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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Vernon F. Dunbar, Circuit Court Judge

Appellate Case No. 2026-001065

Roger Wayne Lynch, Appellant,

v.

Angela West Einstein, Respondent.

RECORD ON APPEAL (VOLUME 3)

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IN THE COURT OF COMMON PLEAS
FOR THE STATE OF SOUTH CAROLINA
GREENVILLE COUNTY

DEPOSITION OF ANGELA WEST EINSTEIN

ROGER WAYNE LYNCH,

Plaintiff,

vs. CASE NO. 2022-CP-23-03510

ANGELA WEST EINSTEIN,

Defendant.

DEPONENT: ANGELA WEST EINSTEIN

DATE: DECEMBER 8, 2022

TIME: 1:00 PM

LOCATION: CLARK BOLEN
GREENVILLE, SOUTH CAROLINA

REPORTED BY: VALERIE G. MELKUS, RPR
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ANGELA WEST EINSTEIN

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16

17 (Exhibit No. 5 was retained by

18 counsel.)

19 (Exhibit No. 6 was not identified

20 or marked.)

21

22

23 CERTIFICATE OF REPORTER 120

1 ANGELA WEST EINSTEIN,
2 having been first duly sworn, was examined and
3 testified as follows:

4 EXAMINATION

5 BY MR. MCCOOL:

6 Q. Ms. Einstein, my name is Chris McCool,
7 and I'm a lawyer at the O'Shea Law Firm in
8 Charleston, South Carolina. I have a little bit
9 of -- it's not a cold, but I had some water
10 intake doing this sport I do, and it's kind of
11 affected my voice a little bit and that sort of
12 thing. But rest assured, it's just water, and
13 I'm not sick or anything like that. Okay?

14 But I represent Roger Wayne Lynch as a
15 result of injuries he sustained on December 16th,
16 2021. And before I get into what you may or may
17 not know about that incident, there's a few
18 things I want to go over with you. The first
19 thing I'd like for you to do is just state your
20 name for the record, please.

21 A. Angela West Einstein.

22 Q. And, Ms. Einstein, again, I'm Chris
23 McCool, and I just want to make sure that you
24 understand you're under oath to tell the truth.

25 A. Yes.

1 Q. Okay. And Valerie is our court
2 reporter, and she's taking down everything that
3 is said during this deposition. So it's very
4 important for you to answer out loud and avoid
5 answering by shaking or nodding your head. Do
6 you understand that?

7 A. I do.

8 Q. And continue to answer out loud clearly
9 because it does help out Valerie to take down
10 everything that is said during this deposition.
11 Okay?

12 A. Yes.

13 Q. If at any point in time you need to take
14 a break to stretch your legs, get a drink of
15 water, that sort of thing, let me know, and we'll
16 take that break. Okay?

17 A. Okay.

18 Q. Now that the deposition has started,
19 there are certain rules that govern the
20 deposition. And the main one is you cannot talk
21 to anybody about the deposition or about the
22 lawsuit or anything related to the deposition or
23 the lawsuit now that the deposition has started.
24 Do you understand that?

25 A. I do.

1 Q. And when I say you can't speak with
2 anybody, that includes your attorney, that
3 includes your husband, and that includes friends,
4 family, you name it, nobody you can talk to
5 during this deposition. Do you understand that?

6 A. I do.

7 Q. And when I say talk to, that includes
8 text messages, e-mails, phone calls, face-to-face
9 conversations. Do you understand that?

10 A. I do.

11 Q. If you need to have me repeat or
12 rephrase a question, just ask me to do that, and
13 I will repeat it or rephrase it for you. Okay?

14 A. Okay.

15 Q. Are you on any medication at this time
16 that would prevent you from understanding my
17 questions and truthfully and honestly answering
18 my questions?

19 A. I am not.

20 Q. When I ask you a question during this
21 deposition and you answer that question, it will
22 be presumed and assumed that you understood the
23 question and that you truthfully and honestly
24 answered the question. Is that fair?

25 A. Yes.

1 Q. Are you on any type of medication at
2 this time?

3 A. Prescribed medications, yes.

4 Q. What prescription meds are you on?

5 A. I'm on Cymbalta, pravastatin, Synthroid,
6 doxycycline and a blood pressure medication that
7 I can't remember.

8 Q. And the Cymbalta, what condition is that
9 for?

10 A. It's for anxiety and depression.

11 Q. And how long have you been on anxiety
12 medicine?

13 A. Probably 20 years.

14 Q. Do you have a doctor you see who
15 prescribes that Cymbalta?

16 A. I do.

17 Q. And who is that?

18 A. Ron Phillips.

19 Q. And what's the name of Dr. Phillips'
20 practice?

21 A. I believe it's just Ron Phillips, MD.
22 Otherwise, I don't know.

23 Q. And where is his office located?

24 A. Off of Pelham Road in Greenville.

25 Q. And you mentioned -- I'm going to

1 butcher the name, and I scribbled it down very
2 quickly. Pravastatin?

3 A. Uh-huh.

4 Q. And what do you take that for?

5 A. That's a cholesterol medication.

6 Q. And who is your doctor for that?

7 A. Same doctor.

8 Q. And the Synthroid, what do you take the
9 Synthroid for?

10 A. Thyroid, hypothyroidism.

11 Q. And how long have you had that
12 condition?

13 A. I would estimate 10 years.

14 Q. And who treats you for that or who do
15 you see on a regular basis for that?

16 A. Same doctor.

17 Q. And the doxycycline?

18 A. It's for a skin condition.

19 Q. Who prescribes that medicine for you?

20 A. Dermatologist.

21 Q. And what's the dermatologist's name?

22 A. Rob Rogers.

23 Q. And with respect to Rob Rogers, that's
24 an MD, medical doctor?

25 A. Yes.

1 Q. And where does Dr. Rogers practice?

2 A. On Mills Avenue in Greenville.

3 Q. Have you ever had your license suspended
4 or revoked for any reason?

5 A. Never.

6 Q. Has any doctor ever told you not to
7 drive or placed any driving restrictions on you?

8 A. Never.

9 Q. Do you have any driving restrictions?

10 A. No.

11 Q. And how long have you been a licensed
12 driver?

13 A. Since I was 15. So I don't have that --
14 I could do that math, I suppose. 42 years.

15 Q. And what is your date of birth?

16 A. December 20th, 1965.

17 Q. And where were you born?

18 A. Savannah, Georgia.

19 Q. And what's your social security number?

20 And what Valerie is going to do is only put the
21 last four in the transcript, and the transcript
22 is the written form of the questions and answers
23 today. All right? So she will just put in there
24 as like, dot, dot, dot, dot and then the last
25 four.

1 A. Okay.

2 Q. So what is your full social security
3 number?

4 A. XXX-XX-6961.

5 Q. And do you know your driver's license
6 number?

7 A. I do.

8 Q. And what is it?

9 A. 004301121.

10 Q. And that's a South Carolina driver's
11 license?

12 A. It is.

13 Q. And have you been licensed in any other
14 states?

15 A. Georgia.

16 Q. And when did you have a Georgia license?

17 A. From the time I was 15, roughly
18 1980-something until 1990.

19 Q. And you're currently married?

20 A. Yes.

21 Q. And what's your husband's name?

22 A. Howard Einstein.

23 Q. And Mr. Howard Einstein, he's with us
24 today; is that correct?

25 A. Correct.

1 Q. And the protocol for when a family
2 member is in here -- sometimes some lawyers ask,
3 hey, can a spouse be in or a friend, that sort of
4 thing. I usually say yes. It doesn't bother me.

5 But just so you two know, there's --
6 usually I have the spouse or friend sit behind,
7 but I know it's kind of cramped quarters in here.

8 MR. MCCOOL: So I ask you, Mr.
9 Einstein, not to interject or anything like that.
10 Just stay quiet and kind of expressionless as
11 you've been doing. That's very much appreciated.

12 Q. And, again, simply because your husband
13 is in the room, you can't turn to him for answers
14 or anything like that. Really the only thing you
15 can ask of anybody from the defense side or
16 regarding the case, now that the deposition has
17 started, is where is the bathroom and can I get
18 another bottle of water, that sort of thing.
19 Okay?

20 A. Okay.

21 Q. So when did you and Howard Einstein get
22 married?

23 A. 1990.

24 Q. Any prior marriages?

25 A. No.

1 Q. Do you have any children?

2 A. We do.

3 Q. How many?

4 A. Two.

5 Q. And what are their names?

6 A. Davis and Meg.

7 Q. How old is Davis?

8 A. He's 28.

9 Q. And how old is Meg?

10 A. 24.

11 Q. And it's my understanding that maybe one
12 of your children has gotten married recently, but
13 I think there was an engagement or something like
14 that maybe a year or so ago?

15 A. Yes.

16 Q. And was that Meg?

17 A. Our daughter, yes, Meg.

18 Q. And has Meg married now or --

19 A. She has not.

20 Q. And where does Meg live?

21 A. Here in Greenville.

22 Q. What's her address?

23 A. 173 Otis Street.

24 Q. And where does she work?

25 A. She works at a firm called Think Up

1 Consulting.

2 Q. And is she still engaged?

3 A. Yes, she is.

4 Q. And what's her fiancée's name?

5 A. Daniel Heard.

6 Q. And how do you spell Heard?

7 A. H-e-a-r-d.

8 Q. And does Daniel live in Greenville?

9 A. He does.

10 Q. Where does Daniel work?

11 A. He works at American FR, which stands
12 for flame retardant.

13 Q. And what does he do there?

14 A. He's their director of sales, and it's a
15 national company.

16 Q. And your son, Davis, where does he live?

17 A. Charlotte.

18 Q. How long has Davis lived in Charlotte?

19 A. Since 2017, so nearly six years.

20 Q. And with respect to family either by
21 blood or marriage who live in Greenville County,
22 who would that be? Obviously your husband, your
23 daughter. If she marries, then it would be --
24 when she gets married it would be your son-in-law
25 at that time. But any other relatives in

1 Greenville County either by blood or marriage?

2 A. Parents-in-law.

3 Q. Anybody else?

4 A. Brother-in-law and sister-in-law and two
5 nephews.

6 Q. How old are the nephews?

7 A. 29 and 28.

8 Q. And what are their names?

9 A. Charles Einstein and William Einstein.

10 Q. And your brother-in-law's name?

11 A. Dan Einstein.

12 Q. And your sister-in-law's name?

13 A. Liz Einstein.

14 Q. And I take it Liz and Dan are married,
15 correct?

16 A. Correct.

17 Q. All right. And Dan is your husband's
18 brother?

19 A. Correct.

20 Q. Any other relatives by blood or marriage
21 that you can think of?

22 A. Would you count husband's cousins?

23 Q. Give me the last names of -- different
24 than Einstein.

25 A. Rosenfeld.

1 Q. And what's your current address?

2 A. 515 McDaniel Avenue.

3 Q. How long have you lived at that address?

4 A. 20 years.

5 Q. And who lives at that address with you
6 currently?

7 A. Just my husband.

8 Q. And is there a mortgage on that house or
9 is it owned outright?

10 A. I believe it's owned outright.

11 Q. And do you know when the last mortgage
12 payment was?

13 A. I do not.

14 Q. What's the value of your home, roughly,
15 if you know?

16 A. I would guess 1.5 million.

17 Q. And in whose name is that home?

18 A. Mine.

19 Q. What is your home telephone number?

20 A. I don't have one.

21 Q. How about your cellphone number?

22 A. [REDACTED]

23 Q. And who is your carrier?

24 A. Verizon.

25 Q. How long has the 4024 number been your

1 cellphone number?

2 A. Since probably 1993 or '4.

3 Q. And what's your husband's cellphone
4 number?

5 A. [REDACTED]

6 Q. And how about your daughter's cellphone
7 number, what is it?

8 A. [REDACTED]

9 Q. And your son, Davis, what is his
10 cellphone number?

11 A. [REDACTED]

12 Q. And with respect to your husband's
13 cellphone, is that also Verizon?

14 A. It is.

15 Q. And your daughter's cellphone, the 0987,
16 is that Verizon?

17 A. It is.

18 Q. And your son, the 5557 number, is that
19 Verizon?

20 A. It is.

21 Q. And do you pay your daughter and son's
22 Verizon bills?

23 A. I believe we do.

24 Q. And we being who?

25 A. My husband and I.

1 Q. Have you ever had a number ending in
2 1893?

3 A. Not that I recall.

4 Q. How about a number ending in 2439?

5 A. That was our old home number.

6 Q. When was the last time the 2439 number
7 was in use or in existence as a working number
8 for you?

9 A. I believe we got rid of it in the last
10 two years.

11 Q. And how about a telephone number ending
12 in 0332?

13 A. Don't recall that.

14 Q. And with respect to your e-mail
15 addresses, is AngiEinstein@Gmail.com your --

16 A. Current.

17 Q. -- major e-mail address?

18 A. It is.

19 Q. And how long have you had that address?

20 A. 10 to 12 years.

21 Q. Any other e-mail addresses that you use?

22 A. We have a wedding e-mail address for
23 wedding planning.

24 Q. And when you say wedding e-mail address
25 for wedding planning, is that for a particular

1 wedding or some sort of business that you have?

2 A. It's for my daughter's wedding.

3 Q. What is that e-mail address?

4 A. I believe it's
5 [REDACTED]@Gmail.com.

6 Q. Any other e-mails that you use?

7 A. No.

8 Q. What's your husband's e-mail address?

9 A. I don't know. I always have to look it
10 up because I don't remember if there are dots or
11 how to do it.

12 Q. Did you go to high school?

13 A. I did.

14 Q. Which high school did you attend?

15 A. Metter High School, M-e-t-t-e-r.

16 Q. What city is that located in?

17 A. Metter, Georgia.

18 Q. Did you graduate from Metter High?

19 A. I did.

20 Q. What year?

21 A. 1984.

22 Q. Any formal education after Metter High
23 School?

24 A. Yes.

25 Q. Where?

1 A. Georgia Southern University.

2 Q. Did you get a degree from Georgia
3 Southern?

4 A. I did.

5 Q. What was your degree?

6 A. Marketing.

7 Q. What year did you get your marketing
8 degree from Georgia Southern?

9 A. 1988.

10 Q. Any formal education after getting your
11 marketing degree in 1988?

12 A. No.

13 Q. Have you ever taught any classes or
14 seminars or anything like that at any point in
15 time?

16 A. Not that I can think of.

17 Q. Have you given any lectures of any type
18 since getting your marketing degree?

19 A. Not that I can think of.

20 Q. And we're here today for a deposition.
21 That's what this is called. Have you ever had
22 your deposition taken before?

23 A. No.

24 Q. Have you ever testified at trial before?

25 A. No.

1 Q. Are you currently employed?

2 A. No.

3 Q. When was the last time you were working
4 or employed outside the home?

5 A. 1994.

6 Q. And what were you doing in 1994?

7 A. I was working as a bank branch manager
8 for First Union.

9 Q. How long did you work for First Union?

10 A. Two years.

11 Q. And since 1994 after leaving First
12 Union, did you work anywhere outside the house?

13 A. Not on an even part-time basis, no.

14 Q. Are you a member of any clubs or social
15 organizations?

16 A. Would that include church?

17 Q. We can include that for sure. I was
18 going to separate it, but we can put it all --
19 you know, clubs, social organizations, churches.
20 Do you belong to any of those types of
21 establishments?

22 A. Westminster Presbyterian is the church.
23 I'm a member of a garden club. And are we
24 talking civic clubs?

25 Q. It can be anything. It can be

1 dues-paying clubs or volunteer-type clubs,
2 country clubs.

3 A. Okay. Greenville Country Club.

4 Q. I don't think that's free, right?

5 A. No.

6 Q. Okay. I didn't think so. What are the
7 dues there, do you know?

8 A. I don't.

9 Q. How long have you been a member of
10 Greenville Country Club?

11 A. Since 1994.

12 Q. Any other clubs, social organizations
13 that you belong to?

14 A. Not that I can think of.

15 Q. When this incident occurred in December
16 of 2021 -- you recall that day; is that right?

17 A. I do.

18 Q. Were you working for anybody at that
19 time, on the clock for anybody or any entity?

20 A. No.

21 Q. And social media accounts such as
22 Facebook, Twitter, Instagram, those sorts of
23 things -- do you have Facebook accounts?

24 A. I do.

25 Q. And what accounts do you have?

1 A. I have Facebook, Angi Einstein.

2 Q. I'm sorry. Facebook?

3 A. Angi Einstein. Yes. Instagram,
4 Twitter. I think that's it.

5 Q. And Instagram, what's your name or
6 handle so to speak on Instagram?

7 A. Angi Einstein.

8 Q. How about Twitter, what's your handle or
9 identifier?

10 A. I honestly don't know. I think it's
11 Angi Einstein. I don't use it.

12 Q. Do you use Instagram?

13 A. Occasionally.

14 Q. How about Facebook?

15 A. Occasionally.

16 Q. And do you publish or author any sort of
17 blogs?

18 A. I do.

19 Q. And what blogs do you author?

20 A. The blog is The Rare Belle.

21 Q. And The Rare Belle, is the blog
22 subtitled or affiliated with an ongoing
23 publication called Drinkin' on the Job?

24 A. It is a -- Drinkin' on the Job is an
25 article that my coauthor and I write.

1 Q. Who is your coauthor?

2 A. Alex Burgamy.

3 Q. And what's that person's name again?

4 A. Alex.

5 Q. And spell the last name?

6 A. B-u-r-g-a-m-y.

7 Q. And is Alex a man, a woman?

8 A. Woman.

9 Q. Where does Alex live?

10 A. Here in Greenville.

11 Q. What does she do for a living?

12 A. She is not employed.

13 Q. Any other blogs or publications that you
14 author?

15 A. Not that I can think of.

16 Q. Have you ever been a party to any other
17 lawsuits before this one?

18 A. The only thing I can think of is a
19 paving problem on our property.

20 Q. And when you say a paving problem on
21 your property, meaning your home property?

22 A. Home property.

23 Q. And were you the plaintiff or the
24 defendant in that matter?

25 A. The plaintiff.

1 Q. And how did that turn out? What was the
2 result of that lawsuit?

3 A. I don't remember.

4 Q. How long ago --

5 A. It was favorable, but I don't remember.

6 Q. How long ago was that litigation?

7 A. 10 years.

8 Q. And were you the only plaintiff in that
9 lawsuit?

10 A. I believe my husband and I were joint.

11 Q. Do you recall who your lawyer was?

12 A. I don't.

13 Q. And did you review any documents or
14 materials, photographs, recordings, videos of any
15 type in order to prepare for this deposition?

16 A. Yes.

17 Q. Do you recall what you reviewed?

18 A. Police report, and that's it.

19 Q. And was that a two-page police report?

20 A. It was a multi-page police report.

21 Q. And did it have written statements
22 within that report?

23 A. It did.

24 Q. And do you recall the actual police
25 report that had like a diagram of what happened

1 and maybe some narrative information and the
2 location?

3 A. I do.

4 Q. Okay. And I think those were two pages
5 with the second page essentially blank, if my
6 memory serves me, and sometimes it might have
7 some witness names on it.

8 But with respect to the first page of
9 that report that you reviewed that had the
10 diagram and your name, Mr. Lynch's name, did you
11 disagree with anything on that first page of the
12 police report?

13 MS. STACY: Chris, are you going to
14 enter that as an exhibit? It might be helpful if
15 she has it in front of her.

16 MR. MCCOOL: We will, yeah.
17 Possibly, yes.

18 A. I don't feel comfortable answering a
19 question about the document without seeing it.

20 Q. When did you review that document?

21 A. I saw the police report that was given
22 to me on-scene, so I reviewed it then. And I
23 reviewed it in preparation for today.

24 Q. When did you review it in -- for
25 preparation for today?

1 A. Monday.

2 Q. So today is Thursday; is that right?

3 A. Uh-huh.

4 Q. So like three, four days ago?

5 A. Uh-huh.

6 Q. And you have to say yes.

7 A. Yes.

8 Q. Did you just glance at that police
9 report or did you read and digest it?

10 A. No. I -- I digested it.

11 Q. And when you were reading it three or
12 four days ago -- the police report -- did
13 anything jump out at you as being inaccurate?

14 A. No.

15 Q. Did you review any photographs in order
16 to preparation for today's deposition?

17 A. I've seen no photographs.

18 Q. Did you listen to any audio recordings
19 of any type?

20 A. No.

21 Q. Did you review any video recordings of
22 any type?

23 A. No.

24 Q. And in the police report, the multi-page
25 document that you reviewed, that had a written

1 statement prepared by you; is that correct?

2 A. Correct.

3 Q. And did you review that statement that
4 you prepared at the officer's request three or
5 four days ago?

6 A. I did.

7 Q. And did you take issue with anything you
8 wrote in the statement when you reviewed it three
9 or four days ago?

10 A. No.

11 Q. Is there anything that you recall in
12 that statement that you prepared that's in the
13 police report that you feel is not accurate or
14 that you would like to change?

15 A. Again, I'll say I'm not comfortable
16 saying that I would want to change something
17 without looking at it.

18 Q. Well, how about just based on when you
19 reviewed it a few days ago? Was there anything
20 that jumped out at you or struck you as being
21 inaccurate or something that you felt needed to
22 be changed?

23 A. No.

24 Q. I don't want to know what was said just
25 yet maybe, but who did you speak with in order to

1 prepare for the deposition?

2 A. My attorney.

3 Q. Anybody else?

4 A. My husband.

5 Q. And what did you and your husband
6 discuss? Now, the reason I put it that way is --
7 what you and your attorney discussed is
8 privileged. That's sacred, and I can't say, tell
9 me what you discussed with her. That's totally
10 off limits. Okay?

11 Unless you say, yes, I'll tell you
12 everything I talked to my lawyer about, but you
13 probably have been advised not to do that. Okay?
14 So I don't want to pry or know anything about any
15 conversation you had with your attorney, okay,
16 because it is privileged.

17 But I am entitled to know what you spoke
18 to your husband about in order to either prepare
19 for this deposition or get ready in any fashion
20 for this deposition.

21 A. Just looking for moral support, and he
22 said, all you have to do is tell the truth.

23 Q. Did you go online or look at
24 publications of any type to assist you in getting
25 ready for this deposition?

1 A. No.

2 Q. And what type of vehicle were you
3 driving at the time of this incident in December
4 of 2021?

5 A. A Range Rover.

6 Q. What year was it?

7 A. 2021.

8 Q. How long had you owned the 2021 Range
9 Rover at the time this incident occurred?

10 A. Approximately eight months.

11 Q. Did you own that vehicle or was it in
12 somebody else's name?

13 A. I owned it.

14 Q. What was the purchase price for that
15 vehicle?

16 A. I don't recall.

17 Q. Did you, yourself, go shopping for that
18 vehicle, the Range Rover?

19 A. I did.

20 Q. Do you recall who you bought it from?

21 A. It's the Range Rover dealership here in
22 Greenville.

23 Q. And it's my understanding it was a Land
24 Rover Range Rover Sport. Does that sound right?

25 A. Correct.

1 Q. And when you bought the 2021 Range Rover
2 Sport, it was brand-new?

3 A. It was.

4 Q. And throughout your ownership of that
5 vehicle, you had no problems with it, correct?

6 A. Correct.

7 Q. And at the time of the incident that's
8 the subject of this lawsuit that occurred on
9 December 16th, 2021, your vehicle was in good,
10 proper, working order, correct?

11 A. Yes.

12 Q. Was there anything about that vehicle,
13 the 2021 Range Rover Sport that you did not like?

14 A. It was not big enough. Cargo space.

15 Q. And it had three rows, correct?

16 A. No.

17 Q. No? And the cargo space or the lack of
18 cargo space for your needs for the Range Rover
19 Sport -- like what are you hauling that made it
20 so you needed more cargo space?

21 A. We have dogs that I keep in the
22 passenger area when I travel, so all cargo has to
23 go in the back, beach chairs, anything that has
24 to go back there.

25 Q. And when did you sell the 2021 Range

1 Rover Sport?

2 A. In March of 2022.

3 Q. Who did you sell the Range Rover Sport
4 to in March of 2022?

5 A. Century BMW.

6 Q. Do you recall what the sale price was?

7 A. I don't.

8 Q. Did you trade it in for another vehicle?

9 A. I did.

10 Q. What sort of vehicle did you trade in
11 for with Century BMW?

12 A. A BMW.

13 Q. Do you know the make -- or model, I
14 mean?

15 A. X7.

16 Q. And does that have a bigger cargo space
17 than the Range Rover Sport?

18 A. It does.

19 Q. Does the BMW X7 have a third row?

20 A. It does.

21 Q. What year is the BMW X7?

22 A. A 2022.

23 Q. And with respect to your purchase of the
24 2021 Range Rover Sport, was that a cash purchase?

25 A. Yes.

1 Q. And the 2021 Range Rover Sport, who
2 serviced that vehicle if it ever needed to be
3 serviced?

4 A. Range Rover of Greenville, if that's
5 their name. I'm not sure.

6 Q. During your ownership -- before
7 December -- excuse me. Before December 16th,
8 2021, when you owned the 2021 Range Rover Sport,
9 did you have any problems with it that required
10 you to bring it in to the shop?

11 A. None that I recall.

12 Q. Why did you select the Range Rover Sport
13 for purchase?

14 A. I thought it was a car that would suit
15 my needs.

16 Q. And were there any specific needs you
17 were looking for?

18 A. Again, the cargo space. I was hoping
19 the cargo space would be big enough. The car I
20 was getting rid of had a bigger cargo space, but
21 they didn't make it anymore.

22 Q. And regarding the Range Rover Sport, it
23 was a 2021, so it had safety features on it,
24 correct?

25 A. Correct.

1 Q. And did you have all the safety features
2 activated at the time you were operating it on
3 December 16th, 2021?

4 A. Yes.

5 Q. And your Range Rover Sport was equipped
6 with a traffic sign recognition system, correct?

7 A. I don't believe that one was, no.

8 Q. Because I had an individual who looked
9 at the Range Rover Sport before you sold it. I
10 believe it was at your house actually.

11 A. Uh-huh.

12 Q. And the one thing -- and I think there
13 was another lawyer there for you. I forget his
14 name. He might have been from Asheville or the
15 Asheville area.

16 But your Range Rover Sport, toggling
17 through your safety devices and safety features
18 when we reviewed it, the traffic sign recognition
19 system was toggled off.

20 A. I don't recall it even being equipped
21 with that.

22 Q. Okay. After December 16th, 2021, did
23 you switch or modify any of the safety features
24 from the on to off position or from the off to
25 the on position?

1 A. No. I was not aware it could be done.

2 Q. Do you know if anybody else switched any
3 of the safety features either to the on or off
4 position or from the off to the on position after
5 December 16th, 2021?

6 A. No.

7 Q. Who else drove the Range Rover, your
8 Range Rover?

9 A. My husband, occasionally.

10 Q. How many times do you think your husband
11 drove the Range Rover during your ownership of
12 it?

13 A. Maybe three times.

14 Q. Any time before December 16th, 2021?

15 A. I don't recall.

16 Q. And do you have personal counsel in this
17 matter?

18 A. I don't.

19 Q. Sometimes people do. It's -- you know,
20 it's a personal decision, but quite often in
21 these situations we do come across somebody who
22 does have personal counsel. So that's why I
23 asked.

24 And following the incident on
25 December 16th, 2021, where you hit Mr. Lynch, did

1 you have to get your Range Rover repaired?

2 MS. STACY: Object to the form.

3 You can answer.

4 THE WITNESS: Okay.

5 A. I did not hit -- there was no impact.

6 There were no repairs needed.

7 Q. So following the incident involving Mr.
8 Lynch, was there any damage of any type to your
9 Range Rover?

10 A. None.

11 Q. Did you notice any blood on your Range
12 Rover following the incident with Mr. Lynch?

13 A. No.

14 Q. Did you notice any scrape marks of any
15 type following the incident?

16 A. No.

17 Q. Did you notice any sort of fabric
18 transfer, meaning from clothes or clothing onto
19 the Range Rover following the incident?

20 A. No.

21 Q. Any broken headlights or any cracked
22 anything on the vehicle?

23 A. Nothing.

24 Q. I'm going to hand you what's been marked
25 as Exhibit Number 1, and that's a document that

1 your lawyers and your insurance carrier provided
2 to us.

3 (Exhibit No. 1 was marked for
4 identification.)

5 Q. And looking at Exhibit Number 1, it has,
6 private fleet auto policy. Do you know what that
7 means?

8 A. I don't really.

9 Q. And under that private fleet auto policy
10 on Exhibit Number 1, it has an entry directly
11 under it, Howard Einstein and Angela Einstein.
12 Do you see that?

13 A. Will you point to where we're talking
14 about? I don't see it.

15 Q. Sure. Oh, I'm sorry. No -- yeah. I'm
16 sorry about that. I gave you -- I think we need
17 to be on -- let's see. I'm not sure why this
18 is -- my exhibits are out of order here. I
19 apologize. Let me see this for a second. Here
20 we go. I apologize for that.

21 So actually what we're going to do is
22 look at Exhibit Number 2.

23 (Exhibit No. 2 was marked for
24 identification.)

25 Q. And Exhibit Number 2 has, private fleet

1 auto policy, correct?

2 A. Yes.

3 Q. And under that Exhibit Number 2, it has
4 Howard Einstein and Angela Einstein, correct?

5 A. Yes.

6 Q. And do you and your husband have a fleet
7 of vehicles?

8 A. We own -- at the time probably four
9 vehicles.

10 Q. And who would be the primary drivers of
11 those four vehicles you owned?

12 A. My husband and I and our daughter.

13 Q. What type of vehicle did your daughter
14 have under this policy?

15 A. I believe at the time it was a
16 Volkswagen Atlas.

17 Q. What other vehicles did you and your
18 husband own that would have been covered by
19 Exhibit Number 2?

20 A. A BMW, his primary automobile.

21 Q. His being your husband?

22 A. My husband's primary. And a Jeep
23 Wrangler.

24 Q. And who was the primary driver of the
25 Jeep Wrangler?

1 A. We share it.

2 Q. Between you and your husband or others?

3 A. Primarily my husband and I.

4 Q. And then let's take a look at Exhibit
5 Number 1, and it has what's called coverage
6 summary. Do you see that?

7 A. Yes.

8 Q. And what does your husband do for a
9 living?

10 A. He works with Marsh & McLennan.

11 Q. And Exhibit Number 1 references Marsh &
12 McLennan Agency LLC?

13 A. Correct.

14 Q. And what's your husband's position with
15 that LLC?

16 A. He is in sales.

17 Q. Any particular area of sales?

18 A. He does mostly life and health and
19 benefits.

20 Q. How long has your husband been
21 affiliated with Marsh & McLennan Agency LLC?

22 A. I believe for about 10 years.

23 Q. Have you had any role or position at any
24 point in time with Marsh & McLennan Agency LLC?

25 A. No.

1 Q. Have you ever derived any income of any
2 type from Marsh & McLennan Agency LLC?

3 A. No.

4 Q. And on Exhibit Number 1, that entry for
5 sponsoring organization and address, it has Marsh
6 & McLennan Agency LLC, Mid-Atlantic Division. Do
7 you know what is meant by Mid-Atlantic Division?

8 A. They have several divisions. So they
9 have a Mid-Atlantic, maybe a Northeast. It's
10 different regions of the US.

11 Q. And with respect to Mr. Lynch, what is
12 your understanding of the injuries he sustained
13 in the incident?

14 A. I understand he had injuries to his
15 legs.

16 Q. Do you know the severity of those
17 injuries?

18 A. I believe he had one lower leg
19 amputated.

20 Q. Have you ever had any conversations with
21 Mr. Lynch?

22 A. No.

23 Q. Did you know Mr. Lynch before this
24 incident?

25 A. No.

1 Q. What is your understanding of how the
2 injuries to Mr. Lynch's legs occurred?

3 MS. STACY: Objection. Calls for
4 speculation.

5 You can answer.

6 THE WITNESS: Okay.

7 A. I know that my car rolled over his legs.

8 Q. Who is your eye doctor?

9 A. I can't remember his name. He's at
10 Clemson Eye.

11 Q. How long has that person been your eye
12 doctor?

13 A. I don't recall the last time -- or the
14 first time I saw him. Maybe a couple of years.

15 Q. How long has Clemson Eye been your eye
16 provider?

17 A. Same. Couple of years.

18 Q. Couple of years? Who was it before
19 Clemson Eye?

20 A. Jervey Eye Group, Tommy Smith.

21 Q. How long was Jervey Eye Group your eye
22 provider?

23 A. Probably 10 years.

24 Q. Why did you switch from Jervey Eye Group
25 to Clemson Eye?

1 A. I believe Tommy had some health issues.

2 Q. And you're wearing glasses today,
3 correct?

4 A. Correct.

5 Q. And what is the need for the glasses?

6 A. Reading.

7 Q. Solely for reading?

8 A. Yes.

9 Q. Do you wear glasses when you drive a
10 vehicle?

11 A. I do not.

12 Q. How did you get here today?

13 A. I drove.

14 Q. Did you wear your glasses today when you
15 were driving?

16 A. I don't drive with glasses.

17 Q. Did you wear your glasses today while
18 you were driving to get here?

19 A. No.

20 Q. How was your overall health in December
21 of 2016?

22 A. Excellent.

23 Q. Excuse me. How was your overall health
24 in December of 2021?

25 A. Excellent.

1 Q. Any health scares or surgeries in the
2 last 10 years for you?

3 A. Not that I can recall.

4 Q. Any health issues that you were
5 experiencing on December 16th, 2021, other than
6 the ones we've talked about where you were taking
7 the medicine?

8 A. Correct. No.

9 Q. Had you consumed any alcohol in the
10 24 hours before the incident with Mr. Lynch
11 occurred?

12 A. No.

13 Q. Where were you going to when the
14 incident with Mr. Lynch occurred?

15 A. Home.

16 Q. And where were you coming from?

17 A. Paris Mountain.

18 Q. What is that?

19 A. It was -- it's an area of Greenville. I
20 was coming from a home from up there.

21 Q. What was the address of that home?

22 A. I do not know.

23 Q. Do you recall what street it was on?

24 A. Turn off of Altamont -- I don't recall
25 the -- it's a cul-de-sac at the top of the

1 mountain.

2 Q. And what was your reason or purpose for
3 being at that home on Paris Mountain before the
4 incident with Mr. Lynch occurred?

5 A. I was dropping my future son-in-law at
6 my daughter's work Christmas party.

7 Q. And before you went to that Paris
8 Mountain home, where had you been?

9 A. Home.

10 Q. Do you recall what you were doing before
11 you left home that day to bring your son-in-law
12 to your daughter's work Christmas party?

13 A. I was gathering Christmas presents and
14 boxing and wrapping, preparing to leave town the
15 next week.

16 Q. And earlier this year when your attorney
17 and I and the other gentlemen were looking at
18 your vehicle at your home, there seemed to be a
19 decent amount of wine bottles and that sort of
20 thing. Is -- are you in the business of selling
21 wine, sharing wine or anything like that?

22 MS. STACY: Object to the form.

23 You can answer.

24 THE WITNESS: Okay.

25 A. I believe at the time we had probably

1 hosted a party, and that was leftover wine that
2 was to be returned.

3 Q. And when you say you probably had hosted
4 a party, what party would that have been, if you
5 recall?

6 A. I don't recall, but we have hosted
7 engagement parties, things of that sort.

8 Q. Do you drink alcohol on a regular basis?

9 A. I do drink alcohol.

10 Q. How often?

11 A. Probably three times a week.

12 Q. And are you out and about when you have
13 alcohol three times a week or do you consume it
14 at your home or both?

15 A. Most often, out at dinner. Seldom at
16 home.

17 Q. And regarding litigation, each side gets
18 to ask each other questions, and one of the
19 questions is witnesses. And the -- we call it
20 interrogatories, and there's standard
21 interrogatories in our court rules that each side
22 gets to ask in addition to other ones.

23 But one of the standard interrogatories
24 is identify the names, addresses and telephone
25 numbers of all persons who witnessed the incident

1 or have information about the lawsuit or the
2 incident and that sort of thing.

3 And do you know anybody by either name
4 or description who witnessed what happened? And
5 we'll start with name. Do you know anybody by
6 name?

7 A. I don't. I've seen names, but I don't
8 recall names.

9 Q. And do you recall which police officer
10 asked you to provide the written statement that
11 you did provide?

12 A. I believe it was a female, Officer
13 Hamilton.

14 Q. And with respect to any persons who were
15 at the scene where this happened, I know you were
16 talking to them and standing by some and sitting
17 by some. Any conversations or contact of any
18 type with those individuals after you left the
19 scene that night?

20 A. No.

21 Q. And as I mentioned, the interrogatory
22 that each side gets to ask each other talks about
23 names and those sorts of things. And I'm just
24 going to go over a few pictures with you to just
25 see if looking at photos and that sort of thing

1 might jog your memory of who the individual was
2 or -- and I'll ask you most likely about each
3 one, what did you happen to discuss with them, if
4 anything. Okay?

5 A. Okay.

6 Q. The first one I want to show you -- and
7 these are all still photographs. Your attorney
8 provided us with various videos. We call them
9 dash cam videos that were on the officers'
10 dashboards, and body cam videos, body camera
11 videos that the officers wear, and they can
12 activate it. It's usually on the chest area, and
13 they can touch a button and that sort of thing.

14 So we have those videos, and what we did
15 is we just took some still shots from those
16 videos, so that's where these came from. So just
17 with respect to Exhibit Number 26, is that you in
18 the bottom left?

19 A. Yes.

20 (Exhibit No. 26 was marked for
21 identification.)

22 Q. And that's the scene where the incident
23 involving Mr. Lynch occurred, correct?

24 A. Yes.

25 Q. Now, you told us earlier that you did

1 not hit Mr. Lynch with your vehicle --

2 A. Correct.

3 Q. -- but that you rolled over him.

4 A. Correct.

5 Q. And so when you say you rolled over Mr.
6 Lynch, you literally rolled over him, correct?

7 A. Yes.

8 Q. And looking at the statement, the dash
9 cams from the officers that recorded
10 conversations, the body cameras, your 911 call,
11 you never saw Mr. Lynch before you rolled over
12 him, correct?

13 A. I realized it was a human lying across
14 the street in my lane.

15 Q. After you rolled over him, correct?

16 A. As. I would say from -- within feet,
17 from here to the -- from here to you.

18 Q. Okay. And so this -- we'll say 5 feet
19 or less?

20 A. Yes.

21 Q. Or 5 feet approximately?

22 A. Perhaps.

23 Q. We're sitting across a standard
24 conference room table. If we reached our hands
25 out, we could touch hands and that sort of thing,

1 correct?

2 A. Uh-huh.

3 Q. And you have to say yes.

4 A. Yes.

5 Q. So we're approximately 5 feet apart
6 right now, correct?

7 A. Yes.

8 Q. And you noticed Mr. Lynch for the very
9 first time 5 feet before you rolled across him?

10 A. I would say it was no more than 5 feet.

11 Q. And looking at Exhibit Number 26 there
12 before you, where you're sitting, that is the
13 immediate area where the incident occurred,
14 correct?

15 A. Correct.

16 Q. And do you see on the left side of
17 Exhibit Number 6 [sic], there's a restaurant in
18 the background?

19 A. Yes.

20 Q. And is that the Asada restaurant,
21 A-s-a-d-a?

22 A. It is.

23 Q. And then the other building or structure
24 in the right upper corner of Exhibit Number 26,
25 that's the IHOP, correct?

1 A. Yes.

2 Q. And in Exhibit Number 26, you're sitting
3 down. And is that you as you are preparing a
4 written statement?

5 A. Yes.

6 Q. Let me hand you -- and again, a still
7 photograph from the videos at the scene. Let me
8 hand you what's been marked as Plaintiff's
9 Exhibit Number 13.

10 (Exhibit No. 13 was marked for
11 identification.)

12 Q. And looking at Exhibit Number 13, there
13 appears to be a female looking directly into the
14 camera, so to speak, kind of with her arms kind
15 of folded a little bit. She's got a white shirt
16 on with maybe a long sleeve under it or a white,
17 multicolored shirt or top. Do you see her?

18 A. I do.

19 Q. It looks like she's wearing jeans
20 possibly or bluish, denim sort of pants. I just
21 want to make sure you and I are talking about the
22 same --

23 A. Yes. I see that, yes.

24 Q. Okay. Do you know her name?

25 A. I don't.

1 Q. Did you talk to her at the scene?

2 A. I don't recall.

3 Q. And how about to that person's left on
4 the left side of Exhibit 13? It looks like
5 there's somebody looking -- standing up, looking
6 at their phone, their head down a little bit. Do
7 you know who that person is?

8 A. I don't.

9 Q. Do you recall any conversations with
10 that person?

11 A. Not specific.

12 Q. Let's take a look at Exhibit Number 23.
13 Again, that's another still from a video provided
14 by your lawyers to us, and there's a gentleman in
15 a stocking cap or winter-type cap looking at a
16 phone. Do you see him kind of right there in the
17 center of Exhibit 23?

18 A. Yes.

19 (Exhibit No. 23 was marked for
20 identification.)

21 Q. Do you know who that person is?

22 A. I don't.

23 Q. Do you recall having any conversations
24 with that person in Exhibit Number 23 who has the
25 toboggan or winter cap on?

1 A. I don't know who this person is. I had
2 a conversation with someone who this could be,
3 but I don't specifically remember if this is the
4 person.

5 Q. And in Exhibit Number 23 over to the
6 right, do you see the ambulance?

7 A. I do.

8 Q. And then towards the entrance area of
9 what I think would be the Asada restaurant,
10 there's EMS personnel gathered around an
11 individual. Do you see that?

12 A. Yes.

13 Q. And where the EMS personnel are gathered
14 around an individual, is that where your car
15 rolled over Mr. Lynch?

16 A. I believe he's already on a gurney of
17 some sort. So it would be the approximate
18 location, but he's been moved.

19 Q. Is the gurney that we see in Exhibit
20 Number 3 in the location that -- the immediate
21 vicinity within a couple feet of the area where
22 your vehicle rolled over Mr. Lynch?

23 A. I would say within a few feet, but he's
24 oriented differently.

25 Q. And when you say, he's oriented

1 differently, what do you mean by that?

2 A. It's hard to tell from this photo, but
3 it looks that he has been -- when they got him on
4 the gurney -- he's been turned around.

5 Q. In Exhibit Number 23, do you see Mr.
6 Lynch?

7 A. I can't tell if -- I can't -- I don't
8 know.

9 Q. Well, that's why I was asking because
10 you're saying he's oriented differently. And I
11 was going to have you identify Mr. Lynch in
12 Exhibit Number 23. Do you see --

13 A. I am going -- well, I was assuming that
14 Mr. Lynch was on that gurney, but it's possible
15 that Mr. Lynch is actually lying in the street
16 still.

17 Q. Do you see --

18 A. It's hard to interpret this photograph.

19 Q. I'm just asking, can you, yourself, see
20 Mr. Lynch in Exhibit Number 23?

21 A. No. There are two possibilities.

22 Q. Let me hand you Exhibit Number 14. And
23 14 you can look at in conjunction with 23. To
24 me, the gentleman in Exhibit Number 14 is the
25 same gentleman in Exhibit Number 23.

1 (Exhibit No. 14 was marked for
2 identification.)

3 A. Yes.

4 Q. And I wanted to show you 14 just because
5 it's a different vantage point of his face. I'm
6 wondering if that might trigger you into
7 remembering who he was or any conversations you
8 might have had with him --

9 A. Yes.

10 Q. -- that individual in Exhibit 23 and
11 Exhibit Number 14.

12 A. Yes.

13 Q. So do you now know who he is, now that
14 you've looked at Exhibit 14 and 23 together?

15 A. I do. He's a fellow witness.

16 Q. Do you know his name?

17 A. I believe his last name is Gaines.

18 Q. Did you talk to Mr. Gaines at the scene?

19 A. I did.

20 Q. Do you recall what you two talked about?

21 A. The incident from our perspectives.

22 Q. And what did you tell him?

23 A. That -- I really don't recall what I
24 told him. I recall more what he told me.

25 Q. Did you tell Mr. Gaines anything at the

1 scene?

2 A. We had a conversation.

3 Q. And a conversation to me means two
4 people are conversing, talking to each other as
5 opposed to one person talking and the other
6 person not talking.

7 A. Uh-huh.

8 Q. Is that right?

9 A. It is. Correct.

10 Q. So you had a conversation with Mr.
11 Gaines. I'm asking you if you remember what you
12 told him.

13 A. I don't recall specifically what I told
14 him. I could give you the gist of what I would
15 have told him.

16 Q. And by gist, you mean generally what --

17 A. Generally.

18 Q. So give me that gist or general
19 information or conversation from your side that
20 you had with Mr. Gaines.

21 A. That as we approached this scene, there
22 was a man lying in the street, and I could not
23 avoid running over him.

24 Q. Was anybody else in your car at the time
25 of this incident?

1 A. No.

2 Q. And when you say, as we approached the
3 scene, who is the we that you're talking about?

4 A. Mr. Gaines was the driver of a car
5 beside me.

6 Q. And when you say Mr. Gaines was the
7 driver of the car beside you, what side was he on
8 of you -- of your vehicle?

9 A. My left.

10 Q. And what boulevard or street did this
11 happen on?

12 A. Wade Hampton.

13 Q. Is that Wade Hampton Boulevard?

14 A. Boulevard.

15 Q. And how many lanes is Wade Hampton
16 Boulevard?

17 A. At that point, it is six lanes with a
18 turn lane.

19 Q. So including the turn lane, seven lanes?

20 A. Yes.

21 Q. And I've been to Wade Hampton Boulevard
22 many times, been on it many times. The time of
23 night that this incident happened, there's not
24 much traffic, correct?

25 A. Correct.

1 Q. And at the time of the incident on
2 December 16th, 2021, on Wade Hampton Boulevard,
3 you would agree with me there was light traffic
4 at that time, correct?

5 A. Correct.

6 Q. And, in fact, it would be extremely
7 light traffic, correct?

8 A. I don't know how to categorize extremely
9 light.

10 Q. Very, very few cars on the road at that
11 time, correct?

12 A. Correct.

13 Q. And what did Mr. Gaines tell you at the
14 scene?

15 A. He actually passed the scene, realizing
16 that there had been a person in the street, lying
17 there. He knew that there was no way I had
18 avoided running over the person. He waited
19 farther down the street until EMS arrived, and he
20 came back to say he knew I could not avoid
21 running over this person and offered to give a
22 statement.

23 Q. It would be fair to say that the only
24 part of your vehicle that contacted Mr. Lynch
25 would have been tires on your vehicle, correct?

1 A. Correct.

2 Q. And do you know which tires contacted
3 Mr. Lynch?

4 A. I would have to assume only my right
5 tires, passenger-side tires.

6 Q. And why do you say that?

7 A. Because I had just a second to swerve to
8 try to miss him.

9 Q. Did you swerve?

10 A. Yes.

11 Q. How far?

12 A. As far as I could. I know I swerved
13 into the lane beside me.

14 Q. And when you say, as far as I could, how
15 many feet is that?

16 A. 3 or 4 feet.

17 Q. Was any portion of your vehicle in the
18 lane to your left when your wheels -- when your
19 tires rolled over Mr. Lynch?

20 A. Possibly.

21 Q. But you don't know?

22 A. I don't know how far -- I don't know how
23 wide those lanes are. They're typical lanes, but
24 I don't know exactly how far I have.

25 Q. And was the total amount of swerve you

1 undertook 3 to 4 feet?

2 A. I believe.

3 Q. And at some point during that 3 to
4 4 feet of swerve is when your right-side tires
5 rolled over Mr. Lynch?

6 A. Correct.

7 Q. So immediately before the swerve began,
8 your tires had rolled over Mr. Lynch. Is that
9 fair to say?

10 A. Before the swerve began?

11 Q. Yes.

12 A. I would say my tires rolled over him
13 while I was in the swerve.

14 Q. Like 1 foot into the swerve? Because
15 your total swerve was 3 or 4 feet, so I'm just
16 trying to figure out if like the swerve began as
17 you were rolling over Mr. Lynch, after you rolled
18 over him or --

19 A. It certainly occurred either just before
20 or as.

21 Q. The swerve did, correct?

22 A. Yes.

23 Q. And no vehicle to the left of you at
24 that time?

25 A. There was a vehicle to the left of me.

1 Q. Which vehicle was that?

2 A. That was the one driven by Mr. Gaines.

3 Q. Do you recall what type of vehicle it
4 was?

5 A. He was -- yes. It was the same type of
6 vehicle I was driving.

7 Q. A Range Rover Sport?

8 A. Yes.

9 Q. And the road conditions were dry,
10 correct?

11 A. Yes.

12 Q. Weather was dry, correct?

13 A. Yes.

14 Q. And Wade Hampton Boulevard, that's a
15 straight shot, as they call it?

16 A. Yes.

17 Q. Okay. For, you know, a mile in each --

18 A. A good couple of miles --

19 Q. -- direction? In both --

20 A. Yes.

21 (Reporter interruption.)

22 Q. I'm going to back up just to clean it
23 up. So Wade Hampton Boulevard -- looking at the
24 point of where the incident occurred, in either
25 direction, a couple miles both ways, it's a

1 straight, flat road, correct?

2 A. Correct. Some incline, decline.

3 Q. But minimal for the most part?

4 A. Yeah. Yeah.

5 Q. And at the time the incident occurred,
6 there were no issues with glare or anything like
7 that, correct?

8 A. I would say lighting would have been an
9 issue as it was extremely dark in that specific
10 area.

11 Q. How about any glare? There's no glare
12 from oncoming vehicles, correct?

13 A. No. Correct.

14 Q. And there's no glare from either the
15 Asada restaurant or the IHOP restaurant, correct?

16 A. I would say IHOP is extremely bright.
17 Asada is extremely dark.

18 Q. And when you say, IHOP is extremely
19 bright and Asada is extremely dark, meaning Asada
20 in comparison to IHOP is dark?

21 A. Correct.

22 Q. And the IHOP being extremely bright,
23 that's from the IHOP interior lights and their
24 exterior lights, correct?

25 A. Correct.

1 Q. And are there street lamps on Wade
2 Hampton Boulevard?

3 A. There are.

4 Q. And those street lamps were functioning
5 throughout your travel down Wade Hampton
6 Boulevard?

7 A. They actually were not. They were
8 functioning on Wade Hampton Boulevard. There was
9 one street lamp that was not working.

10 Q. And where was that located?

11 A. Right at this incident.

12 Q. Do you recall more specifically where
13 that street lamp wasn't working? Was it, you
14 know, by IHOP or by Asada?

15 A. On the other side of Asada from IHOP.

16 Q. And where the street lamp was not
17 working, that was after the area where your car
18 rolled over Mr. Lynch, correct?

19 A. Just after, within feet.

20 Q. And with respect to lighting, the only
21 light that you noticed to be out was the one just
22 after the area where the incident occurred,
23 correct?

24 A. Correct.

25 Q. And you had your headlights on on your

1 Range Rover as you proceeded down Wade Hampton,
2 correct?

3 A. Correct.

4 Q. Did you have your low beams on or high
5 beams on?

6 A. Low beams.

7 Q. And how do you know you had your low
8 beams on?

9 A. I drive around the city when we have
10 street lights with low beams.

11 Q. And the Range Rover, I take it, had auto
12 on and off for your headlights?

13 A. I don't believe the car had auto on and
14 off.

15 Q. So with your Range Rover, you had to
16 actually manually with your hand turn on your
17 headlights?

18 A. I would.

19 Q. I'm just asking you if that's what you
20 had to do in order to turn on your headlights.

21 A. I'm sorry. It had auto lights. There
22 were always lights on. They were daytime running
23 lights. In order to make them high beam, I would
24 do that manually.

25 Q. But the low beams were auto --

1 A. Yes.

2 Q. -- on your Range Rover, meaning they
3 automatically came on? It would sense the time
4 of day or dusk and automatically come on?

5 A. Correct.

6 Q. Any issues with your headlights during
7 your ownership of the Range Rover?

8 A. No.

9 Q. Any issues with the headlights on
10 December 16th, 2021?

11 A. No.

12 Q. And how long had you been on Wade
13 Hampton Boulevard before the incident occurred?

14 A. I had turned off of North Pleasantburg
15 onto Wade Hampton.

16 Q. And how far up the road is that?

17 A. Approximately a mile.

18 Q. And did you have your radio on?

19 A. Yes.

20 Q. Do you recall what you were listening
21 to?

22 A. Christmas music.

23 Q. Was the Christmas music from a radio
24 station or was it from Pandora or something like
25 Pandora?

1 A. SiriusXM.

2 Q. Were you using a cellphone or any other
3 type of device as you proceeded down Wade Hampton
4 Boulevard?

5 A. No.

6 Q. Does the Range Rover that you were
7 driving at the time of this incident have
8 hands-free telephone capabilities?

9 A. It does.

10 Q. Like Bluetooth or the equivalent?

11 A. Yes.

12 Q. Were you on the phone with anybody at
13 the time of this incident involving Mr. Lynch?

14 A. No.

15 Q. Did you call anybody -- you, yourself
16 call anybody at the scene of the accident
17 involving Mr. Lynch?

18 A. I tried to call my husband.

19 Q. And when you say you tried to call your
20 husband, did you actually use your phone and dial
21 the numbers or you tried meaning you didn't have
22 the ability to even do that?

23 A. After EMS and police were there, I
24 retrieved my phone from the car and attempted to
25 call my husband. He was in a meeting and could

1 not answer.

2 Q. All right. So when you say you
3 attempted to call your husband, you actually
4 placed the call.

5 A. Yes.

6 Q. It rang or went straight to his
7 voicemail?

8 A. Yes.

9 Q. How long after your car rolled over Mr.
10 Lynch did you place that call to your husband?

11 A. Probably 30 minutes.

12 Q. Did you call your daughter?

13 A. No.

14 Q. How about your son?

15 A. No.

16 Q. At the scene, the only person you called
17 was your husband. Is that fair to say?

18 A. Yes.

19 (Off-the-record discussion.)

20 (A recess was taken.)

21 Q. And regarding the time when the incident
22 occurred, backtracking from when you dropped off
23 your son-in-law, how much time had elapsed?

24 A. 15 minutes.

25 Q. And from when you dropped off your

1 son-in-law at your daughter's Christmas party
2 until the incident at the point of Asada
3 restaurant and IHOP restaurant there on Wade
4 Hampton, any stops by you?

5 A. No.

6 Q. Were there any deadlines you had to meet
7 when you were traveling back home --

8 A. No.

9 Q. -- after dropping off your son-in-law?

10 A. No.

11 Q. Any phone calls you had to make or had
12 to take from anybody for any reason?

13 A. No.

14 Q. And I'm going to hand you what's been
15 marked as Exhibit Number 7.

16 (Exhibit No. 7 was marked for
17 identification.)

18 Q. Take a look at that. Again, it's a
19 still from the videos that we've been provided.
20 And looking at Exhibit Number 7 on the left-hand
21 side, there's an individual. Do you know who
22 that person is?

23 A. I don't, no.

24 Q. Do you recall having any conversations
25 with that person in Exhibit Number 7?

1 A. I don't.

2 Q. And let me hand you what's been marked
3 as Plaintiff's Exhibit Number 18.

4 (Exhibit No. 18 was marked for
5 identification.)

6 Q. And when we look at Exhibit Number 18,
7 there's a gentleman kind of front and center in
8 Exhibit Number 18 wearing a dark shirt. We can
9 see his face. Do you know who that individual
10 is?

11 A. I believe he's the owner of Asada.

12 Q. Did you ever have any conversations with
13 the owner of Asada?

14 A. Yes.

15 Q. Do you recall what the two of you
16 discussed?

17 A. He was the first to approach Mr. Lynch
18 in the street. So as I -- our first conversation
19 would have been while I was on the call with 911.
20 And Mr. -- and I don't recall his name, but this
21 gentleman was the one relaying information to me.

22 Q. And when you say that the owner of Asada
23 was the first one to approach Mr. Lynch, this is
24 after the incident happened, correct?

25 A. Yes.

1 Q. Did you exchange any contact information
2 with the individual shown in Exhibit Number 18?

3 A. Not that I recall.

4 Q. Anything else that you recall, any
5 interaction or conversation you've had with the
6 individual in Exhibit Number 18?

7 A. On that night?

8 Q. That night.

9 A. We talked at length.

10 Q. Do you recall what you talked at length
11 about with the individual in Exhibit Number 18?

12 A. He just told me what he had witnessed
13 Mr. Lynch doing prior to walking out into the
14 street and lying down.

15 Q. Tell me specifically what you remember
16 that individual in Exhibit Number 18 telling you.

17 A. He just said that he had been in his
18 parking lot. And then he did not know why, but
19 he walked out into the street and laid down.

20 Q. And you stated that the person in
21 Exhibit Number 18 is, you believe, the owner of
22 the Asada restaurant?

23 A. I believe.

24 Q. And do you recall where the owner of the
25 Asada restaurant was when he observed Mr. Lynch?

1 A. He was on the outside of his
2 establishment in the parking lot.

3 Q. Mr. Lynch was?

4 A. I'm sorry?

5 Q. Okay. You said Mr. Asada -- Mr. Asada.
6 I don't know if that's his name. But the owner
7 of the restaurant, you said he informed you of
8 Mr. Lynch's actions before the incident occurred?

9 A. Correct.

10 Q. I'm wondering if you know where the
11 owner of the restaurant was when he observed Mr.
12 Lynch.

13 A. Also in the parking lot.

14 Q. And he told you that?

15 A. Yes. I would not -- I'm going to back
16 up. He did not tell me that. I witnessed him
17 being in the parking lot.

18 Q. After the incident?

19 A. Yes. As I re-approached. But he said
20 that he had, so I assume -- I know that he had an
21 eyewitness account. He was either standing
22 outside of his restaurant or was watching Mr.
23 Lynch from his window.

24 Q. From inside his restaurant?

25 A. I would not say it was inside. I would

1 not say it was outside. But I know he was
2 witnessing.

3 Q. And that's my question, is do you know
4 where this owner of the Asada restaurant was when
5 he saw Mr. Lynch before the incident occurred.
6 Did he tell you?

7 A. He did not tell me. He had to have
8 been -- I would say he was outside because he was
9 on the sidewalk and stepping into the street
10 toward Mr. Lynch by the time I turned around.

11 Q. And when you say you turned around -- so
12 your wheels, your two right tires rolled over Mr.
13 Lynch?

14 A. Uh-huh.

15 Q. What did that feel like?

16 A. A bump.

17 Q. Like a tiny bump or like going too fast
18 over a neighborhood speed bump?

19 A. Nothing like that. It was more like
20 a -- it was like rolling over a small -- not a
21 speed bump. It didn't -- it wasn't that much.
22 It was just a bump.

23 Q. And nothing that would have alarmed you
24 if it hadn't been a person in terms of either
25 damage to your car or anything like that?

1 A. It wouldn't have alarmed me as far as
2 damage to my car. It would have alarmed me as,
3 you know, what was in the street, what was that.
4 But I knew -- no damage to the car.

5 Q. And you continued down Wade Hampton how
6 far after you rolled over Mr. Lynch?

7 A. There is a street just beyond here. I
8 mean, as soon as I rolled over him, I was
9 braking, stopping. This car went on, and so it
10 was an immediate turnaround.

11 Q. When you say, this car went on, what do
12 you mean by that?

13 A. The car that was beside me had gone on,
14 so I was able to immediately turn around.

15 Q. When is the first time you applied your
16 brakes? Was it after you rolled over Mr. Lynch?

17 A. As soon as I realized it was a person, a
18 human lying in the street.

19 Q. Okay. So that would have been 5 feet or
20 less before you rolled over him; is that right?

21 A. Yes.

22 Q. And you did a U-turn on Wade Hampton
23 Boulevard?

24 A. Yes.

25 Q. And then you parked your Range Rover on

1 the other side of Wade Hampton going the opposite
2 direction you were traveling when the incident
3 occurred, correct?

4 A. I parked in the emergency lane. I'm
5 sorry. Not the emergency, the turn lane.

6 Q. Right in the middle of Wade Hampton?

7 A. In the middle of Wade Hampton.

8 Q. What was your speed as you traveled down
9 Wade Hampton?

10 A. 46 or less.

11 Q. And why do you say 46 or less?

12 A. Because just prior to this, probably a
13 half mile before, I had glanced at my
14 speedometer. I was going 47 and realized there
15 was -- the speed limit was 45, so I took my foot
16 off the gas, slowed down.

17 Q. And you're quite familiar with Wade
18 Hampton Boulevard?

19 A. I am.

20 Q. You traveled it routinely before this
21 happened, correct?

22 A. I wouldn't say routinely, but I do
23 fairly often.

24 Q. And with respect to before the incident
25 on December 16th, 2021, happened, how many times

1 do you think you have driven -- been on Wade
2 Hampton Boulevard in the prior 12 months?

3 A. Four times. That section of Wade
4 Hampton, I would say four times. Closer into
5 town, a little bit more often.

6 Q. So at the time of this incident
7 involving Mr. Lynch, it would be fair to say that
8 you were familiar with Wade Hampton Boulevard,
9 correct?

10 A. Yes.

11 Q. Let me hand you what's been marked as
12 Plaintiff's Exhibit Number 19, which, again, is a
13 still photograph from one of the videos that your
14 lawyer provided to us.

15 (Exhibit No. 19 was marked for
16 identification.)

17 Q. And Exhibit Number 19, front and center,
18 so to speak, there is a police officer, correct?

19 A. Correct.

20 Q. Do you know who that officer is?

21 A. I don't.

22 Q. Do you recall speaking with that police
23 officer, front and center of Plaintiff's Exhibit
24 Number 19?

25 A. This is fuzzy. I spoke to a female

1 officer. This is not what I remember her
2 specifically looking at -- looking like. I'm
3 sorry.

4 Q. And then looking at Plaintiff's Exhibit
5 Number 19 to that police officer's left, there's
6 a person in a -- in like a green safety vest. Do
7 you see that?

8 A. Yes.

9 Q. It looks like -- possibly has maybe a
10 ball cap on. I'm not sure. Do you know who that
11 individual is?

12 A. I don't.

13 Q. Do you recall any conversations with
14 that individual in the vest to the left of the
15 officer in Exhibit Number 19?

16 A. I don't.

17 Q. Let me hand you what's been marked as
18 Exhibit Number 21. Again, a still photograph
19 from the police dash cam and body cam videos.

20 (Exhibit No. 21 was marked for
21 identification.)

22 Q. And on the right side of Exhibit 21,
23 there's a gentleman. Do you know who that
24 gentleman is?

25 A. I believe that's also the owner of

1 Asada.

2 Q. And looking at the left upper corner of
3 Exhibit Number 21, there's a person standing
4 in what looks to be a bluish, grayish sweatshirt.

5 A. Yes.

6 Q. Do you know who that person is?

7 A. I don't.

8 Q. Do you recall any conversations with the
9 person on the left side of Exhibit Number 21?

10 A. I don't.

11 Q. Let me hand you what's been marked as
12 Plaintiff's Exhibit Number 22. Again, it's a
13 still screenshot from the videos produced by your
14 lawyers to us.

15 (Exhibit No. 22 was marked for
16 identification.)

17 Q. And kind of in the bottom corner, we see
18 you, correct, in your white shirt, sitting down?

19 A. Yes.

20 Q. And on the left is a woman who I believe
21 we talked about earlier, to your left, also
22 sitting down. You don't know her name, correct?

23 A. I don't.

24 Q. Do you recall any conversations you had
25 with that individual?

1 A. I don't recall specifics. She just was
2 there to comfort me, offered comforting words in
3 a traumatic situation.

4 Q. And to your right, there's an individual
5 in a red top or red shirt. Who is that person?

6 A. She's also someone who came upon the
7 scene.

8 Q. Do you remember her name?

9 A. I don't.

10 Q. Did you exchange contact information
11 with anybody at the scene other than a police
12 officer?

13 A. Not that I recall.

14 Q. In Exhibit Number 22 when you're sitting
15 on the curb area and those two women are on
16 either side of you, did either one of them
17 indicate that they had seen what happened?

18 A. They -- no. They witnessed the
19 aftermath. They came along and saw Mr. Lynch
20 lying in the street.

21 Q. Were they in vehicles or were they
22 pedestrians?

23 A. I believe they were both in vehicles.

24 Q. And you mentioned that there was another
25 person to your left in a Range Rover, correct?

1 A. Correct.

2 Q. What color Range Rover was that?

3 A. I believe it was green or blue.

4 Q. Did you exchange contact information
5 with that person driving the other Range Rover?

6 A. No.

7 Q. Let me hand you Exhibit Number 25.
8 Again, it's a still screenshot from the videos
9 provided by your attorneys to us.

10 (Exhibit No. 25 was marked for
11 identification.)

12 Q. In the bottom corner of Exhibit
13 Number 25, bottom right corner, there's a person
14 wearing a ball cap and a blue sweatshirt. Do you
15 know who that person is?

16 A. No. It's the same person.

17 Q. Same person from --

18 A. As in Exhibit 22.

19 Q. Okay. Have you had any conversations
20 with an individual with the last name Fedorski,
21 F-e-d-o-r-s-k-i?

22 A. I don't recall that name.

23 Q. Have you had any conversations with any
24 representative or any adjuster with an insurance
25 company?

1 A. Yes.

2 Q. When did that conversation or
3 conversations take place?

4 A. With an investigator, at some point
5 after February of 2022.

6 Q. And what's the significance of you
7 saying after February of 2022?

8 A. I know that it was sometime after I was
9 notified of this -- these proceedings.

10 Q. And what did you discuss with that
11 investigator?

12 A. The -- what happened on this evening.

13 Q. Did he take a recorded statement from
14 you or obtain a written statement from you?

15 A. I don't believe either.

16 Q. Did he record any conversation that he
17 had with you?

18 A. I don't believe so.

19 Q. Do you know where this investigator was
20 from?

21 A. I don't.

22 Q. Do you recall his telephone number? It
23 was a guy, right?

24 A. Yes.

25 Q. Do you recall his telephone number?

1 A. I don't, no.

2 Q. Was it a 919 number?

3 A. I don't know.

4 Q. Was he from Raleigh or North Carolina
5 anywhere?

6 A. I do kind of remember North Carolina.

7 Q. Other than the written statement that
8 you referenced earlier that you provided to the
9 police, any other written statements that you
10 have provided to anyone?

11 A. No.

12 Q. Have you given any recorded statements
13 of any type to anyone?

14 A. No.

15 Q. All right. Let me show you Exhibit
16 Number 4.

17 (Exhibit No. 4 was marked for
18 identification.)

19 Q. And on the first page of Exhibit
20 Number 4, do you see the entry, owner's full
21 name, Einstein, Angela West?

22 A. Yes.

23 Q. And then a few lines down over to the
24 left of that, it has estimated speed and speed
25 limit, estimated speed being 45 and speed limit

1 being 45 on Exhibit Number 4?

2 A. Yes.

3 Q. And did you provide that speed of 45 to
4 the police officer?

5 A. No.

6 Q. Did you ever have any conversations with
7 any law enforcement personnel regarding your
8 speed?

9 A. Not that I recall.

10 Q. And it would be fair to say that your
11 speed when you rolled over Mr. Lynch was 45 miles
12 an hour, correct?

13 A. I would say that it was significantly
14 less than 45 if I recall going 46 or less prior
15 to, and then I hit my brakes. So I would have
16 been going less than 45.

17 Q. So you hit your brakes for the first
18 time 5 feet or less before you rolled over Mr.
19 Lynch, correct?

20 A. Correct.

21 Q. So -- but before you hit your brakes
22 within that 5-foot zone, you were going 45?

23 A. I would estimate, yes. Perhaps lower.

24 Q. Any issues whatsoever with your brakes
25 on your Range Rover?

1 A. None.

2 Q. And on Exhibit Number 4 in the upper
3 right -- excuse me -- the upper left area, it has
4 time of collision, 2022. Do you see that?

5 A. Yes.

6 Q. Do you know what time that means? I
7 think they refer to it as -- they, the officers
8 refer to it as military time.

9 A. Yes. I'm terrible at the math, but it's
10 8:22.

11 Q. That's what I think as well. Does that
12 sound about right as to the time that this
13 occurred?

14 A. Yes.

15 Q. When I say this, the events involving
16 Mr. Lynch and your vehicle?

17 A. Yes.

18 Q. Did you have any conversations with any
19 police officers regarding the time that the
20 incident involving Mr. Lynch occurred?

21 A. Not that I recall.

22 Q. And do you recall your body position in
23 your vehicle in the 20, 30 seconds before your
24 vehicle rolled over Mr. Lynch?

25 A. I was in the driver's seat facing

1 forward.

2 Q. Were you reaching over into your seat or
3 in the back seat for anything?

4 A. No. Looking straight ahead.

5 Q. And both hands on the wheel?

6 A. Absolutely, yes.

7 Q. Did you have your seatbelt on?

8 A. Yes.

9 Q. And you told us that the weather was
10 dry, the roads were dry, the radio wasn't on --

11 A. The radio was on.

12 Q. Excuse me. The radio was on, and you
13 had both hands on the wheel.

14 A. Yes.

15 Q. But do you consider the radio being on a
16 distraction to you?

17 A. No.

18 Q. So it would be fair to say that as you
19 proceeded down Wade Hampton before this incident
20 with Mr. Lynch occurred that you had no
21 distractions affecting your ability to safely
22 drive, correct?

23 A. No distractions.

24 Q. So I'm correct, right?

25 A. Correct.

1 Q. When you're operating a vehicle, you
2 would agree with me that it is never permissible
3 to you to jeopardize the safety and wellbeing of
4 persons on or about a roadway, correct?

5 A. Correct.

6 Q. And you would agree with me that at all
7 times when you're operating a vehicle, you have
8 the duty and obligation to pay attention to your
9 driving the entire time, correct?

10 A. Correct.

11 Q. Including paying attention to other
12 vehicles and pedestrians on or about the roadway
13 including Wade Hampton Boulevard, correct?

14 A. Correct.

15 Q. And with respect to you applying the
16 brakes within that 5 feet or less of you rolling
17 over Mr. Lynch, did you aggressively apply the
18 brakes or did you tap them? Tell me about that.

19 A. I would call it a tap because there was
20 no time to -- I tapped as hard as I could to
21 stop, swerved all at the same time and then
22 rolled forward to safely do a U-turn and applied
23 my brakes in order to do that.

24 Q. And where was the car to your left when
25 your wheels rolled over Mr. Lynch? Behind you?

1 In front of you?

2 A. Beside me.

3 Q. Directly beside you?

4 A. Slightly edging forward ahead of me.

5 Q. And how long had that car been to your
6 left?

7 A. We had traveled along together for at
8 least -- he was there the entire time that I was
9 driving on Wade Hampton.

10 Q. If that other Range Rover to your left
11 had not been there, would you have been able to
12 swerve entirely into that lane and avoid rolling
13 over Mr. Lynch?

14 A. No. No.

15 MS. STACY: Objection. Calls for
16 speculation. And you could still answer.

17 THE WITNESS: Okay.

18 Q. What type of clothing did Mr. Lynch have
19 on?

20 A. I just remember it being dark.

21 Q. His --

22 A. His clothing being dark.

23 Q. Did you observe Mr. Lynch at the scene
24 after the incident occurred?

25 A. After, I did.

1 Q. And what was he doing?

2 A. He was kind of yelling, moaning in pain
3 and moving.

4 Q. Based on what you saw and heard, was Mr.
5 Lynch in a great deal of pain based on your
6 observations?

7 A. I can just say he was in pain. I don't
8 know how much.

9 Q. Did he appear to you to be in a great
10 deal of pain?

11 A. Yes. He appeared to be in pain.

12 Q. Not just pain, a great deal of pain?

13 A. His -- the things that he said or his
14 actions made me unsure if he was crying out in
15 pain or if he was just angry and confused.

16 Q. What was he saying?

17 A. It was -- I could not understand what he
18 was saying.

19 Q. Does that surprise you that an
20 individual who had been run over, that you
21 couldn't understand what he was saying?

22 A. That doesn't surprise me.

23 Q. And as you approached the IHOP on Wade
24 Hampton Boulevard, was your vehicle in the center
25 of the right lane or off to one side of the right

1 lane?

2 A. Center of the right lane.

3 Q. And when you started your swerve, were
4 you in the center of the right lane?

5 A. Yes.

6 Q. And as you traveled on Wade Hampton
7 Boulevard toward the IHOP, you would agree with
8 me that there was nothing obstructing your
9 vision, correct?

10 A. Correct.

11 Q. Let me show you what's been marked as
12 Plaintiff's Exhibit Number 15.

13 (Exhibit No. 15 was marked for
14 identification.)

15 Q. And, again, Exhibit 15 is a still
16 photograph from the videos provided by your
17 attorneys to me or your attorney to me. And
18 looking at Exhibit 15 on the bottom right corner,
19 that's the IHOP, correct?

20 A. Correct.

21 Q. And there kind of in the center with
22 the -- I don't know if you call them party lights
23 or outdoor lights hanging in the parking lot,
24 that's the Asada restaurant, correct?

25 A. Correct.

1 Q. And did you notice after the incident
2 involving Mr. Lynch whether the party lights in
3 the Asada restaurant, like those parking lot
4 lights, were illuminated or not?

5 A. I believe they were.

6 Q. And looking at Exhibit Number 15,
7 earlier you testified that there was a street
8 light that was out --

9 A. Yes.

10 Q. -- at some point. Is the pole for that
11 street light shown in Exhibit Number 15, if you
12 know?

13 A. I believe it's this one in the center.

14 Q. Which one is that? Okay. So the pole
15 you're pointing at in Exhibit Number 15 that you
16 believe is the light pole where the light is out
17 is actually to the left of the Asada front door,
18 correct?

19 A. Correct. But -- it is entirely possible
20 that that pole is not visible, but I believe this
21 is the one.

22 Q. And when we take a look at Exhibit
23 Number 4 -- on the bottom right quadrant, so to
24 speak, of Exhibit 4, there's a narrative section
25 where it says, describe what happened. And it

1 provides, unit one was traveling northbound in
2 lane three. Unit two, pedestrian, was unlawfully
3 crossing the roadway when unit two was struck by
4 unit one.

5 Did you provide any police officer with
6 any information such as that I just read to you
7 from Exhibit 4?

8 A. No. Because that's not what happened.

9 Q. And tell me what happened.

10 A. Mr. Lynch was not crossing at the time
11 he was struck. He was lying in the road.

12 Q. Anything else that you find problematic
13 with that narrative, describe what happened
14 section of Exhibit Number 4?

15 A. I suppose I would take issue with the
16 word struck, but my tires struck him.

17 Q. Anything else that you would change of
18 that narrative section of Exhibit Number 4?

19 A. No.

20 Q. I'm going to hand you what's been marked
21 as Plaintiff's Exhibit Number 3, and tell me if
22 you know what Exhibit Number 3 is.

23 (Exhibit No. 3 was marked for
24 identification.)

25 A. Yes. It's my statement.

1 Q. And Exhibit Number 3 is the written
2 statement you prepared on December 16th, 2021, at
3 the scene of the incident involving Mr. Lynch,
4 correct?

5 A. Uh-huh.

6 Q. You have to say yes.

7 A. Yes.

8 Q. Now, at the top of Exhibit Number 3,
9 there's what we call redacted boxes, those black
10 boxes at the very top. Do you see those?

11 A. Yes.

12 Q. And it looks like one entry has DOB,
13 which I believe is date of birth. And did you
14 provide your date of birth on this statement, on
15 Exhibit Number 3, if you recall?

16 A. I don't recall. It could have been
17 taken from my driver's license.

18 Q. And is the DOB handwriting at the top of
19 Exhibit Number 3 your handwriting?

20 A. I can't tell.

21 Q. And it looks like below DOB, it has
22 phone in the upper center of Exhibit Number 3.
23 Is that your handwriting?

24 A. That does not look like my handwriting.

25 Q. And then Exhibit Number 3, it provides,

1 I, and then there's a blank with a handwritten
2 name, Angela Einstein. Is that Angela Einstein
3 at the top of Exhibit Number 3 your handwriting?

4 A. It is.

5 Q. And then taking a look at Exhibit
6 Number 3, the paragraph that begins, I am 55, and
7 then the handwriting in that section, is all of
8 that your handwriting?

9 A. Yes.

10 Q. And is Exhibit Number 3 the statement
11 you reviewed in preparing for your deposition
12 today?

13 A. Yes.

14 Q. And what I want you to do is take a look
15 at Exhibit Number 3. Go ahead and read it fully
16 for me, please, and tell me when you've done
17 that.

18 A. Okay.

19 Q. And is there anything in Exhibit
20 Number 3 -- now that you've read it and that
21 you're under oath, is there anything in Exhibit
22 Number 3 that you want to change?

23 A. I would say that I did go into the lane
24 beside me because I remember expecting to
25 sideswipe that car as I swerved.

1 Q. And do you think you have a better
2 memory now almost a year later than you did on
3 December 16th, 2021, regarding your swerve?

4 A. No. I specifically remember writing
5 this being -- knowing that I was getting ready to
6 sideswipe a car. So I had that beside me, and I
7 was surprised that I didn't hit him.

8 Q. But your statement provides that you did
9 not go into the lane to your left, correct?

10 MS. STACY: Object to the form.

11 THE WITNESS: Can I answer?

12 MS. STACY: Yes, you can answer.

13 A. So my thinking at that time was I was
14 boxed in with a person lying in the street in my
15 lane in front of me and a car beside me, and I
16 was worried that I was about to hit both. So I
17 was trapped. But I did swerve, and I was
18 surprised at the -- when we came through it that
19 I had not hit the car beside me.

20 Q. Right. But on Exhibit Number 3, which
21 you prepared on December 16th, 2021, in your own
22 handwriting, you put that you did not go into the
23 lane to your left, correct?

24 MS. STACY: Object to the form.

25 You can answer.

1 THE WITNESS: Okay.

2 A. I did say that as an explanation of why
3 I was boxed in, but I know that I swerved. And
4 there's no way I did not go into that lane, and
5 this was a split-second thought prior to rolling
6 over Mr. Lynch.

7 Q. And looking at the top portion of
8 Exhibit Number 3, it provides, I, Angela Einstein
9 do hereby give freely and voluntarily this
10 statement to -- do you know whose handwriting
11 that is?

12 A. I'm assuming it is an officer.

13 Q. It looks to me like a name, Davis, on
14 there. Do you recall speaking with anybody or
15 somebody introducing themselves as a Davis?

16 A. I don't recall the name, but that could
17 be the other officer that I did not know in one
18 of these other --

19 Q. Exhibits?

20 A. -- exhibits, yes.

21 Q. Looking at Exhibit Number 3, it has,
22 witnesses, R. Hamilton. Do you know who R.
23 Hamilton is?

24 A. She is the other officer, I believe.

25 Q. And the signature on Exhibit Number 3,

1 is that your signature?

2 A. It is.

3 Q. Did anybody advise you or instruct you
4 on how to complete Exhibit Number 3?

5 A. No.

6 Q. Did anybody instruct you or did you have
7 any conversations with anybody regarding what to
8 include or not to include in Exhibit Number 3?

9 A. Not that I recall. The instructions
10 were to simply write what happened.

11 Q. All right. I'm going to play what we're
12 going to mark as Exhibit Number 5, which is a 911
13 call. All right?

14 (Exhibit No. 5 was marked for
15 identification.)

16 Q. And I don't know if we're going to
17 listen to all of it. I believe it's your 911
18 call, and I just want you to tell me if it is
19 your voice. So let me go back here. If you need
20 better speakers and that sort of thing, I do have
21 a pretty decent speaker in my car I can bring in,
22 but I think we should be able to hear it through
23 the iPad here.

24 A. Okay.

25 Q. So let me make sure here for a second.

1 (Audio recording played.)

2 Q. Okay. So we just played like the first
3 six seconds of Exhibit Number 5, and is that your
4 voice calling in to 911?

5 A. It is.

6 Q. And I'm going to continue on from the
7 six-second mark of Exhibit Number 5.

8 (Audio recording played.)

9 Q. And I don't know if you could hear it,
10 but there was a voice in the background that
11 says, 903. Whose voice is that, if you know?

12 A. The owner of Asada.

13 Q. Okay. And I'm going to continue on with
14 Exhibit Number 5 from the 46-second mark where I
15 stopped it previously.

16 (Audio recording played.)

17 Q. I think they edited out the number. So
18 I paused it at the 1-minute 11 mark. On all of
19 these recordings like to 911, when they get
20 produced -- I don't think your attorney redacted
21 the audio. I think the police redact out --
22 block out, my number is this or my address is
23 this. So that's why there's that lull there when
24 it says, what's your number you're calling from.
25 Okay?

1 A. Okay.

2 Q. Nobody is --

3 A. Tampering.

4 Q. Right, right, other than the police. I
5 don't know why they --

6 MR. MCCOOL: And let the record
7 reflect the chuckle-chuckle by everybody.

8 Q. I don't know why they do that, but they
9 do that. Okay?

10 A. Okay.

11 (Audio recording played.)

12 Q. Okay. So I paused Exhibit Number 5 at
13 the 2-minute, 4-second mark because you had said
14 he's in the middle of Wade Hampton. You didn't
15 mean that literally though, right?

16 A. No.

17 Q. We saw the photographs --

18 A. He was in the right lane.

19 Q. He's in the right lane. Okay. And did
20 he -- was his body position the same from when
21 you rolled over him until you did your U-turn and
22 saw him again, in the same position?

23 A. Yes.

24 Q. So you didn't drag him or anything like
25 that, did you?

1 A. No.

2 Q. That's poorly worded. You did not drag
3 Mr. Lynch, correct?

4 A. Correct.

5 Q. And when you rolled over him and you did
6 your U-turn and came back around, he was in the
7 same area of the roadway as when you rolled over
8 him?

9 A. Yes.

10 Q. Okay. I'm going to resume Exhibit 5 at
11 the 2-minute, 4-second mark.

12 (Audio recording played.)

13 Q. And I stopped Exhibit 5 at the 2-minute,
14 50-second mark. Has anybody told you or provided
15 you with any information or indicated to you in
16 any fashion that Mr. Lynch was injured before
17 this incident?

18 A. No.

19 Q. All right. I'm going to continue
20 Exhibit 5 at the 2-minute, 50-second mark.

21 (Audio recording played.)

22 Q. Okay. So Exhibit Number 5, what was
23 produced to me, is 4 minutes and 12 seconds long,
24 and we've listened to the entirety of Exhibit
25 Number 5. And you were the caller to 911

1 throughout that Exhibit Number 5, correct?

2 A. Yes.

3 Q. And do you recall where you were when
4 you placed that call to 911?

5 A. I was in my car on Bluetooth.

6 Q. And after you had turned around, you
7 placed the 911 call?

8 A. Yes.

9 Q. And your car was parked in the center
10 lane of Wade Hampton when you placed the 911
11 call?

12 A. Yes.

13 Q. I'm going to hand you Exhibit Number 17
14 and Exhibit Number 24.

15 (Exhibit No. 17 was marked for
16 identification.)

17 (Exhibit No. 24 was marked for
18 identification.)

19 Q. And looking at Exhibit Number 17, in the
20 background between the gentleman kind of looking
21 into the camera and the gentleman wearing the
22 winter cap or toboggan --

23 A. Yes.

24 Q. Between those two persons, there's a
25 white car. Is that your Range Rover?

1 A. It is.

2 Q. And take a look at Exhibit 24 for me as
3 well. And in the background kind of in the
4 center of Exhibit Number 24, there's a white car.
5 Is that your Range Rover?

6 A. It is.

7 Q. Now, when you returned to the scene
8 after making your U-turn, did you move your
9 vehicle at any point in time before you
10 ultimately left the scene for good or did you
11 leave it in the center of Wade Hampton Boulevard
12 the entire time once you did your U-turn and
13 turned around?

14 A. I left it there while paramedics were
15 there, and once everyone cleared out, I believe
16 momentarily, briefly, I pulled it into the Asada
17 parking lot.

18 Q. At what point did you pull it into the
19 Asada parking lot?

20 A. Once EMS had left.

21 Q. And let me hand you what's been marked
22 as Exhibit Number 20, another still photo from
23 the videos.

24 (Exhibit No. 20 was marked for
25 identification.)

1 A. Uh-huh.

2 Q. And looking at Exhibit Number 20, do you
3 recall if Mr. Lynch was -- well, let me back up.
4 In Exhibit Number 20, do you see the individual
5 on the ground?

6 A. I do.

7 Q. Is that Mr. Lynch, as best you can tell?

8 A. Yes.

9 Q. Was Mr. Lynch wearing shorts, if you
10 know, at the time this happened?

11 A. No. I don't know. I don't believe so.

12 Q. Let me show you what's been marked as
13 Exhibit Number 10.

14 (Exhibit No. 10 was marked for
15 identification.)

16 Q. Again, Exhibit 10 is a still photograph
17 from the videos that we were provided. And in
18 the bottom right corner, there's a white vehicle
19 that appears to be a Range Rover. Is that your
20 vehicle?

21 A. It is.

22 Q. And as best you can tell in Exhibit
23 Number 10, is your vehicle parked in the center
24 lane of Wade Hampton?

25 A. Yes.

1 Q. And I think Exhibit Number 11 may give
2 us a better location of -- or better view of your
3 vehicle. So take a look at Exhibit Number 11.

4 (Exhibit No. 11 was marked for
5 identification.)

6 Q. So 10 and 11 both have your vehicle in
7 it, but it's after you've made the U-turn --

8 A. Correct.

9 Q. -- after the incident with Mr. Lynch,
10 correct?

11 A. Correct.

12 Q. And on Exhibit Number 11, that's you in
13 the bottom left corner?

14 A. Yes.

15 Q. And after you got out of your vehicle,
16 did you return to your vehicle for any reason?
17 And I'm not talking about for purposes of leaving
18 the scene, but did you return to your vehicle for
19 any reason after you turned around?

20 A. I potentially went back for reading
21 glasses, potentially went back for a phone. I
22 don't recall.

23 Q. And then looking at what I'm going to
24 hand you, Exhibit Number 12, again, that's you in
25 the bottom left, correct?

1 (Exhibit No. 12 was marked for
2 identification.)

3 A. Yes.

4 Q. And remind me. I can't remember if I
5 asked you this. How long do you think you were
6 just sitting on the curb at that location in
7 Exhibit 12?

8 A. I have no way of knowing. I don't know.

9 Q. And did somebody instruct you to sit
10 there or did you just elect to sit there on your
11 own?

12 A. I believe I elected to sit there on my
13 own. I had been up and needed to sit down.

14 Q. And then do you know who Lemuel -- and I
15 don't know if I'm pronouncing it right --
16 L-e-m-u-e-l Gaines is?

17 A. That was the driver of the car beside
18 me.

19 Q. And how about Roberto Cortez, do you
20 know who that is?

21 A. The owner of Asada.

22 Q. Any conversations with Mr. Gaines or Mr.
23 Cortez since December 16th, 2021?

24 A. No.

25 Q. Any e-mails, text messages, anything

1 like that?

2 A. No.

3 Q. When is it permissible for you or any
4 other driver to operate a vehicle and not pay
5 attention? Never, right?

6 A. Never.

7 Q. And we were all taught -- well, let me
8 ask you this. Did you take a driver's education
9 class to get a license?

10 A. I did.

11 Q. And you've had your license renewed over
12 the years, correct?

13 A. Yes.

14 Q. And during the driver's ed and
15 everything you learned in operating a car
16 throughout your adult life is that if you don't
17 pay attention to your driving, including other
18 vehicles and pedestrians, then you're
19 jeopardizing the safety and wellbeing of those
20 other persons on the roadway, correct?

21 A. Correct.

22 MS. STACY: Object to the form.

23 You can answer.

24 A. Correct.

25 Q. Let me hand you what's been marked as

1 Plaintiff's Exhibit Number 16.

2 (Exhibit No. 16 was marked for
3 identification.)

4 Q. And that, again, is a still photograph.
5 Exhibit Number 16 is a still photograph from the
6 videos that were provided by your attorneys to
7 us. And Exhibit 16, I'll represent to you, is
8 Mr. Lynch being wheeled into the emergency room
9 on the gurney. Did you ever go to the hospital
10 to see Mr. Lynch?

11 A. I did not.

12 Q. Did you ever inquire from anybody other
13 than your attorney -- and I'm not saying you did
14 or didn't with your attorney. But did you ever
15 inquire from anybody about the extent of Mr.
16 Lynch's injuries?

17 A. I believe with Officer Hamilton, I
18 inquired that night and perhaps the following
19 day.

20 Q. And describe Officer Hamilton to me.

21 A. Female officer, police officer with the
22 Greenville City Police.

23 Q. How old is she approximately?

24 A. Under 40.

25 Q. Was she white or black?

1 A. I believe she was white.

2 Q. Do you recall what color her hair was?

3 A. I think it was blonde.

4 Q. Have you at any point in time returned
5 to the scene where the incident involving Mr.
6 Lynch occurred?

7 A. I have had lunch at Asada.

8 Q. Was that strictly to have lunch or was
9 it to check out the area, to meet with the owner
10 of Asada?

11 A. I've never spoken to Mr. -- I can't
12 remember his name. To go back to lunch but also
13 to kind of look at the scene.

14 Q. Was it during the daytime or nighttime
15 that you went to go to lunch at Asada?

16 A. Daytime.

17 Q. And what thoughts, if any, or
18 observations, if any, did you gather when you
19 went to Asada for lunch that relate to this
20 lawsuit or the events related to the lawsuit?

21 A. Nothing.

22 Q. So what time of day did this incident
23 occur? 8:20? 8:22?

24 A. Yes.

25 MR. MCCOOL: We're going to go off

1 the record for a minute. I'm going to review my
2 notes and talk to Terry here for a few minutes as
3 well.

4 (A recess was taken.)

5 Q. All right, Ms. Einstein. Just so you
6 know where I was coming from in asking you
7 questions about whether you knew people based on
8 still photographs and that sort of thing, when we
9 look at what we'll mark as Exhibit Number 8, you
10 can see --

11 A. Do I have Exhibit 8?

12 Q. No. I'm going to hand it to you right
13 here. When we look at Exhibit Number 8 like on
14 page 2 and 3 in response to question one, you can
15 see how there's nobody by name specified by your
16 attorney. It's all just kind of general stuff
17 like police department, your witnesses and that
18 sort of thing.

19 And I just wanted to explain to you
20 that's why I had to go through those photographs
21 just to see if anybody like the owner of the
22 restaurant -- you know, we think we know his name
23 based on going through that, and then Mr. Gaines'
24 name came up and that sort of thing.

25 So that's why I was going through that,

1 simply because I didn't have names. I just had
2 kind of general references from your attorney.

3 A. Okay.

4 Q. Okay. So -- and so the blog, The Rare
5 Belle blog --

6 A. Yes.

7 Q. Has it always had the subtitle or the
8 working title of Drinkin' on the Job?

9 A. The blog is not Drinkin' on the Job.

10 Q. What is Drinkin' on the Job then?

11 A. It is an article that we write for a
12 local magazine.

13 Q. And what's the name of the local
14 magazine?

15 A. TALK Greenville produced by the
16 Greenville News.

17 Q. And regarding the night of the incident,
18 you testified that before the incident occurred,
19 you dropped your son-in-law off at a Christmas
20 party, correct?

21 A. Correct.

22 Q. Did you stay at that Christmas party or
23 visit anybody at the Christmas party?

24 A. No. I did not go in.

25 Q. And why was it that your son-in-law

1 needed a ride to the Christmas party?

2 A. Because the hosts, who are my
3 daughter's -- they own the business -- had
4 instructed everyone or given everyone information
5 that there was very limited parking. They had
6 suggested carpooling or Ubering.

7 Q. Have you ever had to seek treatment for
8 any drug or alcohol abuse issues?

9 A. No.

10 Q. And earlier you mentioned that the home
11 where you and your husband live, you, yourself,
12 own that home outright, correct?

13 A. Yes.

14 Q. Is there any other real property that
15 you own either outright or with any other person
16 or any other entity?

17 A. A condo -- an interest in a condo, a
18 part.

19 Q. And where is that condo located?

20 A. Litchfield Beach.

21 Q. And is that the condo where you needed
22 more room in your car for beach chairs and that
23 sort of thing?

24 A. Yes.

25 Q. And what's the value of that condo at

1 Litchfield?

2 A. Our portion is around 250,000.

3 Q. And who else owns the condo with you?

4 A. A Bill McCrary who lives here in
5 Greenville, and Brady who lives in Atlanta and
6 two sisters who live in the Charlotte area.

7 Q. What are their names?

8 A. Meg and Susan Godbold is what we go by,
9 but I believe they have other last names from
10 marriage.

11 Q. And what percentage ownership do you
12 have in the condominium at Litchfield?

13 A. One-sixth.

14 Q. Is it a timeshare interest or not?

15 A. Basically. We just all own it together
16 and split the weeks.

17 Q. And the one-sixth interest you have in
18 the condo at Litchfield, that one-sixth interest
19 is solely in your name?

20 A. I don't remember if it's in my name or
21 in my and my husband's name.

22 Q. What vehicles are in your names? Is
23 your current vehicle, the BMW, solely in your
24 name?

25 A. It is.

1 Q. What other vehicles are in your name --
2 solely in your name?

3 A. The Jeep might possibly be in my name.

4 Q. Any boats or anything that you own?

5 A. No.

6 Q. Any works of art of value that you own?

7 A. We do have artwork.

8 Q. What's the value of the artwork that you
9 own?

10 A. I would have no way of knowing.

11 Q. And where are the works of art kept that
12 you own?

13 A. In our home.

14 Q. Have you ever had an appraisal done of
15 the contents of your home by an insurance company
16 or an insurance representative?

17 A. I believe so.

18 Q. Do you recall what the appraisal amount
19 was?

20 A. I don't.

21 Q. How about any jewelry of value that you
22 own?

23 A. Probably have had appraisals.

24 Q. What's the value of the jewelry you own?

25 A. I have no way of knowing. I don't

1 recall.

2 Q. What's the value of the most expensive
3 piece of jewelry that you own?

4 A. \$20,000.

5 Q. And what type of jewelry or piece of
6 jewelry is that? A watch? A necklace?
7 Earrings?

8 A. A ring.

9 Q. Do you own any rental property of any
10 type?

11 A. No.

12 Q. Any ownership -- any prior ownerships in
13 real estate that you no longer have within the
14 past 10 years?

15 A. No.

16 Q. Do you have any ownership interest in
17 any businesses?

18 A. No.

19 Q. Do you file a yearly tax return?

20 A. Joint with my husband.

21 Q. Do you have any reportable income over
22 the last five years that would be entered on a
23 tax return?

24 A. I believe it would be just the little
25 bit that I get from writing the article for the

1 magazine.

2 Q. And how much do you get per article for
3 the magazine?

4 A. \$50.

5 Q. Do you have any banking accounts that
6 are in your name?

7 A. I do.

8 Q. Do you have a checking account?

9 A. I do.

10 Q. What's your current balance in the
11 checking account, roughly?

12 A. \$2,000.

13 Q. Do you have a savings account?

14 A. Not only in my name.

15 Q. Do you have a joint checking account
16 with anybody?

17 A. Yes.

18 Q. And who is the joint checking account
19 with?

20 A. My husband.

21 Q. And what's the current balance of the
22 joint checking account?

23 A. I don't know.

24 Q. And with respect to savings account, do
25 you have a joint savings account with anyone?

1 A. I do.

2 Q. Who do you have a joint savings account
3 with?

4 A. My husband.

5 Q. What's the current balance of the
6 savings account?

7 A. I do not know.

8 Q. And with respect to the checking
9 account, your own account and the joint account,
10 which banks are those accounts with?

11 A. Bank of America.

12 Q. And how about the savings account, what
13 bank is that with?

14 A. Also Bank of America.

15 Q. Do you have an interest in any type of
16 retirement plan, financial retirement plan?

17 A. I don't believe I do.

18 Q. Do you get any monthly income from any
19 sources?

20 A. No.

21 Q. Do you and your husband have any type of
22 joint account like a financial planning account,
23 retirement account, that sort of thing?

24 A. Yes.

25 Q. And how many types of those accounts do

1 you have?

2 A. Possibly two.

3 Q. Do you know what the current value of
4 those retirement accounts or retirement plans
5 are?

6 A. I don't.

7 Q. Do you know who your financial planner
8 is?

9 A. I know one.

10 Q. What's that financial planner's name?

11 A. Bob Machman.

12 Q. And spell the last name?

13 A. M-a-c-h-m-a-n.

14 Q. And where is he located?

15 A. Here in Greenville.

16 Q. And how about any stocks or bonds that
17 you own either solely or with anybody else that
18 are outside of the retirement plans or retirement
19 accounts? Own any stocks and bonds?

20 A. I think it would still be through the
21 same advisor.

22 Q. Do you have a safety deposit box
23 anywhere?

24 A. Yes.

25 Q. Where?

1 A. Bank of America on Augusta street.

2 Q. What's in that box that's of value?

3 A. Car titles.

4 Q. And do you have any type of trust
5 account or an interest in any type of trust
6 account?

7 A. No.

8 Q. Do you own any patents or copyrights or
9 trademarks?

10 A. No.

11 Q. Do you know if you are a named
12 beneficiary in any will or wills?

13 A. No.

14 Q. Do you have a will?

15 A. Yes.

16 Q. Do you have a will that you and your
17 husband prepared jointly?

18 A. I suppose it's my will. I am
19 potentially named in his. I wasn't thinking of
20 his will.

21 Q. So with respect to a will, you think you
22 may be the named beneficiary in your husband's
23 will?

24 A. I would assume so, yes.

25 Q. Do you hold any purchase options for any

1 stocks or bonds?

2 A. No.

3 Q. Do you, yourself, owe money to any
4 creditors?

5 A. Yes. The current BMW, I financed a
6 portion of that.

7 Q. What's your monthly payment on the BMW?

8 A. 300-something.

9 Q. \$300 -- \$300-something a month?

10 A. Yes. Correct.

11 Q. Where do you get the \$300-something a
12 month to pay for your BMW?

13 A. From my account.

14 Q. From your savings account?

15 A. From my checking account.

16 Q. And then where does the money come from
17 that winds up in your checking account?

18 A. My husband and I share accounts.

19 Q. Any other creditors that you owe money
20 to?

21 A. Not on a regular basis. Credit cards.

22 Q. That was going to be my next question.
23 Do you have any credit cards?

24 A. I do.

25 Q. And are they in your name, those credit

1 cards?

2 A. They are all joint.

3 Q. And who else is on the credit card with
4 you?

5 A. My husband.

6 Q. And what are your monthly -- you and
7 your husband -- like pick the main credit card
8 you use each month. What's the monthly charges
9 on a card?

10 A. I find it very hard to guess. It
11 depends on the month. \$5,000.

12 Q. Do you know if you're a named
13 beneficiary in any life insurance policies?

14 A. I would be for my husband, yes.

15 Q. Do you know the value of that life
16 insurance policy? Like what's the benefit
17 amount?

18 A. I don't know.

19 Q. Who prepared your will?

20 A. David Merline.

21 Q. And how do you spell that last name?

22 A. M-e-r-l-i-n-e.

23 Q. Where is David's office located?

24 A. Here in Greenville.

25 Q. Is he with a firm or is he a solo

1 practitioner?

2 A. He is with a partner. I can't recall
3 the name.

4 MR. MCCOOL: All right, Ms.
5 Einstein. I believe that's all the questions I
6 have. Thank you.

7 THE WITNESS: Thank you.

8 MS. STACY: Nothing from me.

9 (Off-the-record discussion.)

10 MR. MCCOOL: So with respect to
11 Exhibit Number 5, with defense counsel's okay,
12 I'll just retain possession of Exhibit Number 5.
13 Is that fair?

14 MS. STACY: The video? Or the
15 911 --

16 MR. MCCOOL: It's the 911 call.

17 MS. STACY: Yes, that's fine.

18 MR. MCCOOL: And you have it as
19 well.

20 MS. STACY: Correct.

21 MR. MCCOOL: But I think from now
22 on what we'll do for any deposition -- well,
23 these all stay the same. But in yours to keep it
24 simple, you can just call that Exhibit Number 5,
25 and then we'll all be on the same page.

1 MS. STACY: Okay. That sounds
2 good.

3 (The deposition was concluded at
4 4:04 p.m.)

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE THIRTEENTH JUDICIAL DISTRICT
COUNTY OF GREENVILLE	)	
Roger Wayne Lynch,	)	C.A. No. 2022-CP-23-03510
	)	
Plaintiff,	)	
	)	DEFENDANT ANGELA EINSTEIN'S
vs.	)	MEMORANDUM IN SUPPORT OF
	)	SUMMARY JUDGMENT
Angela West Einstein,	)	
	)	
Defendant.	)	

The defendant, Angela Einstein, hereby submits this Memorandum in support of her Motion for Summary Judgment in the above-entitled action.

FACTUAL BACKGROUND

This lawsuit arises from an automobile-pedestrian accident on Wade Hampton Boulevard near Greenville, S.C. on December 16, 2021 at 8:22 p.m. The accident occurred directly in front of Asada Restaurant, which is located next to the IHOP Restaurant. It was dark at the time of the accident and although there were streetlights in the area, the streetlight closest to the scene of the accident was out, leaving the area of the road not well-lit. (Exhibit 1, Defendant Dep., p. 61, 62, 88). Ms. Einstein was driving in the right/outside lane of Wade Hampton toward Greenville with a vehicle driven by Pastor Lemuel Gaines directly to her left and the curb to her right. (Defendant Dep., p. 59, 60). As Ms. Einstein passed the IHOP, she came upon Mr. Lynch, (hereinafter “the plaintiff”), a Black man dressed in dark clothing, lying across her lane of traffic. Despite swerving, Me. Einstein could not avoid hitting the plaintiff. (Defendant Dep., pp. 56, 58, 92).

It is unknown exactly when the plaintiff arrived in the area. He testified that he took a bus from downtown to a nearby bus stop but remembers nothing after getting off. (Exhibit 2, Plaintiff Dep., pp. 30, 40, 43, 44, 56, 57). He testified that he does not believe that he was there for more

than an hour prior to the accident. (Plaintiff Dep., pp. 60, 84). He also testified he spent some time talking to a person whose name he does not recall. (Plaintiff Dep., pp. 61, 62). However, on the night of the accident the owner of Asada Restaurant, Roberto Cortez, provided a statement to police investigators that he had witnessed the plaintiff arriving to the area in a black car, remaining in the area, and “trying to jump into the cars.” (Exhibit 3, Cortez Statement). The plaintiff admits riding in a black car earlier in the day with a driver named “Frank”, whose last name he claims he cannot recall. (Plaintiff Dep., p. 72).

Ms. Einstein arrived in the area of the accident after taking separate trips to drop her daughter, Meg, and Meg’s fiancé (now husband), Daniel, off at a holiday party hosted at the home of Meg’s employer in the Montebello subdivision near Paris Mountain. Meg’s employer had recommended attendees be dropped off at the party due to scarce parking. Ms. Einstein first dropped Meg off at the party and headed back to Greenville. Because Daniel had planned to arrive later, Ms. Einstein texted Daniel to ask if he wanted her to pick him up and drop him off as she had done for Meg. He accepted, so Ms. Einstein returned downtown, picked him up, took him to the party and then headed back toward Greenville to go home. (Defendant Dep., pp. 43, 44, 66).

After dropping Daniel at the party, Ms. Einstein drove down North Pleasantburg, turned right onto Wade Hampton, and proceeded toward the scene of the accident. She was listening to Christmas music, not using her phone, not doing anything that may have distracted her attention, and was looking straight ahead with both hands on the steering wheel. (Defendant Dep., pp. 64, 65, 83). As she proceeded toward Asada and IHOP, Ms. Einstein suddenly saw the plaintiff lying in her lane of travel. He was not in or near a crosswalk. As soon as Ms. Einstein realized there was a person lying in the road, she applied her brakes, so at the time of the accident, she was traveling significantly less than the posted speed limit of 45 MPH. (*Id.* pp. 73:8–16; 81:10–23). Specifically,

she “tapped [the brakes] as hard as [she] could to stop, swerved all at the same time.” (*Id.* p. 84:20–23). While Ms. Einstein was able to swerve, she was unable to avoid hitting the plaintiff’s legs. Ms. Einstein rolled forward to safely do a U-turn, parked, and used her vehicle’s Bluetooth to call 911 and waited for emergency personnel to arrive. (*Id.*, pp. 84, 98).

Just before the accident the defendant was traveling beside an SUV driven by Pastor Lemuel Gaines. In a handwritten statement to the police, Pastor Gaines reported that he was driving beside the defendant and as they were passing IHOP, he first saw what he thought was an animal in the road. He then realized it was a man in very dark clothes who “fell on the road.” According to Pastor Gaines, the man could not be seen, Ms. Einstein had no time to slow or stop, and the accident was “unavoidable.” (Exhibit 4, Gaines Affidavit and Statement).

At the time of the accident, the plaintiff was in the road, intoxicated, and in a hypoglycemic state. At or about 9:05 p.m. the plaintiff’s blood alcohol level (“BAC”) measured .083,¹ which is legally intoxicated to drive a vehicle, and which would have caused impairment of his ability to think and reason and of his motor coordination. (Exhibit 5, Eagerton Dep., pp. 14, 15). The plaintiff’s toxicology expert, Dr. Eagerton, testified that retrograde extrapolation places the plaintiff’s BAC at .090 at the time of the accident. If the plaintiff’s blood was drawn later than 9:05 p.m., which is possible, retrograde extrapolation would conclude the plaintiff’s BAC was even higher at the time of the accident (Eagerton Dep., p.18).

During his deposition, the plaintiff admitted drinking alcohol on the day of the accident, claiming he only drank one or two Budweiser beers the morning of the accident and none after

¹ It is unclear exactly when the plaintiff’s blood was drawn, but the plaintiff’s retained toxicologist has testified it may have been done by 9:05 p.m. on the evening of the accident, about five minutes after EMS released the plaintiff to hospital staff, when draws were made to run other lab tests. This is likely the very earliest blood for a BAC test would have been drawn.

8:00 a.m. When asked what size of Budweiser beer(s) he drank, he testified it was “A fifth. Fifth can. A fifth, like can,” and then he said it was only 12 ounces (Plaintiff Dep., pp. 58 - 60). According to Officer Hamilton, during an interview of the plaintiff four days after the accident while he was still in the hospital, the plaintiff admitted to her that he drank “a fifth of alcoholic beverage prior to the accident,” but he did not mention a specific alcoholic beverage (Exhibit 6, Hamilton Dep., pp. 36–37). Further, while the plaintiff claimed he stopped drinking the morning of the accident, his own toxicology expert testified that it was likely the plaintiff drank alcohol after the time he claimed to have stopped and that he likely drank three standard drinks within an hour of the accident. (Eagerton Dep., pp. 19, 20). However, even if he stopped drinking at 8:00 a.m. based on retrograde extrapolation, the plaintiff’s BAC would have been .26 or .27 at 8:00 a.m. the day of the accident. After the accident, the plaintiff received medication for alcohol withdrawal at the hospital, and he later admitted that the process of withdrawal was “horrible.” (Plaintiff Depo, p. 122).

To compound his problem with intoxication at the time of the accident, the plaintiff is diabetic. He requires insulin every day and also takes Metformin². Yet, the plaintiff admitted that he had not taken any diabetes medication on the day of the accident; his last dose of diabetes medication prior to the accident was the morning of December 15, some 36 hours prior. (Plaintiff Depo, p. 32). He claimed that he had taken the bus to this particular area because his mother lived nearby and his medication was at her house, though he did not live there. The plaintiff acknowledged that his blood sugar level was going up and down the day of the accident, and he

² According to Medline, “Metformin helps to control the amount of glucose (sugar) in your blood. It decreases the amount of glucose you absorb from your food and the amount of glucose made by your liver. Metformin also increases your body's response to insulin, a natural substance that controls the amount of glucose in the blood.”

<https://medlineplus.gov/druginfo/meds/a696005.html>

admitted that when he skips his medication and his blood sugar drops, he “can’t remember nothing”, “can’t function,” is “just out...really out,” and “don't know what [he is] doing.” (Plaintiff Dep., pp. 41, 52–53). He also admitted that before the accident he knew his blood sugar level was low because his mouth was dry and his eyes were affected. (Plaintiff Dep., p. 53). But, instead of going straight to his mother’s house after getting off the bus so he could take his medicine, he hung out with a guy whose name he doesn’t know. (Plaintiff Dep. pp 60, 61).

According to Dr. Eagerton, when the plaintiff’s blood was drawn after being admitted to the hospital post-accident, his blood glucose level was 29, far below the normal range of 65 or 70 to 100. After admission, the plaintiff’s blood glucose level increased to 45 and normalized at about 1:00 a.m. on December 17. Dr. Eagerton testified that in a June 28, 2024 report, he had opined that based upon the plaintiff’s blood glucose level of 29 around the time of the accident, any statements made by the plaintiff at that time would be unreliable since he was hypoglycemic and therefore would not have been of sound mind. (Eagerton Dep., pp. 13, 14).

However, Dr. Eagerton conceded that hypoglycemia would not have affected the plaintiff’s ability to understand what he was telling Officer Hamilton four days later when he informed her that he had consumed a fifth of alcohol on the day of the accident. Further, Dr. Eagerton testified that the plaintiff not eating on the day of the accident (rather than the plaintiff simply not taking his diabetes medicines), likely caused or contributed to the plaintiff’s hypoglycemic episode and also contributed to the plaintiff’s behavior and collapse at the scene, as an alcohol level of .09 alone likely would not have caused the plaintiff to behave in the manner described by witnesses and then fall down in the roadway. (Eagerton Dep., pp. 13, 15).

The evidence is uncontradicted that Ms. Einstein was neither distracted nor impaired on the night of the accident. Throughout the discovery phase of this case the plaintiff’s attorneys have

tried to create an issue that Ms. Einstein was under the influence of alcohol or prescription medication at the time of the accident. They have obtained her texts, a download of her cell phone data, her credit card charges, her prescription history, a list of all conditions for which she took any prescription medication in 2021, her country club billing statement, contact information for family and friends, photographs from her daughter's employer's Christmas party, magazine article pictures, taken her deposition, questioned her about empty bottles of wine in her garage months later that was to go to recycling, inspected her car, culled through police dashcam video footage and questioned Officer Hamilton about her observations of her the time of the accident. Despite all of that, the sum total of the evidence is that Ms. Einstein had one glass of wine no later than 9:30 p.m. at a Christmas party the night of December 15, nearly 24 hours before the accident, and 30 mg of Cymbalta the morning of December 16, approximately 12 hours before the accident. When asked about that, Dr. Eagerton testified that the wine would have been eliminated from Ms. Einstein's system within two hours of drinking it, or approximately 21 hours before the accident, and would not have impaired her in any way at the time of the accident. Likewise, a Cymbalta taken 12 hours before the accident would not have impaired her in any way at the time of the accident. (Eagerton Dep., pp. 42-44).

STANDARD OF REVIEW

Summary judgment is proper where the evidence shows “there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” Rule 56(c), SCRCP; *Concord & Cumberland Horizontal Prop. Regime v. Concord & Cumberland, LLC*, 424 S.C. 639, 646, 819 S.E.2d 166, 170 (Ct. App. 2018). The movant must first demonstrate that there is no genuine dispute of material fact. *See Miller v. Blumenthal Mills, Inc.*, 365 S.C. 204, 220, 616 S.E.2d 722, 730 (Ct. App. 2005) (citing *McCall v. State Farm Mut. Auto. Ins. Co.*, 359 S.C. 372,

597 S.E.2d 181 (Ct. App. 2004)). Once the party moving for summary judgment meets the initial burden of showing an absence of evidentiary support for the opponent's case, the opponent cannot simply rest on mere allegations or denials contained in the pleadings. See *Regions Bank v. Schmauch*, 354 S.C. 648, 660, 582 S.E.2d 432, 438 (Ct. App. 2003). Rather, to defeat the motion, the party opposing summary judgment must present evidence of specific facts from which the finder of fact could reasonably find for him, thereby showing there is a genuine issue for trial. See *Miller*, 365 S.C. at 220, 225, 616 S.E.2d at 730, 732.

In considering a motion for summary judgment, a court must view the facts in the light most favorable to the non-moving party. “[I]t is not sufficient for a party to create an inference that is not reasonable or an issue of fact that is not genuine.” *Kitchen Planners, LLC v. Friedman*, 440 S.C. 456, 463, 892 S.E.2d 297, 301 (2023)(rejecting use of the “scintilla rule.”). Moreover, “a court ‘cannot ignore facts unfavorable to that party and [it] must determine whether a verdict for the party opposing the motion would be reasonably possible under the facts.’” *Bloom v. Ravoir*, 339 S.C. 417, 423, 529 S.E.2d 710, 713 (2000) (citing *Hopson v. Clary*, 321 S.C. 312, 314, 468 S.E.2d 305, 307 (Ct. App. 1996)) (emphasis added). Based on these considerations, summary judgment should be granted in this case.

APPLICATION OF LAW TO FACTS

While the plaintiff alleges that Ms. Einstein’s negligence, willfulness, wantonness, and/or recklessness proximately caused his injuries arising from the accident, the record is void of evidence to reasonably support his allegations. To establish negligence, a plaintiff must prove (1) the defendant owed a duty of care, (2) the defendant breached that duty, and (3) the breach proximately caused the plaintiff’s injuries. *Bloom v. Ravoir*, 339 S.C. 417, 422, 529 S.E.2d 710, 712 (2000). Even if a plaintiff establishes the three elements, under the doctrine of comparative

negligence, “a plaintiff may only recover damages if his own negligence is not greater than that of the defendant.” *Id.* at 422, 529 S.E.2d at 713 (citing *Nelson v. Concrete Supply Co.*, 303 S.C. 243, 399 S.E.2d 783 (1991)). Therefore, while summary judgment on a negligence claim is rare, “where a verdict is not reasonably possible under the facts presented, summary judgment is proper.” *Bloom v. Ravoirra*, 339 S.C. 417, 425, 529 S.E.2d 710, 714 (2000). Further, where a reasonable jury cannot find there is clear and convincing evidence of willful, wanton, or reckless conduct, the issue of punitive damages is not a question for the jury. *Gurwood v. GCA Servs. Grp., Inc.*, 445 S.C. 324, 335, 914 S.E.2d 149, 155 and n.3 (2025).

Here, a verdict for the plaintiff is not reasonably possible under the evidence. The plaintiff has failed to establish Ms. Einstein’s conduct proximately caused his injuries. Indeed, the evidence shows he was 100% responsible for the accident and his resulting injuries. Even if the plaintiff were able to establish some negligence by Ms. Einstein, given the circumstances leading to him lying in the road at the time of the incident, no reasonable juror could find the plaintiff is less than 51% at fault. Finally, there is no evidence whatsoever that would allow for a reasonable jury to conclude that Ms. Einstein was reckless, willful, wanton or grossly negligent, or that she acted in conscious disregard for the plaintiff’s rights, Ms. Einstein is entitled to summary judgment on the issue of punitive damages.

A. Ms. Einstein Was Not Negligent In Any Way That Served As A Proximate Cause Of The Accident.

There is no evidence that Ms. Einstein was negligent in a way that proximately caused the accident. At the time of the accident, she was looking straight ahead with both hands on the wheel, not distracted, and not using or looking at her phone. She was neither eating nor drinking. She had completed one round-trip between downtown Greenville and the Montebello subdivision to take her daughter to a holiday party and was returning from a second trip after having dropped off her

son-in-law at the same party. Those two trips alone would have taken her through at least two dozen lights and intersections, all of which she had navigated without incident. She had consumed no alcohol on the day of the accident. The plaintiff's own toxicologist concedes that nothing Ms. Einstein had consumed in the 24 hours prior to the incident would have impaired her ability to drive at the time of this accident in the slightest. (Eagerton Dep., pp. 42, 43). Officer Hamilton observed Ms. Einstein shortly after the accident and testified there was nothing that indicated she was impaired in any way at the time of the accident. (Hamilton Dep., p. 33). Ms. Einstein was traveling significantly less than 45 MPH at impact, saw the plaintiff lying in the roadway and was able to swerve to try to avoid the plaintiff but was unable to avoid hitting him.

As noted above, there were two other witnesses to the accident, Mr. Cortez and Pastor Gaines. According to Mr. Cortez, he observed the plaintiff "trying to jump into cars" just before the accident. (Exhibit 3). According to Pastor Gaines, he did not see the plaintiff in the roadway until he had passed by the IHOP, which is immediately before where the plaintiff was lying in the roadway, and even then, Pastor Gaines thought the plaintiff was an animal in the road. Most importantly, Pastor Gaines stated the plaintiff could not be seen, Ms. Einstein did not have time to stop or slow, and the accident was "unavoidable" for her. (Exhibit 4). Accordingly, because there is no evidence of negligence by Ms. Einstein which caused or contributed to the accident, she is entitled to summary judgment.

B. The Plaintiff Is Barred From Recovery Because He Was 100% Responsible For The Accident And His Own Injuries

Based upon the undisputed facts and the law, the plaintiff was 100% responsible for the accident and his own injuries, and he is therefore barred from any recovery in this case. On the day of the accident, the plaintiff was on an alcohol-fueled bender. Although the precise amount of what he drank is unknown and what type(s) of alcohol he drank is unclear, as is much of the day

of the accident for the plaintiff, he admitted to drinking “a fifth” —a term the plaintiff concedes is a common reference to liquor, not beer, even by him. (Plaintiff’s Dep., p. 69). While the plaintiff claims he stopped consuming alcohol at 8:00 a.m. the morning of the accident, even his own expert toxicologist doubts that timeline. At a minimum, the plaintiff’s BAC was .09 at the time of the accident by his toxicologist’s calculations, which assumes his blood was drawn within an hour of the accident. If the plaintiff’s blood was drawn over an hour after the accident, which is possible, then his BAC was higher than .09 at the time of the accident. Regardless, when he was lying in the roadway at night in dark clothes, he was legally intoxicated.

To compound matters, by his own testimony, the plaintiff spent the 36 hours prior to the accident neglecting his diabetes. He had not taken either his daily insulin or Metformin since the morning of December 15. Additionally, the plaintiff does not remember what or when he ate the day of the accident, (Plaintiff Dep., pp. 57), and according to his toxicologist, the plaintiff likely had not eaten anytime near the time of the accident and likely did not eat at all that day. (Eagerton Dep., pp. 53, 61). As a consequence of the plaintiff’s own mismanagement of his chronic medical condition, the plaintiff’s blood glucose plunged to a dangerously low level, which means at the time of the accident, he was essentially out of his mind. (Eagerton Dep., pp. 47) Indeed, the plaintiff admitted that he doesn’t really remember what he did the day of the accident and that he can remember absolutely nothing after allegedly getting off the bus near where the accident occurred: not the time of day, weather, clothing, surroundings, or the collision at all, nor the details of the collision like where he was when he was hit, who hit him, what kind of car hit him, the speed of the car or whether there were other cars around. (Plaintiff Dep., pp. 57).

A review of plaintiff’s prior hypoglycemic incidents that resulted in hospital admission reflect that plaintiff was well aware of the potential consequences of his behavior. For example, in

January 2021, less than a year before the accident, the plaintiff was found by EMS unconscious, on the side of the street suffering from hypoglycemia in 42-degree weather. Neighbors had thrown water on him to try to wake him up. After he was treated for hypoglycemia and possible hypothermia, he told the EMS attendants that he had been out for a night of drinking and smoking crack.³ He was taken to the hospital by ambulance. (Exhibit 7). Similarly, on November 25, 2021, just three weeks before the accident, the plaintiff was again found by EMS in his bedroom in a confused and hypoglycemic state, surrounded by “multiple alcoholic beverage bottles” that were empty. He admitted to drinking “copious amounts of alcohol.” His blood glucose level was reported to be 30. He was again taken to the hospital by ambulance. (Exhibit 8).

In addition to these documented ambulance runs for medical issues similar to what occurred on the evening of this accident, the plaintiff admitted in his deposition that he has been to the hospital more than 12 times per year on average when his blood glucose levels got too high or too low. As he stated, “[w]hen your sugar level get so high or so low you got to go. You don’t know if you go or not because they pick you up in an ambulance. You don’t know nothing. I didn’t know nothing” (Plaintiff Dep., pp. 22-23).

That Lynch was negligent cannot be disputed. First, the very fact that as a diabetic, Lynch failed to take his insulin and eat properly, is recognized in South Carolina as negligence. *See, Howle v. PYA/Monarch, Inc.*, 288 S.C. 586, 344 S.E.2d 157 (Ct. App. 1986):

A jury could reasonably find from the facts, as recited above, that PYA [as employer] and Gregory [the diabetic driver/defendant] were negligent because Gregory had sufficient warning on the morning of the accident that a hypoglycemic episode was approaching and, though he had “gotten woozy” and knew he had not

³ The plaintiff testified in his deposition he has not used illegal drugs since 2006 and that he was an insulin dependent diabetic (Plaintiff Dep., pp. 20). He later testified that he had used no drugs since 2008, and still later, testified he had used no drugs for ten years. (Plaintiff Dep., pp. 114, 124). The medical records directly contradict his testimony denying drug use.

eaten lunch, he neither ate the candy he had available to abate the episode nor stopped driving.

Id at 590–91, 344 S.E.2d at 159. As such, Gregory’s claim that he suffered a sudden medical emergency as the result of hypoglycemia which led to the accident was rejected.

Moreover, compounding the plaintiff’s gross negligence and recklessness is that fact he was also voluntarily intoxicated while insulin deprived and not properly nourished. South Carolina cases have held the fact of his voluntary intoxication alone may be sufficient to hold as a matter of law that plaintiff’s negligence exceeded that of a defendant. In *Lydia v. Horton*, 355 S.C. 36, 583 S.E.2d 750 (2003), the supreme court stated: “We agree with the trial judge that Lydia’s admission that he was ‘appreciably impaired’ and that he lost control of the vehicle supports only one conclusion, that Lydia’s negligence exceeded Horton’s. *See Creech v. South Carolina Wildlife & Marine Resources Dep’t*, 328 S.C. 24, 491 S.E.2d 571 (1997) (if the evidence supports only one conclusion, then the comparative fault of the plaintiff and defendant becomes a question of law for the trial judge).” *Lydia*, 355 S.C. at 40, 583 S.E.2d at 752-53.

The evidence is overwhelming: the plaintiff’s self-inflicted conduct—intoxication, failure to take medication, failure to eat—caused him to fall into the middle of a busy Greenville highway at night, wearing dark clothing in a not well-lit area. The plaintiff knew the dangers of not controlling his blood glucose level. While his injuries are unfortunate, he alone created the circumstances of lying across a roadway. Ms. Einstein had no knowledge of his condition, and no opportunity to recognize his condition and avoid him. The plaintiff was the sole author of his own injuries. The evidence supports only one conclusion: that the plaintiff’s negligence was the sole cause of the accident and his injuries. Accordingly, Ms. Einstein is entitled to summary judgment as a matter of law.

C. Even If Ms. Einstein Were Negligent In Some Way, Which She Wasn't, Such Negligence Was Not A Proximate Cause Of The Accident, Or Was So Minimal Compared To The Plaintiff's Grossly Negligent Conduct That Ms. Einstein Is Entitled to Summary Judgment.

Ms. Einstein was not negligent at all, but even if she were, any such negligence was not a proximate cause of the accident. To the extent it might be argued she was negligent, and proximate cause exists, because of the plaintiff's overwhelmingly grossly negligent behavior, no reasonable jury could find that he was less than 51% at-fault and, as such, that he is legally barred from any recovery in this case.⁴

The plaintiff remembers nothing about the accident and can offer no testimony about anything Ms. Einstein did to cause the accident. Nevertheless, and despite testifying that he does not know if Ms. Einstein was unable to stop without hitting him, it is his belief he is entitled to recover in this case simply because she had a car and hit him. As this Court is well aware, that cannot serve as a basis for the imposition of liability by Ms. Einstein, particularly in light of the plaintiff's overwhelming gross negligence, and comparing two decisions of the South Carolina Supreme Court in auto-pedestrian cases support the conclusion that a verdict in favor of the plaintiff is not reasonably possible under the facts.

In *Bloom v. Ravoir*, the Supreme Court affirmed that a pedestrian's negligence exceeded 50% as a matter of law where he violated crossing statutes by jaywalking mid-block in dark, rainy conditions while wearing dark clothing and entering traffic suddenly from between parked cars; the Court concluded the pedestrian's fault was overwhelming and precluded any reasonable inference of driver negligence. 339 S.C. 417, 420–25, 529 S.E.2d 710, 711–14.

⁴ It is not Ms. Einstein's position that the plaintiff was only 51% at-fault, but instead that he could not be less at fault than 51%. It is Ms. Einstein's position, solely for this argument, that the plaintiff was overwhelmingly grossly negligent compared to any slight evidence of negligence by her.

Likewise, in *Est. of Haley ex rel. Haley v. Brown*, 370 S.C. 240, 634 S.E.2d 62 (Ct. App. 2006), three boys around eight years old were riding bicycles and darted out into the street from a parking lot. Defendant motorist swerved to avoid the first two boys but the third struck the defendant's truck. At trial, the plaintiff presented an expert who opined that the defendant had two seconds to avoid the accident inferring that the defendant was negligent. The court of appeals affirmed the trial court's directed verdict for the defendant.

At the time of this accident, Brown was driving in his proper lane and at the posted speed limit. Moreover, there is no evidence of any impairment or recklessness on his part. Brown was confronted with an emergency situation caused solely by the first two boys wrongfully darting out of the bank parking lot into the path of his truck. He quickly made a decision to swerve to the left to avoid hitting the two boys. By choosing to swerve, Brown made a choice a person of ordinary prudence placed in the same emergency situation might also make at that moment. In fact, Brown did not hit *any* of the three children that day; unfortunately, one of them, Joshua, struck him.

Id. at 243–44, 634 S.E.2d at 64.

By contrast, in *Abdelgheny v. Moody*, the Supreme Court reversed summary judgment because material disputes existed where the pedestrian wore bright clothing, had safely crossed two lanes, paused in the median, and there was evidence the driver may have failed to maintain a proper lookout—facts permitting a jury to weigh comparative fault. 432 S.C. 346, 348–51, 852 S.E.2d 225, 226–28 (Ct. App. 2020).

In the accident at issue, the features giving rise to issues of material fact in *Abdelgheny* are absent: the plaintiff was not wearing bright clothes, the plaintiff was not actively attempting to avoid traffic—he had at one point been jumping in out of traffic—he was lying in the road at the time he became visible to Ms. Einstein, and there exists an uncontradicted statement by Pastor Gaines that the incident was unavoidable by Ms. Einstein. Moreover, evidence supporting the conclusion that a verdict in favor of the plaintiff is not reasonably possible is even more stark than

in *Bloom*: the plaintiff was lying in a live travel lane on a highway at night, intoxicated, in an avoidable hypoglycemic state, and wearing dark clothing—directly contravening clear statutory duties to exercise due care for personal safety and to avoid creating roadway hazards. *See* S.C. Code Ann. § 56-5-3150(a) and (c). On these objective facts, no competent evidence suggests Ms. Einstein, or any reasonable motorist, could have perceived and avoided a supine, dark-clad, impaired pedestrian under low-visibility nighttime conditions; any contrary supposition is speculative and cannot forestall summary judgment. Thus, as in *Bloom*, the evidentiary record admits only one conclusion—that plaintiff’s negligence exceeds 50% and is the sole or superseding cause—rendering the claim ripe for summary judgment.⁵ As such, even if Ms. Einstein was somehow slightly negligent, she is still entitled to summary judgment since no reasonable jury could find the plaintiff to be less than 51% at-fault for the accident. *See Bloom* at 422, 529 S.E.2d at 713.

⁵ *See* 339 S.C. at 420–25, 529 S.E.2d at 711–14; *Pottinger v. Price*, 2019-0183 (La. App. 1 Cir. 10/23/19), 289 So. 3d 1047, 1057–58 (upholding a trial court’s granting of summary judgment for a motorist and finding a motorist that attempted to slow down and swerve but still struck a pedestrian acted reasonably where there was no crosswalk, it was night, there were no streetlights illuminating roadway in area of accident, the pedestrian was wearing dark upper body clothing and no reflective materials, and the pedestrian had parked his vehicle on shoulder, which could have distracted approaching drivers and provided physical barrier limiting potential escape path for any swerving vehicle.); *see Gaffron v. Metropolitan Atlanta Rapid Transit Authority*, 229 Ga. App. 426, 494 S.E.2d 54 (1997) (finding a pedestrian may not ignore traffic conditions and enter roadway relieved of her duty to exercise ordinary care for her own safety); *Schupp v. Grill*, 27 Conn. App. 513, 607 A.2d 1155 (1992) (finding plaintiff was the proximate cause of his own injuries where he was hit while running in the middle of an unlighted road toward the defendant’s westbound automobile at 6:42 p.m. in the dark). *Jones v. Gleim*, 468 N.E.2d 205, 208 (Ind. 1984) (finding a pedestrian’s “conduct in crossing the street in the middle of the block on a rainy, foggy night when her vision was impaired and she did not continue to look for oncoming traffic was not that of a reasonable person and was in disregard of the obviously known and appreciated dangers.”).

D. Ms. Einstein Is Entitled To Summary Judgment On The Issue Of Punitive Damages

The plaintiff has prayed for recovery of punitive damages. "Punitive damages may be awarded only if the plaintiff proves by *clear and convincing evidence* that his harm was the result of the defendant's willful, wanton, or reckless conduct." S.C. Code Ann. § 15-32-520 (emphasis added). The clear and convincing standard represents "the highest burden of proof known to the civil law...." *Mellen v. Lane*, 377 S.C. 261, 290, 659 S.E.2d 236, 251 (Ct. App. 2008). While determining whether a party is entitled to punitive damages is a jury question, a trial court must determine whether a jury can reasonably find there is clear and convincing evidence of willful, wanton, or reckless conduct. *Gurwood v. GCA Servs. Grp., Inc.*, 445 S.C. 324, 335, 914 S.E.2d 149, 155 and n.3 (2025). Mere negligence, even gross negligence, is insufficient to support punitive damages. *Solanki v. Wal-Mart Store No. 2806*, 410 S.C. 229, 237, 763 S.E.2d 615, 619 (Ct. App. 2014) citing *Bell v. Atl. Coast Line R. Co.*, 202 S.C. 160, 171, 24 S.E.2d 177, 182 (1943). The Court of Appeals clarified that "while punitive damages are recoverable for negligence so gross or reckless of consequences as to imply or to assume the nature of wantonness, willfulness or recklessness, yet they are not awarded in this state for mere gross negligence." *Solanki*, 410 S.C. at 237, 763 S.E.2d at 619.

The evidence establishes that at the time of the accident, Ms. Einstein was driving down a not well-lit the road at night, with both hands on the wheel and looking straight ahead without any distractions, when she came upon the plaintiff dressed in dark clothing lying in the road from a combination of alcohol and a diabetic episode. When Ms. Einstein saw the plaintiff in the roadway, likely at about the same time Pastor Gaines did, she was proceeding at the speed limit and slammed on her brakes, but it was too late to avoid the accident.⁶ As Pastor Gaines stated, the

⁶ Even if the plaintiff attempts to establish Ms. Einstein was somehow violating a traffic law at the time of the incident, which Ms. Einstein denies, in *Gurwood*, the Supreme Court signaled that a

accident was simply unavoidable for Ms. Einstein. By contrast, the plaintiff's own conduct, his drinking combined with his mismanagement of his blood glucose levels despite knowing the consequences of both, created the danger; he was the sole author of his own injuries. Consequently, the record contains no evidence whatsoever that would allow for a reasonable jury to conclude that Ms. Einstein was reckless, willful or wanton, or that she acted in conscious disregard for the plaintiff's rights. As such, Ms. Einstein is entitled to summary judgment on the issue of punitive damages.

CONCLUSION

Ms. Einstein is entitled to summary judgment because there is no evidence that any of her conduct proximately caused the plaintiff's injuries; instead the evidence is clear to a certainty that plaintiff was entirely at-fault in causing the accident and his own injuries. Even if there was evidence of negligence by Ms. Einstein, which is denied, the plaintiff's gross negligence so far outweighs any slight negligence of Ms. Einstein that no reasonable jury could find him less than 51% at-fault, thereby barring him from any recovery. Lastly, there is no evidence of any acts or omissions by Ms. Einstein that could possibly serve as a basis for an award of punitive damages, particularly in light of the overwhelming gross negligence of the plaintiff. Therefore, Ms. Einstein is entitled to summary judgment.

minor traffic violation, standing alone, does not elevate conduct to the level of recklessness necessary for punitive damages. 445 S.C. at 332, 914 S.E.2d at 154 (“[c]lear and convincing evidence is an elevated standard of proof . . . the mere violation of the statute, without more, is insufficient to prove punitive damages by clear and convincing evidence.”) (quoting *Wise v. Broadway*, 315 S.C. 273, 282, 433 S.E.2d 857, 862 (1993) (Toal, J. dissenting)).

Respectfully submitted,

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EXHIBIT 1

1 Q. Any health scares or surgeries in the
2 last 10 years for you?

3 A. Not that I can recall.

4 Q. Any health issues that you were
5 experiencing on December 16th, 2021, other than
6 the ones we've talked about where you were taking
7 the medicine?

8 A. Correct. No.

9 Q. Had you consumed any alcohol in the
10 24 hours before the incident with Mr. Lynch
11 occurred?

12 A. No.

13 Q. Where were you going to when the
14 incident with Mr. Lynch occurred?

15 A. Home.

16 Q. And where were you coming from?

17 A. Paris Mountain.

18 Q. What is that?

19 A. It was -- it's an area of Greenville. I
20 was coming from a home from up there.

21 Q. What was the address of that home?

22 A. I do not know.

23 Q. Do you recall what street it was on?

24 A. Turn off of Altamont -- I don't recall
25 the -- it's a cul-de-sac at the top of the

1 mountain.

2 Q. And what was your reason or purpose for
3 being at that home on Paris Mountain before the
4 incident with Mr. Lynch occurred?

5 A. I was dropping my future son-in-law at
6 my daughter's work Christmas party.

7 Q. And before you went to that Paris
8 Mountain home, where had you been?

9 A. Home.

10 Q. Do you recall what you were doing before
11 you left home that day to bring your son-in-law
12 to your daughter's work Christmas party?

13 A. I was gathering Christmas presents and
14 boxing and wrapping, preparing to leave town the
15 next week.

16 Q. And earlier this year when your attorney
17 and I and the other gentlemen were looking at
18 your vehicle at your home, there seemed to be a
19 decent amount of wine bottles and that sort of
20 thing. Is -- are you in the business of selling
21 wine, sharing wine or anything like that?

22 MS. STACY: Object to the form.

23 You can answer.

24 THE WITNESS: Okay.

25 A. I believe at the time we had probably

1 A. No.

2 Q. And when you say, as we approached the
3 scene, who is the we that you're talking about?

4 A. Mr. Gaines was the driver of a car
5 beside me.

6 Q. And when you say Mr. Gaines was the
7 driver of the car beside you, what side was he on
8 of you -- of your vehicle?

9 A. My left.

10 Q. And what boulevard or street did this
11 happen on?

12 A. Wade Hampton.

13 Q. Is that Wade Hampton Boulevard?

14 A. Boulevard.

15 Q. And how many lanes is Wade Hampton
16 Boulevard?

17 A. At that point, it is six lanes with a
18 turn lane.

19 Q. So including the turn lane, seven lanes?

20 A. Yes.

21 Q. And I've been to Wade Hampton Boulevard
22 many times, been on it many times. The time of
23 night that this incident happened, there's not
24 much traffic, correct?

25 A. Correct.

1 Q. Which vehicle was that?

2 A. That was the one driven by Mr. Gaines.

3 Q. Do you recall what type of vehicle it
4 was?

5 A. He was -- yes. It was the same type of
6 vehicle I was driving.

7 Q. A Range Rover Sport?

8 A. Yes.

9 Q. And the road conditions were dry,
10 correct?

11 A. Yes.

12 Q. Weather was dry, correct?

13 A. Yes.

14 Q. And Wade Hampton Boulevard, that's a
15 straight shot, as they call it?

16 A. Yes.

17 Q. Okay. For, you know, a mile in each --

18 A. A good couple of miles --

19 Q. -- direction? In both --

20 A. Yes.

21 (Reporter interruption.)

22 Q. I'm going to back up just to clean it
23 up. So Wade Hampton Boulevard -- looking at the
24 point of where the incident occurred, in either
25 direction, a couple miles both ways, it's a

1 not answer.

2 Q. All right. So when you say you
3 attempted to call your husband, you actually
4 placed the call.

5 A. Yes.

6 Q. It rang or went straight to his
7 voicemail?

8 A. Yes.

9 Q. How long after your car rolled over Mr.
10 Lynch did you place that call to your husband?

11 A. Probably 30 minutes.

12 Q. Did you call your daughter?

13 A. No.

14 Q. How about your son?

15 A. No.

16 Q. At the scene, the only person you called
17 was your husband. Is that fair to say?

18 A. Yes.

19 (Off-the-record discussion.)

20 (A recess was taken.)

21 Q. And regarding the time when the incident
22 occurred, backtracking from when you dropped off
23 your son-in-law, how much time had elapsed?

24 A. 15 minutes.

25 Q. And from when you dropped off your

1 the other side of Wade Hampton going the opposite
2 direction you were traveling when the incident
3 occurred, correct?

4 A. I parked in the emergency lane. I'm
5 sorry. Not the emergency, the turn lane.

6 Q. Right in the middle of Wade Hampton?

7 A. In the middle of Wade Hampton.

8 Q. What was your speed as you traveled down
9 Wade Hampton?

10 A. 46 or less.

11 Q. And why do you say 46 or less?

12 A. Because just prior to this, probably a
13 half mile before, I had glanced at my
14 speedometer. I was going 47 and realized there
15 was -- the speed limit was 45, so I took my foot
16 off the gas, slowed down.

17 Q. And you're quite familiar with Wade
18 Hampton Boulevard?

19 A. I am.

20 Q. You traveled it routinely before this
21 happened, correct?

22 A. I wouldn't say routinely, but I do
23 fairly often.

24 Q. And with respect to before the incident
25 on December 16th, 2021, happened, how many times

1 Q. When you're operating a vehicle, you
2 would agree with me that it is never permissible
3 to you to jeopardize the safety and wellbeing of
4 persons on or about a roadway, correct?

5 A. Correct.

6 Q. And you would agree with me that at all
7 times when you're operating a vehicle, you have
8 the duty and obligation to pay attention to your
9 driving the entire time, correct?

10 A. Correct.

11 Q. Including paying attention to other
12 vehicles and pedestrians on or about the roadway
13 including Wade Hampton Boulevard, correct?

14 A. Correct.

15 Q. And with respect to you applying the
16 brakes within that 5 feet or less of you rolling
17 over Mr. Lynch, did you aggressively apply the
18 brakes or did you tap them? Tell me about that.

19 A. I would call it a tap because there was
20 no time to -- I tapped as hard as I could to
21 stop, swerved all at the same time and then
22 rolled forward to safely do a U-turn and applied
23 my brakes in order to do that.

24 Q. And where was the car to your left when
25 your wheels rolled over Mr. Lynch? Behind you?

EXHIBIT 2

1 A I ain't had no a alcohol.

2 Q And make sure you let me finish, for the record. I
3 know it's normal in conversation to talk over each
4 other --

5 A All right.

6 Q -- but we've got to make sure it's clear.
7 So no drink whatsoever since the incident in
8 2021?

9 A Nope.

10 Q Okay. Were you dependent on alcohol at the time of
11 the incident?

12 A Nope.

13 Q Were you drinking on the night of the incident?

14 A Yes.

15 Q Have you ever abused alcohol?

16 A Yep.

17 Q Have you ever used any other illegal substances,
18 any other drugs?

19 A Yes.

20 Q And when is the last time you've ever used any
21 other drugs?

22 A About 2006.

23 Q 2006?

24 A Yes.

25 Q So between 2006 and to the present, you have not

1 before the accident and then how you're feeling
2 today. So if we could rewind, excluding the
3 incident, what were any health conditions you had
4 before the incident? You had hypertension and
5 diabetes, correct?

6 A Nothing else wrong with me.

7 Q No other conditions prior to the incident?

8 A No.

9 Q Any mental or emotional conditions? Have you ever
10 been diagnosed with any?

11 A No. But now I am. I have a lot of mental
12 disorders now.

13 Q We'll talk about that, as well. We'll definitely
14 get to that, I just want to make sure we
15 differentiate. So we're still before the incident.

16 How often had you been to the hospital prior to
17 the incident?

18 A Many times. I can't say how many.

19 Q Many times. More than once a year?

20 A Yes. When your sugar level get so high or so low
21 you got to go. You don't know if you go or not
22 because they pick you up in an ambulance. You
23 don't know nothing. I didn't know nothing.

24 Q Would you have been to the hospital more than 12
25 times a year on average?

1 A Yes.

2 Q So at least every month?

3 A Not every month. It's just whenever my sugar level
4 got too high, I had to go. And when it got too
5 low, I had to go. I can't say how many times. I
6 can't answer that.

7 Q Do you have a primary care physician?

8 A No.

9 Q Have you ever had a primary care physician?

10 A No. But I go to the -- I was going to the, it's
11 called the free clinic, at that time. Now I get
12 help by the government.

13 MR. MCCOOL: What was the place where you
14 got treatment before?

15 A The free clinic. It's called the free clinic.
16 They do free -- you get free medical there.

17 MS. LEAPHART: Free clinic?

18 A Yeah.

19 Q Is that free clinic in Greenville?

20 A Yes.

21 Q Do you recall the name of it?

22 A That was the name of it.

23 Q What was the name again? If you could repeat it.

24 A The free clinic on Butler Road.

25 MR. MCCOOL: The free clinic.

1 a copy of the police report and the EMS report for
2 the incident. I expect you've never seen these
3 documents before?

4 A No, ma'am.

5 Q Okay. I want to start from the top. If you could,
6 describe for me in your own words what happened on
7 the night of the incident?

8 A Only thing I can say, I got off the city bus going
9 across the street. And after that, I don't know
10 nothing else. I don't.

11 Q You saw a bus across the street?

12 A No. I had got off the bus going to my mother's
13 house to get my medicine. And after that, I don't
14 know what happened. I don't know. All I know is
15 they cut me up in the hospital with two broke legs.

16 Q Let's break that down. You were going to whose
17 house?

18 A My mother's.

19 Q So you were going to your mother's house to get
20 your medicine.

21 A Right.

22 Q What kind of medicine was there that you needed to
23 retrieve?

24 A I needed to get my blood sugar medicine.

25 Q The blood sugar medicine?

1 A The first time I take it in the morning and in the
2 evening. But I didn't get to take it that day.
3 Q So you take your medication every morning and every
4 evening, correct?
5 A Uh-huh.
6 Q And that's for the diabetes and the blood sugar --
7 A Yes, ma'am.
8 Q -- issues? Make sure you let me finish before you
9 chime in please, Mr. Lynch.
10 A Uh-huh.
11 Q So the day of the incident, December 16, 2021, you
12 find yourself without your medications and you took
13 the bus to your mother's house, correct?
14 A Yes.
15 Q When is the last time you had taken your medication
16 prior to December 16, 2021?
17 A The morning before.
18 Q The morning of December 15th?
19 A Yes, ma'am.
20 Q The last time you had your medication prior to the
21 incident was the morning of December 15, correct?
22 A Yes.
23 Q You would have missed your medication on the
24 evening of December 15th, correct?
25 A Yes.

1 MS. LEAPHART: I can go ask.

2 MS. STACY: Thank you, I don't want to

3 forget to come back to that.

4 (MOMENTARILY OFF THE RECORD)

5 MS. LEAPHART: Clara Mae.

6 MS. STACY: That is a pretty name. Thank

7 you, Mr. Lynch, I'm sorry about that.

8 Q You said a bus dropped you off in front of the IHOP

9 at the bus stop, correct?

10 A Yes.

11 Q Do you typically take the bus to get around town?

12 A Yeah.

13 Q You don't own a car, correct?

14 A No.

15 Q At the time of the incident, had you made it to

16 your mother's apartment yet?

17 A No.

18 Q The bus drop you off, tell me what happened next

19 that you remember.

20 A The bus dropped me off and I was going across the

21 street. I don't remember nothing else.

22 Q All right. So --

23 A I don't remember nothing else.

24 Q The bus dropped you off on which side of the

25 street? On the side of the street with the IHOP or

1 the other side?

2 A Other side.

3 Q Other side. So when the bus drops you off, you

4 have to then cross the street, is that correct?

5 A Yeah.

6 Q Do you remember crossing the street at night?

7 A No. I remember getting out of the bus getting

8 ready to go across the street. My blood sugar

9 level going up and down. I don't have no car.

10 Q And you're sure the bus dropped you off across the

11 street from the IHOP, not on the same side?

12 A Yeah, I'm sure.

13 Q The impact, the reason we're here today. Which

14 side of the street did that occur on?

15 A I don't know.

16 Q You don't know to this day?

17 A No.

18 Q Have you ever been back to the scene of where this

19 happened?

20 A I ain't go back there -- yeah, two or three times,

21 but I can't remember where it happened.

22 Q So no one has told you -- you don't have any

23 understanding of which side of the street this

24 happened on?

25 A Huh-uh.

1 A Uh-huh.

2 MS. LEAPHART: Is that a "yes?"

3 A Yeah.

4 Q I know it sounds silly because it's not

5 conversational, it makes it a lot easier for us

6 looking at it later.

7 A Yeah.

8 Q So you step off the bus. You believe you're about

9 to cross the street to go to your mother's

10 apartment, but you don't remember what happens

11 next?

12 A No.

13 Q You understand that you were struck by a vehicle as

14 you sit here today, correct?

15 A Yeah, I understand. Yeah.

16 Q Okay. Do you know who was driving that car?

17 A Nope.

18 Q Do you know what kind of car struck you?

19 A No.

20 Q Do you know which lane that car was in?

21 A Nope.

22 Q Do you know what speed that car was going?

23 A Nope.

24 Q Do you know what other cars were present on the

25 road at the time?

1 A Nope.

2 Q Do you know what time of day this happened?

3 A Nope.

4 Q Do you know whether it was still daylight or
5 whether it was already dark outside?

6 A No.

7 Q Do you recall what you were wearing?

8 A No.

9 Q These sound obvious, but we have to walk through
10 all of this. Do you recall whether there were
11 people in the surrounding area at the time?

12 A No.

13 Q We're going to go through these accident reports,
14 I'm going to ask you about some information in
15 those.

16 A Uh-huh.

17 Q I assume you don't recall, based on what we just
18 talked about, but we're still going to walk through
19 it. What I want to know is if you have any
20 information to contradict these reports. Since you
21 don't recall, is there anything that would lead you
22 to believe these reports are not accurate? Is that
23 fair?

24 A Yes, that's fair.

25 Q You let me know if you disagree with anything.

1 A Baseline 130 or 140, is baseline. It can get too
2 low, and get too high.

3 Q Okay.

4 A When it get too high, I get ... inaudible. Get too
5 low, I can't remember nothing, my mind go. I know
6 that much.

7 Q I want to talk about that, too. When it gets too
8 high, can you describe what happens.

9 A I get sick.

10 Q Sick.

11 A Real sick. My -- I get real sick, I don't know
12 about nobody else.

13 Q Of course, I mean you personally. So you feel
14 nauseous

15 A I feel nauseous. Think. I can't hardly stand.
16 MR. MCCOOL: Can't hardly stand.

17 A I can't really stand hardly. I really can't stand.

18 Q Can't think, can't stand?

19 A Uh-huh.

20 Q What about -- anything else you can think of when
21 it gets too high?

22 A I pee a lot.

23 Q Okay.

24 A I definitely go to the bathroom.

25 Q You pee a lot, you go to the bathroom. Anything

1 else when the blood sugar levels are too high?

2 A You out of it, you don't know nothing.

3 Q What about when your blood sugar levels are too

4 low, tell me what symptoms --

5 A When it get too low, you can't function. You're

6 just out, you're really out. That what it do to

7 me.

8 Q You said you're out?

9 A Yeah. And I don't know what I'm doing.

10 Q At the time of the incident, you had not taken your

11 blood sugar readings for over 24-hours, correct?

12 A No.

13 Q Do you have a sense of whether your blood sugar

14 levels were too high or too low at the time --

15 A They were low. I can feel when they're low.

16 Q How could you tell they were too low?

17 A Because my mouth is real dry.

18 Q Any other symptoms that you were experiencing at

19 the time of the incident?

20 A My eyes, I can't see some time. I can tell when

21 it's really low, I can't -- my mouth gets so dry.

22 Q You can't see, your mouth is dry. Does it affect

23 your mental capacity at all?

24 A Yes. I mean I can't -- I can't decide that because

25 I don't know. I know I get to -- they say I get to

1 day.

2 Q Okay.

3 A That's something, I don't miss too many meals.

4 Q I want to make sure I understand. You've had

5 diabetes for decades, so you understand -- you said

6 you understand what you eat, what not to eat --

7 A Right.

8 Q -- when to eat and what not to eat, correct?

9 A Yes.

10 Q And you take that very seriously, correct?

11 A Very curious.

12 Q The symptoms that you're describing, they sound

13 very serious, right?

14 A Yeah.

15 Q I'm sure it's scary when those things happen,

16 correct?

17 A Yeah, it can be. It's my life.

18 Q Exactly. The night of the incident your blood

19 sugar is too low. Are you in a rush to get to your

20 mom's so you can get your Insulin and your

21 Metformin?

22 A ... inaudible ... time. I mean, yeah, when I'm

23 getting off the bus. Yeah, more likely I will

24 rush. But I wasn't rushing. I don't remember

25 nothing, I don't.

1 Q Do you remember whether you checked both ways
2 before you started crossing the street?
3 A No.
4 Q You said you did eat the day of the incident on
5 December 16th. Do you recall what you had eaten
6 that day?
7 A I can't recall way back there.
8 Q I can't tell you what I had on December 16th --
9 A I don't know.
10 Q -- so that's fair. You do remember having ate. Do
11 you remember the time of day you ate on that day?
12 A No.
13 Q What kind of foods are you supposed to avoid with
14 your condition?
15 A A lot of sugar and a lot of starch.
16 Q Sugars and starches?
17 A Uh-huh. A lot of soda.
18 Q I'm going to back up a little bit and talk about
19 what you were doing on the day of the incident.
20 I'll represent to you we asked you this as an
21 Interrogatory. I believe you responded you had
22 been visiting your mom and someone else. Do you
23 recall what you were doing on that day?
24 A Not really. I know I be at my momma's. But other
25 places, I don't recall. I can't remember back that

1 far.

2 Q The 24-hours, that would include the prior day when

3 you were moving items, correct?

4 A Yes.

5 Q Did that involve any heavy lifting?

6 A No.

7 Q They were just smaller personal belongings?

8 A Uh-huh.

9 Q Clothing. Anything else?

10 A Yeah, that was all.

11 Q Just clothing?

12 A Yeah. The little bit I had, wasn't that much.

13 Q You testified that you could tell your sugar was

14 low at the time of the incident. How long had you

15 been aware that your sugar was low?

16 A I can't recall that.

17 Q More than an hour, less than an hour?

18 A I can't recall.

19 Q Were you experiencing any other physical or mental

20 impairments at the time of the incident, other than

21 feeling like your sugar was low?

22 A No.

23 Q No headaches, you weren't hungry?

24 A Huh-uh.

25 Q Had you consumed any alcohol at the time of the

1 incident?

2 A Yeah.

3 Q What kind of alcohol were you drinking?

4 A Probably beer, probably Beer.

5 Q Beer. Do you recall what kind of beer?

6 A It had to be Budweiser.

7 Q When is the last time you drank prior to the

8 accident?

9 A The accident.

10 Q Okay. So you were drinking at the time of the

11 accident?

12 A Yeah, one or two beers.

13 Q So you had a Budweiser beer with you at the time?

14 A No, I didn't say I had it at the accident. I had

15 drunk a Budweiser.

16 Q Okay. So you drank a Budweiser prior to the

17 accident?

18 A That was way in the morning.

19 Q It was in the morning.

20 A It was like 8 o'clock in the morning.

21 Q Had you consumed any alcohol since 8 o'clock in the

22 morning the day of the event?

23 A No.

24 Q Prior to 8 a.m., you had only consumed one

25 Budweiser?

1 A Uh-huh.

2 Q What size Budweiser did you consume?

3 A A fifth. Fifth can. A fifth, like can.

4 Q A can?

5 A Uh-huh. 12 ounce can.

6 MR. MCCOOL: 12 ounce.

7 Q A 12 ounce can, thank you.

8 A Uh-huh. I'm sorry.

9 Q No, you're fine. I don't hear well either, I have

10 kids that scream in my ear all day long, so that

11 can be on me. I'll be my best.

12 Were you under the influence of any other

13 medication or drugs, other than the alcohol you had

14 consumed earlier in the day?

15 A No.

16 Q No, okay. Did you have anything with you at the

17 time of the incident? Were you carrying any

18 personal belongings?

19 A I can't remember that.

20 Q How long had you been at the location prior to the

21 incident? Were you just dropped off of had you

22 been hanging out there for some time?

23 A Nah, I wasn't there that long. It wasn't even an

24 hour.

25 Q So less than an hour?

1 A Yes.

2 Q What were you doing during that time frame?

3 A Hanging out with the guys.

4 Q Hanging out with?

5 A Yeah. I don't know who it was or what.

6 Q Just some guy you did not know?

7 A Yeah, I knew him, but I can't tell you the name

8 because I don't know if it was the same guy, I

9 can't remember that. I can't remember stuff that I

10 don't know.

11 Q Okay. Do you remember a nickname or a physical

12 description, anything like that?

13 A No.

14 Q This is someone that you had met prior to the

15 incident?

16 A Yeah.

17 Q Is this someone that lives in Greenville?

18 A Yeah.

19 Q Is this someone that you would consider a friend?

20 A He was something, somebody I know, but it ain't no

21 friend.

22 Q Just an acquaintance --

23 A Yeah.

24 Q -- someone you had see around?

25 A Yeah.

1 Q So you had met that person prior to the day of the
2 incident?

3 A Yeah, yeah. It's not that I didn't know him, but I
4 don't -- he ain't called a friend.

5 Q Do you know whether my client had her lights on at
6 the time of the incident?

7 A I can't remember that.

8 Q I'll represent you that page 3 of the incident
9 report, this is Exhibit Number 29, there's an
10 additional Narrative. It says that, the pedestrian
11 was in dark clothing.

12 You don't recall what you were wearing at the
13 time of the incident, correct?

14 A I don't recall what I was wearing.

15 Q Do you recall when you left the hospital what
16 personal belongings you took with you?

17 A Huh-uh, it was all tore up.

18 Q Are you referring to they had to cut open the
19 clothing to treat you?

20 A Yeah.

21 Q The Narrative in the police report states that, The
22 Complainant, and that would be my client Ms.
23 Einstein, was unable to stop in time and ran over
24 the pedestrian.

25 Do you disagree with that statement?

1 drinking a fifth of an alcoholic beverage prior to
2 the incident.

3 A I don't even remember the lady. I don't.

4 Q What's your understanding of what a fifth of an
5 alcoholic beverage refers to?

6 A A fifth like a fifth -- really, it's a fifth. Just
7 a fifth.

8 Q That's the measurement of the quantity of the
9 alcohol?

10 A Yeah, yeah. Yeah, I think so.

11 Q Does a fifth typically refer to liquor?

12 A I don't drink liquor.

13 Q Do you use a fifth to describe a quantity of beer?

14 A No.

15 Q What does it refer to then?

16 A A fifth is like a -- to me it's a fifth.

17 Q What type of alcohol is a fifth usually used to
18 describe?

19 A A fifth is liquor.

20 Q Okay.

21 A I don't drink liquor, period.

22 Q So you do not drink liquor?

23 A No.

24 Q When is the last time you ever drank liquor?

25 A When I was 10, 15, 17.

1 it says from reading it.

2 Roberto Cortez was one of the witnesses. In
3 his statement he writes that, A black car stopped
4 on my parking (ASADA restaurant) and dropped the
5 guy.

6 Presumably, that's referring to you. We'll, of
7 course, speak to Mr. Cortez to confirm.

8 Do you have any knowledge of what he's
9 referring to when he mentions a black car dropped -
10 -

11 A No.

12 Q Were you riding in a black car that evening?

13 A I was riding in it earlier, but not this time. I
14 can't remember that either.

15 Q And who would you have been riding with earlier
16 that had a black car?

17 A It would have been a Frank guy or something. But I
18 don't remember that. I know he didn't take me
19 home.

20 Q Who's the guy? You said Frank?

21 A I don't know. Frank. His name might have been
22 Frank. I can't remember all that back then.

23 Q So you were riding in the car with a guy, you don't
24 know his name?

25 A His name Frank, but I don't know his last name.

1 -- happened during the course of you crossing the
2 road? Do you have --

3 A I don't know.

4 Q Okay. Is it possible that you had already crossed
5 the roadway before the accident happened?

6 MR. MCCOOL: Objection.

7 A I don't know.

8 Q You don't know either way?

9 A Huh-uh.

10 Q And you testified earlier you had been off the bus
11 for less -- around an hour, less than an hour, is
12 that correct?

13 A It was less than an hour.

14 Q The gentleman that you were speaking with when you
15 got off the bus, do you recall which side of the
16 road he was on?

17 A Huh-uh.

18 Q That's a no?

19 A That was a no.

20 Q It's easy to slip back into those conversational
21 things, that's fine, I'll make sure to point it
22 out.

23 The guy in Exhibit 21, do you recognize him?

24 A 21. No, I don't know that man. I've never seen
25 that man a day in my life.

1 Q Okay.

2 A No, no, no.

3 Q And the basis for your certainty on that is what?

4 A I can't remember. You're holding me to something
5 two or three years ago.

6 Q The next entry I'm looking at is a record from the
7 surgeon. Do you remember anything about the
8 surgery that you had?

9 A No, I don't remember that.

10 Q That's probably for the best. This is from the
11 orthopedic surgeon at PRISMA Health. The notes
12 indicate that the patient has a significant history
13 of drug use and alcohol use. Do you have any
14 understanding of what that history is based on?

15 A No.

16 Q I understand the alcohol abuse. But it was your
17 testimony earlier you had not done any drugs since
18 2008?

19 A Yes.

20 Q Any sense of why that would be noted in the medical
21 record?

22 MR. MCCOOL: Objection.

23 A No, I don't know.

24 Q Would you characterize your drug use at any time as
25 significant?

1 Q And you're responsible for now filling your own or
2 calling in your own prescriptions and picking them
3 up?

4 A Yeah. I don't pick them up. They bring them to
5 me. They mail them out, they bring them to me.
6 All I got to do is -- they do it every month. I
7 don't have no say so about them not doing it, they
8 do it every month. Every month I need it, they be
9 filled. On the 15th of every month. They bring it
10 to me. Yeah, they bring it to me. Some of that
11 medication, some of it real high.

12 Q It notes in the medical records they were giving
13 you a medication to help with the alcohol
14 withdrawal.

15 Do you remember that process, what that was
16 like?

17 A It was horrible.

18 Q You haven't drank since that time --

19 A No.

20 Q -- the night of the incident, correct?

21 A Huh-uh.

22 Q The medical records also note there was a history
23 of falls in the last 12 months.

24 Do you know what they're referring to?

25 A Huh-uh.

1 A I mean to say, yes. I'm sorry.

2 MR. MCCOOL: You're fine.

3 A I'm sorry. I'm very sorry.

4 Q No problem, it's completely natural. I'll do it
5 myself here, I'm sure.

6 The chart also notes, it gives some details
7 about the history of drug use. And just to confirm
8 this is accurate, it notes that there was prior use
9 of cocaine, marijuana, crack cocaine and heroin, is
10 that correct?

11 A Yes.

12 Q But that would have been --

13 A Way before this.

14 Q Okay.

15 A Way before all this happened.

16 Q Okay.

17 A Way before all this happened.

18 Q At least a decade before right?

19 A Ways. Yeah.

20 Q More than that?

21 A Yeah. That's when I was a bad, bad boy. And it
22 wasn't bad, bad, bad, it was bad, bad on my health.
23 Bad in my mind.

24 Q Describe to me -- we talked a little bit about it
25 earlier, the physical therapy process that you

EXHIBIT 3

CITY OF GREENVILLE
COUNTY OF GREENVILLE
STATE OF SOUTH CAROLINA

CASE # 21-087347

DATE 12/16/21

I, Roberto Cortez
M. Halpain #857

do hereby give freely and voluntarily this statement to
and _____ who have identified themselves as officers of
the Greenville Police Department, Greenville, South Carolina. I have been advised that I do not have to make this or any other statement, and
that what I say can be used against me in a Court of Law. I have been advised that I have the right to Counsel with an Attorney of my choice,
that if I am financially unable to obtain an Attorney the Court will appoint an Attorney to represent me. I have not been threatened or promised
any reward to make this statement and do so voluntarily. I understand that I have the right to stop at any time. I hereby waive these rights.

I am _____ years old and reside at 903 Wode Hampton Blvd.

A black car stopped on my parking
(USADA Restaurant) and dropped
the guy.

I saw from my restaurant how
the guy was trying to jump into
the cars.

~~He~~ I saw him at the time he
was hit by the car.

I have read or had read to me, the above statement of 1/1 pages and it is true and correct as best I recall, and I have received a copy
of this statement.

WITNESSES



Sworn before me this 16 day of Dec 20 21.

NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: _____

2021/01/23/202209:09:04

EXHIBIT 4

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
	)	CIVIL ACTION NO.: 2022-CP-23-03510
Roger Wayne Lynch,	)	
	)	
Plaintiff,	)	AFFIDAVIT OF LEMUEL
	)	GAINES
v.	)	
	)	
Angela West Einstein,	)	
	)	
Defendant.	)	
_____	)	

Lemuel Gaines, having first being duly sworn, states as follows:

1. My name is Lemuel Gaines and I have personal knowledge of all things asserted in this Affidavit and I am over 18 years of age.
2. On the evening of December 16, 2021, I was a witness to an incident between Plaintiff Roger Wayne Lynch and Defendant Angela West Einstein that occurred on Wade Hampton Boulevard in Greenville, South Carolina.
3. Following the incident, I provided a statement to the Greenville Police Department that described my observations of how the incident occurred.
4. The statement I provided to the Greenville Police Department, attached hereto, is an accurate statement of my observations of how the incident occurred.

FURTHER AFFIANT SAYETH NOT.


Lemuel Gaines

SWORN TO AND SUBSCRIBED BEFORE ME

This 7th day of January, 2025

Abigail R. Fuller

Notary Public for South Carolina

My Commission Expires: 03/04/2025

CITY OF GREENVILLE
COUNTY OF GREENVILLE
STATE OF SOUTH CAROLINA

CASE # 21-087347

DATE 12/16/2021

I, Lemuel Gaines
M. Halpay #857 do hereby give freely and voluntarily this statement to
and _____ who have identified themselves as officers of
the Greenville Police Department, Greenville, South Carolina. I have been advised that I do not have to make this or any other statement, and
that what I say can be used against me in a Court of Law. I have been advised that I have the right to Counsel with an Attorney of my choice,
that if I am financially unable to obtain an Attorney the Court will appoint an Attorney to represent me. I have not been threatened or promised
any reward to make this statement and do so voluntarily. I understand that I have the right to stop at any time. I hereby waive these rights.

I am _____ years old and reside at 920 Wade Hampton Blvd. Greenville SC 29607

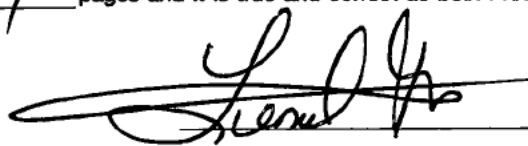
Driving towards downtown, I was riding beside (left) of white
Range rover. Suddenly after passing IHOP on right I thought an animal
was in the road. I saw clearly as I approached it was a man
that fell on the road and the white Range Rover didn't have
time to stop/slow and struck the man. He was in very
dark clothes, so he could not be seen and was unavoidable.

2021 DEC 17 A 6:03

I have read or had read to me, the above statement of 1/1 pages and it is true and correct as best I recall, and I have received a copy
of this statement.

WITNESSES:





Sworn before me this 16 day of Dec 20 21.

NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: _____

2021/12/16/23/202209:09:05

EXHIBIT 5

1 how long is this report?

2 A. It's -- well, it's two pages and then a page
3 of references.

4 Q. Okay. And references to journals of some
5 kind?

6 A. Yes, sir. The references that I used to
7 my --

8 Q. Tell me if you don't mind -- and you can do
9 it in a summary fashion or if it's not too much to
10 just read it. Can you tell me what the opinions are
11 that you expressed in the June 27 of '24 report to
12 Ms. O'Shea?

13 A. Yes, sir. In summary here, it says in the
14 last paragraph on page 2 or the last -- well, the
15 paragraph on page 2.

16 "It is my opinion that Mr. Lynch was
17 suffering from severe hypoglycemia at the time of the
18 incident, and this condition caused his erratic
19 behavior and confusion. Mr. Lynch had also consumed
20 some alcohol prior to the incident, but his blood
21 alcohol level was at a relatively low level. This
22 level alone would not have resulted in his behavior
23 as it was documented on December 16, 2021. Any
24 statements given by Mr. Lynch at the time of the
25 incident were not likely reliable due to the effects

1 of hypoglycemia. It is further my opinion that there
2 is no evidence of any illicit drug use by Mr. Lynch
3 on the day of the incident."

4 Q. Okay. And what was his BAC level?

5 A. His level was measured as 99 milligrams per
6 deciliter in the hospital which is equivalent to
7 0.083 percent in whole blood.

8 Q. 0.083?

9 A. Yes, sir.

10 Q. Okay. And sometimes I get confused with all
11 the zeroes we throw around in BACs. Zero point --
12 tell me that again just so I wrote it down correctly.

13 A. 0.083.

14 Q. Okay. And is that -- we oftentimes hear
15 that someone is presumed to be intoxicated or
16 something to that effect at -- is it .08?

17 A. .08. But that really only refers to
18 driving.

19 Q. Yes. I understand that.

20 And so a driver is considered to be legally
21 intoxicated at .08; is that correct?

22 A. Yes, sir, that's correct.

23 MR. MCCOOL: Object to the form.

24 BY MR RHENEY:

25 Q. Okay. And, of course, he's not driving. So

1 in the case of Mr. Lynch, I think you said that would
2 not explain his behavior, that level of intoxication.

3 A. That is correct.

4 Q. Okay. Is he considered to be intoxicated at
5 .083?

6 A. Depends on your definition of intoxication.

7 Q. What's yours?

8 A. Mine, if he's driving, yeah, his ability to
9 safely operate a motor vehicle is materially and
10 appreciably impaired.

11 Q. Right.

12 A. As far as his not driving a vehicle, his
13 ability to think and reason is gonna be impaired.
14 Some of his motor coordination is gonna be starting
15 to be impaired at that point.

16 Q. Okay. Do you have any information from any
17 source about what he had to drink and when?

18 A. Based on the records that I have, partly is
19 his deposition testimony, which he says he had some
20 beers, last couple of -- I guess the most recent
21 would be the morning of the incident. And then
22 there's also a statement in one of the police reports
23 where they were talking to him and he says something
24 about drinking a fifth of some sort of liquor.

25 Q. Have you done any -- excuse me. Assuming --

1 let's just assume that his blood draw is done at
2 2105, and we may find out differently later, but
3 let's just assume that for the sake of discussion.
4 Can you extrapolate back then as to what his blood
5 alcohol would have been at the time of the accident?

6 A. Yes, sir.

7 Q. And what would that be?

8 A. Well, I got some different times for some of
9 these things.

10 Q. And what do you mean?

11 A. What time -- what time do you have for the
12 actual accident?

13 Q. I think the accident report indicates it was
14 at 8:22.

15 A. 8:22? Yeah. That's what -- just wanted to
16 double-check that.

17 So let's just say from -- if it was
18 collected at 9:05 from 8:22, it would have probably
19 been closer to a .09 percent.

20 Q. Okay. All right. And just to go back a
21 little bit in time because I think he testified that
22 he was on a -- he took a bus to very near where the
23 accident happened. If you go back an hour from there
24 to, say, 7:22 p.m., what would his BAC be at that
25 point in time, assuming he had nothing to drink

1 between 7:22 and 8:22 when the accident happened?

2 A. It would have been somewhere around a .11
3 percent.

4 Q. Okay. Now, if he -- did you say earlier
5 that you'd read in his deposition that he said he had
6 not had any alcohol since the morning of the 16th,
7 sometime earlier in the morning?

8 A. Yes, sir.

9 Q. Is that likely in your opinion?

10 A. No, sir.

11 Q. Okay. So he most likely was drinking
12 sometime, at least well into the afternoon, of the
13 16th, the day of the accident, or can you say?

14 A. I can't say for sure without further
15 information, but, you know, just based on that blood
16 alcohol level and the timing, he likely had the
17 equivalent of at least three standard drinks, you
18 know, and it depends on how far back in time if he --
19 if he --

20 Q. Sure.

21 A. If he -- and that was if he had them in
22 fairly close proximity to the incident.

23 Q. Right.

24 A. If he started drinking earlier, he would
25 have to drink a little bit more.

1 Q. Yeah. And he would have had to had -- let's
2 say that he drank close in time to when the accident
3 happened. Then you say he'd have to have three
4 standard drinks. Three standard drinks within what
5 period of time?

6 A. Well, I said approximately three standard
7 drinks.

8 Q. Yeah, approximately.

9 Within what period of time of are you
10 talking about?

11 A. Within -- within an hour or so.

12 Q. Okay. And standard drinks come in
13 different -- different alcohol -- forms of alcohol
14 have different standard drinks; is that correct?

15 A. Yes, sir. So we're talking a standard drink
16 by definition is 1 1/2 ounce of 80-proof whiskey or
17 spirits or 12 ounces of 5 percent alcohol by volume
18 beer.

19 Q. Okay. So a 12-ounce beer. Would it be,
20 what, a 5-ounce wine?

21 A. 5 ounce -- it depends -- of, I think, 12
22 percent wine, yes, sir.

23 Q. Okay. Or -- or and a liquor. When you say
24 three standard drinks, that would be three liquor
25 drinks or --

1 and that Cymbalta was taken, say, 12 hours before the
2 accident. Would you have an opinion as to whether
3 she was impaired in any way at the time of this
4 accident so that she couldn't safely operate a
5 vehicle?

6 A. Just to make sure I understand you. So when
7 did she drink the alcohol? We've got the Cymbalta
8 taken 12 hours prior to the accident. When did she
9 drink the alcohol?

10 Q. Let -- I think the discovery response
11 says -- there might be actually two different things,
12 and by that, I mean two different times. I've seen
13 7:00, and I've seen as late as 9:30. So let's go
14 with 9:30 p.m. the night before the accident.

15 A. The night before, that alcohol would be gone
16 out of her system before she takes the Cymbalta the
17 next morning.

18 Q. Okay.

19 A. And so, no, there's not gonna be any effect
20 at that time.

21 Q. Okay. So the only -- the only thing that
22 could possibly be providing symptoms at that point,
23 assuming what I said is correct, a glass of wine at
24 9:30, a Cymbalta sometime in the morning, let's say
25 eight o'clock, again, for ease of reference, the only

1 thing that could be affecting her would be the
2 Cymbalta.

3 A. At -- under the circumstances that you just
4 gave?

5 Q. Yes, sir.

6 A. Yes. Then it's not likely gonna be causing
7 any real impairment.

8 Q. Okay. And the Cymbalta would not be causing
9 any impairment either 12 hours later?

10 A. No, sir.

11 Q. Okay. There's some mentions in your
12 affidavit about drowsiness and how these medicines
13 can cause drowsiness or confusion or blurred vision.
14 Do you have any evidence -- are you aware of any
15 evidence in this case that Ms. Einstein was
16 experiencing drowsiness, blurred vision, confusion,
17 reduced coordination at the time of this accident?

18 A. I mean, no, sir, not directly.

19 Q. I just want to make sure since -- silly
20 question. I apologize. But you're not an expert in
21 human factors; are you?

22 A. I am not.

23 Q. Okay. And do you -- you don't intend to
24 offer any opinions as to what Ms. Einstein should
25 have seen, could have seen, at the time of this

1 accident?

2 A. No, sir. And since you've brought up, that
3 would be -- that would be the only way I could -- I
4 would really have to answer that previous question,
5 is if you had some testimony or something by a human
6 factors person or something else that said that she
7 should -- a normal person, or whatever, should have
8 been able to see this thing and avoid it in some
9 manner and she didn't. Then what I could say then,
10 that not seeing it and not avoiding it appropriately
11 could be consistent with impairment with alcohol or
12 some of these other drugs.

13 Q. All right. If all she has had alcohol-wise
14 was a glass of wine 22 hours, we'll call it, before
15 the time of the accident and a Cymbalta 12 hours
16 before, even if she didn't see him, that would not
17 explain why she didn't see him; would it? Those --
18 that alcohol and that medication.

19 A. That alcohol --

20 MR. MCCOOL: Objection.

21 THE WITNESS: -- the day before or the
22 medication just that morning by itself, in and
23 of -- like that? No, it should have no effect.

24 MR RHENEY: Let me take a break here for
25 just a moment if you don't mind. I'm gonna go

1 toxicologist?

2 A. So a normal fasting blood glucose level is
3 gonna typically -- it depends on the laboratory, but
4 it's gonna be somewhere between 70 and 100 or maybe
5 65 and 110. Something like that is what you would
6 see normally, fasting levels.

7 When your blood glucose level drops below
8 that level of 65 or so, really, anything below --
9 yeah, below -- some things say below 70 is considered
10 hypoglycemia or low blood sugar. And what that means
11 is, if you don't have enough glucose in your blood,
12 your brain's not getting enough glucose.

13 So when your brain doesn't get enough
14 glucose, it basically starts shutting down and stops
15 functioning. So you say the effects of low blood
16 glucose would be basically inhibition of brain
17 function, and it -- you're gonna see somebody that's
18 gonna start exhibiting outward effects that are gonna
19 be very similar to intoxication by alcohol.

20 Q. Okay. And I think you said earlier that
21 because of that -- or maybe I'm putting two and two
22 together here. I'm not sure. Because of that,
23 anything that he mentioned out at the scene that
24 night is probably unreliable, I think you said; is
25 that correct?

1 increased blood glucose levels.

2 Q. Ah.

3 A. And the only way you would get impairment or
4 these kind of symptoms is if you went into a
5 condition known as diabetic ketoacidosis. And in
6 that case, yes, you could get similar impairment and
7 have some similar events.

8 Q. Okay. So do you have an opinion whether he
9 was taking his insulin and metformin, let's say, on
10 the day of the accident?

11 A. Not specifically. But I would say that -- I
12 do have an opinion that I don't believe that his
13 blood glucose levels as measured are consistent with
14 him not taking it.

15 Q. And what would it -- what would blood
16 glucose levels of 29 just within an hour of the
17 accident -- what would that be consistent with? How
18 would they get that low?

19 A. Not eating anything.

20 Q. Okay. And you remember in his deposition he
21 said he not taken his insulin or metformin since the
22 morning of the 15th, I believe he said. He said a
23 couple things, but I think that's what he said.

24 A. Yes, sir. I think that's what he said too.

25 Q. And you think that's not consistent with his

1 sure -- and I don't want to leave things short. You
2 don't have any opinion right now as to Ms. Einstein's
3 ability to safely operate a vehicle at the time of
4 this accident; do you?

5 A. No, sir. I have to have more information.

6 Q. Okay. And Mr. Lynch was in a -- Mr. Lynch's
7 blood glucose levels had reached the point where he
8 was mentally confused and passed out in a roadway; is
9 that correct?

10 MR. MCCOOL: Objection.

11 THE WITNESS: Yes, sir. He certainly --
12 he certainly -- they were at the levels where he
13 definitely, in my opinion, would have had mental
14 confusion. Whether he was passed out or not, I
15 don't know that I could tell you that.

16 MR RHENEY: Okay. All right.

17 Dr. Eagerton, I appreciate your time. Certainly
18 Mr. McCool may have some questions for you.

19 THE WITNESS: Okay. Thank you.

20 MR. MCCOOL: And what I'm gonna do is
21 I'm gonna look at my notes. It's -- I'm showing
22 2:13. Just give me -- well, 2:14. Give me five
23 minutes, and we'll come back on at 2:19. Okay?

24 THE WITNESS: Okay.

25 MR. MCCOOL: Thank you.

EXHIBIT 6

1 observed the vehicle.

2 Q Do you recall whether there was any traffic on this
3 portion of Wade Hampton Boulevard at this time of
4 day?

5 A It's a very busy road. At this time, there were a
6 lot of cars in that area. But I don't know if
7 that's consistently how it always is at that time
8 of day.

9 Q When you spoke with Mrs. Einstein, was there
10 anything to indicate that she was impaired at the
11 time of the incident?

12 A No, ma'am.

13 MR. MCCOOL: Objection.

14 Q Other than Ms. Einstein being visibly upset, any --
15 did you have any concerns about her mental
16 condition at the time of the incident?

17 A No.

18 Q Is it your belief that Mrs. Einstein was upset as a
19 result of the incident?

20 A Yes, ma'am.

21 Q So no indication that she was in that emotional
22 state prior to the collection, correct?

23 MR. MCCOOL: Objection.

24 A Yes, ma'am.

25 Q And you did not issue any citations to Ms.

1 location this occurred. And I do not recall if
2 there's a crosswalk or not.

3 **Q Do you have any knowledge or understanding of where**
4 **Mr. Lynch was heading at the time of the incident?**

5 A I do not.

6 **Q You mentioned earlier you do your investigation on**
7 **the scene and you later are able to speak to Mr.**
8 **Lynch. Can you tell me how you made that**
9 **connection and what that conversation led to.**

10 A So his nephew had called in reporting or requesting
11 more information about the incident. And he was
12 able to provide me with Mr. Lynch's phone number.
13 I made contact with him over the phone and I asked
14 him several questions regarding the incident.

15 **Q Okay. Did you memorialize those questions in your**
16 **report?**

17 A Yes.

18 **Q Can you walk us through what that conversation was,**
19 **both what's included in the report, and if you have**
20 **any additional recollection of that conversation.**

21 A So I pretty much asked him if him being in the
22 roadway was related to a mental health issue, if he
23 was having suicidal thoughts, or just a medical
24 health issue. And he stated that this was not the
25 case in reference to the mental health issue. He

1 did admit to drinking a fifth of alcoholic beverage
2 prior to the incident. He did not mention the
3 specific alcoholic beverage. And then he did state
4 that he did have diabetes. He did not state that
5 that was a contributing factor to the incident and
6 why he was in the roadway though.

7 Q So Mr. Lynch acknowledged having diabetes, but he
8 did not attribute the accident to his diabetes?

9 MR. MCCOOL: Objection.

10 A Correct.

11 Q What did he attribute accident to, if anything?

12 A He didn't specify.

13 Q And when Mr. Lynch reported to you that he had
14 consumed a fifth of alcohol, do you have any
15 knowledge or understanding of what he meant by "a
16 fifth"?

17 MR. MCCOOL: Objection.

18 A A large amount of alcohol.

19 Q Okay.

20 A Depending on the type of alcoholic beverage.

21 Q Do you have any knowledge of whether or not Mr.
22 Lynch was intoxicated at the time of the incident?

23 A I do not. I was unable to speak with him at that
24 time.

25 Q So when you were able to make contact it was -- how

EXHIBIT 7



Patient Information				Clinical Impression			
Last	LYNCH	Address	26 E 8th ST	Primary Impression	Unconscious		
First	ROGER	Address 2		Secondary Impression	Diabetic Hypoglycemia		
Middle	WAYNE	City	Greenville	Protocols Used	Hypoglycemia		
Sex		State	SC	Local Protocol Provided Care Level			
Gender	Male	Zip	29611	Anatomic Position	General/Global		
DOB		Country	US	Onset Time			
Age	60 Yrs, 7 Months, 9 Days	Tel		Last Known Well			
Weight	172.0 lbs - 78.0 kg	Physician		Chief Complaint	UNCONSCIOUS		
Height		Phys. Tel		Duration	45	Units	Minutes
Pedi Color		Ethnicity	Not Hispanic or Latino	Secondary Complaint			
SSN		Race	Black or African American	Duration		Units	
Advance Directives	None			Patient's Level of Distress	Severe		
Resident Status	In-County Resident			Signs & Symptoms	Altered mental status (Primary) Hypoglycemia Hypothermia		
Patient Resides in Service Area				Injury	--		
Temporary Residence Type				Additional Injury			
				Mechanism of Injury			
				Medical/Trauma	Medical		
				Barriers of Care	None Noted		
				Alcohol/Drugs	Smell of Alcohol on Breath, Patient Admits to Alcohol Use, Patient Admits to Drug Use		
				Pregnancy	No		
				Initial Patient Acuity	Emergent (Yellow)		
				Final Patient Acuity	Emergent (Yellow)		
				Patient Activity	Activity, Unspecified		

Medications/Allergies/History/Immunizations	
Medications	Insulin
Allergies	No known allergies
History	Alcohol Abuse, IV Drug Use/Abuse, Type 1 Diabetes
Immunizations	
Last Oral Intake	

Vital Signs												
Time	AVPU	Side	POS	BP	Pulse	RR	SPO2	ETCO2	CO	BG	Temp	Pain
01:25	Unresponsive	L	Lay	180/100 M	90 R	12 R	100 Rm	UTO	UTO	30	UTO	0
01:30	Unresponsive	L	Lay	190/104 A	82 R	12 R	100 Ox	UTO	UTO	UTO	UTO	0
01:31	Unresponsive	L	Lay	UTO	UTO	UTO	UTO	UTO	UTO	UTO	UTO	UTO
01:42	Unresponsive	L	Lay	UTO	UTO	UTO	UTO	UTO	UTO	UTO	UTO	UTO
01:49	Alert	L	Sit	155/78 A	91 R	20 R	100 Ox	UTO	UTO	167	UTO	0

Vitals Calculations							
Time	GCS(E+V+M)/Qualifiers	RASS	BARS	RTS	PTS	MAP	Shock Index
01:25	3= 1 + 1 + 1 /NQ			8		127	
01:30	3= 1 + 1 + 1 /NQ			8		133	
01:31	3= 1 + 1 + 1 /NQ					UTO	UTO
01:42	3= 1 + 1 + 1 /NQ					UTO	UTO
01:49	14= 4 + 4 + 6 /NQ			12		104	

ECG			
Time	Type	Rhythm	Notes
01:25	UTO	UTO	UTO
01:30	UTO	UTO	UTO
01:31	4-Lead	Sinus Rhythm	
01:42	12L-Lead	Sinus Rhythm	



ECG			
Time	Type	Rhythm	Notes
01:49	4-Lead	Sinus Rhythm	

Flow Chart			
Time	Treatment	Description	Provider
01:26	General Comments	Comments: WET CLOTHES REMOVED; Patient Response: Unchanged; Complication: None; Medical Control: Protocol (Standing Order);	TUCKER, ANTONIO
01:26	Warming	Patient Response: Improved; Successful; Complication: None; Medical Control: Protocol (Standing Order);	TUCKER, ANTONIO
01:26	Warming	Comments: WARM ENVIRONMENT; Patient Response: Improved; Complication: None; Medical Control: Protocol (Standing Order);	TUCKER, ANTONIO
01:27	NPA	Patient Response: Unchanged; Successful; Complication: None; Medical Control: Protocol (Standing Order);	ALLEN, MICHAEL
01:28	Oxygen	Device: Non Re-breather Mask (NRB); Flow Rate: 15 lpm; Patient Response: Unchanged; Successful; Complication: None; Medical Control: Protocol (Standing Order);	ALLEN, MICHAEL
01:35	Warming	Comments: HEAT PACKS IN GROIN, AND ARMPITS WRAPPED WITH TOWELS.; Patient Response: Improved; Successful; Complication: None; Medical Control: Protocol (Standing Order);	TUCKER, ANTONIO
01:36	IV Therapy	Size: 18 ga; Hand-Left; Saline Lock; Total Fluid: 0 ml; Patient Response: Unchanged; Unsuccessful; Complication: Extravasation; Medical Control: Protocol (Standing Order);	TUCKER, ANTONIO
01:38	IV Therapy	Size: 18 ga; Hand-Right; Saline Lock; Total Fluid: 10 ml; Patient Response: Unchanged; Successful; Complication: None; Medical Control: Protocol (Standing Order);	TUCKER, ANTONIO
01:39	IV Bolus	Hand-Right; Normal Saline (.9% NaCl) - Warm; Total Fluid: 250 ml; Patient Response: Unchanged; Successful; Complication: None; Medical Control: Protocol (Standing Order);	TUCKER, ANTONIO
01:41	Dextrose 10%	250 Milliliters (ml); Intravenous (IV); Patient Response: Improved; Complication: None; Medical Control: Protocol (Standing Order);	TUCKER, ANTONIO
01:42	12-Lead ECG	Patient Response: Unchanged; Successful; Complication: None; Medical Control: Protocol (Standing Order);	TUCKER, ANTONIO
01:45	Transport Alert	Comments: HOSPITAL IS NOTIFIED OF THE PATIENT'S CONDITION, VITALS, AND ETA.; Patient Response: Unchanged; Complication: None; Medical Control: Protocol (Standing Order);	TUCKER, ANTONIO

Initial Assessment			
Category	Comments	Subcategory	
Mental Status		Mental Status	+ Unresponsive
Skin		Skin	+ Cold
HEENT		Head/Face	No Abnormalities
		Eyes	- Left: Blind, Left: Constricted, Left: Dilated, Left: Non-Reactive, Right: Blind, Right: Constricted, Right: Dilated, Right: Non-Reactive
		Neck/Airway	No Abnormalities
Chest		Chest	No Abnormalities
		Heart Sounds	Not Assessed
		Lung Sounds	+ LL: Clear, LU: Clear, RL: Clear, RU: Clear
			- LL: Absent, LL: Decreased, LL: Rales, LL: Rhonchi, LL: Wheezing, LU: Absent, LU: Decreased, LU: Rales, LU: Rhonchi, LU: Wheezing, RL: Absent, RL: Decreased, RL: Rales, RL: Rhonchi, RL: Wheezing, RU: Absent, RU: Decreased, RU: Rales, RU: Wheezing, RU: Rhonchi
Abdomen		General	No Abnormalities
		Left Upper	Not Assessed
		Right Upper	Not Assessed
		Left Lower	Not Assessed
		Right Lower	Not Assessed
Back		Cervical	No Abnormalities
		Thoracic	No Abnormalities
		Lumbar/Sacral	No Abnormalities
Pelvis/GU/GI		Pelvis/GU/GI	No Abnormalities
Extremities		Left Arm	No Abnormalities
		Right Arm	No Abnormalities
		Left Leg	No Abnormalities
		Right Leg	No Abnormalities
		Pulse	Not Assessed
		Capillary Refill	Not Assessed
Neurological		Neurological	No Abnormalities

Assessment Time: 01/24/2021 01:22:00

Ongoing Assessment			
Category	Comments	Subcategory	



Name: LYNCH, ROGER

Incident #: 210124-005787

Date: 01/24/2021

Patient 1 of 1

Mental Status		Mental Status	+	Person Oriented, Place Oriented
			-	Event Oriented, Time Oriented
Skin		Skin		Not Assessed
HEENT		Head/Face		Not Assessed
		Eyes		Not Assessed
		Neck/Airway		Not Assessed
Chest		Chest		Not Assessed
		Heart Sounds		Not Assessed
		Lung Sounds		Not Assessed
Abdomen		General		Not Assessed
		Left Upper		Not Assessed
		Right Upper		Not Assessed
		Left Lower		Not Assessed
		Right Lower		Not Assessed
Back		Cervical		Not Assessed
		Thoracic		Not Assessed
		Lumbar/Sacral		Not Assessed
Pelvis/GU/GI		Pelvis/GU/GI		Not Assessed
Extremities		Left Arm		Not Assessed
		Right Arm		Not Assessed
		Left Leg		Not Assessed
		Right Leg		Not Assessed
		Pulse		Not Assessed
		Capillary Refill		Not Assessed
Neurological		Neurological		Not Assessed

Assessment Time: 01/24/2021 01:48:00

Narrative

MEDIC 28 ARRIVES ON SCENE TO FIND WHAT APPEARS TO BE A 60 YEAR OLD INTOXICATED MALE UNCONSCIOUS THE SIDE OF THE STREET. POLICE REPORT THAT THE PATIENT HAS BEEN DOWN FOR ABOUT 30 MIN AND NEIGHBORS THREW ICE WATER ON HIM TO TRY TO WAKE HIM UP. THE CURRENT TEMPERATURE OUTSIDE AT TIME OF CALL IS 42 DEGREES FAHRENHEIT. THE PATIENT HAS NO OBVIOUS INJURIES AND IS EXPEDITIOUSLY MOVED TO THE AMBULANCE FOR PASSIVE REWARMING AND TREATMENT.

AFTER TREATMENT FOR HYPOGLYCEMIA AND POSSIBLE HYPOTHERMIA THE PATIENT BECOMES CONSCIOUS AND REPORTS THAT HE HAD BEEN OUT FOR A NIGHT OF DRINKING AND SMOKING CRACK. PATIENT REPORTS THAT HE IS AN INSULIN DEPENDENT DIABETIC AND THAT HE DID EAT AT SOME POINT TODAY.

PATIENT HAS NO COMPLAINTS OF CHEST PAIN, SHORTNESS OF BREATH, OR OTHER PAIN RIGHT NOW.

Specialty Patient - Outbreak Screening

Outbreak Screened	COVID-19			22C/P2303510
Onset of Signs/Symptoms				
Symptoms Reported	None			
Has the patient traveled outside the community in the past 30 days?				
No				
Travel Start Date		Travel End Date		
Travel Locations				
Has the patient traveled outside the United States in the past 30 days?				
No				
Travel Start Date		Travel End Date		
Travel Locations				
Has the patient had household or close contact w/ someone with above symptoms and travel history?			No	
Has the patient had household or close contact w/ someone with confirmed diagnosis of illness being screened?			No	
Comments				

Patient Travel

Has the patient traveled outside the community in the past 30 days?			
No			
Travel Start Date		Travel End Date	
Travel Locations			
Has the patient traveled outside the United States in the past 30 days?			
No			

**Greenville County EMS**

Patient Care Record

Name: LYNCH, ROGER

Incident #: 210124-005787

Date: 01/24/2021

Patient 1 of 1

Patient Travel			
Travel Start Date		Travel End Date	
Travel Locations			

Incident Details		Destination Details		Incident Times	
Location Type	Street or Highway	Disposition	Transported Lights/Siren	PSAP Call	01/24/2021 01:02:40
Location		Unit Disposition		Dispatch Notified	
Address	1 GROCE ST	Patient Evaluation and/or Care Disposition		Call Received	01/24/2021 01:02:40
Address 2		Crew Disposition		Dispatched	01/24/2021 01:03:57
Mile Marker		Transport Disposition		En Route	01/24/2021 01:04:04
City		Transport Mode		Staged	
County		Reason for Refusal or Release		Resp on Scene	01/24/2021 01:20:22
State		Transport Mode Descriptors		On Scene	01/24/2021 01:20:22
Zip		Transport Due To	Other	At Patient	01/24/2021 01:22:00
Country	US	Transported To	Prisma Health Greenville Memorial Hospital	Care Transferred	
Medic Unit	M28	Requested By	Bystander	Depart Scene	01/24/2021 01:43:37
Medic Vehicle	M-28	Transferred To		At Destination	01/24/2021 01:52:47
Run Type	911 Response	Transferred Unit		Pt. Transferred	01/24/2021 01:55:00
Response Mode	Non-Emergent	Destination	Hospital	Call Closed	01/24/2021 02:25:00
Response Mode Descriptors		Department	Emergency Room	In District	
Shift	C Shift	Address	701 Grove Rd	At Landing Area	
Zone	EMHQ-CF	Address 2			
Level of Service	Advanced Life Support	City	Greenville		
EMD Complaint	Sick Person	County	Greenville		
EMD Card Number	26B01	State	SC		
Dispatch Priority	Priority 3 (Lower Acuity)	Zip	29605		
		Country	US		
		Zone	EMHQ-CF		
		Condition at Destination	Improved		
		State Wristband #			
		Destination Record #			
		Trauma Registry ID			
		STEMI Registry ID			
		Stroke Registry ID			

Crew Members				
Personnel	Role	Certification Level	PPE	Exposures
TUCKER, ANTONIO	Lead	Paramedic (South Carolina) - SC015277	Gloves ; Mask-Surgical (Reuse, Non-Fitted)	None
ALLEN, MICHAEL	Driver	Emergency Medical Technician (South Carolina) - SC527687	Gloves ; Mask-Surgical (Reuse, Non-Fitted)	None

Insurance Details					
Insured's Name	ROGER WAYNE LYNCH	Primary Payer	Self Pay	Dispatch Nature	
Relationship	Self	Medicare		Response Urgency	
Insured SSN		Medicaid		Job Related Injury	
Insured DOB		Primary Insurance		Employer	
Address1	26 E 8th ST	Policy #		Contact	
Address2		Primary Insurance Group Name		Phone	

**Greenville County EMS**

Patient Care Record

Name: LYNCH, ROGER

Incident #: 210124-005787

Date: 01/24/2021

Patient 1 of 1

Insurance Details					
Address3		Group #		Mileage to Closest Hospital	
City		Secondary Ins			
State		Policy #			
Zip	29611	Secondary Insurance Group Name			
Country	US	Group #			

Mileage		Delays		Additional Agencies
Scene	1.0	Category	Delays	Greenville City Police
Destination	3.9	Dispatch Delays	None/No Delay	
Loaded Miles	2.9	Response Delays	None/No Delay	
Start		Scene Delays	None/No Delay	
End		Transport Delays	None/No Delay	
Total Miles		Turn Around Delays	None/No Delay	

Personal Items		
Item	Given To	Comment
No patient belongings handled by EMS		

Patient Transport Details			
How was Patient Moved To Stretcher		How was Patient Moved To Ambulance	Stretcher
How was Patient Moved From Ambulance	Stretcher	Patient Position During Transport	Supine
Condition of Patient at Destination	Improved		

EXHIBIT 8

Documents (continued)

Prisma Health Ambulance Service
Patient Care Record
Name: LYNCH, ROGER

Incident #: PHEMS21 020789

Date: 11/25/2021

Patient 1 of 1

Patient Information				Clinical Impression	
Last	LYNCH	Address	155PENCER ST	Primary Impression	Diabetic Hypoglycemia
First	ROGER	Address 2		Secondary Impression	
Middle		City	Greenville	Protocol Used	Hypoglycemia
Gender	Male	State	SC	Anatomic Position	
DOB	[REDACTED]	Zip	29611	Onset Time	
Age	61 Yrs, 5 Months, 10 Days	Country	US	Last Known Well	
Weight	190.0lbs - 81.5kg	Tel		Chief Complaint	Altered Mental Status
Pedi Color		Physician		Duration	10 Units Minutes
SSN	[REDACTED]	Ethnicity	Not Hispanic or Latino	Secondary Complaint	Hypoglycemia Units
Race	Black or African American			Patient's Level of Distress	
Advance Directives	None			Signs & Symptoms	Metabolic - Hypoglycemia
Resident Status				Injury	
Patient Resides in Service Area				Additional Injury	
Temporary Residence Type				Mechanism of Injury	
				Medical/Trauma	Medical
				Barriers of Care	None Noted
				Alcohol/Drugs	None Reported
				Pregnancy	No
				Initial Patient Acuity	Lower Acuity (Green)
				Final Patient Acuity	
				Patient Activity	

Medications/Allergies/History/Immunizations	
Medications	Insulin, Lantus, Metformin
Allergies	No known allergies
History	Diabetes, Hypertension (HTN)
Immunizations	
Last Oral Intake	

Vital Signs													
Time	AVPU	Side	POS	BP	Pulse	RR	SP02	ETCO2	CG	BC	Temp	Pain	GCS(E+V+M)/Qualifier
08:39	Alert	R	Sit	179/102 A	83 R	UTO	100 Rm			48		0	14=4+4+6
08:52	Alert	R	Sit	200/127 A	96 R		98 Rm			32		0	14=4+4+6
08:58	Alert	R	Sit	198/109 A	98 R		99 Rm					0	15=4+5+6
09:02	Alert	R	Sit	UTO	95 R		100 Rm					0	14=4+4+6
09:16	Alert	L	Sit	219/138 A	106 R	21 R	99 Rm			108		0	15=4+5+6
09:17	Alert	L	Sit	208/97 A	97 R	21 R	98 Rm					0	15=4+5+6
09:24	Alert	L	Sit	197/79 A	98 R	21 R	99 Rm					0	15=4+5+6

ECG			
Time	Type	Rhythm	Notes
09:02	4-Lead	Sinus Rhythm	
09:16	4-Lead	Sinus Tachycardia	
09:17	4-Lead	Sinus Rhythm	
09:24	4-Lead	Sinus Rhythm	

Flow Chart			Provider
Time	Treatment	Description	
08:37	ALS Assessment	Patient Response: Unchanged; Successful; Complication: None; Medical Control: Protocol (Standing Order);	ALEXANDER, MASON
08:40	Oral Glucose	15 Grams (gms); Oral; Patient Response: Improved; Complication: None; Medical Control: Protocol (Standing Order);	ELLJOTT, JUSTIN
08:46	Oral Glucose	15 Grams (gms); Oral; Patient Response: Improved; Complication: None; Medical Control: Protocol (Standing Order);	ELLJOTT, JUSTIN
08:56	Stretcher	Comments: Time of intervention estimated due to providing patient care; Patient Response: Unchanged; Complication: None; Medical Control: Protocol (Standing Order);	ALEXANDER, MASON
09:02	3-Lead ECG	Patient Response: Unchanged; Successful; Complication: None; Medical Control: Protocol (Standing Order);	ALEXANDER, MASON
09:15	IV Therapy	20g; Articubital-Lef; Normal Saline (9% NaCl); Total Fluid: 10; Patient Response: Unchanged; Successful; Complication: None; Medical Control: Protocol (Standing Order);	ALEXANDER, MASON

Run Number: CAD21-052552
Hospital Chart Number: J000192101729

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11/25/2021 19:27:06
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Electronically Signed by: ALEXANDER, MASON
Template Version: PCR-EXTRACT-1.3.1
Data Version: AAAAAA1F91c=

Documents (continued)

Prisma Health Ambulance Service Patient Care Record		Incident #: PHEMS21 020789	Date: 11/25/2021	Patient: 1 of 1
Assessment				
Assessment Time: 11/25/2021 13:37:00				
Category	Comments	Subcategory		
Mental Status		Mental Status	☒ Confused • Oriented - Person ☒ Agitation • Combative • Oriented - Event • Oriented - Place • Oriented - Time • Stupor • Unresponsive	
Skin		Skin	☒ Cyanotic • Diaphoretic • Flushed • Jaundiced • Pale	
HEENT		Face	☒ Facial Droop • Mass/Lesion • Swelling	
		Head	Not Assessed	
		Eyes	Not Assessed	
		Neck	Not Assessed	
Chest		Chest	☒ General: Accessory Muscle Used	
		Heart Sounds	Not Assessed	
		Lung Sounds	Not Assessed	
Abdomen		General	Not Assessed	
Back		Back	Not Assessed	
Pelvis/GU/GI		Pelvis/GU/GI	Not Assessed	
Extremities		Left Arm	☒ Whole Arm and Hand: Motor Function Normal ☒ Whole Arm and Hand: Motor Function Abnormal/Weakness • Motor Function Absent • Paralysis	
		Right Arm	☒ Whole Arm and Hand: Motor Function Normal ☒ Whole Arm and Hand: Motor Function Abnormal/Weakness • Motor Function Absent • Paralysis	
		Left Leg	☒ Leg - Whole Leg: Motor Function Normal ☒ Leg - Whole Leg: Motor Function Abnormal/Weakness • Motor Function Absent • Paralysis	
		Right Leg	☒ Leg - Whole Leg: Motor Function Normal ☒ Leg - Whole Leg: Motor Function Abnormal/Weakness • Motor Function Absent • Paralysis	
Neurological		Neurological	☒ Aphasia • Speech Slurring ☒ Aphasia • Decerebrate Posturing • Decorticate Posturing • Other Seizure • Seizures • Speech Normal • Status Seizure • Tremors	
Assessment				
Assessment Time: 11/25/2021 14:06:00				
Category	Comments	Subcategory		
Mental Status		Mental Status	☒ Oriented - Person • Oriented - Place • Oriented - Time ☒ Agitation • Combative • Confused • Oriented - Event • Stupor • Unresponsive	
Skin		Skin	☒ Cyanotic • Diaphoretic • Flushed • Jaundiced • Pale	
HEENT		Face	☒ Facial Droop • Mass/Lesion • Swelling	
		Head	Not Assessed	
		Eyes	Not Assessed	
		Neck	Not Assessed	
Chest		Chest	☒ General: Accessory Muscle Used	
		Heart Sounds	Not Assessed	
		Lung Sounds	Not Assessed	
Abdomen		General	Not Assessed	
Back		Back	Not Assessed	
Pelvis/GU/GI		Pelvis/GU/GI	Not Assessed	

PRISMA HEALTH

GMH EMERGENCY DEPT
701 Grove Road
Greenville SC 29605

Lynch, Roger Wayne
MRN: 980023159, DOB: [REDACTED] Sex: M
Adm: 11/25/2021, D/C: 11/25/2021

11/25/2021 - ED in Prisma Health Greenville Memorial Hospital Emergency Department (continued)

Documents (continued)

Prisma Health Ambulance Service		Incident #: PHEMS21 020785		Date: 11/25/2021 Patient: 1 of 1	
Patient Care Record					
Name: LYNCH, ROGER					
Assessment Time: 11/25/2021 14:00:00					
Category	Comments	Subcategory			
Extremities		Left Arm	✓ Whole Arm and Hand: Motor Function Normal		
			✗ Whole Arm and Hand: Motor Function Abnormal/Weakness + Motor Function Absent + Paralysis		
	Right Arm	✓ Whole Arm and Hand: Motor Function Normal			
		✗ Whole Arm and Hand: Motor Function Abnormal/Weakness + Motor Function Absent + Paralysis			
		Left Leg	✓ Leg - Whole Leg: Motor Function Normal		
			✗ Leg - Whole Leg: Motor Function Abnormal/Weakness + Motor Function Absent + Paralysis		
	Right Leg	✓ Leg - Whole Leg: Motor Function Normal			
		✗ Leg - Whole Leg: Motor Function Abnormal/Weakness + Motor Function Absent + Paralysis			
Neurological		Neurological	✓ Speech Normal		
			✗ Aphagia + Aphasia + Decerebrate Posturing + Decorticate Posturing + Olfactory Seizure + Seizures + Speech Slurring + Status Seizure + Tremors		
Narrative					
<p>Medic 161 was dispatched out to a subject reportedly having a stroke. The Fire Department responded to the scene where the call was placed. Upon arrival EMS personnel were directed to the location of a 61 year old male found sitting in an upright position on a bed inside the residence. Upon observation there were multiple alcoholic beverage bottles that were empty. Upon assessment of the male subject he was altered, and was not able to report complaints. The Fire Department advised EMS personnel that the patient's BGL was 30, and that Oral glucose had been administered PTA of EMS personnel. The patient's BGL was checked again, and the patient's BGL was 42. The patient's blood pressure, heart rate, and oxygen saturation were assessed as noted. Multiple doses of Oral Glucose were administered to the patient as noted. The patient's mental status improved, and the patient did not report any complaints. The patient advised EMS personnel that he had been drinking copious amounts of alcohol, and the patient did not present with stroke-like symptoms. The patient advised EMS personnel that he wished to be transported to the hospital. The patient was able to stand and walk to the stretcher outside the residence with assistance. The patient was secured to the stretcher with straps (x5) and side rails (x2). The patient was then transferred to the ambulance and secured prior to transport. The patient's cardiac rhythm and BGL were assessed as noted. Sinus tachycardia was noted upon further assessment, and the patient's BGL had improved to normal limits. The receiving facility was notified via cellphone at 0906. If access was later obtained as noted. The patient was continuously monitored in route to the receiving facility without change in presentation or complaint. Upon arrival to the receiving facility transfer of care was given and signatures were obtained. The patient was hyper-hydrated on a lost cellphone and lost money, but EMS personnel did not see a cellphone nor money during the entire patient encounter. Medic 101 cleared from the receiving facility and then returned to service.</p>					
Specialty Patient - Outbreak Screening					
Outbreak Screened	COVID-19				
Onset of Signs/Symptoms	09:05 11/25/2021				
Symptoms Reported	None				
Has the patient traveled outside the community in the past 30 days?					
No					
Travel Start Date	Travel End Date				
Travel Locations					
Has the patient traveled outside the United States in the past 30 days?					
No					
Travel Start Date	Travel End Date				
Travel Locations					
Has the patient had household or close contact w/ someone with above symptoms and travel history?					
No					
Has the patient had household or close contact w/ someone with confirmed diagnosis of illness being screened?					
No					
Comments					
Incident Details					
Location Type	Home/Residence	Disposition	Transported No Lights/Siren	PSAP Call	
Location		Transport Due To	Patient's Choice	Dispatch Notified	
Address	15 SPENCER ST	Transported To	PRISMA HEALTH GREENVILLE MEMORIAL HOSPITAL ER	Call Received	08:27:52
Address 2		Requested By	Bystander	Dispatched	08:28:22
City	GREENVILLE	Destination	Hospital	En Route	08:28:25
County	Greenville	Department	Emergency Room	Staged	
State	SC	Address	701 Grove Street	Resp on Scene	
Zip	29611	Address 2	A09	On Scene	08:36:09
		City	Greenville	At Patient	08:37:00

Run Number: CAD21-022552
Hospital Chart Number: J000192101729

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11/25/2021 19:22:06
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Electronically Signed by: ALEXANDER, MASON
Template Version: PCR-EXTRACT-1.3.1
Data Version: AAAAAA4F975=

11/25/2021 - ED in Prisma Health Greenville Memorial Hospital Emergency Department (continued)

Documents (continued)

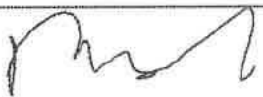
Prisma Health Ambulance Service		Incident #		Date		Patient 1 of 1	
Name: LYNCH, ROGER		Incident #: PHMS21 020789		Date: 11/25/2021		Patient 1 of 1	
Incident Details		Destination Details		Incident Times			
Country	US	County	Greenville	Care Transferred			
Medic Unit	M101	State	South Carolina	Depart Scene	09:09:15		
Medic Vehicle	62137	Zip	29605	At Destination	09:27:13		
Run Type	911 Response	Country	US	Pt. Transferred	09:34:00		
Response Mode	Emergent	Zone	SC Upstate	Call Closed	09:42:18		
Shift	B Shift	Condition at Destination	Improved	In District			
Zone	SC Upstate	Destination Record #		At Landing Area			
Level of Service		Trauma Registry ID					
EMD Complaint	Stroke/CVA	EMD Card Number					
Dispatch Priority		Alternative Disposition Offered	Alternative disposition not offered to patient				
Crew Members							
Personnel	Role	Certification Level					
ALEXANDER, MASON	Lead	EMT-Paramedic - SC038137					
ELLIOTT, JUSTIN	Driver	EMT-Paramedic - SC018256					
Insurance Details							
Insured's Name	ROGER LYNCH	Primary Payer	Medicaid	Dispatch Nature	Stroke		
Relationship	Self	Medicare		Response Urgency	Immediate		
Insured SSN	[REDACTED]	Medicaid	1854000903	Job Related Injury			
Insured DOB	[REDACTED]	Primary Insurance		Employer			
Address1	15 SPENCER ST	Policy #		Contact			
Address2		Primary Insurance Group #		Phone			
Address3		Secondary Ins Policy #		Mileage to Closest Hospital			
City	Greenville	Secondary Insurance Group #					
State	SC						
Zip	29611						
Country	US						
Mileage							
Scene	1.0	Category	Delays				
Destination	4.0	Dispatch Delays	None/No Delay				
Loaded Miles	3.0	Response Delays	None/No Delay				
Start		Scene Delays	None/No Delay				
End		Transport Delays	None/No Delay				
Total Miles		Turn Around Delays	None/No Delay				
Consumables							
Description	Qty	Description	Qty	Description	Qty		
*ALS Emergent Specialized Level 3 - A0427	1						
Personal Items							
Item	Given To	Comment					
Other	Patient	The patient's jacket.					
Patient Transport Details							
How was Patient Moved to Ambulance	Assisted/Walk, Stretcher	How was Patient Moved From Ambulance	Stretcher				
Patient Position During Transport	Supine-Fowler	Condition of Patient at Destination	Improved				
Transfer Details							
PRN	Sending Physician						
Prior Authorization Code	Sending Record #						
Payer	Receiving Physician						
PCS	Condition Code						
Interfacility Transfer or Medical Transport Reason	Condition Code Modifier						
ASN							
CMS Service Level	ALS, Level 3						

Run Number: CAD21-032552
Hospital Chart Number: J000192101729

Page 4 of 7

11/25/2021 19:20:06
PCRID: 12fbc8ab-1b2c-45a7-8509-udeb0094821c
Electronically Signed by: ALEXANDER, MASON
Template Version: PCR-EXTRACT-1.3.1
Data Version: A2AAAA1F9Y5

Documents (continued)

Prisma Health Ambulance Service Patient Care Record Name: LYNCH, ROGER Incident #: PHEMS21 020789 Date: 11/25/2021 Patient 1 of 1						
Transfer Details						
ICD-9 Code						
Transport Assessment						
Specialty Care Transport Provider	EMT-Paramedic					
Transfer Reason						
Other Services						
Medical Necessity	Stretcher					
Billing Authorization						
Authorization Section 1 Section I - Patient / Parent of Minor Authorization Signature I request that payment of authorized Medicare, Medicaid, or any other insurance benefits be made on my behalf to GHS/Oconee Memorial Hospital for any services provided to me by Oconee Memorial Hospital EMS now, in the past, or in the future. I understand that I am financially responsible for the services and supplies provided to me by Oconee Memorial Hospital EMS, regardless of my insurance coverage, and in some cases, may be responsible for an amount in addition to that which was paid by my insurance. I agree to immediately remit to Oconee Memorial Hospital EMS any payments that I receive directly from insurance or any source whatsoever for the services provided to me and I assign all rights to such payments to Oconee Memorial Hospital EMS. I authorize Oconee Memorial Hospital EMS to appeal payment denials or other adverse decisions on my behalf without further authorization. I authorize and direct any holder of medical information or other relevant documentation about me to release such information to Oconee Memorial Hospital EMS and/or its billing agents, the Center for Medicare and Medicaid Services, and/or any other payors or insurers, and their respective agents or contractors, as may be necessary to determine these or other benefits payable for any services provided to me by Oconee Memorial Hospital EMS now, in the past, or in the future. A copy of this form is as valid as an original.						
Signature 						
Signed On	11/25/2021 09:25:08					
Notice of Privacy Practices Provided	Yes					
Billing Authorization	Agree					
HIPAA Acknowledgement	Agree					
Section II - Authorized Representative Signature Complete this section only if the patient is physically or mentally unable to sign. Authorized representatives include only the following: (Check one) <table border="1"> <tr> <td>☐ Patient's Legal Guardian</td> </tr> <tr> <td>☐ Patient's Medical Power of Attorney</td> </tr> <tr> <td>☐ Relative or other person who receives benefits on behalf of the patient</td> </tr> <tr> <td>☐ Relative or other person who arranges treatment or handles the patient's affairs</td> </tr> <tr> <td>☐ Representative of an agency or institution that provided care, services or assistance to patient</td> </tr> </table> I am signing on behalf of the patient to authorize the submission of a claim for payment to Medicare, Medicaid, or any other payer for any services provided to the patient by the transporting ambulance service now or in the past or in the future. By signing below, I acknowledge that I am one of the authorized signers listed below. My signature is not an acceptance of financial responsibility for the services rendered.		☐ Patient's Legal Guardian	☐ Patient's Medical Power of Attorney	☐ Relative or other person who receives benefits on behalf of the patient	☐ Relative or other person who arranges treatment or handles the patient's affairs	☐ Representative of an agency or institution that provided care, services or assistance to patient
☐ Patient's Legal Guardian						
☐ Patient's Medical Power of Attorney						
☐ Relative or other person who receives benefits on behalf of the patient						
☐ Relative or other person who arranges treatment or handles the patient's affairs						
☐ Representative of an agency or institution that provided care, services or assistance to patient						
Signature 						
Signed On						
Printed Name						
Reason unable to sign						

Documents (continued)

Prisma Health Ambulance Service

Patient Care Record
Name: LYNCH, ROGER

Incident #: PHAMS21 020789

Date: 11/25/2021

Patient 1 of 1

Section III - EMS Personnel and Facility Signatures

Complete this section if the patient was mentally or physically incapable of signing, and no Authorized Representative (Section II) was available or willing to sign on behalf of the patient at the time of service.

EMS Personnel Signature

My signature below indicates that, at the time of service, the patient was physically or mentally incapable of signing, and that none of the authorized representatives listed in Section II of this form were available or willing to sign on the patient's behalf. My signature is not an acceptance of financial responsibility for the services rendered.

--	--

Signed On

Printed Name

Reason unable to sign

Facility Representative Signature

The patient named on this form was received by this facility on the date and at the time indicated and this facility furnished care, services or assistance to the patient. My signature is not an acceptance of financial responsibility for the services rendered.

--	--

Signed On

Printed Name

Title of Representative

Facility Signatures

	
---	--

Signed On

11/25/2021 09:33:46

Receiving

Crisdon Rhoney RN

--	--

Signed On

Paperwork Received

--	--

Signed On

Airway Confirmation

Documents (continued)

Prisma Health Ambulance Service
Patient Care Record
Name: LYNCH, ROGER

Incident #: PHEMS21 020789

Date: 11/25/2021

Patient 2 of 3

Provider Signatures

[Signature: Alexander Mason]

Lead Provider: ALEXANDER, MASON Certification Level: EMT-Paramedic SC038737

[Signature: Justin Elliott]

Provider: ELLIOTT, JUSTIN Certification Level: EMT-Paramedic SC018256

Provider: Certification Level:

Provider: Certification Level:

Provider: Certification Level:

