

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas
Dale E. Van Slambrook, Circuit Judge

Appellate Case No. 2025-001683

Kanisha Nash, Respondent,

v.

Montgomery Construction, LLC, Patrick Montgomery, and Sabrina
Montgomery, individually, and as owner/registered agent for
Montgomery Construction, LLC, Defendants,

of which Patrick Montgomery and Sabrina Montgomery are, Appellants.

AMENDED RECORD ON APPEAL – VOLUME I

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STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 2023-CP-08-01652

Kanisha Nash,

Plaintiff,

v.

Patrick Montgomery, Sabrina Montgomery,
and Montgomery Construction, LLC,

Defendants.

ORDER

On December 15, 2023, this matter came before the Court on Plaintiff's Motions to Compel Supplemental Discovery Responses from each of the above-named Defendants. Present at the hearing were Mark Bringardner (counsel for Plaintiff), Riley Bearden (counsel for Patrick Montgomery), David Cobb (counsel for Sabrina Montgomery), and Chris Murphy (counsel for Montgomery Construction, LLC). Based on the filings in this matter as well as the arguments of counsel, the Court makes the following findings and rulings:

As to all Defendants

1. **Privilege Logs and In Camera Review**

Any party objecting and/or asserting privilege to the production of information, documents, or other materials in this matter is ORDERED to provide a privilege log that complies with Rule 26(b)(5)(A), SCRCF, and which at a minimum, identifies each document withheld, information regarding the nature of the privilege/protection claimed, the name of the person making and receiving the material, the date the material was created, and the material's general subject matter.

For any party who claims that a document is privileged shall, within 30 days of the entry of this Order: 1) create and serve a privilege log to the Plaintiff and, 2) provide the privilege log and all documents identified in the privilege log to the Court for an *in camera* review to determine

whether a valid privilege claim applies to prevent production. As applicable, counsel for each defendant shall notify Plaintiff's counsel upon submission of the same to the Court.

2. Affidavits from each defendant and an insurance claims representative are required.

Concurrent with the service of each defendants' supplemental responses to Plaintiff's Interrogatories and Requests for Production and/or privilege log as set forth herein, each defendant **and** an insurance claims representative for each of the defendants' respective insurance carriers must serve upon the Plaintiff an affidavit, signed under penalty of perjury, stating that all documents and information responsive to the Plaintiff's Interrogatories and Requests for Production have been produced and/or identified in a privilege log.

As to Defendant Patrick Montgomery

3. Incomplete and non-responsive answers to discovery.

Defendant Patrick Montgomery responded "To be supplemented" or did not provide a substantive response to the following discovery requests: Interrogatory numbers 4, 8, 10-12, 14, 16-27, 29, 36-51, and Requests for Production numbers 12, 16-25, 27-31, 50-56. Additionally, Defendant Patrick Montgomery did not properly respond to Interrogatory number 4. It appears that Defendant Patrick Montgomery may not have adequately communicated with counsel in responding to discovery. Further, Defendant Patrick Montgomery did not make any objections to these discovery requests. Therefore, Defendant Patrick Montgomery is ORDERED to consult with civil defense counsel and to serve supplemental written responses and produce documents responsive to these discovery requests within thirty (30) days of the entry of this Order.

4. Privilege assertions based on attorney-client privilege and work-product.

Defendant Patrick Montgomery raised objections based on attorney-client privilege, work product, and/or “prepared in anticipation of litigation” to the following discovery requests: Interrogatory numbers 3, 30, 34, and 35, and Requests for Production numbers 2, 32, and 37-39.

a. Interrogatory number 3 is nearly identical to the standard interrogatory set forth in Rule 26(b)(2), SCRCP; “Set forth and identify a list of all documents and tangible items of any nature and description, including but not limited to, photographs, plats, sketches, or other prepared documents in possession of the party that relate to the claims or defenses in the case or that were used to assist in responding to these interrogatories.” The Court finds Defendant Patrick Montgomery’s objection to this interrogatory is without merit and is **OVERRULED**. Within thirty (30) days of the entry of this order, Defendant Patrick Montgomery is **ORDERED** to provide a supplemental written response to this interrogatory.

b. Request for Production number 2 seeks the documents identified in response to Interrogatory number 3. It seeks production of: “Any and all documents, photographs, memoranda, reports, plats, diagrams, writings, papers, notes, materials, evidence, electronically stored information, and tangible things that you have in your possession, custody, or control which in any way might relate to the incident and/or lawsuit.” Defendant Patrick Montgomery’s objections to this request are **OVERRULED**, in part. Defendant Patrick Montgomery shall either serve supplemental written response and produce documents responsive to these requests or provide a privilege log identifying the documents being withheld, if any, within thirty (30) days of the entry of this Order.

c. Requests for Production number 32 seeks the production of the pre-litigation insurance claim(s) and investigation files related to the subject incident and explicitly “does not seek financial reserve amounts, which may be redacted from the responsive documents.” Defendant Patrick Montgomery raised objections based on attorney-client privilege, work product, and “prepared in anticipation of litigation”. At the hearing, Plaintiff’s counsel further advised that Plaintiff did not seek documents created after civil defense counsel was retained if that occurred prior to filing of the Complaint. Accordingly, Defendant Patrick Montgomery’s objections to this request are OVERRULED. Within thirty (30) days of the entry of this order, Defendant Patrick Montgomery is ORDERED to provide supplemental a substantive written response and to produce documents responsive to this request within thirty (30) days of the entry of this Order.

d. As to Interrogatory numbers 30, 34, and 35, and Requests for Production numbers 37-39, Defendant Patrick Montgomery shall either serve supplemental written response and produce documents responsive to these requests or provide a privilege log identifying the documents being withheld, if any, within thirty (30) days of the entry of this Order.

5. Fifth Amendment Privilege

Defendant Patrick Montgomery raised privilege based on the Fifth Amendment to the following discovery requests: Interrogatory numbers 15 and 16, and Requests for Production numbers 13, 14, and 15. At the hearing, Plaintiff confirmed that no communication between Defendant Patrick Montgomery and his civil or criminal counsel is being sought. The Court is mindful of Defendant Patrick Montgomery’s Fifth Amendment protections considering the pending criminal matters that arose from the subject incident. Keeping this in mind, Defendant Patrick Montgomery is ORDERED to promptly consult with his civil and criminal defense

attorneys to evaluate and/or confirm the Fifth Amendment privilege claims currently raised in this civil case in response to certain discovery requests are intended to be maintained with respect to the criminal matters.

After this consultation and evaluation, to the extent that the Fifth Amendment privilege assertions may be modified or withdrawn, in part or in whole, as to the discovery requests at issue, Defendant Patrick Montgomery shall provide supplemental written responses and produce documents responsive to these requests accordingly within thirty (30) days of the entry of this Order.

If certain Fifth Amendment privilege assertions are not withdrawn, and certain materials are withheld from discovery in this civil case, those materials shall be identified in a privilege log within thirty (30) days of the entry of this Order. For any materials that remain designated as privileged pursuant to the Fifth Amendment, counsel for Plaintiff shall retain the right to challenge the privilege assertion and request that the Court conduct an *in camera* review of the documents without filing a subsequent motion for the same.

As to Defendant Sabrina Montgomery

6. Incomplete and non-responsive answers to discovery.

The Court finds that the following discovery responses from Defendant Sabrina Montgomery are incomplete or non-responsive: Interrogatory numbers 1, 2, 5, 10, 14, 20, 21, and 40, and Requests for Production numbers 2, 10, and 17-19. Defendant Sabrina Montgomery did not make any objections to these discovery requests, and therefore, Defendant Sabrina Montgomery is ORDERED to serve supplemental substantive written responses and to produce documents responsive to these discovery requests within thirty (30) days of the entry of this Order.

7. Objections to discovery not based on privilege.

Defendant Sabrina Montgomery raised objections and claimed the following interrogatories were overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence: Interrogatory numbers 28-32, 34, 36, and 37. Similarly, Defendant Sabrina Montgomery objected and claimed that Requests for Production numbers 40-46 were “irrelevant and not likely to lead to the discovery of admissible evidence.” The Court finds that the objections to these Interrogatories and Requests for Production are without merit and are OVERRULED. Defendant Sabrina Montgomery is ORDERED to serve supplemental substantive written responses and to produce documents responsive to these discovery requests within thirty (30) days of the entry of this Order.

As to Defendant Montgomery Construction, LLC

8. Incomplete and non-responsive answers to discovery.

Defendant Montgomery Construction, LLC, provided incomplete, non-responsive, and/or improper objections to the following discovery requests: Interrogatory number 16 (seeking information related to on-board data recording devices) and Request for Production number 1 (seeking the production of insurance policy related documents). The Court finds that the objections to these Interrogatories and Requests for Production are without merit and are OVERRULED. Defendant Montgomery Construction, LLC, is ORDERED to provide supplemental substantive responses to these discovery requests within thirty (30) days of the entry of this Order.

9. Objections to discovery not based on privilege.

Interrogatory number 27 seeks information related to Defendant Montgomery Construction, LLC’s involvement in other legal actions was objected to on the grounds that the interrogatory was

overly broad and unduly burdensome and that the information is available from another source. The Court finds that the objections to this Interrogatory are without merit and are OVERRULED. Defendant Montgomery Construction, LLC, is ORDERED to serve a supplemental answer this interrogatory within thirty (30) days of the entry of this Order.

10. Privilege assertions based on attorney-client privilege and work-product.

Interrogatory number 23 seeks documents that support or related to Defendant Montgomery Construction, LLC's Answer to the Complaint and its defenses. Defendant Montgomery Construction, LLC, raised objections based on attorney-client privilege, work product, "prepared in anticipation of litigation," and "subject to privilege." Defendant Montgomery Construction, LLC, shall either serve a supplemental written response to this interrogatory within thirty (30) days of the entry of this Order.

As to Defendant Sabrina Montgomery and Defendant Montgomery Construction, LLC

11. At the hearing on these motions, Plaintiff's counsel raised concerns about the seemingly inconsistent discovery responses from Defendant Sabrina Montgomery and Defendant Montgomery Construction, LLC. It is undisputed that Sabrina Montgomery is the sole owner of Montgomery Construction, LLC. However, the Court agrees that various responses seem inconsistent or otherwise make it unclear as to what information/documents do or do not exist, and whether certain information/documents are being withheld and/or not identified. The Court understands that Defendants Sabrina Montgomery and Montgomery Construction, LLC, seek to maintain a position of legal distinction. However, due to the inevitable overlap between the knowledge maintained by the LLC and its sole owner, Defendants Sabrina Montgomery and Montgomery Construction are ORDERED to serve supplemental responses in a manner that make it clear to Plaintiff that all documents and information responsive to Plaintiff's discovery requests in the possession, custody, or control of either party, or their insurance carrier(s), attorneys, agents,

etc., have been produced or identified in a privilege log, within thirty (30) days of the entry of this Order.

AND IT IS SO ORDERED.

The Honorable Diane Schafer Goodstein



Berkeley Common Pleas

Case Caption: Kanisha Nash VS Patrick Montgomery , defendant, et al

Case Number: 2023CP0801652

Type: Order/Compel

It is so Ordered!

s/Diane S. Goodstein

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STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

Kanisha Nash,

Plaintiff,

v.

Patrick Montgomery, Sabrina Montgomery,
and Montgomery Construction, LLC,

Defendants,

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 2023-CP-08-01652

**Consent Order Granting Plaintiff's
Motion to Amend Complaint**

On January 6, 2025, this matter came before the Court on Plaintiff's Motion to Amend Complaint, filed May 22, 2024. Prior to the start of the hearing, counsel for Defendants evidenced their consent to Plaintiff's Motion to Amend. Rule 15 governs the amendment of pleadings and provides that "a party may amend his pleading only by leave of court or by written consent of the adverse party." Rule 15, SCRCF. When contemplating an amendment, "leave shall be freely given when justice so requires and does not prejudice any other party." *Id.*

NOW THEREFORE IT IS ORDERED, by the consent of all parties, that Plaintiff's Motion to Amend is granted; that the Amended Summons and Complaint attached as Exhibit A to Plaintiff's Motion shall be filed and considered the operative Complaint in this matter; that Defendants shall file responsive pleadings within the time frame provided by the rules; and that the caption of this matter shall be changed to *Kanisha Nash v. Montgomery Construction, LLC, Patrick Montgomery, and Sabrina Montgomery, individually, and as owner/registered agent for Montgomery Construction, LLC.*

AND IT IS SO ORDERED.

Moncks Corner, South Carolina
January ____, 2025

The Honorable Dale E. Van Slambrook
Ninth Judicial Circuit

[Consent Signatures on Following Page]

WE SO CONSENT:

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Berkeley Common Pleas

Case Caption: Kanisha Nash VS Patrick Montgomery , defendant, et al

Case Number: 2023CP0801652

Type: Order/Amend

And It Is So Ordered!

s/Dale E. Van Slambrook S.C. Circuit Court Judge
#2781

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STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

Kanisha Nash,

Plaintiff,

v.

Patrick Montgomery, Sabrina Montgomery, and
Montgomery Construction, LLC,

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 2023-CP-08-01652

**ORDER GRANTING PLAINTIFF'S
MOTION FOR RULE TO SHOW CAUSE**

On January 6, 2025, this matter came before the Court on Plaintiff's Motion for Rule to Show Cause against Defendant Sabrina Montgomery and Defendant Patrick Montgomery for their failures to comply with the Court's Order entered on February 2, 2024, (the "Order") compelling supplemental discovery responses. Present at the hearing were Mary Linton (counsel for Plaintiff), Michael Trask via telephone (counsel for Patrick Montgomery), David Cobb (counsel for Sabrina Montgomery), and Amanda Perry (counsel for Montgomery Construction, LLC). The Rules of Civil Procedure give this Court great discretion in discovery rulings. After hearing the argument of Counsel, the Court GRANTS Plaintiff's Motion.

FACTUAL BACKGROUND

This case arises from a head-on motor vehicle collision. On April 14, 2023, Defendant Patrick Montgomery, while allegedly driving drunk, crossed the center line and caused a collision with a vehicle driven by Plaintiff. Plaintiff suffered severe, life-threatening injuries and was hospitalized. Her past medical bills total over \$400,000. Tragically, Plaintiff's three-year-old son was killed as a result of the injuries he sustained in the crash.

APPLICABLE LAW

Unreasonable discovery conduct unnecessarily protracts litigation, causes both sides to incur additional attorneys' fees and other expenses. The discovery process, like a lawsuit itself, "is not a children's game, but a serious effort on the part of adult human beings to administer justice." *Griffin v. Capital Cash*, 310 S.C. 288, 423 S.E.2d 143, 146 (Ct. App. 1992) (quoting *United States v. A.H. Fischer Lumber Co.*, 102 F.2d 872 (4th Cir. 1947)). "To use an oft-quoted phrase, justice delayed is justice denied. Although this saying is often invoked in the criminal context, it is no less applicable to civil cases." *In re Atwater*, 397 S.C. 518, 528 (2012).

In South Carolina, judges have broad discretion in addressing misbehavior during depositions and other discovery abuse. See Rule 37, SCRPC. The South Carolina Supreme Court instructs the judiciary to refrain from sitting passively in the wake of abusive discovery tactics: "Our judges must use their authority to make sure that abusive deposition tactics and other forms of discovery abuse do not succeed in their ultimate goal of achieving success through abuse of discovery rules rather than by the rule of law." *In re Anonymous Member of the South Carolina Bar*, 346 S.C. 177, 193, 552 S.E.2d 10, 18 (2001). Likewise, the South Carolina Supreme Court's Administrative Order of June 3, 2021, states, "We remind the circuit court judges that the seldom-utilized rule for awarding fees and imposing sanctions, SCRPC 37, is available to deter discovery abuses." The imposition of discovery sanctions under the South Carolina Rules of Civil Procedure is entrusted to the sound discretion of the trial judge, and the trial judge's exercise of discretionary powers regarding discovery sanctions will not be overturned on appeal absent a clear abuse of discretion. *Halverson v. Yawn*, 328 S.C. 618, 620, 493 S.E.2d 883, 884 (Ct. App. 1997). "Overly lenient sanctions are to be avoided where they result in inadequate protection of discovery." *Diaz*

v. Southern Drilling Corp., 427 F.2d 1118, 1126 (5th Cir.1970), *cert. denied sub nom., Trefina* **218 *v. U.S.*, 400 U.S. 878, 91 S.Ct. 118, 27 L.Ed.2d 115 (1970).

LEGAL ANALYSIS

This case has been in litigation for two (2) years. Both Defendants have refused to provide complete or accurate responses to discovery. The record before the Court reveals that Defendant Patrick Montgomery has refused to provide answers to basic written discovery, and the minimal responses provided by him appear to have been prepared without his consultation. Instead, it appears as though the insurance adjuster/representative may have been the only person involved, further highlighting the need for judicial intervention. This belief is further heightened given the lack of verification by Defendant Patrick Montgomery for any of the discovery responses produced in this case.

On February 2, 2024, Judge Goodstein entered an Order Granting Plaintiff's Motion to Compel. Even after the issuance of Judge Goodstein's Order, the noncompliance continued. As detailed herein, there exists a clear pattern of discovery abuse. The Court is concerned that the discovery abuse is likely to continue unless sanctions are imposed to punish and deter the willful failure to comply with the South Carolina Rules of Civil Procedure and this Court's prior ruling.

As to each Defendant, the Court hereby ORDERS the following:

AS TO DEFENDANT SABRINA MONTGOMERY

At the hearing, counsel for Defendant Sabrina Montgomery agreed to promptly provide additional documents and materials to comply with the Order. As a result of counsel's representations, the Court shall hold Plaintiff's request for sanctions in abeyance and hereby orders

Defendant Sabrina Montgomery to produce the following documents within fifteen (15) days from the date of this Order.¹

A. Request for Production Numbers 13 [sic. 39] and 14 [sic. 40] (Cell Phone Records)²

Plaintiff's Request for Production Numbers 12 [sic. 39] and 14 [sic. 40] seek Defendant Sabrina Montgomery's cell phone records, phone logs, cell phone bills, as well as screenshots of Defendant Sabrina Montgomery's phone screen for the forty-eight (48) hours surrounding the subject collision. Those materials were ordered produced by the Court but have not been produced. The Court finds that Defendant Sabrina Montgomery failed to comply with the Court's Order with respect to these Requests for Production.

Defendant Sabrina Montgomery shall produce responsive documents and materials within her possession, custody, or control within fifteen (15) days of the date of the entry of this Order. In addition, Defendant Sabrina Montgomery shall produce, within fifteen (15) days from the date of this Order, the responsive cellular device(s) to Plaintiff's counsel for purposes of conducting a forensic inspection and download.

B. Request for Production Number 22 (Pre-Litigation Claims File)

The Court previously ordered both the production of the pre-litigation claims file as well as an affidavit from an insurance claims representative affirming that all documents and information responsive to the discovery requests were produced and/or identified in a privilege log. The Court finds that Defendant Sabrina Montgomery failed to comply with the Court's Order with respect to this Request for Production. Defendant Sabrina Montgomery did not produce any responsive documents. Instead, Defendant Sabrina Montgomery referenced the Allstate claims file

¹ Should Defendants fail to comply with this Order, counsel for Plaintiff is instructed to promptly advise the Court of the noncompliance.

² Defendant Sabrina Montgomery's discovery responses are mis-numbered due to an apparent scrivener's error.

produced by Defendant Patrick Montgomery and did not serve a compliant verification as Ordered. Likewise, various documents contained within Defendant Patrick Montgomery's purported claims file were not produced, further showing a failure to comply with the Court's Order.

The Court is notified that Defendant Sabrina Montgomery produced a full, complete, and unredacted copy of the pre-litigation claim, other responsive documents and materials, as well as an executed verification which comports with Judge Goodstein's Order thus rendering this outstanding Request resolved.

C. Request for Production Numbers 40-45 [sic. 66-71] (Financial Information)

These Requests seek tax records and financial documents maintained by Defendant Sabrina Montgomery and which were ordered to be produced. In her supplemental response, Defendant Sabrina Montgomery indicated that no documents existed and thereafter provided certain bank statements for February, March, and April of 2023, and some tax returns which appear incomplete, unsigned, and total only a few pages. Further conflating the issue is that Defendant Sabrina Montgomery indicated in her discovery responses that she did not have an accountant, yet her unsigned tax returns indicate they were prepared by an accountant.

Accordingly, the Court finds that Defendant Sabrina Montgomery failed to comply with the Court's Order with respect to these Requests for Production.

At the hearing, counsel for Defendant Sabrina Montgomery represented that other responsive documents existed, but agreed to execute authorizations to allow Plaintiff direct and unobstructed access to her bank statements, tax records, and any other responsive documents. Accordingly, it is hereby ordered that Defendant Sabrina Montgomery shall execute all necessary authorizations to allow Plaintiff access to her bank and accounting records and provide such authorizations to Plaintiff within fifteen (15) days of the date of this Order.

D. Defendant Sabrina Montgomery's Privilege Log

Defendant Sabrina Montgomery's supplemental discovery contains numerous responses which state that "Defendant produces all discoverable documents." In response, Plaintiff argued that such a statement by its very nature suggests there are withheld documents which Defendant maintains are privileged and not subject to discovery. The Court agrees that such a statement insinuates there may be withheld documents. Counsel for Defendant Sabrina Montgomery represented to the Court that no additional materials were withheld on any basis. The Court accepts this representation and finds no additional action necessary with regards to a privilege log.

AS TO DEFENDANT PATRICK MONTGOMERY

At the hearing, counsel for Defendant Patrick Montgomery appeared by telephone and offered no satisfactory explanation for the failure to comply with the February 2, 2024 Order. The record before the Court reveals that Defendant Patrick Montgomery made no attempt to comply with the Order, has failed to offer any explanation for his longstanding non-compliance, and has not addressed the issues raised before the Court. Even after the present Motion for a Rule to Show Cause was filed, Defendant Patrick Montgomery still did not cure the numerous discovery deficiencies. Such longstanding refusal to provide even basic written discovery furthers the belief that Defendant Patrick Montgomery did not actively participate in the discovery process and may have even been completely unaware discovery responses were owed by him.

This type of longstanding discovery noncompliance normally warrants the issuance of sanctions. Accordingly, the Court grants Plaintiff's Motion for a Rule to Show Cause as to Defendant Patrick Montgomery and orders the following:

A. Supplemental Responses to Twenty-Nine (29) Interrogatories and Twenty-Six (26) Requests for Production

Defendant Patrick Montgomery initially responded “To be supplemented” or did not provide a substantive response to the following discovery requests: Interrogatory Numbers 4, 8, 10-12, 14, 16-27, 29, 36-51, and Requests for Production Numbers 12, 16-25, 27-31, 50-56. On February 2, 2024, the Court ordered Defendant Patrick Montgomery to supplement these responses. However, nearly a year after the Court’s initial Order, Defendant Patrick Montgomery had not provided supplemental responses to most of the above-referenced requests. While seven requests were supplemented, the supplemental responses remained deficient and noncompliant with the Court’s original ruling. Accordingly, the Court finds that Defendant Patrick Montgomery failed to comply with the Court’s Order with respect to these numerous discovery responses.

The Court is informed that on January 13, 2025, Defendant Patrick Montgomery served unverified supplemental discovery responses arising from the Court’s admonishment that full and complete responses be provided within ten (10) days from the date of the hearing. Despite appearing before the Court on two separate occasions to address discovery noncompliance, Defendant Patrick Montgomery still has failed to comply with the Court’s Order as the following deficiencies remain outstanding:

a. Interrogatory Number 42 (Financial Information)

The Court is informed that Defendant Patrick Montgomery still has not provided a complete answer to Interrogatory Number 42, which requests additional information related to Defendant Patrick Montgomery’s financial status. Defendant Patrick Montgomery is ordered to provide a supplemental answer within fifteen (15) days from the date of this Order.

b. Request for Production Number 32 (Pre-Litigation Claims File)

The Court previously ordered both the production of the pre-litigation claims file as well as an affidavit from an insurance claims representative affirming that all documents and information responsive to the discovery requests were produced and/or identified in a privilege log.

While Defendant Sabrina Montgomery has since remedied this discovery deficiency, Defendant Patrick Montgomery has not and remains in violation of the Court's prior Order because:

1. There was no accompanied verification attesting to the completeness of the claims file for Patrick Montgomery as Ordered;
2. Numerous documents were identified but not produced. By way of example, any attachment in an email communication or accompanying a diary entry, such as numerous ISO claims searches, were included in inaccessible embedded links;
3. The privilege log fails to comply with Rule 26(b)(5) because it does not separately itemize the author or recipient, fails to separately identify the various documents included in the sole entry that encompasses 108 pages with 33 pages redacted thus leaving confusion as to what was withheld.
4. The Order required all documents that were claimed to be privileged to be produced to the Court for in camera review and notification provided to Plaintiff as to the submission, none of which occurred.

While the Court is cognizant that the pre-litigation claims file may contain duplicative materials for Defendant Patrick Montgomery and Defendant Sabrina Montgomery, the Court nonetheless orders Defendant Patrick Montgomery to independently produce a complete copy of the pre-litigation claims' file which comports with the Court's February 2, 2024 Order to ensure Plaintiff receives a complete response.

The Court also orders Defendant Patrick Montgomery to produce a privilege log which comports with Rule 26(b)(5), SCRCP. If any portion of the pre-litigation claims' file ordered to be

produced by the Court is redacted, the Court orders Defendant Patrick Montgomery to produce the privileged materials for in camera review.

These supplements must be made within fifteen (15) days from the date of this Order.

B. Affidavit from Defendant Patrick Montgomery

Due to the concerns of Defendant Patrick Montgomery's involvement in the discovery process, concurrent with the service of supplemental responses and privilege log as set forth herein, Defendant Patrick Montgomery must verify the truthfulness and completeness of all discovery by an affidavit, signed under penalty of perjury, that all documents and information responsive to the Plaintiff's Interrogatories and Requests for Production have been produced and/or identified in a privilege log.

C. Award of Attorney's Fees and Costs Against Defendant Patrick Montgomery

The Plaintiff has been forced by Defendant Patrick Montgomery to expend substantial time and resources to obtain initial discovery responses that comply with the rules of civil procedure. The question of what sanctions are to be imposed for failure to comply is left largely to the court. *Barnette v. Adams Bros. Logging, Inc.*, 355 S.C. 588, 593, 586 S.E.2d 572, 575 (2003). "Absent an abuse of discretion, discovery sanctions will not be reversed on appeal, and the party appealing from the order of sanction carries the burden of proving an abuse of discretion occurred." Rule 37(b)(2)(C), SCRCP. Nevertheless, whatever sanction is imposed should serve to protect the rights of discovery provided by the Rules. *Downey v. Dixon*, 294 S.C. 42, 45 (Cl. App. 1987).

Plaintiff has been prejudiced in her ability to pursue her case in a timely and efficient manner. Plaintiff's counsel has been forced to expend numerous hours attempting to force Defendant Patrick Montgomery to comply with the Court's ruling. As a result of this Order, Defendant Patrick Montgomery is required to timely and completely comply with numerous

discovery requests. This Court will allow the Defendant the opportunity to comply with this Order prior to making a final determination as to the award of attorney fees and costs.

CONCLUSION

Plaintiff's Motion is GRANTED and Defendants are ordered to comply as directed above. The Court holds in abeyance the award of attorney's fees and costs against Defendant Patrick Montgomery pending compliance with this Order. Should Defendants fail to timely comply with the Court's ruling, counsel for Plaintiff is directed to immediately inform the Court for consideration of an award of sanctions.³

AND IT IS SO ORDERED!

The Honorable Dale E. Van Slambrook
Presiding Judge

Moncks Corner, South Carolina
March ____, 2025

³ All findings of fact and conclusions of law indicated in this Order are made for the purpose of ruling on this motion only.



Berkeley Common Pleas

Case Caption: Kanisha Nash VS Patrick Montgomery , defendant, et al

Case Number: 2023CP0801652

Type: Order/Rule To Show Cause

And It Is So Ordered!

s/Dale E. Van Slambrook S.C. Circuit Court Judge
#2781

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STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 2023-CP-08-01652

Kanisha Nash,

Plaintiff,

v.

Patrick Montgomery, Sabrina Montgomery,
and Montgomery Construction, LLC,

Defendants,

**CONSENT ORDER GRANTING
PLAINTIFF'S MOTION FOR
CONTINUANCE OF HEARING ON
DEFENDANT PATRICK
MONTGOMERY'S MOTION TO
PROTECT DEFENDANT'S INTERESTS
SCHEDULED FOR MAY 16, 2025**

Presiding Judge:

Hon. Deadra L. Jefferson

Plaintiff's Attorney:

Mark Bringardner, Esq.

Mary Linton, Esq.

Defendant's Attorney:

Riley Bearden, Esq.

David Cobb, Esq.

Michael Loftis, Esq.

Christopher Murphy, Esq.

Amanda Perry, Esq.

Date of Hearing:

May 15, 2025

Court Reporter:

Webex

Based on the reasons set forth in Plaintiff's Motion for Continuance filed in the subject action, and by consent of counsel it is hereby

ORDERED that Defendant Patrick Montgomery's Motion to Protect Defendant's Interests Pursuant to Rule 1.14(B) filed April 14, 2025, scheduled for May 15, 2025, is continued.

IT IS SO ORDERED.

May 15, 2025

Deadra L. Jefferson
Presiding Judge
Ninth Judicial Circuit



Berkeley Common Pleas

Case Caption: Kanisha Nash VS Patrick Montgomery , defendant, et al

Case Number: 2023CP0801652

Type: Order/Continuance

IT IS SO ORDERED.

s/D.L. Jefferson Ninth Judicial Circuit Judge 2128

Electronically signed on 2025-05-15 10:24:01 page 2 of 2

Form -4

**STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY
IN THE COURT OF COMMON PLEAS**

JUDGMENT IN A CIVIL CASE

CASE NO. 2023-CP-08-01652

KANISHA NASH

PATRICK MONTGOMERY; SABRINA MONTGOMERY;

PLAINTIFF(S)

MONTGOMERY CONSTRUCTION, LLC
DEFENDANT(S)

Submitted by: The Court.

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(h), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; 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:

This matter was before the Court on June 18, 2025, upon two (2) motions; (1) Defendant Patrick Montgomery's Motion to Protect Defendant's Interests, filed April 14, 2025; and (2) Plaintiff Kanisha Nash's Motion for Rule to Show Cause, filed May 13, 2025. Attorney Mary Linton appeared on behalf of the Plaintiff. Attorney David Cobb appeared on behalf of Defendant Sabrina Montgomery. Attorney Riley Bearden appeared on behalf of Patrick Montgomery.

First, the Court respectfully *grants* Defendant Patrick Montgomery's Motion to Protect Defendant's Interests. Although the issue of Defendant Patrick Montgomery's competency should have been raised and addressed during the prior years-long pendency of this case, the Court now requires the appointment of a Guardian Ad Litem and a thorough review of all medical and criminal records to determine Defendant Patrick Montgomery's competency. The Defendant shall initiate the process of appointing a Guardian Ad Litem for Defendant Patrick Montgomery within thirty (30) days of the entry of this Order.

Lastly, the Court respectfully *grants* Plaintiff's Motion for Rule to Show Cause. A formal order on this ruling as well as an award of costs shall supplement this Order at a later date.

AND IT IS SO ORDERED!

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
N/A		
		\$
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.

	2781	
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.



Berkeley Common Pleas

Case Caption: Kanisha Nash VS Patrick Montgomery , defendant, et al

Case Number: 2023CP0801652

Type: Order/Form 4

And It Is So Ordered!

s/Dale E. Van Slambrook S.C. Circuit Court Judge
#2781

Electronically signed on 2025-06-20 14:49:15 page 4 of 4

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

Kanisha Nash,

Plaintiff,

v.

Patrick Montgomery, Sabrina Montgomery,
and Montgomery Construction, LLC,

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 2023-CP-08-01652

**SUPPLEMENTAL ORDER GRANTING
PLAINTIFF'S MOTION FOR
RULE TO SHOW CAUSE**

On June 18, 2025, this case came before the Court in response to Defendant Sabrina Montgomery and Defendant Patrick Montgomery's ("Defendants") failure to comply with the Court's March 28, 2025 Order granting Plaintiff's Rule to Show Cause.¹ Since the issuance of the Rule to Show Cause Order, which held the imposition of sanctions in abeyance, Defendant Sabrina Montgomery and Defendant Patrick Montgomery still did not comply with the Court's ruling. In fact, Defendant Sabrina Montgomery, through her counsel, confessed to destroying evidence on her cellular device that the Court had previously ordered produced for forensic examination. Accordingly, Plaintiff asked the Court to impose severe sanctions for egregious discovery abuse and willful noncompliance with multiple Orders of the Court.

As detailed herein, the procedural history of this case demonstrates a pervasive and blatant disregard for the judicial system and the rights afforded to Plaintiff to timely pursue her claims and conduct discovery. Thus, the Court finds that severe sanctions are warranted in this third Order regarding discovery compliance. Given Defendants' willingness to ignore this Court's Order and their discovery obligations, there exists a clear and irrefutable pattern of discovery abuse that is likely

¹ The Court adopts its March 28, 2025 Order and the numerous filings related to discovery abuse as if repeated herein verbatim.

to continue unless sanctions are imposed. Thus, judicial intervention is necessary, and consequences, pursuant to Rule 37, SCRCP, are merited.

PROCEDURAL HISTORY

On January 6, 2025, this matter came before the Court on Plaintiff's Motion for Rule to Show Cause against Defendant Sabrina Montgomery and Defendant Patrick Montgomery for their failures to comply with the Court's prior Order entered on February 2, 2024, compelling supplemental discovery responses. After hearing the argument of Counsel, the Court granted Plaintiff's Motion. A detailed Order was issued on March 28, 2025 (hereinafter referred to as the "Order"). In the Order, the Court required Defendant Sabrina Montgomery to produce additional records and her cellular device for purposes of conducting a forensic inspection and download by Plaintiff's counsel. The deadline for compliance was April 14, 2025. As to Defendant Patrick Montgomery, the Court likewise ordered the production of additional discovery by April 14, 2025. The Court held sanctions in abeyance allowing each Defendant one final opportunity to cure the discovery abuses.

Neither Defendant Patrick Montgomery nor Defendant Sabrina Montgomery complied with the Court mandated deadline. The present Order is one of three issued by the Court commanding discovery compliance. Despite the Court's directives, Defendant Patrick Montgomery and Defendant Sabrina Montgomery still fail to comply. Defendants' willful discovery abuse has resulted in the destruction of evidence, caused irreparable harm, and unfairly prejudiced Plaintiff's ability to pursue her claims.

A. Procedural History as to Defendant Patrick Montgomery

In its Order, the Court directed Defendant Patrick Montgomery to serve additional discovery responses on Plaintiff by April 14, 2025. After the expiration of the mandated deadline,

Defendant Patrick Montgomery did not produce any documents or serve supplemental written responses. To date, no supplemental discovery has been issued by Defendant Patrick Montgomery or his counsel as directed by the Order. The Court has ordered the same on two (2) separate occasions.

Instead of serving discovery responses as ordered by the Court, counsel for Defendant Patrick Montgomery waited until April 14, 2025 – the last day to comply with the Order – and filed a motion styled “Motion to Protect Defendant’s Interests Pursuant to Rule 1.14(B).” The Court is highly critical of the timing of this Request. Most notably, at the first hearing on Plaintiff’s Rule to Show Cause, counsel for Defendant Patrick Montgomery did not raise any issue concerning Defendant Patrick Montgomery’s alleged mental incapacity. The Court also notes the same Motion was not filed in the companion criminal case. Nonetheless, out of an abundance of caution, Defendant Patrick Montgomery’s Motion was granted in a separate Order dated June 20, 2025. While the Court granted Defendant’s Motion to Protect his Interests, such relief in no way alleviates the year and a half long discovery noncompliance. Against Defendant Patrick Montgomery, sanctions are appropriate. His willful noncompliance with two prior Court Orders demonstrates pervasive and longstanding discovery abuse.

B. Procedural History as to Defendant Sabrina Montgomery

Defendant Sabrina Montgomery also failed to comply with the Order, and instead, destroyed evidence on her cellular device. The Court ordered Defendant Sabrina Montgomery to produce her cellular device for forensic inspection and download. After producing the device, it was determined by Plaintiff’s expert that it had been manually wiped the day before it was produced for inspection. Counsel for Defendant Sabrina Montgomery concedes his client wiped her cellular device before the forensic inspection and download.

The Court cannot discern a more egregious discovery abuse. Defendant Sabrina Montgomery consciously and intentionally destroyed evidence ordered to be produced by the Court. While she feigned compliance with the Court's Order and produced her cellular device for forensic inspection, Defendant Sabrina Montgomery's actions demonstrate an utter disregard for the judicial system and warrant severe sanctions. The destruction of evidence is particularly egregious in light of the Court Order commanding its production.

APPLICABLE LAW

"The orders of the trial court are not Shakespearean in nature 'full of sound and fury, signifying nothing.'" *Griffin Grading & Clearing, Inc. v. Tire Service Equip. Manufacturing Co., Inc.*, 334 S.C. 193, 199, 511 S.E.2d 716, 719 (Ct. App. 1999). "If a party fails to obey an order to provide or permit discovery, the trial court may impose sanction such as striking the pleadings, dismissing the action, or rendering a default judgment." *Id.* at 198. "The selection of a sanction for discovery violations is within the trial court's discretion." *Id.* The imposition of discovery sanctions under the South Carolina Rules of Civil Procedure is entrusted to the sound discretion of the trial judge, and the trial judge's exercise of discretionary powers regarding discovery sanctions will not be overturned on appeal absent a clear abuse of discretion. *Hulverson v. Yawn*, 328 S.C. 618, 620, 493 S.E.2d 883, 884 (Ct. App. 1997). As in all cases involving violations of applicable discovery rules, the touchstone in determining whether to order sanctions, and the nature of sanctions, the court should consider the nature of the discovery request, the discovery posture of the case, the willfulness of the violation, and the degree of prejudice to the opposing party. *Historic Charleston Holdings, LLC v. Mallon*, 381 S.C. 417, 435, 673 S.E.2d 448, 457 (2009). The court has the authority to order severe sanctions, such as dismissal of an action, in cases involving bad faith, willful disobedience, or gross indifference to the opposing party's rights.

McNair v. Fairfield County, 379 S.C. 462, 466, 665 S.E.2d 830, 832 (Ct. App. 2008). The “sanction the judge imposes ‘should serve to protect the rights of discovery provided by the Rules.’” *Id.* at 466, 665 S.E.2d at 832.

“In South Carolina, our judges have broad discretion in addressing misbehavior during depositions and other discovery abuse. *See* Rule 37, SCRPC. In addition to their traditional contempt powers, judges may issue orders as a sanction for improper deposition conduct; (1) specifying that designated facts be taken as established for purposes of the action; (2) precluding the introduction of certain evidence at trial; (3) striking out pleadings or parts thereof; (4) staying further proceedings pending the compliance with an order that has not been followed; (5) dismissing the action in full or in part; (6) entering default judgment on some or all the claims; or (7) an award of reasonable expenses, including attorney fees. *Id.* Among the costs a judge may deem appropriate could be those incurred for future judicial monitoring of depositions or payment for the retaking of depositions. Our judges must use their authority to make sure that abusive deposition tactics and other forms of discovery abuse do not succeed in their ultimate goal: achieving success through abuse of the discovery rules rather than by the rule of law.” *Id.*

LEGAL ANALYSIS

Defendants’ willful discovery abuse has resulted in the destruction of evidence, caused irreparable harm, and unfairly prejudiced Plaintiff’s ability to pursue her claims. This case was filed over two (2) years ago and has stalled significantly as a result of Defendants’ actions. Such conduct prejudices Plaintiff and warrants the issuance of severe sanctions.

When determining the proper sanction, the Court must consider (1) the precise nature of the discovery sought, (2) the discovery posture of the case, (3) the degree of the prejudice, and (4) the willfulness of the parties’ conduct. *See Samples v. Mitchell*, 329 S.C. at 112, 495 S.E.2d at 216.

“Even though the imposition of sanctions is usually left to the sound discretion of the trial judge, whatever sanction the judge imposes ‘should serve to protect the rights of discovery provided by the Rules.’ Overly lenient sanctions are to be avoided where they result in inadequate protection of discovery.” *Id.* at 114, 495 S.E.2d at 217 (citations omitted).

1. The nature of the discovery.

The nature of the discovery sought by Plaintiff which serves as the subject of these numerous Court Orders was not complex or overburdensome. Rather, the interrogatories and requests for production sought relevant, non-privileged information that was readily available without imposing a burden on Defendants. Likewise, the production of Defendant Sabrina Montgomery’s cellular device for forensic inspection and download posed no undue burden on her. Defendant Sabrina Montgomery was not even asked to pay the costs associated with the forensic inspection and download; instead, she was simply ordered to turn over the cellular device to her counsel.

2. Discovery posture of the case.

This case has been litigated for over two (2) years with little discovery conducted to date as a result of the delays. Plaintiff is at a standstill and there is no other procedural mechanism for relief that has not previously been addressed by the Court. Plaintiff’s Motion to Compel was granted. Plaintiff’s Rule to Show Cause was granted. After several motions and two (2) Court Orders, Defendants have not complied, and evidence has been spoliated. This case should be ready for trial, but it is not due to Defendants’ delays and discovery abuse.

3. The degree of prejudice to the Plaintiff and the other Defendants.

Defendants’ pervasive conduct has delayed discovery, unfairly prejudiced Plaintiff’s ability to conduct timely discovery, and wasted significant resources. “[T]he rights of discovery provided

by the rules give the trial lawyer the means to prepare for trial, and when these rights are not accorded, **prejudice must be presumed.**" *Downey v. Dixon*, 294 S.C. 42, 46, 362 S.E.2d 317, 319 (Ct. App. 1987)). As a result of the Defendants' discovery abuse outlined here and in the other filings, Plaintiff's ability to timely and efficiently pursue this case has been irreparably harmed. All the while, Plaintiff's case has languished on the docket, not been resolved, costs continue to accrue, and Plaintiff's counsel has been forced to unnecessarily spend time and resources.

4. Willfulness of non-disclosure.

The long pattern of willful non-disclosure and spoliation set forth herein is self-evident. Plaintiff wrote detailed correspondence and filed lengthy briefs with numerous exhibits that outlined her positions at multiple hearings. Nothing about the conduct demonstrated by these Defendants can be attributed to mistake, inadvertence, or neglect. Their conduct in-and-of-itself conclusively shows egregious discovery misconduct and a pattern of willful violations of South Carolina law.

Defendants' willful refusals to comply with the Court's Orders have completely undermined Plaintiff's efforts to conduct meaningful discovery and prepare for trial and demonstrate a disregard for the judicial system and this Court. Accordingly, the Court finds that the most severe sanctions should be imposed at this time.

IT IS THEREFORE ORDERED, as follows:

A. Award of Attorney's Fees and Costs Against Defendant Patrick Montgomery and Defendant Sabrina Montgomery and/or Their Respective Defense Counsel

Plaintiff has been forced by Defendants to expend substantial time and resources to obtain initial discovery responses that comply with the rules of civil procedure. The Court finds that a sanction for attorney's fees and costs in this matter is warranted. The South Carolina Supreme Court has reminded Circuit Court judges "that the seldom-utilized rule for awarding fees and imposing

sanctions, SCRPC 37, is available to deter discovery abuses." South Carolina Supreme Court Administrative Order, 2021-06-03-02, June 3, 2021. The Court finds such relief to be appropriate in this case. It is clear that Defendant Patrick Montgomery and Defendant Sabrina Montgomery have each violated Rules 26, 33, 34, and 37 of the South Carolina Rules of Civil Procedure. It is also clear that Defendants failed to comply with the Court's multiple Orders in the year and a half that has followed this discovery abuse.

Plaintiff has been unfairly prejudiced in her ability to pursue her case in a timely and efficient manner. Plaintiff's closure with respect to this case has been substantially delayed due to unnecessary and significant discovery delays, even after judicial intervention. Plaintiff's counsel has been forced to expend numerous hours attempting to force Defendants to comply with the Court's ruling.

Accordingly, the Court orders an award of attorney's fees and costs under Rule 36(a), Rule 37(a)(4) and Rule 37(c) SCRPC, in the amount of \$21,828.64 as supported by the Affidavits of Attorney's Fees and Costs. The Affidavits support that counsel's minimum hourly rate is \$600.00/hour for Attorney Bringardner and \$400.00/hour for Attorney Linton. The Affidavits sufficiently identify significant previous litigation experience in support of their respective hourly fees. The Court finds the rates of counsel to be reasonable and commensurate with their experience. The Court likewise finds the amount of time devoted to the pursuit of numerous discovery motions and counsel's efforts to avoid judicial intervention to be reasonable.

Reviewing counsels' knowledge, experience, and professional standing; the time and labor it is apparent they devoted to this matter; the nature, extent, and difficulty of what the record reflects has been a longstanding discovery matter; and the beneficial results achieved, the Court **ORDERS** Defendant Patrick Montgomery and/or defense counsel to pay the amount of attorneys'

fees and costs of \$10,914.32 and ORDERS Defendant Sabrina Montgomery and/or defense counsel to pay the amount of attorneys' fees and costs of \$10,914.32 which totals the \$21,828.64 in attorneys' fees and costs. Said payment shall be made directly to the Bringardner Injury Law Firm within thirty (30) days of the filing of this order. The Court finds this amount reasonable and appropriate considering the precise nature of the discovery conduct, the degree of prejudice of the discovery abuse and the willfulness of nondisclosure.

B. Award of Costs Against Defendant Sabrina Montgomery for the Forensic Inspection and Download of her Cellular Device.

In addition to the foregoing, the Court ORDERS Defendant Sabrina Montgomery to pay the costs and fees associated with the forensic inspection and download totaling \$2,375.00. Said payment shall be made directly to the Bringardner Injury Law Firm within thirty (30) days of the filing of this order.

C. Defendants are Hereby Placed in Default and Their Answers are Stricken.

Upon a careful and full review of the record and proceedings, the Court concludes that the harsh sanction of rendering a judgment of default against Defendant Patrick Montgomery and Defendant Sabrina Montgomery is both reasonable and necessary in light of the long-term and pervasive discovery abuse exhibit by Defendants. Rule 37(d) and b(2)(c), SCRCP, authorize this Court to strike pleadings, dismiss an action, and render a judgment by default against a disobedient party where a party has failed to comply with a court order. The South Carolina Supreme Court recognizes that circuit courts have discretion to sanction discovery abuse, including by issuing Rule 37(b)(2)(C) orders striking pleadings for a party's failure to obey an order to provide or permit discovery.² See, e.g., *Davis v. Parkview Apartments*, 409 S.C. 266, 726 S.E.2d 535 (2014); *McNair*

² The South Carolina Supreme Court explicitly stated that actions or inactions "designed to prevent justice, delay the process, or drive-up costs are improper and warrant sanctions." See *In Re Anonymous*, 346 S.C. 177, 194, 552 S.E.2d, 10, 18 (2001). The court added that "judges **must** use their authority to make sure that abusive deposition tactics and

v. Fairfield County, 379 S.C. 462, 665 S.E.2d 830 (2008); and *Griffin Grading & Clearing, Inc. v. Tire Serv. Equip. Mfg. Co.*, 334 S.C. 193, 511 S.E.2d 716 (1999). A trial court is afforded wide discretion in imposing sanctions and its decision will not be disturbed on appeal absent a clear abuse of discretion. See *Estate of Watson v. Babb*, 2007 S.C. App. Unpub. LEXIS 374; *Barnett v. Adams Bros. Logging, Inc.*, 355 S.C. 588, 593, 586 S.E.2d 572, 575 (2003); and *Halverson v. Yawn*, 328 S.C. 618, 493 S.E.2d 883 (Ct. App. 1997).

The South Carolina Supreme Court addressed a factual situation similar to this one in *Davis v. Parkview Apartments*, 409 S.C. 266, 762 S.E.2d 535 (2014). In *Davis*, the Supreme Court upheld the trial court's decision to strike Appellants pleadings and award fees and costs to Respondents based on the finding that Appellants willfully and repeatedly failed to comply with the circuit court's discovery orders. *Id.* at 283, 762 S.E.2d at 544. *Davis* involved claims arising from Respondents' role in selling various rental properties and the purchasers' default on the payment terms of that deal. *Id.* at 272, 762 S.E.2d at 538. Respondents served the Appellants with discovery requests, and when Appellants responses were deficient, Respondents moved to compel full and complete responses. *Id.* at 274, 762 S.E.2d at 539. The trial court granted Respondents' motion and ordered Appellants to provide "full and complete responses." *Id.* Although Appellants eventually produced some documents, they did not produce all that the court ordered. *Id.* Respondents then moved for sanctions. *Id.* at 276, 762 S.E.2d at 541. At the hearing, Appellants represented they were serving supplemental discovery responses that same day. *Id.* at 277, 762 S.E.2d at 541. Even so, "the court admonished Appellants that their non-compliance [with its discovery orders] . . . could elicit the court's dismissal of the case." *Id.* Appellants failed to fully comply with the order, so Respondents renewed their motion for sanctions, and the trial court

other forms of discovery abuse do not succeed in their ultimate goal: achieving success through abuse of the discovery rules rather than by rule of law." *Id.* (emphasis added).

issued an order of dismissal for their willful noncompliance with its discovery rulings. *Id.* at 279, 762 S.E.2d at 542.

The Supreme Court upheld the decision of the trial court, stating that the sanction was not unduly harsh considering that Appellants had “ample opportunity to amend their discovery responses both before and after [the trial judge] issued the Discovery Order, and Appellants willfully and repeatedly failed to comply with the circuit court’s orders in any meaningful way.” *Id.* at 283, 762 S.E.2d at 544. Because the “Appellants’ failure to comply with the various orders of the court was willful and deliberate and caused unnecessary delay of this case and prejudice to Respondents,” the Supreme Court found that “the circuit court did not err in issuing the Dismissal Order as a sanction for Appellants’ noncompliance with the courts orders.” *Id.*

Likewise, the Court of Appeals upheld a circuit court order striking an answer in *McNair v. Fairfield County*, 379 S.C. 462, 665 S.E.2d 830 (2008), which arose out of Defendant Fairfield County's attempt to condemn private property owned by Plaintiff. After receiving the County's condemnation notice and filing a condemnation challenge, Plaintiff served discovery requests on the County. *Id.* at 464, 665 S.E.2d at 831. Although the County produced over 800 documents within the next two weeks, Plaintiff filed a motion to compel on the grounds that the County had failed to produce certain documents, had not coherently organized the documents it did produce, and had provided incomplete responses to his interrogatories. *Id.* The trial court issued an order finding the County's discovery responses deficient and required the County to correct the deficiencies within fifteen (15) days. *Id.* When the County did not comply with the order, Plaintiff's counsel wrote letters requesting that the county comply with the court's order. *Id.* Plaintiff then moved for dismissal and sanctions. *Id.*

At the sanctions hearing, the Court warned that it was inclined to strike the County's answer. *Id.* at 465, 665 S.E.2d at 831. Despite this warning, the County continued to ignore the order, so the Court issued an order striking the County's answer. *Id.* On appeal, the Court of Appeals rejected the County's argument that the sanction of dismissal was unreasonably harsh under the circumstances, *Id.* at 468, 665 S.E.2d at 833. The appellate court recognized the trial court's discretion in sanctioning discovery abuse and its ability to impose severe sanctions in cases involving bad faith, willful disobedience, or gross indifference to the opposing party's rights. *Id.*

Finally, in *Griffin Grading & Clearing, Inc. v. Tire Serv. Equip. Mfg. Co.*, 334 S.C. 193, 511 S.E.2d 716 (Ct. App. 1999), Plaintiff sued Defendant for negligent misrepresentation, fraud, and breach of warranty. After nearly two (2) years of failing to turn over any meaningful discovery, the trial court struck Defendant's answer and ordered it to pay attorney's fees. *Id.* at 198, 511 S.E.2d at 718. Defendant appealed, arguing the trial court abused its discretion. *Id.* The Court of Appeals affirmed the trial court, finding that the orders of the trial court had been ignored; that Defendant failed to provide full and complete discovery responses; and that the record was full of multiple discovery abuses that blocked the opposing party's attempt to conduct meaningful discovery. *Id.* at 199, 511 S.E.2d at 719.

In this case, Defendant Patrick Montgomery and Defendant Sabrina Montgomery have demonstrated a long-term pattern of noncompliance and discovery abuse similar to that in *Davis*, *McNair* and *Griffin*.³ Defendants both provided deficient discovery responses; failed to respond to Plaintiff's good faith attempts to resolve the discovery disputes; failed to comply with the Court's February 2, 2024 Order; failed to remedy the deficiencies once Plaintiff's Motion for a Rule to Show Cause was filed; and failed to comply with the Court's March 28, 2025 Order despite the

³ Much like *Davis*, *McNair*, and *Griffin*, the Court also placed Defendants on notice of the issuance of sanctions both at the January 6, 2025 hearing and in its Order.

Court holding sanctions in abeyance to allow one final attempt to remedy the past discovery abuses. As to Defendant Sabrina Montgomery, she consciously destroyed evidence even after it was ordered to be produced by the Court. Plaintiff and this Court have given each Defendant multiple opportunities to comply, yet they have not done so.

As to Defendant Patrick Montgomery, the Court fully considered the representation of counsel regarding the alleged nature of Defendant Patrick Montgomery's current medical condition in its determination of sanctions. The Court ordered Defendant Patrick Montgomery's counsel to seek judicial determination for appointment of a Guardian ad Litem. However, the Court also notes the record shows multiple motions, hearings, and Orders concerning the Defendants' discovery responses over the pendency of this case. Defendant Patrick Montgomery has continued the long-term discovery noncompliance and only asserted capacity issues by Motion through his attorney, without any supporting evidence, on the same date this Court imposed a deadline for compliance on its second Order. Current alleged issues of incapacity do not alleviate nearly two (2) years of discovery abuse.

Assuming counsel acted promptly by filing its Rule 1.14(B) Motion immediately upon concluding Defendant Patrick Montgomery may suffer from an alleged diminished capacity, the same necessarily indicates that Defendant Patrick Montgomery violated the Court's prior Orders free of alleged diminished capacity. Two (2) prior hearings occurred in this case and counsel for Defendant Patrick Montgomery did not attempt to show any cause at those hearings regarding alleged diminished capacity, which was the appropriate time to do so. To first raise such concerns through a Motion on the deadline to comply with a Rule to Show Cause Order, even cast in a light most favorable to Defendant Patrick Montgomery, shows that his willful noncompliance and discovery abuse began long before his alleged diminished capacity. It may be determined that

Defendant Montgomery is in need of a Guardian ad Litem at present, but that does not excuse his prior misconduct, and good cause has not been demonstrated to avoid the imposition of severe sanctions.

As a result of each Defendant's conduct, Plaintiff has been prejudiced. Defendants have made it extremely difficult for Plaintiff to litigate her case on its merits by failing to produce discoverable evidence, by destroying evidence, and by failing to comply with multiple Court Orders.

CONCLUSION

Defendant Patrick Montgomery and Defendant Sabrina Montgomery violated the South Carolina Rules of Civil Procedure and this Court's Orders (February 2, 2024 and March 28, 2025), demonstrating contempt for this Court and gross indifference to Plaintiff's rights. This willful and deliberate disobedience of the Court's discovery Orders have caused the Court and Plaintiff unnecessary delay and expense. Instead of preparing for trial, Plaintiff has not even had the opportunity to conduct depositions. Plaintiff's request for sanctions in the form of attorney's fees and costs, as well as the striking of Defendant Patrick Montgomery's Answer and Defendant Sabrina Montgomery's Answer is hereby granted.

AND IT IS SO ORDERED.

The Honorable Dale E. Van Slambrook
Presiding Judge

Moneks Corner, South Carolina
July ____, 2025



Berkeley Common Pleas

Case Caption: Kanisha Nash VS Patrick Montgomery , defendant, et al

Case Number: 2023CP0801652

Type: Order/Rule To Show Cause

And It Is So Ordered!

s/Dale E. Van Slambrook S.C. Circuit Court Judge
#2781

Electronically signed on 2025-07-01 10:47:38 page 15 of 15

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 2023-CP-08-01652

Kanisha Nash,

Plaintiff,

v.

Montgomery Construction, LLC,
Patrick Montgomery, and Sabrina
Montgomery, individually, and as
owner/registered agent for Montgomery
Construction, LLC,

Defendants,

**ORDER ON DEFENDANT PATRICK
MONTGOMERY'S MOTION TO
RECONSIDER ALTER OR AMEND**

This matter originally appeared before the Court after multiple hearings on Plaintiff's Motion for Rule to Show Cause, filed October 24, 2024. After a review of all materials presented, this Court issued two Orders, dated March 28, 2025 and July 1, 2025, granting Plaintiff's Motion for Rule to Show Cause.¹ Thereafter, on July 11, 2025, Defendant Patrick Montgomery filed his Motion to Reconsider, Alter or Amend the Court's Order pursuant to Rule 59 of the South Carolina Rules of Civil Procedure.

After careful consideration of the argument and filings of Counsel and review of the record, the Court is unable to discover any material fact or principle of law that either has been overlooked or disregarded and further finds no error of law or fact not appropriately considered. This Court likewise finds no discernable reason, based on the above factors, to warrant overturning its judgment. Accordingly, Defendant's Motion to Alter or Amend this Court's July 1, 2025 Order is DENIED.²

¹ Defendant Patrick Montgomery did not file a Motion to Reconsider, Alter, or Amend the Court's first Order granting Plaintiff's Rule to Show Cause.

² The Court, in its discretion, has determined this Motion on the filings, without oral argument, pursuant to Rule 59(f), SCRCP.

AND IT IS SO ORDERED.

Moncks Corner, South Carolina
_____, 2025

The Honorable Dale E. Van Slambrook
Presiding Judge



Berkeley Common Pleas

Case Caption: Kanisha Nash VS Patrick Montgomery , defendant, et al

Case Number: 2023CP0801652

Type: Order/Other

And It Is So Ordered!

s/Dale E. Van Slambrook S.C. Circuit Court Judge
#2781

Electronically signed on 2025-07-25 14:10:37 page 3 of 3

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

Kanisha Nash,

Plaintiff,

v.

Montgomery Construction, LLC,
Patrick Montgomery, and Sabrina
Montgomery, individually, and as
owner/registered agent for Montgomery
Construction, LLC,

Defendants,

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 2023-CP-08-01652

**ORDER ON DEFENDANT SABRINA
MONTGOMERY'S MOTION TO
RECONSIDER, ALTER, OR AMEND**

This matter originally appeared before the Court after multiple hearings on Plaintiff's Motion for Rule to Show Cause, filed October 24, 2024. After a review of all materials presented, this Court issued two Orders, dated March 28, 2025 and July 1, 2025, granting Plaintiff's Motion for Rule to Show Cause.¹ Thereafter, on July 11, 2025, Defendant Sabrina Montgomery filed her Motion to Reconsider, Alter or Amend the Court's Order pursuant to Rule 59 of the South Carolina Rules of Civil Procedure.

After careful consideration of the argument and filings of Counsel and review of the record, the Court is unable to discover any material fact or principle of law that either has been overlooked or disregarded and further finds no error of law or fact not appropriately considered. This Court likewise finds no discernable reason, to warrant overturning its striking of Defendant Sabrina Montgomery's Answer. Accordingly, Defendant's Motion to Alter or Amend this Court's July 1, 2025 Order as it relates to the striking of her Answer is DENIED.

¹ Defendant Sabrina Montgomery did not file a Motion to Reconsider, Alter, or Amend the Court's first Order granting Plaintiff's Rule to Show Cause.

As to the award of attorney's costs and fees, the Court hereby alters its July 1, 2025 Order and finds that only Defendant Sabrina Montgomery shall be responsible for the payment of attorney's fees and costs. Such a decision was reached without objection by Plaintiff. The remainder of the Court's Order related to the award of fees and costs is hereby AFFIRMED.²

AND IT IS SO ORDERED.

The Honorable Dale E. Van Slambrook
Presiding Judge

Moncks Corner, South Carolina
_____, 2025

² The Court, in its discretion, has determined this Motion on the filings, without oral argument, pursuant to Rule 59(f), SCRCP.



Berkeley Common Pleas

Case Caption: Kanisha Nash VS Patrick Montgomery , defendant, et al
Case Number: 2023CP0801652
Type: Order/Other

And It Is So Ordered!

s/Dale E. Van Slambrook S.C. Circuit Court Judge
#2781

Electronically signed on 2025-07-25 14:10:27 page 3 of 3

ELECTRONICALLY FILED - 2025 Jul 25 3:00 PM - BERKELEY - COMMON PLEAS - CASE#2023CP0801652

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

IN THE COURT OF COMMON PLEAS

KANISHA NASH,

Civil Action No. 2023-CP-08-01652

Plaintiff,

vs.

**ORDER GRANTING DEFENDANT
PATRICK MONTGOMERY'S
MOTION FOR EXTENSION OF TIME
TO INSTITUTE GUARDIANSHIP
PROCEEDINGS**

MONTGOMERY CONSTRUCTION,
LLC, PATRICK MONTGOMERY, AND
SABRINA MONTGOMERY,
INDIVIDUALLY, AND AS
OWNER/REGISTERED AGENT FOR
MONTGOMERY CONSTRUCTION,
LLC,

Defendants.

This matter appeared before me on Defendant Patrick Montgomery's Motion for additional time to institute guardianship proceedings for Patrick Montgomery pursuant to the Court's previous Order. After reviewing the motion of counsel for Mr. Montgomery and hearing the arguments of counsel, Defendant is granted an additional sixty (60) days for the evaluation and the institution of the proceedings with the acknowledgement that the evaluation is at the mercy of the Court of General Sessions and the schedule of the court approved physicians. Counsel for Mr. Montgomery is to keep the court and the other counsel apprised of any developments in the criminal case as she is updated by the counsel and court in the criminal case.
IT IS SO ORDERED.

Judge Charles J. McCutchen
Berkeley County Court of Common Pleas

Berkeley, South Carolina
August _____, 2025



Berkeley Common Pleas

Case Caption: Kanisha Nash VS Patrick Montgomery , defendant, et al

Case Number: 2023CP0801652

Type: Order/Other

IT IS SO ORDERED

Charles J. McCutchen

Electronically signed on 2025-08-25 11:48:19 page 2 of 2

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 2023-CP-08-_____

Kanisha Nash,

Plaintiff,

v.

Patrick Montgomery,
Sabrina Montgomery, and
Montgomery Construction, LLC,

Defendants,

SUMMONS

TO THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to appear and defend the action(s) set forth in the Complaint herein, a copy of which is served upon you, and to serve a copy of your Answer or Motion to the said Complaint on the Bringardner Injury Law Firm at 41 Broad Street, Charleston, SC 29401, within thirty (30) days after service hereof, exclusive of the day of service, and if you fail to appear and defend within the time aforesaid, judgment by default will be entered against you for the relief demanded in the Complaint.

BRINGARDNER INJURY LAW FIRM, LLC

By: s/Mark Bringardner
Mark Bringardner (SC Bar No.: 102465)
mark@bringardner.com
Chris Dorsel (SC Bar No.: 72504)
cdorsel@bringardner.com
41 Broad Street
Charleston, SC 29401
Office: 843-400-0550
Facsimile: 843-350-8290
Attorneys for the Plaintiff

Charleston, South Carolina
June 16, 2023

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 2023-CP-08-_____

Kanisha Nash,

Plaintiff,

v.

Patrick Montgomery, Sabrina
Montgomery, and Montgomery
Construction, LLC,

Defendants,

COMPLAINT
(Automobile Collision/Negligence)
(Negligent Entrustment)
(Negligent Hiring, Retention,
Supervision and Training)
(Jury Trial Requested)

The Plaintiff, complaining of the Defendants, above-named, hereby alleges and pleads as follows:

1. Plaintiff is a resident of Dorchester County, South Carolina.
2. Upon information and belief, Defendant Patrick Montgomery is a resident of Berkeley County, South Carolina.
3. Upon information and belief, Defendant Sabrina Montgomery is a resident of Berkeley County, South Carolina.
4. Upon information and belief, Defendant Montgomery Construction, LLC ("Montgomery Construction") is a for-profit corporation organized under the laws of the State of South Carolina and doing business in Berkeley County, South Carolina.
5. At all relevant times hereto, the most substantial part of the acts and omissions committed by Defendant giving rise to this action occurred in Berkeley County, South Carolina.
6. This Court has jurisdiction pursuant to S.C. Code Ann. 15-7-20 and venue is proper.
7. At all times relevant, Defendant Patrick Montgomery was an officer, director, agent, and/or employee of Defendant Montgomery Construction and was acting within the course and scope of

his employment, agency, and/or work with Defendant Montgomery Construction at the time of the subject incident described herein.

8. At all times relevant, Defendant Sabrina Montgomery was the owner, president, managing partner, chief executive officer, officer, director, agent, and/or employee of Defendant Montgomery Construction at the time of the subject incident described herein.

9. At all times relevant, Defendants Montgomery Construction and Sabrina Montgomery were the employers and/or principals of Defendant Patrick Montgomery and exercised control over the conduct of Defendant Patrick Montgomery and had the right to control the time, manner, method and performance of Defendant Patrick Montgomery's employment and/or work and use of the vehicle he was driving at the time of the subject incident described herein.

10. On or about April 14, 2023, and at all times relevant, Defendant Patrick Montgomery was impaired under the influence of alcohol and/or other intoxicating substances while driving a certain 2014 GMC vehicle (South Carolina License number plate KTF628, hereinafter the "subject vehicle").

11. The subject vehicle was owned by Defendants Montgomery Construction and/or Sabrina Montgomery.

12. At all times relevant, the subject vehicle was hauling a trailer at the time of the subject incident.

13. On or about April 14, 2023, at approximately 9:50 pm, Defendant Patrick Montgomery was driving the subject vehicle westbound on Highway 176/State Road.

14. At the same time, Plaintiff was driving her vehicle eastbound on Highway 176/State Road, with her son G.N. (a minor, age 2), riding as a passenger.

15. Upon information and belief, Defendant Patrick Montgomery, while impaired under the influence of alcohol, failed to maintain his lane, drove into the eastbound lane, and violently crashed into Plaintiff's vehicle head-on (hereinafter referred to as the "subject incident").

16. Plaintiff was severely injured and suffered damages as a direct and proximate result of the subject incident.

17. Plaintiff's son, G.N. sustained fatal injuries as a result of the subject incident.

18. Plaintiff is informed and believes that at the time of the subject incident, Defendant Patrick Montgomery was unfit to operate a motor vehicle. Plaintiff is informed and believes that Defendants Montgomery Construction and/or Sabrina Montgomery entrusted the subject vehicle to Defendant Patrick Montgomery. Defendants Montgomery Construction and/or Sabrina Montgomery knew or should have known at the time of the entrustment that Defendant Patrick Montgomery was unfit to drive and was planning to, and did in fact, drive the entrusted subject vehicle.

FOR A FIRST CAUSE OF ACTION AGAINST
DEFENDANT PATRICK MONTGOMERY
(Negligence/Recklessness)

19. That Plaintiff realleges and reincorporates the paragraphs above as if fully set forth verbatim herein.

20. Defendant Patrick Montgomery owed a duty to the plaintiff to operate the subject vehicle safely, with reasonable care, and in accordance with all laws concerning the operation of a motor vehicle.

21. Defendant Patrick Montgomery was negligent, careless, grossly negligent, willful, wanton, and/or reckless and breached the duties owed to the Plaintiff in one or more of the following ways:

- a. In operating the subject vehicle in a negligent, grossly negligent, and/or reckless manner;

- b. In driving under the influence of alcohol in violation of S.C. Code Ann § 56-5-2930;
- c. In driving while impaired and under the influence of alcohol, which specifically compromised his ability to operate a motor vehicle;
- d. In driving a motor vehicle in such a manner as to indicate a willful, wanton, reckless, grossly negligent, and negligent disregard for the safety of others, in violation of S.C. Code Ann. § 56-5-2920;
- e. In failing to use due care;
- f. In driving too fast for the conditions;
- g. In failing to maintain his proper lane of travel;
- h. In failing to keep the subject vehicle under proper control;
- i. In failing to keep a proper lookout;
- j. In failing to appreciate the conditions that existed at the relevant time;
- k. In failing to have the subject vehicle equipped and maintained with proper brakes and other safety devices and, if so equipped, in failing to timely apply the brakes and/or properly use the other safety devices;
- l. In failing to use the degree of care and caution that a reasonably prudent driver would have used under the circumstances then and there prevailing;
- m. In failing to operate a commercial vehicle in the manner required by the Federal Motor Carrier Safety Regulations;
- n. In failing to comply with the South Carolina laws and regulations related to the operation of a commercial motor vehicle;
- o. In violating various laws, statues, codes, and ordinances designed to protect the public, including the plaintiff, from the type of harm that was caused by the Defendant's conduct and constituting negligence *per se*, recklessness, and subjecting Defendant to punitive damages; and
- p. Otherwise operating a vehicle without exercising reasonable care and in a negligent, careless, grossly negligent, willful, wanton, and/or reckless manner.

All of which were direct and proximate causes of the Plaintiff's injuries and damages described herein.

22. As a direct and proximate cause of Defendant Patrick Montgomery's negligent, careless, grossly negligent, willful, wanton, and/or reckless conduct and breach of the duties owed to Plaintiff as described above, Plaintiff sustained serious injuries and damages.

23. As a direct and proximate cause of Defendant Patrick Montgomery's negligent, careless, grossly negligent, willful, wanton, and/or reckless conduct and breach of the duties owed to Plaintiff, the plaintiff has suffered damages in the form of physical injury and harm, past and future lost income, lost earning capacity, past and future medical expenses, past and future physical and mental pain and suffering, permanent injuries/impairment and disfigurement to Plaintiff's body, mental, emotional, and psychological damage, loss of enjoyment of life, and damage to Plaintiff's property.

24. That Plaintiff is entitled to judgment against Defendant Patrick Montgomery and all Defendants, jointly and severally, for the above-described injuries and damages and for actual, compensatory, and punitive damages in an amount to be determined by the jury.

FOR A SECOND CAUSE OF ACTION AGAINST
DEFENDANTS MONTGOMERY CONSTRUCTION
AND SABRINA MONTGOMERY
(Doctrines of *Respondeat Superior* and Agency)

25. Plaintiff re-alleges and reiterates the allegations contained in the paragraphs set forth above as if set forth herein verbatim.

26. Defendants Montgomery Construction and/or Sabrina Montgomery are vicariously liable to Plaintiff, under the doctrine of *respondeat superior* and agency, for the negligent, careless, grossly negligent, willful, wanton, and/or reckless conduct of their employee and/or agent,

Defendant Patrick Montgomery, such conduct consisting of one or more of the particulars described herein.

FOR A THIRD CAUSE OF ACTION AGAINST
DEFENDANTS MONTGOMERY CONSTRUCTION
AND SABRINA MONTGOMERY
(Direct Negligence/Recklessness)

27. Plaintiff re-alleges and reiterates the allegations contained in the paragraphs set forth above as if set forth herein verbatim.

28. That at all times relevant hereto, Defendant Patrick Montgomery was an employee, agent and/or legal representative of Defendants Montgomery Construction and Sabrina Montgomery and was acting in the course and scope of his employment, agency, or representation.

29. That at all times relevant hereto, Defendant Patrick Montgomery was an employee, agent and/or legal representative of Defendants Montgomery Construction and Sabrina Montgomery and was driving the subject vehicle provided to him by Defendants Montgomery Construction and Sabrina Montgomery with permission from Defendants Montgomery Construction and Sabrina Montgomery.

30. Defendants Montgomery Construction and Sabrina Montgomery permitted Defendant Patrick Montgomery to use the subject vehicle as his own for any and all purposes.

31. That at all times relevant hereto Defendants Montgomery Construction and Sabrina Montgomery exercised control over the conduct of Defendant Patrick Montgomery and had the right to control the time, manner and method of Defendant Patrick Montgomery's work and use of the subject vehicle it provided to Defendant Patrick Montgomery.

32. That Defendants Montgomery Construction and Sabrina Montgomery are responsible for Defendant Patrick Montgomery's acts and omissions, and the consequences of the same as

described herein, including but not limited to direct negligence/recklessness, and the doctrines of *respondeat superior* and agency.

33. Defendants Montgomery Construction and Sabrina Montgomery owed a duty to Plaintiff to ensure the safe operation of the subject vehicle, with reasonable care, and in accordance with all laws concerning the operation of a motor vehicle.

34. Defendants Montgomery Construction and Sabrina Montgomery owed a duty to Plaintiff to ensure the safe operation of the subject vehicle, with reasonable care, by implementing safety policies and procedures, monitoring, and other internal safety controls to protect the motoring public, including the Plaintiff, from negligent, grossly negligent, and/or reckless conduct, including the acts and omission of Defendant Patrick Montgomery.

35. Defendants Montgomery Construction and Sabrina Montgomery were negligent, careless, grossly negligent, willful, wanton, and/or reckless and breached the duties it owed to Plaintiff in one or more of the following ways:

- a. In permitting, facilitating, and/or allowing for the operation of the subject vehicle in a negligent, grossly negligent, and/or reckless manner;
- b. In failing to use due care;
- c. In failing to implement and enforce safety policies and procedures, monitoring, and other internal controls to protect the motoring public, including the plaintiff, from negligent, grossly negligent, and/or reckless conduct, including the acts of Defendant Patrick Montgomery;
- d. In permitting Defendant Patrick Montgomery to drive while impaired and under the influence of alcohol, drugs, or other psychoactive substances which specifically compromised his ability to operate a motor vehicle;
- e. Violating various laws, statues, codes, regulations, and ordinances designed to protect the public, including the plaintiff, from the type of harm that was caused by the Defendants' conduct and constituting negligence *per se*, recklessness, and subjecting Defendants to punitive damages; and

- f. In the training, hiring, retention, and supervision of their employees and agents, including Defendant Patrick Montgomery;
- g. In failing to operate a commercial vehicle in the manner required by the Federal Motor Carrier Safety Regulations;
- h. In negligently entrusting the subject vehicle to Defendant Patrick Montgomery;
- i. In failing to train their agents and employees, including Defendant Patrick Montgomery, on the proper operation of a motor vehicle, including the subject vehicle;
- j. In failing to adopt procedures for the safe operation of the subject vehicle;
- k. In failing to follow their own rules, regulations, and policies regarding hiring, training and supervision of their employees, agents and representatives;
- l. In failing to conduct reasonable and/or proper background check(s) and driving record check(s) on Patrick Montgomery;
- m. In failing to act as a reasonable and prudent person and/or entity would act under the same or similar circumstances;
- n. In failing to maintain the subject vehicle properly, including, but not limited to, the brakes (or proper application of the brakes), lights, safety devices, and/or other components as may be further determined in discovery; and
- o. Otherwise operating a vehicle without exercising reasonable care and in a negligent, careless, grossly negligent, willful, wanton, and/or reckless manner.

All of which were direct and proximate causes of the Plaintiff's injuries and damages described herein.

36. As a direct and proximate cause of Defendants Montgomery Construction and Sabrina Montgomery's negligent, careless, grossly negligent, willful, wanton, and/or reckless conduct and breach of the duties owed to Plaintiff as described above, Plaintiff sustained serious injuries and damages.

37. As a direct and proximate cause of Defendants Montgomery Construction and Sabrina Montgomery's negligent, careless, grossly negligent, willful, wanton, and/or reckless conduct and breach of the duties owed to Plaintiff, the plaintiff has suffered damages in the form of physical injury and harm, past and future lost income, lost earning capacity, past and future medical expenses, past and future physical and mental pain and suffering, permanent injuries/impairment and disfigurement to Plaintiff's body, mental, emotional, and psychological damage, loss of enjoyment of life, and damage to Plaintiff's property.

38. That Plaintiff is entitled to a judgment against all Defendants, jointly and severally, for the above-described injuries and damages and for actual, compensatory, and punitive damages as determined by a jury.

FOR A FOURTH CAUSE OF ACTION AGAINST
DEFENDANTS MONTGOMERY CONSTRUCTION
AND SABRINA MONTGOMERY
(Negligent/Reckless Entrustment)

39. That Plaintiff realleges and reincorporates the paragraphs above as if fully set forth verbatim herein.

40. Defendants Montgomery Construction and Sabrina Montgomery knew or should have known that Defendant Patrick Montgomery was untrained, inexperienced, unfit, and incapable of operating a vehicle in the manner required by South Carolina law.

41. Defendants Montgomery Construction and Sabrina Montgomery knew or should have known that at the time they entrusted a vehicle to Defendant Patrick Montgomery that Defendant Patrick Montgomery was likely to operate the subject vehicle in a negligent and/or reckless manner.

42. Defendants Montgomery Construction and Sabrina Montgomery knew or should have known that at the time the subject vehicle was entrusted to Defendant Patrick Montgomery that he

was likely to operate the vehicle under the influence of alcohol and/or other intoxicating substances and be or become, a negligent and/or reckless driver.

43. Defendants Montgomery Construction and Sabrina Montgomery negligently and/or recklessly entrusted a vehicle to Defendant Patrick Montgomery because Defendants Montgomery Construction and Sabrina Montgomery had actual or constructive notice of Defendant Patrick Montgomery's plans or intentions to operate the vehicle when he was unfit to drive.

44. As a direct and proximate cause of Defendants Montgomery Construction and Sabrina Montgomery's negligent, careless, grossly negligent, willful, wanton, and/or reckless conduct and breach of the duties owed to Plaintiff as described above, Plaintiff sustained serious injuries and damages.

45. As a direct and proximate cause of Defendants Montgomery Construction and Sabrina Montgomery's negligent, careless, grossly negligent, willful, wanton, and/or reckless conduct and breach of the duties owed to Plaintiff, the Plaintiff has suffered damages in the form of physical injury and harm, past and future lost income, lost earning capacity, past and future medical expenses, past and future physical and mental pain and suffering, permanent injuries/impairment and disfigurement to Plaintiff's body, mental, emotional, and psychological damage, loss of enjoyment of life, and damage to Plaintiff's property.

46. That Plaintiff is entitled to a judgment against all Defendants, jointly and severally, for the above-described injuries and damages and for actual, compensatory, and punitive damages as determined by a jury.

FOR A FIFTH CAUSE OF ACTION AGAINST
DEFENDANTS MONTGOMERY CONSTRUCTION
AND SABRINA MONTGOMERY
(Negligent/Reckless Hiring, Training, Retention, and Supervision)

47. That Plaintiff realleges and reincorporates the paragraphs above as if fully set forth verbatim herein.

48. Defendants Montgomery Construction and Sabrina Montgomery owed a duty to Plaintiff to exercise reasonable care in conducting their business activities, including the implementation of and following of appropriate operating standards and procedures, the hiring, retention and supervision of their employees, drivers, and agents, including Defendant Patrick Montgomery, and the proper maintenance of the subject vehicle.

49. Defendants Montgomery Construction and Sabrina Montgomery owed statutory and common law duties to Plaintiff not to negligently and/or recklessly hire, train, supervise and retain employees and to use safe and fit equipment.

50. Defendants Montgomery Construction and Sabrina Montgomery knew or should have known that Defendant Patrick Montgomery had a poor driving record and lacked ability, experience, and training such that he was unable and/or unlikely to comply with the state and local laws and therefore was a negligent and/or reckless driver.

51. Defendants Montgomery Construction and Sabrina Montgomery failed to properly supervise and train Defendant Patrick Montgomery and allowed Defendant Patrick Montgomery to operate the subject vehicle without the most basic training in violation of the applicable laws.

52. Defendants Montgomery Construction and Sabrina Montgomery failed to properly supervise and monitor Defendant Patrick Montgomery despite their knowledge that Defendant Patrick Montgomery did not have the required ability, training and/or experience to legally and safely operate a motor vehicle, in violation of state and local laws.

53. As a direct and proximate cause of Defendants Montgomery Construction and Sabrina Montgomery's negligent, careless, grossly negligent, willful, wanton, and/or reckless conduct and breach of the duties owed to Plaintiff as described above, Plaintiff sustained serious injuries and damages.

54. As a direct and proximate cause of Defendants Montgomery Construction and Sabrina Montgomery's negligent, careless, grossly negligent, willful, wanton, and/or reckless conduct and breach of the duties owed to Plaintiff, the Plaintiff has suffered damages in the form of physical injury and harm, past and future lost income, lost earning capacity, past and future medical expenses, past and future physical and mental pain and suffering, permanent injuries/impairment and disfigurement to Plaintiff's body, mental, emotional, and psychological damage, loss of enjoyment of life, and damage to Plaintiff's property.

55. That Plaintiff is entitled to a judgment against all Defendants, jointly and severally, for the above-described injuries and damages and for actual, compensatory, and punitive damages as determined by a jury.

FOR A SIXTH CAUSE OF ACTION
AGAINST ALL DEFENDANTS
(Negligent Infliction of Emotional Distress)

56. That Plaintiff realleges and reincorporates the paragraphs above as if fully set forth verbatim herein.

57. Plaintiff was the mother of G.N., (a minor, age 2), who sustained injuries in the subject incident and died from those injuries on April 24, 2023. Thus, Plaintiff is closely related to her son, G.N.

58. All defendants' negligence caused the serious injuries and death of G.N.

59. At the time of the subject incident, G.N. was a passenger in Plaintiff's vehicle, and as such, Plaintiff was in close proximity to, and involved in, the subject incident.

60. Plaintiff contemporaneously perceived and was involved in the subject incident and the injuries to G.N. caused by the subject incident.

61. Plaintiff has suffered extreme emotional distress, which has manifested itself through physical symptoms capable of objective diagnosis and that have been diagnosed by medical experts with whom Plaintiff has treated.

62. As a direct and proximate cause of the negligent infliction of emotional distress caused by Defendants' actions, Plaintiff has suffered damages as described herein, including emotional trauma arising from witness the ultimately fatal injuries to her son, G.N.

63. That Plaintiff is entitled to a judgment against all Defendants, jointly and severally, for the above-described injuries and damages and for actual, compensatory, and punitive damages as determined by a jury.

64. A jury trial is demanded.

WHEREFORE, Plaintiff demands judgment against all Defendants for actual, compensatory and punitive damages, including damages for physical injury and harm, past and future lost income, lost earning capacity, past and future medical expenses, past and future physical and mental pain and suffering, permanent injuries/impairment and disfigurement, mental, emotional, and psychological damage, loss of enjoyment of life, and damage to Plaintiff's property, for the costs of this action, and for any additional relief this Court deems just and proper.

BRINGARDNER INJURY LAW FIRM, LLC

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Attorneys for the Plaintiff

Charleston, South Carolina
June 16, 2023

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

IN THE COURT OF COMMON PLEAS

KANISHA NASH,
Plaintiff,

Civil Action No. 2023-CP-08-01652

vs.

**DEFENDANT PATRICK
MONTGOMERY'S ANSWER
(Jury Trial Demanded)**

PATRICK MONTGOMERY, SABRINA
MONTGOMERY, AND MONTGOMERY
CONSTRUCTION, LLC,

Defendants.

Defendant, Patrick Montgomery, answers the Complaint and respectfully assert the following:

FOR A FIRST DEFENSE

1. Each and every allegation of the Complaint not specifically admitted is denied.

FOR A SECOND DEFENSE

2. Defendant Patrick Montgomery would respectfully show each and every cause of action set forth in the Complaint fails to state a claim upon which relief can be granted and, therefore, the Complaint should be dismissed.

FOR A THIRD DEFENSE

3. In response to paragraphs 1-64 and Plaintiff's WHEREFORE Paragraph, Defendant Patrick Montgomery hereby asserts his Fifth Amendment right and therefore no response is required.

FOR A FOURTH DEFENSE

4. The Defendant Patrick Montgomery would show the claim for punitive damages

cannot be had because any award of punitive damages would violate the Defendant Patrick Montgomery's equal protection and due process rights as guaranteed by the United States and South Carolina Constitutions.

FOR A FIFTH DEFENSE

5. Defendant Patrick Montgomery would show the claim of Plaintiff for punitive damages cannot be had because any award of punitive damages under South Carolina law without bifurcation of the trial so that any punitive damage issues are tried only after and if liability on the merits of this action has been found will violate Defendant Patrick Montgomery's due process rights guaranteed by the United States Constitution and the South Carolina Constitution, and would violate the common law and public policy of the State of South Carolina.

6. Defendant Patrick Montgomery would show the claim of Plaintiff for punitive damages cannot be had because an award of punitive damages under South Carolina law without being subject to a predetermined limit on the amount of punitive damages that a jury might impose would violate Defendant Patrick Montgomery's due process rights guaranteed by United States Constitution and the South Carolina Constitution, and would violate the common law of the State of South Carolina.

7. Defendant Patrick Montgomery alleges the claim of Plaintiff for punitive damages cannot be had because an award of punitive damages under South Carolina law by a jury that is not:

- (a) Provided with sufficiently clear standards for determining the appropriateness of a punitive damage award or the size of such award;

- (b) Provided with adequate instructions as to the limits of punitive damage awards as determined by the principles underlying such an award;
- (c) Instructed that awarding punitive damages on individually discriminatory characteristics of Defendant Patrick Montgomery is improper;
- (d) Instructed to consider punitive damages under a standard for determining the amount that is neither vague, arbitrary, nor capricious and that defines with reasonable clarity the actions of Defendant Patrick Montgomery upon which an award of punitive damages may be based; and
- (e) Subjected to judicial review at both the trial and appellate court level under objective standards for determining appropriateness and reasonableness;

would violate Defendant Patrick Montgomery's equal protection and due process rights as guaranteed by the United States Constitution and the South Carolina Constitution and would also violate the laws of the State of South Carolina.

FOR A SIXTH DEFENSE

(S.C. Code Ann. § 15-32-530 - Statutory Cap on Punitive Damages)

8. Defendant Patrick Montgomery affirmatively pleads the statutory cap on punitive damages as set forth in S.C. Code Ann. § 15-32-530 (Supp. 2019) (as amended) as a defense in this matter.

BIFURCATION REQUESTED – S.C. CODE ANN. § 15-32-520

9. Pursuant to S.C. Code Ann§ 15-32-520, the Defendant Patrick Montgomerys hereby request trial bifurcation on the issues of actual damages and punitive damages.

WHEREFORE, having fully answered, Defendant Patrick Montgomery prays that the Complaint be dismissed, for the costs of defending this action, and for such other relief as the Court and jury deem just and proper.

MCANGUS GOUDELOCK & COURIE, L.L.C.

s/ Riley A. Bearden

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ATTORNEYS FOR DEFENDANT PATRICK
MONTGOMERY

July 14, 2023
Columbia, South Carolina

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF BERKELEY)	Docket No.: 2023-CP-08-1652
)	
KANISHA NASH,)	
)	
Plaintiff,)	
)	
v.)	DEFENDANT SABRINA
)	MONTGOMERY'S ANSWER
)	(Jury Trial Demanded)
PATRICK MONTGOMERY,)	
SABRINA MONTGOMERY, AND)	
MONTGOMERY CONSTRUCTION,)	
LLC,)	
)	
Defendant.)	
)	

Defendant Sabrina Montgomery answers the Complaint and respectfully shows unto the Court:

FOR A FIRST DEFENSE

1. Except as specifically admitted, qualified, or explained, Defendant denies the allegations and demands strict proof of each allegation.
2. Upon information and belief, Defendant admits the allegations of Paragraph 1.
3. Defendant admits the allegations of Paragraphs 2-4.
4. Paragraphs 5-6 do not require a response.
5. Defendant denies the allegations of Paragraph 7.
6. Defendant admits that she is the owner and President of Montgomery Construction.
7. Defendant denies the allegations of Paragraph 9.
8. Defendant admits only so much of the allegations of Paragraph 10 as allege an automobile accident occurred on October 14, 2023 involving a truck driven by Patrick Montgomery,
9. Defendant admits only so much of the allegations of Paragraph 11 as allege Sabrina Montgomery is the owner of the truck and trailer in question.
10. Defendant admits the allegations of Paragraph 12.

11. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations of Paragraphs 13-17.

12. Defendant denies the allegations of Paragraph 18

13. Paragraphs 19-25 do not require a response

14. Defendant denies the allegations of Paragraph 26 as allege fault against her.

15. Paragraph 27 does not require a response.

16. Defendant denies the allegations of Paragraphs 28-32

17. Paragraphs 33-34 are statements of law, to which no response is required.

18. Defendant denies the allegations of Paragraphs 35-38

19. Paragraph 39 does not require a response.

20. Defendant denies the allegations of Paragraphs 40-46

21. Paragraph 47 does not require a response.

22. Paragraphs 48-49 are statements of law, to which no response is required.

23. Defendant denies the allegations of Paragraphs 50-55

24. Paragraph 56 does not require a response.

25. Upon information and belief, Defendant admits the allegations of Paragraph 57.

26. Defendant denies the allegations of Paragraph 58.

27. Upon information and belief, Defendant admits the allegations of Paragraph 59.

28. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations of Paragraphs 60-62.

29. Defendant denies the allegations of Paragraphs 63-64

AS AN ADDITIONAL DEFENSE
(Reservation of Rights)

30. FURTHER ANSWERING, Defendant has not had an opportunity to conduct a sufficient investigation or engage in adequate discovery about the allegations of this lawsuit. Defendant gives notice of the intent to assert any further

affirmative defenses that any investigation supports, including, but not limited to, defenses that the action is barred in whole or in part by any applicable statute, contract, release, covenant, or the doctrine of laches. Thus, Defendant reserves the right to amend this pleading to assert any such defenses.

AS AN ADDITIONAL DEFENSE
(Punitive Damages)

31. FURTHER ANSWERING, any award of punitive damages would violate the constitutional safeguards provided by the Due Process Clause of the Fourteenth Amendment of the United States Constitution and under the Due Process Clause of Article I, Section 3 of the South Carolina Constitution because the determination of punitive damages does not bear any reasonable relationship to the amount of actual damages, if any, suffered by or awarded. Further, this party pleads the recovery limits of S.C. Code Ann. §15-32-530 and any other limitation on punitive damages allowed by Federal or State law.

AS AN ADDITIONAL DEFENSE
(Failure to State a Claim)

32. FURTHER ANSWERING, the allegations of the Complaint do not state facts sufficient to constitute a cause of action, and this Court should dismiss the lawsuit.

WHEREFORE, having answered, Defendant asks this Court to dismiss the Complaint and to grant such other and further relief as this Court deems just and proper.

TURNER PADGET

s/David S. Cobb
David S. Cobb (Bar Number 66569)
Post Office Box 22129
Charleston, South Carolina 29413-2129
Direct: (843) 576-2803
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dcobb@turnerpadget.com

Charleston, South Carolina

July 25, 2023

ATTORNEYS FOR DEFENDANT SABRINA
MONTGOMERY

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 2023-CP-08-01652

Kanisha Nash,

Plaintiff,

v.

Patrick Montgomery, Sabrina Montgomery,
and Montgomery Construction, LLC,

Defendants,

**Plaintiff's Motion to Compel
Responses to Interrogatories
and Requests for Production
Served on Sabrina Montgomery**

TO: DAVID S. COBB, ATTORNEY FOR DEFENDANT SABRINA MONTGOMERY

Pursuant to Rules 33, 34, and 37 of South Carolina Rules of Civil Procedure, and the applicable law pertaining thereto, Plaintiff hereby moves this Court for an Order requiring Defendant Sabrina Montgomery to respond to Plaintiff's First Set of Interrogatories and Requests for Production to Defendant in the above-entitled action. The discovery was served on July 11, 2023, copies of which are attached hereto as Exhibit A. The Defendant has not responded. More than thirty (30) days have expired from the service of the same. In accordance with Rule 11 of the South Carolina Rules of Civil Procedure, counsel for Plaintiff affirms that a good faith attempt was made to resolve the matters contained in this Motion.

BRINGARDNER INJURY LAW FIRM, LLC

By: *s/Christopher T. Dorsel*

Mark J. Bringardner
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Charleston, South Carolina
September 11, 2023

Attorneys for the Plaintiff

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 2023-CP-08-01652

Kanisha Nash,

Plaintiff,

v.

Patrick Montgomery, Sabrina
Montgomery, and Montgomery
Construction, LLC,

Defendants.

**Plaintiff's Interrogatories to
Defendant Sabrina Montgomery**

TO: DEFENDANT SABRINA MONTGOMERY:

The Plaintiff, Kanisha Nash (hereinafter "Plaintiff"), by and through the undersigned attorneys, hereby requires Defendant Sabrina Montgomery (hereinafter "Defendant") within thirty (30) days after service hereof, to answer the following Interrogatories, under oath, pursuant to Rule 33 of the South Carolina Rules of Civil Procedure, exclusive of the date of such service. These Interrogatories shall be deemed continuing and shall require supplemental answers should Defendant Sabrina Montgomery obtain any additional information between the time answers are served and the date of trial.

DEFINITION OF TERMS

The following definitions apply to each of the Interrogatories set forth below and are deemed to be incorporated herein:

- A. The word "**person**" means all entities, including all individuals, joint owners, companies, partnerships, joint ventures, corporations, proprietorship, franchises, associations, organizations, groups of persons, trusts, estates, or any governmental body or subdivision thereof.

B. The word "**document(s)**" means all written, recorded or graphic matter, whether produced or reproduced or stored on papers, cards or tapes, computer devices, either in your actual or constructive possession, custody or control, or your insurance company, your attorneys, third-party claims administrators, investigators, officers, agents, representatives, employers, and employees or which are known by you to exist; and includes originals, all copies of originals, and all prior drafts, including, but not limited to, the following: writings, papers, correspondence, drafts, notebooks, diaries, accounts, invoices, orders, letters, reports, notes, memoranda, manuals, drawings, diagrams, sketches, charts, dictating tapes, the notes of secretaries or stenographers or assistants, photographs, negatives, prints, tape or disc recordings, storage drives, sound recordings, video recordings, doctors' reports, descriptions, books, checks, bank account records, memos of telephone conversations, and every copy of such writing or record when such copy contains any commentary or notation whatsoever that does not appear on the original. Plaintiff expressly intends for the term "Document" to include any attachments or exhibits to the requested document, or any substance supporting or using the preparations thereof.

C. As used herein, the word "**identify**" shall mean:

- i. in reference to any person or persons, means to state the full names, addresses, telephone numbers, as well as his or her job title(s) during the relevant time period;
- ii. in reference to any document, to state its date, date of receipt, present location, and nature (e.g., letters, memorandum, etc.) and any identifying label, marking, number, name, or title; to state its author(s), recipient(s), and present custodian; and to describe its contents briefly;
- iii. in reference to any oral communication, to state the date and location of the

communication, to identify the person making it, the person(s) to whom it was addressed, and all other persons present when the communication was made; and to describe briefly the content of the communication;

iv. in reference to an act or instance, to state the nature of the act or instance, to state the date on which it occurred and where it took place, and to identify the person or persons involved.

D. The word "**date**" means the exact day, month, and year, if ascertainable, or if not, then your best approximation thereof.

E. The words "**you**" and "**your**" and "**Defendant**" means **Defendant Sabrina Montgomery** and includes your agents, your employees, your insurance companies, your employers, your attorneys, your accountants, your investigators, their agents, their employers, adjusters, third-party claims administrators, representatives, and anyone else acting on your behalf.

F. The term "**incident**" refers to the subject incident described in the operative Complaint and includes the circumstances and events surrounding the alleged subject incident, injury, or other occurrence giving rise to this action.

DIRECTIONS

A. Identify each writing or document relied upon in the preparation of each answer, which forms all or part of the basis for the answer, or which corroborates the answer, or substance which forms all or part of the answer.

B. If any information furnished in the answer to all or any part of an Interrogatory is not within your personal knowledge, state the name of each person to whom all or any part of the information furnished is a matter of personal knowledge, and the name of each person who communicated to you any part of the information furnished.

C. If the answers to all or any part of the Interrogatory are not presently known or available, include a statement to that effect, furnish the information known or available, and respond to the entire Interrogatory by supplemental Answer in writing under oath within ten (10) days of when the entire answer becomes known or available.

D. As contemplated by Rule 33(b) of the SCRCP these Interrogatories shall be deemed to continue from the time of service, until the time of trial of the action so that information sought, which comes to the knowledge of a party, or his representative or attorney, after original answers to Interrogatories have been submitted, shall be promptly supplemented and transmitted to the other party.

E. To the extent that you consider any of the following Interrogatories objectionable, please answer so much of each Interrogatory to which you raise your objection and each specific ground for such objection.

F. Plaintiff requests that each Interrogatory be repeated preceding each answer.

G. Answers and/or responses to the following Interrogatories must be verified in writing.

H. Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the person making them, and the objections signed by the attorney making them. [Rule 33(a)]

PLAINTIFF'S INTERROGATORIES

1. Give the names and addresses of persons known to the parties or counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

2. For each person known to the parties or counsel to be a witness concerning the facts of the

case, set forth either a summary sufficient to inform the other party of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witnesses.

3. Set forth and identify a list of all documents and tangible items of any nature and description, including but not limited to, photographs, plats, sketches, or other prepared documents in possession of the party that relate to the claims or defenses in the case or that were used to assist in responding to these interrogatories.

4. Set forth and identify the names and addresses of all physicians and medical care providers who have treated you in connection with the incident, and also set forth a statement of all medical costs involved. *(Note: please provide a full and complete response to this interrogatory regardless of whether you are making a claim for injuries or damages related to the incident.)*

5. Set forth the names of all insurance companies or other insuring entities which may be liable to satisfy part or all of a judgment entered against you in this action, or to indemnify or reimburse you for payments made to satisfy the judgment, including those which may have the potential for insurance coverage, including but not limited to those companies providing liability, excess, and umbrella coverages, relating to the allegations set forth in the operative complaint, and the number or numbers of the policies involved, number or numbers of the claims involved, the amount or amounts of potential coverage provided for the incident through each policy, the agent who sold the policy, the named insured on each policy, and if you are aware of whether a reservation of rights letter(s) and/or information has/have been issued by any insurance company related to the allegations set forth in the operative complaint as a result of the incident.

6. Provide the following information for any expert witnesses that you propose use as a witness at the trial of this case:

- a) name, employer, and address;
- b) a complete statement of all opinions the witness will express and the basis and reasons for them;
- c) all facts, documents, data, and other information considered by the witness in forming all opinions of the witness;
- d) any exhibits that will be used to summarize or support the witness' testimony;
- e) the witness's qualifications, including a list of all publications authored in the previous ten (10) years;
- f) a list of all other cases in which, during the previous four (4) years, the witness testified as an expert at trial or by deposition, and all other cases in which the witness was retained by an insurance company or a law firm on behalf of a civil defendant, but did not testify. *Note: if the witness has been designated as an expert witness in a federal case within the past four (4) years, this document must exist as its production would have been required under the Federal Rules of Civil Procedure.*
- g) a statement of the compensation already paid and/or to be paid for the study, work, and testimony of the witness in the case.
- h) a statement of the compensation paid, during the previous four (4) years, by any insurance companies and law firms to the witness and/or the witness' employer specifically for the witness' services related to legal claims;
- i) a list of all cases in which, during the previous ten (10) years, the witness' testimony has been limited or excluded by a Court or Tribunal in any way.

7. Identify all individuals who prepared, assisted, were consulted with, helped with, and/or contributed to the production of documents in response to any party's requests for production, and in the preparation, drafting, and gathering and compiling information or documents responsive to any party's written discovery other than your attorney and your attorney's staff. For each person identified, state their relationship to you, job description, and identify what information and/or documents he/she assisted with producing to your attorney(s), and whether the information supplied was based on personal knowledge.

8. Please provide your full name, every name you have used in the past and the dates you

used each name, as well as your date of birth, place of birth, and social security number.

9. State your present residence address, your residence addresses for the past five years and the dates you lived at each address.

10. Identify your present employer or place of self-employment, dates of employment, job title, and nature of work for each employer or self-employment you have had from five years before the incident to the present.

11. Identify your cell phone number and cell provider at the time of the incident and state the location of your cell phone at the time of the incident and whether or not you were using your cell phone in any manner (for example, a phone call, listening to voicemail, reading or writing a text/SMS message or email, playing a video game, or using camera, music, internet, map application, or other use) immediately before or at the time of the subject collision, within one (1) minute before, during, or after the incident.

12. Do you attribute any loss of or damage to a vehicle or other property to the incident? If so, for each item of property, please describe the property, the nature and location of the damage to the property, state the amount of damage to each item of property, how the amount was calculated; and, if the property was sold, identify the seller and buyer, the date of sale, and the sale price. If the property was repaired, please identify the date of the repair, describe the repair, state the repair costs, identify who performed the repair, and who paid for the repair.

13. State whether any on-board data recording device (including but not limited to a dashboard camera, an automobile telematics device or similar devices and/or associated applications, for example, Allstate Drivewise®, State Farm ® Drive Safe & Save™, Progressive Snapshot™, USAA SafePilot™, Geico DriveEasy™, or similar devices and/or associated applications, OnStar™, ECM (Electronic Control Module), black box, or a GPS application (e.g., Google Maps,

Waze, etc.) was in your vehicle at the time of the incident, and whether any data from the same on-board recording devices has been obtained by you or anyone else.

14. List every social media site used or accessed by you for the past three (3) years. For each social media site, provide your account/username and the name of the social medial platform.

15. Describe your version of exactly what happened immediately before, during, and after the incident, and why you believe the incident occurred.

16. Do you have information that a malfunction or defect in a vehicle caused or contributed to the incident or any injuries sustained in the incident? If so, please identify each malfunction or defect, identify the vehicle which you claim had a malfunction or defect, identify each witness who has information about each malfunction or defect, and identify each person who has custody of each defective part.

17. Have you or anyone acting on your behalf conducted surveillance on any individual involved in the incident? If so, for each surveillance event, state the name, address and telephone number of the individual or party who was the subject of the surveillance, the time, date and location of the surveillance, the name, address and telephone number of the individual who conducted the surveillance, and the name address and telephone number of each person who has the original or a copy of any surveillance photograph, film, or videotape.

18. If surveillance has been conducted, has a written report been prepared? If so, please state the title and date of the report, the name, address and telephone number of the individual who prepared the report, and the name address and telephone number of each person who has the original or a copy of the report.

19. If you contend that actions or non-actions of Plaintiff, another defendant, or some other person or legal entity other than you is, in whole or in part, liable to Plaintiff or responsible for

causing or contributing to the incident and/or the injuries and damages being claimed by Plaintiff, please provide the following:

- a) Identify the person or entity whom you claim is liable or responsible.
- b) Identify the person or entity whom you claim is liable or responsible and state a summary of the facts and circumstances which support the contention, including, but not limited to, a description of each action or non-action on the part of the Plaintiff that caused or contributed to the incident and/or injuries and damages being claimed by Plaintiff;
- c) The names, addresses, and telephone numbers of each person who supports, refutes, and/or has knowledge of that contention;
- d) Identify each statute, regulation, ordinance, industry custom, practice or standard of care which you believe someone other than you violated and describe with specificity how the violation relates to that contention; and
- e) A list of all documents which support, refute, and/or relate to that contention.

20. Identify each denial of a material allegation and each special or affirmative defense in your pleadings and for each:

- a) state all facts upon which you base the denial or special or affirmative defenses;
- b) state the names, addresses, and telephone numbers of all persons who have knowledge of those facts; and
- c) identify all documents and other tangible things that support your denial or special or affirmative defense, and state the name, address and telephone number of the person who has each document.

21. In the past ten (10) years, if you have made a claim related to a medical condition, or have been involved in any other legal action, whether criminal or civil, either as a plaintiff or defendant, give the claim number, identify the state, county, city, and Court, case number, names of the other parties, names of counsel for parties, description of the claim or offense, and disposition of each.

22. If you are improperly identified in the operative Complaint, give the proper identification and state whether your attorney will accept service of an amended summons and pleading

reflecting the correct information.

23. Do you or anyone acting on your behalf contend that any person involved in the incident violated any statute, ordinance, or regulation and that the violation was a legal (proximate) cause of the incident? If so, identify each person and the statute, ordinance, or regulation that was violated.

24. Do you contend that plaintiff was not injured in the incident? If so,

- a) state all the facts upon which you base your contention;
- b) identify all persons who have knowledge of the facts upon which you base your contention; and
- c) identify all documents and other tangible things that support your contention and identify the person who has each document.

25. Do you have any document concerning the past or present physical, mental, or emotional condition of the plaintiff in this case from a medical provider not previously identified? If so, please identify each medical provider and provide a description of the documents in your possession.

26. Identify all of your sources of income and occupation(s) including your job title(s).

27. Identify your employer and/or business address(es), phone number(s), and names of your payroll and head of human resources.

28. For each employer or business from which you receive income, identify:

- a. How often you are paid;
- b. Your gross pay each pay period;
- c. Your take-home pay each pay period.

29. If your spouse earns any income, give the name of your spouse, the name and address of the business or employer, job title and division of office.

30. How much money do you have in cash?

31. How much other money do you have in banks, savings and loan, credit unions, and other financial institutions either in your own name or jointly?

32. Identify all financial accounts that you maintain, including:

- a. The name and address of the financial institution;
- b. The account number;
- c. Whether it is an individual or joint account;
- d. The balance.

33. List all automobiles, other vehicles, and boats owned in your name or jointly.

34. List all real estate in which you have an ownership interest and state the interest owned.

35. List all business entities in which you have an ownership interest and state the interest owned.

36. List anything of value not already requested that you own in your name or jointly (do not list household furniture or furnishings, appliance, or clothing) and state the interest owned.

37. If anyone is holding assets for you, please describe the assets and give the name and address of the person or entity hold each asset.

38. Have you disposed of or transferred any assets within the last year? If so, please identify the asset, the value of the asset, the date of the disposal or transfer of the asset, and where or with whom the asset is with now.

39. Have you purchased, altered, changed, or declined any liability insurance coverage within the past five years?

40. Identify any and all insurance agents, including names, addresses, and phone numbers from whom you have purchased, altered, or changed insurance coverage with for the past five years.

BRINGARDNER INJURY LAW FIRM, LLC

By: s/Christopher T. Dorsel
Mark Bringardner (SC Bar No.: 102465)
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Attorneys for the Plaintiff

Charleston, South Carolina
June 30, 2023

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

Kanisha Nash,

Plaintiff,

v.

Patrick Montgomery, Sabrina Montgomery,
and Montgomery Construction, LLC,

Defendant(s),

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2023-CP-08-01652

Certificate of Service

I hereby certify that I have served a copy of *Plaintiff's Interrogatories to Defendant Sabrina Montgomery* to the below-named Defendant via process server this 30th day of June 2023:

Sabrina Montgomery
408 N. Tee Line Drive
Ridgeville, SC 29472

BRINGARDNER INJURY LAW FIRM, LLC

By: Hayley N. Bost
Hayley Bost, Paralegal

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

Kanisha Nash,

Plaintiff,

v.

Patrick Montgomery, Sabrina
Montgomery, and Montgomery
Construction, LLC,

Defendant(s).

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 2023- CP-08-01652

**Plaintiff's Requests for Production to
Defendant Sabrina Montgomery**

TO: DEFENDANT SABRINA MONTGOMERY:

The Plaintiff, Kanisha Nash (hereinafter "Plaintiff"), by and through the undersigned attorney, hereby requires Defendant Sabrina Montgomery (hereinafter "Defendant"), within thirty (30) days after service hereof, to answer the following Requests for Production, under oath, pursuant to Rule 34 of the South Carolina Rules of Civil Procedure, exclusive of the date of such service. These Requests for Production shall be deemed continuing and shall require supplemental answers should Defendant Sabrina Montgomery obtain any additional information between the time answers are served and the date of trial.

DEFINITION OF TERMS

The following definitions apply to each of the Requests for Production set forth below and are deemed to be incorporated herein:

- A. The word "**person**" means all entities, including all individuals, joint owners, companies, partnerships, joint ventures, corporations, proprietorship, franchises, associations, organizations, groups of persons, trusts, estates, or any governmental body or subdivision thereof.

B. The word "**document(s)**" means all written, recorded or graphic matter, whether produced or reproduced or stored on papers, cards or tapes, computer devices, either in your actual or constructive possession, custody or control, or your insurance company, your attorneys, third-party claims administrators, investigators, officers, agents, representatives, employers, and employees or which are known by you to exist; and includes originals, all copies of originals, and all prior drafts, including, but not limited to, the following: writings, papers, correspondence, drafts, notebooks, diaries, accounts, invoices, orders, letters, reports, notes, memoranda, manuals, drawings, diagrams, sketches, charts, dictating tapes, the notes of secretaries or stenographers or assistants, photographs, negatives, prints, tape or disc recordings, storage drives, sound recordings, video recordings, doctors' reports, descriptions, books, checks, bank account records, memos of telephone conversations, and every copy of such writing or record when such copy contains any commentary or notation whatsoever that does not appear on the original. Plaintiff expressly intends for the term "Document" to include any attachments or exhibits to the requested document, or any substance supporting or using the preparations thereof.

C. As used herein, the word "**identify**" shall mean:

- i. in reference to any person or persons, means to state the full names, addresses, telephone numbers, as well as his or her job title(s) during the relevant time period;
- ii. in reference to any document, to state its date, date of receipt, present location, and nature (e.g., letters, memorandum, etc.) and any identifying label, marking, number, name, or title; to state its author(s), recipient(s), and present custodian; and to describe its contents briefly;
- iii. in reference to any oral communication, to state the date and location of the

communication, to identify the person making it, the person(s) to whom it was addressed, and all other persons present when the communication was made; and to describe briefly the content of the communication;

iv. in reference to an act or instance, to state the nature of the act or instance, to state the date on which it occurred and where it took place, and to identify the person or persons involved.

D. The word "**date**" means the exact day, month, and year, if ascertainable, or if not, then your best approximation thereof.

E. The words "**you**" and "**your**" and "**Defendant**" means **Defendant Sabrina Montgomery** and includes your agents, your employees, your insurance companies, your employers, your attorneys, your accountants, your investigators, their agents, their employers, adjusters, third-party claims administrators, representatives, and anyone else acting on your behalf.

F. The term "**incident**" refers to the subject incident described in the operative Complaint and includes the circumstances and events surrounding the alleged incident, injury, or other occurrence giving rise to this action.

DIRECTIONS

A. Identify in a corresponding written response to each request each writing or document responsive to the request and for which all or part of the same forms the basis for the answers to interrogatories, or which corroborates the answer to interrogatories and these requests for production.

B. The documents produced pursuant to these Requests shall be separately produced for each request, or in the alternative, shall be identified as complying with the particular paragraph or paragraphs of the request for which they are responsive.

C. If documents responsive to a request are not within your personal possession, you have a duty to obtain the responsive documents in your constructive possession, custody, or control from those who are acting on your behalf with respect to the incident, which includes, but is not limited to, you insurance companies, adjusters, attorneys, third-party claims administrators, investigators, officers, agents, representatives, employers, and employees.

D. If the answers to all or any part of the Request are not presently known or available, include a statement to that effect, furnish the information known or available, state whether such documents can be obtained, and respond to the entire Request by supplemental Answer in writing under oath within ten (10) days after the entire answer becomes known or available.

E. As contemplated by Rule 34 of the SCRCP these Requests shall be deemed to continue from the time of service, until the time of trial of the action so that information sought, which comes to the knowledge of a party, or his representative or attorney, after original answers to Requests have been submitted, shall be promptly supplemented and transmitted to the other party.

F. To the extent that you consider any of the following Requests objectionable, please answer so much of each Request to which you raise your objection and each specific ground for such objection. In the event you wish to assert either attorney-client privilege or attorney work-product protections, or both, as to any document requested by any of the following specific requests, then as to each document subject to such assertion, you must provide a "Privilege Log" that complies with Rule 26(b)(5) and contains the identification of each specific allegedly privileged document and writing, such identification to include: The nature of the document, the sender, the author, the recipient, the recipient of each copy, the date, the name of each person to whom the original of any copy was circulated, the names appearing on any circulation list of parties associated with such document, a summary statement of the subject matter of such document in sufficient detail

to permit the Court to reach a determination in the event of a Motion to Compel, and an indication of the basis for assertion of the privilege or the like.

G. Plaintiff requests that each Request for Production be repeated preceding each answer.

H. Answers and/or responses to the following Requests must be verified in writing.

PLAINTIFF'S REQUESTS FOR PRODUCTION

1. A complete copy of any and all insurance policies, declarations pages, agreements and related documents under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment, including but not limited to those companies providing liability, commercial, excess, and umbrella coverages, relating to the incident, claims related to the incident, the vehicles involved, the drivers of the vehicles involved, and damage claims made by the Plaintiff as alleged in the operative Complaint, and to include all addendums, riders, reservation of right correspondence, and any other documents related to potential insurance coverage for the incident and this lawsuit.

2. Any and all documents, photographs, memoranda, reports, plats, diagrams, writings, papers, notes, materials, evidence, electronically stored information, and tangible things that you have in your possession, custody, or control which in any way might relate to the incident and/or lawsuit.

3. Any and all documents and tangible things obtained by you or anyone acting on your behalf via subpoena, Subpoena Duces Tecum, signed authorization form, ISO claims search, FOIA request, or other legal process.

4. Any and all recordings and transcripts of conversations, interviews, and statements including depositions, statements under oath, and summaries, notes, documents, and materials

related to the same, whether written, transcribed, or recorded, for any witness, individual, or other person or entity who purports to know any facts or circumstances concerning the incident and/or the claims and defenses related to this lawsuit, (i.e., liability, comparative fault, causation and/or damages in this case). This request encompasses the parties to this action and their employees, agents, and representatives, and any potential witnesses.

5. Any and all documents that refer or relate to any communication (whether written or oral) between you or anyone on your behalf and any witness or party to this lawsuit, including but not limited to any electronic mail, notes, correspondence, or recordings of any such communication.

6. Produce a copy of all traffic citation(s) you received as a result of the incident and all documents related to the administration of the citation(s).

7. All photographs of the vehicles involved in the incident.

8. All photographs taken of the scene of the incident from the date of the incident to the present.

9. All service, repair and maintenance records, appraisals, estimates, and invoices for the motor vehicles involved in the incident that were prepared after the incident.

10. A copy of all documents related to loss or damage to the vehicle you were driving at the time of the incident and any other property damaged in the incident, and, if the property was sold or is no longer in your possession, identify the seller and buyer and/or who the property was transferred to, the date of sale, and the sale price.

11. If you believe that a malfunction or defect in a vehicle caused or contributed to the incident or any injuries sustained in the incident, please produce copies of all documents related to the same.

12. A copy of the front and back of each and every driver's license and/or any other permit or

license for the operation of a motor vehicle issued to you (regardless of name used) in your possession, custody and/or control.

13. A copy of your cell phone bill, cell phone call log, text/SMS messages from 24-hours before the incident through 24 hours after the incident.

14. Produce screen shot pictures of your cell phone's screen of any and all text messages, communications, and call logs from twenty-four (24) hours before the time of the incident until twenty-four (24) hours after the incident.

15. All evidence requested to be preserved as identified in Plaintiff's letter(s) requesting the preservation and/or production of evidence, and all documents generated as a result of efforts to preserve evidence.

16. Any and all documents, exhibits, videos, recordings, files, charts, drawings, sketches, diaries, journals, memorandums, notes, reports, or other materials of any type prepared by you relating to the incident and this lawsuit.

17. Any on-board recording devices (including but not limited to a dashboard camera, an automobile telematics device (e.g., Allstate Drivewise®, State Farm ® Drive Safe & Save™, Progressive Snapshot™, USAA SafePilot™, Geico DriveEasy™, or similar devices and/or associated applications, OnStar™, ECM (Electronic Control Module), or black box) in your vehicle at the time of the incident for inspection by Plaintiff's counsel and consultants.

18. Any and all data obtained by you or on your behalf from any on-board data recording device (including but not limited to a dashboard camera, an automobile telematics device (e.g., Allstate Drivewise®, State Farm ® Drive Safe & Save™, Progressive Snapshot™, USAA SafePilot™, Geico DriveEasy™, or similar devices and/or associated applications, OnStar™, ECM (Electronic Control Module), black box, or a GPS application (e.g., Google Maps, Waze,

etc.) was in the vehicle you were driving at the time of the incident.

19. Produce for inspection all on-board data recording devices (including but not limited to a dashboard camera, an automobile telematics device (e.g., Allstate Drivewise®, State Farm ® Drive Safe & Save™, Progressive Snapshot™, USAA SafePilot™, Geico DriveEasy™, or similar devices and/or associated applications, OnStar™, ECM (Electronic Control Module), black box, or a GPS application (e.g., Google Maps, Waze, etc.) was in the vehicle you were driving at the time of the incident.

20. In the past ten (10) years, if you have made a claim related to a medical condition, or have been involved in any other legal action, whether criminal or civil, either as a plaintiff or defendant, give the claim number, identify the state, county, city, and Court, case number, names of the other parties, names of counsel for parties, description of the claim or offense, and disposition of each.

21. All documents related to your involvement in any other claim or legal action, whether criminal or civil, either as a plaintiff or defendant.

22. Complete copies of any and all pre-litigation claim(s) and investigation files related to the incident that were created and/or maintained by your insurance companies and/or third-party administrators, including, but not limited to, any and all office records, memos, correspondence, collision reports, vehicle estimates, vehicle photos, written statements, recorded statements/calls, adjuster notes, investigation documents, liability analysis, review, settlement documents/amounts and any other document of any nature and in any form whatsoever pertaining to the incident until defense counsel was retained. (Note: This request does not seek financial reserve amounts, which may be redacted from the responsive documents).

23. Produce any and all documents related to surveillance efforts that have been conducted on your behalf on any individual related to the incident and lawsuit, including Plaintiff, Plaintiff's

family, friends, and/or anyone filmed arising out of the incident and lawsuit, including but not limited to the original unedited, raw video (digital or analog), photographs, recordings, electronically stored information, reports, written or dictated notes and/or summaries thereof, any cover letter, emails, instructions, screenshots, pictures, invoices, payment records, memos and/or reports from the person(s) that recorded the video or assisted in the coordination and execution of the surveillance.

24. If any surveillance has been undertaken by you or on your behalf, produce a copy of all reports, photographs, video, and anything else generated through that investigation.

25. All background investigations and private investigator reports which relate to any party or witness involved in the subject action.

26. All public records and documents obtained by you, your attorney, or anyone acting on your behalf which relate to any party, witness, or issue in the subject action, including but not limited to, driving records, criminal background reports, liens, and other documents.

27. If you contend that the actions or non-actions of Plaintiff caused or contributed to the incident and/or the injuries and damages being claimed by Plaintiff, please produce all documents which support, refute, and/or relate to the allegation.

28. If you contend that the actions or non-actions of a person or entity not a party to the subject lawsuit caused or contributed to the incident and/or the injuries and damages being claimed by Plaintiff, please produce all documents which support, refute, and/or relate to the allegation.

29. If you contend that the actions or non-actions of a co-defendant caused or contributed to the incident and/or the injuries and damages being claimed by Plaintiff, please produce all documents which support, refute, and/or relate to the allegation.

30. Any and all documents and tangible things identified, referenced, listed in, reviewed, or

relied upon in formulating your answers to all interrogatories, including supplemental interrogatories, served by Plaintiff or any other party in this case upon you.

31. Any and all documents, writings, papers, notes, materials, evidence, electronically stored information, and tangible things that you have in your possession, custody, or control and may use to support your claims or defenses related to the incident and your Answer to the operative Complaint.

32. All documents, tangible things, and materials of any type you provided to a testifying expert witness.

33. All documents, tangible things, and materials of any type a testifying expert witness has provided to you.

34. With regard to any expert witness you intend to call as a witness at the trial of this case, please produce:

- a. All documents, including a curriculum vitae, that you contend will establish the expert's qualifications to testify at trial;
- b. The fee and/or retainer agreement with the expert;
- c. The time and billing records of the expert, including all documents reflecting the compensation already paid and/or to be paid for the study, work, and testimony of the witness in the case.
- d. All documents, facts, data, tangible things, and materials of any type provided to or from the witness, even if it is not included in the witness' file, related to this matter;
- e. All correspondence to or from any expert, including electronic communications (e-mails, text messages, etc.);
- f. All reports prepared by or at the direction of the expert, including the draft versions of said reports;
- g. All demonstrative exhibits that may be used to explain, summarize or support the witness' testimony;

- h. A list of all other cases in which, during the previous four (4) years, the witness testified as an expert at trial or by deposition, and all other cases in which the witness was retained by an insurance company or a law firm on behalf of a civil litigant, but did not testify. *Note: if the witness has been designated as an expert witness in a federal case within the past four (4) years, this document must exist as its production would have been required under the Federal Rules of Civil Procedure.*
- i. All 1099s and documents reflecting the compensation paid, during the previous four (4) years, by insurance companies and law firms to the witness and/or the witness' employer specifically for the witness' services related to legal claims;
- j. All documents reflecting that the witness' testimony has been limited or excluded by a Court or Tribunal in any way.
- k. All documents, including reports, bills, and depositions, from your expert in all other cases for which your attorney and/or your attorney's law firm retained the expert and identified him or her as a testifying expert in other litigated cases;
- l. All field notes, inspection notes, testing notes, and other notes prepared by or at the direction of each expert;
- m. All photographs or videotapes taken, utilized, reviewed, or consulted by or at the direction of the expert;
- n. All diagrams or drawings prepared by or at the direction of the expert;
- o. All articles, treatises, publications, or other authoritative documents which support the expert's opinions in this action;

35. All documents, tangible things, and materials of any type that you intend to question Plaintiff's expert witness(es) about in deposition, trial, or other proceedings in this case.

36. Copies of all diagrams, graphs, illustrations, photographs, charts, pictures, models, blow-ups, or any other document or thing, including electronically created charts, animations, or data that you intend to utilize as an exhibit, demonstrative exhibit, or aid in the trial of this case not previously supplied.

37. An affidavit of insurance coverage from a company claims manager or executive certifying under oath that the insurance policies disclosed and produced in response to these discovery

requests represent all available coverage(s) that exist with the potential for coverage, including any and all excess policies.

38. All documents and tangible things of whatever nature and description which you intend to introduce into evidence or to use for impeachment purposes or as any type of evidence, real or demonstrative, at trial of this case.

39. If you or anyone acting on your behalf are not currently in possession of any documents, tangible things, or materials requested herein, but you are aware that such items exist, provide a written response listing each item and identify who has possession of such items.

40. Produce the last three (3) years of Defendant's annual accountant's financial statements).

41. Produce the last three (3) years of statements of Defendant's financial condition.

42. Produce the last three (3) years of Defendant's income statements.

43. Produce the last three (3) years of Defendant's cash flow statements.

44. Produce the last three (3) years of Defendant's federal tax returns.

45. Produce a statement of all income earned in the last five (5) years that you did not report on either state or federal income tax returns.

46. Please provide a copy of all invoices, receipts, bills, or other similar document related to any business you operate out of your home.

[SIGNATURE ON FOLLOWING PAGE]

BRINGARDNER INJURY LAW FIRM, LLC

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Attorneys for the Plaintiff

Charleston, South Carolina
June 30, 2023

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

Kanisha Nash,

Plaintiff,

v.

Patrick Montgomery, Sabrina Montgomery,
and Montgomery Construction, LLC,

Defendant(s),

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2023-CP-08-01652

Certificate of Service

I hereby certify that I have served a copy of *Plaintiff's Requests for Production to Defendant Sabrina Montgomery* to the below-named Defendant via process server this 30th day of June 2023;

Sabrina Montgomery
408 N. Tee Line Drive
Ridgeville, SC 29472

BRINGARDNER INJURY LAW FIRM, LLC

By: Hayley N. Bost
Hayley Bost, Paralegal

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

Kanisha Nash,

Plaintiff,

v.

Patrick Montgomery, Sabrina Montgomery,
and Montgomery Construction, LLC,

Defendants,

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 2023-CP-08-01652

**Plaintiff's Motion to Compel
Responses to Interrogatories
and Requests for Production
Served on Patrick Montgomery**

TO: RILEY BEARDEN, ATTORNEY FOR DEFENDANT PATRICK MONTGOMERY

Pursuant to Rules 33, 34, and 37 of South Carolina Rules of Civil Procedure, and the applicable law pertaining thereto, Plaintiff hereby moves this Court for an Order requiring Defendant Patrick Montgomery to respond to Plaintiff's First Set of Interrogatories and Requests for Production to Defendant in the above-entitled action. The discovery was served on July 11, 2023, copies of which are attached hereto as Exhibit A. The Defendant has not responded. More than thirty (30) days have expired from the service of the same. In accordance with Rule 11 of the South Carolina Rules of Civil Procedure, counsel for Plaintiff affirms that a good faith attempt was made to resolve the matters contained in this Motion.

BRINGARDNER INJURY LAW FIRM, LLC

By: *s/Christopher T. Dorsel*

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Charleston, South Carolina
September 11, 2023

Attorneys for the Plaintiff

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 2023-CP-08-01652

Kanisha Nash,

Plaintiff,

v.

Patrick Montgomery, Sabrina
Montgomery, and Montgomery
Construction, LLC,

Defendants.

**Plaintiff's Interrogatories to
Defendant Patrick Montgomery**

TO: DEFENDANT PATRICK MONTGOMERY:

The Plaintiff, Kanisha Nash (hereinafter "Plaintiff"), by and through the undersigned attorneys, hereby requires Defendant Patrick Montgomery (hereinafter "Defendant") within thirty (30) days after service hereof, to answer the following Interrogatories, under oath, pursuant to Rule 33 of the South Carolina Rules of Civil Procedure, exclusive of the date of such service. These Interrogatories shall be deemed continuing and shall require supplemental answers should Defendant Patrick Montgomery obtain any additional information between the time answers are served and the date of trial.

DEFINITION OF TERMS

The following definitions apply to each of the Interrogatories set forth below and are deemed to be incorporated herein:

A. The word "**person**" means all entities, including all individuals, joint owners, companies, partnerships, joint ventures, corporations, proprietorship, franchises, associations, organizations, groups of persons, trusts, estates, or any governmental body or subdivision thereof.

B. The word "**document(s)**" means all written, recorded or graphic matter, whether produced or reproduced or stored on papers, cards or tapes, computer devices, either in your actual or constructive possession, custody or control, or your insurance company, your attorneys, third-party claims administrators, investigators, officers, agents, representatives, employers, and employees or which are known by you to exist; and includes originals, all copies of originals, and all prior drafts, including, but not limited to, the following: writings, papers, correspondence, drafts, notebooks, diaries, accounts, invoices, orders, letters, reports, notes, memoranda, manuals, drawings, diagrams, sketches, charts, dictating tapes, the notes of secretaries or stenographers or assistants, photographs, negatives, prints, tape or disc recordings, storage drives, sound recordings, video recordings, doctors' reports, descriptions, books, checks, bank account records, memos of telephone conversations, and every copy of such writing or record when such copy contains any commentary or notation whatsoever that does not appear on the original. Plaintiff expressly intends for the term "Document" to include any attachments or exhibits to the requested document, or any substance supporting or using the preparations thereof.

C. As used herein, the word "**identify**" shall mean:

i. in reference to any person or persons, means to state the full names, addresses, telephone numbers, as well as his or her job title(s) during the relevant time period;

ii. in reference to any document, to state its date, date of receipt, present location, and nature (e.g., letters, memorandum, etc.) and any identifying label, marking, number, name, or title; to state its author(s), recipient(s), and present custodian; and to describe its contents briefly;

iii. in reference to any oral communication, to state the date and location of the communication, to identify the person making it, the person(s) to whom it was addressed, and

all other persons present when the communication was made; and to describe briefly the content of the communication;

iv. in reference to an act or instance, to state the nature of the act or instance, to state the date on which it occurred and where it took place, and to identify the person or persons involved.

D. The word "**date**" means the exact day, month, and year, if ascertainable, or if not, then your best approximation thereof.

E. The words "**you**" and "**your**" and "**Defendant**" means **Defendant Patrick Montgomery** and includes your agents, your employees, your insurance companies, your employers, your attorneys, your accountants, your investigators, their agents, their employers, adjusters, third-party claims administrators, representatives, and anyone else acting on your behalf.

F. The term "**incident**" refers to the subject incident described in the operative Complaint and includes the circumstances and events surrounding the alleged subject incident, injury, or other occurrence giving rise to this action.

DIRECTIONS

A. Identify each writing or document relied upon in the preparation of each answer, which forms all or part of the basis for the answer, or which corroborates the answer, or substance which forms all or part of the answer.

B. If any information furnished in the answer to all or any part of an Interrogatory is not within your personal knowledge, state the name of each person to whom all or any part of the information furnished is a matter of personal knowledge, and the name of each person who communicated to you any part of the information furnished.

C. If the answers to all or any part of the Interrogatory are not presently known or available, include a statement to that effect, furnish the information known or available, and respond to the entire Interrogatory by supplemental Answer in writing under oath within ten (10) days of when the entire answer becomes known or available.

D. As contemplated by Rule 33(b) of the SCRCP these Interrogatories shall be deemed to continue from the time of service, until the time of trial of the action so that information sought, which comes to the knowledge of a party, or his representative or attorney, after original answers to Interrogatories have been submitted, shall be promptly supplemented and transmitted to the other party.

E. To the extent that you consider any of the following Interrogatories objectionable, please answer so much of each Interrogatory to which you raise your objection and each specific ground for such objection.

F. Plaintiff requests that each Interrogatory be repeated preceding each answer.

G. Answers and/or responses to the following Interrogatories must be verified in writing.

H. Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the person making them, and the objections signed by the attorney making them. [Rule 33(a)]

PLAINTIFF'S INTERROGATORIES

1. Give the names and addresses of persons known to the parties or counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

2. For each person known to the parties or counsel to be a witness concerning the facts of the case, set forth either a summary sufficient to inform the other party of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witnesses.

3. Set forth and identify a list of all documents and tangible items of any nature and description, including but not limited to, photographs, plats, sketches, or other prepared documents in possession of the party that relate to the claims or defenses in the case or that were used to assist in responding to these interrogatories.

4. Set forth and identify the names and addresses of all physicians and medical care providers who have treated you in connection with the incident, and also set forth a statement of all medical costs involved. (*Note: please provide a full and complete response to this interrogatory regardless of whether you are making a claim for injuries or damages related to the incident.*)

5. Set forth the names of all insurance companies or other insuring entities which may be liable to satisfy part or all of a judgment entered against you in this action, or to indemnify or reimburse you for payments made to satisfy the judgment, including those which may have the potential for insurance coverage, including but not limited to those companies providing liability, excess, and umbrella coverages, relating to the allegations set forth in the operative complaint, and the number or numbers of the policies involved, number or numbers of the claims involved, the amount or amounts of potential coverage provided for the incident through each policy, the agent who sold the policy, the named insured on each policy, and if you are aware of whether a reservation of rights letter(s) and/or information has/have been issued by any insurance company related to the allegations set forth in the operative complaint as a result of the incident.

6. Provide the following information for any expert witnesses that you propose use as a witness at the trial of this case:

- a) name, employer, and address;
- b) a complete statement of all opinions the witness will express and the basis and reasons for them;
- c) all facts, documents, data, and other information considered by the witness in forming all opinions of the witness;
- d) any exhibits that will be used to summarize or support the witness' testimony;
- e) the witness's qualifications, including a list of all publications authored in the previous 10 years;
- f) a list of all other cases in which, during the previous 4 years, the witness testified as an expert at trial or by deposition, and all other cases in which the witness was retained by an insurance company or a law firm on behalf of a civil defendant, but did not testify. *Note: if the witness has been designated as an expert witness in a federal case within the past 4 years, this document must exist as its production would have been required under the Federal Rules of Civil Procedure.*
- g) a statement of the compensation already paid and/or to be paid for the study, work, and testimony of the witness in the case.
- h) a statement of the compensation paid, during the previous 4 years, by any insurance companies and law firms to the witness and/or the witness' employer specifically for the witness' services related to legal claims;
- i) a list of all cases in which, during the previous 10 years, the witness' testimony has been limited or excluded by a Court or Tribunal in any way.

7. Identify all individuals who prepared, assisted, were consulted with, helped with, and/or contributed to the production of documents in response to any party's requests for production, and in the preparation, drafting, and gathering and compiling information or documents responsive to any party's written discovery other than your attorney and your attorney's staff. For each person identified, state their relationship to you, job description, and identify what information and/or

documents he/she assisted with producing to your attorney(s), and whether the information supplied was based on personal knowledge.

8. Please provide your full name, every name you have used in the past and the dates you used each name, as well as your date of birth, place of birth, and social security number.

9. State your present residence address, your residence addresses for the past five years and the dates you lived at each address.

10. Identify your present employer or place of self-employment, dates of employment, job title, and nature of work for each employer or self-employment you have had from five years before the incident to the present.

11. At the time of the incident, were you acting as an agent or employee, or on behalf of your employer, an entity, or another person? If so, state the name, address, and telephone number of that person or entity and describe your job duties.

12. Did you miss any work due to the incident? If so, please state the dates and times you missed.

13. At the time of the incident, did you have a driver's license and/or any other permit or license for the operation of a motor vehicle? If so, identify the state or other issuing entity, the license number and type, the date of issuance, and all restrictions. If your driver's license has ever been suspended, please provide the date of and the reason for the suspension.

14. Identify your cell phone number and cell provider at the time of the incident and state the location of your cell phone at the time of the incident and whether or not you were using your cell phone in any manner (for example, a phone call, listening to voicemail, reading or writing a text/SMS message or email, playing a video game, or using camera, music, internet, map

application, or other use) immediately before or at the time of the subject collision, within one (1) minute before, during, or after the incident.

15. If you consumed any alcohol and/or drugs, legal or illegal, within the 24-hour period preceding the incident, please provide the following:

- a) The amount and type of alcohol and/or drugs consumed;
- b) Where you consumed the alcohol and/or drugs;
- c) Who provided you with the alcohol and/or drugs;
- d) The location and identity of all persons who were with you at any time during the consumption of the alcohol and/or drugs; and
- e) The reason for the consumption of the drugs or alcohol.

16. Please state whether you underwent any blood/urine testing for alcohol and/or drugs after the incident. If so, please identify the type of test that was done, the person who administered the test, the date the test was administered, and the results of each test.

17. Do you attribute any loss of or damage to a vehicle or other property to the incident? If so, for each item of property, please describe the property, the nature and location of the damage to the property, state the amount of damage to each item of property, how the amount was calculated, and, if the property was sold, identify the seller and buyer, the date of sale, and the sale price. If the property was repaired, please identify the date of the repair, describe the repair, state the repair costs, identify who performed the repair, and who paid for the repair.

18. At the time of incident, did you or any other person involved have any physical, emotional, or mental disability or condition that may have contributed to the occurrence of the incident? If so, identify each person, the nature of the disability or condition, and the manner in which you contend the disability or condition contributed to the occurrence of the incident.

19. Do you or your medical providers attribute any physical, mental, or emotional injuries, pain, and/or limitations to being caused or exacerbated by the incident? If so, identify each injury or condition that you or your medical providers attribute to being caused or exacerbated by the incident, the area of your body that was affected, and any medical treatment or medications you have taken as a result of the affected injury or condition.

20. Do you still have any injuries or complaints that you attribute to the incident? If so, for each, please provide a description of the injury or complaint, the frequency and duration of the injury or complaint, and whether any medical providers have advised that you may require future or additional medical treatment for any injuries or conditions that you or your medical providers attribute to the incident.

21. Identify all eye doctors you have seen within the past five (5) years.

22. If you received a traffic citation for the incident, please state the citation number, the name and location of the court, whether a hearing was held, your plea, and the amount of the fine paid, if any.

23. State whether any on-board data recording device (including but not limited to a dashboard camera, an automobile telematics device or similar devices and/or associated applications, for example, Allstate Drivewise®, State Farm ® Drive Safe & Save™, Progressive Snapshot™, USAA SafePilot™, Geico DriveEasy™, or similar devices and/or associated applications, OnStar™, ECM (Electronic Control Module), black box, or a GPS application (e.g., Google Maps, Waze, etc.) was in your vehicle at the time of the incident, and whether any data from the same on-board recording devices has been obtained by you or anyone else.

24. List every social media site used or accessed by you for the past three (3) years. For each social media site, provide your account/username and the name of the social media platform.

25. State the address and location where your trip began and the address and location of your destination and describe the route that you followed from the beginning of your trip to the location of the incident, and state the location of each stop, other than routine traffic stops (like at a stop light), during the trip leading up to the incident.

26. Describe your version of exactly what happened immediately before, during, and after the incident, and why you believe the incident occurred.

27. Do you have information that a malfunction or defect in a vehicle caused or contributed to the incident or any injuries sustained in the incident? If so, please identify each malfunction or defect, identify the vehicle which you claim had a malfunction or defect, identify each witness who has information about each malfunction or defect, and identify each person who has custody of each defective part.

28. Have you or anyone acting on your behalf conducted surveillance on any individual involved in the incident? If so, for each surveillance event, state the name, address and telephone number of the individual or party who was the subject of the surveillance, the time, date and location of the surveillance, the name, address and telephone number of the individual who conducted the surveillance, and the name address and telephone number of each person who has the original or a copy of any surveillance photograph, film, or videotape.

29. If surveillance has been conducted, has a written report been prepared? If so, please state the title and date of the report, the name, address and telephone number of the individual who prepared the report, and the name address and telephone number of each person who has the original or a copy of the report.

30. If you contend that actions or non-actions of Plaintiff, another defendant, or some other person or legal entity other than you is, in whole or in part, liable to Plaintiff or responsible for

causing or contributing to the incident and/or the injuries and damages being claimed by Plaintiff, please provide the following:

- a) Identify the person or entity whom you claim is liable or responsible.
- b) Identify the person or entity whom you claim is liable or responsible and state a summary of the facts and circumstances which support the contention, including, but not limited to, a description of each action or non-action on the part of the Plaintiff that caused or contributed to the incident and/or injuries and damages being claimed by Plaintiff;
- c) The names, addresses, and telephone numbers of each person who supports, refutes, and/or has knowledge of that contention;
- d) Identify each statute, regulation, ordinance, industry custom, practice or standard of care which you believe someone other than you violated and describe with specificity how the violation relates to that contention; and
- e) A list of all documents which support, refute, and/or relate to that contention.

31. Identify each denial of a material allegation and each special or affirmative defense in your pleadings and for each:

- a) state all facts upon which you base the denial or special or affirmative defenses;
- b) state the names, addresses, and telephone numbers of all persons who have knowledge of those facts; and
- c) identify all documents and other tangible things that support your denial or special or affirmative defense, and state the name, address and telephone number of the person who has each document.

32. In the past ten (10) years, if you have made a claim related to a medical condition, or have been involved in any other legal action, whether criminal or civil, either as a plaintiff or defendant, give the claim number, identify the state, county, city, and Court, case number, names of the other parties, names of counsel for parties, description of the claim or offense, and disposition of each.

33. If you are improperly identified in the operative Complaint, give the proper identification and state whether your attorney will accept service of an amended summons and pleading reflecting the correct information.

34. Do you or anyone acting on your behalf contend that any person involved in the incident violated any statute, ordinance, or regulation and that the violation was a legal (proximate) cause of the incident? If so, identify each person and the statute, ordinance, or regulation that was violated.

35. Do you contend that plaintiff was not injured in the incident? If so,

- a) state all the facts upon which you base your contention;
- b) identify all persons who have knowledge of the facts upon which you base your contention; and
- c) identify all documents and other tangible things that support your contention and identify the person who has each document.

36. Do you have any document concerning the past or present physical, mental, or emotional condition of the plaintiff in this case from a medical provider not previously identified? If so, please identify each medical provider and provide a description of the documents in your possession.

37. Identify all of your sources of income and occupation(s) including your job title(s).

38. Identify your employer and/or business address(es), phone number(s), and names of your payroll and head of human resources.

39. For each employer or business from which you receive income, identify:

- a. How often you are paid;
- b. Your gross pay each pay period;
- c. Your take-home pay each pay period.

40. If your spouse earns any income, give the name of your spouse, the name and

address of the business or employer, job title and division of office.

41. How much money do you have in cash?

42. How much other money do you have in banks, savings and loan, credit unions, and other financial institutions either in your own name or jointly?

43. Identify all financial accounts that you maintain, including:

- a. The name and address of the financial institution;
- b. The account number;
- c. Whether it is an individual or joint account;
- d. The balance.

44. List all automobiles, other vehicles, and boats owned in your name or jointly.

45. List all real estate in which you have an ownership interest and state the interest owned.

46. List all business entities in which you have an ownership interest and state the interest owned.

47. List anything of value not already requested that you own in your name or jointly (do not list household furniture or furnishings, appliance, or clothing) and state the interest owned.

48. If anyone is holding assets for you, please describe the assets and give the name and address of the person or entity hold each asset.

49. Have you disposed of or transferred any assets within the last year? If so, please identify the asset, the value of the asset, the date of the disposal or transfer of the asset, and where or with whom the asset is with now.

50. Have you purchased, altered, changed, or declined any liability insurance coverage within the past five years?

51. Identify any and all insurance agents, including names, addresses, and phone

numbers from whom you have purchased, altered, or changed insurance coverage with for the past five years.

BRINGARDNER INJURY LAW FIRM, LLC

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Charleston, South Carolina
June 30, 2023

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2023-CP-08-01652

Kanisha Nash,

Plaintiff,

v.

Patrick Montgomery, Sabrina Montgomery,
and Montgomery Construction, LLC,

Defendant(s),

Certificate of Service

I hereby certify that I have served a copy of *Plaintiff's Interrogatories to Defendant Patrick Montgomery* to the below-named Defendant via process server this 30th day of June 2023:

Patrick Montgomery
408 N. Tee Line Drive
Ridgeville, SC 29472

and

Patrick Montgomery
c/o Director Randy Demory
Berkeley county Detention Center
300 California Ave.
Moncks Corner, SC 29461

BRINGARDNER INJURY LAW FIRM, LLC

By: Hayley N. Bost
Hayley Bost, Paralegal

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 2023- CP-08-01652

Kanisha Nash,

Plaintiff,

v.

Patrick Montgomery, Sabrina
Montgomery, and Montgomery
Construction, LLC,

Defendant(s).

**Plaintiff's Requests for Production to
Defendant Patrick Montgomery**

TO: DEFENDANT PATRICK MONTGOMERY:

The Plaintiff, Kanisha Nash (hereinafter "Plaintiff"), by and through the undersigned attorneys, hereby requires Defendant Patrick Montgomery (hereinafter "Defendant"), within thirty (30) days after service hereof, to answer the following Requests for Production, under oath, pursuant to Rule 34 of the South Carolina Rules of Civil Procedure, exclusive of the date of such service. These Requests for Production shall be deemed continuing and shall require supplemental answers should Defendant Patrick Montgomery obtain any additional information between the time answers are served and the date of trial.

DEFINITION OF TERMS

The following definitions apply to each of the Requests for Production set forth below and are deemed to be incorporated herein:

A. The word "**person**" means all entities, including all individuals, joint owners, companies, partnerships, joint ventures, corporations, proprietorship, franchises, associations, organizations, groups of persons, trusts, estates, or any governmental body or subdivision thereof.

B. The word "**document(s)**" means all written, recorded or graphic matter, whether produced or reproduced or stored on papers, cards or tapes, computer devices, either in your actual or constructive possession, custody or control, or your insurance company, your attorneys, third-party claims administrators, investigators, officers, agents, representatives, employers, and employees or which are known by you to exist; and includes originals, all copies of originals, and all prior drafts, including, but not limited to, the following: writings, papers, correspondence, drafts, notebooks, diaries, accounts, invoices, orders, letters, reports, notes, memoranda, manuals, drawings, diagrams, sketches, charts, dictating tapes, the notes of secretaries or stenographers or assistants, photographs, negatives, prints, tape or disc recordings, storage drives, sound recordings, video recordings, doctors' reports, descriptions, books, checks, bank account records, memos of telephone conversations, and every copy of such writing or record when such copy contains any commentary or notation whatsoever that does not appear on the original. Plaintiff expressly intends for the term "Document" to include any attachments or exhibits to the requested document, or any substance supporting or using the preparations thereof.

C. As used herein, the word "**identify**" shall mean:

i. in reference to any person or persons, means to state the full names, addresses, telephone numbers, as well as his or her job title(s) during the relevant time period;

ii. in reference to any document, to state its date, date of receipt, present location, and nature (e.g., letters, memorandum, etc.) and any identifying label, marking, number, name, or title; to state its author(s), recipient(s), and present custodian; and to describe its contents briefly;

iii. in reference to any oral communication, to state the date and location of the communication, to identify the person making it, the person(s) to whom it was addressed, and

all other persons present when the communication was made; and to describe briefly the content of the communication;

iv. in reference to an act or instance, to state the nature of the act or instance, to state the date on which it occurred and where it took place, and to identify the person or persons involved.

D. The word "**date**" means the exact day, month, and year, if ascertainable, or if not, then your best approximation thereof.

E. The words "**you**" and "**your**" and "Defendant" means **Defendant Patrick Montgomery** and includes your agents, your employees, your insurance companies, your employers, your attorneys, your accountants, your investigators, their agents, their employers, adjusters, third-party claims administrators, representatives, and anyone else acting on your behalf.

F. The term "**incident**" refers to the subject incident described in the operative Complaint and includes the circumstances and events surrounding the alleged incident, injury, or other occurrence giving rise to this action.

DIRECTIONS

A. Identify in a corresponding written response to each request each writing or document responsive to the request and for which all or part of the same forms the basis for the answers to interrogatories, or which corroborates the answer to interrogatories and these requests for production.

B. The documents produced pursuant to these Requests shall be separately produced for each request, or in the alternative, shall be identified as complying with the particular paragraph or paragraphs of the request for which they are responsive.

C. If documents responsive to a request are not within your personal possession, you have a duty to obtain the responsive documents in your constructive possession, custody, or control from those who are acting on your behalf with respect to the incident, which includes, but is not limited to, you insurance companies, adjusters, attorneys, third-party claims administrators, investigators, officers, agents, representatives, employers, and employees.

D. If the answers to all or any part of the Request are not presently known or available, include a statement to that effect, furnish the information known or available, state whether such documents can be obtained, and respond to the entire Request by supplemental Answer in writing under oath within ten (10) days after the entire answer becomes known or available.

E. As contemplated by Rule 34 of the SCRCP these Requests shall be deemed to continue from the time of service, until the time of trial of the action so that information sought, which comes to the knowledge of a party, or his representative or attorney, after original answers to Requests have been submitted, shall be promptly supplemented and transmitted to the other party.

F. To the extent that you consider any of the following Requests objectionable, please answer so much of each Request to which you raise your objection and each specific ground for such objection. In the event you wish to assert either attorney-client privilege or attorney work-product protections, or both, as to any document requested by any of the following specific requests, then as to each document subject to such assertion, you must provide a "Privilege Log" that complies with Rule 26(b)(5) and contains the identification of each specific allegedly privileged document and writing, such identification to include: The nature of the document, the sender, the author, the recipient, the recipient of each copy, the date, the name of each person to whom the original of any copy was circulated, the names appearing on any circulation list of parties associated with such document, a summary statement of the subject matter of such document in sufficient detail to

permit the Court to reach a determination in the event of a Motion to Compel, and an indication of the basis for assertion of the privilege or the like.

G. Plaintiff requests that each Request for Production be repeated preceding each answer.

H. Answers and/or responses to the following Requests must be verified in writing.

PLAINTIFF'S REQUESTS FOR PRODUCTION

1. A complete copy of any and all insurance policies, declarations pages, agreements, and related documents under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment, including but not limited to those companies providing liability, commercial, excess, and umbrella coverages, relating to the incident, claims related to the incident, the vehicles involved, the drivers of the vehicles involved, and damage claims made by the Plaintiff as alleged in the operative Complaint, and to include all addendums, riders, reservation of right correspondence, and any other documents related to potential insurance coverage for the incident and this lawsuit.

2. Any and all documents, photographs, memoranda, reports, plats, diagrams, writings, papers, notes, materials, evidence, electronically stored information, and tangible things that you have in your possession, custody, or control which in any way might relate to the incident and/or lawsuit.

3. Any and all documents and tangible things obtained by you or anyone acting on your behalf via subpoena, Subpoena Duces Tecum, signed authorization form, ISO claims search, FOIA request, or other legal process.

4. Any and all recordings and transcripts of conversations, interviews, and statements including depositions, statements under oath, and summaries, notes, documents, and materials

related to the same, whether written, transcribed, or recorded, for any witness, individual, or other person or entity who purports to know any facts or circumstances concerning the incident and/or the claims and defenses related to this lawsuit, (i.e., liability, comparative fault, causation and/or damages in this case). This request encompasses the parties to this action and their employees, agents, and representatives, and any potential witnesses.

5. Any and all documents that refer or relate to any communication (whether written or oral) between you or anyone on your behalf and any witness or party to this lawsuit, including but not limited to any electronic mail, notes, correspondence, or recordings of any such communication.

6. Produce a copy of all traffic citation(s) you received as a result of the incident and all documents related to the administration of the citation(s).

7. All photographs of the vehicles involved in the incident.

8. All photographs taken of the scene of the incident from the date of the incident to the present.

9. All service, repair, and maintenance records, appraisals, estimates, and invoices for the motor vehicles involved in the incident that were prepared after the incident.

10. A copy of all documents related to loss or damage to the vehicle you were driving at the time of the incident and any other property damaged in the incident, and, if the property was sold or is no longer in your possession, identify the seller and buyer and/or whom the property was transferred to, the date of sale, and the sale price.

11. If you believe that a malfunction or defect in a vehicle caused or contributed to the incident or any injuries sustained in the incident, please produce copies of all documents related to the same.

12. A copy of the front and back of each and every driver's license and/or any other permit or license for the operation of a motor vehicle issued to you (regardless of name used) in your possession, custody, and/or control.

13. If you underwent any blood/urine testing for alcohol and/or drugs after the incident, please provide all documents related to the same.

14. All documents relating to any blood/urine testing for alcohol and/or drugs you took from one (1) year before the incident until the present.

15. If you consumed any alcohol within the 24-hour period of time preceding the incident, please provide the receipt for the purchase of said alcohol that was consumed within that time.

16. At the time of the incident, if were you acting as an agent or employee, or on behalf of your employer, an entity, or another person, please produce all documents setting forth the relationship between you and that person/entity, including but not limited to your employment contract, employment manual, a copy of your pay statement that encompasses the date of the incident, and any correspondence you have received from such person or entity that relates to, or resulted from, the incident.

17. A copy of your cell phone bill, cell phone call log, text/SMS messages from twenty-four (24) hours before the incident through 24 hours after the incident.

18. Produce screenshot pictures of your cell phone's screen of any and all text messages, communications, and call logs from twenty-four (24) hours before the time of the incident until twenty-four (24) hours after the incident.

19. All medical records and bills related to any medical evaluation or care you received in connection with the incident.

20. Any and all medical reports, bills, letters, from any doctor, nurse, urgent care, emergency department, or any other medical provider you visited within thirty (30) days before and thirty (30) days after the incident.

21. If you or your medical providers attribute any physical, mental, or emotional injuries, pain, and/or limitations being caused or exacerbated by the incident, produce copies of all documents related to the same.

22. If you had any physical, emotional, or mental disability or condition that may have contributed to the occurrence of the incident, produce copies of all documents related to the same.

23. If you still have any injuries or complaints that you attribute to the incident, produce copies of all documents related to the same.

24. Produce any and all eye doctor medical records for any eye doctor you have seen within the past five (5) years to the present.

25. All evidence requested to be preserved as identified in Plaintiff's letter(s) requesting the preservation and/or production of evidence, and all documents generated as a result of efforts to preserve evidence.

26. Any and all documents, exhibits, videos, recordings, files, charts, drawings, sketches, diaries, journals, memorandums, notes, reports, or other materials of any type prepared by you relating to the incident and this lawsuit.

27. Any on-board recording devices (including but not limited to a dashboard camera, an automobile telematics device (e.g., Allstate Drivewise®, State Farm ® Drive Safe & Save™, Progressive Snapshot™, USAA SafePilot™, Geico DriveEasy™, or similar devices and/or associated applications, OnStar™, ECM (Electronic Control Module), or black box) in your vehicle at the time of the incident for inspection by Plaintiff's counsel and consultants.

28. Any and all data obtained by you or on your behalf from any on-board data recording device (including but not limited to a dashboard camera, an automobile telematics device (e.g., Allstate Drivewise®, State Farm ® Drive Safe & Save™, Progressive Snapshot™, USAA SafePilot™, Geico DriveEasy™, or similar devices and/or associated applications, OnStar™, ECM (Electronic Control Module), black box, or a GPS application (e.g., Google Maps, Waze, etc.) was in the vehicle you were driving at the time of the incident.

29. Produce for inspection all on-board data recording devices (including but not limited to a dashboard camera, an automobile telematics device (e.g., Allstate Drivewise®, State Farm ® Drive Safe & Save™, Progressive Snapshot™, USAA SafePilot™, Geico DriveEasy™, or similar devices and/or associated applications, OnStar™, ECM (Electronic Control Module), black box, or a GPS application (e.g., Google Maps, Waze, etc.) was in the vehicle you were driving at the time of the incident.

30. In the past ten (10) years, if you have made a claim related to a medical condition, or have been involved in any other legal action, whether criminal or civil, either as a plaintiff or defendant, give the claim number, identify the state, county, city, and Court, case number, names of the other parties, names of counsel for parties, description of the claim or offense, and disposition of each.

31. All documents related to your involvement in any other claim or legal action, whether criminal or civil, either as a plaintiff or defendant.

32. Complete copies of any and all pre-litigation claim(s) and investigation files related to the incident that were created and/or maintained by your insurance companies and/or third-party administrators, including, but not limited to, any and all office records, memos, correspondence, collision reports, vehicle estimates, vehicle photos, written statements, recorded statements/calls, adjuster notes, investigation documents, liability analysis, review, settlement documents/amounts

and any other document of any nature and in any form whatsoever pertaining to the incident until defense counsel was retained. (Note: This request does not seek financial reserve amounts, which may be redacted from the responsive documents).

33. Produce any and all documents related to surveillance efforts that have been conducted on your behalf on any individual related to the incident and lawsuit, including Plaintiff, Plaintiff's family, friends, and/or anyone filmed arising out of the incident and lawsuit, including but not limited to the original unedited, raw video (digital or analog), photographs, recordings, electronically stored information, reports, written or dictated notes and/or summaries thereof, any cover letter, emails, instructions, screenshots, pictures, invoices, payment records, memos and/or reports from the person(s) that recorded the video or assisted in the coordination and execution of the surveillance.

34. If any surveillance has been undertaken by you or on your behalf, produce a copy of all reports, photographs, video, and anything else generated through that investigation.

35. All background investigations and private investigator reports which relate to any party or witness involved in the subject action.

36. All public records and documents obtained by you, your attorney, or anyone acting on your behalf which relate to any party, witness, or issue in the subject action, including but not limited to, driving records, criminal background reports, liens, and other documents.

37. If you contend that the actions or non-actions of Plaintiff caused or contributed to the incident and/or the injuries and damages being claimed by Plaintiff, please produce all documents which support, refute, and/or relate to the allegation.

38. If you contend that the actions or non-actions of a person or entity not a party to the subject lawsuit caused or contributed to the incident and/or the injuries and damages being claimed by Plaintiff, please produce all documents which support, refute, and/or relate to the allegation.

39. If you contend that the actions or non-actions of a co-defendant caused or contributed to the incident and/or the injuries and damages being claimed by Plaintiff, please produce all documents which support, refute, and/or relate to the allegation.

40. Any and all documents and tangible things identified, referenced, listed in, reviewed, or relied upon in formulating your answers to all interrogatories, including supplemental interrogatories, served by Plaintiff or any other party in this case upon you.

41. Any and all documents, writings, papers, notes, materials, evidence, electronically stored information, and tangible things that you have in your possession, custody, or control and may use to support your claims or defenses related to the incident and your Answer to the operative Complaint.

42. All documents, tangible things, and materials of any type you provided to a testifying expert witness.

43. All documents, tangible things, and materials of any type a testifying expert witness has provided to you.

44. With regard to any expert witness you intend to call as a witness at the trial of this case, please produce:

- a. All documents, including a curriculum vitae, that you contend will establish the expert's qualifications to testify at trial;
- b. The fee and/or retainer agreement with the expert;
- c. The time and billing records of the expert, including all documents reflecting the compensation already paid and/or to be paid for the study, work, and testimony of the witness in the case.

- d. All documents, facts, data, tangible things, and materials of any type provided to or from the witness, even if it is not included in the witness' file, related to this matter;
- e. All correspondence to or from any expert, including electronic communications (e-mails, text messages, etc.);
- f. All reports prepared by or at the direction of the expert, including the draft versions of said reports;
- g. All demonstrative exhibits that may be used to explain, summarize or support the witness' testimony;
- h. A list of all other cases in which, during the previous four (4) years, the witness testified as an expert at trial or by deposition, and all other cases in which the witness was retained by an insurance company or a law firm on behalf of a civil litigant, but did not testify. *Note: if the witness has been designated as an expert witness in a federal case within the past four (4) years, this document must exist as its production would have been required under the Federal Rules of Civil Procedure.*
- i. All 1099s and documents reflecting the compensation paid, during the previous four (4) years, by insurance companies and law firms to the witness and/or the witness' employer specifically for the witness' services related to legal claims;
- j. All documents reflecting that the witness' testimony has been limited or excluded by a Court or Tribunal in any way.
- k. All documents, including reports, bills, and depositions, from your expert in all other cases for which your attorney and/or your attorney's law firm retained the expert and identified him or her as a testifying expert in other litigated cases;
- l. All field notes, inspection notes, testing notes, and other notes prepared by or at the direction of each expert;
- m. All photographs or videotapes taken, utilized, reviewed, or consulted by or at the direction of the expert;
- n. All diagrams or drawings prepared by or at the direction of the expert;
- o. All articles, treatises, publications, or other authoritative documents which support the expert's opinions in this action;

45. All documents, tangible things, and materials of any type that you intend to question Plaintiff's expert witness(es) about in deposition, trial, or other proceedings in this case.

46. Copies of all diagrams, graphs, illustrations, photographs, charts, pictures, models, blow-ups, or any other document or thing, including electronically created charts, animations, or data that you intend to utilize as an exhibit, demonstrative exhibit, or aid in the trial of this case not previously supplied.

47. An affidavit of insurance coverage from a company claims manager or executive certifying under oath that the insurance policies disclosed and produced in response to these discovery requests represent all available coverage(s) that exist with the potential for coverage, including any and all excess policies.

48. All documents and tangible things of whatever nature and description which you intend to introduce into evidence or to use for impeachment purposes or as any type of evidence, real or demonstrative, at trial of this case.

49. If you or anyone acting on your behalf are not currently in possession of any documents, tangible things, or materials requested herein, but you are aware that such items exist, provide a written response listing each item and identify who has possession of such items.

50. Produce the last three (3) years of Defendant's annual accountant's financial statements).

51. Produce the last three (3) years of statements of Defendant's financial condition

52. Produce the last three (3) years of Defendant's income statements.

53. Produce the last three (3) years of Defendant's cash flow statements.

54. Produce the last three (3) years of Defendant's federal tax returns.

55. Produce a statement of all income earned in the last five (5) years that you did not report on either state or federal income tax returns.

56. Please provide a copy of all invoices, receipts, bills, or other similar document related to any business you operate out of your home.

BRINGARDNER INJURY LAW FIRM, LLC

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Attorneys for the Plaintiff

Charleston, South Carolina
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Plaintiff,

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I hereby certify that I have served a copy of *Plaintiff's Requests for Production to Defendant Patrick Montgomery* to the below-named Defendant via process server this 30th day of June 2023:

Patrick Montgomery
408 N. Tee Line Drive
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BRINGARDNER INJURY LAW FIRM, LLC

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STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

Kanisha Nash,

Plaintiff,

v.

Patrick Montgomery, Sabrina Montgomery,
and Montgomery Construction, LLC,

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 2023-CP-08-01652

**Plaintiff's Memorandum in Support of
Motion to Compel Supplemental Discovery
Responses from Patrick Montgomery**

Plaintiff hereby submits this memorandum in support of Plaintiff's Motion to Compel Supplemental Responses to Interrogatories and Requests for Production served on Defendant Patrick Montgomery, ("Patrick" or "Defendant").

This case arises out of a drunk driving head-on motor vehicle collision that resulted in serious injuries to Plaintiff and the death of Plaintiff's son, age 3. Liability is clear. Damages clearly exceed all potential insurance policy limits.

THE DEFENDANTS

1. Patrick Montgomery was the drunk driver that caused the crash. Patrick was driving a pick-up truck, owned by his wife, Sabrina Montgomery, and hauling a trailer, believed to be owned and/or used by Montgomery Construction, LLC, ("Montgomery Construction").
2. Sabrina Montgomery is the sole owner of Montgomery Construction. Evidence shows that Sabrina and Patrick co-mingled the LLC's assets and used them for work and personal purposes.
3. Montgomery Construction owned and/or used the trailer to haul materials. At the time of the crash, the trailer held a large blue barrel containing off road diesel fuel and other materials/equipment believed to be owned by Montgomery Construction.

4. Defendants claim that Patrick never worked for Montgomery Construction and was not “on the job” at the time of the crash. Direct negligence, negligent entrustment, and vicarious liability has been alleged in the Complaint. Plaintiff intends to amend the Complaint to add additional allegations of Alter-Ego and Piercing the Corporate Veil.

Two major disputes in this case are: 1) the applicability of the three different reported insurance coverages maintained by the defendants, and 2) the defendants’ financial condition and ability to pay a judgment in excess of the policy limits. Based on the insurance policy limits disclosed thus far, all defendants are grossly underinsured. This motion seeks responses to basic discovery as well as documents and information related to the two disputes listed above.

Patrick Montgomery served deficient responses to written discovery and has failed to supplement the same. It is believed that Patrick may not be effectively communicating with his attorney. Based on the insurance policy limits disclosed thus far, Defendants are grossly underinsured. Plaintiff’s discovery requests have in part been aimed at finding additional insurance coverage or other sources of recovery.

FACTUAL BACKGROUND

On April 14, 2023, Defendant Patrick Montgomery, while driving drunk, crossed the center line and caused a nearly head-on collision with a vehicle driven by Plaintiff. Plaintiff suffered severe, life-threatening injuries and was hospitalized for weeks. Her past medical bills that total over \$400,000. Tragically, Plaintiff’s three-year-old son, was killed as a result of the injuries he sustained in crash.

PROCEDURAL BACKGROUND

Plaintiff served Interrogatories and Requests for Production on Patrick Montgomery on June 30, 2023. (Exhibit A). On August 21, 2023, Plaintiff’s counsel followed up with counsel for

Patrick Montgomery to inquire as to the status of her discovery responses. (Exhibit B). Following no response from Defendant, Plaintiff filed a Motion to Compel against Defendant Patrick Montgomery on September 11, 2023.

Defendant Patrick Montgomery served Plaintiff with incomplete and deficient responses on October 9, 2023. (Exhibit C). In an effort to informally resolve the motion to compel without court intervention, Plaintiff's counsel sent an email on October 13, 2023 concerning the deficient responses and advised that the email was Plaintiff's Rule 11 correspondence on the issue. (Exhibit D). Patrick Montgomery has not supplemented his discovery responses since the October email.

LAW

The primary objective of discovery is to ensure that lawsuits are decided by what the facts reveal, not by what facts are concealed. *In re Anonymous Member of South Carolina Bar*, 346 S.C. 177, 552 S.E.2d 10, 18 (2001). The entire thrust of discovery rules involves full and fair disclosure, to prevent a trial from becoming a guessing game or one of surprise for either party. *Samples v. Mitchell*, 329 S.C. 105, 495 S.E.2d 213, 217 (Ct. App. 1997). In this respect, the discovery process is designed to "make a trial less a game of blind man's bluff and more a fair contest with the basic issues and facts disclosed to the fullest practicable extent." *In re Anonymous Member of the South Carolina Bar*, 346 S.C. 18.

Unreasonable discovery conduct unnecessarily protracts litigation and causes both sides to incur additional attorneys' fees and other expenses. The discovery process, like a lawsuit itself, "is not a children's game, but a serious effort on the part of adult human beings to administer justice." *Griffin v. Capital Cash*, 310 S.C. 288, 423 S.E.2d 143, 146 (Ct. App. 1992) (quoting *United States v. A.H. Fischer Lumber Co.*, 102 F.2d 872 (4th Cir. 1947)).

When a party withholds information otherwise discoverable under these rules by claiming that it is privileged or subject to protection as trial preparation material, the

party shall make the claim expressly and shall describe the nature of the documents, communications, or things not produced or disclosed in a manner that, without revealing the information itself privilege or protected, will enable other parties to assess the applicability of the privilege or protection.

SCRCP 26(b)(5)(A).

When documents are withheld in discovery, the failure to create a privilege log in sufficient detail to satisfy the rules may result in loss of the privilege. *See John Labatt Ltd. V. Molson Breweries*, 1995 U.S. Dist. Lexis 507 (S.D.N.Y. Jan. 20, 1995); *Samples v. Mitchell*, 329 S.C. 105, 111, 495 S.E.2d 213, 216 n.5 (Ct. App. 1997). Rule 45(d)(2)(A), SCRCP; Rule 26(b)(5), SCRCP.

Essentially, the rights of discovery provided by the rules give the trial lawyer the means to prepare for trial, and when these rights are not accorded, prejudice must be presumed. *Downey v. Dixon*, 294 S.C. 42, 46, 362 S.E.2d 317, 319 (Ct. App. 1987)."

Each interrogatory or discovery production is to be answered or objected to separately. The rule is clear that each interrogatory "shall be answered separately and fully in writing..." SCRCP, Rule 33(a). If there are objections to interrogatories or requests for production, "the reasons for objection shall be stated..." SCRCP, Rules 33(a) and 34(b). However, the general purposes and concepts stated in the rules can help combat frivolous and obfuscator objections.

As Judge Roger Young's August 29, 2019, memorandum on written discovery states:

"An affirmative duty does exist to answer interrogatories and respond to requests to produce." *CHRE, LLC v. Greenville County Assessor LLC*, 395 S.C. 67, 83, 716 S.E.2d 877, 885 (2011). Objections to interrogatories must be specific and supported by a detailed explanation why the interrogatories are improper or may result in waiver of the objections. *In re Folding Carton Antitrust Litigation*, 83 F.R.D. 260, 264 (N.D. Ill. 1979). The mere statement by a party that the interrogatory was "overly broad, burdensome, oppressive and irrelevant" is not adequate to voice a successful objection to an interrogatory. *Josephs v. Harris Corp.* 677 F.2d 985, 992 (3d Cir. 1982). Parties shall not make nonspecific, boilerplate objections. **Objections that state that the discovery request is "vague, overly broad, or unduly burdensome" are, standing alone, meaningless and will be found meritless by the court.** A party objecting must explain the specific and particular way in which a given request is vague, overly

broad, or unduly burdensome. (Footnote omitted) *Curtis v. Time Warner Entm't-Advance/Newhouse P'ship*, 2013 WL 2099496, at *2 (D.S.C. May 14, 2013). **Parties should not recite formulaic objection on the basis of any of the above reasons and then state that, "notwithstanding the above," the party will respond to the discovery request, subject to or without waiving objection.** Such an objection and answer preserve nothing and serves only to waste the time and resources of both the parties and the court. **Such practice leaves the requesting party uncertain as to whether the question has actually been fully answered or whether only a portion of the question has been answered.** *Id.* Citing 2004 A.B.A. Civil Discovery Standards, 2004 A.B.A. Sec. Lit. 18. One objecting to discovery must show specifically how, despite the broad and liberal construction afforded the discovery rules, each interrogatory is not relevant or how each question is overly broad, burdensome, or oppressive, **by submitting affidavits or offering evidence revealing the nature of the burden.** *Roseberg v. Johns-Munville Corp.*, 85 F.R.D. 292, 296 (E.D. Pa. 1980). It is not proper to object merely because answering interrogatories may require expending considerable time, effort or expense or may interfere with business operations. *Id.* at 97.

General objections to requests as excessive, overbroad, and unduly burdensome, without more detail as outlined herein, are considered by the Court as *per se* insufficient. The objecting party must show specifically how each discovery request is burdensome or oppressive by submitting affidavits or offering evidence revealing the nature of the burden, *Oleson v. Kmart Corp.*, 175 F.R.D. 560, 564 (D. Kan. 1997); *accord Roseberg v. Johns-Munville Corp.*, 85 F.R.D. 292, 29-97 (E.D. Pa. 1980) (explaining that an objecting party "must show specifically how... each interrogatory is not relevant or how each question is overly broad, burdensome or oppressive... by submitting affidavits or offering evidence revealing the nature of the burden" (internal citations omitted)). **Responses which provide no information whatsoever in support of these assertions are very likely to be overruled and may be sanctionable if deemed to be abusive violations by the Court.**

As to documents produced in response to discovery requests, the responding party shall produce them "as" they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request." SCRCF, Rule 34(b). If the form for producing the information in a form which it is ordinarily maintained that is reasonably useable. SCRCF, Rule 34(b)(1).

The party resisting discovery must show specifically how each interrogatory or request for production is not relevant or how each is overly broad, burdensome, or oppressive. If claims of privilege or work product are made, the factors and facts supporting such claims should be supported with specifics, not generalities, in the form of a privilege log that will provide enough information for you and the court to evaluate the objection."

ANALYSIS OF DISCOVERY DEFICIENCIES

Answers to Interrogatories

1. Defendant Patrick Montgomery Failed to substantively answer 32 interrogatories.

Defendant Patrick Montgomery's answers to interrogatories are threadbare and provide little to no information. In fact, in thirty-two (32) of the fifty-one (51) interrogatories, Defendant states that he will need to supplement his response. Plaintiff seeks substantive supplemental responses to interrogatory numbers 8, 10-12, 14, 16-27, 29, 32, 36-51.

To date, no supplement has occurred. Plaintiff would respectfully request an Order from this Court requiring Defendant to provide complete responses to all interrogatories and will address specific responses below.

2. Defendant Patrick Montgomery partially responded to other interrogatories, but those responses were also deficient.

3. Set forth and identify a list of all documents and tangible items of any nature and description, including but not limited to, photographs, plats, sketches, or other prepared documents in possession of the party that relate to the claims or defenses in the case or that were used to assist in responding to these interrogatories.

ANSWER: Defendant objects to this request and to the production of any items protected by the attorney/client privilege, the doctrine of attorney work product, or prepared in anticipation of litigation. Subject to these objections, Defendant is in possession of the following documents which do not include those previously produced by Plaintiff's counsel:

1. Allstate's redacted declaration page;
2. SLED report for Patrick Montgomery;
3. Driving Record for Patrick Montgomery; and
4. Traffic Collision Report for second accident.

Defendant couches his responses in an objection, which makes it impossible to determine if additional items, documents, or evidence exist. If there are additional items subject to one of the privileges set forth above, Defendant should identify that item and provide a privilege log in accordance with the rules of civil procedure.

4. Set forth and identify the names and addresses of all physicians and medical care providers who have treated you in connection with the incident, and also set forth a statement of all medical costs involved. (Note: please provide a full and complete response to this interrogatory regardless of whether you are making a claim for injuries or damages related to the incident.)

ANSWER: Defendant is not claiming any personal injury. Defendants are not in possession of any documents which would satisfy this request as to the Plaintiff's personal injury.

This is an interrogatory and not a request for production. It is seeking information concerning any injury suffered by and/or medical treatment incurred by Defendant Patrick Montgomery which are relevant to the force of the impact and the nature and extent of the injuries claimed by Plaintiff. It will also identify those who may have observed Patrick in an intoxicated condition after the crash, reveal his blood alcohol content, and history of alcohol abuse, if any.

Finally, given that it appears Patrick did not consult with counsel or provide information sought by Plaintiff's interrogatories, it is unclear whether the discovery responses contain complete, truthful, and accurate information, or if it is simply the limited information contained in an insurance adjuster's claim file.

Requests for production

Defendant Patrick Montgomery's responses to requests for production are likewise threadbare. Defendant states that he will need to supplement twenty-three (23) of the fifty-six (56) responses.

32. Complete copies of any and all pre-litigation claim(s) and investigation files related to the incident that were created and/or maintained by your insurance companies and/or third-party administrators, including, but not limited to, any and all office records, memos, correspondence, collision reports, vehicle estimates, vehicle photos, written statements, recorded statements/calls, adjuster notes, investigation documents, liability analysis, review, settlement documents/amounts and any other document of any nature and in any form whatsoever pertaining to the incident until defense counsel was retained. (Note: This request does not seek financial reserve amounts, which may be redacted from the responsive documents).

RESPONSE: Defendant objects to this request and to the production of any items protected by the attorney/client privilege, the doctrine of attorney work product, or prepared in anticipation of litigation. Subject to these objections, Defendant is in possession of the following documents which do not include those previously produced by Plaintiff's counsel:

1. Allstate's redacted declaration page;
2. SLED report for Patrick Montgomery;
3. Driving Record for Patrick Montgomery; and
4. Traffic Collision Report for second accident.

Defendant reserves the right to supplement and/or amend his response to this Request for Production.

Plaintiff is entitled to all documents related to this incident unless protected from disclosure by a valid privilege. Plaintiff is not seeking documents after defense counsel was retained, but is seeking all other documents that relate to the subject incident. Thus, privilege does not apply as to those documents. Defendant's response is couched in boilerplate objections that make it unclear what documents, if any, are being withheld and are "*per se* insufficient". "Such practice leaves the

requesting party uncertain as to whether the question has actually been fully answered or whether only a portion of the question has been answered.” *supra*, citing 2004 A.B.A. Civil Discovery Standards, 2004 A.B.A. Sec. Lit. 18.

A. Defendant’s Privilege Claim is Lost Because a Privilege Log was Not Produced.

A privilege log should detail each document as to which privilege is claimed by (1) document production number and date; (2) author and author’s address; (3) addresses and recipients of the document (direct and by copy); (4) the nature of the document (letter, memorandum, etc.) and the number of its pages; (5) the matters discussed in the document; and as to such matters about the privilege being claimed (6) the nature of the privilege that is invoked. SCRCP, Rule 26(b)(5) Note to 1996 Amendment. *See also, Burroughs Welcome Co. v. Barr Lab, Inc.*, 143 F.R.D. 611, 619 (E.D.N.C. 1992).

Here, Defendant waived privilege by failing to provide the necessary privilege log pursuant to Rule 26. Moreover, Defendant cannot demonstrate when the claimed privileges arose and, therefore, is not entitled, if it were applicable, to assert the privilege. Accordingly, claims to privilege are lost. A defendant, its employees, investigators, or insurer may not step into litigation and retroactively assert a privilege; should a privilege claim exist, it must be fully asserted.

An attorney, not a Defendant, its employees, investigators, or insurance adjusters, must formulate a legal strategy and defend his/her client - the Defendant. Here, Plaintiff does not seek to open the defense’s case file, rather she seeks to discover what information is contained in Defendant’s its insurance claim file before defense counsel was retained. Prior to litigation, an employee, investigator, or adjuster may have compiled photographs, diagrams, statements, witness names, claims evaluations, measurements, internal claims memoranda, information regarding the Plaintiff, statistical reports or any number of other types of information relevant to the matter at

hand that are not otherwise available to the Plaintiff. Plaintiff is prejudiced in preparing her case if pre-suit information is corralled for Defendant's sole use. The information sought is quite relevant - and simply not applicable to a privilege.

B. Defendant's Assertion of Work-Product Privilege was Never Applicable in this Matter.

Documents prepared in the ordinary course of business for Defendant, an investigator, or an insurance business, are not protected by the work-product privilege. Rule 26(b)(3), SCRCF protects documents prepared in anticipation of litigation. Further, South Carolina law currently does not recognize any "work-product" privilege for the pre-litigation files created by insurance adjusters. *Order*, Honorable Judge D. Goodstein, dated January 7, 2020, Case No. 2019-CP-15-00451; *Order Compelling Discovery of an Insurance adjuster's Information/File*, by the Honorable Thomas W. Cooper, Jr., dated April 19, 2001, Case No. 2000-CP-23-6494. For the following reasons, Defendant's claim of work-product privilege is not valid:

- 1) An insurance company cannot in good faith argue that "the entirety of its claims file was accumulated in anticipation of litigation." *Ring v. Commercial Union Ins. Co.*, 159 F.R.D. 653, 656 (M.D.N.C. 1995). In reality, the majority of insurance claims are settled without resort to litigation and, indeed, it is anticipated by the insured and the claimant that insurance companies acting in good faith will attempt to resolve the claims against the insured without the need for the claimant to file a lawsuit. *See also Order*, Honorable Judge D. Goodstein, dated January 7, 2020, Case No. 2019-CP-15-00451.
- 2) Courts have previously stated, that, "[w]hile much of the paperwork generated by insurance companies are prepared with an eye toward a possible legal dispute over a claim, it is important to distinguish between an investigative report developed in the ordinary course of business...and materials prepared because some articulable claim, likely to lead to litigation [,] has arisen." *Logan v. Commercial Union Ins. Co.*, 96 F.3d 971, 977 (7th Cir. 1996) (quoting *Binks Mfg. Co. v. National Presto Indus., Inc.*, 709 F.2d 1109, 1118 (7th Cir. 1983) (citations omitted). *Order Compelling Discovery of an Insurance Adjuster's File*, by the Honorable Frank R. Addy, Jr., dated May 21, 2018, Case No. 2017-CP-36-00143.
- 3) When considering what is prepared "in anticipation of litigation" as a threshold issue to the applicability of the work-product doctrine, courts find that the mere possibility of litigation is not sufficient to trigger this protection. For documents or

information to have truly been collected or generated in anticipation of litigation, there must be a considerable probability that litigation will arise, or a lawsuit must have been filed. *Ledgin v. Blue Cross & Blue Shield of Kansas City*, 166 F.R.D. 496, 498 (D.Kan. 1996). The fact that the insurance carrier knows the insured may eventually face litigation is not enough to allow the insurer to cloak its file with the protection of the work-product doctrine. *Tobaccoville USA, Inc. v. McMaster*, 387 S.C. 287, 294, 692 S.E.2d 526, 530 (2010).

- 4) Finally, documents constituting any part of a factual inquiry into or evaluation of a claim, undertaken in order to arrive at a claim decision, are produced in the ordinary course of an insurer's business and not work product." *Samples v. Mitchell*, 329 S.C. 105, 495 S.E.2d 213,217 (Ct. App. 1997); *Harper v. Auto-Owners Ins. Co.*, 138 F.R.D. 655, 662 (S.D. Ind. 1991); *Order Compelling Discovery of an Insurance Adjuster's File*, by the Honorable Frank R. Addy, Jr., dated May 21, 2018, Case No. 2017-CP-36-00143; *Floe v. Plowden*, 10 F.R.D. 504 (E.D.S.C. 1950); *Hickman v. Taylor*, of Attorney's "Work Product" Doctrine, 35 A.L.R.3d 412 (2015); *Upjohn v. United States*, 449 U.S. 383, 395 (1981); *National Union Fire Ins. Co. of Pittsburg v. Murray Street Metal*, 967 F.2d 980, 984 n.5 (4th Circ. 1994) ("The work product immunity never reaches to protect from discovery actual evidence taken from the scene or facts about the scene or incident.").

The burden is on the party asserting the work-product or attorney-client privilege. *State v. Love*, 271 S.E.2d 110 (1980), Defendant, having the burden, has not shown that the documents the Plaintiff seeks were created in anticipation of litigation as Defendant objected.

To say that an action is taken in anticipation of some future event means that the likelihood of the future event motivated the action to a significant degree. "[B]ecause of" litigation is what the drafters intended by "in anticipation of litigation." *Tobaccoville USA, Inc.*, 387 S.C. 287 at 294; *See also Order*, Honorable Judge D. Garrison Hill, dated February 21, 2012 C/A #: 2011-CP-23-4455. Precedent demonstrates the privilege has the opportunity to attach after the lawsuit is filed or after the defense attorney has actively participated in the defense and legal strategy of the case. Neither the defendant, nor its employees, investigators, insurer, or adjuster represents its insured/defendant in Court. Until a lawsuit is filed, and the claim is handed over to an attorney, work-product does not exist.

C. The Adjuster's Claims Files is Discoverable.

Facts are always discoverable, and Plaintiff is simply seeking facts. *Scott v. Greenville Housing Authority*, 570 S.E.2d 151, 158 (Ct. App. 2003). Facts are not taken in anticipation of litigation, but rather, in the ordinary course of a business of investigating and processing an incident or an injury claim. Courts all over South Carolina agree that post-incident and adjuster's claim files are discoverable. *See U.S. Fidelity & Guar. Co. v. Liberty Surplus Ind. Corp.*, 630 F. Supp.2d 1332, 1337; *Order*, Honorable Judge D. Garrison Hill, dated February 21, 2012 C/A #: 2011-CP-23-4455 ("[m]ost courts have held that documents constituting any part of a factual inquiry into or evaluation of a claim, undertaken in order to arrive at a claim decision, are produced in the ordinary course of an insurer's business and, therefore, are not work product.") They are always discoverable. *Upjohn v. United States*, 449 U.S. 383, 395 (1981) ("The work product immunity never reaches to protect from discovery actual evidence taken from the scene or facts about the scene or incident.") *See also* Wright, Miller, Kane & Marcus, Federal Practice and Procedure § 2023 at 330-34. Similarly, very little contained in a claim file can be considered "product" of an adjuster's work because witness and party responses are catalyst in the search of truth. *Order*, Honorable Judge D. Garrison Hill, dated February 21, 2012 C/A #: 2011-CP-23-4455. An adjuster's job is not to give advice, counsel, or impart mental impressions.

The insurance claim file by its very nature is a document that contains discoverable facts. A safety manager, investigator, or adjuster may compile photographs, diagrams, statements, witnesses, evaluations, measurements, internal liability memoranda, information regarding the Plaintiff, statistical reports, or any number of other types of information relevant to the matter at hand that are not otherwise available to the Plaintiff. The contents of an incident or claim file are always discoverable because the information contained within the file is not protected or privileged

as the majority of claim files are not constructed by an attorney or because litigation has commenced.

Based on the forgoing, Plaintiff requests that this Court order Defendant Patrick Montgomery to provide a full and complete written response and to produce all responsive documents.

CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court grant this Motion to Compel as set forth above.

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December 14, 2023

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 2023-CP-08-01652

Kanisha Nash,

Plaintiff,

v.

Patrick Montgomery, Sabrina
Montgomery, and Montgomery
Construction, LLC,

Defendants.

**Plaintiff's Interrogatories to
Defendant Patrick Montgomery**

TO: DEFENDANT PATRICK MONTGOMERY:

The Plaintiff, Kanisha Nash (hereinafter "Plaintiff"), by and through the undersigned attorneys, hereby requires Defendant Patrick Montgomery (hereinafter "Defendant") within thirty (30) days after service hereof, to answer the following Interrogatories, under oath, pursuant to Rule 33 of the South Carolina Rules of Civil Procedure, exclusive of the date of such service. These Interrogatories shall be deemed continuing and shall require supplemental answers should Defendant Patrick Montgomery obtain any additional information between the time answers are served and the date of trial.

DEFINITION OF TERMS

The following definitions apply to each of the Interrogatories set forth below and are deemed to be incorporated herein:

A. The word "**person**" means all entities, including all individuals, joint owners, companies, partnerships, joint ventures, corporations, proprietorship, franchises, associations, organizations, groups of persons, trusts, estates, or any governmental body or subdivision thereof.

B. The word "**document(s)**" means all written, recorded or graphic matter, whether produced or reproduced or stored on papers, cards or tapes, computer devices, either in your actual or constructive possession, custody or control, or your insurance company, your attorneys, third-party claims administrators, investigators, officers, agents, representatives, employers, and employees or which are known by you to exist; and includes originals, all copies of originals, and all prior drafts, including, but not limited to, the following: writings, papers, correspondence, drafts, notebooks, diaries, accounts, invoices, orders, letters, reports, notes, memoranda, manuals, drawings, diagrams, sketches, charts, dictating tapes, the notes of secretaries or stenographers or assistants, photographs, negatives, prints, tape or disc recordings, storage drives, sound recordings, video recordings, doctors' reports, descriptions, books, checks, bank account records, memos of telephone conversations, and every copy of such writing or record when such copy contains any commentary or notation whatsoever that does not appear on the original. Plaintiff expressly intends for the term "Document" to include any attachments or exhibits to the requested document, or any substance supporting or using the preparations thereof.

C. As used herein, the word "**identify**" shall mean:

i. in reference to any person or persons, means to state the full names, addresses, telephone numbers, as well as his or her job title(s) during the relevant time period;

ii. in reference to any document, to state its date, date of receipt, present location, and nature (e.g., letters, memorandum, etc.) and any identifying label, marking, number, name, or title; to state its author(s), recipient(s), and present custodian; and to describe its contents briefly;

iii. in reference to any oral communication, to state the date and location of the communication, to identify the person making it, the person(s) to whom it was addressed, and

all other persons present when the communication was made; and to describe briefly the content of the communication;

iv. in reference to an act or instance, to state the nature of the act or instance, to state the date on which it occurred and where it took place, and to identify the person or persons involved.

D. The word "**date**" means the exact day, month, and year, if ascertainable, or if not, then your best approximation thereof.

E. The words "**you**" and "**your**" and "**Defendant**" means **Defendant Patrick Montgomery** and includes your agents, your employees, your insurance companies, your employers, your attorneys, your accountants, your investigators, their agents, their employers, adjusters, third-party claims administrators, representatives, and anyone else acting on your behalf.

F. The term "**incident**" refers to the subject incident described in the operative Complaint and includes the circumstances and events surrounding the alleged subject incident, injury, or other occurrence giving rise to this action.

DIRECTIONS

A. Identify each writing or document relied upon in the preparation of each answer, which forms all or part of the basis for the answer, or which corroborates the answer, or substance which forms all or part of the answer.

B. If any information furnished in the answer to all or any part of an Interrogatory is not within your personal knowledge, state the name of each person to whom all or any part of the information furnished is a matter of personal knowledge, and the name of each person who communicated to you any part of the information furnished.

C. If the answers to all or any part of the Interrogatory are not presently known or available, include a statement to that effect, furnish the information known or available, and respond to the entire Interrogatory by supplemental Answer in writing under oath within ten (10) days of when the entire answer becomes known or available.

D. As contemplated by Rule 33(b) of the SCRCP these Interrogatories shall be deemed to continue from the time of service, until the time of trial of the action so that information sought, which comes to the knowledge of a party, or his representative or attorney, after original answers to Interrogatories have been submitted, shall be promptly supplemented and transmitted to the other party.

E. To the extent that you consider any of the following Interrogatories objectionable, please answer so much of each Interrogatory to which you raise your objection and each specific ground for such objection.

F. Plaintiff requests that each Interrogatory be repeated preceding each answer.

G. Answers and/or responses to the following Interrogatories must be verified in writing.

H. Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the person making them, and the objections signed by the attorney making them. [Rule 33(a)]

PLAINTIFF'S INTERROGATORIES

1. Give the names and addresses of persons known to the parties or counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

2. For each person known to the parties or counsel to be a witness concerning the facts of the case, set forth either a summary sufficient to inform the other party of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witnesses.

3. Set forth and identify a list of all documents and tangible items of any nature and description, including but not limited to, photographs, plats, sketches, or other prepared documents in possession of the party that relate to the claims or defenses in the case or that were used to assist in responding to these interrogatories.

4. Set forth and identify the names and addresses of all physicians and medical care providers who have treated you in connection with the incident, and also set forth a statement of all medical costs involved. (*Note: please provide a full and complete response to this interrogatory regardless of whether you are making a claim for injuries or damages related to the incident.*)

5. Set forth the names of all insurance companies or other insuring entities which may be liable to satisfy part or all of a judgment entered against you in this action, or to indemnify or reimburse you for payments made to satisfy the judgment, including those which may have the potential for insurance coverage, including but not limited to those companies providing liability, excess, and umbrella coverages, relating to the allegations set forth in the operative complaint, and the number or numbers of the policies involved, number or numbers of the claims involved, the amount or amounts of potential coverage provided for the incident through each policy, the agent who sold the policy, the named insured on each policy, and if you are aware of whether a reservation of rights letter(s) and/or information has/have been issued by any insurance company related to the allegations set forth in the operative complaint as a result of the incident.

6. Provide the following information for any expert witnesses that you propose use as a witness at the trial of this case:

- a) name, employer, and address;
- b) a complete statement of all opinions the witness will express and the basis and reasons for them;
- c) all facts, documents, data, and other information considered by the witness in forming all opinions of the witness;
- d) any exhibits that will be used to summarize or support the witness' testimony;
- e) the witness's qualifications, including a list of all publications authored in the previous 10 years;
- f) a list of all other cases in which, during the previous 4 years, the witness testified as an expert at trial or by deposition, and all other cases in which the witness was retained by an insurance company or a law firm on behalf of a civil defendant, but did not testify. *Note: If the witness has been designated as an expert witness in a federal case within the past 4 years, this document must exist as its production would have been required under the Federal Rules of Civil Procedure.*
- g) a statement of the compensation already paid and/or to be paid for the study, work, and testimony of the witness in the case.
- h) a statement of the compensation paid, during the previous 4 years, by any insurance companies and law firms to the witness and/or the witness' employer specifically for the witness' services related to legal claims;
- i) a list of all cases in which, during the previous 10 years, the witness' testimony has been limited or excluded by a Court or Tribunal in any way.

7. Identify all individuals who prepared, assisted, were consulted with, helped with, and/or contributed to the production of documents in response to any party's requests for production, and in the preparation, drafting, and gathering and compiling information or documents responsive to any party's written discovery other than your attorney and your attorney's staff. For each person identified, state their relationship to you, job description, and identify what information and/or

documents he/she assisted with producing to your attorney(s), and whether the information supplied was based on personal knowledge.

8. Please provide your full name, every name you have used in the past and the dates you used each name, as well as your date of birth, place of birth, and social security number.

9. State your present residence address, your residence addresses for the past five years and the dates you lived at each address.

10. Identify your present employer or place of self-employment, dates of employment, job title, and nature of work for each employer or self-employment you have had from five years before the incident to the present.

11. At the time of the incident, were you acting as an agent or employee, or on behalf of your employer, an entity, or another person? If so, state the name, address, and telephone number of that person or entity and describe your job duties.

12. Did you miss any work due to the incident? If so, please state the dates and times you missed.

13. At the time of the incident, did you have a driver's license and/or any other permit or license for the operation of a motor vehicle? If so, identify the state or other issuing entity, the license number and type, the date of issuance, and all restrictions. If your driver's license has ever been suspended, please provide the date of and the reason for the suspension.

14. Identify your cell phone number and cell provider at the time of the incident and state the location of your cell phone at the time of the incident and whether or not you were using your cell phone in any manner (for example, a phone call, listening to voicemail, reading or writing a text/SMS message or email, playing a video game, or using camera, music, internet, map

application, or other use) immediately before or at the time of the subject collision, within one (1) minute before, during, or after the incident.

15. If you consumed any alcohol and/or drugs, legal or illegal, within the 24-hour period preceding the incident, please provide the following:

- a) The amount and type of alcohol and/or drugs consumed;
- b) Where you consumed the alcohol and/or drugs;
- c) Who provided you with the alcohol and/or drugs;
- d) The location and identity of all persons who were with you at any time during the consumption of the alcohol and/or drugs; and
- e) The reason for the consumption of the drugs or alcohol.

16. Please state whether you underwent any blood/urine testing for alcohol and/or drugs after the incident. If so, please identify the type of test that was done, the person who administered the test, the date the test was administered, and the results of each test.

17. Do you attribute any loss of or damage to a vehicle or other property to the incident? If so, for each item of property, please describe the property, the nature and location of the damage to the property, state the amount of damage to each item of property, how the amount was calculated, and, if the property was sold, identify the seller and buyer, the date of sale, and the sale price. If the property was repaired, please identify the date of the repair, describe the repair, state the repair costs, identify who performed the repair, and who paid for the repair.

18. At the time of incident, did you or any other person involved have any physical, emotional, or mental disability or condition that may have contributed to the occurrence of the incident? If so, identify each person, the nature of the disability or condition, and the manner in which you contend the disability or condition contributed to the occurrence of the incident.

19. Do you or your medical providers attribute any physical, mental, or emotional injuries, pain, and/or limitations to being caused or exacerbated by the incident? If so, identify each injury or condition that you or your medical providers attribute to being caused or exacerbated by the incident, the area of your body that was affected, and any medical treatment or medications you have taken as a result of the affected injury or condition.

20. Do you still have any injuries or complaints that you attribute to the incident? If so, for each, please provide a description of the injury or complaint, the frequency and duration of the injury or complaint, and whether any medical providers have advised that you may require future or additional medical treatment for any injuries or conditions that you or your medical providers attribute to the incident.

21. Identify all eye doctors you have seen within the past five (5) years.

22. If you received a traffic citation for the incident, please state the citation number, the name and location of the court, whether a hearing was held, your plea, and the amount of the fine paid, if any.

23. State whether any on-board data recording device (including but not limited to a dashboard camera, an automobile telematics device or similar devices and/or associated applications, for example, Allstate Drivewise®, State Farm ® Drive Safe & Save™, Progressive Snapshot™, USAA SafePilot™, Geico DriveEasy™, or similar devices and/or associated applications, OnStar™, ECM (Electronic Control Module), black box, or a GPS application (e.g., Google Maps, Waze, etc.) was in your vehicle at the time of the incident, and whether any data from the same on-board recording devices has been obtained by you or anyone else.

24. List every social media site used or accessed by you for the past three (3) years. For each social media site, provide your account/username and the name of the social media platform.

25. State the address and location where your trip began and the address and location of your destination and describe the route that you followed from the beginning of your trip to the location of the incident, and state the location of each stop, other than routine traffic stops (like at a stop light), during the trip leading up to the incident.

26. Describe your version of exactly what happened immediately before, during, and after the incident, and why you believe the incident occurred.

27. Do you have information that a malfunction or defect in a vehicle caused or contributed to the incident or any injuries sustained in the incident? If so, please identify each malfunction or defect, identify the vehicle which you claim had a malfunction or defect, identify each witness who has information about each malfunction or defect, and identify each person who has custody of each defective part.

28. Have you or anyone acting on your behalf conducted surveillance on any individual involved in the incident? If so, for each surveillance event, state the name, address and telephone number of the individual or party who was the subject of the surveillance, the time, date and location of the surveillance, the name, address and telephone number of the individual who conducted the surveillance, and the name address and telephone number of each person who has the original or a copy of any surveillance photograph, film, or videotape.

29. If surveillance has been conducted, has a written report been prepared? If so, please state the title and date of the report, the name, address and telephone number of the individual who prepared the report, and the name address and telephone number of each person who has the original or a copy of the report.

30. If you contend that actions or non-actions of Plaintiff, another defendant, or some other person or legal entity other than you is, in whole or in part, liable to Plaintiff or responsible for

causing or contributing to the incident and/or the injuries and damages being claimed by Plaintiff, please provide the following:

- a) Identify the person or entity whom you claim is liable or responsible.
- b) Identify the person or entity whom you claim is liable or responsible and state a summary of the facts and circumstances which support the contention, including, but not limited to, a description of each action or non-action on the part of the Plaintiff that caused or contributed to the incident and/or injuries and damages being claimed by Plaintiff;
- c) The names, addresses, and telephone numbers of each person who supports, refutes, and/or has knowledge of that contention;
- d) Identify each statute, regulation, ordinance, industry custom, practice or standard of care which you believe someone other than you violated and describe with specificity how the violation relates to that contention; and
- e) A list of all documents which support, refute, and/or relate to that contention.

31. Identify each denial of a material allegation and each special or affirmative defense in your pleadings and for each:

- a) state all facts upon which you base the denial or special or affirmative defenses;
- b) state the names, addresses, and telephone numbers of all persons who have knowledge of those facts; and
- c) identify all documents and other tangible things that support your denial or special or affirmative defense, and state the name, address and telephone number of the person who has each document.

32. In the past ten (10) years, if you have made a claim related to a medical condition, or have been involved in any other legal action, whether criminal or civil, either as a plaintiff or defendant, give the claim number, identify the state, county, city, and Court, case number, names of the other parties, names of counsel for parties, description of the claim or offense, and disposition of each.

33. If you are improperly identified in the operative Complaint, give the proper identification and state whether your attorney will accept service of an amended summons and pleading reflecting the correct information.

34. Do you or anyone acting on your behalf contend that any person involved in the incident violated any statute, ordinance, or regulation and that the violation was a legal (proximate) cause of the incident? If so, identify each person and the statute, ordinance, or regulation that was violated.

35. Do you contend that plaintiff was not injured in the incident? If so,

- a) state all the facts upon which you base your contention;
- b) identify all persons who have knowledge of the facts upon which you base your contention; and
- c) identify all documents and other tangible things that support your contention and identify the person who has each document.

36. Do you have any document concerning the past or present physical, mental, or emotional condition of the plaintiff in this case from a medical provider not previously identified? If so, please identify each medical provider and provide a description of the documents in your possession.

37. Identify all of your sources of income and occupation(s) including your job title(s).

38. Identify your employer and/or business address(es), phone number(s), and names of your payroll and head of human resources.

39. For each employer or business from which you receive income, identify:

- a. How often you are paid;
- b. Your gross pay each pay period;
- c. Your take-home pay each pay period.

40. If your spouse earns any income, give the name of your spouse, the name and

address of the business or employer, job title and division of office.

41. How much money do you have in cash?

42. How much other money do you have in banks, savings and loan, credit unions, and other financial institutions either in your own name or jointly?

43. Identify all financial accounts that you maintain, including:

- a. The name and address of the financial institution;
- b. The account number;
- c. Whether it is an individual or joint account;
- d. The balance.

44. List all automobiles, other vehicles, and boats owned in your name or jointly.

45. List all real estate in which you have an ownership interest and state the interest owned.

46. List all business entities in which you have an ownership interest and state the interest owned.

47. List anything of value not already requested that you own in your name or jointly (do not list household furniture or furnishings, appliance, or clothing) and state the interest owned.

48. If anyone is holding assets for you, please describe the assets and give the name and address of the person or entity hold each asset.

49. Have you disposed of or transferred any assets within the last year? If so, please identify the asset, the value of the asset, the date of the disposal or transfer of the asset, and where or with whom the asset is with now.

50. Have you purchased, altered, changed, or declined any liability insurance coverage within the past five years?

51. Identify any and all insurance agents, including names, addresses, and phone

numbers from whom you have purchased, altered, or changed insurance coverage with for the past five years.

BRINGARDNER INJURY LAW FIRM, LLC

By: s/Christopher T. Dorsel
Mark Bringardner (SC Bar No.: 102465)
mark@bringardner.com
Chris Dorsel (SC Bar No.: 72504)
cdorsel@bringardner.com
41 Broad Street
Charleston, SC 29401
Office: 843-400-0550
Facsimile: 843-350-8290
Attorneys for the Plaintiff

Charleston, South Carolina
June 30, 2023

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2023-CP-08-01652

Kanisha Nash,

Plaintiff,

v.

Patrick Montgomery, Sabrina Montgomery,
and Montgomery Construction, LLC,

Defendant(s),

Certificate of Service

I hereby certify that I have served a copy of *Plaintiff's Interrogatories to Defendant Patrick Montgomery* to the below-named Defendant via process server this 30th day of June 2023:

Patrick Montgomery
408 N. Tee Line Drive
Ridgeville, SC 29472

and

Patrick Montgomery
c/o Director Randy Demory
Berkeley county Detention Center
300 California Ave.
Moncks Corner, SC 29461

BRINGARDNER INJURY LAW FIRM, LLC

By: Hayley N. Bost
Hayley Bost, Paralegal

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 2023- CP-08-01652

Kanisha Nash,

Plaintiff,

v.

Patrick Montgomery, Sabrina
Montgomery, and Montgomery
Construction, LLC,

Defendant(s).

**Plaintiff's Requests for Production to
Defendant Patrick Montgomery**

TO: DEFENDANT PATRICK MONTGOMERY:

The Plaintiff, Kanisha Nash (hereinafter "Plaintiff"), by and through the undersigned attorneys, hereby requires Defendant Patrick Montgomery (hereinafter "Defendant"), within thirty (30) days after service hereof, to answer the following Requests for Production, under oath, pursuant to Rule 34 of the South Carolina Rules of Civil Procedure, exclusive of the date of such service. These Requests for Production shall be deemed continuing and shall require supplemental answers should Defendant Patrick Montgomery obtain any additional information between the time answers are served and the date of trial.

DEFINITION OF TERMS

The following definitions apply to each of the Requests for Production set forth below and are deemed to be incorporated herein:

A. The word "**person**" means all entities, including all individuals, joint owners, companies, partnerships, joint ventures, corporations, proprietorship, franchises, associations, organizations, groups of persons, trusts, estates, or any governmental body or subdivision thereof.

B. The word "**document(s)**" means all written, recorded or graphic matter, whether produced or reproduced or stored on papers, cards or tapes, computer devices, either in your actual or constructive possession, custody or control, or your insurance company, your attorneys, third-party claims administrators, investigators, officers, agents, representatives, employers, and employees or which are known by you to exist; and includes originals, all copies of originals, and all prior drafts, including, but not limited to, the following: writings, papers, correspondence, drafts, notebooks, diaries, accounts, invoices, orders, letters, reports, notes, memoranda, manuals, drawings, diagrams, sketches, charts, dictating tapes, the notes of secretaries or stenographers or assistants, photographs, negatives, prints, tape or disc recordings, storage drives, sound recordings, video recordings, doctors' reports, descriptions, books, checks, bank account records, memos of telephone conversations, and every copy of such writing or record when such copy contains any commentary or notation whatsoever that does not appear on the original. Plaintiff expressly intends for the term "Document" to include any attachments or exhibits to the requested document, or any substance supporting or using the preparations thereof.

C. As used herein, the word "**identify**" shall mean:

i. in reference to any person or persons, means to state the full names, addresses, telephone numbers, as well as his or her job title(s) during the relevant time period;

ii. in reference to any document, to state its date, date of receipt, present location, and nature (e.g., letters, memorandum, etc.) and any identifying label, marking, number, name, or title; to state its author(s), recipient(s), and present custodian; and to describe its contents briefly;

iii. in reference to any oral communication, to state the date and location of the communication, to identify the person making it, the person(s) to whom it was addressed, and

all other persons present when the communication was made; and to describe briefly the content of the communication;

iv. in reference to an act or instance, to state the nature of the act or instance, to state the date on which it occurred and where it took place, and to identify the person or persons involved.

D. The word "**date**" means the exact day, month, and year, if ascertainable, or if not, then your best approximation thereof.

E. The words "**you**" and "**your**" and "Defendant" means **Defendant Patrick Montgomery** and includes your agents, your employees, your insurance companies, your employers, your attorneys, your accountants, your investigators, their agents, their employers, adjusters, third-party claims administrators, representatives, and anyone else acting on your behalf.

F. The term "**incident**" refers to the subject incident described in the operative Complaint and includes the circumstances and events surrounding the alleged incident, injury, or other occurrence giving rise to this action.

DIRECTIONS

A. Identify in a corresponding written response to each request each writing or document responsive to the request and for which all or part of the same forms the basis for the answers to interrogatories, or which corroborates the answer to interrogatories and these requests for production.

B. The documents produced pursuant to these Requests shall be separately produced for each request, or in the alternative, shall be identified as complying with the particular paragraph or paragraphs of the request for which they are responsive.

C. If documents responsive to a request are not within your personal possession, you have a duty to obtain the responsive documents in your constructive possession, custody, or control from those who are acting on your behalf with respect to the incident, which includes, but is not limited to, you insurance companies, adjusters, attorneys, third-party claims administrators, investigators, officers, agents, representatives, employers, and employees.

D. If the answers to all or any part of the Request are not presently known or available, include a statement to that effect, furnish the information known or available, state whether such documents can be obtained, and respond to the entire Request by supplemental Answer in writing under oath within ten (10) days after the entire answer becomes known or available.

E. As contemplated by Rule 34 of the SCRCP these Requests shall be deemed to continue from the time of service, until the time of trial of the action so that information sought, which comes to the knowledge of a party, or his representative or attorney, after original answers to Requests have been submitted, shall be promptly supplemented and transmitted to the other party.

F. To the extent that you consider any of the following Requests objectionable, please answer so much of each Request to which you raise your objection and each specific ground for such objection. In the event you wish to assert either attorney-client privilege or attorney work-product protections, or both, as to any document requested by any of the following specific requests, then as to each document subject to such assertion, you must provide a "Privilege Log" that complies with Rule 26(b)(5) and contains the identification of each specific allegedly privileged document and writing, such identification to include: The nature of the document, the sender, the author, the recipient, the recipient of each copy, the date, the name of each person to whom the original of any copy was circulated, the names appearing on any circulation list of parties associated with such document, a summary statement of the subject matter of such document in sufficient detail to

permit the Court to reach a determination in the event of a Motion to Compel, and an indication of the basis for assertion of the privilege or the like.

G. Plaintiff requests that each Request for Production be repeated preceding each answer.

H. Answers and/or responses to the following Requests must be verified in writing.

PLAINTIFF'S REQUESTS FOR PRODUCTION

1. A complete copy of any and all insurance policies, declarations pages, agreements, and related documents under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment, including but not limited to those companies providing liability, commercial, excess, and umbrella coverages, relating to the incident, claims related to the incident, the vehicles involved, the drivers of the vehicles involved, and damage claims made by the Plaintiff as alleged in the operative Complaint, and to include all addendums, riders, reservation of right correspondence, and any other documents related to potential insurance coverage for the incident and this lawsuit.

2. Any and all documents, photographs, memoranda, reports, plats, diagrams, writings, papers, notes, materials, evidence, electronically stored information, and tangible things that you have in your possession, custody, or control which in any way might relate to the incident and/or lawsuit.

3. Any and all documents and tangible things obtained by you or anyone acting on your behalf via subpoena, Subpoena Duces Tecum, signed authorization form, ISO claims search, FOIA request, or other legal process.

4. Any and all recordings and transcripts of conversations, interviews, and statements including depositions, statements under oath, and summaries, notes, documents, and materials

related to the same, whether written, transcribed, or recorded, for any witness, individual, or other person or entity who purports to know any facts or circumstances concerning the incident and/or the claims and defenses related to this lawsuit, (i.e., liability, comparative fault, causation and/or damages in this case). This request encompasses the parties to this action and their employees, agents, and representatives, and any potential witnesses.

5. Any and all documents that refer or relate to any communication (whether written or oral) between you or anyone on your behalf and any witness or party to this lawsuit, including but not limited to any electronic mail, notes, correspondence, or recordings of any such communication.

6. Produce a copy of all traffic citation(s) you received as a result of the incident and all documents related to the administration of the citation(s).

7. All photographs of the vehicles involved in the incident.

8. All photographs taken of the scene of the incident from the date of the incident to the present.

9. All service, repair, and maintenance records, appraisals, estimates, and invoices for the motor vehicles involved in the incident that were prepared after the incident.

10. A copy of all documents related to loss or damage to the vehicle you were driving at the time of the incident and any other property damaged in the incident, and, if the property was sold or is no longer in your possession, identify the seller and buyer and/or whom the property was transferred to, the date of sale, and the sale price.

11. If you believe that a malfunction or defect in a vehicle caused or contributed to the incident or any injuries sustained in the incident, please produce copies of all documents related to the same.

12. A copy of the front and back of each and every driver's license and/or any other permit or license for the operation of a motor vehicle issued to you (regardless of name used) in your possession, custody, and/or control.

13. If you underwent any blood/urine testing for alcohol and/or drugs after the incident, please provide all documents related to the same.

14. All documents relating to any blood/urine testing for alcohol and/or drugs you took from one (1) year before the incident until the present.

15. If you consumed any alcohol within the 24-hour period of time preceding the incident, please provide the receipt for the purchase of said alcohol that was consumed within that time.

16. At the time of the incident, if were you acting as an agent or employee, or on behalf of your employer, an entity, or another person, please produce all documents setting forth the relationship between you and that person/entity, including but not limited to your employment contract, employment manual, a copy of your pay statement that encompasses the date of the incident, and any correspondence you have received from such person or entity that relates to, or resulted from, the incident.

17. A copy of your cell phone bill, cell phone call log, text/SMS messages from twenty-four (24) hours before the incident through 24 hours after the incident.

18. Produce screenshot pictures of your cell phone's screen of any and all text messages, communications, and call logs from twenty-four (24) hours before the time of the incident until twenty-four (24) hours after the incident.

19. All medical records and bills related to any medical evaluation or care you received in connection with the incident.

20. Any and all medical reports, bills, letters, from any doctor, nurse, urgent care, emergency department, or any other medical provider you visited within thirty (30) days before and thirty (30) days after the incident.

21. If you or your medical providers attribute any physical, mental, or emotional injuries, pain, and/or limitations being caused or exacerbated by the incident, produce copies of all documents related to the same.

22. If you had any physical, emotional, or mental disability or condition that may have contributed to the occurrence of the incident, produce copies of all documents related to the same.

23. If you still have any injuries or complaints that you attribute to the incident, produce copies of all documents related to the same.

24. Produce any and all eye doctor medical records for any eye doctor you have seen within the past five (5) years to the present.

25. All evidence requested to be preserved as identified in Plaintiff's letter(s) requesting the preservation and/or production of evidence, and all documents generated as a result of efforts to preserve evidence.

26. Any and all documents, exhibits, videos, recordings, files, charts, drawings, sketches, diaries, journals, memorandums, notes, reports, or other materials of any type prepared by you relating to the incident and this lawsuit.

27. Any on-board recording devices (including but not limited to a dashboard camera, an automobile telematics device (e.g., Allstate Drivewise®, State Farm ® Drive Safe & Save™, Progressive Snapshot™, USAA SafePilot™, Geico DriveEasy™, or similar devices and/or associated applications, OnStar™, ECM (Electronic Control Module), or black box) in your vehicle at the time of the incident for inspection by Plaintiff's counsel and consultants.

28. Any and all data obtained by you or on your behalf from any on-board data recording device (including but not limited to a dashboard camera, an automobile telematics device (e.g., Allstate Drivewise®, State Farm ® Drive Safe & Save™, Progressive Snapshot™, USAA SafePilot™, Geico DriveEasy™, or similar devices and/or associated applications, OnStar™, ECM (Electronic Control Module), black box, or a GPS application (e.g., Google Maps, Waze, etc.) was in the vehicle you were driving at the time of the incident.

29. Produce for inspection all on-board data recording devices (including but not limited to a dashboard camera, an automobile telematics device (e.g., Allstate Drivewise®, State Farm ® Drive Safe & Save™, Progressive Snapshot™, USAA SafePilot™, Geico DriveEasy™, or similar devices and/or associated applications, OnStar™, ECM (Electronic Control Module), black box, or a GPS application (e.g., Google Maps, Waze, etc.) was in the vehicle you were driving at the time of the incident.

30. In the past ten (10) years, if you have made a claim related to a medical condition, or have been involved in any other legal action, whether criminal or civil, either as a plaintiff or defendant, give the claim number, identify the state, county, city, and Court, case number, names of the other parties, names of counsel for parties, description of the claim or offense, and disposition of each.

31. All documents related to your involvement in any other claim or legal action, whether criminal or civil, either as a plaintiff or defendant.

32. Complete copies of any and all pre-litigation claim(s) and investigation files related to the incident that were created and/or maintained by your insurance companies and/or third-party administrators, including, but not limited to, any and all office records, memos, correspondence, collision reports, vehicle estimates, vehicle photos, written statements, recorded statements/calls, adjuster notes, investigation documents, liability analysis, review, settlement documents/amounts

and any other document of any nature and in any form whatsoever pertaining to the incident until defense counsel was retained. (Note: This request does not seek financial reserve amounts, which may be redacted from the responsive documents).

33. Produce any and all documents related to surveillance efforts that have been conducted on your behalf on any individual related to the incident and lawsuit, including Plaintiff, Plaintiff's family, friends, and/or anyone filmed arising out of the incident and lawsuit, including but not limited to the original unedited, raw video (digital or analog), photographs, recordings, electronically stored information, reports, written or dictated notes and/or summaries thereof, any cover letter, emails, instructions, screenshots, pictures, invoices, payment records, memos and/or reports from the person(s) that recorded the video or assisted in the coordination and execution of the surveillance.

34. If any surveillance has been undertaken by you or on your behalf, produce a copy of all reports, photographs, video, and anything else generated through that investigation.

35. All background investigations and private investigator reports which relate to any party or witness involved in the subject action.

36. All public records and documents obtained by you, your attorney, or anyone acting on your behalf which relate to any party, witness, or issue in the subject action, including but not limited to, driving records, criminal background reports, liens, and other documents.

37. If you contend that the actions or non-actions of Plaintiff caused or contributed to the incident and/or the injuries and damages being claimed by Plaintiff, please produce all documents which support, refute, and/or relate to the allegation.

38. If you contend that the actions or non-actions of a person or entity not a party to the subject lawsuit caused or contributed to the incident and/or the injuries and damages being claimed by Plaintiff, please produce all documents which support, refute, and/or relate to the allegation.

39. If you contend that the actions or non-actions of a co-defendant caused or contributed to the incident and/or the injuries and damages being claimed by Plaintiff, please produce all documents which support, refute, and/or relate to the allegation.

40. Any and all documents and tangible things identified, referenced, listed in, reviewed, or relied upon in formulating your answers to all interrogatories, including supplemental interrogatories, served by Plaintiff or any other party in this case upon you.

41. Any and all documents, writings, papers, notes, materials, evidence, electronically stored information, and tangible things that you have in your possession, custody, or control and may use to support your claims or defenses related to the incident and your Answer to the operative Complaint.

42. All documents, tangible things, and materials of any type you provided to a testifying expert witness.

43. All documents, tangible things, and materials of any type a testifying expert witness has provided to you.

44. With regard to any expert witness you intend to call as a witness at the trial of this case, please produce:

- a. All documents, including a curriculum vitae, that you contend will establish the expert's qualifications to testify at trial;
- b. The fee and/or retainer agreement with the expert;
- c. The time and billing records of the expert, including all documents reflecting the compensation already paid and/or to be paid for the study, work, and testimony of the witness in the case.

- d. All documents, facts, data, tangible things, and materials of any type provided to or from the witness, even if it is not included in the witness' file, related to this matter;
- e. All correspondence to or from any expert, including electronic communications (e-mails, text messages, etc.);
- f. All reports prepared by or at the direction of the expert, including the draft versions of said reports;
- g. All demonstrative exhibits that may be used to explain, summarize or support the witness' testimony;
- h. A list of all other cases in which, during the previous four (4) years, the witness testified as an expert at trial or by deposition, and all other cases in which the witness was retained by an insurance company or a law firm on behalf of a civil litigant, but did not testify. *Note: if the witness has been designated as an expert witness in a federal case within the past four (4) years, this document must exist as its production would have been required under the Federal Rules of Civil Procedure.*
- i. All 1099s and documents reflecting the compensation paid, during the previous four (4) years, by insurance companies and law firms to the witness and/or the witness' employer specifically for the witness' services related to legal claims;
- j. All documents reflecting that the witness' testimony has been limited or excluded by a Court or Tribunal in any way.
- k. All documents, including reports, bills, and depositions, from your expert in all other cases for which your attorney and/or your attorney's law firm retained the expert and identified him or her as a testifying expert in other litigated cases;
- l. All field notes, inspection notes, testing notes, and other notes prepared by or at the direction of each expert;
- m. All photographs or videotapes taken, utilized, reviewed, or consulted by or at the direction of the expert;
- n. All diagrams or drawings prepared by or at the direction of the expert;
- o. All articles, treatises, publications, or other authoritative documents which support the expert's opinions in this action;

45. All documents, tangible things, and materials of any type that you intend to question Plaintiff's expert witness(es) about in deposition, trial, or other proceedings in this case.

46. Copies of all diagrams, graphs, illustrations, photographs, charts, pictures, models, blow-ups, or any other document or thing, including electronically created charts, animations, or data that you intend to utilize as an exhibit, demonstrative exhibit, or aid in the trial of this case not previously supplied.

47. An affidavit of insurance coverage from a company claims manager or executive certifying under oath that the insurance policies disclosed and produced in response to these discovery requests represent all available coverage(s) that exist with the potential for coverage, including any and all excess policies.

48. All documents and tangible things of whatever nature and description which you intend to introduce into evidence or to use for impeachment purposes or as any type of evidence, real or demonstrative, at trial of this case.

49. If you or anyone acting on your behalf are not currently in possession of any documents, tangible things, or materials requested herein, but you are aware that such items exist, provide a written response listing each item and identify who has possession of such items.

50. Produce the last three (3) years of Defendant's annual accountant's financial statements).

51. Produce the last three (3) years of statements of Defendant's financial condition

52. Produce the last three (3) years of Defendant's income statements.

53. Produce the last three (3) years of Defendant's cash flow statements.

54. Produce the last three (3) years of Defendant's federal tax returns.

55. Produce a statement of all income earned in the last five (5) years that you did not report on either state or federal income tax returns.

56. Please provide a copy of all invoices, receipts, bills, or other similar document related to any business you operate out of your home.

BRINGARDNER INJURY LAW FIRM, LLC

By: s/Christopher T. Dorsel
Mark Bringardner (SC Bar No.: 102465)
mark@bringardner.com
Chris Dorsel (SC Bar No.: 72504)
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41 Broad Street
Charleston, SC 29401
Office: 843-400-0550
Facsimile: 843-350-8290
Attorneys for the Plaintiff

Charleston, South Carolina
June 30, 2023

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2023-CP-08-01652

Kanisha Nash,

Plaintiff,

v.

Patrick Montgomery, Sabrina Montgomery,
and Montgomery Construction, LLC,

Defendant(s),

Certificate of Service

I hereby certify that I have served a copy of *Plaintiff's Requests for Production to Defendant Patrick Montgomery* to the below-named Defendant via process server this 30th day of June 2023:

Patrick Montgomery
408 N. Tee Line Drive
Ridgeville, SC 29472

and

Patrick Montgomery
c/o Director Randy Demory
Berkeley county Detention Center
300 California Ave.
Moncks Corner, SC 29461

BRINGARDNER INJURY LAW FIRM, LLC

By: Hayley N. Bost
Hayley Bost, Paralegal



BRINGARDNER

INJURY LAW FIRM

PLAINTIFF'S
EXHIBIT
B

Please Reply To:
Bringardner Injury Law Firm, LLC
41 Broad Street
P.O. Box 100 (29402)
Charleston, SC 29401

TEL: (843) 400-0550
FAX: (843) 350-8290
WEB: www.bringardner.com

Jerrie Childress
Email: jchildress@bringardner.com

August 21, 2023

Via E-mail: riley.bearden@mgclaw.com

Riley Bearden, Esq.
Attorney, McAngus Goudelock & Courie, LLC
1320 Main Street, 10th Floor
PO Box 12519
Columbia, SC 29211

Re: Kanisha Nash v. Patrick Montgomery, Sabrina Montgomery, and Montgomery Construction, LLC
Case Number: 2023-CP-08-01652

Dear Ms. Bearden:

In reviewing my file, it appears that we have not received your client's responses to Plaintiff's Interrogatories and Requests for Production. The foregoing were served along with the Complaint on July 11, 2023. Please serve responses to same within the next seven (7) days in order to avoid a Motion to Compel.

Thank you for your prompt attention to this matter.

Very truly yours,

BRINGARDNER INJURY LAW FIRM, LLC

Jerrie Childress

RONICALLY FILED - 2023 Dec 15 9:52 AM - BERKELEY - COMMON PLEAS - CASE#2023CP0801652

mgc

RONICALLY FILED - 2023 Dec 15 9:52 AM - BERKELEY - COMMON PLEAS - CASE#2023CP0801652

Reply To

JESSI FULLER

Direct Dial: (803) 227-2287

Jessi.Fuller@mgclaw.com

October 9, 2023

VIA EMAIL ONLY

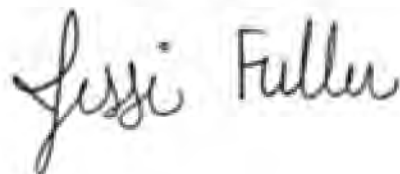
Mark Bringardner
Bringardner Injury Law Firm, LLC
41 Broad Street
Charleston, South Carolina 29401

RE: Kanisha Nash vs. Patrick Montgomery, Sabrina Montgomery, and
Montgomery Construction, LLC
Civil Action No.: 2023-CP-08-01652 (Berkeley)
Date of Incident: April 14, 2023
Carrier Claim No.: 0710622036.1
MGC File No.: 20554.23242

Dear Mark:

Please find enclosed Defendant Patrick Montgomery's Answers to Plaintiff's First Set of Interrogatories and Defendant Patrick Montgomery's Responses to Plaintiff's First Requests for Production, which we hereby serve upon you in the above-captioned case.

Very truly yours,



Jessi Fuller
Paralegal to Riley A. Bearden

RAB/jf

Enclosures

cc: David S. Cobb, Esquire, Turner, Padgett
Christopher L. Murphy, Esquire, Resnick & Louis, P.C.

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

IN THE COURT OF COMMON PLEAS

KANISHA NASH,
Plaintiff,

Civil Action No. 2023-CP-08-01652

vs.

**DEFENDANT PATRICK
MONTGOMERY'S ANSWERS TO
PLAINTIFF'S FIRST SET OF
INTERROGATORIES**

PATRICK MONTGOMERY, SABRINA
MONTGOMERY, AND MONTGOMERY
CONSTRUCTION, LLC,
Defendants.

TO: PLAINTIFF AND MARK BRINGARDNER, ESQUIRE, ATTORNEY FOR
PLAINTIFF:

Defendant, Patrick Montgomery, ("Defendant") responds to Plaintiff's Interrogatories pursuant to Rule 33 of the South Carolina Rules of Civil Procedure as follows:

In setting forth these answers, Defendant does not waive the attorney-client, work/product, or any other privilege or immunity from disclosure which may attach to information called for herein, or responsive to, the Interrogatory. Defendant does not concede the relevance or materiality of the Interrogatory, or the subject matter for which the Interrogatory refers. These answers are submitted by the Defendant subject to, and without in any way waiving or intending to waive, but on the contrary intending to preserve and preserving:

A. All objections as to competency, relevancy, materiality, privilege, and admissibility as evidence, for any purpose, of any of the documents referred to or answers given, or the subject thereof, in any subsequent proceeding or in the trial of this action or any other action or proceeding;

B. The right to object to other discovery procedures involving or relating to the subject matter of the Interrogatories herein and responded to; and

C. The right at any time to revise, correct, add to, or clarify any of the answers set forth herein, or documents referred to herein.

D. Defendant objects to these Interrogatories to the extent that they ask for information protected by the attorney-client or the work product privileges or to the extent the interrogatories go beyond the scope of discovery allowed in the South Carolina Rules of Civil Procedure.

INTERROGATORIES

1. Give the names and addresses of persons known to the parties or counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

ANSWER:

- 1. Patrick Montgomery
C/o McAngus Goudelock & Courie**

Mr. Montgomery is the Defendant in the above-captioned case and is expected to testify regarding his/her knowledge of the events before, during and after the subject incident.

- 2. Kanisha Nash
C/o Bringardner Injury Law Firm, LLC**

Ms. Nash is the Plaintiff in the above-captioned case and is expected to testify regarding her/his knowledge of the events before, during and after the subject incident, as well as her alleged injuries and treatment and related damages.

3. Investigating Officer

Officer investigated the incident which is the subject matter of this litigation and is expected to testify regarding the same.

Defendant is not in possession of any written or recorded statements.

The Plaintiff is aware of certain aspects of the facts surrounding this matter and may name witnesses concerning the facts of this case. Defendant reserves the right to call any and all witnesses named by the Plaintiff.

Defendant also reserves the right to supplement and/or amend his response to this Interrogatory.

2. For each person known to the parties or counsel to be a witness concerning the facts of the case, set forth either a summary sufficient to inform the other party of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witnesses.

ANSWER:

- 1. Patrick Montgomery
C/o McAngus Goudelock & Courie**

Mr. Montgomery is the Defendant in the above-captioned case and is expected to testify regarding his/her knowledge of the events before, during and after the subject incident.

- 2. Kanisha Nash
C/o Bringardner Injury Law Firm, LLC**

Ms. Nash is the Plaintiff in the above-captioned case and is expected to testify regarding her/his knowledge of the events before, during and after the subject incident, as well as her alleged injuries and treatment and related damages.

3. Investigating Officer

Officer investigated the incident which is the subject matter of this litigation and is expected to testify regarding the same.

Defendant is not in possession of any written or recorded statements.

The Plaintiff is aware of certain aspects of the facts surrounding this matter and may name witnesses concerning the facts of this case. Defendant reserves the right to call any and all witnesses named by the Plaintiff.

Defendant also reserves the right to supplement and/or amend his response to this Interrogatory.

3. Set forth and identify a list of all documents and tangible items of any nature and description, including but not limited to, photographs, plats, sketches, or other prepared documents in possession of the party that relate to the claims or defenses in the case or that were used to assist in responding to these interrogatories.

ANSWER: Defendant objects to this request and to the production of any items protected by the attorney/client privilege, the doctrine of attorney work product, or prepared in anticipation of litigation. Subject to these objections, Defendant is in possession of the following documents which do not include those previously produced by Plaintiff's counsel:

1. Allstate's redacted declaration page;
2. SLED report for Patrick Montgomery;
3. Driving Record for Patrick Montgomery; and
4. Traffic Collision Report for second accident.

Defendant reserves the right to supplement and/or amend his response to this Interrogatory.

4. Set forth and identify the names and addresses of all physicians and medical care providers who have treated you in connection with the incident, and also set forth a statement of all medical costs involved. (Note: please provide a full and complete response to this interrogatory regardless of whether you are making a claim for injuries or damages related to the incident.)

ANSWER: Defendant is not claiming any personal injury. Defendants are not in possession of any documents which would satisfy this request as to the Plaintiff's personal injury.

5. Set forth the names of all insurance companies or other insuring entities which may be liable to satisfy part or all of a judgment entered against you in this action, or to indemnify or reimburse you for payments made to satisfy the judgment, including those which may have the potential for insurance coverage, including but not limited to those companies providing liability, excess, and umbrella coverages, relating to the allegations set forth in the operative complaint, and the number or numbers of the policies involved, number or numbers of the claims involved, the amount or amounts of potential coverage provided for the incident through each policy, the agent who sold the policy, the named insured on each policy, and if you are aware of whether a reservation of rights letter(s) and/or information has/have been issued by any insurance company related to the allegations set forth in the operative complaint as a result of the incident.

ANSWER: Please see attached Allstate's redacted declaration page.

6. Provide the following information for any expert witnesses that you propose use as a witness at the trial of this case:

- a) name, employer, and address;
- b) a complete statement of all opinions the witness will express and the basis and reasons for them;
- c) all facts, documents, data, and other information considered by the witness in forming all opinions of the witness;
- d) any exhibits that will be used to summarize or support the witness' testimony;
- e) the witness's qualifications, including a list of all publications authored in the previous 10 years;
- f) a list of all other cases in which, during the previous 4 years, the witness testified as an expert at trial or by deposition, and all other cases in which the witness was retained by an insurance company or a law firm on behalf of a civil defendant, but did not testify. Note: if the witness has been designated as an expert witness in a federal case within the past 4 years, this document must exist as its production would have been required under the Federal Rules of Civil Procedure.
- g) a statement of the compensation already paid and/or to be paid for the study, work, and testimony of the witness in the case.
- h) a statement of the compensation paid, during the previous 4 years, by any insurance companies and law firms to the witness and/or the witness' employer specifically for the witness' services related to legal claims;

- i) a list of all cases in which, during the previous 10 years, the witness' testimony has been limited or excluded by a Court or Tribunal in any way.

ANSWER: Defendant has not retained the use of an expert witness at this time but reserves the right to amend this answer in the event an expert witness becomes necessary. Defendant reserves the right to call any and all experts named by the Plaintiff.

7. Identify all individuals who prepared, assisted, were consulted with, helped with, and/or contributed to the production of documents in response to any party's requests for production, and in the preparation, drafting, and gathering and compiling information or documents responsive to any party's written discovery other than your attorney and your attorney's staff. For each person identified, state their relationship to you, job description, and identify what information and/or documents he/she assisted with producing to your attorney(s), and whether the information supplied was based on personal knowledge.

ANSWER:

**Riley A. Bearden
McAngus Goudelock & Courie**

**Peter McCoy
McCoy Law Group, LLC**

Patrick Montgomery

**Lauren Mazure
Allstate Adjuster**

8. Please provide your full name, every name you have used in the past and the dates you used each name, as well as your date of birth, place of birth, and social security number.

ANSWER:

**Patrick Kareem Montgomery
DOB: ██████████
Place of Birth: To be supplemented.**

SSN: To be supplemented.

9. State your present residence address, your residence addresses for the past five years and the dates you lived at each address.

ANSWER:

**408 N Tee Line Drive
Ridgeville, South Carolina 29472**

10. Identify your present employer or place of self-employment, dates of employment, job title, and nature of work for each employer or self-employment you have had from five years before the incident to the present.

ANSWER:

To be supplemented.

11. At the time of the incident, were you acting as an agent or employee, or on behalf of your employer, an entity, or another person? If so, state the name, address, and telephone number of that person or entity and describe your job duties.

ANSWER: To be supplemented.

12. Did you miss any work due to the incident? If so, please state the dates and times you missed.

ANSWER: To be supplemented.

13. At the time of the incident, did you have a driver's license and/or any other permit or license for the operation of a motor vehicle? If so, identify the state or other issuing entity, the license number and type, the date of issuance, and all restrictions. If your driver's license has ever been suspended, please provide the date of and the reason for the suspension.

ANSWER: [REDACTED]

14. Identify your cell phone number and cell provider at the time of the incident and state the location of your cell phone at the time of the incident and whether or not you were using your cell phone in any manner (for example, a phone call, listening to voicemail, reading or writing a text/SMS message or email, playing a video game, or using camera, music, internet, map application, or other use) immediately before or at the time of the subject collision, within one (1) minute before, during, or after the incident.

ANSWER: To be supplemented.

15. If you consumed any alcohol and/or drugs, legal or illegal, within the 24-hour period preceding the incident, please provide the following:

- a) The amount and type of alcohol and/or drugs consumed;
- b) Where you consumed the alcohol and/or drugs;
- c) Who provided you with the alcohol and/or drugs;
- d) The location and identity of all persons who were with you at any time during the consumption of the alcohol and/or drugs; and
- e) The reason for the consumption of the drugs or alcohol.

ANSWER: Defendant raises his fifth amendment privilege in response to this interrogatory.

16. Please state whether you underwent any blood/urine testing for alcohol and/or drugs after the incident. If so, please identify the type of test that was done, the person who administered the test, the date the test was administered, and the results of each test.

ANSWER: Defendant raises his fifth amendment privilege in response to this interrogatory.

17. Do you attribute any loss of or damage to a vehicle or other property to the incident? If so, for each item of property, please describe the property, the nature and location of the damage to the property, state the amount of damage to each item of property, how the amount was calculated; and, if the property was sold, identify the seller and buyer, the date of sale, and the sale price. If the property was repaired, please identify the date of the repair, describe the repair, state the repair costs, identify who performed the repair, and who paid for the repair.

ANSWER: To be supplemented.

18. At the time of incident, did you or any other person involved have any physical, emotional, or mental disability or condition that may have contributed to the occurrence of the incident? If so, identify each person, the nature of the disability or condition, and the manner in which you contend the disability or condition contributed to the occurrence of the incident.

ANSWER: To be supplemented.

19. Do you or your medical providers attribute any physical, mental, or emotional injuries, pain, and/or limitations to being caused or exacerbated by the incident? If so, identify each injury or condition that you or your medical providers attribute to being caused or exacerbated by the incident, the area of your body that was affected, and any medical treatment or medications you have taken as a result of the affected injury or condition.

ANSWER: To be supplemented.

20. Do you still have any injuries or complaints that you attribute to the incident? If so, for each, please provide a description of the injury or complaint, the frequency and duration of the injury or complaint, and whether any medical providers have advised that you may require

future or additional medical treatment for any injuries or conditions that you or your medical providers attribute to the incident.

ANSWER: To be supplemented.

21. Identify all eye doctors you have seen within the past five (5) years.

ANSWER: To be supplemented.

22. If you received a traffic citation for the incident, please state the citation number, the name and location of the court, whether a hearing was held, your plea, and the amount of the fine paid, if any.

ANSWER: To be supplemented.

23. State whether any on-board data recording device (including but not limited to a dashboard camera, an automobile telematics device or similar devices and/or associated applications, for example, Allstate Drivewise®, State Farm ® Drive Safe & Save™, Progressive Snapshot™, USAA SafePilot™, Geico DriveEasy™, or similar devices and/or associated applications, OnStar™, ECM (Electronic Control Module), black box, or a GPS application (e.g., Google Maps, Waze, etc.) was in your vehicle at the time of the incident, and whether any data from the same on-board recording devices has been obtained by you or anyone else.

ANSWER: To be supplemented.

24. List every social media site used or accessed by you for the past three (3) years. For each social media site, provide your account/username and the name of the social media platform.

ANSWER: To be supplemented.

25. State the address and location where your trip began and the address and location of your destination and describe the route that you followed from the beginning of your trip to the location of the incident, and state the location of each stop, other than routine traffic stops (like at a stop light), during the trip leading up to the incident.

ANSWER: To be supplemented.

26. Describe your version of exactly what happened immediately before, during, and after the incident, and why you believe the incident occurred.

ANSWER: To be supplemented.

27. Do you have information that a malfunction or defect in a vehicle caused or contributed to the incident or any injuries sustained in the incident? If so, please identify each malfunction or defect, identify the vehicle which you claim had a malfunction or defect, identify each witness who has information about each malfunction or defect, and identify each person who has custody of each defective part.

ANSWER: To be supplemented.

28. Have you or anyone acting on your behalf conducted surveillance on any individual involved in the incident? If so, for each surveillance event, state the name, address and telephone number of the individual or party who was the subject of the surveillance, the time, date and location of the surveillance, the name, address and telephone number of the individual who conducted the surveillance, and the name address and telephone number of each person who has the original or a copy of any surveillance photograph, film, or videotape.

ANSWER: No. Defendant reserves the right to supplement and/or amend his answer to this Interrogatory in the event surveillance becomes necessary.

29. If surveillance has been conducted, has a written report been prepared? If so, please state the title and date of the report, the name, address and telephone number of the individual who prepared the report, and the name address and telephone number of each person who has the original or a copy of the report.

ANSWER: Not applicable.

30. If you contend that actions or non-actions of Plaintiff, another defendant, or some other person or legal entity other than you is, in whole or in part, liable to Plaintiff or responsible for causing or contributing to the incident and/or the injuries and damages being claimed by Plaintiff, please provide the following:

- a) Identify the person or entity whom you claim is liable or responsible.
- b) Identify the person or entity whom you claim is liable or responsible and state a summary of the facts and circumstances which support the contention, including, but not limited to, a description of each action or non-action on the part of the Plaintiff that caused or contributed to the incident and/or injuries and damages being claimed by Plaintiff;
- c) The names, addresses, and telephone numbers of each person who supports, refutes, and/or has knowledge of that contention;
- d) Identify each statute, regulation, ordinance, industry custom, practice or standard of care which you believe someone other than you violated and describe with specificity how the violation relates to that contention; and
- e) A list of all documents which support, refute, and/or relate to that contention.

ANSWER: Defendant objects to this interrogatory to the extent it calls for legal conclusions and/or information protected by the work product privilege. This matter will further be determined during discovery.

31. Identify each denial of a material allegation and each special or affirmative defense in your pleadings and for each:

- a) state all facts upon which you base the denial or special or affirmative defenses;
- b) state the names, addresses, and telephone numbers of all persons who have knowledge of those facts; and
- c) identify all documents and other tangible things that support your denial or special or affirmative defense, and state the name, address and telephone number of the person who has each document.

ANSWER: Defendant craves reference to his Answer to the Complaint. Defendant further asserts this case is in its infancy and the facts of this case will further be determined during discovery.

32. In the past ten (10) years, if you have made a claim related to a medical condition, or have been involved in any other legal action, whether criminal or civil, either as a plaintiff or defendant, give the claim number, identify the state, county, city, and Court, case number, names of the other parties, names of counsel for parties, description of the claim or offense, and disposition of each.

ANSWER: To be supplemented.

33. If you are improperly identified in the operative Complaint, give the proper identification and state whether your attorney will accept service of an amended summons and pleading reflecting the correct information.

ANSWER: Defendant is properly identified.

34. Do you or anyone acting on your behalf contend that any person involved in the incident violated any statute, ordinance, or regulation and that the violation was a legal (proximate) cause of the incident? If so, identify each person and the statute, ordinance, or regulation that was violated.

ANSWER: Defendant objects to this interrogatory to the extent it calls for legal conclusions and/or information protected by the work product privilege. This matter will further be determined during discovery.

35. Do you contend that plaintiff was not injured in the incident? If so,
- a) state all the facts upon which you base your contention;
 - b) identify all persons who have knowledge of the facts upon which you base your contention; and
 - c) identify all documents and other tangible things that support your contention and identify the person who has each document.

ANSWER: Defendant objects to this interrogatory to the extent it calls for legal conclusions and/or information protected by the work product privilege. This matter will further be determined during discovery.

36. Do you have any document concerning the past or present physical, mental, or emotional condition of the plaintiff in this case from a medical provider not previously

identified? If so, please identify each medical provider and provide a description of the documents in your possession.

ANSWER: Defendant is not in possession of any medicals documents other than those previously produced by Plaintiff.

37. Identify all of your sources of income and occupation(s) including your job title(s).

ANSWER: To be supplemented.

38. Identify your employer and/or business address(es), phone number(s), and names of your payroll and head of human resources.

ANSWER: To be supplemented.

39. For each employer or business from which you receive income, identify:

- a. How often you are paid;
- b. Your gross pay each pay period;
- c. Your take-home pay each pay period.

ANSWER: To be supplemented.

40. If your spouse earns any income, give the name of your spouse, the name and address of the business or employer, job title and division of office.

ANSWER: To be supplemented.

41. How much money do you have in cash?

ANSWER: To be supplemented.

42. How much other money do you have in banks, savings and loan, credit unions, and other financial institutions either in your own name or jointly?

ANSWER: To be supplemented.

43. Identify all financial accounts that you maintain, including:
- a. The name and address of the financial institution;
 - b. The account number;
 - c. Whether it is an individual or joint account;
 - d. The balance.

ANSWER: To be supplemented.

44. List all automobiles, other vehicles, and boats owned in your name or jointly.

ANSWER: To be supplemented.

45. List all real estate in which you have an ownership interest and state the interest owned.

ANSWER: To be supplemented.

46. List all business entities in which you have an ownership interest and state the interest owned.

ANSWER: To be supplemented.

47. List anything of value not already requested that you own in your name or jointly (do not list household furniture or furnishings, appliance, or clothing) and state the interest owned.

ANSWER: To be supplemented.

48. If anyone is holding assets for you, please describe the assets and give the name and address of the person or entity hold each asset.

ANSWER: To be supplemented.

49. Have you disposed of or transferred any assets within the last year? If so, please identify the asset, the value of the asset, the date of the disposal or transfer of the asset, and where or with whom the asset is with now.

ANSWER: To be supplemented.

50. Have you purchased, altered, changed, or declined any liability insurance coverage within the past five years?

ANSWER: To be supplemented.

51. Identify any and all insurance agents, including names, addresses, and phone numbers from whom you have purchased, altered, or changed insurance coverage with for the past five years.

ANSWER: To be supplemented.

MCANGUS GOUDELOCK & COURIE, L.L.C.



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ATTORNEYS FOR PATRICK MONTGOMERY

October 9, 2023
Columbia, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

KANISHA NASH,

Plaintiff,

vs.

PATRICK MONTGOMERY, SABRINA
MONTGOMERY, AND MONTGOMERY
CONSTRUCTION, LLC,

Defendants.

IN THE COURT OF COMMON PLEAS

Civil Action No. 2023-CP-08-01652

CERTIFICATE OF SERVICE

I certify that on this date, I have served a copy of *Defendant Patrick Montgomery's*
Answers to Plaintiff's First Set of Interrogatories in this action on counsel of record by

Email addressed to:

Email: mark@bringardner.com

Mark Bringardner
Bringardner Injury Law Firm, LLC
41 Broad Street
Charleston, South Carolina 29401
Attorney for Kanisha Nash

Email: dcobb@turnerpadget.com

David S. Cobb
Turner, Padget
Post Office Box 22129
Charleston, South Carolina 29413-2129
Attorney for Sabrina Montgomery

Email: cmurphy@rlattorneys.com

Christopher L. Murphy, Esquire
Resnick & Louis, P.C.
146 Fairchild Street Suite 130
Charleston, South Carolina 294092
Attorney for Montgomery Construction, LLC

October 9, 2023

Date

s/ Macy Caldwell

Macy Caldwell

Legal Assistant to Riley A. Bearden

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

IN THE COURT OF COMMON PLEAS

KANISHA NASH,
Plaintiff,

Civil Action No. 2023-CP-08-01652

vs.

**DEFENDANT PATRICK
MONTGOMERY'S RESPONSES TO
PLAINTIFF'S FIRST REQUESTS FOR
PRODUCTION**

PATRICK MONTGOMERY, SABRINA
MONTGOMERY, AND MONTGOMERY
CONSTRUCTION, LLC,
Defendants.

TO: PLAINTIFF AND MARK BRINGARDNER, ESQUIRE, ATTORNEY FOR
PLAINTIFF:

Defendant, Patrick Montgomery, ("Defendant") responds to Plaintiff's Request for
Production of Documents pursuant to Rule 34 of the South Carolina Rules of Civil Procedure as
follows:

In setting forth these answers, the Defendant does not waive the attorney-client, work
product, or any other privilege or immunity from disclosure which may attach to information
responsive to the Requests. The Defendant does not concede the relevance or materiality of the
Requests, or the subject matter to which the Requests refer.

These responses are submitted by the Defendant subject to, and without in any way
waiving or intending to waive, but on the contrary intending to preserve and preserving:

A. All questions as to competency, relevancy, materiality, privilege and admissibility
as evidence for any purpose of the documents referred to or answers given, or the subject of
them, in any subsequent proceeding or in the trial of this action or any other action or
proceeding;

B. The right to object to other discovery procedures involving or relating to the subject matter of the Request for Production responded to here; and

C. The right at any time to revise, correct, add to, or clarify any of the answers set forth here, or documents referred to here.

D. Defendant objects to these requests to the extent that they ask for information protected by the attorney-client or work product privileges.

E. In responding to Plaintiff's requests, this Defendant has conducted a thorough and reasonable search of those sections of its corporate records where documents and other things responsive to these requests are most apt to be kept in an ordinary course of business. In addition, this Defendant's representatives have spoken to those employees who are most apt to have knowledge as to the location or existence of information that may be responsive. To the extent the subject requests asks Defendant to take actions other than these, Defendant objects because that discovery is overly broad, unduly burdensome, and asks for information not relevant and not reasonably calculated to lead to the discovery of admissible evidence.

REQUESTS FOR PRODUCTION

1. A complete copy of any and all insurance policies, declarations pages, agreements, and related documents under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment, including but not limited to those companies providing liability, commercial, excess, and umbrella coverages, relating to the incident, claims related to the incident, the vehicles involved, the drivers of the vehicles involved, and damage claims made by the Plaintiff as alleged in the operative Complaint, and to include all addendums, riders,

reservation of right correspondence, and any other documents related to potential insurance coverage for the incident and this lawsuit.

RESPONSE: Please see attached Allstate's redacted declaration page.

2. Any and all documents, photographs, memoranda, reports, plats, diagrams, writings, papers, notes, materials, evidence, electronically stored information, and tangible things that you have in your possession, custody, or control which in any way might relate to the incident and/or lawsuit.

RESPONSE: Defendant objects to this request and to the production of any items protected by the attorney/client privilege, the doctrine of attorney work product, or prepared in anticipation of litigation. Subject to these objections, Defendant is in possession of the following documents which do not include those previously produced by Plaintiff's counsel:

1. Allstate's redacted declaration page;
2. SLED report for Patrick Montgomery;
3. Driving Record for Patrick Montgomery; and
4. Traffic Collision Report for second accident.

Defendant reserves the right to supplement and/or amend his response to this Request for Production.

3. Any and all documents and tangible things obtained by you or anyone acting on your behalf via subpoena, Subpoena Duces Tecum, signed authorization form, ISO claims search, FOIA request, or other legal process.

RESPONSE: Defendant has not yet issued any subpoenas at this time. Defendant has submitted a FOIA request but has not yet received any responses to the same.

Defendant reserves the right to supplement his response to this Request for Production in the event subpoenas and FOIA responses are received.

4. Any and all recordings and transcripts of conversations, interviews, and statements including depositions, statements under oath, and summaries, notes, documents, and materials related to the same, whether written, transcribed, or recorded, for any witness, individual, or other person or entity who purports to know any facts or circumstances concerning the incident and/or the claims and defenses related to this lawsuit, (i.e., liability, comparative fault, causation and/or damages in this case). This request encompasses the parties to this action and their employees, agents, and representatives, and any potential witnesses.

RESPONSE: Defendant is not in possession of any items that would satisfy this request.

5. Any and all documents that refer or relate to any communication (whether written or oral) between you or anyone on your behalf and any witness or party to this lawsuit, including but not limited to any electronic mail, notes, correspondence, or recordings of any such communication.

RESPONSE: Defendant is not in possession of any items that would satisfy this request.

6. Produce a copy of all traffic citation(s) you received as a result of the incident and all documents related to the administration of the citation(s).

RESPONSE: Defendant is not in possession of any items that would satisfy this request.

7. All photographs of the vehicles involved in the incident.

RESPONSE: Defendant is not in possession of any items that would satisfy this request.

8. All photographs taken of the scene of the incident from the date of the incident to the present.

RESPONSE: Defendant is not in possession of any items that would satisfy this request.

9. All service, repair, and maintenance records, appraisals, estimates, and invoices for the motor vehicles involved in the incident that were prepared after the incident.

RESPONSE: Defendant is not in possession of any items that would satisfy this request.

10. A copy of all documents related to loss or damage to the vehicle you were driving at the time of the incident and any other property damaged in the incident, and, if the property was sold or is no longer in your possession, identify the seller and buyer and/or whom the property was transferred to, the date of sale, and the sale price.

RESPONSE: Defendant is not in possession of any items that would satisfy this request.

11. If you believe that a malfunction or defect in a vehicle caused or contributed to the incident or any injuries sustained in the incident, please produce copies of all documents related to the same.

RESPONSE: None.

12. A copy of the front and back of each and every driver's license and/or any other permit or license for the operation of a motor vehicle issued to you (regardless of name used) in your possession, custody, and/or control.

RESPONSE: To be supplemented.

13. If you underwent any blood/urine testing for alcohol and/or drugs after the incident, please provide all documents related to the same.

RESPONSE: Defendant raises his fifth amendment privilege in response to this interrogatory.

14. All documents relating to any blood/urine testing for alcohol and/or drugs you took from one (1) year before the incident until the present.

RESPONSE: Defendant raises his fifth amendment privilege in response to this interrogatory.

15. If you consumed any alcohol within the 24-hour period of time preceding the incident, please provide the receipt for the purchase of said alcohol that was consumed within that time.

RESPONSE: Defendant raises his fifth amendment privilege in response to this interrogatory.

16. At the time of the incident, if were you acting as an agent or employee, or on behalf of your employer, an entity, or another person, please produce all documents setting forth the relationship between you and that person/entity, including but not limited to your employment contract, employment manual, a copy of your pay statement that encompasses the date of the incident, and any correspondence you have received from such person or entity that relates to, or resulted from, the incident.

RESPONSE: To be supplemented.

17. A copy of your cell phone bill, cell phone call log, text/SMS messages from twenty-four (24) hours before the incident through 24 hours after the incident.

RESPONSE: To be supplemented.

18. Produce screenshot pictures of your cell phone's screen of any and all text messages, communications, and call logs from twenty-four (24) hours before the time of the incident until twenty-four (24) hours after the incident.

RESPONSE: To be supplemented.

19. All medical records and bills related to any medical evaluation or care you received in connection with the incident.

RESPONSE: To be supplemented.

20. Any and all medical reports, bills, letters, from any doctor, nurse, urgent care, emergency department, or any other medical provider you visited within thirty (30) days before and thirty (30) days after the incident.

RESPONSE: To be supplemented.

21. If you or your medical providers attribute any physical, mental, or emotional injuries, pain, and/or limitations being caused or exacerbated by the incident, produce copies of all documents related to the same.

RESPONSE: To be supplemented.

22. If you had any physical, emotional, or mental disability or condition that may have contributed to the occurrence of the incident, produce copies of all documents related to the same.

RESPONSE: To be supplemented.

23. If you still have any injuries or complaints that you attribute to the incident, produce copies of all documents related to the same.

RESPONSE: To be supplemented.

24. Produce any and all eye doctor medical records for any eye doctor you have seen within the past five (5) years to the present.

RESPONSE: To be supplemented.

25. All evidence requested to be preserved as identified in Plaintiff's letter(s) requesting the preservation and/or production of evidence, and all documents generated as a result of efforts to preserve evidence.

RESPONSE: To be supplemented.

26. Any and all documents, exhibits, videos, recordings, files, charts, drawings, sketches, diaries, journals, memorandums, notes, reports, or other materials of any type prepared by you relating to the incident and this lawsuit.

RESPONSE: Please see Defendant's response to Request for Production Number 2.

27. Any on-board recording devices (including but not limited to a dashboard camera, an automobile telematics device (c.g. Allstate Drivewise®, State Farm ® Drive Safe & Save™, Progressive Snapshot™, USAA SafePilot™, Geico DriveEasy™, or similar devices and/or associated applications, OnStar™, ECM (Electronic Control Module), or black box) in your vehicle at the time of the incident for inspection by Plaintiff's counsel and consultants.

RESPONSE: To be supplemented.

28. Any and all data obtained by you or on your behalf from any on-board data recording device (including but not limited to a dashboard camera, an automobile telematics device (e.g. Allstate Drivewise®, State Farm ® Drive Safe & Save™, Progressive Snapshot™, USAA SafePilot™, Geico DriveEasy™, or similar devices and/or associated applications, OnStar™, ECM (Electronic Control Module), black box, or a GPS application (c.g., Google Maps, Waze, etc.) was in the vehicle you were driving at the time of the incident.

RESPONSE: To be supplemented.

29. Produce for inspection all on-board data recording devices (including but not limited to a dashboard camera, an automobile telematics device (e.g., Allstate Drivewise®, State Farm ® Drive Safe & Save™, Progressive Snapshot™, USAA SafePilot™, Geico DriveEasy™, or similar devices and/or associated applications, OnStar™, ECM (Electronic Control Module), black box, or a GPS application (e.g., Google Maps, Waze, etc.) was in the vehicle you were driving at the time of the incident.

RESPONSE: To be supplemented.

30. In the past ten (10) years, if you have made a claim related to a medical condition, or have been involved in any other legal action, whether criminal or civil, either as a plaintiff or defendant, give the claim number, identify the state, county, city, and Court, case number, names of the other parties, names of counsel for parties, description of the claim or offense, and disposition of each.

RESPONSE: To be supplemented.

31. All documents related to your involvement in any other claim or legal action, whether criminal or civil, either as a plaintiff or defendant.

RESPONSE: To be supplemented.

32. Complete copies of any and all pre-litigation claim(s) and investigation files related to the incident that were created and/or maintained by your insurance companies and/or third-party administrators, including, but not limited to, any and all office records, memos, correspondence, collision reports, vehicle estimates, vehicle photos, written statements, recorded statements/calls, adjuster notes, investigation documents, liability analysis, review, settlement documents/amounts and any other document of any nature and in any form whatsoever

pertaining to the incident until defense counsel was retained. (Note: This request does not seek financial reserve amounts, which may be redacted from the responsive documents).

RESPONSE: Defendant objects to this request and to the production of any items protected by the attorney/client privilege, the doctrine of attorney work product, or prepared in anticipation of litigation. Subject to these objections, Defendant is in possession of the following documents which do not include those previously produced by Plaintiff's counsel:

1. Allstate's redacted declaration page;
2. SLED report for Patrick Montgomery;
3. Driving Record for Patrick Montgomery; and
4. Traffic Collision Report for second accident.

Defendant reserves the right to supplement and/or amend his response to this Request for Production.

33. Produce any and all documents related to surveillance efforts that have been conducted on your behalf on any individual related to the incident and lawsuit, including Plaintiff, Plaintiff's family, friends, and/or anyone filmed arising out of the incident and lawsuit, including but not limited to the original unedited, raw video (digital or analog), photographs, recordings, electronically stored information, reports, written or dictated notes and/or summaries thereof, any cover letter, emails, instructions, screenshots, pictures, invoices, payment records, memos and/or reports from the person(s) that recorded the video or assisted in the coordination and execution of the surveillance.

RESPONSE: None at this time. Defendant reserves the right to supplement and/or amend his answer to this Interrogatory in the event surveillance becomes necessary.

34. If any surveillance has been undertaken by you or on your behalf, produce a copy of all reports, photographs, video, and anything else generated through that investigation.

RESPONSE: Not applicable.

35. All background investigations and private investigator reports which relate to any party or witness involved in the subject action.

RESPONSE: None at this time. Defendant reserves the right to supplement and/or amend his answer to this Interrogatory in the event surveillance becomes necessary.

36. All public records and documents obtained by you, your attorney, or anyone acting on your behalf which relate to any party, witness, or issue in the subject action, including but not limited to, driving records, criminal background reports, liens, and other documents.

RESPONSE: Please see attached.

37. If you contend that the actions or non-actions of Plaintiff caused or contributed to the incident and/or the injuries and damages being claimed by Plaintiff, please produce all documents which support, refute, and/or relate to the allegation.

RESPONSE: Defendant objects to this Request for Production to the extent it calls for legal conclusions and/or information protected by the work product privilege. This matter will further be determined during discovery.

38. If you contend that the actions or non-actions of a person or entity not a party to the subject lawsuit caused or contributed to the incident and/or the injuries and damages being claimed by Plaintiff, please produce all documents which support, refute, and/or relate to the allegation.

RESPONSE: Defendant objects to this Request for Production to the extent it calls for legal conclusions and/or information protected by the work product privilege. This matter will further be determined during discovery.

39. If you contend that the actions or non-actions of a co-defendant caused or contributed to the incident and/or the injuries and damages being claimed by Plaintiff, please produce all documents which support, refute, and/or relate to the allegation.

RESPONSE: Defendant objects to this Request for Production to the extent it calls for legal conclusions and/or information protected by the work product privilege. This matter will further be determined during discovery.

40. Any and all documents and tangible things identified, referenced, listed in, reviewed, or relied upon in formulating your answers to all interrogatories, including supplemental interrogatories, served by Plaintiff or any other party in this case upon you.

RESPONSE: Please see Defendant's response to Request for Production Number 2.

41. Any and all documents, writings, papers, notes, materials, evidence, electronically stored information, and tangible things that you have in your possession, custody, or control and may use to support your claims or defenses related to the incident and your Answer to the operative Complaint.

RESPONSE: Please see Defendant's response to Request for Production Number 2.

42. All documents, tangible things, and materials of any type you provided to a testifying expert witness.

RESPONSE: Defendant has not retained the use of an expert witness at this time but reserves the right to amend this answer in the event an expert witness becomes necessary. Defendant reserves the right to call any and all experts named by the Plaintiff.

43. All documents, tangible things, and materials of any type a testifying expert witness has provided to you.

RESPONSE: Defendant has not retained the use of an expert witness at this time but reserves the right to amend this answer in the event an expert witness becomes necessary. Defendant reserves the right to call any and all experts named by the Plaintiff.

44. With regard to any expert witness you intend to call as a witness at the trial of this case, please produce:

- a. All documents, including a curriculum vitae, that you contend will establish the expert's qualifications to testify at trial;
- b. The fee and/or retainer agreement with the expert;
- c. The time and billing records of the expert, including all documents reflecting the compensation already paid and/or to be paid for the study, work, and testimony of the witness in the case.
- d. All documents, facts, data, tangible things, and materials of any type provided to or from the witness, even if it is not included in the witness' file, related to this matter;
- e. All correspondence to or from any expert, including electronic communications (e-mails, text messages, etc.);
- f. All reports prepared by or at the direction of the expert, including the draft versions of said reports;
- g. All demonstrative exhibits that may be used to explain, summarize or support the witness' testimony;

- h. A list of all other cases in which, during the previous four (4) years, the witness testified as an expert at trial or by deposition, and all other cases in which the witness was retained by an insurance company or a law firm on behalf of a civil litigant, but did not testify. Note: if the witness has been designated as an expert witness in a federal case within the past four (4) years, this document must exist as its production would have been required under the Federal Rules of Civil Procedure.
- i. All 1099s and documents reflecting the compensation paid, during the previous four (4) years, by insurance companies and law firms to the witness and/or the witness' employer specifically for the witness' services related to legal claims;
- j. All documents reflecting that the witness' testimony has been limited or excluded by a Court or Tribunal in any way.
- k. All documents, including reports, bills, and depositions, from your expert in all other cases for which your attorney and/or your attorney's law firm retained the expert and identified him or her as a testifying expert in other litigated cases;
- l. All field notes, inspection notes, testing notes, and other notes prepared by or at the direction of each expert,
- m. All photographs or videotapes taken, utilized, reviewed, or consulted by or at the direction of the expert;
- n. All diagrams or drawings prepared by or at the direction of the expert;

- o. All articles, treatises, publications, or other authoritative documents which support the expert's opinions in this action;

RESPONSE: Defendant has not retained the use of an expert witness at this time but reserves the right to amend this answer in the event an expert witness becomes necessary. Defendant reserves the right to call any and all experts named by the Plaintiff.

45. All documents, tangible things, and materials of any type that you intend to question Plaintiff's expert witness(es) about in deposition, trial, or other proceedings in this case.

RESPONSE: Defendant has not retained the use of an expert witness at this time but reserves the right to amend this answer in the event an expert witness becomes necessary. Defendant reserves the right to call any and all experts named by the Plaintiff.

46. Copies of all diagrams, graphs, illustrations, photographs, charts, pictures, models, blow-ups, or any other document or thing, including electronically created charts, animations, or data that you intend to utilize as an exhibit, demonstrative exhibit, or aid in the trial of this case not previously supplied.

RESPONSE: Defendant has not yet determined which documents it will introduce at the trial of this case. Defendant will supplement the same in accordance with the South Carolina Rules of Civil Procedure.

47. An affidavit of insurance coverage from a company claims manager or executive certifying under oath that the insurance policies disclosed and produced in response to these discovery requests represent all available coverage(s) that exist with the potential for coverage, including any and all excess policies.

RESPONSE: Please see attached Allstate's redacted declaration page.

48. All documents and tangible things of whatever nature and description which you intend to introduce into evidence or to use for impeachment purposes or as any type of evidence, real or demonstrative, at trial of this case.

RESPONSE: Defendant has not yet determined which documents it will introduce at the trial of this case. Defendant will supplement the same in accordance with the South Carolina Rules of Civil Procedure.

49. If you or anyone acting on your behalf are not currently in possession of any documents, tangible things, or materials requested herein, but you are aware that such items exist, provide a written response listing each item and identify who has possession of such items.

RESPONSE: Defendant has produced all information currently in possession.

50. Produce the last three (3) years of Defendant's annual accountant's financial statements).

RESPONSE: To be supplemented.

51. Produce the last three (3) years of statements of Defendant's financial condition.

RESPONSE: To be supplemented.

52. Produce the last three (3) years of Defendant's income statements.

RESPONSE: To be supplemented.

53. Produce the last three (3) years of Defendant's cash flow statements.

RESPONSE: To be supplemented.

54. Produce the last three (3) years of Defendant's federal tax returns.

RESPONSE: To be supplemented.

55. Produce a statement of all income earned in the last five (5) years that you did not report on either state or federal income tax returns.

RESPONSE: To be supplemented.

56. Please provide a copy of all invoices, receipts, bills, or other similar document related to any business you operate out of your home.

RESPONSE: To be supplemented.

MCANGUS GOUDELICK & COURIE, L.L.C.



RILEY A. BEARDEN (SC Bar No. 104332)

riley.bearden@mgclaw.com

BRETT H. BAYNE (SC Bar No. 100018)

brett.bayne@mgclaw.com

Post Office Box 12519

1320 Main Street, 10th Floor (29201)

Columbia, South Carolina 29211

Telephone: (803) 779-2300

Facsimile: (803) 748-0526

ATTORNEYS FOR PATRICK MONTGOMERY

October 9 2023
Columbia, South Carolina

STATE OF SOUTH CAROLINA)	
)	IN THE COURT OF COMMON PLEAS
COUNTY OF BERKELEY)	
)	
KANISHA NASH,)	Civil Action No. 2023-CP-08-01652
)	
Plaintiff,)	
)	
vs.)	CERTIFICATE OF SERVICE
)	
PATRICK MONTGOMERY, SABRINA)	
MONTGOMERY, AND MONTGOMERY)	
CONSTRUCTION, LLC,)	
)	
Defendants.)	

I certify that on this date, I have served a copy of *Defendant Patrick Montgomery's Responses to Plaintiff's First Requests for Production* in this action on counsel of record by

- Email addressed to:
 - Email: mark@bringardner.com
 - Mark Bringardner
 - Bringardner Injury Law Firm, LLC
 - 41 Broad Street
 - Charleston, South Carolina 29401
 - Attorney for Kanisha Nash
 - Email: dcobb@turnerpadget.com
 - David S. Cobb
 - Turner, Padget
 - Post Office Box 22129
 - Charleston, South Carolina 29413-2129
 - Attorney for Sabrina Montgomery

 - Email: cmurphy@rlattorneys.com
 - Christopher L. Murphy, Esquire
 - Resnick & Louis, P.C.
 - 146 Fairchild Street Suite 130
 - Charleston, South Carolina 294092
 - Attorney for Montgomery Construction, LLC

October 9, 2023

Date

s/ Macy Caldwell

Macy Caldwell

Legal Assistant to Riley A. Bearden

RONICALLY FILED - 2023 Dec 15 9:52 AM - BERKELEY - COMMON PLEAS - CASE#2023CP0801852

Jerrie Childress

From: Mark Bringardner
Sent: Friday, October 13, 2023 4:53 PM
To: Macy Caldwell
Cc: 'dcobb@turnerpadget.com'; 'cmurphy@rlattorneys.com'; 'jstratta@rlattorneys.com'; Riley Bearden; Brett Bayne; Jessi Fuller; Chris Dorsel; Jerrie Childress
Subject: RE: Kanisha Nash vs. Patrick Montgomery, Sabrina Montgomery, and Montgomer (Claim No.: 0710622036.1)

Hey Riley:

I know you may have had some trouble reaching Patrick Montgomery to help with these answers. I started to review them and it's pretty clear that he was not involved in answering the discovery given the numerous "to be supplemented" responses for basic info. I am happy to provide a more specific letter detailing the deficiencies, but this e-mail shall serve as our Rule 11 correspondence. Also, unless or until we receive responses in compliance with the SCRCP, we intend to move forward with the motion to compel that was already filed. Hopefully yall can get some traction with him...but I understand the situation.

Thanks and have a nice weekend.



From: Macy Caldwell <Macy.Caldwell@mgclaw.com>
Sent: Monday, October 9, 2023 4:20 PM
To: Chris Dorsel <cdorsel@bringardner.com>; Hayley Bost <hbost@bringardner.com>; Mark Bringardner <mark@bringardner.com>
Cc: 'dcobb@turnerpadget.com' <dcobb@turnerpadget.com>; 'cmurphy@rlattorneys.com' <cmurphy@rlattorneys.com>; 'jstratta@rlattorneys.com' <jstratta@rlattorneys.com>; Riley Bearden <Riley.Bearden@mgclaw.com>; Brett Bayne <brett.bayne@mgclaw.com>; Jessi Fuller <jessi.fuller@mgclaw.com>
Subject: Kanisha Nash vs. Patrick Montgomery, Sabrina Montgomery, and Montgomer (Claim No.: 0710622036.1)

Good Afternoon,

Please see the attached letter regarding serving responses to discovery for the above matter. Please click the shared link below to access Defendant Patrick Montgomery's documents produced.

<https://mgclaw.sharefile.com/d-s8dbcedd94ddcd4151b00df46d3dc04abc>

The enclosed/attached documents are being served via email only and a paper copy will not be sent to you unless requested.

Thanks,

Macy Caldwell
Legal Assistant



Macy Caldwell, Legal Assistant

macy.caldwell@mgclaw.com

1320 Main St, 10th Floor

Columbia, SC 29201

Main: 803-779-2300 | Direct: 803-233-3850 | Fax: 803-748-0526

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ELECTRONICALLY FILED - 2023 Dec 15 9:52 AM IN BERKELEY - COMMON PLEAS - CASE#2023CP0801652

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

Kanisha Nash,

Plaintiff,

v.

Patrick Montgomery, Sabrina Montgomery,
and Montgomery Construction, LLC,

Defendants,

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 2023-CP-08-01652

**Plaintiff's Motion to
Amend Complaint**

Pursuant to Rule 15 of the South Carolina Rules of Civil Procedure, and the applicable law pertaining thereto, Plaintiff Kanisha Nash hereby moves this Court for an Order granting her leave to file an Amended Summons and Complaint, a copy of which is attached as Exhibit A.

Plaintiff filed her original Complaint in the Berkeley County Court of Common Pleas on June 16, 2023. The Complaint was served on the above-named defendants and answers were filed by all defendants. Plaintiff seeks to amend the Complaint to conform to the evidence and to include certain factual allegations and/or amendments to the Complaint according with the evidence in this matter, and to include information/allegations that Sabrina Montgomery and Montgomery Construction, LLC, are one and the same. For that reason, Plaintiff seeks to amend her Complaint to add a cause of action and related allegations for piercing the corporate veil and to add necessary factual allegations.

This Motion is made pursuant to Rule 15, SCRPC, and applicable law pertaining thereto. If the Plaintiff wishes to amend her pleadings 30 days after a responsive pleading is served, the party may amend with "leave of court or by written consent of the adverse party." Rule 15(a), SCRPC. The rule further states that "leave shall be freely given when justice so requires and does not prejudice any other party." *Id.* Rule 15(b) of the South Carolina Rules of Civil Procedure

allows a party to amend her pleadings at any time (“even after judgment”) to conform to the evidence. Rule 15(b), SCRCP.

Plaintiff sent her proposed Amended Summons and Complaint to all adverse parties on May 20, 2024. On May 21, 2024, the undersigned received the following response: “Counsel for Patrick Montgomery will not consent to this Amended Complaint.”¹ Because not all adverse parties consent to the amendment, Plaintiff now seeks leave of court to amend her Complaint.

Plaintiff’s amended Complaint does not add new parties and does not add a strikingly new theory of liability. Rather, Plaintiff seeks to amend her pleadings to add one cause of action for piercing the corporate veil of Montgomery Construction. Plaintiff has provided Defendants with notice of her intent to pursue this cause of action prior to any depositions being taken. This indicates that Plaintiff is acting in the interest of justice and in a way that will not prejudice any party.

Plaintiff further submits that she should be allowed to amend her Complaint to conform with the evidence that has been disclosed in discovery. Rule 15(b) allows a party to amend her pleadings up to and during trial, and even after a judgment has been rendered. The current motion is being made well before any trial date and before any depositions have been taken.

Based on the foregoing, Plaintiff respectfully requests that this Honorable Court issue an Order allowing Plaintiff to amend her pleadings and directing the clerk of court to file the Amended Summons and Complaint attached hereto at Exhibit A. Plaintiff submits that leave should be freely given to amend her complaint is justice so requires and no other party will be prejudiced.

[signature on following page]

¹ No further explanation was provided for the lack of consent.

BRINGARDNER INJURY LAW FIRM, LLC

By: s/Mark Bringardner
Mark Bringardner (SC Bar No.: 102465)
mark@bringardner.com
41 Broad Street
Charleston, SC 29401
Office: 843-400-0550
Facsimile: 843-350-8290
Attorney for the Plaintiff

Charleston, South Carolina
May 22, 2024

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 2023-CP-8-01652

Kanisha Nash,

Plaintiff,

v.

Montgomery Construction, LLC,
Patrick Montgomery, and Sabrina
Montgomery, individually, and as
owner/registered agent for
Montgomery Construction, LLC,

Defendants.

AMENDED SUMMONS

TO THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to appear and defend the action(s) set forth in the Complaint herein, a copy of which is served upon you, and to serve a copy of your Answer or Motion to the said Complaint on the Bringardner Injury Law Firm at 41 Broad Street, Charleston, SC 29401, within thirty (30) days after service hereof, exclusive of the day of service, and if you fail to appear and defend within the time aforesaid, judgment by default will be entered against you for the relief demanded in the Complaint.

BRINGARDNER INJURY LAW FIRM, LLC

By: s/Mark Bringardner
Mark Bringardner (SC Bar No.: 102465)
mark@bringardner.com
Chris Dorsel (SC Bar No.: 72504)
cdorsel@bringardner.com
41 Broad Street
Charleston, SC 29401
Office: 843-400-0550
Facsimile: 843-350-8290
Attorneys for the Plaintiff

Charleston, South Carolina
May 20, 2024



STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

Kanisha Nash,

Plaintiff,

v.

Montgomery Construction, LLC,
Patrick Montgomery, and Sabrina
Montgomery, individually, and as
owner/registered agent for
Montgomery Construction, LLC,

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 2023-CP-08-01652

AMENDED COMPLAINT
(Automobile Collision/Negligence)
(Negligent Entrustment)
(Negligent Hiring, Retention,
Supervision and Training)
(Piercing the Corporate Veil, Alter Ego)
(Jury Trial Requested)

The Plaintiff, complaining of the Defendants, above-named, hereby alleges and pleads as follows:

1. Plaintiff is a resident of Spartanburg County, South Carolina.
2. Upon information and belief, Defendant Patrick Montgomery resides at 408 N. Tee Line Drive, Ridgeville, South Carolina, in Berkeley County, South Carolina.
3. Upon information and belief, Defendant Sabrina Montgomery resides at 408 N. Tee Line Drive, Ridgeville, South Carolina, in Berkeley County, South Carolina.
4. Upon information and belief, Defendant Montgomery Construction has its principal office and principal address at 408 N. Tee Line Drive, Ridgeville, South Carolina.
5. Upon information and belief, Defendant Montgomery Construction, LLC ("Montgomery Construction") is a for-profit corporation organized under the laws of the State of South Carolina and doing business in Berkeley County, South Carolina.

6. Upon information and belief, Defendant Sabrina Montgomery is the owner of Defendant Montgomery Construction, LLC.

7. Upon information and belief, Defendant Sabrina Montgomery is registered agent of Defendant Montgomery Construction, LLC, through the South Carolina Secretary of State.

8. At all times relevant, Defendant Sabrina Montgomery was the president, partner, chief executive officer, officer, director, agent, and/or employee of Defendant Montgomery Construction at the time of the subject incident described herein.

9. Upon information and belief, Defendant Montgomery Construction does business in Berkeley County, South Carolina.

10. Defendant Montgomery Construction, LLC, is a motor vehicle carrier registered with the United States Department of Transportation, bearing USDOT number 3065016.

11. On or about April 14, 2023, and at all times relevant, Defendant Patrick Montgomery was impaired under the influence of alcohol and/or other intoxicating substances while driving a certain 2014 GMC vehicle (South Carolina License plate KTF628, hereinafter the "subject vehicle").

12. Below is a picture of the subject vehicle that depicts damage incurred as a result of the subject incident:



13. At all times relevant, the subject vehicle was owned by Defendant Sabrina Montgomery.

14. At the time of the subject incident, the subject vehicle was hauling a trailer (VIN 4YMBU1222YHG043830) (the "Trailer").

15. At all times relevant, the Trailer was owned by Defendant Sabrina Montgomery and/or Defendant Montgomery Construction.

16. Before the subject incident, and at all times relevant, person(s) acting on behalf of Defendant Montgomery Construction attached the Trailer to the subject vehicle.

17. Below is a picture of the Trailer taken after the subject incident:



18. Before the subject incident, and at all times relevant, person(s) acting on behalf of Defendant Montgomery Construction placed equipment and/or materials in the Trailer that was attached to the subject vehicle.

19. Before the subject incident, and at all times relevant, person(s) acting on behalf of Defendant Montgomery Construction used the trailer to haul equipment and/or materials in the furtherance of Defendant Montgomery Construction's work and/or business interests.

20. Before the subject incident, a large blue barrel, (hereinafter the “Blue Barrel”), was placed into the Trailer attached to the subject vehicle.

21. At the time of the subject incident, the Blue Barrel, was in the Trailer.

22. At the time of the incident, the Blue Barrel contained “DEF”, “off road diesel”, and/or some other type of fuel.

23. Below are pictures of the blue barrel in the back of the subject vehicle which, prior to the subject incident, was being hauled in the Trailer:



Left rear view of Unit #2 (Digital Pictures – Conley IMG_2377)



24. As a result of the subject incident, the Blue Barrel came out of the Trailer and went onto the roadway.

25. Defendant Patrick Montgomery admitted to law enforcement that his wife, Defendant Sabrina Montgomery, drives a dump truck.

26. The dump truck Defendant Patrick Montgomery referenced to law enforcement is a commercial motor vehicle owned by Defendant Montgomery Construction.

27. Defendant Montgomery Construction purchases fuel for vehicles it uses in its work and/or in furtherance of its business, including the contents of the Blue Barrel at the time of the subject incident.

28. Upon information and belief, and at all times relevant, the contents of the Blue Barrel were purchased, owned, and/or intended for use by Defendant Montgomery Construction or in furtherance of its work and business interests.

29. Upon information and belief, and at all times relevant, the Blue Barrel was owned, leased, rented, and/or intended for use by Defendant Montgomery Construction or in furtherance of its work and business interests.

30. Before the subject incident, Defendant Sabrina Montgomery intended to fuel the dump truck or other commercial motor vehicles owned or operated by Defendant Montgomery Construction with the contents of the Blue Barrel.

31. Before the subject incident, Defendant Montgomery Construction intended to fuel the dump truck or other commercial motor vehicles owned or operated by Defendant Montgomery Construction with the contents of the Blue Barrel.

32. At the time of the subject incident, Defendant Patrick Montgomery was driving the subject vehicle and hauling the Trailer with fuel to the registered business address and principal office of Defendant Montgomery Construction.

33. After the subject incident, Defendant Patrick Montgomery told law enforcement that the Blue Barrell that was on the Trailer was "for one of our big trucks".

34. After the subject incident, Defendant Patrick Montgomery told law enforcement that the contents of the Blue Barrell cleans the engine of Defendant Montgomery Construction's "big truck".

35. Defendant Patrick Montgomery told law enforcement that he was driving home at the time the subject incident occurred.

36. Defendant Patrick Montgomery's home is the same address as the registered business address and principal office of Defendant Montgomery Construction.

37. Defendant Montgomery Construction regularly stores its property, equipment, and/or materials at the home address of Defendants Patrick and Sabrina Montgomery.

38. Defendant Patrick Montgomery knew that Defendant Montgomery Construction intended to use the contents of the Blue Barrel.

39. On or about April 14, 2023, at approximately 9:50 pm, Defendant Patrick Montgomery was driving the subject vehicle and hauling the Trailer westbound on Highway 176/State Road.

40. At the same time, Plaintiff was driving her vehicle eastbound on Highway 176/State Road, with her son G.N. (a minor, age 2), riding as a passenger.

41. Upon information and belief, Defendant Patrick Montgomery, while impaired under the influence of alcohol, failed to maintain his lane, drove into the eastbound lane, and violently

crashed into Plaintiff's vehicle head-on (hereinafter referred to as the "subject incident").

42. Plaintiff was severely injured and suffered damages as a direct and proximate result of the subject incident.

43. Plaintiff's son, G.N. sustained fatal injuries as a result of the subject incident.

44. Upon information and belief, on or about April 14, 2023, and at all times relevant before the subject incident, Defendant Patrick Montgomery consumed intoxicating and/or mind-altering substances in a volume and or manner that caused him to become grossly impaired and unfit to operate the subject vehicle an inherently dangerous instrumentality.

45. Plaintiff is informed and believes that at the time of the subject incident, Defendant Patrick Montgomery was unfit to operate a motor vehicle.

46. Plaintiff is informed and believes that Defendants Montgomery Construction and/or Sabrina Montgomery entrusted the subject vehicle, the Trailer, and the equipment and materials on the Trailer to Defendant Patrick Montgomery.

47. Defendants Montgomery Construction and/or Sabrina Montgomery knew or should have known at the time of the entrustment that Defendant Patrick Montgomery was unfit to drive and was planning to, and did in fact, drive the entrusted subject vehicle with the Trailer and the items on the Trailer.

48. Before the subject incident, Defendant Sabrina Montgomery used the Trailer in furtherance of Defendant Montgomery Construction's business.

49. After the subject incident, Defendant Sabrina Montgomery used the Trailer in furtherance of Defendant Montgomery Construction's business.

50. Before the subject incident, Defendant Sabrina Montgomery used or intended to use the equipment and materials that were in the Trailer at the time of the subject incident, in furtherance of Defendant Montgomery Construction's business.

51. After the subject incident, Defendant Sabrina Montgomery used or wrote-off the equipment and materials that were in the Trailer at the time of the subject incident, in furtherance of Defendant Montgomery Construction's business.

52. At all times relevant, Defendant Montgomery Construction purchased, leased, and/or owned the materials and equipment that were in the Trailer at the time of the subject incident.

53. At all times relevant, upon information and belief, the materials and equipment in the Trailer were used, being used, or were intended to be used later in furtherance of the business and financial interests of Defendant Montgomery Construction.

54. Upon information and belief, and at all times relevant, Defendant Sabrina Montgomery used the subject vehicle, the Trailer, and the equipment and materials on the Trailer, in furtherance of her work with Defendant Montgomery Construction.

55. Upon information and belief, Defendant Sabrina Montgomery used Defendant Montgomery Construction's money and financial accounts to pay for the registration, title, taxes, insurance, repairs, maintenance, gas, loans, and/or other financial obligations for the subject vehicle.

56. Upon information and belief, Defendant Sabrina Montgomery used Defendant Montgomery Construction's money and financial accounts to pay for the registration, title, taxes, insurance, repairs, maintenance, gas, loans, and/or other financial obligations for the Trailer.

57. Upon information and belief, Defendant Sabrina Montgomery used Defendant Montgomery Construction's money and financial accounts to pay for the equipment and materials that were on the Trailer at the time of the subject incident.

58. Upon information and belief, Defendant Sabrina Montgomery through Defendant Montgomery Construction, paid for expenses related to the subject vehicle, the Trailer, and the equipment and materials on the trailer and received tax deductions and other benefits for the same through the books, record-keeping, and financial accounting of Defendant Montgomery Construction.

59. At all times relevant, Defendant Sabrina Montgomery used the subject vehicle in connection with her work and/or ownership interest in Defendant Montgomery Construction.

60. At all times relevant, Defendant Montgomery Construction used the subject vehicle in furtherance of its business interests and work.

61. At all times relevant, Defendant Patrick Montgomery was an was an owner, officer, partner, director, agent, and/or employee of Defendant Montgomery Construction.

62. At all times relevant, Defendant Patrick Montgomery was acting on behalf of, or within the course and scope of his employment, agency, and/or work with, Defendant Montgomery Construction at the time of the subject incident described herein.

63. Before the subject incident, Defendant Sabrina Montgomery used the subject vehicle in connection with her work and/or ownership interest in Defendant Montgomery Construction.

64. At the time of the subject incident, Defendant Montgomery Construction used the subject vehicle in furtherance of its business and work.

65. At all times relevant before and at the time of the subject incident, Defendant Sabrina Montgomery allowed the subject vehicle to be used for purposes related to her ownership and management of Montgomery Construction.

66. Before the subject incident, Defendant Sabrina Montgomery used the subject vehicle in furtherance of Defendant Montgomery Construction's business.

67. After the subject incident, Defendant Sabrina Montgomery used the subject vehicle in furtherance of Defendant Montgomery Construction's business.

68. Before the subject incident, and at all times relevant Defendant Sabrina Montgomery and/or someone acting on behalf of Defendant Montgomery Construction entrusted the subject vehicle with the Trailer attached to Defendant Patrick Montgomery to drive.

69. At all times relevant, Defendants Montgomery Construction and Sabrina Montgomery were the employers and/or principals of Defendant Patrick Montgomery and exercised control over the conduct of Defendant Patrick Montgomery and had the right to control the time, manner, method and performance of Defendant Patrick Montgomery's employment and/or work and use of the subject vehicle he was driving at the time of the subject incident described herein, including the Trailer and the equipment and materials that were on the Trailer.

70. At all times relevant, Defendants Montgomery Construction and Sabrina Montgomery had the right to control the time, manner, method and use of the vehicle Defendant Patrick Montgomery was driving at the time of the subject incident described herein, including the Trailer and the equipment and materials that were on the Trailer at the time of the subject incident.

71. At all times relevant, Defendants Montgomery Construction and Sabrina Montgomery had the right to control the time, manner, method and use of the Trailer and the equipment and materials that were on the Trailer.

72. At all times relevant, all Defendants were agents, employees, principals, partners, joint ventures, masters and/or servants of one another, and acted on behalf of and for the benefit of one another.

73. At all times relevant, all Defendants acted in concert as agents, employees, principals, partners, joint ventures, masters and/or servants of one another for a common business purpose and interest in pursuit of financial gain.

74. At all times relevant, and by virtue of Defendant Patrick Montgomery's marriage to Defendant Sabrina Montgomery, they both maintained financial interests, directly or indirectly, jointly and individually, related to the business of Defendant Montgomery Construction.

75. Upon information and belief, Defendants Montgomery Construction and Sabrina Montgomery had a non-delegable duty to use, hire, and/or employ drivers that were adequately trained and able to provide for the safe and proper driving of commercial motor vehicles while on the roads of any state in the United States, including South Carolina.

76. Upon information and belief, reasonable and prudent company should have policies, procedures, rules, and regulations and should comply with federal and state guidelines before employees are hired, trained, and supervised to be allowed to drive a motor vehicle.

77. The negligent, grossly negligent, and/or reckless acts, omissions, and liability of all Defendants include that of their agents, principals, employees, and/or servants, both directly and vicariously, pursuant to the principles of non-delegable duty, corporate liability, apparent authority, agency of Defendants Montgomery Construction and Defendant Sabrina Montgomery

ostensible agency, and/or *respondeat superior*.

78. All acts or omission complained herein, regarding all Defendants and any of their agents, owners, and/or employees occurred during the course and scope of any such employment, ownership, and/or agency.

79. The above-named Defendants are jointly and severally liable for all damages alleged herein since their negligent, grossly negligent, and/or reckless acts and omissions, singularly or in combination, are the contributing proximate cause(s) of all Plaintiff's damages.

80. At all relevant times hereto, the most substantial part of the acts and omissions committed by the Defendants giving rise to this action occurred in Berkeley County, South Carolina.

81. This Court has jurisdiction pursuant to S.C. Code Ann. 15-7-20 and venue is proper.

FOR A FIRST CAUSE OF ACTION AGAINST
DEFENDANT PATRICK MONTGOMERY
(Negligence/Recklessness)

82. That Plaintiff realleges and reincorporates the paragraphs above as if fully set forth verbatim herein.

83. Defendant Patrick Montgomery owed a duty to the plaintiff to operate the subject vehicle safely, with reasonable care, and in accordance with all laws concerning the operation of a motor vehicle.

84. Defendant Patrick Montgomery was negligent, careless, grossly negligent, willful, wanton, and/or reckless and breached the duties owed to the Plaintiff in one or more of the following ways:

- a. In operating the subject vehicle in a negligent, grossly negligent, and/or reckless manner;
- b. In driving under the influence of alcohol in violation of S.C. Code Ann § 56-5-2930;

- c. In driving while impaired and under the influence of alcohol, which specifically compromised his ability to operate a motor vehicle;
- d. In driving a motor vehicle in such a manner as to indicate a willful, wanton, reckless, grossly negligent, and negligent disregard for the safety of others, in violation of S.C. Code Ann. § 56-5-2920;
- e. In failing to use due care;
- f. In driving too fast for the conditions;
- g. In failing to maintain his proper lane of travel;
- h. In failing to keep the subject vehicle and Trailer under proper control;
- i. In failing to keep a proper lookout;
- j. In failing to appreciate the conditions that existed at the relevant time;
- k. In failing to have the subject vehicle equipped and maintained with proper brakes and other safety devices and, if so equipped, in failing to timely apply the brakes and/or properly use the other safety devices;
- l. In failing to use the degree of care and caution that a reasonably prudent driver would have used under the circumstances then and there prevailing;
- m. In failing to operate a commercial vehicle in the manner required by the Federal Motor Carrier Safety Regulations;
- n. In failing to comply with the South Carolina laws and regulations related to the operation of a commercial motor vehicle;
- o. In violating various laws, statues, codes, and ordinances designed to protect the public, including the plaintiff, from the type of harm that was caused by the Defendant's conduct and constituting negligence *per se*, recklessness, and subjecting Defendant to punitive damages; and
- p. Otherwise operating a vehicle without exercising reasonable care and in a negligent, careless, grossly negligent, willful, wanton, and/or reckless manner.

All of which were direct and proximate causes of the Plaintiff's injuries and damages

described herein.

85. As a direct and proximate cause of Defendant Patrick Montgomery's negligent, careless, grossly negligent, willful, wanton, and/or reckless conduct and breach of the duties owed to Plaintiff as described above, Plaintiff sustained serious injuries and damages.

86. As a direct and proximate cause of Defendant Patrick Montgomery's negligent, careless, grossly negligent, willful, wanton, and/or reckless conduct and breach of the duties owed to Plaintiff, the plaintiff has suffered damages in the form of physical injury and harm, past and future lost income, lost earning capacity, past and future medical expenses, past and future physical and mental pain and suffering, permanent injuries/impairment and disfigurement to Plaintiff's body, mental, emotional, and psychological damage, loss of enjoyment of life, and damage to Plaintiff's property.

87. That Plaintiff is entitled to judgment against Defendant Patrick Montgomery and all Defendants, jointly and severally, for the above-described injuries and damages and for actual, compensatory, and punitive damages in an amount to be determined by the jury.

FOR A SECOND CAUSE OF ACTION AGAINST
DEFENDANTS MONTGOMERY CONSTRUCTION
AND SABRINA MONTGOMERY
(Doctrines of *Respondeat Superior* and Agency)

88. Plaintiff re-alleges and reiterates the allegations contained in the paragraphs set forth above as if set forth herein verbatim.

89. Defendants Montgomery Construction and/or Sabrina Montgomery are vicariously liable to Plaintiff, under the doctrine of *respondeat superior* and agency, for the negligent, careless, grossly negligent, willful, wanton, and/or reckless conduct of their employee and/or agent,

Defendant Patrick Montgomery, such conduct consisting of one or more of the particulars described herein.

FOR A THIRD CAUSE OF ACTION AGAINST
DEFENDANTS MONTGOMERY CONSTRUCTION
AND SABRINA MONTGOMERY
(Direct Negligence/Recklessness)

90. Plaintiff re-alleges and reiterates the allegations contained in the paragraphs set forth above as if set forth herein verbatim.

91. That at all times relevant hereto, Defendant Patrick Montgomery was an employee, agent and/or legal representative of Defendants Montgomery Construction and Sabrina Montgomery and was acting in the course and scope of his employment, agency, or representation.

92. That at all times relevant hereto, Defendant Patrick Montgomery was an employee, agent and/or legal representative of Defendants Montgomery Construction and Sabrina Montgomery and was driving the subject vehicle provided to him by Defendants Montgomery Construction and Sabrina Montgomery with permission from Defendants Montgomery Construction and Sabrina Montgomery.

93. Defendants Montgomery Construction and Sabrina Montgomery permitted Defendant Patrick Montgomery to use the subject vehicle as his own for any and all purposes.

94. Defendants Montgomery Construction and Sabrina Montgomery permitted Defendant Patrick Montgomery to haul the Trailer and use the materials and equipment on the Trailer as his own for any and all purposes.

95. That at all times relevant hereto Defendants Montgomery Construction and Sabrina Montgomery exercised control over the conduct of Defendant Patrick Montgomery and had the right to control the time, manner and method of Defendant Patrick Montgomery's work and/or

use of the subject vehicle, Trailer, and equipment and materials on the Trailer, provided to Defendant Patrick Montgomery,

96. That Defendants Montgomery Construction and Sabrina Montgomery are responsible for Defendant Patrick Montgomery's acts and omissions, and the consequences of the same as described herein, including but not limited to direct negligence/recklessness, and the doctrines of *respondeat superior* and agency.

97. Defendants Montgomery Construction and Sabrina Montgomery owed a duty to Plaintiff to ensure the safe operation of the subject vehicle, with reasonable care, and in accordance with all laws concerning the operation of a motor vehicle.

98. Defendants Montgomery Construction and Sabrina Montgomery owed a duty to Plaintiff to ensure the safe operation of the subject vehicle, with reasonable care, by implementing safety policies and procedures, monitoring, and other internal safety controls to protect the motoring public, including the Plaintiff, from negligent, grossly negligent, and/or reckless conduct, including the acts and omission of Defendant Patrick Montgomery.

99. Defendants Montgomery Construction and Sabrina Montgomery were negligent, careless, grossly negligent, willful, wanton, and/or reckless and breached the duties it owed to Plaintiff in one or more of the following ways:

- a. In permitting, facilitating, and/or allowing for the operation of the subject vehicle in a negligent, grossly negligent, and/or reckless manner;
- b. In failing to use due care;
- c. In failing to implement and enforce safety policies and procedures, monitoring, and other internal controls to protect the motoring public, including the plaintiff, from negligent, grossly negligent, and/or reckless conduct, including the acts of Defendant Patrick Montgomery;

- d. In permitting Defendant Patrick Montgomery to drive while impaired and under the influence of alcohol, drugs, or other psychoactive substances which specifically compromised his ability to operate a motor vehicle;
- e. Violating various laws, statutes, codes, regulations, and ordinances designed to protect the public, including the plaintiff, from the type of harm that was caused by the Defendants' conduct and constituting negligence *per se*, recklessness, and subjecting Defendants to punitive damages; and
- f. In the training, hiring, retention, and supervision of their employees and agents, including Defendant Patrick Montgomery;
- g. In failing to operate a commercial vehicle in the manner required by the Federal Motor Carrier Safety Regulations;
- h. In negligently entrusting the subject vehicle to Defendant Patrick Montgomery;
- i. In failing to train their agents and employees, including Defendant Patrick Montgomery, on the proper operation of a motor vehicle, including the subject vehicle;
- j. In failing to adopt procedures for the safe operation of the subject vehicle;
- k. In failing to follow their own rules, regulations, and policies regarding hiring, training and supervision of their employees, agents and representatives;
- l. In failing to conduct reasonable and/or proper background check(s) and driving record check(s) on Patrick Montgomery;
- m. In failing to act as a reasonable and prudent person and/or entity would act under the same or similar circumstances;
- n. In failing to maintain the subject vehicle properly, including, but not limited to, the brakes (or proper application of the brakes), lights, safety devices, and/or other components as may be further determined in discovery; and
- o. Otherwise operating a vehicle without exercising reasonable care and in a negligent, careless, grossly negligent, willful, wanton, and/or reckless manner.

All of which were direct and proximate causes of the Plaintiff's injuries and damages described herein.

100. As a direct and proximate cause of Defendants Montgomery Construction and Sabrina Montgomery's negligent, careless, grossly negligent, willful, wanton, and/or reckless conduct and breach of the duties owed to Plaintiff as described above, Plaintiff sustained serious injuries and damages.

101. As a direct and proximate cause of Defendants Montgomery Construction and Sabrina Montgomery's negligent, careless, grossly negligent, willful, wanton, and/or reckless conduct and breach of the duties owed to Plaintiff, the plaintiff has suffered damages in the form of physical injury and harm, past and future lost income, lost earning capacity, past and future medical expenses, past and future physical and mental pain and suffering, permanent injuries/impairment and disfigurement to Plaintiff's body, mental, emotional, and psychological damage, loss of enjoyment of life, and damage to Plaintiff's property.

102. That Plaintiff is entitled to a judgment against all Defendants, jointly and severally, for the above-described injuries and damages and for actual, compensatory, and punitive damages as determined by a jury.

FOR A FOURTH CAUSE OF ACTION AGAINST
DEFENDANTS MONTGOMERY CONSTRUCTION
AND SABRINA MONTGOMERY
(Negligent/Reckless Entrustment)

103. That Plaintiff realleges and reincorporates the paragraphs above as if fully set forth verbatim herein.

104. Defendants Montgomery Construction and Sabrina Montgomery knew or should have known that Defendant Patrick Montgomery was untrained, inexperienced, unfit, and incapable of operating a vehicle in the manner required by South Carolina law.

105. Defendants Montgomery Construction and Sabrina Montgomery knew or should have known that at the time they entrusted a vehicle to Defendant Patrick Montgomery that

Defendant Patrick Montgomery was likely to operate the subject vehicle in a negligent and/or reckless manner.

106. Defendants Montgomery Construction and Sabrina Montgomery knew or should have known that at the time the subject vehicle was entrusted to Defendant Patrick Montgomery that he was likely to operate the vehicle under the influence of alcohol and/or other intoxicating substances and be or become, a negligent and/or reckless driver.

107. Defendants Montgomery Construction and Sabrina Montgomery negligently and/or recklessly entrusted a vehicle to Defendant Patrick Montgomery because Defendants Montgomery Construction and Sabrina Montgomery had actual or constructive notice of Defendant Patrick Montgomery's plans or intentions to operate the vehicle when he was unfit to drive.

108. As a direct and proximate cause of Defendants Montgomery Construction and Sabrina Montgomery's negligent, careless, grossly negligent, willful, wanton, and/or reckless conduct and breach of the duties owed to Plaintiff as described above, Plaintiff sustained serious injuries and damages.

109. As a direct and proximate cause of Defendants Montgomery Construction and Sabrina Montgomery's negligent, careless, grossly negligent, willful, wanton, and/or reckless conduct and breach of the duties owed to Plaintiff, the Plaintiff has suffered damages in the form of physical injury and harm, past and future lost income, lost earning capacity, past and future medical expenses, past and future physical and mental pain and suffering, permanent injuries/impairment and disfigurement to Plaintiff's body, mental, emotional, and psychological damage, loss of enjoyment of life, and damage to Plaintiff's property.

110. That Plaintiff is entitled to a judgment against all Defendants, jointly and severally, for the above-described injuries and damages and for actual, compensatory, and punitive damages as determined by a jury.

FOR A FIFTH CAUSE OF ACTION AGAINST
DEFENDANTS MONTGOMERY CONSTRUCTION
AND SABRINA MONTGOMERY
(Negligent/Reckless Hiring, Training, Retention, and Supervision)

111. That Plaintiff realleges and reincorporates the paragraphs above as if fully set forth verbatim herein.

112. Defendants Montgomery Construction and Sabrina Montgomery owed a duty to Plaintiff to exercise reasonable care in conducting their business activities, including the implementation of and following of appropriate operating standards and procedures, the hiring, retention and supervision of their employees, drivers, and agents, including Defendant Patrick Montgomery, and the proper maintenance of the subject vehicle.

113. Defendants Montgomery Construction and Sabrina Montgomery owed statutory and common law duties to Plaintiff not to negligently and/or recklessly hire, train, supervise and retain employees and to use safe and fit equipment.

114. Defendants Montgomery Construction and Sabrina Montgomery knew or should have known that Defendant Patrick Montgomery had a poor driving record and lacked ability, experience, and training such that he was unable and/or unlikely to comply with the state and local laws and therefore was a negligent and/or reckless driver.

115. Defendants Montgomery Construction and Sabrina Montgomery failed to properly supervise and train Defendant Patrick Montgomery and allowed Defendant Patrick Montgomery to operate the subject vehicle without the most basic training in violation of the applicable laws.

116. Defendants Montgomery Construction and Sabrina Montgomery failed to properly supervise and monitor Defendant Patrick Montgomery despite their knowledge that Defendant Patrick Montgomery did not have the required ability, training and/or experience to

legally and safely operate a motor vehicle, in violation of state and local laws.

117. As a direct and proximate cause of Defendants Montgomery Construction and Sabrina Montgomery's negligent, careless, grossly negligent, willful, wanton, and/or reckless conduct and breach of the duties owed to Plaintiff as described above, Plaintiff sustained serious injuries and damages.

118. As a direct and proximate cause of Defendants Montgomery Construction and Sabrina Montgomery's negligent, careless, grossly negligent, willful, wanton, and/or reckless conduct and breach of the duties owed to Plaintiff, the Plaintiff has suffered damages in the form of physical injury and harm, past and future lost income, lost earning capacity, past and future medical expenses, past and future physical and mental pain and suffering, permanent injuries/impairment and disfigurement to Plaintiff's body, mental, emotional, and psychological damage, loss of enjoyment of life, and damage to Plaintiff's property.

119. That Plaintiff is entitled to a judgment against all Defendants, jointly and severally, for the above-described injuries and damages and for actual, compensatory, and punitive damages as determined by a jury.

FOR A SIXTH CAUSE OF ACTION
AGAINST ALL DEFENDANTS
(Negligent Infliction of Emotional Distress)

120. That Plaintiff realleges and reincorporates the paragraphs above as if fully set forth verbatim herein.

121. Plaintiff was the mother of G.N., (a minor, age 2), who sustained injuries in the subject incident and died from those injuries on April 24, 2023. Thus, Plaintiff is closely related to her son, G.N.

122. All defendants' negligence caused the serious injuries and death of G.N.

123. At the time of the subject incident, G.N. was a passenger in Plaintiff's vehicle, and as such, Plaintiff was in close proximity to, and involved in, the subject incident.

124. Plaintiff contemporaneously perceived and was involved in the subject incident and the injuries to G.N. caused by the subject incident.

125. Plaintiff has suffered extreme emotional distress, which has manifested itself through physical symptoms capable of objective diagnosis and that have been diagnosed by medical experts with whom Plaintiff has treated.

126. As a direct and proximate cause of the negligent infliction of emotional distress caused by Defendants' actions, Plaintiff has suffered damages as described herein, including emotional trauma arising from witness the ultimately fatal injuries to her son, G.N.

127. That Plaintiff is entitled to a judgment against all Defendants, jointly and severally, for the above-described injuries and damages and for actual, compensatory, and punitive damages as determined by a jury.

FOR A SEVENTH CAUSE OF ACTION
AGAINST DEFENDANT MONTGOMERY CONSTRUCTION, LLC, AND
DEFENDANT SABRINA MONTGOMERY
(Piercing the Corporate Veil, Alter Ego, And Amalgamation of Interests)

128. That Plaintiff realleges and reincorporates the paragraphs above as if fully set forth verbatim herein.

129. Plaintiff is informed and believes that Defendant Sabrina Montgomery owns Defendant Montgomery Construction and exercises total dominion and control over its operations, assets, cash flow and business practices.

130. Plaintiff is informed and believes that Defendant Sabrina Montgomery owns Defendant Montgomery Construction and exercises total dominion and control over Defendant Montgomery Construction either directly or indirectly through other subsidiaries, affiliates, and/or

intermediaries which Defendant Sabrina Montgomery also controls.

131. Plaintiff is informed and believes the corporate entity, Defendant Montgomery Construction, LLC, was created by Defendant Sabrina Montgomery for her sole benefit, pecuniary gain and to further Defendant Sabrina Montgomery sole personal interests. However, those benefits and interests extend to Defendant Patrick Montgomery by virtue of his marriage to Defendant Sabrina Montgomery, and their shared assets, bank accounts, and other financial interests and instruments.

132. Plaintiff is informed and believes that Defendant Montgomery Construction is a mere agent and alter ego of Defendants Sabrina and Patrick Montgomery and manifests no separate interest of its own, but rather functions solely to achieve the goals of Defendants Sabrina and Patrick Montgomery and in doing so, Defendants Sabrina and Patrick Montgomery have placed their own financial self-interests ahead of Defendant Montgomery Construction's interests in one or more of the following:

- a. In causing Montgomery Construction to be grossly undercapitalized;
- b. In failing to observe the corporate formalities;
- c. In co-mingling of funds between Montgomery Construction and the personal interests and/or accounts of Defendants Sabrina and Patrick Montgomery;
- d. In using Montgomery Construction property, equipment, and materials for their own personal use while claiming certain benefits, tax and otherwise, through Montgomery Construction;
- e. In non-payment of dividends;
- f. In siphoning of corporate funds for personal use or gain directly and/or indirectly;
- g. In disallowing other officers or directors aside from Defendant Sabrina Montgomery;

- h. In failing to keep corporate records; and
- i. In operating the corporate entity as a mere façade for Defendant Sabrina Montgomery.

133. Plaintiff is informed and believes that the foregoing has resulted in, and will continue to cause, injustice and fundamental unfairness.

134. Plaintiff is informed and believes that LLCs like Defendant Montgomery Construction who derive profit through public roads via interstate and/or intrastate commerce have responsibilities to ensure their operations are safe and do not pose a danger to the motoring public, including the Plaintiff.

135. Plaintiff is informed and believes that Defendant Sabrina Montgomery set up, owns, operates, and otherwise participates in (including but not limited to, as corporate officers, board members, principals, partners, employees, independent contractors, or otherwise) multiple business and/or enterprises all inter-related and engaged in Defendant Montgomery Construction's business.

136. Upon information and belief, Defendant Patrick Montgomery receives a financial benefit from Defendant Montgomery Construction paid into accounts that are in his name individually, and/or held jointly between himself and Defendant Sabrina Montgomery.

137. Upon information and belief, Defendant Sabrina Montgomery and her subsidiaries, affiliates, and/or intermediaries, including Defendant Montgomery Construction and Defendant Patrick Montgomery, are all inter-related businesses or alter egos of one another because of one or more of the following: they share common owners/operators; they share common corporate officers; they share common partners; they share common members of boards of directors; they share or have common employees/owners/agents; they share common offices; they share common property, equipment, facilities; they share common phone numbers; they share common

bank accounts, employees/agents of one defendant conduct the business of other defendant; and they share management and control among and between each other.

138. Upon information and belief, there are no separate financial statements for Defendant Montgomery Construction, a discrete business entity, and Defendants Sabrina Montgomery and Patrick Montgomery, and they have financial ties and connections which demonstrate that they are alter egos of one another.

139. Upon information and belief, Defendant Sabrina Montgomery controls the actions and business decisions of Defendant Montgomery Construction, and actively participates in, and exercises control over the operations of Montgomery Construction.

140. Upon information and belief, Defendant Patrick Montgomery actively participates in, works for, and exercises control over the operations of Montgomery Construction.

141. Upon information and belief, Defendant Montgomery Construction functions solely to achieve the purposes of Defendant Sabrina Montgomery, and directly or indirectly, the purposes of Defendant Patrick Montgomery.

142. Upon information and belief, Defendant Montgomery Construction is not its own discreet entity, but a façade for the operations of Defendants Sabrina Montgomery and Patrick Montgomery, personally.

143. Upon information and belief, Defendant Sabrina Montgomery controls and has blurred the identity between Defendant Montgomery Construction and its purported subsidiaries, affiliates, and/or intermediaries which Defendant Sabrina Montgomery also controls.

144. Upon information and belief, Defendant Sabrina Montgomery set and managed Defendant Montgomery Construction's policy for the operation of motor vehicles and the use of the Trailer, equipment, and materials.

145. Upon information and belief, Defendant Sabrina Montgomery allows, permits, controls, and ratifies Defendant Patrick Montgomery's use of Defendant Montgomery Construction's property, vehicles, trailers, equipment, materials, assets, and other resources for both personal use and for uses in furtherance of Defendant Montgomery Construction's business interests.

146. Upon information and belief, Defendant Sabrina Montgomery controls and siphons Defendant Montgomery Construction's money in a show of dominance over Defendant Montgomery Construction.

147. Upon information and belief, Defendant Sabrina Montgomery set the policy for Defendant Montgomery Construction's hiring, training, retention, and supervision of drivers, employees, contractors, agents, and representatives.

148. In light of the above circumstances and more to be discovered during the course of this litigation, the retention of separate corporate personalities would promote fraud, contravene public policy, and fundamental unfairness would result in failing to hold the true responsible entity accountable for its acts and omissions.

149. And further, in light of the above circumstances and more to be discovered during the course of this litigation, Defendant Sabrina Montgomery should be held directly liable for the acts and failures to act committed by Defendant Montgomery Construction and Defendant Patrick Montgomery.

150. As a result of the foregoing as well as other matters which may be proven at trial the mere corporate formality of Defendant Montgomery Construction should be disregarded and Defendant Sabrina Montgomery should be held jointly and severally liable of the incident, injuries, and damages caused to the Plaintiff.

151. All Defendants are liable, jointly and severally, to Plaintiff for all damages allowed by law for the injuries, damages, and losses sustained by Plaintiff, in an amount deemed appropriate by the jury.

152. Due to the negligent, grossly negligent, and/or reckless acts and omissions of all Defendants as set forth herein, all Plaintiff is entitled to judgment against all Defendants for the above-described injuries and damages and to recover actual, compensatory, and punitive damages, jointly and severally, in an amount to be determined by the jury.

153. A jury trial is demanded.

WHEREFORE, Plaintiff demands judgment against all Defendants for actual, compensatory and punitive damages, including damages for physical injury and harm, past and future lost income, lost earning capacity, past and future medical expenses, past and future physical and mental pain and suffering, permanent injuries/impairment and disfigurement, mental, emotional, and psychological damage, loss of enjoyment of life, and damage to Plaintiff's property, for the costs of this action, and for any additional relief this Court deems just and proper.

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