

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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

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Appellate Case No. 2025-001683

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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.

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**AMENDED RECORD ON APPEAL – VOLUME II**

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**INDEX**

**VOLUME II**

Plaintiff’s Notice of Motion and Motion for a Rule to Show Cause Why Defendants Patrick Montgomery and Sabrina Montgomery should not be Held in Contempt (with Exhibit A) filed October 24, 2024 .....	250
Plaintiff’s Memorandum in Support of her Motion for a Rule to Show Cause Why Defendants Patrick Montgomery and Sabrina Montgomery should not be Held in Contempt (with Exhibits A-H) filed January 6, 2025 .....	262
Affidavit of Mark J. Bringardner for Attorney’s Fees, filed January 10, 2025 .....	371
Affidavit of Mary K. Linton for Attorney’s Fees, filed January 10, 2025 .....	375
Amended Summons and Amended Complaint filed January 21, 2025 .....	378
Sabrina Montgomery’s Answer to Amended Complaint filed February 11, 2025.....	406
Defendant Patrick Montgomery’s Answer to the Amended Complaint filed February 12, 2025.....	412
Motion to Protect Defendant’s Interests pursuant to Rule 1.14(B) filed April 14, 2025.....	421
Plaintiff’s Supplemental Memorandum in Support of her Rule to Show Cause against Defendants Patrick Montgomery and Sabrina Montgomery (with Exhibits A-C) filed May 1, 2025.....	423
Plaintiff’s Motion for Emergency Status Conference (with Exhibit A) filed May 13, 2025.....	451
Plaintiff’s Motion for Continuance of Hearing on Defendant Patrick Montgomery’s Motion to Protect Defendant’s Interests Scheduled for May 16, 2025 filed May 13, 2025 .....	483

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 NOTICE OF MOTION  
AND MOTION FOR A RULE TO SHOW  
CAUSE WHY DEFENDANTS PATRICK  
MONTGOMERY AND SABRINA  
MONTGOMERY SHOULD NOT BE  
HELD IN CONTEMPT**

**TO: DEFENDANTS ABOVE-NAMED AND THEIR COUNSEL:**

**YOU WILL PLEASE TAKE NOTICE** that Plaintiff, pursuant to Rule 37 of the South Carolina Rules of Civil Procedure, and all applicable law, will move this Honorable Court for a rule to show cause why Defendant Patrick Montgomery and Defendant Sabrina Montgomery, ("Defendants") should not be held in contempt for violating this Court's Order entered on February 2, 2024, compelling discovery responses.

Plaintiff seeks a hearing before the Court to allow the Defendants the opportunity to show cause why Defendants should not be held in contempt of Court; and, further, if the Court determines that the Defendants are in contempt of Court, the Plaintiff Moves the Court to Order appropriate relief. In support of this motion, Plaintiff shows the following to the Court:

1. The Court entered an Order on Plaintiff's Motion to Compel on February 2, 2024, a copy of the Order is attached as Exhibit A.
2. Defendants have violated the Order because they have not fully produced all documents ordered and/or served supplemental written responses that comply with the Court's Order.

3. As to Defendant Sabrina Montgomery:
  - a. She has failed to produce her cell phone records (RFP 13), the pre-litigation claims file (RFP 22), or her complete tax records (RFP 44). She has failed to serve supplemental responses to interrogatories 30 and 31 that comply with the Order.
  - b. Further, Defendant Sabrina Montgomery has not produced a privilege log as ordered. Several of her written responses state that she is producing all “discovery documents” which suggests that defense counsel believes certain documents exist but are not discoverable, and those have not been identified in a privilege log as ordered. For example, RFP 4, 5, 7, 8, 16, and 24.
  - c. Further, Defendant Sabrina Montgomery has not produced a compliant affidavit from an insurance claims representative as ordered.
4. As to Defendant Patrick Montgomery
  - a. he has failed to comply with the Court’s Order with respect to numerous interrogatories and requests for production that will be detailed in the memorandum in support of this filing.
  - b. Defendant Patrick Montgomery also violated the Order because they failed to provide a privilege log that complies with Rule 26(b)(5)(A), despite being ordered to do so.
  - c. Further, Defendant Patrick Montgomery has not produced a compliant affidavit from an insurance claims representative as ordered.
5. Defendants have violated the Order in other ways that will be further detailed in a memorandum and other filings related to this motion.
6. Defendants’ ongoing discovery abuse has unfairly prejudiced Plaintiff’s ability to timely

prosecute this case. It has now been over a year since the Plaintiff served discovery requests on the Defendants. In violation of the Rules of Civil Procedure, and in contempt of this Court's Order, the Defendants have failed to properly respond.

WHEREFORE, the Plaintiff moves the Court to enter an order requiring the Defendants and and/or Defendant's corporate representative(s) to appear for a hearing on the record and show cause as to why the Defendants should not be held in contempt of court, to fully comply with the Court's Order, and for the Court to expressly overrule certain objections to deter future discovery abuse, and for such other and further relief in favor of the Plaintiff as the Court deems just and appropriate.

**BRINGARDNER INJURY LAW FIRM, LLC**

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Charleston, South Carolina  
October 24, 2024

# EXHIBIT A

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

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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,





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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ELECTRONICALLY FILED - 2024 Feb 02 4:32 PM - BERKELEY - COMMON PLEAS - CASE#2023CP0801652  
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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 HER MOTION FOR A  
RULE TO SHOW CAUSE WHY  
DEFENDANTS PATRICK  
MONTGOMERY AND SABRINA  
MONTGOMERY SHOULD NOT BE  
HELD IN CONTEMPT**

Pursuant to Rule 37 of the South Carolina Rules of Civil Procedure, and all applicable law, Plaintiff hereby submits this Memorandum in Support of her Motion for a Rule to Show Cause against Defendants Sabrina and Patrick Montgomery (collectively referred to as "Defendants") arising out of their violations of the Court's Order entered on February 2, 2024, (the "Order") compelling supplemental discovery responses. A copy of the Order is attached as Exhibit A.

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.

This case has been in litigation for over eighteen (18) months. To date, Defendant Patrick Montgomery has refused to provide answers to most written discovery. Both Defendants have refused to provide complete or accurate responses to discovery. As detailed herein, there exists a clear and irrefutable pattern of discovery abuse by the Defendants. Plaintiff believes that the discovery abuse is likely to continue unless serious sanctions are imposed to punish and deter the Defendants willful failure to comply with the South Carolina Rules of Civil Procedure and this Court's Order.

Plaintiff has been unfairly prejudiced in her ability to pursue this case in a timely and

efficient manner. Defendants should face consequences for the same. Plaintiff has spent a significant amount of time and money to force the Defendants to comply with basic written discovery consistent with South Carolina law to no avail. Meanwhile this case has languished on the docket. All the while, Plaintiff's case has not been resolved, she continues to accrue costs, her attorneys are forced to unnecessarily spend time and resources simply to obtain basic evidence to assist in taking informed depositions in the prosecution of her claims.

### **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"). Patrick and the vehicle he was driving were insured through Allstate with liability limits of \$100,000 per person, \$300,000 per occurrence, and \$50,000 for property damage.<sup>1</sup> Patrick is represented by Riley Bearden from the MGC law firm. The per person bodily injury limit from Allstate has been tendered but has not been accepted by Plaintiff due, in part, to the belief that additional commercial liability insurance coverage maintained by Montgomery Construction is applicable for this loss.

2. Sabrina Montgomery is the registered owner of the vehicle driven by Patrick in the crash and. She is also reported to be the sole owner of Montgomery Construction. However, evidence shows that Sabrina and Patrick co-mingled the LLC's assets and used them for work and personal purposes. Sabrina is represented in her personal capacity by David Cobb from Turner Padgett. Sabrina is also a named insured on the same Allstate insurance policy as Patrick.

3. It is believed that Montgomery Construction owned and/or used the trailer involved in the crash to haul materials. At the time of the crash, the trailer held a large blue barrel containing off

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<sup>1</sup> Patrick Montgomery also maintained a separate automobile insurance policy with USAA. USAA has denied coverage.

road diesel fuel and other materials/equipment believed to be owned by Montgomery Construction. American Millennium Insurance Company insures Montgomery Construction with a \$1 million (\$1,000,000.00) per occurrence limit, and Cypress Risk maintains an excess policy with a reported One Hundred-Thousand-dollar (\$100,000.00) limit. Montgomery Construction is represented by Todd Loftis and Amanda Perry of the Resnick & Louis law firm.

4. Direct negligence, negligent entrustment, and vicarious liability has been alleged in the operative Complaint. Defendants claim that Patrick never worked for Montgomery Construction and was not “on the job” at the time of the crash. Plaintiff’s Motion to Amend the Complaint to add additional allegations to add claims related Alter-Ego and Piercing the Corporate Veil is set for hearing concurrently with this Motion.

**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. 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 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**

1. On June 30, 2023, Plaintiff served Interrogatories and Requests for Production on

Defendants Sabrina Montgomery and Patrick Montgomery.

2. On September 11, 2023, Plaintiff filed Motions to Compel against Defendants.
3. On September 18, 2023, Sabrina Montgomery served Plaintiff with incomplete and deficient responses.
4. On October 9, 2023, Patrick Montgomery served Plaintiff with incomplete and deficient responses. (Exhibit B).
5. On December 14, 2023, Sabrina Montgomery served Supplemental Responses to Interrogatories and Requests for Production.
6. Prior to the hearing, pursuant to Rule 11, Plaintiff made numerous to informally resolve the discovery dispute.
7. On December 15, 2023, the parties appeared before the Honorable Diane S. Goodstein regarding Plaintiff's Motions to Compel. Neither defendant filed a memorandum in support of their arguments. The Court made certain oral rulings from the bench and advised that a written order would be forthcoming.
8. On January 22, 2024, Patrick Montgomery served Supplemental Responses to Plaintiff's Request for Production. (Exhibit C). However, the court indicated that numerous responses to Requests for Production were required, but Patrick Montgomery only *two* responses to Request for Production numbers 2 and 34 were "supplemented". However, even those responses did not comply with the Court's Order.
9. On January 25, 2024, Sabrina Montgomery served Second Supplemental Responses to Interrogatories and Requests for Production. Those responses were still incomplete and contained deficiencies.
10. On February 2, 2024, Judge Goodstein entered the Order Granting Plaintiff's Motion to

Compel, (Exhibit A).

11. On February 20, 2024, Patrick Montgomery served Supplemental Answers to Plaintiff's Interrogatories. (Exhibit D). Those responses were still incomplete and contained deficiencies.
12. On May 6, 2024, Plaintiff served a Notice of Deposition pursuant to Rule 30(b)(6), SCRCP, to Montgomery Construction. Sabrina Montgomery was identified the sole corporate designee of Montgomery Construction. Plaintiff anticipated and was assured that the outstanding discovery deficiencies would soon be brought into compliance. The deposition was scheduled for the mutually agreed upon date of June 20, 2024.
13. On May 7, 2024, Plaintiff served letters on counsel for Defendants advising of their failures to comply with the Order and requesting prompt compliance with the same. Attached hereto as Exhibit E is Plaintiff's letter to counsel for Patrick Montgomery, and Exhibit F is Plaintiff's letter to counsel for Sabrina Montgomery.
14. By June 19, 2024, Defendants had still not complied with Judge Goodstein's Order. Consequently, Plaintiff's counsel did not have the documents necessary to take an informed deposition of Montgomery Construction. Therefore, Plaintiff's counsel advised that the deposition would have to be postponed and proposed that all counsel use the scheduled time to discuss the outstanding discovery issues related to non-compliance with the Order.
15. On June 20, 2024, all counsel held an informal discovery status conference. Plaintiff's counsel advised, again, of the remaining deficiencies and failures to comply with the Order. All defense counsel gave assurance to Plaintiff that they would meet with their respective clients to resolve the issues.
16. On September 9, 2024, Sabrina Montgomery served Third Supplemental Responses to

- Interrogatories and Requests for Production. However, those responses were still demonstrably incomplete and contained deficiencies.(Exhibit G).
17. The parties agreed to reschedule the Rule 30(B)(6) deposition to September 12, 2024, but again had to ultimately postpone the deposition until the discovery issues were resolved. To date, no deposition have taken place in this case.
18. Plaintiff and Montgomery Construction continued to work through their specific issues and by October 2024, Plaintiff was able to successfully resolve all discovery issues with Montgomery Construction.
19. On October 24, 2024, Plaintiff filed this Motion for a Rule to Show Cause.
20. Patrick Montgomery made no attempt to comply with the Order, has failed to offer any explanation for his non-compliance, and has not addressed the issues raised in this memorandum since its filing.
21. Last Friday, January 3, 2025, counsel for Sabrina Montgomery e-mailed to essentially ask what Plaintiff believed to be “deficient.” But the Order speaks for itself and Sabrina Montgomery’s written responses and document production are still demonstrably incomplete and largely non-responsive to the discovery that was Ordered.

#### APPLICABLE LAW

Rule 1 of the South Carolina Rules of Civil Procedure sets out the scope and purpose of the rules by stating they “shall be construed to secure the just, speedy, and inexpensive determination of every action.” Rule 1 SCRPC. “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, 113, 495 S.E.2d 213, 217 (Ct. App. 1997), “[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.**" *Id.* (emphasis added)(quoting *Downey v. Dixon*, 294 S.C. 42, 46, 362 S.E.2d 317, 319 (Ct. App. 1987)). "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).

"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) (internal citation omitted). 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)). Judge Joseph F. Anderson, Jr., United States District Judge for the District of South Carolina, lamenting the rising tide of discovery abuse in our legal system, opined:

[T]his court has reluctantly concluded that changes to the rules of civil procedure and other well-informed reforms will have only a marginal impact in those cases where abusive and hardball discovery practices occur. It is the undersigned's sincere belief that contentious and expensive discovery battles will continue to present challenges to the judicial system, and that these challenges should be answered by trial judges, who occupy the best vantage point from which to resolve these controversies.

*Network Computing Services, Corp. v. Cisco Systems, Inc.*, 223 F.R.D. 3892, (D.S.C. 2004).

The South Carolina Supreme Court likewise instructed 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" 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).

“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.” *Griffin*, 334 S.C. at 198, 511 S.E.2d at 718. “The selection of a sanction for discovery violations is within the trial court’s discretion.” *Griffin*, 334 S.C. at 198, 511 S.E.2d at 718. 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). 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.”<sup>6</sup> *Id.* at 466, 665 S.E.2d at 832. “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).

Pursuant to the holding of the South Carolina Supreme Court in the case of *In re Anonymous*, this Court has the power to sanction Defendants for misconduct during discovery,

including misconduct in a deposition. There are various additional contempt powers available to the trial court when counsel violates the Rules. *Id.* at 194. Actions taken in a deposition designed to prevent justice, delay the process, or drive up costs are improper and warrant sanctions.

“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.*

The South Carolina Supreme Court’s Administrative Order of June 3, 2021, state, “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.”

In discovery matters, “the text of Rule 37 SCRPC tells us a party does not even need to file a motion to compel to request a sanction for another party’s failure to answer a properly served discovery request.” *Richardson v. Twenty-One Thousand & no/100 Dollars (\$21,000.00) United States Currency & Various Jewelry*, 430 S.C. 594, 598 (Ct. App. 2020). The *Richardson* Court explained that a party served with written discovery has a duty to answer it, unless he objects on a stated reason or moves for a protected order. If no answer, objection, or motion is received, the discovering party may – but is not required to – move for a court order compelling discovery, noting that the sanctions authorized by Rule 37(d) “are therefore available even to a discovering party who has not spoken up about his adversary’s silence.” *Richardson* at 598-99.

“[A]n evasive or incomplete answer is to be treated as a failure to answer. SCRCP 37(a)(3). The client and the attorney are required to provide the requested information without undue delay and should endeavor to answer all discovery questions truthfully and completely. Rule 37 governs failure to make or cooperate in discovery and provides possible sanctions for this failure. *Pioneer Electronics (USA) Inc. v. Cook*, 294 S.C. 135, 137, 363 S.E.2d 112, 113 (Ct. App. 1987). South Carolina Rule of Professional Conduct Rule 3.4(d) requires a lawyer to make a reasonably diligent effort to comply with the legally proper discovery requests by an opposing party.

“When a party fails to comply with a discovery order, the trial court has the discretion to impose a sanction it deems just, including an order dismissing the action.” *McNair v. Fairfield Cnty.*, 379 S.C. 462, 665 S.E.2d 830 (Ct. App. 2008). “Sanctions for discovery abuse are left to the sound discretion of the trial 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.

### **ARGUMENT AS TO DEFENDANT PATRICK MONTGOMERY**

Due to the volume of defense, Plaintiff has attempt to organize the relevant issues in two categories: 1) Discovery in which Patrick Montgomery did not serve supplemental discovery responses but was ordered to do so, and 2) Discovery in which Patrick Montgomery did serve supplemental discovery responses but they did not comply with Judge Goodstein’s Order:

#### **1. DESPITE THE COURT’S ORDER, DEFENDANT PATRICK MONTGOMERY FAILED SERVE 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. The Court Ordered Patrick Montgomery to Supplement these responses. [Ex. A, p. 2].

To date, Patrick Montgomery has not supplemented his responses to Interrogatory Numbers 3, 8, 17, 18, 19, 21-27, 30, 34-36, 39-42, 44-51 and Request for Production Numbers 12, 16-25, 27-31, 37-39, 50-56.

Patrick Montgomery purported to serve supplemental responses to only seven interrogatories (numbers 10-12, 20, 37, 38, and 43) and two Requests for Production (numbers 2 and 32). But many of those do not fully comply with the Order. They remain deficient and are addressed specifically in the section below.

Although there are many, by way of example, **Interrogatory Number 14 seeks** Defendant Patrick Montgomery's cell phone number and provider as well as information pertaining to Defendant Montgomery's cell phone use at the time of the collision.

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.**

The glaring problem here is not only that this response was not answered, but the failure to provide information as basic as his phone number raises great concerns that Defendant Patrick Montgomery still may not have been involved in providing any of the information contained in his initial or supplemental responses. Does defense counsel not have his phone number?

As discussed more fully below, this identical response arises in over half of Defendant's discovery responses. This particular Interrogatory was parceled from the rest as it demonstrates the hurdles Plaintiff has faced at every turn in this case regarding discovery. There is no cognizable reason why this information has not been provided over a year after its initial request and with an Order compelling its disclosure.

Thus, nearly a year after the Order was entered, twenty-nine (29) of the fifty-one (51) Interrogatories and twenty-six (26) of the fifty-six (56) Requests for Production propounded on Defendant Patrick Montgomery remain unanswered. Defendant Patrick Montgomery should be required by the Court to show cause as to why he should not be held in contempt for his willful noncompliance with the Order.

**2. DEFENDANT PATRICK MONTGOMERY FAILED SERVE SUPPLEMENTAL RESPONSES THAT FULLY COMPLIED WITH THE ORDER**

On January 22, 2024, Defendant Patrick Montgomery served supplemental responses to Requests for Production, but only as to Request numbers 2 and 32.

On February 20, 2024, Defendant Patrick Montgomery served supplemental responses to Interrogatories, but only as to only seven interrogatories (numbers 10-12, 20, 37, 38, and 43). Of those, the following do not comply with the Order and are incomplete.

**A. Defendant Patrick Montgomery's Supplemental Response to Interrogatory 12**

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

**ANSWER: Patrick Montgomery was employed by the Sewer District for 25 years prior to the subject accident. He was terminated after the subject accident and is not currently employed.**

This answer is non-responsive. It does not state whether Defendant Patrick Montgomery

missed work due to the incident. It merely states he was terminated without any more detail, and specifically does not state whether it was “due to the incident” or when he was terminated, or why.

Defendant Patrick Montgomery should be required by the Court to show cause as to why he should not be held in contempt for his willful noncompliance with the Order.

**B. Defendant Patrick Montgomery’s Supplemental Response to Interrogatory 20**

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: Defendant was taken to either Trident Medical Center or Roper Saint Francis Berkeley Hospital via police squad car after being processed at the Berkeley County Detention Center and provided with treatment there.**

This answer is non-responsive. It does not state whether Defendant Patrick Montgomery still has injuries or complaints due to the incident. It merely identifies medical providers. Whether he is still experiencing effects of the incident has not been provided.

Defendant Patrick Montgomery should be required by the Court to show cause as to why he should not be held in contempt for his willful noncompliance with the Order.

**C. Defendant Patrick Montgomery’s Supplemental Response to Interrogatory 37**

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

**ANSWER: Patrick Montgomery was employed by the Sewer District for 25 years prior to the subject accident. He was terminated after the subject accident and is not currently employed.**

This answer is non-responsive and evasive. This interrogatory seeks to determine all sources of income for Defendant Patrick Montgomery and is of heightened importance here with respect to any income and economic benefits he derived from Defendant Montgomery Construction, LLC. All he had to do was respond and say there were no sources of income other than the "Sewer District." Because it does not state the same, and because it is common for employees in the industry to "moonlight" or earn money on the side (that may or may not be reported on tax records), Plaintiff believes that may have occurred here but has not received a straightforward response. Thus, it is highly relevant in establishing the use of company resources for his own personal benefit or through his potential side-work with the family company. Also, the comingling of funds by and between Defendants Sabrina and Patrick Montgomery goes to the issue of insurance coverage. If Defendant Patrick Montgomery did not receive income from any source other than the "Sewer District" and is relying on his spouse or Montgomery Construction, LLC for financial support, this response should state as much. If, on the other hand, Defendant Patrick Montgomery has other sources of income, such should have been identified.

Defendant Patrick Montgomery should be required by the Court to show cause as to why he should not be held in contempt for his willful noncompliance with the Order.

**D. Defendant Patrick Montgomery's Supplemental Response to Interrogatory 38**

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

**ANSWER: Patrick Montgomery was employed by the Sewer District for 25 years prior to the subject accident. He was terminated after the subject accident and is not currently employed.**

This answer is incomplete and non-responsive. It does not provide addresses, phone numbers,

or names of payroll and HR. It merely repeats the preceding answer.

Defendant Patrick Montgomery should be required by the Court to show cause as to why he should not be held in contempt for his willful noncompliance with the Order.

**E. Defendant Patrick Montgomery's Supplemental Response to Interrogatory 43**

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: Defendant Patrick Montgomery has a bank account with Federal Credit Union, previously Heritage Trust with account number 111602. Prior to the subject accident, he was the only individual on the bank account. Following the accident, while he was in jail and the hospital, his wife, Sabrina Montgomery was added to the account.**

This answer is incomplete and non-responsive. It does not provide the requested information.

Defendant Patrick Montgomery should be required by the Court to show cause as to why he should not be held in contempt for his willful noncompliance with the Order:

**F. Defendant Patrick Montgomery's Supplemental Response to Request for Production Number 32 (Pre-Litigation Claims File)**

The Court ordered the production of the pre-litigation claims file for both Defendant Patrick Montgomery and Defendant Sabrina Montgomery. In doing so, the Court expressly OVERRULED objections to the request. Defendants Patrick Montgomery supplemented Requests for Production Numbers 2 and 32 and identified the pre-litigation claims file and produced a redacted copy of the file as well as a "privilege log."

Defendant Patrick Montgomery failed to comply with the Order because:

1. There was no accompanied verification attesting to the completeness of the claims file for Patrick Montgomery as Ordered<sup>2</sup>;
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, and only produced 33 pages with the remaining ports being redacted 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 that submission, none of which occurred.

# Pages	Author/Recipient	Title or Description	Privilege Claimed
1-108	Allstate Adjuster	Claim File Notes Pre-Retention of Counsel and redacted Claims File Notes after retention	Prepared in anticipation of litigation. Attorney/Client privilege.

Defendant Patrick Montgomery and the Allstate adjuster should be required by the Court to show cause as to why he should not be held in contempt for his willful noncompliance with the Order.

<sup>2</sup> An "Attestation" by an Allstate adjuster, Lisa Cutlip, was served by Sabrina Montgomery dated May 14, 2024. However, this document contained various defects and will be addressed below.

**AS TO DEFENDANT SABRINA MONTGOMERY**

On September 9, 2024, approximately six months after Judge Goodstein's Order was issued, Defendant Sabrina Montgomery served supplemental discovery responses on Plaintiff.<sup>3</sup> While Defendant produced some of the requested items, numerous deficiencies remain outstanding:

**A. Defendant Sabrina Montgomery's Supplemental Responses to Request for Production Numbers 13 [sic. 39] and 14 [sic. 40] (Cell Phone Records)**

As shown below, these requests seek Defendant Sabrina Montgomery's cell phone records for the period surrounding the subject collision:

39. 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.

**RESPONSE: Plaintiff's attorney can subpoena this information.**

40. 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.

**RESPONSE: None.**

Now, over a year later and when ordered by Judge Goodstein to provide the documents, the information is "unavailable" due to a broken phone screen.

40. 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.

**RESPONSE: Defendant's Samsung phone screen is broken.**

The Court ordered these materials to be produced but Defendant Sabrina Montgomery has not complied with the Order. Now, apparently claims she is unable to comply because the screen of her

<sup>3</sup> Defendant Sabrina Montgomery's discovery responses are misnumbered.

cell phone is broken.

These answers are non-responsive and evasive. Plaintiff requested the bill, text messages, call logs, and other materials that are available to Sabrina Montgomery even if the cell phone is broken. The bill will contain information as to the account holder, i.e. whether it is her, her husband, or her business. The data is likely stored on the T-Mobile cloud and can be accessed, downloaded and produced. Data has likely been transferred to a new phone. All of which was ordered to be produced and has not been. Typically, subpoena responses for cell phone data do not contain all of the materials and data requested herein, but the same is almost always accessible by the user or account holder.

Notably, the initial and supplemental responses are contradictory and concerning, especially if the requested information, originally sought a year and a half ago, is now unavailable. It is these types of discovery deficiencies that have plagued this case and necessitated discovery motions.

Plaintiff requests Defendant Sabrina Montgomery show cause as to why this information was not timely produced when it was available.

Furthermore, Plaintiff requests the Court order the phone be produced for forensic inspection within twenty (20) days, and also for an authorization to be executed by Sabrina Montgomery to obtain all data from her cell phone(s) during the applicable time period (in lieu of a subpoena), with such costs borne by Defendant Sabrina Montgomery.

In the event cause does not exist and the information cannot be retrieved through forensic inspection, Plaintiff reserves the right to request a judicial finding of spoliation and needs to be able to verify that the requested evidence is no longer available.

**B. Defendant Sabrina Montgomery's Supplemental Response to Request for Production Number 22 (Pre-Litigation Claims File)**

Judge Goodstein 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. In producing the file, Defendant Sabrina Montgomery relied on the Allstate claims file produced by Defendant Patrick Montgomery. Thereafter, in May of 2024, Defendant Montgomery produced a verification from Allstate representative Lisa Cutlip advising that the claims file sent by Defendant Patrick Montgomery was accurate.

Such a response is noncompliant as the Court ordered Defendant Sabrina Montgomery, individually, to produce a copy of the claims file to ensure the thoroughness of all documents produced in discovery in the event more than one claims file exists, which may be very likely given the existence of separate counsel for each Defendant. Further, the verification does not indicate that a full and complete copy of the claims file was produced but merely attests to the accuracy of the information contained therein. The Order clearly required the affidavit state 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.” [Ex. A, pg. 2]. Omitting the required language from the verification alongside the nondisclosure of various attachments leaves Plaintiff concerned about the validity and comprehensiveness of the produced claims file. Plaintiff requests Defendant comply with the Court’s Order.

**C. Defendant Sabrina Montgomery’s Supplemental Response to Request for Production Numbers 40-45 [sic. 66-71] (Financial Information)**

These Requests seek tax records and financial documents maintained by Defendant Sabrina Montgomery, which were ordered to be produced by Judge Goodstein:

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

**RESPONSE: None. Defendant does not have an accountant.**

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

**RESPONSE: None.**

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

**RESPONSE: None.**

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

**RESPONSE: None.**

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

**RESPONSE: Sabrina Montgomery filed a Schedule C with the Montgomery Construction's tax returns.**

71. 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: None.**

Defendant indicated no responsive documents exist and thereafter provided a bank statement for February, March, and April of 2023 and some tax returns which appear incomplete, unsigned, and total only a few pages. (Exhibit H). Defendant Sabrina Montgomery also craves reference to a filed Schedule C but does not provide the corresponding document. Further conflating the issue is that Defendant Montgomery states she does not have an accountant, yet the unsigned tax returns indicate they were prepared by accountants:

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.			
Your signature AMY BAKER	Date 06/12/2023	Your occupation TRANSPORTATION	If the IRS sent you an Identity Protection PIN, enter it here (See Inst.)
Spouse's signature, if a joint return, both must sign.	Date	Spouse's occupation	If the IRS sent your spouse an Identity Protection PIN, enter it here (See Inst.)
Phone no.	Email address 01AMNRA@OL.COM		
<b>Paid Preparer Use Only</b>	Preparer's name AMY BAKER	Preparer's signature	Date 06/12/2023
	Firm's name EBU Accounting Group LTD	Phone no. (843) 871-9028	PPN P01297110
	Firm's address 901 Old Trolley Rd Suite D Summerville SC 29485	Firm's EIN 57-0674655	Check if <input type="checkbox"/> Self-employed

Go to www.irs.gov/form1040 for instructions and the latest information. **BAA** REV 03/2022 PRO Form 1040 2022

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.			
Your signature KATE DESOH	Date 05/19/2022	Your occupation TRANSPORTATION	If the IRS sent you an Identity Protection PIN, enter it here (See Inst.)
Spouse's signature, if a joint return, both must sign.	Date	Spouse's occupation	If the IRS sent your spouse an Identity Protection PIN, enter it here (See Inst.)
Phone no.	Email address DTAG@AOL.COM		
<b>Paid Preparer Use Only</b>	Preparer's name KATE DESOH	Preparer's signature	Date 05/19/2022
	Firm's name Fish, Streyffelder & Ulmer LTD	Phone no. (843) 871-9028	PPN P01809759
	Firm's address 901 Old Trolley Rd Suite D Summerville SC 29485	Firm's EIN 57-0674655	Check if <input type="checkbox"/> Self-employed

Go to www.irs.gov/form1040 for instructions and the latest information. **BAA** REV 03/2022 PRO Form 1040 2022

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.			
Your signature ALLISON KAVENEY	Date 03/23/2021	Your occupation TRANSPORTATION	If the IRS sent you an Identity Protection PIN, enter it here (See Inst.)
Spouse's signature, if a joint return, both must sign.	Date	Spouse's occupation	If the IRS sent your spouse an Identity Protection PIN, enter it here (See Inst.)
Phone no.	Email address		
<b>Paid Preparer Use Only</b>	Preparer's name ALLISON KAVENEY	Preparer's signature	Date 03/23/2021
	Firm's name Fish, Streyffelder & Ulmer LTD	Phone no. (843) 871-9028	PPN P02078511
	Firm's address 901 Old Trolley Rd Suite D Summerville SC 29485	Firm's EIN 57-0674655	Check if <input type="checkbox"/> Self-employed

Go to www.irs.gov/form1040 for instructions and the latest information. **BAA** REV 03/2021 PRO Form 1040 2022

The purpose of these requests is to ascertain the Defendant's financial status as it is clear she is underinsured. The documents produced by Defendant do not comply with Judge Goodstein's ruling, are inadequate, and unresponsive. By way of example, Plaintiff subpoenaed Defendant Sabrina Montgomery's bank statements and received hundreds of pages of records. Records that should have been produced by Defendant Sabrina Montgomery as the party who maintains control over such documents and can log in to her bank account and download the information, as required by the Order.

Plaintiff requests the Court order an authorization to be executed by Sabrina Montgomery to obtain all data from her accountant(s) during the applicable time period (in lieu of a subpoena).

**D. Defendant Sabrina Montgomery's Privilege Log**

Defendant Sabrina Montgomery's supplemental discovery contains numerous responses which state that "Defendant produces all discoverable documents." Such a statement by its very nature suggests there are withheld documents which Defendant maintains are privileged and not subject to discovery. However, no privilege log was produced to detail what documents were withheld despite Judge Goodstein's requirement that a privilege log detail every withheld document.

**CONCLUSION**

Plaintiff requests the Court order that Defendants show cause as to why they should not be held in contempt, supplement their discovery responses, and award such other relief as the Court deems just and proper, to include costs and sanctions against the Defendants.

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Charleston, South Carolina  
 January 6, 2025



ELECTRONICALLY FILED - 2023 Feb 02 4:32 PM - BERKELEY - COMMON PLEAS - CASE#2023CP0801652

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), SCRCP, 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.**

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The Honorable Diane Schafer Goodstein

ELECTRONICALLY FILED - 2025 Feb 05 4:32 PM - BERKELEY - COMMON PLEAS - CASE#2023CP0801652



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

Electronically signed on 2024-02-02 15:54:52 page 9 of 9

ELECTRONICALLY FILED - 2024-02-02 15:54:52 PM - BERKELEY - COMMUNITY SERVICES - COUNTY OF ALAMEDA - 2023CP0801652



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: DLN: SC 086**

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 GOUDELICK & 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](mailto: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](mailto: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](mailto: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

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

**DEFENDANT PATRICK  
MONTGOMERY'S RESPONSES TO  
PLAINTIFF'S FIRST REQUESTS FOR  
PRODUCTION**

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 (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.

**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 (e.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.



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1320 Main Street, 10th Floor (29201)  
Columbia, South Carolina 29211  
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Facsimile: (803) 748-0526

ATTORNEYS FOR PATRICK MONTGOMERY

October 9 2023  
Columbia, South Carolina



ELECTRONICALLY FILED - 2025 Jan 06 4:02 PM - BERKELEY - COMMON PLEAS - CASE#2023CP0801652

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

**DEFENDANT PATRICK MONTGOMERY'S SUPPLEMENTAL RESPONSES TO PLAINTIFF'S FIRST REQUESTS FOR PRODUCTION**

TO: PLAINTIFF AND MARK BRINGARDNER, ESQUIRE, ATTORNEY FOR PLAINTIFF:

Defendant, Patrick Montgomery, ("Defendant") supplements his response to Plaintiff's Request for Production of Documents pursuant to Rule 34 of the South Carolina Rules of Civil Procedure as follows:

**REQUESTS FOR PRODUCTION**

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:

- 1. Redacted Claims File Notes.

**Additionally, Please see Defendant's privilege log attached.**

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

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:**

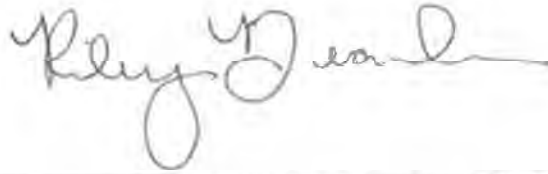
**1. Redacted Claims File Notes.**

**Additionally, Please see Defendant's privilege log attached.**

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

*(Signature on following page)*

MCANGUS GOUDELICK & COURIE, L.L.C.



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riley.bearden@mgclaw.com

BRETT H. BAYNE (SC Bar No. 100018)

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ATTORNEYS FOR PATRICK MONTGOMERY

January 22 2024

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

**DEFENDANT PATRICK  
 MONTGOMERY'S SUPPLEMENTAL  
 ANSWERS TO PLAINTIFF'S FIRST  
 SET OF INTERROGATORIES**

TO: PLAINTIFF AND MARK BRINGARDNER, ESQUIRE, ATTORNEY FOR  
 PLAINTIFF:

Defendant, Patrick Montgomery, ("Defendant") supplements his response to Plaintiff's  
 Interrogatories pursuant to Rule 33 of the South Carolina Rules of Civil Procedure as follows:

**INTERROGATORIES**

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: Patrick Montgomery was employed by the Sewer District for 25 years  
 prior to the subject accident. He was terminated after the subject accident and is not  
 currently employed.**

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: No.**

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

**ANSWER: Patrick Montgomery was employed by the Sewer District for 25 years prior to the subject accident. He was terminated after the subject accident and is not currently employed.**

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: Defendant was taken to either Trident Medical Center or Roper Saint Francis Berkeley Hospital via police squad car after being processed at the Berkeley County Detention Center and provided with treatment there.**

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

**ANSWER: Patrick Montgomery was employed by the Sewer District for 25 years prior to the subject accident. He was terminated after the subject accident and is not currently employed.**

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

**ANSWER: Patrick Montgomery was employed by the Sewer District for 25 years prior to the subject accident. He was terminated after the subject accident and is not currently employed.**

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: Defendant Patrick Montgomery has a bank account with Federal Credit Union, previously Heritage Trust with account number 111602. Prior to the subject accident, he was the only individual on the bank account. Following the accident, while he was in jail and the hospital, his wife, Sabrina Montgomery was added to the account.**

MCANGUS GOUDELICK & COURIE, L.L.C.



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Facsimile: (803) 748-0526

ATTORNEYS FOR PATRICK MONTGOMERY

February 20, 2024  
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

**VERIFICATION**

Personally appeared before me the undersigned, who being first duly sworn, deposes and states that he has read the foregoing Supplemental Answers to Plaintiff's Interrogatories and the matters and things stated in them are true to his own knowledge, except those matters and things stated on information and belief, and those he believes to be true.

BY:

Patrick Montgomery

Sworn to and subscribed before me  
this 16 day of February, 2024.

[Signature]  
Notary Public for South Carolina  
My commission expires 1/2029



**BRINGARDNER**  
**INJURY LAW FIRM**

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](http://www.bringardner.com)

**Chris Dorsel**  
Email: [cdorsel@bringardner.com](mailto:cdorsel@bringardner.com)

May 7, 2024

**Via E-mail: [dcobb@turnerpadget.com](mailto:dcobb@turnerpadget.com)**

David S. Cobb, Esquire  
Turner Padget Graham & Laney, PA  
Post Office Box 22129  
Charleston, SC 29413-2129

Re: Kanisha Nash v. Sabrina Montgomery, et al.  
Case Number: 2023-CP-08-01652

Dear David:

We are following up concerning your client's discovery responses, which are mostly complete. In Judge Goodstein's February 2, 2024, Order on Plaintiff's Motion to Compel, the Court required that an affidavit be signed by the defendant and an insurance company representative for the defendant. The affidavits were to confirm, on penalty of perjury, that all responsive materials have been provided. We do not see either of those affidavits in your supplemental responses.

Could you please review your file and provide those affidavits to us within the next ten (10) days?

Very truly yours,

**BRINGARDNER INJURY LAW FIRM, LLC**

Christopher T. Dorsel, Esq.

ELECTRONICALLY FILED - 2025 Jan 06 1:02 PM - BERKELEY - COMMON PLEAS - CASE#2023CP0001652



# BRINGARDNER

## INJURY LAW FIRM



ELECTRONICALLY FILED - 2025 Jan 06 1:02 PM - BERKELEY - COMMON PLEAS - CASE#2023CP0801652

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](http://www.bringardner.com)

Chris Dorsel  
Email: [cdorsel@bringardner.com](mailto:cdorsel@bringardner.com)

May 7, 2024

**Via E-mail: [riley.bearden@mgclaw.com](mailto: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:

Please allow this letter to serve as our good faith attempt to address your client's failure to comply with Judge Goodstein's February 2, 2024, Order on Plaintiff's Motion to Compel. We would like to informally resolve the deficiencies prior to requesting court involvement. We understand that your client was in the hospital for some length of time earlier this year. However, it is our understanding that he has been out of the hospital for over two months, which would provide plenty of time to supplement his discovery responses.

Below, we will address the requirements of Judge Goodstein's Order and the portions of the Order that we believe your client has not complied with.

### **Judge Goodstein's Order**

As to all Defendants, Judge Goodstein ordered the following:

- I. If a claim of privilege is made, a privilege log should be provided that identifies the following:
  - A. Document withheld;
  - B. Nature of privilege or protection claimed;

- C. Name of person making and receiving the material;
  - D. Date material created; and
  - E. Material's general subject matter.
- II. If privilege is asserted, the defendant must provide the Privilege Log and all documents identified in the Privilege Log to court for *in camera* review and:
- A. Provide Privilege Log and documents to Court within thirty (30) days of the Order; and
  - B. Notify Plaintiff's counsel when submission is made to court.
- III. Provide Affidavits from the named Defendant and an Insurance Representative that are:
- A. Signed under penalty of perjury; and
  - B. Aver that all documents and information have either been produced or have been identified in a privilege log.

As to Patrick Montgomery, individually,

- I. Provide responses to Interrogatory numbers 4, 8, 10-12, 14, 20, 16-27, 29, 37, 38, 43, 36-51;
- II. Provide responses to Requests for Production numbers 12, 16-25, 27-31, 50-56;
- III. Provide supplemental responses or a privilege log for Interrogatory numbers 3, 30, 34, and 35;
- IV. Provide supplemental responses or a privilege log for Requests for Production 2, 37-39;
- V. Provide supplemental written response and documents for Request for Production number 32; and
- VI. For Interrogatories numbers 15 and 16 and Requests for Production numbers 13, 14, and 15 where the Fifth Amendment privilege was claimed, Defendant Patrick Montgomery must:
  - A. Consult with his civil and criminal attorneys;
  - B. Evaluate whether Fifth Amendment privilege truly applies to the documents or information;
  - C. If the privilege is modified or withdrawn, provide a complete response within thirty (30) days; and
  - D. If the privilege is not withdrawn, provide a privilege log.

**Deficiencies**

Montgomery Construction provided supplemental discovery responses on January 22, 2024, and February 20, 2024. However, upon review, we note the following deficiencies:

1. No affidavit provided from defendant or an insurance company representative;
2. No supplemental response or privilege log for Interrogatory numbers 3, 4, 8, 14-19, 21-27, 29, 26, 30, 34, 35, 39-42, 44-51;
3. No supplemental response or privilege log for to Requests for Production 12-15, 16-25, 27-31, 37-39, 50-56;
4. Privilege log does not comply with the Order; and
5. Documents claimed to be privileged were not submitted to Court for *in camera* review.

Please review your file and correct these deficiencies within the next ten (10) days. If we are incorrect about any of the above and your client has provided us with these responses, please let us know and provide us with a copy of those responses.

Thank you for your attention to this matter.

Very truly yours,

**BRINGARDNER INJURY LAW FIRM, LLC**



Christopher T. Dorsel, Esq.

cc: Peter McCoy (via email)



ELECTRONICALLY FILED - 2025 Jan 06 1:02 PM - BERKELEY - COMMON PLEAS - CASE#2023CP0801652

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF BERKELEY	)	Docket No.: 2023-CP-08-1652
	)	
KANISHA NASH,	)	
	)	
Plaintiff,	)	
	)	
v.	)	<b>SABRINA MONTGOMERY'S THIRD</b>
	)	<b>SUPPLEMENTAL ANSWERS TO</b>
	)	<b>INTERROGATORIES</b>
	)	
PATRICK MONTGOMERY,	)	
SABRINA MONTGOMERY, AND	)	
MONTGOMERY CONSTRUCTION,	)	
LLC,	)	
	)	
Defendant.	)	

Sabrina Montgomery answers Plaintiff's interrogatories as follows:

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:**  
**Sabrina Montgomery**  
**408 North Tee Line Drive**  
**Ridgeland, SC 29472**  
**No recorded statement**

Defense counsel reserves the right to call additional witnesses, including any witness and expert identified by any party through the course of discovery and Plaintiff's medical providers and records custodians.

Ms. Montgomery did not witness the accident alleged in the Complaint and craves reference to the accident report for additional witnesses, including parties listed in the caption. Ms. Montgomery and son Patrick Montgomery were in the video at the scene after the accident. Neither witnessed the accident.

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: None other than what is stated in the accident report.**

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:**

- (a) Accident report (Givens vs. Montgomery)
- (b) Accident report (Nash vs. Montgomery)
- (c) Allstate Policy page
- (d) Sabrina Montgomery's driver's license
- (e) Photographs taken at the scene after the accident
- (f) Photographs of vehicles.
- (g) Additional photographs of Plaintiff's vehicle
- (h) Market Evaluation Summary of Plaintiff's vehicle
- (i) Documents showing work production
- (j) Sabrina Montgomery tax returns
- (k) statements from REV for February-April 2023

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: Not applicable.**

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:**

**Allstate Fire and Casualty Insurance Company**

**Claim No.: 0710622036**

**Policy No.: 968905683**

**Limits: 100/300/50**

**No Reservation of Rights letter received to date. The understanding is that Allstate tendered the applicable coverage to Plaintiff's attorney.**

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.

**ANSWER: Defense counsel has not retained an expert witness at this time; however, counsel notifies the parties that he reserves the right to retain and use an expert witness in preparation for trial and/or at the trial of this case and will promptly notify the parties as required by Court rules.**

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: None.**

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:  
Sabrina Montgomery**

**Maiden name: Lloyd**  
**Date of Birth:**  
**Social Security No.: xxx-xx-8024**

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

**ANSWER: 408 North Teel Line Drive, Ridgeville, SC 29472 during those years.**

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: Self-employed at Montgomery Construction, LLC during those years. The business is a dump truck.**

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.

**ANSWER: Cell No.: (843) 607-0193 (T-Mobile)**

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.

**ANSWER: The vehicle only had liability coverage at the time of the accident. Sabrina Montgomery does not drive the vehicle now and**

does not think the vehicle is operable. She gave the title to Prince's Towing in Moncks Corner.

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.

**ANSWER: None.**

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.

**ANSWER: Sabrina Montgomery had a Facebook account under her name. The account is closed and she does not remember the user name for the account.**

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

**ANSWER: Defendant was not present at the time of the accident.**

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.

**ANSWER: None.**

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.

**ANSWER: None.**

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.

**ANSWER: None.**

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.

**ANSWER: Not applicable. Defendant did not witness the accident and does not know of any actions or inactions by Plaintiff or anyone else. Title to vehicle was in her name before she gave title to Prince's Towing.**

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.

**ANSWER: Not applicable. Defendant asserted three affirmative defenses: (1) "Reservation of Rights" to assert any additional affirmative defense, which is self-explanatory; (2) a standard "Punitive Damages" defense, which is self-explanatory; and (3) "Failure to State of Claim" since Ms. Montgomery was not involved in the accident.**

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.

**ANSWER: No.**

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.

**ANSWER: Sabrina Montgomery is properly named.**

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.

**ANSWER: Defendant did not witness the accident and does not assess fault against any party because of her lack of knowledge about the accident.**

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.

**ANSWER: Not applicable and/or No. Defendant did not witness the accident.**

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.

**ANSWER: None.**

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

**ANSWER: Sabrina Montgomery owns Montgomery Construction and drives the dump truck. Elizabeth Dobinson drove the dump truck during the daytime before COVID and from approximately November 2022 until April 2023. Jarez Gadsden started in approximately May 2023.**

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

**ANSWER: Montgomery Construction, LLC. 408 North Tee Line Drive Ridgeville, SC 29472. (843) 607-0193.**

28. For each employer or business from which you receive income, identify:
- How often you are paid;
  - Your gross pay each pay period;
  - Your take-home pay each pay period.

**ANSWER: Montgomery Construction bills \$80.00 per hour for its services. It uses any payment to pay the driver and for loans, fuel, insurance, maintenance, etc. Sabrina Montgomery's tax returns are attached. She is paid every week but the amount (approximately \$2000-5000 per week) varies depending on the amount of work and is used to pay for the items listed above.**

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.

**ANSWER: Patrick Montgomery worked at North Charleston Sewer District, 7225 Stall Road, North Charleston, SC.**

30. How much money do you have in cash?

**ANSWER: Sabrina Montgomery has an account at Heritage Trust (now REV Federal Credit Union) with a small balance.**

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?

**ANSWER: First Citizen Bank (approximately \$9,000.00) and Wells Fargo (approximately \$6,000.00-11,000.00).**

32. Identify all financial accounts that you maintain, including:
- The name and address of the financial institution;
  - The account number;
  - Whether it is an individual or joint account;
  - The balance.

**ANSWER: REV Federal Credit Union savings account had Georgetta D. Lloyd listed as joint owner in 2023. See attached 2023 statements**

for that information. The Wells Fargo and First Citizens' accounts are individual accounts and described within the Montgomery Construction's answers to Plaintiff's supplemental interrogatory # 10 and response to Plaintiff's supplemental RFP # 38 (dated June 5, 2024).

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

**ANSWER: GMC Yukon, Mercedes Benz sedan, and Ford F-150.**

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

**ANSWER: Sabrina Montgomery shares an interest with her husband with the land and trailer where they have resided for approximately 20 years.**

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

**ANSWER: No other.**

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.

**ANSWER: No other significant assets.**

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.

**ANSWER: None.**

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.

**ANSWER: None, other than giving title for the vehicle involved in the**

**accident to Prince's Towing.**

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

**ANSWER: Defendant changed her insurance on June 10, 2023.**

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.

**ANSWER: Lauren Baldwin was Defendant's Allstate agent. The address and contact information for the Allstate agent can be found on the copy of the insurance policy and declarations page provided previously. She now gets insurance through Progressive and the agent is Winningham Insurance Agency at 1672 North Main Street, Summerville, SC 29483.**

  
TURNER PADGET

David S. Cobb (Bar Number 66569)  
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Charleston, South Carolina

September 9, 2024

ATTORNEYS FOR DEFENDANT SABRINA  
MONTGOMERY

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF BERKELEY	)	Docket No.: 2023-CP-08-1652
KANISHA NASH,	)	
	)	
Plaintiff,	)	
	)	
v.	)	<b>SABRINA MONTGOMERY'S THIRD</b>
	)	<b>SUPPLEMENTAL RESPONSES</b>
PATRICK MONTGOMERY,	)	
SABRINA MONTGOMERY, AND	)	
MONTGOMERY CONSTRUCTION,	)	
LLC,	)	
	)	
Defendant.	)	
_____	)	

Sabrina Montgomery responds Plaintiff's request for production as follows:

27. 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: See attached documents, which included the applicable Allstate policy and declarations page.**

28. 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:** See attached documents. Defendant had a video of the scene after the accident happened but lost the phone containing the video during the recent storm. Some screenshots of the video are attached, which were provided to defense counsel before the storm as part of gathering documents for this discovery response. Counsel for Montgomery Construction was sent the video before the phone was damaged.

29. 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:** None.

30. 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 produces all discoverable documents and does not possess any statements of any witness.

31. 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 produces all discoverable documents and does not possess any communication.

32. 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:** None.

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

**RESPONSE:** Defendant produces all discoverable documents. Defendant had a video of the scene after the accident happened but has since then lost the phone with the video. Some screenshots of the video are attached. Defendant also produces photographs obtained from the insurer.

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

**RESPONSE:** Defendant produces all discoverable documents. Defendant had a video of the scene after the accident happened but has since then lost the phone with the video. Some screenshots of the video are attached.

35. 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's vehicle was totaled. See also the Market Condition Survey of Plaintiff's vehicle submitted to counsel. McElveen did the majority of the service to Sabrina Montgomery's truck.

36. 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.

**RESPONSE:** None. Prince's Towing would have any such information, and, upon information and belief, Plaintiff subpoenaed that business for the records. Defendant and counsel have not received a copy of those records.

37. 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.**

38. 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: See attached.**

39. 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.

**RESPONSE: Plaintiff's attorney can subpoena this information.**

40. 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.

**RESPONSE: Defendant's Samsung phone screen is broken.**

41. 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: None.**

42. 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: Defendant produces all discoverable documents.**

43. 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.

**RESPONSE: Defendant does not possess any such information.**

44. 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.

**RESPONSE: None.**

45. 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: As stated, Defendant gave title to the vehicle to Prince's Towing in exchange for the tow and storage charges.**

46. 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: None.**

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

**RESPONSE: None.**

48. 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: Co-defendant produced this information.**

49. 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.**

50. 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: Defendant produces all discoverable documents. Defendant had a video of the scene after the accident happened but has since then lost the phone with the video. Some screenshots of the video are attached.**

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

**RESPONSE: None.**

52. 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: None.**

53. 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 does not contend.**

54. 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 does not contend.**

55. 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 does not contend.**

56. 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: See documents produced.**

57. 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:** See documents produced.

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

**RESPONSE:** None.

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

**RESPONSE:** None.

60. 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:** Defense counsel has not retained an expert witness at this time; however, counsel notifies the parties that he reserves the right to retain and use an expert witness in preparation for trial and/or at the trial of this case and will promptly notify the parties as required by Court rules.

61. 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:** None.

62. 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: See documents produced.**

63. 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: See attached Allstate policy, which is the only insurance policy Defendant had covering the vehicle involved in the accident.**

64. 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: See documents produced.**

65. 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: The listed financial institutions and tax preparers should have documents responsive to this request pursuant to subpoenas issued by Plaintiff or any other party. Defendant provided the documents in her possession.**

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

**RESPONSE: None. Defendant does not have an accountant.**

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

**RESPONSE: None.**

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

**RESPONSE: None.**

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

**RESPONSE: None.**

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

**RESPONSE: Sabrina Montgomery filed a Schedule C with the Montgomery Construction's tax returns.**

71. 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: None.**

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

**RESPONSE: See documents produced previously.**

A handwritten signature in black ink, appearing to read 'DAVID S. COBB', is written over a horizontal line.

TURNER PADGET  
David S. Cobb (Bar Number 66569)  
Post Office Box 22129  
Charleston, South Carolina 29413-2129  
Direct: (843) 576-2803  
Fax: (843) 577-1629  
[dcobb@turnerpadget.com](mailto:dcobb@turnerpadget.com)

Charleston, South Carolina

September 9, 2024

ATTORNEYS FOR DEFENDANT SABRINA  
MONTGOMERY

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

KANISHA NASH,

Plaintiff,

v.

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

Defendant.

IN THE COURT OF COMMON PLEAS

Docket No.: 2023-CP-08-1652

ATTESTATION

I attest to the accuracy of the following supplemental answers to Plaintiff's discovery:

  
\_\_\_\_\_  
Sabrina Montgomery



Form **1040** Department of the Treasury - Internal Revenue Service  
**U.S. Individual Income Tax Return**

**2022**

OMB No. 1545-0074 IR3 U

**Filing Status**  Single  Married filing jointly  Married filing separately (MFS)  Head of household (HOH)  Qualifying surviving spouse (QSS)

Check only one box. If you checked the MFS box, enter the name of your spouse. If you checked the HOH or QSS box, enter the child's name if the qualifying person is a child but not your dependent: **PATRICK MONTGOMERY**

Your first name and middle initial: **SABRINA M** Last name: **MONTGOMERY** Your social security number: **0024**

If joint return, spouse's first name and middle initial: Last name: Spouse's social security number:

Home address (number and street), if you have a P.O. box, see instructions: **408 N TEE LINE DR** Apt. no.:  
 City, town, or post office, if you have a foreign address, also complete spaces below: **RIDGEVILLE** State: **SC** ZIP code: **29472**  
 Foreign country name: Foreign province/state/country: Foreign postal code: Presidential Election Campaign:  You  Spouse

**Digital Assets** At any time during 2022, did you: (a) receive (as a reward, award, or payment for property or services), or (b) sell, exchange, gift, or otherwise dispose of a digital asset (or a financial interest in a digital asset)? (See instructions.)  Yes  No

**Standard Deduction** Someone can claim:  You as a dependent  Your spouse as a dependent  Spouse itemizes on a separate return or you were a dual-status alien

**Age/Blindness** You:  Were born before January 2, 1958  Are blind Spouse:  Was born before January 2, 1958  Is blind

**Dependents** (see instructions):

(1) First name	Last name	(2) Social security number	(3) Relationship to you	(4) Check the box if qualifies for (see instructions)	Child tax credit	Credit for other dependents
					<input type="checkbox"/>	<input type="checkbox"/>
					<input type="checkbox"/>	<input type="checkbox"/>
					<input type="checkbox"/>	<input type="checkbox"/>
					<input type="checkbox"/>	<input type="checkbox"/>

**Income**

1a Total amount from Form(s) W-2, box 1 (see instructions)	1a
b Household employee wages not reported on Form(s) W-2	1b
c Tip income not reported on line 1a (see instructions)	1c
d Medicaid waiver payments not reported on Form(s) W-2 (see instructions)	1d
e Taxable dependent care benefits from Form 2441, line 2b	1e
f Employer-provided adoption benefits from Form 8839, line 2b	1f
g Wages from Form 8919, line 6	1g
h Other earned income (see instructions)	1h
i Nontaxable combat pay election (see instructions)	1i
z Add lines 1a through 1h	1z

2a Tax-exempt interest	2a	b Taxable interest	2b
3a Qualified dividends	3a	b Ordinary dividends	3b
4a IRA distributions	4a	b Taxable amount	4b
5a Pensions and annuities	5a	b Taxable amount	5b
6a Social security benefits	6a	b Taxable amount	6b

7 Capital gain or (loss). Attach Schedule D if required. If not required, check here	7
8 Other income from Schedule E, line 10	8 -56,497.
9 Add lines 2c, 2b, 3b, 4b, 5b, 6b, 7, and 8. This is your total income	9 -56,497.
10 Adjustments to income from Schedule 1, line 2b	10
11 Subtract line 10 from line 9. This is your adjusted gross income	11 -56,497.
12 Standard deduction or itemized deductions (from Schedule A)	12 12,950.
13 Qualified business income deduction from Form 8995 or Form 8995-A	13 0.
14 Add lines 12 and 13	14 12,950.
15 Subtract line 14 from line 11. If zero or less, enter -0-. This is your taxable income	15 0.

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**Filing Status**  Single  Married filing jointly  Married filing separately (MFS)  Head of household (HOH)  Qualifying widow(er) (QW)  
Check only one box. If you checked the MFS box, enter the name of your spouse. If you checked the HOH or QW box, enter the child's name if the qualifying person is a child but not your dependent ▶ **PATRICK MONTGOMERY**

Your first name and middle initial <b>SABRINA M</b>	Last name <b>MONTGOMERY</b>	Your social security number [REDACTED]-8024
If joint return, spouse's first name and middle initial	Last name	Spouse's social security number [REDACTED]

Home address (number and street). If you have a P.O. box, see instructions:  
**408 N TEE LINE DR**

City, town, or post office. If you have a foreign address, also complete spaces below.  
**RIDGEVILLE**

State: **SC** ZIP code: **29472**

Foreign country name: Foreign province/state/county: Foreign postal code:

**Presidential Election Campaign**  
Check here if you, or your spouse if filing jointly, want \$3 to go to this fund. Checking a box below will not change your tax or refund.  
 You  Spouse

At any time during 2021, did you receive, sell, exchange, or otherwise dispose of any financial interest in any virtual currency?  Yes  No

**Standard Deduction** Someone can claim:  You as a dependent  Your spouse as a dependent  
 Spouse itemizes on a separate return or you were a dual-status alien

**Age/Blindness** You:  Were born before January 2, 1957  Are blind Spouse:  Was born before January 2, 1957  Is blind

**Dependents** (see instructions):

(1) First name	Last name	(2) Social security number	(3) Relationship to you	(4) <input checked="" type="checkbox"/> It qualifies for (see instructions):	
				Child tax credit	Credit for other dependents
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>

<b>1</b> Wages, salaries, tips, etc. Attach Form(s) W-2						
<b>2a</b> Tax-exempt interest	<b>2a</b>	<b>b</b> Taxable interest	<b>2b</b>	<b>3</b>	<b>3b</b>	
<b>3a</b> Qualified dividends	<b>3a</b>	<b>b</b> Ordinary dividends	<b>3b</b>	<b>4</b>	<b>4b</b>	
<b>4a</b> IRA distributions	<b>4a</b>	<b>b</b> Taxable amount	<b>4b</b>	<b>5</b>	<b>5b</b>	
<b>5a</b> Pensions and annuities	<b>5a</b>	<b>b</b> Taxable amount	<b>5b</b>	<b>6</b>	<b>6b</b>	
<b>6a</b> Social security benefits	<b>6a</b>	<b>b</b> Taxable amount	<b>6b</b>	<b>7</b>		
<b>7</b> Capital gain or (loss). Attach Schedule D if required. If not required, check here <input type="checkbox"/>				<b>8</b>		-13,854.
<b>8</b> Other income from Schedule 1, line 10				<b>9</b>		-13,854.
<b>9</b> Add lines 1, 2b, 3b, 4b, 5b, 6b, 7, and 8. This is your <b>total income</b>				<b>10</b>		
<b>10</b> Adjustments to income from Schedule 1, line 2b				<b>11</b>		-13,854.
<b>11</b> Subtract line 10 from line 9. This is your <b>adjusted gross income</b>				<b>12a</b>	12,550.	
<b>12a</b> Standard deduction or itemized deductions (from Schedule A)	<b>12a</b>			<b>12b</b>		
<b>b</b> Charitable contributions if you take the standard deduction (see instructions)				<b>12c</b>	12,550.	
<b>c</b> Add lines 12a and 12b				<b>13</b>	0.	
<b>13</b> Qualified business income deduction from Form 8995 or Form 8995-A				<b>14</b>	12,550.	
<b>14</b> Add lines 12c and 13				<b>15</b>	0.	
<b>15</b> Taxable income. Subtract line 14 from line 11. If zero or less, enter -0-						



Form **1040** Department of the Treasury—Internal Revenue Service (39) **U.S. Individual Income Tax Return**

**2020**

OMB No. 1545-0074 IRS Use Only—Do not write or staple in this space.

**Filing Status**  Single  Married filing jointly  Married filing separately (MFS)  Head of household (HOH)  Qualifying widow(er) (QW)  
 Check only one box. If you checked the MFS box, enter the name of your spouse. If you checked the HOH or QW box, enter the child's name if the qualifying person is a child but not your dependent ▶ **PATRICK MONTGOMERY**

Your first name and middle initial <b>SABRINA M</b>	Last name <b>MONTGOMERY</b>	Your social security number <b>8024</b>	
If joint return, spouse's first name and middle initial	Last name	Spouse's social security number	
Home address (number and street). If you have a P.O. box, see instructions. <b>408 N TEE LINE DR</b>		<b>Presidential Election Campaign</b> Check here if you, or your spouse if filing jointly, want \$3 to go to this fund. Checking a box below will not change your tax or refund. <input type="checkbox"/> You <input type="checkbox"/> Spouse	
City, town, or post office. If you have a foreign address, also complete spaces below. <b>RIDGEVILLE</b>	State <b>SC</b>		ZIP code <b>29472</b>
Foreign country name	Foreign province/state/county		Foreign postal code
Apt. no.			

At any time during 2020, did you receive, sell, send, exchange, or otherwise acquire any financial interest in any virtual currency?  Yes  No

**Standard Deduction** **Someone can claim:**  You as a dependent  Your spouse as a dependent  
 Spouse itemizes on a separate return or you were a dual-status alien

**Age/Blindness** **You:**  Were born before January 2, 1956  Are blind **Spouse:**  Was born before January 2, 1956  Is blind

Dependents (see instructions): If more than four dependents, see instructions and check here ▶ <input type="checkbox"/>	(1) First name	Last name	(2) Social security number	(3) Relationship to you	(4) <input checked="" type="checkbox"/> if qualifies for (see instructions): Child tax credit	Credit for other dependents
						<input type="checkbox"/>
					<input type="checkbox"/>	<input type="checkbox"/>
					<input type="checkbox"/>	<input type="checkbox"/>
					<input type="checkbox"/>	<input type="checkbox"/>

Attach Sch. B if required.	<b>1</b> Wages, salaries, tips, etc. Attach Form(s) W-2	<b>1</b>	
	<b>2a</b> Tax-exempt interest	<b>2a</b>	
Standard Deduction for— • Single or Married filing separately, \$12,400 • Married filing jointly or Qualifying widow(er), \$24,800 • Head of household, \$18,650 • If you checked any box under Standard Deduction, see instructions.	<b>3a</b> Qualified dividends	<b>3a</b>	
	<b>4a</b> IRA distributions	<b>4a</b>	
	<b>5a</b> Pensions and annuities	<b>5a</b>	
	<b>6a</b> Social security benefits	<b>6a</b>	
	<b>7</b> Capital gain or (loss). Attach Schedule D if required. If not required, check here ▶ <input type="checkbox"/>	<b>7</b>	
	<b>8</b> Other income from Schedule 1, line 9	<b>8</b>	-2,345.
	<b>9</b> Add lines 1, 2b, 3b, 4b, 5b, 6b, 7, and 8. This is your total income ▶	<b>9</b>	-2,345.
	<b>10</b> Adjustments to income:		
	<b>a</b> From Schedule 1, line 22	<b>10a</b>	
	<b>b</b> Charitable contributions if you take the standard deduction. See instructions	<b>10b</b>	
	<b>c</b> Add lines 10a and 10b. These are your total adjustments to income ▶	<b>10c</b>	
	<b>11</b> Subtract line 10c from line 9. This is your adjusted gross income ▶	<b>11</b>	-2,345.
	<b>12</b> Standard deduction or itemized deductions (from Schedule A)	<b>12</b>	12,400.
	<b>13</b> Qualified business income deduction. Attach Form 8995 or Form 8995-A	<b>13</b>	0.
	<b>14</b> Add lines 12 and 13	<b>14</b>	12,400.
	<b>15</b> Taxable income. Subtract line 14 from line 11. If zero or less, enter -0-	<b>15</b>	0.

For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see separate instructions.

Form **1040** (2020)

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16	Tax (see instructions). Check if any from Form(s): 1 <input type="checkbox"/> 8814 2 <input type="checkbox"/> 4972 3 <input type="checkbox"/>	16	0.
17	Amount from Schedule 2, line 3	17	0.
18	Add lines 16 and 17	18	0.
19	Child tax credit or credit for other dependents	19	
20	Amount from Schedule 3, line 7	20	
21	Add lines 19 and 20	21	
22	Subtract line 21 from line 18. If zero or less, enter -0-	22	0.
23	Other taxes, including self-employment tax, from Schedule 2, line 10	23	0.
24	Add lines 22 and 23. This is your total tax	24	0.
25	Federal income tax withheld from:		
a	Form(s) W-2	25a	
b	Form(s) 1099	25b	
c	Other forms (see instructions)	25c	
d	Add lines 25a through 25c	25d	
26	2020 estimated tax payments and amount applied from 2019 return	26	
27	Earned income credit (EIC)	27	
28	Additional child tax credit. Attach Schedule 8812	28	
29	American opportunity credit from Form 8863, line 8	29	
30	Recovery rebate credit. See instructions	30	
31	Amount from Schedule 3, line 13	31	
32	Add lines 27 through 31. These are your total other payments and refundable credits	32	
33	Add lines 25d, 26, and 32. These are your total payments	33	
34	If line 33 is more than line 24, subtract line 24 from line 33. This is the amount you overpaid	34	
35a	Amount of line 34 you want refunded to you. If Form 8888 is attached, check here <input type="checkbox"/>	35a	
b	Routing number X X X X X X X X X X		
c	Type: <input type="checkbox"/> Checking <input type="checkbox"/> Savings		
d	Account number X X X X X X X X X X X X X X X X X X		
36	Amount of line 34 you want applied to your 2021 estimated tax	36	
37	Subtract line 33 from line 24. This is the amount you owe now Note: Schedule H and Schedule SE filers, line 37 may not represent all of the taxes you owe for 2020. See Schedule 3, line 12e, and its instructions for details.	37	0.
38	Estimated tax penalty (see instructions)	38	

• If you have a qualifying child, attach Sch. EIC.  
• If you have nontaxable combat pay, see instructions.

Refund

Direct deposit? See instructions.

Amount You Owe

For details on how to pay, see instructions.

Third Party Designee

Do you want to allow another person to discuss this return with the IRS? See instructions  Yes. Complete below.  No

Designee's name **ALLISON KAVENEY** Phone no. **8438719028** Personal identification number (PIN) **1 9 0 2 8**

Sign Here

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your signature	Date	Your occupation <b>TRANSPORTATION</b>	If the IRS sent you an Identity Protection PIN, enter it here (see Inst.)
Spouse's signature. If a joint return, both must sign.	Date	Spouse's occupation	If the IRS sent your spouse an Identity Protection PIN, enter it here (see Inst.)

Joint return? See instructions. Keep a copy for your records.

Preparer's name <b>ALLISON KAVENEY</b>	Preparer's signature <b>ALLISON KAVENEY</b>	Date <b>03/23/2021</b>	PTIN <b>P02078511</b>	Check it: <input type="checkbox"/> Self-employed
Firm's name <b>Fish, Strevffelar &amp; Ulmer LTD</b>	Firm's address <b>901 Old Trolley Rd Suite D Summerville SC 29485</b>		Phone no. <b>(843) 871-9028</b>	Firm's EIN <b>57-0874655</b>

ELECTRONICALLY FILED - 2025 Jan 08 1:02 PM - BERKELEY - COMMON PLEAS - CASE#2023CP0801852

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

**AFFIDAVIT OF  
MARK J. BRINGARDNER  
FOR ATTORNEY'S FEES  
RE: RULE TO SHOW CAUSE**

I, Mark J. Bringardner, state that I am competent to testify on the matters set forth below, and that the following statements are made on the basis of my personal knowledge and to the best of my knowledge and belief under the penalty of perjury.

1. I am the founder and managing attorney at the Bringardner Injury Law Firm, LLC, and I am licensed to practice law in the State of South Carolina.

2. I am lead trial counsel for Plaintiff Kanisha Nash in this action that arose from a motor vehicle collision that occurred in the County of Berkeley, State of South Carolina, on April 14, 2023, and which serves as the basis for the present lawsuit.

3. This Affidavit is being submitted in support of the Plaintiff's request for an award of attorney's fees and costs related to Plaintiff's Motion for a Rule to Show Cause against Defendant Patrick Montgomery arising out of his violations of the Court's Order entered on February 2, 2024, (the "Order") compelling supplemental discovery responses.

4. By way of background and to confirm my hourly rate, I graduated from College of Charleston in May of 2009, and received a Bachelor of Arts (BA) in Political Science, *cum laude*. I received my Juris Doctorate (JD) from Pepperdine University in May 2012 and was admitted to the California bar in December 2012. Since my admission to the bar, I have been a member in

good standing, engaged in the practice of law. For my entire legal career, my practice areas have focused on civil litigation with an emphasis on cases involving catastrophic personal injury, wrongful death, trucking litigation, premises liability, dram shop liability, and insurance bad faith. I was admitted to the South Carolina Bar in 2016 and have been a member in good standing, engaged in the practice of law in South Carolina since 2016. I was admitted in 2012 to practice in the United States District Court for the Central District of California and admitted in 2016 to the United States District Court of South Carolina. I have served as trial counsel in state and federal courts in over ten (10) jury trials. I have helped litigate hundreds of personal injury and wrongful death cases for prominent personal injury law firms in South Carolina and Los Angeles, California.

5. In October 2020, I founded the Bringardner Injury Law Firm, LLC, in Charleston, South Carolina. I am currently the lead trial attorney and managing partner. I am a member of the American Board of Trial Advocates (ABOTA), and I currently serve on the Board of Governors for the South Carolina Association for Justice and the Chairman of Torts and Negligence Section. I am a member of AAJ's invitation-only Interstate Trucking Litigation Group. I have been recognized as a Super Lawyers – Rising Star from 2017 to the present. I have also been recognized by Best Lawyers and several other similar publications. I am also a member of the American Association for Justice, the Academy of Truck Accident Attorneys, Consumer Attorneys Association of Los Angeles, and Consumer Attorneys of California.

6. An itemized breakdown of the bill outlining the costs ordered by the Court to be paid by Defendant Patrick Montgomery that were advanced by Plaintiff's counsel related to efforts to enforce compliance with the Court's Order entered February 2, 2024, is set forth below:

a. E-Filing Fee for Motion for Rule to Show Cause:	\$31.74
b. <u>Mileage Reimbursement to attend hearing (67 mi. X \$0.70)</u>	<u>\$46.90</u>
<b>TOTAL COSTS</b>	<b>\$78.64</b>

7. I understand that the Court requested this affidavit and that it be limited in its scope with respect to my time in attempting to obtain Defendant Patrick Montgomery's compliance with the Order. Based upon my time and expense records, case notes, e-mails, and personal knowledge, I have spent, at a minimum, 14.75 hours working on matters directly attempting to obtain and enforce compliance from Defendant Patrick Montgomery with respect to the Order. While I did not attend the hearing on this matter, I worked extensively to try to obtain compliance and spent a significant amount of time drafting/editing the memorandum and preparing my associate attorney, Mary Linton, to argue the matter for the hearing that took place on January 6, 2025.

8. My usual and customary fee for hourly litigation is \$600.00 per hour. Additionally, my usual and customary practice is to bill in 0.25 increments.

9. The total attorney's fees for my work related to this affidavit comes to \$8,850.00. An itemized bill outlining the time regarding attorney's fees ordered by the Court to be paid to related to attorney work is set forth below. I truthfully state that the time expended thus far is accurately represented below and was necessary for the proper presentation of the issues identified by the Court's oral ruling on the issue the sanctions as it related to Defendant Patrick Montgomery's failure to comply with the Order. This does not include time spent by my firm's non-attorney staff or paralegal for matters related to the same.

DATE	DESCRIPTION	TIME
2-26-24	Reviewed Defendant Patrick Montgomery's Supplemental Responses to Interrogatories and Requests for Production (redacted claim file), reconciled the same against the Order to identify non-compliance, outlined non-compliance	0.75
5-3-24	Strategy conference with Attorney Dorsel to discuss non-compliance with the Order	0.50
5-3-24	Drafted Rule 11 letter counsel for Defendant Patrick Montgomery seeking compliance with the Court's Order (letter finalized, signed, and sent by Attorney Dorsel on 5-7-24)	0.50
6-19-24	Reviewed Defendant Patrick Montgomery's discovery Responses to Interrogatories file to prepare for Rule 30(b)(6) deposition, e-mailed counsel to postpone deposition due to lack of compliance with the Order and to request discovery conference	0.25

6-20-24	Telephonic discovery conference with all counsel regarding lack of compliance with the Court Order, discussed specific lack of compliance with counsel for Defendant Patrick Montgomery	0.50
10-21-24	Drafted Motion for Rule to Show Cause	1.0
12-29-24	Performed legal research, reviewed electronic communications, outlined issues and arguments for memorandum	2.75
12-29-24	Meeting with Attorney Linton to review the Order and identify issues of non-compliance re Patrick Montgomery	0.50
1-3-25	Reviewed draft memorandum and exhibits, drafted edits and revisions	1.0
1-3-25	Strategy conference with Attorney Linton to discuss upcoming hearing and Memorandum in Support.	0.25
1-5-25	Continued preparation of Memorandum in Support of Rule to Show Cause, telephone conference with Attorney Linton	0.75
1-6-25	Continued preparation of Memorandum in Support of Rule to Show Cause, revised format and substance of the filing, performed legal research, assisted attorney Linton in exhibit preparation	5.5
1-6-25	Assisted attorney Linton in preparation of oral argument in support of Rule to Show Cause	0.5
	<b>TOTAL</b>	<b>14.75</b>

10. The total attorney's fees together with related costs and filings fees comes to \$8,928.64.

11. I swear under the penalty of perjury that all of the foregoing is truthful and accurate and based on my own personal knowledge.

  
 \_\_\_\_\_  
 MARK J. BRINGARDNER

SWORN to before me this  
9th day of January, 2025.

 (SEAL)  
 Notary Public for South Carolina  
 My Commission Expires: 12/11/25

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

**AFFIDAVIT OF MARY K. LINTON  
FOR ATTORNEY'S FEES  
RE: RULE TO SHOW CAUSE**

I, Mary K. Linton, state that I am competent to testify on the matters set forth below, and that the following statements are made on the basis of my personal knowledge and to the best of my knowledge and belief under the penalty of perjury.

1. I am an attorney at the Bringardner Injury Law Firm, LLC, and am licensed to practice law in the State of South Carolina.

2. I, alongside Mark Bringardner, represent the Plaintiff, Kanisha Nash, in this action that arose from a motor vehicle collision that occurred on April 14, 2023, and which serves as the basis for the present lawsuit.

3. This Affidavit is being submitted in support of Plaintiff's request for an award of attorney's fees and costs, which was granted by the Court, arising from Plaintiff's Rule to Show Cause against Defendant Patrick Montgomery arising out of his violations of the Court's Order entered on February 2, 2024, (the "Order") compelling supplemental discovery responses.

4. By way of background, I graduated from College of Charleston in 2012, and received a Bachelor of Science in Sociology, *cum laude*. I received my Juris Doctor from the University of South Carolina in 2016 and was admitted to the South Carolina bar in November of

2016. I have been a member in good standing, engaged in the practice of law since then.

5. Since my admission to the bar, my practice area has focused on civil litigation, both on behalf of plaintiffs and defendants. To that end, I have litigated hundreds of cases to resolution.

6. Based upon my time records, I have spent, at a minimum, approximately fifteen hours (15) working on the issues directly related to the discovery matter before the Court and concerning the Court's ruling as it relates to Plaintiff's Rule to Show Cause.

7. My usual and customary fee for hourly litigation is \$400.00 per hour. Additionally, my usual and customary practice is to bill in 0.25 increments.

8. An itemized bill outlining the time regarding attorney's fees ordered by the Court is set forth below. I truthfully state that the time expended thus far is accurately represented below and was necessary for the proper presentation of the issues outlined in Plaintiff's Rule to Show Cause:


DATE	DESCRIPTION	TIME
12/29/2024	Strategy meeting with Attorney Bringardner to review the Order and identify issues of non-compliance re Patrick Montgomery	0.50
12/29/2024	Begin analysis and compilation of outstanding discovery responses owed by Defendant Patrick Montgomery.	0.50
12/29/2024	Review and analyze electronic communication from Attorney Bearden discussing Rule to Show Cause Motion.	0.25
12/30/2024	Prepare and analyze electronic communication to Attorney Bearden discussing Rule to Show Cause Motion and corresponding discovery deficiencies.	0.25
12/30/2024	Begin preparation of Memorandum in Support of Rule to Show Cause.	2.00
12/30/2024	Perform legal research on case law support to factors used to support the finding of sanctions arising from discovery abuse.	0.75
01/03/2025	Continued preparation of Memorandum in Support of Rule to Show Cause.	2.50
01/03/2025	Strategy conference with Attorney Bringardner to discuss upcoming hearing and Memorandum in Support.	0.25
01/05/2025	Continued preparation of Memorandum in Support of Rule to Show Cause, telephone conference with Attorney Bringardner	1.25
01/06/2025	Continued preparation of Memorandum in Support of Rule to Show Cause.	2.50
01/06/2025	Preparation of oral argument in support of Rule to Show Cause.	2.00
01/06/2025	Multiple communications with counsel for Defendant Patrick Montgomery discussing Rule to Show Cause hearing.	0.50
01/06/2025	Travel to and attend oral argument on Plaintiff's Rule to Show Cause.	2.50
	<b>TOTAL</b>	<b>15.75</b>

9. The total monetary amount for my time spent in furtherance of the Rule to Show Cause discovery dispute totals \$6,300.00.

10. I swear under the penalty of perjury that all of the foregoing is truthful and accurate and based on my own personal knowledge.

  
\_\_\_\_\_  
Mary K. Linton

SWORN to before me this  
9<sup>th</sup> day of January, 2025.

  
\_\_\_\_\_  
Notary Public for South Carolina (SEAL)  
My Commission Expires: 12/11/25

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-8-01652

**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  
Mary K. Linton (SC Bar No.: 102815)  
mlinton@bringardner.com  
41 Broad Street  
Charleston, SC 29401  
Office: 843-400-0550  
Facsimile: 843-350-8290  
Attorneys for the Plaintiff

Charleston, South Carolina  
January 21, 2025

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 Barrell 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 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 *Respondent 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, 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.

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' 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.

BRINGARDNER INJURY LAW FIRM, LLC

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Attorneys for the Plaintiff

Charleston, South Carolina  
January 21, 2025

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF BERKELEY	)	Docket No.: 2023-CP-08-1652
	)	
KANISHA NASH,	)	
	)	
Plaintiff,	)	
	)	
v.	)	<b>DEFENDANT SABRINA</b>
	)	<b>MONTGOMERY'S ANSWER</b>
MONTGOMERY CONSTRUCTION,	)	<b>TO AMENDED COMPLAINT</b>
LLC, PATRICK MONTGOMERY,	)	<b>(Jury Trial Demanded)</b>
AND SABRINA MONTGOMERY,	)	
INDIVIDUALLY AND AS	)	
OWNER/REGISTERD AGENT FOR	)	
MONTGOMERY CONSTRUCTION,	)	
LLC	)	
	)	
Defendants.	)	
	)	

Defendant Sabrina Montgomery answers the Amended 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 2-7.
4. Defendant admits the allegations of Paragraph 8 that she is the owner and President of Montgomery Construction.
5. Defendant admits the allegations of Paragraph 9.
6. Paragraph 10 does not require a response.
7. Defendant admits only so much of the allegations of Paragraph 11 as allege an automobile accident occurred on October 14, 2023 involving a truck driven by Patrick Montgomery. She lacks knowledge about the remaining allegations.
8. Paragraph 12 does not require a response.

9. Defendant admits the allegations of Paragraphs 13-15 as allege she owned the truck and that Patrick Montgomery and she owned the trailer.

10. Defendant admits the allegation of Paragraph 16 that she attached the trailer to the truck several days before the accident to move a family member's motorcycle.

11. Paragraph 17 does not require a response.

12. Defendant denies the allegations of Paragraphs 18-19 that the trailer was used in the business.

13. Defendant admits only so much of the allegations of Paragraphs 20-23 as allege she used "DEF" (contained in the "Blue Barrel") as a fertilizer for her yard.

14. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations of Paragraphs 24-25.

15. Defendant admits only so much of Paragraph 26 as alleges she drives a dump truck for her business.

16. Defendant admits only so much of the allegations of Paragraphs 27-31 as allege Montgomery Construction fuels the dump truck and purchases fuel for the dump truck. Defendant denies the remaining allegations.

17. Defendant lacks sufficient knowledge or information to form a belief about the truth of Patrick Montgomery's specific route at the time of the accident as alleged in Paragraph 32 other than he was headed home.

18. Defendant lacks sufficient knowledge or information to form a belief about the allegations of Paragraphs 33-35.

19. Defendant admits the allegations of Paragraph 36.

20. Defendant admits the allegations of Paragraph 37 as allege she would occasionally park the dump truck at her house if she was washing or cleaning it, but otherwise she parked it away from her home to save on gas costs.

21. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations of Paragraphs 38-39 other than the accident location is apparent.

22. Defendant admits the allegations of Paragraph 40 that Plaintiff and her son were involved in the accident.

23. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations of Paragraph 41.

24. Defendant admits the allegations of Paragraphs 42-43 as allege Plaintiff suffered injury and the minor sustained fatal injuries as a result of this incident.

25. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations of Paragraphs 44-45.

26. Defendant admits only so much of the allegations of Paragraphs 46-47 as allege Patrick Montgomery drove the vehicle with the trailer attached to it at the time of the accident but he was not driving it as an employee of the business.

27. Defendant admits the allegations of Paragraphs 48-59 as allege she used income generated from the dump truck to pay for her household expenses and expenses associated with the business. Defendant denies that the trailer was used in the business and states that the dump truck does not have a hitch.

28. Defendant denies the allegations of Paragraph 60 other than she occasionally drove the truck to and from her home to where the dump truck was parked.

29. Defendant denies the allegations of Paragraph 61-62.

30. Defendant denies the allegations of Paragraph 63 other than she occasionally drove the truck to and from her home to where the dump truck was parked.

31. Paragraph 64 does not require a response.

32. Defendant denies the allegations of Paragraphs 65-67 other than she occasionally drove the truck to and from her home to where the dump truck was parked.

33. Defendant admits only so much of the allegations of Paragraph 68 as allege Patrick Montgomery drove the vehicle with trailer attached before the incident alleged in the Complaint.

34. Defendant denies the allegations of Paragraphs 69-73.

35. Defendant admits only so much of the allegations of Paragraph 74 as allege she is married to Patrick Montgomery and that she used income earned from Montgomery Construction for household expenses.

36. Paragraphs 75-76 are statements of law, to which no response is required.

37. Defendant denies the allegations of Paragraphs 77-79.

38. Defendant admits only so much of the allegations of Paragraphs 80-81 as allege the automobile accident occurred in Berkeley County.

39. Paragraphs 82-88 do not require a response.

40. Defendant denies the allegations of Paragraph 89.

41. Paragraph 90 does not require a response.

42. Defendant denies the allegations of Paragraphs 91-102.

43. Paragraph 103 does not require a response.

44. Defendant denies the allegations of Paragraphs 104-110.

45. Paragraph 111 does not require a response.

46. Paragraphs 112-113 are statements of law, to which no response is required.

47. Defendant denies the allegations of Paragraphs 114-119.

48. Paragraph 120 does not require a response.

49. Defendant admits the allegations of Paragraph 121.

50. Defendant denies the allegations of Paragraph 122.

51. Upon information and belief, Defendant admits the allegations of Paragraphs 123-124.

52. Defendant respectfully lacks sufficient knowledge or information to form a belief about the truth of the allegations of Paragraph 125, but assumes the mother has suffered emotional distress from the loss of her child.

53. Defendant denies the allegations of Paragraphs 126-127.

54. Paragraph 128 does not require a response.

55. Defendant admits only so much of the allegations of Paragraphs 129-152 as allege Sabrina Montgomery owns a dump truck which she uses for the

business of Montgomery Construction, which is essentially the dump truck. Defendant admits that she earns income from the use of the dump truck which provides for her financial needs and for the needs of her family. Defendant denies the remaining allegations.

56. Paragraph 153 does not require a response.

**AS AN ADDITIONAL DEFENSE**  
**(Reservation of Rights)**

57. 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)**

58. 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)**

59. 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

Amended 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)

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Charleston, South Carolina

February 11, 2025

ATTORNEYS FOR DEFENDANT SABRINA  
MONTGOMERY

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

**DEFENDANT PATRICK  
MONTGOMERY'S ANSWER TO THE  
AMENDED COMPLAINT  
(Jury Trial Demanded)**

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

**FOR A FIRST DEFENSE**

1. Each and every allegation of the Amended 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 Amended Complaint fails to state a claim upon which relief can be granted and, therefore, the Amended Complaint should be dismissed.

**FOR A THIRD DEFENSE**

3. Defendant is without sufficient information to form an opinion regarding the truth or falsity of the allegations contained in paragraph 1 of the Amended Complaint and, therefore, denies the same, and demands strict proof thereof.

4. Defendant admits the allegations contained in paragraphs 2 and 3 of the Amended Complaint.

5. No response is required to the allegations contained in paragraphs 4 through 10 of the Amended Complaint. Should, however, a response to paragraphs 4 through 10 be deemed necessary, any allegations or implications thereof are denied as to this Defendant.

6. In response to paragraph 11 Defendant Patrick Montgomery hereby asserts his Fifth Amendment right and therefore no response is required.

7. In response to paragraph 12, Defendant objects and moves to strike as redundant, immaterial, impertinent, and/or scandalous and do not comply with the pleading rules.

8. Defendant admits the allegations contained in paragraphs 13 through 15 of the Amended Complaint.

9. Defendant is without sufficient information to form an opinion regarding the truth or falsity of the allegations contained in paragraph 16 of the Amended Complaint and, therefore, denies the same, and demands strict proof thereof.

10. In response to paragraph 17, Defendant objects and moves to strike as redundant, immaterial, impertinent, and/or scandalous and do not comply with the pleading rules.

11. Defendant is without sufficient information to form an opinion regarding the truth or falsity of the allegations contained in paragraphs 18 through 22 of the Amended Complaint and, therefore, denies the same, and demands strict proof thereof.

12. In response to paragraphs 23 and 24, Defendant objects and moves to strike as redundant, immaterial, impertinent, and/or scandalous and do not comply with the pleading rules.

13. Defendant admits the allegations contained in paragraphs 25 and 26 of the Amended Complaint.

14. No response is required to the allegations contained in paragraphs 27 through 31 of the Amended Complaint. Should, however, a response to paragraphs 27 through 31 be deemed necessary, any allegations or implications thereof are denied as to this Defendant.

15. Defendant is without sufficient information to form an opinion regarding the truth or falsity of the allegations contained in paragraphs 32 through 35 of the Amended Complaint and, therefore, denies the same, and demands strict proof thereof.

16. Defendant admits the allegations contained in paragraph 36 of the Amended Complaint.

17. No response is required to the allegations contained in paragraph 37 of the Amended Complaint. Should, however, a response to paragraph 37 be deemed necessary, any allegations or implications thereof are denied as to this Defendant.

18. Defendant is without sufficient information to form an opinion regarding the truth or falsity of the allegations contained in paragraphs 38 of the Amended Complaint and, therefore, denies the same, and demands strict proof thereof.

19. Defendant admits the allegations contained in paragraphs 39 and 40 of the Amended Complaint.

20. In response to paragraph 41 Defendant Patrick Montgomery hereby asserts his Fifth Amendment right and therefore no response is required.

21. Defendant is without sufficient information to form an opinion regarding the truth or falsity of the allegations contained in paragraphs 42 through 43 of the Amended Complaint and, therefore, denies the same, and demands strict proof thereof.

22. In response to paragraph 44 Defendant Patrick Montgomery hereby asserts his Fifth Amendment right and therefore no response is required.

23. Defendant is without sufficient information to form an opinion regarding the truth or falsity of what "Plaintiff is informed and believes" contained in paragraph 45-46.

24. No response is required to the allegations contained in paragraphs 47 through 60 of the Amended Complaint. Should, however, a response to paragraphs 47 through 60 be deemed necessary, any allegations or implications thereof are denied as to this Defendant.

25. Defendant denies the allegations contained in paragraph 61 of the Amended Complaint.

26. In response to paragraph 62 Defendant Patrick Montgomery hereby asserts his Fifth Amendment right and therefore no response is required.

27. No response is required to the allegations contained in paragraphs 63 through 71 of the Amended Complaint. Should, however, a response to paragraphs 63 through 71 be deemed necessary, any allegations or implications thereof are denied as to this Defendant.

28. In response to paragraphs 72-73, Defendant Patrick Montgomery hereby asserts his Fifth Amendment right and therefore no response is required. To the extent these paragraphs pertains to any Defendant other than Patrick Montgomery, no response is required but to the extent a response is required, it is denied.

29. Paragraph 74 calls for a legal conclusion and is, therefore, denied. To the extent a response is required, paragraph 74 is denied. To the extent this paragraph pertains to any Defendant other than Patrick Montgomery, no response is required but to the extent a response is required, it is denied.

30. No response is required to the allegations contained in paragraphs 75 through 76 of the Amended Complaint. Should, however, a response to paragraphs 75 through 76 be deemed necessary, any allegations or implications thereof are denied as to this Defendant.

31. Paragraphs 77-79 calls for a legal conclusion and is, therefore, denied. Further, in response to paragraphs 77-79, Defendant Patrick Montgomery hereby asserts his Fifth Amendment right and therefore no response is required. To the extent a response is required, paragraphs 77-79 are denied. To the extent this paragraph pertains to any Defendant other than Patrick Montgomery, no response is required but to the extent a response is required, it is denied.

32. In response to paragraph 80 Defendant Patrick Montgomery hereby asserts his Fifth Amendment right and therefore no response is required.

33. Paragraph 81 calls for a legal conclusion and is, therefore, denied.

34. Paragraph 82 does not require a response. To the extent a response is required, it is denied.

35. Paragraph 83 calls for a legal conclusion and is, therefore, denied. Further, in response to paragraph 83. Defendant Patrick Montgomery hereby asserts his Fifth Amendment right and therefore no response is required.

36. In response to paragraph 84, including all subparts, Defendant Patrick Montgomery hereby asserts his Fifth Amendment right and therefore no response is required.

37. Defendant is without sufficient information to form an opinion regarding the truth or falsity of the allegations contained in paragraphs 85 through 87 of the Amended Complaint and, therefore, denies the same, and demands strict proof thereof.

38. Paragraph 88 does not require a response. To the extent a response is required, it is denied.

39. No response is required to the allegations contained in paragraph 89 of the Amended Complaint. Should, however, a response to paragraph 89 be deemed necessary, any allegations or implications thereof are denied as to this Defendant.

40. Paragraph 90 does not require a response. To the extent a response is required, it is denied.

41. No response is required to the allegations contained in paragraphs 91-102, including all subparts, of the Amended Complaint. Should, however, a response to paragraphs 91-102, including all subparts be deemed necessary, any allegations or implications thereof are denied as to this Defendant.

42. Paragraph 103 does not require a response. To the extent a response is required, it is denied.

43. No response is required to the allegations contained in paragraphs 104-110, including all subparts, of the Amended Complaint. Should, however, a response to paragraphs 104-110, including all subparts be deemed necessary, any allegations or implications thereof are denied as to this Defendant.

44. Paragraph 111 does not require a response. To the extent a response is required, it is denied.

45. No response is required to the allegations contained in paragraphs 112-119, including all subparts, of the Amended Complaint. Should, however, a response to paragraphs 112-119, including all subparts be deemed necessary, any allegations or implications thereof are denied as to this Defendant.

46. Paragraph 120 does not require a response. To the extent a response is required, it is denied.

47. Defendant is without sufficient information to form an opinion regarding the truth or falsity of the allegations contained in paragraphs 121-126 of the Amended Complaint and, therefore, denies the same, and demands strict proof thereof.

48. Paragraph 127 calls for a legal conclusion and is, therefore, denied.

49. Paragraph 128 does not require a response. To the extent a response is required, it is denied.

50. No response is required to the allegations contained in paragraphs 129-151, including all subparts, of the Amended Complaint. Should, however, a response to paragraphs 129-151, including all subparts be deemed necessary, any allegations or implications thereof are denied as to this Defendant.

51. Paragraphs 151-152 are denied.

52. Paragraph 153 does not require a response. To the extent a response is required, Defendant also requests a jury trial.

#### **FOR A FOURTH DEFENSE**

53. 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**

54. 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.

55. 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.

56. 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)**

57. 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**

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

WHEREFORE, having fully answered, Defendant Patrick Montgomery prays that the Amended 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

February 12, 2025  
Columbia, South Carolina

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

Civil Action No. 2023-CP-08-01652

**MOTION TO PROTECT  
DEFENDANT'S INTERESTS  
PURSUANT TO RULE 1.14(B)**

TO ALL PARTIES:

YOU WILL PLEASE TAKE NOTICE that counsel for Defendant Patrick Montgomery hereby moves pursuant to Rule 1.14(b) of the South Carolina Rules of Professional conduct for an Order appointing a guardian ad litem and/or conservator for Defendant Patrick Montgomery as Defendant's Counsel reasonably believes that Defendant Patrick Montgomery has diminished capacity, is at risk of substantial financial or other harm unless action is taken by the court. Defendant's counsel has been informed by the Defendant's criminal defense counsel that a competency evaluation is being sought as a part of the criminal case against Mr. Montgomery arising out of the subject accident and, as such, Defendant's counsel respectfully requests that the court appoint a guardian ad litem or conservator for the Defendant or stay the case pending the results of the competency evaluation.

*[SIGNATURE BLOCK ON NEXT PAGE]*

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ATTORNEYS FOR PATRICK MONTGOMERY

April 14, 2025

Columbia, South Carolina

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 SUPPLEMENTAL  
MEMORANDUM IN SUPPORT OF HER  
RULE TO SHOW CAUSE AGAINST  
DEFENDANTS PATRICK  
MONTGOMERY AND SABRINA  
MONTGOMERY**

Plaintiff submits this memorandum to inform the Court that Defendant Patrick Montgomery and Defendant Sabrina Montgomery (“Defendants”) have both failed to comply with the Court’s Order of March 28, 2025, granting Plaintiff’s Motion for Rule to Show Cause. The deadline to comply with the Order expired on April 14, 2025. The Order instructed Plaintiff to immediately inform the Court for consideration of an award of sanctions should the Defendants fail to timely comply with the Court’s ruling by the deadline. To that end, Plaintiff is providing notice of the same to the Court and respectfully requests the Court impose severe sanctions to put an end to the ongoing discovery abuse and willful suppression of evidence that has plagued this case since its inception.

**BRIEF BACKGROUND FOR THE COURT’S REFERENCE**

This case arises out of a drunk driving head-on motor vehicle collision that resulted in serious injuries to Plaintiff Kanisha Nash and the death of Plaintiff’s son, age 3. While more fully detailed in Plaintiff’s initial memorandum filed in support of this motion, this matter stems from the February 2, 2024 Order of Judge Goodstein Granting Plaintiff’s Motion to Compel concerning discovery served on Defendants in June of 2023. Defendants failed to comply with Judge Goodstein’s Order. On October 24, 2024, Plaintiff filed the present Motion for a Rule to Show

Cause, which was eight (8) months after Judge Goodstein's Order was entered, and after a significant grace period to comply was permitted by Plaintiff.

On January 6, 2025, Plaintiff's Motion was heard and orally granted by Judge Van Slambrook, who instructed Defendant Patrick Montgomery to serve compliant responses to discovery within ten (10) days. As for Defendant Sabrina Montgomery, Judge Van Slambrook ordered the production of her cell phone for forensic inspection. On January 13, 2025, Defendant Patrick Montgomery served supplemental responses to discovery that remained wholly deficient. Plaintiff advised the Court of the same, which was included in the Court's written Order granting the Rule to Show Cause, entered on March 28, 2025. A deadline for full compliance was set for April 14, 2025. At the hearing, the Court indicated that sanctions against Defendant Patrick Montgomery would be imposed, and did not indicate as to whether sanctions against Defendant Sabrina Montgomery would be imposed. The Court held its determination of sanctions in abeyance until the expiration of the deadline for compliance.

Ms. Nash has endured far more discovery abuse than any party in a civil case should have to tolerate. The rules governing discovery are only effective if they are enforced. The issues presently before the Court demonstrate a clear need for the Court to hold accountable those who violate court orders and the rules of discovery.

**DEFENDANT PATRICK MONTGOMERY'S**  
**COMPLETE FAILURE TO COMPLY**

Defendant Patrick Montgomery did not produce any documents or serve any supplemental written responses. The Court has ordered the same on two (2) separate occasions. Instead of serving discovery responses, counsel for Defendant Patrick Montgomery waited until the last day to comply with the Court's most recent Order (April 14, 2025) and filed a motion styled "Motion to Protect Defendant's Interests Pursuant to Rule 1.14(B)," attached hereto as Exhibit A.

Now, for the first time, and without any supporting evidence whatsoever, Patrick Montgomery's counsel vaguely claims he has diminished capacity and seeks appointment of a guardian ad litem. This one-page Motion is unsupported by any competent evidence or the South Carolina Rules of Civil Procedure. It is predicated only upon attorney argument that "Defendant's Counsel reasonably believes that Defendant Patrick Montgomery has diminished capacity, is at risk of substantial financial or other harm unless action is taken by the court." That representation does not pass muster. By counsel's own admission, Defendant Patrick Montgomery has not yet even been professionally evaluated to determine diminished capacity. Frankly, it seems this issue has just now been raised as a criminal defense strategy for the related DUI charges, which civil counsel also seeks to conveniently use to avoid compliance with the Court's two (2) prior discovery orders in this case.

Notwithstanding the fact that there is no diagnosis, medical history, expert evaluation/affidavit, or even general explanation to corroborate claims for diminished capacity or risk of financial harm, Defendant Patrick Montgomery or his counsel seem oblivious to the fact that this Order was based on a Motion for a Rule to Show Cause – that is, Defendant Patrick Montgomery was previously required to show cause to the Court why he did not comply with the Court's Order. The Rule to Show Cause hearing would have been the appropriate time for diminished capacity issues to have been raised, but strains credibility at this point.

Notably, at the Rule to Show Cause hearing, counsel for Defendant Patrick Montgomery did not provide any basis for his failure to comply with the Court's Order. Moreover, counsel did not raise any issue concerning Defendant Patrick Montgomery's alleged mental incapacity. Defendant Patrick Montgomery likewise did not appear at the hearing to show cause for his failure to comply with discovery. That Motion cannot now be used to avoid compliance. If Defendant

Patrick Montgomery developed his alleged incapacity between the hearing date on the Rule to Show Cause and the filing of the Motion on April 14, 2025, such an argument still fails because he had over a year to comply with Judge Goodstein's Order during a time in which he had capacity. If, on the other hand, Defendant Patrick Montgomery claims he had diminished capacity before the Rule to Show Cause hearing, such an argument also fails because it was never raised at the hearing and because it should have been raised long ago and *immediately* after such a condition allegedly arose.

In the year and a half that has followed, and despite the issuance of two discovery orders, Plaintiff still does not have a complete substantive set of discovery responses. Plaintiff has pursued both a Motion to Compel and a Motion for a Rule to Show Cause with no success. Now, over a year from when discovery was first ordered to be produced, it seems Defendant Patrick Montgomery is attempting to stonewall Plaintiff from obtaining further discovery or deposition testimony due to the newly filed Motion – a Motion that is noticeably absent from Defendant Patrick Montgomery's companion criminal case and was filed on the day of the Court ordered discovery deadline.

Without explanation, Plaintiff can only surmise the contemplated financial harm is the issuance of sanctions for conduct that occurred long before Defendant Patrick Montgomery's Motion. Further confusing is the timing of the Motion considering that counsel for Defendant Patrick Montgomery was able to meet with and secure some responsive information from Defendant Montgomery a mere few months prior. In fact, after the hearing on the Rule to Show Cause, at the Court's request, Plaintiff's attorneys submitted affidavits regarding fees and costs. In response to the affidavits, Defendant Patrick Montgomery's counsel attempted to mitigate the pending imposition of financial sanctions by e-mailing the Court to declare that counsel had met

with Defendant Patrick Montgomery on three (3) separate occasions and, for the first time, claimed that he may have “some competency issues” and “a limited ability to recollect and respond” to discovery. [Exhibit B]. It is peculiar that despite these numerous in-person meetings, no concern was ever raised regarding Patrick Montgomery’s ability to respond to discovery until sanctions were looming. Notably, no further explanation was provided, and no formal action was taken by counsel to purportedly “protect” Patrick Montgomery in the months that followed. Only upon the day of the second Court ordered discovery deadline – in a case that has been pending for nearly two years – Defendant Montgomery allegedly is unable to comply due to incapacity.

**Defendant Sabrina Montgomery Destroyed Evidence On Her Cell Phone**

Defendant Sabrina Montgomery also failed to comply with the Court’s Order, and instead, destroyed evidence on her cell phone. The Court ordered Defendant Sabrina Montgomery to produce her cell phone for a forensic inspection and download. On April 17, 2025, counsel for Defendant Montgomery produced Defendant Sabrina Montgomery’s phone. On April 21, 2025, the forensic examiner, John Akerman of Rosen Technology, performed the forensic inspection which revealed that the cellular device was manually reset on April 16, 2025 at 5:15PM. This reset wiped the entire phone of all Court ordered data rendering the forensic inspection useless. Per the affidavit of John Akerman of Rosen Technology, attached as Exhibit C, the reset occurred on April 16, 2025, just one (1) day before the phone was to be turned over for the forensic inspection. While she feigned compliance with the Court’s Order and produced her phone 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.

Moreover, after representing to the Court that all insurance policies and information had

been produced, Sabrina Montgomery, through her business, Defendant Montgomery Construction, LLC, produced, for the first time, a second commercial insurance policy maintained by the company.

### **SEVERE SANCTIONS SHOULD BE IMPOSED**

“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. *Halverson 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.*

Here, the factors the Court can consider regarding the imposition of sanctions are set forth below:

**A) The nature of the discovery.**

Simple and straightforward. The interrogatories and requests for production were not complicated. They sought relevant, non-privileged information that was readily available without imposing a burden on the Defendants.

**B) Discovery posture of the case.**

This case has been in litigation for twenty-two (22) months with little discovery to show for it. Plaintiff is at a standstill as there is no other known 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, the Defendants

have not complied, and evidence has been spoliated. No depositions have taken place because Plaintiff has not received the basic information and documents necessary to take informed depositions. The discovery mentioned above should have certainly all been produced by the first deadline imposed by the Court, let alone the second, but really when they were initially due in the fall of 2023. This case should be ready for trial, but it is not due to Defendant's delays and discovery abuse.

**C) Willfulness of non-disclosure.**

The long pattern of willful non-disclosure and spoliation set forth herein is self-evident and cannot be credibly explained away by arguments of counsel or claims of incapacity. Nothing about the conduct demonstrated by Defendant 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.

**D) The degree of prejudice to the Plaintiff and the other defendants.**

"[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 Defendant's 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. Defendants' willful refusals comply with the Court's Orders have completely undermined Plaintiff's efforts to conduct meaningful discovery and to prepare for trial. Accordingly, Plaintiff respectfully submits that the most severe sanctions should be imposed at this time. Plaintiff still does not have basic information and documents known to exist. Prejudice

has also been shown in the spoliation of evidence, both in Sabrina Montgomery's cell phone and, apparently, Patrick Montgomery's memory or ability to interact with the world in a meaningful way.

### **RELIEF REQUESTED**

Plaintiff would respectfully submit that the appropriate sanctions here are for the Court to strike the Answer of Defendant Patrick Montgomery and Defendant Sabrina Montgomery in the entirety, to deem all of Plaintiff's allegations against them admitted, enter default judgment on all of Plaintiff's claims against them, and award monetary sanctions for reasonable expenses, including Plaintiff's attorney's fees, for efforts made to enforce compliance with the Court's Original order compelling discovery entered on February 2, 2024, (in addition to the expenses and fees identified in the two previously filed affidavits of Plaintiff's counsel, Plaintiff also requests the Court the cost for the forensic inspection of the cell phone outlined in Exhibit C (as such was borne by Plaintiff), and such further relief as the Court may find appropriate.

### **CONCLUSION**

Defendants' willful discovery abuse has resulted in the destruction of evidence, caused irreparable harm, and unfairly prejudiced Plaintiff to pursue her claims. Plaintiff respectfully requests that the Court impose sanctions.

### **BRINGARDNER INJURY LAW FIRM, LLC**

By: /s/ Mary Linton  
 Mark J. Bringardner (SC Bar No.: 102465)  
[mark@bringardner.com](mailto:mark@bringardner.com)  
 Mary K. Linton (SC Bar No.: 102815)  
[mlinton@bringardner.com](mailto:mlinton@bringardner.com)  
 41 Broad Street  
 P.O. Box 100 (29402)  
 Charleston, SC 29401  
 Office: 843-400-0550  
 Facsimile: 843-350-8290  
 Attorneys for the Plaintiff

Charleston, South Carolina  
 May 1, 2025

# EXHIBIT A

ELECTRONICALLY FILED - 2025 Apr 14 1:23 PM - BERKELEY - COMMON PLEAS - CASE#2023CP0801652  
ELECTRONICALLY FILED - 2025 May 01 1:58 PM - BERKELEY - COMMON PLEAS - CASE#2023CP0801652

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

Civil Action No. 2023-CP-08-01652

**MOTION TO PROTECT  
DEFENDANT'S INTERESTS  
PURSUANT TO RULE 1.14(B)**

TO ALL PARTIES:

YOU WILL PLEASE TAKE NOTICE that counsel for Defendant Patrick Montgomery hereby moves pursuant to Rule 1.14(b) of the South Carolina Rules of Professional conduct for an Order appointing a guardian ad litem and/or conservator for Defendant Patrick Montgomery as Defendant's Counsel reasonably believes that Defendant Patrick Montgomery has diminished capacity, is at risk of substantial financial or other harm unless action is taken by the court. Defendant's counsel has been informed by the Defendant's criminal defense counsel that a competency evaluation is being sought as a part of the criminal case against Mr. Montgomery arising out of the subject accident and, as such, Defendant's counsel respectfully requests that the court appoint a guardian ad litem or conservator for the Defendant or stay the case pending the results of the competency evaluation.

*[SIGNATURE BLOCK ON NEXT PAGE]*

MCANGUS GOUDELOCK & COURIE, LLC

*s/ Riley A. Bearden*

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Facsimile: (803) 748-0526

ATTORNEYS FOR PATRICK MONTGOMERY

April 14, 2025

Columbia, South Carolina

**From:** Riley Bearden <Riley.Bearden@mgclaw.com>  
**Sent:** Wednesday, January 15, 2025 4:39 PM  
**To:** Mary Linton; dvanslambrooksc@sccourts.org; dvanslambrooklc@sccourts.org; Brett Bayne; Sterling Davies  
**Cc:** dcobb@turnerpadget.com; Amanda Perry; Michael Trask; Mark Bringardner; Shawn Legg  
**Subject:** RE: Kanisha Nash v. Patrick Montgomery, et al.  
**Attachments:** 48455121.pdf

Dear Judge Van Slambrook:

At this time we have served supplemental discovery responses to Plaintiff's counsel following our third in-person meeting with Patrick Montgomery. For the court's convenience, the answers to interrogatories and responses to requests for production are attached here. I have also copied Mr. Montgomery's criminal defense counsel here for the court's convenience as Mr. Montgomery has some competency issues which they are seeking to evaluate as a part of the criminal case. Mr. Montgomery has a limited ability to recollect and respond to some of the questions propounded by Plaintiff's counsel but we have attempted to consult with him and Sabrina about what information he can provide that does not waive any Fifth Amendment constitutional rights. We would also respectfully request documentation of Plaintiff's counsel's fee agreement with the Plaintiffs and other claimants as a part of this case to corroborate their affidavits of costs. We would be agreeable to paying their out of pocket costs such as their filing fee and Mary Linton's cost for attending the hearing.

Riley



**Riley Bearden, Attorney**

[riley.bearden@mgclaw.com](mailto:riley.bearden@mgclaw.com)

1320 Main St, 10th Floor, Columbia, SC 29201

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V CARD

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Please consider the environment before printing this email.

**From:** Mary Linton <mlinton@bringardner.com>

**Sent:** Tuesday, January 14, 2025 9:55 AM

**To:** dvanslambrooksc@sccourts.org; dvanslambrooklc@sccourts.org

**Cc:** dcobb@turnerpadget.com; Riley Bearden <Riley.Bearden@mgclaw.com>; Amanda Perry <aPerry@rlattorneys.com>;

Michael Trask <Michael.Trask@mgclaw.com>; Mark Bringardner <mark@bringardner.com>; Shawn Legg <slegg@bringardner.com>

**Subject:** Kanisha Nash v. Patrick Montgomery, et al.

Dear Judge Van Slambrook:

This case was before your Honor last Monday, January 6th on Plaintiff's Rule to Show Cause as to Defendants Patrick and Sabrina Montgomery. Your Honor requested we submit our costs and fees associated with the pursuit of this Motion and the discovery compliance efforts in the year subsequent to Judge Goodstein's discovery order. The supporting documentation is attached. I do not believe your Honor request a proposed Order, but I am happy to prepare one to comport with your final ruling. I intend to separately submit a proposed Order as to Defendant Sabrina Montgomery after first consulting with Ms. Montgomery's counsel.

Thank you in advance for the Court's consideration.

Best,

Mary



**Mary K. Linton**, Trial Attorney

41 Broad Street  
P.O. Box 100 (29402)  
Charleston, SC 29401

**Phone:** 843-400-0550

**Fax:** 843-350-8290

**Email:** [mlinton@bringardner.com](mailto:mlinton@bringardner.com)

**STATEMENT OF CONFIDENTIALITY**

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## Affidavit of John W. Akerman

Personally appeared before me John Akerman, who being duly sworn, deposes and states as follows:

1. I am a licensed attorney in South Carolina (SC Bar #76659) and a partner of Rosen Litigation Technology Consulting, Inc. ("Rosen LTC") located at 65 Broad St., Charleston, SC 29401. My practice is focused on computer forensics, mobile forensics, electronic discovery, and digital evidence presentation. I hold various forensic licenses, including the Certified Computer Examiner (CCE #879), Cellebrite Mobile Forensics Fundamentals (CMFF), and Access Data Certified Examiner (ACE). I am also a member of the International Society of Forensic Computer Examiners (ISFCE) and a member of the International Association of Computer Investigative Specialists (IACIS). I have been qualified and testified in both State and Federal courts. Furthermore, I continually attend training courses and seminars to stay abreast of this rapidly progressing field. My qualifications are more fully addressed in my Curriculum Vitae attached as Exhibit I.
2. My task for this case was to create a forensic image/extraction of Sabrina Montgomery's mobile phone and to analyze it for activity surrounding the collision that occurred on April 14, 2023.
3. On April 21, 2025 I received Sabrina Montgomery's Motorola Edge mobile phone (IMEI: 351397432435381) from Mary Linton at Bringardner Law Firm and initiated our chain of custody form.
4. It was evident from turning on the phone for the first time that the phone had been reset or wiped back to initial factory settings. The first screens that appear relate to activating the phone as a brand-new phone. See figures below. Further, Figure 2 below states: This

SIM card is not from Verizon Wireless.

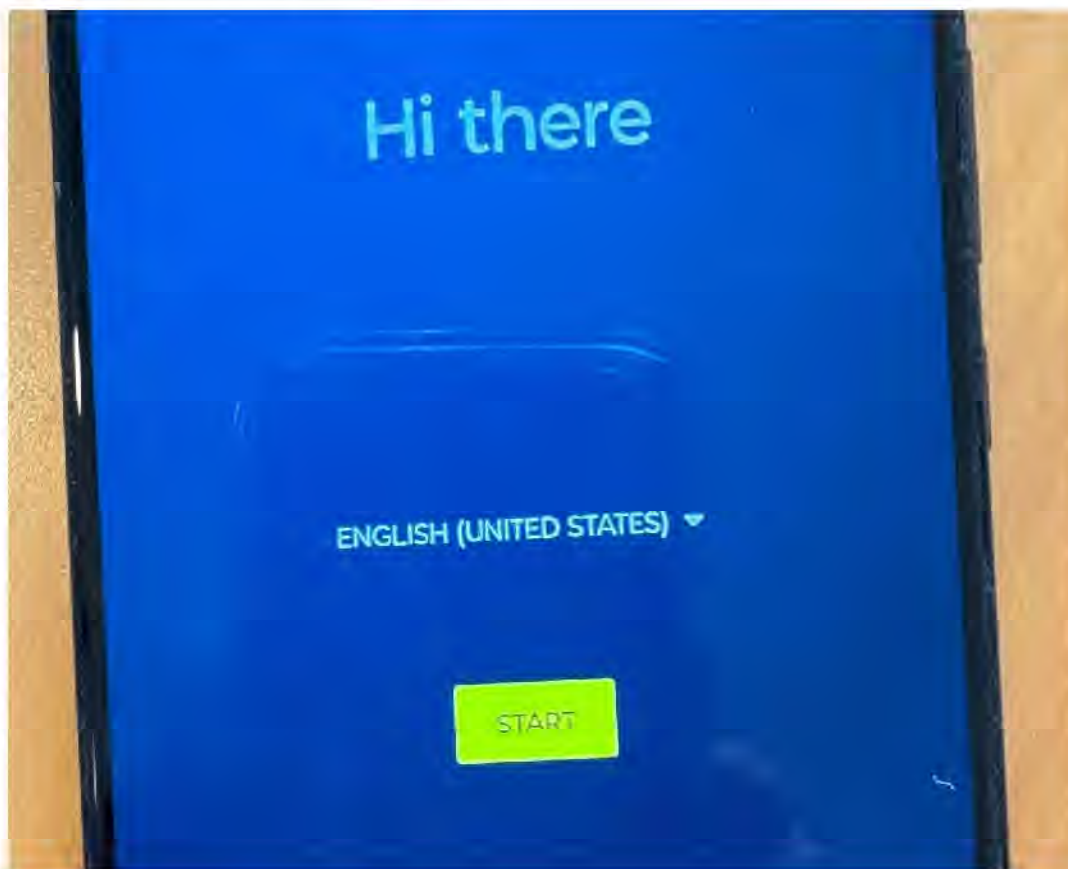


Figure 1



Figure 2



Figure 3

5. Using industry-standard, Cellebrite Ultra (Inseyets) forensic software a forensic extraction (or copy) of Mrs. Montgomery’s mobile phone was created.
6. Next the forensic extraction was processed in industry-standard, Cellebrite Physical Analyzer forensic software to process and index the extraction.
7. Analyzing the phone confirmed that the phone had been wiped and reset to factory settings on April 16, 2025 at approximately 5:15PM. See analyzed file details below.

File Analyzed from Motorola Edge mobile phone	Date Modified
EXTRACTION_FFS.zip/data/misc/bootstat/factory_reset	4/16/2025 5:15:55 (UTC-4)
EXTRACTION_FFS.zip/mnt/product/persist/lifetime/factoryreset_time	4/16/2025 5:13:46 (UTC-4)

8. A report was then created using Cellebrite Physical Analyzer with the phone details and relevant files analyzed. The report is attached as Exhibit 2.
9. Further analyzing the device reveals no user content. There are no user files that were recoverable that existed on this phone prior to the reset and so there are no files from the date of the collision, April 14, 2023.

Further the affiant sayeth not.



---

John Akerman

Exhibit 1

**John W. Akerman, Esq.**  
65 Broad St.  
Charleston, SC 29401  
843.296.4648  
jakerman@rosenlfc.com

---

### **Education**

Auburn University, Auburn, AL  
Bachelor of Science: Finance (2000)  
Charleston School of Law, Charleston, SC  
Juris Doctor (2007)

### **Licenses/Certifications**

Admitted to the South Carolina Bar  
License No. 76659  
Certified Computer Examiner (CCE)  
No. 879 (<http://isfce.com/ccelist.htm>)  
AccessData Certified Examiner (ACE)  
AccessData Mobile Examiner (AME)  
Cellebrite Mobile Forensics Fundamentals (CMFF)  
South Carolina Notary Public

### **Professional Experience**

Rosen Litigation Technology Consulting, Inc. <i>Computer Forensics Examiner &amp; Electronic Discovery Consultant</i>	Charleston, SC 2007-Present
Charleston County Public Defender's Office <i>Clerkship</i>	Charleston, SC 2006
AV Connections <i>Manager/Technology Consultant</i>	Charleston, SC 2002-2006
Fidelity Investments <i>Investments Representative</i>	Dallas, TX 2000-2002

### **Professional Memberships and Affiliations**

American Bar Association (ABA)  
South Carolina Bar Association  
Charleston County Bar Association  
International Society of Forensic Computer Examiners (ISFCE)  
- Board of Advisors (2024-present)  
The International Association of Computer Investigative Specialists (IACIS)

## Presentations

South Carolina Bar Convention 2008: Law Technology Seminar <i>Computer Forensics and Electronic Discovery</i>	January 24, 2008
National Public Radio (ETV): South Carolina Business Review <i>Mobile Forensics</i>	May 2008
Charleston Area Legal Assistants (CALA) Membership Meeting <i>New Developments in Digital Evidence Extraction</i>	June 18, 2008
South Carolina Women Lawyers Meeting <i>New Developments in Digital Evidence Extraction</i>	June 19, 2008
Charleston School of Law: Professionalism Series <i>Non Traditional Legal Careers</i>	January 29, 2009
Charleston Area Legal Assistants (CALA) Membership Meeting <i>New Developments in Electronic Discovery</i>	March 18, 2009
South Carolina Bar CLE: Online CLE (Webinar) <i>E-Discovery Basics</i>	May 21, 2009
Association of Litigation Support Professionals (Columbia, SC Chapter) <i>Charting Success in e-Discovery</i>	December 4, 2009
South Carolina Bar <i>3.0 Boot Camp for Trial Technology</i>	October 15, 2010
Information Systems Audit and Control Assoc. & Assoc. of Certified Fraud Examiners <i>Computer Forensics &amp; Electronic Discovery</i>	December 1, 2010
South Carolina Women Lawyer's Association <i>E-Discovery Update</i>	October 4, 2012
South Carolina Chapter of the Federal Bar Association <i>New Technology and Timeless Principles of Practice</i>	September 5, 2014
South Carolina Women Lawyer's Association <i>Decoding the Evidence Matrix: Mobile Device Forensics</i>	October 10, 2014
South Carolina Solo & Small Firm Association <i>Decoding the Evidence Matrix: Mobile Device Forensics</i>	November 21, 2014
National Association of Legal Assistants <i>Mobile Forensics: An In-Depth Introduction</i>	February 1, 2017
South Carolina Bar Association <i>Best Practices for South Carolina Paralegals</i>	May 10, 2019

## Specialized Training

Certified Computer Examiner Boot Camp, Houston, TX, August 2007  
 Access Data Boot Camp, Columbia, SC, January 2008  
 Mobile Forensics, Inc. Course, Chicago, IL, May 2008  
 Mobile Forensics World '08, Chicago, IL, May 2008  
 Techno Security & AccessData Conference, Myrtle Beach, SC, June 2008  
 S.C. Bar Convention 2009, *Law Technology CLE*, Myrtle Beach, SC, January 2009  
 Electronic Discovery Training Academy, Washington D.C., February 2009  
 Techno Security & AccessData Conference, Myrtle Beach, SC, June 2009  
 e-Fense Helix3 Pro Live Forensics, Charleston, SC, November 2009  
 Techno Security & AccessData Conference, Myrtle Beach, SC, June 2010  
 Techno Security & Mobile Forensics Conference, Myrtle Beach, SC, June 2011  
 Techno Security & Mobile Forensics Conference, Myrtle Beach, SC, June 2012  
 Techno Security & Mobile Forensics Conference, Myrtle Beach, SC, June 2014

**Specialized Training (continued)**

University of Florida Law E-Discovery Conference, March 2018  
Macintosh Forensic Survival Course, IACIS Conference, Orlando, FL, April 2018  
University of Florida Law 7<sup>th</sup> Annual E-Discovery Conference, March 2019  
Techno Security & Digital Forensics Conference, Myrtle Beach, SC, June 2021

**Prior Testimony**

Manning Newspapers, Inc. et al. v. Grover Cleveland Dowell, III, et al., Civil Action No.: 2:10-84-RMG; Deposition July 20, 2011.

Jane Doe v. Charles E. Worthy; Charleston County Courthouse – The Honorable Stephanie P. McDonald; Hearing Testimony October 9, 2012.

State of South Carolina v. Charles E. Hershman, Warrant No.: 2012A1020121189; Charleston County Courthouse – The Honorable Thomas L. Hughston, Jr.; Hearing Testimony July 1, 2013.

BTM Machinery, Inc. v. Michael Finley, et al., Court of Common Pleas Case No.: 2013CP-10-4366; Charleston County Courthouse – The Honorable J.C. Nicholson; Hearing Testimony June 13, 2014.

Toyota Industrial Equipment Mfg., Inc. et al v. David Land, et al, Case No.: 1:14-cv-01049; United States District Court for the Southern District of Indiana – The Honorable Jane Magnus-Stinson; Hearing Testimony July 8, 2014.

Pamela C. Cherry v. Daniel A. Cherry, Case No.: 2014-DR-10-0095; Deposition July 31, 2014.

Pamela C. Cherry v. Daniel A. Cherry, Case No.: 2014-DR-10-0095; Hearing Testimony August 14, 2014.

Chalmers Eugene Troutman, III v. Clemson University, Civil Action No.: 2014-CP-39-00746; Deposition November 18, 2016.

Palmetto School of Career Development, LLC v. Wayne Bogue and Carolina Career School, LLC, Case No.: 2016-CP-10-5404; Deposition January 5, 2017.

The State of South Carolina v. Matthew Joseph Fischer, Case No.: 2015A1010200300 and 2015A1010200302; Charleston County Courthouse; Hearing Testimony March 29, 2017.

Allison Rice v. Ahearn Rentals, Inc. and Zachary Michael Feather individually and as agent of Ahearn Rentals, Inc., Case No.: 14-CP-43-02294; Deposition Testimony May 10, 2017.

The State of South Carolina v. Marquise Kinloch, Indictment No.: 2015-GS-10-00053 - Attempted Murder, 2015-GS-10-00054 - Armed Robbery, 2015-GS-10-00055 - Kidnapping; Charleston County Courthouse; Hearing Testimony August 23, 2017.

Carmelo Viera v. Robin Viera, Docket No.: 2016-DR-18-506; Dorchester County Family Courthouse; Trial Testimony September 19, 2017.

Jeffrey J. Swygart, as Personal Representative to the Estate of Adam Ryan Swygart, v. The Chester Telephone Company, and William David Brown; Docket No. 2016-CP-12-00416; Chester County; Deposition Testimony June 29, 2018.

David Dodd v. Aeterna Zentaris, Inc., Civil Action No.: 9:17-cv-2382-PMD; United States District Court for the District of South Carolina Beaufort Division; Deposition Testimony July 23, 2018.

Tanner Davis, As PR of the Estate of Clyde Davis, and Tanner Davis, Individually v, Jill Blalock, As PR of the Estate of Jacky Blalock, Jr.; CBRE, Inc.; Civil Action No. 2016-CP-12-00498; Chester County; Deposition Testimony July 31, 2019.

Damien Cooper v. Energy Transfer Partners, L.P., Sunoco LP, and Sunoco Inc. d/b/a APlus Convenience; Civil Action No. 2017-CP-1006307; Charleston County; Deposition Testimony October 16, 2019.

Andrew Pampu v. Erin Wingo, David Wingo, and Colin J. Gahagan; Civil Action No. 2017-CP-39-00709; Pickens County; Deposition Testimony December 18, 2019.

Melissa Jenkins v. Exotic Impressions, LLC; Case No.: 2019-CP-10-05935; Charleston County; Deposition Testimony October 15, 2020.

Damien Cooper v. Energy Transfer Partners, L.P., Sunoco LP, and Sunoco Inc. d/b/a APlus Convenience; Civil Action No. 2017-CP-1006307; Charleston County; Trial Testimony November 2, 2021.

Amy G. Stokes, as Personal Representative of the Estate of Bradley R. Clark v. Kinsley Odom, Tony M. Odom, and Cathy M. Odom; Docket No. 2019-CP-21-03072; Florence County Court of Common Pleas; Trial Testimony November 13, 2023.

State of South Carolina v. Michael Scott Valdario; Lexington County; Trial Testimony July 9, 2024.

State of South Carolina v. Marco Arthur Simpson; Charleston County; Case No. 2021A1010202387; Trial Testimony December 2, 2024.

Exhibit 2



**Cellebrite**  
www.cellebrite.com

**Extraction Report - Google Android Generic**

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# RLTC

## Rosen Litigation Technology Consulting

65 Broad St. Charleston SC 29401 :: rosenltc.com :: 843.296.4648

### Summary

Cellebrite Physical Analyzer version	10.5.0.1027
Report creation time	4/22/2025 10:50:33 AM -04:00
Time zone settings (UTC)	(UTC-05:00) New York (America)
Case name	S.Montgomery Motorola 04.21.25
Case number	0
Company	Rosen Litigation Technology Consulting
Examiner name	John W. Akerman

### Source Extraction

Connection type	Cable No. Original cable
Decoding start date/time	4/21/2025 12:09:22 PM
Extraction (UFD) file data integrity	Intact
Extraction decoding version	15.0.0.2627
Extraction end date/time	4/21/2025 12:01:57 PM(UTC-4)
Extraction ID	8949b2f5-836e-4bed-8982-ff8516cdd841
Extraction start date/time	4/21/2025 11:47:00 AM(UTC-4)
Extraction type	File System [ Android ADB ]
<b>File System</b>	
Internal version	10.5.0.222
Machine name	RLTC_PROCESSING
Preserved Extraction	False
Selected device name	motorola edge (2022)
Selected manufacturer	motorola
UFED version	10.5.0.222
Unit identifier	685993784

Plugins

#	Name	Author	Version
1	<b>PreProject</b>	Cellebrite	2.0
2	<b>Android Databases</b> Decodes user-data and 3rd party application databases for Android devices	Cellebrite	2.0
3	<b>AndroidUnlockPattern</b> Decodes Android Unlock pattern	Cellebrite	2.0
4	<b>AndroidUnlockPassword</b> Decrypts the numeric lock password for Android devices	Cellebrite	2.0
5	<b>ProcdDataAnalyzer</b> Analyze files in procdData	Cellebrite	2.0
6	<b>ContactsCrossReference</b> Cross references the phone numbers in a device's contacts with the numbers in SMS messages and Calls. Will fill in the Name field of calls and SMS if there's a match.	Cellebrite	2.0
7	<b>ProjectProcessorFinisher</b>	Cellebrite	2.0
8	<b>PostProject</b>	Cellebrite	2.0

Contents

Type	Included in report	Total
Device Info	26	26
Data Files	2	9357
Uncategorized	2	9357

Device Info (26)

Events indicated in blue are ones that have been enriched.

#	Category	Name	Value	Time	Deleted
1	General	Chipset	MT6879V/ZA		
2	General	DeviceModel	motorola edge (2022)		
3	General	IMEI1	351397432435381		
4	General	IMEI2	351397432435381		
5	General	Model	motorola edge (2022)		
6	General	OS	Android 14		
7	General	SecurityPatchLevel	2025-02-01		
8	General	Vendor	motorola		
9	General	Model number	motorola edge (2022)		
10	General	Model number	moto edge (2022)		
11	General	Detected Phone Vendor	motorola		
12	General	OS Version	14		
13	General	DeviceInfoSecurityPatchLevel	2025-02-01		
14	General	Android fingerprint	motorola/tesla_g_sys/tesla:14/U1 STS34M; 1-107-5- 2/2e40a8:user/release-keys		
15	General	Location Services Enabled	True		
16	General	Advertising ID #1	e68e3134-6fdf-43d4-8eaa- 709bc2768912		
17	General	Device Name	motorola edge (2022)		
18	General	Time Zone	GMT		
19	General	Locale language	en-US		
20	General	Bluetooth device name	motorola edge (2022)		
21	General	Android ID	75c0533478bac126		
22	General	Bluetooth device address	68:87:1C:1A:DA:89		
23	General	ICCID	8901260598779170256		
24	General	MSISDN	18436077542		
25	General	Carrier Name	T-Mobile		
26	Metadata	DeviceInfoOSType	Android		

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Data Files (2)

Uncategorized (2)

#	File Info	Additional file info	Deleted *
1	<b>Name:</b> <code>factory_reset</code> <b>Path:</b> <code>EXTRACTION_FFS.zip\data/misc/bootsf at/factory_reset</code> <b>MD5:</b> N/A <b>MD5 in origin:</b> N/A	<b>Size (bytes):</b> 0 <b>Modified:</b> 4/16/2025 5:15:55 PM(UTC-4)	
2	<b>Name:</b> <code>factoryreset_time</code> <b>Path:</b> <code>EXTRACTION_FFS.zip/mn/product/per sist/lifetime/factoryreset_time</code> <b>MD5:</b> <code>0fd244e32597185c63385a4aaca2221c</code> <b>MD5 in origin:</b> N/A	<b>Size (bytes):</b> 8 <b>Modified:</b> 4/16/2025 5:13:46 PM(UTC-4)	

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Rosen Litigation Technology Consulting  
65 Broad St. Charleston, South Carolina 29401

8432964648  
admin@rosentlc.com  
http://www.rosentlc.com

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# INVOICE

## BILL TO

Mary K. Linton  
Bringardner Law Firm  
41 Broad St.  
Charleston, SC 29401

**INVOICE #** 4380

**DATE** 04/30/2025

**DUE DATE** 04/30/2025

**TERMS** Due on receipt

## PROJECT

Nash v Montgomery

## TAX ID

20-0175493

DESCRIPTION	QTY	RATE	AMOUNT
<b>Computer &amp; Mobile Forensics Services</b> John W. Akerman, Esq. April 21, 2025 - Meet at Bringardner Law Firm and accept S.Montgomery Motorola mobile phone and initiate secure chain of custody	0	300.00	0.00
<b>Mobile Device Imaging - Ultra</b> John W. Akerman, Esq. April 21, 2025 - Create mobile forensic extraction of Sabrina Montgomery's Motorola Edge (IMEI: 351397432435381) using Cellebrite Mobile Ultra (Inseyets) - Create Full File System extraction - Process in Cellebrite Physical Analyzer - Create and export customized report and produce for review - T/Cs with M.Linton to report status	1	2,000.00	2,000.00
* Data will be maintained by Rosen LTC for 2 years from invoice date unless otherwise directed			
<b>Computer &amp; Mobile Forensics Services</b> John W. Akerman, Esq. April 21, 2025 9:45 AM - 10:45 AM - Research phone details and draft affidavit	1	300.00	300.00
<b>Computer &amp; Mobile Forensics Services</b> John W. Akerman, Esq. April 30, 2025 6:30 PM - 6:45 PM - T/C with M.Linton - Finalize and send affidavit with attachments	0.25	300.00	75.00

SUBTOTAL 2,375.00  
TAX 0.00

TOTAL  
BALANCE DUE

2,375.00

**\$2,375.00**

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 for Emergency  
Status Conference**

Plaintiff hereby respectfully moves this Court for a status conference with the Chief Administrative Judge for the purpose of scheduling a date and time for the parties to appear before Judge Van Slambrook to reconvene the hearing on Plaintiff's Motion for a Rule to Show Cause and to preside over Defendant Patrick Montgomery's Motion to Protect Defendant's Interests Pursuant to Rule 1.14(B).

On January 6, 2025, Judge Van Slambrook presided over Plaintiff's Motion for a Rule to Show Cause against Defendants Patrick Montgomery and Sabrina Montgomery. On March 28, 2025, the Court granted Plaintiff's Motion and held sanctions in abeyance pending Defendants compliance. Neither Defendant complied with the Court's directive. Plaintiff's Supplemental Memorandum detailing the noncompliance alongside a letter to Judge Van Slambrook requesting the Court reconvene the hearing is attached as Exhibit A.

In accordance with the Court's instruction, Plaintiff requests the Chief Administrative Judge schedule a date and time for the parties to appear before Judge Van Slambrook to both reconvene the Rule to Show Cause hearing and to preside over Defendant Patrick Montgomery's Motion to Protect Defendant's Interests Pursuant to Rule 1.14(B). Defendant's Motion was filed on the deadline for compliance with the Court's Order and is in direct response to the ruling. Thus,

the Motions go hand in hand and judicial economy will best be served by having them heard simultaneously.

Plaintiff confirms that, pursuant to Rule 11, SCRPC, a consultation of the present Motion would serve no useful purpose and could not be timely held.

**BRINGARDNER INJURY LAW FIRM, LLC**

By: s/Mary Linton  
Mark Bringardner (SC Bar No.: 102465)  
mark@bringardner.com  
Mary Linton (SC Bar No.: 102815)  
mlinton@bringardner.com  
41 Broad Street  
Charleston, SC 29401  
Office: 843-400-0550  
Facsimile: 843-350-8290  
Attorneys for the Plaintiff

Charleston, South Carolina  
May 13, 2025



**BRINGARDNER**  
INJURY LAW FIRM

**EXHIBIT A**

ELECTRONICALLY FILED - 2025 May 13 1:43 PM - BERKELEY - COMMON PLEAS - CASE#2023CP0801652

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](http://www.bringardner.com)

Mary Linton  
Email: [mlinton@bringardner.com](mailto:mlinton@bringardner.com)

May 1, 2025

**Via E-mail: [dvanslambrooksc@sccourts.org](mailto:dvanslambrooksc@sccourts.org)**

**Via E-mail: [dvanslambrooklc@sccourts.org](mailto:dvanslambrooklc@sccourts.org)**

The Honorable Dale E. Van Slambrook  
300 California Avenue  
Moncks Corner, SC 29461

Re: *Kanisha Nash v. Patrick Montgomery, Sabrina Montgomery, and  
Montgomery Construction, LLC*  
Case Number: 2023-CP-08-01652

Dear Judge Van Slambrook:

Pursuant to the Court's request in its Order on Plaintiff's Motion for a Rule to Show Cause, issued on March 28, 2025, Plaintiff writes to respectfully alert the Court of Defendants' non-compliance.

Defendant Patrick Montgomery was ordered to provide supplemental discovery responses by April 14, 2025. Rather than comply, Defendant Patrick Montgomery instead filed a "Motion to Protect Defendant's Interests Pursuant to Rule 1.14(B)." This Motion is unsupported by objective evidence and appears to be in direct response to the Court Order as it was filed on the day of the Court ordered deadline for compliance. This Motion is presently scheduled to be heard on May 15, 2025. As to Defendant Sabrina Montgomery, the Court ordered the production of her cellular device for forensic inspection. However, on the day prior to the scheduled inspection, Defendant Montgomery wiped her phone thus spoliating the evidence and rendering the inspection useless.

Enclosed please find Plaintiff's supplemental memorandum which is simultaneously being filed with the Court. Plaintiff also respectfully requests either an emergency status conference or supplemental hearing before your Honor to address the above as these discovery issues continue to cause severe delays in this case.

Thank you for the Court's time and consideration.

*[Signature Page to Follow]*

Very truly yours,

**BRINGARDNER INJURY LAW FIRM, LLC**



Mary K. Linton

Enclosures

CC via email:

**Resnick & Louis, P.C.**

Amanda L. Perry, Esq.  
146 Fairchild Street, Suite 130  
Charleston, SC 29492  
Office: (843) 277-8035  
aperry@rlattorneys.com

*Counsel for Defendant Montgomery Construction, LLC*

**Turner Padget Graham & Laney, PA**

David Cobb, Esq.  
PO Box 22129  
Charleston, SC 294132129  
Office: (843) 576-2803  
dcobb@turnerpadget.com

*Counsel for Defendant Sabrina Montgomery*

**McAngus Goudelock & Courie, LLC**

Riley A. Bearden, Esq.  
1320 Main Street  
Floor 10  
Columbia, SC 29201  
Office: (803) 995-8011  
riley.bearden@mgclaw.com

*Counsel for Defendant Patrick Montgomery*

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 SUPPLEMENTAL  
MEMORANDUM IN SUPPORT OF HER  
RULE TO SHOW CAUSE AGAINST  
DEFENDANTS PATRICK  
MONTGOMERY AND SABRINA  
MONTGOMERY**

Plaintiff submits this memorandum to inform the Court that Defendant Patrick Montgomery and Defendant Sabrina Montgomery ("Defendants") have both failed to comply with the Court's Order of March 28, 2025, granting Plaintiff's Motion for Rule to Show Cause. The deadline to comply with the Order expired on April 14, 2025. The Order instructed Plaintiff to immediately inform the Court for consideration of an award of sanctions should the Defendants fail to timely comply with the Court's ruling by the deadline. To that end, Plaintiff is providing notice of the same to the Court and respectfully requests the Court impose severe sanctions to put an end to the ongoing discovery abuse and willful suppression of evidence that has plagued this case since its inception.

**BRIEF BACKGROUND FOR THE COURT'S REFERENCE**

This case arises out of a drunk driving head-on motor vehicle collision that resulted in serious injuries to Plaintiff Kanisha Nash and the death of Plaintiff's son, age 3. While more fully detailed in Plaintiff's initial memorandum filed in support of this motion, this matter stems from the February 2, 2024 Order of Judge Goodstein Granting Plaintiff's Motion to Compel concerning discovery served on Defendants in June of 2023. Defendants failed to comply with Judge Goodstein's Order. On October 24, 2024, Plaintiff filed the present Motion for a Rule to Show

Cause, which was eight (8) months after Judge Goodstein's Order was entered, and after a significant grace period to comply was permitted by Plaintiff.

On January 6, 2025, Plaintiff's Motion was heard and orally granted by Judge Van Slambrook, who instructed Defendant Patrick Montgomery to serve compliant responses to discovery within ten (10) days. As for Defendant Sabrina Montgomery, Judge Van Slambrook ordered the production of her cell phone for forensic inspection. On January 13, 2025, Defendant Patrick Montgomery served supplemental responses to discovery that remained wholly deficient. Plaintiff advised the Court of the same, which was included in the Court's written Order granting the Rule to Show Cause, entered on March 28, 2025. A deadline for full compliance was set for April 14, 2025. At the hearing, the Court indicated that sanctions against Defendant Patrick Montgomery would be imposed, and did not indicate as to whether sanctions against Defendant Sabrina Montgomery would be imposed. The Court held its determination of sanctions in abeyance until the expiration of the deadline for compliance.

Ms. Nash has endured far more discovery abuse than any party in a civil case should have to tolerate. The rules governing discovery are only effective if they are enforced. The issues presently before the Court demonstrate a clear need for the Court to hold accountable those who violate court orders and the rules of discovery.

**DEFENDANT PATRICK MONTGOMERY'S**  
**COMPLETE FAILURE TO COMPLY**

Defendant Patrick Montgomery did not produce any documents or serve any supplemental written responses. The Court has ordered the same on two (2) separate occasions. Instead of serving discovery responses, counsel for Defendant Patrick Montgomery waited until the last day to comply with the Court's most recent Order (April 14, 2025) and filed a motion styled "Motion to Protect Defendant's Interests Pursuant to Rule 1.14(B)," attached hereto as Exhibit A.

Now, for the first time, and without any supporting evidence whatsoever, Patrick Montgomery's counsel vaguely claims he has diminished capacity and seeks appointment of a guardian ad litem. This one-page Motion is unsupported by any competent evidence or the South Carolina Rules of Civil Procedure. It is predicated only upon attorney argument that "Defendant's Counsel reasonably believes that Defendant Patrick Montgomery has diminished capacity, is at risk of substantial financial or other harm unless action is taken by the court." That representation does not pass muster. By counsel's own admission, Defendant Patrick Montgomery has not yet even been professionally evaluated to determine diminished capacity. Frankly, it seems this issue has just now been raised as a criminal defense strategy for the related DUI charges, which civil counsel also seeks to conveniently use to avoid compliance with the Court's two (2) prior discovery orders in this case.

Notwithstanding the fact that there is no diagnosis, medical history, expert evaluation/affidavit, or even general explanation to corroborate claims for diminished capacity or risk of financial harm, Defendant Patrick Montgomery or his counsel seem oblivious to the fact that this Order was based on a Motion for a Rule to Show Cause – that is, Defendant Patrick Montgomery was previously required to show cause to the Court why he did not comply with the Court's Order. The Rule to Show Cause hearing would have been the appropriate time for diminished capacity issues to have been raised, but strains credibility at this point.

Notably, at the Rule to Show Cause hearing, counsel for Defendant Patrick Montgomery did not provide any basis for his failure to comply with the Court's Order. Moreover, counsel did not raise any issue concerning Defendant Patrick Montgomery's alleged mental incapacity. Defendant Patrick Montgomery likewise did not appear at the hearing to show cause for his failure to comply with discovery. That Motion cannot now be used to avoid compliance. If Defendant

Patrick Montgomery developed his alleged incapacity between the hearing date on the Rule to Show Cause and the filing of the Motion on April 14, 2025, such an argument still fails because he had over a year to comply with Judge Goodstein's Order during a time in which he had capacity. If, on the other hand, Defendant Patrick Montgomery claims he had diminished capacity before the Rule to Show Cause hearing, such an argument also fails because it was never raised at the hearing and because it should have been raised long ago and *immediately* after such a condition allegedly arose.

In the year and a half that has followed, and despite the issuance of two discovery orders, Plaintiff still does not have a complete substantive set of discovery responses. Plaintiff has pursued both a Motion to Compel and a Motion for a Rule to Show Cause with no success. Now, over a year from when discovery was first ordered to be produced, it seems Defendant Patrick Montgomery is attempting to stonewall Plaintiff from obtaining further discovery or deposition testimony due to the newly filed Motion – a Motion that is noticeably absent from Defendant Patrick Montgomery's companion criminal case and was filed on the day of the Court ordered discovery deadline.

Without explanation, Plaintiff can only surmise the contemplated financial harm is the issuance of sanctions for conduct that occurred long before Defendant Patrick Montgomery's Motion. Further confusing is the timing of the Motion considering that counsel for Defendant Patrick Montgomery was able to meet with and secure some responsive information from Defendant Montgomery a mere few months prior. In fact, after the hearing on the Rule to Show Cause, at the Court's request, Plaintiff's attorneys submitted affidavits regarding fees and costs. In response to the affidavits, Defendant Patrick Montgomery's counsel attempted to mitigate the pending imposition of financial sanctions by e-mailing the Court to declare that counsel had met

with Defendant Patrick Montgomery on three (3) separate occasions and, for the first time, claimed that he may have “some competency issues” and “a limited ability to recollect and respond” to discovery. [Exhibit B]. It is peculiar that despite these numerous in-person meetings, no concern was ever raised regarding Patrick Montgomery’s ability to respond to discovery until sanctions were looming. Notably, no further explanation was provided, and no formal action was taken by counsel to purportedly “protect” Patrick Montgomery in the months that followed. Only upon the day of the second Court ordered discovery deadline – in a case that has been pending for nearly two years – Defendant Montgomery allegedly is unable to comply due to incapacity.

**Defendant Sabrina Montgomery Destroyed Evidence On Her Cell Phone**

Defendant Sabrina Montgomery also failed to comply with the Court’s Order, and instead, destroyed evidence on her cell phone. The Court ordered Defendant Sabrina Montgomery to produce her cell phone for a forensic inspection and download. On April 17, 2025, counsel for Defendant Montgomery produced Defendant Sabrina Montgomery’s phone. On April 21, 2025, the forensic examiner, John Akerman of Rosen Technology, performed the forensic inspection which revealed that the cellular device was manually reset on April 16, 2025 at 5:15PM. This reset wiped the entire phone of all Court ordered data rendering the forensic inspection useless. Per the affidavit of John Akerman of Rosen Technology, attached as Exhibit C, the reset occurred on April 16, 2025, just one (1) day before the phone was to be turned over for the forensic inspection. While she feigned compliance with the Court’s Order and produced her phone 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.

Moreover, after representing to the Court that all insurance policies and information had

been produced, Sabrina Montgomery, through her business, Defendant Montgomery Construction, LLC, produced, for the first time, a second commercial insurance policy maintained by the company.

### **SEVERE SANCTIONS SHOULD BE IMPOSED**

“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. *Halverson 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.*

Here, the factors the Court can consider regarding the imposition of sanctions are set forth below:

**A) The nature of the discovery.**

Simple and straightforward. The interrogatories and requests for production were not complicated. They sought relevant, non-privileged information that was readily available without imposing a burden on the Defendants.

**B) Discovery posture of the case.**

This case has been in litigation for twenty-two (22) months with little discovery to show for it. Plaintiff is at a standstill as there is no other known 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, the Defendants

have not complied, and evidence has been spoliated. No depositions have taken place because Plaintiff has not received the basic information and documents necessary to take informed depositions. The discovery mentioned above should have certainly all been produced by the first deadline imposed by the Court, let alone the second, but really when they were initially due in the fall of 2023. This case should be ready for trial, but it is not due to Defendant's delays and discovery abuse.

**C) Willfulness of non-disclosure.**

The long pattern of willful non-disclosure and spoliation set forth herein is self-evident and cannot be credibly explained away by arguments of counsel or claims of incapacity. Nothing about the conduct demonstrated by Defendant 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.

**D) The degree of prejudice to the Plaintiff and the other defendants.**

"[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 Defendant's 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. Defendants' willful refusals comply with the Court's Orders have completely undermined Plaintiff's efforts to conduct meaningful discovery and to prepare for trial. Accordingly, Plaintiff respectfully submits that the most severe sanctions should be imposed at this time. Plaintiff still does not have basic information and documents known to exist. Prejudice

has also been shown in the spoliation of evidence, both in Sabrina Montgomery's cell phone and, apparently, Patrick Montgomery's memory or ability to interact with the world in a meaningful way.

### **RELIEF REQUESTED**

Plaintiff would respectfully submit that the appropriate sanctions here are for the Court to strike the Answer of Defendant Patrick Montgomery and Defendant Sabrina Montgomery in the entirety, to deem all of Plaintiff's allegations against them admitted, enter default judgment on all of Plaintiff's claims against them, and award monetary sanctions for reasonable expenses, including Plaintiff's attorney's fees, for efforts made to enforce compliance with the Court's Original order compelling discovery entered on February 2, 2024, (in addition to the expenses and fees identified in the two previously filed affidavits of Plaintiff's counsel, Plaintiff also requests the Court the cost for the forensic inspection of the cell phone outlined in Exhibit C (as such was borne by Plaintiff), and such further relief as the Court may find appropriate.

### **CONCLUSION**

Defendants' willful discovery abuse has resulted in the destruction of evidence, caused irreparable harm, and unfairly prejudiced Plaintiff to pursue her claims. Plaintiff respectfully requests that the Court impose sanctions.

### **BRINGARDNER INJURY LAW FIRM, LLC**

By: /s/ Mary Linton  
 Mark J. Bringardner (SC Bar No.: 102465)  
[mark@bringardner.com](mailto:mark@bringardner.com)  
 Mary K. Linton (SC Bar No.: 102815)  
[mlinton@bringardner.com](mailto:mlinton@bringardner.com)  
 41 Broad Street  
 P.O. Box 100 (29402)  
 Charleston, SC 29401  
 Office: 843-400-0550  
 Facsimile: 843-350-8290  
 Attorneys for the Plaintiff

Charleston, South Carolina  
 May 1, 2025

# EXHIBIT A

ELECTRONICALLY FILED - 2025 May 14 12:23 PM - BERKELEY - COMMON PLEAS - CASE#2023CP0801652  
ELECTRONICALLY FILED - 2025 May 01 1:58 PM - BERKELEY - COMMON PLEAS - CASE#2023CP0801652

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. )

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IN THE COURT OF COMMON PLEAS

Civil Action No. 2023-CP-08-01652

**MOTION TO PROTECT  
DEFENDANT'S INTERESTS  
PURSUANT TO RULE 1.14(B)**

TO ALL PARTIES:

YOU WILL PLEASE TAKE NOTICE that counsel for Defendant Patrick Montgomery hereby moves pursuant to Rule 1.14(b) of the South Carolina Rules of Professional conduct for an Order appointing a guardian ad litem and/or conservator for Defendant Patrick Montgomery as Defendant's Counsel reasonably believes that Defendant Patrick Montgomery has diminished capacity, is at risk of substantial financial or other harm unless action is taken by the court. Defendant's counsel has been informed by the Defendant's criminal defense counsel that a competency evaluation is being sought as a part of the criminal case against Mr. Montgomery arising out of the subject accident and, as such, Defendant's counsel respectfully requests that the court appoint a guardian ad litem or conservator for the Defendant or stay the case pending the results of the competency evaluation.

*[SIGNATURE BLOCK ON NEXT PAGE]*

MCANGUS GOUDELOCK & COURIE, LLC

*s/ Riley A. Bearden*

RILEY A. BEARDEN (SC Bar No. 104332)

riley.bearden@mgclaw.com

BRETT H. BAYNE (SC Bar No. 100018)

brett.bayne@mgclaw.com

1320 Main Street, 10th Floor

Columbia, South Carolina 29201

Telephone: (803) 779-2300

Facsimile: (803) 748-0526

ATTORNEYS FOR PATRICK MONTGOMERY

April 14, 2025

Columbia, South Carolina

ELECTRONICALLY FILED - 2025 May 14 1:23 PM - BERKELEY - COMMON PLEAS - CASE#2023CP0801652  
ELECTRONICALLY FILED - 2025 May 01 1:58 PM - BERKELEY - COMMON PLEAS - CASE#2023CP0801652

**From:** Riley Bearden <Riley.Bearden@mgclaw.com>  
**Sent:** Wednesday, January 15, 2025 4:39 PM  
**To:** Mary Linton; dvanslambrooksc@sccourts.org; dvanslambrooklc@sccourts.org; Brett Bayne; Sterling Davies  
**Cc:** dcobb@turnerpadget.com; Amanda Perry; Michael Trask; Mark Bringardner; Shawn Legg  
**Subject:** RE: Kanisha Nash v. Patrick Montgomery, et al.  
**Attachments:** 48455121.pdf

Dear Judge Van Slambrook:

At this time we have served supplemental discovery responses to Plaintiff's counsel following our third in-person meeting with Patrick Montgomery. For the court's convenience, the answers to interrogatories and responses to requests for production are attached here. I have also copied Mr. Montgomery's criminal defense counsel here for the court's convenience as Mr. Montgomery has some competency issues which they are seeking to evaluate as a part of the criminal case. Mr. Montgomery has a limited ability to recollect and respond to some of the questions propounded by Plaintiff's counsel but we have attempted to consult with him and Sabrina about what information he can provide that does not waive any Fifth Amendment constitutional rights. We would also respectfully request documentation of Plaintiff's counsel's fee agreement with the Plaintiffs and other claimants as a part of this case to corroborate their affidavits of costs. We would be agreeable to paying their out of pocket costs such as their filing fee and Mary Linton's cost for attending the hearing.

Riley



**Riley Bearden, Attorney**

[riley.bearden@mgclaw.com](mailto:riley.bearden@mgclaw.com)

1320 Main St, 10th Floor, Columbia, SC 29201

Mail: PO Box 12519, Columbia, SC 29211-2519

Main: 803-779-2300 | Direct: 803-995-8011 | Fax: 803-748-0528

V CARD

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Please consider the environment before printing this email.

**From:** Mary Linton <mlinton@bringardner.com>

**Sent:** Tuesday, January 14, 2025 9:55 AM

**To:** dvanslambrooksc@sccourts.org; dvanslambrooklc@sccourts.org

**Cc:** dcobb@turnerpadget.com; Riley Bearden <Riley.Bearden@mgclaw.com>; Amanda Perry <aPerry@rlattorneys.com>

Michael Trask <Michael.Trask@mgclaw.com>; Mark Bringardner <mark@bringardner.com>; Shawn Legg <slegg@bringardner.com>

**Subject:** Kanisha Nash v. Patrick Montgomery, et al.

Dear Judge Van Slambrook:

This case was before your Honor last Monday, January 6th on Plaintiff's Rule to Show Cause as to Defendants Patrick and Sabrina Montgomery. Your Honor requested we submit our costs and fees associated with the pursuit of this Motion and the discovery compliance efforts in the year subsequent to Judge Goodstein's discovery order. The supporting documentation is attached. I do not believe your Honor request a proposed Order, but I am happy to prepare one to comport with your final ruling. I intend to separately submit a proposed Order as to Defendant Sabrina Montgomery after first consulting with Ms. Montgomery's counsel.

Thank you in advance for the Court's consideration.

Best,

Mary



**Mary K. Linton**, Trial Attorney

41 Broad Street  
P.O. Box 100 (29402)  
Charleston, SC 29401

**Phone:** 843-400-0550

**Fax:** 843-350-8290

**Email:** [mlinton@bringardner.com](mailto:mlinton@bringardner.com)

**STATEMENT OF CONFIDENTIALITY**

The information contained in this electronic message and any attachments to this message are intended for the exclusive use of the addressee(s) and may contain confidential or privileged information. If you are not the intended recipient, or the person responsible for delivering the e-mail to the intended recipient, be advised you have received this message in error and that any use, dissemination, forwarding, printing, or copying is strictly prohibited. Please notify Bringardner Injury Law Firm, LLC immediately at (843) 400-0550, and destroy all copies of this message and any attachments.

## Affidavit of John W. Akerman

Personally appeared before me John Akerman, who being duly sworn, deposes and states as follows:

1. I am a licensed attorney in South Carolina (SC Bar #76659) and a partner of Rosen Litigation Technology Consulting, Inc. ("Rosen LTC") located at 65 Broad St., Charleston, SC 29401. My practice is focused on computer forensics, mobile forensics, electronic discovery, and digital evidence presentation. I hold various forensic licenses, including the Certified Computer Examiner (CCE #879), Cellebrite Mobile Forensics Fundamentals (CMFF), and Access Data Certified Examiner (ACE). I am also a member of the International Society of Forensic Computer Examiners (ISFCE) and a member of the International Association of Computer Investigative Specialists (IACIS). I have been qualified and testified in both State and Federal courts. Furthermore, I continually attend training courses and seminars to stay abreast of this rapidly progressing field. My qualifications are more fully addressed in my Curriculum Vitae attached as Exhibit I.
2. My task for this case was to create a forensic image/extraction of Sabrina Montgomery's mobile phone and to analyze it for activity surrounding the collision that occurred on April 14, 2023.
3. On April 21, 2025 I received Sabrina Montgomery's Motorola Edge mobile phone (IMEI: 351397432435381) from Mary Linton at Bringardner Law Firm and initiated our chain of custody form.
4. It was evident from turning on the phone for the first time that the phone had been reset or wiped back to initial factory settings. The first screens that appear relate to activating the phone as a brand-new phone. See figures below. Further, Figure 2 below states: This

SIM card is not from Verizon Wireless.

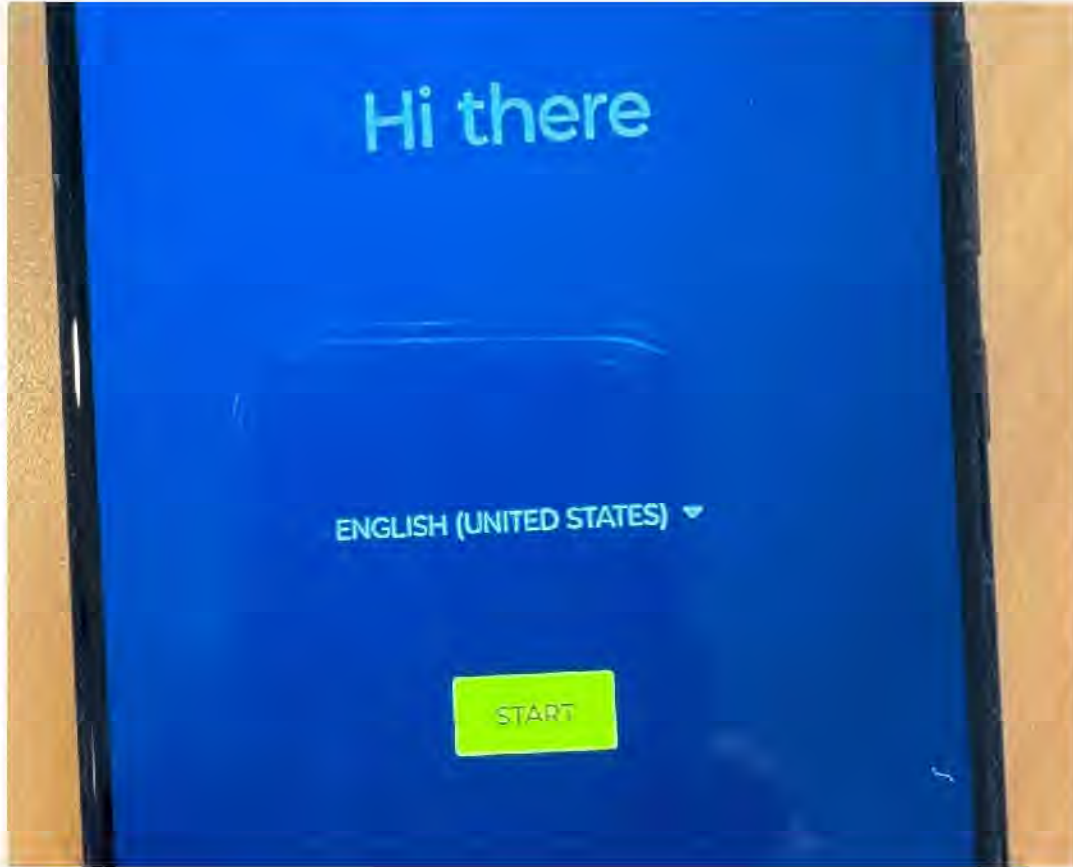


Figure 1

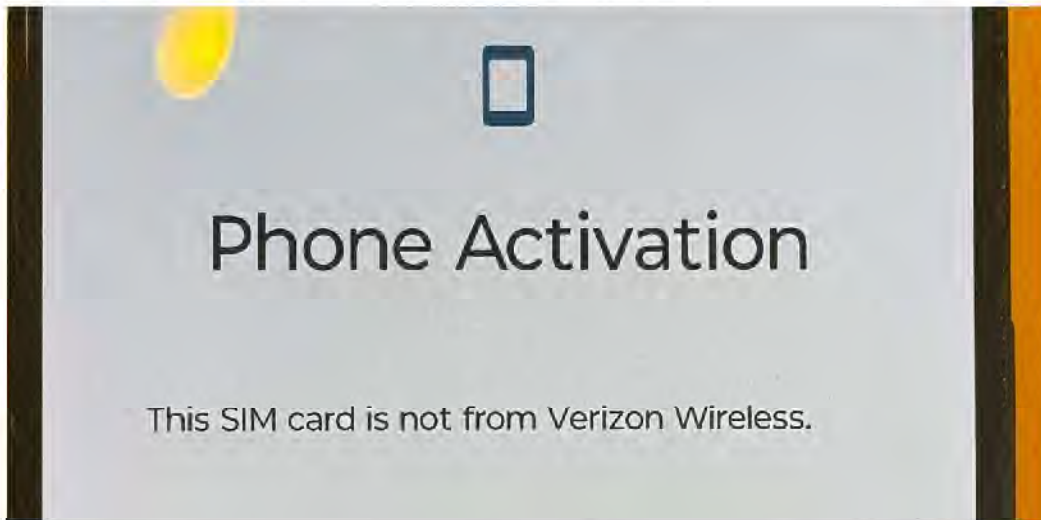


Figure 2

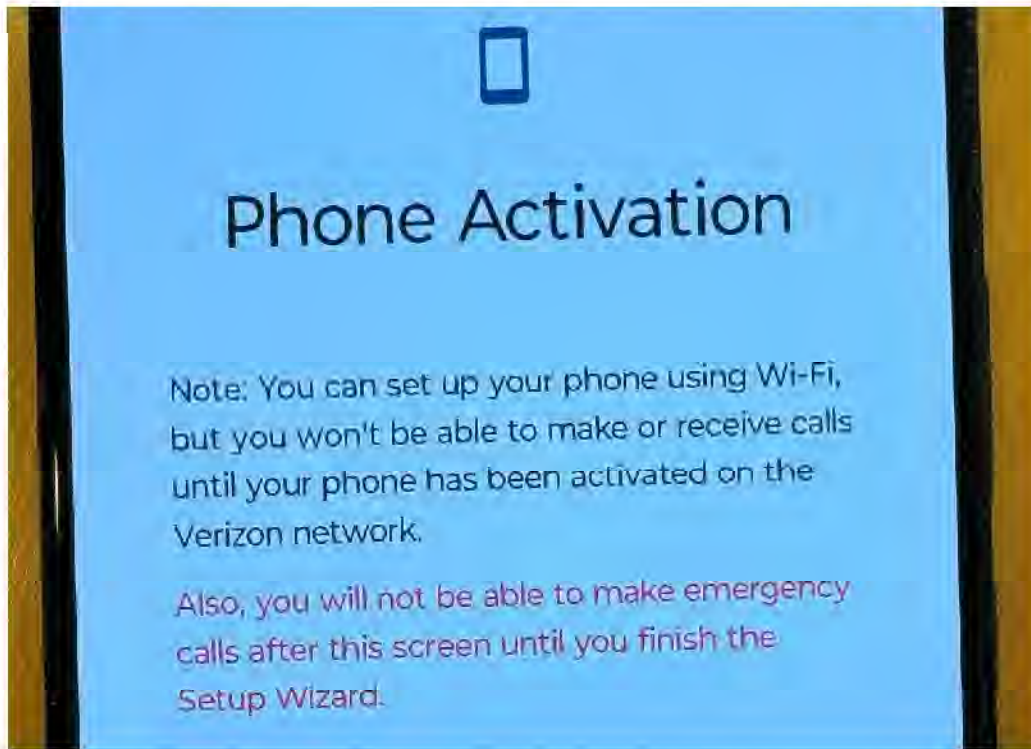


Figure 3

5. Using industry-standard, Cellebrite Ultra (Inseyets) forensic software a forensic extraction (or copy) of Mrs. Montgomery’s mobile phone was created.
6. Next the forensic extraction was processed in industry-standard, Cellebrite Physical Analyzer forensic software to process and index the extraction.
7. Analyzing the phone confirmed that the phone had been wiped and reset to factory settings on April 16, 2025 at approximately 5:15PM. See analyzed file details below.

File Analyzed from Motorola Edge mobile phone	Date Modified
EXTRACTION_FFS.zip/data/misc/bootstat/factory_reset	4/16/2025 5:15:55 (UTC-4)
EXTRACTION_FFS.zip/mnt/product/persist/lifetime/factoryreset_time	4/16/2025 5:13:46 (UTC-4)

8. A report was then created using Cellebrite Physical Analyzer with the phone details and relevant files analyzed. The report is attached as Exhibit 2.
9. Further analyzing the device reveals no user content. There are no user files that were recoverable that existed on this phone prior to the reset and so there are no files from the date of the collision, April 14, 2023.

Further the affiant sayeth not.



---

John Akerman

Exhibit 1

**John W. Akerman, Esq.**  
65 Broad St.  
Charleston, SC 29401  
843.296.4648  
jakerman@rosenlfc.com

---

### **Education**

Auburn University, Auburn, AL  
Bachelor of Science: Finance (2000)  
Charleston School of Law, Charleston, SC  
Juris Doctor (2007)

### **Licenses/Certifications**

Admitted to the South Carolina Bar  
License No. 76659  
Certified Computer Examiner (CCE)  
No. 879 (<http://isfce.com/ccelist.htm>)  
AccessData Certified Examiner (ACE)  
AccessData Mobile Examiner (AME)  
Cellebrite Mobile Forensics Fundamentals (CMFF)  
South Carolina Notary Public

### **Professional Experience**

Rosen Litigation Technology Consulting, Inc. <i>Computer Forensics Examiner &amp; Electronic Discovery Consultant</i>	Charleston, SC 2007-Present
Charleston County Public Defender's Office <i>Clerkship</i>	Charleston, SC 2006
AV Connections <i>Manager/Technology Consultant</i>	Charleston, SC 2002-2006
Fidelity Investments <i>Investments Representative</i>	Dallas, TX 2000-2002

### **Professional Memberships and Affiliations**

American Bar Association (ABA)  
South Carolina Bar Association  
Charleston County Bar Association  
International Society of Forensic Computer Examiners (ISFCE)  
- Board of Advisors (2024-present)  
The International Association of Computer Investigative Specialists (IACIS)

## Presentations

South Carolina Bar Convention 2008: Law Technology Seminar <i>Computer Forensics and Electronic Discovery</i>	January 24, 2008
National Public Radio (ETV): South Carolina Business Review <i>Mobile Forensics</i>	May 2008
Charleston Area Legal Assistants (CALA) Membership Meeting <i>New Developments in Digital Evidence Extraction</i>	June 18, 2008
South Carolina Women Lawyers Meeting <i>New Developments in Digital Evidence Extraction</i>	June 19, 2008
Charleston School of Law: Professionalism Series <i>Non Traditional Legal Careers</i>	January 29, 2009
Charleston Area Legal Assistants (CALA) Membership Meeting <i>New Developments in Electronic Discovery</i>	March 18, 2009
South Carolina Bar CLE: Online CLE (Webinar) <i>E-Discovery Basics</i>	May 21, 2009
Association of Litigation Support Professionals (Columbia, SC Chapter) <i>Charting Success in e-Discovery</i>	December 4, 2009
South Carolina Bar <i>3.0 Boot Camp for Trial Technology</i>	October 15, 2010
Information Systems Audit and Control Assoc. & Assoc. of Certified Fraud Examiners <i>Computer Forensics &amp; Electronic Discovery</i>	December 1, 2010
South Carolina Women Lawyer's Association <i>E-Discovery Update</i>	October 4, 2012
South Carolina Chapter of the Federal Bar Association <i>New Technology and Timeless Principles of Practice</i>	September 5, 2014
South Carolina Women Lawyer's Association <i>Decoding the Evidence Matrix: Mobile Device Forensics</i>	October 10, 2014
South Carolina Solo & Small Firm Association <i>Decoding the Evidence Matrix: Mobile Device Forensics</i>	November 21, 2014
National Association of Legal Assistants <i>Mobile Forensics: An In-Depth Introduction</i>	February 1, 2017
South Carolina Bar Association <i>Best Practices for South Carolina Paralegals</i>	May 10, 2019

## Specialized Training

Certified Computer Examiner Boot Camp, Houston, TX, August 2007
Access Data Boot Camp, Columbia, SC, January 2008
Mobile Forensics, Inc. Course, Chicago, IL, May 2008
Mobile Forensics World '08, Chicago, IL, May 2008
Techno Security & AccessData Conference, Myrtle Beach, SC, June 2008
S.C. Bar Convention 2009, <i>Law Technology CLE</i> , Myrtle Beach, SC, January 2009
Electronic Discovery Training Academy, Washington D.C., February 2009
Techno Security & AccessData Conference, Myrtle Beach, SC, June 2009
e-Fense Helix3 Pro Live Forensics, Charleston, SC, November 2009
Techno Security & AccessData Conference, Myrtle Beach, SC, June 2010
Techno Security & Mobile Forensics Conference, Myrtle Beach, SC, June 2011
Techno Security & Mobile Forensics Conference, Myrtle Beach, SC, June 2012
Techno Security & Mobile Forensics Conference, Myrtle Beach, SC, June 2014

**Specialized Training (continued)**

University of Florida Law E-Discovery Conference, March 2018  
Macintosh Forensic Survival Course, IACIS Conference, Orlando, FL, April 2018  
University of Florida Law 7<sup>th</sup> Annual E-Discovery Conference, March 2019  
Techno Security & Digital Forensics Conference, Myrtle Beach, SC, June 2021

**Prior Testimony**

Manning Newspapers, Inc. et al. v. Grover Cleveland Dowell, III, et al., Civil Action No.: 2:10-84-RMG; Deposition July 20, 2011.

Jane Doe v. Charles E. Worthy; Charleston County Courthouse – The Honorable Stephanie P. McDonald; Hearing Testimony October 9, 2012.

State of South Carolina v. Charles E. Hershman, Warrant No.: 2012A1020121189; Charleston County Courthouse – The Honorable Thomas L. Hughston, Jr.; Hearing Testimony July 1, 2013.

BTM Machinery, Inc. v. Michael Finley, et al., Court of Common Pleas Case No.: 2013CP-10-4366; Charleston County Courthouse – The Honorable J.C. Nicholson; Hearing Testimony June 13, 2014.

Toyota Industrial Equipment Mfg., Inc. et al v. David Land, et al, Case No.: 1:14-cv-01049; United States District Court for the Southern District of Indiana – The Honorable Jane Magnus-Stinson; Hearing Testimony July 8, 2014.

Pamela C. Cherry v. Daniel A. Cherry, Case No.: 2014-DR-10-0095; Deposition July 31, 2014.

Pamela C. Cherry v. Daniel A. Cherry, Case No.: 2014-DR-10-0095; Hearing Testimony August 14, 2014.

Chalmers Eugene Troutman, III v. Clemson University, Civil Action No.: 2014-CP-39-00746; Deposition November 18, 2016.

Palmetto School of Career Development, LLC v. Wayne Bogue and Carolina Career School, LLC, Case No.: 2016-CP-10-5404; Deposition January 5, 2017.

The State of South Carolina v. Matthew Joseph Fischer, Case No.: 2015A1010200300 and 2015A1010200302; Charleston County Courthouse; Hearing Testimony March 29, 2017.

Allison Rice v. Ahearn Rentals, Inc. and Zachary Michael Feather individually and as agent of Ahearn Rentals, Inc., Case No.: 14-CP-43-02294; Deposition Testimony May 10, 2017.

The State of South Carolina v. Marquise Kinloch, Indictment No.: 2015-GS-10-00053 - Attempted Murder, 2015-GS-10-00054 - Armed Robbery, 2015-GS-10-00055 - Kidnapping; Charleston County Courthouse; Hearing Testimony August 23, 2017.

Carmelo Viera v. Robin Viera, Docket No.: 2016-DR-18-506; Dorchester County Family Courthouse; Trial Testimony September 19, 2017.

Jeffrey J. Swygart, as Personal Representative to the Estate of Adam Ryan Swygart, v. The Chester Telephone Company, and William David Brown; Docket No. 2016-CP-12-00416; Chester County; Deposition Testimony June 29, 2018.

David Dodd v. Aeterna Zentaris, Inc., Civil Action No.: 9:17-cv-2382-PMD; United States District Court for the District of South Carolina Beaufort Division; Deposition Testimony July 23, 2018.

Tanner Davis, As PR of the Estate of Clyde Davis, and Tanner Davis, Individually v, Jill Blalock, As PR of the Estate of Jacky Blalock, Jr.; CBRE, Inc.; Civil Action No. 2016-CP-12-00498; Chester County; Deposition Testimony July 31, 2019.

Damien Cooper v. Energy Transfer Partners, L.P., Sunoco LP, and Sunoco Inc. d/b/a APlus Convenience; Civil Action No. 2017-CP-1006307; Charleston County; Deposition Testimony October 16, 2019.

Andrew Pampu v. Erin Wingo, David Wingo, and Colin J. Gahagan; Civil Action No. 2017-CP-39-00709; Pickens County; Deposition Testimony December 18, 2019.

Melissa Jenkins v. Exotic Impressions, LLC; Case No.: 2019-CP-10-05935; Charleston County; Deposition Testimony October 15, 2020.

Damien Cooper v. Energy Transfer Partners, L.P., Sunoco LP, and Sunoco Inc. d/b/a APlus Convenience; Civil Action No. 2017-CP-1006307; Charleston County; Trial Testimony November 2, 2021.

Amy G. Stokes, as Personal Representative of the Estate of Bradley R. Clark v. Kinsley Odom, Tony M. Odom, and Cathy M. Odom; Docket No. 2019-CP-21-03072; Florence County Court of Common Pleas; Trial Testimony November 13, 2023.

State of South Carolina v. Michael Scott Valdario; Lexington County; Trial Testimony July 9, 2024.

State of South Carolina v. Marco Arthur Simpson; Charleston County; Case No. 2021A1010202387; Trial Testimony December 2, 2024.

Exhibit 2



**Cellebrite**  
www.cellebrite.com

**Extraction Report - Google Android Generic**

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# RLTC

## Rosen Litigation Technology Consulting

65 Broad St. Charleston SC 29401 :: rosenltc.com :: 843.296.4648

**Summary**

Cellebrite Physical Analyzer version	10.5.0.1027
Report creation time	4/22/2025 10:50:33 AM -04:00
Time zone settings (UTC)	(UTC-05:00) New York (America)
Case name	S.Montgomery Motorola 04.21.25
Case number	0
Company	Rosen Litigation Technology Consulting
Examiner name	John W. Akerman

**Source Extraction**

Connection type	Cable No. Original cable
Decoding start date/time	4/21/2025 12:09:22 PM
Extraction (UFD) file data integrity	Intact
Extraction decoding version	15.0.0.2627
Extraction end date/time	4/21/2025 12:01:57 PM(UTC-4)
Extraction ID	8949b2f5-836e-4bed-8982-ff8516cdd841
Extraction start date/time	4/21/2025 11:47:00 AM(UTC-4)
Extraction type	File System [ Android ADB ]
<b>File System</b>	
Internal version	10.5.0.222
Machine name	RLTC_PROCESSING
Preserved Extraction	False
Selected device name	motorola edge (2022)
Selected manufacturer	motorola
UFED version	10.5.0.222
Unit identifier	685993784

Plugins

#	Name	Author	Version
1	<b>PreProject</b>	Cellebrite	2.0
2	<b>Android Databases</b> Decodes user-data and 3rd party application databases for Android devices	Cellebrite	2.0
3	<b>AndroidUnlockPattern</b> Decodes Android Unlock pattern	Cellebrite	2.0
4	<b>AndroidUnlockPassword</b> Decrypts the numeric lock password for Android devices	Cellebrite	2.0
5	<b>ProcdDataAnalyzer</b> Analyze files in procdData	Cellebrite	2.0
6	<b>ContactsCrossReference</b> Cross references the phone numbers in a device's contacts with the numbers in SMS messages and Calls. Will fill in the Name field of calls and SMS if there's a match.	Cellebrite	2.0
7	<b>ProjectProcessorFinisher</b>	Cellebrite	2.0
8	<b>PostProject</b>	Cellebrite	2.0

Contents

Type	Included in report	Total
Device Info	26	26
Data Files	2	9357
Uncategorized	2	9357

Device Info (26)

Events indicated in blue are ones that have been enriched.

#	Category	Name	Value	Time	Deleted
1	General	Chipset	MT6879V/ZA		
2	General	DeviceModel	motorola edge (2022)		
3	General	IMEI1	351397432435381		
4	General	IMEI2	351397432435381		
5	General	Model	motorola edge (2022)		
6	General	OS	Android 14		
7	General	SecurityPatchLevel	2025-02-01		
8	General	Vendor	motorola		
9	General	Model number	motorola edge (2022)		
10	General	Model number	moto edge (2022)		
11	General	Detected Phone Vendor	motorola		
12	General	OS Version	14		
13	General	DeviceInfoSecurityPatchLevel	2025-02-01		
14	General	Android fingerprint	motorola/tesla_g_sys/tesla:14/U1 STS34M; 1-107-5- 2/2e40a8:user/release-keys		
15	General	Location Services Enabled	True		
16	General	Advertising ID #1	e68e3134-6fdf-43d4-8eaa- 709bc2768912		
17	General	Device Name	motorola edge (2022)		
18	General	Time Zone	GMT		
19	General	Locale language	en-US		
20	General	Bluetooth device name	motorola edge (2022)		
21	General	Android ID	75c0533478bac126		
22	General	Bluetooth device address	68:87:1C:1A:DA:89		
23	General	ICCID	8901260598779170256		
24	General	MSISDN	18436077542		
25	General	Carrier Name	T-Mobile		
26	Metadata	DeviceInfoOSType	Android		

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Data Files (2)

Uncategorized (2)

#	File Info	Additional file info	Deleted *
1	<b>Name:</b> <code>factory_reset</code> <b>Path:</b> <code>EXTRACTION_FFS.zip\data/misc/bootsf at/factory_reset</code> <b>MD5:</b> N/A <b>MD5 in origin:</b> N/A	<b>Size (bytes):</b> 0 <b>Modified:</b> 4/16/2025 5:15:55 PM(UTC-4)	
2	<b>Name:</b> <code>factoryreset_time</code> <b>Path:</b> <code>EXTRACTION_FFS.zip/mn/product/per sisb/lifetime/factoryreset_time</code> <b>MD5:</b> <code>0fd244e32597185c63385a4aaca2221c</code> <b>MD5 in origin:</b> N/A	<b>Size (bytes):</b> 8 <b>Modified:</b> 4/16/2025 5:13:46 PM(UTC-4)	

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Rosen Litigation Technology Consulting  
65 Broad St. Charleston, South Carolina 29401

8432964648  
admin@rosentlc.com  
http://www.rosentlc.com

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# INVOICE

## BILL TO

Mary K. Linton  
Bringardner Law Firm  
41 Broad St.  
Charleston, SC 29401

**INVOICE #** 4380

**DATE** 04/30/2025

**DUE DATE** 04/30/2025

**TERMS** Due on receipt

## PROJECT

Nash v Montgomery

## TAX ID

20-0175493

DESCRIPTION	QTY	RATE	AMOUNT
<b>Computer &amp; Mobile Forensics Services</b> John W. Akerman, Esq. April 21, 2025 - Meet at Bringardner Law Firm and accept S.Montgomery Motorola mobile phone and initiate secure chain of custody	0	300.00	0.00
<b>Mobile Device Imaging - Ultra</b> John W. Akerman, Esq. April 21, 2025 - Create mobile forensic extraction of Sabrina Montgomery's Motorola Edge (IMEI: 351397432435381) using Cellebrite Mobile Ultra (Inseyets) - Create Full File System extraction - Process in Cellebrite Physical Analyzer - Create and export customized report and produce for review - T/Cs with M.Linton to report status	1	2,000.00	2,000.00
* Data will be maintained by Rosen LTC for 2 years from invoice date unless otherwise directed			
<b>Computer &amp; Mobile Forensics Services</b> John W. Akerman, Esq. April 21, 2025 9:45 AM - 10:45 AM - Research phone details and draft affidavit	1	300.00	300.00
<b>Computer &amp; Mobile Forensics Services</b> John W. Akerman, Esq. April 30, 2025 6:30 PM - 6:45 PM - T/C with M.Linton - Finalize and send affidavit with attachments	0.25	300.00	75.00

SUBTOTAL 2,375.00  
TAX 0.00

TOTAL  
BALANCE DUE

2,375.00

**\$2,375.00**

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 for Continuance  
of Hearing on Defendant Patrick  
Montgomery's Motion to Protect  
Defendant's Interests Scheduled for  
May 16, 2025**

PLEASE TAKE NOTICE, that Plaintiff, by and through her undersigned counsel, hereby moves this Honorable Court for a continuance of the hearing on Defendant Patrick Montgomery's Motion to Protect Defendant's Interests Pursuant to Rule 1.14(B), filed April 14, 2025. Plaintiff requests this Motion be continued for the following reasons:

1. Plaintiff's Motion for a Rule to Show Cause against Defendant Patrick Montgomery remains pending before Judge Van Slambrook and directly relates to the present Motion such that they should be heard simultaneously;
2. Defendant's Motion was filed in response to the Court's Order on Plaintiff's Rule to Show Cause and therefore Judge Van Slambrook retains jurisdiction for the adjudication of Defendant's Motion; and
3. Plaintiff filed a Motion for Emergency Status Conference on May 13, 2025 requesting the Chief Administrative Judge schedule a date and time for all outstanding motions in this case to be heard and ruled upon by Judge Van Slambrook.

Defendant Patrick Montgomery will suffer no prejudice with the continuance of this Motion as it was just recently filed last month and no evidence has been produced to determine capacity or a need for a guardian or conservator. It remains unknown if a competency evaluation has even been performed at this time. Stating further, Plaintiff's Motion for Emergency Status Conference requests a hearing on Defendant's Motion, as well as her own, as soon as possible. Thus, delay as to the timing of the Motion is minimal, if any. For these reasons, Plaintiff

respectfully requests the Motion be continued.

Plaintiff confirms that, pursuant to Rule 11, SCRPC, a consultation of the present Motion would serve no useful purpose and could not be timely held.

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May 13, 2025