't know if
7 they're still coming -- they're going to be still come out,
8 but, I mean, not too long ago, a piece of glass came out a
9 year ago.

10 Q. Like a tiny one or --

11 A. Yes, sir. It is enough to hurt.

12 Q. Okay. Dustin, have you seen this picture before?

13 A. Yesterday was the first time I saw this picture.

14 Q. Okay. Did you hear me asking the -- the trooper about
15 this door that's jammed over this F 250?

16 A. Yes sir, I did.

17 Q. Okay. And would -- would that door jammed onto that F
18 250 with bent frame, would that be consistent with the jolt
19 you felt?

20 THE COURT: Objection, your Honor.

21 THE COURT: Yes. That is consistent -- I mean, that is
22 -- that is leading. You're suggesting the answer. That's
23 what leading is. You're own direct examination.

24 MR. HAWKINS: Okay.

25 THE COURT: The rules require that you not ask leading

1 questions.

2 MR. HAWKINS: Okay. Can I approach?

3 THE COURT: Yes, sir.

4 (OFF THE RECORD)

5 BY MR. HAWKINS:

6 Q. Is this picture -- is this picture and the damage to
7 the vehicles consistent with the jolt that you felt on
8 impact?

9 MS. TANKERSLEY: That is the exact same question he
10 just asked.

11 THE COURT: I'm going to let him go ahead. It's the
12 same question we just talked about, but go ahead.

13 BY MR. HAWKINS:

14 Q. Was the impact significant?

15 A. Yes, sir.

16 Q. Was the aftermath that you observed significant?

17 A. Yes, sir.

18 Q. Have you ever experienced any kind of bad dreams or
19 anything after the wreck?

20 A. Yes, sir. I have actually had a recurring night
21 terror.

22 Q. How long after the wreck was the first time you
23 experienced that?

24 A. I can't -- I don't know exactly, but about two weeks.

25 Q. How often has it recurred since the first time you had

1 it?

2 A. It's (inaudible) but when it happens, it's bad.

3 Q. Okay. Describe what happens in the drain for the jury.

4 A. I'm basically at a four-way stop, and in a car with no
5 steering wheel, just looking left and right repeatedly until
6 I wake up.

7 Q. Okay. What's -- what's the feeling when you wake up?

8 A. I have -- I have full blown anxiety exactly every time
9 I woke up like that.

10 Q. But it happens still though?

11 A. Yes, sir.

12 Q. Okay. Reasonable enough. The impact that you
13 described earlier, when the F 250 hit your car, is there
14 anything that you noticed the car do?

15 A. It got destroyed. I mean --

16 Q. Okay.

17 A. -- I think that it came -- it almost rolled. It went
18 over on to -- to one side.

19 Q. You -- you mean like up for a minute and then --

20 A. Yes, sir.

21 Q. Okay. All right. Give me one second. Just a couple
22 more, Dustin.

23 A. Yes, sir.

24 Q. Had you -- this -- this turn that Ms. Seely was going
25 to make, and she let these two cars go by and then she

1 started to turn --

2 A. Yes, sir.

3 Q. -- had -- had y'all ever been together when she had
4 made that turn before?

5 MS. TANKERSLEY: Objection, your Honor. Misappropriate
6 character (inaudible).

7 THE WITNESS: Yes, sir.

8 THE COURT: I'm going -- I'm going to allow (inaudible)

9 BY MR. HAWKINS:

10 Q. Okay. Had you been -- had you been in the car -- okay.
11 Had you ever seen Ms. Seely have any issues making that turn
12 before the F 250 with the trailer?

13 A. No, sir.

14 Q. Did you learn -- did you learn anything about Ms.
15 Seely's left eye on the day of the wreck?

16 A. Yes, sir, I did. I learned that she -- she couldn't
17 really see out of her left eye.

18 Q. Okay. So she had an issue with her left eye?

19 A. Yes, sir.

20 Q. Okay. Did -- does that change any of your testimony?

21 A. I think it -- I think that I said some things -- well,
22 because I was more or less personally mad at her about, you
23 know, hiding things from me in my relationship -- our
24 relationship.

25 Q. How long had y'all been dating before this?

1 A. Two years.

2 Q. Okay. All right. Do you think that had anything to do
3 with the wreck?

4 A. No, sir.

5 Q. Okay. I think I'm about done. I -- I just, you know,
6 I want to make sure we're clear for the jury. Do you
7 remember us talking about brutal honesty from both sides?

8 A. Yes, sir.

9 Q. Okay. For the jury before cross --

10 A. Yes, sir.

11 Q. -- have you made some decisions in your life that you
12 regret?

13 A. Yes, sir. I have.

14 Q. Have you done some things that you would take back?

15 A. Yes, sir.

16 Q. Do you take responsibility for anything that comes up
17 in this trial?

18 A. Absolutely.

19 Q. Do you own that (inaudible)?

20 A. Yes, sir. I take full responsibility.

21 Q. All right. This will be done today. I don't have any
22 more questions for you right now, okay?

23 A. Okay.

24 MR. HAWKINS: Your Honor, I do have one matter to take
25 up before cross.

1 THE COURT: Right. I think that we had discussed that
2 we would break at this point too.

3 MR. HAWKINS: Okay.

4 THE COURT: All right. Ladies and gentlemen, I'm going
5 to send you back to your juror room. Don't discuss the case.
6 I'll bring you back in just a few minutes.

7 (JURY EXITS)

8 THE BAILIFF: You're clear, sir.

9 THE COURT: Yes.

10 MR. HAWKINS: Your Honor, there was an issue and it was
11 raised in motions in limine, and I think the Court took it
12 under advisement to see how the evidence was worn out about
13 Ms. Tankersley getting into criminal convictions and prior
14 drug use or any drug use.

15 I was very specific and careful in my questioning not
16 to ask anything about the pain. And -- and the pain at the
17 hospital is what she was talking about, because she wanted to
18 get in that, you know, he had fentanyl in his system, and so
19 he couldn't have pain medication and I was very careful not
20 to claim that. And to steer clear of that. I didn't raise
21 any issues related to anything that drugs would be related to
22 at all.

23 He was a passenger in the car and I didn't ask any
24 questions that were raised any -- any drug use issues at all.
25 And so, what I don't want to happen is somebody who's just

1 riding a car and gets creamed to then have addiction issues
2 brought up that had nothing to do with the wreck, or criminal
3 convictions. Because he didn't say anything that would
4 invoke the need to impeach anything. He said. Everything he
5 said is undisputed, I think.

6 THE COURT: I think we've done a lot of hollering and
7 argument just to dispute that last statement.

8 MR. HAWKINS: Specifically about his testimony. I
9 mean, well --

10 THE COURT: No, I mean, his testimony is a major
11 dispute of how the accident happened.

12 MR. HAWKINS: Well, no -- no. There's -- there's a
13 dispute about the speed.

14 THE COURT: Well, I mean that's a major -- that's the
15 major thing about the case --

16 MR. HAWKINS: Right. And what -- and what I'm talking
17 about has nothing to do with any criminal history, any drug
18 use. The -- whether, how fast Knox was going is he says he
19 was going one speed, he says he was going another speed. And
20 that has -- has nothing to do with these issues. She wants
21 -- she wants to get --

22 THE COURT: Well, I think --

23 MR. HAWKINS: -- for no other reason.

24 THE COURT: Well, I think there's two separate issues
25 here. There's the drug issues and then there's criminal

1 conviction issues.

2 MR. HAWKINS: Right.

3 THE COURT: So those -- those are two totally separate
4 issues.

5 MR. HAWKINS: Right. And I think we would be severely
6 hamstrung if, not only did he not bring up anything that
7 would evoke to impeach him or -- or impeach his character,
8 yesterday when the defendant testified he said something in
9 direct contradiction to the public index, and we weren't
10 allowed to bring it up. So it would be --

11 THE COURT: Okay -- okay. There's a specific rule that
12 was dealing with what you're talking about for him -- versus
13 him, and we went through that in the case law.

14 MR. HAWKINS: Your Honor --

15 THE COURT: It's not the same, Josh.

16 MR. HAWKINS: Well, your -- and, your Honor, with
17 respect, I researched it again after I left, and -- and I'm
18 not going to get into it because the Court's ruled, but it
19 would be incredibly prejudicial to us to say he can -- one
20 side can get up there, talk about stuff that happened when
21 it's not true, we can't impeach him with it. And then he
22 hasn't even brought up anything that needs to be impeached,
23 but she can impeach his character. That would be incredibly
24 unfair. And --

25 THE COURT: I didn't make the rule. I didn't write the

1 rules of evidence, Mr. Hawkins.

2 MR. HAWKINS: But, your Honor, and I'm -- and I'm only
3 responding, I'll -- I'll --

4 THE COURT: Okay. Well, let's talk about the drug
5 issues first.

6 MR. HAWKINS: Yes, sir.

7 THE COURT: All right. What's your position of the
8 drug issue, Miss?

9 MS. TANKERSLEY: So, your Honor, not in testimony
10 today, but in prior testimony and discovery by his own
11 admission, he was at a party where drugs were being used
12 prior to this -- immediately prior to this accident. By his
13 own admission in records, he was using a half a gram of
14 heroin a day for two years straight without a break during
15 this time period.

16 And by his own admission and discovery, he consumed
17 heroin and marijuana in the 24 hours preceding this accident.
18 I -- I think it goes to both the liability and the damages.
19 His argument, of course, is that my client was speeding. By
20 plaintiff's testimony, his credibility, his memory, whether
21 or not we should believe that he had a -- a coherent view of
22 him going 50 miles per hour is directly relevant in this --
23 in this case.

24 And if he, by his own admission had heroin in his
25 system that day, that is incredibly relevant to his

1 believability and his credibility and -- and how much --
2 that's the only evidence thus far that my client was going 50
3 miles per hour is his testimony.

4 So I think it goes to that, and certainly it goes to
5 damages, because all the damages he just went over can be
6 explained by illegal drug use, with the exception of the --
7 the scar. He says he has embarrassment, mental health
8 issues, confidence issues, dating life issues. I don't know
9 if he testified just now about being able to keep a job, but
10 that was in his amended complaint.

11 THE COURT: He didn't say anything about that.

12 MS. TANKERSLEY: And -- and all of those things are --
13 can be caused by an incredible addiction that he had at this
14 time. So the emotional distress, the depression, the memory
15 issues, the testimony he had about having bad dreams starting
16 two weeks after all this, all of that would be either
17 compounded by or explained by, or exaggerated or exacerbated
18 by the fact that he was using a half a gram of heroin a day
19 at this time.

20 THE COURT: But won't you need an expert witness to be
21 able to -- to -- I mean, basically what your argument is, it
22 would have to be by way of an expert witness, wouldn't it?

23 MS. TANKERSLEY: Would -- that -- that drugs impacted
24 his system?

25 THE COURT: That -- that caused the problems that

1 you're saying relate to drugs and not his --

2 MS. TANKERSLEY: No -- no, I don't think so, your
3 Honor. I think it's pretty common knowledge from day -- our
4 days back in elementary school that drugs negatively impact
5 your -- your life. Certainly dating life, if you have a drug
6 addiction, certainly, mental health would be impacted by drug
7 addiction. I think all of those things are pretty common
8 knowledge.

9 THE COURT: I just don't -- I don't think that there's
10 evidence sufficient enough that's been presented to show that
11 that had an impact. Again, the doctor's testimony would be
12 totally different, but based on the testimony presented here
13 that's not sufficient evidence. I think that the -- the
14 introduction of anything about his drug use to substantial
15 phrases outweighs any probative value.

16 MS. TANKERSLEY: He -- and I understand that, your
17 Honor. He testified in his deposition that the trauma that
18 he experienced from this accident was because of the surgery,
19 not because of this accident itself. That is his testimony.

20 I know today he didn't testify to that, but I'm allowed
21 to impeach him based on his prior testimony, that his
22 accident is not what causing these bad dreams or the mental
23 health issues or whatever it may be. It was the -- the
24 procedure that he underwent at the hospital.

25 And his testimony is that that procedure was so

1 terrible because they refused to give him pain medication
2 because he had drugs in his system.

3 THE COURT: I -- I just think that without a doctor, I
4 don't think he -- I'm not -- I'm not going to let you get
5 that in.

6 MS. TANKERSLEY: Okay.

7 THE COURT: All right. And the impeachment of
8 conviction of crime, I think -- first of all, what crimes are
9 we talking about?

10 MS. TANKERSLEY: He had -- and it's only three of the
11 ones that are on his record. He has breaking and entering in
12 2017. He has obtaining goods under false pretenses 2018, and
13 shoplifting -- (inaudible) shoplifting in 2018.

14 THE COURT: All right. Your position on that?

15 MS. TANKERSLEY: Well, I think it's very clear under
16 Rule 609 that they're allowed -- 609(a)1 allows anything that
17 it was a felony in the past 10 years. And -- and 609(a)2
18 allows any crimes involving dishonesty, even if they aren't
19 felonies.

20 THE COURT: Yeah.

21 MR. HAWKINS: Your Honor, what she's talking about has
22 absolutely no probative value at all. And the reason I say
23 that is because -- well, even if he was driving, I don't
24 think it would have a probative value but we're talking about
25 somebody riding down a car and they get hit. And every --

1 it's not like he's testified about a bunch of things that are
2 in dispute. Like we said, the speed is the only thing in
3 dispute.

4 THE COURT: I mean, isn't that the major thing in
5 dispute? That is the whole case.

6 MR. HAWKINS: Well -- well, that's --

7 THE COURT: The speed.

8 MR. HAWKINS: Well, that's the --

9 THE COURT: The credibility is the most important thing
10 on that.

11 MR. HAWKINS: Your Honor, how --

12 THE COURT: They're going to either believe him or him.
13 So isn't that a credibility issue?

14 MR. HAWKINS: Right. And if we evenly apply the -- the
15 rulings here, she shouldn't be able to get into that.

16 THE COURT: Did your -- did you have any evidence of
17 the defendant having a crime of conviction more than one
18 year?

19 MR. HAWKINS: No, your Honor.

20 THE COURT: I mean, that's --

21 MR. HAWKINS: Well --

22 THE COURT: -- that's what the rule says. I didn't --
23 you know --

24 MR. HAWKINS: Right -- right, your Honor. But this has
25 no probative value. And -- and if -- and I get -- I get what

1 you're saying -- I get what you're saying, but if we apply
2 this -- this disproportionately to let him lie about the fact
3 that he's a good driver, and he doesn't drive fast and then
4 impeach him on something that has not -- I mean, it has
5 nothing to do with the wreck at all.

6 It's not like -- it's not like he -- he's saying
7 something crazy happened. Everybody has testified consistent
8 with his that this was -- this was a heavy impact, high
9 impact, a lot of force, a lot of weight. It's not like he
10 said something that's just outside the realm of what all the
11 other witnesses said.

12 THE COURT: I think your arguing would be better if he
13 hadn't testified that it was going 50 miles an hour, which is
14 20 miles more than what the defendant says. I mean, I think
15 it is -- credibility is the primary issue in this case, and
16 the speed of the defendant is one of the primary issues in
17 this case.

18 609, which applies here, which did not apply in your
19 other matter clearly says, protecting credibility of a
20 witness, this is admissible. I mean, I know you don't agree
21 with that, but, I mean, that is black letter law. Plus, you
22 kind of opened the door with your last set of questions.

23 MR. HAWKINS: Yes, your Honor. My objection is on the
24 record, I guess there's nothing that, you know --

25 THE COURT: Maybe you get -- the Court bills to change

1 609.

2 MR. HAWKINS: Well, your Honor, I'm trying to -- I'm
3 trying to be very respectful and -- and -- and act
4 appropriately, but this -- this is bananas. I mean -- and
5 I'm not being disrespectful, it's just I don't understand
6 letting one side lie, and --

7 MS. TANKERSLEY: You're on record.

8 THE COURT: Yeah, and I agree. I -- I'm not going hear
9 any more of this.

10 MR. HAWKINS: Yes, your Honor.

11 THE COURT: And put yourself on the record. The rules
12 are very specific. The cases are very specific.

13 MR. HAWKINS: Yes, your Honor.

14 THE COURT: And just because you don't agree with it,
15 doesn't mean it's bananas, and doesn't -- you know, that --
16 you can -- you can appeal this if you need to afterwards.

17 MR. HAWKINS: Yes, your Honor.

18 THE COURT: But I -- and I'm not going to take you --
19 you know, I feel like you're, you know, not only questioning
20 (inaudible), but just, you know, the hostility just really
21 needs to stop and go forward. You've made your objection --

22 MR. HAWKINS: Yes, your Honor.

23 THE COURT: -- and let us go forward.

24 MR. HAWKINS: Yes, your Honor.

25 THE COURT: Okay. All right. Let's take a short

1 break. Don't discuss your case --

2 THE WITNESS: Yes, sir.

3 THE COURT: -- with anybody.

4 THE WITNESS: Yes, sir.

5 (RECESS TAKEN)

6 THE COURT: All right. Is plaintiff ready?

7 MR. HAWKINS: Yes, your Honor.

8 THE COURT: Defendant ready?

9 MS. TANKERSLEY: Yes, your Honor.

10 THE COURT: All right. Bring the jury in. Oh, that
11 right. Mr. Lucas, come on back to the stand.

12 THE WITNESS: Yes, sir.

13 THE COURT: Sorry.

14 THE WITNESS: Yeah.

15 THE COURT: Hold on. Just -- hold on for a second.

16 THE WITNESS: Yes, sir.

17 THE COURT: I guess under 609, I do need to -- to -- to
18 put my -- my reasoning on the record. As I said, the -- I've
19 already ruled the any drug use would not be admissible. The
20 prior convictions that were listed do fall within 609(a)1 of
21 crimes punishable by more than one year. And since
22 credibility is such an issue in this case, that I believe
23 that the probative value of this evidence outweighs any
24 prejudicial fact, and the plaintiff is on record for his
25 objection.

1 MR. HAWKINS: Your Honor, can we add one case just for
2 the record, not argued?

3 THE COURT: Yes, sir.

4 MR. HAWKINS: I would to add the acquisitions supported
5 by state and Court and the -- the 609 admission, whether or
6 not evidence is admitted, should be evaluated under the 403
7 analysis and go through the five factors contain --
8 containing that 403 analysis. And so, that's our objection
9 (inaudible).

10 THE COURT: All right. Let me (inaudible). And I
11 guess, under 403, the probative value is outweighed by the --
12 any unfair prejudice. I don't think it confuses the issues.
13 I don't think it misleads the issues and I don't believe
14 there's any consideration for undue delay, waste of time or
15 needless presentation of (inaudible) of evidence.

16 MR. HAWKINS: Thank you, Judge.

17 THE COURT: All right -- all right. Bring the jury in.

18 (JURY ENTERS)

19 THE COURT: All right. You may proceed with cross-
20 examination.

21 MS. TANKERSLEY: Thank you, your Honor.

22 CROSS-EXAMINATION BY MS. TANKERSLEY:

23 Q. All right. Dustin, I want to talk a little bit about
24 your relationship with Meghan Seely. Y'all started dating in
25 about 2015, 2016; is that right?

1 A. Approximately. Yes, ma'am.

2 Q. Okay. At the time of the accident, she had been your
3 girlfriend for about two years.

4 A. Approximately. Yeah.

5 Q. Okay. Had y'all been living together for about six
6 months at that time?

7 A. It was a little bit longer than that.

8 Q. A little longer? Okay.

9 A. Uh-huh.

10 Q. All right. And what year did y'all end up breaking up?

11 A. I think, 2019.

12 Q. Okay. All right. Let's talk about the -- the day of
13 the accident. The day of the accident, you and Meghan woke
14 up, got dressed around 10:00 or 11:00 a.m., and then went to
15 your friend's, Austin's, house; is that right?

16 A. Yes, ma'am.

17 Q. Okay. All right. While you were at Austin's house, is
18 that when you met the two people you testified about earlier?
19 Willie Anderson and Meghan McClarty?

20 A. Yes.

21 Q. Okay. You didn't know them before that day?

22 A. No.

23 Q. Okay. At that time while y'all -- while y'all were at
24 Austin's house, you decided, the four of y'all -- or I guess
25 you and Meghan decided that y'all were going to take Willie

1 Anderson and -- and his girlfriend to Walmart; is that
2 accurate?

3 A. Yes, ma'am.

4 Q. Okay. Only reason y'all were going to Walmart is
5 because they wanted a ride and they had offered to pay you
6 gas money; is that fair?

7 A. Yes, ma'am.

8 Q. Okay. All right. Now, Meghan was driving your vehicle
9 on the way to Walmart; is that right?

10 A. Yes.

11 Q. Okay. Why was she driving your vehicle?

12 A. I wasn't feeling too well.

13 Q. You weren't feeling so well?

14 A. I wasn't feeling too well.

15 Q. What was going on?

16 A. It was just normal for her to drive my car as well.

17 Q. No, I'm sorry. What -- why weren't you feeling well?

18 A. Just sick.

19 MS. TANKERSLEY: Okay. All right. I'm going to show
20 you -- what exhibit I'm I on?

21 THE CLERK: 21.

22 MS. TANKERSLEY: 21. Okay. Thank you.

23 BY MS. TANKERSLEY:

24 Q. I'm going to show you what I've pre-marked as
25 Defendant's Exhibit 21. Is this a photograph of the rear of

1 your vehicle that you owned?

2 A. Yes, ma'am.

3 Q. And that she was driving?

4 A. Yes, ma'am.

5 Q. Okay. Does that photograph accurately reflect what the
6 vehicle looked like at the time of the accident?

7 A. Yes, ma'am.

8 MS. TANKERSLEY: Okay. I'd like to move into evidence
9 Defendant's Exhibit 21.

10 MR. HAWKINS: Your Honor, I have an objection. I'd
11 like to approach.

12 THE COURT: Okay.

13 (OFF THE RECORD)

14 MS. TANKERSLEY: All right. Your Honor, I'd like to
15 move in -- Defendant's Exhibit 21 into evidence.

16 THE COURT: All right. Subject to --

17 MR. HAWKINS: And I have an objection --

18 THE COURT: Okay.

19 MR. HAWKINS: -- of relevance and undue prejudice.

20 MS. TANKERSLEY: Okay. Can I just --

21 THE COURT: Yeah, let me -- you should be to now. Just
22 turn it on.

23 BY MS. TANKERSLEY:

24 Q. Okay. This is the -- the photograph I just showed you
25 correct? You should have a verbal answer, sir.

- 1 A. I'm sorry. Yes, ma'am.
- 2 Q. Because the court reporter takes down everything we
3 say, so it's got to be verbal.
- 4 A. Okay.
- 5 Q. All right. No damage done to the rear of your vehicle
6 at the time of the accident, correct?
- 7 A. I'm not sure. I can't quite remember. But that -- I
8 mean, is that a picture of my -- my car after the accident or
9 before?
- 10 Q. Right. That's what I was asking you.
- 11 A. Oh, no. You said at the time of the accident.
- 12 Q. Right.
- 13 A. I thought that you were referring to like, you know, up
14 -- up until the accident occurred.
- 15 Q. Okay. So you don't know if this looks like --
- 16 A. No, I don't. Before my -- before my car was hit by his
17 F 250, yeah, that's what my -- my car was like.
- 18 Q. Okay. Do you have any idea whether or not it looked
19 like this after the accident?
- 20 A. I don't. I -- I really don't.
- 21 Q. Okay. All right. That car was a 2002 Infiniti?
- 22 A. 2003 Infiniti, I think.
- 23 Q. Okay. So about 14, 15 years old at the time of the
24 accident?
- 25 A. Yeah.

1 Q. Okay. Where were you sitting in the car when the
2 collision occurred?

3 A. The passenger seat -- or front right passenger seat.

4 Q. Front passenger?

5 A. Yes, ma'am.

6 Q. Okay. And I'm only asking that because I don't think
7 we've talked about that yet, where you were seated.

8 A. No.

9 Q. Okay. All right. Let's -- let's talk about the
10 accident itself. Meghan was driving, you were in the front
11 seat passenger. You and your new friend's, Will and his
12 girlfriend, who also knew Meghan, were, sitting in the back,
13 correct?

14 A. Yes, ma'am.

15 Q. All right. The -- the road y'all turn on has double
16 yellow lines in the middle, right?

17 A. I mean, yeah, I think.

18 Q. You don't remember?

19 A. I mean, it's been eight, nine years (inaudible).

20 Q. Okay. You live around here anymore?

21 A. No, ma'am.

22 Q. Okay.

23 A. I live in Mississippi.

24 Q. All right. I'm going to show you --

25 THE COURT: (inaudible).

1 MS. TANKERSLEY: I'm sorry, your Honor.

2 THE COURT: Turn it on there.

3 MS. TANKERSLEY: Yeah.

4 THE COURT: (Inaudible).

5 BY MS. TANKERSLEY:

6 Q. Okay. This was stipulated to pre-marked Defendant's
7 Exhibit 4. This is the intersection where the accident
8 occurred, correct?

9 A. Yes, ma'am.

10 Q. Okay. Are there double lines in the middle there?

11 A. It looks like it.

12 Q. Okay. All right. I'm going to mark these as
13 Defendant's -- pre-mark them as Defendant's Exhibit 22 and
14 23. I'm going to hand these up to you, and they're
15 photographs of the wreck. Are these photographs of that same
16 intersection just at different angles?

17 A. Yes, ma'am.

18 Q. Okay.

19 A. Seems to be.

20 Q. All right. This accurately reflects what the
21 intersection on Tappan Drive and Walmart looked like?

22 A. Right now or at the time of the accident?

23 Q. Well, either time.

24 A. I don't know what it looks like right now --

25 Q. Okay. But at the time of the accident?

1 A. Yes, ma'am. Yes.

2 MS. TANKERSLEY: Okay. All right. I'd like to
3 introduce Defendant's 22 and 23 into evidence.

4 MR. HAWKINS: No objection.

5 THE COURT: All right. They are admitted.

6 (Defendant's Exhibit 22 and 23 admitted into evidence)

7 BY MS. TANKERSLEY:

8 Q. And I'm sorry, I got to keep picking up and moving
9 back. Okay. So this was the first one I was showing you.
10 That's just another angle of the intersection, correct?

11 A. Yes, ma'am.

12 Q. Compared to the one we were just looking at. All
13 right. This is the direction that y'all would've been facing
14 before turning left in here into this parking lot, right?

15 A. Yes, ma'am.

16 Q. Okay. Is there anything obstructing the view straight
17 ahead of y'all at this intersection?

18 A. No, ma'am. It doesn't seem to be. No, ma'am.

19 Q. Okay. I believe yesterday your attorney had referenced
20 a blind curve. Do you know where that blind curve is in this
21 intersection?

22 A. Yeah, right up here.

23 Q. Tell me -- tell me --

24 A. Up further.

25 Q. This right here?

- 1 A. No, ma'am. If you going up.
- 2 Q. Up?
- 3 A. Right -- right there.
- 4 Q. All right. So this -- this back here is the blind
- 5 curve?
- 6 A. Yes, ma'am.
- 7 Q. Okay.
- 8 A. Yes, ma'am.
- 9 Q. Approximately how far away do you think that is from
- 10 the intersection?
- 11 A. I have no idea.
- 12 Q. Okay.
- 13 A. Yeah, I mean, I can't even speculate. I have no idea.
- 14 Q. Okay. That's all right. All right. I'm going to show
- 15 you the other one that I -- I handed up to you. This is
- 16 Defendant's Exhibit 23. And just so we're clear on what
- 17 we're looking at.
- 18 A. Yes, ma'am.
- 19 Q. This sort of -- kind of moves over to the left,
- 20 correct, Vantage point wise?
- 21 A. Yes, ma'am.
- 22 Q. All right. So this over here is where y'all are
- 23 pulling into?
- 24 A. Yes, ma'am.
- 25 Q. All right. Is -- is this intersection here where the

1 other car was sitting, waiting to turn out when the collision
2 occurred?

3 A. I can't remember if there was a car that pulled up
4 right there or not.

5 Q. Okay.

6 A. I'm sorry.

7 Q. That's all right. That's fine. All right. Sorry,
8 your Honor. I'lll turn that on. All right. I believe you
9 testified just a -- a few minutes ago that Andre was 10 feet
10 away from y'all when you saw him, when y'all were turning
11 into that Walmart; is that right?

12 A. Approximately. Yes, ma'am.

13 Q. Okay. If he was 10 feet away from y'all when y'all
14 were trying to turn, why did y'all turn in front of him at
15 that point in time?

16 A. We were already in the middle of the turn.

17 Q. Okay. So when you -- you were in the middle of the
18 turn, and then you saw him 10 feet away from you?

19 A. Approximately. Yes, ma'am.

20 MS. TANKERSLEY: Okay. All right. Your Honor, has
21 there been a instruction to the jury about what a deposition
22 is?

23 THE COURT: No, I have not. Ladies and gentlemen,
24 yesterday and today there's been various references to
25 depositions. I would tell you that depositions are

1 statements taken during the process of this lawsuit. And
2 with both parties, the person is put under oath, and they can
3 be used, as you can see, for various reasons.

4 MS. TANKERSLEY: Thank you, your Honor.

5 THE COURT: Continue with the trial.

6 BY MS. TANKERSLEY:

7 Q. I am going to hand you, Dustin, your official
8 transcript from your deposition.

9 A. Yes, ma'am.

10 Q. All right. Do you remember testifying to me previously
11 in your deposition that you didn't see Andre's car prior to
12 the collision?

13 A. Yes, ma'am.

14 Q. All right. Go ahead and flip to page 88 for me.

15 A. Page 88?

16 Q. Yes, sir.

17 A. All right.

18 Q. All right. If you -- if you go to the bottom of that
19 page, you can see the line numbers are on the side.

20 A. Okay.

21 Q. And if you look at line 23, I asked you, so you didn't
22 see Andre's car really prior to the turn, correct? And what
23 was your response?

24 A. I didn't.

25 Q. Okay. Do you remember testifying in your deposition

1 that you didn't really see his vehicle coming in the oncoming
2 lane because you weren't looking that way, you were looking
3 directly to the left? You can look at it if --

4 A. If I said that, if that's not -- it wasn't correct.

5 Q. Okay. So on line 10 of page 88, where you said, "We
6 weren't looking that way. We were looking more to our -- you
7 know, our direct left, you know, to take the left hand turn."
8 That was incorrect at that time?

9 A. That's prior to actually taking the left hand turn.
10 And once we began to take the left handed turn, I looked
11 right.

12 Q. You looked right.

13 A. Which would've been -- which would've been, you know,
14 where Andre was coming from.

15 Q. To your -- to your right?

16 A. To my right, yes. In the middle of the left hand turn,
17 when you look right, it would've been -- you know, Andre
18 would have been coming this way.

19 Q. Okay. So prior to the turn, you didn't look to the
20 left?

21 A. Oh, no. Before we began the turn, we looked left.

22 Q. So what are you talking about here? "We weren't
23 looking that way. We were looking more to our -- you know,
24 our direct left, you know, to take the left hand turn."

25 A. I'm sorry. Repeat -- say that again? I'm sorry.

1 Q. Sure. You testified, "We weren't looking that way. We
2 were looking more to our -- you know, our direct left, you
3 know, to take the left hand turn."

4 A. What was your question about that?

5 Q. Sure. So my question was, in the deposition, "While
6 y'all were stopped there between two and seven seconds, did
7 you notice any vehicles coming towards y'all in the opposite
8 direction in the other lane?" And you said, "No. Not while
9 we were sitting there. Like I said, we weren't looking. I
10 saw my peripheral. We weren't looking that way. We were
11 looking more to our -- you know, our direct left to take the
12 left hand turn."

13 A. I mean, I can't quite understand myself right here in
14 this deposition. I'll be honest with you, this was the first
15 time I ever did a deposition.

16 Q. I --

17 A. I didn't quite understand what was going on.

18 Q. Sure, I understand. So -- so -- so what is -- what is
19 accurate? Did you see him prior to the accident or did you
20 not see him?

21 A. I mean, I -- this -- this right here is you playing me
22 and destroying me pretty much.

23 Q. By -- by asking a direct question --

24 A. Yeah. And using my experience against me as well. I
25 mean, I don't -- I didn't know what this was. You had -- and

1 we were also on a Zoom call, I mean, right?

2 Q. Sure. Yeah.

3 A. Okay.

4 Q. So does that -- did you not understand?

5 A. I couldn't quite hear everything. Do you remember
6 that?

7 Q. All right. Hold on.

8 A. I -- I had to constantly repeat my -- repeat myself and
9 ask you to repeat yourself. I was on -- on -- I was on a
10 boat while we were doing that Zoom call, ma'am. And I didn't
11 have a good Wi-Fi or anything like that. Literally, I was on
12 water. If we were to take this deposition again I think it
13 would be a lot different.

14 Q. Okay. You want to turn to page 6 for me?

15 A. Yes, ma'am. All right. Sorry.

16 Q. All right. Look at line 14.

17 A. Yes, ma'am.

18 Q. I asked you, I said, "All right. If at any point in
19 time during the deposition, you can't hear me or understand
20 me, or my question doesn't make any sense for whatever
21 reason, please ask me to clarify, repeat it, rephrase it,
22 whatever you need in order to understand my question, okay?"
23 And what did you say?

24 A. I said, "Yes, ma'am."

25 Q. Okay. And then I said, "All right. If you don't tell

1 me that you had trouble understanding, or didn't understand
2 something, then I'm going to assume that you did understand
3 my question, okay?" And what did you say?

4 A. I said, "All right."

5 Q. You said --

6 A. I said, "Okay."

7 Q. -- you said, "Yes, ma'am."

8 A. "Yes, ma'am." Uh-huh.

9 Q. All right. So flipping back to page 88, then. In that
10 line of questioning, did you tell me at any point in time
11 that you didn't understand what I was asking?

12 A. No, ma'am. I didn't.

13 Q. Okay. So I was safe to assume that you understood my
14 question?

15 A. Yes, ma'am.

16 Q. Okay. All right. Today you testified under oath that
17 you think that my client was driving maybe 50 miles per hour,
18 because you saw these other cars coming by and you think they
19 were going 25 miles per hour?

20 A. Yes, ma'am -- yes, ma'am.

21 Q. And that you think he was going double their speed?

22 A. Approximately.

23 Q. All right. Do you remember in your deposition, if you
24 flipped page 89, I asked you, "So you previously testified
25 that he was -- you think he was speeding, right?" And what

1 did you say?

2 A. Say it again. I'm sorry.

3 Q. Sure. Look at -- look at line 1.

4 A. Yes, ma'am.

5 Q. I -- I don't think I told you the line.

6 A. I apologize.

7 Q. No, it's my fault. So I asked, "So previously you
8 testified that you think he was speeding, right?" And what
9 did you say?

10 A. I said, "Yes, ma'am."

11 Q. Okay. And I said, "Okay. What are you basing that
12 on?"

13 A. "All the others."

14 Q. Okay. Did you testify at any point in time during your
15 deposition that you think he was going 50 miles per hour?

16 A. No, ma'am. I don't -- I didn't think you asked me
17 directly.

18 Q. I -- I asked you, "Why did you think he was speeding?"

19 A. That's not asking me how fast he was going.

20 Q. That's asking you why you think he was speeding.

21 A. Why was he speeding? I'm going to (inaudible).

22 Q. What you were basing your -- your testimony on that he
23 was speeding, and your only response was the way that he hit
24 you.

25 A. That's -- that's what misunderstanding -- it's a

1 misunderstanding of that -- of what you were asking me. I
2 guess, you just now asked it to me, and I -- I misunderstood
3 this thing.

4 Q. Okay. Let's -- let's put it all together then. Flip
5 back to page 88.

6 A. Okay.

7 Q. Are you on 88? Go down to -- to line 23.

8 A. Okay.

9 Q. I asked, "So you didn't see Andre's car really prior to
10 the turn?" And your response was what?

11 A. "I didn't."

12 Q. Okay. So I say, "Okay. So you previously testified
13 that you think he was speeding, right?" And your response
14 was?

15 A. "Yes, ma'am."

16 Q. And I said, "All right. What are you basing that on?"

17 A. "How hard he hit us."

18 Q. Okay. So when I asked you, "Did you see his car?" You
19 said, "No." When I asked you, "What are you basing his speed
20 on then?" You said, "How hard he hit us." At no point in time
21 did you tell me in your deposition that you thought he was
22 going 50 miles per hour or that you saw him at all prior to
23 the -- the -- the impact, correct?

24 A. Yes, ma'am. But I will say this, those are
25 (inaudible). What I said just previously, I didn't see him

1 prior to making a left-hand turn. I saw him during the
2 left-hand turn, and -- what was the next one?

3 Q. Okay. Well hold on. Let me ask you this then.

4 A. Uh-huh.

5 Q. If you saw him only during -- or while y'all were
6 making the left-hand turn, how many seconds do you think that
7 is that you saw him?

8 A. I saw him (inaudible) one, two --

9 Q. One, two seconds. And in one in two seconds you --

10 A. Two to five, possibly.

11 Q. -- you decided he was going approximately 50 miles per
12 hour?

13 A. Like I said, it was how hard he hit us and how much
14 ground he covered, which has also been ruined.

15 Q. Okay. Do you know anything about statics and dynamics,
16 how far a car will be pushed when it's hit by a heavy truck?

17 A. I mean, I guess as much as the next person.

18 Q. So how -- is that a yes or no?

19 A. I mean, I'm not an expert in it.

20 Q. Okay. All right.

21 A. Yeah.

22 Q. You testified, I believe, that you think he was going
23 50 miles per hour, because you were assuming that the other
24 cars in front of him were going 25 miles per hour; is that
25 right?

1 A. Yes, ma'am.

2 Q. Okay. What are you basing them going 25 miles per hour
3 on?

4 A. We -- we saw them come by, you know what I'm saying?
5 We literally saw like, we -- we -- he -- he basically
6 teleported, ma'am.

7 Q. He --

8 A. That -- yes, ma'am. The first two cars that -- that
9 come past, we -- we watched them come past as we began to
10 take a left turn, bam, there's Andre.

11 Q. Okay. He come all the way around that line curve?

12 A. I mean, at 50 miles an hour --

13 Q. You -- so you think that's what happened?

14 A. I -- I don't think that. I -- I'm pretty sure of it
15 actually.

16 Q. Okay. But you didn't want to tell me that when I took
17 your deposition?

18 A. No, I mean, it was -- that was an odd -- it was a weird
19 deposition, ma'am. Like I said, I was sitting on a boat and
20 we talked for -- how long was this deposition?

21 Q. Did I ask you to sit on a boat during your deposition?

22 A. No, ma'am. I'm just saying that it was just weird. I
23 -- this was my first deposition and it was on the -- it was a
24 video conference.

25 Q. That's why I was trying to tell you to -- to clarify if

1 you have any questions to tell me if I'm -- if I'm being
2 unclear in any way, correct?

3 A. Yes, ma'am. I -- I just didn't understand the
4 significance of that at the time. I mean, this was my first
5 deposition I've ever given.

6 Q. Sure. All right. Do you know how hard it feels to be
7 hit by a truck and a trailer going 10 miles per hour?

8 A. Yeah, I do.

9 Q. Okay. How -- how do you know what it feels like for a
10 truck and trailer to be going 10 miles per hour?

11 A. I -- I actually used to like -- you know, I did a lawn
12 care service with my buddy and we actually -- we actually got
13 hit. We had a truck -- a lawn care truck in the trailer and
14 we got hit by a lawn care truck and trailer.

15 Q. And you know they were going 10 miles per hour at that
16 time?

17 A. They were going about 15 miles an hour,

18 Q. What --

19 A. -- or at least that's what they said.

20 Q. What -- okay. All right. Do you know what it feels
21 like to be hit by truck or trailer that's going 25 miles per
22 hour?

23 A. No, ma'am.

24 Q. All right. So according to your testimony previously,
25 Meghan pulled up to the turn in the intersection, she waited

1 two to five seconds and then tried to cross oncoming traffic
2 into the Walmart parking lot; is that fair?

3 A. Yes, ma'am.

4 Q. Okay. All right. Y'all didn't get completely into
5 that left-hand turn before the impact happened, right?

6 A. No, we didn't finish the left hand turn.

7 Q. Okay. All right. I believe it was your testimony
8 previously that Dustin's -- or sorry, that Andre's truck hit
9 the right side of your car kind of diagonally, where your
10 door was; is that right?

11 A. Yeah.

12 Q. Okay. Not -- not quite a T-bone?

13 A. No, ma'am.

14 Q. Came at an angle?

15 A. Yeah.

16 MS. TANKERSLEY: All right. Can I use the projector,
17 your Honor?

18 THE COURT: Yes -- yes, you can.

19 MS. TANKERSLEY: (inaudible).

20 MR. HAWKINS: No objection to 3.

21 MS. TANKERSLEY: It's been stipulated to, your Honor,
22 Defendant Exhibit 3.

23 THE COURT: Okay.

24 (Defendant's Exhibit 3 admitted into evidence)

25 BY MS. TANKERSLEY:

1 Q. All right. This was the -- the damage that was done to
2 your vehicle as a result of the accident, right?

3 A. Yes, ma'am.

4 Q. Okay.

5 A. Yes, ma'am.

6 Q. And -- and your testimony is that he sort of came at an
7 angle and hit this front part of your car, correct?

8 A. Yes, ma'am.

9 Q. All right. I'm going to show you what's been
10 pre-marked as -- and stipulated to as Defendant's Exhibit 2.
11 That also shows the damage that was done to your vehicle as a
12 result of the accident, right?

13 A. Yes, ma'am.

14 Q. Okay. Any damage to the rear or the -- the rear right
15 side of this car at all?

16 A. Not really. No, ma'am.

17 Q. Okay. And this one is also Defendant's Exhibit 1.
18 It's been stipulated to without objection. Again, that shows
19 the damage done to the -- the left side of your vehicle; is
20 that fair?

21 A. Yes, ma'am.

22 Q. Okay. And that's the side that was pushed into the
23 other car that was sitting there, right?

24 A. Yes. The Kia.

25 Q. Okay.

1 A. Yes, ma'am.

2 MS. TANKERSLEY: All right. One final -- or two final
3 car photos, and then I think we'll --

4 THE COURT: Okay.

5 MS. TANKERSLEY: -- finally be done with this. I'm
6 sorry. I'm on 23?

7 THE CLERK: 24.

8 MS. TANKERSLEY: 24. Thank you. All right. I'm going
9 to hand you what's been pre-marked as Defendant's 24 and 25.

10 THE COURT: Can the Court please see that?

11 MS. TANKERSLEY: Yeah -- yeah. That's fine.

12 THE COURT: Thank you.

13 BY MS. TANKERSLEY:

14 Q. All right. Are those photographs of your car following
15 the accident?

16 A. Yes, ma'am.

17 Q. Okay. And one is a picture of the outside of your car,
18 one is a picture of the inside of your car; is that right?

19 A. Yes, ma'am.

20 Q. All right. Do both of these accurately represent the
21 damage that was done to your vehicle at the time of the
22 accident?

23 A. Uh-huh.

24 Q. Or the -- the way your vehicle looks following the
25 accident?

1 A. I guess so. Yes, ma'am.

2 Q. Okay. All right. I'd like to move Defendant's Exhibit
3 24 and 25 into evidence.

4 MR. HAWKINS: I'm going to object to (inaudible).

5 THE COURT: 25?

6 MR. HAWKINS: Yeah.

7 THE COURT: Any objections to 24?

8 MR. HAWKINS: No objection to 24.

9 THE COURT: All right. All right. So 24 is the end of
10 that objection. 25 is then subject to the (inaudible)

11 MR. HAWKINS: Subject to the objection of relevance --

12 THE COURT: Okay.

13 MR. HAWKINS: -- and (inaudible).

14 THE COURT: All right.

15 MS. TANKERSLEY: Thank you, your Honor.

16 BY MS. TANKERSLEY:

17 Q. All right. What happened inside the vehicle when the
18 impact occurred to you?

19 A. You mean what happened inside the vehicle?

20 Q. Sure. So I -- I'll cut to chase. You previously
21 testified that -- well, actually, let me ask you this. How
22 did you -- how did you hurt your side of your face?

23 A. I hit my head on windshield.

24 Q. Okay. Do you remember testifying that the impact --
25 not only did you --

1 MR. HAWKINS: Your Honor, I'm going to raise an
2 objection. (Inaudible) think of the matter at the court.

3 THE COURT: Okay.

4 BY MS. TANKERSLEY:

5 Q. All right. Dust -- I'm sorry.

6 THE COURT: Objection overruled.

7 Q. Thank you, your Honor. Do you remember testifying that
8 -- that when the impact occurred, your butt hit the back of
9 your head?

10 A. That's what it felt like.

11 Q. Okay. All right. You all talked about this a little
12 bit, but Meghan was blind in one of her eyes, right?

13 A. I think -- I think that's right.

14 Q. Okay. How'd you find out about that?

15 A. An accident (inaudible) basically.

16 Q. Okay. Do you recall testifying -- well, let me ask you
17 this way. Did you say anything to her at the scene about
18 being blind in that eye?

19 A. Did I say anything to her?

20 Q. Uh-huh.

21 A. I can't recall.

22 Q. Okay. Do you remember saying something along the lines
23 of how the F did you not see that vehicle? Like, what are
24 you doing?

25 A. No. I mean, maybe. I --

- 1 Q. Okay.
- 2 A. -- don't know.
- 3 Q. You -- you can open up to page 96 in your deposition.
- 4 A. Okay.
- 5 Q. All right. Looking at page -- or sorry, page 96, line
- 6 5.
- 7 A. Yes, ma'am.
- 8 Q. Or line 6 rather. How the F did you not see that
- 9 vehicle? Like, what are you doing? You remember testifying
- 10 to that?
- 11 A. I really don't remember. This was a while ago --
- 12 Q. Okay.
- 13 A. -- but I -- I'm not going to say I do not believe you.
- 14 Q. Okay. It's in the deposition transcript?
- 15 A. Yes, ma'am.
- 16 Q. All right. What did she say in response to you?
- 17 A. She was, like, I'm sorry. You know, I have -- my right
- 18 eye, I can't -- I can't see out of it. And I was, like,
- 19 what?
- 20 Q. Okay. You don't have to read any further.
- 21 A. I mean, I misspoke and said she's one in her left eye,
- 22 I think.
- 23 Q. That -- that's fine.
- 24 A. Is that exact? I think -- I think --
- 25 Q. I -- I don't know. All right. So you believe, based

1 on your prior testimony, that you -- that Meghan never saw
2 Andre's truck because she was blind in one eye, correct?

3 A. I don't know. I don't know why -- what Meghan did or
4 didn't do. I'm -- I'm not Meghan.

5 Q. Okay. Well, flip the page, page 97.

6 A. Yes, ma'am.

7 Q. I asked you on line 1, "Did she ever notice the other
8 vehicle before turning," and then it says, "Cut out." So I
9 repeated the question -- or you repeated your answer, and
10 then on line 8, what did you say?

11 A. Line 8?

12 Q. Yes, sir.

13 A. I said, "No, ma'am. Sorry. No, ma'am. She -- I don't
14 think she ever saw him due to her eye."

15 Q. Okay. And I asked you if there would have been
16 anything blocking her vision -- or, well, let me ask you now.
17 Was there -- would there have been anything blocking her
18 vision from seeing Andre's truck?

19 A. If it would have been her right eye, no, but actually
20 her left eye, if she was looking left then her actual face
21 would have been blocking her. She wouldn't -- you know what
22 I'm saying?

23 Q. Her face would have been blocking her eye?

24 A. Her -- her vision would have been limited on -- yeah.
25 Yeah.

1 Q. Okay. Because of the blindness?

2 A. But she had -- her right eye is actually the one that
3 does work properly. So that's one would have been
4 obstructing her vision.

5 Q. Okay. All right. So page 97. We'll, we'll move on.
6 You think she was blind in her right, either her face was
7 obstructing or view, but nothing -- nothing outside of the
8 vehicle, correct?

9 A. I -- I don't know. I -- I can't see -- I can see both
10 eyes. I don't know how big the view would change if I can
11 only see one.

12 Q. Okay. I think you testified a little bit to this
13 earlier, but you pretty mad at Meghan at the scene; is that
14 right?

15 A. Yes, ma'am.

16 Q. Okay. Why?

17 A. I just found out she was blind her -- in her eye.

18 Q. Okay. You -- I think you testified to this just a
19 minute ago. You felt like she didn't really know who she
20 was?

21 A. No, I knew who she was. I think I was being -- being
22 dramatic.

23 Q. Okay. But you -- you've told me previously you felt
24 like, at that time, you didn't really know who she was; is
25 that fair?

- 1 A. No. I mean, I knew who she was very well. I -- I
2 guess I was embarrassed because I overlooked it, you know? I
3 -- I didn't notice it.
- 4 Q. Okay.
- 5 A. It was just personal. I was personally mad. I -- I
6 kind of feel bad that I -- I argue a little bit.
- 7 Q. Okay. Turn to page 109 for me.
- 8 A. Said what -- what -- what --
- 9 Q. 109. I'm sorry.
- 10 A. 109? I'm sorry.
- 11 Q. No, it's fine. I touch my face a lot and then I speak
12 into my hand.
- 13 A. I try so hard. I do sometimes.
- 14 Q. No, you're fine.
- 15 A. All right.
- 16 Q. All right. Sir -- no. Well, the end of line 1, "I was
17 -- I was mad;" do you see that?
- 18 A. Yes, ma'am, I see it.
- 19 Q. Yeah. What does that say?
- 20 A. Start at line 1, her right eye?
- 21 Q. Yeah. Yeah, go ahead.
- 22 A. Her right eye (inaudible) no doubt something else.
- 23 Q. Keep going. Sorry.
- 24 A. I was like as -- I was mad.
- 25 MR. HAWKINS: Objection, your Honor. Approach.

1 THE COURT: Yeah.

2 BY MS. TANKERSLEY:

3 Q. All right. You -- you can keep going right there.

4 A. I was, like, I don't even know who you are. I have no
5 idea who you are.

6 Q. Okay. I was highly upset? I was, like, I don't even
7 know who you are; I have no idea who you are?

8 A. Yes, ma'am.

9 Q. Okay. I just want to be clear. All right. At that
10 time, in fact, you were extremely mad at Meghan and testified
11 that you were pretty fixated on the fact that she was blind
12 in one eye, correct?

13 A. Yeah.

14 Q. Okay.

15 A. Just pretty serious.

16 Q. Yeah. All I could really fixate on. I couldn't
17 believe it; Is that fair?

18 A. I was just angry, yeah.

19 Q. Okay. Was Meghan injured at all in the accident?

20 A. No.

21 Q. Okay. She was able to --

22 A. (Inaudible) I saw.

23 Q. All right. That's fair. She was able to open her
24 door, get out at the scene, no -- no issues?

25 A. I think it was jammed maybe, but that's -- that's about

1 it.

2 Q. But she got out on her own?

3 A. Maybe she got out the window. I don't remember.

4 Q. Okay.

5 A. But she did get out of the car. No, she was not
6 injured. (Inaudible) that at all.

7 Q. Okay. You previously testified, I asked you on page
8 101, "So was she able to just get out of her door, right?"
9 And you said, "Yes." Do you think your memory is accurate at
10 that time?

11 A. I mean, she -- she -- either way she got out the car.
12 I don't know if it was through the window or she actually
13 opened the door or not. I really don't.

14 Q. Okay. Do you recall her acting pretty nervous and
15 panicked at the scene?

16 A. Yes.

17 Q. As far as you could tell based on what you could see at
18 the scene, Will's girlfriend also named Meghan, in the back
19 seat, she didn't have any injuries, did she, that you
20 noticed?

21 A. I couldn't see any. No, ma'am.

22 Q. Okay.

23 A. I think she was in the hospital and it turns out she
24 did have some injuries there.

25 Q. Not anything that you saw or knew about?

1 A. No.

2 Q. Okay. You spoke to the trooper at the scene, correct?

3 A. No, I don't think so. No, ma'am.

4 Q. All right.

5 A. I -- I really don't remember that at all.

6 Q. All right. Go page 10 --

7 A. I don't know the truth (inaudible) actually.

8 Q. Okay. Go page 106.

9 A. Okay. Okay.

10 Q. All right. Line 16, I ask you, "Did you speak to

11 anybody else at the scene." Your response line, 18, "I think

12 I spoke to the state trooper."

13 A. I think I spoke to the state trooper.

14 Q. Okay. He asked you about what happened in the

15 accident?

16 A. Uh-huh.

17 Q. You can flip to page 107, line 3.

18 A. He's just -- he just (inaudible) --

19 MR. HAWKINS: Objection, your Honor. No lawful.

20 THE COURT: No, I guess I meant -- hold on there and

21 let (inaudible).

22 MR. HAWKINS: Objection. We need to think of the

23 matter in court.

24 THE COURT: Okay.

25 BY MS. TANKERSLEY:

1 Q. All right. You previously testified that you spoke to
2 the trooper. He was asking you questions like who was
3 driving, you know what happened, correct? He just
4 investigating the scene; is that fair?

5 A. I guess.

6 Q. Okay. All right. Now, there's been some back and
7 forth with some witnesses previously about whether or not
8 they were skid marks at the scene.

9 A. Uh-huh.

10 Q. You saw skid marks, correct?

11 A. There's a bunch of skid marks right there.

12 Q. I'm -- I can't --

13 A. There's a bunch of skid marks right there.

14 Q. Okay. Neither you or Meghan called 911; is that fair?

15 A. I had six-inch laceration in my face.

16 Q. Did Meghan call 911?

17 A. I have no idea.

18 Q. All right. Do you recall testifying on page 102 that

19 --

20 A. No, I don't.

21 Q. -- we never called the law?

22 A. No, I don't recall. I know I didn't --

23 Q. Okay.

24 A. -- because I was incapacitated.

25 Q. Do you agree that, that's your prior testimony?

1 A. I -- I -- I don't -- I don't remember (inaudible)
2 really.

3 Q. I -- I'm -- I'm asking if you can confirm that, on page
4 102, you testified, "We never called the law at all."

5 A. I don't remember saying that at all.

6 Q. Is it in your deposition transcript, page 102?

7 A. 102? It -- I'm sure it's in my deposition if you asked
8 me. Yes, ma'am.

9 Q. All right. Your testimony now is you didn't actually
10 have any memory of this stuff?

11 A. Oh, no, no. I don't remember talking to a -- that
12 state trooper. I think (inaudible) just --

13 Q. Well, no, I just --

14 A. I just --

15 Q. I -- I just mean the -- the --

16 A. Okay. That's all right.

17 Q. -- your -- no, it's okay. And you can explain yourself
18 if you want to, but I -- I want to make sure is your
19 testimony today that you don't remember any of the things
20 that you told me previously?

21 A. No. I was nervous when I -- we had this deposition,
22 and I didn't know that I could just say, "No answer at all,"
23 or, "Yes," or, "No." So I wanted to give you an in-depth
24 answer that I thought would help. You know what I'm saying?
25 Our case or whatever.

- 1 Q. Okay.
- 2 A. I thought -- I thought it was the right thing to do.
- 3 Q. To answer honestly.
- 4 A. No, to just give you an answer.
- 5 Q. So your -- your prior testimony was an honest
- 6 testimony?
- 7 A. My prior testimony? You mean -- which one? This one?
- 8 Q. I -- I'm asking you.
- 9 A. I'm asking you. That's why I'm saying I don't know.
- 10 Q. You don't know if what you testified before previously
- 11 under oath was right or wrong?
- 12 A. No, I know that what I testified wasn't all true
- 13 because I felt a need to give you some sort of answer --
- 14 Q. Okay.
- 15 A. -- because of the way you were questioning. I mean,
- 16 you grilled me pretty hard.
- 17 Q. I -- I grilled you pretty hard in the --
- 18 A. Yes, ma'am.
- 19 Q. Which question that we've gone over was --
- 20 A. No, no. Not -- not like that. You were very
- 21 respectful. I'm not -- I'm not saying that.
- 22 Q. Okay.
- 23 A. You're -- I'm not saying you're a bad person or
- 24 something like that. It's just a very long deposition.
- 25 Q. Well, there's a lot of information to cover.

- 1 A. Yes, ma'am. True.
- 2 Q. All right. All right. You just testified a minute ago
3 that you were incapacitated at the scene, correct?
- 4 A. Basically. Yes, ma'am.
- 5 Q. All right. You didn't have a concussion though, right?
- 6 A. I don't know. I really don't.
- 7 Q. All right. Well, do you remember previously testifying
8 that you didn't have a concussion?
- 9 A. I don't think I have one. No, ma'am.
- 10 Q. All right. Do you remember previously testifying that
11 you were fully coherent at the scene?
- 12 A. Yeah.
- 13 Q. Okay.
- 14 A. I do.
- 15 Q. All right. Do you remember testifying that you were
16 fully coherent, you put yourself in the gurney? "They didn't
17 pick me up and put me in it. I walked over to it."
- 18 A. I may have been asked to project it. I'm just -- I'm
19 just playing. No, I -- I didn't put myself in the gurney.
- 20 Q. Okay. Do you remember testifying to that on page 84?
- 21 A. I don't.
- 22 Q. All right.
- 23 A. And how long ago was this right here? (Inaudible)
24 right now (inaudible).
- 25 Q. August, 2023.

- 1 A. The deposition?
- 2 Q. Yes, sir.
- 3 A. Okay.
- 4 Q. You testified earlier today that glass got stuck on
- 5 your face, part of the lens was embedded in your face --
- 6 A. Uh-huh.
- 7 Q. You recall that?
- 8 A. Yes, ma'am.
- 9 Q. Do you remember taking that out on your own?
- 10 A. No, ma'am. I didn't take it on my own, I believe. I
- 11 could -- I don't know. I really don't.
- 12 Q. Okay. All right. Page 91. Well, you testified
- 13 earlier today that they removed it, I think. So Page 91,
- 14 line 6.
- 15 A. If they remove it, then I didn't. What page?
- 16 Q. 91, line 6.
- 17 A. 91?
- 18 Q. Yes, sir.
- 19 A. Okay.
- 20 Q. And I asked, "Who took that lens out of your eye," and
- 21 your response was --
- 22 A. Sorry.
- 23 Q. That's okay.
- 24 A. Line 1, you said?
- 25 Q. I think I said line 6.

1 A. Line 6? I'm sorry. "Who -- who took -- who took that
2 lens out of your eye?"

3 Q. And your --

4 A. I believe, if I'm not mistaken.

5 Q. Okay. All right. Other than the -- the pain that,
6 clearly, you would have been having on your face from the
7 laceration, you didn't have any other pain at the scene,
8 right?

9 A. Oh, no, I was hurting.

10 Q. Okay. All right. Go page 115. All right. So I start
11 on the previous page. "Other than the injury on the side of
12 your face and the pain that you would have been feeling from
13 that injury, were you having any other pain at the scene?"
14 And your response was, "Surprisingly, no, not really. My
15 neck and my sternum, like, right in here -- " you said, "It's
16 affected now." And I asked, "But not bothering you at the
17 time?" And you said, "No, ma'am," correct?

18 A. Yes, (inaudible).

19 Q. Okay. How many stitches did you have to -- or did they
20 put in your face?

21 A. I'm not sure.

22 Q. Okay. Do you recall previously testifying that it was
23 six stitches?

24 A. Six? No, ma'am.

25 Q. Okay.

1 A. I think -- I -- I think, at the time also, I was mixing
2 up micro sutures with stitch -- with the stitch.

3 Q. Okay.

4 A. So I didn't know. I didn't really know there was a
5 difference to --

6 Q. Stitches go on the outside, something you might have to
7 get removed.

8 A. Yeah. Yeah, the micro sutures, I think, go on the
9 inside.

10 Q. Okay. So the -- you think you had about six stitches,
11 things that maybe you would have had to have taken out?

12 A. I think that it was more than six stitches, but I'm not
13 sure.

14 Q. Okay. Do you remember previously testifying on page
15 144 that you had six stitches?

16 A. I don't.

17 Q. All right. You testified just a little bit ago that a
18 piece of glass came out of your face a year ago; is that
19 right?

20 A. Yes, ma'am.

21 Q. Okay. So you believe that, from an accident eight
22 years ago that you went to the hospital for, they cleaned up,
23 stitched up, that they left shards of glass in your face?

24 A. Yeah, it's not uncommon.

25 Q. It -- okay. That will slowly be making their way out?

1 A. I mean, I don't know if it was slowly or if it was all
2 at once.

3 Q. Well, you -- you said it's been -- it's been about
4 eight years since this happened and you've just lost a piece
5 of glass, correct?

6 A. I know stitches come out too as well when they are
7 pulled out. They come out years later as well. I've heard
8 stories about that.

9 Q. That's not what happened to you?

10 A. No. I mean, what's the difference though?

11 Q. Well, if it happened to you, it's important to this
12 case. If it happens to somebody else --

13 A. What's the difference --

14 Q. -- it's not.

15 A. What's the difference between a stitch coming out my
16 eye and the glasses coming out of my eye?

17 Q. Well, the doctors -- the doctors treated you, cleaned,
18 your wound, sewed you up, right?

19 A. I don't remember them doing it, but yeah, I think so.

20 Q. Okay. What -- what did you do to -- to treat the scar
21 that you've got around your face?

22 A. There's really no treatment for it.

23 Q. Okay. Did they give you any instructions on how to
24 take care of it?

25 A. Yeah. (Inaudible) --

1 MR. HAWKINS: Objection, your Honor. Calls for
2 hearsay.

3 THE COURT: Sustained.

4 MS. TANKERSLEY: That's fine, your Honor.

5 THE WITNESS: Not really. Actually --

6 BY MS. TANKERSLEY:

7 Q. Okay. Hold on. Do -- he's -- let's ask another
8 question.

9 A. Oh, I'm sorry.

10 Q. Did you do anything to minimize the appearance of your
11 scar over the last eight years? And by that I mean, do you
12 apply any sort of --

13 A. Like cream?

14 Q. You know, they've got, like, Mederma, Vaseline, any of
15 that stuff.

16 A. I think during the actual -- like, while I was hurt,
17 whatever, with the bandage, I think one person, or one
18 specialist actually recommended that I put Vaseline on --

19 Q. Oh.

20 A. -- and then one didn't. I -- like I said, there was a
21 couple of kind of contradicting opinions on that.

22 Q. Okay. But what did you do?

23 A. I honestly can't remember.

24 Q. Over the years, what have you done?

25 A. Nothing really.

1 Q. Okay.

2 A. I mean, I -- I use lotion every day on my face and my
3 body.

4 Q. All right. You haven't had any sort of treatment with
5 any medical professionals, doctors, et cetera, since this
6 accident that relates to this accident, correct? Other than
7 the emergency room?

8 A. Sorry. Repeat that again. I'm sorry.

9 Q. Sure. Sure. So you -- you testified you went to the
10 emergency room, you had that \$20,000 bill?

11 A. Yes, sir.

12 Q. Any other medical treatment since then relating to this
13 accident?

14 A. I -- I can't -- I don't -- don't think so.

15 Q. Okay.

16 A. Yeah.

17 Q. All right. There's been some discussion yesterday
18 about the amended complaint that you all filed in this case
19 and what your allegations were and if my client agreed with
20 them or not agreed with them.

21 A. Yes, ma'am.

22 Q. So in your amended complaint, you -- you allege that
23 you have expenses for medical care and treatment in the past,
24 present, and future. You haven't presented us with any sort
25 of future treatment relating to this accident, correct?

1 A. I would like to. I'm in that option right now. I
2 don't have any money.

3 Q. Okay. You haven't gone anywhere and spoke to any
4 doctors since this -- since the emergency room, correct?

5 A. Why would I. I don't have the money to.

6 Q. Okay. All right. You put in here that you have
7 emotional trauma. What is your emotional trauma?

8 A. The incident itself.

9 Q. Okay.

10 A. We -- since the last time -- we even spoke. I have
11 more -- more things have occurred, like up here on the top of
12 my head, I can't feel up here anymore.

13 Q. That's happened since 2023?

14 A. Yes, ma'am.

15 Q. All right. Have you saw -- talked to a doctor about
16 that?

17 A. No, ma'am. I don't even -- I don't have insurance.

18 Q. Okay. You testified -- or not testified, but put in
19 your complaint you have partial and permanent impairment of
20 physical function. What permanent impairments do you have?

21 A. My eye, I -- it won't -- it won't completely close.
22 Like, when I sleep and stuff, I get like a lot of eye boogers
23 underneath here. I guess, it's -- it's -- it's drying my
24 eyes out -- I mean, my left eye out, but it -- it stays dry.

25 Q. Haven't been any eye doctors to confirm anything that's

1 going on with your eye?

2 A. No, ma'am.

3 Q. Didn't testify about your eye in 2023?

4 A. No. As --

5 Q. All right.

6 A. -- you know, things progressed, new problems that were
7 -- you know, arise.

8 Q. All right. You test -- or you alleged in your
9 complaint, temporary total inability to engage in activities
10 of daily living. How is your daily life impacted by the scar
11 on your face?

12 A. I just became a little bit reclusive.

13 Q. Okay. All right. Lost time and opportunity to earn
14 income.

15 A. Yeah. Like I said, (inaudible).

16 MR. HAWKINS: I going to object. I need to approach.

17 (OFF THE RECORD)

18 BY MS. TANKERSLEY:

19 Q. All right. You testified a little bit about your
20 mental health being impacted because of this accident,
21 correct?

22 A. (Inaudible).

23 Q. I'm sorry.

24 A. Yes, ma'am. I'm sorry.

25 MR. HAWKINS: Your Honor, I have --

1 BY MS. TANKERSLEY:

2 Q. It's a --

3 MR. HAWKINS: -- no objection. (Inaudible).

4 THE COURT: Okay.

5 MR. HAWKINS: Thank you. BY MS. TANKERSLEY: Q: All
6 right. You testified that you've had some impacts on your
7 mental health as a result of this accident, correct?

8 A. Yes, ma'am.

9 Q. All right. You have a -- a history of some mental
10 health issues though, correct? That occurred prior to this
11 accident?

12 A. Yes, ma'am.

13 Q. Unrelated to this accident?

14 A. Some of. Yes, ma'am.

15 Q. Okay. Started seeing a psychiatrist back in 2013, I
16 believe you testified to, correct?

17 A. Yes, ma'am.

18 Q. All right.

19 A. I don't think it was 2013. 20 14.

20 Q. All right. 2014. Three or four years before the
21 accident?

22 A. Yes, ma'am.

23 Q. Okay.

24 A. I will say that I didn't see my psychiatrist regularly.
25 And so this pretty much occurred --

- 1 Q. Okay. The psychiatrist -- sorry, go ahead.
- 2 A. I'm sorry. Oh, no, no, go ahead.
- 3 Q. The -- the psychiatrist that you were seeing prior to
- 4 this accident, he was in Mississippi, right?
- 5 A. Yes.
- 6 Q. Okay. So when you -- when you moved back to South
- 7 Carolina, you stopped seeing him, right?
- 8 A. For a while, yeah. I actually -- I went and I saw him
- 9 one more time even though I was in South Carolina.
- 10 Q. Okay.
- 11 A. I -- I just saw (inaudible) guy, a good doctor.
- 12 Q. That's fantastic. While you -- other than that one
- 13 time that you were in South Carolina, while you were living
- 14 here, you were no longer seeking his treatment, correct?
- 15 A. I couldn't afford to make the drugs.
- 16 Q. All right. When -- you didn't have a psychiatrist that
- 17 you started seeing in -- in South Carolina?
- 18 A. No, ma'am. I didn't see (inaudible).
- 19 Q. All right. And then when you moved back to
- 20 Mississippi, you started treating with him again?
- 21 A. Yes, ma'am.
- 22 Q. All right. And all of the treatment that you saw with
- 23 that doctor, that's not related to this accident, correct?
- 24 A. After I moved back, some of it was, yes, ma'am.
- 25 Q. Okay. Some of it was also not related to this

1 accident, correct?

2 A. Well, not -- when I was -- when I first saw Dr. Kug
3 (ph), it was just for evaluation essentially --

4 Q. Okay.

5 A. -- and then, you know, to just get my prescriptions.
6 After the car accident, I started to regularly see somebody
7 to talk to.

8 Q. Okay. So after the car accident, going to go see your
9 psychiatrist on a regular basis, but this car accident was
10 not the only reason that you were going to go see the doctor,
11 right? You had other contributing factors in your life at
12 that time?

13 A. I'm sure. Yes.

14 Q. Okay. Had a couple friends that passed away shortly
15 after the accident?

16 A. Yes.

17 Q. Okay. You had a -- a stint around this time of kind of
18 getting into trouble with the law; is that fair?

19 A. Yes.

20 Q. Okay. I want to talk a little bit about that.

21 A. Yes, ma'am.

22 Q. All right. In December of 2016, which was six months
23 before this accident, you pled guilty to the felony of
24 larceny and breaking and entering into a vehicle; is that
25 right?

1 A. Yes, ma'am.

2 Q. Is that correct? Okay.

3 A. Yes, ma'am.

4 Q. All right. And then in March of 2018, shortly after
5 the accident, you were convicted of obtaining goods under
6 false pretenses, right? You had sold a stolen ring?

7 A. Yes, ma'am.

8 Q. Okay. And then in April of 2018, you were convicted of
9 felony shoplifting; is that right?

10 A. Yes, ma'am.

11 Q. Okay. I believe you testified earlier with Mr. Hawkins
12 that you were treated for head trauma at the emergency room;
13 is that right?

14 A. I -- I -- I think I was.

15 Q. Okay.

16 A. Yeah.

17 Q. You've never been diagnosed with a traumatic brain
18 injury though as a result of this accident, correct?

19 A. No, I've never been diagnosed with any.

20 Q. Okay. Didn't see any doctors following the emergency
21 room regarding any sort of brain injury, right?

22 A. (Inaudible) CTC I think.

23 Q. Okay. No -- no additional treatment that you've ever
24 needed for this?

25 A. I haven't sougled, no.

1 Q. Okay. Were you working anywhere at the time of this
2 accident?

3 A. No, ma'am.

4 Q. Okay. You testified earlier, I believe, that the
5 accident -- or the scar has led to embarrassment, confidence
6 issues, dating life issues. How has the -- the confidence
7 issue impacted you?

8 A. I worked in the car business for a good while and
9 (inaudible) was looking at her (inaudible) ugly car salesman
10 with a scar in his face.

11 Q. When were you working at a car dealership?

12 A. Heading back home (inaudible) Jackson.

13 Q. Were that -- those were after the accident?

14 A. I think that car was. Yes, ma'am.

15 Q. Okay. Is it your testimony that you lost that job
16 because of this accident?

17 A. No. No. I didn't say I lost my job because of it. I
18 did kind of quit attending though. It was due to
19 embarrassment.

20 Q. Okay. You -- you stopped going to work because you
21 were embarrassed?

22 A. Due to inclusiveness. Yes.

23 Q. Okay.

24 A. It affecting my mental health big time.

25 Q. All right. Let -- all right. Let's talk about that.

1 What -- what are these other issues that you had with your
2 mental health then?

3 A. (Inaudible) --

4 MR. HAWKINS: Objection, your Honor. Relevance.

5 THE COURT: Hold on.

6 MR. HAWKINS: Relevance --

7 THE COURT: Hold on.

8 MS. TANKERSLEY: Stop -- stop -- stop (inaudible).

9 THE COURT: We're not going to have any objection until
10 you guys stop. (Inaudible) that.

11 THE WITNESS: I'm sorry. I'm sorry.

12 MR. HAWKINS: And I -- I can approach if your Honor
13 would like or -- I don't think any other mental health issues
14 he has is -- is relevant to the crash and the damage related
15 to the crash.

16 THE COURT: I think, based on the testimony though she
17 can explore that.

18 MR. HAWKINS: Okay.

19 BY MS. TANKERSLEY:

20 Q. All right.

21 A. I'm sorry about that.

22 Q. You -- no, go ahead.

23 A. No, I just-- I was just a apologizing for the
24 (inaudible).

25 Q. No.

1 THE COURT: Oh, that's fine.

2 BY MS. TANKERSLEY:

3 Q. You can continue your answer.

4 A. I can't remember where I was.

5 Q. Okay. Sure. So my question was, well, based on your
6 testimony, you said you were a recluse. You stopped going to
7 work. You know, it had a -- a dramatic effect on your mental
8 health. We've already talked about how you had preexisting
9 mental health issues. And so I -- I kind of want to talk
10 about those because --

11 A. Okay

12 Q. -- if your testimony is this scar on your face made you
13 a recluse, this scar on your face made it so that you didn't
14 go to work, what are these other mental health issues that
15 you treat for?

16 A. I have ADHD.

17 Q. Okay. What else?

18 A. That's about it. I had depression.

19 Q. Okay. Any other disorders that you've been diagnosed
20 with?

21 A. Bipolar.

22 Q. Okay.

23 A. (Inaudible) bipolar, depression. So --

24 Q. All right.

25 A. Yes, ma'am.

1 Q. Anything else?

2 A. That's (inaudible).

3 Q. Do you remember testifying as to OCD, I believe?

4 A. Yeah. Yeah, I have OCD. It's not -- it's not enough
5 to be seen really. It just conflicts with ADHD really bad.

6 Q. Okay. And -- and we talked a good bit at your
7 deposition about the jobs that you've had or -- or not had,
8 or -- or excuse me, I know you weren't working at the time of
9 the accident, but the jobs that you had prior to the accident
10 and then after the accident, correct?

11 A. Yes, ma'am.

12 Q. All right. And you've had -- you've had quite a few
13 since 2017, correct?

14 MR. HAWKINS: Objection, your Honor. Approach.

15 MS. TANKERSLEY: I'm sorry.

16 (OFF THE RECORD)

17 BY MS. TANKERSLEY:

18 Q. All right. So since 2017 you've had a -- a number of
19 jobs. I think we Jimmy John's, BMW, Canopy Car Wash, H&W
20 Construction, some other places in -- in Mississippi, Wayback
21 Burgers, Walmart, landscaping companies, things like that.
22 You didn't lose any of those jobs because of this accident,
23 correct?

24 A. No. I didn't have that new job since 2017. Jimmy
25 Jones? Yes ma'am. That was here in -- I lived in

1 Mississippi, (inaudible), South Carolina.

2 Q. Okay. Where are you working now?

3 A. (Inaudible).

4 Q. Okay, you were working at Sunset Grill, I think at the
5 time of the deposition.

6 A. Yes, ma'am.

7 Q. All right. Have any issues there? I believe when I
8 talked to you, you'd gotten promoted at that point in time,
9 correct?

10 A. Yes, ma'am. I was doing very well.

11 Q. Okay. All right. You -- you testified about the
12 scarring on your face and when we talked previously, you've
13 testified that people don't tend to notice that because your
14 glasses is and your hair, correct?

15 A. Yes, ma'am.

16 Q. All right. And the one that really bothers you is the
17 one that's on your nose?

18 A. It -- what? It bothers me, I guess the look of it or
19 whatever.

20 Q. Where is the scar on your nose?

21 A. The --

22 Q. Okay. All right.

23 A. (Inaudible).

24 Q. Thank you. All right.

25 MR. HAWKINS: Your Honor, could I ask if she asked

1 about a scar that he'd be allowed to go --

2 THE COURT: You -- you did that on read, right? Yes,
3 your Honor.

4 BY MS. TANKERSLEY:

5 Q. You testified previously that the scars on your face
6 have impacted your dating life. Is that right? Okay.

7 A. Yes, ma'am.

8 Q. That's all right. You dated Meghan Seely for a year or
9 so after this accident, right?

10 A. Yes, ma'am.

11 Q. Okay. And then you moved to Mississippi and you had
12 another long-term girlfriend, correct?

13 A. Yes, ma'am.

14 Q. Okay.

15 A. (Inaudible) six years without having a girlfriend? I
16 would say I --

17 Q. Okay. And you think that's solely because of the scar
18 on your face?

19 A. No, it is actually the trauma -- blunt force trauma
20 into my head I believe is what's affecting me. My -- I mean
21 scar is enough at all. I mean, imagine when saw a six-inch
22 scar on your face.

23 Q. All right. Blunt force trauma is affecting your dating
24 life.

25 A. I do know that. I think that has changed my actual

1 neurological and my brain. And I do -- I do.

2 Q. All right. Let's go through this one more time then.
3 Weren't diagnosed with a concussion, correct?

4 A. No, ma'am.

5 Q. Weren't diagnosed with a traumatic brain injury,
6 correct?

7 A. No, ma'am.

8 Q. Nobody at the hospital referred you to neurologist.
9 You haven't followed up with a neurologist, you've had no
10 treatment regarding a brain injury in the past eight years,
11 right?

12 A. Yes, ma'am.

13 Q. Okay.

14 A. It's also because I have not had insurance. I would
15 seek -- I would see if I could have had money, if I had the
16 availability or option, I would seek help -- neurological
17 help.

18 Q. Okay. Well, let's talk about your ability to get
19 medical records or to get medical treatment then. You tore
20 this a meniscus in your knee after this accident, right? Or
21 at some point in time, I think you can't remember when it
22 happened, but you --

23 A. That's mine, not a doctor's.

24 Q. Okay. You went and got an MRI though, correct?

25 A. No.

1 Q. All right.

2 A. You -- wait. You know what? Yes, I did. I'm so
3 sorry. Yes, ma'am.

4 MS. TANKERSLEY: Okay. All right. I think I'm about
5 finished, your Honor. Let me just double check, make sure
6 I'm not missing anything.

7 THE WITNESS: My short term memory has taken a
8 significant hit.

9 BY MS. TANKERSLEY:

10 Q. You didn't have any memory issues prior to this
11 accident?

12 A. No, ma'am.

13 Q. It affect your ADHD doesn't impact your memory in any
14 way.

15 A. ADHD? No, ma'am.

16 MS. TANKERSLEY: All right, your Honor, I don't have
17 any further questions. I'm going to move these additional
18 exhibits up here.

19 THE COURT: Is everybody good over here? All right.
20 Redirect.

21 MR. HAWKINS: Thank you, your Honor.

22 REDIRECT EXAMINATION BY MR. HAWKINS:

23 Q. Dustin, have you ever heard of a for Google Images,
24 have you ever heard of a fishbowl lens or a fisheye lens?

25 A. Yes, sir.

1 Q. Okay.

2 THE COURT: (Inaudible). Yeah. Okay.

3 BY MR. HAWKINS:

4 Q. Fishbowl lens and fisheye lens, is it your
5 understanding that that stretches or compresses of you to
6 make it look different than it does personally?

7 A. Yes, sir.

8 MR. HAWKINS: And for the record I'm referencing
9 Defendant's 22.

10 BY MR. HAWKINS:

11 Q. You were asked some questions about the distance
12 between the point of the collision and the curve. Is that a
13 football field?

14 A. No.

15 Q. Have -- have you ever measured it?

16 A. No. No, sir. I'm sorry.

17 Q. You were asking questions about the place where you
18 lived when you took -- when you took the opportunity to
19 answer some questions for Ms. Tankersley. Is that a boat?

20 A. Yes, sir.

21 Q. Okay. Tell the jury what your arrangement was and the
22 rent trading and all that with -- with the boat.

23 A. \$550 a month for the house boat at Sunset Marina in
24 Brandon, Mississippi.

25 Q. That's where my wife's from.

1 A. That's right.

2 Q. You were on the Raw Speed Bennett -- were you on the
3 Raw Speed Bennett Reservoir?

4 A. Yes, sir.

5 Q. Okay. I want to make sure the jury understands. Were
6 you in the French Riviera with a yacht or something?

7 A. No, sir. I was living on the dilapidated boat pretty
8 much.

9 Q. On Reservoir, Mississippi?

10 A. Yes, sir.

11 Q. You were trading partial rent to -- to be on the boat
12 and keep look after it?

13 A. Yes, sir. And I was a pretty much the grounds keeper
14 as well.

15 Q. For the Sunset Grill?

16 A. Yeah, yeah, for Sunset Grill and Sunset Grill, I was
17 actually at the job simultaneously.

18 Q. Is that a restaurant Sunset Grill?

19 A. Yes, sir.

20 Q. You were asked a question about the time it took to
21 make the turn into the Walmart parking lot about how you
22 looked and saw the red truck. I mean, you remember that?

23 A. Yes, sir.

24 Q. Okay. Was it unusual? Well, did you testify that you
25 and Meghan had gone to this Walmart before?

1 A. Yes.

2 Q. Had y'all made this turn before?

3 A. Yes.

4 MS. TANKERSLEY: Objection, your Honor. This was on --
5 correct?

6 BY MR. HAWKINS:

7 Q. He she asked about it.

8 A. Yeah, I'm going to add that.

9 Q. Okay. So and again, was your testimony that this was a
10 25 mile per hour zone?

11 A. Yes, sir.

12 Q. Was it normal for y'all to make a turn relatively
13 slowly in a 25 mile per hour zone going into Walmart?

14 A. Yes, sir.

15 Q. And when you looked to your right, was it your
16 testimony that the red truck was on you like that?

17 A. Yes, sir.

18 Q. Were there four people in the car?

19 A. Yes, sir.

20 Q. From you being there at the time of the collision, was
21 your understanding that anybody -- any of the other seven
22 eyes saw the truck before it was on top of you?

23 MS. TANKERSLEY: Objection, Your Honor.

24 THE COURT: Sustained.

25 MS. TANKERSLEY: Hearsay.

1 BY MR. HAWKINS:

2 Q. Okay. Was there any indication to you as you rode in
3 the -- in the car that the red truck was coming from, any
4 source?

5 THE COURT: Sustained. He can say what he needed.

6 THE WITNESS: I think everybody in the car saw it the
7 same time --

8 MS. TANKERSLEY: Objection.

9 THE COURT: Again, sustained and that be stricken.

10 THE WITNESS: (Inaudible) I apologize.

11 BY MR. HAWKINS:

12 Q. Was anybody else in the car --did anybody else in the
13 car have any issues with their left eye?

14 A. No.

15 Q. Okay. How many good eyes were there in the car?

16 A. Seven.

17 Q. Would you -- would you analogize -- I want to ask about
18 the -- the severity of the impact.

19 A. Yes, sir.

20 Q. Did you tell Ms. Tankersley that you had been in
21 another collision where the alleged speed was about 15 miles
22 per hour?

23 A. Yes, sir.

24 Q. What's the difference between your experience with that
25 impact and this impact?

1 A. We got out of the car or the -- the -- the trucks when
2 we hit a 15 miles an hour and talk to each other.

3 Q. Yeah.

4 A. Wait for the police to arrive. I was in a gurney
5 gushing blood. Do behind me had a crush --

6 MR. HAWKINS: Objection, your Honor.

7 THE WITNESS: I'm sorry, (inaudible).

8 BY MR. HAWKINS:

9 Q. Of the two -- of the two impacts, which one was more
10 significant?

11 A. (Inaudible) was way worse.

12 Q. Was it -- was it -- well, I want to ask you about,
13 because -- because you were asked some questions about this.
14 So I want to ask you about your observation of Andre Knox
15 when he was coming towards you in that brief moment before
16 the impact, okay?

17 A. Yes, sir.

18 MS. TANKERSLEY: That has already been gone over on --

19 THE COURT: I think in respond to your cross.

20 BY MR. HAWKINS:

21 Q. From you being there, from what you observed in the car
22 --

23 A. Yes, sir.

24 Q. -- do you think it would matter how good anybody could
25 see with the way that truck was going?

1 A. No. I think his speed was the -- the biggest factor in
2 the actual cleaning itself.

3 Q. You were asked the question about, you know, didn't you
4 say that you know Meghan -- Meghan, he hit us because Meghan
5 Seeley didn't see him coming or something like that. You
6 remember that?

7 A. Yes.

8 Q. Okay. Give -- tell me more about that.

9 A. (Inaudible).

10 Q. Okay. Tell me more about that. Didn't you say, you
11 know, when she said, didn't you say that he hit y'all because
12 Meghan Seeley didn't hit him. Tell -- tell me more about
13 that.

14 A. What Meghan Seeley couldn't see him or?

15 Q. Yeah, just tell me more about that statement.

16 A. The two cars prior to Andre passing maybe?

17 Q. Yeah.

18 A. They passed just on. I -- like I said, I think that
19 his speed was the difference in this collision. That's about
20 all I can say, man. If -- I mean, if he wasn't going 25
21 miles an hour, wouldn't -- we have the same as the first two.
22 Would it have been similar? You know what I saying? Similar
23 effect.

24 Q. Did Meghan Seely hit either of the first two cars?

25 A. No.

1 Q. Has she ever hit any other car in making that turn?

2 A. No. No, sir. Has any other car ever hit her?

3 MS. TANKERSLEY: Objection, your Honor.

4 THE WITNESS: No, sir.

5 THE COURT: Sustained, that's --

6 BY MR. HAWKINS:

7 Q. In that brief moment when --

8 (OFF THE RECORD)

9 BY MR. HAWKINS:

10 Q. All right. Let me -- let me ask you, Was it your
11 testimony earlier with me and with Jeanmarie that y'all were
12 coming down this way and y'all were going to make a left hand
13 turn?

14 A. Yes, sir.

15 Q. Okay. During that brief moment when you looked -- when
16 you saw Knox.

17 A. Yes, sir.

18 Q. Did you ever hear any brakes or anything?

19 A. No. No, sir.

20 Q. Did you ever see, did you -- in that brief period of
21 time, did you see any evidence of the application of brakes
22 at all?

23 A. No, sir.

24 Q. As far as you know, is there any evidence that brakes
25 were ever applied?

- 1 A. No, sir.
- 2 Q. You said something about skid marks earlier. Were you
3 talking about when you went back with your father later?
- 4 A. Yes, sir.
- 5 Q. Okay. How long after the wreck was that?
- 6 A. Approximately weeks to months. I'm not quite sure
7 exactly.
- 8 Q. Okay. Did you see some marks on the road?
- 9 A. Yeah, but I mean, I -- I have no idea where they came
10 from, you know what I'm saying?
- 11 Q. Do you have any idea how long they've been there?
- 12 A. No, sir.
- 13 Q. Okay. On the day -- on the day of the wreck, you know,
14 between the time you were hit and your heads opened up and
15 the time they take you away, did you ever observe any
16 evidence of skid marks or brakes or anything?
- 17 A. No, sir.
- 18 Q. Did you observe debris on the road from the crash?
- 19 A. Yes, sir.
- 20 Q. And you were asked some questions, you -- you were
21 grilled pretty hard about your -- your deposition, remember?
- 22 A. Yes, sir.
- 23 Q. Okay. Now, is this -- is this case about a car wreck?
- 24 A. Yes, sir.
- 25 Q. Two cars, (inaudible)?

1 A. Yes, sir.

2 Q. Okay. Pretty straightforward?

3 A. Yes.

4 Q. And did your -- was your deposition 177 pages?

5 A. Yes, sir.

6 Q. Did it take --

7 MS. TANKERSLEY: Objection, your Honor. (Inaudible).

8 THE COURT: He is leading.

9 BY MR. HAWKINS:

10 Q. Okay. How long did the deposition take, roughly?

11 A. It was traumatized and it was taking forever.

12 Q. And I'm not trying to embarrass you that this was
13 brought up on cross, so I have to -- I have to ask you about
14 it. Do you run from the fact that you have had mental health
15 issues that you've had to deal with?

16 A. Yes.

17 Q. Okay. You acknowledge that to the jury?

18 A. I do.

19 Q. Did this wreck help at any?

20 A. No.

21 Q. Do you take responsibility for the bad choices that
22 Jeanmarie asked you about?

23 A. Yes, sir. I do.

24 Q. Do those bad choices have anything to do with Knox's
25 feet?

1 A. No, sir.

2 Q. Do those choices have anything to do?

3 MS. TANKERSLEY: Objection, your Honor. I'm trying to
4 let this move forward, but he's leading.

5 THE COURT: Yeah. They are all leading questions.

6 BY MR. HAWKINS:

7 Q. I know it's nerve wracking your deposition in here.
8 Have you done your best to tell the jury what happened?

9 A. Yes, sir.

10 MR. HAWKINS: Thank you. You're done.

11 THE WITNESS: Appreciate.

12 THE COURT: All right.

13 THE WITNESS: Thank you, Judge.

14 THE COURT: Thank you. You may step down. Counsel
15 approach about scheduling issues.

16 (OFF THE RECORD)

17 THE COURT: All right ladies and gentlemen, I'm going
18 to let y'all take a short break and again, I'm going to --
19 foreman, this where I'm going to let you direct me. I'm
20 going to -- I'm going to ask you go back to your jury room.
21 I know it's one o'clock now and I think, do we have some acts
22 back there? We need to tied them over for, okay.

23 And the reason I say that is we may be able to finish
24 the -- out the testimony here before lunch. And I realize
25 it's 1:00 o'clock because after the case is concluded,

1 there's a lot of stuff that we have to go over outside your
2 presence. So we can do that during a late lunch. That would
3 -- that would make more sense. So let me know first of all
4 and I don't think the testimony's going to be very long if we
5 did it. So if we -- if we didn't break for lunch till 2:00
6 o'clock, they may going to be real mad at me.

7 Anyway, you talk to about that and let me know, okay?

8 (OFF THE RECORD)

9 THE COURT: I didn't really need to ask because we --
10 we -- I didn't -- we weren't where I thought we were.
11 Sometimes I do better at like planning for time and all that
12 on trial, but sometimes I don't. So here's -- I'm just -- so
13 I think we're going to have to go ahead and break for lunch
14 because to get the additional witness.

15 And I -- let me just kind of tell you what we're
16 dealing with as far as scheduling, okay.

17 Once -- let say we have -- we -- what my understanding
18 we have one more witness. We -- possibly there is an
19 opportunity that may be additional witness that everything
20 the witnesses will be should be relatively sure.

21 After the -- all the evidence that I will have to be --
22 I -- I will need to get with the attorneys. And we need to
23 kind of make sure that all the law that I'm going to give
24 you, you know, we have to make final decisions on some of
25 that stuff.

1 So that takes a little bit of time. Then the attorneys
2 will have closing arguments and this is a very important case
3 for both sides. So we -- we -- I don't want any -- any
4 lawyer or anybody to feel like they're limited on their
5 argument. That's not to say that it's going to go on
6 forever, but I mean, I think it's important to have it.

7 And then I would charge them on the law. So just
8 knowing my -- the experience that would put us to 5:00
9 o'clock just getting it to you and we kind of have a -- a
10 kind of rule that we -- we generally follow is, unless it's
11 some pressing reason, then we don't like to put it to a jury
12 after 4:00 o'clock.

13 So the reason I say that is that's kind of the stuff
14 we've been discussing. I don't think, see there's any way
15 that we can't, that we're going to be able to finish this
16 case today. So we'll be coming back in the morning.

17 So we're going to go ahead and take lunch now. Be back
18 in your jury room at 2:30 and I apologize for being so late.
19 I know y'all starving. But anyway, be back in your jury room
20 at 2:30. Don't discuss the case.

21 Don't do any type of research about the case. Make
22 sure that you don't pay attention to the immediate coverage.
23 And if anybody should contact you other than somebody from
24 clerk's office, (inaudible). You'all have a good lunch and
25 again, I apologize.

1 (JURY EXITS)

2 THE COURT: All right. And I just know from experience
3 that we -- that we can get this secure even regardless of
4 ambitious drive. I know that. So, all right, be back.
5 Ready to roll at 2:30?

6 MR. HAWKINS: Yes, your Honor.

7 THE COURT: And I think I've gotten everybody's charges
8 and I have feel this discussion about charges could last the
9 whole day. Usually what I do for that is for y'all's
10 purposes is I take back chambers. We do get out. No, we
11 talk about it and then we'll come in here plea on the record.
12 All right. See all 2:30.

13 (RECESSSS TAKEN)

14 THE COURT: All right. Is the plaintiff ready for the
15 jury?

16 MR. HAWKINS: Your Honor, the plaintiff is ready.

17 THE COURT: Defendant ready?

18 MS. TANKERSLEY: Actually, your Honor, if we could put
19 something on the record.

20 THE COURT: Okay.

21 MS. TANKERSLEY: Before she testifies.

22 THE COURT: All right.

23 MS. TANKERSLEY: In plaintiff's direct examination,
24 there were multiple instances where opposing counsel was
25 asking directly, essentially, has Meghan Seely made this turn

1 multiple times before without incident, which is obviously
2 objectionable character evidence. I would assume his
3 argument is that my client testified that he generally drives
4 the speed limit.

5 That was not intentional questioning on my part to
6 illicit that testimony. This has been intentional. She has
7 a prior failure to yield turn. I know based on the Court's
8 prior ruling that that does not get to come into evidence.
9 But I'd like for the record to put that it's on there and
10 that any additional questions asking her, have you been able
11 to successfully make this turn multiple times before today be
12 excluded.

13 MR. HAWKINS: Your Honor, asking if -- I mean that's --
14 that's directly related to this case and probative. It's not
15 leading to say, has she ever had an issue making this turn
16 before? Either the answer is yes or no. It doesn't suggest
17 an answer. And --

18 THE COURT: Well, it's not leading, is not her. I
19 mean, the thing about it is it not --

20 MR. HAWKINS: It's his character, your Honor.

21 THE COURT: I mean prior habit or I mean not prior --

22 MR. HAWKINS: Well, he -- is asking him about, because
23 they were dating what his observations were when they would
24 make that trip together. He could testify about that.

25 THE COURT: No, we're not talking about him. We're

1 talking about her.

2 MR. HAWKINS: Right. But what -- what I'm saying to
3 the Court is there's no opening of any -- of any door to say
4 for her -- for her criminal record to come in or -- or her
5 prior conviction for -- I don't even -- I mean, what -- what
6 does she want to do. Say she don't make -- she doesn't make
7 left turn very well because she has gotten a ticket for it.
8 I mean, I -- based on what?

9 MS. TANKERSLEY: Your Honor, my -- my point is, I know
10 that her prior ticket doesn't come in because I know what
11 your ruling is on my client's prior ticket. My point is he
12 cannot continue to ask this inadmissible character evidence
13 saying that she's behaving a certain way and --- and in this
14 instance, in this case, she acted in conformity therewith.

15 She was able to make this turn multiple times before.
16 It is directly inadmissible character evidence? If that's --
17 if he gets through that, then I'll be able to argue, well, my
18 client drove down this road dozens and dozens of times before
19 without incident. It -- it doesn't come in and -- because
20 it's character evidence.

21 MR. HAWKINS: I guess I don't understand how it's
22 character evidence to ask if she's ever had an issue making
23 that turn. That seems central to the case.

24 THE COURT: Well, I mean, what's central to the case,
25 is how she made the turn that day.

1 MR. HAWKINS: Right.

2 THE COURT: And not anything before. And that's what
3 the -- you know, you can't do specific incidents of conduct
4 to show that she acted in conformity. We just want to know
5 about what happened in that --

6 MR. HAWKINS: So if I -- if I understand the Court, if
7 I eliminate the question, did you ever have an issue making
8 that turn, then we don't have a problem.

9 THE COURT: Right. Fine. That's why -- that's the
10 whole --

11 MS. TANKERSLEY: Correct.

12 MR. HAWKINS: Well, I mean -- okay. I'll -- to move
13 along then, I'll -- I'll agree to eliminate that.

14 THE COURT: All right. All right. Everybody ready
15 now? Okay. Bring the jury in.

16 THE BAILIFF: (Inaudible).

17 THE COURT: All right. Yeah, go ahead.

18 THE BAILIFF: Sure.

19 (JURY ENTERS)

20 THE COURT: All right. Ladies and gentlemen, I'm going
21 to hope everybody had a good lunch. We will now proceed with
22 the -- plaintiff will continuing their case. Please call
23 your next witness.

24 MR. HAWKINS: Thank you, your Honor. We'd like to call
25 Meghan Seely to the stand.

1 THE COURT: You'll come forward, Ms. Seely to be sworn.

2 THE CLERK: Place your left hand on the Bible and raise
3 your right hand.

4 MEGHAN SEELY, first being duly sworn, were examined and
5 testified as follows:

6 THE WITNESS: Yes.

7 THE CLERK: State your name, please.

8 THE WITNESS: Meghan Seely.

9 THE CLERK: Thank you. Please be seated.

10 DIRECT EXAMINATION BY MR. HAWKINS:

11 Q. Ms. Seely. How are you?

12 A. Good, how are you?

13 Q. I'm well, thank you. I'm going to ask you some
14 questions about the June 17th, 2017 wreck you were involved
15 in. Okay?

16 A. Uh-huh.

17 Q. If -- if you could just say yes or no, just because --

18 A. Yes.

19 Q. -- they're making a record. Yeah. Do you -- do you
20 remember the wreck that I'm talking about?

21 A. Yeah.

22 Q. Okay. Did this wreck take place on Tappan Drive beside
23 Walmart and Taylor's?

24 A. Yeah.

25 Q. Okay.

1 THE COURT: Are they up there?

2 MR. HAWKINS: Yep.

3 THE COURT: All right.

4 BY MR. HAWKINS:

5 Q. Does that appear to be the area where the wreck took
6 place?

7 A. Yeah.

8 Q. All right. Is the speed limit 25 on this road?

9 A. Yep.

10 Q. Okay. Does that picture appear to be a picture of the
11 speed limit from the road?

12 A. Yeah.

13 Q. Tappan Drive.

14 A. Uh-huh. Yes.

15 Q. Okay. All right. When you were -- were you coming --
16 right before the red, were you coming down Tappan Drive this
17 way?

18 A. Yeah -- yeah. Up --

19 Q. Right here?

20 A. Yeah.

21 Q. Okay. Where was it your intention to go?

22 A. Left and by the gas station there.

23 Q. Okay. Walmart and whatever that gas station is?

24 A. Yeah.

25 Q. Okay. When you came -- when you -- when you came and

1 prepared to turn left did you come to a stop?

2 A. I don't know if it was a complete stop, but I slowed --
3 definitely slowed down.

4 Q. Okay. Okay. I'm going to hand you your deposition and
5 if you look at page 38, I think start on line 13. Just --
6 just read that next little exchange to yourself.

7 A. Read the question?

8 Q. No, no. Just to yourself. Just read that. That --
9 that back and forth starting at line 13. Okay. Now, after
10 reading that did you come to a complete stop?

11 A. Yeah -- I mean, yeah.

12 Q. Okay. And if you stopped to turn left where -- where
13 on this picture would this -- would you have been stopped in
14 the road

15 A. Right -- probably right before that curve.

16 Q. Right here?

17 A. Yeah.

18 Q. Okay. Would you be facing this way?

19 A. Yes.

20 Q. When you were facing this way, would you have been able
21 to see anything behind that curve? Anything back behind that
22 curve, would you be able to see it?

23 A. No.

24 Q. Okay. When you stopped, do you remember if any other
25 cars came by?

- 1 A. I don't remember.
- 2 Q. Okay. When you turned, what happened?
- 3 A. We got hit on the side of the car and I think we hit
- 4 another car.
- 5 Q. Okay. All right. Right before you got hit, whether it
- 6 was a second or two or four, did you see the red truck just
- 7 before it hit you?
- 8 A. Barely.
- 9 Q. Okay. Did you notice anything significant about the
- 10 red truck's speed?
- 11 A. Seemed fast.
- 12 Q. Okay. Did he seem to be going fast for this 25 mile
- 13 per hour road?
- 14 A. Yeah.
- 15 Q. Okay. Do you think that speed contributed to the
- 16 collision?
- 17 A. Yeah.
- 18 Q. Okay. Was this a -- was this a hard -- how would you
- 19 describe the impact?
- 20 A. Very hard.
- 21 Q. Okay. Was the -- was the impact consistent with a high
- 22 rate of speed?
- 23 A. Yeah.
- 24 Q. Okay. Was that a yes?
- 25 A. Yes.

1 Q. Okay. All right. Now, do you believe that you turning
2 left contributed to the -- the wreck in anyway?

3 A. Yeah.

4 Q. Okay. And have you taken -- do you take responsibility
5 for your portion of the fault in this wreck?

6 A. Yeah.

7 Q. Because you were there and you observed the red truck
8 briefly, do you believe that Andre Knox also has a share of
9 the fault?

10 MS. TANKERSLEY: Objection. Your Honor, I'm trying to
11 move things up, but this -- every question's been leading.

12 THE COURT: Right. Sustained.

13 BY MR. HAWKINS:

14 Q. Were there any other contributing factors to the wreck?

15 A. Yeah.

16 Q. Okay. Okay. What -- what were those factors?

17 A. The other driver.

18 Q. Okay. And do you mean the speed of the other driver?

19 MS. TANKERSLEY: Objection.

20 THE COURT: Sustained. That was -- that was testified.

21 MR. HAWKINS: Yeah -- yes, your Honor. Okay.

22 BY MR. HAWKINS:

23 Q. After the wreck, did you observe anything different
24 about Dustin Lucas?

25 A. He had -- he got cut above his eye.

1 Q. Okay. Was he taken anywhere after that?

2 A. Yeah.

3 Q. Okay. Where was he taken?

4 A. Greenville Memorial.

5 Q. Okay. Do you know how long he stayed there?

6 A. I can't remember.

7 Q. Okay. Do you remember if it was overnight?

8 A. I don't -- I don't remember.

9 Q. Okay. It was a long time ago.

10 A. Yeah.

11 Q. All right. Okay. How long did you and -- well, did
12 you and Dustin continue to date? after the wreck for a
13 little while?

14 A. Yeah.

15 Q. Okay. Were you with him as the -- the cuts above his
16 eye healed?

17 A. Yes.

18 Q. Okay. After the -- the stitches were gone and -- and
19 it was kind of closing together, was it your observation --
20 what was your observation above his left eye, if anything?
21 Did -- was there anything new about his left eye after the
22 wreck?

23 A. Just the scar.

24 Q. Okay. Do you have some sort of issue with your left
25 eye?

1 A. Yeah.

2 Q. Okay. What is it?

3 A. I had it since it was born.

4 Q. Okay. Is it -- tell the jury what it is to the best of
5 your understanding.

6 A. Pretty much just I didn't develop all the way.

7 Q. Okay.

8 A. So I don't really have vision out of it.

9 Q. Okay. Okay. Can you see how many fingers I'm holding
10 up?

11 A. Yeah. Five.

12 Q. Okay. What about now?

13 A. Two.

14 Q. All right. What about now?

15 MS. TANKERSLEY: Objection, your Honor. He can't --
16 it's an eye exam. He's not an eye doctor.

17 THE COURT: No. I'm (inaudible).

18 BY MR. HAWKINS:

19 Q. What about now?

20 A. Five.

21 Q. Okay. Did you ever go to any follow up visits with
22 Dustin?

23 A. I -- I really don't remember if I --

24 Q. That's all right. Look at page 44 of your deposition,
25 and just read lines 6 through 11. Okay. Do you remember if

1 you went with Dustin to any of his follow-up appointments?

2 A. Yeah.

3 Q. You did?

4 A. Yeah.

5 Q. Okay. Was that because of the injuries from this
6 wreck?

7 A. Yeah.

8 Q. And -- and just to go back to my earlier question, do
9 you take responsibility for being one of the cars that caused
10 the collision?

11 A. Yeah.

12 Q. Okay. Meghan, does this -- is this consistent with
13 your memory of the damage done to the vehicle's involved with
14 the wreck after the wreck?

15 A. Yeah.

16 Q. Okay. This picture, you -- you see that the door of
17 the Infinity right here?

18 A. Yeah.

19 Q. You see how it's stuck on the Ford truck?

20 A. Yeah.

21 Q. Is that consistent with the severity of the impact you
22 experienced?

23 A. Yeah.

24 Q. Do you see the -- the debris and stuff laying down here
25 in the fluid?

1 MS. TANKERSLEY: Objection. (Inaudible).

2 MR. HAWKINS: It's in evidence.

3 THE COURT: That's not the objection, but also
4 overruled.

5 BY MR. HAWKINS:

6 Q. Do you see the fluids and the debris from the wreck?

7 A. Yeah.

8 Q. Did you observe all that?

9 A. Briefly. Very briefly.

10 Q. Okay. At -- before the -- before the impact, before
11 you got hit, did you hear any brake squealing or anything --
12 any tire screeching, anything like that?

13 A. Not that I remember.

14 Q. Okay. Did you ever see any skid marks or anything like
15 that?

16 A. Not that I can remember.

17 Q. Not that you can remember?

18 A. No.

19 Q. Okay. Okay. I don't have any more questions right
20 now. I may have a few on follow up

21 THE COURT: Cross-examination.

22 MS. TANKERSLEY: Thank you, your Honor. One minute.

23 THE COURT: All right.

24 CROSS-EXAMINATION BY MS. TANKERSLEY:

25 Q. Ms. Seely, I'm Jeanmarie Tankersley, I represent Andre

1 Knox. We -- we've met once briefly in 2022, but I know it's
2 been a long time. I'm going to ask you just a -- a few
3 follow up questions about what you remember about this
4 accident. Okay? All right. You were driving Dustin's car
5 at the time of the collision, right?

6 A. Yes.

7 Q. Do you recall why?

8 A. I really don't -- don't know.

9 Q. All right. You were shown this picture, what you call
10 picture of Google image of the intersection where the
11 accident occurred. The -- the vantage point appears to be
12 from this lane, correct?

13 A. Yes.

14 Q. Okay. Were you sitting in this lane?

15 A. No.

16 Q. All right. You were in this lane?

17 A. Yes.

18 Q. All right. I'm going to show you Defendant's 22, which
19 is just another Google image, but in the lane that you
20 would've been sitting in, correct?

21 A. Yes.

22 Q. Okay. All right. So I'm going to use this photo to
23 talk about what you recall. All right. As you approached
24 the -- the turn into the gas station parking lot or Walmart
25 parking lot there were double yellow lines, right?

1 A. Yes.

2 Q. Okay. No stop sign, no -- no traffic light or anything
3 right there?

4 A. No.

5 Q. No turn light?

6 A. No.

7 Q. Okay. as you got ready to turn, I believe you just
8 testified that maybe you slowed down, maybe you stopped a
9 little bit. If you stopped a little bit it would've been for
10 a few seconds, right?

11 A. Yes.

12 Q. Okay. And nothing is blocking your view, and you're
13 sitting here of oncoming traffic, correct?

14 A. No.

15 Q. Okay. All right. And -- and at the time of the
16 accident, nothing was obstructing your view down this
17 roadway?

18 A. No.

19 Q. Okay. And there's a circle down here indicating a
20 curve back at the end, you can see everything ahead of that
21 curve, correct?

22 A. Yes.

23 Q. All right. So any -- any traffic that was coming down
24 from the very end of this roadway all the way to here, there
25 would've been nothing preventing you from seeing that,

1 correct?

2 A. Yes.

3 Q. Okay. I believe you just testified that you didn't see
4 Andre until maybe a split second prior to the collision; is
5 that fair?

6 A. Yes.

7 Q. Okay. So what are you basing the idea that he was
8 going at an excessive speed on?

9 A. How -- just how he got hit.

10 Q. Okay. Not what you saw him doing; is that fair?

11 MR. HAWKINS: Object -- Objection, your honor.
12 Mischaracterization of prior testimony.

13 THE COURT: It's a question?

14 MR. HAWKINS: Yeah. Because she's likely -- can we
15 approach?

16 THE COURT: Yeah.

17 (OFF THE RECORD)

18 BY MS. TANKERSLEY:

19 Q. All right. Ms. Seely, so just to ask it again, you
20 weren't -- now I've forgotten how I worded it. When you saw
21 him a split second before the -- the impact, could you base
22 his speed on that split second that you saw him?

23 A. No.

24 Q. Okay. All right. Do you know what prevented you from
25 seeing him prior to that impact?

1 A. No.

2 Q. Okay. Do you recall telling Dustin at the scene that
3 it had something to do with you being blind in one eye?

4 A. No.

5 Q. Do you still live here in Greenville?

6 A. Yeah.

7 Q. Okay. Do you know approximately how long distance, a
8 hundred yards, 200 feet, more than that, less than that, do
9 you think this stretch of roadway is?

10 A. Yeah.

11 Q. How -- how long do you think that is?

12 A. Oh, I don't -- I don't know.

13 Q. Okay. All right. Andre's truck hit the right front
14 passenger of the car that you were driving, correct?

15 A. Yes.

16 Q. Okay. Then I believe you testified that was when you
17 were pushed into a vehicle that would've been sitting,
18 waiting to exit the parking lot, correct?

19 A. Yes.

20 Q. Okay. So y'all were coming across here, Andre's coming
21 this way, there's impact and then y'all just get pushed right
22 over there; is that correct?

23 A. Yes.

24 Q. You didn't have any injuries as a result of the
25 accident, right?

1 A. No.

2 Q. You were able to get out of the vehicle quickly, see
3 what was going on?

4 A. Yes.

5 Q. All right. You testified that you take responsibility
6 or a portion of the responsibility for this accident, right?

7 A. Yes.

8 Q. Okay. Do you believe you're fully responsible for this
9 accident?

10 A. No.

11 Q. Okay. You think the other driver's responsible to some
12 extent?

13 A. Some, yes.

14 Q. Okay. A lesser extent?

15 A. Yeah.

16 Q. Okay. Can you look in that deposition he handed you on
17 page 55? All right. Do you see -- well, actually let's
18 start on 54. 54, the page before line 25. Very last line.
19 I ask you, "Do you take responsibility for the accident?"
20 And then your -- your answer is on line 5, the next page,
21 "Yeah." Right?

22 A. Yes.

23 Q. Okay. And then -- and then I ask again line 8. "Okay.
24 And to clarify, when I say do you take responsibility, what I
25 mean is do you believe that you were the driver that was at

1 fault for causing the collision? Do you understand that?"

2 And your response was on line 15. "What?"

3 A. Yeah.

4 Q. Okay. All right. And I said, "And your answer is the
5 same?" And you said "What?"

6 A. Yeah.

7 Q. Okay. All right. I want to talk a little bit about
8 Justin's injuries. Other than the -- the cuts to his face
9 that required treatment, he didn't have any other injuries
10 that you were aware of because of this accident, right?

11 A. No.

12 Q. Okay. And after about two months, he sort of stopped
13 complaining about the pain in his face?

14 A. Yeah.

15 MS. TANKERSLEY: All right. That's all the questions I
16 have for you. I appreciate your time.

17 THE COURT: Redirect.

18 MR. HAWKINS: Thank you, your Honor.

19 REDIRECT EXAMINATION BY MR. HAWKINS:

20 Q. Ms. Seely, do me a favor and go to your deposition at
21 page 56 and read lines 7 through 14. 56, 7 through 14.

22 MS. TANKERSLEY: Your Honor, can we --

23 THE COURT: Yeah.

24 (OFF THE RECORD)

25 BY MR. HAWKINS:

1 Q. Okay, Ms. Seely, I want to ask you a question about
2 your observation from -- from the wreck, okay?

3 A. Yes.

4 Q. From -- from being there, from -- from being at -- at
5 the scene of the collision when the collision took place,
6 from what you saw about Knox, a second or whatever before he
7 hit you, do you believe Knox's speed played some role in the
8 wreck?

9 A. Yeah.

10 Q. Okay. Okay. Read lines 16 or 15 through 19. Page 56,
11 lines 15 through 19.

12 MS. TANKERSLEY: Just a moment, your Honor.

13 (OFF THE RECORD)

14 THE COURT: Okay. Go ahead.

15 BY MR. HAWKINS:

16 Q. Okay. All right. One second. Okay. Ms. Seely, do
17 you think whatever vision issue you have with your left eye
18 had anything to do with a wreck or played into it at all?

19 A. No.

20 Q. Did -- oh, I do have one question. Did you observe --
21 does Dustin wear glasses or did he when y'all were dating?

22 A. Yeah.

23 Q. Do you remember any damage to the glasses or anything
24 about the glasses at the time of the wreck?

25 A. I -- I can't remember.

1 Q. Okay. The -- the injury to his eye that you were
2 telling us about, I have a question about that. Was it --
3 how bad was it? Was it significant?

4 A. It was -- I mean, it looked bad.

5 Q. Okay.

6 A. Until it got cleaned up.

7 Q. Okay. After it got cleaned up, did you observe
8 stitches and sutures?

9 A. Yeah.

10 Q. Okay. Do you recall how many sutures or stitches you
11 saw?

12 A. No.

13 Q. Was it more than a few?

14 A. I really -- I don't remember.

15 Q. Okay. Was -- do you remember if it was -- do you
16 remember if he had any other injuries around his eye?

17 A. I think it just bruised from where he got hit.

18 Q. When you say it, do you mean his cheek or what?

19 A. Like right around his eye.

20 Q. Okay. Do you recall how long the stitches were in?

21 A. No.

22 MR. HAWKINS: Okay. We don't have any other questions,
23 your Honor.

24 THE COURT: All right. Thank you. You may step down.

25 MR. HAWKINS: Your Honor. The plaintiff rests and then

1 --

2 THE COURT: Okay.

3 MR. HAWKINS: -- with the Court we have several motions
4 to take up.

5 THE COURT: Right. All right, ladies and gentlemen,
6 the plaintiff has finished their case in chief. I need to
7 figure out if we're going to have some additional testimony
8 the defendant does have the opportunity if they would. So go
9 back in your jury room but do not discuss the case.

10 (JURY EXITS)

11 THE COURT: All right. Yes.

12 MR. HAWKINS: Your Honor. do you -- so at the point
13 where I rested, do -- do you want to hear the directed
14 verdict motions now orally or do you want me to weigh on
15 those? I just don't want to, you know, waive them and forget
16 -- forget --

17 THE COURT: What directed verdict -- I mean, I'll --
18 whatever motion, but what directed verdict motions do you
19 have on the plaintiff's side?

20 MR. HAWKINS: We got a directed verdict motion. Well,
21 one on, obviously she -- she can present a case if she wants
22 to, but at this point there's been no indication that there
23 will be any evidence --

24 THE COURT: Well, and that's not -- I mean, that's not
25 -- I mean, she still has the right, so you know.

1 MR. HAWKINS: Right. Right. But I -- I'll point to
2 the Court to renew. There's been an admission that there's
3 no contribution by my client. That was -- that was an RTA.
4 The purpose of RTA as this Court knows to limit what we're
5 talking about. So I want to review that motion, and also
6 point out that through evidence there's been no comparative
7 fault evidence at all. So, I (inaudible) on that --

8 MS. TANKERSLEY: I withdraw that comparative motion to
9 discharge.

10 THE COURT: Okay.

11 MR. HAWKINS: Okay. And also as to sudden emergency,
12 there's no evidence of that. I asked about it specifically.

13 MS. TANKERSLEY: And I objected saying that was a legal
14 term and you said it's also a general term and so.

15 MR. HAWKINS: Right. And then -- and then I asked
16 questions the way he wanted me to ask them, and there was no
17 evidence offered on sudden emergency. I asked specific
18 questions about it.

19 MS. TANKERSLEY: The whole idea is that she pulled out
20 in front of him.

21 MR. HAWKINS: It's not the wreck itself that's the
22 sudden emergency. It's that --

23 THE COURT: False -- this is not -- I mean, officially
24 this is not the time for you to file, I mean, to argue a
25 motion for directed verdict until the defendant has rested

1 their case.

2 MR. HAWKINS: Okay. Well Your Honor, then, thank you.

3 I would also like to move for directed verdict on the issue
4 of liability because the uncontroverted testimony is that the
5 defendant violated the speed limit, the statute and internal
6 policy, and he agreed that the wreck caused the injury.

7 So on the issue of liability, on the issue of
8 negligence, we've got -- we've got no issue of material fact.
9 We're entitled to the record verdict.

10 If she wants to argue that it wasn't proximate cause of
11 his injury or something like that, which it's uncontroverted
12 that the wreck did cause the injury, she can. But it's
13 uncontested that he was going at speed. That was the
14 difference in the wreck. It's a but-for cause. So on the
15 issue of liability, we should get a directed verdict.

16 THE COURT: Okay. And that's not -- I think there's
17 definitely a jury issue on that.

18 MR. HAWKINS: Thank you. Judge.

19 THE COURT: Anything else?

20 MR. HAWKINS: No, your Honor.

21 MS. TANKERSLEY: I have my directed verdict, your
22 Honor.

23 THE COURT: Yes.

24 MS. TANKERSLEY: So the -- the argument obviously in
25 this case is whether or not my client was speeding, but if we

1 assume that he was speeding, the law in South Carolina states
2 that speeding alone is not sufficient to show proximate cause
3 if all it does is put the person where they had a legal right
4 to be faster than they would've been otherwise, which is
5 clearly the crux of this case.

6 There are a number of cases directly on point which say
7 that speeding alone is insufficient for proximate cause and
8 summary judgment and directed verdict are appropriate in
9 these instances. There's one that's specifically on point
10 for the person, the testimony is somebody turns left in front
11 of the other driver.

12 They're saying they're speeding. Without evidence of
13 any additional negligence speeding alone is without legal
14 significance according to the courts in South Carolina. We
15 have a number of these cases and I'm happy to cite.

16 THE COURT: I mean, but here you do have -- I mean, you
17 do have evidence of not just speeding, but there is evidence
18 that it's twice the speed limit.

19 MS. TANKERSLEY: But it -- that would still be
20 speeding.

21 THE COURT: I know, but it's still -- I think that -- I
22 think that takes it out of just a general type speeding.

23 MS. TANKERSLEY: All right. Thank you, your honor.

24 THE COURT: So the motion is denied. Anything else?

25 MS. TANKERSLEY: No, your Honor. Okay.

1 THE COURT: All right. So do you plan to put up any --

2 MS. TANKERSLEY: No.

3 THE COURT: -- testimony. Do you want to rest for the
4 jury?

5 MS. TANKERSLEY: No, I can rest on record in here and
6 --

7 THE COURT: Okay. All right. So now the defense is
8 rested. He -- we got to do this right for the record. I --
9 you know.

10 MR. HAWKINS: Well -- well, your Honor, and -- and let
11 me -- let me say I -- obviously we're going to do whatever
12 the Court says. I -- if you can move my -- my rationale,
13 which is flawed all the time, is that if you can move summary
14 judgment up to trial, then, you know, if -- if the
15 plaintiff's put up this case and then -- which it doesn't
16 matter now because she's rested. But you know, if there's no
17 indication that any evidence is going to be forecast to
18 support affirmative defenses, then you know, I think it's
19 appropriate to move.

20 THE COURT: I mean, the rules state just the opposite.
21 I mean, I'm just going by the rules.

22 MR. HAWKINS: Yes -- yes, your Honor.

23 THE COURT: All right.

24 MR. HAWKINS: For the reason I stated earlier, there's
25 no evidence of -- and she's withdrawn comparative faults. So

1 there won't be a charge on that, but on a sudden emergency,
2 and you know, the -- the question is, you got two cars, they
3 get in a wreck, you know, did this person's negligence cause
4 the wreck.

5 A defense to that is a sudden emergency. If they -- if
6 they, you know -- if Knox had to speed because something was
7 after him, or if he had to slam on brakes and -- because
8 something ran out the road and he caused a wreck, that would
9 be a defense. But the wreck itself is not -- that's, I mean,
10 she could have a general defense, but the wreck itself is not
11 a sudden emergency. So there's --

12 THE COURT: Is turning in front of somebody not a
13 sudden emergency?

14 MR. HAWKINS: No, the two cars -- I think the two cars
15 in the wreck are just in the wreck, and they're fighting
16 about liability. There has to be a third party factor.
17 There has to be some other factor. That's why it's called
18 sudden emergency. There has to be something else that
19 happened.

20 You know, Knox can't -- Knox can't point to anything
21 that happened except she turned in front of me. I would --
22 she should have yielded right away. Okay. Well, that's the
23 crux of the case. Now, it's not a sudden emergency that's
24 outside the two cars involved wreck.

25 THE COURT: But it's outside the two parties. I mean,

1 I haven't really ever looked at this issue. But I mean, it's
2 --

3 MS. TANKERSLEY: Can I respond?

4 THE COURT: Well, he was looking, (inaudible).

5 MS. TANKERSLEY: Oh, okay. Your Honor, I obviously
6 believe that her turning in -- left in front of my client
7 when he had the right of way is the sudden emergency. He
8 reacted to it, couldn't stop in time because there was a
9 sudden emergency and that resulted in a collision.

10 THE COURT: And I'll be glad to look at whatever case
11 that you have to --

12 MR. HAWKINS: Okay. I'm just trying -- I'm trying to
13 make sure it is a -- it is a point and not --

14 THE COURT: I really don't think that this case is
15 going to ever die on this issue, but.

16 MR. HAWKINS: Well then --

17 THE COURT: No, I mean, I'm just saying.

18 MR. HAWKINS: No. No. But just -- just let me -- just
19 --

20 THE COURT: I'll -- I'll look at it. See, I -- I mean,
21 you've educated me already once today.

22 MR. HAWKINS: No. That was -- that's Sulaiman.

23 THE COURT: I know; I -- I've seen it before. And I --

24 MR. HAWKINS: I'm not ever taking credit for any legal
25 research.

1 THE COURT: All right. We'll look at this sudden
2 emergency. I'll let you know what -- okay. What else?

3 MR. HAWKINS: And the -- the case. I just want to give
4 you the case.

5 THE COURT: Okay.

6 MR. HAWKINS: Poulos v. James. That's 174 S.E.2d 154
7 that's 1970.

8 THE COURT: Okay.

9 MR. HAWKINS: So that that's the case --

10 THE COURT: I'll look at it, sir.

11 MR. HAWKINS: Thank you.

12 THE COURT: All right. Anything else?

13 MR. HAWKINS: Your Honor, I -- other than a general
14 defense, I don't think there's evidence to support any
15 defenses. I mean, I don't know what all she pled, but I
16 haven't seen, I mean, certainly I don't know if statute of
17 limitations is on there, but stuff like that. I think we
18 should -- I think we should --

19 THE COURT: I think you barely got by that. It looks
20 like looking at the pleading.

21 MR. HAWKINS: Oh, we -- hey, another attorney from
22 Mississippi sent that to me, so.

23 THE COURT: Oh, okay.

24 MR. HAWKINS: I filed it as soon as I got it.

25 THE COURT: I was wondering; I think it was kind of

1 complex there --

2 MR. HAWKINS: I don't sleep on statute.

3 THE COURT: I didn't think -- I think you did that. I
4 mean --

5 MR. HAWKINS: Any -- anything -- my -- my motion for
6 direct verdict is that any defense outside of the general
7 defense, we stated the claim --

8 THE COURT: I think you got to be a little more
9 specific than that.

10 MR. HAWKINS: I specifically want all the -- all the
11 affirmative defenses --

12 THE COURT: I -- I -- okay, let's do this.

13 MR. HAWKINS: All right.

14 THE COURT: Do you want me, you don't have to, but do
15 you want to say what defenses you're going forward with?

16 MS. TANKERSLEY: If he has a specific defense that he
17 wants me to give -- to discuss, I'm happy to discuss.

18 THE COURT: I mean; I think I -- I --

19 MS. TANKERSLEY: I don't want give her a paragraph in
20 my --

21 THE COURT: No.

22 MS. TANKERSLEY: Or answers.

23 MR. HAWKINS: Well, we'll -- we'll pull it up. All
24 right. So we -- we can get DV on fair, steady claim, right,
25 Judge?

1 THE COURT: Yes.

2 MR. HAWKINS: The jury about -- could barely fault
3 stone.

4 MS. TANKERSLEY: Unless y'all want to change your
5 ruling and we can allow him to drill and then (inaudible).

6 THE COURT: Yeah.

7 MR. HAWKINS: Oh yeah. We would like to move on
8 failure to mitigate. There was no -- I mean, she didn't
9 present any evidence that he didn't do something he would --
10 she established he was supposed to do.

11 MS. TANKERSLEY: He testified that he has all these
12 mental health issues and that he stopped going to the
13 psychiatrist.

14 MR. HAWKINS: Hey, you -- you elicited that. You asked
15 about his mental health. You didn't establish that it was
16 something he was supposed to do and that he didn't do.

17 MS. TANKERSLEY: He testified that he was having mental
18 health issues. I asked him about that. He said he stopped
19 going to see his psychiatrist. He also -- he also presumably
20 -- well not presumably, he has testified that he has ongoing
21 emotional issues. Everything's traumatizing, mental health
22 problems. But he has not seen a single doctor since June of
23 2017.

24 MR. HAWKINS: Jeanmarie, you can't make up the defenses
25 that you hope to apply. You can't go up there and -- we

1 didn't make -- we didn't make a claim for anything related to
2 mental health. We made a claim for -- we made a claim for
3 scars and embarrassment, stuff like that. You went up there
4 and talked about it, it backfired and now you want to say you
5 mitigated his damages.

6 THE COURT: I -- just never know what y'all going to
7 say to each other. I think he also testified that he hadn't
8 been able -- that he was still having problems and hadn't
9 been able to go to the doctor because he didn't have any
10 money.

11 MR. HAWKINS: Right. But she elicited. We didn't --

12 THE COURT: I mean no matter how it got in, but that is
13 evidence of mitigation.

14 MR. HAWKINS: Right. So she goes over there and she
15 creates this issue and then she's like, oh, look what I
16 created. So I have a defense.

17 MS. TANKERSLEY: He testified on direct that he was
18 having post-traumatic nightmares because of this accident.
19 That he lacked his competency, he became a recluse, all of
20 that --

21 MR. HAWKINS: (Inaudible) have a knot there.

22 MS. TANKERSLEY: That was all --

23 MR. HAWKINS: That's crazy. Like you're -- you're
24 going for mitigation --

25 THE COURT: Okay. Let's -- let's take out personal and

1 direct it to me. I believe there's enough evidence to charge
2 --

3 MS. TANKERSLEY: Thank you.

4 THE COURT: -- for mitigation.

5 MR. HAWKINS: Yes, your Honor. That's our motions,
6 your Honor.

7 THE COURT: Okay. So everything else is going to the
8 jury?

9 MR. HAWKINS: I'm sorry.

10 THE COURT: I said then everything else is going to the
11 jury.

12 MR. HAWKINS: Well, I hope not, but that's our motion.

13 THE COURT: Well, I mean, I've already -- I think we've
14 already ruled on haven't we?

15 MR. HAWKINS: I'm just saying.

16 THE COURT: I don't think there's anything I haven't
17 ruled on.

18 MR. HAWKINS: No.

19 THE COURT: Okay.

20 MR. HAWKINS: Because the -- the last one was a
21 catchall that just says we want to add other defenses because
22 I assume she's (inaudible).

23 THE COURT: Probably think it'll be a little bit late.
24 All right. Let's bring -- I'm going to bring the jury in
25 there and tell them they're going to be coming back in the

1 morning.

2 MS. TANKERSLEY: Okay.

3 MR. HAWKINS: I'm sorry.

4 THE COURT: I said I'm going to bring the jury in. Let
5 them know we're going --

6 MR. HAWKINS: Yes, your Honor.

7 THE COURT: And I'll just say you're not presenting any
8 additional witnesses.

9 MS. TANKERSLEY: Correct.

10 THE COURT: Bring the jury in.

11 (OFF THE RECORD)

12 THE BAILIFF: You ready, Judge?

13 THE COURT: Yes. I know I'm just going to annoy
14 everybody.

15 THE CLERK: Okay. Well -- well I said you (inaudible)
16 answering shortly. I don't blame you. I'm just kind of
17 ignoring it too.

18 THE COURT: Yeah. (Inaudible).

19 (JURY ENTERS)

20 THE COURT: All right. Ladies and gentlemen, I want to
21 -- well, first of all the -- the plaintiff rested, that the
22 defendant has determined not to present any cases or I mean
23 any -- any case or any additional witnesses at this time. So
24 you have everything that you're going to need to make your
25 decision.

1 And I also want to say this, I appreciate your
2 patience. I know I feel like I've been kind of jerking
3 around. Please do not hold that against either party in this
4 case. I'm in charge of the courtroom. I'm one of the direct
5 it. So I -- I do apologize if inconvenienced y'all in any
6 way.

7 And -- and like I said at 3:30 here, we've still got
8 quite a bit that we have to do. So we're going to go ahead
9 and close out for the, for the day. So we'll come back in
10 the morning. Let me kind of tell you what the -- tomorrow
11 is. Tomorrow is closing arguments by the attorney.
12 Plaintiff gets to go first, then the defendant then gets to
13 go. Then the plaintiff gets to have a -- a reply argument.

14 After that, I will charge you on the law. Then at that
15 point, you can finally go back in your jury room and discuss
16 the case and deliberate and reach verdict. Now just for
17 planning purposes, we'll start at 9:30. Everybody get here
18 at 9:30 in the morning. Okay.

19 Just for your planning purposes, when you come in,
20 we'll have menus for you so that we can -- we'll bring lunch
21 in for you so, you know, make arrangements. So, you know, if
22 you had that haircut appointment at lunch tomorrow, you may
23 need to move. But anyway, I'm just letting you know that's
24 what we're going to be doing.

25 So that being said, my four rules. Don't discuss the

1 case. Do not pay attention to any media coverage of anything
2 out there. Also, do not Google or do any type of research.
3 Everything you need, you will get in this courtroom under our
4 rules. Finally if anybody contacts you other than somebody
5 from the clerk's office, let the bailiffs know in the
6 morning. So with that being said, y'all have a good evening.
7 We'll see you at 9:30 in the morning.

8 THE COURT: All right. Anything else in for -- on the
9 (inaudible) on the record?

10 MR. AHMAD: Well, your Honor, I just wanted to explain
11 why we're using the Poulos v. James case. So Your Honor, in
12 that case --

13 THE COURT: For what -- what are you -- what are you
14 talking about?

15 MR. AHMAD: For that sudden emergency?

16 THE COURT: Oh, okay.

17 MR. AHMAD: We just wanted to point out that the reason
18 we're bringing that up is for an example of what constitutes
19 a sudden emergency, that involves where a vehicle has stopped
20 ahead of another vehicle and two cars rear end because of the
21 stop ahead of them, that would constitute sudden emergency
22 where the vehicle perceiving that rear end collision stopped
23 suddenly.

24 THE COURT: All right. And I was just going to look at
25 that before I made -- that's all -- actually, that's the part

1 I did not rule on. I'm -- I'm holding that one in advance.

2 MR. AHMAD: And if, your Honor if you -- if you'd like,
3 I could write up a memo for you.

4 THE COURT: No, I'll just leave -- okay, that's fine.

5 MR. AHMAD: All right. Thank you your Honor.

6 THE COURT: Got to keep him straight tonight. You
7 don't need to be taking your time on anything else. Anything
8 else? Y'all will step back here for a few minutes and just
9 kind of -- I think the knockdown, drag out was -- has been
10 eliminated.

11 MS. TANKERSLEY: Well, I've got a couple other.

12 THE COURT: Oh, okay. But the -- the main one, and you
13 were -- I mean, obviously, right?

14 MS. TANKERSLEY: Yeah.

15 THE COURT: And you're withdrawing that. So -- because
16 that's where it was going. I'm looking (inaudible). All
17 right.

18 THE CLERK: Are you going to come back in here?

19 THE COURT: No, we won't -- we -- hey, we don't need to
20 put anything else on the record today.

21 MR. HAWKINS: I don't think so.

22 THE COURT: We'll put it on the morning, first thing in
23 the morning.

24 MS. TANKERSLEY: For charges (inaudible).

25 THE COURT: Yeah.

1 (RECESS TAKEN)

2 THE COURT: Thank you. Please be seated.

3 THE CLERK: Good morning.

4 THE COURT: Good morning. How are y'all?

5 MR. HAWKINS: Well, your Honor, how are you?

6 THE COURT: You don't have to stand up.

7 MS. TANKERSLEY: I'm just fine.

8 THE COURT: Another day.

9 MS. TANKERSLEY: That's right.

10 THE COURT: All right. I assume y'all got my email?

11 MS. TANKERSLEY: Yes, sir.

12 THE COURT: Couple of -- a couple of things I did. Do
13 you need your research now?

14 MR. HAWKINS: Yeah. The answer to the question is yes,
15 but also we are where we are, so.

16 (OFF THE RECORD)

17 THE COURT: All right. Any -- any problems with the
18 verdict form?

19 MS. TANKERSLEY: No, your Honor.

20 MR. HAWKINS: No -- no complaint.

21 THE COURT: Okay. All right. I -- let me pull up my
22 little notes that I made last night. All right. I did the
23 violation of policy. I don't know if you saw that. It's a
24 little bit different than what was proposed because I read
25 that case. Let me find it. I put, "If you find there are

1 policies which apply to the defendant, the defendant violates
2 those policy, you may consider such violation as evidence of
3 negligence if they approximately call for plaintiff's
4 damages."

5 MS. TANKERSLEY: What page, your Honor.

6 THE COURT: Oh, my --

7 MR. HAWKINS: Eight.

8 THE COURT: Page 8.

9 MS. TANKERSLEY: Thank you.

10 THE COURT: It's that violation of policy --

11 MS. TANKERSLEY: Okay.

12 THE COURT: -- heading. I'm try to put headings on.

13 And I believe that's consistent with the -- that case.

14 MS. TANKERSLEY: Okay.

15 THE COURT: The other thing that I -- the whole -- I
16 believe it's the -- who, assume other drivers will follow the
17 law. I think that was yours, attorney. And y'all cited the
18 Green case. Yeah, I looked at Green and the actual quote
19 that you put in there is a quote from a North Carolina case,
20 which was a North Carolina statute that had that in there. I
21 just thought that was a little bit of strange.

22 I -- I think that's kind of covered under general
23 negligence though. But it was the North Carolina Baker --
24 Cooley v. Baker and it says the statutory division and then
25 it has all that stuff. And I know -- I mean, I've seen that

1 being proposed before, but it seems like people have run with
2 it and it really seems to come up. I think it's kind of
3 common sense and you can argue it, but I'm not -- I think
4 it's -- I think it's close to being a charge on the facts.

5 Sudden emergency. I mean that is, all the cases on
6 sudden emergency are -- are defendants saying the plaintiff
7 pulled out and stopped those kind of cases. I mean, it is
8 one party versus the other and it just says when the driver
9 in automobile is confronted with sudden emergency brought
10 about by the negligence of another, and in this case it would
11 be the driver of the other case, and not by his own
12 negligence, which is what they're arguing, then it is
13 compelled to act instantly to avoid a collision or an injury
14 and is not guilty of negligence if he makes such a choice as
15 a person, ordinary proves it would've made.

16 MR. AHMAD: Yes, your Honor. So in regards to that
17 charge, according to Weaks v. South Carolina State Highway
18 Department 250, SC 535, the court in that case explained that
19 a driver confronted with sudden peril not caused by their own
20 negligence, is not held to the same standard of care as
21 someone with time to reflect. Now the reason that's
22 important, your Honor, is that because --

23 THE COURT: Isn't that what I just said, I mean that's
24 kind of basically the same thing that I just said.

25 MR. AHMAD: Right, your Honor, that's -- that's what's

1 problematic here is because under Clark v. Cantrell, the
2 court emphasized the doctrine does not apply if the emergency
3 was created by the driver's own negligence.

4 Both parties have stipulated that the comparative fault
5 or contributory negligence is not a defense and therefore
6 this instruction would be in violation of that stipulation
7 and would confuse issues for the jury. But also, since
8 there's no comparative, the jury has to be convinced that the
9 undisputed speed was not approximate cause of the crash.

10 THE COURT: And that's something for the jury to
11 determine?

12 MR. AHMAD: Yes it is, your Honor. But by giving this
13 instruction, you're essentially changing the standard as
14 given in Weaks where they explained that with the sudden
15 emergency doctrine, you're saying that defendant Knox is not
16 being held to the same standard of care as someone with time
17 to reflect.

18 And given that they've already stipulated that there is
19 no comparative fault, there is no contributory negligence, we
20 can't then use sudden emergency as applicable in this case.
21 And the reason why that's important, your Honor, is because
22 according to Mathis v. Terra renewal Services Incorporated
23 from the Fourth Circuit, your Honor, "To receive a jury
24 instruction on the" -- this is quote from the case.

25 "To receive a jury instruction on the sudden emergency

1 doctrine, a party must first show that he perceived an
2 emergency situation to it. And second, the emergency was not
3 created by the plaintiff's negligence." Now this --

4 THE COURT: And in this case, it wasn't.

5 MR. AHMAD: Exactly. Your Honor, in this case, we --
6 our plaintiff is Dustin Lucas. It's not Meghan Seely. And
7 therefore an instruction regarding sudden emergency would be
8 an error as defense counsel has already admitted that Mr.
9 Lucas was a passenger in this vehicle and therefore could not
10 have been contributory in any manner to the collision.

11 But even further than that, your Honor, Lachman v.
12 Pennsylvania Greyhound Lines, Incorporated from the Fourth
13 Circuit Court of Appeals. By the way, the Mathis case is
14 from 2023. This case in Lachman, the doctrine would have --
15 this is from the Court. "The doctrine would have no
16 application at the case at bar if the emergency was due to
17 the failure of the driver to keep a proper lookout or to his
18 driving at an excessive rate of speed, considering the
19 condition of the road."

20 Your Honor, we've -- we've had plenty of testimony
21 that's come out in today's trial that indicates one through
22 the impact of the collision, one through -- second through
23 testimony that goes to show defendant Knox was speeding at
24 the time of the collision and that the jury can make that
25 inference.

1 So therefore your Honor, that -- this would inherently
2 confuse the issues today because Meghan Seely is not -- not a
3 plaintiff and she's not a party of this case. And under
4 Smith v. Tiffany, we can't use this -- this instruction as it
5 would confuse the issues.

6 But even further, again, your Honor, Tucker v. Reynolds
7 268 SC 330, "Where the evidence does not raise a genuine
8 issue on the matter of an unavoidable accident," this is in a
9 similar -- similar situation, "the court errs if it instructs
10 the jury on that question," according to Grier v. Cornelius.
11 "Such an instruction is inappropriate where the evidence
12 shows that clearly the accident was caused or contributed to
13 by the negligence of one or more of the parties."

14 THE COURT: I mean; I -- I don't think -- I don't see
15 that really changes. Because it says the driver is -- should
16 act under the person that a -- a person normally approves
17 would act in this situation. Isn't that just the standard
18 negligence anyway?

19 MR. AHMAD: But your Honor, it's not because as I -- as
20 I cited the Mathis case, to receive a jury instruction --

21 THE COURT: I'm going to -- I mean, you're on there,
22 but I mean, I'm going to rely on the South Carolina cases
23 that -- that I found on -- on this.

24 MR. AHMAD: Well, your Honor --

25 THE COURT: State v. Black, and that's my ruling.

1 MR. AHMAD: Okay.

2 THE COURT: So I mean, y'all are on the record. I'm
3 going to charge it. You're on -- you're on record.

4 MR. AHMAD: Yes, your Honor. Thank you, your Honor.

5 THE COURT: All right, anything else on the charge?

6 MR. HAWKINS: I've got something, your Honor. And this
7 is for -- I just -- the more I looked at this and thought
8 about it last night, this morning. On page 7, the -- the
9 failure to yield right of way and the turning left
10 instruction. Sulaiman mentioned Smith v. Tiffany.

11 I think this is -- and I think it probably is a
12 reversible error if you charge the -- the jury on duties of
13 nonparties. Because her duties as a driver don't have
14 anything to do with the issue in the case, which is whether
15 or not Knox is negligent.

16 You know, is he driving at an excessive speed? Is he
17 negligent? They could consider should she have turned or not
18 have turned, but she's got no duty to anybody because she's
19 not a party in the case. So I think it would violate Smith
20 v. Tiffany, and I know we got some tor form being pushed
21 through that it's going to take place, that's going to go
22 into effect at some point in the future. But --

23 THE COURT: I don't think that can apply because if you
24 -- if you went that route, then this -- it -- she'd have a
25 whole new different case because as of January 1st we can

1 consider the -- other driver.

2 MR. HAWKINS: That's what I'm saying. At some point in
3 the future's not -- it --

4 THE COURT: Yeah.

5 MR. HAWKINS: You know that -- that's my -- that's my
6 point.

7 THE COURT: Yeah, I understand.

8 MR. HAWKINS: Is -- is right now it would be in direct
9 violation of Smithy v. Tiffany because you don't consider --
10 nobody's got a duty as a non-party. I mean, you could say
11 she should have -- she certainly can say in closing she
12 caused the wreck, she turned in front of this truck and all
13 that. But she doesn't have -- we're not talking about her
14 duties. Her duties are not an element to anything.

15 The only thing you consider in a wreck case is the
16 obligations of the parties. If she wants to claim sudden
17 emergency, your Honor has ruled that she can. If she wants
18 to say that car shouldn't have turned left, certainly she can
19 do that. But to charge them, this person has a duty, it
20 sounds like, you know, some fault can be attributed to her.
21 And that's not -- that's not the case.

22 Either he's negligent or he's not. He's either one of
23 the approximate causes or he's not. And duties of third
24 parties that are not on the verdict form is prejudicial.
25 It's confusing. And I think it violates Smith v. Tiffany.

1 THE COURT: Yes.

2 MS. TANKERSLEY: Your Honor. Smith v. Tiffany says
3 explicitly that defense -- if -- if they're not on the
4 verdict form, then they can still argue an empty chair
5 defense. I'm not asking that they allocate fault to her, but
6 I'm allowed to say that the person that's responsible is not
7 here or not -- not here I'm not going to apply that they
8 didn't, you know --

9 THE COURT: Yeah.

10 MS. TANKERSLEY: -- choose to sue her. But I'm allowed
11 to argue that this person who isn't here is the one that is
12 responsible for this accident.

13 MR. HAWKINS: Yeah. And that's exactly my point. She
14 can make that argument. But to charge the -- the jury on it
15 is --

16 THE COURT: What is the cite assigned on Smith v.
17 Tiffany?

18 MR. HAWKINS: It is (inaudible).

19 THE COURT: Let me see that. I've got -- you got -- is
20 it the 2017 case?

21 MS. TANKERSLEY: It's the -- it's the joint severed
22 liability where Justice Kitcher is just talking about not
23 being able to put the name of --

24 THE COURT: I got you.

25 MS. TANKERSLEY: -- a non-party on the verdict form.

1 And they say specifically, you know, the plaintiff can choose
2 who to sue, but the defense still has the rights to argue an
3 empty chair defense.

4 MR. HAWKINS: Yeah. And we're agreeing with you. Make
5 that -- you just don't get to have the -- the -- you just
6 don't have a charge --

7 MS. TANKERSLEY: Josh. (Inaudible).

8 MR. HAWKINS: Or -- or just so you know.

9 THE COURT: He's trying to educate you.

10 MS. TANKERSLEY: Oh, I appreciate it.

11 THE COURT: I don't -- I don't read that case the way
12 you did. It said it would be a reversible error to charge
13 this duty.

14 MR. HAWKINS: Right.

15 THE COURT: And basically my charge is most of what you
16 had presented as your left turn charge.

17 MR. HAWKINS: Well, your Honor, as -- as I said, you
18 know, as -- as I look at it, you know, it would be charging
19 the -- the jury that some non-party has a duty to the other
20 party and the duties of non-party are simply not at issue.
21 The issue of the case is did Knox breach a duty to the
22 plaintiff. That's it.

23 She can argue the empty chair all she wants, she can
24 say, Meghan Seely caused the wreck. But she can't say --
25 start talking about duties and you know, if she failed to

1 yield right away, that's not -- that -- that's just the empty
2 chair defense. You can't say to the jury or I think -- say
3 whatever you want, obviously.

4 But -- but if you say to the -- to the jury, you know,
5 this person has a duty to do this. It -- it's the duty of a
6 non-party. And they don't have a legal duty. You know,
7 that's what we're talking about is what the legal duties of
8 the parties are.

9 And in this case, Meghan Seely's legal duties are not
10 at issue. That's -- whether or not she turned left or not,
11 that's a fact question that the jury can consider, but she
12 doesn't have a legal duty because she's not a party. And to
13 charge them will be essentially for the non-party on verdict.

14 THE COURT: Well, I mean, I don't know. Is the defense
15 the negligence of others?

16 MS. TANKERSLEY: Well -- well the defense is that there
17 was an accident. He's alleging we were a proximate cause of
18 that. But the argument is that she was the entire -- like
19 she was the reason that this accident existed, and they can't
20 prove proximate cause against us. So the fact that she
21 turned left in front of him and violated a -- a law is
22 incredibly relevant. And the instruction for that law is
23 very important to the jury in this case.

24 MR. HAWKINS: It's very misleading. It -- it leads the
25 jury to believe she has a legal duty and she doesn't. She --

1 she can say that cuts off approximate cause in this case.
2 Whether or not that -- the defense negligence was proximate
3 cause of the -- of the damage.

4 THE COURT: Well, and I think that, I -- I think in
5 talking about the general rules of the law, that that was the
6 -- the whole nature of this act. I'm going to go ahead and
7 charge it. All right. Anything else from the plaintiff?
8 Got the jury waiting.

9 MR. HAWKINS: No, your Honor.

10 THE COURT: All right. Anything else from the
11 defendant?

12 MS. TANKERSLEY: Just your Honor, very, very briefly.
13 I just want to put on the record that defendant's request to
14 charge 12 about the availability of witnesses, we believe
15 should be allowed in -- in jury instructions.

16 And also defendant's request to charge 21 about the
17 Horton v. Greyhound in its progeny cases stating that the
18 mere fact that the speed of the vehicle placed it in its
19 opposite lane at the time of the accident, the point where it
20 had the legal right to be is without legal significance is an
21 appropriate charge in this case.

22 THE COURT: What was that? I didn't -- what was that
23 again. 21? I think that -- I thought --

24 MS. TANKERSLEY: Yes, sir.

25 THE COURT: -- I did some research on it. Let me find

1 it.

2 MR. HAWKINS: Are we -- are we looking at the Horton v.
3 Greyhound issue right now?

4 THE COURT: Yeah. Because I remember reading that last
5 night. I just want to see what I came up with. And I'm --
6 on the issue of that fact witnesses, I'm going to go with --
7 and you may want to put that on the record. I just -- let me
8 make that -- mark that. I just think that's kind of a
9 comment on the facts are kind of closed. All right. Let get
10 my notes. I thought --

11 MR. HAWKINS: What were you -- what were you
12 referencing, your Honor? I'm sorry.

13 MS. TANKERSLEY: 12.

14 THE COURT: 12. I'm not charged at -- 12, but I
15 thought I did some research on it. I think I added -- I
16 think -- let me find it because I think I added the first
17 sentence but did not add the sentence. Oh yeah. If you look
18 under actionable negligence, that's the part I had read on.
19 "Even if you find a party negligent, the negligence is not
20 actionable molested, it is a proximate cause of the injury
21 complaint of it'll be deemed approximate cause only when
22 without such negligence the injury should not have occurred
23 or could have been avoided."

24 Which is really kind of what -- I mean that's just the
25 basic proximate cause. But I did not put in the fact that

1 the mere fact the speed of the vehicle placed in the opposite
2 lane. I think that's a common facts and I think it kind of
3 duplicates the sudden emergency anyway.

4 MS. TANKERSLEY: Thank you, your Honor.

5 THE COURT: But I did -- I remember -- oh, it was too
6 late last night. So I did the actionable negligence, which
7 is on page 9 for your reference is what I added.

8 MS. TANKERSLEY: Okay.

9 THE COURT: All right. Anything else?

10 MR. HAWKINS: Nothing from the plaintiff.

11 THE COURT: Limit y'all to 10 minutes each?

12 MS. TANKERSLEY: Perfect.

13 THE COURT: All right. Okay. Short break.

14 MR. HAWKINS: Is it -- the PowerPoint, are we good to
15 go to just start using it whenever I get up there.

16 THE COURT: Yeah, go ahead and we -- you're off the
17 record.

18 (RECESS TAKEN)

19 THE CLERK: Remain seated, court is in session.

20 THE COURT: All right. Plaintiff ready for the jury?

21 MR. HAWKINS: Ready, your Honor.

22 THE COURT: Defense ready for the jury?

23 MS. TANKERSLEY: Actually, your Honor, I was just
24 talking to Mr. Hawkins. There's some short issues I want to
25 take up before you bring them in here, if that's okay.

1 THE COURT: Yeah.

2 MS. TANKERSLEY: So we discussed briefly in chambers
3 yesterday. I -- I don't like to object to people's openings
4 or closings, so I didn't object to anything in the opening
5 and I'd like to try to avoid that in closing. So if we could
6 just get some clarification on some rulings before he starts.

7 THE COURT: Okay.

8 MS. TANKERSLEY: The -- the first would be the -- the
9 Court's ruling regarding the use of math to say that this
10 accident couldn't have happened. That's basic math, et
11 cetera, et cetera. I think that was excluded by the Court.
12 Now, want to make sure I'm right about that.

13 MR. HAWKINS: The Court excluded any complex equations
14 but --

15 THE COURT: Yeah, I don't think I excluded the math.

16 MS. TANKERSLEY: Oh, sorry. Not the basic math, but
17 the argument that -- that the basic math shows clearly that
18 this accident couldn't have happened. I think in order -- in
19 order to argue that you have to have the -- these additional
20 factors and you have to have this expert, you have to have
21 the turning radii and the -- and the length of the -- the
22 turn and the car and all of that, which we don't have here.

23 MR. HAWKINS: Your Honor, nothing in the case or my
24 closing argument involves turning radii out or anything she
25 just -- all -- all I'm talking about is what's in the

1 evidence.

2 THE COURT: Yeah. I think if he sticks to what -- how
3 he did in the evidence, I don't have a problem with that.

4 MS. TANKERSLEY: And sorry, just so I'm clear, does
5 that include, he's allowed to argue the math shows this
6 accident couldn't have happened if he hadn't been speeding?

7 THE COURT: I mean I guess he can argue that, but I
8 mean, then -- then you can argue the other ones.

9 MS. TANKERSLEY: Okay. The second would be what we
10 discussed yesterday. Any references to Seely making the turn
11 previously without issue, I think is inadmissible character
12 evidence.

13 THE COURT: I think -- did -- did we actually -- and I
14 think we -- I think I rule -- I sustained your objection on
15 that.

16 MR. HAWKINS: I can't remember, but I think -- well I
17 think argument is a place where you -- her turning certainly
18 is related to this case. And if she's going to argue that
19 she didn't see another car, I think it's -- I think it's
20 relevant to say she's been to that Walmart before. That was
21 in evidence, the fact they had made the turn before without
22 objection.

23 THE COURT: And I'm not sure that. I mean --

24 MS. TANKERSLEY: I -- I think it is exactly
25 inadmissible character evidence is say -- it is implying that

1 she can do this term previously. She's done it after,
2 therefore she's acting in conformity therewith on the day of
3 this accident. And if that was the case, I'd be able to say
4 --

5 THE COURT: I -- I'm not -- I think that we made that
6 she made the term. I -- I don't remember what my ruling was
7 actually.

8 MS. TANKERSLEY: I believe your ruling yesterday was
9 that it would be evidence that she'd be acting in conformity
10 there with, and it's inappropriate.

11 THE COURT: Right. I think --

12 MR. HAWKINS: Your Honor, there's -- there -- there's
13 -- sorry.

14 THE COURT: I'm just trying to figure out here. And I
15 think there was two different parts. I don't think it ever
16 came up on hers. It came up on the plaintiff's testimony
17 because I don't think that ever went on the -- on the -- on
18 Ms. Seely did we?

19 MR. HAWKINS: I -- I know that, I know that when I
20 asked him and he said they had been there before and she had
21 made that turn before there was no objection to that.

22 MS. TANKERSLEY: I believe I did object.

23 THE COURT: I -- yeah, I'm going to go ahead. I mean,
24 I don't -- I don't think that's frankly is going to go to the
25 crux of the case.

1 MS. TANKERSLEY: Okay. The -- the third thing your
2 Honor, was in opening statements, Josh, I mean, sorry Mr.
3 Hawkins said doubt doesn't create an out. I -- I think
4 that's misleading the jury as to what the burden is here. He
5 is talking about reasonable doubt. Doubt doesn't create an
6 out. That preponderance of the evidence is the --

7 THE COURT: Yeah.

8 MS. TANKERSLEY: -- burden alleging anything else is
9 inappropriate.

10 MR. HAWKINS: That's our argument, Judge.

11 THE COURT: I know, but we don't want to -- make sure
12 you stick with the -- with the proper burden of proof.

13 MR. HAWKINS: So don't use that phrase?

14 THE COURT: I mean no, I mean -- because I mean, you
15 know -- because reasonable doubt has nothing whatsoever to do
16 with this case.

17 MR. HAWKINS: Well, yeah. Well that's my point to the
18 jury.

19 THE COURT: Yeah.

20 MR. HAWKINS: But I'm -- I'm -- okay, so I want to make
21 sure we don't --

22 THE COURT: Yeah.

23 MR. HAWKINS: We'll have to skip when you get to it
24 just go (inaudible).

25 MR. AHMAD: Could you shut it off?

1 MR. HAWKINS: Oh, okay.

2 MR. AHMAD: Just so we can --

3 MS. TANKERSLEY: No. I'll just skip past it.

4 MR. HAWKINS: Yeah, we'll get to it (inaudible).

5 THE COURT: What?

6 MR. AHMAD: I was -- I was just asking if you could
7 just shut it off temporarily.

8 THE COURT: Well, it's --

9 MS. TANKERSLEY: It's not on.

10 THE COURT: Nothing's on. She's got total control.

11 MR. AHMAD: Oh, (inaudible).

12 THE COURT: A touch thing that she did up here.

13 MR. AHMAD: Yes, your Honor.

14 THE COURT: She and I are on the same page. We don't
15 care about y'all.

16 MS. TANKERSLEY: The next thing, your Honor, was in
17 opening statement he talked at decent length about how when a
18 -- when a party comes to him, they've been trying to resolve
19 claims for years and then they finally, ultimately hire him.
20 That's clearly trying to backdoor issues with insurance
21 cases.

22 THE COURT: Yeah. We don't need to be saying claims
23 and stuff.

24 MR. HAWKINS: Well -- well -- okay. Okay. Well this,
25 I do have to put this on record. It is a claim for

1 negligence. That's --

2 THE COURT: Yeah. But the --

3 MR. HAWKINS: When you say I can't say the word -- to
4 cut --

5 THE COURT: No, but the way -- I mean the way you --
6 the way you fashioned it in your opening, whether you
7 intended to or not, it was kind of like this insurance. Oh,
8 they couldn't get it settled, so they called me.

9 MR. HAWKINS: So I can't say the word claim?

10 THE COURT: Well, you need to -- I -- I -- if you --
11 not just a claim, claim for negligence. Yeah, but I mean,
12 you're not going to just say they had a claim. And --

13 MR. HAWKINS: So I can say claim for negligence?

14 THE COURT: Claim for negligence.

15 MR. HAWKINS: Okay.

16 MS. TANKERSLEY: But again, not that it has been
17 ongoing for years. They couldn't resolve it on their own and
18 then they came to me to solve their problems.

19 MR. HAWKINS: I -- I don't even know what that object
20 -- like --

21 MS. TANKERSLEY: Because it's implying that they've
22 been dealing with this insurance company for years and now
23 they have to go and hire you.

24 MR. HAWKINS: I -- I can say that happened eight years
25 ago.

1 MS. TANKERSLEY: I'm not arguing that (inaudible).

2 MR. HAWKINS: Okay. All right.

3 THE COURT: But you -- don't make any arguments that
4 infers insurance.

5 MR. HAWKINS: I definitely won't say the word
6 insurance. And I --

7 THE COURT: Well, I -- infers. Yeah.

8 MS. TANKERSLEY: All right. Your Honor --

9 THE COURT: I mean, don't be saying, y'all don't be --
10 need to be like a good neighbor or anything.

11 MR. HAWKINS: Now you give me an idea.

12 MS. TANKERSLEY: I -- I think this has been resolved
13 but in the -- the event that it hasn't any hints to the jury
14 that we didn't produce records and texting or videos or
15 anything like that, I think would be out of line.

16 THE COURT: Right. I mean they're -- you -- the
17 records were in, you can argue what the evidence is. I mean,
18 I don't, you know -- you keep saying this text, but there's
19 been no evidence that there's been any text.

20 MR. HAWKINS: Well, I think I -- I think when it -- if
21 that comes up, if whether or not he was distracted, I can say
22 we don't know for sure. We don't have the text data. All
23 you've got is the call log. I think I can say that.

24 THE COURT: I mean, no, because I mean, then -- then we
25 have to get into what did you do to get the text logs. and

1 what -- you know then does she have the right to explain what
2 -- you know, why they're --

3 MR. HAWKINS: Okay.

4 THE COURT: I mean. Yeah, that is --

5 MR. HAWKINS: All right.

6 MS. TANKERSLEY: The next, your Honor, would be any
7 references to me objecting or hinting that I've -- I've tried
8 to exclude evidence or keep evidence based on objecting to
9 this -- this questioning throughout the trial.

10 MR. HAWKINS: Where -- I -- did I do that?

11 MS. TANKERSLEY: No, I -- I just want to make sure that
12 doesn't happen. I'm -- I'm trying to avoid anything that may
13 come up so that I don't have to object.

14 MR. HAWKINS: You got this much stuff that I can't say
15 in closing.

16 MS. TANKERSLEY: Not can't -- I mean, it's -- it's the
17 -- your Honor, it's the rules of evidence.

18 THE COURT: No, I know.

19 MS. TANKERSLEY: And I -- and I -- I didn't object to
20 these things during opening statements because I like --
21 that's professional courtesy to let people go. And I'm
22 trying to avoid that issue during closing statements.

23 THE COURT: Stick to the facts of the case and not
24 anything happening between the lawyers. Definitely.

25 MS. TANKERSLEY: And then the last two things, your

1 Honor, in opening Mr. Hawkins made references to pedestrians
2 families. If there was a car seat in the back of this case
3 -- in the back of this car it would've been completely
4 destroyed. Anything like that I think is totally
5 inappropriate. There's no pedestrians or babies or cyclists
6 that have anything to do with this case and to suggest
7 otherwise is hinting to the jury that they need to be out
8 there protecting all these -- these people that weren't
9 involved in this case.

10 And then the last thing, your Honor, is he made some
11 comments in the opening statement about how I'm a defense
12 attorney and I work for a defense firm and that's the kind of
13 law that I practice. And I just don't think that's really
14 appropriate in closing argument.

15 MR. HAWKINS: (Inaudible).

16 MS. TANKERSLEY: No, thank you.

17 THE COURT: I mean, and it -- it is the same, you know,
18 I think it goes both ways is, you know that -- so that you
19 can't argue. He's (inaudible). He won't -- you just pick up
20 the phone and call all nines.

21 MS. TANKERSLEY: I -- I have never in any of my trials
22 --

23 THE COURT: No, I know you haven't.

24 MS. TANKERSLEY: -- and I never planned to argue that,
25 you know, this is a bill board attorney or, you know.

1 THE COURT: I think that's -- I mean I think that's
2 appropriate for me to decide we should get down that road.
3 Because I think it's -- I think it's I think it could -- if
4 -- if you start going down that road, I think y'all will end
5 up on the shorter stick than they will. Depends -- in this
6 area.

7 MS. TANKERSLEY: Thank you, your Honor.

8 THE COURT: All right. Now we're ready.

9 MS. TANKERSLEY: Yes.

10 MR. AHMAD: Ready. No, just briefly.

11 THE COURT: Oh, okay.

12 MR. AHMAD: Just going to check this real quick.

13 MR. HAWKINS: (Inaudible) he's doing it. Let me, she
14 ask about something. I don't if there's ruling on.
15 Obviously there -- there's going to be a punitive charge.
16 Obviously deter dangerous conduct. I can talk about the fact
17 that -- about dangerous conduct. That's -- there's a
18 punitive charge.

19 THE COURT: Yeah. I'm not thinking (inaudible).

20 MS. TANKERSLEY: Again that -- there --

21 MR. AHMAD: All right. We're good.

22 MS. TANKERSLEY: He can't argue that if there was a
23 baby in the back of this car that the baby would've been
24 injured or a pedestrian --

25 THE COURT: Yeah, I mean that's or --

1 MR. HAWKINS: Wait, wait -- now, hang on, hang on.

2 This is in direct violation of Maybank. Tort law protect and
3 I know that it was flowerery language according to the Court.
4 That is in direct contravention of -- of a Supreme Court
5 ruling. I -- it's -- it's closing statement. I'm supposed
6 to be making an argument.

7 And I have to argue about punitive damages and reckless
8 conduct. That's the whole point of -- of the punitive
9 charge. She can't just take out that part because she don't
10 like it. I don't like the fact that she's going to talk
11 about my client's, you know, criminal record. That's just
12 the way it is. She has to deal with that. That's the law.

13 MS. TANKERSLEY: The law is, I'm allowed to talk about
14 criminal record. And the law is that you're supposed to
15 stick to the facts of the case and to imply that other people
16 will be injured by my client's behavior when that is not in
17 evidence in these cases is -- it's wholly in inappropriate.
18 It's the golden rule evidence.

19 MR. HAWKINS: She's -- no, it's not golden rule. I'm
20 not asking them to trade places --

21 THE COURT: All right. I mean y'all have got my
22 punitive charge, so --

23 MR. HAWKINS: Okay.

24 THE COURT: -- do the punitive. All right. Bring the
25 jury in.

1 THE BAILIFF: Yes sir. Ready, sir?

2 THE COURT: Yes.

3 (JURY ENTERS)

4 THE COURT: All right. Ladies and gentlemen,
5 appreciate your patience. Sometimes it takes us longer to
6 get everything in order and technology, make sure all that
7 and as it may take a little along as my grandmother used to
8 say to -- to make sure everything's hunky-dory and copacetic.
9 But I think we got through that now.

10 All right, we are now going with closing arguments by
11 the attorneys. As I said, the plaintiff's attorney,
12 plaintiff will have the opportunity to go first then the
13 defense will argue, then the plaintiff's house rebuttal.
14 Closing arguments are not evidence. This is their argument
15 about the case.

16 Once they've completed that, then I will charge you on
17 the law. We'll take a short break if needed at that point.
18 but then -- then we'll send you back for your deliberation.
19 But this time I'd ask that you devote your complete attention
20 to the attorneys. Yes, Mr. Hawkins.

21 MR. HAWKINS: Thank you, Judge. May it please the
22 Court.

23 MR. HAWKINS: How is everybody? Last day. Almost done
24 with it. Y'all ready? All right. We tried to get some of
25 these points out and open, but technology -- look at it

1 working. Okay. I'm going to try to be as brief on this just
2 like a Baptist preacher talking. I'm going to try to be as
3 brief on the points as I can be.

4 At the beginning of the trial, I told y'all that we
5 were going to prove several safety rule violations to y'all.
6 Okay. Rules that if you break them, it causes damage to
7 everybody in the community. Everybody drives on the roads.
8 Whether it's a school zone, whether it's by a school bus, by
9 a hospital. It's dangerous to everybody if you break these
10 rules.

11 The first one we said, we're going to show you that
12 motorists have to follow the speed limit, basic traffic laws.
13 And then our second witness, we put up Mr. Knox and he sat
14 right here and he told y'all that he violated that rule. So
15 I told y'all he was going to violate it. And then he said he
16 violated it. He agreed that he went to a speed that is the
17 mathematical difference in the case.

18 It's what the law calls a but for cause. But for by
19 his estimate. Even if you don't go by the photographic
20 evidence, that is consistent with the high, high, high rate
21 speed. So much closer to my client's estimate.

22 Even if you don't go by this evidence of speed, you go
23 by his evidence. That's eight illegal feet of ground for
24 every second, you go by that evidence, it's mathematically
25 impossible for the wreck to happen but for the turn.

1 It doesn't matter if she failed to yield right of way.
2 It doesn't matter if he was 146 feet away. It doesn't matter
3 how far away he was, but for the speed and, but for that --
4 that negligence per se, because violation of statute is
5 negligence per se, the wreck can't happen. It's what the law
6 calls one of the concurring causes.

7 Doesn't have to be the only cause, doesn't have to be
8 the main cause. Doesn't have to be the sole cause. The
9 Judge will read you the charge. And you'll hear me talk
10 about it a lot if -- if it's one of the causes. It's one of
11 the factors of the wreck you find for the plaintiff.

12 And the reason for that is -- is straightforward. Its
13 because a super duty truck and low speed zone this -- it's
14 very dangerous. You know, whether he was going eight feet
15 per second over the speed limit like he says he was, whether
16 he was going 146 feet in two seconds. But my client says he
17 was there. Anything in between that, whether it's 30 or 50,
18 it's dangerous.

19 And y'all get back there. Somebody says, well, I think
20 he was going 50. Somebody else says, well, I think he was
21 only breaking the law by five miles per hour, I think he was
22 going 30. And y'all compromise. Y'all say, well, let's
23 figure out what it'll be on, 40. That's 22 extra feet per
24 second.

25 So y'all saw me take the tape measure right here, had

1 the defendant hold it, went all the way back there to the
2 door that's 30 feet, add another 14 feet, go through the
3 second door out the window in a 25 mile per hour zone, you
4 can make that turn, but you're going to make up that much
5 room if you're going 40 miles an hour.

6 And you add a trailer to that with a lawnmower on the
7 back of it and all that other equipment in the super duty
8 truck and enough speed to total three cars. Enough speed to
9 bend the frame on the F-250, a truck that's built Ford tough.
10

11 The second thing we said, we were going to show you
12 that you have to slow down when you go around a curve. And
13 the reason is you can't see around curves. In June when the
14 leaves were on these trees you can't see behind that curve.
15 And another is, they tried to tell y'all that was like a
16 football field away.

17 They took it from every possible angle to try to get
18 the best angle for them. It don't matter if he was behind
19 the curve, in front of the curve, if he was traveling as fast
20 as those pictures showed, his speed was a factor in the
21 wreck. There was one of concurring causes.

22 And there's no evidence that he ever slowed his speed,
23 slowed his trailer or anything else. I mean, we know what
24 his testimony is about braking, because he said, yeah, I
25 locked down my brakes and I slipped right into the other car

1 and it just moved it into the -- no, there's no skid marks
2 anywhere. No skid marks on that picture.

3 No skid marks -- no skid mark pictures taken by the
4 defendant who was walking around taking pictures and stuff,
5 or his boss who was walking around taking pictures and stuff,
6 I guess, or all the people that came out to take pictures
7 later at the junk yard and at the scene.

8 There's a number of approximating 200 pictures.
9 There's not one of a skid mark. And he said, yeah, this --
10 by their estimate, 13,000 pounds was skip across the
11 pavement.

12 What happened is the truck was going at an excessive
13 rate of speed, which is dangerous. He traveled undiminished
14 into the car that my client was riding in and then sandwiched
15 it between another car and totaled all three cars. That's
16 what happened. That's what the picture showed. The pictures
17 enough are along free to mark, yes to the first question on
18 the verdict form.

19 Let's go next one. Safe under the circumstances.
20 Y'all saw what happened? I -- I asked the defendant, "Okay.
21 What about the circumstances. You're supposed to drive safe
22 under circumstances?" He said, "Well, what are the
23 circumstances?" And I started telling him, the courtroom
24 erupted, right? Y'all know what the circumstances are.

25 Some of y'all probably been down Tappan drive. I mean

1 Walmart and Taylor's, when I was a little kid, I was going to
2 Walmart around, I've been down that road a lot.
3 Circumstances are a bunch of businesses. I thing there's a
4 nail supply shop, there's a autos zone over here. There's a
5 gas station right there, a Walmart. There's a Bojangles now
6 up over here. I think there's a TGI Fridays or Chili's or
7 something.

8 Lots of different kinds of people are going in and out
9 of there all the time. And Walmart is a place where mothers
10 go with their kids all the time. I don't know if a school
11 bus comes down that road or not, but there are lots of
12 reasons to go no faster than 36 feet per second, which is 25
13 miles per hour. There are lots of reasons for the safety of
14 the community that it's illegal to do that. Those are the
15 circumstances.

16 The circumstances are he left the shop with a super
17 duty truck loaded down with a 24-foot double axle trailer.
18 This is not a -- he's not taking leaves to the dump. He's
19 got a lawnmower in the back of it. At least one lawnmower.
20 I think he may have had a push mower on there too. He had
21 fuel, he had tools, right? Those are the circumstances.

22 He was endangering everybody in the community when he
23 drove like a maniac down that road and he sat up here and
24 said, "Well, I just know I was, you know, not going too fast
25 because I'm just generally a good driver." Except he totaled

1 three cars with a trailer behind it and sent two people to
2 the hospital. Hospitalized, not I'm going to go get checked
3 out, hospitalized.

4 We talked about the evidence that he was distracted and
5 he said you know; I use those headphones when I'm cutting
6 grass. I -- I'm sure it does. The problem is, is after the
7 wreck, they're where the driver was. Their in the floorboard
8 by the driver's seat. I'm assuming that's at the junkyard
9 whenever they got there. You know, the -- the trucks in the
10 same condition it was at the time of the wreck.

11 We know that he was making -- and -- and he says this
12 is a fact question, so this is for y'all. He says, "I didn't
13 make any of those calls while I was driving. I made all of
14 them afterwards." Even though his -- his guess at the time of
15 the wreck was 4:55 and there's a call at 4:55.

16 So was he on the phone with Cuddy Miller when the wreck
17 happened? Was he looking down at the phone? He just got off
18 and that's why he was looking at it. Was he looking down at
19 text, at social media and a video.

20 Because he used headphones back in 2017 to see videos
21 and whatever else. That's for y'all to decide. But the
22 evidence is the phone was close by the same minute as the
23 wreck took place and he never hit the brakes. That evidence
24 suggests he was distracted. That's against the law.

25 And it dovetails right to this statute. It says, "A

1 motorist must not regard the safety of persons or property."
2 This is a very important statute for the same reasons that
3 the other statutes are important. When you disregard the
4 safety of persons or property, you know, what -- and you
5 know, this kind of road, there's a Bojangles and some of
6 y'all probably know Bojangles and Hardee's, elderly people
7 will go there in the morning. Y'all probably been there at
8 10 o'clock.

9 MS. TANKERSLEY: (Inaudible).

10 THE COURT: Yes. Sustained.

11 MS. TANKERSLEY: (Inaudible), your Honor. This is --

12 MR. HAWKINS: Based on what?

13 THE COURT: Previous thing. Yeah, that's -- plus
14 there's no evidence of all the stuff that you're talking
15 about. So you may proceed.

16 MR. HAWKINS: I -- just, for the record, gave a basis
17 for the objection.

18 THE COURT: Based on my rule -- my previous ruling
19 before the thing. And also you're discussing things that are
20 not even in the evidence about all these businesses --

21 MR. HAWKINS: Okay.

22 THE COURT: -- that have not been testified to.

23 MR. HAWKINS: That -- that's fine. Just a second.
24 Whatever you -- whatever you decide, whatever circumstance
25 you decide, it's not going to be a hard decision to see

1 evidence of this kind of collision, the kind of speed
2 involved in this collision, and it's not going to be a far
3 reach for you to think about everybody else who was in the
4 area at the time this took place at five o'clock on sundown,
5 on Saturday and June. I guess was a Saturday. Kids were out
6 of school for summer and a Saturday with three high schools
7 in the area.

8 All right. I'll talk to y'all about what we were
9 required to do. All right. We we're required to budge that
10 piece of red tape on that road. That's what we're required
11 to do, playing tug of war and we're required to move it some
12 amount. We're required to show that it's more likely than
13 not that excessive speed was a factor in the wreck.

14 Doesn't matter if Ms. Seely had a chair in the wreck,
15 doesn't matter what share she had in the wreck, if the
16 excessive speed that's proven by all these photographs and --
17 and proven by the defendant's admission, he acknowledged he
18 was going the mathematical difference in the wreck. We
19 budged the defense with our first witness and they never
20 moved the tape back. And then we kept pulling farther and
21 farther away from the middle.

22 I think we're in the other end zone now because every
23 witness that got up to testify talked about how fast Knox was
24 going. Knox himself said he was going at an illegal speed.
25 The -- the trooper admitted from the stand that he -- that

1 the speed limit is not 35 miles per hour in that area.

2 Seely testified that yes, he was going -- he was going
3 fast and she started to say hard and she correct herself and
4 said very hard. That's all consistent with excessive speed.
5 My client estimated he was going double the speed of other
6 cars going 25 miles per hour.

7 And again, this is something that it's probably seared
8 in y'all's memories now because I've said it so many times.
9 It's illegal on Tappan drive to go faster than 36 feet per
10 second. If you do, you endanger everybody. It doesn't
11 matter who's -- doesn't matter whose figure you -- you use,
12 the math don't lie.

13 Just like those pictures don't lie. This is the
14 defendant's speed. This is his estimate of his illegal
15 conduct that caused the collision. That gets you where you
16 need to go because that's -- that's eight extra feet per
17 second. This is the plaintiff's estimate. Two seconds.

18 I -- I do want to mention something about that because
19 when you -- when you're in a 25 mile per hour zone and you
20 come to turn left, you don't -- I mean she was completely
21 stopped. Every -- I think everybody agrees with that. You
22 don't gun it into the gas station parking lot. You just take
23 a turn that takes two or three seconds. And two seconds it's
24 146 feet and three seconds is over 200 feet is the better
25 part of the football field. So that's how much ground was

1 covered with my client's estimate, illegally.

2 Again, this is -- you -- you're going to get a a full
3 charge on this. This is just a paraphrase. It is the most
4 important instruction in the entire case. It has to be at
5 least one of the concurrent causes of the injury.

6 A proximate cause does not mean the only cause. It's
7 at least one of the direct concurring causes of the injury.
8 The defendant's whole case is it's more Seely's fault than
9 Knox's. And that doesn't matter. Seely is not a party to
10 the lawsuit.

11 You're going to get a attorney instruction that says
12 you know, if a car is an immediate hazard you need to yield.
13 Well, one by all the evidence, it was not in immediate
14 hazard. Whether she saw it, didn't see it, there's no
15 evidence that anybody saw it before it was on top of it. So
16 one, it doesn't matter if it was because that was -- speed
17 was still a factor in the wreck.

18 But that's what you're going to have to consider.
19 Whether it was an immediate hazard or not, turning left or
20 not, if the speed -- if the illegal speed, the admitted
21 illegal speed factored into the equation at all, if it was
22 any concurrent cause for the injury then you mark yes to the
23 first question. That's the law in South Carolina. And our
24 -- our foreman is going to guess run things when y'all get
25 back there and take a show of hands.

1 And if everybody -- y'all get back there and you have a
2 show hands in it -- he says, all right. Well who thinks that
3 speed play with a -- a role in the collision. If everybody
4 raises their hand then you just go to the damages question.
5 You don't have to spend all this time I'm doing.

6 But if somebody says to anybody, well I just think
7 oncoming car's always got a right of way. If you turn left,
8 I think it's always your fault. If they say that, then you
9 need to knock on the door and tell the Judge immediately.
10 Because if somebody doesn't want to follow the law and that
11 is the law, then they're asking you to fix your name to an
12 illegal verdict. An unlawful --

13 MS. TANKERSLEY: Your Honor, this is --

14 THE COURT: Yes, I'm -- I'll instruct them on the law
15 and how they need to address their verdict.

16 MR. HAWKINS: And -- and no one has to be a part of
17 that. So I gave this example in opening, and this could be
18 done with a lot of different things. There are a lot of
19 results like this volcano or like this collision that can
20 have more than one proximate cause. One -- more than one
21 concurrent cause.

22 Because one of the concurrent causes here is vinegar.
23 The addition of vinegar. And one of the concurrent causes is
24 the addition of baking soda. And then you get the volcano.
25 But you can't have the volcano without either one of those

1 things. And so I want y'all to keep that in mind when
2 somebody -- well, when the defense argues or when somebody
3 brings up, well, you know, it's -- it's just a car comes
4 straight on it.

5 It don't matter how fast it's going, that truck and
6 trailer in a 25 mile per hour zone, we just -- she turned
7 left. She's not a defendant. And the speed was, not only
8 proximate calls but the mathematical but for cause. Because
9 you're going to be asked, was it a but for cause and was it
10 foreseeable? And DOT thought it was foreseeable. They put a
11 25 mile per hour --

12 THE COURT: I'm not sure if they asked (inaudible).

13 MR. HAWKINS: They put a 25 mile per hour sign there
14 because it's foreseeable that if you come around that curve
15 with a truck and trailer going way faster than speed limit,
16 you going to crash into somebody. It's even foreseeable if
17 you go eight feet per second faster than speed limit, you're
18 going to hit somebody. In a zone like that where people are
19 turning all the time. That door that stuck in that F-250.

20 THE COURT: I'm not sure what that is. Just turn their
21 microphones off.

22 MR. HAWKINS: That F-250 is a heavy duty truck. It's
23 not a Honda Civic or a Jeep Cherokee or you know, Toyota
24 Corolla. It has a heavy duty work truck frame. It requires
25 an incredible amount of velocity to bend that frame.

1 You don't do it -- you don't do it. If you're going, I
2 mean even by his admission, which still would've been a
3 factor of the wreck by going 30 and then hitting the brakes,
4 which would've diminished the speed even further before he
5 got to the Infinity.

6 It happens when you're going at a high rate of speed
7 and when you travel undiminished into the side of the
8 Infinity and then drive that car by -- by his testimony up on
9 two wheels briefly and then drive it into another car. The
10 aftermath was three totaled cars.

11 Multiple people in the hospital, catastrophic injuries.
12 These firemen had to cut off that door because it was so
13 embedded to the frame of that truck. He didn't bump it at
14 30. He knocked the fire out of it. Everybody could --
15 testified consistent with that, you know.

16 I think Andre Knox even said, yeah, I wasn't going fast
17 and then hit the brakes, but then he went to the hospital,
18 right. I mean it was a high speed collision by anybody's
19 estimate, especially by the estimate of people on the
20 Infinity.

21 So just more -- I do want to talk about that for a
22 minute though because these pictures are very important. And
23 I want you to think about other pictures that the defense has
24 sort of put in that's consistent with handling of this claim
25 for negligence. Okay. Here we go.

1 This is the aftermath of the collision. Those are the
2 parts of the cars affected. Why would the defense put in the
3 back of the third car that wasn't affected in the wreck
4 unless they want to draw your attention away from the speed
5 of the defendant. That's the issue. Every -- everything on
6 that side has been geared to drawing attention away from
7 what's at issue. Was the speed of one of the proximate
8 deferring causes?

9 And look how bad the damage is. That -- those are the
10 issues. Not -- look at the back of this car. If you get an
11 angle just right and look at this Google image, if you stand
12 over here, none of that -- that's misdirection and it's
13 consistent. Here's another view, picture where your showed
14 just because it might come up, Meghan stopped turned here,
15 allows two cars to pass. They're going the speed limit, just
16 fine.

17 When she goes the truck makes up the speed from
18 somewhere in here. We don't know where it was, but that's
19 not very far. If you look at this picture, which is the best
20 view, it makes that speed up so fast that my client said it
21 looked like he teleported.

22 And it wasn't like there was no evidence -- there was
23 no evidence by any witness, the -- one -- one of the
24 occupants, the four occupants said, hey, wait, or look,
25 there's no evidence of that. The evidence is the truck was

1 on top of them in an instant. From around that curve with
2 the trailer leaving no skid marks before the -- the
3 collision. That is more likely than not a factor of the
4 wreck.

5 So what you'll have to consider if you mark yes to the
6 first question, because the way the verdict form reads, we'll
7 -- we will -- I'll show it over here in a second. But if you
8 decide yes, this is more than likely than not, this is one of
9 the factors in the wreck, you mark yes. And then you go to
10 the damages question. And I'm going to talk to you a little
11 bit about how to calculate damages, because it's -- I -- I
12 don't have any say in it. Neither -- neither one of us do.

13 And actually the Judge doesn't when you're
14 deliberating, but he can do some things afterwards, but
15 nobody's got any say in it while you're deliberating. Okay.
16 You have to make -- take that off. Thank you. You have to
17 make an appraisal or an appraisement, right. You're -- you
18 all are appraisers for damages. The way you calculate
19 damages in this case --

20 MS. TANKERSLEY: Your Honor, I'm going to object. If
21 we need to approach and talk about it.

22 THE COURT: Okay.

23 (OFF THE RECORD)

24 MR. HAWKINS: Okay. So let's talk about how to
25 calculate these damages. The first kind of damage that

1 you'll consider is you know, my client's been dealing with
2 this for eight years. He's never had anybody take
3 responsibility, you know. They -- they acknowledged that on
4 the stand. I said, do you take responsibility for any
5 portion of the wreck. You know, Ms. Seely was very upfront.
6 "Do you think any part of this was your fault?" "Yeah."
7 "Okay. Do you think any of it belongs to anybody else and
8 Knox?" "Yeah."

9 And she was there. And she has no -- she's not getting
10 anything out of this. They haven't spoken in years. She's
11 got no reason to testify one way or the other. And she told
12 you from her observations, the speed definitely contributed
13 to the wreck. So eight years that's been ignored, eight
14 years consistent with Mr. Knox from the stand. "Do you take
15 any responsibility? No." Still to this day and they're not
16 going to unless you make them.

17 All right. The value of all the stuff I'm about to
18 talk about -- the value of all the stuff I'm about to talk
19 about is going to be decided by you, you know. It's taken
20 from him; the scar is on his face. He incurred the damages,
21 whatever they are. So we can't go back in time.

22 The law says we have to assign some amount to it. The
23 defense has taken that and they want to keep it. And they're
24 telling you they are going to keep it unless you take it from
25 them and get it back to the injured party who was just riding

1 in a car, just driving down the road, not driving one car or
2 the other.

3 So eight years of that. How much is that worth? We
4 get into that -- we get into specific numbers in a second.
5 The next category of damage is for medical bills and that's
6 easy to figure out because he testified that he had a little
7 over 20 grands, I think it was like 20,200 and something
8 dollars. You'll have to figure out a number that encompasses
9 that and it goes in that room of the damages housed. Okay.

10 He went to -- you heard Meghan say they went back to
11 the follow up after this. We have not presented the bill,
12 but you're allowed to consider the fact that it was. We know
13 for a fact a little over \$20,000 was incurred. We know, he
14 would've had go back and get a stitches taken out. We just
15 don't have that paper to give you, but you're allowed to
16 consider that it happened.

17 The next category of damage is pain, obviously. He
18 said that he could actually see his bone right after the
19 wreck before they sewed his head back together. Meghan, one
20 of the witnesses said that he complained about the pain. I
21 think it was on cross-examination. He complained about the
22 pain for a good while afterwards.

23 I'm sure he was in writhing pain at the time of the
24 collision, he was bleeding profusely. It caused him trouble
25 sleeping. You know, with the stitches you roll over on it,

1 that sticks to the bed or it pulls or, you know, that's --
2 I'm not saying like a big deal to the defense, but he didn't
3 ask for it, you know, he's just riding in the car. It's not
4 -- it has some value.

5 So the next one. This is one of the bigger ones.
6 Embarrassment, humiliation. It's not, you know -- he wears
7 his hair down to cover up some of it and he wears his
8 glasses, which cover up some of it, but he can't ever cover
9 this up. And it's with him for whatever the defense thinks
10 about my client, he didn't ask for the scar and it wasn't his
11 fault, you know.

12 He didn't ask to have a facial tattoo or something
13 imprinted on his face. If it was on his chest or something
14 was covered up, that would be different. But this is on his
15 face. So it affects his dating life. You know, between Ms.
16 Seely and between a few -- I think there was testimony about
17 two girlfriends and there was six year period every time he
18 tried to talk to a girl he's got to think about that. And he
19 didn't cause it.

20 Coming down a 25 mile per hour street with an F-250 at
21 high rate of speed with disregard for everybody else around
22 him is what caused it. That's the damage and injury that the
23 statutes and the policies, company policies are designed to
24 prevent. Okay.

25 He testified a lot about, you know, he said he had a

1 knot tear that he's had -- he had once after the collision
2 and then he is had it recur a few times and he said that this
3 was not any help for his already existing mental issues. So
4 he's got mental health issues. We didn't run from that.

5 He -- he acknowledged that he's been diagnosed bipolar
6 and OCD. That's embarrassing for him. He doesn't like to
7 talk about it in the first place. But since the defense
8 brought it up, he said, yeah, this certainly didn't help any.
9 And it's worse for a person like that because if you don't
10 have any problems, you know, if you're Brad Pitt and rich and
11 famous and you get hit a car, it's not that big of a deal.

12 When you've already got a ton of problems and you don't
13 need another one and you get slammed because somebody doesn't
14 want to pay attention to the speed limit or the road. That's
15 a problem you don't need. And it -- and if you have mental
16 health issues, it exacerbates that. It makes it worse.

17 MS. TANKERSLEY: Your Honor, not to interrupt too much.
18 But I need to put a objection on the record about this PTSD
19 allegation that he didn't testify that --

20 THE COURT: Yeah. That's -- that was not in the
21 record. To the extent that you're arguing.

22 MR. HAWKINS: Well, I was referring to her cross where
23 she asked about mental health issues.

24 THE COURT: I mean I know that, but this is beyond
25 that, is what I'm saying.

1 MR. HAWKINS: The biggest damage in this case. And so
2 we put it in the biggest room is that claim of disfigurement.
3 Okay. For the next 50 years or however long he lives, he's
4 got to deal with that. Unless, you know, maybe in 10 or 15
5 years AI figures out some way to make it look like it never
6 happened.

7 We don't have that technology yet. But right now
8 that's on his face for the rest of his life and has been for
9 eight years with nobody taking account for it. Nobody even
10 really acknowledging that's a damage, right.

11 So you're allowed to consider each one of these
12 categories of damage and then you're also allowed to consider
13 any categories of damage that I didn't cover that's supported
14 by the evidence. You're allowed to talk to each other about
15 all that. There's no minimum and there's no maximum. It's
16 what the evidence supports, you know. It's what will make --
17 it's what will make roadways safer. It's what will
18 discourage dangerous conduct.

19 Because when you write down the number for damages,
20 it's not just -- because this -- this is not -- I mean Knox
21 and you know, even though he's working for his company at the
22 time, it's his name that's on the pleading and Lucas. This
23 case is really about the danger presented by this conduct
24 versus the people of the community.

25 MS. TANKERSLEY: Objection, your Honor. That is

1 obviously not what this case is about.

2 THE COURT: Right.

3 MR. HAWKINS: We have a punitive charge.

4 THE COURT: What -- but that you -- you're talking
5 actual damages here. You hadn't even -- you're talking about
6 actual damage.

7 MR. HAWKINS: I'll cover it in a separate section. So
8 let's talk about the actual numbers. Based on defense's
9 opinion of my client. And you can see what that is by
10 bringing out all the bad life choices he's made that he's
11 embarrassed about and don't have anything to do with whether
12 or not this F-250 went to speed limit and caught -- and was a
13 contributing factor to this wreck. It's nothing to do with
14 that. It's just to embarrass him and hopefully prejudice
15 y'all against him. So I'm pretty sure I know what they think
16 he's worth.

17 All right. So let's use federal minimum wage. That's
18 the least amount that you can pay somebody under the law.
19 Nobody would take the job getting all this, you know -- this
20 scar and then have to wake up with nightmares and having your
21 face ripped and sowed back together for minimum wage. But
22 let's use the defense's concept of my client.

23 If you take minimum wage for the last eight years and
24 you jerk around and stiff arm and you deduct amounts of
25 weekends, which you don't get to take that off on nights and

1 weekends, minimum wage over the last eight years is \$120,000.

2

3 And that's not -- that's just the math. That's 725,
4 40-hour work weeks for eight years. For the next 50 years,
5 remember, he can't come back after today if they -- if they
6 convince y'all on this theory that you know, well it is all
7 Meghan Seely's fault.

8 It don't matter what Knox does. They -- if they're
9 able to convince you on that, he doesn't get to come back.
10 He doesn't get to come back in the future. If -- if you
11 write down, you know, only 120,000 bucks, he doesn't ever get
12 to come back if he finds a plastic surgeon that can do a
13 procedure for 300,000.

14 MS. TANKERSLEY: Objection, your Honor. Some of that
15 --

16 THE COURT: Yeah. There is no evidence about that
17 whatsoever in the record. And that's totally improper. And
18 I ask that the jury not consider that statement.

19 MR. HAWKINS: And so if you go to the next 50 years, a
20 minimum wage and you deduct nights and weekends, let's be
21 fair to the --

22 MS. TANKERSLEY: My objection is the same for all --
23 he's not claiming any lost wages.

24 THE COURT: Yeah.

25 MR. HAWKINS: I didn't say he's claiming lost wages.

1 THE COURT: Well, you shouldn't infer that. That's not
2 part of your actual damages.

3 MR. HAWKINS: Your Honor, I'm not claiming any lost
4 wages. I'm entitled to tell them how they can calculate
5 damages.

6 THE COURT: All right. But as long as it's -- the --
7 as long as you keep to the fact that you're not claiming lost
8 wages.

9 MR. HAWKINS: Right. Right. And we never -- we were
10 very -- we were very careful not to put any evidence on lost
11 wages up because we didn't want to be disingenuous. But if
12 you're going to compensate him, you got to figure out how to
13 do it. And minimum wage for that is \$750,000 for the next 50
14 years. That's the bare minimum allowed by the federal
15 government.

16 Now I wouldn't take a scar like that on my face for
17 750,000 bucks for the rest of my life. Money's not going to
18 be the same value in 50 years as it is right now. I mean,
19 especially with inflation in the past few years. Everybody
20 is tuned into that.

21 Let's change -- let's say they don't have the opinion
22 they have about him and you change it to \$25 an hour. Well
23 change it, that number the last eight years is \$416,000 and
24 the next 50 is 2.6 and the total number is a little over \$3
25 million.

1 I mean, is that -- does that compensate somebody for 58
2 years of a scar, a permanent scar. I don't -- I mean that's
3 up to y'all. There's no minimum, no -- and no maximum.
4 There may be somebody on the jury that says, look, obviously
5 the speed was factored in the wreck, but -- and on -- with
6 this case, we just -- we're not -- that's not this kind of
7 case. We're not ever going to get, you know, more than
8 \$500,000. Somebody may say that.

9 And somebody else may say, well I'm outraged and you
10 know, we need to send a clear message about what we think
11 about this kind of conduct. And they want -- may want to
12 give millions of dollars and you may have to talk about it
13 and figure out what the right number is for the evidence.
14 But that's your job as jurors.

15 I want to talk about the fact that when you're -- I
16 want to talk -- I want to talk about what Mr. Knox agreed to
17 himself and then changed his testimony and then changed it
18 back, but what he agreed to himself. He agreed under oath,
19 under sworn testimony that the defendant himself, Mr. Knox,
20 drove well in excess of the posted speed limit. He admitted
21 to that under oath, then he came here and his lawyer held his
22 hand and tried to kind of walk him back away from that.

23 And then when I got up here, he admitted to it again.
24 He admitted to going a speed, at least a speed. That's the
25 mathematical difference in wreck and no wreck. That's a but

1 for cause that's one of the concurrent causes. It's not just
2 more likely than not, it's a mathematical certainty. They
3 have to argue to -- the math to -- to get you to deviate from
4 that.

5 He also agreed under oath, his deposition and then here
6 that Seely attempted to make a left hand turn while still far
7 enough away to make it without incident. And then because he
8 violated the speed limit, he caused a significant impact that
9 destroyed three vehicles. He admitted to that. He admitted
10 that because of the wreck there was at least \$20,000 in
11 medical bills. And they don't dispute that. They don't
12 dispute the -- the wreck caused the bills.

13 They don't dispute that he was negligent because the --
14 the Judge is going to tell you that violation of statute is
15 negligent per se. He's going to tell you that from the
16 bench. And he admitted that he went faster than the speed
17 limit.

18 So there's no question that he was negligent and
19 there's no question that he caused damages. The only
20 question disputed, which shouldn't be is whether or not that
21 excessive speed was one of the contributing factors, one of
22 the concurrent causes of the collision.

23 Oh, so you're -- when you write down your -- I do need
24 to go over this. When you write down an amount, you don't
25 consider how it should be cut up or how it should be lessened

1 or added. The Court does the math after that, you just come
2 up with a total amount for everything not considering Seely
3 or Knox or -- or where the money's going to come from or
4 anything like that. You just consider the amount of damages
5 --

6 MS. TANKERSLEY: I'm going to file an objection on the
7 record, your Honor.

8 THE COURT: Yes. And it's so noted.

9 MR. HAWKINS: And you -- and you write down a number
10 and then the Court does what it needs to do afterwards. All
11 right. These -- these rules -- these rules that I'm talking
12 about, these safety rules, you know this -- it's very
13 important for -- and I'm going to kind of segue into my -- my
14 comments on the punitive charge.

15 Punitive damages are meant to deter dangerous conduct.
16 It's to prevent similar conduct in the future. The same
17 safety rules that we're talking about apply to areas where
18 there are elementary schools, hospitals, churches, crossings,
19 the -- the Bi-Lo center, I think they call it Will now.

20 You got to follow safety rules. When you violate
21 safety rules, you cause unnecessary danger. And if your
22 verdict encourages that danger, then we have a dangerous --
23 we have a dangerous community. If your rules discourage and
24 prohibit that danger, then things become safer.

25 And you can -- you can communicate with the defense and

1 with the community with your verdict because the defense
2 doesn't speak English or Greek or Italian, the -- the defense
3 speaks dollars and decimals and cents, and that's it. And so
4 if you want to send any kind of message, you have to
5 communicate with them in a language they understand.

6 MS. TANKERSLEY: I object to that, your Honor.

7 THE COURT: Sustained. This going to -- is to be
8 disregarded by jury.

9 MR. HAWKINS: I want y'all to think about, when you
10 think about the punitive aspect and what will punish or
11 deter, I want you to think about what we're trying to
12 prevent. Because in this collision, we had occupants all
13 throughout this floor. Luckily all of them were adult. And
14 the case I don't want to try is where that occupants --

15 MS. TANKERSLEY: I'll go ahead and object to this.

16 THE COURT: Yes. Stick to the facts of this case, Mr.
17 Hawkins.

18 MR. HAWKINS: Your Honor, our punitive is punish and
19 deter.

20 THE COURT: But you're referencing something else
21 that's beyond the scope of punitive argument.

22 MR. HAWKINS: Okay. I'm going to -- I'm going to sit
23 down. Well I do need to show y'all the verdict form before I
24 do that. And I'll go over one more example and I'll be done.
25 (Inaudible) get back up. I may use this, your Honor.

1 THE COURT: Okay. Hold on.

2 MR. HAWKINS: All right. This is the verdict form.

3 All right. The first question is, you know, who do you find
4 for, have we -- have we met our burden? Have we showed you
5 that it is more likely than not that that illegal conduct
6 enough to destroy three vehicles, send multiple people to
7 hospital in a low speed zone. Is it more likely than not
8 that that conduct was a factor in the wreck. Did it play
9 into the wreck. Was it one of the concurrent causes. And if
10 you agree with me on that, then you mark yes. You can write
11 yes for that one.

12 And then you move to an amount of actual damages and
13 whatever your number is, you put your number right here.
14 Okay. And then if you decide that you want to prevent
15 similar conduct in the future that caused this wreck, you
16 want to send a very clear message with verdiccy.

17 You write a number here. For this one here like I
18 said, y'all get in there, you take a show of hands, yes
19 pretty obvious it was a high speed collision. It's
20 definitely wasn't 25 miles per hour. You move on to this and
21 you just talk about this question here.

22 You know, I -- before I -- before I finally stop
23 talking and let Ms. Tankersley respond to some of this stuff
24 I want to leave you with an example. I talked to y'all about
25 a number that was a little over \$3 million. So I'll -- I'll

1 talk to you -- I'll use that as an example. I want you to
2 imagine that the defense has \$3 million sitting here. And
3 I'm not talking about the punitive aspect of this. I'm just
4 talking about the actual damages. \$3 million sitting here.

5 And if they don't -- if they don't act right, if they
6 take an unreasonable position, if they ignore the math, then
7 somebody's going to come in and take some of that \$3 million
8 away. Do you think then they would look each one of y'all in
9 the face and argue with math? Do you think they would take
10 the position that they've taken here today? And that's just
11 money. That's a human being regardless of what they think
12 about him. And he doesn't have any part in this wreck.

13 Thank you.

14 MS. TANKERSLEY: Your Honor. I'm going to use this at
15 some point.

16 THE COURT: Okay. The dock cam?

17 MS. TANKERSLEY: Yes, sir. All right. Good morning
18 y'all. I want to say before we get into all the evidence and
19 what we're here about today that Andre and I really
20 appreciate y'all being here this week. It may not seem like
21 it as well now we've been here for around day four. But it
22 -- you know, it's just been a few days, but it -- it really
23 takes a lot of hard work and preparation to prepare for
24 trial.

25 It's an important matter to us. And Andre and I really

1 do appreciate y'all being here and we've been dealing with
2 this lawsuit for five years. And we are grateful that y'all
3 are here listening to the evidence and taking into
4 consideration our side of this disagreement.

5 We're in trial today and well this week obviously. And
6 at the beginning of this on Monday I believe we were accused
7 as the defense of potentially violating the Constitution and
8 depriving the plaintiff of his -- of his right to a jury
9 trial. I want to address that very briefly.

10 This is not just Dustin, Mr. Lucas' jury trial. This
11 is also a trial for -- for Andre. He has every right to come
12 and demand a jury trial when somebody has accused him of
13 doing something that he believes he's not responsible for.
14 We are certainly not trying to deprive anybody of any sort of
15 constitutional right to a jury trial. It is just as much
16 Andre's right to be here as it is Dustin's.

17 So I'm talking about why we are here today. Why we've
18 been here all week. We are here today because the plaintiff,
19 Dustin Lucas is -- he's suing my client. He's asking for
20 money. He made that very clear in -- in his arguments just
21 now he's asking for proximately \$20,000 it sounds like in
22 medical bills.

23 And based on what I took from that, about \$3 million
24 extra on top of that, not including the punitive damages he
25 just mentioned as well. So as a result of this accident,

1 something Andre, we believe the evidence shows he's not
2 responsible for the plaintiff is asking you to award him over
3 \$3 million.

4 So in order to win, the plaintiff has to prove two
5 things to you by what's called a preponderance of the
6 evidence. He must prove the first thing that Andre Knox
7 caused this accident. Meaning that, but for Andre's conduct
8 this accident never would've happened. Not was he a -- a
9 small contributing factor. Did -- did he -- was he involved
10 in this accident in any way, did he cause this accident. It
11 has to be a direct cause.

12 He showed you the law about proximate cause. He
13 highlighted some concurring words and things like that. What
14 he neglected to highlight is the word direct. The law
15 requires that Andre's conduct be a direct cause of this
16 accident. The second thing he has to prove by preponderance
17 of the evidence is that the accident caused plaintiff
18 presumably 3 million plus dollars in damages.

19 So I want to start with part one. Did plaintiff prove
20 that but for this accident or but for this conduct that the
21 accident never would've happened? Did he prove that Andre
22 was a direct cause of the accident that we're here about
23 today? And I think the answer to that is pretty clearly no.

24 Judge Gravely's going to instruct you on the law.
25 You're going to hear about proximate cause again. It's this

1 legal term and he's going to tell you that proximate cause is
2 defined as the direct cause of the accident. He must prove
3 that Andre's conduct while driving was the direct cause of
4 the accident.

5 So I think there's really two options in this case
6 based on what we've heard in the last few days. I think the
7 first option is Andre wasn't speeding at all when this
8 accident happened and he wasn't negligent in any way. I
9 think the evidence supports that -- that theory and -- and
10 I'm going to explain here shortly why I think the evidence
11 supports that theory. But obviously, if he wasn't speeding
12 and y'all finds that he wasn't speeding and surely didn't
13 contribute to this accident, he didn't cause this accident in
14 any way, case over. You find in favor of the defendant.

15 I think option two is Andre was maybe going around five
16 miles per hour over the speed limit, maybe going around 30
17 miles per hour when this accident happened. The law says
18 that if Andre was going 30 miles per hour but the accident
19 would have happened even if he had been going 25 miles per
20 hour, meaning that she pulled out directly in front of him,
21 then the plaintiff has failed to prove that Andre proximately
22 caused the accident. And you have to find in favor of the
23 defendant. So please keep those two theories in mind as we
24 -- when we talk about the accident or talk about the
25 evidence.

1 So here's what we know about -- about the accident and
2 the causes of the accident. We know that Andre was working,
3 it was Saturday, June 17th, rush hour as has been indicated
4 multiple times throughout the -- the case. We know he
5 dropped Coddy off from work a little early so Coddy could go
6 to a dinner at Texas Roadhouse. Coddy testified to that.
7 I'm going to show y'all again. Your Honor, I'm going to use
8 that.

9 THE COURT: Should be -- should (inaudible).

10 MS. TANKERSLEY: I'll show y'all the map of where Andre
11 was going, where he was coming from at the time.

12 (Inaudible). There we go. All right. So we know that he
13 had just dropped Andre -- I mean Andre had just dropped off
14 Coddy back at his -- Cody's dad has a mechanic shop called
15 MasterTech over there on Rutherford Road so that Coddy could
16 go down the road to Texas Roadhouse for a dinner.

17 Both Andre and Coddy testified that Andre was then on
18 his way to another landscaping job when this collision
19 happened. So he came down Rutherford Road, turned down this
20 smaller street warehouse court, turned down this smaller
21 street Tappan drive, and was on his way down here to Wade
22 Hampton. Collision occurred over here at the entrance of the
23 Walmart parking lot.

24 Both Andre and Coddy testified that the job wasn't
25 being rushed. They make time in their schedule to

1 accommodate rainy days. There was some allegations or
2 indications that maybe it had rained earlier that week. And
3 so he was driving really quick to get to this job.

4 But in all -- in all reality, both he and Cuddy
5 testified that they make time in their schedule for any days.
6 This is a landscaping company. They understand how to work
7 outdoors and to accommodate weather. He was not in any sort
8 of rush. He wasn't working late. They both testified he was
9 working normal summer hours leading up to, you know, 4:00,
10 5:00 p.m. As long as the sun is out, they'd be landscaping.

11 All right. So we know from these Google Map photos not
12 taken by me, taken off the internet just like every other
13 Google Map photos that's been introduced into evidence in
14 this trial that this shows the path he was going down Tappan
15 drive. You can see the Bi-Lo over here, Walmart parking lot
16 over here. And at the very end of that road, you can see
17 that's where Wade Hampton Boulevard is.

18 So he continued to drive down this street, curves back
19 behind him. It's a very clear straightaway all the way to
20 where the intersection where this collision would've
21 happened. He continued to drive forward. That's the next
22 step. Driving forward.

23 We passed now the -- the Bi-Lo parking lot, still going
24 straight towards the Walmart, straight away, about a hundred
25 yards as he's testified to, continuing down the road even

1 further until he gets all the way to where the accident.

2 You can see based on these Google images, that this
3 isn't some blind curve that he comes around quickly and then
4 gets to this intersection. He is driving down a
5 straightaway, this three to two-minute drive he has to try to
6 get to Wade Hampton. There is not a blind curve. There is a
7 clear view down this roadway that he's driving.

8 He came up to this intersection. He saw Meghan Seely
9 pull up as he testified right about here. She paused briefly
10 and then she pulled out in front of him. He was about here
11 in this square when he saw her turning. He testified he only
12 has a few feet to stop in order to avoid or attempt to avoid
13 trying to hit Meghan Seely or plaintiff's vehicle that Meghan
14 Seely was driving.

15 We know that he only had a few feet away, not just
16 because Andre testified to that and not just because these
17 Google images show what the intersection looked like at the
18 time of the accident. But we know that because Meghan Seely
19 said she didn't see him until she started turning.

20 And plaintiff said for her first time yesterday that
21 Andre was 10 feet away from them when they started to make
22 that turn. So that would've put them right about here when
23 they start making that turn. Andre slammed on his brakes,
24 but he couldn't stop in time to avoid the accident and avoid
25 hitting their car.

1 The law says -- make sure that's straight. The law
2 says that when a driver is confronted with what's called a
3 sudden emergency brought about by somebody else's negligence,
4 in this case Meghan Seely turning directly in front of him,
5 the driver is not responsible or is not negligent if he makes
6 a choice when somebody pulls out in front of you, if he makes
7 a choice as a person or ordinary -- of ordinary prudence
8 placed in a like position might make even if he didn't make
9 the wisest choice, that is what the law in South Carolina
10 says.

11 So plaintiff's attorney has tried to argue throughout
12 the entirety of this case that there was no evidence of
13 breaks because Andre doesn't remember if he saw skid marks or
14 not at the scene. And if he -- if he did see skid marks,
15 didn't take any photographs of it.

16 Plaintiff himself testified that he did see skid marks
17 at the scene. Of course now his testimony yesterday was
18 backtracking a little bit on that and was saying, surely if
19 there are skid marks at the scene, then they belong to
20 somebody else. That's not what he testified to previously,
21 as we talked about yesterday.

22 But even if in this case there were no skid marks at
23 the scene, that is not evidence that somebody didn't break,
24 that is not evidence that Andre didn't break and try to avoid
25 this accident. You can push your brakes quickly and it

1 doesn't leave skid marks.

2 You can slam on your brakes and it doesn't leave skid
3 marks, especially if you're going 25 miles per hour at the
4 time -- or close to 25 miles per hour at the time. Whether
5 or not there are skid marks is something that deals with
6 brake systems, the heat of rubber, a bunch of things that I
7 don't know about and that aren't in evidence in this case.

8 And so we certainly can't say that because there were
9 or were not skid marks at the scene, but that's evidence that
10 he wasn't breaking. The evidence that we have is Andre
11 testifying that he slammed on his brakes. That is evidence.
12 Testimony is evidence. So any indication that there is no
13 evidence in this case that he put on his brakes is not true
14 because he testified under oath that he did.

15 He and Cuddy both testified that the truck and trailer
16 is hard to stop. There was a lot of discussion about weight
17 in this case. There's no doubt that this truck and this
18 trailer and whatever riding lawn mower on the back is all
19 very heavy. And when you try to stop something that's very
20 heavy, it's difficult to stop.

21 You can slam on the brakes and the truck -- and it can
22 stop the momentum, but it is not going to stop the truck from
23 sliding. That truck was hit and it slid and it hit the front
24 passenger side of the plaintiff's vehicle at an angle, not
25 directly t-boned, which indicates that they were still making

1 that turn.

2 And that's -- you can see that in the photographs, but
3 also that's what plaintiff's testimony was, that he was hit
4 at an angle diagonally, that it was not a T-bone accident.
5 So clearly they were not well within their turn or about to
6 finish their turn when a collision happened.

7 Plaintiff's car was then pushed into a vehicle that was
8 sitting at the exit in this photograph. Sitting at the exit
9 of the Walmart parking lot, right about here, waiting pretty
10 patiently and appropriately to turn out of the parking lot.
11 Plaintiff testified, I believe, however, yesterday that he
12 doesn't even remember that there was a vehicle sitting there.

13

14 There is a lot of damage to plaintiff's car and there's
15 no doubt about that. We're not disputing that there was
16 damage caused as a result of this accident. But that type of
17 damage done to his vehicle does not indicate that he was
18 operating at a higher rate of speed. It is simply evidence
19 that a big heavy truck and a big heavy trailer hit a little
20 old sedan. That's the kind of damage that is done with this
21 type of weight.

22 Plaintiff's counsel, I believe in opening statements,
23 got up here and said, you don't need a lot of speed to do a
24 lot of damage. And that is exactly correct. That is exactly
25 our point. When a heavy truck gets a little car, it's going

1 to do a lot of damage regardless of the speed. And if Andre
2 was barreling down the road going 50 miles per hour as
3 plaintiff has testified and that he somehow teleported to
4 this intersection because he was going so fast like he
5 testified to that he would've split that sedan in two.

6 Somebody going that fast in that big of a truck is
7 going to do significantly more damage than what was done in
8 this case. But we know because we've got a photograph of the
9 inside of plaintiff's vehicle that the inside of that vehicle
10 was not crushed, was not split in two, was -- there we go.
11 Dustin himself said he was able to somehow crawl out that
12 window. No issues. They're not crushed in this car. The
13 car is not demolished.

14 We know that both Andre and Cuddy testified that --
15 that he was not on the phone when this accident happened.
16 The argument that he was distracted by his phone is
17 completely made up. There is no basis for that in evidence
18 whatsoever. There's been some attempt to argue that somehow
19 this accident happened right when Andre was -- was on the
20 phone or holding his phone or something like that. And we
21 know that there is no evidence of that.

22 In fact, the evidence that we have shows that the
23 accident had to have happened after 4:55 p.m. All right.
24 Sorry, that the accident had to have happened earlier than
25 4:55 p.m. because we have testimony from both Cuddy and

1 Andre and you have these phone records in front of you that
2 there were no calls made from 2:58 p.m. until 4:55 p.m.

3 Coddy confirmed that's his number. Andre confirmed
4 that's his number. Coddy testified, "He called me after the
5 accident happened." Not he was on the phone with him when the
6 accident happened, which wouldn't make sense anyway because
7 he had just dropped him off. but then he called him after
8 the accident happened and then it was soon enough after the
9 accident that Andre was still shaken up by what had happened.
10 It was a pretty quick call after the collision occurred.

11 We know the accident happened before 4:55 p.m. because
12 we have a screenshot showing when a photograph was taken at
13 the scene and that screenshot shows that the time that the
14 photo was taken was 4:57 p.m. The picture, which by the way,
15 shows the woman who had called 911.

16 So any indication that we've heard throughout trial
17 that somehow Andre callously or coldly refused to call the
18 police is silly. He had asked if anybody had called 911. He
19 testified to that and there's the person in the photo who was
20 on the phone with the police. That's why he didn't call 911
21 because somebody had already done so.

22 We also know that this accident happened well before
23 4:55 p.m. because we have another photograph with a
24 screenshot that shows that the picture was taken at 5:08 p.m.
25 and by that time the fire truck had already arrived and Coddy

1 had already -- already arrived at the scene. So enough time
2 had passed for both Cuddy and the -- the emergency services
3 to arrive and get there. And that was at 5:08 p.m.

4 Any argument that my client was distracted in this case
5 was on the phone in this case, had headphones on in this
6 case, was texting in this case is completely and entirely
7 made up. There is zero evidence to support that here.

8 He's going to try to argue or I think he's tried to
9 argue, well, if he wasn't talking on the phone at the
10 accident, he must have had his phone nearby or in his hands
11 because there's headphones on the floor, obviously
12 headphones.

13 It could have been his, could have been Cody's,
14 somebody probably uses in his landscaping job. If you have
15 headphones in your car that doesn't indicate that you're
16 listening to videos or watching videos on your phone in your
17 car. It indicates that you own headphones and that's about
18 it. If his argument is he was holding the phone at the time
19 because he called Cuddy so quickly after the impact.

20 I think that argument is pretty silly because I don't
21 know how long it takes any of y'all to reach into your
22 pocket, pick up your phone and make a phone call. It isn't a
23 significant amount of time. And it certainly doesn't
24 indicate that he was holding his phone when this accident
25 happened. The officer was also asked, "Is there any

1 indication of distracted driving based on your observations
2 investigating this accident?" He said, no.

3 So now I want to talk about speed. You know being
4 involved in a lawsuit, being sued is hard. Being involved in
5 a lawsuit for five years is hard. Being accused of causing
6 an accident that you were not responsible for is hard.
7 Public speaking is hard. Having your deposition taken by an
8 attorney and being asked to answer questions about legal
9 documents is hard. I don't think it's traumatizing hard as
10 plaintiff indicated, but it is difficult.

11 Andre did the best that he could answering questions
12 regarding his speed in this case, based on his memory, six to
13 eight years after this accident. The -- the deposition was
14 taken six years after this accident happened and his
15 testament we're five days away, I think from the eight-year
16 anniversary of this accident. So he's being asked again what
17 his speed was eight years ago.

18 I think he's doing the best that he can based on the
19 memory that he has of what that speed was at the time. But I
20 -- I would, if I was sitting on the jury doubt anybody who
21 says I can tell you exactly what my speed was at this point
22 in time eight years ago. He's not flip flopping or going
23 back on his testimony. He's trying to be consistent with
24 what he's testified to before. He is trying to be consistent
25 with what he's testifying to y'all here this week. But he

1 just can't tell you exactly what that number was eight years
2 ago, especially in an accident he didn't cause.

3 What he can tell you, and what he did testify to is it
4 is highly unlikely that he was speeding that he was most
5 likely driving around the speed limit of 25 miles per hour.
6 And that's for a few reasons. One, he's driving a big heavy
7 truck that his boss owed. He had a lot of respect for
8 driving the truck that his boss owned. He knows there'd be
9 no reason or really even opportunity in that two to
10 three-minute stretch of driving for him to speed up to get
11 down that road.

12 He was approaching a light on way Hampton, I'm sure
13 y'all are familiar with the area. Wade Hampton usually has
14 green lights and any intersections, more likely as you
15 approach it you have a red light. So we knew he was going to
16 approach an intersection that likely had a red light or as --
17 as he called it, I think it was a stale green light, meaning
18 that by the time you get to it, it's probably going to be red
19 even if you see it when it's green. So there's -- you slow
20 down when you get to that kind of red light.

21 So we know that that's his testimony that he believes
22 he was likely going around 25 miles per hour at the time of
23 the accident, but he can't tell you for sure. We know that
24 Cuddy testified that Andre was a phenomenal employee, that he
25 trusted him with his truck and trailer. That Cuddy himself

1 trained him on how appropriately to operate it. And despite
2 what plaintiff counsel has argued throughout this case, that
3 Andre did not violate any sort of company policies. That was
4 Cody, his boss's -- ex -- he don't work for him anymore, his
5 old boss's testimony.

6 So the only trustworthy evidence we have in this case
7 of speed is Andre's testimony and that -- the excessive
8 speed, I should say, not speed itself. The only evidence we
9 have of excessive speed in this case is that Andre testified
10 he thinks maybe, and he testified to this six years after the
11 accident, maybe he told the officer he was going 30 miles per
12 hour or around or about 30 miles per hour.

13 But the investigating officer testified he doesn't
14 recall Andre telling him that he was going above the speed
15 limit. And based on his observations at the scene as a
16 trained investigating officer that he didn't see any evidence
17 of excessive speed. He has been with the highway patrol for
18 a -- I believe he said over a decade. His job is to
19 investigate these accident scenes and his testimony is he
20 didn't see any evidence of excessive speed.

21 Additionally, both plaintiff and Meghan Seely testified
22 or confirmed that they spoke with the investigating officer
23 at the scene. And the officer testified he had no memory of
24 anybody, the plaintiff, Meghan Seely or Andre informing him
25 that there was excessive speed involved in this case.

1 Now, plaintiff has attempted to testify that Andre was
2 speeding but we know that he can't testify as to what Andre's
3 speed was because he stated under oath that he didn't see
4 Andre's truck before this collision.

5 He's went back and forth a bit about it yesterday. But
6 he -- he testified and he confirmed that he testified
7 previously that he wasn't looking this way. He was looking
8 directly to the left. And so he didn't see any oncoming
9 vehicles despite what he changed his testimony to.

10 There's been some conversation about appropriate
11 vantage points where the plaintiff was and where Meghan Seely
12 was when they were turning into the Walmart parking lot.
13 This photograph that the plaintiffs keep showing you is a
14 vantage point of a -- of no car really, there. There'd be no
15 cars sitting in this lane going in that direction. Cars on
16 this side of the road would be in this side of the lane on
17 that way. This is nobody's vantage point.

18 And they're using it because it certainly makes it look
19 like this curve over here is a lot shorter than it's, but
20 you've heard Meghan Seely testify as to what the correct
21 vantage point was for her as she was approaching that
22 intersection.

23 And she confirmed that it was this one. That this is
24 what she would've seen if she was looking straight ahead.
25 This is where her car would've been sitting when they were

1 turning into this parking lot right here, not the one that
2 plaintiff keeps showing you, which doesn't really show the
3 length of this drive right here and the opportunity that they
4 would have to see any vehicles coming down this roadway.

5 Plaintiff attempted to testify that Andre was speeding,
6 but again, we know he says he wasn't looking this way. He
7 says he was looking over here, there's nothing, and he
8 confirmed and Meghan confirmed obstructing their view in any
9 way of somebody traveling down that road. He failed to see a
10 big old, bright red truck coming all the way down this
11 stretch of road.

12 And you can see it also in the map that shows the path
13 that Andre took. You can see on here that Tappan drive goes
14 down. There's a little curve around where the Walmart starts
15 in the back of the Walmart is right there.

16 And that from the Walmart -- end of that Walmart
17 building, the entirety of that Walmart building, plus the
18 parking lot is the length of distance, however big a Walmart
19 building is in their parking lot is, is the length of
20 distance. There is an unobstructed view of a vehicle
21 traveling down that road.

22 Andre testified he thinks that's probably about a
23 hundred yards. I think that's like 200, 250 feet. And I
24 think based on what we can see, based on his testimony, based
25 on all these Google images, that seems like a pretty accurate

1 estimate to me of the distance they would've been able to see
2 him coming down that roadway.

3 So his testimony previously was he didn't see Andre,
4 and then yesterday his testimony changed that he saw him 10
5 feet away. I don't think that helps his case the way that he
6 thinks it might've helped his case. If he saw that vehicle
7 10 feet away and then they decided to turn directly in front
8 of him is clearly they are responsible for this accident or
9 Meghan Seely is responsible for this accident.

10 Meghan Seely also couldn't testify that Andre was
11 speeding because she said she only noticed him for a split
12 second before the -- before the impact occurred. she wasn't
13 sure yesterday when she was testifying that she even knew
14 what speed limit was. She confirmed that this that we have
15 up here was her view, not the one from the opposite lane.

16 And I think there was some mention yesterday, maybe a
17 fish islands or I don't know, some distorting lens or
18 something along those lines. These are all Google image
19 photos. I didn't take these pictures; I didn't distort these
20 pictures. I didn't change the vantage point. Meghan Seely
21 testified that this is an accurate representation of what her
22 viewpoint would've been as she approached that intersection.

23 She confirmed there's nothing blocking her view, no
24 leaves on the tree as was previously indicated. And she said
25 she didn't see him. And we know the reason she didn't see

1 him. It's either because she went looking or because she's
2 blind in one of her eyes, which certainly impacts of course
3 somebody's depth perception. Dustin himself testified that,
4 in his deposition that she didn't see him because of the
5 blindness in her eye.

6 He's trying to change that now but he testified and
7 confirmed yesterday that he had testified that he was furious
8 with her at the scene. That he felt like he didn't
9 understand who she was, that he doesn't understand how she
10 didn't see this other car. In fact, he testified, "How the f
11 didn't you see him?" And according to him, she responded,
12 "Because of my eye."

13 We have no burden in this case as the defense, you
14 don't have to provide any witnesses. That's why I didn't
15 call anybody extra in this case. I think I -- I was fine
16 just talking to the witnesses that plaintiff wanted to
17 present. We don't have to prove a thing as the defendant.
18 That's the law, Judge Gravely will instruct you on that when
19 we close up today.

20 Plaintiff does have a burden and he does have to prove
21 things to you. And plaintiff wants you to believe that my
22 client was speeding. And he's argued on a couple of
23 occasions and there were seven good eyes in that car, but he
24 didn't bring in Meghan Clardy, who we know was the passenger
25 in the back seat.

1 Their -- their friend that they met that day didn't
2 bring her here to testify and tell you that my client was
3 speeding. He didn't bring the people that were sitting in
4 this Kia to testify and say that my client was speeding. And
5 I think we can assume pretty clearly why he didn't.

6 If plaintiff wanted to prove to you that Andre was
7 speeding, then surely hearing from all of the other people
8 that were involved in this accident would've been helpful.
9 So ultimately what we know about whether or not my client was
10 speeding in this case is this, he doesn't think he would've
11 been speeding, but if he was, he's guessing maybe he was
12 going around 25 miles per hour, maybe around five miles per
13 hour or around 30 miles per hour at the time.

14 Plaintiff either never saw him speeding like he said
15 the first time, or he said -- or -- or he saw him speeding 10
16 feet away, gauged in two seconds, that he was going 50 miles
17 per hour. And then they turned in front of him anyway.

18 Meghan confirmed she never saw him speeding. She was
19 just sort of guessing that maybe he was going around the
20 speed limit or that the other vehicles were going around the
21 speed limit and guessing that -- that Andre was going faster
22 than that.

23 Plaintiff couldn't bring or didn't bring a single other
24 witness here to testify as to what my client's speed was at
25 the time of that accident. And we know whatever speed he was

1 going down the roadway leading up to the intersection that he
2 was going even slower when the impact occurred because he
3 testified that he put on his brakes.

4 Now, what we know from plaintiff and Meghan Seely about
5 the accident is this. Despite the -- the picture that
6 plaintiff's attorney had tried to paint a little bit ago
7 about families and school buses and high schools and whoever
8 --, whoever else driving in and out of this neighborhood.

9 What we know is in this case that in plaintiff's
10 vehicle, this was a car full of people who had woken up at
11 about 11:00 a.m. on a Saturday, gone to a friend's house,
12 picked up a couple of strangers, and decided to go to Walmart
13 because those couple of strangers were going to pay them gas
14 money to take them. That's what we know. Nothing about all
15 of these other people, all these hypothetical people.

16 We know that Meghan was driving Andre's car because he
17 wasn't feeling well. We know that she was blind in one eye.
18 We know that she -- she pulled up. She either slowed down,
19 maybe she stopped, maybe she didn't. She couldn't -- when
20 she testified yesterday, she said she couldn't really
21 remember if she stopped or not. She thinks she pulled up and
22 then turned. But according to plaintiff's testimony, she
23 stopped waited maybe two to five seconds. That is one, two
24 turn.

25 We know Meghan was nervous and panicked at the scene.

1 Plaintiff testified that she was. We know that the law
2 requires as you'll be instructed for drivers to keep a proper
3 lookout for other vehicles on the road. So we know obviously
4 that it was one two turn. She was not keeping a proper
5 lookout for the other vehicles in this case.

6 We know that the law requires, because you're going to
7 hear from the judge that a vehicle should not move from their
8 lane of traffic until they know that that movement can be
9 made safely. Law requires that they look and ascertain that
10 things are safe before they turn into somebody else's lane of
11 travel. And we know that Meghan Seely didn't do that because
12 she never saw Andre driving.

13 We know that the law requires that a vehicle turning
14 left into a parking lot and the word is "Shall yield the
15 right of way to any vehicle approaching them within the
16 intersection." And plaintiff's testimony was, it was 10 feet
17 away. I'd say that's within the intersection. "Or so close
18 fair to as to constitute an immediate hazard." And we know
19 that Meghan didn't do that because again, plaintiff says
20 Andre was 10 feet away from them. She did not yield to his
21 right of way. That was his lane of travel and she pulled
22 into it.

23 We know Meghan broke the law by turning left in front
24 of my client. That she crossed a double yellow line and that
25 she pulled out directly in front of them. Which means we

1 know that there was one vehicle who was completely
2 responsible for this accident.

3 And that is the vehicle that broke the law and turned
4 in front of Andre. There's been some argument about this
5 doing the math and saying that the math shows obviously that
6 -- that my client was going to sort of hit her regardless if
7 he was going to speed limit or -- or if he was going 30 miles
8 per hour or 50 miles per hour.

9 And I -- I went to law school because I don't care for
10 math. I didn't think I'd have to do a whole lot of math.
11 It's not my strong suit. I cannot guarantee that what I'm
12 telling you is exact math. But for math calculations, eight
13 feet difference is 0.2 seconds that Meghan would've had to
14 complete that turn in in order for her to avoid the accident
15 if he was going 30 miles per hour. 0.2 seconds. And that --
16 there's a lot more that goes into whether or not she could
17 complete the turn or he could avoid the accident than feet
18 per second.

19 You have to have a -- a fundamental understanding of
20 status and dynamics, something that I do not have, that none
21 of the witnesses in this case would have testified have
22 because you have to consider how much her car weighs, how big
23 the turning radius is, how fast she was going to be able to
24 complete the speed. None of that has been presented as
25 evidence in this case. So this argument that the math shows,

1 she absolutely would've made the turn. It's just not
2 accurate.

3 And y'all heard Meghan Seely testify and she took
4 responsibility for this accident. And when she was pushed by
5 plaintiff's attorney, she said that Andre had some fault in
6 the accident too, but less than she does. That's what her
7 testimony was, yesterday.

8 But in reality, what she testified to me under oath
9 when I took her deposition and what she confirmed yesterday
10 when she was on the stand is that she was the driver, the
11 driver who was responsible for this accident.

12 I asked her, and we repeated it yesterday, "Do you take
13 responsibility for the accident?" She said, "Yeah." I asked
14 again, "To clarify when I say, do you take responsibility,
15 what I mean is do you believe you were the driver that was at
16 fault for causing the collision? Do you understand that?"
17 And she said, "Yeah." So I said, "Okay. And is your answer
18 the same?" She said, "Yeah."

19 I think that's pretty conclusive testimony and Andre
20 should not be punished for somebody else's negligence. So
21 that's it. That's -- that's the evidence. That's what we
22 know about how this accident happened. And it is clear to
23 me, and I think it should be clear to y'all that from the
24 evidence that's been presented, that Andre was driving
25 reasonably down this road and that Meghan Seely pulled out in

1 front of him and he could not avoid this accident.

2 So part two of plaintiff's case is that he has to prove
3 damages. He's got to prove to you this three plus million
4 dollars he's asking for today. So the -- the question for
5 the jury is, has plaintiff proved to you beyond, again, a
6 preponderance of the evidence that this accident caused his
7 alleged damages?

8 So it's important to know that if plaintiff does not
9 prove that Andre caused this accident, then you don't even
10 discuss the damages. You don't get into it because that
11 means he hasn't met his burden for part one. So part -- you
12 don't even get to part two.

13 I want to talk about it a little bit because he's
14 brought it up and he's asking for three plus million dollars.
15 and -- and so I -- I think we need to address the -- that
16 plaintiff hasn't met his burden to prove that he deserves
17 three plus million dollars in this case. And I think it
18 shines some light on plaintiff's credibility and his
19 believability too. Law says that damages have to be
20 determined with reasonable certainty. They can't be based on
21 guess or speculation as to what these alleged damages might
22 be.

23 So this is what we know and what the evidence has shown
24 about what plaintiff's damages actually are. We know he went
25 to the hospital and he got about six stitches that day, and

1 then he had this laceration and this cut in his face. That's
2 undisputed.

3 That's the \$20,000-ish medical bill that they were
4 talking about. I completely agree. There is no debating
5 that that cut those stitches was caused by this accident.
6 You heard Andre testify that he agrees that plaintiff's
7 injury to his face is related to this accident, but what we
8 don't think is that Andre is responsible for paying that
9 medical bill.

10 Plaintiff's attorney has made a couple of comments
11 about this accident being so significant that there's been
12 catastrophic injuries, serious injuries, and that that's
13 shown by the damage to the truck and -- and the sedan. And
14 -- and there is again, no doubt that he had that cut on his
15 face. But there is no proof of any other injuries in this
16 accident.

17 In fact, there's testimony from the officer that he
18 didn't observe any other injuries at the scene. He testified
19 he didn't observe anyone that was unconscious. Despite
20 plaintiff saying that came to at the accident scene.

21 Meghan Seely testified she didn't have any injuries as
22 a result of this accident, and in fact, she was able to kind
23 of jump out of her car pretty quickly, check on everything
24 without issue. Plaintiff -- I mean, Meghan Seely also
25 testified about plaintiff that his only injury was the cut to

1 his face. Which looked bad at first and then she said when
2 the doctor cleaned it up, it looked a lot better after the
3 accident.

4 We know that plaintiff said in his deposition that he
5 was coherent at the scene. There's no evidence that he ever
6 lost consciousness. We know that he testified previously,
7 although he changed his mind yesterday, that he was able to
8 climb out of his window, put himself on a gurney and -- and
9 get in the ambulance. He didn't -- he testified in his
10 deposition previously, he didn't have any other pain at the
11 scene other than in his face, went to the hospital, got the
12 stitches, was discharged shortly within the next 24 hours.

13 Didn't have any brain injury despite his testimony that
14 he thinks something's wrong with his brain. No diagnosis of
15 a concussion, no diagnosis of a traumatic brain injury. And
16 if he had those things, then his doctor would be here
17 testifying, telling you that he did.

18 The law says if you have damages, that you have a duty
19 to lessen them. To mitigate them, is what that's called. So
20 if you're -- if you're complaining that you have ongoing
21 issues for the past eight years, that you -- the law requires
22 that you go to a doctor, the law requires that you try to do
23 something about those damages so they don't get worse and
24 worse and worse over time. And his testimony is that despite
25 that he has these ongoing issues, he has had no additional

1 treatment for this accident since June of 2017.

2 I believe he testified maybe he had some complaints of
3 sternum pain, but that didn't start until after the accident.
4 And again, he is never told a doctor about it, never made any
5 record of it, never had any medical treatment for it. He's
6 talked a lot about the scarring on his face and that he
7 should be paid for the scarring. So here's what we know
8 about the scars.

9 We know that the treatment required from him to take
10 care of the scar would be put creams on it, put Vaseline on
11 it, that type of thing. Nothing more serious. We know he
12 testified that the scar on his face, isn't really noticeable
13 to people because he wears glasses. He's got long hair. He
14 had long hair before and that covers it up. We know that
15 Meghan testified that he stopped complaining about the pain
16 about two months after this accident.

17 Now, plaintiff testified that he experienced some
18 embarrassment, some confidence issues, some problems with his
19 dating life became a recluse all because of this accident. I
20 won't pick on him. I'm not trying to pick on him.

21 But he had a lot going on around the time of this
22 accident that had nothing to do with this collision. Things
23 that were significantly more important more serious than this
24 accident itself. And I believe that those were the reasons
25 for his mental decline if he had any at the time.

1 So first of all, he testified, and again, I'm not
2 picking on him for these things, but it's important if he's
3 alleging up here, if he's saying, I have mental illness
4 issues, I have confidence issues, I have embarrassment
5 issues, I have traumatic or PTSD, that it's important that I
6 talk about what the -- the facts are. And the fact is, he
7 has a history of chronic mental illness that started way
8 before this accident happened.

9 He also testified that he was making a series of pretty
10 bad choices around the time that this accident happened. He
11 had some serious consequences for doing some serious crimes
12 right around when this accident was happening. He had things
13 going on in his personal life that were happening, you know,
14 breakups.

15 He lost some friends. He stopped seeing his
16 psychiatrist around this time. And I think all of those
17 things can explain whatever decline he says he's had,
18 whatever issues he's had with confidence and embarrassment
19 and all of that, make more sense when you look at these other
20 things.

21 When you look at the scar on his nose, which he says is
22 what bothers him the most, the scar on his face. The law
23 says that just because somebody has an injury, that does not
24 mean that you as the jury have to award money. Because if
25 Andre is not the reason that these injuries exist, then he

1 should not be responsible.

2 I want to talk about this sort of briefly. On top of
3 asking for the damages for the hospital bill and the 3
4 million, some odd dollars for whatever else, the plaintiff is
5 going even further and asking you for more money. It's on
6 the verdict report or the -- the verdict form that you saw
7 asking for even more money for something called punitive
8 damages. We talked a little bit about punitive damages.
9 Punitive damages have a different burden than preponderance
10 of the evidence because they're --

11 THE COURT: Hold on. Please do not be making faces,
12 Mr. Hawkins, while she's doing a closing argument.

13 MR. HAWKINS: Your Honor, can I approach?

14 THE COURT: Yes.

15 (OFF THE RECORD)

16 MS. TANKERSLEY: All right. So what I want to talk
17 about now, and again, I promise just briefly is this idea of
18 -- of punitive damages. And -- and what I was getting at is
19 the, the plaintiff has talked about this burden and
20 preponderance of the evidence.

21 For punitive damages it's a different burden. It's
22 called clear and convincing evidence because punitive damages
23 are very serious in a civil trial. So they require a higher
24 burden of proof. Much higher burden of proof than
25 preponderance of the evidence. And -- and the judge will

1 instruct you about the law clear and convincing evidence and
2 punitive damages. And he'll explain all that to you.

3 Punitive damages have this higher burden because they
4 are meant, punitive, to punish. They're meant to punish a
5 party. They're meant to punish a defendant. This case is
6 not a DUI, it is not a hit and run. This is not something
7 where my client has behaved inappropriately at a scene.

8 This is a disputed car accident case where somebody
9 turned out in front of him and the plaintiff is now asking
10 you to punish him for that. To punish him because he's
11 involved in an accident that was not his fault.

12 And I think that is wholly inappropriate in this case.
13 Talked some about sending a message to the community in this
14 case and -- and deterring and all that stuff. And there's --
15 there's never once been press in this courtroom. You're not
16 sending a message. There's somebody taking down what's
17 happening here and reporting it to the people out on the
18 local news or -- or in the newspapers. There's -- there's
19 none of that here. There's no -- absolutely no need to
20 punish Andre for what happened in this accident.

21 So I don't want to get, like I said, too far into the
22 law about punitive damages, about what you're allowed to
23 consider and not to consider when you come up with that
24 number because I think the argument that he should be
25 punished is like -- I think it's really absurd. I think it's

1 silly, truly in this case. And I don't want to waste
2 everybody's time talking further about punitive damage.

3 Now I want to talk very briefly about the plaintiff's
4 credibility, his believability in this case. Judge Gravely
5 is going to instruct you on the law and he's going to tell
6 you that you as the jury, it's your responsibility to
7 determine the credibility of the witnesses that testify in
8 front of you. Do you believe them or not? Is what they're
9 saying accurate? Is it supported by the evidence? That's up
10 to you.

11 You know, when plaintiff testified yesterday, he
12 couldn't remember whether or not there were double yellow
13 lines until I showed him this photo. He couldn't remember
14 the car that was sitting patiently and appropriately in the
15 Walmart parking lot waiting to -- to exit when it was safe.

16 But somehow all of a sudden, eight years after the
17 accident, inconsistent with his prior testimony, he remembers
18 that the defendant was going 50 miles per hour at the time of
19 this accident. And he gauged that magically in 10 feet and
20 two seconds. That's his testimony. That's what you're asked
21 to believe.

22 And again, I'm not trying to pick on Dustin talking
23 about these prior convictions and -- and what was going on in
24 his life in the time, but when this accident happened in June
25 of 2017, I -- he was in a pretty bad place in his life. He

1 was in and out of trouble for very serious crimes that we
2 went over. He wasn't working. Hopefully now he's improving
3 his life. Hopefully now he's on his feet and that's all
4 wonderful. But in June of 2017, he wasn't, and he wasn't in
5 a place where his testimony or his memory should be trustful.

6

7 Even yesterday as -- as he sat here on the stand. And
8 he told you that when I asked him questions under oath three
9 years ago, that he was just giving me answers. That his
10 testimony, I asked "Was it truthful or accurate when you
11 testified under oath three years ago?" And he was saying,
12 "No, I was just giving you answers. That you -- I was being
13 grilled by you.

14 And somehow him not telling the truth or giving
15 accurate answers to me when he was under oath is somehow my
16 fault because I let him testify in the comfort of his home
17 rather than I guess bringing him to a law firm conference
18 room and -- and asking him questions there.

19 And you heard, I confirmed in the deposition, if you
20 have questions about what I'm asking you, please ask me to
21 clarify. Please ask me to explain? Because if you don't
22 tell me those things, I'm going to assume that you understood
23 my questions and he agreed to all of that at the time.

24 So you as the jury get to decide, was Dustin lying at
25 the time of his deposition when he was under oath talking to

1 just me or is he lying now when he's in trial and he's trying
2 to convince a jury of 12 people to give him somewhere around
3 \$3 million.

4 As I mentioned at the beginning, I think there are two
5 options in this case. I think the option one is Andre wasn't
6 speeding, that he was driving reasonably and he could not
7 have contributed to this accident. I think that's what the
8 evidence shows. And if that's the case, case closed, Find in
9 favor of the defendant. I truly think that that's what the
10 evidence supports in this case.

11 But the second option is Andre was going about 30 miles
12 per hour. That's his testimony that he thinks he told the
13 officer he is going about 30 miles per hour. That is again,
14 based on his testimony, six -- or -- yeah, his testimony six
15 years after this accident happened, maybe about 30.

16 And the only person who has gotten up on that stand
17 this week and said anything about Andre going 50 miles per
18 hour is the plaintiff, the officer didn't find evidence of
19 speed based on his observation. He doesn't remember anybody
20 reporting that there was any excessive speed.

21 Meghan Seely thinks Andre might have been going a
22 little over the speed limit because of the force of the
23 accident, but she can't say for sure. She didn't see him and
24 she didn't remember what the speed limit was. So the only
25 option for excessive speed -- excessive speed, excuse me,

1 seems to be this claim of 30 miles per hour. Certainly not
2 anywhere close to 50 miles per hour.

3 And the law says that if Andre was negligent because he
4 was speeding, because he was going 30 miles per hour, but
5 that was not the direct cause of this accident, then you have
6 to find in favor of the defendant. So the law says even if
7 he was speeding, that this accident would've happened even if
8 he was going 25 miles per hour and he did not cause this
9 accident. He was not a direct cause of this accident.

10 So at the end of the day, plaintiff, and -- and I don't
11 get to come back up again, plaintiff gets to come back up and
12 argue a little bit more. Plaintiff is trying to convince you
13 to make my client pay three plus million dollars in this case
14 for an accident that he didn't cause. And damages that are
15 not his responsibility. Plaintiff has clearly failed to meet
16 his burden and proved to you that Andre is the direct cause
17 of this accident.

18 So I'm asking for you to look at the verdict form that
19 you've been shown and to find in favor -- put an X next to,
20 "I find in favor of the defendant." Because Andre did not
21 cause this accident, Meghan Seely did.

22 And if Meghan Seely had looked and waited for Andre to
23 pass, instead of breaking the laws, crossing a double yellow
24 line going directly in front of him like she said she did,
25 then this accident never would've happened. I really do --

1 truly, we appreciate y'all being here this week, and I -- I
2 thank you for your time and for your consideration.

3 THE COURT: All right. Mr. Hawkins.

4 MR. HAWKINS: Thank you. May it please the Court.

5 THE COURT: Are we good for now?

6 MR. HAWKINS: I'm sorry.

7 THE COURT: I was just making sure everybody in the
8 jury was good. Okay. Go ahead.

9 MR. HAWKINS: Before I get into anything in response to
10 that, I want to draw everybody's attention to how many times
11 Ms. Tankersley said stuff like, "Wants my client to pay.
12 Judgment against my client. He should pay." Like -- like
13 Andre Knox is going to pull his wallet out.

14 MS. TANKERSLEY: Objection, your Honor.

15 THE COURT: Yeah. Sustained. Y'all approach.

16 (OFF THE RECORD)

17 THE COURT: Ladies and gentlemen, there's something we
18 got to take on outside your presence. So we'll go ahead and
19 take a break right now.

20 THE BAILIFF: You're clear, sir.

21 THE COURT: All right. First we'll put -- okay. You
22 objected. All right, Mr. Hawkins.

23 MR. HAWKINS: Your honor, with all due respect and
24 deference to the Court, this has been the most prejudicial
25 experience I have ever had in a closing argument. I was

1 sitting here at my table minding my own business, going over
2 what my reply was going to be, and the Court sua sponte
3 indicated that I was making faces. There were -- I looked up
4 and surprised I wasn't even looking at the jury. So that's
5 number one. That prejudiced me in front of the jury and
6 prejudiced my client in front of the jury.

7 The second thing is, she got up here and said that
8 Andre Knox is going to have to pay this and it's going to be
9 against him. And he wanted my client to pay. She didn't
10 have to say any of that. And I didn't say anything about
11 insurance. I'm inclined to say, did y'all hear how many
12 times she said that. And that's exactly what I said. I
13 didn't say insurance. I didn't say he's not the one that's
14 going to pay the judgment.

15 And I -- and I'm -- I'm -- your Honor, I -- I respect
16 the Court and I -- I don't seem disrespectful, but this is it
17 -- this is very prejudicial to his case, very prejudicial.
18 I've tried to operate within the confines of the Court's
19 rulings, and I've dealt with objection after objection after
20 objection over stuff that is part of argument. I'm trying to
21 advocate for my client.

22 THE COURT: Well, let me go back to -- to -- in
23 addition to the comments. I mean, at one point you went --
24 you looked at him, you and you went just like that.

25 MR. HAWKINS: Right. Because I'm trying to come up

1 with how to respond.

2 THE COURT: But that's not -- but -- but what I'm
3 saying is that's just not appropriate to do that when someone
4 else is arguing in front of the jury sitting right there.
5 And -- and making faces. That's just -- I mean, you know,
6 she didn't do that in yours. I think it's just -- I mean,
7 that's just not appropriate conduct. I think what she said
8 was there -- I mean, I'm not sure exactly what was said, but
9 I mean, I don't know where you were going, but it sounded
10 like you were going down the insurance route.

11 MR. HAWKINS: Your Honor, I'm not going to mention
12 insurance. I know better than that. I -- I think it -- I
13 don't like the rule, but I know better than to say insurance
14 in closing argument.

15 THE COURT: Yeah, but even inferring it.

16 MR. HAWKINS: Your Honor, using words that they might
17 draw inference from is not against the law.

18 THE COURT: But what were -- I mean, what -- what were
19 you going with your argument?

20 MR. HAWKINS: I was going to the next point I had
21 written down; I can't remember what it was because it's on my
22 legal pad. I -- I mean; I can't believe that she can make
23 these people think that he's personally responsible when
24 State Farm's going to be paying for this. And I can't get up
25 there and say, how many times -- did y'all hear how many

1 times she said it?

2 THE COURT: Well, I mean, that's the law.

3 MS. TANKERSLEY: And Your Honor, I want to be clear for
4 the record, if you've seen his deposition transcript at all
5 or Meghan Seeley's deposition transcript or Cody's deposition
6 transcript, that plaintiff's counsel and each of those
7 depositions has said that he wants to get an excess verdict
8 in this case. That he will garnish my client's wages. That
9 he will come after him personally. He will put a lien on his
10 home. All of that has been said in this depositions.

11 MR. HAWKINS: And that's in a deposition that I can do
12 to explore bad faith against State Farm. I'm not going to
13 say it in front of the jury. And that's the issue we're
14 talking about. You're not allowed to say to them he's going
15 to have to pull this money out of his pocket and pay it.
16 That's not true.

17 MS. TANKERSLEY: I didn't say he was pulling money out
18 of his pocket.

19 MR. HAWKINS: You also --

20 MS. TANKERSLEY: You were asking for three plus million
21 dollars.

22 MR. HAWKINS: And you said for my client -- Hold on.

23 THE COURT: Direct your objections to the Court. But
24 you've also consistently referred to the defense, they want
25 you, they -- they only care -- they only care about dollars

1 and cents. It's a one person that's the defendant. But
2 you're keep referencing they.

3 MR. HAWKINS: Right, your Honor. And if you were
4 defense counsel, that would -- I'm sure that would be a valid
5 feeling. But that's not against the law. It's not against
6 the law to say the defense.

7 THE COURT: But you don't say that. You say they. You
8 keep referring to they.

9 MR. HAWKINS: Well, it is. They, I mean there's at
10 least two people

11 THE COURT: At this thing. There's a defendant you
12 said they won't -- they don't care about him, they only care
13 about dollars and cents. I mean, you just --

14 MR. HAWKINS: Your Honor?

15 THE COURT: Okay.

16 MR. HAWKINS: Your Honor, can -- let me raise one more
17 thing.

18 THE COURT: Okay.

19 MR. HAWKINS: Before I get up there, because you know,
20 I don't want this to go off the rails. She just got up there
21 and said they didn't call any of these other witnesses and
22 one of the occupants is dead.

23 MS. TANKERSLEY: I said-- to -- to respond --

24 MR. HAWKINS: I mean, that's not -- that's the same
25 thing.

1 MS. TANKERSLEY: I said specifically Meghan Clardy. I
2 did not bring up William --

3 MR. HAWKINS: I should be able to -- I should be able
4 to tell them --

5 MR. HAWKINS: -- because I do -- I do know that he is
6 dead.

7 MS. TANKERSLEY: -- that the reason that he's not here
8 is because he's dead. And the reason Pope's not here is
9 because he is in North Carolina.

10 THE COURT: Well, that's not in the record. That's not
11 in the evidence.

12 MR. HAWKINS: Neither was that. Neither was that. She
13 didn't -- she didn't say anything about why didn't you bring
14 Pope here to testify today? She didn't ask that. She said
15 it from an argument.

16 THE COURT: Well I mean -- but there's -- there's one
17 reference to say who -- nobody else was here. But there's no
18 evidence that says this person is dead, this person is in
19 North Carolina.

20 MR. HAWKINS: Yeah. And this is -- well one, it is
21 argument on evidence. And two, she didn't elicit anything in
22 evidence. And three, she just brought it up. If she brought
23 it up and I can't respond to it. It hamstring me, Judge,
24 and I've got the burden.

25 THE COURT: Well, I disagree with you and I'm ruling

1 that you cannot bring anything about that's not in the
2 evidence. So let's take a short break and then we'll bring
3 the jury back.

4 (RECESS TAKEN)

5 THE COURT: That was a -- we'll just go ahead -- go
6 straight. We'll be able to go -- if the -- is the jury
7 ready, Bailiff? I'll allow us to go straight into charts.
8 All right. The plaintiff's ready?

9 MR. HAWKINS: Yes, sir.

10 THE COURT: Defendant's ready?

11 MS. TANKERSLEY: Yes, your Honor.

12 THE COURT: And I'm going to tell the jury that we -- I
13 don't think we've been in here arguing for 20 minutes. I'm
14 going to say we took that break and we decided everybody
15 could take a break.

16 MR. HAWKINS: Yes, sir.

17 THE COURT: And when did we decide the clicking -- we
18 did get a report that the clicking sound was --

19 THE BAILIFF: There was something going on the 7th.
20 That's all I know.

21 THE COURT: Yeah.

22 THE BAILIFF: They were in there this morning. I don't
23 know how it (inaudible) though. Luckily you really don't
24 need the mics now. You ready, sir?

25 THE COURT: Yes. All right. We decided this is kind

1 of like probably (inaudible) too, that -- that since we took
2 a break, while we're already on the breaking, we just use
3 that as our break time. So that's kind of why we waited a
4 little bit longer than -- than I expected. So -- but this
5 time, Mr. Hawkins, you may continue your reply.

6 MR. HAWKINS: Thank you, your Honor. I want to repeat
7 something that's going to be very important because we heard
8 a lot on closing from the defense about direct. And, you
9 know, she should have tried all the stuff I've told you all
10 to draw to -- they were going to argue to draw your attention
11 away from what's at issue in the case.

12 And a good example is when Ms. Tankersley says, "She
13 turned over a double yellow line. So you can never turn into
14 Walmart?" You can turn into Walmart if there's not an
15 immediate hazard in your vicinity. And even if there is, if
16 you turn and that car speed is -- it's unreasonable, it's
17 illegal, then it's factoring wreck. And so I want to -- I
18 want to read exactly, which you're going to hear.

19 Proximate cause does not mean the only cause. The
20 defendant's act can be a proximate cause -- can be a
21 proximate cause of the plaintiff's injury if it was at least
22 one of the direct concurring causes of the injury. To say
23 with a straight face that the collision that -- that involved
24 this kind of speed, to say that speed was not one of the
25 concurrent causes of the collision is not reasonable.

1 That's not a reasonable argument, and it goes right
2 along with arguing that ever touching a yellow line means
3 that you're -- you get all scot free or something. It's not
4 reasonable. It goes right along with arguing with math. I
5 -- I mean, this fee-per-second thing is not complicated.

6 There's 3,600 seconds in an hour, 5280 feet in a mile.
7 Take the number of miles for whatever miles per hour you want
8 to go. If it's 40 and you divide that number of feet and
9 that many miles by 3,600, it's not complicated. They just
10 don't like it because it mathematically shows that the
11 conduct of Knox was a but for cause of the wreck. It's
12 foreseeable. DOT says it was, puts a sign there, and it was
13 a but for cause. Math says that, you know?

14 If it is at least one of the direct conferring cause of
15 the injury, the Judge will read that from the bench. And
16 that's -- that's what we're here to decide. Not with Seely,
17 you know, reasonable or what -- she has taken responsibility
18 for whatever role in the wreck she played. It don't matter
19 if she's 20% responsible or 80% responsible. The speed is
20 one of the mathematical differences, one of the but for
21 causes of the wreck, period. It's math.

22 And to go back to Seely, you know, she -- she asked her
23 leading question. She's entitled to do that because it's not
24 her witness, so she's entitled to leave Ms. Seely. She was
25 entitled to do that in her deposition. And she can get her

1 say, "So -- so you were the one that caused the wreck,
2 right?" And when I asked her, "Did Knox contribute to it?
3 She said yes," and she's got nothing to gain from any of
4 this. I'm sure she's gone back to wherever she lives. I
5 think Taylor's agreed she's forgotten about it. Okay?

6 All this argument was made, again, to draw your
7 attention away from the wreck and the speed about witnesses.
8 And why didn't they call these other people? Well, the other
9 cars' people live in North Carolina, like, on the coast out
10 there. Not going to come from Rocksville Beach to testify on
11 a car, I guess. We don't even have subpoena power that far.

12 MS. TANKERSLEY: Your Honor, I'm just going to put the
13 objection on the record the document.

14 THE COURT: We've discussed that (inaudible).

15 MR. HAWKINS: Not the one that was at issue. I didn't
16 reference -- okay. Let's -- let's talk about -- because, I
17 mean, they use the word, lying. They said my -- my client's
18 lying or -- or something like that, you know? Which people
19 in -- first of all, I think he did the best he could to
20 remember what he could. I think he remember his details
21 about a traumatic event because I think that was seared into
22 his -- his memory.

23 But for that side to say anything about people
24 flip-flopping under oath, I mean, I don't have to call you
25 all's attention to the fact that he said he locked his brakes

1 down on a truck and trailer brakes and slid for a period of
2 distance and then never had any evidence of skid marks.

3 You know, I -- I mean, he said that from the stand. He
4 said he agreed with all this stuff. You know, I -- I took
5 out the admitted complaint in his -- in his deposition. I
6 said -- and it wasn't like you agree with us, right? That's
7 not what it was. I said, "Have you looked at that paragraph
8 6? It's double spaced. Is this part right? Is this part
9 right? Do I have anything wrong so I can make sure I have
10 everything right before I come to trial?"

11 And he swore under oath that he went in, and I quote,
12 'much, much faster than the posted speed limit, 25 miles per
13 hour'. And he swore under oath that had he not been
14 speeding, Seeley would have completed the turn. I don't know
15 how you get much more clear about but for cause than that.
16 He swore it under oath.

17 Then when I pressed him on redirect, he swore it under
18 oath again. He -- he said, "Yeah." He -- he didn't like it
19 and he didn't want to do it, but I said, "So we're clear; you
20 were violating company policy and you were violating posted
21 speed limit, right?" And he said, "Yes."

22 And the Judge's going to tell you that when you violate
23 a company policy, that is negligence per se. It's not just
24 negligence, it's negligence per se. It's another notch,
25 okay? And the judges decided. You know, we had -- we had a

1 conference about this.

2 You're going to hear -- you're going to hear
3 instructions on punitive damages and gross negligence. This
4 is the kind of case -- this is the kind of conduct that
5 warrants a punitive damages instruction. This is not just a
6 case about simple negligence. This is a case about is the
7 evidence on the record enough for you to find him grossly
8 negligent?

9 And all this stuff about he's \$3 million this and \$3
10 million that, that he deserves, and -- well, no, he didn't
11 deserve anything. He just wants back what they took from
12 him, which is part of his face. What they're really saying
13 to you is, we deserve to keep part of his face. We deserve
14 to leave that sample here, and you know what? It's not
15 really -- you know what, Dustin? Come here for a minute.
16 (Inaudible) come here. I'm just going to have him
17 demonstrate the evidence. The evidence is --

18 THE COURT: This is not evidence. This is closing
19 argument.

20 MR. HAWKINS: Okay. Well, then have a seat right
21 there. Just take your glasses off and lift your hair up.

22 THE COURT: Again, this is --

23 MS. TANKERSLEY: I --

24 THE COURT: -- closing argument, not (inaudible).

25 MS. TANKERSLEY: I'm going to object on (inaudible).

1 MR. HAWKINS: Okay. Okay, fine. I'll move on from
2 that then. You all can see it from there.

3 MS. TANKERSLEY: Objection, your Honor. (Inaudible).

4 THE COURT: Yeah, listen, you cannot -- you can go
5 forward with evidence and talk about the evidence. You
6 cannot put anything else in at this point.

7 MR. HAWKINS: Yes, your Honor. It's my job to fight
8 for him as hard as humanly possible in front of his fellow
9 members of this community. That's my job. You all heard a
10 bunch of evidence about his life that is not relevant to this
11 crash or that speed. And I know what they think about him
12 and I know nobody else is going to bat for him, but I am
13 because this is not right. And that conduct isn't right.

14 And you all should stand up, in my opinion. I hope you
15 do stand up as fellow members of the community and tell that
16 it's not right. And I hope that you don't only write a
17 number in the first line, but I hope you write a number in
18 the second line that sends a clear message to everybody that
19 we won't tolerate this kind of conduct in this community.

20 And when she says there's no press, I hope there is
21 press after this verdict comes back. I hope it's the kind of
22 verdict that is in the paper the next day and the reporters
23 are calling me about because this is outrageous.

24 And it should be stopped, and there should be a clear
25 message that you can't go down a 25-mile-per-hour zone,

1 whether it's in school zone or Tappan Drive or anywhere with
2 an F250 loaded down, and going fast enough to embed a door
3 and bend the frame on an F250. That should not be tolerated
4 and we don't have to tolerate it.

5 And I'm passionate, I understand, but my client has
6 been attacked talking about his personal issues in his life.
7 This is -- none of that has anything to do with the fact that
8 Knox disregarded statutes and his own company policy, and
9 caused this injury and left somebody with a permanent scar
10 and left them three cars demolished.

11 Something was mentioned about every -- everything in
12 the case is -- is a slight misdirection. Well, they -- he
13 was going to dinner. He was at a bachelor party. The guy --
14 I don't fault him for that, but he wasn't going out to
15 dinner. He was at a -- he was at the beginning of a bachelor
16 party. He testified to that.

17 Said he was going to dinner, which is not true. They
18 went to Texas Roadhouse to start whatever they were going to
19 do. He had to come back when the wreck happened. And when
20 he was taking pictures, he didn't take any pictures of skid
21 marks because they didn't exist. And when he came back, he
22 didn't take the headphones out of the vicinity of the -- the
23 driver's floorboard for whatever reason. And he didn't get
24 that door that was embedded off of F250 off of it. He didn't
25 re-bend the frame back.

1 That's -- that's the evidence related to the speed that
2 caused the collision. That is one of the but for factors.
3 It's one of the concurring causes of the wreck. All this
4 talk about there's no evidence that he was in a hurry. He
5 testified. He's going on the last job of the day and called
6 it an important law, whatever that is. Saturday, it's the
7 last job of the day. It's an important law. He's trying to
8 get there and get it done. That's why he was speeding and
9 not paying attention, and that's why -- that's why he hit my
10 client.

11 This is pretty simple and -- I -- I -- you know, this
12 -- this stuff about her drawing on evidence, you know, she's
13 -- she's defending the driver who was speeding. And so I get
14 that she's trying to do her job as a -- as a defense lawyer,
15 but to make her own marks, okay, well, you know, she gets her
16 witness to tell me exactly where to put this so it can, you
17 know, lead the jury to the conclusion.

18 MS. TANKERSLEY: Objection, your Honor, the extend that
19 he's implying about doctoral evidence.

20 THE COURT: You -- you drew one in front of him. I'm
21 talking -- I won't -- go ahead.

22 MR. HAWKINS: Yeah.

23 THE COURT: Move on.

24 MR. HAWKINS: I don't draw on evidence. Because it's
25 evidence, I don't want to monkey with it. When you look at

1 that, and I'm not sure which one it is, but you'll -- you'll
2 have it back there with you. When you get to the (inaudible)
3 drew on, I want you to ask the question, did Knox have the
4 legal right to be there when he was there?

5 Even if my client looked up and saw him 10 feet away,
6 if he covered 45 feet in an -- at an illegal speed, he's
7 still up a but for cause. And if he was going the speed that
8 my client estimated he was going, he'd covered 146 feet in
9 two seconds. That's one 1,000, two 1,000.

10 And it's not unreasonable for her to take a -- a turn
11 at a slow speed. It may have taken her three or four
12 seconds. It -- I mean, she's in a 25-mile-per-hour zone.
13 She lets two cars pass. There's nobody else in the vicinity.
14 It's okay for her to take a slow turn in a 25-mile-per-hour
15 zone, one, because she has the right to expect people are
16 going 25 miles an hour.

17 Because they're not going to come flying around the
18 curve, or even if she saw him head on -- it doesn't really
19 matter if she saw or not because he was going to illegal
20 speed, but even if she saw him head on 146 feet away, when
21 you're making your turn, you're not going to say, "Oh, in
22 fact that person's going 20 feet down there instead of 25."

23 It doesn't matter about (inaudible), I doesn't matter
24 about a turn, it doesn't matter about anything except for his
25 speed and him -- in this trial, and him being one of the but

1 for causes, one of the mathematical causes. It's
2 mathematically impossible for this wreck to happen if Knox
3 follows the law, even for one second, impossible. That's a
4 but for cause.

5 And all we have to prove to you is, is it more likely
6 than not that it's a but for cause? The reason for that is
7 because wrecks like this are very dangerous. We have to
8 prevent them if we can. So what we're required to do is put
9 up our evidence, move that road a millimeter or a mile, and
10 show that it's more likely than not that the speed, the
11 illegal speed, the illegal ground that was made up between
12 where Knox was and where he should have been, was that a
13 factor in the road? Was that at least one of the direct
14 concurring causes of the injury?

15 That's another thing about sort of making accusations
16 about my client, calling him a liar, flip flop on his speed.
17 He said 30 in his deposition. So that's a but for speed.
18 Then he said, "Well, maybe I was going 25," then he goes back
19 to 30. At some point he may have even said 35. I can't
20 remember, but you all heard the evidence.

21 Seely testified about him going fast, so she felt the
22 jolt of the collision. I mean, and she asked the officer,
23 "Did you see any evidence of speed in? And the officer
24 confirmed, when I got up and asked him questions, that the
25 speed limit is not 35 miles per hour. Is not 35 miles.

1 That's 10 feet per hour -- that's 10 miles per hour
2 more than the speed limit. 35 miles per hour is 51 feet per
3 second. That's -- that's 15 feet -- 15 illegal feet for
4 every second. So in this case, if he was going 35, three
5 seconds means 45 feet and he made up when it was illegal to
6 do so. It's a but for cause of the wreck. And DOT says it's
7 a foreseeable cause of the wreck.

8 Again, I think there was an indication that there's no
9 evidence of a policy violation. Cuddy Miller told you what
10 the policy is. He said it parrots the speed limit. He said
11 you're not allowed to violate the speed limit. He said
12 you're not allowed to use unreasonable careful circumstances.
13 Then when Mr. Knox got up, he confirmed that he violated not
14 on the law -- only the law, but also company policy.

15 Violation of one of these laws or one of these policies
16 is enough to -- for a finding. Violation of just one of them
17 is enough for a punitive -- a punitive finding. I mean, we
18 know he was negligent. He admitted to going over the speed
19 limit and the Judge is going to tell you violation of a law,
20 speed limits law, is negligence per se. We -- we know he did
21 that.

22 This exhibit -- you know, I was kind of surprised that
23 they took a shot at this exhibit because I think they
24 provided it. I think it was one of the pictures they
25 provided in this discovery. It shows how short the distance

1 is, and then they said, "Well, they put this picture in to
2 make it -- it's not fine. I didn't put the leaves on the
3 trees in June. I didn't make the distance shorter than they
4 would like for it to be."

5 You all can see all the pictures. You all can decide
6 what's applicable in determining the case or not. I mean,
7 it's up to you all, but I mean, I think it -- I think it's
8 pretty clear there's not a football field in between that
9 turn and -- and -- or in between that entrance and where it
10 turned back to the left.

11 All right. Last thing -- and I promise this is the
12 last thing. I want you to think about -- because this is --
13 this is the last chance anybody ever gets to speak for him.
14 And so I -- I want to make this count. I want you to
15 imagine, before you all start your deliberations duration,
16 that eight years ago, what? I don't know, June 16th of '17,
17 the day before the wreck, you know, defense in somebody in a
18 black suit to my client's house got a box in his hand, all
19 right?

20 He says, "Look, I got a box with some money in it. I'm
21 going to give it to you, but I'm also going to take a razor
22 blade and cut your forehead out. You're going to be able to
23 see your bone. All these problems you're having in your
24 life, I'm going to make that a lot worse while I'm mad at --
25 I'm going to ahead and punch you in the sternum real hard,

1 send you to the hospital to spend the night, and give you a
2 medical bill you can't pay."

3 So how much money do you want in the box? And he says,
4 I don't want any money in the box. I don't want all that. I
5 don't want to walk around with a scarf for the rest of my
6 head. And he slams the door. The guy won't leave, and he's
7 outside. And he's still knocking. And he won't leave, and
8 he finally leaves the box. My thought of his box; what's in
9 it? How much -- how much reimbursement is in it? What's in
10 that box is in your hands.

11 THE COURT: Everybody good to go forward? My charge is
12 about 20 minutes possibly. I'm -- I'm going to probably use
13 your document thing in a minute. You know what? I need this
14 too turned on when I get ready to do it. All right. That's
15 fine. (Inaudible) right there. Okay.

16 Ladies and gentlemen, now I get to charge you on the
17 law. And as you've heard throughout when I -- I kind of
18 introduced this case, what -- generally what these types of
19 cases are called are negligence cases. I mean, it's a --
20 it's a -- it's personal injuries arising out of an automobile
21 accident, but under our court system is called negligence.
22 And so that's what I'm going to be talking to you about, is a
23 term called negligence.

24 And one of the things that you have to do, as I told
25 you in the beginning, your -- your duty is to determine what

1 the facts of this case are, okay? And you are to get -- how
2 you do that is you take all the evidence into consideration.

3 And evidence could be way -- by way of testimony, it
4 could be way of exhibits, any stipulation that counsel had,
5 anything like that, you could give it the weight and value
6 which you feel is appropriate, okay? And that's how you come
7 up with it.

8 How -- when I say you're to determine the fact, well,
9 how do you indicate that? At the conclusion, I'll go over
10 the verdict form with you. So what you do is you take the
11 evidence, you apply the law which I'm giving you, and then
12 you come up with a decision. And that decision is indicated
13 on a verdict form. And that's what you'll do. If you find
14 that the plaintiff has met his burden on the various areas,
15 then you find for the plaintiff and -- and proceed with
16 determining what damages are appropriate. If you find that
17 the plaintiff has not met his burden then you would find for
18 the defendant. Okay?

19 So that, and -- and as I said, that's your duty, that's
20 your role in this trial. And if there is anything that I
21 said or did that makes you think I have an opinion about the
22 facts, please disregard that because that's not my role. My
23 role is to -- is different than yours. My role is to preside
24 over the trial and rule on objections.

25 And -- and as -- as you saw, there's a lot -- you know,

1 there's objections, and that's kind of my job, is to rule --
2 rule on the evidence and rules of evidence which apply to
3 this case. So that things are consistently put in front of
4 jury (inaudible) in front of you and is being presented to
5 you that it's the way it is in every other case, and that
6 it's the rules that we can -- we can use and expect.

7 So -- and -- and the rules of evidence are very
8 complicated. And without -- in -- in every case, there's --
9 there's a difference of opinion of those. And there's
10 differences -- sometimes the Judge is not always the one
11 correct. I think I had to correct myself on one of these
12 today. I mean, or yesterday.

13 But anyway, so that's -- that's my -- my role in this.
14 And the final thing is to charge you on the law. Now, it's
15 very important that you accept the law that I'm giving you.
16 That's what you've done when you took your oath, is, "I'll
17 accept the law as -- as -- as provided by the Judge."

18 Now, if you came into this courtroom and you had an
19 opinion, it's what you thought the law is or you have an
20 opinion is what the law should be, that you -- you're to
21 disregard that if it contradicts what I'm telling you now
22 because your job is to accept the law. And you're going to
23 apply that law to the facts and decide what the facts are and
24 what the verdict should be.

25 Now, as I've also indicated, the burden of proof in

1 this matter is not the higher standard that you hear about
2 sometimes in criminal cases which is beyond a reasonable
3 doubt. This is by a preponderance of the evidence. This is
4 more likely than not. That's kind of -- in other words, it
5 simply means greater weight of the evidence.

6 It's evidence which, as a whole, shows the facts sought
7 to be proved as more likely than not. It's not determined by
8 the number of witnesses or the amount of evidence. It's
9 determined by the greater weight of the evidence and given
10 the weight and value you feel is appropriate.

11 As I said, the normal burden on the -- for the claim
12 being presented by the plaintiff is -- the claim for
13 negligence is by preponderance of the evidence. I'll discuss
14 in a minute with you another burden, and that is when we talk
15 about punitive damages, the burden is by clear and convincing
16 evidence, which is a little higher burden than the
17 preponderance of the evidence. And I'll discuss that with
18 you in just a -- just a few minutes, but I want to go and let
19 you know that that is a distinction that we'll make in a few
20 minutes.

21 Now, what kind of evidence can be presented? There's
22 two types of evidence. There's direct evidence and there's
23 circumstantial evidence. Okay? Direct evidence is when
24 something, a piece of evidence or testimony, directly proves
25 the fact that's trying to be proven. Okay? Circumstantial

1 evidence is sometimes you may have to have a string of facts
2 to show the circumstances or to show particular evidence.

3 And whether the -- a party relies on direct evidence or
4 circumstantial evidence, they can rely either, they can rely
5 on a combination of the two. Still the burden is the same by
6 preponderance of the evidence. I always kind of think kind
7 of a -- an analogy just so you know what the direct -- direct
8 and circumstance.

9 Direct evidence is -- direct evidence that it's raining
10 is you look outside and you see the rain coming out, okay?
11 Circumstantial evidence is you don't see it raining, but
12 before you walk in, the pavement was dry, you heard thunder,
13 and you walk out in your car, the pavement's wet and the
14 car's wet.

15 So you had to -- there's a couple of circumstance, a
16 couple of facts that had to be pieced together to show that.
17 And that -- so it's really a pretty simple process, but
18 anyway, they can rely on both circumstantial and direct
19 evidence.

20 All right. One of the tools that you have in your
21 toolbox is to determine the credibility of witnesses.
22 Credibility means believability. You can consider a witness,
23 how they acted on the stand, what their appearance, whether
24 they had any bias or prejudice or some interest in the
25 outcome.

1 You may decide that you would accept -- you need to
2 accept a portion of somebody's testimony, reject the
3 remaining portion. You may decide it's appropriate to accept
4 one witness over several witnesses or several witnesses over
5 one witness. It's up to you to determine how to determine
6 what -- what testimony you're to accept and determine the
7 credibility of witnesses if that is what you need to do.

8 Now, there has been allegations presented that one or
9 more witnesses may have made prior statements which are not
10 consistent with the testimony here. You may use the evidence
11 to decide whether to believe the witness.

12 You may also use the evidence of the earlier
13 contradictory statement to determine the truth of those
14 statements. And it's up to you to decide whether to believe
15 the earlier statement or the testimony given at trial.

16 If a witness is shown to have knowingly testified
17 untruthfully concerning any material matter, then you can
18 consider this to determine whether to trust the witness's
19 testimony as to other matters, as you may reject all
20 testimony of that witness or give all or part of it the way
21 you think it deserves.

22 All right. So those are the general tools that apply,
23 most of them, all civil cases. Those are the things that you
24 have to make your decision. Now let me discuss with you
25 specifically negligence and the elements required to be

1 proven in negligence.

2 Negligence has three basic elements. Okay? That the
3 defendant was negligent or careless, that the plaintiff --
4 that this negligence was a proximate cause of the plaintiff's
5 injuries and damages and that the plaintiff sustained
6 personal injuries and damages. So you have negligence or
7 carelessness by the defendant, you have personal injuries or
8 damages by the plaintiff, and you have a proximate cause,
9 which is what connects the two. Okay?

10 So what is negligence? Negligence is defined as the
11 absence of due care, the word -- or lack of due care,
12 ordinary care. The word, carelessness, conveys the same idea
13 as negligence. Those are two terms which are synonymous.

14 Negligence is the breach of a duty owed -- a breach of
15 a duty of care owed to the plaintiff by the defendant. It is
16 the failure by omission or commission to exercise due care as
17 a pertinent person of ordinary reason and prudence would have
18 exercised under the same circumstances.

19 So that's your basic, is how -- you know, your basic
20 standard is how a person of ordinary reason and prudence
21 would have exercised under the same circumstances. It's the
22 doing of some act which a person of ordinary prudence would
23 not have done under those circumstances. In determining
24 whether a particular act is negligence, the test is applied
25 against the ordinary person of reason and prudence.

1 Okay. There's several duties that a driver has. In
2 determining whether a party is negligent, here are some kind
3 of common law and statutory rules, kind of like the rules of
4 the road, I guess is a good way to put it. These are things
5 you can consider in determining whether the defendant was
6 negligent.

7 The operator of a motor vehicle is required to use the
8 same care that would be used by a person of ordinary reason
9 and prudence if that person were driving the same vehicle at
10 the same time and place under the same circumstances.

11 To keep a proper lookout. The driver of an automobile
12 is -- has a duty to keep a proper lookout for other vehicles
13 on the road. This duty requires the driver to watch it
14 tentatively so that the driver is able to see a person or
15 object on the highway.

16 Now, here are some actual statutory laws which are laws
17 on our -- our -- our -- or laws on our books which apply --
18 which -- which you can consider in -- in your deliberation.
19 The first one is general rules as to speeds. A person shall
20 not drive a vehicle on highway at a speed greater than is
21 reasonable and prudent under the conditions, and having
22 regard to the actual and potential hazards then existing.

23 Speed must be so controlled to avoid colliding with a
24 person, vehicle, or other conveyance on or entering the
25 highway in compliance with legal requirements and the duty of

1 a person to use care. The driver of a vehicle shall drive
2 consistent with the requirements, these requirements, at an
3 appropriate reduced speed when approaching and crossing an
4 intersection, railroad grade crossing, or when approaching
5 and going around a curve, approaching a hillcrest, and when
6 traveling upon any narrow bridge, narrow or winding roadway.

7 Now, the statute regarding failure to yield the right
8 of way. The driver of vehicle intending to turn left within
9 an intersection or into an alley, private road, or drive --
10 driveway shall yield the right of way to any vehicle
11 approaching from the opposite direction which is within the
12 intersection or so close there to as to constitute an
13 immediate hazard.

14 Here's another one for your consideration. Driving on
15 roadways lanes for traffic. When any roadway has to been
16 divided into two or more clearly-marked lanes for traffic,
17 the following rule applies. A vehicle shall be driven as
18 nearly as practical -- practicable entirely within a single
19 lane, and shall not be moved from the lane until the driver
20 has first ascertained as such movement can be made with
21 safety.

22 Now, I've given you various statutes to consider. So
23 let me -- one of the things that a -- that you can also
24 consider is where there's a duty arising from a statute and
25 the plaintiff shows the defendant violated the statute. That

1 violation is considered what we said -- call negligence per
2 se. That is negligence in and of itself. Negligence as a
3 matter of law.

4 Negligence per se means you, the jury, need not decide
5 the defendant acted as would a reasonable man on the
6 circumstances. The statute fixes the standard of conduct
7 required by the defendant leaving you merely to decide
8 whether the defendant breached the statute.

9 If he did, his failure to take due care is established
10 as a matter of law. The only issue then for you to determine
11 is whether the defendant's conduct proximately caused the
12 plaintiff's injuries.

13 The violation of the statute does not constitute
14 recklessness, willfulness, and wantonness per se, which we'll
15 discuss in a few minutes about when we're talking about
16 punitive damages, but yet its violation is evidence of that.

17 Also along the same lines, if you find that there are
18 policies which apply to the defendant and the defendant
19 violated those policies, then you may consider such violation
20 as evidence of negligence if they proximately caused the
21 plaintiff's damages.

22 Also for your consideration is doctrine of sudden
23 emergency. When the driver of an automobile is confronted
24 with a sudden emergency brought about by the negligence of
25 another, and not by his own negligence, and is compelled to

1 act instantly to avoid a collision or an injury, the driver's
2 not guilty of negligence if he makes such a choice as a
3 person of ordinary prudence placed in a like position might
4 make even though he did not make the wisest choice.

5 Even if you find a party negligent, that negligence is
6 not actionable unless it is a proximate cause of the injury
7 complaint of. And it will be deemed a proximate cause only
8 when, without such negligence, the injury would not have
9 occurred or could have been avoided.

10 All right. So those are all the kind of things for
11 your consideration in determining negligence. Okay? Now let
12 me talk about proximate cause. That's a legal term, but I
13 always call just the connection between the -- the conduct of
14 the defendant in this claim and the -- the injuries. If you
15 find the plaintiff's proved negligence, then you must
16 consider proximate cause.

17 A plaintiff may only recover for injuries and damages
18 proximately caused by the defendant's negatives. Even if you
19 should find the plaintiff to have proven that it's
20 negligence, but has failed to prove the -- the proximate
21 cause of the injury, the plaintiff would have failed to in
22 its burden, and you would be required to find for the
23 defendant. However, if the plaintiff has proved that -- that
24 these two propositions, negligence and proximate cause, then
25 it'd be necessary for the plaintiff to prove his damages.

1 Proximate cause is something that produces a natural
2 chain of events which in the end brings about the injury. It
3 is the direct cause of the injury. To prove the defendant's
4 negligence proximately caused the plaintiff injury, the
5 plaintiff must first prove causation in fact. This is proven
6 by showing that the injury would not have occurred, but for
7 the defendant's negligence.

8 The plaintiff must also prove legal cause. Legal cause
9 is proven by showing that the injury was foreseeable. This
10 means that the injury occurred as a natural and probable
11 consequence of the defendant's negligence. The plaintiff
12 must prove that some injury from the defendant's negligence
13 was foreseeable, but does not have to prove that the
14 particular injury that occurred was foreseeable.

15 However, the defendant cannot be held responsible for
16 things which could not be expected to happen. Proximate
17 cause does not mean the only cause. The defendant's acts can
18 be a proximate cause of the plaintiff's injuries if it was at
19 least one of the direct concurring causes of the injury. So
20 that's kind of a very formal definition, but that's what the
21 proximate cause is.

22 Now let me talk to you about damages. And there's two
23 types of damages that we'll be discussing. The first is what
24 we call actual damages. Okay? The second, at the end of
25 this, I'll talk to you about punitive damages. Actual

1 damages, you ordered the -- for actual damages, and -- and
2 then again, if you get to the point where you say the
3 plaintiff has met his burden on negligence and proximate
4 cause, then you're to determine what the actual damages would
5 be.

6 You'll determine the amount of money to which the
7 plaintiff has proven that he's entitled to for the
8 defendant's conduct and caused by the accident. Actual
9 damages are to compensate the plaintiff for the -- for his
10 injuries or loss and to put him as near as possible in the
11 same position that he would have been before the accident.

12 In determining the compensation, you can consider past,
13 present, and future aspects of the injury. This would
14 include medical bills, physical, and this -- as far as the --
15 you can include medical bills that have been incurred up to
16 this point, physical and mental pain and suffering, the loss
17 of enjoyment of life suffered, and scarring as a result of
18 the injury, and any other losses which are reflected by the
19 character of the injury and presented as evidence.

20 As to specifically as to medical expenses, a plaintiff
21 may recover reasonable and necessary amounts incurred for
22 past medical care, including but not limited to hospital,
23 physician and nursing care costs, medications, physical,
24 vocational, and other rehabilitation expenses that were put
25 into evidence.

1 Pain and suffering compensates the plaintiff for
2 physical discomfort and emotional response to the sensation
3 of pain caused by the injury itself. There's no definite
4 standard by which to compensate the plaintiff for the pain.

5 So you have the authority to determine what that
6 amount, if any, is to be allowed for the pain and suffering
7 using calm and reasonable judgment to ensure that the damages
8 are just and reasonable in light of the testimony and
9 evidence presented.

10 Loss of enjoyment of life compensates the plaintiff for
11 limitations of the plaintiff's ability to participate in and
12 derive pleasure from the normal activities of life. So those
13 are the various things that you can consider if you need to
14 for the actual damages.

15 Now let me discuss with you two matters. And one is
16 relating to damages. It's called mitigation of damages.
17 When the plaintiff is injured or damaged by the wrongful act
18 of the person, it is the duty of the plaintiff to reasonably
19 try to avoid and lessen the damages.

20 Those damages which may be avoided by the use of
21 reasonable efforts care and prudence cannot be a proximate
22 result of the defendant's wrongful act. Therefore, the
23 plaintiff cannot recover for damages which reasonably may --
24 might have been avoided.

25 As a general rule, the evidence should allow you, the

1 jury, to determine the amount of damages with a reasonable
2 certainty or accuracy. Neither the existence causation nor
3 amount of damages can be left to conjecture, guess or
4 speculation.

5 Damages must be proved with a reasonable degree of
6 certainty. The evidence presented by the plaintiff must
7 enable you, the jury, to determine what the amount -- what
8 amount is fair, just, and reasonable.

9 All right. So there's your actual damages. Those are
10 your kind of rules and -- rules and tools for actual damages.
11 Now let me discuss with you punitive damages. All right?
12 And this is something you -- if you -- you-- you can only
13 award punitive damages if you have determined that the
14 plaintiff's entitled to actual damage.

15 Punitive damage are intended to punish the defendant
16 for extraordinary and outrageous misconduct and to prevent
17 the defendant and others from committing similar acts in the
18 future. Punitive damages can only be awarded when the
19 conduct of the defendant has been something more than mere
20 negligence. It must be gross negligence. And gross
21 negligence is defined as the intentional, conscious failure
22 to do something which is incumbent upon one or to do or the
23 doing of a thing intentionally that one ought not to do.

24 Negligence is the failure to do -- to exercise the
25 cares I've discussed with you. Gross negligence as a

1 relative term, is much greater. It means the absence of care
2 is necessary in the circumstances. Gross negligence, again,
3 is a intentional -- it can be intentional or a conscious
4 failure to do something which one ought to do or the doing of
5 something one ought not to do.

6 The proof of award of punitive damages is by a higher
7 standard than what I mentioned earlier about preponderance.
8 This is by clear and convincing evidence. Clear and
9 convincing evidence is proof that leaves no substantial doubt
10 in your mind. It means that the evidence is not ambiguous,
11 doubtful, equivocal, or contradictory.

12 Convincing means persuading by proof or argument,
13 causing one to believe in the truth of what is a assert.
14 Clear and convincing proof establishes in your mind not only
15 that the fact is probable, that it is highly probable.

16 Before -- before awarding punitive damages, you must
17 consider and weigh these elements, which may be pertinent to
18 the facts of the case. You must first consider the
19 relationship between any punitive damage award and the harm
20 caused. Any penalty imposed should take into account the
21 reprehensible of the conduct, the harm caused, the
22 defendant's awareness of the conduct wrongfulness.

23 Thus any penalty imposed should be -- should bear a
24 relationship to the nature and extent of the conduct and harm
25 caused, including the compensatory or actual damages award

1 made by you. Secondly, any -- any penalty imposed should
2 take into account, as mitigating factor, any other penalty
3 that may have been imposed or which may be imposed for the
4 conduct involved.

5 Finally, any award of punitive damages must be limited
6 to punishment, and they may -- and thus may not affect
7 economic bankruptcy. To this end, the defendant's ability to
8 pay any punitive damage award should be considered. However,
9 the economic bankruptcy factor is not an absolute bar to the
10 award of damages.

11 All right. So those are all the rules that you have to
12 -- you will have to determine the verdict. And now I'm going
13 to show you a -- the verdict form. And we probably got
14 (inaudible).

15 MS. TANKERSLEY: Uh-huh.

16 THE COURT: Okay. (Inaudible), this is the -- what
17 you'll have in your -- in your jury box. Only they're not -
18 (OFF THE RECORD)

19 THE COURT: There we go. There we go. Okay. The top
20 part is the captain of the case, and that's really just for
21 our purpose. So then you go to the -- the verdict form here,
22 the actual part that you'll be working on. The -- it says,
23 "Please complete the following. With the jury, unanimously
24 find -- " and you're to check the appropriate box. And if
25 you find the plaintiff has met his burden, then you would

1 check for the plaintiff. Okay?

2 And the first -- if you -- if you check the first, and
3 the first thing you will do is determine what actual damages
4 are to be put in that blank. And that's where you pump your
5 writing skills. That's where -- you know, you're -- you're
6 the one completing this, Mr. Foreman.

7 Now, it also says the next question is if you find
8 actual damages, then you can consider whether the plaintiff
9 has proven by clear and convincing evidence that he's
10 entitled to punitive damage. If so, please check the box
11 below and indicate the amount.

12 If you get to that point, and you make a determination
13 that the plaintiff has not met his burden on the punitive
14 damages, then you would not check that box. If you find that
15 they have met their burden, or he has met his burden on that,
16 you would check that box and put that amount in there.

17 Now, if you find that the plaintiff has not met his
18 burden on -- for the verdict or for a recovery, then you
19 would check for the defendant, you would sign, and date, and
20 let the bailiff know that you have completed -- that you
21 reached a verdict.

22 Now, your verdict must be unanimous. That means all 12
23 of you must agree on it. Okay? And your verdict should be
24 based on the evidence and the law. It cannot be based -- it
25 should not be based on any bias, any prejudice, any emotion,

1 anything outside the record. It should be based on what you
2 -- what's been presented in this courtroom.

3 As you get back there -- and you may have certain
4 questions. And that's totally appropriate. You would write
5 -- as the foreperson, you would write those questions on a
6 piece of paper, date and sign it, and give it to the bailiff.
7 The bailiff will bring that question to me and I can respond
8 in two ways.

9 First of all, I've got to discuss it with the
10 attorneys, and then I will either -- I -- sometimes I can
11 write the response back on the piece of paper and send it
12 back to you. Okay? Sometimes it -- it may require me to
13 bring you all back in and give you some additional
14 instructions.

15 I will say that the Court -- that we cannot answer any
16 factual questions. We cannot answer anything that was not
17 put into the record. I know sometimes in cases people will
18 say, "Well, how about -- you know, was there a statement of
19 this way?

20 There's a reference to a statement." I'm not saying
21 this. This is just generally what I say. "There -- there
22 may be a state of reference. We'd like to see that
23 statement." You can only consider what's been presented in --
24 in the -- in the record. So -- and like I say, we can't
25 answer factual questions. That's your decision.

1 Now, the alternates. You all have worked just as hard
2 as everybody else here. And -- and -- but at this point,
3 after -- when they -- you'll not being able to participate in
4 deliberation, but I don't want you to think that the -- the
5 fact that we're kicking you out doesn't mean we appreciate
6 your hard work because very -- often happens. For some
7 reason, sickness or whatever, jurors are not able to complete
8 their -- their duty before the trial's over. So therefore,
9 the alternate has to step in, or we wouldn't be able to
10 complete the trial.

11 So as I say, you're -- you're that backup quarterback
12 until they're needed. You know, when a backup quarterback is
13 needed, they're very important. See, that's the same with
14 you all. But don't worry, you'll still get your lunch.

15 As far as lunch goes, again, the lunch is here. You'll
16 have there, and that's up to you all to decide. Maybe you
17 want to eat your lunch and end up to discuss the case, or
18 maybe you want to discuss the case while you're eating lunch.
19 That's totally up to you all. There's no rule on that.

20 So at this time, I'm going to send you back to your
21 jury room, but I -- (inaudible) I'm going to tell you one
22 more time, don't discuss the case. And the reason is I want
23 to make sure that I didn't miss something, or I've misstated
24 something because I know there's a lot. And it is, I'll
25 bring you back in and just go over the whole thing all over.

1 No, I'll -- I'll only -- I'll -- I'll only go over what
2 (inaudible) correct something or something I missed. In a
3 case like this, that very -- that very frequently happens.

4 So -- and again, your -- the alternates will still be
5 with you, but your signal to begin your deliberation is the
6 bailiff will bring the verdict form, all the evidence, and
7 then grab the alternates. So at this time, if you can go
8 back and step in your jury room and wait for further
9 instructions.

10 (JURY EXITS)

11 THE BAILIFF: You are clear, sir.

12 THE COURT: All right. Anything from the plaintiff?
13 Misstatements or--

14 MR. HAWKINS: Nothing from the plaintiff.

15 THE COURT: -- additions?

16 MS. TANKERSLEY: No, unless I need for the record just
17 to reiterate whatever objections we had earlier.

18 THE COURT: Yeah, and I guess maybe you probably need
19 to put anything you want on the things I did not charge.

20 MR. HAWKINS: Oh.

21 THE COURT: Just renew those, just --

22 MR. HAWKINS: Well, right. Yeah. We -- we did -- we
23 did think that it was inappropriate to charge about duties
24 related to a non-party. So there was a term of statute and
25 there was -- there was one other that we had an issue with.

1 So our objection's on the record about that.

2 THE COURT: Okay. Just renewing the objections prior
3 to?

4 MR. HAWKINS: Right. And -- and we want the addition
5 of the purpose of tort law just so our objection's over.

6 THE COURT: Okay.

7 MS. TANKERSLEY: Your Honor, defense just reiterates
8 their prior objection.

9 THE COURT: Okay. Make sure that all the exhibits are
10 there.

11 (OFF THE RECORD)

12 THE COURT: All right. Then we have a verdict.
13 Anything from the plaintiff before we bring the jury in?

14 MR. HAWKINS: No, your Honor.

15 THE COURT: From the defendant?

16 MS. TANKERSLEY: No, your Honor.

17 THE COURT: All right. Bring the jury in.

18 (JURY ENTERS)

19 THE BAILIFF: You're ready, your Honor?

20 THE COURT: Yes. All right. Ladies and gentlemen,
21 understand you reached the verdict. All right, Mister --
22 Mister --

23 THE FOREMAN: We have, your Honor.

24 THE COURT: Mr. Foreman, you hand that to the bailiff.
25 All right. Looks like it's improper form if you can publish

1 the verdict. (Inaudible).

2 THE CLERK: Your Honor, this is case number
3 2020-CP-232877, James Dustin Lucas v. Andre Knox. We, the
4 jury find unanimously for the defendant, signed, Michael D.
5 Chin (ph), Juror 22 Foreperson June 12th, 2025. This is your
6 verdict. So say you all -- please signify by raising your
7 right hand so. Thank you.

8 THE COURT: All right. Anything for the jury from --

9 MR. HAWKINS: No, your Honor.

10 THE COURT: From the defendant?

11 MS. TANKERSLEY: No, you Honor.

12 THE COURT: All right, ladies, gentlemen. Thank you
13 for your service this week, and you're free to go, and you're
14 good for three years, actually. So you'll step back in your
15 jury room. I'll be glad to come back there and answer any
16 questions you have about all that, but otherwise you're free
17 to go. Thank you very much. All right. Anything at this
18 time from the defendant?

19 MR. HAWKINS: We have 10 days to make a (inaudible)?

20 THE COURT: (Inaudible) I said. You can make them all
21 now.

22 MR. HAWKINS: Okay. Well, the overweight --
23 overwhelming weight of the evidence, we had admission of
24 policy violation, admission of negligence. We had evidence
25 of damages, and we showed that we got witnesses to agree that

1 it's mathematically impossible for the wreck to happen, but
2 for the statute violation of negligence of the defendant. So
3 went January 13th, juror and (inaudible) removed.

4 THE COURT: All right. First of all, I'm not
5 (inaudible).

6 MR. HAWKINS: (Inaudible).

7 THE COURT: No, I mean, that's kind of the Judge Powell
8 rule. You know, in a case like this, I feel like -- I mean,
9 it'd be the same way that you had 10 days to write it or not,
10 but I -- I feel like the -- the way the case was presented,
11 it was clearly a factual issue of -- of whether it was
12 negligence or not, or whether that negligence proximately
13 caused the injury sustained by the plaintiff. So I'm going
14 to deny your objections.

15 MR. HAWKINS: And we -- we put our -- just on the
16 record, we put the -- the prejudice to the plaintiff from the
17 -- the objections, the ruling on the objections, and the way
18 transcript we think will show that the trial was borne out,
19 we move for undue prejudice and -- and a new trial based on
20 that -- based on --

21 THE COURT: All right.

22 MR. HAWKINS: -- that as well.

23 THE COURT: Well, and I would say there's no -- I mean,
24 just because you didn't agree with my ruling and my ruling
25 were not in what you thought they should be, I don't -- I --

1 every ruling I made was what I thought was appropriate.

2 There's no connection between me and any party here or
3 me and the defense counsel. I know that's kind of what you
4 kept -- with your looks, feeling like that was probably the
5 case, that I was being biased, that I was calling the balls
6 and strikes like I thought they were. So --

7 MR. HAWKINS: Yes, your Honor.

8 THE COURT: -- (inaudible) you agree with them, and
9 that's what the appellate courts are all about.

10 MR. HAWKINS: Yes, your Honor.

11 THE COURT: All right. Good luck to you.

12 MR. HAWKINS: Thank you.

13 MS. TANKERSLEY: Thank you, your Honor.

14 (THERE BEING NO FURTHER QUESTIONS, THIS HEARING IS CONCLUDED)

15

CERTIFICATE OF TRANSCRIBER

I, JANE DANIEL, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had, and evidence introduced in the trial of the captioned case, relative to appeal, in the South Carolina Circuit Court 13 of Greenville County, South Carolina, on June 9-12, 2025.

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

Jane Daniel

December 2, 2025

JANE DANIEL

TRANSCRIBER