THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

Thomas L. Hughston, Jr., Circuit Court Judge

Appellate Case No. 2016-000872

Aaliyah Smith — Appellant,

v.

Scott Carr — Respondent.

AMENDED RECORD ON APPEAL

Charles J. Hodge
T. Ryan Langley
P.O. Box 2765
Spartanburg, SC 29304
Attorneys for the Appellant

Michael T. Coulter
Clarkson, Walsh, Terrell & Coulter, P.A.
PO Box 6728
Greenville, SC 29606
Attorneys for Respondent

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T. Ryan Langley, counsel for Appellant, certifies by signing below that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

_____

T. Ryan Langley, counsel for Appellant

On the claim of Aaliyah Smith against Scott Carr for a negligent act that directly caused her injuries/damages:

Verdict

We find for Aaliyah Smith $ 799,25 Dollars

actual damages.

Rebecca G. Green
Foreslady.

We find for Scott Carr.

Foreslady.

FILED IN OFFICE
2015 JUL 13 PM 4:32

Smith v Carr 2014CP4203560 Verdict Form

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG)

Aaliyah Smith,)
Plaintiff(s))

vs.)

Scott Carr)
Defendant(s))

CIVIL ACTION COVERSHEET

2014-CP-42-03560

Submitted By: T. Ryan Langley
Address: 229 Magnolia Street, Spartanburg, SC 29306

SC Bar #: 76558
Telephone #: 864-585-3873
Fax #: 864-585-6485
Other:
E-mail: Rlangley@hodgelawfirm.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION *(Check all that apply)*

**If Action is Judgment/Settlement do not complete*

☒ **JURY TRIAL** demanded in complaint. ☐ **NON-JURY TRIAL** demanded in complaint.
☐ This case is subject to **ARBITRATION** pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to **MEDIATION** pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION *(Check One Box Below)*

Contracts
- ☐ Constructions (100)
- ☐ Debt Collection (110)
- ☐ Employment (120)
- ☐ General (130)
- ☐ Breach of Contract (140)
- ☐ Other (199)

Torts - Professional Malpractice
- ☐ Dental Malpractice (200)
- ☐ Legal Malpractice (210)
- ☐ Medical Malpractice (220)

Previous Notice of Intent Case # 20____-CP-_____-_____

- ☐ Notice/ File Med Mal (230)
- ☐ Other (299)

Torts – Personal Injury
- ☐ Assault/Slander/Libel (300)
- ☐ Conversion (310)
- ☐ Motor Vehicle Accident (320)
- ☐ Premises Liability (330)
- ☐ Products Liability (340)
- ☒ Personal Injury (350)
- ☐ Wrongful Death (360)
- ☐ Other (399)

Real Property
- ☐ Claim & Delivery (400)
- ☐ Condemnation (410)
- ☐ Foreclosure (420)
- ☐ Mechanic's Lien (430)
- ☐ Partition (440)
- ☐ Possession (450)
- ☐ Building Code Violation (460)
- ☐ Other (499)

Inmate Petitions
- ☐ PCR (500)
- ☐ Mandamus (520)
- ☐ Habeas Corpus (530)
- ☐ Other (599)

Administrative Law/Relief
- ☐ Reinstate Drv. License (800)
- ☐ Judicial Review (810)
- ☐ Relief (820)
- ☐ Permanent Injunction (830)
- ☐ Forfeiture-Petition (840)
- ☐ Forfeiture—Consent Order (850)
- ☐ Other (899)

Judgments/Settlements
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- ☐ Magistrate's Judgment (720)
- ☐ Minor Settlement (730)
- ☐ Transcript Judgment (740)
- ☐ Lis Pendens (750)
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- ☐ Petition for Workers Compensation Settlement Approval (780)
- ☐ Other (799)

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- ☐ Probate Court (940)
- ☐ SCDOT (950)
- ☐ Worker's Comp (960)
- ☐ Zoning Board (970)
- ☐ Public Service Comm. (990)
- ☐ Employment Security Comm (991)
- ☐ Other (999)

Special/Complex /Other
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- ☐ Automobile Arb. (610)
- ☐ Medical (620)
- ☐ Other (699)
- ☐ Pharmaceuticals (630)
- ☐ Unfair Trade Practices (640)
- ☐ Out-of State Depositions (650)
- ☐ Motion to Quash Subpoena in an Out-of-County Action (660)
- ☐ Sexual Predator (510)

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CLERK OF COURT
SPARTANBURG COUNTY
2014 SEP 10 P 2:23
PAM HICKEY

Submitting Party Signature: _____ **Date:** 9-9-14

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

FOR MANDATED ADR COUNTIES ONLY

Allendale, Anderson, Beaufort, Clarendon, Colleton, Florence, Greenville, Hampton, Horry, Jasper, Lee, Lexington, Pickens (Family Court Only), Richland, Sumter, Union, Williamsburg, and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.

2. The initial ADR conference must be held within 300 days after the filing of the action.

3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)

4. Cases are exempt from ADR only upon the following grounds:

    a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;

    b. Requests for temporary relief;

    c. Appeals

    d. Post Conviction relief matters;

    e. Contempt of Court proceedings;

    f. Forfeiture proceedings brought by governmental entities;

    g. Mortgage foreclosures; and

    h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.

5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.

6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

Please Note: **You must comply with the Supreme Court Rules regarding ADR. Failure to do so may affect your case or may result in sanctions.**

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	CASE NO: 14-CP-42-_____
COUNTY OF SPARTANBURG	)	
Aaliyah Smith,	)	2014-CP-42-03560
Plaintiff,	)	
v.	)	**SUMMONS**
	)	**(JURY TRIAL)**
Scott Carr,	)	
Defendant	)	

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is attached herewith served upon you, and to serve a copy of your answer to said Complaint on the subscribers at their office at Post Office Box 2765, 229 Magnolia Street, Spartanburg, South Carolina, 29304, within thirty (30) days after such service; and if you fail to answer the Complaint within the time aforesaid, the Plaintiff in this action will apply to the Court for the relief demanded in this Complaint.

HODGE & LANGLEY LAW FIRM, P.C.

Charles J. Hodge
T. Ryan Langley
Post Office Box 2765
Spartanburg, SC 29304
(864) 585-3873
(864) 585-6485 - Fax
ATTORNEYS FOR PLAINTIFF

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2014 SEP 11 AM 10:23
M. HOPE BLACKLEY

Dated: 9/9, 2014.
Spartanburg, SC

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	CASE NO: 14-CP-42-_____
COUNTY OF SPARTANBURG	)	2014-CP-42-03560
Aaliyah Smith,	)	
Plaintiff,	)	
v.	)	**COMPLAINT**
	)	**(JURY TRIAL)**
Scott Carr,	)	
Defendant	)	

The Plaintiff complaining of the Defendant would respectfully show unto the Court as follows:

1. That the Plaintiff is a citizens and resident of the County of Spartanburg, State of South Carolina.

2. That upon information and belief, the Defendant, Scott Carr, is a resident of the County of Greenville, State of South Carolina.

3. That the accident which is the subject of this lawsuit occurred in Spartanburg County, South Carolina.

4. That on or about May 26, 2014, Plaintiff was traveling west on E. Main Street in Spartanburg, South Carolina. The Defendant was traveling west on E. Main Street behind the Plaintiff, when suddenly, and without warning he forcefully rear ended Plaintiff's vehicle. Upon impact, the Plaintiff was hurled about within the interior of the motor vehicle causing her to suffer serious injuries which will be fully described herein.

5. That the injuries and damages sustained by the Plaintiff were due to and caused by and were the direct and proximate result of the negligent and/or reckless, willful, and wanton acts of the Defendant in one or more of the following particulars, to wit:

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SPARTANBURG COUNTY
2014 SEP 11 AM 10:23
MICHELE BLACKLEY

(a) In failing to keep a proper lookout for traffic in general and in particular, the Plaintiff;

(b) In failing to timely apply brakes so as to avoid crashing with the vehicle being driven by Plaintiff;

(c) In evidencing an utter disregard for the safety of the public in general and in particular, the Plaintiff;

(d) In failing to yield the right of way;

(e) In traveling too fast for conditions;

(f) In colliding with the Plaintiff's vehicle; and

(g) In failing to use that degree of care that an ordinary and prudent person would have used under the same or similar circumstances;

6. That as a direct and proximate result of the negligent and/or reckless, willful, and wanton acts of the Defendant, the Plaintiff has suffered serious painful and personal injuries. That as a result of her injuries, the Plaintiff has been forced to undergo medical treatment and has incurred medical expenses. That as a result of the Plaintiff's injuries, she has been unable to engage in his normal pursuits of happiness, has suffered emotional distress, and mental anguish, all to her great damage.

WHEREFORE, the Plaintiff prays judgment against the Defendant as follows:

a. actual damages found to be fair and equitable within the discretion of the fact finder;

b. property damage, loss of use and depreciation;

c. punitive damages as to Defendant Carr if proven by clear and convincing evidence and found to be fair and equitable within the discretion of the fact finder;

d. for the costs and disbursements of this action;

e. or prejudgment interest at the rate authorized by the South Carolina Supreme Court and S.C. Code Ann. § 34-31-20 (B); and

f. for such other and further relief as the Court may deem just and proper.

Respectfully submitted,

HODGE & LANGLEY LAW FIRM, P.C.

Charles J. Hodge
T. Ryan Langley
229 Magnolia Street
Spartanburg, SC 29306
Ph.: 864-585-3873
Fax: 864-585-6485
ATTORNEY FOR PLAINTIFF

September 4, 2014
Spartanburg, South Carolina

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2014 SEP 11 AM 10: 23
H. ROPE BLACKLEY

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF SPARTANBURG	)	C.A. NO.: 2014-CP-42-03560
	)	
Aaliyah Smith,	)	**ANSWER**
	)	(Jury Trial Demanded)
Plaintiff,	)	
	)	
vs.	)	
	)	
Scott Carr,	)	
	)	
Defendant.	)	
	)	

The defendant, Scott Carr, hereby answering the Complaint of the plaintiff herein, would respectfully alleges and shows unto this Court as follows:

1. The defendant admits, upon information and belief, the allegations contained in paragraph 1 of the plaintiff's Complaint.

2. The defendant admits, upon information and belief, the allegations contained in paragraph 2 of the plaintiff's Complaint.

3. The defendant admits, upon information and belief, the allegations contained in paragraph 3 of the plaintiff's Complaint.

4. The defendant denies the allegations contained in paragraph 4 of the plaintiff's Complaint.

5. The defendant denies the allegations contained in paragraph 5 of the plaintiff's Complaint, including all subparts therein.

6. The defendant denies the allegations contained in paragraph 6 of the plaintiff's Complaint.

7. The defendant denies each and every allegation of the plaintiff's Complaint not admitted, qualified, or explained herein.

SPARTANBURG COUNTY
2014 DEC -3 PM 1:44
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FOR A SECOND DEFENSE

8. The defendant realleges and reiterates each and every allegation set forth above, and not inconsistent herewith, as if fully repeated herein.

9. The defendant alleges that the Complaint of the plaintiff fails to state facts sufficient to constitute a cause of action against him and, therefore, the plaintiff's Complaint should be dismissed pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure.

FOR A THIRD DEFENSE

10. The defendant realleges and reiterates each and every allegation set forth above, and not inconsistent herewith, as if fully repeated herein.

11. The defendant alleges that even assuming that he was negligent, careless, grossly negligent, willful, wanton or reckless in any respect, and that any such conduct on his part operated as a proximate cause of the accident and the plaintiff's resulting injuries and damages, if any, all of which is expressly denied and admitted solely for the purpose of this defense and no other, that the plaintiff's negligent, grossly negligent, reckless, willful and wanton conduct contributed more than 50% to the cause of the accident and the plaintiff's resulting injuries and damages, if any. For that reason, the defendant is not liable to the plaintiff in any sum whatsoever.

FOR A FOURTH DEFENSE

12. The defendant realleges and reiterates each and every allegation set forth above, and not inconsistent herewith, as if fully repeated herein.

13. The defendant alleges that even if he was negligent, careless, grossly negligent, reckless, willful or wanton in any respect whatsoever, which is expressly denied and admitted solely for the purpose of this defense and no other, and if any such conduct on his part operated as a greater than 50% cause of the accident and the plaintiff's resulting injuries and damages, if any,

which is also expressly denied and admitted solely for the purpose of this defense and no other, he is entitled to a determination as to the percentage which the plaintiff's negligent, grossly negligent, reckless, willful and wanton conduct contributed to the accident and to a reduction of any amount awarded to the plaintiff in an amount equal to that percentage of the plaintiff's own negligent, grossly negligent, reckless, willful and wanton conduct.

FOR A FIFTH DEFENSE

14. The defendant realleges and reiterates each and every allegation set forth above, and not inconsistent herewith, as if fully repeated herein.

15. The defendant alleges that the plaintiff has failed to mitigate his damages and, therefore, the plaintiff's Complaint should be dismissed.

FOR A SIXTH DEFENSE

16. The defendant realleges and reiterates each and every allegation set forth above, and not inconsistent herewith, as if fully repeated herein.

17. The defendant specifically reserves any additional and/or affirmative defenses as may become available to him or revealed to him during the course of the investigation and/or discovery in this case.

CLERK OF SUPERIOR COURT
2014 DEC -3 P 1:44
M. HOPE GILLESPIE

FOR A SEVENTH DEFENSE

18. The defendant realleges and reiterates each and every allegation set forth above, and not inconsistent herewith, as if fully repeated herein.

19. The defendant would allege that an award of punitive damages would constitute an impermissible and excessive fine under the Eighth Amendment of the Constitution of the United States, and such damages would further be a violation of the due process and equal protection causes of the Fifth and Fourteenth Amendments, respectively, of the United States

Constitution, as well as the applicable corresponding section of the Constitution of the State of South Carolina, Article 1, Section 3.

Plaintiff's claim for punitive damages violates the defendant's right to access to the Courts guaranteed by the Seventh and Fourteenth Amendments because the threat of an award of unlimited punitive damages chills the defendant's exercise of that right.

Plaintiff's claim for punitive damages violates the due process and equal protection clauses of the Fourteenth Amendment for the following reasons:

(a) The standard or test for determining the requisite mental state of the co-defendant for imposition of punitive damages is void for vagueness; and

(b) Insofar as punitive damages are not measured against actual injury to the plaintiff and are left wholly to the discretion of the jury, there is no objective standard that limits the amount of such damages that may be awarded, and the amount of punitive damages that may be awarded is indeterminate at the time of the co-defendant's alleged conduct.

WHEREFORE, having fully answered the Complaint of the plaintiff, the defendant, Scott Carr, prays that the Complaint of the plaintiff be dismissed, for the costs and disbursements of this action, and for any such other and further relief as this Court shall deem just and proper.

By: _____

Michael T. Coulter (SC Bar# 15177)
Clarkson, Walsh, Terrell & Coulter, P.A.
P.O. Box 6728
Greenville, SC 29606
(864) 232-4400
(864) 235-4399 (fax)
Attorneys for the Defendant

2014 DEC -3 PM 1:44

JURY TRIAL DEMANDED

By: _____
Michael T. Coulter (15177)

Greenville, South Carolina
December 1, 2014

CLERK OF COURT
SPARTANBURG COUNTY
2014 DEC -3 PM 1:44
H. HOPE BLACKLEY

Q. Uh, ya heard me tell the jury earlier that they wouldn't let you come back unless you had a release from your doctor, ---

A. Yes.

Q. --- uh, is that why you missed seven weeks?

A. Yes.

Q. And if ya add up seven weeks at nineteen hours a week at 7.25 an hour, do you get that number right there (indicating)?

A. Yes, sir.

Q. Okay. And so all these medical bills and lost wages together total 6,242.25, is that right?

A. Yes.

THE COURT: What was the number?

MR. LANGLEY: 6,242.25, Your Honor.

THE COURT: Thank ya.

MR. LANGLEY: Yes, sir.

BY MR. LANGLEY:

Q. Now the, you'll flip over to see these little numbers on the bottom a this sheet here I've givin' ya, "A. Smith," uh, "11." Okay, now up at the top it indicates you arrived at the emergency room 9:35, you see that? top right corner?

A. No.

Q. See some numbers up there, I think it's got a zero in front of it.

A. Yes.

A. No, sir.
Q. Now, uh, this accident took place on May 28th 'bout 7:30 in the mornin', right?
A. Yes.
Q. Where were you headed?
A. On my way to school.
Q. Okay, and you were stopped at a red light, is that right?
A. Yes, sir.
Q. How long had you been stopped there?
A. Uh, couple seconds.
Q. Okay. And you recall seeing or hearing anything prior to gettin' struck in the rear by Mr. Carr?
A. Only I heard him try to stop car ---
Q. Alright, ---
A. --- before he ---
Q. --- and how -- what did ya hear?
A. Uh, tires screeching.
Q. Alright. And how hard was the impact?
A. Pretty hard.
Q. You've seen these pictures of the vehicle Mr., that Mr. Carr's attorney produced in this case, he's shown us where he says the damage was, is that what Mr. Carr's vehicle looked like after the wreck?
A. No.

action here today?
A. Because he hasn't done anything to even show me that he was sorry.
Q. Alright. Of all the medical bills, everything that, lost wages, all that, that's been your responsibility to deal with that, is that right?
A. Yes, sir.
Q. After the wreck you go to the hospital?
A. Yes.
Q. Where'd you go?
A. Spartanburg Regional.
Q. Why'd you go to Spartanburg Regional?
A. 'Cause I was in pain.
(Whereupon, a discussion was held off the record.)
Q. This is a summary a your medical bills, I'm gonna go through it with ya, we'll kinda come back and talk about each a these in a little bit more detail. So the day a the wreck you went to Spartanburg Regional, is that right?
A. Yes.
Q. Is that (indicating) the charge for goin' to Spartanburg Regional?
A. Yes.
Q. Alright, and then the ER physician saw you there, is that (indicating) what they charged ya for ---
A. Yes.

Q. --- seein' 'em? Then the next day for the next, uh, month and a half or so you went to see Dr. Robin Ivey in his practice Advantage Healthcare, ---

A. Yes.

Q. --- and is that that (indicating) his charge for seein' you for those seven weeks?

A. Yes, sir.

Q. And then, uh, ya also went to see your family doctor on June 5th, was that (indicating) your family doctor's charge?

A. Yes, sir.

Q. And then did ya have a chipped tooth in the wreck?

A. I did.

Q. Okay, and did they fix your chipped tooth?

A. No.

Q. Alright. Did they try to fix it on June 9th?

A. Yeah.

~~Q. Did ya see the the Tyger River Dentistry on June 9th to~~ get it evaluated?

A. Yes.

Q. Was that (indicating) what they charged?

A. Yes, sir.

Q. Is this (indicating) the total of your medical bills?

A. Yes, sir.

Q. And you missed time from work at Pizza Hut.

A. Yes.

Q. Uh, ya heard me tell the jury earlier that they wouldn't let you come back unless you had a release from your doctor, ---

A. Yes.

Q. --- uh, is that why you missed seven weeks?

A. Yes.

Q. And if ya add up seven weeks at nineteen hours a week at 7.25 an hour, do you get that number right there (indicating)?

A. Yes, sir.

Q. Okay. And so all these medical bills and lost wages together total 6,242.25, is that right?

A. Yes.

THE COURT: What was the number?

MR. LANGLEY: 6,242.25, Your Honor.

THE COURT: Thank ya.

MR. LANGLEY: Yes, sir.

BY MR. LANGLEY:

Q. Now the, you'll flip over to see these little numbers on the bottom a this sheet here I've givin' ya, "A. Smith," uh, "11." Okay, now up at the top it indicates you arrived at the emergency room 9:35, you see that? top right corner?

A. No.

Q. See some numbers up there, I think it's got a zero in front of it.

A. Yes.

Q. Okay. Uh, and tell the jury if you would in your own words what happened when this impact occurred, what happened?

A. I was goin' down passin' Hillcrest and somethin' caught my attention over in the parking lot of Hillcrest. I glanced over and by the time I glanced back I seen the car in fronta me had stopped.

Q. Alright, so you said the speed limit on that road was what?

A. Thirty-five.

Q. Okay, now before, and and you you agree that your vehicle came in contact with the plaintiff's vehicle, is that ---

A. Yes.

Q. --- right?

A. Yes.

Q. Alright, before you came in contact with the plaintiff's vehicle were you able to apply your brakes?

A. Yes.

Q. Alright. And did ya hit 'em hard?

A. I hit 'em as hard as my foot would go and as fast as I could.

Q. Okay, and so if you woulda had another foot between you and the plaintiff's car, what would've happened?

A. Probly nothin'.

Q. Alright, so was your speed substantially reduced after

result somebody's injured, the at-fault driver is responsible for the harm. Let me tell ya what happened in this case. May 28th 2014 the defendant's driving west on East Main Street in Spartanburg, approach an intersection of East Main and Drayton, close to Hillcrest shoppin' mall, goin' approximately 35 miles an hour, there's a vehicle ahead in the same lane completely stopped for a traffic light, defendant's not payin' attention, he rear-ends the vehicle stopped for the traffic light. Plaintiff Aaliyah Smith was the driver a the vehicle stopped at the traffic light. Now who, we're suin' this defendant because initially though he's now accepted fault before you here today, initially he refused to accept fault. This is the page 2 ---

MR. COULTER: Judge, ---

MR. LANGLEY: --- the ---

MR. COULTER: --- Judge, I ---

MR. LANGLEY: --- answer to his complaint.

MR. COULTER: --- I have no idea what he's showin' the jury, Judge, it hasn't been presented.

MR. LANGLEY: Page 2 of the answer to his complaint, it's a pleading, Your Honor.

MR. COULTER: I'd appreciate if we could ---

THE COURT: Okay.

MR. COULTER: --- be able to see ---

MR. LANGLEY: Sure.

MR. COULTER: --- what it is before showin' to the jury.

MR. LANGLEY: Yes, sir. Page 2 the answer to his complaint, now, uh, to plaintiff's complaint and in our system when we have a disagreement we have to file a complaint, plaintiff files a complaint. The defendant files ---

THE COURT: I'm gonna ask the jury to go to the jury room for a moment, please, I wanna look at somethin' and think about somethin' a minute here, if you would go the jury room, please.

(The following takes place outside the presence of the jury.)

THE COURT: Alright, I just, it just occurred to me I don't know, you know, uh, generally speaking are we planning to show to the jury and all are things that are gonna be introduced into evidence durin' the trial and I would, and that, and that raises a question a whether the answer is somethin' that's introduced in evidence durin' the trial, generally that's that's not the case. I don't know, I don't know, uh, if there's any reason that you should be able to show what was said in the answer to start at the trial, start of the trial to the jury, Mr. Langley, you have any authority that says you can do that?

MR. LANGLEY: Well, Your Honor, I think pleadings as a matter of law are part of the public record and they're

MR. LANGLEY: No, sir, Your Honor.

THE COURT: It's not? Why do you put evidence in then?

MR. LANGLEY: Well ---

THE COURT: Either in favor of your side or against the other side, right, that's prejudice.

MR. LANGLEY: No, sir, Your Honor.

THE COURT: Or it's not? Tell ---

MR. LANGLEY: What ---

THE COURT: --- me what it is.

MR. LANGLEY: --- what I intend to do is show why we're in this courtroom today. What he's going to try to say is that ---

THE COURT: That doesn't make any difference why we're here, the only thing is the dispute about how much damage she was caused.

MR. LANGLEY: No, sir, Your Honor, I disagree. He said ---

THE COURT: Okay.

MR. LANGLEY: --- two different things on the record; one, he said he's not at fault. In his deposition he said he may be at fault but he didn't accept responsibility for the harm that he caused so I don't know what he's gonna say when he gets on this stand. The record is and his answer that he's only said that she was at fault, that plaintiff is entitled to no recovery. I'm entitled to show the jury that, Your Honor,

MR. LANGLEY: He's denied respon ---

THE COURT: --- appreciate that ---

MR. LANGLEY: --- sibility ---

THE COURT: --- but I I I'm gonna tell this jury that he has admitted fault at the end a the case so I think there's no reason to bring in a red herring or to drag it up before the jury ---

MR. LANGLEY: He's never ---

THE COURT: --- so you just ---

MR. LANGLEY: --- one time, ---

THE COURT: --- leave out, you just leave out anything like that in your opening statement to the jury.

MR. LANGLEY: --- he's never one time filed an amended answer, Your Honor. This was a year ago that he admitted and then he denied responsibility.

THE COURT: Well I ---

MR. LANGLEY: If -- I don't, ---

THE COURT: --- appreciate your, ---

MR. LANGLEY: --- I don't think ---

THE COURT: --- I appreciate ---

MR. LANGLEY: --- I think it's an appropriate ---

THE COURT: --- your position, ---

MR. LANGLEY: --- consideration.

THE COURT: --- I appreciate your position, I've ruled. Bring the jury in.

hand Bible.

SCOTT CARR, having been first duly sworn, testified as follows:

THE CLERK: Thank you.

DIRECT EXAMINATION BY MR. LANGLEY:

Q. You're Scott Carr, defendant this case?

A. Yes, sir.

Q. You rear-ended my client Ms. Smith on May 28th 2014?

A. Yes, sir.

Q. On December, uh, 1st 2014 there's an answer filed on your behalf in this case, is that right?

A. Yes, sir.

Q. And in that did you say that that you were ---

MR. COULTER: Judge, I'm gonna ---

Q. --- responsible ---

MR. COULTER: --- object that ---

THE COURT: Me -- members the jury panel, need you go the jury room for a few minutes, please.

(The following takes place outside the presence of the jury.)

THE COURT: Alright, we have the jury out, the door's closed, go ahead with your question.

BY MR. LANGLEY:

Q. Did you say that you're not liable to the plaintiff in any sum whatsoever?

A. That's what it says I said then I said it.

Q. Alright. Right here (indicating) it is, did I read it incorrectly?

A. No, that's exactly what it says.

MR. LANGLEY: It's my question, Your Honor.

THE COURT: Alright. And your a -- your objection is to relevancy?

MR. COULTER: It is, Judge, ---

THE COURT: Alright.

MR. COULTER: --- it is to relevancy.

THE COURT: Why do you think that's relevant to any issue that's involved in this case at this time, Mr. Langley?

MR. LANGLEY: Your Honor, I I that I respectfully disagree with the fact that he denied liability, has continued to deny liability throughout all of his pleadings and I respect your ruling that now we're here on a matter a damages. Ha has denied that he's responsible for any damages and I'm entitled to get into that.

THE COURT: I appreciable your position but I sustain the objection. Bring the jury back in.

MR. COULTER: Well and, Judge, there's still the issue of the, uh, motion in limine before we go into anything that was discussed.

THE COURT: Let's let's just go ahead and do that now and all, hold the jury in there if you would. Let's just go ahead

was going on at time. She's discharged from the hospital that same day, no X-rays, no nothin' and this goes on to say when it talks about the neck, excuse me, cervical spine which is the neck, No cervical spine tenderness, talks about the back, No back tenderness, all things that are goin' on at the time.

Now plaintiff has come up and said, I've missed work, I don't even think there was any testimony as to how many days she missed, I, that I don't think I recall hearing anything like that, they just given you a number and said that's it, $964, that's it. I asked the chiropractor about it from records he never provided before and he looked at one and said, Oh, this says June, think he said June 26th was when my last day was and then said, I'm not mistaken, he said, Well she was already back to work. When I questioned him about it some more, he took that back, said no, so I'm not exactly sure, they've just given you a number, but here's what we do know: She missed the the school that same day, didn't miss anymore, didn't miss anymore school at all, actually took a test two days later, okay, two days later she took a test at school and didn't miss any other.

Now I'm gonna wrap up here real quick but plaintiff attorney is asking to return all this (indicating) and then more, all this and more, one being he says anxiety, want some award for anxiety caused by by this (indicating) and the pain and suffering, now I submit to you that common sense would

tell you ya don't get injured as a result of this (indicating), nonetheless, they want Scott to be responsible for that. They want Scott to be responsible for that (indicating) and more, okay. As a result of this accident, they want him to pay and so just like anybody else who would find themselves here as a result of an accident, I wouldn't want you to be doin' this just to be reasonable, I know you will, I know you will, he can't come up here and promise he's never gonna make, uh, be in an accident again, can anybody say that when there's nothin', they say we don't follow the rules and we're not repentant but can I come up logically in fronta ya'll and say I'm not gonna be in an accident, I won't make a mistake as a human being and that they're angry and they want s -- for an accident so they want more from then, just this, remember though in considering the pain and suffering, you'll have the medical records and and the chiropractic records, remember this, you can see 'em, within two weeks of this accident, two weeks her complaints are a two outta ten, a two out of ten and yet she says she can't go back to work. One month after this accident her complaints are a zero out of ten, zero and yet she goes to five more chiropractic treatments. Remember, they have to prove to you by a preponderance of the evidence that the damages they're claiming are reasonable and necessary, reasonable and necessary. Was it reasonable to go to the ER based on this

(indicating)? I don't know, that's up to you. Was it reasonable to spend $4,000 with a chiropractor over a month and a half and to go again and again and again when you have complaints of zero outta ten and then ask Scott to be responsible for that, is that reasonable? Why would chiropractor Ivey you may ask with his bag of his tricks that he came up with, I tell ya, I've been doin' this for twenty-five years, I have never seen a bowling ball in a courtroom, that's a first time, that's first time, so he's got a bowlin' ball and he's showin' ya all this stuff, well why would chiropractor Ivey say, Oh, yeah, all all these things are related, it's all because a this accident and yeah, she was hurt, no question about it, why? 'cause he's owed $4,000, he is owed $4,000 for this. What would cause him to say all this treatment was related? how 'bout the $4,000 he's owed, so I'll sit down and again just ask you remembering human nature and mistakes and all of that, just if you'd be reasonable I submit to you that reasonableness and common sense says there couldn't be an injury and I'm gonna ask you to return a verdict for Scott, it's what I'm ask you to return a defense verdict because they haven't proven their case by a preponderance of the evidence, they have not proven that these are reasonable, that deserves a defense verdict so I'll just leave that with ya and I wanna appreciate, tell you how much I appreciate your time.

treatment, do ya?

A. No, sir.

Q. Show you some pictures that have been produced in this case, ---

(Whereupon, a discussion was held off the record.)

Q. --- just take a moment look through 'em, make sure you're familiar with 'em.

(Whereupon, the defendant complied.)

Q. Seen those before?

A. Um-hum, yes.

Q. And, uh, are those pictures a your vehicle?

A. Yes, sir.

Q. And when we talked before you told me that some a this damage to the front end was caused from this wreck, is that right, ---

A. Yes.

Q. This wreck with Aaliyah Smith?

A. Yes.

Q. Now it looks to me like this hood looks a little different from the car, is that the same hood that's always been on there?

A. Yes.

Q. Alright. And you marked for me before I believe the, uh, damage and and a little bump, the, uh, indentation there in your vehicle that had come from this wreck, is that

A. No, sir.
Q. Now, uh, this accident took place on May 28th 'bout 7:30 in the mornin', right?
A. Yes.
Q. Where were you headed?
A. On my way to school.
Q. Okay, and you were stopped at a red light, is that right?
A. Yes, sir.
Q. How long had you been stopped there?
A. Uh, couple seconds.
Q. Okay. And you recall seeing or hearing anything prior to gettin' struck in the rear by Mr. Carr?
A. Only I heard him try to stop car ---
Q. Alright, ---
A. --- before he ---
Q. --- and how -- what did ya hear?
A. Uh, tires screeching.
Q. Alright. And how hard was the impact?
A. Pretty hard.
Q. You've seen these pictures of the vehicle Mr., that Mr. Carr's attorney produced in this case, he's shown us where he says the damage was, is that what Mr. Carr's vehicle looked like after the wreck?
A. No.

Q. How was it different?
A. The hood was bended up.
Q. Okay. And point to the jury where the hood was bent up.
A. Right here (indicating).
Q. In the middle?
A. Yes.
Q. Alright. Do you know where those pictures were taken?
A. No.
Q. You know how long after the wreck they were taken?
A. No, sir.
Q. Now do you have your seat belt on at the time a the wreck?
A. Yes, sir.
Q. What happened to you when you were hit at impact?
A. My body moved forward.
Q. Okay, and wha'd ya do after the accident?
A. Um, we wait for the police to come.
Q. Okay. Did you talk to Mr. Carr?
A. Yes.
Q. Alright. How long you talk to him?
A. Uh, not long.
Q. Okay, alright. Did he say, I'm sorry, or anything like that?
A. No.
Q. How'd you feel -- strike that. Why you bringin' this

MR. LANGLEY: At at a break I had an opportunity to do a little research on this issue about the pleadings, and I wanted to point Your Honor to a couple a cases to ---

THE COURT: Alright, I'll be ---

MR. LANGLEY: --- to look at, ---

THE COURT: --- I'm gl, uh, I appreciate that, go ahead.

MR. LANGLEY: --- one of 'em is *Postal v. Mann* ---

THE COURT: Wait a minute, why don't you just tell me about that later and everything, give it to me whatever, you know, if you want to and unless you think, unless you want me to do somethin' now you that you think I can do, uh, undue or change or whatever anything ---

MR. LANGLEY: Well ---

THE COURT: --- that I've done.

MR. LANGLEY: --- Your Honor, I think that there's a, uh, it -- there would be an opportunity for me to use the answer in the, in the closing and that's what I'd like to ---

THE COURT: Okay.

MR. LANGLEY: --- do.

THE COURT: Alright, tell me what you want, what -- tell me what that you think those cases say that you think ---

MR. LANGLEY: Well I ---

THE COURT: --- gives you leeway to do something you wanna do that you don't think I'd let ya do.

MR. LANGLEY: Yes, sir, Your Honor. I'm just gonna read to ya directly from the case ---

THE COURT: Alright.

MR. LANGLEY: --- *Po -- Postal v. Mann*, M-A-N-N and this is 308 S.C. ---

THE COURT: You you don't, okay, you don't have to give me a cite, just tell me what the case, what the case is about and what do you think it says.

MR. LANGLEY: Yes, sir, Your Honor, I'll just put this on the record, 308 S.C. 385 and I'll read directly, It's well settled that parties are judicially bound by their pleadings unless withdrawn, altered or stricken by amendment or otherwise. The allegations, statements, or admissions contained in a pleading are conclusive as against the pleader and a party cannot subsequently take a position contradictory of or inconsistent with his pleadings and the facts which are admitted by the pleadings are taken as true against the pleader for the purpose of the action, alright, and so that's one note, Your Honor, where I I believe that I was entitled, uh, to cross-examine or examine Mr. Carr and to use in the, in the opening his pleadings in this case ---

THE COURT: Alright.

MR. LANGLEY: --- and, Your Honor, had had mentioned a that you didn't feel like that the pleadings were evidence and there's another case I'd like for you ---

THE COURT: Alright.

MR. LANGLEY: --- to look at, it's *Lucht vs. Youngblood*, L-U-C-H-T vs. Youngblood, Pleadings in an action may genelry -- generally be received in evidence against the pleader and now, Your Honor, I understand unless you'd permit me to call Mr. Carr in reply that, uh, I can't enter in -- enter these pleadings into evidence but I think, uh, that the Court can take judicial notice of the pleadings as bein' in the record and in the ---

(Indiscernible cross-talk.)

THE COURT: I don't know how, let me, let me go back and ask ya you know can you -- do ya know how or what that first case is, what the year of that is?

MR. LANGLEY: Very first case I cited ---

THE COURT: Yeah.

MR. LANGLEY: --- to Your Honor? Yeah, I believe it's 1992 but let me pull up. Yes, sir, Your Honor, 1992.

THE COURT: And how 'bout the second one?

MR. LANGLEY: Well my my machine just logged me out. Give me just one second, Your Honor, I'll tell ya. And by the way, Your Honor, 'cordin' to my Westlaw here that opinion, the *Postal* opinion had never been, uh, no court or subsequent appellate court had ever been critical of it ---

THE COURT: Okay.

MR. LANGLEY: --- and the *Lucht v. Youngblood* case is

Supreme Court a South Carolina 1976 and again, uh, my ---

THE COURT: I don't remember, like like I say, I'll be glad to read read both those cases see what they say, you know, but, you know, course I think that that idea of pleadings being evidence in some way or, well they used, it goes to the -- it -- we used to even, the the pleadings used to go to the jury and we quit doin' that a long time ago and all and I still stand by the fact that that when you get, when a case has been developed as this one has been developed and all and in the modern practice of things with discovery that we have and all, it's quite oftentimes a big difference between the initial pleading and what the positions of the parties are when they get to trial and to try to say that because something was stated in an initial pleading or answer should be conclusive and used against the party at the time a trial I don't think is good, is a good way to operate so I appreciate your position but I'm not gonna change what I've done.

MR. LANGLEY: Thank Your Honor.

THE COURT: Alright. By the way I give you your rule book ---

MR. COULTER: Oh, yes, ---

THE COURT: --- back.

MR. COULTER: --- thank you. Alright, we'll be back at two o'clock.

conflict at all. The reason I asked about the Dr. Ivey is 'cause, uh, I believe it's his brother that's a friend of mine and his son is a friend of mine, I don't know if that's a conflict or not.

THE COURT: It's just about, you know, he said about Dr. Ivey that you got that.

JUROR NUMBER 85: I know David, big brother ---

MR. LANGLEY: Oh, got ya.

JUROR NUMBER 85: --- and his son.

MR. COULTER: Yeah.

MR. LANGLEY: Yeah, got ya.

(Whereupon, a recess was taken.)

THE COURT: Keep your seat. Alright, we're ready to pick a jury, one through twenty for the regular twelve jurors, twenty-one, twenty-two, twenty-three for the alternate. Plaintiff first.

MR. LANGLEY: Plaintiff strikes Number 2.

THE COURT: Two?

MR. LANGLEY: Yes, sir.

THE COURT: Defendant?

MR. COULTER: Defense strikes 3.

MR. LANGLEY: Plaintiff strikes Number 5.

MR. COULTER: Defense strikes Number 10.

MR. LANGLEY: Plaintiff strikes Number 9.

MR. COULTER: Defense strikes Number 14.

MR. LANGLEY: Plaintiff strikes Number 18.

MR. COULTER: Defense strikes 19.

THE COURT: Alright, one each al -- with one each on the alternate. Plaintiff.

MR. LANGLEY: Plaintiff strikes Number 21.

MR. COULTER: Defense strikes 22.

THE COURT: Alright, I'm gonna call back the na -- numbers of those that I have marked as serving, Number 1, 4, 6, 7, 8, 11, 12, 13, 15, 16, 17, 20, and 23, everybody agree on that?

MR. LANGLEY: Yes, Your Honor.

THE COURT: Alright, I ask the clerk call the names of the jurors and if your name is called, bring any personal belongings with ya, come over here (indicating) and have a seat in the jury box.

THE CLERK: Juror Number 109, Justin M. Pearson.

(Justin M. Pearson, a white male came forward.)

THE CLERK: Juror Number 133, Jillian J. ---

JUROR NUMBER 133: Stenersen.

THE CLERK: Stensen [sic], thank you.

(Jillian Stenersen, a white female came forward.)

THE CLERK: Juror Number 9, Jerry B. Belue.

(Jerry B. Belue, a white male came forward.)

THE CLERK: Juror Number 18, Neil Canaday.

(Neil Canaday, a white male came forward.)

THE CLERK: Juror Number 37, Scott B. Ellis.

(Scott B. Ellis, a white male came forward.)

THE CLERK: Juror Number 4, John G. Alexander, Jr.

(John G. Alexander, Jr., a white male came forward.)

THE CLERK: Juror Number 51, Rebecca G. Green.

(Rebecca G. Green, a white female came forward.)

THE CLERK: Juror Number 112, Kimberly M. Pirfman?

JUROR NUMBER 112: Pfirrman.

THE CLERK: Pfirrman, excuse me.

(Kimberly M. Pfirrman, a white female came forward.)

THE CLERK: Juror Number 106, Chandler S. Pace.

(Chandler S. Pace, an Asian female came forward.)

THE CLERK: Juror Number 162, William M. Wilson the third.

(William M. Wilson, III, a white male came forward.)

THE CLERK: Juror Number 36, Mark A. Ellis.

(Mark A. Ellis, a black male came forward.)

THE CLERK: Juror Number 31, Tammy E. Dame.

(Tammy E. Dame, a white female came forward.)

THE CLERK: And the alternate, Juror Number 80, April R. Littlejohn.

(April R. Littlejohn, a black female came forward.)

THE CLERK: Your Honor, your jury has been selected.

THE COURT: Alright, good, yeah, okay. Alright, any objection to the jury that's presently constitute, plaintiff?

MR. LANGLEY: No, sir, Your Honor.

THE COURT: Defendant?

MR. COULTER: No, sir.

THE COURT: Alright, member jury panel, as I said this is a, you're the jury for the trial of the second case and we're not gonna, we're gonna get, we plan on starting that case Wednesday mornin' so I'm gonna let ya go now in just a minute and ask you be back with us, uh, Wednesday mornin' at 9:30, we'll get started just as soon as we can after that, Wednesday morning at 9:30 reassemble in the jury room, show 'em where you want 'em to come back to what jury room and where, make sure you know how to get in and out from that jury room, be back with us at 9:30, course you don't know anything about this case at this point in time other than what I've told ya earlier and that is that it involved this claim that the plaintiff makes against the defendant and a dispute about the money that he, uh, that she wants him -- wants to -- him to pay her and, uh, but don't discuss the case, don't let anybody contact your -- do anything as far as, uh, uh, this case is concerned, that you're to make your decision based on the testimony and the evidence that'll be presented to you from the witness stand and my instructions to ya on the law, so don't try to discuss the case with your family, friends, or anyone else between now, when you're deliberating at the end of the case, you're the twelve that'll make the decision, not

somebody else so if they wanna know, somebody wants to know what you're doin': family, friends or whatever, you tell them you're involved the trial of a case, you'll be -- you've been picked as the jury on the case and you can tell 'em all about it once it's over but until it is over it'll be improper for you to discuss the case with them, so with that instruction keep that in mind, be back with us Wednesday mornin' at 9:30, see you then. Let the jury get out.

(The following takes place outside the presence of the jury.)

(Whereupon, the jury pool was released.)

THE COURT: Alright, ya'll are free too then, be on your way, be back here ---

MR. LANGLEY: Yes, Judge.

THE COURT: --- at 9:30 Wednesday.

MR. LANGLEY: Yes, sir.

MR. COULTER: By, Judge, thank you.

THE COURT: Okay.

(Proceedings March 23, 2016)

THE COURT: Alright, anything before we bring the jury in?

MR. COULTER: Yes, sir, Judge, we do have a co -- I I've got one motion in limine.

THE COURT: Alright, what is that?

MR. COULTER: Judge, uh, I, and I'm assuming it's still

the case but, uh, at one point, uh, Mr. Langley had had indicated that it was his intention to attempt to cross-examine my client on criminal convictions that were over 10-years-old. Uh, he's had no criminal conviction just ---

THE COURT: What's the, ---

MR. COULTER: --- so ---

THE COURT: --- what's the rule say? I don't have my rule book right here with the re -- what's the rule say about that?

MR. COULTER: Uh, the rule says that, uh, uh, criminal convictions that are over 10-years-old aren't pr -- aren't proper to be presented into evidence.

THE COURT: Is that right, Mr. Langley?

MR. LANGLEY: No, sir, Your Honor, it's not. Uh, there's two rules that are applicable: 609 and 608. Uh, 609 says the part about ten years, 608(b) says that, These criminal convictions may, however, in the discretion a the Court if probative of truthfulness or untruthfulness be inquired into on cross-examination concerning the witness's character for truthfulness or untruthfulness. I'm not tryin' to ask about the criminal conviction in isolation, Your Honor, I'm tryin' to ask about Mr. Carr's failure to be truthful with me in his deposition and I'll just read to you the excerpt that I'm concerned about. I asked him about, just to give a little context, uh, I asked him about his past DUIs and I've got the

original transcript, Your Honor, if you wanna me to go ahead open it up.

THE COURT: Try to con -- condense it and tell me what you're talkin' about first.

MR. LANGLEY: Yes, sir, Your Honor. Uh, I a -- he had, I'd asked him about prior DUIs and he admitted to me he had four DUIs prior and I said, Okay, any a those felonies? No. Any a those involve crash? No. Any other criminal convictions you've got? No, flat nos, Your Honor, and and that that's not true.

THE COURT: Well what is no -- what is the truth?

MR. LANGLEY: The truth is he's got a felony DUI, uh, from Virginia, it's just a little bit of outside the 10-year window, it's 13-years-old or 14-years-old now, it was 12-years-old when this wreck happened, it's from 2002. I've got the certified record from the circuit court of Loudoun County where Mr. Carr pled guilty to a felony DUI third or subsequent violation within ten years pursuant to 18.2-266 of the code of Virginia so it's not in isolation that I'm trying to use a criminal conviction, it's not under 609, Your Honor, it's under 608(b), it's his failure to be truthful with me that is at issue.

MR. COULTER: And, Judge, I would wanna point out here that this issue about a felony DUI first of all is substantially different than a South Carolina felony DUI.

This is not a situation where someone was killed or injured an in Virginia as I understand it, I have research as well, if you're over particular number, it it regarded as a felony as opposed to what we consider it down here, bottom line though is it's a backdoor attempt to get in criminal convictions that are more than 10-years-old and the other thing is this is a, this is a case of admitted, uh, fault, admitted fault so his credibility regarding what happened in this accident that he caused this accident really becomes a 401 argument because we're not talkin' about attacking his credibility when it's a -- he's admitting these and then it becomes an issue of becoming prejudicial as approsed [sic] to probative, uh, which is just again backdoor attempt.

THE COURT: Alright, well I'll take a look at that and all, uh, uh, I I'll I'll take a look. I'm not gonna make a decision on that now, I'm not gonna rule on it right now and all but so before we get into, 'fore you get into any of that you let me know that you wanna take up a matter with the Court or something like that, bring it to my attention and I'll give it a more thour -- thorough examination, that point I'll look at the rule a little bit closer.

MR. COULTER: Sure.

THE COURT: If you wanna loan me your rule book until ---

MR. COULTER: Certainly.

THE COURT: --- then ---

MR. COULTER: Yes, sir.

THE COURT: --- that be fine, I didn't bring mine out here with me and all but, uh, I'll be glad to look, I'll be glad to look at that but appreciate ya bringin' that to my attention so, Mr. ---

(Whereupon, a discussion was held off the record.)

MR. LANGLEY: Yes, Your Honor, one more ---

THE COURT: Okay, ---

MR. LANGLEY: --- uh, ---

THE COURT: --- before you, before you start into any a that you let me know and I'll ---

MR. COULTER: Yes, sir.

THE COURT: --- be glad to rule on it but let, we'll put everything in, let me hear, look at everything and I'll make a ruling then.

MR. LANGLEY: Yes, sir, Your Honor, ---

THE COURT: Alright, ---

MR. LANGLEY: --- and if ---

THE COURT: --- what else?

MR. LANGLEY: --- I might approach, I've provided a copy ---

THE COURT: Anything else from you, Mr. Coulter, you were goin', anything?

MR. COULTER: No, sir, that's ---

THE COURT: Alright, ---

MR. COULTER: --- that's the only thing.

THE COURT: --- anything from you?

MR. LANGLEY: Yes, Your Honor, just a pretty general, uh, motion in limine.

THE COURT: What is ---

MR. LANGLEY: I, ---

THE COURT: --- that?

MR. LANGLEY: --- it's, I provided it to Mr. Coulter way back in December when we were first gonna try this case and maybe even one time before that, and the first time, the very ---

THE COURT: What ---

MR. LANGLEY: --- first time ---

THE COURT: --- what is it?

MR. LANGLEY: --- because it -- it's just a general motion in limine, Your Honor, ---

THE COURT: About what?

MR. LANGLEY: --- about references to whether or not that the plaintiff, uh, what they'll do with these funds collateral source, ---

THE COURT: Yeah, do you know ---

MR. LANGLEY: --- uh, ---

THE COURT: --- what he's talking about?

MR. COULTER: Uh, Judge, I'm not gonna be getting into collateral source or anything ---

THE COURT: Alright, ---

MR. COULTER: --- that quick, ---

THE COURT: --- good.

MR. COULTER: --- I ---

THE COURT: Good.

MR. LANGLEY: Then income tax, if there's no objection to this motion then we're fine, Your Honor.

MR. COULTER: Well, I mean, there's seven or eight here and some of 'em I do. I mean, one of 'em says that I can't mention the fact that, uh, there was minimal damage caused to the the plaintiff's vehicle. Uh, ---

THE COURT: I think you can certainly do that.

MR. COULTER: Well I I agree and so I I'm not gonna not object to that so but these about collateral source and so forth I certainly don't plan to do that, uh, so that I would certainly agree with.

THE COURT: Alright, well as as with most motions in limine I find that I cannot and I will not make a final ruling. If he raises a question about somethin' that you think's objectionable, you object and I'll rule.

MR. LANGLEY: Yes, Your Honor.

THE COURT: Alright.

MR. COULTER: And, Judge, I also think that, I think I, although I hadn't seen Ryan's, I think we're in agreement to mark some, uh, some ---

THE COURT: Well go ahead ---

MR. COULTER: --- evidence ---

THE COURT: --- and do it.

MR. COULTER: --- so that we can go ahead and move through it a little quicker.

(Whereupon, a discussion was held off the record.)

MR. LANGLEY: No, Your Honor, we don't have an agreement on him marking, uh, these pictures ahead a time, ---

MR. COULTER: Okay.

MR. LANGLEY: --- particuly -- particularly the large board, uh, that's duplicative of and and redundant of evidence that will be in the record. Now he wants to show the picture ---

THE COURT: If you don't have an agreement, just sit down then.

MR. COULTER: Yeah, that ---

MR. LANGLEY: Well, Your Honor, I think we do have an agreement in part, that's why I was, uh, ---

MR. COULTER: Judge, I just assume go ahead and and start the trial and we'll get into it when we get into it.

THE COURT: Alright.

MR. LANGLEY: And, Your Honor, I'm just waitin' on one, uh, more board to to get here then I'll be ready to proceed.

THE COURT: Okay.

THE BAILIFF: Judge, may I approach please?

THE COURT: Sure.

THE BAILIFF: I've just been told that Juror 112 is here.

THE COURT: Okay, good. Juror 112, the one that was sick.

THE BAILIFF: Yes.

THE COURT: Okay, so we're back to twelve, good.

MR. LANGLEY: Great.

(Pause.)

THE COURT: Alright, we're gonna bring the jury in, get started and whenever your thing gets here you can go get here but we're gonna go ahead and get started for for with, uh, my instructions and also with the opening statement. Bring the jury in.

THE BAILIFF: Yes.

(The following takes place in the presence of the jury.)

THE COURT: Let's see, where is juror Rebecca Green? Where? Alright, I'm gonna ask you to serve as forelady of the jury. If you would come down and take this first seat down here (indicating) and all but ya'll, you swap with her if you would, sir, I'd like for her to serve as the forelady of the jury. Alright, I am appointing you as forelady, foreperson of the jury, if you would occupy that seat at all times during the trial, the rest of you're free to sit anywhere you'd, that you'd like in the jury box at such time as you come and go

from the courtroom but if you would let the forelady sit down there (indication) in that first seat. I'm gonna ask the clerk to swear the jury, please.

THE CLERK: Please stand and raise your right hand.

(Whereupon, the jury was sworn.)

THE CLERK: Thank you.

THE COURT: Thank you. Alright, if we ha -- have ya already -- yeah, you've already given the notepads and the pens to the jury?

THE CLERK: Uh, it was that they've already ---

THE COURT: Bailiff has?

THE CLERK: --- got ---

THE COURT: Somebody? Ya alright?

UNIDENTIFIED JUROR: We're good.

THE COURT: Okay, everybody has a notepad and a pen. I do allow jurors to take notes during the trial, you don't have to take any notes but you may take notes. Some people don't think it's a good idea to give you notepads and pens, they think it may distract you from what is actually being said and done during the presentation the testimony and the evidence to you, if you do take notes, do not allow your note-taking to distract you. Notes are to be used used only as memory aids, notes are not entitled to any greater weight than the recollection or the impression of each juror as to what the testimony or evidence actually was, those will be your notes

and your notes only, no one will be looking at them, loo -- check checkin' to see what you wrote down, anything of that sort. At the conclusion of the trial, I'd ask ya tear off any notes you may have made, take them with you, tear 'em up, whatever you wanna do, as I said those are your notes and your notes only and notes are not entitled to any greater weight in the recollection or the impression of each juror as to what the testimony or evidence actually was.

The oath that you just took was an oath whereby you swore you would decide this case based on the testimony and the evidence that will be presented to you from that witness chair right over there (indicating) between you and me and my instructions to ya on the law. I really don't know much more about this case at this point in time than you do. All I know is this is a dispute, a disagreement between these parties that grows out of an automobile accident that happened here in Spartanburg sometime ago, I've forgotten exactly when it was but couple years ago I'm sure, but anyway there's there's a dispute about the consequences really of of this accident in terms of any damages or injuries that the plaintiff may have suffered in this case. I believe that the defendant, uh, admits that he was at fault in causing this accident so you don't have to worry about that aspect of the case. Oftentimes we have a dispute about whether somebody ran a red light or somethin' of that sort, goin' too fast or whatever and all but

in this case the defendant admits that this accident was his fault, he ran into the back of the automobile that was occupied by the plaintiff, she claims that as a result of that, direct consequence of that she was injured, what we call "damages," in this case that's what she's claimin', that she was injured and damaged as a result of this and that he should be required to pay her some money, that's what this se -- this case is about, when you get right down to it, that's what this case is about: how much money should he be required to pay to her as a direct, as a direct consequence of this accident, that's what you'll have to decide at the conclusion this case, that's how I understand it as at least at this point in time and as I said you'll learn about it more by the witnesses who come up here to that witness chair right there (indicating) and tell you what they know about this case.

You are the sole judges of the facts a this case, I don't have anything to do with the facts. My job during the trial is to make sure the parties follow the rules. We have certain rules of evidence and rules of procedure that they're supposed to follow, my job is to make sure that they follow those rules. Perhaps durin' the trial one or both lawyers'll get up and say something like, Your Honor, I object, and hopefully have some reason as to why the objection to a question that's been asked or an answer that's been given, when the lawyers do that, they're talkin' to me, they're not talkin' to you,

they're talkin' to me, they're calling a possible violation of one a those rules to my attention. Don't you concern yourselves with those objections whether I overrule it, sustain it, whatever because it has absolutely nothin' to do with your job in the case which is to be the finders or the judges of the facts of this case. Perhaps those objections come I may send ya outta the courtroom, I'm not tryin' to hide anything from ya by doin' that, it's just we've found over the years that that's the easiest and the best way for me and the lawyers to discuss those rules, to discuss the rule, let me make a decision about it, then bring you back in and go on with the trial, again, not tryin' to hide anything from ya, it's just that we found that's the easiest and the best way for me and the lawyers to deal with those rules questions is to send ya out, discuss it, let me make my decision, go on with the trial.

Now, how you gonna go about learning about this case? First thing we're gonna do is I'm gonna allow each attorney to make a brief opening statement to you. These are not arguments, the arguments will come at conclusion a the case but I do allow each side to introduce themselves a little further to ya, tell ya little bit more about what they see this case to be about in their openin' statement. Plaintiff goes first, tells ya about their side a the case then the defendant has an opportunity to make that kinda opening

statement to ya also, after that we'll have the presentation of the testimony and the evidence. People will come up here (indicating) and sit there and tell you what they know, plaintiff goes first then the defendant. After everybody's had a full and fair opportunity to present all the testimony, all the evidence that they wish you to consider in this case then you'll have arguments, we'll have arguments from the lawyers, they'll argue to you, try to persuade you as to what version or view you should take a the facts of this case 'cause there is a controversy, there is a disagreement, try to persuade you, after that I'll discuss with you more fully what your duties and responsibilities are as the jury in this case, the law that you -- applies to this case and then you go to jury room and the twelve of you will deliberate and you'll decide how much money, if any, the defendant should be required to pay to the plaintiff as the result of this case that we'll hear about, keep in mind what your job is going to be at conclusion of this case. Mr. Langley, would you like to make an opening statement?

MR. LANGLEY: Yes, Your Honor. May it please the Court. Good mornin'.

UNIDENTIFIED JUROR: Morning.

UNIDENTIFIED JUROR: Morning.

MR. LANGLEY: A driver on the road must pay attention when driving, if the driver fails to pay attention and as a

result somebody's injured, the at-fault driver is responsible for the harm. Let me tell ya what happened in this case. May 28th 2014 the defendant's driving west on East Main Street in Spartanburg, approach an intersection of East Main and Drayton, close to Hillcrest shoppin' mall, goin' approximately 35 miles an hour, there's a vehicle ahead in the same lane completely stopped for a traffic light, defendant's not payin' attention, he rear-ends the vehicle stopped for the traffic light. Plaintiff Aaliyah Smith was the driver a the vehicle stopped at the traffic light. Now who, we're suin' this defendant because initially though he's now accepted fault before you here today, initially he refused to accept fault. This is the page 2 ---

MR. COULTER: Judge, ---

MR. LANGLEY: --- the ---

MR. COULTER: --- Judge, I ---

MR. LANGLEY: --- answer to his complaint.

MR. COULTER: --- I have no idea what he's showin' the jury, Judge, it hasn't been presented.

MR. LANGLEY: Page 2 of the answer to his complaint, it's a pleading, Your Honor.

MR. COULTER: I'd appreciate if we could ---

THE COURT: Okay.

MR. COULTER: --- be able to see ---

MR. LANGLEY: Sure.

MR. COULTER: --- what it is before showin' to the jury.

MR. LANGLEY: Yes, sir. Page 2 the answer to his complaint, now, uh, to plaintiff's complaint and in our system when we have a disagreement we have to file a complaint, plaintiff files a complaint. The defendant files ---

THE COURT: I'm gonna ask the jury to go to the jury room for a moment, please, I wanna look at somethin' and think about somethin' a minute here, if you would go the jury room, please.

(The following takes place outside the presence of the jury.)

THE COURT: Alright, I just, it just occurred to me I don't know, you know, uh, generally speaking are we planning to show to the jury and all are things that are gonna be introduced into evidence durin' the trial and I would, and that, and that raises a question a whether the answer is somethin' that's introduced in evidence durin' the trial, generally that's that's not the case. I don't know, I don't know, uh, if there's any reason that you should be able to show what was said in the answer to start at the trial, star of the trial to the jury, Mr. Langley, you have any authority that says you can do that?

MR. LANGLEY: Well, Your Honor, I think pleadings as a matter of law are part of the public record and they're

part ---

THE COURT: Well, they are, ---

MR. LANGLEY: --- of the record ---

THE COURT: --- but whether they're ---

MR. LANGLEY: --- in this case.

THE COURT: --- evidence in the trial or not when we've got a defendant now who admits at this point that that, uh, he was at fault in causing the accident you wanna ---

MR. LANGLEY: Well ---

THE COURT: --- somehow contradict that and say that that's a bad thing and that you oughta hold it against him ---

MR. LANGLEY: No, sir.

THE COURT: --- before this jury.

MR. LANGLEY: No, sir, Your Honor, that's not what I wanna say. I don't ---

THE COURT: Well that is ---

MR. LANGLEY: --- know that it's ---

THE COURT: --- what you were sayin'.

MR. LANGLEY: I don't know that it ---

THE COURT: What would it -- what would you bring it in for if it wasn't to prejudice the case?

MR. LANGLEY: It's not to prejud ---

THE COURT: Only thing, only thing that's in evident, only reason to put evidence in is to produce prevy -- prejudice on one side or the other, right?

MR. LANGLEY: No, sir, Your Honor.

THE COURT: It's not? Why do you put evidence in then?

MR. LANGLEY: Well ---

THE COURT: Either in favor of your side or against the other side, right, that's prejudice.

MR. LANGLEY: No, sir, Your Honor.

THE COURT: Or it's not? Tell ---

MR. LANGLEY: What ---

THE COURT: --- me what it is.

MR. LANGLEY: --- what I intend to do is show why we're in this courtroom today. What he's going to try to say is that ---

THE COURT: That doesn't make any difference why we're here, the only thing is the dispute about how much damage she was caused.

MR. LANGLEY: No, sir, Your Honor, I disagree. He said ---

THE COURT: Okay.

MR. LANGLEY: --- two different things on the record; one, he said he's not at fault. In his deposition he said he may be at fault but he didn't accept responsibility for the harm that he caused so I don't know what he's gonna say when he gets on this stand. The record is and his answer that he's only said that she was at fault, that plaintiff is entitled to no recovery. I'm entitled to show the jury that, Your Honor,

I believe there's, uh, abundant case law on it. I don't have a a specific cite I can provide to ya today ---

THE COURT: Well I ---

MR. LANGLEY: --- I'll be happy ---

THE COURT: --- appreciate ---

MR. LANGLEY: --- to ---

THE COURT: --- that ---

MR. LANGLEY: --- research that ---

THE COURT: --- but I'm not ---

MR. LANGLEY: --- and produce it ---

(Indiscernible cross-talk.)

THE COURT: --- gonna let you use that in your opening statement. Bring the jury back in.

MR. LANGLEY: Just so we're clear, Your Honor, may I reference the answer and just not show it to 'em, is that your rulin'?

THE COURT: What do you have to say about that, Mr. Coulter?

MR. COULTER: Judge, I, you know, I, in his deposition he clearly admitted fault, I I've made it a a an answer to a complaint that I had to file within thirty days of a complaint. I filed that answer and I have to is to, uh, put in every affirmative defense at the time of answering a complaint. I don't know what all the facts are at the time I answer but I do the best I can. He has completely admitted

fault from day one and he's tryin' to use this as some reason to say he's a bad guy 'cause his attorney said he's not at fault when he initially filed the answer, ---

MR. LANGLEY: That's not, ---

MR. COULTER: --- it's not evidence, ---

MR. LANGLEY: --- that's ---

MR. COULTER: --- it is not evidence.

MR. LANGLEY: --- that's not true, Your Honor.

THE COURT: That ---

MR. COULTER: It it is ---

THE COURT: --- well what what is, what is it then, Mr. Langley?

MR. LANGLEY: Well he admitted fault apparently and and then denied fault, denied responsibility his deposition, that was in April ---

THE COURT: Well what ---

MR. LANGLEY: --- a year ago.

THE COURT: --- what what is that having to do to anything, to any fact that this jury has to decide ---

MR. LANGLEY: Well ---

THE COURT: --- today?

MR. LANGLEY: --- 'cause I don't -- it it's not correct to say he's admitted fault, Your Honor, that's a matter at issue.

THE COURT: Well I ---

MR. LANGLEY: He's denied respon ---

THE COURT: --- appreciate that ---

MR. LANGLEY: --- sibility ---

THE COURT: --- but I I I'm gonna tell this jury that he has admitted fault at the end a the case so I think there's no reason to bring in a red herring or to drag it up before the jury ---

MR. LANGLEY: He's never ---

THE COURT: --- so you just ---

MR. LANGLEY: --- one time, ---

THE COURT: --- leave out, you just leave out anything like that in your opening statement to the jury.

MR. LANGLEY: --- he's never one time filed an amended answer, Your Honor. This was a year ago that he admitted and then he denied responsibility.

THE COURT: Well I ---

MR. LANGLEY: If -- I don't, ---

THE COURT: --- appreciate your, ---

MR. LANGLEY: --- I don't think ---

THE COURT: --- I appreciate ---

MR. LANGLEY: --- I think it's an appropriate ---

THE COURT: --- your position, ---

MR. LANGLEY: --- consideration.

THE COURT: --- I appreciate your position, I've ruled. Bring the jury in.

MS. BAILIFF: Okay, we'll bring 'em in.

MR. BAILIFF: Alright.

(The following takes place in the presence of the jury.)

THE COURT: Alright, we have the jury back with us and the parties are present, you may continue with your opening statement.

MR. LANGLEY: Yes, Your Honor. We had to bring this action because the defendant denies that he is responsible for any a the harms caused to Aaliyah Smith and so we're here to ask you to settle this case for us. When we have a disagreement under the law, we have to file a complaint, the defendant files an answer and when there's a disagreement in there, when the defendant says he's not at all responsible for any harms done to Ms. Smith, we have to bring it before you, so that's what we're here to do today, ladies and gentlemen, ask ya'll to settle this case for us.

Now there are rules that are important in this case and I've talked to you little bit about the rule about payin' attention while on the road and this rule's important because under these circumstances rear-ended Ms. Smith, under other circumstances he may have struck a pedestrian in a crosswalk or struck someone on a motorcycle. The same conduct could cause serious injury and harm but fortunately you will hear Ms. Smith had a pretty good recovery, she was not permanently injured. She went to the hospital on the day a the wreck, she

went to a a, uh, family doctor in the course of her treatment and she saw a chiropractor in the course of her treatment, you'll hear from the chiropractor.

One a the things that the judge will tell you in this case is that the only reason or the only basis that you can use for making a determination about the money to allow to settle this case is the harms and losses that we show you in this case, now I've gotta go through those harms and losses for you because of that so what those harms and losses are, again, Ms. Smith went to the emergency room at Spartanburg Regional, you'll see the notes, you'll hear the notes about the complaints she made the same day a the wreck. Spartanburg Regional doctors prescribed her Indocin, an inflammatory, anti-inflammatory medication for pain, Flexeril, a muscle relaxer, and Norco which is Hydrocodone. She was told to follow up with her primary care doctor and returned to work when she felt a sense of well-being that returned to her. The followin' day she still had pains, May 29th 2014. Her mother helped her get arrangements to go see a chiropractor, that's Dr. Robin Ivey. He treated her two to three times a week, he'll tell ya 'bout the nature of his treatment, until the pain in her back and shoulder and neck resolved. Now you'll hear this term "whiplash," some people don't like that term, I think it's pretty illustrative of what happened. If you've seen a whip, a leather whip and it cracks at the end just on

the flip of a wrist, something similar happens with whiplash in a car. Now that whip cracks just on that end flip and the whiplash that takes place on a rear-end collision when a person is struck, seat belt grabs 'em, they are pulled back initially by the seat belt but the head stays forward and then there's a whipping motion, thousands of pounds of vehicle slammin' together create that motion. Now, because of all that she treated for seven weeks and you'll see, again, the notes from the the Westgate Family Physicians, her family doctor, and what her job at Pizza Hut required at that time was that she get a release to return to work from her doctor and her doctor was not willin' provide that for those seven weeks so part a the harms and losses that we'll talk to you about today are the seven weeks of lost wages where she was workin' part-time at Pizza Hut. Now, we'll show you those summary of those medical bills and lost wages but what we need you to do is not add up the lost wages and medical bills an eighth grade math class could do that, what we need you to do to settle this case is to value the most important harms, harms like anxiety of this case, stress, mental anguish of goin' through this and you're the most important judges of the value of those harms, maybe you have suffered wrongs and you can value those harms yourself and you're in a position to value for Aaliyah those type hardships, worry and tears. You can expect the defense to say it's all about money, maybe over

and over and of course it is, this is civil court, it's what the judge has told ya, that's the only remedy that's available under our law and if defense can tell ya some other way to make Aaliyah Smith whole then I welcome to hear.

Now, one other thing you'll see and I I suspect time and time again is that there's not a whole lotta physical damage to Aaliyah Smith's car. Her bumper if you look at it doesn't look like there's much damage at all but that's not, that's why we're not suin' for any damage to the car, we're only bringin' this action for the damage to the occupant so at the end a the day what you've got to the decide is that this young lady right here (indicating) is a liar, a fraud and a s -- and a scam artist basically, that she concocted this scheme over a couple years to come before ya, to go through this missed work, to go through this missed school, to pull you away from your jobs and your families just to make somethin' up or if she's really entitled to recovery, so I thank you for your attention and I think you'll find that when she's honest with ya and she's straightforward with ya that she's entitled to a full and fair verdict.

THE COURT: Thank you. Alright, Mr. Coulter, would you like to make an opening statement?

MR. COULTER: Yes, Your Honor, just briefly. May it please the Court. Ladies and gentlemen, good morning, uh, my name is Mike Coulter, uh, I represent Scott Carr seated with

me here at this (indicating) table. Uh, you did hear a little bit about the different kinda courts, uh, here in in South Carolina. This is circuit court and we do have two different kinds: we have general sessions which is criminal court which this is not, okay, obviously, and then we have the common pleas court which is the civil court which is about money as the judge has already told you, that's what ultimately you're gonna be asked to do in this case is the plaintiff's attorney's gonna want you to return a verdict for money against Scott as a result of this accident back in 2014, again, we are admitting fault, Scott made a mistake, okay, just like any other human, uh, in Spartanburg County can make on an everyday basis: he was in an accident. He glanced away from the road and hit his breaks and just before he's could stop, just before he could stop he hit the rear of the bumper of the plaintiff's vehicle. You're gonna see the photographs in this case of the damage caused to this vehicle and the question becomes could a person be actually injured in this accident and if so how badly, how badly, and then how much does Scott have to be responsible for what they're asking in terms of this accident, accidents that happen every day. You're gonna find out that both vehicles in this case drove away, drove away from the scene, both driving. You're gonna find out that the plaintiff made no complaints of any type of pain at the scene, none. Didn't go to the hospital till a

couple hours later, then goes to a chiropractor for a month and a half and you're gonna h -- see those records, you're gonna hear what type of complaints are bein' made and the question becomes just how much compensation, if any, is she entitled to as a result of this accident that you're gonna hear about the facts from very shortly.

One thing you did not hear from the plaintiff's attorney is that they have the burden of proof, they have to prove to you to your satisfaction by preponderance of the evidence that what they are claiming is damages in this case are reasonable, they have to prove that to you, are these damages reasonable as a result of this accident that you're gonna hear facts on in just a short time, this particular accident, and all we ask you to do and I know you will is to be reasonable to Scott just like any other person in Spartanburg County would want to have a jury do if they make a mistake is for the jury to be reasonable regarding the damages assessed against him so I thank you so much for everything so far, we'll try to get this done quickly, present it to ya and then we'll eventually ask you to return that verdict later on, uh, in this case. Thank you.

THE COURT: Thank you. Call your first witness.

MR. LANGLEY: Scott Carr, Your Honor.

(Whereupon, the defendant came forward.)

THE CLERK: Please raise your right hand, place your left

hand Bible.

SCOTT CARR, having been first duly sworn, testified as follows:

THE CLERK: Thank you.

DIRECT EXAMINATION BY MR. LANGLEY:

Q. You're Scott Carr, defendant this case?

A. Yes, sir.

Q. You rear-ended my client Ms. Smith on May 28th 2014?

A. Yes, sir.

Q. On December, uh, 1st 2014 there's an answer filed on your behalf in this case, is that right?

A. Yes, sir.

Q. And in that did you say that that you were ---

MR. COULTER: Judge, I'm gonna ---

Q. --- responsible ---

MR. COULTER: --- object that ---

THE COURT: Me -- members the jury panel, need you go the jury room for a few minutes, please.

(The following takes place outside the presence of the jury.)

THE COURT: Alright, we have the jury out, the door's closed, go ahead with your question.

BY MR. LANGLEY:

Q. Did you say that you're not liable to the plaintiff in any sum whatsoever?

A. That's what it says I said then I said it.

Q. Alright. Right here (indicating) it is, did I read it incorrectly?

A. No, that's exactly what it says.

MR. LANGLEY: It's my question, Your Honor.

THE COURT: Alright. And your a -- your objection is to relevancy?

MR. COULTER: It is, Judge, ---

THE COURT: Alright.

MR. COULTER: --- it is to relevancy.

THE COURT: Why do you think that's relevant to any issue that's involved in this case at this time, Mr. Langley?

MR. LANGLEY: Your Honor, I I that I respectfully disagree with the fact that he denied liability, has continued to deny liability throughout all of his pleadings and I respect your ruling that now we're here on a matter a damages. Ha has denied that he's responsible for any damages and I'm entitled to get into that.

THE COURT: I appreciable your position but I sustain the objection. Bring the jury back in.

MR. COULTER: Well and, Judge, there's still the issue of the, uh, motion in limine before we go into anything that was discussed.

THE COURT: Let's let's just go ahead and do that now and all, hold the jury in there if you would. Let's just go ahead

and do that now and all, so, Mr. Langley, the issue that was brought up about your wantin' to bring up prior convictions ---

MR. LANGLEY: Right, yes, sir.

THE COURT: --- go ahead, let's ask those question, explore that fully so that I hopefully will understand your position and so that I can make a ruling.

MR. LANGLEY: Yes, Your Honor. Might, uh, approach with the, uh, sealed deposition?

THE COURT: Well you can unseal it too.

MR. LANGLEY: Okay.

THE COURT: You can do that certainly as good as me or the court reporter, either one.

MR. LANGLEY: Yes, Your Honor.

(Whereupon, counsel handed the deposition to the defendant.)

BY MR. LANGLEY:

Q. Alright, Mr. Carr, you remember when, uh, I took your deposition back in December of two thousand or, excuse me, April of 2015, 'bout a year ago?

A. Yes, sir.

Q. And, uh, in the course a that deposition we had a number of discussions about who was at fault for the wreck and whether or not you accepted responsibility, you recall that?

A. Yes.

Q. And I believe durin' that time that you told me that, uh, a little bit about your background, you remember that discussion?

A. Yes.

Q. You'll flip to page 7 a the deposition, please. Read to yourself beginning on line 12 through line 24, not out loud, just to yourself.

(Whereupon, the defendant complied.)

Q. Had an opportunity to read it?

A. Yes, sir.

Q. Did you tell me the truth when we were havin' this conversation back in April of 2015?

A. Yes, sir.

Q. You did? I'd like to show you ---

THE COURT: Well I need to see what you're talkin' about, you said wanna read read it to himself but I wanna know what he's talkin' about.

MR. LANGLEY: It's the same portion I read to ya earlier, Your Honor, but I'll be ---

THE COURT: Let me read what it is.

MR. LANGLEY: Yes, sir.

THE COURT: What is the lines?

MR. LANGLEY: Twelve to, uh, the end a the page.

THE COURT: Okay. Okay, I read it.

MR. LANGLEY: Alright.

BY MR. LANGLEY:

Q. So you told me the truth when I asked you, Did you have any felony DUIs, is that your testimony before this court?

A. Yes, sir.

Q. Are you Scott Nathern [sic] Carr?

A. Yes.

Q. Is your social security number 249-57-8397?

A. Yes.

Q. Is your date a birth 10/31/70?

A. Yes.

Q. You ever been to Loudoun County Virginia?

A. Yes, used to live there.

Q. Alright. This is an Order from Loudoun County Virginia from the 20th day of September 2002, it says "Plea," your name at the top, isn't it?

A. Yes, sir.

Q. Your read this section of page 2 right here (indicating), beginning right there (indicating), you can read it out loud.

A. "Sufficient for the finding of guilty accepts the defendant's plea and finds the defendant guilty of felony to wit DUI third or subsequent violation within ten years."

Q. You now wish to amend your earlier answer where you told me no, you did not have any felonies.

A. Yes, sir.

MR. LANGLEY: Your Honor, it goes directly to 608(b), his

THE COURT: Alright, anything else you'd like to say, Mr. Langley, 'bout that?

MR. LANGLEY: Yes, Your Honor. His his character is important in this trial, his truthfulness is important in this trial. They've already said my lady didn't complain at the scene, they've already said he just barely tapped her bumper. His truthfulness or lack thereof is critical in this, in this case, Your Honor.

THE COURT: I appreciate your position but I sustain the objection, I will not allow that be used. Come get your deposition.

MR. LANGLEY: Yes, sir, Your Honor. Well, I'm I'm gonna make other reference to it.

THE COURT: Oh, okay.

MR. LANGLEY: Yes, sir.

THE COURT: Bring the jury in.

(The following takes place in the presence of the jury.)

THE COURT: Alright, we've got the jury back with us and the parties are present along with their attorneys, you may continue to examine the witness.

MR. LANGLEY: Uh, yes, Your Honor.

BY MR. LANGLEY:

Q. Uh, Mr. Carr, you accept responsibility for causing injury to my client?

A. Yes.

treatment, do ya?

A. No, sir.

Q. Show you some pictures that have been produced in this case, ---

(Whereupon, a discussion was held off the record.)

Q. --- just take a moment look through 'em, make sure you're familiar with 'em.

(Whereupon, the defendant complied.)

Q. Seen those before?

A. Um-hum, yes.

Q. And, uh, are those pictures a your vehicle?

A. Yes, sir.

Q. And when we talked before you told me that some a this damage to the front end was caused from this wreck, is that right, ---

A. Yes.

Q. This wreck with Aaliyah Smith?

A. Yes.

Q. Now it looks to me like this hood looks a little different from the car, is that the same hood that's always been on there?

A. Yes.

Q. Alright. And you marked for me before I believe the, uh, damage and and a little bump, the, uh, indentation there in your vehicle that had come from this wreck, is that

he's a chiropractor at ---

JUROR NUMBER 85: Okay, ---

MR. LANGLEY: --- Advantage Healthcare.

JUROR NUMBER 85: --- not who I thought it was then.

MR. LANGLEY: Okay.

JUROR NUMBER 85: Wanna make sure.

THE COURT: Alright. Tell me your name and number though.

JUROR NUMBER 85: Again?

THE COURT: Yeah.

JUROR NUMBER 85: Uh, Philip Mahoney and 85.

THE COURT: Alright, thank you for makin' that inquiry though, thank ya. Alright, anybody else? Nobody else. Well, no, we got one popped up, yes, ---

JUROR NUMBER 77: I'm ---

THE COURT: --- sir.

JUROR NUMBER 77: --- former patient of Robin Ivey 'bout twelve years ago.

THE COURT: I'm sorry?

JUROR NUMBER 77: Harland Lawrence, Number 77, I'm a former patient of the doctor mentioned.

THE COURT: Alright, thank you very much for that information. Not a patient of his now?

JUROR NUMBER 77: No, sir.

THE COURT: Alright, thank you. Anybody else?

(No response.)

THE COURT: No one else standing. Mr. Coulter.

MR. COULTER: Judge, thank you. Good morning, my name is Mike Coulter, I'm with the firm Clarkson Walsh Terrell & Coulter.

THE COURT: And how 'bout witnesses ---

MR. COULTER: Uh, ---

THE COURT: --- in ---

MR. COULTER: --- Scott Carr, --

THE COURT: That's it?

MR. COULTER: --- defendant.

THE COURT: Alright, we've already asked about him but anybody know Mr. Coulter or any of the lawyers who he works with ov -- from Greenville I believe is where he lives but, uh, here in Spartanburg a course, anybody know Mr. Coulter in any way, members of his firm?

(No response.)

THE COURT: No one, no one's standing. The lawyers always wanna know this and I will ask this question, anyone on the jury panel or member of your family ever been involved in an automobile accident that resulted in a lawsuit of any kind? Anybody on the jury panel or member of your family ever been involved in an automobile accident that resulted in a lawsuit of any kind, if so please stand. Alright, we've got the unlucky three back there, ---

(Laughter.)

THE COURT: --- the three young ladies back there. I'm gonna start on the right-hand side, tell me your name and number.

JUROR NUMBER 41: Norma Fowler, uh, 41.

THE COURT: And tell me what your response is.

JUROR NUMBER 41: Uh, my two daughters were involved in a DUI, uh, ---

THE COURT: By that I mean -- you mean somebody who was DUI hit them?

JUROR NUMBER 41: Yes, sir.

THE COURT: Alright, and they had to have a lawsuit outta that?

JUROR NUMBER 41: Yes, sir.

THE COURT: Is that still goin' on or is it over?

JUROR NUMBER 41: It's over with.

THE COURT: Alright, thank you. Alright, the young lady next to her.

JUROR NUMBER 17: Oh, it's ---

THE COURT: You can be ---

JUROR NUMBER 17: --- Candice ---

THE COURT: --- seated.

JUROR NUMBER 17: --- Cain.

THE COURT: I'm sorry?

JUROR NUMBER 17: Candice Cain, I'm ---

THE COURT: Alright, ---

MR. COULTER: --- briefly, ---

THE COURT: --- go ahead.

MR. COULTER: --- thank you.

CROSS-EXAMINATION BY MR. COULTER:

Q. Hey, good mornin', Scott.

A. Morning.

Q. Uh, Scott, you live here in Spartanburg?

A. Yes.

Q. Okay. Whereabouts in Spartanburg do ya live?

A. Uh, Old Pacolet Highway in Cowpens.

Q. Okay, Cowpens?

A. (Indiscernible cross-talk.)

Q. Alright, how long you been there?

A. Uh, 'bout three years.

Q. Okay. Alright, now you're workin' at what place? Where do you work?

A. It's called Skyvision Signs.

Q. What do ya do at Skyvision?

A. I weld, I do the graphics, build frames for signs.

Q. Okay, and when did ya learn how to do that, that sign work?

A. In the Marine Corp.

Q. Alright, so you were in the Marines for -- when did you start in the Marines, ---

A. Uh, ---

Q. --- remember?

A. --- 1991.

Q. Alright, how long ya serve?

A. Four years, ---

Q. Alright.

A. --- till '95.

Q. You have an honorable discharge?

A. Yes.

Q. Alright, and so ya learn that trade then and you were able to carry it over to civilian life?

A. Yes.

Q. Alright, sir. Uh, ya have any kids?

A. Three.

Q. Three kids, alright. Now goin' back to May, uh, 28th, day a this accident, where were ya headed at the time this accident occurred?

A. To work.

Q. Alright, and so 'bout what time was it in the morning, Scott, when when when you were headed to work?

A. I usually try to leave my house around seven, ---

Q. Alright, ---

A. --- have to be there at 7:30.

Q. --- and you were drivin' down what road?

A. Uh, Main Street, Spartanburg.

you placed your, ya put your foot on the brake?
A. Yes.
Q. Okay. Now what happened to you in the vehicle when when you came in contact with her vehicle, ---
A. I mean, ---
Q. --- did you strike anything within the interior a your car?
A. No, sir, had my seat belt on.
Q. Okay, did your seat belt hold you?
A. I I didn't even really move in my car.
Q. Okay. Alright, were you hurt in this accident?
A. No.
Q. Okay. Did you talk to the plaintiff at all when you were there at the accident scene?
A. Yes.
Q. Did you ask her if she was okay?
A. Yes.
Q. And what did she tell ya?
A. No, she was fine.
Q. Okay, alright. Now your car that's been marked into evidence, this vehicle that you were drivin' that day, how did this vehicle leave the scene a the accident, Scott?
A. I drove it.
Q. You drove it. And did you ever make any repair to this vehicle?

jury room for a moment, please.

(The following takes place outside the presence of the jury.)

THE COURT: Alright, jury's out, the door's closed. Yes, sir.

MR. LANGLEY: Your Honor, Mr. Coulter purposely injected Mr. Scott's, uh, Mr. Carr's character in fronta this jury: Marine Corp. honorable discharge, his history of his work, all these things and bein' from Spartanburg, if I'm not allowed to refute that by this, by he -- the fact that he's lied to me and he's he's also said something that will be co -- directly contradicted by the plaintiff and that that's that she spoke to him at the scene and so, Your Honor, the truthfulness is even more at issue now than it ever was before and his character as Mr. Coulter tried to say was irrelevant before in his argument, it's clearly relevant now because he's brought up this information about Mr. Carr's past in order to try to boost his status in fronta the jury, it's a un -- it's fundamentally unfair for me to not be able to show where he lied under oath, Your Honor, to this jury now that Mr. Coulter has introduced his character in fronta the, fronta the Court.

THE COURT: I appreciate your position but I'm not gonna allow you to use what you wanna use. Bring the jury back in.

(The following takes place in the presence of the jury.)

THE COURT: Alright, we have the jury back with us and

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THE COURT: I appreciate your position but I'm not gonna allow you to use what you wanna use. Bring the jury back in.

(The following takes place in the presence of the jury.)

THE COURT: Alright, we have the jury back with us and

THE COURT: --- somewhere, ---

MR. COULTER: --- I'm sorry.

THE COURT: --- I like to be able to see ---

MR. COULTER: Absolutely.

THE COURT: --- all the jury.

MR. COULTER: Yes, sir.

THE COURT: Thank you.

MR. COULTER: Yes, sir.

THE COURT: You've seen and heard the evidence presented to you in this case, it's now my duty under the Constitution Code of Laws of this state to discuss with you what your duties and responsibilities at at this point are and the law that you may apply in the case and then you go the jury room and you'll give us your decision, your your verdict in regard to this case you've learned about today.

You are the sole judges of the facts of this case, I tried to emphasize that to you at the start a this trial. If I've said or done anything durin' the course a the trial that you have interpreted as any opinion that I might have about the facts a this case, please disregard it for I've intended to be fair and impartial both sides in this case. To determine the facts it's going to be necessary for you to evaluate the credibility or believability of the witness whose, witnesses who have testified. You have to decide who and what to believe in regard to that testimony and evidence,

you have to decide how much weight, how much, uh, weight to assign to to the evidence that's been presented, testimony and the evidence that's been presented. In deciding who and what to believe, I would sugge -- I would suggest you go about that in much the same way you decide that issue in your every day life, you and I have to decide every day whether to believe so -- what someone tells us, it's so much a part of every day life that we oftentimes don't think about any mental process that we may go through in deciding whether to believe someone but you do it every day whether on your job, on the street, wherever. When someone comes up to you and makes a factual statement to you, when someone says something like such and such just happened or such and such is about to happen or you should do this because or you should do that because, when a person makes that type of statement to you, you have to decide do I believe what that person tells me, how much trust, how much faith do I put in what that person tells me. As I said I will suggest you go about deciding who and what to believe in regard to the testimony and the evidence in this case in much the same way you decide that issue in your every day life but some a the things that you may want consider and this is by no means an exhaustive list but some a things you may want to consider in deciding who and what to believe, in deciding how much weight to give some testimony are such things as, and this is by no means an exhaustive list, but you can consider

such things as what was the manner or appearance of the witness who testified, was he or she straightforward or hesitant in answering, was the testimony of a witness consistent or inconsistent, how did the witness come to know the facts that he or she testified to or what was his or her ability to know these facts, is there some reason a witness would want to give testimony which would help or hurt one side or the other; in other words, was the witness biased or prejudiced in some way, was the techni -- testimony of a witness strengthened or weakened by other testimony or evidence presented. You certainly do not determine truth or credibility or believability merely by counting the number of witnesses who may have testified for one side or the other or who may have testified concerned some particular point or fact that may be involved in this case. Throughout this entire process of deciding who and what to believe you have but one goal really and that is to seek the truth regardless of its source.

Now the same Constitution and code of laws that makes you the finders of fact in this case it also makes me the instructor of the law, that means you must accept the law as I explain it to be the correct law, you should not be concerned with what you may think the law should be but only with what the law is.

Now this is a relatively simple case in terms of the

EXHIBITS

NO.	DESCRIPTION	ID.	EV.
P-1	Photograph	58	58
P-2	Photograph	58	58
P-3	Photograph	58	58
P-4	Photograph	58	58
D-1	Photograph	84	84
D-2	Photograph	84	84
D-3	Photograph	84	84
D-4	Emergency room medical records	86	
D-5	Chiropractor medical records	86	
C-1	Plaintiff's voir dire	13	

(Proceedings March 21, 2016)

THE COURT: Alright, we're now ready to pick a trial for the second case and, uh, and I'm awful on, uh, names and pronunciations, A-A-L-I-Y-A-H.

MR. LANGLEY: That's Aaliyah Smith, Your Honor, that's ---

THE COURT: Alright, ---

MR. LANGLEY: --- the plaintiff.

THE COURT: --- Ms. Smith, right here, if you would please stand, turn so the jury can see you.

(Whereupon, the plaintiff stood.)

THE COURT: Thank you, you can be seated. She is ha -- is the plaintiff in this case, she's brought a claim against Scott, S-C-O-T-T, Carr, C-A-R-R, is he present?

MR. COULTER: He is not, Your Honor.

THE COURT: Not hit -- here but ---

MR. COULTER: No.

THE COURT: --- he'll be here tomorrow, is that right?

MR. COULTER: Wednesday, Judge.

THE COURT: Fly in Wednesday, he'll be ---

MR. COULTER: Yes, sir.

THE COURT: --- here Wednesday?

MR. COULTER: Yes.

THE COURT: Alright, that's when we s -- plan to actually start the trial of this case and all. This is a case growing

out of an automobile accident that happened on or about May 28, 2014 here in Spartanburg County on East Main Street, East Main Street goin' out toward Greenville. How far out?

MR. LANGLEY: Uh, Your Honor, it was, uh, out not not quite to to 26 and 85 but on the way to to that direction, not far outta downtown, Your Honor.

THE COURT: Alright, and Ms. Smith was drivin' a car, is that right, she was the driver?

MR. LANGLEY: Yes, sir, Your Honor.

THE COURT: Alright, drivin' a car and, uh, she claims that Mr. Carr was drivin' another car and, uh, hit her, it was an accident, I think everybody agrees that there was an automobile accident but there's a dispute about, uh, how it happened exactly and the consequences of that: the injuries and damages that she suffered as a direct result, that's her claim against Mr. Carr, a course Mr. Carr denies, uh, her claim, denies that, uh, he was at fault and or or if he do -- or if the fault was his denies that she's been hurt and damaged to the extent that she claims she's been hurt and damaged and all but she's asking that Mr. Carr be required to pay her for her injuries and damages and again, that's what this case is about: money. She claims that that I -- I ju -- as I said this accident was the fault of Mr. Carr and he should be required to pay her for her injuries and damages as a direct consequence of what happened on May 28th 2014, so

does anybody know anything or thinking anything at all about any fact or circumstance that may be involved in this case, if so please stand. Anyone on the jury panel have any knowledge of anything at all to do with this case, if so please stand.

(No response.)

THE COURT: No one's standing. I've already introduced the parties to ya and all, anyone related by blood or marriage or do you know in any way either Ms. Smith or Mr. Carr, if so please stand. Anyone related by blood or marriage or do ya know in any way either Ms. Smith or Mr. Carr, if so please stand.

(No response.)

THE COURT: No one's standing. How 'bout the lawyers, introduce yourself.

MR. LANGLEY: Yes, Your Honor, I'm Ryan Langley, I'm a member of the Spartanburg Bar, I practice here with Charlie Hodge at Hodge & Langley Law Firm. This is, uh, Arielle Goddard, she's workin' with us at our firm.

THE COURT: Any witnesses you gonna call on your behalf a your client tell 'em.

MR. LANGLEY: Yes, Your Honor, uh, I'll call the the plaintiff Ms. Smith, uh, who stood there introduced herself to ya'll a moment ago, call Dr. Robert Ivey and Officer Teague Oswald, uh, who's a, uh, Spartanburg ---

THE COURT: Alright, ---

result somebody's injured, the at-fault driver is responsible for the harm. Let me tell ya what happened in this case. May 28th 2014 the defendant's driving west on East Main Street in Spartanburg, approach an intersection of East Main and Drayton, close to Hillcrest shoppin' mall, goin' approximately 35 miles an hour, there's a vehicle ahead in the same lane completely stopped for a traffic light, defendant's not payin' attention, he rear-ends the vehicle stopped for the traffic light. Plaintiff Aaliyah Smith was the driver a the vehicle stopped at the traffic light. Now who, we're suin' this defendant because initially though he's now accepted fault before you here today, initially he refused to accept fault. This is the page 2 ---

MR. COULTER: Judge, ---

MR. LANGLEY: --- the ---

MR. COULTER: --- Judge, I ---

MR. LANGLEY: --- answer to his complaint.

MR. COULTER: --- I have no idea what he's showin' the jury, Judge, it hasn't been presented.

MR. LANGLEY: Page 2 of the answer to his complaint, it's a pleading, Your Honor.

MR. COULTER: I'd appreciate if we could ---

THE COURT: Okay.

MR. COULTER: --- be able to see ---

MR. LANGLEY: Sure.

MR. COULTER: --- what it is before showin' to the jury.

MR. LANGLEY: Yes, sir. Page 2 the answer to his complaint, now, uh, to plaintiff's complaint and in our system when we have a disagreement we have to file a complaint, plaintiff files a complaint. The defendant files ---

THE COURT: I'm gonna ask the jury to go to the jury room for a moment, please, I wanna look at somethin' and think about somethin' a minute here, if you would go the jury room, please.

(The following takes place outside the presence of the jury.)

THE COURT: Alright, I just, it just occurred to me I don't know, you know, uh, generally speaking are we planning to show to the jury and all are things that are gonna be introduced into evidence durin' the trial and I would, and that, and that raises a question a whether the answer is somethin' that's introduced in evidence durin' the trial, generally that's that's not the case. I don't know, I don't know, uh, if there's any reason that you should be able to show what was said in the answer to start at the trial, start of the trial to the jury, Mr. Langley, you have any authority that says you can do that?

MR. LANGLEY: Well, Your Honor, I think pleadings as a matter of law are part of the public record and they're

part ---

THE COURT: Well, they are, ---

MR. LANGLEY: --- of the record ---

THE COURT: --- but whether they're ---

MR. LANGLEY: --- in this case.

THE COURT: --- evidence in the trial or not when we've got a defendant now who admits at this point that that, uh, he was at fault in causing the accident you wanna ---

MR. LANGLEY: Well ---

THE COURT: --- somehow contradict that and say that that's a bad thing and that you oughta hold it against him ---

MR. LANGLEY: No, sir.

THE COURT: --- before this jury.

MR. LANGLEY: No, sir, Your Honor, that's not what I wanna say. I don't ---

THE COURT: Well that is ---

MR. LANGLEY: --- know that it's ---

THE COURT: --- what you were sayin'.

MR. LANGLEY: I don't know that it ---

THE COURT: What would it -- what would you bring it in for if it wasn't to prejudice the case?

MR. LANGLEY: It's not to prejud ---

THE COURT: Only thing, only thing that's in evident, only reason to put evidence in is to produce prevy -- prejudice on one side or the other, right?

MR. LANGLEY: No, sir, Your Honor.

THE COURT: It's not? Why do you put evidence in then?

MR. LANGLEY: Well ---

THE COURT: Either in favor of your side or against the other side, right, that's prejudice.

MR. LANGLEY: No, sir, Your Honor.

THE COURT: Or it's not? Tell ---

MR. LANGLEY: What ---

THE COURT: --- me what it is.

MR. LANGLEY: --- what I intend to do is show why we're in this courtroom today. What he's going to try to say is that ---

THE COURT: That doesn't make any difference why we're here, the only thing is the dispute about how much damage she was caused.

MR. LANGLEY: No, sir, Your Honor, I disagree. He said ---

THE COURT: Okay.

MR. LANGLEY: --- two different things on the record; one, he said he's not at fault. In his deposition he said he may be at fault but he didn't accept responsibility for the harm that he caused so I don't know what he's gonna say when he gets on this stand. The record is and his answer that he's only said that she was at fault, that plaintiff is entitled to no recovery. I'm entitled to show the jury that, Your Honor,

I believe there's, uh, abundant case law on it. I don't have a a specific cite I can provide to ya today ---

THE COURT: Well I ---

MR. LANGLEY: --- I'll be happy ---

THE COURT: --- appreciate ---

MR. LANGLEY: --- to ---

THE COURT: --- that ---

MR. LANGLEY: --- research that ---

THE COURT: --- but I'm not ---

MR. LANGLEY: --- and produce it ---

(Indiscernible cross-talk.)

THE COURT: --- gonna let you use that in your opening statement. Bring the jury back in.

MR. LANGLEY: Just so we're clear, Your Honor, may I reference the answer and just not show it to 'em, is that your rulin'?

THE COURT: What do you have to say about that, Mr. Coulter?

MR. COULTER: Judge, I, you know, I, in his deposition he clearly admitted fault, I I've made it a a an answer to a complaint that I had to file within thirty days of a complaint. I filed that answer and I have to is to, uh, put in every affirmative defense at the time of answering a complaint. I don't know what all the facts are at the time I answer but I do the best I can. He has completely admitted

MS. BAILIFF: Okay, we'll bring 'em in.

MR. BAILIFF: Alright.

(The following takes place in the presence of the jury.)

THE COURT: Alright, we have the jury back with us and the parties are present, you may continue with your opening statement.

MR. LANGLEY: Yes, Your Honor. We had to bring this action because the defendant denies that he is responsible for any a the harms caused to Aaliyah Smith and so we're here to ask you to settle this case for us. When we have a disagreement under the law, we have to file a complaint, the defendant files an answer and when there's a disagreement in there, when the defendant says he's not at all responsible for any harms done to Ms. Smith, we have to bring it before you, so that's what we're here to do today, ladies and gentlemen, ask ya'll to settle this case for us.

Now there are rules that are important in this case and I've talked to you little bit about the rule about payin' attention while on the road and this rule's important because under these circumstances rear-ended Ms. Smith, under other circumstances he may have struck a pedestrian in a crosswalk or struck someone on a motorcycle. The same conduct could cause serious injury and harm but fortunately you will hear Ms. Smith had a pretty good recovery, she was not permanently injured. She went to the hospital on the day a the wreck, she

hand Bible.

SCOTT CARR, having been first duly sworn, testified as follows:

THE CLERK: Thank you.

DIRECT EXAMINATION BY MR. LANGLEY:

Q. You're Scott Carr, defendant this case?

A. Yes, sir.

Q. You rear-ended my client Ms. Smith on May 28th 2014?

A. Yes, sir.

Q. On December, uh, 1st 2014 there's an answer filed on your behalf in this case, is that right?

A. Yes, sir.

Q. And in that did you say that that you were ---

MR. COULTER: Judge, I'm gonna ---

Q. --- responsible ---

MR. COULTER: --- object that ---

THE COURT: Me -- members the jury panel, need you go the jury room for a few minutes, please.

(The following takes place outside the presence of the jury.)

THE COURT: Alright, we have the jury out, the door's closed, go ahead with your question.

BY MR. LANGLEY:

Q. Did you say that you're not liable to the plaintiff in any sum whatsoever?

character for truthfulness and untruthfulness and and frankly, the fact that we've now had this discussion on the record preps him appropriately for how he could testify in fronta the jury, ---

THE COURT: Well ---

MR. LANGLEY: --- I think it's a little unfair in that respect ---

THE COURT: --- well let let me read the rule that you're talkin' about ---

(Indiscernible cross-talk.)

MR. LANGLEY: Yes, Your Honor.

THE COURT: Alright, Mr. Coulter, what would you like to say about that?

MR. COULTER: Judge, under the analysis the and regarding a 401 relevance, uh, versus prejudicial effect; one, this is clearly prejudicial, overly prejudicial. Yeah, I understand the Court's position that any any, each side presents is gonna be prejudicial to the other but it's overly prejudicial and it's not probative and it is clearly outside the ten-year scope and and I was a prosecutor for thirteen years and I can tell ya this: I had a hard time tellin' what's a felony or what's a misdemeanor, honest to goodness, and simply usin' that to backdoor this in would be to undermined the whole rule regarding criminal conviction more than ten years old, the reason that is is because those convictions aren't relevant.

THE COURT: Alright, anything else you'd like to say, Mr. Langley, 'bout that?

MR. LANGLEY: Yes, Your Honor. His his character is important in this trial, his truthfulness is important in this trial. They've already said my lady didn't complain at the scene, they've already said he just barely tapped her bumper. His truthfulness or lack thereof is critical in this, in this case, Your Honor.

THE COURT: I appreciate your position but I sustain the objection, I will not allow that be used. Come get your deposition.

MR. LANGLEY: Yes, sir, Your Honor. Well, I'm I'm gonna make other reference to it.

THE COURT: Oh, okay.

MR. LANGLEY: Yes, sir.

THE COURT: Bring the jury in.

(The following takes place in the presence of the jury.)

THE COURT: Alright, we've got the jury back with us and the parties are present along with their attorneys, you may continue to examine the witness.

MR. LANGLEY: Uh, yes, Your Honor.

BY MR. LANGLEY:

Q. Uh, Mr. Carr, you accept responsibility for causing injury to my client?

A. Yes.

A. Yes, sir.
Q. Where are you in school?
A. South Carolina State.
Q. And you still go to church in Spartanburg?
A. Um, yes, sir, when I'm home.
Q. Okay, is that New Hope Christian Church?
A. Yes.
Q. And you live at home, uh, now sorta back and forth between your mom and dad?
A. Yes.
Q. Are your parents divorced?
A. Yes.
Q. Uh, now you used to work at Pizza Hut and McDonald's and various other places like that, right?
A. Yes, sir.
Q. At the time a this wreck were ya employed at Pizza Hut?
A. Yes.
Q. Okay. You ever been fired from a job?
A. No.
Q. You ever been convicted any crimes?
A. No.
Q. You ever been even arrested?
A. No.
Q. Prior to this case have you ever been involved in any lawsuit for any reason?

A. No, sir.
Q. Now, uh, this accident took place on May 28th 'bout 7:30 in the mornin', right?
A. Yes.
Q. Where were you headed?
A. On my way to school.
Q. Okay, and you were stopped at a red light, is that right?
A. Yes, sir.
Q. How long had you been stopped there?
A. Uh, couple seconds.
Q. Okay. And you recall seeing or hearing anything prior to gettin' struck in the rear by Mr. Carr?
A. Only I heard him try to stop car ---
Q. Alright, ---
A. --- before he ---
Q. --- and how -- what did ya hear?
A. Uh, tires screeching.
Q. Alright. And how hard was the impact?
A. Pretty hard.
Q. You've seen these pictures of the vehicle Mr., that Mr. Carr's attorney produced in this case, he's shown us where he says the damage was, is that what Mr. Carr's vehicle looked like after the wreck?
A. No.

Q. How was it different?
A. The hood was bended up.
Q. Okay. And point to the jury where the hood was bent up.
A. Right here (indicating).
Q. In the middle?
A. Yes.
Q. Alright. Do you know where those pictures were taken?
A. No.
Q. You know how long after the wreck they were taken?
A. No, sir.
Q. Now do you have your seat belt on at the time a the wreck?
A. Yes, sir.
Q. What happened to you when you were hit at impact?
A. My body moved forward.
Q. Okay, and wha'd ya do after the accident?
A. Um, we wait for the police to come.
Q. Okay. Did you talk to Mr. Carr?
A. Yes.
Q. Alright. How long you talk to him?
A. Uh, not long.
Q. Okay, alright. Did he say, I'm sorry, or anything like that?
A. No.
Q. How'd you feel -- strike that. Why you bringin' this

action here today?
A. Because he hasn't done anything to even show me that he was sorry.
Q. Alright. Of all the medical bills, everything that, lost wages, all that, that's been your responsibility to deal with that, is that right?
A. Yes, sir.
Q. After the wreck you go to the hospital?
A. Yes.
Q. Where'd you go?
A. Spartanburg Regional.
Q. Why'd you go to Spartanburg Regional?
A. 'Cause I was in pain.
(Whereupon, a discussion was held off the record.)
Q. This is a summary a your medical bills, I'm gonna go through it with ya, we'll kinda come back and talk about each a these in a little bit more detail. So the day a the wreck you went to Spartanburg Regional, is that right?
A. Yes.
Q. Is that (indicating) the charge for goin' to Spartanburg Regional?
A. Yes.
Q. Alright, and then the ER physician saw you there, is that (indicating) what they charged ya for ---
A. Yes.

Q. --- seein' 'em? Then the next day for the next, uh, month and a half or so you went to see Dr. Robin Ivey in his practice Advantage Healthcare, ---

A. Yes.

Q. --- and is that that (indicating) his charge for seein' you for those seven weeks?

A. Yes, sir.

Q. And then, uh, ya also went to see your family doctor on June 5th, was that (indicating) your family doctor's charge?

A. Yes, sir.

Q. And then did ya have a chipped tooth in the wreck?

A. I did.

Q. Okay, and did they fix your chipped tooth?

A. No.

Q. Alright. Did they try to fix it on June 9th?

A. Yeah.

Q. Did ya see the the Tyger River Dentistry on June 9th to get it evaluated?

A. Yes.

Q. Was that (indicating) what they charged?

A. Yes, sir.

Q. Is this (indicating) the total of your medical bills?

A. Yes, sir.

Q. And you missed time from work at Pizza Hut.

A. Yes.

Q. Uh, ya heard me tell the jury earlier that they wouldn't let you come back unless you had a release from your doctor, ---

A. Yes.

Q. --- uh, is that why you missed seven weeks?

A. Yes.

Q. And if ya add up seven weeks at nineteen hours a week at 7.25 an hour, do you get that number right there (indicating)?

A. Yes, sir.

Q. Okay. And so all these medical bills and lost wages together total 6,242.25, is that right?

A. Yes.

THE COURT: What was the number?

MR. LANGLEY: 6,242.25, Your Honor.

THE COURT: Thank ya.

MR. LANGLEY: Yes, sir.

BY MR. LANGLEY:

Q. Now the, you'll flip over to see these little numbers on the bottom a this sheet here I've givin' ya, "A. Smith," uh, "11." Okay, now up at the top it indicates you arrived at the emergency room 9:35, you see that? top right corner?

A. No.

Q. See some numbers up there, I think it's got a zero in front of it.

A. Yes.

hospital, did ya?
A. Yes, sir, I did.
Q. Well didn't you first, didn't your dad come to the scene?
A. Yes.
Q. And didn't he get your car?
A. Yes.
Q. And didn't he drive it to your cousin's house?
A. Yes, but I was with my mother.
Q. I know but didn't you follow your h -- your father back to your cousin's house in order to pick him up with your mother so that you could go back to the scene so he could get his vehicle and drive away?
A. Yes, sir.
Q. Okay, so you didn't go to the hospital right away, first you took this trip with your dad and your mom, right?
A. Yes.
Q. And then your dad who came to the scene he actually left and went on to work, didn't he?
A. Yes.
Q. Okay, because it wasn't until two hours after this accident that you first presented to the hospital, right?
A. Yes, sir.
Q. Okay. Now let me show you some, uh, photographs. Do you recognize this (indicating) photograph?
A. Yes, sir.

Q. Okay, got -- how 'bout these (indicating) two photographs, do you recognize those?
A. Yes.
Q. Okay, and what are those photographs?
A. My car.
Q. Okay. And this is how your car looked right after impact, correct?
A. (The witness nodded in the affirmative.)
Q. Alright.

MR. COULTER: Judge, if I could I'd move to introduce these three into evidence.

THE COURT: Any objection?

MR. LANGLEY: I have no problem with the small ones, Your Honor, I think the, uh, large one's redundant and would be fine as a demonstrative.

THE COURT: But is that the same as one of those?

MR. COULTER: No, it's a different photograph.

THE COURT: Okay. Alright, I'll take your word for it, I'll allow 'em into evidence then.

(Photographs marked Defendant's Exhibit Nos. 1, 2 and 3 for identification and admitted into evidence.)

MR. COULTER: Thank you.

COURT REPORTER: You're welcome.

BY MR. COULTER:

Q. Alright, so we just looked at these photographs, I'm

gonna show the jury this one blown up just to make it easier for 'em. This is Defense Exhibit No. 3, do you see this, ---

A. Yes.

Q. --- Ms. Smith? Okay, and so this is your vehicle as a result of the accident, right? This (indicating) is the damage that was done to your vehicle as a result of this accident, correct?

A. Yes.

Q. Okay. What -- I'm sorry. Now course you're able to drive your vehicle, actually your father drove your vehicle away from the scene, right?

A. Yes.

Q. Okay. You continue to drive that vehicle, right?

A. Yes.

Q. Matter a fact, when we took your deposition a little while back you were still using that same vehicle ---

A. Yes, sir.

Q. --- and that was about a year after this accident, maybe two years, right?

MR. LANGLEY: Object to the form, Your Honor, that's that's misleading, ---

MR. COULTER: I ---

MR. LANGLEY: --- the deposition was four months after the wreck.

BY MR. COULTER:

Q. Okay. Alright, my my apologies. So four months after the wreck you were still drivin' this vehicle ---

A. Yes.

Q. --- and you made no repairs to the vehicle whatsoever, did you?

A. No.

Q. Nothing, right? Okay. Now, I'm gonna ask, Judge, to mark a couple more exhibits, that way I can get two in a row quickly, they're medical records that I've provided the plaintiff's attorney before.

MR. LANGLEY: No objection.

(Emergency room medical records marked Defendant's Exhibit No. 4 and chiropractor medical records marked Defendant's Exhibit No. 5 for identification.)

BY MR. COULTER:

Q. Ms. Smith, I'm gonna hand ya these two exhibits, alright. Let me, let me take what ya got there, we'll just put that over here. This is 4 and 5, these are some a the medical records that are associated with, uh, what happened, what ya did after the accident and any time ya need to look at those more closely, just let me know, I know you haven't had a chance to look at 'em real close, okay, but your attorney went through some questions with ya and I wanna ask ya some question about it too, okay?

A. Okay.

Q. --- that kinda thing?
A. --- that's just an estimation ---
Q. Okay.
A. --- of the speed limit and the damages.
Q. Alright, and for that, for estimation for Mr. Carr did ya have him goin' 35 miles an hour?
A. I did write that, yes.
Q. Alright, and for the estimation 'bout the damages done to the vehicle ---

MR. COULTER: Judge, I'm gonna object.

THE COURT: Members jury panel, need you to go the jury room, please.

(The following takes place outside the presence of the jury.)

THE COURT: Alright, we have all the jury out, what's your object -- what's your objection?

MR. COULTER: Judge, I I kinda let it slide on the estimate as far as the goin' how fast but, I mean, she's got no ability ---

THE COURT: Well what's your, ---

MR. COULTER: --- to say that ---

THE COURT: --- what's your objection?

MR. COULTER: --- but the next objection, Judge, is an estimation as to the value a the damage caused to these two vehicles. All due respect to Officer Stacy she doesn't have

THE COURT: --- somewhere, ---

MR. COULTER: --- I'm sorry.

THE COURT: --- I like to be able to see ---

MR. COULTER: Absolutely.

THE COURT: --- all the jury.

MR. COULTER: Yes, sir.

THE COURT: Thank you.

MR. COULTER: Yes, sir.

THE COURT: You've seen and heard the evidence presented to you in this case, it's now my duty under the Constitution Code of Laws of this state to discuss with you what your duties and responsibilities at at this point are and the law that you may apply in the case and then you go the jury room and you'll give us your decision, your your verdict in regard to this case you've learned about today.

You are the sole judges of the facts of this case, I tried to emphasize that to you at the start a this trial. If I've said or done anything durin' the course a the trial that you have interpreted as any opinion that I might have about the facts a this case, please disregard it for I've intended to be fair and impartial both sides in this case. To determine the facts it's going to be necessary for you to evaluate the credibility or believability of the witness whose, witnesses who have testified. You have to decide who and what to believe in regard to that testimony and evidence,

you have to decide how much weight, how much, uh, weight to assign to to the evidence that's been presented, testimony and the evidence that's been presented. In deciding who and what to believe, I would sugge -- I would suggest you go about that in much the same way you decide that issue in your every day life, you and I have to decide every day whether to believe so -- what someone tells us, it's so much a part of every day life that we oftentimes don't think about any mental process that we may go through in deciding whether to believe someone but you do it every day whether on your job, on the street, wherever. When someone comes up to you and makes a factual statement to you, when someone says something like such and such just happened or such and such is about to happen or you should do this because or you should do that because, when a person makes that type of statement to you, you have to decide do I believe what that person tells me, how much trust, how much faith do I put in what that person tells me. As I said I will suggest you go about deciding who and what to believe in regard to the testimony and the evidence in this case in much the same way you decide that issue in your every day life but some a the things that you may want consider and this is by no means an exhaustive list but some a things you may want to consider in deciding who and what to believe, in deciding how much weight to give some testimony are such things as, and this is by no means an exhaustive list, but you can consider

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

T.L. Hughston, Jr., Circuit Court Judge

Case No. 2014-CP-42-3560

Scott Carr,

Respondent,

v.

Aaliyah Smith

Appellant.

NOTICE OF APPEAL

Aaliyah Smith, appeals the order [judgment] of the Honorable T.L. Hughston dated March 23, 2016.

Appellant received written notice of entry of this order [judgment] on March 24, 2016.

This the 21st day of April, 2016

Charles J. Hodge
T. Ryan Langley
Post Office Box 2765
Spartanburg, South Carolina 29304
(864) 585-3873-0000
Attorneys for Appellant

CLERK
SPARTANBURG
2016 APR 25 PM 1:58
M. HOPE BLACKLEY

Other Counsel of Record
Michael Coulter
1164 Woodruff Oaks Ln # A,
Greenville, SC 29607
Attorney for Respondents
(864) 232-4400

A No.
Q All right. I didn't think you were. My questions are not intended to harass or intimidate you, but to just simply find out what you know about this case and what you intend to testify to if it goes to trial.
A All right.
Q So you mentioned that you've had public defenders before. Tell me about that.
A I had them for DUIs.
Q Okay. How many DUIs have you had?
A Four.
Q All right. And when were those?
A I had three in Virginia. The last one was more than ten years ago.
Q Okay.
A And I've had one down in South Carolina, ---
Q And you haven't ---
A --- and that was ---
Q Oh, I'm sorry.
A --- two or three years ago.
Q All right. One thing I didn't tell you was, as we get into conversation a little bit today, I may speak over you. You may speak over me. In order to maintain a clear record, please allow me to finish asking my question and I'll try to allow you to finish asking

your answer before we move on to the next thing.
A All right.
Q Particularly in the South, people talk over one another.
A Right.
Q So let's try not to do that.
A All right.
Q And if I fuss at you about wait a minute, I'm not trying to be mean or anything. I'm just trying to make sure we get a clear record.
A Okay.
Q So your last DUI was in Virginia more than ten years ago and you've had one in South Carolina. When was that?
A About three years ago.
Q Okay. Did you ---
A That was the last one I got, and it's actually counted as my first again.
Q Okay. Any of those felonies?
A No.
Q Any of those involve a crash?
A No.
Q Any other criminal convictions that you've got?
A No.
Q Okay. Any other time that you've hired a lawyer?

OFFICIAL RECEIPT
LOUDOUN CIRCUIT
MISCELLANEOUS

DATE: 10/02/15 TIME: 14:31:04 ACCOUNT: 107CGM150002004 RECEIPT: 15000012150
CASHIER: TCW REG: DL62 FILING: OTH TYPE: FULL PAYMENT
ACCT OF: HODGE, CHARLES RECD: LOUDOUN CIRCUIT COURT
CHARGE: $41.50
DESCRIPTION 1: COPIES

CODE	DESCRIPTION	PAID	CODE	DESCRIPTION	PAID
313	FEES - COPIES	.00	315	MISC. FEES & COMM.	.00
236	DOCUMENT REPRODUCTI	39.50	415	SECURED REMOTE ACCE	.00
426	E-FILING FEES	.00	407	CONVENIENCE FEE	2.00

TENDERED : 41.50
AMOUNT PAID: 41.50
CHANGE AMT : .00

CLERK OF COURT: GARY M. CLEMENS

PAYOR'S COPY
RECEIPT COPY 1 OF 2

VIRGINIA: IN THE CIRCUIT COURT OF LOUDOUN COUNTY sls

COMMONWEALTH OF VIRGINIA :

VS. : CRIMINAL NO. 14899

SCOTT NATHERN CARR, DEFENDANT :

Social Security No.: 249-57-8397 Date of Birth: 10-31-70
Hearing Date: **20TH day of September, 2002** Chief Judge: Thomas D. Horne
Hearing Type: **Plea**
Attorney For The Commonwealth: Lorrie A. Sinclair an Assistant Attorney
Attorney For The Defendant: Buta Biberaj, Public Defender
Original Charge Description: DUI 3rd or subsequent violation within 10 years (F)
Statute Violation Charged: Section § 18.2-266 of the Code of Virginia
Conviction Offense Description: DUI 3rd subsequent violation within 10 years (F)
Statute Violation Charged: Section § 18.2-266 of the Code of Virginia
Alleged Offense Date: 04-18-02
Commencing Status of Defendant: in custody
Concluding Status of Defendant: in custody

ORDER

On the above date came Lorrie A. Sinclair an Assistant Attorney for the Commonwealth and also came Buta Biberaj, counsel for the defendant. The defendant, **SCOTT NATHERN CARR**, was present and came to the bar of this Court in the custody of the Deputy Sheriff.

This case came on this day for entry of a plea; by previous Order entered the 13th day of August 2002.

Whereupon, the defendant was arraigned as charged in the indictment, and the Court having been advised by the defendant, his counsel, and the Attorney for the Commonwealth, that there has been a plea agreement in this case, and such agreement in writing having been presented to the Court, and now filed herein, and the evidence of the Attorney for the Commonwealth presented in the way of a proffer.

The Court, having made inquiry, and being of the opinion that the defendant fully understood the nature and effects of his plea, and of the penalties that may be imposed

upon his conviction, and of the waiver of trial by jury and appeal, finding that the plea was knowingly, freely and intelligently made, and having heard a summary of the evidence, finding that the evidence is substantial and sufficient for a finding of guilty, accepts the defendant's plea and finds the defendant **guilty** of a felony to wit: **DUI 3rd or subsequent violation within ten years**, in violation of Section § 18.2-266 of the Code of Virginia.

Pursuant to § 19.2-298.01 of the Code of Virginia, the Court has considered and reviewed, the applicable discretionary sentencing guidelines together with the guideline's worksheets. The sentencing guideline's worksheets, and the written explanation of any departure from the guidelines, are **ORDERED** filed as a part of the record in this case.

Before pronouncing the sentence, the Court inquired if the defendant desired to make a statement and if the defendant desired to advance any reason why judgment should not be pronounced.

The Court **SENTENCES** the defendant to:

Incarceration in the Virginia Department of Corrections, for a period of **eighteen (18) months** for the felony charge of DUI 3rd or subsequent violation within 10 years.

The Court **SUSPENDS** all but **three (3) months** of the eighteen (18) month sentence imposed for a period of **one (1) year** on the following terms and condition(s):

1. That the defendant shall keep the peace and be of good behavior, and violate none of the penal laws of this Commonwealth or any other jurisdiction for the period of probation.
2. That the defendant shall be placed, on probation for a period of **one (1) year** from his date of release from incarceration, under the supervision of the Community Corrections Program of this Court. The defendant shall comply with all the rules and

requirements set by the Community Corrections Officer. Probation shall include substance abuse counseling and/or testing as prescribed by the Community Corrections Officer.

3. That the defendant shall remain drug free, alcohol free and in connection therewith shall submit to such random screens as maybe requested by his Community Corrections Officer and; or any law enforcement officer.

4. That the defendant shall pay the costs of this proceeding in the amount of **$798.00**, in accordance with a schedule to be established by the Community Corrections Officer, and filed with the Court within thirty (30) days. Said schedule shall be incorporated into, and be made a part of this Order unless objected to by the defendant or the Commonwealth within ten (10) days of its filing.

In addition, the defendant is **ORDERED** to report to the Loudoun County Adult Detention Center, forthwith, for the purposes of providing a sample of blood, for DNA (deoxyribonucleic acid) analysis to be sent to the Bureau of Forensic Science, within fifteen (15) days after withdrawal pursuant to Va. Code § 19.2-310.2 and 19.2-310.3.

Further it is **ORDERED** that the defendant's privilege to drive or operate any motor vehicle, engine or train in the Commonwealth be hereby **revoked**.

The Court does hereby authorize the defendant's participation in the Work Force Program and or the Work Release Program while confined at the Loudoun County Adult Detention Center. Eligibility to be determined by the Administration of said programs.

And the Court will grant leave to the defendant to make application for an inpatient treatment program and a Mental Health evaluation, pursuant to § 18.2-254 of the Code of Virginia, through the Loudoun County Department of Mental Health while serving his sentence.

The Clerk is directed to forward a copy of Order, forthwith, to the following:

- Commonwealth Attorney's Office
- Office of the Public Defender
- Community Corrections Program
- Loudoun County Adult Detention Center, Chief Jailer

The defendant is remanded to the custody of the Deputy Sheriff to commence serving said sentence.

ENTERED this 27th day of September, 2002

Thomas D. Horne

THOMAS D. HORNE, CHIEF JUDGE

Cop: Carlotta Cecil
Judge Designate

SENTENCING SUMMARY:

Total Sentence Imposed: eighteen (18) months
Total Sentence Suspended: fifteen (15) months
Total Sentence to Serve: three (3) months

A COPY-TESTE
Cary M. Clements, Clerk
By: M. Clements
Deputy Clerk

ORIGINAL

STAPLE HERE

JUN 11 2014

SOUTH CAROLINA DPS/HP USE ONLY

14019365

Page # 1 OF 1

SOUTH CAROLINA TRAFFIC COLLISION REPORT FORM TR-310 (Rev. 11/2011)

Of Units: 2

Amended - Attach Copy of Original Report | Corrected

Notified: 0737 | Arrived: 0748

Date: 5/24/14 | Time of Collision: 0731 | County: 42

Collision Location (Rt. # / Name): 29 / E MAIN ST

Main Line 2-Alternate 3-Spur 4-Connection 7-Business 8-Other

Miles: | Dir. N E S W

Ult / Near City or Town of: Spartanburg

Lane # / Dir.: 3 Of 5 Dir. S W

Distance Offset: .3 Miles Feet

Direction: N E S W

1- Interstate 2- US Primary 3- SC Primary 4- Secondary 5- County 6- Other

Base Intersection (Rt. # / Name): / Pinecrest BVD

Second Intersection (Rt. # / Name): / Drayton AVE

GPS COORDINATES DEGREES MINUTES SECONDS: Latitude ° ' " ; Longitude ° ' "

R.R. Id.

From: N E S W | Ramp Only: 1- Entrance 2- Exit | To: N E S W

1- Interstate 2- US Primary 3- SC Primary 4- Secondary 5- County 6- Other

G- 348118

Driver/Pedestrian's Full Name: Carr, Scott Nathern

Unit #: 1 | Sex: M | Race: W | Street: 491 Chapman Rd Lot 52

Occ: 1 | Birth Date: 10-3-70 | City, State, & Zip: Fountain Inn SC 29644

State: SC | Driver's License #: 003848420 | Class: D | Insurance Company: Progressive

Year: 2000 | Body: 2DR | Vehicle Make: Ford | VIN #: 3FAKP1134YR179402

State: SC | Year: 2014 | License Plate #: TRU 574 | Owner's D.L. #: 003848420

Home Telephone: (864) 838-9828 | Owner's Full Name: Carr, Scott Nathern

Bus. Telephone: | Street: 491 Chapman Rd Lot 52

Contributed To Collision: Yes / No | City, State, & Zip: Fountain Inn SC 29644

Estimated Speed: 25 | Speed Limit: 35 | C.D.L. Req: Yes / No | Summons #: 9701209 | TIB S Req: Yes / No | Alcohol/Drug Info (see back): Yes / No | Code: 4B | Summons # | Code | Towed / Yes / No | By

G- 348119

Driver/Pedestrian's Full Name: Smith, Hadiyah Idalis

Unit #: 2 | Sex: F | Race: B | Street: 317 Steelman dr

Occ: 1 | Birth Date: 11-15-94 | City, State, & Zip: Inman SC 29349

State: SC | Driver's License #: 102305179 | Class: D | Insurance Company: State Farm

Year: 2001 | Body: 4DR | Vehicle Make: Kia | VIN #: KNAFE121615274278

State: SC | Year: 2014 | License Plate #: JCU 795 | Owner's D.L. #: UNKNOWN

Home Telephone: (864) 200-2314 | Owner's Full Name: Smith, Darius M

Bus. Telephone: | Street: 19 Pine Ridge Rd

Contributed To Collision: Yes / No | City, State, & Zip: Spartanburg SC 29302

Estimated Speed: 20 | Speed Limit: 35 | C.D.L. Req: Yes / No | Summons # | TIB S Req: Yes / No | Alcohol/Drug Info (see back): Yes / No | Code | Summons # | Code | Towed / Yes / No | By

G- 348120

Driver/Pedestrian's Full Name

Unit #: | Sex | Race | Street

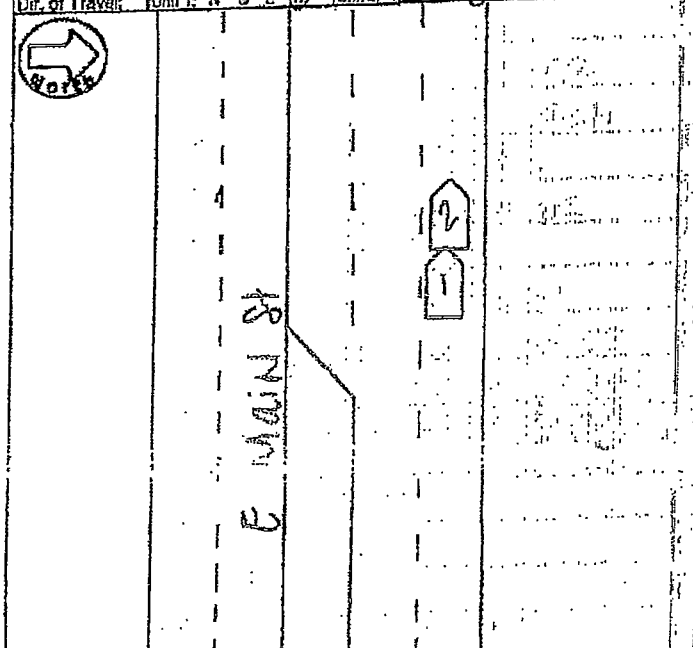
Occ | Birth Date | City, State, & Zip

State | Driver's License # | Class | Insurance Company

Year | Body | Vehicle Make | VIN #

Estimated Speed | Speed Limit | C.D.L. Req: Yes / No | Summons # | TIB S Req: Yes / No | Alcohol/Drug Info (see back): Yes / No | Code | Summons # | Code | Towed / Yes / No | By

Dir. of Travel: Unit 1: N S E W | Unit 2: N S E W | Unit 3: N S E W



Unit 1 Dam.: $ 1000 | Unit 2 Dam.: $ 1000 | Unit 3 Dam.: $ | Prop. Dam. 1: $ | Prop. Dam. 2: $

Property Owner/Witness: | Property Owner/Witness:

Address: | Address:

State | Zip | Phone | State | Zip | Phone

Photo: Y / N | Describe What Happened (Refer to Units by Number)

Unit 1 Unit 2 Stated She was on E Main St traveling West and was Stoped at the traffic Light at Emma St and Drayton Rd. Unit 1 was also traveling West on E Main St. Unit 1 was unable to Stop Completely Striking Unit 2 in the rear.

NOTICE - THE TR-310 IS FOR STATISTICAL REPORTING PURPOSES ONLY AND IS A REFLECTION OF THE OFFICER'S BEST KNOWLEDGE, OPINION, AND BELIEF COVERING THE COLLISION, BUT NO WARRANT IS MADE AS TO THE FACTUAL ACCURACY THEREOF.

Investigating Officer's Name: R.S. WINDLE | Rank: TPR | Badge #: 1345 | Jurisdiction Code: 410 | Review Date: 5-24-14 | Reviewer's Name: [illegible] | Sup.: [illegible] | Internal Agency Code: 05-BRC-14

Mail To: SC Department of Motor Vehicles PO Box 1498 Blythewood, SC 29016

Mail Hat - Do Not Fold, Crease or Mutilate

Unit	Date of Birth	Sex	Race	Inj.	Sent.	Pos.	A.B.D.	Ejct.	Lab.	Trans.	Name	Street Address	Zip Code
1		M	W		01	13							
2		F	B		01	13							

Race: A - Asian/Pacific Islander; B - African American; H - Hispanic; I - Alaskan Native or American Indian; W - Caucasian; O - Other; U - Unk.

Air Bag Deployment / Switch
a) 1 - Deployed Front; 2 - Deployed Side; 3 - Deployed Both; 4 - Not Deployed; 7 - Not Applicable; 8 - Deployment Unk.; 9 - No Switch
b) 1 - Switch to On Position; 2 - Switch to Off Position; 3 - No Switch; 8 - Unknown

Ejection: 1 - Not Ejected; 2 - Part. Ejected; 3 - Tot. Ejected; 7 - Not App.; 8 - Unk.

a) Injury Status: 1 - Not Injured; 2 - Non-Incapacitating; 3 - Incapacitating; 4 - Fatal; 9 - Unk.
b) 2 or 3 Wheel Motorized Vehicle Only: Head Injury? 1 - Yes; 2 - No

Seating Loc.: 01 02 03 / 04 05 06 / 07 08 09

20 - Pedestrian; 30 - Trailing Unit; 40 - Bus or Van (4th row or Higher); 50 - Other Enclosed Area (motorized); 51 - Other Unenclosed Area (motorized); 60 - Stepped on Cab; 70 - Riding on Unit Exterior; 80 - Lap; 90 - Unk. N/A

Location After Impact: 1 - Not Trapped; 2 - Extricated (Mechanical Means); 3 - Freed (non-mech.); 4 - Not Applicable; 9 - Unknown

a) Transported to Medical Facility: 1 - Yes; 2 - No; 3 - Unknown
b) By: 1 - EMS; 2 - Police; 8 - Other; 9 - Unk.

Restraint/Safety Device: 00 - None Used; 11 - Shoulder belt; 12 - Lap Belt Only; 13 - Shoulder & Lap Belt; 20 - Child Safety Seat; 88 - Other; 99 - Unk.

Pedestrian, Motor/Pedalcycle Only: 31 - Helmet; 41 - Protective Pads; 51 - Reflective Clothing; 61 - Lighting

Sequence of Events

Non-Collision: 01 - Equipment Failure; 02 - Cargo/Person Lost or Fell; 03 - Fire/Explosion; 04 - Immersion; 05 - Jackknife; 06 - Overturn/Rollover; 07 - Ran off Road Left; 08 - Ran off Road Right; 09 - Separation of Units; 10 - Spill (Non-Hazmat Veh.); 11 - Other Noncollision; 12 - Unk. Non-collision

Collision Not Fixed: 20 - Animal (Hoof Only); 21 - Animal (All Other); 22 - Motor Veh. in Transport; 23 - Motor Veh. (Stopped); 24 - Motor Veh. (Other Roadway); 25 - Motor Veh. (Parked); 26 - Pedalcycle; 27 - Pedestrian; 28 - Railway Veh.; 29 - Work Zone Maint. Equip.; 30 - Unk. Moveable Object; 31 - Other Moveable Object

Collision Fixed Object: 40 - Bridge Overhead Structure; 41 - Bridge Pier or Abutment; 42 - Bridge Rail; 43 - Culvert; 44 - Curb; 45 - Ditch; 46 - Embankment; 47 - Fence; 48 - Guardrail End; 49 - Guardrail Face; 50 - Highway Traffic Sign Post; 51 - Impact Attenuator/Crash Cushion; 52 - Light Support/Utility Pole; 53 - Median Barrier; 54 - Tree; 55 - Unk. Fixed Object; 56 - Utility Pole; 57 - Overhead Sign Support; 58 - Other Post, Pole, Support, Etc.; 59 - Other Wall, Building, Tunnel, Etc.; 60 - Tree; 61 - Utility Pole; 62 - Work Zone Maint. Equipment; 63 - Other; 99 - Unk.

Event 1	Event 2	Event 3	Event 4	Most Harmful	1st Harmful
22				22	22
28					

Manner of Collision (Struck Veh.): 00 - Not Coll. w/ Motor Veh.; 10 - Rear End; 20 - Head On; 30 - Rear-to-Rear; 40 - Angle; 50 - Sideswipe Same Dir.; 60 - Sideswipe Opposite Dir.; 70 - Backed Into; 99 - Unknown

1st / Most Deformed Area

1st Harmful / Most Deformed

21 - Pedestrian; 81 - None; 82 - Rollover; 83 - Total; 84 - Under Carriage; 98 - Other; 99 - Unk.

Vehicle Type: 01 - Automobile; 02 - Pickup Truck; 03 - Truck Tractor; 04 - Cargo Truck; 15 - Full Size Van; 16 - Mini Van; 17 - Sport Utility; 25 - Motorcycle; 26 - Other Moveable; 27 - Pedalcycle; 28 - Animal Drawn Veh.; 39 - Animal (Ridden); 41 - Pedestrian; 51 - Train; 82 - Passenger Bus; 88 - Other; 99 - Unk. (Hit and Run Only)

Alcohol / Drug Test Given: 1 - Given - Known Results; 2 - Given - Unknown; 3 - Given - Pending; 4 - Refused; 5 - Refused

Special Use Only

Test Type: 1 - Breath (Air Only); 2 - Blood; 3 - Urine; 4 - Serum; 8 - Other

Drug Results: 1 - Amphetamines; 2 - Cocaine; 3 - Marijuana; 4 - Opiates; 5 - PCP; 7 - None; 8 - Other

Alc Test Results

Vehicle Use Code: 01 - Personal; 02 - Driver Training; 03 - Construction/Maint.; 04 - Ambulance; 05 - Military; 06 - Transport Passengers; 07 - Transport Property; 08 - Farm Use; 09 - Wrecker or Tow; 10 - Police; 11 - Government; 12 - Fire Fighting; 13 - Logging; 19 - Other; 21 - Pedestrian

Underride/Override: 1 - Under - Compartment Intrusion; 2 - Under - No Intrusion; 3 - Under - Unknown; 4 - Over - MV in Transport; 5 - Over - Other Vehicle; 6 - None; 8 - Unk.

Extent of Deformity: 0 - None/Minor; 1 - Functional Damage; 2 - Disabling Damage; 4 - Severe/Totaled; 5 - Not Applicable; 8 - Unk.

Vehicle Attachment: 1 - None; 2 - Mobile Home; 3 - Semi-Trailer; 4 - Utility Trailer; 5 - Farm Trailer; 6 - Trailer w/ Boat; 7 - Camper Trailer; 8 - Towed Motor Vehicle; 9 - Petroleum Tanker; A - Logging Trailer; B - Auto-carrier Trailer; C - Other Tanker; D - Flat Bed; H - Tow Trailers; F - Other

Trafficway: 1 - Two-way, Not Divided; 2 - Two-way, Divided, Unprotected Median; 3 - Two-way, Divided, Barrier; 4 - One-Way; 8 - Other

Hit & Run?: Y - Yes; N - No

1st Harmful Event Loc.

Action Prior to Impact

(Vehicle): 01 - Backing; 02 - Changing lanes; 03 - Driving wrong lanes; 04 - Leaving traffic lane; 05 - Making U-turn; 06 - Mistakenly Entered Ramp; 07 - Overtaking/passing; 08 - Parked; 09 - Slowing or Stopped in traffic; 10 - Turning left; 11 - Turning right; 12 - Other

(Non-motorist): 21 - Approaching/Leaving Vehicle; 22 - Entering/Crossing Location; 23 - Playing/Working on Vehicle; 24 - Pushing Vehicle; 25 - Standing; 26 - Walking, Playing, Working; 99 - Unk.

Road Character: 1 - Straight - Level; 2 - Straight - On grade; 3 - Straight - Hillcrest; 4 - Curve - Level; 5 - Curve - On grade; 6 - Curve - Hillcrest

Road Surface Condition: 1 - Dry; 2 - Wet; 3 - Snow; 4 - Slush; 5 - Ice; 6 - Sand/mud/dirt; 7 - Water (Standing, Moving); 8 - Other; 9 - Unk.

Weather Condition: 1 - Clear (no adverse conditions); 2 - Rain; 3 - Cloudy; 4 - Sleet, Hail; 5 - Snow; 6 - Fog, Smog, Smoke; 7 - Blowing Sand, Soil, Dirt; 8 - Severe Crosswinds; 9 - Other/Unk.

Traffic Control Type: 01 - Stop Sign; 02 - Flashing Traffic Signal; 03 - RR (Unattended Signs & Gates); 04 - RR (Attended Signs & Lights); 05 - RR (Attended Only); 21 - Officer or Flagman; 22 - Oncoming Emergency Vehicle; 31 - Pavement Markings (only); 41 - Stop Sign; 42 - School Zone Sign; 43 - Yield Sign; 44 - Work Zone; 45 - Other Warning Sign; 51 - Flashing Beacon; 88 - None; 99 - Unk.

Light Condition: 1 - Daylight; 2 - Dawn; 3 - Dusk; 4 - Dark (Lighting Unspecified); 5 - Dark (Street Lamp Lit); 6 - Dark (Street Lamp Not Lit); 7 - Dark (No lights)

School Bus Involved?: 1 - Yes; 2 - No

Work Zone?: 1 - Yes; 2 - No

Work Zone Location: 1 - Before 1st Sign; 2 - Advance Warning Area; 3 - Transition Area; 4 - Activity Area; 5 - Termination Area

Work Zone Type: 1 - Shoulder/Median Work; 2 - Lane Shift/Crossover; 3 - Intermittent/Moving Work; 4 - Lane Closure; 5 - Other; 9 - Unk.

Workers Present?: 1 - Yes; 2 - No

Junction Type: 01 - Crossover; 02 - Driveway; 03 - Railway Grade Crossing; 04 - Shared-Use Path Crossing; 05 - Transit Way Crossing; 06 - Intersection; 07 - Intersection Related; 08 - Entrance/Exit Ramp Related; 09 - Unk.

Roadway: 30 - Debris; 31 - Non-Highway Work; 32 - Obstruction in Roadway; 33 - Road Surface Condition (i.e., Wet); 34 - Rut, Holes, Bumps; 35 - Shoulders (None, Low, Soft, High); 36 - Traffic Control Device (i.e., Missing); 37 - Work Zone (Except Maint. Activity); 38 - Worn, Travel-Polished Surface; 39 - Other; 40 - Unk.

Non-Motorist: 50 - Inattentive; 51 - Lying and/or Illegally in Roadway; 52 - Failure to Yield R. of W.; 53 - Not Visible (Dark Clothing); 54 - Disregarded Signal, Signals, Etc.; 55 - Improper Crossing; 56 - Darting; 57 - Wrong Side of Road; 58 - Other Non-Motorist Action; 59 - Unk.

Environmental: 60 - Animal in Road; 61 - Glare; 62 - Obstruction; 63 - Weather Cond.; 64 - Other; 65 - Unk.

Vehicle Defect: 70 - Brakes; 71 - Steering; 72 - Power Plant; 73 - Tires/Wheel; 74 - Lights; 75 - Signals; 76 - Windows/Shield; 77 - Restraint System; 78 - Trunk Coupling; 79 - Cargo; 80 - Fuel System; 88 - Other; 89 - Unk.

Contributing Factors

Primary: 02

Driver: 01 - Disregarded Signs, Signals, Etc.; 02 - Distracted/Inattentive; 03 - Driving Too Fast for Conditions; 04 - Exceeded Authorized Speed Limit; 05 - Failed to Yield Right of Way; 06 - Ran off Road; 07 - Followed Too Closely; 12 - Aggressive Operation of Vehicle; 13 - Over-correcting/Over-steering; 14 - Swerving to Avoiding Object; 15 - Wrong Side or Wrong Way; 16 - Under the Influence; 17 - Vision Obscured (Within Veh); 18 - Improper Lane Usage/Change; 19 - On Cell Phone; 20 - Texting; 28 - Other Improper Action; 29 - Unk.

Others: 08 - Improper Turn; 09 - Made an Improper Turn; 10 - Motorist Related

Mail To: SC Department of Motor Vehicles, PO Box 1498, Blythewood, SC 29016

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

Thomas L. Hughston, Jr., Circuit Court Judge

Appellate Case No. 2016-000872

Aaliyah Smith

Appellant,

v.

Scott Carr Respondent.

CERTIFICATE OF SERVICE

The undersigned employee of Hodge & Langley Law Firm P.C. certifies that she has, on the date below, served the AMENDED RECORD ON APPEAL upon the below person(s) via first class mail.

Clarkson, Walsh, Terrell & Coulter, P.A.
Michael T. Coulter
PO Box 6728
Greenville, SC 29606

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

REGINA CHAMPION

September ___, 2016

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REGINA CHAMPION

September 22, 2016