

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

NOV 20 2015

SC Court of Appeals

Appeal From The Richland County
Court of Common Pleas From Orders of
Honorable G. Thomas Cooper, Jr.,

Appellate Case No.: 2015-000740

Case No.(s): 2013-CP-40-03078
2007-CP-40-03742

Subsequent Interlocutory Orders of (Former) Circuit Court Judge,
Honorable J. Michelle Childs:

Case No.(s): 2007-CP-40-03742
2009-CP-40-02442

Subsequent Interlocutory Order of Circuit Court Judge,
Honorable De Andrea Gist Benjamin:

Case No.: 2009-CP-40-02442

Clarence S. Gregory, ... Appellant,
Verses

Riley Pope & Laney, LLC, Law Firm, Attorney(s) and Counselor(s)
at Law; Individually and Individually named, Theodore D. Riley,
T. Lowndes Pope, LeRoy Free Laney, Nikole H. Boland, Of Whom
All are sued In their Individual and Professional Capacities,
Riley Pope & Laney, Limited Liability Contractor(s)(LLC);

AND

Heath McAlvin Stewart, III, Individually and Individually named,
Of Who, Formerly Employed with Riley Pope & Laney, LLC, Law
Firm, An Agent Attorney Is sued In His Individual and

Professional Capacities, Et Al.;

All Whom are named as Defendants,
Of Which Riley Pope & Laney, LLC, Is The Respondent.

RECORD ON APPEAL

VOLUME III., OF IV

CLARENCE S. GREGORY, #227394
C/O BROAD RIVER CORRECTIONAL INST.,
MURRAY UNIT, B-WING RM. 234
4460 BROAD RIVER ROAD
COLUMBIA, SOUTH CAROLINA
ZIP CODE 29210-4012

APPELLANT PRO'SE

RILEY POPE & LANEY, LLC
C/O DAMON C. WLODARCZYK, ESQUIRE
ATTORNEY(S) AND COUNSELOR(S) AT LAW
2838 DEVINE STREET
POST OFFICE BOX 11412
COLUMBIA, SOUTH CAROLINA
ZIP CODE 29211-1412

RESPONDENT

DAMON C. WLODARCZYK, ESQUIRE FOR
RESPONDENT

EXHIBIT(S)

DESCRIPTION

APPELLANTS' SCDC 19-11, REQUEST FORM TO STANLEY BURTT, JR.,
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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
REQUEST TO STAFF MEMBER

TO: NAME: Mr. Stanley Burtt, LCI Warden	TITLE:	DATE: December 20, 2007
INMATE'S NAME: Clarence Gregory,		SCDC #: 227394
INSTITUTION: Lieber Correctional		LIVING QUARTERS: Cooper Unit, A-Wing Rm. 55

Title: Pursuant To SCDC ADM-Policy/Procedure(s) Employee/Staff(s) Conduct,
ADM-11.04, 11.17 et seq.

Dear Warden Burtt:

In Reference to the above-titled matter, recently, FoodService Supervisor(s), Ms. Cheryl Leslie, and Ms. Jennifer Butler, consistently, hits, strikes, and or/smacks on their Inmate(s) Cafeteria Worker(s), ordering them to work, and if the Inmate worker claims that they will report the FoodService Supervisor's misconduct, that they (Inmate Cafeteria Worker), will no longer work in the Lieber Facility Cafeteria. I reported their misconduct to FoodService Director Robert Reeves, and He says, there is nothing he can do about it, if he doesn't see it (misconduct of FoodService Supervisor, Ms. Leslie and Ms. Butler). What can you do about it?

Respectfully Submitted, I am

S/ Clarence S. Gregory
CLARENCE S. GREGORY, #227394
12-20-2007

RECEIVED
DEC 24 2007
WARDEN'S OFFICE
LIEBER COR.

DISPOSITION BY STAFF MEMBER:

I am sure your subjects matter will be under investigation through my office.

DATE:

12/24/07

SIGNATURE:

Stanley Burtt

456

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FEB 15 2008
MAILROOM
WEBER 91

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
REQUEST TO STAFF MEMBER

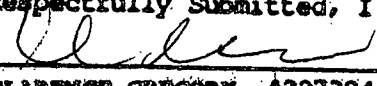
TO: NAME: Mr. Helms, Lieber Facility, FSDirector V	TITLE:	DATE: February 11, 2008
INMATE'S NAME: Clarence Gregory,		SCDC #: 227394
INSTITUTION: Lieber Correctional		LIVING QUARTERS: Cooper Unit, A-Wing Rm. 55

Title Request: Request Pursuant To SCDC ADM-Policy/Procedure(s) 11.04, 11.17, Employee/Staff(s) FoodService Supervisor's Conduct.

Dear Mr. Helms/Reeves, FoodService Director(s):

Dear Sir(s):

In the regarding to the above-requested matter, your FoodService Supervisors' Ms. Cheryl Leslie and Ms. Jennifer Butler, tries to order, Inmate Cafeteria Workers to work and hits, pushes or strike on Inmate Workers, if they don't work, and uses profanity languages, against the Inmate workers, and if they (Inmate Cafeteria Worker), says that they will report their (FoodService Supervisor's misconduct, by striking or pushing), they (FSS, Ms. Leslie and Ms. Butler), will fire/terminate the Inmate Cafeteria Worker, from the Cafeteria, sir, this conduct must stop immediately, what is you intend to do? Ms. White, former FoodService Supervisor had wrote an incident report on Ms. Leslie, assaulting an Inmate Cafeteria Worker, previously.

Respectfully Submitted, I am
s/ 
CLARENCE GREGORY, 0227394
02/11/08

DISPOSITION BY STAFF MEMBER:

I'm GREGORY, I called MR Reeves
and gave him heads up.

DATE: Feb 12, 08	SIGNATURE:  FSD-V
---------------------	--



SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
REQUEST TO STAFF MEMBER

MAY 21 2008

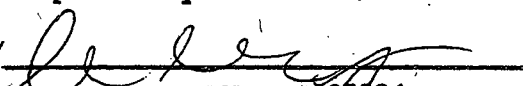
TO: NAME: Ms. Jennifer Butler, FoodService Supervisor	TITLE:	DATE: May 21, 2008	MAIL ROOM LIEBER CI
INMATE'S NAME: Clarence Gregory,		SCDC #: 227394	
INSTITUTION: LIEBER CORRECTIONAL		LIVING QUARTERS: Cooper Unit, A-Wing Rm. 55	

TITLE REQUEST: REASON IN REFERENCED TO THE MAY INCIDENT/INJURY, ON THE
BACK-DOCK AREA, EARLIER 2008

Dear Ms. Butler, FSS, III:

What caused you to act like you did, the other evening, coming out on the back-dock, ordering me around, and telling me to hurry up? Why did you hit me in my back with the stainless steel, serving spoon? You hit me twice, if the Warden, knew you did that, you might not have a job, you know. Officer Goodwin and two other Inmate(s) saw what you did. Earlier, last year in 2007, Warden Burt, had a meeting with you all (FoodService Supervisors), and with Mr. Reeves, FSD, about you and Ms. Leslie, about putting your hands and hitting Inmate(s). So you have not learned yet?

Respectfully Submitted, I am

S/ 
CLARENCE GREGORY, #227394
05/21/2008

DISPOSITION BY STAFF MEMBER:

I'm GREGORY,
you got what you
deserve.

DATE: May 23, 2008	SIGNATURE: BUTLER
-----------------------	----------------------

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE GRIEVANCE FORM

STEP 1

Office Use Only

Grievance No. LCF 9157-09Code: General UC

Policy _____

Disc. Hear. _____

Class. _____

Date Received 9-6-2009

IGC Initials _____

INMATE NAME: Clarence Gregory

AUG 2 2009

SCDC NUMBER: #227304INSTITUTION: Lieber Correctional

INMATE GRIEVANCE

HOUSING UNIT: Cooper Unit, A Wing Rm. #55WORK ASSIGNMENT: Cafeteria (Shift Leader Back-Dock)

STATE GRIEVANCE (Include documentation, and date of incident; if SCDC Policy indicate which policy)

Dear Sir/Madam:

Ms. Butler, FoodService Supervisor, hit me in the back, two (2) times, on the Cafeteria, Back-Dock area, last evening and cut a small gnash in my back, what can I do about it? Or what can you all do? She try to make me hurry up washing out the trash cans.

ACTION REQUESTED:

Fire/Terminate her. I went to Medical Infirmary, Ms. Howard, stated it wasn't too bad. She bandage the cut up.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

By ignited a grievance. Ms. Butler, told me to keep it between me and her, but other Inmate(s) was out there too. SCDC Officer Goodwin wanted to know what went on.

Clarence Gregory 07/22/08
Grievant Signature Date

ACTION TAKEN BY IGC:

was processed Refer GA 01.62

all grievances must be filed
through the institutional grievance
office

Chris Waller 9-6-2009
IGC Signature Date

n/n
Grievant Signature Date

- ☒ I accept the action taken by the IGC and consider the matter closed.
☒ I do not accept the action taken and wish to appeal.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
REQUEST TO STAFF MEMBER

RECEIVED MAY 21 2008
459

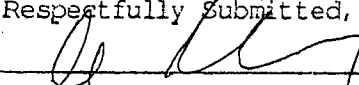
TO: NAME: Ms. Howard,	TITLE: LCI LPN Medical	DATE: 05/21/08
INMATE'S NAME: Clarence S. Gregory,		SCDC #: 227394
INSTITUTION: Lieber Correctional		LIVING QUARTERS: Cooper A-Wing Rm # 55

Title: Request For Medical Treatment For Strike on Upper Back, By FoodService Supervisor, Ms. Butler.

Dear Ms. Howard/Medical Staff Personnell:

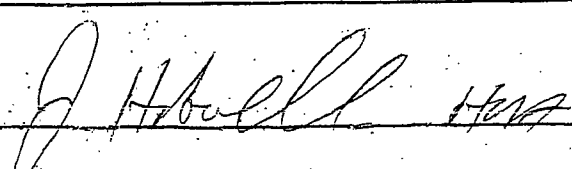
I'm requesting for medical treatment for a cut in my upper part of my back, Officer Goodwin, had telephone called to medical in regard to the cut, and the officer on duty at medical stated that, I would have to sign up for sick call. The injury occurred by Ms. Jennifer Butler, FoodService Supervisor, gave me a direct order, to hurry up washing out the trash barrels on the Cafeteria Back-dock, and I stated to her, that I was not in a hurry, and she (Ms. Butler, FSS), got angry, while I were washing out the said barrels, she (Ms. Butler, FSS), came up from behind me, and hit (stricked), me (Inmate Gregory, #227394), in my upper part of my back, two (2) times. Then, Officer Goodwin walked out on the back-dock, and asked, what was going on, because me and Ms. Butler, FSS, was arguing.

Respectfully Submitted, I am

S/ 
CLARENCE S. GREGORY, #227394

DISPOSITION BY STAFF MEMBER:

You have had treatment this PM

DATE: 5/24/08	SIGNATURE: 
-------------------------	--

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
REQUEST TO STAFF MEMBER

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TO: NAME:	TITLE:	DATE:
Ms. Drayton RN LCI		05/23/2008
INMATE'S NAME:	SCDC #:	
Clarence Gregory	227394	
LIEBER Correctional	LIVING QUARTERS:	
	Cooper A-Rm 35	

TITLE: Request For Medical Sick Call

Dear Ms. M. Drayton:

Per Ms. Stewart, advised me to
sign up for sick call, due to a cut
laceration in my back, due to Ms.
Butler, FSS: Respectfully Submit

S/ Leon S. Fry
05/23/2008

DISPOSITION BY STAFF MEMBER:

Name place in sick call roster.

30 2008

DATE:	SIGNATURE:
5-27-08	R. Pott-Plenat

461

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND)

FIFTH (5TH) JUDICIAL CIRCUIT

CHRISTOPHER ANDREW JONES)
Plaintiff,)

vs.)

Jonathan E. Ozmint, Commissioner
of South Carolina Department of
Corrections, et al., and
South Carolina Department of
Corrections, et al.,)

Defendant.)

C/A NO: 2009-CP-44-02442

AFFIDAVIT OF

CHRISTOPHER A. JONES

JEANETTE W. MCBRIDE
C.C.P. & G.S.

2009 SEP 22 AM 9:30

RICHLAND COUNTY
FILED

PERSONALLY APPEARED before me, CHRISTOPHER A. JONES #316204, who, being first duly Sworn depose and says:

- 1). That, make these statements based upon facts, and first hand knowledge, to be true and correct, without coercion, improper influences, and has not been promised anything, or threatened under the circumstances;
- 2). That, on/or about May of 2008, approximately, 6:00 p.m., in the evening, after chow, at Cafeteria closing time, I witnessed on the back-dock of Lieber Cafeteria, SCDC FoodService Supervisor, Jennifer Butler, approached Inmate Clarence S. Gregory, #227394, and ordered him (Inmate Gregory, #227394), to wash out the trash barrel(s), Inmate Gregory, #227394, stated, when he (Inmate Gregory, #227394), get time, after Inmate Gregory, #227394, made that statement, Ms. Butler, FSS, smacked (hit), Inmate Gregory, #227394, in the upper back, with a stainless steel serving spoon;
- 3). That, I Inmate Jones, #316204, and Inmate Gregory, #227394, was surprise, of Ms. Butler, FSS, action and she (Ms. Butler, FSS), struck Inmate Gregory, #227394, again in his back, and SCDC Officer Goodwin, came on the back dock;
- 4). That, Inmate Gregory, #227394, stated to her (Ms. Butler, FSS), that he was not going to let her get away with that, then Ms. Butler, FSS, stated that, you aren't going to get nothing;

FURTHER, I SAYTH NAUGHT!

Christopher A. Jones
CHRISTOPHER A. JONES, #316204

Sworn and Subscribed to and before me,
this 24 day of March, 2009.

Yvette RBE
Notary Public, State of South Carolina
My Commission Expires: 8/10/2016

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FIFTH (5TH) JUDICIAL CIRCUIT

Clarence S. Gregory, #227394,
Plaintiff,

C/A NO.: 2009-CP-40-02442

VS.

Jonathan E. Ozmint, Commissioner
of South Carolina Department of
Corrections, et al., and
South Carolina Department of
Corrections, et al.,

Defendant.

AFFIDAVIT OF

BONNIE M. MALPASS
SCDC NO.: #164744

2009 SEP 22 AM 9:30
RICHLAND COUNTY
FILED
JANETTE W. McBRIDE
C.C.P. & G.S.

(APPEARED)
PERSONALLY ~~APPEARED~~ before me, BONNIE M. MALPASS, #164744, who, first:

being duly Sworn depose and says:

That, I am the Affiant in the above-title matter, and I hereby make these statements(s) herein, freely and voluntarily without improper influence, coercion, induce, threatened, and I have not been promised anything by any person under the circumstances, to the best of my personal knowledge, said statements are true and correct as follows:

1). That, on/or about December of 2008, I have witnessed with my own eyes, Ms. Butler, FoodService Supervisor and Mr. Robert Reeves, FoodService Director, threatened and assaulting Inmate(s) Cafeteria Workers, by way of smacking the Inmates on their back; *DMW*

2). That, I've witnessed, Ms. Butler, Sprayed hot and cold water on Inmate Christopher A. Jones, #316204, and threatened him, that if he say anything about what she (Ms. Butler, FSS), did he (Inmate Jones, #316204), would not get any pastries, and he (Inmate Jones, #316204) couldn't take anything to the dorm; *DMW*

3). That, I've witnessed, Mr. Reeves, FSD, cussed (profanity language), out Inmate Clarence Gregory, #227394, and threatened him (Inmate Gregory, #227394), that if he (Inmate Gregory, #227394), report anything else to the Courts, and sue any of his (Mr. Reeves' FSD), Supervisors, he (Mr. Reeves, FSD), would fire/terminate Inmate Gregory, #227394; *DMW*

4). That, I've also witnessed, Mr. Reeves, FSD, smacked Inmate Gregory, #227394, on his (Inmate Gregory, #227394), back, and Inmate Gregory, #227394, started arguing about it (Mr. Reeves, FSD, smacking Inmate Gregory, #227394, on the back); *DMW*

FURTHER, I SAYTH NAUGHT!

Sworn and subscribed to me
this 30 day of September, 2009.

Bonnie M. Malpass
BONNIE M. MALPASS, #164744

Janette W. McBride
Notary Public, State of South Carolina
My Commission Expires: 8/1/2016

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STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FIFTH (5TH) JUDICIAL CIRCUIT

Clarence S. Gregory, #227394,

Plaintiff,

vs.

Jenathan E. Ezmint, Commissioner
of South Carolina Department of
Corrections, et al., and
South Carolina Department of
Corrections, et al.,

Defendant.

C/A NO.: 2009-CP-40-02442

AFFIDAVIT OF
RAYMOND ALLEN WHITE

PURSUANT TO S.C.R.C.P. RULE 56 (e)

PERSONALLY APPEARED before me, RAYMOND ALLEN WHITE, #276060, who, being first
duly Sworn depose and says:

RW 1). That, I am the Affiant in this matter, I make these sworn statements based
upon what I know and witnessed, without being coerced, influenced, threatened,
or promised anything by anyone, under the present circumstances herein as
follows:

RW 2). That, while I were housed at the Lieber Correctional Institution, I worked
and was assigned in the Lieber Cafeteria, supervised by, Ms. Jennifer Butler,
I have witnessed, Ms. Butler, as FoodService Supervisor on duty, threatened
Inmate Gregory, #227394, with a long handle, steel serving spoon and horseplay
with other inmates, while working in the Lieber Correctional Cafeteria, during
on/or about May, 2008;

RW 3). That, not only Ms. Butler, but former FoodService Supervisor, Cheryl
Leslie, and Mr. Robert Reeves, and Mr. Helms, stated to them (Ms. Butler, Ms.
Leslie, and Mr. Reeves), that it was against SCDC Policy/Procedure to
horseplay with inmates;

RW 4). That, I do remember Inmate Gregory, #227394, showing me (Inmate White, #
276060), a cut or bruise in his upper back, with a bandage covered on Inmate
Gregory #227394, back, on/or about May 2008;

RW 5). That, I asked Inmate Gregory, #227394, who cut him in his (Inmate
Gregory, #227394, back? Inmate Gregory, #227394, stated that, Ms. Butler,
FoodSupervisor, hit him with the serving spoon, on the Cafeteria Back dock
area;

RW 6). That, I talked with Inmate Gregory, #227394, coming out of Lieber
Correctional Institution, Medical Infirmary on/or about May 28, 2008;

2009 OCT 1 AM 10:01
JEANETTE
C.C. & G.S.
FILED
RICHLAND

464

RW

7). That, I went inside the Cafeteria, and I talked with Ms. Butler, and I asked her, why did she hit Inmate Gregory, #227394, and she (Ms. Butler, FSS), stated that to me (Inmate White), you need to mind your business, Inmate Gregory, #227394, got what he deserve.

FURTHER, Affiant Sayeth Naught!

Respectfully Submitted,

s/ Raymond White
RAYMOND A. WHITE, # 276060

Sworn and Subscribed to and before me,
this 31 day of October, 2009.

Susan D. Johnson

Notary Public State of South Carolina

My Commission Expires: ~~My Commission Expires~~
March 5, 2018

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FIFTH (5TH) JUDICIAL CIRCUIT

Clarence S. Gregory, #227394,

Plaintiff,

vs.

Jonathan E. Ozmint, Commissioner
of South Carolina Department of
Corrections, et al., and
South Carolina Department of
Corrections, et al.,

Defendant.

C/A NO.: 2009-CP-40-02442

AFFIDAVIT OF SERVICE
BY VIA U.S. REGULAR MAIL

JEANETTE W. MCBRIDE
C.C.P. & G.S.

2009 OCT 19 AM 10:02

RICHLAND COUNTY
FILED

PERSONALLY APPEARED before me, CLARENCE S. GREGORY, #227394, who, being first
duly Sworn, depose and states:

That, I, am the Affiant/Plaintiff in the above entitled captioned matter,
and I hereby have served and mailed an Original Cover Letter(s), Notice/Motion
In Objection To Defendants' Counsel, October 07, 2009, Summary Judgment
Motion, Memorandum of Law In Support Thereof, Affidavit In Support Thereof,
Affidavit of Inmate Raymond A. White, #276060, September 22, 2009, Filed
Affidavit of Inmate Christopher A. Jones, #316204, Affidavit of Inmate Donnie
M. Malpass, #164744, Affidavit of Inmate Clarence S. Gregory, #227394, on
File, SCDC 19-11 Request Form Disposition of Warden Stanley Burtt on File,
SCDC 19-11 Request Form Disposition of Warden McKither Bodison, SCDC 19-11
Request Form Disposition of FoodService Assistant Director, N.A. Helms, SCDC
19-11 Request Form Disposition of Ms. Jennifer Butler, FoodService Supervisor,
III, SCDC 19-11 Request Form Medical Disposition of Mr. Joseph Powell, Lieber
Former Medical Administrator, Copy of Case Law Citing Intentional Tort
Exception Act (S.C. Ct App. 2004), Copy of Defendants' Counsel Answer to
Plaintiff's Complaint, 6 Pages, Copy of Defendants' Counsel Responses To
Plaintiff's Request For Discovery Production, Interrogatories and Admission,
Copy of SCDC 10-14, Inmate Agreement To Debit E.H. Cooper Account, For Cost of
Postage, Dated April 15, 2009, Copy of Plaintiff's Affidavit of Service, on
Case No.: 2009-CP-40-02441, Proof of Service, Copy of Defendants' Counsel
Cover Letter, Dated October 07, 2009, Copy of Defendants' Counsel Summary
Judgment Motion mailed to: The Honorable Jeanette W. McBride, Clerk, Court of
Common Pleas, Richland County, Fifth Judicial Center, 1701 Main Street, Room
205, Post Office Box 2766, Columbia, South Carolina 29202-2766; and to: Riley
Pope & Laney, LLC, Attorney(s) & Counselor(s) at Law, 2838 Devine Street, Post
Office Box 11412, Columbia, South Carolina 29211-1412; from within South
Carolina Department of Corrections, at Broad River Correctional Institution,
4460 Broad River Road, Columbia, South Carolina 29210; bearing proper Via
United States' Regular Mail as postage as it appears on this 14 day
of October, 2009.

RILEY POPE & LANEY, LLC
ATTORNEYS AND COUNSELORS AT LAW

2838 DEVINE STREET
POST OFFICE BOX 11412 (29211)
COLUMBIA, SOUTH CAROLINA 29205

466

TELEPHONE
(803) 799-9993

FACSIMILE
(803) 239-1414

March 16, 2010

Mr. Clarence S. Gregory, #227394
Broad River correctional Institution
Murray Unit, B Wing, Room 214
4460 Broad River Road
Columbia, South Carolina 29210

RE: Gregory, Clarence #227349 v. SCDC
IRF Claim #: 53541
Date of Loss: 05/15/08
C.A. No.: 09-CP-40-02442

Dear Mr. Gregory:

Pursuant to Judge Childs' March 8, 2010, Order, enclosed and served upon you please find copies of pictures taken of a stainless steel serving spoon from the Lieber Correctional Institution cafeteria.

I thank you for your attention to this matter.

Sincerely,

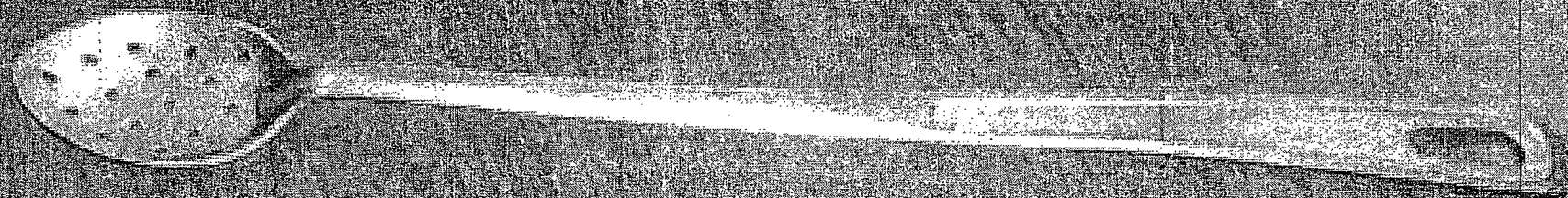


Heath M. Stewart, III

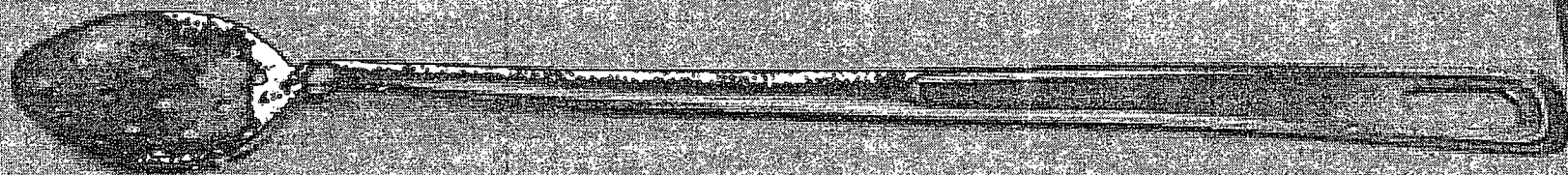
Enclosures

cc: Ms. Nancy Stevenson
Mr. Harry Stokes, Esquire
Ms. Jennifer Butler

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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
Operations

TOOL/UTENSIL EQUIPMENT LOG

DATE	ISSUED	RETURNED	ISSUED TO	TIME OUT	TIME IN	TOOL/EQUIPMENT ISSUED	OFFICER'S ISSUING	SIGNATURE RECEIVING
5/21	5/21	5/21	Curry	2/30	11/30	#2 - 200K	SL	He
5/21	5/21	5/21	Curry	2/30	11/30	#3 - 200K	SL	He
5/21	5/21	5/21	Curry	2/30	11/30	Virgin Niece	SL	He
5/21	5/21	5/21	OWENS	11/30	700	2, 4, 5 Plastic Spoodle	SL	He
5/21	5/21	5/21	OWENS	11/30	700	1+3 Spoodle	SL	He
5/21	5/21	5/21	Brattley	11/30	700	2 Rollers	SL	He
5/21	5/21	5/21	Brattley	11/30	700	Pitchers	SL	He
5/21	5/21	5/21	Brattley	11/30	700	1+2 BC	SL	He
5/21	5/21	5/21	Brattley	11/30	700	Knights Fork	SL	He
5/21	5/21	5/21	Brattley	11/30	700	Blunt Cutter	SL	He
5/21	5/21	5/21	RIGBY	11/50	118	#6 Spoodle	He	He
5/21	5/21	5/21	JOHNSON, T	1240	700	#1 W/WHIP	He	He
5/21	5/21	5/21	JOHNSON	1255	330	#2 FS	KB	He
5/21	5/21	5/21	HAIGLER	118	500	#4 SPATULA	He	He
5/21	5/21	5/21	Brown K	340	700	#2+3 FS	He	He
5/21	5/21	5/21	Brown K	340	700	#1+3 MS	He	He

EXHIBIT

EXHIBIT

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
OPERATIONS

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QUARTERLY TOOL UTENSIL INVENTORY
THIRD QUARTER TOOL INVENTORY 2009

10 / 10 / 09
DATE

LIEBER CORRECTIONAL INSTITUTION - MAIN CAFETERIA

LOCATION	QUANTITY	SIZE	TOOL/UTENSIL	SERIAL #	SCDC DECAL#	COMMENTS
RESTRICTED	(1)	1oz	LADLE	#4		
RESTRICTED	(3)	2oz	LADLE	#4 #5 #6		
RESTRICTED	(3)	4oz	LADLE	#3 #4 #5		
RESTRICTED	(2)	6oz	LADLE	#7 #8		
RESTRICTED	(6)	8"	TONG	#2 #3 #4 #5 #6 #7		
RESTRICTED	(1)	9"	SPOON (SHORT SOLID)	#1		
RESTRICTED	(7)	4oz	PLASTIC PERFORATED LADLE	#1 #2 #3 #4 #5 #6 #7		
RESTRICTED	(8)		SPOON (LONG PERFORATED)	#2 #3 #4 #5 #6 #7 #8 #9		
RESTRICTED	(1)	9"	SPOON (SHORT SOLID)	#1		
RESTRICTED	(3)		WHISK/WHIPS	#1 #2 #3		
RESTRICTED	(1)		SHARPENING STONE	#1		
RESTRICTED	(7)		CHOPPER BLADES	#1 #2 #3 #4 #5 #6 #7		

08/13/2009 13:00 FAX 8032391414

RILEY POPE LANEY

003

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND) IN THE COURT OF COMMON PLEAS
) FIFTH JUDICIAL CIRCUIT

Clarence S. Gregory, #227394,

) Civil Action No.: 2009-CP-40-02442
)

Plaintiff,

)

v.

)

**AFFIDAVIT OF
BRENDA DASH-FRAZIER**Jonathan E. Ozmint, Commissioner
of South Carolina Department of
Corrections, et al., and South
Carolina Department of
Corrections, et al.,

)

)

)

)

)

)

Defendants.

)

PERSONALLY appeared before me, Brenda Dash-Frazier, who, being first duly sworn, deposes and states as follows:

1. My name is Brenda Dash-Frazier. I am employed by the South Carolina Department of Corrections as the Director of Medical Records. In my capacity as the Director of Medical Records, I am the custodian of these medical records which are maintained in the regular course of SCDC business. It is the regular practice of the medical staff to maintain such records. Such medical records contain information transmitted by persons with knowledge of the events set forth in the records made at or near the time of the occurrence.
2. Attached to this Affidavit are true and correct copies of the medical records for Plaintiff Clarence S. Gregory which are kept in the above manner under the custody and control of my office.

08/13/2009 13:00 FAX 8032391414

RILEY POPE LANEY

004

FURTHER, Affiant Sayeth Naught.


BRENDA DASH-FRAZIER

SWORN TO BEFORE ME THIS

20th. DAY OF AUGUST, 2009.Harold C. Curry (L.S.)

Notary Public for South Carolina

My Commission Expires: Feb. 25, 2013

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

) IN THE COURT OF COMMON PLEAS
) FIFTH JUDICIAL CIRCUIT

Clarence S. Gregory, #227394,

) Civil Action No.: 2009-CP-40-02442

) Plaintiff,

) **AFFIDAVIT OF**
) **JENNIFER BUTLER**

) v.

) Jonathan E. Ozmint, Commissioner
) of South Carolina Department of
) Corrections, et al., and South
) Carolina Department of
) Corrections, et al.,

) Defendants.

PERSONALLY appeared before me, Jennifer Butler, who, being first duly sworn,
deposes and states as follows:

1. My name is Jennifer Butler. I am employed by the South Carolina Department of Corrections ("SCDC") as the Food Service Supervisor for Lieber Correctional Institute ("Lieber"). I have been employed by SCDC for three (3) years.
2. As the Food Service Supervisor, I am responsible for the day to day operations of the Lieber cafeteria during my shift. I do not have the authority to hire and/or fire inmate employees.
3. While housed at Lieber, inmate Clarence S. Gregory ("Gregory") worked as an inmate kitchen worker. On or about April 15, 2009, Gregory was terminated from his position by the Food Service Director due to a reduction in the inmate workforce in the cafeteria.

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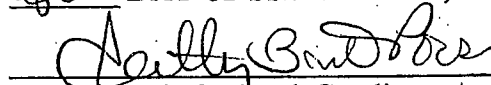
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4. At no time during Gregory's prison employment at Lieber did I ever threaten, use vulgar and/or derogatory language, physically abuse and/or threaten to physically abuse or otherwise mistreat Gregory.

FURTHER, Affiant Sayeth Naught.


JENNIFER BUTLER

SWORN TO BEFORE ME THIS 17
Sept DAY OF SSEPTEMBER, 2009


Notary Public for South Carolina
My Commission Expires: 5/1/2018

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STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

Clarence Gregory, #227394
Plaintiff,

Civil Action No.: 2007-CP-40-03742

v.

Jonathan E. Ozmint, Commissioner,
of South Carolina Department of
Corrections (SCDC); Morris
Elmore, Lieutenant &
Environmental Health & Safety
Officer (EHSO); Claude Hilton and
John Sawadske, Maintenance &
Repair Engineering, Director(s), at
Lieber Correctional Institution
(LCI); South Carolina Department
of Corrections; each sued in their
individual and official capacity, et
al.,
Defendants.

**DEFENDANT'S RESPONSES TO
PLAINTIFF'S REQUESTS FOR
PRODUCTION**

TO: Clarence Gregory, #227394, Pro Se:

Pursuant to Rule 34, FRCP, the Defendants, Jonathan E. Ozmint, Commissioner, of South Carolina Department of Corrections (SCDC); Morris Elmore, Lieutenant & Environmental Health & Safety Officer (EHSO); Claude Hilton and John Sawadske, Maintenance & Repair Engineering, Director(s), at Lieber Correctional Institution (LCI); and the South Carolina Department of Corrections, respond to the Plaintiff's First Request for Production as follows:

1. List names, addresses and identify, all persons, who were employed with SCDC and worked at the Francis Lieber Correctional Institution/Facility, 205 Cambell Thickett Road, Dorchester County, Ridgeville, S.C. 29472; period during, June 1, 2004,

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OBJECTION:

The Defendant objects to the Plaintiff's request on the grounds that it is vague, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence.

4. The above Paragraph is to include, Party Defendants, Morris Elmore, John Sawaske, Claude Hilton, and any others, as requested in Paragraph One (1) and Paragraph Two (2).

OBJECTION:

Please see the Defendant's objections to Requests 1 through 3.

5. List names, locations, and Identify, all Inmates, who were assigned as a Cafeteria Worker, whether resigned or terminated at SCDC Lieber Correctional Institution/Facility, 205 Cambell Thickett Road, Dorchester County, Ridgeville, S.C. 29472; period during, January 1, 2005 through June 30, 2005; Identify their age, race, height and weight, male gender; List and specify any transferring dates, of the same, to include, whether Court transport, and/or medical transports, and dates of return to Lieber Facility.

OBJECTION:

The Defendants object to the Plaintiff's request on the grounds that it is unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Furthermore, certain information requested is protected by confidentiality and is therefore exempt from discovery.

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6. List any and all grievances, complaints, or other documents, that relates to SCDC FoodService, this is to include, SCDC 21-2, Work-Orders to Lieber Facility Maintenance & Repair, and/or SCDC Maintenance Construction Division Headquarters, 4444 Broad Rivers Road, Box 21787, Columbia, S.C. 29221; period during, April 1, 2004, through August 31, 2005; this is to include any and all, SCDC 19-29 (A), Incident Reports, SCDC 19-11 Request to Staff, Memorandums, Instruction and other documented Reports.

OBJECTION:

The Defendants object to the Plaintiff's request on the grounds that it is unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence.

7. List, date, specify and identify any Construction or Reconstruction of the Lieber Facility, Cafeteria physical Plant/Building, area, rooms, any modification, altering, additions, exits, and interior exit, doors and/or windows; Identify and specify persons, who requested, and who authorized, to the same; Include dates.

OBJECTION:

The Defendants object to the Plaintiff's request on the grounds that it is unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence.

8. List names of persons, and Identify at the orders of whom, authorized Party Defendant, Claude Hilton, to torch-well and install a Steel Cage Gate/Door, inside

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the Lieber Cafeteria TrayRoom, One way Entrance and One way Exit area; Specify and Identify whether any, State Fire Marshall, approved, inspected, authorized, Party Defendants, Hilton to create and install Steel Gate/Door; specify dates, as same, period of January 2004, through August 20, 2005.

RESPONSE:

Upon Information and belief, an inspection was conducted by the South Carolina State Fire Marshal on August 9, 2004 and again on June 27, 2006 covering the Lieber Correctional Institute kitchen that resulted in reports citing no problems with the cafeteria tray-room door.

To the extent that such information exists, is in the custody of the Defendants, and is not protected by any privilege, please see attached.

9. List names, Titles, Functions, Administrative Division, who ordered, authorized a door to be installed inside the Cafeteria, at the Lieber Facility and specify and defined as to the extent, and produce the document; specify and date.

OBJECTION:

The Defendants object to the Plaintiff's request on the grounds that it is unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. To the extent that such information exists, is in the custody of the Defendants, and is not protected by any privilege, please see attached.

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10. List and produce any documents, to include dates, of any inspections from any other State agency, such as DHEC, OSHA, S.C. LLR, Fire Marshall; specify and include and date; period of January 2004, through September 2005.

OBJECTION:

The Defendants object to the Plaintiff's request on the grounds that it is unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence.

11. List and make cop(ies) of all documents Requested, Paragraph One (1) through Paragraph Ten (10); produce the documents as specified as the same.

OBJECTION:

Please see the Defendant's objections to Requests 1 through 10.

12. List any and all SCDC Administrative General Policies/Procedures/Regulations, regarding to the Safety Standard of care, for Employees and Inmates, effective as January 2004 through August 2005.

OBJECTION:

The Defendants object to the Plaintiff's request on the grounds that it is vague, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence.

13. List and name any and all fire and life safety codes for S.C. State governmental/commercial buildings, which confines Inmate/Prisoner.



OBJECTION:

The Defendants object to the Plaintiff's request on the grounds that it is unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Further, the request pertains to legal research which Plaintiff must do on his own.

14. List and Specify EHSO Inspections at Lieber Correctional Institution/Facility, Cafeteria; Specify time/date, period during, January 1, 2005 through June 30, 2005; Identify and name, all persons, to include SCDC employees, who conducted Administrative inspections or inspections at the Lieber Facility, Cafeteria; produce any and all SCDC Policies/Procedures for Environmental Health & Safety Officers.

OBJECTION:

The Defendants object to the Plaintiff's request on the grounds that it is unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence.

15. List and identify, the names of the SCDC FoodService assigned Inmates Workers, who works as Cafeteria Clerks, during period of April 1, 2004 through August 31, 2005; and include their duties and responsibilities.

OBJECTION:

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16. List and identify all Party Defendants' duties and responsibilities; List and specify any S.C. State, SCDC employees' official and affirmative duties and state whether the duties and responsibilities of the same, what State Statutory Law governs, Party Defendants' duties; specify and identify the current statutory law of the same.

OBJECTION:

The Defendants object to the Plaintiff's request on the grounds that it is unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Furthermore, the Plaintiff requests information that is outside the purview of the discovery process and calls for legal analysis. Moreover, the governing statutory laws are available to the Plaintiff in the same manner as the Defendants and Plaintiff should be required to do his own legal research if believed to be necessary.

17. Specify and identify any and all convicts/prisoners/inmates' rights, that was established and provided by the S.C. State & Federal Constitution and Amendments.

OBJECTION:

The Defendants object to the Plaintiff's request on the grounds that it is unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Furthermore, the Plaintiff requests information that is outside the purview of the discovery process and calls for legal analysis. Moreover, the governing statutory laws are available to the Plaintiff and Plaintiff should be required to do his own legal research if believed to be necessary.

18. List the names and identify, SCDC Officers/employees, who was involved in transporting, Plaintiff to Trident Medical Center, dated June 6, 2005; identify their duties/ranks/position; include any and all reports, departure/arrival and returns.

RESPONSE:

Upon information and belief, Plaintiff was transported from Lieber Correctional Institute at 11:00 a.m. on June 6, 2005 to the Trident Emergency Room and was treated and returned to Lieber Correctional Institute on June 6, 2005 at 6:15 p.m. Upon information and belief, the following SCDC employees were involved in Plaintiff's transportation to the Trident Emergency Room on June 6, 2005:

1. Lieutenant Fletcher McBride
2. Sergeant William Sarvis
3. Transportation Officer Dwane Bogg

19. List any and all claims filed by party Defendant, Morris Elmore (EHSO), day of Plaintiff's injury, June 6, 2005; any and all incident reports filed or documented by Defendant Elmore, or by Lieutenant McBride, Lieutenant Alfonso Lott, Sergeant William Sarvis, Sr., Captain Duard Nunnally, Associate Warden Fredrick Thompson and/or Warden Stanley B. Burt, period of June 6, 2005 through June 2006, in relating to Plaintiff's injury.

RESPONSE:

To the extent that such information exists, is in the custody of the Defendants, and is not protected by any privilege, please see attached.

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20. List any and all investigative reports, from SCDC Internal Affairs, regarding to Plaintiff's injury, dated June 6, 2005, to June 6, 2006.

RESPONSE:

To the extent that such information exists, is in the custody of the Defendants, and is not protected by any privilege, please see attached.

21. List any and all SCDC Medical Reports, regarding to Plaintiff, period of June 6, 2005, through September 2007; This is include Plaintiff's SCDC Medical Restitutions, deductions, debts, indebts.

RESPONSE:

To the extent that such information exists, is in the custody of the Defendants, and is not protected by any privilege, please see attached.

22. List and make cop(ies) of all, Standard Building Code (SBC) for State/Federal government, commercial buildings; Standard Fire Prevention Code; (SFPC); National Fire Prevention Association Code (NFPAC); Copy of Construction Industry, OSHA Safety & Health Standards (29 CFR 1910); specify and identify accurately and currently, as same.

OBJECTION:

The Defendants object to the Plaintiff's request on the grounds that it is unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence.

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23. List and specify and cop(ies) of any Plaintiff's Sworn Affidavits, Sworn Statements, etc., from any other State or local agency, regarding to any claims, as to this injury, from June 6, 2005, through January 2007; specify and include any dates.

OBJECTION:

The Defendants object to the Plaintiff's request on the grounds that it is unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Furthermore, the Plaintiff should be in possession of copies of his own affidavits and documents to the extent that Plaintiff is the maker and/or filer of such documents. However, to the extent that such information exists, is in the custody of the Defendants, and is not protected by any privilege, please see attached.

RILEY POPE & LANEY, LLC

Roy F. Laney, Esquire
Post Office Box 11412
Columbia, South Carolina 29211
Telephone: (803) 799-9993
Facsimile: (803) 239-1414
Attorneys for Defendants

Columbia, South Carolina
October 10, 2007.

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FFS

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

) IN THE COURT OF COMMON PLEAS
) FIFTH JUDICIAL CIRCUIT
)

Clarence Gregory, #227394
Plaintiff,

) Civil Action No.: 2007-CP-40-03742
)

v.

)
) Jonathan E. Ozmint, Commissioner,
) of South Carolina Department of
) Corrections (SCDC); Morris
) Elmore, Lieutenant &
) Environmental Health & Safety
) Officer (EHSO); Claude Hilton and
) John Sawadske, Maintenance &
) Repair Engineering, Director(s), at
) Lieber Correctional Institution
) (LCI); South Carolina Department
) of Corrections; each sued in their
) individual and official capacity, et
) al.,
)
) Defendants.

**DEFENDANT'S RESPONSES TO
PLAINTIFF'S REQUESTS FOR
DISCOVERY PRODUCTION,
INTERROGATORIES AND
ADMISSIONS**

TO: CLARENCE GREGORY, #227394, PRO SE:

Pursuant to Rules 34 through 36 of the South Carolina Rules of Civil Procedure, the Defendants respond to the Plaintiff's Requests for Discovery Production, Interrogatories and Admission as follows¹:

1. State the name(s) and position of the person(s) who, took pictures of the recently, Lieber Facility, Cafeteria Trayroom Room, which was forwarded to the Plaintiff on/or about November 12, 2009;

RESPONSE:

John Sawadske
Maintenance Supervisor
Lieber Correctional Institution
Post Office Box 205
Ridegville, South Carolina 29472

¹ Plaintiff included Requests for Production, Requests for Admission and Interrogatories in one single document and Defendants have reproduced and responded to the same in their original form.

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2. Reference to Paragraph One (1), please state the correct name and position of those person(s);

RESPONSE:

Please see Defendants' Response to Interrogatory Number 1, above.

3. Interrogatory. Did the Defendants' Counsel take photograph pictures of the recent trayroom door, or were these photograph pictures were already taken, and when and what dates were these photograph pictures were taken? And by whom? And by what date(s)?

RESPONSE:

The photographs forwarded to Plaintiff on or about November 10, 2009, were taken on or about November 9, 2009. Please see Defendants' Response to Interrogatory Number 1, above, for additional information.

4. Why did Defendants' Counsel after approximately six (6) months of the Honorable Judge Casey L. Manning Order, just now, on/or about November 10, 2009, forwarding the photograph pictures?

RESPONSE:

After a thorough investigation into Plaintiff's claims that the original trayroom door was still located at Lieber Correctional Institution, Defendants could not locate the original door and provided Plaintiff with pictures of the current trayroom door in compliance with the Court's Order. Please see Defendants' Response to Interrogatory Number 1, above, for additional information.

5. Were any of the Defendants' Counsel present, when the photograph pictures were taken?

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RESPONSE:

No.

6. If your answer is no, then why were not the Defendants' Counsel present when the said pictures were taken?

RESPONSE:

Defendants object to the above Interrogatory on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

7. Who or whom at the Lieber Correctional Facility, gave the Defendants' Counsel, any information in regarding to the original door being unable to locate the said door, in question?

RESPONSE:

The Defendants object to the above Interrogatory on the grounds that it is vague and not reasonably calculated to lead to the discovery of admissible evidence. Subject to this objection, after a thorough investigation into Plaintiff's claims that the original trayroom door was still located at Lieber Correctional Institution, Warden McKither Bodison and Maintenance Supervisor John Swadske could not locate the original Lieber Cafeteria trayroom door.

8. Referenced to Paragraph Seven (7), please state specifically the name(s) of all person(s), by way of an Sworn Affidavit, when and where did the original door were disposed of by means of mandatory disclosure;

RESPONSE:

Defendants object to the above Request on the grounds that it is unduly burdensome and not reasonably calculated to lead to the discovery of admissible

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evidence. Furthermore, the Plaintiff requests information that is outside the purview of the discovery process.

9. If Plaintiff's Motion for Entry of Lieber Facility premises be granted, does the Defendants' Counsel has a problem with it? Reasons, to conduct an inspection, identify, locate the original trayroom door?

RESPONSE:

Defendants object to the above Interrogatory on the grounds that it is not reasonably calculated to lead to the discovery of admissible evidence and the Plaintiff requests information that is outside the purview of the discovery process. Subject to this objection, Plaintiff's requests for an inspection of Lieber Correctional Institution would create a threat to the security of the institution and would be a burden to the South Carolina Department of Corrections security system.

10. Reference to Paragraph Nine (9), if Defendants' Counsel do have a problem, what would be the problem? Please specify in details the problem;

RESPONSE:

Please see Defendants' Response to Interrogatory Number 9, above.

11. Admission(s): Admit or deny, whether these were photographed by the Lieber Facility contraband Officer, former Officer Wilson and Sergeant Skipper, in the Month of June 06, 2005, and not recently, as you were ordered to on May 28, 2009?

RESPONSE:

Defendants object to the above Request on the grounds that it is vague and unclear as to what Defendants are being requested to admit or deny.

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12. Admit or deny, whether or not any Lieber Facility Maintenance & Repair assigned Inmate Workers or Inmates, claims that, "it's Defendants' Counsel intention to conceal the original trayroom door;

RESPONSE:

Defendants object to the above Request on the grounds that it is vague and therefore deny the same.

13. Admit or deny, whether Defendants' Counsel conducted themselves in good faith, and not obstructing justice, in not complying with providing the Plaintiff with the original photograph pictures of the trayroom door;

RESPONSE:

Defendants admit only that they acted in good faith in investigating Plaintiff's claims and the existence of the original Lieber Cafeteria trayroom door and in providing Plaintiff with pictures of the current trayroom door when the original was not found, all in compliance with the Court's Order.

14. While housed at Lieber Correctional Facility, in the month of Septemeber 2007, Mr. Heath M. Stewart, III, were accompanied/escorted to the Cafeteria, but the Lieber Facility Administrative, when the Plaintiff questioned Mr. Stewart, III, in regarding the location of the original Tryaroom Door, in his present, why did he (Mr. Stewart, III, refused to go with the Plaintiff, so the Plaintiff could show Mr. Stewart, III, where the location of the Original Trayroom Door?

RESPONSE:

Defendants object to the above Interrogatory on the grounds that it is vague and is not reasonably calculated to lead to the discovery of admissible evidence.

15. State and produce an Sworn Affidavit, when you (Defendants' Counsel) took photographs pictures of the trayroom door, which were recently mailed upon the Plaintiff, November 12, 2009; Specify the date month and year;

RESPONSE:

Defendants object to the above Request on the grounds that it is unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Furthermore, the Plaintiff requests information that is outside the purview of the discovery process.

16. State and produce an Sworn Affidavit under the penalty of perjury, when were the original trayroom door were disposed of and why? Upon whose authority?

RESPONSE:

Defendants object to the above Request on the grounds that it is unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Furthermore, the Plaintiff requests information that is outside the purview of the discovery process.

17. State and produce an Sworn Affidavit, under the penalty of perjury, that you (Defendant, South Carolina Department of Corrections, and their Counsel) is not in possession, custody, nor has any knowledge of where abouts of the original Lieber Correctional Facility, Cafeteria, Trayroom Door, which was involved in the incident and injury of the Plaintiff, on/or about June 6, 2005;.

RESPONSE:

Defendants object to the above Request on the grounds that it is unduly burdensome and not reasonably calculated to lead to the discovery of admissible

4911

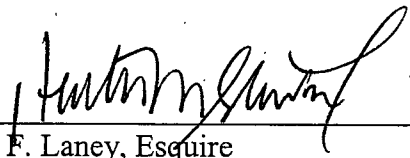
evidence. Furthermore, the Plaintiff requests information that is outside the purview of the discovery process.

18. State whether or not you (Defendants' Counsel, would photograph pictures of the original trayroom door, if it would be found or located, identified and inspected;

RESPONSE:

As previously indicated, Defendants are not aware of the location of the original Lieber Correctional Institution's cafeteria trayroom door.

RILEY POPE & LANEY, LLC



Roy F. Laney, Esquire
Heath M. Stewart, III, Esquire
Post Office Box 11412
Columbia, South Carolina 29211
Telephone: (803) 799-9993
Facsimile: (803) 239-1414

Attorneys for Defendants

Columbia, South Carolina
December 4, 2009

492

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

) IN THE COURT OF COMMON PLEAS
) FIFTH JUDICIAL CIRCUIT
)

Clarence Gregory, #227394
Plaintiff,

) Civil Action No.: 2007-CP-40-03742
)

v.

)
)
) Jonathan E. Ozmint, Commissioner,
) of South Carolina Department of
) Corrections (SCDC); Morris
) Elmore, Lieutenant &
) Environmental Health & Safety
) Officer (EHSO); Claude Hilton and
) John Sawadske, Maintenance &
) Repair Engineering, Director(s), at
) Lieber Correctional Institution
) (LCI); South Carolina Department
) of Corrections; each sued in their
) individual and official capacity, et
) al.,
)

CERTIFICATE OF SERVICE

Defendants.

This is to certify that I, Paula P. Ash, an employee with the law firm of Riley Pope & Laney, LLC, have this day caused to be served upon the person named below the attached the **Defendants' Responses to Plaintiff's Requests for Discovery Production, Interrogatories and Admissions** in the above-captioned matter via United States mail, first-class postage prepaid, to the following:

Clarence S. Gregory #227394
Broad River Correctional Institution
Murray Unit, B Wing, Room 214
4460 Broad River Road
Columbia, South Carolina 29210

Paula P. Ash
Paula P. Ash

Columbia, South Carolina
December 4, 2009

Exhibits)

493

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
LIEBER CORRECTIONAL INSTITUTION

FOOD SERVICE

TO: FOOD SERVICE SUPERVISOR STAFF

FROM: Ms. Debra Myers, Food Service Director VI
Lieber Correctional Institution

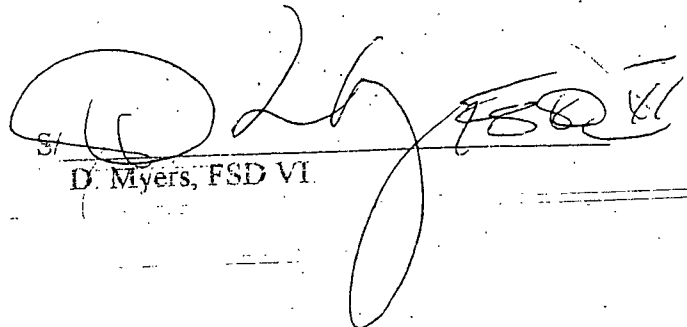
SUBJECT: TRAY ROOM STEEL GATE OPENING AND CLOSURE

DATE: January 14, 2005

Please be advised that the trayroom entrance door is to be kept shut while feeding the general inmate population, at breakfast, lunch and supper. All staff are to lock the trayroom steel gate, after Cafeteria trayroom workers are finish cleaning their area. Inmates are going in the trayroom exposing themselves to female staff (jacking) and urinating. In addition, all cafeteria workers are to close the trayroom gate after entering or exiting the trayroom area. Staff and assigned security officers are to give a direct order to cafeteria workers and inmates going in and out of trayroom steel gate, to shut the steel gate after entering or exiting.

If the cafeteria workers or inmate refuse to shut the gate, they must be charged or terminated from the cafeteria. This will keep down many items and other unauthorized persons and activities motivating in this area.

If you have any question or concerns, please contact me at ext. 3737


D. Myers, FSD VI

DM/ aw
CC file

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
LIEBER CORRECTIONAL INSTITUTION
FOOD SERVICE



TO: John Sawadske, Maintenance & Repair Director
Lieber Correctional Institution

Handwritten signature
3-3-05

FROM: Nancy Fiedler, Food Service Director V

SUBJECT: CAFETERIA TRAYROOM ENTRANCE DOOR REPAIR

DATE: March 1, 2005

Please take notice that the Cafeteria Trayroom entrance door welding has been broken on the door hinges and our Staff and assigned Inmate Workers are going in and out of the trayroom area. I am requesting you through this notice to take immediate action or else our staff or inmate workers will be injured. I've contact you previously on the telephone, but no one has ever came over to repair the trayroom door. It's again a matter of safety hazard.

Please contact me immediately about this at ext. 3737.

Handwritten signature FSD IV
Signature: Food Service Specialist

cc: McKither Bodison, Associate Warden
Fred Thompson, Acting Associate Warden
Thierry Nettles, Acting Major
Lt. Morris Elmore, EHSO

(495)

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
LIEBER CORRECTIONAL INSTITUTION
FOOD SERVICE

RECEIVED

MAF 02 2005

Associate Warden's Office
LIEBER C.I.

TO: John Sawadske, Maintenance & Repair Director
Lieber Correctional Institution

FROM: Nancy Fiedler, Food Service Director-V

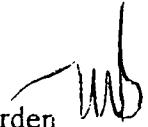
SUBJECT: CAFETERIA TRAYROOM ENTRANCE DOOR REPAIR

DATE: March 1, 2005

Please take notice that the Cafeteria Trayroom entrance door welding has been broken on the door hinges and our Staff and assigned Inmate Workers are going in and out of the trayroom area. I am requesting you through this notice to take immediate action or else our staff or inmate workers will be injured. I've contact you previously on the telephone, but no one has ever came over to repair the trayroom door. It's again a matter of safety hazard.

Please contact me immediately about this at ext. 3737.


Signature: Food Service Specialist


cc: McKither Bodison, Associate Warden
Fred Thompson, Acting Associate Warden
Thierry Nettles, Acting Major
Lt. Morris Elmore, EHSO

(406)

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
LIEBER CORRECTIONAL INSTITUTION
FOOD SERVICE

RECEIVED

MAR 23 2005

WARDEN'S OFFICE
LIEBER C.I.

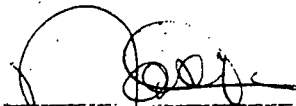
TO: McKither Bodison, Associate Warden
FROM: Nancy Fiedler, Food Service Director V

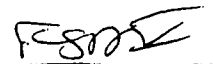
SUBJECT: CAFETERIA TRAYROOM ENTRANCE DOOR REPAIR

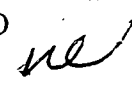
DATE: March 15, 2005

I have sent a request and notice with a Work Order to maintenance to have the trayroom entrance door's hinges welding to be repaired. Our staff and assigned Inmate Workers are going in and out of the trayroom area, while the trayroom entrance door in it's unsafety condition has not been attentive by maintenance supervisors. I've contacted Mr. Sawadske and he says, he'll come and take a look at it, and he has not come over at all. I am asking if you would please handle this situation immediately!

Thank you for your time in this matter, please contact me at ext. 3737.


Fred Thompson, Acting Associate Warden


John Sawadske, Maintenance Supervisor

cc: John Sawadske, Maintenance Supervisor
Fred Thompson, Acting Associate Warden
Lt. Morris Elmore, EHSO


SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
LIEBER CORRECTIONAL INSTITUTION
FOOD SERVICE

497

RECEIVED

MAR 14 2005

WARDEN'S OFFICE
LIEBER C.I.

TO: John Sawadske, Maintenance & Repair Director
Lieber Correctional Institution

FROM: Nancy Fiedler, Food Service Director V

SUBJECT: CAFETERIA TRAYROOM ENTRANCE DOOR REPAIR

DATE: March 1, 2005

Please take notice that the Cafeteria Trayroom entrance door welding has been broken on the door hinges and our Staff and assigned Inmate Workers are going in and out of the trayroom area. I am requesting you through this notice to take immediate action or else our staff or inmate workers will be injured. I've contact you previously on the telephone, but no one has ever came over to repair the trayroom door. It's again a matter of safety hazard.

Please contact me immediately about this at ext. 3737.

 FSD IV
Signature: Food Service Specialist

cc: McKither Bodison, Associate Warden
Fred Thompson, Acting Associate Warden
Thierry Nettles, Acting Major
Lt. Morris Elmore, EHSO 

498

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
LIEBER CORRECTIONAL INSTITUTION
FOOD SERVICE

RECEIVED

MAR 17 2005
Associate Warden's Office
LIEBER C.I.

TO: McKither Bodison, Associate Warden 

FROM: Nancy Fiedler, Food Service Director V

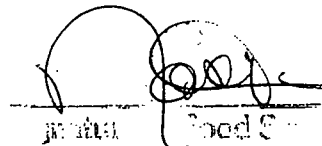
SUBJECT: CAFETERIA TRAYROOM ENTRANCE DOOR REPAIR

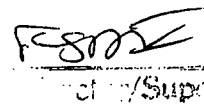
DATE: March 15, 2005

I have sent a request and notice with a Work Order to maintenance to have the trayroom entrance door's hinges welding to be repaired. Our staff and assigned Inmate Workers are going in and out of the trayroom area, while the trayroom entrance door in it's unsafety condition has not been attentive by maintenance supervisors. I've contacted Mr. Sawadske and he says, he'll come and take a look at it, and he has not come over at all. I am asking if you would please handle this situation immediately!

Thank you for your time in this matter, please contact me at ext. 3737.

FILED
MAR 17 2005
AM 9:00
SCOTT
C.S.


Fred Thompson
Acting Associate Warden


John Sawadske
Maintenance Supervisor

cc: John Sawadske, Maintenance Supervisor
Fred Thompson, Acting Associate Warden
Lt. Morris Elmore, EHSO

Exhibit

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
REQUEST TO STAFF MEMBER**

TO: NAME: Ms. Sandra Felder, FoodService Supv.III	TITLE:	DATE: June 9, 2005
INMATE'S NAME: Clarence S. Gregory	SCDC #: 227394	
INSTITUTION: LIEBER CORRECTIONAL	LIVING QUARTERS: WANDO UNIT, B-WING RM. 135	

TITLE: DATE OF TRAYROOM DOOR CONDITION

Dear Ms. Felder: FoodService Supervisor at Lieber Correctional

Please give me the Cafeteria TrayRoom Door condition, the day, June 6, 2005, that Inmate Clarence Gregory, #227394, sustained his injuries to his left hand; And whether or not inmate Gregory's duty/job was authorized to work in the trayroom and change the trash in the trashcan, while the inmate population were being feed? Since the date of inmate Gregory's injuries to his left hand, had the trayroom door been repaired? If so, what have you done or any supervisor done to repair the door?

Respectfully Submitted,

S/ Clarence S. Gregory
CLARENCE S. GREGORY, #227394

DISPOSITION BY STAFF MEMBER: The door to tray room catches on the floor due to The Bottom Hing being completely broken, and the door is hard to close. The I/m's Job does consist of him going into trayroom to remove trash and keep the Barrels empty for the Trayroom workers to dump Scraps. As of this date the Door has not been repaired, although a work order was done and passed on to maintenance on the 7th of June.

DATE: 6-10-05	SIGNATURE: Sandra Felder FSSIII
-------------------------	---

EXHIBIT F

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

) IN THE COURT OF COMMON PLEAS
) FIFTH JUDICIAL CIRCUIT

Clarence Gregory, #227394
Plaintiff,

) Civil Action No.: 2007-CP-40-03742

v.

) Jonathan E. Ozmint, Commissioner,
) of South Carolina Department of
) Corrections (SCDC); Morris
) Elmore, Lieutenant &
) Environmental Health & Safety
) Officer (EHSO); Claude Hilton and
) John Sawadske, Maintenance &
) Repair Engineering, Director(s), at
) Lieber Correctional Institution
) (LCI); South Carolina Department
) of Corrections; each sued in their
) individual and official capacity, et
) al.,

) Defendants.
)

**AFFIDAVIT OF LIEUTENANT
MORRIS ELMORE**

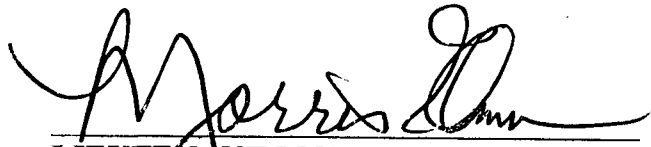
PERSONALLY appeared before me, Lieutenant Morris Elmore, who, being first
duly sworn, deposes and states as follows:

1. My name is Lieutenant Morris Elmore. I am employed by the South Carolina Department of Corrections as a Lieutenant and Environmental Health and Safety Officer for Lieber Correctional Institute.
2. On June 6, 2005, Clarence Gregory ("Gregory"), #227394, injured his left hand while employed in the Lieber Correctional Cafeteria.
3. All employees of Lieber Correction and the South Carolina Department of Corrections are covered by the South Carolina Workers' Compensation Act ("the Act") and all employment related injuries are subject to the relevant provisions of the Act.

F (501)

4. Attached is a copy of the Workers' Compensation First Report of Injury or
Illness which is kept by my office in the ordinary course of business.

FURTHER, Affiant Sayeth Naught.


LIEUTENANT MORRIS ELMORE

SWORN TO BEFORE ME THIS
1st DAY OF October 2007



Notary Public for South Carolina

My Commission Expires: 4/27/16

South Carolina Department of Corrections
Division Of Engineering and Maintenance

503

CAFE/WORK No. 001500

WORK ORDER REQUEST

DATE 6/7/2005 WORK ORDER CONTROL NO _____

INSTITUTION _____

ACCOUNT CODE _____

LOCATION/DESCRIPTION OF WORK CAFETERIA - TRAY ROOM CAGE DOOR HANGING OFF NEED TO BE REPAIRED.

SCDC DECAL NO _____

JUSTIFICATION SAFETY HEALTH HAZARD.

REQUESTOR N. TERRELLS Title FSO PHONE NO 3737

DATE ASSIGNED _____ SUPERVISOR _____ DATE COMPLETE _____

WORK ACCOMPLISHED _____

LABOR COST DATA

EMPLOYEE/NAME	NO. HRS.	COST HOUR	TOTAL COST

MATERIAL COST DATA

P.O.#	DATE	COMPANY	AMOUNT

FILED
07 NOV -8 AM 8:59
BARBARA A. SCOTT
C.C.T. & G.S.

SIGNATURES _____

IF ADDITIONAL SPACE IS REQUIRED, USE BACK

TRANSCRIPTS
OF
Record

1 State of South Carolina

Court of Common Pleas

2 County of Richland

3
4
5 Clarence S. Gregory,)

Transcript of Record

6 Plaintiff,)

2013-CP-40-03078

7 vs.)

8 Riley, Pope & Laney, LLC,)

9 Defendant.)

10
11 April 24, 2014

12 Richland, South Carolina

13 B E F O R E:

14 The Honorable G. Thomas Cooper, Judge

15
16 A P P E A R A N C E S:

17 Clarence S. Gregory, Pro Se

18 Damon C. Wlodarczyk, Esquire
19 Attorney for the Defendant

ORIGINAL

20
21
22 Stacy S. Johnson, RPR
23 Circuit Court Reporter
24
25

504

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I N D E X

PAGE

CERTIFICATE OF REPORTER

27

E X H I B I T S

NO EXHIBITS WERE INTRODUCED

P R O C E E D I N G S

THE COURT: All right, Mr. Gregory, Mr. Wlodarczyk. Mr. Gregory, is your motion just to be able to file an amended complaint?

MR. GREGORY: No, sir, Your Honor. Excuse me, Your Honor. Is -- this case is in reference to 03078?

THE COURT: I'm just going down the list. 03078, yes.

MR. GREGORY: All right. Thank you.

THE COURT: All these motions are with regard to 03078. The first one is a motion --

MR. WLODARCZYK: Your Honor, I can -- if I could give him a copy of the roster, it might refresh his recollection. He has filed several motions in this case, Your Honor, and we have one motion, as well, to dismiss, Your Honor.

THE COURT: Did you get notice of this hearing today?

MR. GREGORY: No, sir, Your Honor.

THE COURT: You're prepared to go forward?

MR. GREGORY: Yes, sir, Your Honor.

THE COURT: Okay. Did you get notice, Mr. Wlodarczyk?

MR. WLODARCZYK: We did not get written notice of this, Your Honor. It was on my calendar well in

1 advance. We have a paralegal that checks the rosters.
2 I think the last notice we got was for the February
3 hearings, so we're prepared to go forward as well.

4 **THE COURT:** All right. Are you ready to go?

5 **MR. GREGORY:** Yes, sir, Your Honor. I have a
6 copy of a brief -- my brief and I have a copy of the
7 amended complaint.

8 **THE COURT:** All right. I've got the --

9 **MR. GREGORY:** It may not be the same, Your Honor.

10 **THE COURT:** Okay. All right. This one's dated
11 March 17th, a month ago. You filed something in March
12 of this year --

13 **MR. GREGORY:** Yes, sir.

14 **THE COURT:** -- that says amended complaint on it.
15 Whatever you want me to read, I'll -- hand it up.

16 **MR. GREGORY:** Yes, sir.

17 **THE COURT:** Tell me what this case is about,
18 Mr. Gregory.

19 **MR. GREGORY:** Yes, sir, Your Honor.

20 **THE COURT:** You can stay seated if it's more
21 comfortable to.

22 **MR. GREGORY:** This case is in reference to a
23 previous ruling that transpired by Your Honor, I think,
24 March the 26th, 2008. During the course of the ruling
25 you had ruled that the -- that you had found -- that you

1 had found material facts -- genuine issues of material
2 facts for a trial and you had denied Defendant counsel's
3 motion for summary judgment.

4 **THE COURT:** Okay.

5 **MR. GREGORY:** What happened is, Your Honor,
6 rather than counsel to appeal your findings, counsel
7 went behind your back and went before another circuit
8 court judge of the same court and presented the same

9 issues that you had ruled on and asserted that they
10 never raised these issues before Your Honor and based
11 upon that fact before Judge Childs, Judge Childs denied
12 my summary judgment -- denied summary judgment and
13 granted Defendant's summary judgment and as a matter of
14 discovery it was discovered that the defense -- that
15 Defendant had raised before Judge Childs alleging that
16 judge -- that they never raised it before the 2000 --
17 March 2008 order by Your Honor.

18 It had been before you. Those issues and
19 defenses had been before you, you had adjudicated those
20 issues and I had -- it's on the record if you will give
21 me a chance to present it. September the 6th, 2007. On
22 -- defense counsel in their answer was before the Court
23 prior to summary judgment. On Page 5, Paragraph 36,
24 Defendants allege before Judge Childs in their motion
25 on Page 11 that Defendants -- Page 11, Paragraph 1, I

1 think, Line 8, Line 9, 10, 11 and, I think, 12, that the
2 Defendants never raised worker's compensation exclusive
3 in their previous summary judgment order. Based upon
4 the record, September 6, 2007, Paragraph 36, Page 5,
5 they had already raised in that they asserted that the
6 Plaintiff was barred from recovery under the South
7 Carolina Worker's Compensation Act as the act provides
8 for exclusive remedies for injuries such as the
9 Plaintiff allegedly sustained. And because they raised
10 it -- they raised that answer and I disputed it on my
11 reply filed September the 24th, 2007, on Page --
12 Exhibit 8, Paragraph 2. My reply was the Plaintiff --
13 the Defendants asserted that the Plaintiff was barred
14 from recovery under the South Carolina Worker's
15 Compensation Act as the act provides for exclusive
16 remedies for injuries such as the Plaintiff allegedly
17 sustained. I had said in disputing to that that the
18 Plaintiff's action constituted gross negligence, which
19 is defined as an intentional, reckless, conscious
20 failure to do a thing or intentionally doing a thing
21 that one ought not to do. I had disputed that, but,
22 however, as a result of Defendant's counsel raising that
23 issue they intended to relitigate to get a second bite
24 of the apple before Judge Childs because you had denied
25 their summary judgment motion and as a -- as a result of

1 that action, I was denied my claim and I believe I was
2 substantially prejudiced because they had got a second
3 bite of the apple. We never did go to trial as you had
4 ordered for us to go to trial and they got -- they got a
5 summary judgment as a result -- or re-raised the same
6 issues that you had adjudicated.

7 **THE COURT:** Did you try to appeal that?

8 **MR. GREGORY:** I did a Rule 60. I did a Rule
9 60(b).

10 **THE COURT:** With Judge Childs?

11 **MR. GREGORY:** Yes, sir, before Judge Childs, and
12 that is still pending. That is still pending. I never
13 have heard -- they have asked -- they had scheduled a
14 hearing on that, but I think because of the weather and
15 I never have heard the...

16 **THE COURT:** You know, like I say, she doesn't
17 work here anymore.

18 **MR. GREGORY:** That's correct, Your Honor. Yes,
19 that's correct.

20 **THE COURT:** You're probably not gonna get in
21 front of her, but... So there was a 60(b) pending?

22 **MR. GREGORY:** Yes, sir, Your Honor.

23 **THE COURT:** You didn't file an appeal?

24 **MR. GREGORY:** No, sir, I didn't -- I didn't try
25 to file an appeal because I used -- under Rule 60(b)4

510

1 that the judgment was void as a result of that court
2 didn't have jurisdiction to override your ruling and
3 your order and as -- as a result of the counsel's
4 failure to appeal your order, the second judge did not
5 have jurisdiction to override your order, your order
6 stands. I believe as the law say your order stands as
7 of today and is in effect as of today because the
8 counsel -- SCDC counsel never appealed your finding and
9 your order is still binding as of today and that's why
10 I -- as a result of that I filed a claim -- I filed
11 another complaint based upon abuse of -- abuse of
12 process, legal process, fraud upon the court, duplicity,
13 bad faith.

14 **THE COURT:** All right. You've also filed a
15 motion to disqualify Mr. Wlodarczyk; is that correct?

16 **MR. GREGORY:** Yes, sir, Your Honor.

17 **THE COURT:** And what's the basis of that?

18 **MR. GREGORY:** It's because, Your Honor, Mr. --
19 how do -- how do you pronounce your name?

20 **MR. WLODARCZYK:** Wood-dar-sic (ph.).

21 **MR. GREGORY:** Wood-dar-ski (ph.)?

22 **THE COURT:** Wood-dar-sic.

23 **MR. GREGORY:** Wood-dar-sic.

24 **THE COURT:** Wood-dar-sic.

25 **MR. GREGORY:** Yes, sir.

1 **THE COURT:** That's my best -- that's my best
2 pronunciation and I've been using it for years.

3 **MR. GREGORY:** Yes, sir. For reasons that I filed
4 that Mr. Wlodarczyk was disqualifying himself is he
5 asserted on Page 4 as my exhibit on -- on January 29,
6 2013, he had filed a response to my rule -- motion to
7 arrest the judgment and on Page 4 he states that -- in
8 Paragraph 3 he say, however, the second summary judgment
9 motion was based upon Plaintiff's sworn deposition
10 testimony.

11 Moreover, the first order denying summary
12 judgment did not address whether the Plaintiff
13 negligently thought their claims were barred by the
14 exclusionary provisions of the South Carolina Worker's
15 Compensation Act, which was the sole basis for judgment
16 in favor of the Defendant in Judge Child's order, and
17 then he further concluded and say that based upon the
18 record before this court on Plaintiff's motion, there is
19 no evidence that the second summary judgment motion and
20 order granting said motion was based solely on the same
21 facts presented to Judge Cooper two years previously,
22 and I had disagreed based upon the evidence of September
23 the 6th, 2007.

24 That defense was presented before Your Honor and
25 -- and the record -- the record shows it being presented

1 and disputed as -- as regard to my reply to their
2 answer, but what happened is, Your Honor, is counsel at
3 that time they neglected to plead -- they neglected to
4 plead the defense and because they neglected to plead
5 it, they cannot re -- once they had neglected to plead a
6 defense and you had adjudicated all those issues that
7 were before you that's including the answer -- the
8 pleadings and their answer, they cannot go back and

9 resubmit the same defense which was already adjudicated.

10 Under Eichman versus Eichman -- let me go back
11 here, Your Honor. Eichman versus Eichman, 329 Southeast
12 Second Edition, Page 6 -- 764, under South Carolina, I
13 think, Supreme Court, 1985, holding that despite the
14 husband's contention that he did not raise the paternity
15 issue as a defense in support in previous proceedings
16 because the husband hoped to preserve the marriage as a
17 matter of law, an un-appealed -- an un-appealed order --
18 prior order is the law of the case, and I used to adopt
19 that to the case here at hand that since the Defendant
20 did not appeal your previous order -- did not appeal
21 your order and chose rather than to appeal that order to
22 do otherwise, your order -- or your finding became the
23 law of that case binding upon the Defendant and any
24 other courts or any other proceeding.

25 And also I cited Belton versus State, holding --

1 Belton versus State, 443 Southeast Second Edition,
2 holding that an order not appealed from the law of the
3 case and it says another circuit court judge does not
4 have jurisdiction or authority to review or overrule the
5 order of another circuit court judge.

6 **THE COURT:** All right. I think I understand you.

7 **MR. GREGORY:** Yes, sir.

8 **THE COURT:** Mr. Wlodarczyk, what's the State's
9 position?

10 **MR. WLODARCZYK:** May it please Your Honor, this
11 is actually an action against my law firm.

12 **THE COURT:** Okay.

13 **MR. WLODARCZYK:** And for purposes of
14 clarification --

15 **THE COURT:** Hold on. You're with Riley Pope?

16 **MR. WLODARCZYK:** I am, Your Honor.

17 **THE COURT:** Have you always been with them?

18 **MR. WLODARCZYK:** No, I was with McDonald McKenzie
19 until 2010, Your Honor.

20 **THE COURT:** All right. Go ahead.

21 **MR. WLODARCZYK:** May it please Your Honor, just
22 by way to clarify for the Court some of the facts --

23 **THE COURT:** Did you represent him in the
24 first --

25 **MR. WLODARCZYK:** I was not involved in his

1 underlying lawsuits against the Department of
2 Corrections and Ms. Nichols, which are the 2009 and
3 2007 claims that he's alleging my law firm engaged in
4 inappropriate conduct which resulted in the 2013 case.

5 **THE COURT:** Well, where did some of this -- what
6 case is this Judge Childs case he's talking about?

7 **MR. WLODARCZYK:** Your Honor, that is, I believe,
8 the 2009-CP-40-02442, Your Honor. That was a --

9 **THE COURT:** I've got an order for 03742.

10 **MR. WLODARCZYK:** That's a 2007 case. Actually I
11 take that back, Your Honor. Judge Childs did conduct a
12 second summary judgment hearing in that case. That was
13 where, I believe, Mr. Gregory sued the Department of
14 Corrections for an injury sustained from a door hitting
15 him and then the 2009 case that's referenced in his
16 complaint 02442 is where, I believe, he alleged he was
17 struck with a spoon, a metal spoon, or spork while
18 working in the cafeteria and he also sued the Department
19 of Corrections in addition in that case and my law firm,
20 Riley, Pope and Laney, represented the Defendant in
21 those matters.

22 **THE COURT:** All right. Okay. So this case is
23 against the law firm for going in front of Judge Childs
24 after my ruling and that's the basis of his claim
25 here --

1 **MR. WLODARCZYK:** Yes, Your Honor.

2 **THE COURT:** -- that your law firm should not have
3 done it?

4 **MR. WLODARCZYK:** That's correct.

5 **THE COURT:** Go ahead.

6 **MR. WLODARCZYK:** Thank you, Your Honor. Again,
7 Mr. Gregory had approximately, I believe, seven lawsuits
8 against the Department of Corrections that my law firm
9 represented the Department in. I believe what -- the
10 basis of his complaint, I believe, is based on a
11 misconstruing of the Rules of Civil Procedure. What had
12 happened from my understanding in reviewing the volumes
13 of documents, boxes of documents in the underlying
14 actions, is that my law firm proceeded with a summary
15 judgment motion unsupported based on the worker's
16 compensation exclusivity provisions. A hearing in the
17 2007 case was held before Your Honor and Your Honor
18 issued a ruling denying summary judgment March 26, 2008,
19 saying there was a question of fact for the trial court
20 to decide.

21 After that, we engaged in discovery and we
22 obtained an order from the court to take Mr. Gregory's
23 deposition. At that time, Heath Stewart, who is with
24 McAngus now, but was with our firm, took Mr. Gregory's
25 deposition. It was alleged that some statements were

1 made by Mr. Stewart during the deposition; however,
2 after that deposition was taken he filed a second
3 summary judgment motion based on the deposition ,
4 testimony saying that there was now no issue of fact
5 and that matter was taken up by Judge Childs in two
6 thousand and -- October 7, 2009 is when we filed the
7 second -- the second summary judgment motion. Judge
8 Childs heard the hearing January 14th of 2010. I

9 believe at that time he also had a motion against us
10 for summary judgment. Judge Childs granted our summary
11 judgment motion ending the case on June 10, 2010. I
12 believe the Rule 60 motion that he's referring to, which
13 we cite in my memorandum in opposition, was filed two
14 and a half years after the case had been closed. I
15 don't know whether or not there was ever a hearing
16 because I haven't checked the court records whether it's
17 showing that there was an open case that didn't have a
18 hearing scheduled, so there may be an issue with that.

19 However, the 2009 case is essentially the same
20 thing. It was a different set of facts, but we filed a
21 summary judgment motion. In that case, Nikole Boland
22 was representing the Department at the time. She's
23 still with our office. I believe -- I believe in that
24 case Judge Childs initially heard the summary judgment
25 motion and denied it saying that she felt that there was

1 a question of fact based on the information presented.
2 We, again, obtained a court order to take the deposition
3 of Mr. Gregory. That deposition was taken and based
4 upon the deposition testimony, we filed a second summary
5 judgment motion supported by the additional facts, which
6 was heard by Judge Benjamin, and Judge Benjamin in the
7 second hearing granted the motion for summary judgment
8 as well.

9 To my understanding there's been no issues. He
10 references the 2009 and the 60(b) motion that he filed
11 and I think my letter to Ms. McBride says that we don't
12 have any information of a Rule 60 motion being filed in
13 the 2009 case, but, again, when he filed it, it would
14 have been more than a couple of years after the ruling,
15 Your Honor, so it is our position that both would be
16 final. He then sued the law firm. He has sued the
17 senior partners in the law firm and Ms. Boland and
18 Mr. Stewart and basically alleging that they violated
19 the Rule 4(b) of the criminal procedure code addressing
20 motions by filing a second summary judgment motion.

21 He's also alleged abuse of process. As I said,
22 he alleged a civil conspiracy between the two attorneys,
23 Mr. Stewart and the law firm, as well as Ms. Boland and
24 the law firm, to deprive him of his rights. He alleged
25 a cause of action for duplicity, which I'm not sure what

1 facts.

2 **THE COURT:** Do you have the citation on that?

3 **MR. WLODARCZYK:** I do, Your Honor. It's Hill
4 versus York County Sheriff's Department.

5 **THE COURT:** Can you write it down and give it to
6 Mr. Gregory?

7 **MR. WLODARCZYK:** Sure.

8 **THE COURT:** That's what you're relying on?

9 **MR. WLODARCZYK:** That is, Your Honor.

10 **THE COURT:** All right. Go ahead.

11 **MR. WLODARCZYK:** Essentially in the case two
12 issues were raised on appeal. The first issue was the
13 plaintiff, who was -- basically the defendant filed
14 summary judgment on two different occasions. On the
15 second occasion, the Court granted summary judgment on
16 a proximate cause issue. The plaintiff appealed. He
17 had two arguments on appeal and the first argument was
18 that the issue was already ruled upon in the first
19 summary judgment motion and, therefore, the second judge
20 in ruling on the second summary judgment impermissibly
21 did so. The Court of Appeals disagreed; essentially
22 saying that, one, that they didn't believe that the
23 proximate cause issue that was ruled upon in the second
24 case was addressed by the first judge and, secondly,
25 that the second trial court had additional facts upon

1 which to make a decision.

2 The Court did go on to reverse summary judgment
3 holding that they thought there was a question of
4 whether there was proximate cause or not, however,
5 that's irrelevant for our purposes. The sole issue is
6 whether -- if we had a right to file a second summary
7 judgment motion, Your Honor. I would propose that we
8 need more of these cases to begin in Federal court,

9 but quite oftentimes issues with failure to exhaust
10 administrative remedies, et cetera, are addressed at
11 the motion for summary judgment pre-answer because
12 they're supporting it with an affidavit saying why
13 administrative remedies were not exhausted. If the
14 court denies that, which it does happen on occasion,
15 then we have to go through discovery and then re-file
16 dispositive motions based upon whatever discovery is
17 learned in the process.

18 So there's no rule that I could find that as
19 long as we present additional information for the Court
20 to consider why we cannot renew a motion for summary
21 judgment and I believe the rule cited in support of the
22 Plaintiff's motion and his complaint are Criminal
23 Procedure Rule 4(b) to the effect that once you file a
24 motion and it's ruled upon, you're not supposed to
25 re-file the motion under the same facts, and I don't

1 remember if the Court -- Judge, it's criminal procedure,
2 I don't practice in that area, but it would be
3 inapplicable in the civil procedure realm and he also
4 cites to some cases -- or not cases, but Rule 37 of the
5 appellate court rules, which I haven't researched for
6 future use, so I'm not exactly sure what he's referring
7 to and I'm not sure what motion or what rule in the
8 practice of appellate law would be involved in the Court

9 of Common Pleas, Your Honor. So, fundamentally, we
10 would argue there's no cause of action for any of the
11 actions alleged against my firm.

12 The second argument he had, Your Honor, was a
13 statute of limitations argument. He's raising issues
14 from 2009 when these depositions and motions were
15 filed in 2010. Even under the three-year statute of
16 limitations, he filed this in May of 2013 and so based
17 on that it would exceed the three-year statute of
18 limitations.

19 He's also alleged a claim for civil conspiracy,
20 Your Honor, and I have additional citations. I'll be
21 happy to give him actually this copy of the cases for
22 his review; the fact that he relies on them for his
23 civil conspiracy claim and the fact that he relies on
24 them for all the other claims. Cricket Cove Ventures
25 versus Gilland. Civil conspiracy claims are quite

1 specific in that you have to have additional facts in
2 furtherance of the conspiracy claim separate from any
3 other cause of action. You also have to have special
4 damages, damages which are not incorporated by any other
5 cause of action. In this case, he's just basically
6 re-pleading all of the statutes -- or every other cause
7 of action of the civil conspiracy claim.

8 In addition, he's alleged that the attorneys to
9 the firm are conspiring with the law firm in order to
10 violate his rights or cause some damage and under the
11 intracorporate immunity doctrine the employees or agents
12 of the entity cannot conspire with the entity -- the
13 entity cannot conspire with itself for that purpose, so,
14 Your Honor, based on his allegations in the complaint we
15 would be entitled to dismissal of that.

16 The abuse of process claim, Your Honor, it's my
17 understanding from what I can find and what I've dealt
18 with in the past with abuse of process claims is the
19 process would be the written summons that brings one to
20 the jurisdiction of the court. An abuse of process
21 claim is essentially a claim that you've inappropriately
22 filed a lawsuit and there can be a tort action against
23 that. In this case, we haven't filed an action against
24 Mr. Gregory. We haven't abused any process. The only
25 process in this case would have been the summons that

1 was issued bringing my law firm or the Defendants in the
2 case, I believe actually the Department of Corrections
3 in the underlying cases, so there is no abuse of the
4 process claim, Your Honor, so that would be improperly
5 pled.

6 And as to the fraud claim, he hasn't alleged the
7 nine elements required for fraud, but appears to have
8 alleged that we have or the underlying attorneys have
9 somehow violated the ethical or professional rules set
10 forth in the appellate court rules, Your Honor. He
11 mentioned the violation of the lawyer's oath, filing a
12 second summary judgment when it was prohibited by the
13 rules. There's no jurisdiction for this court to
14 address any of those alleged violations of those
15 professional ethic rules, Your Honor, so any claims
16 related to that would not be within this court's
17 jurisdiction, Your Honor. We didn't have an
18 attorney/client relationship to the extent he's alleging
19 some type medical malpractice which -- or not medical
20 mal -- legal malpractice, which is kind of referenced in
21 there, Your Honor. Again, we had no relationship with
22 him, so these matters -- if he did have an issue with
23 the fact that a second judgment -- or a second summary
24 judgment motion was filed or if the trial courts erred
25 in granting summary judgment, those matters should have

1 been timely appealed either through a motion for
2 reconsideration or if all the issues were properly
3 presented, then an appeal of the record to the Court
4 of Appeals is his right and he elected not to do that.
5 It certainly doesn't give rise from the facts alleged
6 for any private cause of action against the law firm
7 and we, again, are defending those cases, Your Honor.

8 **THE COURT:** All right. Mr. Gregory --

9 **MR. GREGORY:** Yes, sir, Your Honor.

10 **THE COURT:** -- anything you want to add?

11 **MR. GREGORY:** Yes, sir, Your Honor. Counsel did
12 raise in one of his pleadings about the statutory
13 limitation. When I did file the complaint, I think
14 approximately in, I think, January -- January 2012,
15 prior to that I was within the limitation. What
16 happened is the Honorable Jeanette McBride and their
17 office and their staff misunderstood the motion that I
18 -- the complaint and motion. In the letter, I requested
19 them to -- to file -- to file it and send it back to me
20 with the proper form to -- for me to debit -- for them
21 to debit that to my account and what happened is that
22 Ms. Judy Davis sent it to the Honorable Mr. Barber and
23 he construed it as a motion to proceed under the in
24 forma pauperis, however, he denied it and said it was
25 not -- for the basis it never have been filed through

1 the Clerk of Court's office. He said there's no basis
2 to do a rule -- ruling on Rule 59(e), however, what
3 happened is I did a writ of mandamus to the South
4 Carolina Supreme Court and the South Carolina Chief
5 Justice, the Honorable Jean Toal, she wrote Ms. McBride
6 and showed her her error and said under Title 24 -- I do
7 have a copy of this.

8 **THE COURT:** That's fine.

9 **MR. GREGORY:** Under Title 24, the court did
10 permit an indigent person to -- if I didn't have
11 sufficient funds in my account, I could still file
12 the complaint and -- however, they got in contact --
13 and the -- the Chief Justice gave them five days to
14 answer the letter, however, the Honorable Mr. Larry
15 Smith out of the -- for the Richland County Office of
16 the Attorney wrote and responded to the Chief Justice
17 of the Supreme Court and said that they apologized for
18 the Clerk of Court's error and that Ms. Judy Davis had
19 a misunderstanding in connection with the in forma
20 pauperis and that --

21 **THE COURT:** Well, you know, I don't see how that
22 relates to this case.

23 **MR. GREGORY:** Well, the reason why I'm tying
24 this in, Your Honor, is because he alleges statutory
25 limitations. If the Clerk of Court would have filed --

1 would have granted me the permission to file the
2 complaint, the complaint --

3 **THE COURT:** Okay. All right.

4 **MR. GREGORY:** -- would have been on time, but
5 because she didn't know, she interfered with that, so
6 that's why the Clerk -- that's why the Richland County
7 Attorney say that they apologize for that reason, sir.

8 **THE COURT:** They made an error.

9 **MR. GREGORY:** You have a copy of that, Your
10 Honor, on the --

11 **THE COURT:** Did you -- is that with your
12 paperwork here?

13 **MR. GREGORY:** Yes, sir.

14 **THE COURT:** You filed paperwork?

15 **MR. GREGORY:** Yes, sir.

16 **THE COURT:** Okay.

17 **MR. GREGORY:** If you need a copy, I've got a copy
18 of it.

19 **THE COURT:** You've got a right big file, so I --
20 if you tell me you filed it, I believe you.

21 **MR. GREGORY:** Yes, sir. And based upon that,
22 abuse of process is within the -- is within the
23 statutory limitation period. It's only three years.
24 The civil -- the civil conspiracy is six years, the
25 fraud is six years. Any other cause of action that I

1 have raised is within those -- is within those terms of
2 those three years under Title 15-3-530, for instance,
3 et cetera, and based upon I had also raised -- let me
4 get back to it. Counsel was -- was -- had claimed to
5 use -- in my pleadings I had raised Rule 43(1) under the
6 South Carolina Rules of Civil Procedure and under that
7 rule it says that counsel -- a party may not -- a party
8 may not raise the same matters that was involved in the
9 first decision of that first motion. Now he say that
10 they could raise matters that's not involved in the
11 first motion, but counsel here raised the same matters
12 that had been already adjudicated by Your Honor and then
13 went to Judge Childs not being straight up, just to use
14 street terms, not being straight up letting her know
15 what -- that they already had raised the defense.

16 **THE COURT:** Were you there?

17 **MR. GREGORY:** Yes, sir, Your Honor. That they
18 had not raised that defense, but it was their intent to
19 get a second bite of the apple because they did not
20 appeal your -- your order.

21 **THE COURT:** Okay. All right. I understand. You
22 told me that a while ago. I'll tell you what. I'm
23 gonna look at your pleadings and your motion here and,
24 Mr. Wlodarczyk, you're gonna have to submit a memorandum
25 or a proposed order or something. I don't have anything

1 from your side of the fence, so I'm gonna take it under
2 consideration. I'll let you know, Mr. Gregory.

3 **MR. GREGORY:** Yes, sir, Your Honor. Thank you,
4 sir.

5 **MR. WLODARCZYK:** Your Honor, could I have about
6 fourteen days to get that done for you?

7 **THE COURT:** You can have -- yes.

8 **MR. WLODARCZYK:** Okay.

9 **THE COURT:** And send a copy to Mr. Gregory.

10 **MR. WLODARCZYK:** I will, Your Honor. He can have
11 this citation of case law for his records. It will be
12 cited in the order as well. The proposed order.

13 **THE COURT:** All right.

14 (End of proceedings.)

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C E R T I F I C A T E

I, Stacy S. Johnson, Official Court Reporter
for the Fifth Judicial Circuit of the State of South
Carolina, do hereby certify that the foregoing is a
true, accurate and complete transcript of record of all
the proceedings had and the evidence introduced in the
hearing of the captioned case in Circuit Court on the
24th day of April, 2014.

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I do further certify that I am neither of kin,
counsel, nor have an interest to any party hereto.

August 27, 2014

Stacy S. Johnson

STACY S. JOHNSON, RPR
CIRCUIT COURT REPORTER

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STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND) COURT OF COMMON PLEAS
2009-CP-40-02442

Clarence S. Gregory,)
Plaintiff,)
vs.) TRANSCRIPT OF RECORD
SCDC, et al.,)
Defendant.)

August 31, 2011
Columbia, South Carolina

B E F O R E:

THE HONORABLE DEANDREA G. BENJAMIN, JUDGE.

A P P E A R A N C E S:

CLARENCE S. GREGORY, PRO SE PLAINTIFF
NIKOLE H. BOLAND, ESQ.
Attorney for the Defendant

DEBORAH M. McCURDY, RPR
Official Court Reporter

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I N D E X O F W I T N E S S E S

(WHEREUPON, no witnesses were called
during these proceedings.)

E X H I B I T S

(WHEREUPON, no exhibits were introduced
during these proceedings.)

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AUGUST 31, 2011

THE COURT: Clarence Gregory versus Jonathan Ozmint. All right, so have y'all resolved any of these? Have y'all resolved any of these motions?

MS. BOLAND: I'm not sure. He just handed me some documents here, and it looks like he is saying that a couple of them maybe have been resolved.

If you'll bear with me just a second, I'm reading through the --

MR. GREGORY: May it please the Court, Your Honor? I have a brief copy for you.

THE COURT: Hand it to the clerk, please.

(Defendant complies.)

THE COURT: Thank you. Are you Ms. Boland?

MS. BOLAND: Yes, ma'am.

THE COURT: Okay. So you have withdrawn, sir, the motion to have Ms. Boland -- you are opposing substitution of counsel?

MR. GREGORY: I did oppose substituting counsel, but at this time, Your Honor, I withdraw the motion at the time.

THE COURT: I'm just trying to see what is before me today. All right. Then it says --

MR. GREGORY: I think Number 6, Paragraph Number 6, Page 2 --

1 THE COURT: Yes?

2 MR. GREGORY: -- has been resolved.

3 THE COURT: That is withdrawn too?

4 MR. GREGORY: Yes, Your Honor.

5 THE COURT: Now, there is -- two or three are
6 the same motions on here. There is another motion,
7 notice of motion and motion substituting counsel.
8 Is that withdrawn also?

9 MR. GREGORY: Yes. Yes, Your Honor, that is
10 withdrawn as well.

11 THE COURT: And motion for sanctions?

12 MS. BOLAND: We are dealing with four
13 different cases here is why you see more on this.

14 THE COURT: All right. And so Mr. Gregory has
15 a motion -- well, you filed a motion opposing her
16 motion for summary judgment?

17 MR. GREGORY: Yes, Your Honor.

18 THE COURT: And you filed a motion for summary
19 judgment; is that correct, Ms. Boland?

20 MS. BOLAND: Yes, Your Honor. Can I make a
21 clarification on that one? That is in 2442, Case
22 Number 2442. Mr. Gregory states in his brief here
23 that that was heard on December 1st, 2010, that it
24 is pending before Judge Manning. What is actually
25 pending before Judge Manning is a motion for

1 protective order. The motion that is on this
2 roster is a new motion for summary judgment that we
3 have filed in this case. So that still needs to be
4 heard by the Court.

5 MR. GREGORY: At this time, Your Honor, I
6 agree and disagree to the extent that at this time
7 in the case of 2442, the Honorable Judge Manning --
8 the summary judgment motion that I filed before
9 this Court and other motions that I filed during
10 that time was heard December the 1st, 2010.

11 We have -- I have not -- he have not made
12 adjudication or ruled. I have not received an
13 order as to the effect of how he have ruled.

14 And during that time, I think approximately
15 February, Defense Counsel Boland filed a motion for
16 summary judgment, and I had filed an amended motion
17 to oppose her summary judgment based upon the case
18 has not been fully adjudicated pursuant to Rule 56
19 I think (d), and that we had not had an order from
20 Judge Manning ruling on the summary judgment
21 motion.

22 And the motions that were heard during this
23 time and as of today we have not -- I have not had
24 a motion -- well, adjudication from Judge Manning.

25 THE COURT: Was there a motion for summary

1 judgment filed on that?

2 MS. BOLAND: I did not have an outstanding
3 summary judgment at that time. We had a previous
4 summary judgment motion which had been ruled on. I
5 had a motion for protective order that was heard at
6 that time.

7 If I'm reading this correctly, he is saying he
8 had a motion opposing Defense counsel's summary
9 judgment motion, but I didn't have an outstanding
10 summary judgment motion, so I'm a little confused.

11 MR. GREGORY: Well --

12 MS. BOLAND: My summary judgment was not filed
13 until March 7, 2011, as listed on the roster. So
14 I'm a little confused about that.

15 MR. GREGORY: That's correct. And on or about
16 I think March 3rd, 2011, I had filed an amended
17 motion to oppose her summary judgment.

18 THE COURT: We will hear the motion for
19 summary judgment right now.

20 MS. BOLAND: Okay.

21 THE COURT: And your amended opposition to it.

22 MR. GREGORY: Are you going to hear that case
23 now, Your Honor?

24 THE COURT: Yes, sir. I am ready to hear it.
25 And then what other motions are we hearing today?

1 Motion opposing and then -- that is the 442 case.
2 Now, he has got a motion for order of default
3 judgment for unliquidated damages.

4 MS. BOLAND: That is on 4260. We have an
5 outstanding motion for dismissing that. Judge Lee
6 heard that on July 11th of 2011. She has not ruled
7 on that yet.

8 THE COURT: You have got to wait on Judge Lee?

9 MS. BOLAND: Those two. Judge Lee and one
10 Manning, those two.

11 THE COURT: I don't have to wait on Judge
12 Manning to hear the summary judgment motion?

13 MR. GREGORY: That is the one that Defense
14 counsel presented and I had filed a motion to
15 oppose.

16 THE COURT: No, on the default? You filed a
17 motion for default judgment?

18 MR. GREGORY: Yes, sir, I did.

19 THE COURT: Judge Lee heard that?

20 MR. GREGORY: That.

21 THE COURT: That is pending; right?

22 MR. GREGORY: Pending on adjudication.

23 THE COURT: So we have got to wait on her on
24 that one, but put all of them on the docket. That
25 one we won't hear today.

1 MS. BOLAND: Right.

2 THE COURT: Then the Plaintiff's motion for
3 order of subpoena --

4 MR. GREGORY: Duces tecum under case Number
5 2441 and 3742.

6 THE COURT: Forty-two?

7 MR. GREGORY: Yes, 42.

8 MS. BOLAND: Your Honor, on Case Number 3742,
9 Case Number pending 3742, I would just like to
10 state for the record, summary judgment was granted
11 in that case on June 11 of 2010. And then there
12 were some other subsequent motions that were heard
13 on that case. There was an order.

14 Mr. Gregory had filed a rule to show cause and
15 a motion to set aside -- what all was it? -- called
16 a motion to set aside, nullify -- void or nullify
17 the judgment by order. And these were heard by
18 Judge Cooper and ruled on. And he issued his
19 ruling on July 6th of 2011. So I would submit that
20 that case has been fully adjudicated and dismissed.

21 THE COURT: 3742?

22 MS. BOLAND: Yes.

23 THE COURT: By Judge Cooper?

24 MS. BOLAND: Yes, ma'am.

25 MR. GREGORY: However, Your Honor, I object to

1 the extent that -- to the fact that I filed a
2 motion to amend -- reconsider.

3 Well, at this time, Your Honor, I would like
4 to withdraw that motion, subpoena duces tecum,
5 because the Honorable Judge Lee, Chief
6 Administrative Judge, I had wrote her in regard to
7 that motion.

8 She responded to me and gave me the
9 information that I have to obtain or request to
10 South Carolina Court Administration for that
11 information.

12 MS. BOLAND: I believe he requested the
13 transcript of record.

14 THE COURT: 4441?

15 MS. BOLAND: No. That was also granted
16 summary judgment March 25 of 2010. Mr. Gregory
17 also filed the same rule to show cause and motion
18 to set aside, nullify, et cetera, and --

19 THE COURT: Which judge was that?

20 MS. BOLAND: Ruled on July 6, 2011. Excuse
21 me?

22 THE COURT: Judge Cooper again?

23 MS. BOLAND: Yes, ma'am, he heard both of
24 those cases. 3742 and 2441 were both ruled on by
25 Judge Cooper.

1 THE COURT: So 2441 and 3742 --

2 MS. BOLAND: Yes, ma'am.

3 THE COURT: -- are dismissed? And then Judge
4 Lee has 4260 pending before her?

5 MS. BOLAND: And --

6 THE COURT: On default judgment?

7 MS. BOLAND: Well, has it pending on our
8 motion to dismiss.

9 THE COURT: Okay. And he has -- he apparently
10 had a motion of default?

11 MS. BOLAND: The motion for default, Your
12 Honor, was not technically heard. She may -- I
13 can't remember. She did -- she actually heard the
14 motion for default judgment. I think we talked
15 about default judgment in with that because I -- my
16 issue on the motion to dismiss was lack of service
17 because he named them individually. I'm not sure
18 that she technically has heard the motion for
19 default, but we did kind of roll that into it, but
20 it was a motion to dismiss.

21 MR. GREGORY: May it please the Court, Your
22 Honor? At the time, prior to her making a ruling,
23 she had asked me had I filed the claim previously
24 for the claim I filed under 4260, and I said, yes,
25 I did.

1 And she asked Counsel Boland had I filed a
2 previous claim prior to the motion to dismiss on
3 4260, and counsel said -- counsel denied twice.

4 And I presented before the judge a copy of
5 Judge -- former Judge Childs' ruling. In that
6 footnote it was stated that -- how I had motions
7 filed, motion to amend the complaint to add in the
8 parties. That was on the 4260.

9 And Judge Lee had reprimand Defense counsel
10 for giving her -- for denying the fact that I had
11 filed a motion and the fact that she had believed
12 based upon the evidence presented through Counsel
13 Boland that Counsel Boland had misled the Court and
14 believed that I had never filed the claim on 4260.
15 So that is why the case is still pending.

16 Judge Lee said she would get back upon -- back
17 to me, and it was based upon equitable estoppel.

18 THE COURT: So I'm hearing 2442, motion for
19 summary judgment?

20 MS. BOLAND: Yes, ma'am.

21 THE COURT: And that is all? And your
22 opposition to the motion for summary judgment. And
23 you have withdrawn the motion regarding -- and
24 there is a motion regarding subpoena?

25 MR. GREGORY: Yes, Your Honor.

1 THE COURT: That is 2442. So I'm hearing that
2 today too, right?

3 MR. GREGORY: Do you want to hear my
4 opposition at this time?

5 THE COURT: No, no, no, I want to hear about
6 the subpoena.

7 MR. GREGORY: That has been resolved, Your
8 Honor. I withdraw that because that has been
9 withdrawn, Your Honor.

10 THE COURT: So all I'm hearing right now is
11 your motion for summary judgment and your
12 opposition to it?

13 MR. GREGORY: Yes, Your Honor.

14 THE COURT: Okay.

15 MS. BOLAND: I have a memo in support. May I
16 approach?

17 THE COURT: Yes. I already have his. Do I
18 already have yours?

19 MS. BOLAND: That is his brief.

20 THE COURT: We have already gone over that.
21 Do you have one also, Mr. Gregory?

22 MR. GREGORY: Copy of the memorandum?

23 MS. BOLAND: I believe he previously filed his
24 opposition.

25 THE COURT: I have it. I have it. I have

1 yours, and I have yours.

2 Yes, ma'am? Can you give me some background?

3 MS. BOLAND: Yes, Your Honor. This is a case
4 about -- it was filed April 2nd of 2009. It
5 concerns an alleged incident May 21st of 2008 when
6 Mr. Gregory was housed at Lieber Correctional
7 Institution and he worked in the Lieber cafeteria.

8 He asserts that while he was working there
9 that one of the food service supervisors by the
10 name of Jennifer Butler gave him some orders to
11 clean out trash cans on the back dock area of the
12 kitchen.

13 And he alleges also that she then struck him
14 in the back with a large serving spoon twice and
15 that caused him injury, unwarranted stinging,
16 shock, and emotional distress. And that she also
17 threatened to fire him if he reported the incident
18 to anyone.

19 He alleges that the Defendants were grossly
20 negligent in failing to properly supervise Butler
21 and allowing her to assault him.

22 Butler, as I said, was one of the food service
23 supervisors, so she was responsible for the
24 day-to-day operations during her shift as a
25 supervisor.

1 And we have provided previously an affidavit
2 from her medical record I submitted with this
3 memorandum that show Mr. Gregory did not receive
4 any treatment by medical staff in May of 2008 for
5 any injuries.

6 So, despite a claim of sustaining an injury,
7 there is no record of treatment. In fact, the
8 medical record that I provided said there was no
9 treatment from April through August of 2008.

10 What we are asserting is that we're entitled
11 to summary judgment. His suit is against Jonathan
12 Ozmint and the Department of Corrections. And he
13 has specifically sued Jonathan Ozmint in his
14 official capacity only.

15 There was some confusion initially about that,
16 but in a hearing that has been heard in the case
17 previously, he clarified that he was only suing him
18 in his official capacity.

19 So we are saying that he failed to state a
20 claim against Mr. Ozmint and he should be dismissed
21 pursuant to 12(b)(6) of the Rules of Civil
22 Procedure because he has not specifically asserted
23 any claim against Mr. Ozmint. There is no specific
24 act or omission on the part of the Defendant
25 Ozmint. He doesn't assert that he ever put

1 Mr. Ozmint on notice of any problems with the
2 staff.

3 Further, the Tort Claims Act specifically
4 provides that when you bring an action against a
5 governmental entity that you should make as the
6 Party Defendant only the agency or political
7 subdivision for which that employee was acting.
8 Only if that employee is individually named the
9 agency must be substituted as a Party Defendant.

10 And since he is suing Ozmint in his official
11 capacity, we would assert that SCDC should be
12 asserted and Ozmint should be dismissed from the
13 case, named in official capacity.

14 Further, we assert that the claims in general
15 should be dismissed under the Tort Claims Act. As
16 you know, the exclusive remedy for a tort suit
17 against the State of South Carolina in a political
18 subdivision is a Tort Claims Act.

19 There are several exceptions. One is provide
20 that governmental entity is not liable for a loss
21 resulting from the responsibility or duty including
22 but not limited to supervision, protection,
23 control, confinement, or custody of any prisoner or
24 client of any government entity except when the
25 responsibility or duty is exercised in a grossly

1 negligent manner.

2 And then another exception provides that it is
3 not liable for a loss resulting from employee
4 conduct which constitutes actual malice or intent
5 to harm. And of course gross negligence means
6 failure to exercise even a slight degree of care
7 and the intentional conscious failure to do
8 something which one ought not to do.

9 And as I have stated, Mr. Gregory asserts that
10 he was hit in the back with a stainless steel
11 serving spoon. And we have taken his deposition in
12 this matter. And what he said in his deposition
13 when I asked him specifically how the Department of
14 Corrections was grossly negligent in this matter
15 was that he informed the warden in 2007 of what was
16 going on with the food service supervisor and he
17 claimed he was going to look into it and have a
18 meeting with the food service staff and with Reed.
19 He also stated he talked to Mr. Hamm, the food
20 service director, about the same thing. And I
21 provided those excerpts with my memorandum.

22 However, Mr. Gregory did not identify in that
23 statement what was going on with this unidentified
24 food service supervisor and offered no proof that
25 there was ever -- that this meeting did not occur.

1 When he was specifically asked what John
2 Ozmint did specifically negligent, he cited back to
3 his motion and objecting to opposing Defense
4 counsel's memorandum in support of summary judgment
5 and specifically stated that the commissioner was
6 responsible to prescribe rules and regulations to
7 address -- under Title 24-1-140 -- to address and
8 enforce the rules of employee conduct of
9 mistreatment against the Plaintiff. He was
10 responsible under the doctrine of respondeat
11 superior to properly investigate the misconduct of
12 Ms. Butler. 24-3-17. And the fact he failed to
13 investigate the conduct of Ms. Butler and failed to
14 cite her for misconduct outside the scope of her
15 official duty.

16 And I would submit these excerpts clearly show
17 and do not establish that there was any gross
18 negligence on the part of the Defendants in this
19 matter. It doesn't show they were put on any
20 notice of the alleged incident.

21 I have attached copies of a grievance that was
22 submitted, but it was not submitted until
23 September 6 of 2009. The incident occurred May
24 21st of 2008. Again, the medical records don't
25 show any treatment ever being received. Director

1 Ozmint can't be held liable simply because he was
2 the director of the SCDC.

3 And all of the -- throughout the complaint
4 everything talks about intentional conduct and
5 willful, deliberate, wanton behavior by the SCDC
6 employee.

7 If the Court will look beyond the labels that
8 are put on this, so even if you say gross
9 negligence, what he has actually claimed here is an
10 intentional act, and he actually alleged
11 intentional assault and battery. And actually what
12 he claimed in here is gross negligence and
13 intentional assault and battery. He alleged two
14 causes of action in his complaint.

15 Since he sued Ozmint in his official capacity,
16 that equates to suing the SCDC, and Ozmint cannot
17 be held liable for that intentional conduct.

18 And the Tort Claims Act specifically excludes
19 the State from liability for intentional conduct
20 under 15-78-60, Subsection 17.

21 Finally, under the Tort Claims Act,
22 Mr. Gregory had part of his damages -- he says that
23 he sustained intentional infliction of emotional
24 harm, and that is specifically excluded from the
25 Tort Claims Act. So we would submit that he is not

1 entitled to any recovery for intentional infliction
2 of emotional harm.

3 So we would submit that SCDC and Ozmint are
4 entitled to summary judgment on these claims.

5 Lastly, we would submit that both Defendants
6 are entitled to this claim because within the
7 exclusivity claim of the Workers' Compensation Act
8 he was employed as a worker within the kitchen at
9 Lieber cafeteria.

10 And it may seem a little counterintuitive, but
11 there is a provision within the Workers'
12 Compensation Act that says that intentional actions
13 by employees will fall within the Workers'
14 Compensation Act.

15 There are cases in here -- and I have cited
16 tons of stuff in here about that -- and I will just
17 read a couple of quick passages on that.

18 The first one says that: The Court has found
19 that the standard regarding lawyers also would
20 apply to injuries intentionally inflicted by a
21 co-employee. We hold summary judgment is
22 appropriate on the allegations -- and this is a
23 Supreme Court case -- we hold summary judgment is
24 appropriate on the allegations of intentional
25 infliction of emotional distress, assault and

1 battery, as these constitute personal injuries
2 within the scope of the Workers' Compensation Act.

3 And then there is another Court of Appeals
4 case, Edens versus Bellini, that talks about: If
5 alleged conduct goes beyond aggravated negligence
6 and includes such elements as knowingly permitting
7 a hazardous work condition to exist, knowingly
8 ordering employees to perform an extremely
9 dangerous job, willfully failing to furnish a safe
10 place to work, fail to protect employees from a
11 crime, different things like that, that it still
12 falls short of the kind of actual intention to
13 injure that robs the injury of accidental
14 character.

15 So this injury, alleged injury, did not even
16 arise to that level. And so we would submit that
17 it would fall within the exclusive remedy position
18 of the Workers' Compensation Act.

19 So we believe that Ozmint and the Department
20 of Corrections are entitled to summary judgment as
21 a matter of law.

22 THE COURT: Thank you.

23 MS. BOLAND: Thank you.

24 THE COURT: Yes, sir, Mr. Gregory? I will be
25 glad to hear from you.

1 MR. GREGORY: Your Honor, may it please the
2 Court?

3 THE COURT: Yes, sir.

4 MR. GREGORY: At this time I'd like to oppose
5 some of the things that Defense counsel has
6 asserted in her pleadings.

7 On or about December 20th, 2007 -- I'm going
8 to brief it to Your Honor -- there was problems
9 going on in the cafeteria which I had worked and
10 the problems were that the food service supervisor
11 was ordering the workers -- inmate workers around
12 and smacking them in the back and their hand
13 occasionally and pushing them around; and in
14 particular, food service supervisor, Ms. Jennifer
15 Butler -- she is about my height, she weighed about
16 340 -- and her, along with Ms. Leslie, it was going
17 on, activities.

18 And the food service director had talked to
19 them about that, you cannot have relations with
20 inmates by making contact with the inmates. If the
21 inmate refuses to work, you ought to do -- write
22 them up for disciplinary. But she took it
23 personally. And we had done worked and worked.

24 And I had the warden -- put him on notice. I
25 have a copy on file in the Clerk of Court, filed on

1 record, SCDC Form 1911, request to start. I talked
2 to Warden Burke on the yard. He said he would take
3 care of the matter.

4 Therefore, under the South Carolina Tort
5 Claims Act it required that you put the agency on
6 notice, and I put them on notice. And he said he
7 would have a meeting. I don't have control of him
8 having a meeting with the staff.

9 Also I informed the food service assistant
10 director at the time, Mr. Hamm. And I told him.
11 He stated he did not like what was going on and
12 that he was going to talk with her and he was going
13 to talk with his boss in regard to it.

14 I have a copy of his SCDC request disposition
15 to that extent on file with the record, Your Honor.
16 What transpired between then and there I don't
17 know, because under the South Carolina Tort Claims
18 Act, they allowed the person that is injured to put
19 the agency on notice. And at the time the agency,
20 the warden and the food service director, I put
21 them on notice as to let them know of the activity
22 that was going on. But nothing didn't transpire to
23 the extent.

24 And on or about May 21, 2008, Ms. Butler was:
25 Go on. And kept: Here, go dump the trash and dock

1 in back and wash all 23 barrels out, plus the tea
2 barrels. And I told her, I said: I cannot get in
3 there. We have so many barrels. She yelled at me.

4 And after that I was bending over in the trash
5 barrels washing them out, and she said: I thought
6 I told you to hurry up. She hit me in my back with
7 this spoon -- I have a copy of that on the
8 record -- stainless steel spoon. She hit me in the
9 back with the stainless steel spoon. And I raised
10 up.

11 And I have a witness that was back there named
12 Christopher Jones. He gave me affidavits to what
13 he had witnessed that is on file, public record,
14 that she hit me in my back, and told me: Don't do
15 nothing but report it. So I reported the matter to
16 Mr. Reed, the food service director, and with the
17 warden.

18 Nothing was done about that, so I wind up
19 going to medical. But what was transpiring at the
20 time, Your Honor, is there was a lot of
21 packaging -- you heard probably on the news --
22 packages going over the fence, and this kind of
23 thing.

24 And I had the officer to call medical and
25 medical said, Come and get treatment. That evening

1 I went up and got treatment. They looked at it,
2 put me a bandage, put balm on.

3 Based on the activity of the packages coming
4 over the fence and seeing things like that -- and I
5 have SCDC 1911 requests -- that medical staff, a
6 Ms. Highland, administrator from the medical, and
7 things taken, from Mr. Joseph Powell that said, You
8 have already been treated for this.

9 I also heard counsel allegedly say that, There
10 is nothing on the medical record to show that.
11 That is outside of my control, Your Honor.

12 I was sent to medical, they put a bandage on,
13 treated it, and sent me back. How -- what was
14 transpired between that and then I have no control.
15 But I do have on record that I was treated for the
16 cut in my back. Also I have, Your Honor -- I have
17 witnesses in regard to -- let me repeat myself. I
18 had sent Ms. Butler, food service supervisor, a
19 SCDC 1911 request to staff member, received by the
20 mail room May 21.

21 Mr. Butler[sic] asked her what caused her to
22 act like this, come out of the back dock, order me
23 around, tell me to hurry up. Why did she hit me in
24 the back with a stainless steel spoon? You hit me.
25 Why? I said, Why you did that? You might not now

1 have a job.

2 The officer, all other inmates saw me. Now
3 she -- her deposition states: This inmate groping
4 you. You got what you deserved.

5 And after that she tried to make attempt --
6 she denied that.

7 And Judge Childs, we went before Judge Childs
8 on the same thing, and Judge Childs had ruled --
9 she had denied both of our summary judgments. And
10 she had put that in her order that I did establish
11 a claim under the South Carolina Tort Claims Act
12 and that I did -- for gross negligence, because I'm
13 saying that SCDC was grossly negligent is when I
14 put them on notice. That's all I could do to put
15 them on notice, prior notice. This was happening
16 December the 20th -- 24th, 2007. And the incident
17 happened in 2008, May.

18 I had already informed them what was going on,
19 the activity of food service ordering inmates
20 around, smacking them around, hitting them in the
21 back, things like that, but they didn't do nothing
22 about that. They didn't do nothing about that.

23 They didn't supervise Ms. Butler or get -- her
24 conduct was outside of her official duty and
25 control. And the fact that the prior notice,

1 putting her on prior notice was enough to establish
2 gross negligence because they didn't do anything
3 about it. Then they knew to do something about it,
4 but they didn't do anything about it.

5 Your Honor, and then Judge Childs had said
6 that that was grossly negligent on the SCDC's part
7 and said it was an intentional tort of the assault,
8 intentional assault and battery against Jennifer
9 Butler, which case is waiting now for adjudication
10 by Judge Casey -- Honorable Casey Manning.

11 I also have some witnesses, and I have the
12 South Carolina Food Service at the Department of
13 Corrections of the tool/utensils signed out on the
14 night that she --

15 THE COURT: I have seen it.

16 MR. GREGORY: -- she hit me in my back. And
17 she said that she never signed out any tool.

18 Defense Counselor Boland said there is no
19 evidence to show she ever signed any tools out and
20 that how could she hit me with a tool when there is
21 no evidence that she had ever signed up on the
22 board on May 21, the same time I was hit.

23 She signed this on 5/21 at 7:00 p.m, on or
24 about the same time I was hit, she signed it. She
25 signed it out about 7:00 o'clock. FS stands for

1 Female Spoon. Female Spoon is supposed to be a
2 long spoon, as I show you here, Your Honor, as my
3 exhibit. This is a female -- this is a female
4 spoon. It got holes in it. She signed out a
5 female spoon. That the spoon she hit me in the
6 back with. Or that is the kind of spoon she hit me
7 in the back with.

8 Now, there is evidence on the record that she
9 did sign out that tool. And we also have
10 witnesses -- we also have witnesses to identify her
11 signature that they are her signature.

12 Counsel for the Defendant said, How do we know
13 that is her signature; we don't know whether that
14 is her signature.

15 We have witnesses that was working on these
16 serving lines that can now identify Food Service
17 Supervisor Butler's signature, the handwriting. It
18 was Larry Herring, SCDC Number 2467715. We have
19 Travis Orange, 311216. And we also had another,
20 Kenyatta Williams, 180550.

21 And the fact that he says some things, that
22 she have had rouse with other inmates and that she
23 does that type thing, these are evidence for the
24 record, Your Honor.

25 And I would like to say also, Your Honor,

1 pursuant to Andrews versus South Carolina Farm
2 Bureau Mutual Insurance Company, cited at 415
3 S.E.2d, edition 406, Court of Appeals, 1992,
4 summary judgment stage of proceeding it is only
5 necessary for the non-moving party to submit a
6 scintilla of evidence warranting a determination by
7 a jury for summary judgment to be denied.

8 And what I'm saying, Your Honor, there are
9 documents on the record to establish the fact. And
10 the Defendant's counsel also makes claims that
11 pursuant to the --

12 THE COURT: Workers' Comp?

13 MR. GREGORY: Workers' Compensation, that is
14 my sole remedy with the claim. I'm claiming
15 injury. But pursuant to the South Carolina Supreme
16 Court in Peay versus United States Silica Company,
17 313 S.C. 91, 437 S.E.2d, 64, a 1993 case, that
18 determines a common law cause of action is not
19 barred by the South Carolina Workers' Compensation
20 Act if the employee's act should fall within the
21 intentional injury or specific intent to injure the
22 employee.

23 It also says that: The Court also found that
24 the standard regarding employers also would apply
25 to injuries intentionally inflicted by, quote,

1 co-employees. And that is identified at 94 n.1,
2 437 S.E.2d at 66 n.1.

3 And under 15 -- South Carolina Tort Claims
4 Act, 15-78-60(25) provides that a governmental
5 entity is not liable for a loss resulting from the
6 "responsibility or duty including but not limited
7 to supervision, protection, control, confinement,
8 or custody of any student, patient, prisoner,
9 inmate, or client of any governmental entity,
10 except when the responsibility or duty -- as in
11 this case -- is exercised in a grossly negligent
12 manner."

(sic) 15-78-60 (25)

13 Under 15-88-60(25) of the South Carolina Tort
14 Claims Act, to say that the South Carolina
15 Department of Corrections and Jonathan Ozmint, who
16 under Title 24-1-220 says bring the claim in to
17 him, I just believe that they acted -- they are not
18 immune from the liability here. They exercised the
19 responsibility of a grossly negligent manner when
20 they failed to supervise or control their staff,
21 food service, or supervision of Ms. Jennifer
22 Butler's conduct. That was outside of her duties.
23 Her duty was not to smack inmates. That is outside
24 of her policy and outside statutory law. But her
25 duty was not to smack an inmate in his back

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1 whenever the inmate does not do as he are asked to
2 do. Her responsibility is to write that inmate up
3 to send him to cell confinement, but as to smack a
4 person in the back, that is outside -- she went
5 outside of that -- her duty.

6 And the fact that SCDC, South Carolina
7 Department of Corrections and Jonathan Ozmint, who
8 hires her, do the hiring under Title 24-1-110, I
9 think, was responsible for her conduct once I put
10 them on notice prior to the injury that this
11 activity, Your Honor, was going on. They never did
12 anything about it. They became liable and
13 responsible. And that their liability fell up
14 under the gross negligence act, gross negligence
15 conduct because they went beyond their
16 responsibility than what they should have done.
17 They didn't exercise their responsibility as a
18 reasonable and prudent person would have.

19 And that is why pursuant to South Carolina
20 tort law that they are responsible at that time,
21 Your Honor.

22 Based upon the evidence that Your Honor has on
23 file with the record, and based upon the facts and
24 law that I presented, Your Honor, I'm asking that
25 this case go forward to trial and that we will not

1 continue to have a stall -- using stalling tactics
2 for summary judgment motion, summary judgment
3 motion, got to wait on this, got to wait on that,
4 and just to keep from it going to trial. There are
5 ample evidence, Your Honor, to show that the
6 Defendants was negligent.

7 And I may not have spoke on all those things
8 that was filed on the record, Your Honor, but if
9 you would review the record, Your Honor, you will
10 see there are ample documents there to show SCDC
11 brought negligent conduct and show their staff went
12 outside their official duty.

13 THE COURT: All right. Thank you, sir.

14 MR. GREGORY: You're welcome, Your Honor.

15 THE COURT: All right. I'm going to take this
16 under advisement also, and I will get a decision to
17 you.

18 MS. BOLAND: Okay.

19 THE COURT: And, Ms. Boland, if you have an
20 e-mail address -- I will have to mail yours to you,
21 Mr. Gregory -- get that to my law clerk.

22 Thank you.

23 (WHEREUPON, the proceedings were concluded.)

24

25

(END OF TRANSCRIPT)

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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

I, Deborah M. McCurdy, Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Richland County, South Carolina, on the 31st day of August, 2011.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

October 30, 2014

s/Deborah M. McCurdy, RPR

Deborah M. McCurdy, RPR
Fifth Circuit Court Reporter



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A. WILLIAM ROBERTS, JR., & ASSOCIATES
REGISTERED PROFESSIONAL REPORTERS

46-A State Street
Charleston, SC 29401
(843) 722-8414

May 21, 2010

Clarence S. Gregory
Broad River Road Correctional Facility
4444 Broad River Road
Columbia, SC 29210

**DEPONENT'S COPY
TO READ & SIGN**

Re: Gregory, Clarence S. vs. Ozmint, Jonathan E., et al

Dear Mr. Gregory:

Please find enclosed a copy of Volume 1 of your deposition taken on Friday, May 14, 2010 in the above-referenced matter. Also, please find enclosed the South Carolina Rules of Civil Procedure governing the reading and signing of depositions.

You have the right to read the transcript and correct any errors you find in it. You are to identify these changes, if any, by the page and line number on the full size signature page located at the end of the transcript and give the reason therefore. Please use black ink and do not mark or make any corrections on the transcript.

After completing this, you are to sign the full size signature sheet and return it to the above address with the deposition no later than 30 days from the date of this letter.

By copy of this letter, Counsel of Record is hereby notified that your deposition has been forwarded to you for signature and your errata sheet will be distributed to them upon its receipt by our office. Your expedience in this matter is greatly appreciated.

Sincerely,

Production Department
A. William Roberts, Jr. & Associates

Enclosures

cc: Drew H. Butler
Nikole Boland

1 APPEARANCES OF COUNSEL:

2 ATTORNEYS FOR THE PLAINTIFF

3 CLARENCE S. GREGORY, #227394:

4 CLARENCE S. GREGORY, PRO SE
5 Broad River Road Correctional Facility
6 Columbia, SC 29210
7 (803) 896-8555

8 ATTORNEYS FOR THE DEFENDANTS

9 JONATHAN E. OZMINT, COMMISSIONER OF
10 SOUTH CAROLINA DEPARTMENT OF
11 CORRECTIONS, ET AL., AND SOUTH
12 CAROLINA DEPARTMENT OF CORRECTIONS, ET
13 AL.:

14 RILEY POPE & LANEY, LLC
15 BY: NIKOLE BOLAND
16 2838 Devine Street
17 Columbia, SC 29205
18 (803) 799-9993
19 nboland@rplfirm.com

20 and

21 DEPARTMENT OF CORRECTIONS
22 BY: HARRY STOKES, DEPUTY GENERAL
23 COUNSEL
24 4444 Broad River Road
25 Columbia, SC 29210
(803) 896-1738
stokes.harry@doc.state.sc.us

26 OBSERVER:

27 RICHARDSON, FLOWDEN & ROBINSON, PA
28 BY: DREW H. BUTLER
29 CHRIS SELMAN, CLERK
30 1900 Barnwell Street
31 Columbia, SC 29201
32 (803) 576-3706
33 dbutler@RichardsonFlowden.com

34 ALSO PRESENT:
35 S. TOLAND, CORRECTIONAL OFFICER.

36 (INDEX AT REAR OF TRANSCRIPT)

1 STIPULATION

2 It is stipulated by and among Counsel
3 that this deposition is being taken in accordance
4 with the South Carolina Rules of Civil Procedure,
5 Rule 30; that all objections as to Notice of this
6 deposition are hereby waived; that all objections
7 except as to form are reserved until the time of
8 trial.

9 * * * * *

10 CLARENCE S. GREGORY

11 being first duly sworn, testified as follows:

12 EXAMINATION

13 BY MS. BOLAND:

14 Q. Mr. Gregory, my name is Nikole Boland.
15 I'm an attorney with the law office of Riley Pope &
16 Laney here in Columbia, and I know we talked about
17 it earlier you were probably expecting Heath
18 Stewart. I'm another attorney in that office and
19 I'm also working on this case, so you'll be seeing
20 my name on some of that documentation and I'm here
21 to take your deposition today. Have you ever had
22 your deposition taken before?

23 A. Yes, I have.

24 Q. And can you tell me, just briefly, what
25 situation that was in?

1 A. November 3rd, 2008 in regard to Clarence
2 Gregory 227394 at the Lieber Correctional
3 Institution versus Jonathan Ozmint. The deposition
4 transpired at the Lieber Correction (sic) visitation
5 room.

6 Q. Okay. So that was another suit that you
7 had filed against John Ozmint?

8 A. That's correct. That case was 02-7 --
9 007-CP-40-03742.

10 Q. Okay. And I believe that my office was
11 also defending that suit; does that sound correct?

12 A. That's correct.

13 Q. Have you had another suit where you had
14 a deposition taken before?

15 A. Previous, when I was out in society.

16 Q. And can you just briefly tell me what
17 that matter was about?

18 A. It was regarding to an auto damage to my
19 vehicle -- my vehicle.

20 Q. Okay.

21 A. It had to do with -- somewhat with the
22 claim I had filed regarding to the damage of my car.

23 Q. Okay. So, apparently, you're
24 experienced with depositions so you kind of
25 understand the process, but I'm going to explain a

1 couple of things to you. You were sworn in by our
2 Court Reporter here, so you are obligated to answer
3 truthfully. Do you understand that?

4 A. Yes, I do.

5 Q. And, also, I'll need you to make sure
6 that you answer all the questions with a yes or a
7 no. She can't take down nods of the head or
8 anything like that, so always respond with a yes or
9 a no.

10 If there's something that I ask you that
11 you don't understand, please just ask me to rephrase
12 that question and I will try to do that and make it
13 so that you can understand what it is I'm asking.
14 If you need to take a break for any reason, let me
15 know and we can take a break.

16 Are you under the influence of any drugs
17 or anything today that would prohibit you from
18 understanding what I'm asking you today?

19 A. I was under a type of medication, I
20 don't think it have any effect to do with
21 understanding.

22 Q. Okay.

23 A. I had wisdom tooth pain, and they give
24 me Penicillin and Motrin at 600.

25 Q. Okay.

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1 A. And they give me another type of
2 muscle -- some type of muscle -- for pain for muscle
3 that I've been taking for the last three months --
4 two or three months.

5 Q. Okay. Does that affect you in any way
6 that you believe that it would cause you to have a
7 problem with this deposition today?

8 A. All depends on how long the deposition
9 lasts today. I've been having a problem with my
10 wisdom tooth.

11 Q. Okay.

12 A. Serious pains, aching.

13 Q. Okay.

14 A. That's been going -- ongoing thing and
15 they have not pulled it. They have not -- they had
16 appointments set, but I don't know when the
17 appointments are going to be. This is, like, last
18 year since I had put in requests to have it pulled,
19 abstract (sic), and they received x-rays back,
20 saying they're going to get back with me. So that's
21 what I've been going through with as far as the pain
22 medication.

23 Q. Okay. All right. We'll see what we can
24 do to kind of move this along for you. And it's
25 also my understanding that you are currently

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1 unrepresented in this suit, you are a pro se
2 litigant?

3 A. Temporarily.

4 Q. When you say temporarily, have you
5 talked to anyone about representing you in this
6 case?

7 A. Yes, I have.

8 Q. Have they said that they were going to
9 represent you in this matter or anything to that
10 effect?

11 A. I'm expecting them probably tomorrow.
12 I'm expecting an attorney down here tomorrow. I was
13 trying to get him to come to the deposition but I
14 understood he has, I think, a trial going on at this
15 time.

16 Q. Okay. But at this time, right now, you
17 are still unrepresented?

18 A. That's true.

19 Q. Okay. In preparation for this
20 deposition, did you review any documents?

21 A. Yes, I have.

22 Q. Can you just give me a brief overview of
23 what you've reviewed?

24 A. Previous deposition that was taken,
25 notes that was taken November the 3rd, 2008. I did

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1 a rough draft copy of questions that were asked to
2 me in the previous deposition by counsel for SCDC,
3 Heath Stewart, III. And I have other notes that's
4 in reference to statutory law in regard to tort
5 law, Workers' Comp law, damage, statutory -- Title
6 24 of the Department of Corrections. I also has in
7 reference to the present case Caption Number 02442
8 from the complaint until the, I think, last hearing
9 and ruled upon by the Honorable Judge J. Mitchell
10 Child.

11 That's where I am as of today on this
12 case. This is all my notes pretty much -- some of
13 my notes. And also I have in support of that, I
14 have some researched cases that I've done in that --
15 research cases is including damage -- it varies.

16 Q. Okay.

17 A. In the gross negligence, negligence,
18 supervising due to the -- while I was committed to
19 the custody of SCDC, so it's various. And also I
20 have the tort law book that I've been reading
21 through different justices in there, you can see.
22 Information that's going to help assist me in
23 pursuing my claim.

24 Q. Okay. Have you spoken to any Department
25 of Corrections employees in connection with this

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1 case?

2 A. Well, I'm not sure. I'm not sure.

3 Q. Okay. Have you spoken to any other
4 inmates?

5 A. Yes, I have.

6 Q. Okay. And when I'm asking that question
7 right now, I just mean as far as in preparation for
8 today.

9 A. Well, I was inquiring about -- with my
10 caseworker about there's going to be a deposition.

11 Q. Okay.

12 A. And he said they do not give that --
13 that's security, they do not give that information
14 out. You contact operations up here to find out if
15 there's a deposition scheduled for today.

16 Q. Who's your caseworker?

17 A. I don't even know his name.

18 Q. You don't?

19 A. I don't know his name.

20 Q. But it's a male officer?

21 A. That's correct.

22 Q. Mr. Gregory, I should have gotten you to
23 do this in the beginning. Can you please state your
24 full name for the record?

25 A. Clarence Sylvester Gregory.

1 Q. Okay. How about your date of birth?
2 A. 7/28/62.
3 Q. And where were you born?
4 A. Gaffney, South Carolina, Cherokee
5 County.
6 Q. And are you married?
7 A. No.
8 Q. Do you have any children?
9 A. No.
10 Q. Do you have any relatives in South
11 Carolina?
12 A. Yes.
13 Q. And can you just give me some general
14 information about relatives?
15 A. Brothers -- I have about -- about -- I
16 think about five brothers that's still living and I
17 have one blood sister that's still living.
18 Stepmother just passed. My stepsister, she passed.
19 Q. Okay. Can you give me some of the last
20 names of these people? And the reason I ask this is
21 if this case were to go to trial I need to know that
22 kind of information for jury purposes.
23 A. Brady Matthew Gregory, Jesse Earl
24 Gregory, Grover Lee Gregory.
25 Q. Okay.

1 A. Charles E. Gregory and Ricky D. Gregory.
2 Q. Okay. Where did you go to high school?
3 A. Gaffney Senior High School.
4 Q. Do you have any education after high
5 school?
6 A. I am a musician, play keyboard -- piano.
7 I've played that for -- started out in 1976. I
8 played for several churches out in society and I
9 have been playing -- have been playing in the
10 Department of Correction Federal Prison and right
11 here.
12 Q. Okay. Besides playing for churches, did
13 you ever use that as a profession?
14 A. No. It's a skill or a talent that I
15 developed in the years that's come as -- when I got
16 into church, attending church service.
17 Q. Okay. Tell me a little bit about your
18 work experience. What did you do out of high
19 school?
20 A. Various. Cut grass, haul hey, worked at
21 cotton textile industry, worked at Stouffer's frozen
22 food plant, I worked at housing construction,
23 painting, landscaping, cabinet building.
24 Q. Okay. Stouffer's, did you work there
25 for any length of time?

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1 A. I worked there for, I think, four years.
2 I think about four years.
3 Q. Okay. Any particular reason you left
4 there?
5 A. Incarceration.
6 Q. How about the textile industry, what
7 were you doing?
8 A. I was --
9 Q. In the textile industry?
10 A. Hopper tender.
11 Q. How long did you work in that industry?
12 A. It's been -- it's been a little while.
13 I don't -- I can't -- I'm not for sure how long it
14 was.
15 Q. Was it a few years?
16 A. Few years, yes.
17 Q. Okay. You said you left Stouffer's
18 because of incarceration. When was that?
19 A. It was in '9 -- I think '91. '91.
20 Q. And what happened?
21 A. I was involved with the construction of
22 a house and some materials got -- the house got
23 broke into and materials was taken from there. And
24 I filed a claim upon those materials that was
25 missing and they charged me.

1 Q. Okay. And did you have a trial or
2 anything on that?
3 A. I think I did. I think -- no, I pleaded
4 guilty on that.
5 Q. Okay. How long did you get for that?
6 A. Eighteen months.
7 Q. And where did you serve that 18 months?
8 A. In the Department of Corrections,
9 Northside.
10 Q. Okay. So you were incarcerated for 18
11 months there. After that period of incarceration,
12 when did you end up back in jail?
13 A. I think '92.
14 Q. What happened there?
15 A. Probation violation.
16 Q. And how long did you end up back in for
17 that?
18 A. I went to federal prison for that.
19 Q. Okay. How did you end up --
20 A. Income tax.
21 Q. So some sort of income tax -- what was
22 that about?
23 A. It had a lot to do with tax fraud.
24 Q. How long did you get for that? Rough
25 estimate is fine.

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1 A. I ain't sure.
2 Q. Okay.
3 A. I'm not sure how long it was.
4 Q. Where did you spend your time on that?
5 A. Estill.
6 Q. And then at some point around '95 you
7 ended up in for these charges --
8 A. Yeah.
9 Q. -- you're in for now?
10 A. Mm-hmm.
11 Q. And what are those charges?
12 A. They charged me with murder, armed
13 robbery and first degree burglary.
14 Q. And how long is your sentence on that?
15 A. Well, the judge convicted me -- well,
16 give me, sentenced me to two natural life .5.
17 Q. So you're currently here at Broad River.
18 When did you get here? When did you first come to
19 Broad River?
20 A. I think June, I think June of last year.
21 Q. Okay. Before that, where were you?
22 A. I was at Evans.
23 Q. And do you recall how long you were at
24 Evans?
25 A. Three weeks.

1 Q. Let's get into this incident we're here
2 about today, and I believe in your complaint you
3 allege that this took place in May of 2008; is that
4 correct?
5 A. That's correct.
6 Q. Okay. And do you know what day that was
7 in May?
8 A. It's been a while. I'm not sure. I
9 can't say the particular date.
10 Q. Okay.
11 A. It's been so much going on.
12 Q. Okay. And what institution were you at
13 when that happened?
14 A. Lieber.
15 Q. And where were you when that happened?
16 A. I was in the cafeteria.
17 Q. Where at in the cafeteria?
18 A. Back dock. That's back of the kitchen
19 outside -- behind the kitchen.
20 Q. Okay.
21 A. On the back dock, there's a back dock
22 area.
23 Q. And what were you doing out there?
24 A. Washing out barrels, trash barrels. I
25 was the inmate supervisor over the back dock area.

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1 Q. And prior to that where were you?
2 A. Lieber.
3 Q. And do you recall how long you were at
4 Lieber?
5 A. Since '99. September.
6 Q. And you mentioned earlier that when you
7 were out in the community you were attending church.
8 Was that in the Gaffney area?
9 A. That's correct.
10 Q. Was there a specific church you went to?
11 A. Well, by me being a musician I could go
12 anywhere at their request.
13 Q. So you kind of traveled around to
14 different churches?
15 A. Yes.
16 Q. Were you a member of any other
17 organizations or anything when you were out in the
18 community?
19 A. NAACP.
20 Q. You also -- you've mentioned the charges
21 for the materials that were missing and then the
22 income tax fraud and then what you're in for now.
23 Are there any other charges that you've had that you
24 can recall?
25 A. No.

1 I was made that by the food service director because
2 of the extraordinary -- extraordinary work that I
3 performed.
4 Q. When you say inmate supervisor, what
5 exactly did that entail?
6 A. Pretty much you're over the cafeteria.
7 They trust you with everything in the cafeteria,
8 make sure that the work is completed and work is
9 done, place is clean and ready for inspection.
10 Q. Okay. Were there other inmate
11 supervisors?
12 A. Yes, there were.
13 Q. Okay. Because a minute ago you said you
14 were over the back dock area specifically.
15 A. That's my particular area. That's my
16 area -- that were my area.
17 Q. Were you over a certain number of
18 inmates?
19 A. No. Only work related.
20 Q. What do you mean by that?
21 A. There's -- there's no inmate over
22 another inmate in the Department of Corrections.
23 You could be in charge of work, but you're not in
24 charge of the inmates.
25 Q. So when you say inmate supervisor, you

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1 just mean supervisor over the work?

2 A. Over the work. They preferred me over

3 the work rather than they preferred any -- any other

4 inmates. That's what -- that's all that's just

5 saying because of, you know, somewhat -- they say

6 honesty, trust, build. You're there, you could be

7 dependable, you're going to get the job done and

8 done right or don't be done at all. That's the type

9 individual I come up that way and that's the way I

10 were.

11 Q. At that point how long had you worked in

12 the cafeteria?

13 A. I been working in the food service with

14 SCDC since '9 -- I think May of '96. I think May of

15 '96 from McCormick to Lieber.

16 Q. So you were in McCormick before you went

17 to Lieber?

18 A. That's correct.

19 Q. So you were on the back dock washing out

20 the trash barrels. Is that something that was done

21 every night?

22 A. Yes.

23 Q. Okay. What time of day was this?

24 A. Let me refer back to my complaint.

25 Q. Okay.

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1 A. (Reading.) Referring to the complaint

2 filed April the 2nd, 2009, Page 2, Paragraph 8 in

3 the general allegations say: That on or about May

4 2008, approximately between six p.m. and seven p.m.

5 in the evening during closing, cafeteria party --

6 Defendant Butler, food service supervisor, gave the

7 Plaintiff a direct order to hurry up on the back

8 dock and wash the barrel -- wash the trash can and

9 white barrels so that she could go home early.

10 Q. So you say it's between six and seven?

11 A. That's correct.

12 Q. Was that the typical time that you

13 washed the trash cans?

14 A. That's correct.

15 Q. And what are the white barrels? What

16 were those for?

17 A. They was drinking barrels that they make

18 tea, put tea in.

19 Q. All right. Now, you were on this back

20 dock. Was there anyone else out back there?

21 A. Yes.

22 Q. Who that would be?

23 A. There was other guys -- other inmates

24 back there that I can't all remember, but I know

25 Christopher Jones was my co-worker. He was back

Page 20

1 there.

2 Q. And where was he in relation to you?

3 A. What --

4 Q. At that time.

5 A. What was he?

6 Q. Where was he?

7 A. Where were he?

8 Q. In relation to you on that back dock.

9 A. He was on the back dock as the back dock

10 worker.

11 Q. How big of an area are we talking? Just

12 give me a general idea.

13 A. About from there to there to here.

14 (Indicating.)

15 Q. All right. From that wall?

16 A. You can say from -- from this wall --

17 Q. That wall.

18 A. -- to where we're at here, and maybe

19 from here to over to that wall there dimension.

20 (Indicating.)

21 Q. So about 20 feet by 30 feet, maybe?

22 Does that sound reasonable?

23 A. I'm not an expert on that.

24 Q. Okay. You know Christopher Jones was

25 there?

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1 A. I know he was there.

2 Q. Where were you on that dock?

3 A. Where were I on that dock?

4 Q. Yes.

5 A. I was next to the closet with all the

6 barrels.

7 Q. Okay. Let's do this. You've got a pen,

8 don't you?

9 A. Yeah.

10 Q. Let's draw it. Draw me a general

11 diagram of a dock -- of the dock, and it's not going

12 to be to scale of course but draw me a diagram of

13 the dock, the layout of it and where this closet is

14 that we're talking about. And then we'll mark it as

15 an exhibit for this deposition.

16 A. (Marking.) Refrigerator cooler here,

17 closet here, this is a cage, this is back dock's --

18 big large cages on the back dock they keep chemicals

19 in it. I'm quite sure you heard about the chemical

20 cage in the other case. The barrels always be here,

21 in this area here. (Indicating.)

22 Q. Can you write barrels beside that,

23 please?

24 A. (Marking.)

25 Q. When you say barrels, you mean the trash

Page 22

1 barrels?
2 A. Trash barrels and the white --
3 Q. And the white barrels?
4 A. And white barrels. Okay. They were all
5 there together. I was here. Okay. And T-Top
6 was --
7 Q. Who's T-Top?
8 A. Christopher Jones, here. (Marking.)
9 Jones was here and I was here. (Indicating.)
10 Q. Okay. Let me ask a couple of questions.
11 All right. So this is the closet you were talking
12 about. What's in this closet?
13 A. Okay. You got a water hose, (marking.)
14 Water hose. Water hose --
15 Q. Is that cold water, hot water?
16 A. Hot water -- hot and cold. Hot and cold
17 water. (Marking.) Ain't no big closet, so a lot of
18 people ain't going to be in there. It's a small
19 closet where the hoses are housed.
20 Q. Is there anything else in the closet
21 besides the hose?
22 A. No. Just the light up there, unless
23 they changed it now, but that's pretty much it.
24 Q. All right. Then the cage has chemicals.
25 You're talking about, like, cleaning chemicals?

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1 A. Cleaning chemicals that's stored on the
2 back dock for the cafeteria.
3 Q. Okay. And then this is the inside door,
4 so this is where you go back into the kitchen?
5 A. Go back into the kitchen here.
6 (Marking.) That's an exit door right here, exit
7 door.
8 Q. Okay.
9 A. Entrance/exit door from inside -- from
10 inside the kitchen to out, to out to in. This is
11 canteen area right here back area, canteen where
12 they load trucks up over here for the canteen.
13 (Indicating.) Sometimes we have stored cardboard
14 boxes over here to put on the truck, and they back
15 the truck up over here in this direction. This is
16 where you back the truck up. (Indicating.)
17 Q. So this is, like, a loading area right
18 here?
19 A. Yes. Loading area.
20 Q. So that's kind of a ramp, almost?
21 A. Well --
22 Q. Where you get up to the dock?
23 A. It's an extra dock. Extra dock, they
24 had added that on back in 2000, I think, '1 or '2.
25 Q. Okay.

Page 24

1 A. There's a gate -- there was a gate there
2 and they took it down, separating the cafeteria from
3 the canteen and commissary. All that is back there
4 in the same area.
5 Q. Okay. Now, this walkway, where does
6 that go?
7 A. This goes -- it's a ramp. It's going
8 down when we transfer cardboard boxes, cans or
9 whatever food service might want to bring up on the
10 back dock. Some of the items on below from another
11 institution and we transfer up this walkway here,
12 you put it in the cooler here, refrigerator here, or
13 we take it inside here -- or if the canteen likewise
14 will do the same thing. Canteen can transfer theirs
15 from here to in the canteen.
16 Q. And this is a big, like, walk-in cooler
17 type?
18 A. This is for the cafeteria. It used to
19 be there and that there. They added that -- and
20 that there, they added this, they added that on
21 through. (Indicating.)
22 Q. So you just said that the refrigerator
23 and the loading dock were added or that dock down
24 here at the bottom were added?
25 A. This is all added.

Page 25

1 Q. Okay. So Christopher Jones was up here
2 at the top by the barrels?
3 A. Mm-hmm.
4 Q. And you were over to the right of the
5 barrels?
6 A. Near the cage.
7 Q. Okay. Where was Ms. Butler?
8 A. She come out the door. She come out the
9 door. She walked around, I think I remember, and
10 she come back in and she said -- she said -- well...
11 Q. This is her? (Indicating.)
12 A. Yeah.
13 Q. Can you mark that for me?
14 A. (Marking.)
15 Q. So you said you remember that
16 Christopher Jones was here. Anybody else that you
17 recall as far as being there?
18 A. There was another inmate here in the
19 closet, I do remember there was another inmate in
20 the closet.
21 Q. But you don't know who that was?
22 A. I can't quite remember who he was, but
23 in my request for discovery I requested for the
24 inmate workers that was assigned during that time
25 that I could remember who he were here. He had

1 people coming in and out of the kitchen to come to
2 the back dock. A lot of things -- a lot of things
3 had to come out of the kitchen to the back dock
4 during closing time.
5 Q. Right.
6 A. And the food service supervisor, she had
7 to make sure that everything was as in per se the
8 kitchen was straight. And the security officer, he
9 would make his rounds and come out and check because
10 it's an outside area.
11 Q. Right.
12 A. And it's not outside the fence but --
13 it's a fenced area, but he could come and make his
14 rounds.
15 Q. Okay.
16 A. To the back dock to check.
17 Q. All right. So you wouldn't necessarily
18 stay out there all the time, but an officer would
19 come and go?
20 A. That's true. That's correct.
21 Q. Okay. Do you recall any other officers
22 being around while this incident was occurring?
23 A. No. They usually have one in the
24 canteen, at the back door, because you had inmates
25 that were working inside the canteen at that time,

1 too. Before closing.
2 Q. Now, if they were working at the back
3 door --
4 A. Inside.
5 Q. They would be inside?
6 A. They would be inside.
7 Q. So they couldn't have seen --
8 A. Yes, they could have.
9 Q. Possibly could have?
10 A. Yeah. They got a peep hole that they
11 usually look out because of the noise or because --
12 then sometimes they -- if they're at closing -- if
13 it's during closing time, if they have canteen boxes
14 to come out of there or trash be thrown away, we
15 take their trash that have -- that's a regular
16 thing. We takes their trash.
17 Q. Right. Okay. Do you recall any other
18 officers or inmates that would have been in this
19 area of the back dock at that time?
20 A. I don't remember no other inmates out
21 there.
22 Q. Okay.
23 A. Because normally they don't come out in
24 my area. Just normally that's not -- I'm always
25 monitoring what's going on on the back dock. And

1 I'm watching because there were problems, inmates
2 hide the wine and all that crap coming on the back
3 dock so it ain't happening.
4 Q. Okay.
5 A. It ain't happening.
6 Q. And why were you concerned about that?
7 A. Well, due to the fact that they would
8 come back and accuse me of having wine and other
9 stuff that come out the kitchen. I wasn't going out
10 like that.
11 Q. Okay.
12 A. And I tell them, I told them, you're out
13 of place, you ain't got no business back here. You
14 stay in. If you don't stay in, I'll go get a
15 supervisor or officer to make you stay in. Because
16 I usually say you -- I know what you've got in mind.
17 And a lot of times when I was off I had heard
18 inmates claim to say that they had fine wine
19 material back there. And that ain't me.
20 Q. Okay.
21 A. I wasn't going for that.
22 Q. Where would they find the wine material?
23 A. Could be in the closet or could be
24 hiding right here between the cooler, there's a
25 little wall right there behind the cooler. Or they

1 could go up over here under the loading ramp, hide
2 it under the loading ramp, down here below the dock
3 hide the wine material down in the boxes. I wasn't
4 going for that. And that's why I had said anybody
5 wasn't going on the back dock. Everybody wasn't
6 coming in on no back dock. They wasn't working on
7 the back dock, they wasn't assigned to my back dock,
8 they weren't coming back there. They know me.
9 Q. Were there typically multiple inmates
10 assigned to the back dock?
11 A. Different shifts. Different shifts.
12 That depends on what went on that day. If we had
13 had a truck or -- in particular that day I think I
14 do remember that we didn't have trash bags. And
15 that's why all these barrels -- we had to take all
16 these barrels, dump trash in during that day and
17 fill them up. And we had something like 25 -- about
18 25 back -- 25 barrels or more with -- and white
19 barrels back there, and I had to get those barrels
20 washed out from the trash and food. And I couldn't
21 keep -- I couldn't all get -- keep the white barrels
22 mixed with the -- the trash barrels -- the white
23 barrels was our drinking barrels.
24 Q. Right.
25 A. I had to keep these separate because we

1 drinks tea out of those.

2 Q. Right.

3 A. It was chaotic pretty much that day and
4 we didn't have -- normally we had bags it would be
5 easier for us and we had trash bags.

6 Q. Right.

7 A. But not that day. And I had asked them
8 to -- whoever was working to get us some trash bags,
9 they didn't have them. They had to order the trash
10 bags. They didn't have so we had to wash those --
11 all those barrels out to get set up for the next
12 morning, for the next shift to come in that morning.

13 Q. Okay.

14 A. They could not be left dirty. And I
15 don't know how late approximately it was, but I was
16 trying to do the best I could to get the trash out
17 of the kitchen. T-Top, Christopher Jones, tried to
18 do the best he could to get the -- help get the
19 water hose on, the trash out of the kitchen, and it
20 was -- it was just chaotic I do remember that day.

21 Q. Now, you said that it was closing time.
22 Was six to seven typically the closing time period?

23 A. Yeah. It's sometimes, but that depends
24 on how fast -- if the count clear -- if the count
25 clear properly something -- the gas could have worn

1 because of the experience they has. And I made
2 sure -- to make it short, make it just like this.

3 Lieber was one of the filthiest kitchens in the
4 South Carolina Department of Corrections.

5 Q. Okay.

6 A. And the warden appreciate it, Ozmint
7 appreciated it. He said, Mr. Gregory, you done an
8 outstanding job. This is the way the back dock is
9 supposed to be. I passed all the accreditations,
10 inspections back on the back dock. It took me four
11 days to get that nasty place clean, and I worked --
12 sometimes I had worked day and night. I have hurt
13 myself working for Lieber food service. I have
14 gotten injured on occasion and I let them know and
15 they pulled on me, called me in the dorm, Gregory,
16 they need you in the kitchen, they need you in the
17 kitchen.

18 I worked hard there. I worked myself --
19 I hurt myself a lot more and -- working at Lieber
20 than any other institution, because Lieber was one
21 of the most nastiest, filthiest food service that
22 ever -- the back dock was filthy.

23 Q. All right. I think my question was as
24 far as shifts, did you work more than dinner or did
25 you just work dinner?

1 off -- I mean, when they couldn't cook the food
2 proper on time. There was something going on pretty
3 much that day while we was there at that time.
4 Normally we'd be out of the kitchen, but I know we
5 was there after six o'clock, I know.

6 MS. BOLAND: Okay. Let's go ahead and
7 mark this as an exhibit.

8 (DFT. EXH. 1, Hand-Drawn Sketch of Back
9 Dock Area, was marked for
10 identification.)

11 BY MS. BOLAND:

12 Q. All right. We just marked the little
13 diagram here as Exhibit 1, we'll talk some more
14 about it. Was washing the trash barrels something
15 that you were always responsible for doing?

16 A. Yes.

17 Q. Okay. Did you work every dinner shift?

18 A. (Reading.) Pretty much for years. For
19 years, I've done that for years.

20 Q. All right. And then was the dinner
21 shift the only shift you worked, or did you work
22 every meal?

23 A. Well, as -- pretty much as the shift
24 leader they depends on more -- they depended more on
25 shift leaders or inmate supervisors than they --

1 A. Evening -- mostly evenings, pretty much
2 evenings. I didn't like getting up in the mornings
3 too much unless they need me, you know, because they
4 had killed me that evening so I would stay in and
5 try to rest, you know. I told them I'm not the
6 young man that I once was. And then the fact of
7 lifting -- you had to lift this trash up every day
8 and throwing it up like this you had to be very
9 strong to do that. (Indicating.)

10 Q. Okay.

11 A. And I am or was a strong -- very strong
12 man. And that particular effect in the long run on
13 the back, the body, and I know I worked pretty much
14 every evening. It was a routine thing.

15 Q. All right. Let's go back to the
16 incident. You're here on the right side of the
17 barrels, Christopher Jones is over here on the left,
18 Ms. Butler is over here. So tell me what happened.

19 A. (Reading.)

20 Q. I'd like you to do as best you can
21 remember first, and if you forget some stuff you can
22 refer back to your information but I'd like you to
23 do it from what you recall about the actual
24 incident.

25 A. I do remember that Ms. Butler kept

1 saying she wanted to go home early.
2 Q. What would have been her normal time to
3 go home? Do you know? When she said early, what
4 would be early for her?
5 A. Sometime -- seven o'clock -- 6:30, seven
6 o'clock. She didn't want to stay in the -- stay
7 there any longer than that. I tried -- I explained
8 it to her the back dock, the barrel, the food, and
9 she didn't want to hear that. And she come to the
10 back dock to see. She still was in a hurry, she
11 say, you've got to leave some of the stuff. And
12 then she come back and said, no, go ahead and wash
13 it. She didn't ever want to leave her shift dirty.
14 Q. Okay.
15 A. And I respect her for that. But there
16 are things going on in the kitchen -- what was going
17 on in the kitchen I don't know. And my helper was
18 trying to help me, we was trying to get things with
19 the barrels. And all of a sudden she was in the --
20 I remember there was a closet here -- two closets
21 here. Two closets right about inside where they
22 hold the utensils. (Marking.)
23 Q. Okay. So that's on the inside?
24 A. Yeah.
25 Q. Okay.

1 A. And she come out hollering, yelling.
2 And I told her, I said, I was only doing the best I
3 could. And I said, I've got T-Top, he's helping me,
4 I said, we're doing the best we can. And the
5 officer that usually take us down to the trash
6 compacter, he was trying to rush us.
7 Q. Who's that officer?
8 A. Goodwin.
9 Q. Okay.
10 A. I remember he was an on duty officer.
11 He said he's from New York, so that's how I know who
12 he were. And from that point I was washing the
13 barrels out and I told her, I said, Butler, we only
14 can do the best we can. I said, I'm not in a hurry,
15 can't be in a hurry. And she say something --
16 something that I can't recall what it was and I
17 heard a bunch of laughing. And then she come out
18 again and she said, I thought I told you to hurry up
19 and wash the barrels out so I can go home early.
20 She said, I'm not going to be here all night. And
21 then I said, Butler, I'm not in no hurry. And when
22 I went back to wash the barrels she went, boom, I
23 told you to hurry up. I said, what? And when I
24 went back down in the barrel Jones say, Greg, no.
25 He said no, and she hit me in back. Boom. I was

1 shocked.
2 Q. Okay. So the boom is -- what's
3 happening there?
4 A. That's the -- that's the long spoon that
5 she had, that perforated spoon. It's called a
6 female spoon on your record there, say F1 and 2 or 3
7 and 4 FS. That's female -- stand for female spoon
8 and MS stand for male spoon. And I was shocked and
9 then we was arguing. Me and her was arguing and she
10 said, go ahead. Go ahead. Go ahead. And
11 Christopher Jones said no, said, Greg, no, no. He
12 said, hold your horses, no. He said, don't do
13 nothing. He said, hold your horses. She hit you,
14 don't do nothing. And she said, you ain't going to
15 get nothing. You ain't going to get nothing. You
16 tell him you want it. I'm going to put you out.
17 You ain't going to work in this kitchen. Then she
18 said, what, what? And she went back in the
19 cafeteria. You know she's a big lady. She's
20 about -- then at the time she was about 340, 375 and
21 about my height -- a little taller than me.
22 Q. Okay.
23 A. And I asked her why did she hit me and
24 Officer Goodwin came to the back again and said,
25 what's going on? He heard us arguing. And I said,

1 I need to go to the medical, get my back checked
2 out. And he said, back checked out for what? So I
3 begin to explain to him. And whether he did an
4 incident report or not, I didn't know for him to do
5 an incident report.
6 So I don't know what was going on
7 with -- I think the shift was changing, something --
8 he was waiting on a relief, his shift relief to come
9 in. It was so much I remember that was going on at
10 that time.
11 Q. Okay. Let me ask some questions. You
12 said you heard some laughing before it happened?
13 A. Mm-hmm.
14 Q. Where was this laughing coming from?
15 A. Inside.
16 Q. So she was -- Ms. Butler was inside?
17 A. Mm-hmm.
18 Q. That's a yes?
19 A. That's a yes.
20 Q. And then she came back out?
21 A. That's correct.
22 Q. Did you see her when she came back out?
23 A. Yes, I did.
24 Q. Did you see a spoon in her hand when she
25 came back out?

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1 A. No. That's why I was surprised. I
2 didn't see one.
3 Q. And she came up behind you and hit you
4 with the spoon?
5 A. Remember I was -- I told you earlier
6 about that closet.
7 Q. Yes.
8 A. That's where she was at, in that closet.
9 And she put her utensils up in that closet, that
10 door. And the laughing was going on somewhere in
11 there. (Indicating.)
12 Q. Okay.
13 A. In that setting right in there.
14 (Indicating.)
15 Q. Okay. When she hit you with the spoon
16 did she hit you with the flat part of the spoon, the
17 round part, or the handle?
18 A. No, it wasn't the handle. It was the
19 round...
20 Q. Actually, I have something here. Is
21 this what you're looking for?
22 A. Yeah.
23 MS. BOLAND: We'll mark this.
24 (DFT. EXH. 2, Xeroxed Copy of Spoon, was
25 marked for identification.)

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1 BY MS. BOLAND:
2 Q. We can use mine. This is an extra copy.
3 All right. Now, this is a spoon that you produced
4 this copy to us. And I'm assuming you're not saying
5 this is the exact spoon -- or are you saying this is
6 the exact spoon?
7 A. Well --
8 Q. Or a representation of the exact spoon?
9 A. That's the -- that's the type spoon
10 that's used, stored in the food service closet.
11 Q. Okay. Because this one is dated
12 11/2/2009.
13 A. Well, that's because I was working here.
14 Q. Right.
15 A. At Broad River. This is dated 2009
16 because this is the date that I did -- I draw the
17 sketch of the spoon.
18 Q. So you took a spoon from here at Broad
19 River and used it as your sketch?
20 A. As the sketch because I remember this is
21 the type spoon that every institution has this type
22 of spoon, is to be used at every institution. I've
23 got a thing -- I've got an exhibit here to show
24 specifically. It's right here.
25 Q. I've got that, too. That one?

1 A. Yes, that's it.
2 Q. We'll mark that one, too. Let me see
3 your copy.
4 A. (Tendering.)
5 Q. (Reading.) Okay. And this is also from
6 Broad River?
7 A. That's from Broad River. So every
8 institution has that. There's no difference. They
9 have to mark theirs according -- according to the
10 numbers. All the numbers that's marked -- there's
11 no difference in no other institution. All those
12 numbers is the same, all those spoons is the same.
13 MS. BOLAND: Can we have this marked?
14 (DFT. EXH. 3, Quarterly Tool Utensil
15 Inventory, dated Third Quarter Tool
16 Inventory 2009, was marked for
17 identification.)
18 BY MS. BOLAND:
19 Q. We'll just note here Exhibit 3 that we
20 just marked is a quarterly tool utensil inventory.
21 But the original that you're showing me -- and the
22 one that we marked as the exhibit has Lieber typed
23 in here.
24 A. Okay.
25 Q. But the original you're showing me is

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1 whited out --
2 A. Yeah.
3 Q. -- and was from Broad River?
4 A. Yes.
5 Q. So this isn't truly Lieber's, but you're
6 telling me this is a representation --
7 A. Rep --
8 Q. -- of Lieber's?
9 A. SCDC's food service...
10 Q. Tool utensil?
11 A. Tool utensil, that's correct.
12 Q. And it has on here the -- see, which one --
13 were you telling me it is?
14 A. Number 8. Restricted Number 8.
15 Q. The long perforated spoon. Okay. All
16 right. So all -- Exhibit 2 and Exhibit 3 are
17 actually Broad River things, but they're
18 representations of the ones from Lieber?
19 A. That's correct.
20 Q. Okay. So back to my original question.
21 When she hit you with the spoon, it was this round
22 part here -- the main round part?
23 A. Yeah.
24 Q. Did she hit you flat with it?
25 A. No.

1 Q. Caught you with the edge of it?
2 A. I've got a cut in my back now from that.
3 Q. Okay. How big of a cut are we talking?
4 A. It's about that long.. (Indicating.)
5 Q. Inch and a half?
6 A. Well, I'm talking about as -- as in the
7 length.
8 Q. Inch and a half?
9 A. Yeah. About that like. (Indicating.)
10 Q. What kind of width are we talking?
11 A. Width?
12 Q. How wide is it?
13 A. It's not -- it's not real wide. Not
14 real real wide. It's about -- I say that cut it's
15 about -- it looks like about that, like that.
16 (Indicating.)
17 Q. So you're saying about an inch wide?
18 A. No -- not this wide, no. This here tip,
19 like that.
20 Q. Okay. Half an inch?
21 A. I can go that.
22 Q. You say it's still a cut?
23 A. Yeah.
24 Q. Because this happened in 2000 -- May of
25 2008 and you've still got a cut?

1 back.
2 A. Okay.
3 Q. I started -- I jumped down in the
4 paragraph, so let me show you where I started.
5 A. Oh, this is cause of action you're
6 talking about.
7 Q. Yeah, I'm in there. Right there, 16.
8 A. Sixteen, okay.
9 Q. In his upper back.
10 A. Plaintiff sustained an injury. That's
11 my injury I allege. That -- that's the cut. That's
12 the injury.
13 Q. Sustained injury?
14 A. Yeah. That -- that's it.
15 Q. Okay. But you don't really call it a
16 cut.
17 A. Well, it's an injury.
18 Q. Okay.
19 A. And that's what -- I don't have to
20 necessary all together allege in specifically, but I
21 was injured.
22 Q. Okay. Did it bleed?
23 A. Yeah.
24 Q. How bad?
25 A. I had to change -- I had to change the

1 A. I've got a scar.
2 Q. So there's a scar?
3 A. There's a scar on my back from that
4 spoon. Matter of fact, there was another scar where
5 she had hit me a little bit above -- a little bit
6 above my -- where she had hit me first, and that's
7 when I had got very angry.
8 Q. Okay. So what you're saying, there's
9 two places?
10 A. There's two scars in my back.
11 Q. So both times she hit you and cut you?
12 Is that what you're saying?
13 A. Marking. That leaves a scar there.
14 She's heavy handed.
15 Q. All right. So why doesn't your
16 complaint mention a cut?
17 A. Complaint.
18 Q. Mm-hmm.
19 A. Does mention -- did not mention a cut?
20 Q. I didn't see one. So if you see one,
21 I'm going to need you to point it out to me.
22 A. (Reading.)
23 Q. I'll point you to what I'm looking at.
24 Paragraph 16 of your complaint, it says that --
25 let's see. Struck the plaintiff twice in his upper

1 bandage on it, I couldn't lay directly on my back at
2 night or whenever I got ready to lay down. I had to
3 lay on my side. Sometimes I had to find -- find
4 myself laying on my back, raised back up. But the
5 medication that I was taking, the Motrin 800, it
6 helped. It helped a whole lot, so I take that three
7 times -- was taking that then three times a day.
8 Q. All right. When did you go to the
9 doctor?
10 A. I -- they told me to sign up for sick
11 call. I said, sign up for sick call? I said, the
12 officer was supposed to call you all and to let you
13 know I was coming because I was hit in my back.
14 They said, this is new.
15 So the shift had changed from the --
16 from Mr. Goodwin -- from Mr. Goodwin's shift, so
17 there was another shift that was on so they didn't
18 know nothing about it.
19 Q. Okay.
20 A. What document are you referring to?
21 Q. I'm looking at one of the requests to
22 staff member forms, which looks like it's the one
23 where you were requesting some treatment.
24 A. Okay. That's -- okay. May 22nd
25 administrative -- from the administrative -- I was

1 trying -- I wrote Ms. Howard. She supposed to treat
2 me because she knows me.
3 Q. Okay.
4 A. But, obviously, I did not get a response
5 from Ms. Howard. The administrator wrote me,
6 medical administrator.
7 Q. Right. Where is this cut on your back?
8 You said the upper part of your back, but where?
9 A. I've got my hand on it right there.
10 (Indicating.)
11 Q. So kind of in the middle, basically?
12 A. Right here. (Indicating.)
13 Q. A little over to the right side. Okay.
14 I'm going to ask you to do something a little
15 strange. I have a diagram, it looks like a little
16 medical diagram like they do in a doctor's office.
17 What I want you to do, we're going to mark it as an
18 exhibit, is mark on here for me where you're talking
19 about. Do you have your pen -- the blue one might
20 be better. You said there's two, so I want you to
21 mark where they are. And I know it's a diagram so
22 it's a rough estimate, but give me an idea of where
23 they are.
24 A. Here and here. (Marking.)
25 Q. So one is in a totally different place?

1 A. Mm-hmm.
2 Q. That's a yes?
3 A. Yes.
4 Q. Okay. Which one is the long one you're
5 talking about? Is that the one here? (Indicating.)
6 A. That's here. (Indicating.)
7 Q. That's the one in the middle of the
8 back -- more in the middle of the back?
9 A. That's correct.
10 Q. Okay. And the other one is just a
11 smaller spot?
12 A. Mm-hmm.
13 Q. Yes?
14 A. Yes.
15 MS. BOLAND: Let's give Drew's pen back.
16 Thank you. Mark that one.
17 (DFT. EXH. 4, Diagram of Body, was
18 marked for identification.)
19 BY MS. BOLAND:
20 Q. So you didn't get to go to medical right
21 when it happened?
22 A. Not right away, because they had the
23 other shift -- other shift came on. They didn't
24 know what was going on. Everybody running in the
25 yard, the -- it was so much going on. I was

1 aggravated, I was upset. They didn't know what was
2 going on. Lieber -- Lieber -- at that time Lieber
3 was wild like it is now. It's been wild. They got
4 the home boys as officers, so...
5 Q. Okay. You haven't been there for a
6 while. How would you know it's wild now?
7 A. From TV. Other inmates. I'll go to
8 Kirkland, same thing. Drug packages. It's worse
9 now than it was.
10 Q. Okay.
11 A. Drug packets, stuff going over the
12 fence, everything. That's why I make that -- make
13 this brief. That's why I was so strict on that back
14 dock, because I was not going with the bull crap. I
15 didn't want -- I brought that dock up to a good
16 standard and all that other corrupt -- all that
17 other crap I wasn't going with.
18 Q. So right after this incident happened
19 and Vern told us that some comments were exchanged,
20 what happened to Ms. Butler? Where did she go?
21 A. I don't know what happened to her. She
22 was just berserk. She went in the store room and I
23 heard a bunch of them laughing. You ain't going to
24 do nothing, I'll lock you up.
25 Q. Okay. Was anything else said to you?

1 A. Yes. She had threatened -- she had
2 threatened to fire me out of the kitchen. If I said
3 anything to anybody, told me she heard -- if she
4 hear anything, her name coming out of my -- her name
5 coming out of my mouth about the situation that --
6 she said since she be working here so long, she say,
7 you know you want to work here. She say, you're
8 not -- I'm not going to let you cook nothing. She
9 said, I'm not going to let you take nothing out of
10 here. Shake -- shook down. She said, you ain't
11 going to work in the kitchen.
12 Q. Okay. Did she ever do anything on that
13 threat?
14 A. After I filed a complaint she did.
15 Q. When was that?
16 A. Well, I wasn't going to pursue it
17 because she was a mother of a family from what I
18 understood. I had talked with Warden Burke 2007
19 about the incident going on with the inmates and
20 food service supervisor, they's ordering the inmates
21 around, threaten them with smacking them around,
22 nothing was done about that, so I went to Warden
23 Stan Burke. I told him the problem before -- before
24 I got injured.
25 Q. Okay.

1 A. I talked with not -- he said he was
2 going to have a meeting with the food service
3 supervisor, Mr. Reeves, and he said, make sure you
4 send me a staff request. So I sent him a staff
5 request. I talked with Mr. Hamms, I talked to
6 Mr. Reeves about the situation. Reeves claimed,
7 say, there ain't nothing I can do. So Mr. Hamms had
8 said that it is too much of that going on in here.
9 He said he's going to get something done about it.
10 And matter of fact, he wrote up one of the food --
11 one of his -- they had hired a new lady and she had
12 observed it. And there's an incident report in
13 regard to that named Ms. White. She wrote up
14 Ms. Leslie -- Gerald Leslie was one of the food
15 supervisors that they had wrote up, and that she
16 seen something that went on. Now, I won't call the
17 contents because I don't have the incident report
18 myself.

19 Q. Right.

20 A. But Mr. Hamms said he was going to get
21 something done about it, so he's tired of seeing the
22 other inmates horse playing and -- with each other
23 and then food service ordering them around,
24 hollering, cussing them out, smacking them around.
25 He said he had enough of it. And he said he was

1 supervisors and directors tell me to -- I ain't had
2 that problem. I ain't had that problem with
3 DeLoach, none -- Ms. Myers, never had that problem.
4 But when the new young girls come in, that's when
5 the problem began to occur.

6 Now, I worked there years at that
7 institution, ain't never had that problem with the
8 food service staff. It's nothing -- nothing to my
9 knowledge on the record that I had a problem, but no
10 sooner than she got there and got her feet down good
11 and they put her in charge and she running things,
12 she let her weight and her size run things in the
13 kitchen the way she want to run it. I had to go
14 with the flow, and that flow was do it like she say
15 or get put out, and I didn't want -- I did not want
16 to lose my job. I loved my job. I loved -- I loved
17 working in the cafeteria. I loved that. It keeps
18 you out of things that's going on in the dorm and
19 occupy your mind doing something constructive,
20 something good. I loved my job. I hated -- I hated
21 that went down, but they ain't never had no problem
22 out of me like that.

23 Q. Okay. You mentioned a little while ago
24 that you -- she threatened to remove you from the
25 kitchen, but that didn't happen until after you

1 going to bring that to Mr. Reeves' attention.

2 And I talked to Mr. Reeves, Mr. Reeves
3 said if he ain't seen nothing, he ain't got an
4 incident report, ain't nothing he could do. And
5 natural -- probably it led to that.

6 Q. Okay. Did you continue to work with
7 Ms. Butler after this?

8 A. Yeah, I did.

9 Q. Did you have any more problems with her?

10 A. Yeah.

11 Q. What kind of problems?

12 A. They tried to make me do all the work in
13 the kitchen, let everybody else go to the dorm. And
14 I just -- I let her know that I was only going to do
15 what I'm assigned to do. I said, all the extra,
16 that ain't what I was hired for or what I'm assigned
17 for. I'll do some, but you're letting your people
18 go and you're letting me stay here to do all the
19 work and I got the back dock to take care of.

20 Other than that, I didn't really have no
21 real serious -- well, she hadn't been that long no
22 way. Butler just got there, just started working
23 there, what, 2000 and I think 7. She ain't been
24 there not long no how. She's new. So I ain't had
25 all that problem before all the new food service

1 filed a complaint. When did that happen? Were you
2 at some point removed from the kitchen?

3 A. I got terminated he said -- Reeves
4 said -- see, I filed a complaint against Reeves;
5 too, which is different from the case. I filed a
6 complaint against Reeves. And...

7 Q. And what was that complaint about?

8 A. Smacking me in my back, ordering me
9 around, telling me, you get to work. What you
10 standing around here for? And -- but that's beside
11 the -- what we're talking about now. But I never
12 had that problem before.

13 Q. Okay. So after this incident you
14 continued to work in the kitchen until April of
15 2009?

16 A. That's correct.

17 Q. Okay.

18 A. And that was -- when I filed -- when
19 they had found out that I filed those complaints and
20 those complaints was to be served at the mail room
21 and pick up the mail, right, and when they -- when
22 she had got it and looked at it and took it to
23 Reeves, I had got word from the inmates they're
24 going to fire you.

25 Q. Do you know if Ms. Butler had any

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1 authority to remove you from the kitchen?
2 A. She claimed she didn't, but she did.
3 There's a lot of incident reports -- Butler had a
4 lot of pull. When I mean by pull, Reeves -- Food
5 Service Director Reeves depended on her. She was
6 part of her -- his best help. What she say, that's
7 it. That was going to be it. And if she wanted me
8 out of that kitchen for whatever reason, I was good
9 as gone. And it didn't made no difference to Reeves
10 how long -- he tried to keep me there, but he said
11 Butler was part of his -- one of his food service
12 supervisors and you're an inmate. Say you always --
13 he say, you always is replaceable and said, your
14 services are no longer needed here. He got his
15 complaint, she got her complaint. And prior to that
16 I just skinned and grinned, laughed things around
17 like everything hunky dory.

18 And the thing that I seen going on in
19 the cafeteria, I had enough of it. I wasn't going
20 to file a complaint, but she kept -- she took one of
21 the same spoons and smacked my man on the finger and
22 bust his finger open. And she give one -- one guy
23 named Mitchell, named Mitchell, she took -- smacked
24 him across the -- the counter and I said, you're not
25 going to report this? And there were a lot of

1 Q. Mm-hmm. Yes.
2 A. And I asked him for a copy of the -- of
3 the request form, and he gave me a copy of the
4 request form.
5 Q. Okay.
6 A. The Warden Bodison -- here it is, right
7 here. This is it right here. (Indicating.)
8 Q. That's what I'm looking at right here.
9 A. She got suspended and was sent home.
10 But I didn't know that for sure, but they
11 investigated it, Bodison said he was going to look
12 into it. Here's my affidavit regarding another
13 incident that she had previously, and this was an
14 ongoing thing with her spraying water in his face.
15 Q. So you did see her spray water?
16 A. Spray water in his face -- hot water in
17 his face by the vegetable prep cooler. And they all
18 sit back and laughed, calling him names, derogatory
19 names. I said, that got to come to a stop.
20 Q. Okay. All right. You can keep your
21 copies, I've got copies of them.
22 A. And this is another person that
23 witnessed -- witnessed her and Reeves doing the same
24 thing.
25 Q. Can you tell me again when did you leave

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1 things that were going on in the cafeteria with her,
2 being accused of having sex with inmates in the
3 store room that I've caught -- I've caught her many
4 times, her and another inmate back there hugging,
5 and I called -- I made like I didn't see it.

6 Q. Okay.

7 A. And I never made any mention of it till
8 now.

9 Q. Who was the one you said you saw her had
10 someone hit someone's hand with the --

11 A. Ricky Davis. Ricky Davis, he was a
12 cook. And there was another person she took that --
13 I've got a document in here, Christopher Jones, she
14 smacked his arm with the spatula.

15 Q. Did you see her smack his arm with a
16 spatula?

17 A. No. To be truthful, no, but I got --
18 let me see. I've got it in here, he filed a request
19 to the warden and reported it.

20 Q. So how do you have copies of Christopher
21 Jones' documents?

22 A. Because I was there at Lieber and his
23 case -- his case and my case we were supposed to
24 have been going to -- we filed in the same county,
25 in Richland County court.

1 Lieber?

2 A. I left Lieber in -- I think it was -- I
3 got transferred from Lieber about the last -- I
4 think -- I'm not sure. I think May -- May -- I
5 think it was May, or was it May or April last --
6 April, May, somewhere between that.

7 Q. Of last year?

8 A. Yes. I've been there, back to Lieber
9 since then.

10 Q. So you went back to Lieber --

11 A. Yeah. I had a hearing --

12 Q. -- at some point?

13 A. I had a hearing scheduled with the
14 Dorchester County under the -- Mr. -- Ms. -- the
15 Honorable Judge Goodstein.

16 Q. Oh, okay.

17 A. And they dropped me off at Lieber.

18 Q. Okay. So were Christopher Jones and
19 Donny Malpass at Lieber at the time that you got
20 these affidavits?

21 A. Yeah.

22 Q. Because I know they've since moved.

23 A. Huh?

24 Q. I said I know at least one of them has
25 since left Lieber.

1 A. I think Donny left. Donny left before
2 T-Top, Christopher Jones. I heard -- I heard he had
3 went to Tyger River or somewhere, somewhere of that
4 nature. But I went there last year, Wednesday,
5 September -- September 23rd was the hearing? Yeah.
6 September 23rd, 2009 for the hearing, and that's
7 where I had got other information in regard to the
8 tray room door that you all had alleged in the other
9 case that the tray room door no longer -- Heath had
10 said the tray room door no longer existed.

11 Q. Okay. And that's to do with the other
12 case; right?

13 A. Yeah. And that's where I had got the
14 affidavits from different ones that that door was
15 still there. And that's where I had did an order --
16 motion the Court to sanction based upon erroneous --
17 I'm quite sure the information that y'all was
18 getting was from John -- from maintenance. They
19 were misleading y'all, giving y'all false
20 information. He did not want the door to be sought
21 by me and nobody to know what it was, but I knew
22 where the door was located at because I'm the one
23 that painted the door when they had moved the tray
24 room door --

25 Q. Let's talk about this case, if you don't

1 Sent to Ms. Butler, dated May 21, 2008,
2 was marked for identification.)

3 BY MS. BOLAND:

4 Q. This first one that we just marked as
5 Number 5 I think is the one you identified to me
6 earlier as the request to staff member to Ms. Howard
7 for medical treatment?

8 A. Mm-hmm.

9 Q. If you'll just make sure I'm correct on
10 that.

11 A. That's correct.

12 Q. Okay. So it looks like up here at the
13 top it's dated May 21st of 2008, and you wrote that
14 you needed to get some medical treatment, that you
15 had asked Officer Goodwin and said you needed to
16 sign up for sick call.

17 A. Okay.

18 Q. All right. Then I've got this other one
19 here as a request to staff member and we marked it
20 as Exhibit 6, also dated May 21st of 2008.

21 A. Okay.

22 Q. And it looks like this one is actually
23 to...

24 A. Butler.

25 Q. Ms. Butler. And then you're asking her

1 mind.

2 A. Right.

3 Q. I have another document I want to show
4 you here. I think this is what we talked about a
5 moment ago, I think you actually just showed it to
6 me. Is this the one where you were talking about
7 the medical request?

8 A. (Reading.) Yeah.

9 Q. This request to staff member?

10 A. Mm-hmm.

11 MS. BOLAND: Can we mark this one?

12 THE WITNESS: This is...

13 MS. BOLAND: I think you showed me this
14 one; right?

15 THE WITNESS: Yeah, that's it. They
16 give me a hard time because they love Butler. They
17 didn't want --

18 MS. BOLAND: Hold on just a second.
19 She's marking.

20 (DFT. EXH. 5, South Carolina Department
21 of Corrections Request to Staff Member
22 Sent to Ms. Howard, dated May 21, 2008,
23 was marked for identification.)

24 (DFT. EXH. 6, South Carolina Department
25 of Corrections Request to Staff Member

1 some stuff in here, why did she do this the other
2 evening.

3 A. Mm-hmm.

4 Q. Do you have your copy of this last one
5 here?

6 A. Yeah. This one?

7 Q. Yeah. So you've got that one, too.

8 A. All right.

9 MS. BOLAND: Hold on just a second.
10 (DFT. EXH. 7, South Carolina Department
11 of Corrections Inmate Grievance Form
12 Step 1, dated May 22, 2008, was marked
13 for identification.)

14 BY MS. BOLAND:

15 Q. And did you ever file a grievance about
16 this incident?

17 A. I did file a grievance.

18 Q. Okay. I just marked something else here
19 as Exhibit Number 7. Can you identify that document
20 for me?

21 A. Yes. Hold on.

22 Q. Okay.

23 A. (Reading.) Yeah.

24 Q. Now, yours has got something written at
25 the bottom.

1 A. Unprocessed -- unprocessed. Matter of
2 fact, at the time and during the time I had wrote
3 her, she sent this.
4 Q. All right. I've seen that. That I
5 have. Can I hold this?
6 A. Yeah.
7 Q. (Reading.) So she noted on the bottom
8 of this one that it wasn't filed through the
9 institutional grievance office.
10 A. At least -- well, at least -- at Lieber,
11 anything goes down there. And that's -- that was
12 the whole problem. The home girls, home boys is at
13 Lieber.
14 Q. What do you mean by that?
15 A. What I mean by that is you've got
16 security officers -- you've got security officers
17 and inmates that are related and -- in other words,
18 they're from the Charleston area.
19 Q. Okay.
20 A. And they have protected her and they
21 protect each other back. They don't want nothing
22 going up front or going to Columbia to headquarters.
23 So what they're going to do, they're going to put
24 some -- something in the mix to keep anything from
25 happening or anybody knowing anything that's going

1 on with you. To keep her -- keep her from getting
2 fired or wrote up, for her to keep her job or he
3 keep his job, that's the thing going on down at
4 Lieber. It's been going on down there.
5 Q. All right.
6 A. So that's what I had -- but my complaint
7 was to Bodison and to Ms. Jenkins as the grievance
8 coordinator there, what's happening with my
9 grievance?
10 Q. Okay.
11 A. We put them in the box at the cafeteria,
12 what happened -- what happened to the grievance?
13 You read it first before you send it up front, and
14 you hold on to the grievance before you turn it in.
15 And, see, that was the whole problem right there
16 going on.
17 Q. She references another one in this
18 letter filed April 29th of 2009. See that at the
19 very beginning?
20 A. Yeah.
21 Q. Did you ever get a response on that one?
22 A. No. I ain't -- I got a response on
23 something here of that nature. It was handwritten.
24 I had a handwritten grievance that I had filed
25 regarding to the incident of -- of April the 15th,

1 2007 when I got terminated.
2 Q. Okay.
3 A. It's a handwritten, but I don't think I
4 have it here on record.
5 Q. I can follow up on that.
6 A. Okay.
7 Q. Let me give you this one back because I
8 don't want to mix it in with my stuff. (Tendering.)
9 All right. Let me go back to these
10 three documents, what I was going to get to.
11 Exhibit Number 7, which is your Step 1 grievance,
12 says that she hit you in your back two times in the
13 cafeteria last evening. And this one is dated...
14 A. 5/22.
15 Q. 5/22?
16 A. Mm-hmm.
17 Q. So that would make the incident 5/21,
18 because I think we talked about this earlier in your
19 complaint you just said May of 2008.
20 A. Yeah. I think it's somewhere around
21 that time.
22 Q. If you filed this on May 22nd, you say
23 it was last evening, that makes it May 21st. Would
24 you agree with me on that?
25 A. I'm not --

1 Q. I'm going by your document now.
2 A. I'm not sure. I'm not sure. Those
3 dates is not per se -- those dates is not -- I can't
4 say for sure that that was that day.
5 Q. But if you filed the document saying it
6 happened last evening and it's dated 5/22, then it
7 has to be 5/21; correct?
8 A. Possible. Possible. It's possible.
9 Q. How could it be anything different?
10 A. I was thinking -- I was going by your
11 documents over here.
12 Q. What documents?
13 A. 5/15. You had a document that's got
14 5/15 -- 5/15/08. (Tendering.)
15 Q. (Reading.)
16 A. Matter of fact, on all of these it's got
17 5/15/08.
18 Q. Okay. That's just what was on our
19 documentation that came to us. It's your incident.
20 A. That's true. That is true. This one
21 here got 5/15.
22 Q. Right. And they're all going to have
23 that. I won't disagree with you on that. They're
24 all going to have that because that would have been
25 what was provided to us as what the estimate was for

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1 A. I can't confirm the fact that I worked
2 with her the last two or three years, and I know
3 that I can't sign it and she never let me sign it
4 because that's not my place.
5 Q. I don't -- I don't disagree with you.
6 A. That's not --
7 Q. That's when officers --
8 A. Inmates cannot sign that.
9 Q. But I don't know that that's Jennifer
10 Butler, either. There could be a different JB
11 from -- sitting here. I don't know.
12 A. Then I object to the fact -- I object --
13 let me, for the record, I will object to the fact
14 that because you lack information of the records, of
15 SCDC records, and you're not an expert as to find
16 out her signature. You're not an expert --
17 handwriting expert and I object to that.
18 But I will say -- I will say this, that
19 no inmates at Lieber were permitted to issue any
20 restricted tools. Those are restricted areas,
21 restricted tools, and that's a restricted area.
22 They're not allowed --
23 Q. I'm not disagreeing with you that this
24 would not be an inmate.
25 A. Okay.

1 A. I asked previous questions in the
2 previous request -- because due to the fact he
3 objected to it, see, it may not lead -- it's
4 overbroad, unburdensome (sic) and does not cal --
5 does not calculate or lead to --
6 Q. Okay.
7 A. So --
8 Q. We may have to have further discussions
9 about that.
10 A. Okay. Let's see. 1624 -- okay. Here's
11 5/1. May -- 5/1. Okay. 5/25, okay. Seven
12 o'clock, 5/25, JB.
13 Q. That's not 5/25.
14 A. 5/25 date. This is the date issued to
15 the inmate. The time it was issued that morning,
16 3:15 and seven o'clock that evening. And this is --
17 this is the description of the tool that was signed
18 out. You've got one and three -- where that paper
19 at? One and three, one and three, female spoon.
20 You've got three and four male spoon by the same
21 party.
22 Q. Okay. So these -- these numbers on
23 here --
24 A. Is what's labeled on the tool.
25 Q. That would be corresponding to these

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1 Q. I'm just saying that we can't confirm at
2 this point in time --
3 A. Because you don't have to.
4 Q. -- who that is because these are
5 initials.
6 A. We don't have an expert.
7 Q. No. We do not know who this is that
8 would have signed off right here?
9 A. So you don't know --
10 Q. Because these are initials.
11 A. So you wouldn't know -- you would not
12 know who it is?
13 Q. I am not on -- being deposed here. You
14 are, Mr. Gregory. We will not discuss this any
15 further at this point in time as far as questioning
16 me as to who this is. All I'm saying is we don't
17 know who this is right here. And you can't confirm
18 to me that this is Jennifer Butler's initials here?
19 A. Then tell me -- then you give me
20 something -- you say I can't confirm it? You tell
21 me whose signature is it, since you are in
22 possession and custody of those records.
23 Q. Have you asked that question in your...
24 A. Yeah.
25 Q. In your discovery request?

1 inventories?
2 A. That's true.
3 Q. Okay. We're going to need to do further
4 looking at these.
5 A. Okay. JC.
6 Q. Okay. So they're issued to -- you're
7 saying would be the inmate?
8 A. This is the inmate.
9 Q. Okay.
10 A. And the inmate ain't going to sign it --
11 ain't supposed to sign it, according to policy.
12 This is a restricted document, and inmates are
13 allowed to do that but the food service director or
14 the food service supervisor designates.
15 Q. All right. I see what you're saying.
16 A. A while back, years back, they -- the
17 tools was in the hands of the inmates. But when the
18 new commissioner came in, that changed that because
19 they were taking the tool -- assaulting people.
20 Taking them to the door, making shanks and stuff.
21 So Warden Burke, when he came to Lieber all that
22 changed.
23 Q. So the inmates have to get them from an
24 officer --
25 A. From the officer or the food service

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1 staff. That's it. And if the tool come up short,
2 they're going straight to lock up.

3 Q. Okay. That makes sense.

4 A. If the inmate's got his name here that
5 signed that, or that the food service supervisor
6 witnessed him getting it, he's going straight to
7 lock up.

8 Q. If he doesn't turn it back in?

9 A. If it's not turned in that time, that
10 day.

11 Q. Okay.

12 A. Nobody is going to the dorm. No inmate
13 is going to the dorm. The doors are going to be
14 locked, cafeteria locked down, secured down, and
15 searching for the tool. The tool don't come up,
16 nobody's going to the dorm. The inmate that signed
17 that tool out is responsible for that tool or he
18 goes straight to lock up.

19 Q. Okay.

20 A. And she -- the part of the food service
21 supervisor that signed it out, she's going to be
22 reprimanded for that by the warden.

23 Q. Okay.

24 A. Because they can be made into shanks to
25 do harm to them, as well as to inmates.

1 that before getting this cut?

2 A. Not in the place where the cut -- I
3 didn't have no problems -- if I eat -- how will I
4 say that? This is like if I go out and play
5 basketball, something like that, get real sweaty.
6 And I go and eat like a peanut butter and jelly
7 sandwich or eat chocolate and if I have aggravated
8 it, it's some nature or some form -- not consciously
9 knowing it; right? It swells up. And how the
10 food -- how the food responds to it, that's a
11 question for medical to -- but I did -- I do have
12 problems and I did have problems with flaring up
13 occasionally whenever I do over -- get overexerted
14 working out, or something like exercising or
15 working.

16 Q. Did you have problems prior to this --

17 A. Not with the cut.

18 Q. -- incident?

19 A. Not with the cut.

20 Q. But you had problems with other things
21 prior to this?

22 A. Somewhat, yes. Somewhat, like this.

23 Q. Okay. Have you talked to medical about
24 what causes that?

25 A. This here? (Indicating.)

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1 Q. All right. Now, you said earlier that
2 you still had a scar. Have you had any additional
3 treatment or are you still getting any kind of
4 treatment related to that injury?

5 A. Yeah, I still take medicine -- I take
6 muscle -- what they call it the muscle -- I don't
7 know why they call it muscle -- every now and then
8 certain things I eat -- certain things I eat, if it
9 gets too hot, if it's real hot.

10 Q. Mm-hmm. Yes.

11 A. Like a lot of chocolate. If I eat
12 chocolate and if I'm working, it can swell up. So I
13 refrain from eating chocolate based upon the -- on
14 the cut.

15 Q. So chocolate causes the cut on your back
16 to --

17 A. No. Chocolate did not cause the cut on
18 my back to swell up -- well, hold on. Let me phrase
19 that. Prior to me having -- saying prior to me
20 having the cut, I didn't have that problem. But now
21 when I got the cut if I eat excessive or eat more,
22 overwork, it be like a whiplash, a flare up. You
23 flare up and I take a pain pill, Motrin or something
24 like that for it.

25 Q. And you didn't have any problems with

1 Q. When you said you had problems with
2 things swelling up.

3 A. Medical -- sometimes medical be so --
4 medical so busy, the nurses and the doctors there,
5 they don't tend to take time out to find out all
6 together things like they consider minor. It's
7 not -- to them, it's not a major thing. You're an
8 inmate prisoner, so they give you this generic
9 painkiller supposedly you go on.

10 Q. Okay.

11 A. So, you know, I don't know.

12 Q. Okay. In your complaint you've alleged
13 that the Department of Corrections was grossly
14 negligent. How do you believe that the Department
15 of Corrections was grossly negligent in this matter?

16 A. When I put Warden Burke, informed him in
17 2007 of what was going on with the food service
18 supervisor, he claims that he was going to look into
19 it and have a meeting with the food service staff
20 and with Reeves, and told me to send him a request
21 to remind him. And then I talked to Hamms,
22 Mr. Hamms, the food service director, about the same
23 thing. I mean, they are new. The warden was pretty
24 much -- well, he been there for a while but the --
25 Hamms was new, Butler was new, they all was new

1 there at the institution so -- and then the fact is
2 at Lieber Correction there's a lot of
3 African-Americans down there. So Mr. Hamms being --
4 he being Caucasian, he just coming there; right?
5 They ain't going to listen to him.

6 Q. Okay.

7 A. That was a problem going on at Lieber.
8 They ain't going to listen to him. They didn't like
9 white people come down there running nothing. Not
10 in the kitchen.

11 Q. Okay.

12 A. Because it's been predominant black
13 there for a long time. Most of them home boys so, I
14 mean, he could do -- the best he could do is tell
15 Reeves, you know. He wasn't -- that was to my
16 knowledge. He would have to speak for himself on
17 that.

18 Q. What about John Ozmint? You've named
19 him specifically as a party to this suit. What did
20 he do that was grossly negligent?

21 A. It's referring to my exhibits.
22 (Reading.) Okay. Filed the exhibit with my
23 plaintiff -- notice of motion to -- Motion and
24 Objecting to Opposing Defendant's Counsel Memorandum
25 in Support of Summary Judgment. That's on Page 2,

1 Paragraph B: The Commissioner was responsible for
2 describing rules and regulations to redress under
3 Title 24-1-140, to redress and enforce the aforesaid
4 rules towards employees' conduct of mistreatment
5 against the plaintiff. Title 24-1-210. He
6 was responsible as under the doctrine of
7 respondent's superior to properly investigate the
8 misconduct of Ms. Butler, Title 24-3-17, and the
9 fact that he failed to investigate the conduct of
10 Ms. Butler and he failed to prosecute her for her
11 misconduct outside of the scope of her official
12 duty.

13 Q. Okay. Now, tell me what it is exactly
14 that you're seeking from this suit.

15 A. Is this deposition is a conference --
16 settlement conference.

17 Q. This is a deposition and I need you to
18 tell me what you're seeking as your damages in this
19 suit.

20 A. (Reading.)

21 Q. And I don't want you to read it straight
22 from your complaint. I'd like for you to tell me
23 what you're seeking to gain from this suit, what you
24 are looking for.

25 A. One -- one thing I'm looking for is that

1 she need to be fired, terminated from the Department
2 of SCDC. That's one. She needs to be fired. I'm a
3 resident here and it was wrong -- it was wrong for
4 her to remain here on the property, re -- remain
5 there at Lieber Correctional Institution, continuing
6 at that time to do what she did and nobody did
7 nothing about it, thinking she was all in the right
8 and I'm in the wrong. The inmate don't know what
9 he's talking about, or let's just push this over.
10 Because she still had been doing a lot of things and
11 getting away with it, everybody hush hush, push it
12 under the rug, and I want her to be terminated.

13 Q. All right. What else?

14 A. I have in mind to take it to the Federal
15 Court further, because the fact is while I'm in the
16 custody of South Carolina Department of Corrections,
17 under the statute that was opposed (sic) upon South
18 Carolina Department of Corrections was to protect
19 the prisoners or inmates as me, the Plaintiff, from
20 unreasonable and unnecessary harm, harmful violence
21 that occurred. And the fact that SCDC failed to
22 exercise their reasonable duty of care that was owed
23 to me, the Plaintiff, they breached that statute --
24 they breached that statute by violating it.

25 Q. Okay.

1 A. Proximately causing my injury. They
2 failed to monitor, supervise and control
3 Ms. Butler's conduct of assault, intentional assault
4 and battery. They failed to do that when they was
5 put on prior notice. Prior to me getting injured.

6 Q. Okay. What else?

7 A. And I'm seeking for monetary relief. I
8 had -- in my complaint I asked for \$250,000.

9 Q. Okay. Anything else?

10 A. If -- if you had decided to -- if we
11 were to settle the matter, rather than take it to a
12 jury trial, if -- I would have to see what this
13 lawyer is going to do tomorrow if he come. If we
14 would decide to settle it, right, for each time she
15 struck me in my back I will reduce it to \$50,000.
16 \$25,000 per hit and fire her.

17 Q. Okay. Do you need any more medical
18 treatment?

19 A. For the back?

20 Q. Yes, sir.

21 A. They're taking that -- I'm a resident.
22 I'm a resident here and they -- they're going to do
23 that regardless of whenever I file a request to
24 staff. They're going to do that regardless since
25 I'm a resident here.

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1 Q. All right.

2 A. And they're -- they're not going to
3 take me to be -- they're not going to take me
4 outside to a street doctor just for a cut or alleged
5 pain, they ain't going to do that because if they
6 didn't do it -- if they didn't do it for the tooth
7 that almost killed me, the toothache that almost
8 killed me, they're not going to do it for the cut
9 that's healing.

10 Q. Okay.

11 A. So that's -- that's what I -- I asked
12 for. Now, that's only from the Department of
13 Corrections, the Defendant. That ain't got nothing
14 to do with Butler, not alone. What I mean, she's
15 going to be sued in her individual capacity because
16 under Title 15-78 -- dash.70B and under 15-3-535,
17 she has to be brought before the Courts individually
18 for malicious act. And I'm bringing SCDC because
19 they failed to control her and supervise her and
20 monitor her conduct outside of the scope of her
21 official duties while she was on -- coming in and
22 out on Liber -- Lieber's cafeteria and they had --
23 had -- they had the -- they had knowledge, they knew
24 about it. They knew about what was going on in the
25 cafeteria with her and they had necessary

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1 opportunity to get her conduct outside the scope of
2 her official duty in control but they failed to do
3 that. And by their failure to do that, that's
4 negligent supervisor, it's cross negligence.

5 MS. BOLAND: All right. I don't think I
6 have any other questions.

7 (A recess transpired.)

8 BY MS. BOLAND:

9 Q. Mr. Gregory, the only other thing that I
10 think you were talking about that scar earlier, and
11 I'm going to need to see that somehow so we need to
12 figure out a way so I can take a look.

13 A. I don't know how SCDC -- y'all are the
14 attorney.

15 MR. STOKES: You can pull your shirt up.

16 MS. BOLAND: Yeah.

17 THE WITNESS: Right now?

18 BY MS. BOLAND:

19 Q. Yeah. If you can do that right now, I'd
20 like to see it.

21 A. (Taking shirt off.)

22 MR. STOKES: Which one are you talking
23 about?

24 THE WITNESS: (Indicating.)

25 BY MS. BOLAND:

1 Q. So you're saying -- okay. Down here
2 you're saying is the one?

3 A. Mm-hmm.

4 Q. And then you said there was another one
5 somewhere else?

6 A. On the back there.

7 Q. That up there on the top?

8 A. Mm-hmm.

9 MR. STOKES: What about the ones on --
10 those aren't...

11 THE WITNESS: No, those are -- those are
12 not. That's not that.

13 BY MS. BOLAND:

14 Q. Well, these other ones, where did you
15 get these other ones? You've got a mark over here
16 that you just hit.

17 A. Right here? That's from that staph
18 infection.

19 Q. Okay. So you've had some other stuff
20 going on?

21 A. Recently.

22 Q. Okay.

23 A. That January when I was cleaning the
24 showers over there and Murray and they -- see,
25 you're going to hear from that.

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1 Q. Turn around one more second.

2 A. Give me a lock jaw, and they had to take
3 me out of medical -- escort me to medical and give
4 me two shots in my hips. That's recently. And then
5 they kept me on antibiotics.

6 MS. BOLAND: I think that's all I have.
7 Thank you.

8 (The witness, after having been advised
9 of his right to read and sign this transcript, does
10 not waive that right.)

11 (The deposition was concluded at 12:03
12 p.m.)

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Clarence Gregory

October 15, 2008

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Page 1

STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS
COUNTY OF RICHLAND CA NO. 2007-CP-40-03742

CLARENCE GREGORY, 227394,
Plaintiff,

vs.

JONATHAN E. OZMINT, COMMISSIONER of SOUTH CAROLINA
DEPARTMENT OF CORRECTIONS (SCDC); MORRIS ELMORE,
LIEUTENANT & ENVIRONMENTAL HEALTH & SAFETY OFFICER
(EHSO); CLAUDE HILTON and JOHN SAWADSKE,
MAINTENANCE & REPAIR ENGINEERING, DIRECTOR(s) at
LIEBER CORRECTIONAL INSTITUTION (LCI); SOUTH
CAROLINA DEPARTMENT OF CORRECTIONS, each sued in
their individual and official capacity, et al,

Defendants.

DEPOSITION OF: CLARENCE GREGORY, 227394
DATE: October 15, 2008
TIME: 11:30 a.m.

LOCATION: Lieber Correctional Institution
136 Wilborn Drive
Ridgeville, SC

TAKEN BY: Counsel for the Defendants

REPORTED BY: PATRICIA THOMPSON-MORRISON
Registered Professional Reporter

A. WILLIAM ROBERTS, JR., & ASSOCIATES
Fast, Accurate & Friendly

Charleston, SC Myrtle Beach, SC Greenville, SC
(843) 722-8414 (843) 839-3376 (864) 234-7030

Columbia, SC Hilton Head, SC Charlotte, NC
(803) 731-5224 (843) 785-3263 (704) 573-3919

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Clarence Gregory

October 15, 2008

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1 APPEARANCES OF COUNSEL:

2 CLARENCE GREGORY #227394, Pro se.

3 ATTORNEYS FOR THE DEFENDANTS

4 JONATHAN E. OZMINT,
5 Commissioner of South Carolina
6 Department of Corrections, et al:

7 RILEY POPE & LANEY, LLC

8 BY: HEATH STEWART

9 2838 Devine Street
10 Columbia, SC 29205
11 (803) 799-9993
12 hstewart@rplfirm.com13
14
15
16 (INDEX AT REAR OF TRANSCRIPT)
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19
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Page 4

1 deposition taken before?

2 A. Yes.

3 Q. You have? So you are familiar with the
4 process?5 Mr. Gregory, are you going to answer my
6 question?7 THE WITNESS: Can we go off the record.
8 (Discussion off the record.)

9 BY MR. STEWART:

10 Q. Mr. Gregory, have you ever had your
11 deposition taken before?

12 A. Yes.

13 Q. You have? In what type of case was it? Was
14 it a civil case?

15 A. It was a civil case.

16 Q. Were you a party to that case?

17 A. Yes, sir.

18 Q. Were you the plaintiff or the defendant?

19 A. Plaintiff.

20 Q. You were the plaintiff? Who were you suing
21 in that lawsuit?

22 A. In regard to car damage.

23 Q. So this was a personal injury lawsuit?

24 A. Yes.

25 Q. So you are familiar with the way this is

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1 CLARENCE GREGORY #227394

2 being first duly sworn, testified as follows:

3 EXAMINATION

4 BY MR. STEWART:

5 Q. Mr. Gregory, my name is Heath Stewart and I
6 represent the Department of Corrections and various
7 other defendants in a lawsuit filed by you.8 Now, you do not have counsel today; is that
9 correct?

10 A. As of now. He's supposed to be here.

11 Q. But there is no attorney here representing
12 you right now?

13 A. Presently.

14 Q. And you have not retained any attorney to
15 represent you? Yes or no?16 A. Well, there was counsel -- I had wrote
17 counsel. To that extent he was supposed to be here
18 for the deposition. Now, what happened to that time,
19 I don't know.20 Q. But as of today sitting here right now you do
21 not have an attorney? You are representing yourself?

22 A. That's true.

23 Q. Have you ever had your deposition taken
24 before?

25 Mr. Gregory, have you ever had your

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1 going to work. I'm going to ask you questions and
2 then you will answer my questions. You are under
3 oath, so you do have to answer truthfully.4 I'm not here to trick you. I'm not here to
5 make you give me any information you don't want to
6 give me. I'm just simply here to get more
7 information on the case that you have filed against
8 the Department of Corrections.9 This is a court reporter. She is taking down
10 everything that we say. All your answers will be
11 taken down and all my questions will be taken down.
12 It's important that you verbalize an answer, so
13 that's a yes or a no. No shakes of the head, no
14 "uh-huh's" because she's got to take a record of
15 that.16 If you need a break, just let me know. We'll
17 be happy to take a break. If you do take a break,
18 you can't discuss your testimony with anyone. And if
19 you don't understand a question, just ask me to ask
20 it again or rephrase it. I will be happy to do that.21 Are you under the influence of any
22 medications or drugs or anything that would prevent
23 you from testifying today?

24 A. No.

25 Q. What is your full name?

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- 1 A. Clarence Sylvester Gregory.
- 2 Q. What is your birth date?
- 3 A. 7/28/62.
- 4 Q. How old are you?
- 5 A. 46.
- 6 Q. And where were you born?
- 7 A. Gafney.
- 8 Q. South Carolina?
- 9 A. South Carolina.
- 10 Q. And are you married?
- 11 A. No.
- 12 Q. Have you ever been married?
- 13 A. No.
- 14 Q. Do you have any siblings?
- 15 A. No.
- 16 Q. You don't have any brothers or sisters?
- 17 A. You mean brothers or sisters?
- 18 Q. Right.
- 19 A. Yes, I do.
- 20 Q. And what are their names?
- 21 A. Grover Lee, Brady Matthew, Jessie Earl, Ricky Dean, Charles Edward, Terry Ann.
- 22 Q. These are all brothers and sisters?
- 24 A. Yes. I have some more.
- 25 Q. How many approximate brothers and sisters do

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- 1 you have?
- 2 A. It's approximately 15 to 16.
- 3 Q. Those are all blood brothers and sisters?
- 4 Those come from the same mother and father?
- 5 A. The first that I named came from the biological mother and father. The other was by marriage.
- 8 Q. So it's kind of a mixed family?
- 9 A. That's correct.
- 10 Q. Do you have any children?
- 11 A. No.
- 12 Q. Do you have any relatives in Richland County?
- 13 A. Not to my understanding.
- 14 Q. So all your family is here in the Charleston area?
- 16 A. No.
- 17 Q. Where are they?
- 18 A. Gafney, South Carolina; Blacksburg; Jersey, New York. Pretty much all around.
- 20 Q. But you don't have any relatives, cousins, aunts, uncles or anything in Richland County that you know of?
- 23 A. I don't think so. I'm not sure.
- 24 Q. Where did you go to high school?
- 25 A. Gafney Senior High School.

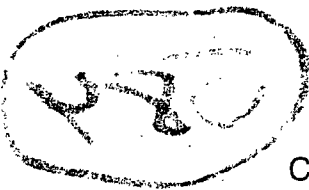
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- 1 Q. When did you graduate?
- 2 A. 1981.
- 3 Q. Did you do any schooling after high school?
- 4 Any college?
- 5 A. No.
- 6 Q. Junior college?
- 7 A. No.
- 8 Q. Technical schools?
- 9 A. No. No.
- 10 Q. Were you ever in the military?
- 11 A. No.
- 12 Q. And you are presently incarcerated; correct?
- 13 A. That's correct.
- 14 Q. And what are you in prison for?
- 15 A. Murder, armed robbery, first degree burglary.
- 16 Q. And how long is your sentence?
- 17 A. To natural life, 25.
- 18 Q. That's two natural life sentences plus a 25-year sentence?
- 19 25-year sentence?
- 20 A. Yes.
- 21 Q. Are those running concurrent?
- 22 A. Consecutive.
- 23 Q. And you're currently at Lieber Correctional Institution?
- 24 Institution?
- 25 A. That's correct.

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- 1 Q. Have you ever been at any other correctional institution?
- 2 A. Yes.
- 4 Q. Which ones?
- 5 A. Perry Correctional, McCormick Correctional, Northside Facility, Browns Creek Correctional in North Carolina.
- 8 Q. Browns Creek is in North Carolina?
- 9 A. Yes. The federal bureau prison, Estell.
- 10 Q. Estell?
- 11 A. Estell.
- 12 Q. E-S-T-E-L-L-E?
- 13 A. It's E-S-T-E-L-L, Estell County prison, county.
- 15 Q. That was federal?
- 16 A. Federal bureau of the prison.
- 17 Q. Where else?
- 18 A. Salisbury High Rise, Salisbury, North Carolina.
- 20 Q. Is all that on your current charge, or are those different?
- 22 A. No; different.
- 23 Q. Approximately how many times have you been arrested and institutionalized?
- 24 arrested and institutionalized?
- 25 A. I was arrested in the year of 1991 and I did

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1 18 months at Northside.
2 Q. What was that for?
3 A. It had to do with a construction site, that I
4 plead guilty that I had -- working on a construction
5 site and it had to do with --
6 Q. What were you convicted of or what did you
7 plead guilty to?
8 A. It was obtaining -- I had bought some
9 building material to reconstruct a building, but the
10 building material had got taken. And the lady there
11 had accused me, and then when I filed -- when I had
12 filed the claim, that she said put more on there than
13 what it was. So that's what it was.
14 Q. That was 1981?
15 A. No; 1991.
16 Q. That was the first time that you were
17 convicted or pled guilty?
18 A. Yes.
19 Q. Which one? Did you plead guilty?
20 A. I pled guilty to that.
21 Q. How long was that sentence?
22 A. 18 months.
23 Q. That was in South Carolina?
24 A. Yes.
25 Q. How about after that? Any other arrests,

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1 convictions, guilty pleas other than the one that
2 you're presently incarcerated for?
3 A. Yes. It was an income tax scam that I was
4 involved in.
5 Q. When was that?
6 A. It was in 1992.
7 Q. And that was for tax evasion?
8 A. Tax evasion.
9 Q. That was in South Carolina?
10 A. Yes.
11 Q. How long was that sentence?
12 A. I think I spent something like a year. A
13 year or two years. Something like that.
14 Q. How about after that?
15 A. Here.
16 Q. For this current charge?
17 A. Yes.
18 Q. And what was the federal charge? You were in
19 a federal prison? Was that for this current charge
20 or was that for the tax charge?
21 A. No; for the tax charge.
22 Q. And prior to your incarceration what was your
23 work history? What did you do for a living?
24 A. Variety of work, such as sheetrock.
25 Q. So construction?

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1 A. Yes.
2 Q. And you did that up until your incarceration?
3 A. Yeah.
4 Q. And in prison do you have a prison job?
5 A. Yes, I do.
6 Q. What is that?
7 A. I am the cafeteria inmate shift leader and I
8 do a variety of jobs. Make sure everything is clean,
9 trash -- particularly trash taken out of the
10 cafeteria. Helping different areas.
11 Q. So you're the shift supervisor for other
12 inmate cafeteria workers?
13 A. Yes.
14 Q. So you do work in the cafeteria --
15 A. Yes.
16 Q. -- currently?
17 A. Yes, sir.
18 Q. And that's every day?
19 A. Every day.
20 Q. And your main duties are trash pickup and
21 supervising other inmates?
22 A. Yeah. Well, not so much supervising inmates,
23 but make sure that the job is carried out, the place
24 is clean prior to leaving for the night before we get
25 locked down. Make sure it's carried out and

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1 everything is done.
2 Q. And how long have you had that position?
3 A. Since '95. Since '96. I think I got hired
4 in May of '96.
5 Q. '96?
6 A. Yes.
7 Q. And you've held that continuously since 1996?
8 A. Well, not that particular position, but the
9 job assignment in the cafeteria. I worked a variety
10 of places in the cafeteria.
11 Q. So in some capacity you've been a cafeteria
12 worker since 1996?
13 A. Yes, sir.
14 Q. Have you risen up the level of job scale? In
15 other words, did you start out as just a food service
16 aide and then worked your way up to a shift leader?
17 A. That's correct.
18 Q. Now, as I said earlier, you filed a lawsuit
19 against the Department of Corrections and various
20 other defendants; correct?
21 A. Yes, sir.
22 Q. And you filed that lawsuit in July of 2007,
23 July 5th, 2007.
24 A. Well, that was amended. I filed it June 5th,
25 2007.

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1 Q. And it concerns events that occurred on
2 June 6th, 2005?
3 A. That's correct.
4 Q. Can you tell me what happened?
5 A. Let me refer back to the Complaint.
6 Q. Can you just give me a brief description of
7 the events that went on on June 6th, 2005?
8 A. Well, I was given an order to close the
9 cafeteria door while Edisto was coming in as I was
10 going to the tray room.
11 Q. So this was while you were working in the
12 cafeteria as an inmate worker?
13 A. Well, my shift hadn't started.
14 Q. And so what happened?
15 A. So I was going to -- I go in the tray room
16 and close the tray room door behind me --
17 Q. Did you close the tray room door?
18 A. I tried to close it.
19 Q. And what happened?
20 A. And while I was closing the tray room door I
21 got distracted. People behind me; people outside the
22 tray room door. And when I grabbed the door and
23 closed it to pull it up somebody -- I knew somebody
24 had kicked it, but I didn't know who it was.
25 Q. So somebody kicked the door while you were

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1 closing it?
2 A. I don't know whether they was trying to help
3 me close the door or whether they did it on purpose.
4 So to that extent . . .
5 Q. So did the door close? Did it remain open?
6 A. It closed all right.
7 Q. And what happened?
8 A. My fingers -- I couldn't move fast enough.
9 My fingers got caught.
10 Q. Which fingers?
11 A. The left hand.
12 Q. Your left hand?
13 A. The whole hand got caught in the door.
14 Q. Which fingers on your left hand?
15 A. This one, this one and that one.
16 Q. You are pointing to your left middle
17 finger --
18 A. Middle finger.
19 Q. -- ring finger and pinky finger?
20 A. Yep.
21 Q. And they got caught in the door?
22 A. Uh-huh.
23 Q. And what happened?
24 A. So I had to push the door off my hand, and
25 when I pushed the door off my hand a man behind me

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1 had asked me a couple of questions was I all right,
2 and from that point I left the scene and went and
3 seen Lieutenant Lotte. He was in the cafeteria at
4 the time. Then McBride, Lieutenant Fletcher McBride
5 also. I went to see both of them.
6 He said: What happened to your hand?
7 I explained to them what happened to my hand, and
8 he escorted -- then McBride made a phone call and
9 he escorted me out to Medical.
10 Q. Here at the prison?
11 A. Right up here. The medical infirmary here.
12 After I entered Medical I was -- it's
13 referred to in the Complaint an inmate by the name
14 of, I think, McFadden had brought up and saying he
15 had my finger -- my fingertip in a plastic bag.
16 Q. Your finger?
17 A. All of that was off.
18 Q. You are pointing to your left -- like I said,
19 earlier, we're on the record.
20 A. Left fingertip.
21 Q. Left middle fingertip?
22 A. All of that was off.
23 Q. And you pointed from below your nail?
24 A. Below all the nail.
25 Q. All the way up to the top of your finger was

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1 off?
2 A. Off.
3 Q. Was that skin? Was there bone?
4 A. Well, bone was sticking out and --
5 Q. So you say the whole tip of your left middle
6 finger was just gone?
7 A. Yes.
8 Q. But today it looks like you have the whole
9 top of your finger is intact.
10 A. That's true.
11 Q. So you allege in your Complaint that your
12 finger or your fingers were amputated, but sitting
13 here today it looks like you have all of your fingers
14 intact.
15 I'm just trying to understand what your
16 injuries were.
17 A. Well, referring back to the Complaint, I gave
18 an explanation as to that fact about what happened
19 in the nature of when I said finger or fingertips.
20 I explained that in the Complaint.
21 Q. And that's why I'm asking. So it wasn't your
22 whole finger?
23 A. No; it was not my whole finger.
24 Q. It was just the bare tip?
25 A. No; it wasn't no bare tip. It was the

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1 entire -- all of that come off.
2 Q. You keep pointing from the top of your
3 knuckle to the top of your finger, but I'm looking at
4 your hand, and you have all of your fingers. So I
5 just don't know if you're alleging that they were
6 amputated and then sewn back on or if you were just
7 cut, if your nail was clipped. I'm just trying to
8 understand.
9 A. Let me explain this to you. There wasn't --
10 none of this was here.
11 Q. "None of this" being your --
12 A. The nail. All that was off. I went to
13 Medical and asked them could they put it back on.
14 I went to Trident medical, Trident Regional.
15 Q. And that's outside of the institution?
16 A. Yes. The doctor say that he could not put it
17 back on due to the fact that it may have gangrene in
18 it.
19 I said: But it's on ice. He said he still
20 couldn't put it back on. He said furthermore he
21 would have to cut some of the bone off in order to
22 close the wound -- it was severe bleeding -- and that
23 the bone itself would be exposed to air and that it
24 would be exposed. So he had to cut the bone off the
25 finger in order to close the wound that they could

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1 all grow back.
2 Q. Let's go back a little bit.
3 You were trying to close the cafeteria tray
4 room door. What is that?
5 A. It was a man-made door that maintenance made.
6 A steel door.
7 Q. Covering what? Was it just a single door?
8 A. A single door, just like -- it didn't -- the
9 tray room only had one way in and one way out, or
10 entrance. If it had been another way in or out, I
11 would have entered or exited that, but it has nothing
12 but that way to enter or exit.
13 Q. So that's the only way in and out --
14 A. That's the only way in; the only way out.
15 Q. Of the back side of the cafeteria?
16 A. The tray room. Of the entire tray room area.
17 There is no way you can go out of it other than just
18 that door. Or enter it. Just that door.
19 Q. Is it a solid door? Is it made out of wood?
20 Is it a screen-door?
21 A. No.
22 Q. What type of door is it?
23 A. The door that was up there at the time of my
24 injury, it was a -- I would say a steel door, but I
25 don't think it's steel -- it would be an iron door.

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1 They're manufactured over in the maintenance shop,
2 and it was very heavy.
3 Q. Was it solid steel?
4 A. Solid iron.
5 Q. So you couldn't see through the door?
6 A. Not solid to that extent, but it was -- you
7 could see through it. You could see through it. It
8 was like a big metal piece in front of it, up from
9 the bottom all the way up, but it had, I think, bars
10 running through it.
11 Q. So it wasn't solid like this table?
12 A. Not solid-solid to that extent.
13 Q. You said this is the tray room where inmates
14 are given their cafeteria trays?
15 A. It's the tray room area where trays to be --
16 for food to be disposed of after eating and where the
17 dishes -- the trays will be washed and cleaned and
18 put back on the serving line or the diet line for the
19 population, general population side.
20 Q. Does this door normally stay open, or does it
21 remain closed?
22 A. That discretion falls upon the food service
23 supervisor and the security, and during that time it
24 falls upon the food service director, Miss Myers.
25 Q. Miss Myers?

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1 A. Yes.
2 Q. She was a food service director?
3 A. Miss Myers and Miss Tennant, food service
4 directors.
5 Q. They would be the ones to tell you whether or
6 not the door needs to remain opened or closed?
7 A. That's true.
8 Q. On June 6th of 2005 was the door supposed to
9 be open or closed when not in use? When people
10 weren't going in and out of the door, did it remain
11 open? Was it supposed to be closed?
12 A. Well, refer back to the Complaint.
13 Miss Myers, food service director, and Tennant had
14 stated and gave an order that during meals or when
15 the meals -- during population to be fed the door
16 is to remain closed for whatever reasons.
17 Q. So when it's not in use the door was supposed
18 to be closed, and that's why you were closing it?
19 A. Yes; based upon her order. She gave orders
20 to close the door. If you go in the tray room, close
21 the tray room door behind you.
22 Q. Is there a door handle? How were you closing
23 it?
24 A. That's the whole thing. It didn't have no
25 handle. It didn't have a handle on the inside of the

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1 tray room door. Usually the door remains open and
2 push it back against the dining room window. It
3 usually stays open, and it depends on who is working
4 food service and other things that was going on at
5 that time.
6 Q. So somehow you managed to close the door and
7 get your left hand caught in the door?
8 A. Yeah.
9 Q. Where in the door did you get it caught?
10 A. Between the frame, inside of the frame, the
11 entrance of the frame door. Where the door comes
12 into, that part of the door.
13 Q. So you got it caught between the actual door
14 and the door frame?
15 A. I think you would call it the door jamb,
16 I think is the word you use.
17 Q. You mentioned you came to the Lieber medical
18 clinic, and what did they do for you there?
19 A. Gave me about three or four shots.
20 Q. Do you know what for?
21 A. Pain, excruciating pain. I was sweating,
22 shaking, holding my hand.
23 Q. So they gave you pain shots. Did they do
24 anything else for you?
25 A. Yes.

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1 Q. What else did they do?
2 A. Kept it in water, rinsed it down with water
3 because of severe bleeding, constantly bleeding.
4 Q. So they just washed it off and gave you pain
5 medication?
6 A. They kept holding it, telling me to hold it
7 up; kept it in the towel.
8 Q. So they bandaged it?
9 A. Somewhat, yes.
10 Q. As best as they could?
11 A. As best they could.
12 Q. Did you go anywhere else for any treatment?
13 A. Yes, I did.
14 Q. Where did you go?
15 A. Trident Regional Medical.
16 Q. Where is that?
17 A. 9330 Plaza Road, Charleston.
18 Q. It's in Charleston?
19 A. Yes.
20 Q. And what did they do for you at Trident?
21 A. Give me shots, rinsed it off.
22 Q. Did they bandage it?
23 A. No, they didn't bandage it. He had to stitch
24 it. I received stitches. He had to stitch it up.
25 Q. How many stitches?

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1 A. I don't remember, but there was a lot of
2 stitches.
3 Q. When you say they had to stitch it up, was it
4 just your middle finger?
5 A. It was more than my middle finger.
6 Q. What did they do?
7 A. The left middle and the third and fourth
8 finger, they stitched the third -- they had to cut
9 the bone. They had to bring Dr. Mike -- William
10 Wilson. He was an orthopedic specialist, and I had
11 to wait about 30 to 45 minutes for him to come.
12 Mr. Taylor, he was hand and bone -- he was a
13 hand specialist, but he said he did not have
14 expertise to go any further with it. And to that
15 extent the way my finger was sticking out, he said
16 you would have to get an orthopedic specialist, a
17 bone specialist to cut the bone off. He said it's
18 got to be cut off and then stitched up. He was able
19 to save some of the -- the tips and stuff that was
20 open on that finger, the fourth finger, but the third
21 finger he couldn't save.
22 Q. He couldn't save the finger?
23 A. He could not save the tip that I had
24 requested that was in the bag with the nail and --
25 the phalange.

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1 Q. The phalange being your top knuckle?
2 A. The top part of it. He could not save that.
3 Q. So was that the top part of your middle left
4 finger? Was that amputated?
5 A. Yes, sir.
6 Q. So there was no top of your left middle
7 finger?
8 A. No. Let me rephrase that. Again, I say --
9 the bone was sticking out of the middle finger.
10 There was no covering here.
11 Q. Skin? There was no skin?
12 A. There was no skin at all, no nail. None of
13 that was there.
14 Q. And that was just on your left middle finger?
15 A. Middle finger and the fourth finger was like
16 that as well, but he said since it was hanging on --
17 since it was just hanging, he said he would think
18 that -- he didn't think it would hurt anything by me
19 stitching it at my request. He went ahead and
20 stitched that up.
21 Q. So your left ring finger or your left fourth
22 finger, the top of it was actually hanging off?
23 A. That's true.
24 Q. And it was the whole finger was stitched back
25 on?

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1 A. I don't know -- not the whole finger. That's
2 not even referred in the --
3 Q. I'm just trying to understand. Because
4 sitting here today it looks like you have all five of
5 your left hand fingers. So if they were amputated,
6 I don't know if the doctor sewed them back on, if
7 you regrew your fingers.
8 A. The doctor say he stated in his report and as
9 you see in the medical record it was a partial
10 amputation.
11 Q. So it was more the top tip of your finger?
12 A. All that.
13 Q. You are still pointing from the knuckle up?
14 A. From the phalange. The first part of the
15 phalange of the third and fourth finger was partially
16 amputated.
17 Q. So from the bottom of your nail up was just
18 gone?
19 A. Uh-huh.
20 Q. But wouldn't you agree sitting here today you
21 have all five of your left hand fingers are intact?
22 A. But having stitches remaining in there is
23 another thing.
24 Q. I am not discounting that you were injured.
25 I'm just asking: Sitting here today you have all of

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1 your fingers?
2 A. Just because of the medical. With the
3 medical.
4 Q. But you do have all of your fingers?
5 A. That's correct.
6 Q. And you have all parts of your fingers? You
7 have your nail?
8 A. I'm missing bone. Still missing bone. The
9 bone was amputated.
10 Q. Are you right handed or left handed?
11 A. I'm both. I can use both.
12 Q. You can use both?
13 A. Yes.
14 Q. When you write which hand do you use?
15 A. I mostly use the right hand.
16 Q. So when you eat do you eat with your right
17 hand or your left hand?
18 A. I eat with both. I mean, either one. I can
19 use either one.
20 Q. But in most day-to-day activities which hand
21 do you use?
22 A. My right.
23 Q. After you were seen at Trident were you
24 brought back to the prison?
25 A. Yes, I was.

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1 Q. And what happened from there? Did you see
2 any more medical personnel?
3 A. Yes.
4 Q. Did you just go back to your cell?
5 A. No. I had seen Miss Sally Blake when I came
6 back from Trident Medical. I was given advice to
7 report back to Medical once I come from Trident.
8 Q. Who gave you those recommendations? Did the
9 people at Trident tell you to come back to the prison
10 and see the prison staff?
11 A. Well, Trident gave me some follow-up days to
12 come back to Trident for further treatment, but SCDC
13 physician, Dr. Walter Smith, refused to allow that.
14 And I contact Warden Burke about it, and he said:
15 He's the physician. So I never -- I never returned
16 back to Trident for any followups or to remove the
17 stitches because the physician doctor here would not
18 allow it.
19 Q. Did he give you a reason for not allowing
20 you --
21 A. He said it's too expensive.
22 Q. And you've mentioned the stitches. Were your
23 stitches ever removed?
24 A. Not all of them. I still have stitches in my
25 third phalange finger as of today.

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1 Q. You still have stitches from 2005 in your
2 left middle finger?
3 A. Yes, sir.
4 Q. How many would you guess are still in your
5 finger?
6 A. Maybe three.
7 Q. Three out of a total of -- how many stitches
8 did you receive?
9 A. I can't -- I can't specify with that.
10 Q. But at least three sutures or stitches remain
11 in your left middle finger as of today?
12 A. Yes. I know there were more than --
13 I remember him stitching in more than nine times.
14 Q. So it was at least nine stitches in that one
15 finger?
16 A. To my knowledge it was to that extent or
17 more.
18 Q. When your stitches were removed, were they
19 removed here at Lieber?
20 A. Yes.
21 Q. The ones that were --
22 A. Well, some of the stitches were removed.
23 They were removed here at Lieber by Sally Blake and
24 Palmer. I think Miss Elaine Palmer, nurse
25 practitioner.

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1 Q. When you came back from Trident and you went 2 for follow-up visits here at Lieber, what did they do 3 for you? 4 A. We continued to change the bandages because 5 of the dripping of the bleeding. The bleeding was 6 constantly -- I was constantly bleeding, bleeding 7 slowly. They would not give me therapy, not until 8 the stitches were removed and the swelling had gone 9 down. 10 Q. Therapy as in physical therapy? 11 A. Yes. It was not recommended therapy yet 12 until the swelling, soreness -- and they continued to 13 give me pain pills for that. 14 Q. Once the swelling went down did you receive 15 physical therapy? 16 A. No. I don't need any because the bleeding 17 hadn't stopped. 18 Q. Once you were able to did you receive 19 physical therapy? 20 A. Yes. 21 Q. What did that consist of? 22 A. Squeezing a ball and squeezing some kind of 23 spring instrument. 24 Q. So they were hand exercises? 25 A. Hand exercises.	1 treatment? 2 A. Yes, sir. 3 Q. What did they do for you at Kirkland? 4 A. They examined me. 5 Q. Examined your hand? 6 A. Hand. And also I went for a physical 7 therapist, hand therapist, as well. She also 8 examined my hand and asked me to do -- I think a 9 motion movement. 10 Q. The hand exercises? 11 A. Yes. 12 Q. Was that helpful? 13 A. Yes; very helpful. 14 Q. Approximately how many times did you go to 15 Kirkland for medical treatment? 16 A. I ain't sure. I think it was something like 17 four, five occasions. 18 Q. Do you currently need any medical treatment? 19 A. I asked for it, but I didn't get it. 20 Q. What type of medical treatment do you need 21 now? 22 A. Pain. I get pain coming in my hand, my 23 fingers, sharp pains, and they told me that they 24 couldn't -- I was no longer to come to the infirmary 25 for treatment for physical therapy. So they gave me
Page 31	Page 33
1 Q. Do you have full range of motion? Can you 2 open and close your hand? 3 A. Yes; I can do it. 4 Q. Can you make a fist? 5 A. Not all the way. 6 Q. But how far can you -- 7 A. Like that. 8 Q. So basically your follow-up care was taken 9 care of at the Lieber facility? 10 A. Yes. 11 Q. Did you make any other requests to be seen by 12 outside medical care? 13 A. Yes, I did. 14 Q. And those were refused? 15 A. Those were refused as well because they say 16 it was too expensive. 17 Q. They said it was too expensive or you 18 couldn't pay for it? 19 A. No. Dr. Walter Smith said it was too 20 expensive. He said that they wasn't going to send me 21 out. 22 Now, I also went to Kirkland Correctional 23 facility where they had those doctors. I went down 24 there on many occasions. 25 Q. So you went to Kirkland for additional	1 a ball, a hand ball, to squeeze and to exercise. 2 Take it in my room and to squeeze and whatnot. 3 Q. Which is the same thing that you were doing 4 during physical therapy? 5 A. Yes. 6 Q. So as I'm sitting here today you just need 7 pain treatment? 8 A. No, I don't. I need those stitches taken out 9 and that finger to be rebroke and fixed. 10 Q. That finger being your left pinky finger? 11 A. Yes, sir. 12 Q. What is wrong with it? 13 A. It got broke during the time of the incident, 14 the June 6th incident, and they never treated it. 15 They said if you treated it, they said we have to 16 rebreak it. In other words, rebreak it and treat it, 17 but they never did it. 18 Q. And you said there is pain. What type of 19 pain? Is it a throbbing pain? Is it a sharp pain? 20 Is it a nighttime pain? Is it an all-the-time pain? 21 A. Well, the pain varies. It varies. It seemed 22 like -- it's like a needle, a sharp needle. 23 Q. Is it all through your left hand, or is it 24 located in certain parts? 25 A. It starts here at the top where it was

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1 damaged, and it start aching. And eventually if I
2 put in it like water or take some pain pills for it
3 it stops.
4 Q. So you do have pain medication?
5 A. Well, no more than what they provide here at
6 the institution.
7 Q. So the institution does give you --
8 A. 800 Motrin's.
9 Q. So if you ask for it, they give you pain
10 medication?
11 A. If they have it. Sometimes they don't always
12 have it. Sometimes you have to put in an SCDC 1911
13 request form.
14 Q. But when it's available and you ask for it
15 you get it?
16 A. Yes.
17 Q. How often does that happen, the pain in your
18 hand? Is it every day? Once a month? Twice a
19 month? Once a week?
20 A. No. It's about three or four times a week,
21 I know.
22 Q. So at the time of your injury you were in the
23 cafeteria working as a cafeteria worker?
24 A. Well, at the time before I was injured they
25 had called 9:30 kitchen workers. They used us at

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1 9:30 to report to the cafeteria, but we don't start
2 our shift until 11:30.
3 Q. But as a worker you were called to the
4 cafeteria at 9:30?
5 A. That's the normal procedure here. At that
6 time they would call you in advance because there is
7 a difference between the shifts. One shift work in
8 the afternoon and close the shift work, and you
9 either be ready -- if you don't come then, you can't
10 come later in unless you're called for.
11 So I come in with the Yard 1 call, the 9:30
12 kitchen workers. So I reported with everyone else.
13 Q. About what time were you injured?
14 A. I think -- I remember Edisto coming in.
15 I think this happened to be something like 10:00,
16 10:30, 10:45, 11 o'clock. Somewhere in between
17 there. Before 11 o'clock. Sometime between that
18 time.
19 Q. So you were in the cafeteria on account of
20 being a food service worker?
21 A. That's trying to refer back to a worker's
22 comp question?
23 Q. I'm just trying to understand why you were in
24 the cafeteria.
25 A. I was in the cafeteria as ordered by a food

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1 service director. Myers and Tennant say that the
2 9:30 shift change or you be in as the early child at
3 9:30 or whenever they get off at 10 o'clock, and then
4 about 10:15 we should be through eating, and then be
5 ready at 10:30 to call general population in to eat.
6 Q. What time is lunch?
7 A. That time then would be 10:30.
8 Q. 10:30?
9 A. Uh-huh.
10 Q. Tell me a little bit about what you alleged
11 the Department of Corrections did.
12 A. Well, I allege -- referring back to the
13 Complaint and in the Amended Complaint that you
14 refuse to allow, that what the department did not do
15 and what they should have done was follow the policy
16 and procedures.
17 Q. And what policy and procedure was that?
18 A. The policy -- the 16.05 and 13.07
19 maintenance.
20 Q. Is that an SCDC policy?
21 A. SCDC administrative policy.
22 Q. And that was maintenance?
23 A. It was maintenance.
24 Q. And what about that policy?
25 A. Food service 16.05, and the policy states

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1 food service supervisor to -- if there is a condition
2 or defect to that extent for -- I think for emergency
3 or safety prevention, in that nature, that they would
4 log it down and do an incident report and/or do a
5 work order, a 21-2 work order -- I think it's 21-2
6 work order -- and report it, and that's what I
7 understood that food service assistant director and
8 director did.
9 They contact their parties, and it was
10 maintenance, and they contacted Associate Warden
11 Byson that was over the cafeteria.
12 Q. They contacted him about what?
13 A. They contacted him first -- Myers contacted
14 Associate Warden Byson about putting up a steel cage
15 door -- steel cage gate due to the fact that there
16 was so much going on at the time in the tray room,
17 that it needed -- the door there, to keep it locked.
18 Q. For security reasons?
19 A. For security reasons. And there was a
20 discrepancy by Mr. Hilton about putting a door
21 there and --
22 Q. And who is Mr. Hilton?
23 A. He was maintenance director for the facility.
24 -- and that Mr. Hilton did not want to put a
25 door there.

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1 Q. Was a door put there?
2 A. Associate warden's office gave him a direct
3 order to make a door and put a door there in the tray
4 room entrance area.
5 Q. So for security reasons a door was ordered to
6 be placed in the tray room entrance?
7 A. Yes; tray room entrance.
8 Q. And for the instance of security a tray room
9 door was actually placed there?
10 A. Yes.
11 Q. So how does that have anything to do with
12 your injury?
13 A. Well, it has a lot to do with my injury,
14 because prior to putting a door there there was no
15 door there. In fact, in case something should happen
16 in the tray room, how you going to get out? How
17 could a person get out? If the door locked and you
18 got a door there, how can the person that is working
19 in the tray room -- if those tray dish machines was
20 to explode or catch on fire or something electrical
21 should happen, how could you get out? How could the
22 paramedics get through if something was to happen and
23 you couldn't get through the door?
24 Q. So does the door stay locked?
25 A. At that time when she gave the order the door

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1 was locked.
2 Q. So the door was locked.
3 A. The inmates that was in there, they would
4 lock them in the tray room.
5 Q. Let me ask you this: If it was locked, how
6 did you get into the door?
7 A. Well, during the feeding the door was
8 unlocked because food service was in process of
9 serving food and the inmate workers -- the tray room
10 workers and the back door people that transfer the
11 trash from the tray room to the back dock, they had
12 to get in and out of there. You had your diet line
13 people and serving line people to pick up trays if
14 they didn't have enough trays on the serving line or
15 the diet line at the time.
16 Q. So at the time of your injury the door was
17 not locked? It was open?
18 A. It was open.
19 Q. So you're saying because they put the door
20 for security reasons covering the tray room entrance
21 that that caused your injury?
22 A. No. The door itself didn't cause my injury.
23 Q. Then what caused the injury.
24 A. What caused the injury was the fact that --
25 the proximate cause of my injury I would say is

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1 maintenance failed to exercise due care.
2 Q. How so?
3 A. They didn't put on notice that the door was
4 in that condition. After the door was put up in
5 January, I think, of 2005, no one came to inspect the
6 door. None of the inspectors came to inspect the
7 door to check out the welding to see was the door
8 safe for use for the inmate population use in the
9 cafeteria. No one did that. They just put the door
10 up.
11 Maintenance put the door up because he got an
12 order, but no one from Columbia headquarters or no
13 one from the state fire department, fire marshal --
14 no one ever inspected the door. They just put a door
15 up; and to that extent, the welding on the door was
16 complained about. The handle for closing the tray --
17 there was no handle on the inside of the door.
18 Q. So the welding was no good and there was only
19 one handle on the outside?
20 A. That was it. So when you're going in the
21 door and getting an order or out through the door
22 going through that defect, you had to pull the door
23 by the door itself in order to close the door.
24 Q. What is the defect?
25 A. The defect when the welding come off the

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1 hinges.
2 Q. When did that happen?
3 A. I ain't certain when that happened, because
4 it could have happened at any time. I ain't certain
5 when that happened. Miss Tennant, she put in a work
6 order.
7 Q. So you're saying that the welding was
8 defective?
9 A. The door hanged off. Obviously it become
10 defected.
11 Q. It wasn't attached to the door frame?
12 A. It was attached, but at some period of time
13 -- as I've known being with welders, when you weld
14 something to that extent, it will last if it has been
15 inspected and checked out. The welder will check it
16 out first to see if it's good. But this door was --
17 it was put up. Mr. Hilton didn't want to put it up.
18 He was mad.
19 Q. So the door was put up. At the time of your
20 injury was it connected to the door frame?
21 A. Yes, it was. To my knowledge it was in good
22 condition. There was nothing to my knowledge --
23 Q. At the time of your injury it was in good --
24 A. Before my injury the door seemed to be --
25 I mean months before. January -- somewhere around

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1 that time after they got through welding the door
2 and put the door up the door was all right.
3 Q. But at the time of your injury what was the
4 condition of the door?
5 A. The door was hanging off.
6 Q. So it was not attached to the --
7 A. It was not attached.
8 Q. You just said it was attached to the door
9 frame.
10 A. The bottom part was attached, but the top
11 part was hanging off. The top welding -- the door
12 hinge was off. The door hinge was causing the door
13 to hang off because the door broke off from the
14 hinges.
15 Q. So the top part of the door was physically
16 separated from the door frame?
17 A. Yes, sir.
18 Q. Were you able to open and close the door?
19 Was it useable?
20 A. You could use it. That's true. You could
21 use it.
22 Q. Do you have any experience welding?
23 A. I have welded some. I have welded some.
24 Q. You have welded some, but you're not a welder
25 by profession?

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1 A. No, sir.
2 Q. So when did the door become separated from
3 the door frame?
4 A. I ain't sure, because most of the times --
5 the tray room was not my assigned area. The back
6 dock was my assigned area. The only time and the
7 only reason I had to go in the tray room is either
8 I'm sent in the tray room by a food service director,
9 supervisor, or to pick up trash. That was it.
10 Q. So you were in a part of the cafeteria where
11 you were not assigned at the time of your injury?
12 A. Well, I'm assigned in the cafeteria to work,
13 the entire cafeteria if needed, but part of the tray
14 room is where they dump their trash, their waste, and
15 it is my job and duty as a back dock custodian to go
16 in there, back the trash cans up, load the trash cans
17 up with bags, and dump the trash in the trash can and
18 take the trash from there to the trash compact.
19 Q. So you had gone in and out of that door
20 multiple times prior to your injury?
21 A. Pretty much, yeah. Pretty much.
22 Q. Did you ever have any trouble with the door
23 prior to your injury?
24 A. No, never.
25 Q. So this was the only time that you had

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1 trouble with the door?
2 A. Yes. That's the only time.
3 Q. Do you know of anybody else that had trouble
4 with the door?
5 A. Well, when the door was hanging off,
6 everybody had problem with the door. Even security
7 had a problem with the door when they go and do a
8 security check. What is his name? Hiel. As in the
9 Complaint, Hiel had a problem with it. Sergeant
10 Locke had a problem with it. Because most of the
11 time they go in the tray room to see if wine is being
12 made in there. Even food service had trouble going
13 in and out of the door.
14 Sometimes food service supervisors will give
15 a direct order to leave it pushed against the door,
16 like if DHEC coming in, then Lieutenant Elmore and
17 the fire marshal come in. They push the door against
18 the wall.
19 (Discussion off the record.)
20 BY MR. STEWART:
21 Q. We were talking about problems with the door.
22 What type of problems were there with the door?
23 A. The first problem I remember Miss Tennant put
24 a work order in with latches to be welded on the door
25 to lock the door, and then the second problem was the

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1 handle. Because in that tray room you've got a lot
2 of water -- moisture buildup on the floor, walls, on
3 the door and everywhere. And when the dining room
4 area is cold from the air-conditioning and the tray
5 room is hot, you've got a lot of moist condensation.
6 Q. So there was a work order put in for latches
7 to keep the door closed?
8 A. Uh-huh.
9 Q. And for a door handle?
10 A. A door handle. And there was a work order
11 put up -- there was a work order put in to
12 Maintenance about the condition of the door, the door
13 hanging. The door hanging, from what I understood --
14 Miss Tennant complained about it to Maintenance.
15 Q. When was this?
16 A. I think right after they put up the door
17 lock. February, March.
18 Q. And you were injured in June?
19 A. And I was injured in June.
20 Q. In your capacity as a food service aide, an
21 injured food service aide, did you file a worker's
22 comp claim?
23 A. Yes, I did.
24 (Defendant's Exhibit Gregory 1, one-page
25 document, marked for identification.)

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1 BY MR. STEWART:
2 Q. This is what is marked as Defendant's
3 Exhibit 1. If you could take a look at that.
4 I think you've had a few minutes to review
5 it. Could you tell me what this is?
6 A. It's a worker's comp form for a claim.
7 Q. Is this your name at the top left corner?
8 A. That's correct.
9 Q. Is that your signature -- I know it's a bad
10 copy, but is that your signature in the bottom left
11 corner?
12 A. Yes, sir, it is.
13 Q. So this is your worker's comp claim that you
14 filed because of your injury?
15 A. Yes, because of the information that I was
16 led to believe it was a worker's comp claim.
17 Q. But you filed this claim?
18 A. Yes, I did.
19 Q. And what became of the claim? What happened
20 with the claim?
21 A. Well, after gathering information from the
22 law library and from other attorneys that it was not
23 a worker's comp claim, I had hired Angela Jones
24 McWhirter.
25 Q. McWhirter, Bellinger & Associates?

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1 A. I hired them. She had led me to believe it
2 was a worker's comp claim, but due to other law it is
3 not and was not a worker's comp claim.
4 Q. But you filed this worker's comp claim?
5 A. Yes, I did.
6 Q. And you had an attorney represent you in your
7 worker's comp claim?
8 A. Yes, I did.
9 Q. But you have abandoned this worker's comp
10 claim to file this present lawsuit?
11 A. Well, I have an option according to the law,
12 South Carolina Supreme Court -- I have an option to
13 either voluntarily file a worker's comp claim or I
14 can file it in court. However, I never recovered --
15 the law says that I cannot recover money from
16 worker's comp or under the common law claim.
17 However, after learning the law and learning
18 my rights to exercise, I no longer further -- or
19 pursued the worker's comp claim for that reason
20 because my exclusive remedy came under the tort
21 15-70-200.
22 Q. After you were injured you retained an
23 attorney to help you file this worker's comp claim
24 who advised you that filing a worker's comp claim was
25 the only remedy for your injury?

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1 A. That's what she had advised me.
2 Q. Is that correct?
3 A. That's correct.
4 Q. So you filed this worker's comp claim?
5 A. That's true.
6 Q. And you have since abandoned or you are not
7 pursuing this worker's comp claim and you have
8 instituted this lawsuit that we are involved in?
9 A. Well, shortly after I learned the law --
10 Q. It's just a yes or no.
11 A. Shortly after I learned that she had misled
12 me into believing that I had -- that the worker's
13 comp --
14 Q. I'm just asking you whether or not --
15 A. Let me explain myself.
16 Q. Go ahead.
17 A. You had Lieutenant Elmore -- he had led me to
18 believe it was worker's comp. You had food service
19 Director Myers said it was worker's comp. So based
20 upon that assumption I filed a claim.
21 From that point I contacted Angela Jones or
22 Angela -- something to that extent. She led me to
23 believe it was a worker's comp, but after doing
24 research of law there is not a mandatory thing for me
25 to file worker's comp. It was only an option of --

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1 I could either file worker's comp or I could
2 voluntarily have the option to file a tort.
3 Q. Did you or did you not file this worker's
4 comp claim?
5 A. Yes, I did.
6 Q. And you also have filed the present lawsuit
7 that we are involved in surrounding the same injury?
8 A. The worker's comp claim is not in effect
9 because I have never -- I contacted the lawyers that
10 was working for SCDC and I let them know that I would
11 not pursue the claim due to the fact that it is not a
12 worker's comp claim. It's a tort claim.
13 Q. But you did file this worker's comp claim?
14 A. That's true.
15 Q. You did file this?
16 A. That's true.
17 Q. Are you an attorney?
18 A. Why you ask that?
19 Q. I'm just wondering. You said you studied the
20 law. Are you an attorney?
21 A. No.
22 Q. We talked a little bit about the current
23 condition of your hand, and you said there is a
24 little bit of pain.
25 Do you currently seek any medical treatment?

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1 Do you go to the infirmary for your hand?
2 A. I wrote the infirmary on three occasions, and
3 I never got a response from the doctor or from
4 Medical in regard to my complaint or my request.
5 Q. When was that?
6 A. This year.
7 Q. This year?
8 A. Yes.
9 Q. Recently?
10 A. Yes, sir.
11 Q. About when?
12 A. I ain't sure. This is August, September. It
13 just wasn't only in regard to pain dealing with the
14 finger; my hand.
15 Q. So you wrote a request for pain medication?
16 A. Well, for medication.
17 Q. Did you receive that medication?
18 A. Nope, and I never even seen them.
19 Q. Do you currently take any pain medication?
20 A. Yes, I do.
21 Q. What do you take?
22 A. 600 Motrin. 800, 600 Motrin.
23 Q. 800 milligrams of Motrin?
24 A. Yes.
25 Q. Where do you get that?

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1 A. Medical. From Medical.
2 Q. Had you sought or do you need any other
3 medical treatment for your injury other than pain
4 relievers?
5 A. No. I just use the ball to obtain therapy on
6 my fingers or I exercise it other than with the ball.
7 I do pops. It gets stiff and it pops..
8 Q. Ultimately what do you want from this
9 lawsuit?
10 A. A million dollars. No. What I'm seeking for
11 -- I want them to fix my fingers.
12 Q. Fingers?
13 A. Fingers.
14 Q. What do you want?
15 A. I want them to rebreak the pinky, take the
16 stitches out of the third phalange finger, and I want
17 them to continue therapy until the stiffness -- until
18 the stiffness come out of my hand, fingers, and that
19 I can bend it like I used to bend it with my right
20 hand and continue to give me medication for sharp
21 pains that I have and the aching in my fingers. And
22 I'm thinking it may be for various reasons. I don't
23 know. And some of the stitches are still in the
24 finger.
25 Q. So you just basically want medical care?

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1 A. I want more than just medical.
2 Q. What else do you want?
3 A. I want some money. Because if y'all don't do
4 it, then the money that I'm seeking -- the money that
5 I'm seeking from you I can, with the permission of
6 SCDC, have a hand bone specialist come and redo it.
7 Q. So you are seeking money for medical care?
8 A. For medical care or for whatever I need
9 because of my injury, the damage, the pain that I
10 went through with it.
11 Q. What are your damages?
12 A. Well, they start with the paper trail. All
13 the paper that I had to buy to type these documents
14 to send you all, all of the receipts of paying
15 postage.
16 Q. And that's a result of your injury?
17 A. That's not all the results of my injury. The
18 jury will determine the damage --
19 Q. But ultimately you have to allege some type
20 of damage.
21 A. Yes.
22 Q. I'm asking you what type of damages you have.
23 A. Monetary.
24 Q. How so?
25 A. Well, I think to say that a jury would

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1 determine --
2 Q. I'm not interested in what a jury is going to
3 do. I'm interested in what you say your damages are.
4 How were you damaged on account of this
5 injury?
6 A. Well, I lost the use of my fingers.
7 I sustained -- there was unwanted pain that I had
8 to constantly go through. I got off the choir
9 because I couldn't play the piano.
10 Q. So you're a musician?
11 A. Yes. He can verify that.
12 Q. And you play the piano?
13 A. He can verify that.
14 Q. I'm just asking you: Do you play the piano?
15 A. Yes; I can play the piano.
16 Q. How often do you play the piano?
17 A. I don't play the piano now.
18 Q. When was the last time you played the piano?
19 A. I made an attempt this year to play the
20 piano, but the chaplain would not allow it. If
21 you're not on the choir, you can't play or use the
22 instruments.
23 But at the time in 2005 and 2006 I had to go
24 through Medical to get use of my fingers back in
25 order to start my claim again.

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1 Q. So since you were injured you were still able
2 to play the piano? After you were injured you were
3 still able to play the piano?
4 A. Not with my left hand.
5 Q. You just said you were able to.
6 A. Now I can play the piano. Some now.
7 Q. You can play now?
8 A. Some now. That's my point. I can play the
9 piano now because I can use it, but I can't bend and
10 do the fingers like I once did.
11 Q. You just can't play as well as you did
12 before?
13 A. That's what I'm saying.
14 Q. Prior to your injury how often did you play
15 the piano?
16 A. As often as we had church services, Sunday
17 school, choir rehearsals.
18 Q. So just during church and rehearsals for
19 church?
20 A. Yes.
21 Q. Have you ever filed a lawsuit prior to this
22 one? I know you said earlier that you were involved
23 in a personal injury.
24 A. No; it was not a personal injury. That was
25 not a personal injury. It was a car damage. My car

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1 had got damaged.
2 Q. But you were the one whose car was damaged?
3 A. My car was damaged.
4 Q. And you filed a lawsuit?
5 A. I filed a claim through the lawsuit --
6 I filed a claim.
7 Q. You filed an insurance claim?
8 A. Yes. I had a lawyer to file that claim.
9 Q. But it never went into litigation? You never
10 went to court over it?
11 A. Yes, I did, too.
12 Q. You did?
13 A. Yes, I did.
14 Q. What happened with that?
15 A. It got dismissed because they had claimed
16 they had paid me for car damage and for other various
17 reasons.
18 Q. So you pursued the insurance company?
19 A. Yes.
20 Q. Other than that one and this one have you
21 ever been involved in any other lawsuits?
22 A. Not to my knowledge.
23 Q. Have you filed any institutional grievances
24 on this injury?
25 A. I ain't sure. I don't remember.

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1 Q. So you don't know if you filed any
2 grievances?
3 A. I don't remember.
4 Getting back to the monetary damage, I did
5 say in my Complaint for \$350,000; however, under the
6 tort act 15-78-120 it gives you a limited \$300,000.
7 Now, I would like to take it to trial. I got
8 a lawyer that is going to be willing to take it
9 through trial, but I have to get in contact with him.
10 He said not to settle.
11 MR. STEWART: I think that's all I have.
12 I appreciate it.
13 (Deposition concluded at 12:50 p.m.)
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1 SIGNATURE OF DEPONENT.
2
3 I, the undersigned, CLARENCE GREGORY,
4 227394, do hereby certify that I have read the
5 foregoing deposition and find it to be a true and
6 accurate transcription of my testimony, with the
7 following corrections, if any:
8
9 PAGE LINE CHANGE REASON
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20 CLARENCE GREGORY, 227394 Date
21
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Pages 54 to 57



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Clarence Gregory

October 15, 2008

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CERTIFICATE OF REPORTER

I, Patricia Thompson-Morrison, Registered Professional Reporter and Notary Public for the State of South Carolina at Large, do hereby certify that the foregoing transcript is a true, accurate, and complete record.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 27th day of October 2008 at Charleston, Charleston County, South Carolina.

Patricia Thompson-Morrison
Registered Professional
Reporter

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(No Information Requested.)

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STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

COURT OF COMMON PLEAS
CA NO. 2007-CP-40-03742

CLARENCE GREGORY, 227394,
Plaintiff,

vs.

COPY

JONATHAN E. OZMINT, COMMISSIONER of SOUTH CAROLINA
DEPARTMENT OF CORRECTIONS (SCDC); MORRIS ELMORE,
LIEUTENANT & ENVIRONMENTAL HEALTH & SAFETY OFFICER
(EHSO); CLAUDE HILTON and JOHN SAWADSKE,
MAINTENANCE & REPAIR ENGINEERING, DIRECTOR(s) at
LIEBER CORRECTIONAL INSTITUTION (LCI); SOUTH
CAROLINA DEPARTMENT OF CORRECTIONS, each sued in
their individual and official capacity, et al,

Defendants.

DEPOSITION OF: CLARENCE GREGORY, 227394
DATE: October 15, 2008
TIME: 11:30 a.m.

LOCATION: Lieber Correctional Institution
136 Wilborn Drive
Ridgeville, SC

TAKEN BY: Counsel for the Defendants

REPORTED BY: PATRICIA THOMPSON-MORRISON
Registered Professional Reporter

A. WILLIAM ROBERTS, JR., & ASSOCIATES
Fast, Accurate & Friendly

Charleston, SC Myrtle Beach, SC Greenville, SC
(843) 722-8414 (843) 839-3376 (864) 234-7030

Columbia, SC Hilton Head, SC Charlotte, NC
(803) 731-5224 (843) 785-3263 (704) 573-3919

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1 A. Yes.

2 Q. And you did that up until your incarceration?

3 A. Yeah.

4 Q. And in prison do you have a prison job?

5 A. Yes, I do.

6 Q. What is that?

7 A. I am the cafeteria inmate shift leader and I
8 do a variety of jobs. Make sure everything is clean,
9 trash -- particularly trash taken out of the
10 cafeteria. Helping different areas.

11 Q. So you're the shift supervisor for other
12 inmate cafeteria workers?

13 A. Yes.

14 Q. So you do work in the cafeteria --

15 A. Yes.

16 Q. -- currently?

17 A. Yes, sir.

18 Q. And that's every day?

19 A. Every day.

20 Q. And your main duties are trash pickup and
21 supervising other inmates?

22 A. Yeah. Well, not so much supervising inmates,
23 but make sure that the job is carried out, the place
24 is clean prior to leaving for the night before we get
25 locked down. Make sure it's carried out and

1 everything is done.

2 Q. And how long have you had that position?

3 A. Since '95. Since '96. I think I got hired
4 in May of '96.

5 Q. '96?

6 A. Yes.

7 Q. And you've held that continuously since 1996?

8 A. Well, not that particular position, but the
9 job assignment in the cafeteria. I worked a variety
10 of places in the cafeteria.

11 Q. So in some capacity you've been a cafeteria
12 worker since 1996?

13 A. Yes, sir.

14 Q. Have you risen up the level of job scale? In
15 other words, did you start out as just a food service
16 aide and then worked your way up to a shift leader?

17 A. That's correct.

18 Q. Now, as I said earlier, you filed a lawsuit
19 against the Department of Corrections and various
20 other defendants; correct?

21 A. Yes, sir.

22 Q. And you filed that lawsuit in July of 2007,
23 July 5th, 2007.

24 A. Well, that was amended. I filed it June 5th,
25 2007.

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1 Q. And it concerns events that occurred on
2 June 6th, 2005?

3 A. That's correct.

4 Q. Can you tell me what happened?

5 A. Let me refer back to the Complaint.

6 Q. Can you just give me a brief description of
7 the events that went on on June 6th, 2005?

8 A. Well, I was given an order to close the
9 cafeteria door while Edisto was coming in as I was
10 going to the tray room.

11 Q. So this was while you were working in the
12 cafeteria as an inmate worker?

13 A. Well, my shift hadn't started.

14 Q. And so what happened?

15 A. So I was going to -- I go in the tray room
16 and close the tray room door behind me --

17 Q. Did you close the tray room door?

18 A. I tried to close it.

19 Q. And what happened?

20 A. And while I was closing the tray room door I
21 got distracted. People behind me; people outside the
22 tray room door. And when I grabbed the door and
23 closed it to pull it up somebody -- I knew somebody
24 had kicked it, but I didn't know who it was.

25 Q. So somebody kicked the door while you were

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1 handle. Because in that tray room you've got a lot
2 of water -- moisture buildup on the floor, walls, on
3 the door and everywhere. And when the dining room
4 area is cold from the air-conditioning and the tray
5 room is hot, you've got a lot of moist condensation.

6 Q. So there was a work order put in for latches
7 to keep the door closed?

8 A. Uh-huh.

9 Q. And for a door handle?

10 A. A door handle. And there was a work order
11 put up -- there was a work order put in to
12 Maintenance about the condition of the door, the door
13 hanging. The door hanging, from what I understood.
14 Miss Tennant complained about it to Maintenance.

15 Q. When was this?

16 A. I think right after they put up the door
17 lock. February, March.

18 Q. And you were injured in June?

19 A. And I was injured in June.

20 Q. In your capacity as a food service aide, an
21 injured food service aide, did you file a worker's
22 comp claim?

23 A. Yes, I did.

24 (Defendant's Exhibit Gregory 1, one-page
25 document, marked for identification.)

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1 BY MR. STEWART:

2 Q. This is what is marked as Defendant's
3 Exhibit 1. If you could take a look at that.

4 I think you've had a few minutes to review
5 it. Could you tell me what this is?

6 A. It's a worker's comp form for a claim.

7 Q. Is this your name at the top left corner?

8 A. That's correct.

9 Q. Is that your signature -- I know it's a bad
10 copy, but is that your signature in the bottom left
11 corner?

12 A. Yes, sir, it is.

13 Q. So this is your worker's comp claim that you
14 filed because of your injury?

15 A. Yes, because of the information that I was
16 led to believe it was a worker's comp claim.

17 Q. But you filed this claim?

18 A. Yes, I did.

19 Q. And what became of the claim? What happened
20 with the claim?

21 A. Well, after gathering information from the
22 law library and from other attorneys that it was not
23 a worker's comp claim, I had hired Angela Jones
24 McWhirter.

25 Q. McWhirter, Bellinger & Associates?

1 A. I hired them. She had led me to believe it
2 was a worker's comp claim, but due to other law it is
3 not and was not a worker's comp claim.

4 Q. But you filed this worker's comp claim?

5 A. Yes, I did.

6 Q. And you had an attorney represent you in your
7 worker's comp claim?

8 A. Yes, I did.

9 Q. But you have abandoned this worker's comp
10 claim to file this present lawsuit?

11 A. Well, I have an option according to the law,
12 South Carolina Supreme Court -- I have an option to
13 either voluntarily file a worker's comp claim or I
14 can file it in court. However, I never recovered --
15 the law says that I cannot recover money from
16 worker's comp or under the common law claim.

17 However, after learning the law and learning
18 my rights to exercise, I no longer further -- or
19 pursued the worker's comp claim for that reason
20 because my exclusive remedy came under the tort
21 15-70-200.

22 Q. After you were injured you retained an
23 attorney to help you file this worker's comp claim
24 who advised you that filing a worker's comp claim was
25 the only remedy for your injury?

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1 A. That's what she had advised me.

2 Q. Is that correct?

3 A. That's correct.

4 Q. So you filed this worker's comp claim?

5 A. That's true.

6 Q. And you have since abandoned or you are not
7 pursuing this worker's comp claim and you have
8 instituted this lawsuit that we are involved in?

9 A. Well, shortly after I learned the law --

10 Q. It's just a yes or no.

11 A. Shortly after I learned that she had misled
12 me into believing that I had -- that the worker's
13 comp --

14 Q. I'm just asking you whether or not --

15 A. Let me explain myself.

16 Q. Go ahead.

17 A. You had Lieutenant Elmore -- he had led me to
18 believe it was worker's comp. You had food service
19 Director Myers said it was worker's comp. So based
20 upon that assumption I filed a claim.

21 From that point I contacted Angela Jones or
22 Angela -- something to that extent. She led me to
23 believe it was a worker's comp, but after doing
24 research of law there is not a mandatory thing for me
25 to file worker's comp. It was only an option of --