

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE FOURTH JUDICIAL CIRCUIT
COUNTY OF MARLBORO	)	
	)	
Brenda Tyndall,	)	CASE NO.: 2021-CP-34-00321
Plaintiff,	)	
	)	
vs.	)	<u>ORDER DENYING DEFENDANT NISSAN'S</u>
	)	<u>POST-TRIAL MOTIONS AND GRANTING</u>
Nissan Motor Co., LTD and Nissan North	)	<u>SETOFF AND STAY OF EXECUTION</u>
America, Inc.,	)	
	)	
Defendants.	)	
	)	
	)	

RECEIVED**Sep 01 2026****SC Court of Appeals**

This matter is before the Court on the post-trial motions of Defendant Nissan Motor Co., Ltd. ("Nissan"), filed July 16, 2026. Nissan moved for judgment notwithstanding the verdict ("JNOV") under Rule 50(b), SCRCPP; for a new trial absolute based on alleged errors of law, a new trial absolute under the thirteenth juror doctrine, and a new trial *nisi remittitur* under Rules 50 and 59, SCRCPP; and for a setoff and a stay of execution of the judgment. Plaintiff Brenda Tyndall consented to the motion for setoff but opposed the remaining motions. By Form 4 Order entered July 30, 2026, the Court granted the stay of execution conditioned on a \$25,000,000.00 supersedeas bond, denied the remaining post-trial motions, and directed counsel to prepare this order.

Trial commenced on June 22, 2026. Over a week, the jury heard from numerous fact witnesses and expert witnesses from both the Plaintiff and Nissan, viewed a surveillance video of the incident, and received extensive documentary evidence, including Nissan's own documents. After hearing and considering this evidence, on June 26, 2026, the jury returned a unanimous verdict for Plaintiff on all claims, found Nissan failed to prove Plaintiff was comparatively

negligent, and awarded \$30,000,000.00 in compensatory damages. In the bifurcated second phase, the jury declined to award punitive damages.

The Court's role at this stage is not to retry the case, reweigh the evidence, or assess credibility; those were the jury's province. Having presided over the trial and reviewed the extensive briefing and record, the Court rules as follows.

JNOV

In ruling on a JNOV motion, the Court must view the evidence and all reasonable inferences in the light most favorable to the nonmoving party, may not weigh the evidence or resolve conflicts in the testimony, and must deny the motion if the evidence yields more than one reasonable inference. *RFT Mgmt. Co., LLC v. Tinsley & Adams L.L.P.*, 399 S.C. 322, 331–32, 732 S.E.2d 166, 171 (2012); *Curcio v. Caterpillar, Inc.*, 355 S.C. 316, 320, 585 S.E.2d 272, 274 (2003). *See, also, Cruce v. Berkeley County School Dist.*, 442 S.C. 1, 896 S.E.2d 765 (2024) (the court must consider the evidence in the light most favorable to the nonmoving party and construe all reasonable inferences and ambiguities in her favor). As with Nissan's directed verdict motions, the record contains ample evidence—including the testimony of Plaintiff's experts on the transmission and creep-force, the inadequate warning system, and the lack of an automatically applied electronic parking brake that was technologically feasible and that would have prevented the incident regardless of gear position. From the evidence presented, a reasonable jury could find each element of Plaintiff's claims. Nissan's "park versus drive" framing and its comparative negligence argument were factual contentions presented to and rejected by the jury, whose province it was to decide them. *See Creech v. S.C. Wildlife & Marine Res. Dep't*, 328 S.C. 24, 33, 491 S.E.2d 571, 575 (1997). The motion is DENIED.

New Trial Absolute—Errors of Law

Considering the charge as a whole in light of the evidence and issues presented, *Glenn v. 3M Co.*, 440 S.C. 34, 70, 890 S.E. 2d 569, 588 (Ct. App. 2023), the Court finds it correctly instructed the jury on negligence, including Plaintiff's additional burden of proving Nissan failed to exercise due care, and that the duty-to-warn charge was raised by the pleadings and supported by the evidence. The Court's evidentiary and trial-management rulings—including the exclusion of Jeremy Chavis after a hearing addressing the factors required by *Jumper v. Hawkins*, 348 S.C. 142, 152, 558 S.E.2d 911, 916 (Ct. App. 2001), the admission of qualified and reliable expert testimony under Rule 702, SCRE, and the handling of objections at trial and in closing argument—were sound exercises of discretion and/or were harmless. Nissan's criticisms of the Plaintiff's experts went to the weight of the evidence.

Nor did the Court err in submitting a general verdict form; the requested special interrogatory was not necessary to a verdict, was discretionary, and caused Nissan no prejudice. Rule 49, SCRCF; *Frazier v. Badger*, 361 S.C. 94, 105, 603 S.E.2d 587, 592 (2004). Nissan had a full and fair opportunity to present its defense, and the Court finds no error, individually or cumulatively, that deprived it of a fair trial. The motion is DENIED.

Thirteenth Juror

The Court presided over this trial and heard the same evidence as the jury. Sitting, in essence, as the thirteenth juror, the Court does not find that the evidence fails to justify the verdict, *Norton v. Norfolk S. Ry. Co.*, 350 S.C. 473, 478, 567 S.E.2d 851, 854 (2002), and declines to set it aside. The motion is DENIED.

New Trial Absolute and Nisi Remittitur—Damages

The Court must give substantial deference to the jury’s determination of damages and articulate compelling reasons before invading its province. *Jolly v. Fisher Controls Int’l, LLC*, 443 S.C. 511, 523–25, 905 S.E.2d 380, 387–88 (2024); S.C. Const. art. I, § 14. The verdict is supported by a rational view of the largely unrebutted evidence of Plaintiff’s catastrophic, permanent, and life-altering injuries, her past and future pain and treatment, and her losses of vocation, independence, and enjoyment of life. *See Mickle v. Blackmon*, 252 S.C. 202, 248, 166 S.E.2d 173, 194 (1969) (affirming verdict for damages and observing, “[t]he assessment of actual damages in a case of grievous and permanent personal injury is a task beset with great difficulty, which the law has entrusted to the judgment and discretion of a jury of twelve [persons], subject to the supervisory power of the trial judge over verdicts”); *Boan. v. Blackwell*, 343 S.C. 498, 501, 541 S.E.2d 242, 244 (2001) (“[L]oss [of enjoyment of life] is a compensable element, separate and apart from pain and suffering, of a damages award.”). The jury’s determination of damages is entitled to “substantial deference.” *Burke v. AnMed Health*, 393 S.C. 48, 56, 710 S.E.2d 84, 89 (Ct. App. 2011) (citing *Todd v. Joyner*, 385 S.C. 509, 517, 685 S.E.2d 613, 618 (Ct. App. 2008, *aff’d* 385 S.C. 421, 685 S.E.2d 595 (2009))). The jury’s considered refusal to award punitive damages reflects discernment, not passion, caprice, or prejudice. The verdict is neither grossly excessive nor unduly liberal, and no compelling reason exists to disturb it. *Jolly v. Fisher Controls International, LLC, Id.* at 524, 905 S.E.2d at 387 (pursuant to article I, § 14 of the South Carolina Constitution, a trial court is required to give compelling reasons to justify invading the province of the jury in ruling on a new trial *nisi*). The motions are DENIED.

Setoff and Stay of Execution

Nissan's consented motion for a setoff, pursuant to S.C. Code Ann. § 15-38-50 (2005), of the \$500,000.00 Plaintiff recovered in settlement from another defendant is GRANTED; the net judgment shall reflect the setoff.

Nissan moved under Rule 62(d), SCRPC, for a stay of execution, with Plaintiff requesting security under S.C. Code Ann. § 18-9-130(A) (2014). Pursuant to that code section, the Court GRANTS the motion on the condition that Nissan post a bond or other surety of \$25,000,000.00. Statutory post-judgment interest shall run as provided by S.C. Code Ann. § 34-31-20(B) (2020) and Rule 67, SCRPC, and shall continue to run on any amount not deposited with the Court.

Conclusion

Finally, "[l]itigants, whether plaintiffs or defendants, are entitled to fair trials but not perfect trials." *Ketterman v. S.C. Farm Bureau Mut. Ins. Co.*, 302 S.C. 276, 279, 395 S.E.2d 187, 189 (Ct. App. 1990); *see also Smoak v. Seaboard Coast Line R.R. Co.*, 259 S.C. 632, 640, 193 S.E.2d 594, 598 (1972) ("The defendant is not entitled to a perfect trial, but only a fair trial. Hardly any case is completed without some flaw."). Nissan received a fair trial. Accordingly, Nissan's motions for JNOV, new trial absolute, and new trial *nisi remittitur* are DENIED; its setoff of \$500,000.00 is GRANTED; and its stay of execution is GRANTED on the conditions above.

AND IT IS SO ORDERED.

Brian M. Gibbons
Circuit Court Judge

August __, 2026.



Marlboro Common Pleas

Case Caption: Brenda Tyndall VS Samuel Lee Pruitt Jr. , defendant, et al
Case Number: 2021CP3400321
Type: Order/Other

So Ordered

Brian M Gibbons
