

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County
Court of Common Pleas
Deadra L. Jefferson, Circuit Court Judge

Case No. 2013-CP-10-3891
Appellate Case No. 2016-002526

RECEIVED
JUL 07 2017
SC Court of Appeals

Linda Beth Weddle,

Respondent,

v.

Charleston County Sheriff's Office,

Appellant.

RECORD ON APPEAL

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FORM 4

STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER
IN THE COURT OF COMMON PLEAS

Linda Beth Weddle,

PLAINTIFF

v.

JUDGMENT IN A CIVIL
CASE

CASE NO. 13-CP-18-03891

Charleston County Sheriff's Office,

DEFENDANT

FILED
2016 NOV 17 AM 10:54
JULIE J. ARMSTRONG
CLERK OF COURT
BY

CHECK ONE:

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

BOX):

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE**

☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

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

IT IS ORDERED AND ADJUDGED:

- ☐ See attached order. (Formal order to follow)
☒ Statement of Judgment by the Court:

This case was called before the Court for a jury trial on November 14-16, 2016. On November 16, 2016, a judgment was rendered by the jury. The jury reached a verdict in favor of the Plaintiff in the amount of \$75,000 dollars actual damages.

At the end of the trial, post-trial motions were required and heard. The Defendant made a Motion for Judgment Notwithstanding the Verdict pursuant to SCRPC, Rule 50. SCRPC Rule 50 states that "[w]henver a motion for a directed verdict made at the close of all the evidence is denied or for any reason is not granted, the court is deemed to have submitted the action to the jury subject to a later determination of the legal questions raised by the motion. A party who has moved for a directed verdict may move to have the verdict and any judgment entered thereon set aside and to have judgment entered in accordance with his motion for a directed verdict; or if a verdict was not returned, such party may move for judgment in accordance with his motion for a directed verdict." "Motions for directed verdict or JNOV should be denied if the evidence yields more than one reasonable inference or its inference is in doubt." *Strange v. S.C. Dep't of Highways & Pub.*

Transp., 314 S.C. 427, 429–30, 445 S.E.2d 439, 440 (1994). Further, "[a] motion for JNOV may be granted only if no reasonable jury could have reached the challenged verdict." *Gastineau v. Murphy*, 331 S.C. 565, 568, 503 S.E.2d 712, 713 (1998).

Accordingly, JNOV would be improper as a reasonable jury could have reached the challenged verdict. Further, the jury's verdict must be upheld if there is any evidence to sustain the factual findings implicit in the verdict. *Sorin Equipment Co., Inc. v. The Firm, Inc.*, 323 S.C. 359, 474 S.E.2d 819, 823 (Ct. App. 1996). The Court further finds that the verdict is not shockingly disproportionate to the injuries sustained by the Plaintiff as to indicate passion, caprice, prejudice, or some other influence outside the evidence. *Kalchthaler v. Workman*, 316 S.C. 499, 450 S.E.2d 621 (Ct. App. 1994). Pursuant to SCRPC Rule 59, "the motion for a new trial shall be made promptly after the jury is discharged, or in the discretion of the court not later than 10 days thereafter." The Court required motions to be made promptly after the jury was discharged. The Court made contemporaneous findings of fact and conclusions of law for the record which are incorporated herein. No other motions were made and are therefore waived. The Defendant's Motion for JNOV is heard and respectfully denied.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
Linda Beth Weddle	Charleston County Sheriff's Office	\$75,000

If applicable, describe the property, including tax map information and address, referenced in the order:
The breakdown of the judgment is as follows: \$7,504.00 in actual damages and \$20,000.00 in punitive damages.

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


Circuit Court Judge

2128
Judge Code

11/16/16
Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

Daniel C. Boles, Esq.

PLAINTIFF

Ellore A. Ganes, Esq.

Benjamin H. Joyce, Esq.

ATTORNEY FOR DEFENDANT

CLERK OF COURT

Court Reporter: Phyllis Norton

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
Linda Beth Weddle,)
)
Plaintiff,)
)
vs.)
)
Charleston County Sheriff's Office,)
)
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS
OF THE NINTH JUDICIAL CIRCUIT

CASE NO. 2013-CP-10-03891

VERDICT FORM

AS TO THE NEGLIGENCE CAUSE OF ACTION:

SPECIAL INTERROGATORIES

PERCENTAGES REQUIRED TO TOTAL 100%

1. Do you find that the Defendant was grossly negligent and that such gross negligence proximately caused the Plaintiff's injuries?

✓ YES: If you answer yes, **GO TO QUESTION 2**

_____ NO: If you answer no, **STOP AND DELIBERATE NO FURTHER**

2. Do you find that the Plaintiff was negligent and that such negligence proximately caused her injuries?

_____ YES: If you answer yes, **GO TO QUESTION 3**

✓ NO: If you answer no, **GO TO QUESTION 4**

3. If your answers to both Question number 1 and Question number 2 are **YES**, then answer this question.

Taking the combined negligence that proximately caused the Plaintiff's injuries as one hundred percent (100%), what percentage of that breach is attributable to the Plaintiff and what percentage is attributable to the Defendant? (The percentages must add up to 100%).

Plaintiff _____ %

Defendant _____ %

Total 100%

If the Plaintiff's percentage of the combined negligence is greater than 50%, **STOP AND DELIBERATE NO FURTHER.**

If the Plaintiff's percentage of the combined negligence is 50% or less, **GO TO QUESTION 4.**

4. Please state the total amount of damages sustained by the Plaintiff:

\$ 75,000 (dollars) Actual Damages

NOTE: If your answer to Question number 2 was **YES**, **do not reduce** the Plaintiff's damages above by the percentage of negligence attributed to him in Question number 3.

Please sign and date.

Debrah B Newsome
Foreperson

November 16, 2016

Please notify the Bailiff(s) when you have completed your deliberations.

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Linda Beth Weddle,

Plaintiff,

Vs

Charleston County Sheriff's Office,

Defendant.

) IN THE COURT OF COMMON PLEAS
)
) FOR THE NINTH JUDICIAL CIRCUIT

) C/A No. 2013-CP-10-03891
)

) **SUPPLEMENTAL ORDER**
) **GRANTING DEFENDANT'S MOTION**
) **FOR DIRECTED VERDICT AS TO**
) **PLAINTIFF'S CAUSE OF ACTION**
) **FOR NEGLIGENT SUPERVISION/**
) **TRAINING**

Presiding Judge:
Plaintiff's counsel:
Defendants' counsel:

Hon. Deadra L. Jefferson
Daniel Boles, Esq.
Elloree Ganes, Esq.
Benjamin Joyce, Esq.
November 14-16, 2016
Phyllis Norton

Date of Trial:
Court Reporter:

2016 DEC 15 PM 3:02
FILED
JULIE J. HARRIS
CLERK OF COURT

THIS MATTER came before the Court for a trial by jury on November 14, 2016. Present at the trial were Officer Yashica Gladden, accompanied by attorneys Elloree Ganes and Benjamin Joyce, counsel for Defendant Charleston County Sheriff's Office. The Plaintiff, Linda Weddle, was also present and was represented by attorney Daniel Boles. At the close of the Plaintiff's case on November 15, 2016, this matter came before the Court pursuant to Rule 50 of the South Carolina Rules of Civil Procedure on a Motion for Directed Verdict by the Defendant Charleston County Sheriff's Office as to the Plaintiff's Cause of Action for Negligent Supervision and Training.

Viewing the evidence and all reasonable inferences in the light most favorable to the Plaintiff, the Defendant Charleston County Sheriff's Motion for Directed

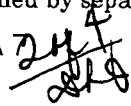
10/4
ROA 6

Verdict as to the Plaintiff's Cause of Action for Negligent Supervision and Training is hereby GRANTED.¹

Pursuant to Rule 50(a) of the South Carolina Rules of Civil Procedure, a trial court may, upon a motion by a party at the close of evidence offered by the party's opponent, direct a verdict if the case presents only questions of law. When considering a motion for directed verdict, the trial court must "view the evidence and the inferences that reasonably can be drawn therefrom in the light most favorable to the party opposing the motions and to deny the motions where either the evidence yields more than one inference or its inference is in doubt." Strange v. South Carolina Dept. of Highways and Public Transp., 314 S.C. 427, 430, 445 S.E.2d 439, 440 (1994). "It is not the province of the court to weigh the testimony, but simply to determine if there is any relevant, competent testimony reasonably tending to establish the material elements of plaintiff's cause of action." Chaney v. Burgess, 246 S.C. 261, 266, 143 S.E.2d 521, 523 (1965). "If more than one reasonable inference can be drawn . . . the case should be submitted to the jury." Id.

In a negligent supervision cause of action, an employer may be liable when (1) his employee intentionally harms another when he is on the employer's premises, is on premises he is privileged to enter only as an employee, or is using the employer's chattel; (2) the employer knows or has reason to know that he has the ability to control his employee; and (3) the employer knows or should know of the necessity and opportunity for exercising such control. See Degenhart v. Knights of Columbus, 309 S.C. 114, 116-17, 420 S.E.2d 495, 496 (1992) (quoting Restatement (Second) of Torts

¹ The Defendant also moved for a directed verdict as to the Plaintiff's cause of action for gross negligence and as to causation, which the Court denied by separate order.

ROA 

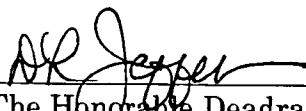
§ 317 (1965)). "[A] governmental entity is not liable for a loss resulting from responsibility or duty including but not limited to supervision, protection, control, confinement, or custody of any . . . prisoner, inmate, or client of any governmental entity, except when the responsibility or duty is exercised in a grossly negligent manner." S.C. Code Ann. § 15-78-60 (25).

Viewing the evidence and all reasonable inferences in the light most favorable to Plaintiff, Plaintiff did not present sufficient evidence upon which a jury could reasonably find for Plaintiff on her claim for Negligent Supervision and Training. Plaintiff's confinement expert, James Aiken, testified regarding Plaintiff's cause of action for Negligent Supervision and Training, but he did not offer a qualified opinion that was sufficient to support a claim for Negligent Supervision and Training. Specifically, in providing his opinion that Charleston County Sheriff's Office was negligent in supervising and training Officer Yashica Gladden, Mr. Aiken testified that he did not review any policies and procedures of the Charleston County Sheriff's Office, any training records, certifications, or associated materials of Officer Gladden, or any material on how Charleston County Sheriff's Office trains its officers. Further, he provided no standards to support his opinion that Charleston County Sheriff's Office was negligent in the supervision or training of Officer Gladden. In sum, Plaintiff failed to present sufficient evidence, through the testimony of her expert, James Aiken, or otherwise, that a jury could reasonably find for Plaintiff on her claim for Negligent Supervision and Training.

This Court considers the evidence to be uncontroverted and, therefore, appropriate for directed verdict. THEREFORE, it is hereby ORDERED, ADJUDGED, AND DECREED that the Defendant Charleston County Sheriff's Office's Motion for

Directed Verdict as to the Plaintiff's Cause of Action for Negligent Supervision and Training is GRANTED, and that Plaintiff's Cause of Action for Negligent Supervision and Training is DISMISSED with prejudice.

IT IS SO ORDERED.



The Honorable Deadra L. Jefferson
Presiding Judge
Ninth Judicial Circuit

December 14, 2016
Charleston, South Carolina


ROA 9

2013 CP-10-3891

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

2014 MAY 22 P 2:49

FILED

Linda Beth Weddle,

Plaintiff,

vs.

Charleston County Sheriff's Office,

Defendant.

No. 2:13-cv-2177-RMG

MAY 27 2014

ORDER



JULIE J. ARMSTRONG
CLERK OF C.P. & G.S.
ATTEST: ROBIN L. BLUME, CLERK

BY: *Sara K. Samsa*
DEPUTY CLERK

This matter is before the Court on the Report and Recommendation (R & R) of the Magistrate Judge that this matter be remanded to state court. (Dkt. No. 33). For the reasons stated below, the Court ADOPTS the R & R and REMANDS this matter to state court.

I. Background

Plaintiff filed this action in state court alleging causes of action for gross negligence and negligent training and supervision. (Dkt. No. 1-1). Defendant removed the action to federal court based on federal question jurisdiction and allegations of excessive force. (Dkt. No. 1). In her Motion for Remand, Plaintiff contends that her Complaint contains "no allegations . . . of violation of civil rights pursuant to 42 U.S.C. § 1983, or violation of any other federal statute." (Dkt. No. 9-1 at 1). Defendant states in its opposition brief that, "[i]f Plaintiff confirms by way of supplemental pleading that there is no civil rights claim being raised . . . , the Defendant would agree that it must concede this issue and believes the case would be proper for Remand to State Court." (Dkt. No. 10 at 2). The Magistrate Judge found that South Carolina law creates the causes of action in Plaintiff's Complaint and that Plaintiff's right to relief does not necessarily

depend on a question of federal law. (Dkt. No. 33 at 5, 8). Therefore, the Magistrate Judge recommended remanding the case. (*Id.* at 8). Neither party has filed an objection to the R & R.

II. Legal Standard

The Magistrate Judge makes only a recommendation to this Court. The responsibility for making a final determination remains with this Court. *Matthews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a *de novo* determination of those portions of the R & R to which specific objection is made. *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting 28 U.S.C. § 636(b)(1)). Here, however, because no objection has been made, this Court “must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Id.* (quoting Fed. R. Civ. P 72 advisory committee note). Moreover, in the absence of specific objections to the R & R, the Court need not give any explanation for adopting the Magistrate Judge's analysis and recommendation. *See Camby v. Davis*, 718 F.2d 198, 200 (4th Cir. 1983).

III. Discussion

The Court agrees with the Magistrate Judge that Plaintiff only alleges state law causes of action. (*See* Dkt. No. 1-1). The Court also agrees that, for the reasons stated in the R & R, Plaintiff's right to relief on her negligence claims does not necessarily depend on a question of federal law.

Therefore, the Court **ADOPTS** the R & R in full and **REMANDS** this action to the Court of Common Pleas for Charleston County, South Carolina.

//

//

AND IT IS SO ORDERED.


Richard M. Gergel
United States District Judge

May 22, 2014
Charleston, South Carolina

MIME-Version:1.0
From:SCDEfilingstat@scd.uscourts.gov
To:scd_ecf_nef@localhost.localdomain
Bcc:
--Case Participants: Elloree A Ganes (elloree.ganes@hoodlaw.com, info@hoodlaw.com), Robert H Hood (info@hoodlaw.com), Thomas Happel Scurry (happel.scurry@hoodlaw.com, info@hoodlaw.com)
--Non Case Participants:
--No Notice Sent:

Message-Id:<6171041@scd.uscourts.gov>
Subject:Activity in Case 2:13-cv-02177-RMG Weddle v. Charleston County Sheriff's Office
Order on Motion to Remand
Content-Type: text/html

This is an automatic e-mail message generated by the CM/ECF system. Please **DO NOT RESPOND** to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS*** There is no charge for viewing opinions.**

U.S. District Court

District of South Carolina

Notice of Electronic Filing

The following transaction was entered on 05/22/2014 at 3:22:21 PM EDT and filed on 05/22/2014

Case Name: Weddle v. Charleston County Sheriff's Office

Case Number: 2:13-cv-02177-RMG

Filer:

Document Number: 37

Docket Text:

ORDER adopting [33] Report and Recommendation of Magistrate Judge Bruce Howe Hendricks; granting [9] Motion to Remand to the Court of Common Pleas for Charleston County, South Carolina. Clerk's Notice: Attorneys are responsible for supplementing the State Record with all documents filed in Federal Court. Signed by Honorable Richard M Gergel on 5/22/2014.(ssam,) Modified to edit text on 5/22/2014 (ssam,).

2:13-cv-02177-RMG Notice has been electronically mailed to:

Robert H Hood info@hoodlaw.com

Elloree A Ganes elloree.ganes@hoodlaw.com, info@hoodlaw.com

Thomas Happel Scurry happel.scurry@hoodlaw.com, info@hoodlaw.com

2:13-cv-02177-RMG Notice will not be electronically mailed to:

Linda Beth Weddle
5883 Ryans Bluff Road
North Charleston, SC 29418

The following document(s) are associated with this transaction:

Document description:Main Document

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Electronic document Stamp:

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STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
)
LINDA BETH WEDDLE,)
)
)
)
Plaintiff,)
v.)
)
)
CHARLESTON COUNTY SHERIFF'S)
OFFICE,)
)
)
Defendant.)
)
)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

CASE NO.: 2013-CP-10-3891

AMENDED COMPLAINT
(Jury Trial Requested)

FILED
2016 NOV 15 PM 2:55
JULIE J. ARMSTRONG
CLERK OF COURT

Plaintiff, complaining of the Defendant above-named, hereby alleges and pleads
as follows:

PARTIES

1. Plaintiff Linda Beth Weddle is a citizen and resident of Charleston County, South Carolina.
2. Defendant Charleston County Sheriff's Office (hereinafter "CCSO") is a political subdivision of the State of South Carolina and is subject to suit pursuant to the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-10, *et seq.*
3. Upon information and belief, at all times relevant herein, Defendant CCSO consisted of persons who were agents, servants and employees, acting under color of state law and the course and scope of their employment, and all acts and omissions are imputed to the Defendant CCSO as a matter of law.

4. All acts and omissions of the Defendants complained of herein occurred in Charleston County, South Carolina.

5. Pursuant to S.C. Code Ann. § 1-78-100(a) & (b), the parties hereto, subject matter hereof, and all matters hereinafter alleged are within the jurisdiction of this Court, and this Court is the proper venue for this action.

FACTUAL BACKGROUND

7. On or about July 19, 2010, Plaintiff had a dispute with the City of North Charleston Public Works Department regarding the removal of a tree on Plaintiff's property.

8. Plaintiff was arrested for disorderly conduct; however, these charges were later dismissed.

9. Upon her arrest, Plaintiff was handcuffed behind her back and taken into custody and then transported to the Sheriff Al Cannon Detention Center, which is operated and controlled by Defendant CCSO.

10. While at the Detention Center, Plaintiff, a 54 year-old woman, who had never been in trouble with law enforcement, began to feel nauseous and asked a detention officer for Defendant CCSO for some Alka-Seltzer. The officer refused, so Plaintiff then asked for a container to use in the event she had to vomit. The officer again refused.

11. After the officers' refusals, Plaintiff, who was still handcuffed, sat down on the floor of the jail because she felt ill and was afraid she was going to vomit.

12. Suddenly and without warning, a CCSO detention officer jerked Plaintiff off the floor, threw her against a concrete wall, and called her an alcoholic and drug addict.

13. As a result of this excessive use of force, the Plaintiff suffered significant physical injuries and damages including, but not limited to, shoulder injuries.

14. Plaintiff subsequently asked the CCSO detention officer to be allowed to see the nurse for her injuries, to which the officer refused and instead taunted her and then threatened to place Plaintiff in a padded cell if she did not keep her mouth shut.

FOR A FIRST CAUSE OF ACTION
(Gross Negligence as to Defendant CCSO)

15. The Plaintiff incorporates by reference all previous paragraphs above as if repeated herein verbatim.

16. By and through its employees, Defendant CCSO was grossly negligent in its care, custody and control of the Plaintiff in the following ways:

- a. In improperly restraining Plaintiff;
- b. In its use of excessive and unnecessary force;
- c. In failing to use reasonable means to restrain the Plaintiff;
- d. In failing to use even the slightest care and caution;
- e. In failing to prevent its employee from using excessive force in detaining the Plaintiff;
- f. In failing to control its employees in their use of improper methods of law enforcement; and
- g. In such other particulars as the evidence may show.

17. As a direct and proximate result of the acts and omissions of the Defendant CCSO, the Plaintiff suffered significant physical injuries and damages including, but not limited to, shoulder injuries that required surgery. Therefore, Plaintiff is informed and

believes she is entitled to a judgment against Defendant CCSO for actual and consequential damages in an amount to be determined by the trier of fact in this matter.

FOR A SECOND CAUSE OF ACTION
(Negligent Supervision/Training as to Defendant CCSO)

18. The Plaintiff incorporates by reference all previous paragraphs above as if repeated herein verbatim.

19. As a law enforcement agency and an agency of the State of South Carolina, Defendant CCSO has a duty of care to the Plaintiff and the general public to adequately and sufficiently train and supervise its law enforcement employees in the proper methods of restraint, supervision, protection, control and custody of its inmates.

20. At all times relevant herein, the Sheriff Al Cannon Detention Center was under the operation and control of Defendant CCSO and its detention officers were acting in the scope of their employment with Defendant CCSO in their use of excessive force against the Plaintiff.

21. The above-described acts and omissions resulted from the failure of Defendant CCSO, its agents, servants, employees, or other representatives to exercise reasonable care in training and supervising its law enforcement officers in the proper methods of restraint, supervision, protection, control, confinement, and custody of its inmates; thereby, Defendant CCSO breached its duty of care to Plaintiff.

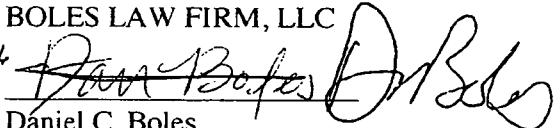
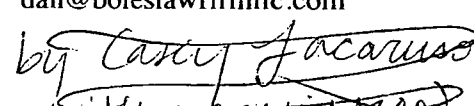
22. Upon information and belief, the aforementioned acts and omissions are part of a pattern, practice and organizational culture of Defendant CCSO.

22. As a direct and proximate result of the acts and omissions of Defendant CCSO due to its negligent supervision and training, Plaintiff suffered significant physical injuries and damages including, but not limited to, shoulder injuries that required surgery.

Therefore, Plaintiff is informed and believes she is entitled to a judgment against Defendant CCSO for actual and consequential damages in an amount to be determined by the trier of fact in this matter.

WHEREFORE, Plaintiff, respectfully prays for judgment against Defendant for all actual damages and consequential damages in an amount to be determined by a jury at the trial of this action as well as attorney fees and costs, and for such other and further relief as this Court deems just and proper.

The 31st day of November, 2016
Charleston, South Carolina

BOLES LAW FIRM, LLC
11-15-2016 
Daniel C. Boles
S.C. Bar #79135
23 Broad Street
3870 Leeds Avenue, Ste. 104
Post Office Box 381
Charleston, SC 29402
843.576.5775 office
800.878.5443 fax
dan@boleslawfirmllc.com
by  11-15-2016
with permission

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	FOR THE NINTH JUDICIAL CIRCUIT
Linda Beth Weddle,	)	C/A No. 2013-CP-10-03891
	)	
Plaintiff,	)	
	)	ANSWER TO
Vs	)	PLAINTIFF'S AMENDED COMPLAINT
	)	
Charleston County Sheriff's Office,	)	
	)	
Defendant.	)	

FILED
2016 NOV 15 PM 3:32
CLERK J. ARMSTRONG

TO: DANIEL BOLES, ATTORNEY FOR PLAINTIFF LINDA BETH WEDDLE:

The Defendant, Charleston County Sheriff's Office (hereinafter "Defendant") answers the Plaintiff's Amended Complaint, subject to any and all affirmative defenses, qualifications, motions and any other pleadings, as follows:

1. This Defendant denies each and every allegation contained in the Plaintiff's Amended Complaint which is not specifically admitted.

AS TO THE PARTIES, JURISDICTION, AND VENUE

2. The allegations contained in Paragraph 1 of Plaintiff's Amended Complaint are admitted upon information and belief.

3. The allegations contained in Paragraphs 2, 3, 4, and 5 of Plaintiff's Amended Complaint state conclusions of law to which no response is required.

AS TO FACTUAL BACKGROUND

4. The allegations contained in Paragraph 7 of Plaintiff's Amended Complaint are admitted upon information and belief.¹

5. In response to the allegations contained in Paragraph 8 of Plaintiff's Amended Complaint, the Defendant admits only so much that alleges that Plaintiff

¹ Plaintiff's Amended Complaint did not contain a Paragraph 6.

was arrested for disorderly conduct. The Defendant is without information sufficient to form a belief as to the remaining allegations contained in Paragraph 8 of Plaintiff's Amended Complaint and therefore denies the same.

6. The Defendant admits the allegations contained in Paragraph 9 of Plaintiff's Amended Complaint.

7. The Defendant denies, as written, the allegations contained in Paragraphs 10, 11, and 12 of Plaintiff's Amended Complaint.

8. The Defendant denies the allegations contained in Paragraphs 13 and 14 of Plaintiff's Amended Complaint.

AS TO THE FIRST CAUSE OF ACTION AGAINST THE DEFENDANT

9. In response to the allegations contained in Paragraph 15 of the Plaintiff's Amended Complaint, the Defendant repeats and re-alleges its responses contained in Paragraphs 1-8 above as if set forth fully herein

10. The Defendant denies the allegations contained in Paragraphs 16 (including subparts a, b, c, d, e, f, and g) and 17 of the Plaintiff's Amended Complaint.

AS TO THE SECOND CAUSE OF ACTION AGAINST THE DEFENDANT

11. In response to the allegations contained in Paragraph 18 of the Plaintiff's Complaint, the Defendant repeats and re-alleges its responses contained in Paragraphs 1-10 above as if set forth fully herein.

12. The Defendant admits the allegations contained in Paragraphs 19 and 20 of the Plaintiff's Amended Complaint only to the extent that it provides training and supervision to its employees and that it operates the Al Cannon Detention

Center; all other allegations contained in Paragraphs 19 and 20 of Plaintiff's Amended Complaint are denied.

13. The Defendant denies the allegations contained in Paragraphs 21, 22, 22 and the WHEREFORE paragraph, being the remaining allegations of the Plaintiff's Amended Complaint.²

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE,
THE DEFENDANT ALLEGES:
(No Proximate Cause)

14. That, even if the Defendant was negligent, as alleged in the Amended Complaint, which is specifically denied, the negligence of the Defendant is not the direct or proximate cause of any injury or damages alleged by the Plaintiff and therefore the Defendant is not liable for any damages allegedly sustained by the Plaintiff.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE,
THE DEFENDANT ALLEGES:
(Failure to State a Claim)

15. The Complaint fails in its entirety to state a claim upon which relief may be granted against the Defendant.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE,
THE DEFENDANT ALLEGES:
(Governmental Immunity/South Carolina Tort Claims Act)

16. This action is governed by the terms, provisions and affirmative defenses set forth in the South Carolina Tort Claims Act which inter alia provide a limit on the amount of actual damages that can be recovered, a prohibition on the recovery of punitive damages and the Defendant pleads these limitations as a cap on actual damages and a bar to any punitive damages. S.C. Code Ann. §15-78-120.

² Plaintiff's Amended Complaint contained two Paragraphs numbered 22.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE.
THE DEFENDANT ALLEGES:
(Punitive Damages Unconstitutional)

17. The Defendant would plead the requirements for an award of punitive damages as set forth by the Supreme Court of South Carolina in the case of State Farm Mut. Auto Ins. Co. v. Campbell, 538 U.S. 408 (2003) as defenses to this claim and would specifically assert that they are entitled to summary judgment on punitive damages and if denied to bifurcated trial.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE.
THE DEFENDANT ALLEGES:
(Sovereign Immunity – Tort Claims Act)

18. As to any alleged violation of common law or state law, the Defendant asserts the provisions of the South Carolina Tort Claims Act, S.C. Code Ann. §15-78-10, *et seq.*, pertinent portions which include *but are not limited to*:

- a. "On or after January 1, 1989, a person when bringing an action against a governmental entity under the provisions of this chapter, shall name as a party defendant only the agency or political subdivision for which the employee was acting...in the event that the employee is individually named, the agency or political subdivision for which the employee was acting must be substituted as the party defendant." S.C. Code Ann. §15-78-70(c).
- b. "No award for damages under this chapter shall include punitive or exemplary damages or interest prior to judgment." S.C. Code Ann. §15-78-120(b).
- c. "The governmental entity is not liable for a loss resulting from:...(3) execution, enforcement, or implementation of the orders of any court or execution, enforcement or lawful implementation of any process; (4) adoption, enforcement, or compliance with any law or failure to adopt or enforce any law, whether valid or invalid, including, but not limited to, any charter, provision, ordinance, resolution, rule, regulation or written policies; (5) the exercise of discretion or judgment by the governmental entity or employee or the performance or failure to perform any act or service which is in the discretion or judgment of the governmental entity or employee;..." S.C. Code Ann. §15-78-60(3) – (5).

- d. "The governmental entity is not liable for a loss resulting from:...(20) an act or omission of a person other than an employee including but not limited to the criminal actions of third persons;..." S.C. Code Ann. §15-78-60(20).
- e. "...responsibility or duty including but not limited to supervision, protection, control, confinement, or custody of any student, patient, prisoner, inmate or client of any governmental entity, except when the responsibility or duty is exercised in a grossly negligent manner;..." SC Code. Ann. §15-78-60(25).
- f. "No person shall recover in any action or claim brought hereunder a sum exceeding three hundred thousand dollars because of loss arising from a single occurrence regardless of the number of agencies or political subdivisions involved." S.C. Code Ann. §15-78-120(a)(1).

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

19. The Defendant alleges that any injuries received by the Plaintiff, as alleged in the Amended Complaint, if any, were due to and caused by and were the direct and proximate result of acts of negligence on the part of the Plaintiff or a third party, over whom the Defendant had no control, so as to bar the claims of the Plaintiff against the Defendant.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE,
THE DEFENDANT ALLEGES:
(Lack of Foreseeability)

20. That upon information and belief, even if the damages alleged in Plaintiff's Amended Complaint, if any, were proximately caused by the acts and/or omissions of the Defendant, which is otherwise denied except for the purpose of these affirmative defenses, the Defendant did not and could not have foreseen that Plaintiff's damages, if any, could have proximately resulted from the Defendant's acts or omissions.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE,
THE DEFENDANT ALLEGES:

(Reasonableness and Good Faith)

21. The Defendant alleges that he and his agents and employees acted reasonably and in good faith at all times material herein, based on all relevant facts and circumstances known by them at the time they so acted. Accordingly, Plaintiff is not entitled to the recovery of any damages whatsoever.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE,
THE DEFENDANT ALLEGES:
(Limitation of Punitives)

22. Any punitive damages awarded in this case would be subject to the limitations described in S.C. Code §15-32-530.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE,
THE DEFENDANT ALLEGES:
(Unforeseeable Intervening or Superseding Events)

23. The damages complained of were solely the result of unforeseeable intervening or superseding events over which the Defendant had no control.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE,
THE DEFENDANT ALLEGES:
(Statute of Limitations)

24. That the Plaintiff's causes of action against this Defendant are barred by the applicable statute of limitations, pursuant to the South Carolina law.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE,
THE DEFENDANT ALLEGES:
(No Breach)

25. This Defendant did not breach any purported duty owed to the Plaintiff so as to bar the Plaintiff from recovery against this Defendant.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE,
THE DEFENDANT ALLEGES:
(Assumption of the Risk)

26. This Defendant alleges that the perils and dangers existing at the time of Plaintiff's actions, if any, were open, obvious, and known to the Plaintiff, who nevertheless conducted himself in such a manner so as to voluntarily assume all risks pertaining thereto.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE,
THE DEFENDANT ALLEGES:
(Pre-Existing Medical Condition)

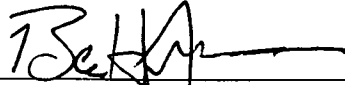
27. Whatever injuries Plaintiff sustained, which are specifically denied herein, were the result of pre-existing medical conditions of the Plaintiff, whether disclosed or undisclosed, and were not related to the incidents complained of in the Amended Complaint.

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

28. The Defendant reserves any additional and further defenses as may be revealed by additional information during the course of discovery and investigation, as is consistent with the Federal Rules of Civil Procedure.

WHEREFORE, having fully answered the Plaintiff's Complaint, and having asserted these affirmative defenses, the Defendant, Charleston County Sheriff's Office, prays that the Plaintiff's Amended Complaint be dismissed with prejudice and that he be awarded the costs and reasonable fees associated with this matter, and such other relief as the Court may deem just and proper.

HOOD LAW FIRM, LLC
172 Meeting Street
Post Office Box 1508
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Phone: (843) 577-4435
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Elloree A. Ganes (SC #70509)
Benjamin H. Joyce (SC #100949)

*Attorneys for the Defendant
Charleston County Sheriff's Office*

11/15, 2016
Charleston, South Carolina

CERTIFICATE OF SERVICE

I certify that on this date a copy of the foregoing was served on each party or counsel of record by ☐ mailing, ☐ e-mailing, ☐ facsimile, or ☒ hand delivery in the manner prescribed by the applicable Rule of Civil Procedure.

This 15 day of November, 2016.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County
Court of Common Pleas
Deadra L. Jefferson, Circuit Court Judge

Case No. 2013-CP-10-3891

BY _____

JULIE J. ARMSTRONG
CLERK OF COURT

2016 DEC 16 PM 1:03

FILED

Linda Beth Weddle,

Respondent,

v.

Charleston County Sheriff's Office,

Appellant.

NOTICE OF APPEAL

Charleston County Sheriff's Office appeals from the Form 4 Order-Judgment of the Honorable Deadra L. Jefferson and Jury Verdict, filed November 17, 2016. The undersigned received written notice of entry of the final order ending the case on November 30, 2016.

Hood Law Firm, LLC



Elloree A. Ganes (SC #70509)

Benjamin H. Joyce (SC #100949)

Deborah H. Sheffield, *Of Counsel* (SC #2757)

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**Attorneys for the Appellant
Charleston County Sheriff's Office**

December 16, 2016

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Attorneys for the Respondent

Certificate of Service

I, Elloree A. Ganes, attorney for the Appellant do hereby certify that on December 16, 2015, I served a copy of the Notice of Appeal on Counsel for Respondent, via U.S. Mail, first class, postage prepaid to the following address:

Daniel C. Boles, Esquire

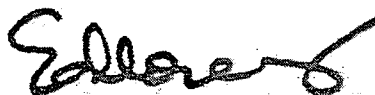
Boles Law Firm, LLC

P.O. Box 381

Charleston, SC 29402

I further certify that I filed a copy of the Notice of Appeal with the Clerk of the Court for Charleston on this same date at:

Julie Armstrong, Clerk
Charleston County – Court of Common Pleas
100 Broad Street, Suite 106
Charleston, South Carolina 29401-2258

A handwritten signature in black ink, appearing to read "Ellore A. Ganes", written over a horizontal line.

Ellore A. Ganes

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	
LINDA BETH WEDDLE,	)	CASE NO. 2013-CP-10-03891
	)	
PLAINTIFF,	)	TRANSCRIPT OF RECORD
	)	
VS.	)	
	)	
CHARLESTON COUNTY SHERIFF'S	)	
OFFICE,	)	
	)	
DEFENDANT.	)	

November 14 to 16, 2016

Charleston, South Carolina

B E F O R E:

The Honorable Deadra L. Jefferson; and a Jury.

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

Daniel Carson Boles, Esquire
For the Plaintiff

Elloree A. Ganes, Esquire
For the Defense

Benjamin H. Joyce, Esquire
For the Defense

Phyllis Norton, CVR-Master, *Nationally Certified Verbatim Court Reporter*
636 Long Point Road, Unit G, #74, Mt. Pleasant, South Carolina 29464
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I N D E X

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(DW) - DENOTES DEFENSE WITNESS

(IC) - DENOTES IN CAMERA

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P L A I N T I F F E X H I B I T S

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1	DVD (Withdrawn)	75	---
2	DVD	139	139
3	DVD	139	139

D E F E N D A N T E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>MARKED</u>	<u>ADMIT</u>
1	Officer Input Form for L. Weddle	176	176

C O U R T E X H I B I T S

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1	9/14/16 Depo of J. Aiken	75
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1 JURY VOIR DIRE AS FOLLOWS:

2 THE COURT: Ladies and gentlemen, we are going to
3 select a jury for the case of Linda Beth Weddle versus
4 the Charleston County Sheriff's Office, 2013-CP-10-3891.
5 It involves certain actions alleging negligence that
6 arose out of an incident on July 18th of 2010.

7 We are going to go through a process called voir
8 dire where I am going to ask you certain questions so
9 that the attorneys can more effectively exercise their
10 preemptory challenges in jury selection.

11 If a question applies to you please stand and in a
12 loud and clear voice give us your name, your juror
13 number, and answer to the question if applicable. And
14 remain standing until I have completed questioning you.

15 Before we began that process I am going to have
16 counsel for the plaintiff to stand and introduce himself
17 and have his client stand and face the panel. And I will
18 ask counsel for the defense to also likewise do the same.
19 And also give us the names of the members of your law
20 firms.

21 You may proceed, Mr. Boles.

22 MR. BOLES: Thank you, Your Honor. Good morning,
23 everybody. My name is Daniel Boles. I have a law firm
24 called the Boles Law Firm. And I have one associate
25 attorney. Her name is Casey Jacaruso. She is seated in

1 the back of the room here. And I represent Ms. Linda
2 Beth Weddle today. She is the plaintiff in the case.
3 Thank you for being here.

4 THE COURT: Ms. Ganes.

5 MS. GANES: Good morning. My name is Elloree Ganes.
6 I practice here in Charleston at the Hood Law Firm. I
7 represent Charleston County Sheriff's Office. Seated at
8 our table is Officer Yashica Gladden. She is a detention
9 center officer at the Al Cannon Detention Center. And
10 the associate who will be trying the case with us is Ben
11 Joyce.

12 Your Honor, do you want me to go through all of the
13 lawyers?

14 THE COURT: Yes, ma'am.

15 (WHEREUPON, Ms. Ganes confers with Mr. Joyce.)

16 MS. GANES: I'm sorry, Your Honor, we don't have a
17 list of all of the lawyers.

18 THE COURT: To the best of your recollection.

19 MS. GANES: Okay. The partners in our firm are
20 Bobby Hood, Sr.; Bobby Hood, Jr.; Molly Craig; Blanton
21 O'Neal; Jamie Hood; Walker Barnes; and Bill O'Neil. The
22 associates are Virginia Rogers and among others Ben
23 Joyce.

24 THE COURT: Again, ladies and gentlemen, if a
25 question applies to you please stand and in a loud and

1 clear voice give me your name, your juror number, and
2 answer to the question if applicable. And remain
3 standing until I have completed questioning.

4 Is there any member of the panel related by blood or
5 marriage to Linda Beth Weddle or any person who is
6 employed with the Charleston County Sheriff's Office; if
7 so, please stand at this time.

8 Yes, ma'am, tell me your name.

9 JURY PANEL MEMBER: Brenda Small, Juror Number 208.

10 THE COURT: Yes, ma'am.

11 JURY PANEL MEMBER: I work at the Charleston County
12 Sheriff's Office.

13 THE COURT: Do you have any knowledge, any
14 independent knowledge of the alleged facts and
15 circumstances of this case?

16 JURY PANEL MEMBER: No, I do not.

17 THE COURT: Have you been in any way involved in the
18 alleged facts and circumstances of this case?

19 JURY PANEL MEMBER: No, ma'am.

20 THE COURT: As a result of your employment do you
21 feel that you can remain fair and impartial and render a
22 fair and impartial decision in this case based solely on
23 the evidence that will be presented and on the law as the
24 court will instruct?

25 JURY PANEL MEMBER: Yes, ma'am.

1 THE COURT: And what exactly does a law enforcement
2 specialist do?

3 JURY PANEL MEMBER: Data entry clerk, NCIC entry,
4 etcetera.

5 THE COURT: Thank you, ma'am. You may take your
6 seat.

7 JURY PANEL MEMBER: Thank you.

8 THE COURT: You are welcome.

9 Yes, ma'am. Your name and juror number?

10 JURY PANEL MEMBER: My name is Katherine McKay,
11 Juror Number 137. And my son-in-law is a sergeant at the
12 Charleston County Sheriff's Department.

13 THE COURT: As a result of this experience do you
14 feel that you can remain fair and impartial and render a
15 fair and impartial decision in this case based solely on
16 the evidence as it will be presented and on the law as
17 the court will instruct?

18 JURY PANEL MEMBER: Yes, ma'am.

19 THE COURT: Thank you, ma'am. You may take your
20 seat.

21 The following are a list of potential witnesses.
22 Please listen carefully: Linda Weddle; Derik Weddle;
23 James Aiken; Shane Wolf, M.D.; Kenneth Caldwell, M.D.;
24 James L. Price, Jr., M.D.; Anthony Joseph Daniele; Bryan
25 Gregory Sadler; Candace Craggs; Yashica Gladden; and

1 Michael Tice.

2 Is there any member of the panel related by blood or
3 marriage to any of the people that I have just listed or
4 does anyone have a close personal or social relationship
5 any of these individuals; if so, please stand at this
6 time.

7 Yes, sir?

8 JURY PANEL MEMBER: Mark Brandenburg, 19.

9 THE COURT: Yes, sir.

10 JURY PANEL MEMBER: Dr. Wolf is my next door
11 neighbor.

12 THE COURT: If you would remain standing for me.

13 Yes, sir, in the back?

14 JURY PANEL MEMBER: My wife works with Dr. Wolf as
15 well.

16 THE COURT: And your name and juror number?

17 JURY PANEL MEMBER: I don't know my juror number;
18 but my name is John Smanz, S-M-A-N-Z.

19 THE CLERK: 209.

20 THE COURT: And, sir, in what capacity does she work
21 with Dr. Wolf?

22 JURY PANEL MEMBER: She is one of his assistants.

23 THE COURT: If you will remain standing.

24 Yes, sir?

25 JURY PANEL MEMBER: Robert Horner, Juror Number 95.

1 Kenneth Caldwell performed ACL surgery on me and was the
2 doctor in the four years I was a student at Citadel.

3 THE COURT: And about how long ago did you have ACL
4 surgery?

5 JURY PANEL MEMBER: Six years ago. Maybe seven.

6 THE COURT: As a result of these experiences do you
7 all feel you can remain fair and impartial and render a
8 fair and impartial decision in this case based solely on
9 the evidence as it will be presented and on the law as
10 the court will instruct? If your answer is yes, please
11 take your seat.

12 (WHEREUPON, all were seated.)

13 Let the record reflect that all answered yes.

14 Has any member of the panel ever been represented by
15 any of the attorneys involved in this case or any of the
16 lawyers and their law firms; if so, please stand at this
17 time.

18 Yes, sir, tell me your name and your juror number.

19 JURY PANEL MEMBER: David Pierce, 170. Mr. Boles
20 successfully represented me as a plaintiff in a case
21 approximately a year ago.

22 THE COURT: You said a year ago?

23 JURY PANEL MEMBER: Yes.

24 THE COURT: Sir, as a result of this experience do
25 you feel you can remain fair and impartial and render a

1 fair and impartial decision in this case based solely on
2 the evidence as it will be presented and on the law as
3 the court will instruct?

4 JURY PANEL MEMBER: Yes.

5 THE COURT: Thank you, sir. You may take your seat.

6 Is there any member of the panel related by blood or
7 marriage to or have a close personal or social
8 relationship with any of the attorneys involved in this
9 case, any of the lawyers and law firms, or any person
10 employed in any capacity whatsoever in their law firms;
11 if so, please stand at this time.

12 (WHEREUPON, no one stood.)

13 THE COURT: Has any member of the panel formed or
14 expressed an opinion about any issue or matter involved
15 in this case; if so, please stand at this time.

16 (WHEREUPON, no one stood.)

17 THE COURT: Is there any member of the panel aware
18 of any bias or prejudice toward either the plaintiff or
19 the defense in this case; if so, please stand at this
20 time.

21 (WHEREUPON, no one stood.)

22 THE COURT: Is there any member of the panel who has
23 any personal knowledge of the alleged facts and
24 circumstances of this case; if so, please stand at this
25 time.

1 (WHEREUPON, no one stood.)

2 THE COURT: Is there any member of the panel who has
3 read, watched, or listened to any media accounts about
4 this case; that includes anything that could have been in
5 the newspaper, radio, television, or internet; if so,
6 please stand at this time.

7 (WHEREUPON, no one stood.)

8 THE COURT: Is there any member of the panel who has
9 a moral, philosophical, or religious opposition to
10 sitting in judgment of a fellow human being; if so,
11 please stand at this time.

12 Yes, ma'am, tell me your name and your juror number.

13 JURY PANEL MEMBER: Rosa Alvarado.

14 THE COURT: And your juror number?

15 JURY PANEL MEMBER: Four.

16 THE COURT: Okay. And is that because of your -- is
17 it religious, moral, or philosophical?

18 JURY PANEL MEMBER: Religious.

19 THE COURT: And do you believe that you can set that
20 fixed opinion aside such that you will be able to follow
21 the law as instructed by the court?

22 JURY PANEL MEMBER: Yes.

23 THE COURT: Thank you, ma'am. You may have your
24 seat.

25 Has any member had -- any member of the panel had

1 what they would characterize as an unpleasant experience
2 with the Charleston County Sheriff's Office such that it
3 would impact your ability to be fair and impartial; if
4 so, please stand at this time.

5 (WHEREUPON, no one stood.)

6 THE COURT: Is there any member of the panel -- and
7 I need you to listen carefully to this question because
8 it applies to former employment, not current employment.
9 Is there any member of the panel who was formally
10 employed in law enforcement; if so, please stand at this
11 time.

12 (WHEREUPON, no one stood.)

13 THE COURT: Is there any member of the panel who has
14 a family member who is employed in law enforcement; if
15 so, please stand at this time. If you would tell me your
16 name and your juror number and which member of your
17 family it is and what agency.

18 Yes, sir?

19 JURY PANEL MEMBER: Sure. Brett Hanegan, Juror
20 Number 85.

21 THE COURT: Yes, sir.

22 JURY PANEL MEMBER: Sister-in-law is the bureau
23 chief law enforcement for DHEC in the State of South
24 Carolina.

25 THE COURT: If you would remain standing for me.

1 Yes, ma'am, in the black-and-white.

2 JURY PANEL MEMBER: The same as the last answer. My
3 son-in-law is a sergeant on Charleston County Sheriff's
4 Department.

5 THE COURT: What is your name and juror number,
6 ma'am?

7 JURY PANEL MEMBER: I am Katherine McKay. I am
8 Juror Number 137.

9 THE COURT: Yeah, you can be seated. I have already
10 questioned you. Thank you, ma'am.

11 And next to you; yes, ma'am?

12 JURY PANEL MEMBER: I am Juror Number 4, Rosa
13 Alvarado. My son worked at an internship at the County
14 Sheriff's Office this past winter.

15 THE COURT: And, sir, in the gold?

16 JURY PANEL MEMBER: 138, Evan McMillan. My cousin
17 is a Highway Patrol.

18 THE COURT: And ma'am?

19 JURY PANEL MEMBER: 128, Sheila Mack. My son is a
20 city cop down in North Charleston.

21 THE COURT: Okay. And sir?

22 JURY PANEL MEMBER: Michael Foster. I am not sure
23 of my juror number. My father was a Mount Pleasant city
24 police officer.

25 THE CLERK: Juror 61, Your Honor.

1 THE COURT: Thank you, ma'am.

2 As a result of these experiences do you all feel
3 that you can remain fair and impartial and render a fair
4 and impartial decision in this case based solely on the
5 evidence as it will be presented and on the law as the
6 court will instruct; if your answer is yes, please take
7 your seat.

8 (WHEREUPON, all were seated.)

9 THE COURT: Let the record reflect that all answered
10 yes.

11 Does the plaintiff have any exceptions to Number
12 five and Number six?

13 MR. BOLES: I'm sorry, Your Honor?

14 THE COURT: Voir dire, five and six, do you have any
15 exceptions?

16 MR. BOLES: No, ma'am.

17 THE COURT: Is there any member of the panel who is
18 related by blood or marriage or who have a close personal
19 or social relationship with Derik Weddle; Derik Weddle,
20 III; Kristin Hall; Isaac Grimbail; Lee Grimbail; Ashley
21 Grimbail; Lindey Grimbail; Buddy Grimbail; David Grimbail; or
22 Margaret Grimbail; if so, please stand at this time.

23 (WHEREUPON, no one stood.)

24 THE COURT: Is there any member of the panel related
25 by blood or marriage or who have a close personal or

1 social relationship with any of the following: Barbara
2 Hildreth, M.D.; Laura Lee Kinney, M.D.; Hamid R.
3 Bahadori, M.D.; Ann Boykin, physical therapist; Jeffrey
4 Folk, M.D.; or Bryan -- no, I already asked that -- or
5 Jeffrey Folk, M.D.; if so, please stand at this time.

6 Yes, sir, tell me your name and your juror number.

7 JURY PANEL MEMBER: Michael Mikola, Number 142.

8 THE COURT: Yes, sir.

9 JURY PANEL MEMBER: I went to medical school with
10 Dr. Folk; and I have referred patients.

11 THE COURT: As a result of this experience do you
12 feel that you can remain fair and impartial and render a
13 fair and impartial decision in this case based solely on
14 the evidence as it will be presented and on the law as
15 the court will instruct?

16 JURY PANEL MEMBER: Yes, ma'am.

17 THE COURT: Thank you, sir. You may take your seat.

18 Does any member of the panel know of any reason
19 whatsoever why he or she should not serve as a juror in
20 this case with particular emphasis being placed on your
21 ability to be fair and impartial to both the plaintiff
22 and the defendant; if so, please stand at this time.

23 (WHEREUPON, no one stood.)

24 THE COURT: Are there any additional questions from
25 the plaintiff?

1 MR. BOLES: May I approach, Your Honor?

2 THE COURT: Yes.

3 (WHEREUPON, bench conference was had.)

4 THE COURT: Okay. Any additional questions from the
5 defense?

6 MS. GANES: No, ma'am. Thank you.

7 THE COURT: Can we waive the alternate and go with
8 11, from the plaintiff?

9 MR. BOLES: I'm sorry?

10 THE COURT: Can we waive the alternate and go with
11 11?

12 MR. BOLES: That is fine, Your Honor.

13 MS. GANES: That will be fine, Your Honor.

14 THE COURT: Okay. Ladies and gentlemen, if you
15 would just give us a few minutes. We need to generate
16 what is called a strike sheet which will assist us in
17 selecting a panel.

18 We list your numbers one through twenty in random
19 order. The numbers we use have absolutely no correlation
20 with your actual juror number. I say that because people
21 get gleeful when they think we have called their number.
22 So I just need to tell you that the numbers we use are
23 random. They like have no relationship to your actual
24 number.

25 So if you will just give us a few moments to do that

1 by computer. As soon as we do that I am going to give
2 counsel about a ten-minute break to look at that list.

3 And you all will be able to take a break as well.
4 And then we will resume with jury selection. We
5 appreciate your patience.

6 (WHEREUPON, break was had awaiting selection of jury.)

7 (WHEREUPON, resumed with voir dire.)

8 THE COURT: Is there any member of the panel live in
9 the vicinity of 5883 Ryans Bluff in Covington Hills; if
10 so, please stand at this time.

11 (WHEREUPON, no one stood.)

12 THE COURT: Okey doke. We will take a ten-minute
13 recess. I have a quarter to 12:00. I don't know -- what
14 time does that clock have? A quarter to 12:00.

15 Okay, the lawyers will be at ease until five of
16 12:00. You all can walk around likewise. Just return
17 promptly back to this assembly room by five of 12:00. We
18 appreciate your patience.

19 (WHEREUPON, break was had.)

20 (WHEREUPON, resumed after jury qualification.)

21 THE COURT: Ladies and gentlemen, we appreciate your
22 patience. We just need to collect everybody.

23 All right. Plaintiff ready to proceed?

24 MR. BOLES: We are, Your Honor.

25 THE COURT: Defense ready to proceed?

1 MS. GANES: Yes, Your Honor.

2 JURY SELECTION:

3 THE COURT: All right. Using the numbers on the
4 left-hand side. Please give the clerk your attention.
5 Madam Clerk, you may proceed.

6 THE CLERK: Thank you, Your Honor.

7 THE COURT: You are welcome.

8 THE CLERK: Counsel, remember each side has only
9 four strikes. Plaintiff strikes first. Please remember
10 to use only the numbers on the left side using one
11 through twenty for the jury. And since we are only using
12 one alternate, 21 ---

13 THE COURT: We are not using any alternates.

14 THE CLERK: Oh, no alternates. I apologize. No
15 alternates.

16 THE COURT: So it is one to twenty.

17 THE CLERK: Yes, Your Honor.

18 THE COURT: That's okay.

19 THE CLERK: Plaintiff strikes first.

20 MR. BOLES: Number nine.

21 THE CLERK: Plaintiff strikes number nine.

22 MR. BOLES: Number 15.

23 THE COURT: Oh, wait.

24 MR. BOLES: I'm sorry.

25 THE COURT: Yeah, we have to alternate.

1 MR. BOLES: I'm sorry. Getting excited.

2 THE COURT: That's okay.

3 MS. GANES: Your Honor, the defendant requests that
4 you excuse Number 14.

5 THE COURT: Thank you, ma'am.

6 THE CLERK: Defendant strikes 14.

7 MR. BOLES: Now Number 15.

8 THE CLERK: The plaintiff strikes 15.

9 MS. GANES: The defendant requests that you excuse
10 Number 11, please.

11 THE CLERK: The defendant strikes Number 11.

12 MR. BOLES: Number 7, please.

13 THE CLERK: The plaintiff strikes Number 7.

14 MS. GANES: The defendant asks that you excuse
15 Number 20, please.

16 THE CLERK: The defendant strikes 20.

17 MR. BOLES: Number 18, please.

18 THE CLERK: The plaintiff strikes Number 18. That
19 is the fourth strike.

20 MS. GANES: The defendant requests that you excuse
21 Number 5, please.

22 THE CLERK: The defendant strikes five on the fourth
23 strike.

24 Now please follow to make sure that I have
25 everything correct. One, two, three, four, six, eight,

1 ten, twelve, thirteen, sixteen, seventeen, and nineteen.

2 THE COURT: Is that correct, from the plaintiff?

3 MR. BOLES: It is, Your Honor.

4 THE COURT: From the defense?

5 MS. GANES: Yes; it is, Your Honor.

6 THE COURT: Any motions regarding the selection of
7 the jury, from the plaintiff?

8 MR. BOLES: None, Your Honor.

9 THE COURT: From the defense?

10 MS. GANES: None, Your Honor.

11 THE COURT: Ladies and gentlemen, please listen
12 carefully. If I call your name, please line up against
13 this wall with all of your personal belongings: Evan
14 McMillan, Francis Brown, William Nelson. I told you,
15 just something about talking to me; I don't know what it
16 is. Alrighty. Paige Crone, Deborah Newsome, Michael
17 Mikola, Sheila Macklee, Amy Badeaux - and I hope I did
18 not mispronounce your beautiful name.

19 JURY PANEL MEMBER: That's fine. Badeaux.

20 THE COURT: Badeaux?

21 JURY PANEL MEMBER: That is fine.

22 THE COURT: Michael Foster, Janet Meister, Rosa
23 Alvarado. That should be twelve, correct? Double count
24 for me back there. Did I miss somebody?

25 THE CLERK: Yes, Your Honor.

1 THE COURT: Number 3. I sure did. Nicole
2 Grissom -- Grissman -- Crissman. I will get it right
3 eventually. Now do I have 12? I don't know how I
4 skipped over her. Okay.

5 I think it might be easier for me to dismiss
6 everybody and then -- to the balance of the panel we
7 thank you for your time and your attention today. Call
8 the jury information line after six o'clock this evening
9 for further instructions. Have a wonderful rest of the
10 day.

11 (WHEREUPON, jury panel members not selected exit.)

12 THE COURT: And if you all can -- you can bring them
13 all; and you all can just sit across the front for me,
14 please.

15 Okay. Ladies and gentlemen, you have been selected
16 for the case of Weddle versus Charleston County Sheriff's
17 Office.

18 We have some logistics we need to work out this
19 morning. We have been shuffling courtrooms basically to
20 accommodate some other trials.

21 So instead of sort of trying -- it is easier for us
22 to get that taken care of without taking you upstairs and
23 starting the case. And then you all have a long morning.

24 We do this every week, so we are used to this
25 schedule. I would imagine y'all are a little tuckered

1 out right now and probably ready for lunch.

2 We are going to take advantage of this break to
3 break for lunch until 1:30. During the break please do
4 not discuss the case among yourselves or with anyone
5 else. Please don't have any contact with anyone in or
6 about the courthouse.

7 Again, even an innocent conversation could be
8 misinterpreted. Please don't do any independent research
9 on the internet. That includes, you know, looking for
10 articles or doing word searches or any other type of
11 information such as that.

12 And in addition I would ask you to refrain from
13 making any comments regarding your status on any social
14 networking sites.

15 I have to admit and plead ignorance about all social
16 networking sites. I am technologically challenged. I
17 still carry a Blackberry. That should tell you. And I
18 feel so left out because and like go to the cell phone
19 store; they go, you have a Blackberry. I am like, yeah,
20 this is functional.

21 I only buy things when they break. So the long and
22 short of it is I am a bit challenged by all of those
23 things.

24 But you would be amazed how many people sort of
25 troll the internet all day long and they call our jury

1 coordinator and say that you have made comments about
2 your status. And so that we can avoid that altogether --
3 and I think, do they work; like what are they doing all
4 day if they have time to do this.

5 And they are not on jury duty, but they will like
6 call us and say you have a juror that is posting that
7 they are bored or you have a juror that is posting about
8 the case.

9 And innocent conversations can be very easily
10 misinterpreted; so I would ask that your refrain from any
11 sort of postings on Facebook, Instagram, Snap Chat -- I
12 know I have left out something. Twitter. There are so
13 many. If you would refrain from doing that at least as
14 it refers to jury service. And we would greatly
15 appreciate it.

16 You all have been incredibly patient with us.
17 Please know how very valuable your time to us -- valuable
18 your time is to us.

19 The bailiffs are going to take you upstairs and they
20 are going to show you where your jury room is located.
21 And they will show you how to come back into the
22 courthouse. Because when you come back after lunch you
23 will come directly to that jury room. And they will show
24 you how to do that in which entrance -- how you need to
25 come into the third floor entrance which will be to the

1 right of the elevators as you exit the elevators.

2 I will also caution you that while it seems like
3 there is a lot of time for lunch there really isn't
4 because by the time you have to get back through security
5 and everything and back to the building it can take up a
6 lot of time.

7 There is also a cruise ship in today which means all
8 of the restaurants are going to be crowded. Also,
9 although you are -- you can park at Cumberland, a lot of
10 people share that garage. So if you move your car it is
11 plausible that you will come back and you will not have a
12 parking space.

13 Also, just that you know, one of those problems
14 being with downtown is that it has taken me 30 minutes to
15 get from the Meeting Street exit down to this courthouse
16 like on a regular day when nothing is going on. So I
17 would just caution you not to move your car because it
18 might be a lot more trouble than it is worth.

19 But usually the bailiffs will be there a little bit
20 early if you get weary of walking around and you just get
21 tired and you want to come back and have a little quiet
22 time before we get started.

23 So I am going to turn you into their capable hands,
24 and they will take care of that for us. And we will see
25 you all at 1:30. Hope ya'll have a good lunch break.

1 (WHEREUPON, jury panel exits for lunch.)

2 THE COURT: Okay. Now I assume -- there was
3 something else I was going to ask y'all. We have already
4 dealt with the alternates.

5 I assume that we won't have any issues about any
6 offer of compromise coming up, so that is a moot -- that
7 motion is moot; is that correct, Mr. Boles?

8 MR. BOLES: Yes, ma'am. Not planning on raising it
9 myself.

10 THE COURT: All right.

11 I assume you are not going to make any references to
12 the Slagger trial?

13 MR. BOLES: That is correct, Your Honor.

14 THE COURT: Evidence of lost earnings and/or income.
15 Do you plan to provide any evidence of lost income?

16 MR. BOLES: No, ma'am, Your Honor.

17 THE COURT: So that is a moot as well.

18 Oh, I know what I was going to ask.

19 Other lawsuits or claims against the defendant. I
20 assume you are not going to raise that either? Why would
21 that be relevant?

22 MR. BOLES: Other claims against the Charleston
23 County Sheriff's ---

24 THE COURT: It is defendant's motion in limine to
25 exclude evidence of other lawsuits or claims against the

1 defendant.

2 MR. BOLES: I don't

3 THE COURT: I wouldn't imagine any circumstance
4 where that would be relevant.

5 MR. BOLES: No, ma'am.

6 THE COURT: Okay. So that is moot as well. That is
7 all of your motions in limine, correct?

8 MS. GANES: Your Honor, if I might. I was reviewing
9 the plaintiff's deposition and I just wanted to raise one
10 other matter.

11 She testified in her deposition about two former
12 detention center officers who lived in her neighborhood
13 and she had spoken to them about an incident and they
14 told her something to the effect of she would never get
15 the truth or they would cover it all up.

16 And so I would just like to make an additional
17 motion in limine ---

18 THE COURT: Well, I assume -- yeah, I assume counsel
19 knows he can't elicit any hearsay that would not be
20 considered an admission against interest. Unless it came
21 within some exception to the hearsay rule.

22 MR. BOLES: Yes, ma'am, Your Honor.

23 THE COURT: Yeah, I assume that you wouldn't be
24 eliciting that type of testimony from your client.

25 MR. BOLES: Not planning on it, Your Honor.

1 THE COURT: Okay. So then that is a moot issue as
2 well.

3 MS. GANES: Thank you, Your Honor.

4 THE COURT: Now -- you are welcome.

5 MS. GANES: Now and, Your Honor, just because we had
6 a trial -- mistrial on Friday afternoon after a whole lot
7 of work last year, I would be remiss if I ---

8 THE COURT: This case has already been tried?

9 MS. GANES: No, no, no.

10 THE COURT: A mistrial?

11 MS. GANES: It was in another -- it was in a medical
12 malpractice case. I would be remiss if I didn't ask to
13 make sure that no one mentioned insurance in any context,
14 over the past week.

15 THE COURT: Yeah, I think that's ---

16 MS. GANES: Okay.

17 THE COURT: Everybody should know that, right?

18 MR. BOLES: Yes, ma'am.

19 THE COURT: But you can always do a curative
20 instruction if somebody slips up. But I would hope
21 nobody would.

22 MS. GANES: Certainly. Thank you, Your Honor.

23 THE COURT: Yeah. Now my other question is do y'all
24 have any exhibits that y'all have already pre-marked that
25 you have agreed upon?

1 MS. GANES: Your Honor, we ---

2 MR. BOLES: Your Honor, I also have a couple of
3 motions in limine that I ---

4 THE COURT: I didn't have them.

5 MR. BOLES: --- handed to you clerk this morning.
6 I'm sorry. I gave it to your clerk this morning.

7 MS. GANES: Do we have his?

8 THE COURT: Did y'all give a copy to defense
9 counsel?

10 MR. BOLES: Yes, ma'am.

11 MS. GANES: Is that what you gave this morning?

12 MR. BOLES: Yes, ma'am.

13 THE COURT: Let me stick with my original train
14 of thought. Are there any exhibits that you all can
15 pre-mark that you have agreed on?

16 I don't want to hear anything that you haven't
17 agreed on. I am just trying to make the court reporter's
18 life simpler.

19 If there is anything that you all can have her
20 pre-mark now that you have agreed on, we can go ahead and
21 admit those into evidence.

22 MS. GANES: Well, Your Honor, I was going to
23 actually raise that just for expediency sake. We had
24 asked Mr. Boles if he would consent to the authenticity
25 of the medical records so that we don't have to bring

1 medical records, custodians in ---

2 THE COURT: Well, they still wouldn't come in in
3 their totality.

4 MS. GANES: Right.

5 THE COURT: Yeah.

6 MS. GANES: And we wouldn't agree as to
7 admissibility. We would like for all of the evidence to
8 come in, you know, contemporaneously at trial rather than
9 admitting evidence prior to openings.

10 So we agree to the authenticity, but we still want
11 them to be ---

12 THE COURT: Yeah, there are ---

13 MS. GANES: Through all that.

14 THE COURT: There should be some things y'all can
15 agree on. What -- I mean I guess I'm trying to figure it
16 out what is it y'all -- what -- what are you talking
17 about? I mean ---

18 MR. BOLES: Their ---

19 THE COURT: --- her medical records can't come if
20 they -- you know what the rules are.

21 MR. BOLES: Yes, ma'am.

22 THE COURT: She can have doctors come testify. But
23 she can't just admit her records wholesale.

24 MR. BOLES: That is actually -- that is their motion
25 I think to admit records.

1 THE COURT: Yeah.

2 MR. BOLES: So ---

3 THE COURT: Yeah, you -- nothing that has subjective
4 opinions can come in. If you want to call the doctor you
5 can do that.

6 MS. GANES: Yes.

7 MR. BOLES: This case has voluminous amounts of
8 medical records which don't even apply to the injuries
9 that we are claiming.

10 They subpoenaed mental health records, things that,
11 again, don't relate to the injuries we are claiming. So
12 it is hard for me to say ---

13 THE COURT: Well, unless they call a witness -- I
14 mean I only want to hear about things y'all have agreed
15 on. There should be some exhibits ---

16 MR. BOLES: I was hoping that we ---

17 THE COURT: --- that y'all can agree on.

18 MR. BOLES: I thought we agreed upon the video ---

19 MS. GANES: And we ---

20 MR. BOLES: --- which shows the actual alleged -- or
21 the incident itself. We have several videos from the
22 Charleston County Sheriff's Office from their cameras
23 showing what happened.

24 MS. GANES: Your Honor, we agreed to authenticity
25 only, not admissibility. We would like for all ---

1 THE COURT: Why wouldn't the videos come in?

2 MS. GANES: We would like for it all to come in
3 contemporaneously at trial with proper foundation laid
4 rather than just admitting wholesale any evidence.

5 MR. BOLES: Well, as far as foundation goes I did
6 ask to make sure I didn't have to keep -- bring the
7 records custodian here, who I did subpoena for this. And
8 I ---

9 THE COURT: Well, that is authenticity. But I think
10 they still want you -- I mean it is not -- I mean videos
11 from the jail come in all the time. Phone calls come in
12 all the time.

13 MS. GANES: Right, we just wanted ---

14 THE COURT: It is self-authentication.

15 MS. GANES: --- after the trial starts.

16 THE COURT: Yeah.

17 MS. GANES: Not to have any evidence in at opening.

18 THE COURT: Okay. Anything y'all can agree on?

19 (WHEREUPON, no reply.)

20 THE COURT: That is not boding well for a good week.

21 MS. GANES: Your Honor, there is not a lot of
22 evidence that needs to be admitted in the trial. And we
23 only subpoenaed all of the psych records because the
24 complaint was just amended last Friday.

25 THE COURT: For ...?

1 MS. GANES: To take out the psychiatric damages.

2 THE COURT: Oh, ---

3 MS. GANES: She was claiming psychiatric ---

4 THE COURT: --- so you got them before?

5 MS. GANES: That is why we subpoenaed all of that.

6 THE COURT: I gotcha. Okay. So now that is a non
7 issue; is that correct?

8 MR. BOLES: Yes -- yes, ma'am, that is my
9 understanding.

10 THE COURT: What did you -- what else did you amend
11 last week?

12 MR. BOLES: Your Honor, our -- this claim was
13 amended to seek only damages related to Ms. Weddle's
14 shoulder injuries.

15 THE COURT: Did you change any of your causes of
16 action?

17 MR. BOLES: No, ma'am.

18 THE COURT: Alrighty. Now there is a motion to
19 quash the deposition of Dr. Caldwell. I assume you all
20 sent out a subpoena for Dr. Caldwell, Ms. Ganes?

21 MS. GANES: We did, Your Honor. And I ---

22 THE COURT: And when do y'all plan to depose him?

23 MS. GANES: We wanted to do it this evening. We
24 found out after we came to the roster meeting last
25 Thursday and both parties were jointly asking to start

1 the trial on Wednesday because he wasn't available and
2 James Aiken wasn't available. He ---

3 THE COURT: But it is a 2013 case. And I think
4 y'all knew who ---

5 MS. GANES: Oh, absolutely, Your Honor.

6 THE COURT: --- your witnesses are and you
7 should ---

8 MS. GANES: Dr. Caldwell called and said he could
9 not be available today but that he would make himself
10 available for a deposition this evening de bene esse.

11 And so that is what we would like to do is take his
12 testimony for trial and play the video in our case.

13 THE COURT: What is the basis of your objection?

14 MR. BOLES: Thank you, Your Honor. A couple of
15 things. The defendant -- defense counsel had noticed
16 physician depositions several months ago, and we only
17 actually went through with one of them. It was Dr. Wolf.

18 These other physicians could have been deposed at
19 that time. They had them at that time, and they elected
20 not to go forward. So that is our first point is that
21 they should have done it back when they should have.

22 Our second point, Your Honor, is that it unfairly
23 prejudices my client ---

24 THE COURT: How?

25 MS. GANES: --- because we are trying to prep for

1 trial. And so I would rather spend ---

2 THE COURT: I mean how long is a deposition really
3 going to take? I would imagine ---

4 MR. BOLES: It is not mine ---

5 THE COURT: --- what he has to say is pretty
6 limited; isn't it?

7 MR. BOLES: It is not mine. I have no idea, Your
8 Honor.

9 MS. GANES: Forty-five minutes to an hour. It would
10 be a very short deposition. And the court reporter and
11 the videographer are already prepared to get the
12 transcript, to get the tape edited so that we can get --
13 I guess it is not a tape ---

14 THE COURT: What did Dr. -- what services did Dr.
15 Caldwell provide?

16 MS. GANES: He was the initial physician that Ms.
17 Weddle went to after she left Charleston County Detention
18 Center.

19 THE COURT: Yeah, I just can't discern any
20 prejudice, Mr. Boles. I mean so it is 45 minutes to an
21 hour. You should pretty much be prepared for any
22 cross-examination, which I imagine would be fairly
23 limited. And it really inures to both of the y'all's
24 benefit for a doctor not to be sitting around I mean
25 incurring costs. While I agree they should have done it

1 sooner.

2 MR. BOLES: Yes, ma'am.

3 THE COURT: I don't know that they had any notice
4 until then that he wasn't going to be available. But you
5 will be able to be there to question the witness. So I
6 can't imagine any prejudice to your client. Although it
7 is inconvenient. But I can't discern any prejudice. So
8 that motion is denied.

9 MR. BOLES: Thanks, Your Honor.

10 THE COURT: You are welcome. Plaintiff motion to
11 exclude testimony of North Charleston officer Anthony
12 Joseph -- do you plan to call either of these witnesses?

13 MS. GANES: Only if it is in response to something
14 raised in her case in chief, Your Honor.

15 THE COURT: Yeah, ---

16 MS. GANES: It's ---

17 THE COURT: --- I will have to take that up at the
18 time contemporaneously.

19 MR. BOLES: Okay.

20 THE COURT: I can't exclude witnesses ahead of time
21 without knowing what they are going to say.

22 MR. BOLES: Thank you, Your Honor.

23 THE COURT: Related to prior encounters with law
24 enforcement. Do y'all plan to raise anything about prior
25 encounters with law enforcement?

1 MS. GANES: Your Honor, it is hard to anticipate
2 what she may testify to. And the only reason that we
3 would is that there is a video but there are also some
4 things that are just a true swearing match, and it would
5 be relevant due to her bias against law enforcement. She
6 was ---

7 THE COURT: You have to make a contemporaneous
8 objection.

9 MS. GANES: Okay.

10 THE COURT: But don't go into any of it until I hear
11 it in camera and create a proffer.

12 MS. GANES: Certainly, Your Honor.

13 THE COURT: Yeah. All right. Is there anything
14 else we need to take up before we break --- (cough).
15 Excuse me, y'all. And I apologize for this cough. It is
16 my sinuses. I cannot take my cough medicine or I would
17 be nodding. So I apologize for y'all having to hear me
18 hack while we are trying this case. But that is the only
19 other alternative.

20 MR. BOLES: I am in the same boat. Whenever the
21 weather changes it gets me.

22 THE COURT: That's -- yeah. But literally I will be
23 nodding if I take my cold medicine. So is there anything
24 else we need to take up before we break for lunch, from
25 the plaintiff?

1 MR. BOLES: No, ma'am, Your Honor.

2 THE COURT: From the defense?

3 MS. GANES: No, ma'am, Your Honor.

4 THE COURT: All right. Y'all have a good lunch. I
5 will see you at 1:30.

6 MR. BOLES: Thank you.

7 THE COURT: You are welcome.

8 MS. GANES: 3B?

9 THE CLERK: Yes, ma'am.

10 (WHEREUPON, break for lunch was had.)

11 (WHEREUPON, resume trial 11/14/16, 1:48 p.m.)

12 THE COURT: Are you ready to proceed?

13 MR. BOLES: We are, Your Honor.

14 THE COURT: Okay. Please bring in the jury. And
15 bring in -- Number 163 is the foreperson.

16 THE BAILIFF: Yes, ma'am.

17 (WHEREUPON, jurors enter 11/14/16, 1:51 p.m.)

18 THE BAILIFF: Jurors are all present and seated,
19 Your Honor.

20 THE COURT: Thank you.

21 Ladies and gentlemen, you each have been given
22 notebooks. If you would write your juror number on that
23 notebook so that you will be able to identify which
24 notepad belongs to you. During the course of this trial
25 you will be given the opportunity to take some notes.

1 And I will be giving you instructions regarding that.

2 But before we proceed I need for you to all stand
3 and raise your right hand so the clerk can then
4 administer the oath to you.

5 THE CLERK: Thank you, Your Honor.

6 THE COURT: You are welcome.

7 (WHEREUPON, the jury panel was duly sworn.)

8 THE COURT: Madam forelady, ladies and gentlemen,
9 before this case begins I am going to give you some
10 preliminary instructions on how we will be proceeding so
11 that you will better understand how a civil case
12 procedurally is tried in this court.

13 The first thing that will occur is that the attorney
14 for the plaintiff -- and the plaintiff is the person who
15 has brought this cause of action. Her attorney will make
16 an opening statement which will be followed by a similar
17 opening statement by the attorney for the defendant.

18 These opening statements, ladies and gentlemen, are
19 not arguments. Arguments will come at the conclusion of
20 the case.

21 The purpose of opening statements is for each party
22 to outline his or her claims and the evidence which he or
23 she intends to present in support of these claims. In
24 other words, they will be arguing to you what they
25 believe the evidence will show in the case.

1 Following the opening statements each side will
2 present its evidence, with the plaintiff once again going
3 first.

4 Evidence may take many forms. It may be testimony,
5 documents, models, photographs, or the like. You should
6 pay close attention to all of the evidence which is
7 presented by each party because you the jury are the sole
8 finders of the facts in this case and no one else will be
9 permitted to weigh the evidence and render a verdict
10 based upon it.

11 After all of the evidence has been presented the
12 attorneys will make their closing arguments. And unlike
13 the opening statements these final remarks will be true
14 argument. That is each side will emphasize certain
15 portions of the evidence and try to persuade you to agree
16 with their version of the facts.

17 Keep in mind that the opening statements as well as
18 the closing arguments do not represent evidence. I would
19 ask that you give the attorneys your undivided attention
20 but keep in mind that what they say is not evidence.

21 After the arguments are finished I will explain to
22 you the law which applies to this case. You will then
23 retire to the jury room to consider the facts and the
24 law. And once you have done so you will return a verdict
25 in favor of one side or the other.

1 During the course of this trial the plaintiff has
2 the burden of proving her claims. She must meet this
3 burden by proving her claims by the greater weight or the
4 preponderance of the evidence.

5 What we mean by the greater weight or the
6 preponderance of the evidence can be illustrated by
7 imagining a traditional set of scales. When the case
8 began the scales are even. After all of the evidence has
9 been presented if the scales should remain evenly
10 balanced or they should tip even slightly in favor of the
11 defendant then the plaintiff would have failed to have
12 met her burden of proof and your verdict would be for the
13 defendant.

14 If on the other hand the scale should tip even
15 slightly in favor of the plaintiff then she will have met
16 her burden of proof and your verdict would be for the
17 plaintiff.

18 There are a few additional comments that I will
19 share with you before we begin. As I mentioned earlier,
20 although I am the only one who can tell you what the law
21 is, you are the only ones who can determine the facts.

22 I do not have the right to indicate how I might feel
23 about the testimony and evidence that is presented, and
24 throughout this trial it will be my intention to be fair
25 and impartial toward each of the parties involved as well

1 as their attorneys.

2 Also from time to time one of the attorneys may
3 object to some bit of testimony or evidence which one
4 side or the other is trying to present.

5 Just as in sports, business, or any other structured
6 activity, there are certain rules that we obey in the
7 presentation of evidence. These rules have a definite
8 purpose. They ensure that you receive the most
9 trustworthy and reliable evidence available.

10 An objection is the procedure that an attorney uses
11 to call a possible violation of these rules to my
12 attention as the judge of this court. And for this
13 reason you should never hold an attorney's objection
14 against them nor should you conclude from the court
15 overruling or sustaining an objection that I favor one
16 side or the other.

17 Also from time to time you will hear the attorneys
18 say Your Honor we have a matter of law to take up. And
19 they may ask to approach the bench or I may ask them to
20 approach the bench. Or it might even be necessary for us
21 to exclude you from the courtroom for a short while while
22 we discuss matters of law.

23 The reason we do this, ladies and gentlemen, is
24 because you are the finders of the facts. And sometimes
25 when I am discussing matters of law with the attorneys it

1 might be necessary for me to make some comment about the
2 facts in connection with ruling, you know, whether a
3 statute or an evidentiary rule or a rule of procedure
4 applies. And for this reason we exclude you from the
5 courtroom so that in no way will you be influenced by
6 anything that the court may say or do in connection with
7 the facts of this case.

8 During the course of this trial you will be given
9 the opportunity to take notes. Note taking is a
10 privilege that you may choose to exercise or choose not
11 to exercise.

12 Please don't feel you are required to take notes.
13 Not everyone finds note taking helpful to them. If you
14 should decide to take notes please don't try to write
15 down everything that is said. It is physically
16 impossible. The only people who are trained to do that
17 are the court reporters. And even with that they don't
18 produce a transcript without listening to the backup tape
19 and ensuring that everything they have taken down is
20 accurate and correct.

21 Even a moderate speaker speaks at 200 words per
22 minute. So please don't allow note taking to become a
23 distraction to you.

24 Because as the finders of the facts it is essential
25 that you rely on your powers of observation and observing

1 the witnesses as they testify.

2 So you may want to keep an outline of the main
3 points that are being made or the main arguments that are
4 being made so that when you retire to deliberate you can
5 allow your notes to refresh your memory.

6 Please be reminded that your notes are for your
7 specific and your individual purposes. They are not to
8 be shared with any juror. They are only to be used to
9 refresh your own memory.

10 And also be reminded that your notes should not be
11 considered any more reliable than a fellow juror's
12 memory. That person's recollection should be considered
13 just as reliable as notes that may have been taken by a
14 fellow juror.

15 During breaks and recesses your notes will be left
16 in your seats. We collect them at any recess to ensure,
17 one, that your privacy is protected; and in addition to
18 that that there is no premature temptation to deliberate
19 regarding any matter that has been discussed or testimony
20 presented before any breaks.

21 Finally, ladies and gentlemen, I would ask that you
22 pay strict attention to all of the evidence that is
23 presented. Because, again, it is you, the jury, who are
24 the finders of facts in this case; and as a result you
25 will have to evaluate the credibility, which is simply a

1 legal term meaning the believability of each witness who
2 testifies.

3 You are each are participating in a time-tested
4 system. And it is extremely important for each of you to
5 listen carefully to all of the evidence presented. And I
6 am sure that each of you will perform your duties
7 accordingly.

8 In order to preserve everyone's rights I am going to
9 give counsel the opportunity to take exception to
10 anything that I have said by way of opening instruction.
11 Any exceptions from the plaintiff?

12 MR. BOLES: None, Your Honor.

13 THE COURT: From the defense?

14 MS. GANES: None, Your Honor.

15 THE COURT: Ladies and gentlemen, please give
16 counsel your undivided attention.

17 Mr. Boles, you may proceed.

18 MR. BOLES: Thank you. May it please the court.

19 THE COURT: Yes, sir.

20 MR. BOLES: Opposing counsel.

21 **OPENING BY MR. BOLES:**

22 Ladies and gentlemen of the jury, where there is
23 smoke there is fire. This case is about excessive force.
24 And this case is about a failure to train a law
25 enforcement officer.

1 I represent Ms. Beth Weddle. You are going to hear
2 from her about her avid gardening that she does at her
3 home in North Charleston. She and her husband, Mr.
4 Weddle, have lived there for some 30 plus years. Since
5 the 80's.

6 Ms. Weddle has filled her front and backyard with an
7 array of vegetation. Something that she takes a lot of
8 pride in and a lot of joy in.

9 You are also going to here that at some point in
10 2010 that vegetation in the front yard became a source of
11 contention between Ms. Weddle and the City of North
12 Charleston.

13 You are also going to here that as a result of that
14 the City of North Charleston on the date in question sent
15 a crew to Ms. Weddle's house with heavy machinery and
16 with landscaping equipment and they began to remove the
17 vegetation that was within the right of way on the street
18 front of her yard.

19 Unsurprising you are going to hear that Ms. Weddle
20 took exception to that action. Again, her yard and the
21 gardening that she does there is something that she takes
22 great pride and joy in.

23 Once this starts getting cut down and removed law
24 enforcement is called to Ms. Weddle's house. They leave.
25 The cutting continues. Law enforcement you are going to

1 hear gets called again. They leave. The cutting and the
2 removal of the trees continues.

3 Law enforcement gets called yet again, and this time
4 you will hear that they decided to arrest Ms. Weddle and
5 they charge her with disorderly conduct.

6 Now that is the background you are going to hear
7 about, okay. The point of this trial is what happened to
8 Ms. Weddle after all of that took place.

9 You are going to hear and you are going to see that
10 Ms. Weddle is transported to the Charleston County
11 Detention Center. You are going to hear and you are
12 going to see that she was handcuffed standing in the
13 intake area of the Charleston County Detention Center.

14 You are going to hear and see this corrections
15 officer, Gladden, on video. You are going to hear from
16 Ms. Weddle and you are going to see that she does not
17 handle being cuffed and being put in jail like a seasoned
18 criminal.

19 She's going to explain to you that she felt ill.
20 She's going to explain to you that while she was cuffed
21 with her back against the wall at the intake facility she
22 started to feel nauseous.

23 She's going to let you know that she asked for
24 either a chair to sit in or a receptacle to get sick in
25 because she didn't want it to happen while she is cuffed

1 standing against the wall at intake.

2 You are going to hear and see that none of those
3 things were provided to her. You are going to see that
4 eventually being overcome with these symptoms she slid
5 down the wall, seated herself on the ground, all with her
6 hands cuffed behind her back, and eventually lays over on
7 the ground at the intake part of the Detention Center.

8 Then you are going to hear and see that Ms. Weddle
9 is there. She is going to tell you that she is not
10 resisting. She is going to tell you she is complying to
11 the best of her abilities.

12 And notwithstanding that you are going to see and
13 hear that this Detention Center officer took it upon
14 herself to come over and lift Ms. Weddle by her elbow to
15 her feet.

16 I believe at the time of this incident Ms. Weddle is
17 54 years old. Her hands are cuffed. She was not given
18 an opportunity to put her feet underneath herself. She
19 didn't even know that she was going to be lifted until it
20 was already too late.

21 She is going to explain to you the physical injury
22 that resulted from that lift. You are also going to hear
23 from our expert witness, Mr. James Akin.

24 He is going to explain to you his take on whether
25 that was a proper course of action by a corrections

1 officer. He is going to explain to you his take on
2 whether the corrections officer had been properly trained
3 and if she had whether that is a proper course of action
4 for a Detention Center officer to take.

5 And at the end of all of this trial, ladies and
6 gentlemen, which I hope will be very brief - I promise
7 you that I will be brief - we are going to ask that you
8 enter a verdict in favor of the plaintiff, Ms. Weddle.

9 The terms of the verdict I will leave to your good
10 judgment. But I am telling you where there is smoke
11 there is fire. And I am asking you that when we are done
12 and you return a verdict you help put that fire out.
13 Thanks.

14 THE COURT: Ms. Ganes. Or is it going to be Mr.
15 Joyce?

16 MR. JOYCE: May it please the court.

17 THE COURT: Yes, sir, you may proceed.

18 MR. JOYCE: Thank you, Your Honor.

19 THE COURT: You are welcome.

20 **OPENING BY MR. JOYCE:**

21 The intake area of the Charleston County Detention
22 Center is the first place where arrestees arrive at when
23 they have been arrested.

24 Now as you can imagine, quite often it is a place
25 with a lot of activity. Intake officers like Officer

1 Gladden are tasked with making sure that the arrestees
2 are booked into the Detention Center efficiently all
3 while maintaining an environment that is safe and secure
4 for the Detention Center, its officers, the arrestees,
5 and the community.

6 Now I know that many of you may have seen shows like
7 CSI and Law and Order. And while those may be
8 entertaining shows that attempt to depict what law
9 enforcement officers do, what we are here for today is
10 not a matter of fiction but it was a real life event for
11 Officer Gladden who was tasked with handling part of the
12 intake process with the plaintiff Beth Weddle after she
13 was arrested and brought into the Detention Center on a
14 charge of disorderly conduct.

15 And Mr. Boles explained to you a little bit about
16 what happened, that this was an ongoing dispute between
17 Ms. Weddle and her neighbor about the right of way in the
18 area of her and her neighbor's house.

19 And the Public Works Department was called to remove
20 some shrubbery and a Palmetto tree. And Ms. Weddle
21 decided to get in the way of that and not let that
22 happened, so she was charged with disorderly conduct and
23 brought to the Detention Center.

24 Now in order to prevail in this case the plaintiff
25 must provide that Charleston County Sheriff's Office

1 through the acts of Officer Gladden was grossly
2 negligent.

3 And to put that in another way, she must prove that
4 Officer Gladden did not even use the slightest of care
5 when she picked up the plaintiff from off of the ground.
6 And we will show you that that is not the case and that
7 is not what the evidence will show.

8 Good afternoon. My name is Ben Joyce. And I along
9 with Elloree Ganes represent Charleston County Sheriff's
10 Office.

11 And seated with Elloree and I is the officer,
12 Yashica Gladden. And you will get the opportunity to
13 hear from her throughout this trial.

14 Before I get into briefly what the facts are about
15 and what the evidence we will present to you I want to
16 thank you for being here.

17 I realize that jury duty is not convenient. So we
18 will work efficiently and try to move this trial along
19 quickly. We appreciate your time and commitment.
20 Because without you all we would be unable to put an end
21 to this lawsuit that Officer Gladden and the Sheriff's
22 Office have been dealing with now for over three years.

23 The system we have in America allows anyone to sue
24 for just about any reason. But just because somebody has
25 been sued doesn't mean they did anything wrong.

1 Instead, the Sheriff's Office and Officer Gladden
2 are here today to stand tall in defending themselves
3 because they know that at all times during her
4 interaction with the plaintiff that Officer Gladden acted
5 reasonably, she acted appropriately, she did her job, and
6 she did what she was supposed to do in getting the
7 plaintiff booked into the Detention Center and moved
8 along.

9 Now because anybody can sue for just about anything
10 the justice system has placed the burden of proof on the
11 person bringing the lawsuit. In this case that is Ms.
12 Weddle.

13 And while she can make the allegations that she
14 wants and she can come up here and talk to you about
15 them, in order for her to be successful and to be awarded
16 the money that she is seeking in this case she must prove
17 to you that Charleston County Sheriff's Office was
18 grossly negligent and that it failed to use even the
19 slightest care during their interaction with the
20 plaintiff.

21 And if she can't prove this then she has not met her
22 burden of proof and you must return a verdict for the
23 defendant. In other words, she can't merely just rest on
24 her allegations. She must prove to you that her
25 allegations are in fact true.

1 Now at the end of this case Judge Jefferson will
2 instruct you on the law and she will talk about gross
3 negligence and how it is a separate and step above than
4 that of ordinary negligence.

5 It is a heavy burden and one that the plaintiff
6 cannot meet based on the facts and the evidence in this
7 case.

8 The evidence will show you that there is no evidence
9 of negligence. And there is certainly no evidence of
10 gross negligence.

11 Now as I mentioned earlier we are here to talk about
12 a brief interaction at the intake area of the Detention
13 Center that happened six years ago.

14 After the plaintiff was arrested for disorderly
15 conduct she was brought in by authorities from the City
16 of North Charleston Police Department to the Charleston
17 County Detention Center.

18 When she arrived she was uncooperative. When she
19 was waiting to be booked in she laid down on the floor
20 near the doorway of the intake area. She was asked to
21 get up multiple times to which she refused.

22 And after she refused, Officer Gladden assisted her
23 by embracing her and picking her up. And after that she
24 was searched. Then her handcuffs were taken off. She
25 put her arms all the way above her head. She was

1 searched again, which is in accordance with policy of the
2 Detention Center.

3 She was escorted to the booking station where she
4 was booked in. And then she was escorted to a cell area
5 where she could take a seat if she wanted to. And this
6 was all a matter of minutes.

7 That's what happened in this case. That is it. So
8 why are we here today? As I told you before, anyone can
9 sue for just about any reason. But what the plaintiff
10 owes you is the burden of proof, and we submit to you
11 that she cannot meet that burden.

12 The evidence in this case simply doesn't support her
13 allegations of excessive force or that anything that
14 Officer Gladden did caused the injury to her shoulder.
15 Instead it establishes that Officer Gladden acted
16 appropriately and reasonably and did her job and did what
17 she was trained to do.

18 Now moving on to damage. And please don't presume
19 by discussing damages that we feel that Charleston County
20 Sheriff's Office is responsible in any way for any of the
21 plaintiff's damages. But they are an aspect of this
22 case, and I would be remiss if I didn't briefly address
23 them.

24 But like liability, the burden of proof is on the
25 plaintiff to prove to you that she is entitled to the

1 damages, the money that she is seeking.

2 You will hear evidence from her and you will hear
3 evidence that she had shoulder surgery four years after
4 she was arrested.

5 Now your role as jurors is an important one. It is
6 to be decider of the facts, to weigh the evidence, to
7 judge the credibility of the witnesses that you hear
8 from. And ultimately your job is to render justice.

9 But in doing that I ask that each one of you bring
10 your real-world experience, your everyday common sense,
11 and analyze and ask yourself what makes sense in this
12 case.

13 Does it make sense for the plaintiff to blame
14 Officer Gladden for her injury to her shoulder. Does it
15 make sense for her to blame anyone at all.

16 I ask that you look at the evidence and play close
17 attention to the video that you will see of the
18 interaction.

19 I believe that you will find that there is no
20 evidence of negligence. There is certainly no evidence
21 of gross negligence.

22 And what the evidence will show is that Officer
23 Gladden acted appropriately, she acted reasonably, she
24 did her job, and she did what she was supposed to do.

25 And it is for those reasons and when we get a chance

1 to talk with you again during closing arguments we are
2 going to ask you return a verdict for Charleston County
3 Sheriff's Office. Thank you.

4 THE COURT: Mr. Boles, you may call your first
5 witness.

6 MR. BOLES: Thank you, Your Honor.

7 THE COURT: You are welcome.

8 MR. BOLES: I would like to call James Aiken.

9 (WHEREUPON, the witness was duly sworn.)

10 THE CLERK: Please state your full name and spell
11 your last name please for the record.

12 THE WITNESS: My name is James Evans Aiken,
13 A-I-K-E-N.

14 THE COURT: You may proceed.

15 THE WITNESS: Thank you.

16 MR. BOLES: Thank you, Your Honor.

17 **DIRECT EXAMINATION BY MR. BOLES OF JAMES AIKEN:**

18 Q Mr. Aiken, thank you for being here today.

19 A You are welcome.

20 Q If you would please tell the court a little bit
21 about your background.

22 A Well, I will be as brief as possible. I have been
23 in the field of corrections, prisons and jails, confined
24 facilities, for approximately 45 years.

25 I started off in the South Carolina Department of

1 Corrections as a substance-abuse counselor at the Manning
2 Correctional Institution which was a leading security
3 facility.

4 From there I was promoted to the rank of an
5 administrative assistant to the warden. And back in
6 those days you did everything security wise; worked gun
7 towers, etc., and then you wrote letters for the warden
8 in the evening.

9 From there I was promoted to deputy warden of that
10 same facility. From there I was promoted to deputy
11 warden at the State Penitentiary in South Carolina which
12 was known as CCI, the Central Correctional Institution.

13 And from there I was promoted to deputy warden -- I
14 mean warden, rather, of the women's prison in South
15 Carolina, Columbia. And from there back to the State
16 Penitentiary or CCI as a warden of that facility.

17 In those years I formulated an approach to make
18 prisons more safe, secure, and cost effective. Because I
19 feel very strongly that taxpayer money should be spent on
20 security, protecting the public. And that is inclusive
21 of inmate population, staff, as well as the general
22 community.

23 So in those institutions that I was administrator of
24 I had the specific task or re-establishing those
25 facilities.

1 From there I was promoted to deputy regional
2 administrator over 17 prisons within the South Carolina
3 Department of Corrections.

4 From there I was promoted to the rank of
5 commissioner of correction for the State of Indiana, both
6 juvenile as well as adult corrections.

7 From there I was promoted to director of prisons for
8 the United States Virgin Islands.

9 As it relates to the things that I was just sharing
10 with you, every aspect of a security delivery system was
11 involved in all of those positions.

12 I was also tasked with the responsibility of
13 retrofitting those systems to make them more secure.
14 Because they were in an insecure as well as a very should
15 I say endangered status.

16 Back in 1986 when I was awarded the State
17 Penitentiary CCI I was approached by the Justice
18 Department and they were looking at the new ways of
19 managing prisons.

20 As a result I provided expert assistance to over 40
21 jurisdictions within the United States as well as to
22 address some of the emerging and existing systems and
23 issues as it relates to the management of inmate
24 population.

25 For example, I taught wardens how to be wardens with

1 super maximum security prisons at a place called ADX.
2 ADX is a more secure prison in the world. It houses
3 international terrorists and individuals that require an
4 extreme amount of security in relationship to protection
5 of staff, inmates, and the general community.

6 I have also been appointed by Congress to the
7 National Prison Rape Elimination Commission under
8 President Bush. And it was signed. The standards in
9 which we created were put in effect by President Obama.

10 I have provided expert technical assistance and
11 security in other matters; in other countries to include
12 Canada, Costa Rica, and the Dutch Kingdom.

13 I have a master's degree from the University of
14 South Carolina and an undergraduate degree from Benedict
15 College, Columbia, South Carolina. That is it in a
16 nutshell so to speak.

17 Q Suffice it to say you have spent a little bit of
18 time around violent facilities, Mr. Aiken?

19 A Since 1971, yes.

20 Q Okay. And you have been qualified as an expert
21 witness in other matters before?

22 A Yes, on federal as well as state levels.

23 Q Thank you.

24 MR. BOLES: Your Honor, at this time we would offer
25 Mr. Aiken as an expert witness in the field of

1 confinement facility management?

2 THE COURT: Any objections or questions?

3 MS. GANES: No objection, Your Honor.

4 THE COURT: So admitted without objection. You may
5 proceed.

6 MR. BOLES: Thank you.

7 THE WITNESS: Thank you, ma'am.

8 THE COURT: You are welcome.

9 THE WITNESS: Thank you, Your Honor.

10 Q Mr. Aiken, as I just asked, you were asked by us to
11 review materials in this matter?

12 A That is correct, sir.

13 Q And did you review materials related to this matter
14 that we are here about today?

15 A Yes, I did, sir.

16 Q Okay. Do you remember what the materials were that
17 you looked at for this matter?

18 A Just coming from memory, I did review a video as
19 well as some other written documentations as well as the
20 deposition of Officer Gladden.

21 Q Okay.

22 A There may be more, but that's what comes to mind.

23 Q Thank you. Having reviewed those materials and
24 having heard opening remarks do you have an opinion to
25 offer the jury about the matter that we are here about

1 today?

2 A Yes, sir.

3 Q Please explain.

4 A Well, my opinion is that, number one, that Officer
5 Gladden did not perform the duties in the appropriate
6 manner which could have -- which did, should I say, cause
7 significant violations of sound correctional practice.

8 And I found that the Charleston County Sheriff's
9 Office did not provide the adequate level of supervision
10 or should I say a basic level of supervision as well as
11 training in order to detect, respond, prevent, and
12 contain this critical event that we are discussing today.

13 Q Okay. And you heard both opposing counsel and I
14 describe the -- the -- I will call it the lift of my
15 client by Officer Gladden; is that correct?

16 A Yes, I did.

17 Q And tell the jury your expert opinion on whether the
18 proper -- let me start that over. Tell the jury your
19 expert opinion about what should happen when you have a
20 scenario such as what we see on the video happening.

21 A Well, I will be glad to do that. And if I could lay
22 some foundation. Number one is you have to look at
23 confinement facility incidents in the context of a
24 confinement facility.

25 And what I mean by that is prisons and jails are

1 abnormal environments. They are not like schools. They
2 are not like department stores. They are not like people
3 walking down the street. It is different.

4 And on top of that, the intake area of a jail is the
5 most sensitive area within the correctional environment.

6 Now why is that? It is because you are taking the
7 individuals that you really don't know anything about.
8 You don't know whether you are taking in an international
9 terrorist or the governor's daughter. You don't know if
10 you are taking in a person that is getting ready to have
11 a heart attack or a person that is getting ready to
12 escape.

13 You have to have, as we say, all of your warp
14 shields up in order to prevent, detect, respond, and
15 contain situations before they deteriorate, deteriorate
16 into an envir- -- or to unstable situations such as a
17 critical event. That -- I thought you were going to ask
18 another question.

19 Q Yes, sir. Well, explain to the jury what you mean
20 by critical event in this case.

21 A Critical event is that in a corrections environment
22 those things that we may think would take only seconds
23 can mean the difference between life and death.

24 An individual giving a gesture can make the
25 determination on whether that person lives or dies.

1 Whether that person dies on that floor or not is up to an
2 officer and the training of that officer to ensure that
3 you have a proper -- addressed properly, should I say,
4 every little, tiny weenie thing you may find especially
5 in an intake area.

6 And what I observed with Ms. Weddle coming in, she
7 was not aggressive. She was not kicking and spitting at
8 people. She was not trying to butt an officer with her
9 head, which I have often seen in these type of behavior
10 patterns especially when people are being incarcerated
11 initially. And I saw a person restrained. That is very
12 important.

13 Just imagine yourself walking around for several
14 hours ---

15 MS. GANES: Objection, Your Honor.

16 THE COURT: Basis?

17 MS. GANES: It ---

18 THE COURT: No speaking objections. What is the
19 basis of your objection?

20 MS. GANES: Relevance.

21 THE COURT: Approach please.

22 (WHEREUPON, bench conference was had 11/14/16, 2:25 p.m.)

23 THE COURT: Ladies and gentlemen, you are to
24 disregard the last response and give it absolutely no
25 consideration in your deliberation. The objection is

1 sustained. Golden rule. You may proceed.

2 MR. BOLES: Thank you, Your Honor.

3 THE COURT: You are welcome.

4 Q Mr. Aiken, let's move to what you observed on the
5 video with where Ms. Weddle as your stated was handcuffed
6 and had slid to the ground.

7 In your expert opinion what is a corrections
8 officers supposed to do when faced with a situation like
9 that?

10 A Especially in an intake area the correctional
11 officer is supposed to make sure that that person is,
12 number one, secured. To which she was; she was
13 handcuffed behind her back.

14 Number two, is to make a determination as to why the
15 person is going down. And the first part of that is to
16 make sure that there is an adequate medical issue that
17 won't be responded to.

18 As a result, there should be a medical trigger, so
19 to speak, for a response to make an examination of this
20 newly entering person into a facility and why that person
21 is going down to the floor without any precursor other
22 than illness or at least demonstrating a possibility of
23 illness. That has to be checked out first.

24 Q So first you check their medical status; is that
25 correct?

1 A First you secure a person, to which she was
2 handcuffed behind her back in the secured area. Number
3 two is when you see the person going down you have to
4 address the medical concern.

5 Q And based on your review of the materials in this
6 matter is that what happened?

7 A No.

8 Q Okay. Based on your review of the materials in this
9 matter what did happen?

10 A She went down to the floor. And as the video will
11 depict, she began to pick her up by ---

12 Q When you say she, can you clarify ---

13 A Officer Gladden. I'm sorry.

14 Q Okay.

15 A Began to pick Ms. Weddle up by the elbow and arm,
16 which is inappropriate. And all -- as a result of them
17 being restrained from behind it can cause serious injury.

18 Q Okay. So in your experience if -- if the
19 corrections officer is going to lift a person like Ms.
20 Weddle who is handcuffed and on the ground, how are they
21 supposed to do that?

22 A Well, number one is that they are not supposed to
23 use the elbow. They are supposed to come under the
24 armpits.

25 But in this particular situation you have got to

1 clear the medical aspect of it. So you have a medical
2 response to make an examination. And at that time
3 medical staff will make the determination on whether this
4 person gets on a gurney or whether that person is to be
5 assisted in order to not create a situation of injury.
6 Which is very easily done when a person is under
7 restraints like this.

8 Q And based on your review of the video would you
9 describe Ms. Weddle at this time, or at any time that you
10 saw, as uncooperative?

11 A I did not see anything - I saw - except compliance
12 and an individual that is not being aggressive.

13 Q Okay. Now moving to training and supervision, did
14 you review any materials that related to Officer
15 Gladden's training and supervision?

16 A Yes, I did. I recall this as well as her
17 deposition.

18 Q Okay. And, again, based on your copious experience
19 in confinement facility management what is your opinion
20 about the number one the training that she received and
21 the supervision that was happening?

22 A The training was at a level that can easily be
23 considered as extremely deficient, that could have and
24 did unfortunately show in the behavior of Officer Gladden
25 the training did not provide -- and I recall from her

1 deposition that -- that she had not received training of
2 this nature.

3 Number two is that the supervision -- the lack of
4 supervision is really personified in her sharing that she
5 didn't want to call an emergency situation because that
6 was a problem.

7 It is just like you are seeing a fire and someone
8 pulls a fire alarm but you say, no, I don't want to pull
9 the fire alarm because it might cause the fire trucks to
10 come, so to speak.

11 This is a very sensitive area of a highly secure
12 environment, which is intake. So you have a direct
13 response on any little matters to include an inmate going
14 down to the floor while restrained.

15 Q Thank you, sir. And just a couple more questions.
16 Also based on your review of the video do you recall how
17 many people were in the intake area around the time of
18 the critical event as you describe it?

19 A I saw just the officer and Ms. Weddle. I did see
20 some other inmates. I don't remember whether they had
21 entered the vestibule or the sally port at that
22 particular time. But that could have easily been
23 contained.

24 Q Did -- did Ms. Weddle's position based on your
25 review of the video in any way compromise the security of

1 the intake room?

2 A No, it -- the intake facility in your in -- enclosed
3 area. And they have two doors. And, no, the two doors
4 don't open both the same. At least they are not supposed
5 to. One is closed and then the other. So you have
6 control of egress as well as people coming in.

7 And she was restrained in that area which did not
8 cause an unusual risk to staff or inmates or the general
9 public for that matter.

10 Q All right, sir. So in summary I want to be sure we
11 are clear on your testimony. Is it your opinion that
12 what you have called a critical event was an improper or
13 excessive use of force in this matter?

14 A That is correct. It can be categorized as such.
15 And I have reviewed use of force on thousands of
16 occasions ranging from minor use of force to also
17 authorizing deadly force to be used against an inmate to
18 which it was.

19 Q Is it further your opinion that the training and
20 supervision in this matter was inadequate as regarded the
21 corrections officer?

22 A Critical, unstable, and inadequate.

23 Q We heard earlier that the definition of gross
24 negligence is defined as a failure to use the slightest
25 care. Do you find that to be a fitting definition of

1 what happened in this matter?

2 A Even though I am sharing this in an operational
3 context, but the same response is there; yes.

4 Q Okay. Those are all the questions I have for you.
5 Please answer any that opposing counsel may have.

6 A Very well.

7 Q Thank you.

8 A Thank you.

9 THE COURT: You may proceed.

10 MS. GANES: Thank you, Your Honor. May it please
11 the court.

12 THE COURT: Yes, ma'am.

13 **CROSS-EXAMINATION BY MS. GANES OF JAMES AIKEN:**

14 Q Good afternoon, Mr. Aiken.

15 A Good afternoon. How are you doing?

16 Q I am doing well. I believe we have met before but
17 not in this case. It is good to see you this afternoon.

18 A Well, please excuse my lack of memory on that. But
19 it is good to see you.

20 Q All right. Mr. Aiken, you have been serving as a
21 paid expert in lawsuits since the early 90's, haven't
22 you?

23 A I have received compensation to provide expert
24 assistance as it relates to criminal and civil matters,
25 yes.

1 Q And you are receiving compensation to come and
2 testify to the jury in this case today; is that true?

3 A That is correct, ma'am.

4 Q And how much money have you been paid in this case
5 for your services as an expert witness on behalf of the
6 plaintiff?

7 MR. BOLES: Objection. Relevance as to amount.

8 THE COURT: Overruled.

9 MR. BOLES: Thank you.

10 THE COURT: You are welcome.

11 A I really don't. And as I have testified in court
12 before, I have been married -- of course I have been
13 working in prisons 45 years, but I have also been married
14 45 years or 44 years to a retired bank executive. And as
15 a result thereof, she handles all of the money. And I
16 have said that very openly in court before.

17 So I really don't know how much. I do remember
18 getting checks as a result of it, but I honestly don't
19 know.

20 Q Okay. Well, how much time have you spent looking at
21 things in this case like the video and the things that
22 you have discussed with Mr. Boles?

23 A That would have to be on timesheets and things of
24 that nature. But I have reviewed the documents like I
25 would as a warden, and the time is not an issue when you

1 are in prison even working. What you do is that you take
2 all the time that you need.

3 But I don't know specifically or even relatively how
4 much time I used in looking at the video, going back and
5 looking at it at two o'clock in the morning and things of
6 that nature.

7 Q So you don't have whether you have been paid \$5,000
8 in this case by the plaintiff's attorney; is that true?

9 A I would -- I am just guessing. It wouldn't be more
10 than 5,000.

11 THE COURT: Watch the characterization.

12 MS. GANES: Okay.

13 THE COURT: And assumes facts not in evidence.

14 MS. GANES: Okay.

15 THE COURT: Rephrase the question.

16 MS. GANES: Thank you, Your Honor.

17 Q Do you know whether you have been paid more than
18 \$5,000 as an expert witness in this case?

19 A I do not right off hand. But I don't think is has
20 been more than 5,000.

21 Q Okay.

22 A That is what I can say.

23 Q And of the civil cases that you have served as an
24 expert witness on like you are doing here today to this
25 jury, most of those have been on behalf of the plaintiff;

1 haven't they, Mr. Aiken?

2 A I have done some for the plaintiff and some for the
3 defendant.

4 Q Okay. But the majority of those where you are
5 serving as an expert in civil cases have been on behalf
6 of the plaintiff; isn't that true?

7 A That is correct.

8 Q And you told us a lot about your experience. And I
9 want to tell you personally and professionally thank you
10 very much for your service in law enforcement.

11 But you have never actually worked or been employed
12 as an intake officer like Officer Gladden is, have you?

13 A Not when my specific duties as an intake officer.
14 My job has always been not only -- even though I have
15 taken in intake population at the central, for instance,
16 correctional institution.

17 For example, we have what is known as safe keepers.
18 Those are people that are too dangerous to be housed in
19 the county jail through adjudication. And I have had to
20 supervise that type of population coming into the prison.
21 For example, as well as like in the Virgin Islands of
22 taking in inmates from the street.

23 I have to develop what is known as a security
24 envelope for those people. In order to do that I have to
25 go and look, observe. As in a number of occasions

1 actually practice in order to establish the appropriate
2 policies, protocols, post orders, etc., to ensure that
3 they knew what was appropriate and not.

4 Q Thank you for that, Mr. Aiken. And thank you for
5 your service in doing that. But my question was: You
6 have never actually been employed as an intake officer
7 like Officer Gladden is today, have you?

8 A I have not received a title of intake officer. I
9 have been the person to make sure that the intake process
10 is done appropriately.

11 Q Okay. And you have never trained or taught officers
12 on techniques regarding lifting a person off of the
13 ground while they are in hand restraints, have you?

14 A It has been 45 years. And I am sure somewhere along
15 that 45 year period that I have had to address this
16 issue. Because it is a very very dangerous issue about
17 inmate population being restrained.

18 Q If you will just bear with me one second. All
19 right. You have never been a training officer in
20 teaching training courses and techniques regarding
21 lifting a person from the floor while they are in hand
22 restraints; is that true or not true?

23 A I have not had the position of training officer.
24 Obviously, when I introduced myself, I have a vast
25 background in training in staff development inclusive of

1 the levels of force and management of inmate population.

2 Q Okay. Thank you for that, Mr. Aiken. And thank you
3 for your service in doing that. But my question was:

4 You have never been a training officer when it comes to
5 training individuals like the defendant in this case on
6 the proper technique to lift a restrained individual from
7 the floor; is that true or untrue?

8 A I have not had the position of training officer.

9 Q Okay. So my statement is true?

10 A It is true from the standpoint of actually in that
11 role versus a warden or a deputy warden or administrative
12 assistant throughout.

13 But the issue is I have developed and implemented
14 training aspects, all the training aspects to include use
15 of force or lifting persons, etc.

16 Now asked while having a daily activity of doing
17 that versus being -- or the administrator or a person
18 that actually works in the cell blocks, no.

19 Q Okay. And that statement is true that you have not
20 done that, correct?

21 A I have not held the position of training officer
22 only.

23 Q Okay. And you have not reviewed any policies and
24 procedures of the Charleston County Sheriff's Office in
25 this case, have you?

1 A I don't have direct recall of that. I may have.

2 Q Okay. Have you done that since your deposition in
3 this case was taken?

4 A No.

5 Q Okay. Now and so when your deposition was taken in
6 this case you had not reviewed any policies and
7 procedures of the Charleston County Sheriff's Office
8 prior to providing your opinions under oath in this case;
9 is that correct?

10 A I rely on my deposition. I have not had a chance to
11 read it. But if that is on my deposition it is certainly
12 what my recollection is.

13 Q Okay. Well, I don't -- I don't want -- I am not
14 trying to trick you. So ---

15 MS. GANES: May I approach, Your Honor? The
16 witness?

17 THE COURT: No, he can't -- you can't open the
18 deposition. No, ma'am.

19 MS. GANES: Oh, okay. Yeah. I'm sorry.

20 (WHEREUPON, the court opens the deposition provided by
21 Ms. Ganes.)

22 THE COURT: Mark it as a court's exhibit.

23 (WHEREUPON, Court's Exhibit Number 1, deposition of
24 Aiken, was marked for identification.)

25 Q All right. Dr. Aiken, do you -- or Mr. Aiken, do

1 you remember when your deposition was taken in this case
2 on September 14th, 2016, by my associate Ben Joyce?

3 A I do recall the deposition, yes.

4 Q Okay. And if I could please direct you to Page 68.
5 It is going to be in that bottom corner.

6 A Page 68. Bear with me. I am at Page 68, yes.

7 Q Okay. And on Line 22 Mr. Joyce asks you: Okay, you
8 haven't reviewed any policies or procedures of the
9 Charleston County Sheriff's Office prior to drafting this
10 report; correct?

11 And what was your answer, Mr. Aiken, on Line 25?

12 A I don't recall I was forwarded any policies and
13 procedures, comma, no.

14 Q Okay. And so have you reviewed any policies and
15 procedures of the Charleston County Sheriff's Office
16 since September 14th when you provided your testimony
17 under oath in this case?

18 A I provided the testimony right then. And the answer
19 is no again.

20 Q Okay. All right. And you also have not reviewed
21 any training records, certifications, or associated
22 materials of Officer Gladden before you gave your
23 opinions in this case; correct?

24 A Not to my present knowledge. That is correct.

25 Q Okay. Now have you reviewed anything since you gave

1 your deposition in September?

2 A No, I have not.

3 Q All right. Well, let me ---

4 A That I can recall.

5 Q Okay. All right. And so let me direct your
6 attention to Page 69 of that deposition, please.

7 A Very well. I am there.

8 Q Okay. And on Line 2 do you see where Mr. Joyce's
9 question is: You have not reviewed any training records,
10 certifications, or associated material of Officer Gladden
11 before drafting this report; correct?

12 And what was your answer?

13 A On Line 5 it says not to my present knowledge; that
14 is correct.

15 Q Okay. And do you have any knowledge other than what
16 you had in your deposition here today to give to the
17 jury?

18 A I don't recall receiving the additional
19 documentation relative to Officer Gladden's training.

20 Q Okay. And so are you able to tell the jury what
21 training Officer Gladden actually had?

22 A Well, obviously no.

23 Q Okay. Are you able to tell the jury what policies
24 and procedures were actually in place at Charleston
25 County Sheriff's Office in 2010 related to this incident?

1 A I don't recall reviewing any policies to evaluate
2 whether they were implemented or not.

3 Q Okay. And so you are not able to tell the jury then
4 what policies were or were not in place in 2010 when this
5 incident occurred, correct?

6 A Written policy, no.

7 Q Okay. In fact, that was outside of the scope of
8 what you were asked to do in this case; correct?

9 A I was asked my scope would be one of looking at the
10 critical event that has been discussed here today.

11 Q All right. If you will look at Page 73 of that
12 deposition, Line 2, please.

13 A Page 73, Line 2?

14 Q Yes, sir. And I am just going to go back to Page
15 72, Line 24, if you want to follow along. That was Mr.
16 Joyce's question that said: So you have not reviewed any
17 materials as far as how Charleston County Sheriff's
18 Office trained its law enforcement employees?

19 And what was your answer there under oath?

20 A I did not conduct that review. I think it was out
21 of my scope from what I was asked to do.

22 Q Okay. Thank you, Mr. Aiken.

23 A Quite welcome.

24 Q All right. And, Mr. Aiken, you did not review the
25 sworn deposition testimony of Ms. Weddle before you gave

1 your opinions in this case, did you?

2 A I don't recall having her deposition, no.

3 Q Okay. And have you reviewed that deposition prior
4 to giving your opinions under oath here to the jury?

5 A I have not received additional depositions, to the
6 best of my knowledge.

7 Q Okay. And so you are not able to tell the jury what
8 Ms. Weddle said in her sworn testimony about whether or
9 not she was compliant with Officer Gladden's request in
10 July of 2010, correct?

11 A Obviously I cannot make that determination since I
12 haven't read her deposition.

13 Q Okay. Now in the intake area of the detention
14 facility I believe your opinion was that the intake
15 officers have to assume the worst about the individuals
16 when they are received into that area. Is that true?

17 A When you say worse I am not necessarily talking
18 about disruptive acts. You have to consider every aspect
19 of what can happen. As I stated before, colloquially,
20 keep the warp shields completely high because you don't
21 know anything about this person.

22 Q Okay. And I thought you said, Mr. Aiken - and
23 correct me if I wrote it down wrong - that you didn't
24 know if it was a terrorist or the governor's daughter?

25 A That is correct.

1 Q Okay.

2 A And that gives you some range of individuals. But
3 you don't know whether a person is getting ready to die
4 of a heart attack, having reactions to drugs, whether a
5 person is overdosed on drugs, whether a person is getting
6 ready to try to commit suicide. There are multitudes of
7 adverse behaviors and afterwards conditions that can
8 occur in an intake area, and you have to be ready for all
9 of them.

10 Q Okay. And, Mr. Aiken, you weren't implying that a
11 terrorist should be treated any differently than the
12 governor's daughter; are you?

13 A I am saying coming in an intake area, whether it is
14 a terrorist or the governor's daughter, the person must
15 be under restraints and constant observation.

16 Q And you are aware that Ms. Weddle was arrested for
17 dishonorably -- disorderly conduct that day, correct?

18 A I do recall some reading on that particular -- I
19 think it was an incident report or summary report, yes.

20 Q Okay. And you didn't see the details in her
21 deposition, I assume, about the arrest and that she
22 wasn't happy to be in the facility; correct?

23 A I didn't see the deposition, so I can't make a
24 determination on that.

25 Q And I believe, Mr. Aiken, that we agree that an

1 arrestee should remain in handcuffs when they are brought
2 into the intake booking area; correct?

3 A Entering the area until such time as removal of
4 restraints is conducted in a correct secure envelope.

5 Q Okay. And I believe you said specifically in this
6 case that you don't have a problem with Ms. Weddle
7 remaining in handcuffs in that intake area, correct?

8 A I understand she was just coming in and therefore
9 still in restraints. And I have seen that many times,
10 and I have no objections to the restraints if the proper
11 level of supervision and care is enforced.

12 Q All right now, Mr. Aiken, we talked a lot in your
13 testimony about -- and in your prior testimony on direct
14 you talked about these triggers provided to an arresting
15 officer that require immediate evaluation by health staff
16 or custody supervisor; correct?

17 A That's correct.

18 Q Okay. And the triggers that you were relying on in
19 this case are that Ms. Weddle said her stomach hurt and
20 that she requested an Alka-Seltzer and was on the floor,
21 correct?

22 A She went to the floor as well as -- I don't remember
23 the Alka-Seltzer directly. But there was some indication
24 of medical distress.

25 Q All right. Now I am sure, Mr. Aiken, in all of the

1 experience that you illuminated here for the jury today
2 you have seen inmates and detainees disrupt the daily
3 operations of the jail facility without medical needs;
4 correct?

5 A Yes, I have.

6 Q Okay. And in this case you only reviewed the case
7 from an operational prospective, correct?

8 A That is correct.

9 Q You are not able to provide any opinions to the jury
10 on whether or not Ms. Weddle's alleged injury was
11 actually caused by Officer Gladden, correct?

12 A I have no medical expertise in that area, correct.

13 Q And you are leaving whether or not Ms. Weddle
14 allegedly sustained an injury up to a medical
15 professional, correct?

16 A It has to be left to a medical professional, yes.

17 Q And you didn't even know what type of injury Ms.
18 Weddle was alleging, correct?

19 A I -- if I did I wouldn't be able to explain what it
20 was in the first place.

21 Q Okay. Mr. Aiken, on the video that you said in this
22 case did you ever see Ms. Weddle vomit?

23 A I didn't -- did I have direct recall of any emphasis
24 or any type of discharge from the mouth or the oral
25 areas, no.

1 Q Okay. Did you ever see her have any medical
2 emergency after Officer Gladden assisted her from the
3 floor of that intake area?

4 A She may or may not have. But I don't know what
5 happened after the end of that video. And what was
6 contained in the reports other than that I don't have any
7 information, no.

8 Q Okay. You weren't provided that information from
9 the plaintiff's attorney to review?

10 A I don't recall of -- I did receive some medical
11 reports. But I just reviewed it. And I wouldn't be able
12 to interpret it anyhow.

13 Q Okay. Would it be appropriate for Officer Gladden
14 to have been seen by a nurse prior to her bond hearing?

15 A Seen by a nurse?

16 Q Yeah, would it be appropriate -- is it appropriate
17 for an individual who is in a detention center to be
18 evaluated by a nurse if they request that?

19 A For a normal course of action -- what I am having a
20 little difficulty with is that I am stating that when she
21 went to the floor in restraints in the intake area that
22 triggered a medical response to which I did not see, as
23 well as I did not read that a medical response was
24 initiated at that particular time. And that's what I'm
25 referring to.

1 Maybe I am misunderstanding your question.

2 Q Okay. And did you see any -- when -- well, let me
3 ask you this: Did you see Ms. Weddle -- did you observe
4 her after she was assisted off of the floor by Officer
5 Gladden in the video?

6 A She was taken up from the floor by the officers in
7 which we have discussed. I do recall that, yes.

8 Q Okay. All right. Did you see her have any abnormal
9 reaction or bending over or crying out in any pain that
10 you could see on the video; did you see those things to
11 articulate to the jury?

12 A The best of my recollection is that she is best
13 termed as being compliant to the officer when she got
14 back on her feet.

15 Q Thank you, Mr. Aiken.

16 A Thank you.

17 THE COURT: Any redirect?

18 MR. BOLES: Very brief.

19 **REDIRECT EXAMINATION BY MR. BOLES OF JAMES AIKEN:**

20 Q Mr. Aiken, Ms. Ganes just asked you about inmates
21 that are restrained. Am I hearing your testimony
22 correctly that when a person is restrained - and that
23 would mean they have handcuffs on in this case?

24 A Yes.

25 Q And when a person has handcuffs on does that trigger

1 a heightened duty of care from the officers at the
2 correction facility?

3 A To say the very least. And I cannot overstate this:
4 When you -- when you are under restraints in lawful
5 custody the responsibility for your safety and well-being
6 it now rests with us, the correctional official, the
7 arresting officer.

8 I mean I am not saying look at CSI and all that
9 other stuff. But one thing people always see - at least
10 I see - when a person is in handcuffs and getting in the
11 police car it is a matter of having the police -- puts on
12 the top of their head as they are getting into the car.

13 That is not to say that that's -- there is a reason
14 for it. It is because that person can't control oneself.
15 When you see a person in custody you often see the police
16 officer or the officer holding that person by the arm.
17 That is not to say he is going to run away necessarily.
18 That is also to say that that person has a loose balance
19 as you can call it. You can easily lose your balance.

20 Now imagine yourself falling and ---

21 MS. GANES: Objection, Your Honor.

22 THE COURT: Basis.

23 MS. GANES: Relevance, prejudice, Golden Rule.

24 Imagine ---

25 THE COURT: Give him a little latitude. And keep it

1 within the facts as they had been ---

2 MR. BOLES: I will ask the question one more time.

3 THE COURT: Although you can ask hypotheticals you
4 still need to keep it within the confine of the facts
5 that have already been presented in direct and cross.

6 MR. BOLES: Thank you, Your Honor. How about I will
7 just move on. How about that?

8 THE COURT: That works.

9 MR. BOLES: Okay.

10 Q Let's see. You were asked also by defense counsel
11 if you had been forced to read the entire deposition
12 transcript of Ms. Weddle in which you replied no, right?

13 A I beg your pardon. I didn't hear the question ---

14 Q You have not -- you have not read Ms. Weddle's
15 deposition transcript?

16 A Not to my knowledge, no.

17 Q But you did watch the video that shows her in the
18 intake room, didn't you?

19 A Yes, I did.

20 Q Okay. The video has no personality, does it?

21 A No.

22 Q The video is impartial, isn't it?

23 A Very.

24 Q And based on your observations, in the video did Ms.
25 Weddle appear compliant?

1 A Yes.

2 Q Okay. Also I asked you on direct about training and
3 supervision. Do you recall that exchange?

4 A Yes.

5 Q Did I ask you whether there is a policy of the
6 Sheriff's Department that may exist somewhere?

7 A No, not ---

8 Q Okay. What good does it do us if there is a written
9 policy somewhere that the officer has never been made
10 aware of?

11 A That is a very important point. As I shared
12 with you in my introduction I take over deficient,
13 ill-operated correctional systems and facilities. I have
14 seen many of those facilities and systems have one of the
15 most beautiful policy manuals that you ever want to see
16 as well as training curriculum lesson plans. It is
17 immaterial to me.

18 What I am looking for is when that policy, rule,
19 regulation, post order, is transformed into the behavior
20 of correctional staff. That's when you have good
21 training.

22 It is not what is in the policy manual. It is not
23 what is written down. It is how you conduct yourself and
24 the behavior you conduct yourself on duty.

25 Q Let's see. You were also asked whether you had

1 been -- whether you had occupied a position of I think
2 her quote is trainer or intake. Do you recall that
3 question from defense counsel?

4 A Yes, I do.

5 Q Okay. And do you recall your response is something
6 along the lines of that was never a strict position that
7 you held; is that accurate?

8 A That was never a classification that I held. That
9 is correct.

10 Q But yet as a part of your experience and your work
11 in confinement facilities is it safe to say that you
12 trained a couple of officers in your day?

13 A To say the least.

14 Q Okay.

15 A And not only that, took responsibility for that
16 training. The buck stops with me.

17 Q And a lot of your credibility was attacked by
18 defense counsel alleging that you are a hired gun in this
19 case.

20 I want to ask you something. Did this law firm ever
21 hire you to work on a case for them?

22 MS. GANES: Objection, Your Honor. Outside of the
23 scope.

24 THE COURT: Overruled.

25 Q Did this law firm, the Hood Law Firm, ever hired you

1 to work on a case for them?

2 A Yes, I remember working with Mr. Joyce.

3 Q Thank you.

4 THE COURT: All right. Any objection to the
5 witness being excused, from the plaintiff?

6 MR. BOLES: None, Your Honor. Thank you.

7 THE COURT: From the defense?

8 MS. GANES: No objection, Your Honor. Thank you.

9 THE COURT: Sir, you are excused.

10 You are welcome.

11 THE WITNESS: Thank you, Your Honor.

12 THE COURT: You are welcome, sir.

13 THE WITNESS: And have a good day now.

14 THE COURT: You do too.

15 THE WITNESS: Bye, bye.

16 THE COURT: Good to see you.

17 THE WITNESS: I am giving the deposition back to the
18 clerk.

19 THE COURT: That is fine. Thank you, sir. And have
20 a good day now.

21 THE COURT: You do too.

22 (WHEREUPON, deposition returned to the court reporter.)

23 THE COURT: Madam forelady, ladies and gentlemen, we
24 are going to take advantage of this break to take a brief
25 restroom break. During the break please do not discuss

1 the case, and please leave your notepads in your seats.
2 We will be out for about ten minutes. And you are to go
3 with the bailiffs, please.

4 (WHEREUPON, jury out 11/14/16, 2:59 a.m.)

5 THE COURT: Okay. Who is the plaintiff's next
6 witness going to be?

7 MR. BOLES: Your Honor, we are going to call Derrik
8 Weddle. And we will be done with him before 5:00. And
9 our last witness in this would be Ms. Beth Weddle, the
10 plaintiff. I anticipate if we call her today we may be
11 here for a little while. I just want to bring that to
12 your attention in case ---

13 THE COURT: Well, I will take it up -- I will call
14 it as I see it.

15 MR. BOLES: Yes, ma'am. Also just bearing in mind
16 our deposition this evening with the doctor ---

17 THE COURT: What time does it start?

18 MS. GANES: 6:30. And it is at Long Point Road.

19 (WHEREUPON, break was had for scheduling discussions.)

20 (WHEREUPON, break was had 11/14/16, 2:59 p.m.)

21 (WHEREUPON, resumed 11/14/16, 3:18 p.m.)

22 THE CLERK: Please state your full name and spell
23 your last name.

24 THE WITNESS: My full name is Derrik, D-E-R-R-I-K,
25 Lauren Weddle. W-E-D-D-L-E.

1 THE COURT: You may proceed.

2 MR. BOLES: Thank you, Your Honor.

3 THE COURT: You are welcome.

4 **DIRECT EXAMINATION BY MR. BOLES OF DERRIK WEDDLE:**

5 Q Mr. Weddle, this is probably an obvious question;
6 but what is your relationship to Ms. Weddle?

7 A I am Ms. Weddle's husband.

8 Q All right. Just for a little bit of background for
9 the jury, tell us about yourself. For instance, where
10 did you grow up?

11 A Well, I was born in Washington DC. I moved down
12 here when I was eight months old. I lived on Wadmalaw
13 and Johns Island. And that is basically where I have
14 been at most of my life.

15 Q Did you go to high school out there?

16 A Yes, St. Johns High School.

17 Q Okay. Did you go to college?

18 A I went to Palmer Business College in Charleston.

19 Q Okay. After college what did you do?

20 A Well, after that I had a friend who opened up an
21 automobile dealership and he asked me to come to Beaufort
22 to be his finance and insurance manager. And that is
23 where I went, to Beaufort.

24 Q And is that basically what you did over the length
25 of your career?

1 A Approximately 30 years. I have been in management
2 in the automobile industry for about 30 years.

3 Q Okay. And tell us about how you met your wife.

4 A Let me think. It has been --- my sister, Betty
5 Black, was the assistant principal at Hanahan High
6 School. And my wife knew Betty. And I think basically
7 my sister introduced us.

8 Q Okay. And it has been fireworks ever since?

9 A Pardon me?

10 Q And it has been fireworks ever since?

11 A Oh, yeah. Forty-one years.

12 Q That's great. Okay. Tell us a little bit about --
13 let's ignore the date that we are all here about, okay,
14 the Detention Center date. Let's go back before that
15 date.

16 Tell us about what kind of lifestyle your wife would
17 live before then?

18 A Well, we both have been very active. Always been
19 active.

20 Q What kind of stuff did y'all enjoy doing together?

21 A Well, we boated. Did a lot of fishing. We camped
22 out a lot in the mountains and did some traveling and
23 went to plays. Whatever we -- basically whatever we
24 wanted to do for enjoyment we tried to do.

25 Q And how about gardening or landscaping and Ms.

1 Weddle; tell us about that.

2 A That's more in her department. She is an avid
3 landscaper and gardener. She -- she is very hands on.
4 She -- before the incident she -- she was up in the
5 morning and worked our yard and the garden and ---

6 Q And in addition to y'all's yard and gardening did
7 she exercise this passion anywhere else?

8 A Yes, she volunteered for the Charleston City Police
9 Department and worked in Hampton Park and also at the
10 horse stables.

11 Q Okay.

12 A And also she was a -- she volunteered with Burns
13 Elementary teaching children about the importance of
14 plants and how to grow them and showing the other side of
15 where the food starts.

16 Q Okay. Now are you still involved in the business
17 you were telling us about, the financing car sales?

18 A No.

19 Q What do y'all do for money now?

20 A Well, we -- we have -- I am on Social Security. And
21 we have two rental houses that keep us busy.

22 Q Okay. And again let's ignore the Detention Center
23 incident and talk about before your wife was taken to the
24 Detention Center. What was her role in managing those
25 rental properties?

1 A Manage me first of all. I'd get my list of what
2 needs to be done. She is very good at coordination and
3 planning out what needs to be done in order to get the
4 house ready for the next occupant. And I basically just
5 follow her command. And she knew what to do, and I did
6 it.

7 Q And did she have any hands-on tasks herself with
8 managing these properties?

9 A Absolutely. She did all of the horticultural, the
10 yard. She interviewed all of the prospective tenants,
11 did the leases, communicated with them. So she played a
12 very important role in our rental business.

13 Q Okay. Now let's talk the date of the incident.
14 Tell us about -- let's just start at the beginning of
15 your day on that day. Tell us about the first thing you
16 recall.

17 A Well, the first thing I recall is some really hard
18 knocking at our front door at about eight o'clock in the
19 morning. It wasn't just a knock. It was a bamming.

20 And so I went -- from upstairs I went downstairs and
21 opened the door. There were a couple of police from the
22 North Charleston Police Department there.

23 Said that they were there -- North Charleston was
24 there to -- I don't remember his exact words, but to take
25 out some flora in the front yard between the road and our

1 house.

2 Q And did they?

3 A Yes, absolutely.

4 Q Okay. And tell me what happened next.

5 A Well, at that point by the time I finished talking
6 with them North Charleston came in with a backhoe, a
7 couple of large dump trucks. Some employee sedans were
8 there. North Charleston.

9 Q And are we talking about trimming problematic tree
10 branches that are near power lines, or what is it they
11 are ---

12 A No, they ---

13 Q --- you suppose that they are taking out?

14 A They were going to take out everything in their --
15 in the right of way which is approximately ten feet or
16 eight feet. I am not sure.

17 Q And what was in that right of way?

18 A Plants, shrubs, trees.

19 Q And those were things that Ms. Weddle had
20 deliberately put there?

21 A Oh, yes. Yes.

22 Q Things that she was proud of being there in her
23 yard?

24 A Oh, yes.

25 Q Okay. So you had just said that you had a bam on

1 the door, they start removing the landscaping. It is my
2 understanding law enforcement showed up at some point.

3 Is that accurate?

4 A Yes.

5 Q Okay. Tell us about that.

6 A Well, other -- they first greeted us at the door at
7 eight o'clock in the morning. And then they weren't
8 there all day. But they came back a couple of times and
9 basically talked to my wife. I am not quite privy to
10 their conversation.

11 Q Sure. And you don't have to be. While this
12 landscaping removal is going on were y'all trying to stop
13 it?

14 A Yes.

15 Q Okay. Tell us about your efforts to try to stop it
16 from happening?

17 A Well, my wife had made several phone calls to --
18 to -- to the City of North Charleston, to the City of
19 North Charleston attorney. Whoever she can talk with to
20 tell them -- to try to get them to cease and desist.

21 Q Did it work?

22 A No, it did not.

23 Q Okay. And now we are all here because at some point
24 Ms. Weddle wound up at the Detention Center. So tell
25 us -- how did that happen?

1 A Well, my wife asked a lot of questions. That is
2 just her nature. And she wanted to know why they were
3 going to take out a certain Palmetto tree that was right
4 basically on the line.

5 And she was not being obnoxious or anything but just
6 asking questions. Since they stripped our whole front
7 yard there was no reason for them to take the Palmetto
8 tree.

9 And my wife had told them that we could have
10 somebody move it in the morning. But we couldn't
11 physically move it. We'd have a company come in and move
12 it back, you know.

13 But they didn't accept that. They just yanked it
14 out of the ground and threw it on -- on our ground. They
15 did not load it in the truck like they did everything
16 else.

17 Q Okay. And then did law enforcement arrive again at
18 some point after that; I mean how did she wind up ---

19 A I think the third time they came is when they
20 arrested my wife.

21 Q Okay. And what was she doing when the police got
22 there?

23 A Sitting on the step.

24 Q Okay.

25 A That was all.

1 Q And then what did you do when they arrested Ms.
2 Weddle?

3 A Well, I asked them -- I asked them why are they
4 arresting her. And North Charleston Police basically
5 told me to stay out of it and don't ask any questions or
6 they will arrest me.

7 Q So did you stop asking questions?

8 A Pardon me, sir?

9 Q Did you stop asking questions at that point?

10 A I'm sorry, I didn't hear you.

11 Q What happened next after ---

12 A They handcuffed my wife and they took her to the
13 cruiser and put her in the back and took her away.

14 Q And what did you do next?

15 A Well, I secured the house. And then I made a phone
16 call to the Detention Center to see if I could see my
17 wife. And they said no.

18 Q And when was the next time you saw your wife?

19 A The next time I saw my wife was at the bond
20 hearing ---

21 Q Okay.

22 A --- in front of one of the judges. I believe his
23 name is Bowers. I am not sure.

24 Q And when is the next time you saw your wife in
25 person?

1 A After that?

2 Q Yes, sir.

3 A That is when my son and I went to pick her up at the

4 jail.

5 Q Okay.

6 A She was supposed to be released.

7 Q Okay. Describe for the jury what you saw when your

8 wife was released from the jail.

9 A Well, I couldn't hardly recognize her. She was very

10 tattered. Her hair disheveled. Clothes disheveled. She

11 was visibly upset. I have never seen her in that

12 condition before. Because she has always been very prim

13 and proper. And I just couldn't see that.

14 Q You said that your son was with you ---

15 A Yes.

16 Q --- when she was released? What does your son do

17 for a living?

18 A He is a pharmacy doctor.

19 Q Okay. Did he take a look at your wife?

20 A Yes, he saw her in the condition ---

21 THE COURT: Objection.

22 A --- that I saw her in, of course. And ...

23 THE COURT: Basis?

24 MR. JOYCE: Hearsay.

25 THE COURT: He hasn't at this point elicited what

1 someone else said.

2 But, sir, be careful not to say what anyone else
3 said to you.

4 THE WITNESS: Yes, sir.

5 THE COURT: You can only talk about what you
6 physically observed yourself.

7 THE WITNESS: Yes, ma'am.

8 THE COURT: You may continue.

9 Q So you were saying that your son had preliminarily
10 examined your wife?

11 A Yeah, he was there and saw her in this condition
12 that I saw her. And we tried to make a complaint.

13 Q All right. You tried to make a complaint to the
14 Detention Center?

15 A Yes, sir.

16 Q And what happened there?

17 A Well, they basically wouldn't take any complaint.
18 And at that point they -- they brought out -- there
19 were -- there were four SWAT team type men that came out
20 with vests and helmets and rifles and stood behind a
21 gentleman that was talking to us. It was very very
22 intimidating. All they wanted us to do was to leave.

23 Q So did you leave?

24 A Eventually, yes, sir, we did.

25 Q Did you file a complaint at all with anyone?

1 A Well, we went to the North Charleston Police
2 Department. And they took photographs of all of the
3 bruising on my wife. And I think it was then a couple of
4 days later we filed a complaint. I am not sure of the
5 time wise.

6 Q Okay.

7 A With the Sheriff's Department. Internal Affairs I
8 believe.

9 Q Okay. Now we spent the earlier part of your
10 testimony describing for the jury Ms. Weddle's lifestyle
11 before this day when she went to the Detention Center.
12 Now tell the jury about your wife's lifestyle after this
13 date.

14 A My wife is disabled. Her shoulder, her arm, she
15 couldn't move it. She couldn't lift it. We have to prop
16 her up on pillows in our bed. And I -- I decided to
17 sleep in another room so that she would be comfortable.
18 But at that point she was not able to do much of
19 anything.

20 Q Was she able to enjoy the landscaping and gardening
21 she had been doing before?

22 A No -- no. No.

23 Q You said y'all had been boating and fishing. Was
24 she able to participate ---

25 A That was out of the picture.

1 Q --- in any of that?

2 A That was out -- no.

3 Q Was she able to drive herself around?

4 A No.

5 Q And how -- roughly how long did this -- did this
6 condition last?

7 A This went for about four years.

8 Q Okay. Did she go to doctors and try to get help?

9 A Oh, yes. She went to doctors. She went to therapy.
10 She went to acupuncture. She went to whatever that she
11 thought might be some relief for her. But none of that
12 really worked.

13 Q Did she ever find relief?

14 A Yes, she did. She found a doctor who operated on
15 her shoulder and part of her arm. And after that she was
16 back up and running so to say. Slowly.

17 But she was feeling much better, and she had
18 movement. And her whole outlook in life looked better.

19 Q As so as we are here today has it been your
20 observations that Mrs. Weddle has more or less regained
21 her former self, her former life?

22 A To a certain extent, yes. She is more active than
23 she was in those four years. And her -- she takes care
24 of herself real well. And, well, it is just her
25 attitude, her whole positive attitude, changed quite a

1 bit after her operation and she saw that she was
2 functioning better and feeling better and such.

3 And she is able to do things that she wasn't able to
4 do during those four years. That was a long four years.

5 Q So based on your observations the surgery made her
6 well again?

7 A Yes.

8 Q Okay. And based on your observations her visit to
9 the Detention Center is the source of her harm?

10 A Absolutely. Absolutely.

11 Q Those are all the questions I have for you right
12 now. Please answer any that opposing counsel might have.

13 A Yes, sir.

14 THE COURT: Any questions for the witness?

15 **CROSS-EXAMINATION BY MR. JOYCE OF DERRIK WEDDLE:**

16 Q Mr. Weddle, I will be very brief. We spent about
17 15 or 20 minutes talking about the incident out at your
18 house with the Public Works Department.

19 A Can you speak up, please, Mr. Joyce.

20 Q Sure. We spent about 15, 20 minutes talking about
21 the incident at your house with the Public Works
22 Department, the City of North Charleston.

23 A Yes, sir.

24 Q All right. That has nothing to do with Charleston
25 County Sheriff's Office or Officer Gladden, does it?

1 A No.

2 Q Mr. Weddle, you are not a medical doctor; are you?

3 A I am not.

4 Q You are not able to offer any opinion as to medical
5 diagnosis or causation of an injury, are you?

6 A No.

7 MR. JOYCE: No further questions.

8 THE COURT: Any redirect?

9 MR. BOLES: None, Your Honor. Thank you.

10 THE COURT: Sir, you may step down.

11 THE COURT: Would counsel approach for me, please.

12 MR. BOLES: Yes, ma'am.

13 (WHEREUPON, bench conference was had 11/14/16, 3:38 p.m.)

14 THE COURT: There are some witnesses whose testimony
15 who need to be here in terms of coordinating their
16 schedules, so as a result we are going to take our
17 evening recess.

18 During this break please do not discuss the case
19 among yourselves or with anyone else. Please leave your
20 notepads in your seats. Please don't do any independent
21 research on the internet or make any comments regarding
22 your status on any social networking sites.

23 When you return in the morning at 9:30 you will come
24 directly to your jury room. And, again, please don't
25 have any contact with anyone in or about the courthouse.

1 As you return I would not want an innocent conversation
2 misinterpreted.

3 And actually if you would stack your pads up on this
4 banister as you leave so we can secure them for the
5 recess that would be helpful to us. I hope that y'all
6 have a great evening. We will see you in the morning at
7 9:30.

8 (WHEREUPON, jury exits 11/14/16, 3:42 p.m.)

9 THE COURT: Okay. Is there anything before we
10 adjourn for the evening, from the plaintiff?

11 MR. BOLES: None, Your Honor.

12 THE COURT: From the defense?

13 MS. GANES: None, Your Honor.

14 THE COURT: All right. Y'all have a good evening.
15 I will see you in the morning at 9:30.

16 (WHEREUPON, adjourn for the evening 11/14/16, 3:43 p.m.)

17 (WHEREUPON, resume 11/15/16, 10:02 a.m.)

18 THE COURT: Is the plaintiff ready to proceed?

19 MR. BOLES: Yes, Your Honor.

20 THE COURT: Is the defense ready to proceed?

21 MS. GANES: Yes, Your Honor.

22 THE COURT: We appreciate you all indulging me as I
23 took care of those minor settlements; but we were missing
24 a juror anyway, so we didn't really lose any time.

25 Apparently it is flooded again this morning and

1 there was some bad traffic on the interstate. So I
2 assume that accounts for her delay or his delay. I don't
3 know which one it was.

4 THE CLERK: It was -- yes, ma'am, a lady.

5 THE COURT: Okay. For her delay.

6 All right, who ---

7 (WHEREUPON, break was had for the court to handle an
8 unrelated case.)

9 MR. BOLES: Linda Beth Weddle.

10 THE COURT: Who is your next witness?

11 MR. BOLES: Linda Beth Weddle?

12 THE COURT: Bring the jury.

13 MS. GANES: There is a motion to amend the
14 complaint ---

15 THE COURT: Hold -- hold -- hold it for me.

16 I need you to close that door.

17 THE COURT: I noticed that on Monday.

18 MS. GANES: I apologize.

19 THE COURT: What happened was -- what happened was
20 the motion was filed with the amended complaint attached
21 but the amended complaint for whatever reason never got
22 filed. And I don't know whether there was a hearing or
23 not. I don't have a clue.

24 MR. BOLES: There was not.

25 THE COURT: Or whether y'all consented to it ---

1 MS. GANES: We consented.

2 MR. BOLES: Yes.

3 THE COURT: So you should have then gotten your
4 amended answer filed and then -- I mean your amended
5 complaint filed. And then they should have filed I guess
6 an answer to your amended complaint.

7 Because their original complaint answer was filed in
8 federal court. But after it was remanded that still was
9 their answer. So I noticed that on Monday. Well,
10 actually I noticed it Friday that the amended -- not
11 Friday. We were off. Thursday. That the amended
12 complaint had not been filed. It was simply attached to
13 your motion. So you probably need to get that done
14 today.

15 MR. BOLES: Okay.

16 THE COURT: And then they will likewise file an
17 answer to your amended complaint.

18 MR. BOLES: Yes, ma'am.

19 THE COURT: Okay.

20 Tell Mr. Chris he can bring in the jury. Thank
21 you, ma'am.

22 (WHEREUPON, jury enters 11/15/16, 10:07 a.m.)

23 THE BAILIFF: All jurors are present, Your Honor.

24 THE COURT: Thank you. Good morning everyone.

25 JURY PANEL: Good morning (in unison).

1 THE COURT: I hope everyone had a good morning. I
2 understand there were some challenges getting in with
3 traffic and water and -- I was watching the Weather
4 Channel last night and they said we are experiencing a
5 super moon which means -- look, I have got some weather
6 geeks on the jury. They are shaking their heads.

7 That because of the super moon we should expect like
8 inordinately high tides. So -- so I guess we will just
9 have to all figure a way to deal with it. So I am just
10 happy everybody arrived safely. We will now resume the
11 testimony. I would ask that you give the attorneys your
12 attention.

13 You may proceed, Mr. Boles.

14 MR. BOLES: Thank you, Your Honor.

15 THE COURT: You are welcome.

16 MR. BOLES: The plaintiff calls Ms. Linda Beth
17 Weddle.

18 THE COURT: Ma'am, if you would come to the stand to
19 please be sworn.

20 THE CLERK: Please state your full name and spell
21 your last name, please.

22 THE WITNESS: Linda Beth Weddle, W-E-D-D-L-E.

23 THE COURT: You may proceed, Mr. Boles.

24 MR. BOLES: Thank you, Your Honor.

25 THE COURT: You are welcome.

1 DIRECT EXAMINATION BY MR. BOLES OF LINDA WEDDLE:

2 Q Ms. Weddle, good morning.

3 A Good morning.

4 Q Why don't we warm up a little bit and tell the jury
5 a little bit about yourself. For instance, where were
6 you born?

7 A I was born in Long Beach, California. And at the
8 age of 18 I moved to a farm about a hundred miles from
9 here called Pan of Pamplico.

10 THE COURT: Could you turn up the volume.

11 A My family was in agriculture.

12 THE COURT: Actually, what -- if she could -- Mr.
13 Boles may need that.

14 Ma'am, I just need you to pull closer.

15 THE WITNESS: I'm sorry.

16 THE COURT: And I need you to speak directly into
17 the microphone. You are a little soft spoken and we are
18 having difficulty hearing you.

19 A My family was in horticulture, agriculture. We grew
20 vegetables. We tried to be as self-sufficient as we
21 could. We were out in the boon docks.

22 And my grandfather was pretty much organic in his
23 gardening techniques. We raised cows. We had pigs.
24 Just what farm life would be. I lived across the street
25 from my grandparents and their former home.

1 My grandfather had a small country store across from
2 this home next to where I lived. And we sold vegetables
3 to the people. And we churned butter, canned vegetables.

4 I worked in the garden with my grandfather. I
5 collected eggs. We sold our eggs also. We even had
6 worms. We raised crickets and worms, and we sold those
7 to the fishermen. There's a lot of lakes around.

8 We had a grape vineyard where my grandfather sold
9 the grapes. Every morning was heaven living in the farm,
10 being around all of my family.

11 And I learned to be a good steward to the land and
12 build up soil and the importance of the environment from
13 living there.

14 We had to live on the farm for one reason because I
15 had a down syndrome sister and we needed help. And then
16 at one point we went -- my father was in the Navy. We
17 moved to Mayport, Florida; and I continued with the
18 garden. And I was able to have many tropical fruit
19 trees. The gardening was good in Mayport.

20 We came and moved back to Charleston in 1958. My
21 father was transferred to the Navy Base here. I always
22 had rabbits. Always gardened where I lived in Hanahan.

23 I was very happy because I was able to grow things
24 and nurture things and share them with my neighbors and
25 provide for my family. There were five of us.

1 I would travel back every chance I got. During the
2 summers I lived back with my grandparents so that I could
3 be on the farm and be into serious farming and growing
4 vegetables and harvesting and canning the vegetables and
5 freezing with my grandmother. I developed such passion
6 for what I did.

7 Q Ms. Weddle, is that a passion that you carried over
8 to your home in North Charleston?

9 A Yes.

10 Q And also -- let's put your home on pause for a
11 second. Tell the jury about some of the other area in
12 the Greater Charleston area where you -- where you got to
13 share this passion, the landscaping.

14 A Well, first of all I had to pass an inspection with
15 the City of Charleston police so that I could work at the
16 horse stables. I loved manure. And I needed it for my
17 garden and families gardens.

18 So I was able to go and clean the stables of the
19 horse manure and put it into my truck. And I was able to
20 wash the horses, which I enjoyed.

21 And at Hampton Park they let me help in the garden
22 as a volunteer trimming the shrubbery, the beautiful old
23 Camellias. And I got to weed and prepare beds for the
24 planting.

25 We had to pull the annuals out because we steadily

1 had different flowers for the City and for Hampton Park
2 that we would put back into the beds. I didn't put the
3 plants in the beds. It was another group. I only
4 removed plants and weeded the garden and trimmed the
5 shrub.

6 The Saturday before my incident where I got hurt I
7 was trimming those 250-year-old Camellias that had become
8 overgrown and they weren't as beautiful, the blooming, as
9 they could be.

10 So within sight there was vines growing up through
11 them. So we trimmed the vines from up underneath. And
12 we limbed then up. And they from being a shrub that was
13 not blooming so beautiful we turned them into a tree.
14 And they are now blooming beautifully. And it is a
15 different look than what was there before.

16 Q And so you had just mentioned -- you brought us up
17 to the Saturday before the incident that we will get into
18 here in a little bit. But up until that point you said
19 you loved manure, which is a very interesting passion to
20 have. But it is important -- it is an important topic.
21 And I want you to explain a little bit about what is it
22 like taking care of a horse stable. What kind of
23 physical work are you doing taking care of the horse
24 stable and your love for manure?

25 A You bring horses out and you clean up their manure.

1 Q And you are making a gesture like this (motioning.)

2 A Yeah.

3 Q Like you are shoveling.

4 A You shovel it.

5 Q Okay.

6 A Flat -- big, flat shovels. And after you have the
7 stable cleaned out and you -- and I had put the manure in
8 my truck, what will be held.

9 Q And you would -- you would manually shovel it into
10 the back of the truck?

11 A Oh, yeah.

12 Q Okay.

13 A Yeah. Then you go back in and you put the straw
14 down. And if the horse needs to be washed or you just
15 want to wash the horse, you wash the horse.

16 Q And also you had said you were weeding lots of the
17 beds in Hampton Park. And again this is probably very
18 obvious to you, but tell me about what is the -- what
19 does it look like; what you are physically doing when you
20 are weeding these beds in Hampton Park?

21 A Well, I like hands on. I don't like tools. So I
22 just -- I don't even wear gloves. I like to feel the
23 dirt. So I just go in and I clean the weeds. I get it
24 as deep as I can. If I find the weed is too far embedded
25 or difficult to remove then I do use a spade.

1 Why I am doing that, if I see one of the shrubs that
2 needs a little soil or so forth, I put the soil around
3 it. And I trim the perennials and deadhead the flowers
4 so that it makes the bush -- flowerbed are more flowers.

5 And at Burns Elementary I was teaching the children
6 about manure and where their food comes from and how to
7 grow plants. But on the outside of the school I would
8 tidy up and weed. And we would put straw to make things
9 look nice.

10 Q Ms. Weddle, how often -- again, let's ignore the
11 date of the incident. But before then how often would
12 you go to Hampton Park and do these activities? Like
13 once a week, once a month?

14 A Oh, yeah, Hampton Park -- well, let me straighten
15 that out. I only did one or the other on Saturday.

16 Q Okay.

17 A Either I would be working in Hampton Park or I would
18 be working in the barn. Then I had a friend who I
19 employed to come join us. And when she would come we
20 would go to the stable an extra day. This wasn't all the
21 time that she was able to come. She works nights. So
22 she would be tired during the day. But when she could we
23 would go and work in the barn getting the manure out and
24 putting the hay down.

25 And we didn't just wash the horses. We had to take

1 them out. Because they don't want to stay in those
2 stables all day. And there is little sections where the
3 horses stay. So we would lead them out there and just
4 visit them.

5 Q And when you would do these things did you drive
6 yourself to and from ---

7 A Always.

8 Q --- these activities?

9 A Yeah.

10 Q Okay.

11 A I had to take my truck.

12 Q You had to drive your truck because you had to put
13 the manure in the back of it, right?

14 A Yes.

15 Q Okay. And putting gardening aside for a second tell
16 us a little bit about any of the other activities that
17 you used to do on a regular basis before the incident at
18 the Detention Center. Were you into anything else at
19 this point?

20 A I rotor tilled my garden myself. And I have an
21 elderly neighbor across the street. I rotor tilled his
22 for him. And I went over to my brother-in-law and
23 sister-in-law's house on Johns Island. They are much
24 older than myself, and they are not able to prepare their
25 garden. They were always gardeners. That is one of the

1 attractions of getting my husband; I got them.

2 But they -- I had to prepare this soil. And then
3 when the plants were growing, their vegetables, I would
4 go over and I would weed them and take the manure over
5 and put it around the vegetables.

6 Q Ms. Weddle, also yesterday your husband told us
7 about some rental properties y'all manage. Would you
8 tell us a little bit about what your role is in managing
9 those properties?

10 A Well, from working and volunteering -- I volunteer
11 at other places other than Hampton Park. I volunteered
12 at one point at Magnolia.

13 So I learned how to -- I don't like to buy plants
14 and shrubs. And so since they are expensive I root
15 veget- -- I root the shrubbery so that I can spread it
16 around and give it around.

17 And I had a lot of shrubbery and I wanted my rental
18 property to look pretty when my tenants came so they
19 would feel like it was a home. So I landscaped deeply
20 all the perimeter of the property and the front of the
21 property so they would be proud when people came up that
22 it looked like a home.

23 And I did all of the -- I didn't want to put that
24 burden on my tenant what I had created, the garden; so I
25 always went over and trimmed the shrubs, put the straw up

1 underneath them. And I would even water for them.

2 And I took care of the lawn at both of my
3 properties. And ---

4 Q Did you do any painting at the properties?

5 A Yes. When necessary ---

6 Q Okay.

7 A --- I did. And my husband and I wanted to put down
8 tile flooring. So we did that. Anything that I could do
9 like go up on the roof, clean out the rain diverters, and
10 bleach the home to make it pretty I did. Just I like to
11 do everything. I am a hands-on self-sufficient as much
12 as I can do, I do.

13 Q And as we said earlier, you brought that enthusiasm
14 and you brought that passion to your own yard ---

15 A Yes.

16 Q --- in North Charleston?

17 A Yes.

18 Q And at some point did your landscaping in your home
19 in North Charleston become the point of a disagreement
20 between you and the City of North Charleston?

21 A Yes.

22 Q Okay. And ---

23 A My neighbor and I had a difference of opinion on
24 landscaping. I like to have fruits and vegetables and
25 herbs and not grass. I like for my property to be

1 beautiful and productive and living. It attracts birds
2 and squirrels and butterflies. Lot of butterflies and
3 hummingbirds. And bees. I love bees.

4 And my neighbor wasn't happy living next to farmer
5 and the dell.

6 Q And so at some point did the City of North
7 Charleston send a crew to cut down some of your
8 landscaping and remove some of it?

9 A Yes, they did.

10 Q Okay. And your husband also had talked yesterday
11 about this event. And can you very briefly describe
12 where you -- did you try to keep them from doing this,
13 from cutting down your landscaping?

14 A Yes, I called Richard Lindenfelder who had assured
15 me that there would be no disruption in my front buffer
16 zone.

17 Q And did your efforts stop them from cutting down the
18 vegetation in your front yard?

19 A Well, Mr. Lindenfelder wasn't in that day. And
20 there was no code that was written to manage landscaping
21 in the right way. And he was -- there was many articles
22 in the paper. And he was working to get counsel to write
23 a code that everybody would be treated equally, fair, in
24 the right of way as far as what was allowed and what
25 wasn't allowed.

1 So I made calls since he wasn't in to -- I had
2 spoken in front of council to tell them my mission and
3 how my neighbors liked my front landscaping and the
4 children come into my yard.

5 And I talked to them. And I asked them to hurry up
6 on this ordinance and to have -- I asked them -- I
7 invited them to come and see there was no problem and no
8 safety.

9 And the -- Attorney Linderfelder told me after the
10 May -- the counsel that I didn't have to worry about
11 removing my shrub, that if it needed to be trimmed it was
12 only a seven-foot section, that the crew would do it from
13 Public Works.

14 And I said I can do it myself if you determine that
15 it is unsafe. And ---

16 Q So did the crew cut it out anyway?

17 A Well, I made other calls to Public Works to try to
18 speak with someone. But no one was in. I called the
19 omnibus man.

20 Q But was none of that was working to stop them from
21 cutting the landscaping?

22 A Well, I even called to speak with Mayor Summey to
23 see if they had made a decision. And I thought that
24 Public Works had jumped -- jumped the gun. And so I
25 wanted to get clarification if they had made a decision

1 without me knowing it and if they were in communication
2 with Public Works.

3 Q Did any of that work ---

4 A No.

5 Q --- to stop them?

6 A No. None of it worked.

7 Q And then it is my understanding that law enforcement
8 shows up to your house on that day.

9 A Well ---

10 Q Is that accurate?

11 A Yes. I was upstairs. And it was 8:00 in the
12 morning. And there was banging on the front door. So I
13 ran down to find out what was wrong.

14 And two policemen were on the front porch telling me
15 that I was not allowed to go into a roped off area that
16 was going to have trees removed and shrubbery.

17 And I explained to the police that there was only
18 seven feet of nandina that was at issue and that I was
19 going to plant the shrubbery at Burns Elementary and that
20 I would go in and remove it. And they said there are
21 crews here to do that and if I went into that section
22 that I would get arrested.

23 So I saw all of the heavy trucks, the dump trucks,
24 the dumpsters -- the one dumpster. And I went to speak
25 with Michael Hardy who is the engineer at Public Works.

1 And I said, Mr. Hardy, you know, I sent a letter to Mr.
2 Hutto, an email, when they were marking the lines. I
3 said it was Friday night, that I didn't know why the
4 lines in the front were being marked.

5 And Mr. Hutto said he wasn't aware of that and that
6 he had given me 14 days to remove the shrubbery and he
7 had gotten an email from me that -- Linderfelder and
8 about me meeting at the council.

9 And this was his reply: He said that if I needed
10 assistance digging up any of the shrubbery by his crew
11 that they could do that, that they could help me, but
12 they couldn't replant it on my property.

13 So I sent out another email after that one saying
14 that he needed to be in contact with Attorney
15 Linderfelder.

16 And so I wrote -- I spent that day -- that night
17 writing up a letter for all of the departments that I had
18 spoken to and the assurances to scan it in and send it
19 Monday morning to Mr. Hutto and to Mr. Lindenfelder --
20 Attorney Lindenfelder.

21 But that didn't happen.. Because that happened on
22 Friday. I wasn't able to get to the scanner and send it
23 to North Charleston because they were there Monday
24 morning.

25 Q And so at some point law enforcement came back and

1 arrested you; is that accurate?

2 A Yes.

3 Q And where were you when they showed up and arrested
4 you; on your property where were you?

5 A I was sitting on my front porch with all of the
6 paperwork that I had told Sergeant Johnson that I had
7 that I wanted to go to Internal Affairs and to Chief
8 Zimwah (ph) and show him that they weren't supposed to be
9 removing anything -- anything but shrubbery. No trees.

10 And I -- and I had that letter that I had prepared.
11 And that Sergeant Johnson said that -- and I told
12 Sergeant Johnson. I said I went to see Judge Bowers
13 about the issue and Judge Bowers said that code could not
14 force me to remove my shrubbery. I had a permit and ...

15 Q And the police arrested ---

16 A But I just had to keep them trimmed. And she said
17 you are just wanting to go back and start all over again
18 with the judge, and we are not going to do that; we are
19 here today to remove the shrubbery and the trees in the
20 right of way.

21 Q And so at that point you were placed under arrest?

22 A No, when she came -- I called the police because it
23 said shrubbery. And the tree didn't have termites that
24 they said had termites. And the palm tree was a foot and
25 a half off of the line.

1 And I called over to Forest Hills Nursery, and they
2 said they couldn't come right then because they didn't
3 have the proper boom truck to pull it up so it could be
4 replanted.

5 So I told Mr. Hardy, head of Public Works that was
6 there that day, that they could come in the morning,
7 could he wait and work around it. And the reply was, no,
8 they could not.

9 Q Okay. And did North Charleston police officers
10 arrest you on that day?

11 A Yes. I had all of the paperwork sitting on the
12 porch for them to read so that we could go to North
13 Charleston and straightened it out.

14 Q And instead they arrested you and took you to jail?

15 A Yes. They charged me with unreasonable conduct.

16 Q Okay.

17 MR. BOLES: At this time, Your Honor, I want to
18 introduce Plaintiff's Exhibit 1. It is the videos from
19 the ---

20 THE COURT: You need to lay the appropriate
21 foundation.

22 MR. BOLES: Yes, ma'am, Your Honor.

23 THE COURT: And you have to follow the rules.

24 MR. BOLES: Yes, ma'am.

25 Q Ms. Weddle, after they arrested you did they take

1 you to the Detention Center?

2 A They did.

3 Q Okay. And were you videotaped while at the
4 Detention Center?

5 A Well, of course you can see the cameras. Yeah.

6 Q And ---

7 A Everyone.

8 Q And have you seen the videos of depicting your
9 interactions at the Detention Center?

10 A I've seen it three times.

11 Q Okay.

12 MR. BOLES: Your Honor, at this time we would ask to
13 introduce Plaintiff's Exhibit 1, the video ---

14 THE COURT: Any objection?

15 MR. BOLES: --- at the Detention Center.

16 MS. GANES: Absolutely no objection, Your Honor.

17 THE COURT: Proceed without objection.

18 MR. BOLES: Thank you.

19 (WHEREUPON, Plaintiff Exhibit Number 1, video, was marked
20 for identification but later retracted and replaced
21 by Plaintiff's Exhibit Number 2 and Plaintiff's Exhibit
22 Number 3.)

23 (WHEREUPON, discussion were had regarding equipment
24 required to play video.)

25 THE COURT: What I would suggest is that you

1 continue with other questions and we will take a break to
2 deal with that.

3 MR. BOLES: Thank you, Your Honor.

4 THE COURT: You may proceed.

5 Q Ms. Weddle, you have just said that you had been
6 taken to the Detention Center; and you have reviewed the
7 videos which we intend to introduce; is that correct?

8 A Yes.

9 Q Okay. When you were at the Detention Center were
10 you handcuffed?

11 A I was handcuffed at my home and remained in
12 handcuffs until it was time for -- for to see the lady.

13 Q Okay. While you are waiting as you arrived at the
14 Detention Center describe to the jury what happened next.

15 A Well, I was unsteady on my feet. Nervous. And I
16 felt sick. Nauseous. It was my nerves. So ---

17 Q Did you make this known to the staff?

18 A Yes, I told them that I felt like I was going throw
19 up, may I have a container in case I vomit, that I didn't
20 want to embarrass myself.

21 And I asked if I could sit in a chair so that I
22 could put my head down. I was breathing trying to calm
23 myself down. But it was not helping my sickness or my
24 unsteadiness on my feet.

25 Q So at some point did you seat yourself?

1 A I slid down a back wall. I sat down on the floor so
2 that I could lower my head. And I still didn't feel
3 good. I felt -- I wanted to calm down. It was -- I
4 don't want to embarrass myself. So I layed down on my
5 back. And I tried to calm, self soothe.

6 And they -- my throat was hurting. I felt like I
7 was going to throw up. And I didn't -- all I could think
8 about was that on the floor and the commotion it would
9 have caused and the embarrassment and humiliation.

10 Q How did you get up off of the floor?

11 A Well, I needed to be unhooked from the handcuffs.
12 Because I am an older person and I was -- felt like I was
13 going to throw up. And it would have been difficult to
14 get up with my laying on my back with my arms behind me,
15 so I asked for assistance so that I could get up.

16 Q And how -- how did you wind up from the floor back
17 on your feet?

18 A I was told -- the -- Officer Gladden went by me when
19 I was on the corner. And when she came back I heard her
20 say get up. But I knew I needed to be unhooked because
21 it would be difficult for me to get up. I was sick and
22 unsteady and didn't want anything other than for kindness
23 to help me.

24 And after time went by Officer Gladden stood over me
25 with her gloves. And I said -- that's when I said I am

1 sick; I need help; I don't want to throw up; I don't want
2 to humiliate myself.

3 And without any warning and preparing I was jerked
4 up by this area of my elbow and shoulder. And this
5 shoulder I felt Officer Gladden's hands on.

6 Immediately when I was picked up, lifted, I felt
7 pain, excruciating pain. And I was shocked. And I went
8 into denial in my mind that, well, this didn't happen,
9 this could have happened.

10 Q Let's freeze.

11 A Rewind.

12 Q Okay. Let's freeze frame right there.

13 A Yeah.

14 Q Okay. You said you had just been lifted up by your
15 elbow?

16 A Yeah.

17 Q Okay. Before that lifting by your elbow you were
18 shuffling manure; you were ---

19 MS. GANES: I object to the leading, Your Honor.

20 THE COURT: Sustain. Leading.

21 MR. BOLES: Okay.

22 Q Is it your testimony that that event is what caused
23 your injury we are here about today?

24 A Yes.

25 MS. GANES: Object. Your Honor.

1 THE COURT: Basis of the objection?

2 MS. GANES: It is improper expert opinion.

3 THE COURT: Pardon me?

4 MS. GANES: It is an improper expert opinion.

5 THE COURT: She can have her own opinion as to how
6 her injury occurred. Overruled.

7 MR. BOLES: Thank you, Your Honor.

8 Q So that lifting is the moment you were hurt; is that
9 accurate?

10 A Yes.

11 MS. GANES: Object to the leading.

12 THE COURT: Basis -- sustained. Leading.

13 MR. BOLES: Okay.

14 Q How long was it before you were released from jail?

15 A Twenty-nine hours.

16 Q And let's move to the release and what happened
17 after that. Who met you when you were released to pick
18 you up?

19 A Well, my husband and son told me that they were
20 there the day that I was arrested hoping to bring me
21 home. And then the next day my husband and son told me
22 that ---

23 MS. GANES: Objection. Hearsay.

24 THE COURT: Basis?

25 MS. GANES: Hearsay.

1 THE COURT: Sustained. Hearsay.

2 Ma'am, you cannot say what someone said to you.

3 A When I came ---

4 THE COURT: Only what you did as a result.

5 THE WITNESS: I'm sorry, Your Honor.

6 THE COURT: That's okay.

7 THE WITNESS: I'm sorry, everyone.

8 A When I walked out of -- I was led out by a very kind
9 guard. And I saw my husband and son. My son sat me
10 down. He had brought food for me, carrots. And he saw
11 that I was bruised.

12 MS. GANES: Objection.

13 THE COURT: Basis?

14 MS. GANES: Hearsay. And speculation.

15 THE WITNESS: I apologize.

16 THE COURT: It is actually speculation. Not
17 hearsay. She can testify as to what she rationally
18 perceived, but she can't say what she thinks he thought.

19 MR. BOLES: Of course. Of course, Your Honor.

20 THE COURT: The objection is sustained.
21 Speculation.

22 Q So Ms. Weddle, while we are in this discourse you
23 are going to explain to us what you saw. So you had just
24 brought us up to speed where your husband and son met you
25 at your release. And then what happened next? They meet

1 you in the lobby and what happened next?

2 A My son examined my shoulder.

3 MS. GANES: Objection, Your Honor.

4 THE COURT: Basis?

5 MS. GANES: I perceive hearsay about ---

6 THE COURT: She is describing what he did based on
7 her rational perception. Overruled.

8 Q Did you go -- did you go see a doctor that day?

9 A My son is a doctor.

10 Q Okay. And then -- touché. Or valid point.

11 Did you make an appointment to go see a doctor at
12 some point?

13 A My son -- yes. The next day I called to see my
14 internist, and she wasn't available. So I called to see
15 a doctor of mine, Ellington; and I make an appointment to
16 see him at his first convenient time which was on the
17 26th.

18 Q Okay. And did you meet -- strike that. Did you see
19 doctors to get treated for the injuries you have
20 described; the injury?

21 A Yes, I saw many doctors.

22 Q Okay. And did they attempt to treat your injury?

23 A They did. I was in pain management. I got
24 injections. I had physical therapy. I had deep muscle
25 massage to release myofascial pain. And trigger points.

1 And I had to have cold compresses and heat compresses. I
2 think I said that I went to physical therapy and got
3 injections.

4 Q Did any of that stuff heal you?

5 A No.

6 Q Okay. So how did you put -- how did you get beyond
7 all of that; what put an end to it?

8 A Dr. Shane Wolf, marvelous surgeon. He healed me.

9 Q And ---

10 A He performed rotary cuff surgery on me. And then I
11 had a short session of physical therapy. And then I was
12 able to function again.

13 Q Great. So a short -- well, tell us this: How long
14 was it until you had that surgery?

15 A Well, four years.

16 Q Okay. So am I hearing you correctly that for about
17 four years you were treating with various physicians?

18 MS. GANES: Objection. Leading.

19 THE COURT: Sustained. Leading.

20 MR. BOLES: Okay.

21 A I would ---

22 Q Let me ---

23 THE COURT: Ma'am, ---

24 Q --- rephrase that question.

25 THE COURT: --- you can't answer that question.

1 You need to rephrase the question.

2 Q Let me rephrase that question. So it took about
3 four years for you to get the surgery ---

4 MS. GANES: Objection. Leading.

5 THE COURT: Sustained. Leading. Rephrase.

6 Q Did the surgery fix what happened to you at the
7 Detention Center?

8 A Yes. Tell the jury a little about your -- very
9 briefly a background about surgery and what you know
10 about surgeries; have you ever had one before?

11 A Yes, in 2004 I was a third patient to be operated
12 on. There were five procedures.

13 MS. GANES: Objection. Relevance. 2004.

14 MR. BOLES: Yes, ma'am.

15 (WHEREUPON, bench conference was had.)

16 THE COURT: The objection is sustained.

17 MS. GANES: Thank you, Your Honor.

18 THE COURT: You may proceed.

19 You are welcome.

20 Relevance. Rephrase.

21 MR. BOLES: I will move on. I will move on.

22 Q Ms. Weddle, so after you had surgery on your
23 shoulder you had testified there was some physical
24 therapy period. Is that accurate?

25 A Well, ---

1 MS. GANES: Objection. Leading.

2 THE COURT: Sustained. Leading.

3 MR. BOLES: Just retract accurate.

4 Q Bring us up to speed about the physical therapy
5 after the surgery that you had.

6 A I was in too much pain to do physical therapy that
7 the first doctor had prescribed. So I had an MRI done
8 and the radiologist said I had ---

9 MS. GANES: Objection.

10 THE COURT: Sustained.

11 A --- a torn ---

12 THE COURT: Ma'am, ---

13 A --- muscle.

14 THE COURT: --- you cannot say what someone told
15 you. The objection is sustained. Hearsay.

16 A I found out I had torn muscles.

17 Q Okay. And after Dr. Wolf operated on you, now how
18 are you here today; how are you?

19 A Great. Thank you.

20 Q Okay. Are you -- have you been able to resume some
21 of the activities that you used to do before you went to
22 the Detention Center?

23 A Well, I went back to the City of Charleston so that
24 I could start my volunteering for the police again. But
25 I found out that the horse stables were closed and

1 therefore it left me with working in Hampton Park only.

2 I -- I am able to fish again. I couldn't fish. I
3 couldn't drive. I couldn't drive my boat and shrimp with
4 my husband. We did that. Every year we put shrimp in
5 our freezer.

6 I can do yoga again. I can do all of gardening
7 except for the roto till. I am fearful of re-injuring my
8 arm. And if you tilt the roto tiller the wrong way there
9 could be re-injury.

10 I have limited what I do as far -- I don't paint
11 anymore. I don't want to re-injure. I don't want to go
12 through that again.

13 Q Ms. Weddle, the treatment you describe and the
14 surgery you describe, were there medical bills associated
15 with those treatments and surgery?

16 A Yes.

17 Q Okay. Do you know exactly how much that cost was?

18 A No, I don't recall.

19 Q All right. I want to refresh your memory.

20 MR. BOLES: May I approach the witness, Your Honor?

21 THE COURT: You may.

22 MS. GANES: Your Honor, can we approach on this?

23 THE COURT: Yes.

24 (WHEREUPON, bench conference was had 11/15/16, 10:54
25 a.m.)

1 THE COURT: Is that the only basis for the
2 objection? I just wanted to make sure.

3 MS. GANES: Yes, Your Honor.

4 THE COURT: Objection is overruled.

5 MR. BOLES: Thank you, Your Honor.

6 THE COURT: Expert testimony is not required.

7 Q Ms. Weddle, I want to hand you this. And just look
8 at it for a minute.

9 A I don't have my glasses.

10 Q Oh, I am sorry.

11 A Thank you.

12 (WHEREUPON, purse provided to witness for glasses.)

13 Q Ms. Weddle, is that an itemized list of expenses you
14 incurred in your medical treatment?

15 A These are some.

16 Q And what is that total?

17 A Oh, I see; \$52,192.72.

18 Q Thank you. Ms. Weddle, you were -- did I hear -- I
19 want to make sure I have got your testimony correctly.

20 You were arrested for disorderly conduct?

21 A Yes. But on the report they put also
22 unreasonable ---

23 Q Okay.

24 A --- there in parentheses.

25 MR. BOLES: May I approach the witness, Your Honor?

1 THE COURT: You may.

2 Q Is this a copy of the uniform traffic ticket issued
3 to you by North Charleston?

4 MS. GANES: Objection. Leading.

5 THE COURT: Please approach for me.

6 (WHEREUPON, bench conference was had 11/15/16, 10:58
7 a.m.)

8 THE COURT: Objection sustained.

9 MR. BOLES: Thank you.

10 THE COURT: Relevance.

11 Q Ms. Weddle, at this time those are all the questions
12 I have for you. Please answer any that Ms. Ganes might
13 have for you.

14 A May I ...?

15 Q No, ma'am. Just wait for Ms. Ganes and she will
16 have some questions for you.

17 THE COURT: We are going to take a quick restroom
18 break. The jury has been sitting an hour. During this
19 break please do not discuss the case and please leave
20 your notepads in your seats. As soon as you all finish
21 using the restroom please let the bailiff know, and at
22 that time we will resume testimony.

23 (WHEREUPON, jury exited 11/15/16, 10:59 a.m.)

24 THE COURT: Ma'am, you my step down. But during
25 this break please do not discuss your testimony with

1 anyone.

2 And in the meantime I also took that break so y'all
3 could figure out your technology issues. Okay. We will
4 be at ease for a few minutes.

5 Did you want to ask ---

6 MS. GANES: So I thought we were done with the
7 witness.

8 THE COURT: Well, I required him to go forward with
9 her testimony ---

10 MS. GANES: Okay.

11 THE COURT: --- when he ---

12 MS. GANES: Do ---

13 THE COURT: Because he didn't have his -- because he
14 didn't -- I wasn't going to wait for y'all to try to
15 figure that out.

16 MS. GANES: Sure.

17 THE COURT: So ---

18 MS. GANES: He is more than welcome to ---

19 THE COURT: Yes. Which is kind of -- so y'all
20 figure that out while -- during this break.

21 (WHEREUPON, break was had 11/15/16, 11:14 a.m.)

22 (WHEREUPON, resume 11/15/16)

23 THE COURT: Is the plaintiff ready to proceed?

24 MR. BOLES: We are, Your Honor.

25 THE COURT: Is the defendant ready - ma'am, if you

1 would take the stand. And I would remind you you are
2 still under oath.

3 Yes, sir?

4 MR. BOLES: Some quick housekeeping. I was under
5 the impression we would finish and then we would play the
6 video.

7 THE COURT: Uh-huh.

8 MR. BOLES: Not meaning -- I want to play the
9 video -- I want to introduce this as evidence.

10 THE COURT: It has already been introduced into
11 evidence without objection.

12 MR. BOLES: And we kind of changed that around, Your
13 Honor. I have my disk which is labeled as just one. And
14 then two others which are two and three. So we would
15 like to go through this.

16 THE COURT: Well, I need to be clear what it is you
17 all agree to admit without objection.

18 MR. BOLES: Two and three.

19 MS. GANES: Well, right, Your Honor, because his
20 disk he had saved when it was up there and it said use of
21 force and after force; and so ---

22 THE COURT: That is a problem.

23 MS. GANES: And -- so we have reviewed them
24 together. And the two that we had are ---

25 THE COURT: Okay.

1 MS. GANES: --- they don't have anything like that.

2 THE COURT: Okay.

3 MS. GANES: And it runs continuously.

4 THE COURT: So y'all have no objection to two and
5 three is what you are telling me?

6 MR. BOLES: Yes, ma'am.

7 THE COURT: All right. And those have been marked?

8 THE COURT REPORTER: Yes, ma'am.

9 THE COURT: So they will be marked and admitted
10 without objection.

11 (WHEREUPON, Plaintiff Exhibit Number 2, DVD, was marked
12 for identification.)

13 (WHEREUPON, Plaintiff Exhibit Number 2 was admitted into
14 evidence.)

15 (WHEREUPON, Plaintiff Exhibit Number 3, DVD, was marked
16 for identification.)

17 (WHEREUPON, Plaintiff Exhibit Number 3 was admitted into
18 evidence.)

19 (WHEREUPON, Plaintiff Exhibit Number 1 was replaced by
20 Plaintiff Exhibit Number 2 and Plaintiff Exhibit Number
21 3.)

22 THE COURT: Now what is the other one y'all are
23 talking about?

24 MR. BOLES: I said I don't have any more questions
25 for you because I thought I had -- you said to finish

1 with the questioning and then we will do ---

2 THE COURT: Yeah, ---

3 MR. BOLES: --- videos.

4 THE COURT: --- I did.

5 MR. BOLES: So ---

6 THE COURT: Yeah, because I wasn't going to wait for
7 y'all to get it set up and know there was a jury. Yeah.

8 MR. BOLES: And now -- now we are set up. So I
9 wanted to take back "I am done with you" and just play
10 the video ---

11 THE COURT: That is fine.

12 MR. BOLES: --- while she is on the stand.

13 THE COURT: I don't have a problem with that. I
14 would imagine Ms. Ganes doesn't either.

15 MS. GANES: Absolutely not, Your Honor.

16 THE COURT: All right. Are we ready to proceed?

17 MR. BOLES: Yes, ma'am.

18 THE COURT: Defense ready to proceed?

19 MS. GANES: Yes, ma'am.

20 THE COURT: And y'all worked out all of the glitches
21 with your technology; everything is copacetic?

22 Ms. Sadie, if you would get them for me, please.

23 THE BAILIFF: Okay. Sure.

24 (WHEREUPON, jury enters 11/15/16, 11:17 a.m.)

25 THE BAILIFF: All are seated, Your Honor.

1 THE COURT: Thank you.

2 Ladies and gentlemen, I hope you enjoyed your break.

3 We will now resume testimony.

4 Mr. Boles, you may proceed.

5 MR. BOLES: Thank you, Your Honor.

6 THE COURT: You are welcome.

7 Q Ms. Weddle, one last thing. We are going to look at
8 this video.

9 (WHEREUPON, DVD being published for the jury.)

10 Q Can you see that on your screen, Ms. Weddle?

11 A I can.

12 Q Okay. Where are you in this -- in the frame of the
13 video?

14 A It is not real clear to me. But I think I am right
15 where that number five, that second number five at the
16 top left.

17 Q Okay.

18 A I am not sure -- no, I am over there. No, I am that
19 five. It keeps -- the number keeps changing. I'm sorry.
20 There is a -- there is a corner wall where you see two --
21 in between two doors. And it is counting down now at
22 zero four. And I am standing where zero is right now.

23 Q Okay. So you are behind the clock?

24 A I don't see a clock. I'm sorry.

25 Q You are behind the counter clock?

1 A Oh, yes.

2 Q Okay. Is that you right by the four?

3 A Yes. By the corner of the wall.

4 Q Okay. Is this Officer Gladden leaning over you
5 right here?

6 A Yes, it is.

7 Q Is that her lifting you?

8 A Yes, it is.

9 MR. BOLES: I want to play another angle.

10 (WHEREUPON, publish video.)

11 Q Is this Officer Gladden standing over you?

12 A Kind of looking at the men coming in.

13 Q Is this her lifting you off of the ground?

14 A It is. And that is when I ---

15 THE COURT: No editorializing. The video speaks for
16 itself.

17 MR. BOLES: I'm sorry.

18 MS. GANES: Thank you, Your Honor.

19 THE COURT: Just publish it.

20 (WHEREUPON, resume publishing video.)

21 MR. BOLES: Thank you. That is all of the video.

22 THE COURT: Turn on the lights, please.

23 Any further questions for the witness? Mr. Boles,
24 any further questions for the witness?

25 MR. BOLES: Yes, ma'am, Your Honor.

1 Q Ms. Weddle, does that video show the moment where
2 you were injured by Officer Gladden?

3 MS. GANES: Objection. Leading.

4 THE COURT: Sustained. Leading. Rephrase.

5 Q Ms. Weddle, does that show what happened to you at
6 the Detention Center in that video?

7 A Yes. It

8 Q Okay. And is that what we are here about today?

9 A Yes, my injury.

10 Q Okay. That's all the questions I have for you now.
11 Please answer anything that ---

12 THE COURT: Any cross-examination for the witness?

13 MR. BOLES: --- defense attorney has for you. Thank
14 you.

15 MS. GANES: Thank you, Your Honor. May it please
16 the court.

17 THE COURT: You are welcome.

18 You may proceed.

19 **CROSS-EXAMINATION BY MS. GANES OF LINDA WEDDLE:**

20 Q Just initially, Ms. Weddle, I want to run back to
21 that video and actually finish playing it.

22 If we could just start from where it was cut off.

23 (WHEREUPON, resuming publishing video.)

24 Q Ms. Weddle, right here do you remember that North
25 Charleston police officer coming in and taking the

1 handcuffs off of you after Officer Gladden finished
2 patting you down?

3 A Yes, I see that.

4 Q Okay.

5 (WHEREUPON, publishing video.)

6 Q Okay. And is that you raising both of your arms
7 there on the wall?

8 A Yes, I was hurting; but I was fearful of getting
9 hurt more. So I lifted my arms. I did what they said.

10 Q And, Ms. Weddle, you were able to stand on your own
11 there?

12 A I am leaning on the wall.

13 Q Okay.

14 A And somewhat with my knees.

15 Q Okay. Do you remember whether you were able to walk
16 off by yourself?

17 A I was numbing out and was having a hard time
18 processing what was going on ---

19 Q Okay.

20 A --- at the time. But now I can see.

21 Q Okay. And does that refresh your -- (cough in
22 audience). I'm sorry?

23 Does that refresh your recollection that you walked
24 away on your own there?

25 A Yes. And I am telling the lady there that I was

1 just injured and I wanted to see a doctor. That she was
2 calling me an alcoholic and a drug addict and I wanted
3 to -- that I was scared, that I wanted to see someone
4 about my injury.

5 Q Okay. Now ---

6 MS. GANES: How much more of it then is left? Is
7 that the rest?

8 (WHEREUPON, counselors confer.)

9 Q Okay.

10 (WHEREUPON, continue publishing video.)

11 A I am doing a lot of crying there. And ---

12 Q Can you see yourself on the video, Ms. Weddle?

13 A Yes, ---

14 Q Okay.

15 A --- I can. I wanted some help.

16 (WHEREUPON, continue publishing video.)

17 A What I am trying to say is, Ms. Ganes, when I am
18 there I am pleading for some help.

19 Q Are you also being processed into the jail; were you
20 being asked questions there to process you into the jail?

21 A I can't remember all that what was being talked to
22 me then.

23 Q Okay.

24 A Because they don't book me. That was where I was
25 supposed to be booked. But they chose not to book me.

1 Q Okay. And this view, that is you that we see
2 walking across the screen now?

3 A Yes.

4 Q Okay. All right, Ms. Weddle, I have just a couple
5 of other questions. You understand, Mr. Weddle, that
6 Officer Gladden had absolutely nothing to do with the
7 occurrence at your home between yourself and the City of
8 North Charleston; correct?

9 A Absolutely.

10 Q Okay. And do you understand, Ms. Weddle, that there
11 was no representative from Charleston County Sheriff's
12 Office at your home when you were arrested?

13 A I don't know who was there when I was arrested.
14 There were a lot of people.

15 Q Okay. Is it your contention in this lawsuit that
16 Charleston County Sheriff's Office had anything to do
17 with your dispute with your neighbors over your shrubbery
18 at your home ---

19 A No.

20 Q --- that brought you to the Center?

21 A No.

22 Q Okay. And it was not -- it was not Charleston
23 County Sheriff's Office that arrested you, of course;
24 correct?

25 A It was North Charleston.

1 Q Okay. And when you were arrested by the City of
2 North Charleston Police Department you were upset that
3 they did not take you to their new jail, correct?

4 A That is not correct. That is not all. You don't
5 need to get your deposition ---

6 Q Just one second.

7 A There are other things that lead up to that. I
8 would like to do -- to tell you.

9 Q All right, well, if you can just answer my question.
10 Were you upset when you were arrested by the City of
11 North Charleston Police Department that they were not
12 taking you to their new jail, that they were instead
13 taking you to Charleston County Detention Center?

14 A I wanted to see Chuck Mullins (ph). And I wanted
15 them to look at the paperwork that would exonerate me.
16 Which was dismissed.

17 Q Okay. And when you -- when you got to Charleston
18 County Sheriff's Office you were actually still talking
19 to them and trying to explain and I think you said trying
20 to educate the officers and telling them that you
21 shouldn't have been arrested; correct?

22 A On the paperwork which proved that I should not be
23 arrested.

24 Q Okay. But you understood -- or did you understand
25 that Officer Gladden and the individuals at the

1 Charleston County Detention Center had nothing to do with
2 you being arrested at your home in North Charleston; did
3 you understand that that day?

4 A What happened was Officer Gladden was laughing at me
5 when I was trying to explain to her that I wasn't an
6 alcoholic and a drug addict and I hadn't been doing any
7 of that. So ---

8 Q Okay, we will get to that Ms. Weddle. If you can
9 just answer my question, please. My question was did you
10 understand when you got to the Sheriff's Office, to the
11 Detention Center, when you encountered Officer Gladden
12 did you understand that she and her colleagues there at
13 the intake facility had nothing to do with your arrest at
14 the North Charleston property?

15 A Well, of course, ---

16 Q Okay.

17 A --- Ms. Ganes.

18 Q All right. And as we saw on the video shortly
19 after you got there, you layed down in the entranceway of
20 the intake facility; correct?

21 A Wrong.

22 Q Okay. Is it true, Ms. Weddle, that you layed right
23 in the door?

24 A Wrong.

25 Q Okay. All right. Do you remember when you gave

1 this deposition in December of 2015 and you were sworn
2 under oath to give truthful testimony in this case and I
3 believe Mr. Joyce was there taking your deposition?

4 A If you look at the last sentence it says wall. I
5 was trying to tell him I was on the corner wall.

6 MS. GANES: Your Honor, would you ---

7 A And he stopped the deposition.

8 MS. GANES: --- ask ---

9 THE COURT: Ma'am, I need you to answer the question
10 yes or no; and then you may explain your answer.

11 If you plan to impeach her with the deposition you
12 need to give that to the court.

13 MS. GANES: May it please the court, Your Honor.

14 THE COURT: Yes.

15 Q All right. Ms. Weddle, my question was do you
16 remember when you -- (handing deposition to court
17 reporter).

18 THE COURT: No, give it to me, not the court
19 reporter.

20 MS. GANES: Oh, I'm sorry.

21 (WHEREUPON, deposition provided to the court to open.)

22 THE COURT: Yes. You may continue.

23 Q My question, Ms. Weddle, was do you remember when
24 you gave your testimony under oath in the deposition in
25 this case in December when Mr. Joyce was there asking you

1 questions; do you remember that?

2 A I remember some of that day. My father-in-law died,
3 and my nephew had to have triple bypass surgery. So we
4 were staying over at my sister-in-law's house and helping
5 with the family of my nephew. And I was up at night
6 between the hospitals and making funeral arrangements and
7 taking care of my sister-in-law.

8 So that was -- during that time they called me in
9 for a deposition. And I explained that I was staying at
10 my sister-in-law's house and that I hadn't -- that I
11 hadn't had -- I was tired and I hadn't had a lot of
12 sleep.

13 Q Okay. Well, I am glad you said that, Ms. Weddle.
14 Do you remember in that deposition when it started, when
15 it first began, that Mr. Joyce asked you -- or he told
16 you that if you needed to take a break at any point it
17 was by no means an endurance contest and he would be
18 happy to accommodate you; do you remember that?

19 A I didn't want to inconvenience. People don't like
20 you to stay there and waste their time. He did tell me
21 that. But out of politeness I pushed on.

22 Q Okay. Ms. Weddle, do you also remember him telling
23 you that he -- if he asked you a question and you
24 provided a response he was going to assume that you
25 understand that question?

1 A I told him I was dyslexic and that I might not
2 understand things.

3 Q Okay. Ms. Weddle, I am going to ask you to turn to
4 your deposition.

5 THE COURT REPORTER: Do you want this as Court's
6 Exhibit 2?

7 THE COURT: Yes.

8 (WHEREUPON, Court Exhibit 2, deposition, was marked for
9 identification.)

10 Q What page, Ms. Ganes?

11 A Page 4. And I will read you starting at Line 2.

12 A Just a moment, Ms. Ganes. Page 4?

13 Q Yes, ma'am. Line 2.

14 A Line 2.

15 Q Do you see where Mr. Joyce says and if I ask you a
16 question and you provide a response I am going to assume
17 that you understood the question that I asked, ---

18 A Yeah ---

19 Q --- is that fair?

20 A Yeah.

21 Q And will you please read to the jury your response
22 on Line 5.

23 A Okay.

24 Q Okay. All right. So now I want to get to the
25 question that I was asking. And if you would go to Page

1 49 please of that deposition. And I am going to go ---

2 A One moment, please.

3 Q Uh-huh, 49.

4 A I was on 58.

5 Q Okay.

6 A Forty-nine. Okay, Ms. Ganes; I am ready.

7 Q Okay. And Mr. Joyce's question on Page 48, Line 24,
8 that is the ---

9 A I am on Page 48. Okay.

10 Q No, it is just the page right before. At the
11 end ---

12 A Uh-huh.

13 Q --- he says: So you laid down on the ground for a
14 period of time; is that correct?

15 And can you please read to the jury on Page 49,
16 Line 1, what your response was.

17 A So you laid down on the ground for a period of time;
18 is that correct?

19 I did. Right by the door. But the door was the
20 door that you see in the ---

21 Q Ms. Weddle, if you will please just read your
22 response of your prior testimony under oath to the jury.
23 Right on Page 49, Line 1.

24 A Uh-huh.

25 Q Will you please read your response to Mr. Joyce's

1 question.

2 A I did. At the door as you come in, on the side wall
3 where I was.

4 Q Okay. And then on Line 3 Mr. Joyce says: Is that
5 in the actual entrance of the booking area?

6 And will you please tell the jury what your response
7 was on Line 5.

8 A I am going to have to say again when I heard things
9 that I ---

10 THE COURT: Ma'am, I need you to answer the
11 question, please.

12 MS. GANES: Thank you, Your Honor.

13 THE COURT: And then you may -- may clarify your
14 answer if you need to. But you need to answer the
15 question as it is proposed.

16 A It is -- the video shows where I was standing.

17 Q Okay, Ms. Weddle, if you will please just read your
18 testimony under oath. On Page 49, Line 3, Mr. Joyce
19 said: Is that in the actual entrance of the booking
20 area?

21 And what was your response?

22 A Yes ---

23 Q On Line 5. Ms. Weddle ---

24 THE COURT: Ma'am, I need you to read the answer
25 that is in the deposition, please.

- 1 A Oh, I'm -- I'm sorry.
- 2 Q Okay.
- 3 A Okay. What line?
- 4 Q Page 49, Line 5.
- 5 A It is. Yes.
- 6 Q Okay. All right, Ms. Weddle. You understood that
- 7 Officer Gladden had asked you -- you were requested to
- 8 get up off of the ground, correct?
- 9 A One time.
- 10 Q Okay. And you didn't get off of the ground when you
- 11 were requested, correct?
- 12 A When I was requested, no.
- 13 Q Okay.
- 14 A I was laying down.
- 15 Q Okay. And you told Officer Gladden that you would
- 16 get up if she unhooked the handcuffs, correct?
- 17 A No.
- 18 Q Okay. If you will turn in that deposition to Page
- 19 53, please.
- 20 A Okay.
- 21 Q All right. On line 20 Mr. Joyce said ---
- 22 A Your Honor ---
- 23 Q Page 53, Line 20.
- 24 A Okay.
- 25 Q Mr. Joyce says: And that is all you said?

1 And will you please read your response on Line 21.

2 A I said, if you would unhook the handcuffs.

3 Q Okay. Now did you understand at the time that your
4 handcuffs couldn't be unhooked ---

5 A No.

6 Q --- until -- if you will please let me finish my
7 question so that the jury knows what I was going to ask
8 before you respond, okay?

9 A I apologize.

10 Q All right. And if I accidentally talk over you,
11 please let me know. And I don't mean to do that either,
12 okay.

13 A And I don't mean to be unpolite, Ms. Ganes.

14 Q Sure. Sure. Now do you understand now, having
15 listened to the expert in this case, Mr. Aiken yesterday,
16 that it was appropriate for Officer Gladden to have you
17 remain handcuffed in the intake facility?

18 A Yeah, that is what I found out.

19 Q Okay. All right. Now Ms. Weddle, when you went and
20 saw Dr. Caldwell after you were released from the
21 Detention Center he didn't do any surgery on your
22 shoulder, did he, in 2010?

23 A No, he told me to go to physical therapy.

24 Q Okay. And then when you went and saw Dr. DeMarco in
25 2013 he didn't do any surgery on your shoulder either,

1 did he?

2 A Well, you are skipping all of the other doctors.

3 Q Okay. But none of them did surgery either, did
4 they?

5 A Well, they weren't surgeons.

6 Q Okay. That's why I only asked about the two
7 surgeons that you saw ---

8 A They were ---

9 Q --- before Dr. Wolfe.

10 A They were neurologists that checked muscle ---

11 Q Okay.

12 A --- tears.

13 Q So I was just asking about the surgeons. You went
14 to see Dr. Caldwell in 2010 after you were released from
15 the Detention Center, and he didn't do any surgery;
16 correct?

17 A No.

18 Q Okay. And then in 2013 when you went to Dr. DeMarco
19 over at Roper St. Francis he didn't do any surgery,
20 correct?

21 A No.

22 Q Okay. And then you finally had ---

23 A He -- sent me to pain management ---

24 Q Okay.

25 A --- and so that I could get on pain medicine so that

1 I could go to physical therapy.

2 Q Okay. And let me back up just a step. Dr. Caldwell
3 actually released you from his practice, correct?

4 A I didn't like Dr. Caldwell. We -- we got into it a
5 lot.

6 Q Okay. Did you get into it because he felt like you
7 were overdramatizing your symptoms?

8 A We got into it because he likes North Charleston and
9 he likes Mayor Summey and he had a PA who is the one who
10 examined me and made me get a lot of x-rays and then they
11 got mad because I said I didn't come to complain about
12 all these areas, I only came about my shoulder and my
13 neck and I would not go through those x-rays when I said
14 that I wanted an MRI but they don't do MRI's.

15 And they were causing me to spend a lot of money on
16 x-rays, so I walked out and I told his PA that I wasn't
17 getting those x-rays.

18 And so she went and told Dr. Caldwell. And he came
19 in and the first thing he said to me is you are causing
20 my staff a lot of trouble.

21 And I said I don't -- I have soft tissue and
22 can't -- and lying into my bed from pain and my arm and
23 my neck and I need an MRI.

24 And he says that he makes those decisions. And I
25 said, well, you didn't examine me before you ordered all

1 of those x-rays. And ---

2 Q Okay. I think we are getting -- I wanted to let you
3 finish, but that's getting a little off course from ---

4 A So I didn't like him.

5 Q Okay. But he did actually dismiss you from his
6 practice, correct?

7 A Well, he examined me. He saw that I had limited
8 ability of my arm and ---

9 Q Excuse me, Ms. Weddle ---

10 A --- he saw my pectorial (ph) ---

11 Q If you will just please answer my question with a
12 yes or no. Did Dr. Caldwell dismiss you from his
13 practice?

14 A He put me on -- he told me to go to physical
15 therapy. I said I need pain medicine; I need an MRI; I
16 am not going to do that until -- I am not going to do
17 that.

18 Q Okay.

19 A So, no, he didn't dismiss me.

20 Q Okay.

21 A We dismissed each other.

22 Q All right. Fair enough. And so, Ms. Weddle, the
23 surgery that you had that you are asking the jury for
24 over \$50,000 for in this case wasn't performed for four
25 years after your interaction with Officer Gladden at the

1 Detention Center; correct?

2 A I had had a surgery which went bad and I ended up in
3 intensive care and had to have it redone. So I know the
4 risk of surgery. And each doctor I went to said about
5 the risk and the limited possibility of motion. And I
6 would have to sign a paper to say that they weren't
7 responsible if they hurt me. And I had already been
8 hurt. So, no, I was scared.

9 Q Okay. And the surgery didn't happen for four years
10 after your interaction with Officer Gladden, correct?

11 A It got to a point where I couldn't function and I
12 was making my family miserable and under a burden. I had
13 to face the fact that I needed to function and take the
14 load off of them.

15 Q And that was four years after your interaction with
16 Officer Gladden, correct?

17 A I met a surgeon. I trusted him. That was four
18 years.

19 Q Okay.

20 MS. GANES: Nothing further, Your Honor.

21 THE COURT: Any redirect?

22 MR. BOLES: Real brief.

23 THE COURT: You may proceed.

24 **REDIRECT EXAMINATION BY MR. BOLES OF LINDA WEDDLE:**

25 Q Ms. Weddle, Ms. Ganes characterized that you were

1 asking this jury for 52- -- over \$52,000 in her cross of
2 you. What are you asking this jury for?

3 A Well, I walked out of that Detention Center. But
4 so often because I live very close to the Detention
5 Center ---

6 MS. GANES: Objection, Your Honor.

7 THE COURT: Basis?

8 MS. GANES: Relevance.

9 THE COURT: Approach.

10 (WHEREUPON, bench conference was had 11/15/16, 11:55
11 a.m.)

12 THE COURT: All right. You may rephrase the
13 question.

14 MR. BOLES: Thank you.

15 Q Ms. Weddle, in eight seconds or less, what are you
16 asking the jury for?

17 A I don't mean to be impolite, but there is something
18 I want you to hear. The ---

19 THE COURT: Ma'am, you -- well, go ahead. I'm
20 sorry. But I need you to be responsive. Go ahead,
21 ma'am.

22 A My mind thinks about and worries about the people
23 there, that they might be in the same situation.

24 MS. GANES: Objection, ---

25 THE COURT: Sustained.

1 MS. GANES: Your Honor. Relevance.

2 THE COURT: Relevance.

3 MR. BOLES: Okay.

4 THE COURT: Do you need to rephrase the question?

5 MR. BOLES: I am done. Thank you.

6 THE COURT: Okay. Ma'am, you may step down.

7 MS. GANES: Your Honor, may we approach?

8 THE COURT: Yes.

9 (WHEREUPON, bench conference was had 11/15/16, 11:57
10 a.m.)

11 THE COURT: Ladies and gentlemen, you are to
12 disregard the last question and answer. You are to give
13 it absolutely no consideration in your deliberations and
14 you are to completely disabuse it from your mind.

15 All right. Plaintiff may proceed.

16 MR. BOLES: Your Honor, the plaintiff rests.

17 THE COURT: Madam forelady, ladies and gentlemen,
18 the plaintiff has rested their case. I have some brief
19 matters of law that I need to take up with the attorneys.

20 During this break please do not discuss the case in
21 any manner whatsoever. And please leave your notepads in
22 your seats. We appreciate your patience. If you will go
23 with the bailiffs, please.

24 (WHEREUPON, jury exits the courtroom 11/15/16, 11:58
25 a.m.)

1 THE COURT: The plaintiff has rested. Are there any
2 motions?

3 MS. GANES: Yes, Your Honor. On behalf of the
4 defendant I move for a directed verdict pursuant to Rule
5 50. On -- specifically on the plaintiff's cause of --
6 causes of action of negligent supervision and training.

7 It is our position that the expert testimony
8 provided by Dr. -- Mr. Aiken yesterday lacked the
9 sufficient foundation under South Carolina law.

10 He didn't review any policies or procedures. He
11 didn't review Officer Gladden's personnel file. He did
12 not give a proper standard for the professional -- the
13 professional minimum standards. He did not give the jury
14 any guidepost or standard to measure the facts of this
15 case against from an expert's point of view. And I
16 would -- I mean from an expert's responsibility in the
17 case.

18 And, Your Honor, I would cite the Hamilton case.
19 That was a 2012 case where a directed verdict was upheld
20 when the Sheriff's Department showed that they met the
21 minimum standards needed to hire an employee and showed
22 that they, quote, cared a little.

23 The standard here is not only -- is gross
24 negligence. And it is the defendant's position that in
25 fact this case taken in the light most favorably to the

1 plaintiff do not create a question of fact for the jury
2 as to gross negligent from a negligent supervision or on
3 the negligence in general.

4 We would also move for a directed verdict for a lack
5 of proximate cause. There has been no testimony that
6 what is seen on the videotape is the proximate cause of
7 the plaintiff's injury and her surgery occurring four
8 years later. There is no medical foundation. There was
9 no testimony of the physician that the medical bills
10 moved into evidence were reasonable and necessary medical
11 costs.

12 And the plaintiff has failed to establish a question
13 of fact for a jury as to her case in totality.

14 THE COURT: You may proceed.

15 MR. BOLES: Thank you, Your Honor. We have
16 absolutely established a question of fact for the jury,
17 and these motions should be summarily denied.

18 Regarding Defendant's motion for a directed verdict
19 on training and supervision the case law that I briefly
20 heard Ms. Ganes cite I believe she referred to a quote --
21 I'm sorry, she quoted case law that referred to hiring.
22 We are not alleging anything about hiring. We are
23 alleging negligent training and supervision.

24 Mr. Aiken in his testimony set forth to the jury
25 that he had reviewed Officer Gladden's deposition

1 testimony and therein she describes the training that she
2 had. And he explained that that among other things is
3 the basis for his opinion regarding her training and
4 supervision.

5 He also provided a standard for the jury to compare
6 that to in his antidotal experience in over 30 or 40
7 years as a -- as a warden in other positions within
8 confinement facilities. So that motion is properly
9 denied.

10 Regarding the directed motion for lack of proximate
11 cause, from where I was sitting the plaintiff testified
12 directly that what happened to her the interaction
13 between her and Officer Gladden was the cause of her
14 injury; before that she was not hurt; after it she was.

15 She testified that the four years of treatment
16 didn't work for her. She testified that the surgery
17 healed her. So she pretty clearly established a causal
18 link between what happened to her at the -- at the
19 Detention Center and her injuries. And so that motion
20 was also probably denied. Thank you, Your Honor.

21 THE COURT: Anything further, Ms. Ganes?

22 MS. GANES: Your Honor, just to add that the South
23 Carolina -- the standard in South Carolina for expert
24 testimony rises above antidotal experience of an expert.
25 And the expert needs to provide a sufficient foundation

1 and standard by which the jury is to judge the
2 defendant's conduct. And that was not done in this case.

3 THE COURT: I am going to take the matter under
4 advisement. I need to think about it a little bit. Who
5 will the next witness be?

6 MS. GANES: It will be Officer Gladden, Your Honor.

7 THE COURT: Okay. Let's see. What time is it?
8 12:00. We will go ahead and forge ahead with other
9 testimony.

10 Let's see where we are. See if the jury is ready
11 for me, please.

12 (WHEREUPON, bench conference was had 11/15/16, 12:05
13 p.m.)

14 THE COURT: The matter is still under advisement. I
15 will render a ruling probably either before or after
16 lunch.

17 Are you ready to proceed, Ms. Ganes?

18 MS. GANES: Yes, ma'am.

19 THE COURT: All right. You can bring in the jury.

20 MR. BOLES: Your Honor, can I approach?

21 THE COURT: Sure.

22 (WHEREUPON, bench conference was had 11/15/16, 12:09
23 p.m.)

24 (WHEREUPON, jury enters 11/15/16, 12:09 p.m.)

25 (WHEREUPON, bench conference concludes.)

1 THE COURT: Madam forelady, ladies and gentlemen, we
2 have another brief matter of law we need to take up. I
3 apologize. We appreciate your time. If you would go
4 with the bailiffs, please. Please leave your notepads in
5 your seats and please do not discuss the case in any
6 manner whatsoever.

7 (WHEREUPON, jury exits courtroom 11/15/16, 12:11 p.m.)

8 THE COURT: Let me know once you have completed
9 talking.

10 MR. BOLES: Thank you.

11 (WHEREUPON, break was had 11/15/16, 12:11 p.m.)

12 (WHEREUPON, resume 11/15/16, 12:21 p.m.)

13 THE COURT: All right. Are y'all ready to proceed?

14 MS. GANES: We are, Your Honor.

15 THE COURT: Okay.

16 MS. GANES: I forgot that it was my turn to answer.

17 THE COURT: It is your turn. I'm sorry. And I was
18 so involved in what I was reading that I lost track of
19 time.

20 MS. GANES: May I before they come back in just make
21 sure there is some water up here for Officer Gladden?

22 THE COURT: That's fine. And what I need to know
23 also what is the exhibit regarding the video. Because I
24 need to make sure we did that before we go forward.

25 MR. BOLES: Exhibit -- Exhibit 1 was not admitted.

1 THE COURT: That's correct. Do you need that back?

2 MR. BOLES: Sure. I mean that is fine.

3 MS. GANES: You can take it.

4 THE COURT: Well, it is not in evidence so I need
5 you to go ahead and retrieve it so we don't get confused
6 about what is there and what is not there.

7 (WHEREUPON, discussions regarding clarification of
8 exhibits were had.)

9 THE COURT: Two and three are marked and admitted
10 without objection. Well, they can't be admitted until
11 afterward.

12 You can bring in the jury.

13 I'm sorry, who is your first witness?

14 MS. GANES: It is Officer Gladden.

15 (WHEREUPON, jury enters 11/15/16, 12:24 p.m.)

16 THE COURT: Ladies and gentlemen, we appreciate your
17 patience. I would ask that you give counsel your
18 attention.

19 You may proceed.

20 MS. GANES: Thank you, Your Honor.

21 THE COURT: You are welcome.

22 MS. GANES: May it please the court. The defense
23 calls Officer Yashica Gladden ---

24 THE COURT: Ma'am, if you would ---

25 MS. GANES: --- Gladden.

1 THE COURT: --- come to the stand to be sworn.

2 (WHEREUPON, the witness was duly sworn.)

3 THE CLERK: Please state your full name and spell
4 your last, please.

5 THE WITNESS: My name is Yashica Nicole Gladden.
6 Y-A-S-H-I-C-A. Gladden, G-L-A-D-D-E-N.

7 THE COURT: You may proceed.

8 **DIRECT EXAMINATION BY MS. GANES OF YASHICA GLADDEN:**

9 Q All right. Good afternoon, Officer Gladden.

10 A Good afternoon.

11 Q I am going to introduce you to this jury. Can you
12 tell this jury where you are from, please.

13 A I am from Charleston, South Carolina.

14 Q Okay.

15 A Born and raised.

16 Q You were born here?

17 A Yes.

18 Q Where did you go to high school?

19 A Burke High School.

20 Q And did you graduate from Burke?

21 A Yes, I did.

22 Q What year did you graduate?

23 A In 1999.

24 Q All right. And after -- well, while you were at
25 Burke did you participate in any sports or activities?

1 A I played basketball, volleyball, softball,
2 participated in the National Honor Society.

3 Q Did you receive any awards while you were in high
4 school?

5 A Yes, I did.

6 Q And what were they?

7 A I received the Rookie of the Year, Most Improved,
8 the Coach's Award.

9 Q And what sport was that for?

10 A Basketball.

11 Q All right. Very good. Now after you graduated from
12 Burke was that in 1999?

13 A Yes.

14 Q Okay. And did you go to college?

15 A Yes, I did.

16 Q Where did you go to college?

17 A South Carolina State.

18 Q And did you graduate from there?

19 A Yes, I did.

20 Q What year?

21 A In 2003.

22 Q And what was your degree from South Carolina State
23 in?

24 A Marketing.

25 Q All right. Now did you further your education after

1 South Carolina State?

2 A Yes, I did.

3 Q And where was that done?

4 A At Webster University.

5 Q And did you get a degree or certification from
6 there?

7 A Yes, I received my MBA.

8 Q Oh, wow. What year was that?

9 A 2005.

10 Q Okay. Now where are you currently employed?

11 A I am currently employed at the Charleston County
12 Detention Center.

13 Q And how long have you worked at the Detention
14 Center?

15 A Ten-and-a-half years.

16 Q What is your job description there?

17 A I am an intake officer. That's a booking officer.
18 And I am a 287-G officer; that is immigration.

19 Q Okay. Now before you took -- well, let me ask you
20 this: Why did you make the decision to go into
21 corrections?

22 A I was influenced by an aunt who worked there. She
23 still works there now. She retired; she came back. I
24 was just curious about the operations there. I wanted to
25 serve and protect the community and the citizens.

1 Q Well, thank you for your service, Officer Gladden.

2 Let me ask you -- let me back up a little. Are you
3 married?

4 A No, I am single.

5 Q Where do you live here in Charleston?

6 A West Ashley.

7 Q And does anyone live with you?

8 A I take care of my mom.

9 Q Okay. And what type of needs does she have?

10 A She had two heart attacks. So I am there for
11 her ---

12 Q Okay.

13 A --- all the time.

14 Q I am sorry. Now before you accepted your employment
15 with Charleston County Sheriff's Office or I guess in
16 collaboration with accepting that employment did you go
17 to any other agency to receive training?

18 A Not prior to her working there.

19 Q Okay. Was that your first job in law enforcement?

20 A First job.

21 Q Okay. So after you were hired there were you -- did
22 you go anywhere for training in our state?

23 A I went to the Criminal Justice Academy in Columbia
24 for three weeks.

25 Q Okay. And did you stay there on site at the

1 Criminal Justice Academy for your training?

2 A Yes, I did.

3 Q When you were at the Criminal Justice Academy for
4 your training did you receive training in handling
5 inmates who were handcuffed?

6 A Yes, we did.

7 Q Okay. And did you receive training on how to
8 properly assist inmates who are handcuffed in getting up
9 off of the floor or moving about?

10 A Yes.

11 Q And is the assistance of inmates who are handcuffed
12 part of your daily job duties when you are on duty at the
13 intake facility at the Sheriff's Office?

14 A It happens -- not too often.

15 Q Okay. Well, how -- is it something that you see on
16 a regular basis?

17 A Yes.

18 Q Okay. Is there any doubt -- well, are you properly
19 trained in the mechanisms of assisting individuals who
20 are handcuffed?

21 A Yes.

22 Q Have you ever felt like you needed training that
23 wasn't provided to you?

24 A No.

25 Q Okay. Did you graduate from the Criminal Justice

1 Academy?

2 A Yes, I did.

3 Q Okay. And did you have any trouble passing your
4 courses there?

5 A No, I didn't.

6 Q All right. Now you started your employment in 2006
7 at the Sheriff's Office?

8 A Yes.

9 Q And have you ever since you have been employed --
10 since you have been employed with the Sheriff's Office
11 have you ever had a complaint made against you other than
12 the one involving Ms. Weddle?

13 A No, ma'am.

14 Q Okay. I want to direct your attention a little bit
15 to the incident that we are here to talk to the jury
16 about. Do you remember your encounter with Ms. Linda
17 Beth Weddle at the Detention Center?

18 A Yes.

19 Q Can you tell the jury what you remember about that?

20 A I remembered when she came in she was a little
21 irate, angry about being there.

22 Q Okay. And what makes you say that she was irate and
23 angry about being there?

24 A She was yelling at the officer.

25 Q Okay. Did you hear anything that she was yelling?

1 A Just about what happened prior to coming in.

2 Q Okay. And when you say the officer who are you
3 referring to?

4 A North Charleston.

5 Q Okay. And can you -- let's explain to the jury a
6 little bit about how the intake facility works. What are
7 you doing there? What is your job at the Detention
8 Center?

9 A My job is to go over paperwork that the officer
10 brings over, search for contraband when the detainee is
11 handcuffed.

12 And once they are removed we go through a more
13 thorough search. Call the detainee up. Ask them medical
14 questions. And they continue on their way.

15 Q Okay. Now do -- does anybody call you ahead to let
16 you know they are coming or make an appointment with the
17 intake officers at the Detention Center?

18 A No, unless they are completely combative where they
19 can't take them out of the car they call more of self --
20 more assistance.

21 Q Okay. Did anybody call about Ms. Weddle?

22 A No, they didn't.

23 Q Okay. When individuals come into the intake
24 facility do you know anything about their criminal
25 history?

1 A No.

2 Q Do you receive dangerous criminals in your job on a
3 daily basis?

4 A Yes, we do.

5 Q Okay. And are you trained in handling medical
6 emergencies in the intake facility?

7 A Yes. We contact the nurse if -- on site if an
8 emergency occurred. We also ask when the detainee comes
9 in have you got any medical problems or are you suicidal.

10 Q Okay. And was that done in this case?

11 A I can't recall. But asking medical problems was ---

12 Q Okay.

13 A Yes.

14 Q I want to show you, Officer Gladden --

15 MS. GANES: Your Honor, may I approach?

16 THE COURT: Yes.

17 Q Officer Gladden, do you recognizes this document?

18 A Yes.

19 Q Okay. Can you tell the jury what that is?

20 A It is an observation and suicide -- express suicide
21 risk for me.

22 Q Okay. And does that pertain to Ms. Linda Beth
23 Weddle?

24 A Yes.

25 Q Okay. And is that a document that is kept in the

1 ordinary course of business at the Charleston County
2 Sheriff's Office?

3 A Yes, it is.

4 Q Okay.

5 MS. GANES: Your Honor, at this time I would move
6 that into evidence.

7 THE COURT: Any objection?

8 MR. BOLES: No, ma'am.

9 THE COURT: Marked and admitted without objection.
10 (WHEREUPON, Defendant's Exhibit Number 1, Officer Input
11 for Linda Weddle, was marked for identification.)

12 (WHEREUPON, Defendant's Exhibit Number 1 was admitted
13 into evidence.)

14 Q And Officer Gladden, does that document represent
15 that the screening process was done pertaining to Ms.
16 Weddle?

17 A Yes.

18 Q Okay. Now from your observations of Ms. Weddle at
19 the time that she was taken into the Detention Center did
20 you observe any medical emergency related to her?

21 A No, ma'am.

22 Q Okay. Did you observe her vomit in the intake area?

23 A No.

24 Q Did you observe her faint in the intake area?

25 A No.

1 Q Did you observe anything about Ms. Weddle that made
2 you concerned that she needed medical assistance in the
3 intake area?

4 A No.

5 Q Okay. Now we have seen some video of your encounter
6 with Ms. Weddle. In that video did you act as you were
7 trained in assisting Ms. Weddle from the floor?

8 A Yes.

9 Q Okay. Can you explain to the jury -- if you want to
10 come down you can -- I am not going to lay -- I am not
11 going to sit down on the floor.

12 MS. GANES: But, Your Honor, may Officer Gladden
13 come down from the stand?

14 THE COURT: She may.

15 Q Officer Gladden ---

16 THE COURT: But just switch directions with her so
17 that she is speaking in the direction ---

18 MS. GANES: Okay.

19 THE COURT: --- of the court reporter so she can
20 take down her responses.

21 MS. GANES: Perfect. Thank you.

22 (WHEREUPON, witness joins Ms. Ganes in front of jury.)

23 Q What I want you to do is will you demonstrate to the
24 jury. I will hold my handcuffs. And the Court wants you
25 to face that way so that you can be -- okay.

1 Now show them how, please, that you are trained to
2 get an individual up in handcuffs without injuring, okay.

3 A It would be with assistance of that person. I can't
4 lift somebody just by their elbows alone. There has got
5 to be some assistance by that person. So she helped me
6 lift herself up.

7 Q Okay. And you -- do you -- and you can go back to
8 the stand. Thank you.

9 (WHEREUPON, witness returns to the witness stand.)

10 Q And do you remember in your mind Ms. Weddle helping
11 you lift her up that day?

12 A Yes.

13 Q Okay. Now after -- well, before you assisted Ms.
14 Weddle from the floor did you make a request of her to
15 get herself up from the floor?

16 A Yes, multiple times.

17 Q Okay. And was she compliant in those requests?

18 A No.

19 Q Okay. Why did you make those requests of Ms. Weddle
20 to remove herself from the floor of the intake facility?

21 A For her safety.

22 Q Okay. Can you explain that to the jury, please.

23 A That is a busy area. Traffic walks in -- not --
24 well, in and out. We have inmates coming in, walking
25 through. We have got officers walking through. I don't

1 want anyone to step on her or just kick her or hurt her,
2 or she might hurt somebody else by just laying there.

3 Q Okay. And did you see -- on the video did you
4 observe inmates walking by the area where Ms. Weddle had
5 placed herself on the floor?

6 A Yes.

7 Q Okay. Now whose benefit is it for in your line of
8 work to remove Ms. Weddle from the floor?

9 A Her benefit and my benefit. My job is to maintain
10 safety and security.

11 Q Okay. Now why -- can you -- well, is it necessary
12 for arrestees to remain in handcuffs when they come into
13 the intake facility at Charleston County Sheriff's
14 Office?

15 A Yes, ma'am.

16 Q Okay. Can you please tell the jury why that is
17 necessary?

18 A Detainees have to maintain -- being handcuffed and
19 continue to be handcuffed until the booking officer goes
20 around, search. We look for contraband. And then the
21 officer can remove the cuffs.

22 Q Okay. And did you do that in this case?

23 A Yes.

24 Q Did you make any delay in the request for the
25 handcuffs to be removed from Ms. Weddle after you patted

1 her down?

2 A No.

3 Q Okay. And who has to remove the handcuffs?

4 A The arresting officer.

5 Q And why is that?

6 A Because -- I can't say it is their job; it is more
7 of because it is still they are a detainee.

8 Q Okay. And is it his handcuffs?

9 A Yes.

10 Q That he wears on his belt?

11 A Right.

12 Q Okay. And so that officer takes those handcuffs
13 off, and does he put those back on his belt and go back
14 out onto the streets?

15 A No, he puts it back on his belt and he will stay and
16 wait until we finish the search and his paperwork.

17 Q Okay. In this case did you observe on the video --
18 or do you know -- can you tell the jury what Ms. Weddle
19 did when she left the screen when you see her being
20 patted down and walked over and sat down in the little
21 booth area, can you tell the jury what was happening
22 there?

23 A She walked to the desk, received an armband. I did
24 recall her asking me about the restroom or something.
25 And I know I pointed her towards like the right corner.

1 Q Okay. And at the end of that video when you are
2 walking with Ms. Weddle and you are pointing, what are
3 you doing there?

4 A I am pointing her to the restroom.

5 Q Okay. And I just want to ask you. I apologize for
6 asking, but did you call Ms. Weddle a drug addict or an
7 alcoholic ---

8 A No.

9 Q --- at any time?

10 A Not at any time.

11 Q Did you have any exchange of words with Ms.
12 Weddle ---

13 A No ---

14 Q --- other than requesting for her to get up from the
15 floor?

16 A Nothing besides telling her to stand. That's it.

17 Q Do you recall Ms. Weddle making any complaints of
18 pain in the booking center?

19 A No, she -- she mentioned having an Alka-Seltzer and
20 calling the doctor about some Alka-Seltzer. But that's
21 it.

22 Q Okay. And did she mention any stomach pain?

23 A No.

24 Q Okay. When you -- on the video when you were
25 patting her down and she lifted her arms up, twice I

1 think, did she say anything to you at that time?

2 A No.

3 Q Okay. I want to ask you this: The individual in
4 the video when you are standing with Ms. Weddle and there
5 is an African-American gentleman standing there with you,
6 do you know that part of the video; or do you want me to
7 show it?

8 A Yes, I remember that.

9 Q Okay.

10 A It was my supervisor, sergeant.

11 Q Okay. And was he standing there at the time that
12 you assisted Ms. Weddle from the floor of the intake
13 facility?

14 A Yes.

15 Q Okay. Did he say anything to you about the manner
16 or method that you used in assisting Ms. Weddle from the
17 floor?

18 A No.

19 Q Okay. Other than your training at the South
20 Carolina Criminal Justice Academy have you received
21 ongoing training from your employer related to the
22 handling of detainees who are handcuffed?

23 A Yes, we receive training yearly. We have to be
24 certified.

25 Q Okay. And has that happened on a yearly basis since

1 you have been employed?

2 A Yes.

3 Q And have you had any trouble passing those
4 certifications?

5 A No.

6 Q And I want to ask you. You mentioned earlier you
7 have some additional certification. And what is that in,
8 additional qualifications related to immigrants I think?

9 A Yes.

10 Q Okay. What -- tell the jury what that is.

11 A It was 287-G. I interview all foreign born inmates
12 and determine if they can stay or get removed from the
13 United States.

14 Q And how long have you been doing that?

15 A Since 2010.

16 Q Okay. Did that require additional certification and
17 training?

18 A Yes, I went to the Flexi Academy for three weeks ---

19 Q And ---

20 A --- to access training. And passed with no
21 problems.

22 Q Okay. And who puts on that training?

23 A That would be the Department of Homeland Security.

24 Q Okay. And you had no -- did you pass that training
25 on the first attempt?

1 A Yes.

2 Q Did you take any precautions in your interaction
3 with Ms. Weddle to be sure that she didn't lose her
4 balance?

5 A Yes. I know what -- I put my hand on her back, the
6 base of her back so if she did lose her balance I would
7 catch her.

8 Q Okay. And did you ever observe Ms. Weddle being
9 unsteady on her feet in any way in the intake area of the
10 booking center?

11 A Not at all.

12 Q Will you explain to the jury the significance of
13 the -- well, let me ask you. Are -- is there one pat
14 down or two pat downs when an individual pulls up in the
15 sally port at the intake center -- is that what that door
16 is, the sliding door?

17 A Yes.

18 Q Okay. Does that door lead to the outside?

19 A Uh-huh.

20 Q And is that where the officers pull the car or the
21 paddy wagon if they are bringing in people that have been
22 arrested on the street?

23 A That is correct.

24 Q Okay. And then those doors open. Is there a pat
25 down that happens before they come through those doors?

1 A No.

2 Q Okay. Are there -- is there one pat down or two?

3 A There is suppose -- actually there is supposed to be
4 three.

5 Q Okay. And where do those occur?

6 A It takes place on that wall.

7 Q Okay. And are those the pat downs that we saw occur
8 on the video with Ms. Weddle?

9 A Yes.

10 Q Okay. And will you explain to the jury what you are
11 looking for and the significance of the pat down if there
12 is one.

13 A Well, the reason for the pat down is to prevent any
14 contraband from entering the jail; medication, needles,
15 glass objects, lighters, cigarettes; anything.

16 Q And why is it important to have that -- or is it
17 important to have that pat down before they enter the
18 general population?

19 A It is extremely important because sometimes officers
20 on the outside don't thoroughly search female intimates
21 because they are males and it's females; so they don't
22 search most of the time like they are supposed to.

23 Q Okay. And is there any danger in an inmate entering
24 the general population of a jail with contraband?

25 A Yes. They can hurt themselves or others.

1 Q Now I asked you about your training, Officer
2 Gladden, at the Criminal Justice Academy and with the
3 Sheriff's Office specifically related to handling
4 detainees who were handcuffed. But have you received
5 training in other areas of your job as well?

6 A Yes.

7 Q Okay. Can you explain to the jury what types of
8 training you have received both from the Criminal Justice
9 Academy and from the Detention Center related to your job
10 duties.

11 A IPC, interpersonal communications.

12 Q And what does -- okay, and can you tell the jury
13 what that means?

14 A Basically how to speak to someone person to person.
15 Not inmate to officer, but more like I am talking to you
16 woman to woman or woman to man. Human life.

17 People like to say officers talk down to -- I mean
18 to an inmate. But I don't. I talk to everyone like they
19 are human. I don't perceive that you are a criminal or
20 whatever. Everybody is innocent until proven guilty.

21 Q And is that something that you take great pride in,
22 Officer Gladden?

23 A Yes. Yes, I do.

24 Q Now in your new interaction with Ms. Weddle was
25 there any force used in that interaction?

- 1 A None at all.
- 2 Q Okay. Are you trained in what is called use of
3 force ---
- 4 A Yes.
- 5 Q --- in your job? And are there times when there is
6 a continuum of force that has to be followed with
7 individuals who become increasingly noncompliant?
- 8 A Yes.
- 9 Q And did that happen in this case?
- 10 A Not at all.
- 11 Q Okay. After you assisted Ms. Weddle from the floor
12 did she become compliant?
- 13 A Yes, she did.
- 14 Q Okay. Did you have any doubt as to whether she was
15 understanding your commands that day?
- 16 A I believe she followed and comprehended everything I
17 said.
- 18 Q Okay. And so was there a use of force report done
19 related to your interaction with Ms. Weddle?
- 20 A No, because there was no force used.
- 21 Q Okay. Was ---
- 22 A It was not needed.
- 23 Q Okay. Was there any report of injury documentation
24 done related to your interaction with Ms. Weddle?
- 25 A None.

1 Q And why not?

2 A There was -- there was no injury at that time. She
3 didn't state that she was hurt.

4 Q I want to ask you about that. When was the first
5 time that you -- because this incident happened six years
6 ago, correct?

7 A Correct.

8 Q Okay. And when was the first time that you learned
9 that Ms. Weddle had filed a lawsuit blaming you for her
10 rotator cuff injury; how did you find out about that?

11 A When I was called into Internal Affairs like -- some
12 years ago. Like 2013. Like three or four years after
13 this -- after her being arrested.

14 Q Okay. And over the course of this lawsuit have you
15 had to meet with lawyers and give depositions?

16 A Yes.

17 Q Okay. Have you had to take days off of work for
18 that?

19 A A couple.

20 Q Okay. You have been here in the courtroom with us
21 this week. Were you working yesterday?

22 A No. I was supposed to be to work today.

23 Q Okay. Was yesterday your day off?

24 A Yes.

25 Q All right. And what about tomorrow, are you working

1 tomorrow?

2 A I am working tomorrow.

3 Q Now you mentioned speaking to Internal Affairs.

4 Will you tell the jury whether anyone at the Charleston
5 County Sheriff's Office has ever made any admonishment or
6 criticism of you in any way regarding your handling of
7 Ms. Weddle in the intake facility that day.

8 A No.

9 Q And have individuals, your supervisors and higher,
10 reviewed the video and the matters related to your
11 interaction with Ms. Weddle?

12 A Yes, it was reviewed.

13 Q When you assisted Ms. Weddle from the floor did you
14 use any greater strength or leverage than was required to
15 help her get up?

16 A No.

17 Q Did you -- were you upset with her in any way?

18 A No.

19 Q Were you angry with her?

20 A No.

21 Q Did you know her in any way before that day?

22 A Don't know her.

23 Q Okay. Did you take care not to cause any injury to
24 Ms. Weddle in your interaction with her that day?

25 A I always make sure everyone is all right.

1 Q And did you do that with Ms. Weddle that day?

2 A Yes, ma'am.

3 Q Okay.

4 MS. GANES: I beg the court's indulgence, Your
5 Honor.

6 THE COURT: Yes, ma'am.

7 MS. GANES: If you will answer any questions that
8 Mr. Boles asks.

9 THE WITNESS: Okay.

10 THE COURT: You may proceed.

11 MR. BOLES: Thank you.

12 THE COURT: You are welcome.

13 **CROSS-EXAMINATION BY MR. BOLES OF OFFICER YASHICA**

14 **GLADDEN:**

15 Q Officer Gladden, I have what was marked Defendant's
16 Exhibit 6 that we referred to earlier.

17 A Yes.

18 Q Do you still have that in front of you?

19 A Uh-huh.

20 Q You had said this was a screening of my client, Ms.
21 Weddle?

22 A Yes.

23 Q Did you create this document?

24 A No, I didn't.

25 Q Did you answer all the questions that are on this

1 document?

2 A I didn't do her intake. It was done by another
3 officer.

4 Q Okay. So you didn't have anything to do with this
5 exhibit ---

6 A Nothing.

7 Q --- that y'all offered into evidence?

8 A No.

9 Q Let's look at -- on that exhibit. It is marked at
10 the bottom CCSO-0017. It is the second page of that
11 exhibit. Under -- under a paragraph that says
12 complaints. And then the second line it says bond type.
13 Do you see that?

14 A Yes.

15 Q And it says PR by bond type? Do you see that?

16 A Okay.

17 Q And then further over to the right it says Judge
18 Bowers; do you see that?

19 A Uh-huh.

20 Q And that is indicating that the defendant received
21 a -- I'm sorry, the defendant at the time. The plaintiff
22 in this case received a PR bond from Judge Bowers.

23 A Okay.

24 Q All right. And so this is indicating information
25 from her bond hearing.

1 THE COURT: Please approach.

2 MR. BOLES: Yes, ma'am.

3 (WHEREUPON, bench conference was had 11/15/16, 12:51
4 p.m.)

5 THE COURT: You may proceed.

6 MR. BOLES: Thank you.

7 THE COURT: You are welcome.

8 Q Officer Gladden, you testified earlier you have a
9 degree in marketing?

10 A Yes.

11 Q And an MBA from 2005?

12 A Yes.

13 Q Are there any aspects of marketing that you conduct
14 for the Detention Center?

15 A No, I don't.

16 Q Do you -- do you do any business on behalf of the
17 Detention Center?

18 A I give people suggestions of filling out
19 applications to try law enforcement.

20 Q Right, but as far as -- as far as your education
21 goes with the MBA and the marketing, you don't use that
22 as part of your duties as a detention officer; do you?

23 A No, I don't.

24 Q And what were you doing for work before you got your
25 job at the Detention Center?

1 A I was working at Diana's which is currently Toast.
2 Q Okay. And what were you doing there?
3 A I was a manager over there.
4 Q Is that a restaurant?
5 A Yes.
6 Q Okay. Where did you learn to lift an inmate as
7 you did in this instance?
8 A With training.
9 Q Okay. So you had training that instructs to lift an
10 inmate in the manner that you did Ms. Weddle?
11 A Yes.
12 Q Okay. Can you identify that training?
13 A Yes.
14 Q Okay. Did you go to a class where they had a person
15 lay on the ground handcuffed and they said when that
16 happens grab them under the elbow and lift them?
17 A If you grab them by the elbow that is with their
18 assistance.
19 Q Okay. So it is your position that on the video that
20 we watched that we will see Ms. Weddle help you help her
21 up from the ground?
22 A That is correct.
23 Q Okay. I want to be clear too. You testified
24 earlier that you can't recall if Ms. Weddle was asked
25 about a medical issue prior to lifting her off of the

1 ground?

2 A Correct.

3 Q You did say that you recall her asking for a doctor
4 and for Alka-Seltzer, correct?

5 A Yes, when she came to the desk.

6 Q Why do people usually want Alka-Seltzer?

7 A For gas, heartburn.

8 Q Stomach issues?

9 A Yes.

10 Q Is it also your testimony that if we watch this
11 video again we will see Ms. Weddle being noncompliant
12 with your directions to get off the ground?

13 A Yes.

14 Q Okay. Just to be clear, you were here in the room
15 when I played those two videos earlier?

16 A That is correct.

17 Q You also testified that the reason you needed to get
18 Ms. Weddle off the ground was that she was a hazard to
19 herself and other inmates?

20 A That's correct.

21 Q Do you remember where we watched approximately eight
22 minutes of video showing the intake room where she was?

23 A Yes.

24 Q Did you see anyone trip over her or kick her in that
25 time?

1 A Not at that time. But it could happen.
2 Q But it didn't happened?
3 A No.
4 Q Am I also correct in hearing that you said that Ms.
5 Weddle complied with your request after you got her off
6 of the ground?
7 A Yes.
8 Q One of the trainings you talked about earlier was
9 immigration intake of inmates.
10 A Uh-huh.
11 Q How is that training relevant to what we are here
12 about today?
13 A I was just ---
14 MS. GANES: Objection. Argumentative.
15 THE COURT: I am giving a little latitude. But
16 rephrase the question.
17 Q Do you -- is that relevant to what we are here about
18 today?
19 A No -- well, yes.
20 Q The ---
21 A Because ---
22 Q --- immigration?
23 A Yes.
24 Q Okay. Please explain.
25 A Because that's along with IPC skills too. Most

1 people don't like to talk to you if they were born
2 outside of the country and then mention immigration. It
3 is just the way you go about talking to someone. It
4 builds some rapport to get some true statements.

5 Q Okay. Moving to IPC training which you said was
6 interpersonal communication ---

7 A Yes.

8 Q --- is what it stands for, does the videos that we
9 showed depict you talking to Ms. Weddle?

10 A Yes.

11 Q Does it depict you talking to Ms. Weddle before you
12 pick her up off the ground?

13 A I'm sure I can see my mouth moving. Prior to
14 lifting her up off the ground and while she was on the
15 wall being searched.

16 Q Well, before that though. Before you picked her up
17 off the ground does the video show you having
18 communication with Ms. Weddle?

19 A No.

20 Q You also said that you put your hand on her back to
21 steady her. Are you talking about when you had her up
22 against the wall while you were searching her pockets?

23 A Yes.

24 Q Not while you were lifting her off the ground?

25 A No.

1 Q Further, you testified that you never observed Ms.
2 Weddle unsteady on her feet?

3 A Not at all.

4 Q So I played that eight minutes of that video for the
5 purpose of us being able to see what you were doing
6 during that entire eight minutes leading up to it. And
7 so in that eight minutes are you standing there observing
8 Ms. Weddle?

9 A Yes, I am watching her.

10 Q Are you doing anything else during that eight
11 minutes?

12 A Dealing with the paperwork.

13 Q Okay. Are you doing anything else during that eight
14 minutes?

15 A Well, talking to the officer.

16 Q Anything else?

17 A That's it.

18 Q So for the eight minutes you are not standing there
19 observing Ms. Weddle against the wall, are you?

20 A No.

21 Q You are doing other things?

22 A That is correct.

23 Q So you don't know if she was unsteady on her feet at
24 the times when you were doing paperwork or talking with
25 somebody else, do you?

1 A No.

2 Q All right. Let's get back to the part where you
3 said that it is a hazard or other descriptor - but I will
4 let you use - to have a person on the floor at the time.
5 This is what you testified to earlier?

6 A Yes.

7 Q Okay. And is this a situation that you in the
8 moment you felt you needed to get the situation under
9 control?

10 A Yes.

11 Q Okay. And prior to you putting your hands on Ms.
12 Weddle the situation was not under control?

13 A No.

14 Q And did you feel that you needed to direct or
15 control Ms. Weddle's behavior in that moment?

16 A Yes.

17 Q Okay. And it is your testimony also that there was
18 no force used?

19 A Not at all.

20 MR. BOLES: May I approach, Your Honor?

21 THE COURT: You may.

22 MR. BOLES: The court that is. I have a deposition.
23 (WHEREUPON, deposition provided to the court and was
24 opened by the court.)

25 (WHEREUPON, Court's Exhibit 3, deposition of Officer

1 Gladden, was marked for identification.)

2 Q Officer Gladden, you have just been handed your
3 deposition transcript. Can you please turn to the back.
4 There is an Exhibit 1 in the back.

5 MS. GANES: Objection, Your Honor.

6 THE COURT: Please approach.

7 (WHEREUPON, bench conference was had 11/15/16 1:01 p.m.)

8 THE COURT: Madam forelady, ladies and gentlemen, we
9 are going to -- I need to take up a matter of law with
10 the attorneys. It is 1:01. I think it is an appropriate
11 time for us to break for lunch.

12 During this break please do not discuss the case.
13 And please leave your notepads in your seats. I
14 anticipate that the lawyers and I will be working for a
15 few moments before we actually get to go to lunch, so we
16 will break until 2:15.

17 You need to return directly to your jury room at
18 that time. And when everyone has arrived we will resume
19 with testimony.

20 We appreciate your patience. Do not discuss the
21 case, and do not have any contact with anyone in or about
22 the courthouse. Please leave your notepads in your
23 seats. Have a good lunch.

24 (WHEREUPON, jury exits 11/15/16, 1:02 p.m.)

25 THE COURT: Go ahead and ask the question, please.

1 MR. BOLES: Of the witness, Your Honor?

2 THE COURT: Yes.

3 MR. BOLES: Okay. If I could just back up.

4 THE COURT: Back up for what purpose?

5 MR. BOLES: On my questioning.

6 THE COURT: There is a question pending. You need
7 to go ahead and ask the question that she objected to.

8 MR. BOLES: Okay.

9 PROFFER IN CAMERA EXAMINATION BY MR. BOLES OF OFFICER
10 YASHICA GLADDEN:

11 Q If you would please turn to Page -- it is marked
12 Page 2 of 9 on Exhibit 1. Do you see -- let me know when
13 you are there, please.

14 A What is the page number?

15 Q It is marked Page 2 of 9, on Exhibit 1.

16 A Okay.

17 Q Okay. Do you see there is a definition section?

18 A Uh-huh.

19 Q Do you see that ---

20 MS. GANES: Excuse me, Your Honor. Are you just
21 proffering, or do you want me to still contemporaneously
22 object?

23 THE COURT: There is no jury.

24 MS. GANES: Okay.

25 THE COURT: I am trying to make a decision on the

1 objection.

2 MS. GANES: Okay. That is what I thought.

3 THE COURT: Yeah.

4 MS. GANES: I just wanted to make sure you didn't
5 want to hear from me.

6 Q Do you see that there is a definition of force in
7 Paragraph 8?

8 A Yes.

9 Q Okay. Will you please read that definition.

10 A Conduct on the part of detention officers that is
11 designed to assist the officers in controlling the
12 situation in actions or behavior of a person or persons.

13 THE COURT: You need to finish what your question
14 is.

15 MR. BOLES: That was the question I was going to
16 ask. She objected ---

17 THE COURT: And that is the extent of it?

18 Q And so it is still your position that you did not
19 use force at all?

20 A No.

21 THE COURT: Is there an objection?

22 MS. GANES: Yes, Your Honor. So ---

23 THE COURT: What is the basis of the objection?

24 MS. GANES: 613(b). This was an improper use of a
25 deposition. And so by approaching and giving her

1 deposition it gives the appearance to the jury that she
2 has testified inconsistently; and she has not.

3 What he has really done is just asked her to read a
4 policy and procedure. This was not her -- a prior
5 inconsistent statement that she has now come in and
6 testified differently, so approaching and using a
7 deposition is not proper in this circumstance.

8 THE COURT: How did she answer inconsistently, and
9 why would this be a proper use of the deposition?

10 MR. BOLES: She just said on direct she did not use
11 force.

12 THE COURT: Yeah, but that is not -- then if -- then
13 in a deposition the proper use of that would be that if
14 you asked her that exact question in the deposition and
15 she said yes then that would be impeaching her.

16 If you wanted to do it this way you should have
17 simply elicited the testimony from the policy. And it is
18 an improper use of a deposition.

19 The purpose of the deposition is to impeach the
20 witness. And to do that you first have to establish that
21 she has answered inconsistently, which means you have to
22 ask her the exact same question and elicit a difference
23 response than what you got from her sworn testimony. And
24 you haven't.

25 MR. BOLES: Okay. Thank you, Your Honor. May we

1 take back the deposition transcript and I will just hand
2 her the policy.

3 THE COURT: Any exception?

4 MS. GANES: Well, Your Honor, I would just ask ---

5 THE COURT: I would instruct the jury to disregard
6 everything prior to that point.

7 MS. GANES: Thank you.

8 THE COURT: And with that instruction is there any
9 exception from the defense?

10 MS. GANES: Well, just that he would need to lay a
11 proper foundation.

12 THE COURT: Well, it is their policy isn't it?

13 MS. GANES: Right. It is.

14 THE COURT: And it ---

15 MS. GANES: But it is not ---

16 THE COURT: --- gives the appro- -- well, that is
17 for you to rehabilitate your witness.

18 MS. GANES: Gotcha.

19 THE COURT: All right. So we will break for lunch
20 and resume at 2:15.

21 MR. BOLES: Thank you.

22 MS. GANES: Thank you.

23 THE COURT: Well, actually I need to go ahead and
24 rule on this motion for directed verdict that is
25 outstanding.

1 RULING ON PREVIOUS REQUEST FOR DIRECTED VERDICT:

2 THE COURT: Considering the evidence in the light
3 most favorable to the nonmoving party I am directing a
4 verdict on the cause of action for negligent supervision
5 and training.

6 There is no evidence in the record to support --
7 ma'am, you can step down. I apologize. I just instruct
8 you that you are to have no -- no conversation about your
9 testimony with anyone during the recess. And you can
10 leave all of that there. We will take care of it.
11 Because you may need it when you resume your testimony.

12 As regards to the second cause of action which is
13 negligent supervision and training, as to the Charleston
14 County Sheriff's Office I find that there is no evidence
15 in the record to support that cause of action considering
16 the evidence in the light most favorable to the nonmoving
17 party. There is no creation of a question of fact
18 regarding that.

19 Negligent supervision and training is a very
20 specific area of the law and it requires very specific
21 testimony. It requires there to be testimony regarding a
22 professional standard. The fact that the entity did not
23 adhere to that standard, and then knowledge that the --
24 there was some issue with the employee and then along
25 with that a failure to supervise that particular employee

1 in conducting their duties. And there is absolutely no
2 evidence in the record of that. So I am directing a
3 verdict on that issue.

4 And Ms. Ganes, you are to provide the court with a
5 supplemental order regarding that directed verdict. You
6 are to cite any authority as well as any facts consistent
7 with that ruling.

8 Now as in regards the second part of the defense's
9 motion which is a directed verdict on the negligence,
10 which is really a gross negligence standard, and that is
11 the first cause of action as to the defendant Charleston
12 County Sheriff's Office, considering the evidence in the
13 light most favorable to the nonmoving party that motion
14 is denied.

15 There is sufficient evidence in the record to
16 establish a question of fact regarding whether the
17 Charleston County Sheriff's Office was grossly negligent
18 in the handling of the plaintiff. And there is expert
19 testimony regarding that. And that being in the nature
20 of Mr. Aiken.

21 And what he testified to really was a negligence
22 standard. He really didn't have -- gross negligence
23 standard. It really didn't have anything to do with
24 supervision or training. And by his own admission he had
25 never reviewed Charleston County's training records; he

1 never reviewed the officer's training records.

2 You can't just sort of blanketly say there is a
3 breach of supervision and training and have no support
4 for that testimony. And there was none. The record is
5 void of it.

6 But his testimony does support that -- and his exact
7 words were that -- he made a blanket statement that there
8 was inadequate training and inadequate supervision. But
9 then he does not support any -- any testimony required by
10 the law to support that contention.

11 But what he exactly does is y'all mixed apples and
12 oranges. But I think it is enough to support the denial
13 of directed verdict.

14 He then basically testifies that there is a
15 violation of gross negligence, that she should have been
16 handled differently, that there were guide marks and red
17 flags basically that there was a medical emergency and
18 that it should have triggered the County who acted
19 through its officer to have gotten medical -- or at least
20 to have looked into whether there was some medicals --
21 medical issue with the plaintiff that needed some
22 intervention.

23 And so to the extent that his testimony is admitted
24 that really is the only purpose for which it really can
25 be used. It cannot be used to support negligent

1 supervision and training.

2 And by his own testimony he admitted that he had
3 never looked at the training records of the defendant, he
4 had never looked at her certifications, that he did not
5 review any of policies for Charleston County.

6 And even if he had, he did not testify that there
7 was -- there -- what the national standard was and that
8 there was a breach of that standard and in addition to
9 that that somehow the County was on notice that this
10 officer needed supervision and failed to provide that.

11 So as it regards the motion for directed verdict on
12 negligent supervision and training, that is granted. As
13 it regards gross negligence, it is denied.

14 MR. BOLES: Thank you, Your Honor.

15 THE COURT: We will move forward after lunch with
16 the cross-examination of the witness.

17 MS. GANES: And then, Your Honor, what about the
18 proximate cause of the injury ---

19 THE COURT: Oh, I am glad you said that. Because I
20 had my notes, and I forgot to read that part.

21 MS. GANES: Thank you, Your Honor.

22 THE COURT: As in regards to the lack of proximate
23 cause as it regards to her injury I would find that
24 there -- that motion likewise is denied. And I lumped
25 that into the negligence. And I apologize for not

1 acknowledging that. Because it was my intention to.

2 Why she had surgery four years later, that is a
3 weight issue for which you can argue to the jury that
4 there is no medical testimony to support any proximate
5 cause that this caused her injury.

6 There are a whole line of cases that seem to support
7 that that is an issue of fact and weight for a jury to
8 discern.

9 And there -- although I could not find the exact
10 case that I was looking for on point, just in general
11 there are cases that support that medical opinion
12 testimony is not required on causation when it is an
13 obvious injury and when the person begins to complain on
14 that day of the injury and claims that the condition
15 resulted from that injury.

16 That enough is sufficient to establish causation.
17 It is -- and when you take that also in connection with
18 circumstantial evidence along with lay testimony that may
19 be competent to establish that the injury was one that
20 was proximately caused.

21 And she testified that she did not have any
22 pre-existing conditions, that when they lifted her in the
23 jail that is when she began to have symptoms and issues
24 that she then embarked upon a course of treatment for
25 years and finally met a doctor who was able to diagnose

1 what her issue was and to provide her with treatment.

2 It is up to -- you of course can argue the opposite
3 which is it is unreasonable to believe that someone
4 suffered with a rotator cuff injury for four years and
5 did nothing, did not seek any surgical intervention.
6 That is a weight issue for a jury to parcel out but not
7 for the court.

8 All right. See you all at 2:15. Have a good lunch.

9 MR. BOLES: Thank you, Your Honor.

10 MS. GANES: Thank you, Your Honor.

11 (WHEREUPON, break was had for lunch 11/15/16, 1:12 p.m.)

12 (WHEREUPON, resumed after lunch, 11/15/16, 2:22 p.m.)

13 (WHEREUPON, jury enters 11/15/16, 2:22 p.m.)

14 THE BAILIFF: All are seated, Your Honor.

15 THE COURT: Thank you.

16 Ladies and gentlemen, I hope y'all had a pleasant
17 lunch. We are now going to resume testimony of the
18 witness. I can't talk. The witness. I was thinking Mr.
19 Boles and the witness at the same time so it came out --
20 anyway.

21 Mr. Boles, you may proceed.

22 MR. BOLES: Thank you, Your Honor.

23 MS. GANES: Your Honor, you were going to take up
24 that matter.

25 THE COURT: You are correct.

1 MS. GANES: Thank you.

2 THE COURT: Madam forelady, ladies and gentlemen,
3 you are to disregard the last question and the last
4 answer in its entirety. You are to give absolutely no
5 consideration to it in your deliberations.

6 Okay. You may proceed, Mr. Boles.

7 MR. BOLES: Thank you.

8 THE COURT: You are welcome.

9 RESUME CROSS-EXAMINATION BY MR. BOLES OF OFFICER YASHICA
10 GLADDEN:

11 Q Officer Gladden, before we took a lunch break you
12 had just testified that my client on the floor presented
13 a situation over which you needed to gain control?

14 A That is correct.

15 Q And she was a person whose behavior over which you
16 needed to gain control?

17 A That is correct.

18 Q You also testified earlier today that you did not
19 use force on my client?

20 A No, I didn't.

21 Q Okay. Do you mind to clear that answer up, is that
22 yes that was your testimony earlier today?

23 A Yes.

24 MR. BOLES: May I approach the witness, Your Honor?

25 THE COURT: You may.

1 MR. BOLES: Just take a second look over what I have
2 handed you, please.

3 (WHEREUPON, pause for witness to review document.)

4 Q Officer Gladden, do you recognize the document that
5 I handed you?

6 A Yes.

7 Q What is that?

8 A The use of force policy.

9 Q Does it give a definition for force?

10 A Yes, it does.

11 Q Would you mind to share that with the jury?

12 A Conduct on the part of a detention officer that is
13 designed to assist the officers in controlling a
14 situation, actions, or behavior in a person or persons.

15 Q Thank you. So you just testified that you needed to
16 gain control over the situation; is that correct?

17 A That is correct.

18 Q That you needed to gain control over my client; is
19 that correct?

20 A Correct.

21 Q And yet you maintain that you did not use force
22 against my client?

23 A No, I didn't.

24 Q What is the policy for someone in your position if a
25 detainee becomes faint?

1 A If they say they are feeling faint I will get them a
2 chair and contact the nurse.

3 Q Okay. Did you get Ms. Weddle a chair?

4 A No.

5 MR. BOLES: Beg the court's indulgence.

6 THE COURT: Yes, sir.

7 MR. BOLES: Officer Gladden, that is all I have for
8 you. Thank you. Answer any questions ---

9 THE COURT: Any redirect?

10 MS. GANES: Yes, Your Honor, very briefly.

11 THE COURT: You may proceed.

12 **REDIRECT EXAMINATION BY MS. GANES OF OFFICER YASHICA**

13 **GLADDEN:**

14 Q Officer Gladden, that policy that you have been
15 handed regarding the use of force, are all situations
16 where you need to gain control of an individual's conduct
17 classified as uses of force at a detention center?

18 A No.

19 Q Okay. And does that policy that you were questioned
20 about change your position at all in this case as to
21 whether you used force in your interaction with Ms.
22 Weddle?

23 A No.

24 Q The video that you saw and that the jury saw, does
25 it demonstrate you using any force against Ms. Weddle?

1 A No.

2 Q Okay. Now did Ms. Weddle ever tell you she was
3 feeling faint?

4 A No.

5 Q Okay. Did she faint?

6 A No.

7 Q Did you ever discern that she looked like she was
8 feeling faint?

9 A No.

10 Q Okay. Is multitasking required as part of your job?

11 A Yes.

12 Q Are you able to keep your eye on a detainee like Ms.
13 Weddle in the sally port area of the booking center and
14 still walk about the intake area and get the necessary
15 paperwork done?

16 A Yes.

17 Q And is that what you did in this case?

18 A Yes.

19 Q Thank you. I have no further questions.

20 THE COURT: Ma'am, you may step down.

21 You may proceed.

22 MR. JOYCE: Your Honor, at this time the defense
23 calls Captain Michael Tice.

24 THE COURT: Sir, if you would come forward to be
25 sworn.

1 (WHEREUPON, the witness was duly sworn.)

2 THE CLERK: Please state your name and spell your
3 last name, please.

4 THE WITNESS: Michael Robert Tice. Last name
5 T-I-C-E.

6 **DIRECT EXAMINATION BY MR. JOYCE OF CAPTAIN MICHAEL TICE:**

7 Q Good afternoon, Captain Tice.

8 A Good afternoon.

9 Q Captain Tice, let's tell the jury a little bit about
10 yourself. Where are you from?

11 A Originally from Rockford, Illinois. Was there ten
12 years and have been in Charleston ever since.

13 Q Okay. And when did you move to Charleston?

14 A I have been here 38 years.

15 Q Alrighty. What do you do for a living?

16 A I am the -- work at the Sheriff Al Cannon Detention
17 Center. I am the captain over their processing and
18 intake of the jail.

19 Q Okay. And how long have you been at the Detention
20 Center working there?

21 A Just over 26 years.

22 Q Okay. And how long have you worked in law
23 enforcement?

24 A Twenty-six years.

25 Q Okay. So your entire career in law enforcement has

1 been at the Sheriff Al Cannon ---

2 A Yes.

3 Q --- Detention Center?

4 A Yes, it has.

5 Q Can you walk us through your career at the Detention
6 Center and the different positions you have held and the
7 areas you have worked?

8 A There's a multitude of areas. I started out as a
9 detention officer with the Academy. Got certified. From
10 there I became a field training officer. Worked in the
11 Training Department. From there got promoted to
12 sergeant. And I have worked intake, housing, juvenile;
13 logistics, which is our supply department. There's
14 really not too many areas I haven't worked in my career
15 at that jail.

16 Q And what position do you currently hold at the
17 Detention Center?

18 A I am a captain over the, again, the intake and
19 processing and transporting of inmates.

20 Q Okay. And how long have you been a captain at the
21 Detention Center?

22 A A little over five years.

23 Q Okay. And you said you are the captain over the
24 intake and processing area. Is that the area that we
25 have seen on the ---

1 A That is correct.

2 Q --- in this trial? And can you just briefly
3 describe for me what that entails?

4 A I am responsible with overseeing the operations of
5 the intake and processing area as far as receiving of
6 inmates, insuring that the paperwork is processed
7 accordingly, that they are moved and classified
8 accordingly, fingerprint and photographed, bond hearings
9 are conducted within 24 hours. I review all incident
10 reports, uses of forces. And that it about -- about it.

11 Q Okay. Do you supervise the officers that work in
12 that area?

13 A Yes, all the officers and supervisors; yes.

14 Q Okay. Let's -- let's change gears a little bit.
15 Can you tell me about the Detention Center; does it have
16 to comply with any specific standards?

17 A All jails have to comply with the state minimum
18 standards. Those are set guidelines, policies, and
19 procedures that are good practices to follow when
20 conducting business at a detention center.

21 From there -- which we definitely see those. Then
22 we also move forward in getting accredited through the
23 American Corrections Association, ACA, which is a
24 national accrediting body that came in and certified us.
25 Basically us doing and having policy and procedures that

1 are the best practices for all.

2 Q Okay. Captain Tice, did you yourself you have to
3 undergo training?

4 A Yes, all detention officers regardless of rank or
5 structure are required to do 40 hours of in-service
6 training to keep their certification as a detention
7 officer.

8 Q Okay. What -- can you just provide some examples of
9 what ---

10 A We all go through report writing; IPC skills,
11 interpersonal communications. It can be verbal judo. It
12 can be defensive tactics, firearms, administrative report
13 writing, and so on.

14 Q Okay. And those are held on a yearly basis?

15 A Correct.

16 Q And are you an instructor at the Detention Center?

17 A Yes, I am. I am a basic instructor, a specific
18 skills instructor, a firearms instructor, driving
19 instructor, at the facility.

20 Q Okay. And are you familiar with the general
21 practices and the procedures of the general -- of the
22 Detention Center? Excuse me.

23 A Yes.

24 Q Okay. And are you required to review policies and
25 procedures on a yearly basis?

1 A Yes. All captains are required to review all
2 policies on a yearly basis for any updates for
3 recommendations.

4 MR. JOYCE: Your Honor, at this time we would offer
5 Captain Michael Tice as an expert in jail practices and
6 procedures.

7 THE COURT: Any objections or questions?

8 MR. BOLES: None, Your Honor.

9 THE COURT: So admitted without objection.

10 Q Captain Tice, you mentioned earlier that -- briefly
11 earlier; but the Detention Center officers in intake area
12 they are also required to undergo training?

13 A That is correct.

14 Q Okay, 40 hours training a year?

15 A Forty hours and basically referencing the same
16 things; report writing, use of -- use of force, like CPR,
17 first aid. I mean there's just quite a few courses that
18 you can be certified in.

19 Q Okay. And that would include Officer Gladden as
20 well?

21 A Yes.

22 Q Okay. And did you have an opportunity to review
23 this case we are here for today?

24 A Yes, I did.

25 Q Okay. And do you have an opinion based on your

1 review?

2 A In my opinion after reviewing the -- all the
3 information that was provided to me and the video, that I
4 observed Officer Gladden worked within her scope and her
5 responsibility in the area that she was assigned.

6 Q Okay. And let's kind of go piece by piece through
7 what happened. Ms. Weddle came into the Detention Center
8 and she was wearing handcuffs.

9 Is it appropriate for an arrestee to be in handcuffs
10 when they initially come into the Detention Center?

11 A Yes. All detainees coming into the facility must be
12 restrained in some form or fashion. Most of the time it
13 is handcuffed behind their back unless -- unless they are
14 pregnant or have some type of medical issue that is
15 readily identifiable when they walk into the building.

16 Q Okay. And is it appropriate to search the arrestee
17 while they are in handcuffs?

18 A That is correct. It is common known things through
19 every day on-the-job training that arrestees are known to
20 conceal items that are considered contraband.

21 It can be pocket knives, razors, pipes, drugs, and
22 things like that in various areas. So we try to search
23 them when they are handcuffed to try to find the most --
24 the largest contraband items that we can readily identify
25 and retrieve off of the inmate and then after which we

1 remove the handcuffs and we do a more thorough search.

2 Q Okay. And based on your review of the video did you
3 see Ms. Weddle laying on the ground?

4 A Yes, I did.

5 Q Okay. And did you also notice some traffic in the
6 area?

7 A Yes, I did.

8 Q All right. What do you remember seeing? And if you
9 need me to key up the video if that would help I am happy
10 to.

11 A During that time of day roughly at about four
12 o'clock we have a lot of activity that comes in through
13 the intake area. Prisoners that come back from court
14 basically transfers through that area.

15 So we try to limit it -- limit the contact of
16 inmates coming in from court with any newly arrested
17 detainees due to the fact of transferring contraband that
18 we may have missed; safety reasons because the one of the
19 people that are currently incarcerated may recognize a
20 person that is being incarcerated and try to assault or
21 physically harm them; or especially when they are coming
22 in the door in that many that are actually chained
23 together they could attempt or actually assault anybody
24 that is standing on that wall. So we try to take and
25 move people through.

1 Q And while Ms. Weddle was on the ground did you
2 notice any inmates walking directly in front of her?

3 A Yes, I did.

4 Q Okay. And were they in close proximity to Ms.
5 Weddle?

6 A Yes, they were.

7 Q And would Ms. Weddle lying on the floor place her at
8 any risk?

9 A Yes. Safety is a concern based on those individuals
10 coming in through that door and the activity that is
11 going on in the intake area at that time.

12 Q Okay. Did Officer Gladden act appropriately in
13 lifting Ms. Weddle off the ground while she was in
14 handcuffs?

15 A Yes.

16 Q Okay. And tell me why.

17 A We basically -- I have done it thousands of times
18 over, you know, my career. It is -- you know, the
19 technique that she used is a lift and follow. A lot of
20 times if you lift on one arm if you start pulling up your
21 feet are going to follow your body and assisting yourself
22 up standing in an upright position. Which in the video
23 you can see that happened in this case.

24 Q Anything out of the ordinary based on your viewing
25 of the video?

1 A After -- noth- -- real -- after she was lifted to
2 her feet she was compliant. She went through the
3 process.

4 Q Would Officer Gladden assisting Ms. Weddle off the
5 ground would that constitute a use of force?

6 A No, sir.

7 Q Okay. Are you familiar with the use of force policy
8 at Charleston County Sheriff's?

9 A Yes, I am.

10 Q Can you explain to the jury why the use of force
11 policy is not applicable in this circumstance?

12 A Basically on a use of force when somebody thinks
13 about a use of force it is when you are exerting a lot of
14 pressure against somebody that is actually resisting
15 against you and not somebody that you are trying to
16 assist.

17 And to use an example, if I was to escort somebody,
18 tell somebody to go to a holding cell, and they say I am
19 not going; and but you are going to try to encourage them
20 and use your IPC skills and also have that body contact
21 by grabbing their arm or their wrist or the upper part,
22 that way you can feel them flexing if they try to tense
23 or try to assault you and guide them with pressure to
24 that cell. That is not a use of force, in using that as
25 an example.

1 Q Based on your view of the video did Ms. Weddle
2 appear unsteady on her feet after she was assisted up?

3 A No, she did not.

4 Q Did she appear to walk to the booking desk?

5 A Yes, she did fine.

6 Q And after she walked to the booking desk what did
7 she do?

8 A I noticed in the video that she was at the booking
9 desk and then she walked to one of the holding cells.

10 Q Okay. And let's back up. She was searched once in
11 handcuffs?

12 A Right.

13 Q And then were her handcuffs removed?

14 A Yes, they were.

15 Q Okay. Was she searched again?

16 A Yes, she was.

17 Q And did she put her hands up above her head like
18 this (motioning) when she was searched?

19 A Yes, she did.

20 Q Okay. Why is it important for you all to search
21 people twice or three times?

22 A Again, it was to ensure that we are physically
23 searching an individual coming into the facility to
24 recover or detect any contraband when we remove their
25 property from them.

1 Because we do have inmates that come in that know
2 the system and they know where to hide items. And that
3 is what we are trying to find.

4 Q Captain Tice, did Officer Gladden do what she was
5 supposed to do?

6 A In my professional opinion, yes.

7 Q Did she do what she was trained to do?

8 A Most definitely.

9 Q And did she use any force on Ms. Weddle?

10 A No, she did not.

11 Q Captain Tice, have all the opinions you have
12 provided to this jury been to a reasonable degree of
13 professional certainty?

14 A Yes, sir.

15 MR. JOYCE: No further questions.

16 THE COURT: You may proceed.

17 MR. BOLES: Thank you, Your Honor.

18 THE COURT: You are welcome.

19 **CROSS-EXAMINATION BY MR. JOYCE OF CAPTAIN MICHAEL TICE:**

20 Q Captain -- Captain Tice?

21 A Yes, sir.

22 Q I think you just described earlier you are an
23 employee of the Charleston County Sheriff's Department?

24 A The Sheriff Al Cannon Detention Center, yes.

25 Q You work at the Detention Center?

1 A Yes, sir.

2 Q And this lawsuit is levied against your employer; is
3 that correct?

4 A That is correct.

5 Q And were you subpoenaed to be here today?

6 A I was asked to be here today.

7 Q And you were asked by your employer to be here
8 today?

9 A Yes, I was.

10 Q And so at your employer's request you came down here
11 to testify in this matter today?

12 A That and our attorneys, yes.

13 Q Okay. And did you have to take time off to be here
14 today?

15 A I was actually out on FMLA.

16 Q Okay. So -- you didn't have to take time off to be
17 here today?

18 A No, I did not have to.

19 Q Why so much testimony about searching inmates and
20 contraband?

21 MR. JOYCE: Objection.

22 THE COURT: Basis.

23 MR. JOYCE: Argumentative.

24 THE COURT: Actually it is the form of the question.
25 Restate it. Sustained.

1 Q Did you testify earlier about the searching of
2 inmates and contraband?

3 A Yes, I did.

4 Q Why -- how does that -- strike that. Does that
5 apply in this case?

6 A All inmates are searched for contraband when they
7 come into the facility.

8 Q Was there contraband found on my client?

9 A Not that I am aware of.

10 Q So that doesn't have anything to do with this case,
11 does it?

12 A As far as our procedures coming into the facility
13 and how we handle inmates come in; yes, it does.

14 Q Okay. You mentioned something called guide with
15 pressure and that that is not a use of force; is that
16 correct?

17 A Guide and follow is what I said.

18 Q Guide and follow. Is that the same thing as lift
19 and follow?

20 A Yes, you could say it that way; yes.

21 Q So if we watch that video again it is your testimony
22 that we are going to see Ms. Weddle assist in the -- in
23 being picked up off the ground?

24 A Based on the video that I watched when Ms. --
25 Officer Gladden started picking her up from the ground,

1 Ms. Weddle did apply -- plant her feet and lift up and
2 came up to an upright position.

3 Q So she kind of like -- as she was lifted up you are
4 saying she walked her feet under herself?

5 A More kind of -- yes. Yes.

6 Q And you are maintaining that lifting a detainee off
7 the ground by their elbow is a proper mechanism for
8 getting them off the ground?

9 A Using their arms and trying to guide them and at the
10 same time communicating with them to get them to get up,
11 yes, we have done it. I have done it many times.

12 Q So you lift -- you have gone to an inmate, put a
13 hand under their elbow while they were handcuffed and they
14 were on the ground, and you lifted them up?

15 A And around their arm, that area; yes, I have.

16 Q Well, I am talking about the way it was done in this
17 case you have done that before?

18 A Yes.

19 Q Did you testify earlier that 4:00 p.m. is a
20 high-traffic time for the intake area?

21 A Yes, it is.

22 Q And did you also testify there are some concerns
23 about having inmates come through that doorway and having
24 new detainees there also?

25 A That is always a concern, yes.

1 Q Had -- it is something like you said you are worried
2 about contraband being passed or -- or exposing a new
3 detainees to someone who has been in the jail already?

4 A Yes.

5 Q Okay. And based on your review of the video, before
6 Ms. Weddle laid on the ground while she was just standing
7 in that doorway how long did y'all leave her in that
8 doorway before inmates started filing through?

9 A I wasn't paying particular attention to the time as
10 far as from the time she stood there to the interaction
11 with Officer Gladden.

12 Q But you just said it is a high-traffic area,
13 correct?

14 A Yes, it is.

15 Q And you don't want to let a new detainee be there
16 when inmates are coming through from court, right?

17 A Correct.

18 Q And yet Ms. Weddle was there when inmates ---

19 A Right.

20 Q --- were coming through from court? And she was
21 there because that's where your employees placed her?

22 A Where she was standing?

23 Q Yes.

24 A That's where the officer placed her; the arresting
25 officer, yes. That is where most of them stand.

1 Q And that is where y'all let her remain?

2 A Until she was searched, correct; right.

3 Q So you didn't come tell her, Miss, this is not a
4 good place for you to be, we need you to come around the
5 corner here?

6 A I am not sure. I can only go by what the video is
7 showing.

8 Q And the reason you can only go by the video is
9 because you weren't present when this happened, were you?

10 A That is correct.

11 Q Do you know anything about the plaintiff's life
12 before she was brought to the Detention Center?

13 A No, I do not.

14 Q Do you know anything about her life after she left
15 the Detention Center?

16 A No, I do not.

17 Q Is there any scenario under which you would testify
18 differently than you have today?

19 A Not that I'm aware of, no.

20 Q Thank you.

21 MR. BOLES: Thank you.

22 THE COURT: Any further questions for the witness?

23 MR. JOYCE: Just a couple of questions.

24 **REDIRECT EXAMINATION BY MR. JOYCE OF CAPTION MICHAEL**

25 **TICE:**

1 Q Ms. Weddle was not injured in any way from standing
2 in the sally port, was she?

3 A No.

4 Q Would you be dishonest to the jury simply because of
5 your employment status?

6 A No, sir.

7 Q If one of your employees did not meet professional
8 standards would you have any problem with telling the
9 jury?

10 A No problem whatsoever.

11 MR. JOYCE: I have no further questions.

12 THE COURT: Any objection to the witness being
13 excused, from the plaintiff?

14 MR. BOLES: None, Your Honor.

15 THE COURT: From the defense?

16 MS. GANES: None, Your Honor.

17 THE COURT: Sir, you are excused.

18 THE WITNESS: Thank you, Your Honor.

19 THE COURT: You are welcome.

20 The defense may proceed.

21 MS. GANES: Your Honor, at this time the defense
22 rests.

23 THE COURT: Counsel, approach for me, please.

24 (WHEREUPON, bench conference was had 11/15/16, 2:49 p.m.)

25 THE COURT: Madam forelady, ladies and gentlemen,

1 the defense has rested their case. I have to take up
2 some matters of law with them. During this break please
3 do not discuss the case, and please leave your notepads
4 in your seats. We appreciate your patience.

5 (WHEREUPON, jury exits 11/15/16, 2:50 p.m.)

6 THE COURT: The defense has rested. Are there any
7 motions?

8 MS. GANES: Yes, Your Honor, we would renew our
9 motion for directed verdict at this time on the
10 negligence and gross negligence cause -- or I'm sorry,
11 gross negligence cause of action being that jail
12 practices are not in the common knowledge of a layperson
13 and we believe that Mr. Akins' testimony was insufficient
14 to establish that there was any breach of any
15 professional standard to establish the appropriate
16 standard (phone ringing) ---

17 THE COURT: If anybody has a telephone on, it needs
18 to be turned off. If it goes off we will take it. It
19 will not be returned to you.

20 MS. GANES: I apologize, Your Honor.

21 THE COURT: You may continue.

22 MS. GANES: It is the defense's position that
23 because Mr. Aiken's testimony was insufficient under
24 South Carolina's standard for expert witness testimony
25 then the basis could not be established for a verdict

1 against the defendant on gross negligence without
2 establishing a breach in the appropriate -- a breach in
3 the duty that was to be afforded to plaintiff and to --
4 and in the evidence in the light most favorable to the
5 plaintiff a directed verdict in favor of the defendant on
6 that cause of action is appropriate.

7 Also on the gross negligence cause of action and
8 proximate cause we would renew our motion now that the
9 case has closed with no additional testimony and no
10 proximate cause testimony. Four years between the
11 incident and the surgery for which the damages have been
12 alleged is too long and to show an injury alone is not
13 sufficient under South Carolina law. And we would move
14 on those grounds for a directed verdict on proximate
15 cause as well in favor of the defendant.

16 THE COURT: Would you like to respond?

17 MR. BOLES: Very briefly, Your Honor. Just create
18 reference to our initial defense of this -- of these
19 motions. The halfway point was the plaintiff's case. I
20 will also further ---

21 THE COURT: I'm sorry, I didn't hear what you said.
22 Please repeat that.

23 MR. BOLES: Yes, ma'am, Your Honor. I would create
24 reference to the arguments that were given to the court
25 at the close of the plaintiff case when this motion was

1 initially made and denied by the court.

2 I would further point out that in James Aiken's
3 testimony he stated that the defendant failed to use the
4 slightest care. And we use that phrase from the
5 definition of gross negligence as stated by defense
6 counsel.

7 He further went on to lay out the duties, the breach
8 of the duties, and based on his review of the records in
9 this matter that there had been injury as a result of the
10 duties. So Mr. Aiken's testimony alone was sufficient to
11 get the gross negligence question to the jury.

12 Regarding the proximate cause argument, again, I
13 create reference to the arguments of counsel from close
14 of the plaintiff's case. We ask that you deny that, send
15 this to the jury.

16 There is ample information on the record for them to
17 make a decision on that point.

18 THE COURT: Anything further?

19 MS. GANES: Not from the defense.

20 THE COURT: Considering the evidence in the light
21 most favorable to the nonmoving party there exists a
22 question of fact as to whether the defendant acted in a
23 grossly negligent manner toward the plaintiff.

24 The arguments made by the defense go to the weight
25 of the testimony, not whether a question of fact was

1 created.

2 You have two opposing experts regarding whether the
3 standard of care was met. Mr. Aiken testified that there
4 was an absence of slight care in the way that the
5 plaintiff was handled, that there were certain flags that
6 were created in her behavior signaling the need for
7 medical intervention which the County failed to adhere to
8 through their employee, acted within the scope of her
9 employment.

10 We have a contravening expert on behalf of the
11 Detention Center that states that she met her standard of
12 care and was not grossly negligent as regard to handling
13 of the plaintiff.

14 It is not for the court to determine the credibility
15 of witnesses, not to determine the weight of their
16 testimony; and therefore, the motion for directed verdict
17 is denied.

18 And I will rely on my previous ar- -- previous
19 articulation regarding proximate cause. There is
20 sufficient evidence in the record for the jury to
21 determine whether the actions depicted on the video as
22 well as in connection with the testimony of the plaintiff
23 were such to be proximate -- to be the proximate cause
24 for the injuries that she now claims. And it is for a
25 jury to determine whether in fact that is reasonable.

1 It is also for a jury to determine any issues
2 regarding a delay in treatment as is alleged by the -- by
3 the defense. The plaintiff I assume is going to argue
4 that she pursued a continuous course of treatment and
5 based on the plaintiff's testimony finally found a doctor
6 who addressed her issues or her complaints after which
7 she had her situation remedied and got appropriate
8 treatment. Therefore, the motion is denied.

9 MS. GANES: Thank you, Your Honor.

10 THE COURT: You are welcome.

11 THE COURT: And I incorporate my previous rulings
12 from when I ruled on the original matter.

13 Alrighty. Now is there going to be any rebuttal
14 testimony?

15 MR. BOLES: None, Your Honor.

16 THE COURT: How long will -- I assume plaintiff is
17 going to open and close?

18 MR. BOLES: For closing statements ---

19 THE COURT: Yes.

20 MR. BOLES: Closing arguments, Your Honor?

21 THE COURT: Uh-huh.

22 MR. BOLES: At this point I was just planning on the
23 one.

24 THE COURT: You don't plan to offer any rebuttal
25 argument? It is up to you. It doesn't matter to me.

1 But I am asking for planning purposes.

2 MR. BOLES: Time wise if I do rebut it is going to
3 be one minute or less.

4 THE COURT: How long will your closing argument be?

5 MR. BOLES: Five to seven minutes; ten minutes. I
6 am trying to keep it as concise as I can.

7 THE COURT: I just need you to be honest with me.
8 I -- it doesn't matter to me how long it is. But I am
9 trying to plan. So I need to know -- for you to
10 articulate for me in ---

11 MR. BOLES: Can I have 15 minutes allotted to mine?

12 THE COURT: You can have as long as you want. It
13 doesn't matter to me.

14 MR. BOLES: I will say -- I will say I will do it in
15 that amount or less.

16 THE COURT: How long do you think your closing
17 argument will be, Ms. Ganes?

18 MS. GANES: Probably 20 to 30. Closer to 20 though.

19 THE COURT: Do you have any requests for instruction
20 that you want the court to consider?

21 MS. GANES: We do, Your Honor. They are not in the
22 best form. And I apologize for that. My page numbers
23 don't match.

24 THE COURT: That's okay. You can just pass them up
25 to me so I can look at them.

1 MS. GANES: Okay.

2 (WHEREUPON, counselors conferred.)

3 (WHEREUPON, break was had 11/15/16, 3:02 p.m.)

4 MS. GANES: I apologize, Your Honor. I am trying to
5 make a set of what I pulled out.

6 THE COURT: That is fine.

7 MS. GANES: And then I have some that I had pulled
8 this morning, and I only have one copy of those. They
9 are -- they are redundant. But I need to have a minute
10 to ---

11 THE COURT: Okay.

12 MS. GANES: Like some of these in both sets and
13 stuff like that. And I don't think -- my biggest
14 question was a function of the relative and comparative
15 whether you were going to charge that and do a verdict
16 form ---

17 THE COURT: I don't think assumption of the risk
18 applies anymore ---

19 MS. GANES: Okay.

20 THE COURT: --- with comparative negligence, does
21 it?

22 MS. GANES: Okay.

23 THE COURT: I think ---

24 MS. GANES: There is that one case that we ---

25 THE COURT: Yeah, but ---

1 MS. GANES: --- for lack of ---

2 THE COURT: --- our Supreme Court is -- yeah, our
3 Supreme Court ---

4 MS. GANES: But nobody recognizes it.

5 THE COURT: Well, no, it -- our -- the comparative
6 negligence instructions clearly say who had the last
7 clear chance to avoid the danger.

8 MS. GANES: Okay.

9 THE COURT: So it is encompassed. But there is no
10 more assumption ---

11 MS. GANES: We will take that out.

12 THE COURT: There is no more -- yeah.

13 MS. GANES: And so that was ---

14 THE COURT: We are a comparative negligence state,
15 period.

16 MS. GANES: That was one of our main questions.

17 THE COURT: Uh-huh. In some very limited
18 circumstances. But this is not one of them. But ---

19 MS. GANES: I have ---

20 THE COURT: --- it is already encompassed in the
21 comparative negligence instructions.

22 MS. GANES: I have just had one where it was
23 charged; we just ---

24 THE COURT: And actually assumption of the risk is
25 encompassed too because it talks about who has the

1 ability to appreciate the danger.

2 (WHEREUPON, break was had 11/15/16, 3:04 p.m.)

3 (WHEREUPON, resumed 11/15/16, 3:08 p.m.)

4 THE COURT: It is going to be 3:30, a quarter to
5 4:00; and that is just really too late to be doing
6 closing argument and instruction. So what I am thinking
7 of doing is just letting the jury go, go ahead and deal
8 with charge conference. Because I am going to have to
9 look at what you submit to me. And close and charge in
10 the morning.

11 Is there any exception from the plaintiff?

12 MR. BOLES: No, Your Honor.

13 THE COURT: From the defense?

14 MS. GANES: None, Your Honor.

15 THE COURT: Okay.

16 Please get the jury for me.

17 (WHEREUPON, jury enters 11/15/16, 3:11 p.m.)

18 THE BAILIFF: All are seated, Your Honor.

19 THE COURT: Thank you, ladies and gentlemen. Both
20 the plaintiff and the defense have rested their cases.
21 But it is probably going to take us a little while to
22 finish working through the matters of law that we need to
23 before we can have closing argument and instruction. And
24 I anticipate that if we were to plug along at our current
25 pace that we will not be finished with argument and

1 instruction until well after five o'clock, so I am going
2 to allow you all to go for the afternoon while we work
3 through these issues. We will resume in the morning at
4 9:30 with closing argument and instruction.

5 I would strictly instruct you that you are to have
6 no discussion among yourselves or with anyone else about
7 the case.

8 While it may seem simple to talk about what you have
9 heard, that by its very nature is deliberation because
10 that requires you to process what you have heard and to
11 draw conclusions based upon it. And you cannot do that
12 until you have heard the parties closing arguments and
13 the court's instructions on the law.

14 Also please don't do any independent research on the
15 internet. I know it can be tempting. And I know we have
16 come to believe that everything on the internet is
17 accurate -- which is sort of scary in and of itself.

18 But nevertheless cases are tried in a particular way
19 and they are designed so that as the finders of the fact
20 you make your decisions based on what you have heard from
21 a list of the sworn witnesses and the other evidence that
22 has been introduced. So I would also ask that you
23 strictly abide by that instruction.

24 Also please don't have any contact with anyone in or
25 about the courthouse. Again, I would not want an

1 innocent conversation to be observed and misinterpreted.

2 You will return directly to your jury room at 9:30
3 in the morning. And if you could just stack your
4 notepads on the banister. We will secure them during the
5 recess.

6 We appreciate your patience. Again, I know that it
7 would seem that we should be able to do a lot of this
8 stuff before we get started, but it is just the nature of
9 the process.

10 I would encourage any of you once your jury service
11 is concluded -- I was just thinking in my head what you
12 might think when I say this. But anyway, that you come
13 and observe the process from the other side of the bench
14 and then a lot of the stuff that we have to exclude you
15 all from you would then be able to understand the true
16 nature and have a whole a picture of the entire process.
17 But please know that we do not take your time for
18 granted. You are so very valuable to us. And I hope
19 y'all have a great afternoon. We will see you in

20 See you in the morning at 9:30. And if you will
21 just leave your pads on the banister for us.

22 (WHEREUPON, jury exits 11/15/16, 3:11 p.m.)

23 THE COURT: Okay. Now were you able to get a copy
24 of what you wanted to hand to the court to Mr. Boles or
25 reconstruct a set for him?

1 MS. GANES: Well, I -- he looked through the ones
2 that I didn't have a copy of, and he took exception to
3 one. And then I gave him ---

4 THE COURT: Well, I am not even guaranteeing I am
5 using any of them.

6 MS. GANES: Okay. I know.

7 THE COURT: I just need to look at them.

8 MS. GANES: I know.

9 THE COURT: I am going to go through my instructions
10 and then I will see if there is anything to be added and
11 then I will look at what you have and let you know
12 whether it is a part of my standard instruction or
13 whether I need -- and then I will ask for input as to
14 whether anything that needs -- whether you all have any
15 exception to something that may or may not be in my
16 instructions, and then we will go from there.

17 MS. GANES: Okay.

18 THE COURT: But I need to have the benefit of seeing
19 what it is you may propose so that I can look at it and
20 make a reasonable judgment about it.

21 Mr. Boles, did you have any proposed instructions
22 for the court to consider?

23 MR. BOLES: Not at this time, Your Honor.

24 (WHEREUPON, break was had 11/15/16, 3:15 p.m.)

25 (WHEREUPON, resume 11/15/16, 3:16 p.m.)

1 THE COURT: I will give the jury a general
2 instruction regarding their responsibility and my
3 responsibility.

4 In the course of giving that general instruction I
5 will instruct them that the Charleston County Sheriff's
6 Office is a governmental entity and that in our eyes and
7 in the eyes of the law they are just like a human being
8 or an individual and they are entitled to the same fair
9 and impartial treatment.

10 I will then instruct them what the South Carolina
11 Tort Claims Act is and that it is the exclusive remedy
12 against a -- against a governmental entity and that a
13 governmental entity is liable for the torts in the same
14 manner and to the same extent as a private individual
15 under like circumstances.

16 I will then give them a brief discussion -- a brief
17 description of what agency is. And then I will instruct
18 them - and I assume you all will stipulate to this, that
19 Ms. Gladden was an employee or agent of -- of the
20 governmental entity and that at all times she was acting
21 within the scope of her employment and that a principal
22 is liable for any acts or omissions of its agents that
23 proximately cause injury to another person.

24 MS. GANES: So stipulated, Your Honor, as to her
25 employment.

1 THE COURT: Yeah. Okay. Thank you.

2 I assume you have no problem with that?

3 MR. BOLES: No, ma'am. Thank you.

4 THE COURT: I will then give them a general
5 instruction as to how they are -- how they are to judge
6 witness credibility and believability. And I will add
7 within that -- and I just realized I left something out.
8 Bear with me one second.

9 And within that context I will give them a general
10 instruction regarding expert witness testimony as well as
11 when an expert's testimony is relied on to establish
12 proximate cause.

13 I will then give a general instruction regarding
14 their responsibility to follow the law as I instruct it
15 and that they are not to be concerned with what they
16 think the law is but only with what I instruct them it
17 actually is.

18 I will then instruct on the burden of proof, again,
19 using the standard scales as -- using the scales analogy.
20 I will then instruct them as to what the defendant's
21 responsibility is in this case. In other words, that the
22 plaintiff must -- has claims that the defendant was
23 grossly negligent.

24 I will then go through the rest of the elements of
25 negligence, define gross negligence; and go through the

1 rest of the elements which include proximate cause.

2 I will then instruct on comparative negligence. But
3 I will then make a differentiation between what -- in
4 other words that the defendant claims that the
5 plaintiff's own negligence proximately cause the
6 plaintiff's injuries. Within that context I will define
7 what negligence means.

8 I will then instruct them that the same law that I
9 have instructed regarding negligence in general applies
10 to the plaintiff. And then the rest of -- you know, the
11 elements of comparative negligence.

12 I will then instruct on the elements of damages.
13 Which I think we all know what the elements of damages --
14 actual damages are without me going through all of that.
15 And in these -- in this instance it would only be pain
16 and suffering, loss of capacity to enjoy her usual
17 avocations, necessary medical treatment, and loss of
18 enjoyment of life.

19 There has been no testimony regarding future
20 damages; and, therefore, I will not instruct on that.

21 Going to give the general instruction on pain and
22 suffering and a general instruction on the burden -- on
23 burden of proof for damages. And then give them a
24 general instruction regarding being fair and impartial.

25 I will then go through the form of the verdict which

1 is standard comparative negligence form which I will
2 share with you all shortly. If you will give me a moment
3 to look at Ms. Gane's proposed instructions.

4 Defendant's request to charge is unnecessary as the
5 court will instruct regarding the Tort Claims Act and on
6 gross negligence.

7 Request Number 3 as it is numbered is inapplicable
8 as this is a standard -- this is an issue of law for the
9 court, not for a jury.

10 MS. GANES: Which one is it, Your Honor?

11 THE COURT: Which talks about the exception under
12 the statute ---

13 MS. GANES: Okay.

14 THE COURT: --- regarding --- yeah, that is
15 usually -- you raise that in a motion to dismiss for the
16 court to decide. That is not -- certainly not
17 appropriate for the jury. Because under that theory you
18 have no liability at all and the case would never have
19 made it where it is at right now.

20 Number 4 is cumulative as it deals with the Tort
21 Claims Act which I will already instruct, give a general
22 instruction as to what that is and how it applies under
23 these circumstances.

24 And Number 6, again, is a question of law which
25 would be the subject of a motion to dismiss which would

1 have been brought long before this case reached the point
2 which talks about a lack of liability based on
3 supervision, protection, control, confinement, or custody
4 of a prisoner, inmate or client.

5 Number 7 is gross negligence which I will use my
6 standard instruction.

7 Number 8 it cumulative as it defines gross
8 negligence, as well as Number 9.

9 Burden of proof, then, I will use my standard
10 instruction as well as Number 11..

11 Number 12 is proximate cause. I will use my
12 standard instruction. Number 16 is cumulative, as well
13 17. I will use my standard instruction on proximate
14 cause and causation as well as Number 18 and 19, all of
15 which are cumulative to one another; as well as Number
16 20.

17 I will use my standard instruction on expert witness
18 testimony, which is Number 21.

19 Number 22 is already encompassed in the court's
20 instructions.

21 Number 23 is cumulative and simply restates Number
22 22.

23 Hindsight is not applicable under these
24 circumstances. It is not -- generally hindsight is only
25 applicable in a professional negligence case but not in

1 this type of case. At least I have never instructed
2 hindsight under these circumstances. And I would have to
3 look at both of these cases again.

4 Certainly Ellis versus United States is not a
5 precedent that the court can rely upon. And it cites
6 physicians and surgeons. Generally you only instruct
7 hindsight in a medical malpractice case.

8 Comparative negligence, Number 25, I will use my
9 standard instruction.

10 Twenty-eight, damages, I will use my standard
11 instruction.

12 Number -- Number 19 which is reasonable exercise of
13 discretion is encompassed in the gross negligence
14 standard. And again is a legal -- it is a standard
15 legally which would preclude the case from going forward
16 and would establish immunity under the statute.

17 Number 20 -- and Number 20 is a restatement of
18 something I have already -- it just has a different
19 heading, but it is the same language of something I have
20 already covered which deals with gross negligence -- no,
21 about what your duty is, legal duty, and standard in terms
22 of whether the case would reach the stage of the process
23 or not.

24 Number 31 is comparative negligence. It is
25 cumulative, and I will use my standard instruction.

1 Actual damages, 33 and 34, I will use my standard
2 instruction.

3 Credibility of witnesses, 35, I will use my standard
4 instruction.

5 And Number 36 is an improper comment on the facts.
6 If you want to argue their failure to call a witness you
7 can do that; but the court is not going to comment on
8 that. And it is inappropriate for me to as it would be
9 an inappropriate comment on the facts of the case.

10 Are there any exceptions to the charge as proposed?
11 I am going to mark this court's exhibit as one package.
12 (WHEREUPON, Court's Exhibit Number 4, proposed charge,
13 was marked for identification.)

14 MR. BOLES: None from the plaintiff, Your Honor.

15 THE COURT: From the defense?

16 MS. GANES: Your Honor, the only thing that I was
17 thinking and I wanted to offer the court is would you
18 charge that punitive damages are not ---

19 THE COURT: Why would I instruct that when that has
20 never even been introduced before them ---

21 MS. GANES: Okay.

22 THE COURT: --- and it was not on the verdict form?

23 MS. GANES: Just in -- okay.

24 THE COURT: It would be inappropriate.

25 MS. GANES: All right. Nothing further.

1 THE COURT: If you could approach please to review
2 the verdict form for me.

3 (WHEREUPON, pause for counselor's review.)

4 MS. GANES: I didn't find anything, Your Honor.

5 THE COURT: Any exceptions from -- oh, have you had
6 a chance to look at it?

7 MR. BOLES: I am so sorry.

8 (WHEREUPON, pause for counselor's review.)

9 THE COURT: Have a full chance to look at it?

10 MR. BOLES: Yes, ma'am.

11 THE COURT: Any exceptions to the form of the
12 verdict from the plaintiff?

13 MR. BOLES: No, ma'am.

14 THE COURT: From the defendant?

15 MS. GANES: No, ma'am.

16 THE COURT: All right. Can y'all make sure that the
17 court reporter has all of the exhibits.

18 MS. GANES: Yes, ma'am.

19 (WHEREUPON, counselors reviewed exhibits.)

20 THE COURT: All right. Is there anything else we
21 need to take up before we adjourn for the day, from the
22 plaintiff?

23 MR. BOLES: Thank you for all of your help.

24 THE COURT: Not a worry.

25 MS. GANES: Thank you, Your Honor.

1 THE COURT: See y'all in the morning 9:30.
2 (WHEREUPON, adjourned for the day, 11/15/16, 3:30 p.m.)
3 (WHEREUPON, resumed 11/16/16, 9:50 a.m.)
4 THE COURT: Good morning everyone.
5 (WHEREUPON, reply of good morning in unison.)
6 THE COURT: Is the plaintiff ready to proceed?
7 MR. BOLES: We are, Your Honor.
8 THE COURT: Is the defense ready to proceed?
9 MS. GANES: We are, Your Honor.
10 (WHEREUPON, break was had 11/16/16, 9:51 a.m., to discuss
11 equipment for audio.)
12 THE COURT: Bring in the jury.
13 (WHEREUPON, jury enters 11/16/16, 9:53 a.m.)
14 THE COURT: Good morning. I hope everybody had a
15 good restful evening. As I explained on yesterday, both
16 the plaintiff and the defense have rested their cases.
17 We have now reached the stage in the trial where we will
18 have closing argument and the court's instructions.
19 You will hear from the plaintiff followed by the
20 defense, and then you will hear rebuttal argument from
21 the plaintiff.
22 Under our rules of procedure the party with the
23 burden of proof has the last say, so to speak. After
24 which I will instruct you on the law applicable to this
25 case.

1 And just for your planning purposes, I have ordered
2 lunch for you. And I anticipate it will be ordered --
3 delivered by 12 o'clock. So the service that we are
4 using is pretty efficient. So they usually are very
5 timely. So I just do tell you that for purposes of
6 planning.

7 I would ask that you give the attorneys your
8 undivided attention. You may proceed.

9 MR. BOLES: Thank you, Your Honor.

10 THE COURT: You are welcome.

11 THE COURT: May it please the court.

12 THE COURT: Yes, sir.

13 MR. BOLES: Good morning.

14 (WHEREUPON, response by jurors in unison of good
15 morning.)

16 **CLOSING BY MR. BOLES:**

17 When we started this case I said to you where there
18 is smoke there is fire. And isn't that a fitting
19 metaphor for what you have seen in this courtroom.

20 You can see smoke, and you can smell it; and you
21 never have to feel the heat or see the glow of the flames
22 yet you know something is burning. Isn't that fitting
23 for the example that you have in front of you.

24 Let's go over what we heard in the last two days.
25 My first witness to you ---

1 MS. GANES: Excuse me, Your Honor.

2 THE COURT: Yes.

3 MS. GANES: May I take a position where I can see
4 the chart?

5 THE COURT: Yes.

6 MS. GANES: Thank you.

7 THE COURT: You may continue.

8 RESUME OPENING BY MR. BOLES:

9 My first witness for you was Mr. Aiken. And please
10 forgive my horrible handwriting. I am left-handed.
11 That's my excuse.

12 Mr. Aiken in his years of experience I am going to
13 lay it out as this: He was a director in the US Virgin
14 Islands for the Department of Corrections. He was a
15 commissioner for the Indiana Department of Corrections.
16 He started working for the South Carolina Department of
17 Corrections in 1971. The United States Congress
18 appointed him as a special consultant. He has a master's
19 degree in criminal justice. He has consulted with the
20 United States Department of Justice.

21 He has worked for plaintiffs and defendants,
22 including the defense firm that is working on the other
23 side today. And he has one of the best narrating voices
24 I have ever worked with.

25 Now the defense called Captain Tice. Captain Tice

1 told you he has 26 years experience all with Charleston
2 County. Captain Tice also told you that he works for the
3 Charleston County Sheriff's Department. In essence he
4 represents the defendant. He is one of the defendants.

5 Mr. Aiken based on his experience told you that when
6 a person is in handcuff or restrained, just as in this
7 case, there is a heightened duty by corrections officers
8 to make sure that person doesn't get hurt.

9 He explained to you for the very basic reason than
10 when your hands are restricted behind your back it is
11 hard for you to move, it is harder for you to balance.
12 And I can promise you that it is harder for you to get
13 yourself up off of the ground.

14 Mr. Aiken also told us that when an inmate
15 complaints of dizziness and nausea the first thing that
16 the Detention Center officer should do is alert medical
17 staff. And we saw in the video that is not what happened
18 in this case.

19 Mr. Aiken told us that lifting a handcuffed person
20 off of the floor by the elbow as exactly shown in this
21 case is an improper technique.

22 He also laid out that it is very important at the
23 intake stage at the Corrections Center to evaluate
24 inmates as they come in because, as he put it, you don't
25 know if they are a terrorist or the governor's daughter;

1 you don't know if that person is a diabetic; you don't
2 know if they have a heart condition; you don't know if
3 they are feeling unsteady on their feet; you don't know
4 if they are about to get sick. And it is not their job
5 to make that call.

6 But that is what they did in this case. Officer
7 Tice told you he wasn't present for the incident. Just
8 like Mr. Aiken his entire opinion was based on what he
9 saw on the videos.

10 He told you when he saw the videos that they
11 employed a proper technique that he designated - let me
12 make sure I get this right - lift and follow. It is a
13 very gentle sounding word. It is almost like they gave
14 her a hug while she was on the floor. Lift and follow.

15 Look, y'all have eyes. Please look at the video
16 again. And ask yourself is that lift and followed, or is
17 that grabbing someone under the elbow while they are
18 handcuffed and pulling them to their feet.

19 The lift definitely happened. The follow that he is
20 talking about he describes as Ms. Weddle assisting to get
21 to her feet.

22 Now my experience if someone were lifting me to my
23 feet and I were helping them, that would involve me
24 putting my feet under myself and helping them pull me up.
25 Watch that video and ask yourselves is that what

1 happened.

2 Mr. Tice also said there was no force used. And we
3 all heard Officer Gladden read the definition of force.
4 And I want to challenge your everyday experiences as
5 people in this world, if you grab someone under the elbow
6 who is handcuffed on the ground and you pull them to
7 their feet how is that not use of force.

8 In their mind in what I heard it sounds like they
9 think force is restricted to physically dominating
10 somebody. In their mind force involves an attack but it
11 certainly doesn't -- force does not mean grabbing someone
12 under their elbow while they are handcuffed on the ground
13 and pulling them to their feet.

14 Finally, Mr. Tice said that Ms. Weddle laying on the
15 ground where she was was dangerous because it was in a
16 high traffic area.

17 Which if you watch that long video that I made all
18 of us sit through -- and I appreciate your patience for
19 that. But please watch it again and you will see that
20 there are inmates coming through just as he described.
21 Just as he described there is a line of inmates that come
22 through the door past Ms. Weddle through the intake area
23 and into another one.

24 And guess what? They put Ms. Weddle in that high
25 traffic area. And they left Ms. Weddle in that high

1 traffic area. Count -- when you watch the video count
2 how many minutes they left her standing in that area
3 before she finally goes to the ground.

4 Now our next witness was Mr. Weddle. Mr. Weddle
5 described in detail the before and after physical
6 condition of his wife related to the incident.

7 He told you about how much she loved to garden. He
8 told you about the activities they did together. He told
9 you that after the injury she couldn't drive herself.
10 He told you -- told you after the injury she wasn't able
11 to garden anymore. He told you after the injury she saw
12 various doctors. And he also told you that until she had
13 that surgery she was living in pain.

14 He told you that after that surgery everything
15 changed for her. I saw his face light up when he talked
16 about the surgery.

17 He told you that she treated for approximately four
18 years. Four years of her life trying to get better and
19 nothing was working.

20 Now I want you to ask yourselves does he strike you
21 as a truthful witness. That gentleman's face when he was
22 on the stand to me should be in the dictionary next to
23 truthful.

24 Now the defense to refute what Mr. Weddle told you
25 had no one.

1 Now let's compare Mrs. Weddle's testimony. Ms.
2 Weddle told us she reported she was unsteady on her feet,
3 she felt faint and nauseous. She said she needed
4 assistance to get up once she hit the ground. She is
5 disputing when she got to the ground. Because while she
6 is there her hands are behind her back. She can't push
7 herself up like a regular person. It is obvious. It
8 makes sense.

9 She told you Officer Gladden suddenly and without
10 warning lifted her to her feet by her elbow. We all saw
11 the video. I will let you be the judges of whether that
12 is an accurate statement.

13 She told you about what her life was like before she
14 went to the Detention Center. She told you what her life
15 was like after. She told you that the moment that she
16 was picked up by her elbow was the moment that she was
17 hurt.

18 She also told you the same thing her husband told
19 you, she attempted for about four years to get better.
20 She told you about injections, told you about physical
21 therapy. None of it was happening for her. She also
22 told you that when she had the surgery it fixed the
23 problem.

24 Officer Gladden, also like Captain Tice an employee
25 of the defendant, admitted she remembered Ms. Weddle

1 asking for Alka-Seltzer, admitted that she asked for a
2 doctor. Denies use of force and told you that when a
3 person reports being faint it is their policy to give
4 that person a chair. And she also told you that she did
5 not do that in this situation.

6 And for whatever reason, during her testimony
7 they -- they -- they brought in what is called
8 Defendant's Exhibit 1.

9 And y'all are going to have a copy of this in the
10 jury room if you want to look at it. And when I
11 questioned her about this document she had no knowledge
12 of when it was created or who made it or what it was used
13 for; just that it is a document made at the jail, it has
14 nothing to do with what we are about.

15 Now I pray that you will not let my clumsy lawyering
16 and Ms. Weddle's enthusiasm to get the entire story,
17 every second of it, to you. I pray you will not let that
18 obstruct your view of the simple facts of what happened
19 here today. And that is that the Detention Center and
20 Sheriff's Office is on trial for what happened in the
21 video.

22 Y'all are going to have that video in the jury room.
23 I encourage you to look at it. While you are watching
24 that video remember what the defense witnesses told you.

25 Remember they told you there was no force. Remember

1 they told you they employed what is called lift and
2 follow. And just ask yourself is that what happened up
3 there.

4 And if you don't believe them on that point can you
5 believe them on all of the rest of the points that they
6 have made.

7 Mr. Tice in fact likened what happened to Ms. Weddle
8 to guide and follow I think he said. Which is where they
9 have a handcuffed inmate and walking him into a cell and
10 they gently guide them into the cell. Just ask
11 yourselves is that really appropriate in this case.

12 Now Ms. Weddle again told you about medical care she
13 had received in this matter. She told you about the
14 bills that she incurred in this matter.

15 And we did not call any of those physicians to
16 testify for her. In fact nobody in this courtroom called
17 any physicians to testify.

18 Let me tell you about that. Do I need to call a
19 surgeon away from an operating room and explain to y'all
20 the simple fact that ordinary everyday people can tell
21 you about? I don't think I do. I think y'all are smart
22 enough to see the forest through the trees.

23 You don't need a surgeon to come here to explain to
24 you that a patient came to him complaining of symptoms
25 and then that she had surgery and then because he is such

1 a great surgeon he healed her. I think y'all are clever
2 enough people that you can pick that up from what you
3 have heard from the evidence.

4 Now during cross-examination some of the defense
5 points seem to indicate that they believe that Ms. Weddle
6 might not be truthful about her injuries.

7 Let me ask you this: Did Mr. and Mrs. Weddle
8 conspire and fake injuries for four years and then fool a
9 surgeon all so they could bring a lawsuit? It is
10 ridiculous.

11 Also during cross-examination there was some
12 question about Ms. Weddle asking you for money. These
13 guys are not here for money. They run rental properties.
14 They have income. They are here for justice. That's
15 what they are asking y'all to do today.

16 I want to address some of the opening remarks that
17 you heard from the defense. They said anyone can sue
18 anyone for just about any reason. And they want to make
19 that sound like this case.

20 Is that what you heard in here? We are just
21 slapping lawsuits on the Sheriff's Department because --
22 just because? I mean really? How many times did they
23 say that in their opening statements, anyone can sue
24 anyone for just about any reason?

25 They also said Ms. Weddle was uncooperative. Again,

1 just watch the video and ask yourselves is that accurate;
2 has anything that they have described to you been
3 accurate in the last two days?

4 Now turning from anyone can sue anyone for just
5 about any reason to the next point that was made in the
6 defendant's opening statement and that is that we carry
7 the burden of proof. And he is exactly right about that.
8 The plaintiff has to prove their case by the greater
9 weight of the evidence.

10 You are going to hear that if you put -- let's
11 pretend that plaintiff is on the right side of a scale
12 and the defendant is on the left side of the scale. Put
13 all of these things that you heard on the right side and
14 on the left side.

15 Put all of Ms. Weddle's testimony on one side and
16 give it the weight that you think it deserves. And then
17 put all of Officer Gladden's testimony on the other side
18 and give it the weight you think it deserves. And see if
19 the scale tips ever so slightly in our direction.

20 Then on top of all of that evidence put what you
21 heard from Mr. Weddle on our side of the scale. And put
22 whatever you think it is they submitted to rebut what Mr.
23 Weddle said on their side of the scale and see if our
24 side is just a hair heavier.

25 And then put everything that you heard from Mr.

1 Aiken on our side of the scale and give it the weight
2 that you think it deserves. And then put everything she
3 heard from Captain Tice on their side. And by the time
4 you hit this point if our scale hasn't touched the floor
5 I would be surprised.

6 But I will remind you that as a plaintiff we are
7 just here to show you that more likely than not our
8 claims are true. Now, as Ms. Weddle testified, her bills
9 related to her shoulder treatment came to \$52,192.72.

10 Now you are going to get a verdict form from the
11 judge. And I wish that on that verdict form you could
12 find for the plaintiff and then you could order the
13 defendant to tell them that what they did was wrong.

14 But there is no field for that on the verdict form.
15 You are going to see some checkboxes for the plaintiff or
16 for the defendant. And then you are going to see a blank
17 with a dollar sign.

18 And in civil court the only thing I can ask you to
19 do is to award damages. I can't get you to issue an
20 order against the defendant. I wish it were so. That is
21 not how we do it here.

22 So if you agree with me and if after you do the
23 weighting of the evidence you find for the plaintiff then
24 I hope that you too will want to send that message to the
25 defendant.

1 Unfortunately, the only message you can send is in
2 the way of damages. If you want to send that message I
3 think it starts with the medical bills. That will get
4 their attention.

5 If you tell them we believe the plaintiff in this
6 matter and we think what you did was wrong and we think
7 she has been hurt and we want you to pay her back for her
8 medical bills, if you do that that will be a good start.

9 But you know as well as I do what money is worth
10 today. And I am going to ask you to use your everyday
11 experience and you as people in America, and if you want
12 to send a message then I want to ask you to send that
13 message.

14 You are allowed to award her repayment of her bills.
15 You are allowed to my make a determination about the
16 value of her pain and suffering, and you are allowed to
17 make a determination about her loss of enjoyment of life.
18 And the value you place on that will determine the volume
19 of your message.

20 MS. GANES: Objection, Your Honor.

21 THE COURT: Please approach.

22 (WHEREUPON, bench conference was had 11/16/16, 10:08
23 a.m.)

24 THE COURT: The objection is overruled. You may
25 proceed.

1 MR. BOLES: Thank you, Judge.

2 Ladies and gentlemen of the jury, where there is
3 smoke there is fire. And I have shown you the smoke.
4 Now does the video show Mr. Weddle getting kicked or
5 beaten on the ground? No, it does not. It does not.
6 But it shows smoke to that fire. It shows an improper
7 use of force.

8 And you heard the natural result of that. The
9 natural result of that improper use is injury to Ms.
10 Weddle.

11 Now the defense is going to tell you that there is
12 no fire. And so I have to ask you to put it out for
13 them. Thank you.

14 THE COURT: Are you ready to proceed?

15 MS. GANES: Yes. Thank you, Your Honor.

16 THE COURT: You may proceed.

17 MS. GANES: May it please the court.

18 THE COURT: Yes, ma'am.

19 MS. GANES: Good morning.

20 JURY PANEL: Good morning (in unison).

21 **CLOSING BY MS. GANES:**

22 This week you have had the opportunity to
23 participate in the best system in the world. This is not
24 a lottery. This is not a place where you come to get
25 money simply because you filed a lawsuit. This is where

1 we administer justice.

2 Over the last two days you have seen a lot of
3 formalities in the courtroom. You have seen us stand as
4 Judge Jefferson enters and leaves the courtroom. You
5 have seen us stand up and properly object or approach the
6 bench for matters. There are a lot of formalities just
7 looking around the courtroom. The American flag which
8 represents our three esteemed branches of government, the
9 state flag, and the seal in between. One of the most
10 important formalities that you have seen this week is the
11 Bible that all of the witnesses have sworn on to tell the
12 truth. Those formalities show the respect of this
13 courtroom because this is where we administer justice.

14 Ben in his opening statement did tell you all that
15 anyone can sue any other party for almost any reason.
16 But that doesn't mean that they are owed money.

17 What they owe you as the jurors in this case, the
18 decision-makers, the administrators of justice, what they
19 owe you is to meet their burden of proof.

20 When I get done with my closing argument - and Mr.
21 Boles has one more opportunity to speak to you - Judge
22 Jefferson is going to charge you on the law.

23 We all have distinct roles in the courtroom. I am
24 an advocate. The plaintiff, the defendant, the jurors,
25 the administrators of justice, along with Judge Jefferson

1 who is the -- makes the determinations of law, as you all
2 make the determinations of fact.

3 She is going to tell you that the plaintiff has the
4 burden of proof and that she has to prove to you all by
5 the preponderance of the evidence that my client was
6 grossly negligent in this case and that that gross
7 negligence through the actions of Officer Gladden was the
8 proximate cause of the plaintiff's injury. That is two
9 things that she has to prove to you.

10 And I know there was some discussion about smoke and
11 fire. But I am sure you have also heard about smoke and
12 mirrors. There has been no fire shown to you in this
13 courtroom.

14 What you use in addition to your life experience and
15 your common sense is the evidence that we bring to you in
16 this case, the credibility of the witnesses.

17 Judge Jefferson is going to tell you that you are
18 the judges of the credibility of the witnesses in the
19 case.

20 And so things that you use when you go to deliberate
21 to determine credibility of the witnesses is their
22 demeanor on the witness stand. When they were asked
23 questions did they respond to the questions directly or
24 did they talk about a prison they worked in 40 years ago?
25 Did I have to use their sworn testimony that was taken in

1 this case before we ever came here and met the 12 of you
2 to get them to tell you what they had said previously
3 under oath? Did they answer you directly? Did they tell
4 you the truth?

5 In addition to the credibility of the witnesses you
6 will consider the evidence that you have heard and the
7 evidence that you have been shown.

8 In this case the only evidence that the plaintiff
9 has introduced -- there are only two pieces of evidence
10 in this case. The video, thank God we have this video.
11 We went the entire first day of this case talking about
12 this video, and it wasn't shown to you.

13 Thank God we have this video to show you the
14 interaction between Officer Gladden and Ms. Weddle so
15 that you will be able -- you can review that video as
16 many times as you wanted to.

17 In the interest of time I didn't want to show it to
18 you over and over in our case. But what I did want to
19 show you is the portion that the plaintiff's attorney
20 turned off that I want you to look for in the video, and
21 that is after Ms. Weddle comes in.

22 And exactly what happened that Ben told you was
23 going to happen in the opening statement. She comes in
24 through the booking area. She is processed. She places
25 herself on the floor. And that is important.

1 Because another part of the law that Judge Jefferson
2 is going to tell you is comparative negligence. And the
3 administration of justice requires that in this courtroom
4 both sides of the story are told, the credibility of the
5 evidence is weighed, and you have to take responsibility
6 for your own fault and activity.

7 And unfortunately Ms. Weddle is the one who put
8 herself in the position to ever even have that
9 interaction with Officer Gladden.

10 And what you know from that video, I want you to
11 look closely. Because there are some things we didn't
12 have to tell you. Because I can tell you right now and
13 you can see it for yourself on the video. There was some
14 testimony brought up about -- where an issue brought up
15 about placing Ms. Weddle where she was when she came into
16 the booking center. She wasn't injured there. And the
17 reason she wasn't injured there was because Officer
18 Gladden did her job.

19 Frankly, I am proud of what you see on that video.
20 That is an excellent detention center. It is orderly,
21 and it is professional.

22 And they are not going to have somebody lying in an
23 entranceway where you have inmates dressed in black and
24 white. And you see them in the stripes. They are coming
25 from this courthouse probably, around four o'clock in the

1 afternoon. They have all been brought down here to come
2 in front of the judges or take care of other legal
3 matters and then they are brought back in the paddy
4 wagon.

5 And you see them on the video. I don't know what
6 their history is. And nobody here does. It can be from
7 the most heinous crime to something maybe not so serious.

8 But you can't have a 54-year-old lady lying in the
9 walkway when they are coming by. And Officer Gladden
10 being a trained professional knew that and she did what
11 she needed to do.

12 You heard from Ms. Weddle in her own testimony that
13 she heard Officer Gladden ask her to get up off of the
14 floor.

15 And she didn't want to tell you, but I got her to
16 read her sworn testimony to you and tell you that she
17 told Officer Gladden that she would get up when she took
18 her handcuffs off.

19 And who came here and swore under oath and told you
20 that they have no problem and that it was appropriate for
21 Ms. Weddle to still have those handcuffs on when she was
22 in that area? That was Mr. Aiken. That was the
23 plaintiff's own expert.

24 Remember, Ms. Weddle told you first time I heard
25 that was yesterday. Well, I don't know when she heard

1 it; but we all heard it here under oath.

2 And of course that was appropriate. Of course it
3 was appropriate for her to have her handcuffs on before
4 she had been patted down. Because you don't know what
5 she has or who she is at that point.

6 Now I want to step back just a bit there and talk to
7 you about something else that you can see on the video.
8 And that is when Ms. Weddle comes in if you look at the
9 beginning of the video -- and it goes on for a while.

10 There is a gentleman who is standing there and they
11 are having a very animated conversation. And that is
12 when Ms. Weddle admitted to you that she was telling them
13 that she shouldn't have been arrested and she was upset
14 and still angry about what had happened at her property.

15 Ladies and gentlemen, North Charleston Police
16 Department is not on trial in this case. This case has
17 absolutely nothing to do with what happened at Ms.
18 Weddle's property.

19 I am sorry about her hedges, and I am sorry about
20 her disagreement with her neighbor. I am sorry that she
21 lost her palm tree and that she had to go through what
22 she went through, whoever's fault it was.

23 But Officer Gladden had nothing to do with that.
24 Officer Gladden was at the Detention Center doing her job
25 when all that was going on out in the community that

1 ended up in the arrest of Ms. Weddle.

2 So when she comes into the intake center and you see
3 that discussion that she admitted was her telling them
4 that she disagreed with the arrest and Officer Gladden
5 told you that she remembered seeing that and hearing
6 that, that shows you two things.

7 That shows you that Officer Gladden, just like she
8 told you, was able to multitask, keep her eye on what was
9 going on with her detainee while she did the necessary
10 required paperwork; and she was coming over to then pat
11 her down and get the handcuffs off of her.

12 But what it also shows you is that Ms. Weddle was
13 not sick, Ms. Weddle was not ill, Ms. Weddle was not
14 unable to stand there and wait to have her handcuffs
15 taken off. She was unwilling to do that. And because
16 she was unwilling to do that she lied down in the floor.

17 Now unfortunately that is what caused the
18 interaction. So Judge Jefferson is going to tell you
19 that you are to consider that comparative negligence.

20 Now I want to talk to you about the credibility of
21 the witness a little more. You saw Officer Gladden. You
22 saw her on video. And I am proud to defend her actions
23 in this case.

24 She is an upstanding member of law enforcement. She
25 sat here and she told you the truth. You can judge by

1 her demeanor. You can judge by the video. And you can
2 see on the video that after she pats Ms. Weddle down she
3 does make sure that she doesn't lose her balance.

4 And by the way, there is no unsteadiness ever in
5 that video. Ms. Weddle is never unsteady on her feet.
6 You see her as she walked off of the view of the camera.
7 And you see Officer Gladden help and assist her in
8 directing her to the restroom.

9 Now I want to talk to you about the evidence that we
10 put in. And this is the only thing that really needed to
11 be addressed about the gross negligence that Mr. Aiken
12 talked about. Because he claimed, if you remember, that
13 the Detention Center was grossly negligent because they
14 didn't do a medical screening.

15 And I invite you to look at this document. It is a
16 pretty extensive medical screening. And it has beside
17 every single one, is he or she under a doctor's care,
18 have they been hospitalized recently, has the inmate
19 fainted or had had injury.

20 Every single one says no. This is the medical
21 screening. And so -- then I also want you consider Mr.
22 Aiken telling you that it was appropriate for Ms. Weddle
23 to have her handcuffs remain and follow that to its
24 logical conclusion.

25 Once Ms. Weddle put herself on the floor it didn't

1 matter where she was going. If she was going to medical,
2 if she was getting up to get in a chair, or if she was
3 going to walk right back out of the door to go home, she
4 was going to have to be assisted up. She put herself in
5 that position. And that is what Officer Gladden did.

6 Officer Gladden you can see in the video and you
7 heard her testimony here, she wasn't upset with Ms.
8 Weddle. She wasn't unkind to her. She just had to get
9 her up out of the floor.

10 And you can also tell and use your common sense that
11 Ms. Weddle did assist her in getting up. Because any of
12 you who have children - I have a seven-year-old and a
13 nine-year-old. If you ever have to move them and they
14 are not going to help you it looks very different than
15 what you see on that video. Ms. Weddle most certainly
16 helped Officer Gladden pick her up.

17 And when she stands on the wall she stands on her
18 own two feet, and she is not unsteady or wobbly. And
19 what I was going to mention about the video when he
20 wanted to turn it off but I wanted you to see the rest of
21 it - this is extremely important - with a rotator cuff
22 injury that she is claiming there is something called a
23 range of motion. And some of you might have been to your
24 doctor or some of you have him do a range of motion
25 exercises on you. Ms. Weddle puts her hands up like she

1 is told to do. And they literally look like this
2 (motioning), both of them. And then she puts them down
3 like she is told to do. And they literally do this
4 (motioning).

5 There is no injury to her shoulder. She never
6 touches her shoulder. She doesn't walk like this
7 (motioning) over to the next center. She doesn't walk
8 like this (motioning) when she is going to the restroom.
9 And that absolutely proves that there was no injury to
10 her shoulder. That is on the video. And I invite you to
11 watch it if you need to.

12 Officer Gladden also told you that she never even
13 said ouch. And another thing that is extremely common
14 sensical in that video is that if this lady, Ms. Weddle,
15 was in that intake area crying and complaining about that
16 hurt shoulder there is no way that every single person in
17 the video could think, oh, we may get sued for this, we
18 may be in trial six years down the road on this, I am
19 going to pretend like I don't hear that and I am not
20 going to do anything that would indicate that I am going
21 to help this detainee with their sore right shoulder.

22 There is not a single act on there that shows any
23 attention to Ms. Weddle's right shoulder by her, Officer
24 Gladden, or anybody else.

25 Her supervisor was standing right beside her.

1 Ms. -- Officer Gladden did her job in that scenario, and
2 she did what she was supposed to do.

3 Now when you go to deliberate -- before you go to
4 deliberate Judge Jefferson is going to explain to you the
5 verdict form.

6 On the verdict form in the very first question you
7 will read something like has the plaintiff proved by a
8 preponderance of the evidence that Charleston County
9 Sheriff's Office was grossly negligent.

10 If your answer to that question is no, then you have
11 reached a verdict in favor of the defendant and your job
12 here is done.

13 If there is any consideration beyond that first
14 question, the second question is about comparative
15 negligence. And that is where you deliberate and you
16 determine whether Ms. Weddle's comparative negligence was
17 the cause of her injury.

18 And I submit to you that if you reach that question
19 the answer to that question is yes and you have reached a
20 verdict in favor of the defendant and your job is done.

21 Now I want you to understand that Ms. Weddle is a
22 very nice lady, and a verdict in favor of the defendant
23 is not a verdict against Ms. Weddle. It is simply a
24 verdict based on the evidence.

25 Judge Jefferson is also going to tell you her charge

1 on the law, that you are not allowed to consider sympathy
2 in your deliberation. That includes sympathy for Mr.
3 Weddle who is also very a nice man and his wife, Ms.
4 Weddle.

5 Now I want to address a couple of things that were
6 said about the burden of proof and us refuting anything.
7 To be clear, that is not the job of this defendant. This
8 lawsuit is Mr. Weddle's lawsuit, and she carries the
9 burden of proof.

10 She did not bring one doctor into this courtroom to
11 state to you what I see on that video is what caused this
12 symptom in my patient.

13 This is four years. A four-year duration. Not one
14 single -- we don't have to bring a surgeon out of
15 surgery. Goodness, I would never want that.

16 But she talked about internal medicine physicians.
17 She talked -- three surgeons we discussed. And you heard
18 her testimony about her interactions with the first
19 orthopedic surgeon, Dr. Kenny Caldwell, that she went to
20 see and how he didn't do any surgery and the next surgeon
21 didn't do any surgery and finally when she was almost 60
22 years old she had a surgery four years later and that it
23 was \$60,000.

24 But we didn't see a single medical bill. You know,
25 doctors don't have to come out of surgery. Doctors make

1 records. You can bring their records into the jury and
2 put them into evidence so that you all can read them and
3 say this doctor on this day said this.

4 If my children miss a day of school I can't send
5 them back and get an excused absence without a note from
6 the doctor. There is not a single note from the doctor
7 in this case. Not a single note in the case.

8 And that just does not meet the burden of proof.
9 That doesn't even bring a spark much less a fire into
10 this courtroom. That is not what the administration of
11 justice requires to award a plaintiff damages against the
12 defendant.

13 Now I apologize that during the course of this trial
14 I made some objections. I am a big baseball fan. I
15 think that is why I love being a lawyer. Because there
16 are a lot of rules in what we do.

17 I love the rules of the game, and I love the rules
18 of the law. And sometimes I have had to make objections
19 to protect the interest of my client to make sure that
20 the rules were followed in the presentation of the case.

21 The rules also require that the plaintiff, her
22 lawyer, open first, an opening statement. He speaks to
23 you first in closing argument. And he speaks to you last
24 in closing argument.

25 I don't get another chance to speak to you. I don't

1 know what he will say when I sit down. But I know that I
2 would like to respond to it, but the rules simply do not
3 allow that. So this is the last time that I get to talk
4 to you. And that is, again, because the plaintiff has
5 the burden of proof in this case.

6 Now it is almost time to deliberate. And I want you
7 to understand and to know that it has been my great honor
8 and privilege to represent Charleston County Sheriff's
9 Office and to defend the actions of Officer Gladden in
10 this case.

11 Officer Gladden has dealt with this issue for six
12 years. For three years she has had this lawsuit going
13 on. And you heard her talking about giving a deposition
14 and meeting with lawyers. She has had to be in here in
15 the courtroom with us for the last three days. And
16 tomorrow she will go back to work.

17 It is time to end it. It is time to put an end to
18 this. And that is your role. It is time to administer
19 justice in this case. And justice in this case requires
20 a verdict in favor of the defendant for the reasons that
21 I have told you.

22 The term verdict is arrived from the term vera
23 victo. And it means to speak the truth. And the truth
24 in this case is that Charleston County Sheriff's Office
25 through the acts of its employee, Officer Yashica

1 Gladden, was not negligent in any way. Certainly was not
2 grossly negligent. And was not the cause of any injury
3 to Ms. Weddle.

4 I ask that you return a verdict that speaks the
5 truth. And that is a verdict in favor of the defendant.
6 Thank you.

7 THE COURT: Mr. Boles, you may proceed.

8 MR. BOLES: Thank you, Your Honor.

9 THE COURT: You are welcome.

10 **FINAL CLOSING BY MR. BOLES:**

11 Just to address a couple of points y'all just heard
12 and then I will sit down and let you get back to the jury
13 room.

14 An out-of-court statement made by someone other than
15 the witness offered to prove our point is called hearsay.
16 You heard them objecting, all trial long, to things we
17 wanted to introduce. If you think that they were going
18 to let me put a surgeon's statement ---

19 MS. GANES: Objection, Your Honor.

20 THE COURT: Basis.

21 MS. GANES: It is ---

22 THE COURT: Approach.

23 (WHEREUPON, bench conference was had 11/16/16, 10:45
24 a.m.)

25 THE COURT: The objection is overruled. Proper

1 response to closing argument. You may proceed. It is
2 within the rules, Mr. Boles.

3 MR. BOLES: Thank you, Your Honor.

4 To recap what I was just saying, if you think they
5 were going to let me put a surgeon's statements about his
6 treatment that he had rendered to her into evidence
7 without bringing him here to talk to you about it is just
8 sorely mistaken. They never would have let me do it; and
9 they are right, because it is hearsay.

10 And, again, do I need to bring a surgeon to you for
11 y'all to understand the simple facts that were explained
12 to you by our witnesses? I don't think I do. I don't.

13 One of the most frightening things I have heard in
14 the two-day presentation in this case is that they were
15 doing what they were supposed to do, I was doing my job.

16 And tomorrow she is going to go back and keep doing
17 what she has been doing. I was just following orders;
18 that is one of the most terrifying things you can hear
19 from an employee of an institution that serves the
20 public.

21 Now Ms. Ganes and I have juris doctorate degrees.
22 But that does not make us doctors. She may want to tell
23 you that plaintiff's injuries would have precluded her
24 from raising her hands over her head. She will want to
25 tell you -- she will want to diagnose Ms. Weddle's

1 injuries for you.

2 Well, I tell you what; I talk a lot, but I don't
3 pretend to be a medical doctor. Okay. All I can tell
4 you is that she had surgery and a doctor did it because
5 he said she needed it.

6 She also gave you the example of lifting a child.
7 Really? Is that what we are talking about here, lifting
8 a three-year-old off the ground?

9 I have got nieces and nephews. I will tell you what
10 I don't do to any of them when I pick them up is grab
11 them by one arm and pull them up off the ground. I would
12 be horrified I would pull their arm out of socket. I
13 grab a hold of them. Especially when I am playing around
14 with them.

15 But you know better than that. And you certainly
16 know that lifting her off the ground while she is
17 handcuffed is not the same thing as picking a child up.
18 Come on.

19 Exhibit 1. Three exhibits in this case. Exhibit 1
20 for the defense, and not made by Officer Gladden. She
21 doesn't know what is on it. Look at it. I mean really
22 look at it. They answered no to every single question on
23 here.

24 It is typed, not signed, not dated. We have no clue
25 when it was made. Just that they feel that it supports

1 their position. Is that credible evidence? I will let
2 y'all decide.

3 You will get an instruction on comparative
4 negligence. They want to blame her for some aspect for
5 this: It is her fault; obviously she was not unsteady on
6 her feet; obviously she was not going to be sick; we can
7 tell that because we lawyers and we are watching a video
8 that we showed to y'all; that is impossible; it is
9 impossible.

10 It is her fault? That is where they want to go with
11 it.

12 Ms. Ganes also brought up on the longer video from
13 the wide-angle where Ms. Weddle is kind of behind the
14 clock or the counter. There is a long discussion between
15 another detention center officer and Ms. Weddle. And Ms.
16 Ganes is telling you that during that moment is when Ms.
17 Weddle is pleading her case about how she is not supposed
18 to be there.

19 The mischaracterizations one after the other after
20 the other of what I see in that video are very surprising
21 to me. I want y'all to watch that again. And watch the
22 part where the male officer comes around and talks to
23 her.

24 To me it looks like he is doing a lot of this
25 (motioning). And it looks like he is doing the talking.

1 And he is indicating over here (motioning), and he is
2 pointing back at her. Doing this (motioning), and then
3 he walks off.

4 To me that looks like him directing things to her.
5 I don't see any evidence of what Ms. Ganes is describing.
6 So again this is their mischaracterization of what you
7 can obviously view for yourselves on the video.

8 Said she is proud of what happened, proud that this
9 is how they work there. And I would say the same thing I
10 said before and then sit down; if you agree with us that
11 the Detention Center, the Sheriff's Office, is grossly
12 negligent, they hurt her, that her treatment is related
13 to that harm, then I want you to find in our favor and I
14 want you to let them know what value you place on that
15 harm.

16 And neither of us have asked you for a number here
17 today. I want y'all to decide what that is. And we
18 accept what it is no matter what. Thanks for your
19 attention and your time.

20 THE COURT: Madam forelady, ladies and gentlemen,
21 you all have been sitting about an hour. I am going to
22 give you a brief restroom break before we have the
23 court's instruction.

24 During this break please do not discuss the case and
25 please leave your notepads in your seats. As soon as

1 everyone has finished using the restroom let the bailiffs
2 know and at that time we will resume with instructions.

3 (WHEREUPON, jury exits courtroom 12/16/16, 10:52 a.m.)

4 (WHEREUPON, break was had 12/16/16, 10:52 a.m.)

5 (WHEREUPON, jury enters 12/16/16, 11:05 a.m.)

6 THE COURT: Ladies and gentlemen, you have heard the
7 evidence and the arguments of both parties. I will now
8 explain to you the law which applies to this case.

9 Linda Beth Weddle, plaintiff, claims that she has
10 been injured by the actions of the Charleston County
11 Sheriff's Office, the defendant.

12 In bringing this lawsuit the plaintiff claims that
13 the defendant should compensate her for her injuries.
14 Under our -- I'm sorry, I am waiting for her to turn my
15 mic on. Bear with me because I want to make sure you all
16 are able to hear me.

17 (WHEREUPON, microphone adjusted.)

18 THE COURT: Thank you, ma'am.

19 Again, as I have instructive, the plaintiff claims
20 that the defendant should compensate her for her
21 injuries.

22 I instruct you, ladies and gentlemen, that the
23 parties agree that the Charleston County Sheriff's Office
24 is a governmental entity.

25 In our courts no distinction is made between a

1 governmental entity and an individual. A governmental
2 entity is a person in the eyes of the law. A
3 governmental entity is entitled to the same fair and
4 impartial consideration and to justice by the same legal
5 standards as an individual.

6 I further instruct you that the South Carolina
7 tort's claim -- Tort Claims Act provides that subject to
8 certain limitations a governmental entity is liable for
9 its torts in the same manner and to the same extent as a
10 private individual under like circumstances.

11 And I further instruct you that an agent is a person
12 who represents and acts for another under a relationship
13 of agency, which is generally employment.

14 An agent acts by the authority and on the account of
15 the principal. I further instruct you that what the
16 principal does through an agent the law considers the act
17 of the principal; therefore, while the agent is acting
18 within the scope of their employment a principal is
19 liable for any grossly negligent acts or omissions of its
20 agent that proximately caused injury to another person.

21 Ladies and gentlemen, the parties have stipulated
22 that Yashica Gladden is an agent of the Charleston County
23 Sheriff's Office and was acting within the scope or her
24 employment. A stipulation is an agreement, and it
25 requires no further proof.

1 Under our constitution and code of laws only you the
2 jury can make the findings of fact in this case. I am
3 not permitted to indicate to you how I might feel about
4 the testimony in evidence which has been presented. And
5 throughout this trial, ladies and gentlemen, it has been
6 my intention to be fair and impartial toward the parties
7 involved as well as their attorneys.

8 Please do not infer anything that I have said during
9 the progress of ruling upon the admissibility of evidence
10 or otherwise or anything that I say now to you during the
11 course of this instruction that I have any opinion about
12 the facts.

13 The law does not allow me to have an opinion about
14 the fact. The facts are solely for you the jury to
15 determine.

16 Therefore, in determining the facts in this case you
17 will have to evaluate the credibility, which as I
18 explained earlier is simply a legal term meaning the
19 believability of each witness who has testified in this
20 case.

21 Some of the things you may consider as you decide
22 whether or not to believe a witness's testimony about a
23 particular matter include what was the manner and
24 appearance of the witness who testified, was he or she
25 straightforward or hesitant in answering, was the

1 testimony of a witness consistent or inconsistent, how
2 did the witness come to know the facts that he or she
3 testified to or what was his or her ability to know these
4 facts, is there some reason a witness would want to give
5 testimony which would help or hurt one side or the other.

6 In other words, was the witness bias or prejudice.
7 And was the testimony of a witness strengthen or weakened
8 by other testimony or evidence.

9 You can believe as much or as little of each
10 witnesses testimony as you think proper. You may believe
11 the testimony of a single witness against that of many
12 witnesses or just the opposite.

13 Of course you do not determine the truth merely by
14 counting the number of witnesses presented by each side.
15 Throughout this process, ladies and gentlemen, you have
16 but one objective, to seek the truth regardless of its
17 source.

18 Our rules of evidence ordinarily do not permit
19 witnesses to testify to opinions or conclusion. An
20 exception for this rule exists for witnesses we call
21 expert witnesses.

22 A witness who by their education, training, and
23 experience has become an expert in some art, science, or
24 provision may give an opinion as to the subject the
25 witness claims to be an expert in and may also give the

1 reasons for the opinion.

2 You should consider any expert opinion given by a
3 witness like any other evidence. Give it the weight you
4 think it deserves.

5 If you decide that an expert witness's opinion is
6 not based on sufficient education, training, and
7 experience or if you decide that the reasons given in
8 support of the opinion are not sound or that the opinion
9 is outweighed by other evidence, you may disregard the
10 opinion entirely.

11 An expert witness's testimony is to be given no
12 greater weight than other witnesses simply because the
13 witness is an expert. And you do not have to accept an
14 expert's opinion even though it is uncontradicted.

15 I further instruct you that if the opinion of
16 experts is relied on to establish proximate cause the
17 expert must state with reasonable certainty that in his
18 or her professional opinion the plaintiff's injuries most
19 probably resulted from the negligence of the defendant.

20 It is not necessary that the expert use the words
21 most probably; it is enough for the expert to state that
22 it is in the expert's professional opinion that the
23 defendant negligence or gross negligence in this instance
24 was most likely one among the possible causes of the
25 plaintiff's injuries.

1 Ladies and gentlemen, the same constitution and laws
2 which designate and make you the finders of the facts, as
3 I have just explained, also made me the instructor of the
4 law. You must accept the law as I instruct it. If I am
5 wrong there is another place in time for that error to be
6 corrected.

7 But for this case you must apply the law as I
8 instruct it. And this means that you should not be
9 concerned with what you may think the law should be, but
10 only with what I instruct you the law is.

11 The plaintiff has the burden of proving her claims
12 in this case. She must meet this burden by proving her
13 claims by the greater weight or the preponderance of the
14 evidence.

15 Again, using my earlier example, that being a
16 traditional set of scales, when the case begins the
17 scales are even. After all of the evidence has been
18 presented if the scales should remain evenly balanced or
19 if they should tip even slightly in favor of the
20 defendant then the plaintiff would have failed to have
21 met her burden of proof and your verdict would be for the
22 defendant.

23 If on the other hand the scales should tip even
24 slightly in favor of the plaintiff then she will have met
25 her burden of proof and your verdict would be for the

1 plaintiff.

2 A preponderance of the evidence means evidence which
3 as a whole shows that the fact or facts sought to be
4 proven are more probable than not.

5 Of course there is no way to weigh evidence except
6 through the exercise of your good common sense and
7 judgment. It is entirely a mental process. And the
8 evidence you should give the most weight to is that which
9 convinces you of its truth regardless of from whom or
10 what source it comes.

11 The plaintiff claims that the defendant was grossly
12 negligent and should compensate the plaintiff for the
13 injuries suffered as a result of the defendant's gross
14 negligence.

15 In order to prove that the defendant was grossly
16 negligent the plaintiff must prove by a preponderance or
17 greater weight of the evidence four things:

18 First, the plaintiff must prove by preponderance or
19 greater weight of the evidence that the defendant owed
20 the defendant a duty of care.

21 Next, the plaintiff must prove by a preponderance or
22 greater weight of the evidence that the defendant
23 breached that duty by a grossly negligent act or
24 omission.

25 Gross negligence is the intentional, conscious

1 failure to do something which it is incumbent upon one to
2 do or the doing of a thing intentionally that one ought
3 not to do.

4 Negligence is the failure to exercise due care.
5 While gross negligence is the failure to exercise even
6 the slightest care.

7 Gross negligence is a relative term and means the
8 absence of care that is necessary under the
9 circumstances.

10 Gross negligence connotes the failure to exercise a
11 slight degree of care. Gross negligence involves an
12 intentional, conscious failure to do something which one
13 ought to do or the doing of something one ought not to
14 do.

15 A defendant is guilty of gross negligence if he is
16 so indifferent to the consequences of his conduct as not
17 to give slight care to what he is doing.

18 The plaintiff must also prove by a preponderance or
19 greater weight of the evidence that she suffered damages
20 as a result of the defendant's breach of duty.

21 Finally, the plaintiff must prove by a preponderance
22 or greater weight of the evidence that the damages were
23 proximately caused by the defendant's breach of duty.

24 Proximate cause is something that produces a natural
25 chain of events which in the end brings about the injury.

1 It is the direct cause of the injury.

2 To prove that the defendant's gross negligence
3 proximately caused the plaintiff's injury the plaintiffs
4 must first prove causation in fact. This is proven by
5 showing that the injury would not have occurred but for
6 the defendant's gross negligence.

7 The plaintiff must also prove legal cause. Legal
8 cause is proven by showing that the injury was
9 foreseeable. This means that the injury occurred as a
10 natural and probable consequence of the defendant's gross
11 negligence.

12 The plaintiff must prove that some injury from the
13 defendant's gross negligence was foreseeable but does not
14 have to prove that the particular injury that occurred
15 was foreseeable.

16 However, the defendant cannot be held responsible
17 for things which could not be expected to happen.
18 Proximate cause does not mean the only cause. The
19 defendant's act can be a proximate cause of the
20 plaintiff's injury if it was at least one of the direct
21 concurring causes of the injury.

22 The defendant claims that the plaintiff's own
23 negligence proximately caused the plaintiff's injuries.
24 If you find that the defendant was grossly negligent you
25 must then decide whether the plaintiff was negligent.

1 The defendant must prove by a preponderance or
2 greater weight of the evidence that the plaintiff
3 breached a duty of care which proximately caused the
4 plaintiff's injuries.

5 The word negligence means that a person did not use
6 the same amount of care that a person of ordinary reason
7 and prudence would exercise in the same circumstances.
8 The word careless means the same thing.

9 It can be said that a negligent person has done
10 something that a reasonable person would not have done if
11 faced with the same or similar situation. On the other
12 hand, that he has failed to do something that a
13 reasonable person would have done. Or both.

14 The same law which I have instructed you to use in
15 deciding whether the defendant was grossly negligent
16 should be used in deciding whether the plaintiff was
17 negligent.

18 The only difference being the definition of
19 negligence which I just explained to you which is
20 applicable to the conduct of the plaintiff, and gross
21 negligence which is applicable to the conduct of the
22 defendant.

23 If you find, ladies and gentlemen, that the gross
24 negligence of the defendant and the negligence of the
25 plaintiff proximately caused the plaintiff's injury you

1 must then decide how much the negligence of the plaintiff
2 contributed to the plaintiff's injuries and how much the
3 defendant's gross negligence contributed to the
4 plaintiff's injuries.

5 In deciding the percentages of negligence of the
6 plaintiff and gross negligence of the defendant you may
7 consider among other things the following factors:

8 Whether each parties conduct was only inadvertent or
9 whether it was engaged in with an awareness of the danger
10 involved; the magnitude of the risk created by each
11 parties conduct including the number of persons
12 endangered and a possible severity of the injury; the
13 significance of the goal that each party was trying to
14 reach and the need to achieve the goal in that manner;
15 each parties capabilities and abilities to realize and
16 eliminate the risk involved; the particular circumstances
17 confronting each party at the time the conduct occurred
18 such as the existence of the emergency requiring a quick
19 decision; the relative closeness of the causal
20 relationship of the grossly negligent conduct of the
21 defendant and the harm to the plaintiff; and whether the
22 conduct of either party involved a violation of a safety
23 statute or regulation.

24 I will give you what are called special
25 interrogatories - it is just a fancy legal term that

1 means written questions - on a special verdict form to
2 enable you to reach your verdict in this case.

3 And that form, again, will have very specific
4 questions; and you will be required during your
5 deliberative process to answer each of these questions.
6 And I will go over that verdict form at the end of these
7 instructions.

8 And you don't have to try to write any of that down
9 because that verdict form goes into the jury room with
10 you and it is fairly self-explanatory. But, again, I
11 will go over it with you at the end of this instruction.

12 Should you decide, ladies and gentlemen, that the
13 plaintiff is entitled to a verdict your next step would
14 be to decide how much money the defendant should be
15 required to pay. We call such an award actual damages.

16 Actual damages are intended to compensate the
17 injured party. That is to put that party as near as
18 possible in the same position that they were in before
19 the incident occurred.

20 In other words, actual damages would be the actual
21 losses and expenses which the plaintiff has suffered
22 because of the other parties' actions.

23 Actual damages for a plaintiff who has been
24 physically injured include pain-and-suffering, both past
25 and present, as well as mental anguish, impairment of

1 health or physical condition.

2 As with all other facts in this case the plaintiff
3 must prove her damages by the greater weight or the
4 preponderance of the evidence.

5 In determining the amount of compensation for
6 personal injuries it is proper to take into consideration
7 past and present aspects of the injury. This would
8 include physical and mental pain-and-suffering endured,
9 expenses incurred for necessary medical treatment, the
10 loss of enjoyment of life suffered as a result of injury
11 which includes the injured person's ability to
12 participate in and derive pleasure from the normal
13 activities of daily life or for the individual's ability
14 to pursue his talents, recreational interests, hobbies,
15 or avocations; and any other losses which are reflected
16 by the character of the injury.

17 I instruct that pain-and-suffering is a material
18 element of damages upon which a recovery may be based. I
19 instruct you that the law does not prescribe any definite
20 standard by which to compensate an injured person for
21 pain-and-suffering.

22 . You and you alone have the authority to determine
23 the amount if any to be allowed for pain-and-suffering.
24 And the law requires that when making an award for
25 pain-and-suffering the jury shall exercise its authority

1 with calm and reasonable judgment and that the damages if
2 any shall be just and reasonable in light of the
3 testimony and evidence presented in the case.

4 Ladies and gentlemen, the plaintiff has the burden
5 of proving her damages in this case. And she must meet
6 that burden by the greater weight or preponderance of the
7 evidence.

8 But this does not mean that the plaintiff must prove
9 them to a mathematical certainty or produce evidence of
10 the precise amount of damages alleged to have been
11 suffered.

12 Rather, the evidence put forth by the plaintiff
13 should be such as to enable you the jury to determine
14 what amount of damages if any is fair, just, and
15 reasonable.

16 Ladies and gentlemen, you have been selected as fair
17 and impartial jurors sworn to impartially try the facts
18 of this case. And when you comply with your oath to do
19 so then no one will have the right to criticize your
20 verdict and you will have fully discharged your duty as
21 jurors in this case.

22 You should not be influenced by opinions or
23 expressions of opinion if any which you may have heard
24 outside of the evidence of this case, but you are to
25 decide this case according to the testimony that you have

1 heard from the lips of the sworn witnesses and the other
2 evidence that has been introduced.

3 As I explained, your verdict form is in the nature
4 of what we call a special interrogatories. And there
5 is -- which again just means questions.

6 There is no significance whatsoever to the order in
7 which I state the questions; it is simply that one must
8 be stated first.

9 In order to reach a verdict, ladies and gentlemen,
10 your verdict must be unanimous which means that all 12 of
11 you must agree to reach a verdict in this case.

12 I further instruct you that your verdict cannot be
13 based on sympathy, passion, prejudice, emotion, or any
14 other consideration not found in the evidence of this
15 case.

16 Again, as I have instructed, this verdict form will
17 go into the jury room with you; so please don't try to
18 write down what I am explaining to you because it will go
19 into the jury room with you.

20 And the questions are as follows: Do you find that
21 defendant was grossly negligent and that such gross
22 negligence proximately caused the plaintiff's injuries?

23 If your answer is yes, you go to Question 2. If
24 your answer is no, you are to stop and deliberate no
25 further.

1 Question 2: Do you find that the plaintiff was
2 negligent and that such negligence proximately caused her
3 injuries?

4 If your answer is yes, you go to Question 3. If
5 your answer is no, you go to Question 4.

6 Questions 3: If your -- if your answers to both
7 Question Number 1 and Question Number 2 are yes, then
8 answer this question: Taking the combined negligence
9 that proximately caused the plaintiff's injuries as 100
10 percent what percentage of that breach is attributable to
11 the plaintiff and what percentage is attributable to the
12 defendant keeping in mind that those percentages must add
13 up to 100 percent?

14 If the plaintiff's percentage of the combined
15 negligence is greater than 50 percent, you are to stop
16 and deliberate no further.

17 If the plaintiff's percentage of the combined
18 negligence is 50 percent or less, you go to Question 4.

19 And Question 4 reads as follows: Please state the
20 total amount of damages sustained by the plaintiff, with
21 a line, dollars, actual damages.

22 I instruct you, ladies and gentlemen, that if you
23 find damages are appropriate in this case you should
24 award the full measure of damages that you find
25 appropriate in your province as the finders of the facts

1 in this case.

2 Make no attempt to reduce the amount of damages
3 based on any percentages that you may find in Question
4 Number 3.

5 Any attribution of percentages is a matter solely of
6 law for this court and you should not make any attempts
7 to proportion any amount of damages.

8 Again, if you feel damages are appropriate you
9 should compute that amount and find the full measure of
10 damages that you find -- if any that you find appropriate
11 in your province as the finders of the facts in this
12 case.

13 Madam forelady, it is your responsibility to fill
14 out the verdict form, to sign and date the form, and
15 knock on the door and advise the bailiffs that the jury
16 has reached a verdict.

17 Also if the jury has any questions during
18 deliberations it is your responsibility to write out
19 those questions, to sign and date the form, and follow
20 the same process by knocking on the door and advising the
21 bailiffs that the jury has a question.

22 Ladies and gentlemen, I tell you in advance that if
23 you have any questions there will be a delay in our
24 response. And that is because there is a procedure that
25 we must follow in answering your questions. So know if

1 you have a question there will be delay because we are
2 following that process.

3 I also need to likewise advise you that your
4 foreperson is simply an administrative function. That
5 person does not have any greater vote or voice than any
6 other juror. It is simple that we need someone in that
7 capacity to fill out the verdict form and write out any
8 questions and communicate on behalf of the jury in the
9 event that that is necessary.

10 Again, ladies and gentlemen, your verdict must be
11 unanimous which means that all 12 of you must agree in
12 order to reach a verdict in this case.

13 I am going to ask that you return to your jury room.
14 And do not yet begin your deliberations. I have some
15 brief matters of law that I need to take up with the
16 attorneys that may require further instruction or
17 clarification of an instruction.

18 If there is no further instruction we will send in
19 the verdict form, the evidence, as well your notepads.
20 And at that time you will be allowed to begin your
21 deliberations.

22 It is - let's see - 11:29. So hopefully your lunch
23 will be here shortly. And once it is here they will
24 distribute it to you. And I am sure the bailiffs will
25 take your drink orders.

1 Until I advise you to begin your deliberations do
2 not begin your deliberation. If you would go with the
3 bailiffs for me, please. And leave your notepads in your
4 seats.

5 (WHEREUPON, jury exits courtroom 11/16/16, 11:29 a.m.)

6 THE COURT: All right. Any exceptions from the
7 plaintiff?

8 MR. BOLES: None, Your Honor.

9 THE COURT: From the defense?

10 MS. GANES: None, Your Honor.

11 THE COURT: All right. Can y'all make sure -- we --
12 while I was charging the clerk staff was generous and
13 made sure that the computer equipment we have works. And
14 it does.

15 So we just need to collect their notepads, the
16 evidence, and a verdict form and advise the jury that
17 they can begin their deliberations.

18 Their lunch will be here in ten minutes. But once
19 it is distributed I will let you all know so y'all can go
20 get some lunch.

21 MS. GANES: Thank you.

22 THE COURT: You are welcome.

23 MS. GANES: Are they going to deliberate while they
24 eat?

25 THE COURT: Yep.

1 MS. GANES: Okay.

2 (WHEREUPON, jury deliberations begin 11/16/16, 11:31
3 a.m.)

4 (WHEREUPON, resume proceedings 11/16/16, 12:58 p.m.)

5 THE COURT: We have a verdict. Is the plaintiff
6 ready to proceed?

7 MR. BOLES: Yes, ma'am, Your Honor.

8 THE COURT: Is the defense ready to proceed?

9 MR. BOLES: Yes, Your Honor.

10 THE COURT: They should be right behind me unless
11 somebody was in the restroom.

12 THE BAILIFF: They are on the way.

13 THE COURT: Thank you, ma'am.

14 (WHEREUPON, jurors enter 11/16/16, 12:59 p.m.)

15 THE BAILIFF: Jurors are all present, Your Honor.

16 THE COURT: Thank you.

17 THE COURT: Madam forelady, is it correct that the
18 jury has reached a verdict?

19 MADAM FORELADY: Yes.

20 THE COURT: If you would give the verdict form to
21 the bailiff for me, please.

22 (WHEREUPON, verdict form presented to the bailiff.)

23 (WHEREUPON, verdict form presented to the court.)

24 THE COURT: Madam Clerk, if you would publish the
25 verdict.

1 THE CLERK: Thank you.

2 THE COURT: You are welcome.

3 THE CLERK: The State of South Carolina -- South
4 Carolina, County of Charleston; Linda Beth Weddle,
5 plaintiff, versus Charleston County Sheriff's Office,
6 defendant.

7 As to the negligence cause of action special
8 interrogatories percentages is required to total 100
9 percent. Do you find the defendant was grossly negligent
10 and that such gross negligence proximately caused the
11 plaintiff's injuries? Yes.

12 And then they went to Question 2. Do you find that
13 the plaintiff was negligent and that such negligence
14 proximately caused her injuries? No.

15 And then we go to Question 4. Please state the
16 total amount of damages sustained by the plaintiff.
17 \$75,000 actual damages. And it was signed by the
18 foreperson.

19 THE COURT: Is there any -- Madam forelady, ladies
20 and gentlemen, if this is your verdict please raise your
21 right hand.

22 (WHEREUPON, all jurors complied.)

23 THE COURT: You may put your right hand down.

24 Is there any request to poll the jury from the
25 plaintiff?

1 MR. BOLES: None, Your Honor.

2 THE COURT: From the defense?

3 MS. GANES: Yes, Your Honor.

4 THE COURT: Please poll the jury, Madam Clerk.

5 THE CLERK: Yes, Your Honor.

6 THE COURT: Ladies and gentlemen, the clerk is going
7 to ask you two questions. She is going to call out your
8 juror number. You will need to raise your right hand.
9 And she will ask is this your verdict and is it still
10 your verdict. If you would accommodate her, please. You
11 may proceed.

12 THE CLERK: Starting with Madam Foreperson, Deborah
13 Newsome, Juror Number 163, please stand. Is this your
14 verdict?

15 THE JUROR: Yes, it is.

16 THE CLERK: And is it still your verdict?

17 THE JUROR: Yes.

18 THE CLERK: Thank you.

19 THE COURT: They can just raise their right hand.

20 THE CLERK: Oh, yes, ma'am. Please raise your right
21 hand.

22 Evan McMillan, Juror Number 138. You can just raise
23 your right hand. You don't have to stand.

24 THE COURT: Yeah, you can stay seated. Sir, you can
25 just raise your right hand.

1 THE CLERK: Is this your verdict?
2 THE JUROR: Yes.
3 THE CLERK: Is it still your verdict?
4 THE JUROR: Yes.
5 THE CLERK: Francis Brown, Juror 22. Is this your
6 verdict?
7 THE JUROR: Yes.
8 THE CLERK: Is it still your verdict?
9 THE JUROR: Yes.
10 THE CLERK: Nicole Crissman, Juror 39. Is this your
11 verdict?
12 THE JUROR: Yes.
13 THE CLERK: Is it still your verdict?
14 THE JUROR: Yes.
15 THE CLERK: Page Crone, Juror 40. Is this your
16 verdict?
17 THE JUROR: Yes.
18 THE CLERK: Is it still your verdict?
19 THE JUROR: It is.
20 THE CLERK: Michael Nicola, Juror 142. Is this your
21 verdict?
22 THE JUROR: Yes.
23 THE CLERK: Is it still your verdict?
24 THE JUROR: Yes.
25 THE CLERK: Sheila Macklee, Juror 128. Is this your

1 verdict?

2 THE JUROR: Yes.

3 THE CLERK: Is it still your verdict?

4 THE JUROR: Yes.

5 THE CLERK: Amy Badeaux, Juror 7. Is this your
6 verdict?

7 THE JUROR: Yes.

8 THE CLERK: Is it still your verdict?

9 THE JUROR: Yes.

10 THE CLERK: Michael Foster, Juror 61. Is this your
11 verdict?

12 THE JUROR: Yes.

13 THE CLERK: Is it still your verdict?

14 THE JUROR: Yes.

15 THE CLERK: Janet Meister, Juror 140. Is this your
16 verdict? THE JUROR: Yes.

17 THE CLERK: Is it still your verdict?

18 THE JUROR: Yes.

19 THE CLERK: Rosa Alvarado, Juror 4. Is this your
20 verdict?

21 THE JUROR: Yes.

22 THE CLERK: Is it still your verdict?

23 THE JUROR: Yes.

24 THE CLERK: Nelson William, 162. Is this your
25 verdict?

1 THE JUROR: Yes.

2 THE CLERK: Is it still your verdict?

3 THE JUROR: Yes.

4 THE CLERK: Your Honor, the jury has been polled and
5 the verdict stands.

6 THE COURT: Thank you very much. Madam forelady,
7 ladies and gentlemen, we thank you for your time and your
8 attention to this case.

9 You heard me say during jury qualification that jury
10 service is -- first of all that our system is unique. It
11 is the only kind where ordinary individuals listen to the
12 facts of the case, determine what the facts are, apply a
13 very complex set of rules to those facts and render
14 verdicts. Our system is the only kind in the world.

15 I hope that -- and again, I say this in jury
16 qualification. People laugh all the time. But I really
17 am serious. I hope you have really learned that court is
18 nothing like what you see on television. I hope that you
19 have learned how very vital you are to our system and
20 that we could not operate our system without your
21 willingness to be a part of it.

22 Charleston County holds -- well, we hold a lot of
23 court in this building. We have four to five family
24 courts that operate almost every week.

25 We have the master in equity that operates every

1 week, the probate court that has two to three judges that
2 operate every week, and the circuit court that has
3 anywhere from four to five judges. Well, sometimes six
4 or seven, actually, that operate every week with the
5 exception of holidays.

6 We are one of the busiest circuits in the state. In
7 fact, South Carolina has one of the largest case filings
8 per capita in the nation at over 5,000 case filings per
9 judge.

10 We have about 50 circuit judges who judge -- whose
11 job it is to travel throughout the state and hold court.
12 And not only -- and again our system is unique because
13 not only do circuit judges hold -- we don't hold one type
14 of court. We hold lots of different kinds of court.

15 We hold civil court which is what we are doing
16 today. We hold criminal court where we deal with
17 criminal offenses.

18 We also hear many things in a nonjury capacity.
19 That means where we are the finders of the facts.
20 Sometimes in trials, sometimes in motions.

21 And the circuit court still has appellate
22 jurisdiction which means we have the ability and the
23 responsibility to review the decisions of the
24 magistrate's court, municipal courts, city courts, as
25 well as zoning, workers' compensation, and the probate

1 court. So as you can imagine, that is a lot going on.

2 And so we -- even with that though we still dispose
3 of our cases a lot faster than most states, at right at
4 about 18 months.

5 So I just wanted to give you that anecdotal
6 information so you know how very important you are to us
7 and our ability to move cases throughout the system.

8 If you need a work excuse you can get that on the
9 first floor of the courthouse to the left as you get off
10 the elevators, the circuit side.

11 Any of the deputy clerks at any of those windows can
12 give you an excuse. Otherwise, we will mail those to you
13 along with your checks.

14 You are welcomed to discuss this case if you would
15 like. Sometimes lawyers will contact you to just get a
16 common sense prospective on how they can do things
17 better. That is why we call it the practice of law. So
18 that if you want to discuss the case you are welcome to.
19 If you don't want to, you don't have to.

20 But I would ask that you have no discussion about
21 any matters that you have heard and deliberated upon
22 until the entire panel is excused on Friday.

23 Since I feel you have met your obligation to us I am
24 going to excuse you all for the remainder of the week
25 with wishes for a happy holiday season including

1 Thanksgiving, Christmas, and the New Year.

2 Hope y'all have a wonderful day. You are excused
3 with the court's profound thanks. I will hear post-trial
4 motions in a moment.

5 (WHEREUPON, break to excuse jury 11/16/16, 1:14 p.m.)

6 (WHEREUPON, resume 11/16/16, 1:16 p.m.)

7 THE COURT: Are there any post-trial motions from
8 the plaintiff?

9 MR. BOLES: None, Your Honor.

10 THE COURT: From the defense?

11 MS. GANES: Yes, Your Honor. At this time we would
12 move for a judgment notwithstanding the verdict based on
13 the same arguments that we made at the close of the
14 plaintiff's case and at the close of the evidence.

15 Under South Carolina law plaintiff did not meet the
16 burden or present sufficient evidence to the jury of
17 proximate cause of her injury or the -- meet the standard
18 under our law for expert testimony.

19 And I would ask Your Honor if you would indulge us
20 and give us ten days to submit a supplemental brief.

21 THE COURT: No, ma'am. I hear motions at the end of
22 the trial.

23 MS. GANES: Okay.

24 THE COURT: It will never be more fresh to me than
25 it is right now.

1 MS. GANES: Okay. Sure.

2 THE COURT: I don't like delaying. Because next
3 week I go into another term of court. The next term
4 another term of court. And I won't remember, ---

5 MS. GANES: Okay.

6 THE COURT: --- and then I will have to take the
7 court reporter to the problem of producing a transcript
8 she doesn't get paid for.

9 MS. GANES: Okay.

10 THE COURT: And so ---

11 MS. GANES: All right. Thank you, Your Honor.

12 THE COURT: --- I would rather do it right now while
13 it is fresh in my mind.

14 MS. GANES: So under South Carolina law it is the
15 defendant's position as it was throughout the case that
16 physician testimony is required to prove proximate cause
17 of the injury. That was not provided in this case.

18 There was a four-year duration before the surgery
19 which was the \$50,000 bill that was represented to the
20 jury which clearly formed the basis of their verdict of
21 \$75,000.

22 And we would ask on those grounds that a judgment
23 notwithstanding the verdict be entered.

24 THE COURT: Sir, would you like to respond?

25 MR. BOLES: Just real briefly, Your Honor. It is

1 the same motion that we have heard three times already
2 and the court has denied it twice. We ask that you rely
3 on the same logic set forth in your prior ruling and deny
4 this motion.

5 Thank you.

6 THE COURT: You are welcome.

7 Anything further, Ms. Ganes, in response to his
8 response I guess?

9 MS. GANES: No, Your Honor.

10 THE COURT: Rebuttal to his response.

11 MS. GANES: No, Your Honor.

12 THE COURT: I guess that is the correct term to use.

13 In considering a motion for judgment notwithstanding
14 the verdict the court is bound by the same set of
15 principles that it applies in considering a motion for
16 directed verdict, that is in the light most favorable to
17 the nonmoving party and all inferences in their favor.
18 If there is evidence as a whole that is susceptible of
19 more than one reasonable inference the case goes to the
20 jury. In which case I have already ruled on that and I
21 stand by that ruling, as there was more than one
22 reasonable inference to be drawn from the evidence.

23 And when considering a judgment not -- a ver- -- a
24 motion for judgment notwithstanding the verdict if there
25 is any evidence to support the jury's verdict it is

1 appropriate for that verdict to stand.

2 The defense basically raises the same issues that it
3 raised at both the close of the plaintiff's case and at
4 the close of their case.

5 The court incorporates its previous findings of fact
6 in rulings on the law and does this portion of the record
7 without restating it in the interest of time.

8 I have already directed a verdict on the negligent
9 supervision and training. And I stand by that ruling.
10 As there was no evidence in the record to support a cause
11 of action regarding that.

12 However, the length of time that the plaintiff chose
13 to take between receiving treat- -- receiving surgery or
14 other treatment or the time that it took under her theory
15 of the case to discover the actual gravity of her injury
16 is a question of fact for the jury.

17 Her testimony supports and there is case law that
18 supports that proposition that based on circumstantial
19 evidence as well as the surrounding circumstances of an
20 injury a lay person is equipped and qualified to testify
21 that at the inception of a particularly event that they
22 were injured.

23 She testified that when she was lifted from the
24 floor that that is when she was injured. In combination
25 with the testimony of Mr. Aiken whose expertise in the

1 area of prison population and confinement population
2 supervision was admitted without objection.

3 And it is important to note that the defense also
4 had a contravening expert who was admitted without
5 objection, which puts both of their opinions in direct
6 opposition to one another, which is appropriate for the
7 jury to sort out whose opinion they believed.

8 And I gave them an appropriate instruction on expert
9 testimony, how they are to weigh it, and that ultimately
10 they are the finders of the facts.

11 In addition to the fact that if they felt that the
12 testimony was not supported then they could disregard it
13 altogether or if it was outweighed by other testimony in
14 evidence they could disregard it altogether.

15 But when you consider Mr. Aiken's testimony in
16 combination with the plaintiff's testimony there is more
17 than sufficient circumstantial evidence to support and
18 for a jury award to be supported that she was injured at
19 the time that she was lifted from the floor.

20 Mr. Aiken testified that it was a breach in the duty
21 of care to lift someone in that manner by their elbow,
22 that they should have known that that would have caused
23 an injury, and in addition to that her complaint should
24 have triggered medical intervention and that that was not
25 adhered to thereby amounting to gross negligence had to

1 have been exercised by the Charleston County Sheriff's
2 Department.

3 The testimony also -- and I would be inclined to
4 agree with the defense's argument but for the testimony
5 of the plaintiff that she immediately got medical
6 treatment and continued on a course of treatment without
7 it being resolved, having been dissatisfied with other
8 doctors, having embarked upon several courses of
9 treatment, none of which alleviated her discomfort and
10 finally finding after a four-year period a doctor who was
11 able to address the true nature of her injury thereby
12 having an operation which she feels completely resolved
13 the issue for her.

14 So it is not a situation where someone says they
15 were injured, they received no treatment in an
16 intermittent period, and they claimed to have an injury
17 which suddenly so to speak - my words, not theirs -
18 needed to be treated, not having had any medical
19 intervention in the interim.

20 So all of that amounts to a question of fact for the
21 jury to determine whether in fact that treatment was
22 reasonable.

23 Now any assertion that the \$52,000 constitutes the
24 majority of this verdict, I cannot discern that; as the
25 jury's deliberations are private.

1 It was a general verdict form. They were instructed
2 on many of the elements of damages which were testified
3 to from she and her husband regarding the substantial
4 limitation in her ability to enjoy her life, to pursue
5 her hobbies, avocations and otherwise, the disheveled
6 state that she was found in when she left the jail, as
7 well as -- and that which includes mental suffering and
8 anxiety, as well as the pain and suffering that she said
9 she endured for a period of time.

10 So it is conceivable that they may have given her a
11 portion of her medical bills and the rest of it been
12 solely on the issue of the other elements of her actual
13 damages.

14 So I have no way of discerning that, and I am not
15 going to make that assumption. So there are many other
16 basis upon which they could have and did base their
17 verdict in this case.

18 Bear with me one moment, please.

19 And in addition to that, I don't believe any new
20 grounds were stated that had not previously been stated.
21 But I am sure everyone is clear that any new motion ought
22 to be as limited to the grounds that were asserted at the
23 directed verdict state.

24 This verdict is clearly with evidentiary support;
25 and, therefore, the court is denying the post-trial

1 motion.

2 I will do a Form 4 indicating the judgment. As well
3 as the fact that post-trial motions were heard, that
4 arguments were articulated for the record with
5 specificity, and the court made a contemporaneous -- made
6 contemporaneous rulings regarding findings of fact and
7 conclusions of law. That will be filed on today. Give
8 it a couple of days it will be online for your benefit.

9 Now, Ms. Ganes, I still need you to do me that
10 supplemental order on the directed verdict on the
11 supervision and training.

12 MS. GANES: Yes, Your Honor. I think it -- can we
13 get it to you by Friday?

14 THE COURT: That is fine.

15 MS. GANES: Okay. Yes, thank you.

16 THE COURT: And if you would just send it to me to
17 djeffersonsc@sccourts.org all in lower case. I give this
18 instruction. Nobody ever follows it. Your staff always
19 sends it to me. It goes to a junk folder and I never get
20 it.

21 MS. GANES: Okay.

22 THE COURT: Then you are going to get like ---

23 MS. GANES: I'm sorry, I was standing; do you mind
24 if I ---

25 THE COURT: That's -- no, no, no, go ahead. It is

1 djeffersonsc@sccourts.org.

2 MS. GANES: Okay.

3 THE COURT: And send it in Word format. And please
4 copy Mr. Boles on it.

5 MS. GANES: Of course.

6 THE COURT: And make any findings of fact or
7 conclusions of the law consistent with the record.

8 MS. GANES: And actually I will -- we will strive to
9 send it by him tomorrow before we send it to you.

10 THE COURT: That is fine. If you want to. Yes.

11 MS. GANES: And we will call and make sure that he
12 got it.

13 THE COURT: That's fine. Well, yeah, we will --
14 yeah, if you want to, that is fine.

15 MS. GANES: Okay. Thank you, Your Honor.

16 THE COURT: But Friday is fine. I don't have a
17 problem with that.

18 Anything further for the record from the plaintiff?

19 MR. BOLES: None, Your Honor. Thank you.

20 THE COURT: From the defense?

21 MS. GANES: No, Your Honor.

22 THE COURT: I hope y'all have a great week.

23 MS. GANES: Thank you.

24 (WHEREUPON, the trial concluded 11/16/16.)

(NOTE: Please contact the court reporter for additional copies or certified transcripts.)

CERTIFICATE

I, the undersigned Phyllis Norton, Official Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the captioned case, relative to appeal, in the court for South Carolina, on November 14 to 16, 2016.

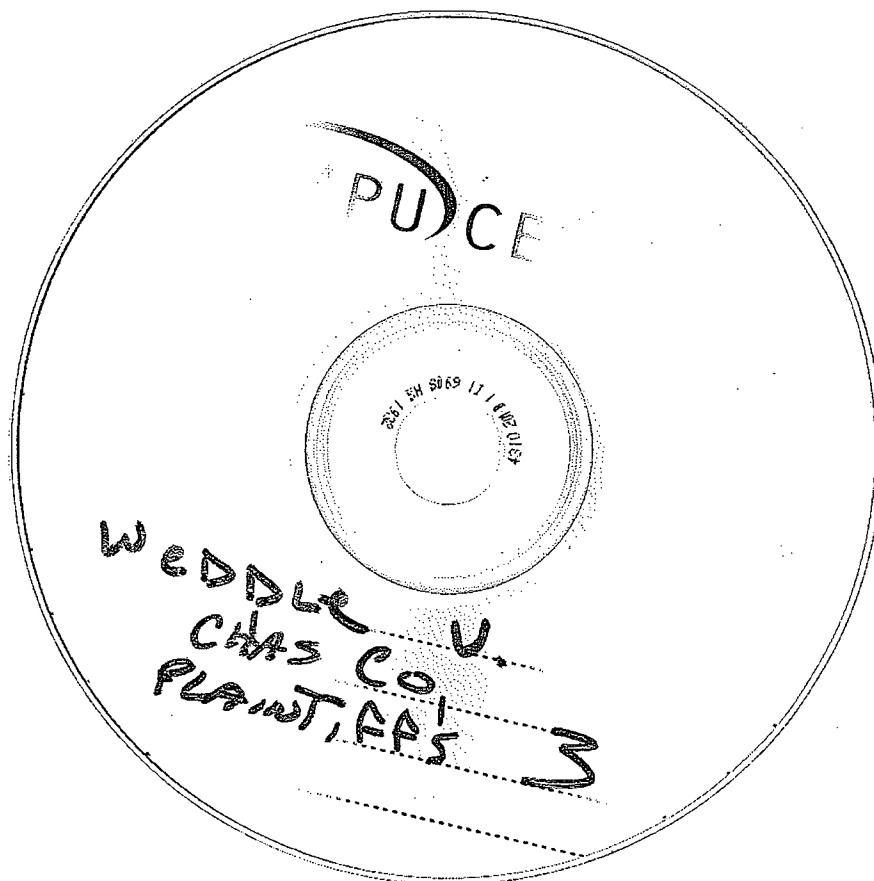
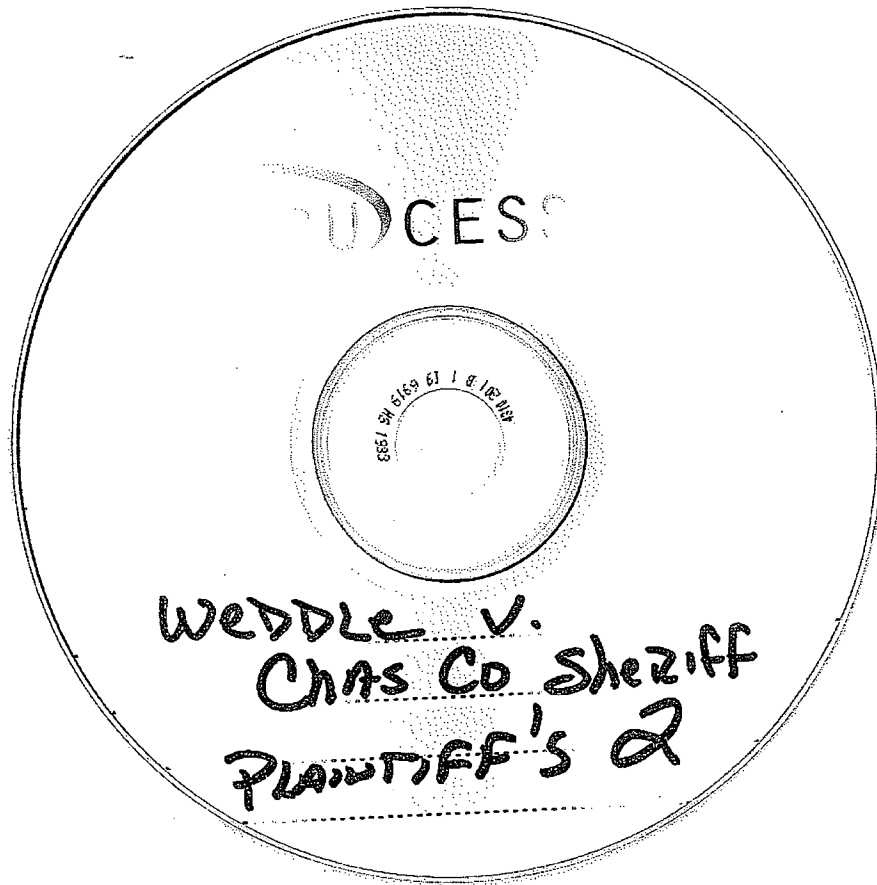
I do further certify that I am neither of kin, Counsel, nor interest to any party hereto.

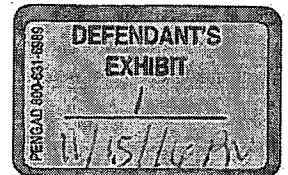

PHYLLIS NORTON, CVR

Date: December 30, 2016

Certified Transcript Provided For: Ganes

Certification Reference #123016 Original





If yes, list company and policy # :

Officer's Input (medical)

Do you have weight loss?

night sweats?

fever?

a cough lasting over 2 weeks?

coughing up blood?

weak/tired?

Does the inmate appear to have difficulty breathing?

N

N

INMATE : 0000564

NAME : WEDDLE, LINDA

===== OBSERVATIONS =====

EXAMINER : CRAGGS, CANDACE A

Y Understands Questions	N Bizarre Behavior	N Unpleasant
N Assaultive/Violent Behavior	N Seeing Visions	N Blank Stare
N Angry/Hostile Behavior	N Hearing Voices	N Passive
N Loud/Obnoxious Behavior	N Walks w/Stagger	N Depressed
N Unusual Suspiciousness	N Needle Marks	N Confused
N Lifeless Reaction	N Talks w/Slur	N Timid
N Eyes Red or Bloodshot	N Odor of Alcohol	N Shy
N Self Inflicted Injury Scars	N Uncooperative	N Feminine
on wrists, Legs, Neck	N Non-Talkative	N Homosexual

Other (Extreme Emotions, Nervousness, Indigent)

===== SOCIAL STRESS/SUICIDE RISK =====

Examiner : CRAGGS, CANDACE A

Recently experienced ...

N Job Loss	N Arrest of a Loved One
N Marital Separation	N Divorce
N Death of a Loved One	N Major Financial Loss
N Loss of a Business	

Comments : N

N Do you have any unusual home/family problems we should know about?

Comments :

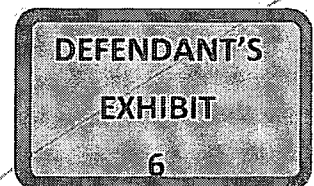
N Have you ever been in a mental institution or had psychiatric care?

Comments :

N Have you ever attempted or contemplated suicide?

N Are you now? When : Where :

N Does inmates behavior suggest a risk of suicide?



CHARLESTON COUNTY JAIL

INMATE : 0000564922

BOOKING DATE : 07/19/10 BOOKING TIME : 16:08

===== PERSONS FILE INFORMATION =====

NAME .. : WEDDLE, LINDA

ADDRESS : [REDACTED]

SSN ... : PLACE OF BIRTH : DOB : [REDACTED] AGE : 54

SEX ... : F RACE : W WGT : HGT : EYES : HAIR :

===== COMPLAINTS =====

COMPLAINT : 2010030524 DATE : 07/19/10 ARRESTING AGENCY : NCHAS

BOND TYPE : PR BOND AMOUNT : JUDGE : BOWERS

CHARGE : 16-17-530 A/E : A CLASS : CTS : 1 WARRANT : MISD

DISORDERLY COND

SENTENCE DATE : PROJECTED FINAL OUTDATE :

===== MEDICAL SCREENING =====

EXAMINER NAME : CRAGGS, CANDACE A

PHYSICAL CONDITION AT INTAKE : FAIR

- Obvious pain, bleeding, or other symptoms suggesting need for Emergency Medical Services?
- N Visible signs of injury or illness requiring immediate treatment/care?
- N Appears to be under influence of alcohol, or exhibit signs?
- N Appears to be under influence of barbituates, heroin, or other drugs?
- N Is there any jaundice?
- N Is inmate carrying any medications?
- N Taken to hospital prior to intake? If so, treatment, medications, etc.
- N Does behavior suggest need for immediate psychiatric treatment?
- N Any Complaint of sore throat or other contagious infection?
- N Is he/she on a special diet prescribed by a doctor?
If yes, describe :
- N Is he/she presently taking medications?
If yes, list :
- N Is he/she under a doctor's care?
If yes, list doctor and phone :
- N Has he/she been hospitalized recently?
If yes, where :
Explain :
- N Does he/she have history of VD or abnormal discharge?
Does inmate have STD?
- N Is inmate allergic to any medication or food?
If yes, list :
- N Has inmate fainted or had a head injury recently?
- N Is there a history of TB, Hepatitis, Epilepsy, or Diabetes?
- N Does inmate have painful dental condition, false teeth etc.?
If yes, describe :
- N Is inmate pregnant?
- N Is inmate on birth control pills?
- N Does inmate have any physical handicaps?
If yes, list :
- N Does inmate have any other medical problems the jail should know about?
If yes, list :
- N Does inmate have any medical/dental insurance?

CCSO 0017

RIGHT THUMB IN

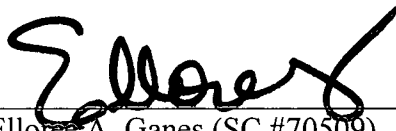
RIGHT THUMB OUT

CERTIFICATE OF COUNSEL

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

The undersigned further certifies that the Record on Appeal has been redacted in compliance with the Order of the South Carolina Supreme Court, dated April 15, 2014, RE: Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings.

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**Attorneys for the Appellant
Charleston County Sheriff's Office**

June 14, 2017

ROA 356

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