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ORIGINAL

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY  
Court of Common Pleas  
J. Ernest Kinard, Jr., Circuit Court Judge

**RECEIVED**

AUG 18 2014

**SC Court of Appeals**

Case No. 2011CP0704713

Jonetha Singleton.....Appellant,

v.

Starshaka N. Cuthbert.....Respondent.

AMENDED RECORD ON APPEAL

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STATE OF SOUTH CAROLINA  
COUNTY OF BEAUFORT  
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE  
CASE NUMBER 2011CP0704713

2013 MAY -8 AM 10: 07

Jonetha Singleton

Starshaka N Cuthbert

BEAUFORT COUNTY, S.C.  
CLERK OF COURT

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for:  Plaintiff  Defendant  
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

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

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

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

Jury trial on 5/6/2013. Jury found in favor of the Defendant.

This order  ends  does not end the case.

ORDER INFORMATION

Additional Information for the Clerk:

RECEIVED

JUN 18 2013

SC Court of Appeals


**INFORMATION FOR THE JUDGMENT INDEX**

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

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
N/A		

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

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

  
Circuit Court Judge- J. Ernest Kinard, Jr.

2017  
Judge Code

5/7/13  
Date

**For Clerk of Court Office Use Only**

This judgment was entered on 24 May, 2013, and a copy mailed first class or placed in the appropriate attorney's box on 24 May, 2013, to attorneys of record or to parties (when appearing pro se) as follows:

Bernard McIntyre PO Box 248 Beaufort, SC 299010248

Jeffrey Alan Ross 126 Seven Farms Dr., Ste. 200 Charleston, SC 29492

Alan Ross Belcher Jr. 40 Calhoun Street, Suite 550 Charleston, SC 29401

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\_\_\_\_\_  
ATTORNEY(S) FOR THE PLAINTIFF(S)

\_\_\_\_\_  
ATTORNEY(S) FOR THE DEFENDANT(S)

Jamie Thompson

\_\_\_\_\_  
Jerri Ann Roseneau - Clerk of Court

Court Reporter-Mia Peron

STATE OF SOUTH CAROLINA  
COUNTY OF BEAUFORT

IN THE COURT COMMON PLEAS  
CASE NO. 2011-CP-07-4713

JONETHA SINGLETON,

Plaintiff,

v.

STARSHAKA N. CUTHBERT,

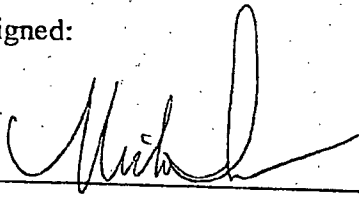
Defendant.

2013 MAY -8 AM 10:07  
CLERK OF COURT  
BEAUFORT COUNTY, S.C.

We the Jury, by unanimous consent, find:

- 1) For the Defendant;
- 2) For the Plaintiff in the amount of \_\_\_\_\_ dollars actual damages.
- 3) For the Plaintiff in the amount of \_\_\_\_\_ dollars actual damages and \_\_\_\_\_ dollars punitive damages.

Signed:



Foreperson

5/7/13

Ruling of Court on Plaintiff Appellant's Motion for New Trial, of May 7, 2014



1 meeting the bus or be overtaking the bus. And our  
2 contention, Your Honor, was that -- as we argued  
3 earlier, was that Ms. Singleton was not trying to  
4 overtake a vehicle, she was not trying to pass the bus  
5 and had positioned herself to overtake the bus. She  
6 certainly wasn't meeting the bus. And that criteria  
7 wasn't met.

8 THE COURT: I understand. That didn't hurt you  
9 one way or the other, because that doesn't go to  
10 causation. Causation, from the jury's standpoint, she  
11 should have seen the car coming, that's all, and  
12 shouldn't have turned. There you go. Good luck.

13 [EXCERPT CONCLUDES]  
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25

Ruling of Court on Defendant Respondent's Motion for Directed Verdict, of May 7, 2013

1 MOTION FOR A DIRECTED VERDICT

2 MR. ROSS: We would move that -- for a directed  
3 verdict, in our favor, that the plaintiff was  
4 negligent as a matter of law.

5 And, Your Honor, if I could, if I could hand up  
6 the statute.

7 [Whereupon, Mr. Ross proffers documents to the  
8 Court]

9 MR. ROSS: Under Statute 56-5-2770, a party  
10 approaching a bus from either direction is required to  
11 stop if the blinking red lights are on. They are not  
12 allowed to continue movement or to move until the bus  
13 starts to move again.

14 The plaintiff, by her own testimony, said she  
15 came up to the back of the bus, the blinking red  
16 lights were on, the bus was stopped, she came to a  
17 stop, then she proceeded to turn without the bus  
18 moving again.

19 Your Honor, the plaintiff is negligent as a  
20 matter of law by her own testimony and by the statute  
21 and I would ask that --

22 THE COURT: Well, she is, but that doesn't --  
23 that just could be one percent negligence.

24 MR. ROSS: Yes, Your Honor, absolutely. But I  
25 feel that it's important that the jury knows that. I

1 mean, it doesn't dismiss the case, by all means, Your  
2 Honor.

3 THE COURT: Right.

4 MR. ROSS: Yes, Your Honor.

5 THE COURT: Okay. I mean, the statute says you  
6 can't turn until the bus goes.

7 MR. ROSS: That is correct, Your Honor.

8 THE COURT: So there you go. So what else do  
9 you have?

10 MR. ROSS: Your Honor, I would also move for a  
11 directed verdict as to the extent of the injuries that  
12 were treated at Beaufort Memorial Hospital. There's  
13 no medical evidence to support the --

14 THE COURT: She went in. She's got a bill. You  
15 know --

16 MR. ROSS: Yes, sir.

17 THE COURT: -- it doesn't have anyone on there  
18 other than what you've got, what they did.

19 MR. ROSS: Yes, sir.

20 THE COURT: All of which is reasonable  
21 treatment.

22 MR. ROSS: Thank you, Your Honor.

23 THE COURT: So are you going to put anybody else  
24 up?

25 MR. ROSS: Yes, Your Honor. We're going to call

1 two witnesses this morning.

2 THE COURT: That's fine. I just needed to know.

3 And what about all those jury charges y'all  
4 stayed up all night drafting?

5 MR. ROSS: Your Honor, I have quite a few of  
6 them.

7 THE COURT: Well, just hand them up. You know,  
8 I'm a speed reader. It won't take me long to read  
9 them. I'll read them while you're examining your two  
10 witnesses.

11 [Whereupon, Mr. Ross proffers documents to the  
12 Court].

13 [Off the record momentarily]

14 THE COURT: Okay. Do you have any?

15 MR. MCINTYRE: I do, Your Honor.

16 THE COURT: Good for you.

17 MR. MCINTYRE: I think that's 1 through 13, Your  
18 Honor.

19 THE COURT: All right.

20 [Whereupon, Mr. McIntyre proffers documents to  
21 the Court]

22 [Off the record momentarily]

23 MR. ROSS: Your Honor, so I'm clear, may I in  
24 the closing tell the jury that as a matter of law the  
25 plaintiff is found to be negligent?

1 THE COURT: I will tell them all of that.

2 MR. ROSS: Thank you, Your Honor.

3 THE COURT: That's no problem.

4 MR. MCINTYRE: I didn't understand it to be a  
5 ruling, Judge.

6 THE COURT: It is. It's clear. Clear ruling.  
7 But that doesn't mean it could be -- it's negligent,  
8 but it might not have even been a cause of the  
9 accident, you know. They got -- prove negligence,  
10 direct causation and resulting injuries, is what  
11 you've got to prove. If you violate a statute, that's  
12 negligence, but it doesn't necessarily mean that it  
13 even contributed to the accident. I'm going to  
14 explain all that to the jury.

15 Under her testimony, she violated the statute.  
16 That's what the law says. You can't move until the  
17 bus moved. The bus was stopped, she took a left. The  
18 reason for that, of course, is a kid could be darting  
19 out from the bus as she's taking a left and she  
20 doesn't see them. There's a good reason for it. But  
21 I'm not going to tell the jury all that.

22 But we aren't even talking about charges yet.

23 We've got time for that.

24 Bring the jury in.

25 THE BAILIFF: Yes, sir.

1 THE COURT: Your first charge is exactly that.

2 MR. MCINTYRE: Yeah. But it doesn't deal with  
3 that particular question, Judge.

4 THE COURT: A violation of the statute is a  
5 violation of the statute.

6 MR. MCINTYRE: Yes. But I don't agree she has  
7 violated the statute.

8 THE COURT: Under her testimony, she did.

9 MR. MCINTYRE: I'm saying --

10 THE COURT: We'll talk about it.

11 MR. MCINTYRE: Yes, sir. Thank you. Thank you.

12 THE BAILIFF: Your Honor, the jury is entering.

13 [Whereupon, the jury enters the courtroom at  
14 9:36 a.m.]

15 THE BAILIFF: Your Honor, the jury is seated.

16 THE COURT: Okay. You may proceed.

17 MR. ROSS: Thank you, Your Honor.

18 THE COURT: Well, just procedurally you need to  
19 tell the jury you don't have anybody else, because  
20 they want to know what's going on. Right?

21 MR. MCINTYRE: If it please the Court, Your  
22 Honor, the jury rests -- I mean, the plaintiff rests.

23 THE COURT: Okay.

24 MR. ROSS: Thank you, Your Honor. The defense  
25 would call Ms. Sonya Badger to the stand, please.

1 five seconds, I don't have time to stop. Okay?  
2 Forget about the statute. The statute is a reasonable  
3 interpretation. But that's a jury question. You  
4 would just tell the jury that's negligence, by the  
5 lights, and so forth, with all the other testimony  
6 you've got. But I can't make that ruling as a matter  
7 of law. That's all.

8 MR. MCINTYRE: Well, that's our argument, Your  
9 Honor --

10 THE COURT: I understand.

11 MR. MCINTYRE: -- on the issue of liability with  
12 respect to our motion for a directed verdict.

13 THE COURT: Okay. Well, with a heavy heart,  
14 directed verdict is denied.

15 MR. MCINTYRE: Okay.

16 THE COURT: Now, what about his thing under your  
17 witness' testimony, the bus was stopped and she  
18 turned? That doesn't mean you --

19 MR. MCINTYRE: Your Honor, again, if you look  
20 under -- I'm looking under 56-5-27(a), Your Honor. It  
21 says that a vehicle that's meeting or overtaking a  
22 bus. First, obviously, she wasn't meeting a bus. And  
23 two, there's no evidence she was overtaking a bus. I  
24 mean, that's what it says. I'm looking at 56-5-  
25 2770(a) and I'm looking at the very first line. The

1 driver of a vehicle meeting or overtaking from either  
2 direction.

3 Ms. Singleton wasn't overtaking anything, Your  
4 Honor. We know that. And never attempt to -- never  
5 attempted to, and never intended to. And, again, I  
6 have the direct statute right here. Of course, I have  
7 it right there in my instructions, Your Honor. But I  
8 have the statute at -- the very first line of it.

9 [Whereupon, the Court reviews documents]

10 THE COURT: The first line says she can't move.  
11 We can dicker on that forever.

12 MR. MCINTYRE: Your Honor, are we looking at the  
13 same statute?

14 THE COURT: We are.

15 MR. MCINTYRE: Okay. The driver of a vehicle  
16 meeting or overtaking.

17 THE COURT: Well, when you come up to a bus, you  
18 are in the process of overtaking. Well, I'm saying  
19 that's the law. Okay?

20 MR. MCINTYRE: Judge --

21 THE COURT: Have a nice day.

22 You've got to stop. You can't proceed until the  
23 bus moves, that's all, whether -- if you're behind it  
24 or not. That's what the statute says.

25 MR. MCINTYRE: Judge, may I have -- could I

1 offer the Court one illustration?

2 THE COURT: You can do whatever you want.

3 MR. MCINTYRE: Your Honor, if -- let's assume  
4 that Ms. Singleton stopped behind the bus. Let's say  
5 it was 500 yards, two football fields. Or, actually,  
6 five football fields. She -- this statute does not  
7 apply. And I'm using an extreme now --

8 THE COURT: That's exactly right.

9 But under the facts of this case, she violated  
10 the statute because she wasn't 500 feet back. That's  
11 all. She was right behind the bus.

12 MR. MCINTYRE: Judge, there's no testimony about  
13 what distance she was behind the bus.

14 THE COURT: There is. There was a pick-up truck  
15 right behind the bus and she's right behind it, under  
16 everybody's testimony, and that's close enough to run  
17 over a child if you take a left. Not that that  
18 happened, of course. She was careful and didn't do  
19 that.

20 It doesn't hurt you at all. I mean, that's a --  
21 under her testimony, that's a violation of this  
22 statute under the facts of the case. That's all. But  
23 it doesn't mean that she's -- by turning, that she was  
24 -- her action was a direct cause or a concurring cause  
25 of the accident. I'm not ruling that.

1 MR. MCINTYRE: Well, I understand that, Judge,  
2 but I -- for the record, I object strenuously to the  
3 Court's instruction.

4 THE COURT: Well, it doesn't hurt you at all.

5 MR. MCINTYRE: Well, I understand. But I --  
6 just for the record, I object strenuously to the  
7 Court's --

8 THE COURT: Well, you're already protected. Why  
9 do you want to protect yourself five times?

10 MR. MCINTYRE: Okay. Thank you, Judge. Thank  
11 you.

12

13

-----  
CHARGE CONFERENCE

14 THE COURT: All right. Now, on plaintiff's  
15 request to charge 1: I don't read charges to the  
16 jury. Never have. I'll charge the sense of  
17 everything that you've got here. Might not charge it  
18 verbatim. Pay attention. If you get me reversed on a  
19 jury charge in a civil case, it'll be the first time  
20 in my twenty-five years. Not that it might not  
21 happen. But, for instance, plaintiff's instruction  
22 number 3, evidence and so forth, requires submission  
23 of punitive damages to the jury. That's a proposition  
24 of law. That's not a jury charge. It's not a jury  
25 charge. It goes to the jury.

MIA PERRON, CVR-CM-M

Letter from Bernard McIntyre to the Honorable J. Ernest Kinard, Jr., of May 14, 2013

*Law Office of Bernard McIntyre*

1606 King Street / Post Office Box 248  
Beaufort, South Carolina 29901-0248

Bernard McIntyre, Esquire

(843) 524-9040  
Fax (843) 524-7152

May 14, 2013

The Hon. J. Ernest Kinard, Jr.  
P.O. Drawer 1707  
Camden, SC 29021

Re: Re: Jonetha Singleton v. Starshaka N. Cuthbert  
Case No. 2011-CP-07-4713

Dear Judge Kinard:

As you may recall, you presided over the civil action referenced above involving a car wreck that was tried before a jury in Beaufort County on May 6 through May 7. The jury returned a verdict for the Defendant.

At the conclusion of trial I made a Motion for a Judgment Notwithstanding the Verdict (NOV) which you denied. Thereafter, I made a Motion for a New Trial, which you also denied.

Under the appellate rules a written order denying these motions appear to be required. To facilitate a written order, I have attached a copy of a Motion for a Judgment NOV, or alternatively, a Motion for a New Trial, which I am filing with the Court.

Further, I have attached a proposed Order denying these motions.

I look forward to hearing from you concerning this matter.

With best regards, I am

Very truly yours,

  
Bernard McIntyre, Esquire  
BMc

Enclosures

Cc: Jeffrey A. Ross, Esquire, w/enclosure  
Elizabeth H. Freeman, Esquire, w/enclosure

Complaint



### III

That as a result, Plaintiff suffered great physical harm and injury from being thrown about within the vehicle, all of which has and will in the future cause Plaintiff to undergo much physical pain and suffering, has and will in the future cause Plaintiff to incur bills for medical treatment, and has and will in the future cause Plaintiff to lose money in the nature of wages and earnings.

### IV

That the Defendant, Starshaka N. Cuthbert, was careless, negligent, wanton and grossly negligent at the time and place above mentioned in one (1) or more of the following particulars, to-wit:

- A. In failing to yield the right-of- way;
- B. In improperly passing;
- C. In failing to keep a proper lookout;
- D. In failing to keep her vehicle under proper control;
- E. In failing to properly apply her brakes;
- F. In failing to stop for a stopped school bus;
- F. In driving too fast for the conditions then and there existing;
- G. In failing to slow down, swerve or engage in other turning maneuvers to avoid said collision.

All of which acts of negligence by the Defendant constitute the direct and proximate cause of injuries and damages suffered by the Plaintiff herein.

### V

That the Plaintiff is informed and believes that she is entitled to judgment against the Defendant for reasonable compensatory and punitive damages to compensate Plaintiff for her injuries.

**WHEREFORE**, Plaintiff prays for judgment against the Defendant for reasonable compensatory and punitive damages, for the cost of this action and for such and further relief as this Court deems just and proper.

LAW OFFICE OF BERNARD McINTYRE  
1606 King Street/P. O. Box 248  
Beaufort, SC 29901-0248  
Ph: 843/524-9040 Fax: 843/524-7152

By: 

Bernard McIntyre, Esquire  
Attorney for Plaintiff

Beaufort, South Carolina

November 10, 2011

Answer

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF BEAUFORT	)	CASE NO.: 2011-CP-07-4713
	)	
Jonetha Singleton,	)	
	)	
	)	<b>ANSWER</b>
	)	
Plaintiff,	)	
	)	<b>(Jury Trial Demanded)</b>
vs.	)	
	)	
Starshaka N. Cuthbert,	)	
	)	
	)	
Defendant.	)	
	)	

---

**TO: BERNARD MCINTYRE, ATTORNEY FOR THE PLAINTIFF:**

The defendant, above named, answering the Complaint of the plaintiff, alleges and says as follows:

1. Upon information and belief, defendant admits paragraph 1 of plaintiff's Complaint.
2. Defendant denies paragraph 2 of plaintiff's Complaint and demands strict proof thereof.
3. Defendant denies paragraph 3 of plaintiff's Complaint and demands strict proof thereof.
4. Defendant denies paragraph 4 of plaintiff's Complaint and demands strict proof thereof.
5. Defendant denies paragraph 5 of plaintiff's Complaint and demands strict proof thereof.
6. Defendant denies each and every allegation of the Complaint not hereinabove specifically admitted or modified.

**FURTHER ANSWERING THE COMPLAINT**  
**AND AS AN AFFIRMATIVE DEFENSE THERETO,**  
**THE DEFENDANT ALLEGES AND SAYS:**  
**(Comparative Negligence)**

7. That the injury or damage suffered by plaintiff, if any, was due to, caused by and was the direct and proximate result of the negligence, carelessness, recklessness, willfulness and wantonness of plaintiff, and recovery should be barred or reduced in proportion to such negligence as provided by law. That plaintiff was

comparatively negligent in one or more of the following particulars:

- a. In failing and omitting to use due care;
- b. In failing and omitting to maintain a proper lookout;
- c. In failing and omitting to take any precaution whatsoever to avoid being struck by the defendant's vehicle;
- d. In failing and omitting to obey the traffic markings then and there present;
- e. In failing to yield the right-of-way to defendant's vehicle;
- f. In failing to keep his/her vehicle under proper control;
- g. In failing to use the degree of care and caution that a reasonably prudent person would have used under the circumstances then and there prevailing;
- h. In failing to decrease speed as may have been necessary to avoid colliding with the defendant's vehicle;
- i. In failing and omitting to take the basic measures which a reasonable and prudent person would have taken under similar conditions;
- j. In driving too fast for conditions;
- k. In failing to exercise ordinary, reasonable and prudent care for plaintiff's own safety and keep a proper lookout and watch where plaintiff was going;
- l. In failing to exercise ordinary care for plaintiff's own safety and utilize plaintiff's own capacities to the same degree as would a reasonable and prudent man of ordinary sense and capacities;

ALL in violation of the laws and statutes of the State of South Carolina, in such cases made and provided.

**FURTHER ANSWERING THE COMPLAINT**  
**AND AS AN AFFIRMATIVE DEFENSE THERETO,**  
**THE DEFENDANT ALLEGES AND SAYS:**

**(Punitive Damages Unconstitutional - Procedural Due Process)**

8. That the plaintiff's Complaint to the extent that it seeks punitive or exemplary damages violates the right of this defendant to procedural due process under the Fourteenth Amendment of the United States Constitution and the Constitution of the State of South Carolina, and therefore fails to state a cause of action upon which either exemplary or punitive damages can be awarded.

**FURTHER ANSWERING THE COMPLAINT**  
**AND AS AN AFFIRMATIVE DEFENSE THERETO,**  
**THE DEFENDANT ALLEGES AND SAYS:**

**(Punitive Damages Unconstitutional - Substantive Due Process)**

9. That the plaintiff's Complaint to the extent that it seeks punitive or exemplary damages, violates this defendant's right to substantive due process as provided in the Fifth and Fourteenth Amendments of the United States Constitution and the

Constitution of the State of South Carolina, and therefore fails to state a cause of action upon which either exemplary or punitive damages can be awarded.

**FURTHER ANSWERING THE COMPLAINT**  
**AND AS AN AFFIRMATIVE DEFENSE THERETO,**  
**THE DEFENDANT ALLEGES AND SAYS:**  
**(Punitive Damages Unconstitutional - Additional Grounds)**

10. Punitive damages, as currently awarded in South Carolina, are violative of the United States Constitution and South Carolina Constitution, as well as the holding of *State Farm Mutual Automobile Insurance Company v. Campbell*, 538 U.S. 408, 123 S.Ct. 1513, 155 L.Ed.2d 585 (2003), and the cases upon which it is based.

**FURTHER ANSWERING THE COMPLAINT**  
**AND AS AN AFFIRMATIVE DEFENSE THERETO,**  
**THE DEFENDANT ALLEGES AND SAYS:**  
**(Punitive Damages Unconstitutional - Additional Grounds)**

11. Pursuant to *Cooper Industries, Inc. v. Leatherman Tool Group, Inc.*, 522 U.S. 424, 121 S.Ct. 1678 (2001), if punitive damages are recoverable, which is denied, the amount of punitive damages "[are] not really a fact tried by the jury" therefore plaintiff's request for punitive damages "to be determined by the jury" violates the United States Constitution.

**FURTHER ANSWERING THE COMPLAINT**  
**AND AS AN AFFIRMATIVE DEFENSE THERETO,**  
**THE DEFENDANT ALLEGES AND SAYS:**  
**(Punitive Damages Unconstitutional - Additional Grounds)**

12. The U.S. Constitution's Due Process Clause "forbids a State to use a punitive damages award to punish a defendant for injury that it inflicts upon nonparties or those whom they directly [do not] represent," *Phillip Morris USA v. Williams*, 127 S.Ct. 1057, 1063 (U.S. 2007), and, therefore, to the extent that plaintiff seeks an award of punitive damages for potential or speculative harm to non-parties to the present action, such prayer for relief is unconstitutional and must be struck from the pleadings and is otherwise inadmissible at trial.

**FURTHER ANSWERING THE COMPLAINT**  
**AND AS AN AFFIRMATIVE DEFENSE THERETO,**  
**THE DEFENDANT ALLEGES AND SAYS:**  
**(Punitive Damages Unconstitutional - Additional Grounds)**

13. Notwithstanding defendant's prior defenses incorporating *Cooper Industries, Inc. v. Leatherman Tool Group, Inc.*, 522 U.S. 424 (2001) and *State Farm Automobile*

*Insurance Company v. Campbell*, 538 U.S. 408 (2003), and the cases upon which they are based, in the event the trial court permits the jury to return a punitive damages award in the instant case, such damages are to be limited to an amount that is no greater than the jury's award of actual damages, as explicated within *Exxon Shipping Company v. Baker*, 128 S.Ct. 2605 (2008).

**FURTHER ANSWERING THE COMPLAINT**  
**AND AS AN AFFIRMATIVE DEFENSE THERETO,**  
**THE DEFENDANT ALLEGES AND SAYS:**  
**(Reservation and Non-Waiver)**

14. Defendant reserves and does not waive any additional or further defenses as may be revealed by additional information that may be acquired in discovery or otherwise.

WHEREFORE, defendant prays as follows:

- a. That plaintiff's action be dismissed with prejudice;
- b. For a trial by jury on all issues so triable;
- c. For the costs and disbursements of this action; and
- d. For such other and further relief as the court deems just and proper.

CLAWSON AND STAUBES, LLC



\_\_\_\_\_  
Jeffrey A. Ross  
126 Seven Farms Drive, Suite 200  
Charleston, South Carolina 29492-8144  
(843) 577-2026  
Attorney for the Defendant

Charleston, South Carolina  
December 8, 2011

Testimony of Starshaka Cuthbert

Direct Examination by Bernard McIntyre

STATE OF SOUTH CAROLINA ) COURT OF COMMON PLEAS  
COUNTY OF BEAUFORT ) FOURTEENTH JUDICIAL CIRCUIT  
CASE NO.: 2011-CP-07-04713

JONETHA SINGLETON, )  
 )  
 PLAINTIFF, )  
 )  
 VS. )  
 )  
 STARSHAKA CUTHBERT, )  
 )  
 DEFENDANT. )

**EXCERPT OF JURY TRIAL**

**VOLUME 1 OF 2**

held before the Honorable J. Ernest Kinard, Jr.  
Mia Perron, Circuit Court Reporter, 14th Judicial Circuit  
in the Beaufort County Courthouse  
Beaufort, South Carolina  
on May 6, 2013

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**SUSAN "MIA" PERRON, CVR-CM-M**  
***Circuit Court Reporter - 9th Judicial Circuit***  
**Post Office Box 31865**  
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**1-706-231-6028**

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PROCEEDINGS

EXCERPT OF JURY TRIAL

VOLUME 1 OF 2

MAY 6, 2013

[Plaintiff's Exhibit Numbers 1 through 14 are marked by the court reporter]

MR. MCINTYRE: Your Honor, we would call the defendant, Ms. Cuthbert.

THE COURT: All right. Jurors, under the Rules, you can call an adverse party.

MR. MCINTYRE: I would recognize her, Your Honor, as a hostile witness.

THE CLERK OF COURT: Please place your left hand on the Bible. Raise your right hand.

[Whereupon, Ms. Cuthbert is duly sworn by the clerk of court as follows: do you solemnly swear or affirm that the testimony you give to the Court in this trial shall be the truth, so help you God]

[Whereupon, Ms. Cuthbert takes the witness stand]

THE COURT: Now,, nobody made a motion but if we have fact witnesses on positions of the bus and all, I need them all out of the courtroom in fairness to

MIA PERRON, CVR-CM-M

1 everybody.

2 MR. MCINTYRE: Yes, sir.

3 THE COURT: And anybody that's not a fact  
4 witness to the accident, they can stay in. But the  
5 fact witnesses don't need to listen to what somebody  
6 else said. Okay?

7 THE WITNESS: Okay. On October 6th, 2010, I was  
8 heading east on Seaside Road. I was approaching a  
9 school bus with the caution lights on. The stop --  
10 she did not come to a designated stop. The sign was  
11 not out or anything. So at the same time, I'm coming,  
12 approaching the school bus. The car, she came up --  
13 she came up from behind the school bus to make her  
14 left turn and that's when I hit her on her right side.  
15 There was nothing I could do to avoid the accident  
16 from happening. So that's how I hit her on her right  
17 side.

18 MR. MCINTYRE: May I start, Your Honor?

19 THE COURT: Yeah.

20 MR. MCINTYRE: Okay.

21 I didn't ask you a question, Ms. Cuthbert, so  
22 I'm going to start asking you some questions at this  
23 point.

- 1 Q. Every once in a while?
- 2 A. [Indicates affirmatively]
- 3 Q. You're shaking your head. That's a yes?
- 4 A. Yes. Every once in a while.
- 5 Q. All right. So back in 2010 you would have been
- 6 what, about seventeen years old?
- 7 A. Yes, sir.
- 8 Q. Okay. I believe you said that you were coming
- 9 from home?
- 10 A. Yes.
- 11 Q. Okay. About what time did the accident happen?
- 12 A. About 3:30 in the afternoon.
- 13 Q. About 3:30?
- 14 A. Uh-huh.
- 15 Q. And it was light outside?
- 16 A. Yes, sir.
- 17 Q. How was the weather?
- 18 A. It was sunny.
- 19 Q. Sunny?
- 20 A. Yes.
- 21 Q. It was a clear day?
- 22 A. Yes, sir.
- 23 Q. Had it been raining earlier?
- 24 A. No, sir.
- 25 Q. Was there any obstructions for you that day?

1 not, because the bus hasn't come to a designated stop yet  
2 so I don't know wherever the bus was going to stop.

3 Q. So the bus hadn't come to a stop, you're saying?

4 A. Right.

5 Q. Okay. Did the bus have any lights on?

6 A. Yes.

7 Q. And how long, in your estimation, had the bus  
8 had lights on?

9 A. Probably about five second.

10 Q. About five seconds.

11 Okay. So you don't know where the bus was  
12 coming to a stop at?

13 A. No, sir.

14 THE COURT REPORTER: She needs to speak up.

15 MR. MCINTYRE: Would you please speak up? And  
16 let me -- if you would just please be kind -- kind of  
17 turn sideways so the court reporter can see you, also.

18 THE COURT REPORTER: Just speak up.

19 MR. MCINTYRE: Try to speak up.

20 Q. [Mr. McIntyre] Okay. Now, I'm going to show  
21 you what is marked Plaintiff's Exhibit Number 3. Okay?  
22 And looking at Plaintiff's Exhibit Number 3, the lane  
23 facing the picture, the lane that's closest to you, do you  
24 see that green sign there?

25 A. Yes.

1 A. Well, I don't know where the bus stop was so I  
2 can't really say.

3 MR. MCINTYRE: All right. Now, if it please the  
4 Court, I would like to publish Plaintiff's Exhibit  
5 Number 14 to the jury.

6 MR. ROSS: No objection.

7 THE COURT: All right.

8 MR. MCINTYRE: Thank you.

9 [Whereupon, Mr. McIntyre proffers documents to  
10 the jury]

11 Q. [Mr. McIntyre] Now, what speed were you  
12 traveling, Ms. Cuthbert?

13 A. The speed limit. About forty-five or fifty.

14 Q. About forty-five or fifty?

15 A. Yeah.

16 Q. Okay. And how do you know that?

17 A. How do I -- because I saw a needle.

18 Q. And where had you last looked at your needle?

19 A. Before I went through the bus.

20 Q. Before you went through the bus?

21 A. Before I passed the bus.

22 Q. Before you passed the bus. Okay.

23 Now, when you say you went through the bus, what  
24 do you mean by that? You went through the bus when there  
25 was flashing yellow lights or with a flag out?

Testimony of Harold Lee Johnson

Direct Examination by Bernard McIntyre

1 down to Peanut Lane.

2 Q. Okay. So then there would have been about fifty  
3 yards till the bus passed you by?

4 A. Yeah. I would say about fifty yards. It might  
5 be less. You know what I'm saying? I don't know exactly  
6 how far. I can't give you the footage exactly.

7 Q. Did the bus stop at Seaside Road and Luther  
8 Warren Road?

9 A. Yes. It stopped at Luther Warren Road and then  
10 it went and stopped at Peanut Lane where the kids got off.  
11 And I was in the road, looking down that way at about the  
12 same time. After Netha -- Jonetha passed by the pick-up  
13 truck, I went back, you know, like standing in the road  
14 looking that direction.

15 Q. Okay. So did -- so kids got off at Seaside Road  
16 and Luther Warren Road?

17 A. Yes.

18 Q. And then it went up to Peanut Lane?

19 A. Right.

20 Q. Okay. Did the bus ever come to a stop before  
21 the wreck?

22 A. Yes, sir.

23 Q. Okay. Did it have any lights on it?

24 A. Yes.

25 Q. What color lights, sir?

1 A. Red and yellow. Red lights on the stop sign,  
2 the yellow blinking light up top.

3 Q. Was there a sign or anything out on the bus?

4 A. Yes. The stop arm was up.

5 Q. Okay. When you say a stop arm, what do you  
6 mean?

7 A. I mean the stop sign.

8 Q. Okay. And what color is that sign?

9 A. Red and white.

10 Q. Did you actually see the sign out?

11 A. Yes, sir.

12 Q. Okay. And do you know about how long -- do you  
13 know about how long the bus was stopped before the wreck  
14 happened?

15 A. The bus stopped -- to give a complete time, I  
16 can't say exactly what time. But it was there for a  
17 minute.

18 Q. Okay.

19 A. Yes.

20 Q. You said that there was a -- did you say a  
21 guardrail that came out in front of the bus?

22 A. What's that?

23 Like a little metal arm came up, you know, I  
24 guess so the kids can walk around it or whatever.

25 Q. Yes, sir.

1 A. Yes.

2 Q. Okay. Now, the bus -- this bus would have  
3 passed you by where you were standing at; is that right?

4 A. Right. Right.

5 Q. Okay. And Ms. Cuthbert was coming from the  
6 other direction; is that right?

7 A. Right.

8 Q. Okay. What color car was she driving?

9 A. Truthfully, I didn't really recognize it. I  
10 didn't even walk down there.

11 Q. Okay. And you say Ms. Singleton made a left  
12 turn?

13 A. Yes, sir.

14 Q. Was the bus stopped at that time?

15 A. Yes, sir.

16 Q. But Ms. Singleton would have passed you by, too;  
17 is that right?

18 A. Yeah. She did.

19 Q. Okay. Was there another vehicle behind the bus?

20 A. A pick-up truck.

21 Q. A pick-up truck?

22 A. Yeah.

23 Q. Was it stopped, as well?

24 A. Yes, sir.

25 Q. Okay. So what did -- when Ms. Singleton

1 approached the back of the bus or the pick-up that was  
2 behind the bus, what did she do?

3 A. She had stopped, too, behind the pick-up, before  
4 she made -- before she started making her turn.

5 Q. Okay.

6 A. Yes.

7 Q. And what way did she turn? Did she turn right  
8 or left, sir?

9 A. She turned to the left.

10 Q. Okay. And is that when the wreck happened?

11 A. Yes, sir.

12 Q. Okay. Had the school bus moved at all at that  
13 time?

14 A. No.

15 Q. Okay. Was the raised flag still out on the  
16 school bus?

17 A. Yes, sir.

18 Q. Were the lights still flashing --

19 A. Yes, sir.

20 Q. -- on the school bus?

21 A. Yes, sir.

22 Q. Is that something you saw, or somebody told you?

23 A. No. I was there in the road.

24 Q. Okay.

25 A. I was there. I mean, in the road not there

Testimony of Bernita Chisolm

Direct Examination by Bernard McIntyre

1 Q. Couple of years?

2 A. There's an age limit where a grownup has to be  
3 to the road to pick up the smaller children.

4 Q. Okay. And about how long did you stand out  
5 there before the bus came?

6 A. Thirty minutes.

7 Q. About thirty minutes?

8 A. Yes, sir.

9 Q. Okay. How was the weather that day?

10 A. It was nice. It was clear.

11 Q. Clear. Okay. Tell us what you saw.

12 A. Okay. It was October 6th, 2010. I was standing  
13 there waiting for the bus. The bus came. The bus had  
14 stopped. At this time I had already gotten my smallest  
15 one off the bus. I was waiting for my second child to get  
16 off the bus and I noticed a red car, and I noticed the  
17 young lady was on the phone also, and she ran the thing  
18 and I heard a boom.

19 Q. All right. Now, when the wreck happened, was  
20 the bus stopped?

21 A. Yes, sir.

22 Q. Okay. And was there any lights on the bus?

23 A. Yes, sir.

24 Q. And what color were the lights?

25 A. Red and yellow and red. The stop arm -- sorry.

1 The red arm that comes out on the driver's side, bus-  
2 driver side, is red. And the lights on top of the bus  
3 that are flashing and those are like red and yellow.

4 Q. Okay. And were they flashing?

5 A. Yes, sir.

6 Q. Okay. Was the stop arm -- that is that red  
7 octagonal eight-sided sign -- out on the bus?

8 A. I really can't recall that, sir. The side I was  
9 standing on, all I could see was the flashing lights and  
10 the yellow piece that comes out underneath the bus.

11 Q. You're talking about the metal guard --

12 A. Yes, sir.

13 Q. -- that hooks out in front of the bus so the  
14 kids can walk around it?

15 A. Yes, sir.

16 Q. Okay. You weren't able to see the stop sign?

17 A. No.

18 Q. Okay. Was the bus actually in a stopped  
19 position?

20 A. Yes, sir.

21 Q. Okay. And you said the kids -- at least one of  
22 your kids had gotten off the bus?

23 A. Yes, sir.

24 Q. And which kid was that?

25 A. My youngest.

1 A. Yes, sir.

2 Q. So to your recall, three kids had gotten off the  
3 bus. Two other kids and one of yours?

4 A. Yes, sir.

5 Q. Before the wreck happened, did the bus ever move  
6 after it stopped?

7 A. No, sir.

8 Q. Was there any other vehicles behind the bus?

9 A. Yes, sir.

10 Q. How many other vehicles?

11 A. I seen two.

12 Q. Okay. And what kind of vehicles were those?

13 A. It was a white pick-up behind the school bus and  
14 Ms. Nissa's car, also.

15 Q. Okay. And then was -- the white pick-up, was it  
16 stopped?

17 A. Yes, sir.

18 Q. Did Ms. Singleton's vehicle ever come to a stop?

19 A. Yes, sir.

20 Q. And did the wreck happen when there was her  
21 turning left and Ms. Cuthbert coming through you say the  
22 flashing red lights on the bus?

23 A. Yes, sir.

24 Q. Was the door to the school bus open?

25 A. Yes, sir.

1 Q. When you saw Ms. Singleton's vehicle -- I'm  
2 sorry. When you say Ms. Cuthbert's vehicle -- was this  
3 the young lady you saw that was driving?

4 A. I didn't really see her face but I know it was a  
5 young lady.

6 Q. Okay. And where was she when -- what color car  
7 was she driving?

8 A. It was red.

9 Q. It was a red car?

10 A. Yes, sir.

11 Q. Okay. And where was she when you saw her?  
12 Before the wreck.

13 A. A couple feet away from me.

14 Q. All right. You know -- was she near a -- was  
15 there a landmark or road or anything she was near?

16 A. Boo Parker's store.

17 Q. Boo Parker's store.

18 A. Yeah. That's -- sorry. That's right next to  
19 Peanut Lane.

20 Q. That's next to Peanut Lane. Okay. Do you know  
21 how far that is?

22 A. No, sir.

23 Q. All right. If you were at Peanut Lane and  
24 you're at the bus stop with your kids, waiting for your  
25 kids, was -- facing the way the kids got off the bus,

1 would Luther Warren Lane be on your left?

2 A. Yes, sir.

3 Q. Farther down? And then you're saying that Boo  
4 Parker Lane would be on your right?

5 A. Yes, sir.

6 Q. Were you able to watch or observe the red  
7 vehicle that Ms. Cuthbert was driving at the time of the  
8 accident? Before the wreck.

9 A. Yes.

10 Q. Did you notice any behaviors about that vehicle?

11 A. I know that she was on the phone.

12 Q. Okay. Was it a cell phone?

13 A. Yes, sir.

14 Q. Okay. What was -- at any time did she get off  
15 the phone before the wreck?

16 A. No, sir. She was -- I seen her on the phone up  
17 till after she passed the bus, and I didn't see no more  
18 after that.

19 Q. Okay. Is that when the boom happened?

20 A. Yes, sir.

21 Q. And how do you know she was on the phone?

22 A. Because I could see her. She was in front of  
23 me. I was standing to the foot of Peanut Lane and the car  
24 was like right there in front, like coming through right  
25 there in front of me. You couldn't miss it, you know.

1 And I could see -- I could see everything.

2 Q. Could you judge the speed of her vehicle?

3 A. It didn't look like it was slowing down to me.

4 Q. Was there ever any -- were there any skid marks  
5 after this impact after -- before the wreck?

6 A. No, sir.

7 Q. Okay. Did you ever hear any brakes or anything?

8 A. No, sir.

9 Q. Was there ever any acceleration before the  
10 accident?

11 A. Yes, sir.

12 Q. In what way?

13 A. I guess that's like speed up some?

14 Q. Yes, ma'am.

15 A. Yes, sir. That's --

16 Q. In what way?

17 A. Acceleration?

18 Q. Yes, ma'am.

19 A. Just basically speeding up I guess to try to  
20 pass the bus or something. I don't -- I don't know. I  
21 know I heard -- I heard acceleration.

22 MR. MCINTYRE: Your Honor, I understand we may  
23 need to take a break. One of the jurors needs --

24 THE COURT: Well, aren't you about through with  
25 her? What else can she say? She's repeated it twice,

MIA PERRON, CVR-CM-M

Testimony of Jonetha Singleton

Direct Examination by Bernard McIntyre

1 stand]

2 MR. MCINTYRE: Ms. Singleton, would you please  
3 tell the ladies and gentlemen of the jury what your  
4 full name is?

5 THE WITNESS: Jonetha Ann Singleton.

6

7

JONETHA A. SINGLETON,

8

Having Been First Duly Sworn,

9

was Examined and Testified as Follows:

10

DIRECT EXAMINATION

11

BY MR. MCINTYRE:

12

Q. Ms. Singleton, what age are you?

13

A. Fifty-four.

14

Q. Okay. And where do you live at, Ms. Singleton?

15

A. At 20 Seaside Road, St. Helena Island.

16

Q. And how long have you lived there, ma'am?

17

A. All my life.

18

Q. Are you married?

19

A. Yes, sir. Sammy Singleton.

20

Q. How long have y'all been married?

21

A. Twenty years.

22

Q. Do you have any children?

23

A. Yes. A son. He's twenty-four.

24

Q. And what's his name?

25

A. Ameer Hires [phonetic].

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1 Q. Did you finish highschool here?

2 A. Yes, sir.

3 Q. And where did you finish high school?

4 A. Beaufort High.

5 Q. Do you remember what year you finished?

6 A. '78.

7 Q. And do you work?

8 A. No, sir.

9 Q. Have you worked?

10 A. I used to work at a day care, but they closed.

11 Q. The day care closed?

12 A. Yes, sir.

13 Q. Okay. Where was the day care?

14 A. On Blue Parker Lane -- Addie Parker Drive.

15 Q. Okay. Is that down from where this accident  
16 happened?

17 A. Yes, sir.

18 Q. Okay. Was that day care open back when this  
19 accident happened in October of 2010?

20 A. No, sir.

21 Q. Okay. Is there another day care that's in that  
22 area, as well?

23 A. No, sir.

24 Q. Is there anybody in that area that takes care of  
25 kids, keeps kids for folks?

1           A.     No, sir. I take in two kids in the afternoon  
2 off the school bus to keep -- watch them till their parent  
3 get off of work.

4           Q.     Okay. And -- okay. Do other kids pick up  
5 kids -- other adults -- kids pick up kids and take them to  
6 adults to keep?

7           A.     Yes, sir.

8           Q.     Okay. So the kind of work -- you're a  
9 housewife?

10          A.     Yes, sir.

11          Q.     Before that, the kind of work you did was  
12 childcare?

13          A.     Yes, sir.

14          Q.     You've never been in the military, have you?

15          A.     No, sir.

16          Q.     Where do you go to church at?

17          A.     Ebenezer Baptist Church on Martha Luther King  
18 Drive.

19          Q.     All right. Do you recall being involved in a  
20 car wreck on October the 6th, 2010?

21          A.     Yes, sir.

22          Q.     Okay. And that accident happened I believe  
23 between 3:30 and four o'clock?

24          A.     Yes, sir.

25          Q.     Where did it happen at?

1 A. 820 Seaside. I was turning into my mother's  
2 driveway.

3 Q. You were making a what turn? Left or right?

4 A. Left.

5 Q. Just briefly tell the ladies and gentlemen of  
6 the jury what happened, please.

7 A. Well, I went to pick up my son from work, came  
8 back. I was on Seaside. Approached the school bus that  
9 was to a complete stop. Also, a white pick-up was behind  
10 the school bus that was at a complete stop. I made a  
11 complete stop behind the bus. Then with the bus lights  
12 and everything blinking, I put my left signal on to turn  
13 into my mother's driveway to go home. And as I turned  
14 into the driveway, Ms. Custard [phonetic] ran into me.

15 Q. Now, was the bus at a complete stop?

16 A. Yes, sir.

17 Q. Did you ever come to a complete stop?

18 A. Yes, sir.

19 Q. And you said there was a pick-up in front of you  
20 behind the bus?

21 A. Yes, sir.

22 Q. Was it at a complete stop?

23 A. Yes, sir.

24 Q. Did the bus ever move once you started to make  
25 your left turn?

- 1 A. No, sir.
- 2 Q. And did you -- did you see the flag on the bus?
- 3 A. Yes, sir. As I turned.
- 4 Q. Did it have any lights on it?
- 5 A. Yes, sir. It was blinking red.
- 6 Q. Did you -- were there any other lights on the  
7 bus?
- 8 A. The yellow amber light right around the top.
- 9 Q. And were they -- were they staying the same or  
10 were they flashing?
- 11 A. They were flashing.
- 12 Q. Did you see any kids get off the bus, or you  
13 don't remember?
- 14 A. I really don't recall.
- 15 Q. And you said I believe the bus was stopped at  
16 Seaside Road --
- 17 A. Peanut Lane.
- 18 Q. -- and Peanut Lane?
- 19 A. Yes, sir.
- 20 Q. And this was a clear day?
- 21 A. Yes, sir.
- 22 Q. You were driving I believe an Acura --
- 23 A. It was an Acura.
- 24 Q. -- vehicle?
- 25 Okay. And I think the jury has already seen

1 these photographs. But just for the record, take a look  
2 at these photographs and -- Plaintiff's Exhibits 5 through  
3 13. And is that the vehicle you were driving at the time  
4 of the accident?

5 A. Yes, sir.

6 Q. Okay. And is that the condition of the vehicle  
7 after the wreck?

8 A. Yes, sir.

9 Q. When the accident happened, did the air-bags  
10 deploy or release in the vehicle?

11 A. Yes, sir.

12 Q. When they released, what happened to you inside  
13 the vehicle?

14 A. When the air-bag released, it hit me in my  
15 chest.

16 Q. All right. Did you sustain any burn marks or  
17 anything as a result of the air bags?

18 A. Yes. I had a big red mark in my chest where the  
19 bag hit me.

20 Q. Were you also restrained by a seat belt?

21 A. Yes, sir.

22 Q. Did your body have any other contact with any  
23 other part of the car?

24 A. My knee was jammed into the dash. My right  
25 knee.

1 the kids off --

2 A. Yes, sir.

3 Q. -- Peanut Lane?

4 A. Yes, sir.

5 Q. Okay. And this is a fairly straight stretch of  
6 highway, isn't it?

7 A. Yes, sir.

8 Q. Now, after the wreck happened, were you injured  
9 in any way?

10 A. Yes, sir.

11 Q. In what way were you injured?

12 A. My neck, shoulder, lower back, and my right  
13 knee.

14 Q. Okay. And I think you mentioned your chest, as  
15 well?

16 A. Yes, sir.

17 Q. Okay. And did you get any medical treatment  
18 that day?

19 A. I was taken to Beaufort Memorial Hospital by  
20 ambulance.

21 Q. And did they check you at the hospital?

22 A. Yes, sir.

23 Q. Okay. They did -- they do -- do you remember  
24 what they did for you at the hospital?

25 A. They took x-rays and they checked my blood

1           And after you got out of the hospital, did you  
2 have any further follow-up treatment for your injuries?

3           A.    Yes, sir.  I went to Dr. Williams.

4           Q.    Okay..  And --

5           A.    Because I was having problems with my neck and  
6 my shoulder and my lower back.

7           Q.    All right.  And where is Dr. Williams' office?

8           A.    He's in Lady's Island.

9           Q.    Okay.  And what if anything did he do for you?

10          A.    He's a chiropractor so he -- when he checked me,  
11 he found that I had inflammation on my bones in my  
12 shoulder and he worked on that and he worked on my chest  
13 and my lower back.

14          Q.    Okay.  And did he provide any help to you?

15          A.    Yes, sir.

16          Q.    Okay.  And did you see any other doctors, ma'am?

17          A.    Dr. Leland Stodder [phonetic]

18          Q.    And what did you see him for?

19          A.    My right knee.  I was having problems with my  
20 right knee.  And --

21          Q.    Is that the knee that you -- that hit the -- I  
22 think you said the dashboard?

23          A.    Yes, sir.

24          Q.    And what did Dr. Stoddard do for that knee?  Is  
25 he an orthopaedist?

1 A. Yes.

2 Q. And what did he do for the right knee?

3 A. He did x-rays and he found out that I had  
4 inflammation on the knee, so he was giving me injections.

5 Q. And about how many shots or injections did he  
6 give you?

7 A. Approximately about ten.

8 Q. About ten. Would those shots have been directly  
9 into the knee?

10 A. Yes, sir.

11 Q. And I believe he has a bill for treatment, too.  
12 And I'm going to hand you these documents and ask you do  
13 these fairly and accurately depict the bill that Dr.  
14 Stoddard gave for you for the services he provided to you,  
15 especially to the right knee?

16 A. Yes, sir.

17 MR. MCINTYRE: I would like to have that marked  
18 I think Plaintiff's 19, is it?

19 THE COURT: I don't know whether there's  
20 anything on there or not.

21 MR. MCINTYRE: I'll provide him copies of these,  
22 Your Honor.

23 [Whereupon, Plaintiff's Exhibit Number 19 is  
24 marked by the court reporter]

25 MR. MCINTYRE: Your Honor, please the Court, I'm

1 going to publish Plaintiff's 19 to the jury.

2 Q. [Mr. McIntyre] And I -- and you say you were  
3 also I believe seen by Dr. Williams, I believe?

4 A. Yes, sir.

5 Q. Okay. Let me hand you this bill for treatment  
6 and ask you if that fairly and accurately depicted his  
7 bill for services.

8 [Whereupon, the witness reviews documents]

9 A. Yes, sir.

10 MR. MCINTYRE: Your Honor, I ask that be marked  
11 Plaintiff's 20.

12 THE COURT: Show it to him.

13 [Whereupon, Plaintiff's Exhibit Number 20 is  
14 marked by the court reporter]

15 MR. MCINTYRE: Publish Plaintiff's 20 to the  
16 jury, Your Honor. Thank you.

17 Q. [Mr. McIntyre] Now, when did you last see  
18 Dr. Stoddard, Ms. Singleton?

19 A. August of 2012, I believe.

20 Q. And that would have been for your right knee?

21 A. Yes, sir.

22 Q. Okay. Was he -- were the injections that he  
23 administered to your knee, were they of any help?

24 A. Yes, sir.

25 Q. Okay. Are you having any problems today with

1 the injuries that you sustained in this accident?

2 A. Yes, sir. I still have problems with my lower  
3 back and my right knee.

4 Q. Now, so your injuries from the -- your neck,  
5 they resolved after you got treatment?

6 A. Yes, sir.

7 Q. Okay. And what about your chest?

8 A. That's resolved, also.

9 Q. Okay. You indicated -- was it -- did you say  
10 burn marks or bruise marks on your chest from the --

11 A. It was a bruise mark from the air-bag.

12 Q. Okay. And did that heal?

13 A. Yes, sir.

14 Q. Was there any permanent scarring from that?

15 A. No, sir.

16 Q. Okay. What problems are you having now as a  
17 result of the injuries you had to your back and your right  
18 knee from the accident?

19 A. My right knee, I used to walk to exercise to  
20 keep my pressure down. I can't do too much walking right  
21 now because I have -- still have problems with it. I have  
22 problems with my back. I can't bend or pull like my  
23 laundry and stuff like that. My husband and my son have  
24 to help me with that.

25 Q. Do you have any other problems? Any problems

1 with housecleaning?

2 A. Yes. My husband and my son does most of it.

3 Q. What things that you used to do, housecleaning,  
4 that you can no longer do now?

5 A. Like bending over the tub to clean the tub, the  
6 bathroom, the commode. Those things I can't do because I  
7 have pains in my lower back.

8 Q. Are you able to still do things like cooking?

9 A. Yes. I can stand for a little while but once my  
10 knee starts bothering me, then my husband takes over.

11 Q. Do you do anything else to get relief as a  
12 result of these injuries? Do you have to take any pain  
13 medication or anything?

14 A. I take Tylenol with -- extra strength Tylenol.

15 Q. And how often do you have to take Tylenol?

16 A. I usually take it about every two to three  
17 hours. Depends on how excruciating the pain is.

18 Q. I think when you were released from the  
19 hospital, they gave you some prescriptions for medication?  
20 Pain relief?

21 A. Yes.

22 Q. And Dr. Stoddard, did he give you pain relievers  
23 or were they in the form of the injections directly into  
24 the knee?

25 A. Yes, sir.

1 Q. What was that -- how did he give you the  
2 injections? Was that with the long needle?

3 A. With a needle.

4 Q. Were you working at the time of the accident?

5 A. No, sir.

6 Q. When did you last work, before the accident,  
7 outside the home?

8 A. I believe about 207 [phonetic].

9 Q. About 2007?

10 A. Yes, sir.

11 Q. Okay. So your duties just totally within the  
12 house, cooking and housecleaning and that kind of thing?

13 A. Yes, sir.

14 MR. MCINTYRE: That's all I have, Your Honor.

15 MR. ROSS: Thank you, Your Honor.

16 THE COURT: All right. Jurors, you know, we've  
17 put in medical bills. When medical bills are  
18 presented, they obviously prove they were incurred.  
19 The plaintiff has got to go further and show they were  
20 incurred as a direct result of the accident in  
21 question. All right? For instance, if you get a bill  
22 -- I mean, I don't study any bill. You might have had  
23 a broken arm and the doctor puts in the bill so much  
24 for that broken arm, so much for putting on a cast, so  
25 much for a flu shot, you know, so much for a tummy

Testimony of Lakeisha Scott

Direct Examination by Bernard McIntyre

1 A. Yes, sir.

2 Q. And your vision is corrected to basically 20/20  
3 wearing glasses?

4 A. Yes, sir.

5 Q. What kind of day was it?

6 A. It was clear.

7 Q. A clear day?

8 A. Yes, sir.

9 Q. All right. And on -- where would you have been  
10 standing on Seaside Road waiting for the bus?

11 A. On Shiny Road.

12 Q. You were on Shiny Road?

13 A. Yes, sir.

14 Q. Now, if -- when the bus -- when this bus stopped  
15 that day and it opened the door, what road -- where would  
16 the kids be getting off to? Would they be getting off on  
17 Peanut Lane or on Shiny Road?

18 A. They'll get off on Peanut Lane.

19 Q. Okay. So you were on the opposite side of the  
20 bus?

21 A. Yes, sir.

22 Q. Okay. And is that the side of the bus that's  
23 closest to the driver?

24 A. Yes, sir.

25 Q. All right. That day -- before the wreck

1 happened, was -- please tell the jury what you saw.

2 A. I went to Shiny Road, like I do like every day.  
3 And the bus came. And it came to a complete stop. The  
4 lights were flashing. The iron grill at the bottom came  
5 out. And the stop sign on the bus came out. And I was  
6 waiting. And the kids came over -- once the bus driver  
7 signaled them over -- as soon as the kids came towards me,  
8 a car went straight through. As soon as they walked over  
9 the white line, the car just went straight through.

10 Q. Okay. So as soon as the kids got on the  
11 shoulder, a car came through?

12 A. Yes, sir.

13 Q. All right. Now, you said -- was the bus stopped  
14 when this happened?

15 A. Yes, sir.

16 Q. Okay. Now, when you say a car came through, is  
17 that when the wreck happened?

18 A. Yeah, you might as well, because as soon as the  
19 kids came to me it just went by so fast.

20 Q. All right. The bus was stopped?

21 A. Yes, sir.

22 Q. You say a little metal guard or something came  
23 out in front of the bus?

24 A. Yes, sir.

25 Q. Is that what the kids walk around that have to

1 cross over the road?

2 A. Yes, sir.

3 Q. Were -- and how many kids walked across the  
4 road?

5 A. Just two.

6 Q. Those two that you --

7 A. That I pick up.

8 Q. That you pick up?

9 A. Yes, sir.

10 Q. Okay. And did they make it across the road?

11 A. Yes, sir.

12 Q. And how long after they got across the road did  
13 this wreck happen?

14 A. It was a split second. It just happened so  
15 fast. I was just scared the kids probably got hit if I  
16 didn't get to where they was.

17 Q. Now, did you see the car that was in the wreck  
18 that went through the stop flag?

19 A. Yes, sir.

20 Q. What color was it?

21 A. It was a reddish color.

22 Q. Okay. Did you see the car before the wreck  
23 happened?

24 A. I saw it like near a distance but I didn't  
25 really pay attention to it because, you know, it was -- I

1 thought it was stopped because they saw the bus and the  
2 lights.

3 Q. You thought it was stopped?

4 A. Yeah, because they saw the bus and so -- and the  
5 lights. I figured it was stopped, so I didn't really --  
6 wasn't concerned about it.

7 Q. Okay. And the lights from the bus, what color  
8 were the lights that were --

9 A. It first -- it first comes yellow and then it  
10 goes red, so it was flashing back and forth to let people  
11 know who driving, you know, that the bus stopped.

12 Q. Okay. When the bus is at a complete stop?

13 A. A complete stop.

14 Q. Okay. And it had been stopped long enough for  
15 the two kids to get off and go around?

16 A. Yes, sir.

17 Q. Okay. Did you see any other kids get off the  
18 bus? Or you don't know.

19 A. I don't remember. I just saw my two.

20 Q. All right. Now, on the side of the bus that you  
21 were on, is that the side that the flag comes out on?

22 A. Yes, sir.

23 Q. Okay. Is that the big red eight-sided flag on  
24 the bus?

25 A. Yes, sir.

Testimony of Sonya Badger

Direct Examination by Jeffrey Ross

1 Q. All right. And we're here today about an  
2 accident that occurred on October 6th, 2010. Are you  
3 familiar with this accident?

4 A. Yes.

5 Q. All right. Can you tell the jury what happened?

6 A. On that day I was approaching a stop on Seaside,  
7 Shiny Road. Activated my warning lights, secured my  
8 brakes, the stop arm was activated. There was a vehicle  
9 approaching the opposite direction of me. The vehicle  
10 went through, from my recollection, the stop arm. And  
11 after that I just heard a bang.

12 Q. Now, to be clear, you were the bus driver on  
13 this day; right?

14 A. Yes.

15 Q. Okay. And had -- at the time of the accident,  
16 had any kids gotten off the bus?

17 A. At the time of the accident, the kids were in  
18 the process of unloading but they didn't -- they weren't  
19 fully like on the ground until after the crash, the bang,  
20 and that's when I signaled the other kid to cross over to  
21 the left.

22 Q. And when you pull up to an -- or when you pull  
23 up to a bus stop, is there a procedure that you go  
24 through?

25 A. Yeah.

1 Q. I mean, what do you do when you get to a stop?

2 A. You have the security brakes, put it in neutral.

3 Q. All right. Tell me about that. Tell me what  
4 happens. How far in advance of the bus stop do you turn  
5 on your lights?

6 A. A hundred feet, or fifty.

7 Q. Okay. And then you get up to a stop. And then  
8 what?

9 A. I secure my brakes, put it in neutral, and then  
10 open the door. And when I open the door, it activates the  
11 stop arm to come out.

12 Q. Okay. And when the bus came to a complete stop  
13 and the boom occurred for the accident, no kids had gotten  
14 off the bus yet; right?

15 MR. MCINTYRE: Your Honor, I object to the  
16 leading.

17 THE COURT: All right.

18 MR. ROSS: Sure.

19 Q. [Mr. Ross] At the time when the boom occurred,  
20 that you referred to, were any kids off the bus?

21 A. On to my right they were. To my right they  
22 were.

23 Q. They were off the bus, or getting off the bus?

24 A. When I heard -- after the crash, they were  
25 already to my right. The one that boards off to the right

1 was already at -- you know, on the ground. So it's like a  
2 procedure you just -- I mean, when she went through, the  
3 kids were just boarding off. You know, you have to go  
4 down the steps. And after the crash, the boom, that's  
5 when they were already -- the right-hand-side drop-off was  
6 already on the ground. But the child that had to cross  
7 over to my left, she hadn't crossed over yet. I mean, if  
8 you can understand what I'm saying, all that.

9 Q. Right. And all this happened very quickly?

10 A. Yes.

11 Q. All right. Are you able to say specifically  
12 that somebody was standing on the ground at the same time  
13 that the crash occurred, or were they just in the process?

14 MR. MCINTYRE: Your Honor, again, I'm going to  
15 object to the leading. I --

16 THE COURT: All right.

17 Q. [Mr. Ross] Ms. Badger, how often do you make  
18 that route?

19 A. Every day --

20 Q. The same kids get on and off --

21 A. -- morning and evening, yes.

22 Q. The same kids get on and off?

23 A. Well, it depends. Some may ride, some may not.

24 Q. If any kids were across the street at the time  
25 of the accident, was that something you would remember?

Plaintiff Appellant's Motion for Directed Verdict

1 MR. ROSS: All right. Thank you. That's all I  
2 have.

3 Your Honor, the defense rests.

4 THE COURT: Anything else witness or evidence  
5 wise?

6 MR. ROSS: No, Your Honor.

7 THE COURT: All right. Jurors, I've got to take  
8 up a few things with the attorneys. Just step out.  
9 And don't talk about the case quite yet.

10 [Whereupon, the jury exits the courtroom at  
11 9:41 a.m.]

12 THE BAILIFF: The jury is clear, Your Honor.

13 THE COURT: All right. Now what are y'all up  
14 to?

15

16 MOTION FOR A DIRECTED VERDICT

17 MR. MCINTYRE: The first thing, Your Honor, the  
18 plaintiffs respectfully -- of course, we move for a  
19 directed verdict on the issue of liability. I don't  
20 know -- I don't think I need to recount the evidence.  
21 But, you know, just based on what the defense has put  
22 up just here with the last witness who said that  
23 according to her testimony, she -- as I understood it,  
24 that the amber lights were activated, the door opened,  
25 the stop arm was activated or actuated, the kids were

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1 actually boarding off the bus, the bus was at a  
2 complete stop. And I think the defense wanted to lead  
3 the witness into some other things to try to exonerate  
4 the defendant but, unfortunately, she testified what  
5 she said happened and the defendant ran the stop arm,  
6 as well as the flashing lights and yellow lights and  
7 the red light.

8 THE COURT: Well, here's the thing, though. She  
9 says it was not stopped. You know, that's just one  
10 against many. I can't help you.

11 MR. MCINTYRE: Well, under -- you know, if it  
12 pleases the Court, under 56-5-27(c), it says that, you  
13 know, a vehicle must not overtake the bus which has  
14 amber visual signals actuated. That's what 27 -- 56-  
15 5-27(c) says. You know, it doesn't say, Your Honor,  
16 that the bus has to be stopped.

17 Even the defendant admitted, Your Honor, that  
18 the amber lights were actuated. According to what  
19 I recall, she say five seconds. But it doesn't --  
20 56-5-27(c) --

21 THE COURT: All right. That's just a jury  
22 question. You can argue all that to the jury. I'm  
23 going to instruct that statute to the jury.

24 Here is the thing. I'm coming down and a bus,  
25 you know, hits the amber lights, I don't -- if it's

Charge

1 operating vehicles on the highway.

2 There are a couple of statutes that I am going  
3 to paraphrase for you, jurors, and if you find that a  
4 statute is violated I will -- just the law says that's  
5 negligence. But remember it's more than just being  
6 negligent. Or to recover, plaintiff has to prove  
7 negligence, causation, and resulting injury. A person can  
8 be negligent and that not even be a cause of the accident.  
9 All right? It's like -- well, I won't give you an  
10 example. You can come up with many where you could be  
11 going fifty-six miles an hour and the speed limit is  
12 fifty-five and somebody going ninety runs into the back of  
13 you. The fact that you were going a mile over wouldn't  
14 have had anything to do with that particular collision.  
15 You understand. So a couple of statutes in this case.  
16 And I have found that one of the statutes was violated by  
17 the plaintiff, so plaintiff is negligent on that issue.  
18 And that statute, just to paraphrase, says that if you  
19 come upon a stopped school bus, you have -- you know, with  
20 the lights properly going and so forth, and the stop sign  
21 out, you have to stop and then you can't proceed unless  
22 the bus goes forward. All right? You can't proceed. You  
23 can't go forward, you can't turn left, you can't turn  
24 right. You just have to stop until the bus goes.

25 Now, all statutes are given a reasonable

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1 interpretation, jurors. All of them, obviously. The  
2 reason I ruled -- that I ruled that the plaintiff violated  
3 that statute is because she was in close proximity to the  
4 bus, under her testimony. If the bus had stopped and  
5 traffic had backed up for two miles, you know, you could  
6 turn. It's only when you get close enough that a child  
7 might be in danger that you couldn't -- couldn't turn. So  
8 under her testimony in the case I said she violated that  
9 statute and she's negligent. That does not mean that she  
10 -- that negligence was a cause of the accident at all.

11 Now, you heard me use the word, jurors,  
12 proximate cause. Lawyers like to use that. It's just a  
13 legal word. It means the direct cause. It's spelled just  
14 like approximate, except that it does not have the first  
15 ap on it. It means a cause but for which the accident  
16 would not have happened.

17 Now, jurors, a couple of statutes are involved.  
18 I can read them to you in detail, if you need them. I'm  
19 just going to paraphrase them. Obviously, jurors, you  
20 have the right to turn left or right on a highway. The  
21 statute basically says you can't turn left if there's  
22 another vehicle in sufficient proximity to constitute an  
23 immediate hazard. In other words, you can't turn right  
24 in front of somebody but if you have reasonable notice and  
25 you think they could safely make a left turn, then you can

1 go ahead and make a left turn.

2 Now, there is a statute -- and as I just  
3 mentioned, if there is a posted speed limit, you have to  
4 not go faster than that speed limit or you are in  
5 violation of that statute and would be negligent. Now,  
6 the statute further says, though, jurors, that you can't  
7 just go the speed limit. You can understand. You could  
8 be in a snowstorm. The speed limit on the interstate is  
9 70. You couldn't go 70 if you wanted to. So you have to  
10 reduce your speed depending upon the facts and  
11 circumstances, and all, presented. If you're approaching  
12 a sharp curve or something, you have to slow down. If you  
13 see anything that constitutes an immediate hazzard, you're  
14 supposed to slow down. You should slow down if any other  
15 reasonable motorist faced with the same situation would  
16 have slowed down their vehicle. Everybody is held to a  
17 reasonable-man standard when they are driving.

18 There are a couple of statutes, jurors,  
19 involving equipment on buses. Bottom line, they have to  
20 have lights, amber, red, white, yellow. They have to have  
21 two sets of lights and so forth. They have to have a stop  
22 sign and all of that. No dispute in the case that the bus  
23 was properly equipped. Okay? But the flashing lights,  
24 amber and so forth, have to be visible under normal  
25 circumstances for at least 500 feet. Okay? The bus

Verdict

VERDICT

1  
2 THE COURT: Is everybody ready?

3 MR. ROSS: Yes.

4 MR. MCINTYRE: Yes, Your Honor.

5 THE COURT: Bring the jury in.

6 [Whereupon, the jury enters the courtroom at  
7 1:12 p.m.]

8 THE COURT: Mr. Foreman, has the jury reached a  
9 verdict?

10 THE FOREPERSON: We have, sir.

11 THE COURT: If you would just hand it -- I know  
12 you've been back there practicing reading it, like you  
13 see on TV, but that's not what --

14 [Whereupon, the foreperson proffers documents to  
15 the bailiff. The bailiff proffers documents to the  
16 Court]

17 [Whereupon, the Court reviews documents]

18 [Whereupon, the Court proffers documents to the  
19 clerk of court]

20 THE CLERK OF COURT: In the trial of the State  
21 of South Carolina, County of Beaufort, in the Court of  
22 Common Pleas, case number 2011-CP-07-4713, Jonetha  
23 Singleton versus Starshaka N. Cuthbert, we, the jury,  
24 by unanimous consent, find for the defendant.  
25

Plaintiff Appellant's Motion for Judgment Notwithstanding the Verdict

1 have their checks, though, do you?

2 THE BAILIFF: No, Your Honor.

3 THE COURT: Before Christmas. All right.

4 THE BAILIFF: Thank you, Your Honor.

5 [Whereupon, the jury exits the courtroom at  
6 1:16 p.m.]

7 THE BAILIFF: The jury is clear, Your Honor.

8 THE COURT: Okay.

9  
10 MOTION FOR JNOV

11 MR. MCINTYRE: Your Honor, if it please the  
12 Court, the plaintiff would move for a JNOV, a judgment  
13 notwithstanding, in the verdict. Your Honor heard the  
14 testimony for the plaintiff and the defendant, Your  
15 Honor. And the weight of the verdict was against all  
16 the facts of the case. With respect to fault here and  
17 how the accident occurred, that it would have just  
18 been impossible for the jury to come to the verdict  
19 that they came to factually. And that we would ask  
20 Your Honor to enter a judgment, in spite of the  
21 verdict of the jury, in favor of the plaintiff.

22 THE COURT: You agree, of course?

23 MR. ROSS: Respectfully, Your Honor, we would  
24 certainly disagree.

25 THE COURT: All right. I can't really set it

Amended Inclusion of Charge

1 prove is more likely so than not. If you could physically  
2 weight evidence, her burden of proof would be more than  
3 fifty percent.

4 Now, in this case the plaintiff has to convince  
5 you jurors of three things: first, that the defendant was  
6 negligent; second, that that negligence was a proximate  
7 cause of the collision; and, third, that she sustained  
8 injuries as a direct result of the collision. Now,  
9 jurors, negligence is a failure to exercise due care under  
10 the circumstances. It can rise from action or inaction,  
11 omission or commission. The bottom line, in driving  
12 scenarios, it's the failure to drive as an ordinary  
13 reasonable person would have been driving at the time the  
14 accident occurred. And there's no dispute in the case  
15 that, you know, the accident happened. Fault is what is  
16 at issue, as well as damages, if you find fault should be  
17 rewarded on the plaintiff's part.

18 Now, anytime we drive, that's you, me, this  
19 plaintiff, this defendant, we agree to do a couple of  
20 things. And since you're going to be evaluating fault,  
21 jurors, the law I'm telling you applies to both parties.  
22 I'm not saying the plaintiff has to do this, the defendant  
23 has to do that. It applies to everybody who drives. When  
24 we operate a car, including these litigants, we just agree  
25 to do a couple of things. One is we agree to exercise due

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1 stops, it has to be visible within 500 feet.

2 Now, the statute -- another statute says if you  
3 are approaching flashing amber lights, stop sign, you have  
4 to stop. You can't go ahead. Now, of course, you have to  
5 have time to stop, also. If you're parallel with a bus,  
6 the lights start flashing, you don't -- you are gone.  
7 Y'all understand. I mean, statutes have a reasonable  
8 interpretation. But bottom line, if you've got time to  
9 stop, you've got to stop. If you're going too fast when  
10 you see the bus, you had better slow down, you know, and  
11 try to stop and so forth.

12 And I can read those to you, but that's  
13 basically it. If you see flashing amber lights, amber  
14 lights, tells you the bus is stopping or stopped, you need  
15 to slow down. Stop sign comes out, got to stop. That's  
16 another one, another statute.

17 Now, I mentioned to you that in order to  
18 recover, the plaintiff has to convince you that the  
19 defendant was negligent and that that negligence was a  
20 direct cause of the collision. Approximate is the word,  
21 but direct cause, cause but for which the accident  
22 wouldn't have happened, is the terminology of what you  
23 pass on. The defense's position is that the accident was  
24 caused by sole negligence on the part of the plaintiff.  
25 Issue in the case. The defense further says that if we

1 were negligent, which we deny, the plaintiff also was  
2 negligent. And we ask you to compare the negligences  
3 between the two parties. Now, here's what that means.  
4 Oftentimes in car wrecks, both parties are somewhat at  
5 fault. I'm not telling you both parties were at fault.  
6 All I have said was that under the testimony of the  
7 plaintiff, she violated the statute and that was  
8 negligence. But that does not mean that she was at fault.  
9 That is for you to decide. I am not making that  
10 determination.

11 If you find both parties are at fault, you weigh  
12 and evaluate the relative positions of the parties and  
13 decide how much fault is to be attributed to both drivers.  
14 The rule is, as I told you at the start, in order to  
15 recover, the plaintiff has got to convince you that  
16 negligence on the part of the defendant was equal to or  
17 greater than any negligence on her part. So even if you  
18 find the plaintiff was fifty percent negligent -- and I'm  
19 not suggesting that she was -- the plaintiff would still  
20 prevail. What you would do is you would reduce any  
21 monetary award you gave her for actual damages by the  
22 percentage of negligence you find on the part of the  
23 plaintiff up to fifty percent. If you find the  
24 plaintiff's negligence contributed to the accident by more  
25 than fifty percent, the plaintiff doesn't win at all.

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1 Okay. If the plaintiff was like ten percent negligent,  
2 you reduce the award by ten percent; twenty percent,  
3 twenty percent; thirty percent, thirty percent. Fifty-one  
4 percent negligence on the part of the plaintiff, or more,  
5 the plaintiff doesn't win at all. Okay.

6 Now, I mentioned that the plaintiff has the  
7 burden of proof, the greater weight of evidence, on  
8 negligence, causation and resulting injury. To the extent  
9 that the defendant claims the plaintiff was negligent, the  
10 plaintiff has the burden of proof on that issue. The same  
11 burden of proof, preponderance of the evidence, because  
12 they're saying -- you know, once they claim somebody else  
13 does something, then they assume the burden of proof on  
14 that and it's the same burden throughout.

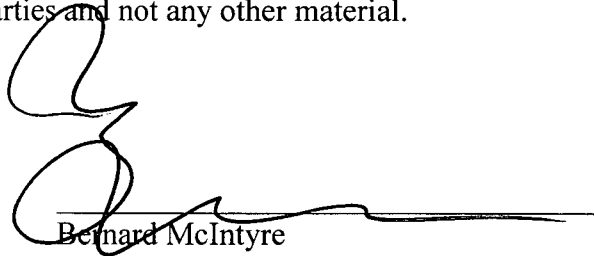
15 Now, jurors, you have to decide the case based  
16 upon the admitted evidence in the case. That includes  
17 testimony, documents that have been introduced, photos and  
18 so forth. You're entitled to weigh the testimony. And  
19 I'm going to give you a couple of tests on evaluating  
20 testimony. I'm not directing these to any particular  
21 witness. It applies to anybody that testifies.  
22 Obviously, you would take into account the appearance of  
23 the witness, the demeanor of a witness. You would  
24 consider whether a witness' testimony is consistent or  
25 inconsistent. You would consider the opportunity the

Certificate of Appellant

Certificate of Counsel

The undersigned hereby certifies that the Amended Record on Appeal contains all the materials proposed to be included by any of the parties and not any other material.

August 15, 2014  
Beaufort, South Carolina



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THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM BEAUFORT COUNTY  
Court of Common Pleas  
J. Ernest Kinard, Jr., Circuit Court Judge

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Case No. 2011CP0704713

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Jonetha Singleton.....Appellant,  
v.  
Starshaka Cuthbert.....Respondent

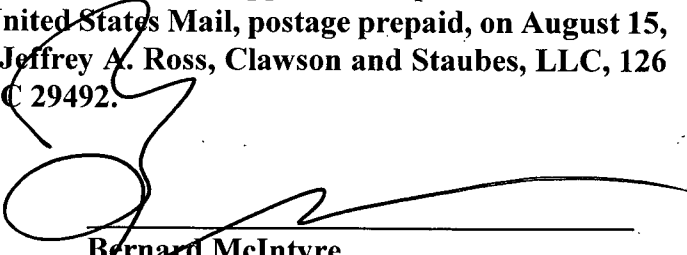
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PROOF OF SERVICE

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I certify that I have served a copy of the Amended Record on Appeal on Respondent Starshaka Cuthbert by depositing a copy of it in the United States Mail, postage prepaid, on August 15, 2014, addressed to her attorney of record, Jeffrey A. Ross, Clawson and Staubes, LLC, 126 Seven Farms Drive, Ste. 200, Charleston, SC 29492.

August 15, 2014



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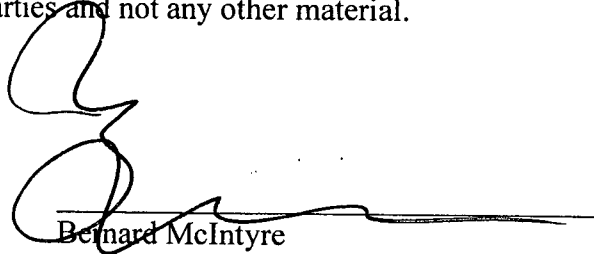
SC Court of Appeals

Certificate of Appellant

Certificate of Counsel

The undersigned hereby certifies that the Amended Record on Appeal contains all the materials proposed to be included by any of the parties and not any other material.

August 15, 2014  
Beaufort, South Carolina



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