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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 II

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1 In the Court of Common Pleas of the
2 State of South Carolina, County of Oconee

3

4 Case No.: 2024CP3700163

5 Charles Shabazz,

6 Plaintiff(s),

7 vs.

Transcript of Record

8 Brian Cox,

9 Defendant(s).

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15 October 27, 2025 through October 28, 2025

16 Walhalla, South Carolina

17

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20

21 BEFORE:

22 The Honorable Lawton McIntosh

23

24

25

1 APPEARANCES

2
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1 PROCEEDINGS

2 THE COURT: All right. Thank you, Madam
3 Clerk. All right. Ladies and gentlemen. On Mondays,
4 when I look over out over and see faces of people who
5 really didn't want to be here. I want to thank you for
6 being here. I think that it was Winston Churchill who
7 said that there is no higher service that a citizen can
8 do for his country during peacetime than sit on a jury.
9 We know that we have 65 people summoned to come from
10 their job and lives willing to do their civic duty to
11 sit on a jury. Thank you. You picked a good week or
12 you were picked for a good week. There is one trial.
13 I don't know how long it'll last. I anticipate a
14 couple of days. So, if you were ever to pick a week to
15 serve this would be a good one to serve on. That being
16 said, ladies and gentlemen, I have a series of
17 questions today to ask you about whether or not you are
18 qualified to serve and whether or not you can claim
19 your exemption from jury service.

20 The questions, some of them are very
21 personal. I don't amendment design them. They were
22 created by the Legislature. However, I have to ask
23 them. It may be that you don't want to stand up in
24 front of your peers and give this information in open
25 court, and that is quite all right. If a question

1 pertains to you and you do not want to stand up just
2 make a mental note and I'll talk to you in a more
3 personalized basis at the end of this session. On the
4 other hand, if you don't mind standing up and giving
5 the information, give me your juror number first and
6 your name and responses to the questions being asked.
7 I'll tell you this, you know, a lot of people don't
8 like to stand up in front of their peers and give
9 information. We understand that. But it is critical
10 that if you need to speak, speak up when you do so.
11 You are not required to stand up in front of everybody,
12 I'll talk to you up here on a more personalized basis
13 if you need to. Unfortunately sometimes people don't
14 speak up and they get selected to sit on a jury and
15 then they say, you know what, I should have given this
16 information I recall, and it causes a real problem.

17 So, if you need to speak up, please do that.
18 That being said, the first set of questions has to do
19 with your qualifications. If you don't hear me or if
20 you don't understand my questions, raise your hand and
21 I'll ask it so that you do.

22 The first qualification question is this: Is
23 there any member of the jury panel who is not a citizen
24 of the United States? If so, would you please stand?

25 (No response.)

1 THE COURT: Next question: Is any member of
2 the jury panel not a resident and citizen of Oconee
3 County, South Carolina? If so, would you please stand?

4 (No response.)

5 THE COURT: Ladies and gentlemen, is any
6 member of the jury panel unable to read, write, speak,
7 or understand the English language? If so, would you
8 please stand?

9 (No response.)

10 THE COURT: If you can't understand the
11 English language, I'm not quite sure how you are
12 supposed to answer that question. I get it.

13 All right. Ladies and gentlemen, the next
14 question: Does any member of the jury panel have less
15 than a sixth grade education or its equivalent? If so,
16 would you please stand?

17 (No response.)

18 THE COURT: Ladies and gentlemen, has any
19 member of the jury panel been convicted by guilty plea
20 in trial in a state or court of record punishable by
21 more than one year and your civil rights have not been
22 restored by pardon or amnesty? By more than one year I
23 mean that you could have received a sentence in excess
24 of a year regardless of the sentence that you may have
25 actually received. If that applies to you and you

1 don't mind standing, would you please do so?

2 (No response.)

3 THE COURT: Ladies and gentlemen, any member
4 of the jury panel that is a clerk, deputy clerk of
5 court, constable, sheriff or other certified licensed
6 officer, county commissioner, magistrate, or other
7 county officer, or employed within the walls of any
8 courthouse? If so, would you please stand?

9 (No response.)

10 THE COURT: Ladies and gentlemen, has --
11 excuse me, what is your juror number and name?

12 THE JUROR: 110, Natasha Littleton.

13 THE COURT: MS. Littleton, where are you on
14 that list?

15 THE JUROR: My grandmother works in the
16 Solicitor's office.

17 THE COURT: But you don't?

18 THE JUROR: No, sir.

19 THE COURT: Okay. Thank you very much.
20 Anyone else?

21 (No response.)

22 THE COURT: All right. Ladies and gentlemen,
23 has any member of the jury panel served as a member of
24 the Oconee County grand jury over the last several
25 years? If so, would you please stand?

1 (No response.)

2 THE COURT: Ladies and gentlemen, is any
3 member of the jury panel unable because of a mental or
4 physical infirmity from rendering efficient jury
5 service this week if you are selected to serve? By
6 jury service I mean you will need to stand, sit, or
7 with some other reasonable accommodation listen to the
8 opening by attorneys, the opening charge by me, and the
9 presentation of the evidence, closing arguments,
10 closing charge, and then engage in meaningful
11 deliberations at the end of the case. If there is
12 anyone who is not able because of physical or mental
13 infirmity from rendering efficient jury service, would
14 you please stand if you don't mind doing so?

15 Hang on. What is your juror number?

16 THE JUROR: 158. I have severe --

17 THE COURT: Hang on, hang on. You are Ms.
18 Stinnett.

19 THE JUROR: Yes, sir. I have severe memory
20 loss, and that is -- and I have problems with insomnia
21 and things like that, severe.

22 THE COURT: You think that would prevent you.

23 THE JUROR: (Nods in the affirmative.)

24 THE COURT: Ms. Stinnett, I'll excuse you
25 from jury service this week. The clerk will send you a

1 big check in the mail. Don't spend it all in one
2 place. You are free to go. Thank you for coming.

3 Yes, ma'am, your juror number.

4 THE CLERK: 72, Tara Harbin. And I am
5 disabled. I can't sit or stand for long periods of
6 time. It is just the pain that is involved. And I
7 just feel like it would interfere with being able --

8 THE COURT: Well, let me ask you this: If I
9 let you sit, or stand, and move about throughout the
10 course of the trial, would that accommodate you?

11 THE JUROR: Yes, sir.

12 THE COURT: I don't want to force you into
13 it. But we want to have everybody, we want a
14 cross-section of our community.

15 THE JUROR: As long as I'm permitted to stand
16 and move.

17 THE COURT: If you are selected to serve,
18 wave at me and make sure to remind me, please. I have
19 gray hair, sometimes I forget but I'll certainly let
20 you do it. Okay. Thank you, ma'am. Anyone else?

21 (No response.)

22 THE COURT: Ladies and gentlemen, any member
23 of the jury panel who has previously served in circuit
24 court as opposed to magistrate's court, city court, or
25 Federal court during this calendar year in 2025? If

1 you served this year in circuit court, you are not
2 eligible to serve again. If that applies to you, would
3 you please stand?

4 (No response.)

5 THE COURT: Okay. Ladies and gentlemen, that
6 concludes the questions with regard to your
7 qualifications. I'll go next to the exemptions. The
8 exemptions are simply what it sounds like. If it
9 applies to you, you have a right to say, I choose not
10 to serve this week in common pleas court.

11 The first exemption is for those of you who
12 may have reached the age of 65 years or older, if you
13 are 65 or more years you have a right to say, I don't
14 want to serve in circuit court this week in common
15 pleas court. However, before any of you that may fit
16 that description exercise your exemption, let me urge
17 you to stay with us. If you made it 65 years or more
18 in this world you will be a benefit to any jury that
19 you may sit on. With that being said, if you are 65 or
20 older and I haven't shamed you into staying, would you
21 please stand.

22 It works every time. Okay. Dad gum, okay.
23 What is your name, please, ma'am?

24 THE JUROR: Shirley Hendricks 81.

25 THE COURT: Okay. Ms. Hendricks, I can't

1 shame you into staying?

2 THE JUROR: Yes, I'll stay, I just thought
3 that you said 65 and over.

4 THE COURT: Okay. You are 65 or more?

5 THE JUROR: Yes.

6 THE COURT: Do you wish to be excused?

7 THE JUROR: No.

8 THE COURT: Are you sure?

9 THE JUROR: Yes.

10 THE COURT: Okay. Thank you very much.
11 Anyone else?

12 (No response.)

13 THE COURT: Another exemption has to do with
14 prior jury service. In the qualification section if
15 you served in 2025 you are not eligible to serve again
16 in 2025. In South Carolina you can only be required to
17 serve in circuit court as opposed to city court,
18 magistrate court, or Federal court once every three
19 calendar years. So, therefore this question wants to
20 know whether or not you served in circuit court in 2024
21 or 2023. If you did, you have the right to say, I
22 choose not to serve again in 2025.

23 If that applies to you and you wish to be
24 excused, would you please stand?

25 (No response.)

1 THE COURT: Also, anyone who served as a
2 grand juror anywhere in the State of South Carolina in
3 the last five calendar years has the right to say, I
4 don't want to serve again this week in common pleas
5 court. If you served anywhere on the court grand jury
6 anywhere in the state in the last five calendar years
7 and wish to be excused, would you please stand?

8 (No response.)

9 THE COURT: The next exemption, ladies and
10 gentlemen, is for those of you that have a small child
11 or children. There are actually four subparts, all
12 must apply before you can exercise your exemption.
13 However, if you have a small child or children that are
14 under the age of seven and you have legal custody of
15 your child or children, you are the primary care taker
16 of child or children, and lastly, you would be unable
17 to make suitable arrangements for the care of your
18 child or children if you are required to serve on a
19 jury this week. If that applies to you and you would
20 like to be excused, please stand.

21 What is your juror number?

22 THE JUROR: 136, Victoria Poole. I have a
23 four year old and I don't have anybody to pick him up
24 at 2:00 so --

25 THE COURT: You wish to be excused?

1 THE JUROR: Please.

2 THE COURT: Thank you so much for coming.

3 THE JUROR: Thank you.

4 THE COURT: That is juror number 136.

5 What is your juror number?

6 THE JUROR: 47, Cara Dull.

7 THE COURT: You have a child under seven?

8 THE JUROR: I have two children, ages ten and
9 13.

10 THE COURT: Come talk to me at the end of the
11 process. That doesn't disqualify you, but --

12 THE JUROR: I have other -- yes, thank you.

13 THE COURT: All right. Yes, anyone else?
14 Anyone?

15 (No response.)

16 THE COURT: The next exemption has to do with
17 those of you who may be teaching or attending school on
18 a full-time basis at an educational institution. It
19 applies to a public, private, or technical school. The
20 only thing is that you won't be excused from jury
21 service, but transferred to another term of court that
22 doesn't interfere with your studies or work at an
23 educational institution. Therefore full-time teachers,
24 students, crossing guards, or anyone who works at a
25 public or private school who would like to be

1 transferred to another term of court, would you please
2 stand?

3 Yes, ma'am, what is your juror number?

4 THE JUROR: 131 -- 171, sorry.

5 THE COURT: Okay. You are Ms. Patel? No.
6 What is your juror number?

7 THE JUROR: 171.

8 THE COURT: Ms. Washington. Are you a
9 student or a teacher?

10 THE JUROR: I am a student.

11 THE COURT: Where are you going to school?

12 THE JUROR: Student at Wofford College.

13 THE COURT: Aren't you good. I graduated
14 from Wofford in 1982. What are you studying there?

15 THE JUROR: Psychology.

16 THE COURT: Yes, you are going to school in
17 the summertime? It is not summertime anymore. Oh, my
18 God, I forgot. See my gray hair strikes again. So you
19 want to be transferred to another term of court?

20 THE JUROR: Yes.

21 THE COURT: When would be good for you?

22 THE JUROR: Late May or early June.

23 THE COURT: June?

24 THE JUROR: Yes.

25 THE COURT: Do we have our terms of court for

1 next year?

2 THE CLERK: We do. If you can give me one
3 moment. We do.

4 THE COURT: What is going on with the
5 football team this year? They are not too good, are
6 they?

7 THE JUROR: I don't want to talk about it.

8 THE COURT: Pretty bad?

9 THE JUROR: Horrible, yeah.

10 THE COURT: Do they still have interim there?

11 THE JUROR: Yes.

12 THE COURT: Oh gosh. That is so -- Wofford
13 in between the first semester and second semester right
14 after Christmas you have a month to take one class, so
15 we studied real hard during that whole time.

16 THE CLERK: In June, we have June 1st for
17 common pleas. And then the week of June 15th we have
18 general sessions.

19 THE COURT: What would you rather, June 1st
20 or June 15th?

21 THE JUROR: June 1st.

22 THE COURT: First?

23 THE JUROR: Yes.

24 THE COURT: Okay. We will give you a new
25 notice. Thank you. Study hard. You are excused.

1 Thank you. Anyone else?

2 (No response.)

3 THE COURT: Ladies and gentlemen, is any
4 member of the jury panel employed at the Department of
5 Corrections or works at a penitentiary who would like
6 to be excused from jury service this week? If so,
7 would you please stand?

8 (No response.)

9 THE COURT: Is there any juror who performs
10 services for a business, commercial, or agricultural
11 enterprise whose services are so essential to the
12 operation of that enterprise that if you were selected
13 to serve this week that business would have to shut its
14 doors and not operate while you are performing your
15 duty as jurors. If that applies to you and you would
16 like to be excused, please stand.

17 All right, sir, what is your juror number?

18 THE JUROR: 151.

19 THE COURT: Mr. Simpson?

20 THE JUROR: Yes, sir.

21 THE COURT: And what is your business?

22 THE JUROR: Owner operator of Simpson Grading
23 and Land Works.

24 THE COURT: You have no employees?

25 THE JUROR: I have five but they can't run

1 without me there.

2 THE COURT: Why not?

3 THE JUROR: Some don't have a license, they
4 can't drive the truck. The third is on vacation. And
5 the fourth one is in the office. And I'm it.

6 THE COURT: I got you. I'll excuse you, Mr.
7 Simpson. Thank you for being here. That is juror 151.
8 Anyone else?

9 (No response.)

10 THE COURT: All right. Lastly, ladies and
11 gentlemen, is there any juror who is the primary
12 caretaker of a severely disabled person that can't be
13 left by him or herself unattended or is the primary
14 care taker of someone aged 65 years or older. If that
15 applies to you and you would like to be excused, would
16 you please stand?

17 Yes, sir, what is your juror number?

18 THE JUROR: 57.

19 THE COURT: 57. You are Mr. Fredrick?

20 THE JUROR: Yes, sir. My dad. He just
21 recently had bypass surgery and he has dementia and
22 (inaudible)

23 THE COURT: Are you working -- when are you
24 caring for him, during the day or night?

25 THE JUROR: During the day.

1 THE COURT: During the day. Mr. Fredrick,
2 good luck to you with your dad. I just lost my dad
3 last week. I know how that is. Good luck to you.
4 I'll excuse you. Anyone else?

5 (No response.)

6 THE COURT: All right. Ladies and gentlemen,
7 that concludes the questions about exemptions. It may
8 be that you are qualified and not exempt from jury
9 service, however having to serve this week may present
10 you with undue hardship because of your particular
11 circumstances. I'm not allowed to release people who
12 are qualified and not exempt, but I can transfer you to
13 another term of court that may not present you with
14 such a hardship if that is the situation. Is there
15 anyone that would like to be considered for a transfer
16 to another term of court? Okay. If you would please
17 stand.

18 THE JUROR: Twenty-six.

19 THE COURT: Dylan Burton?

20 THE JUROR: Yes, sir. Would I be able to
21 speak privately?

22 THE COURT: Yes, sir. Come up, not now, but
23 at the end of the process. Anyone else?

24 What is your jury number?

25 THE JUROR: 126.

1 THE COURT: Ms. Nicholson.

2 THE JUROR: Yes.

3 THE COURT: Do you mind telling me your
4 circumstances.

5 THE JUROR: Yes, I'm presently under
6 contract. I am a registered nurse and I am a travel
7 nurse and I'm presenting working in Asheville, North
8 Carolina on assignment.

9 THE COURT: You are locum tenens.

10 THE JURPR: And my contract don't end until
11 January 17th so any time after that date would be
12 better. I might have another contract by then but --

13 THE COURT: Well, if you do, then we are
14 going to make you stay.

15 THE JUROR: Okay.

16 THE COURT: All right. How about, you want
17 to serve January or February?

18 THE JUROR: Probably right after. February.

19 THE COURT: When does your contract end?

20 THE JUROR: January 17th.

21 THE COURT: We will put you -- hang on for a
22 second. We have the best Clerk of Court in South
23 Carolina sitting right here. She is excellent.

24 THE JUROR: If I know it, I can just put the
25 dates in my contract.

1 THE COURT: Okay.

2 THE CLERK: Okay, after the 17th we have a
3 term of general sessions the week of January 26. But
4 if common pleas, it would be the week of February 2nd.

5 THE COURT: February 2nd?

6 THE CLERK: Yes, sir.

7 THE COURT: Okay. That work with you?

8 THE JUROR: Yes, sir.

9 THE COURT: All right. We are going to move
10 you. Now if you come back they will say, I hate it for
11 you. Okay. Good luck. I am going to excuse you,
12 okay. And tell me, you are Ms. Nicholson, 126, right?

13 THE JUROR: Yes, sir.

14 THE COURT: Thank you, Ms. Nicholson. She
15 will send you a new notice.

16 THE JUROR: Okay. Thank you.

17 THE COURT: All right. Anyone else?

18 (No response.)

19 THE COURT: All right. Ladies and gentlemen
20 of the jury, if you have any questions as to whether or
21 not you are qualified, or any questions as to whether
22 or not you are exempt, or you want me to consider a
23 transfer requests, or if I asked you to come forward,
24 if you will stand up there at the turnstile I'll talk
25 to you on a more personalized basis.

1 (Pause.)

2 THE COURT: Y'all are free to come up here if
3 you would like. What is your juror number?

4 THE JUROR: 37.

5 THE COURT: 37, you are Ms. Dull?

6 THE JUROR: I have two boys, ten and 13.
7 Both are at school. I have to pick up. And my husband
8 is working night shift at Duke for outage and it
9 started today and he has to sleep during the day.

10 THE COURT: Do you have sometime that you
11 could make arrangements?

12 THE JUROR: I don't have any family here, but
13 I have friends and if they are in town they might be
14 able to watch them.

15 THE COURT: Okay. That is the question, and
16 that is fine, but you have to come back.

17 THE JUROR: My husband is on shift work year
18 around so I would be in the same predicament.

19 THE COURT: Well, I will let you come back.
20 And I'll let you pick a month when you can come back.

21 THE JUROR: June or July would probably be
22 the best. June or July. When the kids are out.

23 THE COURT: Pick one.

24 THE JUROR: July.

25 THE COURT: July, okay. And 37?

1 THE JUROR: Yes, Ms. Dull, like someone is
2 dull. And they will send me something in the mail?

3 THE COURT: Yes. Thank you.

4 THE JUROR: Thank you.

5 THE COURT: Give me your juror number again?

6 THE JUROR: 26.

7 THE COURT: Mr. Catanzaro.

8 THE JUROR: My civic responsibility and all
9 of that, but this turns out to be a rough week. I'm
10 appointed attorney for a relative being transferred to
11 care and that will be likely today, and tomorrow I will
12 be required to be on the phone with her professional
13 and --

14 THE COURT: Would you like to be -- another
15 time of the year better for you than others?

16 THE JUROR: Also I have cancer surgery this
17 week.

18 THE COURT: Okay. My wife was a neurosurgeon
19 and I made her serve. You are not getting out of it.

20 THE JUROR: Probably August. Mr. 26.

21 THE COURT: Transfer him.

22 THE JUROR: It'll be a week, but thank you.

23 THE CLERK: If you will keep this you will
24 get paid for today and it'll go on there. Thank you.

25 THE COURT: Your juror number?

1 THE JUROR: 97.

2 THE COURT: You are Ms. Kennedy?

3 THE JUROR: Yes, sir.

4 THE COURT: Okay.

5 THE JUROR: So this is a financial concern
6 more than anything. I don't mind serving, I want to
7 serve. I'm interested in this kind of stuff. But I'm
8 very low on funds and I'm terrified of how long this is
9 going to take.

10 THE COURT: Live week to week?

11 THE JUROR: Very much.

12 THE COURT: Ms. Kennedy, I'll excuse you. I
13 don't want you to go into bankruptcy.

14 THE JUROR: Thank you.

15 THE COURT: Your juror number?

16 THE JUROR: 58.

17 THE COURT: Ms. Fulton.

18 THE JUROR: I am. Okay. My husband has
19 severe diabetes and stage four kidney disease. I work
20 on the weekends so I can be there with him during the
21 week. And my son works during the week to be there
22 with him on the weekend.

23 THE COURT: I'll let you go. Good luck to
24 you with your husband.

25 THE JUROR: Thank you.

1 THE COURT: 58. If anybody has any
2 objections, speak up.

3 MS. MS. LINTON: Yes, sir.

4 THE COURT: Your juror number?

5 THE JUROR: 106.

6 THE COURT: Ms. Lee?

7 THE JUROR: Yes, sir.

8 THE COURT: Okay.

9 THE JUROR: I was wondering if I could be
10 exempt. I am the only babysitter my dog has.

11 THE COURT: Well I don't mind transferring
12 you to another term of court that will get through if
13 you want to make arrangements. Maybe summertime?

14 THE JUROR: Summertime would be great.

15 THE COURT: That would work. June, July or
16 August?

17 THE JUROR: June.

18 THE COURT: June, okay.

19 THE CLERK: June first.

20 THE COURT: 106, Ms. Lee. Good luck to you.

21 THE JUROR: And I will get something in the
22 mail about that?

23 THE COURT: Yes, ma'am.

24 THE JUROR: Thank you.

25 THE COURT: Hey.

1 THE JUROR: 111.

2 THE COURT: Ms. Livingston.

3 THE JUROR: Yes, I have a medical device. It
4 is for continuous glucose monitoring. If it goes too
5 high or too low?

6 THE COURT: You will buzz. I don't have a
7 problem with that.

8 THE JUROR: God bless you, because I can't
9 turn it off.

10 THE COURT: You still want to serve?

11 THE JUROR: Yes.

12 THE COURT: We would love to have you. And
13 remind me, okay.

14 THE JUROR: Okay, thank you.

15 THE COURT: Thank you.

16 Your juror number.

17 THE JUROR: 114.

18 THE COURT: Malinowski.

19 THE JUROR: 114. I have a family member in
20 hospice right now. I'm not sure if I have the right
21 not to serve.

22 THE COURT: You have the right not to serve.
23 Do you want to get a notice and come back or just not
24 serve?

25 THE JUROR: I would rather not serve.

1 THE COURT: Yes, sir, you are excused.

2 THE JUROR: Thank you, sir.

3 THE COURT: Okay. 114.

4 Yes, what is your juror number?

5 THE JUROR: Juror 50.

6 THE COURT: Mr. Elsasser.

7 All right.

8 THE JUROR: I work for Duke Energy and we are

9 currently going through a shut down.

10 THE COURT: Duke Energy can work around that.

11 Thank you.

12 Hi, your juror number?

13 THE JUROR: 87, Hutchings.

14 I'm physically the primary person at my

15 house. I mean, my wife works. She makes \$270 a month.

16 I'm the one that supplies and pays all of the bills.

17 THE COURT: You live basically week to week?

18 THE JUROR: Yes.

19 THE COURT: Do you need to be excused?

20 THE JUROR: I would appreciate it. I would

21 like to be working.

22 THE COURT: I mean, I would like to be

23 working too.

24 THE JUROR: Well, you are working. Actually

25 I would -- I need to be working.

1 THE COURT: Okay. I'll let you go. 87 I
2 think he said.

3 All right. Anyone else?

4 (No response.)

5 THE COURT: All right. Madam Clerk, I'll
6 find that the remaining panel is qualified to serve.

7 (Jury qualified at 11:12 a.m.)

8 THE COURT: All right. Ladies and gentlemen,
9 I have a few more questions to ask. These are more
10 with regard to the case that we are going to start jury
11 selection on. Again, if you don't want to stand up, it
12 is okay. But if you need to stand up, make sure that
13 you come up at the end of this process and speak to me
14 on a more personalized basis. And remember, if you
15 can't hear or understand a question, stop me and I'll
16 explain it so that you do.

17 All right. The case for trial this week is a
18 case of Charles Shabazz versus Brian Cox. Mr. Shabazz,
19 do you mind standing up?

20 (Plaintiff stands.)

21 THE COURT: Thank you, sir. And Mr. Cox, do
22 you mind standing up?

23 (Defendant stands.)

24 THE COURT: Very good. Thank you gentlemen.

25 Ladies and gentlemen, are members of the jury

1 panel related by blood or marriage to either Mr.
2 Shabazz or Mr. Cox? If so, would you please stand?

3 (No response.)

4 THE COURT: Any members of the jury panel
5 have a close, personal or social relationship with Mr.
6 Shabazz or Mr. Cox? If so, would you please stand?

7 (No response.)

8 THE COURT: All right. Ladies and gentlemen,
9 I am going to read a list of potential witnesses that
10 may appear and then I'll follow-up with follow-up
11 questions to those. The potential witnesses would be
12 Officer V. Gomez, Tenley Erin Murphy, M.D., Brooklyn
13 Haddad, Pamela Allen, Benjamin Robinson, Christopher
14 Jack Jones, Connor Lew, Abby McCormick an EMT, and
15 Jordan Smith a physician's assistant. Is there any
16 members of the jury panel who did not get all of those
17 names, raise your hand.

18 All right. Sir. Do you want me to do them
19 again?

20 THE JUROR: Please.

21 THE COURT: Okay. Listen up. Officer V.
22 Gomez, Dr. Tenley Erin Murphy, Brooklyn Haddad, Pamela
23 Allen, Benjamin Robinson, Christopher Jack Jones,
24 Connor Lew, Abby McCormick EMT, Jordan Smith
25 physician's assistant. Did you get all of those?

1 THE JUROR: Yes, sir.

2 THE COURT: All right. Very good. Very
3 good. Any members of the jury panel related by blood
4 or marriage to any of the potential witnesses that I
5 have just given to you? If so, would you please stand?

6 (No response.)

7 THE COURT: Does any member of the jury panel
8 have a close, personal or social relationship with any
9 of the potential witnesses that I have just gone over
10 with you? If so, would you please stand?

11 (No response.)

12 THE COURT: All right. Counsel for the
13 plaintiff, would you stand up and introduce yourself
14 and your law firm, please, ma'am.

15 MS. MS. LINTON: Good morning. My name is
16 Mary Linton with the Bringardner Law Firm.

17 THE COURT: Thank you, ma'am. Do the same,
18 please, sir.

19 MR. CRUDUP: Good morning my name is Jeff
20 Crudup. I work at a firm called Clarkson, Walsh &
21 Coulter.

22 THE COURT: Okay. Ladies and gentlemen, has
23 any member of the jury panel ever been represented by
24 or are you currently represented by any of these
25 attorneys here in the courtroom or any members of their

1 respective law firms? If so, would you please stand?

2 (No response.)

3 THE COURT: Has any member of the jury panel
4 ever been related by blood or marriage to any members
5 -- any of these attorneys here in the courtroom or any
6 members of their respective law firms? If so, would
7 you please stand?

8 (No response.)

9 THE COURT: Has any members of the jury panel
10 ever had a close, personal or social relationship, or
11 do you currently have a close, personal or social
12 relationship with any of these attorneys in the
13 courtroom or any members of their respective law firms?
14 If so, would you please stand?

15 (No response.)

16 THE COURT: All right. Ladies and gentlemen,
17 this case is about an automobile accident that occurred
18 on March 22nd, 2023 on Rochester Highway. Has any
19 member of the jury panel read, heard, or seen anything
20 about this automobile accident prior to coming to court
21 today? If so, would you please stand?

22 (No response.)

23 THE COURT: And as a follow-up to that
24 question, has any member of the jury panel formed or
25 expressed an opinion about any issue or matter involved

1 in the case of Charles Shabazz versus Brian Cox? If
2 so, would you please stand?

3 (No response.)

4 THE COURT: Ladies and gentlemen, is any
5 member of the jury panel aware of any bias or prejudice
6 that they may harbor for or against the plaintiff or
7 the defendant in this matter or their respective
8 attorneys? Do you have any bias or prejudice for or
9 against the plaintiff or the defendant or their
10 respective attorneys, would you please stand?

11 (No response.)

12 THE COURT: Ladies and gentlemen, does any
13 juror know of any reason whatsoever why he or she
14 should not be selected to serve in the trial of this
15 matter, with particular emphasis being placed upon your
16 ability to be fair and impartial to both the plaintiff
17 and to the defendant? Do you know of any reason why
18 you should not serve, would you please stand?

19 (No response.)

20 THE COURT: Ladies and gentlemen, any members
21 of the jury panel who has negative feelings about
22 injury lawyers or people who sue for injuries? If so,
23 would you please stand?

24 (No response.)

25 THE COURT: Has any member of the jury panel

1 or any member of their immediate family ever worked for
2 an injury law firm or a law firm? If so, would you
3 please stand?

4 All right. Tell me your juror number?

5 THE JUROR: 124.

6 THE COURT: I know that I know you, Ms.
7 Morris, but do you have a problem being fair and
8 impartial to both sides, plaintiff and defendant in
9 this case?

10 THE JUROR: No. Our firm handles personal
11 injury cases for plaintiff, so I just wanted you to
12 know.

13 THE COURT: And would that cause you to be
14 unable to give the defense side a fair and impartial
15 trial?

16 THE JUROR: No.

17 THE COURT: Thank you, ma'am. If you want
18 any additional voir dire, counsel, let me know.
19 Otherwise, I am going to assume you don't.

20 Yes, sir, what is your number?

21 THE JUROR: 82.

22 THE COURT: That is a good, clear, strong
23 voice. You are Bryan Henry?

24 THE JUROR: Yes, sir. My wife and my mother
25 both worked for Stoudemire and Sprouse in the past.

1 THE COURT: Would that cause you to be unable
2 to give both sides of this case a fair and impartial
3 trial?

4 THE JUROR: No, sir.

5 THE COURT: Thank you, sir.

6 Yes, ma'am.

7 THE JUROR: I am juror number 71.

8 THE COURT: 71?

9 THE JUROR: Yes.

10 THE COURT: Ms. Ham.

11 THE JUROR: Yes. About 20 years ago I worked
12 for John W. Fields just doing real estate.

13 THE COURT: Mr. Fields?

14 THE JUROR: Yes.

15 THE COURT: Johnny was a good guy wasn't he,
16 I liked Johnny. Would that cause you to be unable to
17 give both sides of this case a fair and impartial
18 trial?

19 THE JUROR: No, sir.

20 THE COURT: Okay. Thank you. Anyone else?

21 (No response.)

22 THE COURT: Ladies and gentlemen, has any
23 member of the jury panel ever been sued or have you
24 ever brought suit as a result of a personal injury or
25 otherwise? If so, would you please stand?

1 Okay. Ms. Morris, is this other than your
2 professional capacity? Have you ever brought suit
3 individually?

4 THE JUROR: Yes, sir.

5 THE COURT: Would that cause you to be unable
6 to give both sides of this case a fair and impartial
7 trial?

8 THE JUROR: No, sir.

9 THE COURT: Thank you. Yes, ma'am, what is
10 your juror number?

11 THE JUROR: 168.

12 THE COURT: 168. You are Ms. Tucker?

13 THE JUROR: Yes.

14 THE COURT: Okay. Have you sued or been
15 sued?

16 THE JUROR: I sued.

17 THE COURT: What kind of case was it?

18 THE JUROR: It was a case where I was
19 pregnant and I almost lost my baby.

20 THE COURT: Okay. Would that experience
21 cause you to be unable to give both the plaintiff and
22 the defendant a fair and impartial trial?

23 THE JUROR: No, no.

24 THE COURT: Thank you, Ms. Tucker. Yes, sir.
25 What is your juror number? Juror 18.

1 18, Mr. Brockman.

2 THE JUROR: That's right.

3 THE COURT: Okay.

4 THE JUROR: Approximately 30 years ago a
5 position that I held in the corporation at that time I
6 was sued for an environmental infraction.

7 THE COURT: Would that cause you not to give
8 both sides of the case a fair and impartial trial?

9 THE JUROR: No.

10 THE COURT: Thank you, Mr. Brockman.

11 Yes, sir, in the orange, what is your juror
12 number?

13 THE JUROR: 105.

14 THE COURT: 105. You are Mr. Lee?

15 THE JUROR: Yes, sir.

16 THE COURT: Okay. Mr. Lee.

17 THE JUROR: 1986 I lost my wife in a car
18 wreck and there was a lawsuit pending after that. I
19 sued.

20 THE COURT: Would that cause not to be able
21 to give both sides of this case a fair and impartial
22 trial?

23 THE JUROR: No, sir?

24 THE COURT: Thank you, Mr. Lee.

25 Yes, sir, your juror number.

1 THE JUROR: My juror number is 112.

2 THE COURT: Is it Mr. Loihle, how do you
3 pronounce that?

4 THE JUROR: Loihle. I'm currently involved
5 in a suit through an accident attorney from an accident
6 I was involved in.

7 THE COURT: That is current, now?

8 THE JUROR: Yeah, it is going on right at the
9 moment.

10 THE COURT: Would the fact that you have that
11 pending cause you to be unable to give both sides a
12 fair and impartial trial?

13 THE JUROR: Absolutely not, sir.

14 THE COURT: Thank you very much, sir. Anyone
15 else?

16 (No response.)

17 THE COURT: Ladies and gentlemen, is there
18 any member of the jury panel who believes that there
19 are too many frivolous lawsuits that would cause you to
20 be unable to be fair and impartial to both sides of
21 this case? If so, would you please stand?

22 (No response.)

23 THE COURT: Are there any member of the jury
24 panel who just believes that there are too many
25 frivolous lawsuits? If so, would you please stand.

1 I am just going to get you to give me your
2 jury number and then you can be seated. What is your
3 juror number?

4 THE JUROR: 66.

5 THE COURT: You can be seated.

6 THE JUROR: 62.

7 THE COURT: You can be seated.

8 THE JUROR: 18.

9 THE COURT: Thank you, sir. You can be
10 seated.

11 THE JUROR: 131.

12 THE COURT: Thank you. All right. Anyone
13 else?

14 Ladies and gentlemen, is there any member of
15 the jury panel or any member of their immediate family
16 a member of or a contributor to any group which has as
17 its primary concern tort reform? If so, would you
18 please stand?

19 (No response.)

20 THE COURT: Ladies and gentlemen, has any
21 member of the jury panel or any members of their
22 immediate family been involved in an automobile
23 accident that would cause them to be -- have to have
24 medical attention, whether or not you brought suit,
25 have you ever been or any member of your family ever

1 been in an automobile accident and caused you to have
2 to have medical attention, would you please stand?

3 Okay. First I'll get you to give me your
4 juror number and just go across the room. What is your
5 juror number?

6 THE JUROR: 117.

7 THE JUROR: 52.

8 THE JUROR: 105.

9 THE JUROR: 112.

10 THE JUROR: 116.

11 THE JUROR: 29.

12 THE JUROR: 62.

13 THE JUROR: 2.

14 THE JUROR: 72.

15 THE JUROR: 124.

16 THE JUROR: 89.

17 THE COURT: All right. If that experience
18 would cause you to be unable to give both sides of this
19 case a fair and impartial trial, remain standing.
20 Otherwise, please be seated.

21 (All prospective jurors took a seat.)

22 THE COURT: All right. And finally, any
23 member of the jury panel ever served in circuit court
24 on a jury before, whether it be in civil court like
25 this is or in criminal court? If so, would you please

1 stand?

2 Yes, sir, what is your juror number?

3 THE JUROR: 184.

4 THE COURT: 184. You are Mr. Zavertnik?

5 THE JUROR: I butcher them all of the time.

6 Was it civil or criminal?

7 THE JUROR: Criminal, but it was in Florida.

8 It was when I was in Florida.

9 THE COURT: Would that cause you to be unable
10 to give both sides a fair and impartial trial?

11 THE JUROR: No, sir.

12 THE COURT: Thank you, sir.

13 Yes, ma'am.

14 THE JUROR: 99. Criminal court in the state
15 of Georgia.

16 THE COURT: Where was it?

17 THE JUROR: Georgia, Atlanta, Georgia.

18 THE COURT: I am sorry. All right. Now,
19 first you are Ms. Klestinec. Ms. Klestinec, what kind
20 of case was it?

21 THE JUROR: Criminal.

22 THE COURT: Okay. Would that cause you to be
23 unable to give both sides of the case fair and
24 impartial trial?

25 THE JUROR: No.

1 THE COURT: Thank you. And I'm sorry.

2 THE JUROR: That is okay.

3 THE COURT: Anyone else?

4 (No response.)

5 THE COURT: All right. Any other requested
6 voir dire, any additional voir dire from the plaintiff?

7 MS. MS. LINTON: No, Your Honor.

8 THE COURT: From the defense?

9 MR. CRUDUP: No, Your Honor.

10 THE COURT: Ladies and gentlemen, back in the
11 days when I was trying cases as a lawyer when we picked
12 a trial we would have somebody come in here and you had
13 a spindle and you had names in there. They had people
14 that couldn't read or write and you spin it around and
15 draw names out to make sure that it is done on a fair
16 and impartial basis. Now we have a computer that will
17 randomly select a group of names. We will let the
18 lawyers look at the list once it is generated and study
19 them. What do you need, 15, 20 minutes? So, if we
20 come back at a quarter to 12, would that be sufficient
21 for everybody?

22 MR. CRUDUP: Yes, sir.

23 MS. MS. LINTON: Yes, sir.

24 THE COURT: Ladies and gentlemen, you are
25 free to go mill about on the fourth floor, or you are

1 free to stay here in the courtroom, but if everyone
2 will be back here at a quarter until 12 we will go
3 further with jury selection at that time. But you are
4 free to go if you would like.

5 (Brief recess.)

6 THE COURT: All right. Everyone had
7 sufficient time to review?

8 MS. MS. LINTON: Yes, Your Honor.

9 MR. CRUDUP: Yes, sir.

10 THE COURT: If you will make your selections
11 from the list on the left side -- numbers on the left
12 side. The primary, jurors 1 through 20. And alternate
13 one, 21 through 22 and 23. And then the second
14 alternate is 24 through 26.

15 Ladies and gentlemen, the number that I'm
16 calling out does not correspond to your numbers as
17 jurors, you will not know whether or not we are calling
18 you or not.

19 THE CLERK: The plaintiff strikes first.
20 Numbers on the left.

21 MS. MS. LINTON: Number five.

22 THE COURT: Plaintiff strikes number five.

23 MS. MS. LINTON: Number seven. Sorry.

24 MR. CRUDUP: Defendant strikes number three.

25 THE COURT: What was it?

1 MR. CRUDUP: Number three.

2 THE CLERK: Defendant strikes number three.

3 Plaintiff?

4 MS. MS. LINTON: Number seven.

5 THE CLERK: Plaintiff strikes number seven.

6 MR. CRUDUP: Defendant strikes number nine.

7 THE CLERK: Defendant strikes number nine.

8 MS. MS. LINTON: Number 12.

9 THE CLERK: Plaintiff strikes number 12.

10 MR. CRUDUP: Defendant strikes number 19.

11 THE CLERK: And defendant strikes number 19.

12 MS. MS. LINTON: Plaintiff strikes number 13.

13 THE CLERK: Plaintiff strikes number 13.

14 MR. CRUDUP: Defendant strikes number 16.

15 THE CLERK: Defendant strikes number 16.

16 I am going to call those back just to make
17 sure we have them correct. Plaintiff strikes number 5,
18 number 7, number 12, and number 13.

19 MS. MS. LINTON: My apologies to the Court.
20 No, plaintiff strikes number 17, not number 13. My
21 apologies.

22 THE COURT: As opposed to which one?

23 MS. MS. LINTON: Number 13. Thank you.

24 THE CLERK: So plaintiff strikes number 5,
25 number 7, number 12, and number 17.

1 And defense strikes number 3, number 9,
2 number 16, and number 19.

3 MR. CRUDUP: That's correct.

4 THE COURT: And for alternate number one?

5 MS. MS. LINTON: Plaintiff strikes 22.

6 THE COURT: What number, please?

7 MS. MS. LINTON: 22.

8 THE COURT: Thank you.

9 MR. CRUDUP: Defense strikes number 23.

10 THE CLERK: Plaintiff strikes number 22 and
11 defense strikes number 23.

12 Our second alternate.

13 MS. MS. LINTON: Plaintiff strikes 25.

14 THE CLERK: Plaintiff strikes 25.

15 MR. CRUDUP: Defendant strikes 26.

16 THE CLERK: Defendant strikes 26.

17 Jurors, once I call your name and juror
18 number, if you will, please come forward bringing all
19 of your belongings with you and be seated in the juror
20 box.

21 Juror number 52, Robert Fajardo.

22 Juror number 139, Kaiden Rash.

23 Juror number 98, Artur Khurshudyan, Sorry, I
24 butchered it.

25 Juror number 2, Timothy Arnold.

1 Juror number 127, Christopher O'Neill.

2 Juror number 18, Murray Brockman.

3 Juror number 29, Kimberly Christian.

4 Juror number 50, Andrew Elsasser.

5 Juror number 82, Bryan Henry.

6 Juror number 30, Connie Church.

7 Juror number 17, Joshua Breland.

8 Juror number 129, John Owens.

9 For our first alternate we have juror number
10 63, Gregg Goff. And for our second alternate we have
11 juror number 172, Andrew Watkins.

12 THE COURT: All right. Any motions as to
13 jury selection process from the plaintiff?

14 MS. MS. LINTON: None, Your Honor.

15 THE COURT: From the defense?

16 MR. CRUDUP: No, Your Honor.

17 THE COURT: Very good. Thank you.

18 All right, ladies and gentlemen, those of you
19 selected to serve in the trial of this matter, I'll ask
20 that you go back to your jury room and select a
21 foreperson. A foreperson is somebody who will preside
22 over your deliberations at the end of the trial when
23 you are told to begin your deliberations, and also who
24 may communicate with the Court if there is a need to
25 communicate with me during the course of the trial.

1 Our alternates have a right to vote but may
2 not be our foreperson since you are an alternate. But
3 if you would, once you select your foreperson to write
4 their name down on a piece of paper and then query your
5 fellow jurors to see if anyone would like to have pad
6 and pencil to take notes with during the course of this
7 trial. And if anyone does, just write the number of
8 people who would like to have pad and pen. You know,
9 like eight, ten, twelve, or whatever the number may be.
10 But if you would go with our bailiff.

11 (The jury exits the courtroom at 11:56 a.m.)

12 THE COURT: Be seated. Thank you. All
13 right. I see the disappointment on your faces out
14 there. But let me thank you. You are done for the
15 week and you should get credit. You only have to serve
16 once every three calendar years in the state of South
17 Carolina.

18 But before I excuse you, I just want to thank
19 you personally for being here. I know that it is not
20 easy, especially with this nasty, rainy weather and you
21 come up here to do this. But without you our law is
22 simply a law that doesn't work, whether it be civil or
23 criminal. So I want to thank you for your willingness
24 to serve. Anyone need a statement for their employer
25 right now? Otherwise they will be mailed to you.

1 Anyone need one right this second?

2 THE CLERK: If you will go down to the first
3 floor and go to the clerk's office and let them know
4 that you need a work statement they will print one for
5 you.

6 THE COURT: All right. Thank you, ladies and
7 gentlemen, you are excused.

8 Do y'all want to put these motions in limine
9 on the record? Nobody asked for a bifurcated trial,
10 did they?

11 MS. MS. LINTON: No, sir.

12 MR. CRUDUP: No, sir.

13 THE COURT: Okay. I will start with this
14 because I picked it up first, the defendant's motion in
15 limine. I'm not quite sure what you are asking on
16 number three? You are asking for damages, aren't you?

17 MS. MS. LINTON: Yes, Your Honor.

18 MR. CRUDUP: Your Honor, typically I make
19 that motion pre-trial. I think that -- I assume that
20 you are going to say that that is a decision, you know,
21 for the jury or at the close of evidence, which I agree
22 with. Sorry.

23 THE COURT: All right. Otherwise I agree
24 with everything you said. Those are just basic
25 evidentiary issues.

1 Going over plaintiff's, I don't think that
2 you are correct in that they can't cross-examine about
3 something that is in their medical records. It depends
4 on if it is 803(4).

5 MS. MS. LINTON: I apologize, Your Honor,
6 which section are you referencing of my motion?

7 THE COURT: I'm looking at your -- it says,
8 May not read into the record hearsay contained in
9 plaintiff's medical records and may not cross-examine
10 the plaintiff's medical records. I think that 803(4)
11 would be certainly relevant if the statement made for
12 purposes of diagnosis made by the plaintiff. They are
13 certainly subject to cross-examination.

14 MS. MS. LINTON: Yes, Your Honor.

15 THE COURT: Otherwise, I don't disagree with
16 you.

17 MS. MS. LINTON: Yes, your Honor. I agree
18 with the Court's analysis. Our only contention with
19 that specific motion in limine would be with medical
20 summaries from the doctor, not anything that Mr.
21 Shabazz stated.

22 THE COURT: Listen, I'm not bright enough to
23 figure it all out, so if they start to do it just make
24 an objection. Same thing for both of you guys, okay.

25 MR. CRUDUP: Okay.

1 THE COURT: Pitting witnesses, again, I agree
2 with you. You see that, Jack? But any other matters
3 that I'm not bringing up on your limine?

4 MS. MS. LINTON: No, sir, Your Honor. I
5 think that Mr. Crudup and I agreed to all of my motions
6 in limine. And if an objection is necessary at that
7 time we will bring it up.

8 THE COURT: Can y'all agree on exhibits?
9 Y'all want to go through and stipulate, potentially?

10 MS. MS. LINTON: Yes, sir.

11 MR. CRUDUP: Yes, Your Honor. She provided
12 me with a list of exhibits. I don't -- I mean, I will
13 take one more quick look but I don't think that I have
14 any objections to any of them.

15 THE COURT: Go ahead and mark yours.

16 MS. MS. LINTON: Yes, sir.

17 THE COURT: And once you do that, let's put
18 them on the record.

19 MS. MS. LINTON: Yes, sir.

20 THE COURT: Y'all can be seated, we are good.

21 MS. MS. LINTON: Yes, sir.

22 THE COURT: Liability is an issue in this
23 case?

24 MR. CRUDUP: So, Your Honor my --

25 THE COURT: You don't have to say. I mean,

1 I'm just curious.

2 MR. CRUDUP: We talked about this at some
3 length prior. Your Honor, it is my client's position
4 that this is an accident, that there is -- no one is at
5 fault, it is just an accident. However --

6 THE COURT: So, liability is an issue? I
7 mean, I'm not -- did you know --

8 MR. CRUDUP: On some level, yes, Your Honor.

9 THE COURT: I mean, you are not coming in
10 here and saying, I don't know if y'all remember who
11 Cary Doyle was, great old defense lawyer in the day.
12 He would come in and say, last minute, We are at fault,
13 but we didn't cause all of these damages.

14 But you are not saying that, we are admitting
15 liability? You are just saying that you deny that you
16 are at fault? I am asking.

17 MS. MS. LINTON: If I may respond, Your
18 Honor?

19 THE COURT: Yeah.

20 MS. MS. LINTON: This is kind of the inverse
21 situation where the complaint and the discovery has
22 admitted liability, but the testimony has not admitted
23 liability. So it is kind of that opposite quandary and
24 it was one of the motions that I was trying to think
25 about making, simply because defendant's

1 interrogatories do not support an admission of
2 liability. And neither do the defendant's -- neither
3 does the defendant's answer.

4 THE COURT: All right. So, we will just
5 (inaudible).

6 MS. MS. LINTON: Yes, Your Honor.

7 THE COURT: All right. Any other matters
8 that I'm not thinking about?

9 MR. CRUDUP: Your Honor, I had -- and we may
10 agree to this, we didn't get a chance to talk about it.
11 During my client's deposition they asked him if he had
12 had any drinks in the 24 hours before the accident, or
13 something to that effect, and he said, I think that I
14 probably had a drink the night before. This happened
15 the next day. It happened around lunchtime the next
16 day. I assumed that they would not try to get into
17 that, but I just wanted to make sure that we are all on
18 the same page.

19 MS. MS. LINTON: No, sir, I do not plan to
20 get into that. No, I do not.

21 THE COURT: Okay. So, let me ask you this,
22 for verdict form purposes, do I need to do a
23 comparative verdict form or just straight up?

24 MR. CRUDUP: Your Honor, honestly, I don't
25 mean to be coy with anyone, I think that we need to see

1 what is actually going to come out.

2 THE COURT: All right.

3 MR. CRUDUP: And I think that I maybe think
4 that is no, but I would like to take a look.

5 THE COURT: That is fair.

6 So, if you would go ahead and mark your
7 exhibits and just read them into the record. What I
8 was thinking is, once the jury comes back I will excuse
9 them and we will come back after lunch and do opening
10 statements and start presenting evidence; is that all
11 right?

12 MS. MS. LINTON: Yes, Your Honor.

13 THE COURT: Thank you.

14 MS. MS. LINTON: I'm ready to proceed if Your
15 Honor would like me to read the exhibits in?

16 THE COURT: I think so, yes, ma'am.

17 MS. MS. LINTON: Plaintiff's exhibit 1,
18 Page 1620 marked as exhibit one and a trial deposition
19 for ID only. Do you want copies?

20 MR. CRUDUP: I am just going to look at this
21 copy.

22 MS. MS. LINTON: Yeah, if you wanted to look
23 at this and it lists all of them and I can give it to
24 her.

25 MR. CRUDUP: Okay. Hand on just one second,

1 Your Honor.

2 (Pause.)

3 MS. MS. LINTON: Your Honor, defense counsel
4 and I have agreed to plaintiff's exhibit 1 and
5 plaintiff's exhibit 3 through 27 would be admitted into
6 evidence. And I would be happy --

7 THE COURT: Okay. Do you have an exhibit
8 list?

9 MS. MS. LINTON: Yes, Your Honor. Would you
10 like me to provide a copy?

11 THE COURT: Yes, I think if you would give it
12 to the court reporter she will appreciate it.

13 *(Whereupon, Plaintiff's Exhibit No(s). 1*
14 *marked for identification and received in evidence.)*

15 *(Whereupon, Plaintiff's Exhibit No(s). 3*
16 *marked for identification and received in evidence.)*

17 *(Whereupon, Plaintiff's Exhibit No(s). 4*
18 *marked for identification and received in evidence.)*

19 *(Whereupon, Plaintiff's Exhibit No(s). 5-13*
20 *marked for identification and received in evidence.)*

21 *(Whereupon, Plaintiff's Exhibit No(s). 14*
22 *marked for identification and received in evidence.)*

23 *(Whereupon, Plaintiff's Exhibit No(s). 15-25*
24 *marked for identification and received in evidence.)*

25 *(Whereupon, Plaintiff's Exhibit No(s). 26-27*

1 *marked for identification and received in evidence.)*

2 THE COURT: Okay. If we bring the jury now,
3 are y'all okay starting back about 1:30?

4 MR. CRUDUP: That's fine.

5 MS. MS. LINTON: Yes, Your Honor.

6 THE COURT: Okay. Bring the jury in, please.

7 (The jury enters the courtroom at 12:08 p.m.)

8 THE COURT: There are 11 that want pad and
9 pencil.

10 THE CLERK: I will make sure that they are
11 there when they get back from lunch.

12 THE COURT: Okay. You are our foreperson?

13 THE JUROR: Yes, Your Honor.

14 *(Whereupon, Court's Exhibit No(s). 1 marked*
15 *for identification and received in evidence.)*

16 THE COURT: Okay. If you would use those
17 seats when coming in and out. And alternates, those
18 seats. Everyone else you can sit where you would like
19 other than those seats. And ladies and gentlemen, from
20 this point forward until you have been released, I will
21 advise you of one thing: You can't talk to anybody
22 about the case. That includes amongst yourselves. It
23 is called early deliberations. I know that sometimes
24 jurors are just, naturally when you take a break, you
25 know, on afternoon break or something, someone raised

1 an objection and I ruled on it, "Did you see that
2 objection, did you see this, that and the other?" That
3 is called early deliberations. Just don't talk about
4 the case in any form or fashion until the end of the
5 case when I say, Begin your deliberations. If you do,
6 it'll result in a mistrial and cause a headache for
7 everybody, okay.

8 Mr. Foreman, ladies and gentlemen, also from
9 this point forward, don't talk to anybody else about
10 this case. Like a spouse, if I were on a jury she
11 would want me to tell her what the case is about, et
12 cetera, just tell her when the case is over with you
13 can talk to her until your heart's desire. Text
14 messages, face-to-face, texts, emails, any other
15 communication that I'm not sophisticated enough to
16 understand, please don't do it. Okay?

17 Also please don't engage in what is called
18 independent jury research. That means looking up
19 something about any issue you hear in the case, any
20 person involved in the case, any participants, me, the
21 attorneys, court staff, you can look that up at the end
22 of the case until your heart's desire. But until the
23 case is over with, we want you to make your
24 determination based on the testimony and evidence you
25 hear from the witness stand, unaffected by anything

1 that is outside that other people don't see.

2 Also, I don't think that this will be a
3 problem, but if there is anything in the press -- I
4 don't think there will -- but don't listen to it.

5 That being said, I am going to excuse you for
6 lunch and I am asking that you be back in your jury
7 room at 1:30 and we will start opening statements at
8 that time. Okay. You are excused until 1:30.

9 (The jury exits the courtroom at 12:10 p.m.)

10 THE COURT: Any additions or exceptions from
11 my instructions to the jury?

12 MS. MS. LINTON: No, Your Honor.

13 MR. CRUDUP: No, Your Honor.

14 THE COURT: Do you have any IT that y'all are
15 going to be putting up today? If you are, try to get
16 it working.

17 MS. MS. LINTON: Yes, Your Honor.

18 THE COURT: Okay. Let's go ahead and get it
19 started up so you are able to run it. Otherwise, do
20 you need to get in here in the courtroom during the
21 break otherwise? If you do, talk to our bailiffs and
22 they will get you in and out of here, but I just wanted
23 to make sure.

24 And, of course, IT, see if you can go ahead
25 and try to work with it that way we don't have an issue

1 on the day when we are first starting the case.

2 MS. MS. LINTON: Yes, Your Honor.

3 THE COURT: Okay. See y'all back at 1:30

4 p.m.

5 MS. MS. LINTON: Yes, Your Honor.

6 MR. CRUDUP: Thank you.

7 (Lunch recess.)

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OPENING REMARKS BY THE COURT

1 PROCEEDINGS

2 (Jury enters the courtroom at 1:36 p.m.)

3 THE COURT: Madam Clerk, will you swear the
4 jury in, please ma'am?

5 THE CLERK: If you will stand and raise your
6 right-hand.

7 (Jury sworn by the Clerk.)

8 THE CLERK: Please let the record reflect
9 that all jurors accepted to oath.

10 OPENING REMARKS BY THE COURT

11 THE COURT: All right. If you will not let
12 anyone in or out of the courtroom during opening
13 statements and initial charge, please, sir.

14 Mr. Foreman, ladies and gentlemen of the
15 jury, we are about to begin the trial of the case
16 involving Charles Shabazz versus Brian Cox. As I told
17 you earlier, this case involves an automobile accident
18 that occurred on March 22nd, 2023 on Rochester Highway
19 here in Oconee County. It indicates that the plaintiff
20 alleges that the defendant's negligence caused him
21 injuries. The defendant denies that and also asserts
22 affirmative defenses in this case.

23 The burden of proof in this case is by what
24 is called a preponderance of the evidence. If you have
25 been involved in a criminal case, that is proof beyond

OPENING REMARKS BY THE COURT

1 a reasonable doubt, which is the highest burden of
2 proof recognized. Preponderance of the evidence is not
3 as high. The preponderance of the evidence simply
4 means the greater weight of the evidence. It is
5 evidence which as a whole shows that the fact sought to
6 be proved is more likely than not true.

7 For example, right now we begin this case
8 with a set of scales equal. At the end of this case,
9 when we begin to go over the plaintiff's claims and the
10 defendant's claims, the plaintiff will have the burden
11 to establish their claim by a preponderance. If the
12 scales tip ever so slightly in favor of the plaintiff,
13 they will have met their burden of proof and your
14 verdict will be for the plaintiff.

15 On the other hand, if they remain equal or
16 tilt ever so slightly in favor of defendant, the
17 plaintiff would have failed in their burden of proof.
18 Likewise, the defendant has asserted affirmative
19 defenses and I will let them tell you about that. The
20 defendant has the burden of establishing those by the
21 same standard. And I'll give you more about that at
22 the end of this case.

23 Now, I don't know if any of you have ever
24 been involved in a case before, but I would suspect
25 that each and everyone of you has watched on TV or

OPENING REMARKS BY THE COURT

1 movies something that purports to be a trial. Let me
2 dispel any preconceived notions that you may have,
3 trials are not entertainment. Trials are sometimes
4 slow, deliberate, very methodical, but are a
5 fundamental part of our democracy.

6 These attorneys, they are sworn in like all
7 other attorneys and have taken an oath that they will
8 zealously represent their client's interest before the
9 Court and you expect no less from these fine attorneys
10 in this case. They are also officers of the Court,
11 which means that you can expect them to be
12 professional, competent, and ethical in their dealings
13 with one another, in their dealings with me and any
14 witness that comes before this Court.

15 Likewise, you just took an oath that you
16 swore or affirmed to be fair and impartial and you
17 would try to reach a just verdict. That means that the
18 parties and the Court have the right to expect of you
19 that you will be fair and impartial and that you will
20 try to reach a just verdict in this trial. Remember,
21 you have no side of this case to reward or punish. You
22 are the judges of the facts of this case, and I'll tell
23 you about that.

24 What I tell you now is not the law that will
25 apply. I will give that to you at the end of the case.

OPENING REMARKS BY THE COURT

1 What I tell you now is basically a road map so you will
2 know what you are doing and where you are going at any
3 point in time in this case.

4 Those of you who have asked for pads and
5 pens, do you have them? Good. Because let me tell you
6 a little something about taking notes. As I said
7 earlier, you are the judges of the facts, you are the
8 sole judges of what the facts are in this case. In
9 other words, what your verdict is going be. And part
10 of what your fact finding process is is deciding which
11 testimony you wish to believe and whether or not you
12 have any testimony you wish not to believe. You
13 collectively have the right to believe all, or part, or
14 none of any witness' testimony that appears before you
15 in this case. In deciding on the believability or the
16 credibility of the witnesses, you need to watch a
17 witness while they are on the witness stand. A
18 witness' reaction to a question may be indicative to
19 you as to whether or not you should or shouldn't
20 believe their testimony. I just give that to you as a
21 warning.

22 Mr. Foreman, also, just because at the end of
23 the day something appears in one of your juror's notes
24 doesn't mean that it trumps somebody's memory on that
25 issue. Some people are better note takers and some are

OPENING REMARKS BY THE COURT

1 better listeners. If you have a contradiction in notes
2 and memories, that is why they are called
3 deliberations. And I will tell you more about that at
4 the end of the case.

5 Now, you are to determine what the facts are
6 from the testimony and evidence that you hear in this
7 courtroom, live testimony from this witness stand, as
8 well as any exhibits that I allow into evidence. And
9 that is all that you may use in making your
10 determination. That is what the facts are. And you
11 will do so by applying the law that I give you at the
12 end of this case.

13 I'll ask that you pay close attention
14 throughout the course of this trial because generally
15 there is no way to correct an incorrect finding of
16 fact. Now, no one has the right to interfere with your
17 function as being the fact finders. If I say anything
18 or do anything throughout the course of this trial that
19 seems to indicate to you how you ought to find facts,
20 in other words the verdict that you ought to reach, I
21 will instruct you and ask you to disregard it. Our
22 State Constitution doesn't allow a Judge to have an
23 opinion or to state an opinion on the facts of the
24 case. You and you alone are to determine what those
25 facts are.

OPENING REMARKS BY THE COURT

1 Now, you will do so by applying the law that
2 I will give to you at the end of the case. The law
3 that makes you the sole judges of the facts makes me
4 the sole judge of the law. You may not like it. You
5 may think that it should be something other than it is,
6 but it would be a dereliction in your oath not to
7 follow the law as I give it to you now. And I will
8 tell you that if I incorrectly charge you on what the
9 law is there is a Supreme Court and Court of Appeals
10 who will correct me on my mistake. But you must apply
11 it as I give it to you.

12 I remind you, you are not to begin your
13 deliberations, and that means talking amongst
14 yourselves, until you are told to at the end of this
15 case. Do not do any research on any matters or issues
16 involved in this case.

17 Now, Mr. Foreman, in every case, whether it
18 be criminal or civil, as this one is, it has five
19 phases. In just a minute there is going to be opening
20 statements where the lawyers will get up there and tell
21 you what they think the case is about. They are not
22 sworn in, they are not subjected to cross examination,
23 what they tell you is not evidence. That is not to
24 minimize the importance of what they tell you, because
25 it is important. But it is not evidence in the

OPENING REMARKS BY THE COURT

1 technical sense of the word.

2 After the opening statements, the plaintiff
3 having the burden of proof will present its case. The
4 defense will have a right to present his case. And the
5 plaintiff, if they so desire, will have the right to
6 reply to that. At the end of the presentation of
7 evidence you will then go to the closing arguments by
8 the attorneys.

9 I will then charge you on the law of the
10 case, which is the fourth phase. And in the fifth
11 phase you will be told to begin your deliberations. I
12 tell you that so you will generally know where you are
13 at any given time.

14 Now, lawyers, as part of their oath, are
15 required to object any time that he or she sees
16 something that they think is improper by way of
17 procedure or evidence that is improper. The fact that
18 there are objections, Mr. Foreman, and to the extent
19 that I let you stay here in the courtroom to see my
20 rulings on it, it is not to be part of the jury's
21 discussions. Suffice it to say, that process is
22 followed in every case. If any of your jurors tries to
23 interject that into the deliberations at the end of the
24 case, it is your job to make sure that it is not in the
25 jury's deliberations.

OPENING REMARKS BY THE COURT

1 Again, the burden of proof as to the
2 negligence claim and the affirmative defenses is by a
3 preponderance or greater weight of the evidence. To
4 the extent that the plaintiff also seeks punitive
5 damages, proof of punitive damages by clear and
6 convincing evidence. Clear and convincing evidence is
7 this: It is clear and convincing evidence is that
8 degree of proof that will give you a firm belief as to
9 the facts sought to be proven. This is more than a
10 preponderance of the evidence but it's less than
11 reasonable doubt. And I'll give that to you again at
12 the end of this case.

13 Now, Mr. Foreman, ladies and gentlemen, I'll
14 send you back to your jury room for one quick minute to
15 see if I have overlooked to tell you something that I
16 should have or I need to correct something that I have
17 already told you. I anticipate that you won't be there
18 long and we will come back with opening statements. Go
19 to the jury room for one quick minute.

20 (The jury exits the courtroom at 1:47 p.m.)

21 THE COURT: Any additions or exceptions from
22 the plaintiff?

23 MS. LINTON: None, Your Honor.

24 THE COURT: From the defense?

25 MR. CRUDUP: None, Your Honor.

OPENING STATEMENT BY THE PLAINTIFF

1 THE COURT: Do you need a minute, or are you
2 ready to go?

3 MS. LINTON: Can we have just a moment,
4 please?

5 THE COURT: You just want five minutes, that
6 will be good?

7 MS. LINTON: Five minutes, that will be
8 perfect.

9 THE COURT: Okay. Be back in just a minute.
10 I think that my law clerk told you, if you are going to
11 use documents in opening, make sure that they are
12 admitted into evidence. And if you want to use IT,
13 please get it up and running.

14 MS. LINTON: Yes.

15 (Brief recess.)

16 (The jury enters the courtroom at 1:55
17 p.m.)

18 THE COURT: Ladies and gentlemen of the jury,
19 we stand for you, you don't stand for us. Okay?
20 Plaintiff ready for opening statements?

21 MS. LINTON: Yes, Your Honor.

22 THE COURT: All right.

23 OPENING STATEMENT BY THE PLAINTIFF

24 MS. LINTON: So when I wrote this it said
25 good morning. I had to change it to good afternoon.

OPENING STATEMENT BY THE PLAINTIFF

1 My name is Mary Linton. I have the pleasure of
2 representing Charles Shabazz. This is Charles. Say
3 hi, Charles. And this is Shawn Legg. She is
4 invaluable. She is our paralegal and she has been a
5 paralegal for a long time. Thank you for being here.

6 I know that this is probably not where you
7 would want to spend a rainy Monday, but I really
8 appreciate it. Charles really appreciates it. Our
9 goal here is not to belabor the time, but to put forth
10 the evidence in this case and then allow you to do your
11 job.

12 A driver has a duty to follow the rules of
13 the road and should never endanger anyone. They must
14 keep a proper lookout. They must yield to on-coming
15 traffic. And if they don't and they hurt someone, they
16 are responsible for that harm. Plain as day. That is
17 what this case is about. The violation of safety rules
18 which protect the roadways. But these safety rules
19 only work if the jurors enforce them. I believe that
20 the evidence put forth before you will show that the
21 safety rules were violated and that Defendant Cox
22 refuses to take responsibility for the harm that was
23 caused to Charles.

24 Opening statements are an overview of what
25 you will see at trial. My job so to explain how the

OPENING STATEMENT BY THE PLAINTIFF

1 collision occurred and what harm and losses Charles
2 suffered as a result. They call them harms and losses
3 because that is what they are. A harm caused by a
4 collision and the loss that resulted from that
5 collision. The defense will soon get up and they will
6 tell you what they think the evidence shows.

7 As the Judge instructed you, we do not argue
8 this case until the end. After our arguments, the
9 Judge will instruct you on the law, and with that you
10 will return to your jury room to deliberate.
11 Throughout this case I will give you all of the
12 necessary tools you need to deliver a just and fair
13 verdict for Charles.

14 So with that in mind, let me tell you about
15 this case. March 2022 -- I'm sorry, March 22nd, 2023
16 around lunchtime, the defendant is driving home from
17 work to have lunch. He takes this route everyday.
18 He's familiar with it. And he's traveling down Mill
19 Road in Seneca. He approaches an intersection where
20 Mill Road stops with a stop sign to Rochester Highway.
21 It is a dead end.

22 This is what it looks like. This is what we
23 have marked as plaintiff's Exhibit 4. I'll show you
24 this again in a little bit. But this right here -- I
25 apologize -- is Rochester Highway. And this right here

OPENING STATEMENT BY THE PLAINTIFF

1 is Mill Road where the intersection is.

2 At the same time, defendant Cox is traveling
3 down Mill Road approaching the stop sign, Charles is
4 traveling down Rochester Highway. He has his
5 girlfriend in the car, and his dog, and he's heading to
6 his mom's house before he has to go to work. At that
7 time Defendant Cox intends to make a left-hand turn
8 onto Rochester Highway. We all know turning left can
9 be very dangerous. You have to look both ways. And
10 you have to make sure that no on-coming cars are
11 traveling down the roadways, because if you don't harm
12 can be caused.

13 Without ensuring a clear path, Defendant Cox
14 makes his left-hand turn and, boom, crashes into
15 Charles. Air bags deploy. Plastic litters the road.
16 No one is going to deny this is a hard hit. This is
17 plaintiff's Exhibit 17. Again, you will see this a
18 little bit later. This is the result of not looking
19 where you are going when you enter an intersection.
20 This is Charles' car. Charles feels immediate pain.
21 He feels it in his neck, his left wrist, his left knee,
22 and his left ankle. Whole left side.

23 Overtime Charles' neck, his knee, and his
24 ankle heal from this collision. Unfortunately the
25 trauma that Charles suffered to his left wrist never

OPENING STATEMENT BY THE PLAINTIFF

1 healed, never went away, never gonna be the same.

2 We believe that the evidence in this case
3 will show that Charles' injuries were caused by this
4 crash. We also believe that the evidence in this case
5 will show that Defendant Cox pulled into on-coming
6 traffic and hit Charles. And yet, he won't take
7 responsibility for it. The defense may tell you that
8 they accept liability. They may not. The versions
9 have changed. But one thing is for certain, they don't
10 accept responsibility.

11 So in everything, do to others what you would
12 have them do to you. Matthew 7:12. That is what this
13 case is about. You are here today because the defense
14 won't accept responsibility for this collision and the
15 harms and losses suffered by Charles. And debt is
16 owed, and this is the only way to settle it.

17 So let's talk about that. To understand what
18 was taken from Charles, you have to know Charles.
19 Charles is 26. He was 23 at the time of this
20 collision. Born and bred in Seneca. At the time of
21 this collision he was employed with Baxter Enterprises,
22 which is a plastics plant, he worked on their machines.
23 He was a temp worker, but he was looking to move up
24 because he loved that job.

25 He had just gotten a new apartment with his

OPENING STATEMENT BY THE PLAINTIFF

1 brother. He was excited about this new place, the best
2 apartment he's ever had. He had saved up to purchase a
3 new car that he picked out with his grandfather. And
4 he was at a job that he loved. A job that he could
5 build a career from like he had seen his grandfather do
6 when he retired as a firefighter.

7 When Charles wasn't working, he was playing
8 basketball. I have gotten to know Charles. He loves
9 basketball. He loves basketball. He played in high
10 school. He played rec everyday that he could until
11 this collision. Independence like Charles at only 23
12 is a rare thing these days. He was building a life for
13 himself and he was proud of it. He was proud that he
14 had gained independence, wasn't living with his
15 parents. He was working at a job that he wanted to
16 build a career from. That is rare. At 23, I wasn't
17 doing those things.

18 And then the crash happened. Immediately
19 Charles' new car that he had saved up for was gone.
20 And this may not seem like a big deal, but for a 23
21 year old that is a hard one to swallow, that was a
22 feeling of loss. He was proud of that car.

23 With his injuries, Charles was forced to take
24 time off of work. He couldn't do his job with one
25 hand. He tried. He would go in and he would try and

OPENING STATEMENT BY THE PLAINTIFF

1 work on the smaller machines but HR said, No, Charles,
2 you can't do these jobs, you have to have both of your
3 hands. Until you are cleared, you can't come back.

4 Charles is a guy who likes to work with his hands.

5 His job now is working in a mechanics shop.
6 He likes working with his hands. And in those types of
7 professions, your wrists are invaluable. Without two
8 working wrists in a job like the one that he had at
9 Baxter, you have no choice but to sit out. He was also
10 forced to stop basketball, a past time that he loves.
11 He finds it stress relieving, just like that, gone
12 until further notice.

13 And then his wrist didn't heal. Three months
14 after the collision, same problem. Three months after
15 the collision, out of work. Six months of trying to
16 figure out the problem, no solutions. Manual labor
17 jobs can't wait for an injury to heal. Charles lost
18 his job at Baxter Enterprises because he couldn't work.
19 Another thing taken from him. Without a job Charles
20 couldn't pay the bills.

21 He couldn't pay for his apartment. Gone.
22 Had to move back in with his mom. Slowly, all of that
23 independence that he had been cultivating, gone. He
24 was building a life for him at 23, which again, very
25 rare, gone.

OPENING STATEMENT BY THE PLAINTIFF

1 Now let's talk about his injury. Charles
2 suffered a wrist fracture and a ligament injury. Later
3 on you are going to hear from Charles' doctor, her name
4 is Dr. Murphy, and she will describe the injury for
5 you. Like most collisions, he suffered neck, knee,
6 ankle, left side pain, and those healed. It took a
7 while, but they healed.

8 The ongoing but persistent pain that he feels
9 to his wrist he describes is a painful popping
10 sensation. When this occurs he suffers excruciating
11 pain and it shoots down his arm, causes his arm to go
12 numb, and he has to sit out until he regains feeling in
13 his arm. He rates this pain as an eight out of ten.
14 When this happens, his demeanor changes, he goes quiet
15 and reclusive and he just tries to bear it until he can
16 get back to work.

17 Now, I'm not going to tell you that this
18 ruined Charles' life, it didn't. If I told you that I
19 would be selling a false bill of goods. His life is
20 not ruined. He was able to build it back up. But it
21 was not without significant struggle, and it is not
22 without struggle that persists even today, years later.
23 Charles had a wonderful girlfriend that you will hear
24 from later on and he has a four month old daughter
25 named Evelyn. He has his job. He works at an oil

OPENING STATEMENT BY THE PLAINTIFF

1 change facility so he can provide a life for his new
2 family.

3 It took him a long time, but he's climbed out
4 of that hole. But it is not without struggles. Weekly
5 struggles. Especially in his job. He simply learned
6 to adapt, grin and bear it, and keep moving forward,
7 because that is what he has to do.

8 Now I anticipate that the defense lawyer will
9 get up here and he will minimize Charles' harms and
10 losses. He will tell you that this is a lottery ticket
11 that Charles is trying to cash in. He will tell you
12 that he suffered a minor sprain that healed. And he
13 will tell you that if he was really experiencing pain
14 he would be going to the doctor, he's lying, he's
15 exaggerating his symptoms, this painful popping
16 sensation rarely happens.

17 What I believe the evidence will show is that
18 Charles has not been to the doctor for the wrist pain
19 because he tried that and it didn't work. He can't
20 take time off of work to keep going to the doctor when
21 he has a four month old baby and a girlfriend that he
22 wants to support. He is not a complainer and he's
23 learned to navigate a new life with it. Charles' needs
24 take the back seat to his four month old daughter.

25 So when the options are to take time off of

OPENING STATEMENT BY THE PLAINTIFF

1 work, lose out on income and go to the doctor, he is
2 not going to do that. Charles works so hard. He works
3 all of the time. You are going to hear how hard he
4 works because he wants to provide a life for his
5 daughter, he wants to provide a life for his
6 girlfriend. He doesn't want to fall back into a hole
7 of dependence because he's climbed out of it and he has
8 built a life that he's proud of.

9 You are going to get the chance to meet
10 Charles. You are going to meet his family. You are
11 going to see some of his friends, coworker, and
12 ultimately it is up to you to decide if you believe
13 him. I do. You are going to hear from various
14 witnesses. You are going to hear a lot of evidence.
15 But ultimately there is one question, do you believe
16 him. That is what this case is about. That is the
17 defense. If you don't believe him, render a verdict
18 that reflects it. But if you do, I would ask you to
19 return a verdict that reflects that. Don't let the
20 defense attack him and get away with it.

21 Now, we have talked about the facts of this
22 case. We have talked about some of the harms and
23 losses. Let's talk about what we are asking of you.
24 Charles is a plaintiff in this case, which means that
25 he is the one pursuing this lawsuit and pursuing

OPENING STATEMENT BY THE PLAINTIFF

1 damages. What is the fair market value for what has
2 been taken, for what he's had to endure?

3 The system is not an eye for an eye. I'm not
4 going to ask you to cause any harm to Defendant Cox.
5 All that we can do is try and figure out the full and
6 fair trade value of what was taken from Charles. The
7 way we do that in our justice system is appraising the
8 fair trade value of the loss and trying to compensate
9 it with money. That is our only option. And the only
10 way to establish Charles' losses and harms is to show
11 you what he had before, how he operated, hear about his
12 job at Baxter, hear about his love of basketball. Show
13 you what he liked to do, how he enjoyed life, and then
14 show you what it is like today. What it's been like
15 for the past two and a half years. And what it's going
16 to be like forever. You will not be allowed to reduce
17 an award because of outside factors, and the Judge has
18 explained that to you.

19 The oath that you took requires you to follow
20 the law and consider only the evidence in this case and
21 only the harms and losses suffered by Charles. You are
22 his one jury. You are going to do justice with your
23 verdict. We only get one shot at this. We don't get
24 to come back in ten years when Charles struggles to
25 help his daughter learn how to play basketball and

OPENING STATEMENT BY THE PLAINTIFF

1 can't coach on the team. We don't get to come back.
2 This is it. This is so important to Charles. And it
3 is important to me, because I like Charles.

4 This case is about the loss of things that we
5 value and that make our life more enjoyable, how we
6 reduce stress, how we succeed at work. The loss of
7 being able to do things without a fear of pain. The
8 loss of being able to work at your job without
9 stressing if you are going to be dealing with
10 excruciating pain and have to sit out for 45 minutes.
11 That is why you are here.

12 Defense doesn't want you to give money for
13 those harms and losses. They want to convince you to
14 pay as little as possible. They want you to look the
15 other way when the safety rules are violated. They are
16 going to tell you that we are here because we hit the
17 lottery. This collision was not a lottery to him.
18 Charles is not here to collect from a lottery. This
19 was a real and terrible collision that has altered his
20 life. If Charles hit the lottery, he would live a life
21 free of pain.

22 After hearing his case you will be in the
23 best possible position to assess the harms and losses
24 not only his hobbies, his independence, but his ability
25 to live life free of pain. His ability to live life

OPENING STATEMENT BY THE DEFENSE

1 free of pain in his 20s. He is so young. He has got
2 such a long life left. We will prove this to you, and
3 if we do I ask that you return a verdict that reflects
4 that. Not a penny more, but not a penny less. Exodus
5 21:19, the old testament, of a need to right the
6 wrongs. He who struck him shall provide for him to be
7 thoroughly healed. And that is what we are seeking.
8 No more, no less.

9 By the end of this case you will see why the
10 evidence presented makes this the kind of case that
11 forces me to come back to you and ask for a total
12 verdict that may sound like a lot of money, but by the
13 end you will understand why it is necessary. You will
14 hear from so many people who will tell you about
15 Charles and his life. Thank you for your time. I look
16 forward to presenting this case to you.

17 THE COURT: Mr. Crudup.

18 MR. CRUDUP: May it please the Court.

19 THE COURT: Yes, sir.

20 MR. CRUDUP: Thank you.

21 OPENING STATEMENT BY THE DEFENSE

22 MR. CRUDUP: I wanted to bring this up here
23 because I really did write good morning like she did.
24 I guess for some reason I thought we were going to be
25 here in the morning, but clearly not. My name is Jeff

OPENING STATEMENT BY THE DEFENSE

1 Crudup, I am here and I represent Mr. Cox, I call him
2 Brian, sometimes I call him Mr. Cox. That is his wife
3 there smiling at you. So if you wonder who she is, her
4 name is Jennifer.

5 Before I really get started and telling you
6 about -- I have some things to talk to you about -- but
7 before I get started, I wanted to let you know
8 something. I was talking to them last night and they,
9 I think that it was his wife that used the term, she
10 called Brian a walking miracle. And the reason that
11 she called him that is after the fact, about eight
12 months later, about eight or nine months later, Brian
13 underwent a heart procedure and ended up having a
14 stroke. It was very significant. The miracle part of
15 it is that he is walking around and he is moving
16 around.

17 You probably wouldn't really notice it, but
18 it left him with some special needs is the wrong word,
19 but things that are a little bit different. One of
20 those things is that you may see him stand up
21 sometimes. His doctor told him to do that. Please
22 don't think that he is not paying attention or now
23 respecting procedure or something like that, he is just
24 following his doctor's orders.

25 Two, when he gets stressed out and a trial is

OPENING STATEMENT BY THE DEFENSE

1 probably the most stressful thing that I could think
2 about, and it is probably that way for him, he can
3 struggle sometimes over something called aphasia. My
4 wife is a speech pathologist, so I know these terms.
5 But it is when you, you know what you want to say but
6 you can't quite find the word, so you may see that on
7 the stand. Please don't hold that against him. That
8 is, again, something that happened.

9 And the third thing is, because he can kind
10 of get, not upset, but he can get frustrated or a
11 little angrier than he used to be. Again, you guys
12 didn't know him before so it is probably not going to
13 mean a whole lot, but that is another result of what
14 happened.

15 The reason that I tell you all that is
16 because my job is to give him voice, right. You have
17 heard now about what they are saying and Brian has sat
18 there and there is not much that he can do. My job is
19 to give voice to Brian. That is my only job. So I
20 want to make sure that you understand what is going on
21 with him, but also what happened in this accident.

22 So this is my chance to tell you about what
23 you are going to hear. And I don't think that I'm
24 going to take all that long, but you are going to hear
25 all of this stuff and I think that I would rather talk

OPENING STATEMENT BY THE DEFENSE

1 to you about it a little later once you have heard most
2 of it.

3 But I want you to understand from our
4 perspective what happened in this accident. Because I
5 do think that we are here for two different reasons.
6 Brian and I are here for one reason, or two reasons.
7 And I think that plaintiffs are here for another. And
8 I'll talk about that in a second. But we are here for
9 two reasons.

10 So the first reason is -- really the two
11 reasons we are here really is you guys have to make two
12 decisions. Okay? The first decision I want to tell
13 you about what happened in the accident. Because your
14 job is actually to figure out who is at fault. But I
15 want to preface that because I think that we watch TV
16 and stuff and some people are guilty or not guilty, or
17 liable or not liable. That is not really how civil
18 trials work in South Carolina.

19 What you are going to be asked to do is come
20 up with a percentage of who is at fault. And it is
21 difficult. Because you are going to hear Brian. I
22 will assure you he is going to say this. He doesn't
23 think that anybody -- he is going to call this an
24 accident. We all call it an accident. But he is going
25 to say that it is an accident that happened. But your

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1 job is going to be to apportion a level of -- basically
2 you are going to give a percentage to both sides. As
3 long as that adds up to a hundred percent. That is
4 your first job.

5 So it could be 50/50, it could be 60/40. It
6 could be a hundred. Either way. Whatever that number
7 is, as long as it adds up to a hundred that is your
8 first job. So I want you to understand from his
9 perspective what happened in the accident. You kind of
10 heard generally what happened and we don't disagree
11 with those facts. Brian is on his way home. He is
12 going to have lunch with his wife.

13 He comes to the corner of Mill and 130. You
14 are going to probably know roughly where we are talking
15 about. There is a lot of traffic around that time, so
16 it is a high congestion area. At that point in the
17 road there is two lanes, two lanes going in one
18 direction and one lane going the other direction. The
19 right lane is -- the left lane is turning, all right.
20 So Brian is waiting there.

21 I will tell you he waits there for a while
22 because there is just traffic. Eventually traffic
23 comes to a stop and a bigger truck like a pick-up
24 truck, not a truck truck, like a pick-up truck is
25 letting him out. He is doing the (demonstrating),

OPENING STATEMENT BY THE DEFENSE

1 right. So Brian is sitting there, starts to come out
2 some. And I will tell you he kind of inches out
3 because he has to see around the pretty big truck, and
4 traffic is going back that way. So there is no traffic
5 here. So Brian is not driving into traffic, he is not
6 not looking where he's going or something like that.

7 He stops. He is inching out. And Brian is
8 going to tell you when he starts going there's no
9 traffic coming from that direction. He's not trying to
10 beat a car. He is not thinking, I can make this. It
11 is also raining, kind of like today. But he's not
12 trying to beat anything, he's just looking and there is
13 nothing.

14 At the same time this is all happening, Mr.
15 Shabazz is in the right-hand lane, or the left-hand, he
16 is in the right-hand lane and he will tell you at some
17 point he realizes that there's no traffic on his left
18 side and he decides that he is going to come out and go
19 around. Nobody is saying he can't do that. But what
20 he is going to tell you is, as he is coming around my
21 client is coming out.

22 And what I will tell you is, my client,
23 Brian, he is out. By the time he gets down that road
24 he is already out. You will see the dent, look at the
25 pictures from the car. I won't show them to you now,

OPENING STATEMENT BY THE DEFENSE

1 but you will see them. There are a whole bunch of
2 them. The contact between the cars is the back of my
3 client's driver's side, so he is out, he is almost
4 through to that left side. He is making that left-hand
5 turn. And he hits him on the right side, all right,
6 with his driver's side.

7 It is certainly a significant accident, but I
8 will tell you, it is a quick thing. It is one or two
9 seconds at most from the time that he comes out until
10 the time that this happens. All that Brian is saying,
11 he acknowledges that he has to yield the right-of-way
12 to cars that are there, but when he's pulling out
13 there's no car there. That's his point. There's
14 nothing.

15 He doesn't know that -- there is no car to
16 yield to at the time as he is coming out. Once he
17 starts to come out though, has this accident. We all
18 agree is a significant accident. You will see the
19 damage to their cars and all of that stuff. But your
20 first job for us is to figure out how to divide up who
21 is at fault here.

22 Now, the second thing that you are going to
23 have to do, and you have heard a lot of this, is figure
24 out what is fair to compensate Mr. Shabazz. Okay? And
25 the good news is we have a pretty good idea what

OPENING STATEMENT BY THE DEFENSE

1 happened. Sometimes we get here and we are fighting
2 over injuries or what happened, but that is not really
3 the case. The bad news is -- well, we have a little
4 bit of a fight like that, but really the issue that we
5 have is how do you compensate him for what happened to
6 him. Right?

7 You are going to hear, and you started to
8 already hear this stuff. But you are going to hear
9 this accident probably injured his neck and his back
10 and his knee and his ankle. And that is
11 understandable. Like I said, it is a pretty
12 significant accident, right. But when it happens the
13 air bag comes out we think and it fractures his wrist.
14 And that is a -- you will see/hear it is a subtle,
15 cortical, I think it is cortical fracture,
16 non-displaced. So, you know, his wrist isn't in a
17 bunch of pieces or anything, but it is a hair line
18 fracture. That is the layman's term of it.

19 But the hair line fracture, and it probably
20 also sprains his wrist. Because whatever that air bag
21 did moved his wrist in such a way. Now, that sprain is
22 -- it is termed a mild sprain. It is a grade one
23 sprain. There are four levels of sprains. This is the
24 first one. They are not going to focus on the
25 brokenness, the broken part, because we all agree it is

OPENING STATEMENT BY THE DEFENSE

1 a broken bone, four to six weeks, here is a split, and
2 the bone is as good, as strong as it ever was. When a
3 bone gets out of place they can heal improperly but
4 that has not happened here.

5 They are going to focus on this sprain.
6 Sprained wrist. And they are already saying that it
7 never healed. A minor sprain that never healed. Not
8 in two and a half years, all right. When you hear
9 that, ask yourself why would they focus on that, of all
10 things. Broken bone in his wrist. Why focus on this
11 sprained wrist? Right. And the reason is money. We
12 are in civil court. Right. This isn't about, this
13 isn't about justice or fair, this is about money.

14 They want you to provide them with as much
15 money as you can. And they think that that is the way
16 to do it, to say that this soft tissue injury that we
17 can't really measure is still there, been going on and
18 on and on. I don't know how much they are going to be
19 asking you for, but I bet that it'll be hundreds of
20 thousands of dollars though.

21 Maybe that might even be low, I don't know.
22 But they will do that eventually at some point. So
23 when they do that, and I suspect that that will happen,
24 don't -- it is -- what we don't want you to do, they
25 are not looking for all of it. They want to start with

OPENING STATEMENT BY THE DEFENSE

1 a number so high that you think that that somehow
2 compromising lower than that is somehow appropriate.
3 It is like if you have a sale and the store raises the
4 prices and then tries to create a sale. Don't do that.
5 All right? When you hear that stuff, don't fall into
6 that trap. I am going to hazard a guess that everyone
7 here at some point has sprained something, a little
8 sprain, or maybe even a significant sprain.

9 Ironically enough, I play basketball. I
10 played in high school, I played in college. I have
11 sprained probably every joint that I have. And what
12 happens, right, even on a pretty significant sprain,
13 what happens? They heal. We are done. A couple of
14 weeks, a couple of months, but eventually they heal.
15 Right? Especially a grade one sprain, no ligaments
16 torn, no need for surgery, no torn tendons, nothing
17 like that, they heal over time.

18 So one thing that a Judge often does, and I
19 will tell you as well, don't leave your common sense at
20 the door. All right. When you hear about this stuff,
21 you guys -- and when we have talked about people that
22 are a little bit older, 65 and older have a wealth of
23 knowledge, use that. I mean, don't just assume that.
24 Think about your own experience in your own world. We
25 agree that Mr. Shabazz got hurt in this accident,

OPENING STATEMENT BY THE DEFENSE

1 there's no question about that. And eventually when we
2 get to the end we will talk about what is appropriate
3 for that. But nobody is claiming that he didn't get
4 hurt.

5 But the evidence will show that he had a mild
6 displaced fracture that healed, a non-displaced
7 fracture that healed. And he had a sprain that also
8 healed over the course of time. So if you take that
9 evidence and you just utilize a little common sense, I
10 think that eventually you will come to the same
11 conclusion that we did, that Brian did. That this is
12 not entirely his fault. He didn't just drive into
13 traffic, he didn't break a bunch of rules. He did the
14 best that he could under the circumstances and it
15 turned out that it was an accident.

16 And, then two, ultimately Mr. Shabazz got
17 hurt and he healed over the course of time. We are not
18 trying to minimize that. We are not trying to claim
19 that he didn't get hurt or that this didn't affect his
20 life for a period of time, for a discrete period of
21 time. But the evidence is going to show you that
22 essentially.

23 So that is all that I'm going to say for now.
24 Once you guys hear all of the evidence I'm probably
25 going to come back -- I am not going to jinx it -- but

DIRECT EXAMINATION OF BROOKLYN HADDAD BY MS. TIPTON

1 we are going to come back and tomorrow we will be able
2 to finish this and we will talk to you more about the
3 actual evidence. But other than that, just do us one
4 favor. Just listen to all of the evidence before you
5 start making decisions because we always go second
6 after the defense, and so I don't want you to make a
7 decision and then we come and talk to y'all later. So
8 just listen to all of the evidence, and at the end of
9 it just apply some common sense, that is all. Thank
10 you.

11 THE COURT: Call your first witness.

12 MS. LINTON: Your Honor, the plaintiff calls
13 Brooklyn Haddad.

14 Thereupon,

15 BROOKLYN HADDAD

16 was called as a witness, having been first duly sworn,
17 was examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MS. LINTON

20 Q. Hi, Brooklyn.

21 A. Hi.

22 Q. Could you speak up a little bit, please?

23 A. Yes, ma'am.

24 Q. You have a lot of people that want to hear you.

25 Tell me your name and where you live.

DIRECT EXAMINATION OF BROOKLYN HADDAD BY MS. TIPTON

1 A. My name is Brooklyn Haddad and I'm from Seneca.

2 Q. Brooklyn. Do you mind if I call you Brooklyn?

3 A. Yes, ma'am.

4 Q. How do you know Charles?

5 A. We have been dating for close to three years now.

6 THE COURT: You have got to speak up.

7 THE WITNESS: We have been dating close to
8 three years now.

9 THE COURT: Would you pull that microphone a
10 little closer?

11 MS. LINTON: All right, thank you.

12 BY MS. LINTON

13 Q. How do you know Charles?

14 A. We have been dating for close to three years now.

15 MS. LINTON: Your Honor, can you hear her?

16 THE COURT: (Nods in the affirmative).

17 MS. LINTON: Okay.

18 BY MS. LINTON

19 Q. How did y'all meet?

20 A. I worked with his mom, Mrs. Allen, at Fatz Cafe
21 and he would come in after work to get food and we met
22 there.

23 Q. Do you have any kids?

24 A. We have one daughter, she is a four month old.

25 Q. Brooklyn, what do you do for a living?

DIRECT EXAMINATION OF BROOKLYN HADDAD BY MS. TIPTON

- 1 A. I am a waitress at Long Horn Cafe.
- 2 Q. And how many days a week do you work there?
- 3 A. I only work two days a week.
- 4 Q. What do you do on the other days?
- 5 A. I stay home and take care of our daughter.
- 6 Q. Who watches Evelyn while you are at work those two
- 7 days?
- 8 A. Either Mrs. Allen or my aunt.
- 9 Q. Before Charles was injured, how would you describe
- 10 him to someone who has never met him?
- 11 A. He was funny and outgoing and carefree.
- 12 Q. In 2023, where was Charles working?
- 13 A. He was working at Baxter Enterprises.
- 14 Q. Did you like that job?
- 15 A. He liked it a lot.
- 16 Q. Did he want to make a career out of it?
- 17 A. Yes, ma'am.
- 18 Q. Was he good at it?
- 19 A. Yes, ma'am.
- 20 Q. Did he seem happy?
- 21 A. He did.
- 22 Q. Social?
- 23 A. Yes, ma'am.
- 24 Q. Was he into basketball?
- 25 A. Yes, ma'am.

DIRECT EXAMINATION OF BROOKLYN HADDAD BY MS. TIPTON

1 Q. Did he play a lot?

2 A. Yes, ma'am.

3 Q. Brooklyn, were you involved in the car crash that
4 occurred March 22nd, 2023?

5 A. Yes, ma'am.

6 Q. Who was in the vehicle with you?

7 A. It was Charles, our dog, and I.

8 Q. Where were you sitting?

9 A. I was in the passenger's seat.

10 Q. Were you wearing your seat belt?

11 A. Yes, ma'am.

12 Q. Do you recall if Charles was wearing a seat belt?

13 A. Yes, ma'am.

14 Q. Describe for the jury what you had done that day?

15 A. We were at his house playing with our dog and just
16 hanging around.

17 Q. Was Charles scheduled to work that day?

18 A. Yes, ma'am.

19 Q. What time?

20 A. I believe it was 2 or 2:30.

21 Q. Where were y'all headed?

22 A. We were going to Mrs. Allen's house.

23 Q. Did you make it there?

24 A. No, ma'am.

25 Q. Why not?

DIRECT EXAMINATION OF BROOKLYN HADDAD BY MS. TIPTON

1 A. We were struck on Rochester Highway.

2 Q. Describe the impact for the jury.

3 A. It was sudden and frightening. And since it was
4 unexpected we shot forward a bit and the air bag went off,
5 and it was loud and frightening.

6 Q. What did it sound like?

7 A. It was like a gunshot.

8 Q. Was it scary?

9 A. It was very scary.

10 Q. You were traveling down Rochester Highway, right?

11 A. Yes, ma'am.

12 Q. Do you recall if Charles had switched lanes?

13 A. We were driving in the right lane, and then as it
14 merged into the left turning lane we went -- we merged into
15 the left turning lane and then that is where we were struck.

16 Q. And why did you merge into the left turning lane?

17 A. We were turning left at that red light to get to
18 Ms. Allen's house.

19 Q. Was there anything that Charles could have done to
20 avoid this collision?

21 A. No, ma'am.

22 Q. Okay. Brooklyn, I'm going to show you some
23 photographs and I'm going to put them right up here so they
24 are going to display for the jury to see.

25 A. Yes, ma'am.

DIRECT EXAMINATION OF BROOKLYN HADDAD BY MS. TIPTON

1 Q. Okay. This is what is marked as plaintiff's
2 Exhibit 17. Is that Charles' car?

3 A. Yes, ma'am.

4 Q. Does this photo depict the damage from the
5 collision?

6 A. Yes, ma'am.

7 Q. I'm going to show you plaintiff's Exhibit 21.
8 Does this also show the damage from the collision?

9 A. Yes, ma'am.

10 Q. Plaintiff's 22, what about this one?

11 A. Yes, ma'am.

12 Q. Had you been down Rochester Highway before?

13 A. Many times, yes, ma'am.

14 Q. I'll show you what has been marked as plaintiff's
15 Exhibit 4. Is this your understanding of what Rochester
16 Highway looks like?

17 A. Yes, ma'am.

18 Q. And you testified that Charles was in the right
19 lane?

20 A. Yes, ma'am.

21 Q. And he merged over to the left lane?

22 A. Yes, ma'am.

23 Q. At the time that he merged, was there any cars in
24 his way?

25 A. No, ma'am.

DIRECT EXAMINATION OF BROOKLYN HADDAD BY MS. TIPTON

1 Q. So he was able to safely merge?

2 A. Yes, ma'am.

3 Q. How long had he been in the left lane before the
4 collision occurred?

5 A. We were pretty close to the red light before we
6 struck the car.

7 Q. When you travel with Charles to get to his mom's
8 house, is that the route that he typically takes?

9 A. Yes, ma'am.

10 Q. So he knows that he has to turn left?

11 A. Yes, ma'am.

12 Q. Immediately after the collision, what did you do?

13 A. We sat in the car and caught our breath, and I
14 checked on Charles and our dog.

15 Q. How was Charles?

16 A. He was upset. I could tell that he was in pain.
17 He was grabbing onto his wrist.

18 Q. He seemed like he was in a lot of pain?

19 A. Yes, ma'am.

20 Q. Then what happened?

21 A. We waited in the car until the EMS arrived, and
22 when they got there Charles went to the EMS to be checked
23 out.

24 Q. Did anyone come to the scene of the collision?

25 A. Mrs. Allen came.

DIRECT EXAMINATION OF BROOKLYN HADDAD BY MS. TIPTON

1 Q. Was Charles taken to the hospital?

2 A. Yes, ma'am, in the ambulance.

3 Q. Were you able to go to the hospital with Charles?

4 A. Yes, ma'am, Mrs. Allen and I dropped the dog off
5 and then we met Charles at the hospital.

6 Q. When you got to the hospital where was Charles?

7 A. He was in the back getting checked out by the
8 doctors while me and Mrs. Allen waited in the waiting room.

9 Q. How was he feeling?

10 A. The next time I saw Charles he had a splint on his
11 wrist and he was in a lot of pain.

12 Q. Now the jury will hear about Charles' treatment a
13 little bit later, but could you briefly tell the jury about
14 what you remember from Charles' treatment?

15 A. I remember at the hospital I wasn't told much, but
16 at his next appointments he went through MRIs, x-rays, and
17 PT.

18 Q. Were those PT appointments painful?

19 A. Yes, ma'am.

20 Q. How did he get to the appointments?

21 A. Either his granddad or I would drive him to the PT
22 appointments.

23 Q. And why?

24 A. Charles had no transportation.

25 Q. During that time, did you sense that Charles had

DIRECT EXAMINATION OF BROOKLYN HADDAD BY MS. TIPTON

1 anxiety driving?

2 A. Yes, ma'am.

3 Q. And when he would get in the car from his
4 appointments, how did he seem?

5 A. He seemed sore and he would tell me about what
6 they had him do at his PT appointment.

7 Q. Was Charles' treatment painful?

8 A. Yes, it was.

9 Q. How did it make him feel?

10 A. He was overwhelmed and in pain.

11 Q. How did it make you feel?

12 A. I felt horrible for Charles.

13 Q. In the first six months or so after the collision,
14 how was Charles?

15 A. Charles was struggling. He was going through a
16 lot. Very sad and upset about his losses.

17 Q. Did he try to work?

18 A. He did.

19 Q. Tell the jury about that.

20 A. Charles would go in to Baxter and they would not
21 allow him to work on the machines without both of his hands
22 even though he tried with just one hand.

23 Q. Was Charles upset when he lost his job?

24 A. Yes, ma'am.

25 Q. Was he able to play basketball?

DIRECT EXAMINATION OF BROOKLYN HADDAD BY MS. TIPTON

1 A. No, ma'am.

2 Q. I want to talk about Charles' life from six months
3 from the collision until today.

4 A. Okay.

5 Q. Have you seen Charles struggle related to his
6 wrist?

7 A. Yes, ma'am.

8 Q. How often do you see this?

9 A. Around two or three times a week.

10 Q. Tell the jury about it.

11 A. Charles will come home from work on the days that
12 he is under the car while in the pit and he will be very
13 quiet and withdrawn. Charles doesn't like to tell you when
14 he is in pain. But he will tell me on the really bad days
15 that he is hurting.

16 Q. Would you consider Charles to be a complainer?

17 A. No, ma'am.

18 Q. Does he try to be optimistic?

19 A. Yes, ma'am.

20 Q. What do you think is the hardest thing for Charles
21 since this collision?

22 A. I think it is --

23 MR. CRUDUP: Your Honor, I have to object at
24 this point.

25 THE COURT: I am sorry?

CROSS EXAMINATION OF BROOKLYN HADDAD BY MS. TIPTON

1 MR. CRUDUP: I have to object at this point.

2 I think that this calls for speculation.

3 THE COURT: What is your response?

4 MS. LINTON: Present sense of impression,
5 Your Honor, of how she views him. She doesn't have to
6 feel what he says, just how he's feeling.

7 THE COURT: I'll sustain the objection.

8 BY MS. LINTON

9 Q. Do you try and do anything to help Charles?

10 A. I do. I try to make sure that our house is clean
11 and the baby is well taken care of to take some pressure off
12 of his plate.

13 MS. LINTON: Beg the Court's indulgence, Your
14 Honor.

15 (Pause.)

16 MS. LINTON: Thank you, Brooklyn. I have no
17 further questions for you. Defense counsel may have
18 questions for you.

19 THE COURT: Cross examination.

20 CROSS EXAMINATION

21 BY MR. CRUDUP

22 Q. Good afternoon, Brooklyn.

23 A. Good afternoon.

24 Q. You have been with Charles about three years?

25 A. Yes, sir.

DIRECT EXAMINATION OF BRIAN COX BY MS. TIPTON

1 Q. Do you love him?

2 A. Yes, sir.

3 Q. It is under oath?

4 A. Yes, sir.

5 Q. And you came here -- he asked you to come here and
6 testify for him, correct?

7 A. Yes, sir.

8 MR. CRUDUP: Those are all of the questions
9 that I have for you. Thank you.

10 THE WITNESS: Thank you.

11 THE COURT: Any redirect?

12 MS. LINTON: No, Your Honor.

13 THE COURT: May this witness be excused?

14 MS. LINTON: Yes, Your Honor.

15 THE COURT: Thank you, ma'am. You may be
16 excused. Call your next witness, please.

17 MS. LINTON: Your Honor, the plaintiff calls
18 the defendant, Brian Cox.

19 Thereupon,

20 BRIAN COX

21 was called as a witness, having been first duly sworn,
22 was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MS. LINTON

25 Q. Good afternoon, Mr. Cox.

DIRECT EXAMINATION OF BRIAN COX BY MS. TIPTON

1 A. Good afternoon.

2 Q. Could you please state your name for the record?

3 A. Brian Cox.

4 Q. Mr. Cox, I know that it has been a long time, or
5 maybe it hasn't. But do you recall if you took a driving
6 test before getting your license?

7 A. Yes.

8 Q. Did you learn about the traffic safety laws in
9 South Carolina?

10 A. Yes.

11 Q. Did you learn that you are supposed to drive as
12 safely as possible?

13 A. Yes.

14 Q. And if you are intending to turn onto a roadway
15 you must yield to on-coming traffic?

16 A. Yes.

17 Q. Why is that?

18 A. Because that is the rule.

19 Q. You would agree if you have a driver's license and
20 you are on the roadways you need to follow the rules?

21 A. I am sorry, what did you say?

22 Q. You would agree that if you have a driver's
23 license and you are on our roadways you need to follow the
24 rules?

25 A. Yes.

DIRECT EXAMINATION OF BRIAN COX BY MS. TIPTON

1 Q. Why?

2 A. Because that is the rules.

3 Q. Does it keep people safe?

4 A. Yes.

5 Q. Do you agree that those rules are important?

6 A. Yes.

7 Q. I want to talk about the crash. Were you familiar
8 with that intersection?

9 A. Yes.

10 Q. Do you know what the speed limit is on Rochester
11 Highway?

12 A. I think that it is 45 at some points, 35 probably
13 towards that intersection.

14 Q. When you approached this stop sign at Mill Road
15 and Rochester Highway did you stop?

16 A. Yes.

17 Q. Why?

18 A. Because there is a stop sign.

19 Q. And did you intend to turn left?

20 A. Yes.

21 Q. At this intersection, how many lanes are required
22 to be crossed in order to turn left?

23 A. Two lanes.

24 Q. So in order to safely turn, you have to ensure
25 that both lanes are clear; right?

DIRECT EXAMINATION OF BRIAN COX BY MS. TIPTON

1 A. Correct.

2 Q. And you can't rely on others, it is your
3 responsibility; correct?

4 A. Yes.

5 Q. And you would agree with me that on-coming traffic
6 is not required to stop for you if they are on Rochester
7 Highway, correct?

8 A. Correct.

9 Q. They have the right-of-way, right?

10 A. Yes.

11 Q. And you as the driver turning left are required to
12 yield, correct?

13 A. Correct.

14 Q. When you turned left you collided with Charles,
15 correct?

16 A. Yes.

17 Q. Do you accept responsibility for this collision?

18 A. I think that it was an accident.

19 Q. That is not what I asked.

20 A. Okay.

21 Q. Do you accept responsibility?

22 A. Again, I think that it was an accident.

23 Q. Do you believe that you are at fault?

24 A. I mean it is -- it was an accident. Again, I
25 pulled out, inched out, there was a truck in the way and

DIRECT EXAMINATION OF BRIAN COX BY MS. TIPTON

1 there was a line of cars all the way back to the -- I mean,
2 very far back as it tends to build up at that intersection,
3 and I inched out. There was nobody there. I went to turn
4 and that is when the accident happened.

5 Q. So where was Charles? If there was nobody there,
6 where was Charles?

7 A. I guess that he was pulling out, I don't know. I
8 didn't see him until he hit me.

9 Q. Did you hear Brooklyn's testimony earlier?

10 A. Yes.

11 Q. So she is not telling the truth?

12 A. I didn't say that.

13 MR. CRUDUP: Objection, Your Honor.

14 THE COURT: Sustained.

15 MS. LINTON: Withdrawn.

16 BY MS. LINTON

17 Q. You testified earlier that the rules of the road
18 require you to yield to on-coming traffic, right?

19 A. Correct.

20 Q. So how is this collision not your fault?

21 A. Again, it was an accident. It was, you know, cars
22 are coming that way.

23 Q. So that rule of the road doesn't apply to you?

24 A. That is not what I'm saying. It is right there,
25 it is Rochester Highway, it is 130, it is, you know, it is

DIRECT EXAMINATION OF BRIAN COX BY MS. TIPTON

1 what it is. It was an accident.

2 Q. I'm going to publish what is called our summons
3 and complaint. Can you see that, Mr. Cox?

4 A. Yes.

5 Q. Can you please read paragraph seven?

6 A. Yes. Do you want me to read it out loud?

7 Q. Yes, sir.

8 A. "Southbound traffic on Rochester Highway or
9 Highway 130 does not have a stop sign and has absolute
10 right-of-way to proceed through the intersection without
11 obstruction."

12 Q. Okay. And now I'm going to publish what is called
13 your answer. Could you read paragraph two please?

14 A. "Defendant admits the allegations contained in
15 paragraphs 1, 2, 3, 4, 5, 6, and 7."

16 Q. So you admit traffic on Rochester Highway has the
17 absolute right-of-way, but you don't believe that you are at
18 fault for this collision?

19 A. No. Again, like I said, I think that it is an
20 accident.

21 Q. Do you believe that Charles is at fault?

22 A. I am not saying that he is at fault. I think that
23 we are both at fault.

24 Q. What did Charles do wrong?

25 A. Again, I'm looking back -- I look back and there

DIRECT EXAMINATION OF BRIAN COX BY MS. TIPTON

1 is a big truck right there and there is a line of cars. So,
2 as I'm pulling out I don't see anybody there. I turn and,
3 again, he hits me in the back driver's side quarter panel.
4 I mean, like basically in my bumper.

5 Q. Could you read paragraph 11 please, for the jury?

6 A. "Defendant owed a duty to plaintiff to operate
7 defendant's vehicle safely with reasonable care and in
8 accordance with all laws concerning the operation of a motor
9 vehicle."

10 Q. Could you read paragraph five out loud, please?

11 A. "Defendant admits the allegations contained in
12 paragraph 11."

13 Q. So, which is it, do you admit that you have to
14 obey the rules of the road, or is it just that you didn't
15 cause this collision and it is not your fault?

16 A. Again, I have to obey the rules of the road, yes,
17 but just, again, it was an accident. Accidents happen.

18 Q. And you don't believe if an accident happened you
19 should be responsible to pay for the harm you have caused?

20 A. Again, I don't know how to answer that. Because,
21 I mean, it is an accident.

22 Q. So, because you are involved in an accident, when
23 you pulled out and turned left you should not have to be
24 responsible for the harms that were caused?

25 A. Again, I'm not sure exactly what you are looking

DIRECT EXAMINATION OF BRIAN COX BY MS. TIPTON

1 for here.

2 Q. Okay. You stated earlier that you believe that
3 this was both yours and Charles' fault; is that correct?

4 A. No, I said that it was an accident that happened.
5 I mean, again --

6 Q. So accidents can happen and no one is at fault?

7 A. Yes.

8 Q. So you should not compensate Charles for the harms
9 and losses that he sustained in this?

10 A. Again, I don't think that I bear all of the
11 responsibility for it.

12 Q. Okay. Defendant Cox, do you remember answering my
13 interrogatories that were served on you?

14 A. No, I don't.

15 Q. Do you know what this document is?

16 A. I have no idea, I'm not a lawyer.

17 Q. You have never seen this document before?

18 A. I guess that I have. I don't -- I can't see it
19 right there what you are holding. I mean . . .

20 Q. Can you read the caption, please?

21 A. Which caption do you want me to read?

22 Q. Right here.

23 A. "Defendant's supplemental answers to plaintiff's
24 first set of interrogatories."

25 Q. And you understand that these are required to be

DIRECT EXAMINATION OF BRIAN COX BY MS. TIPTON

1 verified by you under oath. And you have never seen these
2 before?

3 A. I didn't say that I haven't seen them. I didn't
4 say that I didn't know what that was.

5 Q. Does this refresh your recollection?

6 A. I guess so, yes.

7 Q. Can you please read question 30 to the jury?

8 A. "If you contend that actions or nonactions of
9 plaintiff, another defendant, or some other person or legal
10 entity other than you is in whole or in part liable to a
11 plaintiff or responsible for causing or contributing to the
12 incident and/or the injuries and damages being claimed by
13 the plaintiff, please provide the following."

14 Q. Okay. And then please read Subsection A.

15 A. "Identify the person or entity whom you claim is
16 liable or responsible."

17 Q. What do you believe this interrogatory to be
18 asking?

19 A. I guess that it is asking who I think is at fault.

20 Q. And what is your answer?

21 A. "Defendant does not make this contention."

22 Q. So you just don't think that anyone is at fault?

23 A. Again, I think it is an accident.

24 Q. When you were asked this question, why didn't you
25 say Charles?

DIRECT EXAMINATION OF BRIAN COX BY MS. TIPTON

1 A. I honestly don't know.

2 Q. Because you are saying Charles today, correct?

3 A. I'm saying that it was an accident.

4 Q. When I received these on May 8, 2025, at that time
5 the contention was that -- why didn't you tell us the
6 plaintiff; why didn't you say Charles --

7 MR. CRUDUP: Objection, asked and answered.

8 THE COURT: Overruled.

9 A. I don't know.

10 Q. Do you agree this was a hard hit?

11 A. Yes.

12 Q. Do you agree Charles was injured?

13 A. Yes.

14 MS. LINTON: I apologize. I beg the Court's
15 indulgence.

16 (Pause.)

17 BY MS. LINTON

18 Q. I'm going to show you what has been marked as
19 plaintiff's Exhibit 7. Is this your car?

20 A. Yes.

21 Q. Is this the damage sustained from the collision?

22 A. Yes.

23 Q. When you turned left?

24 A. Yes.

25 Q. Do you agree that you turned out in front of

DIRECT EXAMINATION OF BRIAN COX BY MS. TIPTON

1 Charles?

2 A. Again, I didn't see him.

3 Q. But you agree that he is there, you hit him?

4 A. Well, yes, but he hit me in the back behind, in
5 the back quarter panel I guess.

6 Q. So he hit you?

7 A. Well, yes, I didn't hit him.

8 Q. Okay. Do you believe in personal responsibility?

9 A. Yes.

10 Q. If a person is responsible for causing another
11 harm, do you agree that they should accept responsibility?

12 A. Sure.

13 Q. Do you agree that if a person violates the rules
14 of the road they should accept responsibility?

15 A. Sure.

16 Q. Did you violate the rules of the road when you
17 turned left into on-coming traffic?

18 A. I guess.

19 Q. But you should not accept personal responsibility
20 for it?

21 A. Again, I don't -- again, like I said, it is an
22 accident.

23 Q. Okay. Do you agree that if you hadn't broken the
24 rules of the road we wouldn't be here today?

25 A. Yes.

CROSS EXAMINATION OF BRIAN COX BY MR. CRUDUP

1 MS. LINTON: Beg the Court's indulgence.

2 (Pause.)

3 MS. LINTON: I have no further questions for
4 you.

5 THE COURT: Cross examination.

6 CROSS EXAMINATION

7 BY MR. CRUDUP

8 Q. Brian, tell the jury where you grew up.

9 A. I'm originally from Rock Hill.

10 Q. Where did you go to high school?

11 A. Northwestern.

12 Q. Where did you go to college?

13 A. Clemson.

14 Q. I know that I asked you this, but why -- how did
15 you end up here?

16 A. Well, I went to Clemson and just ended up meeting
17 my wife and, you know, just kind of loved the area, loved --
18 we just -- I had decided to stay there, or to stay here.

19 Q. How long have you been married to Jennifer?

20 A. Seventeen years.

21 Q. You sure that is right?

22 A. I think that I got that one right, yeah.

23 Q. What do you do for a living?

24 A. Real estate. I am a realtor at Lake Life Realty.

25 Q. All right. And how long have you had a driver's

CROSS EXAMINATION OF BRIAN COX BY MR. CRUDUP

1 license, give or take?

2 A. Since I was 15. Restricted license, permit,
3 fifteen.

4 Q. Have you been in any accidents where you were the
5 driver of a car other than this one?

6 A. No.

7 Q. I'm going to ask you about this accident. So on
8 the day of the accident, where were you going to?

9 A. I was going to my residence in Harts Cove.

10 Q. And where were you coming from?

11 A. Coming from my office.

12 Q. Why were you going home at that point?

13 A. It was lunchtime.

14 Q. Tell the jury generally that day, like what did
15 you do that day, if you remember?

16 A. Just got up. Kind of did the normal things to get
17 ready for work. Went to the office, I can't say, somewhere
18 between nine and ten. And then, you know, worked, did what
19 I usually do in the morning, answer emails, make some phone
20 calls, that kind of stuff.

21 Q. About how far from the office is your house?

22 A. Ten minutes.

23 Q. All right. Were -- on the day of this accident,
24 were you in any hurry to get home?

25 A. No.

CROSS EXAMINATION OF BRIAN COX BY MR. CRUDUP

1 Q. Were you -- did you have to be back at the office
2 at like some certain point?

3 A. No.

4 Q. Were you distracted by your phone or the radio or
5 anything like that?

6 A. No.

7 Q. So we talked about this a little bit, but tell the
8 jury in your own words -- tell the jury what happened. You
9 come to the stop sign, and tell them what happened.

10 A. So I come to the stop sign. Again, there's a long
11 line of traffic.

12 Q. Which way is that traffic?

13 A. Traffic is going back up 130 towards the Publix
14 entrance, so back that way. There was a long line of
15 traffic there, so it is pretty much stopped and there is a
16 white, I can't remember, large, you know, lifted truck that
17 is stopped to let me out and to turn left. And, again, all
18 of the traffic is stopped at this point. So I start to inch
19 out, and like I said, you know, then made the turn and, like
20 I said, then there was the collision.

21 Q. Okay. When you inch out, do you get far enough to
22 see around the white truck?

23 A. To see around it, yes. I mean, as much as I can.

24 Q. Sure. And when you look down the road, so to your
25 left, do you see any traffic coming?

REDIRECT EXAMINATION OF MR. BRIAN COX BY MS. TIPTON

1 A. No.

2 Q. Do you see Mr. Shabazz?

3 A. No.

4 Q. When you pull out, are you trying to like get
5 between other cars that are going, trying to make that left
6 turn?

7 A. No.

8 Q. When you pull out, do you have your blinker on?

9 A. Yes.

10 MR. CRUDUP: That is all of the questions
11 that I have. Thank you.

12 THE COURT: Redirect?

13 MS. LINTON: Briefly, Your Honor.

14 REDIRECT EXAMINATION

15 BY MS. LINTON

16 Q. Mr. Cox, you said that you relied on the driver
17 motioning you forward; is that correct?

18 A. Yeah, well, they had stopped to let me out.

19 Q. Did they motion you forward?

20 A. I be -- I think that they made, you know, just to
21 kind of let me know that they were not going to pull
22 forward.

23 Q. Where in the driver's rule book does it say that
24 you can rely on other people when turning left?

25 A. I don't think that it says that.

REDIRECT EXAMINATION OF MR. BRIAN COX BY MS. TIPTON

1 Q. You testified just a minute ago that you were able
2 to see around that large truck to make sure that no one was
3 coming, right?

4 A. I could see as much as I could, yes.

5 Q. As much as you could?

6 A. Yes.

7 Q. How much could you see?

8 A. Again, I looked to that way and didn't see anybody
9 coming.

10 Q. How far?

11 A. I don't know.

12 Q. How big was the truck?

13 A. Again, it was -- I don't know the make and model
14 of it. So, I can't tell you like exact size. But, I mean,
15 a lifted F150, 250ish type. I mean, a larger truck that was
16 --

17 Q. Was it hard to see around it?

18 A. Again, that is why I inched up.

19 MS. LINTON: No further questions.

20 THE COURT: All right. Thank you, sir. You
21 may step down. Mr. Foreman, ladies and gentlemen,
22 let's go ahead and take an afternoon break and then we
23 will bring you back out here for some additional
24 testimony. Okay, sir. Go back to the jury room and if
25 you need anything our bailiff will try to take care of

DIRECT EXAMINATION OF BENJAMIN ROBINSON BY MS. TIPTON

1 it.

2 THE COURT: Let's take a break until about
3 3:15 please. .

4 (Brief recess.)

5 THE COURT: Are you ready?

6 MS. LINTON: Yes, Your Honor.

7 THE COURT: Call your next witness, please.

8 MS. LINTON: Your Honor, we call Benjamin
9 Robinson.

10 Thereupon,

11 BENJAMIN ROBINSON

12 was called as a witness, having been first duly sworn,
13 was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY MS. LINTON

16 Q. Good afternoon, Mr. Robinson.

17 A. Good afternoon.

18 Q. Could you please tell the jury your full name?

19 A. Benjamin F. Robinson.

20 Q. Mr. Robinson, where do you live?

21 A. I live at 710 East South Second Street, Seneca,
22 South Carolina, yes.

23 Q. And how long have you lived in Seneca?

24 A. I have been in Oconee County my entire life,
25 except for a brief while we lived in Anderson County. But

DIRECT EXAMINATION OF BENJAMIN ROBINSON BY MS. TIPTON

1 for the most part we lived in Oconee County.

2 Q. Mr. Robinson, are you employed anywhere?

3 A. No, I'm not -- well, I am retired, but I am in the
4 ministry. And I assist my sister and pastor in our church.
5 So that is the only thing that I do now.

6 Q. What is the name of that church?

7 A. It is Christ Community Church in Seneca.

8 Q. What did you retire from?

9 A. I retired from the City of Seneca Fire Department.
10 I was a firefighter.

11 Q. Mr. Robinson, what is your relationship with
12 Charles?

13 A. Charles is my grandson.

14 Q. Tell us about your relationship with him.

15 A. Well, I knew Charles since he was born.

16 Q. Okay.

17 A. I wasn't there, but I knew him since he was born.
18 And we have a good relationship, wonderful relationship. I
19 guess that you could say that I'm Charles' father figure
20 because his father has passed and is deceased, so I was
21 adopted into that role. So we, you know, we have a good
22 relationship. And whatever goes on in Charles' life he
23 usually lets me know about it. Most of the time he asks me
24 before he makes a decision, so our relationship is good.

25 Q. Do you spend a lot of time together?

DIRECT EXAMINATION OF BENJAMIN ROBINSON BY MS. TIPTON

1 A. Not as much as since he -- since he graduated from
2 high school. He's kind of grown up a little bit and -- but
3 we do, we do as a family spend a lot of time together. So
4 we are always having something, holidays, or just
5 get-together, or just having a simple meal from time to
6 time. And he's always there, you know. He likes fish and I
7 like fish. I cook fish and he likes to eat it so there you
8 go.

9 Q. Okay. Do you talk with Charles a lot?

10 A. Yes, I do. I talk with him quite a bit. Like I
11 said, he always -- any decision he makes he contacts me
12 first.

13 Q. Did Charles play basketball in high school?

14 A. Yes. Charles played basketball in high school.
15 He played rec ball ever since he was big enough to probably
16 dribble a ball. He played some kind -- he played ball.
17 Basketball was his favorite sport. And he always had played
18 basketball. He and his brother, that was their thing,
19 played basketball. Played AU, high school ball, and even
20 after he -- even after he finished school, they still played
21 ball. They picked up games. Usually when we was together,
22 he and his brother, about 5 or 6:00 in the afternoon they
23 was gone, they had to go play ball. Because him and his
24 friends would go play ball and that was just their thing.

25 Q. Before this collision, how would you describe

DIRECT EXAMINATION OF BENJAMIN ROBINSON BY MS. TIPTON

1 Charles?

2 A. I didn't understand the question.

3 Q. That is okay. Before this collision, how would
4 you describe Charles?

5 A. Oh, Charles was -- he was a happy person. He was
6 upbeat and he was loving life, you know. He was coming in
7 to his own I think.

8 Q. In 2023, where was Charles working before this
9 collision?

10 A. In 2023 he was working at Baxter. I don't
11 remember the whole name, the name of it was Baxter in I
12 believe that it is Walhalla or Westminster.

13 Q. Did he seem happy?

14 A. Excuse me?

15 Q. Did he seem happy?

16 A. Yes, yes, he was very happy. He was looking to
17 get hired on full-time, you know, and advance in the
18 company. You know, he really liked it. He liked what they
19 had to offer. So, he was happy.

20 Q. Mr. Robinson, tell the jury everything you
21 remember about the day of the collision, March 22nd, 2023.

22 A. I remember getting a phone call from my daughter
23 that he had been in an accident. There had been a
24 collision. And I remember asking her how was he, you know,
25 was anybody hurt, was everybody all right. And she told me

DIRECT EXAMINATION OF BENJAMIN ROBINSON BY MS. TIPTON

1 that she thought that he was, but she wasn't sure because
2 she was on her way to the hospital at that time. So then I
3 found out later on that afternoon that he was, he was all
4 right except for his hand. He had a cast on his hand. He
5 injured his hand. And I want to think that she said that
6 maybe he was having problems with his ankle or -- he had
7 another problem somewhere that he was complaining about so
8 -- but I didn't really see him for maybe a couple of days
9 after that.

10 Q. When Charles was going through his treatment,
11 would you take him to his appointment?

12 A. Yes, yes. I took him to -- well, I not only took
13 him to his appointments but I was -- I had to take him to
14 work. I would pick him up, take him to work. And then when
15 he had to do his appointments, I would definitely take him
16 to his appointments. Because that was the only way, that
17 was the only transportation that he had. I was pretty much
18 his transportation. I took him to all of them -- I wouldn't
19 say all of them because sometimes I wasn't able to take him
20 to all of them. But I mostly took him to all of his
21 appointments.

22 Q. Did Charles seem anxious about driving?

23 A. You mean anxious? You mean did he have -- he not
24 only seemed anxious about his driving, he seemed a little
25 anxious about even just being in the car. I think that

DIRECT EXAMINATION OF BENJAMIN ROBINSON BY MS. TIPTON

1 it -- he was -- I don't know if he was just having flash
2 backs or what, but you know, he was just anxious riding in a
3 car because of the accident.

4 I was the one that -- I was one of the ones that
5 took Charles out driving when he got his permit. And
6 Charles was a very cautious driver even before he got his
7 driver's license, you know. First time I took him out, you
8 know, I just noticed the way that he operated the vehicle,
9 how attentive he was, you know. And he even told -- he
10 mentioned to me several times that when I was driving that,
11 he cautioned me on some things that I was doing that I
12 shouldn't be doing, you know. And I -- you know, we all
13 just think that Charles was probably -- was a very cautious
14 driver when operating a motor vehicle. He was -- he paid
15 attention to what he was doing. So he was anxious after the
16 accident.

17 Q. Would you consider Charles a complainer?

18 A. No, ma'am. I don't see him doing that. If he
19 says something is wrong with him, something is wrong with
20 him.

21 Q. Tell the jury how Charles has been since the
22 collision?

23 A. Well, one thing he don't -- he don't play
24 basketball anymore. Well I won't say that he don't play
25 basketball anymore, but I don't hear him talking about going

DIRECT EXAMINATION OF BENJAMIN ROBINSON BY MS. TIPTON

1 and playing basketball as much as he did before. And he
2 does complain about his arm hurting from time to time. You
3 know, he still complains that he don't -- he feel like he
4 don't have full use of the hand that he had before. But he
5 still perseveres, he still tries to do what he -- he tries
6 to work. You know, he tried to work at Baxter. But they
7 told him that he needed both hands to operate, to do his job
8 so they had to let him go. And that was -- that was
9 really -- that really hurt him. It really did. Because he
10 was -- he had, he had just got into a new apartment. Him
11 and his brother got a new apartment. And that -- now, he
12 was struggling again. He had to leave out of his apartment,
13 move back in with his grand -- with his mother. And it
14 just, it just, it just hurt him. He was, he was kind of
15 like he didn't know what to do. But it didn't stop him from
16 trying to work. He still found another job and he went back
17 to work so -- and he's been working ever since.

18 Q. Is Charles a hard worker?

19 A. Yes, he is a hard worker.

20 MS. LINTON: Thank you, Mr. Robinson, I have
21 no further questions.

22 THE WITNESS: Thank you.

23 THE COURT: Cross examination?

24 MR. CRUDUP: No questions of this witness,

25 Your Honor.

DIRECT EXAMINATION OF CHARLES SHABAZZ BY MS. TIPTON

1 THE COURT: Thank you, sir. You may be
2 excused. Call your next witness, please.

3 MS. LINTON: Your Honor, the plaintiff calls
4 Charles Shabazz.

5 Thereupon,

6 CHARLES SHABAZZ
7 was called as a witness, having been first duly sworn,
8 was examined and testified as follows:

9 DIRECT EXAMINATION

10 BY MS. LINTON

11 Q. Charles, would you please state your name for the
12 record?

13 A. My name is Charles Antwon Shabazz.

14 Q. And how old are you?

15 A. Twenty-six.

16 Q. Where do you live?

17 A. Seneca, South Carolina.

18 Q. How long have you lived there?

19 A. Born and raised.

20 Q. Who do you live with?

21 A. With my girlfriend.

22 Q. Anyone else?

23 A. And my daughter.

24 Q. Where were you raised?

25 A. Seneca all of my life.

DIRECT EXAMINATION OF CHARLES SHABAZZ BY MS. TIPTON

1 Q. Did you graduate high school?

2 A. Yes, ma'am.

3 Q. What year?

4 A. 2017.

5 Q. Where did you graduate?

6 A. Seneca High School.

7 Q. Did you play any sports?

8 A. Basketball. Ran track for a little bit. And I
9 also played football a year.

10 Q. Tell the jury a little bit about your family.

11 A. We are a pretty big family. We are all from
12 Ocone County, born and raised. And we get together for
13 basically all major holidays. Sometimes we get together on
14 Sundays just to eat together, just to get together, and my
15 granddad's favorite thing to do is watch the national
16 championship, watch the super bowl, college basketball, NBA.
17 We spend a lot of time together.

18 Q. Did you play basketball growing up?

19 A. Ever since I can remember.

20 Q. Tell the jury about that.

21 A. I have played rec ball since I was little, since I
22 could dribble the basketball. I played one year C team
23 middle school. I always played AU. I played all throughout
24 high school until I took one year off in eleventh grade and
25 that was when my mom had got breast cancer.

DIRECT EXAMINATION OF CHARLES SHABAZZ BY MS. TIPTON

1 Q. Why did you take time off for that?

2 A. I wanted to be able to help my mom out around the
3 house.

4 Q. What is AU basketball?

5 A. It is just travel basketball.

6 Q. Okay.

7 A. Yes, ma'am.

8 Q. And Charles, where do you work currently?

9 A. Strickland Brothers.

10 Q. You have to slow down, what was that?

11 A. Strickland Brothers ten-minute oil change.

12 Q. That was louder, but not slower.

13 A. My bad.

14 Q. What do you do for them?

15 A. I am the assistant manager there.

16 Q. What does that entail?

17 A. I handle inventory, make sure that the scheduling
18 is right. But on top of that, all of the management stuff I
19 also have to do the on-floor part too.

20 Q. Tell the jury about that.

21 A. Me being on the floor, I would say the favorite
22 thing about it is just getting different interactions with
23 people. Some people they don't even know what a cabin
24 filter is. I like to help people maintain with their car.
25 Make sure that they don't overrun it. We will have some

DIRECT EXAMINATION OF CHARLES SHABAZZ BY MS. TIPTON

1 people come in and they will think that the oil changed --
2 the basic is supposed to be 3,000 miles, and some people
3 will get told that it is 6 or 7. I had one person get told
4 15,000 miles. It is 3,000.

5 Q. Okay. What is the name of your boss?

6 A. Christopher Johnson.

7 Q. How long have you worked at Strickland Brothers?

8 A. Over a year.

9 Q. Have you ever worked at multiple locations?

10 A. Yes, ma'am.

11 Q. Tell me about that.

12 A. So I remember when I first did my deposition, I
13 originally started over at the Walhalla store. And then
14 afterwards we had like six, seven people employed there. So
15 after that, I would say once I got that promotion I got
16 relocated over to the West Union store right across from
17 Itron.

18 Q. How many people work in that store?

19 A. The current one?

20 Q. Yes.

21 A. Just three.

22 Q. You enjoy working there?

23 A. Yes, ma'am.

24 Q. How many days a week do you work typically?

25 A. Five to six.

DIRECT EXAMINATION OF CHARLES SHABAZZ BY MS. TIPTON

- 1 Q. How many hours a day?
- 2 A. At least ten.
- 3 Q. Why do you work so hard?
- 4 A. I want to provide and make a better life for me
- 5 and my little baby girl and my girlfriend.
- 6 Q. Where does your girlfriend work?
- 7 A. She works at Long Horn.
- 8 Q. And how many days a week does she work?
- 9 A. One or two.
- 10 Q. Do you want her to work?
- 11 A. No.
- 12 Q. What do you want her to do?
- 13 A. I want her to stay at home and take care of my
- 14 child and be a stay-at-home mom.
- 15 Q. Were you working at Strickland Brothers at the
- 16 time of the crash?
- 17 A. No, ma'am.
- 18 Q. Where were you working?
- 19 A. Baxter Enterprises.
- 20 Q. What did you do for them?
- 21 A. I was a machine operator.
- 22 Q. And how long had you been with Baxter?
- 23 A. Almost a year.
- 24 Q. Did you like it?
- 25 A. Loved it.

DIRECT EXAMINATION OF CHARLES SHABAZZ BY MS. TIPTON

1 Q. What did you like about it?

2 A. Just environment. To me honestly, the job
3 opportunities being able to move up. Just the people there.

4 Q. What was your shift at Baxter?

5 A. Second shift.

6 Q. Did you like that?

7 A. Yes, ma'am.

8 Q. What is second shift?

9 A. It is like when you work from the afternoon until
10 night.

11 Q. Did you want to build a career there?

12 A. Yes, ma'am.

13 Q. Why did you stop working there?

14 A. My doctor took me out.

15 Q. What does that mean?

16 A. I was unable to perform the duties with only
17 having one hand available.

18 Q. Were you fired?

19 A. Yes, ma'am.

20 Q. Did you enjoy working there?

21 A. A lot, yes, ma'am.

22 Q. Before the collision, tell the jury a little bit
23 about your life.

24 A. I was outgoing. I loved to play basketball
25 basically every week three and four, five times a day. And

DIRECT EXAMINATION OF CHARLES SHABAZZ BY MS. TIPTON

1 just really outgoing.

2 Q. Before the crash, did you have any issues with
3 your wrist that prevented you from playing basketball?

4 A. No, ma'am.

5 Q. What about work?

6 A. No, ma'am.

7 Q. Were you able to use your wrist pain free?

8 A. Yes, ma'am.

9 Q. What were you doing on the day of the crash?

10 A. I was on my way to go take me, my girlfriend, and
11 my dog to my mom's house and we were going to go give my dog
12 a bath.

13 Q. Walk the jury through what happened.

14 A. So me and my girlfriend and my dog were on my way
15 to my mom's house. As soon as I'm driving down Rochester
16 Highway, the left lane opens. There was a whole line on the
17 right. You can either go straight or curve off. As soon as
18 that opening came in the left lane I got in it. And I am
19 driving down and out of nowhere a car pulls out in front of
20 me.

21 Q. Describe the impact.

22 A. Fast, out of nowhere, very loud. I remember the
23 air bags just my ears ringing, just really the sound. It
24 was just so loud.

25 Q. It was a hard impact?

DIRECT EXAMINATION OF CHARLES SHABAZZ BY MS. TIPTON

- 1 A. Yes, ma'am.
- 2 Q. Was your car totaled?
- 3 A. Yes, ma'am.
- 4 Q. Did that upset you?
- 5 A. Yes, ma'am.
- 6 Q. Why?
- 7 A. I had just got a car for the first time that I
- 8 could actually rely on. I had always had car problems
- 9 whether my alternator would give out on one of my cars, the
- 10 transmission, the engine would blow. I just never really
- 11 had good luck for cars. And for the first time -- and it
- 12 was the newest car that I had did ever had too. And for the
- 13 first time I actually felt like I had finally got a car that
- 14 would support me in everything that I needed to do.
- 15 Q. How long did it take you to save up?
- 16 A. Over a year.
- 17 Q. At the crash, do you remember who called 911?
- 18 A. No, ma'am.
- 19 Q. Did the police come to the scene?
- 20 A. Yes, ma'am.
- 21 Q. What about EMS?
- 22 A. Yes, ma'am.
- 23 Q. Were you taken to the hospital?
- 24 A. Yes, ma'am.
- 25 Q. At that time, what complaints of pain were you

DIRECT EXAMINATION OF CHARLES SHABAZZ BY MS. TIPTON

- 1 having?
- 2 A. Neck problem, knee, ankle, wrist.
- 3 Q. What was hurting the most?
- 4 A. My wrist.
- 5 Q. Describe that pain.
- 6 A. Excruciating, just a sharp, nonstop ongoing pain.
- 7 Probably one of the worst pains I have ever felt honestly.
- 8 Q. How long were you at the hospital?
- 9 A. At least an hour.
- 10 Q. Do you remember what they did?
- 11 A. X-ray.
- 12 Q. Did they diagnose you with anything?
- 13 A. No, ma'am.
- 14 Q. And what did you do after that?
- 15 A. After that they recommended me to go to an
- 16 orthopedist and follow-up on the day that they told me to
- 17 go. And I just went home.
- 18 Q. How was the pain in the days that followed?
- 19 A. It didn't get any better, honestly. Some days
- 20 felt worse than others.
- 21 Q. Did the pain worry you?
- 22 A. A lot.
- 23 Q. Had you ever had pain like that before?
- 24 A. No, ma'am.
- 25 Q. Did you follow-up with an orthopedist?

DIRECT EXAMINATION OF CHARLES SHABAZZ BY MS. TIPTON

1 A. Yes, ma'am.

2 Q. Did you tell her about the crash?

3 A. Yes, ma'am.

4 Q. Tell the jury a little bit about that visit.

5 A. I remember when I got there I let her know that
6 the splint that they had gave me at the hospital was a
7 little small and that my wrist was still ongoing hurting,
8 the same pain that I felt from the wreck, it was just still
9 there. I remember afterwards when she gave me the X-ray she
10 just told me to follow-up later on. And she put me in a
11 bigger splint that went up from my wrist all the way
12 basically up my arm.

13 Q. Were you diagnosed with anything?

14 A. Not the first visit.

15 Q. Ultimately were you diagnosed with a wrist
16 fracture?

17 A. Yes, ma'am.

18 Q. During these visits with Dr. Murphy, was there any
19 pain anywhere else?

20 A. I want to say in my ankle the most.

21 Q. Did that ankle pain ultimately subside?

22 A. Yes, ma'am.

23 Q. Did you follow-up again a second time with Dr.
24 Murphy?

25 A. Yes, ma'am.

DIRECT EXAMINATION OF CHARLES SHABAZZ BY MS. TIPTON

1 Q. Tell the jury about that.

2 A. I remember going back, and still in a lot of pain
3 but not as -- how I was the first time. And the second time
4 I had went I had developed an excruciating popping sensation
5 in my wrist that just wouldn't go away.

6 Q. Describe what would happen when you would feel
7 that.

8 A. My wrist would pop and sometimes it would be loud,
9 sometimes it wouldn't. And that sharp pain would start and
10 then my whole arm would go numb.

11 Q. Is that the same pain that you still feel?

12 A. To this day.

13 Q. Were you concerned about going back to work at
14 this visit?

15 A. Yes, ma'am.

16 Q. Why?

17 A. I had bills to pay.

18 Q. Ultimately did you undergo physical therapy?

19 A. Yes, ma'am.

20 Q. Tell the jury about those visits.

21 A. They was a lot, everyday just working my wrist
22 trying to build the strength back up in it. Every visit
23 just painful. Everyday.

24 Q. Do you remember how long you did physical therapy
25 for?

DIRECT EXAMINATION OF CHARLES SHABAZZ BY MS. TIPTON

1 A. Three to six months.

2 Q. Did you find relief from physical therapy?

3 A. It was painful, but it helped in some way. But
4 the popping just never really stopped.

5 Q. Was physical therapy painful to you?

6 A. Yes, ma'am.

7 Q. When you were in physical therapy would you
8 experience the popping sensation sometimes?

9 A. Sometimes they would tell me to make it do it.

10 Q. How can you make it do it?

11 A. If I take my left wrist -- I'll show you with this
12 one. And say I even just have to turn it that way, it can
13 be just like this or some fast or hard and that is what
14 makes it happen.

15 Q. After your PT, did you follow-up with your doctor?

16 A. Yes, ma'am.

17 Q. Tell the jury about that visit.

18 A. I followed up with her. I still had that popping
19 sensation, it just wasn't going away. Each time it popped
20 it was just like the first time. The pain level was not
21 going down. It wasn't making anything easier for me on my
22 wrist. And I just felt like I had to get something figured
23 out why it was still doing that.

24 Q. Did Dr. Murphy do any testing?

25 A. Yes, ma'am.

DIRECT EXAMINATION OF CHARLES SHABAZZ BY MS. TIPTON

1 Q. What?

2 A. She gave me an MRI.

3 Q. Did you ultimately undergo an MRI?

4 A. Yes, ma'am.

5 Q. Do you recall what that showed?

6 A. A sprained tendon.

7 Q. Do you recall what you did after that with respect
8 to your treatment?

9 A. Ma'am?

10 Q. After you were diagnosed with a sprain?

11 A. Just went home.

12 Q. Did you continue with physical therapy after that?

13 A. Yes, ma'am.

14 Q. Did it alleviate your pain?

15 A. No, ma'am.

16 Q. After your physical therapy, did you ultimately
17 see Dr. Murphy again?

18 A. Yes, ma'am.

19 Q. And what spurred that?

20 A. The popping just wouldn't go away. It made it
21 more difficult for me to try doing anything that I had fun
22 doing, basketball, just anything that required me to use
23 both of my hands.

24 Q. Was there anything that spurred a painful popping
25 sensation leading you to go back to the doctor?

DIRECT EXAMINATION OF CHARLES SHABAZZ BY MS. TIPTON

1 A. Just even if I was at work or just playing
2 basketball. Somebody could hit my wrist, trying to pick up
3 a part.

4 Q. Let's talk about a hospital visit that you had in
5 August from moving some furniture.

6 A. Yes, ma'am.

7 Q. Tell the jury about that.

8 A. It was the same furniture that we had moved in
9 when we first got into the place, and I remember because
10 after the wreck I wasn't able to pay the rent. I wasn't
11 able to keep up with none of my bills, so I ended up having
12 to move back in with my mom. And the first thing that we
13 had to move out was the furniture.

14 Q. What happened when you had to move the furniture?

15 A. I remember I went to go pick it up and it kind of
16 slipped a little bit. I tried catching it with my other
17 hand and it just, it popped, it just happened. It was very
18 excruciating.

19 Q. What did do you in response?

20 A. I dropped the furniture and I immediately had to
21 go to the hospital.

22 Q. You have to speak up a little bit, Charles.

23 A. I dropped the furniture and I had to immediately
24 go to the hospital.

25 Q. What complaints of pain were you having at that

DIRECT EXAMINATION OF CHARLES SHABAZZ BY MS. TIPTON

1 time?

2 A. Just a sharp wrist pain.

3 Q. After that hospital visit, did you follow-up with
4 your orthopedist?

5 A. Yes, ma'am.

6 Q. Do you recall what she did?

7 A. I want to say that she recommended me to a hand
8 specialist.

9 Q. Did you go see that hand specialist?

10 A. Yes, ma'am.

11 Q. Tell me about that visit.

12 A. I remember I got there, there was no swelling, no
13 pain during the time. He looked over my wrist and
14 everything and he asked me when does it happen, and I told
15 him at work. It could be in my regular daily things that I
16 do.

17 THE COURT REPORTER: I am sorry, sir, you
18 have to speak up a little louder.

19 THE COURT: Pull that microphone up to you
20 and sit up closer.

21 THE WITNESS: I am sorry. Can you repeat the
22 question now?

23 MS. LINTON: That is okay. Madam court
24 reporter, could you read that question back?

25 (Whereupon the court reporter reads the prior

DIRECT EXAMINATION OF CHARLES SHABAZZ BY MS. TIPTON

1 question.)

2 BY MS. LINTON

3 Q. Tell me about that visit.

4 A. Yes, ma'am. I remember the first time that I had
5 got there. He looked over my wrist and he seen that there
6 was no swelling, nothing that he could physically see that
7 was wrong with my wrist. And I just remember telling him
8 just about the pain every time it happens, whenever it pops.

9 Q. How long does the pain last when it pops?

10 A. About 30, 45 minutes.

11 Q. And does it go away?

12 A. It don't.

13 Q. How is your wrist when it is not causing that
14 painful popping sensation?

15 A. It is okay.

16 Q. So it is fine until it isn't?

17 A. Yes.

18 Q. So since then, since your last appointment, has
19 the pain persisted?

20 A. Yes, ma'am.

21 Q. Charles, I'm going to give you what you has been
22 previously marked as plaintiff's 27, Prisma health bill.

23 MS. LINTON: Permission to approach the
24 witness, Your Honor?

25 THE COURT: Yes, ma'am.

DIRECT EXAMINATION OF CHARLES SHABAZZ BY MS. TIPTON

1 BY MS. LINTON

2 Q. Sir, have you seen those before?

3 A. Yes, ma'am.

4 Q. What is it?

5 A. It is Prisma Health bill.

6 Q. Are those your medical bills? You can flip them.

7 A. Yes, ma'am.

8 Q. Is that an accurate -- are those medical bills
9 accurate; looks like what you have received?

10 A. Yes, ma'am.

11 MS. LINTON: Permission to approach again,
12 Your Honor.

13 BY MS. LINTON

14 Q. Charles, I am also going to hand you what has been
15 previously marked as plaintiff's Exhibit No. 26. Charles,
16 is that an accurate summary of your medical bills?

17 A. Yes, ma'am.

18 Q. What is the total?

19 A. \$19,851.31.

20 Q. Charles, if your wrist pain persisted, why haven't
21 you gone back to the doctor?

22 A. I have bills, I have a family to take care of, and
23 I just started to adapt, get used to it.

24 Q. During some of your visits, you relayed that you
25 weren't experiencing pain, why?

DIRECT EXAMINATION OF CHARLES SHABAZZ BY MS. TIPTON

1 A. It didn't hurt until it hurt.

2 Q. Before this collision, did you ever have wrist
3 pain?

4 A. No, ma'am.

5 Q. Ever seek treatment for your wrist?

6 A. No, ma'am.

7 Q. How often would you say you experience this
8 painful popping sensation?

9 A. Frequently.

10 Q. Describe that for me.

11 A. I used to work over at the old store, Strickland
12 Brothers, where we had six employees, seven employees, which
13 that is a pretty good amount of people during that time. I
14 had got a promotion. And the store that I'm at now is just
15 me and two other people, so nine times out of ten I'm having
16 to be the person that is in the pit downstairs working on a
17 car.

18 Q. What is the pit?

19 A. It is like when you go underneath the car. You
20 have to undo the filter, the oil filter, and drain the car,
21 get out the oil, the oil plug, and sometimes there is skid
22 plates underneath it that you have to remove.

23 Q. How many times a day does it happen when you are
24 down in the pit?

25 A. I can't really put a number on it, it happens

DIRECT EXAMINATION OF CHARLES SHABAZZ BY MS. TIPTON

1 quite frequently.

2 Q. Are there some days where it doesn't happen?

3 A. When I'm upstairs.

4 Q. Do you keep your wrist guarded to avoid the
5 painful popping sensation?

6 A. No, ma'am.

7 Q. Why not?

8 A. It doesn't help.

9 Q. How does it not help?

10 A. It doesn't protect against it, it doesn't really
11 do anything for me. I have had them before and it still
12 happens to me.

13 Q. Does it ever happen outside of work?

14 A. Yes, ma'am.

15 Q. Tell me about that.

16 A. Any time I try to go even just play basketball
17 there's times where I get hit in the wrist. Somebody is
18 reaching for the ball. Those times -- and sometimes when I
19 have to worry about holding, how I hold my child.

20 Q. Do you still try and play basketball?

21 A. Not as much as I used to.

22 Q. Why?

23 A. Just fear of it happening to me while I'm on the
24 court.

25 Q. And it happened when you were moving furniture to

DIRECT EXAMINATION OF CHARLES SHABAZZ BY MS. TIPTON

1 help your mom?

2 A. Yes, ma'am.

3 Q. When did you return to work full-time after this
4 collision?

5 A. At least after like six months after.

6 Q. And where did you go?

7 A. Valvoline.

8 Q. Valvoline?

9 A. Valvoline.

10 Q. Valvoline?

11 A. Valvoline.

12 Q. Okay. What is that?

13 A. It is another oil change company.

14 Q. Why don't you work there anymore?

15 A. Didn't have transportation, not all the time.

16 Q. Would you ask your grandfather to take you to
17 work?

18 A. Yes, ma'am.

19 Q. Was there anyone else that you had you could rely
20 on to get to work when you were finally able to return?

21 A. Sometimes my mother, sometimes my girlfriend.

22 Q. When you returned to work, had you recovered from
23 your wrist pain?

24 A. No, ma'am.

25 Q. Can you explain why you returned to work if you

DIRECT EXAMINATION OF CHARLES SHABAZZ BY MS. TIPTON

1 were still having that pain?

2 A. Bills.

3 Q. How did being out of work affect you?

4 A. It really upset me just because I had a job that I
5 really loved doing and just like that it was gone. I
6 actually enjoyed going in every single day. It wasn't like
7 it was something that I was just looking at and I was just
8 dreading having to go in. I actually enjoyed the job that I
9 was doing.

10 Q. Tell me how this collision has impacted your life.

11 A. Everyday when I have to wake up, go to work, I
12 have to deal with my heart racing, being scared when I go up
13 to a red light, knowing that I have the right of way I can
14 just see a car inching up from the other side and my heart
15 just starts racing and I have to start tapping on the
16 brakes. It ruined everything that I love from the game of
17 basketball, because I'm just always in fear that it could
18 happen again on the court. I used to, whenever I was
19 growing up, tell myself that I always wanted to, whether it
20 was a boy or girl, train my kids to just play basketball.
21 And I felt like I had that fire and the love for the game to
22 be able to be the one person to just teach them how to play
23 the right way. And now I just don't even feel like, just
24 because the love of the game that I had for it is not there
25 anymore, how could I ever teach my daughter how to play and

DIRECT EXAMINATION OF CHARLES SHABAZZ BY MS. TIPTON

1 my heart is not fully in it.

2 Q. What about the feeling of losing your apartment,
3 tell the jury about that.

4 A. I felt like I had my own independence, just having
5 my own place. I felt like I was finally coming into being a
6 real man. And it just sucked having to have that taken away
7 from me and just basically feeling like I have got to start
8 all over again, all the way from the bottom.

9 Q. Do you try your best to get on with life?

10 A. Yes, ma'am.

11 Q. Sometimes does that require you to safeguard your
12 wrist to avoid that sensation occurring?

13 A. Yes, ma'am.

14 Q. Do you worry about the future?

15 A. Yes, ma'am.

16 Q. Tell the jury about that.

17 A. I worry about one day as my older -- my daughter
18 gets older. She is four months. How can I keep up with her
19 if she wants to play sports without having to worry about my
20 wrist. How would I, the older she gets the bigger she gets,
21 be able to hold her by myself without having to worry about
22 me accidentally dropping her because of the pain would pop
23 back up.

24 Q. And the majority of your time, the time, does your
25 wrist pain occur mostly at work?

CROSS EXAMINATION OF CHARLES SHABAZZ BY MR. CRUDUP

1 A. Yes, ma'am.

2 Q. And why?

3 A. I have to use both of my hands.

4 MS. LINTON: Beg the Court's indulgence.

5 BY MS. LINTON

6 Q. Charles, is there anything else that you feel the
7 jury should know about your injury?

8 A. It is just something that I have to live and deal
9 with, and I don't know how long I will have to keep dealing
10 with this random pain. Always feeling like I'm having to
11 walk on ice, worry about whether I need to keep guarding my
12 hand. Not being able to play the sports that I love. I
13 went from playing almost all of the time to now I play like
14 twice every two, three months.

15 MS. LINTON: Thank you, Charles. I have no
16 further questions for you right now.

17 THE COURT: Cross examination.

18 MR. CRUDUP: Thank you.

19 CROSS EXAMINATION

20 BY MR. CRUDUP

21 Q. Good afternoon, Charles.

22 A. Good afternoon.

23 Q. I apologize, I'm going to jump around a little bit
24 so --

25 A. Yes, sir.

CROSS EXAMINATION OF CHARLES SHABAZZ BY MR. CRUDUP

1 Q. You told the jury that you injured your ankle in
2 this accident; is that correct?

3 A. Yes, sir.

4 Q. Your left ankle?

5 A. Yes, sir.

6 Q. And prior to this accident, you testified that you
7 had not injured your left ankle before, right?

8 A. I mean, have I injured it before?

9 Q. Had you injured your left ankle before the
10 accident? You hadn't done that yet -- you hadn't done that,
11 correct?

12 A. I don't understand what you are asking. Like I
13 don't know what you mean.

14 Q. Let me try. So we agree, you said that you hurt
15 your ankle in this accident, right?

16 A. Yes, sir.

17 Q. But before the accident, you had not hurt your
18 left ankle in the past, before the accident; correct?

19 MS. LINTON: Objection, assuming facts not in
20 evidence.

21 THE COURT: Overruled.

22 A. I have injured my -- I have never injured my
23 wrist, my left wrist before. I don't recall ever saying
24 that I never injured my left ankle before.

25 Q. Okay. Fair enough. Do you remember when we

CROSS EXAMINATION OF CHARLES SHABAZZ BY MR. CRUDUP

1 deposed you in, I think that it was May of 2025?

2 A. Yes, sir.

3 Q. And you remember you were asked questions under
4 oath?

5 A. Yes, sir.

6 Q. You said that you would tell the truth and all of
7 that stuff, correct?

8 A. Yes, sir.

9 MR. CRUDUP: Your Honor, permission to unseal
10 his deposition?

11 THE COURT: Yes, sir.

12 MR. CRUDUP: Permission to approach, Your
13 Honor.

14 THE COURT: Yes, sir.

15 MR. CRUDUP: Make it a court exhibit.

16 Court's 1 (SIC).

17 *(Whereupon, Court's Exhibit No(s). 2 marked*
18 *for identification and received in evidence.)*

19 BY MR. CRUDUP

20 Q. So, for the record I'm handing you what we are
21 marking as Court Exhibit 2, and that is your deposition;
22 correct, sir?

23 A. Yes, sir.

24 Q. And you swore to take an oath and answer all of
25 the questions, correct?

CROSS EXAMINATION OF CHARLES SHABAZZ BY MR. CRUDUP

1 A. Yes, sir.

2 Q. I want you to turn to Page seven of your
3 deposition. Just tell me when you get there.

4 A. I'm there.

5 Q. Okay. I'm going to read you a question that
6 starts on line 23 of that page and I want you to just read
7 me the answer. We are going to kind of go back if you will,
8 there is like two or three questions, okay?

9 A. Yes, sir.

10 Q. "If you had to list the body parts, Mr. Shabazz,
11 that you injured in this accident, what would that list be?"
12 And what was your answer?

13 A. "I want to say my wrist, knee, ankle, and neck.
14 And I had some pain in my back and upper back."

15 Q. Okay. And another question was, "Prior to this
16 accident, in that list, have you ever treated for pain in
17 any of those areas?" And what did you say?

18 A. "I am sorry, sir, can you repeat that?"

19 Q. Okay. I said, "Prior to this accident, in that
20 list of body parts you indicated, have you ever been treated
21 for pain in those areas?" And what was your answer?

22 A. "Treated, do you" -- this has two dashes -- "Can
23 you tell me more about that?"

24 Q. And I said, "Did you go to a chiropractor or go to
25 a doctor and say, hey, I have had a neck pain in the last

CROSS EXAMINATION OF CHARLES SHABAZZ BY MR. CRUDUP

1 couple of months or something like that?" And you said?

2 A. "You mean prior to this?"

3 Q. And I said, "Yes, prior to this." And then?

4 A. "Yes, sir, I went to" -- and then it is a blank --

5 "I went to, I want to say, rehab or orthopedist, I went

6 there first and then they told me to get therapy for my

7 wrist."

8 Q. And obviously we were a little confused there, and

9 I said, "Okay. When I said 'prior,' I meant before this
10 accident." What was your answer?

11 A. Which line are you reading?

12 Q. Page nine, line two.

13 A. Two, page nine.

14 "Before this one, no, sir."

15 Q. Okay. So when we were talking about the body

16 parts that you said that you hurt in this accident, you

17 agreed that before the accident you had not been treated for
18 injuries to those body parts; right?

19 A. Yes, sir.

20 Q. Okay. So, in 2007, do you remember going to the

21 ER because you had sprained your left ankle bad enough that
22 you had to go to the ER?

23 A. Not to my memory, no, sir.

24 Q. Okay. Let me hand you what we will mark as

25 defendant's exhibit 1 now.

CROSS EXAMINATION OF CHARLES SHABAZZ BY MR. CRUDUP

1 A. Yes, sir.

2 Q. So do you recall going to Oconee Memorial Hospital
3 in January of 2007 because you had -- you apparently
4 sprained your ankle playing basketball?

5 A. Not to my knowledge, I don't remember.

6 Q. Okay. Do you remember getting an X-ray of your
7 left ankle where they were looking to see if you had broken
8 your ankle?

9 A. In '07?

10 Q. Yes.

11 A. Not to my knowledge.

12 Q. In looking at this document that I handed you,
13 does that -- do you have it in front of you?

14 A. Yes, sir.

15 Q. Does that help you remember back in 2007 -- I know
16 that it was a while ago -- back in 2007 when that happened?

17 A. No, sir.

18 Q. Okay. Do you recall in 2012 when you sprained
19 your ankle again and had go to the hospital?

20 A. No, sir.

21 Q. I'll hand you what we will mark as defendant's
22 exhibit No. 2.

23 BY MR. CRUDUP

24 Q. Now, do you remember on July 10th, 2012 when you
25 sprained your ankle playing basketball?

CROSS EXAMINATION OF CHARLES SHABAZZ BY MR. CRUDUP

1 A. What was the date?

2 Q. It looks like July 10th, 2012?

3 A. No, sir, I don't recall.

4 Q. Okay. Do you have any reason to disagree that you
5 sprained your ankle back in July of 2012 and went to the
6 hospital for an x-ray?

7 A. No, sir.

8 Q. Okay. And I assume, if you don't remember it,
9 your ankle healed over the course of time; right?

10 A. Yes, sir.

11 Q. And then, do you remember in 2014 where you did
12 that again? Do you remember in 2014 when you sprained your
13 ankle again?

14 A. No, sir.

15 Q. All right. I'm not going to hand you that. But
16 do you disagree that you sprained your ankle in 2014?

17 A. Yes, sir.

18 Q. Sorry, said that wrong. You wouldn't disagree
19 with me if I told you that you sprained your ankle in 2014?

20 A. No, sir. No, sir.

21 Q. And I assume you got an x-ray and you were
22 probably out of basketball for a little while and you came
23 back, right?

24 A. Yes, sir.

25 Q. Do you remember spraining your right, not your

CROSS EXAMINATION OF CHARLES SHABAZZ BY MR. CRUDUP

1 left wrist, but your right wrist, in 2011 where, the same
2 thing, you went to the hospital to make sure that it wasn't
3 broken and they took an x-ray and all of that stuff?

4 A. No, sir, I don't recall?

5 Q. Any reason to disagree with that?

6 A. No, sir.

7 Q. So, assuming that eventually that right wrist got
8 better, correct?

9 A. Yes, sir.

10 Q. So, let me talk about this accident for a minute.
11 So before the accident you told me that you were in -- well,
12 you were in the right lane; correct?

13 A. Yes, sir.

14 Q. And then you moved into the left-hand lane because
15 there was less traffic over there, correct?

16 A. Yes, there was no traffic.

17 Q. Then, less than a second and a half later from the
18 time that you moved from that right lane into the left lane,
19 the accident happened; correct?

20 A. I wouldn't be able to tell you a specific time
21 frame from when I moved into that left lane when the impact
22 happened, a second.

23 Q. So we are talking -- like I said, I know it is a
24 short amount of time. Maybe like a second or two?

25 A. Yes, sir.

CROSS EXAMINATION OF CHARLES SHABAZZ BY MR. CRUDUP

1 Q. And by the time you moved from that right lane
2 into that left lane, my client was already crossing that
3 lane of travel that you were moving into; correct?

4 A. Can you ask the question again?

5 Q. Sure. So, as you are moving from that right lane
6 into the left lane.

7 A. Yes, sir.

8 Q. As you are doing that, Mr. Cox is already getting
9 into that left lane; correct?

10 A. When he was coming out?

11 Q. Correct.

12 A. So when I was going from the right lane moving
13 over, that is when you are saying was he already pulling
14 out?

15 Q. He was already there, yes.

16 A. No, sir.

17 Q. Okay. I want you to turn to Page 11 of your
18 deposition. Just tell me when you get there.

19 A. Yes, sir.

20 Q. All right. I'm going to ask you a question -- I
21 am going to ask you that question on line 19 and I would
22 like you to answer, it runs -- actually it stays on that
23 page, okay.

24 A. Nineteen.

25 Q. So I will start at line 19, okay?

CROSS EXAMINATION OF CHARLES SHABAZZ BY MR. CRUDUP

1 A. Yes, sir.

2 Q. "So if you pulled in that left lane about a second
3 and a half later, they pulled into the lane as well?" And
4 what was your answer?

5 A. "They were already in their lane, yes, sir."

6 Q. You can continue and finish it.

7 A. Twenty-three also?

8 Q. Yeah, 23 and 24.

9 A. "Like immediately as soon as I was coming, pulled
10 out right in front of me."

11 Q. Okay. So you told me back then that when you
12 moved over the accident happened within a second or two from
13 when you moved over, right?

14 A. Yes, sir.

15 Q. Okay. And I said, "All right. So when you moved
16 over a second or two later, that is when my client comes
17 out; right?"

18 A. Yes, sir.

19 Q. But when I asked you that, you didn't say that is
20 what happened. You said that they were already there,
21 right?

22 A. Yes, sir.

23 Q. Okay. So I want to talk to you for a minute about
24 the treatment from the accident, okay?

25 A. Yes, sir.

CROSS EXAMINATION OF CHARLES SHABAZZ BY MR. CRUDUP

1 Q. So, first of all, I think we all kind of agree,
2 fortunately your ankle and all of that stuff, that healed
3 over the course of time; right?

4 A. Yes, sir.

5 Q. So the only thing that really still bothers you is
6 your wrist, right?

7 A. Yes, sir.

8 Q. And when you wrist went to the ER they X-rayed the
9 wrist but they actually didn't even see the hair-line
10 fracture; right?

11 A. No, sir.

12 Q. But eventually you get a second X-ray a little bit
13 later with the orthopedist and you are diagnosed with a
14 subtle non-displaced fracture; is that correct?

15 A. Yes, sir.

16 Q. And so let's talk about how that recovery went.
17 So in March -- March 22nd, 2023, that is when this accident
18 happened; correct?

19 A. Yes, sir.

20 Q. And your orthopedist sent you to physical therapy
21 a couple of weeks later, correct?

22 A. Yes, sir.

23 Q. And then I think you testified earlier that the
24 physical therapy and I guess just kind of healing generally,
25 it was helping some, right? The pain was going down some

CROSS EXAMINATION OF CHARLES SHABAZZ BY MR. CRUDUP

1 and your wrist was starting to feel a little bit better,
2 right?

3 A. The popping wasn't really, pain-wise, going down.
4 But from the fracture, the healing, it was getting a little
5 better.

6 Q. Okay. And I assume that they were making you kind
7 of move your wrist around, so that was getting a little bit
8 better as well?

9 A. Yes, sir.

10 Q. On May 15th, 2023, so about seven weeks after this
11 accident, you go to PT, you go to a PT visit; right?

12 A. Yes, sir.

13 Q. Okay. When you go, you tell them that you dropped
14 a crate of parts at work on your wrist; do you remember that
15 happening?

16 A. On my wrist?

17 Q. Yes.

18 A. I remember I went to grab it and as I held it up
19 when I had tried to hold it I dropped it.

20 Q. All right. I'm going to hand you what we will
21 mark as defendant's Exhibit No. 3. Have you got that in
22 front of you?

23 A. Yes, sir.

24 Q. So I want you to look at it up top there. Do you
25 tell them that you dropped a crate of parts on your wrist at

CROSS EXAMINATION OF CHARLES SHABAZZ BY MR. CRUDUP

1 work on Saturday and have had increased pain since then?

2 A. Yes, sir.

3 Q. Okay. So because of that, when you do that, your
4 pain obviously goes up because it hurts, correct?

5 A. Yes, sir.

6 Q. And I assume that your movement, the movement kind
7 of went down a little bit, kind of set you back a little
8 bit?

9 A. A little bit.

10 Q. So a couple of things, first of all, at that
11 point, so this was seven weeks in, you were working at that
12 point; correct?

13 A. Trying to, yes, sir.

14 Q. And when I asked you, Were you back working back
15 then you said, Yeah, I was back. You didn't talk about
16 getting fired or anything like that?

17 A. Yes, sir.

18 Q. And at that point, when you were working at that
19 point, you were also playing basketball again; correct?

20 A. Trying to, yes, sir.

21 Q. So I asked you, when did you start playing
22 basketball again, and you told me, when I went back to work;
23 right?

24 A. Yes, sir.

25 Q. You didn't say you were trying, you said I went

CROSS EXAMINATION OF CHARLES SHABAZZ BY MR. CRUDUP

1 back -- I was playing basketball; correct?

2 A. Yes, sir.

3 Q. Okay. And then later on I asked you, Hey, you
4 know, are you back to playing basketball and you told me,
5 Yes, I'm playing basketball again; right?

6 A. Yes, sir.

7 Q. You didn't tell me that you were trying or you
8 couldn't do it anymore or you did a lot less, you just said
9 that you were back to playing basketball; correct?

10 A. Yes, sir.

11 Q. Now, so you have that setback in May and then in
12 June of 2023, so now we are about three months out.

13 A. Yes, sir.

14 Q. You talked about there being like one machine
15 where it was making you do -- not making you do -- but do
16 something with your wrist that would bother it, correct?

17 A. Yes, sir.

18 Q. But other than that machine, you didn't have any
19 work restrictions; correct?

20 A. I was restricted to probably like one or two
21 machines. It was like the machines that they had, there
22 were some of them that made smaller parts, those were the
23 machines that I was asked, Can I just go to that one.

24 Q. All right. I'm handing you what we will mark as
25 defendant's Exhibit No. 4. So when you are at physical

CROSS EXAMINATION OF CHARLES SHABAZZ BY MR. CRUDUP

1 therapy and describing what is going on, do you remember you
2 telling them that there is one machine at work that requires
3 that repetitive rotation so you try to avoid that one?

4 A. Yes, sir.

5 Q. But other than that you don't have any work
6 restrictions, correct?

7 A. No, sir.

8 Q. And when you are at rest at that point you don't
9 have any, your wrist isn't bothering you, it only bothers
10 you when it pops; correct?

11 A. Yes, sir.

12 Q. And you also tell them that when you are doing
13 activities, you know, I guess basketball or doing stuff
14 other than that machine, you also don't have any pain;
15 correct?

16 A. Repeat the question again, I am sorry.

17 Q. So when you are doing whatever else you are doing,
18 other activities, basketball, work, whatever, you don't have
19 any pain when you are doing those things; correct?

20 A. No, sir.

21 Q. And at that point you continue to go to physical
22 therapy, correct?

23 A. Yes, sir.

24 Q. All right. And then finally on July 12th, 2023
25 you are fully discharged from physical therapy, correct?

CROSS EXAMINATION OF CHARLES SHABAZZ BY MR. CRUDUP

1 A. Yes, sir.

2 Q. And when you are -- when you are discharged from
3 physical therapy you report that you are back to your normal
4 level of function; is that fair?

5 A. I don't remember. I can't recall.

6 Q. Sure. I am handing you what we will mark as
7 defendant's Exhibit No. 5.

8 BY MR. CRUDUP

9 Q. And so this is on July 12th, 2023, you report no
10 pain with any use, correct?

11 A. Yes, sir.

12 Q. And you also, on that discharge, you said that you
13 are performing at your prior level of function; do you see
14 that there?

15 A. Where is that at?

16 Q. Right side of the page under "discharge".

17 MR. CRUDUP: Your Honor, may I approach?

18 THE COURT: Yes, sir.

19 BY MR. CRUDUP

20 Q. I am not trying to trick you. There you go. So
21 in July, what was that, July 12th of 2023 you are reporting
22 that you are back to your prior level of function to your
23 physical therapist, correct?

24 A. Yes, sir.

25 Q. And then later on in August, so about a month

CROSS EXAMINATION OF CHARLES SHABAZZ BY MR. CRUDUP

1 later, after you are fully discharged, you have been back to
2 doing whatever you are doing, basketball, that sort of
3 stuff, that is when you had that incident where you had the
4 furniture where you dropped it; correct?

5 A. Yes, sir.

6 Q. Okay. And when you go to the doctor you reported
7 a mild amount of pain in your wrist, correct?

8 A. Yes, sir.

9 Q. I assume that was kind of like a scary moment
10 because you hadn't had that happen before, correct?

11 A. No, sir.

12 Q And when they examined you at the orthopedist, you
13 go back there, you had a full range of motion; correct?

14 A I don't recall.

15 Q Do you have any reason to disagree when they
16 looked at your wrist you could move it range-wise that was
17 okay?

18 A I don't recall.

19 Q Okay. I'm going to hand you one more.

20 A. Yes, sir.

21 Q. Okay. This is defendant's Exhibit No. 6. All
22 right. So this is on September 5th, so a little -- like a
23 week or so after that, that incident?

24 A Yes, sir.

25 Q Down in the plan there you say that you are pain

CROSS EXAMINATION OF CHARLES SHABAZZ BY MR. CRUDUP

1 free on exam, right?

2 A What am I looking at?

3 Q I know that they are small. Here, hang on.

4 A Yes, sir.

5 Q Okay. So at that point you are not reporting any
6 pain, correct?

7 A Yes, sir.

8 Q And you have a full range of motion, correct?

9 A Yes, sir.

10 Q Okay. And I think they did another x-ray just to
11 make sure that you didn't like re-break your wrist, and you
12 didn't, it was fully healed; correct?

13 A Yes, sir.

14 Q And that was September 5th, and that is the last
15 time that you saw the orthopedist; correct?

16 A Yes, sir.

17 Q And then you told us I think that you saw a hand
18 guy one more time?

19 A Hand specialist, yes, sir.

20 Q Hand specialist. And that was about two years
21 ago, right?

22 A Yes, sir.

23 Q And since that time you haven't seen any other
24 doctors, correct?

25 A No, sir.

REDIRECT EXAMINATION OF CHARLES SHABAZZ BY MS. LINTON

1 Q No physical therapy?

2 A No, sir.

3 Q Okay. And you don't take any prescription
4 medication for your wrist, right?

5 A No, sir.

6 Q And you don't take any over-the-counter
7 medications for your wrist, correct?

8 A No, sir.

9 Q And day to day, I think that we have talked about
10 this, but you don't feel any pain in your wrist day to day?

11 A No, sir.

12 Q And I think that you might have testified about
13 this, but you told me that when you said -- when we talked
14 about how often you would have that pop you said like maybe
15 once a week or maybe twice a week; correct?

16 A Yes, sir.

17 MR. CRUDUP: All right. Those are all of the
18 questions that I have for you. Thank you.

19 THE WITNESS: Appreciate that.

20 THE COURT: Redirect?

21 MS. LINTON: Thank you, Your Honor.

22 REDIRECT EXAMINATION

23 BY MS. MS. LINTON

24 Q Mr. Shabazz, you were asked a lot about prior
25 medical records?

REDIRECT EXAMINATION OF CHARLES SHABAZZ BY MS. LINTON

1 A Yes, ma'am.

2 Q How old were you in 2007?

3 A Probably like eight.

4 Q How old were you in 2011?

5 A Probably 11 or 12.

6 Q When I asked you a question, did I ask you if you
7 had ever previously injured your ankle before?

8 A No, ma'am.

9 Q You were asked a lot about your deposition.
10 During that deposition, did you do the best that you could?

11 A Yes, ma'am. The person who was taking my
12 deposition, he was in a car so like his connection wasn't
13 really that great.

14 Q Do you recall if Mr. Crudup deposed you?

15 MR. CRUDUP: Objection, your Honor,
16 relevance.

17 THE COURT: Sustained.

18 BY MS. LINTON:

19 Q Does your wrist cause you pain all of the time?

20 A No, ma'am.

21 Q You can do a lot of your normal activities, right?

22 A Yes, ma'am.

23 Q And, in fact, you work hard and you were promoted;
24 right?

25 A Yes, ma'am.

REDIRECT EXAMINATION OF CHARLES SHABAZZ BY MS. LINTON

1 Q Do you work through that pain?

2 A I have to.

3 MS. LINTON: No further questions. Thank you
4 Mr. Shabazz.

5 THE COURT: You may step down. How long is
6 your next witness?

7 MS. LINTON: May we take a quick break to
8 discuss the court schedule?

9 THE COURT: Okay. Mr. Foreman, if you will
10 take the jury back to the jury room.

11 (The jury exits the courtroom at 4:23 p.m.)

12 THE COURT: Let's take about five.

13 MS. LINTON: Yes, sir.

14 (Brief recess.)

15 THE COURT: Who is your next witness?

16 MS. LINTON: Your Honor, our next witness is
17 Dr. Tenley Murphy. She is appearing via video.

18 THE COURT: How long is the video?

19 MS. LINTON: I believe that it is under 30
20 minutes.

21 THE COURT: Okay, all right, very good. Is
22 that total?

23 MS. LINTON: Yes, Your Honor. It might even
24 be 20 minutes. It is not very long.

25 THE COURT: Very good. If you will bring the

REDIRECT EXAMINATION OF CHARLES SHABAZZ BY MS. LINTON

1 jury in.

2 (The jury enters the courtroom at 4:35 p.m.)

3 THE COURT: Call your next witness.

4 MS. LINTON: Your Honor, the plaintiff calls
5 Dr. Tenley Murphy.

6 THE COURT: She is stipulated to be an
7 expert?

8 MS. LINTON: Yes, Your Honor.

9 THE COURT: All right. Ladies and gentlemen,
10 normally a witness is not allowed to give their
11 opinion. They have to tell you what they have saw,
12 they smelled, they heard, and whatever. But anyway,
13 they cannot give opinion unless they are qualified as
14 an expert. In this case it is stipulated that this
15 witness is an expert in orthopedics. They will be
16 allowed to give you their opinion in that area and tell
17 the reasons for that opinion. I will tell you, expert
18 testimony is like any other testimony that you will
19 hear in this case, you can accept it, reject it, or
20 give it as much weight as you think that it deserves.

21 All right, counsel.

22 MS. LINTON: Thank you.

23 THE COURT: Can you turn that up?

24 MS. LINTON: Yes, Your Honor, I think that I
25 have got it.

REDIRECT EXAMINATION OF CHARLES SHABAZZ BY MS. LINTON

1 (The video deposition of Dr. Tenley Murphy
2 played for the jury.)

3 THE COURT: All right. Mr. Foreman, ladies
4 and gentlemen of the jury, it is a good time to go
5 ahead and break for the day. Those of you who are
6 taking notes, if you will leave them in the jury room
7 we will keep them under lock and key. And I will
8 remind you not to talk to anybody, or amongst
9 yourselves. Any reason why we can't get started at
10 9:30 in the morning?

11 (No audible response.)

12 THE COURT: Okay. See you at 9:30. Hope
13 that y'all have a nice evening.

14 (The jury exits the courtroom at 4:54 p.m.)

15 THE COURT: Anything from the plaintiff
16 before we break for the today?

17 MS. LINTON: No, sir.

18 THE COURT: Anything from the defense?

19 MR. CRUDUP: No, Your Honor.

20 (Proceedings adjourned for the day.)

21

22

23

24

25

DIRECT EXAMINATION OF CONNOR LEW BY MS. LINTON

1 * *

2 10-28-2025 PROCEEDINGS

3 THE COURT: Anything before we bring the jury
4 back in?

5 MS. MS. LINTON: No, Your Honor.

6 THE COURT: From the defense?

7 MR. CRUDUP: No, Your Honor.

8 THE COURT: Very good.

9 (The jury enters the courtroom at 9:38 a.m.)

10 THE COURT: Good morning. I hope you had a
11 nice evening. Are you ready to proceed?

12 MS. MS. LINTON: Yes, Your Honor.

13 THE COURT: Call your next witness, please.

14 MS. MS. LINTON: The plaintiff calls Connor
15 Lew.

16 Thereupon,

17 CONNOR LEW

18 was called as a witness, having been first duly sworn, was
19 examined and testified as follows:

20 DIRECT EXAMINATION

21 BY MS. MS. LINTON:

22 Q Good morning, Mr. Lew. Are you nervous?

23 A A little bit, but I am fine.

24 Q Tell the jury a little bit about yourself.

25 A My name is Connor Lew, I am from Seneca, and I am

DIRECT EXAMINATION OF CONNOR LEW BY MS. LINTON

1 twenty-four years old.

2 Q Where do you work?

3 A Yoders Building Supply.

4 Q What do you do for them?

5 A I am a receiver. So I pull all of the windows and
6 doors off of the trucks.

7 Q Were you scheduled to work today?

8 A Yes, ma'am.

9 Q Are you scheduled to work right now?

10 A Yes, ma'am.

11 Q How do you know Charles?

12 A Me and him go way back. I have known him since
13 middle school. All through high school we were best
14 friends.

15 Q What things did you like to do before 2023
16 together?

17 A Our main thing was basketball. Because he played
18 high school basketball. I played travel basketball. So, we
19 always played basketball together.

20 Q Did Charles love basketball?

21 A Most definitely.

22 Q Does he still love basketball?

23 A To this day, yes.

24 Q Prior to the wreck in 2023, how often did you play
25 basketball?

DIRECT EXAMINATION OF CONNOR LEW BY MS. LINTON

1 A Almost everyday. And if not everyday we was
2 playing every weekend.

3 Q And in the months following the collision how
4 often would you play basketball together?

5 A Not as much after that.

6 Q Why?

7 A He just had trouble shooting and just had pain to
8 his wrist, so he wasn't able to play as good as he used to.

9 Q Did you see that struggle when he tried to play?

10 A Most definitely. He would definitely get
11 frustrated.

12 Q Did you sense that bothered him?

13 A Yes.

14 Q Do you recall if he tried to get back to playing
15 basketball after the collision?

16 A We would try. But any time that I would bring up
17 basketball you could tell that it put him in a very
18 depressive state to the point to where he just did not want
19 to play.

20 Q Even when he would play, was he the same player he
21 was?

22 A Not at all.

23 Q Tell me about that.

24 A Like I said before, any time he would try to
25 shoot, any time he would try to dribble on that side it just

CROSS EXAMINATION OF CONNOR LEW BY MR. CRUDUP

1 wasn't the same.

2 Q How has Charles changed since the collision?

3 A Any time we bring up sports in general he just
4 gets pretty down to the point to where he just doesn't want
5 to talk about it and he gets quiet.

6 Q When was the last time that you tried to play
7 basketball together?

8 A Two months ago.

9 Q How did that go?

10 A Not so good. He just had trouble with it to the
11 point where he had to quit and we just stopped playing.

12 Q Mr. Lew, did we ask you to be here today?

13 A Yes.

14 Q Did you hesitate to answer?

15 A Not at all.

16 MS. MS. LINTON: No further questions.

17 CROSS EXAMINATION

18 BY MR. CRUDUP:

19 Q Good morning, Mr. Lew.

20 A Good morning.

21 Q Which side does Mr. Shabazz have trouble with?

22 A The left side.

23 Q And he's right handed?

24 A Yes.

25 Q So he has trouble shooting the ball but he's right

DIRECT EXAMINATION OF CHRISTOPHER JACK JONES BY MS. LINTON

1 handed?

2 A Left hand lay-ups.

3 Q And did he ever tell you about the time that he
4 dropped a crate on his wrist?

5 A No.

6 Q Did he ever tell you about a time that he tried to
7 catch furniture and hurt his wrist?

8 A No.

9 Q You said you played basketball all of the time?

10 A Nods.

11 Q Is that a yes?

12 A Yes, my fault.

13 Q Have you ever seen him sprain anything playing
14 basketball?

15 A Not recently, no.

16 Q In the past?

17 A No, not off of the top of my head.

18 MR. CRUDUP: Thank you.

19 THE COURT: Redirect.

20 MS. MS. LINTON: Nothing, Your Honor.

21 THE COURT: Thank you. You are excused, sir.

22 Call your next witness.

23 MS. MS. LINTON: Your Honor, the plaintiff

24 calls Christopher Jack Jones.

25 Thereupon,

DIRECT EXAMINATION OF CHRISTOPHER JACK JONES BY MS. LINTON

1 CHRISTOPHER JACK JONES

2 was called as a witness, having been first duly sworn, was
3 examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MS. MS. LINTON:

6 Q Good morning, Jack. You go by Jack?

7 A Yes, ma'am.

8 Q Tell the jury a little bit about yourself.

9 A My name is Christopher Jones. I go by Jack.
10 Thirty-six years old. Born and raised in Seneca.

11 Q Where do you work?

12 A Strickland Brothers Oil Change.

13 Q How do you know Charles?

14 A He is my assistant manager.

15 Q Do you spend time together outside of work?

16 A Yes, ma'am.

17 Q Tell the jury about that.

18 A We play video games. I mentioned about basketball
19 one time, and I also like playing basketball, but he told me
20 that he just wasn't able to. He didn't want to go out there
21 and be a burden and, you know, end up having to quit and we
22 wouldn't have a full team. So we mostly, you know, hang out
23 and watch movies, play video games. And sometimes even that
24 gets difficult for him.

25 Q How would you describe Charles as an employee?

DIRECT EXAMINATION OF CHRISTOPHER JACK JONES BY MS. LINTON

1 A Outstanding.

2 Q What is your understanding of Charles' injury?

3 A I just know that certain movements, he will get a
4 pop and then he will get a pain sensation and then he will
5 go numb for a good period of time.

6 Q Have you seen it at work?

7 A Yes.

8 Q Tell me about what happens when the painful pop
9 happens?

10 A You can just see the discomfort in his face and
11 his demeanor changes. You can just tell that he's in
12 discomfort. He is not really one to be like, Aw, I am
13 hurting. He will just be like, Hey, give me a minute I need
14 to let my feeling come back in my wrist. And he will go
15 walk off or go sit in his car for about 45 minutes until
16 he's capable of finishing the job.

17 Q Does that cause a burden on your work?

18 A Yes, sometimes. Because we do have a short, a
19 small crew so sometimes it's just me and Charles there, so
20 once he gets in pain I will have to do it and it upsets him
21 because he doesn't want anyone to have to work by
22 themselves.

23 Q When was the last time you saw this?

24 A Last Wednesday. I remember specifically because
25 we was busy and it was just me and him, we had somebody call

DIRECT EXAMINATION OF CHRISTOPHER JACK JONES BY MS. LINTON

1 out. But he just had to take the time. Like I told him, I
2 don't mind, I understand, it doesn't bother me. As long as
3 you can get better, I'm cool with it.

4 Q Have you seen it frequently working with Charles?

5 A Yes, very frequently.

6 Q Is Charles a hard worker?

7 A Yes, very much.

8 Q Does he show up to work on time?

9 A Very punctual.

10 Q Is he an asset to the team?

11 A Yes, definitely. If he's not there, it is a
12 downward spiral.

13 Q When you spend time together outside of work, have
14 you seen him struggle with his family?

15 A Yes, the main thing is with holding his daughter.
16 If he holds her in the wrong position for too long his wrist
17 will get to hurting and he will have to sit her down and
18 that definitely upsets him.

19 Q Thank you for being here, Jack.

20 A You are welcome.

21 Q Were you scheduled to work today?

22 A Yes, ma'am.

23 Q Are you supposed to be working today, right now?

24 A Yes, ma'am.

25 Q How many people are at the shop while you are

DIRECT EXAMINATION OF PAMELA ALLEN BY MS. LINTON

1 here?

2 A One.

3 Q Again, did I ask you to be here?

4 A Yes, ma'am.

5 Q Did you hesitate to answer?

6 A No, ma'am.

7 MS. MS. LINTON: No further questions. Thank
8 you.

9 THE WITNESS: You are welcome.

10 THE COURT: Cross examination.

11 CROSS EXAMINATION

12 BY MR. CRUDUP:

13 Q Mr. Jones, did Mr. Shabazz ever talk to you about
14 dropping a crate on his wrist at any point?

15 A No, sir.

16 Q Did he ever talk to you about catching furniture
17 and injuring his wrist in any way?

18 A No, sir.

19 MR. CRUDUP: No further questions, thank you.

20 THE WITNESS: Thank you.

21 THE COURT: Thank you, sir. You are excused.

22 WITNESS: Thank you.

23 THE COURT: Call your next witness, please.

24 MS. MS. LINTON: Your Honor, the plaintiff

25 calls Pamela Allen.

DIRECT EXAMINATION OF PAMELA ALLEN BY MS. LINTON

1 **Thereupon,**

2 PAMELA ALLEN

3 was called as a witness, having been first duly sworn, was
4 examined and testified as follows:

5 DIRECT EXAMINATION

6 BY MS. MS. LINTON:

7 Q Good morning, Mrs. Allen.

8 A Good morning.

9 Q Would you please tell us your name.

10 A My name is Pamela Allen.

11 Q And, Mrs. Allen, where do you live?

12 A I stay on Thomas Heights in Seneca.

13 Q Where are you from originally?

14 A Seneca.

15 Q Is Mr. Robinson your father?

16 A Yes.

17 Q Tell us about your family.

18 A We are a big family, we are close-knit. We do
19 Sunday dinners, gather for the holidays. We are just
20 close-knit, we are a close-knit family.

21 Q Are you married?

22 A Yes.

23 Q How long have you been married?

24 A I have been married eight years, but we have been
25 together about 24 years.

DIRECT EXAMINATION OF PAMELA ALLEN BY MS. LINTON

1 Q You got a couple on me. Where do you work?

2 A I work at the South Carolina Department of Motor
3 Vehicles. But before that I was a manager at Fatz Cafe in
4 Seneca for 20 years until we closed.

5 Q What do you do at the DMV?

6 A I am a TLS. We do, we process titles, driver's
7 license, IDs, things like that.

8 Q How many kids do you have?

9 A Two.

10 Q What are their names?

11 A Khalil and Charles.

12 Q How old is Khalil?

13 A Khalil is 28.

14 Q Is he close to Charles?

15 A They are very close. They are two years apart.

16 Q Tell us about your relationship with Charles.

17 A Me and Charles have a great relationship. Some
18 say it is odd for a mother and son to be as close as we are,
19 but we are real close.

20 Q How often do you talk?

21 A We talk at least, sometimes twice a day, but we
22 talk just about everyday.

23 Q What type of things do you like to talk about with
24 him?

25 A We talk about family, his job, his friends, and

DIRECT EXAMINATION OF PAMELA ALLEN BY MS. LINTON

1 mostly his daughter here lately.

2 Q Tell us about his daughter.

3 A She is beautiful. She is my first grandbaby. But
4 she is three months old. She will be four months old the
5 1st of November.

6 Q Do you spend a lot of time with her?

7 A I do, I babysit.

8 Q Is Charles a good dad?

9 A He is.

10 Q Is he a provider for Evelyn?

11 A A good provider.

12 Q How so?

13 A He want to make sure that she has everything that
14 she needs. He don't want her to want for anything. So he
15 makes sure that he works so he can provide and keep a roof
16 over her head.

17 Q Is he also a provider for Brooklyn?

18 A Yes.

19 Q Where does Charles work?

20 A Strickland Brothers.

21 Q How often does he work?

22 A He works 5 to 6 days a week ten hours a day.

23 Q Does he work a lot?

24 A Yes.

25 Q Ms. Allen, was your son involved in a car

DIRECT EXAMINATION OF PAMELA ALLEN BY MS. LINTON

1 collision back in March of 2023?

2 A Yes.

3 Q Tell the jury about your experience with that?

4 A So I want to say about, that afternoon Charles
5 called me and told me that he was in a collision. My heart
6 drops because that is my youngest. So he wasn't far from
7 the house. And I went to the collision site.

8 Q What did you see when you got there?

9 A It was horrific, the way the vehicle looks.
10 Charles and Brooklyn was in the car and it was just a
11 terrifying scene.

12 Q Who told you about the collision?

13 A Charles called me.

14 Q How did he sound on the phone?

15 A Devastated. I mean he was just real upset.

16 Q When you got to the scene of the collision, where
17 was Charles and Brooklyn?

18 A They were in the car.

19 Q And how did Charles seem to you at that moment?

20 A Just upset. Scared.

21 Q Was he complaining of pain?

22 A Yes, he was.

23 Q What was he saying?

24 A Said his wrist, neck, back, and ankle was hurting.

25 Q Was Charles taken by ambulance to the hospital?

DIRECT EXAMINATION OF PAMELA ALLEN BY MS. LINTON

1 A Yes.

2 Q Did that worry you?

3 A It did because Charles never complains about pain,
4 never. And so for him to have to go to the ER in the
5 ambulance was not a good thought.

6 Q Tell me about when you went to the hospital.

7 A So when we left the collision site, me and
8 Brooklyn took the dog home of course. And I didn't really
9 want to, I was trying to get to the hospital. But by the
10 time that we got there he was already back, so we waited in
11 the lobby.

12 Q When did you see Charles?

13 A When he came out from seeing a doctor. He had a
14 sling on his wrist.

15 Q How was he feeling, could you tell?

16 A He was in pain.

17 Q Describe Charles in pain.

18 A Charles usually doesn't complain about pain. He
19 keeps -- he won't let you know he's actually hurting.

20 Q Did you see that version of Charles at the
21 hospital?

22 A I did.

23 Q Tell us what you did after Charles was released?

24 A So when we left the hospital we went and he had
25 prescriptions. I took him to pick them up and then I took

DIRECT EXAMINATION OF PAMELA ALLEN BY MS. LINTON

1 him home. And I checked on him, me and Brooklyn took turns
2 checking on him throughout the day and the night.

3 Q Was Charles' treatment painful for him?

4 A Yes.

5 Q Tell the jury trial about what you saw.

6 A I saw somebody frustrated because he couldn't do
7 what he usually does, his normal activities, without having
8 pain.

9 Q Did Charles try to return to work shortly after
10 the collision?

11 A He did. He did.

12 Q Did Charles like his job?

13 A He did.

14 Q Has Charles always liked working with his hands?

15 A He has.

16 Q Tell the jury about that.

17 A He's been working since he was 16. And he's
18 always worked with his hands. He is just a hands-on person,
19 he likes to keep busy.

20 Q Was Charles fired from Baxter?

21 A Yes.

22 Q How did that make you feel?

23 A Upset.

24 Q After he was fired, how long until he moved in
25 with you?

DIRECT EXAMINATION OF PAMELA ALLEN BY MS. LINTON

1 A Maybe about four months.

2 Q Tell the jury about that.

3 A So once he got fired from Baxter, he couldn't
4 afford his half of the rent. So for a minute I was trying
5 to pay his half and my own mortgage. And then it got to the
6 point where I couldn't do both so he had to move back home.

7 Q Did that upset him?

8 A Yes, because you are 20 something years old, you
9 are out on your own, you are not going to want to move back
10 home with your mama and lose your privileges. Because when
11 you come back home you got to live by mama's rules.

12 Q Once he moved back in, were you able to see a
13 change in him?

14 A I did.

15 Q Tell the jury about that.

16 A He wasn't as outgoing. Charles is usually happy
17 go lucky. He wasn't so happy go lucky anymore.

18 Q How long did Charles live with you?

19 A For about a year and a half.

20 Q Why so long?

21 A Because he couldn't get out. He couldn't afford
22 to move out so he was trying to save up. Once you get
23 evicted from somewhere it goes on your record, you have a
24 hard time trying to get -- find a place that would take you
25 once you get that eviction on your record.

DIRECT EXAMINATION OF PAMELA ALLEN BY MS. LINTON

1 Q Tell me about Charles' job at Strickland. Does he
2 like it?

3 A He loves it.

4 Q Did it take him a long time to find a job that he
5 loved after the collision? Did it take him a long time?

6 A It did.

7 Q Was that hard for him; did you see a struggle?

8 A Yes.

9 Q Was that hard for you?

10 A Yes, because I don't want to see my child struggle
11 or in pain.

12 Q Tell the jury about how this collision has
13 affected Charles.

14 A Charles is -- he doesn't do the norm -- his
15 passion was basketball. So, he can't do that like he want
16 to. He's not as happy. He is stressed, worried about how
17 he can be a good provider for Brooklyn and Evelyn. I have
18 seen like if you hand him Evelyn, of course she is three
19 months, there is a certain way that you have to hand her to
20 him because of the wrist.

21 MS. MS. LINTON: Thank you, Mrs. Allen. I
22 have no further questions.

23 THE WITNESS: You are welcome.

24 MR. CRUDUP: No questions.

25 THE COURT: Thank you, ma'am, you are

DIRECT EXAMINATION OF PAMELA ALLEN BY MS. LINTON

1 excused.

2 THE WITNESS: Thank you.

3 MS. MS. LINTON: Your Honor, at this time the
4 plaintiff rests.

5 THE COURT: Very good. All right, Mr.
6 Foreman, ladies and gentlemen of the jury, the
7 plaintiff advises that they rest, which means that they
8 have presented their case in chief. I have some
9 administrative matters to take up outside of your
10 presence. If you would go to the jury room now and we
11 will bring you back in just a few minutes.

12 (The jury exits the courtroom at 9:56 a.m.)

13 THE COURT: All right. Motions?

14 MR. CRUDUP: At this time, Your Honor, the
15 defense would move for a directed verdict. Can you
16 hear me? The defense would move for a directed verdict
17 on the issue of liability. We argue that the evidence
18 is clear that Mr. Cox was in his lane in the left-hand
19 lane before Mr. Shabazz entered that lane and was in
20 control of that lane and Mr. Shabazz caused the wreck.

21 MS. MS. LINTON: Your Honor, we would oppose
22 the motion and argue that the evidence set forth before
23 the Court clearly shows that. Mr. Shabazz was lawfully
24 in his lane of travel and was in the right-of-way. I
25 believe that the defendant admitted that on the stand.

DIRECT EXAMINATION OF PAMELA ALLEN BY MS. LINTON

1 THE COURT: It is a matter for the jury to
2 make the decision. I will deny the motion. Any other
3 motions?

4 MR. CRUDUP: Not at this time, Your Honor.

5 THE COURT: Very good. Are you going to
6 present any evidence?

7 MR. CRUDUP: No, Your Honor.

8 THE COURT: Okay. Go ahead and get your
9 charge.

10 *(Whereupon, Court's Exhibit No(s). 3 marked*
11 *for identification and received in evidence.)*

12 MR. CRUDUP: Your Honor, we had a few
13 charges.

14 THE COURT: I want you to remind me and we
15 will go over yours if you don't mind.

16 MR. CRUDUP: Okay.

17 (Pause.)

18 THE COURT: Have you read through my charges?

19 MS. MS. LINTON: Yes, Your Honor.

20 MR. CRUDUP: Yes, Your Honor.

21 THE COURT: Let me point out. Let me just go
22 over them page by page if you would. On my charge,
23 page one, all right, let me just ask -- it seems to me
24 looking through here, these are correct through page
25 three. Page 4, the duty number five is 56-5-2350,

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1 driver of vehicle about to enter or cross a road any
2 place other than another roadway. That doesn't seem
3 applicable to this case because it was not entering a
4 main roadway. So I think that that is not one that I
5 would charge. Does anybody have the exact statute
6 about favored or unfavored highway?

7 MR. CRUDUP: I thought that was in there.

8 THE COURT: Sir?

9 MR. CRUDUP: I don't know the actual number.

10 THE COURT: It seems like that is a statute.

11 MR. CRUDUP: I think that you are right. But
12 I don't know which one it is.

13 THE COURT: If you don't have it, I think
14 that we have got it covered pretty well actually. So
15 my position would be, on Page four, not to charge
16 either of those duties.

17 MR. CRUDUP: I agree, Your Honor.

18 THE COURT: Okay. Is that okay with
19 everybody?

20 MS. MS. LINTON: Yes, Your Honor.

21 THE COURT: Now if you disagree don't let me
22 talk you into something, okay.

23 MS. MS. LINTON: And, Your Honor, if I may
24 before we continue? And I apologize, I should have
25 brought this to the Court's attention before. But

DIRECT EXAMINATION OF PAMELA ALLEN BY MS. LINTON

1 defendant's case-in-chief closed so quickly, but, Your
2 Honor, I also want to make a motion for directed
3 verdict.

4 THE COURT: I am sorry, I apologize.

5 MS. MS. LINTON: That is okay, I should have
6 brought it to your attention. I would also make a
7 motion for a directed verdict as to liability and all
8 defendant's affirmative defenses. I believe the law --
9 the facts and all of the inferences contained therein.

10 THE COURT: Even viewed in the light most
11 favorable to the defendant --

12 MS. MS. LINTON: Yes, thank you. We would
13 yield the conclusion that the plaintiff is entitled to
14 an award of damages.

15 THE COURT: I think that we have material
16 questions of facts for the jury on both sides of this
17 case, so I am going to go ahead and deny your motion,
18 okay.

19 MS. MS. LINTON: Your Honor, even as to
20 comparative negligence with their --

21 THE COURT: Comparative negligence, I am
22 going to charge that in this case. I think that it is
23 appropriate. I'll be glad to hear from both of you
24 about it, but in this case there is evidence in the
25 record which I have to base my charge on to support a

DIRECT EXAMINATION OF PAMELA ALLEN BY MS. LINTON

1 comparative charge. Otherwise I would have to find
2 that the plaintiff was not negligent at all in any
3 fashion in this case and I don't think that that is the
4 case.

5 MS. MS. LINTON: Your Honor, just for
6 purposes of preserving the record.

7 THE COURT: I understand.

8 MS. MS. LINTON: Our arguments are two-fold.
9 They are based on defendant's answer to our complaint
10 where they admit unequivocally that the plaintiff had
11 an absolute right-of-way in the roadway. They also
12 admit that the plaintiff suffered damages. And then
13 with respect to defendant's discovery responses, Your
14 Honor, and I would be happy to pass this up if the
15 Court would like to look at it. But the defendant was
16 specifically asked in a contention interrogatory about
17 what evidence they have -- what contentions they are
18 making to show that the plaintiff was comparatively
19 negligent in causing this collision.

20 And, Your Honor, their answer was that
21 defendant did not make this contention. They were --

22 THE COURT: Okay, hang on. What is your
23 response that there is no comparative negligence on the
24 part of the plaintiff?

25 MR. CRUDUP: Your Honor, first of all, we do

DIRECT EXAMINATION OF PAMELA ALLEN BY MS. LINTON

1 plead it in our complaint.

2 THE COURT: I am sorry?

3 MR. CRUDUP: We do plead it in our, in the
4 answers to the complaint.

5 THE COURT: Well, I know that you plead it.
6 We are looking at evidence in the record or whether you
7 are bound by your discovery responses.

8 MR. CRUDUP: I understand, Your Honor. My
9 client has testified several times, both on the stand
10 and in his deposition that he doesn't believe that he
11 is at fault for this accident. I think that
12 Mr. Shabazz has also made admissions that would place
13 him -- that would place some fault on him.

14 THE COURT: Do you think that your discovery
15 responses bars you from being able to raise comparative
16 negligence?

17 MR. CRUDUP: I do not, Your Honor.

18 THE COURT: Well, obviously but --

19 MR. CRUDUP: I am trying to remember exactly
20 how it was phrased, Your Honor. But the interrogatory
21 said something, I believe said something to the effect
22 of, Do you believe that anybody else is at fault for
23 this accident. And the way that I interpreted that was
24 anybody outside of the parties at fault in the
25 accident. If it was anybody else's fault. I mean, we

DIRECT EXAMINATION OF PAMELA ALLEN BY MS. LINTON

1 are not saying that it was the truck or DOT or
2 something like that.

3 THE COURT: First, I think that I have to
4 base my decision based on evidence in the record. I
5 know that discovery has some certain aspect of that,
6 but I think that there's evidence in the record that
7 would support a finding of comparative on the part of
8 the plaintiff, so I'll deny your motion on that, okay,
9 with all due respect.

10 And I know that you object to that finding.
11 So, let's go back to the charge. Let's do this right
12 quick, I am going to bring the jury back and let you
13 say you rest and then we will send them back, that way
14 we have got it all in the record. Is that okay with
15 everybody?

16 MR. CRUDUP: Sure.

17 MS. MS. LINTON: Yes, Your Honor.

18 THE COURT: All right. Would you bring the
19 jury in?

20 (The jury enters the courtroom at 10:19 a.m.)

21 THE COURT: All right. Call your first
22 witness for the defense, please.

23 MR. CRUDUP: Your Honor, the defense rests.

24 THE COURT: You rest. Very good.

25 MR. CRUDUP: Yes, sir.

DIRECT EXAMINATION OF PAMELA ALLEN BY MS. LINTON

1 THE COURT: All right. Ladies and gentlemen,
2 Mr. Foreman, the defense rests in this case. Which
3 means that all of the evidence that is going to be
4 presented has been presented. That again presents me
5 with another administrative matter that I need to bring
6 up. The next aspect -- if you will recall, I told you
7 that there were five phases in every case. You have
8 opening statements, presentation of the evidence.

9 The third phase will be closing arguments.
10 We are going to go to that. So what I'll be doing in
11 the next few minutes, just so you will know that we are
12 not sitting here doing nothing, is going over the law
13 that I'll charge you that applies to this case.
14 Sometimes we have to banter back and forth to make sure
15 that we have the correct law being given. After the
16 lawyers come out and give you their closing arguments I
17 will then charge you on the law that applies, and then
18 you will engage in your deliberations. Do not engage
19 in deliberations until you are told to do so, okay.
20 You can go back to your jury room.

21 (The jury exits the courtroom at 10:21 a.m.)

22 THE COURT: For purposes of the record, you
23 do renew your motion?

24 MR. CRUDUP: We do, Your Honor.

25 THE COURT: Any additional motions?

DIRECT EXAMINATION OF PAMELA ALLEN BY MS. LINTON

1 MR. CRUDUP: No, Your Honor.

2 THE COURT: Do you renew your motion?

3 MS. MS. LINTON: Yes, Your Honor.

4 THE COURT: Any additional motions?

5 MS. MS. LINTON: No, Your Honor.

6 THE COURT: All right. Let's go back to
7 where we were. Thank you, guys. We were on Page four
8 of the charge. I'm taking out that entire page. I
9 inserted the language about recklessness, about
10 violation of statute there. Someone wanted punitive,
11 but I think it is better to put it there.

12 The only real issue I have at this juncture
13 in the charge that you have before you is the request
14 for the life expectancy table. There has been no
15 testimony that I can recall of permanency. I don't
16 think that the doctor testified that, to a reasonable
17 degree of medical certainty, that it's permanent. And
18 there has to be permanency in order to get the life
19 expectancy table. If there is and I'm overlooking it,
20 tell me about it.

21 MS. MS. LINTON: Mr. Shabazz has testified --

22 THE COURT: He doesn't have the ability to
23 testify about it. It has to be -- I would think that
24 it has to come from an expert. It is not something
25 that everyday people can say. I mean, he can say what

DIRECT EXAMINATION OF PAMELA ALLEN BY MS. LINTON

1 has gone on with him up until this point in time in
2 life. I agree with that. But he can't say that it is
3 going to happen permanently and be a part of his life
4 for the rest of his life. That is not a medical expert
5 opinion.

6 MS. MS. LINTON: Your Honor, may I have a few
7 minutes to think about it?

8 THE COURT: Yeah. Sure. So, in other words,
9 my -- let's go back over the charge. Unless you change
10 my mind, I'm not going to charge life expectancy, okay.
11 I don't think that there is any evidence of permanency.
12 Preexisting condition, was that --

13 MR. CRUDUP: I don't think so, Your Honor.
14 That is what I was going to say, I don't think -- we
15 are not making that.

16 THE COURT: Okay. Some plaintiffs want it
17 anyway because you did bring up other things in the
18 record about prior treatment to his -- do you want it?
19 If the plaintiff wants it I'll charge it. If you don't
20 want it --

21 MS. MS. LINTON: No, Your Honor.

22 THE COURT: You don't want it?

23 MS. MS. LINTON: No.

24 THE COURT: Okay. That will come out.

25 (Pause.)

DIRECT EXAMINATION OF PAMELA ALLEN BY MS. LINTON

1 THE COURT: And now, are you going to pursue
2 punitive damages in this case?

3 MS. MS. LINTON: Yes, Your Honor.

4 THE COURT: I think you ought to consider
5 that. But obviously if you have got a violation of
6 statute, that gives you the right to have it
7 considered. I just think that you ought to consider
8 whether or not you really want to do that. Sometimes
9 juries don't like it. But it is your option if you
10 want it. It is certainly yours and I will charge it.
11 You have the right to do that.

12 And now, with that being said, any other
13 changes or objections to my charges that I have given
14 to you from the plaintiff?

15 MS. MS. LINTON: No, Your Honor.

16 THE COURT: From the defendant?

17 MR. CRUDUP: No, Your Honor. We handed up
18 one. But I don't know --

19 THE COURT: Right, we will go over that in a
20 minute.

21 MR. CRUDUP: As to yours, no.

22 THE COURT: So let's go back and make sure we
23 are on the same page. Right now I am going to give you
24 a chance to convince me. I don't mind telling --
25 saying that I'm wrong. If I am wrong, I am wrong and I

DIRECT EXAMINATION OF PAMELA ALLEN BY MS. LINTON

1 will change it, okay. But right now, just for the
2 record, I would charge page one, two, three. Skip
3 four. I'll charge five, six, seven, eight, nine, ten,
4 11, 12, 13. I would take out 14 and 15, 16, and the
5 top of 17. And pick up on 17 with punitive damages.

6 Then I would charge the rest of the charges
7 through Page 27 without any deletions, okay. That
8 would be my proposal. Let me see, you only had one
9 request to charge?

10 MR. CRUDUP: Yes, Your Honor.

11 THE COURT: All right. Let me look at it.

12 MR. CRUDUP: Everything else was covered.

13 THE COURT: Let me ask you this. The cases
14 are coming down more and more frequently that charges
15 on the facts are inappropriate. And this seems to me
16 to be a charge on the facts of the case. Just because
17 there is an accident, that is no evidence of
18 negligence. Isn't that charging on the facts of the
19 case?

20 MR. CRUDUP: I don't think so, Your Honor. I
21 think --

22 THE COURT: Of course you don't.

23 MR. CRUDUP: You always know what I'm going
24 to say. I think that the jury needs it to
25 understand --

DIRECT EXAMINATION OF PAMELA ALLEN BY MS. LINTON

1 THE COURT: How is it the law?

2 MR. CRUDUP: It is the law because, I mean,
3 that is a decision that -- I think that the law is an
4 accident does not and is not inherently -- does not
5 mean that there is negligence. And I think that it
6 would be -- I guess if you think of it in the opposite,
7 if someone were to argue there's an accident so someone
8 is negligent, that is not correct. That is not -- I
9 don't believe that that is the law.

10 So I think that the jury needs to understand
11 that just because there was an accident, that doesn't
12 mean that someone must be negligent in that accident.

13 THE COURT: What is your position on that?

14 MS. MS. LINTON: Your Honor, the plaintiff
15 disagrees. The only evidence before the Court that
16 this was an accident is self-serving statements.

17 THE COURT: Well, the whole thing is an
18 accident. A wreck is a wreck, is an accident.

19 MS. MS. LINTON: Yes, but the only use of the
20 term "accident" is coming from the defendant. It
21 ignores all of the other facts. This is a charge
22 specifically tailored to the facts of the case and it
23 is not appropriate.

24 THE COURT: I'm not going to charge it. I
25 think that it is charging the facts. Make it a part of

DIRECT EXAMINATION OF PAMELA ALLEN BY MS. LINTON

1 the record, please, sir. I'll make it a court exhibit.
2 If I'm wrong and should have charged it, then I will be
3 corrected, okay.

4 MR. CRUDUP: Yes, sir.

5 THE COURT: All right. Let's go to
6 plaintiffs, you had multiple charges?

7 MS. MS. LINTON: Your Honor, I can shorten it
8 for you. We are good with yours.

9 THE COURT: You are good with mine?

10 MS. MS. LINTON: Yes, sir.

11 THE COURT: Okay. I am going to give you a
12 few minutes to convince me that I am wrong.

13 MS. MS. LINTON: I will do it. Give me a few
14 minutes and I will do it.

15 MR. CRUDUP: Can I have a few minutes to
16 convince you that you are wrong about mine?

17 THE COURT: Absolutely. I don't mind.
18 Listen guys, I have been around for a long time. If
19 I'm wrong, at this point in my life I don't mind
20 admitting it. I promise you, okay. Otherwise, let's
21 get ready for closing arguments.

22 MS. MS. LINTON: Thank you.

23 (Pause.)

24 (Brief recess.)

25 THE COURT: Please be seated. Okay, when we

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1 left you were going to convince me as to permanency. I
2 will be glad to hear from you.

3 MS. MS. LINTON: Thank you, Your Honor. May
4 it please the Court. With respect to our request for
5 the life expectancy table, Your Honor, there is case
6 law in support of it. I would be happy to give you the
7 citation. It is 306 S.C. 179. In that case, Your
8 Honor, there was no expert testimony to opine as to a
9 reasonable degree of medical certainty whether or not
10 that was a permanent, lifelong injury. And the Court
11 found that it was reversible error not to charge the
12 life expectancy table.

13 THE COURT: What was the nature of the
14 injury?

15 MS. MS. LINTON: It was a foot injury, Your
16 Honor.

17 THE COURT: How was it a permanent injury? I
18 don't even remember any testimony in the record at all
19 saying that it was permanent.

20 MS. MS. LINTON: So, your Honor, with respect
21 to Dr. Murphy's testimony, she testified that edema can
22 be permanent through continued use.

23 THE COURT: That doesn't meet the standard by
24 any stretch of the imagination. It has to be to a
25 reasonable degree of medical certainty, doesn't it?

DIRECT EXAMINATION OF PAMELA ALLEN BY MS. LINTON

1 MS. MS. LINTON: But, Your Honor, with
2 respect to the Gethers case, it says that that's not
3 necessary to charge the jury.

4 THE COURT: The language is not -- I think,
5 doesn't that case say that the language doesn't
6 necessarily have to be used, but it has to have the
7 overall impact that it is to that degree?

8 MS. MS. LINTON: Your Honor, the language
9 used by the Gethers Court says that there was some
10 evidence that the pedestrian sustained permanent injury
11 as a result of being struck by an automobile. The
12 trial court erred in failing to charge the life
13 expectancy table.

14 THE COURT: I hear that. I am not going to
15 charge it, okay. I think that it is not appropriate in
16 this case. The doctor said an injury could be
17 permanent, she doesn't say that in this case it was
18 permanent or indicate any record -- anything in the
19 record that says that. If there is, tell me because
20 I'm just missing it.

21 MS. MS. LINTON: Your Honor, I just have the
22 arguments that I have outlined.

23 THE COURT: I know that. You stand by your
24 objection. And if I'm wrong, I'm wrong. But I think
25 that I am not. Anyway, I'm not going to charge that.

DIRECT EXAMINATION OF PAMELA ALLEN BY MS. LINTON

1 And also I told you that I would let you try to change
2 my mind on the other. I am not inclined to do it, but
3 I am going to let you try. Go ahead.

4 MR. CRUDUP: I am not even going to try, Your
5 Honor.

6 THE COURT: All right, thank you. All right.
7 Let me go over right quickly with you guys the overall
8 charge that I have. Have you ever had a trial with
9 Justice Hill? I stole his charge, plagiarized it quite
10 frankly. So let me just go over it with you. The
11 charge is in three parts. By the way, for the record,
12 you do object to my not charging the life expectancy
13 table; correct?

14 MS. MS. LINTON: Yes, sir.

15 THE COURT: Thank you. All right. The first
16 part of my charge will be general rules that define and
17 control the jury's duties as jurors. In there I tell
18 the jury that they have to make their decision based on
19 the facts in the record and according to the law as I
20 give it to them. They shouldn't be influenced by any
21 personal likes, dislikes, opinions, or undue sympathy
22 for one side of the case versus the other. They have
23 to follow all of my charge. They are all equally
24 important.

25 If I have done anything to indicate how they

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1 are to rule, they are to disregard that because I'm not
2 allowed to. I go over what a preponderance of the
3 evidence is. I also go over clear and convincing as to
4 punitive damages. I go over what is evidence and what
5 is not evidence. I explain what is direct evidence and
6 circumstantial evidence, along with examples. I go
7 over the credibility of the witnesses and the fact that
8 they can consider expert testimony and deposition
9 testimony.

10 That would be all that I would charge, the
11 basic general rules that define and control. I then go
12 to the negligence charge. And I have the standard
13 charge that I went over. My charge, Pages 1 through
14 27, excluding Page four, Page 14, 15, 16, and 17.
15 Start back up with punitive damages on 17.

16 And the rest of it through Page 27. I will
17 then go to points about deliberations, and that they
18 are not advocates or judges for one side of the case or
19 the other. I ask them to listen to other people's
20 points of view and let everybody tell you why they have
21 their reasons and walk through and talk through the
22 evidence and not be in a hurry because this is the
23 parties only day in court.

24 Not to be afraid to change their decision if
25 discussions -- if it is the best thing to do, but don't

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1 change a firmly held belief simply to appease your
2 fellow jurors. And then I go over filling out the
3 verdict form with the foreman.

4 I have these charges here if you want to step
5 up and take a look at them, you are more than welcome
6 to. It's kind of standard stuff. But otherwise, I'll
7 go ahead and charge those anyway. Any additional
8 exceptions or additions from the plaintiff?

9 MS. MS. LINTON: No, Your Honor.

10 THE COURT: From the defense?

11 MR. CRUDUP: No, Your Honor.

12 THE COURT: And let me remind you, I think in
13 order to protect yourself on the record. I say this
14 all of the time, You are protected, and I had a fellow
15 court judge tell me the other day, Quit saying that to
16 people because you are not protecting them and they are
17 not protected unless I say that they are protected. So
18 I think that you have to renew your objections to my
19 charge after my charge and request that it be given.
20 Okay?

21 MS. MS. LINTON: Yes, sir, Your Honor. And
22 with respect to the verdict form, again, just out of an
23 abundance of caution, the plaintiff places their
24 objection to it on the record. Based on the same
25 arguments that we have produced before the Court with

DIRECT EXAMINATION OF PAMELA ALLEN BY MS. LINTON

1 respect to our directed verdict motion.

2 THE COURT: Okay. With that being said, are
3 you ready to go with your closing?

4 MS. MS. LINTON: May I have a few minutes,
5 Your Honor? I have to make a few --

6 THE COURT: Okay. How long? If we come back
7 at 11:00, bring the jury in at 11:00, you will be good?

8 MS. MS. LINTON: Yes, Your Honor, thank you.

9 THE COURT: You will be good?

10 MR. CRUDUP: Yes, sir.

11 THE COURT: Let's do that. And come back at
12 11:00.

13 Do you want your charge to request made a
14 part of the record?

15 *(Whereupon, Court's Exhibit No(s). 4 marked*
16 *for identification and received in evidence.)*

17 *(Whereupon, Court's Exhibit No(s). 5 marked*
18 *for identification and received in evidence.)*

19 (Brief recess.)

20 THE COURT: Plaintiff ready?

21 MS. MS. LINTON: Yes, sir.

22 THE COURT: Defense ready?

23 MR. CRUDUP: Yes, sir.

24 THE COURT: I read your cases about the
25 permanency and the life expectancy tables. I still

CLOSING ARGUMENTS BY THE PLAINTIFF

1 stand by my decisions. If I'm wrong, I'm wrong. Thank
2 you.

3 (Jury enters the courtroom at 11:10 a.m.)

4 THE COURT: All right. Mr. Foreman, ladies
5 and gentlemen of the jury, we have concluded the
6 presentation of the evidence phase. We now go to
7 closing arguments. The plaintiff brought the case.
8 They have the burden of proving their case by
9 preponderance of the evidence or clear and convincing
10 as to punitive damages. I will tell you more about
11 that. They will go first.

12 The defense will then have their closing
13 arguments. And then the plaintiff will have the right
14 to reply to that. Plaintiff ready?

15 MS. MS. LINTON: Yes, Your Honor.

16 THE COURT: Yes, ma'am.

17 MS. MS. LINTON: May it please the Court.

18 THE COURT: Yes, ma'am.

19 CLOSING ARGUMENTS BY THE PLAINTIFF

20 MS. MS. LINTON: Don't worry, I'm not showing
21 you all of these. This is my make-shift podium. Good
22 morning, ladies and gentlemen. First and foremost, I
23 want to say thank you for being here, for listening,
24 for being attentive. I know this is probably not where
25 you want to be to start your week, a cold week, a rainy

CLOSING ARGUMENTS BY THE PLAINTIFF

1 week. I really appreciate it. Charles appreciates it.

2 I tried to show you a glimpse of Charles,
3 Charles through the looking glass. I know that your
4 time is important and I don't want to belabor it any
5 more than we already have with this trial. So, please
6 don't hold short testimony against us, because I'm very
7 conscious of your time.

8 In a little while you will go into the
9 deliberation room and you will have a conversation with
10 one another about how much money to write on the
11 verdict form to make up for the harms and losses
12 suffered by Charles and caused by this crash.

13 Some of you are probably wondering, how do we
14 do this? How do we determine how much is fair? And
15 what if someone in the jury won't be reasonable? You
16 collectively have nearly 500 years of lived experience.
17 Y'all can do this. Everyone amongst you brings
18 something different to the table, and it is important
19 to listen to each of you to come up with a fair and
20 just verdict.

21 What you are evaluating is how Charles was
22 harmed by this collision when Defendant Cox crashed
23 into him. What was taken from Charles? Those are the
24 damages in this case. You are the conscience of the
25 community. And you are the ones who will decide this

CLOSING ARGUMENTS BY THE PLAINTIFF

1 case, to judge the facts and deliver a verdict.

2 As Abraham Lincoln said, or it might be
3 Winston Churchill -- the Judge is smarter than I am --
4 the greatest act of citizenship that one can engage in
5 is to serve on a jury. And that is what y'all are
6 doing here today.

7 This is Charles' only opportunity. We don't
8 get another shot at this. We don't get another bite at
9 the apple. And this case should be decided only on the
10 facts before you and the evidence that you have seen,
11 that I have presented to you over the last day and a
12 half.

13 You may ask, how do we avoid arguing or
14 disagreeing? I'm going to walk you through that. How
15 to deliberate, do justice, and feel good about your
16 service. Your deliberation should focus on evaluating
17 the evidence and the law. We will talk about some of
18 the problems that can derail your deliberation and how
19 you can avoid them.

20 To do that let's start with burden of proof.
21 The legal standard in this case is whether something is
22 more likely than not. You can have some doubt but
23 still recognize that based on the evidence something is
24 more likely. This is not like TV shows that you see,
25 or a criminal trial. That burden is beyond a

CLOSING ARGUMENTS BY THE PLAINTIFF

1 reasonable doubt. That is not the burden in this case.

2 The perfect example is a football field.

3 Now, I am a Carolina fan but, but I am a (inaudible)
4 fan. All that we have to do is get the ball to the
5 51-yard line and we have met our burden of proof. If
6 Team Charles makes it to the 51-yard line we have met
7 our burden of proof. Another example that I like to
8 give is two stacks of paper. I take one piece and I
9 put it in Charles' pile, we have met our burden of
10 proof.

11 If someone refuses to move forward unless
12 they are sure, remind them that that is not the
13 standard in the case. And if they can't do that, then
14 you need to tell the Judge. Someone may want to inject
15 facts outside of what you have seen, remind them that
16 they can't do that. You are required to deliberate
17 based on what you have seen before you throughout this
18 trial.

19 How the burden is paid, when it's paid, who
20 pays it. Outside noise, you can't consider any of
21 that. Only what you have seen during this trial. You
22 also can't guess, speculate, or assume. Limit it to
23 the evidence that I have put forth before you.

24 Now let's talk about the law. The law of
25 this state is that a driver must keep a proper lookout

CLOSING ARGUMENTS BY THE PLAINTIFF

1 and yield to oncoming traffic in order to avoid
2 colliding with other people in order to keep the
3 roadway safe. We agree on that. For example, turning
4 left when an on-coming car is traveling down the road.
5 The law also says that if a driver breaks those rules
6 and injures someone they must compensate those
7 injuries.

8 Now, you have heard the defendant say this
9 was an accident. He accidentally turned left into
10 on-coming traffic and therefore he's not responsible
11 for the harm. Despite the fact that he agrees that
12 Charles had the right-of-way. The same defendant
13 believes in personal responsibility, but not when it
14 comes to him. Rules for thee, but not for me.

15 The defense lawyer came in here during
16 opening statement and he told you that Charles shared
17 in the fault and you should consider finding Charles
18 50 percent responsible for this collision. Yet their
19 written answers in the court documents don't even say
20 that. They have already signed their answers in ink
21 and now they want to switch it to pencil. You don't
22 get to erase what you swore was the truth just because
23 it hurts.

24 So let's talk about the truth in this case.
25 Charles was harmed. Everybody admits that. The harm

CLOSING ARGUMENTS BY THE PLAINTIFF

1 still persists today. You have heard from friends and
2 family about it. So what does that mean for you as
3 jurors? How do you compensate that harm? Compensate
4 means that you match the amount of money with the
5 amount of harm. You put Charles back as best we can.
6 And the only way that we can do that is with money.

7 Your verdict must equal the harms and losses
8 to Charles. Not a penny more, not a penny less. I
9 told you at the beginning of this case that the major
10 issue that you would have to decide is whether you
11 believe Charles Shabazz. Now you can understand why I
12 said that. If you don't believe him, his boss, his
13 friends, the doctor, his family, then you should send
14 him out of here with a verdict that reflects that. But
15 if you do believe him, then the defense should be
16 ashamed of themselves.

17 We have talked a lot about rules through this
18 trial. And Charles Shabazz has lived by the rules his
19 whole life. You have heard from his family and his
20 friends. They have explained to you Charles' new
21 normal. They have explained to you the pain that he
22 feels. They have explained to you the life that he's
23 lived, and the life that he's living. You know the
24 type of person Charles is. The defense knows the type
25 of person Charles is. How someone has lived their life

CLOSING ARGUMENTS BY THE PLAINTIFF

1 should account for something.

2 This is a man who has lived an honest and
3 productive life. Yet to get out of paying for the
4 injury that the -- that the defendant caused, the
5 defense is willing to belittle him, showing medical
6 records from when he was a child to try to get you to
7 paint him in a false light.

8 But by your verdict you can say that there
9 will be accountability, that these tactics won't work.
10 And you are going to hold them responsible. You break
11 the law and you hurt someone, you pay for the damage
12 that you have caused in their life. You shall provide
13 for him to be thoroughly healed like the passage in
14 Exodus.

15 Where are the people who can support the
16 defense's case? Where are the people who can say that
17 Charles is a liar, a whiner, faker, exaggerator? If
18 you are that sort of person it is not hard to find
19 people to stand there and say so. They want you to
20 believe that Charles is exaggerating. But not a single
21 person from his life can support that. That tells you
22 a lot.

23 We presented you people in Charles' life who
24 have seen him in different perspectives. A son, a
25 grandson, an employee, a friend, a partner, and they

CLOSING ARGUMENTS BY THE PLAINTIFF

1 have all told you the same thing. The defense says he
2 should be better by now. But he isn't. So, what does
3 that mean? Where does that leave us? That is the
4 question, how do you evaluate Charles' harms and
5 losses?

6 Unlike Mr. Crudup told you, I'm not going to
7 come before you and ask for some crazy number. Instead
8 I want to suggest two models. The first I'll tell you
9 about, and it is if you don't believe him, if you don't
10 believe that he still suffers from this harm. And the
11 second is if you do. I told you that I would provide
12 you with some tools to help you with your deliberations
13 and I want to do that. Whether you use them, it is up
14 to you.

15 Under the first model if you don't believe
16 that Charles suffers from ongoing pain, as the defense
17 suggests, then use this model. Charles is entitled to
18 pay his doctors. That is the bills. Next up is
19 Charles' pain and suffering, a fractured wrist, a
20 ligament injury, neck pain, left sided pain.

21 I have fractured my wrist before, I know how
22 painful it is. I have a ligament injury. I have a bad
23 knee. I know how painful that is. But like Charles, I
24 stand here all day before you because it is what I need
25 to do, it is my job.

CLOSING ARGUMENTS BY THE PLAINTIFF

1 Charles' last visit with Dr. Murphy was in
2 September of 2023. So under this model it is 177 days.
3 A hundred and 77 days from the collision to his last
4 doctor's appointment. What is the value of that for
5 the physical pain and suffering that he endured during
6 that time? You can use whatever number you want. But
7 for this I used \$150 a day. Now that may seem like a
8 lot. Some days were worse than others, so I think that
9 it is a fair sliding scale. Under that model, that
10 total for that physical pain and suffering for that
11 177-day period totals \$26,550.

12 Now that we have talked about the physical
13 stuff, let's talk about the emotional harms and losses.
14 The anxiety of driving, the fear that this could happen
15 with his daughter in the car. The feeling of sadness
16 in losing something you worked so hard for, in your
17 job, in your life, and in your love of basketball. The
18 frustration of the loss of a career path and the
19 uncertainty of a future that once looked (inaudible).

20 The hopelessness of independence slipping
21 away. Moving back in with your mom when you had left
22 the nest. Watching your friends live their lives while
23 yours is on pause because you are trying to figure out
24 where to go. I think a fair value for that type of
25 harm is high. I think that it surpasses the physical

CLOSING ARGUMENTS BY THE PLAINTIFF

1 stuff. And, again, under this model of 177 days, I put
2 a value of \$250 a day on this. Again, this is a
3 sliding scale. Some moments throughout that time were
4 worse than others. Feelings of loss are hard to
5 quantify. So are feelings of pain. But they are worse
6 than the pain. And with that model and that number, it
7 totals \$44,250.

8 90,651.31 if Charles, his friends, family,
9 and myself, if we have not met our burden. If we
10 couldn't move the ball past the 51-yard line or add one
11 piece of paper to the stack to show you that his wrist
12 still causes pain, then award him that number. I'm not
13 coming here asking for hundreds and hundreds of
14 thousands of dollars. If you don't believe Charles'
15 continued complaints of pain, then award that number.

16 But if you believe Charles, if you believe
17 Brooklyn Haddad, if you believe Benjamin Robinson, if
18 you believe Connor Lew, if you believe Jack Jones, if
19 you believe Pamela Allen, use this model. Take that
20 90,651.31 and add the pain that Charles and everyone
21 has told you he feels associated with his wrist. That
22 he's felt since the crash. That pain, in my opinion,
23 has surpassed the 51-yard line. Years of discomfort,
24 safeguarding your wrist, having to make concessions at
25 work. Luckily Charles has a great boss, but how many

CLOSING ARGUMENTS BY THE PLAINTIFF

1 other bosses would allow for Charles to take the breaks
2 that he needs when his wrist acts up? How many bosses
3 are still here showing support for their employee, for
4 their friend, for their partner, for their son?

5 A lot of times when we get to this stage I
6 ask clients who I can call on to help. It's not easy
7 going to that witness stand. It is not easy standing
8 here. But this is my job. This is not their job.
9 They didn't hesitate. The only way to make up for the
10 harm that you have heard is to put a value on it.

11 We are not an eye for an eye system. This is
12 all that we have. So, how do we value excruciating
13 pain rated an eight out of ten? Causes numbness and
14 anxiety for fear of it occurring. You have to worry
15 about holding your new daughter. She's only going to
16 get bigger. You have to make concessions at work and
17 hope that you can stay at that job long-term, because
18 how do you explain that to your next employer?

19 This is a big number. I'm not going to sit
20 here and pretend that it is not. But it is a
21 reasonable number and it is one that I believe in. If
22 you believe Charles and his family and everything that
23 you have heard, then your verdict needs to reflect
24 that. And at minimum, that value, 209,348.57. I'm
25 asking that you award Charles 300,000.00.

CLOSING ARGUMENTS BY THE PLAINTIFF

1 I know that this is a lot of money, but it is
2 a lot of harm. Serious harm necessitates -- it is
3 starting to make me cry -- a serious verdict. If you
4 think that this number is too high or too low, this is
5 your decision. You are the only one who can make it.
6 Not me. Not the Judge. It is you.

7 Justice. The word we hear and we often don't
8 give much thought to. When you finish your
9 deliberation, if you have done justice, you will know
10 it and you will feel it in your heart and you will know
11 that you have done all that you can do. You know that
12 you have balanced the harm. You have given Charles
13 back, or you have tried to give him back what he's
14 lost. Give him the opportunity to have a life that is
15 close to what he had before.

16 Ladies and gentlemen, you are the only twelve
17 people in the whole world who can hold the defendant
18 responsible. You hold the power for this case. You
19 are the last line of defense, and you will have the
20 opportunity to speak the truth with your verdict. You
21 have learned what the defendant has done. The harm it
22 has caused. And you have learned your role in finally
23 making right the many wrongs that put Charles, the
24 twelve of you, and all of us in this room here today.

25 You must be the voice. That voice is

CLOSING ARGUMENT BY THE DEFENSE

1 responsibility when no one else will. With your
2 verdict you can tell Charles that you believe him and
3 that the defendant is forced to take responsibility for
4 causing this crash. Forced to take responsibility in
5 ink, not pencil. Thank you for your time. Thank you
6 for being here and for listening.

7 THE COURT: Mr. Crudup.

8 MR. CRUDUP: Thank you, Your Honor.

9 THE COURT: Yes, sir.

10 CLOSING ARGUMENT BY THE DEFENSE

11 MR. CRUDUP: Setting up, I apologize. I can
12 say now, good morning everybody. Thank you for being
13 here. Something stood out to me. I think she said it
14 twice. Ms. Linton said it right at the beginning of
15 the trial and she just said it now. She said this is
16 Charles' only day in court. And that is true.

17 Something gets lost in these sorts of civil
18 trials, especially in a case like this, is this: It's
19 also Mr. Cox's only day in court. It is his chance to
20 be here. And when you do it enough, I like to think
21 anyway, you start to recognize when jurors are
22 listening and when they are kind of checked out.
23 Believe me, sometimes they are asleep checked out, but
24 you guys, you listened. And that is really all that we
25 can ask for, you know.

CLOSING ARGUMENT BY THE DEFENSE

1 My job, and I will talk about it a little
2 bit, but my job is to make you see the evidence from
3 our viewpoint. That is really it. Once you see it
4 that way, or you see how we see it and then you make
5 your decision, whatever that decision is, that is fine.
6 That is all that we can do. So we appreciate that you
7 were listening and that you paid attention to this kind
8 of stuff. And what I am going to do now is try to
9 explain it, explain how Brian sees this, and how we see
10 it.

11 I think that, before I get started, this is
12 not a terribly complicated case, right? I mean, there
13 is not much of a debate. We will talk about that in a
14 second. But there is not much of a debate. But there
15 is a bunch of little things that I want to highlight
16 because I want you to understand it. I am going to
17 talk about those things in a second. But when Mr.
18 Shabazz was on the stand and I was asking questions, I
19 know that I can be cheeky I get that. But I am going
20 to try and point that out to you and there might become
21 a point that -- this is not going to take that long,
22 but there is going to probably become a point where you
23 guys are going to be like, I am beating a dead horse,
24 like, move on, I know what is going on, I get it.

25 If you get to that point please just bear

CLOSING ARGUMENT BY THE DEFENSE

1 with me because, as I said in the beginning, and I am
2 really serious about it, I am Brian's voice in this and
3 if I don't bring something up and it would have
4 mattered, I would feel like I did him a disservice.
5 So, I want to try and cover it, cover everything that I
6 think or that we think is important. And if at some
7 point I start rambling on, I am just going to apologize
8 in advance.

9 So, first of all, I told you in the beginning
10 that we are here for different reasons than them. I
11 said in the beginning, the reason that they are here is
12 one thing, it is greed, it is money. They are here for
13 money. They can dress that up however they want. They
14 can talk about harms and losses, but they are here to
15 get you to get Mr. Cox to pay Mr. Shabazz money, as
16 much as they can. That is their job, right?

17 So, I told you that they were going to give
18 you a number that would be really high. And they did.
19 They gave you a number, they said, three hundred
20 thousand dollars. And the point of that number I
21 think -- you heard them say, if you don't want to give
22 this, that is fine. The point is to make any number
23 under whatever look lower. It is like that salesman.
24 And we know that, right? And we know that because that
25 is what they told you.

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1 The first thing that they said was your job
2 is to go in there and give him money. It is not. Your
3 first job is to decide who is at fault for the
4 accident. And ultimately, if you decide that it is, it
5 is Mr. Cox's fault then you are supposed to decide what
6 that number should be. Because that is what they are
7 going to focus on. And that is understandable.

8 There's other reasons. Another one that -- I
9 wrote a couple of them down. I think to me this
10 makes -- this is the most clear evidence of that. They
11 are asking for punitive damages, which the Judge is
12 going to charge you on what that means. But I write it
13 down sometimes because it's not an accident. Punitive
14 damages, in order to award punitive damages, you must
15 find clear and convincing evidence. So we are not
16 talking about the scale thing, the 50-yard line. Clear
17 and convincing is obvious, right. Clear and convincing
18 evidence of malice, ill will, a conscience indifference
19 to the rights of others or reckless disregard thereof.

20 Brian has to basically have pulled out on
21 purpose. This is drunk driving or falling asleep at --
22 maybe texting, maybe texting, but it is serious stuff.
23 They are asking you to punish Brian by making him pay
24 Mr. Shabazz even more money. That is what they are
25 asking.

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1 So, I want to talk to you instead of that, I
2 want to talk to you about your jobs. And I said in the
3 beginning you are going to have to assign -- one, you
4 have to apportion fault. That is your first job. The
5 second job, if you get to that point, is to find a
6 number. So, let's talk about this. The Judge, he said
7 it at the beginning and I think that he will say it
8 again, but he is going to talk about -- it is a similar
9 thing, but not the 50-yard line or the scales adjusted,
10 this theoretical scale and you put evidence on that and
11 you see which way it leans. And the analogy that I
12 always use is, and a good one for that is, Is it
13 raining outside? We have no windows in here so we
14 can't really tell. But we have circumstantial
15 evidence. We have evidence that kind of points one way
16 or another. So, somebody walks in and they have water
17 on them or maybe you hear splashing, or if you don't
18 hear splashing, it has been raining it seems like
19 non-stop for two days, it has got to stop sometime.
20 So, you put all of the evidence on the scales and then
21 you see which way it tips. That is all. And that is
22 how you prove a fact or prove evidence. And the Judge
23 is going to tell you about that.

24 But it also works for fault. It works
25 because you put the evidence on the scale and you see

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1 which way it goes, one way or another. And I think the
2 real issue here in terms of fault is pretty strictly
3 covered. It is who came out first. And I wanted to
4 actually read to you something that the Judge is going
5 to talk to you about, is the duty to yield the
6 right-of-way. And my client talked about it and he
7 said, duty of driver. What he is going to say is you
8 yield the right-of-way to a vehicle approaching an
9 intersection. Which is true, right? If you were
10 trying to pull out and the car is too close to that
11 intersection, you have to yield to them. But the whole
12 point, and it seems like this is getting missed in
13 translation, Brian's whole point is when he pulled out
14 there is no car approaching. That is the point.

15 So, the first question I think you really
16 have is you have to decide whether or not Mr. Shabazz
17 is out there on his way into the intersection when
18 this, or right before this happened. Or whether Mr.
19 Cox pulled out first and then Mr. Shabazz pulled out.

20 So, I have two charts for you. You will know
21 when I get to the second chart I am almost done. And
22 if anybody can't see this or read my handwriting, I
23 guess that you are out of luck. Believe me, I tried.
24 So, on one side of the chart, this side, this first
25 chart, and in my mind, for some reason, putting

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1 Charles' name over there made sense to me and putting
2 my client's name over here made sense. I don't know,
3 as I think about it, it is probably actually backwards.
4 Don't think about it too much.

5 But this side of the chart is what evidence
6 is there that Mr. Shabazz was out in that lane, right,
7 for an extended period of time, or at least before
8 Mr. Cox pulls out. Okay. And there is really two
9 things. First is Brooklyn, right, she said that. If
10 you remember, she said I think that we pulled out for a
11 while. She is the passenger and she is riding along.

12 Now, Mr. Shabazz disagreed and we will talk
13 about that in a second. But she said that, and that is
14 the other thing. And the other thing that I put there
15 is a left turn. And what Mr. Cox said was, at some
16 point Mr. Shabazz has the right-of-way. He doesn't
17 know where he -- he never thought about it, but he
18 says, I never saw him so I don't think that he was
19 there. But if he is there, yeah, he has the
20 right-of-way, of course. He is coming out that way.
21 And he is making a left turn.

22 I thought about putting left turn there like
23 because if you are making a left turn you have to worry
24 about making a left turn. But, in this particular
25 instance, I think both drivers have the same duty.

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1 They have to look out for other cars. So I don't
2 really think that that makes sense. But if you want to
3 put that there, I get that.

4 So, that is that side of the chart. What
5 evidence is there that Brian was already out? And
6 there is really four things. And something that, to
7 remember, one of the nice parts about the analogy of
8 like a scale is not all evidence is created equal,
9 right. Some evidence is more impactful. It is more
10 independent. Photographs, we will talk about that, but
11 some weigh more than others.

12 So, the first thing on this is Mr. Shabazz's
13 words. I understand if somebody makes a mistake and
14 says something that they don't mean, Lord knows we all
15 do it. I could stand up here all day and I would
16 probably say things that I don't mean all of the time.
17 But these words, I put times three. I put times three
18 here for a reason. Three different times Mr. Shabazz
19 said Mr. Cox was already in the lane when I pulled out.
20 The first time he said it he said it in his deposition.
21 And I read this to him. And it actually, the irony is,
22 he corrected me. See, what he said originally was,
23 When I pull out the accident happens in a second, a
24 second and a half, something like that. I am not going
25 to hold him to it. But quickly, right.

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1 So, I assume he meant I pull out and a second
2 and a half later Mr. Cox pulls out and then we hit.
3 But he corrects me. So I say, So if you pulled out in
4 the left lane about a second and a half later they
5 pulled out in that lane as well, right? And he says,
6 They were already in the lane. No, they didn't just
7 pull out, they were already in the lane. Like
8 immediately, as soon as I was coming.

9 So he's telling you, by the time I get out
10 he's there. And then on the stand I ask him the same
11 question and he said, Yeah. And just to be sure that
12 there wasn't going to be some confusion because I
13 expected it, he goes, Well, he didn't mean it like
14 that. I said, When you are pulling out -- when you
15 pull out, he is in that left lane? And you said, Yeah.
16 So, that alone to me says, I think, all you need to
17 know.

18 Mr. Cox, when he pulls out, there is nothing
19 there. That is the point. Is all of the statutes that
20 say that you are not and you can't do, yeah, that is
21 true. If there's a car there. But all Mr. Cox sees
22 when he looks down the road is just a line of cars. He
23 doesn't know which car or any car is going to come out.
24 And eventually when it does, he could be stuck there,
25 he would never move because there is no traffic coming

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1 when he starts to turn out.

2 And what you are going to see is, all of
3 these other things support what he's saying. You have
4 heard repeatedly that I call Mr. Shabazz a liar. I am
5 not. I think he is honest with y'all, I think that is
6 what happened.

7 So, the second thing, photographs. And I
8 talked about this a second ago, but photographs to me
9 are really important because they are independent,
10 right. They don't have an agenda, they just show what
11 they show. And you have 26 of them. Close to 26 of
12 them. What do they tell you? Well, what does that
13 show? Well, when Mr. Cox pulls out he is hit in the
14 back of his car. He was very clear about this. And I
15 don't think that there is a debate because you will see
16 the pictures, right. That supports what he's saying,
17 right?

18 When Mr. Cox goes to pull out of his area it
19 is going to take his car time to get across that lane,
20 he is not going to fly out there, that would make no
21 sense. But he is going to slowly pull out. He managed
22 to get almost entirely across the lane because the part
23 of Mr. Shabazz's car he hits, you will see this too, is
24 his side. Right -- so, he gets almost through that
25 lane. And the only way that he can do that, if Mr.

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1 Shabazz says he pulls out and a second or two later it
2 happens, is if he is already going. There is no other
3 way.

4 Mr. Cox was very clear about this. He was
5 asked, just kind of in passing, when you hit Mr.
6 Shabazz what happened next or something like that. And
7 he stamped his foot and said, No, no, no, I didn't hit
8 him, he hit me. I'm pulling out, he hit me.

9 Now, I am not saying that that can't be his
10 fault, but that is what he said. So, the photographs
11 support what we are saying. He has to be out
12 physically or there is no way for him to get there. If
13 he had pulled out as Mr. Shabazz is coming, the front
14 of his car would have been hit, or the corner of his
15 car. But it is not, it is his whole car that gets
16 through. And no matter how fast Mr. Shabazz is going,
17 when he pulls out, if that car is there he can't keep
18 going.

19 So, I don't really think that there is a
20 debate at that point about that. But there is
21 another -- Mr. Shabazz says, When I pulled out -- and
22 this is a less than sign -- in less than two seconds.
23 He said, I pull out and in less than two seconds the
24 accident happens. It takes Mr. Cox more time than that
25 just to get through that point. So, if it takes less

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1 than two seconds for Mr. Shabazz to pull out and make
2 contact there, it has -- Mr. Cox has to have already
3 been in that lane. It is consistent with the pictures
4 and it is consistent with what -- with what Mr. Shabazz
5 said.

6 The last thing that I put here, which I put
7 at the bottom because I understand you have heard this
8 before. Mr. Cox doesn't want to take responsibility,
9 that we are changing his story. I challenge you to
10 find any point where Mr. Cox has ever changed his
11 story. If I wrote something on a pleading or
12 something -- and I brought it out. The answer to the
13 complaint, it says comparative negligence. We think
14 that he is at fault. It says it. But it doesn't
15 matter what I say. It matters what Mr. Cox says. And
16 he has said over and over and over again, I inched out,
17 I looked, there was no traffic and I started to move.
18 He says that over and over again.

19 And why does that matter? Because think
20 about the alternative, right. We know that he inches
21 out. But let's assume that he inches out, because I
22 guess that you could just shoot out and hope for the
23 best. But one of two things happened, either Mr. Cox
24 gets to the edge and just says, it will probably be
25 okay. I'll just use my body as a human shield and hope

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1 for the best. Or he looked and saw nothing. Which is
2 more likely, right?

3 Remember, they are telling you, he should be
4 punished for this because this is reckless and willful
5 and wanton. Basically on purpose. They are saying
6 that is what he did. He just pulled out and just hoped
7 for the best. With his wife in the car. He was going
8 to lunch. Why would he do that, right? Which is more
9 likely, that he pulled out and didn't see anyone and
10 tried to get out, or he decided to do that? So I think
11 Mr. Cox's words also had a lot to do with that.

12 So, there is our, there is our, I guess,
13 scale. It looks more like a line, but there is our
14 scale. Which side dips which way? And eventually you
15 are going to see a verdict form which has a bunch of
16 questions. And the first question is, was Mr. Cox at
17 fault. And I think, I think when you look at the
18 statute, if Mr. Cox is out, I don't think that he is.
19 That is what he has been telling you all along. I
20 guess I take exception to the idea that he should be
21 ashamed to say that, because this is his day in court,
22 this is his chance to stand up and tell you what he
23 thinks. He has the right to do that and I don't think
24 he should be punished for doing that. That is what he
25 saw. That is what happened to him.

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1 So, I think your deliberations would end
2 there. Or, as we said, you can still do that
3 apportionment of fault. Because I can certainly see
4 the argument. Mr. Cox could say it too. Maybe these
5 cars just all did this at the same time. It is
6 possible, right. And what is that? Is that 50 percent
7 each or something like that? Or did they both do
8 something that wasn't wrong, it was just in the wrong
9 place at the wrong time. You get to make that call.
10 That is why you have that, both, a chance to say Mr.
11 Cox was not at fault, or that there is a percentage of
12 fault because there is shades of gray. We are not
13 running away from that, that is just the way it is.

14 So, I have to assume, for my purposes, that
15 you do decide that Mr. Cox is at least 50 percent at
16 fault. Let's say you say, all right, I think he is
17 50 percent involved. Cool. The other real question
18 that I think that you have to answer, and I think that
19 we have distilled it down, is whether or not Mr.
20 Shabazz's mild wrist sprain has lasted forever, right.
21 We all kind of agree the other stuff got better. That
22 is good. You know, obviously that is good.

23 But the only thing left is whether or not
24 this wrist sprain has affected his life forever. So we
25 can put that on the chart too. This is my second

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1 chart. I'll get to that chart. Over here I have the
2 evidence of affirmative injury. I'll add something in
3 a second. And then over here I have my -- so, first we
4 have that Mr. Shabazz says, he says that his wrist pops
5 sometimes. Not all of the time. Not everyday. I
6 think that he said -- I think that he testified once or
7 twice a week. So maybe more, I don't remember exactly.
8 But he says that it pops sometimes. And that is his
9 testimony, right, over there.

10 And then the other thing, and I understand
11 that visually I could have written the whole thing, but
12 his mother, his grandfather, two of his friends and his
13 girlfriend, they all say to different degrees this
14 affects Charles, this affects Charles. And I
15 understand that.

16 I don't question what they are saying. And I
17 will tell you why in a second. I don't question what
18 they are saying, but it a little bit doesn't make a lot
19 of sense. Brooklyn said, you know, he comes home and
20 he's feels like he is hurting or something. You know,
21 even he said, I do this sometimes and my wrist hurts
22 for 30 minutes or 45 minutes and then I get in the car
23 and I get back and I'm okay.

24 So I don't really understand the idea that he
25 comes home and he is in pain. That doesn't make a lot

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1 of sense to me, but that is what they said so it goes
2 over there. Weigh in over here, and I will put -- but
3 I was going to put over here, I thought about not
4 putting it here but I thought about what Dr. Murphy
5 said and I read her testimony again, and what she said
6 was they asked her, Could a mild wrist -- could edema
7 last forever. And she said, I mean, if you are
8 injured, sure. So I put her there. I don't really
9 know if she goes over there. She didn't say that he
10 has a permanent injury, right. She didn't -- in fact
11 what she said was, I haven't seen him in two years so I
12 don't know. She also said that that wrist sprain was
13 resolving back in May of 2023. But I am going to put
14 her over there because I think she probably belongs
15 there.

16 What we don't see up here are -- where is the
17 doctor? He says, Doctor, I love basketball, that is
18 what I love to do, something is wrong, help me, give me
19 a brace, let me do more physical therapy, let me do
20 anything to get better. That is what I want to do,
21 right. You don't see that over there, right.

22 What about mild injury? So, first thing is a
23 grade one sprain. A grade one sprain is the lowest of
24 the sprain things. I think that four is the. But that
25 means there is no torn ligaments, there is no torn

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1 muscles, there is no torn tendons. It is a strain of a
2 ligament. Which, especially when you are young, 23, I
3 wish I was 23, you bounce back pretty quick.

4 Something to point -- I will talk about this
5 down here, but you heard Ms. Linton say that I gave
6 them records from when he was a kid or something to try
7 to belittle him. I am sorry if it came off that way,
8 that was not what I was trying -- that was not the
9 point that I was trying to prove. The point is, people
10 get sprains and they get better. Mr. Shabazz is not
11 some unique person that has a problem where he gets
12 sprained and can't recover. They recover.

13 In fact, he didn't even remember he sprained
14 his wrist I think a while ago and he didn't even
15 remember he did it. He went to the ER and had an x-ray
16 and he is fine, right. So, grade one sprains get
17 better. That is what they do. I mean, that is the
18 definition of what they are. There is no, and I don't
19 think that you have heard any evidence that there is
20 any reason it should last indefinitely. There is no
21 anatomical reason for it to last indefinitely. All
22 that he did was strain a ligament in his hand and had
23 some edema, which we are going to talk about in a
24 second.

25 The second factor -- now, you heard Mr.

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1 Shabazz said he was out three months. At some point I
2 heard six months, that September number. And you hear
3 now that he still, to this day I guess, can't do some
4 stuff at work. You guys all suffered through me going
5 through his PT records with him. There is a point.
6 There is a method to the madness. But I think that it
7 is much easier to see visually than to actually listen
8 to it.

9 So, what I did was, I did a time line. And
10 unfortunately I am going to make it kind of small but
11 I'll zoom out here. Can you guys see that? Well, all
12 right. We will move this. All right. Do you guys see
13 that? Okay, I'll walk you through it. I'll walk you
14 through it. So, the first thing, and this is -- you
15 have got to -- I understand if you didn't follow it
16 all, on May 9th of 2023, that is six weeks after the
17 accident, Mr. Shabazz is released by Dr. Murphy, his
18 orthopedist. No restrictions, back to work, go do
19 whatever you are going to do, okay.

20 Four days later. So he's back to work in
21 four days. He's still going, he is still finishing up
22 his PT. But four days later he drops a crate on his
23 wrist. And you heard him testify about that. When he
24 does that, he goes back to his physical therapist and
25 says, My pain is gone and my movement has gone down.

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1 And he doesn't really get back to that original level,
2 that first level, until way over here, months later.
3 All right.

4 The next time that he pops up he's back with
5 no pain, but he still has a restriction on a machine.
6 That is different than the original, right. So, when
7 he first goes back to work, no restrictions, drops the
8 crate, and now all of a sudden he has restrictions. By
9 June 30th -- so, that is about three months, that is
10 that three-month mark, he's back to where he was
11 before. No work restrictions. He has been
12 re-released.

13 Then, which is consistent with that, about
14 two weeks later he is discharged from physical therapy.
15 When he's discharged from physical therapy they say,
16 you heard him say, no restrictions. And I think that
17 specifically he said, No pain with use, back to normal
18 level of function. So, that is in July.

19 But a month later he feels a pop when he's --
20 I wrote couch and I keep saying couch and it might not
21 have been a couch, but furniture, and he goes back to
22 the doctor because he feels that pop. If you think
23 about it, he's been telling you that he has been
24 feeling this pop in his wrist for, at that point,
25 months. But this is different. It is different enough

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1 that it makes him -- after he has been fully released
2 he goes back. So, this is a month. There is a month
3 here where he's totally released. He is not seeing any
4 doctors. He goes back to the doctor because something
5 happens that day. At that point there is no swelling,
6 there is no pain, no more range of motion, and that is
7 when Dr. Murphy sends him to a hand specialist here.

8 And the hand specialist says, I don't see
9 anything, I don't see any swelling, your wrist is
10 anatomically okay. So, back to our chart. Why does
11 that matter? Because it's consistent with a mild
12 injury, right. He's back to work in six weeks, that is
13 what we would expect from a mild sprain or a hair-line
14 fracture.

15 After other things happen, that is why I
16 asked his friends, Did you hear about any crates
17 falling or about picking up stuff, because that's new
18 stuff. So, at a minimum, my client is not responsible
19 for that. So, that is better.

20 The third thing, back to basketball. I asked
21 Mr. Shabazz point blank, in May were you back to
22 playing basketball? And his answer was an unequivocal
23 yes. Okay. The first time that I heard about him not
24 being able to play basketball was yesterday. I asked
25 him, When did you start to play basketball again, and

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1 he said -- I wrote it down. How long do you think that
2 you were out for playing basketball? His answer was,
3 "As long as I was out of work." That was six weeks.
4 Which, again, is consistent when he's released from
5 work -- or when he is released back to work he is
6 released with no restrictions. Go do whatever you are
7 going to do, go play basketball, go do your things.

8 So, now he is saying he can't play because,
9 well, let me think, he tries to play but he can't. And
10 he also mentioned something about maybe not being able
11 to coach his daughter at some point. I think Mr.
12 Shabazz is a genuinely nice guy, I really do, I am not
13 saying that he is not telling the truth. I think that
14 there is a tendency that when an event happens in your
15 life you start to tie it all back, tie everything back
16 to that.

17 He has a wonderful daughter. He works, by
18 all of his friends, like a maniac five, six days a
19 week, ten hours a day. Of course he is going to have
20 trouble having time to go play basketball, that is
21 life. I wish that I could play basketball more than I
22 do.

23 Number four, there is no treatment for years.
24 The last time he saw somebody I think -- I think they
25 had left out the hand surgeon, but sometime in

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1 September of 2023 so we are two years out, two plus
2 years out. He has never sought any additional
3 treatment. I blew out my knee. I played basketball in
4 college, never got hurt, and as soon as I got out I
5 broke everything but my AC. I had three surgeries. I
6 did over a year of physical therapy -- I mean, if you
7 put it all together, probably more, probably two years
8 of physical therapy to get back on the court. Because
9 I love it too. I understand that. I understand it is
10 a release. I get all of that stuff.

11 I worked like a crazy person to get to that
12 point. No PT. No additional doctors. No home
13 exercises. No over-the-counter medications. No
14 braces. No prescription medication. Nothing. He
15 didn't do anything to get back to what he loves to do.

16 And, again, I am not saying that this is --
17 that he is lying about that or something. He just
18 doesn't do those things that he kind of should be doing
19 if that is what -- if he has this wrist problem that
20 constantly happens, he should be doing something to get
21 back there.

22 We talked about his prior sprains. It really
23 -- well, prior sprains. We have sprains. We all have
24 sprains. We all get better, that is what happens. And
25 with Charles too. There is the crate drop. We talked

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1 about that. I think that is a distinctively different
2 event. When he talks about it, he stands up all of a
3 sudden. And then the furniture catch, the same thing,
4 right. It is a new event, something a month out from
5 completely done and it happens.

6 And then I think the bottom is just a
7 catch-all. Common sense. I don't -- again, I think
8 this might be the beat the dead horse phase of this,
9 but just use your common sense. I mean, a minor
10 sprain. They are saying that there is no evidence that
11 it didn't -- that it did heal. I mean, the evidence is
12 that it is a minor sprain, right. What do minor
13 sprains do? They heal. I mean, I don't know how to
14 prove that other than that there is no record anywhere,
15 any medical record, that he is not okay.

16 So, where are those scales? Did that leave
17 you with permanent injury or did it leave you with mild
18 injury that healed as we would expect with some
19 intervening stuff that happens, like dropping a crate
20 or try catching furniture, that kind of stuff. I think
21 those are your two jobs. Once you do that, you are
22 done for your -- for that, for what we need you to do.
23 If you get that far, right. Like we said, Brian and I
24 think that it was an accident, he didn't do anything
25 wrong. But if you get to that point you have got to

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1 figure out how to assign a value to that.

2 I am not going to tell you how to do that.

3 But we would say that he did suffer some injuries. I
4 mean, no one is debating that. I mean, for his neck
5 and his back and his knee and his ankle a little bit,
6 and he definitely broke his wrist, and he probably
7 sprained his wrist too. Figuring out what the value of
8 that is, I am never good at that. I would say start
9 with -- I think that you would base it on his medical
10 bills, which were around 19 thousand dollars.

11 It seems to me the evidence tells me that he
12 was out for about six weeks. Really more like five,
13 but about six weeks. And I can understand that. If
14 someone told me that I couldn't play basketball for a
15 month and a half or do my job for a month and a half,
16 it would be hard, I get that. I don't know what that
17 number is. Five hundred dollars a week, a thousand
18 dollars a week. It comes out to, if you do that math
19 it comes out to between 22 and 25 thousand dollars.
20 That is a lot of money for five or six weeks of being
21 out, but he has a lot of medical bills. And I would
22 start with those medical bills. I lumped them
23 together, but some of those medical bills happened well
24 after six weeks when he was going to see some hand
25 specialists and that kind of stuff, but something like

CLOSING ARGUMENT REPLY BY THE PLAINTIFF

1 that I guess.

2 Like I said, I am really not going to talk
3 about that too much. But if you get that far, that is
4 your role. I'm not going to teach you -- I am not
5 going to tell you how to deliberate. That is really
6 kind of all that I wanted to think, I hope I got across
7 everything. And I'll say one more thing. I have never
8 said this to any juror before, you guys are really,
9 really nice and one of the things that the Judge tells
10 you, we can't interact with you really like when we are
11 at work or whatever.

12 But at any point you guys, you know, like I
13 said, if you guys say hello and if we ever aren't, you
14 know, responsive to you it is because we are being told
15 not to do that. But you guys are genuinely good people
16 so we are sure that you are going to get it right.
17 Whatever that is. Like I said, this is Brian's day in
18 court. Be sure that whatever you come up with is going
19 to be right. We know that it will be right. So thank
20 you for your time and hopefully you will get to
21 deliberate pretty soon.

22 CLOSING ARGUMENT REPLY BY THE PLAINTIFF

23 THE COURT: Ms. Linton, reply.

24 MS. MS. LINTON: Yes, Your Honor. Thank you.

25 THE COURT: Yes, ma'am.

CLOSING ARGUMENT REPLY BY THE PLAINTIFF

1 MS. MS. LINTON: Wouldn't it be great if we
2 lived in a world where people took responsibility. A
3 world where they don't blame you for the injury that
4 they caused. Nitpick your every move, combed through
5 your medical records, trying to attack your character,
6 because that's what he's doing. And trying to tell you
7 that your new life is not worth much, a couple of
8 hundred bucks. He's got to pay his doctors. A world
9 where we don't have to come here and do this.

10 I want to address some of the things that you
11 have heard in defense's closing. He talked a lot about
12 punitive damages, but you didn't hear me talk about
13 them. I think that they are warranted in this case,
14 but if you don't, don't award them. They were not on
15 my PowerPoint. The first time that you heard about
16 them was when Mr. Crudup brought them up.

17 Mr. Crudup put two lines and Brooklyn was in
18 Mr. Shabazz's, but we didn't hear from Defendant Cox's
19 wife. What evidence --

20 MR. CRUDUP: We will object to that.

21 THE COURT: Sustained.

22 MS. MS. LINTON: What evidence did Defendant
23 Cox put before you, other than the fact that he was
24 inching out and he couldn't see over a big truck so he
25 went for it. He told you it was a F250. You can't see

CLOSING ARGUMENT REPLY BY THE PLAINTIFF

1 through that. You know how this collision could have
2 been avoided? Turning right. That is what I do. I'm
3 scared to death to turn left so I turn right and I do a
4 U-turn. My husband hates it, but it is the way I work.

5 Mr. Crudup told you about all of the times
6 Charles was released from medical care and tried to
7 work. That wasn't a secret. He told you that. He
8 tried to go back to work every time he could. He was
9 told he can't. He was told that he can't use two hands
10 then he can't work on the machinery. And that makes
11 sense. He tried time and time again to go back.

12 Mr. Crudup told you that he dropped a crate.
13 I wonder why? Because he had limited mobility.
14 Defense counsel showed you a time line of his
15 treatment, but what he didn't show you were the
16 medicals months before the time line started two months
17 after this crash. Charles was complaining of this
18 painful popping sensation long before then.

19 He also talked about Mr. Shabazz not
20 treating. Yeah, Charles had to work. He tried that
21 route, he went to the doctor, it never got better. At
22 some point when you are 23 years old and you have got
23 to try to figure out how to pay for your bills, you
24 have to give up, rub dirt in it and keep going.

25 The defense's number is not my number. It is

CLOSING ARGUMENT REPLY BY THE PLAINTIFF

1 not a number that I believe in. Some of us have gotten
2 to know Charles, his friends and his family and seen
3 how this collision has affected him. They all took
4 time off of work to be here to support him. That
5 speaks volumes about his character. And why is that
6 important? Because they have all said the same thing,
7 Charles is honest, Charles is in pain, he's been in
8 pain, and he was affected by this crash.

9 The defense doesn't know Charles from Adam.
10 But his family does. I do. Like the Judge told you, I
11 took an oath to become a lawyer, I can't get up here
12 and make false representations and sell you a false
13 bill of sale, and I wouldn't do that. But if you don't
14 believe me, believe his boss. He is not just his
15 friend, he is his manager.

16 This trial has created a lot of nerves for me
17 personally. This is my first solo trial and my first
18 trial as a plaintiff's lawyer. Before this time I sat
19 on the other side of the table. I have never felt this
20 type of overwhelming nerves in my career, and I think
21 that it is because I am nervous but I also think that
22 it is because I really believe in Charles. I believe
23 him. I have worked tirelessly and I have worked so
24 hard because I believe in him. I believe his friends
25 and his family.

JURY CHARGE BY THE COURT

1 When this is over we will all leave the
2 courtroom, we will be done. But Charles will still
3 have to deal with this. His pain will still be there.
4 This is his one shot. When you go back and deliberate,
5 please start with my numbers. Please start with the
6 numbers that I have given you. If you don't want to
7 award them, that is fine, but please at least look at
8 them and talk about them. Talk about what this case is
9 worth and render a verdict that you are proud of and
10 you feel good about. It is really important. It is
11 important to Charles.

12 Thank you for being here. Thank you for
13 listening and for your time.

14 THE COURT: All right. Mr. Foreman. Ladies
15 and gentlemen of the jury, I will send you back to your
16 jury room for just a few minutes and then I'll give you
17 my charge that you will apply in this case. But if you
18 will go back to your jury room for just a couple of
19 minutes.

20 (Brief recess.)

21 (The jury enters the courtroom at 12:11 p.m.)

JURY CHARGE BY THE COURT

23 THE COURT: Ladies and gentlemen -- and
24 bailiff, don't let anyone in or out of the courtroom,
25 please.

JURY CHARGE BY THE COURT

1 Ladies and gentlemen, just to let you know,
2 we have ordered lunch for you. That is why I sent you
3 back to make sure that you can begin your deliberations
4 instead of having to worry about lunch, okay. And,
5 alternates, we are taking care of you too.

6 And with that being said, ladies and
7 gentlemen, now that you have heard the testimony and
8 evidence that has been presented and you have heard the
9 arguments from the attorneys. Would you cut me on
10 please? For some reason I am not on. I have only been
11 doing this about 17 years, you would think I would know
12 how to turn on the microphone by now. Anyway, sorry.

13 Now that you have heard all of the testimony
14 and evidence from the attorneys and their closing
15 arguments, my job is to charge you on the law that
16 applies to this case. My charge will be in three
17 different parts. Let me tell you one thing, typically
18 all over South Carolina the juries will come back and
19 say, Judge, can we get some more information about this
20 or that or whatever, all of the information, all of the
21 evidence that is going to be admitted has been
22 admitted. You will have to make your decision based on
23 the record before you, okay.

24 I'm not allowed to interpret evidence. If
25 you ask me a question to see what something means, I'm

JURY CHARGE BY THE COURT

1 not allowed to tell you. That is your job to determine
2 the evidence and any inferences that you draw from
3 them, okay. I just wanted to let you know that. Now
4 I'll remind you at some point if I need to.

5 Also, I apologize to you in advance, I'm not
6 articulate or intelligent enough to do this off of the
7 top of my head. I try to minimize reading it to you,
8 but some of it is going to be read to you, okay. So I
9 apologize for that in advance.

10 Now, these instructions are in three parts.
11 The first part will be the general rules that define
12 and control your duties as jurors. The second part
13 will be the law that applies to this case, the law of
14 negligence, comparative negligence. And I will go over
15 after that some considerations in deliberations. And,
16 Mr. Foreman, I will then go over filling out the
17 verdict form for you, okay.

18 Now, with that being said, ladies and
19 gentlemen, if you will recall, at the beginning of this
20 case I told you that you are the judges of the facts.
21 You will determine what the facts are from the
22 testimony and evidence that has been presented in this
23 case, and by applying the law as I give it to you now.

24 You must not and shall not be concerned with
25 what you think the law should be, only what it is. If

JURY CHARGE BY THE COURT

1 I am incorrect in the law that I give to you, I will be
2 corrected by our appellate courts in this state. It
3 would be a dereliction of your duty if you don't follow
4 the law as I give it to you now.

5 Also you are not to be influenced by any
6 personal likes or dislikes, opinions, prejudice or
7 undue sympathy that you may have for one side of this
8 case or the other. What that simply means is, you are
9 to make your decision based on the testimony and
10 evidence that is in the record and according to the law
11 as I give it to you.

12 Now, if you will recall at the beginning of
13 this case when I gave you -- when you took your oath,
14 you swore or affirmed to do just that. Also, in
15 following my instructions now, you can't pick out
16 certain aspects of it and say I like that and I agree
17 with it and we are going to follow that but not agree
18 to things that you may not agree with. All, everything
19 that I tell you now is equally important and it is your
20 job to follow it as I give it to you.

21 I will point out if I have said or done
22 anything throughout the course of this trial that seems
23 to indicate to you how you are to find facts; in other
24 words, what verdict you are to reach, I am going to ask
25 you and also instruct you to disregard it. Our

JURY CHARGE BY THE COURT

1 constitution does not allow me to comment on the record
2 or of the facts or have an opinion. You and you alone
3 are to determine what the facts are. And you will make
4 that determination based on the testimony and evidence
5 you have heard from this witness stand, any exhibits
6 that I have allowed in evidence, and according to the
7 law as I give it to you now.

8 And you will do that be weighing the
9 evidence. And obviously you don't weigh evidence in
10 the literal sense. It is a mental process that you
11 will use your good sense and sound judgment in applying
12 it to the law of those facts and the facts of this case
13 to ultimately reach a unanimous verdict.

14 As I told you the burden is on the plaintiff
15 to prove the allegations that he brought against this
16 defendant. The burden of proof as to the charge of
17 negligence is by preponderance of the evidence. A
18 preponderance of the evidence is this: It is evidence
19 that simply means that which -- let me do that again.
20 Preponderance of the evidence simply means the greater
21 weight of the evidence. It is evidence which, as a
22 whole, shows the facts sought to be true is more than
23 likely true.

24 You consider the evidence, an illustration is
25 a set of scales. If they tip ever so slightly in favor

JURY CHARGE BY THE COURT

1 of the plaintiffs, then he has met his burden of proof
2 and your verdict will be for the plaintiff. On the
3 other hand, if they remain equal or they tilt in favor
4 of the defense, then his burden will have failed and
5 your verdict will be for the defendant.

6 Also the defendant has raised the issues in
7 this case, one being comparative negligence. He has
8 the burden of proving that the plaintiff was also
9 comparatively negligent in this case. And that burden
10 is by also a preponderance of the evidence. The way
11 that you would measure whether the defendant was
12 negligent, you will do the same thing as to the
13 plaintiff in this case. And I will tell you a little
14 bit about that when I go over the verdict form.

15 If you consider punitive damages, that burden
16 you would have to establish the right to punitive
17 damages by clear and convincing evidence. We have
18 three types of burden of proof. We have preponderance
19 of the evidence. We have clear and convincing
20 evidence. And we have proof beyond a reasonable doubt.

21 Proof beyond a reasonable doubt is reserved
22 for criminal cases. This is not a criminal case.
23 Negligence is preponderance and the right to punitive
24 damages is not proof, it is by clear and convincing
25 evidence. Clear and convincing evidence is that degree

JURY CHARGE BY THE COURT

1 of proof that will give you a firm belief as to the
2 facts being sought to be proven. This is more than
3 preponderance but less than proof beyond a reasonable
4 doubt. It is proof that leaves you firmly convinced of
5 the fact that is sought to be proven.

6 With that being said, that leaves me what is
7 evidence in this case that you can consider as evidence
8 and what is not evidence. Typically the testimony that
9 you heard from the witness stand from the answers to
10 questions asked. Technically the question that is
11 being asked is not evidence, but the responses to the
12 question is evidence. Also, the exhibits that you will
13 have with you back in your jury room is evidence. And
14 that is it.

15 From that you will make your findings of fact
16 and any inference you were to draw from that in making
17 your decision in this case. Typically what is not
18 evidence, as I told you earlier, arguments by the
19 attorneys and the opening and closing or any other time
20 in this case is not evidence. They have not been sworn
21 in, they have not been subjected to cross-examination.
22 That is not to minimize what they tell you, but it is
23 not evidence.

24 Also any objections that you heard is not
25 evidence in this case. Suffice it to say, that is

JURY CHARGE BY THE COURT

1 simply the process that is followed in every single
2 case that is before this Court. So that leads you to
3 one thing, and that is the answers to the questions
4 asked and the exhibits, and that is it. Anything that
5 you may have heard when court is not in session also is
6 not evidence.

7 Now, in South Carolina we have two types of
8 evidence that we recognize. We have direct evidence
9 and we have circumstantial evidence. Direct evidence
10 is testimony by a person who claims to have actual
11 knowledge of a fact such as an eye witness. It is
12 evidence that immediately establishes a fact to be
13 proven. For example, if in the case that our question
14 is whether or not I threw a rock through a window and
15 my law clerk says he saw me throw that rock, that would
16 immediately establish that fact. You don't have to
17 deduce. You don't have to infer anything. That
18 initially establishes that fact. Typically it is an
19 eye witness.

20 We also have circumstantial evidence.
21 Circumstantial evidence is proof of a chain of facts
22 indicating the existence of another fact. In other
23 words, from a fact you infer or deduce a fact. For
24 example, if all of us were to go to sleep at night with
25 a fresh sheet of snow in your front yard, if you were

JURY CHARGE BY THE COURT

1 to wake up in the morning and see tracks in that snow
2 you can reasonably infer that someone or something
3 walked through your yard during the night although you
4 didn't see it. You would have to infer or deduce a
5 fact from another fact.

6 The only prohibition is that the conclusion
7 that you reach can't be speculation or conjecture or
8 surmise, it must be of a reasonable certainty. And the
9 law makes absolutely no distinction between the weight
10 or value to be given by you the jury to direct evidence
11 or circumstantial evidence.

12 Now, in this case you will decide what the
13 facts are. And in doing that, as I told you at the
14 beginning of this case, you will have to decide which
15 testimony you wish to believe and whether or not there
16 is any testimony you wish not to believe. You
17 collectively have the right to believe all, or part, or
18 none of a person's testimony that comes before you.
19 You can believe one person over many or many people
20 over one. The way that you divide that up is up to you
21 and it is based on your collective view of the
22 testimony and the credibility of that testimony.

23 I am going to give you some facts that you
24 may consider in going through the believability or
25 credibility of witnesses in this case. Remember, you

JURY CHARGE BY THE COURT

1 have the right to believe all, or part, or none of any
2 witness' testimony that comes before you. In making
3 this decision you can ask yourself, was the witness
4 able to hear, or see, or know about the issues in which
5 they testified about. How well were they able to
6 describe the subject of their testimony. You can ask
7 yourself, what was the witness' demeanor. Or while
8 they are on the witness stand, how did they act while
9 they were testifying.

10 You can ask yourself, does the witness have a
11 bias or prejudice for or against one side of the case
12 or the other, or whether or not that witness had a bias
13 or prejudice about any issue or matter involved in the
14 case. You can ask yourself how reasonable the witness'
15 testimony was in light of all of the testimony and
16 whether that witness' testimony can be contradicted by
17 what that witness said at another time or by any other
18 testimony or evidence in this case.

19 Mr. Foreman, those are just some of the
20 factors that you may consider in going through the
21 credibility or believability of the testimony in this
22 case. One thing you don't do when you are sworn in as
23 jurors is to check your common sense at the door. You
24 should not in this case. You should use those things
25 in your day-to-day lives that you find indicative of

JURY CHARGE BY THE COURT

1 truthfulness and indicative of lack of truthfulness in
2 making this determination of the credibility of the
3 witness. One thing that you cannot do, however, is add
4 up the number of witnesses or exhibits that have
5 appeared or introduced on one side or the other in
6 making this determination.

7 So, ladies and gentlemen, you have heard
8 testimony from a person who has been qualified as an
9 expert. Usually the testimony of a witness is limited
10 to what they saw, they smelled, they heard, or their
11 senses. They can't give you opinion testimony in a
12 case, except upon qualification as an expert in an area
13 that may be helpful to you, the jury.

14 Upon qualification an expert is allowed to
15 give their opinion. I will tell you that expert
16 testimony is like any other testimony you have heard in
17 this case, you may accept it, you may reject it, or
18 give it as much weight as it deserves.

19 Also there is testimony presented through
20 deposition. And a deposition is sworn to and recorded
21 answers to questions being asked in advance of trial.
22 Sometimes a witness may not be present or something and
23 we get their testimony to help them not have to be
24 called away from their work. Deposition testimony is
25 entitled to the same consideration and to be weighed as

JURY CHARGE BY THE COURT

1 all other testimony in this case. It is just as if
2 they were testifying here in open court.

3 Now, Mr. Foreman, ladies and gentlemen, those
4 are the general rules that define and control your
5 duties as jurors. The next aspect of my charge is the
6 law of negligence and comparative negligence. And this
7 is where the reading comes in, so I apologize to you
8 again. But, in this case, the plaintiff claims that
9 the defendant was negligent and should compensate the
10 plaintiff for injuries that he suffered as a result of
11 the defendant's negligence.

12 In order to prove that the defendant was
13 negligent, the plaintiff must prove by a preponderance,
14 or greater weight of the evidence, the following
15 things. First, the plaintiff must prove by a
16 preponderance, or greater weight of the evidence, that
17 the defendant owed him a duty of care. Those are
18 actually questions of law which I had decided. And the
19 following are duties of care which are applicable in
20 this case:

21 First you have a driver's duty of care. The
22 operator of a motor vehicle is required to use the same
23 care that would be used by a person of ordinary reason
24 and prudence if that person were driving the same
25 vehicle, at the same time, in the same place, and under

JURY CHARGE BY THE COURT

1 the same circumstances.

2 Also a driver has the duty to keep a proper
3 lookout. The driver of an automobile has a duty to
4 keep a proper lookout for other vehicles on the road.
5 This duty requires the driver to watch attentively so
6 that the driver is able to see a person or object on
7 the highway.

8 There is also the duty to keep a vehicle
9 under proper control. The driver of an automobile also
10 has a duty to keep the automobile under proper control
11 such that the driver is able to slow down, stop, or
12 turn the automobile to avoid colliding with other
13 vehicles, pedestrians, and objects lawfully on the
14 road.

15 Ladies and gentlemen, South Carolina Code
16 Section provides that there is a duty to yield the
17 right of way for a vehicle intending to turn left
18 within an intersection. And the reason is this: The
19 driver of a vehicle intending to turn to the left
20 within an intersection or into an alley, private road,
21 or driveway shall yield the right of way to any vehicle
22 approaching from the opposite direction which is within
23 the intersection or so close thereto as to constitute
24 an immediate hazard.

25 Now, ladies and gentlemen, the

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1 violation of this statute does not, in and of itself,
2 constitute recklessness, willfulness, and wantonness.
3 However, it may be considered as evidence in deciding
4 whether or not the defendant was reckless, willful, and
5 wanton.

6 Now, ladies and gentlemen, since I
7 have found that the above duties of care in this case,
8 you must then decide the following: First you must
9 decide whether the plaintiff has proven by the
10 preponderance, or greater weight of the evidence, that
11 the defendant has breached one or more duties of care
12 by a negligent act or omission.

13 Negligence means that a person has done
14 something that a reasonable person would not have done,
15 or has failed to do something that a reasonable person
16 would have done under the same situation.

17 The plaintiff must also prove by a
18 preponderance, or greater weight of the evidence, that
19 he suffered damages as a result of the defendant's
20 breach of duty.

21 And, finally, the plaintiff must prove by a
22 preponderance, or greater weight of the evidence, that
23 the damages were proximately caused by the defendant's
24 breach of duty. Proximate cause, ladies and gentlemen,
25 is something that produces a natural chain of events

JURY CHARGE BY THE COURT

1 which, in the end, brings about the injury. It is the
2 direct cause of the injury.

3 To prove that the defendant's negligence
4 proximately caused the plaintiff's injury, the
5 plaintiff must first prove causation in fact. That is
6 proven by showing that the injury would not have
7 occurred but for the defendant's negligence.

8 The plaintiff must also prove legal cause.
9 Legal cause is proven by showing that the injury was
10 foreseeable. This means that the injury occurred as a
11 natural and probable consequence of the defendant's
12 negligence. The plaintiff must prove that some injury
13 from the defendant's negligence was foreseeable, but
14 does not have to prove that the particular injury that
15 occurred was foreseeable. However, the defendant
16 cannot be held responsible for things which could not
17 be expected to happen.

18 Proximate cause does not mean the only cause.
19 The defendant's act could be a proximate cause of the
20 plaintiff's injury if it was at least one of the
21 direct, concurring causes of the injury.

22 Now, ladies and gentlemen, if you decide that
23 the plaintiff is entitled to a verdict your next step
24 would be to decide how much money the defendant should
25 be required to pay. Actual damages are to compensate

JURY CHARGE BY THE COURT

1 the plaintiff or the plaintiff's injuries and loss and
2 to put the plaintiff as near as possible in the same
3 position that the plaintiff was in before the accident
4 occurred. In other words, actual damages would be the
5 actual losses and expenses which the plaintiff had
6 suffered because of the defendant's negligence.

7 The plaintiff must prove that expenses caused
8 by the injury were necessary and reasonable. Ladies
9 and gentlemen, actual damages for a plaintiff who has
10 been physically injured include pain and suffering,
11 both in the past and in the future, as well as mental
12 anguish, impairment of health or physical condition,
13 and disfigurement. In determining the amount of
14 compensation for personal injuries, it is proper to
15 consider past and present aspects of the injury. This
16 would include physical and mental pain and suffering,
17 expenses incurred for necessary medical treatment, the
18 loss of enjoyment of life suffered as a result of the
19 injury, and any other losses which are reflected by the
20 character of the injury.

21 The injured party may recover for those
22 future damages that are reasonably sure to result from
23 the injuries. The principle underlying compensation
24 for future damages is that only one action can be
25 brought and, therefore, only one recovery had. It is

JURY CHARGE BY THE COURT

1 proper to include in the estimate of future damages,
2 future medical expenses and pain and suffering which
3 will, with reasonable certainty, result.

4 Ladies and gentlemen, pain and suffering
5 compensates the plaintiff for physical discomfort and
6 emotional response to the sensation of pain caused by
7 the injury itself. Now there is no definite standard
8 by which to compensate the plaintiff for pain and
9 suffering. You the jury have the authority to
10 determine the amount, if any, to be allowed for pain
11 and suffering, using calm and reasonable judgment to
12 ensure that the damages are just and reasonable in
13 light of the testimony and evidence presented in the
14 case.

15 Now another element of damages is loss of
16 enjoyment of life which compensates the plaintiff for
17 limitations on the plaintiff's ability to participate
18 in and derive pleasure from the normal activities of
19 daily life.

20 Also there is an element called mental
21 suffering. Mental suffering, apprehension, shock,
22 fright, emotional upset, humiliation, and anxiety,
23 either present or expected in the future, can be
24 properly considered as an element of damages. The
25 amount of damages for mental suffering cannot be

JURY CHARGE BY THE COURT

1 exactly measured.

2 Now, ladies and gentlemen, a plaintiff is
3 never entitled to recover conjectural or speculative
4 damages. But if you find that the plaintiff is
5 entitled to a verdict for actual damages, your verdict
6 should include an amount to cover any past, present,
7 and future damages which were proximately caused by the
8 defendant.

9 Any future damages must be reasonably certain
10 to occur in the future as a result of the defendant's
11 acts. Actual damages need not be proven to a
12 mathematical certainty or be based on evidence of the
13 precise amount of damages the plaintiff has suffered.
14 Instead, the evidence must allow you to determine what
15 amount of damages is fair, just, and reasonable.

16 Also, ladies and gentlemen, if you aware
17 actual damages and only if you award actual damages,
18 you may also consider whether or not to award punitive
19 damages. Punitive damages are intended to punish the
20 defendant for extraordinary and outrageous misconduct
21 and to prevent the defendant and others from committing
22 similar acts in the future.

23 Punitive damages can only be awarded when the
24 conduct of the defendant has been something more than
25 mere negligence. The evidence must establish the

JURY CHARGE BY THE COURT

1 defendant's acts were reckless, willful and wanton,
2 meaning there was a conscious failure to exercise due
3 care, or a conscious indifference to the rights and
4 safety of others, or a reckless disregard thereof.

5 If you find that the defendant's conduct was
6 willful, wanton, or reckless, you may award the
7 plaintiff punitive damages. To support an award of
8 punitive damages, the plaintiff must prove by clear and
9 convincing evidence that the conduct complained of
10 included a consciousness of wrongdoing at the time of
11 the conduct.

12 Clear and convincing is more than just a
13 preponderance, or greater weight of the evidence, which
14 requires only proof which persuades you that a party's
15 claim is more likely than not true. On the other hand,
16 clear and convincing proof is not as high a standard as
17 the burden in criminal cases, which is proof beyond a
18 reasonable doubt.

19 Clear and convincing proof leaves no
20 substantial doubt in your mind. It means that the
21 evidence is not ambiguous, doubtful, or equivocal, or
22 contradictory. Convincing means persuading by proof or
23 argument, causing one to believe in the truth of what
24 is asserted. Clear and convincing proof establishes in
25 your mind, not only that the fact is probable, but that

JURY CHARGE BY THE COURT

1 it is highly probable.

2 Before awarding punitive damages, you must
3 consider the weight -- you must consider and weigh four
4 elements which may be pertinent to the facts of this
5 case: The first, you must consider the relationship
6 between any punitive damage award and the harm caused.
7 Any penalty imposed should take into account the
8 reprehensibility of the conduct, the harm caused, the
9 defendant's awareness of the conduct's wrongfulness,
10 the duration of the conduct, and any concealment.
11 Thus, any penalty imposed should bear a relationship to
12 the nature and extent of the conduct and the harm
13 caused, including the compensatory damage award made by
14 you.

15 Second, any penalty imposed should take into
16 account, as a mitigating factor, any other penalty that
17 may have been imposed or which may be imposed for the
18 conduct involved, including any criminal or civil
19 penalty or any other punitive damages award arising out
20 of the same conduct.

21 Next, you should consider whether the award
22 of and the amount of punitive damages may deprive the
23 defendant of any profits derived from improper conduct
24 and whether the ill-gotten profits should be properly
25 awarded to the plaintiff.

JURY CHARGE BY THE COURT

1 Finally, any award of punitive damages must
2 be limited to punishment and, thus, may not effect
3 economic bankruptcy. To this end, the defendant's
4 ability to pay any punitive damage award should be
5 considered. However, the economic bankruptcy factor is
6 not an absolute bar to an award of punitive damages.

7 Punitive damages may only be awarded for
8 injuries the defendant caused to the parties to this
9 action. Although it may be appropriate to consider the
10 reasonableness of a punitive damages award in light of
11 the potential harm the defendant's conduct could have
12 caused, that potential harm potentially caused the
13 plaintiff, not all other potentials -- excuse me, let
14 me do that again.

15 Although it may be appropriate to consider
16 the reasonableness of a punitive damages award in light
17 of the potential harm the defendant's conduct could
18 have caused, that potential harm is harm potentially
19 caused the plaintiff, not all of the victims.

20 Evidence of actual harm to non-parties may
21 help show the reprehensible conduct or nature of
22 defendant's actions in that the conduct which harmed
23 the plaintiff also posed a substantial risk to the
24 general public. However, you the jury may not use a
25 punitive damages award to punish the defendant directly

JURY CHARGE BY THE COURT

1 for harm it allegedly caused to non-parties.

2 Now, in this case the defendant claims that
3 the plaintiff's own negligence proximately caused the
4 plaintiff's injuries. If you find that the defendant
5 was negligent you must then decide whether the
6 plaintiff was negligent. This is called comparative
7 negligence. The defendant must prove by a
8 preponderance, or greater weight of the evidence, that
9 the plaintiff breached the duty of care which
10 proximately caused the plaintiff's injuries. This same
11 law which I have told you to use in deciding whether
12 the defendant was negligent should be used in deciding
13 whether the plaintiff was negligent.

14 If you find that the negligence of both the
15 plaintiff and the defendant proximately caused the
16 plaintiff's injuries, you must then decide how much of
17 the negligence of the plaintiff contributed to the
18 plaintiff's injuries and how much the defendant's
19 negligence contributed to the plaintiff's injuries.

20 In deciding the percentages of negligence of
21 the plaintiff and the defendant, you may consider,
22 among other things, the following factors: One,
23 whether each party's conduct was only inadvertent or
24 whether it was engaged in with an awareness of the
25 danger involved; the magnitude of the risk created by

JURY CHARGE BY THE COURT

1 each party's conduct, including the number of persons
2 endangered and the possible severity of the injury; the
3 significance of the goal that each party was trying to
4 reach; and the need to achieve that goal in the manner
5 in which it was conducted.

6 Also, each party's capabilities and abilities
7 to realize and eliminate the risk involved. You
8 consider the particular circumstances confronting each
9 party and the time that the conduct occurred, such as
10 the existence of an emergency requiring a quick
11 decision. You can consider the relative closeness of
12 the causal relationship of the negligent conduct of the
13 defendant and the harm to the plaintiff. And, finally,
14 whether the conduct of either party involved a
15 violation of a safety statute or regulation.

16 Now, Mr. Foreman, I will give you some
17 written questions on a special verdict form for you to
18 reach your verdict. The form will have spaces for you
19 to write your decisions about the percentage of the
20 negligence, if any, of both parties which proximately
21 caused the plaintiff's injuries.

22 The first two questions on the verdict form
23 ask you to decide whether defendant was negligent, and
24 if so, whether the defendant's negligence was the
25 proximate cause of the plaintiff's injuries. Number

JURY CHARGE BY THE COURT

1 three, question number three, is concerning whether you
2 continue your deliberations based on your findings to
3 questions one and two.

4 Question 4 and 5 ask the same question about
5 any negligence of the plaintiff. Question 6 asks you
6 to decide the percentage of each party's negligence
7 which proximately caused the plaintiff injuries. The
8 percentages must add up to one hundred percent.

9 Question 7 asks you if the plaintiff's
10 negligence was greater than the defendant's negligence.
11 If so, the plaintiff would not be entitled to any
12 damages and your verdict would be for the defendant.
13 If, however, you find that the plaintiff's negligence
14 was equal to or less than the defendant's negligence,
15 you would answer question 8, which asks you to
16 determine the total amount of damages suffered by the
17 plaintiff.

18 Do not reduce the plaintiff's total damages
19 based on the percentage of negligence of either party.
20 After you have answered the questions I will compute
21 the amount of damages for which the defendant is
22 responsible based on the percentage of the defendant's
23 negligence which you have decided proximately caused
24 the plaintiff's injuries.

25 You are to determine only the total amount of

JURY CHARGE BY THE COURT

1 the plaintiff's damages and enter that figure on the
2 verdict form.

3 Now, Mr. Foreman, I am going to have my law
4 clerk bring you a copy of this so you can go over it
5 with me right quick. As somebody who was just reading
6 those questions to you, I have no clue what I was just
7 telling you.

8 (Pause.)

9 THE COURT: He didn't know that I was going
10 to do that. Is it running?

11 MR. FOREMAN: It is slow.

12 THE COURT: Hang on, I am going to come over
13 there and I will show you. All right. First question,
14 Was the defendant negligent? If the answer is
15 unanimously yes, you go to answer number two, question
16 two. If it's no, stop, okay.

17 Next question, Was the defendant's negligence
18 the proximate cause of plaintiff's injury? If yes,
19 move to question three. If no, stop your
20 deliberations.

21 Question number three, Was the plaintiff
22 negligent? If it's yes, go to question four. If it's
23 no, go to question seven. Okay. That is the verdict
24 amount.

25 Number four, Was the plaintiff's negligent

JURY CHARGE BY THE COURT

1 the proximate cause of plaintiff's injuries? If it was
2 yes, go to five. No, go to seven. Okay?

3 Five, Was the plaintiff's negligence greater
4 than defendant's? If the plaintiff's negligence is
5 greater than the defendant's, the plaintiff is not
6 entitled to recover. If it's equal or less than, then
7 they are.

8 In other words, if these two numbers happen
9 to add up to 50 percent, there is over 50 percent --
10 the plaintiff is over 50 percent, it's not covered. If
11 it is less than 50 percent, it is. Okay? And then you
12 will add those up and put those in number six.

13 If you find they are entitled to a verdict,
14 you have to write out the total amounts. I'm 65 years
15 old and I have been writing checks most of my life. I
16 don't know if anybody writes checks anymore. But you
17 write out the number and write out by spelling out what
18 they are entitled to, if they are entitled to an award,
19 okay.

20 Once you get that only -- if you find actual
21 damages, then you may consider punitive. If you find
22 that the plaintiff is entitled to punitive damages, you
23 will write that out in the same manner. Once the jury
24 has answered all of those unanimously you can let the
25 bailiff know and knock on the door and have this in

JURY CHARGE BY THE COURT

1 your hand. And I will give it back to you here in the
2 courtroom and we will read it in the courtroom. Okay?

3 MR. FOREMAN: Yes, sir.

4 THE COURT: Now, whether or not I need to
5 bring y'all back out here and correct something that I
6 said or add something to what I said to you, I will ask
7 you to go back to your jury room and wait for us to
8 send you the verdict form and exhibits and we will
9 bring you back out here for further discussion. You
10 two, in just a minute, I can't let you in there while
11 they are doing deliberations, I'm going to ask the
12 bailiff if I send these back, to get them out as well.
13 Okay?

14 You may go to the jury room.

15 (The jury exits the courtroom.)

16 THE COURT: All right. Any exceptions or
17 additions from the plaintiff?

18 MS. MS. LINTON: None, Your Honor. Subject
19 to my objection and arguments outlined.

20 THE COURT: You renew your objection as to my
21 failure to charge the life expectancy table?

22 MS. MS. LINTON: I do, Your Honor.

23 THE COURT: And you request that I charge the
24 life expectancy table?

25 MS. MS. LINTON: I would request that, thank

JURY CHARGE BY THE COURT

1 you.

2 THE COURT: All right.

3 And do you have any additions or exceptions?

4 MR. CRUDUP: Yes, Your Honor. I would renew
5 my objection to your not charging --

6 THE COURT: Charge number seven?

7 MR. CRUDUP: That's correct.

8 THE COURT: All right. And anything else
9 other than that?

10 MR. CRUDUP: No, Your Honor. Just for the
11 record, I think that your actual read charges were off
12 by a number at some point but I don't think that --

13 THE COURT: My what?

14 MR. CRUDUP: When you were reading the actual
15 --

16 THE COURT: I did. I got number six and --
17 but I tried to point out you have percentages here and
18 I said, Now add them up. I'm pretty clear on that, but
19 I am glad to go over it again with them if you want me
20 to?

21 MR. CRUDUP: I don't think that it is
22 necessary, Your Honor.

23 THE COURT: If you would, I want to thank you
24 lawyers for your presentations and your
25 professionalism. You did a good trial and you

JURY CHARGE BY THE COURT

1 presented your case well and you represented your
2 clients in a very professional basis. For that, I
3 thank you.

4 If you would go over the exhibits and make
5 sure that everybody has the correct forms. And then
6 once that is done we will get the verdict form and
7 exhibits. And then you can go back and tell the
8 alternates to come out with you too, please.

9 THE BAILIFF: Judge, do you want all of the
10 jurors or just the alternates?

11 THE COURT: Is that everything?

12 MS. MS. LINTON: Yes, sir.

13 MR. CRUDUP: Yes, sir.

14 THE COURT: Okay. Now bring the alternates
15 out and tell them to begin their deliberations.

16 (Alternates dismissed off the record by the
17 Court.)

18 THE COURT: Okay. If you will stick around.
19 Don't go far. And if I could get your cell phone
20 numbers so that we may contact you. But before do you,
21 if you would come back here so I can talk to you for
22 one second.

23 (The jury begins deliberating at 12:52 p.m.)

24 THE COURT: I understand that we have a
25 verdict. Anything before we bring the jury out?

VERDICT OF THE JURY

1 Anything from the plaintiff?

2 MS. MS. LINTON: No, Your Honor.

3 MR. CRUDUP: Nothing from the defendant, Your
4 Honor.

5 (The jury enters the courtroom at 2:26 p.m.)

6 THE COURT: All right. Mr. Foreman. My
7 understanding is that the jury has reached a verdict?

8 MR. FOREMAN: Yes, sir, Your Honor. We
9 have --

10 THE COURT: Have you filled out the verdict
11 form?

12 MR. FOREMAN: Yes, I have.

13 THE COURT: Is the verdict unanimous?

14 MR. FOREMAN: Yes, sir.

15 THE COURT: Very good.

16 Will you publish the verdict for us, please?

17 THE CLERK: In case number 2024CP3700163,
18 Charles Shabazz versus Brian Cox, the jury finds that
19 the defendant was negligent.

20 Was the defendant's negligence a proximate
21 cause of the plaintiff's injury? Yes.

22 Was the plaintiff negligent? Yes.

23 Was the plaintiff's negligence a proximate
24 cause of the plaintiff's injuries? Yes.

25 Considering the combined negligence that

VERDICT OF THE JURY

1 proximately caused the plaintiff's injuries is listed
2 as plaintiff 45 percent, defendant 55 percent, for a
3 total of 100 percent.

4 Was the plaintiff's negligence greater than
5 50 percent? No.

6 State the amount of the damages any -- if any
7 sustained by the plaintiff. Plaintiff's total damages
8 based on the percentage of negligence by any party,
9 \$45,000.00 in actual damages. And 0 in punitive
10 damages.

11 Ladies and gentlemen of the jury, if this was
12 your verdict and remains your verdict, please indicate
13 by raising your right hand?

14 (All jurors raise their hands.)

15 THE CLERK: Thank you. Please let the record
16 reflect that all jurors affirmed their verdict.

17 THE COURT: May I see that verdict form? All
18 right.

19 Mr. Foreman, ladies and gentlemen of the
20 jury, the Court is never concerned with what your
21 verdict is, but that you paid attention to the
22 instructions and in the trial, and you did just that.
23 I want to thank you for your service. Not for your
24 verdict, but for your service. This will be the end of
25 your service for this week. I am going to go ahead and

VERDICT OF THE JURY

1 dismiss you.

2 Does anybody need a statement today for their
3 employer? It'll be mailed to you, but if you need it
4 today we can get you one.

5 You can take her downstairs and get her one;
6 is that right?

7 THE CLERK: Yes, sir.

8 THE COURT: Sir?

9 THE JUROR: I would like one too, Your Honor.

10 THE COURT: Okay. If you step downstairs to
11 the clerk's office they will provide you a statement.
12 Ladies and gentlemen, thank for your service to Oconee
13 County and the State of South Carolina. You are
14 excused.

15 If you have notes, you can carry them with
16 you or you can leave them in the jury room and we can
17 take care of them.

18 (The jury exits the courtroom.)

19 THE COURT: All right. Reading the verdict
20 form, if I'm looking at it correctly, and my law
21 clerk's math is correct, the jury found that the
22 plaintiff was 45 percent negligent or comparatively
23 negligent. 45 percent of \$45,000.00 would be
24 \$20,250.00. Double check my math and make sure that
25 that is correct.

VERDICT OF THE JURY

1 MR. CRUDUP: Your Honor, I don't know if you
2 were saying it or doing it, but I think that you might
3 have flipped it. My client is 55 percent negligent, so
4 it would be 55 percent of 45.

5 THE COURT: It would be, that is right.
6 Thank you.

7 MR. CRUDUP: Sorry.

8 THE COURT: Do you agree with that?

9 MS. MS. LINTON: Yes, Your Honor.

10 THE COURT: 55 percent. Sorry about that.
11 Okay. \$24,750.00 if my math is correct, that is what
12 it is. If it's not -- now, if you would like to make
13 post-trial motions now, I will be glad to hear them.
14 Or if you want ten days to file, I will be glad to let
15 you do that.

16 MS. MS. LINTON: Yes, Your Honor, we would
17 request ten days.

18 THE COURT: Ten days, all right. Ladies, I
19 appreciate your participation in the trial. Thank you.
20 We are excused.

21 (Proceedings concluded.)

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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA:

COUNTY OF OCONEE:

I, MONA L. MANLEY, Court Reporter, certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true and complete record of my stenographic notes.

DATED this 16th day of January, 2026.

Mona L. Manley /s/

MONA L. MANLEY, CSR, Court Reporter III
Circuit Reporter for the 10th Circuit
(850) 893-6662
mmanley@sccourts.org

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 REQUEST TO
CHARGE # 1**

Pain and suffering is a material element of damages on which a recovery may be based. Pain and suffering have no market price. They are not capable of exact measurement, and there is no fixed rule or standard whereby damages for them can be measured. Therefore, the amount of damages to be awarded for pain and suffering must be left to the judgment of you, the jury.

Citation of Authority: Edwards v. Lawton, 244 S.C. 276, 136 S.E.2d 708 (1964); Mims, As Adm. v. Florence Co. Ambulance Service, 296 S.C. 4, 370 S.E.2d 96 (Ct. App. 1988); Ervin's South Carolina Requests to Charge - Civil, §24-18.

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

Charles Shabazz,

Plaintiff,

v.

Brian Cox,

Defendant.

IN THE COURT OF COMMON PLEAS
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**PLAINTIFF'S REQUEST TO
CHARGE # 2**

The injured party may recover for mental anguish brought about by bodily injury and suffering. If you find that the injured party is entitled to recover damages, you may consider as an element of those damages such pain and suffering and mental anguish that you find, to a reasonable certainty will occur in the future as a result of the injuries. In assessing mental anguish, you may take into account anxiety or worry about the possible future occurrence or condition resulting from the injuries that the Plaintiff received, if you are satisfied to a reasonable certainty that the Plaintiff will suffer such anxiety and worry.

Citation of Authority: Ford v. A. A. A. Highway Express, 204 S.C. 433, 29 S.E.2d 760 (1944); 22 Am. Jur. 2d Damages §119 (1965); Ervin's South Carolina Requests to Charge - Civil, §24-17.

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

Charles Shabazz,

Plaintiff,

v.

Brian Cox,

Defendant.

IN THE COURT OF COMMON PLEAS
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**PLAINTIFF'S REQUEST TO
CHARGE # 3**

When one person is injured by the negligent acts of another, the injured person shall be entitled to be fully compensated for all injuries directly or proximately resulting from any negligent acts or omissions. In determining the amount of compensation for injuries suffered by the Plaintiff, as a result of Defendant's negligence, it is proper to consider:

- (a) The expenses incurred for all necessary medical treatment;
- (b) The loss of time from work and income which resulted therefrom;
- (c) The impairment of the injured person's ability to work and earn a livelihood;
- (d) The character of the injury and the amount that would be necessary to make the injured person whole as respects permanent injuries;
- (e) The physical and mental pain and suffering endured by the injured party;
- (f) Such pain and suffering as it is reasonably certain will, of necessity, result in the future from the injury.

Citation of Authority: Baldowski v. United States, 111 F.Supp. 653 (D.S.C. 1953); McNeill v. United States, 519 F.Supp. 283 (D.S.C. 1981); Ervin's South Carolina Requests to Charge - Civil, §24-10.

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
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**PLAINTIFF'S REQUEST TO
CHARGE # 4**

Recreation and leisure are aspects of life that people look forward to with eagerness and anticipation. They are the rewards of hours of drudgery and labor. People work not only to support themselves and their families, but also to earn the right to partake in regular periods of leisure. If the jury finds that Plaintiff's capacity to enjoy life, both in terms of recreation and self-esteem have been reduced, then the jury should consider this reduction as an element of damages and should adequately compensate the Plaintiff for the non-pecuniary, non-pain aspect of his condition, as well as for the deprivation of a normal full life and a chance to pursue non-economic hobbies or recreation.

Citation of Authority: Isgett v. Seaboard Coastline Railroad Co., 332 F. Supp. 1127 (D.S.C. 1971).

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

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Plaintiff,

v.

Brian Cox,

Defendant.

IN THE COURT OF COMMON PLEAS
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**PLAINTIFF'S REQUEST TO
CHARGE # 5**

It is not necessary that Plaintiff establish the amount of his damages to an absolute mathematical certainty. It is sufficient that evidence be presented which enables you to determine the amount of his damages with reasonable certainty or accuracy.

Citation of Authority: Gray v. Southern Facilities, Inc., 256 SC 558, 183 SE2d 438 (1971).

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

Charles Shabazz,

Plaintiff,

v.

Brian Cox,

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IN THE COURT OF COMMON PLEAS
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**PLAINTIFF'S REQUEST TO
CHARGE # 6**

If you find that the Plaintiff is entitled to a verdict for actual damages, your verdict should include an amount to cover any damages that the evidence shows will be reasonably certain to occur in the future. These future damages must, of course, be the result of the Defendant's negligence.

Citation of Authority: Ervin's South Carolina Requests to Charge - Civil, §24-11.

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

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v.

Brian Cox,

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**PLAINTIFF'S REQUEST TO
CHARGE # 7**

A Plaintiff may recover for the following injuries resulting from the Defendant's wrongful act:

- (1) Out-of-pocket expenses;
- (2) Past and future medical expenses;
- (3) Past and future lost wages;
- (4) Loss of earning capacity;
- (5) Physical pain and suffering;
- (6) Loss of family services;
- (7) Loss of enjoyment of life;
- (8) Alteration of lifestyle;
- (9) Mental anguish;
- (10) Any future damages resulting from permanent injury.

Citation of Authority: Bussey v. Charles & W.C.R. Co., 52 S.C. 438, 30 S.E. 477 (1898); Gasque v. Heublein, Inc., 281 S.C. 278, 315 S.E.2d 556 (Ct.App.1984); Edwards v. Lawton, 244 S.C. 276, 136 S.E.2d 708 (1964); Bates v. Merritt Seafood, Inc., 663 F.Supp 915 (D.S.C. 1987); McNeill v. United States, 519 F.Supp 283 (D.S.C. 1981); Fennel v. Littlejohn, 240 S.C. 189, 125 S.E.2d 408 (1962).

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

Charles Shabazz,

Plaintiff,

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Brian Cox,

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IN THE COURT OF COMMON PLEAS
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**PLAINTIFF'S REQUEST TO
CHARGE # 8**

Impairment is defined in the American Medical Association Guides to the Evaluation of Permanent Impairment as an alteration of an individual's health status. It is assessed by medical means and is a medical issue. Permanent impairment is one that has become static or stabilized during a period of time sufficient to allow optimal tissue repair, and one that is unlikely to change in spite of further medical or surgical therapy. Impairments are further defined as conditions that interfere with an individual's "activities of daily living".

Citation of Authority: American Medical Association Guides to the Evaluation of Permanent Impairment, 4th Edition (1993).

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

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**PLAINTIFF'S REQUEST TO
CHARGE # 9**

Negligence is defined in terms of a reasonable person. Accordingly, when I refer to a "reasonable person," I am referring to a person of ordinary prudence and reason. With this in mind, negligence can then be defined as the failure to do something which a reasonable person would do under the same or similar circumstances. Stated another way, negligence is the failure to use ordinary or reasonable care. Ordinary or reasonable care is that degree of care which a person of ordinary prudence and reason would exercise under the same or similar circumstances.

Citation of Authority: Benedict v. Marks Shows, Inc., 178 S.C. 169, 182 S.E. 229 (1935); Hart v. Doe, 261 S.C. 116, 198 S.E.2d 526 (1973).

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

Charles Shabazz,

Plaintiff,

v.

Brian Cox,

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IN THE COURT OF COMMON PLEAS
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**PLAINTIFF'S REQUEST TO
CHARGE # 10**

A proximate cause of an injury is a cause which, in natural and continuous sequence, produces the injuries and damages, and without which the injuries and damages would not have occurred.

Citation of Authority: Childers v. Gas Lines, Inc., 248 S.C. 316, 149 S.E.2d 761 (1966).

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

Charles Shabazz,

Plaintiff,

v.

Brian Cox,

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IN THE COURT OF COMMON PLEAS
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**PLAINTIFF'S REQUEST TO
CHARGE # 11**

An act or omission need not be the sole cause of injury in order to be a proximate cause; a given injury may result from multiple causes, and it is enough if the negligent act complained of is at least one of the causes without which the injury would not have occurred.

Citation of Authority: Shepard v. S. C. Department of Corrections, 299 S. C. 370, 385 S.E.2d 35, (1989).

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

Charles Shabazz,

Plaintiff,

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Brian Cox,

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IN THE COURT OF COMMON PLEAS
FOR THE TENTH JUDICIAL CIRCUIT
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**PLAINTIFF'S REQUEST TO
CHARGE # 12**

In order to establish liability for personal injury as the result of negligence, it is not necessary that the person charged with negligence should have contemplated the particular event which occurred; it is sufficient that they should have foreseen their negligence would probably cause injury to someone, and they may be held liable for anything which appears to have been the natural and probable consequence of their negligence.

Citation of Authority: Greenville Memorial Auditorium v. Martin, 391 S.E.2d 546 (1990).

STATE OF SOUTH CAROLINA

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Charles Shabazz,

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v.

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IN THE COURT OF COMMON PLEAS
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**PLAINTIFF'S REQUEST TO
CHARGE # 13**

Under South Carolina law, the elements of a cause of action in negligence are: (1) duty of due care; (2) breach of that duty; and (3) an injury which is proximately caused by such breach of that duty.

Citation for Authority: Shipes v. Piggly Wiggly St. Andrews, Inc., 269 S.C. 479, 238 S.E.2d 167 (1977); Restatement (Second) of Torts §281; W. Keeton, D. Dobbs, R. Keeton & D. Owen, Prosser and Keeton on the Law of Torts §30; F. P. Hubbard & R.L. Felix, The South Carolina Law of Torts (2d ed. 1997), p. 37.

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**PLAINTIFF'S REQUEST TO
CHARGE # 14**

A person using the public roads of this state owes an urgent duty to keep a proper lookout for other persons or objects upon the highway. The duty is not merely one of looking but one of observation. In the exercise of due care or caution for the safety of himself and others, a person must look in such an intelligent and careful manner as to enable him to see a person or object upon the highway. A person who fails to keep a proper lookout or fails to see what a person of ordinary care and prudence would have seen is guilty of negligence.

Citation of Authority: Yaun v. Baldridge, 243, S.C. 414, 134 S.E.2d 248 (1964); Warren v. Watkins Motor Lines, 242 S.C. 331, 130 S.E.2d 896 (1963).

STATE OF SOUTH CAROLINA

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**PLAINTIFF'S REQUEST TO
CHARGE # 15**

Under South Carolina law, the operator of motor vehicle must have his vehicle under proper control and keep a proper lookout so as to be able to slow down, stop or turn his vehicle in order to avoid colliding with other vehicles upon the highway.

Citation of Authority: Seitz v. Hammond, 265 F. Supp. 162 (D.S.C. 1967).

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Charles Shabazz,

Plaintiff,

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Brian Cox,

Defendant.

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**PLAINTIFF'S REQUEST TO
CHARGE # 16**

Section 56-5-2350 of the South Carolina Code states: "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."

Reasonable caution and prudence dictate that a driver, before entering a main artery of travel from a private drive, should look for vehicles that might reasonably be expected thereon and should wait until he can safely enter into the highway.

Citation of Authority: Ervin's South Carolina Requests to Charge - Civil, §28-47.

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**PLAINTIFF'S REQUEST TO
CHARGE # 17**

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 constitute an immediate hazard.

Citation of Authority: S.C. Code Ann. § 56-5-2320; Ervin's South Carolina Requests to Charge - Civil, §28-48.

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Plaintiff,

v.

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Defendant.

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**PLAINTIFF'S REQUEST TO
CHARGE # 18**

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.

Citation of Authority: Ervin's South Carolina Requests to Charge - Civil, §28-49.

STATE OF SOUTH CAROLINA

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Plaintiff,

v.

Brian Cox,

Defendant.

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**PLAINTIFF'S REQUEST TO
CHARGE # 19**

Punitive damages are awarded not only as punishment for wrong but also as vindication of a private right, and when under proper allegations a plaintiff proves a willful, wanton, reckless, or malicious violation of his rights, it is not only the right but the duty of the jury to award punitive damages.

Citation of Authority: Sample v. Gulf Refining Co., 183 SC 399, 191 SE 209 (1937).

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**PLAINTIFF'S REQUEST TO
CHARGE # 20**

Punitive damages are awarded to vindicate a private wrong, to punish the wrongdoer, and to serve as a warning to other wrongdoers. The amount to be awarded is determined by the character of wrong committed, punishment which should be applied, and ability of wrongdoer to pay.

Citation of Authority: Shuler v. Heitley, 209 S.C. 198, 39 S.E.2d 360 (1946).

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Plaintiff,

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Brian Cox,

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**PLAINTIFF'S REQUEST TO
CHARGE # 21**

Violation of a statute which governs the operation of motor vehicles upon the highways of the State of South Carolina is evidence of recklessness, willfulness, and wantonness so as to support an award of punitive damages.

Citation of Authority: Rowe v. Frick, 250 SC 499, 159 SE2d 47 (1968).

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Plaintiff,

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**PLAINTIFF'S REQUEST TO
CHARGE # 22**

The violation of a statute does not constitute recklessness, willfulness and wantonness per se. Yet, such violation, if shown, is evidence of recklessness, willfulness, and wantonness, and may be considered in connection with all other facts and circumstances surrounding the case in determining whether the defendant has been reckless, willful, and wanton.

The violation of a statute will support a recovery of damages if such a violation proximately caused or proximately contributed to the injuries or damages complained of.

Citation of Authority: Ralph King Anderson, Jr., South Carolina Requests to Charge - Civil, 2009, § 20-6.

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Plaintiff,

v.

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Defendant.

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**PLAINTIFF'S REQUEST TO
CHARGE # 23**

The words recklessness, willfulness and wantonness are synonymous. The terms are used to describe a conscious failure to exercise and observe reasonable or due care.

Recklessness implies the doing of a negligent act knowingly. When a person acts negligently and he realizes that he is acting negligently, the law says he is reckless, willful, and/or wanton, whichever term you prefer, they all mean the same thing, that is, the conscious failure to exercise due care.

Recklessness is distinguished from negligence. Negligence is the failure to use due care. Negligence is carelessness. Negligence is failure by omission or commission to exercise due care as a person of ordinary reason and prudence would exercise in the same circumstances.

Recklessness is a higher degree of culpability and responsibility. Recklessness signifies a conscious failure to exercise due care. Recklessness is a conscious indifference to the rights of the plaintiff, or a reckless disregard of the rights of the plaintiff. Recklessness is an awareness of wrongful conduct and a continuation to act regardless of consequences.

In other words, while a negligent person is one who acts carelessly, a person whose behavior is reckless, willful and/or wanton is not only careless in his actions but is also aware that he is careless. The test for determining whether a tort may be deemed reckless, willful or wanton

is whether it has been committed in such a manner and under such circumstances that a person of ordinary reason or prudence would have been conscious of it as an invasion of the rights of the injured party.

Citation of Authority: Ralph King Anderson, Jr., South Carolina Requests to Charge - Civil, 2009, § 22-1.

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**PLAINTIFF'S REQUEST TO
CHARGE # 24**

Punitive damages are awarded to punish a Defendant or to deter him and other persons from similar consequences. The Plaintiff must prove by clear and convincing evidence that the Defendant was reckless, willful or wanton, and was acting with a conscious failure to exercise reasonable care.

Citation of Authority: S.C. Code of Laws, §15-33-135; Ervin's South Carolina Requests to Charge - Civil, §24-21.

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Plaintiff,

v.

Brian Cox,

Defendant.

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**PLAINTIFF'S REQUEST TO
CHARGE # 25**

The following factors are relevant to an award of punitive damages:

- (1) Defendant's degree of culpability;
- (2) Duration of the conduct;
- (3) Defendant's awareness or concealment;
- (4) Existence of similar past conduct;
- (5) Likelihood the award will deter the Defendant or others from like conduct;
- (6) Whether the award is reasonably related to the harm likely to result from such conduct;
- (7) Defendant's ability to pay; and
- (8) Other factors deemed appropriate.

Citation of Authority: Gamble v. Stevenson, 305 S.C. 104, 406 S.E.2d 350 (1991).

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**PLAINTIFF'S REQUEST TO
CHARGE # 26**

In deciding an amount of money to include in your award of future damages, it will be necessary for you to decide the probable life expectancy of the Plaintiff. To aid you in making this determination you may consider as evidence a mortality table. Life expectancy is merely an estimate of the probable average remaining length of life of all persons in our state of a given age, and that estimate is based on a limited record of experience. So the inference which may be drawn from the table is evidence bearing on the life expectancy of the Plaintiff, including her state of health, habits, and occupation.

You will take into consideration the Plaintiff's age and life expectancy. The evidence in this case has established that the Plaintiff is, at the time of this trial, 26 years old. According to the governing mortality tables, the Plaintiff has a life expectancy of an additional 51.57 years, as indicate in § 19-1-150 of the South Carolina Code.

Citation of Authority: Ervin's South Carolina Requests to Charge - Civil, §41-5.

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**PLAINTIFF'S REQUEST TO
CHARGE # 27**

The fact that a person is more susceptible to injury or death because of a pre-existing condition or weakness does not serve to excuse an otherwise negligent Defendant who has caused the injury or allowed the injury or death to happen when there is a duty to act to prevent it. A negligent Defendant takes his Plaintiff as he finds him, whether the Plaintiff be in perfect health or in poor health, or somewhere in between.

Citation of Authority: Ralph King Anderson, Jr., South Carolina Requests to Charge - Civil, 2002, §13-13.

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Plaintiff,

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**PLAINTIFF'S REQUEST TO
CHARGE # 28**

If you find that the Plaintiff received an injury as a result of the negligence of the Defendant so that he is entitled to recover for said injuries, the fact that he had a pre-existing defect would not defeat his recovery. It is the law of this State that one who negligently inflicts a personal injury on another is responsible for all ill effects which, considering the condition of health in which the Plaintiff was in when he received the injury, naturally and necessarily follow such injury. Hence, a Defendant's liability is in no way lessened or affected by reason of the fact that the injury would not have resulted had the Plaintiff been in good health or that they were aggravated and rendered more difficult to cure by reason of the fact that he was not in good health. In other words, if the presence of disease or existing physical condition aggravates and prolongs the injury and correspondingly increases the damages, such increased or added damages may be recovered.

Citation of Authority: Ralph King Anderson, Jr., South Carolina Requests to Charge - Civil, 2002, §13-13.

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**PLAINTIFF'S REQUEST TO
CHARGE # 29**

Although lay witnesses are limited to testifying about facts within their knowledge and are not allowed to give opinions, certain witnesses, who, by training, education, or experience are considered as experts in a particular field, may give opinions in that field based upon the facts of a matter. Their conclusions and opinions constitute evidence to be considered by you in connection with all of the other testimony and evidence in the case. That is to say, you may consider the expert's opinion just as you do all other evidence in the case and it is for you, the jury, to give it such weight as you, in your experience and discretion, may determine. By this, I mean that you must weight such evidence and accept or reject it in the same manner that you treat all other evidence in the case. In determining the weight to be given the expert's opinion, you should consider the qualifications and credibility of the expert and the reasons given for his opinion.

Citation of Authority: Ralph King Anderson, Jr., South Carolina Requests to Charge - Civil, 2002, § 1-6.

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 LESSENEED 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.

) 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 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.

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.

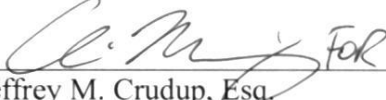
36. Do you have any document concerning the past or present physical, mental, or emotional condition of the plaintiff in this case from a medical provider not previously identified? If so, please identify each medical provider and provide a description of the documents in your possession.

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

This 13th day of August, 2024

Respectively Submitted,

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



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

**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.

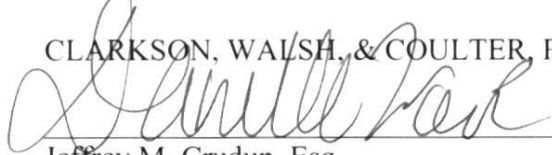
36. Do you have any document concerning the past or present physical, mental, or emotional condition of the plaintiff in this case from a medical provider not previously identified? If so, please identify each medical provider and provide a description of the documents in your possession.

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

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-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) 903-1

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.

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

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Counsel for Defendant

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 3.37 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 Latitude 0 1 11 Longitude 82 56 14.28					
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					

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 2 0 1 5		Body SU		Vehicle Make CADI		VIN # 3GYFNBE31F8555786						Year 2 0 1 0		Body JP		Vehicle Make JEEP		VIN # 1J4PR4GK1AC153385													
State SC		Year 2 0 2 3		License Plate #		Owner's D.L. #						State SC		Year 2 0 2 3		License Plate #		Owner's D.L. #													
Home Telephone (864) 9 0 3 9 2 0 4				Owner's Full Name COX BRIAN BLAIR												Home Telephone (864) 3 2 4 1 7 6 8				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 296782944											
Estimated Speed 35		Speed Limit 45		C.D.L. Req: Yes No		T/B S Req: Yes No		A/C/Drg Info (see back): Yes No		Estimated Speed 5		Speed Limit 45		C.D.L. Req: Yes No		T/B S Req: Yes No		A/C/Drg Info (see back): Yes No													
Statute #		Statute #		Towed By Yes No		Statute #		Towed By Yes No		Statute #		Statute #		Towed By Yes No		Towed By Yes No		CARTEE													

Driver/Pedestrian's Full Name										State Year License Plate # Owner's D.L. #											
Unit #		Sex		Race		Street						Home Telephone ()		Owner's Full Name							
#Occ		Birth Date		City, State, & Zip						Bus. Telephone ()		Street									
State		Driver's License #		Class		Insurance Company:						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		A/C/Drg Info (see back): Yes No	
Dir. of Travel:		Unit 1: N (S) E W		Unit 2: N (S) E W		Unit 3: N (S) E W						Statute #		Statute #		Towed By Yes No		Towed By Yes No			

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		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.									

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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<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>18- Other Non-Collision</td> <td>19- Unk. Non-Collision</td> </tr> <tr> <td>22</td> <td>1</td> <td>1</td> <td>1</td> <td>22</td> <td>22</td> <td>23- Motor Veh. (Stopped)</td> <td>38- Other Movable Object</td> <td>43- Bridge Rail</td> </tr> <tr> <td>2</td> <td>2</td> <td>2</td> <td>2</td> <td>22</td> <td>22</td> <td>24- Motor Veh. (Other Roadway)</td> <td>39- Unk. Movable Object</td> <td>44- Culvert</td> </tr> <tr> <td>3</td> <td>3</td> <td>3</td> <td>3</td> <td>22</td> <td>22</td> <td>25- Motor Veh. (Parkd)</td> <td>39- Unk. Movable Object</td> <td>45- Curb</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td>26- Pedalcycle</td> <td></td> <td>46- Ditch</td> </tr> <tr> <td colspan="9"> <table border="1"> <tr> <td>Manner of Collision (Struck Veh.)</td> <td>30- Rear-to-Rear</td> <td>50- Sideswipe Same Dir.</td> <td>1st / Most Deformed Area</td> <td>1st Deformed</td> <td>1 7 2 1 3</td> <td>Most Deformed</td> <td>1 7 2 1 3</td> </tr> <tr> <td>1- Not Coll. w/ Motor Veh.</td> <td>41- Angle (↘ ↗)</td> <td>60- Sideswipe Opposite Dir.</td> <td colspan="5"> </td> </tr> <tr> <td>2- 1st Harmful Collision</td> <td>10- Rear End</td> <td>42- Angle (→ ←)</td> <td colspan="5"></td> </tr> <tr> <td>3- 2nd Harmful Collision</td> <td>20- Head On</td> <td>43- Angle (↗ ↘)</td> <td colspan="5"></td> </tr> <tr> <td>Vehicle Type</td> <td>15- Full Size Van</td> <td>27- Pedalcycle</td> <td>61- School Bus</td> <td colspan="5"></td> </tr> <tr> <td>01- Automobile</td> <td>16- Mini Van</td> <td>38- Animal Drawn Veh</td> <td>62- Passenger Bus</td> <td colspan="5"></td> </tr> <tr> <td>02- Pickup Truck</td> <td>17- Sport Utility</td> <td>39- Animal (Hidden)</td> <td>98- Other</td> <td colspan="5"></td> </tr> <tr> <td>03- Truck Tractor</td> <td>25- Motorcycle</td> <td>41- Pedestrian</td> <td>99- Unk. (Hit and Run Only)</td> <td colspan="5"></td> </tr> <tr> <td>04- Other Truck</td> <td>26- Other Motorbike</td> <td>51- Train</td> <td></td> <td colspan="5"></td> </tr> <tr> <td>Vehicle Use Code</td> <td>04- Ambulance</td> <td>08- Farm Use</td> <td>12- Fire Fighting</td> <td colspan="5"></td> </tr> <tr> <td>01- Personal</td> <td>05- Military</td> <td>09- Wrecker or Tow</td> <td>13- Logging</td> <td colspan="5"></td> </tr> <tr> <td>02- Driver Training</td> <td>06- Transport Passengers</td> <td>10- Police</td> <td>18- Other</td> <td colspan="5"></td> </tr> <tr> <td>03- Construction/Maint.</td> <td>07- Transport Property</td> <td>11- Government</td> <td>41- Pedestrian</td> <td colspan="5"></td> </tr> <tr> <td>Vehicle Attachment</td> <td>4- Utility Trailer</td> <td>8- Towed Motor Vehicle</td> <td>C- Other Tanker</td> <td colspan="5"></td> </tr> <tr> <td>1- None</td> <td>5- Farm Trailer</td> <td>9- Petroleum Tanker</td> <td>D- Flat Bed</td> <td colspan="5"></td> </tr> <tr> <td>2- Mobile 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Primary	Contributing Factors	12- Aggressive Operation of Vehicle	Roadway	Non-Motorist	Environmental																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																															
05	Driver	13- Over-correcting/Over-steering	30- Debris	48- Other	60- Inattentive	80- Animal in Road	62- Obstruction	68- Other																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																												
	01- Disregarded Signs, Signal, Etc.	14- Swerving to Avoid Object	31- Non-highway Work	49- Unknown	51- Lying &/or Illegally in Roadway	61- Glare	63- Weather Condition	69- Unknown																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																												
	02- Distracted/Inattention	15- Wrong Side or Wrong Way	32- Obstruction in Roadway		52- Failure to Yield Right of Way																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																															
	03- Driving Too Fast for Conditions	16- Under the Influence	33- Road Surface Condition (i.e. Wet)		53- Not Visible (Dark Clothing)																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																															
	04- Exceeded Authorized Speed Limit	17- Vision Obscured (Within Unit)	34- Ruts, Holes, Bumps		54- Disregard Signs, Signals, Etc.																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																															
	05- Failed to Yield Right of Way	18- Improper lane Usage/Change	35- Shoulders (None, Low, Soft, High)		55- Improper Crossing																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																															
	06- Ran off Road	09- Made an Improper Turn	36- Traffic Control Device (i.e. Missing)		56- Dangling	57- Wrong Side of Road																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																														
	07- Fatigued/Asleep	10- Medical Related	37- Work Zone (Constr./Maint./Utility)		66- Under the Infl.	58- Other																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																														
	08- Followed Too Closely	28- Other Improper Action	38- Worn, Travel-Polished Surface		67- Other Person Under Infl.	59- Unk.																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																														
		29- Unk.																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																		