RECEIVED
Mar 24 2026
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

R. Lawton McIntosh, Circuit Court Judge

Case No. 2025-000047

Robert William Goodwin and
Marian Charlene Goodwin, ... Appellants.

v.

April Desiree Chappell, individually and as
agent for Swift Transportation Company of
Arizona, LLC, and Swift Transportation
Company of Arizona, LLC, .Respondents.

FINAL BRIEF OF APPELLANTS

Donald L. Chuck Allen
Joshua C. B. Allen
Austin G. McLain
Allen & Allen Law Firm, LLC
PO BOX 2861
Anderson, SC 29622
864-226-6184
Attorneys for Appellants

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

R. Lawton McIntosh, Circuit Court Judge

Case No. 2025-000047

Robert William Goodwin and
Marian Charlene Goodwin, ... Appellants.

v.

April Desiree Chappell, individually and as
agent for Swift Transportation Company of
Arizona, LLC, and Swift Transportation
Company of Arizona, LLC, .Respondents.

FINAL BRIEF OF APPELLANTS

Donald L. Chuck Allen
Joshua C. B. Allen
Austin G. McLain
Allen & Allen Law Firm, LLC
PO BOX 2861
Anderson, SC 29622
864-226-6184
Attorneys for Appellants

TABLE OF CONTENTS

TABLE OF CONTENTS i

TABLE OF AUTHORITIES ii

STATEMENT OF ISSUES ON APPEAL 1

STATEMENT OF THE CASE 2

STANDARD OF REVIEW 3

FACTS 4

ARGUMENT 6

I. THE TRIAL COURT ERRED BY GRANTING SWIFT TRUCKING COMPANY'S MOTION IN LIMINE REGARDING STUDENT DRIVER TRAINING PAPERWORK

II. THE TRIAL COURT ERRED BY REFUSING TO CHARGE THE JURY ON THE COMMON LAW DUTY TO WARN

III. THE TRIAL COURT ERRED BECAUSE ITS JURY CHARGE AND DEFINITION OF PROXIMATE CAUSE WAS INSUFFICIENT AND CAUSED CONFUSION FOR THE JURY

CONCLUSION 17

TABLE OF AUTHORITIES

CASES

Carson v. CSX Transp., Inc., 400 S.C. 221, 734 S.E.2d 148 (S.C. 2012)

Clark v. Cantrell, 339 S.C. 369, 529 S.E.2d 528 (2000)

Cole v. Raut, 378 S.C. 398, 663 S.E.2d 30 (2008)

Historic Charleston Holdings, LLC v. Mallon, 381 S.C. 417, 673 S.E.2d 448, 457 (2009)

Kiriakides v. Sch. Dist. of Greenville Cty., 382 S.C. 8, 675 S.E.2d 439 (2009).

Matthews v. Porter, 239 S.C. 620, 124 S.E.2d 321 (1962)

Proctor v. DHEC, 368 S.C. 279, 515, 628 S.E.2d 279, 313-314 (Ct. App. 2006)

Sanders v. Western Auto Supply Co., 256 S.C. 490, 497, 183 S.E.2d 321 (S.C. 1971)

Small v. Pioneer Mach., Inc., 329 S.C. 448, 494 S.E.2d 835 (Ct. App. 1997)

State v. Burton, 302 S.C, 494, 496-97, 397 S.E.2d 90, (1990)

State v. Dantonio, 376 S.C. 594, 658 S.E.2d 337 (Ct. App. 2008)

RULES

Rule 401, SCRE

Rule 402, SCRE

STATEMENT OF ISSUES ON APPEAL

I. Did the Circuit Court improperly exclude relevant evidence pursuant to Rules 401 and 402 of the South Carolina Rules of Evidence?

II. Did the Circuit Court improperly refuse to charge a valid principle of law when the Plaintiff requested a "duty to warn" charge based on *Matthews v. Porter*, 239 S.C. 620, 124 S.E.2d 321 (1962)?

III. Was the Circuit Court's jury charge on proximate cause sufficient as to give a clear understanding of South Carolina law regarding proximate cause to the jury?

STATEMENT OF THE CASE

On February 5, 2021, Robert William Goodwin and Marion Charlene Goodwin brought this action against April Desiree Chappell, individually, and as an agent for Swift Transportation Company of Arizona, LLC, and Swift Transportation Company of Arizona, LLC alleging negligence, vicarious liability, negligent hiring and supervision, and loss of consortium. The Defendants timely answered the complaint with multiple defenses ultimately denying any liability. On November 30, 2023, the Defendants' Motion for Summary Judgment was heard and subsequently denied by Order of the Honorable Lawton McIntosh. On October 28, 2024 a trial by jury commenced. On November 4, 2024 the jury returned a verdict in favor of the Defendants which found negligence but not proximate cause. On January 8, 2025, Plaintiff's served and filed a notice of appeal.

STANDARD OF REVIEW

The admission or exclusion of evidence or the decision of the circuit court as to particular jury instructions is within the discretion of the circuit court and will not be disturbed on appeal absent an abuse of discretion. Carson v. CSX Transp., Inc., 400 S.C. 221, 734 S.E.2d 148 (S.C. 2012) CITING *Historic Charleston Holdings, LLC v. Mallon,* 381 S.C. 417, 434, 673 S.E.2d 448, 457 (2009); and *Cole v. Raut*, 378 S.C. 398, 404, 663, S.E.2d 30, 33 (2008).

The decision on what law is instructed to the jury is within the discretion of the trial court. An appellate court will not reverse the trial court's decision regarding jury instructions unless the trial court committed an abuse of discretion. *Clark v. Cantrell,* 339 S.C. 369, 389, 529 S.E.2d 528, 539 (2000).

An abuse of discretion occurs when the conclusions of the Circuit Court are either controlled by an error law or are based on unsupported factual conclusions. *Kirakides v. Sch. Dist. of Greenville Cty,* 382 S.E. 8, 20, 675 S.E.2d 439, 445 (2009).

FACTS

April Chappell was hired and trained by Swift Trucking Company (Swift) as a driver to operate tractor trailers and ultimately completed the "Swift Academy" on November 27, 2020. (R. at p. 86-95;Trial Tr. 568:15 – 577:7) Swift subsequently released her to drive solo, and on December 2, 2020, she began her maiden trip that would take her from Columbia, SC north to Huntersville, NC and then south towards Atlanta, GA. (R. at p. 95;Trial Tr. 577:8 - 22) While traveling south from Huntersville, NC towards Atlanta, GA on Interstate 85, she stopped for fuel at a Pilot Truck Stop in Piedmont, SC. (R. at p. 96;Trial Tr. 578) When leaving the Pilot Truck Stop to return to her route on Interstate 85, April Chappell instead turned onto Highway 86 (a 2 lane state road) heading west towards Wren Drive, a residential street and neighborhood. (R. at p. 96;Trial Tr. 578) Chappell then made an improper turn, running off the road and hitting a guy wire, pulling a live power line down to the pavement across Highway 86. (R. at p. 96-97; Trial Tr. 578 – 579) Chappell then stopped, got out to see what she had done, got back into her vehicle, moved a short distance, contacted her employer by phone and did nothing more.(R. at p. 96-97; Trial Tr. 578 – 579)

At the time, Robert "Bill" Goodwin and his wife owned a parcel of property on Highway 86 directly across from Wren Drive where April Chappell caused the dangerous road blockage. (R. at p. 65-67; Trial Tr. 394 – 396) On December 2, 2020, the Goodwins were at their home when their power went out because of the downed power line. (R. at p. 66; Trial Tr. 395) Mr.

Goodwin left the home and headed toward Highway 86 where he discovered what had occurred and noticed that traffic was backing up on Highway 86. (R. at p. 68; Trial Tr. 397) After seeing that a Wren volunteer fire truck had arrived, as a 40 year traffic controller who had assisted the Wren Volunteer Fire Department in the past, he spoke with a volunteer fireman on site and asked if they could use help re-routing traffic. (R. at p. 68; Trial Tr. 397) After confirming the fire department could use help directing traffic, Mr. Goodwin went to the intersection of Highway 86 and Major Road, approximately a fifth of a mile from where the guy wire had been struck, to reroute traffic down Major Road so motorists could avoid the dangerous conditions at Wren Drive. (R. at p. 68-73; Trial Tr. 397 – 402).

While directing and rerouting traffic, Mr. Goodwin was struck by another motorist, causing catastrophic injuries, resulting in medical expenses of about Three Million Five Hundred Thousand ($3,500,000.00) Dollars. His injuries included loss of internal organs (spleen, kidney, appendix, colon), multiple leg fractures, loss of both knees, massive blood loss, facial fractures, nasal fracture, and loss of use of various bodily functions, and PTSD, among other injuries. The injuries resulted in multiple hospital admissions and severe permanent disabilities requiring perpetual care.

ARGUMENT

I. THE TRIAL COURT ERRED BY GRANTING SWIFT TRUCKING COMPANY'S MOTION IN LIMINE REGARDING STUDENT DRIVER TRAINING PAPERWORK

Prior to the trial in the present case, Swift filed a motion in limine asking the Court to exclude training records of driver April Chappell. The Court heard the motion prior to testimony but ultimately instructed Swift to raise their objection to the evidence when presented in testimony. (R. at p. 45-64; Trial Tr. 27:11 - 46:12) Prior to the testimony of Plaintiff's trucking safety standard expert, David Dorrity, the Court granted Swift's motion and required Plaintiff's Exhibit 14 to be redacted in part prior to being entered into evidence. (R. at p.74-84; Trial Tr. 441:15 – 451:23) The original "Student Driver Training Paperwork" was entered as Court's Exhibit 6 for the record.

South Carolina Law states that "All relevant evidence is admissible, except as otherwise provided by the Constitution of the United States, the Constitution of the State of South Carolina, statutes, these rules, or by other rules promulgated by the Supreme Court of South Carolina." Rule 402, SCRE. *Proctor v. DHEC*, 368 S.C. 279, 515, 628 S.E.2d 279, 313-314 (Ct. App. 2006). "Relevant evidence" is defined in Rule 401 of the South Carolina Rules of Evidence as "evidence having any tendency to make the existence of any fact that is

of consequence to the determination of the action more probable or less probable than it would be without the evidence." Rule 401, SCRE.

In the Complaint filed in the present case, Plaintiffs, among other causes of action, asserted that Swift was negligent in the hiring, training and supervision of their employees, specifically driver April Chappell. During the presentation of the Plaintiff's case the jury heard testimony of the training program Swift uses for their new drivers. During the training Swift keeps records of the progress the trainee driver is making and specifically notes what needs to be corrected or what additional training is necessary.

In the present case, Plaintiffs attempted to enter a written training record into evidence. During Swift's Motion in Limine, the focus was on the third section of the document. Swift argued that because the third section's header read "Provide feedback of any additional backing development needed at each benchmark BTW hours" (behind the wheel) the document wasn't relevant because the case did not involve backing. However, when reviewing the handwritten notes at benchmark BTW 200, the driver trainer stated "… major over correction... will benefit from close quarters training." *See* Court's Ex. 6 (R. at p. 151). The notes do not specify that driver April Chappell required additional training in backing, rather, the trainer used a general term of "close quarter training." It is also important to note that this was the last entry made on this document. The document was signed by the driver trainer and April Chappell on November 26, 2020 and November 27, 2020,

respectively. This was only 5 days prior to April Chappell being released as a solo driver and driving her truck off the road.

Based on his review of the training documentation, Plaintiff's expert on trucking safety opined that Swift should not have allowed April Chappell to drive solo based on their knowledge of her deficiencies in close quarters driving.

Plaintiffs sought to admit this record into evidence to demonstrate that Swift knew or should have known that April Chappell would drive in a dangerous or otherwise unsafe manner, and that with that knowledge, Swift failed to adequately train or supervise her.

When applying the standard of SCRE Rule 401 and 402 it is clear that this document is relevant. The document clearly states that April Chappell "[would] benefit from close quarters training" and this evidence would have a "tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." Rule 401, SCRE. Because the "Student Driver Training Paperwork" is relevant, it is admissible pursuant to SCRE Rule 402. Further, regardless of whether the third section was related to backing, the document as a whole indicates the driver's overall training and her inability to safely operate a tractor trailer and is therefore relevant.

Had this record been admitted into evidence to show that Swift knew about her unfitness to drive the jury could have properly weighed the facts and evidence presented to

determine whether Swift was, in fact, negligent in their hiring, training and supervising of their employee. Accordingly, this record should have been admitted in its entirety and submitted to the jury as relevant evidence.

For the reasons set forth above, the Plaintiffs contend that the Court's decision to grant Swift's Motion in Limine regarding the "Student Driver Training Paperwork" was an abuse of direction controlled by an error of law. In so ruling, the jury was prevented from fully and fairly considering the entirety of the evidence demonstrating the Defendants' gross and wanton negligence in this matter, and Plaintiffs were denied the justice they so demonstrably deserve. Accordingly, this was reversible error and the Plaintiffs are entitled to a new trial.

II. THE TRIAL COURT ERRED BY REFUSING TO CHARGE THE JURY ON THE COMMON LAW DUTY TO WARN

Based on the evidence presented, at the close of testimony, counsel for the Plaintiffs requested a jury instruction on a driver's common-law duty to warn approaching motorists when the driver has negligently caused traffic to be obstructed, as provided in *Matthews v. Porter*, 239 S.C. 620, 124 S.E.2d 321 (1962). The Defendants argued, and the Court accepted, that this duty did not apply due to the fact that Ms. Chappell had moved her truck to another street, and further, had been relieved of her duty due to the fact that the volunteer fire department had arrived on scene. (R. at p. 135; Trial Tr. 963:4-20)

In *Matthews v. Porter*, the appellant Mr. Porter was in an automobile accident that caused the blockage of a roadway, specifically, Porter's vehicle blocked the eastbound lane of travel on Highway 76. *Matthews v. Porter*, 239 S.C. 620, 623 (1962). The respondent, Mrs. Matthews, was traveling in the westbound lane with her husband and ultimately stopped to give aid and assistance to someone who was on scene. *Id.* While on scene, another vehicle, operated by Lewis McKnight, traveling on the eastbound lane skidded sideways and ultimately struck Mrs. Matthews, pinning her between his car and the one operated by Mr. Porter. *Id.*

The appellant in *Matthews* argued that although he did not do anything to warn other motorists of the road blockage, that duty had been alleviated or relinquished to others. *Id.* at 630.

The Court rejected that argument. Specifically, the Court pointed out that even though there was testimony that there were other individuals on the road side with flashlights warning drivers, and by the time the second collision occurred (Lewis McKnight hitting Mrs. Matthews), law enforcement was on scene and had "intervened" between the negligence of Porter and the second collision, that "one upon whom the law devolves a duty cannot shift it to another, so as to exonerate himself from the consequence of its performance." *Id.* (citing 38 Am.Jur., Negligence, sec. 13, page 655). More specifically, "it was [the appellant's] duty to warn others motorists of the dangerous condition he had created. He could not delegate that duty to another, even though it was a law enforcement officer, and escape the consequences for its nonperformance." *Id.* Finally, the *Matthews* Court pointed out that "the arrival and taking charge by the police were circumstances to be considered but could not be said as a matter of law to have cut off the effect of the prior negligence." *Id.*

Similarly, in the present case, Ms. April Chappell admittedly ran her tractor-trailer off the road, striking a guy wire which ultimately pulled down the power line, resulting in a complete and dangerous blockage of Highway 86. (R. at p. 115-118; Trial Tr. 597:25 – 600:12) She made no attempt to undertake any of her duties to warn approaching motorists. Ms. Chappell testified that she did not set out any cones, or warning triangles, nor did she make any attempt in any way to warn approaching motorists of the roadway blockage and the live power line. More specifically, when questioned on any actions she took, much like in the *Matthews* case, she relied on the fact that the volunteer fire department had been called and was present to warn other drivers stating "the fire department blocked [Highway 86] off." (R. at p. 119-122; Trial Tr.

609:21 – 612:3) It should also be noted that during the time that it took the fire department to arrive at the scene that Swift's driver could have been warning approaching motorists.

The *Matthews* Court was clear that drivers have a duty to warn others of dangerous conditions that are a result of their negligence. In the present case, had Ms. Chappell taken the appropriate actions, as was her duty as prescribed in *Matthews v. Porter*, the volunteer fire department could have blocked off the other section of the highway at Major Road, and Mr. Goodwin's assistance would not have been necessary.

A jury should be instructed on sound principles of law that are applicable to a case and a Court's refusal to do so is an abuse of discretion which is reversible error requiring a new trial. *Sanders v. Western Auto Supply Co.,* 256 S.C. 490, 497, 183 S.E.2d 321 (S.C. 1971). In the present case, when testifying about the duty to warn, the driver stated "she had no duty to warn because the fire department was there" and the Court agreed. (R. at p. 135; Trial Tr. 963:1-20) Further, the Court stated that "…even if she had, it wouldn't have prevented that…" referring to Ms. Chappell's inaction. (R. at p. 137; Trial Tr. 965:8-9). The *Matthews* Court made it clear that the presence of even law enforcement "securing the scene" does not alleviate someone of a duty prescribed by law. Further, whether or not something could have been prevented or the foreseeability of the consequences of someone's inaction is a question of fact that the jury should decide. The Court in the present case abused its discretion since its refusal to charge the jury on the duty to warn was controlled by an error of law.

The jury should have been instructed on the Defendants' duty to warn, as set forth in *Matthews v. Porter*, so they could properly weigh her breach of that duty and the consequences

that followed in the contemplation of their verdict. By refusing this jury charge, the Court denied the jury the full and fair opportunity to weigh the facts presented under the law set forth in *Matthews*, to determine that *but for* the Defendants' breach of this duty, Mr. Goodwin would not have had to assist with traffic control and would not have been on the roadway that evening in any capacity; and, as a *foreseeable result of this breach* by the driver, the Plaintiffs were catastrophically harmed and impacted.

III. THE TRIAL COURT'S JURY CHARGE AND DEFINITION OF PROXIMATE CAUSE WAS INSUFFICIENT AND CAUSED CONFUSION FOR THE JURY

The law to be charged to the jury is determined by the evidence presented at trial. *State v. Dantonio*, 376 S.C. 594, 609, 658 S.E.2d 337 (Ct. App. 2008). When charging the jury on negligence, and more specifically, proximate cause, the Court stated "proximate cause, ladies and gentlemen means this: it is something that produces a natural chain of events which in the end brings about the injury; it is the direct cause of the injury. (R. at p. 140; Trial Tr. 1072:6 – 13). When the Court concluded the jury charge, attorney for the Plaintiffs objected to the language used and requested the Court re-charge with appropriate language. (R. at p. 143-144; Trial Tr. 1094:9 – 1096:18) which was refused. After some jury deliberations, the jury requested to be re-charged specifically on "proximate cause" and the Court again charged the jury using the above language explaining to the jury that proximate cause is "the direct cause of the injury." (R. at p. 144-145; Trial Tr. 1098:7 – 1099:6). Plaintiff's counsel again objected to the language used and more specifically, the word direct. (R. at p. 147; Trial Tr. 1101:10-13).

The Court cited *Small v. Pioneer Mach., Inc.* which states that "proximate cause is the efficient *or* direct cause of an injury. *Small v. Pioneer Mach., Inc.*, 329 S.C. 448,, 464, 494 S.E.2d 835 (Ct. App. 1997) (emphasis added). Further, that "proximate cause does not mean the sole cause." *Id.*

The issue with using the word direct and more specifically, the direct cause, is that it implies to the jury a singular cause, which is not in conformity with the law in South Carolina. Although the Court did ultimately charge the jury that "proximate cause does not mean the only cause" (R. at p. 140; Trial Tr. 1072:4-5), that does not negate or correct the fact they the first instruction the jury received regarding proximate cause was that it means "the direct cause." Using language that implies a singular cause such as "the direct cause" while also instructing the jury that multiple concurring causes may exist is clearly confusing because it is logically and legally inconsistent.

In *Dantonio*, *Id.* the South Carolina Court of appeals acknowledged the following as the correct law to be charged on proximate cause:

> "The law recognizes there may be more than one proximate cause. The acts of two or more persons may combine and concur together as an efficient or proximate cause of the [injury]. The fact that other causes also contribute to the [injury] does not relieve the defendant from responsibility." *State v. Dantonio, Id, State v. Burton, Id.* The Defendant's act may be regarded as the proximate cause if it is a contributing cause of the [injury]. The Defendant's act need not be the sole cause of the death provided that it be a proximate cause actually and contributing to the [injury]. *State v. Dantonio, Id* see also *State v. Burton*, Id.

The above case dealt with a criminal jury charge relating to a felony DUI case, however, the proximate cause instruction is applicable. Unlike the charge from *Small v. Pioneer Mach., Inc.*, which does not clearly define proximate cause to a jury and seems to give two very different definitions, the *Dantonio* charge uses language that is clear from the outset that "the law recognizes there may be more than one proximate cause." *State v. Dantonio, Id.* Further, the *Dantonio* charge is not contradictory and is easier for a jury to understand. Simply put, the

Dantonio charge uses clearer and more concise language to instruct a jury on the law of proximate cause and therefore, should be the language a Circuit Court uses when instructing the jury on proximate cause.

CONCLUSION

The Circuit Court abused its discretion in granting Swift's Motion in Limine by not admitting relevant evidence presented by the Plaintiff. Further, the lower Court abused its discretion by failing to charge the jury on the duty to warn, a well-founded principle of law that factually applied to the present case based on the evidence presented at trial. Finally, the lower court's instructions to the jury on proximate cause were confusing for the jury. Based on the foregoing, the Court should reverse and remand this case for a new trial.

Respectfully submitted,

s/Donald L. Chuck Allen
Donald L. Chuck Allen,JD, SC Bar#10421

s/Joshua C. B. Allen
Joshua C. B. Allen, JD, SC Bar #80398

s/Austin G. McLain
Austin G. McLain, JD, SC Bar#100692
ALLEN & ALLEN LAW FIRM, LLC
Attorneys for Appellants
PO Box 2861
Anderson, SC 29622
(864)226-6184

August 18, 2025
Anderson, South Carolina