

**THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT**

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APPEAL FROM GEORGETOWN COUNTY
COURT OF COMMON PLEAS
THE HONORABLE WILLIAM H. SEALS, JR.
CIRCUIT COURT JUDGE

S.C. SUPREME COURT

APPELLATE CASE NO. 2023-001308

Unpublished Opinion No. 2026-UP-333
Filed July 1, 2026

Jane E. Vohringer,

PETITIONER,

v.

Robert C. Watford and Watford's Wrecker Service, Inc.,

RESPONDENTS.

PETITION FOR WRIT OF CERTIORARI

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CERTIFICATION OF COUNSEL

The Court of Appeals filed Unpublished Opinion No. 2026-UP-333 on July 1, 2026. Appx. 511–518. Petitioner filed her Petition for Rehearing on July 16, 2026. Appx. 519–533. The Court of Appeals denied rehearing by order filed August 26, 2026. Appx. 534.

This Petition for Writ of Certiorari seeks review of questions presented to the Court of Appeals and raised again in the Petition for Rehearing. See Rule 242(c), (d)(1), SCACR.

QUESTIONS PRESENTED FOR REVIEW

- I. Did the Court of Appeals err under Rule 702, SCRE, and this Court’s decisions in *State v. Council*, *State v. White*, *Watson v. Ford Motor Co.*, and *Graves v. CAS Medical Systems, Inc.*, by holding that a defense expert’s case-specific 12-mph delta-v opinion was reliable where the opinion was derived from photographs, an estimated six-inch engagement, and a nonidentical IIHS wall test, without objective validation of the analytical steps connecting those inputs to the opinion?
- II. Did the Court of Appeals err in treating Petitioner’s challenge to Dr. Campbell’s testimony as unpreserved without addressing that Campbell expressly based his biomechanical opinions on Paradiso’s delta-v and direction-of-force opinions, such that the preserved challenge to Paradiso’s foundational testimony necessarily implicated the admissibility and effect of Campbell’s dependent testimony?

STATEMENT OF THE CASE

This case arises from a March 30, 2019 motor-vehicle collision on U.S. Highway 17 in Pawleys Island, South Carolina. Appx. 002–003. Petitioner alleged that Respondent Robert C. Watford pulled his Peterbilt truck into the roadway and collided with Petitioner’s 2017 Nissan. *Id.*

Liability was not disputed at trial, and the circuit court directed a verdict for Petitioner on liability. The jury awarded Petitioner \$30,000 in actual damages. *See* Appx. 511–518; Appx. 462.

Before trial, Petitioner moved in limine to exclude the testimony of Respondents’ experts Marc Paradiso and Dr. Ian Campbell. Appx. 016–023. The motion challenged the reliability of both experts’ opinions under Rule 702, SCRE, and argued that Campbell’s biomechanical opinions depended on Paradiso’s collision-severity analysis. Appx. 018–023.

Petitioner's motion explained that Paradiso relied on photographs of the subject vehicles, a comparison to an IIHS small-overlap crash test involving a different-year Nissan Versa, and an estimated engagement measurement. Appx. 020–023. The motion further explained that Paradiso could not identify the point between six and seventeen inches of engagement at which the relevant components would fail. Appx. 022–023.

During the pretrial argument, Petitioner explained that Paradiso compared photographs of Petitioner's Nissan to a different IIHS test, used seventeen inches of engagement in the test as a comparator to an estimated six inches in the subject collision, and then used that comparison to derive the collision's energy and delta-v. Appx. 043–047. Petitioner also explained that Campbell's opinion depended on Paradiso's delta-v opinion. Appx. 046–047.

The circuit court conducted a proffer of Paradiso's testimony. Paradiso testified that he compared the subject collision to an IIHS crash test involving a 2014 Nissan Versa striking a wall. Appx. 112–115. He acknowledged that the IIHS vehicle was different from Petitioner's 2017 Nissan and that the IIHS vehicle struck a wall rather than a Peterbilt truck. Appx. 114–115.

Paradiso testified that the IIHS test involved seventeen inches of engagement, while he estimated that no more than six inches of Petitioner's vehicle engaged the Peterbilt. Appx. 146–147, 150. He testified that he used the IIHS test to estimate the energy absorbed in the subject collision and to calculate Petitioner's delta-v. Appx. 148–150.

Paradiso acknowledged that he could not identify where between six and seventeen inches the relevant vehicle structures would fail. Appx. 173–177. He testified that he could not identify at what engagement level the frame rail or bumper would be damaged. Appx. 174–177. He also acknowledged that crash-testing the exemplar vehicle would have provided additional information, but no such test was performed. Appx. 181–182.

Paradiso ultimately testified that Petitioner's vehicle experienced a change in velocity of no more than twelve miles per hour. Appx. 158–161. The circuit court admitted his testimony, finding that the subject matter was beyond the jury's ordinary knowledge, that Paradiso was qualified, and that his testimony was reliable. Appx. 125.

Dr. Campbell then testified that Paradiso had determined that the vehicle's delta-v was no greater than twelve miles per hour and that the principal direction of force was between twelve and one o'clock. Appx. 193–196. Campbell used those opinions to analyze occupant movement and the claimed head, neck, shoulder, and knee injuries. Appx. 193–202, 214–229.

During cross-examination, Campbell agreed that his opinion was "wholly dependent" on Paradiso's delta-v number and direction-of-force opinion being accurate. Appx. 230. Campbell further testified that Petitioner's delta-v was "some number up to 12 miles an hour" based on Paradiso's analysis. Appx. 235–237.

The Court of Appeals affirmed in Unpublished Opinion No. 2026-UP-333. Appx. 511–518. The court held that Paradiso's methodology satisfied Rule 702 and the *Council* factors because Paradiso relied on publications and peer review, testified that the method was customary, invoked physics and engineering principles, and described his quality-control procedure as "putting a bound" on the calculation. Appx. 513–515.

The Court of Appeals separately held that Petitioner's challenge to Campbell's testimony was unpreserved because Petitioner did not contemporaneously object when Campbell was offered as an expert or when he testified. Appx. 515–516.

Petitioner filed a Petition for Rehearing, arguing that the Court had overlooked the distinction between a reliable field and a reliably derived case-specific opinion and had overlooked

the derivative nature of Campbell’s testimony. Appx. 519–533. The Court of Appeals denied rehearing on August 26, 2026. Appx. 534.

This Petition follows.

ARGUMENT

I. The Court of Appeals’ application of Rule 702 conflicts with controlling South Carolina precedent because it treated general acceptance of accident-reconstruction principles as sufficient proof that Paradiso reliably derived his case-specific 12-mph delta-v opinion.

Rule 702, SCRE, requires more than proof that a witness is qualified or that the witness works in a recognized field. The rule requires that the testimony assist the trier of fact, that the witness be qualified in the relevant subject matter, and that the substance of the testimony be reliable.

This Court has repeatedly held that reliability is a threshold admissibility requirement. In *State v. Council*, this Court explained that the reliability inquiry includes consideration of: (1) the publications and peer review of the technique; (2) prior application of the method to the type of evidence involved; (3) the quality-control procedures used to ensure reliability; and (4) the consistency of the method with recognized scientific laws and procedures. 335 S.C. 1, 19–20, 515 S.E.2d 508, 517–18 (1999).

In *State v. White*, this Court held that the trial court’s gatekeeping obligation applies to all expert testimony and that the familiar principle that a challenge goes to “weight, not admissibility” may be invoked only after the trial court has addressed the threshold requirements of qualification and reliability. 382 S.C. 265, 270, 274, 676 S.E.2d 684, 686, 689 (2009).

In *Watson v. Ford Motor Co.*, this Court held that the trial court must evaluate the reliability of the substance of the expert’s opinion, not merely the expert’s general qualifications. 389 S.C. 434, 445–46, 455–56, 699 S.E.2d 169, 174–75, 180 (2010). The Court reversed because the trial

court had relied on the expert's general engineering qualifications without adequately determining whether the specific opinions offered were reliable. *Id.* at 455–56, 699 S.E.2d at 180. Similarly, in *Graves v. CAS Medical Systems, Inc.*, this Court emphasized that expert reasoning must have an objective and reliable basis for the essential inferential steps connecting the evidence to the conclusion. 401 S.C. 63, 77–82, 735 S.E.2d 650, 657–60 (2012).

The Court of Appeals' decision conflicts with those principles. The court treated Paradiso's engineering credentials, his reliance on general publications, his invocation of physics, and his testimony that the method was customary as sufficient to establish reliability. Appx. 513–515.

But those propositions establish only that accident reconstruction is a legitimate discipline. They do not establish that Paradiso reliably transformed the evidence in this case into a twelve-mph delta-v opinion.

Paradiso did not use a crash test involving the subject vehicle striking a Peterbilt. He compared photographs from this collision to an IIHS test involving a different-year Nissan Versa striking a wall. Appx. 114–115. The IIHS test involved seventeen inches of engagement, while Paradiso estimated no more than six inches of engagement in the subject collision. Appx. 146–147, 150.

The critical question was not merely whether a 2014 Nissan Versa and a 2017 Nissan Versa shared structural characteristics. The critical question was whether the IIHS test reliably supplied a basis for calculating the energy absorbed in this materially different collision, involving a different striking object, a different engagement pattern, and different physical conditions.

The record does not establish that analytical bridge.

Paradiso testified that he could not identify the point between six and seventeen inches at which the relevant components would fail or become damaged. Appx. 174–177. He testified that

he could not identify at what engagement level the frame rail or bumper would be damaged. Appx. 174–177. He nevertheless used the absence of damage in photographs to determine that the engagement could not have exceeded six inches. Appx. 175–180.

Paradiso described the six-inch figure as an estimate based on photographs, his knowledge of accident reconstruction, physics, engineering, and the IIHS test. Appx. 120–121. He did not identify a crash test, peer-reviewed study, error rate, or quality-control procedure validating the particular comparison used here.

The Court of Appeals’ reasoning therefore treated general acceptance of the field as a substitute for proof that this particular opinion was reliably derived. Appx. 513–515. That is inconsistent with *Council*, *White*, *Watson*, and *Graves*.

The requested rule is narrow. Petitioner does not contend that accident reconstruction, delta-v analysis, IIHS testing, or engineering judgment is categorically inadmissible. Nor does Petitioner contend that an expert must conduct an identical crash test in every case.

The rule is that when an expert offers a precise numerical opinion based on a nonidentical test and estimated physical inputs, Rule 702 requires a demonstrated and objectively supported analytical bridge between those inputs and the number offered.

That bridge was not established here. This Court should grant certiorari to clarify that Rule 702 requires the proponent to establish the reliability of the opinion actually offered and the inferential steps used to reach it.

II. The Court of Appeals overlooked that Petitioner’s challenge concerned the reliability of the analytical bridge between the evidence and the opinion, not merely the weight of Paradiso’s conclusion.

The Court of Appeals treated Petitioner’s objections as matters for the jury because Paradiso explained his methodology and testified that the result represented an upper bound. Appx.

513–515. That analysis overlooks the distinction between an attack on the correctness of an admissible opinion and an attack on the reliability of the method used to generate the opinion.

Petitioner did not argue merely that Paradiso’s twelve-mph conclusion was inaccurate. Petitioner argued that Respondents failed to establish how Paradiso reliably moved from photographs of Petitioner’s vehicle, photographs of the Peterbilt, a 2014 Nissan Versa IIHS wall test, a seventeen-inch test engagement, and an estimated six-inch subject engagement to the specific twelve-mph opinion offered to the jury. Appx. 043–047, 115–124, 145–161.

That is a threshold foundation challenge.

The record shows that Paradiso did not calculate the actual speeds of either vehicle. Appx. 116–118, 167–168. He testified that he did not know the final velocity of Petitioner’s vehicle. Appx. 116–118. He relied instead on energy derived from the IIHS test and compared that energy to photographs of the subject vehicle. Appx. 119–124, 148–158.

The Court of Appeals did not identify evidence showing that this particular comparison had been previously applied to this type of collision. It did not identify evidence establishing a known or knowable error rate. It did not identify a quality-control procedure that validated the six-inch estimate. And it did not identify objective support for the transition from the six-inch estimate to the twelve-mph conclusion.

Instead, the court relied on Paradiso’s statement that he had placed a “bound” on his calculation. Appx. 514. But labeling an estimate an “upper bound” does not itself establish that the estimate is reliable. A bound must be supported by a method for determining why the selected limit is valid.

Here, Paradiso could not identify the point between six and seventeen inches at which the relevant components would fail. Appx. 174–177. His use of six inches was therefore not shown to

be the product of a validated threshold. It was an inference from the absence of visible damage, informed by his judgment, but not objectively tied to a demonstrated failure point.

Petitioner does not contend that actual vehicle speeds must be known in every accident-reconstruction case. Nor does Petitioner contend that an expert must conduct an identical crash test in every case. The requested rule is narrower:

When an expert offers a precise numerical opinion based on a nonidentical test and estimated physical inputs, Rule 702 requires a demonstrated and objectively supported analytical bridge between those inputs and the number offered.

The record did not establish that bridge here. This Court should grant certiorari and clarify that the gatekeeping inquiry must focus on the reliability of the opinion actually offered and the method used to derive it.

III. The Court of Appeals should review the effect of Paradiso's foundational opinion on Dr. Campbell's expressly dependent biomechanical testimony.

The Court of Appeals held that Petitioner's challenge to Campbell's testimony was unpreserved because Petitioner did not renew her objection when Campbell testified. Appx. 515–516. Petitioner recognizes the ordinary rule that an in-limine ruling generally must be renewed by a contemporaneous objection when the evidence is introduced. *See State v. Wood*, 362 S.C. 520, 526–27, 608 S.E.2d 435, 438–39 (Ct. App. 2004); *State v. Forrester*, 343 S.C. 637, 642–44, 541 S.E.2d 837, 840–41 (2001); *Parr v. Gaines*, 309 S.C. 477, 479–80, 424 S.E.2d 515, 516–17 (Ct. App. 1992).

Petitioner does not ask this Court to eliminate the contemporaneous-objection requirement. The issue is narrower: whether the Court of Appeals could treat Campbell's testimony as analytically separate from Paradiso's testimony when Campbell expressly relied on Paradiso's delta-v and direction-of-force opinions as necessary premises for his own conclusions.

Petitioner challenged both experts in the motion in limine. Appx. 016–023. The motion expressly explained that Campbell’s opinions depended upon Paradiso’s crash-severity analysis. Appx. 020–023. During the pretrial argument, Petitioner explained that Campbell’s biomechanical analysis “totally depends” on Paradiso’s delta-v number. Appx. 046–047.

Campbell did not independently reconstruct the collision. He accepted Paradiso’s conclusions concerning the change in velocity and direction of force and used those conclusions to analyze occupant movement and injury risk. Appx. 193–202. During cross-examination, Campbell agreed that his opinion was “wholly dependent” on Paradiso’s delta-v number and direction of force being accurate. Appx. 230.

That dependency matters substantively. If Paradiso’s opinion was admitted without a reliable Rule 702 foundation, Campbell’s opinion cannot be treated as independent merely because it was offered by a different witness.

The Court of Appeals’ preservation analysis did not address this foundational relationship. Appx. 515–516. It treated Campbell’s testimony solely as a separate preservation problem, even though Campbell’s opinions were expressly based on Paradiso’s severity and force-direction conclusions.

At minimum, if this Court holds that Paradiso’s opinion lacked a sufficient Rule 702 foundation, the Court should determine whether Campbell’s dependent testimony may remain in the case or remand for that issue to be addressed under the correct legal standard.

IV. The erroneous admission of the expert testimony was prejudicial because the experts supplied the defense’s principal evidence on causation and damages.

The admission of unreliable expert testimony was prejudicial.

Liability was directed in Petitioner's favor. Appx. 511–518. Thus, the jury's task was to determine the nature and extent of Petitioner's injuries, whether the collision caused those injuries, and the amount of damages.

Respondents' experts supplied the principal defense evidence on those issues.

Paradiso told the jury that Petitioner's vehicle experienced a change in velocity of no more than twelve miles per hour. Appx. 158–161. Campbell relied on that conclusion to testify that the collision did not create a significant risk of concussion or traumatic brain injury and did not produce the biomechanical mechanisms necessary to cause the spinal, shoulder, and knee conditions identified in Petitioner's medical records. Appx. 193–202, 214–229.

The testimony was not cumulative. It supplied the defense's central explanation for why the jury should award substantially less than the damages supported by Petitioner's evidence. The Court of Appeals itself relied on Campbell's collision-severity testimony in affirming the verdict. Appx. 518.

The jury returned an award of \$30,000 in actual damages. Appx. 511–518. The challenged expert testimony directly addressed causation, collision severity, and the extent of damages. Campbell's testimony was therefore material to the only disputed issues submitted to the jury.

Cross-examination does not substitute for the trial court's threshold determination that expert testimony rests on a reliable foundation. If the Court concludes that Paradiso's opinion was admitted without adequate Rule 702 vetting, the resulting admission of Campbell's dependent opinions materially affected the trial.

Petitioner is therefore entitled to review and, if the Court finds error and prejudice, a new trial on the issues affected by the improperly admitted testimony.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court grant the Petition for Writ of Certiorari and review the Court of Appeals' decision concerning:

1. the reliability of Paradiso's case-specific 12-mph delta-v opinion under Rule 702, SCRE; and
2. the effect of Paradiso's foundational opinion on Dr. Campbell's expressly dependent biomechanical testimony.

Petitioner further requests that this Court reverse or vacate the Court of Appeals' decision to the extent warranted, hold that the challenged expert testimony was not shown to satisfy Rule 702, and remand for a new trial on the issues affected by the erroneous admission of the testimony.

Respectfully submitted,

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