

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM COLLETON COUNTY
In the Court of Common Pleas

Perry M. Buckner, III, Circuit Court Judge

Circuit Case No. 2015-CP-15-1124 & 1125

Appellate Case No. 2017-000636

Amy Garrett, as Parent and Natural Guardian of C.A.
V.S.,..... Respondent,

v.

Antoine Van Steenwicjk..... Appellant.

And

Amy Garrett..... Respondent,

v.

Antoine Van Steenwicjk..... Appellant.

RECEIVED

SEP 05 2017

SC Court of Appeals

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v.

Antoine Van Steenwiczj..... Appellant.

And

Amy Garrett..... Respondent,

v.

Antoine Van Steenwiczj..... Appellant.

RECORD ON APPEAL

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Attorneys for Appellant

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STATE OF SOUTH CAROLINA)

COUNTY OF COLLETON)

AMY GARRETT,)

Plaintiff,)

v.)

ANTOINE VAN STEENWIJK,)

Defendant.)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO.: 2015-CP-15-1125

**ORDER GRANTING PLAINTIFF'S
MOTION FOR SUMMARY JUDGMENT ON
LIABILITY ONLY**

This matter came before the court on February 8, 2017, in Walterboro, South Carolina on Plaintiff's Motion for Summary Judgment. Present for the Plaintiff was Randolph Murdaugh, IV of Peters, Murdaugh, Parker, Eltzroth & Detrick, PA and present for the Defendant was David Cobb of Turner Padgett Graham & Laney, PA.

The Plaintiff's motion is a Motion for Summary Judgment as to the Defendant's liability and is based upon the deposition testimony of the Defendant. The Plaintiff attached the deposition testimony of the Defendant, dated August 18, 2016, to its Motion for Summary Judgment and such testimony is part of the record.

The instant case arises from an automobile accident in which the Plaintiff was a passenger in a vehicle driven by the Defendant, Antoine Van Steenwijk. The Defendant was driving a Ford Excursion and pulling a large travel trailer while traveling in Texas. The vehicle being driven by the Defendant began having problems, which surfaced as a shaking or vibration that was characterized as a substantial vibration. Ultimately, the vehicle had a tire blow out that lead to the Defendant's vehicle losing control, traveling some distance and crashing into some trees causing injury to the Plaintiff.

The Plaintiff claims the Defendant was negligent because the Defendant continued to drive his vehicle pulling the large camper trailer at seventy miles per hour on the interstate while experiencing the

substantial vibration. The Plaintiff argues that, had the Defendant slowed the vehicle down to a reasonable rate of speed, the tire blow out would not have caused a loss of control.

The deposition testimony of the Defendant indicates that the substantial vibration occurred over an extended period of time and that the Defendant took several steps to determine the nature of the substantial vibration but was unable to determine its cause. The testimony further indicates that the Defendant, despite not identifying the cause of the substantial vibration, continued to drive the vehicle pulling the large camper trailer at seventy miles per hour for an extended period of time. The basis of Plaintiff's Motion for Summary Judgment is summarized in the line of questioning that ends on page twenty-eight of the Defendant's deposition. There the Defendant admits that the reasonable thing for the Defendant to have done as a driver would have been to drive at a reduced speed, and he further admits that failing to drive at that slower rate makes the Defendant at fault for the accident. Plaintiff argues that summary judgment is appropriate based on the Defendant's testimony and admissions that it was unreasonable and negligent to drive at seventy miles per hour under the circumstances.

The Defendant argues that the Plaintiff was faced with a sudden emergency. Defendant also argues that the deposition testimony of the Defendant taken as a whole indicates that there are questions of fact to be determined by the jury despite the admissions cited by the Plaintiff.

STANDARD OF REVIEW

In ascertaining whether any triable issue of fact exists, the evidence and all inferences that can be reasonably drawn from the evidence must be viewed in the light most favorable to the non-moving party. *Belton v. Cincinnati Ins. Co.*, 360 S.C. 575, 578 (2004). The threshold of this standard has been defined as merely the "slightest amount of relevant evidence." *Harris Teeter, Inc. v. Moore & Van Allen, PLLC*, 390 S.C. 275, 294-95 (2010) (Hearn, J., concurring in part, dissenting in part) (citing *Black's Law Dictionary* 635 (Ed pocket ed. 2006)).

CONCLUSIONS

I hereby find that there is no genuine issue of material fact as to the Defendant's negligence even when viewing the evidence in a light most favorable to the Defendant. The Defendant clearly admits that his driving at seventy miles per hour under the circumstances was unreasonable. Summary Judgment is appropriate on the issue of Defendant's simple negligence. This grant of Summary Judgment on Defendant's negligence does not preclude any argument by Defendant that the Plaintiff was comparatively negligent if such issue is otherwise appropriately presented to the court. This ruling does not grant summary judgment on the issue of causation and whether Defendant's negligence in continuing to drive at seventy miles per hour as opposed to a slower speed, caused Plaintiff's injuries, remains a question of fact.

I hereby deny Plaintiff's request for Summary Judgment on causation.

Plaintiff's Motion for Summary Judgment is granted as to Defendant's simple negligence only, and denied as to causation.

AND IT IS SO ORDERED.

16 February, 2017
Walterboro, South Carolina

14th Judicial Circuit
Honorable Perry M. Buckner



Colleton Common Pleas

Case Caption: Amy Garrett VS Antoine Van Steenwijk

Case Number: 2015CP1501125

Type: Order/Summary Judgment

It is so Ordered

s/ Perry M Buckner III 2122

Electronically signed on 2017-02-18 10:55:45 page 4 of 4

ELECTRONICALLY FILED - 2017 Feb 21 8:23 AM - COLLETON - COMMON PLEAS - CASE#2015CP1501125

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF COLLETON	)	CIVIL ACTION NO.: 2015-CP-15-1124
	)	
AMY GARRETT, AS PARENT AND	)	
NATURAL GUARDIAN OF C. A. VAN	)	
STEENWIJK,	)	
Plaintiff,	)	
	)	
	)	ORDER GRANTING PLAINTIFF'S
	)	MOTION FOR SUMMARY JUDGMENT ON
	)	LIABILITY ONLY
v.	)	
	)	
ANTOINE VAN STEENWIJK,	)	
	)	

This matter came before the court on February 8, 2017, in Walterboro, South Carolina on Plaintiff's Motion for Summary Judgment. Present for the Plaintiff was Randolph Murdaugh, IV of Peters, Murdaugh, Parker, Eltzroth & Detrick, PA and present for the Defendant was David Cobb of Turner Padgett Graham & Laney, PA.

The Plaintiff's motion is a Motion for Summary Judgment as to the Defendant's liability and is based upon the deposition testimony of the Defendant. The Plaintiff attached the deposition testimony of the Defendant, dated August 18, 2016, to its Motion for Summary Judgment and such testimony is part of the record.

The instant case arises from an automobile accident in which the Plaintiff was a passenger in a vehicle driven by the Defendant, Antoine Van Steenwijk. The Defendant was driving a Ford Excursion and pulling a large travel trailer while traveling in Texas. The vehicle being driven by the Defendant began having problems, which surfaced as a shaking or vibration that was characterized as a substantial vibration. Ultimately, the vehicle had a tire blow out that lead to the Defendant's vehicle losing control, traveling some distance and crashing into some trees causing injury to the Plaintiff.

The Plaintiff claims the Defendant was negligent because the Defendant continued to drive his vehicle pulling the large camper trailer at seventy miles per hour on the interstate while experiencing the

substantial vibration. The Plaintiff argues that, had the Defendant slowed the vehicle down to a reasonable rate of speed, the tire blow out would not have caused a loss of control.

The deposition testimony of the Defendant indicates that the substantial vibration occurred over an extended period of time and that the Defendant took several steps to determine the nature of the substantial vibration but was unable to determine its cause. The testimony further indicates that the Defendant, despite not identifying the cause of the substantial vibration, continued to drive the vehicle pulling the large camper trailer at seventy miles per hour for an extended period of time. The basis of Plaintiff's Motion for Summary Judgment is summarized in the line of questioning that ends on page twenty-eight of the Defendant's deposition. There the Defendant admits that the reasonable thing for the Defendant to have done as a driver would have been to drive at a reduced speed, and he further admits that failing to drive at that slower rate makes the Defendant at fault for the accident. Plaintiff argues that summary judgment is appropriate based on the Defendant's testimony and admissions that it was unreasonable and negligent to drive at seventy miles per hour under the circumstances.

The Defendant argues that the Plaintiff was faced with a sudden emergency. Defendant also argues that the deposition testimony of the Defendant taken as a whole indicates that there are questions of fact to be determined by the jury despite the admissions cited by the Plaintiff.

STANDARD OF REVIEW

In ascertaining whether any triable issue of fact exists, the evidence and all inferences that can be reasonably drawn from the evidence must be viewed in the light most favorable to the non-moving party. *Belton v. Cincinnati Ins. Co.*, 360 S.C. 575, 578 (2004). The threshold of this standard has been defined as merely the "slightest amount of relevant evidence." *Harris Teeter, Inc. v. Moore & Van Allen, PLLC*, 390 S.C. 275, 294-95 (2010) (Hearn, J., concurring in part, dissenting in part) (citing *Black's Law Dictionary* 635 (Ed pocket ed. 2006)).

CONCLUSIONS

I hereby find that there is no genuine issue of material fact as to the Defendant's negligence even when viewing the evidence in a light most favorable to the Defendant. The Defendant clearly admits that his driving at seventy miles per hour under the circumstances was unreasonable. Summary Judgment is appropriate on the issue of Defendant's simple negligence. This grant of Summary Judgment on Defendant's negligence does not preclude any argument by Defendant that the Plaintiff was comparatively negligent if such issue is otherwise appropriately presented to the court. This ruling does not grant summary judgment on the issue of causation and whether Defendant's negligence in continuing to drive at seventy miles per hour as opposed to a slower speed, caused Plaintiff's injuries, remains a question of fact.

I hereby deny Plaintiff's request for Summary Judgment on causation.

Plaintiff's Motion for Summary Judgment is granted as to Defendant's simple negligence only, and denied as to causation.

AND IT IS SO ORDERED.

16 February, 2017
Walterboro, South Carolina

14th Judicial Circuit
Honorable Perry M. Buckner



Colleton Common Pleas

Case Caption: Amy(Nat Guar) Garrett VS Antoine Van Steenwijk
Case Number: 2015CP1501124
Type: Order/Summary Judgment

It is so Ordered

s/ Perry M Buckner III 2122

Electronically signed on 2017-02-18 10:54:52 page 4 of 4

ELECTRONICALLY FILED - 2017 Feb 21 8:19 AM - COLLETON - COMMON PLEAS - CASE#2015CP1501124

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS)

COUNTY OF COLLETON)

CIVIL ACTION NO.: 2015-CP-15- 1125)

Amy Garrett,)

Plaintiff,)

v.)

Antoine Van Steenwijk,)

Defendant.)

COMPLAINT

(Jury Trial Requested)

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OCT 26 2015

Office 0980
Irving, TX

2015 OCT -9 PM 2:02

PATRICK J. CANN
CLERK OF COURT
COLLETON COUNTY
COMMON PLEAS

The Plaintiff, complaining of the Defendant, alleges:

1. That the Plaintiff is a citizen and resident of the county of Colleton, State of South Carolina.
2. That, upon information and belief, the Defendant is a citizen and resident of the county of Colleton, State of South Carolina.
3. That on, or about, August 30, 2014, the Plaintiff was a passenger in the Defendant's vehicle as it was traveling east on Interstate 10 in Sutton County, Texas. That the Defendant began to have vehicle problems when a substantial vibration was shaking the vehicle and he thought it was a tire problem. The Defendant, after being unable to identify the problem, chose to continue driving at a high rate of speed over a period of time. The tire blew causing the Defendant's vehicle to go off of the road and strike a tree at a high rate of speed.
4. That as a result of the aforementioned accident which occurred at a high rate of speed, the Plaintiff was injured and has suffered and may continue to suffer physical pain, humiliation, mental anguish, and has and may in the future expend monies for medical care and treatment.
5. That the collision and damages hereinafter set forth were due to and proximately caused by the negligent, careless, and reckless conduct of the Defendant, Antoine Van Steenwijk, in the following particulars, to-wit:

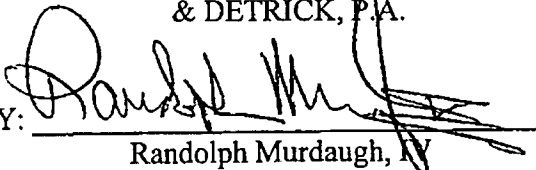
- A. In continuing to drive at a high rate of speed when he knew he had vehicle problems.

- B. In continuing to drive at a high rate of speed when he suspected that his vehicle had tire problems.
- C. In failing to slow down when he suspected that his vehicle had tire problems.
- D. In driving his vehicle too fast for the conditions then and there existing.
- E. In causing or allowing his vehicle to travel off of the highway and strike a tree.
- F. In failing to keep his vehicle under proper control.

6. That by reason of and in consequence of the aforementioned negligent, careless, and reckless conduct of the Defendant, the Plaintiff suffered the injuries and losses complained of.

WHEREFORE, Plaintiff prays for judgment against the Defendant for actual damages, together with punitive damages in an appropriate amount, for the costs of this action, and for such other and further relief as the Court may deem just and proper.

PETERS, MURDAUGH, PARKER, ELTZROTH
& DETRICK, P.A.

BY: 

Randolph Murdaugh, IV
P.O. Box 457
Hampton, SC 29924
(803) 943-2111

ATTORNEYS FOR PLAINTIFF

October 9, 2015
Hampton, South Carolina

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF COLLETON)

CIVIL ACTION NO.: 2015-CP-15- 1124

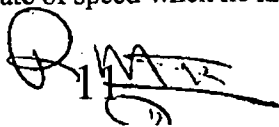
Amy Garrett, as parent and natural)
guardian of C. A. Van Steenwijk,)
Plaintiff,)

v.)

Antoine Van Steenwijk,)
Defendant.)**COMPLAINT**
(Jury Trial Requested)FILED
COLLETON COUNTY
COMMON PLEAS
2015 OCT -9 PM 1:58

The Plaintiff, complaining of the Defendant, alleges:

1. That the Plaintiff is a citizen and resident of the county of Colleton, State of South Carolina and is the parent and natural guardian of C. A. Van Steenwijk, who is a minor.
2. That, upon information and belief, the Defendant is a citizen and resident of the county of Colleton, State of South Carolina.
3. That on, or about, August 30, 2014, C. A. Van Steenwijk was a passenger in the Defendant's vehicle as it was traveling east on Interstate 10 in Sutton County, Texas. That the Defendant began to have vehicle problems when a substantial vibration was shaking the vehicle and he thought it was a tire problem. The Defendant, after being unable to identify the problem, chose to continue driving at a high rate of speed over a period of time. The tire blew causing the Defendant's vehicle to go off of the road and strike a tree at a high rate of speed.
4. That as a result of the aforementioned accident which occurred at a high rate of speed, C. A. Van Steenwijk was injured and has suffered and may continue to suffer physical pain, humiliation, mental anguish, and has and may in the future expend monies for medical care and treatment.
5. That the collision and damages hereinafter set forth were due to and proximately caused by the negligent, careless, and reckless conduct of the Defendant, Antoine Van Steenwijk, in the following particulars, to-wit:
 - A. In continuing to drive at a high rate of speed when he knew he had vehicle problems.



B. In continuing to drive at a high rate of speed when he suspected that his vehicle had tire problems.

C. In failing to slow down when he suspected that his vehicle had tire problems.

D. In driving his vehicle too fast for the conditions then and there existing.

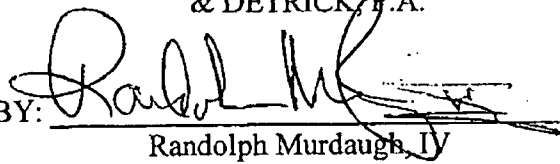
E. In causing or allowing his vehicle to travel off of the highway and struck a tree.

F. In failing to keep his vehicle under proper control.

6. That by reason of and in consequence of the aforementioned negligent, careless, and reckless conduct of the Defendant, C. A. Van Steenwijk suffered the injuries and losses complained of.

WHEREFORE, Plaintiff prays for judgment against the Defendant for actual damages, together with punitive damages in an appropriate amount, for the costs of this action, and for such other and further relief as the Court may deem just and proper.

PETERS, MURDAUGH, PARKER, ELTZROTH
& DETRICK, P.A.

BY: 

Randolph Murdaugh, IV

P.O. Box 457

Hampton, SC 29924

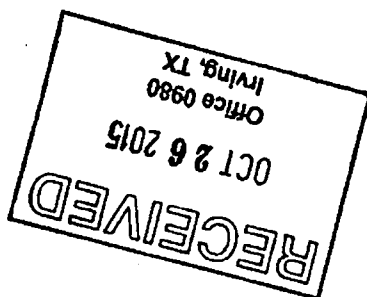
(803) 943-2111

ATTORNEYS FOR PLAINTIFF

October 9, 2015
Hampton, South Carolina

Antoine Van Steenwijk
102 Webb Street
Walterboro, SC 29488

AUSTIN TX 787
RIO GRANDE DISTRICT
19 OCT 2015 PM 3 L



Sid Sharma
Liberty Mutual Insurance Company
ATTN: Claim No. 030496873
2120 W. Walnut Hill Lane, Suite 200
Irving, TX 75038

75038441525



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5L3011501662

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF COLLETON	)	Docket No.: 2015-CP-15-1125
	)	
AMY GARRETT,	)	
	)	
Plaintiff,	)	
	)	
v.	)	ANSWER
	)	(Jury Trial Demanded)
ANTOINE VAN STEENWIJK,	)	
	)	
Defendant.	)	
	)	

Defendant answers and respectfully shows unto the Court:

FOR A FIRST DEFENSE

1. Except as specifically admitted, qualified, or explained, Defendant denies the allegations and demand strict proof of each allegation.

2. Upon information and belief, Defendant admits the allegations of Paragraph 1.

3. Defendant admits the allegations of Paragraph 2.

4. Defendant admits only so much of the allegations of Paragraphs 3-6 as allege an automobile accident occurred on August 30, 2014 in Sutton County, Texas. Defendant denies the remaining allegations and demands strict proof of each allegation.

AS AN ADDITIONAL DEFENSE
(Punitive Damages)

5. FURTHER ANSWERING, any award of punitive damages would violate the constitutional safeguards provided by the Due Process Clause of the Fourteenth Amendment of the United States Constitution and under the Due Process Clause of Article I, Section 3 of the South Carolina Constitution because the determination of punitive damages does not bear any reasonable relationship to the amount of actual damages, if any, suffered by or awarded.

2015 NOV -4 PM 2:33
PATRICIA C. GRANT
COLLETON COUNTY
COMMON PLEAS

AS AN ADDITIONAL DEFENSE
(Reservation of Rights)

6. FURTHER ANSWERING, Defendant has not had an opportunity to conduct a sufficient investigation or engage in adequate discovery touching on the circumstances of these allegations. Defendant intends to act as best it can to inform itself as to the pertinent facts and prevailing circumstances surrounding any reported injury or damage and gives notice of the intent to assert any further affirmative defenses that the information-gathering process may indicate is supported by fact and law, including but not limited to, defense that the action is barred in whole or in part by any applicable statute, contract, release, covenant, or the doctrine of laches. Thus, Defendant reserves the right to amend this pleading to assert any such defenses.

AS AN ADDITIONAL DEFENSE
(Failure to State a Claim)

7. FURTHER ANSWERING, the allegations of the Complaint do not state facts sufficient to constitute a cause of action, and this Court should dismiss the lawsuit.

AS AN ADDITIONAL DEFENSE
(Sudden Emergency)

8. FURTHER ANSWERING, Defendant alleges that while operating the automobile in a careful and prudent manner without fault, Defendant faced a sudden and unexpected emergency and, as a result, Defendant acted as a reasonable and prudent person would have acted under the circumstances then and there prevailing. Therefore, Defendant is not liable to Plaintiff in any amount.

WHEREFORE, Defendant demands judgment in his favor dismissing the Complaint and awarding costs, attorney's fees, and such other further relief as the Court deems just and equitable.

TURNER PADGET



David S. Cobb

Post Office Box 22129

Charleston, South Carolina 29413-2129

Direct: (843) 576-2803

Fax: (843) 577-1629

dcobb@turnerpadget.com

Charleston, South Carolina

November 2, 2015

ATTORNEYS FOR DEFENDANT

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12

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF COLLETON	)	Docket No.: 2015-CP-15-1124
	)	
AMY GARRETT, AS PARENT AND	)	
NATURAL GUARDIAN OF C.A. VAN	)	
STEENWIJK,	)	
	)	
Plaintiff,	)	
	)	
v.	)	ANSWER
	)	(Jury Trial Demanded)
ANTOINE VAN STEENWIJK,	)	
	)	
Defendant.	)	

Defendant answers and respectfully shows unto the Court:

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2. Upon information and belief, Defendant admits the allegations of Paragraph 1.
3. Defendant admits the allegations of Paragraph 2.
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(Punitive Damages)

5. FURTHER ANSWERING, any award of punitive damages would violate the constitutional safeguards provided by the Due Process Clause of the Fourteenth Amendment of the United States Constitution and under the Due Process Clause of Article I, Section 3 of the South Carolina Constitution because the determination of punitive damages does not bear any reasonable relationship to the

PATRICIA C. GRANT
 COLLETON COUNTY
 COMMON PLEAS
 2015 NOV -4 PM 2:26

amount of actual damages, if any, suffered by or awarded.

AS AN ADDITIONAL DEFENSE
(Reservation of Rights)

6. FURTHER ANSWERING, Defendant has not had an opportunity to conduct a sufficient investigation or engage in adequate discovery touching on the circumstances of these allegations. Defendant intends to act as best it can to inform itself as to the pertinent facts and prevailing circumstances surrounding any reported injury or damage and gives notice of the intent to assert any further affirmative defenses that the information-gathering process may indicate is supported by fact and law, including but not limited to, defense that the action is barred in whole or in part by any applicable statute, contract, release, covenant, or the doctrine of laches. Thus, Defendant reserves the right to amend this pleading to assert any such defenses.

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(Failure to State a Claim)

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(Sudden Emergency)

8. FURTHER ANSWERING, Defendant alleges that while operating the automobile in a careful and prudent manner without fault, Defendant faced a sudden and unexpected emergency and, as a result, Defendant acted as a reasonable and prudent person would have acted under the circumstances then and there prevailing. Therefore, Defendant is not liable to Plaintiff in any amount.

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TURNER PADGET


David S. Cobb

Post Office Box 22129

Charleston, South Carolina 29413-2129

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Charleston, South Carolina

November 2, 2015

ATTORNEYS FOR DEFENDANT

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF COLLETON) Docket No.: 2015-CP-15-1124

AMY GARRETT, AS PARENT AND)
NATURAL GUARDIAN OF C.A. VAN)
STEENWIJK,)

Plaintiff,)

v.)

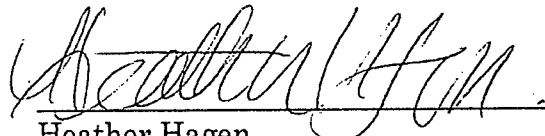
ANTOINE VAN STEENWIJK,)

Defendant.)

CERTIFICATE OF SERVICE

On November 2, 2015, I mailed a copy of Defendant's Answer and
discovery requests to:

Randolph Murdaugh, IV
Post Office Box 457
Hampton, South Carolina 29924
Attorneys for Plaintiff


Heather Hagen

2015 NOV -4 PM 12:26

PATRICIA C. GRANT
COLLETON COUNTY
COMMON PLEAS

15-1124-1124

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM COLLETON COUNTY
Court of Common Pleas

Perry M. Buckner, III, Circuit Court Judge

Case No.: 2015-CP-15-1125

RECEIVED

MAR 16 2017

SC Court of Appeals

Amy Garrett.....Respondent,

v.

Antoine Van Steenwijk.....Appellant.

NOTICE OF APPEAL

The Appellant, Antoine Van Steenwijk, appeals the order of the Honorable Perry M. Buckner, III, which was filed on February 21, 2017. Appellant received notice of the filed order on February 21, 2017. A copy of the order is attached.



David S. Cobb
Turner Padgett Graham & Laney P.A.
Post Office Box 22129
Charleston, South Carolina 29413
(843) 576-2803
dcobb@turnerpadgett.com
Attorneys for the Appellant

March 13, 2017

Other Counsel of Record:

Randy Murdaugh
Post Office Box 457
Hampton, South Carolina 29924
Attorney for the Respondent

STATE OF SOUTH CAROLINA

COUNTY OF COLLETON

AMY GARRETT,

Plaintiff,

v.

ANTOINE VAN STEENWIJK,
Defendant.

) IN THE COURT OF COMMON PLEAS

) CIVIL ACTION NO.: 2015-CP-15-1125

) ORDER GRANTING PLAINTIFF'S
) MOTION FOR SUMMARY JUDGMENT ON
) LIABILITY ONLY

) RECEIVED

) MAR 16 2017

) SC Court of Appeals

This matter came before the court on February 8, 2017, in Walterboro, South Carolina on Plaintiff's Motion for Summary Judgment. Present for the Plaintiff was Randolph Murdaugh, IV of Peters, Murdaugh, Parker, Eltzroth & Detrick, PA and present for the Defendant was David Cobb of Turner Padget Graham & Laney, PA.

The Plaintiff's motion is a Motion for Summary Judgment as to the Defendant's liability and is based upon the deposition testimony of the Defendant. The Plaintiff attached the deposition testimony of the Defendant, dated August 18, 2016, to its Motion for Summary Judgment and such testimony is part of the record.

The instant case arises from an automobile accident in which the Plaintiff was a passenger in a vehicle driven by the Defendant, Antoine Van Steenwijk. The Defendant was driving a Ford Excursion and pulling a large travel trailer while traveling in Texas. The vehicle being driven by the Defendant began having problems, which surfaced as a shaking or vibration that was characterized as a substantial vibration. Ultimately, the vehicle had a tire blow out that lead to the Defendant's vehicle losing control, traveling some distance and crashing into some trees causing injury to the Plaintiff.

The Plaintiff claims the Defendant was negligent because the Defendant continued to drive his vehicle pulling the large camper trailer at seventy miles per hour on the interstate while experiencing the

substantial vibration. The Plaintiff argues that, had the Defendant slowed the vehicle down to a reasonable rate of speed, the tire blow out would not have caused a loss of control.

The deposition testimony of the Defendant indicates that the substantial vibration occurred over an extended period of time and that the Defendant took several steps to determine the nature of the substantial vibration but was unable to determine its cause. The testimony further indicates that the Defendant, despite not identifying the cause of the substantial vibration, continued to drive the vehicle pulling the large camper trailer at seventy miles per hour for an extended period of time. The basis of Plaintiff's Motion for Summary Judgment is summarized in the line of questioning that ends on page twenty-eight of the Defendant's deposition. There the Defendant admits that the reasonable thing for the Defendant to have done as a driver would have been to drive at a reduced speed, and he further admits that failing to drive at that slower rate makes the Defendant at fault for the accident. Plaintiff argues that summary judgment is appropriate based on the Defendant's testimony and admissions that it was unreasonable and negligent to drive at seventy miles per hour under the circumstances.

The Defendant argues that the Plaintiff was faced with a sudden emergency. Defendant also argues that the deposition testimony of the Defendant taken as a whole indicates that there are questions of fact to be determined by the jury despite the admissions cited by the Plaintiff.

STANDARD OF REVIEW

In ascertaining whether any triable issue of fact exists, the evidence and all inferences that can be reasonably drawn from the evidence must be viewed in the light most favorable to the non-moving party. *Belton v. Cincinnati Ins. Co.*, 360 S.C. 575, 578 (2004). The threshold of this standard has been defined as merely the "slightest amount of relevant evidence." *Harris Teeter, Inc. v. Moore & Van Allen, PLLC*, 390 S.C. 275, 294-95 (2010) (Hearn, J., concurring in part, dissenting in part) (citing *Black's Law Dictionary* 635 (Ed pocket ed. 2006)).

CONCLUSIONS

I hereby find that there is no genuine issue of material fact as to the Defendant's negligence even when viewing the evidence in a light most favorable to the Defendant. The Defendant clearly admits that his driving at seventy miles per hour under the circumstances was unreasonable. Summary Judgment is appropriate on the issue of Defendant's simple negligence. This grant of Summary Judgment on Defendant's negligence does not preclude any argument by Defendant that the Plaintiff was comparatively negligent if such issue is otherwise appropriately presented to the court. This ruling does not grant summary judgment on the issue of causation and whether Defendant's negligence in continuing to drive at seventy miles per hour as opposed to a slower speed, caused Plaintiff's injuries, remains a question of fact.

I hereby deny Plaintiff's request for Summary Judgment on causation.

Plaintiff's Motion for Summary Judgment is granted as to Defendant's simple negligence only, and denied as to causation.

AND IT IS SO ORDERED:

16 February, 2017
Walterboro, South Carolina

14th Judicial Circuit
Honorable Perry M. Buckner



Colleton Common Pleas

Case Caption: Amy Garrett VS Antoine Van Steenwijk
Case Number: 2015CP1501125
Type: Order/Summary Judgment

It is so Ordered

s/ Perry M Buckner III 2122

Electronically signed on 2017-02-18 10:55:45 page 4 of 4

ELECTRONICALLY FILED - 2017 Feb 21 8:23 AM - COLLETON - COMMON PLEAS - CASE#2015CP1501125

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM COLLETON COUNTY
Court of Common Pleas

Perry M. Buckner, III, Circuit Court Judge

Case No.: 2015-CP-15-1124

RECEIVED

MAR 15 2017

SC Court of Appeals

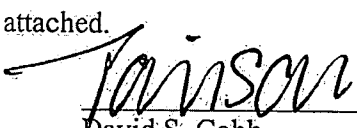
Amy Garrett, as parent and Natural Guardian of C.A. Van Steenwijk, ...Respondent,

v.

Antoine Van Steenwijk.....Appellant.

NOTICE OF APPEAL

The Appellant, Antoine Van Steenwijk, appeals the order of the Honorable Perry M. Buckner, III, which was filed on February 21, 2017. Appellant received notice of the filed order on February 21, 2017. A copy of the order is attached.


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Attorneys for Appellant

March 13, 2017

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STATE OF SOUTH CAROLINA)

COUNTY OF COLLETON)

AMY GARRETT, AS PARENT AND)
NATURAL GUARDIAN OF C. A. VAN)
STEENWIJK,)

Plaintiff,)

v.)

ANTOINE VAN STEENWIJK,)
_____)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO.: 2015-CP-15-1124

ORDER GRANTING PLAINTIFF'S
MOTION FOR SUMMARY JUDGMENT ON
LIABILITY ONLY

RECEIVED

MAR 15 2017

SC Court of Appeals

This matter came before the court on February 8, 2017, in Walterboro, South Carolina on Plaintiff's Motion for Summary Judgment. Present for the Plaintiff was Randolph Murdaugh, IV of Peters, Murdaugh, Parker, Eltzroth & Detrick, PA and present for the Defendant was David Cobb of Turner Padgett Graham & Laney, PA.

The Plaintiff's motion is a Motion for Summary Judgment as to the Defendant's liability and is based upon the deposition testimony of the Defendant. The Plaintiff attached the deposition testimony of the Defendant, dated August 18, 2016, to its Motion for Summary Judgment and such testimony is part of the record.

The instant case arises from an automobile accident in which the Plaintiff was a passenger in a vehicle driven by the Defendant, Antoine Van Steenwijk. The Defendant was driving a Ford Excursion and pulling a large travel trailer while traveling in Texas. The vehicle being driven by the Defendant began having problems, which surfaced as a shaking or vibration that was characterized as a substantial vibration. Ultimately, the vehicle had a tire blow out that lead to the Defendant's vehicle losing control, traveling some distance and crashing into some trees causing injury to the Plaintiff.

The Plaintiff claims the Defendant was negligent because the Defendant continued to drive his vehicle pulling the large camper trailer at seventy miles per hour on the interstate while experiencing the

substantial vibration. The Plaintiff argues that, had the Defendant slowed the vehicle down to a reasonable rate of speed, the tire blow out would not have caused a loss of control.

The deposition testimony of the Defendant indicates that the substantial vibration occurred over an extended period of time and that the Defendant took several steps to determine the nature of the substantial vibration but was unable to determine its cause. The testimony further indicates that the Defendant, despite not identifying the cause of the substantial vibration, continued to drive the vehicle pulling the large camper trailer at seventy miles per hour for an extended period of time. The basis of Plaintiff's Motion for Summary Judgment is summarized in the line of questioning that ends on page twenty-eight of the Defendant's deposition. There the Defendant admits that the reasonable thing for the Defendant to have done as a driver would have been to drive at a reduced speed, and he further admits that failing to drive at that slower rate makes the Defendant at fault for the accident. Plaintiff argues that summary judgment is appropriate based on the Defendant's testimony and admissions that it was unreasonable and negligent to drive at seventy miles per hour under the circumstances.

The Defendant argues that the Plaintiff was faced with a sudden emergency. Defendant also argues that the deposition testimony of the Defendant taken as a whole indicates that there are questions of fact to be determined by the jury despite the admissions cited by the Plaintiff.

STANDARD OF REVIEW

In ascertaining whether any triable issue of fact exists, the evidence and all inferences that can be reasonably drawn from the evidence must be viewed in the light most favorable to the non-moving party. *Belton v. Cincinnati Ins. Co.*, 360 S.C. 575, 578 (2004). The threshold of this standard has been defined as merely the "slightest amount of relevant evidence." *Harris Teeter, Inc. v. Moore & Van Allen, PLLC*, 390 S.C. 275, 294-95 (2010) (Hearn, J., concurring in part, dissenting in part) (citing *Black's Law Dictionary* 635 (Ed pocket ed. 2006)).

CONCLUSIONS

I hereby find that there is no genuine issue of material fact as to the Defendant's negligence even when viewing the evidence in a light most favorable to the Defendant. The Defendant clearly admits that his driving at seventy miles per hour under the circumstances was unreasonable. Summary Judgment is appropriate on the issue of Defendant's simple negligence. This grant of Summary Judgment on Defendant's negligence does not preclude any argument by Defendant that the Plaintiff was comparatively negligent if such issue is otherwise appropriately presented to the court. This ruling does not grant summary judgment on the issue of causation and whether Defendant's negligence in continuing to drive at seventy miles per hour as opposed to a slower speed, caused Plaintiff's injuries, remains a question of fact.

I hereby deny Plaintiff's request for Summary Judgment on causation.

Plaintiff's Motion for Summary Judgment is granted as to Defendant's simple negligence only, and denied as to causation.

AND IT IS SO ORDERED.

16 February, 2017
Walterboro, South Carolina

14th Judicial Circuit
Honorable Perry M. Buckner



Colleton Common Pleas

Case Caption: Amy(Nat Guar) Garrett VS Antoine Van Steenwijk
Case Number: 2015CP1501124
Type: Order/Summary Judgment

It is so Ordered

s/ Perry M Buckner III 2122

Electronically signed on 2017-02-18 10:54:52 page 4 of 4

1 STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
2 COUNTY OF COLLETON) CIVIL ACTION NO.
3) 2015-CP-15-1125
4)
5 AMY GARRETT,)
6)
7 Plaintiff)
8)
9 v.)
10)
11 ANTONIE VAN STEENWIJK,)
12)
13 Defendant.)
14)
15)
16)
17)
18)
19)
20)
21)
22)
23)
24)
25)

ORAL DEPOSITION

AMY GARRETT

AUGUST 18, 2016

14 ORAL DEPOSITION OF AMY GARRETT, produced as a
15 witness at the instance of the Defendant and duly sworn,
16 was taken in the above-styled and numbered cause on the
17 18TH day of August, 2016, from 9:01 a.m. to 10:23 a.m.,
18 before David Bateman, Certified Shorthand Reporter in
19 and for the State of Texas, reported by computerized
20 stenotype machine at the offices of Ken Owen &
21 Associates, LP, 801 West Avenue, Austin, Texas 78701,
22 pursuant to Rule 30 of the South Carolina Rules of Civil
23 Procedure and the provisions stated on the record or
24 attached hereto.
25

APPEARANCES

FOR PLAINTIFF:

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ALSO PRESENT:

Mr. Charlie Van Steenwijk

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AMY GARRETT

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EXHIBITS

EXHIBIT	DESCRIPTION	PAGE
Exhibit 1	Garrett Recorded Statement	40

1 AMY GARRETT,
2 having been first duly sworn, testified as follows:

3 EXAMINATION

4 BY MR. COBB:

5 Q. Ms. Garrett, I'm David Cobb and I'm going to
6 take your deposition. Pretty much the same rules apply
7 that Randy when he was talking to your husband about.

8 But if you don't understand what I'm
9 asking you, if you don't hear my question or if I happen
10 to mumble through it and make --

11 A. Okay.

12 Q. -- it so that you can't understand what I'm
13 asking you, let me know and I'll be more than happy to
14 repeat or rephrase the question.

15 A. Okay.

16 Q. I'm not trying to trick you nor am I trying to
17 get you to answer my questions in any particular way.

18 But I do want you to understand that I'm
19 going to rely on the answers that you give so that, if
20 you don't ask me to repeat or rephrase a question, I'm
21 going to assume that you heard and understood my
22 question.

23 A. Yes.

24 Q. And I'm also going to assume that you gave me a
25 truthful response to each question.

1 A. Yes.

2 Q. If you need to take --

3 THE REPORTER: Can you speak up a little?

4 MR. COBB: Sure. I'm a very soft spoken
5 individual. Just kidding.

6 Q. (BY MR. COBB) If you need to take a break at
7 any point in time, let me know.

8 A. Okay.

9 Q. And I'll be happy to do that.

10 A. Okay.

11 Q. I want to start asking about the accident and
12 then come back and ask the -- some personal questions
13 because I --

14 A. Sure.

15 Q. -- just want to build off of --

16 A. Sure.

17 Q. -- what we were talking about with your
18 husband. Is his recollection regarding when y'all left
19 Texas to go to New Mexico and how long y'all were gone,
20 is that accurate?

21 A. It would have to be around 11 o'clock because,
22 like what he said, we had a checkout time and they stand
23 by that firmly. So I believe we would have left by 11
24 o'clock.

25 Q. Okay. Let me jump in before that. When y'all

1 actually left Texas to go to New Mexico to start the
2 vacation?

3 A. Yes.

4 Q. He said it was about a two-week trip.

5 A. Yes.

6 Q. Is that --

7 A. Yes.

8 Q. -- accurate?

9 A. I would say that's accurate.

10 Q. Okay. And during those two weeks did you have
11 any issues with the vehicle?

12 A. No.

13 Q. And did you drive the vehicle at all?

14 A. I may have to take it to a store in Austin.
15 That was the only vehicle that we had at the time. We
16 may have rented a vehicle at the time. So I may have
17 taken it one or two times to take it to get groceries.
18 I didn't work at the time.

19 Q. And -- and the times that you would have driven
20 it would have been without it being attached to any type
21 of trailer --

22 A. Correct.

23 Q. -- or camper?

24 A. That was the agreement when we bought the
25 trailer, that I would not be the one driving it, that he

1 would be the primary driver. I just wasn't comfortable
2 with it.

3 THE REPORTER: Be sure and give a little
4 pause before you jump in with your answer so --

5 THE WITNESS: Oh, okay.

6 THE REPORTER: So that I don't decide
7 which of you guys to write at the same time.

8 THE WITNESS: Oh, sure. Okay.

9 MR. MURDAUGH: That part takes -- off the
10 record.

11 (Brief recess)

12 Q. (BY MR. COBB) Did you ever drive the Excursion
13 when it was attached to the Airstream?

14 A. One time.

15 Q. When was that?

16 A. When we were trying to figure out what was
17 wrong with the vehicle, that one time that Anton spoke
18 of right before it blew.

19 Q. And when we stopped you mentioned that when
20 y'all purchased the Airstream the deal was that he had
21 to drive --

22 A. Yes.

23 Q. -- the --

24 A. Before we even bought it. He wanted one very
25 badly.

1 Q. And when did y'all buy the Airstream?

2 A. I believe 2011.

3 Q. And did y'all buy it in South Carolina?

4 A. We purchased it from Nevada. So he drove out
5 there and I flew out and met him.

6 Q. And then y'all drove back?

7 A. Then we went to Yosemite.

8 Q. And then he drove it back?

9 A. Yeah, he drove it back.

10 Q. When did y'all buy the Excursion?

11 A. That I do not know.

12 Q. Did you buy it or did your husband buy it?

13 A. He bought it.

14 Q. And did he buy it new or used?

15 A. Used.

16 Q. Do you know if he bought it in South Carolina
17 or elsewhere?

18 A. He most likely bought it from a dealership on
19 eBay because it was delivered and I accepted the
20 delivery.

21 Q. So it was delivered to your house in
22 Walterboro?

23 A. Yes.

24 Q. So y'all spend the night at Davis Mountains,
25 Texas and then leave some point around 11 o'clock or so

1 Texas time?

2 A. I believe so.

3 Q. And that's in the morning?

4 A. Yes.

5 Q. Headed to home or headed elsewhere?

6 A. Austin, the La Hacienda RV Resort.

7 Q. Did y'all have any particular time that you
8 needed to be there?

9 A. Anton wanted to get back before dark. He had
10 work I believe the next day or he wanted to have -- to
11 tell you the truth, I'm really not sure. But I'm
12 guessing -- not guessing but I'm assuming that he wanted
13 to be back before dark because no one wants to drive in
14 the dark.

15 Q. And at the time of this accident he was
16 full-time in Texas or was he back and forth between
17 South Carolina and Texas?

18 A. He was a remote employee but I believe that
19 Dell wanted him at the headquarters more. And we had
20 our trailer there as sort of like a setup while we
21 figured out what we were going to do.

22 Q. And when you say he had to be at work the next
23 day would he physically have to go to their facility or
24 would he just pull up his laptop and work?

25 A. He would have had to have been at the facility.

1 Q. And that's in Round Rock?

2 A. Yes.

3 Q. Do you recall where y'all were when you first
4 started feeling what we described earlier as the
5 vibration?

6 And I'm fine with using that --

7 A. No, I don't.

8 Q. -- description if you're okay with using it.

9 A. I don't know.

10 Q. Do you know how long y'all had been driving
11 that day when the vibration first started?

12 A. I would say hours, several hours.

13 Q. When y'all left that morning did you ever sleep
14 any before the accident or were you awake the entire
15 time?

16 A. Was I sleeping in the car?

17 Q. Yeah.

18 A. No.

19 Q. Do you know what caused the vibration or was
20 there any -- did it all the sudden just suddenly start
21 or was there a bump or was there...

22 A. I'm misunderstanding what you're getting at.

23 Q. What alerted you to the fact that there was a
24 vibration?

25 Was there something --

1 A. Well, there was a noise.

2 Q. Okay.. Can you describe what that noise was?

3 A. It was a bum, bum, bum, bum, bum, bum.

4 MR. MURDAUGH: I want -- I want to know
5 how do you write that down.

6 THE WITNESS: I know.

7 MR. COBB: I'm going --

8 THE REPORTER: I don't.

9 MR. COBB: I'm going with --

10 THE WITNESS: I'm giving this poor guy --

11 MR. MURDAUGH: No. No.

12 THE WITNESS: -- a hard time.

13 MR. MURDAUGH: No. No. You're doing
14 fine. I'm just laughing. Hey, as lawyers, you know, we
15 got to find something to laugh about during the day.
16 So...

17 MR. COBB: Can I -- I wrote B-U-M, B-U-M,
18 B-U-M. Can we agree that's --

19 MR. MURDAUGH: Bum, bum, bum, bum, that's
20 about right.

21 MR. COBB: Yeah.

22 MR. MURDAUGH: I just laugh because I
23 could see our court reporter's face when -- he's like...

24 MR. COBB: We are -- you can go off the
25 record.

1 (Brief recess)

2 Q. (BY MR. COBB) You -- you described the noise.
3 Do you know how long that -- was the noise consistent
4 from that point until y'all pulled off the road or was
5 there moments where it would come and go?

6 A. I believe it was a steady noise.

7 Q. Did the -- did the intensity of the noise ever
8 change before y'all stopped?

9 A. No.

10 Q. And how long do you think y'all went from the
11 time you first heard the noise until you stopped?

12 A. It was not a long time. To give a number I
13 can't give a number. I really don't know.

14 Q. I think your husband said somewhere between --

15 A. What he says is probably what happened.

16 Q. Okay.

17 A. 15 minutes maybe. And then we pulled over like
18 what is that because we're out in the middle of nowhere.
19 We need to find an exit to pull over that's safe that --
20 we would never stop on the actual interstate because,
21 you know, with a child. That's just too dangerous.

22 I would say less than 15 minutes.

23 Q. Was that the first exit that y'all came to
24 after you heard the noise?

25 A. I think so.

1 Q. Was there anything around where y'all -- when
2 y'all pulled off was there anything around?

3 A. No.

4 Q. Any signs of civilization for lack of a better
5 term?

6 A. No.

7 Q. And your husband mentioned that he went through
8 the things that he did and at some point you drove?

9 A. Yes. He asked me to.

10 Q. And how far did you drive?

11 A. Couple hundred feet.

12 Q. And is there anything that you recall about
13 doing that?

14 A. I know I was uncomfortable. I don't want to
15 pull the trailer. We were in a safe spot to do so. But
16 I was uncomfortable with it but I did not feel a
17 vibration or anything. He was running next to the car
18 just looking to see if there was a visual. That's what
19 I remember.

20 Q. And how fast did you get the vehicle up to?

21 A. The number I can't give but I know less than 20
22 miles an hour for sure.

23 Q. And were y'all on like a country road or was it
24 a paved road?

25 A. It was a country road. And whether it was

1 paved I don't know. I don't remember.

2 Q. For example, y'all were not in a parking lot
3 or --

4 A. No. No.

5 Q. Off the side --

6 A. It was like a shoulder.

7 Q. But y'all were not on the interstate. Y'all
8 went through the exit?

9 A. We went off an exit to somewhere safe.

10 Q. What discussions did you have with your husband
11 at that point about going forward?

12 A. We were wondering what the noise was. He
13 checked the tire pressure of every tire on the -- you
14 know, the truck and the trailer. Everything seemed to
15 be normal. He even kicked the tire to see, you know,
16 anything's wrong with it, is it bulging or anything,
17 nothing there.

18 But I was worried about moving forward. I
19 asked him if we should get a tow truck. And it was very
20 hot. We had a cat with us and, of course, our son who
21 was 10 at the time. And he said but we don't really
22 know what's wrong so we could stay here but it could be
23 several hours and the heat is dangerous. And so he
24 decided to -- to continue on.

25 Q. Did you object to him continuing on?

1 A. Yes.

2 Q. What did you say to him?

3 A. Are you sure about that.

4 Q. What did he say?

5 A. He goes there's nothing wrong, I can't see
6 anything. His concern was the heat.

7 Q. Were you concerned at all about the heat?

8 A. Yes.

9 Q. Did you have a cell phone with you?

10 A. Yes.

11 Q. Do y'all know if you had cell service in that
12 area?

13 A. I don't remember.

14 Q. Any other conversation that you had with your
15 husband before y'all got back on the road?

16 A. That is all I remember.

17 Q. There was a mention earlier about you videoing
18 the cat?

19 A. Yes. That's when we were in the car.

20 Q. Is that before or after y'all stopped?

21 A. What I remember is it was after. That is what
22 I remember.

23 Q. So after you stopped but before --

24 A. After we --

25 Q. -- the accident?

1 A. -- stopped, yes. That is what I remember.

2 Q. Do you still have a copy of that video?

3 A. I do. Randy has it.

4 MR. MURDAUGH: I -- I -- I got it.

5 MR. COBB: Can we play it?

6 MR. MURDAUGH: Yeah.

7 MR. COBB: I have not seen it.

8 MR. MURDAUGH: Yeah. I found out last
9 night it -- well, I couldn't find out for sure. But it
10 looked like we had not produced it.

11 MR. COBB: Yeah.

12 MR. MURDAUGH: Yeah.

13 MR. COBB: Off the record.

14 (Recess from 9:16 a.m. to 9:18 a.m.)

15 MR. COBB: Back on the record.

16 Q. (BY MR. COBB) You videoed the cat because the
17 cat was mesmerized by the --

18 A. Shaking.

19 Q. The shaking?

20 A. Yes. We thought it was cute. You can hear in
21 the video we're like...

22 Q. The sounds that were in the video, was that the
23 sound of the tire or the sound of the vehicle?

24 A. At the time we didn't know it was the tire.
25 But we knew it was the vehicle and vibrating.

1 Q. But what I'm getting at, is the sound that --
2 the repetitive sound that's in the background, is that
3 the sound of the vehicle?

4 A. Yes.

5 MR. MURDAUGH: Do you mind if I play it
6 again? I hadn't -- I hadn't --

7 MR. COBB: Yeah.

8 MR. MURDAUGH: -- really listened to it.
9 That's the first time I had it with sound.

10 (Video playing)

11 MR. MURDAUGH: I didn't realize it had
12 that.

13 THE WITNESS: It's hard for me because the
14 cat died.

15 Q. (BY MR. COBB) Not -- in this accident?

16 A. Yes. So it's hard for me to watch that.
17 Sorry.

18 MR. COBB: I did not know that. I
19 apologize.

20 THE WITNESS: Yeah, that's okay.

21 Q. (BY MR. COBB) But the repetitive sound was the
22 vehicle?

23 A. Yes, it was.

24 Q. Is there a way for you to place when that
25 recording was made, either amount of time after y'all

1 left where you stopped or before the accident?

2 A. I just -- I just don't know. I know that I had
3 the video. I found it sometime after all this happened.
4 And if there's a way to find out exactly what happened
5 and where -- you know, you're welcome to research that.
6 I just don't know.

7 MR. MURDAUGH: David, not -- you could
8 tell what I'm getting ready to say won't help her. She
9 actually has -- I never thought about that. She
10 actually has the original phone. It's not -- it's not
11 in use anymore and it's still on there. I don't know
12 whether that phone marks, you know, the time --

13 MR. COBB: And there may be some --

14 MR. MURDAUGH: -- and the location --

15 MR. COBB: -- some stamp on it.

16 MR. MURDAUGH: -- even.

17 Q. (BY MR. COBB) Do you --

18 THE WITNESS: I have the phone.

19 MR. COBB: When -- let's take a second to
20 see.

21 (Recess from 9:20 a.m. to 9:22 a.m.)

22 MR. COBB: Back on the record.

23 Q. (BY MR. COBB) Did you -- did you take any other
24 recordings during the trip of the noise or the situation
25 other than that one video?

1 A. That is the only video.

2 Q. Your husband said he thought it was about 30 to
3 60 minutes from when y'all left after you stopped to
4 when the accident happened.

5 A. That seems reasonable.

6 Q. Okay. Would you agree or --

7 A. I would agree with him.

8 Q. What -- what do you recall about the accident?

9 A. Can you be more specific? What -- what is it
10 you want to know?

11 Q. I'm trying to -- I intentionally asked you an
12 open-ended question because I just wanted you to start
13 with y'all are going down the road. I didn't want to
14 suggest to you that you heard the tire blowout or you
15 saw it or -- I'm just trying to figure out -- y'all were
16 going down the road and --

17 A. From where we stopped?

18 Q. Yes, ma'am.

19 A. Okay. From where we stopped so Anton gets back
20 on the ramp. The noise is continuing. He is at full
21 speed. He is concentrating heavily on the engine noise,
22 well, what we thought was the engine noise, the car
23 vibration. So he was up on the steering wheel close so
24 he can get his hearing closer to the engine.

25 And so I'm getting nervous. And I'm

1 looking at the dashboard to see if there is a sign that
2 maybe the car was overheating. And so he was giving
3 more gas. And as he did that we heard an enormous
4 explosion. We veered off the road, I believe went over
5 a hill. I thought we were going to die.

6 I heard him saying oh, no, oh, no, oh, no.
7 And the tree stopped us. I went unconscious from there.
8 When I woke up I looked over my shoulder to check on my
9 son. His eyes were very large. Apparently he was in
10 shock. And I feared the car would overheat or catch
11 fire.

12 And so when I looked down I saw that my
13 legs were pinned. The dashboard was on top of my legs.
14 And so my window was open. And so I worked a long time
15 to get my legs free. I was pulling the chair down like
16 as hard as I could to try to create any kind of space to
17 wiggle my legs out.

18 And then I realized that something was
19 very wrong with my left leg and my right knee had a very
20 large cut on it. And so I pulled with my arms myself up
21 on to where the window is. And my husband came around
22 and pulled me out of the car and laid me on the ground
23 and then I passed out again. I woke up, saw no colors
24 or no sounds. I thought it was dying.

25 Q. I want to go back and ask you a couple

1 questions about the sequence. You said your husband was
2 close to the steering wheel?

3 A. Yeah. He was doing this. He was concentrating
4 on what was wrong, what -- what he thought was the
5 engine.

6 Q. And then you were checking out the dash?

7 A. Yes. I -- we had no conversation at that
8 point. He was heavily concentrated. I didn't want to
9 interrupt him.

10 Q. And then you said he gave the gas or something?

11 A. Yeah, to give more gas. He didn't go over 70.
12 But he was giving it more gas to see if it was making a
13 difference.

14 Q. And so I don't misunderstand what you're saying
15 later, is that he was pumping the -- the accelerator on
16 the vehicle or was there --

17 A. That's what I believe. I'm not a mechanic but
18 that's what I think he was doing.

19 Q. And how many times did he do that?

20 A. Just a couple times.

21 Q. When what we know was the tire blowout, when
22 that happened up until that point had the vibrations in
23 the vehicle stayed the same, increased, decreased?

24 A. I believe it was the same.

25 Q. They took you and your son to the local

1 hospital. Correct?

2 A. Yes.

3 Q. And you had a fractured left leg?

4 A. My patella was broken, broken in two. The
5 ligament was completely torn off with a piece of the
6 bone -- I'm not sure how they -- a piece of the bone
7 came off. I had a bruise the size of a football
8 underneath my kneecap. And then my right leg had a
9 rather large laceration down to the tendon.

10 Q. And they did surgery for you that day.
11 Correct?

12 A. It was -- the doctor was only comfortable
13 stabl[ing] the right leg back together and cleaning it
14 out. He had not much experience with trauma surgeries.
15 And so we had to wait until we could find someone that
16 could do it.

17 Q. And so that surgery on your left leg was done
18 about four or five, six days later?

19 A. Yes.

20 Q. And it looks like you went back to South
21 Carolina around September 7. I'm not -- I'm not try --

22 A. I went back with my sisters. My sisters are
23 nurses. And they wanted to escort me back home because
24 they would have the best care for me because I needed
25 round-the-clock care.

1 Q. And the reason why I'm saying that it looked
2 like there was surgery on September 5, 2014 at
3 Brackenridge Hospital on that patella and then you had a
4 follow-up visit with Edisto Orthopedics on September --
5 I'm sorry -- September 17, 2014. I misread my note.

6 So at some point before September 17, 2014
7 you went back to South Carolina?

8 A. I did. I went back with my sisters.

9 Q. Did y'all drive or fly?

10 A. We flew. They put me up in first class.

11 Q. And at the time you went back to South Carolina
12 was your son -- where was he?

13 A. My husband and son were back in Texas and they
14 flew back separately.

15 Q. When did your husband go back to South
16 Carolina?

17 A. I don't remember for sure.

18 Q. Did he stay with you in Texas while you were
19 here or did he go back?

20 A. What now? I'm not understanding.

21 Q. When you were here in Texas in the hospital?

22 A. Yes. He -- I was in the hospital by myself.
23 He did not go to the hospital where I was. He stayed
24 with Charlie. Charlie was at the Dell Children's
25 Hospital and I was several hours away.

1 Q. When you had the surgery in -- here in Texas
2 was your husband there for the surgery?

3 A. Yes. Well, you're saying in Texas. It all
4 happened in Texas. You mean in Austin?

5 Q. You were in two different hospitals. Correct?
6 Initially it was the local hospital?

7 A. Three.

8 Q. All right, three. Initially there was the
9 local hospital?

10 A. And then to the hospital I stayed at for a few
11 days and then I had the last surgery at Brackenridge.

12 Q. Okay. And your son -- it looks like your son
13 was discharged on September 3rd, 2014 from Dell.

14 A. Yes.

15 Q. And did he stay with your husband?

16 A. They were all together. My family was here.
17 They all took care of him.

18 Q. Who from your family came?

19 A. My mother, my oldest sister Wendy, my sister
20 Heather and my sister Dawn.

21 Q. And when Charlie got discharged from the
22 hospital and stayed with your husband for a couple days
23 then you went back to Texas. Did they go back to
24 Texas -- I mean y'all went back to South Carolina.

25 Did y'all go back about the same time

1 period?

2 A. No. I went first. My sisters had to go back
3 to work. They're all nurses except for Wendy, who's a
4 schoolteacher at Ashley Hall. So she had to get back to
5 work.

6 Q. Okay.

7 A. And because I needed round-the-clock care and
8 Anton, he was hurt himself and, you know, having
9 Charlie, they wanted to take care of me.

10 Q. Okay. So when did your husband and -- and
11 Charlie come to South Carolina?

12 A. I believe it was within a few days after me.

13 Q. And when you got back did you go back to your
14 house in Walterboro?

15 A. I did.

16 Q. When's the last time you had a medical
17 appointment for any injury that you had from this
18 accident?

19 A. I just saw my regular doctor, Dr. Bingham,
20 Julie Bingham. I believe it was less than a month ago.
21 I could check my phone records.

22 Q. Is that here in Texas?

23 A. That is here, Austin Regional Clinic.

24 Q. And what kind of doctor is she?

25 A. She's a family practitioner.

1 Q. And what did she do to treat you for any
2 injuries from this accident?

3 A. I had to go up on my anxiety medicines. In
4 December she gave me pain medications to make the trip
5 home to South Carolina. We drove home. And I take
6 Ambien to be able -- I chose to take a pill to sleep at
7 night because I don't want to take pain medicines
8 because I work as a nanny. So I chose that over taking
9 a pain medicine.

10 Q. When's the last time you saw a doctor in South
11 Carolina before --

12 A. I was there in June.

13 Q. Of 2016?

14 A. Yes.

15 Q. And who did you see?

16 MR. MURDAUGH: In when? I'm sorry. I
17 didn't hear.

18 MR. COBB: June two thousand.

19 THE WITNESS: June. What was his name?
20 Dr. Stokes. I usually see Dr. Smith but he wasn't there
21 that day.

22 Q. (BY MR. COBB) What practice is that?

23 A. Walterboro Family Practice.

24 Q. What issues are you having from the accident
25 now?

1 A. The biggest issue is the pain in my knees.

2 Q. In both knees?

3 A. Both knees. It is more so in the left knee but
4 it's a daily issue for me. I have post traumatic stress
5 from it. If I hear a loud noise, I jump. I don't sleep
6 at night. I have dizzy spells off and on. So I sleep
7 on three pillows so that like I don't get dizzy and
8 vomit. Occasionally I'm vomiting.

9 Q. What medications are you taking currently?

10 A. I have metformin.

11 Q. Can you spell that for me?

12 A. M-E-T-F-O-R-M-I-N. Spironolactone.

13 Q. Oh, you need --

14 A. S-P-I-R-O-L-A-C-T-O-N-E (sic). Birth control
15 pills.

16 MR. COBB: I'm sorry. I don't need to
17 know about that.

18 A. Well, Ambien and then Cymbalta.

19 Q. (BY MR. COBB) All right. And then Dr. Bingham
20 prescribed the Ambien?

21 A. Yes, and also Dr. Stokes.

22 Q. Who prescribed the metformin?

23 A. Originally Dr. Smith. The last one is Dr.
24 Bingham. I have PCOS.

25 Q. I'm sorry. What is that?

1 A. It has nothing to do with the accident. It's
2 polycystic ovarian syndrome.

3 Q. Okay.

4 A. It's just a hormonal imbalance --

5 Q. So metformin has nothing to do with the
6 accident?

7 A. It has nothing to do with it.

8 Q. All right. How about the spironolactone?

9 A. It has nothing to do with the accident.

10 Q. Cymbalta's from the accident?

11 A. Yes.

12 Q. All right. And who prescribed that?

13 A. That is Dr. Bingham.

14 Q. Okay. And so do you take any type of pain
15 medication?

16 A. Yes, 800 milligrams of ibuprofen. I use ice on
17 a daily basis.

18 Q. Ibuprofen, is that over-the-counter or is
19 that --

20 A. Yes.

21 Q. -- prescription? When you say ice, ice packs
22 or --

23 A. Yes, daily.

24 Q. And when you say daily is that for --

25 A. Twice a day.

1 Q. How long do you --

2 A. 20 minutes.

3 Q. To both knees?

4 A. Just the left one, the -- where the break was.

5 Q. Do you do any kind of physical activity?

6 A. Yes, I do.

7 Q. What do you do?

8 A. I walk however long my legs can take it. I had
9 physical therapy. So I have a band, wear a little
10 weight you can put on your leg. And sometimes I'll use
11 the weight machine like the therapist showed me. So I
12 try to lift a light weight.

13 Q. How often do you walk?

14 A. I try to walk every day. At the gym it might
15 be twice a week.

16 Q. And when you go walking how far do you walk?

17 A. I can't walk like I used to. And sometimes I
18 can go 30 minutes and many times less. And that's a lot
19 slower, half -- half the miles per hour as I used to.

20 Q. If you walk 30 minutes now, how far can you
21 cover?

22 A. Not very far. I -- usually I just walk down
23 the street and come back or, if I'm on a treadmill, it's
24 just not very far. I just don't know how far it is.

25 Q. And how often did you walk before the accident?

1 A. I was very active. I would walk four miles an
2 hour for an hour as a warmup. And then I would do Zumba
3 for an hour. Two times a week at least I would swim for
4 an hour.

5 Q. So you would every day walk for an hour?

6 A. Yes. And then Zumba, that's another hour so
7 physical exercise at least two hours a day.

8 Q. And you've not done Zumba since then?

9 A. I have not.

10 Q. Do you do any kind of other aerobic activity
11 other than walking occasionally?

12 A. I wish I could. I used to be an avid swimmer.
13 Of course it's hard to kick with the leg. I try but I'm
14 not where I used to be, anywhere near it.

15 Q. How often do you swim now?

16 A. Hardly ever.

17 Q. Is there a pool nearby that you could swim?

18 A. Yes. We belong to the JCC.

19 Q. The JCC is what?

20 A. The Jewish Community Center. Oh, sorry. I
21 forgot you're Charleston. Yeah, it's here. It's less
22 than five minutes from our house.

23 Q. How often did you go there to swim before the
24 accident?

25 A. Well, we just joined it. We lived in South

1 Carolina. So we went to St. Andrews Fitness Center and
2 our son went to Porter Gaud for a period of time. And
3 so when he was at Porter I went while he was in school.
4 And then when he was home schooled we would drive to
5 Charleston and -- and do it.

6 Q. Let me -- let me detour a little bit and ask
7 you about that. At the time this accident happened your
8 son was 10?

9 A. Yes.

10 Q. So he would have been in the --

11 A. 4th grade I believe.

12 Q. 4th grade?

13 A. I believe.

14 Q. And where did he go to 4th grade?

15 A. He was home schooled. I home schooled him.

16 Q. And how about 3rd grade?

17 A. Porter Gaud.

18 Q. 2nd grade?

19 A. Porter Gaud.

20 Q. Why did y'all make the decision to home school
21 him in 4th grade?

22 A. It was very expensive. And the traffic was
23 getting more intense in Charleston and we were spending
24 more time in the car than -- we felt like we could do
25 more with him at -- with home schooling with -- with our

1 time.

2 Q. Was Colleton Prep an option?

3 A. He went there for kindergarten. And our son
4 was reading at a very early age and he wasn't challenged
5 enough. So he went there for kindergarten.

6 Q. What do you do during the day?

7 A. I am a nanny.

8 Q. And for who are you a nanny?

9 A. I work for a private family.

10 Q. In Austin?

11 A. Yes.

12 Q. And when did you start that?

13 A. I started in October 2015. But I have been a
14 nanny since 1995 and I took a break from 2007 until
15 2015.

16 Q. How many children do they have?

17 A. They have two.

18 Q. And what are the ages?

19 A. Five and two.

20 Q. And do you work Monday through Friday?

21 A. It's Monday through Thursday full-time.

22 Q. And what are your hours?

23 A. 8:30 to 6:30. But I will start working less
24 than 30 hours next week.

25 Q. When school's back in session?

1 A. Yes.

2 Q. All right. So once school starts for your son
3 what's your hours?

4 A. Well, Monday and Wednesday 8:30 to 5:30,
5 Tuesday and Thursday 12 until 5:30.

6 Q. And in your job as a nanny what do you do for
7 them?

8 A. Well, care for your children. I mean the
9 two-year-old wears diapers. You have to keep her clean.
10 There's potty training. The five-year-old is learning
11 to read. And you have to take them on play dates and
12 like the museum and the park and play games with them,
13 read to them.

14 Q. And you've worked for this family since October
15 2015?

16 A. I have.

17 Q. And do you work also during the summertime?

18 A. Yes.

19 Q. And I take it that plus being a mom and a wife,
20 that's enough. Do you have any other jobs?

21 A. No, I don't.

22 Q. Do you drive?

23 A. Yes.

24 Q. And do you drive with your child in the car or
25 with these other two children in the car?

1 A. Yes, I do.

2 Q. Are there any other physical activities that
3 you can't do now that you could do before the accident?

4 A. Hiking is one. Many times, you know, my son
5 and Anton can go walking and I can't go because there's
6 only a certain amount of time that I can stand on my
7 legs because, if I'm working because I need to work, I
8 can't stand further -- you know, more than that.

9 I'm at my -- my limit. And then sitting
10 for too long like many times I miss going to a movie
11 because I can't sit through it. I'm afraid that I can't
12 see where I'm going and will trip.

13 Q. And why is it that you have an issue sitting
14 for a period of time?

15 A. There's pain in my knees the more -- you know,
16 either sitting, standing, walking. You have to get up.

17 Q. In either 2015 or 2016 did you have to use any
18 kind of walker or crutch?

19 A. Yes, I did.

20 Q. All right. How long did you have a walker?

21 A. I know it was at least through January, maybe
22 through February because I had a third surgery with
23 Dr. Schutte where he worked on my knee again where he
24 had to remove the -- the sutures and clean it out and
25 scope it. I was in a wheelchair for a long time.

1 Q. All right. Let me back up then and go to that.
2 After your surgeries in Texas you were in a wheelchair?

3 A. I was in a wheelchair.

4 Q. And how long did you stay in that wheelchair?

5 A. I specifically remember in November I went
6 somewhere with my sister and I was in a wheelchair. She
7 put the wheelchair in the back of her truck. So I would
8 say -- you know, sometimes I would use the -- the walker
9 if I could in the house.

10 But if we were going somewhere -- like we
11 trick or treated with the kids. I had to be in a
12 wheelchair. So that's October. And then November I
13 remember we went to a special function. My sister
14 pushed me around in a wheelchair. So I know at least
15 through that.

16 Q. And that's in 2014?

17 A. Yes.

18 Q. And so fair February March 2015 time period
19 you're off the wheelchair or off the -- off the walker?

20 A. I was still using the walker. Both my legs
21 were affected. So just getting to the bathroom like
22 sitting down on a -- if you've never had this happen to
23 you, you don't even think about it. Like just even
24 sitting on a toilet you need a walker because you need
25 something to hold onto, yeah. It was for months.

1 Q. Well, I'm -- I'm just trying to figure out when
2 did that end. When did --

3 A. I just don't know. I know it was for a very
4 long time.

5 Q. Have you had to use a walker or a wheelchair in
6 2016?

7 A. No.

8 Q. Last summer when y'all went on the trip up
9 north did you have to have the wheelchair or the walker
10 with you?

11 A. No. But we used -- because we were touring
12 homes we could only do a little bit at a time. My legs
13 were bound with bandages and we needed elevators and we
14 took precautions. And we had to stop quite frequently
15 because I -- I couldn't sit very long. And I had pain
16 medicines to get through it.

17 Q. Has any doctor told you that you have a
18 permanent injury?

19 A. I do remember Dr. Smith saying you will never
20 be the same, it's always going to be different for you.
21 His wife had been through a car accident and was
22 affected by it. And I do know that.

23 Dr. Schutte said that there's nothing more
24 that he could do, that the outlook was good, just try to
25 get your leg stronger. But I just -- yeah.

1 Q. Have you seen an orthopedist in Texas in 2015
2 or 2016?

3 A. My husband and I have talked about it. We want
4 to. I wanted to get my leg as strong as I could.
5 Because I've been through so much I can't fathom another
6 surgery. I'm fearing it.

7 Q. But have you seen an orthopedist in 2015 or
8 2016 here in Texas?

9 A. No.

10 Q. How about as far as any type of counseling,
11 either psych -- psychological, pain management, marriage
12 counseling, anything like that?

13 A. I sought counseling in Walterboro.

14 Q. How about in Texas?

15 A. No.

16 Q. I need to ask you some questions about your
17 relationship with your husband. I'm not --

18 A. Sure.

19 Q. -- not trying to --

20 A. That's fine.

21 Q. But -- and I'm not trying to be tacky. Has
22 this accident changed your relationship with him?

23 A. Yes.

24 Q. How?

25 A. I would many times get very emotional about

1 why, you would be in a lot of pain and everybody else
2 moves on and I'm not, why did this have to happen to me.
3 And sometimes he would be defensive about it.

4 Q. In what way?

5 A. Wondering if I was thinking it was his fault.

6 Q. What do you mean by that?

7 A. Like he could have done something differently.

8 Q. Do you blame him?

9 A. I love him. He's my husband. But I do blame
10 him.

11 Q. And why?

12 A. Because I felt like he could have gone slower.
13 If there was something that would have saved my legs --
14 I mean we went through so much over not thinking
15 thoroughly. And my -- I could have lost my son. You
16 know, you ask yourself these questions. You look a
17 little bit further into it as time goes on.

18 Q. When y'all -- after you stopped before the
19 accident, before the actual blowout, did you ever tell
20 him to stop at that point or pull over?

21 A. After we got back on the road?

22 Q. Yeah.

23 A. I did not. He -- no, I did not.

24 Q. And again, I'm not trying to be tacky. But do
25 you blame yourself any?

1 A. No, I don't.

2 Q. And I'm going to preface by saying this is a
3 very delicate question and I -- again, I'm not trying to
4 be tacky and I really don't care other than -- but you
5 mentioned earlier about the birth control.

6 Were y'all -- did this affect whether or
7 not y'all would have any children -- future children or
8 is Charlie...

9 MR. COBB: And I apologize for asking the
10 question.

11 A. Anton had a vasectomy.

12 Q. (BY MR. COBB) Was that before or after the
13 accident?

14 A. That was before. Charlie was in 1st grade.

15 Q. Okay. Has this affected his relationship with
16 your family?

17 A. If it did, they wouldn't tell me.

18 Q. Do you see any signs it's affected his
19 relationship with your --

20 A. I do --

21 Q. -- family?

22 A. -- know my brother-in-law thinks it's his
23 fault.

24 Q. Whose husband is that?

25 A. Dawn.

1 Q. What's his name?

2 A. Stan.

3 Q. What's his last name?

4 A. Ledwell.

5 Q. L-E?

6 A. D-W-E-L-L.

7 MR. MURDAUGH: I need to get that spelling
8 again.

9 THE WITNESS: L-E-D-W-E-L-L.

10 Q. (BY MR. COBB) And what does -- what does Stan
11 say?

12 A. Well, he -- he owns a lawn care business and he
13 pulls trailers. And I don't know why he feels that way
14 but I remember a short conversation my sister said that
15 Stan felt like it was Anton's fault.

16 Q. Did he explain why?

17 A. No, maybe to her but not -- she did not explain
18 to me why. They also weren't there. I mean they don't
19 know.

20 MR. COBB: Can I borrow a sticker?

21 THE REPORTER: Sure.

22 MR. COBB: Thank you.

23 (Exhibit 1 marked)

24 MR. COBB: What I marked as Exhibit 1 is a
25 copy of the recorded statement that you gave to

1 insurance company.

2 THE WITNESS: Yes.

3 Q. (BY MR. COBB) Do you recall giving --

4 A. I do.

5 MR. COBB: All right. I'm going to -- I'm
6 going to ask you some questions. But if you would, just
7 take a minute and read this because I want to ask you
8 some questions about it. And we can take a quick break
9 while you do that.

10 (Recess from 9:56 a.m. to 10:06 a.m.)

11 MR. COBB: Back on the record.

12 Q. (BY MR. COBB) You had time to read the recorded
13 statement?

14 A. I have.

15 Q. All right. Is there -- we're going to talk
16 about some individual things in there. But is there
17 anything that you noticed that is incorrect about the
18 statement?

19 A. No.

20 Q. On the second page -- not to split hairs with
21 you, but there's a reference about him driving 65 miles
22 per hour.

23 A. Yes.

24 Q. Is that fair?

25 A. To tell you the truth, I don't know if that's

1 fair because I was sitting, you know, in the passenger
2 seat looking this way. So if he says he was going 70,
3 you might want to go with what he says.

4 Q. Okay. On the third page there's a description
5 of your husband's tendencies regarding vehicles and
6 things like that.

7 And is there anything that you disagree
8 with about what you told the folks on September 11,
9 2014?

10 A. I do not disagree.

11 Q. There's a reference towards the bottom of page
12 three where you said your husband was a very good
13 driver?

14 A. Yes.

15 Q. On page four there's a reference to y'all
16 driving that trailer all the time, more than once a
17 month for the last three years or so?

18 A. Yes.

19 Q. Is that fair?

20 A. That is fair. When I say we he drove it.

21 Q. The bottom of page four you say it was just
22 very scary, my poor husband, I mean he was just doing
23 his very best to try to, you know, take control of the
24 situation.

25 Do you still agree with that statement?

1 A. I agree when the tire blew out and the car lost
2 control he did his best.

3 Q. On page 10?

4 MR. MURDAUGH: 10?

5 MR. COBB: 10. Sorry.

6 Q. (BY MR. COBB) At the top is the question is
7 there anything else you want to add regarding the --
8 your injuries or regarding the way the accident
9 happened.

10 And your answer was well, I just -- I just
11 I feel like it was just something that was just a tragic
12 thing that happened. The -- I don't think there was
13 anything we could have done or nothing else. I mean me
14 and my husband are very diligent about our cars and then
15 there's -- it continues on.

16 Do you agree with that statement?

17 A. I agree that in hindsight there was something
18 that he could have done that I didn't think about, that
19 he made a mistake.

20 Q. Okay. And the mistake your husband made was
21 what?

22 A. Going too fast.

23 Q. Any other issue you have with what your husband
24 did that day?

25 A. No, I do not.

1 Q. With regards to the medical expenses that
2 you've had for your treatment?

3 A. Yes.

4 Q. And I guess I'd also ask for -- for your son.
5 Has that been paid by insurance?

6 A. Anton is the one that handled all that and he
7 would be the one to ask.

8 Q. Do you know whether y'all are receiving any
9 type of notices from any of the medical providers that
10 bills are unpaid or need to be paid?

11 A. I do know at the time we were getting notices.
12 Someone put something on my credit report. It was very
13 stressful. But he's the one that handles all that. You
14 would need to ask him.

15 Q. And do you know whether or not he had health
16 insurance coverage at the time of the accident?

17 A. We had health insurance.

18 Q. Do you know whether you had to pay any of the
19 medical bills out of pocket either as deductibles or --

20 A. Yes.

21 Q. -- copayments?

22 A. Yes.

23 Q. Do you know how much that is?

24 A. I don't know what it is. But I know that we --
25 we have paid.

1 Q. All right. Let me ask you the personal
2 questions now. Your date of birth is January 4, 1975?

3 A. Yes.

4 Q. Your last four digits of your social security
5 number is 5410?

6 A. Yes.

7 Q. All right. Who are your relatives that live in
8 Colleton County?

9 A. Currently we have my mother and my dad.

10 Q. What are their names?

11 A. Jane and Wayne Garrett and my grandfather
12 Charles Kemper.

13 Q. K-E-M?

14 A. P-E-R, yes.

15 Q. Anyone else?

16 A. They've all moved.

17 Q. Other than Garrett and Kemper?

18 A. Yes, that's just them.

19 Q. What other relatives do you have that live in
20 the -- in the low country, last names?

21 A. Well, Wendy Robins, that's my oldest sister.
22 She lives in downtown Charleston.

23 Q. What's her husband's name?

24 A. Shea.

25 Q. S-H-A-Y?

1 A. S-H-E-A.

2 Q. And what does Wendy do?

3 A. Wendy is a preschool teacher at Ashley --

4 Q. Hall?

5 A. Ashley Hall, sorry.

6 MR. COBB: A-S-H-L-E-Y.

7 Q. (BY MR. COBB) And what does Shea do?

8 A. Shea is a Realtor.

9 Q. And you had the one sister?

10 A. I have five sisters.

11 Q. Ledwell, where does he live?

12 A. They're in Charlotte.

13 Q. Where do your other sisters live?

14 A. Let's see. Beth, Moncks Corner I think.

15 Q. What's her last name?

16 A. Like Goose Creek. Goodman.

17 Q. All right.

18 A. Holly Franco.

19 MR. COBB: Moncks Corner is M-O-N-C-K-S

20 Corner.

21 A. Holly Franco.

22 Q. (BY MR. COBB) Spell her last name.

23 A. F-R-A-N-C-O. That's in Summerville. And then
24 we have -- who am I forgetting? Beth, Dawn, Holly -- do
25 I have them all?

1 MR. CHARLIE VAN STEENWIJK: Which ones did
2 you list?

3 THE WITNESS: Who all do I have?

4 Q. (BY MR. COBB) Wendy, her last name is Ledwell?

5 A. Yes.

6 Q. Beth, Holly?

7 A. And Heather's in Columbia.

8 Q. Heather?

9 A. Garrett, Columbia.

10 Q. Is she married?

11 A. No.

12 Q. Your mom was a midwife?

13 A. Yes.

14 Q. And she is retired now?

15 A. She is retired.

16 Q. How about your dad?

17 A. He is a retired schoolteacher.

18 Q. And where did he teach?

19 A. He taught one year at Hampton Street School but
20 mostly in the Pittsburgh area schools.

21 Q. Pittsburgh as in Pennsylvania?

22 A. Yes.

23 Q. And where did you go to high school?

24 A. I went to Walterboro High School.

25 Q. And you graduated in nineteen ninety...

1 A. '3.

2 Q. And did you have -- where did you go after
3 Walterboro?

4 A. Did I do what?

5 Q. Did you go to school after Walterboro?

6 A. Yes. I went to Columbia College.

7 Q. And graduated in?

8 A. '97.

9 Q. What was your degree in?

10 A. Art.

11 Q. When did y'all -- y'all moved full-time here to
12 Texas in 2015?

13 A. The first time was 1999.

14 Q. Okay.

15 A. We were living in Columbia.

16 Q. Let me back up. When did you and your husband
17 meet?

18 A. 1993. I was 18 years old.

19 Q. And when did y'all marry?

20 A. 1995.

21 Q. And where did y'all marry?

22 A. In Tennessee in Gatlinburg.

23 Q. So in 1999 y'all moved to Texas?

24 A. Yes.

25 Q. And then came back?

1 A. In '97 we bought our house on Webb Street.

2 Q. In Walterboro?

3 A. Yes.

4 Q. All right. You moved to Texas in 1999?

5 A. Yes.

6 Q. Came back?

7 A. 2007 for this guy right here.

8 Q. Because you wanted him to grow up in
9 Walterboro?

10 A. Uh-huh. My grandmother was ill at the time.

11 Q. Okay. And then y'all moved back to Texas in
12 2016?

13 A. '15.

14 Q. All right. When in 2015?

15 A. We bought our place in October or September,
16 one of the two. I don't remember when he closed on it
17 but around there.

18 Q. And that was for his job?

19 A. It was for his job.

20 Q. All right. Are y'all planning to move back to
21 Walterboro?

22 A. We have our house on the market. He needs to
23 be here.

24 Q. If you had your choice, would you be here or
25 would you be in Walterboro?

1 A. Walterboro.

2 Q. Is that because family or...

3 A. Yes.

4 Q. Do you still have friends who live in
5 Walterboro?

6 A. Not my close friends.

7 Q. Okay. Do you have any that you would consider
8 to be a close friend that lives in Walterboro?

9 A. No.

10 Q. How often do you go back?

11 A. Once or twice a year.

12 Q. Does your mom come out here?

13 A. Not -- not this time around. When we lived
14 there in '99 to 2007 she did come visit us but now no.

15 Q. Is that --

16 A. She hasn't been here. So --

17 Q. Is that -- does she have any health issues that
18 prevent --

19 A. Well, she had cancer. That's why she had to
20 retire. And then the radiation made her bones brittle.
21 So she's had two or three shoulder replacement
22 surgeries, several knee replacement surgeries where she
23 fell. So her health is not very good.

24 Q. How old is your mom?

25 A. Let's see. She's 66.

1 Q. And how old is your dad?

2 A. I think he's three years older than him or her,
3 69 maybe.

4 Q. And how old is your grandfather?

5 A. He's in his 80s. I'm not sure.

6 Q. From the time period of the 2007 to 2015 time
7 period did you work in Waltherboro outside the home?

8 A. The only time I ever did was I filled in for my
9 sister who's a nanny. She worked for a prominent family
10 in Charleston. And if -- her daughter would do like
11 pageants. So maybe here and there I would do fill-in
12 nanny work to help them out, yes.

13 Q. Okay. But otherwise you just worked around the
14 house and --

15 A. Yes.

16 Q. -- played mom?

17 A. Yes.

18 Q. As far as Charlie now, is he still having any
19 effects from the accident?

20 A. You would have to ask him.

21 Q. Okay. But do you -- do you see that he has?

22 A. Yes.

23 Q. All right. What do you...

24 A. I would say bad dreams. I notice him talking
25 in his sleep a lot. I think personally that when people

1 talk in their sleep they're working through problems,
2 like they have stress. He tells me that he doesn't fall
3 asleep very easily. He has to listen to music.
4 Sometimes it's midnight before he goes to sleep. When
5 we're in the car he seems very nervous.

6 Q. How about any physical issues?

7 A. He does complain of headaches a lot.

8 Q. How about as far as when your husband and your
9 son go hiking and things like that? Can he do that?
10 Can your son do that?

11 A. He does go hiking, yes.

12 Q. Okay. Do you see there's any physical
13 limitations on him?

14 A. Not to my knowledge.

15 Q. And I recognize that --

16 A. Because I don't go with them. So I don't --

17 Q. Does your husband ever say anything to you
18 about Charlie not being able to do anything?

19 A. He says that sometimes he's not keeping up
20 quite as much and that he has to like encourage him a
21 lot to get him to move.

22 Q. And school-wise he's going to start 7th grade?

23 A. 7th grade.

24 Q. And will he go to school or will he be home
25 schooled?

1 A. He will go to Murchison Middle School.

2 Q. And as far as where he is with his
3 contemporaries, above average?

4 A. He's an intelligent boy, yes.

5 Q. That's all the questions I have for you. Have
6 you -- have you understood all my questions?

7 A. Yes.

8 Q. All right. Do I need to rephrase or repeat
9 anything?

10 A. No.

11 Q. And have I been rude or disrespectful to you?

12 A. No.

13 MR. COBB: Thank you. That's it.

14 MR. MURDAUGH: I don't have any questions.

15 (Proceedings concluded at 10:23 a.m.)
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CHANGES AND SIGNATURE

PAGE/LINE

CHANGE

REASON

I, AMY GARRETT, declare under penalty of perjury

1 that the foregoing is true and correct.

2
3 _____
4 AMY GARRETT
5
6

7 SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned
8 authority, by the witness, AMY GARRETT, on this the
9 _____ day of _____, _____.
10

11 _____
12 NOTARY PUBLIC IN AND FOR
13 THE STATE OF _____
14

15 My Commission Expires: _____
16
17
18
19
20
21
22
23
24
25

1 STATE OF TEXAS
2 COUNTY OF TRAVIS

3 REPORTER'S CERTIFICATE
4 ORAL DEPOSITION OF AMY GARRETT
5 AUGUST 18, 2016
6

7 I, David Bateman, the undersigned Certified
8 Shorthand Reporter in and for the State of Texas,
9 certify that the facts stated in the foregoing pages are
10 true and correct.

11 I further certify that I am neither attorney or
12 counsel for, related to, nor employed by any parties to
13 the action in which this testimony is taken and,
14 further, that I am not a relative or employee of any
15 counsel employed by the parties hereto or financially
16 interested in the action.

17 SUBSCRIBED AND SWORN TO under my hand and seal of
18 office on this 29th day of August, 2016.
19

20 
21

22 David Bateman, Texas CSR 7578
23 Expiration: 12/31/2017

24 Esquire Deposition Solutions
25 AtlantaScheduling@EsquireSolutions.com
404.495.0777

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Recorded Statement of Amy Garrett
30496873-08

SS: Okay. Amy, are you still there?

AG: Yes. I'm here.

SS: Okay. Alright. This is Sid Sharma. I'm speaking with Amy Garrett, regarding an accident that happened on, uh, August 30th, 2014. Today's date is, uh, September 11th, 2014, and it's approximately 3:30 in the afternoon.

Uh, Ms. Garrett, are you aware that I'm recording this conversation?

AG: Yes. I'm aware.

SS: And do I have your permission to do so?

AG: Yes, you do.

SS: Okay. Um, Ms. Garret, are you at least, uh, 18 years of age?

AG: Yes. I'm 39.

SS: Okay. Um, Ms. Garrett, if you could, can you give me your full name, uh, and...

AG: Amy Lynn Garrett.

SS: And spell your last name for me?

AG: G-A-R-R-E-T-T.

SS: Okay. Um, and your date of birth?

AG: January 4th, 1975.

SS: And I've got the last four of your social as 5510?

AG: That's...

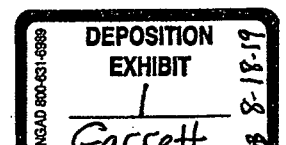
SS: Is that correct?

AG: ...correct.

SS: Okay. Um, Ms. Garrett, can you tell me a little about about what happened in this particular accident?

AG: Um, well, I will start from the beginning.

SS: Okay?



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AG: Um, we were traveling through New Mexico, um, just having a great time. Um, we were in, um, an (*transcriber note: sounds like*) Air Stream Travel Trailers and, um, we were heading back to Austin where we were staying at the, um, La Hacienda RV Resort, so I guess we were about three, we were three and a-half hours away and so, um, we make frequent stops, um, for me to use the restroom and me and Anton take breaks and, you know, check on our rig. That type of thing. And so, um, we had stopped and went to the bathroom and, you know, we all have a cat, so the cat needs water and, you know, use the litter box and all that, and so, um, we had checked our rig. I'm usually the one that checks to make sure all the lights are working and that kind of thing and he, he does all the tire pressure and all that, and so, um, everything was good to go, and so, um, we headed back on the interstate and, um, it seemed like the, the road was a little bumpy.

SS: Mm hmm?

AG: Like where they would have, where you, they patched the roads or what not, and you know, I guess nothing out of the ordinary and then all of a sudden, we heard this huge explosion like a bomb had gone off and next thing I know, my husband is saying like, "Oh, no! Oh, no", and our, um, our rig was basically sliding off the interstate and I do know that he, you know, he was driving at a safe speed, and I think it was about 65 miles per hour, because he likes, you know, not only for fuel economy, he likes to keep it, you know, safe or, you know, pulling a trailer, too...

SS: Mm hmm?

AG: ...but he...I, I, I honestly think it was 65 miles an hour that he was doing. Both hands on the wheel. Just heard this loud explosion which was extremely scary and the rig just started to slide and he just couldn't control it. Um, you know? We were just pulling, you know, a large trailer and I guess with the tire being blind, you know, what are you going to do? So...

SS: Yeah?

AG: ...next thing I know, I, we were going down a hill. (*Laughs*).

SS: Mm hmm?

AG: And then, uh, we ran into a tree and, um, it was a pretty huge impact and, um, I believe the airbag went off. I think I may have lost consciousness. I woke up. I felt that my legs were pinned between the dashboard and my feet, and, uh, I was really scared that the car might set fire or something. I don't know. You just never know what happens if you hit something like that. And so, I, I, I looked behind me. My, my child was still in his seatbelt. His eye was bigger. There could be, like he was so scared and Anton immediately got out of the car to help and so, um, I used as much force as I

Recorded Statement of Amy Garrett
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could to release my legs, um, from the dashboard and the seat and, um, got to where I could hang my behind on the window. We had the windows opened when we were driving. And so I, I remember him pulling me out of the car and laying me out on the ground and so, um, and then I was lost consciousness, um, and next thing I knew, I woke up, not seeing colors or anything, but just lights of people around me where some bystanders had come. I believe some were paramedics from Mexico that happened to have seen the accident and, um, they were trying to keep me awake until the, um, ambulance got there and it just seemed like forever before they got there and that's what happened.

SS: Okay. Um, let me just ask you a few qu, um, amplifying questions on that information that you have provided. You, you had said that, um, you know, you guys, uh, kind of always, you, you had checked the lights. He was checking the tires and kind of just make sure that the, that the trailer was safe for, for riding an, and you all did that that morning as well?

AG: Yes. We were at, um, Mount David, or, yeah. Is it Mount David where they have, um, it's like a state park?

SS: Hmm?

AG: We went to so many places. But anyway, my husband is anal about his cars, even like really down where you wash it. Like he has to use a hand. If you put your hand print on the car, he gets upset. He likes to keep his cars in good shape.

SS: (Laughs). Okay?

AG: His, his background is in air space engineering. He can take a car apart and put it back together if, if he wanted to and, um, and his dad was also a professional driver. He, you know, they're from Holland and that's what his dad did for a living growing up. His dad, um, also, um, taught people how to, you know, to drive because they're, they're, you're 18. You have to get, you know, special lessons from, um, instructors and that's what his dad did for a living and my...

SS: Hmm?

AG: ...my husband was a very good driver and, um, we would keep spread sheets on our ca, all of our cars. Um, he had it maintained here, um, at the Walter Berg Ford. The brakes were just recently done, um, inspected. Um, yeah, the car was in really good shape. Um, he loved that truck.

SS: Mm hmm? The, um, um, so you all checked, uh, everything the, the morning before? Uh, how, how long have you all owned that, that Air Stream or have owned a travel trailer?

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30496873-08

AG: We got that, um, the Air Stream, let's see, when my son was going into the second grade, so I'm thinking that was 2011? I think three years.

SS: Had you had a trailer before that time or was this your first one?

AG: Um, trav, that was our first one. It was our dream to own that. We had saved for a long time. It was a dream of ours and we really enjoyed having it. It was something we wanted to, um, we wanted to show our son America and take him places, and he's home-schooled now and that was part of his education, too, that we would visit the National Parks and, um, uh, you know, just give him the best childhood that, you know, that we could. This is just, uh, an unfortunate thing that happened.

SS: Um, how often do you all drive, or have you all driven that trailer?

AG: We drive it all the time.

SS: Uh huh. Okay. In the last three years, would you say you've driven it more than once a month?

AG: Uh, yes.

SS: Okay. Okay. Uh, uh, about the accident, and you, you were, um, the front, front-seat passenger, um, of that vehicle? Um, were there any, um...I know you said the road was, was a little bumpy? Was there anything in the road or was it just that the road...

AG: There was nothing in the road. I do remember the police officer saying that he saw some road debris, but that was actually our tire. *(Laughs)*. It was...

SS: Okay?

AG: ...th, the tread came off it. It was, I think it was kind of strange how the, the tread came off of the tire. But you know how they like have cracks in the road and then they just patc, just keeping patching the road? I know...

SS: Mm hmm?

AG: ...Louisiana is known for that, too. So, um, really, we just, uh, really nothing was really wrong, and then just a loud explosion and I've never heard anything like that. It, it was almost like a, a gun going off...

SS: Mm hmm?

AG: ...and, um, it was just very scary and my poor husband. I mean, he was just doing his very best to try to, you know, take control of the situation and, you know...

Recorded Statement of Amy Garrett
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SS: Yeah.

AG: ...and just lo, lost control of the car, but he had both hands on the wheel. I, I believe personally, he was going about 65. The speed limit was about 80, because you know...

SS: Yeah?

AG: ...you got to go a forward speed when you're pulling something...

SS: Yeah.

AG: ...and, um, and he also likes to get good fuel economy and so I, I specifically remember looking over at him and it said, "65", and that's what I remember.

SS: Okay. Okay. Um, were you all in the left-hand lane or the right-hand lane or do you remember?

AG: Right-hand lane.

SS: Right-hand lane?

AG: He, he doesn't really pass unless he has to. He...

SS: Yeah. Especially when you're going 70 in an 80? *(Laughs)*.

AG: Oh! Well, we're, ha, I, I believe we were going 65. He said 70?

SS: Five. Yeah. I...

AG: I, I...

SS: Yeah.

AG: Yeah. We were the...

SS: *(Unintelligible)*.

AG: ...slower people. We were...

SS: Mmm?

AG: ...in the right-hand lane.

SS: Okay. Okay.

Recorded Statement of Amy Garrett
30496873-08

AG: We try to stay away from other people. Most people are wanting to pass us and...

SS: Yeah?

AG: ...you know, so it wouldn't be bothered with a camper. Ha.

SS: How long is this camper?

AG: Uh, it's about 30-feet long.

SS: Oh! Okay. Um, uh. I'm just trying to kind of gage. There's nothing in the road, um, that could of blew that tire? Um, your husband kind of was driving at a safe speed? (Sneezes). Excuse me. Is there...

AG: Yeah. He checked the tire pressure like it may have been an hour right before, um, that happened. We had stopped to use the restroom and, you know, we have a kitty cat that travels with us. Her litter box is in the, in the trailer, so she was in there using the bathroom and stuff and so he checks all of that. You know?

SS: Okay.

AG: And, you know, his dad was really anal about all that stuff and kind of passed that along to him and, um, yeah. I, I just don't know. I mean, (unintelligible). I don't know.

SS: Yeah. Do you think...I mean, I'm just kind of looking here. Is there anything that he could of done differently to possibly avoid this accident? I mean, it looks like he maintained his car. He's checking the tire pressure. There's no debris in the road where that would of, he could of moved around. Um, it sounds like he did everything he could?

AG: He did everything that he could and he just was like, when we finally hit the tree and he's pulling us out of the car, he was shaky and like, um, he, and he just felt like, "What more could I have done?" You know?

SS: Mm hmm?

AG: He's a good man. He's a, he is an excellent driver. Um, very intelligent. Um, you know? He had proper training in Holland and his, his dad was the one that actually taught people to drive, um, and you know? And over there, you know, wh, where you drive through places like Germany and like you have, you know, Auto Bohn where people drive fast or what not, you really need to learn, you know, to handle a vehicle, you know?

SS: Right. Yeah.

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- AG: And, um, he is very anal about how he takes care of his cars and how he drives, like not like he's driving with one hand and, you know, a lot of people are hanging on, out a window or what not, and Anton, you know, he did his very best and, um, I'm surprised the thing didn't flip over or something and maybe just was the, the best of, you know, what could of happened, you know?
- SS: Right.
- AG: I, I really don't know. But it's not like he was doing something (*unintelligible*) with it. I mean, his family's in the car.
- SS: Yeah. Well, um, uh, I know that, uh, um, you and your son were injured in this accident and Anton was as well, um, but mainly, I just, let me just talk a little about your injuries? Um...
- AG: Sure!
- SS: ...I know that you had said you had lost consciousness a couple of times with, and the...
- AG: Yeah.
- SS: ...airbag had deployed and that...
- AG: Yeah.
- SS: ...your legs were kind of caught underneath? Um...
- AG: Yeah.
- SS: ...he had mentioned to me that, uh, there was also a, uh, I guess a fractured patella and kind of really messed...
- AG: Yeah.
- SS: ...up your knee? Can you talk a little about the, um, I guess just kind of, we'll just kind of start, go one at a time, um, and, uh, just starting with your knee?
- AG: Okay. So, from what I heard, um, I believe it was the police officer that said that, um, the dashboard came in three feet into my space.
- SS: Mm hmm?
- AG: Okay? And so, and I saw the pictures and everybody else had, you know, said that they don't even know how I even got my both legs released from there, but I used my fist as hard as I could to release my legs from the chair

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and so I jammed my fingers doing that, but, um, when I pulled my legs out, I saw, um, a gash on my right knee that was five-inches long, two and a-half inches wide and two-inches deep and there was glass inside of it, um, and according to the surgeon, the, um, I guess one of the tendons was laterally stitched together as well and then my knee was just a mangled mess. Um, I could tell that it was immediately dislocated or broken or...It, it, it definitely didn't look right.

SS: Mm hmm?

AG: And then, um, yeah. He just pulled me out and I realized my shoulder, I thought my shoulder may have been dislocated. Um, I had bruises, um, along where my seatbelt had been. I had a C-Section when I had my son, so, um, the area where I had my C-Section was very sore. Um, so I had bruises all along the side of, of my side, um, and then I have, I had a contusion on my head. Um, they did an MRI on my head, so I was, you know, hit on the head pretty bad I guess by the airbag or what not and then, um, significant rib pain on my left side.

SS: Okay. And, um, um, now I guess your husband was saying that, that you had fractured your patella and that they, I guess tore a couple of ligaments in your knee?

AG: Uh, yes. So, the surgeon... Um, they, they, um, transported me from the scene to, uh, um, Shannon Hospital which I believe is in San Angela's, and so that night, the surgeon, um, was comfortable enough to clean out the knee that was lacerated...

SS: Mm hmm?

AG: ~~.....and stitched that one back up and he felt like that we should wait on the~~
patella. I don't think that he was comfortable, um, working on that knee, so I was, um, probably with a broken knee for about three days before we could find, um, a, a doctor that work on it and, um, so we went to Austin and, um, and that morning, um, a surgeon was able to, um...What happened was th, the ligament came apart with a piece of my bone and so...

SS: (Unintelligible).

AG: ...they took the piece of the bone off since I had a lot of bone left on my knee and re-attached the ligament.

SS: Okay. Um, and that's the surgery they did last Friday from, what...

AG: In Austin?

SS: ...In Austin?

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- AG: It was like an out, the Outpatient.
- SS: Okay.
- AG: And then I had the support of my sister who is a Registered Nurse. They ke, they flew her out to be with me and, um, we flew first-class home so that they could take care of me personally since this was at an outpatient thing and, um, they could take care of me, um, 24 hours a day.
- SS: Okay. Um, besides your knee, an, and have they done anything with your shoulder? I know you said it was hurting? Is it getting better...
- AG: They X-rayed my...
- SS: ...now or...
- AG: Yeah. They X-rayed my shoulder. There's a good bruise there and, um, and there's something going on with my ribs. They could be just really bruised. Um, the doctor that worked on my knee said that, he took an X-ray. He said the way the ribs present themselves like in a curve, it's really hard to see, you know, br, if there's a crack or not and even if there, you know, even if they could see a bone on the X-ray, there's not really much they could do much about it. So, um, so that's wh, so that's that.
- SS: Okay. And the bruise to your shoulder, they didn't find anything in there? Does th, does that still hurt? Does it...
- AG: Um, it's just that bruise.
- SS: ...seem like there's something going on?
- AG: It's just...
- SS: Okay.
- AG: Yeah. It's just a lot of bruising. Um, you know? Also what hurts more is my three knuckles (*transcriber note: sounds like*) were all, I just trying to, you know, um, when the joints where I tried to free my knee from, um, you know, from the dashboard and my seat.
- SS: Okay. Okay. Um, and I know that's going to be an ongoing process and I'll kind of follow-up with you, um, on that front, mainly just trying to get a synopsis of kind of where you are right now.
- AG: Mm hmm.

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SS: Um, is there anything else you want to add regarding, uh, the, um, your injuries, um, or regarding the, the way the accident happened or any of the, um, facts that you, that we've talked about today?

AG: Well, I just, I just feel like it was just something that just was just a tragic thing that happened. The, I don't think there was anything that we could of done or nothing else. I mean, um, me and my husband are very diligent about all of our cars. We...

SS: Mm hmm?

AG: ...*(transcriber note: sounds like)* ...we had a mo, we had that truck and also I have a beautiful Me, Mercedes that I love that he is, um, you know? He's very anal about it. I mean, he, he has spread sheets on like when, um, stuff was performed on it and even down to how he *(transcriber note: sounds like)* racks the cars, what happened twice a year. Even the trailer. Um, he never, he... You know? He's very, like a very safe driver. Like he would not do anything purposely to, you know, want us to, you know, get hurt or be in an accident or more like... and that was our dream camper. Like that was something we had saved for for years. I mean, I don't think he would do anything, you know, to want to jeopardize our dream.

SS: Mm hmm? Mm hmm? Okay. Um, okay. Anything else you want to add?

AG: I think I covered everything.

SS: Okay.

AG: If there's anything else that you need, I'll be happy to assist.

SS: Okay. Um, and, uh, uh, just in closing, um, are the remarks that you've made on this recording the true version to the best of your knowledge?

AG: To the best that I, that I know. You know? I was, um, it was really a scary thing. It happened very fast. You know? I was knocked unconscious twice, so but this, that's, um, that's what I remember happening.

SS: Okay. Have you understood all of my questions?

AG: Yes, I did.

SS: Okay. Um, and, uh, hold on just a minute. I'm going to turn off my recording. Okay? Um...

AG: Okay.

SS: ...you're going to hear a couple of verification numbers. That's just for my records so I can attach it to my file. Okay? Hold on just a second.

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AG: Okay.

Certificate of Accuracy

This is to state that I, Jean Richardson, transcribed the foregoing recorded statement and completed it on October 8, 2014 and have herein rendered a complete and accurate transcription of the auditory contents of the recorded statement to the best of my ability. All proper names not spelled in the recording are typed as they sound.

1 STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
2 COUNTY OF COLLETON) CIVIL ACTION NO.
3) 2015-CP-15-1125
4)
5 AMY GARRETT,)
6)
7 Plaintiff)
8)
9 v.)
10)
11 ANTONIE VAN STEENWIJK,)
12)
13 Defendant.)
14)
15)
16)
17)
18)
19)
20)
21)
22)
23)
24)
25)

ORAL DEPOSITION

ANTONIE VAN STEENWIJK

AUGUST 18, 2016

14 ORAL DEPOSITION OF ANTONIE VAN STEENWIJK, produced
15 as a witness at the instance of the Plaintiff and duly
16 sworn, was taken in the above-styled and numbered cause
17 on the 18TH day of August, 2016, from 8:03 a.m. to
18 8:52 a.m., before David Bateman, Certified Shorthand
19 Reporter in and for the State of Texas, reported by
20 computerized stenotype machine at the offices of Ken
21 Owen & Associates, LP, 801 West Avenue, Austin, Texas
22 78701, pursuant to Rule 30 of the South Carolina Rules
23 of Civil Procedure and the provisions stated on the
24 record or attached hereto.
25

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ALSO PRESENT:

Ms. Amy Garrett
Mr. Charlie Van Steenwijk

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1 ANTONIE VAN STEENWIJK,
2 having been first duly sworn, testified as follows:

3 EXAMINATION

4 BY MR. MURDAUGH:

5 Q. Anton, for the record my name is Randy
6 Murdaugh. And, of course, you and I've met many times
7 and we've spoken before. And, as you know, I'm
8 representing your wife Amy in this claim for injuries
9 that arise out of an automobile accident.

10 My belief is that the automobile accident
11 was August 30th of 2014. But it's the -- it's the crash
12 that y'all were in when you were pulling your travel
13 camper.

14 A. Yes.

15 Q. You understand --

16 A. I understand.

17 Q. -- of course the one we're talking about?

18 A. Yes.

19 Q. And I've explained to you that it's -- it's
20 sometimes a little bit awkward or unusual. I'm
21 representing your wife. And, of course, you know, I've
22 spoken to you and your wife before we filed suit, you
23 know, about all this. But yet there's formalities when
24 once I file suit you're represented by an attorney.

25 And so I can't speak to you about the

1 wreck and all except for in the deposition.

2 A. Correct.

3 Q. So I think I know a lot of what you'll say but
4 I still have to go through and ask these questions. And
5 so just bear with me.

6 As we're going through -- and I tell this
7 of every witness and -- and Amy included and your son
8 Charlie. Because a court reporter is taking down the --
9 everything that we're saying he's trying to take it down
10 in the correct order. So if two people are talking at
11 the same time, that makes it very, very difficult.

12 A lot of times I'll know what your
13 answer's going to be before you finish. But I'm going
14 to do my best to try not to start talking while you're
15 still talking. And a lot of times you'll know what my
16 question is before I finish. But if you will, do your
17 best to let me finish that question just so it's easier
18 for our court reporter.

19 A. I'll do so.

20 Q. If you would, state your full name, please.

21 A. My full name is Antonie Van Steenwijk.

22 Q. And do you say -- do you -- is your first name
23 pronounced Antonie?

24 A. My first name of -- my legal first name is
25 pronounced Antonie. I go by Anton.

1 Q. Okay. Is it okay if I call you Anton?

2 A. Yes, please.

3 Q. How long have you and Amy been married?

4 A. Since April 1st, 1995.

5 Q. Very good. And your current residence is here
6 in Austin, Texas?

7 A. It is, yes.

8 Q. And what is your address?

9 A. 7909 Tealwood Trail, Austin, Texas.

10 Q. And prior to your residence -- moving your
11 residence here to Austin you were a resident of
12 Walterboro.

13 Is that correct?

14 A. Yes.

15 Q. And what was your address in Walterboro?

16 A. 102 Webb Street, Walterboro, South Carolina.

17 Q. And I understand from Amy y'all still own your
18 home there and are trying to sell it now. Is that
19 correct?

20 A. Yes.

21 Q. Okay. And during the time that y'all came out
22 in August of 2014 when this -- when this wreck occurred
23 you were doing work out here in Texas.

24 Is that right?

25 A. Yes. .

1 Q. And -- and -- and you had come out to Texas to
2 do your work and you had a travel trailer or camper. I
3 think it was an Airstream. Is that right?

4 A. Yes.

5 Q. And y'all would stay and kind of tour Texas
6 while you were working. Is that in essence right?

7 A. Correct.

8 Q. For the record just to get straight on our
9 addresses, when we filed this lawsuit and when you
10 received a copy of the lawsuit you were still a resident
11 of Walterboro, South Carolina.

12 Is that correct?

13 A. Yes.

14 Q. Okay. And why don't we talk about this -- this
15 wreck and how it occurred. As I understand, y'all were
16 on the interstate and y'all were traveling east.

17 Is that correct?

18 A. Yes.

19 Q. And y'all were on I-10?

20 A. Yes.

21 Q. Do you know where y'all had stayed the night
22 before this wreck?

23 A. Yes.

24 Q. Where was it?

25 A. Davis Mountains State Park in the Davis

1 Mountains in Texas.

2 Q. Okay. Do you know about how long that is or
3 how far -- somehow or another give me an idea how far
4 away it is from where the wreck occurred either in terms
5 of time or distance.

6 A. I believe it is somewhere in the neighborhood
7 of two to three hours.

8 Q. Okay. And so would y'all have -- what time
9 would y'all have left Davis State Park approximately?

10 A. A state park checkout is usually at 11 or noon.
11 So I would think somewhere around that time. Right
12 before lunch I would think.

13 Q. Okay. And -- and you were driving a Ford
14 Excursion. Is that correct?

15 A. Yes.

16 Q. And it's a diesel?

17 A. Diesel, yep.

18 Q. Okay. And I understand that before you get out
19 on the highway and drive you go through some checks.
20 Basically, you -- you check the vehicle. You check the
21 tires. You check the camper. You make sure everything
22 is -- is securely tied down and all of that kind of
23 stuff.

24 Is that right?

25 A. Yes. That's right.

1 Q. Okay. And had you done that that morning as
2 well?

3 A. I would think so. We would normally check, you
4 know, the -- the lights. I would ask my wife to stand
5 behind and see if the lights all work properly. So this
6 was our normal procedure. So I would think so, yes.

7 Q. And as we sit here today you -- you don't have
8 any reason to think you didn't do that. You presume you
9 probably did?

10 A. Yeah. No reason to believe --

11 Q. Right.

12 A. -- that I did not do that.

13 Q. Okay. And as y'all were leaving Davis State
14 Park with the travel trailer did every -- everything
15 seem normal?

16 A. At the beginning of the day, yes. Correct.
17 Everything seemed -- when we left everything seemed
18 normal, yes.

19 Q. Okay. And I should go -- I should ask you a
20 few questions. You were not born in United States.
21 Where were you born?

22 A. I was born in Rotterdam, The Netherlands.

23 Q. Okay. And when did you come to the United
24 States?

25 A. In the end of 1994.

1 Q. So you would have been around 21, 20, 21, 22
2 years old?

3 A. I was born in 1970. So I was 24.

4 Q. 24 years old?

5 A. Years old.

6 Q. And -- and have you remained in essence in the
7 United States other than from time to time traveling
8 back home?

9 A. Correct.

10 Q. And I understand that you've received a formal
11 education. What type of studies have you done?

12 A. I have a master's in aerospace engineering, a
13 bachelor's in aerospace engineering and a master's in
14 business administration.

15 Q. And what type of work do you do nowadays? And
16 when I say that for the last number of years you've been
17 working for -- is it Dell?

18 A. Dell, yes.

19 Q. And what type of work do you do for Dell?

20 A. Currently I'm a procurement director.

21 Q. Okay. What --

22 A. For facilities and security.

23 Q. What does that mean?

24 A. That means that I manage a team that is global.
25 And they procure so they buy products and services that

1 Dell uses in their facilities.

2 Q. I see. Okay. Going back to the date of this
3 wreck, you leave Davis Mountain. Everything seems
4 normal. Y'all are all traveling along. You get on the
5 interstate and you're headed east.

6 Is that correct?

7 A. Correct.

8 Q. And you're driving and Amy's in the front --
9 front passenger seat and Charlie is in the -- is in the
10 second seat?

11 A. He's in the seat behind Amy.

12 Q. Okay. And is everyone wearing their seat belt
13 when y'all are traveling along?

14 A. Yes, always.

15 Q. Right. You're -- you're a stickler for -- for
16 safety, for wearing your belts, making sure that you've
17 checked the vehicle and all of that.

18 Is that correct?

19 A. Yes.

20 Q. And at some point during this trip you noticed
21 or y'all noticed that you were having some problems with
22 the vehicle or with your unit, your rig as y'all call
23 it.

24 Is that right?

25 A. We did not know it was a unit problem. We

1 thought or I thought that there was -- that the road was
2 bad and we noticed -- we definitely all noticed a
3 vibration.

4 MR. MURDAUGH: Okay. We'll talk about
5 what you did to try to figure it out. But let's first
6 of all talk -- oh, I'm sorry.

7 THE WITNESS: Wow.

8 MR. MURDAUGH: I just kicked --

9 THE WITNESS: You just kicked me pretty
10 hard, too.

11 MR. COBB: Object to the form.

12 THE WITNESS: Is that normal that you --

13 MR. MURDAUGH: You might have a good case
14 here. You know?

15 THE WITNESS: I have an attorney here.

16 MR. MURDAUGH: That's right.

17 MR. COBB: Off the record.

18 (Recess from 8:12 a.m. to 8:13 a.m.)

19 Q. (BY MR. MURDAUGH) I think I was saying let's --
20 before we talk about what you did to try to figure out
21 this unusual sound and sensation let's first of all talk
22 about what it is.

23 What did you first notice?

24 Was it -- was it the vibration and shaking
25 or was it a noise?

1 A. I think it is a -- I think it was the same
2 thing, like a vibration as if the -- the road is kind of
3 bad. There's a vibration and the sound at the -- to me
4 it was at the same time.

5 Q. Okay.

6 A. It was like, you know, ta-dum, ta-dum, ta-dum
7 and then your steering wheel shakes a little bit. So
8 that's what I -- what I noticed.

9 Q. Okay. To make the deposition go quickly we
10 need to label that and call it something so we don't
11 have to keep saying --

12 A. Oh, okay.

13 Q. -- the vibration and the noise. So if I
14 refer -- I'm -- I'll call it the vibration. And when I
15 say vibration you've already described it just in your
16 last answer.

17 A. Yes.

18 Q. And it's a combination of noise and sort of a
19 shaking and --

20 A. Yes.

21 Q. And we'll just --

22 A. Correct.

23 Q. -- call that the vibration.

24 A. The vibration.

25 Q. Is that okay?

1 A. Correct.

2 Q. All right. So when you first noticed this
3 vibration did you think there was some problem with the
4 road surface and that that was causing it?

5 A. Yes.

6 Q. Okay. And -- and did you observe the road
7 surface and try to figure out whether you see something
8 that would be causing it?

9 A. Yes.

10 Q. And -- and did you see anything unusual about
11 the road surface?

12 A. No.

13 Q. Did you -- and were you traveling in the what I
14 call the slow lane, the right-hand lane?

15 A. I was.

16 Q. And it was two lanes going in the direction you
17 were traveling?

18 A. Yes.

19 Q. And did you switch lanes from the slow lane to
20 the fast lane to see whether there was a difference in
21 the highway to see whether that was what was causing it?

22 A. Yes.

23 Q. And did -- did you determine that it was or was
24 not the highway?

25 A. I felt it was not the highway.

1 Q. Okay. And as you -- and as you drove on did
2 you do anything to try to figure out what it was?

3 A. After a while, yes.

4 Q. Okay. And what did you do? I understand you
5 stopped.

6 A. Yes.

7 Q. Okay. So you pulled over. Did you -- did you
8 actually stop in the emergency lane or did you pull off
9 on an exit?

10 A. Pulled off on an exit.

11 Q. Okay. And -- and what did you do then?

12 What were you suspicious of?

13 And what did you do to check it?

14 A. First thing I thought was tire. So I -- I
15 looked at the surface of the tires. To me they looked
16 fine. I also checked the tire pressure to see if there
17 might be one that was low. The pressure in the rear
18 tires was a little high. So -- but that was because it
19 was a hundred degrees. So I was like okay, that's --
20 that's all normal.

21 Then I thought, well, maybe since it's not
22 the tire maybe it is the transmission or something or
23 something like that. So I remember asking my wife to
24 get in the car and drive for a -- for a few feet or a
25 few hundred feet, which I know she wasn't happy about

1 because she never -- she never drives that rig.

2 So but she drove and I kind of walked next
3 to it to figure out if it was -- you know, if I heard
4 anything weird from a transmission problem.

5 Q. Okay.

6 A. And we -- I determined that I couldn't find
7 anything so everything was fine.

8 Q. Okay. Let me ask you this and I'm not sure of
9 the answer.

10 When you stopped and checked your tire
11 pressure I understand you used a digital gauge. Is that
12 correct or do you --

13 A. Yes, I --

14 Q. Do you remember?

15 A. Yes, I did. Yeah. I remember buying a digital
16 one before, maybe a year before to make sure that my
17 tire pressure was accurate so yes.

18 Q. Okay. So after you visually check your tires
19 and then after you check your tire pressure did you get
20 back in the rig and drive a little ways before you
21 stopped again and let her drive while you watched or
22 do --

23 A. I believe it was all at the same time. I
24 believe that was all at the place where we stopped,
25 checked the tire pressure, looked at the tires, looked

1 under the car if there was something there, it was
2 something loose, if it was a suspension that was loose.

3 And then I believe I asked my wife to get
4 in the -- the truck and drive a little bit while I
5 walked next to it to see if I could hear or see
6 anything.

7 Q. Okay. So when you were driving a -- excuse me.
8 When she was driving along it would have been at a slow
9 speed so that you can kind of walk along beside it or --
10 or jog or whatever speed it was and just where you can
11 watch it in motion.

12 Is that what you're telling me?

13 A. Yes.

14 Q. And you were just looking for something visual
15 that might clue you in to what was causing this
16 vibration?

17 A. Correct, to see if a brake rotor was sticking
18 or, you know, that you could hear that or if I saw
19 something loose or -- that is correct, at a slow speed
20 walking, maybe jogging speed for a little -- for, you
21 know, a hundred yards or less.

22 Q. Okay. And I understand that this vibration
23 that y'all were experiencing it was a significant
24 vibration that was going on when you were out on the
25 highway.

1 A. Yes.

2 Q. And it was --

3 A. It was.

4 Q. It was concerning to you?

5 A. It was.

6 Q. It was concerning enough that you stopped and
7 did the things that we just talked about to try to
8 figure out what it was?

9 A. Yes.

10 Q. And -- and -- and you were doing those things
11 because -- were you doing those things because you were
12 worried about that this could be a safety issue?

13 A. Safety? I don't think that was on my mind at
14 the time about safety. I was probably more thinking
15 about if we keep -- is this something that if we keep
16 driving would cause the -- some damage.

17 Q. Some damage to your unit, to --

18 A. Yeah.

19 Q. -- your rig?

20 A. Yeah, is this something that the -- the
21 transmission would overheat, the engine would overheat,
22 you know, brake rotor would -- would start to overheat
23 or something was wrong that would cause damage that
24 wouldn't allow us to continue.

25 Q. Right. A while ago you mentioned one of the

1 things that, for example, you were trying to observe is
2 to see whether there was a brake rotor sticking.

3 Is that -- is that what you said?

4 A. Yes. Correct.

5 Q. And -- and when a brake rotor sticks sometimes
6 it will -- it will clamp and it's not supposed to. Is
7 that what you're talking about and so the brakes come on
8 on that one wheel?

9 A. I was just thinking that, if a brake rotor
10 is -- if there is maybe a warped rotor and it hits the
11 brake pad every time when it goes through one circle
12 that that would cause the vibration and then, if you
13 keep driving, it just wears off, the brake pad is not a
14 big -- it's not such a big deal.

15 Q. I follow you. Okay. And ultimately when you
16 ran along or walked along beside this -- your vehicle,
17 your rig, however you characterize what you were doing
18 while you were observing as it was moving, did you
19 notice anything wrong with it?

20 Were you able to determine that there was
21 some cause of the vibration?

22 A. No.

23 Q. And were you focused on your Excursion only or
24 also on the Airstream trailer?

25 A. I checked the -- the tires as well on the

1 trailer. But I didn't really think it had anything to
2 do with the trailer.

3 Q. So the vibration felt like it was coming from
4 the Ford Excursion?

5 A. Yes.

6 Q. Okay. And this vibration, was it so
7 significant that the items in the Ford Excursion were
8 actually shaking as well as the whole Excursion?

9 A. Yes.

10 Q. And is this something that was so significant
11 that y'all actually talked about, you know, we need to
12 figure out what this is and -- and you commented on the
13 fact that the whole unit was shaking like that?

14 A. Yes.

15 Q. And -- and so after you did your walk-along --

16 A. Uh-huh.

17 Q. -- beside it as Amy was driving did you then
18 switch drivers and you began to drive again?

19 A. Correct.

20 Q. Okay. And -- and what was the plan at that
21 point?

22 In other words, were you going to -- were
23 you going to ultimately go somewhere and have it checked
24 out?

25 A. Yeah. I think that's what I was thinking, that

1 we would continue on and then, if it -- and -- and we
2 just probably where we were able to park our trailer
3 maybe in Austin take it to the Ford dealer and then say
4 hey, there is a vibration, check it out.

5 Q. Right.

6 A. That's -- that was likely on my mind.

7 Q. Okay. Was the vibration so substantial that it
8 was something that had to be addressed at some point in
9 the future?

10 A. Yes.

11 Q. I mean it's not something you could ignore?

12 A. No.

13 MR. MURDAUGH: Yeah. And -- and that's
14 probably a poor question.

15 Q. (BY MR. MURDAUGH) There are some people that
16 might ignore it. But the reasonable thing would have
17 been to address it to figure out what's causing this
18 substantial vibration.

19 Is that correct?

20 A. Yes.

21 Q. Okay. And so the plan was at some point in the
22 future to have them -- you know, have someone address
23 it. And -- and that would have likely taken place
24 either in Austin, which was your final destination that
25 day or, if need be, somewhere before then as the case

1 may be?

2 A. Yes.

3 Q. Okay. And what speeds do you normally drive
4 your rig when it's out on the open highway on -- for
5 example, on the interstate under normal circumstances?
6 70 miles an hour?

7 A. 70 if the speed limit allows.

8 Q. Okay. And ordinarily the speed limit is either
9 70 or 80 on the interstates in Texas when you're not in
10 a city. Is that correct?

11 A. Correct, 80, some places 85.

12 Q. Okay. And -- and on I-10 the -- the speed
13 limit is -- is 80 I believe, is that correct, in that
14 area?

15 A. In that part of Texas the speed limit if I
16 recall is 80.

17 Q. And so, if you were not having these
18 substantial vibrations, you would have been driving your
19 rig in that area of I-10 ordinarily at 70 miles an hour.
20 Is that correct?

21 A. Correct.

22 Q. And after you did your walk-around and --
23 and -- and Amy got back in the passenger seat and you
24 got in the driver's seat and you proceeded on toward
25 Austin did you proceed to drive your normal highway

1 speeds, which would be 70 miles an hour?

2 A. Yes.

3 Q. And what happened?

4 What was the next unusual thing that
5 happened?

6 Was it a tire blowout?

7 A. Yes.

8 Q. Okay. How long between when you started
9 driving again after your walk-around and before the tire
10 blew out?

11 In other words, how long had you been
12 driving after doing that walk-around before you had the
13 blowout?

14 A. I think somewhere between half an hour and an
15 hour.

16 Q. Okay. And other than this substantial
17 vibration going on was everything else fairly normal?

18 A. Yes.

19 Q. And as I understand from -- from Amy, after
20 y'all did the walk-around and after you resumed driving
21 but before the tire blew out she actually videoed the
22 rear of the vehicle because the cat -- the cat was kind
23 of looking at all the objects in the back of the vehicle
24 shaking as y'all were going down the highway.

25 A. Yes. Our -- our cat was on the chair.

1 Q. Right. And it was kind of looking at these --
2 whatever it's looking at, these objects, these boxes or
3 whatever that was in the back that was shaking?

4 A. Yes.

5 Q. Okay. And -- and then you drive along for
6 whatever period of time, whether it's a half an hour, an
7 hour, somewhere in between approximately and then this
8 tire blows out.

9 And it was the left rear tire. Is that
10 correct?

11 A. Yes.

12 Q. And obviously when it blew out it was a very
13 violent event. Is that correct?

14 A. Yes.

15 Q. And -- and immediately upon hearing that
16 explosion and feeling that -- that event start taking
17 place your vehicle went out of control.

18 Is that correct?

19 A. Yes.

20 Q. And -- and because of the way the tire went out
21 and -- and the speed and the location you were in that
22 right-hand lane your vehicle went off the right-hand
23 side and ultimately crossed a -- an entrance ramp almost
24 perpendicular and crashed into some trees.

25 Is that correct?

1 A. Yes.

2 Q. Okay. And obviously because of that y'all all
3 sustained injuries, all three of y'all?

4 A. Yes.

5 Q. And substantial damage to the -- the rig as
6 well. Is that correct?

7 A. Yes.

8 Q. And in a nutshell talking about Amy and
9 Charlie's injuries, Amy was wearing her seat belt but
10 because of the crash with the trees the occupant space
11 between the dash and -- and her seat basically was made
12 a lot smaller.

13 And so the dash intruded into her knees.
14 Is that correct?

15 A. Yes.

16 Q. And -- and her primary injuries were her knees
17 but then other injuries as well. Is that correct?

18 A. Yes.

19 Q. And -- and Charlie was in a seat belt. And
20 he -- he had basically some internal injuries?

21 A. Yeah.

22 Q. I'm going to ask you questions about -- about
23 the speed. As we sit here now, if you had been going
24 instead of 70 miles an hour while this substantial
25 vibration was going on if instead of going 70 you had

1 been going substantially slower, for example, for --
2 what was the minimum speed limit?

3 A. 45.

4 Q. Okay.

5 A. I think is the state minimum speed.

6 Q. Okay. Obviously in an emergency situation you
7 understand you could drive slower than 45 if you needed
8 to and certainly you could drive in the emergency lane
9 if you needed to.

10 You understand that?

11 A. No. I -- I didn't know that you can drive on
12 the emergency lane.

13 MR. MURDAUGH: Well, if it's an emergency
14 you can.

15 THE WITNESS: Oh, okay.

16 Q. (BY MR. MURDAUGH) You know? So, for example,
17 we've all seen people with flat tires that don't have a
18 tire to change and get in emergency lane. Instead of
19 leaving it there you could just hobble along, you know,
20 and do that.

21 But is that something that you ever
22 considered? It's not something that ever crossed your
23 mind?

24 A. Did not cross my mind.

25 Q. Okay. And what if you had -- instead of

1 driving 70 miles an hour what if you had been driving 45
2 miles an hour and the tire blew out?

3 What do you think would have occurred?

4 A. I think the rig would have been able to stop
5 before hitting the trees.

6 Q. Okay. Just because of the sheer distance that
7 it ended up going at the 70-mile-an-hour speed?

8 A. Yes.

9 Q. Okay. And as we look back at this accident
10 given that you had the substantial vibration going on
11 for this time period and given that you weren't able to
12 determine what was causing it, do you think the
13 reasonable thing to do at that time would have been to
14 drive 45 miles an hour or less?

15 MR. COBB: Object to form.

16 A. With the information I have now, yes.

17 Q. (BY MR. MURDAUGH) Okay. And obviously you know
18 that, you know, we're here because Amy and Charlie are
19 making a claim against -- against you?

20 A. Yes.

21 Q. And -- and legally that's where -- that's how
22 these claims have to be made. We can't make a claim
23 directly against your insurance company.

24 You understand that?

25 A. I do, yes.

1 Q. And so as we sit here knowing that there's a
2 claim against you by Charlie and Amy, do you believe
3 that this accident was your fault in the sense that had
4 you taken reasonable precautions that you could have
5 avoided causing it to occur?

6 MR. COBB: Objection, form.

7 THE WITNESS: I need a minute.

8 MR. MURDAUGH: You take your time. Okay?

9 THE WITNESS: What was the question again?

10 Q. (BY MR. MURDAUGH) Understanding that there --
11 that we're making a legal claim, that Charlie and Amy
12 are making a legal claim against you and
13 understanding -- understanding that, do you believe that
14 the reasonable thing for you to have done as a driver
15 would have been to drive at a reduced speed, for
16 example, 45 miles an hour or less?

17 MR. COBB: Object form.

18 A. Yes.

19 Q. (BY MR. MURDAUGH) And so with regard to this
20 legal claim do you believe that failing to drive at that
21 slower rate makes you at fault for this accident?

22 MR. COBB: Object form.

23 A. Yes.

24 MR. MURDAUGH: Thank you, sir. I don't
25 have any more questions.

1 MR. COBB: Anton, I've got a couple
2 questions for you.

3 EXAMINATION

4 BY MR. COBB:

5 Q. When did y'all start from Austin with the
6 Airstream on this trip before the accident happened?

7 A. That must have been two weeks before roughly
8 because we took a trip to I think it was New Mexico.

9 Q. Okay.

10 A. From Austin. We started in Austin and returned
11 to Austin.

12 Q. And if the accident was August 30, 2014, y'all
13 would have left sometime two weeks --

14 A. Mid August.

15 Q. Mid August?

16 A. Yeah, mid August if I recall correctly.

17 Q. And where all did y'all go?

18 A. We went to Santa Fe. We went to Lake Abiquiu,
19 Georgia O'Keefe's country. We went to Eagle's Nest in
20 the northern part of New Mexico. I think we went to
21 Carlsbad Caverns and Davis Mountains.

22 Q. Any idea how to spell the lake which was the
23 second place?

24 A. A-B-I-Q-U-I (sic).

25 Q. And did you drive the entire trip?

1 A. Oh, yes.

2 Q. And other than the couple hundred yards that
3 your wife drove you drove the entire time?

4 A. Yes.

5 Q. And did you ever notice anything wrong with the
6 Excursion or the Airstream during those two weeks before
7 August 30, 2014?

8 A. No.

9 Q. How did the Excursion get to Texas?

10 A. Drove it.

11 Q. You drove it from Waltherboro?

12 A. Yes.

13 Q. And when did you do that?

14 A. Probably late June.

15 Q. And did you drive the entire way?

16 A. Yes.

17 Q. Did you notice any issues with the Excursion
18 during that trip?

19 A. Yes.

20 Q. What issues did you notice at that point?

21 A. It was running rough. The engine was running
22 rough.

23 Q. And for somebody who's not a mechanical person
24 can you dumb it down for me and explain to me what that
25 means?

1 A. It would sometimes like shut off, the engine.

2 Q. While you were en route?

3 A. Yes.

4 Q. And what did you do to have that addressed?

5 A. In Austin took it to Covert Ford.

6 Q. C-O-V-E-R-T?

7 A. Yes.

8 Q. And what did they do?

9 A. They replaced the electrical wiring on top of
10 the engine that connects to the spark plugs.

11 Q. Did you have any other repair work done to the
12 Excursion once you got to Texas?

13 A. Not that I recall.

14 Q. During the trip from Walterboro to Austin did
15 you have any issues with vibrations or the tires?

16 A. No.

17 Q. And during the trip from Austin to New Mexico
18 and back before August 30, 2014 did you have any issues
19 with vibrations or the tires?

20 A. No.

21 Q. When the vibrations started on August 30, 2014
22 can you tell me what conversation, if any, you had with
23 your wife about what y'all were going to do?

24 A. We probably talked a lot because we always talk
25 a lot. I would probably say, if I recall correctly, I

1 wonder what this is, it could be the road, think it's
2 the road, I'm going to try and drive in the other lane,
3 let's see -- see if that's the change, okay, well, maybe
4 a different speed, slower, faster, let's see if that
5 makes a difference, I think we need to stop and kind of
6 see -- see what it could be and all kinds of questions
7 regarding that trying to -- trying to figure out what it
8 was.

9 Q. Do you recall where it was that you stopped?

10 A. I do not recall. If I see the place again, I
11 would remember. But I cannot because out there in West
12 Texas there are no landmarks really. It is very
13 desolate.

14 Q. What made you stop where you stopped?

15 A. It was a safe place to stop. It was not right
16 next to the interstate. It was -- I remember you could
17 get off and get back on easily. And it was a open place
18 where you could easily, safely check tires and even
19 drive a little bit and see what was wrong.

20 That's what caused me to decide to stop
21 there.

22 Q. Was there any kind of establishments like a gas
23 station or a fast food place around?

24 A. Not that I remember.

25 Q. Okay.

1 A. No.

2 Q. Was it near any kind of town that you recall?

3 A. It would not be near a town.

4 (Phone noise)

5 MR. COBB: Somebody calling me from
6 Beauford.

7 Q. (BY MR. COBB) And when you stopped how long do
8 you think you stopped?

9 A. Probably around 15 minutes.

10 Q. How long do you think you went -- once the
11 vibration started how long do you think you went before
12 you stopped?

13 A. Can you repeat that, please?

14 Q. Once the vibration started how far do you --
15 how far did you travel before you stopped?

16 A. Probably 30, 40 miles or so, about half an
17 hour.

18 Q. Was the vibration the same when you stopped as
19 it was when it started or had it gotten worse or gotten
20 better?

21 A. If I recall correctly, it kind of stayed the
22 same.

23 Q. And what discussions, if any, did you have with
24 your wife before y'all started back on the road after
25 you stopped and you did the various checks?

1 A. Probably told her that, well, it's not the
2 tires, I checked those, maybe it is a balance issue that
3 the wheel is -- one of the wheels, maybe the weight of
4 the wheel came off and is unbalanced or I probably would
5 have said -- or I might think it's the transmission that
6 it's skipping.

7 Those are probably some of the things that
8 I would have told her.

9 Q. What did -- what did you do to check the tires?

10 A. I visually looked at them to see if I saw any
11 items in them or any kind of bulges and I inspected the
12 tire pressure.

13 Q. And you inspected the tire pressure on each of
14 the four tires?

15 A. I did, yes.

16 Q. And did you visually look at each of the four
17 tires?

18 A. Yes.

19 Q. And -- and how many different spots on each
20 tire did you look at?

21 I mean did you get down on your hands and
22 knees and put your hands on the tires and...

23 A. No. I probably didn't do that. I probably did
24 not -- I -- I did go on my knees to get down to the
25 level and looked at the side of the tire as far as I

1 could tell. But I did not lay on the ground and touch
2 every part of the tire. I did not do that, no.

3 Q. Did you ever have any thoughts about calling
4 for some type of emergency roadside assistance?

5 A. I probably thought about that but also know
6 that that would take out there in West Texas many hours
7 with the potential of just saying -- finding that it is
8 a balance issue so did not think that was the right
9 course of action.

10 Q. Did you have any discussion with your wife
11 about calling for any type of roadside assistance?

12 A. I'm trying to recall. She might have said
13 should we. And I probably said no, I don't think that
14 is needed.

15 Q. And you then got back on the interstate and
16 drove half hour to an hour before the blowout?

17 A. I believe so, yes.

18 Q. Did the vibration get any worse or stay the
19 same or was it better immediately before the -- the
20 blowout?

21 A. Definitely not better. It -- I thought it
22 stayed the same. It might have gotten a little worse.

23 Q. Did you have any discussions with your wife
24 during that time period about the vibration?

25 A. Not that I recall.

1 Q. And did you have any indication that the
2 vibration -- I mean -- sorry. The -- let me start over.

3 Did you have any indication that the
4 blowout was going to happen?

5 A. No. I didn't have an indication that a blowout
6 would occur, no.

7 Q. Have you done any investigation as to what
8 caused the blowout?

9 A. Yes.

10 Q. What's your understanding as to what caused the
11 blow out?

12 A. My understanding is that the -- there was
13 thread separation, that the outer layer of the tire got
14 separated from the inner part and that that caused a
15 blowout.

16 Q. Who told you that?

17 A. Randy told me that.

18 Q. The speed that you were traveling moments
19 before the blowout, was that the same speed that you
20 would have been traveling under normal circumstances or
21 were you traveling at a lower speed than you would have
22 normally?

23 A. Normal speed.

24 Q. And your normal speed is lower than the speed
25 limit?

1 A. Lower than the speed limit in that part of
2 Texas. I would keep my speed at 70.

3 Q. The speed limit is probably 80ish?

4 A. 80ish over there, maybe 85.

5 Q. After the -- the impact and all did anybody
6 come up to you immediately there?

7 Were there any witnesses, anybody?

8 A. Yes.

9 Q. Do you know who those were?

10 A. I don't know their names but many people
11 stopped.

12 Q. Did anybody tell you they saw the accident?

13 A. I think there was one person that said he saw
14 something flying up from underneath.

15 Q. Did anybody to your knowledge in Texas ever
16 look at the tires after the accident?

17 A. In Texas?

18 Q. Yes.

19 A. To my knowledge, no.

20 Q. What happened? Did your vehicle get -- both
21 vehicles get towed, the --

22 A. Yes.

23 Q. -- Airstream and the Excursion?

24 A. They did to a tow station, a wrecker service in
25 Sonora, Texas.

1 Q. And did you ever go back and look at the -- do
2 you have the Excursion now?

3 A. No. I do not have the Excursion. I did go to
4 the wrecker place to get our personal belongings and to
5 pick up the wheel.

6 Q. And when did you do that?

7 A. That must have been mid September.

8 Q. And what did you do with the wheel once you
9 picked that up?

10 A. I brought that back to Walterboro, South
11 Carolina.

12 Q. And I take it you gave it to somebody with the
13 lawyers.

14 A. Yes, I did.

15 Q. Did you take any pictures when you were out
16 there?

17 A. I did, yes.

18 Q. And do you still have those pictures?

19 A. Yes.

20 Q. And do y'all still own either the Excursion or
21 the Airstream or -- or were they totaled out and --

22 A. Totaled.

23 Q. Both?

24 A. Both.

25 Q. Now have you been on any kind of camping trip

1 since then?

2 A. Yes.

3 Q. Where all have you been on camping trip since
4 then?

5 A. North/Northeast United States and Austin.

6 Q. Did y'all drive to the Northeast?

7 A. Yes.

8 Q. What vehicle did you take to the Northeast?

9 A. An F-350 dually.

10 Q. Did y'all haul anything?

11 A. An Airstream.

12 Q. So you bought a new Airstream?

13 A. Yes.

14 Q. And what part of the Northeast did y'all go to?

15 A. Massachusetts.

16 Q. And when did y'all do that?

17 A. Newport, Rhode Island the -- this must have
18 been last year, last summer, not this year but 2015.

19 MR. COBB: Thank you. That's all the
20 questions I have.

21 MR. MURDAUGH: I have one or two
22 questions.

23 FURTHER EXAMINATION

24 BY MR. MURDAUGH:

25 Q. When you were driving the Excursion from

1 Walterboro out to Texas initially in the months before
2 this accident and you experienced problems were any of
3 those problems similar to the bad vibrations that you
4 had immediately before the accident?

5 A. No.

6 Q. You were asked questions about how you learned
7 that the tire failure may have been a tread separation
8 and you said that -- of course that I explained that it
9 may have been the outer tread separated from the tire
10 and it's called -- what's called a tread separation?

11 A. Yes.

12 Q. You recall talking about that?

13 A. Yes.

14 Q. Do you also recall in that conversation that
15 the reason we were discussing that is because you were
16 asking about questions for your family whether or not we
17 could maintain a lawsuit against the tire manufacturer?

18 A. Yes.

19 Q. And do you remember me saying that the problem
20 with that or one of the problems with that is that all
21 these warnings existed, the vibration and the time that
22 went by and that that the tire manufacturer is going to
23 blame the driver, which is you, and that that's one of
24 the problems with trying to maintain a cause of action
25 against the tire company?

1 A. Correct.

2 MR. MURDAUGH: Thank you, sir.

3 MR. COBB: Thank you. That's it.

4 (Proceedings concluded at 8:52 a.m.)
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I, ANTONIE VAN STEENWIJK, declare under penalty of



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1 perjury that the foregoing is true and correct.

2
3 _____
4 ANTONIE VAN STEENWIJK
5
6

7 SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned
8 authority, by the witness, ANTONIE VAN STEENWIJK, on
9 this the _____ day of _____, _____.
10

11 _____
12 NOTARY PUBLIC IN AND FOR
13 THE STATE OF _____
14

15 My Commission Expires: _____
16
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STATE OF TEXAS
COUNTY OF TRAVIS

REPORTER'S CERTIFICATE

ORAL DEPOSITION OF ANTONIE VAN STEENWIJK

AUGUST 18, 2016

I, David Bateman, the undersigned Certified
Shorthand Reporter in and for the State of Texas,
certify that the facts stated in the foregoing pages are
true and correct.

I further certify that I am neither attorney or
counsel for, related to, nor employed by any parties to
the action in which this testimony is taken and,
further, that I am not a relative or employee of any
counsel employed by the parties hereto or financially
interested in the action.

SUBSCRIBED AND SWORN TO under my hand and seal of
office on this 29th day of August, 2016.



David Bateman, Texas CSR 7578
Expiration: 12/31/2017

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STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
COUNTY OF COLLETON) CASE NO.: 2015-CP-15-1124 & 1125

AMY GARRETT, ET AL,)
)
PLAINTIFF,)
)
v.) TRANSCRIPT OF RECORD
)
ANTOINE VAN STEENVIJK,)
)
DEFENDANT.)
)

FEBRUARY 8, 2017
COMMENCING AT
COLLETON COUNTY COURTHOUSE
WALTERBORO, SOUTH CAROLINA
BEFORE THE HONORABLE PERRY M. BUCKNER, III, JUDGE.

APPEARANCES:

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MOTION HEARING	3
CERTIFICATE OF REPORTER	.15

EXHIBITS

NONE.

1 THE COURT: I've read both motions and I've read the
2 answer and the complaint. Mr. Murdaugh, you may begin now.

3 MR. MURDAUGH: Your Honor, I would like to give you a
4 brief overview and then I want to talk to you more about it.

5 THE COURT: And I read the excerpt from the deposition
6 where you asked the defendant over objection whether or not
7 they felt they were responsible for the accident and they
8 responded, "Yes", over objection.

9 MR. MURDAUGH: That's correct. Your Honor, this
10 accident occurred in Texas and it was a ---

11 THE COURT: Tire blowout.

12 MR. MURDAUGH: Husband and wife and son were in the
13 vehicle. And our case is based upon the fact that he kept
14 driving at 70 miles per hour when he had a problem and he
15 didn't know what it was, but it was affecting -- seriously
16 affecting the handling of the vehicle. The driving at 70
17 miles per hour, admitted by him, is what caused it. Had he
18 not been driving 70 he admits in his deposition that he
19 would have never reached the trees and the accident wouldn't
20 have occurred.

21 The more detailed version, Your Honor, is they began
22 experiencing a shaking in this vehicle and this took place
23 over, depending on where you're reading in this deposition,
24 over an hour and a half or two hours. And it began with him
25 thinking there is something wrong with the highway. He

1 moves and tries to figure out what's wrong with the highway.
2 Then, he actually stops and looks at the tire. He checks
3 the pressure. He does an awful lot of things that are
4 right. He checks the pressure, checks the drive train. He
5 lets his wife get in the driver's seat and he runs along
6 beside it looking, watching, listening and trying to figure
7 out what's wrong with it. It was a substantial problem, so
8 much so that the inside of the vehicle was shaking. There
9 is actually a video because all the contents were shaking as
10 they were going along after they had tried to figure all of
11 this out.

12 Our complaint is based upon one thing and that is after
13 all of that he kept going 70 miles per hour on the
14 interstate. It was less than the speed limit, or at the
15 speed limit, depending on where in the deposition you're
16 reading speed, but it was at a speed that he admits was
17 unreasonable and he admits that because of that, it's his
18 fault.

19 Your Honor, the whole deposition has been submitted
20 into the record.

21 THE COURT: With excerpts for purposes of your motion.

22 MR. MURDAUGH: That's right. I put that in the front
23 so you could see because that's the most important part.
24 But it's important to understand, you know we could point to
25 a whole bunch of things that he did right, but what we're

1 saying he did wrong was continuing when he didn't identify
2 the problem, a substantial problem, at driving at 70 miles
3 per hour.

4 I will anticipate the defense will say that he did
5 this, and this, and this, and all that right, but it would
6 be no different than someone driving too fast around a curve
7 and flipping the vehicle over and going back and saying,
8 well, they made everybody wear their seatbelts and they made
9 sure everybody was in a seat, and they made sure the tire
10 pressure was -- and all those things. But if you're driving
11 too fast around a curve and you have a one car vehicle
12 collision and it's the speed going around the curve that
13 caused it, that's what we have here. And we don't have to
14 wonder whether or not he is at fault. He says, "I'm at
15 fault." And you see the terminology that he uses and that's
16 the basis for our motion, Your Honor.

17 THE COURT: But you're moving only as to liability, but
18 obviously, because it's not liquidated damages.

19 MR. MURDAUGH: That's correct. These are very serious
20 injuries to the wife and the son. And I would anticipate
21 that obviously you still have an issue with damages and I
22 don't know whether or not Mr. Cobb is going to argue that my
23 lady was at fault for continuing to ride, but it wouldn't
24 eliminate any comparative if in fact he raises some
25 comparative, and I think he did in his answer.

1 THE COURT: When you took the deposition that you
2 attached to your motion, since you didn't give me any cover
3 page, even though the entire deposition is filed, is this
4 the deposition of Mr. Antoine Van Steenwijk, and that's the
5 person you gave me the excerpt from as Plaintiff's Exhibit
6 A?

7 MR. MURDAUGH: Yes, sir. Plaintiff's Exhibit A is
8 actually the full deposition, but in front of it, it has one
9 page that is more pertinent; the most pertinent page.

10 THE COURT: That's all that is attached to your motion
11 is just the one page for Plaintiff's Exhibit A, but it
12 doesn't tell me who the deponent is, that's what matters. I
13 want to make sure that it is the defendant.

14 MR. MURDAUGH: It is the defendant. Your Honor should
15 have Exhibit B, which ---

16 THE COURT: I do have Exhibit B, but I'm referring to
17 Exhibit A.

18 MR. MURDAUGH: That's right.

19 THE COURT: Exhibit B is the full deposition, but I
20 want to make sure because it looked like different typing.

21 MR. MURDAUGH: Exhibit A is an excerpt from Exhibit B
22 and it is the defendant's deposition.

23 THE COURT: Now I understand. And you asked the
24 defendant, "Do you believe the reasonable thing for you to
25 have done is to have drive it at a reduced speed? For

1 example, 45 miles an hour or less?" And his answer, "Yes."

2 MR. MURDAUGH: That's correct.

3 THE COURT: And then you asked him with regard to the
4 legal claim, "Do you believe that failing to drive at a
5 slower rate makes you at fault in the accident?" And he
6 answered, "Yes."

7 MR. MURDAUGH: That's correct, Your Honor.

8 THE COURT: Very well. Thank you very much. All
9 right, David, let me hear from you.

10 MR. COBB: Your Honor, good morning.

11 THE COURT: Good morning to you. Thank you for your
12 patience.

13 MR. COBB: We started this analysis, I think in
14 fairness to the defendant, as the husband of Ms. Garrett and
15 the father of ---

16 THE COURT: I understand there is a relationship.

17 MR. COBB: Number one, we did plead sudden emergency.
18 And as the Appellate Court has made very clear that in most
19 circumstance the issue of negligence is an issue of fact for
20 the jury to decide. The actual full-length view of the
21 facts in this particular case is that the SUV that he was
22 driving that day, he pulled an Airstream trailer. He took
23 off from Walterboro and they went to Texas and then on the
24 day of this accident, it was actually about the second week
25 that the family had been on vacation driving that same

1 vehicle through New Mexico and Texas.

2 At some point early in the morning of the accident with
3 them driving in the middle of nowhere in West Texas, trying
4 to get back to Austin, they experienced this vibration sound
5 inside the vehicle.

6 Now, the testimony from both Ms. Garrett and her
7 husband is they decided to pull off the interstate at some
8 rural part of Texas where he then looked at the tires but he
9 did not see any tire damage.

10 Then, he measured the tire pressure. Then, looked
11 under the vehicle to see what could possibly be causing the

12 ---

13 THE COURT: Is the doctrine of sudden emergency
14 required that you be without any fault in bringing on the
15 difficulty, Mr. Cobb?

16 MR. COBB: Yes, sir. I think that's when you view the
17 totality of the entire circumstances the standard that he
18 act as a reasonable person would have done under similar
19 circumstances. And that's why it becomes a factual issue
20 for the jury to decide.

21 THE COURT: What type of timeframe are we talking
22 about? Mr. Murdaugh went through that you would tell me all
23 about steps that were taken. What sort of time -- in other
24 words, getting out, looking at it, having his wife drive,
25 putting air in the tire, and then continuing on, and then

1 according to Mr. Murdaugh's allegation of 70 miles per hour,
2 although he freely admits that he's at fault in the
3 accident.

4 MR. COBB: I'll answer the question as far as time. At
5 some point, they drove according to the deposition
6 testimony, some period of time, an hour or so that morning
7 without any problems. Then, they had the issue with the
8 vibration in the vehicle. They pull over in the middle of
9 somewhere in West Texas.

10 THE COURT: Give me a time reference; can you do that?

11 MR. COBB: Not really, but they spend, I think it would
12 be fair to say ---

13 THE COURT: Well, from the time -- what do you tell me
14 approximately from the time they first noticed the vibration
15 until this collision occurred, how long do you estimate,
16 from your going to the discovery, that this occurred?

17 MR. COBB: I've got a long way to get to it, but I'll
18 answer that question. They spent about 15 minutes ---

19 THE COURT: I'm asking you to answer that question.

20 MR. COBB: I'll take it in stages. They spent about 15
21 or 20 minutes on the side of the road when they do the
22 things he talks about where they check the tire pressure,
23 they look for damage to the tires, they look for anything
24 that is underneath the vehicle.

25 Mr. Van Steenwijk has his wife get in the driver's

1 seat, drive the vehicle down the frontage road while he jogs
2 behind to see if he can notice anything. At that point in
3 time, his belief is that there is a transmission issue with
4 the vehicle. So at that point, a decision is made to get
5 back on the interstate. The accident then happens some 30,
6 45, 60 minutes later is when the tire blowout happens. He
7 referenced a video ---

8 THE COURT: So you tell me approximately an hour and
9 fifteen minutes from beginning until end?

10 MR. COBB: I think probably from when they started that
11 morning until the accident happened is probably a little bit
12 longer because the accident happened around 4:45 in the
13 afternoon. Their recollection is that they left where they
14 were in the state park in West Texas. The start that
15 morning was sometime around noon time.

16 THE COURT: So longer than an hour and fifteen minutes?
17 Several hours.

18 MR. COBB: Yes, sir. The video that Mr. Murdaugh talks
19 about is the wife actually took the video once they stopped
20 and made the decision to continue on before the blowout, the
21 wife actually takes about a 20-second video because they're
22 laughing about how the cat is mesmerized inside the vehicle
23 by the vibrations that the vehicle is making. So another
24 thing that comes into play here is there is absolutely no
25 statutory violation in here because while the testimony was,

1 "I was traveling about 70 miles per hour," the speed limit,
2 according to Mr. Van Steenwijk, was 80 to 85 in that part of
3 Texas, because they're in the middle of nowhere.

4 That's one of the motivations for him as far as why he
5 decided not to ---

6 THE COURT: That's what Alec Murdaugh drives from here
7 to Hampton.

8 MR. COBB: I would understand that there would be a lot
9 of us who would argue that's not a statutory violation. But
10 we know the facts of this case is he is below the speed
11 limit. One of the decisions that came into play as to why
12 he decided to leave is because he was not familiar with the
13 area, was with his family, there was limited cell coverage,
14 he didn't really know what to do. He is not a tire person.
15 He does not have any type of auto mechanic background.

16 So when you take into the totality of all of that, it
17 then gets back to the analysis of whether or not the
18 question was he negligent? And that's a question of fact
19 for the jury to decide whether or not what he did was
20 reasonable or unreasonable, because the accident was not
21 caused by anything but a tire blowout.

22 THE COURT: How do you get around the fact, even if
23 there were an issue of sudden emergency, when he says, "Is
24 the reasonable thing for you to have done as a driver to
25 drive at a reduced speed? For example, 45 miles an hour or

1 less so that you wouldn't have impacted these" -- Mr.
2 Murdaugh calls them trees. I guess there was impact with
3 trees; is that right?

4 MR. COBB: After the blowout.

5 THE COURT: After the blowout. And he says, "Yes."
6 "And you believe that failing to drive at a slower rate
7 makes you at fault for this accident?" And he says, "Yes."

8 MR. COBB: On page 27, line 16 of his deposition.

9 THE COURT: All right. Hold on, 27 and what?

10 MR. COBB: Page 27, line 9, the question is asked by
11 Mr. Murdaugh on line 9, "And as you look back at this
12 accident, given that you had a substantial vibration going
13 on at this time period and given that you weren't able to
14 determine what was causing it, do you think the reasonable
15 thing to do at that time would have been to drive 45 miles
16 or hour or less?" I objected to his answer on line 16.
17 "With the information that I have now, yes."

18 And I think that's a distinguishing factor because what
19 the jury is going to be asked to decide is was his conduct
20 at the time reasonable or unreasonable based on what he knew
21 at that point in time? And his answers were all based on
22 after the fact, after looking back at this, then maybe
23 something else.

24 But there's been no testimony from the wife that at any
25 point in time did she demand that he pull over. Now, there

1 was a discussion according to the wife at some point about
2 "Are you sure we can go forward?" He said, "Yes, this is
3 the transmission." So at the time he's going down the
4 highway there is no evidence that he thought in his mind
5 there was an issue with the tire. And we know from the
6 actual reconstruction of the accident that it was a blowout.
7 This was not caused by any other issue other than that the
8 tire ultimately blew and he lost control of the vehicle.

9 That's why all of these issues are questions of fact
10 and I think there is a credible argument to be made that the
11 jury could conclude that while these folks were hurt, they
12 were not hurt because of the negligence of the driver.

13 THE COURT: Thank you very much. Mr. Murdaugh, you've
14 saved yourself three minutes if you want it.

15 MR. MURDAUGH: Just very briefly, Your Honor. I looked
16 back at the deposition. They had these vibrations,
17 substantial vibrations, for 30 minutes before they did the
18 check and then they went through the series of checks.
19 Then, after the check, based upon the defendant's testimony,
20 they continue to drive at 70 miles per hour pulling that big
21 Airstream camper for 30 minutes to an hour before the
22 blowout occurred.

23 And Your Honor, ordinarily, whether certain conduct is
24 reasonable or not is a jury question. The defendant has
25 answered that question for us. I mean, he's answered it

1 specifically with this, "Would that have been the reasonable
2 thing?" He said, "Yes." And then he also drew the
3 conclusion for us, "And does that make you at fault for
4 this?" And he said, "Yes."

5 THE COURT: Thank you very much. I'm going to ask you
6 both to e-mail me proposed Orders. Please e-mail them to me
7 at pbucknerj@sccourts.org. Please send my law clerk a
8 working copy at pbucknerlc@sccourts.org. I will expect your
9 proposed Orders within seven days of today by e-mail so you
10 don't have to pay for sending them to me. I will then edit
11 the Order and advise you, because you're going to have to
12 ultimately e-file an Order as to how I rule. Do you both
13 understand the proposed Order procedure?

14 MR. MURDAUGH: Yes, Your Honor.

15 MR. COBB: Yes, Your Honor.

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STATE OF SOUTH CAROLINA	)	
	)	CERTIFICATE
COUNTY OF COLLETON	)	

I, REBECCA H. HILL, Official Court Reporter for the Judicial Department of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had in the hearing of the captioned case, in the Court of Common Pleas Non-Jury for Colleton County, South Carolina, on the 8th day of February 2017.

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

March 21, 2017

Rebecca H. Hill

Rebecca H. Hill,
Official Court Reporter

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM COLLETON COUNTY
In the Court of Common Pleas

Perry M. Buckner, III, Circuit Court Judge

Circuit Case No. 2015-CP-15-1124 & 1125

Appellate Case No. 2017-000636

Amy Garrett, as Parent and Natural Guardian of C.A.
V.S.,..... Respondent,

v.

Antoine Van Steenwiczj..... Appellant.

And

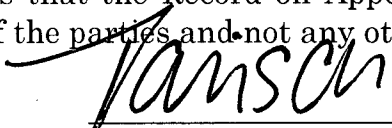
Amy Garrett..... Respondent,

v.

Antoine Van Steenwiczj..... Appellant.

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.



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September 1, 2017

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