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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.

RECORD ON APPEAL

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ELECTRONICALLY FILED - 2023 Dec 08 8:38 AM - ANDERSON - COMMON PLEAS - CASE#2021CP0400234

STATE OF SOUTH CAROLINA **COUNTY OF ANDERSON** Robert William Goodwin and Marian Charlene Goodwin, Plaintiffs, vs. Varkey Alencheril Joseph, April Desiree Chappell, individually and as agent for Swift Transportation Company of Arizona, LLC and Swift Transportation Company of Arizona, LLC, Defendants.	**IN THE COURT OF COMMON PLEAS** **(JURY TRIAL DEMANDED)** **Order Dismissing Varkey Joseph** **C.A. No.: 2021-CP-04-00234**

On November 30, 2023, this Court heard Plaintiffs' and Varkey Joseph's Joint Motion to Dismiss Joseph with prejudice based on a mediated settlement agreement. April Desiree Chappell and Swift Transportation Company of Arizona did not consent to Joseph's dismissal because they did not want to waive any rights relating to an empty chair defense at the trial of the case, nor did they want to wave any right to challenge state law on this issue during an appeal process, should one arise. Based on the record before me, the arguments of counsel, and the applicable law, I hereby grant the Joint Motion to Dismiss Varkey Joseph with prejudice.

Facts

The facts applicable to this Motion are not in dispute. On May 20, 2023, Plaintiffs and Joseph participated in a court-ordered mediation. As the mediator reported to this Court, a settlement was reached with Joseph to be dismissed from this case. All the terms of the mediated settlement agreement have been satisfied except for the dismissal of Joseph with prejudice.

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Findings of Law

Plaintiffs and Joseph argue the mediated settlement agreement between Plaintiffs and Joseph is legally binding, and the agreement to dismiss Joseph should be enforced by this Court. I agree.

South Carolina has a "strong public policy favoring the settlement of disputes." *Chester v. S.C. Dep't of Pub. Safety*, 388 S.C. 343, 346, 698 S.E.2d 559, 560 (2010).

> It has long been the policy of the court to encourage settlement in lieu of litigation, and courts have usually enforced settlement agreements. There can be no doubt but that the trial court retains inherent jurisdiction and power to enforce agreements entered into in settlement of litigation before that court.

Kinghorn as Tr. For the Mildred Ann Kinghorn Tr. Dated 28 Apr. 2004 v. Sakakini, 426 S.C. 147, 152, 825 S.E.2d 748, 750 (Ct. App. 2019) (*quoting Rock Smith Chevrolet, Inc. v. Smith*, 309 S.C. 91, 93, 419 S.E.2d 841, 842 (Ct. App. 1992)).

In this case, the parties to the mediated settlement agreement agree it is a binding contract that has requires enforcement. *Pee Dee Stores, Inc. v. Doyle*, 381 S.C. 234, 241, 672 S.E.2d 799, 802 (Ct. App. 2009). Chappell and Swift Transportation have no legal right to prevent this Court from dismissing Joseph. *Smith v. Tiffany*, 419 S.C. 548, 563, 799 S.E.2d 479, 487 (2017); *CFRE, LLC v. Greenville Cty. Assessor*, 395 S.C. 67, 74, 716 S.E.2d 877, 881 (2011), and *Tiffany*, 419 S.C. 548, 557, 799 S.E.2d 479, 484 (2017) ("[T]he General Assembly took steps to protect nonsettling defendants by codifying a nonsettling defendant's right to argue the so-called empty chair defense in subsection (D) [of section 15-38-15].").

IT IS THEREFORE ORDERED that Varkey Jospeh is hereby dismissed with prejudice;

IT IS FURTHER ORDERED that the remaining Defendants have not waived any rights

relating to the empty chair defense, nor have they waived any right to challenge state law on this issue during the appeals process, should one arise;

IT IS SO ORDERED.

_____
Presiding Judge, Tenth Judicial Circuit

_____, 2023.

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Anderson Common Pleas

Case Caption: Robert William Goodwin , plaintiff, et al VS Varkey Alencheril Joseph , defendant, et al

Case Number: 2021CP0400234

Type: Order/Dismissal

S/R. LAWTON McINTOSH

S/R.LAWTON McINTOSH

Electronically signed on 2023-12-08 08:30:56 page 4 of 4

ELECTRONICALLY FILED - 2023 Dec 08 8:40 AM - ANDERSON - COMMON PLEAS - CASE#2021CP0400234

FORM 4

STATE OF SOUTH CAROLINA **COUNTY OF ANDERSON** **IN THE COURT OF COMMON PLEAS**	**JUDGMENT IN A CIVIL CASE** **CASE NO. 2021CP0400234**
Robert William Goodwin PLAINTIFF(S)	Varkey Alencheril Joseph, Swift Transportation Company of Arizona, LLC., et al. DEFENDANT(S)

Submitted by: R. Lawton McIntosh	**Attorney for :** ☐ Plaintiff ☐ Defendant or ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **STAYED DUE TO BANKRUPTCY**

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

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

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

ORDER INFORMATION

THESE MOTIONS CAME BEFORE THE COURT AS PART OF THE NOVEMBER 30TH, 2023 MOTIONS ROSTER. AS A PRELIMINARY MATTER, PLAINTIFFS MOTION TO AMEND WAS WITHDRAWN. PLAINTIFFS MOTION TO QUASH WAS RESOLVED PRIOR TO THE HEARING.

DEFENDANT JOSEPH'S MOTION TO BE DISMISSED FROM THE COMPLAINT WAS CONSENTED TO BY THE PLAINTIFFS AND IS GRANTED. DEFENDANT JOSEPH SHALL NOT APPEAR AS A PARTY ON THE VERDICT FORM AT TRIAL.

PLAINTIFFS MOTION TO COMPEL THE FIRST DEPOSITION OF DEFENDANT SWIFTS EXPERT IS GRANTED. IT IS ORDERED THAT PLAINTIFFS SHALL HAVE THE OPPORTUNITY TO DEPOSE DEFENDANT SWIFTS EXPERT PRIOR TO A POSSIBLE SECOND DEPOSITION OF PLAINTIFFS EXPERT. THE DEPOSITION OF DEFENDANT SWIFTS EXPERT SHALL BE TAKEN NO LATER THAN THE END OF JANUARY 2024.

DEFENDANT SWIFTS MOTION FOR SUMMARY JUDGMENT IS DENIED. THE VARIOUS GROUNDS THAT THE DEFENSE RAISES AS TO WHY SUMMARY JUDGMENT SHOULD BE GRANTED ARE FACT QUESTIONS FOR THE JURY TO DETERMINE AT TRIAL.

This order ☐ ends ☒ does not end the case.

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**
E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

	2155	
Circuit Court Judge	**Judge Code**	**Date**

For Clerk of Court Office Use Only

This judgment was entered on the day of , 20 and a copy mailed first class or placed in the appropriate attorney's box on this day of , 20 to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)	**ATTORNEY(S) FOR THE DEFENDANT(S)**
	CLERK OF COURT

Court Reporter:

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

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

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

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ELECTRONICALLY FILED - 2023 Dec 08 8:40 AM - ANDERSON - COMMON PLEAS - CASE#2021CP0400234

Anderson Common Pleas

Case Caption: Robert William Goodwin , plaintiff, et al VS Varkey Alencheril Joseph , defendant, et al

Case Number: 2021CP0400234

Type: Order/Form 4

S/R. LAWTON McINTOSH

S/R.LAWTON McINTOSH

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FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2022CP0400234

Robert William Goodwin et al
PLAINTIFF(S)

Varkey Alencheril Joseph et al
DEFENDANT(S)

Submitted by: R. Lawton McIntosh	**Attorney for :** ☐ Plaintiff ☐ Defendant or ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **STAYED DUE TO BANKRUPTCY**

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

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

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

ORDER INFORMATION

PLAINTIFF'S MOTION FOR A NEW TRIAL IS DENIED WITHOUT NECESSITY OF A FORMAL HEARING. NO FORMAL ORDER REQUESTED.

This order ☐ ends ☒ does not end the case.

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

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

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

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**
E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge	2155 Judge Code	Date

For Clerk of Court Office Use Only

This judgment was entered on the day of , 20 and a copy mailed first class or placed in the appropriate attorney's box on this day of , 20 to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)	ATTORNEY(S) FOR THE DEFENDANT(S)
	CLERK OF COURT

Court Reporter:

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

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

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

ELECTRONICALLY FILED - 2024 Dec 12 11:25 AM - ANDERSON - COMMON PLEAS - CASE#2021CP0400234

ELECTRONICALLY FILED - 2024 Dec 12 11:25 AM - ANDERSON - COMMON PLEAS - CASE#2021CP0400234

Anderson Common Pleas

Case Caption: Robert William Goodwin , plaintiff, et al VS Varkey Alencheril Joseph , defendant, et al

Case Number: 2021CP0400234

Type: Order/Form 4

S/R. LAWTON McINTOSH

S/R.LAWTON McINTOSH

'24 NOV 4 PM12:54:09
Anderson, SC COC, CP/GS

STATE OF SOUTH CAROLINA) **COUNTY OF ANDERSON)**) ROBERT WILLIAM GOODWIN) AND MARIAN CHARLENE) GOODWIN) PLAINTIFFS.) vs.)) APRIL DESIREE CHAPPELL,) INDIVIDUALLY AS AGENT FOR) SWIFT TRANSPORTATION) COMPANY OF ARIZONA, LLC) AND SWIFT TRANSPORTATION) COMPANY OF ARIZONA, LLC) DEFENDANTS.))	**IN THE COURT OF GENERAL SESSIONS** **TENTH JUDICIAL CIRCUIT** Civil Action No.: 2021CP0400234 **VERDICT FORM**

I. As to Plaintiff Robert William Goodwin's claim for actual damages because of Defendants' alleged negligence, we jury **unanimously** find as follows:

1. Were Defendants negligent?

MW YES- Go to Question 2.

_____ NO- STOP.

2. Was Defendants' negligence a proximate cause of the Plaintiff's injuries?

_____ YES- Go to NOTE

MW No- STOP.

A TRUE COPY
JAN - 8 2025
C. Reena Thomason
CLERK OF COURT

'24 NOV 4 PM 12:54:14
Anderson, SC COC. CP/GS

3. NOTE (If your answer to either Question 1 or Question 2 was NO, stop your deliberations and notify the bailiff. If your answer to Question 2 was YES, go to Question 4.)

4. Was the Plaintiff negligent?

_____ YES—Go to Question 5.

_____ NO—Go to Question 8.

5. Was Plaintiff's negligence a proximate cause of the Plaintiff's injuries?

_____ YES- Go to Question 6.

_____ NO- Go to Question 8.

6. Considering the combined negligence that proximately caused the Plaintiff's injuries as 100%, what percentage of that negligence is attributable to the Plaintiff and what percentage is attributable to the Defendants? [The percentages must add up to 100%].

Plaintiff _____ %

Defendants _____ %

Go to Question 7.

7. Was the Plaintiff's negligence greater than 50%?

_____ YES—Stop your deliberations and notify the bailiff.

_____ NO—Go to Question 8.

A TRUE COPY
JAN - 8 2025
C. Rena Thomason
CLERK OF COURT

'24 NOV 4 PM12:54:20
Anderson SC COC: 03765

8. State the amount of damages, if any, sustained by the Plaintiff. [DO NOT reduce the Plaintiff's total damages based on the percentage of negligence by any party. You are to determine only the total amount of the Plaintiff's damages and enter that amount below.]

_____ ($_____)
(Actual Damages)

Juror # 161
Foreperson

November 4, 2024
Anderson, South Carolina

A TRUE COPY
JAN - 8 2025
C. Renee Henson

'24 NOV 4 PM 12:54:24
Anderson, SC COC, CP/GS

STATE OF SOUTH CAROLINA) **COUNTY OF ANDERSON)**) ROBERT WILLIAM GOODWIN) AND MARIAN CHARLENE) GOODWIN) PLAINTIFFS.) vs.)) APRIL DESIREE CHAPPELL,) INDIVIDUALLY AS AGENT FOR) SWIFT TRANSPORTATION) COMPANY OF ARIZONA, LLC) AND SWIFT TRANSPORTATION) COMPANY OF ARIZONA, LLC) DEFENDANTS.))	**IN THE COURT OF GENERAL SESSIONS** **TENTH JUDICIAL CIRCUIT** Civil Action No.: 2021CP0400234 **VERDICT FORM**

II. As to Plaintiff Robert William Goodwin's claim for alleged negligent hiring or retention, we the jury **unanimously** find:

A. For the Plaintiff in the amount of _____
_____($)
[Actual Damages]

B. For the Defendants. MW

_____
Juror # 161
Foreperson

November 4, 2024
Anderson, South Carolina

A TRUE COPY
JAN - 8 2025
C Pierce Vanover

'24 NOV 4 PM12:54:29
Anderson, SC COC: CP/GS

STATE OF SOUTH CAROLINA) **COUNTY OF ANDERSON)**) ROBERT WILLIAM GOODWIN) AND MARIAN CHARLENE) GOODWIN) PLAINTIFFS.) vs.)) APRIL DESIREE CHAPPELL,) INDIVIDUALLY AS AGENT FOR) SWIFT TRANSPORTATION) COMPANY OF ARIZONA, LLC) AND SWIFT TRANSPORTATION) COMPANY OF ARIZONA, LLC) DEFENDANTS.))	**IN THE COURT OF GENERAL SESSIONS** **TENTH JUDICIAL CIRCUIT** Civil Action No.: 2021CP0400234 **VERDICT FORM** **[Note: If you awarded damages to Plaintiff Robert William Goodwin, you may consider whether or not to award Plaintiff Marian Charlene Goodwin damages for Loss of Consortium. If you did not award Plaintiff Robert William Goodwin actual damages, you may not award Plaintiff Marian Charlene Goodwin damages for Loss of Consortium.]**

I. Loss of Consortium

As to Plaintiff Marian Charlene Goodwin's claim for alleged Loss of Consortium, we the jury **unanimously** find as follows:

A. For the Plaintiff in the amount of _____
_____($)
[Actual Damages]

B. For the Defendants. MCV

_____
Juror # 161
Foreperson

November 4, 2024
Anderson, South Carolina

A TRUE COPY
JAN -8 2025

ELECTRONICALLY FILED - 2021 Feb 05 10:19 AM - ANDERSON - COMMON PLEAS - CASE#2021CP0400234

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	TENTH JUDICIAL CIRCUIT
COUNTY OF ANDERSON	)	
	)	
Robert William Goodwin and Marian Charlene Goodwin,	)	
	)	
Plaintiffs,	)	
	)	SUMMONS
Vs.	)	
	)	
Varkey Alencheril Joseph, April Desiree Chappell, individually and as agent for Swift Transportation Company of Arizona, LLC and Swift Transportation Company of Arizona, LLC,	)	Case No.: 2021-CP-04-00234
	)	
Defendants.	)	

TO: THE ABOVE DEFENDANTS:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action of which a copy is herewith served upon you, and to serve a copy of your Answer to said Complaint upon the subscribers at their office at 1209 North Main Street, P.O. Box 2861, Anderson, South Carolina 29622 within thirty (30) days after the service hereof, exclusive of the day of such service; and if you fail to answer the Complaint within the time aforesaid, the Plaintiff will apply to the Court for the relief demanded in the Complaint.

THE ALLEN & ALLEN LAW FIRM

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

s/Joshua C. B. Allen
Joshua C. B. Allen, SC Bar #80398
Attorneys for Plaintiff
PO Box 2861
Anderson, SC 29622
(864) 226-6184

Anderson, South Carolina
February 4, 2021

ELECTRONICALLY FILED - 2021 Feb 05 10:19 AM - ANDERSON - COMMON PLEAS - CASE#2021CP0400234

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STATE OF SOUTH CAROLINA	IN THE COURT OF COMMON PLEAS
	TENTH JUDICIAL CIRCUIT
COUNTY OF ANDERSON	
Robert William Goodwin and Marian Charlene Goodwin,	
Plaintiffs,	COMPLAINT
vs.	Case No.: 2021-CP-04-_____
Varkey Alencheril Joseph, April Desiree Chappell, individually and as agent of Swift Transportation Company of Arizona, LLC, and Swift Transportation Company of Arizona, LLC	
Defendants.	

The Plaintiffs, would show unto the Court and allege as follows:

JURISDICTION AND VENUE

1. That the Plaintiffs, Robert William Goodwin and Marian Charlene Goodwin, are citizens and residents of Anderson County, South Carolina.

2. That the Defendant, Varkey Alencheril Joseph (hereinafter referred to as Joseph), is a citizen and resident of Anderson County, South Carolina.

3. That the Defendant, April Desiree Chappell (hereinafter referred to as Chappell), is a citizen and resident of Greenville County, South Carolina.

4. That the Defendant, Swift Transportation Company of Arizona, LLC (hereinafter referred to as Swift Transportation Company), is a corporation which conducts business throughout the United States, including South Carolina, with its principal place of business and corporate headquarters located in Phoenix, Arizona.

5. That the incident giving rise to this action occurred in Anderson

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County, South Carolina on or about December 2, 2020.

Therefore, this Court has jurisdiction over all parties, matters and things herein and venue is proper in Anderson County, South Carolina.

FACTUAL ALLEGATIONS

7. That at all relevant times herein Defendant Chappell was a truck driver, agent, and employee of Defendant, Swift Transportation Company, and was operating a tractor trailer while in the scope of her employment with Defendant Swift Transportation Company in Anderson County, South Carolina.

8. That on or about December 2, 2020, Defendant Swift Transportation Company's employee and agent, Defendant Chappell, while in the scope of her employment, was operating a tractor trailer and traveling west on State Highway 86 in Anderson County when she recklessly, gross negligently, and negligently struck a utility pole, dragging said pole until it was pulled from the ground. This resulted in active power and transmission lines laying across State Highway 86, which consequently obstructed and impeded vehicular traffic.

9. That the Defendant Swift Transportation Company's agent, Defendant Chappell, owed a duty to maintain a proper lookout for power lines and to operate the truck in a safe and efficient manner.

10. That as a result of the recklessness, gross negligence and negligence of the Defendant Chappell, traffic became impeded and obstructed in both directions on State Highway 86, eventually causing traffic to become congested and stalled.

11. That within minutes of the aforementioned incident, and while the Plaintiff Robert William Goodwin, in cooperation with local authorities, attempted

ELECTRONICALLY FILED - 2021 Feb 05 10:19 AM - ANDERSON - COMMON PLEAS - CASE#2021CP0400234

to direct traffic so as to prevent further injury, damage and destruction, the Defendant Joseph failed to keep a proper lookout and without warning, struck the Plaintiff while the Plaintiff was attempting to direct traffic.

12. That the Defendant Joseph owed a duty to keep a proper lookout and to operate his vehicles in a safe manner.

13. That as a result of the Defendants' recklessness, gross negligence and negligence both jointly and severally, the Plaintiff proximately suffers extreme pain, suffering, multiple permanent injuries and anguish, and has incurred substantial medical bills and other damages.

FOR A FIRST CAUSE OF ACTION

(Recklessness, Gross Negligence and Negligence)

14. That the Plaintiffs reallege the allegations of Paragraph 1 through 13 as if repeated verbatim.

15. That the Plaintiffs would show that at all times and places above mentioned, that the Defendants, both jointly and severally, were wanton, reckless, negligent, grossly negligent, and careless in the following particulars:

a. In failing to keep the Defendants' vehicles under proper control at all times in view of the circumstances then and there existing;

b. In failing to keep a proper lookout for others upon said road, when to fail to do so, the Defendants knew or should have known would result in damage to others upon said road, and, more particularly, the Plaintiffs;

c. In failing to take any evasive action when the Defendants knew or

ELECTRONICALLY FILED - 2021 Feb 05 10:19 AM - ANDERSON - COMMON PLEAS - CASE#2021CP0400234

should have known that a collision was imminent;

d. In failing to have the Defendants' vehicles equipped with proper brakes, or, if so equipped, in the failing to apply the same so as to avoid a crash;

e. In failing to look to see what the Defendants should have seen had the Defendants been looking, when the Defendants knew, or should have known that the Defendants would cause a collision by failing to do so;

f. In operating said vehicles in a highly improper manner in view of the circumstances then and there existing;

g. In operating said vehicles in violation of the legal duties required of vehicle operators as contained and enumerated in the South Carolina Code of Laws (1976).

h. In not being mentally and physically alert to the impending dangers;

i. In failing to swerve or change the course of the Defendants' vehicles when it was apparent, or should have been apparent, by the exercise of due care, that a catastrophic crash was inevitable;

j. In failing to exercise the degree of care and prudence a reasonable person would have exercised under the same or similar circumstances.

16. That the above acts and omissions were the direct, joint and concurring proximate cause of the injuries and damages sustained by the Plaintiffs herein, and said acts and omissions being in breach and violation of the common and statutory laws of the State of South Carolina and any other laws that may apply.

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FOR A SECOND CAUSE OF ACTION

(Vicarious Liability)

17. That the Plaintiff realleges the allegations of Paragraph 1 through 16 as if repeated verbatim.

18. That at the time of the collision with the powerlines, Defendant Chappell was operating the tractor trailer on behalf of, for the express purpose of, and under dispatch by Defendant Swift Transportation Company and with the knowledge and consent of Defendant Swift Transportation Company.

19. That at the time of said collision, Defendant Chappell was an agent and employee of Defendant Swift Transportation Company and was acting in the scope of her agency, employment, and in the furtherance of the business interest of Defendant Swift Transportation Company.

20. That Defendant Swift Transportation Company is vicariously liable for the actions of Defendant Chappell in regard to this matter under the doctrine of respondeat superior.

21. That Defendant Chappell is also individually liable for her tortious conduct.

FOR A THIRD CAUSE OF ACTION

(Negligent Hiring, Training, Supervision, Retention and Maintenance)

21. The Plaintiff realleges the allegations of Paragraph 1 through 20 as if repeated verbatim.

22. That the Defendant Swift Transportation Company was negligent, careless, reckless, grossly negligent, wilful and wanton in one or more of the

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following ways:

(a) in hiring Defendant Chappell and entrusting her to operate their vehicles while using the roadways of South Carolina;

(b) in failing to properly train Defendant Chappell;

(c) in failing to properly supervise Defendant Chappell;

(d) in failing to implement safety practices to ensure safe operation of vehicles by its drivers;

(e) in failing to exercise the degree of care and caution that a reasonable and prudent company would have exercised under the circumstances then and there existing.

(f) in failing to maintain the Defendant Swift Transportation Company's tractor trailer in a reasonable and safe manner.

23. That as a direct, joint and proximate cause of the negligence, gross negligence, and recklessness of Defendant Swift Transportation Company, the Plaintiff was injured seriously and severely in and about various parts of his body, which caused the Plaintiff to suffer extreme pain and permanent injuries, and incur numerous medical expenses.

FOR A FOURTH CAUSE OF ACTION

(Loss of Consortium)

24. That the Defendants' recklessness, gross negligence, and negligence, both jointly and severally, proximately caused Plaintiff Marian Charlene Goodwin to suffer deprivation losses because of the impairment to her marital relationship with Plaintiff Robert William Goodwin, including, but not

limited to, loss of companionship, services, society and comfort of her husband as a result of his severe and debilitating injuries proximately caused by the Defendants.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs pray for judgment against the Defendants, both jointly and severally in a sum to be determined by a jury for actual and punitive damages and for such other and further relief as this Court deems just and proper.

Plaintiff demands a jury trial.

THE ALLEN & ALLEN LAW FIRM

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

s/Joshua C. B. Allen
Joshua C. B. Allen, SC Bar #80398
Attorneys for Plaintiff
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Anderson, South Carolina
February 4, 2021

ELECTRONICALLY FILED - 2021 Feb 05 10:19 AM - ANDERSON - COMMON PLEAS - CASE#2021CP040234

ELECTRONICALLY FILED - 2021 Mar 04 9:39 AM - ANDERSON - COMMON PLEAS - CASE#2021CP0400234

STATE OF SOUTH CAROLINA **COUNTY OF ANDERSON** Robert William Goodwin and Marian Charlene Goodwin, Plaintiffs, vs. Varkey Alencheril Joseph, April Desiree Chappell, individually and as agent for Swift Transportation Company of Arizona, LLC and Swift Transportation Company of Arizona, LLC, Defendants.	**IN THE COURT OF COMMON PLEAS** **(JURY TRIAL DEMANDED)** **DEFENDANT JOSEPH'S ANSWER TO COMPLAINT** **C.A. No.: 2021-CP-04-00234**

Defendant Joseph answering Plaintiffs' Complaint and demanding a trial by jury will respectfully show this Court:

1. Defendant Joseph is without sufficient information to admit or deny the allegations of Paragraph 1.

2. Paragraph 2 is admitted.

3. Defendant Joseph is without sufficient information to admit or deny the allegation of Paragraph 3.

4. Defendant Joseph is without sufficient information to admit or deny the allegations of Paragraph 4.

5. In answering Paragraph 5, it is admitted that there was an automobile accident on the date alleged. The second Paragraph calls for a legal conclusion.

6. The Complaint does not contain a Paragraph numbered 6.

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7. Defendant Joseph is without sufficient information to admit or deny the allegations of Paragraph 7.

8. Defendant Joseph is without sufficient information to admit or deny the allegations of Paragraph 8.

9. In answering Paragraph 9, Defendant Joseph admits that persons operating vehicles on public roadways in South Carolina owe both statutory and common law duties.

10. Defendant Joseph is without sufficient information to admit or deny the allegations in Paragraph 10.

11. Paragraph 11 is denied.

12. In answering Paragraph 12, it is admitted that persons operating vehicles on public roadways in South Carolina owe both statutory and common law duties. In addition, persons near public roadways in South Carolina also owe certain duties to themselves and others.

13. Paragraph 13 is denied.

14. In answering Paragraph 14, Defendant Joseph incorporates his prior responses.

15. Paragraph 15 is denied.

16. Paragraph 16 is denied.

17-23. Paragraphs 17-23 are directed at persons other than Defendant Joseph. To the extent any responsive pleading is required of Defendant Joseph, Defendant Joseph denies any and all allegations that would lead to any liability on his part.

24. Paragraph 24 is denied.

25. Each allegation and prayer for relief not specifically admitted is denied and strict proof demanded thereof.

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FOR A SECOND DEFENSE
(Comparative Negligence)

26. Defendant Joseph asserts the Doctrine of Comparative Negligence as an absolute bar or in the alternative a reduction in recovery sought by Plaintiff.

FOR A THIRD DEFENSE
(S.C. Code Ann § 15–38–15)

27. Defendant Joseph asserts all rights available under S.C. Code Ann. §15 – 38 – 15.

FOR A FOURTH DEFENSE
(Sudden Emergency)

28. Defendant Joseph pleads the Doctrine of Sudden Emergency as an absolute defense in this matter.

FOR A FIFTH DEFENSE
(Constitutional and Statutory Limitations on Punitive Damages)

29. Defendant Joseph alleges that the imposition and awarding of punitive damages in this case denies Defendant Joseph Due Process of Law and is unconstitutional and a denial of Defendant Joseph's constitutional rights and is contrary to the Fifth, Eighth, and Fourteenth Amendments of the Constitution of the United States of America and Article I, Sections 3, 13, and 15 of the Constitution of the State of South Carolina. In the alternative, Defendant Joseph asserts all protections set forth in S.C. Code Ann. §§ 15-32-520 and 15-32-530.

WHEREFORE, Defendant Joseph having answered the Complaint of Plaintiff prays that this Court:

1. Dismiss Plaintiff's Complaint with prejudice;
2. Award Defendant Joseph the costs of defending this matter; and
3. Award Defendant Joseph such other and further relief as this Court deems just and equitable.

ELECTRONICALLY FILED - 2021 Mar 04 9:39 AM - ANDERSON - COMMON PLEAS - CASE#2021CP0400234

THE WARD LAW FIRM, P.A.
Attorneys for Defendant Joseph

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March 4, 2021

ELECTRONICALLY FILED - 2021 Mar 10 2:38 PM - ANDERSON - COMMON PLEAS - CASE#2021CP0400234

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF ANDERSON	)	THE TENTH JUDICIAL CIRCUIT
Robert William Goodwin and Marian Charlene Goodwin,	)	Civil Action No. 2021CP0400234
Plaintiffs,	)	
v.	)	**DEFENDANTS APRIL DESIREE CHAPPELL AND SWIFT TRANSPORTATION COMPANY OF ARIZONA, LLC'S ANSWER TO PLAINTIFF'S COMPLAINT**
Varkey Alencheril Joseph, April Desiree Chappell, individually and as agent for Swift Transportation Company of Arizona, LLC and Swift Transportation Company of Arizona, LLC,	)	
Defendants.	)	

COMES NOW, the Defendants, April Desiree Chappell and Swift Transportation Company of Arizona, LLC, by and through their undersigned attorneys, answering the Complaint of the Plaintiffs, would allege and show unto this Honorable Court:

FOR A FIRST DEFENSE

1. Each and every allegation of the Plaintiff's Complaint not specifically admitted herein is denied.

2. These Defendants lack sufficient knowledge and information to form a belief as to the allegations of paragraph 1, and thereby deny the same.

3. These Defendants lack sufficient knowledge and information to form a belief as to the allegations of paragraph 2, and thereby deny the same.

4. These Defendants admit, upon information and belief, the allegations of paragraph 3.

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5. These Defendants lack sufficient knowledge and information to form a belief as to the allegations of paragraphs 4, 5, and 6, and thereby deny the same.

6. These Defendants lack sufficient knowledge and information to form a belief as to the allegations of paragraph 7, and thereby deny the same.

7. These Defendants deny the allegations of paragraph 8 and demand strict proof thereof.

8. The Defendants would show that their duties are prescribed by and in accordance with the laws of South Carolina and to the extent the allegations of paragraph 9 are inconsistent therefore, hereby deny the same.

9. These Defendants deny the allegations of paragraph 10 and demands strict proof thereof.

10. These Defendants admit so much of paragraph 11 which alleges the Defendant Joseph struck the Plaintiff. These Defendants lack sufficient knowledge and information to form a belief as to the remaining allegations of paragraph 11, and thereby deny the same.

11. These Defendants would show that Defendant Joseph's duties are prescribed by and in accordance with the laws of South Carolina. To the extent the allegations of paragraph 12 are inconsistent therewith, these Defendants hereby deny the same.

12. These Defendants deny the allegations of paragraph 13, as they pertain to these Defendants.

13. These Defendants deny the allegations of paragraphs 14, 15 (including its subparts), 16, and 17 as they pertain to these Defendants, and demand strict proof thereof.

14. These Defendants lack sufficient knowledge and information to form a belief as to the allegations of paragraphs 18, 19, 20, and 21and thereby deny the same.

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15. These Defendants deny the allegations of the second numbered paragraph 21, and demand strict proof thereof.

16. These Defendants deny the allegations of paragraphs 22 (including its subparts), 23, and 24, and demand strict proof thereof.

FOR A SECOND DEFENSE
(Failure to State Claim)

17. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

18. These Defendants would show that the Plaintiffs' Complaint fails to state a claim upon which relief can be granted, and, therefore should be dismissed pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure.

FOR A THIRD DEFENSE
(Comparative Negligence)

19. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

20. These Defendants would show that such injuries or losses that Plaintiffs sustained, if any, were due to and caused by the sole negligence, gross negligence, willfulness, wantonness, carelessness and recklessness of the Plaintiff, combining, concurring and contributing with the negligence, if any, on the part of these Defendants, to such a degree that Plaintiffs' recovery is barred by the doctrine of comparative negligence in South Carolina.

FOR A FOURTH DEFENSE
(Sudden Emergency)

21. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

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22. Even assuming Defendants were negligent in any respect, which is expressly denied, these Defendants would show that the Plaintiffs' injuries or losses were the result of and reaction to a sudden emergency over which Defendants had no control and, therefore, Plaintiffs' action is barred.

FOR A FIFTH DEFENSE
(Assumption of the Risk)

23. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

24. These Defendants would show that the Plaintiffs knew of the probable risk of injury or harm resulting from Plaintiffs' actions, and therefore, the Defendants would plead the doctrine of assumption of the risk as a complete bar to this action.

FOR A SIXTH DEFENSE
(Unavoidable Accident)

25. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

26. These Defendants would show that such injuries or losses that the Plaintiffs sustained, if any, as alleged in Plaintiffs' Complaint, were not due to or caused by the negligence on the part of the Defendants, but was rather due to and caused by an unavoidable accident, thereby barring any claim whatsoever.

FOR A SEVENTH DEFENSE
(Intervening or Superseding Negligence)

27. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

28. These Defendants would show that such injuries or losses that Plaintiffs sustained, if any, as alleged in Plaintiffs' Complaint, were not due to or caused by any negligence on the

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part of the Defendants, but were rather due to and caused by the contributing, concurring, intervening or superseding fault, breach of warranty or act or omission of a third party, over which these Defendants had no control.

FOR AN EIGHTH DEFENSE
(Improper Venue)

29. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

30. Defendants plead the defense of improper venue in the County of Anderson, State of South Carolina.

FOR A NINTH DEFENSE
(Waiver and Estoppel)

31. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

32. These Defendants would show that Plaintiffs' Complaint is barred by the doctrine of waiver and estoppel.

FOR A TENTH DEFENSE
(Spoliation)

33. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

34. The Defendants would show that Plaintiffs' Complaint is barred by the doctrine of spoliation.

FOR AN ELEVENTH DEFENSE
(Rule 12(b)(4) and 12(b)(5) (Insufficient Process and/or Service of Process)

35. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

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36. Defendants allege that they are entitled to dismissal of Plaintiffs' Complaint pursuant to Rules 12 (b)(4) and 12(b)(5) of the South Carolina Rules of Civil Procedure.

FOR A TWELFTH DEFENSE
(Rule 12(b)(2) (Lack of Jurisdiction Over a Person)

37. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

38. Defendants allege lack of jurisdiction, pursuant to Rule 12(b)(2) of the South Carolina Rules of Civil Procedure.

FOR A THIRTEENTH DEFENSE
(Punitive Damages)

39. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

40. These Defendants allege that the Plaintiffs' claim for punitive damages violates both the Fourteenth Amendment to the United States Constitution and Article I, Section 3 of the South Carolina Constitution in that the jury's unfettered power to award punitive damages in any amount it chooses is wholly devoid of any meaningful standard and is inconsistent with due process guarantees.

41. These Defendants allege that the Plaintiffs' claim for punitive damages violates the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and Article I, Section 3 of the South Carolina Constitution because, even if it could be argued the standard governing the imposition of punitive damages exists, the standard would be void due to vagueness.

42. These Defendants allege that the Plaintiffs' claim for punitive damages violates the equal protection clause of the Fourteenth Amendment to the United States Constitution and Article I, Section 3 of the South Carolina Constitution in that the amount of punitive damages is based upon the wealth of these Defendants.

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43. These Defendants allege that the Plaintiffs' claim of punitive damages violates the doctrine of separation of powers and Article I, Section 3 of the South Carolina Constitution because punitive damages are a creation of the Judicial Branch of government which invades the province of the Legislative Branch of government.

44. These Defendants would show, upon information and belief, that the Plaintiffs' claim for punitive Damages violates the Fifth, Sixth, Seventh, Eighth and Fourteenth Amendments to the Constitution of the United States of America in that it violates the double jeopardy clause in that Defendants could be subjected to multiple awards of punitive damages for the same set of facts; the self-incrimination clause is being violated because Defendants can be compelled to give testimony against itself in a penalty situation such as punitive damages; the assessment of punitive damages by a burden of proof less than beyond a reasonable doubt is violative of the Sixth and Fourteenth Amendments in that punitive damages are a fine or penalty and are, therefore, quasi-criminal in nature; Plaintiffs' claim for punitive damages violates Defendants' right to access the courts as guaranteed by the Seventh and Fourteenth Amendments because the threat of an award of punitive damages chills these Defendants' exercise of that right; the Plaintiffs' claim for punitive damages violates the Eighth Amendment's guarantee that excessive fines shall not be imposed; the Plaintiffs' claim for punitive damages violates both the due process and equal protection clauses of the Fourteenth Amendment in that the standard for awarding either punitive damages is unduly vague and, therefore, violates both procedural and substantive due process safeguards; therefore, the Plaintiffs' claim for punitive damages should be dismissed.

WHEREFORE, having fully answered, these Defendants pray that the Plaintiffs' Complaint be dismissed with costs, for attorney's fees and such other and further relief this Court deems just and proper.

These Defendants demand a jury trial.

Respectfully submitted,

SWEENY, WINGATE & BARROW, P.A.

s/ Mark S. Barrow
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ATTORNEYS FOR DEFENDANTS APRIL DESIREE CHAPPELL AND SWIFT TRANSPORTATION COMPANY OF ARIZONA, LLC

Columbia, South Carolina

March 10, 2021

ELECTRONICALLY FILED - 2021 Mar 10 2:38 PM - ANDERSON - COMMON PLEAS - CASE#2021CP0400234

STATE OF SOUTH CAROLINA	)	**IN THE COURT OF COMMON PLEAS**
	)	
COUNTY OF ANDERSON	)	**THE TENTH JUDICIAL CIRCUIT**
	)	
	)	
	)	
Robert William Goodwin and Marian Charlene Goodwin,	)	**Civil Action No. 2021-CP-04-00234**
Plaintiffs,	)	
	)	
v.	)	**PLAINTIFFS' MOTION FOR NEW TRIAL PURSUANT TO THE THIRTEENTH JUROR DOCTRINE**
April Desiree Chappell, individually and as agent for Swift Transportation Company of Arizona, LLC, and Swift Transportation Company of Arizona, LLC,	)	
	)	
Defendants.	)	

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ANDERSON SCCOCP/GS

TO: THE HONORABLE COURT AND ALL PARTIES OF RECORD:

YOU WILL PLEASE TAKE NOTICE THAT the Plaintiffs, by and through their undersigned attorneys, hereby move the Court for a written Order granting Plaintiffs' post-trial Motion for New Trial based on the Thirteenth (13th) Juror Doctrine.

Plaintiffs contend that they are entitled to a new trial absolute pursuant to the Thirteenth Juror Doctrine on the grounds that the verdict was unjustified by the evidence presented and thus justice was not done.

This Motion explains that, in light of the evidence, the jury's determination of causation and the verdict rendered were unjustified, and Plaintiffs are entitled to a new trial. For the sake of brevity, any grounds and defenses asserted prior, during and after the trial and not listed herein, are hereby reserved and adopted and incorporated into this Motion as if fully set forth below.

STANDARD FOR NEW TRIAL

Plaintiffs are moving for a new trial based upon the Thirteenth Juror Doctrine. Under the "thirteenth juror doctrine," a trial judge may grant a new trial absolute when it finds that the evidence does not justify the verdict. Sapp v. Wheeler, 402 S.C. 502, 513, 741 S.E.2d 565, 571 (Ct. App. 2013) (quoting Vinson v. Hartley, 324 S.C. 389, 402, 477 S.E.2d 715, 722 (Ct. App. 1996)) Under this doctrine, "the trial judge, sitting as the thirteenth juror charged with the duty of seeing that justice is done, has the authority to grant new trial when he is convinced that a new trial is necessitated on the basis of the facts in the case." Vinson, 324 S.C. at 403, 477 S.E.2d at 722 (quoting Graham v. Whitaker, 282 S.C. 393, 321 S.E.2d 40 (1984)). *See also* Howard v. Roberson, 376 S.C. 143, 153, 654 S.E.2d 877, 882 (Ct. App. 2007) (citing Norton v. Norfolk S. Ry. Co., 350 S.C. 473, 478, 567 S.E.2d 851, 854 (2002)).

In South Carolina, circuit court judges have the authority to grant a new trial upon the judge's findings that justice has not prevailed. *See* Todd v. Owen Indus. Prods., Inc., 315 S.C. 34, 431 S.E.2d 596 (Ct. App. 1993). Similarly, the judge may grant a new trial if the verdict is inconsistent and reflect the jury's confusion. *See* Johnson v. Parker, 279 S.C. 132, 303 S.E.2d 96 (1983); Johnson v. Hoechst Celanese Corp., 317 S.C. 415, 453 S.E.2d 908 (Ct. App. 1995). In ruling on a new trial motion as the thirteenth juror, the trial judge may weigh the evidence and rely on his view of the facts. *See* Fallon v. Rucks, 217 S.C. 180, 189, 60 S.E.2d 88, 92 (1950). Essentially, the trial judge may sit as the thirteenth juror, "hang" the jury, and start the trial anew if he believes the verdict is unsupported by the evidence or when "justice has not prevailed or...the verdict is inconsistent and reflects the jury's confusion." Vinson, 324 S.C. at 404, 488 S.E.2d at 722; Norton, 350 S.C. at 478, 567 S.E.2d at 854. Furthermore, because the result of the invocation of the "thirteenth juror" vote by the judge is a new trial rather than an adjustment to the verdict, **"no purpose would be served by requiring the trial judge to make factual**

findings," and thus, **"we have refused to require trial judges to explain the reasons for their ruling" in so granting a new trial**. Howard, 376 S.C. at 152, 654 S.E.2d at 882. *See also* Folkens v. Hunt, 300 S.C. 251, 254, 387 S.E.2d 265, 267 (1990)(holding that the effect is the same as if the jury failed to reach a verdict and thus, the circuit court is not required to give any reason for granting the new trial absolute based on the thirteenth juror doctrine).

A trial judge's order granting or denying a new trial upon the facts will not be disturbed unless his decision is wholly unsupported by the evidence, or the conclusion reached was controlled by an error of law. Howard, 376 at 152, 654 S.E.2d at 882; South Carolina State Highway Dept. v. Clarkson, 267 S.C. 121, 126-27, S.E.2d 696, 697 (1976). When an order granting a new trial is before the appellate court, their review is limited to the consideration of whether evidence exists to support the trial court's order. *Id. See also* Worrell v. South Carolina Power Co., 186 S.C. 306, 313-14, 195 S.E. 638, 641 (1938)(where the circuit court "applies the correct legal standard for granting a new trial, and conflicting evidence exists on the contested issues, **a circuit court's decision to sit as a thirteenth juror and grant a new trial absolute is inviolable**.").

ARGUMENT

I. Plaintiffs are entitled to a new trial pursuant to the Thirteenth Juror Doctrine.

A. The evidence does not justify the verdict entered by the jury.

The seminal case establishing the "thirteenth juror" doctrine is Worrell v. South Carolina Power Co., 186 S.C. 306, 195 S.E. 638 (1938). Worrell states:

> Nor does it follow that because under the law the trial judge is compelled to submit the issues to the jury, he cannot grant a new trial absolute. As has often been said, the trial judge is the thirteenth juror, possessing the veto power to the Nth degree, and, it must be presumed, recognizes and

> appreciates his responsibility, and exercises the discretion vested in him with fairness and impartiality.

Worrell, 186 S.C. at 313-14, 195 S.E. at 641. The trial judge, sitting as the thirteenth juror charged with the duty of seeing that justice is done, has the authority to grant new trials when he is convinced that a new trial is necessitated on the basis of the facts in the case. *See* Graham v. Whitaker, 282 S.C. 393, 321 S.E.2d 40 (1984).

In the case of Trivelas v. S.C. Dept. of Transp., 357 S.C. 545, 593 S.E.2d 504 (2004), the Supreme Court affirmed a Court of Appeals' decision upholding the grant of a new trial absolute under the thirteenth juror doctrine. In Trivelas, the Supreme Court reasoned the grant was warranted because justice was not served by the jury's verdict, and the evidence did not justify the result. *Id.* at 552, 593 S.E.2d at 508. In its Order, the Supreme Court held that the Circuit Court's grant of the Plaintiff's Motion for New Trial was proper because it used the appropriate legal standard for granting a new trial absolute based on the thirteenth juror doctrine: that is, that "the evidence did not justify the verdict," and thus "justice was not done by the jury's verdict." *Id.* at 552; *see* Norton, 350 S.C. at 478, 567 S.E.2d at 854.

B. The Plaintiffs' request for a jury charge on the common law Duty to Warn was improperly denied.

At the close of arguments, counsel for the Plaintiffs requested a jury instruction on the common-law Duty to Warn, as provided in the seminal case of Matthews v. Porter, 239 S.C. 620, 124 S.E.2d 321 (1962). The Court denied this request, finding this charge to be inapplicable to the matter at hand. It is the

contention of the Plaintiffs that this ruling was improper and an incorrect application of the Matthews facts to the case at bar. However, as the Supreme Court in Matthews held, when a party's negligent actions cause the complete blockage of a roadway, said party has a duty to warn the public of the impending danger she created. Despite the defense's contention that the scene "was under control" by the time Goodwin appeared, it was anything but. There was only one fire truck available, and traffic was beginning to back up, necessitating the need for someone to direct and reroute cars down Major Road. Furthermore, and more importantly, Matthews made clear that this Duty to Warn is **nondelegable.** The Defendant admittedly ran her tractor-trailer off the road, struck the guy wire that downed the power line, resulting in a complete blockage of Highway 86. She made no attempt to undertake any of her duties to warn. Defendant Chappell testified that she did not set out any cones, did not light any flares or flashers, nor did she make any attempt in any way to warn the public of the roadway blockage and the live power line. Had she done so, as was her common-law duty, the Fire Department could have blocked off the other side of the highway at Major Road, and Mr. Goodwin's assistance would not have been necessitated.

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 results that followed in the contemplation of their verdict. By declining to submit this charge, the Court denied the jury the full and fair opportunity to weigh the facts presented against the law set forth in Matthews, to determine that *but for* the Defendants' breach of this duty, the Plaintiff would not have had to assist with

traffic control and would not have been on the roadway that evening; and, as a *direct and foreseeable result of this breach* by Defendants, the Plaintiffs were irreparably and substantially harmed.

C. Defendant Chappell admitted fault in striking the guide wire and creating the dangerous environment.

Here, as in Trivelas, the entire record is replete with evidence demonstrating that Defendants' negligent actions were the proximate cause of the Plaintiffs' injuries. Defendant Chappell testified at trial that she did in fact hit the guide wire that led to the downed, live power line being strewn across Highway 86, thereby completely blocking traffic. Chappell *admitted fault.* Furthermore, Defendant Chappell testified that upon striking the guide wire, she continued her turn and did not stop until she was down the road from the incident site. Before even calling 911, Chappell called her Swift supervisor to apprise the company of her accident. Chappell further testified that she did not set out any cones, get out any warning lights or flashers, or undertake any of her duties to warn approaching motorists of the imminent danger in the roadway; nor was she instructed to do so by her employer. Had the Defendants undertaken this duty, the Wren Fire Department could have used its one available firetruck to block the roadway past Major Road to reroute traffic, and it would not have been necessary to utilize the Plaintiff's services for traffic control.

D. Defendants breached their duties of care to the Plaintiffs and proximately caused catastrophic injuries to the Plaintiffs.

Defendants' negligence caused severe and irreversible damage to the Plaintiffs. Mr. Goodwin now suffers from permanent impairments. He

will need multiple surgeries in the future to correct his injuries, continuous physical therapy and pain management treatments, and potential round-the-clock care. His current medical expenses total close to four million dollars ($4,000,000.00), and his projected future medical bills alone are the sum of four to eight million dollars ($4,000,000.00-$8,000,000.00).

It is unconscionable that a jury would find that the Defendants, who negligently and recklessly created the dangerous and hazardous situation, should be absolved of any liability. It is shocking that a jury, given the mountain of evidence demonstrating the culpability and willful disregard of the safety of the public on the part of Defendants, would allow them to escape "scot free." It would be a gross injustice for this Honorable Court to allow such a shocking and unjust verdict to stand.

CONCLUSION

Based on the foregoing, the Plaintiffs respectfully request that their post-trial Motion for New Trial Pursuant to the Thirteenth Juror Doctrine be GRANTED. This is the exact kind of case and circumstance where the Court can and should exercise its judgment to grant a new trial. This power has been granted to the Court by the Supreme Court because *sometimes juries get it wrong*. For reasons unknown, they failed to consider all aspects of a case, were confused or misguided by statements of opposing counsel that are unsupported by the law, or frankly, they are disillusioned with the notion of personal injury cases in the first place. The result is here is-an unjustified and improper finding for the defense. Allowing this verdict to stand would be a gross miscarriage of justice and would undermine the authority and responsibility of the Court to ensure that justice has prevailed.

Accordingly, Plaintiffs assert, for the reasons set forth herein, that this Honorable Court should grant a new trial under the long-held South Carolina doctrine of the Thirteenth Juror, because the verdict in this case was woefully unjustified by the evidence presented at trial and as further detailed above.

This Motion is made in accordance with the South Carolina Rules of Civil Procedure, and may be further supported by a memorandum of law, affidavits, and/or further citations to the record.

Respectfully submitted,

THE ALLEN & ALLEN LAW FIRM, LLC

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

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

s/Austin G. McLain
Austin G. McLain, SC Bar# 100692
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Anderson, South Carolina
November 13, 2024

MR. BARROW: 389 South -- well, 698 S.E. 2.d 835, Court of Appeals, 2010.

THE COURT: And it didn't go after that?

MR. BARROW: Pardon me?

THE COURT: It didn't go any further?

MR. BARROW: No.

THE COURT: The name of that case is what? What's the caption?

MR. BARROW: It's *Johnson v. Horry County Solid Waste Authority*.

THE COURT: Now, excluding testimony that Chappell wasn't -- or Chappell wasn't sufficiently or properly trained.

MR. BARROW: Trained. This -- this really is the big one. This is the big one on Dorrity and -- and the one that I -- I will say as many times as I deposed him, was -- was probably the biggest surprise to me at the time.

There's a -- you're going to see evidence that during her training, there's a sheet that the mentor uses where he grades her on different things.

And at one time during that training, it's 200 hours. At the 100-hour mark, I think she said she needs to pay attention to close right turns.

So at the 150-hour mark, she says she's doing

much better.

At the 200-hour mark when she released her, she said she's -- she's perfected it.

And she testified that, "When I released her that she could make right turns. And we have been doing this all over the country because we drove for 200 hours all over the country."

In addition to that, though, before she got trained by Swift, Judge, she got her CDL.

And Dorrity admitted in his testimony that they have to pass a written test, and then they have to pass a road test. And the road test would have meant she had to make right turns.

So she got her CDL. She passed that test. She got 200 hours of training by the driver mentor who said she was proficient and she could -- she could now be released and said, "I wouldn't have released her if she wasn't proficient."

And then after that, she got another road test by Swift before she was allowed to drive, and she passed that test. And that test wouldn't have meant making right -- right turns.

So he -- I posed the question to him. I said, "Now, look, if -- if -- if she had passed the CDL and if the driver mentor had" -- all right. I said,

"Now, Mr. -- Mr. Dorrity, if she passed the CDL and passed the road -- road test, and if her driver trainer then commented that she was proficient and was able to be released, and then that she had another CDL road test and passed it, wouldn't you agree that training -- improper training is no longer an issue?"

And he said, "Yes." He said, "It would have been appropriate for Swift to release Ms. Chappell if she took a CDL road test and passed, if her mentor agreed she was proficient, and if she had another road test demonstrating proficiency."

THE COURT: When you say "released," you mean released to go out on the road, right?

MR. BARROW: Yes, sir.

THE COURT: Okay.

MR. BARROW: He said that. So at that point ---

THE COURT: Well, hang on. Hang on. I want to hear what you have to say to that.

MR. JOSH ALLEN: Well, what I would say to that is he left out at the end, Mr. Dorrity also says, "But when you look at her student driver paperwork, the last note is that she needs additional training."

And he said if there's a note that's saying you need additional training, you may have gotten the CDL. You may have gotten the extra hours at the company training academy. But if you have a note that says you need more training, and I'm quoting here, her last note says, "Will benefit from close corners training."

And he even alluded to like -- he made a -- alluded to lawyers in a bar exam. He said, "You may have had three years of training in school, but if you don't pass that bar exam at the end" ---

THE COURT: Well, that would say, if they pass the bar and they bass pass the CDL, then that ---

MR. JOSH ALLEN: He was making the point that you wouldn't pass the bar because they knew you needed more training.

THE COURT: But she did pass.

MR. JOSH ALLEN: Yeah, but her last note -- the last note is saying that she needs more training. So what they did is, they passed her, but also said she needed additional training.

THE COURT: So it's a matter of verbiage in that meaning -- hang on for a second -- as opposed to saying that she wasn't sufficiently trained saying that they -- or what it was. Thoughts

suggested she receive more training, as -- as opposed to being insufficiently trained.

MR. JOSH ALLEN: He's saying that you could have the CDL. You could have additional training, but on this -- their own internal document, when it says she needs additional training and they didn't give it to her and then they released her, then that's a problem.

MR. CHUCK ALLEN: That's exactly what happened.

MR. JOSH ALLEN: That's exactly -- and that -- that's exactly what happened. They made a note that she needs additional training on the same day they got another document that says, no, she passed it all, but also on the same day they say she needs additional training.

THE COURT: Which came first?

MR. JOSH ALLEN: It's the same day.

THE COURT: Well, I understand that, but ---

MR. JOSH ALLEN: I mean, I don't have a time -- I don't have a time stamp on one. One was 2:15. The other's saying -- there's not a time stamp on the other. And by the way, the one that was at 2:15, there's two pages of checkmarks and did all this stuff in 15 minutes, which I question the validity of that.

Okay. But the last note on their internal document said she needs more training, and they still released her.

MR. BARROW: Here's what he's not telling you. There are three sections of that. The first section deals with all the things that the driver is very proficient at the beginning. They talk about her being one of the best.

The second paragraph deals with things they need to focus on in every day travel.

The third paragraph, which he's referencing, deals only with backing, backing, which didn't have anything to do with this accident. Backing. And -- and the report says that she could benefit from close quarters training.

"Did she get close quarters training on backing."

"No."

"Why not?"

"Because I deem she was proficient enough to be released. I just put this down as something she might want to go do or think about in the future."

This case has nothing to do with backing, and here's the testimony: "Now, assuming I'm correct in these assumptions, the three I just told you about,

would you agree that it was okay for Swift to release her?"

He says, "Yes, if what you're representing that at one point in time she did have some issues, which I would expect all truck drivers to have some issues with. You've -- you've got to start somewhere. But that in their opinion and after several demonstrations and tests, she had perfected that, then I would think that Swift would be okay to let her go."

And that's exactly what Ms. Williams testified to, and that's exactly what he said. If she said that, then I don't have a problem.

They're trying to create this issue by looking at the backing, but you'll note in his testimony just then, he doesn't reference backing. He said we're talking about right turns because that's what happened in this case. If she didn't -- if she can show proficiency in making right turns, then Swift could release her.

And now they're trying to back in and say -- and get him up there to say, oh, she shouldn't have released her because she had a problem with backing. The backing's got nothing to do with it.

MR. JOSH ALLEN: That's not what we're saying.

This is an entire failure to train. I don't care if she's going forward, if she's going backwards. When she's going forward, they say she has problems with tight turns. She has problems with tight quarters. This is not a right-turn issue. It's a problem with tight quarters, which she has when she's going forward or backward.

THE COURT: This is outside the presence of the jury. Let me put it together, then I think I can put it together more in my mind than here and now. So let's just do it in camera. I hate to keep doing that to you, but I think it's safer to do it that way than otherwise. Somebody try to remind me so we don't get it wrong.

All right. Going back, Mr. Barrow, one and two are agreed upon.

The Dodge Ram, I agree with you. I don't see how that has to do with anything.

The CDL, I have to read that case, and I think I agree with you. It sounds like it might be something beyond that, but anyway...

Number five, I just have to hear it. I will say this to you, Josh, if he's talking about that she -- she really missed this section and that section is backing, if that's what that involves and

he cited all these cases, then I'm going to agree with them, but you're saying it's bigger than that and it involves the totality of the turn.

MR. JOSH ALLEN: I mean, it -- it -- it's not backing. It's close quarters. They got her hitting curves. They got her, you know, missing -- missing turns.

And what we're saying, it -- it -- it's clear that it's a whole issue with tight quarters, whether it's just going forward. And there's nothing that requires whatever the training she's failed in that has to match whatever the ultimate negligent act is. I mean, there's nowhere that requires that.

THE COURT: Well ---

MR. BARROW: Judge, we'll -- you'll have before you at the time the form. It -- it says "backing." And it -- and -- and underneath the backing is all her comments about backing.

And then I'll say this: At the -- the final road exam, they gave her straight line backing test and alley dock backing test. She passed both of those. I don't really care if she passed those or not, but she did, because this isn't a backing case, but the form says "backing."

THE COURT: All right. Going over to Marion

Charlene Goodwin. Do you want to exclude anything about the trucks turning around on her property?

MR. CRAIN: Yes. Yes, Your Honor. When we took the deposition of Ms. Goodwin, she indicated that in previous years, previous months, there had been some issues or concerns of hers where trucks would turn around and turn around on her property, which does ---

THE COURT: Does any part of this wreck touch her property?

MR. JOSH ALLEN: Yes.

THE COURT: Any part of this wreck? I say "this incident." The first part on Wren Road or the second part on Major Road, is any of that on her property?

MR. CRAIN: No. Her property butts up against South Carolina 86, but Wren Drive is on the opposite side of the road from her property. The only way her property is implicated is Mr. Goodwin comes off her property in the middle of the road to talk to the fire department.

THE COURT: Say that again.

MR. CRAIN: The only way her property is implicated is Mr. Goodwin comes off of their property after the fire truck arrives on his road

and asks permission to help.

MR. JOSH ALLEN: That's factually incorrect. There's two poles that get taken down -- or lines from the poles, and the pole that the lines got pulled off of cross 86 are on the Goodwins' property.

They have a history of wrecks right there that they often come up because something has happened there. Once again, the lights go out. They go up to their property where this has occurred, and then you have the chain of events that happened. But, I mean, the pole where the lights -- I mean, the wires are pulled from ---

THE COURT: What is it that you're wanting to establish by doing that?

MR. JOSH ALLEN: Just that there's a history -- two things. There's a history ---

THE COURT: What element of your case does it go to?

MR. JOSH ALLEN: Well, I mean, I don't think the history goes to an element, but -- but it goes to their property has one of the poles on it.

So when they try arguing that Mr. Goodwin was just a random guy that floated down from the sky or something and inserted himself, that that --

their -- that is part of their property where this pole with the lines were torn off of. And they've got a history of having to be there to address those. And we're trying to show that that's why they came -- they came up there.

This isn't a random act where he just inserted himself into it for the heck of it. The power goes out. The lines that it pulled that pole off of are the pole that sits on their property on 86. We're not trying to connect them to the newer. We're just saying that ---

THE COURT: It sounds to me it's more a 403 issue than more prejudicially probative, but ---

MR. CRAIN: Correct, Your Honor. The concern is that the trucks in -- not this truck, but previous trucks in the months and years prior to this accident would turn around near her property or on her property and cause, you know, ruts and damage, that kind of thing, and that has nothing to do with this matter here today because Swift ---

THE COURT: I'm going to rule that you can't get into it unless they open it up. If they open it up, you can have it all day long. I just don't see that it's relevant to this case at hand.

MR. JOSH ALLEN: That -- that -- that part of

this wreck occurred on their property is not relevant? I mean, I don't ---

THE COURT: You know, if I'm speeding days last week or I'm speeding this week, it's not relevant to me speeding this week. It's just I sped last week. I mean, tell me how ---

MR. JOSH ALLEN: Because you got to identify the purpose of them being there because it was on their property.

THE COURT: I mean, you can testify in this case this wreck was on their property ---

MR. BARROW: Okay.

THE COURT: --- or that it was on the edge of their property. I'm talking about prior ---

MR. JOSH ALLEN: Understood. Understood.

THE COURT: Okay. Now, if they open it up, Josh, you can have it at all day long. Okay.

Okay. And that's it for Ms. Goodwin, right?

MR. CRAIN: Correct.

THE COURT: All right. Liability and damages. We already talked about bifurcation. Okay. Take care of that. And bifurcation will be liability and actual, then we'll do the bifurcation on punitives, right?

And let me ask y'all this: I had a case I did

in Beaufort, and I didn't tell -- with everybody's agreement -- that once they come back with a verdict, the fact that damages is going back for punitives. And when they got through and they thought they were done, I said, "No. Y'all got to go back." I'm telling you, they looked like they wanted to shoot me and no...

I think it's better to tell them upfront that, listen, depending on what you do, you may have to go back on the issue and determination of punitive damages.

Some people think that a jury may want to run from awarding that because they don't want to go back a second time. I just -- in my experience, I think it's better to let a jury know what they're facing and not just mix it up.

MR. CHUCK ALLEN: Could you do that with a preliminary instruction to them?

THE COURT: Sir?

MR. CHUCK ALLEN: Could you do that with a preliminary instruction to them?

THE COURT: Yeah. If you remind me, I will.

MR. CHUCK ALLEN: Yes, sir. That'll work.

THE COURT: Okay. In other words, just tell them, "Ladies and gentlemen, in this case, at the

end of the day, if you find" -- and check me on this -- "if there's an award for the plaintiff" ---

MR. CHUCK ALLEN: The Court do it, not -- not the lawyers do it, but the Court do it.

THE COURT: --- "and then you'll be sent back to discuss whether or not there will be punitive damages. I'll tell you more about that at the end of the case."

MR. CHUCK ALLEN: Yes, sir.

THE COURT: Something along those lines. Do you have a problem with that, Mr. Barrow, or any of you guys? Do you have a problem with that?

MR. CRAIN: We can -- we can bring that up to the Court.

MR. BARROW: Yeah, my only difficulty with that is there's a difference in the standard, clear and convincing. And, you know, I'm trying in my mind to think about how you would weave that into that instruction preliminarily. And that's -- I think the danger of that instruction is they miss that.

THE COURT: Well, here's what I -- I have in my initial charge to the jury. "There's five phases in every case. There will be opening statements. There will be presentation of the evidence, or excuse me, there will be closing arguments, charge,

and deliberation."

I can say that under presentation of the evidence, depending on what happens, you may be sent back for additional hearing as to whether punitive damages will be available, which will be a different standard, different evidence, but that might be something you have to consider in the case, and I'll tell you more about it then.

MR. CHUCK ALLEN: I don't see a problem with that. I mean, it's the law.

THE COURT: My problem is when I don't tell the jury something.

MR. BARROW: Yeah. Yeah, and that takes me back to my -- what my previous comment that if you say that, then the heightened standard, I think, needs to be included. And that's the danger of saying that preliminarily because I think that the jury needs to know that if they're -- if they get to the point where they have to consider punitives and you're telling them that at the very beginning, they need to know there's a heightened standard to that.

Now, ladies and gentlemen, if, in fact, you were to find for him, then you may or may not find for punitives, but I'm -- what I'm telling you is this case is bifurcated, meaning we're going to

determine first whether or not there's liability. And if you find liability ---

THE COURT: I'm not going to do all of that.

MR. BARROW: You see, I know. I know.

THE COURT: Here's what I'll do.

MR. BARROW: I know.

THE COURT: Now, here's what I'll do. I'll just say, "Ladies and gentlemen, this case has been bifurcated, and at the end of the case when it's time for me to charge you on the law, I'll tell you what the initial things you'll have to consider. And depending on what you do, you may be sent back for further consideration after that."

MR. BARROW: Yeah, and just -- just leave it at that.

THE COURT: My concern is, they go -- they don't know they got to back again, and they get mad at everybody. Because they -- last time, they were out for like 30 seconds. Walk in and walked out. Real quick.

MR. CHUCK ALLEN: I understand.

THE COURT: All right. So I'll try to do that in my opening statements and my initial comments to them.

Okay. Going back to what you said, motion in

limine, training on backing.

MR. CRAIN: Yes, Your Honor. Again, there are -- there are two documents that relate specifically to backing.

THE COURT: Just say that again.

MR. CRAIN: There are two documents that relate specifically to backing. I guess one-and-a-half documents. The motion in limine seeks to be able to redact the portion of one of the documents that relates only to backing, and then exclude a second document that relates only to backing. It's a student-backing log.

Again, this case has nothing to do with backing. Nobody backed into anything or anybody. This is a -- the part that Swift is involved in is a right turn.

And so the -- we would ask that the document -- this document be excluded and we be allowed to redact the portion of the other documents related to backing. Because, again, after all of this backing stuff occurred, she passed another test showing she's proficient in backing.

And number two, since this case is not about backing, the documents are completely irrelevant. So ---

THE COURT: I wouldn't say it's completely irrelevant. Just because you're not proficient in some area that may not involve this case doesn't mean that your overall abilities are ---

MR. CRAIN: And -- and that's why -- and that's why there is a separate road test and the release by the driver mentor, which is in evidence, after he released her.

MR. CHUCK ALLEN: Your Honor, could I clarify something? They refer to right turns a half a dozen times. This is tight turning is what happened. Her -- the issue with her was tight turning.

THE COURT: Okay.

MR. CHUCK ALLEN: And -- and -- and what -- and what's in that record that Josh referred to, that's on her maiden voyage. This is the first time she solo drove that -- that vehicle. On her maiden voyage within hours, that's exactly what happened. She could not maneuver and negotiate a tight turn. It knocked this pole over, knocked the power out of this community, and these people responded. Okay.

THE COURT: So what does backing got to do with that?

MR. CHUCK ALLEN: Well, we want to cross-examine the driver, of course, but she made a

right -- a 90-degree tight turn. And she's trying to negotiate into this -- it's a little neighborhood. We don't -- you know, it's odd that she was down there. She -- and she's trying to get into this little neighborhood. Well, she may've -- have very well have backed. I mean, you see trucks back.

THE COURT: All right. Let me just save that. You're just going have to raise your -- raise your objection at the time ---

MR. CRAIN: Okay.

THE COURT: --- because I can't tell.

Any evidence that she was using her cell phone at the time?

MR. JOSH ALLEN: We're not going to contest that.

THE COURT: You don't have a problem with that?

MR. CHUCK ALLEN: We don't oppose it.

THE COURT: All right. Expert witness Sarah Lustig.

MR. CRAIN: Yes, Your Honor. Sarah Lustig is a certified life care planner. She has provided a report. I'm not sure exactly when, a year ago maybe. And she is a registered nurse and certified life care planner.

here again, where I was actually assisting at.

And here again, I had -- I actually approached the fireman and said, "Look, it's backing up up here. Would you like me to go up here and direct?"

And I went up there and directed. And later on, they sent a relief -- after they got there, they sent a relief crew to relieve me. And it was at Major Road, as well.

Q. It was at Major Road?

A. Yes, sir. That's where it always happens.

Q. And there was -- there were no complications on that event?

A. No, sir.

Q. Had you ever assisted Powdersville Fire Department?

A. Many, many, many times. Yes, sir.

Q. Okay.

A. I was working at Ingles right there, which is right at Highway 153 and 81, and it would be safe to say that almost one a week, every week, was an accident there. And that's a major highway and major mess and, you know, so we were always up there helping.

Q. And back to December the 2nd, 2020, when you -- when you -- before you got involved in directing

traffic, I'm just going to state what the testimony has already been, but there was a power outage?

A. Yes, sir.

MR. BARROW: Your Honor, sorry. He's leading. Obviously, a lot of this testimony has come out, but I'd ask that he not lead the witness.

THE COURT: Sustain. Rephrase your question.

BY MR. CHUCK ALLEN:

Q. What was the triggering event as far as your knowledge of the situation on December the 2nd of 2020?

A. So I had just came in the house. I wasn't in the house probably two minutes, and the lights went out. And, of course, I looked at the wife, I said, "Okay. I don't know what's happening. We need to find out what's causing the lights to go out," because around there you never know.

And so the first thing I done is, I run up -- run up our power line in our driveway because, there wasn't nothing there. We headed up to the other studio, part of the property up on 86.

Q. I understand your wife owns that property?

A. Yes, sir. That's -- that's property my wife was raised on. She grew up on. And so we still own that -- she still owns it. She's got her little

store down there. She does craft classes, but she's a yoga -- a licensed yoga instructor, so she does yoga there, as well.

Q. So you went there?

A. Yes, sir. We went up there and there it was. I went up to the fireman, and it was -- all the traffic was backed up. It was with almost chaos on this upper end. And I had my safety stuff on. I go up to him and I said, you know, asked if I could go up there and help. He said yes. And I go up there and I start getting all the traffic straightened out first that was backed up.

And once I got that straightened out, then I got me -- I positioned myself as so, as where I could reroute people going down Major Road because if they come flying down there, even though there's a fire truck there, it's going be too late because they fly down that road.

Q. Okay. When you first went to the property on 86 ---

A. Yes, sir.

Q. --- the property your wife inherited, you say -- I think you said chaos?

A. Yes, sir.

Q. You saw chaos there. All right. And -- but a

couple of members of the Wren Fire Department were there at the time?

A. Yes, sir.

Q. From the volunteer fire department?

A. Yes, sir.

Q. And you were -- I think you testified that you approached or one approached you?

MR. BARROW: Your Honor.

THE WITNESS: I approached.

THE COURT: Yes, sir.

MR. BARROW: He's leading.

THE COURT: Just rephrase your question.

MR. CHUCK ALLEN: Yes, sir.

BY MR. CHUCK ALLEN:

Q. When you arrived at the property on Highway 86, what -- what did you do next?

A. Okay. So the fire truck already had both lanes blocked, and I noticed there was a semi truck that was on the westbound and trying to turn on, and there had been power pole that was affected by this.

There was a fireman standing on the property that my wife owns. And I go up to him and I said, "You got all this backing up right here?" I said, "Would you like me to help?"

And he said, "Yes," because I had assisted

several times.

And so I had my safety stuff on, and my wife was just going right there instead of taking the truck, so I took my truck up to Major Road.

Q. All right. Let me interrupt you. The traffic was blocked at Wren Road at that time?

A. Traffic was blocked at Wren Road. Yes, sir. You couldn't get around it.

Q. And so why was you -- what was your reasoning to go to Major Road to direct there?

A. Coming from 85 heading west toward us, if you pass Major Road in the area that was there, there's no other place to turn around. There's no other road. Wren Road is it to the right, right there.

And people had come down, and they was just stopped. People was trying to back up. People was trying to turn around. And you would see this all the time that, when there's something like that and no one helped organization, people can't get turned around.

The next thing you know, you got several other accidents happening right there just over something silly most of the time simply because somebody pulls up too close to you so you can't do a three-point turn to even get around.

And so I go up here and I start helping people get back a little bit and start making room where these cars can turn around and assist in helping guide them where they can turn around and head back toward 85 and reroute down Major Road. Even giving some people, they don't know where they're going, even helping people assisting them and telling them which way they can go around and reroute to get back on 81 around Wren Road.

Well, once all of that is cleared up, then ---

Q. Just to be clear, you say all of that's cleared up. What you're referring to, was that -- at that time was that between Major Road and Wren Road?

A. It was between Major Road and Wren Road. It's pretty much a traffic jam where nobody can get turned around and people just having to sit there. Well, when you got a power line that's down, it takes forever for the road to get back -- open back up where you can get through.

In this process, once I get the traffic jam from -- from Wren Drive all the way up to Major Road, and once all of this is freed up, then you reroute the traffic going down Major Road because people come flying down through there, and it is cresting over a hill where the fire department was

at. Sometimes it's too late and they're going to run into the fire truck or they're going to have another accident right there. So you're up here to reroute traffic until this road gets open both lanes again.

Q. So at Major Road and 86, looking in that direction toward Wren Drive, is it possible to see down to Wren Drive from Major Road?

A. No, sir. Because there's -- there's a -- there's a small hill right there that people come transfer and run through. It would be hard to see it until it's too late.

Q. Okay. So was that your concern?

A. Yes, sir. Always is my concern.

Q. Okay. So then after you cleared the traffic jam as you call it, what did you do next?

A. After I cleared the traffic jam, I come up just on the west side of Major Road where people has room to turn and where I'm out of the way, so I stand back. I get on the edge of the road and I'm rerouting people. I'm getting people's attention. They slow down and I reroute them around.

And here again, some people says, "Well, which way do I need to go?" And I will stand there and I will tell them which way to go. And I always post

myself right there on the edge of road on the edge of the line right off the edge here. And I'm always facing my traffic, which is facing east toward 85. I'll be facing east toward 85. Periodically, still checking to make sure the road didn't get opened up down there because I did not have a radio.

Q. All right. What are you doing when you -- and once you turn and face back toward 85, where were you positioned?

A. Okay. If I'm -- once the traffic jam is cleared up here, you would have Major Road about 15 foot this way. I'll be facing east, which is facing 85, which the traffic is approaching me. That would be the way they're coming because everything on the west side is blocked.

Q. Okay.

A. I'm standing back here on this side of Major Road to make sure I can get people turned. That way if I needed to cross or step out here if people were stopped here asking for traffic, I can go around and get over here to talk to them.

So when people come, I've got my light. I'm getting this way. I'm getting their attention, and I'm telling them which way to go. Come on, let's go this way. I will actually kind of turn sideways and

I'm going this way so I'm looking at them. My light's on here and this light here. This light here is for their attention.

Q. Is -- is -- is -- is Major Road, is that the best place and the closest road to ---

A. That's the only -- that's the only road you can reroute on. That's -- that's the only one. Anywhere else is driveways or dead-end roads. Hollywood Drive is the next road past Major Road. It's a dead end. You got to go around and turn around anyway. There's nowhere you can go there, and that was the only -- only road that you could reroute on.

MR. CHUCK ALLEN: All right. If we could show Plaintiff's 8.

THE COURT: What's that exhibit number, please, sir?

MR. CHUCK ALLEN: Beg your pardon, Your Honor. That's Plaintiff's Exhibit No. 8.

BY MR. CHUCK ALLEN:

Q. And, of course, this is a daytime picture. Would you agree that the rectangular drawing with the triangle top on it, is that about -- is that at or near where your truck was?

A. Yes, sir.

MR. CHUCK ALLEN: No redirect. If I could approach the witness, Your Honor, but no direct.

THE COURT: Yes, sir. All right. Sir, you can step down.

(Witness excused.)

THE COURT: Next witness, please, sir.

MR. JOSH ALLEN: Your Honor, may I approach?

THE COURT: Yes, sir.

(Sidebar discussion.)

THE COURT: Mr. Foreman, ladies and gentlemen, I have two matters I need to take up outside your presence. If you'd go back to the jury room. We'll get you back out here as soon as we can.

(At 11:32 a.m., jury left the courtroom.)

THE COURT: All right. Mr. Allen.

MR. JOSH ALLEN: Your Honor, well, this is really Mr. Barrow's motion he originally made.

THE COURT: Mr. Barrow.

MR. BARROW: Yes, sir. Your Honor, you might recall in your motion in limine about David Dorrity. We raised ---

THE COURT: Hang on, please, sir. Let me have that motion.

MR. BARROW: We've raised, Your Honor, a couple -- a couple of issues.

THE COURT: Looking at your motion in limine, my rulings were, number one, I excluded any speculation. And also, number two, about this cloverleaf. I didn't rule on the use of the Dodge Ram navigation system, I don't believe, or whether Defendant Chappell sufficiently trained.

MR. BARROW: Right. And there was the issue about the backing log, remember, part of that training? And you wanted to see more on it. We had -- did not train -- hand up to you at the time the student driver training paperwork.

Our argument was -- is that the point that they're talking to where it says, "Needs to make -- to set up, make major overcorrection, and will benefit from close-quarters training." That is under the backing section of the training.

They're trying to say that she shouldn't have been out driving because she was improperly trained. Of course, backing doesn't anything with the -- to do with the accident. There are 100 different aspects of training. None of which have to do with this accident, except making right turns, which is in the other paragraphs that we've talked -- and we're not arguing about those not coming in.

But that last paragraph, Your Honor, and I'll

hand it to you because I don't know that you've seen it. It does say backing.

THE COURT: It looks to me -- I know they say backing, but it says, "Needs to remember the goal, overcorrections for slight turns. Still overcorrecting. Needs to realize when to stop and reset up major overcorrections. Will benefit from close-quarters training."

MR. BARROW: And she testified to that. All of that is backing, and that's why it's under the backing. If you go up to the next paragraph ---

THE COURT: Actually, I never seen anybody backing around a curve.

MR. BARROW: They do make turns when they back.

THE COURT: Well, I know they do. I'm not a truck driver ---

MR. BARROW: Right.

THE COURT: --- but that sounds -- correction for slight turns.

MR. BARROW: Right. Slight turns to back.

THE COURT: Correction for slight turns.

MR. BARROW: Right. Which is backing. Absolutely.

THE COURT: Okay.

MR. BARROW: Absolutely. I mean, that ---

MR. JOSH ALLEN: And, Your Honor ---

MR. BARROW: Let me finish. I mean, that's really prejudicial to the defendant for this to come in about backing, because, again, this is not an accident about backing. It's just -- really, it's a 403 argument, but it's extremely prejudicial to us.

And it allows the jury to go back and look at that and go, well, yeah, I mean, she made an overcorrection. Will benefit from close-quarters training. She didn't get any close-quarters training. Well, she wasn't properly trained. But, of course ---

THE COURT: You made the comment that she's good to go, did you not?

MR. BARROW: We did. We did. And her ---

THE COURT: Does that indicate the opposite of that?

MR. BARROW: Her mentor testified that she was completely proficient when she released her.

What I'm asking the Court to do is have that part blacked out because that deals with backing. And she's testified ---

THE COURT: She's not really proficient then.

MR. BARROW: No. No. She said by the time she released her, she was proficient. It's not down

there. She didn't write that she's proficient, but she said, "When I released her, she was proficient and gave her a road test," which included backing.

THE COURT: All right. Well ---

MR. JOSH ALLEN: Your Honor ---

THE COURT: --- it does appear -- excuse me. I didn't mean to jump at you. But it does appear that they're talking about backing in this case. It's not about backing.

MR. JOSH ALLEN: Well, we don't -- number one, we don't know that. There's been no testimony in any deposition that she -- the driver specifically says, "I struck it while making a right turn." She may've run off the road and realized she couldn't make it and backed up and clipped it.

THE COURT: Well, I'll you this.

MR. JOSH ALLEN: Can you hear me just for the record?

THE COURT: Yes, sir.

MR. JOSH ALLEN: All of this has to do with not right turns, but tight turns and tight quarters. Whether that's going forward, whether it's going backwards, this document has numerous notes that she's hitting curves. She's having trouble with tight quarters. She's having trouble

overcorrecting. I mean, the whole document is about her issues with knowing her surroundings and tight quarters. And that last note says she would benefit from additional tight-quarter training.

Additionally, this can be used as impeachment because their witnesses are going to say she was ready. There was no issue. And we're going to impeach that testimony to show they're making notes that they got concerns about her tight-quarter issues.

MR. BARROW: Again, Your Honor, that's only with backing. And -- and you're right. This is not a backing case. And if that comes into evidence, then the jury can reach a conclusion that is not supported by the evidence because it's not -- and I take great umbrage to him saying she didn't testify. She was making a right turn. She testified she was making a right turn. Everybody in this case says that.

THE COURT: Y'all stop for a second.

MR. BARROW: Yes, sir.

MR. JOSH ALLEN: That's not what ---

THE COURT: Stop.

MR. JOSH ALLEN: And, Your Honor, could -- could I say one more thing for the record?

THE COURT: You can.

MR. JOSH ALLEN: They want to argue -- Swift wants to argue this is only backing. This is only backing. Their own company notes in the backing section talks about turns and her difficulty in turns, and that's in the backing section.

THE COURT: Well, that's what I was asking him about.

MR. JOSH ALLEN: Yeah, I mean, they can't say this is just backing so it stays out, but their own notes -- well, I mean, it doesn't have any validity. And then in their own notes, it talks about turns under backing. I mean, they can't have it both ways.

THE COURT: I'm going to do this: Initially, I'm letting -- I'm not letting it in, but I'm going to let -- if you -- if it comes open, I'm going to let him open it. If you open the door ---

MR. BARROW: Well, I understand. I understand.

THE COURT: But I see what you're saying, Mr. Allen, but I think that that is -- it refers to backing. I don't know what else to tell you. It says, "Major overcorrection. Needs to remember goal overcorrection for slight turns. Still overcorrecting. Needs to realize when to stop, set

up," and all those really do go to backing. I think that is backing.

But if somehow that opens up, I'll let you have it all day long, but right now I'm not going to let it in so you have to redact it.

MR. BARROW: Your Honor, the -- thank you. Your second issue ---

THE COURT: There's no thank you. I didn't reward you. I'm just not going to ---

MR. BARROW: No, no, Your Honor. I understand that. I know that.

THE COURT: All right.

MR. BARROW: Secondly, Your Honor, under training, we took that issue up with the Court that talks of Mr. Dorrity's testimony, and this was the testimony.

Assuming I'm -- first, I said, "So we have a CDL road test in which she showed proficiency in making tight right turns. We have the student mentor saying she had proficiency in tight right turns before she released her. And then she had a road test after this that also required her to make tight right turns, and she showed proficiency. Would you agree that under that scenario, there's no reason why Swift should not have released her?"

And he says, "Yes. If what you're representing that at one point in time she did have some issues, which I would expect all truckers to have some issues with," and I said, "Right." And the witness says, "Turning." I said, "Right." He says, "You've got to start somewhere, but that in their opinion," their opinion being Swift and the mentor, "and after several demonstrations and tests, she had perfected that, then I would think that Swift would be okay to let her to go." And that is the testimony in the case.

THE COURT: I'm not going to rule right now. I'm go to let you present the testimony, and you're just going to have object if you think it's inappropriate. I can't tell you whether or not. I just don't know, quite frankly. So if you think it's wrong, stand up and object. I'll send the jury out if I think I need to.

MR. BARROW: Right.

THE COURT: But right now, I just can't make that call.

MR. JOSH ALLEN: Do we need to proffer?

THE COURT: Sir?

MR. JOSH ALLEN: Do we need to proffer Mr. Dorrity or are we going to ---

MR. BARROW: One second. Did you mark that as an exhibit?

THE REPORTER: Yes.

MR. BARROW: Did you hand that and mark that?

MR. JOSH ALLEN: Yes, she did.

THE COURT: Let's make this -- can y'all make this another exhibit or make a copy of it?

MR. BARROW: I just want to make sure it's redacted, because they marked it un-redacted.

THE COURT: Well, this is Plaintiff's No. 2. Do both. Have one redacted and one not. Do 2 and 2A. 2A being the un-redacted and 2 being the redacted.

THE REPORTER: (Complying.)

THE COURT: Do you have that, Josh, marked as an exhibit? Do you have an exhibit of that?

MR. JOSH ALLEN: No. The -- the record that ---

THE COURT: If you want to, make it a Court exhibit.

MR. JOSH ALLEN: Yeah, we already have, or do I have it?

MR. BARROW: I just want to make sure ---

THE COURT: Just give her a second. Let her...

(Court's Exhibit No. 6 was marked for

identification.)

MR. BARROW: Judge, I just want to make sure. Since your ruling, if he uses that with Mr. Dorrity, he would then have to redact the backing portion. Per your order, it doesn't come in. I just want to make sure that it doesn't happen.

THE COURT: Guys, we speak English up here only, so...

MR. BARROW: Your Honor, I don't know that this is coming up, but in that -- I guess there would be two parts to that. There is a backing log. I'm assuming they're not trying to use that, but if they do, it's just -- it clearly says "backing log." It's just a log of all of her backing experiences at some point.

THE COURT: I'm going to let y'all object. Let's get the jury out here. I think that what I've heard could or could not involve backing. I haven't heard her describe -- the defendant describe the accident. I see how you get tight and you start backing and try to get it straight. I don't know. I wasn't there and I haven't heard anything else about it.

Mr. Allen, are you ready to bring the jury in?

MR. JOSH ALLEN: Yes, sir.

I could make a scale model of the accident site.

Q. All right. And let me just simply ask you: What is the width of Wren Drive or what was it when you measured it?

A. I had Wren Drive as 22 feet in width from edge to edge.

Q. All right. And did you measure Highway 86?

A. I did.

Q. And what was that width?

A. I had that measurement as 21 feet. And that's from the center of lane -- the lane edge line to the center of the far lane edge line.

Q. All right.

A. So the lines themselves are about four inches wide. So as far as pavement width, you could add a few inches to either side.

Q. All right. And did you measure the length or the distance from Wren Drive to Major Road?

A. I had that as .22 miles. Just under a quarter mile.

Q. Okay. All right. Did you take any measurements of the width of Major Road?

A. No.

MR. CHUCK ALLEN: All right. Your Honor, if I -- if I could have these photographs marked for

THE WITNESS: I do.

THE CLERK: Thank you. If you would, have a seat in our witness chair.

THE WITNESS: (Complying.)

THE CLERK: And if you would, please state your full name for the record and spell your last name.

THE WITNESS: April Desiree Chappell, C-h-a-p-p-e-l-l.

APRIL CHAPPELL,

having been produced and first duly sworn as a witness on behalf of the Defendant, then testified as follows:

DIRECT EXAMINATION

BY MR. BARROW:

Q. All right. Good morning, Ms. Chappell.

A. Good morning.

Q. I know you just introduced yourself to the jury, but let's tell the jury a little bit about yourself. Where did you grow up?

A. I grew up in Chicago, Illinois.

Q. And where did you move from from there?

A. I moved to Columbia, South Carolina.

Q. And how long did you live in Columbia?

A. About 11 years.

Q. And what -- what brought you to Columbia?

A. I had graduated from high school in 2012, and I went to Benedict College.
Q. And what did you major in at Benedict College?
A. Electrical engineering.
Q. All right. And now you've been present throughout the course of this week; is that correct?
A. Yes, sir. I have.
Q. All right. Now, let's talk to the jury a little bit about how you became a truck driver. Do you have a commercial driver's license, a CDL?
A. Yes, sir. I do have a commercial driver's license. Before I became a truck driver, I was working at Verizon as a technical advisor. And I always wanted to become a truck driver even when I was in -- before I graduated high school. And I felt at the time it was more what I wanted to do, so I decided to pursue it.
Q. All right. So how did you obtain a commercial driver's license? What did you have to do to obtain that license?
A. First, I had to study for the written portion. In order to get my permit, I had to obtain a medical certificate. I also had to do a road test, as well.
Q. All right. Now, the road test, in order to obtain your CDL, do you have to make right turns or

left turns?
A. Yes. I have to right turn, left turn, maneuvering the truck. All sorts of things.
Q. And was that -- did you have the state official who was grading you in the truck with you?
A. Yes, sir, I did.
Q. Okay. And did you pass that road test?
A. Yes, sir, I did.
Q. All right. So at that point, you had a commercial driver's license?
A. Yes, sir.
Q. And were you then -- because of the -- because of that license, were you then able to drive tractor trailers anywhere in the United States, except for roads where they were prohibited?
A. Correct.
Q. All right. And so what did you do after you obtained that CDL?
A. I decided to go to Swift Academy because I did some research and I felt it was a good company. You had to also do in-class instruction, and you also had to do on-the-yard training, as well with different trainers.
Q. Okay. On the yard. Were you driving a tractor trailer on the yard?

A. Yes, sir, I was.
Q. Okay. And how long was the in-classroom training at Swift?
A. The in-class training was a week.
Q. All right. And did that include the yard, or was that in addition to the yard?
A. It was in addition to the yard, so I also had to do training on the yard.
Q. All right. Now, after you finished that training, what did you do next?
A. So after that, I had to go on the road with a mentor by my mentor.
Q. Okay. Who was your mentor?
A. Erin Williams.
Q. All right. And so what -- how many hours -- was there a requirement for a number of hours that you had to train with a mentor?
A. No, sir. It with was no requirement. It was of the mentor's discretion. So if the mentor felt like you were a good driver and you were exceeding and everything, they could ---
MR. CHUCK ALLEN: Objection, Your Honor. That's the state of mind of a third party.
THE COURT: What -- what did you say?
MR. BARROW: I was talking about the -- what

she had to do with the mentor in her training.

MR. CHUCK ALLEN: But the question was what the mentor did in her role, and that -- that's the state of mind of a third party.

THE COURT: I will allow it. Go ahead.

MR. BARROW: Thank you, Judge.

BY MR. BARROW:

Q. All right. So answer that question for the jury. Tell me what occurred or occurs during the mentor training.

A. Okay. So the mentor basically continues to coach you on a lot of things that you already previously learned. They -- they ride with you while you're driving. Give you other pointers, so making right turns; left turns. Just maneuvering the truck. I was making real deliveries delivering loads.

So it was -- like I said, it's no requirement for the amount of hours you have to train with that mentor.

Q. In your deposition, I think, Ms. Chappell, you mentioned 300 hours. Was there a requirement that you train for 300 hours?

A. It wasn't a requirement to train for 300 hours, but there was space on the paperwork that the mentor

could keep you up to 300 hours.

Q. And do you recall how long you trained with the mentor?

A. For 200 hours.

Q. Okay. How long was that?

A. A month.

Q. All right. A month. All right. And were you driving the entire time that -- the form reflects behind the wheel. Were you driving behind the wheel the entire time as reflected in that report?

A. Yes, sir. I was driving the whole time.

Q. All right. And, now, did y'all drive in one given area or where would you travel to? Where would you drive?

A. I was starting to drive on the interstate and two-lane roads ---

Q. All right.

A. --- so all over the country.

Q. You're driving all over the country?

A. Yes, sir.

Q. Were you delivering loads?

A. Yes, sir. I was delivering loads.

Q. And on some of those cases, do you drive through neighborhoods?

A. Yes, sir. All types of neighborhoods.

Q. Okay. All right. And what happened then when you finished your mentor training?
A. Once I'm finished with my mentor training, I then have to take another road test before I'm allowed to work a shift.
Q. And did you take that road test?
A. Yes, sir, I did.
Q. Again, did you have to do right turns and left turns?
A. Yes, sir.
Q. Did you pass that road test?
A. Yes, sir, I did.
Q. All right. Now, during your mentoring with Ms. Williams, you've reviewed the form? You've seen the form, Ms. Chappell?
A. Yes, sir, I did.
Q. Did -- did you have any trouble recognizing road signs or anything of that nature?
A. I didn't have -- I had trouble -- we were on the interstate I remember one time. And, of course, if you're a truck driver and you're all over the country, sometimes you might be on the road for 100, 200 miles.

We was driving for a while, she asked me about the mile marker we passed. At the time I didn't

know the mile marker had passed, but she explained to me it's important to know that just in case I break down or there's an accident up ahead and I need to call emergency assistance and I can tell them what mile marker I'm at or anything of that nature.

Q. All right. The form also indicated there were some issues with making tight turns. Explain that to the jury.

A. In my first couple of hours of working with the mentor, I did have some trouble with tight turns. I don't remember exactly whether it was left turn, right turn, I'm not exactly sure, but we did go over it and I did improve over time.

Q. The form says in the first 100 hours. Would that be accurate?

A. Yes, sir.

Q. And then at the 150 hours, it says you're getting better?

A. Yes, sir.

Q. And then 200 hours, it indicate that you were proficient and capable of making turns. Would that be accurate?

A. Yes, sir. It's accurate.

Q. And were you having a lot of trouble making

turns? That's what I'm trying to get you ---
A. No, sir. It wasn't like an every day thing. When it did come up, of course she did point it out to me. And it was something we focused on probably for that time period, but it wasn't a huge issue. It was something minor.
Q. All right. So for those hours, you were driving all of those days for a month, and you were driving all across the country. Would that be accurate?
A. Yes, sir.
Q. All right. Now, tell me about -- tell the jury a little bit about trip planning. That's come up in this case. How were you taught to trip plan?
A. I was trained to follow my GPS. And if anything was to malfunction with my GPS, then I have access to an atlas.
Q. All right. What kind of GPS were you utilizing?
A. I was using a trucker's GPS.
Q. And what's the significance of a trucker's GPS?
A. The significance of a trucker's GPS is it already has the roads that truckers can travel down. So it's not like a regular, like, Google map or your GPS on your phone. It's specifically for truckers.

Q. And, for example, would it prevent you from going down roads where trucks were not allowed?
A. Yes. So it would already have preloaded in there whether or not a truck can travel. So it will have "prohibited" on there or you might see a red circle with a truck going through, but you already know that, and, yeah.
Q. Okay. All right. Now, let's go to December the 2nd, 2020. Do you remember that day?
A. Yes, sir.
Q. Where did you start your trip that day?
A. In Columbia, South Carolina.
Q. I think in your depo at one place, you said you started in Greer?
A. Yes, sir. But I reviewed my logs, and I see that I clearly started in Columbia.
Q. And where were you living at the time?
A. Columbia.
Q. Okay. And where did that trip take you?
A. I went to Huntersville, North Carolina. Then after I left Huntersville, I proceeded towards Atlanta.
Q. And -- and at that point, how were you proceeding toward Atlanta?
A. I was using my GPS, my trucker's GPS on 85.

Q. All right. And then -- and then you're -- did you pull off at a Pilot Truck Stop?
A. Yes, sir, I did.
Q. Okay. And do you remember why you did that?
A. Possibly to get fuel. I'm not exactly sure why.
Q. Okay. All right. And so when you got back in your truck and left the Pilot, where did you go?
A. My GPS took me down 86 and then down Wren Drive.
Q. All right. Had you ever been on those roads before?
A. No. Not that I recall.
Q. Yeah. And you're following your trucker's GPS?
A. Yes, sir.
Q. And that's what you're trained to do?
A. Yes, sir.
Q. Okay. Was it at night?
A. Yes, sir. It was late at night.
Q. All right. So you're going down 86 and then you're -- is that a right or left on Wren Road that you're taking?
A. A right.
Q. And then what happens as you're making that right turn on Wren Road?

A. As I was making the right on Wren Road, I heard a pop. So I was about done with my turn. I was already on Wren Drive, so I got out to look. I didn't see anything, but I saw cars trying to get past so I didn't want to be in the way. So I got back in the truck to pull around to Southgate. I saw where there was like a grass area I could pull off to see what happened.

Q. All right. And did you get out of your truck then?

A. Yes, sir.

Q. And tell -- tell the jury what you saw.

A. So when I first got out, it was two guys that walked up to me and told me that I might've knocked the power out.

And I said, "Okay. Maybe that's what the pop was that I heard." So I told them, "I'll call 911," but they said they already did. So the fire trucks did arrive within like a matter of minutes, so...

Q. And where was the fire truck located?

A. On Wren Drive.

Q. And 86?

A. Yes, sir.

Q. Did a fireman get out and come over and talk to you?

A. Yes, sir. He had instructed me to wait with my truck, so to wait on the trooper to arrive.
Q. Okay. Now, you talked to a fireman?
A. Yes, sir, I did.
Q. You talked to the trooper when he arrived?
A. Yes, sir, I did.
Q. You talked to some individual in the neighborhood; is that right?
A. Correct.
Q. He told you someone had already called 911?
MR. CHUCK ALLEN: Objection. Leading.
THE COURT: Rephrase.
MR. BARROW: Yes, sir.
BY MR. BARROW:
Q. What did the person tell you when you first got out of your truck on Wren Drive?
A. That they -- that they thought I had knocked the power out and they had called 911 already.
Q. All right. Now, how long were you located on Southgate Circle while you were waiting on the trooper and then interviewed by -- interviewed by the trooper?
A. A couple of hours.
Q. All right. And then the trooper told you you could leave or no?

A. Yes. After I spoke with him, he did tell me it was okay to leave.
Q. Okay. And where did you go then?
A. I went back to 85.
Q. All right. And why did you go back to 85?
A. That's where my GPS then routed me.
Q. Okay. All right. Do you know why your GPS took you down 86 to Wren Drive?
A. I'm not sure why. Maybe traffic conditions were different, but ---
Q. Did -- did you miss a turn on 85?
A. No.
Q. Are you sure?
A. Yes, sir.
Q. All right. Now, while -- while you -- your truck briefly stopped at Wren Drive and Southgate Circle, did you ever see a -- as you know now, Mr. Goodwin. Did you ever see him come up to the scene?
A. No, sir.
Q. Did you see any pedestrian talking to the trooper?
A. No, sir, I didn't.
Q. So did you have any knowledge that Mr. Goodwin was going to come up and volunteer to direct

traffic?
A. No, sir, I did not.
Q. Did you expect that?
A. No, sir, I did not.
Q. Now, you hit a guyed wire?
A. Yes, sir. I did make a mistake and hit the guyed wire.
Q. That was your fault?
A. That was my fault. Yes, sir.
Q. All right. And the fire department came, I think you indicated, fairly quickly?
A. Yes.
Q. All right.
A. Within a matter of minutes.
Q. Right. And do you -- do you recall or know if they blocked 86 from traffic?
A. They were on Wren Drive. I remember seeing the flashing lights.
Q. Okay. Now, you -- when did you first learn of the accident with Mr. Goodwin?
A. Not until my lawyers contacted me the following year.
Q. And why were you -- why did the lawyers contact you?
A. I was being -- I getting served with a lawsuit.

Q. Now, when you left Southgate Circle and went back down 86 to 85, was there anything -- were there fire trucks or ambulances or anybody located at Major Road and 86 when you went through there to leave?

A. No, sir. I was the last one to leave the scene that I saw.

Q. So did you ever know anything about the accident with Mr. Goodwin before you were served with the lawsuit?

A. No, sir, I did not.

Q. Now, when -- when you turned on Wren Drive and you struck the guyed wire and you got out, could you see the intersection of Major Road?

A. No, sir.

Q. Did you ever see traffic backing up at Wren Drive and 86?

A. No, sir, I didn't.

Q. Did -- did -- did you ever learn -- strike that. Did you expect or foresee that someone, a pedestrian, would go down to Major Road and start directing traffic?

MR. CHUCK ALLEN: Objection. Calls for speculation.

MR. BARROW: Expect or foresee, Your Honor.

THE COURT: Go ahead. I'll allow the question.

MR. BARROW: Okay. Thank you.

THE WITNESS: No, sir. I did not expect that.

BY MR. BARROW:

Q. All right. And did you expect or foresee that that individual would stand in the lane of travel?

A. No, sir. I did not expect that.

Q. And did you expect or foresee that a vehicle would come and hit it?

A. No, sir. I did not expect that.

Q. And you never knew about that either, did you?

A. No, sir.

MR. CHUCK ALLEN: That's asked and answered.

THE COURT: Sustained.

BY MR. BARROW:

Q. Now, you continued to drive after that accident, didn't you?

A. Yes, sir.

Q. And have you ever had any other accidents?

MR. CHUCK ALLEN: Objection. Relevance.

THE COURT: Sustained.

THE WITNESS: No, sir.

THE COURT: No. Strike that. Do not answer the question, please.

THE WITNESS: Yes, sir.

THE COURT: Ladies and gentlemen, please disregard that response.

MR. CHUCK ALLEN: Curative instruction, Your Honor.

THE COURT: It's been stricken from the record.

MR. CHUCK ALLEN: Thank you.

THE WITNESS: I'm sorry.

MR. BARROW: I don't think she understands what that means.

THE COURT: I know.

BY MR. BARROW:

Q. All right. Were you adequately trained to operate your tractor trailer on December the 2nd?

A. Yes, sir. I was properly trained.

Q. And -- and what -- tell me how you -- you struck that guyed wire. Tell me what that was.

A. I went to make the right turn at Wren Drive, and the guyed wire is the wire that's in the ground that helps stabilize the pole in the electrical lines.

Q. And what part of your trailer caused that?

A. The back end of -- the rear side of the passenger's side on my trailer, so the very back of my tires.

MR. BARROW: Okay. Ms. Chappell, thank you

very much. They're going to ask you some questions ---

THE WITNESS: Yes, sir.

MR. BARROW: --- but we appreciate your responding.

THE WITNESS: Thank you.

THE COURT: Cross-examination?

MR. CHUCK ALLEN: Yes, sir. May it please the Court, Your Honor?

THE COURT: Yes, sir.

MR. CHUCK ALLEN: If I could approach the court reporter to get an exhibit?

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. CHUCK ALLEN:

Q. Good morning, Ms. Chappell.

A. Good morning.

Q. How are you?

A. Good. How are you?

Q. Good. Thank you. I'm going to ask you about this form, which is Plaintiff's Exhibit 14. Your lawyer asked you about it, but a couple of things first. I took your deposition and some testimony from you, I think it was July '22. At that time you told me you had 300 hours of behind-the-wheel

training. Didn't you say that?
A. I did say 300 hours, but I was mistaken. It was 200 hours.
Q. Yeah. And you weren't sure -- when I took your testimony that day, you weren't sure about where you were driving that day, were you? Do you remember telling me you couldn't recall where you were going?
A. As far as I said I would have to review my paperwork, talking about where I was delivering the load?
Q. Where you -- where you were going. I think I asked you what was your destination, and you said you didn't recollect.
A. Right. I did not remember at the time. Correct.
Q. And I was asking about December the 2nd of 2020.
A. Yes, sir.
Q. And you didn't know?
A. No. I couldn't recall at the time.
Q. And you have that -- you have a screen in front of you?
A. Yes, sir.
Q. And so this -- this form, this exhibit, shows that they were -- it got ---

MR. BARROW: Your Honor, sorry. Counsel needs to approach.

(Sidebar discussion.)

MR. CHUCK ALLEN: Okay. Can I get the full display like you had it with the other one?

BY MR. CHUCK ALLEN:

Q. Now, this form does go to 300 hours, correct?

A. Correct. It does.

Q. But it stops at 200 hours?

A. Yes. Because there is no requirement to have be trained for a total of 300 hours. It's a trainer discretion.

Q. So -- but as far as requirements, none of that had to be done for that matter?

A. No. That's not true. It's not a requirement to be behind-the-wheel training for 300 hours.

Q. Well, what I'm saying, I'm understanding your testimony to mean that this is -- can be done or not done. It's not -- it's not "required" I think is your word?

A. As far as the 300 hours, it's not required.

Q. Well, how many hours are required?

A. There's no requirement for the amount of hours. If your driver -- driver trainer mentor feels you're exceeding at what you're doing, they're not going to

keep you the whole 300 hours.
Q. You know, I understand that, but I understand your testimony to be that there's no requirement to do any of that?
A. No, sir. I never said that.
Q. Okay. Well, is there a minimum requirement?
A. No. There's not a minimum requirement from what I understand.
Q. Well, if there's not a minimum requirement, why would any of it have to be done?
A. Because Swift would like to know how good of a driver you are before they just release you on the road, so that's why they have mentors.
Q. Okay. And if you would again read the first line in the bottom section.
A. "Needs to pay attention to all road signs."
Q. And what was your explanation of that earlier when you were answering Mr. Barrow's questions?
A. We were driving on the interstate for quite some time, and my mentor wanted to know that I was still paying attention to whatever mile marker we may be at just in case a break down or an accident and I need to call into emergency assistance. So it's good to know what mile marker you're at at all times.

Q. Well, that seems to be a pretty basic function of driving to pay attention to road signs, but it's noted there obviously. Wouldn't you agree with that?

A. No, sir. I know exactly what she was referring to when she wrote that because we had a conversation about it.

Q. Okay. Well, tell me about that, please.

A. So, again, like I previously stated, if you're driving on the road and you might be on the interstate for 300 miles. So after you're driving for some time, you want to make sure you still know where you're at at all times because anything can happen. If you need to be able to call in maybe to emergency assistance and let them know what's going on.

Q. But what's that got to do with paying attention to road signs, calling -- calling in?

A. Because you need to know your location of where you're located if you need to have emergency assistance come to you, or if it was something that happened up the road, you can call in.

Q. Well, there's road signs. There's stop signs. There's speed limit signs. There's yield signs. I mean, that doesn't -- that doesn't narrow it. That

says all road signs.
A. Yes. In this particular case, she was referring to the mile marker.
Q. Well, that -- okay. But it doesn't say -- it doesn't say needs to pay attention to all mile markers. It says needs to pay attention to all road signs. That's -- that's everything.
A. Yeah, because mile markers are included in all road signs.
Q. And then the next line says needs to grasp the width of a tight turn and set up properly before turning. Now, what -- from your experience, what -- what is a tight turn? What -- what -- what makes something a tight turn?
A. Anything can be a tight turn. It can be a driveway. It can be anywhere because we deliver in all types of locations, all types of neighborhoods. So it wasn't like we were only strictly delivering to warehouses where you have more room. Sometimes it might be a tight turn turning down a country road or something like that.
Q. All right. Would you say -- let's say you're on a roadway. Okay. Let's say it's a 45-degree turn. Would you -- would you classify that as a tight turn?

A. It just -- it depends. It depends because you could have enough room still in order to make the turn.

Q. Well, now, and let me just in fairness. A 45-degree turn is diagonal. It just slants a little bit. That could be a tight turn?

A. It's really no, like, way to describe what could be a tight turn, unless you're in the pursuit of it.

Q. Okay. There's no way to describe a tight turn. I'm going to ask you how the mentor would make a notation that "needs to grasp the width of a tight turn."

A. I'm not sure exactly where we were. I'm not sure if we were delivering to, like, say, maybe a Family Dollar or something like that. I'm not sure exactly when she made this note where we were delivering to, so I can't speak to that.

Q. So just so I understand. Your understanding of a tight turn is the location of where you make your delivery, not the angle of the turn?

A. It depends on where you're -- where you're delivering, the roadway or whether you're at a shipper. It just depends.

Q. Okay. Just -- just a final question on that.

So it's not the angle of the turn what I'm hearing you say. It's kind of the layout of where you're delivering the cargo?

A. It depends on the area, yeah, the layout of where you're at.

Q. But is it the angle of the turn as well, or not?

A. I'm not sure exactly what you mean by that.

Q. Well, the angle of the turn, is it a slant turn? Is it a 90-degree turn? Is it a turn beyond 90 degrees?

A. We make all kinds of turns.

Q. Well, I'm asking you, all they -- are those tight turns or what do you consider -- or do you consider the angle of the turn as part of what makes it a tight turn?

A. No, sir. It just depends on where we're delivering to, to determine whether something is a tight turn or not.

Q. So it's not -- it's not the angle of the turn? It's where the delivery is going? That's what I -- that's what I just heard you say.

And set up proper. Needs to grasp -- grasp the width -- width of a tight turn and set up properly before turning. Now, what does that mean?

A. That's what we just went over.
Q. Well, I'm asking you. I get the right -- I get the to ask questions, too. Okay.
A. Okay.
Q. What is set up properly? What does that mean?
A. So, basically, before you make that turn, that you're set up how you need to be in order to -- in order to full -- fully make the turn.
Q. All right. These trucks, I understand -- or the truck you were driving in particular. What are the dimensions of that truck on December the 2nd? What were the dimensions of the truck you were driving?
A. 13'6" as far as the height; width, 8.5; and a 53-foot trailer.
Q. Okay. What's the total length of the -- the tractor and the trailer?
A. It's been a while. I can't remember the total length of the whole truck with the cab.
Q. Well, why it would matter in negotiating a tight turn, would it not? Knowing the length of what you're operating?
A. I don't know now. It's been several years -- years ago.
Q. Well, you're driving now, aren't you?

A. Not at the moment.
Q. You're not driving now?
A. Not at the moment.
Q. Okay. When was the last time you drove?
A. February.
Q. And it said -- the next portion says no hitting curbs. Now, that tells me that you were hitting curbs. Okay. Just interpreting what I'm seeing. So you were hitting the curve at the time?
A. No, sir. I wasn't just out hitting curbs. I had -- I recall hitting a curb or two, but it wasn't like an every day thing where I was just running over curbs.
Q. Well, I don't mean that you were intentionally. I don't think that you were intentionally hitting curbs, but I'm just simply reading the notation of a company record. So to your knowledge, why does it say no hitting curbs? Why was it necessary to express that to your knowledge?
A. I just recall hitting a curb or two. And me and my mentor, we talked about it and we worked on it and then I did improve.
Q. And then it says "getting better." And we're down to what I just been asking you was 100 hours I believe. Would you agree with that?

A. Yes, sir.
Q. And then we go to 150 hours, and it says "getting better." And then it says, "Still needs to pay attention to tight turns." So that's still a problem?
A. Not -- not to my knowledge. I had improved.
Q. Wait a minute now. Not to your knowledge that what your mentor, who was Ms. Williams I understand. Your mentor makes a note that you still -- still need to pay attention to tight turns, but that wasn't an issue at that time?
A. No. I'm saying I was getting better at that time. As far as still needs to pay attention, that would probably be a question for Ms. Williams.
Q. Okay. All right. We'll do that. We'll ask her. And this turn on December the 2nd was off of a two-lane road onto a residential street. Would you agree with that?
A. At the time I didn't know it was a residential street. My trucker's GPS took me down that road.
Q. Okay. But you did at some point realize that it was a neighbor -- a neighbor -- a neighborhood?
A. After I had already done left the -- arrived and turned on that road.
Q. And that turn was about 90-degrees, was it not?

A. I'm not sure what the turn was.
Q. Well, I mean, you've looked at it, haven't you? You drove it.
A. Well, I didn't measure. I'm not sure exactly what the angle was of it.
Q. Well, 90-degrees is basically a "T" or half a "T." Straight up; straight across. Isn't that what it was like?
A. I'm not sure if it was like that. I can't -- I don't know the exact measurements. I'm just ---
Q. Well, I'm not asking for measurements.
MR. BARROW: I'm sorry, Your Honor. If he'd let her finish.
BY MR. CHUCK ALLEN:
Q. I beg your pardon. I'm not asking you, Ms. Chappell, measurements. Okay. I'm asking about the angle. And I represented to you that 90-degrees is like half a "T." It goes straight up. It goes straight across to the right.
A. Yes, sir. I understand that.
Q. And it was 90 -- 90-degrees, was it not?
A. All I know is, I knew I had enough room in order to complete my turn.
Q. Well, you didn't complete it, did you?
A. I completed the turn. I did make a mistake in

hitting the guyed wire.

Q. Yeah. So you -- you over tracked off the payment, correct, or off track, whatever that term is?

A. Yes. I did go off the road some and hit the guyed wire.

Q. And that was about 9 feet off the road, was it not?

A. I'm not sure.

Q. Nobody ever told you it was 9 feet off the road?

A. First time I'm ever hearing of it.

Q. Did you -- you got out and looked at it?

A. I did see.

Q. So how far would you say based on your own observations, how many feet was that guyed wire -- guy wire off the road?

A. That would be me speculating. I'm not sure.

Q. That's speculation after you looked at it with your own eyes?

A. I don't know the number.

Q. I mean, it was considerably far off the roadway, off the pavement, was it not?

A. No. No, sir.

Q. And you were aware that the guyed or the guyed

wire put excessive strain on the power pole, the power pole broke, and the power lines laid across Highway 86. Did you see that with your own eyes?

A. I saw the power lines on the road and the pole did snap, but it didn't fall. Yes, sir.

Q. But you saw the power lines and went completely across Highway 86? You saw that with your own eyes?

A. Yes. I saw the power lines down.

Q. And did you consider that to be an extreme -- an extreme hazard that that power line was laying across the entire roadway of 86?

A. I considered it to be a hazard that the power lines were down. Yes, sir.

Q. An extreme hazard?

A. Yes, sir.

Q. A potentially fatal hazard?

MR. BARROW: Object to the form, Your Honor. Calls for speculation. She couldn't know if it was fatal or not.

THE COURT: Overruled.

BY MR. ALLEN:

Q. Would you answer that?

A. I wouldn't say it was to like the detriment or anything because it was also no one right there on Wren Drive.

Q. Well, what's your understanding -- if a human being had come into contact in some form or fashion with that power line that was laying across 86, would it have fatally electrocuted them?
A. There wasn't a person out there on Wren Drive where the power lines were, and then the fire department even arrived within moments, minutes.
Q. Well, you wouldn't have touched it with your hands, would you, or your feet?
A. No, sir, I wouldn't have.
Q. Why?
A. I don't expect anyone would have.
Q. Yes, ma'am. Yes, ma'am. All right. About your journey, I think it's called. We got a trucking gentleman explained to us yesterday a term known as "journey management."
A. Okay.
Q. Is that -- are you familiar with that?
A. Yes, sir.
Q. Okay. What does that mean?
A. Basically, like trip planning.
Q. All right. And we all understand that sometimes -- well, strike that, madam court reporter. All right. You had come down from the Charlotte area basically or Huntersville?

that would be accurate, or not?
A. From Columbia?
Q. Well, just that answer right there. You see the one in the rectangle?
A. Yes, sir.
Q. Okay. So that one would be accurate?
A. It seems to be. Yes, sir.
Q. I mean, I'm asking you. Is it accurate based on your recollection?
A. It says I was driving for an hour and 37 minutes, so it's tracking my drive time so that is correct.
Q. Well, once again, that -- what's in that rectangle is accurate to your knowledge?
A. Yes, sir.
Q. Okay. Okay. And back to the day in question, December the 2nd of 2020. You were -- you were obviously driving in your capacity as an employee of Swift Transportation, correct?
A. Yes, sir.
Q. All right. And after the incident or the collision, I've heard it called a collision, did you take any measures to warn approaching motorists that that roadway was blocked?
A. The fire -- like I said, the fire department

arrived within a matters of minutes, so there was no one else travelling down the road at the time.

Q. That's not the question. I'm asking you, did you -- did you take any measures yourself after the power line laid down on the road to warn approaching motorists before anybody got there, did you do anything yourself? I don't think you did, but I'm just asking you.

A. I assured that the 911 was notified.

Q. Did you do anything physically yourself, like put out cones or triangles? Did you do anything like that? I don't think you did.

A. If I was to put out triangles, I was required to put it out where my truck is ---

Q. Well, did you do that?

A. --- but I was not on Wren Drive at the time.

Q. I mean -- I mean, 86 was blocked.

A. The fire truck blocked it off. Yes, sir.

Q. No. I mean, originally it was blocked by the power line, correct? But did you do anything -- before anybody got there, did you do you anything -- you didn't put out the cones -- did you put cones out? I thought I understood you to say you ended up parking on Southgate Circle?

A. Yes, sir.

Q. All right. Did you put cones or triangles out there? You didn't do that, did you?

MR. BARROW: Your Honor, objection; 403.

THE COURT: Overruled.

BY MR. CHUCK ALLEN:

Q. You didn't do that, did you?

A. There was no need to put them out on Southgate Circle. I was more concerned about making sure the 911 was notified.

Q. Well, you were concerned about 86, too, weren't you, where that power line -- that live power wire on the ground, weren't you?

A. Yes. But there was nothing I could physically do. I couldn't go pick up the power lines and get it out of the way.

Q. Well, you could've put some cones out there, couldn't you?

A. I'm required to put cones where my truck is located.

Q. Okay. According to Federal law? Were you trained about what your responsibilities are as a truck driver when a road is blocked in your training, or did they train you to do anything otherwise?

A. No, sir. Besides notify 911, no.

Q. Were you aware that the state law in South Carolina requires a driver to get out and warn approaching motorists?

MR. BARROW: Objection, Your Honor. Speculation and 403.

THE COURT: All right. Ask her if she's aware of it. She can answer it if she is or not.

BY MR. CHUCK ALLEN:

Q. Were you aware in the state -- in the state of South Carolina when a driver causes an event that blocks a roadway that the driver has to warn -- take measures to warn approaching motorists? You weren't trained to that effect, I guess?

A. I'm trained to put the cones in front of my -- one in front of my truck and two behind my truck. That's how I'm trained. That's how the traffic would know. But, again, I was not in the middle of 86. I was on Southgate.

Q. But 86 was blocked. But the question was: Were you aware that South Carolina law requires you to warn approaching motorists? Were you aware of that from your training?

MR. BARROW: Objection, Your Honor. That's been asked and answered. She just answered.

THE COURT: I sustain that.

use cones?

A. We use cones. We wear traffic vests over our bunker gear that we wear, which is consistent of a very, very thick coat. We have a vest on, we have bunker pants on, and we wear our helmet also, which is very reflect -- everything has reflectives on it so you can see. Especially, if you don't see -- if you're further away from the truck, you can't see it or in front of the truck on the other side of the lights. When the lights hit the reflectors, then they know somebody is there. And everything is reflected off lights.

Q. Okay. All right. Now, where is the Wren Fire Department located?

A. Highway -- 2209 Highway 86 in Piedmont.

Q. All right. Is that pretty close to the intersection of Major Road?

A. Yes, sir. It's -- it's less than a quarter of a mile.

Q. It's below Major Road?

A. Yes.

Q. Right. And from Major Road, you can't see Wren Drive?

A. You can't. No. You -- from Major Road?

Q. Right.

A. No. You can't see it.
Q. All right. So, Mr. Richardson, on December the 2nd of 2020, did you respond to an incident at the location of Wren Drive and 86?
A. Yes.
Q. All right. Explain to the jury how you were alerted and what you did.
A. Our dispatch got a 911 call of a power line down and possibly a pole down also. We have -- we carry pagers that looks about like your cell phone that we carry with us.

They got the call. They set the tones off. It's -- it's different for each station. They tell you what station goes, and you just get up from your house and go because nobody hangs out at the fire house. Everybody's at home, especially at that time of night whenever we get a call, and we respond from our house to the fire station.
Q. Okay. So you got a call that night?
A. Yes, sir.
Q. And what did you do?
A. I got up. Got in my car and drove to the firehouse to get the fire truck to go to the call.
Q. All right. And how long did -- what fire truck did you get?

as follows:

DIRECT EXAMINATION

BY MR. BARROW:

Q. All right. Good afternoon, Mr. Joseph.

A. Good afternoon.

Q. My name is Mark Barrow. I believe we met at your deposition. Do you remember that?

A. Yeah.

Q. All right. Mr. Joseph, where are you from?

A. I came from India 14 years ago.

Q. Okay. And where do you live now?

A. I'm living in Piedmont, South Carolina.

Q. Piedmont. All right. And how long have you lived in this area?

A. It's almost 16-years.

Q. Sixteen years. And what did you do in this area for those 16 years? What was your business?

A. I got a convenient store.

Q. What was the name of the convenient store?

A. J&J Mart.

Q. And where was that convenient store located?

A. In Piedmont.

Q. Where?

A. Piedmont.

Q. Not sure I understood that.

A. Piedmont.
Q. Piedmont? Yes, sir. Yes, sir. Thank you. All right. You're here, Mr. Joseph, because of an accident that occurred with Bill Goodwin on December the 2nd, 2020. Do you remember that?
A. Yes.
Q. All right. What time had you left your store that evening?
A. 7:45.
Q. 7:45 p.m.?
A. Something like that.
Q. Where were you heading?
A. Going home.
Q. And how do you get to your house from your store?
A. Drive a pickup truck.
Q. Yeah, but what roadway do you take?
A. Eighty-six.
Q. Eighty-six. Do go by the Wren Fire Department?
A. Yes.
Q. And that would be on your left?
A. Yes.
Q. Right. And then you go passed the intersection of Major Road and 86, which would be on your left?
A. No. No. I'm going to the right. I got to go

to the right.

Q. You got to go to the right?

A. I got to go to the ---

Q. I'm not asking if you made it. You go by that road and you pass it?

A. I didn't. We were waiting to pass the car to the left.

Q. Okay. I'm not asking you that now. I'm just talking about how you generally get home. Do you go down Highway 86?

A. Yeah, past the -- the road down there, look pass that, and then we're 200 feet from my house.

Q. What is?

A. As soon as I pass the street ---

Q. Right.

A. --- then my house is on the right side.

Q. Of 86?

A. No. Eighty-six is on the exit right over there.

Q. Yeah, what's -- what's the name of the street where your house is on?

A. Pine Court.

Q. Pine Court. Okay. Good. All right. So you're going down 86 the night of December the 2nd. You said you left your place about 7:45; is that

right?
A. Around like that.
Q. All right. So you're driving down. Do you have your lights on?
A. Yes.
Q. What kind of vehicle were you driving?
A. It's a Toyota Tacoma.
Q. Okay. Do you wear glasses?
A. No.
Q. You don't need glasses to drive?
A. No.
Q. Okay. Were you watching where you were going?
A. Yes.
Q. All right. And tell this jury what happens.
A. I go -- as usual, I go like that. As soon as I passed the Wren Fire Station, usually I would go to the left, making a left turn on the street. So the cars turning from the left signal stand behind moving, moving, moving. That's the last one to make a left. I just go straight. I want to go straight.

As soon as I go straight, some -- as soon as I moving, then somebody jump on it. Hit it. Stopped then. I didn't even know about it. I just look at my street, it was straight. Nothing on it. It was clear on the left. So he didn't -- I looked one

more time. I said, whoa, you know, then I was shocked. I stopped there and I called 911.

Q. All right. So you said somebody jumped on your truck?

A. Yes.

Q. Did you hit them with your truck and cause them to come over on your truck?

A. They coming from the side of the bush. They have a -- one side is really dark way. That's a really dark way. I can't see straight. It's the left -- left side of the traffic moving.

Q. Right.

A. And I started straight. I got to go 200 feet from that place to my house on the right side.

Q. Okay.

A. So I as soon as I move the truck, somebody jumped on it. I didn't see. As soon as the did, I said, whoa, then I was shocked.

Q. You -- you never saw that person before they jumped on your truck?

A. No.

Q. All right. I'm going to show you what we have marked as Defendant's Exhibit No. 16.

A. Yeah.

Q. All right. Defendant's Exhibit No. 16, is that

A. Basically, right there (indicating).

MR. MCLAWHORN: All right. Push play again.

(Complying.)

MR. MCLAWHORN: Let's pause again.

BY MR. MCLAWHORN:

Q. In your opinion, where was Mr. Goodwin standing?

A. Again, he's going to be in that left to midline, so kind of in this area right here (indicating) in this intersection.

MR. MCLAWHORN: All right. Let's push play again.

(Complying.)

BY MR. MCLAWHORN:

Q. And now where are we? Which direction are we going?

A. Still heading west up 86, going around the curve here that we mentioned earlier. And, ultimately, we'll arrive at Wren Drive and we'll basically make that right turn on Wren Drive when we get there. So this Wren right here (indicating).

MR. MCLAWHORN: All right. Let's push play.

(Complying.)

MR. MCLAWHORN: All right. Now, Mr. Boggess, we've just shown the video of both incidents.

Let's -- I'm going to show you what we will mark. Your Honor, may I approach?

THE COURT: Yes, sir.

MR. MCLAWHORN: What is Defense Exhibit 11?

THE COURT: What's the number?

MR. MCLAWHORN: Eleven.

THE COURT: Eleven. Thank you, sir.

THE WITNESS: It's an aerial layout created as a combination of the drone work we did, coupled with Google earth laying out the different roads that we've been talking about -- SC-86, Wren Drive, and Major Road. Showing fallouts for -- it's to -- it's to scale, so we're basically calling out the distance between the two, the times between the two occurrences as -- as they occurred.

BY MR. MCLAWHORN:

Q. All right. And who created this?

A. I did or my office did.

Q. Did you create this in the normal course and scope of your business as an accident reconstructionist?

A. Yes, sir.

MR. MCLAWHORN: Your Honor, we'd like to ask at this time that this Exhibit 11 be introduced into evidence in this case.

THE COURT: Any objection?

MR. CHUCK ALLEN: No, sir. No objection.

THE COURT: It's admitted.

(Defendant's Exhibit No. 11 was received into evidence.)

BY MR. MCLAWHORN:

Q. All right. Now, again, what -- what time was the first occurrence?

A. 7:17 p.m. according to the incident report.

Q. And what time was the second occurrence?

A. 7:38, again, according to the incident report.

Q. Is there any direct line of site between the two occurrences?

A. No, sir.

Q. And they're separated by what distance?

A. Again, to scale came out, again, just shy of 1200 feet or about .22 miles, almost a quarter mile.

Q. All right. What is your second opinion?

A. Second opinion is that a vehicle, such as operated by Ms. Chappell, can make this right hand turn. There's nothing geometrically or restrictive -- signage restrictions or otherwise that would limit the driver from being able to make that turn. Obviously, she didn't quite navigate it correctly, but you can make that turn.

THE COURT: It's in my charge?

MR. BOGAN: Yes, sir. You already charged regarding six. Plaintiff's injury, if was at least one of the direct confirmed causes of the injury.

THE COURT: Oh, that's -- you're talking about number four charge?

MR. BOGAN: Yes.

MR. CHUCK ALLEN: You got six in your hand, don't you?

THE COURT: Yeah, I do. I was going to ask about six.

MR. BOGAN: You're talking about four, right?

MR. CHUCK ALLEN: Well, I am going to talk about four, but he's got six.

MR. BOGAN: Oh, I'm sorry.

MR. CHUCK ALLEN: He's got six.

MR. BOGAN: I'm sorry, Your Honor. I misspoke. It's my bad.

THE COURT: I think it's in the -- I think it's in my overall charge.

MR. CHUCK ALLEN: Could you point to where it is, Your Honor?

THE COURT: Is there any aspects of that number four that's not in my charge that you're ---

MR. CHUCK ALLEN: In the proximate cause, it

refers to concurring cause, but there's really no definition. And that just kind of further expands and defines it.

THE COURT: I'm going to put that behind page 6 of my charge.

MR. CHUCK ALLEN: Okay. And then number six is the next one.

THE COURT: Well, this number six ---

MR. BOGAN: On number four, I'd say we object. We think it's duplicative.

THE COURT: All right.

MR. BOGAN: Number -- number six, Your Honor.

MR. CHUCK ALLEN: I haven't spoken to it yet. Number six, I haven't spoken to that. That's clearly the law out of *Matthew v. Porter* when a driver or motorist blocks the lane of -- lanes of travel, they have a duty to warn -- a duty to warn approaching motorists. And then -- and there's testimony about that, that she basically did nothing, but that's straight. I mean, that's clear case law.

THE COURT: Tell me what your research found. So blocks the entire roadway, you have a duty.

MR. CHUCK ALLEN: That's correct. That's correct.

MR. BOGAN: Your Honor, we would object to charge number six. First, I think it comes dangerously close to arguing the facts, which you weren't going to do. Second, Your Honor, in this case, the testimony was that the fire department was called by a neighbor, was in control of the scene. Ms. Chappell's truck was parked on a different road away from where the guyed wire was struck, so she had no obligation to warn anyone because the fire department was there and it was a controlled scene and all the testimony, it was blocking the road, Your Honor.

THE COURT: Yeah, I mean, I think that under -- I mean you would -- I think in this case, we have different occurrences, separate. I know they want to say separate, but they're different. And where she was, whether or not she alerted anybody at that juncture compared to two events or whatever that happened down the road, doesn't have any relevance to that at all.

MR. CHUCK ALLEN: No. I -- no, I -- no, I mean, that where she was when she hit the guyed wire.

THE COURT: Yeah, I know. It's more prejudicial than probative, but it has nothing to

do. They're going to complaint that with where your guy got hit and that's a different location. It's just confusing to the jury. It's confusing to me.

THE CHUCK ALLEN: Well, I -- I think it's somewhat logical that part of the reason that my client acted about the traffic when the road was blocked by the power line because there was nobody there to do it at that point. Our contention would be ---

THE COURT: See, you're doing the same thing because the duty to warn or notice is back up to where her truck is on the side of the road, not two-tenths of a mile down.

MR. CHUCK ALLEN: I agree. I agree. I mean, that's our point. She should've done something there. She had a duty to do something there before the fire truck got there. And it's a nondelegable duty, as well. It's in the charge. And it's clear in *Matthew v. Porter.*

MR. BOGAN: Well, *Matthew v. Porter* was one incident, Your Honor, and that's why I agree with what you just said, Your Honor, and that's why you're right. *Matthew v. Porter* was one incident, one crash, one scene. This is two different scenes. It's going to create prejudice and confusion for the

jury. It should not we charged. The fire department is in charge of scene one.

THE COURT: Which direction was the car that hit him? It's coming from the other direction, right?

MR. CHUCK ALLEN: Yes.

THE COURT: Okay. I'm not charging that. And the reason being, Chuck, even if she had, it wouldn't have prevented that. So I'm not going to charge that, and I think it's confusing to the jury and I'm just not going to.

MR. CHUCK ALLEN: All right. You -- you accepted four, right?

THE COURT: I did.

MR. CHUCK ALLEN: Okay. All right. And I handed up charge number 11 on foreseeability.

THE COURT: I think the foreseeability charge is good.

MR. BOGAN: I think it does say that.

THE COURT: All right. What else do we have?

MR. CHUCK ALLEN: That would be it for the plaintiff.

THE COURT: Did you look at their proposed charge and their hiring and retention?

MR. BOGAN: Yes -- yes, Your Honor. And based

really for your clients. I know the man back here has been around a million trials and I have. Y'all did a fantastic job representing your client's interest in here. I'm impressed with both sides of this case. I know all of you, but it never fails to impress me to see how hard you work and how professionally you worked. I just want to congratulate you from my side of things because it makes my life in some sense of the word easier and some sense of the word harder because I got to keep beating up on you all the time. Y'all are great. I think you did an excellent job, so thank you very much.

MR. CHUCK ALLEN: Thank you.

MR. BARROW: Thank you.

MR. CHUCK ALLEN: Have a great weekend.

THE COURT: Yes, sir.

(At 4:53 p.m., court recessed for the day.)

November 4, 2024

THE COURT: Please be seated. Did y'all see the question the jury had?

THE CLERK: No, sir. I didn't show them.

THE COURT: The jury had a question.

MR. CHUCK ALLEN: I'm sorry?

THE COURT: The jury had a question like they

do. Basically, before we get started, they just wanted to know how they're going to get paid.

MR. CHUCK ALLEN: That's the second time.

THE COURT: Question: Do you want -- if the jury comes back with a verdict before y'all hear back from Arizona, do y'all want to hold everything up or do you want to go forward?

MR. BARROW: Yes. The defendant doesn't, Your Honor. If they come back with a verdict, we would like to take the verdict, whatever that is.

THE COURT: Well, that will be proceeded. Anyway, anything from the plaintiff before we get started on the charge?

MR. CHUCK ALLEN: No, sir.

THE COURT: From the defense?

MR. BARROW: No, sir.

THE COURT: Bring them in, please.

(At 10:47 a.m., jury entered the courtroom.)

THE COURT: Good morning. I hope you had a good weekend. I know that the jury's got a question that apparently some of your employers are deducting the big monies you're going to be making here from your regular paychecks. I didn't know they did that, but our clerk tells me what she does at the end of the day, she'll give you a statement as to

particular injury that occurred was foreseeable. However, the defendants cannot be held responsible for things which could not be expected to happen.

Proximate cause, ladies and gentleman, does not mean the only cause. The defendants' act can be a proximate cause of the plaintiff's injuries if it was at least one of the direct, concurring causes of the injury.

Ladies and gentlemen, the law recognizes that there may be several proximate causes to an event, and anyone who is guilty of an act which contributes as a proximate cause and with that which the injury complained of would not have occurred is responsible under the doctrine of proximate cause. There may be more than one proximate cause of injury and more than one person may be held responsible for the plaintiff's injuries.

The acts and omissions of two or more persons may operate concurrently as sufficient causes of an injury. In such cases, each contributing act or omissions is regarded in law as a proximate cause for which each of the participants may be held responsible. Two or more separate and distinct acts of negligence operating concurrently may both constitute proximate causes of the injury. Causes

the discussions amongst your jurors convinces you that you should change your belief as to the weight of the evidence, you should do so. On the other hand, do not change a firmly held belief as to the weight of the evidence simply to appease your fellow jurors.

Now, Mr. Foreman, if at any time you have questions for the Court, I'm going to ask that you write those down. You write them down and you sign your name, knock on the door, give it to our bailiff, and we'll respond here accordingly. At no time should you ever give us where the jury stands numerically or as to the verdict -- 8, 4, 7, 5, or anything of those nature. You should never tell us that or any amounts that you're considering. Just ask us the question, and we'll respond accordingly.

Once the jury is ready, fill out the verdict form when you make your decision. It will be your duty to do that. I have put these claims in the order of this. It's negligence and it's negligent hiring, and retention. And then if I dare explain negligence or loss of consortium. The order in which the options on these claims appear, it's really of no consequence. They have to come in some option.

But the first verdict form has to do with the claim of comparative negligence. The first two questions are about the defendants' conduct. The first one is this: Were the defendants negligent? Option would be "yes" or "no." If it's yes, then you go to question two. If it's no, you stop your deliberations as to that cause of action. If you find "no" as to that cause of action, you do not consider loss of consortium claim because you cannot get loss of consortium without an award to the plaintiff on negligence.

But if you find "yes," you go to question two. Question two asks you this: Was defendants' negligence the proximate cause of plaintiff's injuries? If "yes," go to the note part of that. If "no," again, you would just stop because the plaintiff failed to prove their cause of action under this negligence claim, which also include the loss of consortium.

Under the note it asks you if your answer to question one or two was "no," then stop your deliberations and then you go to the cause of action of negligent hiring and retention.

If it was "yes," then you go number four and asks you the same questions about the plaintiff.

THE COURT: Let me just bring them back and correct them. If I misspoke, I'll be glad to do that.

MR. BOGAN: Yes, Your Honor. We'd request you do that. And, Your Honor, just for the record, I'm assuming you denied our objections on the verdict form and the instructions again?

THE COURT: Absolutely.

MR. CHUCK ALLEN: Your Honor, I just saw a note I took. And it's a very simple issue. On the verdict form regarding proximate cause, it does say "a" proximate cause, but I thought I heard you say when you were explaining that, you said "the" proximate cause. I thought I heard that. It is "a" on the verdict form. I just thought I heard you say "the."

MR. BARROW: Your Honor, my -- just for the Court's instruction. My hearing of that was different. I think you clearly said "a."

MR. CHUCK ALLEN: Okay.

MR. BARROW: You said it more than once.

THE COURT: Well, you know ---

MR. BARROW: It's here in writing.

THE COURT: --- I'll be glad to say it again.

MR. CHUCK ALLEN: Well, I would like for you to

Is that okay with you?

MR. BOGAN: Your Honor, just as I understood, you're reading the charge you read earlier?

THE COURT: Yeah.

MR. BARROW: Would that include the superseding clause, Your Honor? It just said proximate cause.

THE COURT: It's just proximate cause. I would read that to them and ask if that answers their question or if they need some further instruction, then they can tell me what it is. Is that alright with everybody?

MR. CHUCK ALLEN: Yes, sir. I'm good with that.

THE COURT: Bring the jury in.

(At 12:55 p.m., jury entered the courtroom.)

THE COURT: Mr. Foreman, ladies and gentlemen, the jury is asking that I recharge you on proximate cause; is that correct?

THE JURORS: (Collectively:) Yes.

THE COURT: I'm going to go over it and read it to you. At the end, I'm going to make sure -- I'm going to ask you if that answers your questions. Okay. All right.

Ladies and gentlemen, the final element the plaintiff has to prove by a preponderance of the

greater weight of evidence is that the damages were proximately caused by the defendants' breach of duty. Proximate cause 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.

To prove that the defendants' negligence proximately caused the plaintiff's injury, the plaintiff must first prove causation in the fact. This is proven by showing that the injury would not have occurred but for the defendants' negligence.

The plaintiffs must also prove legal cause. Legal cause is proven by showing that the injury was foreseeable. This means that the injury occurred as a natural and probable consequence of the defendants' negligence. The plaintiffs must prove that some injury of the defendants' negligence was foreseeable, but does not have to prove that the particular injury that occurred was foreseeable.

However, the defendants cannot be held responsible for things which could not be expected to happen. Proximate cause does not mean the only cause. The defendants can be a proximate cause of the plaintiff's injury if it was at least one of the direct concurring causes of the injury.

Ladies and gentlemen, the law recognizes that there may be several proximate causes to an event, and anyone who is guilty of that which contributes as a proximate cause and without which the injury complained of would not have occurred if responsible under the doctrine of proximate cause. There may be more -- there may be more than one proximate cause of the injury and more than one person may be held responsibile for the plaintiff's injuries.

The acts and omissions of two or more persons may operate concurrently as sufficient causes of their injury. And as such case, each contributing act or omissions regarded in law as a proximate cause for which each of the participants may be held responsible.

Two or more separate distinct acts of negligence operating concurrently may both constitute proximate cause of an injury. Causes are concurrent if they act to produce a given result. In other words, the individual acts of negligence must define the cause of the injury.

Now, Mr. Foreman, does that respond and answer your question asked by the jury?

THE FOREMAN: Yes, sir.

THE COURT: All right. I'm going to send you

back to your room. Don't begin your deliberations until I consult with these attorneys, please. Just hold off one minute.

(At 11:58 a.m., jury left the courtroom.)

THE COURT: Any additions or exceptions from the plaintiff?

MR. CHUCK ALLEN: I don't -- may it please the Court?

THE COURT: Yes, sir.

MR. CHUCK ALLEN: I don't like the word "direct," but I think that's straight out of case law. And so I just enter that objection for the record, but, otherwise, I'm okay. Thank you.

THE COURT: Yes, sir. Go ahead.

MR. BOGAN: Yes, Your Honor. Our exception would be we would like for you to charge intervening cause just after that, Your Honor.

THE COURT: I note that, but the foreman said that answered his question, so I think that adequately takes care of it. Thank you.

All right. We'll be at ease. We'll see you back in a little bit.

(At 11:59 a.m., jury began deliberating again.)

(At 12:27 p.m., verdict.)

THE COURT: All right. They say we have a

what your verdict is. That's solely up to you, but I watched you throughout the course of this trial and you listened to my instructions and you listened to the testimony and you listened to the arguments and you performed your duties as jurors, and so we want to thank you for doing your civic duty. I know it's been a very long case, but we're going to excuse you.

Does anybody need any kind of statements today? Does everybody have that? I think you're going to get the one that says now how much you're getting paid and the amount that you will have deducted from your paycheck. Thank you again and you're excused.

(At 12:34 p.m., jury left the courtroom.)

THE COURT: I usually give ten days to do pretrial motions.

MR. CHUCK ALLEN: Please.

THE COURT: All right. Absolutely. Guys, thank you. Y'all both -- everyone did a great job on these cases. They were hard cases.

MR. CHUCK ALLEN: Yes, sir.

THE COURT: Thank you very much.

MR. CHUCK ALLEN: Thank you.

(At 12:35 p.m., the trial concluded.)

- - -

STUDENT DRIVER TRAINING PAPERWORK

Provide feedback of student's strong points at Each benchmarked BTW hour.

BTW 50	Lane control is excellent.
BTW 100	week #2, and easily out performs most students, in top ten category.
BTW 150	Great steering, listening skills, absorbs info easily and fast.
BTW 200	Student will be a great addition to the company!
BTW 250	
BTW 300	

Provide feedback of any additional road development needed at Each benchmarked BTW hour.

BTW 50	needs to pay attention to all road signs.
BTW 100	needs to grasp the width of a tight turn & setup properly before turning / Not hitting curbs.
BTW 150	Getting better! Still needs to pay attention to tight turns.
BTW 200	Driver just needs to perfect what she already does well.
BTW 250	
BTW 300	

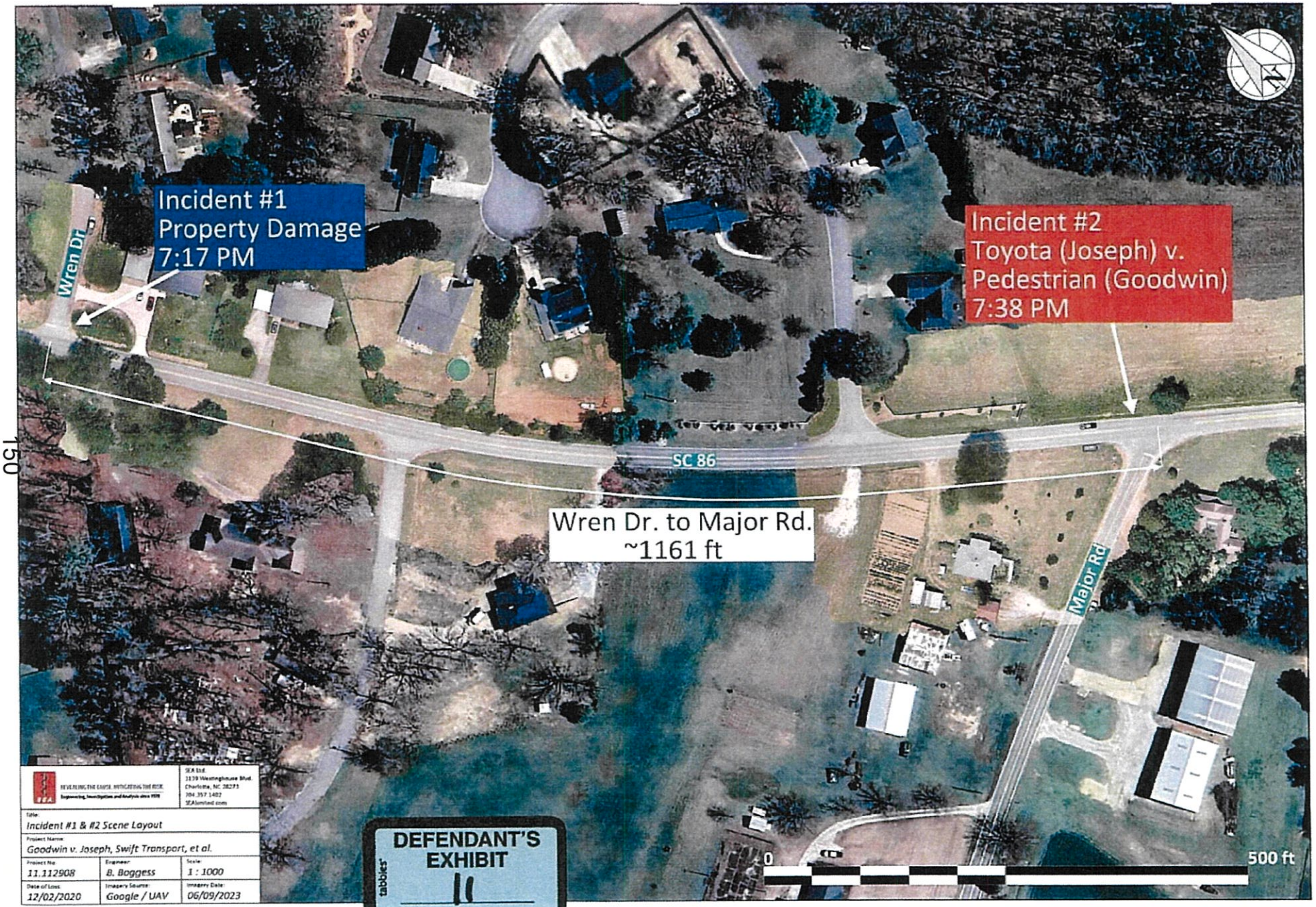
'24 NOV 6 PM2:34:02
Anderson, SC COC, CP/GS

PLAINTIFF'S EXHIBIT NO. 14
PENGAD 800-631-6989

ACKNOWLEDGEMENT OF COMPLETION OF TRAINING PROGRAM

MENTOR:	SIGNATURE	11.26.20 DATE	387121 CODE
STUDENT:	SIGNATURE	11.24.20 DATE	451831 CODE

SWIFT 000081


Incident #1
Property Damage
7:17 PM
Wren Dr
Incident #2
Toyota (Joseph) v.
Pedestrian (Goodwin)
7:38 PM
SC 86
Wren Dr. to Major Rd.
~1161 ft
Major Rd
0
500 ft
N
SEA Ltd.
3939 Westinghouse Blvd.
Charlotte, NC 28273
704.357.1402
SEAlimited.com
Title:
Incident #1 & #2 Scene Layout
Project Name:
Goodwin v. Joseph, Swift Transport, et al.
Project No:
11.112908
Engineer:
B. Baggess
Scale:
1 : 1000
Date of Loss:
12/02/2020
Imagery Source:
Google / UAV
Imagery Date:
06/09/2023
DEFENDANT'S EXHIBIT
11
tabbies

150

STUDENT DRIVER TRAINING PAPERWORK

Provide feedback of student's strong points at Each benchmarked BTW hour.

BTW 50 Lane control is excellent.

BTW 100 Works hard, easily out performs most students, in top ten category.

BTW 150 Great steering, listening skills, absorbs info easily and fast.

BTW 200 Student will be a great addition to the company!

BTW 250

BTW 300

Provide feedback of any additional road development needed at Each benchmarked BTW hour.

BTW 50 Needs to pay attention to all road signs.

BTW 100 needs to grasp the width of a tight turn & setup properly before turning / Not hitting curbs.

BTW 150 Getting better! Still needs to pay attention to tight turns.

BTW 200 Driver just needs to perfect what she already does well.

BTW 250

BTW 300

Provide feedback of any additional backing development needed at Each benchmarked BTW hour.

BTW 50 Major over correction

BTW 100 needs to remember to GOAL. over correction for slight turns

BTW 150 Still over correcting

BTW 200 Needs to realize when to stop & reset up, major over correction will benefit from close observers training.

BTW 250

BTW 300

ACKNOWLEDGEMENT OF COMPLETION OF TRAINING PROGRAM

	SIGNATURE	DATE	CODE
MENTOR:		11.26.20	387121
STUDENT:	Taylor Chapman	11.29.20	451831

COURT'S EXHIBIT NO. 6 IDENTIFICATION/EVIDENCE DKT.# DATE: 10/30/24

PENGAD 800-631-6989

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Anderson SC COURT OF GS

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Jan 08 2025
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. 2021-CP-04-00234

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.

NOTICE OF APPEAL

Robert William Goodwin and Marian Charleen Goodwin appeal the judgment of the civil court of the Honorable R. Lawton McIntosh dated November 4, 2024. Appellants received written notice of entry of this judgment on November 4, 2024. The time for appeal was stayed by the filing of Plaintiff's Motion for New Trial pursuant to the Thirteenth Juror Doctrine, filed on November 14, 2024, in accordance with Rule 59, SCRCP. An Order denying Plaintiffs' Motion for New Trial was issued on December 12, 2024. Accordingly, the Goodwins now appeal this matter in accordance with Rule 203(b)(1), SCARC.

January 8, 2025

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CERTIFICATE OF COUNSEL

The undersigned hereby certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

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February 27, 2026
Anderson, South Carolina