

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Clifton Newman, Circuit Court Judge

Appellate Case No.: 2017-001083
Case No. 2015-CP-40-07181

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SC Court of Appeals

Ex parte: The Travelers Home and Marine Insurance Company Appellant,

In Re: William Gresham as Personal Representative of the Estate
of John Corey Stringfellow, Respondent,

v.

Cameron Thomas Stringfellow, Defendant.

RECORD ON APPEAL
Volume II of II

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1 THE COURT: All right. Next witness.

2 MR. GRIFFIN: We call Patti Stringfellow.

3 (Witness approaches.)

4 THE BAILIFF: Place your left hand on the
5 Bible, and raise your right hand, please.

6 (Witness complies.)

7 THE CLERK: Do you solemnly swear or affirm
8 that the testimony you give in this case will be
9 the truth, the whole truth, and nothing but the
10 truth, so help you God?

11 THE WITNESS: Yes, I do.

12 THE CLERK: Please have a seat, and state your
13 full name for the record.

14 (Witness seated.)

15 PATTI STRINGFELLOW,
16 after being duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. GRIFFIN:

19 Q Good afternoon, Patti.

20 A Good afternoon.

21 Q I know you know you're going to have to speak up
22 louder than that.

23 A I will.

24 Q Okay, thank you. Let's start with something easy.
25 On the early morning hours of January 6th, 2013,

1 did you send Corey a text that says, What is that
2 sweet herb smell upstairs?

3 A Yes, I did.

4 Q And what was that sweet herb smell upstairs?

5 A It was a Clove cigarette.

6 Q Tell the jury what happened that night.

7 A They were smoking a Clove cigarette and I could
8 smell the fumes through the bathroom vents
9 downstairs. And I immediately woke Tommy. And he
10 went upstairs, and I did as well. And I talked to
11 Corey for about 20 minutes away from his friends
12 and told him how deeply disappointed I was at him,
13 because my mother had been living with us for about
14 four years and she was diagnosed with terminal lung
15 cancer and a brain tumor from that lung cancer.
16 She started smoking when she was 15 and she didn't
17 make it to 70. She was 20 years older than I am.
18 And I turned 53 in March.

19 Q You were very upset?

20 A I was very upset. It was more upset than anything
21 that an athlete of his stature and determination
22 and will to be the best athlete that he could be
23 would put anything into his lungs to make him less
24 than that. And to do it in a form of a cigarette
25 or Clove cigarette, a form that my mother had

1 completely done away with the minute she got the
2 first cancer diagnosis.

3 Q Now, about 10:20, four minutes later, did you send
4 a text saying: And doors are locked. Okay. You
5 guys want food, that's fine, but no one leaves at
6 this hour unless I call their mom. Did you send
7 that text?

8 A Absolutely, I did.

9 Q And when you say doors are locked, what doors are
10 you talking about?

11 A Well, the and was the end of my dissertation to him
12 about how disappointed I was.

13 Q Right.

14 A So I was reminding him that the doors were now
15 locked. If they wanted food, that was fine, but
16 there was no one leaving unless I knew about it and
17 I called their mom.

18 Q Why were you concerned about anyone leaving?

19 A There was a previous incident a couple of months
20 earlier, a different -- totally different group of
21 kids, they met on the basketball team. I knew them
22 from -- I knew them from Club Soccer and I knew
23 them from the church basketball. But they never
24 spent the night, these particular kids. There was
25 five of them. At around 2:00 in the morning, three

1 of them slipped out. And no one was drinking. No
2 one was smoking. The police caught them less than
3 half a mile from my house heading towards the
4 Waffle House. Picked them up, called their
5 parents, and their parents came and got them.
6 Again, there wasn't anything wrong with them, but
7 they had left my house.

8 And so he knew from that point forward that
9 that would be handled in a very strong manner
10 because -- and he didn't even know they went out.
11 He was sound asleep when they left. When I woke
12 him up at 5:30, 6:00, I think it was, he said, I
13 guess they already got picked up. I don't know
14 where they are. He had already fallen asleep. He
15 didn't know they left.

16 Q And so this text when you say, And the doors are
17 locked, and one other thing, are you in your mind
18 --

19 A I was saying and one other thing --

20 Q -- referring back to that --

21 A Exactly. Don't ever let this happen again. I am
22 very disappointed that this would happen at all and
23 how upset that I was. And I kind of ended my
24 conversation with that text letting him know that
25 the doors are locked, no one is allowed to leave,

1 and if they did I would call their mom.

2 Q And your reference to food, is that referring back
3 to the kids wanting --

4 A It's just -- yeah. I wasn't locking them in the
5 room. I was telling them that if they wanted
6 something to eat, they could go down to the
7 kitchen, not to Waffle House. And it wasn't --
8 that was two different situations, Jim. The Waffle
9 House situation was the kids that left. When I
10 said you're welcome to get something to eat, I
11 meant you can come down to the kitchen and get
12 something to eat.

13 Q Now, the next day -- it's already been in evidence,
14 I believe, a text he sent to you about he would pay
15 for the subs. Was he talking about Subway
16 sandwiches?

17 A No, he was talking about the subwoofers. So with
18 Christmas on the 25th and his birthday on the 27th,
19 it tends to come in an abundance. And part of my
20 lecture to him that night was, You've had a very
21 good Christmas, you've had a very good birthday.
22 We even got the subwoofers that you asked for. How
23 could you do this to me after we just did that for
24 you? How could you upset me like this after what
25 you just were blessed with? And that was what I

1 was talking about.

2 And for Corey, he's the type of person that
3 would say, I need to pay for it. I need to pay for
4 this. I need to fix it. I need to pay for it so
5 that I can make it right with my mom. I never
6 asked him to pay for it. I never told him he had
7 to pay for it. That was his offering to me to make
8 the peace, to forgive him for what he did. And
9 what he did was have a Clove cigarette. It was not
10 marijuana.

11 Q Before that lawyer over there stood up here and
12 accused you of lying about --

13 MS. O'BRIEN: Objection, Your Honor.

14 Q -- this text, have you ever spoken with her?

15 MS. O'BRIEN: Your Honor, I would object to
16 that.

17 THE WITNESS: No, I have not.

18 THE COURT: Just a moment.

19 The objection is overruled.

20 THE WITNESS: I have not.

21 BY MR. GRIFFIN:

22 Q Has anyone ever asked you about these texts before
23 she got up there and accused you of lying in front
24 of this jury?

25 A No, she has not. No one has, no.

1 Q Did you lie in your deposition when you said you
2 had never caught Corey smoking marijuana?

3 A No, I did not. That's the absolute truth.

4 Q You never -- had you ever caught him smoking
5 marijuana?

6 A No. Never even -- never even worried about it,
7 never even thought about it. That was not who he
8 was.

9 Q Were there times, Patti, when you were worried that
10 he was staying over at a house and maybe folks'
11 parents weren't there?

12 A I would always check with a parent where he was
13 going. It was a way of saying, Hey, thanks for
14 having Corey over tonight. And if they said, Am I
15 having Corey over tonight, then it got circled back
16 and he didn't go wherever it was he was trying to
17 go. That happened very seldom. Usually the mom
18 said, No problem, so happy to have him. You know,
19 he's such a great boy. But I always checked up on
20 where he was going.

21 Q Do you recall the time of when you received a call
22 from Ms. Gresham after the boys had spent a couple
23 of days at a farm?

24 A Yes, I do. I know that they were at the farm. She
25 said that she had found six beer cans against the

1 farm back wall. She said that she had no idea who
2 was drinking the beer. She didn't see anybody
3 drink the beer.

4 And when I asked Corey, Were you one of the
5 kids bringing the beer, he said, no, he was not.
6 There was three boys there. And I think she found
7 six cans of beer that were empty cans crushed
8 against the wall.

9 It would be Corey's nature to take on the
10 ownership of, We've got to fix this. Just like he
11 wanted to pay me back for the presents. He wanted
12 to fix this. Ms. Toni, I want you to know I love
13 you. And I want you to love me back. I want to
14 fix this. And he would say, I'm sorry that we
15 brought it, even if it wasn't him that brought it,
16 and even if it wasn't him that drank it, because he
17 did not, and I believe it. I believe that.

18 Q He denied drinking it?

19 A He told me to my face and he did not lie.

20 Q Which gets me to the bigger point, do you and Tommy
21 just allow drugs and alcohol in your house, kids
22 coming over and partying?

23 A Absolutely not. And, as a matter of fact, if you
24 were to ask the kids, they would tell you our house
25 is the most strict house about drinking or drugs or

1 anything illegal. I don't even like cigarettes in
2 my house. I mean, it's a known fact.

3 Q Why would you lock the liquor cabinet?

4 A Periodically we have people come pet sit for us.
5 And they are teenagers from school, my next-door
6 neighbor, or anybody. And I don't want anything --
7 any access to be left open accidentally for someone
8 to take advantage of.

9 In many neighborhoods, people have beer in
10 their refrigerators and kids go through and raid
11 those refrigerators, and it's not even their kids,
12 it's other kids. Nobody knows who it is. We keep
13 certain things in the refrigerator, we keep it
14 locked up. We keep certain things in another
15 cabinet, liquor, we keep that locked up. And the
16 wine that was talked about earlier was a closed box
17 of wine that I had forgotten we even had.

18 Q And where was it?

19 A It was somewhere in the garage. It wasn't in my
20 wine cellar -- I mean, my wine cooler. It wasn't
21 in the refrigerator.

22 Q Right.

23 A It wasn't even cold.

24 Q Okay. Do you recall wanting to investigate whether
25 there was something wrong with the BMW that

1 possibly contributed to this accident?

2 A Absolutely. I just left the hospital and saw my
3 son Corey passed. I had to say goodbye to him.
4 And my son Cam -- and I kept asking anybody and
5 everybody, what do you think happened? Could
6 something have malfunctioned? And I had a lot of
7 people that race cars, own fast cars. I've never
8 owned a fast car in my life. My first car was a
9 Chevette. And this was -- I had it for a year and
10 it was more of a -- and I don't even know why, but
11 I never drove it fast. I didn't buy it to drive it
12 fast. I bought it for the ability to sit in a
13 little bit more luxurious seat driving up and down
14 the highway to do my job.

15 When I heard that the first impact -- you
16 imagine -- the hill starts up here. It's a
17 football field down to the bottom and then a
18 football field up to the top where it rested. When
19 it hit that first car, I heard it was 55 miles an
20 hour. That was the first reading off of whatever
21 buffer that they had. And I'm not a physicist, but
22 when I did the math, there's no way it could keep
23 going unless there was additional acceleration.
24 It's mathematically not possible.

25 And I fought that and fought that with the

1 lawyers to look into it, see what we can find.
2 Let's get BMW and read the box, whatever we need to
3 do. Because I was convinced because the BMW is the
4 safest car in my driveway. It has more airbags
5 than any car in my driveway. And it also has one
6 just below the steering wheel. And I'm envisioning
7 the airbags go off, his feet are slammed against
8 the accelerator, and the wheels spin off as they
9 did on the driveway. I'm convinced that that's
10 what happened. And that's why we asked to look
11 into that further.

12 Q Right. And had that happened, that would have also
13 helped Cam, the legal problems he was facing too,
14 wouldn't it?

15 A Absolutely. And at that point I didn't know any
16 specifics of what had led up to that ride down
17 Shallow Brook.

18 Q Right. And did we hire experts and rewire the car
19 and get someone from BMW in?

20 A We did. A number of things happened. About a
21 month later, evidently, while they were rewiring
22 the car, a phone call went to BMW to tell them that
23 my car was in an accident. So a month later, I get
24 a phone call and a voicemail saying,
25 Ms. Stringfellow, your car has been in an accident

1 today.

2 MS. O'BRIEN: Objection as to what the
3 voicemail would have said.

4 MR. GRIFFIN: Your Honor, she's talking about
5 the investigation into the BMW. And they asked
6 her -- they're the ones that brought it up, Your
7 Honor.

8 MS. O'BRIEN: Your Honor?

9 THE COURT: Yes?

10 MS. O'BRIEN: It is a conversation that she
11 had with someone else that is outside of the scope
12 of what has been discussed. I have not brought up
13 anything that anyone from BMW called and talked to
14 her about, and it's not admissible because it is
15 hearsay.

16 THE COURT: The test is whether it's hearsay,
17 and whether or not a matter is hearsay is whether
18 or not it is offered to prove the truth of
19 something being asserted.

20 MR. GRIFFIN: Right. And it's not.

21 THE COURT: I overrule the objection on that
22 basis.

23 THE WITNESS: My point was that when they were
24 doing the inspection of the car, it triggered a
25 call from BMW, which triggered a call to me to ask

1 me if there had been an accident.

2 On that same day, BMW called the police
3 department and sent a local police officer to our
4 house where Cam was at the house with my mom. And
5 he answered the doorbell and he said, Do you own --
6 is there a 750 BMW that's owned here? He said, It
7 was -- my mom had one. He said, Well, did it just
8 get in an accident?

9 MS. O'BRIEN: Same objection, Your Honor.

10 THE WITNESS: He said, No.

11 THE COURT: Clearly it had been in an
12 accident.

13 MR. GRIFFIN: Correct. Correct.

14 THE COURT: You may proceed.

15 BY MR. GRIFFIN:

16 Q And did that make you want to investigate further?

17 A Absolutely.

18 Q And did it take quite some time to get to the
19 bottom of the speed of the BMW at the time of
20 collision?

21 A Yes, it did. Yes, it did.

22 Q And you were here when Sergeant Coffin
23 introduced -- well, the speed data from the airbag
24 control modules was introduced and showed speeds in
25 excess of 90 miles an hour?

1 A Right. And, like I said, it's a math problem. And
2 if you start at 55, it can't happen. If you start
3 at 92, it can.

4 Q And you didn't want to think that Cam was going 94
5 at the time of the accident?

6 A No, not at all.

7 Q But now we know he was?

8 A (Nods affirmatively.)

9 Q No reason to pursue BMW anymore; right?

10 A That's correct.

11 Q Did you write a letter to Judge Hood in advance of
12 Cam's sentencing?

13 A I did. I did. I just lost Corey and I knew my
14 mom's cancer was terminal. And I don't remember
15 the timeline, if it was after she died or before,
16 but I was planning another funeral one way or the
17 other. And I could not bear the thought of my
18 10-year-old daughter losing both of her brothers at
19 the same time and Cam going to jail for 30 years,
20 or however long it would have been, and not being
21 there for her to help her after this tragedy. I
22 couldn't bear the thought of him being in jail and
23 knowing what might happen to him there. And I
24 begged the judge for his leniency, not because I
25 didn't want him punished, but because I couldn't

1 lose him. I could not lose another thing, another
2 person that meant so very much to me.

3 Q Have you and Tommy continued to love and support
4 Cam?

5 A Yes, absolutely. But I did not pay -- I do not pay
6 for his fraternity, any of it.

7 Q Will you tell the jury a little bit about Corey?
8 What did he like to do?

9 A Corey loved the beach. He loved to go surfing. He
10 loved to go skateboarding. My husband was telling
11 you that he literally built a skate ramp in our
12 garage so that they could practice in there and
13 then go to the Plex later and master that skill.
14 He was always, always, always ready to go do
15 something. It wasn't -- FIFA games and sitting
16 around computer games, that wasn't him.

17 He was loved by everybody he knew. He -- when
18 he walked in the room, his smile was everywhere. I
19 had people telling me that I didn't even know and
20 nor did he that at some point he would come down
21 and see somebody upset sitting on the curb at
22 school, normal teenage drama, and he would sit down
23 next to her and say, What's wrong? And the
24 conversation was, you know, whatever was happening
25 in her family, divorce, I don't even remember what

1 it was, Corey said, Here's what -- you know, I'm
2 Corey. She introduced herself. I want you to meet
3 me every day right here at this time until the end
4 of school because I just want to check on you.

5 He was the kind of kid that when they were
6 coming home from soccer games, the girls' bus and
7 boys' bus would come and stop at a gas station. I
8 think the boys had won, but the girls had lost.
9 And one of his best friends, Kathryn O'Nate, comes
10 out and he sees that she's crying and instead of
11 going in to get a snack or getting something to
12 drink, he goes running over to her to comfort her.
13 Not that she called him over. He saw that she was
14 upset and he went over there. He would give you
15 the shirt off his back. He'd give you every dime
16 he had. He was very trusting. And he also -- he
17 lived life to the fullest.

18 When I say he did art, he made a Kool-Aid jug
19 out of clay, Mr. Kool-Aid man. That was an art
20 project. I still have it in my kitchen. But I
21 never knew he made it. He was on his way home from
22 school and a counselor saw him and just fell in
23 love with it and said -- he goes, Well, you can
24 have it. And she said, No, it's for your mom. He
25 goes, I'll make her another one. I never even knew

1 about the Kool-Aid jug until after -- until after
2 he passed and she brought it to my house.

3 There was an essay he wrote in the ninth grade
4 about living life to the fullest, about not sitting
5 around on a sofa, not wasting any moment that God
6 has given you to be on this earth, but to enjoy it
7 and to make somebody else see God through you.
8 That's the kind of person he was.

9 He went to Young Life. He went to -- I don't
10 even remember the names of the other retreats
11 through the church. He asked me many times when we
12 were going to go on a mission trip. It was a plan
13 of ours to go with Coach Kenga to Kenya. And I
14 still plan to do that in his honor next year. But
15 he wanted to help anybody and everybody.

16 And you see those pictures on his phone,
17 that's not even a glimpse of who he is. He loved
18 all kinds of music. He didn't have any bigotry or
19 anything against anybody. He accepted everybody
20 for who they were and everybody accepted him. He
21 had good grades. He believed in working hard on
22 his sport. He was playing basketball or soccer
23 every minute of the day if he wasn't at school.

24 Q What was the house -- home like when he was around?

25 A Full of laughter and fun. The house got so eerily

1 quiet after he passed. And my mom -- none of us
2 wanted to be there. It was so full of life, every
3 room was full of life and laughter and kids coming
4 and going and pizza and sodas or whatever,
5 Kool-Aid. I mean, it wasn't about, Let's see how
6 many people we can cram in a room and watch
7 somebody play FIFA. It was, Y'all want to go make
8 a slip and slide in the backyard? And he'd come to
9 me, Mom, can I go buy this much plastic and a big
10 thing of soap? I'd say, What are you doing? He
11 goes, We're going to make a slip and slide in the
12 backyard, right at the edge of the yard. It had a
13 little bit of a slope. And the next thing you
14 know, they'd go off to Wal-Mart, they get what they
15 need and they come back and have an absolute blast.

16 Q Patti, has it been -- I fear I'm asking a really
17 stupid question. How hard has it been to go
18 forward?

19 A It's unimaginable. It's unimaginable. I would
20 never want my worst enemy to walk in my shoes and
21 have to go through what I have had to go through.
22 I would never wish that on anyone. I've had many
23 people say I don't even know -- what would they
24 say? They would say, I can't imagine how you feel.
25 And I would say, I don't want you to imagine it. I

1 don't want you to get even close to how I feel.
2 Nowhere close.

3 MR. GRIFFIN: Thank you. That's all the
4 questions I have.

5 THE COURT: Cross-examination?

6 MS. O'BRIEN: Yes, sir. Thank you.

7 CROSS-EXAMINATION

8 BY MS. O'BRIEN:

9 Q Ms. Stringfellow, I will tell you what I said to
10 your husband, and I mean it. I'm sorry. I'm sorry
11 for your loss and I'm sorry for what happened that
12 night. I think we all can agree, you would not
13 wish this on your worst enemy. And I'm sorry.

14 You admit in your deposition that you
15 testified that you had no reason to believe that
16 Corey ever participated or was engaged in any
17 underage drinking; isn't that correct?

18 A That is correct.

19 Q And you got a text from -- or, excuse me, you had
20 at some point, whether it was a text or a personal
21 conversation, with Toni that discussed that Corey
22 had brought beer to the farm; isn't that correct?

23 A No, that's not correct.

24 Q Okay.

25 A The discussion we had was that somebody brought

1 beer to the farm and Corey was a part of that
2 crowd. She didn't know who and she didn't -- and I
3 didn't know who.

4 Q Did she ever tell you she received a text from
5 Corey admitting that he was the one that brought
6 beer to the farm?

7 A He did not admit that *he* brought it to the farm.
8 He said, I'm sorry that *we* brought it to the farm.

9 Q You've seen this text; correct?

10 A Uh-huh.

11 Q Hey, Ms. Toni. I wanted to say I'm sorry for
12 bringing beer to the farm. I thought we would be
13 smart enough to throw it away. It won't happen
14 again.

15 A The text that I saw earlier said *we*.

16 Q All right. Well, you agree with me this text where
17 he admits and says, I'm sorry for bringing beer to
18 the farm?

19 A And I feel very sure that he was talking not for
20 just himself, but for all three boys.

21 Q And then she responds, No worries. Hope you don't
22 get into trouble. I only told your mom because I
23 thought it was funny that y'all threw the cans in
24 the woods by the barn where they are so easy to
25 find. Smiley face. Got to learn to cover your

1 tracks. LOL.

2 A When he and I talked about it later when he got
3 home, I asked him if he drank any beer at the farm,
4 and he said no, and I believe him. He had a soccer
5 match the next day.

6 Q Why would you have texted him after that saying, No
7 smoking or drinking?

8 A Because that was a constant thing that I said to
9 every one of my children as they left the house
10 because teenagers are constantly being -- I can't
11 think of the word, being coerced, being tested by
12 their friends constantly. And so I always said
13 that to them.

14 Q All right. So you admit texting saying, No smoking
15 or drinking; right?

16 A Yes.

17 Q You admit texting and saying, Corey, Jay and the
18 family aren't even home, they're in D.C., call me
19 right now?

20 A Yes. Again, I followed up when he said he was
21 staying the night at Jay's house. And the mother
22 called me back and said, No, they're in D.C. He
23 called me and he came home.

24 Q You admit sending Corey a text saying, Even if
25 she's home, please don't do anything you shouldn't

1 be. You did that time here when I was home, so I'm
2 just trying to make sure you think about it.

3 A The Clove cigarettes.

4 Q Okay. So this is on February 23rd, 2013, where you
5 are texting him saying, Don't do anything wrong,
6 because you didn't want him to be smoking Clove
7 cigarettes at someone else's house?

8 A Right.

9 Q When he went to the beach in March, who did he go
10 with?

11 A Which beach?

12 Q I don't know. March 9th, March 10th, and March
13 11th, he went to the beach. Did he go to the beach
14 with a parent that supervised?

15 A I don't recall.

16 Q Whenever he was at the farm, was the farm
17 supervised?

18 A Yes, it was.

19 Q By whom?

20 A Toni or --

21 Q Do you recall sending him a text on March 10th,
22 2013, telling him he needed to get back home
23 because he couldn't skip school tomorrow?

24 A Yes.

25 Q You recall texting him again in March saying,

1 Corey, where are you? Ms. Rita wasn't even home
2 last night. Did y'all have a party at Cam B's?

3 A Yes.

4 Q And Cam B's is Bonahan?

5 A Bohannon.

6 Q Bohannon, excuse me. And are you really at John's?
7 I need your address and your latitude up to date.

8 A Yes, because I checked on him constantly, just as I
9 do Cam. And as I will my daughter.

10 Q And he didn't respond to you; correct?

11 A No, he did respond to me. If it's not on the text,
12 then it means he called me or called me
13 from someone else's phone.

14 Q Well, why would you have responded to him the next
15 morning and said, Corey, question mark, did you go
16 to the party at Cam's?

17 A I don't -- I don't remember that. And I don't know
18 what chronological order all of these are in.

19 Q Do you recall texting him on May 4th saying, What's
20 up? Who's driving? And if Cooper, Mr. Gresham's
21 son, has had anything to drink, I'll come get you?

22 A I'm sure I did say that.

23 Q Do you recall seeing a tweet on his phone that he
24 was looking up ghetto translations for, Nigga, I'm
25 around the way, we're about to spark, which meant

1 fellow friend, I'm in your district, do you want to
2 inhale marijuana?

3 A I have no idea what you're talking about.

4 Q Ms. Stringfellow, did anyone force Corey on May the
5 23rd, 2013, to smoke pot?

6 A I have no idea. I was not there.

7 Q Did anyone force Corey to get into the car and
8 drive Cam home on May 23rd, 2013, after smoking
9 pot?

10 A I have no idea. I was not there.

11 Q Did anyone force Corey to get into the car that
12 night to go buy more pot?

13 A I have no idea. No, I was not there.

14 Q Did anyone force Corey to get back into the car
15 where there has been testimony that they were
16 coming home to smoke more pot?

17 A I have no idea.

18 Q And you testified in your deposition that Corey
19 didn't have pot in his system when he died;
20 correct?

21 A I -- that's what I was told, that he did not.

22 Q That's not true, is it?

23 A Not according to the medical records, but that's
24 not what I was told.

25 Q Ms. Stringfellow, did Corey believe that he was

1 above the law?

2 A No, absolutely not.

3 Q Did Corey believe that because he was white and
4 privileged that he couldn't commit a crime?

5 A Absolutely not.

6 Q Did you see the text on Corey's phone and the
7 picture on his phone that said, I'm not racist.
8 Racism is a crime and crime is only for blacks?

9 A I have no idea what you're talking about. Corey
10 was not a racist. Corey -- he gravitated to
11 everyone. There was no blinders on his eyes.
12 There was no color. There was no filter. He
13 gravitated to everyone.

14 MS. O'BRIEN: That's all the questions I have.
15 Thank you.

16 THE COURT: Any redirect?

17 REDIRECT EXAMINATION

18 BY MR. GRIFFIN:

19 Q Ms. Stringfellow?

20 A Yes.

21 Q You've been in the technology cell phone business
22 over the years?

23 A Yes, for many years.

24 Q And people -- you can send a text to another person
25 with a picture and it ends up on your phone; is

1 that right?

2 A That's right.

3 Q Did Corey have a racist bone in his body?

4 A Not at all. Not at all.

5 Q Corey loved everybody?

6 A He did. He did. 1,500 people showed up at his
7 funeral, people from schools from all over
8 Columbia, from Club Soccer, from out of state. He
9 had friends of every walk. And he never ever held
10 himself above the law or above anyone else for that
11 matter.

12 Q And have you seen people from all walks of life
13 around Columbia wearing a Stringfellow Strong
14 bracelet?

15 A Yes. One of his -- one of the guys he played
16 soccer with, Caleb; did those without even telling
17 us. Purple was a favorite color of Corey's, and he
18 had Stringfellow Strong written on the bracelets,
19 and they're all over Columbia. And somebody else
20 did a bumper sticker that says Stringfellow Strong.
21 And many of those are seen around Columbia.

22 Q Cars of people from all walks of life?

23 A I had a friend walk up to a car and say, Do you
24 know the Stringfellows, because I know them? You
25 must know them because you have a sticker. And the

1 gentleman said, No, I don't. My daughter just
2 said, You have to put this on the car, dad. You
3 have to. I know who he was, but we weren't close,
4 but you have to put this on the car.

5 MR. GRIFFIN: Thank you. That's all I have,
6 Your Honor.

7 THE COURT: Anything further?

8 MS. O'BRIEN: Nothing further, Your Honor.
9 Thank you.

10 THE COURT: Thank you. You may step down.

11 (Witness steps down.)

12 THE COURT: Next witness.

13 MR. GRIFFIN: Your Honor, the Plaintiff rests.

14 THE COURT: All right, ladies and gentlemen,
15 that is the Plaintiff's case. I ask you all to
16 step to the jury room. I think we're about
17 through, but I need to address one matter with the
18 lawyers before we leave. So if you'll go to the
19 jury room for a few minutes. Do not discuss the
20 case.

21 (WHEREUPON, the jury retires to the jury
22 room at 5:30 p.m.)

23 THE COURT: All right. Concerning the note
24 from Juror Number 45: Scott Sawyer, the previous
25 witness, is my friend's uncle. Don't know if it

1 MS. O'BRIEN: I think we should be okay.

2 THE COURT: Well, with regard to requested
3 charges and the verdict form, you all need to
4 confer, narrow your differences. Maybe y'all can
5 agree. You're claiming comparative, so I don't
6 know if you can agree that it's a comparative
7 issue.

8 One of the issues we have tomorrow at the
9 Supreme Court, it's the very same thing, but it's a
10 products liability and strict liability case and
11 the issue is a certified federal question as to
12 whether comparative negligence can be raised as a
13 defense in a strict liability and breach of
14 warranty case. And that hasn't been determined in
15 South Carolina yet. But as it relates to
16 non-strict liability and a non-breach of warranty
17 case, it is a defense.

18 MR. GRIFFIN: Your Honor, there is -- when I
19 first started practicing law, there was a case I
20 was involved in that was contributory negligence
21 and strict liability. I forgot the name of the
22 case. I forgot how it turned out.

23 THE COURT: Yeah. Well, that's a big issue
24 now because all of the cases cited are cases while
25 we had contributory versus comparative, that's the

1 dividing line, so.

2 MR. GRIFFIN: Right.

3 THE COURT: But, you know, I need to know what
4 requested charges and the verdict form because if
5 it is a comparative verdict form, it is obviously
6 different than other types and we need to see
7 where --

8 MR. GRIFFIN: Your Honor, I think there are
9 some issues that we will alert your law clerk and
10 we'll have to address is they have raised an
11 affirmative offense of joint enterprise. And so at
12 the appropriate time, when they rest, I'll be
13 raising directed verdict on that issue.

14 THE COURT: Well, then that's the issue that
15 we have tomorrow is with imputed negligence. The
16 same type scenario, it's whether or not negligence
17 of a passenger can be imputed to the driver. And
18 you call it assumption of risk. It is basically
19 the same issue and under those circumstances.

20 MR. GRIFFIN: Then, Your Honor, we have a
21 collateral estoppel issue as well with regard to
22 the guilty plea on recklessness and punitive
23 damages. And I don't think in South Carolina the
24 case law -- even if there's comparative fault, it
25 doesn't reduce punitive damages.

1 this case. Okay?

2 JUROR SHINE: Yes, sir.

3 THE COURT: Very good.

4 Now, you've heard the Plaintiff's case. It is
5 now the Defense's turn.

6 Your first witness.

7 MR. LANFORD: Thank you, Your Honor. At this
8 time we would move to admit into evidence a
9 certified copy of the toxicology reports of John
10 Corey Stringfellow and Cameron Stringfellow.

11 MR. GRIFFIN: No objection.

12 THE COURT: It is admitted without objection.

13 THE COURT REPORTER: What numbers?

14 MR. LANFORD: Number 104.

15 (WHEREUPON, Defendant's Exhibit No. 104
16 was marked for identification and
17 received into evidence.)

18 MR. LANFORD: And, Your Honor, the Defense
19 rests.

20 THE COURT: Ladies and gentlemen, that is the
21 Defense's case.

22 Any reply?

23 MR. GRIFFIN: No, Your Honor.

24 THE COURT: All right. That means you have
25 heard all the evidence in the case.

1 Any additional matters of law?

2 MR. GRIFFIN: Yes, sir.

3 THE COURT: All right. I need to have you go
4 back to the jury room then as we discuss some
5 matters of law. If you'll leave the exhibits in
6 the courtroom. At the end of the trial, all
7 exhibits that are admitted in evidence will go to
8 the jury room, so you'll get a chance to see any
9 and everything that has been admitted into
10 evidence.

11 So please go to the jury room and leave those
12 here. And we'll have you come back soon,
13 hopefully.

14 THE JUROR: Okay.

15 (WHEREUPON, the jury retires to the jury
16 room at 2:39 p.m.)

17 THE COURT: Before we get to any additional
18 matters of law, did the Defense prepare a proposed
19 verdict form?

20 MR. LANFORD: We did, Your Honor. I believe
21 we have one that's been agreed upon by both
22 parties. Is that right?

23 MR. GRIFFIN: Well, we're not in full
24 agreement, Your Honor, but we're pretty close.

25 THE COURT: Let me see what you have. Let me

1 know what you disagree on and all that.

2 MR. LANFORD: We did a separate form for the
3 wrongful death and the survival.

4 THE COURT: Okay. What do you disagree with,
5 Mr. Griffin?

6 MR. GRIFFIN: Your Honor, I have no objection
7 to the layout with how they allocate fault. The
8 language used in Question Number 1 says, The
9 Defendant has admitted that he was negligent and
10 that his negligence was a proximate cause of the
11 death.

12 And part of my motion for directed verdict at
13 the conclusion of the case is that based upon the
14 Defendant's guilty plea to involuntary manslaughter
15 that the issue of recklessness has also been
16 determined as a matter of law and they can't
17 contest that.

18 As Doe v. Doe, 515 S.E.2d 257, says, Once a
19 person has been criminally convicted, he's bound by
20 that adjudication in the subsequent civil
21 proceeding based on the same facts underlying the
22 criminal conviction.

23 And so what I would add to the verdict form is
24 the Defendant has admitted he was negligent and
25 reckless as a result of the involuntary

1 manslaughter. Your Honor, an element that is
2 required is the doing of a lawful act with reckless
3 disregard for the safety of others.

4 THE COURT: We understand all that. Have you
5 discussed that with the other side?

6 MR. GRIFFIN: I just raised it briefly and --
7 but --

8 THE COURT: Is that a yes or a no or?

9 MR. GRIFFIN: I did, but when -- we were doing
10 that when Your Honor came on the bench.

11 THE COURT: Okay.

12 And what is your position regarding that?

13 MR. LANFORD: I think that is certainly -- a
14 guilty plea is certainly evidence of recklessness.
15 You're not collaterally estopped from -- I think
16 you're collaterally estopped from challenging
17 something that if you were guilty of something in
18 the criminal trial and you're being charged or
19 litigating that same issue in the civil trial.

20 THE COURT: Well, the law is pretty clear.
21 The question is he wants to add that to the form,
22 that he's admitted that he was negligent and
23 reckless --

24 Is that the word?

25 MR. GRIFFIN: Yes, sir.

1 THE COURT: Negligent and reckless, and that
2 his negligence and recklessness --

3 MR. GRIFFIN: Conduct.

4 THE COURT: -- was the proximate cause of his
5 brother's death, so.

6 MR. GRIFFIN: Right.

7 THE COURT: So we want to get the form
8 straight because we have to prepare the form, so I
9 need to know. If you agree, then fine. If you
10 disagree, then --

11 MR. LANFORD: I don't agree, Your Honor. And
12 the reason is --

13 THE COURT: So you disagree?

14 MR. LANFORD: I do disagree. You're allowed
15 to -- under the Jack v. Berberich case, you're
16 allowed to compare ordinary negligence with
17 negligence, recklessness, willfulness, gross
18 negligence. And all those terms are going to be
19 defined by Your Honor in the jury charge and that
20 question will be asked in the portion -- the
21 question on punitive damages, was the Defendant
22 willful, wanton, or reckless? Was such conduct
23 proximately a cause of the Plaintiff's damages?
24 And then that will give them an opportunity if they
25 want to award punitive damages. So I don't think

1 that's the proper place in the form.

2 Certainly, the jury is aware of the
3 allegations have been made. They've heard the
4 evidence. They will be charged on the definitions
5 of negligence, gross negligence, recklessness. I
6 think putting it in the form that the Defendant has
7 admitted that he was negligent and reckless, I
8 think that's confusing. I don't think that's the
9 law.

10 THE COURT: Well, hasn't he admitted all that?
11 Everything you said that the jury should decide
12 regarding punitive, hasn't he -- didn't he just say
13 yesterday that he admits that he was reckless,
14 willful, wanton, and that that recklessness caused
15 his brother's death?

16 MR. LANFORD: Certainly, that's evidence that
17 the jury can consider. I don't think we're
18 foreclosed from --

19 THE COURT: Well, you have to determine these
20 things as a matter of law, so whether you concede
21 or agree to it, or whatever, I have to make a
22 decision. So when it's time to present the
23 Defendant's case, you have put in a toxicology
24 report, and that's it. So is that any evidence
25 that contradicts the confession by Corey -- I'm

1 sorry, Cameron?

2 MR. GRIFFIN: Yes, sir.

3 MR. LANFORD: Again, we are just talking about
4 the verdict form, what -- in comparative
5 negligence, comparing the Decedent's negligence to
6 the Defendant.

7 MS. O'BRIEN: Your Honor, may I?

8 THE COURT: Yes.

9 MS. O'BRIEN: Here's the difference for me,
10 Absolutely Number 1 is correct. I think why --

11 THE COURT: It is correct in adding his word
12 reckless?

13 MS. O'BRIEN: No, sir. I don't think that you
14 ever need to add gross or reckless. And the case
15 law specifically says, the reason why you don't
16 need to add that and the reason why you don't get a
17 different, you know, question as to that is because
18 the judge specifically will define all of those
19 things. And when the judge defines all of those
20 things, you're comparing negligence to anything
21 else. So it doesn't need to be added in to say
22 someone was grossly negligent or someone was
23 regularly negligent.

24 THE COURT: You know what I hate about this
25 case? The fact that you -- as I said, we started

1 the case, there was nothing in the file but a
2 complaint and an answer. On Monday, or whenever we
3 started, I requested that you all provide me with
4 something -- your arguments, your cases, your
5 proposed orders, your proposed instructions. Then
6 you raised the issue last night. I said, well, my
7 clerk will be working overnight, and I'm thankful
8 that she did. You all provided nothing.

9 Then the Defense says, Well, we're going to
10 have six witnesses, three will be short. Well, the
11 jury will get the case about noon Thursday. Then
12 you came in and introduced the document and rested.
13 And now we're arguing these issues that can be
14 complicated legal issues. They're not simple. I
15 mean, Mr. Griffin is arguing his position. You
16 don't really know. You're arguing your position
17 and you really don't know. You haven't given me
18 anything for me to really know.

19 MS. O'BRIEN: Your Honor, may we --

20 THE COURT: But, nevertheless, I'm to then
21 give this to the jury and based on the results of
22 the case you all will be -- somebody will be down
23 at the Supreme Court saying the judge made an error
24 in this or that when the judge is being asked to
25 shoot from the hip and make a decision. And that's

1 unfair to the process. And that's what I don't
2 like about this case.

3 MR. GRIFFIN: And, Your Honor, I'm caught by
4 surprise. I had thought we were going to have a
5 charge conference this evening and address some of
6 these issues in the morning. And there are a
7 number of other legal issues that are at play on
8 the directed verdict relating to the effect of the
9 collateral estoppel issue on the guilty plea, the
10 joint enterprise defense.

11 And I agree that they can compare simple
12 negligence against gross negligence or
13 recklessness. I think the law allows a jury to
14 make that adjustment, but we've proven up here the
15 gross negligence and recklessness and he's admitted
16 to it criminally, and so they're bound by that.

17 And then there's -- so, Your Honor, in my
18 charges, and my motion is on a directed verdict is
19 for a finding of that based on the plea. And so
20 that if the jury finds actual damages, then there's
21 really nothing more for them to decide on
22 recklessness or clear and convincing evidence and
23 punitive damages. It's just -- I mean, if we get
24 an actual damages award, we're entitled to punitive
25 damages based on the record in this case and the

1 issue --

2 THE COURT: The law is that if the jury --
3 punitive damages are not discretionary.

4 MR. GRIFFIN: Correct.

5 THE COURT: Where the jury finds evidence of
6 recklessness, willfulness, and wantonness, the
7 statute says the jury must award punitive damages.

8 MR. GRIFFIN: Right.

9 THE COURT: The question is how much. So --
10 but it appears --

11 MR. GRIFFIN: I guess my request, Your Honor,
12 is there are issues -- I can give a closing
13 argument on the fly, do it all the time, but there
14 are issues that I think we all want to get right so
15 we don't have to do this again. I would suggest we
16 send the jury home and come back in the morning.

17 MS. O'BRIEN: Judge, let me just say, if we do
18 that, I have a daughter who has a birthday
19 tomorrow. I would request that I be allowed to
20 celebrate my daughter's birthday in the morning
21 before she goes to school, and that if we intend to
22 come back that we take a break.

23 THE COURT: Take a break?

24 MS. O'BRIEN: So I can celebrate her birthday
25 in the morning. That being said --

1 THE COURT: What time, at 8:00 o'clock
2 tomorrow morning, 7:30? What time does she go to
3 school?

4 MS. O'BRIEN: She goes to school at 7:30, so I
5 can be back.

6 THE COURT: Oh, yes. We're not going to be
7 here at 7:30.

8 MS. O'BRIEN: Your Honor, but this is my
9 position. We have been discussing the entire time
10 since we started this case and before joint
11 venture. We discussed joint venture last night
12 before we left with Mr. Griffin in between
13 Mr. Lanford and myself. He knew exactly what he
14 was going to argue about joint venture because, in
15 fact, he told me that he had case law on it. So
16 I'm surprised that he's not available to argue
17 about joint venture.

18 The only other issue we are talking about is
19 whether we are going to include the word gross
20 negligence or reckless in Question Number 1 and
21 then whether we are going to discuss it in
22 punitives, which I think we all agree --

23 THE COURT: Well, that's not all we're talking
24 about. You know, typically I prepare my charge, I
25 give the jury a copy of the charge, and the jury --

1 and they don't run back and forth between the jury
2 room and the courtroom asking me to redefine this
3 and redefine that because they have a written copy
4 of the charge in the jury room.

5 You know, I'd love to get this case over with
6 and have the jury decide the case, I'm sure
7 everyone would. So it appears; however -- I mean,
8 we started asking about the verdict form to see
9 whether you all were -- had an agreement on that.
10 I didn't think -- and, of course, your disagreement
11 is with one word that the other side sort of agreed
12 to.

13 MS. O'BRIEN: I think the only disagreement is
14 whether it's appropriate to put it in Question
15 Number 1 or whether the appropriate place is under
16 punitives.

17 THE COURT: Yes, well -- and, of course, I
18 haven't heard his motion for directed verdict. I
19 just started with the verdict form.

20 MS. O'BRIEN: I understand, Your Honor.

21 THE COURT: And you have answered the
22 question, there is a disagreement. You've given me
23 a copy for me to look at. I had Mr. Griffin's
24 yesterday. His was based pretty much on simple
25 negligence, which is -- so you all have the right

1 form, his on the wrong form. So you get one up on
2 that one.

3 MS. O'BRIEN: So can we talk about Number 1?

4 THE COURT: Well, that's what we're doing.
5 But rather than -- you know, I don't want to be
6 part of the 3-party debate. I just see where you
7 all agree and where you disagree. That's why you
8 have a judge, and the judge rules, and then you
9 move on to the next issue. But you all were
10 talking you may agree, you may not agree. I don't
11 know if you do or don't. But I need to hear his
12 directed verdict motion to the extent there are
13 disagreements.

14 MS. O'BRIEN: Okay.

15 MR. GRIFFIN: Yes, sir. At this point in time
16 --

17 THE COURT: I'm going to give y'all about --
18 since we're putting everything in fast-forward,
19 we'll take about five minutes.

20 MR. GRIFFIN: Yes, sir.

21 THE COURT: And let you all digest where we
22 are.

23 MR. GRIFFIN: Thank you.

24 THE COURT: And then we will come back.

25 MS. O'BRIEN: Your Honor, may we hand up --

1 and we've given it to opposing counsel -- the
2 Berberich v. Jack case?

3 THE COURT: Sure.

4 MS. O'BRIEN: Thank you, Your Honor. May I
5 approach?

6 THE COURT: Do you have proposed jury charges
7 as well?

8 MS. O'BRIEN: Yes, sir.

9 MR. GRIFFIN: Yes.

10 THE COURT: All right. You can hand those to
11 me too.

12 (Complies.)

13 MR. LANFORD: I think we have a general
14 agreement on the jury charges.

15 MS. O'BRIEN: Other than one.

16 THE COURT: Oh, good. Other than what?

17 MS. O'BRIEN: Other than, I think, one.

18 THE COURT: Other than one?

19 MS. O'BRIEN: Correct.

20 THE COURT: Which one is that?

21 MS. O'BRIEN: It's the collateral estoppel
22 that is his motion for a directed verdict.

23 THE COURT: Collateral estoppel, okay, so I
24 have to hear his motion.

25 MR. GRIFFIN: Yes, sir.

1 THE COURT: She's been trying to hand you some
2 papers, so that's why I'm taking a break.

3 MR. GRIFFIN: Thank you, Your Honor.

4 THE COURT: All right.

5 (WHEREUPON, a break was taken at 2:55
6 p.m.)

7 (WHEREUPON, the proceedings resumed at
8 3:16 p.m.)

9 THE COURT: I'm ready for you all right now.
10 Mr. Griffin, let me hear you.

11 MR. GRIFFIN: Yes, Your Honor. At this time,
12 I move for a directed verdict on the Plaintiff's
13 claims in the negligence cause -- in the wrongful
14 death action and survival action, that as a result
15 of the Defendant's guilty plea to involuntary
16 manslaughter, that the Defense is collaterally
17 estopped from litigating whether the Defendant was
18 reckless. Reckless is a higher degree of fault
19 than negligence, so anything below that is
20 encompassed within the plea.

21 The Plaintiff's claim --

22 THE COURT: Well, he's admitted all that.

23 MR. GRIFFIN: Right.

24 MS. O'BRIEN: To make it easier, we stipulated
25 to that.

1 THE COURT: Okay.

2 MR. GRIFFIN: Also, move for a directed
3 verdict on liability because there's no evidence in
4 the record from which a jury could find any fault
5 on behalf of the Decedent, Corey Stringfellow, or
6 that the Decedent, Corey Stringfellow, assumed the
7 risk of what -- of the nature of the act.

8 THE COURT: All right.

9 MR. GRIFFIN: And then lastly, Your Honor, we
10 move for a directed verdict on the defense of joint
11 venture, joint enterprise. And here, Your Honor, I
12 hand up a couple of cases.

13 THE COURT: Well, nobody is asking for me to
14 say, because I don't know, I didn't look at you
15 all's requests to charge. Is that in a request to
16 charge somewhere?

17 MR. GRIFFIN: Yes, the joint enterprise
18 defense.

19 THE COURT: Is that in here?

20 MR. GRIFFIN: Yes, it's in the Defendant's.

21 And, Your Honor, the case -- and I'll hand you
22 this. There are many cases on this point --

23 (Cases handed up.)

24 MR. GRIFFIN: -- but the one I'm handing up is
25 Pruitt v. Bowers, 330 S.C. 483, and the issue is a

1 2-part test of joint enterprise. The first part is
2 whether they had -- the people in the car had a
3 common purpose, but the more significant issue is
4 was there an equal right to control the operation
5 and management of the vehicle.

6 In the Pruitt v. Bowers case, Your Honor, a
7 case not unlike the factual scenario here, the
8 driver and the passenger, traveling together, they
9 were smoking marijuana together, the passenger was
10 helping pay for the fuel, et cetera. But the Court
11 found as a matter of law there was insufficient
12 evidence to find that the passenger had equal right
13 to control the management and operation of the
14 vehicle. And the witness -- the Defendant
15 testified during his trial just to -- to just that,
16 that he alone had the right to control the
17 operation of the vehicle. So we would move --

18 THE COURT: Well, let's look at this 1936
19 case. I gave a speech just last week about giving
20 me cases from the 1930s. But the case that they
21 handed up, it cites Funderburk v. Powell from 1936.
22 Of course, back then we had guest passenger law.
23 We had all kind of different laws --

24 MR. GRIFFIN: Yes, sir.

25 THE COURT: -- on the books. We had the

1 family purpose doctrine, all kinds of things.

2 MR. GRIFFIN: Well, the more recent case --

3 THE COURT: What year was that from?

4 MR. GRIFFIN: 1999.

5 THE COURT: All right. Good. At least you're
6 in the ballpark.

7 MR. GRIFFIN: Then there's a -- I've got some
8 earlier cases, Spradley v. Houser was a 1966 case,
9 and then Bolt v. Gibson is a 1954 case.

10 THE COURT: I need you to start right around
11 the time I went to law school, which was '73.

12 MR. GRIFFIN: It doesn't come up much, but
13 I'll hand these up.

14 (Cases handed up.)

15 THE COURT: All right. What else do you have
16 over there?

17 MR. GRIFFIN: Your Honor, I think that's it.

18 THE COURT: All right. I will hear from the
19 other side.

20 MS. O'BRIEN: Thank you, Your Honor. With
21 respect to joint enterprise, first of all, the good
22 news is in 1999, we know that joint enterprise
23 still exists. The difference --

24 THE COURT: How do we know that?

25 MS. O'BRIEN: Because in this case they

1 specifically talk about why joint -- when joint
2 enterprise is allowed and the factors for
3 determining it in South Carolina. And they lay out
4 those factors in 1999.

5 THE COURT: Just reiterate because I'm
6 listening and I can't listen and read it.

7 MS. O'BRIEN: The factors for joint enterprise
8 are that both parties have to be on a same mission,
9 same enterprise, going to the same place to kind of
10 do the same thing. In this case at hand, we have
11 testimony that all three boys got into the car for
12 the sole purpose of going to buy marijuana. So we
13 also have to have that the Decedent had the same
14 opportunity or had the same ability to control the
15 --

16 THE COURT: It says the right to -- this word
17 says equal right to control.

18 MS. O'BRIEN: Yes, sir, that is correct.

19 THE COURT: Not equal opportunity.

20 MS. O'BRIEN: That's correct, equal right.
21 And then in the 1999 case, the part where
22 Mr. Griffin said, And so and so and so and so, this
23 is what he left out. In that case, the passenger
24 told the driver to pull over and the driver
25 absolutely refused to. Then the passenger did not.

1 have a license and was not -- didn't have the
2 ability and was not supposed to be driving a
3 vehicle.

4 Then, in that case, the Court held that
5 because he didn't have the opportunity, he didn't
6 have the equal ability to drive the vehicle based
7 upon the fact that he says pull over, the driver
8 doesn't pull over, he can't control it, he doesn't
9 have a driver's license. The Court said and the
10 Court held in '99, no.

11 In this case at hand, we know that, in fact,
12 the Decedent had already driven a vehicle earlier
13 that night. We know that he had a driver's
14 license. We know that he had the ability to drive
15 the vehicle. And we know that there is absolutely
16 no testimony whatsoever that anyone told him he
17 couldn't drive. There was no testimony that
18 anybody told the driver to pull over and that the
19 driver refused.

20 So it's our position that we have met both
21 elements in this case, and in light most favorable
22 to the Defendant in this case, both elements stand
23 and it is a jury question to decide whether factors
24 Number 1 and factors Number 2 exist.

25 And, Your Honor, let me know when you're ready

1 for the next issue.

2 THE COURT: All right. I'm ready for the next
3 issue.

4 MS. O'BRIEN: With respect to punitive
5 damages, the Plaintiff's attorney is attempting to
6 argue that if the jury or if the judge says in this
7 case that there is willful and wantonness and there
8 is recklessness, which we've now stipulated to,
9 that a jury must award punitive damages.

10 I would like for Your Honor to specifically
11 look at Section 15-32-520, which is the section
12 dealing with punitive damages specifically --

13 THE COURT: Section 15?

14 MS. O'BRIEN: 32-520.

15 THE COURT: Yeah, that's the --

16 MS. O'BRIEN: That's the statute --

17 THE COURT: -- joint and several liability
18 law, isn't it?

19 MS. O'BRIEN: No, sir. That's Article 5. It
20 starts with 15-32-510, which starts with punitive
21 damages, and it was the statute that you cited
22 earlier this week as to the factors.

23 THE COURT: I'm sorry, I meant to say
24 bifurcated trial statute. Go ahead.

25 MS. O'BRIEN: Okay. So, well, Your Honor,

1 we've been talking about 15-32-520 and when and how
2 you can argue punitive damages and specifically
3 about whether they can go beyond arguing just
4 punishing the person, but punishing others.

5 And (d) specifically says: Punitive damages
6 may -- not must -- may be awarded only if the
7 Plaintiff proves by clear and convincing evidence
8 that his harm was the result of the Defendant's
9 willful, wanton, or reckless conduct.

10 The statute -- I also would cite to you the
11 bill that was specifically enacted in this case --
12 enacted in the State of South Carolina, which is a
13 bill from 15-34-30. It is a 1996 bill in South
14 Carolina that specifically says that punitive
15 damages may be awarded numerous times throughout
16 that statute when dealing with willful, wanton,
17 dealing with reckless behavior. There is
18 absolutely -- and the case that the Plaintiff's
19 attorney has handed up to you is a --

20 MR. GRIFFIN: I haven't handed up the punitive
21 case.

22 MS. O'BRIEN: I'm sorry. It is a -- well,
23 there's a case that he handed to us. It is a 1996
24 case. And the statute that was enacted -- '86
25 case, I apologize, Your Honor -- the statute that

1 was enacted was enacted in 2012. And the statute
2 that you have been referencing this entire case is
3 the 2012 statute that says numerous times punitive
4 damages may be awarded. There is no *must* as to
5 awarding punitive damages in the State of South
6 Carolina.

7 THE COURT: You're saying the statute is
8 amended or didn't exist or?

9 MS. O'BRIEN: No, sir. The statute was --
10 this statute that I am referencing was specifically
11 enacted in 2012. There are prior statutes that
12 were brought before -- the bill that was brought
13 before the House. And that bill -- give me just
14 one second, Your Honor.

15 Your Honor, I've got it right here. That bill
16 was 15-34-10. And it specifically says in 15-34-40
17 that punitive damages may be awarded only if the
18 claimant proves the Defendant is liable for
19 compensatory damages with aggravating factors, such
20 as fraud, malice, willful, wanton, or reckless, and
21 that the claimant proves the existence of an
22 aggravating factor by clear and convincing
23 evidence.

24 And, Your Honor, that bill was -- took effect
25 July 1st of 1996. And it specifically says it

1 applies to claims arising on or after that date.

2 THE COURT: As to what date?

3 MS. O'BRIEN: 1996. And then the prior
4 statute that we have been discussing was enacted in
5 2012. And, of course, our case took place in May
6 of 2013. So the 2012 statute would be applicable
7 to this case.

8 THE COURT: You said a lot. I don't know that
9 I agree with your interpretation of all that you
10 said. It's kind of difficult to digest on the fly
11 all that you said.

12 But I'll hear Mr. Griffin's response.

13 MR. GRIFFIN: Your Honor, the charges that
14 I've submitted on punitive damages is straight from
15 the Second Edition of the Anderson Requests to
16 Charge, which was issued 2016. And the cases cited
17 in the charge book, the case that's relied upon for
18 this proposition, is Broome v. Southeastern Highway
19 Contracting Company, 291 S.C. 93. And says, In
20 South Carolina, unlike most jurisdictions, award of
21 punitive damages does not rest in the discretion of
22 the jury, but is recoverable as a matter of right.
23 And that's what --

24 THE COURT: Does it cite the statute?

25 MR. GRIFFIN: It doesn't cite the statute,

1 Your Honor, in that case, but the charge does
2 cite -- well, I'm not sure if the charge does cite
3 the statute in the notes. But we have all the
4 notes here.

5 MS. O'BRIEN: And, Your Honor, I'm pretty sure
6 that when you read Ralph King Anderson's book, it
7 specifically says that it's not the law.

8 THE COURT: Well, I don't follow -- I don't
9 use his charge book. It's too wordy, so I never
10 bring that up. He's a great jurist, but I just
11 don't follow his book.

12 MR. GRIFFIN: Yes, sir.

13 THE COURT: What else you got?

14 MR. GRIFFIN: Your Honor, those are the
15 issues. Another point I would want to put on the
16 record on the joint enterprise issue, not only did
17 the Defendant testify that he alone controlled the
18 vehicle and that he -- that Corey had no control
19 over the vehicle, I believe that was the testimony,
20 but he also testified -- if you want to talk about,
21 you know, a common purpose, the common purpose
22 ended when he drove by the house and that he alone
23 chose to take a victory lap. And that that wasn't
24 part of this joint enterprise, if you will. They
25 were going to buy marijuana. They made it back to

1 the house and then Cameron Stringfellow on his own
2 set about to speed around the neighborhood.

3 MS. O'BRIEN: And, Your Honor, our response
4 would be to that that's why we specifically asked
5 him in his deposition and brought out on the
6 witness stand that he has testified under oath that
7 he thought he announced to the vehicle and to the
8 persons in the vehicle that he, in fact, was going
9 to take this victory lap. Again, in the light most
10 favorable to the Defendant, we believe that this is
11 a charge that should be presented to the jury.

12 MR. GRIFFIN: Your Honor, that was not his
13 testimony. They tried to impeach him from his
14 deposition testimony, where in his deposition, he
15 says, I thought I did, but I don't know. On the
16 stand he clearly said, I didn't say anything to
17 anyone.

18 MS. O'BRIEN: Thus, his testimony conflicts.
19 Thus, in the light most favorable to the Defendant,
20 it goes to the jury.

21 Your Honor, Page 15 of Cam Stringfellow's
22 deposition, Question: And did you -- Page 15, Line
23 6 -- Question: And did you announce to them in the
24 car that that was your intention? Referring to
25 driving around or gunning it. Answer: Um, I

1 thought I did, but, honestly, I'm not sure if I did
2 or did not.

3 THE COURT: Now, on this issue of punitive
4 damages, I had the same issue in a case in Horry
5 County, which was Magnolia North Property v.
6 Heritage, which was affirmed on appeal in 2012.
7 And in the case I had the same issue whether -- on
8 punitive damages. And in that case, the Court
9 says -- well, I charged the jury, If you should
10 find that the Plaintiff is entitled to recover
11 punitive damages in addition to actual damages, it
12 would be your duty to include such damages in your
13 verdict and award such an amount as you deem
14 reasonable and proper in light of the facts and
15 circumstances.

16 And the Court of Appeals says in there that:
17 The Court has previously held that in South
18 Carolina the award of punitive damages does not
19 rest in the jury's discretion, but is recoverable
20 as a matter of right. And they cited the case
21 Mr. Griffin just cited, Broome v. South Carolina
22 Highway Contracting Company and some other cases.
23 And cited also a Sample case v. Gulf, which is an
24 old case. It says in Sample, our Supreme Court
25 held there was no error in charging the jury that

1 it would have a duty to award punitive damages if
2 it finds that the Plaintiff's rights had been
3 consciously, willfully, and recklessly violated.
4 They cite a 1930 -- Sample is from 1937. But
5 that's the Supreme Court.

6 Under the subtle rule prevailing in this
7 state, punitive damages are awarded not only as
8 punishment for a wrong, but also a vindication of a
9 private right. And when under proper allegations
10 the Plaintiff proves a willful, wanton, and
11 reckless and malicious violation of his rights, it
12 is not only the right, but the duty of the jury to
13 award punitive damages.

14 So the statutes and things that you're reading
15 about what a jury may do, the law says that the
16 jury must award punitive damages where there's a
17 finding of recklessness and willfulness, as any
18 case where the Plaintiff has proven it, it's not
19 only the right, but the duty of the jury.

20 So now you were citing these legislative
21 things and amendments to this and that. And tell
22 me where that is no longer the law based on
23 whatever you just told me.

24 MS. O'BRIEN: Well, we've had the punitive
25 damages statute that has been amended. And, Your

1 Honor, I think in addition in 2012 and 2011 you
2 could award as much money as you wanted to for
3 punitive damages. In 2012 the law was changed.

4 THE COURT: This case is 2013 that I'm just
5 quoting.

6 MS. O'BRIEN: I thought you said we got it as
7 a 2012 case, Your Honor.

8 THE COURT: What year? What you got? Yes,
9 February 2012, you're right.

10 MS. O'BRIEN: Yes, sir. So the statute that I
11 am citing changed -- the cap on punitive damages,
12 it changed. And, you know, our position would
13 be --

14 THE COURT: You're saying 15-32-520, is that
15 what you're telling me?

16 MS. O'BRIEN: That's correct, 15-32-520, Your
17 Honor. Starts with 15-32-510. It's the statute
18 that you've been citing the entire trial.

19 (Pause.)

20 THE COURT: You know, among everything else,
21 we bring the jury in here at 2:30 and send them
22 right back there to sit for how long now? Let's
23 see, 15-32-520.

24 MS. O'BRIEN: Your Honor, do you mind
25 providing me the cite of the case that you're

1 citing, please?

2 THE COURT: Magnolia v. Heritage?

3 MS. O'BRIEN: Thank you.

4 THE COURT: Magnolia North Property Owners
5 Association v. Heritage Properties.

6 MS. O'BRIEN: Thank you.

7 THE COURT: Tell me where to start. Where in
8 15-32-520 -- is that the one you're banking on?

9 MS. O'BRIEN: Yes, sir.

10 THE COURT: The purpose of that was to set
11 forth when the right of a Defendant or whomever to
12 bifurcate a trial, which you all upon request have
13 had here. It's a bifurcated trial, clear and
14 convincing standard, factors for liability
15 determination.

16 MS. O'BRIEN: I'm actually starting from the
17 very beginning of that statute, Your Honor, that
18 sets forth the --

19 THE COURT: What statute?

20 MS. O'BRIEN: 15-32-510 starts the statute and
21 it --

22 THE COURT: 510?

23 MS. O'BRIEN: -- discusses the entire article
24 on punitive damages.

25 THE COURT: Claim for punitive damages must be

1 prayed for in a complaint. Amounts shall not be
2 specifically pled. The claim for punitive damages
3 must be pled, so not including the amount. That's
4 510. Well, read again what you think is the
5 importance of what you just said.

6 MS. O'BRIEN: (c) Punitive damages may be
7 considered -- may be considered -- if compensatory
8 or nominal damages have been awarded in the first
9 stage of the trial. (d) Punitive damages may be
10 awarded only if the Plaintiff proves by clear and
11 convincing evidence that his harm was the result of
12 the Defendant's willful, wanton, or reckless
13 conduct.

14 THE COURT: And you believe that that
15 conflicts with the Appellate Court finding I just
16 indicated to you that says that punitive -- that
17 the jury has a duty to award punitive damages if it
18 finds that the rights have been consciously,
19 willfully, and recklessly violated. You believe
20 that?

21 MS. O'BRIEN: Yes, sir. And I would akin it
22 to the case law that we handed up that specifically
23 said that you cannot go beyond punishing a person,
24 and they said take out all this or stuff. And then
25 you cited the same statute and said, Well, the

1 statute specifically says --

2 THE COURT: *Or others.*

3 MS. O'BRIEN: -- *or others.*

4 THE COURT: It's in the statute, right.

5 MS. O'BRIEN: Right. And so our position is
6 the statute says *may*. And under --

7 THE COURT: You through?

8 MS. O'BRIEN: Under everything I learned in
9 law school -- and I know Mr. Griffin doesn't think
10 I'm licensed in South Carolina, but I actually went
11 to the University of South Carolina. I learned
12 that when a statute says *may*, it's an option, and
13 when it says *shall*, it's a must. And under the
14 statute, it says *may*. Therefore, it is a factor to
15 be determined by the jury.

16 MR. GRIFFIN: Your Honor, the *may* language
17 there, I don't think that -- (c) changed the law of
18 South Carolina when they enacted the statute. But
19 what it's addressing is the standard of proof
20 that's required to get punitive damages here.
21 That's what is being addressed. It's only upon
22 clear and convincing evidence and not any lower
23 threshold test.

24 THE COURT: Later in the same case they go to
25 Campbell v. U.S., and that's the State Farm case

1 where the Supreme Court dealt with excessive
2 punitive damages and they even talked about
3 Mitchell, a certiorari case. And then they said
4 that: In other words, only after the jury has
5 evaluated the evidence and concluded the Plaintiff
6 is entitled to punitive damages that it becomes the
7 jury's duty to impose such damage on the Defendant.
8 This is precisely what the trial court in the
9 present case instructed. Because if you should
10 find the Plaintiff is entitled to recover punitive
11 damages in addition to actual damages, it will be
12 your duty to include such damages in your verdict.
13 And this instruction communicated to the jury that
14 it had discretion to determine the POA's
15 entitlement to punitive damages, and if entitlement
16 was so determined, the duty to award punitive
17 damages. So, and the appellant argues something
18 else, but.

19 And, you know, the legislature, they're down
20 there meeting for a day or two and they pass a lot
21 of laws and they create a lot of confusion for the
22 trial courts in some of the laws that they pass.
23 And the question is whether or not this use of this
24 word in passing a law that says rather than having
25 the jury be forced to decide actual and punitive in

1 one trial, any party or defense can request a
2 bifurcated trial and these are things that the jury
3 may consider in awarding punitive damages.

4 It's sort of whether or not that is
5 intentional reversal of everything that had been
6 clearly the law up to this point, or whether or not
7 it's just an inadvertent use of the word *may* and
8 whether the law still is that if the jury -- that
9 punitive damages are not discretionary once the
10 jury determines that the Plaintiff is entitled to
11 it. So if the jury says, Yes, you're entitled to
12 punitive damages, but, no, I'm not going to give
13 you any because we're not duty-bound under the law
14 to award punitive damages even if we find that the
15 Plaintiff is entitled to punitive damages.

16 MS. O'BRIEN: Your Honor, here would be my
17 thought process. If the jury finds that there's
18 reckless and wanton, or they stipulate to that --

19 THE COURT: I'm going -- the Court is going to
20 be finding that --

21 MS. O'BRIEN: Right.

22 THE COURT: -- because it has been admitted in
23 the testimony.

24 MS. O'BRIEN: Okay. So then the logic from
25 what you just said is, is that you have to tell the

1 jury that they have to award punitive damages.

2 THE COURT: Yes.

3 MS. O'BRIEN: Okay. So then why do we have
4 factors? Why do we have factors of the punitive
5 damages? And why does the case you cited say still
6 in there, *may* be awarded?

7 I also would like to just put in the record,
8 Your Honor, the Supreme Court case of Mellen v.
9 Lane, it is 377 S.C. 261, that addresses that
10 punitive damages may be awarded. I also would like
11 to put into the record --

12 THE COURT: I have no doubt that punitive
13 damages may be awarded. But once the jury
14 determines reckless, willful, and wanton conduct,
15 then whether it becomes a duty at that point to
16 impose it. You know, no one is required to find
17 anything in any case, but once the jury finds an
18 entitlement, then do they have a discretion to not
19 award it? Or if the Court directs the jury that --
20 on the issue of recklessness and willfulness and
21 wantonness, then -- and it becomes a jury duty to
22 determine the amount of punitive damages, not
23 whether or not there is entitlement to it. That's
24 why -- you know, that's why these things are not
25 sprung at the 11th hour. Everyone gets a more

1 measured opportunity to evaluate things.

2 MS. O'BRIEN: Your Honor, punitive damages has
3 been pled from Day One in this case and we've
4 denied that we owed punitive damages from Day One.

5 THE COURT: All right. Well, we made it to
6 3:50 at this point. We also have a law that jurors
7 are not to be instructed after 4:00 o'clock. So
8 we've about run out of this day anyway.

9 So I'm going to bring them in and let them go,
10 and we can continue talking. And we'll bring them
11 in at 9:30 in the morning to do closing arguments.
12 And we'll meet at 9:00 o'clock or 9:15 to announce
13 whatever.

14 Let's bring them in.

15 (WHEREUPON, the jury came into open
16 court at 3:51 p.m.)

17 THE BAILIFF: The jury is present, Your Honor.

18 THE COURT: All right. Well, ladies and
19 gentlemen, when you came today, we expected that we
20 -- or did not realize that we would have to review
21 some things outside of your presence before
22 proceeding with closing arguments. I guess that
23 the good thing in the case is that we started off
24 thinking it would be taking up the entire week, and
25 that we're now ready for closing arguments. But we

1 still have to discuss some other matters, and I
2 hate for you all to have to wait as we talk and
3 talk and talk. And there's an unwritten -- or
4 there's really an order from -- a suggestion from
5 the courts that we not give cases to juries after
6 4:00 clock. So if you were to hear an hour-long
7 closing arguments, have a jury charge, and all
8 that, you'd get the case about 5:30 or so, and that
9 would push us too deep into the evening.

10 So I'm going to let you all just leave and
11 come back in the morning, and we'll stay here and
12 continue to talk.

13 Oh, I thought you were in the foreperson's
14 seat, but that was that seat, huh? I'm sorry. I
15 usually look at that Number One seat. Okay, that's
16 the foreperson's seat. It moves around in
17 depending on what courtroom you're in.

18 By the way, Madam Forelady, how's the jury
19 doing?

20 THE FORELADY: Just fine.

21 THE COURT: Oh, great. I like to hear the
22 foreperson's voice as the spokesperson for the
23 jury. Good.

24 So we'll start at 9:30 in the morning rather
25 than holding you all any longer. We look forward

1 to your coming in and hearing closing arguments,
2 jury charge, and deliberating on this case
3 tomorrow.

4 So thank you very much. Have a good evening.
5 See y'all tomorrow morning at what time?

6 THE JURY: 9:15.

7 (WHEREUPON, the jury retires to the jury
8 room at 3:54 p.m.)

9 THE COURT: It appears -- it seems to me that
10 based on the evidence and admission that a directed
11 verdict can be made on the issue of recklessness as
12 requested. And I'm directing a verdict against
13 the -- in favor of the Plaintiff on the issue of
14 negligence and recklessness.

15 The comparative negligence still exists on the
16 issue of negligence because the jury could
17 nevertheless conclude that the passenger's
18 liability equals -- or passenger's negligence
19 equals the driver. I don't know how they possibly
20 can, but they possibly can. So that, therefore,
21 means that it appears that this joint enterprise
22 law exists such that it should be an issue for the
23 jury's determination.

24 With regard to -- the question remains open as
25 in finding that the Defendant was reckless, whether

1 or not the jury must award punitive damages or may
2 award punitive damages, we'll have to leave that to
3 determine in the morning.

4 On this verdict form, I am going to include
5 the word reckless as requested by Mr. Griffin. And
6 on Page 2 of it, of course the jury can still find
7 that Corey was more than 50 -- or 50 percent or
8 more. And in that event, my current thinking is
9 that the jury still determines the punitive damages
10 issue, but rather than saying, Does the jury find
11 by clear and convincing evidence that the Plaintiff
12 is willful and all that, I had already declared
13 that he is reckless and the proximate cause just --
14 but the first -- Number 4 would be, If the jury has
15 awarded actual damages, how much punitive damages
16 do you award? It can be zero or it can be a
17 million dollars. That will be up to the jury. I
18 need to view all of this, the law and all these
19 things that Mr. Lanford and Ms. O'Brien have passed
20 up and see how all that fits. I think it's kind of
21 academic. You have to convince them anyway, one
22 way or another, regardless of the form that I give
23 it to them on.

24 MR. GRIFFIN: Yes, sir.

25 THE COURT: I agree with the law as I was

1 affirmed in the Court of Appeals. In that case,
2 you know, that's a construction defect and they
3 admitted to building a shabby building and I -- and
4 that they were reckless, willful, and wanton. And
5 I gave them the law that it was the jury's duty to
6 award punitive damages because they found --
7 because it was initial recklessness and all that.
8 So whether or not this amended statute changes
9 things, we'll see. I mean, I've instructed juries
10 since that time in the same fashion and it hasn't
11 come back on any appeal. But it still -- the jury
12 would still have the -- even under that scenario,
13 they could still say zero. Well, technically, they
14 can't say zero.

15 MS. O'BRIEN: Correct.

16 THE COURT: They must say something.

17 MS. O'BRIEN: Right.

18 THE COURT: But we'll shake that out
19 overnight.

20 MR. GRIFFIN: Your Honor, just on the
21 verbiage. Again, there's some other issues that I
22 have.

23 THE COURT: Okay.

24 MR. GRIFFIN: And if you'll -- I'm looking at
25 the one that's 7180 civil action number. And on

1 the second page, Number 3, it says: Please state
2 the total amount of damages, if any, sustained by
3 the beneficiaries of the estate, Patricia and
4 Thomas Stringfellow, for the wrongful death of John
5 Corey Stringfellow.

6 And, Your Honor, they pick it up again in
7 Number -- down at the bottom in Number 5, they're
8 inserting the parents into this verdict form. And
9 the charge explains who the beneficiaries are. And
10 my request would be just state: Please state the
11 total amount of actual damages, instead of going on
12 further to --

13 THE COURT: You think the language should read
14 how?

15 MR. GRIFFIN: Just please state the total
16 amount of actual damages. Because on the prior
17 page, it says -- go to Question 3; If the
18 Decedent's percentage of the combined negligence is
19 50 percent or less, go to Question 3. Question 3
20 is: Please state the total amount of actual
21 damages.

22 THE COURT: So you would take out the names?

23 MR. GRIFFIN: Yes, sir. I don't really have
24 that much of a concern putting the names in
25 Number 3, but I do in Number 5. I think Number 5,

1 it should be -- is the punitive damages. I object
2 for them inserting the parents into this question
3 about punitive damages, amount of punitive damages.

4 THE COURT: You're absolutely right.

5 I mean, well, I guess I should hear from the
6 other side before saying you're absolutely right.

7 MS. O'BRIEN: We object.

8 THE COURT: Well, the purpose of punitive
9 damages is not to reward anyone, but to punish the
10 wrongdoer. So you would typically just say as
11 to -- If you have awarded punitive damage -- I
12 mean, actual damages, as I said, I would -- I'm
13 inclined to say: As to punitive damages we award
14 blank amount, without putting names in and all
15 that.

16 MR. GRIFFIN: Yes, sir.

17 MS. O'BRIEN: Your Honor, in every verdict
18 form I've ever seen, the Plaintiff and the
19 Defendant's name is listed out. And I have never
20 had anybody object other than this case where they
21 are trying to pull a fast one on the entire system.

22 THE COURT: Well, that sounds like your
23 closing argument, if you're going to give it.

24 MS. O'BRIEN: Well, our position is this, the
25 names need to be in there. If you want to take out

1 Patricia and Tommy Stringfellow, but the Estate of
2 John Corey Stringfellow are the people that are
3 seeking money and that is -- the jury needs to
4 understand that --

5 THE COURT: You can explain it to them if they
6 need to understand it.

7 MS. O'BRIEN: Okay.

8 THE COURT: You know, the verdict form is not
9 the forum for explaining things.

10 MS. O'BRIEN: So why do we put the word
11 Plaintiff and the Defendant in there?

12 THE COURT: Pardon?

13 MS. O'BRIEN: So then why do we have the word
14 Plaintiff and Defendant in the verdict forms?

15 THE COURT: So they'll know who the Plaintiff
16 is and the Defense is, as a reminder.

17 MS. O'BRIEN: And our position would be that
18 Number 3 and Number 4 --

19 THE COURT: I understand your position.

20 MS. O'BRIEN: -- and Number 5.

21 THE COURT: I understand your position. But
22 that's why I will determine the verdict form, and
23 the record will speak for itself beyond that.

24 MR. GRIFFIN: Your Honor, with the Court's
25 permission, I'll draft something working off their

1 document and circulate if it helps the Court.

2 THE COURT: All right. Yes, sir, please do
3 that.

4 MR. GRIFFIN: Okay. Thank you.

5 THE COURT: Submit it the way you think it
6 should be.

7 MR. GRIFFIN: Thank you.

8 THE COURT: And they will object and can
9 submit it the way they think it should be. And
10 then in the end I'll give it to them the way that I
11 think it should be.

12 MR. GRIFFIN: Yes, sir. I'll have that done
13 before 5:00 o'clock.

14 THE COURT: All right.

15 So what else do we need to talk about?

16 (Colloquy held off record.)

17 THE COURT: These are interesting issues,
18 interesting questions. You know, the use of every
19 word in a statute and every word in a case is so
20 important, so everyone has very legitimate concerns
21 and questions.

22 And, by the way, with regard to the case that
23 Ms. O'Brien wanted to be sure made a part of the
24 record, this Berberich v. Jack case, the contractor
25 brings a negligence action against a homeowner

1 after the contractor slipped and fell on a wet
2 ladder while working at the homeowner's home. So
3 the contractor sues the homeowner. And before the
4 case goes to the jury, the homeowner withdraws the
5 punitive damages claim, but still wants the judge,
6 Judge Russo, to explain to the jury the meaning of
7 recklessness, willfulness, and wantonness. And he
8 says, Well, no, I don't need to explain it since
9 you're not seeking punitive damages. And so the
10 Appellate Court reversed the Supreme Court right
11 here. Yes, Supreme Court. Case of first
12 impression.

13 And they had the question, Well, do we need to
14 explain all of these things if that's not -- if
15 they're not seeking punitive damages. Did the
16 judge error in not explaining the meaning of the
17 terms ordinary, negligence, gross negligence,
18 reckless negligence and wantonness? Since they're
19 claiming that the homeowner was reckless in leaving
20 a wet ladder on the sprinkler system and all that.
21 And so they reversed the judge for not giving those
22 definitions of those terms and says the trial court
23 should instruct the jury on the definition of these
24 various forms of negligence whenever requested by a
25 party. Because the jury instructions in this case

1 has the potential to confuse the jury, we reverse
2 and remand.

3 So it doesn't settle anything that much as
4 related to this case because in that case they
5 weren't seeking punitives. They withdrew it.

6 MS. O'BRIEN: Your Honor, I didn't hand that
7 case up for punitive damages, I handed that case up
8 with respect to not being -- that there's no reason
9 to add the word recklessness because the Court of
10 Appeals and the Supreme Court has held that the
11 judge will give instructions as to those
12 definitions.

13 THE COURT: Upon request in a case, the judge
14 should give those definitions. In this particular
15 case, anyway, because of the way the case was, they
16 basically wanted the -- the contractor lost the
17 case and they're saying, We lost because the
18 contractor may have been negligent and contributed
19 to falling from the ladder. The homeowner was
20 more -- was reckless, willful, and wanton and so
21 the jury should have compared the two things. And
22 the judge didn't give them that information.

23 So, you know, all these -- you know, this is
24 a -- once again, this is a first impression case.
25 So we'll get to the end of this case, and who knows

1 where we go from there.

2 MR. GRIFFIN: Thank you.

3 THE COURT: All right. We'll see you all in
4 the morning at 9:15. Going to let -- for me to
5 tell you all what I've decided on everything that
6 you've sent overnight and things that we've
7 pondered and researched and answering that
8 perplexing question that Ms. O'Brien has thrown at
9 us about whether a jury may or whether a jury must.
10 Yes, that's the question. That's interesting.

11 MR. GRIFFIN: Thank you.

12 THE COURT: All right.

13 (WHEREUPON, the proceedings were
14 concluded at 4:09 p.m.)

15 JANUARY 12, 2017

16 (WHEREUPON, the proceedings began at
17 9:50 a.m.)

18 THE COURT: Good morning.

19 MR. GRIFFIN: Good morning, Your Honor.

20 MR. LANFORD: Good morning.

21 THE COURT: Mr. Griffin, what's on your mind?

22 MR. GRIFFIN: Ready to go. I submitted our
23 proposed verdict form. I made a change to it this
24 morning, and I think you got that.

25 THE COURT: And Mr. Lanford tweaked it by

1 saying it came. I mean, that's the essence of what
2 you changed?

3 MR. LANFORD: I think there were a couple of
4 other changes. Mr. Griffin asked to compare fault
5 rather than negligence, change the verdict form to
6 say that.

7 THE COURT: To use the word fault instead of
8 negligence?

9 MR. LANFORD: It's confusing. It's not what's
10 charged. The definitions of negligence and all the
11 forms of negligence charged, that should be --
12 that's what we have in our proposed form.

13 MR. GRIFFIN: Well, I do think it's confusing
14 to limit it just to negligence. And the law is you
15 can compare, you know, all forms of fault, gross
16 negligence, recklessness, and negligence. And so
17 it's a comparative fault analysis. And here we
18 have a directed verdict on recklessness. Your
19 Honor, I would not want the jury to be confused
20 from this verdict form that they are limited to
21 comparing the lower level or least egregious level
22 of conduct involving Cam Stringfellow to comparing
23 Cam's negligence to Corey's negligence if they find
24 it. That's the concern.

25 MR. LANFORD: Your Honor, your charge should

1 say these all constitute negligence. That's what
2 the case law says. Reckless, willful, or wanton
3 conduct constitute merely a higher level of
4 negligence, and although the concepts are
5 technically distinct, they can be thought of as
6 extensions of the law. Your charge will define
7 these forms of negligence. It's all negligence,
8 and that's what should be in the verdict form.
9 Comparing negligence not fault.

10 In fact, there's a direct quote from Prosser
11 and Keeton in the Berberich case, Prosser and
12 Keeton noted the use of the terms negligence and
13 fault can cause confusion. We have a comparative
14 negligence system where the jury will be defined --
15 will be charged with the various terms that
16 constitute negligence. And then they will be asked
17 to compare the negligence of the Defendant and the
18 Decedent. So we object to Mr. Griffin's
19 substitution of the word fault for negligence.

20 THE COURT: This comparative negligence
21 verdict form is a standard form and uses the word
22 negligence, not fault. So his form is the better
23 form.

24 MR. GRIFFIN: Okay. Sure.

25 MR. LANFORD: And -- may I briefly?

1 THE COURT: Yes, sir -- Well, what else have
2 you got over there?

3 MR. GRIFFIN: That was the only issue.

4 THE COURT: So in relation to your -- in the
5 end, if any, that he had it, I'll go with that, not
6 the -- it's not mandatory that they award punitive.
7 It's going to be ultimately for the jury. I think
8 that the -- I don't think I should instruct the
9 jury that they must award punitive damages.

10 MR. GRIFFIN: Well, Your Honor, I think upon
11 the finding of a directed verdict on recklessness,
12 and that is the standard, then what's the jury
13 going to -- and then the charge is if there's a
14 finding of recklessness, you have a duty to award
15 punitive damages.

16 THE COURT: And I think that's probably --
17 probably the problem that was created because
18 the -- you know, I went back to determine the
19 origin of the charges I gave in the Magnolia North
20 case, and it wasn't based on statute, it was based
21 on case law and the case precedent, including all
22 the cases that you cited. So I think the structure
23 of that statute when they amended it creates enough
24 of a confusion. I think the best thing is not to
25 mandate that, but tell the jury that they may. I

1 don't think it will make a difference. I mean,
2 maybe it does, but I'm not going to tell them that
3 they must find punitive damages.

4 MR. GRIFFIN: Yes, sir.

5 THE COURT: It's going to be their finding.

6 MR. LANFORD: Your Honor, the only last
7 housekeeping matter, for the record, we need to
8 renew our motion for a directed verdict on the
9 conscious pain and suffering cause of action.

10 THE COURT: Okay. Well, you just made it.

11 MR. LANFORD: Yes, sir.

12 THE COURT: Okay. Well, I deny it again.

13 MR. LANFORD: Right.

14 MR. GRIFFIN: And, Your Honor, I -- we haven't
15 seen your jury charge, but their joint enterprise
16 charge was -- it left out the second component of
17 the test of joint enterprise about there has to be
18 equal right to control the operation and management
19 of the vehicle. So I e-mailed --

20 MR. LANFORD: We're fine with their charge,
21 Your Honor.

22 THE COURT: You're fine with their charge.
23 That's good.

24 MR. LANFORD: It wasn't in the e-mail.

25 THE COURT: Okay.

1 MR. GRIFFIN: Making progress.

2 THE COURT: Once there's an agreement, I'm
3 good. We nailed that part of it down. We'll use
4 what you said on joint enterprise. When did you
5 send it?

6 MR. GRIFFIN: I sent it -- Maggie Fox sent it
7 late yesterday evening.

8 THE COURT: We have it. All right.

9 MS. O'BRIEN: We just request it be shortened
10 a little bit because it is out of the Ralph King
11 Anderson with lots and lots of language.

12 THE COURT: You agree, but then you want me to
13 shorten it?

14 MS. O'BRIEN: Well, we agree with its general
15 terms, but I think it's very long.

16 THE COURT: That's why I don't use his charge
17 book because it just -- like he was -- as I recall,
18 he was kind of --

19 MR. GRIFFIN: Verbose.

20 THE COURT: Yeah, just goes on and on and on
21 about everything. You know, I don't like to give a
22 lot of examples, and it's just like this and this.
23 I agree with that, some of the -- in other words
24 this, in other words that. You know, I think it
25 ends up -- I don't like to give long charges, and

1 that would be one of the longest charges with
2 everything else. And you probably wouldn't want it
3 emphasized either by being so long.

4 MR. GRIFFIN: So, Your Honor, the test --
5 well, the most important point for us is that a
6 passenger must have equal right to control the
7 direction and management of the vehicle. And that
8 falls within the *in other words* section.

9 THE COURT: And I delete that *in other words*
10 paragraph?

11 MR. GRIFFIN: Well, that's my concern, the
12 first line, I'm fine, the second line, up until the
13 passenger.

14 THE COURT: You want that?

15 MR. GRIFFIN: Yes, sir.

16 MS. O'BRIEN: And, Your Honor, the Pruitt case
17 that Mr. Griffin handed up yesterday, I actually
18 think says it concisely and exactly what needs to
19 be said. To establish joint venture enterprise,
20 liability between driver and passenger in an auto
21 accident case, there must be a common purpose or
22 community of interest and a passenger must have
23 equal right to control direction and management of
24 vehicle.

25 THE COURT: So you no longer agree with the

1 charge?

2 MS. O'BRIEN: I don't. That's too long.

3 THE COURT: Mr. Lanford does and you --

4 MS. O'BRIEN: Well, we'd like to retract that
5 because it's too long and it's too confusing.

6 THE COURT: All right.

7 MS. O'BRIEN: Your Honor, may I also request,
8 if the verdict forms have been finalized, if I
9 could please get a copy of each verdict form,
10 please?

11 THE COURT: Yes.

12 MS. O'BRIEN: Thank you.

13 THE COURT: At what point in time?

14 MS. O'BRIEN: Prior to closing statements.

15 THE COURT: Prior to your closing statement,
16 you'll have it. I mean, we don't have an
17 instant -- we're sitting here. Where am I going to
18 get it from to give to you?

19 MS. O'BRIEN: We can take --

20 THE COURT: He just e-mailed it maybe five
21 minutes ago and now you want me to give you a copy
22 of it. I understand you wanting to have it, but.

23 MS. O'BRIEN: Your Honor, we actually e-mailed
24 it last night, but after talking to Mr. Griffin
25 this morning, we tweaked it a little bit. But,

1 Your Honor, I am happy to see if I can get someone
2 to print it and bring it to me.

3 THE COURT: Okay, great.

4 MS. O'BRIEN: Okay.

5 THE COURT: I'll give you a copy before we get
6 started.

7 MS. O'BRIEN: Okay. Thank you.

8 MR. GRIFFIN: Your Honor, there's a sentence
9 in the charge we submitted that is in the case
10 law -- and I believe it was in their proposed
11 charge, but says -- it does not follow it, because
12 several persons are occupants of the same vehicle,
13 they are necessarily engaged in a joint venture
14 within the rule.

15 THE COURT: Just a moment.

16 So you want me to give you -- I adopted your
17 co-counsel's verdict form; right?

18 MS. O'BRIEN: Yes, sir.

19 THE COURT: That you want me to give you a
20 copy of?

21 MS. O'BRIEN: Well, Your Honor, we have
22 numerous verdict forms. We have --

23 THE COURT: Well, why don't you get it from
24 your co-counsel? He sent it to me and he's sitting
25 next to you, and you want me to give you a copy of

1 it.

2 MS. O'BRIEN: Because, Your Honor, we weren't
3 sure if you were going to adopt that form, so we
4 have --

5 THE COURT: Go ahead. I'm sorry.

6 MS. O'BRIEN: We have numerous different
7 printed forms and now that you have verified that
8 that is the form that you intend to use, I would
9 like a clean finalized version, please.

10 THE COURT: Can you e-mail it to her? You're
11 sitting -- you both have computers. She's right
12 next to you.

13 MS. O'BRIEN: No, Your Honor, I have it. I
14 would like a hard copy. I have it on my computer.

15 THE COURT: I see. Well, it's not the duty of
16 the Court to become --

17 MS. O'BRIEN: I understand.

18 THE COURT: -- printers, in effect. If you
19 have it --

20 MS. O'BRIEN: I would respectfully request a
21 hard copy, Your Honor.

22 THE COURT: Okay. Thank you. We e-mailed
23 someone to bring us a hard copy. It just struck me
24 that you're asking me for something that I just got
25 from you.

1 MR. LANFORD: And, Your Honor, we were trying
2 to agree with Mr. -- we were trying to combine the
3 two and come to an agreement, and that's what I was
4 doing this morning.

5 THE COURT: All right. Someone else was
6 saying something.

7 MR. GRIFFIN: Your Honor, do you have a charge
8 book that I could use other than Judge Anderson's
9 book?

10 THE COURT: No. Well, you know, I use for the
11 most part our standard charges that are on the
12 internet.

13 MR. GRIFFIN: From the Supreme Court?

14 THE COURT: The Supreme Court's approved. Of
15 course, they approved it, then reversed a case
16 based on it being used just last week.

17 MR. GRIFFIN: Right. I understand.

18 THE COURT: I think in this case, it's just
19 there's not a standard template because of the
20 wrongful death and survival action contributory
21 negligence. And the Court -- and the negligence of
22 Cameron is admitted and his recklessness and he's
23 admitted that he caused his brother's death. Then
24 their defense, which is not his defense, the
25 Defense's position is that Corey was wrongfully

1 negligence and his own negligence contributed to
2 his own death. And so the jury then evaluates the
3 comparative negligence and they make a
4 determination.

5 MR. GRIFFIN: Right.

6 THE COURT: That's going to be the essence of
7 all the words I give them. So we'll take two
8 minutes and I'll get a hard copy for Ms. O'Brien
9 and everyone else. And what else?

10 MR. GRIFFIN: So, Your Honor, on the jury
11 charge on punitive damages, I take it you're not
12 going to charge if you find that by clear and
13 convincing evidence, then it shall be your duty to
14 award -- you're not charging that?

15 THE COURT: Let's see what it says. If you
16 find the Defendant's conduct was willful, wanton,
17 or reckless, you *may* award punitive damages. It
18 doesn't say you must.

19 MR. GRIFFIN: Yes, sir.

20 MR. LANFORD: And, Your Honor, will you be
21 providing counsel with a copy of your final charge?

22 THE COURT: It doesn't appear because it's
23 being changed up to the last minute, so I may not
24 have a final copy until it's time for me to charge
25 the jury.

1 MS. O'BRIEN: Your Honor, we would request a
2 copy so that if there are any objections to what's
3 being charged, we can note it.

4 THE COURT: Well, that request is denied. I'm
5 not going to let him sit around and debate papers
6 all day long.

7 We're going to take five minutes and we're
8 going to start with the jury.

9 MR. GRIFFIN: Thank you, Your Honor.

10 (WHEREUPON, a break was taken at 10:05
11 a.m.)

12 (WHEREUPON, the proceedings resumed at
13 10:15 a.m.)

14 THE COURT: Anything else before the jury
15 comes?

16 MR. GRIFFIN: Nothing from the Plaintiff.

17 MR. LANFORD: Nothing from the Defendant.

18 THE COURT: All right, bring them on.

19 (WHEREUPON, the jury came into open
20 court at 10:18 a.m.)

21 THE BAILIFF: The jury is seated, Your Honor.

22 THE COURT: Good morning.

23 THE JURY: Good morning.

24 THE COURT: Ladies and gentlemen, you have
25 heard all the evidence. It's now time for closing

1 arguments.

2 Closing by the Plaintiff.

3 MR. GRIFFIN: May it please the Court?

4 Counsel?

5 THE COURT: Yes, sir.

6 CLOSING ARGUMENT

7 MR. GRIFFIN: Madam Forelady, and ladies and
8 gentlemen of the jury, good morning.

9 The evidence is in now. And I have the
10 opportunity to review with you the law and the
11 facts that were presented in this case and discuss
12 with you how they fit together, the evidence that
13 you heard and the law that the judge will charge.
14 There are two very important components of any
15 case, the law and the facts.

16 Judge Newman is the judge of the law. The law
17 gives him the authority to tell all of us in the
18 courtroom what the rules are. And he will, at the
19 end of the lawyers presenting our respective
20 summations to you, give you what's called a charge
21 on the law.

22 I'll go over a little bit of what we expect
23 the law is and his charges will be, and then I want
24 to then discuss the facts that are in dispute for
25 you to decide, because you, ladies and gentlemen

1 are the judges of the facts.

2 Our forefathers set up this system of justice
3 that we have where whenever there's a factual
4 dispute, it's not decided by any one person, but a
5 group of peers in the community. And so we will be
6 asking you to evaluate the evidence as presented
7 and come to certain factual conclusions.

8 You will do that after Judge Newman has given
9 you the charge on the law and you've heard the
10 summations from the lawyers. And you will go back
11 to your jury room. And you'll be given exhibits.
12 And then you'll begin your deliberations. And I
13 encourage each of you -- each of you -- to
14 participate in the discussions during the
15 deliberations because it's very important. Very
16 important that every voice be heard.

17 And only after you have thoroughly discussed
18 the case, the evidence, that then you knock on the
19 door, tell the bailiff you have a verdict. Then
20 you'll be summoned back in here. We will all be in
21 here. And then we will -- your verdict will be
22 announced.

23 It's important for you to remember, though,
24 that you have to decide the facts of this case
25 based solely on what evidence was presented during

1 the trial. And it would be improper for anybody to
2 insert in your deliberations facts or assertions of
3 facts that you didn't hear in this courtroom.
4 That's one of the laws that we have. So that your
5 verdict, your verdict that you render will be based
6 solely on the evidence presented and the law as the
7 judge provides to you.

8 There is one set of facts that are not in
9 dispute. And this is, was Cam Stringfellow
10 reckless and negligent on the night of May 23rd,
11 early morning hours of May 24th, and as a result of
12 his recklessness and negligence, Corey was killed
13 and his parents have suffered tremendous damages
14 and grief as a result.

15 No one's disputing that now. That issue has
16 been decided. Cam Stringfellow has admitted his
17 negligence. He's admitted his recklessness. He
18 had pled guilty to involuntary manslaughter and he
19 pled guilty to DUI. And he admitted on the stand
20 that he was reckless that night. So that won't be
21 any decision that you'll have to decide.

22 But what will you be asked to decide? Well,
23 there will be simply four questions. One was, was
24 Corey's death his own fault? Was Corey -- did
25 Corey contribute to his death through his own

1 negligence? And, if so, how does Corey's fault
2 compare to Cam's admitted recklessness?

3 Now, one of the laws that Judge Newman will
4 charge you is, is the concept of comparative
5 negligence. And you will be given the opportunity,
6 if you were to find that Corey somehow contributed
7 to his own death, to weigh his negligence against
8 Cam's admitted recklessness, and you can apportion
9 fault. And that will be discussed with you by
10 Judge Newman, I suspect Defense counsel will do the
11 same, and I will discuss it again a little bit
12 later.

13 In addition to deciding was Corey's death his
14 own fault and if you thought he contributed in any
15 way, what percentage of fault was it, you'll also
16 be asked to determine what the amount of damages
17 are and what amount of exemplary or punitive
18 damages you wish to impose. So those essentially
19 are the four questions that you will be asked to
20 decide in this case.

21 Before I get there, I want to say a little bit
22 more about the law. We live in a country that's
23 governed by laws, not men. Laws apply equally to
24 everyone. You've heard the phrase, and it's not
25 something to be taken lightly, equal rights under

1 the law.

2 There are two laws that we're here about.
3 These laws create, one, a cause of action for
4 wrongful death; and the other, a cause of action
5 for survival, for the injuries of the person who
6 died. Their conscious pain and suffering can be
7 awarded to their estate after their death.

8 Judge Newman will charge you on the law on
9 wrongful death and survival. What's important for
10 you to understand is that the wrongful death
11 statute does not prohibit the personal
12 representative of an estate from suing family
13 members. Instead, the estate has the legal right
14 to sue a family member and the claim is equal under
15 the law as any other claim that may be brought
16 under the wrongful death statute against a complete
17 stranger.

18 Likewise, a survival statute doesn't have a
19 cart out for claims brought by the estate of the
20 deceased. Instead, the estate has a right and that
21 claim is equal under the law as to any claim that
22 the estate may have against a stranger.

23 Now, we are here pursuing the legal rights
24 granted under the law to the estate of Corey
25 Stringfellow. We certainly would have preferred

1 not to be here. But as you've heard, the
2 Stringfellows are strong and are standing up for
3 the rights granted to Corey, his estate, and them
4 under the laws of South Carolina.

5 We all knew it would be a very difficult and
6 emotional week for Tommy and Patti. But we didn't
7 expect that we would begin this trial with an
8 all-out assault accusing Patti of lying in the
9 opening statement from Defense counsel. Falsely
10 lying -- falsely accusing her of lying. And we
11 didn't expect opposing counsel to spend so much
12 time and effort trying to put Tommy and Patti on
13 trial.

14 Understand this, when the judge charges you
15 the law, you're given the rules, you will not be
16 asked to decide what, if any, Tommy and Patti did
17 that contributed to the death of their son. You
18 will only be asked to consider whether they have
19 suffered as a result of his death.

20 Whether Tommy and Patti should have or should
21 not have left an 18-year-old and a 16-year-old home
22 when they went to the beach is not an issue that's
23 relevant to liability and damages.

24 And whether Tommy and Patti knew that Corey
25 experimented with pot, which they did not, is not

1 an issue in this case. And who amongst us would
2 think that a parent grieves less over the death of
3 a child who experiments with marijuana than one who
4 does not?

5 What kind of music Corey listens to and what
6 pictures are in his phone are not issues that are
7 relevant to anything in this case. And who amongst
8 us would really think that a parent grieves less
9 over the death of a child because a child listens
10 to rap music, alternative music, than one who does
11 not?

12 These personal attacks on Tommy and Patti and
13 on the character of Corey are meant to distract you
14 from focusing on the law that applies equally to
15 them and to seek to persuade you to decide this
16 case on something other than the law. You will be
17 duty-bound to follow the law, and I know you will.

18 I want to talk about the survival claim. The
19 survival statute allows, as I mentioned earlier,
20 when someone is injured in an accident and they
21 pass away as a result of the injuries, the personal
22 representative of the estate may sue to recover the
23 conscious pain and suffering that the Decedent
24 endured before his death. But it has to be proof
25 of conscious pain and suffering. And on this

1 point, we bear the burden of proof. And it's the
2 burden that we bear that is beyond a preponderance
3 of the evidence.

4 Now, many of you have heard criminal cases and
5 you've heard beyond a reasonable doubt. This is a
6 much lower standard than that. This is beyond the
7 preponderance of the evidence. And imagine, if you
8 would, a stack -- two stacks of paper, 100 pages on
9 each side. One stack is my stack, one stack is the
10 Defense stack. If I take one piece of paper from
11 the Defense stack, put it on my side so that I have
12 101 pieces of paper, that is all the proof that's
13 needed to establish the burden of proof of
14 preponderance of the evidence, as opposed to a
15 criminal case where it has to be beyond a
16 reasonable doubt.

17 I'm going to review with you briefly what the
18 evidence was on conscious pain and suffering. It
19 is that there were multiple collisions on the night
20 of, early morning hours of May 24th. There was a
21 collision with the Cobalt, the white car. The car
22 then -- the BMW then careened up the hill further
23 than a football field. There was a collision with
24 a light pole. The car goes airborne. There's a
25 collision with not one tree, but two trees, and the

1 car rolls over, and Corey is in the back seat. And
2 on the second tree, he's crushed, but he didn't die
3 instantly. Corey suffered grievous fatal injuries,
4 but as you heard from Wesley Thompson, he's sitting
5 there holding Corey's hand as he's coughing up
6 blood. He's alive and he's suffering. Now, Corey
7 isn't here to tell us how bad it hurt, and no one
8 can tell us how bad it hurt.

9 We also presented evidence of the EMS
10 technician who said -- and that record is in
11 evidence. And one of the important things for you
12 to consider when you review that is the time. As
13 EMS Technician Andrew testified, Richland County
14 EMS received a call at 2:39. They got on the road
15 at 2:39. They got at the scene at 2:50. Corey is
16 alive. They leave the scene at 2:57. When they
17 put him in the back of the ambulance, that's when
18 his heart stopped. So according to this record,
19 from 2:39 to 2:57, Corey is alive, almost 20
20 minutes. And we don't know how long it took before
21 EMS received the dispatch. We do know Wesley was
22 holding his hand, coughing up blood, and then Cam
23 got back in the car and held his hand.

24 The other cause of action is for wrongful
25 death. Now, that's actually two separate lawsuits.

1 So you're going to get a verdict form for the
2 survival lawsuit and you're going to get a verdict
3 form for the wrongful death lawsuit. And as you
4 heard in the opening, the wrongful death lawsuit
5 is -- the damages there are the -- is the grief,
6 mental anguish and unending suffering experienced
7 by the parents of the loss of a child. Those are
8 the damages that are to be awarded under the
9 wrongful death claim. And there's no factual
10 dispute over Cam Stringfellow, through his
11 recklessness, caused the death of Corey
12 Stringfellow and Patti and Tommy's suffering.
13 There's no factual question about that at all.

14 So I get to this issue of comparative fault
15 where the Defense is blaming Corey for his own
16 death. And it arises in three different
17 categories. One category is this defense that
18 Corey was somehow controlling, had equal right to
19 control the car at the time of the accident. And
20 so it wasn't just Cam driving, it was Corey and Cam
21 driving, although Corey didn't have his hands on
22 the steering wheel, but yet he's equally
23 responsible for the operation of that vehicle.
24 That's called the joint enterprise defense, and
25 Judge Newman will give you the charge on that.

1 But you'll remember when Cam testified, the
2 first thing I did is get the pleadings out in this
3 case. The complaint, we went through it. He
4 admitted to being reckless. He admitted to what he
5 did. And then I got the answer out, and I went
6 through the defenses. And I said, Cam, did Corey
7 have equal right to control the operation of this
8 car? He said, No. He said, He was my little
9 brother and he tagged along with Wesley and me. I
10 was in charge. I had the keys. And I was driving
11 the car. And he wasn't telling me what to do, and
12 he didn't have a right to tell me what to do.
13 Corey is a 16-year-old kid. Cam's an 18-year-old.
14 Corey's a minor. Cam's an adult. Corey hadn't
15 been with him all day. You learned about Corey's
16 whereabouts. So there's really no evidence to
17 support any claim that Corey, who was in the back
18 seat of the car, was directing or had an equal
19 right to direct the operation of the car.

20 And another issue on this joint enterprise
21 that there's no proof of is that the occupants --
22 members of this enterprise have to be going about
23 doing something where they have a common purpose.

24 Now, you heard the testimony that the purpose
25 of the trip was to go see Morgan Vegdani to buy

1 some marijuana and return home to the Stringfellow
2 residence and smoke some weed.

3 Well, they made it back home to the
4 Stringfellow residence. And then Cam, on his own,
5 acting on an urge, decided he wanted to drive fast
6 and take a victory lap.

7 So whatever joint enterprise, joint activity
8 they were undertaking, it should have ended. The
9 plan was for it to end when they got back to the
10 house. Corey didn't have a right to control the
11 car. Corey didn't control the car. Although what
12 Corey did was, he watched out and he said, Watch
13 out for that white car. He was going too fast.

14 The other defense is that Corey was negligent
15 and that he -- it's a combination, but it's
16 negligence and that he assumed the risk because he
17 knew or should have known that Cam was too drunk to
18 drive.

19 Now, one of the things that's pretty clear and
20 you should understand is that lawyers' arguments
21 are not evidence. When Ms. O'Brien stood up here
22 in her opening argument and she said that she will
23 prove that Corey was told not once, not twice, but
24 three times, Don't let Cam drive, she promised you
25 that she was going to present you evidence. And

1 what did she leave you with? Nothing but broken
2 promises. False allegations of lying against Patti
3 and broken promises to you. Because when it's
4 their time to put up or shut up, they shut up.

5 Well, they have for you a SLED toxicology
6 report. That's their evidence of their case. Now,
7 what does this mean? They're numbers on a paper.
8 But what -- and you'll see in here, there's a test
9 for Corey. And the registration level for test for
10 Corey for alcohol is .010. Not .10, it's .01.
11 It's not .08, it's .01. Ethanol? Corey has zero.
12 Zero.

13 Now, on this report, there's also a report
14 that Corey has THC in his blood system. The result
15 says 6.5 UGL, and the threshold is 2.0. What does
16 all that mean? We don't know. There's no evidence
17 about what all that means.

18 We presented evidence that Corey and his
19 buddies, Cam Bohannon and Dillon Wood, experimented
20 with weed about 9:00 o'clock, five hours or more
21 before this accident. That's all the evidence
22 there is in the record.

23 What does it say about Cam? It says Cam's got
24 some marijuana in his system, but it's less than
25 Corey's. And we heard that more than once. So

1 he's got a 4.1, and the threshold is 2. No one
2 knows what that means. It doesn't say when Cam
3 smoked. Cam testified he didn't smoke that day,
4 and no one has said that he did.

5 Now, Cam does have an alcohol level of .186,
6 which is too much alcohol to be drinking and
7 driving.

8 But what's the evidence on how well he was
9 driving? The evidence on how well he was driving
10 is that he drove to the movie theater in Sandhills
11 safely without any accidents and without concerns
12 to Wesley Thompson, his best friend and passenger.
13 Returned home safely without any accident or
14 without any concerns to his passenger, Wesley
15 Thompson. And then they leave and they go to this
16 residence on Windmill Orchard. The evidence is
17 drove safely there. No problems, no concerns to
18 the passenger, Wesley Thompson, who's a smart kid.
19 He's at Dartmouth. Nothing alarmed him to want to
20 get out of the car. And then they all get back in
21 the car and drive to 83 Cowdray Park in Wildewood.
22 And they make it back. They made it back without
23 any problems.

24 And then apparently Cam felt safe that he made
25 it home and he decided he was going to take a

1 victory lap. And up until that point -- he acted
2 on spur of the moment. He had not been driving
3 recklessly. He had not made anybody afraid. And
4 then unannounced to anyone, he floors it. Acting
5 on an urge, throwing caution to the wind.

6 Now, no one in that car assumed the risk that
7 Cam was going to take a victory lap and go up to
8 90 miles an hour in a 25-mile-an-hour speed zone.
9 There was no race. There was no drag racing. It
10 would be a whole different story if this was a drag
11 race and they pile in the car for a drag race.
12 It's not what the facts are in this case. They
13 made it home safely. Then Cam, on his own, decides
14 to take a victory lap.

15 You're going to ask -- if you find that Corey
16 contributed to his own death, that he was somehow
17 at fault, that he was negligent, you're going to
18 ask -- you're going to have to compare that
19 negligence to Cam's recklessness, which he's been
20 adjudicated of. And the judge has directed a
21 verdict in this case that Cam was reckless.

22 So what's the difference between negligence
23 and recklessness? Judge Newman, again, will charge
24 you on that, but negligence is carelessness.
25 Negligence is failure by omission or commission to

1 exercise due care as a person of ordinary reason
2 and prudence would exercise in the same or similar
3 circumstances. Negligence is carelessness.

4 What is recklessness? It's a form of
5 negligence, but it's a much higher degree of
6 negligence. It's the highest degree of negligence.
7 And it implies that doing a negligent act
8 knowingly, signifies a conscious failure to
9 exercise due care, conscious indifference to the
10 rights of the Plaintiff, reckless disregard for the
11 rights of the Plaintiff, awareness of wrongful
12 conduct, continuation of an act regardless of the
13 consequences.

14 The best way I know to try to help you folks
15 and me visualize this is a game that my 12-year-old
16 son and I play, and I played with my 26-year-old
17 daughter and my 24-year-old daughter and my
18 20-year-old daughter. I'm not good at card games.
19 And the only card game I play with them is Battle
20 where -- I don't know if you're familiar with it,
21 but you split the deck of cards in half and you lay
22 the cards down and whoever has the highest number
23 picks up the other's card. And then if you end up
24 putting the same cards down, then you pick three or
25 four or five more cards and then you pick the

1 highest card.

2 Now, the reason I'm saying that is because you
3 envision this concept of negligence and
4 recklessness. In a deck of cards, recklessness is
5 the ace of spades. There's no stronger card in the
6 deck. Negligence can come from one to ten. And so
7 if you're asked to compare negligence with
8 recklessness, you're comparing cards, ten or less,
9 with the ace of spades.

10 Now, on the jury instructions and the verdict
11 form, you'll see, you'll be asked if you find Corey
12 is at fault, and we don't believe the evidence
13 supports that finding, but you'll be asked to
14 allocate percentage of fault. And you should know
15 this, if you determine that Corey in the back seat
16 was more than 51 percent at fault, that he had an
17 ace or some card higher -- well, an ace would be
18 50 percent at fault. If Corey had an ace and Cam
19 had an ace, 50 percent, that's two recklessness.
20 But if you were to find that Corey was 51 percent
21 at fault, then you would have to find for the
22 Defense. The evidence does not support that in any
23 stretch of the imagination, but I suspect you'll
24 hear arguments for that.

25 One factor you also -- the law also considers

1 is -- when determining whether someone is negligent
2 is, are they an adult or are they a minor? And
3 you're entitled, the law provides, to consider the
4 fact that one is a minor and that their conduct may
5 or may not be judged as an adult. That's for you
6 to decide.

7 What did we hear in this case, is that Corey
8 looked up to Cam, followed Cam, followed Cam's
9 lead. Cam led Corey out that night. Big brother
10 wanted to be -- little brother wanted to be with
11 big brother.. Who can fault him for that?

12 Now, as you work through this verdict form
13 that I mentioned, there's -- And, Madam Forelady,
14 you will have it, obviously you will be required to
15 fill it out. And what it says is, the Defendant
16 has admitted his negligence -- and this is the
17 wrongful death one -- and that his negligence was a
18 proximate cause of Corey Stringfellow's death. But
19 then there's a question. Do you find by a
20 preponderance of the evidence that the Defendant,
21 John Corey Stringfellow, was also negligent and his
22 negligence was a proximate cause of his death? So
23 it sort of flips. The first question you're going
24 to ask is not whether the Defendant was responsible
25 for this accident, so that's admitted. The

1 question you're going to ask is did Corey -- was he
2 also responsible for his death? And then you have
3 a yes or no. The evidence, I submit to you, is,
4 no, he was not responsible in any form or fashion
5 for his own death.

6 So then if the answer is no, then you go to
7 Question 3, which is a discussion about fill in the
8 amount of damages. And you go to Question 4 and
9 you fill in the amount of punitive damages.

10 The survival lawsuit has one extra question.
11 It's laid out the same way. Your answer should be
12 the same as to whether there is fault on behalf of
13 Corey. I submit there's no evidence of fault on
14 behalf of Corey and that Corey caused his own
15 death. And that you would say no and you would go
16 to the third question. But if you were to
17 determine there's some amount of fault, it would
18 apply equally to both. Five percent. I hate to
19 suggest it because there's no evidence to support
20 any fault on behalf of Corey. That is a lawyer
21 making promises that were empty and broken is what
22 you got from the Defense.

23 And you would then go to damages. And now
24 we're talking money. We're talking money because
25 there's no magic. Is anyone so callous to believe

1 that if the jury could wave a magic wand to return
2 Corey to his mom and dad we would be in here
3 talking about money? No. What you would witness
4 is this couple emerge immediately from the depths
5 of their despair to the heights of happiness and
6 leave this courtroom bound together as the family
7 that they once were. But there is no magic,
8 there's only despair. There's no magic, there's
9 only reality. Since there's no magic in our
10 justice system, we have to speak of money.

11 Now, opposing counsel will warn you against
12 sympathy, and we agree. We do not want sympathy,
13 because sympathy is demeaning. Sympathy is like
14 charity. It is demeaning. And, believe me, Tommy
15 and Patti have received sympathy. They received
16 sympathy at Corey's funeral from over 1600 people.
17 They received sympathy when they went back to work
18 and shed tears with their co-workers. And they
19 received sympathy when they went back to church and
20 hugged their pastor and all their church members.
21 They have received enough sympathy to last 10
22 lifetimes. We are not here for sympathy. We are
23 not here for sympathy. We're here for justice.
24 We're here for justice for Corey and we're here for
25 justice for Patti and Tommy.

1 Now, I want to talk about justice for Corey
2 and the pain and suffering and damages that he
3 experienced. I talked about the fatal injuries
4 that he had, the time period, and that Corey did
5 not live to tell us the pain that he endured. And
6 there is no mathematical formula for the measure of
7 pain and suffering that Corey endured. And he
8 can't provide us the answer to the question. But
9 you will in your verdict.

10 Verdict is from the Latin phrase veredicto.
11 It means to speak the truth. And so you in your
12 verdict will determine what a just award is for
13 Corey's pain and suffering that he experienced 20
14 minutes or more before he died as he's careening up
15 the road, hitting the lamppost, tree, tree, and
16 encroached in the back seat, coughing up blood and
17 holding the hand of Wesley, and then his brother.

18 Now, the wrongful death damages. In
19 evaluating the wrongful death damages, I ask you
20 don't look at the life that was lost. Instead,
21 look at the life that will never be since there's
22 no magic. Examine closely the reality, the reality
23 of Corey's loss of society, participating in Tommy
24 and Patti's -- every phase of their lives. The
25 reality of the loss of Corey's companionship and

1 the reality of experiencing mental anguish every
2 day of their lives. The reality by which you must
3 measure with money in this case because there is no
4 magic, as parents never again will share the daily
5 joys, fears, hopes, and tears of Corey. This gift
6 of God for this fine couple. The reality is Tommy
7 and Patti waking each day of their lives with the
8 realization that Corey is gone forever. Reality is
9 watching their friends' children, Corey's friends
10 is a constant source of devastating, devastating
11 mental anguish to this couple, who lay awake at
12 night and think of the life that Corey will never
13 have. The reality is they will never know if Corey
14 would have fallen in his father's footsteps, if he
15 would work at San Diego zoo or any attraction. Or
16 would he have followed in his mother's footsteps?
17 Or, more likely, would he join the Peace Corp and
18 try to make things right? They will never know.

19 The way he lit up their lives in the short
20 time he was here on earth is the reality. And the
21 reality is Patti will never hear again the four
22 most beautiful words in the world: I love you,
23 Mama. The reality is that Tommy and Patti will
24 never hear Corey say, Mom and dad, this is the girl
25 I'm going to marry. The reality is that Tommy will

1 never get a call from Corey saying,
2 Congratulations, Granddad, it's a boy or a girl.
3 The days of joy, birthday, Mother's Day, Father's
4 Day, Christmas, Thanksgiving are all now days of
5 mourning and pain for Tommy and Patti.

6 We speak of money because there is no magic,
7 only reality. And when speaking of money, I ask is
8 two and a half million dollars enough? Counsel
9 will say that two and a half millions is too much.
10 Ladies and gentlemen of the jury, we live in a
11 society where paint on a canvas sold for
12 106 million dollars. Why? Because it was the work
13 of a master, Pablo Picasso. If this were a lawsuit
14 for the negligent destruction of that Picasso and
15 the jury only awarded 53 million dollars, that
16 would not be justice. That would be half justice.
17 And a half justice is injustice.

18 What we've lost here is a creation from God,
19 our Father, the greatest Master of all, a human
20 child. Is a human child worth at least two and a
21 half million dollars? The answer is priceless. He
22 is priceless. We cannot replace him, but we have
23 to talk about money because there is no magic.
24 Counsel says two and a half million dollars is too
25 much to replace the loss of a priceless child. In

1 a society where two men just recently, Floyd
2 Mayweather and Manny Pacquiao, split a 200 million
3 dollar purse for a twelve bout prize fight, which
4 they were slugging each other for less time it's
5 going to take than for us to do these closing
6 arguments. That's the type of society we live in.
7 Is two and a half million dollars adequate
8 compensation for the loss of a child?

9 If this lawsuit were not over the death of a
10 child, but the death of a magnificent race horse,
11 American Pharoah, the last one to win the Triple
12 Crown, the owners would be able to come in and
13 prove that that horse is worth at least
14 \$100 million. If a jury only awarded \$50 million
15 for that horse, that would be half justice, not
16 justice. And half justice is injustice.

17 But we're not here about paintings and race
18 horses and boxers, we're here about the world's
19 most precious commodity, the life of a child. And
20 what is the loss of the life of a child and the
21 parents suffering over it? In this case, full
22 justice demands two and a half million dollars in
23 actual damages. Full justice, not half justice,
24 not injustice.

25 You'll also be given the opportunity to award

1 punitive damages, sometimes called exemplary
2 damages. And one -- and I mentioned in my opening
3 statement to you, one component of punitive
4 damages, exemplary damages, you make an example out
5 of the Defendant for his reckless conduct, which
6 has been admitted in this case, so that others
7 learn from it and not engage in the same behavior,
8 to serve as a deterrent. And I do not want for one
9 second to suggest to you that Cam Stringfellow
10 hasn't learned his lesson, but punitive damages are
11 not just for Cam. It's to make an example of Cam
12 to deter others, who hopefully won't make the same
13 tragic mistake. And you now have the power to
14 enter an award of punitive damages that will be a
15 deterrent.

16 As jurors you serve the conscious of this
17 community and you can send to choose a message, a
18 message that is heard in this courtroom. You could
19 send a message loud enough to be heard in the legal
20 circles of people who follow what goes on in
21 courtrooms. Or you can send a message that's loud
22 enough to ensure that teenagers and college kids
23 throughout this state will hear about this case,
24 will learn of this tragedy and will think twice
25 before acting on an urge to go fast after drinking

1 and driving. You have the power to make an example
2 of Cam so that perhaps others will not have to live
3 the hell on earth that Patti and Tommy Stringfellow
4 are going through.

5 To make that example loud enough to be heard
6 in this day and age, it has to be seven figures.
7 And I would suggest that that example, which has to
8 be seven figures, is at least three times the
9 actual damages you decide on Corey's survival claim
10 and three times the actual damages that you decide
11 on the wrongful death claim.

12 Now, I appreciate you listening to me. You
13 will be -- after I sit down, Ms. O'Brien will get
14 up, I believe, and present the Defense summation.
15 As you've kept an open mind while I'm talking, I
16 will request you keep an open mind while she's
17 talking. And then I will have one last opportunity
18 to come up and reply to what she -- the points that
19 she has made. Thank you for your attention.

20 THE COURT: Ladies and gentlemen, we'll take a
21 few minutes before proceeding. Please go to the
22 jury room. Please do not discuss the case.

23 (WHEREUPON, the jury retires to the jury
24 room at 11:00 a.m.)

25 THE COURT: We'll take five minutes or so.

1 (WHEREUPON, a break was taken.)

2 THE COURT: Bring the jury.

3 (WHEREUPON, the jury came into open
4 court at 11:12 a.m.)

5 THE BAILIFF: The jury is seated, Your Honor.

6 THE COURT: By the Defense.

7 MS. O'BRIEN: May it please the Court, Your
8 Honor?

9 THE COURT: Yes.

10 CLOSING ARGUMENT

11 MS. O'BRIEN: Ladies and gentlemen of the
12 jury, every single person in the box and every
13 single person in this room will agree this was
14 absolutely a tragic and horrific accident. Not one
15 mother, not one father should ever have to go
16 through what these parents have gone through. We
17 all can agree on that. I can promise you, you will
18 not ever, ever hear me say that anybody deserved
19 this or that anybody is not in pain. It is
20 absolutely tragic.

21 But the judge is going to tell you, you cannot
22 make a verdict, you cannot render a verdict based
23 upon sympathy. You have to -- when you walk out of
24 that room, you have to leave your sympathy right
25 where you are sitting. Because the law says you

1 can't return a verdict based upon the fact that you
2 feel sorry for someone or if you were in their
3 shoes that you would feel bad. You have to return
4 a verdict based upon the evidence and what the law
5 says. So let's talk about the evidence.

6 The Plaintiff's attorney keeps saying, That
7 attorney over there, me, called the mom a liar. I
8 did not call Ms. Stringfellow a liar. What I did
9 say is that Ms. Stringfellow and Mr. Stringfellow
10 testified under oath that they had zero clue that
11 their child, Corey or Cam, had ever drank underage.
12 They testified under oath that they had zero clue
13 that their son, Cam or Corey, had ever engaged in
14 smoking pot or in illegal drugs. And what I am
15 convinced of and what I am confident you are
16 convinced of is that was not a true statement.

17 The facts of this case show that within less
18 than one month of Corey Stringfellow dying, that he
19 sent a text to Ms. Toni and said, Ms. Toni, I
20 wanted to say I am sorry. I'm sorry for bringing
21 beer to the farm. I thought we would be smart
22 enough to throw it away. It won't happen again.

23 And then Ms. Toni texted him back and says, No
24 worries. Hope you don't get in trouble. I only
25 told your mom because I thought it was funny that

1 y'all threw the cans in the woods by the barn where
2 they were so easy to find. Smiley face. Got to
3 learn to cover your tracks. LOL. Which means
4 laughing out loud.

5 Ms. Stringfellow knew that her son was
6 drinking underage. But what did she tell you?
7 What did she tell you on the witness stand? No, it
8 wasn't I, it wasn't Corey, it was we. No, it says,
9 I'm sorry for bringing the beer to the farm. Well,
10 we don't know if he was drinking it. Okay. So you
11 bring beer to the farm and you throw the cans in
12 the woods, but you don't drink them.

13 And then what did Mr. Stringfellow tell you?
14 Well, there's no video of him drinking. No, there
15 is no video of him drinking. But if you get a call
16 from a parent that says, Hey, your kid brought beer
17 to the farm and I found the beer cans next to the
18 barn, that's a pretty good indication that your kid
19 is drinking underage.

20 Then, there's a text between her and Corey
21 where she says, I smell a sweet herb smell. What's
22 the explanation for the sweet herb smell? It was
23 Clove cigarettes. You are going to lock the doors
24 and you are going to tell the kids they can't leave
25 and you are going to let the kids know that they

1 can order food? But it's just Clove cigarettes.

2 Then the next day there's a text. I'm so
3 sorry for what I did. Please forgive me.

4 Then about two weeks later there's a text
5 where she says, Don't do what you did that night.
6 Don't do that again with another -- at another
7 parent's house.

8 Then we have her texting Corey: No smoking
9 and no driving. She didn't mean no smoking Clove
10 cigarettes. She didn't mean no drinking Kool-Aid
11 and sweet tea. She meant no smoking and no
12 drinking.

13 Then there are texts about no drinking and
14 driving. There are texts about no smoking.

15 Then we know that her and her husband
16 testified that they locked the liquor cabinet every
17 single time they left the house. Why did they lock
18 the liquor cabinet? Not because Cam was drinking,
19 not because Corey was drinking, it was because the
20 pet sitter was drinking. It was because the
21 babysitter was drinking. Both parents testified
22 that they counted the beers constantly. Not
23 because Cam was drinking the beer, not because
24 Corey was drinking the beer, it's because the pet
25 sitter and the babysitter were drinking the beer.

1 Then when the kids snuck out in the middle of
2 the night and the police had to bring them home --
3 that's why she was locking the doors that night,
4 remember? -- it's because everybody else snuck out.
5 When Corey woke up at 5:30 or 6:00 that morning, he
6 looked around and said, Where are my friends? He
7 thought they had already left and gone home.

8 Ladies and gentlemen, the texts, the pictures,
9 the pictures in the phone of marijuana, of bong,
10 of joints, according to Mr. Stringfellow, that's
11 not pot, that's incense. They were lighting
12 incense. It's not believable. They were aware
13 that their children were drinking underage and were
14 smoking pot.

15 Whenever Corey sent his dad a text right after
16 his 16th birthday, Can I have a cold beer? The
17 response was, No. Not, No, son, you can't drink,
18 you're not legal. Not, Ha-ha, that's funny, but
19 no, you're not drinking. Just a simple, No, not
20 tonight.

21 Ladies and gentlemen, they knew. When I asked
22 Ms. Stringfellow was Corey sober the night of this
23 incident, did he have drugs in his system, had he
24 been drinking? Under oath, No, ma'am. He was
25 sober.

1 The toxicology report is in black and white.
2 The toxicology report shows that Corey had a level
3 of 6.5 in his system. They measured a threshold of
4 2.0. He had more than three times in his system
5 than what was measured. His brother, who we know
6 was drunk, and who we know was stoned, had in his
7 system 4.1. Corey had more marijuana in his system
8 that night than his brother, but according to
9 Mr. and Ms. Stringfellow, he was sober.

10 Ladies and gentlemen, the facts show in this
11 case that Corey chose to smoke marijuana that
12 night. The facts show that after he smoked
13 marijuana, he got in the car and he drove his
14 friend Cam home.

15 The Plaintiff's attorney, if you have not
16 noticed, says every time everybody drove that
17 night, stoned and drunk, they did it safely, until
18 the last 30 seconds before someone died. Corey
19 drove his friend, even though he was stoned, he
20 drove him safely. Then he drove back to the house,
21 and he did that safely. Then when Corey got back
22 to the house, he hangs out with Wesley and with
23 Cam, who are drunk and who are stoned. They are
24 drinking Evan Williams. They are drinking wine out
25 of mama and daddy's garage. While they're there,

1 Wes and Cam decide they're going to go to the
2 movies. But Cam drives to the movies drunk and
3 stoned safely.

4 Cam and Wesley testified that while they're at
5 the movies, their memory is fuzzy. They don't
6 really remember much after the movies. Now, we
7 know the movie started at 9:50, so at some point
8 during that movie, they lose recollection
9 because -- not because they forget, because they're
10 drunk and stoned, and when you're drunk and stoned,
11 you can't remember what you did.

12 So then what do they do after the movies?
13 They drive home safely like they're on a Sunday
14 stroll, according to the Plaintiff's attorney.
15 They did that safely. Then when they get home,
16 safely, they're drinking, they're smoking. Corey
17 is there with them. Remember, Wesley testified
18 they're all hanging out together.

19 Then Corey starts calling from his phone the
20 people that can hook him up with some more pot.
21 Corey gets a text at 1:31 in the morning with the
22 address of where to go find more pot. Then Corey
23 willingly gets in the car. He is home safely. He
24 willingly gets in the car to go on a little
25 adventure to go buy more pot.

1 When they get to Savannah Ballard's house,
2 Wesley smokes some more. He doesn't know if
3 anybody else smoked more because he didn't see it
4 and he can't remember.

5 Then they leave. And when they leave the
6 house after buying a gram of pot, according to the
7 Plaintiff's attorney, they drive home safely. And
8 then, boom, all of a sudden, somebody starts
9 driving erratic and unsafely.

10 Ladies and gentlemen, everybody that drove
11 that night and got behind the wheel of a car did so
12 knowing that they could have endangered their own
13 lives and somebody else's life.

14 You are going to be asked on the verdict form,
15 Number 1: Do you, the jury, find that John Corey
16 Stringfellow was negligent? The answer to that
17 question is yes. When he decided that he was going
18 to smoke pot, no one made him do that. No one was
19 even there. Big brother wasn't there making him do
20 that. When he decided to get behind the wheel of a
21 car and take his friend home, big brother wasn't
22 there making him do that. Big brother wasn't there
23 encouraging him to do that. He chose to do that on
24 his own. When he got back and hung out with his
25 brother, no one made him do that. When he decided

1 to send phone calls to find pot, no one made him do
2 that. When he decided to get the texts and then
3 get in the car and go get marijuana, no one made
4 him do that. That was a choice. All of those
5 choices were choices he made on his own.

6 Number 2, the question is going to be: What
7 percentage do you attribute to the Defendant, Cam?
8 What percentage do you contribute to the Decedent,
9 Corey?

10 Ladies and gentlemen, if Corey doesn't get in
11 the car that night to go buy marijuana, he is still
12 alive today. The accident still happens. Cam
13 still gets a DUI. Cam's parents still buy him out
14 of a DUI. Wesley is still hurt. The BMW is still
15 trashed. But Corey is alive. Corey made a choice
16 that night to go on a venture to engage in a joint
17 enterprise.

18 And the judge is going to tell you that a
19 joint enterprise is simply this: There is a common
20 purpose to do what they were doing. There was a
21 common purpose. They all wanted to go get more pot
22 so they could smoke it. And that the passenger had
23 an equal right to control the car. The passenger,
24 Corey, could have chosen that night -- because,
25 according to the Plaintiff, he can drive safely.

1 He could have chosen to drive home that night. But
2 he didn't. He could have chosen not to go that
3 night. But he didn't.

4 So when you have to look at assigning
5 percentage, the Plaintiff said Cam had the ace in a
6 deck of cards. He had the ace. He decided
7 everything. No, Corey had the ace that night.
8 Corey could have decided not to get in the car.
9 And if Corey wasn't old enough to make that
10 decision, then why did mama and daddy live him home
11 and go to the beach? They thought Corey was mature
12 enough. They thought Corey could make that
13 decision and that's why they left him. And Corey
14 made all of those decisions and all of those
15 choices. And when he did, I say he has the ace.

16 When you assign negligence, Corey is more than
17 50 percent negligent because he's responsible for
18 his actions. If you find that Corey is more than
19 50 percent negligent, if you find he is 50.000001
20 percent negligent, this case is over with. You
21 stop. And it will say stop. You don't answer any
22 further questions. If you find that, no, Corey
23 didn't make his own decisions, Corey didn't know
24 what he was doing, then and only then do you have
25 to decide whether you award money in this case.

1 Now, we've heard a lot about punishment. They
2 want to send a message to the Cams of the world and
3 to every single University of South Carolina
4 student that you can't do what Cam did. They knew
5 that Cam was drunk. They knew that Cam had
6 marijuana in his system. And after they knew the
7 facts of that, they then decided that they should
8 go after BMW. Because when Cam put his foot on the
9 gas pedal, must have been something wrong with the
10 car. BMW must have designed the car wrong. Not
11 that Cam put his foot on the gas pedal, it was
12 BMW's fault.

13 Then when Ms. Stringfellow found out from her
14 boss that there was a conflict of interest because
15 the company she was working for had an account with
16 BMW, then they were done with that. Then they
17 decided that they were going to go after Cam and
18 that they were going to send a message and that
19 they were going to ask for justice. And they were
20 going to ask for the 12 of you to punish him and
21 punish everybody else. They're asking the 12 of
22 you to do something they've never been able to do.

23 They want to punish. They want to send a
24 message. The same time they want to punish and
25 send a message, they were begging for leniency.

1 You want to send a message to kids in college, you
2 send a message to kids in college that when you do
3 this, you go to jail. You don't send a message
4 that mama and daddy are going to be rewarded with
5 two and a half million dollars.

6 Ladies and gentlemen, this case is about one
7 thing and one thing only. Money. That's it. They
8 had an opportunity to seek justice and to prove to
9 kids of the world that when you did -- and when you
10 do what Cam and Corey did, you go to jail and there
11 are going to be times, dear God, when you can lose
12 your life. You can lose your child.

13 Ladies and gentlemen, when you decide to send
14 a message in this case, send a message, send a
15 message to the people sitting at that table and
16 behind that table that your choices have
17 consequences, your actions have consequences, your
18 lack of actions have consequences.

19 When you walk out of this room, it is not
20 about sympathy. It is about the facts. It is
21 about the evidence in this case. And the evidence
22 in this case is that Corey Stringfellow would be
23 alive today had he stayed at home and never gotten
24 in the car. There is zero evidence that anybody
25 made Corey get in that car. There is zero evidence

1 that anybody made Corey make phone calls and get
2 texts about more pot.

3 The facts are John Corey Stringfellow made a
4 choice. It is a choice that I pray every day my
5 children never make, but it was his choice. And
6 his choice, unfortunately, has grave consequences.
7 And his choice, and all of his choices that night,
8 don't allow mama and daddy now to come in and ask
9 for the 12 of you to give money and to punish when
10 they could never do it themselves.

11 Thank you for your time. Thank you for
12 listening. When you go out of this courtroom, no
13 matter what decision you make, I promise you I will
14 respect your voice because you have listened and
15 because you have thought it through.

16 Thank you very much.

17 THE COURT: Mr. Griffin?

18 MR. GRIFFIN: Thank you, Your Honor.

19 FINAL REBUTTAL ARGUMENT

20 MR. GRIFFIN: When the lawyer over there asked
21 you to look at this verdict form and read a
22 question to you, she did what she's done the whole
23 trial. She lied to you, because she stopped
24 halfway. She says, You have to answer the
25 question: Did John Corey Stringfellow, was he

1 negligent on the night of May 24th, 2013? Yeah, he
2 was negligent because he smoked marijuana. Yeah,
3 he was negligent because he tripped over his
4 shoelace. Yeah, he was negligent because whatever.

5 What she doesn't want you to hear about is the
6 requirement that the judge is going to charge you
7 that the negligence had to be the proximate cause
8 of his death. That because Corey smoked marijuana
9 at 9:00 o'clock that he knew -- it was
10 foreseeable -- the judge is going to charge you on
11 proximate cause. It is you take an action and it's
12 foreseeable because you do this you're going to get
13 killed in a car accident doing 90 miles an hour in
14 a 25-mile-an-hour speed zone in Wildewood
15 neighborhood because you smoked marijuana with two
16 kids at 9:00 o'clock at night five and a half hours
17 earlier. You know that you're going to get in a
18 car accident, it's foreseeable you're going to get
19 in a car accident when someone's doing 90 miles an
20 hour in a 25-mile-an-hour speed zone when you
21 decide you're going to ride along, maybe go buy
22 some marijuana and smoke it when you get back to
23 the house.

24 Corey didn't cause his death that night. Now,
25 we can all say had he made different decisions,

1 there would have been a different outcome. And
2 that is the but for test. But for Corey waking up
3 that day, had he -- you know, had he stayed over at
4 a friend's house, had Corey gone to the beach with
5 his parents, had Corey did this, he wouldn't have
6 been in the place at the time he was in the place.
7 That's not the test. That's not the test. The
8 test is did he cause his own death. That's what
9 she doesn't want you to hear about. She wants --

10 And I told you before, the parents aren't on
11 trial here. You're not going to be asked to decide
12 if the parents did anything that they regret.
13 Sure, it haunts them every day that they did not
14 stay home for 12 more hours. Sure, it haunts them.
15 That doesn't mean they caused their son's death.
16 And because Corey gets in the car doesn't mean that
17 he knew or he expected that his brother was going
18 to do 90 miles an hour in a 25-mile-an-hour speed
19 zone. Corey didn't cause his own death. And for
20 her to suggest that when you allocate fault that
21 because he got in the car, he's more than
22 51 percent and he had a choice not to get in the
23 car, she wants you to ignore -- there's no
24 indication, any evidence. And that's what we need
25 to be focused on.

1 She says a lot of things out of her mouth that
2 did not come into the evidence. A lot of things
3 out. This making up stuff about dropping the
4 investigation on BMW because of conflict of
5 interest. That's just out of thin air. You heard
6 the testimony about that. They were looking,
7 investigating to see if there was post-accident
8 acceleration. And we chased that rabbit. They
9 didn't want to believe that their son was going
10 more than 80 miles an hour in a 25-mile-an-hour
11 speed zone. And who would? Who would? But
12 because they did that, they deserve to be grieving,
13 dead parents. They don't have a right -- they
14 don't have a right to come seek justice on behalf
15 of John Corey Stringfellow. That is no defense.

16 And she's just making up stuff when she says
17 that they were smoking pot all night. The evidence
18 is they didn't have pot, that's why they had to go
19 get pot. There's no evidence they were smoking pot
20 in the house when they got back from the movie.
21 Some evidence maybe they were drinking. And there
22 was evidence that they woke Corey up or they got
23 Corey down and said, Come on, come with us. And he
24 did. Now, when he made that decision to come with
25 them, was it foreseeable that they'd be doing 90

1 miles in a 25-mile-an-hour speed zone? No. No, it
2 was not.

3 And, again, she says -- she says, I didn't
4 accuse Ms. Stringfellow of lying. And then she
5 accuses her of lying. She says they told false
6 statements, that's not lying. Then she goes on to
7 accuse them of lying when there's no evidence to
8 support her accusation. It's another broken
9 promise. It's another misrepresentation to you.
10 It is adding insult to injury, is what it is. Why?
11 I wish I knew the answer.

12 But what you heard about this case from
13 Patti's therapist is that what's right is right and
14 what's wrong is wrong. And that's why it's being
15 pursued. And it would be wrong, it would be wrong
16 to forego Corey's rights for fear that they would
17 have to come in here and face this withering
18 criticism from some group of lawyers and not stand
19 on the rights of Corey and their rights that are
20 guaranteed under the laws of this state. It is
21 right to stand up for Corey and their rights.

22 And we appreciate Mr. Gresham, who in memory
23 and honor of Corey and for his son Cooper, has
24 taken the task to stand up for Corey's rights,
25 because no parent, no parent should be forced in

1 order to obtain what is lawfully right to sue their
2 own son.

3 Ladies and gentlemen, I have carried the
4 weight of the mantle of this lawsuit in this case
5 and the grief of these parents for over three and a
6 half years. And now I am taking the mantle and the
7 burden of that and I am trustingly placing it in
8 your hands.

9 And there's only one thing that we ask, is
10 that when you go home tonight and when you see your
11 loved one, family members and they say, What did
12 you do in court today, that you can look them in
13 the eye and you can tell them, We sent a message
14 hopefully to make the streets safer. We honored
15 and valued the grief of parents of a loving,
16 beautiful child, and we delivered justice. Not
17 half justice, not injustice, but full and complete
18 justice.

19 Thank you.

20 JURY CHARGE

21 THE COURT: Let's stand for a moment.

22 (All comply.)

23 THE COURT: Madam Forelady and members of the
24 jury, you've heard the testimony, received the
25 evidence and heard the arguments of the Plaintiff's

1 representative and the Defendant. I will now
2 explain to you the law that applies in this case.

3 Under the constitution and laws of South
4 Carolina, you are the finders of the facts in this
5 case. I do not have the right to pass upon the
6 facts or even to express any opinion that I might
7 have as to them, because this is a matter solely
8 for you, the jury, to determine. As jurors, then,
9 it is your duty to determine the value, the effect,
10 the weight, and the truth of the evidence presented
11 during this trial.

12 As the trial judge, it is my responsibility to
13 preside over the trial of this case and to rule
14 upon the admissibility of the evidence offered
15 during the trial. You are to consider only the
16 testimony which has been presented from this
17 witness stand, together with any exhibits and
18 stipulations which have been made part of the
19 record.

20 Additionally, I have the duty to charge you
21 the law applicable to this case. And as the
22 presiding judge, I am the sole judge of the law of
23 this case. It is your duty as jurors to accept as
24 correct and apply the law as I now state it to you
25 and then deliberate and reach a verdict.

1 Finally, I charge you in this regard that you
2 should not be concerned with what you think the law
3 ought to be, but rather what I charge you that the
4 law is.

5 You are also the judges, the sole judges of
6 the credibility, that is the believability, of the
7 witnesses who have testified and of the evidence
8 which has been presented during this trial.

9 In evaluating credibility, you may take into
10 consideration many things, such as the demeanor or
11 manner of testifying, whether the witness had a
12 reason to be bias or prejudice, or whether the
13 testimony of a witness was contradicted on the one
14 hand, or supported and corroborated on the other
15 hand. It becomes your duty as jurors to analyze
16 and to evaluate the evidence and determine that
17 evidence which convinces you of its truth.

18 Now, while the arguments of counsel is a
19 beneficial part of every trial, you should remember
20 that the statements made by counsel are not
21 evidence. In presenting arguments, counsel often
22 refers to the evidence. However, you should base
23 your verdict on the evidence as you remember it.
24 Therefore, if there are any conflicts between the
25 recollection of counsel about the evidence and your

1 own recollection, you should rely on your own
2 understanding of the evidence.

3 The Defendant admits he was negligent and
4 reckless. And the Court has found that the
5 Defendant was negligent and reckless, and that his
6 negligence and recklessness was a proximate cause
7 of the Decedent's death. The Defense claims that
8 the Decedent's own negligence proximately caused
9 the Decedent's death and the Plaintiff's damages.

10 Proximate cause is something that produces a
11 natural chain of events, which in the end brings
12 about the injury or damages. It is the direct
13 cause of the injury or damages. And this defense
14 as presented by the Defense is called the defense
15 of comparative negligence.

16 Now, as to comparative negligence, the Defense
17 must prove by a preponderance or a greater weight
18 of the evidence that the Decedent's negligence
19 proximately caused or contributed to his own
20 damages.

21 Negligence means that a person was careless
22 and has done something that a reasonable person
23 would not have done or has failed to do something
24 that a reasonable person would have done in the
25 same situation. The law places upon the Defense

1 the burden of proving the Decedent was
2 comparatively negligent by a preponderance of the
3 evidence.

4 A preponderance of the evidence simply means a
5 greater weight of the evidence. It is evidence
6 which as a whole shows that the fact sought to be
7 proved is more likely true than not true. The
8 preponderance of the evidence is not determined by
9 the number of witnesses. Instead, it must be
10 determined by the greater weight of the evidence.

11 If you find that the negligence of both the
12 Decedent and the Defendant proximately caused the
13 Decedent's damages, you must then decide how much
14 the negligence of the Decedent contributed to the
15 Decedent's damages and how much of the Defendant's
16 negligence contributed to the Decedent's damages.

17 In deciding the percentages of negligence of
18 the Decedent and the Defendant, you may consider,
19 among other things, the following factors: Whether
20 each party's conduct was only inadvertent or
21 whether it was gauged with an awareness of the
22 danger involved and the magnitude of the risks
23 created by each party's conduct, including the
24 number of persons in danger, the possible severity
25 of injuries or damages, the significance of the

1 goal that each party was trying to reach and the
2 need to achieve a goal in that manner, each party's
3 capabilities and abilities to realize and eliminate
4 the risks involved, the particular circumstances
5 confronting each party at the time the conduct
6 occurred, such as the existence of an emergency
7 requiring a quick decision, the relative closeness
8 of the casual relationship of the negligent conduct
9 of the Defendant and the harm to the Decedent, and
10 whether the conduct of either party involved a
11 violation of a safety statute or regulation.

12 The Defense has pled joint enterprise as a
13 defense. Joint enterprise is a legal theory of
14 imputing the negligence of one party to another.
15 In order to constitute a joint enterprise so that
16 the negligence of the driver of an automobile may
17 be imputed to an occupant of the vehicle, there
18 must be a common purpose and a community of
19 interest in the object of an enterprise and an
20 equal right to direct and control the conduct of
21 each other with respect thereto. That is, the
22 passenger as well as the driver must be entitled to
23 a voice in the control and direction of the
24 vehicle. When the liability of the driver is
25 sought to be imputed to the passenger, the test of

1 joint enterprise is whether the passenger had any
2 control with the management of the vehicle.

3 The first element that must be found to be
4 present before two parties can be said to be
5 engaged in a joint enterprise is that they must
6 have some common purpose or pleasure of profit, and
7 must be acting toward the accomplishment of that
8 purpose at the time when the relationship is sought
9 to be established. There must be a common purpose
10 and the passenger must have an equal right to
11 control the direction and management of the
12 vehicle.

13 The test to impute to the Decedent the
14 negligence of his driver is whether such driver was
15 his agent and did he have any control over the
16 management of the automobile. Not until these
17 facts are established can the doctrine of joint
18 enterprise be invoked. If two or more persons
19 unite in carrying out a common purpose under such
20 circumstances that each has authority, expressed or
21 implied, to act for all in respect to the control
22 of the means an agency is employed to execute such
23 purpose, the negligence of one and the management
24 thereof will be imputed to the others. If it does
25 not follow that because several persons or

1 occupants of the same vehicle they are necessarily
2 engaged in a joint enterprise within the rule.

3 Now, whenever the death of a person is
4 proximately caused by the negligence of another,
5 and the negligence would have entitled the deceased
6 to recover damages if the deceased had not died, a
7 personal representative of the estate of the
8 deceased may bring an action for wrongful death and
9 survival. The personal representative has a right
10 to recover compensatory damages for the wrongful
11 death and, if applicable, punitive damages. It is
12 not necessary to show the money value of the life
13 of the Decedent since direct proof of the value of
14 human life is not possible. What is reasonable
15 compensation is left to your sound discretion and
16 judgment.

17 The damages in an action for wrongful death
18 include mental shock and suffering, wounded
19 feelings, grief and sorrow, loss of companionship,
20 if applicable, loss of the use and comfort of the
21 deceased's society, including the loss of the
22 deceased's experience, knowledge, and judgment in
23 managing the affairs of the deceased and his
24 beneficiaries, and medical and funeral expenses.

25 The Plaintiff may also recover damages under

1 the survival statute for any and all pain and
2 suffering and mental distress the Decedent
3 consciously suffered as a result of the accident
4 prior to his death.

5 Now, if you award actual damages, you may also
6 consider and award punitive damages. Punitive
7 damages are intended to punish the Defendant for
8 extraordinary and outrageous misconduct and to
9 prevent the Defendant and others from committing
10 similar acts in the future.

11 Punitive damages can only be awarded when
12 conduct of the Defendant has been something more
13 than mere negligence. The Defendant has admitted
14 and the Court has found that the Defendant's
15 conduct was negligent and reckless. The words
16 reckless, willfulness, and wantonness are
17 synonymous. The terms are used to describe a
18 conscious failure to exercise and observe
19 reasonable or due care.

20 Recklessness implies the doing of a negligent
21 act knowingly. When a person acts negligently and
22 he realizes that he is acting negligently, the law
23 says he is reckless, willful, and wanton.
24 Whichever term you prefer, they all mean the same
25 thing, that is, a conscious failure to exercise due

1 care.

2 Recklessness is distinguished from negligence.
3 Negligence is the failure to use due care.
4 Negligence is carelessness. Negligence is failure
5 by omission or commission to exercise due care as a
6 person of ordinary reason and prudence would
7 exercise in the same circumstances.

8 Recklessness is a higher degree of culpability
9 and responsibility. Recklessness signifies a
10 conscious failure to use or exercise due care.
11 Recklessness is a conscious indifference to the
12 rights of the Decedent or a reckless disregard of
13 the rights of the Decedent. Recklessness is an
14 awareness of wrongful conduct and a continuation to
15 act regardless of the consequences.

16 Clear and convincing evidence is more than
17 just a preponderance or greater weight of the
18 evidence. And punitive damages must be proven by
19 clear and convincing evidence.

20 Preponderance of the evidence requires proof
21 that persuades that a party's claim is more likely
22 true than not true. On the other hand, clear and
23 convincing proof is not as high a standard as the
24 burden of proof in a criminal case, which is proof
25 beyond a reasonable doubt. Clear and convincing:

1 evidence -- clear and convincing proof leaves no
2 substantial doubt in your mind. It means that the
3 evidence is not ambiguous, doubtful, equivocal, or
4 contradictory. Convincing means persuading by
5 proof or argument causing one to believe in the
6 truth of what is asserted. Clear and convincing
7 proof establishes in your mind not only the fact
8 was probable, but that it is highly probable.

9 Before awarding punitive damages, you must
10 consider and weigh elements which may be pertinent
11 to facts of this case. You must first consider the
12 relationship between any punitive damage award and
13 the harm caused. Any penalty imposed should take
14 into account the reprehensibility of the conduct,
15 the harm caused, the Defendant's awareness of the
16 conduct's wrongfulness, the duration of the conduct
17 and any concealment. Thus, any penalty imposed
18 should be a relationship to the nature and extent
19 of the conduct and the harm caused, including the
20 compensatory damage award made by you.

21 Secondly, any penalty imposed should take into
22 account as a mitigating factor any other penalty
23 that may have been imposed or which may be imposed
24 for the conduct involved, including any criminal or
25 civil penalty or any other punitive damages award

1 arising out of the same conduct.

2 Finally, any award of punitive damages must be
3 limited to punishment and thus may not affect
4 economic bankruptcy. To this end, the Defendant's
5 ability to pay any punitive damage award should be
6 considered. However, the economic bankruptcy
7 factor is not an absolute bar to an award of
8 punitive damages. Please note that any finding of
9 punitive damages cannot be reduced by any
10 proportion of the Decedent's negligence under
11 comparative negligence.

12 Now, the Plaintiff must prove by a
13 preponderance of the evidence the actual damages
14 which were proximately caused by the Defendant's
15 negligence. The Plaintiff must prove punitive
16 damages by clear and convincing evidence. This
17 does not mean that the Plaintiff must prove damages
18 to a mathematical certainty or produce evidence of
19 the exact amount of damages suffered. However, the
20 existence, causation, or amount of damages cannot
21 be left to guesswork or speculation. Instead, the
22 evidence presented by the Plaintiff must be enough
23 to allow you to determine the amount of damages
24 with reasonable certainty and accuracy.

25 Now, you have been chosen and sworn to give

1 the parties in this case a fair and impartial
2 trial. When you have done so, you will have
3 complied with your oath and no one will have a
4 right to criticize your verdict. You must not be
5 influenced by opinions or expressions of opinion
6 you may have heard outside of the courtroom, but
7 rather should base your verdict solely on the
8 testimony of the sworn witnesses who took the
9 stand, the exhibits received into evidence, and the
10 law which I have stated. You should not be swayed
11 by caprice, passion, prejudice, or improper
12 sympathy for or against anyone in this case.
13 Remember, you have no friends to reward or enemies
14 to punish, and all parties are entitled to a fair
15 and impartial trial.

16 It is your duty as jurors to consult with one
17 another and to deliberate in an effort to reach an
18 agreement. Each of you must decide this case for
19 yourself, but only after an impartial consideration
20 of all the evidence with your fellow jurors.

21 In the course of your deliberations, do not
22 hesitate to re-examine your own views and change
23 your opinion if you become convinced it is
24 erroneous. However, do not surrender your honest
25 conviction as to the weight or effect of the

1 evidence solely because of the opinion of your
2 fellow jurors or for the mere purpose of returning
3 a verdict.

4 As I stated earlier, you are the judges,
5 judges of the facts. Your verdict must represent
6 the considered judgment of each juror. In other
7 words, your verdict must be unanimous.

8 Now, you may have noticed that I have read
9 these instructions. I do so to give you the law as
10 accurately as possible. I will give you a copy of
11 these instructions to have in the jury room. You
12 may refer to these instructions to assist you in
13 your deliberations. You must consider the
14 instructions as a whole and may not follow some and
15 ignore others.

16 Madam Forelady, it will be your duty to
17 preside over the deliberations of the jury.

18 If during your deliberations you should desire
19 to communicate with the Court, please reduce your
20 message or question to writing, signed by the
21 foreperson, and the foreperson only. Then pass the
22 note to the bailiff, who will bring it to my
23 attention. I will then respond as promptly as
24 possible either in writing or by having you return
25 to the courtroom. I caution you, however, with

1 regard to any message or question that you might
2 send that you should not ever state or specify your
3 numerical division at the time.

4 Now, you have heard the evidence and you have
5 heard the law. Whatever your verdict, Madam
6 Forelady, you will indicate it by -- you'll
7 indicate it on the verdict form, and then sign and
8 date your verdict.

9 Now, this case, you have two verdict forms,
10 one for wrongful death and one for survival. And
11 each verdict form is in the nature of questions
12 that you have to answer, in effect.

13 The first, the Defendant -- it is a statement.
14 The Defendant has admitted that he was negligent
15 and reckless and that his negligence was the
16 proximate cause of the Decedent, John Corey
17 Stringfellow's, death. Do you, the jury, find that
18 by a preponderance of the evidence that the
19 Decedent, John Corey Stringfellow, was also
20 negligent and that his negligence was a proximate
21 cause of his death?

22 If your answer to that question is yes, then
23 you move on to the second question. And if your
24 answer is no, then you move on to the third
25 question. If you answer yes to Question Number two

1 dollars, the next question for you says: Taking
2 the combined negligence as 100 percent, what
3 percentage of negligence is attributable to the
4 Defendant and what percentage is attributable to
5 the Decedent, John Corey Stringfellow? And the
6 percentages must add up to 100 percent, and you
7 will indicate in the space indicated. It must
8 total 100 percent.

9 Now, if the Decedent, John Corey
10 Stringfellow's, percentage of the combined
11 negligence is greater than 50 percent, then you
12 stop and deliberate no further. If the percentage
13 of the Decedent's percentage of the combined
14 negligence is 50 percent or less, then you move on
15 to Question Number 3. And Question Number 3 says:
16 Can you please state the total amount of damages
17 sustained by the beneficiaries of the estate of
18 John Corey Stringfellow, Patricia and Thomas
19 Stringfellow, for the wrongful death of John Corey
20 Stringfellow? And in that place you will fill in
21 the amount of actual damages that were sustained.

22 Please note that you are not to reduce the
23 actual damages above by the percentage of
24 negligence attributable to the Decedent, John Corey
25 Stringfellow, in your answer to Number 2. That is

1 something that will be done by the Court
2 afterwards.

3 Question Number 4 says: As to the Plaintiff's
4 claim against the Defendant for punitive damages,
5 we, the jury, find for the estate of John Corey
6 Stringfellow in the amount, if any, of -- and there
7 you would, if you find punitive damages, you will
8 put in the amount of punitive damages, sign and
9 date the form.

10 As to the survival claim for conscious pain
11 and suffering prior to death, the form is in the
12 same -- follows the same -- you follow the same
13 process in completing the form and reaching your
14 verdict.

15 I'm going to have you go to the jury room now.
16 Of course, we ordered lunch for you, and it will
17 come. And you can talk and eat, eat and talk, stop
18 talking and eat, whichever you prefer. It will be
19 up to you. But you will need to remain in the jury
20 room until you have reached a verdict in this case.

21 I'm going to have you go to the jury room, but
22 do not begin deliberating until you receive a copy
23 of these instructions and the verdict forms and the
24 exhibits. That will be your signal to begin
25 deliberating.

1 Now, we selected 14 people. We can only use
2 12 to deliberate. From the first 12 jurors
3 selected, if any of you cannot continue with
4 deliberations such that I would pull in one of the
5 final two, if any of you cannot continue with the
6 deliberations for any reason whatsoever, please
7 raise your hand.

8 (WHEREUPON, there was no response.)

9 THE COURT: All right. Everybody is good to
10 go, which means that I'm going to release the two
11 alternate jurors.

12 So, the alternates, if you all will remain
13 with us while the others go to the jury room and
14 wait for the jury charge, verdict form, and
15 exhibits to begin deliberating.

16 Thank you.

17 (WHEREUPON, the jury retires to the jury
18 room at 12:15 p.m.)

19 THE COURT: And we'll get with you all in just
20 a moment.

21 Any additions or exceptions to the charge?

22 MR. GRIFFIN: Your Honor, just for the record,
23 I would note our earlier discussion and exception
24 as to the punitive damages charge, failing to
25 charge the jury they have a duty to award punitive

1 damages.

2 THE COURT: Yes, sir.

3 By the Defense?

4 MR. LANFORD: Your Honor, there were several.
5 You had charged that they could consider medical
6 and funeral expenses. There was no evidence of
7 medical or funeral expenses put into evidence, so
8 that should not have been in the charge. I believe
9 that was for the wrongful death, which you don't
10 consider funeral expenses anyway, there was no
11 evidence of funeral expenses or medical records.

12 THE COURT: All right.

13 MR. LANFORD: In Your Honor's charge on
14 wrongful death, Your Honor stated it is not
15 necessary to show the value of the life of the
16 Decedent. I think the charge actually says that
17 the damages are not directed to the value of the
18 life of the Decedent. I think not only is it not
19 necessary, I don't think the jury is allowed to
20 consider that, they are only to consider the
21 effects of the Decedent's death on the
22 beneficiaries of the estate. I do think that is a
23 distinction that needs to be made. I think that
24 was an error in that portion.

25 THE COURT: What do you want me to do?

1 MR. LANFORD: The third, Your Honor, I didn't
2 hear assumption of risk. We had pled that
3 affirmative defense.

4 THE COURT: Comparative negligence.

5 MR. LANFORD: The specific factors we had
6 requested. In other words, you said that we had
7 pled joint enterprise as a separate defense.

8 THE COURT: Comparative negligence.

9 MR. LANDIS: I did not hear -- we also pled
10 assumption of risk as a separate defense, nor did I
11 hear the elements of assumption of the risk.

12 THE COURT: I didn't say anything about
13 assumption of the risk, you're correct.

14 MR. LANFORD: Those are the three issues.
15 I've never been in this position where we're doing
16 it after the fact, so whatever Your Honor --

17 MS. O'BRIEN: I have. And, Your Honor, we
18 would request that you bring the jury back in. We
19 would request that you note to the jury that
20 medical and funeral expenses are not to be
21 considered, that there was no evidence presented as
22 to those. We would request that you clarify as
23 to -- specifically that it's not necessary to show
24 the value of life. And then we would request that
25 you charge assumption of risk with respect to

1. negligence.

2. THE COURT: All right, Mr. Griffin?

3. MR. GRIFFIN: Your Honor, we didn't put in the
4. medical bills or funeral expenses. I don't mind
5. taking that out. The assumption of risk charge is
6. the comparative negligence charge. I don't know if
7. he gains anything. I don't know what charge their
8. specifically requesting you to make. The one we
9. submitted is -- still all falls under comparative
10. negligence.

11. THE COURT: Assumption of risk, that's -- what
12. do you want me to tell them about assumption of
13. risks?

14. MR. LANFORD: Your Honor, we have a request to
15. charge.

16. THE COURT: I'm talking, you're talking. What
17. do you want me to tell them?

18. MS. O'BRIEN: We would request that you charge
19. that under South Carolina law --

20. THE COURT: Is she now saying what you're
21. about to say?

22. MR. LANFORD: I have the charge in front of
23. me, the charge we submitted to the Court.

24. THE COURT: Tell me in words.

25. MR. LANFORD: Assumption of the risk is a

1 voluntary choice to assuming no risk. Under South
2 Carolina law the doctrine of assumption of risk
3 embodies the principle that one should not be
4 permitted knowingly and voluntarily to incur an
5 obvious risk of harm when he has the ability to
6 avoid doing so and then holding others responsible
7 for his injury. In determining whether the
8 Plaintiff assumed the risk, you should consider
9 whether he was aware to hold out the exercise of
10 ordinary care, also been aware of the danger,
11 appreciated the nature and extent of the danger,
12 and voluntarily exposed himself to the danger. If
13 you find the Plaintiff assumed the known risk, you
14 should take that into account when determining
15 comparative fault of the parties.

16 THE COURT: I don't believe you charge
17 assumption of the risk now that we have comparative
18 negligence in the law. I think comparative
19 negligence covers assumption of risk.

20 MR. LANFORD: Your Honor, I agree with that,
21 but it is still a separate charge. It is a defense
22 we raised. And under the case law, it is still a
23 charge to be made to the jury. You still make --
24 with the sentence I had at the end, it is something
25 you take into account when determining comparative

1 negligence of the parties, but it is still a
2 separate charge if it was a pleaded defense. There
3 was evidence of that. Certainly it should go to
4 the jury.

5 THE COURT: Tell me again what you said about
6 clarifying regarding wrongful death and the value
7 of life.

8 MR. LANFORD: Your Honor, my recollection is
9 your charge --

10 THE COURT: It's not necessary to show the
11 money value of the life of the deceased since
12 direct proof of the value of human life is not
13 possible.

14 MR. LANFORD: That's correct. And I think
15 what the charge should say and what the law says is
16 that it is not directed to the value of the life of
17 the Decedent.

18 THE COURT: Say it again?

19 MR. LANFORD: It's not directed to the value
20 of the life of Decedent.

21 THE COURT: What is it?

22 MR. LANFORD: In other words, the damages that
23 you're considering are not directed to the value of
24 the life of the Decedent, they're directed to the
25 effect on the beneficiaries. And I think by not

1 making that clarification, by saying simply it is
2 not necessary to show the value of the life, you're
3 not -- telling the jury that they're not allowed to
4 consider the value of life. They're allowed to
5 consider the effect on the beneficiaries of the
6 estate. That would be my -- that would be our
7 clarification to --

8 THE COURT: Well, I'm not going to give that
9 clarification. I don't think it clarifies
10 anything.

11 MR. LANFORD: Okay.

12 THE COURT: I'll bring them out and tell them
13 that the medical expenses and funeral bills are not
14 to be considered. I'm not going to --

15 MR. LANFORD: Your Honor, may I direct the
16 Court's attention to the case of Davenport v.
17 Cotton Hope?

18 THE COURT: What year?

19 MR. LANFORD: 1998. As opposed to comparative
20 negligence, the case states that assumption of risk
21 is no longer an absolute bar, but is to be
22 considered along with the comparative negligence
23 analysis. I can give you the cite on that. In
24 other words, there is still assumption of the risk
25 as a defense. It's simply not an absolute bar

1 since we have comparative negligence, but we're
2 still entitled to the charge on assumption of risk.

3 MR. GRIFFIN: Your Honor, we also have a case,
4 Howard v. South Carolina Department of Highways,
5 343 S.C. 149, Court of Appeals 2000, that says:
6 Although assumption of risk is no longer recognized
7 as a complete defense in a negligent action, it
8 remains a facet of comparative negligence. It says
9 it may be charged to the jury, it doesn't say it
10 has to be charged to the jury. But, I mean, it is
11 part of the comparative negligence, is what it is.

12 MR. LANFORD: Your Honor, may be charged means
13 as to support the affirmative defense of assumption
14 of the risk, then it is charged to the jury and it
15 is under the comparative negligence analysis.

16 THE COURT: This case says: We therefore hold
17 at the end -- it goes back to the finding towards
18 the end of this case, their conclusion about, Based
19 on the above discussion the answer to the five
20 issues presented in this appeal, although the
21 absolute defense of assumption of risk has been
22 treated as a separate defense from contributory
23 negligence, it is incompatible with our comparative
24 fault system. That's Number One. Two, the
25 Plaintiff's conduct in assuming a risk can be

1 compared with the Defendant's negligence. Three, a
2 Plaintiff's conduct in assuming a risk can be made
3 a part of our comparative fault system. Four, by
4 abolishing assumption of risk as an absolute bar to
5 recovery, South Carolina will not be adopting
6 policies that would encourage people to take
7 unnecessary risks. Five, even if Davenport assumed
8 the risk, he would not be barred from recovery
9 unless his negligence exceeded the Defendant's
10 negligence. We therefore hold that the Plaintiff
11 is not barred from recovery by the doctrine of
12 assumption of risk unless the degree of fault
13 arising therefrom is greater than the negligence of
14 the Defendant. To the extent any prior cases are
15 inconsistent with this approach, they are
16 overruled.

17 What does that tell us?

18 MS. O'BRIEN: Your Honor, I agree that it is
19 absolutely not a bar. It is not a bar. That's why
20 it specifically says --

21 THE COURT: It doesn't absolutely bar the
22 Plaintiff.

23 MS. O'BRIEN: That is correct. And that's why
24 the charge says that the Plaintiff assumed a known
25 risk and you should take that into account when

1 determining the comparative fault of the parties.
2 It is absolutely under the heading of comparative
3 fault, but it is different than comparative fault.
4 And it has four distinct elements. And we have
5 to -- the jury has to know what those four distinct
6 elements are in order to be able to decide whether
7 we have proven those elements, and then they have
8 to decide whether they are going to reduce.

9 THE COURT: Well, in the charge, I told them
10 that in considering comparative negligence, they
11 are to consider the magnitude of the risk created
12 by each party's conduct.

13 MS. O'BRIEN: Yes, sir, I agree that you told
14 them that, and that is what negligence is. That's
15 not what assumption of risk is. And the question
16 that was asked is, Does assumption of risk have to
17 be separately charged in that case that we're
18 discussing.

19 THE COURT: What do you say about it,
20 Mr. Griffin?

21 MR. GRIFFIN: Well, Your Honor, I think your
22 existing charge encompassed the comparative fault
23 standard. I don't think their proposed charge is
24 an accurate statement. I had submitted a
25 comparative negligence, assumption of the risk

1 charge, which has the four elements set out. Their
2 charge does not have four elements set out, best I
3 can tell. It's on Page 22 of my -- I leave it up
4 to the Court.

5 THE COURT: I'm not going to charge it. I
6 think that the comparative negligence charge that
7 asks the jury to consider the risk -- magnitude of
8 the risk created by each party's conduct covers any
9 need to charge anything on that issue. I charged
10 joint enterprise. The jury is to consider the
11 magnitude of the risk of each party. I think that
12 covers everything that needs to be covered. I'm
13 going to bring the jury out and tell them that they
14 will not need to consider the funeral expenses and
15 medical bills since they were not presented.

16 MR. LANFORD: Your Honor, before the jury
17 comes back in, can we make an exhibit --

18 THE COURT: We can make that after the jury
19 leaves. I don't see how that exhibit needs to be
20 made a part of the record before the jury comes in.

21 Bring them back.

22 You can do it while they're coming.

23 (WHEREUPON, the jury came into open
24 court at 12:38 p.m.)

25 THE BAILIFF: The jury is seated, Your Honor.

1 THE COURT: All right, ladies and gentlemen, I
2 instructed you as to the damages that you are to
3 consider for wrongful death. I indicated that in
4 addition to mental shock and suffering, wounded
5 feelings, grief, loss of companionship, loss of use
6 and comfort of the deceased's society, that you
7 were also to consider medical expenses and funeral
8 expenses. No evidence has been presented regarding
9 medical expenses, funeral expenses, so you're not
10 to consider medical expenses and funeral expenses.

11 Thank you very much. And you will go back and
12 wait for the things that I said to begin
13 deliberating.

14 (WHEREUPON, the jury retires to the jury
15 room at 12:39 p.m.)

16 THE COURT: Any additional exceptions other
17 than that which we just stated prior to the jury
18 coming out?

19 MR. GRIFFIN: No, Your Honor.

20 MR. LANFORD: No additional exceptions to that
21 charge.

22 THE COURT: All right. So you all can review
23 the exhibits so we can get them to the jury.

24 Our two fine alternates, thank you very much
25 for your time and effort. We need 12 and, quite

1 often, someone falls by the wayside. If for some
2 reason or another they all survived the trial
3 experience, then we release the alternates. So
4 thank you all very much, and you are released from
5 further involvement. Hopefully, participating in
6 this trial has been meaningful to you.

7 And I think you probably will go -- after they
8 get your things out of the jury room, you will just
9 go downstairs. There are no other trial's going
10 on, so I'm sure you'll be released, but you get
11 released on the first floor.

12 All right. If you will check the exhibits.

13 I will release everybody until 2:00 o'clock.

14 (WHEREUPON, the jury began deliberating
15 at 12:41 p.m.)

16 (WHEREUPON, Court's Exhibit No. 2 was
17 marked for identification only.)

18 (WHEREUPON, court was in recess awaiting
19 a verdict.)

20 (WHEREUPON, the proceedings resumed at
21 2:17 p.m.)

22 THE COURT: The jury sent out a question. The
23 question is, Can damages be zero? Do we have to
24 award monetary damages?

25 So I'm going to give you all an opportunity to

1 view the note and to spend some time researching
2 the answer to the question before I respond to it.

3 The question I was going to ask, As to which
4 cause of action. It doesn't specify as to which
5 cause of action.

6 MS. O'BRIEN: Your Honor?

7 THE COURT: Yes.

8 MS. O'BRIEN: I know the answer to the
9 question.

10 THE COURT: You do?

11 MS. O'BRIEN: I do.

12 THE COURT: What is it?

13 MS. O'BRIEN: Can the damages be -- can the
14 actual damages be zero? No, they cannot, because
15 we've stipulated to negligence and recklessness.
16 So my request would be that the jury be brought
17 back in and that the jury be instructed that they
18 can award a nominal amount.

19 MR. GRIFFIN: I was agreeing with her until
20 she added the nominal amount. I mean, I think the
21 law would require them to award an amount of actual
22 damages.

23 THE COURT: So your view is the answer to the
24 question is no?

25 MR. GRIFFIN: No, it can't be zero.

1 THE COURT: No, period?

2 MR. GRIFFIN: Correct.

3 THE COURT: They ask the question, Can the
4 award be zero? The answer is no?

5 MR. GRIFFIN: Correct.

6 THE COURT: You agree with that?

7 MS. O'BRIEN: Do I agree with that?

8 THE COURT: Do you agree with that answer?

9 MS. O'BRIEN: I agree with that answer, but I
10 think that there can be an instruction to the jury
11 as to what the amount can be. And I believe that
12 in a jury charge that it is often appropriate that
13 a nominal amount is described, and that was not
14 described.

15 THE COURT: Well, the charge on wrongful death
16 described what elements the parties are entitled to
17 recover. As to survival it would be conscious pain
18 and suffering. They could conclude there was no
19 conscious pain and suffering. In that event, the
20 answer might be, Yes, zero, as to that cause of
21 action, if that's what they're asking about.

22 MR. GRIFFIN: Your Honor, the verdict form,
23 though, says if you find no conscious pain and
24 suffering then stop, so you don't even get to the
25 damages question. That's how it's laid out. So if

1 they get to the damage question --

2 THE COURT: So it cannot be zero. So I will
3 tell them no.

4 MR. GRIFFIN: Yes, sir.

5 THE COURT: But I'm not going to suggest that
6 they consider nominal damages. I'm not -- it's
7 just a question, and they didn't ask me to define
8 what damages the parties might be entitled to.
9 I've described that already.

10 MS. O'BRIEN: And, Your Honor, I would submit
11 to you they also did not ask the question with
12 respect to which cause of action, and so I think
13 there needs to be additional questions asked.

14 THE COURT: The jury asks the question, I give
15 the answers.

16 MR. GRIFFIN: Yes, sir, if they have another
17 question, then we'll deal with that.

18 MS. O'BRIEN: And, Your Honor, it would be our
19 position that if you can't answer the question --
20 because then in the survival action, it's a
21 different answer. So which cause of action?

22 THE COURT: Well, that's what I suggested
23 earlier would be a different answer until
24 Mr. Griffin says, Well, if they reach that point.

25 MS. O'BRIEN: We disagree --

1 THE COURT: They don't reach that point if
2 they do not find there are damages.

3 MR. GRIFFIN: Right.

4 THE COURT: If they find there are damages,
5 then they must award damages.

6 MR. GRIFFIN: The verdict form says, If you
7 find conscious pain and suffering, if the answer is
8 no, then they stop.

9 MS. O'BRIEN: Well, they could find conscious
10 pain and suffering and still award zero damages.

11 THE COURT: If you pass the note back, and
12 since you all have the answers, you don't need to
13 research it.

14 And we'll bring the jury, please.

15 MS. O'BRIEN: Note our objection, please, Your
16 Honor.

17 THE COURT: The record reflects all arguments
18 of the parties and position of the parties. It's
19 not my position to note anything in regard to
20 argument of the parties.

21 (WHEREUPON, Court's Exhibit No. 3 was
22 marked for identification only.)

23 (WHEREUPON, Court's Exhibit Nos. 4 - 5
24 were marked for identification only.)

25 (WHEREUPON, the jury came into open

1 court at 2:23 p.m.)

2 THE BAILIFF: The jury is present, Your Honor.

3 THE COURT: All right. Madam Forelady and
4 members of the jury, you posed a question: Can
5 damages be zero? Do we have to award monetary
6 damages?

7 Depending on your responses to the
8 interrogatories listed in the form, the answer is
9 no to the question.

10 Thank you. If you all will resume
11 deliberating.

12 (WHEREUPON, the jury retires to the jury
13 room at 2:25 p.m.)

14 THE COURT: Yes, sir?

15 MR. GRIFFIN: Your Honor, I do apologize, when
16 you read the question to the jury, there was really
17 two questions. One, Can damages be zero? And I
18 think we agreed the answer to that is no. Then the
19 second question is, Do we have to award
20 compensatory damages?

21 THE COURT: That would be yes.

22 MR. GRIFFIN: That would be yes.

23 THE COURT: All right. How about that?
24 There were two questions, you're right.

25 MS. O'BRIEN: May I see the question again --

1 questions?

2 THE COURT: If you will bring the jury.

3 MS. O'BRIEN: Your Honor, I'd like to review
4 the question before we bring the jury back -- the
5 questions.

6 THE COURT: I'm sitting here typing it and
7 writing it, and as I was speaking, I thought of
8 that. Any further comment?

9 MS. O'BRIEN: Nothing other than the exception
10 already noted.

11 THE COURT: All right. Bring them back.

12 (WHEREUPON, the jury came into open
13 court at 2:26 p.m.)

14 THE BAILIFF: The jury is present, Your Honor.

15 THE COURT: Ladies and gentlemen, I had you in
16 and out of here pretty fast. You actually asked
17 two questions. The first question was, Can damages
18 be zero? Depending on your response -- your
19 answers to the questions on the verdict form, the
20 answer to that question is no.

21 Do we have to award monetary damages?

22 Depending on your answers to the question on the
23 interrogatory form, the answer is yes as to that
24 second question.

25 So if you will return to the jury room.

1 (WHEREUPON, the jury retires to the jury
2 room at 2:28 p.m.)

3 THE COURT: Anything else from the parties?

4 MS. O'BRIEN: No, sir, Your Honor.

5 MR. GRIFFIN: No, Your Honor.

6 THE COURT: This issue actually was before the
7 Court in the case of Stevens v. Allen, Supreme
8 Court 2000, involving a single-car accident early
9 in the morning when a passenger was injured and the
10 boys had been drinking and smoking marijuana. The
11 parents brought a wrongful death and survival
12 action and the jury returned, found each 50 percent
13 negligent, but awarded zero damages. And the Court
14 of Appeals reversed and held the jury's failure to
15 award any damages was facially inconsistent with
16 its assessment of liability and said the trial
17 court should, upon request, should have resubmitted
18 the matter to the jury with instruction to either
19 assess a definite dollar amount in damages for the
20 Plaintiff or find in favor of the Defendant. And
21 that was affirmed by the Supreme Court.

22 MR. GRIFFIN: Ms. O'Brien --

23 THE COURT: So you both make 100, you got the
24 answer correct without any research or prior
25 research even.

1 MS. O'BRIEN: No, I had the issue.

2 THE COURT: All right, we'll be back in recess
3 in this case and we will resume with our other
4 case.

5 (WHEREUPON, a break was taken.)

6 (WHEREUPON, the following proceedings
7 resumed at 3:49 p.m.)

8 THE COURT: I understand there is a verdict.
9 You can bring them in.

10 (WHEREUPON, the jury came into open
11 court at 4:13 p.m.)

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

13 THE COURT: Madam Forelady, if you will stand
14 for me. Have you reached a verdict?

15 THE FORELADY: Yes, we have, Your Honor.

16 THE COURT: Is it unanimous?

17 THE FORELADY: Yes, sir.

18 THE COURT: If you'll pass it up. You may be
19 seated.

20 (Court reviews the verdict form.)

21 THE COURT: You may publish the verdict.

22 VERDICT

23 THE CLERK: Case number 2015-CP-40-7180,
24 William Gresham, as Personal Representative of the
25 Estate of John Corey Stringfellow vs. Cameron

1 Thomas Stringfellow.

2 Question Number 1: The Defendant has admitted
3 that he was negligent and reckless and that his
4 negligence was the proximate cause of Decedent,
5 John Corey Stringfellow's, death. Do you, the
6 jury, find by a preponderance of the evidence that
7 the Decedent, John Corey Stringfellow, was also
8 negligent and that his negligence was a proximate
9 cause of his death resulting from the accident of
10 May 24th, 2013?

11 The answer is: Yes. And Decedent, John Corey
12 Stringfellow, 51 percent. The Defendant, Cameron
13 Thomas Stringfellow, 49 percent.

14 THE COURT: Read the entire -- the entire
15 Number 2.

16 THE CLERK: Oh Question Number 2. Taking the
17 combined negligence as 100 percent, what percentage
18 of negligence is attributable to the Defendant and
19 what percentage is attributable to the Decedent,
20 John Corey Stringfellow?

21 Decedent, John Corey Stringfellow,
22 51 percent -- Decedent, John Corey Stringfellow,
23 51 percent. Defendant, Cameron Thomas
24 Stringfellow, 49 percent. For a total of
25 100 percent.

1 Question Number 3: Do you find that Decedent,
2 John Corey Stringfellow, was subjected to conscious
3 pain and suffering prior to his death? The answer
4 is no.

5 This is signed foreperson, Lise Shine.
6 January 12th, 2017.

7 Case Number 2015-CP-40-7181, William Gresham
8 as Personal Representative of the Estate of John
9 Corey Stringfellow v. Cameron Thomas Stringfellow.

10 Question Number 1: The Defendant has admitted
11 that he was negligent and reckless and that his
12 negligence was a proximate cause of Decedent, John
13 Corey Stringfellow's, death. Do you, the jury,
14 find by a preponderance of the evidence that the
15 Decedent, John Corey Stringfellow, was also
16 negligent and that his negligence was a proximate
17 cause of his death?

18 The answer is: Yes.

19 Question Number 2: Taking the combined
20 negligence as 100 percent, what percentage of
21 negligence is attributable to the Defendant and
22 what percentage is attributable to the Decedent,
23 John Corey Stringfellow?

24 Decedent, John Corey Stringfellow, 51 percent.
25 The Defendant, Cameron Thomas Stringfellow,

1 49 percent. For a total of 100 percent.

2 This is signed, Foreperson Lise Shine.

3 January 12, 2017.

4 Madam Foreperson, are these your verdicts and
5 the verdicts of the entire jury?

6 THE FORELADY: Yes, they are.

7 THE COURT: Any individual polling requested
8 or do the parties want to review the verdict form?

9 MR. GRIFFIN: May I take a look at the verdict
10 form, Your Honor?

11 THE COURT: Yes, sir.

12 (Mr. Griffin reviews the verdict form.)

13 MR. GRIFFIN: We do not request to poll the
14 jury.

15 MS. O'BRIEN: No, sir, Your Honor.

16 THE COURT: Any post-trial motions?

17 MR. GRIFFIN: Yes, Your Honor. At this time,
18 we would move for judgment as notwithstanding the
19 verdict on the grounds that no reasonable jury
20 could find that John Corey Stringfellow was
21 reckless as a result of his conduct as the
22 passenger in the car. The Court directed a verdict
23 on recklessness on behalf of the Plaintiff as to
24 the Defendant, Cameron Stringfellow. There's no
25 higher level of fault under the negligence standard

1 than recklessness. And so the jury would have to
2 either find 50/50 based upon the Court's ruling of
3 directed verdict or something less. But under the
4 ruling of the Court, you can't get to 51 percent
5 for John Corey Stringfellow and 49 percent for
6 Cameron Stringfellow.

7 THE COURT: Mere negligence cannot exceed
8 recklessness.

9 MR. GRIFFIN: Correct.

10 THE COURT: What says the Defense?

11 MS. O'BRIEN: Your Honor, the jury absolutely
12 could have found and did find that Corey
13 Stringfellow's negligence could have been reckless,
14 could have been willful, could have been wanton,
15 and was gross. That was pled in the answer. The
16 jury has a right to --

17 THE COURT: The jury doesn't get the
18 pleadings.

19 MS. O'BRIEN: I understand. But the jury --

20 THE COURT: So the pleadings are irrelevant.

21 MS. O'BRIEN: The jury has a right to decide
22 based upon percentage, and that percentage that was
23 assigned was 51 percent as to John Corey
24 Stringfellow. And the jury has a right to decide
25 that negligence can compare to any other

1 negligence. And that's exactly what they did.

2 THE COURT: Any response, Mr. Griffin?

3 MR. GRIFFIN: No, Your Honor. Negligence
4 cannot offset recklessness. It didn't get to
5 recklessness, but you can't get above 50 percent.

6 And then after that, Your Honor, we would
7 request a new trial based on the 13th juror
8 doctrine as a result of the Court's findings of
9 directed verdict on recklessness and that this
10 verdict was against the weight of the evidence and
11 the result of confusion or passion or prejudice.

12 THE COURT: It's an interesting issue. You
13 know, these issues are pretty complex. And I think
14 I will take the matter under advisement and give
15 you all an opportunity to brief the issue and will
16 address that later.

17 MR. GRIFFIN: Thank you, Your Honor.

18 MS. O'BRIEN: Your Honor, how much time do we
19 have to brief the issue?

20 THE COURT: How much time you need?

21 MS. O'BRIEN: No more than ten days.

22 THE COURT: Mr. Griffin?

23 MR. GRIFFIN: That's fine.

24 THE COURT: Ten days.

25 MS. O'BRIEN: Thank you, Your Honor.

1 THE COURT: All right. Thank you all.

2 Ladies and gentlemen, thank you very much.

3 You all did not volunteer for this task. You were
4 called upon, you were drafted, you responded, and
5 you've done the best that you could do under the
6 circumstances.

7 Because I have the matter under advisement, I
8 have to review the legal legalities of the verdict,
9 I will make no further comment concerning the
10 verdict itself, except to certainly thank you all.
11 I know you deliberated for a good period of time
12 and you have come up with a verdict that you
13 believe is fair and just under the circumstances.

14 I'll take a look at it and see where we go
15 from here.

16 What do they need to do now?

17 THE CLERK: Just return to the jury room.

18 THE COURT: Okay. I want to thank you all.
19 You are done with jury duty. You're done not only
20 for this week; other than going downstairs and
21 getting released and getting the work slips and all
22 that, but for the next year you're disqualified
23 from jury service, meaning you cannot serve within
24 the next year in the Circuit Court here and for two
25 additional years you may choose not to serve. So

1 no one can be required to serve more often than
2 once every three calendar years.

3 Typically, when jurors come in, they don't
4 want to be called and, quite often, they don't want
5 to serve. But these are real touching issues and
6 the parties could not resolve it and they presented
7 it to you all to address.

8 And if you were in the same situation as any
9 of the parties in this case, you would certainly
10 want to have the jury look at the case fairly and
11 judge it fairly based on the law and based on the
12 evidence.

13 So I want to thank you all very much on behalf
14 of the parties and other citizens of Richland
15 County. Thank you very much. And y'all are good
16 to go.

17 THE JURY: Thank you.

18 THE COURT: If I could just have the forelady
19 wait for just a few moments so I can chat with you
20 outside the jury room.

21 MS. O'BRIEN: Your Honor, are we excused?

22 THE COURT: Yes.

23 MS. O'BRIEN: Thank you.

24 MR. GRIFFIN: Thank you.

25 THE COURT: We are in recess in this case.

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(WHEREUPON, the proceedings were
concluded at 4:24 p.m.)

(END OF TRANSCRIPT)

CERTIFICATE OF REPORTER

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STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

I, Deborah M. McCurdy, Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Richland County, South Carolina, on the 9th - 12th day of January, 2017.

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

August 6, 2017

s/Deborah M. McCurdy, RPR

Deborah M. McCurdy, RPR
Fifth Circuit Court Reporter

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STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

COURT OF COMMON PLEAS
2015-CP-40-07180
2015-CP-40-07181

William Gresham as Personal)
Representative of the Estate)
of John Corey Stringfellow,)
Plaintiff,)
vs.)
Cameron Thomas Stringfellow,)
Defendant.)

TRANSCRIPT OF RECORD

March 23, 2017
Columbia, South Carolina

B E F O R E :

THE HONORABLE CLIFTON B. NEWMAN, JUDGE.

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

JAMES M. GRIFFIN, ESQ.
DAVID W. FARRELL, ESQ.
Attorneys for the Plaintiff

BRADLEY L. LANFORD, ESQ.
CARRIE H. O'BRIEN, ESQ.
Attorneys for the Defendant

DEBORAH M. McCURDY, RPR
Official Court Reporter

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

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

E X H I B I T S

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

1 MS. GRIFFIN: Well, Your Honor, under the 13th
2 Juror Doctrine the trial judge has the veto power
3 over the jury's verdict if he finds that the
4 evidence does not justify the verdict. The effect
5 of making such a finding is as if the jury failed
6 to reach a verdict as if it is a hung jury and
7 because the result of the 13th Juror vote by the
8 judge is a new trial rather than adjustment to the
9 verdict, no purpose would be served according to
10 the South Carolina Supreme Court by requiring the
11 judge to make a factual finding on the record.

12 THE COURT: Say again?

13 MR. GRIFFIN: It says that there is no
14 requirement when the judge grants a new trial under
15 the 13th Juror Doctrine to make factual findings on
16 the record. It is in the judge's discretion should
17 the judge determine.

18 THE COURT: It is sort of like being on the
19 jury, you just decide whatever you want to and
20 don't have to explain anything?

21 MR. GRIFFIN: Well, that is according to
22 *Folkens v. Hunt*, Your Honor, 387 S.E. 2d 265, a
23 1990 case. And in *Jessup v. Hansen*, Your Honor,
24 the Court of Appeals says: When the verdict is
25 contrary to the fair preponderance of the evidence,

1 the trial judge not only has the discretion, but
2 also has the duty to grant a new trial.

3 And that is where we find ourselves here is
4 that the jury's verdict that Corey Stringfellow,
5 who was a passenger in the back seat of a vehicle
6 driven by his brother, was more than 51 percent at
7 fault than the Defendant who pled guilty to
8 involuntary manslaughter for killing Corey, that
9 that finding is against the fair preponderance of
10 the evidence.

11 Your Honor, the definition of involuntary
12 manslaughter is the unintentional killing of
13 another without malice while engaged in a lawful
14 act with reckless disregard for the safety of
15 others. That is S.C. Code Section 16-3-60.

16 Of course Your Honor will remember when the
17 Defendant Cameron Stringfellow testified, he
18 admitted to his own recklessness, and Your Honor
19 granted a verdict -- I mean, a directed verdict on
20 his conduct being reckless.

21 And in the Court's verdict form, which -- and
22 I point out was agreed upon by the Defense
23 counsel -- and the verdict form submitted to the
24 jury under Number One is stated: The Court has
25 ruled that the Defendant was reckless and that his

1 reckless conduct was a proximate cause of the
2 Decedent Corey Stringfellow's death.

3 Then the jury is presented with this question:
4 Do you, the jury, find by a preponderance of the
5 evidence that the Decedent John Corey Stringfellow
6 was negligent and that his negligence was a
7 proximate cause of his death?

8 Now, that was an agreed upon question
9 submitted to the jury and the verdict form. And
10 the reason that is important is, is because there
11 is a substantial difference between recklessness
12 and negligence. And the jury wasn't tasked to find
13 or asked if the Defendant -- excuse me, if the
14 Decedent John Corey Stringfellow was reckless,
15 agreed upon by the Defense is -- the question
16 presented was: Was Corey Stringfellow negligent,
17 and was his negligence a proximate cause of the
18 death?

19 And the jury was instructed therefore to
20 determine whether Corey was negligent and whether
21 his negligence was a proximate cause. And so the
22 jury was then asked to compare the percentage of
23 fault between Corey's negligence and the
24 Defendant's recklessness.

25 And, Your Honor, because by definition

1 recklessness is a higher degree of culpability and
2 responsibility for negligence, that no jury could
3 rationally conclude that the amount of Corey's
4 fault attributed to his negligence could exceed the
5 admitted fault resulting from the Defendant's
6 recklessness.

7 Now, Your Honor, in Berberich v. Jack, the
8 South Carolina Supreme Court stated that you do
9 compare all forms of conduct, recklessness with
10 negligence, and it was appropriate for the jury to
11 do that. But the point here is, there has been a
12 judicial finding, and frankly admission by the
13 Defendant, that the Defendant was reckless. That
14 is a higher degree of culpability than negligence.
15 The Defense agreed to submit to the jury the
16 question of negligence. And to the extent that the
17 jury found the Decedent Corey negligent, then find
18 out what percentage of fault, which was in the
19 jury's discretion.

20 But as found by Your Honor on your legal
21 rulings and factually in this case, no rational
22 jury could conclude that Corey Stringfellow, who
23 was in the passenger's seat in the rear of the car,
24 and had been on a trip that went from -- started
25 early morning, midnight, 1:00 o'clock, went ten

1 minutes to a friend's house, ten minutes back, and
2 then when they get to the neighborhood the
3 Defendant testified that he, without warning to
4 anyone else, decided that he wanted to do
5 essentially a victory lap for making it back and
6 that he got up to speeds of over 60 miles an hour
7 above the speed limit in a neighborhood, in
8 Wildewood, which has a posted speed limit of
9 25 miles an hour. The testimony is he was doing
10 85 miles an hour. And the testimony is that the
11 only person who was keeping a lookout was Corey in
12 the back seat who said, Watch out for that car.
13 That was the only testimony of anyone keeping a
14 lookout.

15 A passenger who is looking out, who warns the
16 driver, who has no blood alcohol, had no alcohol in
17 his blood system, and the driver has a .8, that he
18 is more at fault. That is what the jury found, he
19 is more at fault. Greater than 50 percent. The
20 jury found that he was more at fault than the
21 driver of the car. Your Honor, that finding is not
22 only against the very preponderance of the
23 evidence, it is so egregious that if you viewed the
24 evidence in the light most favorable to the
25 Defendant we would be entitled to a judgment as

1 matter of law and therefore a JNOV. I'm not
2 pressing that point today, Your Honor, just to keep
3 the record clean. I think on retrial we'll end up
4 in the same spot because we still have to allocate
5 fault as it went to the jury. But the evidence in
6 this case, there is no view that the passenger in
7 the rear seat can be more than 50 percent at fault
8 for his own death when the driver is driving
9 60 miles over the speed limit, got a .18. He pled
10 guilty to involuntary manslaughter for killing the
11 passenger. And the Defense agreed to submit the
12 question of comparative fault to the jury on the
13 Decedent's negligence alone. As compared to the
14 Defendant's recklessness.

15 So under these circumstances, Your Honor, we
16 would request the Court grant a new trial under the
17 13th Juror Doctrine.

18 THE COURT: All right.

19 MR. GRIFFIN: Thank you.

20 THE COURT: Yes, sir?

21 MR. LANFORD: Thank you, Your Honor. May it
22 please the Court?

23 First of all, to address Mr. Griffin's point
24 about verdict form, negligence, because this is not
25 only civil negligence, it encompasses gross

1 negligence, recklessness, willfulness, and wanton
2 conduct. Your Honor charged those definitions to
3 the jury that these are the types of negligence.
4 The verdict form does not, just because it states
5 negligence, does not limit it to simple negligence.
6 And even if it did, in the case that Mr. Griffin
7 cites, Berberich v. Jack, allows the jury to
8 compare simple negligence with reckless conduct.

9 In fact, in Berberich they found the
10 homeowner, who was simply negligent, was 75 percent
11 at fault while the Defendant was 25 percent at
12 fault.

13 So the verdict form doesn't have to spell out
14 each form of negligence. The term negligence
15 includes all of those terms which are encompassed
16 in the jury charges.

17 Mr. Griffin never moved for a directed verdict
18 on the issue of whether the Decedent was reckless
19 or willful or wanton or grossly negligent. He
20 never asked the Court to make that ruling. The
21 only directed verdict motion Mr. Griffin made was
22 asking the Court to rule that Cameron's conduct,
23 the Defendant's conduct, was reckless. So the jury
24 was absolutely allowed to consider whether the
25 Decedent's conduct was also negligent, reckless,

1 willful, and wanton.

2 And, Your Honor, what we heard, we heard some
3 very self-serving testimony from the Defendant, who
4 was clearly called as a friendly witness to the
5 Plaintiff and gave them friendly testimony. His
6 testimony was to be weighed by the jury, his
7 credibility of what he testified to was that no one
8 in the car objected when he announced that he was
9 going to drive the car fast and started driving the
10 car fast.

11 What we also heard was that the Decedent had a
12 license, he had every right to drive that BMW. He
13 had driven it before. There was evidence that the
14 Decedent was the one who actually initiated the
15 late night venture, joint venture, to go get the
16 drugs that night, that he had been smoking pot
17 earlier that day and driving his vehicle. I think
18 the jury could easily infer from those facts that
19 the reason Corey chose not to drive is because if
20 things went south that night, big brother would
21 take the fall instead of him.

22 So there was plenty of evidence for the jury
23 to consider as far as the Decedent's own
24 negligence, I think Mr. Griffin just conceded that
25 if the case was ever tried again there would be an

1 allocation of fault, so he concedes there is some
2 fault to the Decedent. What he is essentially
3 asking the Court to do is say as a matter of law a
4 passenger can never be more than 50 percent at
5 fault, which is essentially what he is asking.

6 The 13th Juror is completely inappropriate in
7 this case. The Court found that it was appropriate
8 to send the issue of comparative negligence to the
9 jury. They were instructed on the types of
10 negligence. They were instructed on what more than
11 50 percent would mean. And essentially what
12 Mr. Griffin is asking the Court to do is throw out
13 the verdict because Mr. Griffin doesn't agree with
14 the allocation. Whatever his view of the
15 allocation should be, it should be 50/50 or 55/45.

16 THE COURT: When would the 13th Juror
17 application ever be appropriate?

18 MR. LANFORD: Your Honor, I think when the
19 facts are not -- when the verdict is not supported
20 by the evidence and the facts -- the verdict in
21 this case is clearly supported by the evidence. It
22 is not supported by Mr. Griffin's interpretation of
23 the evidence, but the evidence that was presented
24 was that Corey's actions that night were negligent,
25 they were reckless, they were willful and wanton.

1 And the jury weighed both of those things. And
2 they heard evidence that Corey was the one who was
3 making the calls to go get the drugs, that he
4 initiated the trip, that he chose to get in the car
5 not once, but twice. He did not say a word when
6 his brother started driving the car at a high rate
7 of speed.

8 Mr. Griffin could have, before submitting this
9 to the jury, asked the Court to rule as a matter of
10 law that the Decedent could not be more than
11 50 percent at fault. He didn't do that because
12 that is not the law in South Carolina. The law in
13 South Carolina is that is a jury question as to
14 whether there is any allocation of fault between
15 two parties when there is evidence of negligence of
16 both parties.

17 THE COURT: Well, I have never been a 13th
18 Juror. I'm trying to understand. What is that?
19 13th Juror Doctrine. How does that work?

20 MR. LANFORD: Your Honor, do you mind if
21 co-counsel speaks?

22 THE COURT: I am going to call on her even if
23 she didn't volunteer.

24 MS. O'BRIEN: Your Honor, the 13th Juror
25 Doctrine is based upon the premise that whenever

1 the facts do not -- are not in support of what the
2 jury decides. So in this case you would have to
3 find that the facts did not support that the
4 passenger could be 51 percent negligent.

5 So, therefore, in order to get there, there
6 would have to be -- and there should have been a
7 question presented to you at the end of the close
8 of the evidence directing a verdict. And if there
9 is no --

10 THE COURT: That wouldn't be a 13th Juror,
11 would it, that would be in advance of anything by
12 the jury?

13 MS. O'BRIEN: Well, Your Honor, but here is
14 the reason. But it is saying that, whenever you
15 make a motion for a directed verdict, it is saying
16 that there are no facts to support the testimony or
17 the facts in the light most favorable to the
18 Plaintiff, they should still win. And that is
19 basically what the 13th Juror Doctrine is, is even
20 after the jurors have heard all of the facts and
21 all of the evidence, there is no way that anybody
22 sitting here with a reasonable mind could ever find
23 that the Decedent could be more negligent than the
24 Defendant.

25 THE COURT: And that is where I'm leaning.

1 I'm leaning on that thought. And why not?

2 MS. O'BRIEN: Well, and I will tell you why
3 not. Because whenever the jurors were presented
4 with the option of whether there was comparative
5 negligence or contributory negligence and finding
6 that fault, they had the opportunity to look at the
7 facts in this case. And the facts, if you take
8 them even in the light most favorable to the
9 Plaintiff, you have that there were two brothers
10 who were both intoxicated, one of them was drunk,
11 one of them was high. Both of them had impaired
12 judgment. Both of them willingly and knowingly
13 entered a vehicle where one drove, the other one
14 rode. As a result of getting in that vehicle --
15 and our position has always been -- but for the
16 Decedent getting in that car that night. It wasn't
17 like these kids were out and there was some way
18 they had to get home.

19 THE COURT: Wouldn't it always be the
20 situation with a passenger that but for catching a
21 ride with Mr. Bowen, you know -- Mr. Bowen, if I
22 need a ride home this afternoon, you would give me
23 a ride, wouldn't you?

24 THE BAILIFF: Yes, sir. I would give you a
25 ride.

1 THE COURT: And then we have a wreck. Can you
2 then come into court and say, but for the fact that
3 I asked him for a ride home I wouldn't have been in
4 a wreck?

5 MS. O'BRIEN: Well, here is the difference.

6 THE COURT: Okay.

7 MS. O'BRIEN: If you knew when you got in the
8 car with him that he was a reckless driver, that he
9 constantly was speeding, that he was drunk, and you
10 chose to get in the car with him --

11 THE COURT: He sings with one of the leading
12 gospel choirs, they have a number one hit. He
13 doesn't do any of those things.

14 MS. O'BRIEN: I bet he doesn't. But if he
15 did, and you willingly and knowingly got into the
16 car with him, then you could be as negligent as he
17 is or the jury could find that you were more
18 negligent. And in this case it is not that he just
19 happened to get in the car with someone, he got
20 into the car with someone that he had witnessed
21 drinking, that he had reason to believe had been
22 smoking marijuana. He got into the car with the
23 intent to go buy more marijuana for the purpose of
24 smoking it. You typically don't just buy marijuana
25 and not smoke it. And then on the way home he got

1 killed.

2 And, Your Honor, our position is that whenever
3 you set out on a joint venture -- and, you know,
4 here is the other thing that I would add. It is
5 not just simple negligence that we're talking about
6 or comparing simple to gross. There were also
7 affirmative defenses in this case: Assumption of
8 risk, which did not get charged separately, but
9 assumption of risk was discussed. And assumption
10 of risk can take it to 51 percent. The case law is
11 clear on that. And so when he assumed the risk by
12 getting in this car, the jury had a right to decide
13 whether he was zero percent negligent or all the
14 way up to 100 percent negligent. And they had a
15 right to compare. And that is exactly what they
16 did.

17 And if the Court and if the Supreme Court did
18 not want the jurors to be able to compare whenever
19 it was a driver versus a passenger, that would be
20 the case law in South Carolina. And it is not.

21 THE COURT: Well, I notice in your brief on
22 Page 8 of the brief you all cite one of my cases,
23 Hurd v. Williamsburg County. It was 2005 case. So
24 by the time it hit the appellate court, I was on
25 the circuit court bench at that time. But the

1 original trial ended in a mistrial. We called a
2 few witnesses and then took a break, and we walked
3 by the jury room, they were heavy into deliberating
4 on the case, saying who was at fault and who
5 wasn't, and everything, so -- the judge was Duane
6 Shuler, and Duane granted a mistrial because of the
7 premature deliberation by the jury. So it came
8 back on retrial.

9 Mr. Hurd was riding on the Williamsburg Court
10 transit bus and they stopped at a store around
11 Hemingway, between Hemingway and Andrews. When he
12 got off the bus and he went to cross the street, he
13 got hit by a car. And so we sued transit claiming
14 that they caused him to get hit by that car, or
15 contributed to it. And the case was retried by my
16 former law partner, Senator Sabb, and we convinced
17 the jury that the transit driver pulled up just a
18 little to obscure Mr. Hurd's view of the roadway
19 and that contributed to the accident. And the jury
20 awarded about \$750,000 and found Mr. Hurd
21 30 percent at fault and transit 70 percent at
22 fault.

23 You cited it here saying in a comparative
24 negligence case the trial court should grant a
25 motion for directed verdict when the sole

1 reasonable inference from the evidence is that the
2 non-moving party's negligence exceeded 50 percent.
3 I'm not sure how any of that ties into this. Just
4 the fact that you cited my case and that is 2005,
5 and that is, goodness gracious, the case started
6 before 2000. And here we are now in 2017. Go
7 ahead.

8 MS. O'BRIEN: Your legacy lives on.

9 Your Honor, our position would be the JNOV is
10 completely off the table. They did not preserve
11 that motion. And the reason why Mr. Griffin did
12 not go back and look to see if he preserved that
13 motion is because he is very well aware he did not.

14 THE COURT: Well, I am tending to agree with
15 you on that. You make a compelling argument on
16 that.

17 MS. O'BRIEN: Right. So the 13th Juror
18 Doctrine is all that is left in this case, and our
19 position is very clear that.

20 THE COURT: What about the part you claimed
21 about the jury deciding there was no conscious pain
22 and suffering?

23 MS. O'BRIEN: Your Honor, I think the jury has
24 a right to decide that. And I think, you know --

25 THE COURT: Well, you said the only thing

1 remaining on the table. Is that still on the
2 table?

3 MS. O'BRIEN: What do you mean?

4 THE COURT: You just said even if I grant a
5 13th -- a new trial based on 13th Juror, it could
6 only apply to the wrongful death case because the
7 jury -- I may not have looked at your brief before
8 you came in, or maybe you didn't write the brief, I
9 don't know. That even if I grant a new trial on
10 the 13th Juror Doctrine, it would only be as to
11 wrongful death because the jurors decided that
12 there was no conscious pain and suffering.

13 MS. O'BRIEN: Right.

14 THE COURT: So is that still on the table or
15 are you abandoning that argument?

16 MS. O'BRIEN: No, I think that absolutely is
17 still true.

18 THE COURT: Just asking.

19 MS. O'BRIEN: Yes. I am not abandoning
20 anything today.

21 THE COURT: Ms. O'Brien and I ran into each
22 other like a week or two -- the next week, I
23 believe. Or maybe it was the same week or the next
24 week at the bar convention. And she was basking in
25 the afterglow of her victory, so she -- we wanted

1 to talk about the case, but we couldn't because of
2 all this was still pending.

3 MS. O'BRIEN: I'm not sure *basking* would be
4 the appropriate word, but if I was happy from
5 drinking alcohol; correct.

6 THE COURT: All right. Well, she was really
7 mad because I made her -- she missed her daughter's
8 birthday party or something.

9 MS. O'BRIEN: You did. I did miss my
10 daughter's birthday.

11 THE COURT: Mr. Griffin, go ahead.

12 MR. GRIFFIN: Well, Your Honor, I hope Yogi
13 Berra's comment is appropriate eventually in this
14 case: It ain't over until it's over. So we're
15 here on post-trial motions.

16 I would point out on the survival issue
17 that -- two things. One, the jury in the
18 instruction in the verdict form, they were told if
19 they found Corey to be more than 50 percent at
20 fault, 51 percent, then stop, go no further. And
21 so -- and they found that. So I think what happens
22 after that is a nullity. It is that the verdict is
23 based upon a finding of comparative negligence or
24 greater than 51 percent.

25 I also point out that the jury, during their

1 deliberations, they asked if they could find for
2 the Plaintiff but award zero damages. And Your
3 Honor instructed them, No, you can't do that.

4 Now, I don't know why they felt -- they didn't
5 want to award damages, but it appears from the
6 question they found liability, then they went back
7 and tried to figure out how to get around the
8 Court's instruction. That is what it appeared to
9 have happened. But be that as it may, the point of
10 the matter is that --

11 THE COURT: So that is what I'm trying to
12 figure out as this 13th Juror, is that if I now put
13 myself in the mindset that I'm going to go in that
14 jury room and if I don't agree with their
15 conclusion, as a 13th Juror I can just declare a
16 mistrial, in effect -- or grant -- not a mistrial,
17 grant a new trial.

18 MR. GRIFFIN: Yes, sir.

19 THE COURT: Because I don't see how they could
20 possibly come to that conclusion.

21 MR. GRIFFIN: Well, Your Honor, you are more
22 like the president actually. I mean, it is
23 called -- you have veto power over what they
24 decide.

25 Now, to exercise that veto power, you have to

1 weigh the evidence. It is not a legal test like
2 summary judgment or a directed verdict. That is
3 why you are the 13th Juror because you have the
4 discretion to weigh the evidence. And then you
5 determine upon -- after your review of the
6 evidence, if the verdict or the findings that
7 support the verdict are not supported by the
8 evidence. And if you make that finding, then the
9 law is that you are obligated to grant a new trial
10 under the 13th Juror Doctrine:

11 And the case that they cited, Your Honor,
12 Youmans v. South Carolina Department of
13 Transportation, it has got a good discussion,
14 Folkens v. Hunt has a good discussion. That is a
15 2008 case. And they cite a 1938 case that says:
16 As has often been said, the trial judge is the 13th
17 Juror, possessing the veto power to the Nth degree
18 and it must be presumed, recognizes and appreciates
19 his responsibility, and exercises the discretion
20 vested in him with fairness and impartiality.

21 Then in the Youmans case, the Supreme Court
22 also -- or it is Court of Appeals, I believe --
23 court of Appeals, Your Honor, and it also cites
24 Folkens v. Hunt, another Supreme Court case, where
25 it says: The 13th Juror Doctrine is a vehicle by

1 which the trial judge may grant a new trial
2 absolute when he finds that the evidence does not
3 justify the verdict. The ruling has been termed
4 granting a new trial upon the facts. The effect is
5 the same as if the jury failed to reach a verdict.
6 The judge, as the 13th Juror, hangs the jury. When
7 a jury fails to reach a verdict, a new trial is
8 ordered. Neither the judge nor the jury are
9 required to give reasons for this outcome.
10 Similarly, because the result of the 13th Juror
11 vote by the judge is a new trial rather than
12 adjustment to the verdict, no purpose would be
13 served by requiring the trial judge to make factual
14 findings.

15 Now, this is about the only case -- and they
16 cited this case -- but it is the only case where
17 the Court has upset a trial judge's ruling on the
18 13th Juror --

19 THE COURT: Which one is that?

20 MR. GRIFFIN: -- new trial. This is the
21 Youmans v. South Carolina Department of
22 Transportation. This is an Allendale County case.
23 You have got to put an asterisk for Allendale
24 County. Judge Few was the trial judge. And Judge
25 Few order when he granted the new trial, he said:

1 that he was more concerned about the brevity of the
2 jury deliberations, not the evidence, but the
3 brevity of the jury deliberations.

4 THE COURT: Who won the case?

5 MR. GRIFFIN: The Plaintiff, Ms. Youman, won
6 against the South Carolina Department of
7 Transportation.

8 THE COURT: They didn't normally take too long
9 in Allendale to give the Plaintiff money.

10 MR. GRIFFIN: Well, that is exactly what Judge
11 Few said. They didn't take long enough to get a
12 drink of water, they had a verdict, and so he was
13 more concerned with the brevity of --

14 THE COURT: How much money did they give them?

15 MR. GRIFFIN: For Allendale County purposes,
16 Your Honor, I don't think that number.

17 THE COURT: 2 million on the survival,
18 9 million on the wrongful death.

19 MR. GRIFFIN: Right. Well, that's a good
20 day's work for -- what is it that Gooding firm down
21 there?

22 So, in any event, and the holding of the
23 Youmans case is: The trial court could not grant a
24 new trial under the 13th Juror Doctrine on the
25 ground that the jury deliberations were brief.

1 That is the holding. But under the 13th Juror
2 Doctrine, you do weigh evidence, you do determine
3 if the verdict is against the -- is not supported
4 by the evidence. And you have discretion to veto
5 what the jury did if you find that it is against
6 the clear weight of the evidence, or the evidence.
7 And that is in your discretion. And if there was
8 ever a case where the 13th Juror Doctrine was
9 appropriate to be applied -- there is a lot more
10 less egregious than this -- this is it.

11 And I would point out -- I hope they have
12 abandoned this argument, but I just want to get it
13 on the record -- one thing they argued is that when
14 the jury came back with the verdict, it was handed
15 up to Your Honor, Your Honor read the verdict, and
16 then Your Honor asked me if I had any post-trial
17 motions. And then I argued the post-trial motions.
18 Then Your Honor excused the jury. And they argue
19 technically that that motion that I made was
20 untimely because I made it before the jury was
21 discharged, although I did it at your instructions.
22 And that, in my view, the jury was discharged when
23 you took the verdict, but you had them sit in the
24 courtroom to hear the motions. And then --

25 THE COURT: Well, a lot of judges, when the

1 jurors return a verdict, they immediately discharge
2 the jury, particularly in criminal cases. And I
3 keep them and let them -- because they are usually
4 quite interested. They have invested all that
5 time, they want to know what the sentence is. But
6 they are discharged when they return the verdict,
7 and I usually invite them to stay. But I always
8 say something to the effect of, Thank you very
9 much.

10 MR. GRIFFIN: Yes, sir.

11 THE COURT: And then discharge them, even
12 though they are still sitting there.

13 MR. GRIFFIN: That is how we view it. And
14 then, Your Honor, you also --

15 THE COURT: She is showing me this language
16 that says: The motion shall be made promptly after
17 the jury is discharged or in the discretion of the
18 Court or ten days thereafter.

19 MR. GRIFFIN: So then Your Honor asked for
20 briefing and then we did it within ten days, and we
21 formally filed motions within the ten-day period.
22 So I think those are non-issues, but I wanted to
23 make the record on that.

24 THE COURT: I don't know whether it was before
25 this case or at the same time of this case, I sat

1 as an acting justice on the Supreme Court.

2 MR. GRIFFIN: During this case.

3 THE COURT: During this case, yes. And
4 basically the same issue, but these guys in
5 Greenville were drinking and driving, or drinking
6 and driving and smoking pot, and everything. And
7 they were involved in a collision. And so I guess
8 the driver -- the passenger was killed. The guy
9 who survived then sued -- a products liability
10 case -- because they were in the back of a Pinto or
11 some car that caused the gas tank explosion or
12 something. And the federal judge certified the
13 question -- Tim Cain, federal judge -- certified
14 the question as to whether or not the applicability
15 of products liability to the particular situation
16 we had. But the case -- I might be missing
17 something -- but the jury, there was a jury finding
18 at some point, and they found 50/50 between -- or
19 either that or a case was cited in their brief --
20 it was 50/50 where the guy, the passenger and the
21 driver was apportioned 50/50 because they were
22 drinking together. So we know it can be 50/50.
23 But can it be 51/49 is the question?

24 MR. GRIFFIN: And, Your Honor, when you
25 exercise your authority and discretion under the

1 13th Juror Doctrine, frankly you are not making a
2 hard and fast rule of law, as they want you to
3 think. What you are doing is you are citing the
4 case on the evidence that was presented to this
5 jury, and there is much overstatement as to what
6 was offered. For example, there was an argument
7 that it was clear that Corey Stringfellow was
8 impaired as a result of the marijuana. There was
9 no testimony about impairment. There was testimony
10 about toxicology report. And it was just -- they
11 had an expert listed to testify about impairment.
12 They didn't call the expert. And the only
13 testimony on impairment was the testimony that the
14 driver had a .18 and that was double the legal
15 limit.

16 They had claimed in their opening statement
17 that they have witnesses at this acquaintance's
18 house who is going to say that the driver -- the
19 Defendant was so impaired that people warned Corey.
20 That is what they represented to the jury. There
21 was no evidence of that.

22 THE COURT: I think I remember that I think.
23 I thought we were getting ready to settle in for
24 the long haul in this case to go far longer than it
25 went, but it came to a pretty quick halt.

1 MR. GRIFFIN: Yes, sir.

2 THE COURT: That was just a matter of
3 strategy. I understand that.

4 MR. GRIFFIN: And so, you know, that I
5 think -- who knows how the jury reached the
6 conclusion they did, but there is a lot of
7 information put in front of the jury in the opening
8 that was never proven up at trial, and I don't want
9 the record to get confused that that was proven,
10 because it wasn't.

11 MS. O'BRIEN: Your Honor, quickly. If you
12 listen carefully to what Mr. Stringfellow said the
13 first time he started talking, he quoted himself by
14 saying, If you grant a new trial, we will find
15 ourselves right back here where the jury has to
16 apportion fault.

17 THE COURT: When you said Stringfellow you
18 mean --

19 MS. O'BRIEN: Excuse me, Mr. Griffin. When he
20 said that, If you grant a new trial, we are going
21 to be right back here where there are going to be
22 12 people sitting in that box and unless a judge
23 says you cannot find more than 50 percent, we could
24 very likely be right back here after an appeal,
25 after a new trial is granted, with another judge,

1 whenever the jurors say, the jury speaks and the
2 jurors say, We find the Decedent 51 percent
3 negligent, then the 13th Doctrine being applied
4 again.

5 The fact that the Plaintiff admits in this
6 case that if you grant a new trial, that we could
7 very likely find ourselves right back here, shows
8 and tells you that it is up to the jurors to decide
9 the facts of this case.

10 And the jurors, based upon what they heard,
11 whether the Plaintiff likes it or not, decided that
12 when the Decedent willingly and knowingly got into
13 a vehicle with someone that he knew was intoxicated
14 and decided to go out on a joint venture to buy
15 more marijuana and then decided to get back in the
16 car when he could have, (a) stayed at home, or (b)
17 stayed at the friend's house. When he got back in
18 that car, he didn't just make one mistake. He made
19 numerous, conscious choices to get in the car. And
20 when he did that, the jury has a right to decide if
21 he is more than 51 -- more than 50 percent
22 negligent.

23 Based upon that -- and, judge, you just said,
24 the reason why you keep jurors is because they are
25 invested. They hear. Those 12 people listened to

1 every single thing that was said. I talked to the
2 12 jurors after this case was over with, and I
3 listened to what they had to say and why they made
4 the decision that they did. And I don't believe
5 that because we don't like the decision or we think
6 that the decision might not be fair to the
7 Plaintiff, that we then come in and say the 13th
8 Juror Doctrine should apply. The 13th Juror
9 Doctrine only should apply when the facts do not
10 support the verdict.

11 And in this case the facts support the
12 verdict.

13 THE COURT: All right. Any other wise words?

14 MR. GRIFFIN: Your Honor, because I agree it
15 is a factual question as to what percentage of
16 fault that the jury allocates percentage of fault,
17 I am not agreeing that the jury under the facts of
18 this case could determine rationally that the
19 passenger was more than 50 percent at fault.

20 THE COURT: You were making that argument in
21 support of your seeking to have me direct a verdict
22 in favor of the Plaintiff.

23 MR. GRIFFIN: Yes, sir.

24 THE COURT: Not the 13th Juror argument for a
25 new trial.

1 MR. GRIFFIN: Yes, sir.

2 THE COURT: That argument was in the portion
3 where you were trying to get me to direct a
4 verdict.

5 MR. GRIFFIN: Yes, sir.

6 THE COURT: Well, when I saw this Youmans
7 case, I just knew it had to be Judge Ralph King
8 Anderson who says: The Raison D'etre of the 13th
9 Juror Doctrine. And he goes through the whole
10 history of it. It says: It has often been said,
11 the trial judge is the 13th juror, possessing the
12 veto power to the Nth degree, and it must be
13 presumed recognizes and appreciates his
14 responsibility, and exercises the discretion vested
15 in him for fairness and impartiality. And they
16 went through all of the cases on the issue in this
17 case.

18 The Supreme Court explained that: The 13th
19 Juror Doctrine is so named because it entitles the
20 trial court to sit in essence of the 13th juror
21 when it finds the evidence does not justify the
22 verdict, and then to grant a new trial based solely
23 upon facts.

24 Of course in that case they claim that Judge
25 Few sua sponte granted it in the Allendale case,

1 the judge on his own granted it. What do you say
2 about that?

3 MR. GRIFFIN: Your Honor, ultimately the Court
4 concluded that the grounds that Judge Few --
5 consideration of the 13th Juror Doctrine
6 encompassed the post-trial motion not otherwise
7 specifically phrased as such.

8 THE COURT: Yes, the way these words are used
9 said.

10 MR. GRIFFIN: Right.

11 THE COURT: He said: The colliquifaction of
12 the judicial and/or counsel statements persuades
13 this Court that the 13th juror doctrine was posited
14 to the circuit court for -- what is that word,
15 arbitrament?

16 MR. GRIFFIN: I think that's right.

17 THE COURT: Then he got into the discussion
18 about the length of the jury deliberation. And in
19 the ends wrapped it up after going through other
20 jurisdictions. And conclusion: We decline to
21 place our approbation and imprimatur upon this 13th
22 juror order based upon length of prior
23 deliberations. The Latin phrase *abundans cautela*
24 *non nocet* (abundant or extreme caution does no
25 harm) is efficacious. Judicial interference with a

1 jury verdict based upon the time of jury
2 deliberations is at best fraught with doctrinal
3 vulnerability.

4 So he spends all the time saying the judge can
5 do it, but he can't do it for the reason Judge Few
6 did it.

7 MR. GRIFFIN: Correct.

8 THE COURT: Of course now that Judge Few is on
9 the Supreme Court he may decide differently.

10 Of course, you know, I sat through this case.
11 And with the aggressiveness to which it was
12 litigated by the Plaintiff and the Defendant by the
13 Defense, many issues were raised that caused me to
14 be more actively involved in it than I often care
15 to be as far as ruling on various things.

16 After the admission by Cameron that he was
17 reckless and basically concluding -- through his
18 testimony it was all his fault -- and I directed a
19 verdict on that issue.

20 You know, I see no way that the jury could
21 reasonably come to the conclusion they came to, no
22 reasonable jury could reach that decision deciding
23 that the passenger was more at fault than the
24 driver. And no evidence was presented that would
25 give the jury a basis to make that decision.

1 So as to the JNOV, I do not think it is
2 appropriate to grant that.

3 As to the new trial based on the 13th Juror,
4 it seems to me as if, in addition to there being no
5 reasonable basis for which the jury could come to
6 that conclusion, basically, the jurors seemingly --
7 or I can't speculate what they decided, but they
8 didn't apply the law or were confused by the law or
9 just didn't apply it or just decided they didn't
10 want to be involved in this process. And they
11 decided they were not going to -- that despite the
12 evidence they were going to do the jury
13 nullification, of sorts.

14 But I'm going to grant the new trial based on
15 13th Juror Law and adopt the Plaintiff's argument
16 with regard to that.

17 I do find, however, that the jury has settled
18 the issue regarding the survival action. The
19 evidence in the case, I think litigated as well, as
20 to whether or not the gasping for the last breath
21 of sorts amounted to conscious pain and suffering.
22 And I submitted that issue to the jury over
23 strenuous objection. I think the verdict, despite
24 the fact that -- I think the verdict form has to be
25 taken as a whole. And that issue has been decided

1 by the jury. And so I limit the new trial to the
2 issue of wrongful death.

3 MR. GRIFFIN: Thank you, Your Honor.

4 THE COURT: And if you will prepare a more
5 extensive order. Or if I don't have to give a
6 reason, according to you, other than what I have
7 already stated, I'll sign it.

8 MR. GRIFFIN: Your Honor, I think a Form 4
9 will be appropriate based on that, or if Your Honor
10 would like me to draft an order, I will be happy
11 to.

12 MS. O'BRIEN: We would request a detailed
13 order. Thank you.

14 THE COURT: Ms. O'Brien wants something that
15 can pick apart. So draft an order, proposed order,
16 share it with counsel, and you can pick it apart
17 before I sign it or you can pick it apart after I
18 sign it. But that is my ruling. I think that is
19 the --

20 MR. GRIFFIN: Thank you.

21 THE COURT: -- clear indication based on
22 common sense and application of the law and facts
23 of this case.

24 And that is the order of the Court.

25 MR. LANFORD: Your Honor, may I just state for

1 the record that, we were not abandoning the
2 argument that Mr. Griffin insinuated that we may be
3 abandoning.

4 THE COURT: Which one is that?

5 MR. LANFORD: With regard to the timing of the
6 post-trial motions. Just to make that clear for
7 the record, we are not adopting all arguments.

8 THE COURT: All right. I will include in my
9 ruling that it was clearly timely based on the
10 Court -- the motions being made at the conclusion
11 of the case. Upon return of the verdict he made a
12 motion, then requested additional time, and the
13 Court granted that request. And there was no
14 objection to him having additional time to file it.
15 I was actually shocked to see a motion claiming
16 that it was not timely.

17 MR. LANFORD: Well, the argument is that is
18 was premature.

19 THE COURT: Oh, premature. Well, if you all
20 want to spend some time with the Supreme Court
21 figuring out when is a verdict a verdict, you know,
22 when is the jury discharged, because the jury is
23 sitting here that means they were still serving on
24 the jury. Good luck being involved with something
25 like that. That sounds like a waste of time to me.

1 But, you never know. You all do as you wish. I am
2 always interested in seeing what others think about
3 things.

4 All right. Good deal. Good to see everyone.

5 MR. GRIFFIN: Thank you, Your Honor.

6 MR. LANFORD: Thank you, Your Honor.

7 MS. O'BRIEN: Thank you, Your Honor.

8 THE COURT: When are you going to send that to
9 me, Mr. Griffin? I am not rushing you, I just want
10 to know.

11 MR. GRIFFIN: Your Honor, I will circulate it
12 to them by Wednesday and hopefully have it to you
13 by Friday, a week from tomorrow.

14 THE COURT: All right. That sounds good to
15 me.

16 MR. GRIFFIN: Okay, thank you.

17 (WHEREUPON, the proceedings were
18 concluded at 4:20 p.m.)

19

20

21

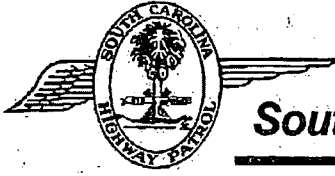
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23

24

25

(END OF TRANSCRIPT)



South Carolina Department of Public Safety

South Carolina Highway Patrol

MF-086-13
Richland
County

Post B
M.A.I.T.

Team Members

Sgt. M.B. Coffin
Cpl. J.C. Rikard
Cpl. S.L. Farmer
Cpl. J.R. O' Donnell
L/Cpl. B.C. Ridgeway
L/Cpl. M.W. Turner
L/Cpl. J.D. Sisler
L/Cpl. M. R. Nix

MAIT Coordinator

Leigh P. Watkins
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Blythewood, SC 29016
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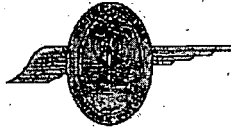
Forward all Subpoenas for MAIT to
Leigh P. Watkins



SOUTH CAROLINA HIGHWAY PATROL

MULTI-DISCIPLINARY ACCIDENT INVESTIGATION TEAM

Leroy Smith
Director



M.R. Oliver
Colonel

INVESTIGATIVE REPORT

The South Carolina Highway Patrol Multi-Disciplinary Accident Investigation Team reserves the right to amend, correct, or detract any or all inferences, conclusions, or opinions presented in this report. This report is the intellectual property of the South Carolina Department of Public Safety and shall not be duplicated or copied for distribution, unless written permission is granted by the Office of General Counsel.

MAIT CASE NO:	MF-086-13	CAD/CASE NO:	13BW092947
REQUESTING AGENCY:	SCHP		
TROOP:	1		
COUNTY:	RICHLAND	COLLISION LOCATION:	SHALLOW BROOK DRIVE
INVESTIGATING OFFICER:	L/CPL. R. H. ROWE		
DATE:	05/24/2013		
MAIT REGION:	POST B	TEAM LEADER:	SGT. M. B. COFFIN

1. SPEED CALCULATION.

The speed of unit #1 at impact was calculated to be approximately 82 miles per hour. The speed limit is 25 miles per hour.

2. MAPPING / CAD.

MAIT completed a forensic mapping and CAD of the collision scene.

3. LANE LOCATION.

The collision occurred in the westbound lane of Shallow Brook Drive.

4. MECHANICAL / TIRE.

MAIT conducted a mechanical examination on unit # 1 and concluded that unit # 1 was in proper mechanical condition prior to this collision and that no mechanical failure contributed to this collision.

5. AUDIO / INTERVIEWS.

MAIT conducted audio recordings during the course of this investigation.



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Post Office Box 1993
Blythewood, SC 29016



6. PHOTOGRAPHS.

MAIT took digital photographs during the course of this investigation.

7. VIDEO.

MAIT took digital video footage during the course of this investigation.

M. B. Coffey

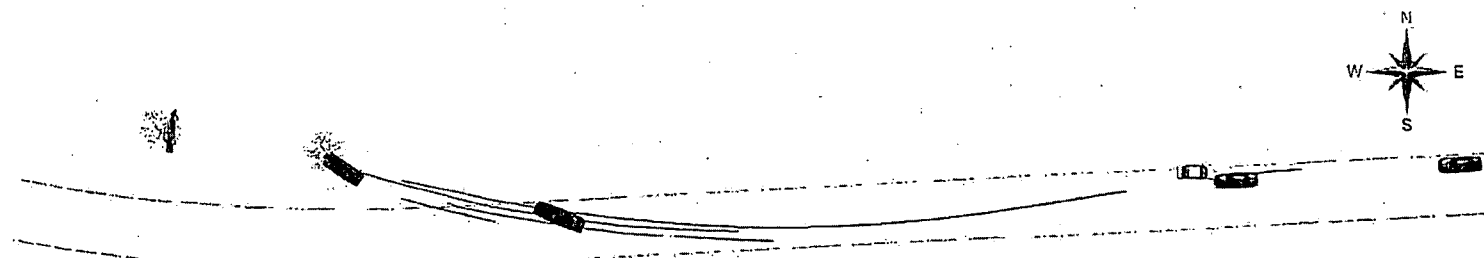
Team Leader / Region Commander

ACTAR Number: 2363







SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY
Post Office Box 1993
Blythewood, SC 29016





SHALLOW BROOK DR.

	SKID MARK
	UNIT 1
	UNIT 2
	TREE

FINDING #1

MF-086-13

CASE NUMBER: MF-086-13

Comments: Unit #1 speed combined.

**** COMBINED MINIMUM SPEEDS W/ KNOWN SPEEDS ****

$$S = \sqrt{S^2(1) + S^2(2) + \dots + S^2(n)}$$

$$S = \sqrt{(21.00)^2 + (73.00)^2 + (32.00)^2 + (0.00)^2 + (0.00)^2 + (0.00)^2 + (0.00)^2 + (0.00)^2}$$

$$S = \sqrt{441.00 + 5329.00 + 1024.00 + 0.00 + 0.00 + 0.00 + 0.00 + 0.00}$$

$$S = \sqrt{6794.00}$$

$$S = 82.42$$

S = The Speed in MPH.

S² = The Individual Min. Speed.

(1), (2), (n) = The # of the individual speed.

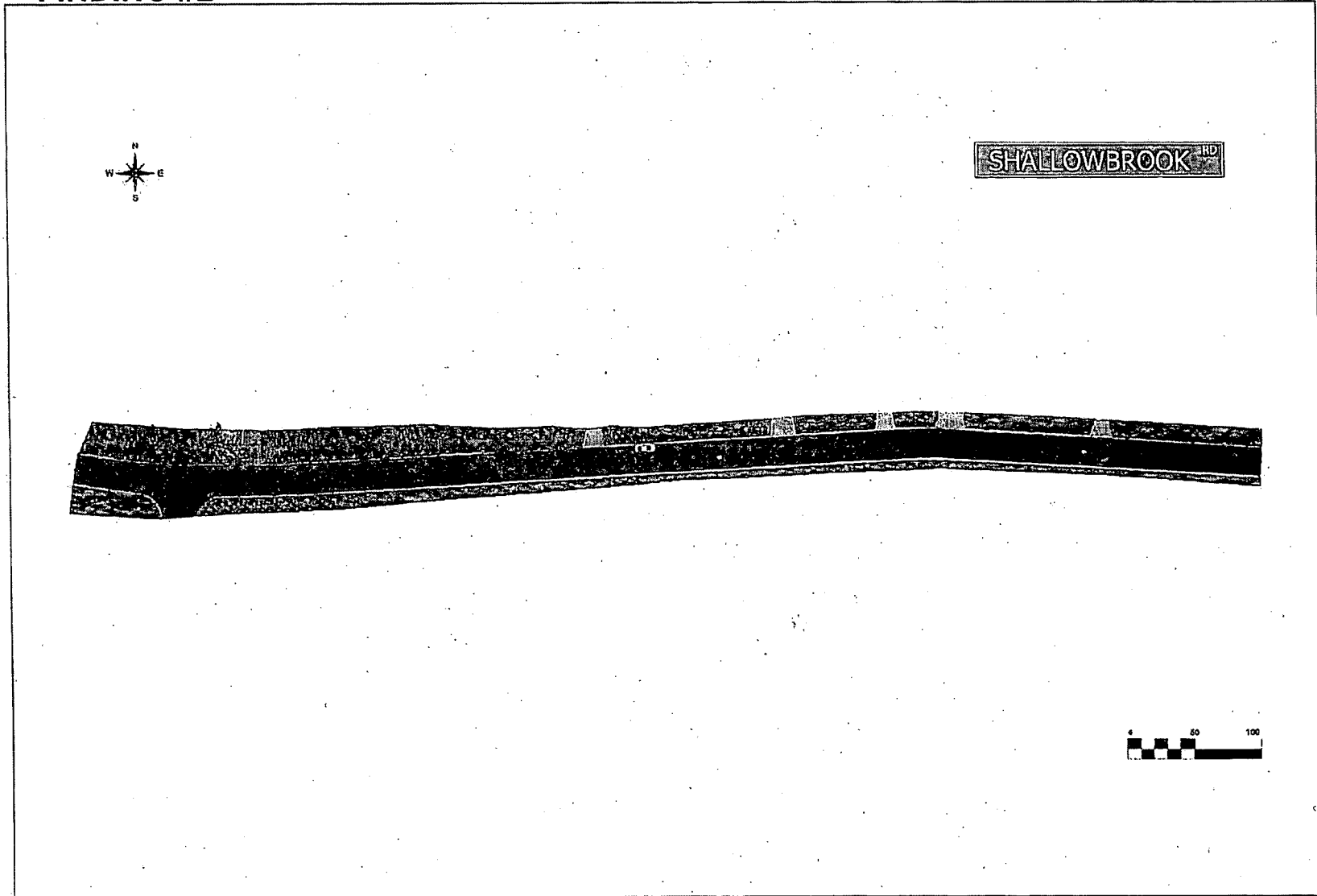
INPUTS:	
Speed #1 in MPH is:	21.00
Speed #2 in MPH is:	73.00
Speed #3 in MPH is:	32.00

RESULTS:	
The Speed in MPH is:	82.42
The Velocity in FPS is:	120.88

SCHPM.A.I.T.
 POST B
 10311 WILSON BLVD.
 BLYTHEWOOD, SC 29016

Printed: 6/5/2013

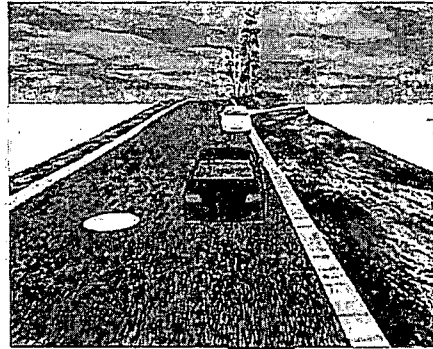
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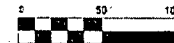
SOUTH CAROLINA HIGHWAY PATROL
MULTI-DISCIPLINARY ACCIDENT INVESTIGATION TEAM
POST B
DATE DRAWN: 05/24/2013

ROADWAY

TROOP 1 / RICHLAND
OCCURRED ON: 05/24/2013
MF-086-13



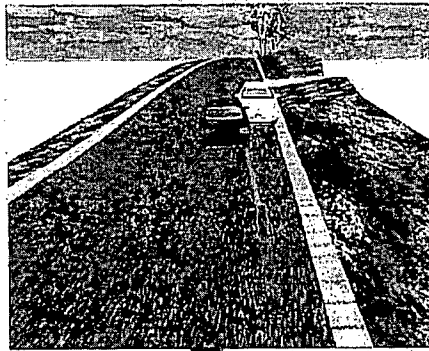
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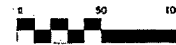
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DATE DRAWN: 05/24/2013

PRE IMPACT

TROOP 1 / RICHLAND
OCCURRED ON: 05/24/2013
MF-086-13



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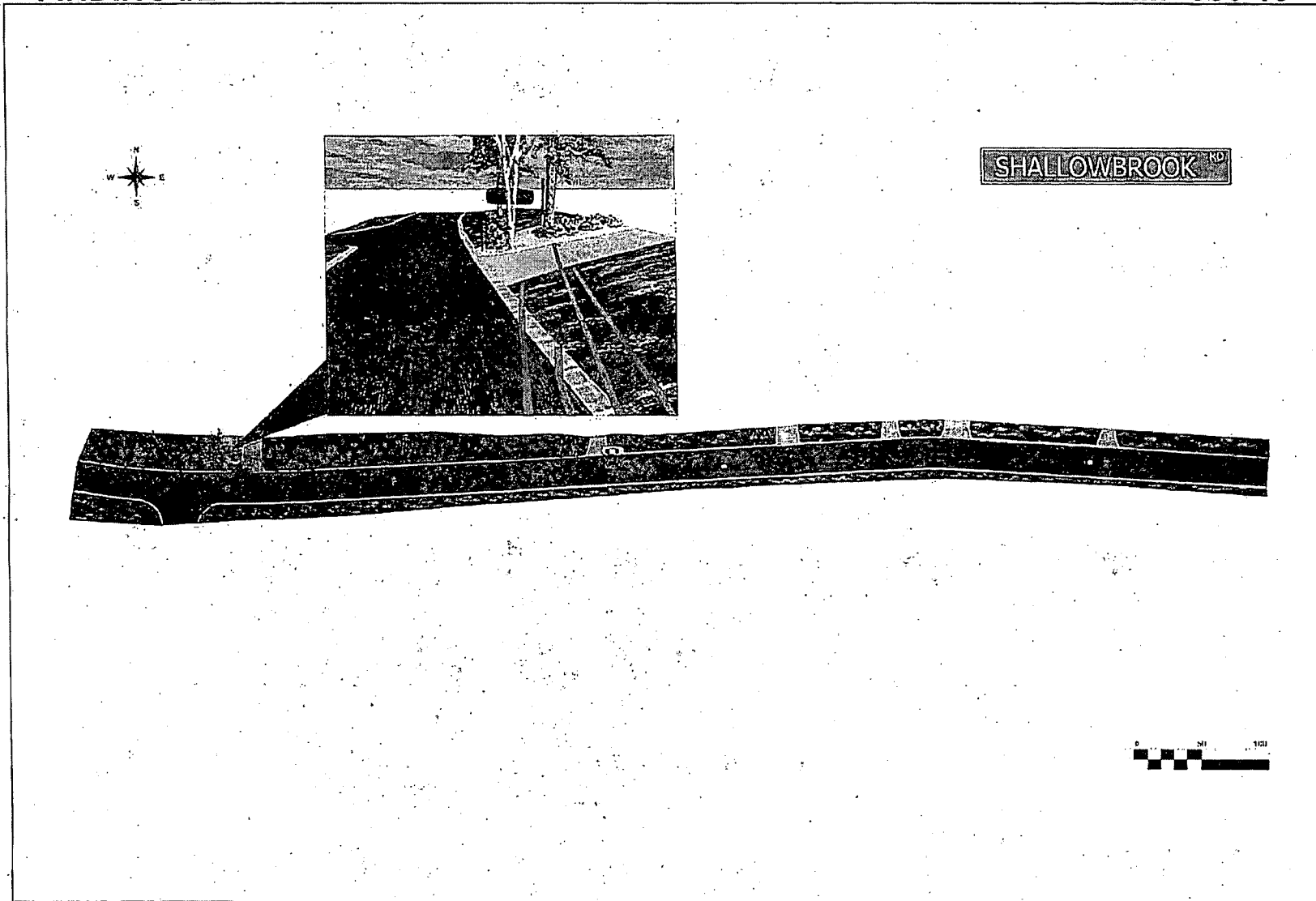
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MULTI-DISCIPLINARY ACCIDENT INVESTIGATION TEAM
POST B
DATE DRAWN: 05/24/2013

IMPACT 1

TROOP 1 / RICHLAND
OCCURRED ON: 05/24/2013
MF-086-13

FINDING #2

MF-086-13



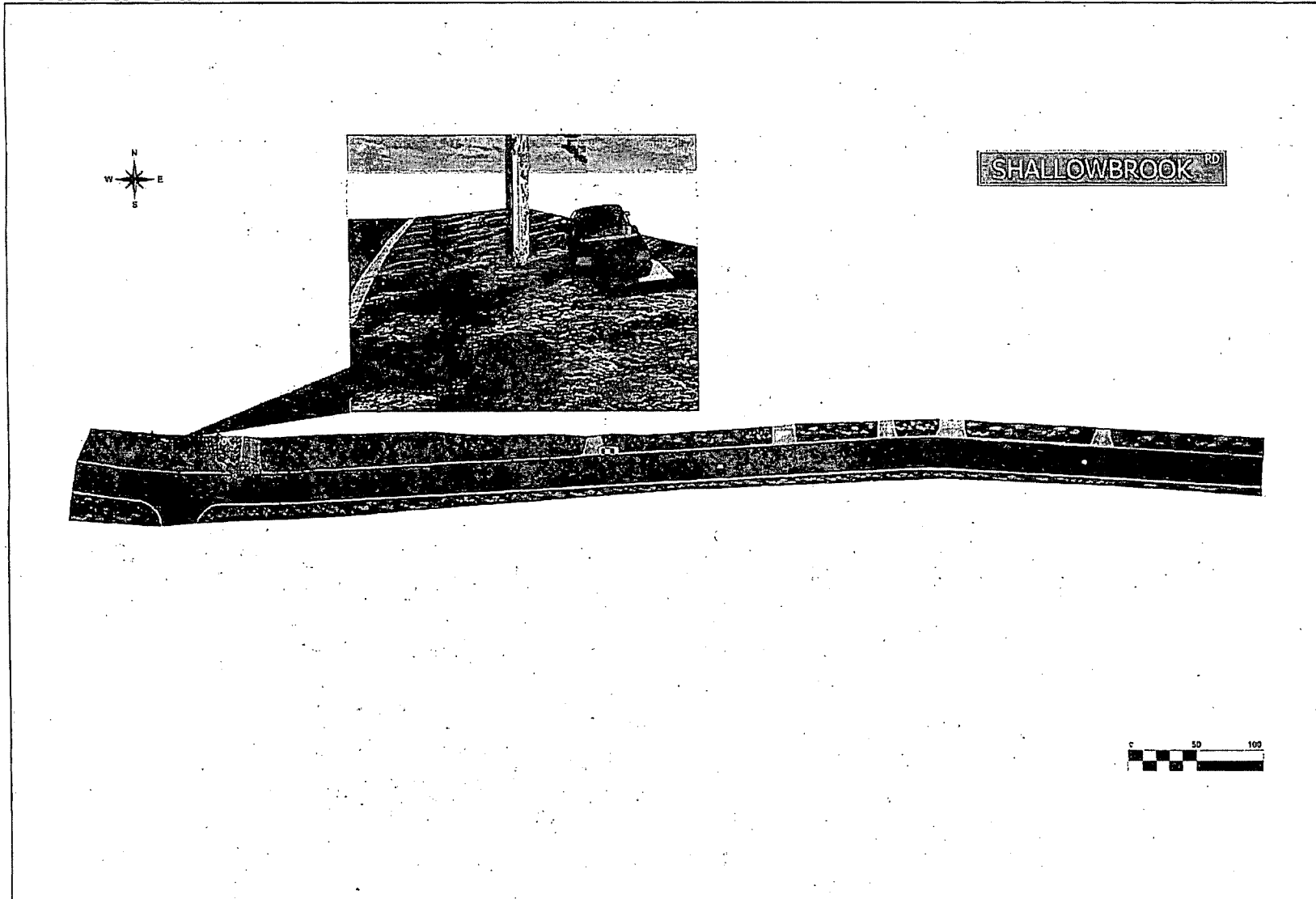
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DATE DRAWN: 05/24/2013

IMPACT 2


TROOP 1 / RICHLAND
OCCURRED ON: 05/24/2013
MF-086-13

FINDING #2

MF-086-13

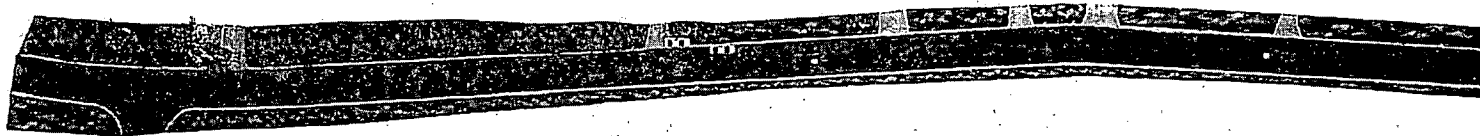


SHALLOWBROOK RD

	SOUTH CAROLINA HIGHWAY PATROL MULTI-DISCIPLINARY ACCIDENT INVESTIGATION TEAM POST B. DATE DRAWN: 05/24/2013	EVIDENCE AND FINAL REST	TROOP 1 / RICHLAND OCCURRED ON: 05/24/2013 MF-086-13
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SHALLOWBROOK RD



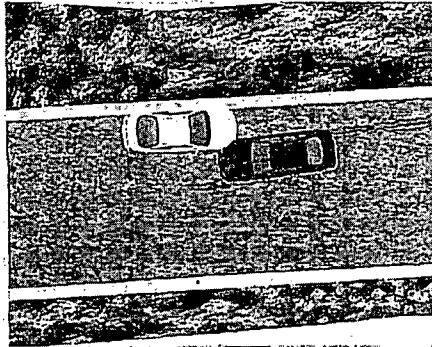
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MULTI-DISCIPLINARY ACCIDENT INVESTIGATION TEAM
POST B
DATE DRAWN: 05/24/2013

SEQUENCE OF EVENTS

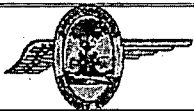
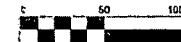
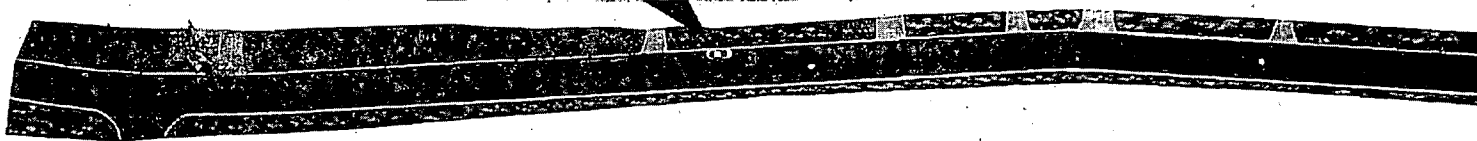
TROOP 1 / RICHLAND
OCCURRED ON: 05/24/2013
MF-086-13

FINDING #3

MF-086-13



SHALLOWBROOK RD



SOUTH CAROLINA HIGHWAY PATROL
MULTI-DISCIPLINARY ACCIDENT INVESTIGATION TEAM
POST B
DATE DRAWN: 05/24/2013

LANE LOCATION

TROOP 1 / RICHLAND
OCCURRED ON: 05/24/2013
MF-086-13

Crash set 1

crash set 1:

01 41 C6 51 A6 73 FA 9C 03 00 00 28 D7 01 3B 00 18 5F 07 DD
00 52 5D 25 00 52 5D 4B E0 25 FF FF 00 50 00 00 20 EC F8 26
FF C9 FF FF D7 3C 3F 3C 2C 2B 32 FE 33 31 FE 2E 2D 29 38
38 FE FE FE FE 37 34 35 32 39 FE FE FE FE FE FE FE 7F FA F0
01 7F 3A C0 01 40 20 02 00 FF 3F 45 1E 13 7F FF FF FF FF FF
FF 7F FF FF FF FF FF EF 0B 09 00 00 83 00 0E CB FF FF 85 00
16 CB FF FF FF FF FF FF FF FF FF FF FF FF FF FF FF FF
FF FF FF AA

Systemtime: 1499:34:43:366 (hh:mm:ss:ms) [0x01 0x41 0xC6 0x51 0xA6]

Operating time counter: 16838:42:59 (hh:mm:ss) [0x73 0xFA 0x9C 0x03]

Power on counter: 10455 0x00 0x00 0x28 0xD7

Timestamp last power on: 1:59:0 24/5/2013 (hh:mm:ss - dd/mm/yyyy)
0x01 0x3B 0x00 0x18 0x5F 0x07 0xDD

Systemtime Last Power On: 1499:23:17 (hh:mm:ss) [0x00 0x52 0x5D 0x25]

System time of the last active system state: 1499:23:55 hh:mm:ss [0x00 0x52 0x5D 0x4B]

Crashinfo of car: E0 25 FF FF
Car Speed: 0xE0 0x25 152 km/h

CC-Reports: 00 50 00 00

Equipment occupant recognition passenger: 0x20
SBR-sensor: not equipped
CIS

Status SBE : 11101100
no. SBEX programmed respectively encoded

Status ODS-System: 0xF8 0x26

ODS-System error status:

SBR information passenger seat:
SBR On

Occupation-Information passenger seat:
occupied

Status SLV: 11111111
No seat back blocking installed.

Status buckle switches (front, rear, centre): 11001001 11111111 11111111
buckle switch driver plugged
buckle switch passenger plugged
buckle switch rear left not installed
buckle switch rear right not installed
buckle switch rear centre not installed

Page 1



Crash Set 1

Status pos pol : 11010111
 POS not installed
 POL off

Resistor values of ignition circuit before begin of crash

IC01 Airbag driver stage 1:	0x3C	3.09 Ohm
IC02 Airbag driver stage 2:	0x3F	3.25 Ohm
IC03 Adaptive airbag driver vent:	0x3C	3.09 Ohm
IC04 Airbag passenger stage 1:	0x2C	2.27 Ohm
IC05 Airbag passenger stage 2:	0x2C	2.27 Ohm
IC06 Adaptive airbag passenger vent:	0x2B	2.22 Ohm
IC07 Buckle pretensioner driver:	0x32	2.58 Ohm
IC08 Belt pretensioner driver:	0xFE	not equipped
IC09 Adaptive load limiter driver:	0x33	2.63 Ohm
IC10 Buckle pretensioner passenger:	0x31	2.53 Ohm
IC11 Belt pretensioner passenger:	0xFE	not equipped
IC12 Adaptive load limiter passenger:	0x2E	2.37 Ohm
IC13 Kneearbag driver:	0x2D	2.32 Ohm
IC14 Kneearbag passenger:	0x29	2.11 Ohm
IC15 Active head rest driver:	0x38	2.89 Ohm
IC16 Active head rest passenger:	0x38	2.89 Ohm
IC17 Buckle pretensioner rear left:	0xFE	not equipped
IC18 Buckle pretensioner rear right:	0xFE	not equipped
IC19 Adaptive seat airbag driver:	0xFE	not equipped
IC20 Adaptive seat airbag passenger:	0xFE	not equipped
IC21 Seatairbag (thorax) driver:	0x37	2.84 Ohm
IC22 Seatairbag (thorax) passenger:	0x34	2.68 Ohm
IC23 Curtain left:	0x35	2.73 Ohm
IC24 Curtain right:	0x32	2.58 Ohm
IC25 SBK:	0x39	2.94 Ohm
IC26 SBK 2:	0xFE	not equipped
IC27 Reserve:	0xFE	not equipped
IC28 Reserve:	0xFE	not equipped
IC29 Fire loop pedestrian protection front left:	0xFE	not equipped
IC30 Fire loop pedestrian protection front right:	0xFE	not equipped
IC31 Fire loop pedestrian protection rear left:	0xFE	not equipped
IC32 Fire loop pedestrian protection rear right:	0xFE	not equipped

Release of fire loops: 01111111 11111010 11110000 00000001

IC01 Airbag driver stage 1:	released
IC02 Airbag driver stage 2:	released
IC03 Adaptive airbag driver vent:	released
IC04 Airbag passenger stage 1:	released
IC05 Airbag passenger stage 2:	released
IC06 Adaptive airbag passenger vent:	released
IC07 Buckle pretensioner driver:	released
IC08 Belt pretensioner driver:	not equipped
IC09 Adaptive load limiter driver:	not released
IC10 Buckle pretensioner passenger:	released
IC11 Belt pretensioner passenger:	not equipped
IC12 Adaptive load limiter passenger:	released
IC13 Kneearbag driver:	released
IC14 Kneearbag passenger:	released
IC15 Active head rest driver:	released
IC16 Active head rest passenger:	released
IC17 Buckle pretensioner rear left:	not equipped
IC18 Buckle pretensioner rear right:	not equipped
IC19 Adaptive seat airbag driver:	not equipped
IC20 Adaptive seat airbag passenger:	not equipped
IC21 Seatairbag (thorax) driver:	released
IC22 Seatairbag (thorax) passenger:	released

Crash Set 1

IC23 Curtain left: released
 IC24 Curtain right: released
 IC25 SBK: released
 IC26 SBK 2: not equipped
 IC27 Reserve: not equipped
 IC28 Reserve: not equipped
 IC29 Fire loop pedestrian protection front left: not equipped
 IC30 Fire loop pedestrian protection front right: not equipped
 IC31 Fire loop pedestrian protection rear left: not equipped
 IC32 Fire loop pedestrian protection rear right: not equipped

Controlled ignition circuits: 01111111 00111010 11000000 00000001

IC01 Airbag driver stage 1: controlled
 IC02 Airbag driver stage 2: controlled
 IC03 Adaptive airbag driver vent: controlled
 IC04 Airbag passenger stage 1: controlled
 IC05 Airbag passenger stage 2: controlled
 IC06 Adaptive airbag passenger vent: controlled
 IC07 Buckle pretensioner driver: controlled
 IC08 Belt pretensioner driver: not equipped
 IC09 Adaptive load limiter driver: not controlled
 IC10 Buckle pretensioner passenger: controlled
 IC11 Belt pretensioner passenger: not equipped
 IC12 Adaptive load limiter passenger: controlled
 IC13 Kneearbag driver: controlled
 IC14 Kneearbag passenger: controlled
 IC15 Active head rest driver: not controlled
 IC16 Active head rest passenger: not controlled
 IC17 Buckle pretensioner rear left: not equipped
 IC18 Buckle pretensioner rear right: not equipped
 IC19 Adaptive seat airbag driver: not equipped
 IC20 Adaptive seat airbag passenger: not equipped
 IC21 Seatairbag (thorax) driver: not controlled
 IC22 Seatairbag (thorax) passenger: not controlled
 IC23 Curtain left: controlled
 IC24 Curtain right: controlled
 IC25 SBK: controlled
 IC26 SBK 2: not equipped
 IC27 Reserve: not equipped
 IC28 Reserve: not equipped
 IC29 Fire loop pedestrian protection front left: not equipped
 IC30 Fire loop pedestrian protection front right: not equipped
 IC31 Fire loop pedestrian protection rear left: not equipped
 IC32 Fire loop pedestrian protection rear right: not equipped

Additional information:

Byte 1: 01000000
 TCU steered
 Byte 2: 00100000
 SM_seat position driver standardization necessary
 Byte 3: 00000010
 SPS/SM seat position passenger, seat back
 Variable ignition circuit table 1
 Crash Nachlaufzeit: Condition not fulfilled 0xFF
 Backrest position driver: 63% 0x3F
 Backrest position passenger: 69% 0x45
 Seat longitudinal position driver: 30% 0x1E
 Seat longitudinal position passenger: 19% 0x13

Maximal lateral angle of roll: unknown / default 0x7F 0xFF
 Systemtime: System time not available 0x00FFFFFF

Maximal lateral angular velocity: unknown / default 0x7F
 Page 3

Crash Set 1

Systemtime: System time not available 0x00FFFFFF

Delta-v in x- und y-direction: x=0xEF y=0xB yr=0x9

Delta-v-x = -17 km/h
Delta-v-y = +11 km/h
Delta-v-yr = +9 km/h

Error info of satellites: 00000000 00000000

Algo path:

Direction	Weight	Time[ms]	Phase	Path	Bytes (HEX)	
Frontal	3	14	specific	Sensitive	AB	83 00 0E
CB FF FF						
Frontal	5	22	specific	Sensitive	AB	85 00 16
CB FF FF						
default	15	65535	default	default	default	FF FF FF
FF FF FF						
default	15	65535	default	default	default	FF FF FF
FF FF FF						
default	15	65535	default	default	default	FF FF FF
FF FF FF						

Info algo path: Algo path memory was stilll capacious 0xFF

Crash record end mark: Crash record completely stored 0xAA

Crash Set 2

crash set 2:

01 41 C6 51 AC 73 FA 9C 03 00 00 28 D7 01 3B 00 18 5F 07 DD
00 52 5D 25 00 52 5D 4B E0 25 FF FF 00 50 00 00 20 EC F8 26
FF C9 FF FF D7 3C 3F 3C 2C 2C 2B 32 FE 33 31 FE 2E 2D 29 38
38 FE FE FE FE 37 34 35 32 39 FE FE FE FE FE FE FE 7F FA F0
01 40 00 A0 01 40 20 02 00 FF 3F 45 1E 13 7F FF FF FF FF FF
FF 7F FF FF FF FF FF EF 0B 09 00 00 11 00 1B C9 60 00 12 00
26 E1 E0 00 FF FF FF FF FF FF FF FF FF FF FF FF FF FF FF
FF FF FF AA

Systemtime: 1499:34:43:372 (hh:mm:ss:ms) [0x01 0x41 0xc6 0x51 0xac]

Operating time counter: 16838:42:59 (hh:mm:ss) [0x73 0xfa 0x9c 0x03]

Power on counter: 10455 0x00 0x00 0x28 0xd7

Timestamp last power on: 1:59:0 24/5/2013 (hh:mm:ss - dd/mm/yyyy)
0x01 0x3B 0x00 0x18 0x5F 0x07 0xDD

Systemtime Last Power On: 1499:23:17 (hh:mm:ss) [0x00 0x52 0x5D 0x25]

System time of the last active system state: 1499:23:55 hh:mm:ss [0x00 0x52 0x5D 0x4B]

Crashinfo of car: E0 25 FF FF
Car Speed: 0xE0 0x25 152 km/h

CC-Reports: 00 50 00 00

Equipment occupant recognition passenger: 0x20
SBR-sensor: not equipped
CIS

Status SBE : 11101100
no SBEx programmed respectively encoded

Status ODS-System: 0xF8 0x26

ODS-System error status:

SBR information passenger seat:
SBR On

Occupation-Information passenger seat:
occupied

Status SLV: 11111111
No seat back blocking installed.

Status buckle switches (front, rear, centre): 11001001 11111111 11111111
buckle switch driver plugged
buckle switch passenger plugged
buckle switch rear left not installed
buckle switch rear right not installed
buckle switch rear centre not installed

Page 1



Crash Set 2

Status pos pol : 11010111
POS not installed
POL off

Resistor values of ignition circuit before begin of crash

IC01 Airbag driver stage 1:	0x3C	3.09 ohm
IC02 Airbag driver stage 2:	0x3F	3.25 ohm
IC03 Adaptive airbag driver vent:	0x3C	3.09 ohm
IC04 Airbag passenger stage 1:	0x2C	2.27 ohm
IC05 Airbag passenger stage 2:	0x2C	2.27 ohm
IC06 Adaptive airbag passenger vent:	0x2B	2.22 ohm
IC07 Buckle pretensioner driver:	0x32	2.58 ohm
IC08 Belt pretensioner driver:	0xFE	not equipped
IC09 Adaptive load limiter driver:	0x33	2.63 ohm
IC10 Buckle pretensioner passenger:	0x31	2.53 ohm
IC11 Belt pretensioner passenger:	0xFE	not equipped
IC12 Adaptive load limiter passenger:	0x2E	2.37 ohm
IC13 Kneearbag driver:	0x2D	2.32 ohm
IC14 Kneearbag passenger:	0x29	2.11 ohm
IC15 Active head rest driver:	0x38	2.89 ohm
IC16 Active head rest passenger:	0x38	2.89 ohm
IC17 Buckle pretensioner rear left:	0xFE	not equipped
IC18 Buckle pretensioner rear right:	0xFE	not equipped
IC19 Adaptive seat airbag driver:	0xFE	not equipped
IC20 Adaptive seat airbag passenger:	0xFE	not equipped
IC21 Seatairbag (thorax) driver:	0x37	2.84 ohm
IC22 Seatairbag (thorax) passenger:	0x34	2.68 ohm
IC23 Curtain left:	0x35	2.73 ohm
IC24 Curtain right:	0x32	2.58 ohm
IC25 SBK:	0x39	2.94 ohm
IC26 SBK 2:	0xFE	not equipped
IC27 Reserve:	0xFE	not equipped
IC28 Reserve:	0xFE	not equipped
IC29 Fire loop pedestrian protection front left:	0xFE	not equipped
IC30 Fire loop pedestrian protection front right:	0xFE	not equipped
IC31 Fire loop pedestrian protection rear left:	0xFE	not equipped
IC32 Fire loop pedestrian protection rear right:	0xFE	not equipped

Release of fire loops: 01111111 11111010 11110000 00000001

IC01 Airbag driver stage 1:	released
IC02 Airbag driver stage 2:	released
IC03 Adaptive airbag driver vent:	released
IC04 Airbag passenger stage 1:	released
IC05 Airbag passenger stage 2:	released
IC06 Adaptive airbag passenger vent:	released
IC07 Buckle pretensioner driver:	released
IC08 Belt pretensioner driver:	not equipped
IC09 Adaptive load limiter driver:	not released
IC10 Buckle pretensioner passenger:	released
IC11 Belt pretensioner passenger:	not equipped
IC12 Adaptive load limiter passenger:	released
IC13 Kneearbag driver:	released
IC14 Kneearbag passenger:	released
IC15 Active head rest driver:	released
IC16 Active head rest passenger:	released
IC17 Buckle pretensioner rear left:	not equipped
IC18 Buckle pretensioner rear right:	not equipped
IC19 Adaptive seat airbag driver:	not equipped
IC20 Adaptive seat airbag passenger:	not equipped
IC21 Seatairbag (thorax) driver:	released
IC22 Seatairbag (thorax) passenger:	released

Crash Set 2

IC23 Curtain left: released
IC24 Curtain right: released
IC25 SBK: released
IC26 SBK 2: not equipped
IC27 Reserve: not equipped
IC28 Reserve: not equipped
IC29 Fire loop pedestrian protection front left: not equipped
IC30 Fire loop pedestrian protection front right: not equipped
IC31 Fire loop pedestrian protection rear left: not equipped
IC32 Fire loop pedestrian protection rear right: not equipped

Controlled ignition circuits: 01000000 00000000 10100000 00000001
IC01 Airbag driver stage 1: not controlled
IC02 Airbag driver stage 2: not controlled
IC03 Adaptive airbag driver vent: not controlled
IC04 Airbag passenger stage 1: not controlled
IC05 Airbag passenger stage 2: not controlled
IC06 Adaptive airbag passenger vent: not controlled
IC07 Buckle pretensioner driver: controlled
IC08 Belt pretensioner driver: not equipped
IC09 Adaptive load limiter driver: not controlled
IC10 Buckle pretensioner passenger: not controlled
IC11 Belt pretensioner passenger: not equipped
IC12 Adaptive load limiter passenger: not controlled
IC13 Kneeairbag driver: not controlled
IC14 Kneeairbag passenger: not controlled
IC15 Active head rest driver: not controlled
IC16 Active head rest passenger: not controlled
IC17 Buckle pretensioner rear left: not equipped
IC18 Buckle pretensioner rear right: not equipped
IC19 Adaptive seat airbag driver: not equipped
IC20 Adaptive seat airbag passenger: not equipped
IC21 Seatairbag (thorax) driver: not controlled
IC22 Seatairbag (thorax) passenger: controlled
IC23 Curtain left: not controlled
IC24 Curtain right: controlled
IC25 SBK: controlled
IC26 SBK 2: not equipped
IC27 Reserve: not equipped
IC28 Reserve: not equipped
IC29 Fire loop pedestrian protection front left: not equipped
IC30 Fire loop pedestrian protection front right: not equipped
IC31 Fire loop pedestrian protection rear left: not equipped
IC32 Fire loop pedestrian protection rear right: not equipped

Additional information:

Byte 1: 01000000
TCU steered
Byte 2: 00100000
SM_seat position driver standardization necessary
Byte 3: 00000010
SPS/SM seat position passenger, seat back
Variable ignition circuit table 1
Crash Nachlaufzeit: Condition not fulfilled 0xFF
Backrest position driver: 63% 0x3F
Backrest position passenger: 69% 0x45
Seat longitudinal position driver: 30% 0x1E
Seat longitudinal position passenger: 19% 0x13

Maximal lateral angle of roll: unknown / default 0x7F 0xFF
Systemtime: system time not available 0x00FFFFFF

Maximal lateral angular velocity: unknown / default 0x7F
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Crash Set 2

Systemtime: System time not available 0x00FFFFFF

Delta-v in x- und y-direction: x=0xEF y1=0xB yr=0x9

Delta-v-x = -17 km/h
Delta-v-y1 = +11 km/h
Delta-v-yr = +9 km/h

Error info of satellites: 00000000 00000000

Algo path:

Direction	Weight	Time[ms]	Phase	Path	Bytes (HEX)
Side passenger	1	27	-	-	11 00 1B
C9 60 00					
			Main Index Acc:	3	(info byte 4)
			Main Index Vel:	0	(info byte 4)
			Dist Index Acc:	2	(info byte 4)
			Dist Index Vel:	1	(info byte 4)
			Conf Index Acc:	1	(info byte 5)
			Conf Index Vel:	2	(info byte 5)
			FP State	: not met	(info byte 5)
			CV State	: not met	(info byte 5)
			Neg V State	: not met	(info byte 5)
			Main STP Sev	: 0	(info byte 6)
			Dist STP Sev	: 0	(info byte 6)
			Main DT Sev	: 0	(info byte 6)
Side passenger	2	38	-	-	12 00 26
E1 E0 00					
			Main Index Acc:	3	(info byte 4)
			Main Index Vel:	2	(info byte 4)
			Dist Index Acc:	0	(info byte 4)
			Dist Index Vel:	1	(info byte 4)
			Conf Index Acc:	3	(info byte 5)
			Conf Index Vel:	2	(info byte 5)
			FP State	: not met	(info byte 5)
			CV State	: not met	(info byte 5)
			Neg V State	: not met	(info byte 5)
			Main STP Sev	: 0	(info byte 6)
			Dist STP Sev	: 0	(info byte 6)
			Main DT Sev	: 0	(info byte 6)
default	15	65535	default	default	FF FF FF
FF FF FF					
default	15	65535	default	default	FF FF FF
FF FF FF					
default	15	65535	default	default	FF FF FF
FF FF FF					

Info algo path: Algo path memory was stilll capacious 0xFF

Crash record end mark: Crash record completely stored 0xAA

Crash Set 3

crash set 3:

01 41 C6 61 B0 73 FA 9C 03 00 00 28 D7 01 3B 00 18 5F 07 DD
00 52 5D 25 00 52 5D 4B E0 25 FF FF 00 50 00 00 20 EC F8 26
FF C9 FF FF D7 3C 3F 3C 2C 2C 2B 32 FE 33 31 FE 2E 2D 29 38
38 FE FE FE FE 37 34 35 32 39 FE FE FE FE FE FE FE 7F FA F0
01 00 C0 00 00 00 20 02 00 FF 3F 45 1E 13 7F FF FF FF FF FF
FF 7F FF FF FF FF FF 1F EA EE 00 00 41 00 40 02 FF FF FF FF
FF FF FF FF FF FF FF FF FF FF FF FF FF FF FF FF FF FF FF
FF FF FF AA

Systemtime: 1499:34:47:472 (hh:mm:ss:ms) [0x01 0x41 0xC6 0x61 0xB0]

Operating time counter: 16838:42:59 (hh:mm:ss) [0x73 0xFA 0x9C 0x03]

Power on counter: 10455 0x00 0x00 0x28 0xD7

Timestamp last power on: 1:59:0 24/5/2013 (hh:mm:ss - dd/mm/yyyy)
0x01 0x3B 0x00 0x18 0x5F 0x07 0xDD

Systemtime Last Power On: 1499:23:17 (hh:mm:ss) [0x00 0x52 0x5D 0x25]

System time of the last active system state: 1499:23:55 hh:mm:ss [0x00 0x52 0x5D 0x4B]

Crashinfo of car: E0 25 FF FF
Car Speed: 0xE0 0x25 152 km/h

CC-Reports: 00 50 00 00

Equipment occupant recognition passenger: 0x20
SBR-sensor: not equipped
CIS

Status SBE : 11101100
no SBEX programmed respectively encoded

Status ODS-System: 0xF8 0x26

ODS-System error status:

SBR information passenger seat:
SBR On

Occupation-Information passenger seat:
occupied

Status SLV: 11111111
No seat back blocking installed.

Status buckle switches (front, rear, centre): 11001001 11111111 11111111
buckle switch driver plugged
buckle switch passenger plugged
buckle switch rear left not installed
buckle switch rear right not installed
buckle switch rear centre not installed

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Crash Set 3

Status pos pol : 11010111
 POS not installed
 POL off

Resistor values of ignition circuit before begin of crash

IC01 Airbag driver stage 1:	0x3C	3.09 Ohm
IC02 Airbag driver stage 2:	0x3F	3.25 Ohm
IC03 Adaptive airbag driver vent:	0x3C	3.09 Ohm
IC04 Airbag passenger stage 1:	0x2C	2.27 Ohm
IC05 Airbag passenger stage 2:	0x2C	2.27 Ohm
IC06 Adaptive airbag passenger vent:	0x2B	2.22 Ohm
IC07 Buckle pretensioner driver:	0x32	2.58 Ohm
IC08 Belt pretensioner driver:	0xFE	not equipped
IC09 Adaptive load limiter driver:	0x33	2.63 Ohm
IC10 Buckle pretensioner passenger:	0x31	2.53 Ohm
IC11 Belt pretensioner passenger:	0xFE	not equipped
IC12 Adaptive load limiter passenger:	0x2E	2.37 Ohm
IC13 Kneearbag driver:	0x2D	2.32 Ohm
IC14 Kneearbag passenger:	0x29	2.11 Ohm
IC15 Active head rest driver:	0x38	2.89 Ohm
IC16 Active head rest passenger:	0x38	2.89 Ohm
IC17 Buckle pretensioner rear left:	0xFE	not equipped
IC18 Buckle pretensioner rear right:	0xFE	not equipped
IC19 Adaptive seat airbag driver:	0xFE	not equipped
IC20 Adaptive seat airbag passenger:	0xFE	not equipped
IC21 Seatairbag (thorax) driver:	0x37	2.84 Ohm
IC22 Seatairbag (thorax) passenger:	0x34	2.68 Ohm
IC23 Curtain left:	0x35	2.73 Ohm
IC24 Curtain right:	0x32	2.58 Ohm
IC25 SBK:	0x39	2.94 Ohm
IC26 SBK 2:	0xFE	not equipped
IC27 Reserve:	0xFE	not equipped
IC28 Reserve:	0xFE	not equipped
IC29 Fire loop pedestrian protection front left:	0xFE	not equipped
IC30 Fire loop pedestrian protection front right:	0xFE	not equipped
IC31 Fire loop pedestrian protection rear left:	0xFE	not equipped
IC32 Fire loop pedestrian protection rear right:	0xFE	not equipped

Release of fire loops: 01111111 11111010 11110000 00000001

IC01 Airbag driver stage 1:	released
IC02 Airbag driver stage 2:	released
IC03 Adaptive airbag driver vent:	released
IC04 Airbag passenger stage 1:	released
IC05 Airbag passenger stage 2:	released
IC06 Adaptive airbag passenger vent:	released
IC07 Buckle pretensioner driver:	released
IC08 Belt pretensioner driver:	not equipped
IC09 Adaptive load limiter driver:	not released
IC10 Buckle pretensioner passenger:	released
IC11 Belt pretensioner passenger:	not equipped
IC12 Adaptive load limiter passenger:	released
IC13 Kneearbag driver:	released
IC14 Kneearbag passenger:	released
IC15 Active head rest driver:	released
IC16 Active head rest passenger:	released
IC17 Buckle pretensioner rear left:	not equipped
IC18 Buckle pretensioner rear right:	not equipped
IC19 Adaptive seat airbag driver:	not equipped
IC20 Adaptive seat airbag passenger:	not equipped
IC21 Seatairbag (thorax) driver:	released
IC22 Seatairbag (thorax) passenger:	released

Crash Set 3

IC23 Curtain left: released
IC24 Curtain right: released
IC25 SBK: released
IC26 SBK 2: not equipped
IC27 Reserve: not equipped
IC28 Reserve: not equipped
IC29 Fire loop pedestrian protection front left: not equipped
IC30 Fire loop pedestrian protection front right: not equipped
IC31 Fire loop pedestrian protection rear left: not equipped
IC32 Fire loop pedestrian protection rear right: not equipped

Controlled ignition circuits: 00000000 11000000 00000000 00000000
IC01 Airbag driver stage 1: not controlled
IC02 Airbag driver stage 2: not controlled
IC03 Adaptive airbag driver vent: not controlled
IC04 Airbag passenger stage 1: not controlled
IC05 Airbag passenger stage 2: not controlled
IC06 Adaptive airbag passenger vent: not controlled
IC07 Buckle pretensioner driver: not controlled
IC08 Belt pretensioner driver: not equipped
IC09 Adaptive load limiter driver: not controlled
IC10 Buckle pretensioner passenger: not controlled
IC11 Belt pretensioner passenger: not equipped
IC12 Adaptive load limiter passenger: not controlled
IC13 Kneeairbag driver: not controlled
IC14 Kneeairbag passenger: not controlled
IC15 Active head rest driver: controlled
IC16 Active head rest passenger: controlled
IC17 Buckle pretensioner rear left: not equipped
IC18 Buckle pretensioner rear right: not equipped
IC19 Adaptive seat airbag driver: not equipped
IC20 Adaptive seat airbag passenger: not equipped
IC21 Seatairbag (thorax) driver: not controlled
IC22 Seatairbag (thorax) passenger: not controlled
IC23 Curtain left: not controlled
IC24 Curtain right: not controlled
IC25 SBK: not controlled
IC26 SBK 2: not equipped
IC27 Reserve: not equipped
IC28 Reserve: not equipped
IC29 Fire loop pedestrian protection front left: not equipped
IC30 Fire loop pedestrian protection front right: not equipped
IC31 Fire loop pedestrian protection rear left: not equipped
IC32 Fire loop pedestrian protection rear right: not equipped

Additional information:

Byte 1: 00000000
Byte 2: 00100000
SM_seat position driver standardization necessary
Byte 3: 00000010
SPS/SM seat position passenger, seat back
Variable ignition circuit table 1
Crash Nachlaufzeit: Condition not fulfilled 0xFF
Backrest position driver: 63% 0x3F
Backrest position passenger: 69% 0x45
Seat longitudinal position driver: 30% 0x1E
Seat longitudinal position passenger: 19% 0x13

Maximal lateral angle of roll: unknown / default 0x7F 0xFF
Systemtime: system time not available 0x00FFFFFFF

Maximal lateral angular velocity: unknown / default 0x7F
Systemtime: system time not available 0x00FFFFFFF

Crash Set 3

Delta-v in x- und y-direction: x=0x1F y1=0xEA yr=0xEE
Delta-v-x = +31 km/h
Delta-v-y1 = -22 km/h
Delta-v-yr = -18 km/h

Error info of satellites: 00000000 00000000

Algo path:						Bytes (HEX)		
Direction	Tail	Weight	Time[ms]	Phase	Path	CSI	LOW	Y Robust
02	FF FF	1	64	-	-	41	00	40
default	FF FF	15	65535	default	default	default	FF	FF FF
FF FF FF	default	15	65535	default	default	default	FF	FF FF
FF FF FF	default	15	65535	default	default	default	FF	FF FF
FF FF FF	default	15	65535	default	default	default	FF	FF FF

Info algo path: Algo path memory was stilll capacious 0xFF

Crash record end mark: Crash record completely stored 0xAA

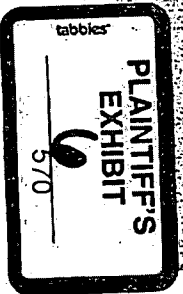


STRINGFELLOW 0093

tabbles
PLAINTIFFS
EXHIBIT
569



STRINGFELLOW 0092





STRUNGFELLOW 0094

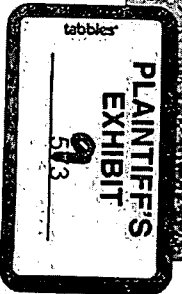
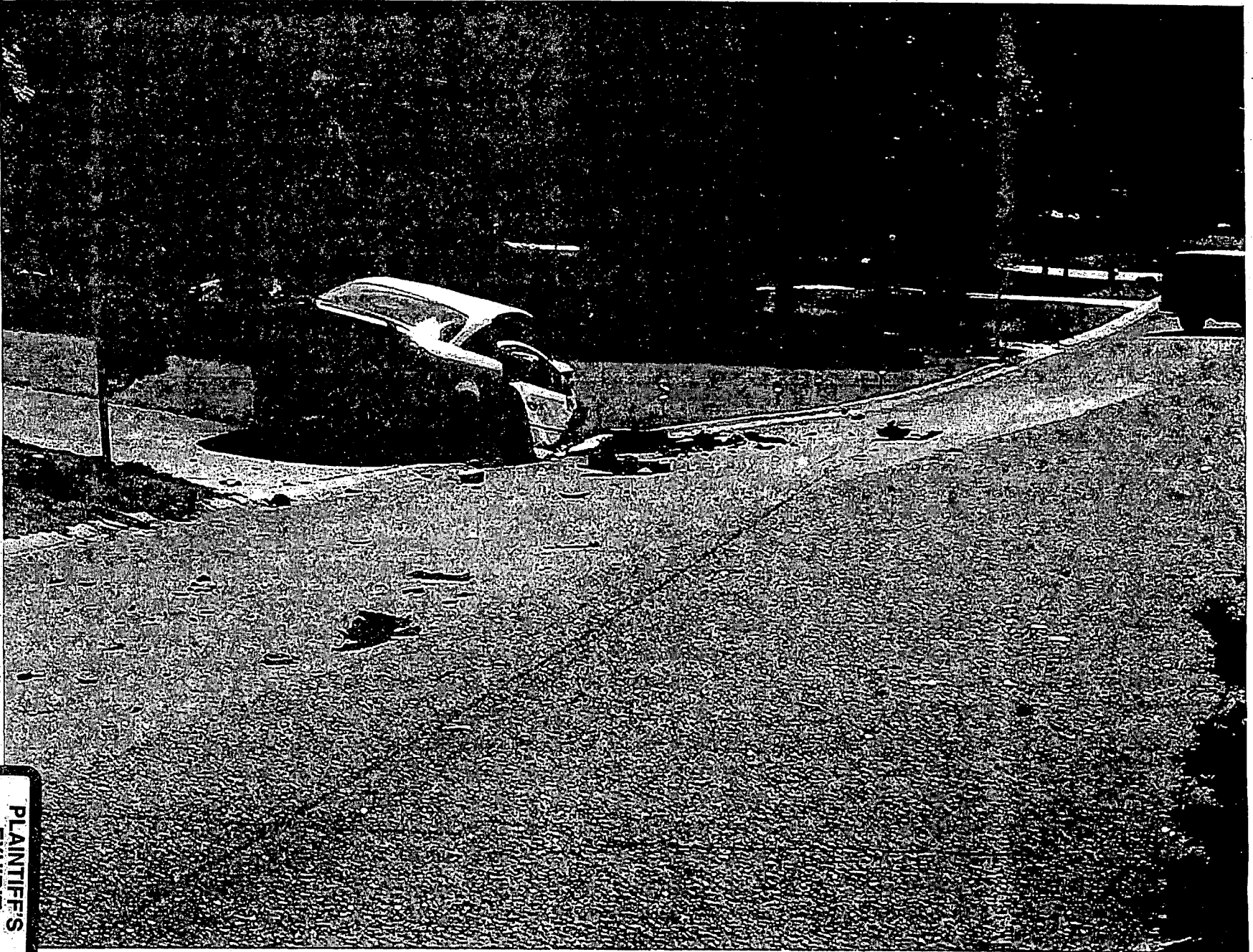
tabbles
PLAINTIFF'S
EXHIBIT
7
514



STUNGHELOW 0091

tabbles
PLAINTIFFS
EXHIBIT
8
572

STRINGFELLOW 0088





STRINGFELLOW 0089

tabbics
PLAINTIFF'S
EXHIBIT
10
574

STUNGPELOW 0090



tabbles
PLAINTIFFS
EXHIBIT
11
075



STRINGFELLOW 0095

tabbles
PLAINTIFFS
EXHIBIT
12
5/6



STRINGFELLOW 0087

tabbles®
PLAINTIFF'S
EXHIBIT
13



STRINGFELLOW 0086

tabbles
PLAINTIFF'S
EXHIBIT
14
578

STRINGFIELD, OW 0083



tabbles
PLAINTIFF'S
EXHIBIT
15



STRINGFELLOW 0099

tabbles

PLAINTIFF'S
EXHIBIT
10



PRID:24467969 Call #:000996027

Service:Richland County EMS Date:May 24, 2013
 Base:HQ Team:ALS
 Unit:S242 Crew 1:Primary Caregiver
 Shift:B *Fowler, Andrew
 EMT-B
 Vehc. Grid:Jackson Creek Crew 2:Driver
 Mongell, Nick
 EMT-B
 Type of Svc:Scene Unscheduled Crew 3:Secondary Caregiver
 *Boven, Tiffany
 EMT-P
 Response Code:Lights and Siren
 Mode to Ref:Lights / Sirens
 Moved Via:Stretcher
 Position:Supine
 Outcome:Treated COUNTY RESIDENT,
 Transported by EMS

* designates an ALS Provider
 Mode to Rec:Lights / Sirens
 Moved From:Stretcher
 Pt. Condition:Unchanged

Location:400 Shallow Brook Dr
 COLUMBIA, SC 29223
 Requester:Unknown

Receiving:Hospital
 Palmetto Richland Memorial
 Emergency Department
 5 Richland Medical Park
 Columbia, SC 29203-6863
 803-434-1662

Dest. Grid:HQ

Last Name: Stringfellow First: Joshua
 Address: 83. Cowdray Park
 City: Columbia ST:SC Zip:29223
 County: Richland
 DOB: 12/27/1996
 Age: 16y Sex: M Weight:
 Height:
 Subscriber: No
 Race: White, non-Hispanic

Odometer	Times
Ld Miles: 9.2	Received: 02:39
	Dispatch: 02:39
	EnRoute: 02:39
	At Ref: 02:50
	Leave Ref: 02:57
	At Rec: 03:22
	Available: 03:26

Billing Information:

Consent Signed: No
 PCS / Medical Necessity Signed: No

Company	Group	ID
NA	0	0

Scene Information
Description: One vehicle MVC, major damage noted to vehicle, patient in backseat on driver's side. Pt being extricated by rescue u/a. Patient Belongings: None Other Agencies: Fire, Law Contact w/ Fluids: No Type of Exposure: None Protective Equip: Eye Protection, Gloves
Chief Complaint (Category: Traffic Accident) Traumatic Arrest Duration: 25 Minutes Anatomic Location: General/Global ALS Assessment: Completed for Suspected Illness
History of Present Illness U/A male patient 16 y/o, heavily entrapped in a one vehicle MVC in the backseat on driver's side. Pt unresponsive, GCS 3, agonal respirations noted. Pt currently being extricated by rescue, extricated <5 minutes by unit arrival. Pt extricated and placed in full spinal immobilization precautions. Carotid pulse approx. 20 weak and thready, respirations approx. 4/minute agonal. Pt-LSB-Stretcher-Unit. Once placed into back of unit patient became pulseless and apneic. C/C traumatic arrest. Manual compressions began with 30:2 ratio with ventilations. Placed on Mrx. Asystole in 2 leads. Pt suctioned throughout due to copious amounts of blood coming from mouth and nares. Richland ER notified of traumatic arrest with 15 minute ETA. Backup Paramedic Bowen initiated 16ga IV in LAC w/o difficulty and ran wide



Impression / Diagnosis											
System: Cardiovascular, Global											
Symptoms: Change in Responsiveness, Bleeding, Breathing Problem											
Impression: Cardiac Arrest											

Activity											
Time	H.R.	B.P.	MAP	RA SaO2	Resp	Rhythm	GCS	ECG Method	Pain	CRW*	
	H.R. Method	B.P. Method			Resp Effort						
Action	Comment										
02:58	20	0 / 0			4	(REG)	1/1/1				#2
	Agonal. Cardiac Monitor performed by Andrew Fowler. Complications: None. Authorization: Protocol. Pt. Response: Unchanged.										
03:02	0	0 / 0			0	Asystole	1/1/1		0		#2
	Absent										
03:04	0	0 / 0		0	0	Asystole	1/1/1		0		#1
	Absent Initiate IV Peripheral IV initiated by Tiffany Bowen with 16 ga at Left Antecubital. Attempts: 1, Successful: Yes. Complications: None. Authorization: Protocol. Pt. Response: Unchanged.										
03:05											#1
	Med. Epinephrine 1:10,000, 1 MG via IV - Push given by Andrew Fowler. Complications: None. Pt. Response: Unchanged.										
03:08	0	0 / 0			0	Asystole	1/1/1				#1
	Absent Med. Epinephrine 1:10,000, 1 MG via IV - Push given by Andrew Fowler. Complications: None. Pt. Response: Unchanged.										
03:09	0	0 / 0			0	Asystole	1/1/1		0		#1
	Absent Initiate IV Peripheral IV initiated by Tiffany Bowen with 18 ga at Right Antecubital. Attempts: 1, Successful: Yes. Complications: None. Authorization: Protocol. Pt. Response: Unchanged.										
03:11	0	0 / 0			0	Asystole	1/1/1		0		#1
	Absent Med. Epinephrine 1:10,000, 1 MG via IV - Push given by Andrew Fowler. Complications: None. Pt. Response: Unchanged.										
03:14	0	0 / 0			0	Asystole	1/1/1		0		#2
	Absent Med. Epinephrine 1:10,000, 1 MG via IV - Push given by Andrew Fowler. Complications: None. Pt. Response: Unchanged.										
03:17	0	0 / 0			0	Asystole	1/1/1		0		#1
	Absent Med. Epinephrine 1:10,000, 1 MG via IV - Push given by Andrew Fowler. Complications: None. Pt. Response: Unchanged.										
03:20	0	0 / 0			0	Asystole	1/1/1		0		#2
	Absent Med. Epinephrine 1:10,000, 1 MG via IV - Push given by Andrew Fowler. Complications: None. Pt. Response: Unchanged.										
03:23	0	0 / 0			0	Asystole	1/1/1		0		#1
	Absent Med. Epinephrine 1:10,000, 1 MG via IV - Push given by Andrew Fowler. Complications: None. Pt. Response: Unchanged.										

* Assessment made by

Response Factors Affecting Care: None
 Scene Factors Affecting Care: None
 Transportation Factors Affecting Care: None

Fowler, Andrew: Electronically Signed on 05/24/2013 05:32:58 EST

Mongell, Nick: _____

Richland County General Sessions

CASE HISTORY FOR CASE 2015GS4001411

State of South Carolina vs Cameron Thomas Stringfellow

FILED DATE: 2/26/2015

CASE TYPE: GS

STATUS: Disposed

JUDGE: Clerk Of Court C P, G S, And Family Court

ARRESTING AGENCY: S C Attorney General

CASE PARTIES:

Defendant Stringfellow, Cameron Thomas
83 Cowdray Park, Columbia, SC 29223-8125

Solicitor Hodge, William A.
PO Box 8753, Columbia, SC 29202

Defendant Attorney Gasser, Jonathan S.
1529 Laurel St, Columbia, SC 29201

CASE HISTORY FOR CASE 2015GS4001411

Stringfellow, Cameron Thomas
83 Cowdray Park

Age: 22
DL#: 102187647

DOB: 7/22/1994
SSN: 240-79-7051

Columbia, SC 29223-8125

CHARGE	VIOL. DATE	DISPOSITION	DISP. DATE
0218 Manslaughter / Involuntary manslaughter	5/24/2013	Pled Guilty	2/26/2015

SENTENCING

- Sentenced - YOA nte 5 yrs; balance suspended w/probation for 3yrs
- Random Drug/Alcohol Screening
- Counselling Substance Abuse
- Concurrent Sentence
- Credit Time Served

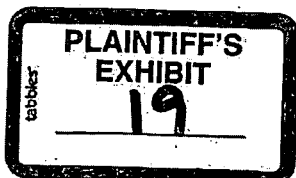
COST	ORIGINAL	BALANCE DUE	DISBURSED	PAY PRIORITY
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Total:

DATE	TIME	EVENT DESCRIPTION
2/26/2015	4:44 PM	Filing recorded: Filing/GS Case File
2/27/2015	10:04 AM	Filing recorded: Active - Probation
4/6/2016	4:26 PM	Order of Termination

Print Date: 01/06/2017
Print Time: 10:43:52AM
Requested By: CS233104

CaseHistory.rpt V6.1



**CERTIFIED TRUE COPY
OF ORIGINAL FILED,**
Jeanette W. [Signature]
C.C.C.P.&G.S.
RICHLAND COUNTY
SOUTH CAROLINA
584

Richland County General Sessions

CASE HISTORY FOR CASE 2015GS4001413

State of South Carolina vs Cameron Thomas Stringfellow

FILED DATE: 2/26/2015

CASE TYPE: GS

STATUS: Disposed

JUDGE: Clerk Of Court C P, G S, And Family Court

ARRESTING AGENCY: S C Attorney General

CASE PARTIES:

Defendant Stringfellow, Cameron Thomas
83 Cowdray Park, Columbia, SC 29223-8125

Solicitor Potts, Carter Reston
PO Box 192, Columbia, SC 29202

Defendant Attorney Gasser, Jonathan S.
1529 Laurel St, Columbia, SC 29201

CASE HISTORY FOR CASE 2015GS4001413

Stringfellow, Cameron Thomas

83 Cowdray Park

Columbia, SC 29223-8125

Age: 22

DL#: 102187647

DOB: 7/22/1994

SSN: 240-79-7051

CHARGE	VIOL. DATE	DISPOSITION	DISP. DATE
3355 SENTENCING DUI / Driving under the Influence, .16 or higher, 1st Offense	5/24/2013	Pled Guilty	2/26/2015

Sentenced -90 days or \$1000.; can pay fine while on probation

Concurrent Sentence

Credit Time Served

COST	ORIGINAL	BALANCE DUE	DISBURSED	PAY PRIORITY
------	----------	-------------	-----------	--------------

Total:

DATE	TIME	EVENT DESCRIPTION
2/26/2015	4:47 PM	Filing recorded: Filing/GS Case File.
2/27/2015	10:07 AM	Filing recorded: Active - Probation
2/27/2015	10:09 AM	Filing recorded: Active - Probation
2/27/2015	10:15 AM	Filing recorded: Active - Non Probation
3/11/2015	12:00 AM	Filing recorded: Transmit Driver License
3/11/2015	12:00 AM	Filing recorded: Transmitted to South Carolina Highway Patrol
3/11/2015	12:00 AM	Filing recorded: Transmitted to South Carolina Highway Patrol
2/27/2015	12:00 AM	RC232706 recorded the following Case Note: to pay while on prob. for other charge per court

Print Date: 01/06/2017
Print Time: 10:43:39AM
Requested By: CS233104

CaseHistory.rpt V6.1



CERTIFIED TRUE COPY
OF ORIGINAL FILED
Janette W. M. [Signature]
 C.C.C.P.&G.S.
 RICHLAND COUNTY
 SOUTH CAROLINA
 585



9:46 AM



15%



Messages (15)

MISS

Edit

Blankets for you when you are ready.

Apr 26, 2013, 7:33 PM

Hey miss tony I wanted to say I'm sorry for bringing beer to the farm I thought we would be smart enough to throw it away, it won't happen again

Apr 26, 2013, 7:53 PM

No worries! Hope you didn't get into trouble. I only told your mom because I thought it was funny that y'all threw the cans in the woods by barn where they are so easy to find. :-). Got to learn to cover your tracks. LOL.

Haha yes mam

Read 12/13



Text Message

Send

ALL-STATE LEGAL
DEFENDANT'S
EXHIBIT
586

10:47 AM

47%

Messages (15)

Mom iPhone

Edit

At 6:40

Okay ill be home soon

By 6:40 please

Jan 6, 2013, 12:50 AM

So what is that sweet herb smell upstairs?

Jan 6, 2013, 1:14 AM

And doors are locked. Ok. I you guys want food, that's fine but no one leaves at this hour. Unless I call their mom.

Yes mam

Jan 6, 2013, 3:48 PM

Did you call Mama Sara about the \$100 check for your birthday? Please leave H upstairs and come eat your cake with her and

ALL-STATE LEGAL DEFENDANT'S EXHIBIT 9

10:49 AM

48% [Battery Icon]

Messages (10)

Mom Iphone

Edit

Jan 7, 2013, 3:38 PM

How I just want you to know that I'm extremely sorry for what I did. I realize it was a huge mistake and I made you feel bad. I just want you to know that you don't have to worry about me doing anything behind your back again. I'm officially focusing on school work and channeling all of this bad confusing energy into basketball and soccer conditioning again. I'm really sorry and I'll pay for the subs completely and all of the Christmas and birthday presents. I am incredibly grateful for you. You are a great mother.

ALL-STATE LEGAL
DEFENDANT'S
EXHIBIT
10
588

AT&T 4G

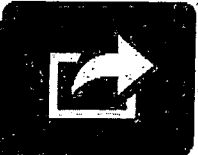
1:56 PM

61%

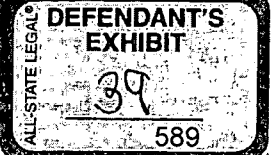
Explore



roll up that purple ya
bisch.



Purp (For The First Time)
BeeDle



Reduces Airborne
Eliminates Smoky and
Caused by Airborne

DIRECTIONS FOR USE: Follow label to use this product in accordance with its labeling. Spray for one second toward ceiling from dropper. Walls, painted or varnished surfaces, harbors bacteria in an average 10 x 14 x 8 ft. Repeat application daily. Treat average size with one-second sprays for mold control caused by airborne

PRECAUTIONARY STATEMENT TO HUMANS AND DOMESTIC ANIMALS: Avoid inhalation or avoid contact with, eyes, skin. Wash thoroughly with soap and water before eating, drinking, or tobacco. Keep out of children and pets. **FIRST AID:** If in eye open and rinse slowly and gently for 15-20 minutes. Remove contact lenses, if present, after the first 5 minutes, then continue rinsing eye. Call poison control center or doctor for treatment. For Health Emergency: 877-678-6774 or 1-800-389-1658.

PHYSICAL OR CHEMICAL HAZARDS: Extremely Flammable. Contains pressure. Keep away from heat and open flame. Do not puncture or burn container. Exposure to temperatures above 130° F may cause bursting. Do not spray on painted or lacquered surfaces.

STORAGE AND DISPOSAL: Wrap in newspaper. Do not puncture or incinerate.

ALL-STATE LEGAL DEFENDANT'S EXHIBIT 40

AT&T 4G

8:58 AM

100%

Home



***SMOKE WEED AND
FUCK***



Clarity feat. Foxes (Acousti...
Zedd



ALL-STATE LEGAL
DEFENDANT'S
EXHIBIT

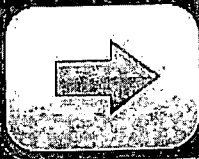
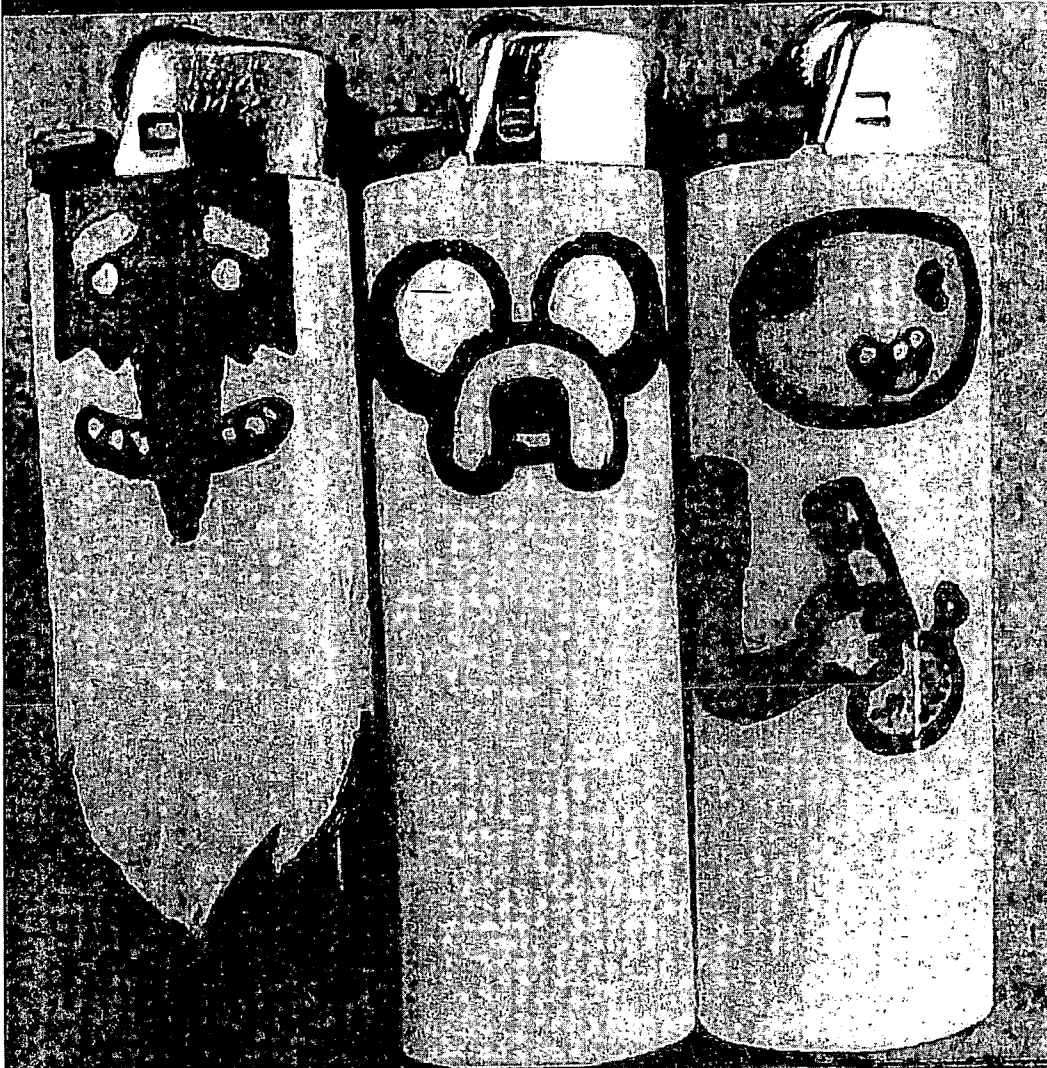
42
591

AT&T 4G

42%

11:45

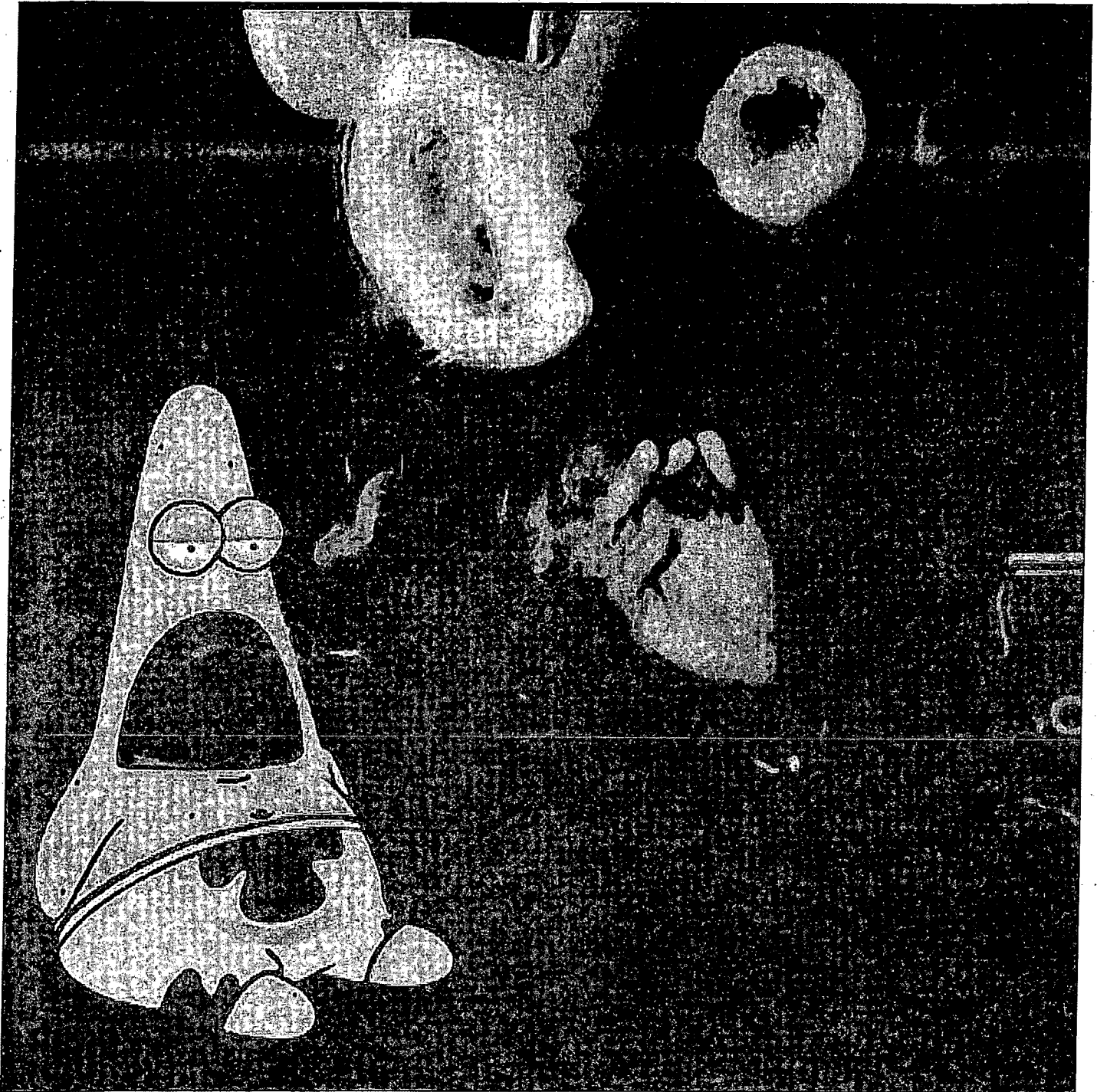
High (Ft. Wiz Khalifa & Chiddy Bang) - Big Sean



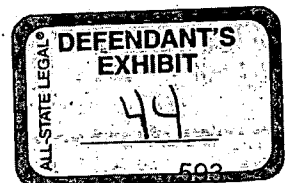
unlock

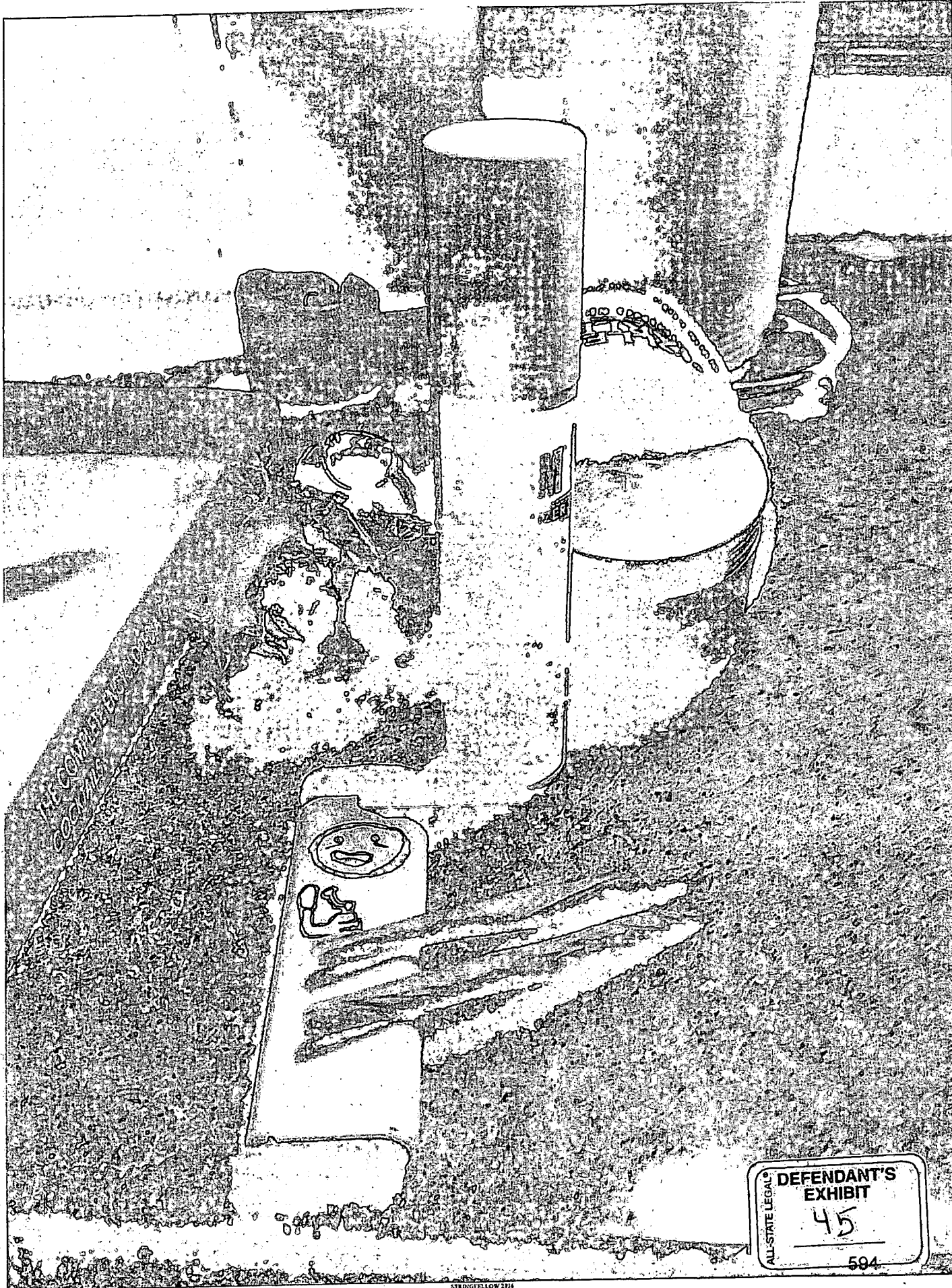


ALL-STATE LEGAL
 DEFENDANT'S
 EXHIBIT
 43
 592



STRINGFELLOW 2933





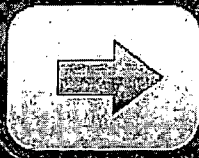
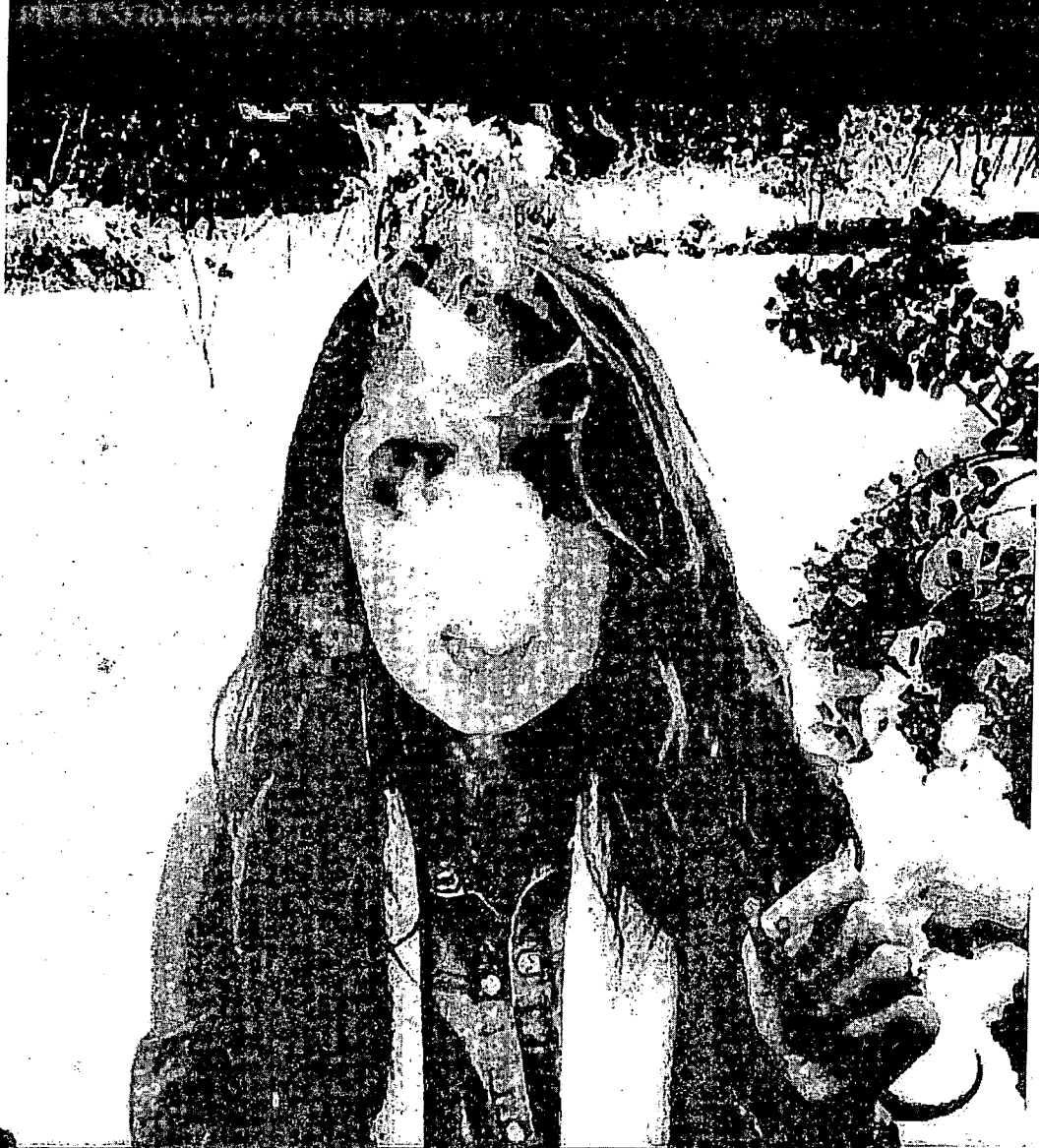
ALL-STATE LEGAL
DEFENDANT'S
EXHIBIT
45
594

AT&T 4G

▶ ✱ 35%

4:19

Beauty in Thirds - T-Mass



ALL-STATE LEGAL®
**DEFENDANT'S
EXHIBIT**
47
595

Messages Dad Edit

Dec 22, 2012, 5:49 PM

On way home?

Dec 22, 2012, 11:37 PM

We all are home. Can someone bring you or should I come get u?

Dec 28, 2012, 10:27 PM

Can I have a cold beer?

No

Text Message Send

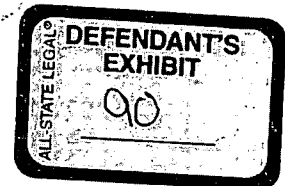
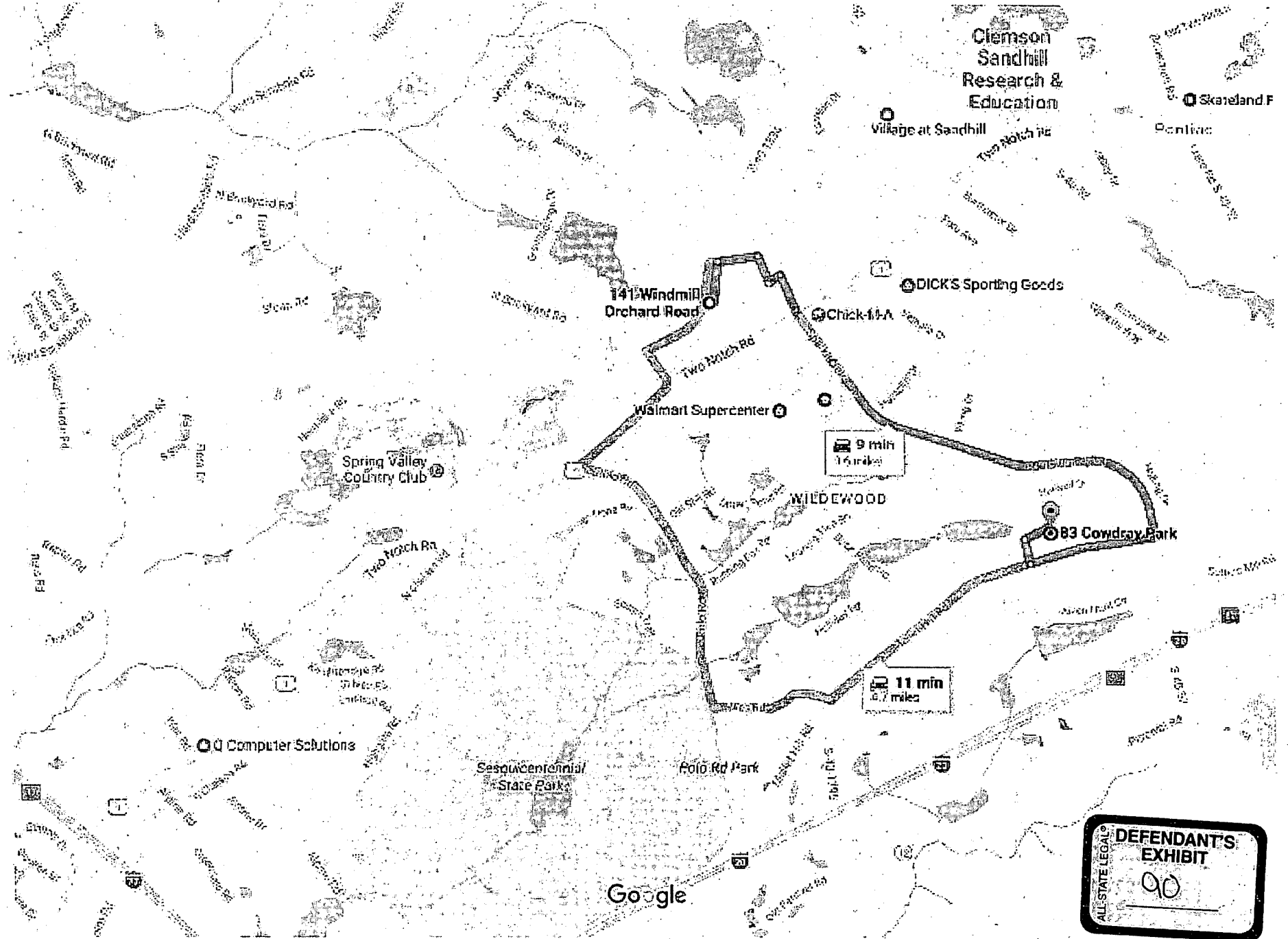
Q W E R T Y U I O P

A S D F G H J K L

Z X C V B N M

123 globe microphone space return

ALL-STATE LEGAL DEFENDANT'S EXHIBIT 50 596



SOUTH CAROLINA LAW ENFORCEMENT DIVISION

NIKKI R. HALEY
Governor



MARK A. KEEL
Chief

This is to certify that the attached records are true, accurate and complete duplicates of records that were kept in the course of a regularly conducted business activity, and it was the regular practice of that business activity to make the records. This certificate is given in lieu of the personal appearance of the person certifying in connection with the lawsuit for which the request was issued. The records with this certificate are produced as they are kept in the usual course of business, or are organized and labeled to correspond with the categories in the demand. These records were delivered or mailed to counsel for the party causing the issuance of the subpoena.

This 11 day of January, 2017

Signed: [Signature]

Title/Company Forensic Chemist / SLED

State of South Carolina

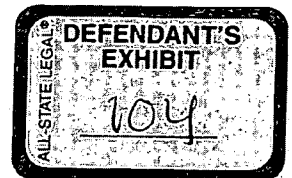
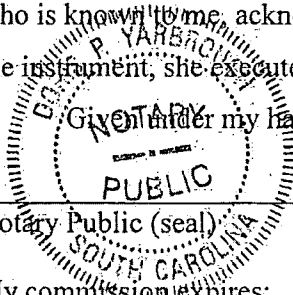
Richland County

I, Doris P. Yarbrough a notary public for this state and county, certify that Shana B. Sorrells, whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, she executed the same voluntarily on the day the same bears date.

Given under my hand this the 11th day of January, 2017.

Notary Public (seal)

My commission expires: 10-30-18



An Accredited Law Enforcement Agency

P.O. Box 21398 / Columbia, South Carolina 29221-1398 / (803) 737-9000 / Fax (803) 896-7588

SOUTH CAROLINA LAW ENFORCEMENT DIVISION
FORENSIC SERVICES LABORATORY REPORT

NIKKI R. HALEY
Governor



MARK A. KEEL
Chief

Coroner Gary Watts
Richland County Coroner's Office
PO Box 192
Columbia, SC 29202

TOXICOLOGY DEPARTMENT

July 03, 2013
SLED No: L13-06957
Your Case No: 2013001260
Incident Date: 05/24/2013

[V-Deceased] John C. Stringfellow

This is an official report of the South Carolina Law Enforcement Division Forensic Services Laboratory and is to be used in connection with an official criminal investigation. These examinations were conducted under your assurance that no previous examinations of person(s) or evidence submitted in this case have been or will be conducted by any other laboratory or agency.

Mark A. Keel, Chief
South Carolina Law Enforcement Division

PARTIAL REPORT

ITEMS OF EVIDENCE

Item: 1 **Sample Type: Urine - labeled "John C. Stringfellow FA13-142 RCCO
2013-001260"**

No Analysis Performed

Item: 2 **Sample Type: Brain - labeled "John C. Stringfellow FA13-142 RCCO
2013-001260"**

No Analysis Performed



7/3/13

Item: 3 **Sample Type: Liver - labeled "John C. Stringfellow FA13-142 RCCO 2013-001260"**

No Analysis Performed

Item: 4 **Sample Type: Kidney - labeled "John C. Stringfellow FA13-142 RCCO 2013-001260"**

No Analysis Performed

Item: 5 **Sample Type: Blood (Toxicology) - Femoral Blood labeled "John C. Stringfellow FA13-142 RCCO 2013-001260"**

Analysis by Headspace Gas Chromatography (GC) and/or Headspace Gas Chromatography/Mass Spectrometry (GC/MS)

Analyte	Result	Units	Threshold
Ethanol	Negative	% (g/dL)	0.010
Methanol	Negative	% (g/dL)	0.010
Acetone	Negative	% (g/dL)	0.010
Isopropanol	Negative	% (g/dL)	0.010

Screen by Enzyme Linked Immunosorbant Assay (ELISA)

Analyte	Result	Units	Threshold
Amphetamine	Negative	mg/L	0.100
Benzodiazepines	Negative	mg/L	0.050
Carisoprodol	Negative	mg/L	0.500
Cocaine Metabolite	Negative	mg/L	0.200
Methadone	Negative	mg/L	0.050
Methamphetamine	Negative	mg/L	0.100
Opiates	Negative	mg/L	0.075
Oxycodone	Negative	mg/L	0.075
Tramadol	Negative	mg/L	0.050
Zolpidem	Negative	mg/L	0.020



7/3/13

Analysis by Gas Chromatography/Mass Spectrometry (GC/MS)

Analyte	Result	Units	Threshold
Tetrahydrocannabinol Synonyms: THC	6.5	µg/L	2.000
11-carboxy-Tetrahydrocannabinol Synonyms: THC metabolite	12	µg/L	2.000



Shana B. Sorrells
Forensic Toxicologist

For any additional interpretation of results please contact the Toxicologist above at the SLED Toxicology Department; (803) 896-7385.



SOUTH CAROLINA LAW ENFORCEMENT DIVISION
FORENSIC SERVICES LABORATORY REPORT

NIKKI R. HALEY
Governor



MARK A. KEEL
Chief

Coroner Gary Watts
Richland County Coroner's Office
PO Box 192
Columbia, SC 29202

TOXICOLOGY DEPARTMENT
July 03, 2013
SLED No: L13-06957
Your Case No: 2013001260
Incident Date: 05/24/2013

[V-Deceased] John C. Stringfellow
[S] Cameron Thomas Stringfellow
[V] Wesley Thompson

This is an official report of the South Carolina Law Enforcement Division Forensic Services Laboratory and is to be used in connection with an official criminal investigation. These examinations were conducted under your assurance that no previous examinations of person(s) or evidence submitted in this case have been or will be conducted by any other laboratory or agency.

Mark A. Keel, Chief
South Carolina Law Enforcement Division

PARTIAL REPORT

ITEMS OF EVIDENCE

Item: 6 **Sample Type: Blood (Toxicology) - labeled "STRINGFELLOW, CAMERON"**

Analysis by Headspace Gas Chromatography (GC) and/or Headspace Gas Chromatography/Mass Spectrometry (GC/MS)

Analyte	Result	Units	Threshold
Ethanol	0.186	% (g/dL)	0.010



7/3/13

Screen by Enzyme Linked Immunosorbant Assay (ELISA)

Analyte	Result	Units	Threshold
Amphetamine	Negative	mg/L	0.100
Benzodiazepines	Negative	mg/L	0.050
Buprenorphine	Negative	µg/L	1.000
Carisoprodol	Negative	mg/L	0.500
Cocaine Metabolite	Negative	mg/L	0.200
Methadone	Negative	mg/L	0.050
Methamphetamine	Negative	mg/L	0.100
Opiates	Negative	mg/L	0.075
Oxycodone	Negative	mg/L	0.075
Tramadol	Negative	mg/L	0.050
Zolpidem	Negative	mg/L	0.020

Analysis by Gas Chromatography/Mass Spectrometry (GC/MS)

Analyte	Result	Units	Threshold
Tetrahydrocannabinol Synonyms: THC	4.1	µg/L	2.000
11-hydroxy-Tetrahydrocannabinol Synonyms: THC metabolite	2.3	µg/L	2.000
11-carboxy-Tetrahydrocannabinol Synonyms: THC metabolite	34	µg/L	2.000



7/3/13



Shana B. Sorrells
Forensic Toxicologist

For any additional interpretation of results please contact the Toxicologist above at the SLED Toxicology Department, (803) 896-7385.



STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND)

C/A NO.: 2015-CP-40-07180

C/A NO.: 2015-CP-40-07181

William Gresham as Personal)
Representative of the Estate of John Corey)
Stringfellow,)

Plaintiff,)

**DEFENDANT'S REQUEST
TO CHARGE NUMBER _____**

vs.)

Cameron Thomas Stringfellow,)

Defendant.)

ASSUMPTION OF THE RISK

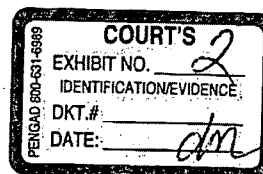
Assumption of the risk is the voluntary choice to assume a known risk. Under South Carolina law the doctrine of assumption of risk embodies the principle that one should not be permitted knowingly and voluntarily to incur an obvious risk of harm, when he has the ability to avoid doing so, and then hold another responsible for his injury. In determining whether the Plaintiff assumed the risk, you should consider whether he was aware (or by the exercise of ordinary care ought to have been aware) of the danger, appreciated the nature and extent of the danger, and voluntarily exposed him/herself to the danger. If you find that the Plaintiff assumed a known risk, you should take that into account when determining the comparative fault of the parties.

Wallace v. Owens-Illinois, Inc., 300 S.C. 518, 524, 389 S.E.2d 155, 158 (Ct. App. 1989).

McClain v. Charleston & W.C. Ry., 4 S.E.2d 280, 283 (1939).

Cole v. S.C. Elec. & Gas Co., 362 S.C. 445, 608 S.E.2d 859 (2005).

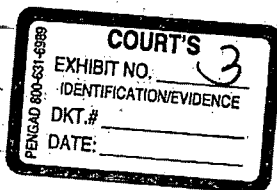
Davenport v. Cotton Hope Plantation, 333 S.C. 71, 508 S.E.2d 565 (1998).



Can damages be \$0? -> do we have to
award monetary damages?

Lisa Shine #242

1/12/17



THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

FEB 28 2018

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

SC Court of Appeals

Clifton Newman, Circuit Court Judge

Appellate Case No.: 2017-001083
Case No. 2015-CP-40-07181

Ex parte: The Travelers Home and Marine Insurance CompanyAppellant,

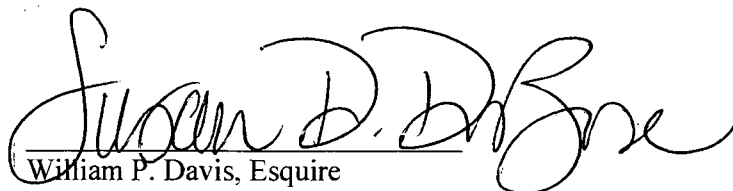
In Re: William Gresham as Personal Representative of the Estate
of John Corey Stringfellow, Respondent,

v.

Cameron Thomas Stringfellow,Defendant.

CERTIFICATE OF COUNSEL

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



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