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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM OCONEE COUNTY
Court of Common Pleas

R. Lawton McIntosh, Circuit Court Judge

Appellate Case No. 2025-002523

Charles ShabazzAppellant,

v.

Brian CoxRespondent.

RECORD ON APPEAL – VOLUME I

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FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2024 CP-37-00163

Charles Shabazz
PLAINTIFF(S)

Brian Cox
DEFENDANT(S)

Submitted by:

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

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

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

ORDER INFORMATION

Plaintiff is forty-five percent (45%) comparatively negligent. Total verdict is forty-five thousand dollars (\$45,000), fifty-five percent (55%) of which is twenty-four thousand seven hundred and fifty dollars (\$24,750). The parties have ten (10) days to make post-trial motions.

This order ☒ ends ☐ does not end the case.

INFORMATION FOR THE JUDGMENT INDEX

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

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
Charles Shabazz	Brian Cox	\$24,750
		\$
		\$

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

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

For Clerk of Court Office Use Only

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

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT**Court Reporter:**

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

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

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



Oconee Common Pleas

Case Caption: Charles Shabazz VS Brian Cox

Case Number: 2024CP3700163

Type: Order/Form 4

S/R. LAWTON McINTOSH

S/R.LAWTON McINTOSH

Electronically signed on 2025-11-03 09:58:10 page 3 of 3

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2024- CP-37-00163

CHARLES SHABAZZ
PLAINTIFF(S)

BRIAN COX
DEFENDANT(S)

Submitted by:

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
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- ☐ **STAYED DUE TO BANKRUPTCY**
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☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

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

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

ORDER INFORMATION

PLAINTIFF'S MOTION FOR NEW TRIAL, NISI ADDITUR, OR NEW TRIAL ABSOLUTE AND PLAINTIFF'S MOTION FOR JUDGMENT NOT WITHSTANDING THE VERDICT ARE DENIED WITHOUT THE NECESSITY OF A FORMAL HEARING. NO FORMAL ORDER REQUESTED.

PLAINTIFF'S MOTION FOR A NEW TRIAL BASED ON THIRTEENTH JUROR DOCTRINE IS DENIED WITHOUT THE NECESSITY OF A FORMAL HEARING. NO FORMAL ORDER REQUESTED.

PLAINTIFF'S MOTION FOR SUBMISSION OF COURT EXHIBITS IS GRANTED IN PART AND DENIED IN PART AS FOLLOWS:

PLAINTIFF'S SUMMONS AND COMPLAINT AND DEFENDANT'S ANSWER TO PLAINTIFF'S SUMMONS AND COMPLAINT ARE DENIED SINCE THE DOCUMENTS ARE PART OF THE COURT RECORD.

GRANTED AS TO THE DEFENDANT'S SECOND SUPPLEMENTAL ANSWER TO PLAINTIFF'S FIRST SET OF INTERROGATORIES.

DENIED AS TO THE COURT'S JURY CHARGES SINCE IT IS PART OF THE COURT'S RECORD, BUT GRANTED AS TO THE PARTIES' PROPOSED JURY CHARGES.

This order ☐ ends ☒ does not end the case.

INFORMATION FOR THE JUDGMENT INDEX

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

Judgment in Favor of	Judgment Against	Judgment Amount To be Enrolled
-----------------------------	-------------------------	---------------------------------------

(List name(s) below)	(List name(s) below)	(List amount(s) below)
		\$
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

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

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

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

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



Oconee Common Pleas

Case Caption: Charles Shabazz VS Brian Cox

Case Number: 2024CP3700163

Type: Order/Form 4

S/R. LAWTON McINTOSH

S/R.LAWTON McINTOSH

Electronically signed on 2025-11-20 10:07:40 page 4 of 4

STATE OF SOUTH CAROLINA)
COUNTY OF OCONEE)

IN THE COURT OF COMMON PLEAS
FOR THE TENTH JUDICIAL CIRCUIT

Charles Shabazz,
Plaintiff,

Case No: 2024-CP-37-00163

vs.

VERDICT FORM

Brian Cox,
Defendant.

1. Was the Defendant negligent?

☒ YES – Go to Question 2.

☐ NO – STOP DELIBERATIONS.

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

☒ YES – Go to Question 3.

☐ NO – STOP DELIBERATIONS.

3. Was the Plaintiff negligent?

☒ YES — Go to Question 4.

☐ NO — Go to Question 7.

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

☒ YES - Go to Question 5.

☐ NO - Go to Question 7.

5. Considering the combined negligence that proximately caused the Plaintiff's injuries as 100%, what percentage of that negligence is attributable to the Plaintiff and what percentage is attributable to the Defendant? [The percentages must add up to 100%. It is perfectly acceptable for a defendant to be assigned a zero percentage (0%)]

Plaintiff 45 %

Defendant 55 %

Total 100 %

6. Was the Plaintiff's negligence greater than fifty percent (50%)?

 YES - STOP DELIBERATIONS.

✓ NO - Go to Question 7

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

Forty Five Thousand dollars ⁰⁰/100 (\$ 45,000.00) and
(Actual Damages)

Zero (\$ Ø)
(Punitive Damages)

Timothy S. Arnold
Juror # 2 Foreperson

October 28, 2025

Oconee, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

Charles Shabazz,

Plaintiff,

v.

Brian Cox,

Defendant.

IN THE COURT OF COMMON PLEAS
FOR THE TENTH JUDICIAL CIRCUIT
CASE NO. 2024-CP-37-_____

SUMMONS

TO THE DEFENDANT 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/Christopher T. Dorsel
Mark Bringardner (SC Bar No.: 102465)
mark@bringardner.com
Chris Dorsel (SC Bar No.: 72504)
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41 Broad Street
Charleston, SC 29401
Office: 843-400-0550
Facsimile: 843-350-8290
Attorney for the Plaintiff

Charleston, South Carolina
March 1, 2024

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

Charles Shabazz,

Plaintiff,

v.

Brian Cox,

Defendant,

IN THE COURT OF COMMON PLEAS
FOR THE TENTH JUDICIAL CIRCUIT
CASE NO. 2024-CP-37-_____

COMPLAINT

(Automobile Collision/Negligence)
(Jury Trial Requested)

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

1. Plaintiff is a resident of Oconee County, South Carolina.
2. Upon information and belief, Defendant is a resident of Oconee County, South Carolina.
3. At all relevant times hereto, the most substantial part of the acts and omissions committed by Defendant giving rise to this action occurred in Oconee County, South Carolina. This Court has jurisdiction pursuant to S.C. Code Ann. 15-7-20 and venue is proper.
4. On or about March 22, 2023, Plaintiff was driving a vehicle traveling south bound on Rochester Highway/Highway 130 near Seneca, South Carolina.
5. At the same time, Defendant Brian Cox was driving a vehicle traveling east bound on Mill Road.
6. A stop sign governs traffic on Mill Road at the intersection with Rochester Highway/Highway 130.
7. South bound traffic on Rochester Highway/Highway 130 does not have a stop sign and has the absolute right of way to proceed through the intersection without obstruction.

8. As Plaintiff approached the intersection of Rochester Highway/Highway 130 and Mill Road, Defendant suddenly drove into the intersection and caused a crash with the Plaintiff's vehicle, (hereinafter the "subject incident").

9. At all times relevant, Defendant failed to yield the right of way, failed to keep a proper lookout, and failed to use due care, and caused the subject incident.

10. Plaintiff was injured and suffered damages as a result of the subject incident.

11. Defendant owed a duty to Plaintiff to operate Defendant's vehicle safely, with reasonable care, and in accordance with all laws concerning the operation of a motor vehicle.

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

- a. In operating the vehicle in a negligent, grossly negligent, and/or reckless manner;
- b. In failing to use due care;
- c. In driving too fast for the conditions;
- d. In failing to yield the right-of-way;
- e. In failing to keep the vehicle under proper control;
- f. In failing to keep a proper lookout;
- g. In failing to appreciate the conditions that existed at the relevant time;
- h. 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;
- i. In failing to have the 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;
- j. In violating various laws, statutes, codes, and ordinances designed to protect the public, including the decedent, 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

- k. 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.

13. As a direct and proximate result of Defendant's negligent, careless, grossly negligent, negligent *per se*, willful, wanton, and/or reckless conduct and breach of the duties owed to Plaintiff as described above, Plaintiff sustained serious injuries and damages.

14. As a direct and proximate result of Defendant'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.

15. That Plaintiff is entitled to judgment against Defendant for the above-described injuries and damages and for actual, compensatory, and punitive damages in an amount to be determined by the jury.

16. A jury trial is demanded.

WHEREFORE, Plaintiff demands judgment against Defendant 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 to Plaintiff's body, 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.

[signature on following page]

BRINGARDNER INJURY LAW FIRM, LLC

By: s/Christopher T. Dorsel
Mark Bringardner (SC Bar No.: 102465)
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Chris Dorsel (SC Bar No.: 72504)
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41 Broad Street
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Office: 843-400-0550
Facsimile: 843-350-8290
Attorney for the Plaintiff

Charleston, South Carolina
March 1, 2024

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THE TENTH JUDICIAL CIRCUIT
COUNTY OF	)	CASE NO.: 2024-CP-37-00163
	)	
Charles Shabazz,	)	
	)	
Plaintiff,	)	ANSWER TO THE COMPLAINT
	)	(JURY TRIAL DEMANDED)
vs.	)	
	)	
Brian Cox,	)	
	)	
Defendant.	)	
_____	)	

COMES NOW, Defendant Brian Cox ("Defendant"), and hereby files this, his Answer to the Plaintiff's Complaint, as follows:

1. Defendant denies all allegations not specifically admitted in this Answer.
2. Defendant admits the allegations contained in Paragraphs 1, 2, 3, 4, 5, 6 and 7.
3. In response to the allegations contained in Paragraphs 8 and 9, Defendant admits only that his vehicle collided with Plaintiff's vehicle at the time and place noted in the Paragraph.
4. Upon information and belief, Defendant admits the allegations contained in Paragraph 10.
5. Defendant admits the allegations contained in Paragraph 11
6. Defendant denies the allegations contained in Paragraphs 12, 13, 14, and 15.
7. In response to Paragraph 16, Defendant joins Plaintiff in demanding a jury trial.

8. Defendant hereby denies all Request for Admissions served on Defendant pursuant to Rule 36 of the South Carolina Rules of Civil Procedure which are inconsistent with Defendant's Answer.

9. Defendant denies the prayer for relief constituting the remainder of the Complaint.

FURTHER ANSWERING THE COMPLAINT AND

AS AN AFFIRMATIVE DEFENSE THERETO

(Failure to State a Claim)

10. The Complaint fails to state grounds upon which relief can be granted pursuant to SCRCP 12(b)(6).

FURTHER ANSWERING THE COMPLAINT AND

AS AN AFFIRMATIVE DEFENSE THERETO

(Adherence to Standard of Care)

11. To the extent the evidence shows, Defendant exercised that degree of skill and care required of him by law at all times relevant to the matters complained of in the Complaint.

FURTHER ANSWERING THE COMPLAINT AND

AS AN AFFIRMATIVE DEFENSE THERETO

(Sudden Emergency Doctrine)

12. The sudden emergency doctrine precludes the Plaintiff's claims because Defendant made every reasonable effort under the circumstances to avoid the accident, which took place under emergent conditions.

FURTHER ANSWERING THE COMPLAINT AND

AS AN AFFIRMATIVE DEFENSE THERETO

(Act of God)

13. To the extent the evidence shows, the accident occurred due to an unforeseeable act of God.

FURTHER ANSWERING THE COMPLAINT AND

AS AN AFFIRMATIVE DEFENSE THERETO

(Punitive Damages Unconstitutional)

14. The claims for punitive damages are barred as a matter of law under the facts of this matter, and the statutes of the State of South Carolina purporting to authorize those claims violate Defendant's rights as guaranteed by the Constitutions of the State of South Carolina and the United States of America.

FURTHER ANSWERING THE COMPLAINT AND

AS AN AFFIRMATIVE DEFENSE THERETO

(South Carolina Statutory Cap)

15. To the extent Plaintiff alleges punitive damages, which Defendant specifically denies are applicable, Defendant shows any award of punitive damages is subject to South Carolina Code Section 15-32-530.

FURTHER ANSWERING THE COMPLAINT AND

AS AN AFFIRMATIVE DEFENSE THERETO

(No Proximate Cause)

16. To the extent the evidence shows, no causal connection exists between any alleged act or omission of Defendant and the damages Plaintiff alleges.

FURTHER ANSWERING THE COMPLAINT AND
AS AN AFFIRMATIVE DEFENSE THERETO

(Failure to Mitigate)

17. To the extent the evidence shows, Plaintiff has failed to take action to reasonably avoid or reduce the alleged damages and injuries, and is therefore not entitled to recover said damages that should have been avoided or reduced.

FURTHER ANSWERING THE COMPLAINT AND
AS AN AFFIRMATIVE DEFENSE THERETO

(Third Party/Comparative Negligence)

18. To the extent the evidence shows, any injuries suffered by Plaintiff were caused by parties other than Defendant, including, but not limited to, Plaintiff.

FURTHER ANSWERING THE COMPLAINT AND
AS AN AFFIRMATIVE DEFENSE THERETO

(Reservation/Non-waiver)

19. Defendant reserves any additional and further defenses as may be revealed by additional information obtained during the course of discovery and investigation and as are consistent with the South Carolina Rules of Civil Procedure.

WHEREFORE, having fully responded to the Complaint, Defendant demands a trial by a jury of 12 persons and judgment in his favor.

This 27th day of March, 2024

Respectively Submitted,

CLARKSON, WALSH, & COULTER, P.A.,

s/ Jeffrey Crudup

Jeffrey M. Crudup, Esq.

State Bar No.: 100281

497 St. Andrews Boulevard

Charleston, SC 29407

T: 843.981.5180

E: jcrudup@clarksonwalsh.com

Counsel for Defendant

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

Charles Shabazz,

Plaintiff,

v.

Brian Cox,

Defendant.

IN THE COURT OF COMMON PLEAS
FOR THE TENTH JUDICIAL CIRCUIT
CASE NO. 2024-CP-37-00163**PLAINTIFF'S MOTION FOR
NEW TRIAL *NISI ADDITUR* OR
NEW TRIAL ABSOLUTE**

Plaintiff hereby moves for an order granting a new trial *nisi additur* or a new trial absolute. When a jury's verdict is inadequate, such as the case in the present situation, the trial judge has discretion to grant either a new trial *nisi additur* or a new trial absolute. *Waring v. Johnson*, 341 S.C. 248, 533 S.E.2d 906 (Ct. App. 2000).

STANDARD OF REVIEW

The practice of using *additur* is said to be in the interest of sound administration of justice, since it avoids the necessity of a new trial with its accompanying expense and delay. *Waring v. Johnson*, 341 S.C. 248, 258, 533 S.E.2d 906, 911 (Ct. App. 2000). Absent an abuse of discretion, the trial court's grant of a motion for new trial *nisi additur* will not be reversed on appeal. *Id.*

A New Trial *Nisi Additur* may be ordered when the verdict is merely insufficient based on the evidence. *Id.* If the trial court, which had the opportunity to view the evidence as it was presented at trial, finds that the verdict did not adequately compensate Plaintiff for his injuries, the trial court may offer the Defendant a choice of either accepting an increased verdict amount or a new trial. The additur suggests an appropriate settlement amount. *Vinson v. Hartley*, 324 S.C. 389, 406, 477 S.E.2d 715, 723 (Ct. App. 1996). This power was first approved in *Graham v. Whitaker*, 282 S.C. 393, 321 S.E.2d 40 (1984) and has been repeatedly reaffirmed:

While the trial judge may not impose his will on a party by substituting his judgment for that of the jury, he may give the party an option in the way of additur or remittitur, or, in the alternative, a new trial. *Jones v. Ingles Supermarkets, Inc.*, 293 S.C. 490, 361 S.E.2d 775 (Ct.App.1987). The consideration of a motion for a new trial nisi additur requires the trial judge to consider the adequacy of the verdict in light of the evidence presented. *Patterson v. Reid*, 318 S.C. 183, 456 S.E.2d 436 (Ct.App.1995). The trial judge who heard the evidence and is more familiar with the evidentiary atmosphere at trial possesses a better-informed view of the damages than this Court. *Rush v. Blanchard*, 310 S.C. 375, 426 S.E.2d 802 (1993). Accordingly, great deference is given to the trial judge. *Id.*

...

When a party moves for a new trial based on a challenge that the verdict is either excessive or inadequate, the trial judge must distinguish between awards that are merely unduly liberal or conservative and awards that are actuated by passion, caprice, or prejudice. *Allstate Ins. Co. v. Durham*, 314 S.C. 529, 431 S.E.2d 557 (1993). Therefore, on appeal of the denial of a motion for a new trial nisi, this Court will reverse when the verdict is grossly inadequate or excessive requiring the granting of a new trial absolute. *O'Neal*, supra.

Vinson v. Hartley, 324 S.C. 389, 406, 477 S.E.2d 715, 724 (Ct. App. 1996).

The discretion of trial courts to grant *additur* under similar circumstances has been upheld. In *Graham*, the trial court ordered a new trial nisi *additur* of several times the jury verdict, increasing actual damages from \$10,000 to \$67,500. In finding no abuse of discretion in the trial judge's order, the Court noted "it cannot seriously be argued that plaintiff herein was adequately compensated or even nearly so, for the injuries she sustained." *Id.* at 405.

In *Waring v. Johnson*, the Court of Appeals affirmed the trial court's grant of a new trial nisi *additur*, noting "[t]he jury failed to consider Waring's pain and suffering in reaching its verdict." 341 S.C. 248, 260, 533 S.E.2d 906, 913 (Ct. App. 2000). The trial court granted Plaintiff's motion for new trial nisi *additur* and awarded nearly double what the jury awarded to adequately compensate Plaintiff for pain and suffering. The Court of Appeals noted that Waring "visited numerous doctors for years after the accident," "underwent surgery for a condition... aggravated by the wreck," and "found herself unable to continue her previous active lifestyle." *Id.* The court

ultimately concluded, "indubitably, Waring is entitled to an award for pain and suffering." *Id.*

LEGAL ARGUMENT

In the instant case, Plaintiff introduced into evidence medical bills totaling \$19,851.31. Plaintiff testified about visiting numerous doctors in the six (6) months that followed the subject collision, seeking relief from varying degrees of pain and discomfort. He underwent painful physical therapy and complied with the treatment plan. Plaintiff testified that the left wrist injury caused by the subject collision still causes him pain in his everyday life. Plaintiff will most likely suffer pain for the remainder of his life as a result of the subject collision. In addition to the pain Plaintiff has and will continue to suffer from, Plaintiff and numerous witnesses presented evidence that this collision uprooted his independence, altered his previous active lifestyle playing basketball, led to difficulties holding his daughter, and increased the difficulty in performing his job duties at work.

Prior to the subject collision, Plaintiff testified that he had not suffered from left wrist pain and that he only had problems with his wrist because of the collision. Plaintiff's partner, mother, and grandfather corroborated this and discussed the years of pain and problems that Plaintiff has had, and continues to have, with his left wrist at home, at work, and in his leisure activities. Plaintiff's family gave emotionally compelling testimony as to the noneconomic damages suffered by him.

The Court's charge to the jury required the jury to compensate Plaintiff for all elements of actual damages related to the collision, including future damages. Clearly, Plaintiff suffered damages not only including the medical expenses incurred but also emotional and physical pain and suffering past, present, and future. The jury's verdict did not compensate him adequately for those damages.

CONCLUSION

The consideration of a motion for a New Trial *Nisi Additur* requires the trial judge to consider the adequacy of the verdict in light of the evidence presented. If that is done, no error of law is committed for *additur* granted. *Patterson v. Reid*, 318 SC 183 (Ct. App. 1995).

Plaintiff requests that, in light of the evidence presented, the Court either award a total verdict amount of Ninety-One Thousand Dollars (\$91,000.00), increasing the award by Forty-Six Thousand Dollars (\$46,000.00) or grant a new trial absolute.

Based upon the foregoing, Plaintiff respectfully requests an Order granting him a New Trial *Nisi Additur* or New Trial Absolute in an appropriate and just amount.

Respectfully Submitted,

BRINGARDNER INJURY LAW FIRM, LLC

By: s/Mary Linton
Mark J. Bringardner (SC Bar No.: 102465)
mark@bringardner.com
Mary K. Linton (SC Bar No.: 102815)
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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
November 7, 2025

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

Charles Shabazz,

Plaintiff,

v.

Brian Cox,

Defendant.

IN THE COURT OF COMMON PLEAS
FOR THE TENTH JUDICIAL CIRCUIT
CASE NO. 2024-CP-37-00163

**PLAINTIFF'S MOTION FOR
SUBMISSION OF COURT'S EXHIBITS**

Plaintiff hereby moves to admit the following as Court's exhibits: (1) Plaintiff's Summons and Complaint; (2) Defendant's Answer to Plaintiff's Summons and Complaint; (3) Defendant's Second Supplemental Answers to Plaintiff's First Set of Interrogatories; and (4) the Court's proposed jury charges. Such exhibits were referenced during the trial of this case and therefore are proper to be marked as Court's exhibits for purposes of creating a clear and accurate record for appellate review.

Respectfully Submitted,

BRINGARDNER INJURY LAW FIRM, LLC

By: s/Mary Linton

Mark J. Bringardner (SC Bar No.: 102465)

mark@bringardner.com

Mary K. Linton (SC Bar No.: 102815)

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41 Broad Street

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Attorneys for the Plaintiff

Charleston, South Carolina
November 7, 2025

EXHIBIT 1

ELECTRONICALLY FILED - 2024 Mar 01 1:12 PM - OCONEE - COMMON PLEAS - CASE#2024CP3700163
ELECTRONICALLY FILED - 2025 Nov 07 4:42 PM - OCONEE - COMMON PLEAS - CASE#2024CP3700163

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

Charles Shabazz,

Plaintiff,

v.

Brian Cox,

Defendant.

IN THE COURT OF COMMON PLEAS
FOR THE TENTH JUDICIAL CIRCUIT
CASE NO. 2024-CP-37-_____

SUMMONS

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

Charleston, South Carolina
March 1, 2024

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

Charles Shabazz,

Plaintiff,

v.

Brian Cox,

Defendant,

IN THE COURT OF COMMON PLEAS
FOR THE TENTH JUDICIAL CIRCUIT
CASE NO. 2024-CP-37-_____

COMPLAINT

(Automobile Collision/Negligence)
(Jury Trial Requested)

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

1. Plaintiff is a resident of Oconee County, South Carolina.
2. Upon information and belief, Defendant is a resident of Oconee County, South Carolina.
3. At all relevant times hereto, the most substantial part of the acts and omissions committed by Defendant giving rise to this action occurred in Oconee County, South Carolina. This Court has jurisdiction pursuant to S.C. Code Ann. 15-7-20 and venue is proper.
4. On or about March 22, 2023, Plaintiff was driving a vehicle traveling south bound on Rochester Highway/Highway 130 near Seneca, South Carolina.
5. At the same time, Defendant Brian Cox was driving a vehicle traveling east bound on Mill Road.
6. A stop sign governs traffic on Mill Road at the intersection with Rochester Highway/Highway 130.
7. South bound traffic on Rochester Highway/Highway 130 does not have a stop sign and has the absolute right of way to proceed through the intersection without obstruction.

8. As Plaintiff approached the intersection of Rochester Highway/Highway 130 and Mill Road, Defendant suddenly drove into the intersection and caused a crash with the Plaintiff's vehicle, (hereinafter the "subject incident").

9. At all times relevant, Defendant failed to yield the right of way, failed to keep a proper lookout, and failed to use due care, and caused the subject incident.

10. Plaintiff was injured and suffered damages as a result of the subject incident.

11. Defendant owed a duty to Plaintiff to operate Defendant's vehicle safely, with reasonable care, and in accordance with all laws concerning the operation of a motor vehicle.

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

- a. In operating the vehicle in a negligent, grossly negligent, and/or reckless manner;
- b. In failing to use due care;
- c. In driving too fast for the conditions;
- d. In failing to yield the right-of-way;
- e. In failing to keep the vehicle under proper control;
- f. In failing to keep a proper lookout;
- g. In failing to appreciate the conditions that existed at the relevant time;
- h. 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;
- i. In failing to have the 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;
- j. In violating various laws, statues, codes, and ordinances designed to protect the public, including the decedent, 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

- k. 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.

13. As a direct and proximate result of Defendant's negligent, careless, grossly negligent, negligent *per se*, willful, wanton, and/or reckless conduct and breach of the duties owed to Plaintiff as described above, Plaintiff sustained serious injuries and damages.

14. As a direct and proximate result of Defendant'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.

15. That Plaintiff is entitled to judgment against Defendant for the above-described injuries and damages and for actual, compensatory, and punitive damages in an amount to be determined by the jury.

16. A jury trial is demanded.

WHEREFORE, Plaintiff demands judgment against Defendant 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 to Plaintiff's body, 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.

[signature on following page]

BRINGARDNER INJURY LAW FIRM, LLC

By: s/Christopher T. Dorsel
Mark Bringardner (SC Bar No.: 102465)
mark@bringardner.com
Chris Dorsel (SC Bar No.: 72504)
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41 Broad Street
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Facsimile: 843-350-8290
Attorney for the Plaintiff

Charleston, South Carolina
March 1, 2024

EXHIBIT 2

ELECTRONICALLY FILED - 2024 Mar 27 9:35 PM - OCONEE - COMMON PLEAS - CASE#2024CP3700163
ELECTRONICALLY FILED - 2025 Nov 07 4:42 PM - OCONEE - COMMON PLEAS - CASE#2024CP3700163

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THE TENTH JUDICIAL CIRCUIT
COUNTY OF	)	CASE NO.: 2024-CP-37-00163
	)	
Charles Shabazz,	)	
	)	
Plaintiff,	)	ANSWER TO THE COMPLAINT
	)	(JURY TRIAL DEMANDED)
vs.	)	
	)	
Brian Cox,	)	
	)	
Defendant.	)	
	)	

COMES NOW, Defendant Brian Cox (“Defendant”), and hereby files this, his Answer to the Plaintiff’s Complaint, as follows:

- 1. Defendant denies all allegations not specifically admitted in this Answer.
- 2. Defendant admits the allegations contained in Paragraphs 1, 2, 3, 4, 5, 6 and 7.
- 3. In response to the allegations contained in Paragraphs 8 and 9, Defendant admits only that his vehicle collided with Plaintiff’s vehicle at the time and place noted in the Paragraph.
- 4. Upon information and belief, Defendant admits the allegations contained in Paragraph 10.
- 5. Defendant admits the allegations contained in Paragraph 11
- 6. Defendant denies the allegations contained in Paragraphs 12, 13, 14, and 15.
- 7. In response to Paragraph 16, Defendant joins Plaintiff in demanding a jury trial.

8. Defendant hereby denies all Request for Admissions served on Defendant pursuant to Rule 36 of the South Carolina Rules of Civil Procedure which are inconsistent with Defendant's Answer.

9. Defendant denies the prayer for relief constituting the remainder of the Complaint.

FURTHER ANSWERING THE COMPLAINT AND

AS AN AFFIRMATIVE DEFENSE THERETO

(Failure to State a Claim)

10. The Complaint fails to state grounds upon which relief can be granted pursuant to SCRCP 12(b)(6).

FURTHER ANSWERING THE COMPLAINT AND

AS AN AFFIRMATIVE DEFENSE THERETO

(Adherence to Standard of Care)

11. To the extent the evidence shows, Defendant exercised that degree of skill and care required of him by law at all times relevant to the matters complained of in the Complaint.

FURTHER ANSWERING THE COMPLAINT AND

AS AN AFFIRMATIVE DEFENSE THERETO

(Sudden Emergency Doctrine)

12. The sudden emergency doctrine precludes the Plaintiff's claims because Defendant made every reasonable effort under the circumstances to avoid the accident, which took place under emergent conditions.

FURTHER ANSWERING THE COMPLAINT AND

AS AN AFFIRMATIVE DEFENSE THERETO

(Act of God)

13. To the extent the evidence shows, the accident occurred due to an unforeseeable act of God.

FURTHER ANSWERING THE COMPLAINT AND
AS AN AFFIRMATIVE DEFENSE THERETO

(Punitive Damages Unconstitutional)

14. The claims for punitive damages are barred as a matter of law under the facts of this matter, and the statutes of the State of South Carolina purporting to authorize those claims violate Defendant's rights as guaranteed by the Constitutions of the State of South Carolina and the United States of America.

FURTHER ANSWERING THE COMPLAINT AND
AS AN AFFIRMATIVE DEFENSE THERETO

(South Carolina Statutory Cap)

15. To the extent Plaintiff alleges punitive damages, which Defendant specifically denies are applicable, Defendant shows any award of punitive damages is subject to South Carolina Code Section 15-32-530.

FURTHER ANSWERING THE COMPLAINT AND
AS AN AFFIRMATIVE DEFENSE THERETO

(No Proximate Cause)

16. To the extent the evidence shows, no causal connection exists between any alleged act or omission of Defendant and the damages Plaintiff alleges.

FURTHER ANSWERING THE COMPLAINT AND
AS AN AFFIRMATIVE DEFENSE THERETO

(Failure to Mitigate)

17. To the extent the evidence shows, Plaintiff has failed to take action to reasonably avoid or reduce the alleged damages and injuries, and is therefore not entitled to recover said damages that should have been avoided or reduced.

FURTHER ANSWERING THE COMPLAINT AND
AS AN AFFIRMATIVE DEFENSE THERETO

(Third Party/Comparative Negligence)

18. To the extent the evidence shows, any injuries suffered by Plaintiff were caused by parties other than Defendant, including, but not limited to, Plaintiff.

FURTHER ANSWERING THE COMPLAINT AND
AS AN AFFIRMATIVE DEFENSE THERETO

(Reservation/Non-waiver)

19. Defendant reserves any additional and further defenses as may be revealed by additional information obtained during the course of discovery and investigation and as are consistent with the South Carolina Rules of Civil Procedure.

WHEREFORE, having fully responded to the Complaint, Defendant demands a trial by a jury of 12 persons and judgment in his favor.

This 27th day of March, 2024

Respectively Submitted,

CLARKSON, WALSH, & COULTER, P.A.,

s/ Jeffrey Crudup

Jeffrey M. Crudup, Esq.

State Bar No.: 100281

497 St. Andrews Boulevard

Charleston, SC 29407

T: 843.981.5180

E: jcrudup@clarksonwalsh.com

Counsel for Defendant

EXHIBIT 3

ELECTRONICALLY FILED - 2025 Nov 07 4:42 PM - OCONEE - COMMON PLEAS - CASE#2024CP3700163

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THE TENTH JUDICIAL CIRCUIT
COUNTY OF OCONEE	)	CASE NO.: 2024-CP-37-00163
	)	
Charles Shabazz,	)	
	)	
Plaintiff,	)	DEFENDANT'S SUPPLEMENTAL
	)	ANSWERS TO PLAINTIFF'S FIRST
vs.	)	SET OF INTERROGATORIES
	)	
Brian Cox,	)	
	)	
Defendant.	)	
	)	

**TO: CHRISTOPHER T. DORSEL, ESQ., AND MARK BRINGARDNER ESQ.,
ATTORNEYS FOR THE PLAINTIFF:**

Defendant Brian Cox ("Defendant"), by and through the undersigned counsel and pursuant to Rules 33 of the South Carolina Rules of Civil Procedure, submits these Supplemental Answers to Plaintiff's First Set of Interrogatories to Plaintiff Charles Shabazz ("Plaintiff"), reserving the right to amend and/or supplement, 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:

**Charles Shabazz
c/o Mark Bringardner, Esq.
c/o Connor W. Treece, Esq.
41 Broad Street
Charleston, SC 29401**

Defendant is not aware of any recorded statements by this witness. Defendant expects this witness to testify about the facts and circumstances surrounding the accident.

**Brian Cox
c/o Jeffrey Crudup, Esq.
497 St. Andrews Blvd.
Charleston, SC 29407**

Defendant is not aware of any recorded statements by this witness. Defendant expects this witness to testify about the facts and circumstances surrounding the accident.

Investigating Officer

Defendant is not aware of any recorded statements by this witness outside of their police report. Defendant expects this witness to testify about the facts and circumstances surrounding their investigation.

Plaintiff's Treating Physicians

Defendant is not aware of any recorded statements by these witnesses outside of their notes for medical records. Defendant expects these witnesses to testify about the facts and circumstances consistent with their medical notes.

Defendant reserves the right to supplement this response.

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: Please see answer to Interrogatory No. 1.

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:

**Various Communications between Plaintiff's Counsel and Progressive;
Covenant Not to Execute;
Photos of Defendant's Vehicle;
Photos of Plaintiff's Vehicle;
Plaintiff's Medical Bills;
Plaintiff's Motor Vehicle Record;
Defendant's Motor Vehicle Record;
Declaration Page**

**Police Report; and
Summons and Complaint.**

SUPPLEMENTAL ANSWER: Defendant states:

**Subpoena Response – Prisma Health University
Subpoena Response – Prisma Health Medical Group dba Dept. of Radiology
Subpoena Response – CVS Pharmacy
Subpoena Response – Prisma Health Blue Ridge Orthopedics
Subpoena Response – Prisma Health Oconee Memorial Hospital
Subpoena Response – Oconee County EMS**

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 was not injured.

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:

Progressive Northern Insurance Co
P.O. Box 6807
Cleveland, OH 44101
Policy: 41805862
Limits: \$100,000/\$300,000

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 determined if he will use an expert at trial. Defendant reserves the right to supplement this response.

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: Defendant states his attorneys at Clarkson, Walsh & Coulter

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:

Brian Cox

Born: Rockhill

/79

SNN: XXX-XX-

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

**ANSWER: 832 Harts Cove Way
Seneca, SC 29678**

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: Lake Life Realty 2015 - Current

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: Defendant states no.

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

ANSWER: Defendant states no.

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: Defendant states yes he has a license and was suspended in 1997 for minor in possession of alcohol.

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: (864)

AT&T

Defendant's phone was either in his pocket or in the console of his dashboard.

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 states no.

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 states no.

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: The accident damaged the rear quarter panel of Defendant's vehicle. Defendant's vehicle was totaled.

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: Defendant states no.

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: Defendant states no.

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 states no.

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

ANSWER: Eye Mart Express Anderson, SC

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: Defendant states none.

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: Defendant state he is unaware of the existence of any onboard data.

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 medial platform.

ANSWER: Facebook and Instagram under his name.

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: Defendant was traveling from 203-A Old Salem Rd, Seneca to 832 Harts Cove Way Seneca, SC 29678. Defendant was trying to get onto Highway 130 towards Old Clemson Highway.

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

ANSWER: Defendant states he was leaving his office making a left turn across a lane. A driver in the lane he was crossing waved him through and he did not see any traffic in the lane Plaintiff was in. However, Defendant did not see Plaintiff who collided with his rear quarter panel.

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: Defendant states no.

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: Defendant states no.

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 does not make this contention.

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

ANSWER: Objection. Defendant objects to this Interrogatory as it seeks an attorney's mental impressions and trial strategy. Subject to and without waiving these objections, discovery is ongoing and Defendant will supplement this response as additional information is obtained.

SUPPLEMENTAL ANSWER: Defendant states he relies upon the police report, Plaintiff's complaint, and privileged conversations with their counsel at Clarkson, Walsh, and Coulter.

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: Defendant states no.

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 states no.

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 does not make this contention.

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 states no. Defendant reserves the right to supplement this response.

This 8th day of May, 2025

Respectively Submitted,

CLARKSON, WALSH, & COULTER, P.A.,



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Counsel for Defendant

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THE TENTH JUDICIAL CIRCUIT
COUNTY OF OCONEE	)	CASE NO.: 2024-CP-37-00163
	)	
Charles Shabazz,	)	
	)	
Plaintiff,	)	
	)	CERTIFICATE OF SERVICE
vs.	)	
	)	
Brian Cox,	)	
	)	
Defendant.	)	
_____	)	

I hereby certify that I have this day served a copy of the within and foregoing pleading upon all parties to this matter by depositing a true copy of same in the U.S. Mail, Proper postage prepaid, addressed to counsel of record as follows:

Christopher T. Dorsel, Esq.
Mark Bringardner, Esq.
Bringardner Injury Law Firm, LLC
41 Broad Street
Charleston, SC 29401

Attorneys for Plaintiff

This 8th day of May, 2025



Paralegal to Ryan T. Adams, Esq.

EXHIBIT 4

NEGLIGENCE

THE PLAINTIFF CLAIMS THAT THE DEFENDANT WAS NEGLIGENT AND SHOULD COMPENSATE THE PLAINTIFF FOR THE INJURIES THE PLAINTIFF SUFFERED AS A RESULT OF THE DEFENDANT'S NEGLIGENCE. IN ORDER TO PROVE THAT THE DEFENDANT WAS NEGLIGENT, THE PLAINTIFF MUST PROVE BY A PREPONDERANCE, OR GREATER WEIGHT, OF THE EVIDENCE THE FOLLOWING THINGS¹.

FIRST, THE PLAINTIFF MUST PROVE BY A PREPONDERANCE, OR GREATER WEIGHT, OF THE EVIDENCE THAT THE DEFENDANT OWED THE PLAINTIFF A DUTY OF CARE. THIS IS A QUESTION OF LAW WHICH I WILL DECIDE.

I HAVE DETERMINED THAT THE FOLLOWING DUTIES OF CARE APPLY:

¹ *Thomasko v. Poole*, 349 S.C. 7, 561 S.E.2d 597 (2002).

1. DRIVER'S DUTY OF CARE

THE OPERATOR OF A MOTOR VEHICLE IS REQUIRED TO USE THE SAME CARE THAT WOULD BE USED BY A PERSON OF ORDINARY REASON AND PRUDENCE IF THAT PERSON WERE DRIVING THE SAME VEHICLE, AT THE SAME TIME AND PLACE, AND UNDER THE SAME CIRCUMSTANCES.²

2. DUTY TO KEEP PROPER LOOKOUT

THE DRIVER OF AN AUTOMOBILE HAS A DUTY TO KEEP A PROPER LOOKOUT FOR OTHER VEHICLES ON THE ROAD.³ THIS DUTY REQUIRES THE DRIVER TO WATCH ATTENTIVELY SO THAT THE DRIVER IS ABLE TO SEE A PERSON OR OBJECT ON THE HIGHWAY.

² NOTE: Because the Commercial Driver's License Manual does not carry the force of law, it is error to reference the manual and its guidelines when charging the jury. *Johnson v. Horry County Solid Waste Auth.*, 389 S.C. 528, 698 S.E.2d 835 (Ct. App. 2010).

³ *Yaun v. Baldrige*, 243 S.C. 414, 134 S.E.2d 248 (1964).

3. DUTY TO KEEP VEHICLE UNDER CONTROL

THE DRIVER OF AN AUTOMOBILE ALSO HAS A DUTY TO KEEP THE AUTOMOBILE UNDER PROPER CONTROL SO THAT THE DRIVER IS ABLE TO SLOW DOWN, STOP, OR TURN THE AUTOMOBILE TO AVOID COLLIDING WITH OTHER VEHICLES, PEDESTRIANS, AND OBJECTS LAWFULLY ON THE ROAD.

4. DUTY TO YIELD THE RIGHT OF WAY OF A VEHICLE INTENDING TO TURN LEFT WITHIN AN INTERSECTION

SOUTH CAROLINA CODE SECTION 56-5-2320 READS AS FOLLOWS: THE DRIVER OF A VEHICLE INTENDING TO TURN TO THE LEFT WITHIN AN INTERSECTION OR INTO AN ALLEY, PRIVATE ROAD, OR DRIVEWAY SHALL YIELD THE RIGHT OF WAY TO ANY VEHICLE APPROACHING FROM THE OPPOSITE DIRECTION WHICH IS WITHIN THE INTERSECTION OR SO CLOSE THERETO AS TO CONSITUTIE AN IMMEDIATE HAZARD.

5. DUTY TO YIELD THE RIGHT OF WAY TO VEHICLES
APPROACHING ON THE ROADWAY TO BE CROSSED

SOUTH CAROLINA CODE SECTION 56-5-2350 READS AS
FOLLOWS: THE DRIVER OF A VEHICLE ABOUT TO ENTER OR
CROSS A ROADWAY FROM ANY PLACE OTHER THAN
ANOTHER ROADWAY SHALL YIELD THE RIGHT OF WAY TO
ALL VEHICLES APPROACHING ON THE ROADWAY TO BE
ENTERED OR CROSSED.

6. DUTY TO YIELD THE RIGHT OF WAY ON UNFAVORED
HIGHWAY ?

THE DRIVER ON THE UNFAVORED HIGHWAY HAS A
DUTY TO STOP AND YIELD THE RIGHT-OF-WAY TO ANY
VEHICLE APPROACHING THE INTERSECTION ON THE
FAVORED HIGHWAY SO CLOSELY AS TO CONSTITUTE
AN IMMEDIATE HAZARD.

RECKLESSNESS – UNDER AUTOMOBILE

THE VIOLATION OF A STATUTE DOES NOT, IN AND OF ITSELF, CONSTITUTE RECKLESSNESS, WILLFULNESS, AND WANTONNESS. HOWEVER, IT MAY BE CONSIDERED AS EVIDENCE IN DECIDING WHETHER THE DEFENDANT WAS RECKLESS, WILLFUL, AND WANTON.⁴

SINCE I HAVE FOUND THE ABOVE DUTIES OF CARE, YOU MUST THEN DECIDE THE REMAINING QUESTIONS.

1. THE FIRST OF THESE IS WHETHER THE PLAINTIFF HAS PROVEN BY A PREPONDERANCE, OR GREATER WEIGHT, OF THE EVIDENCE THAT THE DEFENDANT BREACHED THE DUTY OF CARE BY A NEGLIGENT ACT OR OMISSION.

⁴ Wise v. Broadway, 315 S.C. 273, 433 S.E.2d 857 (1993).

NEGLIGENCE MEANS THAT A PERSON HAS DONE SOMETHING THAT A REASONABLE PERSON WOULD NOT HAVE DONE OR HAS FAILED TO DO SOMETHING THAT A REASONABLE PERSON WOULD HAVE DONE IN THE SAME SITUATION. ⁵

2. THE PLAINTIFF MUST ALSO PROVE BY A PREPONDERANCE, OR GREATER WEIGHT, OF THE EVIDENCE THAT SHE SUFFERED DAMAGES AS A RESULT OF THE DEFENDANT'S BREACH OF DUTY.

3. FINALLY, THE PLAINTIFF MUST PROVE BY A PREPONDERANCE, OR GREATER WEIGHT, OF THE EVIDENCE THAT THE DAMAGES WERE PROXIMATELY CAUSED BY THE DEFENDANT'S BREACH OF DUTY.

PROXIMATE CAUSE IS SOMETHING THAT PRODUCES A NATURAL CHAIN OF EVENTS WHICH, IN THE END, BRINGS

⁵ *Thomas v. Atlantic Greyhound Corp.*, 204 S.C. 247, 29 S.E.2d 196 (1944).

ABOUT THE INJURY.⁶ IT IS THE DIRECT CAUSE OF THE INJURY.⁷

TO PROVE THAT THE DEFENDANT'S NEGLIGENCE PROXIMATELY CAUSED THE PLAINTIFF'S INJURY, THE PLAINTIFF MUST FIRST PROVE CAUSATION IN FACT. THIS IS PROVEN BY SHOWING THAT THE INJURY WOULD NOT HAVE OCCURRED BUT FOR THE DEFENDANT'S NEGLIGENCE.⁸

THE PLAINTIFF MUST ALSO PROVE LEGAL CAUSE. LEGAL CAUSE IS PROVEN BY SHOWING THAT THE INJURY WAS FORESEEABLE. THIS MEANS THAT THE INJURY OCCURRED AS A NATURAL AND PROBABLE CONSEQUENCE OF THE DEFENDANT'S NEGLIGENCE. THE PLAINTIFF MUST PROVE THAT SOME INJURY FROM THE DEFENDANT'S NEGLIGENCE WAS FORESEEABLE, BUT DOES NOT HAVE TO PROVE THAT THE PARTICULAR INJURY THAT OCCURRED

⁶ *Crolley v. Hutchins*, 300 S.C. 355, 387 S.E.2d 716 (Ct. App. 1989).

⁷ *Small v. Pioneer Mach., Inc.*, 329 S.C. 448, 494 S.E.2d 835 (Ct. App. 1997).

⁸ *Hughes v. Children's Clinic, P.A.*, 269 S.C. 389, 237 S.E.2d 753 (1977).

WAS FORESEEABLE. HOWEVER, THE DEFENDANT CANNOT BE HELD RESPONSIBLE FOR THINGS WHICH COULD NOT BE EXPECTED TO HAPPEN.⁹

PROXIMATE CAUSE DOES NOT MEAN THE ONLY CAUSE. THE DEFENDANT'S ACT CAN BE A PROXIMATE CAUSE OF THE PLAINTIFF'S INJURY IF IT WAS AT LEAST ONE OF THE DIRECT, CONCURRING CAUSES OF THE INJURY.

DAMAGES

ACTUAL DAMAGES

IF YOU DECIDE THAT THE PLAINTIFF IS ENTITLED TO A VERDICT, YOUR NEXT STEP WOULD BE TO DECIDE HOW MUCH MONEY THE DEFENDANT SHOULD BE REQUIRED TO PAY.

ACTUAL DAMAGES ARE TO COMPENSATE THE PLAINTIFF FOR THE PLAINTIFF'S INJURIES OR LOSS¹⁰ AND TO

⁹ *Small v. Pioneer Mach., Inc.*, 329 S.C. 448, 494 S.E.2d 835 (Ct. App. 1997).

¹⁰ *Carjow, LLC v. Simmons*, 349 S.C. 514, 563 S.E.2d 359 (Ct. App. 2002).

PUT THE PLAINTIFF, AS NEAR AS POSSIBLE, IN THE SAME POSITION THAT THE PLAINTIFF WAS IN BEFORE THE INCIDENT OCCURRED. IN OTHER WORDS, ACTUAL DAMAGES WOULD BE THE ACTUAL LOSSES AND EXPENSES WHICH THE PLAINTIFF HAS SUFFERED BECAUSE OF THE DEFENDANT'S NEGLIGENCE.¹¹

PERSONAL INJURIES

THE PLAINTIFF MUST PROVE THAT EXPENSES CAUSED BY THE INJURY WERE NECESSARY AND REASONABLE.¹²

ACTUAL DAMAGES FOR A PLAINTIFF WHO HAS BEEN PHYSICALLY INJURED INCLUDE PAIN AND SUFFERING -- BOTH PAST AND FUTURE -- AS WELL AS MENTAL ANGUISH, IMPAIRMENT OF HEALTH OR PHYSICAL CONDITION, AND DISFIGUREMENT.

¹¹ *Clark v. Cantrell*, 339 S.C. 369, 529 S.E.2d 528 (2000).

¹² *Sossamon v. Nationwide Mut. Ins. Co.*, 243 S.C. 552, 135 S.E.2d 87 (1964).

IN DETERMINING THE AMOUNT OF COMPENSATION FOR PERSONAL INJURIES, IT IS PROPER TO CONSIDER PAST AND PRESENT ASPECTS OF THE INJURY. THIS WOULD INCLUDE PHYSICAL AND MENTAL PAIN AND SUFFERING, EXPENSES INCURRED FOR NECESSARY MEDICAL TREATMENT, THE LOSS OF ENJOYMENT OF LIFE SUFFERED AS A RESULT OF THE INJURY, AND ANY OTHER LOSSES WHICH ARE REFLECTED BY THE CHARACTER OF THE INJURY.

THE INJURED PARTY MAY RECOVER FOR THOSE FUTURE DAMAGES THAT ARE REASONABLY SURE TO RESULT FROM THE INJURIES. THE PRINCIPLE UNDERLYING COMPENSATION FOR FUTURE DAMAGES IS THAT ONLY ONE ACTION CAN BE BROUGHT AND, THEREFORE, ONLY ONE RECOVERY HAD. IT IS PROPER TO INCLUDE IN THE ESTIMATE OF FUTURE DAMAGES, FUTURE MEDICAL

EXPENSES, AND PAIN AND SUFFERING WHICH WILL, WITH REASONABLE CERTAINTY, RESULT.¹³

PAIN AND SUFFERING

PAIN AND SUFFERING COMPENSATES THE PLAINTIFF FOR PHYSICAL DISCOMFORT AND EMOTIONAL RESPONSE TO THE SENSATION OF PAIN CAUSED BY THE INJURY ITSELF.¹⁴ THERE IS NO DEFINITE STANDARD BY WHICH TO COMPENSATE THE PLAINTIFF FOR PAIN AND SUFFERING. YOU HAVE THE AUTHORITY TO DETERMINE THE AMOUNT, IF ANY, TO BE ALLOWED FOR PAIN AND SUFFERING, USING CALM AND REASONABLE JUDGMENT TO ENSURE THAT THE DAMAGES ARE JUST AND REASONABLE IN LIGHT OF THE TESTIMONY AND EVIDENCE PRESENTED IN THE CASE.¹⁵

¹³ *Boan v. Blackwell*, 343 S.C. 498, 541 S.E.2d 242 (2001).

¹⁴ *Boan v. Blackwell*, 343 S.C. 498, 541 S.E.2d 242 (2001).

¹⁵ *Rhodan v. United States*, 754 F.Supp. 76 (D.S.C. 1991); *Harper v. Bolton*, 239 S.C. 541, 124 S.E.2d 54 (1962); *Smalls v. South Carolina Dep't of Educ.*, 339 S.C. 208, 528 S.E.2d 682 (Ct. App. 2000); *Haskins v. Fairfield Elec. Coop.*, 283 S.C. 229, 321 S.E.2d 185 (Ct. App. 1984).

LOSS OF ENJOYMENT OF LIFE

LOSS OF ENJOYMENT OF LIFE COMPENSATES THE PLAINTIFF FOR LIMITATIONS ON THE PLAINTIFF'S ABILITY TO PARTICIPATE IN, AND DERIVE PLEASURE FROM, THE NORMAL ACTIVITIES OF DAILY LIFE.¹⁶

MENTAL SUFFERING

MENTAL SUFFERING, APPREHENSION, SHOCK, FRIGHT, EMOTIONAL UPSET, HUMILIATION, AND ANXIETY, EITHER PRESENT OR EXPECTED IN THE FUTURE, CAN BE PROPERLY CONSIDERED AS AN ELEMENT OF DAMAGES.¹⁷ THE AMOUNT OF DAMAGES FOR MENTAL SUFFERING CANNOT BE EXACTLY MEASURED.¹⁸

¹⁶ *Boan v. Blackwell*, 343 S.C. 498, 541 S.E.2d 242 (2001).

¹⁷ *Boan v. Blackwell*, 343 S.C. 498, 541 S.E.2d 242 (2001).

¹⁸ *Mims v. Florence County Ambulance Serv. Comm'n*, 296 S.C. 4, 370 S.E.2d 96 (Ct. App. 1988).

PROSPECTIVE DAMAGES

A PLAINTIFF IS NEVER ENTITLED TO RECOVER CONJECTURAL OR SPECULATIVE DAMAGES.¹⁹ BUT IF YOU FIND THE PLAINTIFF IS ENTITLED TO A VERDICT FOR ACTUAL DAMAGES, YOUR VERDICT SHOULD INCLUDE AN AMOUNT TO COVER ANY PAST, PRESENT, AND FUTURE DAMAGES WHICH WERE PROXIMATELY CAUSED BY THE DEFENDANT. ANY FUTURE DAMAGES MUST BE REASONABLY CERTAIN TO OCCUR IN THE FUTURE AS A RESULT OF THE DEFENDANT'S ACTS.²⁰ ACTUAL DAMAGES NEED NOT BE PROVEN TO A MATHEMATICAL CERTAINTY OR BE BASED ON EVIDENCE OF THE PRECISE AMOUNT OF DAMAGES THE PLAINTIFF HAS SUFFERED. INSTEAD, THE EVIDENCE MUST ALLOW YOU TO DETERMINE WHAT AMOUNT OF DAMAGES IS FAIR, JUST, AND REASONABLE.²¹

¹⁹ *Whisenant v. James Island Corp.*, 277 S.C. 10, 281 S.E.2d 794 (1981).

²⁰ *Pearson v. Bridges*, 344 S.C. 366, 544 S.E.2d 617 (2001); *Haltiwanger v. Barr*, 258 S.C. 27, 186 S.E.2d 819 (1972).

²¹ *Whisenant v. James Island Corp.*, 277 S.C. 10, 281 S.E.2d 794 (1981); *Minter v. GOCT, Inc.*, 322 S.C. 525, 473 S.E.2d 67 (Ct. App. 1996).

LIFE EXPECTANCY²²

IF YOU FIND THAT THE PLAINTIFF WAS PERMANENTLY INJURED AS A RESULT OF THE DEFENDANT'S ACTIONS, YOU MUST THEN DECIDE HOW, IF AT ALL, THAT INJURY WILL AFFECT THE REST OF THE PLAINTIFF'S LIFE.

A PERSON'S LIFE EXPECTANCY IS DETERMINED BY A LIFE EXPECTANCY TABLE, WHICH IS A PART OF THE LAWS OF THIS STATE.²³ THE LIFE EXPECTANCY TABLE IS ONLY AN ESTIMATE OF THE PROBABLE AVERAGE REMAINING LENGTH OF THE LIFE OF ALL PERSONS IN OUR STATE OF A GIVEN AGE.

THE PLAINTIFF IS A 26-YEAR-OLD MALE WITH A LIFE EXPECTANCY, ACCORDING TO THE LIFE EXPECTANCY TABLE, OF 77.57 YEARS. THIS FACT IS TO BE CONSIDERED BY YOU ALONG WITH ANY OTHER FACTS AND CIRCUMSTANCES IN

²² Where there is no evidence of permanent disability, it is error to instruct the jury on the life expectancy table. Fishburne v. Short, 268 S.C. 546, 235 S.E.2d 118 (1977).

²³ S.C. Code Ann. § 19-1-150.

EVIDENCE BEARING ON THE PLAINTIFF'S LIFE EXPECTANCY INCLUDING, OCCUPATION, HABITS, AND HEALTH AT THE TIME OF INJURY IN DECIDING THE AMOUNT OF DAMAGES TO BE AWARDED TO THE PLAINTIFF.²⁴



PRE-EXISTING INJURY

THE DEFENDANT CLAIMS THAT THE PLAINTIFF HAD A PRE-EXISTING INJURY OR CONDITION PRIOR TO THE DATE THAT THE PLAINTIFF CLAIMS THAT THE DEFENDANT INJURED HIM. IF YOU FIND THAT THE PLAINTIFF RECEIVED AN INJURY AS A RESULT OF THE NEGLIGENCE OF THE DEFENDANT AND IS ENTITLED TO RECOVER FOR THAT INJURY, THE FACT THAT THE PLAINTIFF HAD A PRE-EXISTING INJURY OR CONDITION WOULD NOT PREVENT THE PLAINTIFF FROM RECOVERING.

²⁴ Haselden v. Davis, 341 S.C. 486, 534 S.E.2d 295 (Ct. App. 2000), affirmed, 353 S.C. 481, 579 S.E.2d 293 (2003) .

THE DEFENDANT IS RESPONSIBLE FOR ALL ILL EFFECTS WHICH, CONSIDERING THE PLAINTIFF'S CONDITION OF HEALTH WHEN THE PLAINTIFF WAS INJURED, NATURALLY AND NECESSARILY FOLLOW THE INJURY. THE DEFENDANT TAKES THE PLAINTIFF AS THE PLAINTIFF IS FOUND WHETHER THE PLAINTIFF IS IN PERFECT HEALTH, IN POOR HEALTH, OR SOMEWHERE IN BETWEEN. A DEFENDANT'S LIABILITY IS IN NO WAY LESSENER OR AFFECTED BECAUSE OF THE FACT THAT THE INJURY WOULD NOT HAVE RESULTED OR WOULD NOT HAVE BEEN AS SERIOUS OR SEVERE HAD THE PLAINTIFF BEEN IN GOOD HEALTH, OR THAT THE INJURIES WERE AGGRAVATED AND RENDERED MORE DIFFICULT TO CURE BY REASON OF THE FACT THAT THE PLAINTIFF WAS NOT IN GOOD HEALTH. IN OTHER WORDS, IF THE PRESENCE OF A PRE-EXISTING INJURY OR CONDITION AGGRAVATES AND PROLONGS THE INJURY AND INCREASES THE DAMAGES, THE PLAINTIFF SHOULD BE COMPENSATED FOR THE INCREASED OR ADDED DAMAGES.²⁵

²⁵ Raino v. Goodyear Tire & Rubber Co., 309 S.C. 255, 422 S.E.2d 98 (1992).

A PERSON WITH A PRE-EXISTING INJURY OR CONDITION IS NOT, HOWEVER, ENTITLED TO ANY COMPENSATION FOR THE PRE-EXISTING INJURY OR CONDITION. IN ADDITION, IF THE PROBLEMS ARE THE RESULT OF THE NATURAL PROGRESSION OF THE WORSENING OF A PRE-EXISTING INJURY OR CONDITION, THEN THE PLAINTIFF WOULD NOT BE ENTITLED TO BE COMPENSATED FOR THOSE PROBLEMS.²⁶

PUNITIVE DAMAGES

IF YOU AWARD ACTUAL DAMAGES, YOU MAY ALSO CONSIDER AN AWARD OF PUNITIVE DAMAGES. PUNITIVE DAMAGES ARE INTENDED TO PUNISH THE DEFENDANT FOR EXTRAORDINARY AND OUTRAGEOUS MISCONDUCT AND TO PREVENT THE DEFENDANT AND OTHERS FROM COMMITTING SIMILAR ACTS IN THE FUTURE. PUNITIVE DAMAGES CAN ONLY BE AWARDED WHEN THE CONDUCT

²⁶ Crozier v. Charleston & W.C. Ry. Co., 222 S.C. 121, 71 S.E.2d 800 (1952).

OF THE DEFENDANT HAS BEEN SOMETHING MORE THAN MERE NEGLIGENCE. THE EVIDENCE MUST ESTABLISH THE DEFENDANT'S ACTS WERE RECKLESS, WILLFUL AND WANTON, MEANING THERE WAS A CONSCIOUS FAILURE TO EXERCISE DUE CARE OR A CONSCIOUS INDIFFERENCE TO THE RIGHTS AND SAFETY OF OTHERS OR A RECKLESS DISREGARD THEREOF.

IF YOU FIND THAT THE DEFENDANT'S CONDUCT WAS WILLFUL, WANTON, OR RECKLESS, YOU MAY AWARD THE PLAINTIFF PUNITIVE DAMAGES. TO SUPPORT AN AWARD OF PUNITIVE DAMAGES, THE PLAINTIFF MUST PROVE BY CLEAR AND CONVINCING EVIDENCE THAT THE CONDUCT COMPLAINED OF INCLUDED A CONSCIOUSNESS OF WRONGDOING AT THE TIME OF THE CONDUCT.

CLEAR AND CONVINCING IS MORE THAN JUST A PREPONDERANCE, OR GREATER WEIGHT, OF THE EVIDENCE, WHICH REQUIRES ONLY PROOF WHICH PERSUADES YOU THAT A PARTY'S CLAIM IS MORE LIKELY TRUE THAN NOT

TRUE. ON THE OTHER HAND, CLEAR AND CONVINCING PROOF IS NOT AS HIGH A STANDARD AS THE BURDEN OF PROOF IN CRIMINAL CASES, WHICH IS PROOF BEYOND A REASONABLE DOUBT. CLEAR AND CONVINCING PROOF LEAVES NO SUBSTANTIAL DOUBT IN YOUR MIND. IT MEANS THAT THE EVIDENCE IS NOT AMBIGUOUS, DOUBTFUL, EQUIVOCAL OR CONTRADICTORY. CONVINCING MEANS PERSUADING BY PROOF OR ARGUMENT, CAUSING ONE TO BELIEVE IN THE TRUTH OF WHAT IS ASSERTED. CLEAR AND CONVINCING PROOF ESTABLISHES IN YOUR MIND, NOT ONLY THAT THE FACT IS PROBABLE, BUT THAT IT IS HIGHLY PROBABLE.

BEFORE AWARDING PUNITIVE DAMAGES, YOU MUST CONSIDER AND WEIGH FOUR ELEMENTS WHICH MAY BE PERTINENT TO THE FACTS OF THIS CASE:

(1) FIRST, YOU MUST CONSIDER THE RELATIONSHIP BETWEEN ANY PUNITIVE DAMAGE AWARD AND THE HARM CAUSED. ANY PENALTY IMPOSED SHOULD TAKE INTO

ACCOUNT THE REPREHENSIBILITY OF THE CONDUCT, THE HARM CAUSED, THE DEFENDANT'S AWARENESS OF THE CONDUCT'S WRONGFULNESS, THE DURATION OF THE CONDUCT, AND ANY CONCEALMENT. THUS, ANY PENALTY IMPOSED SHOULD BEAR A RELATIONSHIP TO THE NATURE AND EXTENT OF THE CONDUCT AND THE HARM CAUSED, INCLUDING THE COMPENSATORY DAMAGE AWARD MADE BY YOU.

(2) SECONDLY, ANY PENALTY IMPOSED SHOULD TAKE INTO ACCOUNT, AS A MITIGATING FACTOR, ANY OTHER PENALTY THAT MAY HAVE BEEN IMPOSED OR WHICH MAY BE IMPOSED FOR THE CONDUCT INVOLVED, INCLUDING ANY CRIMINAL OR CIVIL PENALTY OR ANY OTHER PUNITIVE DAMAGES AWARD ARISING OUT OF THE SAME CONDUCT.

(3) NEXT, YOU SHOULD CONSIDER WHETHER THE AWARD OF AND THE AMOUNT OF ANY PUNITIVE DAMAGES AWARD MAY DEPRIVE THE DEFENDANT OF ANY PROFITS

DERIVED FROM THE IMPROPER CONDUCT AND WHETHER THE ILL-GOTTEN PROFITS SHOULD BE PROPERLY AWARDED TO THE PLAINTIFF.

(4) FINALLY, ANY AWARD OF PUNITIVE DAMAGES MUST BE LIMITED TO PUNISHMENT AND, THUS, MAY NOT EFFECT ECONOMIC BANKRUPTCY. TO THIS END, THE DEFENDANT'S ABILITY TO PAY ANY PUNITIVE DAMAGE AWARD SHOULD BE CONSIDERED. HOWEVER, THE ECONOMIC BANKRUPTCY FACTOR IS NOT AN ABSOLUTE BAR TO AN AWARD OF PUNITIVE DAMAGES. PUNITIVE DAMAGES MAY ONLY BE AWARDED FOR INJURIES THE DEFENDANT CAUSED TO THE PARTIES TO THIS ACTION.

ALTHOUGH IT MAY BE APPROPRIATE TO CONSIDER THE REASONABLENESS OF A PUNITIVE DAMAGES AWARD IN LIGHT OF THE POTENTIAL HARM THE DEFENDANT'S CONDUCT COULD HAVE CAUSED, THAT POTENTIAL HARM IS HARM POTENTIALLY CAUSED THE PLAINTIFF, NOT ALL OTHER POTENTIAL VICTIMS. EVIDENCE OF ACTUAL HARM

TO NON-PARTIES MAY HELP SHOW THE REPREHENSIBLE
NATURE OF DEFENDANT’S ACTIONS IN THAT THE CONDUCT
WHICH HARMED THE PLAINTIFF ALSO POSED A
SUBSTANTIAL RISK OF HARM TO THE GENERAL PUBLIC.

HOWEVER, THE JURY MAY NOT USE A PUNITIVE
DAMAGES VERDICT TO PUNISH THE DEFENDANT DIRECTLY
FOR HARM IT ALLEGEDLY CAUSED TO NON-PARTIES.

COMPARATIVE NEGLIGENCE

THE DEFENDANT CLAIMS THAT THE PLAINTIFF'S OWN NEGLIGENCE PROXIMATELY CAUSED THE PLAINTIFF'S INJURIES. IF YOU FIND THAT THE DEFENDANT WAS NEGLIGENT, YOU MUST THEN DECIDE WHETHER THE PLAINTIFF WAS NEGLIGENT. THE DEFENDANT MUST PROVE BY A PREPONDERANCE, OR GREATER WEIGHT, OF THE EVIDENCE THAT THE PLAINTIFF BREACHED A DUTY OF CARE WHICH PROXIMATELY CAUSED THE PLAINTIFF'S INJURIES. THE SAME LAW WHICH I HAVE TOLD YOU TO USE IN DECIDING WHETHER THE DEFENDANT WAS NEGLIGENT SHOULD BE USED IN DECIDING WHETHER THE PLAINTIFF WAS NEGLIGENT.

IF YOU FIND THAT THE NEGLIGENCE OF BOTH THE PLAINTIFF AND THE DEFENDANT PROXIMATELY CAUSED THE PLAINTIFF'S INJURIES, YOU MUST THEN DECIDE HOW MUCH THE NEGLIGENCE OF THE PLAINTIFF CONTRIBUTED TO THE PLAINTIFF'S INJURIES AND HOW MUCH THE

DEFENDANT'S NEGLIGENCE CONTRIBUTED TO THE PLAINTIFF'S INJURIES. IN DECIDING THE PERCENTAGES OF NEGLIGENCE OF THE PLAINTIFF AND THE DEFENDANT, YOU MAY CONSIDER, AMONG OTHER THINGS, THE FOLLOWING FACTORS :

(1) WHETHER EACH PARTY'S CONDUCT WAS ONLY INADVERTENT OR WHETHER IT WAS ENGAGED IN WITH AN AWARENESS OF THE DANGER INVOLVED;

(2) THE MAGNITUDE OF THE RISK CREATED BY EACH PARTY'S CONDUCT, INCLUDING THE NUMBER OF PERSONS ENDANGERED AND THE POSSIBLE SEVERITY OF THE INJURY;

(3) THE SIGNIFICANCE OF THE GOAL THAT EACH PARTY WAS TRYING TO REACH AND THE NEED TO ACHIEVE THE GOAL IN THAT MANNER;

(4) EACH PARTY'S CAPABILITIES AND ABILITIES TO REALIZE AND ELIMINATE THE RISK INVOLVED;

(5) THE PARTICULAR CIRCUMSTANCES CONFRONTING EACH PARTY AT THE TIME THE CONDUCT OCCURRED, SUCH AS THE EXISTENCE OF AN EMERGENCY REQUIRING A QUICK DECISION;

(6) THE RELATIVE CLOSENESS OF THE CAUSAL RELATIONSHIP OF THE NEGLIGENT CONDUCT OF THE DEFENDANT AND THE HARM TO THE PLAINTIFF; AND

(7) WHETHER THE CONDUCT OF EITHER PARTY INVOLVED A VIOLATION OF A SAFETY STATUTE OR REGULATION.

I WILL GIVE YOU WRITTEN QUESTIONS ON A SPECIAL VERDICT FORM FOR YOU TO REACH YOUR VERDICT. THE

FORM WILL HAVE SPACES FOR YOU TO WRITE YOUR DECISIONS ABOUT THE PERCENTAGE OF THE NEGLIGENCE, IF ANY, OF BOTH PARTIES WHICH PROXIMATELY CAUSED THE PLAINTIFF'S INJURIES.

THE FIRST TWO QUESTIONS ON THE VERDICT FORM ASK YOU TO DECIDE WHETHER THE DEFENDANT WAS NEGLIGENT AND, IF SO, WHETHER THE DEFENDANT'S NEGLIGENCE WAS THE PROXIMATE CAUSE OF THE PLAINTIFF'S INJURIES. NUMBER 3 IS A NOTE CONCERNING WHETHER YOU CONTINUE YOUR DELIBERATIONS BASED UPON YOUR FINDINGS ON QUESTION 1 AND 2. QUESTIONS 4 AND 5 ASK THE SAME QUESTION ABOUT ANY NEGLIGENCE BY THE PLAINTIFF. QUESTION 6 ASKS YOU TO DECIDE THE PERCENTAGE OF EACH PARTY'S NEGLIGENCE WHICH PROXIMATELY CAUSED THE PLAINTIFF'S INJURIES. THE PERCENTAGES MUST ADD UP TO ONE HUNDRED PERCENT. QUESTION 7 ASKS YOU IF THE PLAINTIFF'S NEGLIGENCE WAS GREATER THAN THE DEFENDANT'S NEGLIGENCE. IF SO,

THE PLAINTIFF WOULD NOT BE ENTITLED TO ANY DAMAGES, AND YOUR VERDICT WOULD BE FOR THE DEFENDANT.

IF, HOWEVER, YOU FIND THAT THE PLAINTIFF'S NEGLIGENCE WAS EQUAL TO OR LESS THAN THE DEFENDANT'S NEGLIGENCE, YOU WOULD ANSWER QUESTION 8 WHICH ASKS YOU TO DETERMINE THE TOTAL AMOUNT OF DAMAGES SUFFERED BY THE PLAINTIFF.

DO NOT REDUCE THE PLAINTIFF'S TOTAL DAMAGES BASED ON THE PERCENTAGE OF NEGLIGENCE OF ANY PARTY. AFTER YOU HAVE ANSWERED THE QUESTIONS, I WILL COMPUTE THE AMOUNT OF DAMAGES FOR WHICH THE DEFENDANT IS RESPONSIBLE BASED ON THE PERCENTAGE OF THE DEFENDANT'S NEGLIGENCE WHICH YOU HAVE DECIDED PROXIMATELY CAUSED THE PLAINTIFF'S INJURIES. YOU ARE TO DETERMINE ONLY THE TOTAL AMOUNT OF THE PLAINTIFF'S DAMAGES AND ENTER THAT FIGURE ON THE VERDICT FORM.

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

Charles Shabazz,

Plaintiff,

v.

Brian Cox,

Defendant.

IN THE COURT OF COMMON PLEAS
FOR THE TENTH JUDICIAL CIRCUIT
CASE NO. 2024-CP-37-00163

**PLAINTIFF'S MOTION FOR
JUDGMENT NOT WITHSTANDING
THE VERDICT**

Plaintiff hereby submits the following Motion for Judgment Notwithstanding the Verdict (hereinafter "JNOV") pursuant to Rule 50(b) and Rule 59 of the South Carolina Rules of Civil Procedure. Plaintiff's Motion must be granted, and the jury's verdict must be set aside because:

- (1) Defendant was barred from maintaining a position adverse to that of his judicial admissions;
- (2) Defendant was barred from maintaining a position adverse to that of his discovery responses;
- (3) Defendant was barred from offering testimony that Plaintiff contributed to the collision; and
- (4) The Court erred in failing to charge the life expectancy table as codified in S.C. Code Ann. § 19-1-150.

STANDARD OF REVIEW

A motion for JNOV is governed by Rule 50(b) of the South Carolina Rules of Civil Procedure. That rule states, in relevant part,

Whenever a motion for a directed verdict made at the close of all the evidence is denied or for any reason is not granted, the court is deemed to have submitted the action to the jury subject to a later determination of the legal questions raised by the motion. A party who has moved for a directed verdict may move to have the verdict and any judgment entered thereon set aside and to have judgment entered in accordance with his motion for a directed verdict.

Rule 50, SCRPC. The same rule further specifies that, "[a] motion for a new trial may be joined

with this motion, or a new trial may be prayed for in the alternative. If a verdict was returned the court may allow the judgment to stand or may reopen the judgment and either order a new trial or direct the entry of judgment as if the requested verdict had been directed.” Rule 50, SCRC. In ruling on a motion for judgment notwithstanding the verdict, such a motion may be granted “if no reasonable jury could have reached the challenged verdict.” *Gastineau v. Murphy*, 331 S.C. 565, 568, 503 S.E.2d 712, 713 (1998). Further, in ruling on a motion for JNOV, a trial court must view the evidence and all reasonable inferences in the light most favorable to the nonmoving party. *Elam v. S.C. Dept. of Transp.*, 361 S.C. 9, 602 S.E.2d 772 (2004).

LEGAL ARGUMENT

I. The Jury’s Verdict Must be Set Aside Because the Defendant Cannot Maintain a Position Adverse to that of his Judicial Admissions.

On March 1, 2024, Plaintiff initiated the present action. On March 24, 2024, Defendant, by and through his counsel, filed an Answer to Plaintiff’s Summons and Complaint. In his Answer, Defendant admitted that Plaintiff maintained the absolute right of way while travelling southbound on Rochester Highway/Highway 130. Despite this, on the morning of trial, approximately fifteen minutes before jury selection, Defendant – for the first time – took a legal position contrary to his judicial admission and disputed liability arguing that the Plaintiff was comparatively negligent. Defendant was barred from taking a position contrary to his judicial admissions and therefore a new trial is warranted.

Facts admitted in pleadings are conclusive against the pleader for purposes of the action. *Postal v. Mann*, 308 S.C. 385, 418 S.E.2d 322 (Ct. App. 1992). **A party cannot take a position contradictory to his or her pleadings.** *Postal v. Mann*, 308 S.C. 385, 418 S.E.2d 322 (Ct. App. 1992); *See also Skull Creek Club Ltd. Partnership v. Cook and Book, Inc.*, 313 S.C. 283, 437 S.E.2d 163 (Ct. App. 1993) (parties are judicially bound by their pleadings unless withdrawn,

altered or stricken by amendment or otherwise; the **allegations, statements, or admissions contained in a pleading are conclusive as against the pleader and a party cannot subsequently take a position contradictory of, or inconsistent with, his pleadings** and the facts which are taken as true against the pleader for the purpose of the action).

A “judicial admission,” is a representation that is conclusive in the case such as formal concessions in the pleadings, or stipulations by a party or its counsel, that are binding upon the party making them. *Congaree Riverkeeper, Inc. v. Carolina Water Serv., Inc.*, 248 F. Supp. 3d 733 (D.S.C. 2017); *Minter v. Wells Fargo Bank, N.A.*, 762 F.3d 339, 347 (4th Cir. 2014). “Under the ‘rule of judicial admission’ a party is bound by the admissions of its pleadings.” *Id.* In *Lucas v. Burnley*, the Fourth Circuit Court of Appeals found that there was a binding judicial admission where the issue was raised in the complaint and admitted in the answer. 879 F.2d 1240,1242 (4th Cir. 1989); *see also Brown v. Sikora & Assocs., Inc.*, No. 04-0579, 2007 WL 1068241, at *4 (D.S.C. Mar. 30, 2007) (finding that admission in amended answer and cross-claim was binding on the party), *aff’d* 311 Fed. Appx. 568 (4th Cir. 2008).

In the longstanding case of *Postal v. Mann*, the Court of Appeals reversed a trial judge who allowed a defendant to take a position adverse to that of the admission made in his Answer:

In his complaint, Postal alleged in paragraph 19 that “As a part of the closing on the property, Mann tendered a note to Kinnie in the amount of Eight Thousand (\$8,000.00) Dollars ...” Paragraph 15 of Mann's answer states “Paragraph 19 of the Complaint is admitted.” Further, Mann asserted several defenses to the note in his answer, but never denied its existence. Having failed to amend his answer, Mann was bound by that admission. Accordingly, we hold the trial judge erred in finding the evidence insufficient as to the existence of the note and remand for consideration the terms of the note.

...

Mann's attorney responded he had always assumed the note would reappear, but now felt it did not exist. He added, “If it becomes an issue, I'll ask to amend my answer.” Postal continued to assert the existence of the note was admitted by Mann

in the pleading and made a directed verdict motion on the \$8,000 note based on the admission in Mann's answer. There is no indication Mann asked to amend his answer.

308 S.C. 385, 387, 418 S.E.2d 322, 323 (Ct. App. 1992). Because the defendant did not move to amend his Answer, it was reversible error to allow him to take a position adverse to that of the admissions set forth in his Answer.

Similarly, in *Elrod v. All*, the Supreme Court declared it was reversible error for the plaintiff to take a factual position opposite the one contained in her Complaint:

We consider the pleadings in this case in the light of the general rule, that the parties to an action are judicially concluded and bound by such unless withdrawn, altered or stricken by amendment or otherwise. The allegations, statements or admissions contained in a pleading are conclusive as against the pleader. **It follows that a party cannot subsequently take a position contradictory of, or inconsistent with, his pleadings and the facts which are admitted by the pleadings are to be taken as true against the pleader for the purpose of the action. Evidence contradicting such pleadings is inadmissible.** *Truesdale v. Jones*, 224 S.C. 237, 78 S.E.2d 274, 71 C.J.S. Pleading § 59a, page 147.

243 S.C. 425, 436-437, 134 S.E.2d 410, 416 (1964) (emphasis added). Testimony to the contrary was found to have no force and effect as “[t]estimony of all the respondent's witnesses affirms the truth of this admitted allegation of the complaint. Any testimony of Mrs. Bankston contrary to the foregoing admission raises no issue as between appellant and respondent.” *Id.* at 437, 134 S.E.2d at 416–17.

The case of *Truesdale v. Jones*, also bound appellant to the judicial admissions set forth in his Complaint:

It was asserted in the complaint that ‘a petition was submitted to the Council by a majority of the freeholders of the territory it was proposed to annex.’ At the reference, counsel for respondents objected to all testimony tending to show that the petition did not contain the names of the requisite number of freeholders, upon the ground that the fact sought to be proved was not an issue and that appellant was bound by the admission made in his complaint. While agreeing with the position taken by respondents' counsel, the Referee felt that he was required to take the testimony, although he regarded it as inadmissible. In his report, the Referee

concluded (1) that in view of the admission made in the complaint, appellant was precluded from raising the question that the petition was not signed by the requisite number of freeholders, and (2) that under the case of *Harrell v. City of Columbia*, 216 S.C. 346, 58 S.E.2d 91, since there were no charges or evidence of fraud, accident or mistake, the certificate of the Town Council was not open to question.

We think the court below properly held that appellant was judicially bound by the admission made in his complaint, which he never made any effort to withdraw, and that such admission was conclusive of the fact that a majority of the freeholders signed the petition.

224 S.C. 237, 241, 78 S.E.2d 274, 276 (1953)(emphasis added). In *Truesdale*, the Referee concluded that any evidence contrary to the position taken in appellant's Complaint was inadmissible as the appellant was bound by the factual admissions contained in their filed pleading. *Id.* Such a situation is identical in the present case.

In the present case, Plaintiff's Complaint asserted that, on March 22, 2023, Plaintiff was travelling southbound on Rochester Highway/Highway 130 and maintained the absolute right of way to proceed through the intersection of Mill Road without obstruction:

4. On or about March 22, 2023, Plaintiff was driving a vehicle traveling south bound on Rochester Highway/Highway 130 near Seneca, South Carolina.
5. At the same time, Defendant Brian Cox was driving a vehicle traveling east bound on Mill Road.
6. A stop sign governs traffic on Mill Road at the intersection with Rochester Highway/Highway 130.
7. South bound traffic on Rochester Highway/Highway 130 does not have a stop sign and has the absolute right of way to proceed through the intersection without obstruction.

See, Compl. ¶ 7. In response, Defendant unequivocally **admitted**, in his filed Answer, that Plaintiff was travelling southbound on Rochester Highway/Highway 130 and maintained the absolute right of way to proceed through the intersection free of obstruction:

2. Defendant admits the allegations contained in Paragraphs 1, 2, 3, 4, 5, 6 and 7.

See, Answer ¶ 2.

This litigation has remained pending for nearly two (2) years. **During those years, Defendant made no efforts to retract, amend, strike, or modify his Answer.** Because Defendant made no effort to amend his Answer, he was barred from asserting any factual position opposite to those contained in his Answer and therefore barred from asserting comparative negligence. To hold otherwise allows for trial by ambush, unfairly prejudices the Plaintiff, is reversible error, and warrants a new trial.

II. The Jury's Verdict Must be Set Aside Because the Defendant Cannot Maintain a Position Adverse to that of his Discovery Responses.

Defendant's discovery responses – which must have been answered under oath in accordance with Rule 33, SCRCF – expressly made no contention that Plaintiff contributed to the subject collision. Despite numerous supplements, Defendant's contention remained unwavering.

Rule 26(e), SCRCF places a duty on the parties to promptly supplement discovery:

A party who has responded to a request for discovery with a response that was complete when made is under no duty to supplement his response to include information thereafter acquired, except that requests for discovery under Rules 31, 33, 34, and 36 shall be deemed to continue from the time of service until the time of trial of the action so that information sought, which comes to the knowledge of a party, or his representative or attorney, after original answers have been submitted, shall be promptly transmitted to the other party.

When a party fails to properly supplement their discovery, in accordance with the duties set forth in the South Carolina Rules of Civil Procedure, such evidence should be excluded from trial in accordance with Rule 37(b)(2). The gist and gravamen of the discovery rules mandate full and fair disclosure to prevent a trial from becoming a guessing game or one of ambush for either party. *See State Hwy. Dep't v. Booker*, 260 S.C. 245, 195 S.E.2d 615 (1973); *Hodge v. Myers*, 255 S.C. 542, 180 S.E.2d 203 (1971). “The rights of discovery articulated by the rules give the attorney the means to prepare for trial. Discovery is the quintessence of preparation for trial and, when discovery rights

are trampled, prejudice must be presumed.” *Scott v. Greenville Hous. Auth.*, 353 S.C. 639, 652, 579 S.E.2d 151, 158 (Ct. App. 2003); *see also, Downey v. Dixon*, 294 S.C. 42, 362 S.E.2d 317 (Ct.App.1987).

The entire thrust of the discovery rules involves full and fair disclosure to prevent a trial from becoming a guessing game or one of surprise for either party. *Samples v. Mitchell*, 329 S.C. 105, 495 S.E.2d 213 (Ct. App. 1997). Essentially, rights of discovery provided by rules give the trial lawyer the means to prepare for trial, and when those rights are not accorded, prejudice must be presumed. *Id.*

In *Samples v. Mitchell*, the Court of Appeals found the trial court’s lenient sanction for a discovery violation by the defendant during trial was an abuse of discretion. 329 S.C. 105, 495 S.E.2d 213 (Ct. App. 1997). The defendant failed to disclose the existence of surveillance footage of the plaintiff and the trial court refused to exclude the surveillance from evidence. Instead, the trial court simply limited the testimony of the investigator. *Id.* In reversing the decision, the Court of Appeals found it was an abuse of discretion to afford such an inadequate remedy in the wake of flagrant discovery abuse:

Few litigants would reveal the existence of video surveillance evidence if the alternative were simply having the testimony of the investigator who filmed the video limited at trial.

In summary, in failing to exercise discretion, the trial judge abused that discretion. Furthermore, the sanction he imposed was not meaningful enough to protect the rights of discovery provided by the Rules.

Samples v. Mitchell, 329 S.C. 105, 495 S.E.2d 213 (Ct. App. 1997).

In elaborating on discovery abuse in *Downey v. Dixon*, Chief Judge Sanders eloquently stated:

The rights of discovery provided by the Rules were not protected in any way. Neither was Ms. Downey accorded the rights of discovery provided by the Rules,

nor was the sanction imposed against Mr. Dixon a meaningful deterrent to those who might fail to submit to discovery in the future. (It is perfectly obvious that few, if any, litigants would willingly submit to the discovery provided by the Rules if the alternative were simply paying \$50.). Indeed, it can be argued that the sanction imposed in the instant case tended to encourage, rather than discourage, noncompliance with the Rules.

294 S.C. 42, 45-46 n.2, 362 S.E.2d 317, 318 n. 2 (Ct. App. 1987).

The same is true in this case. Defendant's discovery responses (attached as Exhibit A) concede no fault on the part of the Plaintiff:

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 does not make this contention.

See Exhibit A, Def.'s Second Supp. Ans. to Pl.'s Interrog. No. 30.

During the two (2) years this litigation has remained pending, Defendant supplemented his discovery responses on **four separate occasions**. See Exhibit B, Def.'s Fourth Supp. Resp. to Pl.'s Requests for Production. For example, Defendant amended the below discovery response related to his assertion of affirmative defenses:

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: Objection. Defendant objects to this Interrogatory as it seeks an attorney's mental impressions and trial strategy. Subject to and without waiving these objections, discovery is ongoing and Defendant will supplement this response as additional information is obtained.

SUPPLEMENTAL ANSWER: Defendant states he relies upon the police report, Plaintiff's complaint, and privileged conversations with their counsel at Clarkson, Walsh, and Coulter.

See Exhibit A, Def.'s Second Supp. Ans. to Pl.'s Interrog. No. 31. Notably, both the police report (attached as Exhibit C) and the Complaint found the Defendant to be the sole contributing party.

Defendant was clearly aware of his duty to supplement as evidenced by the numerous supplements. During any of those prior supplements, Defendant could have moved to withdraw, supplement or otherwise amend his discovery response to assert that the Plaintiff did not, in fact, maintain the absolute right of way to proceed through the intersection of Rochester Highway/Highway 130 and Mill Road without obstruction. Rather, this contention interrogatory was never supplemented. With this response, Defendant removed comparative fault from issue

and Plaintiff was entitled to rely on that.

During closing argument, counsel for Defendant urged the jury not to hold the documents that he executed against the Defendant. However, such a statement is necessarily false as discovery responses and pleadings are binding upon the Defendant. Discovery responses are required to be prepared by the Defendant under oath. The party to whom they are meant for is entitled to rely on the positions set forth therein. To hold otherwise goes against the very principles of discovery and encourages trial by ambush. For this reason, a new trial must be granted.

III. The Jury's Verdict Must be Set Aside Because the Defendant is Barred as a Matter of Law from Offering Testimony that Plaintiff Contributed to the Collision.

South Carolina courts have overwhelmingly held that, in collisions analogous to this, Defendant is barred as a matter of law from asserting comparative negligence.

A motorist approaching a stop sign must bring his vehicle to a stop and yield the right of way to vehicles on the intersecting roadway that constitute an immediate hazard. S.C. Code Ann. § 56–5–2330(b). The driver must not only stop but must look for traffic approaching on the through highway. *Blanding v. Hammell*, 267 S.C. 352, 228 S.E.2d 271 (1976); *Lawter v. War Emergency Coop. Ass'n*, 213 S.C. 286, 49 S.E.2d 227 (1948). His duty is not merely to look but to observe; he must look in such an intelligent and careful manner as to enable him to see what a person exercising ordinary care and caution could see under like circumstances. *Id.* Negligence is established as a matter of law if the only inference is that either the driver did not look or did so in such a careless fashion as not to see what was in plain view. *Williams v. Davis*, 243 S.C. 524, 134 S.E.2d 760 (1964).

In *Odom v. Steigerwald*, the Supreme Court reversed the trial court's denial of a directed verdict motion when the plaintiff was t-boned by a driver who pulled out from a stop sign into her path of travel. 260 S.C. 422, 196 S.E.2d 635 (1973).

In the trial of this case, there were initially two issues to be determined: First, was young Steigerwald negligent? And, if so, secondly, was that negligence a proximate cause of injury to the plaintiff? These two questions should have been answered in the affirmative as a matter of law. It then became necessary to determine: Was the plaintiff negligent? If the plaintiff was not negligent, there could, of course, be no contributory negligence. Even if it was determined that the plaintiff was negligent, there was still one additional question to be answered before the plaintiff would be barred of recovery, and that question was: Did plaintiff's negligence contribute as a proximate cause?

As indicated hereinabove, as a matter of law, we think that young Steigerwald was at least negligent and that his improper driving conduct was a proximate cause of the collision.

Assuming, without so deciding, that the plaintiff was driving at an excessive rate of speed and was negligent, we think, as a matter of law, that such was not a contributing proximate cause. The real cause, the more immediate and efficient cause, was the improper driving conduct of young Steigerwald. By driving his car directly into the path of plaintiff's vehicle when plaintiff was obviously so close to the intersection, young Steigerwald created a trap from which plaintiff could not escape.

The lower court should have granted the motion for a directed verdict on the issue of liability and submitted to the jury the question of damages. In failing to grant the motion for a directed verdict, and in failing to grant the motion for a new trial, we think he erred.

Odom v. Steigerwald, 260 S.C. 422, 427–28, 196 S.E.2d 635, 638 (1973).

In *Crosby v. Sawyer*, the Supreme Court again reversed the trial court's denial of his directed verdict motion as to liability in facts directly synonymous with the present case:

A stop sign is located on Glenn Street at its intersection with Middleton Street in Cayce, South Carolina. Sawyer's automobile pulled off of Glenn Street into Middleton Street and struck Crosby's truck broadside. Sawyer testified she stopped at the intersection and pulled out only after she looked both ways and saw no vehicles approaching on Middleton Street.

...

There is no evidence that Crosby was traveling at an excessive rate of speed as he approached the intersection. The fact that Sawyer struck Crosby broadside in the absence of any evidence that her view was obstructed leaves only the inference that if she did look it must have been in such a careless fashion as not to see what was in plain view. Crosby therefore established Sawyer's negligence as a matter of law

and his motion for a directed verdict should have been granted.

291 S.C. 474,475–76, 354 S.E.2d 387, 387–388 (1987).

In the present case, it is undisputed that Defendant did not see the Plaintiff. Therefore, Defendant cannot, and did not, opine as to the speed at which the Plaintiff was travelling prior to the collision. It is likewise undisputed that Plaintiff was lawfully in his lane of travel proceeding straight down Rutherford Highway/Highway 130. Because the Defendant offered not evidence of fault on the part of the Plaintiff, he was barred from asserting comparative negligence. As is consistent with South Carolina case law, because no reasonable jury could have reached this verdict, it must be set aside.

IV. The Jury’s Verdict Must be Set Aside Because the Court Erred in Failing to Charge the Life Expectancy Table.

The Court erred in failing to charge the life expectancy table as codified in S.C. Code Ann. § 19-1-150. Longstanding caselaw requires the trial judge to charge the life expectancy table if plaintiff sets forth “some evidence” of permanent injury. *Gethers v. Bailey*, 306 S.C. 179, 410 S.E.2d 586 (Ct. App. 1991).

A trial judge may properly charge the life expectancy tables to the jury in a personal injury action when there is evidence of “permanent injury.” *Gethers v. Bailey*, 306 S.C. 179, 410 S.E.2d 586 (Ct. App.1991); *cf. Hall v. Palmetto Enterprises II, Inc.*, 282 S.C. 87, 317 S.E.2d 140 (Ct. App.1984) (case wherein there was no expert medical testimony and the court held the jury could infer that the injury was permanent). *Johnston v. Aiken Auto Parts*, 311 S.C. 285, 288, 428 S.E.2d 737, 739 (Ct. App. 1993).

In *Gethers v. Bailey*, Plaintiff injured her foot when Defendant ran a stop sign. *Id.* During trial, Plaintiff testified about her injury and the treatment received. *Id.* She testified that she was still having pain two-and-a-half-years post collision. *Id.* Importantly, Plaintiff’s physician indicated it

was uncommon for individuals with the type of injury suffered by Plaintiff to have complaints two years after the injury. *Id.* at 181, 410 S.E.2d at 587. However, the physician could not say with a reasonable degree of medical certainty that Plaintiff either would or would not have a complete recovery with no more pain in her foot. *Id.* In reversing the trial court, the Court of Appeals found that “[s]ince there was some evidence of a permanent injury the trial court erred in failing to charge the life expectancy tables.” *Id.* at 182, 410 S.E.2d at 588.

In the present case, Plaintiff testified that his left wrist still suffered from a painful popping sensation in the two-and-half-years since the collision. Plaintiff’s friends, family, and employer confirmed the same. Plaintiff’s treatment provider, Dr. Tenley Murphy – a medical expert qualified in the area of orthopaedics – testified as follows:

Q. To a reasonable degree of medical certainty, was the edema caused by the crash?

A. Yes.

Q. And how do you know that?

A. The timing and the amount of edema are consistent with where he would be in the recovery of his injury.

Q. And was the edema consistent with the type of pain Charles was describing?

A. Yes.

...

Q. Dr. Murphy, can edema last long-term?

A. If there's continued irritation to the ligament, yes.

Q. And how can there be continued irritation? Could you give me an example?

A. Painful movements.

Q. Can edema cause long-term pain if it doesn't heal?

A. Yes.

Q. Can edema be permanent?

A. Yes.

Q. Why?

A. Your body's response to the injury at that location.

Dep. of Tenley Murphy, MD, p. 13: 14-23; 14: 10-23.

The charge of the life expectancy table does not require certainty that the injury is permanent. Rather, the inquiry is whether the plaintiff has set forth “some” evidence from which

a reasonable inference could be drawn that a person suffered a permanent injury. In the present case, Plaintiff testified about the continued pain. Plaintiff's treatment provider testified that such pain could be permanent. The Court even charged future damages to the jury. It would necessarily follow that this combined testimony could lead a jury to reasonably infer the permanence of the injury thereby necessitating a charge as to the life expectancy table.

Plaintiff suffered prejudice in the Court's failure to charge the life expectancy table given the longstanding history of pain caused by the collision and the substantial likelihood of its permanency. As such, the jury's verdict must be set aside.

CONCLUSION

Plaintiff requests the Court vacate the jury's verdict of \$45,000 and grant its Motion for Judgment Notwithstanding the Verdict on the ground that Defendant was barred from asserting the affirmative defense of comparative negligence and that Plaintiff set forth evidence of some permanent injury thus necessitating a jury charge of the life expectancy table. Alternatively, Plaintiff requests that this Court find that the jury's verdict was unsupported by the evidence and, therefore, order a New Trial Absolute or a New Trial *Nisi Additur* as detailed in his companion Motion.

[Signature Page to Follow]

Respectfully Submitted,

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Charleston, South Carolina
November 7, 2025

EXHIBIT A

ELECTRONICALLY FILED - 2025 Nov 07 4:46 PM - OCONEE - COMMON PLEAS - CASE#2024CP3700163

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THE TENTH JUDICIAL CIRCUIT
COUNTY OF OCONEE	)	CASE NO.: 2024-CP-37-00163
	)	
Charles Shabazz,	)	
	)	
Plaintiff,	)	DEFENDANT'S SUPPLEMENTAL
	)	ANSWERS TO PLAINTIFF'S FIRST
vs.	)	SET OF INTERROGATORIES
	)	
Brian Cox,	)	
	)	
Defendant.	)	
	)	

**TO: CHRISTOPHER T. DORSEL, ESQ., AND MARK BRINGARDNER ESQ.,
ATTORNEYS FOR THE PLAINTIFF:**

Defendant Brian Cox ("Defendant"), by and through the undersigned counsel and pursuant to Rules 33 of the South Carolina Rules of Civil Procedure, submits these Supplemental Answers to Plaintiff's First Set of Interrogatories to Plaintiff Charles Shabazz ("Plaintiff"), reserving the right to amend and/or supplement, 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:

**Charles Shabazz
c/o Mark Bringardner, Esq.
c/o Connor W. Treece, Esq.
41 Broad Street
Charleston, SC 29401**

Defendant is not aware of any recorded statements by this witness. Defendant expects this witness to testify about the facts and circumstances surrounding the accident.

**Brian Cox
c/o Jeffrey Crudup, Esq.
497 St. Andrews Blvd.
Charleston, SC 29407**

Defendant is not aware of any recorded statements by this witness. Defendant expects this witness to testify about the facts and circumstances surrounding the accident.

Investigating Officer

Defendant is not aware of any recorded statements by this witness outside of their police report. Defendant expects this witness to testify about the facts and circumstances surrounding their investigation.

Plaintiff's Treating Physicians

Defendant is not aware of any recorded statements by these witnesses outside of their notes for medical records. Defendant expects these witnesses to testify about the facts and circumstances consistent with their medical notes.

Defendant reserves the right to supplement this response.

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: Please see answer to Interrogatory No. 1.

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:

**Various Communications between Plaintiff's Counsel and Progressive;
Covenant Not to Execute;
Photos of Defendant's Vehicle;
Photos of Plaintiff's Vehicle;
Plaintiff's Medical Bills;
Plaintiff's Motor Vehicle Record;
Defendant's Motor Vehicle Record;
Declaration Page**

**Police Report; and
Summons and Complaint.**

SUPPLEMENTAL ANSWER: Defendant states:

Subpoena Response – Prisma Health University
 Subpoena Response – Prisma Health Medical Group dba Dept. of Radiology
 Subpoena Response – CVS Pharmacy
 Subpoena Response – Prisma Health Blue Ridge Orthopedics
 Subpoena Response – Prisma Health Oconee Memorial Hospital
 Subpoena Response – Oconee County EMS

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 was not injured.

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:

Progressive Northern Insurance Co
P.O. Box 6807
Cleveland, OH 44101
Policy: 41805862
Limits: \$100,000/\$300,000

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 determined if he will use an expert at trial. Defendant reserves the right to supplement this response.

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: Defendant states his attorneys at Clarkson, Walsh & Coulter

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:

Brian Cox

Born: Rockhill

/79

SNN: XXX-XX-

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

**ANSWER: 832 Harts Cove Way
Seneca, SC 29678**

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: Lake Life Realty 2015 - Current

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: Defendant states no.

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

ANSWER: Defendant states no.

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: Defendant states yes he has a license and was suspended in 1997 for minor in possession of alcohol.

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: (864)

AT&T

Defendant's phone was either in his pocket or in the console of his dashboard.

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 states no.

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 states no.

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: The accident damaged the rear quarter panel of Defendant's vehicle. Defendant's vehicle was totaled.

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: Defendant states no.

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: Defendant states no.

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 states no.

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

ANSWER: Eye Mart Express Anderson, SC

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: Defendant states none.

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: Defendant state he is unaware of the existence of any onboard data.

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 medial platform.

ANSWER: Facebook and Instagram under his name.

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: Defendant was traveling from 203-A Old Salem Rd, Seneca to 832 Harts Cove Way Seneca, SC 29678. Defendant was trying to get onto Highway 130 towards Old Clemson Highway.

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

ANSWER: Defendant states he was leaving his office making a left turn across a lane. A driver in the lane he was crossing waved him through and he did not see any traffic in the lane Plaintiff was in. However, Defendant did not see Plaintiff who collided with his rear quarter panel.

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: Defendant states no.

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: Defendant states no.

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 does not make this contention.

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

ANSWER: Objection. Defendant objects to this Interrogatory as it seeks an attorney's mental impressions and trial strategy. Subject to and without waiving these objections, discovery is ongoing and Defendant will supplement this response as additional information is obtained.

SUPPLEMENTAL ANSWER: Defendant states he relies upon the police report, Plaintiff's complaint, and privileged conversations with their counsel at Clarkson, Walsh, and Coulter.

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: Defendant states no.

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 states no.

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 does not make this contention.

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 states no. Defendant reserves the right to supplement this response.

This 8th day of May, 2025

Respectively Submitted,

CLARKSON, WALSH, & COULTER, P.A.,



Jeffrey M. Crudup, Esq.

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Counsel for Defendant

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THE TENTH JUDICIAL CIRCUIT
COUNTY OF OCONEE	)	CASE NO.: 2024-CP-37-00163
	)	
Charles Shabazz,	)	
	)	
Plaintiff,	)	
	)	CERTIFICATE OF SERVICE
vs.	)	
	)	
Brian Cox,	)	
	)	
Defendant.	)	
_____	)	

I hereby certify that I have this day served a copy of the within and foregoing pleading upon all parties to this matter by depositing a true copy of same in the U.S. Mail, Proper postage prepaid, addressed to counsel of record as follows:

Christopher T. Dorsel, Esq.
Mark Bringardner, Esq.
Bringardner Injury Law Firm, LLC
41 Broad Street
Charleston, SC 29401

Attorneys for Plaintiff

This 8th day of May, 2025



Paralegal to Ryan T. Adams, Esq.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THE TENTH JUDICIAL CIRCUIT
COUNTY OF OCONEE	)	CASE NO.: 2024-CP-37-00163
	)	
Charles Shabazz,	)	
	)	
Plaintiff,	)	DEFENDANT'S FOURTH
	)	SUPPLEMENTAL RESPONSES TO
vs.	)	PLAINTIFF'S REQUEST FOR
	)	PRODUCTION
Brian Cox,	)	
	)	
Defendant.	)	

TO: CONNOR W. TREECE, ESQ., AND MARK BRINGARDNER ESQ., ATTORNEYS FOR THE PLAINTIFF:

Defendant Brian Cox ("Defendant"), by and through the undersigned counsel and pursuant to Rules 34 of the South Carolina Rules of Civil Procedure, submits these Fourth Supplemental Responses to Plaintiff's Request for Production to Plaintiff Charles Shabazz ("Plaintiff"), reserving the right to amend and/or supplement, as follows:

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 the documents produced herewith.

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: Please see the documents produced herewith.

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: Please see the documents produced herewith.

SUPPLEMENTAL RESPONSE: Defendant refers to the fourth supplemental documents produced herewith and listed in the second supplemental answer to Interrogatory No. 3.

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 responsive documents.

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 responsive documents.

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 responsive documents.

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

RESPONSE: Please see the documents produced herewith.

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

RESPONSE: Please see the documents produced herewith.

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: Please see the documents produced herewith.

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

RESPONSE: Defendant is not in possession of responsive documents.

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: Defendant is not in possession of responsive documents.

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: Please see the documents produced herewith.

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 is not in possession of responsive documents.

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 is not in possession of responsive documents.

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 is not in possession of responsive documents.

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: Not applicable.

17. 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: Objection. Defendant objects to this Request as it is overbroad and not reasonably limited in Scope. Plaintiff seeks Defendant's phone records for 24 hours before and after the accident regardless of contentment and relevancy to the claim.

SUPPLEMENTAL RESPONSE: Defendant states 24 hours is far longer than necessary to determine if Defendant was distracted at the time of the accident. Defendant agrees to an hour before and after the accident.

SECOND SUPPLEMENTAL RESPONSE: Defendant states 24 hours is far longer than necessary to determine if Defendant was distracted at the time of the accident. Defendant

agrees to an hour before the accident. Defendant also agrees to 24 hours after the accident if and only if the messages are related to the accident.

THIRD SUPPLEMENTAL RESPONSE: Please see Defendant's affidavit produced herein.

18. 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: Objection. Defendant objects to this Request as it is overbroad and not reasonably limited in Scope. Plaintiff seeks a screenshot of all text messages Defendant sent regardless of subject matter. This Request seeks private unrelated conversations between Defendant and those he communicates with.

SUPPLEMENTAL RESPONSE: Defendant states 24 hours is far longer than necessary to determine if Defendant was distracted at the time of the accident. Defendant agrees to an hour before and after the accident.

SECOND SUPPLEMENTAL RESPONSE: Defendant states 24 hours is far longer than necessary to determine if Defendant was distracted at the time of the accident. Defendant agrees to an hour before the accident. Defendant also agrees to 24 hours after the accident if and only if the messages are related to the accident.

THIRD SUPPLEMENTAL RESPONSE: Please see Defendant's affidavit produced herein.

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

RESPONSE: Defendant is not in possession of responsive documents.

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: Defendant is not in possession of responsive documents.

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: Defendant is not in possession of responsive documents.

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: Defendant is not in possession of responsive documents.

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: Defendant is not in possession of responsive documents.

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: Defendant is not in possession of responsive documents.

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

RESPONSE: Defendant is not in possession of responsive documents.

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: Objection. Defendant objects to this Request as it seeks information protected by attorney-client privilege and the Work Product Doctrine. Subject to and without waiving these objections, please see the documents and privilege log produced herewith.

SUPPLEMENTAL RESPONSE: Defendant states he has produced all non-privileged information in his possession, custody, and control. Please see attached privilege log.

SECOND SUPPLEMENTAL RESPONSE: Defendant refers Plaintiff to the Progressive claims file produced herewith.

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 &

SaveTM, Progressive SnapshotTM, USAA SafePilotTM, Geico DriveEasyTM, or similar devices and/or associated applications, OnStarTM, 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 is not in possession of responsive documents.

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 & SaveTM, Progressive SnapshotTM, USAA SafePilotTM, Geico DriveEasyTM, or similar devices and/or associated applications, OnStarTM, 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: Defendant is not in possession of responsive documents.

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 & SaveTM, Progressive SnapshotTM, USAA SafePilotTM, Geico DriveEasyTM, or similar devices and/or associated applications, OnStarTM, 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:

SUPPLEMENTAL RESPONSE: Defendant is not in possession of responsive documents.

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: Defendant is not in possession of responsive documents.

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: Defendant is not in possession of responsive documents.

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 is not in possession of responsive documents.

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

RESPONSE: Please see the documents and privilege log produced herewith.

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: Defendant is not in possession of responsive documents.

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

RESPONSE: Defendant is not in possession of responsive documents.

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 the documents produced herewith.

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 is not in possession of responsive documents.

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 is not in possession of responsive documents.

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 is not in possession of responsive documents.

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 the documents produced herewith.

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 the documents produced herewith. Defendant reserves the right to use all documents exchanged over the course of discovery.

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

RESPONSE: Defendant is not in possession of responsive documents. Defendant reserves the right to supplement this response.

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

RESPONSE: Defendant is not in possession of responsive documents.

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 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 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 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 is not in possession of responsive documents.

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: Objection. Defendant objects to this Request as it seeks an attorney's mental impression and trial strategy. Defendant reserves the right to use all documents exchanged over the course of discovery.

SUPPLEMENTAL RESPONSE: Plaintiff seeks specific documents related to potential depositions of Plaintiff's experts. Further, Plaintiff has not named any specific experts they intend to call at trial. Therefore, Defendant cannot determine what documents are relevant to their opinions and testimony.

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 is not in possession of responsive documents.

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: Defendant is not in possession of responsive documents.

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: Objection. Defendant objects to this Request as it seeks an attorney's mental impression and trial strategy.

SUPPLEMENTAL RESPONSE: Defendant's determination about which documents are impeachment materials directly relates to an attorney's mental impressions and trial strategy. Further, the parties have not taken any depositions and therefore, the parties cannot determine what documents would be relevant to any attempts to impeach a witness.

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 is not in possession of responsive documents.

This 8th day of May, 2025

Respectively Submitted,

CLARKSON, WALSH, & COULTER, P.A.,



Jeffrey M. Crudup, Esq.
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Counsel for Defendant

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

Charles Shabazz,

Plaintiff,

vs.

Brian Cox,

Defendant.

) IN THE COURT OF COMMON PLEAS

) THE TENTH JUDICIAL CIRCUIT

) CASE NO.: 2024-CP-37-00163

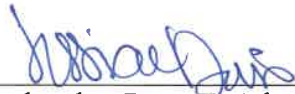
CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the within and foregoing pleading upon all parties to this matter by depositing a true copy of same in the U.S. Mail, Proper postage prepaid, addressed to counsel of record as follows:

Connor W. Treece, Esq.
Mark Bringardner, Esq.
Bringardner Injury Law Firm, LLC
41 Broad Street
Charleston, SC 29401

Attorneys for Plaintiff

This 9th day of May, 2025



Paralegal to Ryan T. Adams

ORIGINAL

SOUTH CAROLINA DPS/OHS & DMV USE ONLY				Page # 1		SOUTH CAROLINA TRAFFIC COLLISION REPORT FORM TR-310 (Rev. 04/2016)				# Of Units 02		Amended - Attach Copy of Original Report Corrected		Notified 1 2 0 9		Arrived 1 2 1 1							
Date 03-22-2023		Time of Collision 1 2 0 6		County 37		1- Interstate 2- US Primary 3- SC Primary		4- Secondary 5- County 6- PP 7- Ramp		Collision Location (Rt. # / Name) 5 130 / ROCHESTER HWY				0- Main Line 2- Alternate 5- Spur		6- Connection 7- Business		Miles: .00		Dir. N E S W		In (Near) City or Town of: SENECA	
Lane # / Dir. # Of N E S W		Distance Offset Miles Feet		Direction N E S W		1- Interstate 2- US Primary 3- SC Primary		4- Secondary 5- County 6- Other 7- Ramp		Base Intersection (Rt. # / Name) From 395 / W SIZEMORE RD				0- Main Line 2- Alternate 5- Spur		6- Connection 7- Business 9- Other		GPS COORDINATES 00 00' 00.00" DEGREES MINUTES SECONDS					
R.R. Id.		From N E S W		Ramp Only 1- Entrance 2- Exit		To N E S W		1- Interstate 2- US Primary 3- SC Primary		4- Secondary 5- County 6- Other 7- Ramp		Second Intersection (Rt. # / Name) Toward /				0- Main Line 2- Alternate 5- Spur		6- Connection 7- Business 9- Other		Latitude 0 1 11		Longitude 82 56 14.28	

H-477232 Driver's Full Name COX BRIAN BLAIR										H-477233 Driver's Full Name SHABAZZ CHARLES ANTOINE									
Unit # 01		Sex M		Race W		Street 832 HARTS COVE WAY		City, State, & Zip SENECA SC 296781477		Unit # 02		Sex M		Race BK		Street 205 THOMAS HEIGHTS CIR		City, State, & Zip SENECA SC 296782944	
#Occ 1		Birth Date 1979		State SC		Driver's License # Class D		Insurance Company: PROGRESSIVE		#Occ 1		Birth Date 1999		State SC		Driver's License # Class D		Insurance Company: GEICO	
Year 2 0 1 5		Body SU		Vehicle Make CADI		VIN # 3GYFNBE31F8555786		Year 2 0 1 0		Body JP		Vehicle Make JEEP		VIN # 1J4PR4GK1AC153385		Year 2 0 2 3		Body L0410XS	
State SC		Year 2 0 2 3		License Plate # RYM153		Owner's D.L. #		State SC		Year 2 0 2 3		License Plate # L0410XS		Owner's D.L. #		State SC		Year 2 0 2 3	
Home Telephone (864)		Owner's Full Name COX BRIAN BLAIR		Home Telephone (864)		Owner's Full Name SHABAZZ CHARLES ANTOINE		Bus. Telephone ()		Street 832 HARTS COVE WAY		Bus. Telephone ()		Street 205 THOMAS HEIGHTS CIR		Contributed To Collision Yes No		City, State, & Zip SENECA SC 296781477	
Contributed To Collision Yes No		City, State, & Zip SENECA SC 296781477		Contributed To Collision Yes No		City, State, & Zip SENECA SC 296782944		Estimated Speed 35		Speed Limit 45		C.D.L. Req: Yes No		T/B S Req: Yes No		Alc/Drg Info (see back): Yes No		Statute #	
Towed By Yes No		Statute #		Towed By Yes No		Statute #		Towed By Yes No		Statute #		Towed By Yes No		Statute #		Towed By Yes No		Statute #	

Driver/Pedestrian's Full Name										State Year License Plate # Owner's D.L. #													
Unit #		Sex		Race		Street		Home Telephone ()		Owner's Full Name		Unit #		Sex		Race		Street		Home Telephone ()		Owner's Full Name	
#Occ		Birth Date		City, State, & Zip		Bus. Telephone ()		Street		Contributed To Collision Yes No		City, State, & Zip		Unit #		Sex		Race		Street		Contributed To Collision Yes No	
State		Driver's License #		Class		Insurance Company:		Contributed To Collision Yes No		City, State, & Zip		Unit #		Sex		Race		Street		Contributed To Collision Yes No		City, State, & Zip	
Year		Body		Vehicle Make		VIN #		Estimated Speed		Speed Limit		C.D.L. Req: Yes No		T/B S Req: Yes No		Alc/Drg Info (see back): Yes No		Statute #		Towed By		Yes No	
Dir. of Travel:		Unit 1: N (S) E W		Unit 2: N (S) E W		Unit 3: N (S) E W		Unit 1 Dam.		Unit 2 Dam.		Unit 3 Dam.		Prop. Dam. 1		Prop. Dam. 2		Property Owner/Witness:		Property Owner/Witness:		Address	
Unit 1 Dam.		Unit 2 Dam.		Unit 3 Dam.		Prop. Dam. 1		Prop. Dam. 2		Property Owner/Witness:		Property Owner/Witness:		Address		Address		State Zip:		Phone		State Zip:	
State Zip:		Phone		State Zip:		Phone		Photo:		Describe What Happened (Refer to Units by Number)		Y (N)		UNIT 1 BEGAN TO MERGE INTO ONCOMING TWO LANE TRAFFIC. FAILING TO YIELD RIGHT OF WAY. CAUSING UNIT 2 TO COLLIDE WITH UNIT 1.		UNIT 1 BEGAN TO MERGE INTO ONCOMING TWO LANE TRAFFIC. FAILING TO YIELD RIGHT OF WAY. CAUSING UNIT 2 TO COLLIDE WITH UNIT 1.		UNIT 1 BEGAN TO MERGE INTO ONCOMING TWO LANE TRAFFIC. FAILING TO YIELD RIGHT OF WAY. CAUSING UNIT 2 TO COLLIDE WITH UNIT 1.		UNIT 1 BEGAN TO MERGE INTO ONCOMING TWO LANE TRAFFIC. FAILING TO YIELD RIGHT OF WAY. CAUSING UNIT 2 TO COLLIDE WITH UNIT 1.			

Investigating Officer's Name GOMEZ V.		Rank OFC		SCJA # 7077-4523		Jurisdiction Code 3 7 0 1		Review Date 03-27-2023		Reviewer's Name BJ MCCLURE		Rank Capt		Internal Agency Code 23-003518	
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ELECTRONICALLY FILED - 2025 MAR 07 4:46 PM - COMMON PLEAS - CASE#2024CP3700163

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

Charles Shabazz,

Plaintiff,

v.

Brian Cox,

Defendant.

IN THE COURT OF COMMON PLEAS
FOR THE TENTH JUDICIAL CIRCUIT
CASE NO. 2024-CP-37-00163**PLAINTIFF'S MOTION FOR NEW
TRIAL BASED ON THE THIRTEENTH
JUROR DOCTRINE**

Plaintiff hereby moves for an order granting a new trial based on the Thirteenth Juror Doctrine on the grounds that the verdict was contrary to the greater weight of the evidence. *See, e.g. Adams v. Duffie*, 244 S.C. 365, 366, 137 S.E.2d 276, 276 (1964). In granting a motion for a new trial on these particular grounds, the Court is not required to recite specific facts to support its Order. *South Carolina Dept. of Highways and Public Transp. v. Mooneyham*, 275 S.C. 205, 206, 269 S.E.2d 329, 330 (1980). Therefore, Plaintiff is not including a detailed recitation of the facts of the case but instead defers to the Court's memory of the evidence presented at trial.

STANDARD OF REVIEW

"Under the 'thirteenth juror' doctrine, a trial judge may grant a new trial absolute when he finds the evidence does not justify the verdict. This ruling has also been termed a granting of a new trial upon the facts." *Vinson v. Hartley*, 324 S.C. 389, 402, 477 S.E.2d 715, 722 (Ct. App. 1996). It is well settled in this state that "the trial judge has the authority and responsibility to grant a new trial when, in his judgment, the verdict of the jury is contrary to the fair preponderance of the evidence." *Adams v. Duffie*, 244 S.C. 365, 366, 137 S.E.2d 276, 276 (1964). A motion for new trial is properly granted where the trial judge is simply "not satisfied with the justice of the case and feel[s] that it should be tried before another jury." *Id.* Whether to grant the motion "rests within

the discretion of the trial judge” and “will not be disturbed [on appeal] unless his finding is wholly unsupported by the evidence, or the conclusion reached has been controlled by error of law.” *Mooneyham* 275 S.C. at 206, 269 S.E.2d at 330. For the trial judge’s finding to be supported by the evidence, it is only necessary that the moving party put forth evidence at trial that would support a verdict in the moving party’s favor, even if that evidence is in conflict with other evidence. *Id.* Such discretion is “founded upon the facts, the evidence, the witnesses, the trial circumstances, the verdict and the judge’s view of them.” *Vinson* 324 S.C. at 404, 477 S.E.2d at 723 (quoting *Fallon v. Rucks*, 217 S.C. 180, 189, 60 S.E.2d 88, 92 (1950)). “The trial judge, sitting as the thirteenth juror charged with the duty of seeing that justice is done, has the authority to grant new trials when he is convinced that a new trial is necessitated on the basis of the facts in the case.” *Vinson*, 324 S.C. at 403, 477 S.E.2d at 722. “Traditionally, in South Carolina, circuit court judges have the authority to grant a new trial upon the judge’s finding that justice has not prevailed.” *Id.* (citing *Todd v. Owen Indus. Prods., Inc.*, 315 S.C. 34, 431 S.E.2d 596 (Ct. App. 1993)). Similarly, the judge may grant a new trial if the verdict is inconsistent and reflects the jury’s confusion. *Johnson v. Parker*, 279 S.C. 132, 303 S.E.2d 95 (1983) (reversing the denial of a motion for new trial where “the record [was] replete with evidence the jury was confused”); *see also Johnson v. Hoechst Celanese Corp.*, 317 S.C. 415, 453 S.E.2d 908 (Ct. App. 1995) (under “thirteenth juror doctrine,” trial court may grant new trial if judge believes verdict is unsupported by evidence and, similarly, new trial may be granted if verdict is inconsistent and reflects jury’s confusion). “The thirteenth juror doctrine is a vehicle by which the trial court may grant a new trial absolute when he finds that the evidence does not justify the verdict.” *Vinson*, 324 S.C. at 403, 477 S.E.2d at 722. “The effect is the same as if the jury failed to reach a verdict. The judge as the thirteenth juror ‘hangs’ the jury.” *Id.* For this reason, the trial judge is not required to give specific factual reasons

for granting the motion for new trial. *Id.* (citing *Folkens v. Hunt*, 300 S.C. 251, 387 S.E.2d 265 (1990)). Just as a juror would not be required to give justification for his or her findings, the trial court, sitting in its role as thirteenth juror, is required only to find that the evidence supported the side of the moving party to justify its grant of a new trial. *Id.*

LEGAL ARGUMENT

In the current matter, Plaintiff presented significant evidence in support of liability and damages. Plaintiff presented evidence that Defendant admitted that Plaintiff maintained the absolute right of way to proceed in his lane of travel without obstruction; that Defendant made no legal contention that Plaintiff contributed in any manner to the subject collision; and that Defendant breached the standard of care by, among other things, failing to yield the right of way to Plaintiff in violation of S.C. Code Ann. § 56-5-2320. Other than his personal opinion, which directly contradicts the legal contentions set forth in Defendant's Answer and discovery responses, Defendant offered no evidence to conclude Plaintiff was in any manner liable for the subject collision. Defendant did not even see the Plaintiff prior to the collision and therefore offered no evidence that Plaintiff violated any duties or acted negligent in any manner. The jury's award of 45% comparative negligence on the part of the Plaintiff is contrary to the fair preponderance of the evidence and therefore a new trial must be granted.

With respect to damages, Plaintiff produced numerous witnesses to testify about the ongoing pain and struggles related to Defendant's left wrist injury caused by the subject collision. Plaintiff's treatment provider and orthopaedics expert testified that the injury was caused by the collision and could be permanent. Plaintiff's partner, mother, and grandfather testified about the struggles the subject collision has caused the Plaintiff: the loss of his residence; the loss of his career; the loss of his ability to play basketball; and the loss of his ability to work pain free.

Plaintiff's current employer testified about Plaintiff's struggles at work caused by the collision. Plaintiff even offered his friend to testify about how the collision has impeded his performance with basketball. Such evidence presented throughout the course of the trial does not support the verdict. For this reason, the Court should grant Plaintiff's Motion.

CONCLUSION

Based on the evidence presented, this Court can safely conclude that justice has not prevailed, and the parties should be entitled to try this case before another jury. Because Plaintiff sets forth evidence during the trial that would support a verdict solely in their favor, and because the verdict was contrary to a fair preponderance of the evidence, Plaintiff respectfully requests that this Honorable Court grant Plaintiff a new trial so that these matters may again be heard by a jury.

Respectfully Submitted,

BRINGARDNER INJURY LAW FIRM, LLC

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Attorneys for the Plaintiff

Charleston, South Carolina
November 7, 2025

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

Charles Shabazz,

Plaintiff,

v.

Brian Cox,

Defendant.

IN THE COURT OF COMMON PLEAS
FOR THE TENTH JUDICIAL CIRCUIT
CASE NO. 2024-CP-37-00163

**Plaintiff's Deposition Designations of
Tensley Erin Murphy, M.D.**

Pursuant to Rule 32 of the South Carolina Rules of Civil Procedure, Plaintiff Genelle Harrison hereby designates the following excerpts from the deposition of Tensley Erin Murphy, M.D. to be introduced at trial:

1. Page 4, line 20 through Page 10, line 23;
2. Page 11, line 11 through Page 16, line 16;
3. Page 22, line 21 through Page 23, line 6.

Plaintiff hereby gives notice that the pages and lines outlined above will also be utilized for evidentiary purposes related to the marking of trial exhibits.

Respectfully Submitted,

BRINGARDNER INJURY LAW FIRM, LLC

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Attorneys for Plaintiff

Charleston, South Carolina
October 24, 2025

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF OCONEE) TENTH JUDICIAL CIRCUIT

Charles Shabazz,

Plaintiff,

v.

Brian Cox,

Defendant.

)
)
)
) Case No.:
) 2024-CP-37-00163
)
)
)

VIDEOTAPED DEPOSITION OF:

BRIAN COX

(Via remote video)

DATE TAKEN: Thursday, November 21, 2024

TIME: 10:00 A.M.

REPORTED BY: MARY ANN RIDENOUR, RPR, CLR, CVR-S
and Notary Public

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Page 2

1 A P P E A R A N C E S

2

REPRESENTING THE PLAINTIFF:

3

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8 REPRESENTING THE DEFENDANT:

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10

11

12

13

ALSO PRESENT:

14

CHRISTOPHER MILLS, VIDEOGRAPHER
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4430 Lady Banks Lane, Unit D2
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(252) 337-4294
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1 I N D E X

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11 Answers to Plaintiff's

First Set of

Interrogatories.....76

12 Plaintiff's Exhibit No. 4 - Code Sections 56-5-440 and

56-5-2330.....76

13 Plaintiff's Exhibit No. 5 - Photos.....76

14 Plaintiff's Exhibit No. 6 - Demand Letter.....76

15 STIPULATIONS

16 It is hereby stipulated and agreed by and between

17 the parties hereto, through their respective counsel,

18 that the reading and signing of the transcript is

waived by the Deponent.

19

20

21

22

23

24

25

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Page 4

1 (The deposition commenced at 10:05 a.m.)

2 MR. MILLS: We are now on the record.

3 Today's date is November the 21st, 2024. The time
4 is approximately 10:05 a.m. This is the video
5 deposition of Brian Cox. This deposition is taken
6 in the matter of Charles Shabazz versus Brian Cox.

7 Will counsel please introduce themselves for
8 the record.

9 MR. TREECE: My name is Connor Treece. I'm
10 here on behalf of Charles Shabazz.

11 MR. BAKER: Ryan Baker here on behalf of
12 Defendant Brian Cox.

13 MR. MILLS: Okay. Will our court reporter
14 please swear in the witness?

15 BRIAN COX, SWORN.

16 DIRECT EXAMINATION BY MR. TREECE:

17 Q. All right, Mr. Cox. My name is Connor
18 Treece. I represent the plaintiff in this case,
19 Charles Shabazz. This obviously stems from the car
20 wreck that occurred on March 22, 2023 up in Oconee
21 County. Do you understand that's what we're here to
22 talk about today?

23 A. Yes.

24 Q. Okay. And do you mind if I call you Brian or
25 do you prefer --

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1 A. That's fine.

2 Q. -- Mr. Cox? Okay.

3 A. Brian's fine.

4 Q. Okay. Have you ever been deposed before,
5 Brian?

6 A. No.

7 Q. Okay. Do you understand how a deposition
8 works? Has your attorney explained it to you?

9 A. Yes.

10 Q. Okay. So, more or less, you know, you're
11 under oath. Everything you say is on the record, kind
12 of, like how it would be in a court room. So I'm just
13 going to go over some basic ground rules real quick.

14 First off, if I ask you a question and you
15 don't understand it, please just ask me to clarify the
16 question. If you go ahead and answer my question, I'm
17 just going to under- -- assume that you understood it;
18 is that fair?

19 A. Yes.

20 Q. Okay. And if you need a break at any point
21 during this deposition, feel free to take a break. The
22 only thing would I ask is, if I ask a question and then
23 you would ask for a break, I would just want you to
24 answer my question before we take a break. But we're
25 not in a rush today. Hopefully, we'll get through this

Page 6

1 pretty quickly. I don't want this drag on for super
2 long. But if you need a break, just let me know.

3 A. Okay.

4 Q. And, as you can see, today we have a court
5 reporter taking everything down for us. Just for a
6 clear record, I would ask that, when I, you know, ask
7 you a question, that you keep an affirmative yes or no
8 to the question. She can't take down heads nods or
9 uh-huhs. So if you do give me, you know, a head nod or
10 an uh-huh, I'm just going ask for you to clarify with a
11 yes or no. I'm not trying to be rude. I just want to
12 make her job easier on her and get a clear record. Do
13 you understand?

14 A. Fair enough. Yes.

15 Q. Okay. And also for the court reporter,
16 sometimes I'll be asking questions that you -- you
17 know, it's very obvious where I'm going with the
18 question or you're going to know the answer when I'm
19 already halfway through the question. I would just ask
20 that you wait for me to finish the question so it makes
21 it easier for the court reporter. Because, you know,
22 if you're talking while I'm talking, she's trying to
23 take down what two people are saying at the same time.
24 Do you understand?

25 A. Yes.

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1 Q. Okay. Now, as you heard the court reporter
2 say, you're under oath today. So you're bound to tell
3 the truth, the whole truth, nothing but the truth.
4 You, know the way that works is, if I ask you what you
5 had for breakfast, and you tell me that you had eggs
6 for breakfast, but you had eggs, toast and bacon, well,
7 you've told me part of the truth but not the whole
8 truth. Do you understand that?

9 A. Yes.

10 Q. Okay. Now, I ask this of everybody. So,
11 please, don't take offense. It's just more of a
12 formality. But are you on any -- on any drugs,
13 medication or alcohol today that would prevent you from
14 testifying truthfully?

15 A. No.

16 Q. Okay. Now would you please state and spell
17 your full name for the record.

18 A. Brian Cox, Brian -- Brian Blair Cox,
19 B-r-i-a-n, B-l-a-i-r, C-o-x.

20 Q. And how old are you, Brian?

21 A. Forty-five.

22 Q. And what's your birthday?

23 A. /79.

24 Q. Okay. And the next question, people get,
25 kind of -- you know, not wanting to give this

Page 8

1 information away, but what's your social security
2 number? We can have it redacted on the official
3 record.

4 A. (Redacted.)

5 Q. Okay. And what's your current address?

6 A. 832 Harts Cove Way, Seneca, South Carolina,
7 29678.

8 Q. And how long have you been living there
9 for?

10 A. I am -- I'm trying to think. I believe since
11 2003.

12 Q. Okay. So you obviously lived there at the
13 time of the accident?

14 A. Yes.

15 Q. Okay. And is that back in the Harts Cove
16 apartments out near Clemson?

17 A. Yes, that's exactly what it is.

18 Q. Okay, yeah. I lived there for a year when I
19 attended Clemson up there. So, nice little spot. Are
20 you -- are you down there on the lake?

21 A. No.

22 Q. Okay.

23 A. Kind of in the middle.

24 Q. Okay. Yeah. I was way up at the top, so not
25 much of a lake view.

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1 All right. And do you live with anybody
2 else?
3 A. My wife.
4 Q. Okay. And what's your wife's name?
5 A. Jennifer Cox.
6 Q. And how long have y'all been married for?
7 A. Fifteen years.
8 Q. Okay. So you got married in 2009?
9 A. 2008 or --
10 Q. 2008, okay.
11 A. -- 2008, yeah, October 3, 2008.
12 Q. Okay. Do y'all have any children?
13 A. No.
14 Q. Okay. Where were you originally born?
15 A. Rock Hill.
16 Q. And do you have any other relatives in Oconee
17 County?
18 A. No, not relatives, just my mother-in-law.
19 Q. Okay. What's your mother-in-law's name?
20 A. Sherry Skinner.
21 Q. And can you spell her last name?
22 A. S-k-i-n-n-e-r.
23 Q. Okay. And that's your only relative by blood
24 or marriage in Oconee County?
25 A. Yes.

Page 10

1 Q. Okay. The reason I ask is, if we have to go
2 to trial and select a jury, then, we, you know, know if
3 you're related to somebody or not.

4 All right. Do you attend church up there?

5 A. No.

6 Q. Okay. And are you a member of any social
7 clubs or organizations?

8 A. No. I -- I mean, could you clarify that?
9 I --

10 Q. I guess, just -- like, obviously, you're in
11 realty, correct?

12 A. Yes.

13 Q. Are you a member of any, like, real estate
14 organizations or boards?

15 A. I mean, the Western Upstate Association of
16 REALTORS.

17 Q. Okay.

18 A. And then the state and national -- S- --
19 South Carolina -- I guess South Carolina Association of
20 REALTORS and the National -- NAR --

21 Q. Okay.

22 A. -- National Association of REALTORS. I
23 mean...

24 Q. Are you pretty active in those groups at all
25 or is it more --

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1 A. No. It's -- it -- I mean, it's a
2 requirement.

3 Q. Okay. All right. And you currently work at
4 Lake Life Realty?

5 A. That's correct.

6 Q. How long have you been there for?

7 A. Ten years, I believe, since it opened. 2009,
8 I think, is when -- 2009 maybe.

9 Q. Okay.

10 A. I don't know. It's been -- it's been a
11 while.

12 Q. Yeah. You don't have to be exact; I'm just
13 curious.

14 Did you do real estate before you joined Lake
15 Life, too?

16 A. Yes.

17 Q. Okay. Got you. And where did you attend
18 high school at?

19 A. Northwestern High School in Rock Hill.

20 Q. And did you attend college?

21 A. Yes.

22 Q. Where was that at?

23 A. Clemson.

24 Q. Okay. What year did you graduate?

25 A. 2013.

Page 12

1 Q. Okay. That was -- my first year there was
2 2013, so maybe a slight overlap.

3 All right. And do you have a valid South
4 Carolina -- South Carolina driver's license?

5 A. Yes.

6 Q. When did you first get your driver's license?

7 A. When I was 15 or 16, I guess, when I
8 became -- a full and valid driver's license, not a
9 restricted license. So I don't -- I can't remember
10 what year that was. I'd have to do the math.

11 Q. So you've had a driver's license for over 20
12 years now?

13 A. Yes.

14 Q. Has your license ever been suspended?

15 A. Yes.

16 Q. Can you tell me about that?

17 A. I was arrested for a DUI. I can't -- over 20
18 years ago, I believe.

19 Q. Uh-huh.

20 A. And it was suspended for the time up until
21 that case was, I guess -- I don't know if you call it
22 expunged or whatever. It was -- it was dismissed.

23 Q. That was going to be my next question,
24 whether it was dismissed or expunged or -- okay. Did
25 you have to go in front of a court for that?

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1 A. I don't know if I would call it a court. I
2 mean, it was -- it was in front of a judge. There
3 wasn't a jury. I -- I -- I don't know. It was -- it
4 was very quick.

5 Q. Okay. Just like a traffic court hearing?

6 A. I guess so, yeah.

7 Q. Have you ever had your license suspended on
8 any other occasions?

9 A. Yes, while I was in college, for the --
10 again, I couldn't tell you the year -- but, basically,
11 possession of alcohol.

12 Q. Can you tell me about what that -- tell me
13 more about that?

14 A. Yeah. I was on a dorm room floor. I was on
15 the dorm room. And the police came in. And I was
16 actually throwing away trash.

17 Q. So you weren't in your car when you had the
18 possession?

19 A. No, I wasn't in my car, no. I wasn't -- no.
20 None -- yeah, that was not in my car.

21 Q. Okay. Have you ever had a driver's license
22 in any other state?

23 A. No.

24 Q. Okay. All right. Do you have contacts? I
25 mean, you obviously have glasses. Who is your eye

Page 14

1 doctor?

2 A. Oh, gosh. I cannot remember his name. It's
3 a guy in -- in Anderson. I -- I can't remember his
4 name right now.

5 Q. Do -- do you remember the office?

6 A. Yeah. It's Eyemart in Anderson. It's one of
7 those that, you know, they do the glasses in the front
8 and he does the -- works in the back. I -- he's not
9 affiliated with Eyemart, but I -- or -- I don't know
10 exactly how it works. But I just can't remember his
11 name right now.

12 Q. Do you also have contacts?

13 A. No, not anymore. I wear glasses
14 predominantly. I mean, I wear them all the time.

15 Q. Do you know what your prescription is?

16 A. I have no idea.

17 Q. Do you know what your eyesight is? 15/20?
18 20/20, that type of thing?

19 A. I -- I really don't know.

20 Q. Okay. Do you use social media?

21 A. Yes.

22 Q. What platforms?

23 A. Facebook, Instagram. I have a YouTube, I
24 guess, page or whatever. That's it. I mean, that's
25 pretty much it. I had Twitter at one point, but I

1 don't anymore.

2 Q. And what's your usernames on those
3 platforms?

4 A. That's a good question. I really don't know.
5 I mean, they're under my name and then, I -- I think
6 Brian Cox at Lake Life Realty.

7 Q. Do you have those platforms on your phone?

8 A. Yes.

9 Q. Do you have your phone on you right now?

10 A. I have it over here on my charger.

11 Q. Could you check and just let me know?

12 A. I guess so, yeah. Let see if I can -- I
13 don't know. I set these up years ago.

14 Q. Are you pretty active on them?

15 A. For work.

16 Q. Uh-huh.

17 A. That's about it. Yeah. And then, just --

18 Q. I figured, as a real estate agent.

19 A. Yeah, it's, kind of, a requirement. So,
20 yeah, I have -- I have -- my Facebook account is Brian
21 Cox. And then there is a Brian Cox at Lake Life
22 Realty. Let's see. Instagram, what am I? Instagram
23 is Brian B. Cox. And it should be -- and Brian B. Cox
24 Realtor. And I don't know what my -- my -- like I
25 said, my YouTube wouldn't -- probably something along

Page 16

1 those same lines or maybe -- my YouTube is probably
2 Brian B. Cox Realtor.

3 Q. Do you post on those socials often or --

4 A. For work.

5 Q. So strictly professional?

6 A. Yes.

7 Q. Now, I ask this to everyone. I don't mean
8 offense by it. But have you ever been arrested before?

9 A. Yes.

10 Q. Can you tell me about that?

11 A. That was the DUI.

12 Q. Okay. Was that the only time?

13 A. Yes.

14 Q. And, as we discussed, that was expunged?

15 A. Yes.

16 Q. Have you ever been involved in a lawsuit
17 before, as a plaintiff or a defendant?

18 A. No.

19 Q. Besides the car accident that we're going to
20 talk about today, have you ever been involved in any
21 other car accidents?

22 A. Yes.

23 Q. How many?

24 A. One, I believe.

25 Q. When was that?

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1 A. Back in the '90s. I was a passenger in a --
2 in a work-related accident.

3 Q. Who was at fault for the accident?

4 A. The guy driving.

5 Q. The car that you were in?

6 A. Yes.

7 Q. Okay. Can you tell me what happened?

8 A. Yeah. The driver -- I mean, he ran into the
9 back of somebody. It was years ago.

10 Q. And were you sitting in the front passenger
11 seat?

12 A. Yes.

13 Q. Did you have any injuries as a result of
14 that?

15 A. No.

16 Q. Do you know if a lawsuit was ever filed
17 related to that accident?

18 A. I don't know.

19 Q. Beside the DUI, have you ever received a
20 traffic ticket?

21 A. Yes.

22 Q. How many?

23 A. I couldn't -- I mean, not many. I -- maybe
24 one speeding ticket.

25 Q. Any others besides that you can recall?

Page 18

1 A. No.

2 Q. Did that speeding ticket get dismissed?

3 A. I -- I'm not sure. It -- I --

4 Q. Do you know if you paid the fine or --

5 A. I mean, I think I did. I -- I -- like I
6 said, I have no idea.

7 Q. How many years ago was this?

8 A. Probably when I first got my license.

9 Q. And are you currently on any medications?

10 A. Yes.

11 Q. What medications?

12 A. Let's see. I take COREG, 12.5 milligrams
13 twice a day; lisinopril, I believe it's five milligrams
14 a day; atorvastatin, 20 milligrams per day. Let's see.
15 Protonix, it's -- I think it's 20 milligrams per day.
16 I don't know what -- the technical name of it, baby
17 aspirin once a day. And then, just Zyrtec once a day.
18 I think that's all of them.

19 Q. Zyrtec's the allergy medicine, correct?

20 A. Yes. Yes.

21 Q. What are the other medications that you take
22 for?

23 A. Blood pressure. The statin is for -- that's
24 blood pressure, cholesterol. Protonix is, like, acid
25 reflux.

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1 Q. And that's what all those --

2 A. Yeah. The lisinopril is the same thing. I
3 think it's just a blood pressure -- I don't know
4 exactly what that one's for.

5 Q. Were you taking those medications at the time
6 of the accident?

7 A. No, I was not.

8 Q. So all of these are within the past couple of
9 years?

10 A. Within the last year.

11 Q. What about Zyrtec for allergies?

12 A. No, that's within the last year, as well, on
13 a regular basis, yeah.

14 Q. All right. So now to actually talk about the
15 collision that we're here for today -- I appreciate all
16 the background information -- do you recall the date of
17 the accident?

18 A. No. I mean, I -- I don't know the date.

19 Q. Okay. I'm going to share my screen real
20 quick and show you the traffic collision report, which
21 we will mark as Exhibit 1 just to jog your memory on
22 that. I'll pull this up. And let me know if you can
23 see it. All right. Can you see that?

24 A. Yes, barely.

25 Q. Okay. Let me zoom in for you real fast. Is

Page 20

1 that better?

2 A. It's getting there. Yes, I can --

3 Q. Okay.

4 A. -- I can, kind of, see that.

5 Q. Let me know if I need to zoom in some more.

6 A. Maybe a little bit more.

7 Q. Okay. And do you see my cursor on here?

8 A. Yes, I can.

9 Q. Okay. Do you see right there where I'm
10 circling the date?

11 A. Yes.

12 Q. Does March 22, 2023, look correct to you?

13 A. Yes.

14 Q. Okay. And the collision was about 12:06,
15 around noon; does that sound correct?

16 A. Yes.

17 Q. Okay.

18 MR. TREECE: And we can go ahead and mark
19 that as Exhibit 1, Mary.

20 BY MR. TREECE:

21 Q. Okay. At the time of the accident, who was
22 your auto insurance company?

23 A. Progressive.

24 Q. Did you have any other insurance companies
25 for your car coverage?

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1 A. No.

2 Q. Okay. How soon after the accident did you

3 notify Progressive of the claim?

4 A. I believe that afternoon.

5 Q. Did they give you a claim number?

6 A. I believe they did.

7 Q. Do you remember what it was?

8 A. No.

9 Q. Do you remember who you spoke to?

10 A. I don't know. I didn't speak to anybody; my

11 wife did.

12 Q. Do you know who she spoke to?

13 A. I can't remember her -- recall her name.

14 Q. So did your wife notify Progressive of the

15 claim?

16 A. Yes.

17 Q. And are you aware if that conversation was

18 recorded?

19 A. No, I -- I -- I don't know.

20 Q. Okay. And why did your wife notify

21 Progressive?

22 A. Because she's the one that usually deals with

23 stuff over the phone.

24 Q. Was she in the car with you at the time of

25 the accident?

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1 A. Yes, she was.

2 Q. Okay. Was she in the front passenger seat?

3 A. Yes.

4 Q. Was there anybody else in the vehicle with
5 you?

6 A. No.

7 Q. Do you remember the location where the wreck
8 took place?

9 A. Yes.

10 Q. Okay. It was -- I'm going to share something
11 else with you real fast.

12 MR. TREECE: We can mark this as Exhibit 2,
13 Mary.

14 BY MR. TREECE:

15 Q. Can you tell me where the location was?

16 A. Like, exactly?

17 Q. Just what intersection?

18 A. It's the inter- -- I can't remember the name
19 of the road.

20 Q. Uh-huh.

21 A. But it's the intersection of -- of whatever
22 the road is and then 130.

23 Q. And 130 is Rochester Highway?

24 A. That is correct, yes.

25 Q. Okay. I'll have you take a look at this.

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1 This is a Google satellite photo. Now, let me see. So
2 does this look like -- what I'm circling in blue --
3 about where the accident took place?

4 A. Yes.

5 Q. The intersection of Mill Road and Rochester
6 Highway?

7 A. Yes.

8 Q. And which direction were you coming from?

9 A. I was coming, I guess, on Mill, like, down
10 Mill Road --

11 Q. Uh-huh.

12 A. -- towards 130, and then was -- yeah, that's
13 the direction I was coming from.

14 Q. All right. And we're going to come back to
15 that. I just wanted to establish that.

16 All right. Do you remember what the wedding
17 [sic] -- weather conditions were like that day?

18 A. It was raining.

19 Q. Was the road wet?

20 A. Yes.

21 Q. How heavy was the rain?

22 A. I -- I mean, it was -- it was raining enough
23 to, I believe, to use my windshield wipers.

24 Q. How would you describe the rain? Like a
25 drizzle, a constant downpour, kind of sporadic?

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1 A. I -- I guess I -- I'm not really sure how to
2 answer that. I guess a -- a drizzle into maybe a
3 little heavier than that, but...

4 Q. And I'm not trying to, like, trick you with
5 these questions. I'm just trying to get your memory of
6 that day. You know, if you don't remember something
7 or -- you can always clarify with like, I don't fully
8 remember, but to the best of my --

9 A. Yeah, I mean, I -- a drizzle, I guess, or
10 more than -- I don't know, like I said.

11 Q. Yeah, okay. And what was traffic like in the
12 area where the accident occurred?

13 A. Pretty heavy. It was -- I'm -- again, it was
14 around lunchtime.

15 Q. Were there cars backed up behind you on Mill
16 Road?

17 A. I believe there was a couple. There was a
18 car behind me, I think, maybe more. I couldn't see
19 past that.

20 Q. And before you got to the intersection, how
21 many cars were in front of you, approximately? How
22 long did you have to wait?

23 A. I don't know.

24 Q. Do you go to that intersection a lot?

25 A. Yes.

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1 Q. How often?

2 A. Just about every day.

3 Q. Do you go there for -- go through that
4 intersection to go to work, or to come home from work,
5 or --

6 A. To come home from work.

7 Q. And I saw that the accident, as we
8 established, was around noon. Were you -- where were
9 you headed at the time?

10 A. Headed home for lunch.

11 Q. Do you always leave work to go home for
12 lunch?

13 A. Yes. I mean, it, kind of, depends.

14 Q. Most of the time, though?

15 A. Most of the time, yes.

16 Q. So you go through that intersection a lot
17 around lunchtime?

18 A. Yes.

19 Q. And is traffic pretty consistent around that
20 time of day there?

21 A. I mean, it varies. It's...

22 Q. Leading up to the accident and at the time of
23 the accident, was your radio on?

24 A. I -- I can't remember that.

25 Q. Yeah. Was there any road construction in

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1 that area at the time?

2 A. No.

3 Q. Okay. Did you use your blinker when you were
4 going to make a turn off of Mills [sic] Road?

5 A. Yes, I believe I did.

6 Q. Were there any -- I know we said your wife
7 was in the car. Were there any pets in the car? Any
8 animals?

9 A. No.

10 Q. Okay. Now I want to walk through the time
11 period leading up to the accident. Do you recall, from
12 the time you woke up, what your day would have looked
13 like?

14 A. Yes, I guess.

15 Q. Can you walk me through it to the best of
16 your memory?

17 A. Yeah. I mean, probably got up about seven
18 o'clock, showered, got ready for work, drove to the
19 office maybe around nine, and was probably at the
20 office until the accident, until going home -- trying
21 to go home for lunch.

22 Q. How far away is your office from your home
23 address?

24 A. Five minutes.

25 Q. What is your office address?

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1 A. 203-A Old Salem Road, Seneca, South Carolina,
2 29672.

3 Q. Now walk me through the accident. Can you
4 just, kind of, tell me from your point of view what
5 happened?

6 A. Yes. So, again, pulled up to Mill Road. And
7 there was a -- like, a large truck, but not a -- not
8 like an 18-wheeler truck, just a large, like, lifted
9 truck that was -- that was, like, stopped to let me
10 out. And so -- and he -- I -- he's, kind of, like,
11 motioning for me to come on out. And so I, you know,
12 looked -- like I said, looked the other -- you know,
13 looked the other way. There wasn't anybody coming onto
14 Rochester Highway, so I turned. And there it was.

15 Q. So I want to share my screen again back to
16 that Google screenshot. I'll zoom in here a little
17 bit -- hang on -- try to zoom in. So I'm going to do
18 some different colors here. So you were right here on
19 Mill Road waiting to make the turn, correct?

20 A. That's correct, yes.

21 Q. Okay. And you were going to make a left turn
22 from Mill Road onto Rochester --

23 A. Yes.

24 Q. -- this way, correct?

25 A. Yes.

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1 Q. Okay. And that lifted truck -- it looks like
2 it's two lanes right here. I'm assuming he was sitting
3 in the lane closest to you?

4 A. Yes.

5 Q. Okay. So the lifted truck would be about
6 where this X is?

7 A. Yes.

8 Q. Okay. And he stopped to let you go through,
9 so you started to proceed through. You looked. And
10 you didn't see any traffic coming from this way where
11 I'm drawing this arrow?

12 A. Yes.

13 Q. Okay. As soon you pulled past this truck,
14 what happened? Was that right when it occurred?

15 A. Yes.

16 Q. Okay. Did you see my client come down the
17 road at any point or --

18 A. No.

19 Q. Okay. When was the first time you saw him?

20 A. Right before he hit me.

21 Q. Okay. Pretty instantaneous then?

22 A. Yes.

23 Q. Okay. Now, behind this truck that stopped to
24 let you through, was there a line of cars?

25 A. Yes.

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1 Q. Do you know about how far back it went?

2 A. I would say -- I mean, I don't know a number,
3 but probably where your cur- -- your little pen thing
4 is.

5 Q. Okay. So you think it probably went about --

6 A. Yes.

7 Q. -- to that, right --

8 A. There had been a -- yeah. It seemed like
9 there -- there was a line of cars back there.

10 Q. Okay. All right. Now, Mill Road, where you
11 were coming off of, is governed by a stop sign,
12 correct?

13 A. Yes.

14 Q. And I'm going to circle back real quick.
15 Hang on. Now, when an intersection is governed by a
16 stop sign, the vehicle at the stop sign has to yield to
17 cars on the main highway, correct?

18 A. I -- yeah, I guess so. I...

19 Q. Yeah, I'm -- I'm not trying to trick you.
20 I'm just --

21 A. Yeah, I mean --

22 Q. Yeah.

23 A. -- I guess that's the rule, yeah, if
24 that's the --

25 Q. Yeah. Now, can you tell me what happened

Page 30

1 following the accident?

2 A. Yes. I -- I was able to pull my car off into
3 where the Ingles entrance was. And I got out of the
4 car. My wife actually is the one who called the police
5 to notify them of the accident. And I went and checked
6 on the other car.

7 Q. Can you tell me about the conversations that
8 you had with the driver of the other car when you went
9 to check on them?

10 A. I just went and checked on them to make sure
11 they didn't need, like, immediate help.

12 Q. Uh-huh.

13 A. And they said they -- I mean, they -- they
14 were talking to me, conscious, you know, no...

15 Q. Did you have any conversations with police on
16 scene?

17 A. I -- I believe I did.

18 Q. Okay.

19 A. I mean, I know I did have a conversation.
20 I -- I mean, it was just a quick -- what was -- you
21 know, what happened.

22 Q. And what did you tell the police what
23 happened?

24 A. I believe what I told you. I mean, it --
25 there wasn't much to -- there wasn't much else to tell.

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1 Q. Did you take responsibility for the accident
2 to the police?

3 A. I don't know if I did.

4 Q. Did you take responsibility when you talked
5 to my client?

6 A. I don't know if I did.

7 Q. Okay. Today, sitting here, do you take
8 responsibility for the accident?

9 A. I -- no.

10 Q. You don't? And can you tell me why?

11 A. I mean, the -- it was -- it was an accident.

12 Q. I understand that it was an accident. But
13 somebody had to be at fault for it. I mean, we all
14 make mistakes. But do you admit that you were liable
15 for this?

16 A. No.

17 Q. Okay. Now I'm going to pull up another thing
18 that I'm sharing on the screen with -- hang on here.
19 One second. All right. Hang on. Can you see my
20 screen?

21 A. Yes.

22 Q. Okay. So these are your attorney's answers
23 on your behalf to our interrogatories to them. Have
24 you seen these before?

25 A. Yes.

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1 Q. Okay. And did you speak with your attorney
2 through this, as you answered it?

3 A. I believe so, yes.

4 Q. Okay. Let's see here. So if you say that
5 you're not liable for this, who do you think is liable
6 for it?

7 A. I -- I don't know how to answer that.

8 Q. Well, somebody had to be at fault for the
9 accident. If it wasn't you, whose fault was it?

10 A. I -- I -- again, I don't know what you want
11 me to say.

12 Q. I just want you to tell me whose fault the
13 accident was. If you don't believe it's you, then it
14 had to be somebody's fault.

15 A. Again, I don't know what to say here.

16 Q. I -- I just want you to tell me whose fault
17 the accident was. It's -- I mean, was there anybody
18 else there that was responsible for it?

19 A. I -- I -- again, I guess then you can say
20 that the other person was.

21 Q. My client was responsible for the accident,
22 is what you're --

23 A. I guess, if that's what you want me to say.

24 Q. Okay. So I'm going to pull up and show you
25 this. I want you to read -- can you read this?

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1 A. Barely.

2 Q. Okay. I'll zoom in for you. Read Number 30.
3 Can you read that out loud for me, for the record?

4 A. (As read:) If you contend that the actions
5 or nonactions of Plaintiff or other defendant or some
6 other person or legal entity other than you is in whole
7 or in part liable to Plaintiff or responsible for
8 causing or contributing to the incident or -- and/or
9 the injuries and damages being claimed by the
10 Plaintiff. Please provide the following.

11 Q. And then can you read the subparts for me?

12 A. A, Identify the person or entity whom you
13 claim is liable or responsible. B, Identify the person
14 or entity whom you claim is liable or responsible and
15 state a summary of the facts or circumstances to
16 support that -- the contention, including but not
17 limited to a description of each action or nonaction on
18 the part of the Plaintiff that caused or contributed to
19 the incident and/or injuries and damages being claimed
20 by the Plaintiff. C, The names, addresses and
21 telephone numbers of each person who supports, refutes
22 and/or has knowledge of that contention. D, Identify
23 each statute, regulation, ordinance, industry custom,
24 practice or standard of care in which you believe
25 someone other than you violated and describe with

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1 specificity how the violation relates to the -- that
2 contention. And, E, List of all documents which
3 support, refute and/or relate to that contention.

4 Q. Okay. And can you read your answer to that
5 question?

6 A. Defendant does not make this contention.

7 Q. Okay. So do you understand what Number 30
8 here that you just read is asking?

9 A. I guess so, yes.

10 Q. Can you tell me what it means?

11 A. It means that, basically, I guess I had to --
12 I -- I -- I'm going to take a break after this.

13 Q. Okay.

14 A. Yeah, that -- basically, that I -- I'm
15 supposed to -- I was supposed to provide all the
16 information if somebody else was responsible for it. I
17 guess that's what it means. But I'm not a lawyer.

18 Q. Uh-huh. And you said that you don't contend
19 that anyone else was responsible. But, just now, you
20 said that you think my client's responsible. And it
21 can't be both.

22 A. Yes. And I'm going to take a break now.

23 Q. Okay, that's fine.

24 MR. MILLS: Okay. Off the record at 11 --
25 excuse me, 10:46.

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1 (A brief recess was taken.)

2 MR. MILLS: On the record at 10:49.

3 BY MR. TREECE:

4 Q. All right, Brian. We're going to take a
5 quick step back. I'm going to go through some
6 different questions and then we'll circle back to the
7 accident to, kind of -- we don't have to talk about
8 that for a little bit.

9 So you told me that you've had your driver's
10 license for over 20 years, correct?

11 A. Correct.

12 Q. Okay. And did you have to take classes to
13 get your driver's license?

14 A. No.

15 Q. Did you have to take a test with the DMV?

16 A. Yes.

17 Q. Did you take a written and a driving test?

18 A. Yes.

19 Q. Okay. And the purpose of those was to learn
20 how to drive safely, correct?

21 A. Yes.

22 Q. Okay. Now, if some of these next questions
23 seem super obvious, I'm not trying to trick you or
24 stump you up. I'm just going through what I need to.

25 So the traffic laws that you learned for your

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1 driver's license test still need to be followed,
2 correct?

3 A. Yes.

4 Q. Okay. Traffic rules are in place to protect
5 people, correct?

6 A. Yes.

7 Q. Okay. And you've got over 20 years of
8 driving experience with, obviously, very little
9 tickets, things like that, and no accidents prior to
10 this?

11 A. That is correct.

12 Q. Okay. Now, should drivers, in general, be
13 familiar with the rules of the road so they're able to
14 make the safest choices?

15 A. Yes.

16 Q. Okay. Do you agree that those safety rules,
17 traffic laws and other statutes are important for
18 drivers to follow?

19 A. Yes.

20 Q. Do you agree that, if a driver violates those
21 rules, someone could get seriously injured or even
22 killed?

23 A. Yes.

24 Q. Okay. And it could be anyone on the road.
25 It could be a child, an elderly person. I mean,

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1 anybody could get injured from someone breaking traffic
2 laws, correct?

3 A. Correct.

4 Q. Okay. Do you agree that drivers must know
5 traffic laws and follow them to be a safe driver?

6 A. Yes.

7 Q. And do you try your very best to follow those
8 rules?

9 A. Yes.

10 Q. And do you know that because it's very
11 important to follow those safety rules to protect
12 people on the road?

13 A. I'm sorry, what was that?

14 Q. Sorry. I -- I stumbled up a little bit
15 there.

16 And you do know that it's important to follow
17 those safety rules in order to protect people on the
18 road, correct?

19 A. Yes.

20 Q. Okay. And following those rules allows you
21 to not needlessly endanger other people, correct?

22 A. Correct.

23 Q. Okay. And would you agree that traffic laws
24 are intended to prevent harm to the public?

25 A. Yes.

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1 Q. Okay. Do you agree that following the
2 traffic laws and safety rules helps you be able to make
3 the safest choices in any situation you're put in as a
4 driver?

5 A. Yes.

6 Q. Okay. Do you agree that a driver should
7 never needlessly endanger the public?

8 A. Yes.

9 Q. Do you agree that a driver must watch where
10 he or she is going and see what there is to be seen?

11 A. Yes.

12 Q. Okay. Do you agree that a driver must
13 maintain attention on the road at all times or
14 otherwise he may needlessly endanger others on the
15 road?

16 A. Yes.

17 Q. Okay. Do you agree that a safe speed and
18 distance must be maintained while driving?

19 A. Yes.

20 Q. Okay. Do you agree that, when a driver
21 needlessly endangers the public and hurts
22 someone, that a driver is responsible for that harm?

23 A. Yes.

24 Q. Okay. Do you agree that a driver should
25 abide by -- abide by all traffic control devices,

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1 whether it's speed limits, stop signs, lights, yield
2 signs, any of that?

3 A. Yes.

4 Q. Okay. Do you agree that signs and lights are
5 intended to control the flow the traffic?

6 A. Yes.

7 Q. Okay. Do you agree that a driver that is
8 aware of those signs and lights but disregards them is
9 making a choice?

10 A. Yes.

11 Q. Okay. And do you agree that other drivers
12 may not expect other drivers to disregard traffic
13 signals or signs?

14 A. I'm sorry, could you repeat that?

15 Q. As -- as -- as a driver, do you expect other
16 drivers to disregard those traffic signals and signs or
17 to abide by them?

18 A. I expect them to abide by them.

19 Q. Okay. And do you agree that it's
20 reasonable -- hang on. Sorry. I just read that one.
21 Let me see. You answered a few of these for me
22 already.

23 Okay. All right. Now, talking about traffic
24 rules, I'm going to share my screen again. And I'm
25 going to zoom in real quick because this is very small

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1 print. Just let me get this shared. All right. Can
2 you see my screen?

3 A. Yes.

4 Q. Okay.

5 MR. TREECE: And, Mary Ann, can we mark this
6 an exhibit? I think we're on 4; is that correct?

7 BY MR. TREECE:

8 Q. Okay. So can you -- can you read this? I
9 can zoom in some more. I know it's small.

10 A. I can read it, yes.

11 Q. Okay. Can you see this, like, kind of, top
12 yellow box, how it's separated?

13 A. Yes.

14 Q. Can you read just the little paragraph here?
15 You don't have to read the stuff at the top or the
16 history at the bottom or anything, just this small
17 blip.

18 A. (As read:) Every highway or portion thereof
19 on which vehicular traffic is given preferential
20 right-of-way and the entrances to which vehicular
21 traffic from intersecting highways is required by law
22 to yield the right-of-way to vehicles on such through
23 highway in obedience to a stop sign, yield sign or
24 other traffic control device which signs or devices are
25 erected as provided in this chapter is a through

1 highway.

2 Q. Okay. So do you understand what that's
3 saying?

4 A. I -- I guess so.

5 Q. Well, I -- I need a yes or a no, not a "guess
6 so". I mean --

7 A. I mean, yes, I understand.

8 Q. Okay. So you understand that it's saying,
9 when there's a highway going through and there's a stop
10 sign, yield sign or any other traffic control device,
11 you have to yield to the traffic on the highway,
12 correct?

13 A. Correct.

14 Q. Okay. So we're going to go back here and
15 look at this again. And I'll zoom in a little bit
16 more. So where you were at prior to the accident has a
17 stop sign on Mill Road, correct?

18 A. That is correct, yes.

19 Q. Okay. So based on the statute that we just
20 read, the vehicle that pulls up at the stop sign has to
21 yield to traffic on the highway coming across, correct?

22 A. Correct.

23 Q. Okay. So do you believe that you yielded
24 properly when my client came down this lane?

25 A. I mean, I -- again, I didn't see him, so I --

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1 I guess, no, I didn't. But I didn't see him, so -- and
2 I pulled out. He hit -- like I said, he hit me in the
3 back of the -- back quarter panel.

4 Q. Uh-huh.

5 A. So...

6 Q. And that's totally fair that you didn't see
7 him. I understand conditions, things like that. But
8 do you believe that my client -- based on what we just
9 read -- that my client had to yield to you coming
10 across when you had the stop sign?

11 A. No.

12 Q. Okay. So, again, going back to what you just
13 said, you said that my client was at fault. Do you
14 think that my client was still at fault, based on that
15 information?

16 A. Again, like I said, there was the traffic --
17 the line of traffic all the way back. And that's not a
18 two-lane road; that's a one-lane road.

19 Q. Rochester Highway?

20 A. Yes.

21 Q. Zooming in right here, how many lanes do you
22 see?

23 A. I understand that. That -- there is a turn
24 lane.

25 Q. Yeah.

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1 A. That's what that is. That is not a two- --
2 that's not a two-lane road.

3 Q. Right. But you knew that there was a turn
4 lane here. You go through this light or through this
5 intersection every day?

6 A. Yes.

7 Q. So you knew there was a possibility that
8 there could be cars coming down this turn lane?

9 A. Yes, there could have been. Yes.

10 Q. Okay. And when you pulled through, past this
11 truck, did you stop right in front of the truck to look
12 and see if there were cars coming or did you just go?

13 A. I -- no, I stopped in front of the truck
14 trying to inch out.

15 Q. Okay.

16 A. And, like I said, I didn't see him. So I --
17 again, looking back, there was so many -- there were so
18 many cars all the way past where the Ingles was, I
19 would assume, like, past that. You know, at least
20 that's what it looked like. So I didn't know where --
21 again, I never saw him coming.

22 Q. Uh-huh. Okay. So as we marked earlier --
23 and you can see on this screen -- this little X is
24 approximately where you believe the cars backed up
25 to?

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1 A. They might have been further back. Like I
2 said, I don't know the number of cars.

3 Q. Uh-huh.

4 A. But, yes, I would...

5 Q. Okay. So can we go ahead and establish that
6 this X is about right where the entrance to this
7 parking is? Is this the Ingles parking lot that I'm
8 hovering around?

9 A. Yes. That's the entrance to it, yes.

10 Q. Okay. So we're going to scroll down. Okay.
11 So this is -- we're -- this is a Google screenshot from
12 Google Maps. Is this where your car was prior to
13 pulling out for the stop sign?

14 A. Yes.

15 Q. Okay. And, as we established, the cars
16 looked like they went to -- and I'm going to draw on
17 this again. You said they want to -- I think the X was
18 about right over this?

19 A. It could have been further back than that.

20 Q. Okay. Where about do you think it would have
21 been? Just tell me to stop my little cursor when we
22 get there.

23 A. I mean, it would have been around the --
24 like, what -- what looks like a little curve there.

25 Q. Uh-huh.

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1 A. And, again, that's why -- so that's why I'm
2 saying I -- I don't know how many cars it was. It was
3 just --

4 Q. Yeah.

5 A. -- it was back there.

6 Q. Yeah, okay. Okay. Got you. So it was
7 enough cars here that you're saying --

8 A. Yes, enough cars --

9 Q. -- you couldn't see --

10 A. -- there. It was -- it was -- to me, it was
11 past the -- where the turn lane was --

12 Q. Uh-huh.

13 A. -- where you have access to get into the turn
14 lane.

15 Q. Uh-huh. Okay.

16 A. And...

17 Q. Back up to that. Okay. And it looks like
18 the turn lane access starts -- would you agree -- about
19 right here where I'm circling?

20 A. That -- that seems about right.

21 Q. Okay. I'm -- I'm just looking. I see the
22 yellow line here. Do you see that?

23 A. Yes.

24 Q. Okay.

25 A. I mean, yeah, I can barely make that out.

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1 But that seems about right as to where the turn lane
2 would -- would -- actually becomes like a -- it's not
3 the double yellow line in the middle of the --

4 Q. Yeah.

5 A. -- of the road.

6 Q. Okay. So, based on the statute that we
7 looked over, do you believe that, as the driver at the
8 stop sign, you had the right to yield to all traffic on
9 this highway?

10 A. Yeah.

11 Q. Okay. So you had that duty to yield to that
12 traffic?

13 A. Yes.

14 Q. Okay. And we can agree on that, then. All
15 right. I'm going to stop sharing my screen again. And
16 let me see here.

17 Now, I know we talked about, after the
18 accident, your wife had called 911. And you had had a
19 conversation with the police officer?

20 A. Yes.

21 Q. Did the police officer give you an accident
22 report afterwards?

23 A. Yes.

24 Q. It was an FR-10?

25 A. I -- I -- whatever -- the piece of paper that

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1 you just showed me --
2 Q. Yeah.
3 A. -- I believe that --
4 Q. Okay.
5 A. -- I don't know what it's called.
6 Q. Okay. We'll pull that -- we'll pull the
7 piece of paper back up -- hang on -- so we can look at
8 it. Let me -- hang on one second. There we go. All
9 right.
10 So this is the traffic collision report. Do
11 you have a copy of this?
12 A. Somewhere, yes.
13 Q. Okay. Now, looking at this, it's got your
14 name up here. Is that Brian Blair Cox?
15 A. That's correct.
16 Q. Can you read that? Okay. And I'm going to
17 zoom in. And the police marked as, under your name,
18 Contributed to collision, yes.
19 Do you have any reason to dispute that?
20 A. No.
21 Q. Okay. And the police marked under my
22 client's name, Charles Shabazz, Contributed to
23 collision, no.
24 Do you have any reason to dispute that?
25 A. No.

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1 Q. Okay. All right. Put that away again.

2 And do you remember if EMS or any first
3 responders came to the scene?

4 A. Yes, the police.

5 Q. Okay. Okay. Do you remember --

6 A. And I believe that -- I -- I don't know
7 who -- I don't know who called. Like I said, we called
8 911.

9 Q. Uh-huh.

10 A. They sent a police officer out. I don't know
11 if anybody called -- I don't know who called the
12 ambulance to come out.

13 Q. Okay. But an ambulance did come out?

14 A. Eventually, yes.

15 Q. Okay. About how long after the accident did
16 the ambulance come out?

17 A. I can't tell you.

18 Q. That's fine. I -- I get it. It was almost a
19 year and a half -- more than a year and a half ago, at
20 this point. I'm not expecting your memory to be
21 perfect. I mean, I got in an accident back in April,
22 and I barely remember half the details of it.

23 Let's see here. So after the accident, were
24 you injured at all?

25 A. No.

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1 Q. Okay. Did you get checked out by EMS or --

2 A. No, I wasn't.

3 Q. Okay. Did you see my client get checked out
4 by EMS?

5 A. I saw him walk to the EM- -- to the back of
6 ambulance.

7 Q. Okay. Can you tell me, did you see them do
8 anything to him? Any tests, any --

9 A. No. I mean, he was walking. They were
10 escorting him to the back -- to the ambulance from
11 where his car was.

12 Q. Uh-huh.

13 A. I -- I don't know how far that was. I mean,
14 the ambulance was parked in, like, the Ingles parking.
15 Like, they were right there where my car was pulled
16 over to the side.

17 Q. Uh-huh.

18 A. So -- and then they put him in the back of
19 the ambulance, like, helped him get up to the back --
20 into the back of the ambulance. And that was all I
21 saw.

22 Q. Okay. Did the ambulance take him to the
23 hospital?

24 A. I assume so.

25 Q. Okay.

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1 A. I -- I mean, I didn't -- they never said
2 anything to me.

3 Q. Okay. And when you went and spoke to
4 Charles, my client, after the accident, to check on
5 him, could you tell that he was in any pain?

6 A. No, I mean, not off -- not off the bat,
7 like -- I -- I don't know. We'll call it more stunned
8 than anything.

9 Q. Uh-huh. Okay. And after the accident, I
10 know you said your wife called the police. Did you
11 call anybody else?

12 A. No.

13 Q. Okay. Did you text anybody else?

14 A. No.

15 Q. Okay. And you said that your wife had told
16 the insurance company about the accident that
17 afternoon?

18 A. Yes.

19 Q. Okay. Now, since you didn't speak to them --
20 I'm going to ask you these questions -- and just give
21 me to the best of your knowledge. I'm not going to
22 hold you -- you know, try to trick you or anything. Do
23 you know what your wife told the insurance company?

24 A. I -- I guess just basically explained what
25 had happened.

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1 Q. Okay. And that was over a phone call?

2 A. Yes.

3 Q. Okay. Did you or your wife provide a written
4 statement to the insurance company?

5 A. I don't believe we did.

6 Q. Okay. Did you take any photographs of the
7 scene of the accident?

8 A. I don't know if we did or not.

9 Q. Okay. Did you take any photographs of your
10 vehicle with the damage?

11 A. Possibly.

12 Q. Okay. Would you potentially still have those
13 photographs?

14 A. I -- I might have them somewhere.

15 Q. Could you -- would you mind checking your
16 phone, scrolling back to March 22nd, and just seeing if
17 you have any?

18 A. Let's see. It doesn't appear that I have
19 anyone my phone.

20 Q. Okay. Thank you for checking. I appreciate
21 that.

22 Now I'm to show you -- share my screen again.

23 MR. TREECE: Mary Ann, can we mark this as
24 the next exhibit? I think it's 5. Cool. All
25 right.

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1 BY MR. TREECE:

2 Q. Now -- let's see here. Sorry. This is
3 taking me a second with this Zoom screen sharing stuff.
4 Okay. Now, is this the damage to your car after the
5 accident?

6 A. Yes.

7 Q. Okay. I'm just going to scroll through. And
8 this is all damage related to the accident?

9 A. Yes.

10 Q. Okay. And all of this damage is related to
11 the accident?

12 A. Yes.

13 Q. Okay. And all that -- just that damage back
14 there in that quarter panel -- that's related to the
15 accident?

16 A. Yes.

17 Q. Okay. Same here? I'm --

18 A. Yes.

19 Q. Okay. Again, these might seem repetitive,
20 but I just -- you know. And all this -- the bumper
21 came off in the accident? That's all the related to
22 the accident?

23 A. Yes.

24 Q. Okay. So we can establish -- I'll just
25 scroll through these -- all these pictures that I'm

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1 scrolling through currently is damage related to the
2 accident?

3 A. Yes.

4 Q. Okay.

5 A. And if -- if I have any pictures, that would
6 be what, probably, the pictures, if they came from the
7 insurance --

8 Q. Yeah. Uh-huh. No. We -- we just received
9 these from Progressive.

10 So it looks like you took your car to Caliber
11 Collision?

12 A. That is correct.

13 Q. Okay. Do you remember what the repair
14 estimate was on that?

15 A. No.

16 Q. Okay. Do you remember how much you ended up
17 paying for it?

18 A. For totaling it?

19 Q. Did they total the car?

20 A. I believe they did, yes.

21 Q. Okay. And I'm assuming Progressive paid you
22 out for that, correct?

23 A. Yes.

24 Q. Okay. Do you remember how much?

25 A. I don't have the exact figure.

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1 Q. Can you ballpark it for me?

2 A. I believe around 18,000.

3 Q. Okay. All right. And so all this property
4 damage that we're looking at right here, would you say
5 that this is a true and fair representation of the
6 damage caused by the accident?

7 A. Yes.

8 Q. Okay. Now I want to go back to -- I know you
9 said that you weren't injured in the accident. Was
10 your wife injured in the accident?

11 A. No.

12 Q. Okay. So neither you nor your wife sought
13 medical treatment as a result of the accident?

14 A. None.

15 Q. Okay.

16 A. Well, yes. I'm sorry.

17 Q. Yeah. Yeah.

18 A. I'm sorry, yeah. Answering yes to we did not
19 seek medical --

20 Q. Yeah. Yeah. I -- I know what you meant.
21 But, yeah, thank you for clarifying that. I appreciate
22 it. Okay.

23 How would you describe the force of the
24 impact? Hard? Medium? Soft?

25 A. I mean, it was pretty hard.

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1 Q. Uh-huh. Now, did you receive a traffic
2 ticket as a result of -- did you receive a traffic
3 ticket as a result of the collision?

4 A. No.

5 Q. Okay. Did you have a dash camera in your
6 car?

7 A. No.

8 Q. Okay. Did you have any kind of tracking
9 device, such as, like, Progressive Snapshot or anything
10 like that?

11 A. No.

12 Q. Okay. Now, with Progressive -- I know you
13 said you called to notify them of the claim. How did
14 you navigate the claims process? Was there an online
15 portal?

16 A. I believe there was. I -- again, I don't --
17 my wife handled that, so I'm not sure if she called our
18 actual -- our insurance rep --

19 Q. Uh-huh.

20 A. -- and they gave us the number to call or if
21 they, in fact -- I -- I -- I'm not -- again, I'm not a
22 hundred percent sure how the process actually happened.
23 But I -- I'm -- I would say we probably called our
24 insurance -- our local rep in Rock Hill and then sent
25 him the stuff. And then, that's how it, kind of, got

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1 taken from there. And then -- then Progressive reached
2 out to us.

3 Q. Uh-huh. And what did Progressive reach out
4 to you for?

5 A. To -- I guess to get whatever paperwork or
6 whatever they needed. I don't know.

7 Q. Okay.

8 A. Again, just the -- I wasn't on the -- like,
9 on those phone calls.

10 Q. Uh-huh?

11 A. Like, they weren't on speakerphone.

12 Q. And do you know what documents you would have
13 submitted to Progressive?

14 A. I believe just the -- the traffic incident
15 report.

16 Q. Okay. Did you submit any photographs or
17 videos to Progressive?

18 A. I don't believe I did.

19 Q. Do you know if your wife did?

20 A. I can't say for sure.

21 Q. Okay.

22 A. I don't bel- -- like I said, I don't believe
23 she did either. But I -- I can't say for a hundred
24 percent certainty.

25 Q. Yeah. Okay. At the time of the accident,

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1 who was your cell phone provider?

2 A. AT&T.

3 Q. Okay. And what was your cell phone number?

4 A. (864) 903-9201.

5 Q. Okay. And do you have an iPhone?

6 A. No. I have a Google Pixel.

7 Q. Google Pixel, okay. How long have you had
8 that for?

9 A. A couple of years.

10 Q. So you had that phone at the time of the
11 accident?

12 A. I believe I did, yes.

13 Q. Okay. And did you have a Google Pixel prior
14 to this Google Pixel? What was your prior phone?

15 A. I think a Samsung Galaxy.

16 Q. Okay.

17 A. I -- I don't know what model number or --

18 Q. You don't have to get specific.

19 Now, does your current phone have, like,
20 cloud storage capability.

21 A. I -- I think so, yes.

22 Q. Okay. And when you switched from the Galaxy
23 to the Google Pixel, did it transfer over all of your
24 data?

25 A. I believe so.

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1 Q. Like, did it keep your contacts --

2 A. Yes.

3 Q. -- your old --

4 A. Yeah. Yeah. We transferred my contacts and
5 everything. I'm sorry, I'm not very tech savvy, so...

6 Q. No, that's fine. If you need me to explain
7 something, please ask for clarification. I know I'm
8 just throwing out "cloud" and stuff like that, and I
9 just learned what that was, like a year ago, so you're
10 all good.

11 Now, in the 24 hours preceding the accident,
12 did you consume any alcohol?

13 A. I -- I would say yes. But I'm -- like I
14 said, I'm not sure. I'm -- probably, yes.

15 Q. When you say "not sure", do you, like, have a
16 drink after work every night, so that would be --

17 A. Yes.

18 Q. -- 24 hours?

19 A. Yeah. That would -- yeah, in that 24 hours.
20 Yes.

21 Q. Okay. So you're not waking up in the
22 morning, slamming, like, five Irish coffees and rolling
23 to work?

24 A. No. No, no.

25 Q. Okay.

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1 A. Not at all.

2 Q. Okay. What kind of drink do you have at

3 night?

4 A. I think it was a vodka drink.

5 Q. Okay. And how many of those do you have a

6 night?

7 A. Are we talking about at the time?

8 Q. Yeah, at the time.

9 A. I would say three or four.

10 Q. Okay. And is that just a single shot mixed

11 with a mixer?

12 A. It was mixed with, like, cranberry juice.

13 Q. Okay. Just a single shot?

14 A. Yes.

15 Q. Okay. All right. And what kind of vodka do

16 you prefer?

17 A. Tito's.

18 Q. Okay. Yeah, that's what I drink, too. It's

19 a good one.

20 All right. Did you -- in the 24 hours

21 preceding the accident, did you consume any drugs, like

22 prescription or illicit?

23 A. No.

24 Q. Okay. Like you said, you weren't on your

25 medications at that time, correct?

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1 A. No, I was not on my medications.

2 Q. Okay. Now, after the accident -- where did
3 you go after the accident? Did you just go home or --

4 A. We went home, yes.

5 Q. Okay. Was your car drivable?

6 A. Yes, it was.

7 Q. Now, I saw in some of the pictures that we
8 looked at the bumper was hanging off. Did you have to
9 take that off and put it inside your car? How did you
10 manage that?

11 A. Yes. Yes, we had to take it off.

12 Q. Okay. Did you do that at the scene of the
13 accident?

14 A. Yes.

15 Q. Okay. And following the accident, who did
16 you talk to about the accident?

17 A. I believe just my insurance agent.

18 Q. And then your wife, I'm assuming?

19 A. Yes. I mean...

20 Q. Yeah.

21 A. She was -- she was in the car with me.

22 Q. Yeah, I -- I assumed that. I just had to
23 clarify it for the record.

24 Can you tell me about your conversation with
25 your insurance agent after the accident?

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1 A. No. I just explained what I -- you know,
2 that I had been in an accident. I had this report.
3 And, you know, What do we need to do?

4 Q. Okay. Okay. Now, the doctor that my client
5 went and saw informed him that he fractured his wrist
6 in the accident. Do you have any reason to dispute
7 that?

8 A. No.

9 Q. Okay. Do you have any reason to dispute any
10 of my client's injuries from the accident?

11 A. No.

12 Q. Okay. Now, have you ever broken a bone
13 before?

14 A. Yes.

15 Q. What did you break?

16 A. My wrist.

17 Q. Okay. Which wrist?

18 A. My right.

19 Q. Is that your dominant hand?

20 A. Yes.

21 Q. Okay. And how did you do that?

22 A. Playing basketball.

23 Q. Okay. Did you fall on it or --

24 A. Yes. Well, I actually punched a padded wall.

25 Q. Oh, gosh. How did that happen?

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1 A. Just got angry.

2 Q. Yeah.

3 A. Punched a padded wall and broke it.

4 Q. Was that back in high school or was this,
5 like, men's league?

6 A. Yes, that was high school.

7 Q. Okay. And how long did it take before you
8 were able to go back and play again?

9 A. Play basketball?

10 Q. I mean, how long was your recovery process, I
11 guess?

12 A. It was a couple of months. But I had surgery
13 on it to -- to fix it.

14 Q. Okay. And how long did it take after the
15 surgery to get it fixed, like, to heal up?

16 A. Let's see. I think I had the surgery, like,
17 two weeks after it happened. So another two weeks and
18 then, I think, it was a couple of months in a cast.

19 Q. Now, do you still have problems with that
20 wrist today at all? Popping or cracking or anything,
21 or pain?

22 A. I mean, yeah. I mean, a little bit. But...

23 Q. Okay. So that's something you've, kind of,
24 had to live with for a while?

25 A. Yes.

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1 Q. Has it gotten better over time or has it,
2 sort of, just stayed the same?

3 A. I mean, it's gotten better over time, yes.

4 Q. Yeah. Okay. Well, that's good to hear. I
5 actually broke my pinkie about a month ago, and I can't
6 straighten it or anything. And it gets locked up and
7 pops, hurts like crazy. I probably should have gone to
8 a doctor, but I figured it was just a sprain. But
9 it's -- it's a whole mess now.

10 Okay. Now, are you aware of any
11 investigations into the accident conducted by
12 Progressive?

13 A. No.

14 Q. Okay. Have you personally conducted any
15 investigations into the accident?

16 A. No.

17 Q. Okay. Are you aware of any third parties
18 that have conducted investigations into the accident?

19 A. No.

20 Q. Okay. All right. Now, do you mind if we
21 take a quick break? I'm going to go use the bathroom.
22 Come back in about five minutes?

23 A. That's fine.

24 Q. Okay. Thank you.

25 MR. MILLS: All right. Off the record at

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1 11:23.

2 (A brief recess was taken.)

3 MR. MILLS: On the record at 11:28.

4 BY MR. TREECE:

5 Q. All right, Brian. Now I want to ask you
6 about where your cell phone was in the vehicle at the
7 time of the accident. Were you on your phone at the
8 time of the accident for any reason? I mean, this
9 could be GPS, music --

10 A. No.

11 Q. -- text, phone call. Okay.

12 A. No.

13 Q. Okay. I'm assuming five minutes from your
14 house, like, you drive it every day, you don't need
15 GPS?

16 A. No.

17 Q. Were you playing music through your phone?

18 A. No.

19 Q. Okay. Do you ever play music through your
20 phone in your car?

21 A. No, not in that car, no.

22 Q. If you do play music on your current car with
23 your phone, do you use Bluetooth or, like, an aux
24 cord?

25 A. No, it's -- yeah, Bluetooth.

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1 Q. Okay. And in that old car, did it have
2 Bluetooth capabilities?

3 A. Yes, it did.

4 Q. Okay. When you would take phone calls in
5 that car, would you use the Bluetooth?

6 A. Yes.

7 Q. Okay. Where do you normally keep your phone
8 when you drive?

9 A. It would either be in my pocket or in the
10 little cubbyhole under the radio.

11 Q. Okay. Can you describe what you mean by
12 "cubbyhole under the radio"? I don't have something
13 like that in my car.

14 A. Okay. So the radio, the screen --

15 Q. Yeah.

16 A. -- radio, whatever you want to call it, then
17 there's -- right underneath there, there's the air
18 conditioning, heat. And then underneath it is a little
19 space --

20 Q. Okay.

21 A. -- that you can just put, like, my sunglasses
22 case, my glasses case, things like that.

23 Q. But it's something that --

24 A. It's kind of a store-all case or area.

25 Q. Okay. So it's probably about an inch and a

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1 half tall?

2 A. In that car, I -- I -- I don't know. I would
3 say it's -- I mean, it's large enough to stick my hand
4 in.

5 Q. Okay. But when you put your phone in there,
6 is your phone laying flat or is the screen facing
7 you?

8 A. Probably laying flat.

9 Q. Okay.

10 A. It's not -- yeah, the screen's not facing me
11 at all.

12 Q. Okay. So it's like a little rectangular box,
13 probably, like, six inches long and a couple inches
14 high?

15 A. Yeah.

16 Q. Okay. Okay. I know what you're talking
17 about. I've seen those before.

18 All right. And do you know where your phone
19 was at the time of the accident?

20 A. Like I said, in my pocket or in -- at -- in
21 that space.

22 Q. Okay. So you don't know for sure? That's
23 just --

24 A. I can't say for sure, no.

25 Q. Okay. Now, regarding this case, have you

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1 spoken with any experts or consultants? And I'm not
2 talking about your attorneys. I just mean any sort of
3 experts or consultants for, I don't know, traffic
4 collision analysis, car downloads, things like that?

5 A. No.

6 Q. Okay. Are you aware if Progressive did a
7 black box download of your car that was involved in the
8 accident?

9 A. I don't know.

10 Q. Okay. Do you know if Progressive did an
11 inspection of your vehicle that was involved in the
12 accident following the accident?

13 A. Just whatever happened at the collision
14 center.

15 Q. Okay.

16 A. I -- I don't know who did that.

17 Q. Got you. All right. Now -- looking through
18 here. So when were you first contacted by your
19 attorneys in this matter? And don't tell me what they
20 said. Just, when did you first correspond with
21 counsel? Like, what -- around what date?

22 A. I have no idea.

23 Q. Okay. Was it after the lawsuit was filed?

24 A. I would -- yeah, I would assume so, yes.

25 Q. Okay. Okay. We don't -- we don't have too

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1 much longer, Brian. I just -- I'm just going through
2 my notes to make sure I covered everything real fast.

3 So, based on the exhibits that we've looked
4 at today, the statute that we read together, the
5 property damage photos, the Google Map screenshots,
6 would you say that you had a right to yield coming off
7 of that stop sign onto Rochester Highway?

8 A. That I had a right to yield? Yes.

9 Q. A duty to yield to oncoming traffic?

10 A. Yes.

11 Q. Okay. Do you believe that, whether
12 intentionally or not, that that duty was violated when
13 you pulled across traffic and the collision happened?

14 A. Yes.

15 Q. Now I want to ask you this, too. We have
16 requested some cell phone data, which was mainly to see
17 if there was any sort of texting and driving or
18 anything like that, or to see if there was any
19 correspondence that you had with other people regarding
20 the accident from your phone, from your attorneys.
21 Have they talked to you about that yet?

22 A. I don't believe so.

23 Q. Okay. So you haven't heard from your
24 attorneys that we want to inspect your phone with
25 regards to, kind of, that 24-hour period?

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1 A. I -- no, not from my attorneys, I think just
2 with the letter y'all had sent.

3 Q. Okay. So you only -- you're only aware of
4 that from us, then?

5 A. I believe so, yes.

6 Q. Okay. All right. We're almost done, Brian.
7 I know -- I know I'm taking up a lot of your day. I
8 just want to make sure I hit everything because I only
9 get one chance to talk to you. And I appreciate your
10 cooperation today, just taking the time and doing this.
11 I know you -- I know Realtors can be very busy. Let's
12 see here.

13 Now, when you first got served with the
14 lawsuit, were you upset that that had been filed?

15 MR. BAKER: Objection.

16 BY MR. TREECE:

17 Q. You -- you can still answer.

18 MR. BAKER: You can answer, Brian.

19 BY MR. TREECE:

20 Q. He's just putting an objection to the record.

21 MR. TREECE: Unless, Ryan, you want him to
22 not answer?

23 MR. BAKER: Brian can answer that one.

24 MR. TREECE: Okay.

25 THE WITNESS: I'm sorry, what -- what am I

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1 supposed to do?

2 MR. TREECE: Sorry.

3 MR. BAKER: You can answer, Brian. I
4 apologize.

5 THE WITNESS: I don't need to answer.

6 MR. BAKER: You can go ahead and answer, yes,
7 sir.

8 THE WITNESS: Okay.

9 BY MR. TREECE:

10 A. I mean, yes.

11 Q. Yeah.

12 A. I'm being -- I mean, I'm being sued, so, yes.

13 Q. Are you aware that we tried to settle this
14 lawsuit or settle this claim with Progressive prior to
15 filing the accident?

16 MR. BAKER: Objection. Brian, don't answer
17 that one. Connor, if you -- if -- you can leave
18 it or we'll file --

19 MR. TREECE: Are you -- are -- well, are you
20 instructing him to not answer on privilege or
21 something else?

22 MR. BAKER: Both. It's irrelevant. And that
23 line of questioning is just designed to drive a
24 wedge between us and their insured. Settlement is
25 not admissible regardless.

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1 MR. TREECE: Okay. But you're instructing
2 him to not answer based on priv- -- what's the
3 privilege?

4 MR. BAKER: It's not privilege. It's just an
5 improper line of questioning. It's irrelevant --

6 MR. TREECE: Okay.

7 MR. BAKER: -- and outside the scope of 26.

8 MR. TREECE: Okay. Okay.

9 BY MR. TREECE:

10 Q. All right, Brian. I have another exhibit to
11 show you. Let me pull this up. Hang on. All right.
12 Can you see my screen?

13 A. Yes.

14 Q. Okay. Now, have you ever seen this letter
15 before? Take your time to take a look at it. Let me
16 know when you want me to scroll or --

17 A. Can you increase -- zoom in some more?

18 Q. Yeah. Yeah. Of course. Of course. Is that
19 good right there?

20 A. Yeah.

21 Q. Okay.

22 A. I mean, yes. I -- I'm sure I've seen it.
23 I've seen it before.

24 Q. You have, for sure, seen this?

25 A. Yes.

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1 Q. Okay. I just wanted to make sure. When did
2 you first see it?

3 A. Whatever day it was delivered.

4 Q. Okay. And how did you receive it? Was it
5 mail?

6 A. I believe so.

7 Q. Okay. Did Progressive send this to you?

8 A. I don't know if I got a copy of it through
9 Progressive.

10 Q. Okay.

11 A. I got -- I believe I got this one through
12 mail.

13 Q. Okay. Got you. Okay. Did you read this
14 letter?

15 A. Yes.

16 Q. Did you understand it?

17 A. Yes.

18 Q. Okay. After you received this, did anyone
19 from Progressive keep you informed as to any settlement
20 negotiations?

21 MR. BAKER: Same objection as previously.

22 Brian --

23 MR. TREECE: Can he answer this one? Sorry.

24 Ryan, are you saying he can't answer or just --

25 MR. BAKER: He -- he can answer that one.

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1 MR. TREECE: Okay.

2 THE WITNESS: I can answer this one?

3 MR. BAKER: Yes, you can, Brian.

4 THE WITNESS: Okay.

5 BY MR. TREECE:

6 A. I -- yes, I believe we've been kept up, at
7 least -- I -- I don't know when, but we've gotten some
8 updates from -- since the time of the accident to -- to
9 right now.

10 Q. And has that been through email, text, phone
11 calls?

12 A. Mostly through email.

13 Q. Do you still have those emails?

14 A. Yes, somewhere.

15 Q. Okay.

16 A. I'm sure we didn't get rid of them or delete
17 them.

18 Q. Okay. Have you produced those to your
19 attorney?

20 A. I don't believe I've been asked to. I...

21 Q. Okay. Okay. And were most of these emails
22 prior to the lawsuit getting filed?

23 A. I don't know.

24 Q. Okay. You'd have to check the date on
25 them?

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1 A. I -- I mean, again, I -- I don't know when
2 I've gotten -- I mean, which emails I've gotten,
3 when -- prior to the lawsuit, prior to...

4 Q. Okay. And where do you have these emails at?
5 Are these on a home computer? Cell phone?

6 A. I mean, they could be on, I mean, my
7 Chromebook, my -- I mean, we use Gmail, so they're in
8 Google. So, yeah, they're on my phone.

9 Q. Okay. Is it Gmail, you said?

10 A. Yes.

11 Q. What's the email address that y'all received
12 these to?

13 A. I believe it's brianandjennifercox@gmail.com.

14 Q. Just to confirm, your wife's name is spelled
15 with two N's in the middle?

16 A. Two N's, yes.

17 Q. That's what I assumed, but I've come across
18 some pretty strange spellings before.

19 A. Yes.

20 Q. All right. All right, Brian. I think that
21 is just about everything. Do you mind if we take a
22 five-minute break? I'm going to review my notes and
23 just make sure, and then we should be able to let you
24 go, unless your attorney has any more questions.

25 MR. BAKER: I don't have any questions for

1 you, Brian.

2 BY MR. TREECE:

3 Q. Okay. Just give me a five-minute break. I'm
4 go to review all this.

5 A. Okay.

6 Q. And then, I -- I might not have any more
7 questions for you after this. I just want to make
8 sure.

9 A. Sounds good.

10 MR. MILLS: Okay. Off the record at 11:43.

11 (A brief recess was taken.)

12 MR. MILLS: On the record at 11:50.

13 BY MR. TREECE:

14 Q. All right, Brian. I have reviewed my notes.
15 I have covered everything I wanted to ask you today.
16 So thank you very much for your time. Appreciate it.

17 A. You're welcome.

18 MR. BAKER: Brian, I don't have any questions
19 for you, man. I appreciate your time as well.

20 THE WITNESS: All right, thank you.

21 MR. MILLS: Okay. This concludes --

22 MR. BAKER: Hang on just a second. There
23 might be some spelling questions. I'm not sure if
24 Mary Ann has any. Nope, no spelling questions.
25 We'll waive the read and sign.

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1 MR. MILLS: All right.

2 MR. BAKER: Brian, enjoy the rest of your
3 day.

4 MR. MILLS: This concludes --

5 THE WITNESS: All right.

6 MR. MILLS: -- the video deposition. The
7 time is 11:50. We are off the record.

8 (The deposition concluded at 11:50 a.m.)

9 (Plaintiff's Exhibit Nos. 1 through 6 marked
10 for identification after the conclusion of the
11 deposition.)

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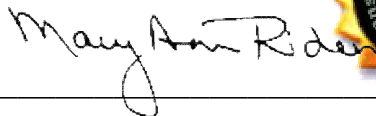
1 C E R T I F I C A T E
2 STATE OF SOUTH CAROLINA:
3 COUNTY OF CHARLESTON:

4 I, MARY ANN RIDENOUR, Registered Professional
5 Reporter and Notary Public, State of South Carolina at
6 Large, certify that I was authorized to and did
7 stenographically report the foregoing deposition of
8 Brian Cox; and that the transcript is a true record of
9 the testimony given by the witness, and was sworn as
10 such.

11 I further certify that I am not a relative,
12 employee, attorney or counsel of any of the parties,
13 nor am I a relative or employee of any of the parties'
14 attorney or counsel connected with the action, nor am I
15 financially interested in the action.

16 WITNESS MY HAND AND OFFICIAL SEAL this 1st day of
17 December, 2024, in the City of Charleston, County of
18 Charleston, State of South Carolina.

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20
21
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24
25




Mary Ann Ridenour, RPR, CLR
and Notary Public
My commission expires:
January 13, 2031

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ORIGINAL

SOUTH CAROLINA DPS/OHS & DMV USE ONLY				Page # 1		SOUTH CAROLINA TRAFFIC COLLISION REPORT FORM TR-310 (Rev. 04/2016)				# Of Units 02		Amended - Attach Copy of Original Report Corrected		Notified 1 2 0 9		Arrived 1 2 1 1							
Date 03-22-2023		Time of Collision 1 2 0 6		County 37		1- Interstate 2- US Primary 3- SC Primary		4- Secondary 5- County 6- PP 7- Ramp		Collision Location (Rt. # / Name) 130 / ROCHESTER HWY				0- Main Line 2- Alternate 5- Spur		6- Connection 7- Business		Miles: .00		Dir. N E S W		In (Near) City or Town of: SENECA	
Lane # / Dir. # Of N E S W		Distance Offset Miles Feet		Direction N E S W		1- Interstate 2- US Primary 3- SC Primary		4- Secondary 5- County 6- Other 7- Ramp		Base Intersection (Rt. # / Name) 395 / W SIZEMORE RD				0- Main Line 2- Alternate 5- Spur		6- Connection 7- Business 9- Other		GPS COORDINATES 00° 00' 00.00" DEGREES MINUTES SECONDS					
R.R. Id.		From N E S W		Ramp Only 1- Entrance 2- Exit		To N E S W		1- Interstate 2- US Primary 3- SC Primary		4- Secondary 5- County 6- Other 7- Ramp		Second Intersection (Rt. # / Name) /				0- Main Line 2- Alternate 5- Spur		6- Connection 7- Business 9- Other		Latitude 0 1 11 34 42 05.77 Longitude 0 1 11 82 56 14.28			

H-477232 Driver's Full Name COX BRIAN BLAIR										H-477233 Driver's Full Name SHABAZZ CHARLES ANTOINE																					
Unit # 01		Sex M		Race W		Street 832 HARTS COVE WAY						Unit # 02		Sex M		Race BK		Street 205 THOMAS HEIGHTS CIR													
#Occ 1		Birth Date 1979		City, State, & Zip SENECA SC 296781477		#Occ 1		Birth Date 1999		City, State, & Zip SENECA SC 296782944		State SC		Driver's License #		Class D		Insurance Company: PROGRESSIVE		State SC		Driver's License #		Class D		Insurance Company: GEICO					
Year 2015		Body SU		Vehicle Make CADI		VIN # 3GYFNB31F8555786		Year 2010		Body JP		Vehicle Make JEEP		VIN # 1J4PR4GK1AC153385		State SC		Year 2023		License Plate #		Owner's D.L. #		Home Telephone (864) 9039204		Owner's Full Name COX BRIAN BLAIR		Home Telephone (864) 3241768		Owner's Full Name SHABAZZ CHARLES ANTOINE	
Bus. Telephone ()		Contributed To Collision Yes No		City, State, & Zip SENECA SC 296781477		Bus. Telephone ()		Contributed To Collision Yes No		City, State, & Zip SENECA SC 296782944		State SC		Year 2023		License Plate #		Owner's D.L. #		Home Telephone ()		Owner's Full Name		Bus. Telephone ()		Street		Contributed To Collision Yes No		City, State, & Zip	
Estimated Speed 35		Speed Limit 45		C.D.L. Req: Yes No		T/B S Req: Yes No		Alc/Drg Info (see back): Yes No		Estimated Speed 5		Speed Limit 45		C.D.L. Req: Yes No		T/B S Req: Yes No		Alc/Drg Info (see back): Yes No		State SC		Year		License Plate #		Owner's D.L. #		Home Telephone ()		Owner's Full Name	
Statute #		Statute #		Towed By Yes No		Statute #		Statute #		Towed By Yes No		Statute #		Statute #		Towed By Yes No		Towed By Yes No		State SC		Year		License Plate #		Owner's D.L. #		Home Telephone ()		Owner's Full Name	
Dir. of Travel: Unit 1: N (S) E W		Unit 2: N (S) E W		Unit 3: N (S) E W		Dir. of Travel: Unit 1: N (S) E W		Unit 2: N (S) E W		Unit 3: N (S) E W		Dir. of Travel: Unit 1: N (S) E W		Unit 2: N (S) E W		Unit 3: N (S) E W		Dir. of Travel: Unit 1: N (S) E W		Unit 2: N (S) E W		Unit 3: N (S) E W		Dir. of Travel: Unit 1: N (S) E W		Unit 2: N (S) E W		Unit 3: N (S) E W		Dir. of Travel: Unit 1: N (S) E W	

Unit 1 Dam.		Unit 2 Dam.		Unit 3 Dam.		Prop. Dam. 1		Prop. Dam. 2			
\$1000		\$5000		\$		\$		\$			
Property Owner/Witness:					Property Owner/Witness:						
Address					Address						
State		Zip:		Phone		State		Zip:		Phone	
Photo: Describe What Happened (Refer to Units by Number) Y (N)											
UNIT 1 BEGAN TO MERGE INTO ONCOMING TWO LANE TRAFFIC. FAILING TO YIELD RIGHT OF WAY. CAUSING UNIT 2 TO COLLIDE WITH UNIT 1.											

Cox
P-1
11-21-24 MR

NOTICE - THE TR-310 IS FOR STATISTICAL REPORTING PURPOSES ONLY AND IS A REFLECTION OF THE OFFICER'S BEST KNOWLEDGE, OPINION AND BELIEF COVERING THE COLLISION BUT NO WARRANTY IS MADE AS TO THE FACTUAL ACCURACY THEREOF.

Investigating Officer's Name GOMEZ V.		Rank OFC		SCJA # 7077-4523		Jurisdiction Code 3 7 0 1		Review Date 03-27-2023		Reviewer's Name BJ MCCLURE		Rank Capt		Internal Agency Code 23-003518	
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Unit#	Date of Birth	Sex	Race	Injury	Seat	R/S	A,B,D	Eject	LAI	Tran	Name	Street Address	Zip Code																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																						
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02	-1999	M	BK	1	01	13	1 3	1	1	1	SHABAZZ CHARLES ANTOI	205 THOMAS HEIGHTS CIR	SENECA SC 296782944																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																						
<table border="1"> <tr> <td>Race</td> <td>AP- Asian/Pacific Islander</td> <td>W- White (Caucasian)</td> <td>a) Injury Status</td> <td>2- Suspected Minor Injury</td> <td>Seating Loc.</td> <td>20- Pedestrian</td> <td>60- Sleeper of Cab</td> <td>Restraint/Safety Device</td> </tr> <tr> <td>AI- Alaskan Native or American Indian</td> <td>MR- Multi-Racial</td> <td>0- No Apparent Injury</td> <td>3- Suspected Serious Injury</td> <td>01 02 03</td> <td>30- Trailing Unit</td> <td>70- Riding on Unit Exterior</td> <td>00- None Used</td> <td>21- Child Safety Seat</td> </tr> <tr> <td>B- Black (African American)</td> <td>H- Hispanic</td> <td>1- Possible Injury</td> <td>4- Fatal</td> <td>04 05 06</td> <td>40- Bus or Van (4th row or Higher)</td> <td>80- Lap</td> <td>11- Shoulder belt</td> <td>88- Other</td> </tr> <tr> <td></td> <td>O- Other</td> <td>U- Unknown</td> <td></td> <td>07 08 09</td> <td>50- Other Enclosed Area (nontrailing)</td> <td>99- Unk/NA</td> <td>12- Lap Belt Only</td> <td>99- Unknown</td> </tr> <tr> <td colspan="3">Air Bag Deployment / Switch</td> <td colspan="2">Ejection</td> <td colspan="2">b) 2 or 3 Wheel Motorized Vehicle Only</td> <td colspan="2">Head Injury</td> </tr> <tr> <td colspan="3">1- Deployed Front 4- Not Deployed</td> <td colspan="2">1- Not Ejected</td> <td colspan="2">Location After Impact</td> <td colspan="2">3- Freed (non-mech.)</td> </tr> <tr> <td colspan="3">a) 2- Deployed Side 7- Not Applicable</td> <td colspan="2">2- Part, Ejected</td> <td colspan="2">1- Not Trapped</td> <td colspan="2">4- Not Applicable</td> </tr> <tr> <td colspan="3">3- Deployed Both 9- Deployment Unk.</td> <td colspan="2">2- Tot. Ejected</td> <td colspan="2">2- Extricated (Mechanical Means)</td> <td colspan="2">9- Unknown</td> </tr> <tr> <td colspan="3">1- Switch In On Position 3- No Switch</td> <td colspan="2">7- Not Applicable</td> <td colspan="2">a) Transported to Medical Facility</td> <td colspan="2">Pedestrian, Motor/Pedalcycle Only</td> </tr> <tr> <td colspan="3">b) 2- Switch In Off Position 9- Unknown</td> <td colspan="2">9- Unknown</td> <td colspan="2">1- Yes 2- No 3- Unknown</td> <td colspan="2">31- Helmet 51- Reflective Clothing</td> </tr> <tr> <td colspan="3"></td> <td colspan="2"></td> <td colspan="2">b) By: 1- EMS 2- Police 8- Other 9- Unknown</td> <td colspan="2">41- Protective Pads 61- Lighting</td> </tr> <tr> <td colspan="14">Sequence of Events</td> </tr> <tr> <td colspan="14"> <table border="1"> <tr> <td>Non-Collision</td> <td>04- Equipment Failure</td> <td>08- Overturn/Rollover</td> <td>Collision: Not Fixed</td> <td>27- Pedestrian</td> <td>Collision: Fixed Object</td> <td>47- Embankment</td> <td>55- Mail Box</td> <td>68- Other</td> </tr> <tr> <td>01- Cargo/Equip Loss or Shift</td> <td>05- Fire/Explosion</td> <td>09- Ran off Road Left</td> <td>20- Animal (Deer Only)</td> <td>28- Railway Veh.</td> <td>40- Bridge Overhead Structure</td> <td>48- Equipment</td> <td>56- Median Barrier</td> <td>69- Unknown</td> </tr> <tr> <td>02- Cross Median/Center</td> <td>06- Immersion</td> <td>10- Ran off Road Right</td> <td>21- Animal (All Other)</td> <td>29- Work Zone Maint. Equip.</td> <td>41- Bridge Parapet End</td> <td>49- Fence</td> <td>57- Overhead Sign Support</td> <td></td> </tr> <tr> <td>03- Downhill Runaway</td> <td>07- Jackknife</td> <td>11- Separation of Unit</td> <td>22- Motor Veh. (In Transport)</td> <td>38- Other Movable Object</td> <td>42- Bridge Pier or Abutment</td> <td>50- Guardrail End</td> <td>58- Other (Post, Pole, Support, Etc.)</td> <td></td> </tr> <tr> <td>Event 1</td> <td>Event 2</td> <td>Event 3</td> <td>Event 4</td> <td>Most Harmful</td> <td>1st Harmful</td> <td>12- Spill (Two-Wheeled Veh.)</td> <td>43- Bridge Rail</td> <td>51- Guardrail Face</td> </tr> <tr> <td>22</td> <td>1</td> <td>1</td> <td>1</td> <td>22</td> <td>22</td> <td>18- Other Non-Collision</td> <td>44- Culvert</td> <td>52- Highway Traffic Sign Post</td> </tr> <tr> <td>2</td> <td>2</td> <td>2</td> <td>2</td> <td>22</td> <td>22</td> <td>19- Unk. Non-Collision</td> <td>45- Curb</td> <td>53- Impact Attenuator/Crash Cushion</td> </tr> <tr> <td>3</td> <td>3</td> <td>3</td> <td>3</td> <td>3</td> <td>3</td> <td>26- Pedalcycle</td> <td>46- Ditch</td> <td>54- Light/Luminaire Support</td> </tr> <tr> <td colspan="3">Manner of Collision (Struck Veh.)</td> <td colspan="2">30- Rear-to-Rear</td> <td>50- Sideswipe Same Dir.</td> <td colspan="3">1st / Most Deformed Area</td> </tr> <tr> <td colspan="3">142 00- Not Coll. w/ Motor Veh.</td> <td colspan="2">41- Angle (↘ ↗)</td> <td>60- Sideswipe Opposite Dir.</td> <td colspan="3">1st Deformed</td> </tr> <tr> <td colspan="3">2 1st Harmful Collision</td> <td colspan="2">10- Rear End</td> <td>42- Angle (→ ←)</td> <td colspan="3">Most Deformed</td> </tr> <tr> <td colspan="3">3 20- Head On</td> <td colspan="2">43- Angle (↗ ↘)</td> <td>99- Unknown</td> <td colspan="3">1 7 2 1 3</td> </tr> <tr> <td colspan="3">Vehicle Type</td> <td colspan="2">15- Full Size Van</td> <td>27- Pedalcycle</td> <td colspan="2">61- School Bus</td> <td></td> </tr> <tr> <td colspan="3">1 01- Automobile</td> <td colspan="2">16- Mini Van</td> <td>38- Animal Drawn Veh</td> <td colspan="2">62- Passenger Bus</td> <td></td> </tr> <tr> <td colspan="3">2 01- Pickup Truck</td> <td colspan="2">17- Sport Utility</td> <td>39- Animal (Hidden)</td> <td colspan="2">98- Other</td> <td></td> </tr> <tr> <td colspan="3">3 13- Truck Tractor</td> <td colspan="2">25- Motorcycle</td> <td>41- Pedestrian</td> <td colspan="2">99- Unk. (Hit and Run Only)</td> <td></td> </tr> <tr> <td colspan="3">4 14- Other Truck</td> <td colspan="2">26- Other Motorbike</td> <td>51- Train</td> <td colspan="2"></td> <td></td> </tr> <tr> <td colspan="3">Vehicle Use Code</td> <td colspan="2">04- Ambulance</td> <td>08- Farm Use</td> <td colspan="2">12- Fire Fighting</td> <td></td> </tr> <tr> <td colspan="3">1 01- Personal</td> <td colspan="2">05- Military</td> <td>09- Wrecker or Tow</td> <td colspan="2">13- Logging</td> <td></td> </tr> <tr> <td colspan="3">2 01- Driver Training</td> <td colspan="2">06- Transport Passengers</td> <td>10- Police</td> <td colspan="2">18- Other</td> <td></td> </tr> <tr> <td colspan="3">3 03- Construction/Maint.</td> <td colspan="2">07- Transport Property</td> <td>11- Government</td> <td colspan="2">41- Pedestrian</td> <td></td> </tr> <tr> <td colspan="3">Vehicle Attachment</td> <td colspan="2">4- Utility Trailer</td> <td>8- Towed Motor Vehicle</td> <td colspan="2">C- Other Tanker</td> <td></td> </tr> <tr> <td colspan="3">1 1- None</td> <td colspan="2">5- Farm Trailer</td> <td>9- Petroleum Tanker</td> <td colspan="2">D- Flat Bed</td> <td></td> </tr> <tr> <td colspan="3">2 1- Mobile Home</td> <td colspan="2">6- Trailer w/Boat</td> <td>A- Lowboy Trailer</td> <td colspan="2">E- Twin Trailers</td> <td></td> </tr> <tr> <td colspan="3">3 3- Semi-Trailer</td> <td colspan="2">7- Camper Trailer</td> <td>B- Autocarrier Trailer</td> <td colspan="2">F- Other</td> <td></td> </tr> <tr> <td colspan="3">Action Prior to Impact</td> <td colspan="2">(Vehicle)</td> <td colspan="2">(Non-Motorist)</td> <td colspan="2">Alcohol / Drug Test Given</td> </tr> <tr> <td colspan="3">1 03 01- Backing</td> <td colspan="2">08- Parked</td> <td colspan="2">21- Approaching/Leaving Vehicle</td> <td colspan="2">3- Given - Pending</td> </tr> <tr> <td colspan="3">2 06 02- Changing lanes</td> <td colspan="2">09- Slowing or Stopped</td> <td colspan="2">22- Entering/Crossing Location</td> <td colspan="2">4- None</td> </tr> <tr> <td colspan="3">3 03- Entering traffic lane</td> <td colspan="2">10- Turning left</td> <td colspan="2">23- Playing/Working on Vehicle</td> <td colspan="2">5- Refused</td> </tr> <tr> <td colspan="3">4 04- Leaving traffic lane</td> <td colspan="2">11- Turning right</td> <td colspan="2">24- Pushing Vehicle</td> <td colspan="2">Special Use Only</td> </tr> <tr> <td colspan="3">5 05- Making U-turn</td> <td colspan="2">06- Movements Essentially Straight Ahead</td> <td colspan="2">25- Standing</td> <td colspan="2">1 2 3 4 5 6 7</td> </tr> <tr> <td colspan="3">6 06- Movements Essentially Straight Ahead</td> <td colspan="2">07- Overtaking/passing</td> <td colspan="2">26- Walking, Playing, Cycling</td> <td colspan="2">1 Under - Compartment Intrusion</td> </tr> <tr> <td colspan="3">7 07- Overtaking/passing</td> <td colspan="2">88- Other</td> <td colspan="2">99- Unknown</td> <td colspan="2">2 Under - No Intrusion</td> </tr> <tr> <td colspan="3">Weather Condition</td> <td colspan="2">3- Cloudy</td> <td>6- Fog, Smog, Smoke</td> <td colspan="2">9- Unknown</td> <td colspan="2">3 Under - Unknown</td> </tr> <tr> <td colspan="3">1 1- Clear (no adverse conditions)</td> <td colspan="2">4- Steel, Hall</td> <td>7- Blowing Sand, Oil, Dirt or Snow</td> <td colspan="2"></td> <td colspan="2">4- Over - MV in transport</td> </tr> <tr> <td colspan="3">2 2- Rain</td> <td colspan="2">5- Snow</td> <td>8- Severe Crosswinds</td> <td colspan="2"></td> <td colspan="2">5- Over - Other Vehicle</td> </tr> <tr> <td colspan="3">Light Condition</td> <td colspan="2">3- Dusk</td> <td>6- Dark (Street Lamp Not Lit)</td> <td colspan="2"></td> <td colspan="2">6- None</td> </tr> <tr> <td colspan="3">1 1- Daylight</td> <td colspan="2">4- Dark (Lighting Unspecified)</td> <td>7- Dark (No lights)</td> <td colspan="2"></td> <td colspan="2">9- Unknown</td> </tr> <tr> <td colspan="3">2 2- Dawn</td> <td colspan="2">5- Dark (Street Lamp Lit)</td> <td></td> <td colspan="2"></td> <td colspan="2">3- Disabling Damage</td> </tr> <tr> <td colspan="3">Junction Type</td> <td colspan="2">03- Five/More Points</td> <td>07- Shared Use Paths or Trails</td> <td colspan="2">12- Y-Intersection</td> <td colspan="2">5- Not Applicable</td> </tr> <tr> <td colspan="3">12 01- Crossover</td> <td colspan="2">04- Four-way Intersection</td> <td>08- T-Intersection</td> <td colspan="2">13- Nonjunction</td> <td colspan="2">Extent of Deformity</td> </tr> <tr> <td colspan="3">2 02- Driveway</td> <td colspan="2">05- Railway Grade Crossing</td> <td>09- Traffic Circle</td> <td colspan="2">99- Unknown</td> <td colspan="2">1 2 3</td> </tr> <tr> <td colspan="3">Primary</td> <td colspan="2">Contributing Factors</td> <td colspan="2">12- Aggressive Operation of Vehicle</td> <td colspan="2">Roadway</td> </tr> <tr> <td colspan="3">05 Driver</td> <td colspan="2"></td> <td colspan="2">13- Over-correcting/Over-steering</td> <td colspan="2">30- Debris</td> </tr> <tr> <td colspan="3">Others:</td> <td colspan="2">01- Disregarded Signs, Signal, 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Switch			Ejection		b) 2 or 3 Wheel Motorized Vehicle Only		Head Injury		1- Deployed Front 4- Not Deployed			1- Not Ejected		Location After Impact		3- Freed (non-mech.)		a) 2- Deployed Side 7- Not Applicable			2- Part, Ejected		1- Not Trapped		4- Not Applicable		3- Deployed Both 9- Deployment Unk.			2- Tot. Ejected		2- Extricated (Mechanical Means)		9- Unknown		1- Switch In On Position 3- No Switch			7- Not Applicable		a) Transported to Medical Facility		Pedestrian, Motor/Pedalcycle Only		b) 2- Switch In Off Position 9- Unknown			9- Unknown		1- Yes 2- No 3- Unknown		31- Helmet 51- Reflective Clothing							b) By: 1- EMS 2- Police 8- Other 9- Unknown		41- Protective Pads 61- Lighting		Sequence of Events														<table border="1"> <tr> <td>Non-Collision</td> <td>04- Equipment Failure</td> <td>08- Overturn/Rollover</td> <td>Collision: Not Fixed</td> <td>27- Pedestrian</td> <td>Collision: Fixed Object</td> <td>47- Embankment</td> <td>55- Mail Box</td> <td>68- Other</td> </tr> <tr> <td>01- Cargo/Equip Loss or Shift</td> <td>05- Fire/Explosion</td> <td>09- Ran off Road Left</td> <td>20- Animal (Deer Only)</td> <td>28- Railway Veh.</td> <td>40- Bridge Overhead Structure</td> <td>48- Equipment</td> <td>56- Median Barrier</td> <td>69- Unknown</td> </tr> <tr> <td>02- Cross Median/Center</td> <td>06- Immersion</td> <td>10- Ran off Road Right</td> <td>21- Animal (All Other)</td> <td>29- Work Zone Maint. 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Non-Collision</td> <td>45- Curb</td> <td>53- Impact Attenuator/Crash Cushion</td> </tr> <tr> <td>3</td> <td>3</td> <td>3</td> <td>3</td> <td>3</td> <td>3</td> <td>26- Pedalcycle</td> <td>46- Ditch</td> <td>54- Light/Luminaire Support</td> </tr> <tr> <td colspan="3">Manner of Collision (Struck Veh.)</td> <td colspan="2">30- Rear-to-Rear</td> <td>50- Sideswipe Same Dir.</td> <td colspan="3">1st / Most Deformed Area</td> </tr> <tr> <td colspan="3">142 00- Not Coll. w/ Motor Veh.</td> <td colspan="2">41- Angle (↘ ↗)</td> <td>60- Sideswipe Opposite Dir.</td> <td colspan="3">1st Deformed</td> </tr> <tr> <td colspan="3">2 1st Harmful Collision</td> <td colspan="2">10- Rear End</td> <td>42- Angle (→ ←)</td> <td colspan="3">Most Deformed</td> </tr> <tr> <td colspan="3">3 20- Head On</td> <td colspan="2">43- Angle (↗ ↘)</td> <td>99- Unknown</td> <td colspan="3">1 7 2 1 3</td> </tr> <tr> <td colspan="3">Vehicle Type</td> <td colspan="2">15- Full Size Van</td> <td>27- Pedalcycle</td> <td colspan="2">61- School Bus</td> <td></td> </tr> <tr> <td colspan="3">1 01- Automobile</td> <td colspan="2">16- Mini Van</td> <td>38- Animal Drawn Veh</td> <td colspan="2">62- Passenger Bus</td> <td></td> </tr> <tr> <td colspan="3">2 01- Pickup Truck</td> <td colspan="2">17- Sport Utility</td> <td>39- Animal (Hidden)</td> <td colspan="2">98- Other</td> <td></td> </tr> <tr> <td colspan="3">3 13- Truck Tractor</td> <td colspan="2">25- Motorcycle</td> <td>41- Pedestrian</td> <td colspan="2">99- Unk. 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Equip.	41- Bridge Parapet End	49- Fence	57- Overhead Sign Support		03- Downhill Runaway	07- Jackknife	11- Separation of Unit	22- Motor Veh. (In Transport)	38- Other Movable Object	42- Bridge Pier or Abutment	50- Guardrail End	58- Other (Post, Pole, Support, Etc.)		Event 1	Event 2	Event 3	Event 4	Most Harmful	1st Harmful	12- Spill (Two-Wheeled Veh.)	43- Bridge Rail	51- Guardrail Face	22	1	1	1	22	22	18- Other Non-Collision	44- Culvert	52- Highway Traffic Sign Post	2	2	2	2	22	22	19- Unk. Non-Collision	45- Curb	53- Impact Attenuator/Crash Cushion	3	3	3	3	3	3	26- Pedalcycle	46- Ditch	54- Light/Luminaire Support	Manner of Collision (Struck Veh.)			30- Rear-to-Rear		50- Sideswipe Same Dir.	1st / Most Deformed Area			142 00- Not Coll. w/ Motor Veh.			41- Angle (↘ ↗)		60- Sideswipe Opposite Dir.	1st Deformed			2 1st Harmful Collision			10- Rear End		42- Angle (→ ←)	Most Deformed			3 20- Head On			43- Angle (↗ ↘)		99- Unknown	1 7 2 1 3			Vehicle Type			15- Full Size Van		27- Pedalcycle	61- School Bus			1 01- Automobile			16- Mini Van		38- Animal Drawn Veh	62- Passenger Bus			2 01- Pickup Truck			17- Sport Utility		39- Animal (Hidden)	98- Other			3 13- Truck Tractor			25- Motorcycle		41- Pedestrian	99- Unk. (Hit and Run Only)			4 14- Other Truck			26- Other Motorbike		51- Train				Vehicle Use Code			04- Ambulance		08- Farm Use	12- Fire Fighting			1 01- Personal			05- Military		09- Wrecker or Tow	13- Logging			2 01- Driver Training			06- Transport Passengers		10- Police	18- Other			3 03- Construction/Maint.			07- Transport Property		11- Government	41- Pedestrian			Vehicle Attachment			4- Utility Trailer		8- Towed Motor Vehicle	C- Other Tanker			1 1- None			5- Farm Trailer		9- Petroleum Tanker	D- Flat Bed			2 1- Mobile Home			6- Trailer w/Boat		A- Lowboy Trailer	E- Twin Trailers			3 3- Semi-Trailer			7- Camper Trailer		B- Autocarrier Trailer	F- Other			Action Prior to Impact			(Vehicle)		(Non-Motorist)		Alcohol / Drug Test Given		1 03 01- Backing			08- Parked		21- Approaching/Leaving Vehicle		3- Given - Pending		2 06 02- Changing lanes			09- Slowing or Stopped		22- Entering/Crossing Location		4- None		3 03- Entering traffic lane			10- Turning left		23- Playing/Working on Vehicle		5- Refused		4 04- Leaving traffic lane			11- Turning right		24- Pushing Vehicle		Special Use Only		5 05- Making U-turn			06- Movements Essentially Straight Ahead		25- Standing		1 2 3 4 5 6 7		6 06- Movements Essentially Straight Ahead			07- Overtaking/passing		26- Walking, Playing, Cycling		1 Under - Compartment Intrusion		7 07- Overtaking/passing			88- Other		99- Unknown		2 Under - No Intrusion		Weather Condition			3- Cloudy		6- Fog, Smog, Smoke	9- Unknown		3 Under - Unknown		1 1- Clear (no adverse conditions)			4- Steel, Hall		7- Blowing Sand, Oil, Dirt or Snow			4- Over - MV in transport		2 2- Rain			5- Snow		8- Severe Crosswinds			5- Over - Other Vehicle		Light Condition			3- Dusk		6- Dark (Street Lamp Not Lit)			6- None		1 1- Daylight			4- Dark (Lighting Unspecified)		7- Dark (No lights)			9- Unknown		2 2- Dawn			5- Dark (Street Lamp Lit)					3- Disabling Damage		Junction Type			03- Five/More Points		07- Shared Use Paths or Trails	12- Y-Intersection		5- Not Applicable		12 01- Crossover			04- Four-way Intersection		08- T-Intersection	13- Nonjunction		Extent of Deformity		2 02- Driveway			05- Railway Grade Crossing		09- Traffic Circle	99- Unknown		1 2 3		Primary			Contributing Factors		12- Aggressive Operation of Vehicle		Roadway		05 Driver					13- Over-correcting/Over-steering		30- Debris		Others:			01- Disregarded Signs, Signal, Etc.		14- Swerving to Avoid Object		48- Other					02- Distracted/Inattention		15- Wrong Side or Wrong Way		49- Unknown					03- Driving Too Fast for Conditions		16- Under the Influence		50- Inattentive					04- Exceeded Authorized Speed Limit		17- Vision Obscured (Within Unit)		51- Lying &/or Illegally In Roadway					05- Failed to Yield Right of Way		18- Improper lane Usage/Change		52- Failure to Yield Right of Way					06- Ran off Road		09- Made an Improper Turn		53- Not Visible (Dark Clothing)					07- Fatigued/Asleep		10- Medical Related		54- Disregard Signs, Signals, Etc.					08- Followed Too Closely		20- Texting		55- Improper Crossing							28- Other Improper Action		56- Darling							29- Unk.		57- Wrong Side of Road									66- Under the Infl.									67- Other Person Under Infl.									58- Other									59- Unk.									60- Animal In Road									62- Obstruction									68- Other									61- Glare									63- Weather Condition									69- Unknown									Vehicle Defect									70- Brakes									76- Windows/Shield									71- Steering									77- Restraint System									72- Power Plant									78- Truck Coupling									73- Tires/Wheel									79- Cargo									74- Lights									80- Fuel System									75- Signals									88- Other									89- Unk.	
Race	AP- Asian/Pacific Islander	W- White (Caucasian)	a) Injury Status	2- Suspected Minor Injury	Seating Loc.	20- Pedestrian	60- Sleeper of Cab	Restraint/Safety Device																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																											
AI- Alaskan Native or American Indian	MR- Multi-Racial	0- No Apparent Injury	3- Suspected Serious Injury	01 02 03	30- Trailing Unit	70- Riding on Unit Exterior	00- None Used	21- Child Safety Seat																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																											
B- Black (African American)	H- Hispanic	1- Possible Injury	4- Fatal	04 05 06	40- Bus or Van (4th row or Higher)	80- Lap	11- Shoulder belt	88- Other																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																											
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<td>6- Fog, Smog, Smoke</td> <td colspan="2">9- Unknown</td> <td colspan="2">3 Under - Unknown</td> </tr> <tr> <td colspan="3">1 1- Clear (no adverse conditions)</td> <td colspan="2">4- Steel, Hall</td> <td>7- Blowing Sand, Oil, Dirt or Snow</td> <td colspan="2"></td> <td colspan="2">4- Over - MV in transport</td> </tr> <tr> <td colspan="3">2 2- Rain</td> <td colspan="2">5- Snow</td> <td>8- Severe Crosswinds</td> <td colspan="2"></td> <td colspan="2">5- Over - Other Vehicle</td> </tr> <tr> <td colspan="3">Light Condition</td> <td colspan="2">3- Dusk</td> <td>6- Dark (Street Lamp Not Lit)</td> <td colspan="2"></td> <td colspan="2">6- None</td> </tr> <tr> <td colspan="3">1 1- Daylight</td> <td colspan="2">4- Dark (Lighting Unspecified)</td> <td>7- Dark (No lights)</td> <td colspan="2"></td> <td colspan="2">9- Unknown</td> </tr> <tr> <td colspan="3">2 2- Dawn</td> <td colspan="2">5- Dark (Street Lamp Lit)</td> <td></td> <td colspan="2"></td> <td colspan="2">3- Disabling Damage</td> </tr> 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<tr> <td colspan="3"></td> <td colspan="2">07- Fatigued/Asleep</td> <td colspan="2">10- Medical Related</td> <td colspan="2">54- Disregard Signs, Signals, Etc.</td> </tr> <tr> <td colspan="3"></td> <td colspan="2">08- Followed Too Closely</td> <td colspan="2">20- Texting</td> <td colspan="2">55- Improper Crossing</td> </tr> <tr> <td colspan="3"></td> <td colspan="2"></td> <td colspan="2">28- Other Improper Action</td> <td colspan="2">56- Darling</td> </tr> <tr> <td colspan="3"></td> <td colspan="2"></td> <td colspan="2">29- Unk.</td> <td colspan="2">57- Wrong Side of Road</td> </tr> <tr> <td colspan="3"></td> <td colspan="2"></td> <td colspan="2"></td> <td colspan="2">66- Under the Infl.</td> </tr> <tr> <td colspan="3"></td> <td colspan="2"></td> <td colspan="2"></td> <td colspan="2">67- Other Person Under Infl.</td> </tr> <tr> <td colspan="3"></td> <td colspan="2"></td> <td colspan="2"></td> <td colspan="2">58- Other</td> </tr> <tr> <td colspan="3"></td> <td colspan="2"></td> <td 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Equip.	41- Bridge Parapet End	49- Fence	57- Overhead Sign Support		03- Downhill Runaway	07- Jackknife	11- Separation of Unit	22- Motor Veh. (In Transport)	38- Other Movable Object	42- Bridge Pier or Abutment	50- Guardrail End	58- Other (Post, Pole, Support, Etc.)		Event 1	Event 2	Event 3	Event 4	Most Harmful	1st Harmful	12- Spill (Two-Wheeled Veh.)	43- Bridge Rail	51- Guardrail Face	22	1	1	1	22	22	18- Other Non-Collision	44- Culvert	52- Highway Traffic Sign Post	2	2	2	2	22	22	19- Unk. Non-Collision	45- Curb	53- Impact Attenuator/Crash Cushion	3	3	3	3	3	3	26- Pedalcycle	46- Ditch	54- Light/Luminaire Support	Manner of Collision (Struck Veh.)			30- Rear-to-Rear		50- Sideswipe Same Dir.	1st / Most Deformed Area			142 00- Not Coll. w/ Motor Veh.			41- Angle (↘ ↗)		60- Sideswipe Opposite Dir.	1st Deformed			2 1st Harmful Collision			10- Rear End		42- Angle (→ ←)	Most Deformed			3 20- Head On			43- Angle (↗ ↘)		99- Unknown	1 7 2 1 3			Vehicle Type			15- Full Size Van		27- Pedalcycle	61- School Bus			1 01- Automobile			16- Mini Van		38- Animal Drawn Veh	62- Passenger Bus			2 01- Pickup Truck			17- Sport Utility		39- Animal (Hidden)	98- Other			3 13- Truck Tractor			25- Motorcycle		41- Pedestrian	99- Unk. (Hit and Run Only)			4 14- Other Truck			26- Other Motorbike		51- Train				Vehicle Use Code			04- Ambulance		08- Farm Use	12- Fire Fighting			1 01- Personal			05- Military		09- Wrecker or Tow	13- Logging			2 01- Driver Training			06- Transport Passengers		10- Police	18- Other			3 03- Construction/Maint.			07- Transport Property		11- Government	41- Pedestrian			Vehicle Attachment			4- Utility Trailer		8- Towed Motor Vehicle	C- Other Tanker			1 1- None			5- Farm Trailer		9- Petroleum Tanker	D- Flat Bed			2 1- Mobile Home			6- Trailer w/Boat		A- Lowboy Trailer	E- Twin Trailers			3 3- Semi-Trailer			7- Camper Trailer		B- Autocarrier Trailer	F- Other			Action Prior to Impact			(Vehicle)		(Non-Motorist)		Alcohol / Drug Test Given		1 03 01- Backing			08- Parked		21- Approaching/Leaving Vehicle		3- Given - Pending		2 06 02- Changing lanes			09- Slowing or Stopped		22- Entering/Crossing Location		4- None		3 03- Entering traffic lane			10- Turning left		23- Playing/Working on Vehicle		5- Refused		4 04- Leaving traffic lane			11- Turning right		24- Pushing Vehicle		Special Use Only		5 05- Making U-turn			06- Movements Essentially Straight Ahead		25- Standing		1 2 3 4 5 6 7		6 06- Movements Essentially Straight Ahead			07- Overtaking/passing		26- Walking, Playing, Cycling		1 Under - Compartment Intrusion		7 07- Overtaking/passing			88- Other		99- Unknown		2 Under - No Intrusion		Weather Condition			3- Cloudy		6- Fog, Smog, Smoke	9- Unknown		3 Under - Unknown		1 1- Clear (no adverse conditions)			4- Steel, Hall		7- Blowing Sand, Oil, Dirt or Snow			4- Over - MV in transport		2 2- Rain			5- Snow		8- Severe Crosswinds			5- Over - Other Vehicle		Light Condition			3- Dusk		6- Dark (Street Lamp Not Lit)			6- None		1 1- Daylight			4- Dark (Lighting Unspecified)		7- Dark (No lights)			9- Unknown		2 2- Dawn			5- Dark (Street Lamp Lit)					3- Disabling Damage		Junction Type			03- Five/More Points		07- Shared Use Paths or Trails	12- Y-Intersection		5- Not Applicable		12 01- Crossover			04- Four-way Intersection		08- T-Intersection	13- Nonjunction		Extent of Deformity		2 02- Driveway			05- Railway Grade Crossing		09- Traffic Circle	99- Unknown		1 2 3		Primary			Contributing Factors		12- Aggressive Operation of Vehicle		Roadway		05 Driver					13- Over-correcting/Over-steering		30- Debris		Others:			01- Disregarded Signs, Signal, Etc.		14- Swerving to Avoid Object		48- Other					02- Distracted/Inattention		15- Wrong Side or Wrong Way		49- Unknown					03- Driving Too Fast for Conditions		16- Under the Influence		50- Inattentive					04- Exceeded Authorized Speed Limit		17- Vision Obscured (Within Unit)		51- Lying &/or Illegally In Roadway					05- Failed to Yield Right of Way		18- Improper lane Usage/Change		52- Failure to Yield Right of Way					06- Ran off Road		09- Made an Improper Turn		53- Not Visible (Dark Clothing)					07- Fatigued/Asleep		10- Medical Related		54- Disregard Signs, Signals, Etc.					08- Followed Too Closely		20- Texting		55- Improper Crossing							28- Other Improper Action		56- Darling							29- Unk.		57- Wrong Side of Road									66- Under the Infl.									67- Other Person Under Infl.									58- Other									59- Unk.									60- Animal In Road									62- Obstruction									68- Other									61- Glare									63- Weather Condition									69- Unknown									Vehicle Defect									70- Brakes									76- Windows/Shield									71- Steering									77- Restraint System									72- Power Plant									78- Truck Coupling									73- Tires/Wheel									79- Cargo									74- Lights									80- Fuel System									75- Signals									88- Other									89- Unk.																																																																																																																																
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Mail FR-10 to: SC Department of Motor Vehicles Office of Financial Responsibility (803) 896-5000 PO Box 1498, Blythewood, SC 29016-0050				SOUTH CAROLINA DEPARTMENT OF MOTOR VEHICLES FR-10 (REV. 02/2019) NOTICE OF REQUIREMENT				Submit Electronically: Agents or Company Representatives can submit your Insurance Information at WWW.SC-ALIR.COM																																																																																																																																
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To Vehicle Owner/Operator Failure to return this form to the Department of Motor Vehicles within 15 days from the date of the collision could result in the suspension of your driver license and registration privileges pursuant to South Carolina Code of Laws 56-9-351 and 56-10-530.																																																																																																																																								
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To Be Completed Below or Entered at WWW.SC-ALIR.COM By Insurance Company representative. This form should not be mailed to DMV if insurance information has been submitted electronically. Reference to Unit #: _____, I here by affirm that to the best of my knowledge the vehicle described above was insured by the below stated insurance company on the date of the collision.						The information as contained herein is based solely upon my knowledge and belief as a representative of the above insurance company and no warranty of liability is imputed into the above mentioned insurance as I have listed herein																																																																																																																																		
Insurance Company			Policy #:			Signature			Title																																																																																																																															
Beginning Date:		Ending Date:		Policy Holder:			NAIC# (Assigned by S.C. Dept. of Ins.)			Bus. Telephone ()																																																																																																																														
Notice: If liability insurance was not in effect for your vehicle involved in the collision, the Department of Motor Vehicles could suspend your driver license and registration privileges pursuant to South Carolina Code of Laws 56-9-351 and 56-10-530.																																																																																																																																								
If any of the below are applicable, Disregard the above portion.						Form FR-10 Not Issued: Section 56-10-520																																																																																																																																		
☐ Check here if a Form SR-23, Fleet policy of 25 or more vehicles is on file with the Department of Motor Vehicles covering the vehicle ☐ Check here if a certificate of self-insurance has been issued by the Department of Motor Vehicles covering the vehicle and indicate the certificate number: SI - _____ ☐ Check here if liability insurance was not in effect to comply with South Carolina statutory requirements						No FR-10 Issued to Operator/ Owner of Unit #: _____ Summons Issued to: _____ <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td colspan="2">For operating or allowing the operation of an uninsured vehicle</td> <td colspan="2">Summons Number:</td> </tr> <tr> <td colspan="2">Signature</td> <td colspan="2">Signature</td> </tr> </table>						For operating or allowing the operation of an uninsured vehicle		Summons Number:		Signature		Signature																																																																																																																						
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Investigating Officer's Name GOMEZ V.		Rank OFC	SCCJA # 7077-4523	Code 3 7 0 1	Date	Reviewer's Name		Rank	Internal Agency Code 23-003518																																																																																																																															

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Imagery ©2023 CNES / Airbus, Maxar Technologies Orbis Inc U.S Geological Survey, Map data ©2023 20 ft

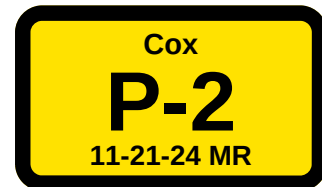




Image captured: Dec 2016 © 2023 Google





Image capture: Jul 2019 © 2023 Google



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) IN THE COURT OF COMMON PLEAS

) THE TENTH JUDICIAL CIRCUIT

) CASE NO.: 2024-CP-37-00163

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**TO: CHRISTOPHER T. DORSEL, ESQ., AND MARK BRINGARDNER ESQ.,
ATTORNEYS FOR THE PLAINTIFF:**

Defendant Brian Cox (“Defendant”), by and through the undersigned counsel and pursuant to Rules 33 of the South Carolina Rules of Civil Procedure, submits these Supplemental Answers to Plaintiff’s First Set of Interrogatories to Plaintiff Charles Shabazz (“Plaintiff”), reserving the right to amend and/or supplement, 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:

Charles Shabazz
c/o Mark Bringardner, Esq.
c/o Connor W. Treece, Esq.
41 Broad Street
Charleston, SC 29401

Defendant is not aware of any recorded statements by this witness. Defendant expects this witness to testify about the facts and circumstances surrounding the accident.

Brian Cox
c/o Jeffrey Crudup, Esq.
497 St. Andrews Blvd.
Charleston, SC 29407

Defendant is not aware of any recorded statements by this witness. Defendant expects this witness to testify about the facts and circumstances surrounding the accident.

Investigating Officer

Defendant is not aware of any recorded statements by this witness outside of their police report. Defendant expects this witness to testify about the facts and circumstances surrounding their investigation.

Plaintiff's Treating Physicians

Defendant is not aware of any recorded statements by these witnesses outside of their notes for medical records. Defendant expects these witnesses to testify about the facts and circumstances consistent with their medical notes.

Defendant reserves the right to supplement this response.

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: Please see answer to Interrogatory No. 1.

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:

**Various Communications between Plaintiff's Counsel and Progressive;
Covenant Not to Execute;
Photos of Defendant's Vehicle;
Photos of Plaintiff's Vehicle;
Plaintiff's Medical Bills;
Plaintiff's Motor Vehicle Record;
Defendant's Motor Vehicle Record;
Declaration Page**

**Police Report; and
Summons and Complaint.**

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 was not injured.

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:

**Progressive Northern Insurance Co
P.O. Box 6807
Cleveland, OH 44101
Policy: 41805862
Limits: \$100,000/\$300,000**

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 determined if he will use an expert at trial. Defendant reserves the right to supplement this response.

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: Defendant states his attorneys at Clarkson, Walsh & Coulter

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:

Brian Cox

Born: Rockhill

'79

SNN: XXX-XX-9673

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

**ANSWER: 832 Harts Cove Way
Seneca, SC 29678**

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: Lake Life Realty 2015 - Current

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: Defendant states no.

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

ANSWER: Defendant states no.

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: Defendant states yes he has a license and was suspended in 1997 for minor in possession of alcohol.

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: (864) 903-
AT&T
Defendant's phone was either in his pocket or in the console of his dashboard.**

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 states no.

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 states no.

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: The accident damaged the rear quarter panel of Defendant's vehicle. Defendant's vehicle was totaled.

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: Defendant states no.

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: Defendant states no.

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 states no.

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

ANSWER: Eye Mart Express Anderson, SC

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: Defendant states none.

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: Defendant state he is unaware of the existence of any onboard data.

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 medial platform.

ANSWER: Facebook and Instagram under his name.

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: Defendant was traveling from 203-A Old Salem Rd, Seneca to 832 Harts Cove Way Seneca, SC 29678. Defendant was trying to get onto Highway 130 towards Old Clemson Highway.

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

ANSWER: Defendant states he was leaving his office making a left turn across a lane. A driver in the lane he was crossing waved him through and he did not see any traffic in the lane Plaintiff was in. However, Defendant did not see Plaintiff who collided with his rear quarter panel.

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: Defendant states no.

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: Defendant states no.

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 does not make this contention.

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

ANSWER: Objection. Defendant objects to this Interrogatory as it seeks an attorney's mental impressions and trial strategy. Subject to and without waiving these objections, discovery is ongoing and Defendant will supplement this response as additional information is obtained.

SUPPLEMENTAL ANSWER: Defendant states he relies upon the police report, Plaintiff's complaint, and privileged conversations with their counsel at Clarkson, Walsh, and Coulter.

- 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: Defendant states no.

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 states no.

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 does not make this contention.

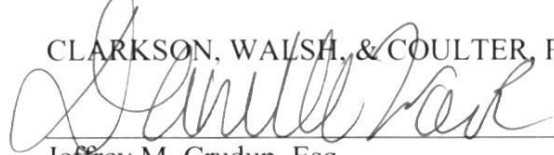
36. Do you have any document concerning the past or present physical, mental, or emotional condition of the plaintiff in this case from a medical provider not previously identified? If so, please identify each medical provider and provide a description of the documents in your possession.

ANSWER: Defendant states no. Defendant reserves the right to supplement this response.

This 10th day of September, 2024

Respectively Submitted,

CLARKSON, WALSH, & COULTER, P.A.,

A handwritten signature in cursive script, appearing to read "Jeffrey M. Crudup", written over a horizontal line.

Jeffrey M. Crudup, Esq.

State Bar No.: 100281

Ryan T. Adams, Esq.

State Bar No.: 102641

497 St. Andrews Boulevard

Charleston, SC 29407

T: 843.981.5180

E: jcrudup@clarksonwalsh.com

radams@clarksonwalsh.com

Counsel for Defendant

) IN THE COURT OF COMMON PLEAS

THE TENTH JUDICIAL CIRCUIT

) CASE NO.: 2024-CP-37-00163

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Christopher T. Dorsel, Esq.

Mark Bringardner, Esq.

Bringardner Injury Law Firm, LLC

41 Broad Street

Charleston, SC 29401

Attorneys for Plaintiff

This 10th day of September, 2024

Alicia Scott
Paralegal to Ryan T. Adams, Esq.

SECTION 56-5-440.Through highway defined.

Every highway or portion thereof on which vehicular traffic is given preferential right-of-way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield the right-of-way to vehicles on such through highway in obedience to a stop sign, yield sign or other official traffic-control device, when such signs or devices are erected as provided in this chapter is a "through highway".

HISTORY: 1962 Code Section 46-252; 152 Code Section 46-252; 1949 (46) 466; 1978 Act No. 461 Section 5.

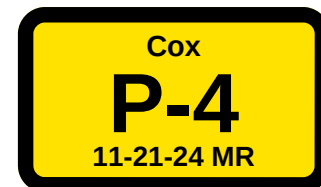
SECTION 56-5-2330.Stop signs and yield signs.

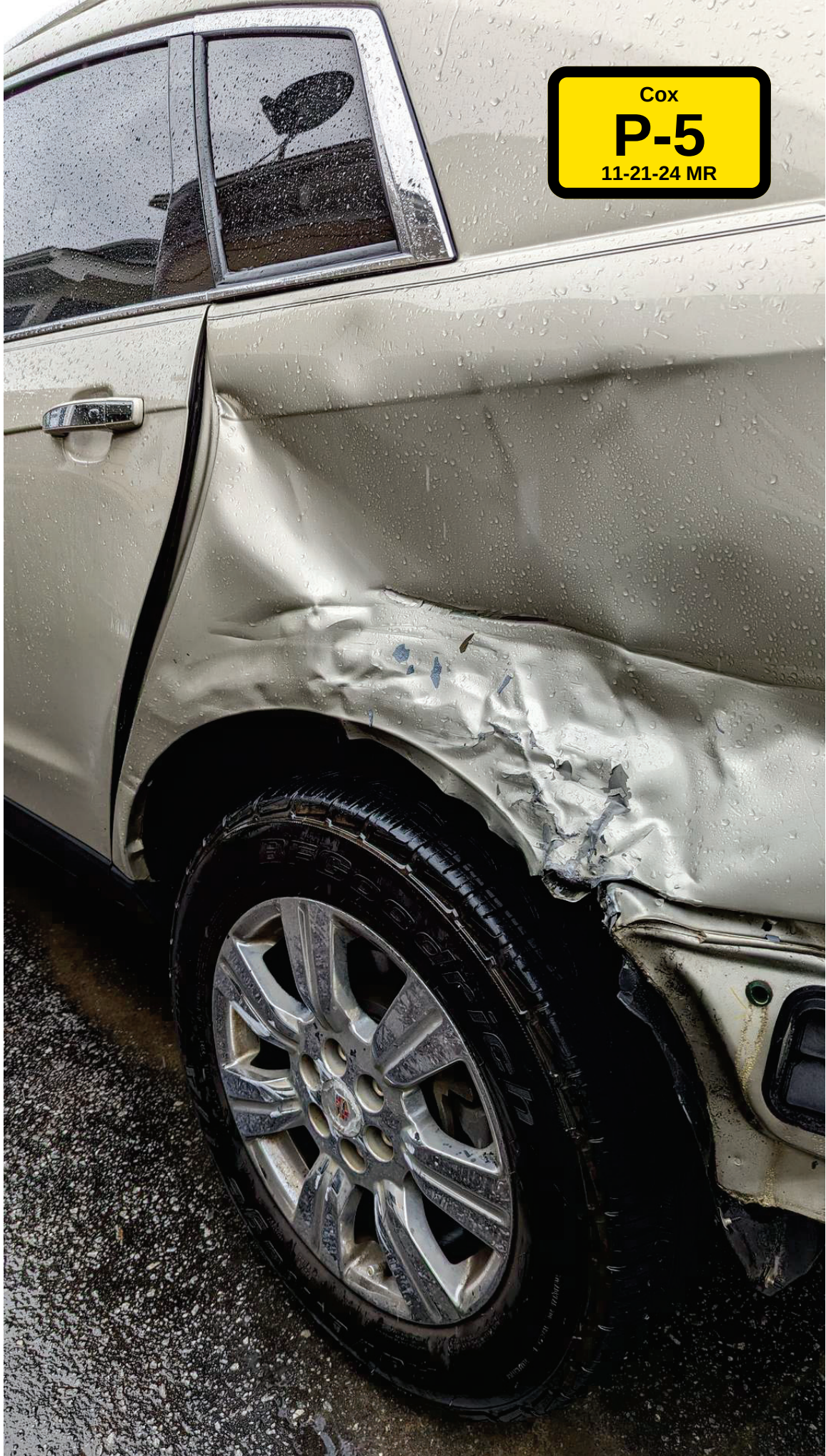
(a) Preferential right-of-way may be indicated by stop signs or yield signs as authorized by the Department of Transportation or local authorities.

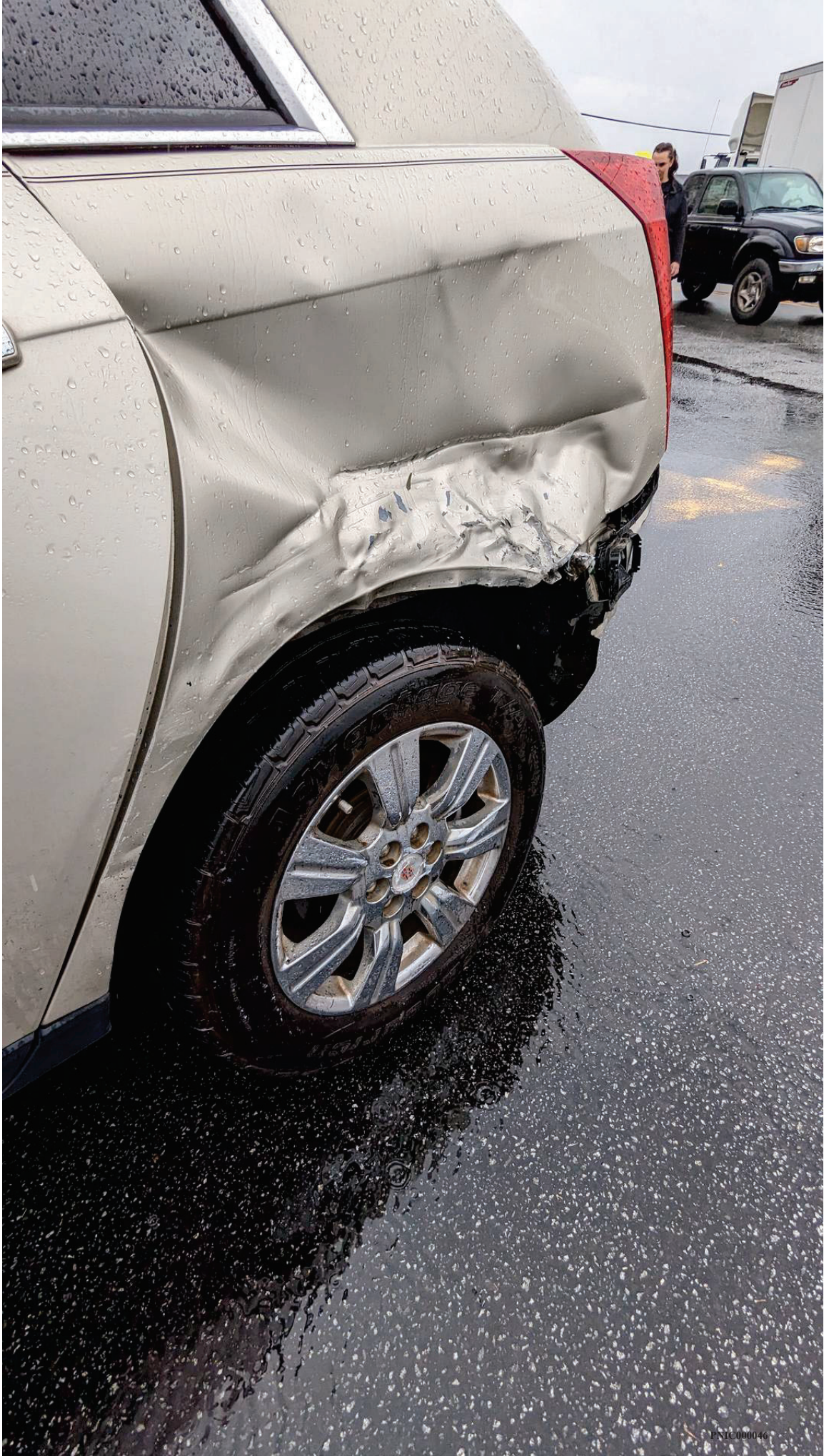
(b) Except when directed to proceed by a police officer, every driver of a vehicle approaching a stop sign shall stop at a clearly marked stop line but, if none, before entering the crosswalk on the near side of the intersection or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After having stopped, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time when such driver is moving across or within the intersection or junction of roadways.

(c) The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop line but, if none, before entering the cross-walk on the near side of the intersection or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting road before entering it. After slowing or stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection or junction of roadways. If such driver is involved in a collision with a vehicle in the intersection or junction of roadways, after driving past a yield sign without stopping, the collision shall be deemed prima facie evidence of his failure to yield right-of-way.

HISTORY: 1962 Code Section 46-423; 1952 Code Section 46-423; 1949 (46) 466; 1977 Act No. 144 Section 7; 1993 Act No. 181, Section 1413.









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PNIC000072



PNTC000073

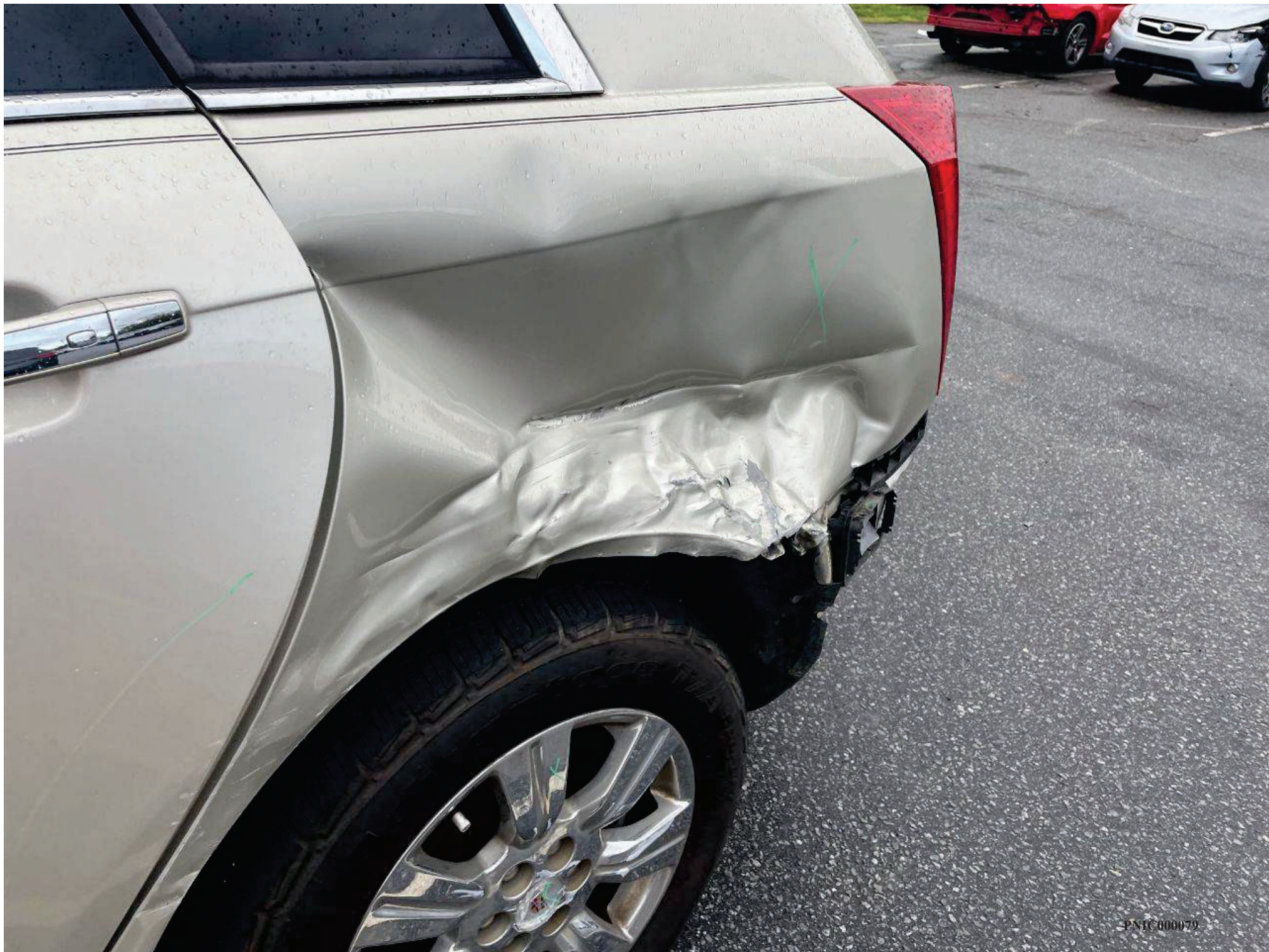


PNIC000074



PNIC000075





PNIC000079



PNIC000080





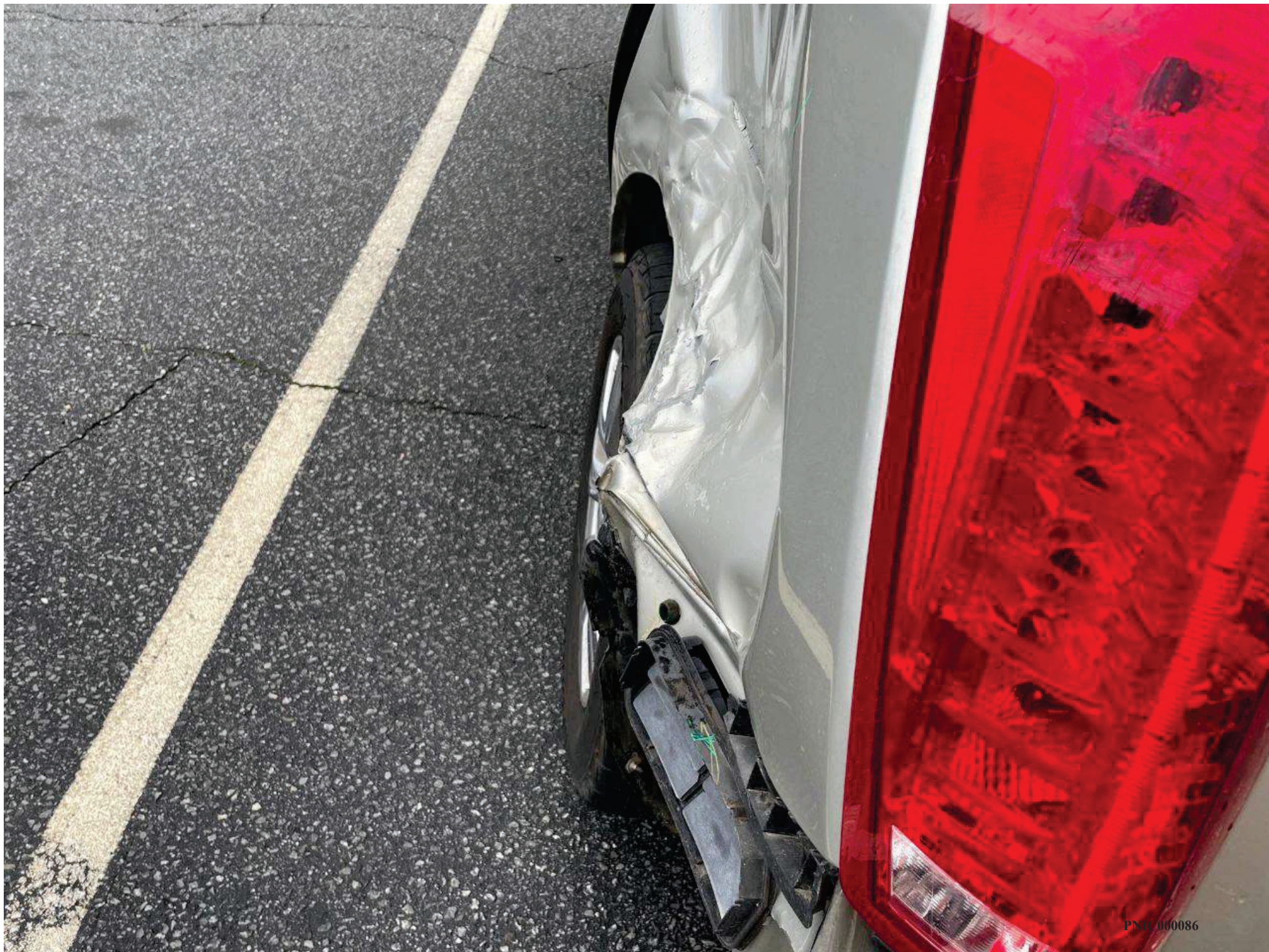
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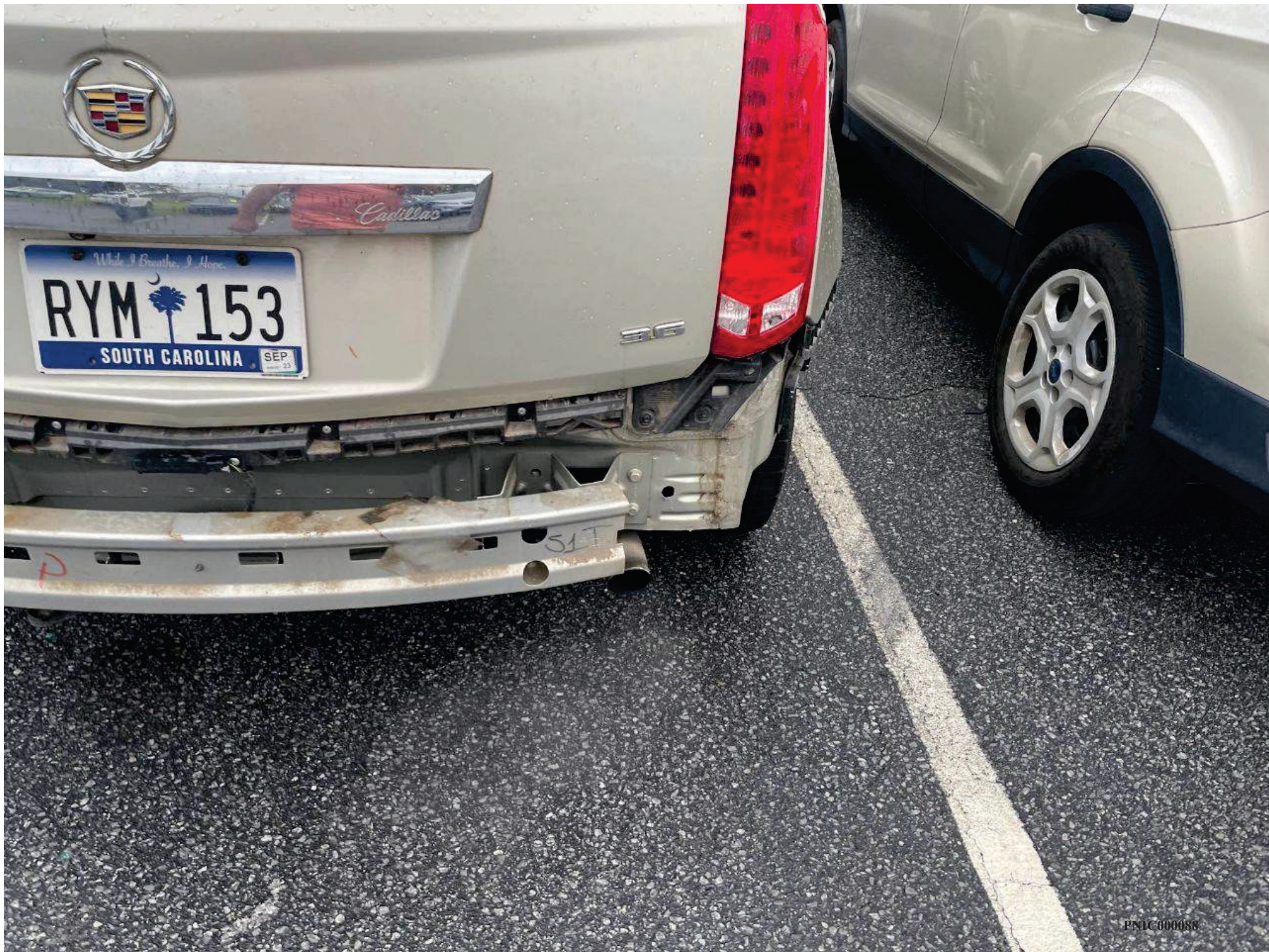


PNIC000084





PNIC000087







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

Chris Dorsel
Email: cdorsel@bringardner.com

December 5, 2023

TIME SENSITIVE UNEQUIVOCAL SETTLEMENT DEMAND FOR THE BODILY INJURY POLICY LIMITS

EXPIRES AT 5 PM ON JANUARY 4, 2024

VIA CERTIFIED MAIL-RETURN RECEIPT REQUESTED

VIA FAX: 844-268-4650

Progressive Northern Insurance Company
Kimaya Brown, Adjuster
4130 Faber Place Drive, Suite 202
North Charleston, SC 29405



RE:	Our Client:	Charles Shabazz
	Your Insured:	Brian Cox
	Your Claim No.:	23-22222603
	Date of Injury:	March 22, 2023

Dear Ms. Brown:

This is a clear and unequivocal time sensitive settlement opportunity that needs to be immediately forwarded to everybody who has an interest in this case. This is not an invitation to negotiate.

As you know, this law firm represents Charles Shabazz for this incident that resulted in **my client suffering a broken arm**. We are informed that Progressive Northern Insurance Company ("Progressive") insured Defendant Brian Cox on the date of the incident. At this point it has become clear that my client's damages exceed your insured's reported liability policy limits.

Please accept this as my client's clear and unequivocal settlement demand for a full tender of the bodily injury policy limits. In exchange for tendering the policy limits, my client will sign a covenant not to execute a judgment in excess thereof against your insured. If any additional liability, commercial, umbrella, or other liability insurance policies exist that were maintained by your insured with the potential for coverage of my client's claims, this settlement opportunity is **null and void**.

This letter consists of 6 total pages and should be reviewed in its entirety. Dissemination of this letter with fewer than all of its pages would be unauthorized, misleading, and prima facie evidence of bad faith.

This settlement demand is inclusive of all economic and non-economic damages, known and unknown, costs, fees, and any liens, assignments or statutory rights of recovery.

Subject to the conditions below, unless this demand is accepted in writing and the settlement check is received and in my office by no later than 5 pm on **January 4, 2024**, a subsequent tender of the available coverage will be rejected, and I will seek to have the carrier held responsible for the full amount of any verdict returned pursuant to the *Tyger River* line of cases.

My client hereby offers to enter into a covenant not to execute judgment against your insured for all claims arising out of the motor vehicle collision on the above-referenced date subject to the following terms and conditions:

1) Your acceptance of this policy limit settlement offer must be in writing and must be received by us at our office, located at 41 Broad Street, Charleston, SC 29401, on or before 5 pm on **January 4, 2024**;

2) Before or concurrently with the delivery of written acceptance of this policy limit settlement demand, we must receive an affidavit signed by your insured under penalty of perjury setting forth the full extent of all liability insurance coverage available for this claim. The affidavit must specifically state that there is no other liability insurance coverage applicable to indemnify or defend your insured against our client's claim; the affidavit must state whether or not your insured carried excess liability or umbrella coverage, and whether or not your insured was in the course and scope of employment at the time of the collision. The affidavit template enclosed satisfies these requirements; and

3) The settlement check(s) must be made out to "Bringardner Injury Law Firm as attorney for Charles Shabazz", only. You may issue more than one check so long as the combined amount totals the remaining policy limits. The settlement check(s) must be at our office, located at 41 Broad Street, Charleston, SC 29401, on or before 5 pm on **January 4, 2024**.

You may condition your acceptance of this policy limit settlement offer that it is inclusive of any and all subrogation and lien claims arising out of the subject incident. The covenant not to execute judgment against your insured must allow my client to pursue all other available sources of recovery other than the personal assets and automobile liability coverage of your insured;

Strict adherence to each and every term and condition of this offer is required for its acceptance. There can be no change in any of the terms and conditions of this offer. All communications with this office regarding this demand must be in writing. Any counteroffer or proposed change to the terms and conditions of this demand will be construed as a rejection of this demand and this demand will be immediately revoked by operation of law and this settlement opportunity will be gone.

However, if you have any questions regarding this demand letter or need further clarification as to how to properly comply with this demand, please contact me in writing. I will promptly address your correspondence and will not construe your questions or requests for clarifications as a rejection or counteroffer.

The Collision and Liability

Liability against Defendant Brian Cox is clear. Defendant Cox failed to yield the right of way and drove into my client's path. The responding police officer determined that Defendant Cox was the sole cause of the collision. The traffic collision report and property damage photographs are enclosed.

Injuries, Medical Treatment and Medical Costs

Your insured's negligence caused my client to sustain a closed fracture of the distal end of his left radius. Additionally, he had injuries to his left ankle, left knee, neck, and back. Copies of my client's medical records and bills to date are enclosed herewith. Below is an itemized breakdown of my client's past medical bills that have been incurred due to injuries from the incident.

Provider	Total Charges
Oconee EMS	\$552.80
Prisma Health Oconee Memorial Hospital	\$8,384.50
Prisma Health - Physician	\$594.00
Prisma Health Medical Group	\$531.00
Prisma Health Blue Ridge Orthopedics - Seneca	\$1,660.01
ATI Physical Therapy	\$7,245.00
Prisma Health Hand Center - Seneca	\$144.00
TOTAL SPECIALS:	\$19,111.31

Conclusion

The well-grounded precedent set forth in the *Tyger River* doctrine in South Carolina was created and intended to apply in precisely this type of situation. Here, Brian Cox is underinsured. Your insured's current and future recoverable assets are at risk due to the significance of my client's damages and your insured's clear liability for this incident.

Please inform your insured of our time sensitive policy limits demand by providing your insured this demand letter in its entirety. Also, please advise your insured of the ramifications of a verdict in excess of the liability policy limits and the potential conflict of interest that will be created if the policy limits are not tendered pursuant to this demand.

Please advise your insured of the right to consult with an attorney of your insured's own choice, not provided by Progressive, to consider this settlement demand and potential personal exposure in excess of the policy limits for this claim. Because your insured presumably has little or no experience in evaluating personal injury claims such as my client's, you cannot expect your insured simply to accept and to acquiesce in any evaluation of my client's damages at less than the policy limits; rather, the only way your insured can understand the risks incurred based upon any such evaluation is to have this matter reviewed by an independent, experienced personal injury attorney who can provide your insured with guidance in responding to this demand.

This is Progressive's only opportunity to protect its insured and resolve this liability claim within the policy limits. Any offer by Progressive for less than the settlement opportunity I am presenting today will constitute a rejection of the demand and we will prepare this case for trial.

This letter consists of 6 total pages and should be reviewed in its entirety. Dissemination of this letter with fewer than all of its pages would be unauthorized, misleading, and prima facie evidence of bad faith.

We want to ensure that the defense has a clear opportunity to fully resolve this claim. If you or your insured have any questions regarding this settlement opportunity, please contact me in writing and I will be happy to consider any reasonable requests.

Very truly yours,

BRINGARDNER INJURY LAW FIRM, LLC



Christopher T. Dorsel, Esq.

Enclosures

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF OCONEE) TENTH JUDICIAL CIRCUIT

Charles Shabazz,)
)
Plaintiff,)
)
v.) Case No.:
) 2024-CP-37-00163
Brian Cox,)
)
Defendant.)

VIDEOTAPED DEPOSITION OF:

TENLEY ERIN MURPHY, MD

DATE TAKEN: Tuesday, October 21, 2025

TIME: 11:00 A.M.

PLACE: Blue Ridge Orthopedics
10630 Clemson Blvd, Suite 100
Seneca, South Carolina

REPORTED BY: MARY ANN RIDENOUR, RPR
and Notary Public

1 A P P E A R A N C E S

2
3 REPRESENTING THE PLAINTIFF:

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ALSO PRESENT:

CHRISTOPHER MILLS, VIDEOGRAPHER
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I N D E X

Testimony of Tenley Erin Murphy, MD

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I N D E X

Plaintiff's Exhibit No. 1 - Illustration

Plaintiff Docs 1620.....23

S T I P U L A T I O N S

It is hereby stipulated and agreed by and between
the parties hereto, through their respective counsel,
that the reading and signing of the transcript is
reserved by the Deponent.

1 (The deposition commenced at 11:20 a.m.)

2 MR. MILLS: We are now on the record.

3 Today's date is October 21, 2025. The time is

4 approximately 11:20 a.m. This is the video

5 deposition of Tenley Murphy, MD. This deposition

6 is taken in the matter of Charles Shabazz versus

7 Brian Cox.

8 Will counsel please introduce themselves for

9 the record.

10 MS. LINTON: Mary Linton, counsel for Charles

11 Shabazz.

12 MR. CRUDUP: Jeff Crudup on behalf of the

13 defendant.

14 MS. PASQUINI: Shelby Paquini on behalf of

15 the defendant.

16 MR. MILLS: Okay. Will our court reporter

17 please swear in the witness.

18 TENLEY MURPHY, MD, SWORN.

19 VOIR DIRE EXAMINATION BY MS. LINTON:

20 Q. Good morning, Dr. Murphy. My name is Mary

21 Linton. I represent Charles Shabazz in connection with

22 this case. We're here to take your trial deposition

23 regarding your treatment of Mr. Shabazz.

24 But before we begin, would you please state

25 your full name for the record?

1 A. Tenley Erin Murphy.

2 Q. And, Dr. Murphy, can you please give the jury
3 a brief background of your education?

4 A. Undergraduate at Clemson University, medical
5 school at University of South Carolina School of
6 Medicine.

7 Q. And when did you graduate?

8 A. 2005.

9 Q. Are you currently licensed to practice
10 medicine in South Carolina?

11 A. Yes.

12 Q. And, Dr. Murphy, where do you currently
13 work?

14 A. I work at Blue Ridge Orthopaedics, as well as
15 Clemson University.

16 Q. And what do you do at each of those?

17 A. I'm the assistant AD of sports medicine, team
18 physician at Clemson. And I'm an attending physician
19 at Blue Ridge.

20 Q. And tell the jury a little bit about what
21 your duties entail being an attending physician at Blue
22 Ridge Orthopaedics.

23 A. I see patients in the -- in an outpatient
24 capacity two and a half days a week.

25 Q. What types of patients do you routinely

1 encounter?

2 A. Injuries, musculoskeletal, ligamentous,
3 tendon, bony injuries.

4 Q. And what -- how do many of those injuries
5 originate?

6 A. Sports-related accidents, car accidents,
7 falls.

8 Q. And how long have you worked at each of these
9 places?

10 A. I've been back in Clemson seven years.

11 Q. How long have you been practicing medicine?

12 A. Seventeen years.

13 Q. And what area do you focus on?

14 A. Sports medicine.

15 Q. Does that include orthopaedics?

16 A. Nonoperative orthopaedics, yes.

17 Q. And could you please explain to the jury what
18 that means?

19 A. It means I treat musculoskeletal injuries
20 without going to the operating room.

21 Q. And could you please describe to the jury
22 what "musculoskeletal injuries" means?

23 A. Bone, ligament, tendon, muscle.

24 Q. And, Dr. Murphy, are you board certified?

25 A. Yes.

1 Q. In what areas?

2 A. Family medicine and sports medicine.

3 Q. And what does that mean, to be board
4 certified?

5 A. I graduated from medical school, residency,
6 completed an accredited fellowship, and taken my board
7 certification tests as required.

8 MS. LINTON: At this time, I would like to go
9 ahead and tender Dr. Murphy as an expert in the
10 field of orthopaedics.

11 MR. CRUDUP: No objection.

12 DIRECT EXAMINATION BY MS. LINTON:

13 Q. All right. Dr. Murphy, was Charles Shabazz a
14 patient of yours?

15 A. Yes.

16 Q. And when did you first see him?

17 A. March 30, 2023.

18 Q. At that time, what complaints was he make
19 making?

20 A. Left wrist pain.

21 Q. Did Charles tell you how this left wrist pain
22 occurred?

23 A. Yes, car accident.

24 Q. Were his injuries consistent with being in an
25 automobile collision?

1 A. Yes.

2 Q. Tell me about what you did with Charles
3 during this visit.

4 A. Took his history of the accident and his
5 symptoms, did a physical exam of his left wrist. We
6 did some X-rays, subsequently put him in a thumb spica
7 wrist splint to treat a distal radius fracture.

8 Q. And you said you took X-rays?

9 A. Yes.

10 Q. And what did those X-rays show?

11 A. A nondisplaced cortical defect representing a
12 fracture.

13 Q. All right. So let's break that down for the
14 jury.

15 What does a nondisplaced fracture mean?

16 A. The alignment of the bone is the way it's
17 supposed to be.

18 Q. Okay.

19 A. Normal in appearance.

20 Q. What does that mean?

21 A. It's -- the pieces aren't moved from their
22 regular location.

23 Q. Like it's not broken in half?

24 A. Right.

25 Q. And then you said cortical defect?

1 A. The surface of the bone.

2 Q. What does that mean?

3 A. So where the cortex of the bone or the
4 surface is, you can see a disruption of that surface.

5 Q. To a reasonable degree of medical certainty,
6 was the fracture caused by the automobile collision?

7 A. Yes.

8 Q. At this time, I'm going to mark this as
9 Exhibit 1 for ID only. Can you see that, Dr. Murphy?

10 A. Yes.

11 Q. I'd like to show you what's been marked as
12 Plaintiff's Exhibit 1. Could you please explain to the
13 jury what this bottom image right here is?

14 A. That is a dorsal X-ray of his left wrist, or
15 top to bottom.

16 Q. Okay. And that's an X-ray of Charles's
17 wrist?

18 A. Yes.

19 Q. On this X-ray, can you see the fracture?

20 A. Yes.

21 Q. And looking at the right image, could you
22 point to where the fracture is located on that anatomic
23 image of Charles's wrist?

24 A. Yes.

25 Q. And looking over right here --

1 A. Uh-huh.

2 Q. -- Dr. Murphy, is that a fair and accurate
3 depiction of the fracture that you viewed on the X-rays
4 of Charles?

5 A. Yes.

6 Q. And could you describe that fracture for the
7 jury, please?

8 A. Not displaced, meaning the alignment of the
9 bone is where it should be. And it's a disruption at
10 the surface of the bone.

11 Q. What was Charles's treatment plan in light of
12 the fracture?

13 A. He was put in a wrist splint and held out of
14 work.

15 Q. Was he told to follow up with your office?

16 A. Yes.

17 Q. And did he follow up with your office?

18 A. Yes.

19 Q. When was Charles's next visit?

20 A. April the 25th.

21 Q. At that time, what complaints was Charles
22 having?

23 A. He was experiencing some popping sensation.

24 MS. LINTON: Can we go off the record for a
25 minute?

1 MR. MILLS: Yeah. Off the record at 11:26.

2 (Discussion held off the record.)

3 MR. MILLS: On the record at 11:28.

4 BY MS. LINTON:

5 Q. Dr. Murphy, when was Charles's next visit
6 with you?

7 A. April 25th.

8 Q. At that time, what complaints of pain was
9 Charles having?

10 A. Popping sensation.

11 Q. Was he experiencing stiffness?

12 A. Yes.

13 Q. Did he tell you that the popping sensation
14 was painful?

15 A. Yes.

16 Q. What did you do in response?

17 A. We kept him immobilized and sent him to
18 occupational therapy.

19 Q. To your knowledge, did Charles attend the
20 prescribed therapy sessions?

21 A. Yes.

22 Q. Did those alleviate his pain symptoms?

23 A. Some.

24 Q. What pain symptoms was he still having?

25 A. The popping sensation.

1 Q. Did Charles return to you after occupational
2 therapy?

3 A. Yes.

4 Q. And when was his next visit?

5 A. June 20th.

6 Q. At that time, how many months had it been
7 since the collision?

8 A. Almost three.

9 Q. And in your experience, how long does it take
10 for a fracture like the one Charles suffered to heal?

11 A. Six to eight weeks.

12 Q. Was it concerning that Charles still had this
13 same type of pain three months later?

14 A. Yes.

15 Q. And what did you do in response?

16 A. We scheduled him for an MRI.

17 Q. Did Charles ultimately undergo an MRI?

18 A. Yes.

19 Q. Did you review that MRI?

20 A. Yes.

21 Q. And what did it show?

22 A. He had some edema or swelling around the
23 ligament at the area of his pain.

24 Q. And, Dr. Murphy, I'm going to show you again
25 what's been marked for identification purposes as

1 Plaintiff's Exhibit 1. Could you please point to where
2 the edema was located on Charles's ligament?

3 And, again, could you please describe for the
4 jury what edema is?

5 A. It's swelling in response to injury or
6 inflammation.

7 Q. Does edema indicate that there was trauma
8 sustained to that ligament?

9 A. Yes.

10 Q. And is this illustration, the top, left
11 illustration, is that a true and accurate depiction of
12 the edema located in Charles's wrist?

13 A. Yes.

14 Q. To a reasonable degree of medical certainty,
15 was the edema caused by the crash?

16 A. Yes.

17 Q. And how do you know that?

18 A. The timing and the amount of edema are
19 consistent with where he would be in the recovery of
20 his injury.

21 Q. And was the edema consistent with the type of
22 pain Charles was describing?

23 A. Yes.

24 Q. In your experience, would you expect to see
25 edema in a patient's wrist three months post injury?

1 A. Yes.

2 Q. So it was not surprising he still had some
3 edema?

4 A. No.

5 Q. With his complaints of pain and the finding
6 of edema, what did you do?

7 A. Sorry. We saw him back to review his MRI.
8 We discussed finishing up his occupational therapy to
9 get him back in his full activities.

10 Q. Dr. Murphy, can edema last long-term?

11 A. If there's continued irritation to the
12 ligament, yes.

13 Q. And how can there be continued irritation?
14 Could you give me an example?

15 A. Painful movements.

16 Q. Can edema cause long-term pain if it doesn't
17 heal?

18 A. Yes.

19 Q. Can edema be permanent?

20 A. Yes.

21 Q. Why?

22 A. Your body's response to the injury at that
23 location.

24 Q. After that visit where you discussed the MRI
25 findings, did you see Charles again?

1 A. Yes.

2 Q. And when did he return?

3 A. September 5th.

4 Q. Tell the jury about his complaints of pain at
5 that time.

6 A. He was reporting a recurrence of the popping
7 sensation that was giving him pain after helping his
8 mom move furniture.

9 Q. At the time of this visit, had Charles been
10 cleared to resume normal activities?

11 A. Yes.

12 Q. Was he under any restrictions?

13 A. No.

14 Q. In your opinion to a reasonable degree of
15 medical certainty, was the complaint of pain more
16 likely than not an exacerbation of his ligament injury
17 from the crash?

18 A. Yes.

19 Q. What did you recommend in response?

20 A. With the persistence of his symptoms and
21 recurrence, asked him to have a second opinion with the
22 hand surgeon.

23 Q. Why?

24 A. To make sure there wasn't something else that
25 we could do to treat his symptoms.

1 Q. Have you seen Charles since September of
2 2023?

3 A. No.

4 Q. During your interactions with Charles, did he
5 seem honest?

6 A. Yes.

7 Q. Do you have any reason to believe his
8 complaints weren't genuine?

9 A. No.

10 Q. And during the six months you treated
11 Charles, were his complaints the same in nature?

12 A. Yes.

13 Q. That being the popping sensation?

14 A. Yes.

15 Q. And the stiffness associated with movement?

16 A. Yes.

17 Q. Dr. Murphy, thank you so much. I have no
18 further questions for you at this time.

19 MR. CRUDUP: Thank you, Doctor. I just have
20 a couple questions for you.

21 CROSS-EXAMINATION BY MR. CRUDUP:

22 Q. Doctor, the -- and I apologize. Let me -- I
23 don't mean to -- I don't mean to jump around here,
24 but -- okay.

25 Doctor, when you first see Mr. Shabazz, you

1 would agree he had a subtle hairline fracture on the
2 surface of his bone, correct?

3 A. Correct.

4 Q. And, in fact, it -- it actually didn't show
5 up in that first X-ray. But when you guys looked at it
6 again, it -- it was there; you could see it, correct?

7 A. Right.

8 Q. And then you see him on April 25, 2023, so
9 about four weeks after the accident, right?

10 A. Correct.

11 Q. And at that point, he's doing well. And his
12 bone is healing, as you'd expect it to, correct?

13 A. Yes.

14 Q. And the time line you would typically use for
15 a broken bone like that, you'd expect it to be healed
16 in about six to eight weeks, correct?

17 A. Correct.

18 Q. On May 9, 2023 -- so about six weeks after
19 the accident -- you released him back to work, correct?

20 A. Yes.

21 Q. Again thinking that, at about that
22 six-to-eight-week period, his wrist should be strong
23 enough to be able to tolerate his work, correct?

24 A. Yes.

25 Q. And then he comes back to you about -- a

1 little more than a month later complaining of that
2 popping sensation you talked about?

3 A. Yes.

4 Q. All right. And that's when you get that MRI
5 in July -- in -- sorry, in late June of '23, right?

6 A. Correct.

7 Q. And that MRI didn't show any bony issues.
8 You're -- you're satisfied that the bone is -- is fully
9 healed at that point, correct?

10 A. Yes.

11 Q. But you note that there is some mild edema in
12 his wrist, right?

13 A. Correct.

14 Q. And you believe that is because there was a
15 Grade 1 sprain of ligaments in his wrist, correct?

16 A. Correct.

17 Q. And just so the jury understands, on the
18 scale of ligament injuries, a Grade 1 would be the
19 lowest on the scale, the least severe; is that fair?

20 A. Correct.

21 Q. And based on the edema you're seeing and the
22 timing of it, you characterize that as a sprain you
23 think is resolving, correct?

24 A. Yes.

25 Q. And unlike the bone that you said would

1 usually take six to eight weeks, you think that a
2 sprain like that usually takes eight to twelve weeks to
3 fully resolve, correct?

4 A. Yes.

5 Q. And you return him to work two days after
6 that MRI on June 30th, correct?

7 A. Yes.

8 Q. And you actually see him a week later -- I
9 guess it's kind of like a check-out thing -- on July 7,
10 2023?

11 A. Yes.

12 Q. And when you examine him then, he has no
13 numbness in his wrist, correct?

14 A. Correct.

15 Q. No tingling in his wrist, correct?

16 A. Correct.

17 Q. Full strength in the wrist?

18 A. Correct.

19 Q. No swelling?

20 A. Correct.

21 Q. And no tenderness?

22 A. Correct.

23 Q. And so, at that point, you release him
24 completely. You say, Hey, if you need to, come back to
25 see me. Otherwise, you're cleared to do whatever you'd

1 like?

2 A. Yes.

3 Q. And that would include play basketball and do
4 all the stuff he had done before the accident, right?

5 A. Yes.

6 Q. I'm sorry, I didn't --

7 A. Yes. Yes.

8 Q. And then he comes back to see you. So he
9 doesn't see you for all -- essentially, all of July and
10 all of August. But then he comes back to see you again
11 in September, correct?

12 A. Yes.

13 Q. And he tells you that he had a recent
14 incident that aggravated his wrist, right?

15 A. Right.

16 Q. And that was moving, kind of, heavy furniture
17 for his mom?

18 A. He was moving furniture with his mom.

19 Q. Okay. At that point, when he's actually
20 there to see you, he tells you that, when the wrist
21 popped, it was painful. But, at that point, when he's
22 there to see you, he's not in any pain, correct?

23 A. Correct.

24 Q. And he has full range of motion at that
25 point, correct?

1 A. Yes.

2 Q. And the other -- all the rest of his exam is
3 the same as it was back in July; he's not exhibiting
4 any -- any issues at that point?

5 A. Correct.

6 Q. And, at that point, you again release him.
7 And since that time, you have not seen him, correct?

8 A. At that time, I referred him to the hand
9 surgeon for a second opinion on the popping sensation.

10 Q. I see. And -- but you have not seen him
11 since that time?

12 A. I have not.

13 Q. Okay. And have you heard what any hand
14 surgeon said about his wrist?

15 A. Those would be his -- his notes to review.

16 Q. Okay. And so from your perspective, at this
17 point, if you have not seen Plaintiff -- or
18 Mr. Shabazz -- for, I guess, about a little over two
19 years now, in your mind, you would agree with me that
20 you believe that his -- the broken wrist -- the -- the
21 broken bone has certainly completely resolved, correct?

22 MS. LINTON: Objection. Assumes facts not in
23 evidence. Hearsay. Foundation.

24 You can go ahead and answer.

25 BY MR. CRUDUP:

1 Q. You can answer.

2 A. We know, from the time he was in my care over
3 the six months, the -- the bony injury had healed.

4 Q. Okay. And as you sit here today, you have no
5 evidence to suggest that the wrist -- the Grade 1 wrist
6 sprain has not also resolved at this point, correct?

7 A. I haven't seen him back, so I can't comment
8 on where that ligamentous injury is at this time.

9 Q. But you'd agree with me, you -- and when you
10 released him that last time in September, you said,
11 Hey, if you have problems, you can come back and see
12 me, correct?

13 A. He was scheduled to follow up PRN or as
14 needed.

15 Q. Okay. And he has not done that since?

16 A. I have not seen him, no.

17 Q. Okay. Doctor, those are all the questions I
18 have for you. Thank you.

19 MS. LINTON: Just a few follow-ups.

20 REDIRECT EXAMINATION BY MS. LINTON:

21 Q. Doctor, in your opinion, is the complaint of
22 pain demonstrated by Charles from the fracture or the
23 edema on his ligament?

24 A. The ligament injury.

25 Q. And you were asked earlier about

1 characterizing the edema as resolving. But he was
2 still having pain during the six months you treated
3 him, correct?

4 A. Correct.

5 Q. And the pain was the same every time?

6 A. Yes.

7 Q. No further questions.

8 A. Okay.

9 MR. MILLS: All right?

10 MS. LINTON: All righty.

11 MR. MILLS: All right. This concludes our
12 video deposition. The time is 11:40. We are off
13 the record.

14 (The deposition concluded at 11:40 a.m.)

15 (Plaintiff's Exhibit No. 1 marked for
16 identification after the conclusion of the deposition.)

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C E R T I F I C A T E

STATE OF SOUTH CAROLINA:
COUNTY OF CHARLESTON:

I, MARY ANN RIDENOUR, Registered Professional
Reporter and Notary Public, State of South Carolina at
Large, certify that I was authorized to and did
stenographically report the foregoing deposition of
Tenley Erin Murphy, MD; and that the transcript is a
true record of the testimony given by the witness, and
was sworn as such.

I further certify that I am not a relative,
employee, attorney or counsel of any of the parties,
nor am I a relative or employee of any of the parties'
attorney or counsel connected with the action, nor am I
financially interested in the action.

WITNESS MY HAND AND OFFICIAL SEAL this 22nd day of
October, 2025, in the City of Charleston, County of
Charleston, State of South Carolina.



Mary Ann Ridenour, RPR
and Notary Public
My commission expires:
January 13, 2031

Exhibits	A	
P-1 Murphy 3:10 9:9,12 13:1 23:15	a.m. 4:1,4 23:14	begin 4:24
1	accident 7:23 8:4 17:9,19 20:4	behalf 4:12,14
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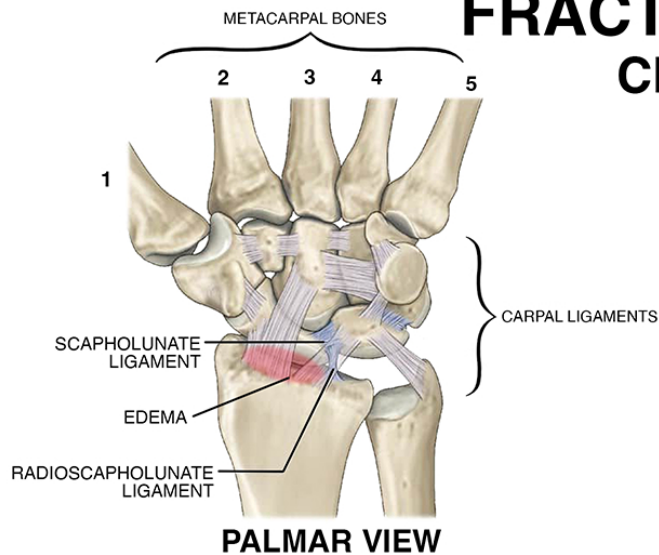
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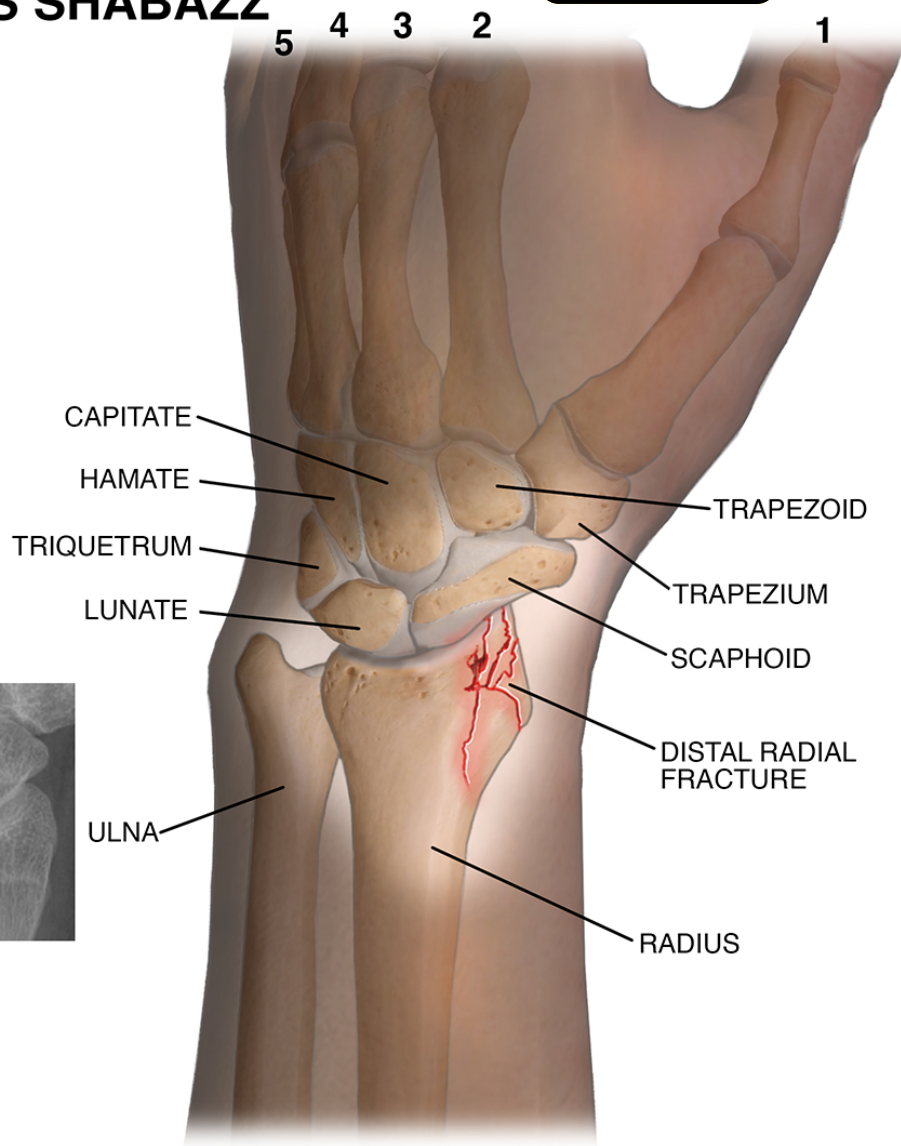
FRACTURED LEFT WRIST CHARLES SHABAZZ



PALMAR VIEW



3/30/23 TRAUMA X-RAY



**DORSAL VIEW
 CLOSED FRACTURE OF THE DISTAL
 END OF THE LEFT RADIUS**