

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Jocelyn Newman, Circuit Court Judge

Case No. 2018-002095

RECEIVED
DEC 05 2019
SC Court of Appeals

Jeanne Knollinger,

Appellant,

v.

Ryan Noel Oliver,

Respondent.

RECORD ON APPEAL

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Turner Padget Graham & Laney, PA
PO Box 1509
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ATTORNEYS FOR RESPONDENT

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ATTORNEYS FOR RESPONDENT

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¹ For brevity, Appellant did not include Court’s Exhibit 1 (Deposition of Respondent) and Court’s Exhibit 2 (Deposition of Appellant) as the references to the pages in the same are included already in the Record on Appeal. Appellant can supplement such Exhibits if requested by the Court.

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2016CP4002573

Jeanne Knollinger

Enterprise Leasing Company

Ryan Oliver

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____

Attorney for : ☐ Plaintiff ☐ Defendant or ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

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

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

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☐ ends ☒ does not end the case. The Court heard three pending motions: (1) Plaintiff's Motion to Compel; (2) Defendant, Enterprise Leasing Company's Motion for Summary Judgment; and (3) Plaintiff's Motion for Partial Summary Judgment as to Defendant Ryan Oliver.

- (1) Plaintiff's Motion to Compel is Granted. The Defendants shall provide accident insurance for the car involved in this accident.
- (2) Defendant's Motion for Summary Judgment as to Negligent Entrustment is Granted. There are no genuine issues of material fact regarding negligent entrustment. None of the elements of negligent entrustment are present in this case. There is no evidence Defendant Enterprise Company had any knowledge of the Defendant driver's habit of drinking, nor is there any evidence that the Defendant driver had a habit of drinking, or that the Defendant driver was intoxicated while driving the vehicle.
- (3) Plaintiff's Motion for Partial Summary Judgment as to Defendant Ryan Oliver is Denied. There are genuine issues of material fact as to which driver had the right of way.

Additional Information for the Clerk : _____

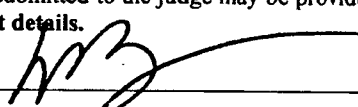
INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		\$
		\$
		\$

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

Circuit Court Judge



Judge Code 2161

Date

12-18-17

For Clerk of Court Office Use Only

ROA 2

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this 21 day of Dec, 20 17 to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

Court Reporter _____

ATTORNEY(S) FOR THE DEFENDANT(S)

Clerk of Court

Jeannette W. Haride

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	)	
Jeanne Knollinger,	)	Civil Action No.: 2016-CP-40-2573
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
Enterprise Leasing Company -	)	ORDER
Southeast, LLC d/b/a Enterprise	)	
Rent-A-Car and Ryan Oliver,	)	
	)	
Defendants.	)	

2018 JAN 26 AM 11:23
JENNIFER M. MORRIS
CLERK OF COURT

This matter came before this Court on December 14, 2017, on three Motions:

(i) Defendant Enterprise Leasing Company - Southeast, LLC d/b/a Enterprise Rent-A-Car's (Enterprise) Motion for Summary Judgment, (ii) Plaintiff's Motion for Partial Summary Judgment and (iii) Plaintiff's Motion to Compel. This Action concerns an automobile accident which occurred on December 11, 2014, on Garners Ferry Road in Columbia, S.C. At the time of the accident, Defendant Ryan Oliver was operating a vehicle he had rented from Enterprise. Appearing before this Court were Ryan C. Andrews for the Plaintiff and Langdon Cheves III for both Defendants. Upon reviewing the evidence presented and considering the arguments of counsel with respect to these motions, the Court's findings are as follows.

Enterprise Motion for Summary Judgment

Plaintiff's Complaint contained a cause of action for Negligent Entrustment against Enterprise. In South Carolina, to prove a claim of negligent entrustment, the Plaintiff must show: "1) knowledge of or knowledge imputable to the owner that the

driver was either addicted to intoxicants or had the habit of drinking; 2) the owner knew or had imputable knowledge that the driver was likely to drive while intoxicated; and 3) under these circumstances, the entrustment of a vehicle by the owner to such a driver.” Gadson v. ECO Services of South Carolina, Inc., 374 S.C. 171, 648 S.E.2d 585, 588 (2007).

Enterprise contends there is no evidence in the Record to satisfy the prongs of Gadson, *supra*, and Plaintiff concedes there is no evidence concerning Defendant Oliver’s addiction to intoxicants or habit of drinking or that alcohol played any role in the subject accident. Therefore, this Court grants Defendant Enterprise’s Motion for Summary Judgment as to negligent entrustment. This Court dismisses Plaintiff’s cause of action for Negligent Entrustment against Enterprise.

Plaintiff’s Motion for Summary Judgment

Plaintiff claims Defendant was negligent *per se* in causing the accident because of his alleged violation of S.C. Code § 56-5-2350, which mandates “[t]he driver of a vehicle about to enter or cross a roadway from any place other than another roadway shall yield the right-of-way to all vehicles approaching on the roadway to be entered or crossed.” Defendant Oliver asserts a question of fact exists as to whether Plaintiff was “approaching on the roadway” when he pulled out onto Garners Ferry Road.

The issue of whether a party has violated a safety statute is typically a question of fact for the jury to determine. *See, e.g., Spencer v. Kirby*, 234 S.C. 59, 68, 106 S.E.2d 883, 888 (1959) (it was “for the jury to say whether [Plaintiff] exercised such care as an ordinary, reasonable person would have exercised under the circumstances or

entered upon the highway heedlessly and without regard for the safety of others"). The Court finds a genuine issue of fact exists as to whether Plaintiff was already on Garners Ferry (*i.e.*, "the roadway") when Defendant pulled onto Garners Ferry and therefore denies Plaintiff's Motion for Partial Summary Judgment.

Plaintiff's Motion to Compel

In written discovery requests, Plaintiff requested:

Copies of any and all documentation submitted to the South Carolina Department of Insurance and South Carolina Department of Motor Vehicles regarding Defendant's self-insuring of the truck that was driven by Defendant Ryan Oliver that is subject of this lawsuit. This Request includes but is not limited to a copy of the self-insured certificate and copies of any listings submitted to the South Carolina Department of Insurance and South Carolina Department of Motor Vehicles which contain information regarding said truck.

In response, Enterprise produced a copy of its South Carolina Certificate of Self-Insurance as provided by the South Carolina Department of Motor Vehicles but objected to the production of any additional information on the basis of reasonableness, scope, relevance, burden and confidentiality.

Plaintiff contends an issue exists as to whether the vehicle Enterprise rented to Oliver carried insurance. Plaintiff points to the subject Accident Report, which lists Iowa as the state where the vehicle was registered. Plaintiff also calls into question the South Carolina Certificate of Self-Insurance, as it lists EAN Holdings as the actual self-insured. Plaintiff's position is that if the vehicle rented to Oliver did not carry insurance, Enterprise could be liable under a negligence theory. In response, Enterprise denies there is any issue as to the existence of insurance due to a) the Certificate of Self-Insurance; b) admissions that the vehicle was insured via

Interrogatory responses as well as sworn deposition testimony from Enterprise's Rule 30(b)(6) deponent. In the alternative, Enterprise claims the issue of insurance bears no relevance on the ultimate issue in the matter; i.e., determining the party responsible for the subject accident.

As to Plaintiff's Motion to Compel, the Court hereby orders Enterprise to produce additional evidence that its vehicle involved in the subject accident was covered by the South Carolina Certificate of Insurance that has been produced. Plaintiff's negligence claim against Enterprise remains viable until the Court is satisfied (either through Plaintiff's concession or the Court's own verification) that the vehicle was insured at the time of the accident. The Court also orders that any information produced by Enterprise in response to this Order is to be deemed confidential by Plaintiff and shall be used only for purposes of this Action and shall not to be shared or produced in any manner to anyone not associated with the subject Action. Upon completion of this case, Plaintiff shall destroy or return all copies of such information to counsel for Enterprise.

AND IT IS SO ORDERED.



The Honorable DeAndrea G. Benjamin
Presiding Circuit Court Judge

January 25 2018
Columbia, SC

STATE OF SOUTH CAROLINA
COUNTY OF Richland
IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

ROA 7

CASE NO. 2016CP4002573

Jeanne Knollinger
PLAINTIFF(S)

Ryan Noel Oliver
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

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

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

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

Plaintiff's Motion to Alter or Amend a Judgment Pursuant to Rule 59(e) filed on September 17, 2018 is Denied.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 10/22/2018.

RECEIVED

NOV 26 2018

SC Court of Appeals

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Richland Common Pleas

Case Caption: Jeanne Knollinger vs Enterprise Leasing Company , defendant, et al

Case Number: 2016CP4002573

Type: Order/Electronic Form 4

So Ordered

Jocelyn Newman

Electronically signed on 2018-10-22 16:36:37 page 3 of 3

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

JEANNE KNOLLINGER,

CIVIL ACTION COVERSHEET

Plaintiff(s)

2016-CP-40- 2573

vs.

ENTERPRISE LEASING COMPANY -
SOUTHEAST LLC D/B/A ENTERPRISE RENT-
A-CAR AND RYAN NOEL OLIVER,

Defendant(s)

(Please Print)

Submitted By: Ryan C. Andrews

Address: 270 W. Coleman Blvd., Suite 1B

Mt. Pleasant, SC 29464

SC Bar #: 101104

Telephone #: (843)971-0866

Fax #: (843) 353-2583

Other:

E-mail: randrews@cdhlawfirm.com

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

DOCKETING INFORMATION (Check all that apply)

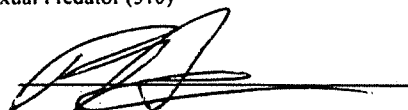
*If Action is Judgment/Settlement do not complete

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

NATURE OF ACTION (Check One Box Below)

Contracts ☐ Constructions (100) ☐ Debt Collection (110) ☐ Employment (120) ☐ General (130) ☐ Breach of Contract (140) ☐ Other (199)	Torts - Professional Malpractice ☐ Dental Malpractice (200) ☐ Legal Malpractice (210) ☐ Medical Malpractice (220) Previous Notice of Intent Case # 20____-CP-_____ ☐ Notice/ File Med Mal (230) ☐ Other (299)	Torts - Personal Injury ☐ Assault/Slander/Libel (300) ☐ Conversion (310) ☒ Motor Vehicle Accident (320) ☐ Premises Liability (330) ☐ Products Liability (340) ☐ Personal Injury (350) ☐ Wrongful Death (360) ☐ Other (399)	Real Property ☐ Claim & Delivery (400) ☐ Condemnation (410) ☐ Foreclosure (420) ☐ Mechanic's Lien (430) ☐ Partition (440) ☐ Possession (450) ☐ Building Code Violation (460) ☐ Other (499)
Inmate Petitions ☐ PCR (500) ☐ Mandamus (520) ☐ Habeas Corpus (530) ☐ Other (599)	Judgments/Settlements ☐ Death Settlement (700) ☐ Foreign Judgment (710) ☐ Magistrate's Judgment (720) ☐ Minor Settlement (730) ☐ Transcript Judgment (740) ☐ Lis Pendens (750) ☐ Transfer of Structured Settlement Payment Rights Application (760) ☐ Other (799)	Administrative Law/Relief ☐ Reinstate Driver's License (800) ☐ Judicial Review (810) ☐ Relief (820) ☐ Permanent Injunction (830) ☐ Forfeiture-Petition (840) ☐ Forfeiture-Consent Order (850) ☐ Other (899)	Appeals ☐ Arbitration (900) ☐ Magistrate-Civil (910) ☐ Magistrate-Criminal (920) ☐ Municipal (930) ☐ Probate Court (940) ☐ SCDOT (950) ☐ Worker's Comp (960) ☐ Zoning Board (970) ☐ Public Service Commission (990) ☐ Employment Security Comm (991) ☐ Other (999)
Special/Complex /Other ☐ Environmental (600) ☐ Automobile Arb. (610) ☐ Medical (620) ☐ Other (699)	☐ Pharmaceuticals (630) ☐ Unfair Trade Practices (640) ☐ Out-of State Depositions (650) ☐ Motion to Quash Subpoena in an Out-of-County Action (660) ☐ Sexual Predator (510)		

Submitting Party Signature:



Date: April 15, 2016

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

FOR MANDATED ADR COUNTIES ONLY

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

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

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

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

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

IN THE STATE OF SOUTH CAROLINA)
 COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
 FOR THE 5TH JUDICIAL CIRCUIT

CASE NO: 2016-CP-40-

Jeanne Knollinger,

Plaintiff(s),

v.

Enterprise Leasing Company – Southeast
 LLC d/b/a Enterprise Rent-A-Car and
 Ryan Noel Oliver,

Defendant(s).

SUMMONS
 (Jury Trial Demanded)

RICHLAND COUNTY
 FILED
 2016 APR 21 AM 11:25
 JEANNETTE W. MCGRIDE
 C.P. & G.S.

YOU ARE HEREBY SUMMONED and required to Answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer to said Complaint upon the Plaintiff or his attorney, Ryan C. Andrews, at his office, 270 W. Coleman Boulevard, Suite 1B, Mt. Pleasant, South Carolina 29464, within (30) days after the service hereof, exclusive of the day of such service and if you fail to Answer the Complaint within the time aforesaid, Plaintiff will apply to the court for the relief demanded in the Complaint.

Dated at Mt. Pleasant, South Carolina on the 15 day of April, 2016.

COBB DILL & HAMMETT LAW FIRM, LLC

BY



Ryan C. Andrews

S.C. Bar No.: 101104

Cobb Dill & Hammett Law Firm, LLC

270 W. Coleman Blvd. Suite 1B

Mt. Pleasant, SC 29464

(843) 971-0866

ATTORNEY FOR THE PLAINTIFF

IN THE STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FOR THE 5TH JUDICIAL CIRCUIT

CASE NO: 2016-CP-40-

Jeanne Knollinger,

Plaintiff(s),

v.

Enterprise Leasing Company – Southeast
LLC d/b/a Enterprise Rent-A-Car and
Ryan Noel Oliver,

Defendant(s).

COMPLAINT
(Jury Trial Demanded)

RICHLAND COUNTY
FILED
2016 APR 21 AM 11:25
JEANNETTE W. MCBRIDE
C.C.P. 2016

The Plaintiff, complaining of the Defendants, allege and says as follows:

1. That the Plaintiff, Jeanne Knollinger (herein referred to as "Plaintiff"), is a citizen and resident of Richland County, State of South Carolina.
2. That upon information and belief, Defendant Enterprise Leasing Company – Southeast LLC d/b/a Enterprise Rent-A-Car (herein referred to as "Defendant Enterprise") is a for-profit company authorized to transact business in the State of South Carolina and organized and existing under the laws of Delaware .
3. That upon information and belief, Defendant Ryan Noel Oliver (herein referred to as "Defendant Oliver;" both Defendants herein collectively referred to as "Defendants") is a citizen and resident of Richland County, State of South Carolina, and can be served with process at 147 South Pickens Street, Columbia, SC 29205.
4. That the motor vehicle collision that is the subject of this action occurred in Richland County, State of South Carolina.
5. That this Court has jurisdiction over the parties and the subject matter of this action.

6. That upon information and belief, Defendant Enterprise owned, furnished and maintained the 2011 Truck that is subject of this action.
7. That upon information and belief, Defendant Enterprise gave Defendant Oliver authority to drive the 2011 Truck that is subject of this action.
8. That on or about December 11, 2014, Plaintiff was lawfully traveling eastbound on Garners Ferry Road in her 2003 Chevrolet Sports Utility Vehicle.
9. That on or about December 11, 2014, Defendant Oliver, while driving the aforementioned 2011 Truck owned by Defendant Enterprise, exited a private driveway northbound onto Garners Ferry Road.
10. That on or about December 11, 2014, Defendant Oliver failed to yield the right-of-way while making a left turn and pulled out directly in front of Plaintiff's vehicle, causing a violent collision.
11. That Defendant Oliver had a duty to operate his vehicle in a reasonable safe and prudent manner and did breach this duty as set forth more fully below.
12. That Defendant Enterprise had a duty not to entrust the subject vehicle to negligent drivers.
13. That the Defendants are jointly and severally liable for the injuries sustained by the Plaintiff.
14. That the collision and the resulting injuries and damages to Plaintiff were caused directly and proximately by one or more of the following negligent, heedless, grossly negligent, careless, reckless, willful, wanton and unlawful acts, and/or omissions of the Defendants in any one or more of the following respects:

As to Defendant Oliver:

- a. In failing to keep a proper lookout while operating the vehicle;
- b. In failing to maintain control of the vehicle;
- c. In failing to stay in his lane of traffic;
- d. In failing to slow down to a controllable speed to stay in his lane of traffic;
- e. In failing to keep a safe distance from the Plaintiff;
- f. In failing to use due care;
- g. In failing to properly observe the road and traffic conditions;
- h. In failing to obey traffic laws and/or signs;
- i. In failing to use his horn, if he had any;
- j. In traveling too fast for conditions;
- k. In failing to properly maintain the vehicle;
- l. In failing to yield the right of way;
- m. In failing to apply her brakes or use his steering mechanism to avoid the collision;
- n. In failing to adhere to S.C. Code § 56-5-2350;
- o. In negligently and carelessly operating the vehicle in a high and excessive rate of speed under the circumstances then and there existing;
- p. In operating the vehicle at a high rate of speed and far in excess of the reasonable and prudent speed under the circumstances and conditions then and there existing;
- q. In operating the vehicle without using due care and without regard for safety and rights of Plaintiff;
- r. In operating the vehicle in a negligent, grossly negligent, careless, reckless, willful, wanton and unlawful manner so as to create a dangerous situation;

- s. In failing to exercise the degree of care and caution that a reasonable and prudent person would have exercised under the circumstances then and there prevailing;
- t. In negligently and carelessly operating the vehicle in such a manner to cause the vehicle to strike Plaintiff and cause personal injuries;
- u. In any other acts that represent a breach of the statutory or common laws of the State of South Carolina; and
- v. In any other such manner that Plaintiff may become aware of through discovery and/or at trial.

As to Defendant Enterprise:

- a. In failing to maintain the vehicle that is subject of this action;
- b. In allowing a driver to drive the vehicle when they knew or should have known the driver was likely to cause a collision such as the one described in this Complaint;
- c. In failing to appreciate the gravity and seriousness of having an unsafe driver use its vehicle;
- d. In failing to ensure that the driver of its vehicle would comply with all statutory codes and regulations;
- e. In failing to appreciate the gravity and seriousness of having an unsafe driver drive its vehicle;
- f. In failing to exercise the degree of care and caution that a reasonable and prudent person would have exercised under the circumstances then and there prevailing;
- g. In any other acts that represent a breach of the statutory or common laws of the State of South Carolina; and

h. In any other such manner that Plaintiff may become aware of through discovery and/or at trial.

15. That as a direct and proximate result of the negligence, gross negligence, carelessness, recklessness, willfulness and wantonness of the Defendants, as is set forth more fully above, Plaintiff was injured, has endured pain and suffering, has suffered mentally and emotionally, and has incurred, and will incur, various medical expenses, and has otherwise been damaged and injured.

16. That as a direct and proximate result of the negligence, gross negligence, carelessness, recklessness, willfulness and wantonness of the Defendants, as is set forth more fully above, Plaintiff was jerked, thrown and slammed within the interior of the vehicle by the force of the collision, causing her to sustain serious and painful personal injuries.

17. That as a direct and proximate result of the negligence, gross negligence, carelessness, recklessness, willfulness and wantonness of the Defendants, as is set forth more fully above, Plaintiff has been damaged and injured in the following respects:

- a) Plaintiff has been required to expend a significant amount of money for her medical care, treatment and attendant services;
- b) Upon information and belief, the nature of Plaintiff's injuries will require her to expend a significant amount of money for her medical care, treatment and attendant services in the future;
- c) The pain of her injuries has resulted in her loss of enjoyment of life and change in her personality, all to permanent detriment to her health and physical well-being; and
- d) Plaintiff has suffered damages to her property.

18. That Defendants' acts and omissions, as is set forth more fully above, show willful misconduct, malice, wantonness and an entire want of care, raising a presumption of the Defendants' conscious indifference to the consequences of such acts and omissions.
19. That because of the Defendants' acts and omissions and the proximate harm resulting to Plaintiff, Plaintiff should be awarded punitive damages in an amount to be determined by the trier of fact, in order to punish and penalize the Defendants and to deter the Defendants and others from similar behavior.
20. That upon information and belief, Plaintiff is entitled to judgment against the Defendants for actual, compensatory and exemplary or punitive damages for his personal injuries set forth herein in an amount that is fair, just and reasonable under the circumstances, plus whatever costs, interest and attorney fees that he may be entitled, to be determined by a jury.

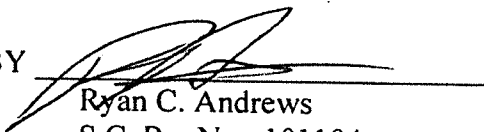
WHEREFORE, the Plaintiff prays for judgment against the Defendants, jointly and severally, for an amount to be ascertained by the jury at the trial of this action, for all damages, punitive and actual, for the cost and disbursements of this action, and both prejudgment and post judgment interest, and for such other and further relief, in law or in equity, as this court may deem just and proper.

[SIGNATURE ON FOLLOWING PAGE]

Respectfully submitted,

COBB DILL & HAMMETT LAW FIRM, LLC

BY



Ryan C. Andrews

S.C. Bar No.: 101104

Cobb Dill & Hammett Law Firm, LLC

270 W. Coleman Blvd. Suite 1B

Mt. Pleasant, SC 29464

(843) 971-0866

ATTORNEY FOR THE PLAINTIFF

Mt. Pleasant, South Carolina

April 15, 2016

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

JEANNE KNOLLINGER,

Plaintiff,

v.

ENTERPRISE LEASING COMPANY
SOUTHEAST, LLC D/B/A
ENTERPRISE RENT-A-CAR AND
RYAN NOEL OLIVER,

Defendant.

) IN THE COURT OF COMMON PLEAS

) ^{2016 40 2573}
) Docket No.: ~~2015-CP-08-345~~

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ANSWER AND COUNTERCLAIM
(Jury Trial Demanded)RICHLAND COUNTY
FILED
2016 AUG 15 PM 12:42
JEANETTE M. MCBRIDE
C.C. CLERK

Defendants Enterprise Leasing Company – Southeast, LLC and Ryan Noel Oliver, hereby answer and respectfully show unto the Court:

FOR A FIRST DEFENSE

Except as specifically admitted, qualified, or explained, Defendants deny each and every allegation in the Complaint and demand strict proof thereof. Answering the correspondingly numbered paragraphs of the Complaint, Defendants would show:

1. The allegations of Paragraph 1 of the Complaint are admitted upon information and belief.
2. The allegations of Paragraph 2 of the Complaint are admitted.
3. The allegations of Paragraph 3 of the Complaint are admitted.
4. The allegations of Paragraph 4 of the Complaint are admitted.
5. The allegations of Paragraph 5 of the Complaint are admitted.
6. The allegations of Paragraph 6 of the Complaint are admitted.
7. The allegations of Paragraph 7 of the Complaint are admitted.
8. In response to the allegations of Paragraph 8 of the Complaint, Defendants admit only that the accident in question happened on Garners Ferry

Road. Except as specifically admitted herein, the allegations of Paragraph 8 are denied and Defendants demand strict proof thereof.

9. In response to the allegations of Paragraph 9 of the Complaint, Defendants admit only that, at the time of the accident, Defendant Oliver was driving a truck owned by Defendant Enterprise Leasing, and that the accident in question happened on Garners Ferry Road. Except as specifically admitted herein, the allegations of Paragraph 9 are denied and Defendants demand strict proof thereof.

10. The allegations of Paragraph 10 are denied.

11. Answering the allegations of Paragraph 11, the Defendant would show that all members of the motoring public have a duty to operate their vehicle in a reasonable and safe manner. Defendants specifically deny that Defendant Oliver breached his duty of care. The remaining allegations of Paragraph 11 are denied and strict proof is demanded thereof.

12. The allegations of Paragraph 12 are denied and strict proof is demanded thereof.

13. The allegations of Paragraph 13 are denied and strict proof is demanded thereof.

14. The allegations of Paragraph 14, including all subparts, are denied.

15. The allegations of Paragraph 15 are denied and strict proof is demanded thereof.

16. The allegations of Paragraph 16 are denied and strict proof is demanded thereof.

17. The allegations of Paragraph 17, including all subparts, are denied, and strict proof is demanded thereof.

18. The allegations of Paragraph 18 are denied.

19. The allegations of Paragraph 19 are denied.

20. The allegations of Paragraph 20 are denied.

21. Except as specifically admitted, qualified, or explained, Defendants deny the allegations and demand strict proof of each allegation.

AS AN ADDITIONAL DEFENSE
(Failure to State a Claim)

22. FURTHER ANSWERING, Defendant Enterprise Leasing would show that Plaintiff has failed to state facts sufficient to constitute a cause of action, and therefore, the claims against it should be dismissed pursuant to Rule 12(b)(6).

AS AN ADDITIONAL DEFENSE
(Comparative Negligence)

23. FURTHER ANSWERING, any injury and damage sustained by Plaintiff may have been caused by the negligence or willfulness of Plaintiff, combining, concurring, and contributing with the negligence or willfulness, if any, by others. Because Plaintiff's negligence or willfulness may be greater than the alleged negligence or willfulness of one or more adverse parties, Plaintiff may be barred from recovery.

AS AN ADDITIONAL DEFENSE
(Comparative Negligence)

24. FURTHER ANSWERING, any injury and damage sustained by Plaintiff may have been caused by the negligence or willfulness of Plaintiff, combining, concurring, and contributing with the negligence or willfulness, if any, by others. Therefore, the Court should reduce any recovery awarded to Plaintiff for the alleged injuries and damage based upon the percentage of negligence or willfulness attributed to Plaintiff.

AS AN ADDITIONAL DEFENSE
(Reservation of Rights)

25. FURTHER ANSWERING, Defendant has not had an opportunity to conduct a sufficient investigation or engage in adequate discovery about the allegations of this lawsuit. Defendant gives notice of the intent to assert any further affirmative defenses that any investigation supports, including, but not limited to, defenses that the action is barred in whole or in part by any applicable statute, contract, release, covenant, or the doctrine of laches. Thus, Defendant reserves the right to amend this pleading to assert any such defenses.

AS AN ADDITIONAL DEFENSE
(Punitive Damages)

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

BY WAY OF FURTHER DEFENSE
AND COUNTER-CLAIM FOR PROPERTY DAMAGE

27. Defendant and Counter-Claimant Enterprise Leasing Company – Southeast, LLC is a corporation organized and existing pursuant to the laws of the State of Delaware (“Enterprise Leasing”). Enterprise Leasing is a self-insured entity and provides proof of financial responsibility to the Department of Motor Vehicles in accordance with S.C. Code § 56-9-60.

28. Upon information and belief, Plaintiff is a citizen and resident of the State of South Carolina.

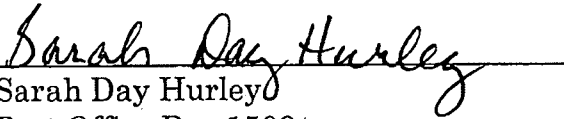
29. On December 11, 2014, a motor vehicle collision occurred on Garners Ferry Road in Richland County, South Carolina, involving vehicles being driven by Plaintiff and Defendant Oliver.

30. As a result of the collision, due to the negligent and reckless acts of the Plaintiff/Counter-Defendant, Defendant/Counter-Claimant Enterprise Leasing sustained property damage to its vehicle.

31. Defendant/Counter-Claimant Enterprise Leasing seeks actual damages in an amount to be shown at trial for the damage to its vehicle, including loss of use of the vehicle.

WHEREFORE, having answered, Defendants ask this Court to dismiss the Complaint, to award damages to Enterprise Leasing on its counter-claim for property damage, and to grant such other and further relief as this Court deems just and proper.

TURNER PADGET


Sarah Day Hurley
Post Office Box 1509
Greenville, South Carolina 29602
Direct: 864-552-4651
Fax: 864-282-5965

Greenville, South Carolina
August 12, 2016

ATTORNEYS FOR DEFENDANT

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS)

COUNTY OF RICHLAND)

CIVIL ACTION NO. 2016-CP-40-2573)

Jeanne Knollinger)

Plaintiff/Respondent to)
Counterclaim,)

vs.)

Enterprise Leasing Company)
Southeast, LLC d/b/a)
Enterprise Rent-a-Car and)
Ryan Noel Oliver,)Defendants/Counterclaimants.)
_____)ANSWER TO
COUNTERCLAIM2016 SEP - 1 AM 8:52
RICHLAND COUNTY
FILED
JEANETTE W. MCBRIDE
CLERK, P. & G.S.

Plaintiff/Respondent to Counterclaim, Jeanne Knollinger (hereinafter referred to as "Plaintiff/Respondent"), hereby answers the Counterclaim of Defendants/Counterclaimants and alleges as follows:

FOR A FIRST DEFENSE

1. As to the allegations of Paragraph 27 of the Counterclaim, Plaintiff/Respondent lacks sufficient information upon which to form an opinion or belief, and therefore denies allegations to Paragraph 27.
2. The allegations of Paragraph 28 of the Counterclaim are admitted.
3. The allegations of Paragraph 29 of the Counterclaim are admitted.
4. The allegations of Paragraph 30 of the Counterclaim are denied.
5. The allegations of Paragraph 31 of the Counterclaim are denied.
6. The prayer for relief in the Counterclaim is denied.

7. Any allegations against Plaintiff/Respondent, which are not specifically responded to herein are denied and strict proof thereof is required.

FOR A SECOND DEFENSE
(Comparative Negligence)

8. Plaintiff/Respondent re-alleges and incorporates by reference the above paragraphs as if fully set forth herein verbatim.

9. That by reason of the negligence, carelessness, recklessness and willfulness of Defendants/Counterclaimants, in any one or more of the following particulars:

- a. in failing to maintain a proper lookout;
- b. in failing to keep his vehicle under proper control;
- c. in traveling too fast for conditions;
- d. in failing to yield the right-of-way;
- e. in failing to apply his brakes;
- f. in failing to sound his horn;
- g. in failing to take any evasive action, by any means, to avoid a collision;
- h. in failing to properly observe the road and traffic conditions;
- i. in failing to use the degree of caution and care that a reasonable and prudent person would have used under the circumstances then and there prevailing;

Defendants'/Counterclaimants' injuries and damages were due to and proximately caused by such, and combining, contributing and concurring with any negligence, carelessness, recklessness and willfulness on the part of Plaintiff/Respondent, the same of which is expressly denied, so as to be a proximate cause of said injuries and damages to Defendants/Counterclaimants without which the same would not have occurred. This court should compare the negligence of Defendants/Counterclaimants to any negligence of Plaintiff/Respondent, which is expressly denied, and the amount of recovery available against Plaintiff/Respondent should be reduced by the percentage of Defendants'/Counterclaimants' own negligence, carelessness, recklessness and willfulness.

FOR A THIRD DEFENSE
(Contributory Negligence)

10. Plaintiff/Respondent re-alleges and incorporates by reference the above paragraphs as if fully set forth herein verbatim.

11. That if Plaintiff/Respondent was negligent, willful, wanton, careless or grossly negligent as set forth in the Complaint, Defendants/Counterclaimants were also negligent, grossly negligent, willful and wanton and his/her acts and omissions combined and concurred with any of the alleged acts and omissions on the part of Plaintiff/Respondent, so as to directly and proximately result in the injuries complained of and without which no injuries would have resulted. Defendants'/Counterclaimants' negligence, gross negligence, willfulness and wantonness was greater than any such conduct on the part of Plaintiff/Respondent, and Defendants/Counterclaimants are completely barred from any recovery.

FOR A FOURTH DEFENSE
(Reservation of Additional Defenses)

12. Plaintiff/Respondent re-alleges and incorporates by reference the above paragraphs as if fully set forth herein verbatim.

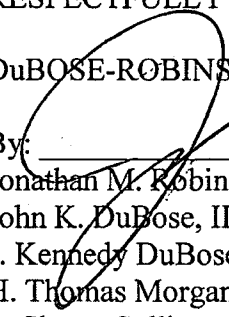
13. Plaintiff's/Respondent's investigation into the facts of this case has not been completed and, therefore, Plaintiff/Respondent reserves any additional and further defenses as may be revealed by additional information during the course of any discovery and/or investigation, and as is consistent with the South Carolina Rules of Civil Procedure.

WHEREFORE, having fully answered Counterclaim, Plaintiff/Respondent prays the Counterclaim against Plaintiff/Respondent be dismissed with cost and for such other and further relief as the Court may deem just and proper under the circumstances.

(Signature page to follow)

RESPECTFULLY SUBMITTED,

DuBOSE-ROBINSON, PC

By: 

Jonathan M. Robinson

John K. DuBose, III

J. Kennedy DuBose, Jr.

H. Thomas Morgan, Jr.

L. Shawn Sullivan

ATTORNEYS FOR PLAINTIFF/RESPONDENT
TO COUNTERCLAIM

935 Broad Street

Post Office Drawer 39

Camden, South Carolina 29020

(803) 432-1992

August 30, 2016

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	Docket No.: 2016-CP-40-2573
JEANNE KNOLLINGER,	)	
	)	
	)	Plaintiff,
	)	DEFENDANT, ENTERPRISE
	)	LEASING COMPANY SOUTHEAST,
v.	)	LLC D/B/A ENTERPRISE RENT-A-
	)	CAR'S NOTICE OF MOTION AND
ENTERPRISE LEASING COMPANY	)	MOTION FOR SUMMARY
SOUTHEAST, LLC D/B/A	)	JUDGMENT
ENTERPRISE RENT-A-CAR AND	)	
RYAN NOEL OLIVER,	)	
	)	
	)	Defendants.)

RICHLAND COURT
 FILED
 2017 OCT 11 AM 8:24
 JEANNETTE W. MCBRIDE
 C.C.P. & G.S.

TO: PLAINTIFF AND HER ATTORNEY, RYAN ANDREWS, ESQ.:

PLEASE TAKE NOTICE that Defendant, Enterprise Leasing Company – Southeast, LLC d/b/a Enterprise Rent-A-Car (“Enterprise Leasing”) will move, pursuant to Rule 56 of the South Carolina Rules of Civil Procedure, for an order granting summary judgment on the Plaintiff’s claim for negligent entrustment.

This case arises out of an automobile accident involving the vehicles in which Plaintiff and Defendant, Oliver, were riding and/or driving. At the time of the accident, Defendant, Oliver, was driving a vehicle owned by Defendant, Enterprise Leasing. Plaintiff’s Complaint includes a claim of negligent entrustment against Enterprise Leasing. Plaintiffs’ claim must fail because there is no evidence to support the claim.

In South Carolina, to prove a claim of negligent entrustment, a plaintiff must show: “(1) knowledge of or knowledge imputable to the owner that the driver was either addicted to intoxicants or had the habit of drinking; (2) the owner knew or had imputable knowledge that the driver was likely to drive while intoxicated; and (3) under these circumstances, the entrustment

of a vehicle by the owner to such a driver.” Gadson v. ECO Services of South Carolina, Inc., 374 S.C. 171, 648 S.E.2d 585, 588 (2007), citing Jackson v. Price, 288 S.C. 377, 342 S.E.2d 628 (Ct. App. 1986). Twice, the South Carolina Supreme Court has expressly declined to adopt the broader definition of negligent entrustment that is found in Sections 308 and 390 of the Restatement of Torts., See Gadson, supra, and Lydia v. Horton, 355 S.C. 36, 583 S.E.2d 750, 754 (2003).

This motion will be based upon the parties’ discovery responses, any deposition testimony, the applicable law of South Carolina, and any memorandum of law that may be submitted prior to the hearing on this matter.

Respectfully submitted,

October 6, 2017

TURNER PADGET GRAHAM & LANEY, P.A.

Sarah Day Hurley
Sarah Day Hurley (SC Bar No. 16241)
shurley@turnerpadget.com
P.O. Box 1509
Greenville, South Carolina 29602
Telephone: (864) 552-4651
Attorneys for the Defendants

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND)

Civil Action No.: 2016-CP-40-2573

Jeanne Knollinger,)

Plaintiff,)

**Defendant Enterprise Leasing's
Memorandum of Law in Support
Of Motion for Summary Judgment**

v.)

Enterprise Leasing Company - Southeast,
LLC d/b/a Enterprise Rent-A-Car and
Ryan Oliver,

Defendants.)

RICHLAND COUNTY
FILED
2017 DEC -6 PM 2:39
JEANETTE W. McBRIDE
C.C.P. & G.S.

Defendant Enterprise Leasing Company – Southeast, LLC (“Enterprise Leasing”) submits this Memorandum of Law in Support of its Motion for Summary Judgment on the negligent entrustment claim.

This case arises out of an automobile accident involving the vehicles in which Plaintiff and co-defendant Ryan Oliver were driving. At the time of the accident, Defendant Oliver was driving a vehicle owned by Defendant Enterprise Leasing. Plaintiff’s Complaint includes a claim of negligent entrustment against Enterprise Leasing. Plaintiff’s claim must fail because there is no evidence to support her claim.

In South Carolina, to prove a claim of negligent entrustment, the Plaintiff must show: “(1) knowledge of or knowledge imputable to the owner that the driver was either addicted to intoxicants or had the habit of drinking; (2) the owner knew or had imputable knowledge that the driver was likely to drive while intoxicated; and (3) under these circumstances, the entrustment of a vehicle by the owner to such a driver.” *Gadson v. ECO Services of South Carolina, Inc.*, 374 S.C. 171, 648 S.E.2d 585, 588 (2007), citing *Jackson v. Price*, 288 S.C. 377, 342 S.E.2d 628 (Ct. App. 1986). Twice, the South Carolina Supreme Court has expressly declined to adopt the

broad definition of negligent entrustment that is found in Sections 308 and 390 of the Restatement of Torts, *See Gadson, supra*, and *Lydia v. Horton*, 355 S.C. 36, 583 S.E.2d 750, 754 (2003).

There is no evidence that Defendant Oliver is addicted to intoxicants or has a habit of drinking. Notably, there is no evidence that Mr. Oliver had been drinking prior to the accident with the Plaintiff. Mr. Oliver testified in his deposition that he had not consumed any alcohol in the 24 hours preceding the accident. (Oliver at 45). Although Mr. Oliver, who is now 30 years of age, received an "alcohol violation" in February 2016, he explained in his deposition that occurred when he was 18 years old; he received the alcohol citation because he walking in public (near the campus of Winthrop University) with an open container. (Oliver at 17). He has never been charged with driving while intoxicated or driving under the influence.

Even if he had, however, under South Carolina law, a car rental company owes no duty to investigate a renter's driving record prior to rental. Mr. Oliver testified that, at the time of rental, he provided Enterprise Leasing with a copy of his South Carolina driver's license. Mr. Oliver's driver's license was not restricted in any way or under any type of suspension at the time of the rental. Simply put, South Carolina law imposes no duty on Enterprise Leasing to take any further action at the time of rental.

This is a case involving simple negligence resulting in a motor vehicle accident. The central issue in the case is who was at fault for the accident: Ms. Knollinger or Mr. Oliver. There is nothing to support Plaintiff's claim of negligent entrustment against Enterprise Leasing. For these reasons, Enterprise Leasing is entitled to summary judgment.

Greenville, South Carolina
December 4, 2017

By: Sarah Day Hurley
Sarah Day Hurley (SC Bar No. 16241)
200 E. Broad Street, Ste. 250 (29601)
P.O. Box 1509
Direct Dial: 864-552-4651
Direct Fax: 864-282-5965
Attorneys for the Defendants

State of South Carolina Court Of Common Pleas
County of Richland CA No.2015-CP-40-2573

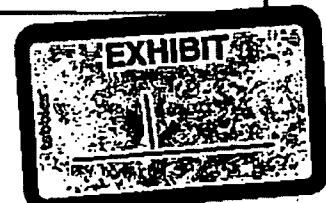
JEANNE KNOLLINGER,)
)
 Plaintiff,)
)
 vs.)
)
ENTERPRISE LEASING COMPANY SOUTHEAST,)
LLC, D/B/A ENTERPRISE RENT-A-CAR AND)
RYAN NOEL OLIVER,)
)
 Defendants.)
_____)

DEPOSITION

WITNESS: RYAN OLIVER
DATE: May 8, 2017
TIME: 12:45 p.m. - 3:10 p.m.
LOCATION: Turner Padget
 1901 Main Street
 Columbia, South Carolina
TAKEN BY: Attorney for the Defendats

REPORTED BY: KATHRYN J. LINDLER

EXPEDITE COURT REPORTING
Traci L. Barr & Associates
P. O. Box 25882
Greenville, South Carolina 29618
(864) 509-0914
ExpediteReporting@gmail.com



Ryan Oliver

May 8, 2017

16

1 Q. How long have you had a South Carolina drivers
2 license?

3 A. Five years. It's got to be longer than that.
4 Maybe ten years.

5 Q. Have you ever had a drivers license issued from
6 any other state?

7 A. Virginia.

8 Q. Is that where you first obtained your first
9 drivers license?

10 A. Yes. My mom first allowed me.

11 Q. Did you ever have a commercial drivers license?

12 A. No.

13 Q. Have you ever lost your driving privileges? Has
14 your drivers license in South Carolina or Virginia ever
15 been revoked?

16 A. I just recently lost it, because I fell behind in
17 the insurance payments.

18 Q. You don't have a current one now?

19 A. That's this week's plan. I just got back from
20 Nashville.

21 Q. Failure to pay insurance?

22 A. Yes. I have insurance and everything right now.
23 I just have to go to the DMV and give them whatever that
24 reinstatement fee is.

25 Q. Aside from that, has your license ever been

Ryan Oliver

May 8, 2017

17

1 suspended or your driving privileges revoked in any way?

2 A. When I was 18 I got caught with an open
3 container. I wasn't driving with it or anything, but it's
4 like state law you get your license taken away for three
5 months.

6 Q. Were you in somebody's vehicle?

7 A. No. I was walking from Winthrop University
8 crossing through Walgreens parking lot about to go to the
9 bar and I had a beer in my hand and it's just some law even
10 if you're not in a car, you lose your license.

11 Q. How long did you lose your license?

12 A. It was either for three or six months.

13 Q. Did you just plead guilty to under age?

14 A. It was a long process. I did the whole ADSAP
15 whatever thing and I paid \$600 and the last 150 was to get
16 it off my record, the guy kicked me out of class and blah,
17 blah, blah, they ended up ignoring all the money that I
18 spent, I went back to court, because I didn't finish the
19 class in time and they hit me with the original charge
20 which was \$255 and my license for three or six months, so.
21 Yeah, I guess, I guess I was guilty.

22 Q. I ask this question in all my depositions, I'm
23 not just singling you out. Have you ever been arrested
24 and/or convicted of any crimes? We're not talking about
25 traffic offenses yet, but any other crimes besides this

Ryan Oliver

May 8, 2017

45

1 Q. When you're stopped at the exit before you pull
2 out, what was your advantages point or how far to the left
3 do you remember that you could see?

4 A. How far can I see that I have it or -- I can see
5 to the top of the hill.

6 Q. On Pelham Road where the yield sign is, how far
7 in that direction can you see?

8 A. From that direction you can see maybe the yield
9 like -- yeah. You can't see deep into Pelham. You would
10 probably only see the beginning or the end of -- the end of
11 Pelham and the beginning of Garners Ferry is probably the
12 most you would see from that angle. You wouldn't be able
13 to see far back into Pelham Road.

14 Q. Were you on any medications at the time of the
15 collision?

16 A. No, sir.

17 Q. Have you ever been on any type of prescription
18 medications for any illness?

19 A. No, sir.

20 Q. Do you recall whether or not you consumed any
21 alcoholic drinks in the 24 hours prior to the collision?

22 A. No, I did not.

23 Q. What was your cell phone number at the time of
24 the collision?

25 A. Same as now (803)528-4917.

Gadson ex rel. Gadson v. ECO Services of South Carolina, Inc., 374 S.C. 171 (2007)

648 S.E.2d 585

KeyCite Yellow Flag - Negative Treatment
Distinguished by Jones ex rel. Jones v. Enterprise Leasing
Company-Southeast, S.C.App., May 18, 2009

374 S.C. 171

Supreme Court of South Carolina.

Start GADSON, by her Guardian ad Litem, Kathy
GADSON, Respondent,

v.

ECO SERVICES OF SOUTH CAROLINA, INC.,
and Joseph Jenkins, of whom Joseph Jenkins, is,
Petitioner.

No. 26357.

Heard May 2, 2007.

Decided July 16, 2007.

Synopsis

Background: Passenger brought action against vehicle owner and owner's employee, alleging negligence and negligent entrustment in connection with accident which occurred while employee's cousin was driving vehicle. The Circuit Court, Jasper County, Paul M. Burch, J., entered judgment on jury verdict for passenger and denied owner's and employee's motions for judgment notwithstanding the verdict (JNOV) and new trial. Owner and employee appealed, and the Court of Appeals affirmed as to employee but reversed as to owner. Employee petitioned for writ of certiorari.

Holdings: The Supreme Court, Burnett, J., held that:

[1] Court would decline to adopt Restatement sections extending liability for negligent entrustment;

[2] employee did not know that his cousin was intoxicated or had a habit of being intoxicated and driving and thus was not negligent;

[3] driver's status as employee's cousin did not show that employee knew that cousin would cause harm; and

[4] employee's failure to testify on his own behalf did not allow jury to infer that the elements of negligent entrustment had been met.

Reversed and remanded.

Pleicones, J., concurred separately with opinion.

West Headnotes (10)

- [1] **Appeal and Error**
 ⇨ Extent of Review Dependent on Nature of Decision Appealed from
Appeal and Error
 ⇨ Appeal from Ruling on Motion to Direct Verdict

When reviewing the denial of a motion for directed verdict or judgment notwithstanding the verdict (JNOV), the Supreme Court applies the same standard as the trial court.

3 Cases that cite this headnote

- [2] **Appeal and Error**
 ⇨ Effect of Evidence and Inferences Therefrom on Direction of Verdict
Appeal and Error
 ⇨ Judgment

When reviewing the denial of a motion for directed verdict or judgment notwithstanding the verdict (JNOV), the Supreme Court is required to view the evidence and inferences that reasonably can be drawn therefrom in the light most favorable to the non-moving party.

3 Cases that cite this headnote

- [3] **Judgment**
 ⇨ Where Evidence Is Conflicting or Where Different Inferences May Be Reasonably Drawn Therefrom
Trial
 ⇨ Inferences from Evidence



Motions for directed verdict or judgment notwithstanding the verdict (JNOV) should be denied when either the evidence yields more than one inference or its inference is in doubt.

1 Cases that cite this headnote

[4]

Appeal and Error

↔Extent of Review Dependent on Nature of Decision Appealed from

Appeal and Error

↔Appeal from Ruling on Motion to Direct Verdict

An appellate court will only reverse the lower court's ruling on a motion for directed verdict or judgment notwithstanding the verdict (JNOV) when there is no evidence to support the ruling or when the ruling is controlled by an error of law.

4 Cases that cite this headnote

[5]

Automobiles

↔Persons Other Than Owners or Operators in General

Supreme Court would decline to adopt Restatement sections extending liability for negligent entrustment when the owner of a vehicle knows or had reason to know that a person is likely because of his youth, inexperience, or otherwise to create an unreasonable risk of physical harm to himself or others, in light of facts of the case against an employee who let his cousin drive the employer's vehicle after drinking wine coolers. Restatement (Second) of Torts, §§ 308, 390.

4 Cases that cite this headnote

[6]

Automobiles

↔Permitting Operation by Incompetent Person

The elements of negligent entrustment of an automobile to an intoxicated driver are: (1) knowledge of or knowledge imputable to the owner that the driver was either addicted to intoxicants or had the habit of drinking, (2) the owner knew or had imputable knowledge that the driver was likely to drive while intoxicated, and (3) under these circumstances, the entrustment of a vehicle by the owner to such a driver.

4 Cases that cite this headnote

[7]

Automobiles

↔Persons Other Than Owners or Operators in General

Employee did not know that his cousin was intoxicated or had a habit of being intoxicated and driving and thus was not negligent in entrusting employer's vehicle to cousin to drive, even though employee witnessed cousin consume one or two wine coolers an hour before driving the vehicle.

1 Cases that cite this headnote

[8]

Automobiles

↔Persons Other Than Owners or Operators in General

Driver's status as cousin of vehicle owner's employee did not show that employee knew that cousin would cause harm after consuming one or two wine coolers and driving employer's vehicle; there was no evidence that employee had any knowledge of cousin's drinking habits, driving record, or general behavior.

Cases that cite this headnote

[9]

Evidence

↔Failure of Party to Testify or Giving Evasive Answers

Employee's failure to testify on his own behalf did not allow jury to infer that the elements of negligent entrustment had been met in action arising out of employee's act in letting his cousin, who had consumed one or two wine coolers, drive employer's vehicle, as there as no evidence employee knew cousin would create an unreasonable risk of harm.

2 Cases that cite this headnote

1101

Evidence

☞ Failure of Party to Testify or Giving Evasive Answers

The failure of a defendant to testify raises an inference that his testimony, if it had been submitted, would have been unfavorable to his position.

Cases that cite this headnote

Attorneys and Law Firms

****587** Joseph R. Weston, of Weston Law Firm, of Mt. Pleasant, for Petitioner.

Daniel E. Henderson, of Peters, Murdaugh, Parker, Eltzroth & Detrick, PA, of Ridgeland, for Respondent.

Opinion

Justice BURNETT.

***174** We granted a writ of certiorari to review the Court of Appeals' decision in *Gadson v. ECO Services of South Carolina*, Op. No.2005-UP-130 (S.C. Ct.App. filed February 18, 2005). Joseph Jenkins (Petitioner) contends the Court of Appeals erred in affirming the trial court's denial of his motions for directed verdict and judgment notwithstanding the verdict (JNOV). We reverse.

FACTUAL/PROCEDURAL BACKGROUND

Petitioner was employed by ECO Services of South Carolina, Inc. (ECO), a solid waste contractor. On August 6, 1997, instead of returning ECO's vehicle to the Hilton Head office, Petitioner drove the vehicle to Hardeeville where he picked up several passengers, including Starr Gadson (Respondent) and his cousin, John Jenkins, and drove them to McDonald's. Petitioner then drove them to a store where John purchased one or two wine coolers. John shared the wine coolers with another passenger.

Petitioner drove them to Purrysburg Landing, where they talked for about an hour. On the way back to Hardeeville, John drove the vehicle. John reached a speed of 80 miles per hour before losing control of the vehicle. Several passengers, including Respondent, were thrown from the vehicle and sustained injuries.

Respondent filed an action against ECO and Petitioner, alleging negligence and negligent entrustment. Neither Petitioner nor John appeared at trial. However, Petitioner did move for a directed verdict. The jury returned a verdict ***175** against all three defendants, finding: (1) ECO entrusted the vehicle to Petitioner; (2) ECO was negligent in entrusting the vehicle to Petitioner; (3) ECO's negligence proximately caused Respondent's injuries; (4) John was driving the vehicle at the time of the accident and was doing so negligently; (5) John's negligence proximately caused Respondent's injuries; (6) Petitioner was not driving the vehicle at the time of the accident; and (7) Petitioner was negligent in entrusting the vehicle to John. The jury awarded Respondent \$50,000 in actual damages.

Both ECO and Petitioner moved for JNOV and a new trial based on juror misconduct. The trial court dismissed both motions finding they were not timely filed. The Court of Appeals remanded and the trial court considered and denied the motions. ECO and Petitioner appealed. Based on the definition of negligent entrustment as provided by the Restatement (Second) of Torts § 308 (1965), the Court of Appeals affirmed as to Petitioner and reversed as to ECO. *Gadson v. ECO Services of S.C.*, Op. No.2005-UP-130 (S.C. Ct.App. filed February 18, 2005). Specifically, the Court of Appeals considered Petitioner's driving record and work history and found ECO neither knew nor should have known Petitioner intended or was likely to use the truck in such a manner as to create an unreasonable risk of harm to others. As for Petitioner, the Court of Appeals found he knew or should have known John's use of the vehicle was likely to cause harm considering ****588** their familial relationship and the fact John consumed alcohol before driving.

ISSUE

Did the Court of Appeals err in affirming the trial court's denial of Petitioner's motions for directed verdict and JNOV and in finding Petitioner negligently entrusted the vehicle to John Jenkins?

STANDARD OF REVIEW

[1] [2] [3] [4] When reviewing the denial of a motion for directed verdict or JNOV, this Court applies the same standard as the trial court. *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 602 S.E.2d 772 (2004). The Court is required to view the evidence *176 and inferences that reasonably can be drawn therefrom in the light most favorable to the non-moving party. *Sabb v. S.C. State Univ.*, 350 S.C. 416, 567 S.E.2d 231 (2002). The motions should be denied when either the evidence yields more than one inference or its inference is in doubt. *McMillan v. Oconee Mem'l Hosp., Inc.*, 367 S.C. 559, 626 S.E.2d 884 (2006). An appellate court will only reverse the lower court's ruling when there is no evidence to support the ruling or when the ruling is controlled by an error of law. *Steinke v. S.C. Dep't of Labor, Licensing and Regulation*, 336 S.C. 373, 520 S.E.2d 142 (1999).

LAW/ANALYSIS

Petitioner argues the Court of Appeals erred in affirming the trial court's denial of his motions for directed verdict and JNOV and in finding he negligently entrusted the vehicle to John Jenkins. Specifically, Petitioner argues there is no evidence from which a jury could have reasonably concluded he knew or had reason to know John was likely to use the vehicle in a manner involving unreasonable risk of physical harm to himself or others.

[5] [6] According to our case law, the elements of negligent entrustment are: (1) knowledge of or knowledge imputable to the owner that the driver was either addicted to intoxicants or had the habit of drinking; (2) the owner knew or had imputable knowledge that the driver was likely to drive while intoxicated; and (3) under these circumstances, the entrustment of a vehicle by the owner to such a driver. *Jackson v. Price*, 288 S.C. 377, 342 S.E.2d 628 (Ct.App.1986). However, in determining whether Respondent met her burden of proving the

elements of negligent entrustment, the Court of Appeals applied Restatement (Second) of Torts §§ 308 and 390,¹ *177 which extend liability when the owner knows or had reason to know that such person is likely because of his youth, inexperience, or otherwise, to create an unreasonable risk of physical harm to himself and others. We decline to adopt sections 308 and 390 of the Restatement based on this set of facts, and we analyze this case under the elements of negligent entrustment set forth in *Jackson*.

[7] The Court of Appeals erred in finding Petitioner knew John would cause harm because Petitioner knew John had been drinking alcohol prior to driving the vehicle. Over an hour before driving the vehicle, Petitioner witnessed John purchase and consume wine coolers. It is disputed whether John purchased one or two wine coolers and whether he shared the drinks with another passenger. Petitioner stated in his brief and Respondent testified at trial that John did not appear intoxicated. Furthermore, there was no evidence as to John's drinking habits or his driving record. The sole evidence supporting the claim for negligent entrustment against Petitioner is the fact John had one or two wine coolers prior to driving. Knowledge that a driver has had a drink or two is a **589 far cry from meeting the first element of negligent entrustment that there be knowledge of or knowledge imputable to the owner that the driver was either addicted to intoxicants or had the habit of drinking.

Viewing the evidence in the light most favorable to Respondents, there was no support for the contention Petitioner, or even Respondent, for that matter, knew John was intoxicated; nor was there evidence Petitioner knew John had a habit of being intoxicated and driving. Evidence John consumed as little as half of a wine cooler² an hour before driving the vehicle does not support a finding of negligent entrustment against Petitioner. *See, e.g., Greene v. Jenkins*, 224 Ga.App. 640, 481 S.E.2d 617 (1997) (parents were not liable for entrusting vehicle to son when parents knew son had a couple of *178 drinks, but did not know he was incompetent due to intoxication and when passenger in wrecked vehicle testified she would not have ridden with the son had she believed he was intoxicated); *Gibson v. Bruner*, 406 Pa. 315, 178 A.2d 145 (1961) (JNOV granted to father who entrusted truck to son after son had consumed four bottles of beer when there was no evidence son was intoxicated or unable to drive the truck competently).

[8] The Court of Appeals also erred in finding Petitioner knew John would cause harm simply because John was Petitioner's cousin. The Court of Appeals held, "[Petitioner] was apparently familiar with John's

character, because he was John's cousin." *Gadson v. ECO Services of S.C.*, Op. No.2005-UP-130 (S.C. Ct.App. filed February 18, 2005). Respondent presented no evidence Petitioner had any knowledge of John's drinking habits, driving record, or general behavior. Assuming Petitioner was aware of John's character simply because Petitioner and John are cousins was error.

[9] [10] Finally, the Court of Appeals erred in finding the jury could have inferred the elements of negligent entrustment had been met when Petitioner failed to testify on his own behalf. The failure of a defendant to testify raises an inference that his testimony, if it had been submitted, would have been unfavorable to his position. See, e.g., *Crocker v. Weathers*, 240 S.C. 412, 126 S.E.2d 335 (1962). However, Respondent presented no evidence Petitioner knew John would create an unreasonable risk of harm other than evidence Petitioner and John were cousins and John consumed a minimal amount of alcohol before driving. Respondent carried the burden of proof and failed to present any evidence Petitioner negligently entrusted the vehicle to John. See *Ross v. Paddy*, 340 S.C. 428, 433, 532 S.E.2d 612, 614 (Ct.App.2000) ("The burden of proof is on the plaintiff to establish the negligence of the defendant."). Respondent failed to meet her burden of proof and cannot rely on the absence of Petitioner at trial to fill the void of evidence.

CONCLUSION

The Court of Appeals erred in affirming the trial court's denial of Petitioner's motion for a directed verdict because *179 Respondent failed to submit any evidence establishing the necessary elements of negligent entrustment.

Footnotes

¹ Section 308 provides:

It is negligence to permit a third person to use a thing or to engage in an activity which is under the control of the actor, if the actor knows or should know that such person intends or is likely to use the thing or to conduct himself in the activity in such a manner as to create an unreasonable risk of harm to others.

Section 390 provides:

One who supplies directly or through a third person a chattel for the use of another whom the supplier knows or has reason to know to be likely because of his youth, inexperience, or otherwise, to use it in a manner involving unreasonable risk of physical harm to himself and others whom the supplier should expect to share in or be endangered by its use, is subject to liability for physical harm resulting to them.

² Respondent testified John split the wine cooler with another passenger.

REVERSED AND REMANDED.

TOAL, C.J., MOORE, J., and Acting Justice J. CORDELL MADDOX, concur. PLEICONES, J., concurring in a separate opinion.

Justice PLEICONES:

I agree with the majority that petitioner's JNOV motion should have been granted, but write separately because I believe we should adopt Restatement (Second) of Torts, §§ 308 and 390 as alternative methods of proving negligent entrustment. I fear that our current formulation would not admit of liability where a person permitted an individual to drive an automobile knowing that the driver was intoxicated, but where there was no evidence the supplier knew the driver was a habitual drinker or addicted to alcohol. In my view, adoption of sections 308 and 390 would eliminate this loophole. That said, I agree that even under these formulations, there is no evidence that petitioner knew or should have known that John Jenkins was likely to operate the vehicle in a manner which created an unreasonable risk of harm. **590 I therefore concur in the decision to reverse and remand the Court of Appeals' decision affirming the trial court's denial of petitioner's JNOV motion.

All Citations

374 S.C. 171, 648 S.E.2d 585

Gadson ex rel. Gadson v. ECO Services of South Carolina, Inc., 374 S.C. 171 (2007)

648 S.E.2d 585

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2013 WL 8477917 (S.C.Com.Pl.) (Trial Order)
Court of Common Pleas of South Carolina
Beaufort County

Catherine Virginia COX, Plaintiff,
v.
Kenneth L. PINCKNEY, Sr. and Stacy Marie St. Pierre, Defendants.

No. 2012CP0703182.
October 9, 2013.

Order Granting Stacy Marie St. Pierre's Motion for Summary Judgment

D. Graig Brown, Judge.

*1 This matter came before the Court for a hearing on Defendant Stacy Marie St. Pierre's motion for summary judgment on Monday, September 30, 2013 at the Beaufort County Courthouse. Present at the hearing were Kimberly Smith, Esquire of Moss, Kuhn and Fleming for the Plaintiff and Adam Neil, Esquire of Murphy and Grantland for Defendant St. Pierre. After reviewing the submissions of parties, hearing the arguments of counsel and considering the law of this state, the Court grants St. Pierre's motion for summary judgment.

This action arises out of a motor vehicle accident that occurred on July 11, 2012 when a vehicle operated by Kenneth Pinckney collided with a vehicle operated by Plaintiff Catherine Cox. Stacy Marie St. Pierre owned the vehicle driven by Pinckney and Plaintiff has alleged a cause of action against her for negligent entrustment. There is no evidence in the record that Pinckney was under the influence of any intoxicants at the time of the accident or that St. Pierre had any reason to know that Pinckney had a propensity to drive while intoxicated. Counsel for the plaintiff conceded at the hearing that Plaintiff had no such evidence. In fact, in response to Requests to Admit served upon her by counsel for St. Pierre, Plaintiff only asserts that Pinckney was operating his vehicle without a license or under a suspended license. There is likewise no evidence that Pinckney was addicted to intoxicants, that St. Pierre had any knowledge of prior drug use by Pinckney or that Pinckney had a propensity to operate a vehicle while intoxicated.

On several occasions our Supreme Court has instructed that the elements of negligent entrustment are:

(1) knowledge of or knowledge imputable to the owner that the driver was either addicted to intoxicants or had the habit of drinking; (2) the owner knew or had imputable knowledge that the driver was likely to drive while intoxicated; and (3) under these circumstances, the entrustment of a vehicle by the owner to such a driver.

Gadson ex rel. Gadson v. ECO Services of South Carolina, Inc., 374 S.C. 171, 648 S.E.2d 585 (2007) (citing *Jackson v. Price*, 288 S.C. 377, 342 S.E.2d 628 (Ct. App. 1986)).

On two occasions, the Supreme Court has reversed the Court of Appeals, which adopted a broader view of negligent entrustment, which is found in The Restatement (Second) of Torts §§ 308 and 390 (1965). The Restatement's definition of negligent entrustment encompasses not only intoxicated drivers, but drivers who, due to their "youth, inexperience, or otherwise" are likely to use the vehicle in a manner involving unreasonable risk of harm to themselves or others. See *Lydia v. Horton*, 343 S.C. 376, 383-85, 540 S.E.2d 102, 106-07 (Ct. App. 2000), reversed, 355 S.C. 36, 583 S.E.2d 750 (2003); *Gadson ex rel. Gadson v. ECO Services of South Carolina, Inc.*, Op. No. 2005-UP-130, n.4 (S.C. Ct. App. Feb. 18, 2005), reversed, 374 S.C. 171, 648 S.E.2d 585 (2007). In both cases, the Supreme Court reversed the Court of Appeals and expressly declined to adopt sections 308 and 390. *Lydia*, 355 S.C. at 40, n.2, 583 S.E.2d at 753 ("[W]e decline to adopt the Comment or sections 308 and 390 of the Restatement based on these facts presented."); *Gadson*, 374 S.C. at 177, 648 S.E.2d at 588 ("We decline to adopt sections 308 and 390 of the Restatement based on this set of facts, and we analyze this case under the elements of negligent entrustment set forth in *Jackson*.")



*2 Plaintiff bears the burden of proving each element of her cause of action. The evidence presented was all considered in the light most favorable to the Plaintiff. However, the court was not presented with any evidence that indicating that Pinckney was intoxicated on the night of the accident, that Pinckney was addicted to intoxicants, that St. Pierre knew that Pinckney was addicted to intoxicants, or that St. Pierre knew that Pinckney was likely to drive a vehicle while intoxicated. Because Plaintiff bears the burden at the summary judgment stage of producing some evidence to support these necessary elements and she has failed to do so, St. Pierre is entitled to judgment as a matter of law that she did not negligently entrust the vehicle to Pinckney.

For the foregoing reasons, Defendant St. Pierre's motion for summary judgment is hereby **GRANTED**.

IT IS SO ORDERED.

<<signature>>

The Hon. D. Craig Brown, Presiding Judge

Fourteenth Judicial Circuit

Oct 4, 2013

Florence, South Carolina

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IN THE STATE OF SOUTH CAROLINA)
 COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
 FOR THE FIFTH JUDICIAL CIRCUIT

CASE NO: 2016-CP-40-2573

Jeanne Knollinger,

Plaintiff(s),

v.

Enterprise Leasing Company Southeast,
 LLC d/b/a Enterprise Rent-A-Car and
 Ryan Noel Oliver,

Defendant(s).

**PLAINTIFF'S NOTICE OF MOTION
 AND MOTION FOR PARTIAL
 SUMMARY JUDGMENT**

RICHLAND COUNTY
 FILED
 2017 NOV 27 PM 1:00
 SARAH D. HURLEY, ESQ.
 C.C.P. & G.S.S.

TO: SARAH D. HURLEY, ESQ., ATTORNEY FOR DEFENDANTS

PLEASE TAKE NOTICE that the Plaintiff Jeanne Knollinger (hereby referred to as "Plaintiff") by and through her undersigned attorney, will move before the Presiding Judge in the Court of Common Pleas in Richland County on the tenth (10th) day after service hereof, or at such other time and place as convenient to the Court, for an order granting partial summary judgment on Plaintiff's claim of negligence *per se* pursuant to Rule 56 of the South Carolina Rules of Civil Procedure. In support of this Motion, Plaintiff shows the Court as follows:

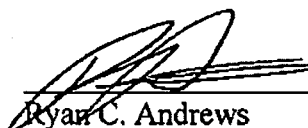
1. Negligence *per se* is negligence arising from a defendant's violation of a statute. See *Coleman v. Shaw*, 281 S.C. 107, 314 S.E.2d 154 (Ct. App. 1984).
2. South Carolina Code Annotated Section 56-5-2350 specifically states "[t]he driver of a vehicle about to enter or cross a roadway from any place other than another roadway shall yield the right-of-way to all vehicles approaching on the roadway to be entered or crossed."
3. It is undisputed that on December 11, 2014, Plaintiff and Defendant Ryan Noel Oliver were involved in a motor vehicle collision.

4. It is undisputed that Defendant Ryan Noel Oliver was crossing Garners Ferry Road from a private driveway attempting to make a left turn onto Garners Ferry Road when the motor vehicle collision occurred.
5. It is undisputed that Plaintiff was traveling on Garners Ferry Road in the direction towards Defendant Ryan Noel Oliver when the motor vehicle collision occurred.
6. Accordingly, there are no genuine issues of material fact that Defendant Ryan Noel Oliver was in violation of S.C. Code Annotated Section 56-5-2350 when the motor vehicle collision with the Plaintiff occurred.

Plaintiff respectfully requests this honorable Court to grant her motion for partial summary judgment on Plaintiff's negligence *per se* claim against Defendant Ryan Noel Oliver and order this case for a trial on damages.

Respectfully submitted,

COBB DILL & HAMMETT, LLC



Ryan C. Andrews
S.C. Bar No.: 101104
Cobb Dill & Hammett, LLC
300 W. Coleman Blvd. Suite 106
Mt. Pleasant, SC 29464
(843) 936-6680

ATTORNEY FOR THE PLAINTIFF

Mt. Pleasant, South Carolina
November 21, 2017

IN THE STATE OF SOUTH CAROLINA)
 COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
 FOR THE FIFTH JUDICIAL CIRCUIT

CASE NO: 2016-CP-40-2573

Jeanne Knollinger,

Plaintiff(s),

v.

Enterprise Leasing Company Southeast,
 LLC d/b/a Enterprise Rent-A-Car and
 Ryan Noel Oliver,

Defendant(s).

**PLAINTIFF'S MEMORANDUM OF
 LAW IN SUPPORT OF PARTIAL
 SUMMARY JUDGMENT**

2017 DEC 14 AM 11:14
 JEANNE K. MCBRIDE
 G.S.
 RICHLAND COUNTY
 FILED

Plaintiff Jeanne Knollinger (herein referred to as "Plaintiff"), by and through undersigned counsel, hereby submits this Memorandum of Law in Support of her Motion for Partial Summary Judgment against Defendant Ryan Noel Oliver (herein referred to as "Defendant Oliver"). Plaintiff respectfully requests that this court enter summary judgment finding Defendant Oliver negligent *per se* for failing to yield the right-of-way of Plaintiff's vehicle while Defendant Oliver entered the roadway from a private driveway in violation of S.C. Code Ann. § 56-5-2350.

On December 11, 2014, Plaintiff and Defendant Oliver were involved in a motor vehicle collision on Garners Ferry Road. The collision occurred when Defendant Oliver, while driving a rented vehicle from Defendant Enterprise Leasing Company South East LLC (herein referred to as "Defendant Enterprise"), was attempting to make a left turn onto Garners Ferry Road from the San Jose Restaurant while Plaintiff was traveling down Garners Ferry Road in the direction towards Defendant Oliver. *See* Exhibit A (Knollinger Dep. p. 14, line 2 – p. 17, line 20); Exhibit B (Oliver Dep. p. 25, line 1 – p. 29, line 8); Exhibit C (Police Report).

Summary judgment is only appropriate when there is no genuine issue of material fact, and the moving party is entitled to judgment as a matter of law. Rule 56(c) SCRPC. The party moving for summary judgment has the burden of showing the absence of a genuine issue of material fact. *Id.* Additionally, once the moving party carries its initial burden, the “opposing party must, under Rule 56(e), ‘do more than simply show that there is some metaphysical doubt as to the material facts’ but must come forward with specific facts showing there is a genuine issue for trial.” *Baughman v. American Tel. and Tel. Co.*, 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991) (quoting *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586-87, 106 S.Ct. 1348, 1356 (1986)).

Moreover, negligence *per se* is negligence arising from a defendant’s violation of a statute. *See Coleman v. Shaw*, 281 S.C. 107, 314 S.E.2d 154 (Ct. App. 1984). Additionally, Section 56-5-2350 of the South Carolina Code of Laws specifically states “[t]he driver of a vehicle about to enter or cross a roadway from any place other than another roadway shall yield the right-of-way to all vehicles approaching on the roadway to be entered or crossed.” For the following reasons, Plaintiff respectfully requests this Court to grant her motion for partial summary judgment on Plaintiff’s negligence *per se* claim against Defendant Ryan Noel Oliver and order this case for a trial on damages.

There is no issue of material fact that motor vehicle collision in question occurred when Defendant Oliver was crossing Garners Ferry Road from a private driveway attempting to make a left turn onto Garners Ferry Road while Plaintiff was traveling in the direction toward him. *See* Exhibit A (Knollinger Dep. p. 14, line 2 – p. 17, line 20); Exhibit B (Oliver Dep. p. 25, line 1 – p. 29, line 8); Exhibit C (Police Report). Indeed, Travis Poitier, an individual who arrived at the scene after the collision confirms that Defendant Oliver “[told him] that he was

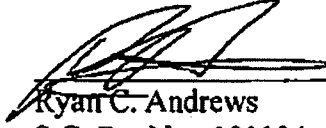
coming out on to Garners [F]erry [R]oad from the restaurant making a left hand turn . . . [a]fter he which than [sic] noticed the [Plaintiff] coming down [G]arners [F]erry [R]oad towards him and thought he could make it.” See Exhibit D (Poitier Affidavit). Moreover, both Plaintiff and Defendant Oliver testified they heard a witness to the collision tell Defendant Oliver that Defendant Oliver pulled out in front of Plaintiff—thus, failing to yield the right-of-way. See Exhibit A (Knollinger Dep. 27, lines 11 – 13 (“I heard [Defendant Oliver] say is she all right and the man told [Defendant Oliver] no you pulled out in front of her.”)); Exhibit B (Oliver Dep. p. 35, lines 16 -17 (“Somebody yelled [I] pulled out right in front of her)). Defendant Enterprise’s own report from risk management clearly states unequivocally that “Renter was involved in an accident and pulled out in front of a car. . . .” See Exhibit E (Enterprise Report). Even viewing evidence in a light most favorable to Defendant Oliver only one reasonable inference can be drawn: that Defendant Oliver failed to yield the right-of-way to Plaintiff while making a left hand turn from a private driveway, thereby violating S.C. Code Ann. § 56-5-2350. Accordingly, because “[o]ur courts have recognized that when only one reasonable inference can be deduced from the evidence, the question becomes one of law,” summary judgment is proper regarding Plaintiff’s negligence *per se* claim against Defendant Oliver.

For the forgoing reasons, Plaintiff respectfully requests this honorable Court to grant her motion for partial summary judgment on Plaintiff’s negligence *per se* claim against Defendant Ryan Noel Oliver and order this case for a trial on damages.

[SIGNATURE ON FOLLOWING PAGE]

Respectfully submitted,

COBB DILL & HAMMETT, LLC

A handwritten signature in black ink, appearing to read "Ryan C. Andrews", is written over a horizontal line.

Ryan C. Andrews

S.C. Bar No.: 101104

Cobb Dill & Hammett, LLC

300 W. Coleman Blvd. Suite 106

Mt. Pleasant, SC 29464

(843) 936-6680

ATTORNEY FOR THE PLAINTIFF

Mt. Pleasant, South Carolina
December 13, 2017

EXHIBIT A

13 1 Q. Do you remember anything about those? 2 A. One the guy was coming this way, we were on our 3 way this direction and it was supposed -- he was supposed 4 to stop and he was drunk and he didn't stop and he turned 5 us all the way around and headed the other way, but I 6 didn't get hurt. 7 Q. That's good news. When was that approximately? 8 A. Shoot. It was over 20. Let's see. Must've been 9 about 25 years ago. 10 Q. When you say we, who else was in the car? 11 A. My husband and a couple of our friends. 12 Q. Was anyone else hurt? 13 A. No. 14 Q. Is that the only other car accident you've ever 15 been in? 16 A. Yeah, that I can remember. 17 Q. Have you had any other accidents of any type 18 since this accident meaning any falls, any -- 19 A. Since Ryan's? 20 Q. Since the car accident with Mr. Oliver. 21 A. No. 22 Q. No other accidents, okay. Have you had any 23 surgeries since the accident? 24 A. No. 25 Q. What can you tell me about the accident, how it	15 1 MR. ROBINSON: Object to the form. 2 Q. Which intersection is it that you recognize? 3 A. It's Gamers Ferry where it comes between BB&T 4 and San Jose's. 5 Q. Do you understand that side road to be Pelham 6 Drive? 7 MR. ROBINSON: Object to the form. 8 A. I don't know the name of the road. 9 Q. Does it appear to be the road where you came -- 10 A. Yes. 11 Q. -- onto Gamers Ferry Road? 12 MR. ROBINSON: Object to the form. 13 A. Yes. 14 MS. HURLEY: What's wrong with the question? 15 MR. ROBINSON: There are a bunch of different 16 views so I'm trying to -- when you said -- when you're 17 asking -- 18 MS. HURLEY: That's fine. 19 MR. ROBINSON: Do you see what I'm saying? 20 Q. If you would turn, Ms. Knollinger, to the fourth 21 page on Exhibit 1. 22 MR. ANDREWS: We got them out of order. Can you 23 show us which one that is? Thanks. 24 Q. Are you with me, Ms. Knollinger? 25 A. Yes.
14 1 happened? 2 A. I had just dropped off a prescription at Target 3 and there's a little side road that comes between BB&T and 4 San Jose's and I was coming down that little side road. It 5 was a yield sign. I looked to my right and before I got to 6 the corner, I saw the truck moving in the parking lot and 7 when I got to the corner, he had stopped. I looked to the 8 left to make sure I had clearance to go, I turned that 9 curve, he was looking to the right sitting inside the 10 parking lot and I looked to my left mirror real quick to 11 make sure I could move because I needed to get over 12 eventually to turn the corner and when I looked forward his 13 truck was there and he had hit the side of my front quarter 14 and it spun me around, took the whole front of my car off 15 and I was headed in the other direction in the middle lane. 16 (WHEREUPON, Defendant's Exhibit 17 No. 1 was marked for 18 identification only.) 19 Q. Ms. Knollinger, I've shown you a collection of 20 photographs which I marked as Exhibit 1 and I'll represent 21 to you that these are photographs that I took off of Google 22 Street View Friday afternoon. Do you recognize the 23 intersection shown in these photographs? 24 A. Yes. 25 Q. What is it?	16 1 Q. You will see that there is a stop sign and also a 2 yield sign and next to the yield sign there appears to be a 3 silver car. Do you see that? 4 A. Yes. 5 Q. Is that where you came from the side road onto 6 Gamers Ferry Road? 7 A. Yes. 8 Q. You were coming out on the same street where it 9 merges into Gamers Ferry Road? 10 A. Yes. 11 Q. How far had you gone from the yield sign when 12 your car and Mr. Oliver's car came in contact? 13 A. I don't know. It's probably about a block 14 between the driveway and that road that I came off from. 15 Q. Do you know which restaurant Mr. Oliver was 16 coming out of? 17 A. San Jose's. 18 Q. Do you know if that restaurant is still there 19 today? 20 A. No, it's not. 21 Q. Was there anything else in front -- when you come 22 off of Pelham Drive and merge onto Gamers Ferry Road, what 23 is the first store front to your right or first business? 24 Was it San Jose's? 25 A. Yes.

17 1 Q. It's right there on the corner? 2 A. Yes. 3 Q. It is your testimony that Mr. Oliver was coming 4 out of the parking lot of San Jose's? 5 A. Yes. 6 Q. You saw his vehicle before you merged onto 7 Gamers Ferry Road? 8 A. Yes. 9 Q. You said you saw his truck was in the parking lot 10 and then you looked to the left. Is that what happened? 11 A. When I was coming to that corner and I looked to 12 my right, I saw the truck moving. When I got to the 13 corner, I look to the left after I -- when I got up there, 14 when I was coming to the curve to make sure that the 15 traffic was not there, I looked to the right, no one was 16 there. I looked to my left, went out into the street and 17 when I was in the right-hand lane and I looked in my mirror 18 to see if I could get over and when I went to look up 19 again, he was there. He had pulled right out where I was 20 at. 21 Q. When you got to the yield sign, did you come to a 22 complete stop -- 23 A. No. 24 Q. -- or were you still moving? 25 A. I was still moving. It's a yield sign.	19 1 (WHEREUPON, Defendant's Exhibit 2 No. 2 was marked for 3 identification only.) 4 Q. Ms. Knollinger, do you recognize the photograph 5 that's been marked as Exhibit 2? 6 A. Yes. 7 Q. Could you tell me what is depicted in that 8 photograph? 9 A. What is your question? 10 Q. Is that your vehicle shown in the photograph? 11 A. Yes. 12 Q. Do you know who took this photograph? 13 A. Not exactly. I wasn't really -- I never got out 14 of my car until the ambulance took me. 15 Q. That's fine. I'm not suggesting you should have 16 done. I'm just asking if you know who took them is all. 17 Can I see it again for a second please? Would you agree 18 with me that there is debris that appears to be debris from 19 your vehicle in the third lane of traffic, the one closest 20 to the middle where the median is? 21 A. Yeah. 22 Q. Is it your testimony, though -- I'm trying to 23 understand. Where was your car when it impacted with 24 Mr. Oliver's car? 25 A. I was in the far right lane and I had looked to
18 1 Q. How fast were you going? 2 A. For sure I don't know. 3 Q. Did you have to slow down because of any traffic? 4 A. No. 5 Q. There was no traffic from your left? 6 A. No. 7 Q. The BB&T is just to the left as you're coming off 8 of Pelham and merging onto Gamers Ferry Road, correct? 9 A. Yes. 10 Q. Would you agree with me, Ms. Knollinger, that 11 there are three lanes of traffic in each direction on 12 Gamers Ferry Road? 13 A. Yes. 14 MS. HURLEY: I'm not sure if these came from my 15 client or from you. 16 MR. ANDREWS: I think they came from us. 17 MS. HURLEY: I don't know how we would've gotten 18 them. 19 MR. ANDREWS: Yeah, I think they came from us. 20 MS. HURLEY: That's the only copy that I have. 21 MR. ROBINSON: I got them too. I got that from 22 you. 23 MS. HURLEY: You got this from me? 24 MR. ROBINSON: Yes. 25	20 1 the left in that mirror, glanced in there to make sure that 2 the people that were on the hill were not any closer and I 3 just went to turn to the right -- to the left to change 4 over lanes. 5 Q. You were in the process of changing lanes when 6 this accident happened? 7 A. But not far. I mean I looked up, I was -- when I 8 saw in my mirror, I went to turn, I look up and there he 9 was. 10 Q. Which way were you facing at the time of the 11 accident? Were you facing forward -- 12 A. Yeah. 13 Q. -- or turning back behind you to look? 14 A. I wasn't looking behind me ever. 15 Q. Were you looking in your side-view mirror? 16 A. No. 17 Q. You're saying you were looking straight ahead. 18 Did you see Mr. Oliver's truck before you hit it? 19 A. There wasn't time. 20 Q. Was there any point in time from when you merged 21 onto Gamers Ferry Road to the time you hit Mr. Oliver's 22 truck, was there any point in time where you either were 23 looking in your side mirror or turned to look behind you to 24 see if there was any traffic in that lane? 25 A. Between the time I just told you about?

21 1 Q. Yes, ma'am. Let me ask the question again. From 2 the time you merged onto Gamers Ferry Road, you're at the 3 yield sign, right? 4 A. Yes. 5 Q. You have not come to a complete stop, you're 6 still moving? 7 A. Right. 8 Q. Until the time you move over into whatever lane 9 it was you were moving into -- were you trying to get into 10 the middle lane or the third lane over? 11 A. Well, eventually I needed to get into the third 12 lane, but, yes, your question is -- the answer to your 13 question is, yes, I glanced down to my left in my mirror 14 and then I went to turn to the left to get into that lane 15 and when I did, that's when it happened. 16 Q. You had glanced in your side-view mirror to look 17 to see if there was traffic coming from behind you? 18 A. Yes. 19 Q. At the time that you hit Mr. Oliver's truck, were 20 you looking straight ahead or still looking in your side 21 mirror? 22 MR. ROBINSON: Object to the form. 23 A. It happened at that time. I mean when I, when I 24 was done and I looked up, he was already out right where I 25 hit him. He hit the side of my truck right there.	23 1 Q. Where were you headed at the time of the 2 accident? When you left the Target, where were you headed? 3 A. To my son's. 4 Q. Where is that? 5 A. I had to get onto 20 -- 77 to go to his house. 6 Q. You wanted to get on Gamers Ferry Road to go to 7 77? 8 A. Well, he's got a shop over there toward -- off of 9 Leesburg Road. 10 Q. I'm just trying to understand. 11 A. And that's where -- yes. You go to Leesburg 12 Road, there's a Shell Station up by the VA and if I turn 13 there to the left and take the back way, it gets to his 14 shop. 15 Q. What was your plan as far as how long -- where 16 were you going? From Gamers Ferry Road, what was going to 17 be your next turn? 18 A. At the Shell Station. 19 Q. At the Shell Station? 20 A. Yes. 21 Q. Where was that as far as -- 22 A. That's probably two lights, because there's one 23 light right there just past San Jose's, there's a light and 24 then there's another light up a little ways and then 25 there's, yeah, it's a little ways and then it -- to it
22 1 Q. Do you remember giving a recorded statement to 2 someone at Enterprise Rent-A-Car after this accident? 3 A. Back in the very beginning? 4 Q. Yes, ma'am. 5 A. Yes. 6 Q. Do you remember telling them that you never saw 7 Mr. Oliver's truck before the impact? 8 A. I never saw it come out before the impact. 9 Q. Do you remember telling them that you were 10 looking in the side-view mirror to see if there was 11 oncoming traffic when you hit Mr. Oliver? 12 A. No, I didn't hit him. I mean I looked in the 13 mirror and looked up and he was there. 14 Q. Would you agree with me that from this picture it 15 appears that the point of impact was in the third lane, the 16 one closest to the median? 17 MR. ANDREWS: Object to the form. 18 A. According to that picture, yes, but I know that 19 it wasn't there. I mean I know that there was this -- I 20 have a different picture that shows all the way across. 21 Q. Where is that picture? Do you have it with you? 22 A. I don't know if I have it on mine or not. 23 Q. Who took that other picture? 24 A. My son took the other one. You have to wait 26 because I turned my phone off. I was trying to behave.	24 1 probably. 2 Q. You were going to turn left at the Shell Station 3 a couple lights up? 4 A. Yes. 5 Q. Do you remember the name of that street? 6 A. No, I don't. I'm not familiar around for road 7 names, I'm sorry. I call Gamers Ferry Gamers Street all 8 the time, because that's what it was in Tennessee. 9 Q. That's fine. 10 A. I don't have those pictures anymore. The only 11 ones I have are of the car itself and of me. 12 Q. Have you given copies of those photographs to 13 your lawyers? 14 A. I'm not sure. 15 Q. Let's move on. You said you believe there's a 16 photograph that your son took that shows debris in the 17 other lane of traffic? 18 A. Yes. 19 Q. We would like to get copies of any photographs 20 your son took. 21 A. All right, I will. 22 Q. So if you could work with your lawyers and your 23 son to get those for us, we would appreciate it. 24 A. Yeah. 25 Q. How many photographs did he take?

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25 1 A. I have no clue. That one might be one of them. 2 Q. Did your air bags go off? 3 A. No. 4 Q. Do you have air bags in that vehicle? 5 A. Yes. 6 Q. What type of vehicle was it? It was a Chevy -- 7 A. Trailblazer. 8 Q. Anyone else in the car with you? 9 A. No. 10 Q. Had you been drinking at all that day? 11 A. No. 12 Q. Using any type of medications? 13 A. No. 14 Q. Were you wearing a seatbelt? 15 A. Yes. 16 Q. I just want to be clear in terms of what you saw 17 of Mr. Oliver. You said you saw his truck in the parking 18 lot as you were approaching the yield sign, is that 19 accurate? 20 A. Yes. 21 Q. Then you didn't see it again until the impact? 22 A. Yes, I did. When I got to the corner and I 23 looked to the right, he was sitting waiting for traffic. I 24 pulled out. I immediately looked to my left to make sure I 25 could still get out and then I pulled out and he was still	27 1 Q. Then what happened? 2 A. It hit. It grabbed ahold of my car and he kept 3 driving and it took the front end and it turned me around 4 and it smashed up here and the window came flying in at me 5 on the corner of my car and I blacked out for a minute and 6 when I came to, there was people coming toward me. A lady 7 was sitting here trying to make me not get out of the car. 8 I kept telling her I need to call my son. I saw a man come 9 running up to me, I saw the truck still in motion parking 10 over a ways on the road. The man came across here, I saw 11 his body come out of the truck, come running across, I 12 heard him say is she all right and the man told him no you 13 pulled out in front of her. I never got out of the car. 14 Q. When you say you saw him come running across the 15 street, who are you referring to? 16 A. The man that was driving the truck. I saw him 17 getting -- 18 Q. The man you're suing, Mr. Oliver, Ryan Oliver, is 19 that what you're talking about? The man who was driving 20 the box truck? 21 A. Yes. 22 Q. You understand he's the defendant in this 23 lawsuit, right? 24 A. Okay. 25 Q. He's the person you've sued Ryan Oliver?
26 1 sitting there. When I looked in my mirror and I looked 2 back forward is when the collision happened. 3 Q. Was he still sitting there when you had -- at the 4 time you were on Gamers Ferry Road was his truck still in 5 the parking lot of the Mexican restaurant? 6 A. When I came around that curve, yes, it was. 7 Q. Were there any vehicles in front of you? 8 A. No. 9 Q. You don't know how fast you were going? 10 A. No, I just left the corner. I don't remember. I 11 mean I don't, you know. 12 Q. You're certain you never came to a stop? 13 A. I know that, because it was a yield and there was 14 nobody coming. 15 Q. Were you using a cell phone at the time? 16 A. No. 17 Q. When you first saw Mr. Oliver's truck, what did 18 you do? 19 A. Nothing. 20 Q. Did you have time to brake? 21 A. At the time? 22 Q. Yes, ma'am. 23 A. No. 24 Q. You did not have time to brake? 25 A. No.	28 1 A. Okay. 2 Q. You're saying you saw him come running across the 3 street? 4 A. Yes. After he had pulled over, he got out of the 5 truck and was coming across the two lanes -- three lanes 6 going in the other direction and he was -- and the man that 7 was coming -- that got out of the car was coming up to me 8 and he said is she okay, Mr. Oliver, and the man said no 9 you pulled out in front of her. And then I was still in my 10 car. 11 Q. Where were those two gentlemen standing when they 12 had this conversation? 13 A. Mr. Oliver was coming across the thing and he 14 was -- the other man who I don't know was standing right 15 like almost in front of my car, because he was coming this 16 way. 17 Q. Were your windows up or down? 18 A. My windows? They were out, smashed. 19 Q. All of them were smashed out? 20 A. In the front. 21 Q. Was the side window closed or open? 22 A. They were all closed at the time, but not no 23 more. 24 Q. But you managed to hear that conversation that 25 occurred outside in --

7 (Pages 25 to 28)

EXHIBIT B

25

1 A. We had just finished our meal and it was time to
2 do the job so let's get this done. No hiccups. So got in
3 the truck. Parking lot is usually pretty packed. So I
4 parked it right by the exit and we got in, I get to the
5 stop, I look and I make sure I have enough distance from
6 everybody, because in those trucks you can't just pull out
7 and go. It takes a good three-four seconds before -- it
8 takes one second before anything is actually happening.
9 The first second all you're getting is sound. So you hit
10 the accelerator, sound, then you start moving. I was
11 simply trying to make a left out of there. I look left,
12 look right, look left, look right, saw a group of cars at
13 the top of the hill on Gamers Ferry on my left side.

14 Q. You saw a group of cars at the top of the hill on
15 Gamers Ferry?

16 A. Right. You know how when there's a break of cars
17 and there's nobody around, but then all of a sudden like as
18 if there's a light and it turned green, so. There's
19 usually -- when there's not spacing like this, you have
20 cars spread out throughout the road, but at this time there
21 was a group of cars all the way out on this side and a
22 group of cars all the way out on this side and I clearly
23 knew that I had the...

24 MS. HURLEY: Let him finish his sentence. I just
25 want to make sure he knows he can finish his sentence

27

1 you recall?

2 A. Daylight like today.

3 Q. Was anybody else in the truck with you?

4 A. Yes, Mike Cannon.

5 Q. Who is he?

6 A. He works with me from time to time, side help.

7 Q. Does he work with you still?

8 A. Every once in a while if you can get him.

9 Q. In the San Jose parking lot you stated that you
10 parked the car near the exit. Was it in a parking spot or
11 parking on the side in a non-parking spot area? I'm just
12 trying to...

13 A. It was somewhere in the parking lot that would be
14 away from the cars getting to me. There's ways you can
15 park on the side that you're not getting in anyone's way
16 and it's easy to get out.

17 Q. From the time that you pulled out of the parking
18 lot and in your best calculation how many seconds occurred
19 before the collision?

20 A. Four-five.

21 Q. You think four-five seconds from the time you
22 pulled out of the parking lot until the time of impact?

23 A. Right. I would say about three and a half
24 seconds I noticed there was about to be an impact.

25 Q. How many lanes of traffic are there going in each

26

1 before the next question.

2 A. And I clearly knew that I had enough time in that
3 there is a big break that I would say for me to make a
4 left.

5 Q. It's your testimony you looked to the left,
6 there's a group of cars, but you had enough room?

7 A. Correct. They're way up the hill and no chance
8 of getting close to me.

9 Q. You looked to the right and there was another --

10 A. Correct.

11 Q. -- to see if you could make it all the way out.

12 A. Correct.

13 Q. Is there a median where a car can fit in the
14 middle of the median on Gamers Ferry Road at that
15 location?

16 A. I'm not sure. My concern wasn't to go into the
17 median. It was to complete turn. It's a big truck. So I
18 wasn't trying to be stuck in the median. I just wanted to
19 make sure I had sufficient amount of time to make that one
20 decision and go.

21 Q. How familiar are you with that area?

22 A. Very familiar.

23 Q. What was the weather like that day?

24 A. Clear.

25 Q. Was it sunny or foggy or anything outside that

28

1 direction on Gamers Ferry Road?

2 A. I believe there's three on each side.

3 Q. When is the first time you recall seeing
4 Ms. Knollinger's car?

5 A. I basically had the whole front part of my truck,
6 if it wasn't over, completely over those lines --

7 Q. What lines?

8 A. The median, median lines. So basically all I had
9 left was the back part of my truck and these previous three
10 lines and I noticed her neck and the side of her face,
11 because she was looking this way and by the time she looked
12 at me, that's, I said oh, man, here we go, and at the last
13 second she turned her, she turned her head. It looked like
14 she didn't have any time to hit the brakes and she turned
15 the wheel real quick and then it hit the side of the truck.
16 I said oh, man. It hit way back. It wasn't like the
17 front.

(Off the record.)

19 Q. Just to rehash what you said before we went off
20 the record. Is it your testimony you don't recall seeing
21 Ms. Knollinger's vehicle until her vehicle was already on
22 Gamers Ferry Road?

23 A. Correct.

24 Q. In what lane of traffic did you think -- what
25 lane of traffic are you testifying that Ms. Knollinger was

7 (Pages 25 to 28)

29 1 in? 2 A. I believe she was in the center lane. 3 Q. She was in the center lane? 4 A. She was in the center at the beginning of my 5 seeing her approaching the far left. I would say when I 6 saw her and she was doing this number, she was in the 7 center and at that last second when she turned, I was then 8 going into the farthest lane over. 9 Q. What is your best estimation from the time that 10 you saw Ms. Knollinger until the time of the actual impact? 11 How many seconds elapsed? 12 A. About a second. 13 Q. It's your testimony, and I'm not trying to 14 confuse you -- 15 A. Maybe a second and a half. 16 Q. You said from the time you pulled out of San 17 Jose's it was about four or five seconds until the 18 collision and then from the time -- 19 A. About three and a half, yeah. Four seconds. 20 Correct. 21 Q. About four seconds you think -- 22 A. Yes. 23 Q. -- from the time you pulled out of San Jose until 24 the time -- 25 A. Yeah, anywhere between three and four seconds	31 1 she wasn't thinking about the traffic that was on the 2 right, because she was just looking this way and then she 3 saw me and it was completely too late, so. 4 Q. You don't know for sure whether or not she shot 5 over like that? You're saying you're assuming. 6 A. In my mind it's a hundred percent, because if -- 7 why would you look -- how can you look behind you if you're 8 driving from that other direction. You would have to look 9 to the left if you're driving from that direction. That's 10 the only possibility -- that would be the only purpose for 11 someone to look there. She couldn't have been in another 12 direction. So therefore off that she has to -- in my mind 13 I couldn't see anyone driving from that direction and 14 looking behind. You would have to be coming from the 15 yield, so. 16 Q. Did somebody tell you she came from the yield or 17 is that what you're assuming? 18 A. I'm assuming, because she was looking left and 19 that's the only way you can look left. You can't look left 20 if you're driving from the other direction. 21 Q. You're familiar with that area and you know the 22 intersection where she was coming from? 23 A. Yes. 24 Q. You understand that yield? 25 A. Yes, I do.
30 1 that's when it happened. 2 Q. I'm just trying to apply the time you saw 3 Ms. Knollinger until the time of the collision. It was 4 about a second and a half from the time you saw 5 Ms. Knollinger until the collision? 6 A. Yes. Yes. 7 Q. Is it your testimony the first time you saw 8 Ms. Knollinger is about two to three seconds from the time 9 you pulled out into Garners -- pulled out to make a 10 left-hand turn? 11 A. Correct. 12 Q. Do you recall giving a recorded statement not too 13 long after the collision occurred to Enterpriso? 14 A. Yes. 15 Q. In that recorded statement do you recall stating 16 that Ms. Knollinger was in the very far lane? 17 A. I thought I remembered saying that's where she 18 was coming from, because she was coming from the yield 19 which would've put her in that lane. So in my mind she's 20 coming from that lane, but she shot over in a diagonal to 21 where she ended up hitting me. 22 Q. How do you know she shot over? 23 A. Well, that's what my assumption was, because she 24 was like this and she was simply concerned with the traffic 25 that was on the left and not -- in my mind I was assuming	32 1 Q. Have you ever came that way to take a right on 2 Garners Ferry as Ms. Knollinger was coming? 3 A. Yes, I have. 4 Q. The past times whenever you've approached it, 5 what have you done? What do you think that yield sign at 6 that intersection means? 7 A. I understand most people would usually be 8 concerned with that, that yield. You're not really going 9 to -- this traffic is going this way, so. Let me just look 10 to the left most people would probably think. 11 Q. I know you're kind of a hands talker and I'm a 12 hands talker too. 13 A. I'm sorry. 14 Q. I'm trying to keep the directions straight for 15 that. Can you explain like in the directional sense how do 16 you approach that yield sign whenever you've driven through 17 it in the past? 18 A. Just look to your left and then stay and then you 19 pull it. 20 Q. The truck that you're in, I know it's a rental 21 truck. We're going to get to that in a little bit, but 22 that was not the normal vehicle in which you travel, 23 correct? That wasn't your normal car? 24 A. Right. Right. 25 Q. What was your normal car?

33 1 A. Chrysler Town and Country 2001. 2 Q. What is that? 3 A. Minivan. 4 Q. Do you know how long it is? 5 A. Two-thirds of this table. 6 Q. How long is the truck you were in? 7 A. Twenty-six feet. I believe that's how long the 8 box is. I guess it could be longer. 9 Q. In your estimation how much longer is the, in 10 lengthwise, from the minivan that you normally drove, is 11 the box truck in your opinion? Two and a half times as 12 long? 13 A. I'd say no. 14 Q. Two and a half longer or shorter? I'm not trying 15 to speak for you. 16 A. I would say two and a half is a good ballpark. 17 Q. It's fair to say that to make a left-hand turn in 18 this box truck requires more caution than the car in which 19 you normally travel? 20 A. Correct. Everything requires more caution. 21 Q. It's your testimony that you did not witness 22 Ms. Knollinger merge onto Gamers Ferry Road from Pelham 23 Road? 24 A. Would that question entail I would see her at 25 that one moment where she's moving from that road to that	35 1 and then she got drugged. 2 Q. What is your testimony on the part of the box 3 truck in which the collision occurred? 4 A. Closer to the center. 5 Q. Closer to the center of the box truck? 6 A. Yes, sir. 7 Q. Do you remember speaking with anybody after the 8 collision? 9 A. I remember walking up and she was not feeling so 10 well and I said are you okay. And she said no I'm not okay 11 and so I decided to back up, it's not a good situation. 12 Q. Did you speak with anybody on the scene other 13 than Ms. Knollinger? 14 A. No, sir. 15 Q. Did anybody say anything to you? 16 A. Somebody yelled he pulled out right in front of 17 her. 18 Q. Somebody said that? 19 A. I remember hearing somebody yell he pulled out 20 right in front of her. 21 Q. Do you know who that was? 22 A. No. 23 Q. Had you ever seen that person before? 24 A. No. 25 Q. Do you remember the vehicle they were in?
34 1 road, I'd have to see her at that one line, is that what 2 that means? 3 Q. When is the first time, I'm just trying to clear 4 up this, when was the first time -- 5 A. I didn't see her actual movement from one road to 6 another. 7 Q. You only recall seeing her on Gamers Ferry Road? 8 A. Correct. 9 Q. You didn't see her come through the yield and 10 merge onto Gamers Ferry Road, is what you're saying? 11 A. Correct. 12 Q. How long after the collision did you pull the 13 truck to a rest? 14 A. Fifteen seconds. I got hit and I immediately 15 pulled to the side. 16 Q. Did you drive for 15 seconds? 17 A. Yes. 18 Q. Do you recall whether or not Ms. Knollinger's 19 vehicle was being drugged by the box truck? 20 A. I believe it would've had to have been. 21 Q. Was it being drugged for the whole 15 seconds? 22 A. No. Probably for the first second. Like for the 23 impact, she was moving and I was moving. For that initial 24 impact and maybe a second after. Like it happened and then 25 I said, okay, let me pull to the side. It didn't happen	36 1 A. No. I was just trying to offer help and I heard 2 that and I just figured okay, step away, I'm the bad guy 3 right now. 4 Q. Let's look at Exhibit I again. Is that to your 5 understanding a report issued by the police concerning the 6 accident that we are here for? 7 A. This picture? 8 Q. This report. Have you seen it before ever? 9 A. If I have, it's been awhile. 10 Q. Will you read for the record the description -- 11 first they identify the vehicles as units I believe. Would 12 you agree that Unit 1 has been depicted as the Plaintiff's 13 right there? 14 A. That's right. 15 Q. And Unit 2 is the vehicle in which you were 16 traveling? What you were driving rather. 17 A. Yes, sir, Enterprise. 18 Q. Would you read the description for the record 19 please of the accident. 20 A. Where are we at? 21 Q. This description of the collision. 22 A. Unit number 1 was traveling eastbound in line 23 number 2 on Gamers Ferry Road. Unit number 2 was turning 24 left onto westbound Gamers Ferry Road from a private 25 driveway northbound. Unit number 2 failed to yield the

37

1 right of way and struck Unit number 2's left side.
 2 Q. Do you dispute that description of the collision?
 3 A. I guess the part where it says they were
 4 traveling eastbound in lane number 2. I don't know. I
 5 guess that's the only thing I would wonder about, because
 6 in my mind I felt like the cop was thinking that she was
 7 simply driving on Gamers Ferry and not coming from the
 8 back with the yield sign, so. His description of how she
 9 was just in the middle lane the entire way and that she was
 10 not coming from the yield or whatever, I don't agree with
 11 that description.
 12 Q. Do you dispute unit 2 failed to yield the right
 13 of way?
 14 A. She's unit number 2?
 15 Q. No, I believe you're unit number 2.
 16 A. No, I don't. No.
 17 Q. You don't dispute that unit 2 failed to yield the
 18 right of way in this description?
 19 A. I didn't fail -- I do, I do dispute it,
 20 because -- yes, I do dispute it, because I mean I saw
 21 myself as having the right of way. I didn't see any other
 22 units coming. It wasn't failure to yield in my mind,
 23 because I wasn't supposed to yield to anyone. I clearly
 24 saw that I had the way. It's not as if there was a car
 25 coming and okay let me yield for this person. I clearly

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1 had the way. I had plenty of time. So it's not like I was
 2 failing to yield to someone who I could've had impact with.
 3 I simply had the way to go, so. The only way in my mind
 4 there would have been a failure is if something out of no
 5 where came and got me, but that's the cop saying that I saw
 6 that threat and I failed to yield to it. Yeah, I dispute
 7 that.
 8 Q. Is it your testimony then -- let's think of a
 9 different scenario. Ms. Knollinger had just been on
 10 Gamers Ferry Road instead of that yield and you had pulled
 11 out and a collision occurred, would you have considered
 12 yourself yielding the right of way?
 13 A. Absolutely. If I saw her right there and I took
 14 a gamble or something like that, then I would say you're at
 15 fault Ryan, you failed to yield to that person who clearly
 16 had the right of way, but if I looked to my left and to the
 17 right which is the way everyone has been taught to see and
 18 there's no threat, then green light.
 19 Q. Did you look at the left and then the right and
 20 then pull out or what is your recollection?
 21 MS. HURLBY: Object to form. Go ahead and
 22 answer.
 23 A. I guess I always -- I mean I do left, left and
 24 then right, so.
 25 Q. It's your testimony that you looked to the left,

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1 the direction the Plaintiff would have been coming and then
 2 to the right?
 3 A. Uh-huh.
 4 Q. And then continued your trek and then left your
 5 --
 6 A. At least once if not twice.
 7 Q. You're familiar with that area?
 8 A. Oh, yeah.
 9 Q. You understand a yield sign means you don't have
 10 to stop if you're coming in that area unless you have to to
 11 be safe?
 12 A. Right.
 13 Q. You understand Ms. Knollinger wasn't coming from
 14 a stop sign?
 15 A. Right.
 16 Q. She just had to yield to traffic coming from the
 17 traffic --
 18 A. Yeah, that's why I assumed she was shooting over
 19 like you said because all she was doing was looking left.
 20 She was just concerned with as long as I got it here, I can
 21 go this way.
 22 Q. There was about a second, second and a half
 23 before collision with Ms. Knollinger from the time you
 24 first saw her, correct?
 25 A. Yeah.

40

1 Q. Did you honk the horn?
 2 A. No. There wasn't that much time. It was
 3 literally -- by the time I saw her, it wasn't a moment of
 4 should I honk the horn and let her know. It was brace for
 5 impact.
 6 Q. Did you ever speak with the police?
 7 A. Had she been looking my way, then maybe I
 8 could've, okay, let's get -- but honestly that would've
 9 been stupid because if she was looking my way, it would've
 10 been pointless for me to honk the horn if she's paying
 11 attention.
 12 Q. Did it occur to you that when you pulled out of
 13 that driveway since you're familiar with that area and knew
 14 there was a yield sign there that you should've checked to
 15 see if there were any cars coming from that street?
 16 A. I did.
 17 Q. You did?
 18 A. Yeah. That's on my left. All that's on my left.
 19 I said I have it, I have it, I have it. There's no...
 20 Q. You don't think maybe you just didn't look good
 21 enough and that's why a collision occurred?
 22 A. No.
 23 Q. But you look in that direction --
 24 A. When I drive those trucks, I get excessive and I
 25 make sure that I have enough room for this and enough room

10 (Pages 37 to 40)

41 1 for that so I don't end up with a nightmare. I usually 2 doublecheck when I'm looking. So. 3 Q. It's your testimony you didn't see Ms. Knollinger 4 on Pelham Road? You only saw her on Gamers Ferry Road, 5 correct? 6 A. I saw her on Gamers Ferry, yes, sir. 7 Q. You didn't see her coming around that curve 8 whatsoever or anything? 9 A. No, sir. 10 Q. Is there an entrance to San Jose's on Pelham 11 Road? 12 A. Probably is. 13 Q. Have you ever left that entrance -- 14 A. In order -- if you see that parking lot during 15 lunch hours, it's jammed packed and when you're driving 16 that truck, it's kind of a nightmare. So. 17 Q. How many times have you gone to that San Jose? 18 A. Probably ten times. 19 Q. When you leave San Jose, do you normally, whether 20 you're taking a left or right, turn onto Gamers Ferry 21 Road? 22 A. Uh-huh. 23 Q. When you take a left, do you consciously make a 24 decision to look at that Pelham Road wherever there's a 25 yield sign?	43 1 right of way or didn't he? 2 A. Yes, he issued me a ticket. 3 Q. I do understand the ticket was dismissed. Did 4 you go to court for that? 5 A. Yes, I went to court and waited until the end. 6 Q. Mrs. Knollinger wasn't there, was she? 7 A. No. There were no witnesses, no one to testify 8 so it got thrown out. 9 Q. Were you injured from this collision? 10 A. No, sir. 11 Q. What was the last thing you remember prior to the 12 collision? 13 A. Just getting ready to finish the job, let's 14 finish this job and go home. 15 Q. Were you in a hurry? 16 A. No. Perfect timing. A lot of times we don't 17 even get to eat lunch, but that day we loaded up the truck, 18 we had lunch, plenty of time. 19 Q. Was the truck full? 20 A. Yes. 21 Q. Did it have a trailer hitch on it? 22 A. No. 23 Q. Other than asking Ms. Knollinger after the 24 collision if she was okay and somebody saying you pulled 25 out in front of her, and speaking with the police officer,
42 1 A. Uh-huh. Yeah. We're in South Carolina. I watch 2 out for everybody texting. Yeah. You always prepare for a 3 storm. 4 Q. Did you speak with the police after the 5 collision? 6 A. Yes, I did. 7 Q. Do you remember the name of the officer you spoke 8 with? 9 A. No, but I could recognize him. I remember. 10 Q. What did you tell the officer? 11 A. I said, okay, how is fault determined here. How 12 do they -- what all is going on, and he told me oh you're 13 at fault. Anyone coming from this direction and hits you, 14 you're at fault, and I was just thinking this guy is not 15 understanding that she wasn't straight up just coming from 16 that direction. She was coming from around the corner and 17 it's not like I was talking and distracted. Officer, I 18 clearly looked left and right and I made a conscious 19 decision to hit the gas. It takes me forever to get going. 20 I don't want to -- hitting someone is the worse case 21 scenario. I'm the one being inconvenienced on the road. 22 So I make sure I have that space and that happens. So I 23 was just in awe when he told me you're at fault and there's 24 no fighting it, so, okay. 25 Q. He issued you a ticket for failure to yield the	44 1 did you speak with anybody else at the accident scene 2 concerning this collision? 3 A. No. I mean Mike. Me and Mike just went back and 4 forth going over what happened. 5 Q. What did Mike say? 6 A. He said we clearly -- I mean we looked both ways. 7 We weren't rushing anything. We had the right of way. 8 Dude, you have -- 9 Q. You allege that -- 10 A. Dude, you had the right of way. That's Mike's 11 comment. 12 Q. But if she was coming from Gamers Ferry Road, 13 you wouldn't've had the right of way is what you're saying? 14 A. If she was -- had I looked over and seen or had 15 she been on Gamers Ferry Road, yes, just driving right 16 there and I just straight up pulled out in front of her, I 17 would've seen that as, okay, but I would've had to have the 18 ability to sneak out in front of her with something that's 19 that fast. I was moving at such a slow pace and getting 20 accused of hitting her is... 21 Q. Do you know the distance between the yield sign 22 and the driveway in which you were pulling out of? 23 A. Twenty-30 yards. 24 Q. Sixty-80 feet? 25 A. Yes.

EXHIBIT C

ORIGINAL

SOUTH CAROLINA DPS/CMS & ONLY USE ONLY										Page #		SOUTH CAROLINA TRAFFIC COLLISION REPORT FORM TR-310 (Rev. 11/2011)				# of Units		Amended - Attach Copy of Original Report		Notified		Arrived			
										1						02				1240		1250			
Date		Time of Collision		County		1-Interstate 2-US Primary 3-SC Primary		4-Secondary 5-County 6-PP		Collision Location (Rt. # / Name)				1-Alt. Line 2-Alt. Line 3-Spur		6-Connection 7-Business		Miles:		Dir.		(In) Near City or Town of:			
12-11-2014		12:36		40						78 / GARNERS FERRY RD										NE SW		COLUMBIA			
Lane # / Dir.		Distance Offset		Direction		1-Interstate 2-US Primary 3-SC Primary		4-Secondary 5-County 6-Other		Base Intersection (Rt. # / Name)				1-Alt. Line 2-Alt. Line 3-Spur		6-Connection 7-Business 9-Other		GPS COORDINATES 00 00 00.00"		DEGREES MINUTES SECONDS					
2 / 7 SW		0.5		NE SW						1 / PELHAM DR															
R.R. L.		From		Ramp Only		To		1-Interstate 2-US Primary 3-SC Primary		Second Intersection (Rt. # / Name)				1-Alt. Line 2-Alt. Line 3-Spur		6-Connection 7-Business 9-Other		Latitude		Longitude					
		NE SW		1-Entrance 2-Exit		NE SW				442 / MUNSEN SPRINGS DR										33 58 55.78		80 57 53.78			
F-248708										F-248769															
Driver/Pedestrian's Full Name										Driver/Pedestrian's Full Name															
KNOLLINGER JEANNE MAUREEN										OLIVER RYAN NOEL															
Unit #										Unit #															
01										02															
State										State															
SC										IA															
Driver's License #										Driver's License #															
D										D															
Insurance Company										Insurance Company															
STATE FARM										ENTERPRISE															
Year		Body		Vehicle Make		VIN #		Year		Body		Vehicle Make		VIN #											
2003		SU		CHEV		1GNDT13S832187452		2011		TK		FRHT		1FVACWDT2BD8A5298											
State		Year		License Plate #		Owner's DL #		State		Year		License Plate #		Owner's DL #											
SC		2010		KES841		UNKNOWN		IA		2015		SF3090		UNKNOWN											
Estimated Speed										Estimated Speed															
40										10															
Speed Unit										Speed Unit															
40										40															
C.D.L. Req. Yes (No)										C.D.L. Req. Yes (No)															
Summons #										Summons #															
Code										Code															
Towed By										Towed By															
Yes (No)										Yes (No)															
BODY MENDER										81458GX															
Driver/Pedestrian's Full Name										Driver/Pedestrian's Full Name															
Unit #										Unit #															
Sex										Sex															
Race										Race															
Street										Street															
City, State, & Zip										City, State, & Zip															
State										State															
Driver's License #										Driver's License #															
Class										Class															
Insurance Company										Insurance Company															
Year										Year															
Body										Body															
Vehicle Make										Vehicle Make															
VIN #										VIN #															
Dir. of Travel										Dir. of Travel															
Unit 1: N S E W										Unit 2: N S E W															
Unit 3: N S E W										Unit 4: N S E W															
Unit 1 Dam.										Unit 2 Dam.															
Unit 3 Dam.										Unit 4 Dam.															
Prop. Dam. 1										Prop. Dam. 2															
\$ 4000										\$ 1000															
Property Owner/Witness										Property Owner/Witness															
Address										Address															
State										State															
Zip										Zip															
Phone										Phone															
Photo										Photo															
Describe What Happened (Refer to Units by Number)										Describe What Happened (Refer to Units by Number)															
UNIT #1										UNIT #2															
UNIT #1 WAS TRAVELING EASTBOUND IN LANE #2 ON GARNERS FERRY ROAD. UNIT #2 WAS TURNING LEFT ONTO WESTBOUND GARNERS FERRY ROAD FROM A PRIVATE DRIVEWAY NORTHBOUND. UNIT #2 "FAILED TO YIELD THE RIGHT OF WAY" AND STRUCK UNIT #1'S FRONT END WITH UNIT #2'S LEFT SIDE.																									
NOTICE - THE TR-310 IS FOR STATISTICAL REPORTING PURPOSES ONLY AND IS A REFLECTION OF THE OFFICER'S BEST KNOWLEDGE, OPINION AND BELIEF COVERING THE COLLISION BUT NO WARRANTY IS MADE AS TO THE FACTUAL ACCURACY THEREOF.																									
Investigating Officer's Name				Rank		Badge #		Jurisdiction Code		Review Date		Reviewer's Name				Rank		Internal Agency Code							
BRINSON - AR				MPO		22832		4001		12-22-2014		Robert Uhal				RU		14003557							

EXHIBIT D

To whom it may concern,

I Travis Pottier do solemnly swear this is my own truthful statement of the incident on 12/11/2014.

On 12/11/2014 approximately 12:00pm. I was picking up my vehicle with the victim's husband when he received a phone call that his wife had been involved in an accident. I then rode with him to the accident scene. When we arrived the responding officer was writing his report as the driver of the other vehicle was telling me that he was coming out on to Garners ferry road from the restaurant making a left hand turn. After he which than noticed the victim coming down garners ferry road towards him and thought he could make it. He continued to make the left hand turn and that is when the victim struck the rear of his vehicle spinning her around to face oncoming traffic. He continued dragging her vehicle about 40 yards down garners ferry road in the opposite direction of travel almost into oncoming traffic. After the victim was evacuated to the hospital by ambulance the responding officer advised her husband that the other vehicle was at fault and did receive a traffic citation. After which we waited for the tow truck to recover the victims' vehicle and we left the scene.

NOTHING FOLLOWS: //////////////////////////////////////

Travis Pottier

Travis Pottier

Witness

Christina Wright

Notary

Mindy Fair 01/25/2018

EXHIBIT E

2014-12-13 09:49

2611

18885701660 >>

P 3/5

CCIN37

VEHICLE ACCIDENT REPORT
ENTERPRISE RENT-A-CAR
ENTERPRISE RENT A TRUCK
1616 BLUFF RD
COLUMBIA SC 29201-4914

PAGE 1

Accident Report# DX2611758 Date of Report 12/13/14 Taken by: 511MX
Date of Accident 12/13/14 Time of Accident 0800AM Rental Contract# 218276

Vehicle ID: Unit Yr Make Model Series Color License# St VIN#
7DQDL11 FRGT M2 26BX MD TR SF3090 /IA 1FVACWDT2BDBAS298

Street/Intersection of Accident UNK
Purpose of Trip UNK

State of Accident SC

Accident Description:

RENTER WAS INVOLVED IN AN ACCIDENT AND PULLED OUT IN FRONT OF A CAR AND WAS STRUCK ON THE DRIVERS SIDE OF THE BOX. RENTER HAS POLICE REPORT CONTACT RYAN OLIVER

Current Vehicle Location 2611
Damages to Enterprise Vehicle DMG TO BOX CAB AND FRAME

*** PARTIES ***

Lease/Renter/Employee

Driver (if other than Renter)

OLIVER* RYAN*

Driver's Signature: _____ Date: _____

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	C/A NO.: 2016-CP-40-2573
	)	
Jeanne Knollinger,	)	
	)	
Plaintiff/Respondent	)	STIPULATION OF DISMISSAL
vs.	)	WITH PREJUDICE AS TO
	)	DEFENDANTS COUNTERCLAIM
Enterprise Leasing Company Southeast, LLC	)	AGAINST PLAINTIFF/RESPONDENT
d/b/a Enterprise Rent-a-Car and Ryan Noel	)	
Oliver,	)	
	)	
Defendants.	)	

Pursuant to Rule 41 of the South Carolina Rules of Civil Procedure, Jonathan M. Robinson, attorney for Plaintiff/Respondent, Ryan C. Andrews, attorney for Plaintiff, and Sarah Day Hurley, attorney for Defendants Enterprise Leasing Company Southeast, LLC d/b/a Enterprise Rent-a-Car and Ryan Noel Oliver, stipulate that **DEFENDANTS' COUNTERCLAIM AGAINST PLAINTIFF/RESPONDENT IS DISMISSED WITH PREJUDICE.**

WE SO STIPULATE.

s/Jonathan M. Robinson
Jonathan M. Robinson, Esquire
SC Bar No. 68285
DuBOSE ROBINSON MORGAN
Attorney for Plaintiff/Respondent

s/Sarah Day Hurley
Sarah D. Hurley, Esquire
SC Bar No. 16241
TURNER PADGET
Attorney for Defendants

/s Ryan C. Andrews
Ryan C. Andrews
SC Bar No. 101104
COBB DILL & HAMMETT, LLC
Attorney for Plaintiff

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	)	C.A. No.: 2016-CP-40-02573
Jeanne Knollinger,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
Enterprise Leasing Company South-	)	PARTIAL STIPULATION
East, LLC, d/b/a and Enterprise Rent-	)	OF DISMISSAL
a-Car and Ryan Noel Oliver,	)	
	)	
Defendants.	)	
	)	

It is hereby stipulated by all parties who have appeared in this action, as indicated by the signatures of their counsel below, that any and all claims against Enterprise Leasing Company Southeast, LLC, d/b/a Enterprise Rent-a-Car **only** shall be dismissed pursuant to Rule 41(a)(1)(B) of the South Carolina Rules of Civil Procedure, with each party to bear its own costs and attorneys' fees. This Stipulation of Dismissal shall not affect Plaintiff's claims against Defendant Ryan Noel Oliver. **THIS STIPULATION DOES NOT END THIS CASE.**

s/Ryan Andrews
 Ryan C. Andrews, Esq.
 Cobb Dill & Hammett, LLC
 300 West Coleman Boulevard, Ste. 106
 Mt. Pleasant, S.C. 29464

Attorney for Plaintiff

s/Langdon Cheves
 Langdon Cheves III
 Turner Padgett Graham & Laney, P.A.
 Post Office Box 1509
 Greenville, South Carolina 29602

Attorney for Defendants

August 31, 2018

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	Civil Action No.: 2016-CP-40-2573
	)	
Jeanne Knollinger,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	DEFENDANT'S MOTIONS
Ryan Oliver,	)	IN LIMINE
	)	
Defendants.	)	

This is a disputed liability matter arising out of a motor vehicle accident between Plaintiff and Defendant. Pursuant to the South Carolina Rules of Evidence, Defendant moves this Court for an Order determining the following evidence to be inadmissible:

1. Insurance

At the time of the subject accident, Defendant was operating a vehicle owned by Enterprise Leasing Company – Southeast, LLC (“Enterprise Leasing”), a rental car company self-insured up to the minimum statutory liability limits under South Carolina law. Defendant also maintained a personal policy of liability insurance. Enterprise Leasing has provided a defense to Defendant pursuant to its Rental Contract. Pursuant to Rule 411, S.C.R.E., “[e]vidence that a person was or was not insured against liability is not admissible upon the issue whether the person acted negligently or otherwise wrongfully.” Defendants seek exclusion of any testimony or other evidence pertaining to Enterprise Leasing’s involvement insurance in this matter as well as any evidence touching on insurance.

In addition, Plaintiff has issued a trial subpoena to Enterprise Leasing's Risk Manager, Michelle Robson. This is improper and would be akin to calling a claims adjuster from an insurance company. Any evidence regarding Enterprise Leasing's self-insurance, risk assessment, damages waiver, or any other matter related to insurance protection afforded to Mr. Oliver, is impermissible and should be excluded. This includes both witness testimony and discovery responses.

Finally, Plaintiff's Complaint included Enterprise Leasing as a named defendant. In response, Enterprise Leasing filed a counterclaim for property damage. Enterprise Leasing eventually voluntarily dismissed its counterclaim, and Plaintiff recently voluntarily dismissed Enterprise Leasing as a defendant. Defendant seeks an Order not allowing any evidence of the existence of the counterclaim and Enterprise Leasing's dismissal thereof. Enterprise Leasing is no longer a party to this Action, and its involvement in this matter bears no relevance to identifying who was responsible for this accident between Plaintiff and Defendant. This is a "he said, she said" dispute over an automobile accident, and any evidence concerning Enterprise Leasing's risk assessment would be in violation of Rule 411, S.C.R.E.

2. ERAC Accident Report

During discovery, Defendant Enterprise Leasing produced a document entitled "Vehicle Accident Report." The report is hearsay and does not fall within any of the exceptions to the hearsay rule. Tyler Thiede, an ex-employee of Enterprise Leasing, has given *de benne esse* deposition testimony wherein he

testified that he completed the Report after discussing the accident with Defendant. Thiede acknowledged that he did not directly quote Defendant, but instead paraphrased the information given to him.

Although the ERAC Accident Report is a report that is required to be completed by the company once an accident has been reported involving one of its vehicles, the report does not fall within the business records exception to the hearsay rule. Rule 803(6), which provides an exception to the hearsay rule for certain business records, specifically excludes “subjective opinions and judgments found in business records.” Tyler Thiede was not a witness to the accident, and therefore had no first-hand knowledge of the accident or how it occurred. Because the ERAC Accident Report includes a subjective opinion about fault, the report should be excluded as inadmissible hearsay.

3. Hearsay Comment By Unidentified Witness

Some time after the accident, an unidentified witness allegedly said that Defendant “pulled out in front of” the Plaintiff’s vehicle. No one has been able to identify this alleged witness, so the witness has not been identified or deposed. The statement is hearsay, does not fall under any exception to the hearsay rule and should be excluded pursuant to S.C. Rule of Evidence 802.

4. Defendant’s Driving Record/Ticket Issued

Any prior accidents or traffic violations involving Defendant are not relevant to the facts of this case. Furthermore, such information, if admitted, would be

unfairly prejudicial to Defendant, and therefore, should be excluded pursuant to Rule 403 of the South Carolina Rules of Evidence.

Moreover, Defendant testified that the police officer issued him a citation for failure to yield. However, the charges were dropped and there was no conviction. Therefore, the Court should not allow any evidence pertaining to any traffic citation issued.

5. References to Cocaine

Plaintiff served Requests for Admissions wherein she requested Defendant admit that he had in the past used cocaine. Defendant admitted that he had used cocaine in the past but denied being under the influence of cocaine at the time of the accident. Moreover, there is no evidence from the investigating officer or anyone else that cocaine or any other intoxicant played any role in this accident.

TURNER PADGET

s/Langdon Cheves

Langdon Cheves III (SC Bar 12049)
Sarah Day Hurley (SC Bar No. 16241)
200 E. Broad Street, Ste. 250 (29601)
P.O. Box 1509

Direct Dial: 864-552-4651

Direct Fax: 864-282-5965

Attorneys for Defendant Ryan Oliver

Greenville, South Carolina
August 31, 2018

IN THE STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

CASE NO: 2016-CP-40-2573

Jeanne Knollinger,

Plaintiff(s),

v.

Ryan Noel Oliver,

Defendant(s).

**PLAINTIFF'S NOTICE OF MOTION
AND MOTION TO ALTER OR AMEND
A JUDGMENT PURSUANT TO RULE
59(e)**

TO: THE HONORABLE COURT AND ALL PARTIES OF RECORD:

YOU WILL PLEASE TAKE NOTICE that the Plaintiff, by and through undersigned counsel, hereby moves before the Honorable Jocelyn Newman, for an Order from the Court granting relief from the Court's decision to deny Plaintiff's Motion for a New Trial and JNOV, pursuant to the provisions of SCRCP Rule 59(e).

The Plaintiff makes this motion on the following grounds:

1. The jury's verdict is against the greater weight or the fair preponderance of the evidence.
2. The Court erred in its trial rulings, including:
 - a. The Court erred in not permitting Plaintiff to introduce any evidence regarding former Defendant and Counterclaimant Enterprise Leasing Company Southeast, LLC (herein referred to as "Defendant Enterprise"); specifically, the Court erred in prohibiting any introduction or reference to the incident report produced by former Defendant Enterprise as there was sworn testimony by Enterprise employees stating that Defendant Oliver made such statement, thereby making such statement an admission by a party-opponent pursuant to Rule 801(d)(2) of the South Carolina Rules of Evidence rather than hearsay; in the alternative, even

if the report was hearsay, its introduction should have been permitted as a business record under Rule 803(6); at the very least, the Court erred in not permitting Plaintiff's counsel to use the report to impeach Defendant Oliver's testimony;

- b. The Court erred in not permitting any testimony regarding the witness who both Plaintiff and Defendant Oliver previously testified as hearing directly after the collision that is subject of this case state that Defendant Oliver pulled out in front Plaintiff as such statement fell under several hearsay exceptions, including but not limited to Rules 803(1) and (2);
- c. The Court erred in denying Plaintiff's request for a Directed Verdict as to the liability of Defendant;
- d. The Court erred in not giving curative instructions during Defense's closing arguments despite Plaintiff's objections and request when Defense counsel made an argument in violation of the "Golden Rule" when he asked the jury to put themselves in the place of Defendant Oliver.

All of which errors, separately and collectively together with any other errors shown to be preserved in the record, prejudiced this Plaintiff and deprived her of a fair trial.

In addition, this Plaintiff requests that the Court to alter or amend its decision, in the exercise of its discretion as the thirteenth juror, review the evidence independent of the jury's findings, and grant a new trial absolute to prevent a miscarriage of justice as the verdict is contrary to law, contrary to the evidence presented at trial, against the greater weight and preponderance of the evidence, palpably wrong and manifestly unjust.

In addition to the above-stated grounds, this Plaintiff incorporates herein by reference all grounds previously raised before and during trial, as may be shown in the trial record and the transcript when available, all memoranda, all governing procedural and substantive law, as well as any oral argument the Court may permit in support of the instant motions. This Plaintiff reserves the right to add additional and further grounds in support of this motion upon receipt and review of the final transcript in this case.

In so moving for this Court to reconsider its denial of a motion for a new trial and in addition to and in the alternative, moving for this Court to reconsider its denial of a motion for JNOV in that the Plaintiff is entitled to have the jury verdict and judgment set aside and to have judgment entered in accordance with his motion for a directed verdict on liability based upon the grounds that the record discloses no evidence to support the jury's finding that the Defendant was not negligent in causing Plaintiff's injuries. Specifically, there is no evidence to rebut the finding that Defendant was negligent as a result of making a left hand turn out of private driveway when it was not safe to do so. No reasonable juror could find for the Defendant based upon the evidence presented at trial.

For the foregoing reasons, this Plaintiff respectfully requests that, pursuant to Rule 59(e), that this Court alters or amends its judgment regarding Plaintiff's Motion for a New Trial and JNOV.

Rule 11 Certification

The undersigned would show that consultation with opposing counsel on the subject of the within Motion would serve no useful purpose.

[SIGNATURE ON FOLLOWING PAGE]

Respectfully submitted,

COBB DILL & HAMMETT, LLC

BY /s Ryan Andrews
Ryan C. Andrews, Esq.
S.C. Bar No.: 101104
Cobb Dill & Hammett LLC
222 W. Coleman Blvd.
Mt. Pleasant, SC 29464
(843) 936-6680 (p)

ATTORNEY FOR THE PLAINTIFF

Mt. Pleasant, South Carolina
September 17, 2018

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	Civil Action No.: 2016-CP-40-2573
	)	
Jeanne Knollinger,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	DEFENDANT'S RESPONSE TO
Ryan Oliver,	)	PLAINTIFF'S MOTION TO ALTER
	)	OR AMEND
Defendants.	)	

Defendant Ryan Oliver submits this memorandum in opposition to Plaintiff's Motion to Alter or Amend a Judgment pursuant to Rule 59(e), S.C.R.C.P. The jury returned a verdict for the defendant in this matter on September 5, 2018.

1. Plaintiff's Motions as to Jury's Verdict

Plaintiff made oral motions for J.N.O.V., New Trial and Thirteenth Juror Doctrine¹ upon the dismissal of the jury at trial. The Court denied these motions. The decision of the court on a J.N.O.V. motion is final and conclusive on the litigants unless an appeal is taken and successfully prosecuted. Grooms v Zander, 246 SC 512, 144 SE2d 909 (1965). Furthermore, the jurisdiction of the Court to entertain motions for judgment notwithstanding the verdict or for new trial after the trial term must rest upon opposing counsel's previously manifested consent. Harlan v Satterfield Constr. Co., 257 SC 69, 184 SE2d 339 (1971).

In the alternative, there is no basis for disturbing the jury's verdict. A jury's verdict should be affirmed if it is possible to do so and carry into effect the jury's

¹ This representation is to the best of counsel's recollection without the benefit of the transcript of this matter. Counsel confidently asserts that some collection of post-trial motions was made upon the dismissal of the jury.

clear intention. Daves v. Cleary, 355 S.C. 216, 584 S.E.2d 423 (Ct. App. 2003). A judgment notwithstanding the verdict should not be granted unless only one reasonable inference can be drawn from the evidence. Creighton v. Coligny Plaza Ltd. Partnership, 334 S.C. 96, 512 S.E.2d 510 (Ct. App. 1998). The motion must be denied where either the evidence yields more than one inference or its inference is in doubt. Buff v. South Carolina Dept. of Transp., 332 S.C. 472, 505 S.E.2d 360 (Ct. App. 1998).

Viewing the evidence in the requisite light most favorable to the defendant, the evidence at trial was as follows. On the day in question, Defendant pulled a box truck full of furniture to the entrance of Garners Ferry Road. He looked in both directions and did not see any immediate vehicles approaching. Specifically, he saw vehicles on the crest of a hill to his left, far enough away to safely enter the road. He did not see Plaintiff at any point until just prior to impact, when the front of his truck was already over the center line of Garners Ferry Road. Plaintiff had just merged onto Garners Ferry Road from Pelham Drive. In doing so, she had looked over her right shoulder and into her driver's side mirror to ensure she could safely merge. However, she did not look straight ahead until it was too late to avoid striking the box portion of the box truck. Clearly, the jury had every right to conclude Defendant was not negligent in his actions.

2. Plaintiff's Motions as to Evidence

Plaintiff contends the Court erred in not admitting certain evidence which she contends would have assisted her position as to liability. However, there is no

evidence in the Record to assist the Court in making this determination. When an objection stems from the court's exclusion of evidence, trial counsel should seek to proffer the excluded testimony and make any excluded physical evidence a court exhibit. The failure to proffer excluded evidence prevents consideration of the issue. State v. Nelson, 322 S.C. 377, 471 S.E.2d 767 (Ct. App. 1996), *rev'd on other grounds*, State v. Nelson, 331 S.C. 1, 501 S.E.2d 716 (1998). "It is well settled that a reviewing court may not consider error alleged in exclusion of testimony unless the record on appeal shows fairly what the rejected testimony would have been." State v. Roper, 274 S.C. 14, 20, 260 S.E.2d 705, 708 (1979); *see also* State v. Cabbagestalk, 281 S.C. 35, 314 S.E.2d 10 (1984) (failure to make an offer of proof prevents the appellate court from determining whether the exclusion of testimony is prejudicial and thus precludes the appellant from raising the issue on appeal).

3. Plaintiff's Motion as to Counsel's Argument

During his closing argument, defense counsel asked the jury "to put [itself] in the position of Ryan Oliver." Plaintiff immediately objected, and the Court sustained the objection. Defense counsel moved on with his argument. Plaintiff subsequently requested a curative charge from the Court, which the Court refused.

A "Golden Rule" comment typically arises in a criminal trial setting and requests the jury place itself in the shoes of an alleged victim of a crime, for its intended effect is to arouse passion and prejudice. *See e.g.*, Brown v. State, 383 S.C. 506, 680 S.E.2d 909 (2009); State v. Reese, 370 S.C. 31, 38, 633 S.E.2d 898, 901 (2006); State v. McDaniel, 320 S.C. 33, 462 S.E.2d 882 (Ct. App. 1995). In the

present matter, even if counsel's comment falls under the strictest of definitions of the "Golden Rule," the comment was certainly not geared towards appealing to the jury's sense of sympathy as if Defendant was the victim of a crime perpetrated by Plaintiff.

Even if technically improper, Defendant's comment to the jury could not have affected its deliberations. First, the Court previously instructed the jury that arguments of counsel were not evidence, and the Court charged the jury that its verdict could not be based on sympathy or prejudice. Second, the Court sustained the objection prior to Defendant making any conclusory statements to the jury which would have aroused passion or prejudice. And finally, Plaintiff cannot demonstrate any impact this statement had on the jury. The jury deliberated for under 20 minutes, providing a definitive statement that it viewed the evidence as overwhelmingly in favor of the defendant.

For the above-cited reasons, Defendant respectfully requests the Court deny Plaintiff's Motions.

TURNER PADGET

s/Langdon Cheves

Langdon Cheves III (SC Bar 12049)
Sarah Day Hurley (SC Bar No. 16241)
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Attorneys for Defendant Ryan Oliver

Greenville, South Carolina
September 19, 2018

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Jocelyn Newman, Circuit Court Judge

Case No. 2016-CP-40-02573

Jeanne Knollinger,

Appellant,

v.

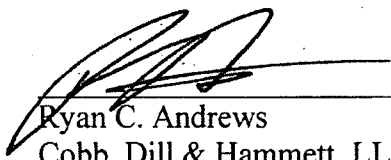
Ryan Noel Oliver,

Respondent.

NOTICE OF APPEAL

Jeanne Knollinger appeals the Final Judgment of the Honorable Joceyln Newman dated October 23, 2018.

This 20 day of November, 2018.



Ryan C. Andrews
Cobb, Dill & Hammett, LLC
222 W. Coleman Blvd.
Mt. Pleasant, SC 29464
(843) 936-6680

Other Counsel of Record:
Langdon Cheves III
Sarah Day Hurley
PO Box 1509
Greenville, SC 29602

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
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Jocelyn Newman, Circuit Court Judge

Case No. 2016-CP-40-02573

Jeanne Knollinger,

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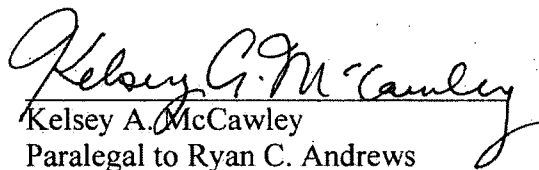
Ryan Noel Oliver,

Respondent.

CERTIFICATE OF SERVICE

The undersigned hereby certifies Appellant's Notice of Appeal regarding the above-referenced case has been served upon all parties to this matter this 20th day of November, 2018, by depositing a true copy of the same in the U.S. Mail, proper postage prepaid, addressed to counsel as follows:

Langdon Cheves III
Sarah Day Hurley
Turner Padgett Graham & Laney, PA
PO Box 1509
Greenville, SC 29602


Kelsey A. McCawley
Paralegal to Ryan C. Andrews

Jeanne Knollinger,)
)
Plaintiff/Respondent to Counterclaim,)
)
vs.)
)
Enterprise Leasing Company Southeast,)
LLC d/b/a Enterprise)
Rent-A-Car and)
Ryan Noel Oliver,)
)
Defendants.)

**DEFENDANT RYAN OLIVER'S
RESPONSES TO PLAINTIFF'S FIRST
REQUESTS FOR ADMISSION**

Defendant Ryan Oliver hereby responds to Plaintiff's First Requests for Admission as to the authenticity of certain documents:

Reservation of Rights

Defendant specifically reserves and does not waive any rights to pursue and be heard on any and all defenses set forth in his Answer to the Complaint, and further states that no response herein should be deemed an admission of relevancy, materiality, or admissibility of any response or document produced. The admissions herein are solely as to the genuineness and authenticity of the referenced documents; Defendant specifically reserves the right to object to the admissibility of any of Plaintiff's documents on grounds other than authenticity. Defendant further reserves the right to amend or supplement his responses herein, if appropriate.

REQUEST TO ADMIT

1. Admit that the attached medical bill(s) from Richland County EMS for dates of service of 12/11/2014 and totaling \$656.34 are true, correct, and genuine copies of billing statements charged to Plaintiff for the dates of service and by the provider so specified, and that such

statements are kept in the ordinary course of the provider's business and generated at or near the time of treatment by a person with knowledge of same. [Exhibit A]

RESPONSE: Admitted.

2. Admit that the attached medical bill(s) from Palmetto Health Richland for dates of service of 12/11/2014 and totaling \$3,206.00 are true, correct, and genuine copies of billing statements charged to Plaintiff for the dates of service and by the provider so specified, and that such statements are kept in the ordinary course of the provider's business and generated at or near the time of treatment by a person with knowledge of same. [Exhibit B]

RESPONSE: Admitted.

3. Admit that the attached medical bill(s) from Palmetto Health Emergency Physicians for dates of service of 12/11/2014 and totaling \$481.29 are true, correct, and genuine copies of billing statements charged to Plaintiff for the dates of service and by the provider so specified, and that such statements are kept in the ordinary course of the provider's business and generated at or near the time of treatment by a person with knowledge of same. [Exhibit C]

RESPONSE: Admitted.

4. Admit that the attached medical bill(s) from Pitts Radiology Bill for dates of service 12/11/2014 and totaling \$156.00 are true, correct, and genuine copies of billing statements charged to Plaintiff for the dates of service and by the provider so specified, and that such statements are kept in the ordinary course of the provider's business and generated at or near the time of treatment by a person with knowledge of same. [Exhibit D]

RESPONSE: Admitted.

5. Admit that the attached medical bill(s) from Lexington Medical Center for dates of service of 12/18/2014 and totaling \$3,497.00 are true, correct, and genuine copies of billing statements charged to Plaintiff for the dates of service and by the provider so specified, and that such statements are kept in the ordinary course of the provider's business and generated at or near the time of treatment by a person with knowledge of same. [Exhibit E]

RESPONSE: Admitted.

6. Admit that the attached medical bill(s) from Lexington Radiology Associates for dates of service 12/18/2014 and totaling \$44.00 are true, correct, and genuine copies of billing statements charged to Plaintiff for the dates of service and by the provider so specified, and that such statements are kept in the ordinary course of the provider's business and generated at or near the time of treatment by a person with knowledge of same. [Exhibit F]

RESPONSE: Admitted.

7. Admit that the attached medical bill(s) from Lexington Family Practice for dates of service of 1/14/2015 and totaling \$871.00 are true, correct, and genuine copies of billing statements charged to Plaintiff for the dates of service and by the provider so specified, and that such statements are kept in the ordinary course of the provider's business and generated at or near the time of treatment by a person with knowledge of same. [Exhibit G]

RESPONSE: Admitted.

8. Admit that the attached medical records from Richland County EMS for dates of service of 12/11/2014, are true, correct and genuine copies of medical records and documents, generated at or near the time of Plaintiff's treatment, by a person with knowledge of said treatment, and kept by Richland County EMS in the ordinary course of business. [Exhibit H]

RESPONSE: Admitted.

9. Admit that the attached medical records from Palmetto Health Richland for dates of service 12/11/2014, are true, correct and genuine copies of medical records and documents, generated at or near the time of Plaintiff's treatment, by a person with knowledge of said treatment, and kept by Palmetto Health Richland in the ordinary course of business. [Exhibit I]

RESPONSE: Admitted.

10. Admit that the attached medical records from Lexington Medical Center for dates of service 12/18/2014, are true, correct and genuine copies of medical records and documents, generated at or near the time of Plaintiff's treatment, by a person with knowledge of said treatment, and kept by Lexington Medical Center in the ordinary course of business. [Exhibit J]

RESPONSE: Admitted.

11. Admit that the attached medical records from Lexington Family Practice for dates of service of 1/4/2015, are true, correct and genuine copies of medical records and documents, generated at or near the time of Plaintiff's treatment, by a person with knowledge of said treatment, and kept by Lexington Family Practice in the ordinary course of business. [Exhibit K]

RESPONSE: Admitted.

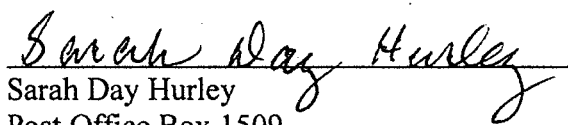
12. Admit that the attached report from Enterprise Rent-A-Car dated 12/13/2014, is a true, correct and genuine copy of the report, generated on or about 12/13/2014, by a person with knowledge of the report, and kept by Enterprise Rent-A-Car in the ordinary course of business. [Exhibit L]

RESPONSE: Admitted.

13. Admit that the attached estimate from Auto Damage Appraisers, Inc. dated 1/5/2015 and totaling \$8,517.48, is a true, correct and genuine copy of the estimate of damage to Plaintiff's vehicle by Auto Damage Appraisers, Inc., and that such estimates are kept in the ordinary course of Auto Damage Appraisers, Inc.'s business and generated at or near 1/5/2015 by a person with knowledge of the same. [Exhibit M]

RESPONSE: Admitted.

TURNER PADGET


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Greenville, South Carolina

December 1, 2017

1 STATE OF SOUTH CAROLINA)

2 COUNTY OF RICHLAND)

COURT OF COMMON PLEAS

4 JEANNE KNOLLINGER,)

5 PLAINTIFF,)

6 VS.)

7 RYAN NOEL OLIVER,)

8 DEFENDANT.)

TRANSCRIPT

OF

RECORD

2016-CP-40-2573

September 4th and 5th, 2018
Columbia, South Carolina

13 B E F O R E:

14 THE HONORABLE JOCELYN NEWMAN, Judge.

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

16 RYAN CHRISTOPHER ANDREWS

17 ESQ.

18 Attorney for the Plaintiff

19 LANGDON CHEVES, III

20 ESQ.

Attorney for the Defendant

22 MONA L. MANLEY

23 Circuit Court Reporter

24
25 Transcribed by Pamela E. Green, Circuit Court Reporter

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P R O C E E D I N G S

(WHEREUPON, the following takes place outside the presence of the jury panel.)

THE COURT: Okay. You're Mr. Andrews?

MR. ANDREWS: Yes, Your Honor.

THE COURT: Who do you have with you?

Is this co-counsel or just an assistant?

MR. ANDREWS: Oh, she's my assistant here getting her 403.

THE COURT: Got it.

MR. ANDREWS: Ms. Kelsey McCall. I'm sorry.

THE COURT: Okay. Just wanted to know if she was helping you try the case. I mean -- well, counsel of record is what I should of said.

And I assume this is Mr. Oliver?

MR. CHEVES: It is, Your Honor.

THE COURT: Mr. Cheves?

MR. CHEVES: Cheves, Your Honor.

THE COURT: Cheves.

MR. CHEVES: Yes, ma'am.

THE COURT: Oh, that's gonna mess me up.

MR. CHEVES: You're -- it, it happens all the time.

THE COURT: Cheves.

(Pause.)

1 THE COURT: Y'all can have the strike sheets now if you
2 want them.

3 MR. ANDREWS: Okay. All right.

4 THE CLERK: Is she sending them up?

5 Do you know---

6 THE COURT: No, you can call them up.

7 THE CLERK: Okay.

8 MR. CHEVES: Your Honor, is, is the jury on the way up
9 right now?

10 THE CLERK: No.

11 MR. CHEVES: Okay. There's one quick matter.

12 THE COURT: Yes.

13 MR. CHEVES: Just looking at the caption of the case,
14 the current caption is Jeanne Knollinger versus Ryan Oliver.

15 THE COURT: Yes.

16 MR. CHEVES: Enterprise has been dismissed. I just
17 noted that, on some of the caption, it reflects a
18 codefendant that's no longer a party.

19 THE COURT: Got it.

20 Okay. How long do y'all think this trial will last?

21 MR. CHEVES: We'll be done, no doubt, tomorrow. My, my
22 hope is by, you know, midday or so. I mean, you know --.

23 THE COURT: Okay.

24 MR. ANDREWS: I don't see how it's not to the jury by
25 lunchtime tomorrow.

1 THE COURT: Okay. Just double-checking.

2 MR. ANDREWS: Unless he's got some surprises for me.

3 MR. CHEVES: I do. Got a lot of surprises.

4 THE COURT: Always.

5 (WHEREUPON, the following takes place within the
6 presence of the jury.)

7 THE CLERK: The jurors are here, Your Honor.

8 THE COURT: Thank you, ma'am.

9 Good morning, folks. It's still morning.

10 My name is Jocelyn Newman. I'm a Circuit Court Judge
11 here in Richland County. I, I am presiding over a term of
12 Civil Court.

13 I know that you were just in jury qualifications with
14 Judge Hood. He asked you a number of questions about your
15 qualifications to serve as jurors in Richland County. I am
16 going to ask you a different set of questions that have to
17 do with your qualifications to serve as jurors on this
18 particular case.

19 So, before I do that, I'm going to have the Clerk place
20 you under oath.

21 (WHEREUPON, the jury panel was placed under oath at
22 this time.)

23 THE COURT: All right. As I've told you-all, this is a
24 term of Civil Court, and, in particular, this case is the
25 case of Jeanne Knollinger versus Ryan Noel, Noel Oliver. It

1 is a car accident case. Specifically, a car accident that
2 occurred on December 11th, 2014, on Garners Ferry Road
3 between Mr. Oliver and Ms. Knollinger. One was driving a
4 2003 Chevy SUV, and the other a 2011 truck.

5 So, the first question is does anybody know anything
6 about this accident or think they know anything about this
7 accident, think that you drove past it, witnessed it, saw
8 anything about it, if so, please stand.

9 (No response.)

10 THE COURT: Okay. As I've told you, the Plaintiff in
11 this case is Jeanne Knollinger.

12 She's not here right now?

13 MR. ANDREWS: She's on the way, Your Honor.

14 THE COURT: Okay. Does -- is any member of the jury
15 panel related by blood, connected by marriage, have any
16 close personal relationship with Ms. Knollinger, if so,
17 please stand.

18 (No response.)

19 THE COURT: Ms. Knollinger is represented in this case
20 by Mr. Ryan Andrews.

21 Mr. Andrews, if you'd stand and face the jury panel.

22 (WHEREUPON, Mr. Andrews complies.)

23 THE COURT: Mr. Andrews works at the law firm of Cobb,
24 Dill & Hammett in Mount Pleasant.

25 Is any member of the jury panel related by blood,

1 connected by marriage, have any close personal relationship
2 with Mr. Andrews or any attorney or employee of the law firm
3 of Cobb, Dill & Hammett in Mount Pleasant?

4 Have you been represented by Mr. Andrews or any
5 attorney in that firm, if so, please stand.

6 (No response.)

7 THE COURT: Thank you.

8 You may have a seat, sir.

9 MR. ANDREWS: Thank you.

10 THE COURT: The Defendant in this case is Ryan Oliver.
11 Mr. Oliver, if you'd stand and face the jury panel.

12 (WHEREUPON, the Defendant complies.)

13 THE COURT: Is anybody related by blood, connected by
14 marriage, have any close personal relationship with Mr. Ryan
15 Oliver, if so, please stand.

16 (No response.)

17 THE COURT: Thank you, Mr. Oliver. You may have a
18 seat.

19 (WHEREUPON, the Defendant complies.)

20 THE COURT: Mr. Oliver is represented by Langdon Cheves
21 with the law firm of Turner Padgett Graham & Laney. I
22 believe that's still the name --

23 MR. CHEVES: It is.

24 THE COURT: -- in Greenville, South Carolina. They
25 have offices in Columbia, and a number of other places.

1 But is any member of the jury panel related by blood,
2 connected by marriage, have any close personal relationship
3 with Mr. Cheves, if so, please stand.

4 (No response.)

5 THE COURT: Have you been represented by him or any
6 attorney or had any relationship with any employee of the
7 law firm Turner Padgett Graham & Laney, if so, please stand.

8 (No response.)

9 THE COURT: Thank you, sir. You may have a seat.

10 (WHEREUPON, Mr. Cheves complies.)

11 THE COURT: The following is a list of potential
12 witnesses in this case, and the question is the same as to
13 each, and that's whether you're related by blood, connected
14 by marriage, have any close personal relationship with any
15 of the following people:

16 Christopher Joe Wright.

17 Allen R. Brinson, Junior of the Columbia Police
18 Department.

19 Taylor Thiede.

20 MR. ANDREWS: It's Thiede, Your Honor.

21 THE COURT: Thiede. T-H-I-E-D-E. Taylor Thiede.
22 Tyler Thiede. Sorry.

23 Brenton Small.

24 Michelle Robson.

25 Is any member of the jury panel related by blood,

1 connected by marriage, have a close personal, personal
2 relationship with any of those people, if so, please stand
3 at this time.

4 (No response.)

5 THE COURT: Has any member of the jury panel been
6 involved in a lawsuit as either plaintiff or defendant, if
7 so, please stand.

8 You filed a lawsuit or had a lawsuit filed against you,
9 please stand at this time.

10 (No response.)

11 THE COURT: Has any member of the jury panel been
12 involved in a car accident of any kind, if so, please stand.

13 (WHEREUPON, jurors respond.)

14 THE COURT: All right. Let's do this the other way.
15 I'm gonna have y'all have a seat.

16 If you have not been involved in a car accident of any
17 kind, please stand.

18 (WHEREUPON, jurors respond.)

19 THE COURT: And I'll just have your jury numbers.
20 Yes, ma'am.

21 THE JUROR: 167.

22 THE COURT: 167.

23 THE JUROR: 35.

24 THE COURT: Okay. Left -- go -- black shirt.

25 THE JUROR: 154.

1 THE JUROR: 243.

2 THE COURT: Yellow shirt.

3 THE JUROR: 199.

4 THE JUROR: One---

5 THE JUROR: Two -- sorry.

6 THE JUROR: 139.

7 THE JUROR: 291.

8 THE JUROR: 21.

9 THE COURT: Okay. Thank you all. You may have a seat.

10 (WHEREUPON, the jurors comply.)

11 THE COURT: Has any member of the jury panel already
12 formed or expressed any opinion about this case whatsoever?

13 I know I haven't told you anything about it so much,
14 but if you think that you already have an opinion about this
15 case, please stand at this time.

16 (No response.)

17 THE COURT: Is any member of the jury panel aware of
18 any bias or prejudice that they have towards either the
19 Plaintiff or the Defendant in this case, if so, please
20 stand.

21 (No response.)

22 THE COURT: Does any member of the jury panel believe
23 that, just because a person has been sued, they must be
24 responsible or liable, if so, please stand.

25 (No response.)

1 THE COURT: If you were to determine that the Defendant
2 is more likely than not responsible for the Plaintiff's
3 injuries, are you willing to follow the law and award
4 Plaintiff damages?

5 I probably should of asked that in a reverse.

6 Is there any member of the jury panel who would be
7 unwilling to award a monetary judgment to the Plaintiff if
8 you find that the Defendant was responsible for the
9 Plaintiff's injuries, if so, please stand.

10 (No response.)

11 THE COURT: Does any member of the jury panel know of
12 any reason whatsoever why they could -- should not serve as
13 a juror in this case?

14 In other words, any reason whatsoever why you could not
15 give both the Plaintiff and the Defendant a fair and
16 impartial trial in this case, if so, please stand.

17 (No response.)

18 THE COURT: Any additional questions the Plaintiff
19 would like to ask?

20 MR. ANDREWS: None from the Plaintiff, Your Honor.

21 THE COURT: From the defense?

22 MR. CHEVES: No, ma'am.

23 THE COURT: All right. Do y'all need a moment?

24 No?

25 Okay.

1 All right. Madam Clerk, let's select a jury.

2 THE CLERK: Counsel, if you would draw a line under
3 Number 20.

4 All right. The line underneath Number 20 is gonna be
5 for the panel. After we do that, we're gonna count down
6 three and draw a line under Number 23, and that's gonna be
7 your alternate.

8 Plaintiff strikes first using the number to the left.

9 MR. ANDREWS: So, below 20?

10 THE CLERK: We're gonna use numbers one to twenty --

11 MR. ANDREWS: Okay.

12 THE COURT: Four strikes.

13 THE CLERK: -- for the panel. And then we're gonna use
14 Numbers 21, 22, and 23 for the alternate.

15 THE COURT: So, four strikes a piece for the 12 jurors,
16 one strike a piece for the alternate, but use the numbers on
17 the -- in the left column.

18 (WHEREUPON, a jury panel was selected at this time.)

19 THE COURT: All right. Any objections or exceptions to
20 jury selection from Plaintiff?

21 MR. ANDREWS: No, Your Honor.

22 THE COURT: From the Defendant?

23 MR. CHEVES: No, ma'am.

24 THE COURT: Okay. Please seat the jury.

25 (WHEREUPON, the jury was seated at this time.)

1 THE COURT: Okay. All right. Ladies and gentlemen who
2 are our jurors for this case, we have a little bit of work
3 to do before we can get started with the trial, and that has
4 to be done outside of your presence.

5 So, what I'm gonna do, at this time, is excuse you from
6 the courtroom. You're gonna follow the bailiff and see
7 where your jury room is. They'll also show you how to get
8 back to the jury room when it's time for you to come back,
9 and I will instruct you now, as I will instruct you every
10 time you leave the courtroom, and that's do not discuss the
11 case amongst yourselves or with anyone else. Don't do any
12 research about the case. Don't try to find out anything
13 about the parties, the witnesses, court personnel, or
14 anything else involved in the case. Don't drive by the, the
15 approximate location of the accident or anything.

16 Everything that you learn about the case must come from
17 within this courtroom. And so you can't do any independent
18 research about any topic, legal issue, or, or anything else
19 involved in the case.

20 We are gonna stick around and do that work that I said
21 has to be done outside of your presence, and I'm gonna let
22 you go to lunch. I know it's an early lunch, but I'm gonna
23 have you be back in your jury room at one o'clock, and we'll
24 start the trial of this case at that point.

25 Before you leave though, follow the bailiff to show you

1 where to go back to, and how to get back to it when you're
2 suppose to be back at one o'clock, but I'll see you then.

3 (WHEREUPON, the following takes place outside the
4 presence of the jury.)

5 THE COURT: All right. Folks, I know there are several
6 motions in limine.

7 MR. CHEVES: Yeah, real quick, Your Honor.

8 Do you mind if I grab somebody from outside?

9 THE COURT: Oh sure.

10 MR. CHEVES: It's somebody's who's here to watch the
11 trial.

12 THE COURT: Oh, absolutely.

13 MR. CHEVES: Thank you.

14 (Pause.)

15 THE COURT: All right. Let's begin with Mr. Andrews.

16 MR. ANDREWS: Thank you, Your Honor.

17 May it please the Court?

18 THE COURT: Yes, sir.

19 MR. ANDREWS: My first motion in limine is there was
20 testimony brought up that Ms. Knollinger, my client, she had
21 a worker's compensation claim in 2014. I want to move to
22 exclude any mention of that. It bears no relevance to this
23 case. We're not claiming an exacerbation of her rotator
24 cuff, which was injured, and I think it would be unduly
25 prejudicial, unduly prejudicial to the jury, Your Honor.

1 THE COURT: Mr. Cheves.

2 MR. CHEVES: Your Honor, I agree. I'm not gonna
3 mention the comp claim. I reserve the right to ask her
4 about her prior condition, the condition of her body going
5 into the accident.

6 MR. ANDREWS: No objection.

7 THE COURT: Okay. Next.

8 MR. ANDREWS: And, Your Honor, I move to exclude any
9 testimony regarding the speed of Plaintiff's vehicle. I
10 think that would go towards accident reconstruction.

11 There's been no testimony of Plaintiff's speed. She
12 didn't testify, I don't think, in her deposition as to her,
13 her speed. I'm not saying the Defendant can't testify as to
14 his observations, but anything having to do with speed, I
15 think, would come -- would be outside of a lay person --
16 would be out of lay opinion, and improper pursuant to 701,
17 Your Honor.

18 THE COURT: Mr. Cheves.

19 MR. CHEVES: We don't plan on doing that, Your Honor.

20 THE COURT: All right. Good enough.

21 MR. ANDREWS: Last, Your Honor, Defendant's ability to
22 pay, I don't think that's proper -- anything proper to
23 offer. It would be unduly prejudicial.

24 MR. CHEVES: No objection.

25 THE COURT: All right. That was easy.

1 All right. Defendant's --

2 MR. CHEVES: Yes, ma'am.

3 THE COURT: -- motions please.

4 MR. CHEVES: Just by way of background, Your Honor,
5 the, the time of the accident, the Defendant was operating a
6 vehicle that he had rented from Enterprise Rent-A-Car.
7 Enterprise, as you probably are aware, is, is self-insured
8 up to the minimum limits of, of liability coverage. At one
9 point, Your Honor, they were a codefendant to this action.
10 They have been dismissed from this action.

11 Mr. Andrews has done a vigorous and, and good job of,
12 of defending his client, but, to this point, this case is
13 involved a lot of things that, that really are not proper in
14 the, in the trial of this case. There are witnesses that he
15 intends to call, either through -- in person or through
16 deposition testimony, who are affiliated with Enterprise
17 Rent-A-Car. The purpose of this testimony would be to
18 discuss issues of risk assessment, a damages waiver that
19 Mr. Oliver executed or did not execute at the time he rented
20 the vehicle, who Enterprise was pursuing for the property
21 damage in this, in this loss.

22 Your Honor, in this situation, Enterprise really is
23 akin to an insurance carrier. None of that certainly would
24 come in if, if this were Allstate or State Farm involved in
25 this case. Instead, it's Enterprise, who, again, you would

1 not call a risk manager from Allstate to come and testify as
2 Plaintiff proposes to call the risk manager for Enterprise
3 to come and testify.

4 They're, they're two issues in this case, Your Honor.
5 One, who was responsible for the accident that day, and,
6 secondly, if it determined that Mr. Oliver were responsible,
7 whatever damages. There's, there's -- Enterprise was not a
8 witness to this accident. Didn't know anything about this
9 accident, and to include any sort of risk assessment or
10 claims process on the part of Enterprise is, is wholly
11 inappropriate.

12 THE COURT: Yes, sir.

13 MR. ANDREWS: Thank you, Your Honor.

14 Well, I respectfully disagree that Enterprise would be
15 considered like an insurance company. There's testimony
16 that they hire that out to a third party administrator, and
17 the reason, the reason why I want to bring in Enterprise
18 witnesses, Your Honor, is because Enterprise filed a, filed
19 a counterclaim against Ms. Knollinger, which they dismissed
20 a couple months ago, not after -- not long -- I mean she had
21 to defend the action for a couple of years, and I would
22 suggest that's part of her damages.

23 And the reason why they did not file anything against
24 Mr. Oliver, there's---

25 THE COURT: I'm sorry.

1 what is part of her damages?

2 MR. ANDREWS: Having to defend this suit for a wreck
3 that wasn't her fault, and the mental anguish that she had
4 to go through.

5 THE COURT: Having to defend against Enterprise's
6 counterclaim?

7 MR. ANDREWS: Yes, Your Honor.

8 THE COURT: What does that have to do with Mr. Oliver?

9 MR. ANDREWS: Well, it's a -- he was driving an
10 Enterprise truck, and I think it's a foreseeable result of
11 the accident, him driving an Enterprise truck, and there's
12 testimony from Enterprise witnesses that they didn't go
13 after Mr. Oliver. They didn't file a counterclaim against
14 him because he signed a damage waiver coverage and he
15 couldn't -- and the risk manager who they say has stated
16 that.

17 And I think there's other testimony from Enterprise
18 that's relevant, Your Honor. There's actually a report from
19 Enterprise, taken from Enterprise, that says renter was
20 involved in an accident when his truck pulled out in front
21 of another vehicle, and the testimony from that witness,
22 Mr. Thiede, we took a de bene esse deposition, he stated
23 that that information came from the insurer, came from --
24 so, I would suggest it's not hearsay. It's a, under
25 801(d)(1), a prior statement by the witness, and he's -- and

1 there's testimony from him and other Enterprise witnesses
2 that the information from the Enterprise accident report
3 would come straight from the renter, and, in this case,
4 Mr. Oliver.

5 THE COURT: I understood that Mr. Thiede is the person
6 that wrote this report or took the report?

7 MR. ANDREWS: He took the report for -- and his, and
8 his testimony is that the report came from -- the substance
9 of the report, what he got, was straight from Mr. Oliver's
10 mouth, mouth, and everything---

11 THE COURT: I understood that there was some
12 paraphrasing of what Mr. Oliver said in that report.

13 MR. ANDREWS: Well, there might of been slightly
14 paraphrasing, Your Honor. He -- they might -- I, I don't
15 think it was much because Mr. Thiede has said that there was
16 some -- there was no reason to believe that he put
17 inaccurate information in there. It was a fair and accurate
18 representation of what Mr. Oliver told him. Even their risk
19 manager, Ms. Robinson, she admitted that it's a --
20 straightforward. There's no reason to think that their own
21 employee embellished, and, Your Honor, so I would---

22 THE COURT: Did Mr. Oliver sign the statement?

23 MR. ANDREWS: I'm sorry, Your Honor?

24 THE COURT: Did he sign it?

25 MR. ANDREWS: No, Your Honor. There's no signature on

1 it. At the very least, I should be able to impeach him on
2 that.

3 THE COURT: well, it's not his statement.

4 MR. ANDREWS: well, all the testimony---

5 THE COURT: It's somebody's---

6 MR. ANDREWS: ---from Enterprise own witnesses say that
7 it is. Even the manager, the, the risk manager, and Mr.
8 Thiede states that those are his words, that that came from
9 him, that it would not have come from anybody else.

10 THE COURT: Does Mr. Oliver say that this is exactly
11 what I said?

12 MR. ANDREWS: well, Your Honor, the defense didn't
13 produce it to me till months after we already deposed Mr.
14 Oliver.

15 THE COURT: So, the answer is no.

16 MR. ANDREWS: No, Your Honor.

17 THE COURT: All right. So, it's not his statement,
18 that's hearsay, and it is excluded. I don't see what any
19 Enterprise witnesses have anything to do with whether this
20 gentleman is at fault in an accident that allegedly caused
21 injury to the Plaintiff.

22 MR. ANDREWS: Yes, Your Honor.

23 THE COURT: So, for those reasons, the Motion in Limine
24 is -- to exclude those things is granted.

25 MR. ANDREWS: Okay.

1 THE COURT: Next.

2 MR. CHEVES: Secondly, Your Honor, and this is probably
3 part and parcel of your, of your ruling just now, but
4 there's no evidence as to the fact that Enterprise, at one
5 point, was a party and filed a counterclaim, and that it was
6 dismissed.

7 THE COURT: Any problem with that?

8 MR. ANDREWS: Your Honor, I think I'm allowed to ask
9 about pleadings pursuant to Rule 43.

10 THE COURT: The pleadings that are currently in effect?

11 I mean what does that have to do -- again, how does it
12 make it more probable or less probable that Mr. Oliver
13 caused an accident that caused injuries to Ms. Knollinger?

14 MR. ANDREWS: well, Your Honor, I mean I think it --
15 under two -- undermines the credibility of their whole
16 defense. Enterprise is defending Mr. Oliver in this action,
17 and states that, that they filed a counterclaim against my
18 clients, and the only reason they didn't against him was
19 because they couldn't because of this damage waiver, and I
20 think any of the pleadings would show that, and would
21 undermine their whole credibility of the theory of
22 liability.

23 THE COURT: Again, how does it make it more probable or
24 less probable that Mr. Oliver's at fault in the accident?

25 MR. ANDREWS: well, Your Honor, it just shoots -- I

1 believe it -- I believe it calls into question his -- under
2 his ultimate credibility of the case, and their credibility.

3 THE COURT: Whose credibility, Mr. Oliver's?

4 MR. ANDREWS: Yes, Your Honor.

5 THE COURT: How so?

6 MR. ANDREWS: Well, Your Honor, I mean he's -- there's
7 testimony from these Enterprise witnesses going back to
8 those reports that this came from him, and that he pulled
9 out. Now there's a different story going on. I think all
10 of Enterprise's witnesses, they plan in -- play in --
11 everything from Enterprise shows that they really don't
12 believe in this defense that he's at fault. All the
13 evidence -- every other witness has come and said that it
14 was his fault. And so I think, just by not allowing to
15 include anything from Enterprise, I think it greatly
16 prejudices the Plaintiff's case.

17 THE COURT: Why does anyone else's opinion about
18 whether he's at fault matter to whether you can prove to
19 these 12 jurors that he's at fault?

20 MR. ANDREWS: Well, it's certainly relevant---

21 THE COURT: I might think he's at fault.

22 I mean who cares, right?

23 MR. ANDREWS: Okay.

24 THE COURT: You got to prove it to the---

25 MR. ANDREWS: Yes, Your Honor. I understand.

1 THE COURT: ---fact finders.

2 Yeah, so no mention of Enterprise.

3 MR. ANDREWS: Okay.

4 THE COURT: I mean maybe an ancillary mention that he
5 got the car from Enterprise. I mean I don't know what that
6 has to do with anything, but that wouldn't be prejudicial in
7 any way, that he rented a car, but no discussion of
8 Enterprise's investigation or claims or counterclaims or
9 anything like that.

10 MR. ANDREWS: Yes, Your Honor.

11 THE COURT: Okay. Yes, sir.

12 MR. CHEVES: Third, Your Honor, there's been some
13 testimony in the deposition that an unidentified witness
14 said, some time after the accident, that the Defendant
15 pulled out in front of the Plaintiff. This witness is not
16 been identified by anybody. It's, it's not trustworthy,
17 credible testimony, and we'd move to exclude that under the
18 hearsay rule.

19 MR. ANDREWS: Your Honor, I would submit that it's
20 present sense impression or an excited utterance. It
21 happened directly after the accident.

22 Both Mr. Oliver -- Mr. Oliver testified that he
23 heard -- that that's what the witness told him, that you
24 pulled out in -- no, she's not okay. You pulled out in
25 front of her. My client, she testified in her deposition,

1 that she heard him.

2 So, we'd submit that it's a present sense impression,
3 excited utterance under hearsay exception.

4 MR. CHEVES: Okay. It's, it's not excited utterance,
5 and, there's, there's no testimony as to how far after the
6 accident this, this, this alleged statement was, was made.
7 It's, it's -- you know, this is the exact kind of thing the
8 hearsay rule is intended to guard against. There's no
9 chance to, to cross this witness.

10 We, we don't even know who the witness is. It's some
11 unidentified person at the scene. It just lacks any, any
12 credibility whatsoever, and should be excluded.

13 MR. ANDREWS: Well, Your Honor, I, I think there is
14 testimony. Mr. Oliver testified, right after the accident,
15 he ran up to the car and asked are you okay, and this
16 witness said no, she's not okay. You pulled out in front of
17 her.

18 So, I would suggest these are what these exceptions to
19 hearsay are for, and that is an excited utterance and a
20 present sense impression of that witness.

21 THE COURT: Well, it's not an excited utterance. I
22 think it has to be excluded too. You don't know who the
23 person is. You -- no one knows who the person is. There's
24 no indication of reliability, which is what the Rules of
25 Evidence are there to guard against.

1 I mean there's nothing that I can hang my hat on or
2 that the finder of fact could hang their hats on to
3 determine the reliability of the statement.

4 MR. CHEVES: And two more, Your Honor. Real quickly.
5 No evidence of Defendant's driving record or the fact
6 that he received a ticket in this, in this accident or the
7 ticket was dismissed, and, therefore, would not be
8 admissible.

9 MR. ANDREWS: I'm not gonna ask him about a ticket,
10 Your Honor.

11 MR. CHEVES: And, finally, Your Honor, at one point we
12 received Requests for Admissions asking if Mr. Oliver had
13 ever, had ever used cocaine in the past. He, truthfully,
14 acknowledged that, at one time, he -- he has tried cocaine,
15 but not in relation to this accident or any time near.
16 There's no evidence of any impairment. That's highly
17 prejudicial, and, and we would seek to exclude that
18 evidence.

19 MR. ANDREWS: I agree.

20 THE COURT: Got it.

21 MR. CHEVES: All right. That's it, Your Honor.

22 THE COURT: All right. Anything else that we need to
23 take up?

24 Yes.

25 MR. ANDREWS: There was a motion -- I mean there was a

1 picture that opposing counsel sent to me that he took on
2 Friday, and he indicated he was gonna have his client
3 identify from where -- the intersection from where my client
4 turned on to Garners Ferry Road to this, and I want to move
5 to exclude it.

6 I don't think it's relevant because the actual area
7 where Mr. Oliver testified he was pulling out of, it has
8 been, it has been reconstructed over the years since it
9 happened, and it's not the same. It's not the same as it
10 was there, and there's pictures that show different.

11 So, I do think it should be included, and I think it
12 would cause unfair confusion to the jury if it was allowed.

13 MR. CHEVES: Your Honor, in response to that, and, and
14 this will come out during evidence, this, this is a case
15 where Mr. Oliver was pulling out of a -- was in a restaurant
16 driveway onto Garners Ferry. The pictures from both back at
17 the time of the accident and current day show that the
18 driveway is in the same location. It's just the building
19 itself has changed.

20 MR. ANDREWS: Your Honor, I, I have pictures that show
21 that you can Google Earth it and see that there was
22 construction, and that they changed the size of the driveway
23 and the exit, and where to egress. So --.

24 MR. CHEVES: You know, I'm not gonna fight too hard on
25 this, Your Honor. We can use the picture in 2014. That's

1 fine.

2 THE COURT: Okay.

3 MR. ANDREWS: I would have no objection to that.

4 THE COURT: Perfect.

5 Anything else?

6 MR. CHEVES: No, ma'am.

7 MR. ANDREWS: Nothing from the Plaintiff.

8 THE COURT: Well, that was so fast.

9 Okay. Be back at one o'clock. We will---

10 MR. ANDREWS: All right.

11 THE COURT: Yes.

12 MR. ANDREWS: I'm sorry, Your Honor. I told my client
13 to be here at 11:30. I didn't realize we would be moving so
14 fast.

15 THE COURT: Well, me either.

16 But, yeah, we'll start at one o'clock.

17 MR. CHEVES: Okay.

18 THE COURT: All right.

19 MR. CHEVES: Thank you.

20 THE COURT: See you then.

21 MR. ANDREWS: Thank you.

22 MR. CHEVES: Thank you, Your Honor.

23 THE COURT: Absolutely.

24 (WHEREUPON, Court was in recess for the lunch hour.)

25 THE COURT: All right. Y'all ready?

1 MR. ANDREWS: Yes, Your Honor.

2 THE COURT: All right.

3 MR. CHEVES: One quick thing that I probably should of
4 address with Motions in Limine. I understand the
5 Plaintiff's gonna call the investigating officer as a
6 witness, and, obviously, the officer can use his report to
7 refresh his recollection. I'm just wanting to make sure
8 we're clear that the officer's not gonna render any opinions
9 or conclusions that he reached as a result of this
10 investigating the scene.

11 MR. ANDREWS: I'm gonna ask him about his observations,
12 and, if I can lay a foundation, maybe, but I'm not gonna ask
13 him about any ticket being issued or anything like that.

14 MR. CHEVES: I'm, I'm talking about a determination as
15 to who was responsible for the accident.

16 MR. ANDREWS: Okay.

17 THE COURT: Okay. All right. Then are you---

18 MR. ANDREWS: Well, Your Honor?

19 THE COURT: Yes.

20 MR. ANDREWS: Could I ask him his understanding of the
21 law, his understanding of failing to yield the right of way
22 when you leave a private driveway?

23 Just want to make sure so I won't get in trouble.

24 THE COURT: Ask him what now?

25 MR. ANDREWS: I was gonna ask him if he was familiar

1 with the laws of South Carolina, and the law regarding
2 making a left-hand turn out of a private driveway.

3 THE COURT: Okay. And you're going where with that?

4 MR. ANDREWS: To see what the law states that you yield
5 to all oncoming vehicles just for the jury's understanding.

6 THE COURT: Yeah, it seems like a follow-up to that
7 would be did that happen in this case, and then, you know.

8 MR. ANDREWS: That is---

9 THE COURT: That's usually where you're going with
10 that.

11 MR. ANDREWS: I'll just ask him about his general
12 observations then.

13 THE COURT: Okay. All right. Bring the jury.

14 (WHEREUPON, the following takes place within the
15 presence of the jury.)

16 THE BAILIFF: The jurors are seated, Your Honor.

17 THE COURT: Thank you, ma'am.

18 Good afternoon, ladies and gentlemen.

19 We're now about to try the case of Jeanne Knollinger
20 versus Ryan Oliver.

21 Before I give you some preliminary remarks, and before
22 we get started with the trial, I'm gonna have the clerk
23 place you under oath one more time.

24 (WHEREUPON, the jury was placed under oath at this
25 time.)

1 THE COURT: All right. Folks, before we begin this
2 trial, I want to tell you that this trial will probably be
3 different from what you might expect.

4 Many people do not have the chance to attend actual
5 court sessions as you are doing now, and may think, from
6 watching television or movies or reading books, that trials
7 are always full of high drama, intense action, and rivetting
8 circumstances. And while all of these things may be true at
9 times, this trial is not for entertainment. It is a
10 fundamental part of our democracy, a search for the truth,
11 and an effort to make sure that justice is done between the
12 parties before the Court.

13 Searching for the truth and making sure that justice is
14 done is often slow, deliberate, and repetitive. The
15 opposite of what you may have seen in TV -- on TV or in
16 movies or read in books. This courtroom is a place of honor
17 dedicated to the protection or preservation of citizens'
18 rights through what many have called the greatest justice
19 system ever created.

20 The attorneys appearing before you are advocates for
21 the parties they represent, but, first and foremost, they
22 are officers of the Court sworn to uphold the integrity and
23 fairness of our judicial system, and to help you in the
24 search for the truth. You should expect them to be
25 professional, competent, and ethical in the representation

1 of their client's interests.

2 Remember that you have just taken an oath to try this
3 case, and reach a fair and just verdict. And you are also
4 expected to be professional, reasonable, and ethical. Thank
5 you for accepting the important responsibility of jury
6 service, and for your contribution today to our justice
7 system.

8 Now, before the case begins, I would like to tell you
9 how we will proceed. The first thing that will occur is
10 that the Plaintiff -- the attorney for the Plaintiff, the
11 Plaintiff is the person who filed the lawsuit or brought
12 this case to Court, but her attorney will make an opening
13 statement, which will be followed by a similar statement by
14 the attorney for the Defendant.

15 These opening statements are not arguments. Those
16 arguments will come at the conclusion of the case. The
17 purpose of opening statements is for each party to outline
18 his or her claims, and the evidence which he or she intends
19 to present in support of those claims.

20 Following the opening statements, each side will
21 present its evidence with the Plaintiff, once again, going
22 first. Evidence may take many forms. It may be testimony,
23 documents, models, photographs, or the like. You should pay
24 close attention to all of the evidence which is presented by
25 each party. You, the jury, are the sole finders of the

1 facts in this case, and no one else will be permitted to
2 weigh the evidence, and render a verdict based upon it.

3 After all of the evidence has been presented, the
4 attorneys will make their closing arguments. Now, unlike
5 opening statements, the final remarks will be true
6 arguments. That is each side will emphasize certain
7 portions of the evidence, and try to persuade you to agree
8 with their version of the facts. Keep in mind that the
9 opening statements, as well as the closing arguments of the
10 attorneys, do not represent evidence in this case. Give the
11 attorneys your undivided attention, but keep in mind that
12 what they say is not evidence.

13 After the arguments are finished, I will explain to you
14 the law which applies to this case. You will then retire to
15 the jury room to consider the facts and law. And, once you
16 have done so, you will return a verdict in favor of one side
17 or the other.

18 During the course of the trial, the Plaintiff has the
19 burden of proving her claims. The Plaintiff must meet this
20 burden by proving her claims by a -- the preponderance or
21 greater weight of the evidence.

22 What we mean by the greater weight of the evidence can
23 be illustrated by imagining a traditional set of scales.
24 When the case begins, the scales are even. After all
25 evidence has been presented, if the scales should remain

1 evenly balanced, or if they should tip even slightly in
2 favor of the Defendant, then the Plaintiff would fail to
3 meet her burden of proof, and your verdict would be for the
4 Defendant. If, on the other hand, the scales should tip
5 even slightly in favor of the Plaintiff, she will have met
6 her burden of proof, and your verdict would be for the
7 Plaintiff.

8 Now, as I mentioned earlier, although I am the only
9 person who can tell you what the law is, you are the only
10 ones who can determine the facts. I do not have the right
11 to indicate how I may feel about the evidence presented, and
12 throughout this trial, my intention will be to act
13 impartially towards each party.

14 Second, from time to time, an attorney will object to
15 some bit of testimony or evidence which the other side is
16 seeking to present. As in sports, business, or any other
17 structured activity, there are certain rules that both sides
18 must obey in presenting evidence. These rules have a
19 definite purpose. They ensure that the information you
20 receive is the most trustworthy and reliable evidence
21 available.

22 An objection is the procedure that's used for an
23 attorney to call a possible violation of the rules to my
24 attention as the judge of this Court. And, for this reason,
25 you should not hold an attorney's objection against his or

1 her client nor should you conclude, from my ruling on the
2 objection, that I favor one side or another.

3 Finally, I would ask that you pay close attention to
4 all of the evidence presented to you. It is you, the jury,
5 who will determine the facts in this case. And, as a
6 result, you will have to evaluate the credibility, which
7 means the believability of each witness who testifies in
8 this matter. You are participating in a time tested system,
9 and it is extremely important for each of you to listen
10 carefully to all of the evidence presented.

11 You will not be permitted to take notes during a trial
12 of the case. You will rely on your memories, but I don't
13 think that note taking is necessary. It's not gonna be a
14 very long trial. It's not really overly complicated and
15 typically we don't allow jurors to take notes unless it is
16 something long or complicated. So, you will not take notes
17 during the trial of this case, but I'm sure that everyone
18 will perform their duties accordingly, and we are now ready
19 to begin the trial of the case.

20 Mr. Andrews.

21 MR. ANDREWS: Thank you, Your Honor.

22 May it please the Court?

23 THE COURT: Yes, sir.

24 MR. ANDREWS: Good afternoon.

25 Congratulations on making it through this afternoon, to

1 this afternoon, and through this morning. Thank you for
2 being here, and thank you for your time and attention.

3 As you heard in jury selection, my name's Ryan Andrews,
4 and I represent the Plaintiff, the Plaintiff, Jeanne
5 Knollinger, in this case.

6 All drivers have a duty to yield the right of way while
7 making a left-hand turn to all approaching vehicles. You
8 also have a duty to see what it is to be seen, and we have
9 these safety rules in place to protect the community. If
10 somebody violates those rules, then that person is
11 responsible for the harms and losses in which they've
12 created. And this is why we're here today.

13 Back on December 11th, 2014, the Defendant, Ryan
14 Oliver, he had rented an Enterprise truck to move some
15 furniture. And, while he was moving furniture, he stopped
16 at a restaurant on Garners Ferry Road, San Jose Restaurant.
17 I don't think it's there any more, but it's near the Target
18 if you're familiar with the area, and he parked the truck
19 for lunch. And, after lunch, he got in his truck, and he
20 drove to the intersection of Garners Ferry Road, and he's
21 given testimony that he looked left, then he looked right
22 again, then he proceeded to -- out on the intersection.
23 Then he looked left again, and there was a vehicle
24 approaching on Garners Ferry Road, but it was too late. A
25 crash occurred.

1 Ms. Knollinger was in that vehicle approaching on
2 Garners Ferry Road, and this is the aftermath of that
3 collision. You see Ms. Knollinger was on Garners Ferry
4 Road. She had just taken a right through a yield sign on
5 Pelham Road, which is in-between where that San Jose
6 Restaurant is, and the Target from where she was coming.
7 And she had merged legally to the right on Garners Ferry
8 Road, and was attempting to merge into the center lane. And
9 she looked to her mirror briefly, and, when she looked up,
10 it was too late. Mr. Oliver had ran out in front of her.

11 And she's gonna give you testimony that this very
12 collision caused her to black out for a few moments, and
13 that, when she came to, her car was drug and facing the
14 opposite direction in the center line on Garners Ferry Road.

15 She's gonna tell you that the impact wrenched her body,
16 and shook her all over the vehicle, how her lower back was
17 thrust against the armrest, and how her chest hit the
18 steering column, and that her right arm and her right side
19 hit the gear shit.

20 But before we get into that, let me tell you who we're
21 suing and why. We're suing Ryan Oliver because he failed to
22 make a safe left-hand turn. We're suing Ryan Oliver because
23 he didn't yield the right of way to Ms. Knollinger, and
24 we're suing Ryan Oliver because, today, 1,364 days after the
25 collision, he's refused to compensate her for the injuries

1 he caused.

2 Now, you'll hear more testimony from Ms. Knollinger.
3 You'll hear how her life flashed before her eyes whenever
4 that car came out in front of her, and you'll hear that she
5 stayed in the vehicle until after the collision -- until the
6 ambulance came to take her. The ambulance took her to
7 Richland Memorial Hospital in which -- and the doctors there
8 x-rayed her, and treated her for her injuries to her back,
9 and her arm.

10 She'll tell you she was able to go home that day, and
11 her husband took her home, but she felt continuous pain
12 after the collision. She had help -- she had to receive
13 help from her son, her daughter-in-law, and her husband for
14 mundane tasks to move around. She'll also tell you that she
15 tried to go back to work. Whenever she went back to work,
16 she still had pain in her chest, and trouble breathing. So,
17 she went back to the hospital, went back to Lexington
18 Memorial Hospital.

19 The doctor's gave her some medication, but it was,
20 unfortunately, one of those injuries that you just have to
21 let it heal with time, and she did. She let it heal with
22 time cause she's a trooper. She'll tell you how she felt
23 this continual pain, and how she couldn't do the things that
24 she once liked to do.

25 You see, before this collision, let me tell you a

1 little bit about Ms. Knollinger. She's been in Columbia for
2 about 11 years. She moved down here to help take care of
3 her son who was injured in the war, and also to see her
4 grandchildren. She takes care of her disabled husband, and,
5 before this collision, she use to play with her
6 grandchildren a lot, use to run around, run down hills, use
7 to pick them up, and, after this collision, she'll tell you
8 she's not able to do that. She also used to do a lot of
9 different things like bicycling, gardening, and, because her
10 back, she has continuous back pain. Since this collision,
11 she's unable to do that, and you'll hear that from her.

12 You'll also hear from her son, Chris. Her son, Chris,
13 worked about a mile or two down from where the collision
14 occurred, and a bystander telephoned him, and let him know
15 that his mom was involved in a collision. He'll tell you
16 about his observations at the scene of the collision, the
17 trail of debris. He'll also tell you about some of his
18 other observations, and what he witnessed other witnesses
19 doing.

20 He'll also testify as to his mother's continual pain
21 and suffering, and talk about how he and his wife had to
22 help take care of her. You'll also hear from Officer
23 Brinson at the City of Columbia Police Department who
24 responded to the scene, and he'll also tell you about his
25 observations.

1 I expect you'll hear from test -- you'll hear from the
2 Defendant as well, and I expect, as it's been his testimony
3 so far, that he didn't see Ms. Knollinger when he turned.
4 Because he didn't see her, he thinks he has the right of way
5 somehow.

6 well, unfortunately, those aren't our safety rules. We
7 don't live in the safety world of Ryan Oliver. We live in
8 the safety rules of South Carolina, and those rules hold
9 that you yield the right of way to all vehicles approaching
10 when you make a left-hand turn.

11 So, folks, please don't get blinded by any smoke and
12 mirrors that I suspect the defense will put up because the
13 facts remain the same. Ms. Knollinger had established
14 herself on Garners Ferry Road, and that's where the
15 collision happened.

16 So, think about that, and, unfortunately, this is a
17 civil trial. We can only ask that you return a verdict and
18 you compensate Ms. Knollinger in some way. This trial is
19 about money. Not gonna hide that fact from you. It's a
20 civil trial because we can't go back in a time machine and
21 have somebody wave a red flag that had Mr. Oliver pay
22 attention before he makes a left turn. We can't wave a
23 magic wand and make Ms. Knollinger's injuries go away.

24 We have to ask only that you evaluate the evidence, and
25 you evaluate the harms and the losses in which she suffered.

1 And I want you to think about a few things as we go out, and
2 as we try this case the next day or so, that, at the time of
3 the collision, did Mr. Oliver ever apologize and admit to
4 his wrongdoings?

5 No.

6 When we filed this lawsuit, did Mr. Oliver ever
7 apologize and admit to his wrongdoings?

8 No.

9 When the defense deposed Ms. Knollinger, did Mr. Oliver
10 ever apologize for any wrongdoings?

11 No.

12 He continued to deny it, and fight on, and, today,
13 1,364 days later, he still continues to deny it, and still
14 continues to fight even though the evidence is undisputed
15 that this collision occurred on Garners Ferry Road while he
16 was making a left-hand turn from a private driveway.

17 So, ladies and gentlemen, at the end of this trial, I'm
18 gonna ask that you reach a verdict, and I'm not gonna ask
19 for a number right now because you haven't seen the
20 evidence, and you haven't seen all the testimony. But I
21 think at the -- with the conclusion, you'll be able to give
22 a fair analysis, and come to a fair verdict.

23 And I would like for you to pay attention to the
24 Judge's instructions. She'll tell you a few things, as she
25 told you before, and she'll tell you some instructions at

1 the end. And I suspect she'll tell you to, whenever you
2 deliberate, to use your common sense, and use your everyday
3 sense impressions, and I couldn't agree more.

4 Because, when you look at the totality of the case, and
5 when you view all the evidence, I think you can come to only
6 one reasonable conclusion, that Mr. Oliver negligently
7 turned -- made a left-hand turn, and didn't yield the right
8 of way to Ms. Knollinger. And, as the judge did mention, as
9 the Plaintiffs, we have the burden of proof. We have to
10 prove this case, that Mr. Oliver was negligent, by a
11 preponderance of the evidence. And that's not to be
12 confused with proof beyond a reasonable doubt standard that
13 you have seen in a criminal courtroom. Rather it's more
14 likely than not. Is Ms. Knollinger's version more likely
15 not correct than Mr. Oliver's, and I submit to you you can
16 and we will meet this burden.

17 So, thank you for your time and your attention today.
18 When I first started practicing law, my mentor always
19 impressed upon me his belief that, aside from serving in the
20 military, serving on the jury was the most important civil
21 function, civic function that a citizen can participant, and
22 I wholeheartedly agree. So, thank you very much for your
23 time and attention. And, on behalf of Ms. Knollinger, and
24 my law firm, I'd like to thank you, and I look forward to
25 working for you today -- with you the next few days.

1 THE COURT: Okay. Mr. Cheves.

2 MR. CHEVES: Thank you, Your Honor.

3 Good afternoon. My name is Langdon Cheves, and I'm
4 proud to be here today representing Ryan Oliver, who's the
5 Defendant in this case.

6 This is an important day for Mr. Oliver because he's
7 been accused of causing an accident, and he's been accused
8 of hurting someone. And this is the day that he's been
9 waiting for to prove to 12 impartial people that he was not
10 responsible for this accident, and so that he can go about
11 his life, and not have this hanging over his head like it
12 has been for a few years now.

13 The evidence is clear in this case. Here's, here's
14 what the evidence will show.

15 On the day in question, Mr. Oliver went to Enterprise
16 Rend-A-Car, and rented a 26-foot box truck. He was moving
17 furniture for a, for a woman in Columbia.

18 He went and filled up the truck with furniture. It was
19 full of furniture when he went to the restaurant to have
20 lunch. When he got done with lunch, he pulled to the
21 driveway of the restaurant where Garners Ferry is, is right
22 there. He looked to his left, looked to his right, looked
23 back to his left. There were no cars approaching. He says
24 the cars -- he could see cars way up to the left on the top
25 of a hill.

1 He then began his left turn out onto Garners Ferry
2 Road, and you will have pictures of the scene back in the
3 jury room with you. Unfortunately, right by the exit of the
4 restaurant, Pelham Drive comes in, and you have to yield
5 onto Garners Ferry from Pelham Drive.

6 After Mr. Oliver began his left-hand turn onto Garners
7 Ferry, the Plaintiff comes along Pelham Drive, and is
8 looking over her left shoulder, and looking in her side-view
9 mirror to see if she can merge onto Garners Ferry. She's
10 not looking up ahead Garners Ferry. She doesn't see the big
11 white truck that is already pulled out onto Garners Ferry
12 Road. Mr. Oliver will tell you that, when he first saw the
13 Plaintiff, she was looking over her left shoulder to
14 complete her, her yield onto Garners Ferry Road.

15 The evidence will also show that Mr. Oliver's truck was
16 almost over the median when this accident occurred. He had
17 not just pulled out onto Garners Ferry. He had almost
18 completed his left-hand turn when the accident occurred, and
19 you'll see photographs of where the Plaintiff's vehicle
20 ended up. Close to the median and in the middle of the
21 road.

22 This is not some case where someone pulled out in front
23 of a car proceeding along Garners Ferry. It's a case where
24 someone had the right of way. There were no cars
25 approaching. He pulled out, almost completed his left-hand

1 turn, and someone comes along and merges onto Garners Ferry,
2 and hits this truck. And you'll see photographs of the
3 truck, and you'll see where the damage, where the impact
4 occurred on the truck.

5 It didn't occur in the front like you would expect if
6 someone is jutting out in front of somebody. It occurred in
7 the middle of a 26-foot box truck.

8 Like I said, ladies and gentlemen, we've waited a long
9 time to be here today. Mr. Oliver thanks you for your,
10 your, your time. I know this is not a volunteer position,
11 but it's an important position. And I submit to you, that
12 once the evidence is received, you will go back to your jury
13 room. You will reach the only conclusion that you can reach
14 in this case, which is Mr. Oliver is not responsible for
15 this accident.

16 Thank you.

17 THE COURT: Okay. Mr. Andrews, call your first
18 witness.

19 MR. ANDREWS: Thank you.

20 Plaintiff calls Jeanne Knollinger.

21 THE BAILIFF: Face the clerk. Place your left-hand on
22 the Bible, and raise your right.

23 THE CLERK: Would you state your full name please?

24 THE WITNESS: Jeanne Maurene Knollinger.

25 JEANNE KNOLLINGER, being first duly

Jeanne Knollinger - Direct examination
By Mr. Andrews

1 sworn, testified as follows:

2 THE CLERK: Thank you. You can have a seat.

3 (Witness complies.)

4 DIRECT EXAMINATION

5 BY MR. ANDREWS:

6 Q Thank you, Ms. Knollinger.

7 would you please state your full name for the record?

8 A Jeanne Maureen Knollinger.

9 Q And where do you currently live?

10 A 560 Matt Street in Gaston, South Carolina.

11 Q And how long have you been down here in Columbia?

12 A About seven years.

13 Q So, what brought you down here?

14 A My middle son. He was hurt in the service, and he
15 called and asked if we would move here to help him and his
16 family with his kids.

17 Q How many kids does he have?

18 A Three.

19 Q Are they your only grandchildren?

20 A No.

21 Q How many other grandchildren do you have?

22 A Four.

23 Q Do they live here?

24 A No.

25 Q where do they live?

Jeanne Knollinger - Direct examination
By Mr. Andrews

- 1 A Michigan.
- 2 Q Are you currently married?
- 3 A Yes.
- 4 Q Who's your husband?
- 5 A James Knollinger.
- 6 Q And does he work outside the home?
- 7 A No, he's disabled.
- 8 Q Okay. And do you currently have a job?
- 9 A Yes.
- 10 Q And where do you work?
- 11 A I work at the Department of Corrections.
- 12 Q And what do you do there?
- 13 A I'm a food service supervisor.
- 14 Q And how long have you worked for the Department of
- 15 Corrections?
- 16 A Since January.
- 17 Q What -- where did you work at before then?
- 18 A AutoZone.
- 19 Q And what did you do at AutoZone?
- 20 A Sales parts manager.
- 21 Q Were you working on December 11th, 2014?
- 22 A Yes.
- 23 Q And what were your -- what was your job at that time?
- 24 A At Pit Stop.
- 25 Q Pit Stop?

Jeanne Knollinger - Direct examination
By Mr. Andrews

1 A Pit Stop Gas Station on 12th Street.

2 Q And then what did your job duties include?

3 A They included doing cashiering, cleaning, restocking.

4 Q How much were you making at that time?

5 A \$8.00.

6 Q Okay. Eight dollars an hour?

7 A Yeah, \$8.00 an hour.

8 Q I want to move, move back and talk about how you were
9 before this collision happened.

10 Did your back -- did your lower back ever hurt at any
11 time prior to this collision?

12 A No.

13 Q Never had any back pain?

14 A No.

15 Q Other than aches and---

16 A Just, yeah, regular wear and tear.

17 Q All right. And I forgot to ask you earlier.

18 How old are you?

19 I'm sorry I have to ask that.

20 A Fifty-nine.

21 Q Fifty-nine.

22 So, other than the normal aches and pains, you never
23 had any back pain prior to this collision?

24 A No.

25 Q All right. Did you ever have any trouble bending over,

Jeanne Knollinger - Direct examination
By Mr. Andrews

1 picking up anything?

2 A No.

3 Q All right. And prior to this collision, did you ever
4 have any pain to your right knee?

5 A No.

6 Q You never had any aches, pains?

7 A Not to my re -- no.

8 Q Never broke it or anything like that?

9 A No, sir.

10 Q How about your chest area?

11 Prior to this collision, did you ever have --
12 experience any pain in your chest?

13 A No, sir.

14 Q Okay. Now, before you were injured, did you ever take
15 part in any exercises?

16 A Yes.

17 Q what type of exercises?

18 what would you like to do?

19 A I use to go and be able to bowl. I use to be able to
20 take my grandkids to the park and play on the
21 merry-go-round, push them on the swings, roll down the hills
22 with them.

23 Q Okay. Let's take these one at a time. Bowling, how --
24 how often did you like to bowl?

25 A I bowled twice a week.

Jeanne Knollinger - Direct examination
By Mr. Andrews

1 Q what was your average?

2 A 170.

3 Q Wow. You can beat me, and let's talk about your
4 grandkids.

5 well, going back to bowling, bowling that would -- that
6 involves using your back, right?

7 A Yes, sir.

8 Q Does that involve using your right leg?

9 A Yes.

10 Q And your grandkids, you stated you liked to play with
11 your grandkids.

12 what all did you do with your grandkids?

13 A We'd go to the park. We'd play out in the sand. We'd
14 go to the swings. We'd ride bikes. They bowled with me.

15 Q which park would you go to?

16 A Any park that was close. We use -- they live in
17 Sandhill. I live in Gaston. So, we'd just go to any of the
18 park -- different school parks.

19 Q Okay. And how often would you play with your
20 grandkids?

21 A I had them every weekend.

22 Q So, you would take part in these activities prior to
23 the collision weekly?

24 A Yes.

25 Q And are there any other activities that you use to do

Jeanne Knollinger - Direct examination
By Mr. Andrews

1 prior to the collision, any type of exercise?

2 A Gardening. I use to do a lot of gardening, and then I
3 had -- I use to ride my bike all the time, and walk my dog.

4 Q Now, whenever you were gardening, does that involve
5 using your back and -- your back at all?

6 A I had to get down on my knees. I had a rock garden.
7 So, I had to be on my knees, and be able to reach, and pick
8 up the rocks to move them.

9 Q Okay. And bicycling, did you bicycle, maintain good
10 health?

11 A Yes, and to play with the kids. They liked to bicycle
12 ride. So, I had to learn how again.

13 Q So, would -- you bicycled a lot with your grandkids?

14 A Yes.

15 Q All right. Is there anything else that you like to do
16 prior to this collision?

17 A No, I'm --.

18 Q Well---

19 THE COURT: Mr. Andrews, let me -- I'm sorry to
20 interrupt your examination, but I think we need to take a
21 short break --

22 MR. ANDREWS: Okay.

23 THE COURT: -- if this is an okay time.

24 MR. ANDREWS: Yes, ma'am.

25 THE COURT: I apologize.

Jeanne Knollinger - Direct examination
By Mr. Andrews

1 I'm gonna send you-all to the jury room, and I want
2 everybody to, to stand up, and shake it off. I need every
3 juror to be awake, and alert, and paying attention.

4 And so, if you need some coffee, or a Coke, or
5 something else, please let the bailiff know, and we're gonna
6 take just a five to ten minute break because you can't sleep
7 through the trial. You simply can't do that. So, I want to
8 give you time to sort of shake it off, and, and wake
9 yourselves up, and we'll have you back shortly.

10 Don't discuss the case amongst yourselves, and just
11 hang out in the jury room, and, and wake yourselves up a
12 little bit.

13 Thank you.

14 (WHEREUPON, the following takes place outside the
15 presence of the jury.)

16 THE COURT: I'm gonna actually allow her to step -- go
17 ahead.

18 Ms. Knollinger, during this break, you can step down.
19 Don't discuss your testimony with anybody, but, you know,
20 you can walk around---

21 THE WITNESS: I just want a drink.

22 THE CLERK: ---a few minutes, get something to drink,
23 some water, whatever. We'll just be on a short break.

24 MR. ANDREWS: I didn't know I was so boring, Your
25 Honor.

Jeanne Knollinger - Direct examination
By Mr. Andrews

1 THE COURT: No, I noticed---

2 MR. ANDREWS: My apologies.

3 THE CLERK: And I noticed it even during my opening
4 remarks -- this doesn't need to be on the record.

5 (WHEREUPON, an off-the-record discussion was held at
6 this time.)

7 THE COURT: We'll just be ease for about ten minutes.

8 MR. ANDREWS: Thank you, Your Honor.

9 THE COURT: And I'm sorry to interrupt, you know, your
10 questions, but --.

11 MR. ANDREWS: Thank you for waking them up.

12 THE COURT: Yeah, you need awake jurors. So --.

13 (WHEREUPON, a short recess was taken at this time.)

14 THE BAILIFF: The jurors are present, Your Honor.

15 THE COURT: Thank you, ma'am.

16 Mr. Andrews, you may continue.

17 MR. ANDREWS: Thank you, Your Honor.

18 CONTINUED DIRECT EXAMINATION

19 BY MR. ANDREWS:

20 Q Ms. Knollinger, I think, when we left off, I was asking
21 is there any other types of exercise that you took part in
22 prior to the collision?

23 A I use to do sit-ups and stuff like that for my health.

24 Q And how often would you do sit-ups?

25 A Every day.

Jeanne Knollinger - Direct examination
By Mr. Andrews

1 Q And would that involve the use of your back?

2 A Yes.

3 Q would that involve the use of your right leg as well,
4 your right knee?

5 A Yeah.

6 Q All right. And did you have any certain things that
7 you did around the household prior to the collision, your
8 household in which you lived in?

9 A I had to do everything around my house because I have a
10 disabled husband. I had to do vacuuming, cleaning, laundry,
11 dishes, cook.

12 Q Anything else?

13 A Take care of him. Make sure everything was set up when
14 I went to work.

15 Q well, let's move to the day of the collision cause
16 that's why we're here today.

17 Do you remember December 11th, 2014?

18 A Yes.

19 Q what day of the week was that?

20 A Thursday.

21 Q what, what was the weather like?

22 A It was sunny. Nice.

23 Q what was -- where did the collision occur at?

24 we're gonna go back to the details, but what street did
25 the collision occur at?

Jeanne Knollinger - Direct examination
By Mr. Andrews

1 A On Garners Ferry Road.

2 Q And where were you -- before coming onto Garners Ferry
3 Road, where were you coming from?

4 A Target.

5 Q And---

6 A And I---

7 Q ---what were you doing, doing at Target?

8 A Dropping office prescriptions.

9 Q And where were you going to on Garners -- where were
10 you leaving Target to go to?

11 A To my son's shop on Leesburg Road.

12 Q And so you would need to take a right out of Target
13 parking lot to head that way, correct?

14 A No, I took a left onto Pelham, and then I went through
15 the yield onto Garners Ferry Road.

16 Q All right. I wasn't trying to trick you. I'm just---

17 A You're fine. I'm, I'm --.

18 Q So, you came down Pelham Road, and, Pelham Road, is
19 that perpendicular with Garners Ferry Road?

20 A Yes.

21 Q And you testified that you took a right onto Garners
22 Ferry Road from Pelham Road?

23 A Yes.

24 Q Is that correct?

25 And was there any type of signs or anything on Pelham

Jeanne Knollinger - Direct examination
By Mr. Andrews

1 Road?

2 A There's a stop sign for the straight away, and there's
3 a yield sign to go onto the right.

4 Q So, you would of been passing through a yield sign?

5 A Yes.

6 Q And what is your understanding on what a yield sign
7 means?

8 A That you look to the left to make sure there's no body
9 coming. You look to the right to make sure nobody's in the
10 parking lot, and you get -- turn. You don't have to
11 completely stop unless there's a car coming from the left.

12 Q When you say coming from the left, coming from the
13 direction in which you're attempting to merge?

14 A Yes.

15 Q Okay. And whenever you were coming down Pelham Road,
16 did you look to the right at all?

17 A Yes.

18 Q Did you -- what did you observe?

19 A When I was in the driveway going out onto Pelham Road,
20 there was a big white truck, box truck, backing up, and I
21 was just watching it to see where he was going cause there
22 is another driveway back there. And then he started going
23 to the -- along the building toward Garners Ferry Road.

24 Q And what do you mean there's another driveway back
25 there?

Jeanne Knollinger - Direct examination
By Mr. Andrews

1 There's another driveway there?

2 A Off of -- in -- by San Jose to come out onto Pelham.

3 Q So, there's an exit from the San Jose Restaurant onto
4 Pelham Road?

5 A And Garners Ferry.

6 Q Okay. And the box truck that you saw, it wasn't
7 heading towards the exit on Pelham Road?

8 A No, it was headed toward Garners Ferry.

9 Q All right. Will you describe for the jury, in your own
10 words, what happened in the collision?

11 A I came out of there, and I watched him to see how far
12 he was going. And I was about a half car length or car
13 length ahead of him, and I was watching to see if he was
14 gonna slow down. And, when I got to the corner, I looked
15 and he was still sitting at that -- at the road. And I
16 looked to the left, and I continued out. And then I glanced
17 down at my left mirror to make sure they were there because
18 I needed to get all the way over eventually to get to my
19 son's.

20 Q What do you mean by make sure they were there?

21 Who are you talking about?

22 A The cars. And to make sure that, on my right, I made
23 sure that he was -- the truck was still there, and I made
24 sure that they were far enough behind me to where I could
25 start to travel to the left.

Jeanne Knollinger - Direct examination
By Mr. Andrews

1 Q They or the vehicles that are approaching---

2 A The vehicles---

3 Q ---the cars?

4 A ---that were coming over the hill toward me.

5 Q Heading in the same direction of which you were
6 attempting---

7 A Yes.

8 Q ---to merge?

9 Okay. And so your testimony is you looked to the
10 right, you saw you -- you had some distance, and then you
11 began your merge onto Garners Ferry Road because it was safe
12 to merge -- to do so?

13 A Yes.

14 Q All right. And when you looked down to the left, when
15 you looked to the left mirror, what were -- why were you
16 looking to the left mirror again?

17 A To make sure where those cars were -- how close they
18 were coming to me from behind.

19 Q Were you trying to merge into the center lane?

20 A I needed to get all the way over in the left lane to go
21 down to where my son's shop is.

22 Q And when -- and Garners Ferry Road -- let's back up for
23 a sec.

24 How many lanes of travel are there?

25 A Three.

Jeanne Knollinger - Direct examination
By Mr. Andrews

1 Q So, there's three lanes of travel?

2 A well, there's three lanes going one way, a median, and
3 three lanes going the other way.

4 Q Okay. And whenever you made a right-hand turn onto
5 Garners Ferry Road---

6 A I was in the right lane.

7 THE COURT: Okay. Hold on one second.

8 Ms. Knollinger, I need you to wait for him to finish
9 his question---

10 THE WITNESS: I'm sorry.

11 THE COURT: ---completely, and then you speak. This
12 lady over here is a court reporter.

13 THE WITNESS: I'm sorry.

14 THE COURT: She's taking down everything that's said,
15 and it's very difficult when two people are talking at the
16 same time.

17 THE WITNESS: Got you.

18 THE COURT: Okay.

19 THE WITNESS: Sorry.

20 Q It's okay. It's nerves. We're all nervous here. So
21 --.

22 A well, I know the roads. So --.

23 Q So, when you took a right onto Garners Ferry Road from
24 Pelham Road, traveled through a yield sign?

25 A Yes.

Jeanne Knollinger - Direct examination
By Mr. Andrews

1 Q And then you looked to your mirror to the left so you
2 can merge into the center line.

3 That was your testimony?

4 A Yes.

5 Q And what happened whenever you looked up?

6 A There was a big white box in front of me, and I had
7 picked up my foot off the gas, and ran into the box truck.

8 Q So --.

9 A The front corner I believe.

10 Q Is it your testimony that, whenever you made a right on
11 right -- onto Garners Ferry Road, you completed the right on
12 Garners Ferry Road, and that box truck has not -- had not
13 exited the San Jose Restaurant?

14 A Yes.

15 Q Okay. And then, when you made that right-hand turn,
16 you looked left to your mirror, correct?

17 A Yes.

18 Q And looked up?

19 what happened again?

20 A He was there. There was no stopping.

21 Q What, what was going through your mind when this
22 happened?

23 A I thought I was dead. I, I didn't know what was gonna
24 happen to me. All I thought is I was gonna end up having to
25 be crippled, and then there'd be two of us disabled.

Jeanne Knollinger - Direct examination
By Mr. Andrews

1 Q What -- where is your understanding of where the actual
2 initial impact occurred?

3 A Right at, at -- I got -- the driveway coming out of San
4 Jose.

5 Q In what lane of travel?

6 A It was in the -- I was just starting to turn to the
7 middle lane of the three when he -- when I looked up because
8 I was watching in the mirror for a minute to see -- make
9 sure they weren't there, the cars coming behind me.

10 Q And you're positive that, after you -- when -- after
11 you completed and established yourself on Garners Ferry
12 Road, that box truck hadn't left the restaurant parking lot?

13 A Yes, because when I turned---

14 MR. CHEVES: Objection, Your Honor. He's leading.

15 A When I turned---

16 THE COURT: Sustained.

17 Hold on one second.

18 MR. ANDREWS: I'll reword.

19 THE COURT: Re -- yes.

20 Q All right. And when you turned -- and when you turned
21 onto Garners Ferry Road, where was the box truck?

22 A Still sitting at the edge of the road in the parking
23 lot.

24 Q And so whenever you established your -- did you
25 complete your turn on Garners Ferry Road?

Jeanne Knollinger - Direct examination
By Mr. Andrews

1 A Yes.

2 Q And when you completed your turn on Garners Ferry Road,
3 where did you observe the box truck to be?

4 A When I turned the curve, he was still sitting there,
5 and I glanced to my left mirror to see how close the cars
6 were behind me.

7 Q Okay. And then what happened next?

8 A I looked up, and there he was.

9 Q All right. And where is your understanding of where
10 this collision occurred on Garners Ferry Road?

11 A My front tire on the driver's side would of been just
12 over the line to the second lane when he -- when I hit him.

13 Q Could you describe for the jury how significant this
14 impact was?

15 A I went forward, jerked me. I hit the side cause it
16 went to the side, and I -- spun me around, and I blacked out
17 for a second. When I got up, I was in the middle of the
18 road.

19 Q What do you mean you were in the middle of the road?

20 A I was all the way around, and in, in the median.

21 Q Was your car not facing the same way that it was
22 facing---

23 A No.

24 Q ---before?

25 A No.

Jeanne Knollinger - Direct examination
By Mr. Andrews

1 Q Had it completely turned around?

2 A Yes.

3 Q All right. And so is it your understanding that your
4 vehicle was impacted and drug around to Garners Ferry Road?

5 MR. CHEVES: Your Honor, again---

6 THE COURT: Sustained.

7 Q what did you feel like right after -- you just
8 testified that you blacked out.

9 How did your body feel right when you kind of regained
10 your senses?

11 A I was sore and I couldn't hardly breathe. I was out of
12 breath. I, I was in a lot of pain.

13 Q And I want to show you some pictures, and see if you
14 can identify them.

15 Can we premark these?

16 I'm sorry.

17 THE COURT REPORTER: That's okay.

18 MR. ANDREWS: One, two, and three.

19 would you like a copy, ma'am?

20 (WHEREUPON, three photographs were marked as
21 Plaintiff's Exhibit Nos. 1 through 3 for identification
22 purposes only at this time.)

23 Q And, Ms. Knollinger, will you take a look at this
24 photograph, and that's been premarked as Plaintiff's Exhibit
25 1.

Jeanne Knollinger - Direct examination
By Mr. Andrews

1 Do you recognize that photograph?

2 A Yeah.

3 Q Do you recognize the vehicle in that photograph?

4 A It's mine.

5 Q And what do you recognize -- is that a fair and
6 accurate description -- is that a fair and accurate,
7 accurate representation of what your vehicle looked like
8 directly after the collision?

9 A Yes, sir.

10 Q All right. And will you take a look at Plaintiff's
11 Exhibit 2?

12 Is that your same -- is that your same car?

13 A Yes, sir.

14 Q And is that a fair and accurate representation of---

15 A Yes, sir.

16 Q ---what your vehicle looked like after the collision?
17 Same thing with Plaintiff's 3?

18 A Yes, sir.

19 Q And is that a fair and accurate representation of what
20 your vehicle looked -- what happened to your vehicle after
21 the collision?

22 A Yes, sir.

23 MR. ANDREWS: And, Your Honor, I'd like to move to
24 enter Plaintiff's 1 through 3 into evidence, and publish to
25 the jury.

Jeanne Knollinger - Direct examination
By Mr. Andrews

1 THE COURT: They're admitted without objection.

2 (WHEREUPON, Plaintiff's Exhibit Nos. 1 through 3 were
3 received into evidence at this time.)

4 Q All right. So, was your vehicle totaled?

5 A Oh, yes.

6 Q From your understanding, was it drivable from the
7 scene?

8 A No.

9 Q And what happened after the collision?
10 Did you stay in your vehicle?

11 A Yes, sir.

12 Q Why did you stay in there?

13 A I couldn't breathe, and the lady that came to my --
14 side of my door, it wouldn't open, and she told me I needed
15 to stay there till the police and ambulance came.

16 Q Were you scared?

17 A Yes.

18 Q All right. And what happened next?

19 Did any police come or emergency personnel?

20 A My son was there first. I had her call my son. I kept
21 telling her I needed to have my son, and needed him now.

22 And---

23 Q And so there's a bystander who called your son?

24 A Yes.

25 Q And your son came to the scene?

Jeanne Knollinger - Direct examination
By Mr. Andrews

1 A Yes. And the policeman followed my son to the, to the
2 accident.

3 Q Okay. And did emergency personnel -- did any
4 paramedics show up?

5 A The fire department was there first, and then the
6 ambulance was there after the policeman and my son.

7 Q And what did the paramedics do to treat you at the
8 scene?

9 A They checked all of my vitals as they were getting me
10 out, and putting me into a -- onto the gurney, and took me
11 to the hospital.

12 Q And so I don't get ahead of myself, what parts of your
13 body were hurt?

14 A Across my chest, my arm, my hip, and my right knee.

15 Q Do you know where you hit your hip and your -- in the
16 vehicle?

17 A Well, my hip went -- my body went this way and hit the
18 side door handle or the rest. Armrest.

19 Q Uh-huh. (Affirmative).

20 A And my knee hit the shifter in the middle that I had it
21 up getting ready to step on the brake.

22 Q And did your chest hit anything?

23 A My chest went forward and hit the -- with the seatbelt
24 on it, and hit the front of the steering wheel.

25 Q Okay. And you just testified you left the scene in an

Jeanne Knollinger - Direct examination
By Mr. Andrews

1 ambulance?

2 A Yes.

3 Q And where did that ambulance take you to?

4 A Richland, Richland Memorial I believe.

5 Q Richland Memorial Hospital.

6 And what happened when you reached the hospital?

7 A They took me out, and they took me in for all kinds of
8 x-rays, and, and checked out my EKGs, and all that stuff.

9 Q How long were you treated there?

10 Do you recall?

11 A Approximately two and a half hours.

12 Q And were you able to be discharged that day?

13 A Yes.

14 Q What did you do after you left the hospital?

15 A My husband took me home, and I went in and got a
16 shower. He helped me in the shower. My son was there and
17 he helped me in the shower, and got me back in my bed after
18 I took my medicine.

19 Q All right. Let's talk about your condition after you
20 left the hospital on the day of the collision.

21 How did, how did your body feel?

22 How did you feel after you left?

23 A In a lot of pain.

24 Q Where did -- where were you hurting?

25 A My lower back, and up in my chest.

Jeanne Knollinger - Direct examination
By Mr. Andrews

1 Q And I'm gonna show you some other pictures.

2 (WHEREUPON, photographs were marked as Plaintiff's
3 Exhibit Nos. 4 through 8 for identification purposes only at
4 this time.)

5 Q Ms. Knollinger, I'm gonna show you a picture we've
6 marked as Plaintiff's Exhibit 4, and do you recognize that?

7 A It's my right knee.

8 Q All right. And what do you recognize on your right
9 knee?

10 A Where I hit the steering or the shifter on this side.

11 Q And is it your testimony that that---

12 A My right side.

13 Q Is it your testimony that bruising was a, a direct
14 result of this collision?

15 A Yes.

16 Q All right. And I'm sorry we got to show some
17 embarrassing pictures, but I want -- I think it's important
18 for the jury to see some of these injuries.

19 Do you recognize Plaintiff's 5?

20 A Yes, that's my breast.

21 Q And is that a bruising on your breast?

22 A Yes, it's bruised from across to where the seatbelt
23 was.

24 Q And that happened in the collision?

25 A Yes.

Jeanne Knollinger - Direct examination
By Mr. Andrews

1 Q And can you tell for the jury what Plaintiff's 6 is?

2 A It's my breast again on the other side where it was
3 bruised?

4 Q And, Plaintiff's 7, can you tell the jury what that is?

5 A It's the bruising underneath my arm and on that.

6 Q And did the bruising appear as a result of this
7 collision?

8 A Yes, sir.

9 Q And, lastly, take a look at Plaintiff's 8.

10 will you tell the jury what that is?

11 A That's my lower back where it was bruised across the
12 backside across where my -- top of my hips are.

13 Q And where was the bruising at?

14 Can you point to the---

15 A Yeah, right here.

16 Q And---

17 A And this is the lower part of my body.

18 Q And is it your testimony that these bruising are a
19 direct result of this collision?

20 A Yes, sir.

21 MR. ANDREWS: All right. And, Your Honor, I move to
22 enter into evidence Exhibits 4 through 8.

23 MR. CHEVES: No objection.

24 THE COURT: They're in without objection.

25 (WHEREUPON, Plaintiff's Exhibit Nos. 4 through 8 were

Jeanne Knollinger - Direct examination
By Mr. Andrews

1 received into evidence at this time.)

2 Q All right. Ms. Knollinger, will you -- in looking at
3 these pictures and everything, the bruising on your body,
4 and how did you feel?

5 How, how did these bruising make you feel?

6 A In a lot of pain.

7 Q Were you able to do anything around the household?

8 A Not -- my daughter-in-law and son came to help me.

9 Q Which, which son came?

10 A Christopher.

11 Q And was his wife---

12 A His---

13 Q ---your daughter-in-law that came?

14 A Yes.

15 Q And what all did they help you do?

16 A They helped me do all my housework, and cooked at the
17 stove, and did the dishes, and helped me in and out of the
18 tub, up and down out of the couch.

19 Q How did that make you feel to have to rely on somebody
20 else?

21 A I'm a very independent person. I didn't really like it
22 at all.

23 Q How long do you think---

24 A Very---

25 Q How long do you recall having to rely on others for

Jeanne Knollinger - Direct examination
By Mr. Andrews

1 help after this collision?

2 A It was a week before I could get up by myself off the
3 couch, and into the tub, and --.

4 Q So, a week after the collision, you were relying on
5 other people solely for your care?

6 A Yes.

7 Q And did you end up seeking any other medical treatment?

8 A Yes, I did.

9 Q And why did you, why did you seek other medical
10 treatment?

11 A Because I tried to go back to work to kind -- to make
12 sure I got -- get my check, and I -- they gave me a job just
13 sitting at the register on a stool, and I had heart
14 paltations (phonetic) real bad and chest pains. And my boss
15 sent me to Lexington Hospital.

16 Q And so were those chest pains the same chest pains that
17 you were feeling since the day of the collision?

18 A Yes.

19 Q And so you tried to go back to work, but ended up
20 having to go back to the hospital.

21 A Yes.

22 Q And what happened at Lexington Hospital?

23 A They did other x-rays and checked it all out and said
24 that it was very internal bruising.

25 MR. CHEVES: Your Honor, objection to anything the

Jeanne Knollinger - Direct examination
By Mr. Andrews

1 doctors have said.

2 THE COURT: Sustained.

3 MR. ANDREWS: I'm sorry. I didn't hear the objection.

4 THE COURT: Hearsay from the doctors.

5 MR. ANDREWS: Oh, okay. I apologize.

6 And how long were you at the hospital?

7 A Probably about an hour and a half approximately.

8 Q All right. And when you left the hospital, how were
9 you feeling?

10 A Still sore, in pain, but I went home.

11 Q Okay. How long did you experience pain in your right
12 arm after the collision?

13 A For a while, but, when I use it a lot, it still hurts.

14 Q And how long did you experience that pain in your chest
15 after the collision?

16 A Probably about a month.

17 Q And, your lower back, how was your lower back feeling
18 after the collision?

19 How long did you experience pain in your lower back?

20 A I still have pain in my back if I walk a lot or have to
21 do bending to pick the stuff up off the floor.

22 Q Now, I remember from your deposition you stated that
23 you don't know if the -- this is a result of this collision
24 or not, the constant lower back pain you're feeling to this
25 day, but how's your -- is your back feeling -- does your

Jeanne Knollinger - Direct examination
By Mr. Andrews

1 back feel worse now than it did prior to the collision?

2 A Yes.

3 Q All right. And did you ever go seek any other medical
4 care?

5 A I went to Doctor Faust for others reasons, but he saw
6 all my bruising, and he had checked it out, and gave me some
7 antiinflammatory and ibuprofen.

8 Q Okay. All these medical providers that we talked
9 about, you incurred medical expenses from them, correct?

10 A Yes.

11 Q All right. And, and, I'm sorry, I got to ask you about
12 this. I feel from -- some of our previous testimony is
13 that, prior to this collision, you did suffer some
14 depression.

15 Is that correct?

16 A Oh, yes.

17 Q And, after this collision, did you experience any
18 heightened depression?

19 A A lot more depression because of stress.

20 Q Could you explain that more for the jury please?

21 A I'm the sole worker at my home. My husband gets
22 disability. I couldn't work. I couldn't do some of the
23 things I needed to. It put us in a financial bind. I had
24 no car. Both of my vehicles were paid for before I came,
25 and I had to figure out where everything was coming to pay

Jeanne Knollinger - Direct examination
By Mr. Andrews

1 all my bills.

2 Q So, you did experience some worry about that cause you
3 didn't have a vehicle, correct?

4 A Oh, yes.

5 Q All right. And are you still feeling depressed to this
6 day?

7 A Yeah.

8 Q Are you---

9 A I'm still paying bills. I have garnishing coming out
10 of my checks, and I have collection agencies that I give as
11 little as I can so that I can still maintain my life at
12 home.

13 Q Now, when you're talking about these bills, are you
14 talking about the medical expense you incurred?

15 A Medical.

16 Q All right. And---

17 A Car payment.

18 Q How is this collision affected you emotionally?

19 A I'm very depressed, and I'm very upset, and my husband
20 and I have a lot of problems now.

21 Q So, this has affected your marriage?

22 A Yes.

23 Q Something to do with this wreck affected your marriage?

24 A Because of stress and trying to figure things out, and
25 there isn't nothing he can do being disabled. He gets

Jeanne Knollinger - Direct examination
By Mr. Andrews

1 upset, which irritates me, and makes me stressed.

2 Q what do you mean trying to figure things out?

3 A How to make sure that I can keep ends met.

4 Q And your testimony is that your back's still hurting to
5 this day?

6 A Yes.

7 Q All right. And do you take anything to deal with this?

8 A I take extra strength Tylenol.

9 Q Does that help at all?

10 A It takes the edge off of it so I can cope.

11 Q And how often do you take Tylenol?

12 A At least twice a day.

13 Q Okay. Now, what were some of the things that you could
14 do prior to this collision that you couldn't do now?

15 A I use to be able to play with my kids and my grandkids
16 to do things, and my gardening, and all in the yard and
17 cleaning.

18 Q well, let's go through these one by one.

19 You're not able to play with your grandkids as much as
20 you use to be able to?

21 A No, I can't push them on the merry-go-round. I can't
22 push them on a swing. I can't go riding bikes with them. I
23 can't roll down the hills with them.

24 Q And why is that?

25 A Because of my lower back I can't.

Jeanne Knollinger - Direct examination
By Mr. Andrews

1 Q Have you tried?

2 A I've tried.

3 Q How many times?

4 A More than once, but my son was there, and he helped me
5 roll over to get up.

6 Q And why can't you garden any more?

7 A Because I have to be on my knees and reach and pick up
8 the rocks in my garden and move them.

9 Q And you were able to do this all prior to this
10 collision?

11 A Yes.

12 Q And you're not able to ride a bike anymore?

13 A No, my left leg can't do that because it hurts in my
14 lower back on that side.

15 Q And is there anything else you want to tell the jury
16 how this is affected you mentally?

17 A I'm fearing when I get on the road. I'm -- people --
18 I'm very skeptical that I have to do it. I have no other
19 choice, but I'm skeptical of people coming out of on ramps,
20 out of parking lots.

21 Q And why is that?

22 A Because it's -- it scares me that they're not gonna
23 stop or wait.

24 Q And, Ms. Knollinger, is there anything else you'd like
25 to tell the jury about this wreck or how it made you feel

Jeanne Knollinger - Direct examination
By Mr. Andrews

1 afterwards?

2 A The only thing is that Mr. Ryan -- Mr. Oliver has never
3 apologized. He's never acknowledged the fact that he was at
4 fault, and he's never even had any kind of remorse for it.

5 Q And it's your testimony that your vehicle---

6 A It's embarrassing to me.

7 Q And it's your testimony that your vehicle was fully
8 established on Garners Ferry Road before this collision
9 happened?

10 A Yes.

11 Q I have no further questions. Please answer any
12 questions the defense counsel may ask of you.

13 MR. CHEVES: Please the Court, Your Honor?

14 THE COURT: Yes, sir.

15 CROSS-EXAMINATION

16 BY MR. CHEVES:

17 Q Hello.

18 A Hello.

19 Q I think we've established that you were merging off of
20 Pelham Drive onto Garners Ferry Road.

21 Is that right?

22 A Yes.

23 Q When this accident---

24 A Yes, sir.

25 Q Is that correct?

Jeanne Knollinger - Cross-examination
By Mr. Cheves

1 Okay. I want to show you a photograph that your
2 attorney has given to me, and ask you if you recognize this
3 as the entrance ramp from Pelham Drive onto Garners Ferry
4 Road.

5 A Yes.

6 Q Okay.

7 A Right there's the road.

8 Q All right. And that, that shows the path that you
9 would of traveled?

10 A Yes, sir.

11 Q All right. And it shows the exit to the, the---

12 A The---

13 Q ---was then a Mexican restaurant I believe?

14 A Yes.

15 Q Okay. Thank you.

16 Your Honor, we'd like to admit this as Defendant's
17 Exhibit 1.

18 THE COURT: Any objection?

19 MR. ANDREWS: No objection.

20 THE COURT: Admitted without objection.

21 (WHEREUPON, the photograph was marked as Defendant's
22 Exhibit No. 1, and received into evidence at this time.)

23 Q Now, you've testified that Pelham Drive also has a, I
24 guess, an entrance or an exit way to, to the same parking
25 lot that, that Mr. Oliver was pulling out of, that, that

Jeanne Knollinger - Cross-examination
By Mr. Cheves

1 shared a parking lot.

2 A Yes.

3 Q Okay. So, would you agree that merging on -- the merge
4 point onto Garners Ferry Road is, is pretty close to the,
5 the entranceway to the restaurant?

6 well, they, they share a parking lot, correct?

7 A Oh, no.

8 The -- who shares the parking lot?

9 I'm sorry.

10 Q You -- well, we know that there is an exit way, an
11 entrance way from the restaurant onto Garners Ferry Road.

12 A Yes.

13 Q And that my client was pulling out of?

14 A Yes.

15 Q You've also testified that there was another exit off
16 of the parking lot onto Pelham Drive?

17 A Right.

18 Q So, my question to you is, if they share a parking lot,
19 then the merge point of Pelham Drive, and the entrance way
20 to the, to the restaurant, they're, they're pretty close
21 together.

22 A Yes.

23 Q Are they not?

24 Okay. And when you approached Garners Ferry Drive,
25 there was, there was a yield sign that you encountered?

Jeanne Knollinger - Cross-examination
By Mr. Cheves

1 A Yes.

2 Q All right. And we're taught that obviously we have to
3 make sure that we can yield safely onto a road if there's a
4 yield sign?

5 A Yes.

6 Q All right. And to do that, we have to look over our
7 left shoulder?

8 A Yeah.

9 Q All right. It's not enough just to look in the
10 rearview mirror?

11 You have to look over your left shoulder to be safe?

12 A Well, I didn't look in my rearview mirror.

13 Q Yes, ma'am, I'm---

14 A Yes.

15 Q Okay. I'm agreeing---

16 A Yes.

17 Q ---that, that you -- all right. And then so -- and you
18 would agree that you were still on Pelham Drive when you
19 looked over your left shoulder to make sure that you could
20 yield?

21 A I looked to my right to where the truck -- to see where
22 the truck was.

23 Q While you were on Pelham?

24 A And then I looked to the right or to the left to see
25 where the vehicles were still coming down the hill.

Jeanne Knollinger - Cross-examination
By Mr. Cheves

1 Q Right.

2 Okay. But, but you don't wait till you're already on
3 Garners Ferry to start looking over your left shoulder?

4 You're looking---

5 A No.

6 Q You're looking over your left shoulder before you
7 yield, correct?

8 A Yes.

9 Q Okay. And then you testified that also that you were,
10 you were eventually heading towards that far left lane of
11 three, correct?

12 A Yes.

13 Q All right. And, to do that, you had to look over your,
14 your left shoulder?

15 A No, I looked down in my mirror to see how far they
16 were.

17 Q Okay. So, you, you looked over your left shoulder to
18 merge, and looked in your side mirror to, to get over to the
19 far left lane?

20 A I never looked over my left shoulder.

21 Q You just said you did before you merged onto---

22 A No, I looked---

23 Q ---Garners Ferry.

24 A ---to my left. I didn't say over my shoulder. My
25 shoulder's behind me.

Jeanne Knollinger - Cross-examination
By Mr. Cheves

1 Q Sure.

2 A I come up to the curve. It's not a very long curve.

3 Q Okay. And we, we might be arguing semantics here.

4 A Okay.

5 Q You, you had to look to your left to make sure---

6 A Yes.

7 Q ---that, that there was no traffic coming on Garners
8 Ferry---

9 A Yes.

10 Q ---so that you could safely enter Garners Ferry?

11 A Yes.

12 Q All right. And then you had to look in your, in your
13 side mirror to make sure that you could get over to the far
14 left lane on Garners Ferry?

15 A After I was on Garners Ferry.

16 Q Okay. All right. All right. And you didn't stop at
17 the yield sign?

18 You didn't have to.

19 There was no cars coming from behind you?

20 A True.

21 Q All right. And you didn't even slow down when you got
22 to the yield sign?

23 A Yes.

24 Q You, you -- you're testifying that you slowed down?

25 A Yes.

Jeanne Knollinger - Cross-examination
By Mr. Cheves

1 Q Okay.

2 THE COURT: So, ladies and gentlemen, what this is is a
3 transcript of a deposition that was taken in this case. The
4 deposition is simply an out-of-court procedure where the
5 attorneys can ask questions, and get answers of the
6 witnesses.

7 What Mr. Cheves is handing me is a copy of the
8 transcript enclosed in an envelope. It's just enclosed to
9 make sure that there are no additions or revisions to it.
10 That's the original of it, and, and he's about to refer to
11 that.

12 MR. CHEVES: May I approach the witness?

13 THE COURT: Yes.

14 Q Ms. Knollinger, I'm gonna hand you this, this
15 transcript here, and I'm gonna ask you, and your attorney
16 has referenced this earlier, do, do you recall sitting for a
17 deposition back in May of 2017?

18 A Yes.

19 Q Okay. Do you remember being put under oath and
20 promising to tell the truth back then?

21 A Yes.

22 Q Okay. And would you agree that your recollection, in
23 May of '17, was probably a bit fresher than your
24 recollection in September of 2018?

25 A Yes.

Jeanne Knollinger - Cross-examination
By Mr. Cheves

1 Q Okay. If you could turn to Page 18 of your deposition
2 please?

3 A (Witness complies.)

4 Q I'm gonna start at the top, and the question was how
5 fast were you going?

6 And your answer was, for sure, I don't know.

7 Then you were asked did you have to slow down because
8 of any traffic and your answer was no.

9 Do you agree that it says that?

10 A It says that.

11 Q Okay. And that was your testimony?

12 A Yes.

13 Q So, to merge onto Garners Ferry from Pelham Drive,
14 which shares a parking lot with the exit that Mr. Oliver was
15 exiting from, you looked over your left shoulder, and then
16 you looked in your side-view mirror, correct?

17 A Yes.

18 Q All right. And you, you did not stop, and you didn't
19 even slow down as you came through the yield sign?

20 A No, I, I, I wasn't going that fast down that road in
21 the first place.

22 Q Okay. But the question---

23 A And I did, did slow when I went around the corner. I
24 mean I was -- I didn't have to stop, but I slowed down cause
25 that's what you do at a yield sign.

Jeanne Knollinger - Cross-examination
By Mr. Cheves

1 Q All right. But you testified back over a year ago that
2 you didn't slow down?

3 A There's two different slow downs. I guess I
4 misunderstood that. But you slow down at a yield sign.

5 Q Okay.

6 A I slowed down from the point of where I turned onto
7 Pelham till I got to that point, but I did not go real slow
8 around the corner because they were far enough away when I
9 got to that curb that I knew I could turn.

10 Q They were far enough away on Garners Ferry?

11 A Yes.

12 Q All right. Far enough away that the truck pulling out
13 from a restaurant would have time to make a left-hand turn?

14 A Well, I was right there. He was still sitting there.

15 Q Right.

16 And you, you, you were merging onto Garners Ferry right
17 there at the---

18 A On the right side.

19 Q ---at the intersection?

20 Okay. All right. And then, when you looked up after
21 looking in your side-view mirror, the truck was only about a
22 car length in front of you?

23 A Not even probably.

24 Q Not even.

25 So, when you're turning to look forward, you were not

Jeanne Knollinger - Cross-examination
By Mr. Cheves

1 even a car length away from this truck?

2 A No.

3 Q Okay. And the photographs -- I'll show you photographs
4 that were introduced by your, your attorney as well.

5 Do you recognize that as your vehicle after this
6 accident?

7 A Yes.

8 Q Okay. Have you seen this photographs (sic) before?

9 A Yes.

10 Q All right. Can you look, just look at both of them,
11 and make sure they're at the same location.

12 A Uh-huh. (Affirmative).

13 Q Okay. Thank you.

14 Your Honor, we'd like to move to admit these as
15 Defendant's Exhibit 2.

16 MR. ANDREWS: No objections.

17 THE COURT: Collectively as two?

18 MR. CHEVES: That's fine. Be two.

19 THE COURT: Okay. They're admitted without objection.

20 (WHEREUPON, the photographs were marked as Defendant's
21 Exhibit No. 2, and received into evidence at this time.)

22 Q Ms. Knollinger, looking at these photographs, you would
23 agree that your vehicle ended up straddling the, the center
24 yellow line of the two eastbound and westbound lanes of
25 travel on, on Garners Ferry?

Jeanne Knollinger - Cross-examination
By Mr. Cheves

1 A Yes.

2 Q Okay. And, again, you've already testified that you
3 were headed towards that far left lane on Garners Ferry?

4 A Yes.

5 Q And do you recall where on the truck that you made
6 contact?

7 A I really don't. It -- I -- because all I saw was
8 white, and it went into it --

9 Q Okay.

10 A -- when he was there.

11 Q But the front of your vehicle impacted the side of the
12 truck?

13 A I'm not exactly sure where on the side. I mean it had
14 to be the side.

15 Q Because it was already out in front?

16 A Well, not when I looked up. It was -- there was white
17 and the middle. It was like the front of the box.

18 Q All right. The box being behind the cab?

19 A Yes.

20 Q Okay. So, the middle -- basically the middle?

21 A But I could see daylight.

22 Q Okay. But basically the middle of the truck is where
23 you impacted the truck?

24 A The middle of the truck, yes. Not the middle of the
25 box.

Jeanne Knollinger - Cross-examination
By Mr. Cheves

1 Q Okay. The middle of the -- okay. So, on this 26-foot
2 box truck, at least half of it had already pulled out in
3 front of you before you looked up and saw the truck?

4 A Huh?

5 Q Was it -- is that not what you just said?

6 A No, there -- there that isn't that much of a front to
7 a -- to the box.

8 Q You -- you'll agree that your entire front side was
9 impacted in the accident?

10 A The front side towards left, yeah, or toward the right.

11 Q Towards the right because -- did you take evasive
12 action?

13 Did you try to turn to the left prior to impact?

14 A I had just crossed over my front tire to the second
15 lane when I -- the -- when I looked up and the truck was
16 there, and that's where he -- wherever he was.

17 Q Okay. But your car ended up straddling the, the, the
18 median?

19 A Because he -- I felt my car get dragged all the way
20 around.

21 Q But you, but you blacked out.

22 So, how do you know?

23 A Because, when I hit him, I could feel it turning
24 around.

25 Q So, you got drug somehow from the far right lane or,

Jeanne Knollinger - Cross-examination
By Mr. Cheves

1 or, or going into the center lane all the way to the median
2 over two lanes of travel?

3 A Yeah.

4 Q Okay. All right. Ma'am, let's talk a little bit about
5 your medical history.

6 Now, prior to this accident, you had suffered a torn
7 rotator cuff, is that fair to say, in your shoulder?

8 A Yeah.

9 Q Okay. And you're not claiming any, any injury to your
10 shoulder from this accident?

11 A No.

12 Q Okay. You had a -- I think some surgery on your neck
13 prior to this accident?

14 A Years ago, yes.

15 Q Right.

16 All right. And we're not gonna dwell on that, but
17 you're not claiming any neck problems because of this
18 accident?

19 A No.

20 Q Okay. What I want to do, ma'am, is hand you a few
21 documents that have been produced by your attorney. These
22 are, these are basically your medical records from, from
23 back from this accident, and you will see that they --
24 there's -- they're tabbed, and I want you to turn to the
25 first tab, which is the EMS report.

Jeanne Knollinger - Cross-examination
By Mr. Cheves

1 A Uh-huh. (Affirmative).

2 Q Do you see that?

3 A Uh-huh. (Affirmative).

4 Q Do you recognize your name at the top?

5 A Yeah.

6 Q Okay. And where it says history or present illness,
7 about halfway in, in that box it says patient denies back or
8 neck pains.

9 MR. ANDREWS: Objection. That's hearsay.

10 MR. CHEVES: It's not hearsay. It's statements made
11 for the purposes of medical diagnosis. It's a clear
12 exception to the hearsay rule.

13 THE COURT: Overruled.

14 Q Patient denies back or neck pain.

15 Do you see that in the middle of that box towards the
16 bottom?

17 A Yes.

18 Q Okay. Says patient denies loss of consciousness, LOC.
19 You see that?

20 A I see that.

21 Q Okay. And -- well, they would of gotten that from you,
22 correct?

23 You're the, you're the patient.

24 A Well, I am the patient, yes.

25 Q Okay. Patient denies loss of consciousness, SOB,

Jeanne Knollinger - Cross-examination
By Mr. Cheves

1 shortness of breath, or chest pain.

2 Do you see where it says that?

3 A The -- I had chest pain. I don't know why it says
4 that.

5 Q Okay.

6 A I didn't tell them I didn't have chest pain. That's
7 why I went there.

8 Q All right. Well, let's turn to the next tab, which is
9 the hospital record at Palmetto-Health Richland where it
10 says history of present illness. Again, these are
11 statements that you're making to your doctor where it
12 says -- and where it says there's no air bag deployment.

13 Is that accurate?

14 A Yes.

15 Q Okay. Then it says she was t-boned in the passenger
16 side with moderate amount of intrusion into the passenger
17 cabin.

18 Well, that's not what happened, is it?

19 A We were---

20 Q You weren't t-boned?

21 A No.

22 Q You t-boned the truck?

23 A No.

24 Q If the front of your car hit the side of the truck,
25 then the -- do you not refer to that as, as t-boning the

Jeanne Knollinger - Cross-examination
By Mr. Cheves

1 truck?

2 A I don't know how to explain this without being -- when
3 I was going, and I was moving, it hit right on the corner of
4 my car, and turned me around to the other direction.

5 Q The wheels -- the front corner of your car?

6 A Right in the front.

7 Q And the side of the truck, correct?

8 A Okay. Yes.

9 Q All right. And then the past medical history and the
10 hospital record, it does refer to your, your having previous
11 problems with depression.

12 Is that, is that fair to say?

13 A Yes.

14 Q All right. You -- you've had depression since before
15 this accident?

16 A Yes.

17 Q Okay. And you testified that they, they took a litany
18 of tests, did they not that day, x-rays at the hospital?

19 A Yes.

20 Q All right. And it looks like, when you keep the Tab 2,
21 and you see the bottom where it says Page X of 55?

22 A what page of 55?

23 Q well, I'm -- turn to Page 47 of 55 where it talks about
24 the x-rays you underwent. You underwent a thoracic spine
25 x-ray.

Jeanne Knollinger - Cross-examination
By Mr. Cheves

1 That's your, that's your mid back, correct?

2 A Uh-huh. (Affirmative).

3 Q Okay. You underwent -- the next page.

4 You underwent a right elbow x-ray?

5 A Uh-huh. (Affirmative).

6 Q Okay. You underwent a right knee x-ray?

7 A Uh-huh. (Affirmative).

8 Q You underwent a right shoulder x-ray?

9 A Uh-huh. (Affirmative).

10 Q And then, finally, it says two view chest.

11 So, you underwent a chest x-ray at the hospital on your
12 first trip to the hospital?

13 A Yes.

14 Q Okay. And then you were discharged?

15 A Yes.

16 Q All right. Then you say, about a week later, you went
17 to Lexington County Hospital?

18 A Yes.

19 Q That's a different hospital, correct?

20 A Yes.

21 Q Okay. And when you went to Lexington County
22 Hospital -- turn to Tab 4, please, ma'am.

23 A (Witness complies.)

24 Q If you look at the second page of that record where it
25 says motor vehicle crash, do you see that, ma'am?

Jeanne Knollinger - Cross-examination
By Mr. Cheves

1 A Yes.

2 Q Okay. The, the last part of that section says symptoms
3 include chronic back pain.

4 Do you see where it says that?

5 A Yes.

6 Q All right. Do you know what chronic means?

7 A That it hurts really bad.

8 Q well, chronic means it's been there for a while.

9 Is that your understanding?

10 A No.

11 Q Okay. All right. And then, if you turn to Page 5 on
12 that record --

13 A (Witness complies.)

14 Q -- where it says patient restrained driver in MVA
15 approximately a week ago.

16 A Yes.

17 Q It says unsure loss of consciousness.

18 A Yes.

19 Q Okay. So, here today you're saying that you lost
20 consciousness. You told EMS that you did not lose
21 consciousness.

22 MR. ANDREWS: Objection. That's not what she testified
23 to.

24 THE COURT: Overruled.

25 Q And now you're telling Lexington that there, there

Jeanne Knollinger - Cross-examination
By Mr. Cheves

1 was -- you're unsure about loss of consciousness?

2 A My interpretation of unconsciousness was a blackout.

3 Q well, that's what---

4 A Then---

5 Q You said you blacked out.

6 A I didn't, I didn't -- I could hear things. I -- just
7 my eyes weren't open.

8 Q Okay.

9 A They -- you know -- I --.

10 Q All right. And later it says patient states x-rays
11 done, but they didn't do a chest x-ray.

12 well, they, they did do a chest x-ray at the first
13 hospital?

14 A Yeah, they did.

15 Q Okay. So, you're telling this hospital that they
16 didn't do one. So, they ran a chest x-ray.

17 A I never told them that. They didn't -- I told them I
18 needed another one because it still hurt.

19 Q All right. well, the record says they didn't do a
20 chest x-ray. That's in quotation marks.

21 Is that what the record states?

22 A That's what this says.

23 Q Okay. And do you feel like Mr. Oliver should be
24 responsible for that second chest x-ray?

25 A well, it still was hurting from that previous from when

Jeanne Knollinger - Cross-examination
By Mr. Cheves

1 I, I got hurt.

2 Q Okay. Well, did, did you reinjure your chest in that
3 week interval?

4 A No, I didn't go anywhere, but work.

5 Q All right. So, if you turn to Tab 5, which is your
6 bill from Lexington Medical Center, see what -- they charged
7 you \$3,497.00?

8 A Yes.

9 Q Okay. And it looks like -- if you look for the testing
10 that was done, x-ray was \$700.01.

11 Do you see that at the top?

12 A Yes.

13 Q And there's also some EKGs that were run?

14 A Yes.

15 Q You were charged for that as well?

16 A Yes.

17 Q Now, you testified that you began seeing Doctor Faust.
18 Is that right?

19 A Yes.

20 Q Was he a family doctor?

21 A I was new doctor -- to him.

22 Q Okay. This is at Lexington Family Practice?

23 A Uh-huh. (Affirmative).

24 Q Okay. Is, is it fair to say that you were seeing this
25 doctor for your depression rather than any, any injuries you

Jeanne Knollinger - Cross-examination
By Mr. Cheves

1 claimed from the, the accident?

2 A I went to him for other reasons besides. He saw the
3 bruising and wanted to know what happened, but I went there
4 for my depression.

5 Q Okay. If, if you turn to Tab 6, and, and you've
6 testified that your depression was made worse by this
7 accident.

8 Is that right?

9 A Yes.

10 Q Under history of present illness, on your visit of, of
11 January 14th, 2015, which is about a month after this
12 accident, it says episode started about two months ago.

13 well, that would predate this accident, right?

14 A Yes.

15 Q Okay. Her symptoms are probably caused by stress and
16 family stressors.

17 It doesn't say anything about this automobile accident,
18 does it, under, under the depression part of the note?

19 A No.

20 Q Okay. All right. And you have not been back to a
21 doctor for treatment related to this accident since that
22 time?

23 A True.

24 Q Okay. And that was January of 2015. That's over three
25 years ago.

Jeanne Knollinger - Cross-examination
By Mr. Cheves

1 A True.

2 Q Okay. And you have not sought any medical treatment
3 since that time?

4 A No.

5 Q Okay. And the, the pictures that we have, the, the
6 bruising, did that eventually go away?

7 A Yes.

8 Q So, in, in sum, you went to Palmetto-Health for the,
9 the, the -- day of the accident from, from the accident
10 scene?

11 A Yes.

12 Q You followed up at Lexington Medical Center for an
13 x-ray to your chest, which you'd already had at Richland?

14 A Yes.

15 Q All right. And then you went to Lexington Family
16 Practice for planning of family stressors for your
17 depression?

18 A Yes.

19 Q That's all I have. Thank you.

20 THE COURT: Any redirect?

21 MR. ANDREWS: Yes, Your Honor.

22 REDIRECT EXAMINATION

23 BY MR. ANDREWS:

24 Q Let's look at Page 18 of your deposition transcript
25 again, and I think what he was -- what Mr. Cheves was

Jeanne Knollinger - Redirect examination
By Mr. Andrews

1 talking -- was asking about I'd asked you did you slow down
2 because of any traffic, and you said no.

3 Did you have to slow -- it says did you have to slow
4 down because of any traffic and you said no, but it
5 didn't -- is it fair to say that that doesn't ask you
6 whether or not you slowed down, correct?

7 A Correct.

8 Q All right. And did you slow down?

9 A Yes.

10 Q And you -- so, you slowed down whenever you merged onto
11 Garners Ferry Road?

12 A Yes.

13 Q why?

14 A Because that's what you do at a yield sign.

15 Q Okay. And I believe he was also asking you about some
16 of these wrecks, some of these pictures right here --

17 A Yeah.

18 Q -- of Defendant's Exhibit collectively.

19 Is it two?

20 And, looking at Exhibit 2, what do you see there?

21 A Debris.

22 Q Debris.

23 Do you have any idea where that debris came from?

24 A The front of my car as it was being turned.

25 Q And where is that debris leading to?

Jeanne Knollinger - Redirect examination
By Mr. Andrews

1 A Right over here on Lane 1.

2 Q Okay.

3 A Lane 1 and 2.

4 Q So --.

5 A Where I was.

6 Q All right. And going back talking about some of your
7 medical records and everything, you weren't -- were you
8 checking to make sure that the medical providers were typing
9 up everything you, you told them accurately?

10 A No.

11 Q And, for your depression, the last treatment in January
12 of 2014, I believe you testified that your medical records
13 stated that depression was caused by stress and family
14 stressors?

15 A Yes.

16 Q Okay.

17 A That's my mother's death.

18 Q And -- well, did this collision cause any stress or
19 family stressors?

20 A Yes.

21 MR. ANDREWS: No other questions.

22 MR. CHEVES: Nothing further.

23 THE COURT: Okay. Thank you, ma'am. You may step
24 down.

25 MR. ANDREWS: May I check outside for my witness?

Allen Brinson - Direct examination
By Mr. Andrews

1 (Pause.)

2 THE COURT: Are you prepared to call your next witness?

3 MR. ANDREWS: Yes, Your Honor.

4 We call Allen Brinson. Sorry.

5 THE BAILIFF: Put your hand on the Bible and face the
6 clerk.

7 THE CLERK: Would you state your full name please?

8 THE WITNESS: Allen Brinson, Junior.

9 THE CLERK: Would you spell your first name please?

10 THE WITNESS: A-L-L-E-N.

11 ALLEN BRINSON, being first duly
12 sworn, testified as follows:

13 THE CLERK: Thank you. You may be seated.

14 THE WITNESS: Thank you, ma'am.

15 DIRECT EXAMINATION

16 BY MR. ANDREWS:

17 Q Officer Brinson, thank you for being here today.
18 where are you currently employed?

19 A City of Columbia Police Department, sir.

20 Q And how long have you been employed with them?

21 A Roughly seven years.

22 Q And what's your current rank?

23 A Corporal.

24 Q How long have you been a corporal?

25 A Two years.

Allen Brinson - Direct examination
By Mr. Andrews

1 Q And what was your rank before?

2 A Master police officer.

3 Q And how long were you a master police officer?

4 A Roughly three years.

5 Q If my math is right, you were a master police officer
6 on December 11th, 2014?

7 A Yes.

8 Q And what did some of your duties entail for the -- as a
9 master police officer?

10 A During that time I was assigned to the traffic safety
11 unit, which we enforce traffic laws inside of the City of
12 Columbia, include speeding, wrecks, collisions. We, we also
13 answer to all fatalities or major collisions.

14 Q And what type of training did you have to do to -- in
15 order to become a police officer?

16 A You have to attend the South Carolina Criminal Justice
17 Academy for 12 weeks, and go through all sorts of firearms
18 training, for investigating collisions, trainings for
19 investigating criminal cases. Just all sorts of training
20 for all, all law enforcement.

21 Q And did you have any classes on -- investigate on
22 collision investigations?

23 A Yes, I currently hold, with the Criminal Justice
24 Academy, at scene technical, and reconstruction, and
25 motorcycle reconstruction.

Allen Brinson - Direct examination
By Mr. Andrews

1 Q Okay. And, and how long did it take for you to receive
2 those certifications?

3 A Each class is a two week 80 hour class, and that's four
4 classes. So, roughly 300 hours.

5 Q And when did you take that class?

6 A At -- they all vary at different times. At scene, I
7 believe I took in either 2014/2015. I'd have to look it up
8 to be exact. And then each class after that was roughly
9 about six months later.

10 Q Okay. And do you have to take any continuing education
11 courses or, or these type of courses?

12 A There are continuing education courses. We're not
13 mandated to take them. Once you get your certification, we
14 do take on-line courses, and keep up-to-date with articles
15 that come out through the reconstruction network.

16 Q Okay. And do you remember responding to an accident
17 scene on December 11th, 2014?

18 A Yes, sir.

19 MR. ANDREWS: Permission to approach?

20 THE COURT: Yes, sir.

21 Q And I'm gonna hand you that. That's --.

22 A Thank you, sir.

23 Q Will that also help you refresh your recollection of
24 that accident?

25 A I'm sorry?

Allen Brinson - Direct examination
By Mr. Andrews

1 Q will -- that report that I just handed you, will that
2 help refresh your recollection of that -- responding to that
3 accident?

4 A Yes, sir, it tells me basically what did occur that day
5 according to my notes here.

6 Q Okay. Well, let's -- I want to talk about your
7 observations.

8 what do you remember that day?

9 A Basically getting on scene. There was a large box
10 truck that was parked in the median after the collision.
11 There was a small car. I don't remember exactly the car. I
12 can look on here. But there was a car that was heavy front
13 end damage at which time I got out, and talked to the
14 parties that were driving the vehicles. I can't remember
15 the exact conversation. It has been four years ago, but
16 normally all my conversations start out with what happened
17 today.

18 Q And is this the vehicle that --?

19 A I believe that is the vehicle, yes, sir.

20 MR. ANDREWS: And I want the record to reflect he's
21 identifying Plaintiff's Exhibit 2 as the vehicle in which he
22 was discussing.

23 And part of your accident investigation, you would
24 speak to the parties?

25 A Yes.

Allen Brinson - Direct examination
By Mr. Andrews

1 Q You would speak to the parties involved?

2 A Yes, sir.

3 Q Do you have any specific recollection of what Ryan
4 Oliver told you at that collision scene?

5 A I can't tell you exactly. I remember basically he said
6 he was pulling out from the restaurant's parking lot making
7 a left-hand turn onto Garners Ferry Road. I couldn't tell
8 you his exact words though.

9 Q Okay. And did you recognize any debris on the highway?

10 A There was lots of debris on the highway due to the
11 front end collision. You had bumper parts. You had
12 everything else, but I couldn't tell you the exact parts
13 that were there. We, we don't take pictures unless it is a
14 fatality normally.

15 Q And was -- is it fair to say that the debris was
16 scattered throughout Garners Ferry Road, multiple lanes of
17 traffic?

18 A As far as I can remember, yes, sir.

19 Q All right. And from your observation, do you have an
20 opinion as to whether or not Ms. Knollinger's vehicle was
21 fully established on the road?

22 MR. CHEVES: Your Honor, objection.

23 THE COURT: Sustained.

24 MR. CHEVES: We talked about this.

25 Q And where was Plaintiff's Exhibit 2, which you just

Allen Brinson - Direct examination
By Mr. Andrews

1 identified?

2 where do you recall it being on Garners Ferry Road?

3 A I'm sorry. Repeat that please.

4 Q Plaintiff's Exhibit 2, that photograph that we looked
5 at --

6 A Yes, sir.

7 Q -- where do you recall that being on Garners Ferry
8 Road?

9 A Where at?

10 Q Yeah.

11 A That is right beside what use to be a Mexican
12 restaurant.

13 Q And do you recall it being close to the side of the
14 Mexican restaurant or not close to the side?

15 A Close.

16 Q Okay. And, again, do you recall seeing debris, a lot
17 of debris, scattered throughout Garners Ferry Road, correct?

18 A Yes, sir.

19 Q All right. And do you recall any other observations
20 you might of had at the scene of the collision?

21 A Basically don't. I mean it has been four years ago. I
22 do recall that the front end damage, and that the box truck
23 was struck somewhere near the back of the cab. I believe
24 there was a tool box or a fuel tank or something where it
25 was basically struck at as far as -- as best I can remember.

Allen Brinson - Direct examination
By Mr. Andrews

1 Q And the back of the cab, are you talking about where
2 the driver of the box truck would get into?

3 A Yes.

4 Q Okay. I don't have any further questions. Thank you
5 for your time today, Officer Brinson.

6 A Thank you.

7 THE COURT: Cross-examination.

8 CROSS-EXAMINATION

9 BY MR. CHEVES:

10 Q Good afternoon.

11 A Yes, sir.

12 How are you?

13 Q When you arrived at the scene, was this the location of
14 one of the vehicles?

15 A As -- if that's what it shows, yes, sir, I believe so.

16 Q Okay. Would you agree that this vehicle appears to be
17 straddling the, the median of, of Garners Ferry Road?

18 A That's where---

19 Q If I represent to you that's Garners Ferry Road.

20 A That's where the picture is, yes.

21 Q Okay. When you do an assessment or an investigation of
22 a, of a scene, do you make a note of where the point of
23 impact is between Car A and Car B?

24 A Yes.

25 Q All right. And is that depicted on, on the report that

Allen Brinson - Cross-examination
By Mr. Cheves

1 you're referring to?

2 A Yes, that's basically what the drawing is for---

3 Q okay?

4 A ---to pictate (phonetic) where the collision occurred.

5 Q And, in that drawing that you've, that you've done,
6 does it depict that this was a t-bone collision?

7 A Basically, yes.

8 Q Okay. And the drawing of the truck that you have done,
9 is, is the impact behind the cab of the truck?

10 Is it on the, the actual box truck of the, of the box
11 truck?

12 A It's a box truck and it's showing, like I said, right
13 behind the cab area.

14 Q Okay. And what lane did you depict?

15 A It depicts that it is in Lane Number 2.

16 Q Okay. Which is the middle lane?

17 A Sir?

18 Q Is that the middle of two lanes -- of three lanes?

19 A It's the number two lane of four lanes according to
20 this.

21 Q Okay. Could one of those be the median?

22 A No, sir.

23 Q Okay. Are there four lanes on Garners Ferry or, or
24 three at that point?

25 A At that point, there is actually, across the whole road

Allen Brinson - Cross-examination
By Mr. Cheves

1 over, which is what we count as seven lanes.

2 Q Well, I, I understand that.

3 A There's four on one side. Three on the other side.

4 Q That's what I meant.

5 Okay.

6 A Yes, sir.

7 Q All right. And you say the truck was, was parked on
8 the side of the road or somewhere else other than the middle
9 of the road?

10 A When I arrived on scene, the truck was, I believe, just
11 down the street on the median -- in the median as far as I
12 can recall.

13 Q The median between the two eastbound -- east and
14 westbound lanes of Garners Ferry?

15 A There's not a median where this occurred at. There's a
16 median just up the street---

17 Q Okay.

18 A ---behind where the Target and other shopping centers.

19 Q In other words, had the, had the truck gotten out of
20 the way of, of oncoming traffic?

21 A Yes.

22 Q Okay. And is that, is that something that, that you
23 encourage if they're no injuries to, to get the vehicle off
24 the road and out of the way of traffic?

25 A If there is no injuries, that is what would be

Allen Brinson - Redirect examination
By Mr. Andrews

1 encouraged by State Law.

2 Q Okay. No further questions. Thank you.

3 THE COURT: Any redirect?

4 MR. ANDREWS: Yeah. Briefly.

5 REDIRECT EXAMINATION

6 BY MR. ANDREWS:

7 Q And opposing counsel just asked you about this drawing.

8 A Yes, sir.

9 Q And the drawing that you did whenever you did your
10 accident investigation, was Mr. -- was the automobile in
11 which Ms. Knollinger driving parallel with Garners Ferry
12 Road?

13 A As far as I can tell, yes, sir.

14 Q So, from your drawing, was her vehicle fully on Garners
15 Ferry Road at the time of the collision?

16 A Yes.

17 Q And looking at this picture the defense showed you, so
18 the jury can see --

19 A Yes.

20 Q -- do you see those items on the ground?

21 A Yes, that is a debris field.

22 Q And where was the debris field heading?

23 A It's headed towards the second lane.

24 Q And where was it headed to?

25 where do recall it heading to?

Allen Brinson - Redirect examination
By Mr. Andrews

1 A Heading to?

2 Q Yeah.

3 Was there a trail of debris?

4 A Yeah. Well, it depends on which way you're picturing
5 the debris field. The car is actually coming from the
6 opposite way here that it's facing, and the debris field is
7 where it, after striking, the energy made it make a
8 rotation.

9 Q Okay. So, the debris field was heading towards Lane 2?

10 A Lane 2, yes.

11 Q And from your understanding of where this picture is,
12 would that be heading towards the San Jose Restaurant?

13 A Coming up from Garners Ferry, yes.

14 Q Okay. I have no further questions.

15 THE COURT: Anything?

16 MR. CHEVES: Nothing further.

17 THE COURT: All right. Thank you. You may step down.

18 THE WITNESS: Thank you, ma'am.

19 THE COURT: All right. Folks, let's take a, sorry,
20 another short break. I'm gonna excuse you to your jury
21 room. Do not discuss the case amongst yourselves. I'll
22 have you back shortly.

23 (WHEREUPON, the following takes place outside the
24 presence of the jury.)

25 THE COURT: If y'all will stay just a few minutes.

1 That juror is still sleeping. So, I'm gonna have her
2 come out. I don't know her juror number, but in the yellow
3 shirt.

4 THE BAILIFF: Yellow shirt?

5 THE COURT: Yes, that was sitting on the end right
6 here.

7 THE BAILIFF: Okay.

8 (WHEREUPON, Juror Number 52 comes into the courtroom at
9 this time.)

10 THE COURT: Hello. You can stop right there.
11 what's your name, ma'am?

12 THE JUROR: Sherena Chaney.

13 THE COURT: Okay. You can stay right there.
14 Ms. Chaney?

15 THE JUROR: Yes, ma'am.

16 THE COURT: Juror Number 52, correct?

17 THE JUROR: Yes, ma'am.

18 THE COURT: Okay. What's going on with you?
19 You seem really sleepy.

20 THE JUROR: I'm just sleepy.

21 THE COURT: You need to speak up. I can hear you.

22 THE JUROR: Nothing.

23 THE COURT: Okay. You understand that this is an
24 important trial, an important case?

25 THE JUROR: Yes, ma'am.

1 THE COURT: It's important to the Court. It's
2 important to the parties, and it is imperative that you stay
3 awake and alert, and that you listen to the testimony of the
4 witnesses.

5 You understand that?

6 THE JUROR: Yes, ma'am.

7 THE COURT: What do you need to happen to help you stay
8 awake?

9 THE JUROR: I was gonna drink a Coke.

10 THE COURT: I can't hear you. You're gonna have to
11 speak louder.

12 THE JUROR: I say I was about to drink a Coke.

13 THE COURT: About to drink a Coke?

14 THE JUROR: Yes.

15 THE COURT: Okay. Did you have some Coke at the other
16 break?

17 THE JUROR: No.

18 THE COURT: Cause the break was specifically for you,
19 in fact, the first time. As I told you and the other
20 jurors, that it's important to be awake. I wanted you to
21 shake it off, have some coffee, a Coke, or whatever you
22 needed to stay awake.

23 Do you think a Coke will help you stay awake?

24 THE JUROR: Yes, ma'am.

25 THE COURT: Do you need anything else that I can do for

1 you to help you stay awake?

2 THE JUROR: No, ma'am.

3 THE COURT: Okay. Is -- I mean is it a problem of not
4 having enough sleep last night or, or what's going on?

5 Tell me how I can help.

6 THE JUROR: I just stayed up a little late last night
7 studying.

8 THE COURT: Okay. You're a student?

9 THE JUROR: Yes, ma'am.

10 THE COURT: Okay. Do you have class tomorrow?

11 THE JUROR: Yes, ma'am.

12 THE COURT: So, you're gonna have to miss class to be
13 here?

14 THE JUROR: Yes.

15 THE COURT: Okay. But you will have time to sleep
16 tonight since you will---

17 THE JUROR: Yes, ma'am.

18 THE COURT: ---miss class, correct?

19 THE JUROR: Yes, ma'am.

20 THE COURT: Okay. Okay. Well, I'm gonna excuse you
21 back to the jury room. Have that Coke, and try to stay
22 awake with us.

23 okay?

24 THE JUROR: Yes, ma'am.

25 (WHEREUPON, the following takes place outside the

1 presence of the jury.)

2 THE COURT: All right. Now let's take about a ten
3 minute break.

4 MR. ANDREWS: Thank you, Your Honor.

5 (WHEREUPON, a short recess was taken at this time.)

6 THE COURT: Okay. Bring the jury.

7 (WHEREUPON, the following takes place within the
8 presence of the jury.)

9 THE BAILIFF: The jurors are seated, Your Honor.

10 THE COURT: Thank you, ma'am.

11 Okay. Folks, I've received your note. I don't know
12 who it was from, but regarding what time we'll finish today
13 and childcare. I apologize for not addressing that earlier.
14 I guess I was just ready to get the trial started.

15 There is no definite time that we begin and end. It --
16 it's really up to me, and what I think suits the case
17 depending on where we are, and witness testimony, and all of
18 that. But my plan today was to finish as close to five
19 o'clock as possible, and that's what I wrote back on that
20 note.

21 If five o'clock or somewhere thereabout is too late for
22 you, and you do need to make a phone call before five
23 o'clock about childcare, to a spouse, or a family friend,
24 or, or something like that, raise your hand now, and let me
25 know.

1 THE JUROR: I just need to make a phone call.

2 THE COURT: Okay. And so five o'clock would be too
3 late to do that?

4 THE JUROR: It'd be pushing it, but --.

5 THE COURT: Okay.

6 THE JUROR: If it's 5:00, it will be okay.

7 THE COURT: Okay. Yes, ma'am.

8 THE JUROR: I would need to make a phone call as well.

9 THE COURT: And, and you need to do that before five
10 o'clock?

11 THE JUROR: Yes.

12 THE COURT: Okay.

13 MR. CHEVES: Your Honor, can we approach?

14 THE COURT: Yes.

15 (WHEREUPON, a bench conference was held out of the
16 hearing of the jury at this time.)

17 THE COURT: All right. Folks, this is what we're gonna
18 do.

19 At this point, the Plaintiff only plans to call one
20 more witness. That's a short witness. After that, I will
21 need to send you out of the courtroom anyway.

22 During that time, I'll allow you access to your cell
23 phones to make whatever phone calls you need to make. But
24 I'll also tell you, after that, I'll bring you back in the
25 courtroom, and we're gonna do the Defendant's case, but they

1 think their case will be pretty short. So, we may be out of
2 here before five o'clock anyway. But, just in case, you
3 know -- so -- just so that you know that when you're making
4 your phone calls, you may be out of here by 4:30, 4:45,
5 something like that, and be able to get your kids or
6 whatever you need to do.

7 But I will allow you access to your phones during that
8 short break.

9 All right. So, Mr. Andrews, call your next witness.

10 MR. ANDREWS: Thank you, Your Honor.

11 Plaintiff calls Christopher Wright.

12 THE BAILIFF: Face the clerk.

13 THE CLERK: Please state your full name please.

14 THE WITNESS: Christopher John Wright.

15 THE COURT: Spell your last name please.

16 THE WITNESS: W-R-I-G-H-T.

17 CHRISTOPHER WRIGHT, being first
18 duly sworn, testified as follows:

19 THE CLERK: Thank you. You can have a seat.

20 (Witness complies.)

21 DIRECT EXAMINATION

22 BY MR. ANDREWS:

23 Q Thank you, Mr. Wright, for being here today.

24 Real quick, where are you from?

25 A Muskegon, Michigan.

Christopher Wright - Direct examination
By Mr. Andrews

1 Q In Michigan.

2 And what brought you to the Richland County area?

3 A I was in the Army. I retired out of Fort Jackson as a
4 drill sergeant medically.

5 Q And the Plaintiff in this case is your mother, correct?

6 A Yes.

7 Q All right. And so, you're a veteran?

8 A Yes.

9 Q Thank you for your service.

10 Are you currently married?

11 A Yes.

12 Q And who's your wife?

13 A Lacy, Lacy Wright.

14 Q And do you have any children?

15 A Three.

16 Q How old are they now?

17 A Twelve, ten, and eight.

18 Q I know you said you retired from the military.

19 Do you work anywhere now?

20 A I own and operate my own collision, repair, restoring
21 old cars.

22 Q What does that involve, a lot of mechanics?

23 A I build cars from the ground up if they're '74 and
24 older, and I repair wrecked, wrecked vehicles as well
25 in-between.

Christopher Wright - Direct examination
By Mr. Andrews

1 Q All right. And we're here obviously because of a motor
2 vehicle collision which your mother was in.

3 A Yes.

4 Q Do you remember December 11th, 2014?

5 A Yes.

6 Q And what were you doing on that day?

7 A I was actually working at my body shop, which is less
8 than a mile from the accident.

9 Q And do you remember -- how did you find out about the
10 accident?

11 A My mother's phone called me, and it was somebody else
12 on the line. Like I say, it was a bystander called me, said
13 she was in a wreck, and where it was at. And I -- so, I
14 went over to the scene.

15 Q How did that make you feel whenever you found out your
16 mom was in a wreck?

17 A Well, anxious, yeah. Make sure she was all right cause
18 she wasn't talking.

19 Q And you just stated you went to the scene of the
20 collision?

21 A Yes, sir.

22 Q And where was this at?

23 A It was right in front of the -- use to be San Jose.
24 It's now Verizon by Target at Garners Ferry.

25 Q And do you remember seeing your mother's vehicle?

Christopher Wright - Direct examination
By Mr. Andrews

1 A Yes.

2 MR. ANDREWS: May I approach, Your Honor?

3 THE COURT: Yes.

4 A I still actually have it in the shop.

5 Q Looking at Plaintiff's Exhibit 2, it this what your
6 mother's vehicle looked like after the collision?

7 A Yes, sir.

8 Q And where was the -- where did you observe the vehicle
9 to be located?

10 A The driver's front was in the center lane, and the back
11 end was in the -- if you're driving towards the VA Hospital,
12 San Jose would be on your right. The back left was on the
13 left lane. So, it was spun com -- opposite direction from
14 the VA towards Target.

15 Q I think this vehicle -- this, this picture accurately
16 descript -- accurately describes what you had stated. This
17 is Defendant's Exhibit 2.

18 This is where your mother's vehicle sat?

19 A Yes, sir.

20 Q And what did you observe at the accident scene?

21 A I pulled up, and I stopped in the middle here.

22 Q And---

23 A I'm sorry.

24 Q For the jury---

25 A The VA is this direction?

Christopher Wright - Direct examination
By Mr. Andrews

1 Q well, hold on one sec. Sorry. Just want to make it
2 clear so the jury can understand and the Court understands
3 your testimony.

4 So, where are you saying you came from?

5 A I came -- my shop was on Leesburg right next to the
6 Clearer (phonetic) Home. I came from the back road by
7 Sharon that came towards Target.

8 Q So, you came from the direction in which this ambulance
9 is facing it looks like?

10 A Yes.

11 Q okay.

12 A Verizon was right over to your left. I came. I
13 stopped basically in front of where the ambulance and the
14 police car would be actually stopped on the other side I
15 think. Yeah, I stopped in the mid -- in the middle of the
16 road right here, and I walked up. I saw, you know, debris,
17 and she was still sitting in the vehicle. The lady that
18 called me still had her phone.

19 Q And looking at these photographs, what is this on the
20 ground?

21 A All of her vehicle.

22 Q And is that debris from her vehicle?

23 A Yes, sir.

24 Q And when you were there, do you recall observing how
25 far the debris went?

Christopher Wright - Direct examination
By Mr. Andrews

1 A Yeah, I could, I could tell she was coming towards my
2 shop, and there was like a scrape mark on the ground all the
3 way from the right lane almost to the driveway to the, the
4 San Jose. It spun around. Like she got spun, and it drug
5 it. There's debris probably 40-feet.

6 Q And is it your testimony that there was a trail of
7 debris leading towards the San Jose Restaurant?

8 A Oh, yeah, all the way -- almost to the curb. I picked
9 up a blinker, little yellow blinker, on the end of the curb.

10 Q So, you---

11 A And I tried to help the tow truck guy cause he was one
12 of my friends.

13 Q All right. So, you helped---

14 A I picked it up. Yes, I called the tow truck.

15 Q And does this picture, Plaintiff's Exhibit 3, kind of
16 -- does that represent the trail of debris that you're
17 testifying going to San Jose Restaurant?

18 A Yes, sir.

19 Q And when you got to the scene, you observed the debris
20 on the ground.

21 Obviously you wanted to go check on your mother, right?

22 A Yeah, of course.

23 Q How did she appear?

24 A She was disoriented. She still kept telling the lady
25 to call her son, and she -- I remember her tipping her head

Christopher Wright - Direct examination
By Mr. Andrews

1 to the right, and it hurt her neck and her back. And I told
2 her to -- I kind of grabbed -- I went to EMT school in the
3 Army. So, I tried to stabilize her head and so, you know, I
4 could get her out of it. Ambulance wasn't actually there
5 yet. So, when they got there, I, I backed up, but --.

6 Q So, you got there---

7 A I told her---

8 Q ---before the ambulance?

9 A Yes, I was less than a mile from my shop.

10 Q And you remember witnessing your mother being
11 transported to -- transported out of the ambulance, correct?

12 A Yes, sir.

13 Q And did you see your mother soon after the collision?

14 A Yes.

15 Q When did you see her next?

16 A Well, I -- after I got her stabilized for the ambulance
17 people, she was still kind of disoriented, and I called my
18 dad. Him and one of my employees had came up, and explained
19 what's going on to him, but then they had gotten her in the
20 ambulance. They're in the ambulance for a little while, and
21 then I went to the back of the ambulance and told her I
22 would follow her. We were waiting for the tow truck and the
23 police, police officer to finish his reports and stuff, and
24 see, you know, what happened.

25 I had a good idea what happened anyways. It was pretty

Christopher Wright - Direct examination
By Mr. Andrews

1 obvious where the tracks were. But after -- I told her we
2 were going. I spoke to my, my father, and my employee, his
3 name was Travis Portier (phonetic), and then we waited for a
4 police officer. The car was taken to my shop, and we
5 followed -- I followed my father over to the hospital where
6 she was at.

7 Q Okay. And do you know who was involved in the
8 collision with your mother?

9 A She was by herself, and then it was a big box truck
10 with two male individuals.

11 Q Okay. And did you observe them doing anything at the
12 scene?

13 A When I came up, they were walking around. Their truck
14 was, I don't know, 30, 40-feet down the road or maybe a
15 little bit farther. They pulled over in the center median
16 facing the same direction as her car, and they were walking
17 around behind her vehicle. When I walked up, they were just
18 kind of talking to each other like -- you could tell they
19 were not just bystanders.

20 Q Okay.

21 A And they -- when I walked up, I went towards my
22 mother's vehicle, and they were talking to me, and they
23 said, when we pulled out, we didn't even see her.

24 Q And after your mama's transported to the hospital, did
25 you see her later that day or in the days following the

Christopher Wright - Direct examination
By Mr. Andrews

1 collision?

2 A Oh, yes.

3 Q How do you remember your mom being the days after the
4 collision?

5 A Oh, we even had to -- we had to help her to her vehicle
6 after or from the hospital to get her in with my, my dad,
7 and then a few weeks that myself and my wife -- I was a
8 drill sergeant. So, I didn't have as much time as her. And
9 so we both had to go up to their house and help her, you
10 know, fix food and everything. My dad had Social Security.
11 So, he can't do a whole lot anyway. He would help her get
12 in the shower and stuff cause that just ain't for me
13 anyways. I don't be doing it.

14 But I helped her get to the bathroom. My wife would
15 help her in there. I would help cook food and clean the
16 house, the house and stuff and bring the kids over, and, you
17 know, try to cheer her up while she was going through her
18 rehab.

19 Q Do you recall how long your mother was like this, how
20 she was in -- how long she was in pain?

21 A She's still in pain. I mean every time she's standing
22 too long or sitting too long. I mean it's, it's aggravating
23 to her, but, after the accident, she had bruises on her --
24 one of her arms, her leg, her chest, and her back hurt, hurt
25 her, and -- I'm sorry. It's been a few years, and I can't

Christopher Wright - Direct examination
By Mr. Andrews

1 remember all of what injuries she had. But it was a few
2 weeks to over -- a little over a month at least before she's
3 able to do those things on her own.

4 Q And prior to the collision, you just mentioned some
5 areas to her body which you recall her being injured.

6 A Yes.

7 Q Prior to the collision, do you remember her complaining
8 about those parts of her body?

9 A Oh, no, sir. She's hard headed like me. I been -- she
10 worked at all kinds of shops where she's on her feet all the
11 time working machines. She never complained about it except
12 one foot that she had surgery on a long time ago.

13 Q So, you've noticed your mother changed since this
14 collision?

15 A Oh, yes, sir.

16 Q Correct?

17 And you testified earlier that you have some
18 grandchildren.

19 Is that correct?

20 A I don't. She does.

21 Q I mean she has some grandchildren. You're
22 grandchildren -- I mean your children.

23 A If they had kids, they'd be grounded.

24 Q Thanks for catching me on that.

25 A Yeah.

Christopher Wright - Direct examination
By Mr. Andrews

1 Q You testified earlier you have some children?

2 A Yes, sir.

3 Q And are they close with their grandma?

4 A Oh, yes.

5 Q What all would they like to do together?

6 A Well, everything. They're stuck up her butt. I moved
7 her here from Tennessee because of it.

8 Q Was she able to do the things that she could do with
9 her grandchildren after the collision?

10 A No, sir. I mean they would go down to the parks or
11 she'd take them to the lake. Go down to Lake Murray or
12 wherever, and she couldn't walk far with them or she
13 couldn't pick -- my, at the time, my youngest, he was where
14 she'd still pick him up cause he walks too slow, you know,
15 and she couldn't do none of that. It was hard for her to
16 put him on her lap, and---

17 Q Do you remember anything else that you've had to do --
18 that you've had to help your mom with since this collision?

19 It could of been back at the time, but is there
20 anything else that you'd like to tell the jury what you had
21 to do or family had to do for your mom?

22 A Oh, yeah. Well, I mean she was out of work for a
23 while, and she had no way -- once she got to work or had to
24 get a vehicle, and it kind of put a hardship on everything,
25 and then it put more emotional stress on her not knowing

Christopher Wright - Direct examination
By Mr. Andrews

1 what's going on, and, you know, and financial burden on me,
2 and, you know, it's just been stressful all the way around
3 cause I live in Northeast Columbia. She lives all the way
4 in Gaston, and I was in the Army. My shop was at -- so, it
5 was like driving back and forth. Kids are at school in
6 Northeast, and it was just a headache for quite a while.

7 Q Your mother testified earlier that she suffered some
8 depression since this accident, accident.

9 A Yes.

10 Q Have you noticed any of that?

11 A Oh, yes. She's still, to this day.

12 Q And how is that affected her?

13 A Well, I know she -- last year, she got in a job, but
14 that's about -- other than seeing the grandkids, she's been
15 really depressed. I mean it's even caused marital issues
16 between her and my dad. They've almost gotten divorced over
17 her depression and everything.

18 Q And was she was -- was her depression that bad prior to
19 the collision?

20 A No.

21 Q I don't have any further questions. Thank you for
22 being here, Mr. Wright.

23 THE COURT: Cross-examination.

24 CROSS-EXAMINATION

25 BY MR. CHEVES:

Christopher Wright - Cross-examination
By Mr. Cheves

1 Q Mr. Wright, you're obviously very fond of your mother,
2 and I, I can certainly appreciate that.

3 A Everybody should be.

4 Q You didn't witness the accident?

5 A No, sir.

6 Q Is it, is it your understanding that your mother had
7 just merged on to Garners Ferry from Pelham Drive?

8 A Yes.

9 Q Okay. No further questions.

10 THE COURT: All right. Thank you. You may step down.
11 Mr. Andrews.

12 MR. ANDREWS: At this time, the Plaintiff rests.

13 THE COURT: All right. As I told you, ladies and
14 gentlemen, that's all the evidence that you're gonna hear
15 from the Plaintiff, but there's certain matters of law I
16 need to take up outside of your presence.

17 So, at this point, I'm gonna excuse you to your jury
18 room. Do not discuss the case amongst yourselves or with
19 anyone else. If you need to make a phone call, you may
20 retrieve your cell phones during this break to make that
21 phone call.

22 Don't discuss the case with anyone on the phone, or by
23 text email, et cetera. Just make whatever logistical phone
24 calls you need to make, and we'll have you back shortly.

25 (WHEREUPON, the following takes place outside the

1 presence of the jury.)

2 THE COURT: Mr. Cheves.

3 MR. CHEVES: Yes, ma'am.

4 Your Honor, at this time we'll move for a directed
5 verdict as to the cause of action of negligence against Ryan
6 Oliver.

7 According to the Plaintiff's case, what we've learned
8 so far is that Plaintiff was merging off Pelham Drive onto
9 Garners Ferry. She was looking either over her shoulder or
10 in her side-view mirror, and, when she looked up, there was
11 a truck in front of her. There's no evidence that
12 Mr. Oliver did anything wrong. There's no evidence that he
13 did not have room to pull out. There's no evidence -- in
14 fact, the evidence is that she struck the, the side of the,
15 of the truck in a t-bone fashion behind the cab on the, on
16 the box of the truck, which you can only infer one
17 conclusion, which is that the truck was well established on
18 the road by the time she looked up, and saw it in front of
19 it.

20 So, we feel like there's no evidence, evidence, no
21 negligence on the part of Mr. Oliver. If there's some
22 scintilla of evidence, of evidence of negligence, then it's
23 certainly this is a comparative case. As a matter of law,
24 given the overwhelming evidence that she was not looking
25 ahead of her, when the accident occurred, when she looked

1 up, the truck was already out there. She was coming off a
2 merge position or a yielding position where she had a duty
3 to yield, and she was distracted by looking at other traffic
4 that was coming down Garners Ferry.

5 I think that, even if you find that that there, there
6 is some scintilla of evidence of negligence, that she is
7 comparatively negligent as a matter of law.

8 Finally, strictly in the alternative, Your Honor, we
9 would move to strike the punitive damages claim from this
10 case. Again, there's no evidence of any recklessness on the
11 part of Mr. Oliver, and we think this case should not go
12 further.

13 MR. ANDREWS: Your Honor?

14 THE COURT: Yes, sir.

15 MR. ANDREWS: First, I'm not gonna ask for punitives at
16 closing. So, that's simple enough.

17 And I respectfully disagree with opposing counsel. I
18 think there's overwhelming evidence that Mr. Oliver pulled
19 out in front, and made -- and failed to yield the right of
20 way while he was make a left-hand turn.

21 There's been testimony from the police officers, from
22 Ms., Ms. Knollinger's son that there was a trail of debris
23 leading to the entrance of San Jose, which could only mean
24 that Ms. Knolliger's vehicle was -- had fully merged onto
25 Garners Ferry Road, and that's where the collision occurred.

1 So, I think there's overwhelming evidence.

2 THE COURT: I don't know about overwhelming, but there
3 exists some---

4 MR. ANDREWS: More than a scintilla.

5 THE COURT: Right.

6 MR. ANDREWS: I'm sorry, Your Honor.

7 THE COURT: There exists some evidence from which a
8 jury could conclude that the accident was Mr. Oliver's
9 fault.

10 For what it's worth, the motion for directed verdict is
11 granted as to punitive damages. He wasn't planning on -- I
12 guess that claim is withdrawn anyway, but it's denied as to
13 the negligence claim in itself. I mean really anytime --
14 usually, often, when someone makes a left turn and fails to
15 yield the right of way in making that left turn, the result
16 is a t-bone. I think t-bone in itself doesn't tell you
17 who's at fault.

18 MR. CHEVES: Got, got to make the motion, Your Honor.

19 THE COURT: I understand. I understand. It's
20 respectfully denied.

21 Yes, sir.

22 MR. ANDREWS: And the same thing. Plaintiff wants to
23 make a motion as to duty and breach. A duty -- I think
24 there's overwhelming -- there's more than overwhelming
25 evidence that Mr. Oliver failed to yield the right of way

1 while making a left-hand turn.

2 THE COURT: Oh, that will require the Court to weigh
3 the evidence because there's evidence on both sides. That's
4 for the jury to do, and, therefore, that motion is
5 respectfully denied as well.

6 All right. You only have Mr. Oliver?

7 MR. CHEVES: Yes, ma'am.

8 THE COURT: Okay. Fabulous.

9 We're gonna give them a minute cause they're making
10 phone calls, and we'll just take five minutes. Y'all don't
11 go far. Just give us---

12 THE PLAINTIFF: He doesn't have to stay, right?

13 THE COURT: No.

14 THE PLAINTIFF: He can go back to his---

15 THE COURT: No, free to go.

16 THE PLAINTIFF: Can I leave for a minute?

17 THE COURT: You can step out for a second. Don't go
18 far.

19 THE COURT: All right. Five minutes or so.

20 (WHEREUPON, a short recess was taken at this time.)

21 THE COURT: All right. The jury's ready to come back.
22 You can bring the jury.

23 Oh, do you want to wait for Ms. Knollinger?

24 MR. ANDREWS: Oh, I'm sorry.

25 THE COURT: I didn't -- I'm sorry. I didn't realize

1 she wasn't here.

2 (Pause.)

3 (WHEREUPON, the following takes place within the
4 presence of the jury panel.)

5 THE BAILIFF: The jurors are seated, Your Honor.

6 THE COURT: Thank you.

7 Mr. Cheves, call your first witness.

8 MR. CHEVES: Thank you, Your Honor.

9 Call Ryan Oliver.

10 THE BAILIFF: Left-hand on the Bible, face the clerk,
11 and raise your right.

12 THE CLERK: Please state your full name please.

13 THE WITNESS: Ryan Oliver.

14 RYAN OLIVER, being first duly
15 sworn, testified as follows:

16 THE CLERK: Thank you have a seat.

17 (Witness complies.)

18 THE COURT: Your witness.

19 MR. CHEVES: Thank you, Your Honor.

20 DIRECT EXAMINATION

21 BY MR. CHEVES:

22 Q You comfortable?

23 A Yeah.

24 Q Ryan, what, what do you do for a living?

25 A I move furniture.

Ryan Oliver - Direct examination
By Mr. Cheves

1 Q Okay. And, and is that what you were doing back in
2 2014 when this accident occurred?

3 A Yes, sir.

4 Q Were you working for anybody or working for yourself or
5 what, what is the arrangement you have?

6 A I was doing a side job working for a client.

7 Q On the day in question, were you moving furniture?

8 A Yes, sir.

9 Q And in your experience with -- in with moving
10 furniture, do you often drive a box truck?

11 A Yes, sir.

12 Q All right. Do you -- how often -- back in 2014, how
13 often do you think that you had driven a, a box truck?

14 A Sometimes every single day of the week. Sometimes two
15 to three days out of the week. So, very often.

16 Q Were you familiar with how to operate a box truck?

17 A Yes, sir.

18 Q And were you familiar with the, I guess, the, the
19 pickup or the acceleration rate of a, of a box truck?

20 A Yes, sir.

21 Q On the day in question, December 11th, 2014, do you
22 recall specifically what you had been doing that morning?

23 A I was packing up a client's belongings.

24 Q And you, you had not -- I believe you had obtained a
25 box truck I think from Enterprise Rent-A-Car?

Ryan Oliver - Direct examination
By Mr. Cheves

1 A Yes, sir.

2 Q Was it filled to capacity?

3 A Yes, completely to the end, yes.

4 Q Okay.

5 A It was a full house load.

6 Q And, and this is gonna be a stupid question, but, but
7 does furniture in the back of a box truck make it heavier?

8 A Yes, sir.

9 Q And when it's heavier, is it slower to accelerate?

10 A Yes, sir.

11 Q Okay. How long was the truck that you had that day?

12 A It was a 26-foot box truck.

13 Q All right. And I believe we've established that you
14 were at what was then, I guess, Eric's San Jose Restaurant?

15 A Yes, sir.

16 Q And you had eaten lunch that day?

17 A Yes, sir.

18 Q All right. And you were attempting to leave?

19 A Yes, sir.

20 Q When you -- and you, you pulled up to the exit where
21 Garners Ferry Road is?

22 A Yes, sir.

23 Q Okay. Are, are you familiar with that area?

24 A Definitely.

25 Q All right. And have you pulled out of that restaurant

Ryan Oliver - Direct examination
By Mr. Cheves

1 before?

2 A Several times.

3 Q Okay. Have you driven on Pelham Drive before?

4 A Yes, I have.

5 Q Have, have you merged -- you, yourself, merged onto
6 Garners Ferry---

7 A Yes, sir.

8 Q ---Road from Pelham Drive?

9 A Yes, sir.

10 Q If I show you Defendant's Exhibit No. 1, does that
11 appear to be the vantage point from, from Pelham Drive onto
12 Garners Ferry Road?

13 A Yes, sir.

14 Q Okay. And does this photograph reflect the exit by the
15 restaurant that you have -- would of been pulling out of?

16 A Yes, sir.

17 Q When you attempted to leave the restaurant, and, and
18 pull into Garners Ferry, were you attempting to take a left
19 turn?

20 A Yes, sir.

21 Q Did you stop prior to entering Garners Ferry Road?

22 A Definitely.

23 Q Okay.

24 A Oh, yeah.

25 Q What did you do when you stopped at Garners Ferry Road?

Ryan Oliver - Direct examination
By Mr. Cheves

1 A I stopped, I looked left, I looked right, looked left
2 again, and may, may have done it a third time. Just you
3 have to be sure. So, I, I noticed traffic at the very
4 farthest point on the left side, and track held up --
5 traffic held up on the right side by a light.

6 Q Okay. So, when you looked left and right and left
7 again or how many times you looked, was, was there any --
8 were there any vehicles to your left in the near vicinity?

9 A No, sir.

10 Q Okay. Now, you, you had someone else's belongings in
11 the back of your truck that day?

12 A Yes, sir.

13 Q Does that cause you to be extra careful when you're
14 driving around with somebody else's belongings?

15 A Yes, sir, ten times more.

16 Q Okay. When you saw that nobody was approaching on the
17 left, what, what did you do?

18 A When I saw there was nobody approaching on the left or
19 the right, I, I made the decision to pull out.

20 Q Okay. Now, when, when you hit the accelerator on these
21 box trucks, especially when they're filled with furniture,
22 does, does the truck move right or away or how, how long
23 does it take you to get across three lanes of travel?

24 A To get across three lanes of traffic would take you a
25 good four to five seconds.

Ryan Oliver - Direct examination
By Mr. Cheves

1 Q Okay. So, were, were you darting out of there or were
2 you proceeding methodically with the furniture in the back?

3 A No, sir, because when you pull out of a driveway, you
4 have that bump. So, you can't just simply hit the gas.
5 Otherwise that back tire is gonna hit, and everything in the
6 back---

7 Q The furniture could get jostled?

8 A Yes, sir.

9 Q And it can be damaged?

10 A Yes, sir.

11 Q When you pulled out onto Garners Ferry Road, did you
12 feel you had ample time to successfully make your left turn?

13 A Definitely.

14 Q Okay. And when you started pulling out onto Garners
15 Ferry Road, to, to your recollection, was Ms. Knollinger
16 anywhere on Garners Ferry Road?

17 A No, sir.

18 Q Tell me the first time that you noticed Ms. Knollinger.

19 A I noticed Ms. Knollinger when the front of my truck
20 was -- I was in the median if not the first lane to the
21 opposite --.

22 Q The---

23 A -- lanes of traffic. So, not the first three lanes,
24 but I was -- if not in the median, in the next three lanes
25 when I had noticed her approaching the vehicle with her head

Ryan Oliver - Direct examination
By Mr. Cheves

1 turned the opposite way.

2 Q Okay. So, you could see Ms. Knollinger inside her
3 vehicle?

4 A Yes, sir.

5 Q All right. And, and where was her head again for the
6 jury's clarification?

7 A It was -- I completely saw the back right side of her
8 head.

9 Q Okay. Did she appear to be looking over her left
10 shoulder?

11 A Yes, sir.

12 Q All right. Had she just, I guess, encountered a yield
13 sign at, at, at Pelham Drive and Garners Ferry Road?

14 MR. ANDREWS: Objection. He's been leading the whole
15 time.

16 THE COURT: Sustained.

17 Q How long, prior to impact, did you, did you first
18 notice Ms. Knollinger?

19 A How long prior to the --?

20 Q When you first saw Ms. Knollinger, how long after that
21 was, was the impact?

22 A I'd say a second, a second and a half cause a brief
23 moment cause she wasn't looking. It, it took a second for
24 her to turn.

25 Q Did, did you witness her turn her head forward?

Ryan Oliver - Direct examination
By Mr. Cheves

1 A Yes, sir.

2 Q And did she attempt to take any evasive action after
3 that?

4 A The moment she turned her head, her eyes got big, and
5 she turned the wheel as far as she could to the left.

6 Q Okay. And did the front of her vehicle impact your
7 truck?

8 A Yes, sir.

9 Q Let me show you a photograph.

10 Have you seen this photograph before?

11 A Yes, sir.

12 Q All right. Is that a, is that a photograph of the box
13 truck---

14 A Yes, sir.

15 Q ---that you were driving that day?

16 A Yes, sir.

17 Q And does that photograph accurately depict where, on
18 the, on the truck, the impact occurred?

19 A Yes, sir.

20 MR. CHEVES: Your Honor, I'd like to move this into
21 evidence, and I think it's Defendant's 3.

22 THE COURT: Any objection?

23 MR. ANDREWS: No objection.

24 THE COURT: It's admitted without objection,
25 Defendant's 3.

Ryan Oliver - Direct examination
By Mr. Cheves

1 (WHEREUPON, the photograph was marked as Defendant's
2 Exhibit No. 3, and received into evidence at this time.)

3 Q Ryan, Defendant's 3 depicts kind of a no -- I guess a
4 dent in the, in the bottom frame of the, of the box truck.

5 Is that accurate?

6 A Yes, sir.

7 Q All right. Does that accurately reflect where on the
8 truck the impact occurred?

9 A Yes, sir.

10 Q Sitting here today, do, do you know what lane Ms.
11 Knollinger was in when the impact occurred?

12 A I'd say she was in the middle of the second to third
13 lane over.

14 Q Okay. When you say third lane, are you referring to
15 the closest to the median?

16 A Furthest lane.

17 Q I'm sorry.

18 All right. And where was the front of your truck again
19 when the impact occurred?

20 A In the median if not in the following lane.

21 Q Okay. What did you do after the accident?

22 A I pulled to the side and ran over to see if -- what all
23 had happened---

24 Q Did---

25 A ---if she was okay.

Ryan Oliver - Direct examination
By Mr. Cheves

1 Q Did you approach Ms. Knollinger's vehicle?

2 A Yes.

3 Q And, and tell me about any interaction you had with Ms.
4 Knollinger after the accident.

5 A I asked if she was okay, and she yelled and said no,
6 I'm not okay. So, I simply realized it was a bad situation.
7 Backed away.

8 Q Okay. And have, have you spoken to her since then?

9 A No, sir.

10 Q To this day, as we, as we sit here in September of
11 2018, have, have you ever told anyone that, that, that you
12 were responsible for this accident?

13 A No, sir.

14 Q Do you feel you were responsible for this accident?

15 A No, sir.

16 Q Do you feel you had established yourself in the road
17 prior to the impact?

18 A Yes, more than established.

19 Q All right. And when you pulled out of that restaurant,
20 was Mr. Knollinger on Garners Ferry Road?

21 A No, sir.

22 Q And did you witness her, just prior to the accident,
23 looking over her left shoulder?

24 A Yes, sir.

25 Q That's all I have for you, Ryan. Thank you.

Ryan Oliver - Cross-examination
By Mr. Andrews

1 A Okay.

2 THE COURT: Cross-examination.

3 MR. ANDREWS: Thank you.

4 CROSS-EXAMINATION

5 BY MR. ANDREWS:

6 Q Mr. Oliver, you testified that you're familiar with
7 that area, correct?

8 A Yes, sir.

9 Q So, you know Pelham Road was right perpendicular --
10 runs perpendicular to Garners Ferry Road, correct?

11 A Yes, sir.

12 Q And you testified that you go through a yield sign on
13 Pelham Road, correct?

14 A Yes, sir.

15 Q And you'd agree, when you make a left-hand turn, you
16 must yield the right of way to all vehicles approaching,
17 correct?

18 A Yes, sir.

19 Q And because that yield sign is there, wouldn't you
20 agree that you need to look on Pelham Road, right?

21 A Yes, sir.

22 Q Because you're familiar with that area?

23 A Yes, sir.

24 Q So, whenever you come out to make a left-hand turn from
25 the San Jose Restaurant, you should look on Pelham Road to

Ryan Oliver - Cross-examination
By Mr. Andrews

1 make sure there's no vehicles?

2 A Yes, sir.

3 Q So, you have a duty to see a car if a car is there,
4 right?

5 A Yes, sir.

6 Q And you testified a second ago that you know you looked
7 left, and you looked right, and then you looked left last?

8 Did you look---

9 A Did I say that I looked left last or did I simply
10 answer that I had looked left, and right, and looked left
11 and right to validate?

12 Q No.

13 When your attorney was leading you, he asked you you
14 looked left --

15 A Uh-huh. (Affirmative).

16 Q -- you looked right, and then you looked left again.

17 A Yeah.

18 Q But that's not how you testified in your deposition,
19 correct?

20 A How did I testify in my deposition?

21 MR. ANDREWS: Court's indulgence, Your Honor.

22 THE COURT: Yes, sir.

23 (Pause.)

24 Q Do you remember having your deposition taken?

25 A Yes, sir.

Ryan Oliver - Cross-examination
By Mr. Andrews

1 Q I think it was the same day as Ms, Knollinger's, and
2 you were under oath to tell the whole truth and nothing but
3 the truth.

4 Is that correct?

5 A Yes, sir.

6 Q And your deposition, it's fair to say, was back on May
7 8th, 2017, right?

8 A Yes, sir.

9 Q Is it fair to say your memory would of been more
10 accurate at that time?

11 A It's kind of hard to say what my memory would be due to
12 the date of this accident, but when, when going to the
13 specifics of left/right, left/right.

14 Q All right. I think I asked you did you look at the
15 left, and then the right, then pull out, or what is your
16 recollection?

17 Your answer I guess I always -- I mean I do left, left,
18 and then right. So --.

19 Then I asked again. It's your testimony that you
20 looked to the left, the direction the Plaintiff would of
21 been coming, and then the right.

22 Uh-huh. (Affirmative).

23 Does that accurately reflect your deposition?

24 A Yes, sir.

25 Q And -- but you testified on the direct examination that

Ryan Oliver - Cross-examination
By Mr. Andrews

1 you looked to the left, then the right, and then the left
2 again.

3 That was wrong, wasn't it?

4 A You talking about when I just spoke?

5 Q When your attorney was asking you questions---

6 A Yes, sir.

7 Q ---did you not say that you looked to the left, the
8 right, and then the left again?

9 A Right. However, I, I don't think I was too focused on
10 the, the exact left like --.

11 Q So, you don't think you---

12 A If that was the last time that I had looked.

13 Q So, you don't think you---

14 A So, I -- though I had said I had looked left again, by
15 my saying that, I, I wasn't saying that I had finished
16 looking. I may of looked right again as well.

17 Q But that's what you testified to in your deposition.
18 According to that, that's what you always do. You look to
19 the left and the right.

20 A If, if to go in order, then I would say yeah, left to
21 right. I, I always choose left before right.

22 Q Isn't it fair to say that it's safer to look to the
23 left last before you pull out because that's the actual
24 traffic in which you're trying to cross?

25 A Well, with a car, I agree. But if you're driving a big

Ryan Oliver - Cross-examination
By Mr. Andrews

1 truck, you're just as concerned with both sides, especially
2 in South Carolina, because at the rate of speed that they
3 can go, what takes you five seconds takes them one second.

4 Q But you're familiar with this Pelham Road where there's
5 a yield sign, right?

6 A Yes, sir.

7 Q And you testified, and that's been your testimony until
8 today, that you looked to the left, and then the right. So,
9 presumably because of your testimony, you looked to the
10 left, the direction of which Ms., Ms. Knollinger would of
11 been coming, then you looked away, right?

12 A I looked left and right twice. I'd like to---

13 Q But you---

14 A ---say that---

15 Q But you looked away from the direction she was coming
16 last, right?

17 A Yes, sir.

18 Q So, after you looked to the left, and then you looked
19 to the right, she could of come around that curve and you
20 didn't see her?

21 A Correct.

22 Q Okay. So, it is -- and you have to admit it's not safe
23 to look to the left and then the right?

24 A Now, if you get put here, then, yes, I agree.

25 Q Okay.

Ryan Oliver - Cross-examination
By Mr. Andrews

1 A It's not safe for everybody.

2 Q So now -- now do you think you were wrong on the cause
3 of this collision?

4 A No, sir.

5 Q You just said it was not safe to look to the left and
6 then the right before making a left-hand turn.

7 A Well, if everybody clearly sees you, which I've never
8 had this trouble before, I established myself in the road to
9 a degree of taking up the entire road, then -- and then you
10 get struck --.

11 Q And you remember the testimony from the witnesses prior
12 to you?

13 Let me show you. I think this is one of y'all's
14 exhibits.

15 You see this long trail, right?

16 A It goes for about a -- yeah, two lanes of traffic
17 there.

18 Q So, it goes to the center lane, not the lane you were
19 talking about, right?

20 A What lane was I talking about and when?

21 Q Didn't, didn't you say the point of impact was in the
22 far left lane?

23 A I said point of impact was closest to -- it was
24 in-between the second and the third. So, that would of been
25 the farthest. If your left is there, it would of been to

Ryan Oliver - Cross-examination
By Mr. Andrews

1 the front of this lane.

2 Q So, it would of been this lane?

3 This is where your---

4 A Yeah, this is the first lane, which is the first one
5 coming out of there, and then the second one, that's where
6 the impact would of occurred.

7 Q And this is how Ms. Knollinger's vehicle looked turned
8 completely around?

9 A where her vehicle is was where my truck was when she
10 impacted in the side of me.

11 So, you see how I'm in these far lanes?

12 where this car was is where she was where she struck
13 me.

14 Q But what about---

15 A when she turned, therefore, she ends up right there.

16 Q Did, did you hear the prior testimony of the other
17 witnesses have said there's a trail of debris that went to
18 San Jose Restaurant?

19 A I did hear that. However, San Jose is that way.

20 Q Yeah, towards this way.

21 A where I exit is this way. Same thing---

22 Q It is hard for me to look too. So, I apologize. This
23 way.

24 If you're looking at this picture, facing San Jose
25 would be to the left, right?

Ryan Oliver - Cross-examination
By Mr. Andrews

1 A Behind you---

2 Q Sorry. Correct.

3 A Yes.

4 Q I should say that.

5 A The left---

6 Q San Joes---

7 A ---is where she came out of.

8 Q Okay.

9 A Yeah.

10 Q And to the left, that's where the other witnesses
11 testified a trail of debris, correct?

12 A From there to there. You know, I don't, I don't know
13 anything about the testifying beyond that picture.

14 Q All right. Well---

15 A That would of been in the first lane, which wouldn't of
16 made any sense.

17 Q And the photograph that you took of the box truck, you
18 heard the police officer say that he thought the damage was
19 closer to the cab, correct?

20 A I did hear him say that.

21 Q And you didn't take any other pictures of that
22 Enterprise truck, right?

23 A No, sir.

24 Q As we sit here today, that's the only picture you have?

25 A Yes, sir.

Ryan Oliver - Cross-examination
By Mr. Andrews

1 Q And when you testified earlier about you said you
2 looked to the left and traffic was clear before turning
3 then, correct?

4 A Yes, sir.

5 Q And then you looked to the right. When you looked to
6 the left, traffic was clear.

7 That would indicate it was safe for Ms. Knollinger to
8 merge, correct, from Pelham Road?

9 A Say it, say it again.

10 Q If traffic was clear for you to take a left-hand turn
11 out of the San Jose Restaurant, according to your testimony,
12 traffic should of been clear for her to merge safely onto
13 Garners Ferry Road, correct?

14 A If all that was clear, and she was at that moment right
15 there, which I probably would of seen her for, for that to
16 then be clear for her, then yes.

17 Q But you've testified, up until today, that you looked
18 left towards her, and then you looked right?

19 A Right. So however I looked and I had seen her, like
20 she was at that moment where you would say it's okay for
21 then, then, yes, but she wasn't.

22 Q But you weren't looking at her last. You turned your
23 left to a different direction.

24 A But my head turns within seconds. So, she would of --
25 she would of clearly been there. I also looked when I --

Ryan Oliver - Cross-examination
By Mr. Andrews

1 that was a time that I made a decision to turn. Now, when I
2 hit the gas and I'm pulling out into the road, my eyes are
3 still looking at that direction, and she was still not
4 there. I still continued.

5 Q But that's not what you testified to previously.

6 Your previous testimony was that you looked left,
7 right, left, and right again, and then you turned?

8 A And, and then I proceeded out into the road. That
9 doesn't --.

10 Q Go ahead. Finish.

11 A That doesn't mean she wasn't there after that moment.

12 Q Well, then---

13 A And then it was too late for her to correct her --.

14 Q I believe your testimony prior to that was you didn't
15 look left again until you were already out in Garners Ferry
16 Road?

17 A Well, if you already make the decision to go out into
18 the road, then, yeah, the next time you would be able to
19 look would surpass that moment.

20 Q And then it's your testimony here you made the decision
21 to make a left-hand turn after you looked to the right, and
22 you didn't look to the left again until out in Garners Ferry
23 Road?

24 A While being on Garners Ferry Road, after making that
25 initial decision, I had still had it, and then still, still

Ryan Oliver - Cross-examination
By Mr. Andrews

1 got it almost across the entire road, and then that very
2 last left, which would of taken someone in a car as small as
3 hers a second to get there, that's when I noticed that's
4 when her head turned and realized where she was at.

5 Q You're not an accident reconstructionist, are you,
6 Mr. Oliver?

7 A I guess not.

8 Q You don't have any expertise in any mechanics to
9 testify as to the speed of vehicles, right?

10 A No, sir.

11 Q So, you can't testify that that's how long it would
12 take a vehicle to get here?

13 A well, I can tell you, based off experience, about how
14 long it takes for my vehicle to operate, and especially
15 under the weight it was.

16 Q So, isn't it possible that, when you looked left, then
17 you looked right, when you diverted your attention from the
18 direction in which she's coming -- she was coming, that's
19 when she actually came on Garners Ferry Road?

20 A You would think that's possible. However, with her car
21 traveling that fast, it's -- if I make that decision, and
22 then after I look over to the left, I would of seen an ah,
23 it would of been a front, a front head on thing. But,
24 instead, as I was going, I still had it, and I still had it,
25 and then, at the last second, then she came over. So, if

Ryan Oliver - Cross-examination
By Mr. Andrews

1 she had jumped in at the time that you're saying, absolutely
2 agree with you in the, in the initial thing. That's when we
3 both leave at the same time. However, if I've already taken
4 over the entire road, at the very last second, that happens.

5 Q Is that just your rules of the road or do you have
6 anything to back that up?

7 A My rules of the road?

8 Q You're saying if somebody -- you're saying that, from
9 a---

10 A If once she'd---

11 Q ---what I understand, you don't have a duty to yield
12 the right of way to somebody coming on Garners Ferry Road?

13 A We both -- we, we all have the, the -- we all should
14 yield to oncoming what, whatever's happening. So, the first
15 person to assume the spot would both have to yield.

16 Q And you'd agree with me that, wherever the collision
17 occurred, I know Ms. Knollinger testified to something
18 different, and you testified to something different, but
19 wherever the collision occurred, is it fair to say that her
20 vehicle was fully on Garners Ferry Road?

21 A Yes, sir.

22 Q So, her vehicle was fully established on Garners Ferry
23 Road at the time of the collision?

24 A Established?

25 Q Was her vehicle on Garners Ferry Road or not?

Ryan Oliver - Cross-examination
By Mr. Andrews

1 A Yes, it was on Garners Ferry Road.

2 Q None of it was on the Pelham Road, right, at the time
3 of the collision?

4 A In my mind establishes oh, I'm in this lane, and I'm
5 going the same way as every -- all the other traffic, but,
6 if you're at an angle, I feel like you're still trying to
7 establish yourself.

8 Q And you have a -- since you're familiar, and I think
9 you've testified, so I'm sorry if I ask this question again.

10 If you look to the left, because you know that area,
11 you need to make sure you look at Pelham Road well because
12 there's traffic coming around there through a yield sign?

13 A Yes, sir.

14 Q But yet, you still decided to look to the right after
15 looking to the left, and then pull out into Garners Ferry
16 Road?

17 A Cause then the person on the right who could of
18 presumably hit me would of put me in court today.

19 Q All right.

20 A You have to look in all directions. Especially in
21 South Carolina.

22 Q Did you witness the medical treatment of Ms.
23 Knollinger?

24 A I witnessed an ambulance or fire truck coming.

25 Q Then you went up there and asked her, I think on your

Ryan Oliver - Cross-examination
By Mr. Andrews

1 direct testimony, you asked if she was okay, correct?

2 A Yes, sir.

3 Q And you're not disputing that she was hurt in this
4 collision, are you?

5 A No.

6 why would I try to --?

7 Q So, you're not disputing any medical treatment that Ms.
8 Knollinger received, are you?

9 A Well---

10 MR. CHEVES: Your Honor?

11 A ---in order for me to agree to that---

12 MR. CHEVES: Objection. That's beyond the scope of his
13 understanding.

14 A That's like---

15 THE COURT: Sustained.

16 A ---saying I've looked through---

17 THE COURT: Hold on.

18 A ---her---

19 THE COURT: You don't have to answer that.

20 THE WITNESS: Okay.

21 MR. ANDREWS: Court's indulgence.

22 THE COURT: Yes, sir.

23 (Pause.)

24 Q And just to clear it up, it's your testimony Ms
25 Knollinger's vehicle was in this lane when this collision

Ryan Oliver - Cross-examination
By Mr. Andrews

1 happened, right?

2 A Yes, sir.

3 Q And so her vehicle just made a 180 turn just like that?

4 A You know how I've said at the last second she turned
5 the wheel cause there was not enough time?

6 Q Okay. Mr. Oliver, thank you. You have an answer for
7 everything.

8 No further questions.

9 THE COURT: Any redirect?

10 MR. CHEVES: Yes, ma'am.

11 REDIRECT EXAMINATION

12 BY MR. CHEVES:

13 Q Ryan, regardless of how many times you looked left or
14 right, did, did you look left and right?

15 A Yes, sir.

16 Q All right. Was the road clear for you to pull -- for
17 you to pull out onto the road?

18 A Yes, sir.

19 Q Okay. If -- and Pelham Drive is right there.

20 If, if you had seen a car approaching on Pelham Drive,
21 would you have, would you have pulled out?

22 A Definitely -- no, I would definitely not.

23 Q Okay. And as far as the photograph that, that, that --
24 did you take this photograph?

25 A I believe so.

Ryan Oliver - Redirect examination
By Mr. Cheves

1 Q Okay. Would you have taken a photograph with any other
2 area of the truck but for the area where you were struck?

3 A No.

4 MR. ANDREWS: Objection.

5 THE COURT: Overruled.

6 MR. ANDREWS: It's speculative.

7 MR. CHEVES: No further questions. Thank you.

8 THE COURT: Anything further from this witness?

9 MR. ANDREWS: No, Your Honor.

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

11 Mr. Cheves.

12 MR. CHEVES: That's the Defendant's case, Your Honor.

13 THE COURT: All right. So I had planned on finishing
14 around five o'clock, ladies and gentlemen, but, at this
15 point, all that remains is the closing, closing arguments of
16 the attorneys, and my charge to you on the law that applies
17 to this case. Generally, that stuff takes a little while,
18 and, after that, you begin deliberating.

19 Just because that, you know, takes a little while, and
20 I have no idea how long you'll deliberate, nor do you, I
21 don't usually like to start a jury deliberating this late in
22 the day. So, we'll do all of that in the morning.

23 Overnight, do not discuss the case amongst yourselves
24 or with anyone else. Don't do any research about the case,
25 the parties, the incident location, or anything else related

1 to the case whatsoever.

2 When you return in the morning, the attorneys will
3 present their closing arguments, and I will give you the law
4 that applies to this case. You will then step out to
5 deliberate.

6 Again, I don't know how long you'll deliberate. I
7 can't imagine, although I'm jinxing it now, but I, by saying
8 this, but I can't imagine you'll be out for, you know, many,
9 many, many hours tomorrow. So, I would anticipate that, as
10 for child care, you will have the opportunity to pick up
11 your own children or, you know, that you would maybe be out
12 of here by 5:00. I don't know. Like I said, I'm sure I'm
13 jinxing that by saying that. But if we get to a point
14 tomorrow where it looks like you're not going to be able to
15 get your kids and have to make other arrangements, then we
16 can maybe pause your deliberations at that point, and, and
17 handle that.

18 But -- so, I'm going to excuse you for the day. Be
19 back in your jury room at ten o'clock tomorrow morning.

20 Have a good night.

21 THE JUROR: You said ten o'clock?

22 THE COURT: 10:00, Yeah.

23 (WHEREUPON, the following takes place outside the
24 presence of the jury.)

25 THE COURT: All right. Folks, can we go ahead and talk

1 about the Defendant's proposed jury charges?

2 Any objections to those?

3 MR. ANDREWS: May I take a moment?

4 I'm sorry.

5 THE COURT: Okay.

6 MR. CHEVES: Your Honor, I'll tell you what I did. I
7 basically cited the statute, the yield statute, and then the
8 annotations to the statute contains some language that I
9 threw in there. That's, that's where all that comes from.

10 THE COURT: It's a 1964, '66, '48.

11 MR. CHEVES: It means it's good---

12 THE COURT: '63 cases.

13 MR. CHEVES: It's good solid law that's not been
14 overturned.

15 MR. ANDREWS: Your Honor, I think I'm gonna provide
16 some updated instructions.

17 MR. CHEVES: I mean there's a -- those are the cases
18 that, that cite the statute.

19 THE COURT: Right.

20 You don't have any objection to this statute being
21 charged, that's Proposed Charge Number 1, do you,
22 Mr. Andrews?

23 MR. ANDREWS: Your Honor, I'll take counsel's word for
24 it if that's what it says. So, no, I don't have any---

25 THE COURT: Okay.

1 MR. ANDREWS: ---any objections to that. I know -- I
2 mean I can't imagine which statute I'll throw in -- I would
3 like in there, but I'll email all of you my, my jury
4 instructions later this evening.

5 MR. CHEVES: And, and it's -- and I know that Ryan's
6 just looking at these for the first time. If you want to
7 talk about this first thing in the morning, we can, we can
8 do that.

9 THE COURT: Oh, absolutely. I want y'all back at
10 9:30 tomorrow morning. I just wanted to, you know, get an
11 idea just so that my clerk can start working. So --.

12 (Pause.)

13 THE COURT: Okay. So, email whatever you've got
14 tonight, and we will reconvene at 9:30 tomorrow morning to
15 talk about them in greater detail.

16 Okay. Yes, sir.

17 MR. CHEVES: One last thing, just, just one procedure.
18 Plaintiff's counsel had actually issued trial subpoenas
19 to two Enterprise employees, Enterprise employees.

20 Given, given Your Honor's ruling this morning, can, can
21 we release them from their trial subpoenas?

22 THE COURT: I don't see why not.

23 MR. ANDREWS: I want to call one of them as a rebuttal
24 just since -- no objection.

25 THE COURT: Yeah.

1 MR. ANDREWS: All right.

2 THE COURT: At this point, I would guess everybody is
3 released from their subpoenas, yes.

4 MR. ANDREWS: All right. Is this the original?

5 MR. CHEVES: Do you want to keep it as a Court's
6 Exhibit or --?

7 THE COURT: Since -- yeah, both of those deposition
8 transcripts we'll mark as Court's Exhibits since you read
9 from them or referred to them.

10 So, we should have an original Plaintiff and original
11 Defendant transcripts.

12 Okay. Oh, and that note, the jury note. If you could
13 retrieve that, and we'll mark that too.

14 All right. Otherwise, I'll see y'all at 9:30 tomorrow.

15 MR. ANDREWS: All right. Thank you, Your Honor.

16 (WHEREUPON, the two depositions were marked as Court's
17 Exhibit Nos. 1 and 2 for identification purposes only at
18 this time.)

19 MR. ANDREWS: Your Honor, could I leave this
20 demonstrative evidence here?

21 THE COURT: Absolutely. You can leave whatever you
22 want. The courtroom will be locked as soon as y'all leave.

23

24 (WHEREUPON, Court was in recess for the evening.)

25

1 wednesday, September 5th, 2018

2
3 THE COURT: All right, folks.

4 All right, folks. Let's talk about charges, jury
5 charges.

6 Let's first -- I first want to hear from Mr. Andrews.

7 Any objection as to the Defendant's requests to charge?

8 MR. ANDREWS: The only one I object to, take an
9 exception is to Charge Number 6, the duty to yield the right
10 of way does not mean that the driver on an unfavored highway
11 must refrain from crossing the favored highway whenever
12 another vehicle is approaching thereon regardless of how far
13 distant.

14 I think that's -- that will be very confusing
15 especially when it comes to the jury charge of failing to
16 yield the right of way, and the specific statute that says
17 the driver of a vehicle about to enter or cross a roadway
18 from any place other than another roadway shall yield the
19 right of way to all approaching vehicles on the roadway to
20 be entered or crossed. And I think that charge would just
21 add confusion to the jury, and I -- other than that, I don't
22 have -- take any exception to those charges.

23 THE COURT: Okay.

24 MR. CHEVES: Your Honor, in response, the theme I've
25 kind of picked up with during this trial is, is that -- is

1 the theory that, if you're taking a left turn, and they're
2 any cars, no matter where they are on the road, you, you
3 have to yield the right of way. And what Mr. Oliver
4 testified was that the only cars he saw were way off in the
5 distance.

6 And what this -- what the case law says, and this is
7 good, still good and current law in South Carolina, is that
8 a duty to yield doesn't mean that, that, that you must
9 refrain from crossing whenever there's another vehicle on
10 the road. It just means you still have a duty to, to, to,
11 you know, obviously yield if, if there's an immediate threat
12 of danger or, or if it's not safe to do so, but there's not
13 a blanket duty to yield just because another car is, is on
14 the favored highway.

15 THE COURT: I think it's appropriate to include, and,
16 therefore, I will charge all of the Defendant's requested
17 charges.

18 Any objection from the Defendant as to the Plaintiff's
19 requested?

20 MR. CHEVES: Your Honor, not to the, the, the three, I
21 guess, that are, that are kind of statutory base, the duty
22 to yield.

23 I, I do have some objections to general jury
24 instructions that Plaintiff's counsel submitted to the
25 Court. A lot of these are, are, are standard charges that I

1 know Your Honor's gonna give anyway, but the one I want to
2 focus on are the ones pertaining to, to damages.

3 Your Honor, in this case, there's, there's, there's no
4 evidence of any specific amount of medical bills in this
5 case. There's no evidence of any specific amount as to any
6 property damage. There's no evidence of any amount of time
7 that there was -- that the jury can base a loss of use
8 verdict on.

9 So, we would object to those being charged to the jury.
10 There's also, Your Honor, there's, there's been no medical
11 testimony in the case. Therefore, I don't think that the
12 charge, as to future damages, is appropriate. I don't think
13 the Life Expectancy Table is appropriate in this case.

14 There's, there's no medical opinion that she's gonna
15 continue to, to suffer future damage in the, in the future,
16 and, without that testimony, I don't think prospective
17 future damages can be charged, and I don't think the life
18 expectancy table can be charged.

19 THE COURT: Yes, sir.

20 MR. ANDREWS: Thank you, Your Honor.

21 I have no objection to the Life Expectancy Table not
22 being a jury instruction. That's fine with me.

23 As to the actual damages, there is testimony as to a
24 medical bill whenever he crossed Ms. Knollinger. He crossed
25 her and asked her about the amount of medical bill for

1 Lexington -- from one of the hospitals. So, I think there
2 is damage to the actual medical bills in there.

3 As to future damages and everything, Ms. Knollinger's
4 testified that she is not the way she was before this
5 accident, that she is in constant pain, and that she's been,
6 and her son confirmed this, that she's not been the same
7 since this collision. And so I think that future damages
8 charges would be appropriate.

9 MR. CHEVES: But there's no testimony that she's gonna
10 feel that way tomorrow. I mean there, there has to be a
11 medical opinion that this is a condition that's not gonna
12 get better or that she's gonna continue to feel this way.

13 MR. ANDREWS: I'm not gonna fight it too much. I'm got
14 gonna -- I don't really care too much about future damages.

15 THE COURT: Okay. Take out future damages.

16 So, there's no objection as to loss of earning
17 capacity?

18 MR. CHEVES: Yes. I'm sorry, Your Honor. Yes, ma'am.
19 There's, there's been no testimony as to the amount of any
20 lost wages.

21 MR. ANDREWS: No objection.

22 MR. CHEVES: Okay.

23 MR. ANDREWS: All right.

24 THE COURT: Take that out too.

25 MR. ANDREWS: It was getting late and I wanted to copy

1 and paste to make sure I, I had more that rather than -- too
2 much rather than too little.

3 MR. CHEVES: And, and I'm, I'm sure Your Honor has her
4 own way of, of fashioning everything, but, but, as far as
5 the charges that were submitted to you, there's, there's one
6 that talks about a violation of the statute, and then it
7 goes on to cite the actual statute the Plaintiff has passed
8 up.

9 I would just submit that, if you're going to be talking
10 about violation of the statutes and how it can -- how it
11 pertains to proof of negligence, that I would include the
12 statute that, that I passed up as well, Your Honor.

13 THE COURT: And that was Number 1?

14 MR. CHEVES: Number 1, yes, ma'am.

15 THE COURT: Yes.

16 Okay.

17 MR. ANDREWS: Of course.

18 THE COURT: All right. So, that leaves me with just a
19 general charge about duties of judge and jury, preponderance
20 of the evidence, direct and circumstantial evidence,
21 credibility of witnesses, negligence, comparative
22 negligence, driver's duty of care, duty to keep a proper
23 lookout, duty to keep vehicle under control, violation of
24 statute, yielding the right of way, actual damages, pain and
25 suffering, loss of enjoyment of life, personal injuries,

1 prospective damages, mental suffering, preexisting injury, a
2 general denial, and these other Defendant's charges that I
3 haven't included yet, two through five, that are not in
4 there yet.

5 Okay. Then we need to take 15 minutes or so. I know
6 we don't have all the jurors here, but---

7 THE BAILIFF: They are here, Your Honor.

8 THE COURT: Oh, okay. Well, whatever. But I need to
9 include these.

10 Yes.

11 MR. ANDREWS: Just, for the record, Your Honor, I
12 realize that, at the end of the Defendant's case, I didn't
13 renew my motion for directed verdict on comparative
14 negligence. I'd like to renew that. I want a directed
15 verdict for comparative negligence as well as my -- renew
16 my, my motion for directed verdict on liability as to the
17 Defendant's---

18 MR. CHEVES: Same here.

19 THE COURT: All right. They're all denied.

20 Here's the verdict form if y'all want to look at it,
21 and we're gonna take about 15 minutes while I refashion this
22 jury charge.

23 Any problems with that?

24 MR. ANDREWS: No, Your Honor.

25 THE COURT: All right.

1 (WHEREUPON, a short recess was taken at this time.)

2 THE COURT: All right. All right. You can bring the
3 jury.

4 Do you plan to have a rebuttable or a final argument?

5 MR. ANDREWS: Probably briefly.

6 THE COURT: Yeah.

7 (WHEREUPON, the following takes place within the
8 presence of the jury.)

9 THE BAILIFF: The jurors are present, Your Honor.

10 THE COURT: Thank you.

11 Good morning, folks.

12 As I told you yesterday, you have heard all the
13 testimony you're going to hear, received all the evidence
14 that will be entered in this case. All that remains is the
15 closing arguments of the attorneys, and my charge to you on
16 the law that applies to this case.

17 I have selected a foreperson for the jury. That is
18 Juror Number 161.

19 Who is that?

20 Right there.

21 Y'all just switch seats on the end here.

22 THE JUROR: Right here?

23 THE COURT: You two, yes. That's just the foreperson's
24 seat. So -- and you will guide the deliberations in the
25 jury room when that time comes, and I'll explain that to you

1 in a little bit.

2 So, I ask that you give the attorneys your full
3 attention as they give you their arguments.

4 I'll call Mr. Andrews first.

5 MR. ANDREWS: Thank you, Your Honor.

6 May it please the Court?

7 THE COURT: Yes, sir.

8 MR. ANDREWS: Good morning.

9 Thank you for your time and attention yesterday.

10 In a few moments you're gonna go back to the jury
11 deliberation room for the last time. When you go back
12 there, you're gonna have several jobs.

13 The first job is going to be to answer the questions on
14 the verdict form that the judge gives you. But, before you
15 do that, you're going to have to discuss, amongst each
16 other, why you came to the answers you came to, and that,
17 when you come to a verdict, that verdict must be unanimous.
18 You also make -- must make sure that no juror forces you to
19 come to a conclusion that's outside the law.

20 So, I'd like to take a few moments to talk about this.
21 We were forced to bring this lawsuit for two pretty simple
22 reasons. One, drivers have a duty to yield the right of way
23 while making a left-hand turn to approaching vehicles, and
24 have a duty to see what's been seen. And if they don't do
25 it, if they failed any of these capacities, and, as a

1 result, somebody's injured, that driver's responsible for
2 the harms and losses.

3 Second reason we had to bring this lawsuit is that
4 today, 1,365 days since December 11th, 2014, the
5 Defendant, Mr. Oliver, has failed to provide full and fair
6 compensation to Ms. Knollinger. So, your job, in this case,
7 is to award a verdict, and to award full and fair
8 compensation to Ms. Knollinger based upon the evidence
9 you've seen, and based upon the law that you hear -- that
10 you're about to hear from the judge.

11 Part of the law that the judge is going to instruct to
12 you is the preponderance of the evidence. We talked about
13 this briefly yesterday, and preponderance of the evidence is
14 a fancy legal way of saying more likely than not. Because,
15 as the Plaintiff, we bear the burden of proof in this case,
16 and we welcome that burden. We must prove, more likely --
17 was -- is it more likely than not that Mr. Oliver's
18 negligence caused Ms. Knollinger's injuries, and I submit to
19 you that we've met that burden.

20 And because we do meet the burden, we must meet the
21 burden on every single element of negligence, and the thing
22 about preponderance of the evidence, as the judge instructed
23 you yesterday, think of a tipping scale. If that scale tips
24 even so slightly to the Plaintiff, you must find for us.

25 So, think about it like one of those old market scales

1 if you're weighing salt. Just one more grain of salt on the
2 Plaintiff's side, and we've met our burden. However, if you
3 don't think that we have, if you don't think Mr. Oliver was
4 negligent in pulling out in front of Ms. Knollinger, then
5 you have to rule for the Defendant.

6 But the thing about negligence is this. Negligence is
7 something a reasonable person would do, a careful person
8 would do, would do. It's really about being careful.
9 That's what negligence is all about. And the judge will
10 instruct you in a few moments that there are certain
11 elements to damages.

12 One, you have to -- have a duty, and, in the testimony,
13 Mr. Oliver admitted that he had a duty. He had a duty to
14 see the car if there was a car to be seen, and has a duty to
15 yield the right of way when making a left-hand turn.

16 Two, we have to prove that Mr. Oliver breached those
17 duties, and despite Mr. Oliver's denial, the evidence shows
18 that we have, and I'll touch on that more later. But,
19 lastly, we must prove that the breach -- Mr. Oliver's breach
20 of that duty proximately caused Ms. Knollinger's injuries,
21 and, throughout the testimony that you've heard from Ms.
22 Knollinger, the photos you've seen and testimony you heard
23 from her son, and even the testimony confirming from the
24 Defendant, we've met that burden.

25 So, in this case, we've really, we've really met our

1 burden and shouldn't focus so much on that, but the defense
2 has noted a couple things yesterday that I would like to
3 point out to you in case somebody, when you're back in the
4 jury room, brings it up, and here's how you think about
5 that.

6 During his opening statement, the defense attorney
7 stated that, prior to pulling out onto Garners Ferry Road,
8 Mr. Oliver looked left, then right, and then left again. He
9 insinuated that, immediately prior to pulling out, left was
10 the last direction he looked. And Mr. Oliver, when asked
11 up -- on cross -- on direct examination by his attorney,
12 stated that.

13 However, when I pressed him on this matter, on
14 cross-examination, when I pulled out his previously sworn
15 testimony in his deposition from last year, he conceded. He
16 conceded that he looked left, then right because that's what
17 he always does. And, when I continued to press him,
18 Mr. Oliver acted like a kid whose hands was caught in the
19 cookie jar, and came up with the most ridiculous excuses why
20 his story suddenly changed.

21 I submit to you that's important. It's important
22 because his lawyers and he realizes the significance of that
23 lie. They don't want you to think that he averted his
24 attention from the left prior to pulling out in the road,
25 but, when, in fact, he admitted on the stand that he did.

1 And, also -- and that's really important because, also on
2 direct examination by his attorney and cross-examination as
3 well, Mr. Oliver admitted he was familiar with this area.
4 He was familiar that Pelham Road, the road in which Ms.
5 Knollinger came, yielded onto Garners Ferry Road. He was
6 aware that traffic came through there.

7 And so, when you go back to the jury room, if a juror
8 tries to say that well, it doesn't matter that he didn't
9 look left, right before pulling out, you tell them yes, it
10 does. It matters because, especially Mr. Oliver having
11 knowledge of that roadway, he should avert his full
12 attention to it prior to turning to avoid pulling out in the
13 front of somebody and creating the needless danger.

14 And that brings me to my next point, which is,
15 throughout the case, all the testimony confirms that this
16 collision happened on Garners Ferry Road. All the testimony
17 that you've seen indicates that Ms. Knollinger's vehicle had
18 successfully completed the merge on Garners Ferry Road.

19 But you can't really take my word for it. You can't
20 take the defense attorney's word for it either. Whenever
21 you go back to the jury deliberation room, all you can rely
22 upon is the evidence, and the testimony you've seen. And,
23 whenever you go back to the jury room, I want you to look at
24 some of these pictures. I got one of these blown up. I
25 think this is one of the defense's exhibits that's blown up.

1 So, when you go back to the jury room, I want you to
2 look at these pictures. I want you to look.

3 Where is Ms. Knollinger's vehicle?

4 Well, it was identified that Ms. Knollinger's vehicle
5 was on Garners Ferry Road after the collision. This is
6 where her vehicle ended up, and it ended up in the median.
7 But ask yourself how did it end up there with a trail of
8 debris when the Defendant testified that the collision
9 occurred in this far left lane. If a juror states that they
10 believe that the collision occurred in the third lane, tell
11 them well, it couldn't have.

12 And how do I know that?

13 Well, obviously, a vehicle can't turn away and spin.
14 And, secondly, and most importantly, the testimony you heard
15 from the other witnesses, and what these pictures reveal is
16 a trail of debris. This trail of debris that leads out of
17 the third lane into the second lane, and what you can't see
18 in this picture, but what the testimony from Officer
19 Brinson, an officer who has multiple, multiple
20 certifications in accident investigations, was that the
21 trail of debris led to the San Jose Restaurant.

22 Mr. Wright, Ms. Knollinger's son, testified, when he
23 got there, he observed the trail of debris that he estimated
24 about 40-feet long that led to the San Jose Restaurant. In
25 fact, he testified as to a scrape mark near the road, near

1 the San Jose Restaurant, and that he picked up a piece of
2 his mother's vehicle, a reflector or something, near the
3 sidewalk on Garners Ferry Road.

4 With that, with that testimony, it can only draw one
5 reasonable inference, that this collision occurred just like
6 how Ms. Knollinger told you. This collision occurred after
7 she safely merged onto Garners Ferry Road, and, after she
8 merged, she safely looked through her mirror like anybody
9 would do in attempts to changing lanes, but it was too late.
10 Mr. Oliver pulled out in front of her. And I think it's
11 really important to note that, throughout this, throughout
12 this trial, throughout Ms. Knollinger's testimony, her
13 version of what she did hasn't changed. Unlike
14 Mr. Oliver's.

15 So, in a few moments, the Judge will instruct you on
16 statutory duties in South Carolina. Laws. She'll instruct
17 you that a violation of one of these laws is negligence as a
18 matter of law. So, in other words, if you find that
19 Mr. Oliver failed to yield the right of way to approaching
20 vehicles, then you found that he is negligent as a matter of
21 law. And I submit to you that's what the evidence points
22 to.

23 And if you remember yesterday, I talked about this is a
24 civil case, we're here about money, and I didn't ask her an
25 amount at that time because he hadn't seen the evidence, and

1 I don't think it was fair, and, throughout the trial, I, I
2 like to think and I like to analyze these situations myself
3 more and more, but the number I'm gonna ask to compensate
4 Ms. Knollinger for is \$68,250. And, if you award that
5 amount to Ms. Knollinger, you award her for the damages and
6 the harms and losses in which she suffered.

7 But if you go back there, if you go back there that --
8 and a juror says wait, that's too much amount of money for
9 any one person, you tell them, you tell them about the harms
10 that she suffered, the ones that she testified to, and also
11 the ones that her son testified to.

12 And, in a few moments, the Judge will instruct you on
13 the damages in this case, on how to award damages, and
14 she'll instruct you on actual damages. And actual damages
15 include medical bills, and you heard Ms. Knollinger testify
16 that she treated at two ERs, and a physician's billing.
17 And, you know, frankly I think -- well, actual damages,
18 that's only one element of damages, and I think, frankly,
19 it's the smallest element of damages, because money she gets
20 for medical providers, she has to pay back the providers for
21 the care that she received, the care that she's thankful
22 for, the care that helped her.

23 But another element of damages, what I think's the most
24 significant form of damages is -- are psychological trauma,
25 mental anguish, pain and suffering, embarrassment, and loss

1 of enjoyment of life. And these are damages that the Judge
2 will spend a lot of time instructing you on.

3 She's gonna spend a lot of time instructing you on
4 these damages because the law recognizes that these damages
5 are equally as important as the actual damages and such,
6 and, thus, serious compensation must be awarded to them.
7 And, if you look at those damages, I think you will be able
8 to come to a fair analysis after all the testimony and
9 evidence you've heard.

10 when you go back there, think what amount, what amount
11 is fair to compensate Ms. Knollinger for her body being
12 beaten and bruised in this collision.

13 what amount of money is fair to compensate Ms.
14 Knollinger for the embarrassment of having to relive this
15 today?

16 what amount is fair to compensate Ms. Knollinger for
17 her back still hurting to this day?

18 what amount is fair to Ms. Knollinger for her not being
19 able to pick up her grandchildren and play with them like
20 she wants or was use to?

21 what amount is fair for her to receive for the
22 depression that was exacerbated and the strain that this
23 collision put on her marriage?

24 You heard her testify and her son testify that this
25 greatly affected her marriage, and her son testified that

1 she's not the same person she was since this accident.

2 So, how much should you be compensated for this trauma,
3 for this mental anguish, for this pain and suffering?

4 And it's a hard job for you. I'm not going to deny
5 that. It's a hard job for me too. And I came up --
6 whenever I was looking at the trial, whenever I was thinking
7 about the trial and coming up with my opening remarks and
8 trying to figure out a fair and reasonable number to ask for
9 you, one number stood out to me. And that was 1,365 cause
10 that's the amount of days today that it's been since
11 Mr. Oliver pulled out in front of Ms. Knollinger and caused
12 her injuries.

13 So, I was thinking how should we associate how much is
14 worth a day for each of these damages, and I thought that
15 \$50.00 a day would be fair. \$68,250, that represents \$50.00
16 a day. Fifty dollars a day Ms. Knollinger still suffers
17 with back pain. Fifty dollars a day that she can't pick up
18 her grandchildren like she did. Fifty dollars a day that
19 her depression is exacerbated. And \$50.00 a day for each
20 day Mr. Oliver hasn't admitted his wrongdoings and done
21 what's right.

22 Now, you can award more than that. You can award less
23 than that. But if you award that, you'll be acting within
24 the law. And if somebody back there says no, that's too
25 much money for one person, you just remind them of all the

1 harm she suffered, the harm that she suffered through no
2 fault of her own.

3 And, ladies and gentlemen, this is her one day in
4 Court. Despite what the defense would have you believe,
5 Mr. Oliver pulled out right in front of her. And think
6 about the testimony that Mr. Oliver gave that, when he
7 looked left, when he looked right again, he diverted his
8 attention from Pelham Road. He looked left and looked
9 right, and then proceeded to pull right out in front of
10 Ms. Knollinger.

11 When I pressed him on cross-examination, I asked him if
12 it was careless to not look in the direction in which he was
13 driving through first, and he admitted it. He admitted it,
14 but he did it anyway, and he still denied any wrongdoing.

15 Well, his unapologetic actions are careless. His
16 unapologetic actions are negligent. His unapologetic
17 actions are a danger to the community, and if you award
18 \$68,250, what you'll be doing is sending a message. You'll
19 be sending a message to the community that you take this
20 seriously. You take community safety seriously, that if
21 someone hurts somebody, and they force 13 people to come in
22 and take two days off of their life to do what is right,
23 that that person's gonna have to pay for those damages.

24 So, when you go back to the jury room, when you look at
25 the verdict form, the verdict form's gonna have several

1 different questions. The questions are gonna ask if do you
2 find that the Plaintiff was -- may I look at the verdict
3 form?

4 I don't know -- my apologies.

5 When you look at the verdict form, there's gonna be a
6 series of questions.

7 Was the Defendant negligent?

8 Yes. Of course, he was. That's what the evidence
9 shows.

10 Was the Defendant's negligence a proximate cause of the
11 Plaintiff's injuries?

12 He admitted it was. So, check yes and go to Question
13 3.

14 Was the Plaintiff negligent?

15 I submit to you that no. No evidence was offered by
16 the defense that Ms. Knollinger was negligent. The only
17 thing that they would have you to believe that, whenever she
18 looked to the left on her mirror, after she merged onto
19 Garners Ferry Road, that that was negligent.

20 No, she was being safe. She was being safe to make
21 sure there was no approaching vehicles so she could merge
22 into that lane.

23 Then you go to Question 4. Well, then you skip that
24 question and go to Question 7. Sorry.

25 Please state the amount of actual damages, if any,

1 sustained by the Plaintiff. And I submit to you that number
2 is \$68,250. And if you award that amount, you will be
3 awarding within the law, and you'll be telling Richland
4 County that you take community safety very seriously, and
5 that you take accountability seriously because, as a
6 society, this world has a problem with accepting
7 responsibility, but I don't think that's the case here. I
8 don't think that's the case here in Richland County.

9 When you award Ms. Knollinger that verdict, you'll be
10 able to walk out of this courtroom with your heads held
11 high, and tell the community that you did the right thing,
12 and that this case was serious.

13 So, ladies and gentlemen, in conclusion, I ask that you
14 please find for Ms. Knollinger. Please do the right thing.

15 Thank you.

16 THE COURT: Mr. Cheves.

17 MR. CHEVES: Thank you, Your Honor.

18 I want to start with saying thank you to each one of
19 you for your service here the past couple of days. As I
20 said yesterday, I know this is not a volunteer position that
21 you found yourselves in, but, having accepted your role, I
22 thank you in advance for the careful and reasonable
23 deliberations you're about to engage in. And I trust that
24 you'll come back with an honest and true verdict in this
25 case.

1 I'm gonna be very brief, and I don't want you to
2 construe my brevity with not taking this case important or
3 that it's not important to my client. It's just that my
4 experience tells me that, when there's physical evidence for
5 the jury to look at, nothing that I say is going to really
6 matter all that much to you guys. You're gonna have the
7 pictures back there. You're gonna have the exhibits, and
8 you're gonna come to the right conclusion in this case, and
9 the right conclusion in this case is a verdict for the
10 Defendant.

11 I thought about how to go about this today, and I, and
12 I thought maybe I'd talk about things that we know, and
13 things that are at issue. What we know is that, on the day
14 in question, Ryan Oliver rented a 26-foot box truck, went to
15 a woman's house, loaded it with furniture, filled with
16 furniture, and then went to a restaurant to have lunch.

17 And you'll have the picture back there. And it, and
18 you guys are all from this area. And you've probably all
19 been in this area and, and recognize it.

20 The exit to the restaurant shares a parking lot with
21 Pelham Drive merging onto Garners Ferry, and you'll have
22 this picture back there, and you'll see just how close that
23 merge point off Pelham Drive is to Garners Ferry Road, and
24 to, and to that, that driveway where Mr. Oliver was pulling
25 out. So, we know that it's a small amount of space we're

1 working with already.

2 We know, from Mr. Oliver's testimony, that it was not
3 contradicted, that it takes him about four to five seconds
4 to get a truck that size and that weight going to the road
5 to where he was. We know, from his testimony, that he
6 looked in both directions, and you can ascribe whatever
7 relevance you want to whether he looked left, right, left or
8 left, right. He looked in both directions. He did not see
9 a car coming, and that testimony is uncontradicted.

10 Having not seen any cars coming, he attempted to pull
11 out onto Garners Ferry Road. Four to five seconds later,
12 four to five seconds later, the front of his truck was all
13 the way across the median. He said he was already across
14 the median getting ready to complete his turn into the other
15 lane of Garners Ferry Road.

16 He looked over, saw the Plaintiff approaching, and,
17 importantly, says he saw her looking over her left shoulder,
18 and then she turned back around. And that's when the impact
19 occurred.

20 That's his testimony. That's always been his
21 testimony, and that's the testimony that makes sense in this
22 case.

23 what else do we know?

24 We also know that Ms. Knollinger was merging off Pelham
25 Drive onto Garners Ferry Road. We know that, again, there's

1 not a lot of room there to work with between the driveway,
2 and the merge lane. So, we know that a period of time she
3 was looking over her shoulder to see if she could merge as
4 well as her side mirror because she was headed towards the
5 far left lane. She said that. She had to make a left turn
6 up ahead. She was heading towards the far left lane, and
7 she says, in her own testimony, that, when she turned back
8 around from looking, the truck was right in front of her.
9 The truck was already in front of her.

10 So, you guys have to determine who bears responsibility
11 for this accident.

12 Is it the person who looked both ways, did not see a
13 car coming, and pulled out only to be hit on the side of his
14 truck or is it the person that was merging onto Garners
15 Ferry looking over her left shoulder and looking in her
16 side-view mirror only to look straight and not have time to
17 avoid the collision?

18 That, that, that -- that's the issue in this case.
19 That's what you have to determine in this case.

20 Now, let's talk about things that are at issue. At
21 issue in the case is whether Ryan Oliver should of seen the
22 Plaintiff prior to pulling out, and suggestion seems to be
23 that he should of seen her on Pelham Drive.

24 First of all, he says he did not and he could not.

25 Second of all, I want you guys to do some simple math.

1 If she were already within viewpoint on Pelham Drive, it
2 would not have taken her four to five seconds to reach the
3 point of impact given that short period, that short space.

4 He said it takes four to five seconds to pull out, and
5 get to where he was, and if any of you guys have ever driven
6 a U-Haul or any similar type truck, you know there's not any
7 pickup when you got a, a box full of furniture. It takes a
8 lot to get going.

9 So, how did she somehow get to where she could be seen
10 by Mr. Oliver?

11 well, how did it take her -- and she testified she
12 didn't -- she did not stop. She came through the yield.
13 Therefore, it would not have taken her that long to reach
14 the point of impact. She was no where to be seen when
15 Mr. Oliver pulled out of that parking lot.

16 It is an unfortunate accident, and I think that
17 everyone that hears about an accident is sorry that it
18 occurred, but it is not his responsibility. And I hope your
19 deliberations stop at that point. I -- and I contend that
20 it should stop at that point.

21 when we talk about damages though, and please
22 understand, guys, I, I have a job to do. I have to talk to
23 you about the damages. It's my position you should not get
24 this far in your deliberations. But, if you do, then let's
25 talk a little bit about damages.

1 The judge is gonna tell you that damages are not
2 allowed to be speculative. You can't guess. You have to
3 have a framework. You -- there's no speculation involved in
4 ascertaining damages.

5 There's been no testimony from anybody, a professional.
6 There has been no testimony about any diagnosis. There has
7 been no testimony about any bills. We, we heard about
8 medical treatment, but there's been no testimony about bills
9 other than the fact that I brought up a second chest, chest
10 x-ray for \$700.00. That's the only testimony about bills.
11 You can't go back there and, and award treatment for damages
12 for medical treatment, and not have any basis for what the
13 award should be.

14 So, what, what else do we know about her medical
15 treatment?

16 We know that, despite her telling you that she blacked
17 out in the accident, we know, from her cross-examination,
18 that she told EMS that she had not lost consciousness. We
19 know that she denied back and neck pain at the scene. She
20 denied chest pain at the scene. We know that she went to
21 the hospital and told the hospital that she was t-boned on
22 the passenger side. We know that, a week later, she went to
23 a different hospital, and told them that she had not had a
24 chest x-ray, but she had. She admitted to you that she had.
25 We know that she then, at Lexington Hospital, told them of

1 her chronic back pain.

2 Now, she sat up here and told you about her back was
3 causing her all these problems, all these issues. She's
4 telling a doctor, a week after the accident, that she has
5 chronic back pain. We didn't cause this. It's chronic.

6 She then talks to you about her depression, and I had
7 her look at her -- the first record she has at her family
8 doctor, which is a month after this accident, where she
9 tells the doctor that the episode started two months ago,
10 predating this accident, and that her symptoms are probably
11 caused by stress and family stressors, and there's no
12 mention of a car accident.

13 You guys have to go back there and decide what, what is
14 right in this case, what, what is, what is a true and honest
15 verdict in this case, who has established that they did not
16 cause this accident. And I want you to finally put yourself
17 in the position of Ryan Oliver.

18 You're driving a big truck full of furniture. You look
19 both ways.

20 MR. ANDREWS: Objection, Your Honor.

21 THE COURT: Sustained.

22 MR. ANDREWS: It's a Golden Rule argument.

23 THE COURT: Sustained.

24 MR. CHEVES: All right. In conclusion, ladies and
25 gentlemen, you have one job to do in this case, and that is

1 to talk amongst yourselves, and make sure you're on all the
2 same page about what happened in this accident.

3 Look at the photographs. Look at the evidence. Talk
4 amongst yourselves. Reach a unanimous verdict, and I
5 suggest to you that the only reasonable and true verdict in
6 this case is for the defense.

7 Thank you.

8 THE COURT: Mr. Andrews.

9 MR. ANDREWS: I don't know what you heard, but I just
10 heard the defense attorney state -- try and downplay that it
11 didn't matter if he looked left and then right. Then try
12 and tell you that it was safe to do that even though there's
13 a small area of space between Pelham Road.

14 I know I wasn't the only person who heard that. But,
15 as you can see, we can -- we concede that there is a small
16 area between Pelham Road and Garners Ferry Road. And the
17 fact remains that the Defendant admitted, after lying, that
18 he diverted his attention from approaching vehicles.

19 what happens when you divert your attention from
20 approaching vehicles?

21 vehicle comes.

22 And so the defense attorney also gave some arguments on
23 semantics, some semantics. The chronic back pain that he
24 mentioned in his -- in the medical records.

25 well, when he asked Ms. Knollinger what did her

1 definition of chronic mean, she says it hurts a lot. You
2 can't fault Ms. Knollinger for not knowing the medical
3 definition of chronic.

4 Did she -- did he ask her once if she had any medical
5 knowledge or experience?

6 No.

7 He also argued some semantics in stress and family
8 stressors. Well, there's testimony from not only her, but
9 also her son that, ever since this accident, her depression
10 got much worse. Just because it was exacerbated doesn't
11 mean it can't be compensated.

12 So, I want you to recognize that, and I want you to
13 recognize that Ms. Knollinger suffered a lot, and that the
14 only fair thing that you can do is compensate her for the
15 injuries that Mr. Oliver suffered -- that Mr. Oliver caused.

16 And, in his opening remarks, he stated that Mr. Oliver
17 was ready to put this matter behind him. And so is Ms.
18 Knollinger. It's been 1,365 days since we've gotten to this
19 point.

20 And so I think, with all the evidence, with looking at
21 the line of degree going to San Jose Restaurant, only one
22 reasonable conclusion could be drawn that, even if
23 Mr. Oliver looked at all, which we don't know he did, he
24 lied at the stand once before, but if he looked left, and he
25 diverted his attention to the right, Ms. Knollinger's

1 vehicle came across the road, and he pulled out in front of
2 her.

3 And, the damage, don't be caught up in the damage on
4 the vehicle where they said it occurred. Remember there's
5 testimony by Officer Brinson that he saw the damage on the
6 box truck.

7 MR. CHEVES: Your Honor, this goes beyond anything I
8 brought up in my closing argument.

9 THE COURT: Sustained.

10 MR. ANDREWS: In closing, the evidence and the facts
11 speak for itself. Ms. Knollinger's vehicle was on Garners
12 Ferry Road, and Mr. Oliver pulled out of a private driveway.

13 So, you have to find that he was negligent, and you
14 have to compensate Ms. Knollinger's for her losses.

15 Thank you.

16 THE COURT: All right. Ladies and gentlemen, I will
17 now give you the law that applies to this case.

18 MR. ANDREWS: Could we approach real quickly?

19 THE COURT: Sure.

20 (WHEREUPON, a bench conference was held at this time.)

21 THE COURT: All right, folks. I remind you that,
22 during this trial, you have and I have certain duties to
23 perform. As the trial judge, it is my responsibility to
24 preside over the trial of this case, and I also have the
25 duty to rule on the admissibility of the evidence offered

1 during this trial.

2 You are to consider only the evidence before you. If
3 there was any testimony ordered stricken from the record
4 during this trial, you must disregard that testimony. You
5 are to consider only the testimony which has been presented
6 from the witness stand, any exhibits which have been made a
7 part of the record in this case, and any stipulations of
8 counsel.

9 I have the additional duty to charge you the law
10 applicable to this case. It is your duty, as jurors, to
11 accept and apply the law as I now state it to you. If you
12 think you have any idea as to what the law is or what the
13 law ought to be, and it does not agree with what I tell you
14 the law is, you must disregard, disregard or forget that
15 idea because you were sworn to accept the law and apply the
16 law exactly as I state it to you.

17 In every case tried in this Court before a jury, the
18 jury becomes the sole and exclusive judge of the facts. A
19 trial judge cannot comment on or make any statement about
20 the facts in a case. Since you are the sole judges of the
21 facts, do not think, by anything that I said during the
22 trial, that I have an opinion about the facts in this case.
23 The law does not allow me to have an opinion about the
24 facts.

25 The burden of proof in this case is by a preponderance

1 of the evidence. A preponderance of the evidence simply
2 means the greater weight of the evidence. It is evidence
3 which, as a whole, shows that the facts sought to be proved
4 is more likely true than not true.

5 This can be illustrated by imagining a set of scales.
6 When the case begins, the scales are even. After all of the
7 evidence has been presented, if the scales remain even or if
8 they tip even slightly in favor of the Defendant, then the
9 Plaintiff has failed to meet the burden of proof, and would
10 not be entitled to recover in this case. If, on the other
11 hand, the scales tip even slightly in favor of the
12 Plaintiff, the Plaintiff will have met the burden of proof,
13 and you should return a verdict for the Plaintiff.

14 The preponderance of evidence is not determined by the
15 number of witnesses. Instead, it must be determined by the
16 greater weight of all of the evidence.

17 There are two types of evidence, evidence generally
18 presented during a trial. Direct evidence and
19 circumstantial evidence.

20 Direct evidence is testimony of a person who claims to
21 have actual knowledge of a fact such as an eye witness. It
22 is evidence which immediately establishes the main fact to
23 be proved.

24 Circumstantial evidence is proof of a chain of facts
25 and circumstances indicating the existence of a fact. It is

1 evidence which immediately establishes collateral facts from
2 which the main fact may be inferred.

3 Circumstantial evidence is based on inference, and not
4 on personal knowledge or observation. It is proof that does
5 not actually establish the fact in question, but that
6 asserts or describes something else from which you may
7 either reasonably infer the truth of the fact or at least
8 reasonable infer an increase in the probability that the
9 fact is true.

10 For circumstantial evidence to be sufficient to warrant
11 a finding of fact, the circumstances must lead to that fact
12 with reasonable certainty. The facts and circumstances
13 should be considered in light of ordinary experience and
14 common sense. The existence of a fact cannot be based on
15 speculation, surmise, or conjecture. The law makes
16 absolutely no distinction between the weight or value to be
17 given to either direct or circumstantial evidence nor is a
18 greater degree of certainty required of circumstantial
19 evidence than of direct evidence.

20 Necessarily, you must determine the credibility of
21 witnesses who have testified in this case. Credibility
22 simply means believability. It becomes your duty, as
23 jurors, to evaluate the evidence and determine which
24 evidence convinces you it is true.

25 In determining the believability of witnesses who have

1 testified in this case, you may believe one witness over
2 several witnesses or several witnesses over one witness.
3 You may believe a part of the testimony of a witness and
4 reject the remaining part of the testimony of that same
5 witness. You may believe the testimony of a witness in its
6 entirety or reject the testimony of a witness in its
7 entirety.

8 You may consider whether the witness has an interest in
9 the result of the trial, whether the witness is prejudiced
10 toward either the Plaintiff or the Defendant, the
11 opportunity for the witness to have seen the matters and
12 things about which the witness may testify, and the way the
13 witness acts on the witness stand.

14 The Plaintiff claims that the Defendant was negligent,
15 and should compensate the Plaintiff for the injuries the
16 Plaintiff suffered as a result of this Defendant's
17 negligence.

18 Negligence means that a person has done something that
19 a reasonable person would not have done or has failed to do
20 something that a reasonable person would have done in the
21 same situation. Typically, the Plaintiff must prove, by
22 preponderance or greater weight of the evidence, that the
23 Defendant owed the Plaintiff a duty of care. However, in
24 this case, this is a question of law which I've already
25 decided. In this case -- I'm sorry. Let me correct that

1 really quickly.

2 The first thing you must determine -- I'm gonna start
3 over with negligence, and I'm gonna repeat a paragraph.

4 The Plaintiff claims that the Defendant was negligent
5 and should compensate the Plaintiff for the injuries the
6 Plaintiff suffered as a result of the Defendant's
7 negligence. Negligence means that a person has done
8 something that a reasonable person would not have done or
9 has failed to do something that a reasonable person would
10 have done in the same situation.

11 The Plaintiff must prove the following four things by a
12 preponderance or the greater weight of the evidence:

13 Number 1. That the Defendant owed the Plaintiff a duty
14 of care.

15 Two. That the Defendant breached that duty of care by
16 a negligent act or omission.

17 Three. The Plaintiff must prove, by a preponderance or
18 greater weight of the evidence, that she suffered damages as
19 a result of the Defendant's breach of duty.

20 And, four, the Plaintiff must prove, by the
21 preponderance or greater weight of the evidence, that the
22 damages were proximately caused by the Defendant's breach of
23 duty.

24 Proximate cause is something that produces a natural
25 chain of events, which, in the end, brings about the injury.

1 It is the direct cause of the injury.

2 To prove that the Defendant's negligence proximately
3 caused the Plaintiff's injury, the Plaintiff must first
4 prove causation in fact. This is proven by showing that the
5 injury would not have occurred but for the Defendant's
6 negligence.

7 The Plaintiff must also prove legal cause. Legal cause
8 is proven by showing that the injury was foreseeable. This
9 means that the injury occurred as a natural and probable
10 consequence of the Defendant's negligence. The Plaintiff
11 must prove that some injury from the Defendant's negligence
12 was foreseeable, but does not have to prove that the
13 particular injury that occurred was foreseeable. However,
14 the Defendant cannot be held responsible for things which
15 could not be expected to happen.

16 Proximate cause does not mean the only cause. The
17 Defendant's act can be a proximate cause of the Plaintiff's
18 injury if it was at least one of the direct, concurring
19 causes of the injury.

20 The operator of a motor vehicle is required to use the
21 same care that would be used by a person of ordinary reason
22 and prudence if that person were driving the same vehicle at
23 the same time and place and under the same circumstances.

24 A driver's duty is not merely to look, but to observe.
25 The driver must look in such an intelligent and careful

1 manner as to enable them to see what a person exercising
2 ordinary care and caution could see under like
3 circumstances.

4 Negligence is established as a matter of law if the
5 only inference is that either the driver did not look or did
6 so in a such careless fashion as not to see what was in
7 plain view. The duty is not merely one of looking, but of
8 observation. The driver must look in such an intelligent
9 and careful manner as to enable them to see what a person in
10 the exercise of ordinary care and caution for the safety of
11 themselves and others could have seen under the
12 circumstances.

13 Having lawfully entered the highway, a driver has a
14 right to be there and expect others to honor such right.
15 The driver of an automobile has to -- a duty to keep a
16 proper lookout for other vehicles on the road. This duty
17 requires the driver to watch attentively so that the driver
18 is able to see a person or object in the highway. In fact,
19 travelers on both the favored and the unfavored highway must
20 use ordinary care in keeping a proper lookout for vehicles
21 approaching the intersection.

22 The driver of an automobile also has a duty to keep the
23 automobile under proper control so that the driver is able
24 to slow down, stop, or turn the automobile to avoid
25 colliding with other vehicles, pedestrians, and objects

1 lawfully on the road.

2 In this case, the Plaintiff claims that the Defendant
3 failed to follow the following rule or statute which states
4 the driver of a vehicle about to enter or cross a roadway
5 from any place other than the roadway shall yield the right
6 of way to all vehicles approaching on the roadway to be
7 entered or crossed. The failure to follow this statutory
8 rule is negligence, negligence as a matter of law.

9 If you find that the Defendant failed to follow this
10 statutory rule, you must then decide whether the failure
11 proximately caused the Plaintiff's injury. South Carolina
12 law states that the driver of a vehicle approaching a yield
13 sign shall, in obedience to such sign, slow down to a
14 reasonable speed for the existing conditions, and, if
15 required for safety, stop at a clearly marked stop line
16 but -- okay. They shall stop at a clearly marked stop line,
17 but if there is none, before entering the crosswalk on the
18 near side of the intersection or, if none, then at the point
19 nearest the intersecting roadway where the driver has a view
20 of approaching traffic on the intersecting road before
21 entering it. After slowing or stopping, the driver shall
22 yield the right of way to any vehicle in the intersection or
23 approaching on another roadway so closely as to constitute
24 an immediate hazard during the time the driver is moving
25 across or within the intersection or junction of roadways.

1 I know that's a mouthful, right?

2 If such driver is involved in a collision with a
3 vehicle in the intersection or junction of roadways after
4 driving past a yield sign without stopping, the collision
5 shall be deemed prima facie evidence of his or her failure
6 to yield the right of way. However, the duty to yield the
7 right of way does not mean that the driver on the unfavored
8 highway must refrain from crossing the favored highway
9 whenever another vehicle is approaching thereon regardless
10 of how far distant.

11 Actual damages are to compensate the Plaintiff for the
12 Plaintiff's injuries or loss, and to put the Plaintiff as
13 near as possible in the same position that the Plaintiff was
14 in before the incident occurred. In other words, actual
15 damages would be the actual losses and expenses which the
16 Plaintiff has suffered because of the Defendant's
17 negligence.

18 Pain and suffering compensates the Plaintiff for
19 physical discomfort, an emotional response to the sensation
20 of pain caused by the injury itself. There is no definite
21 standard by way to compensate the Plaintiff for pain and
22 suffering. You have the authority to determine the amount,
23 if any, to be allowed for pain and suffering using calm and
24 reasonable judgment to ensure that the damages are just and
25 reasonable in light of the testimony and evidence presented

1 in this case.

2 Loss of enjoyment of life compensates the Plaintiff for
3 the limitations on the Plaintiffs's ability to participate
4 in, and derive pleasure from the normal activities of daily
5 life. As to personal injuries, the Plaintiff must prove
6 that expenses caused by the injury were necessary and
7 reasonable.

8 Actual damages for a Plaintiff who has been physically
9 injured include pain and suffering, both past and future, as
10 well as mental anguish, and impairment of health or physical
11 condition. In determining the amount of compensation for
12 personal injuries, it is proper to consider past and present
13 aspects of the injury. This would include physical and
14 mental pain and suffering, expenses incurred for necessary
15 medical treatment, the loss of enjoyment of life suffered as
16 a result of the injury, and any other losses which are
17 reflected by the character of the injury.

18 A plaintiff is never entitled to recover conjectural or
19 speculative damages. But if you find that the Plaintiff is
20 entitled to a verdict for actual damages, your verdict
21 should be -- I'm sorry. I can't read today. Give me a
22 minute. Take a break. It's a lot. We're almost there.

23 (Pause.)

24 THE COURT: Try this again.

25 Okay. A plaintiff is never entitled to recover

1 conjectural or speculative damages, but, if you find the
2 Plaintiff is entitled to a verdict for actual damages, your
3 verdict should include an amount to cover any past and
4 present damages which were proximately caused by the
5 Defendant. Actual damages need not be proven to a
6 mathematical certainty or be based on evidence of the
7 precise amount of damages the Plaintiff has suffered.
8 Instead, the evidence must allow you to determine what
9 amount of damages is fair, just, and reasonable.

10 Mental suffering, apprehension, shock, fright,
11 emotional upset, humiliation, and anxiety, either present or
12 expected in the future, can properly be considered as an
13 element of damages. The amount of damages for mental
14 suffering cannot be exactly measured.

15 The Defendant claims that the Plaintiff had a
16 preexisting injury or condition prior to the date that the
17 Plaintiff claims that the Defendant injured her. If you
18 find that the Plaintiff received an injury as the result --
19 as a result of the negligence of the Defendant, and is
20 entitled to recover for that injury, the fact that the
21 Plaintiff had a preexisting injury or condition would not
22 prevent the Plaintiff from recovering. The Defendant is
23 responsible for all ill effects which, considering the
24 Plaintiff's condition of health when the Plaintiff was
25 injured, naturally and necessarily follow the injury. The

1 Defendant takes the Plaintiff as the Plaintiff is found
2 whether the Plaintiff is in perfect health, in poor health,
3 or somewhere in-between.

4 A defendant's liability is no way lessened or affected
5 because of the fact that the injury would not have resulted
6 or would not have been as serious or severe had the
7 Plaintiff been in good health or that the injuries were
8 activated and rendered more difficult to cure by reason of
9 the fact that the Plaintiff was in -- not in good health.
10 In other words, if the presence of a preexisting injury or
11 condition aggravates and prolongs the injury and increases
12 the damages, the Plaintiff should be compensated for the
13 increased or added damages.

14 A person with a preexisting injury or condition is not,
15 however, entitled to any compensation for the preexisting
16 injury or condition. In addition, if the problems are the
17 result of the natural progression of the worsening of a
18 preexisting injury or a condition, then the Plaintiff would
19 not be entitled to be compensated for those problems.

20 The Defendant has answered the Plaintiff's complaint
21 with a denial that the Plaintiff's injuries were proximately
22 caused by the Defendant's negligence. Because of this
23 denial, the Plaintiff has the burden of proving each and
24 every element of her alleged damages.

25 The Defendant claims that the Plaintiff's own

1 negligence proximately caused the Defendant's (sic)
2 injuries. If you find that you Defendant was negligent, you
3 must then decide whether the Plaintiff was negligent. The
4 Defendant must prove, by a preponderance or greater weight
5 of the evidence, that the Plaintiff breached a duty of care
6 which proximately caused the Plaintiff's injuries. The same
7 law which I have told you to use in deciding whether the
8 Defendant was negligent should be used in deciding whether
9 the Plaintiff was negligent.

10 If you find that the Defendant was negligent -- I'm
11 sorry. If you find that the negligence of both the
12 Plaintiff and the Defendant proximately caused the
13 Plaintiff's injuries, you must then decide how much the
14 negligence of the Plaintiff contributed to the Plaintiff's
15 own injuries, and how much of the Defendant's negligence
16 contributed to the Plaintiff's injuries.

17 In deciding the percentages of negligence of the
18 Plaintiff and the Defendant, you may consider, among other
19 things, the following factors:

20 whether each party's conducts was only inadvertent or
21 whether it was engaged in with an awareness of the danger
22 involved.

23 The magnitude of the risk created by each party's
24 conduct including the number of persons endangered, and the
25 possible severity of the injury.

1 The significance of the goal that each party was trying
2 to reach, and the need to achieve the goal in that manner.

3 Each party's capabilities and abilities to realize and
4 eliminate the risk involved.

5 The particular circumstances confronting each party at
6 the time the conduct occurred such as the existence of the
7 emergency requiring a quick decision.

8 The relative closeness of the causal relationship of
9 the negligent conduct of the Defendant, and the harm to the
10 Plaintiff.

11 And whether the conduct of either party involved a
12 violation of a safety statute or regulation.

13 I will give you written questions on a special verdict
14 form for you to reach your verdict. The form will have
15 spaces for you to write your decisions about the percentage
16 of the negligence, if any, of both parties which proximately
17 caused the Plaintiff's injuries.

18 So, the first two questions on the verdict form ask you
19 to decide whether the Defendant was negligent, and, if so,
20 whether the Defendant's negligence was the proximate cause
21 of the Plaintiff's injuries.

22 Questions 3 and 4 ask the same thing about negligence
23 by the Plaintiff.

24 Question 5 asks you to decide the percentage of each
25 party's negligence which proximately caused the Plaintiff's

1 injuries, and those percentages must add up to 100 percent.

2 Question 6 then asks you whether the Plaintiff's
3 negligence was greater than 50 percent. That is going back
4 to Question 5. If you found greater than 50 percent for the
5 Plaintiff, you would check that box there. And, if you get
6 to Number 7, then Number 7 is the amount of damages that you
7 award to the Plaintiff if you reach that, but you'll see
8 the -- it's sort of self-explanatory. If you answer one
9 question yes, then you go to the next. If you answer no,
10 then you stop. But you'll -- the directions are on the
11 form.

12 Now, all 12 of you must agree on the verdict. Your
13 verdict cannot be based on sympathy, passion, prejudice,
14 emotion, or any other consideration that is not in evidence
15 in this case. I will give you a copy of these instructions
16 in written form. During your deliberations, you may refer
17 to this instruction to guide your decision making. You must
18 consider the instructions as a whole, and not follow some
19 and ignore others.

20 Now, please return the instructions to the Court at the
21 time that your verdict is rendered.

22 And, Madam Foreperson, when the jury agrees on a
23 verdict, you will sign your name as foreperson on the line
24 underneath the jury verdict, then knock on the door, and
25 advise the bailiff that you've reached a verdict. At that

1 time, we'll bring you back into the courtroom.

2 At this point, I'm gonna ask you to return to your jury
3 room, and this is the last time I'll tell you don't discuss
4 the case amongst yourselves, and that's only because you
5 cannot begin your deliberations until you receive a copy of
6 these instructions, the verdict form, and all of the
7 evidence, but that should only take a few minutes.

8 So, go to your jury room, get comfortable. But as soon
9 as you get the instructions, the verdict form, and the
10 evidence, that's your signal to begin deliberating. You
11 will continue to deliberate until you have reached a
12 verdict. We have ordered lunch for you, which should be
13 here relatively soon. Not before you start deliberating.
14 But they'll knock on the door when it's here, and give it to
15 you.

16 But, at this point, you can retire to your jury room.

17 (WHEREUPON, the following takes place outside the
18 presence of the jury.)

19 THE COURT: Any objections to the jury instructions
20 that I fumbled through?

21 MR. ANDREWS: None from the Plaintiff.

22 MR. CHEVES: No, ma'am.

23 THE COURT: Okay.

24 MR. CHEVES: One thing that counsel and I were just
25 discussing, and this is kind of, it's not really a motion.

1 It's kind of an open discussion about the jury that we've
2 had some issues with.

3 You know, we -- how do you feel about that?

4 I mean I'm just asking you.

5 We had some thought about seeking replacement with an
6 alternate.

7 MR. ANDREWS: I'll go with whatever you -- I'm fine
8 with -- I'll defer to the Court's instruction. Have no --
9 whatever the Court feels more comfortable with. Sorry, Your
10 Honor---

11 MR. CHEVES: I know.

12 MR. ANDREWS: ---to put that on you.

13 MR. CHEVES: I'm, I'm fine with that -- I mean, you
14 know, truthfully, she's not gonna, she's not gonna move the
15 needle either way. I mean --.

16 THE COURT: Well, but that is my concern and that---

17 MR. CHEVES: Yeah.

18 THE COURT: ---that she will go back there, and, and
19 not participate in deliberations because she doesn't know
20 enough to participate, and I don't know cause I haven't been
21 watching her consistently, but she seemed equally sleepy
22 today during closing arguments, and during the charge.

23 MR. ANDREWS: In that case, it sounds like the Court's
24 more comfortable, and I'll go along with replacing her with
25 the alternate.

1 THE COURT: Use the alternate.

2 MR. CHEVES: That's fine.

3 THE COURT: Okay. Okay. That's, that's what we're
4 gonna do.

5 MR. ANDREWS: I will say, Your Honor, though you must
6 be more captivating than I am cause she wasn't falling
7 asleep during your jury instructions.

8 THE COURT: well, when I stare at her, she stays awake.

9 I have to make a couple little revisions to the written
10 charge. I made the revisions when I spoke, but so just give
11 us two seconds, and y'all make sure all the evidence is
12 there while we're doing that.

13 (WHEREUPON, a short recess was taken at this time.)

14 THE COURT: So, what we're gonna do is when -- she's
15 printing the revised charge, but, when you take everything
16 back there, the charge, the verdict form, and all that,
17 we're gonna seat the alternate, and bring out the Juror
18 Number, the sleepy juror, 52.

19 (Pause.)

20 THE COURT: So, you can return that note to them along
21 with the charge, the verdict form is in there, and this
22 notebook.

23 when you hand that in, bring out Number 52.

24 THE BAILIFF: Number 52. Okay.

25 (WHEREUPON, the following takes place within the

1 presence of Juror Number 52.)

2 THE COURT: All right. Ma'am, I'm -- because you
3 seemed very drowsy throughout the entire trial, I'm not sure
4 how much of the testimony you heard and didn't hear.

5 So, with agreement of the attorneys, we are taking you
6 off of the jury, and replacing you with the alternate so
7 that all 13 jurors or all 12 jurors who are deliberating
8 we're certain heard all of the testimony.

9 Understand?

10 THE JUROR: Yes, ma'am.

11 THE COURT: Okay. How it -- so, you will not
12 deliberate with the rest of the jury. However, I want you
13 to stay until the jury has returned with a verdict. You can
14 sit right back here and hang out. When your lunch comes,
15 you can eat it here in the courtroom, but you'll be required
16 to stay until this case is finished.

17 THE JUROR: Okay.

18 THE COURT: okay.

19 (WHEREUPON, the following takes place outside the
20 presence of the juror.)

21 THE COURT: All right. We'll be at ease while we wait
22 for the jury.

23 MR. ANDREWS: Thank you, Your Honor.

24 MR. CHEVES: Your Honor, does the alternate understand
25 he's---

1 THE COURT: Oh, I'm sorry. I left y'all out of that
2 loop.

3 We can be off-the-record.

4 (WHEREUPON, an off-the-record discussion was held at
5 this time.)

6 THE COURT: All right. We'll just wait.

7 I'm sure y'all aren't gonna go far, but, if you do plan
8 to go anywhere, leave your cell phone number with someone.

9 MR. ANDREWS: I might walk out to my car.

10 THE COURT: Yeah.

11 MR. ANDREWS: I'll leave my cell phone just in case.

12 THE COURT: Just in case something comes up.

13 Otherwise, you know---

14 MR. CHEVES: I guess I'll be here waiting on the
15 verdict.

16 THE COURT: You can be in the hallway or in here or
17 wherever.

18 (WHEREUPON, the jury began deliberations at 11:30, and
19 returned with a verdict at 11:50.)

20 THE COURT: All right.

21 MR. CHEVES: Your Honor?

22 THE COURT: Yes.

23 MR. CHEVES: Probably shouldn't have told my client he
24 could run an errand. I'm not holding this Court up. He
25 didn't need to be here. We can take the verdict.

1 THE COURT: Okay. All right. Bring the jury.

2 I like to make the jury charge as a Court's Exhibit --

3 THE COURT REPORTER: Okay.

4 THE COURT: -- since it went back in the room. You can
5 take it out of the binder, and make it a Court's Exhibit.

6 (WHEREUPON, the jury charge was marked as Court's
7 Exhibit No. 3 and received into evidence at this time.)

8 (WHEREUPON, the following takes place within the
9 presence of the jury.)

10 THE BAILIFF: The jurors are present, Your Honor.

11 THE COURT: Thank you.

12 All right. Madam Foreperson, I understand the jury has
13 reached a verdict.

14 THE FORELADY: We have.

15 THE COURT: You can hand it to her. She'll bring it to
16 me.

17 Is the verdict unanimous?

18 THE FORELADY: Yes, ma'am.

19 THE COURT: All right. Madam Clerk, if you'd publish
20 the verdict.

21 THE CLERK: Your Honor, may it please the Court.

22 In the State of South Carolina, County of Richland, in
23 the Court of Common Pleas for the Fifth Judicial Circuit,
24 Jeanne Knollinger, Plaintiff, v. Ryan Noel Oliver,
25 Defendant. Civil Action Number 2016-CP-40-2573. Verdict

1 form.

2 Question Number 1. Was the Defendant negligent?

3 No is checked. Stop here and deliberate no further.

4 Signed Keira Kohls, Foreperson, September 5th, 2018,
5 Columbia, South Carolina.

6 Is this your verdict and the verdict of the entire
7 panel?

8 THE FORELADY: Yes, ma'am.

9 THE COURT: Thank you.

10 All right. Anything further from the jury before
11 they're released?

12 MR. ANDREWS: None from the Plaintiff.

13 MR. CHEVES: No, ma'am.

14 THE COURT: Okay. I want to thank you for your
15 service, your attentiveness, and for being here with us.
16 You lucked out and got a pretty short case, which is good.
17 But, but we appreciate it. It was important to Ms.
18 Knollinger, important to Mr. Oliver. And so we can't do
19 what we do unless we have citizens like you who are willing
20 to serve.

21 Once you are released, one or more of the attorneys may
22 want to speak to you, and, and just get some feedback.
23 Sometimes they do. Sometimes they don't. If you don't want
24 to speak to them, you don't have to. If you do want to
25 speak to them, you can just because, you know, there's no

1 better way for them to get feedback on their performance
2 by -- except by talking to jurors like you.

3 I don't anticipate any of them will call you or harass
4 you. If they do, you let the Court know, and I will handle
5 it. But I mean these are decent guys. They're not gonna
6 harass you in any way.

7 we'd ordered lunch for you, and that lunch is on the
8 way. So, if you'd like to -- and it comes in a little box.
9 So, if you'd like to take it to go, you can hang out just
10 for a few minutes. It shouldn't be too long before it's
11 here. Someone has -- have already gone to pick it up. So,
12 it may even be back there by the time you walk back there.

13 So, I'm gonna let you hang out in the jury room back
14 there if you want just because that, that's your space. If
15 you want, you can come into the courtroom, and just hang out
16 if you want to talk to the lawyers or, or whatever. But
17 I'll leave that up to you.

18 If you want to avoid all of that, you can hang out in
19 the jury room, grab your lunch, and then go out the same way
20 that side door that you've been coming in. When you go back
21 to the jury room, you'll give your juror tags to the
22 bailiff. If you need work excuses, when you leave, you'll
23 have to go back down to the first floor to the jury assembly
24 room to get those work excuses.

25 Your checks will be in the mail. I assume -- yeah,

1 checks are not ready. They'll be in the mail to you.

2 Trying to think of anything I left out.

3 THE CLERK: I think you got it.

4 THE COURT: Your jury service for the week is complete.

5 This is the only trial that we had. And so you are not

6 eligible to serve on juries in Circuit Court. I can't help

7 with any other Court, but, in Circuit Court, for the rest of

8 the year, but you can exercise an exemption for three years.

9 So, if you don't want to serve in 2019 or 2020, you don't

10 have to if you're summoned. But I just want to thank

11 you-all for all the work that you've done, and I'll let you

12 go to your jury room at this time.

13 (WHEREUPON, the following takes place outside the
14 presence of the jury.)

15 THE COURT: Any post-trial motions?

16 MR. ANDREWS: Yes, Your Honor.

17 Plaintiff moves for a motion for a new trial, and a

18 motion for a judgment notwithstanding the verdict. I don't

19 think any reasonable juror could have come to the verdict in

20 which they came to. There was overwhelming evidence of

21 Mr. Oliver's negligence in this case. He admitted that it

22 was careless that -- to look to the left, and look to the

23 right prior to pulling out, and I don't think a reasonable

24 juror could of come to the conclusion in which they came,

25 and the Court, playing as the 13th juror, I think should

1 grant a new -- a judgment notwithstanding the motion, the
2 motion for new trial.

3 THE COURT: Those motions are respectfully denied.
4 Anything else?

5 MR. CHEVES: No, ma'am.

6 THE COURT: All right. Court's adjourned.

7 Thank you-all.

8 MR. ANDREWS: Thank you, Your Honor.

9

10 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

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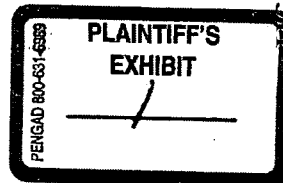
C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the Seventh 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 4th and 5th days of September, 2018.

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

March 12th, 2019

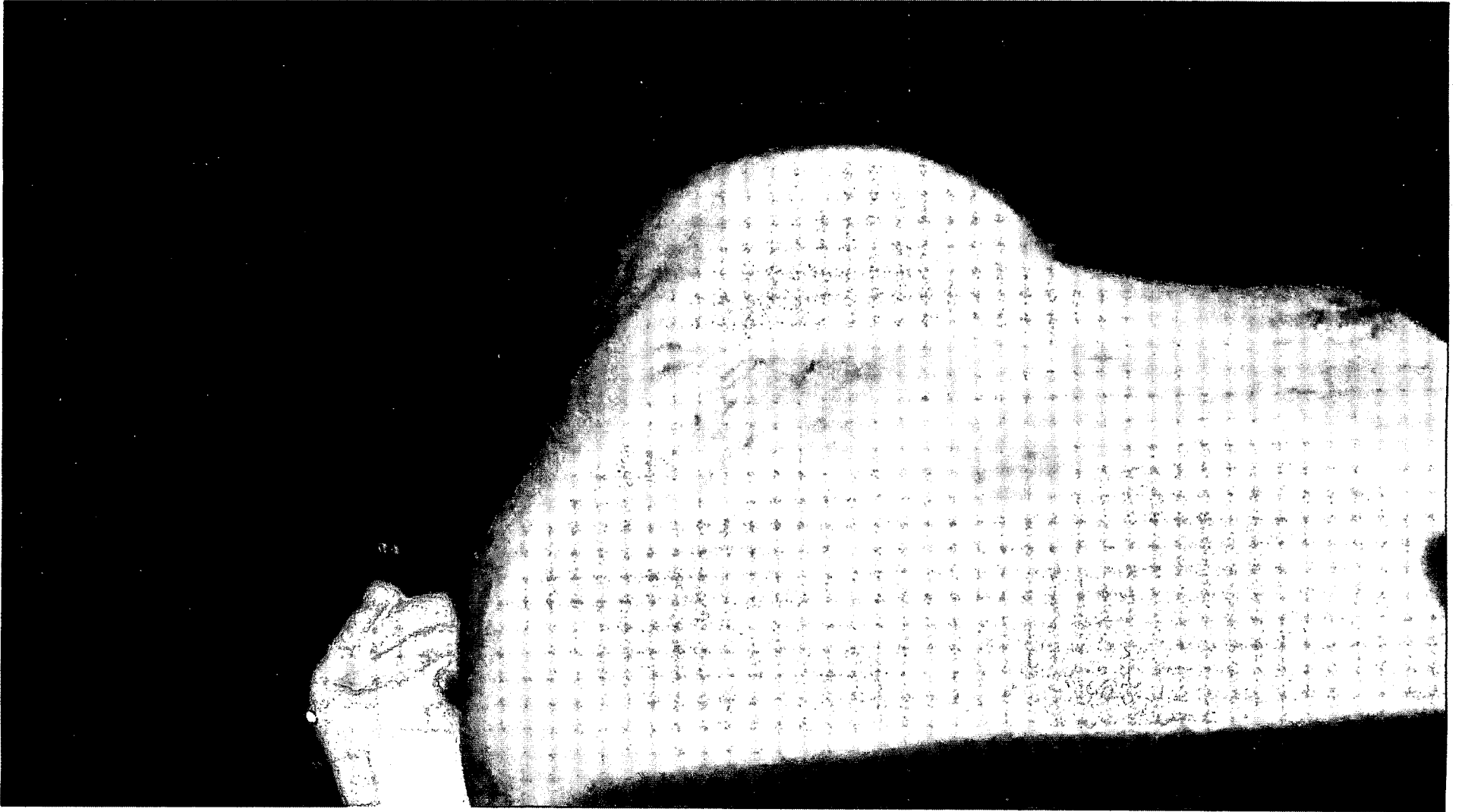
PAMELA E. GREEN, Court Reporter







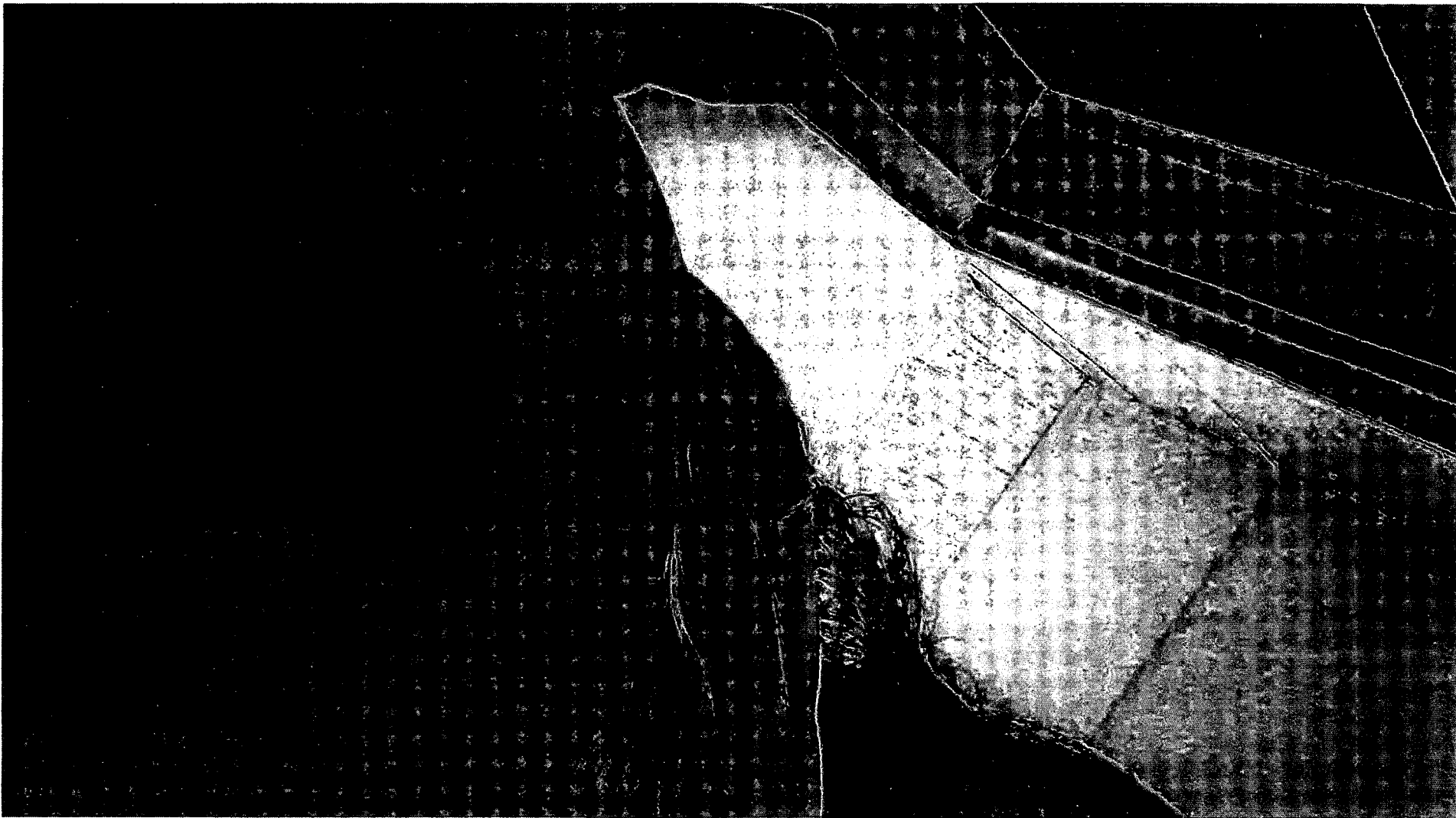
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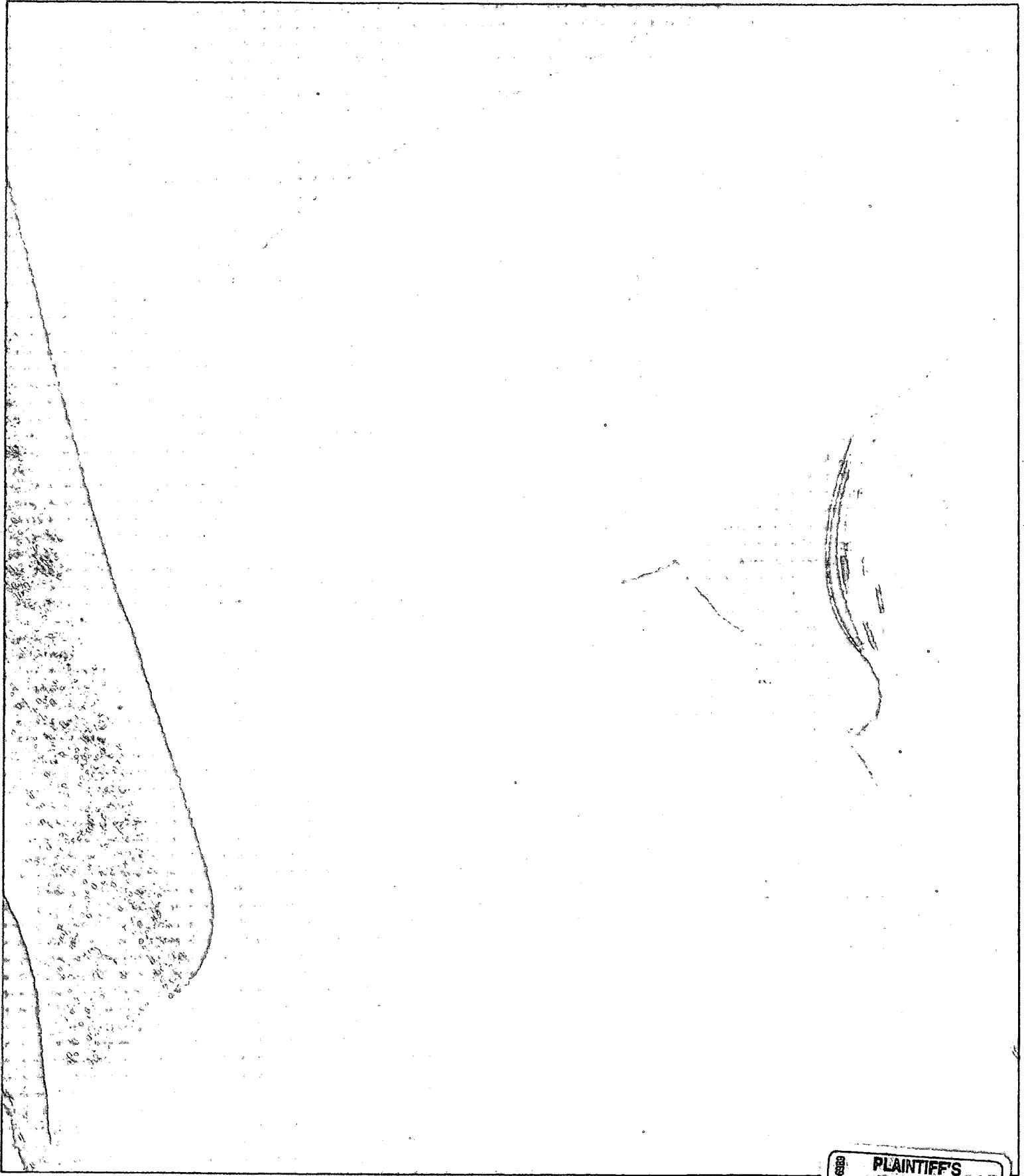




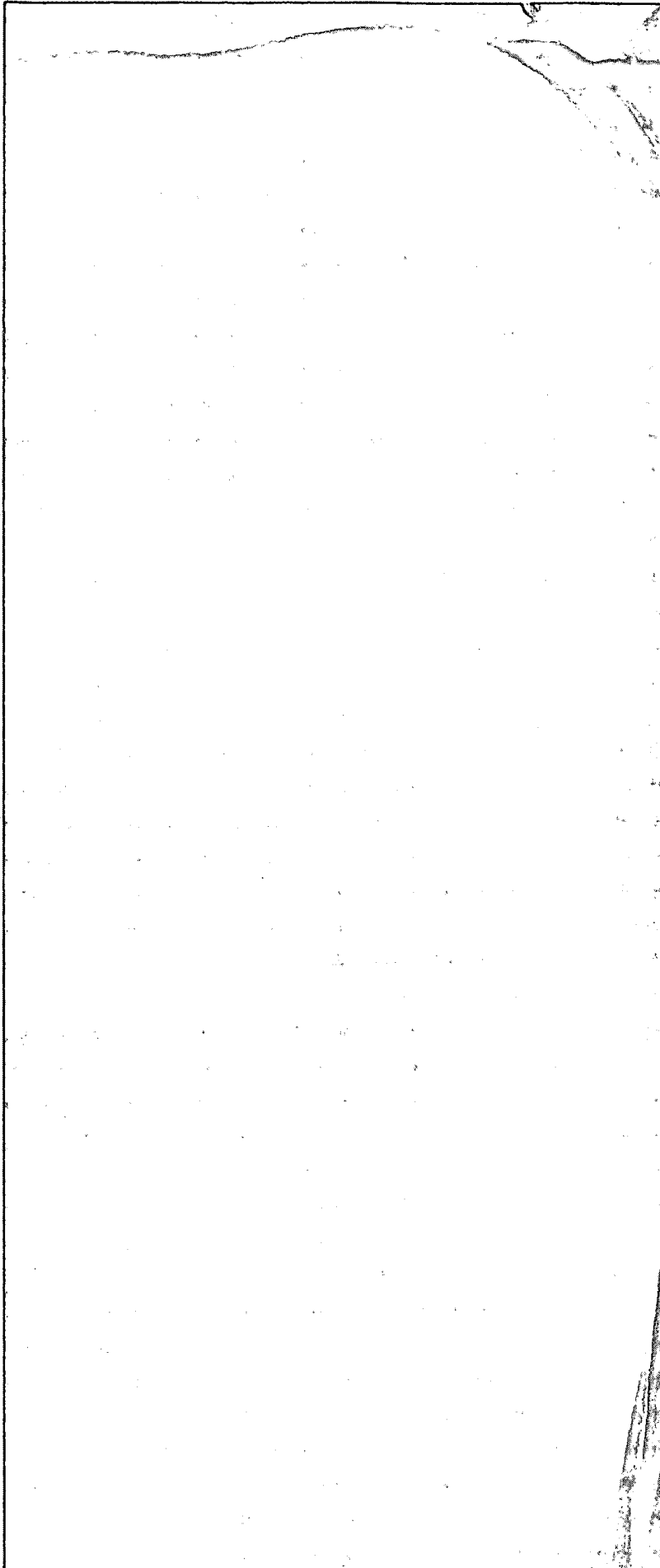
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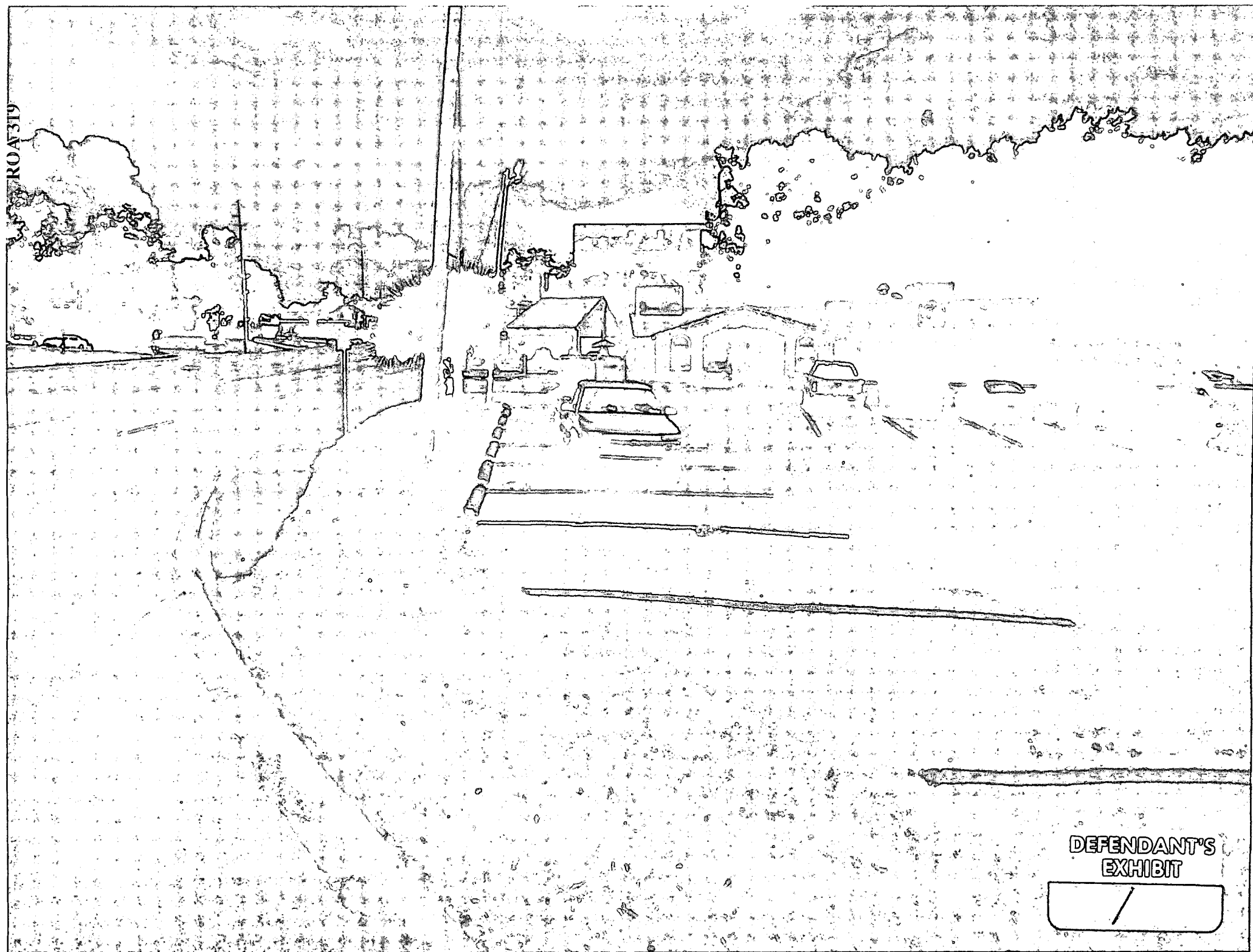
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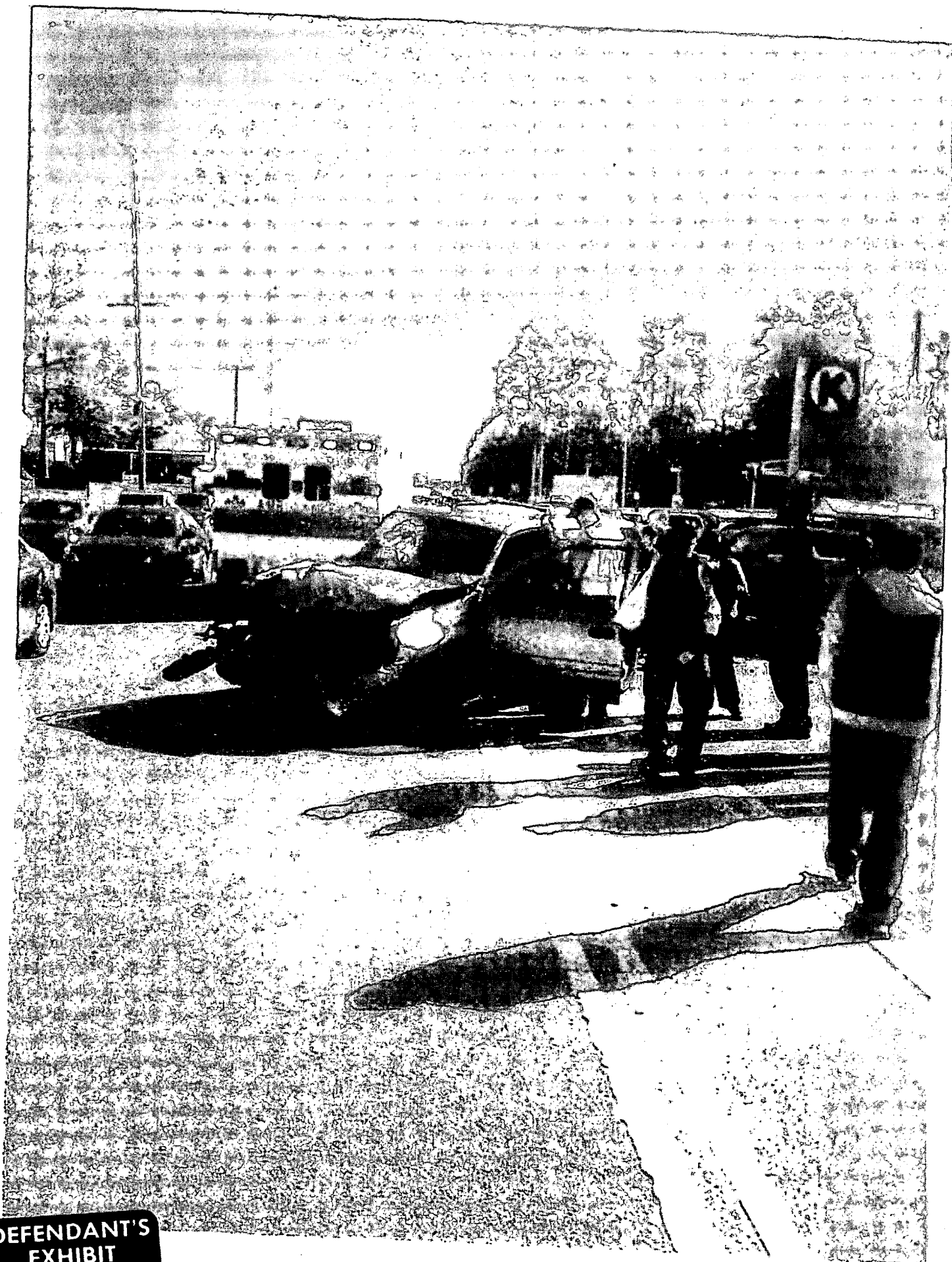
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DEFENDANT'S
EXHIBIT

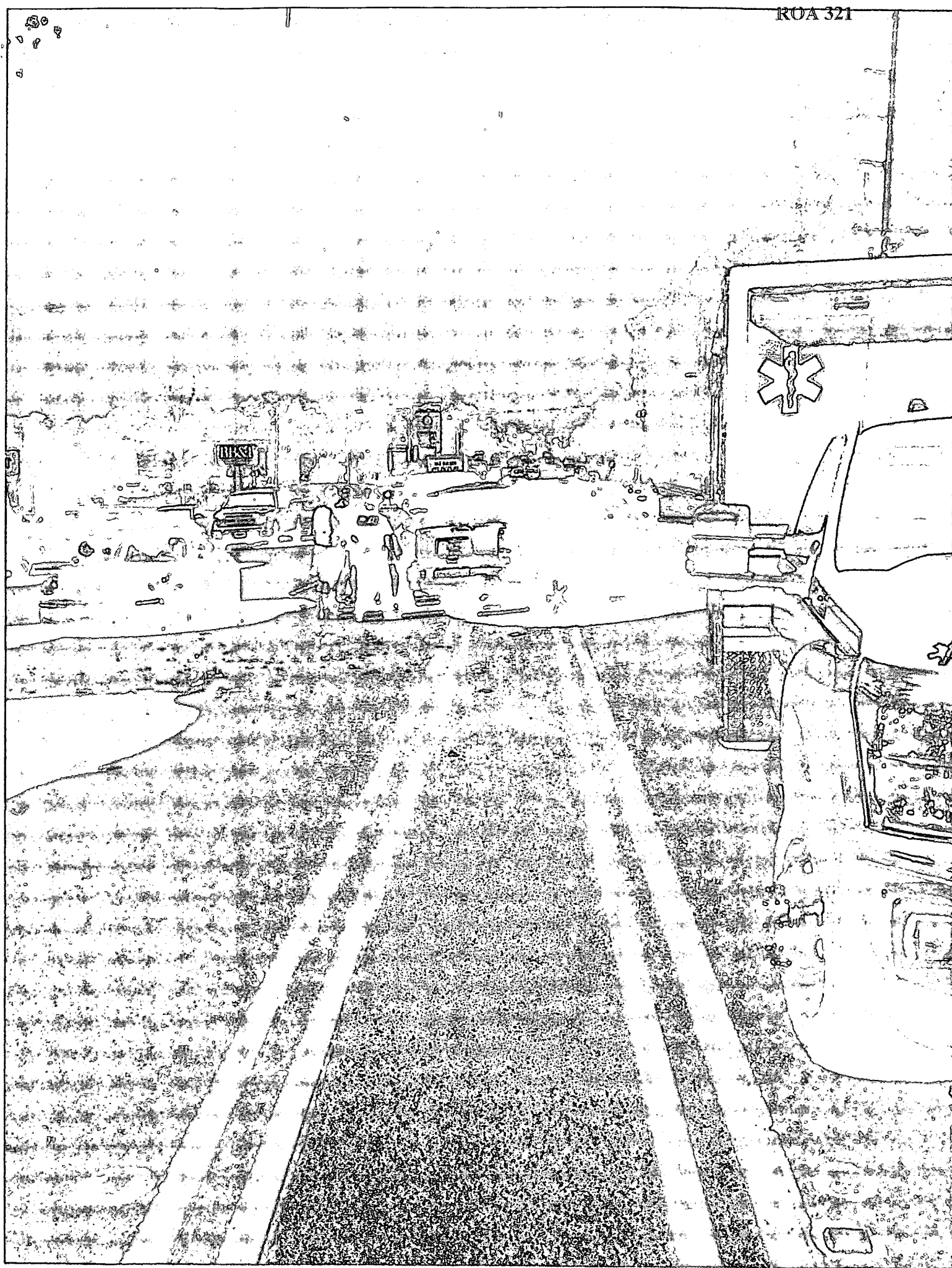


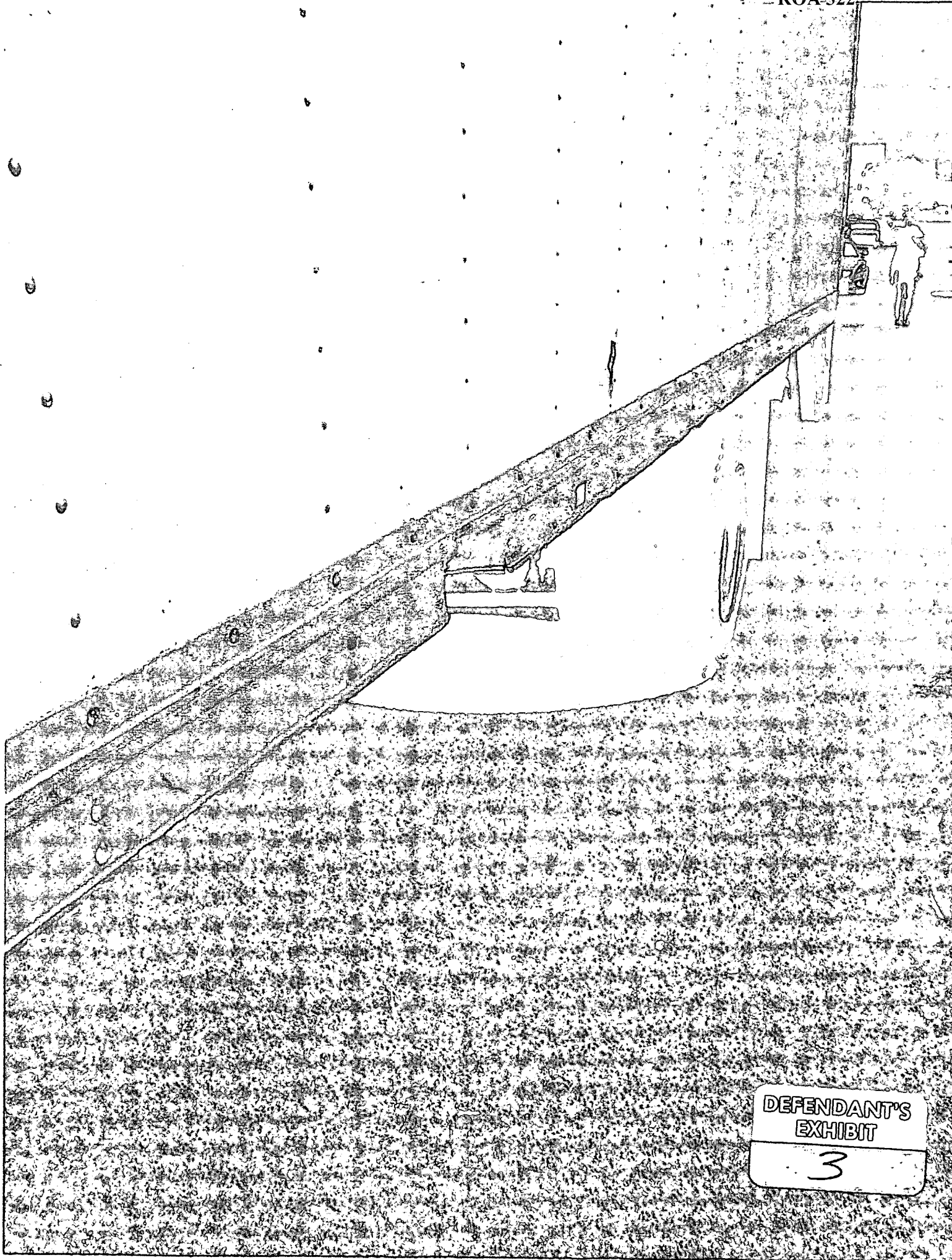


DEFENDANT'S
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DEFENDANT'S
EXHIBIT

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ROA 323
Who is the alternate? Do we all (13) debate?

Only 12 will deliberate. The alternate will replace one of the other jurors and will participate in deliberations.

PENNSAID 800-651-4000	COURT'S	3
	EXHIBIT NO.	
	IDENTIFICATION/EVIDENCE	
	DKT.#	
	DATE:	

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

JEANNE KNOLLINGER,

PLAINTIFF,

V.

RYAN NOEL OLIVER,

DEFENDANT.

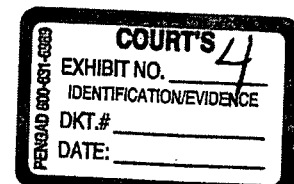
IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT
CIVIL ACTION NO. 2016-CP-40-02573

JURY CHARGE

DUTIES OF JURY AND JUDGE

I REMIND YOU THAT, DURING THIS TRIAL, YOU AND I HAVE CERTAIN DUTIES TO PERFORM. AS THE TRIAL JUDGE, IT IS MY RESPONSIBILITY TO PRESIDE OVER THE TRIAL OF THIS CASE, AND I ALSO HAVE THE DUTY TO RULE ON THE ADMISSIBILITY OF THE EVIDENCE OFFERED DURING THIS TRIAL. YOU ARE TO CONSIDER ONLY THE EVIDENCE BEFORE YOU. IF THERE WAS ANY TESTIMONY ORDERED STRICKEN FROM THE RECORD DURING THIS TRIAL, YOU MUST DISREGARD THAT TESTIMONY. YOU ARE TO CONSIDER ONLY THE TESTIMONY WHICH HAS BEEN PRESENTED FROM THIS WITNESS STAND, ANY EXHIBITS WHICH HAVE BEEN MADE A PART OF THE RECORD IN THIS CASE, AND ANY STIPULATIONS OF COUNSEL.

I HAVE THE ADDITIONAL DUTY TO CHARGE YOU THE LAW APPLICABLE TO THIS CASE. IT IS YOUR DUTY AS JURORS TO ACCEPT AND APPLY THE LAW AS I NOW STATE IT TO YOU. IF YOU THINK YOU HAVE ANY IDEA AS TO WHAT THE LAW IS OR WHAT THE LAW OUGHT TO BE AND IT DOES NOT AGREE WITH WHAT I



TELL YOU THE LAW IS, YOU MUST FORGET THAT IDEA BECAUSE YOU ARE SWORN TO ACCEPT THE LAW AND APPLY THE LAW EXACTLY AS I STATE IT TO YOU.

IN EVERY CASE TRIED IN THIS COURT BEFORE A JURY, THE JURY BECOMES THE SOLE AND EXCLUSIVE JUDGE OF THE FACTS. A TRIAL JUDGE CANNOT COMMENT ON OR MAKE ANY STATEMENT ABOUT THE FACTS IN A CASE. SINCE YOU ARE THE SOLE JUDGES OF THE FACTS, DO NOT THINK BY ANYTHING I HAVE SAID DURING THE TRIAL THAT I HAVE ANY OPINION ABOUT THE FACTS IN THIS CASE. THE LAW DOES NOT ALLOW ME TO HAVE AN OPINION ABOUT THE FACTS.

PREPONDERANCE OF THE EVIDENCE

THE BURDEN OF PROOF IN THIS CASE IS BY A PREPONDERANCE OF THE EVIDENCE. A PREPONDERANCE OF THE EVIDENCE SIMPLY MEANS THE GREATER WEIGHT OF THE EVIDENCE. IT IS EVIDENCE WHICH, AS A WHOLE, SHOWS THAT THE FACT SOUGHT TO BE PROVED IS MORE LIKELY TRUE THAN NOT TRUE.

THIS CAN BE ILLUSTRATED BY IMAGINING A SET OF SCALES. WHEN THE CASE BEGINS, THE SCALES ARE EVEN. AFTER ALL OF THE EVIDENCE HAS BEEN PRESENTED, IF THE SCALES REMAIN EVEN OR IF THEY TIP EVEN SLIGHTLY IN FAVOR OF THE DEFENDANT, THEN THE PLAINTIFF HAS FAILED TO MEET THE BURDEN OF PROOF AND WOULD NOT BE ENTITLED TO RECOVER IN THIS CASE. IF, ON THE OTHER HAND, THE SCALES TIP EVEN SLIGHTLY IN FAVOR OF THE PLAINTIFF, THE PLAINTIFF WILL HAVE MET THE BURDEN OF PROOF AND YOU SHOULD RETURN A VERDICT FOR THE PLAINTIFF.

THE PREPONDERANCE OF THE EVIDENCE IS NOT DETERMINED BY THE NUMBER OF WITNESSES. INSTEAD, IT MUST BE DETERMINED BY THE GREATER WEIGHT OF ALL OF THE EVIDENCE.

DIRECT AND CIRCUMSTANTIAL EVIDENCE

THERE ARE TWO TYPES OF EVIDENCE GENERALLY PRESENTED DURING A TRIAL - DIRECT EVIDENCE AND CIRCUMSTANTIAL EVIDENCE.

DIRECT EVIDENCE IS THE TESTIMONY OF A PERSON WHO CLAIMS TO HAVE ACTUAL KNOWLEDGE OF A FACT, SUCH AS AN EYEWITNESS. IT IS EVIDENCE WHICH IMMEDIATELY ESTABLISHES THE MAIN FACT TO BE PROVED.

CIRCUMSTANTIAL EVIDENCE IS PROOF OF A CHAIN OF FACTS AND CIRCUMSTANCES INDICATING THE EXISTENCE OF A FACT. IT IS EVIDENCE WHICH IMMEDIATELY ESTABLISHES COLLATERAL FACTS FROM WHICH THE MAIN FACT MAY BE INFERRED. CIRCUMSTANTIAL EVIDENCE IS BASED ON INFERENCE AND NOT ON PERSONAL KNOWLEDGE OR OBSERVATION. IT IS PROOF THAT DOES NOT ACTUALLY ESTABLISH THE FACT IN QUESTION, BUT THAT ASSERTS OR DESCRIBES SOMETHING ELSE FROM WHICH YOU MAY EITHER REASONABLY INFER THE TRUTH OF THE FACT OR AT LEAST REASONABLY INFER AN INCREASE IN THE PROBABILITY THAT THE FACT IS TRUE. FOR CIRCUMSTANTIAL EVIDENCE TO BE SUFFICIENT TO WARRANT THE FINDING OF A FACT, THE CIRCUMSTANCES MUST LEAD TO THAT FACT WITH REASONABLE CERTAINTY. THE FACTS AND CIRCUMSTANCES SHOULD BE CONSIDERED IN LIGHT OF ORDINARY EXPERIENCE AND COMMON SENSE. THE EXISTENCE OF A FACT CANNOT BE BASED ON SPECULATION, SURMISE, OR CONJECTURE.

THE LAW MAKES ABSOLUTELY NO DISTINCTION BETWEEN THE WEIGHT OR VALUE TO BE GIVEN TO EITHER DIRECT OR CIRCUMSTANTIAL EVIDENCE. NOR IS A GREATER DEGREE OF CERTAINTY REQUIRED OF CIRCUMSTANTIAL EVIDENCE THAN OF DIRECT EVIDENCE.

CREDIBILITY OF WITNESSES

NECESSARILY, YOU MUST DETERMINE THE CREDIBILITY OF WITNESSES WHO HAVE TESTIFIED IN THIS CASE. CREDIBILITY SIMPLY MEANS BELIEVABILITY. IT BECOMES YOUR DUTY AS JURORS TO EVALUATE THE EVIDENCE AND DETERMINE WHICH EVIDENCE CONVINCES YOU IT IS TRUE.

IN DETERMINING THE BELIEVABILITY OF WITNESSES WHO HAVE TESTIFIED IN THIS CASE, YOU MAY BELIEVE ONE WITNESS OVER SEVERAL WITNESSES OR SEVERAL WITNESSES OVER ONE WITNESS. YOU MAY BELIEVE A PART OF THE TESTIMONY OF A WITNESS AND REJECT THE REMAINING PART OF THE TESTIMONY OF THAT SAME WITNESS. YOU MAY BELIEVE THE TESTIMONY OF A WITNESS IN ITS ENTIRETY OR REJECT THE TESTIMONY OF A WITNESS IN ITS ENTIRETY. YOU MAY CONSIDER WHETHER THE WITNESS HAS AN INTEREST IN THE RESULT OF THE TRIAL, WHETHER THE WITNESS IS PREJUDICED TOWARD EITHER THE PLAINTIFF OR THE DEFENDANT, THE OPPORTUNITY FOR THE WITNESS TO HAVE SEEN THE MATTERS AND THINGS ABOUT WHICH THE WITNESS MAY TESTIFY, AND THE WAY THE WITNESS ACTS ON THE WITNESS STAND.

NEGLIGENCE

THE PLAINTIFF CLAIMS THAT THE DEFENDANT WAS NEGLIGENT AND SHOULD COMPENSATE THE PLAINTIFF FOR THE INJURIES THE PLAINTIFF SUFFERED AS A RESULT OF THE DEFENDANT'S NEGLIGENCE. NEGLIGENCE MEANS THAT A PERSON HAS DONE SOMETHING THAT A REASONABLE PERSON WOULD NOT HAVE DONE OR HAS FAILED TO DO SOMETHING THAT A REASONABLE PERSON WOULD HAVE DONE IN THE SAME SITUATION.

THE PLAINTIFF MUST PROVE BY A PREPONDERANCE, OR GREATER WEIGHT, OF THE EVIDENCE THE FOLLOWING FOUR THINGS.

- (1) THE PLAINTIFF MUST PROVE BY A PREPONDERANCE, OR GREATER WEIGHT, OF THE EVIDENCE THAT THE DEFENDANT OWED THE PLAINTIFF A DUTY OF CARE.
- (2) THAT THE DEFENDANT BREACHED THAT DUTY OF CARE BY A NEGLIGENT ACT OR OMISSION;
- (3) THE PLAINTIFF MUST PROVE BY A PREPONDERANCE, OR GREATER WEIGHT, OF THE EVIDENCE THAT SHE SUFFERED DAMAGES AS A RESULT OF THE DEFENDANT'S BREACH OF DUTY; AND
- (4) THE PLAINTIFF MUST PROVE BY A PREPONDERANCE, OR GREATER WEIGHT, OF THE EVIDENCE THAT THE DAMAGES WERE PROXIMATELY CAUSED BY THE DEFENDANT'S BREACH OF DUTY.

PROXIMATE CAUSE IS SOMETHING THAT PRODUCES A NATURAL CHAIN OF EVENTS WHICH, IN THE END, BRINGS ABOUT THE INJURY. IT IS THE DIRECT CAUSE OF THE INJURY.

TO PROVE THAT THE DEFENDANT'S NEGLIGENCE PROXIMATELY CAUSED THE PLAINTIFF'S INJURY, THE PLAINTIFF MUST FIRST PROVE CAUSATION IN FACT. THIS IS PROVEN BY SHOWING THAT THE INJURY WOULD NOT HAVE OCCURRED BUT FOR THE DEFENDANT'S NEGLIGENCE.

THE PLAINTIFF MUST ALSO PROVE LEGAL CAUSE. LEGAL CAUSE IS PROVEN BY SHOWING THAT THE INJURY WAS FORESEEABLE. THIS MEANS THAT THE INJURY OCCURRED AS A NATURAL AND PROBABLE CONSEQUENCE OF THE DEFENDANT'S NEGLIGENCE. THE PLAINTIFF MUST PROVE THAT SOME INJURY FROM THE DEFENDANT'S NEGLIGENCE WAS FORESEEABLE, BUT DOES NOT HAVE TO PROVE THAT THE PARTICULAR INJURY THAT OCCURRED WAS FORESEEABLE. HOWEVER, THE DEFENDANT CANNOT BE HELD RESPONSIBLE FOR THINGS WHICH COULD NOT BE EXPECTED TO HAPPEN.

PROXIMATE CAUSE DOES NOT MEAN THE ONLY CAUSE. THE DEFENDANT'S ACT CAN BE A PROXIMATE CAUSE OF THE PLAINTIFF'S INJURY IF IT WAS AT LEAST ONE OF THE DIRECT, CONCURRING CAUSES OF THE INJURY.

DRIVER'S DUTY OF CARE

THE OPERATOR OF A MOTOR VEHICLE IS REQUIRED TO USE THE SAME CARE THAT WOULD BE USED BY A PERSON OF ORDINARY REASON AND PRUDENCE IF THAT PERSON WERE DRIVING THE SAME VEHICLE, AT THE SAME TIME AND PLACE, AND UNDER THE SAME CIRCUMSTANCES.

A DRIVER'S DUTY IS NOT MERELY TO LOOK BUT TO OBSERVE; THE DRIVER MUST LOOK IN SUCH AN INTELLIGENT AND CAREFUL MANNER AS TO ENABLE THEM TO SEE WHAT A PERSON EXERCISING ORDINARY CARE AND CAUTION

COULD SEE UNDER LIKE CIRCUMSTANCES. NEGLIGENCE IS ESTABLISHED AS A MATTER OF LAW IF THE ONLY INFERENCE IS THAT EITHER THE DRIVER DID NOT LOOK OR DID SO IN SUCH A CARELESS FASHION AS NOT TO SEE WHAT WAS IN PLAIN VIEW.

THE DUTY IS ... NOT MERELY ONE OF LOOKING, BUT ONE OF OBSERVATION... THE DRIVER MUST LOOK IN SUCH AN INTELLIGENT AND CAREFUL MANNER AS TO ENABLE THE DRIVER TO SEE WHAT A PERSON IN THE EXERCISE OF ORDINARY CARE AND CAUTION FOR THE SAFETY OF THE DRIVER AND OTHERS COULD HAVE SEEN, UNDER THE CIRCUMSTANCES.

HAVING LAWFULLY ENTERED THE HIGHWAY, A DRIVER HAS A RIGHT TO BE THERE AND EXPECT OTHERS TO HONOR SUCH RIGHT.

DUTY TO KEEP PROPER LOOKOUT

THE DRIVER OF AN AUTOMOBILE HAS A DUTY TO KEEP A PROPER LOOKOUT FOR OTHER VEHICLES ON THE ROAD. THIS DUTY REQUIRES THE DRIVER TO WATCH ATTENTIVELY SO THAT THE DRIVER IS ABLE TO SEE A PERSON OR OBJECT ON THE HIGHWAY.

IN FACT, TRAVELERS ON BOTH THE FAVORED AND THE UNFAVORED HIGHWAY MUST USE ORDINARY CARE IN KEEPING A PROPER LOOKOUT FOR VEHICLES APPROACHING THE INTERSECTION.

DUTY TO KEEP VEHICLE UNDER CONTROL

THE DRIVER OF AN AUTOMOBILE ALSO HAS A DUTY TO KEEP THE AUTOMOBILE UNDER PROPER CONTROL SO THAT THE DRIVER IS ABLE TO SLOW

DOWN, STOP, OR TURN THE AUTOMOBILE TO AVOID COLLIDING WITH OTHER VEHICLES, PEDESTRIANS, AND OBJECTS LAWFULLY ON THE ROAD.

VIOLATION OF STATUTE

IN THIS CASE, THE PLAINTIFF CLAIMS THAT THE DEFENDANT FAILED TO FOLLOW THE FOLLOWING RULE OF THE STATUTE WHICH STATES: THE DRIVER OF A VEHICLE ABOUT TO ENTER OR CROSS A ROADWAY FROM ANY PLACE OTHER THAN ANOTHER ROADWAY SHALL YIELD THE RIGHT-OF-WAY TO ALL VEHICLES APPROACHING ON THE ROADWAY TO BE ENTERED OR CROSSED.

THE FAILURE TO FOLLOW THIS STATUTORY RULE IS NEGLIGENCE AS A MATTER OF LAW. IF YOU FIND THAT THE DEFENDANT FAILED TO FOLLOW THIS STATUTORY RULE, YOU MUST THEN DECIDE WHETHER THE FAILURE PROXIMATELY CAUSED THE PLAINTIFF'S INJURY.

YIELDING THE RIGHT-OF-WAY

SOUTH CAROLINA LAW STATES THAT THE DRIVER OF A VEHICLE APPROACHING A YIELD SIGN SHALL IN OBEDIENCE TO SUCH SIGN SLOW DOWN TO A SPEED REASONABLE FOR THE EXISTING CONDITIONS AND, IF REQUIRED FOR SAFETY TO STOP, SHALL STOP AT A CLEARLY MARKED STOP LINE BUT, IF NONE, BEFORE ENTERING THE CROSS-WALK ON THE NEAR SIDE OF THE INTERSECTION OR, IF NONE, THEN AT THE POINT NEAREST THE INTERSECTING ROADWAY WHERE THE DRIVER HAS A VIEW OF APPROACHING TRAFFIC ON THE INTERSECTING ROAD BEFORE ENTERING IT. AFTER SLOWING OR STOPPING, THE DRIVER SHALL YIELD THE RIGHT-OF-WAY TO ANY VEHICLE IN THE INTERSECTION OR APPROACHING ON ANOTHER ROADWAY SO CLOSELY AS TO CONSTITUTE AN IMMEDIATE

HAZARD DURING THE TIME THE DRIVER IS MOVING ACROSS OR WITHIN THE INTERSECTION OR JUNCTION OF ROADWAYS. IF SUCH DRIVER IS INVOLVED IN A COLLISION WITH A VEHICLE IN THE INTERSECTION OR JUNCTION OF ROADWAYS, AFTER DRIVING PAST A YIELD SIGN WITHOUT STOPPING, THE COLLISION SHALL BE DEEMED PRIMA FACIE EVIDENCE OF HIS OR HER FAILURE TO YIELD THE RIGHT-OF-WAY.

HOWEVER, THE DUTY TO YIELD THE RIGHT OF WAY DOES NOT MEAN THAT THE DRIVER ON THE UNFAVORED HIGHWAY MUST REFRAIN FROM CROSSING THE FAVORED HIGHWAY WHENEVER ANOTHER VEHICLE IS APPROACHING THEREON REGARDLESS OF HOW FAR DISTANT.

ACTUAL DAMAGES

ACTUAL DAMAGES ARE TO COMPENSATE THE PLAINTIFF FOR THE PLAINTIFF'S INJURIES OR LOSS AND TO PUT THE PLAINTIFF, AS NEAR AS POSSIBLE, IN THE SAME POSITION THAT THE PLAINTIFF WAS IN BEFORE THE INCIDENT OCCURRED. IN OTHER WORDS, ACTUAL DAMAGES WOULD BE THE ACTUAL LOSSES AND EXPENSES WHICH THE PLAINTIFF HAS SUFFERED BECAUSE OF THE DEFENDANT'S NEGLIGENCE.

PAIN AND SUFFERING

PAIN AND SUFFERING COMPENSATES THE PLAINTIFF FOR PHYSICAL DISCOMFORT AND EMOTIONAL RESPONSE TO THE SENSATION OF PAIN CAUSED BY THE INJURY ITSELF. THERE IS NO DEFINITE STANDARD BY WHICH TO COMPENSATE THE PLAINTIFF FOR PAIN AND SUFFERING. YOU HAVE THE AUTHORITY TO DETERMINE THE AMOUNT, IF ANY, TO BE ALLOWED FOR PAIN

AND SUFFERING, USING CALM AND REASONABLE JUDGMENT TO ENSURE THAT THE DAMAGES ARE JUST AND REASONABLE IN LIGHT OF THE TESTIMONY AND EVIDENCE PRESENTED IN THE CASE.

LOSS OF ENJOYMENT OF LIFE

LOSS OF ENJOYMENT OF LIFE COMPENSATES THE PLAINTIFF FOR LIMITATIONS ON THE PLAINTIFF'S ABILITY TO PARTICIPATE IN, AND DERIVE PLEASURE FROM, THE NORMAL ACTIVITIES OF DAILY LIFE.

PERSONAL INJURIES

THE PLAINTIFF MUST PROVE THAT EXPENSES CAUSED BY THE INJURY WERE NECESSARY AND REASONABLE.

ACTUAL DAMAGES FOR A PLAINTIFF WHO HAS BEEN PHYSICALLY INJURED INCLUDE PAIN AND SUFFERING -- BOTH PAST AND FUTURE -- AS WELL AS MENTAL ANGUISH AND IMPAIRMENT OF HEALTH OR PHYSICAL CONDITION.

IN DETERMINING THE AMOUNT OF COMPENSATION FOR PERSONAL INJURIES, IT IS PROPER TO CONSIDER PAST AND PRESENT ASPECTS OF THE INJURY. THIS WOULD INCLUDE PHYSICAL AND MENTAL PAIN AND SUFFERING, EXPENSES INCURRED FOR NECESSARY MEDICAL TREATMENT, THE LOSS OF ENJOYMENT OF LIFE SUFFERED AS A RESULT OF THE INJURY, AND ANY OTHER LOSSES WHICH ARE REFLECTED BY THE CHARACTER OF THE INJURY.

PROSPECTIVE DAMAGES

A PLAINTIFF IS NEVER ENTITLED TO RECOVER CONJECTURAL OR SPECULATIVE DAMAGES. BUT IF YOU FIND THE PLAINTIFF IS ENTITLED TO A VERDICT FOR ACTUAL DAMAGES, YOUR VERDICT SHOULD INCLUDE AN AMOUNT

TO COVER ANY PAST AND PRESENT DAMAGES WHICH WERE PROXIMATELY CAUSED BY THE DEFENDANT. ACTUAL DAMAGES NEED NOT BE PROVEN TO A MATHEMATICAL CERTAINTY OR BE BASED ON EVIDENCE OF THE PRECISE AMOUNT OF DAMAGES THE PLAINTIFF HAS SUFFERED. INSTEAD, THE EVIDENCE MUST ALLOW YOU TO DETERMINE WHAT AMOUNT OF DAMAGES IS FAIR, JUST, AND REASONABLE.

MENTAL SUFFERING

MENTAL SUFFERING, APPREHENSION, SHOCK, FRIGHT, EMOTIONAL UPSET, HUMILIATION, AND ANXIETY, EITHER PRESENT OR EXPECTED IN THE FUTURE, CAN BE PROPERLY CONSIDERED AS AN ELEMENT OF DAMAGES. THE AMOUNT OF DAMAGES FOR MENTAL SUFFERING CANNOT BE EXACTLY MEASURED.

PRE-EXISTING INJURY

THE DEFENDANT CLAIMS THAT THE PLAINTIFF HAD A PRE-EXISTING INJURY OR CONDITION PRIOR TO THE DATE THAT THE PLAINTIFF CLAIMS THAT THE DEFENDANT INJURED HER. IF YOU FIND THAT THE PLAINTIFF RECEIVED AN INJURY AS A RESULT OF THE NEGLIGENCE OF THE DEFENDANT AND IS ENTITLED TO RECOVER FOR THAT INJURY, THE FACT THAT THE PLAINTIFF HAD A PRE-EXISTING INJURY OR CONDITION WOULD NOT PREVENT THE PLAINTIFF FROM RECOVERING. THE DEFENDANT IS RESPONSIBLE FOR ALL ILL EFFECTS WHICH, CONSIDERING THE PLAINTIFF'S CONDITION OF HEALTH WHEN THE PLAINTIFF WAS INJURED, NATURALLY AND NECESSARILY FOLLOW THE INJURY. THE DEFENDANT TAKES THE PLAINTIFF AS THE PLAINTIFF IS FOUND WHETHER THE PLAINTIFF IS IN PERFECT HEALTH, IN POOR HEALTH, OR SOMEWHERE IN

BETWEEN. A DEFENDANT'S LIABILITY IS IN NO WAY LESSENER OR AFFECTED BECAUSE OF THE FACT THAT THE INJURY WOULD NOT HAVE RESULTED OR WOULD NOT HAVE BEEN AS SERIOUS OR SEVERE HAD THE PLAINTIFF BEEN IN GOOD HEALTH, OR THAT THE INJURIES WERE AGGRAVATED AND RENDERED MORE DIFFICULT TO CURE BY REASON OF THE FACT THAT THE PLAINTIFF WAS NOT IN GOOD HEALTH. IN OTHER WORDS, IF THE PRESENCE OF A PRE-EXISTING INJURY OR CONDITION AGGRAVATES AND PROLONGS THE INJURY AND INCREASES THE DAMAGES, THE PLAINTIFF SHOULD BE COMPENSATED FOR THE INCREASED OR ADDED DAMAGES.

A PERSON WITH A PRE-EXISTING INJURY OR CONDITION IS NOT, HOWEVER, ENTITLED TO ANY COMPENSATION FOR THE PRE-EXISTING INJURY OR CONDITION. IN ADDITION, IF THE PROBLEMS ARE THE RESULT OF THE NATURAL PROGRESSION OF THE WORSENING OF A PRE-EXISTING INJURY OR CONDITION, THEN THE PLAINTIFF WOULD NOT BE ENTITLED TO BE COMPENSATED FOR THOSE PROBLEMS.

DENIAL

THE DEFENDANT HAS ANSWERED THE PLAINTIFF'S COMPLAINT WITH A DENIAL THAT PLAINTIFF'S INJURIES WERE PROXIMATELY CAUSED BY THE DEFENDANT'S NEGLIGENCE. BECAUSE OF THIS DENIAL, THE PLAINTIFF HAS THE BURDEN OF PROVING EACH AND EVERY ELEMENT OF HER ALLEGED DAMAGES.

COMPARATIVE NEGLIGENCE

THE DEFENDANT CLAIMS THAT THE PLAINTIFF'S OWN NEGLIGENCE PROXIMATELY CAUSED THE PLAINTIFF'S INJURIES. IF YOU FIND THAT THE

DEFENDANT WAS NEGLIGENT, YOU MUST THEN DECIDE WHETHER THE PLAINTIFF WAS NEGLIGENT. THE DEFENDANT MUST PROVE BY A PREPONDERANCE, OR GREATER WEIGHT, OF THE EVIDENCE THAT THE PLAINTIFF BREACHED A DUTY OF CARE WHICH PROXIMATELY CAUSED THE PLAINTIFF'S INJURIES. THE SAME LAW WHICH I HAVE TOLD YOU TO USE IN DECIDING WHETHER THE DEFENDANT WAS NEGLIGENT SHOULD BE USED IN DECIDING WHETHER THE PLAINTIFF WAS NEGLIGENT.

IF YOU FIND THAT THE NEGLIGENCE OF BOTH THE PLAINTIFF AND THE DEFENDANT PROXIMATELY CAUSED THE PLAINTIFF'S INJURIES, YOU MUST THEN DECIDE HOW MUCH THE NEGLIGENCE OF THE PLAINTIFF CONTRIBUTED TO THE PLAINTIFF'S INJURIES AND HOW MUCH THE DEFENDANT'S NEGLIGENCE CONTRIBUTED TO THE PLAINTIFF'S INJURIES. IN DECIDING THE PERCENTAGES OF NEGLIGENCE OF THE PLAINTIFF AND THE DEFENDANT, YOU MAY CONSIDER, AMONG OTHER THINGS, THE FOLLOWING FACTORS:

- (1) WHETHER EACH PARTY'S CONDUCT WAS ONLY INADVERTENT OR WHETHER IT WAS ENGAGED IN WITH AN AWARENESS OF THE DANGER INVOLVED;
- (2) THE MAGNITUDE OF THE RISK CREATED BY EACH PARTY'S CONDUCT, INCLUDING THE NUMBER OF PERSONS ENDANGERED AND THE POSSIBLE SEVERITY OF THE INJURY;
- (3) THE SIGNIFICANCE OF THE GOAL THAT EACH PARTY WAS TRYING TO REACH AND THE NEED TO ACHIEVE THE GOAL IN THAT MANNER;

- (4) EACH PARTY'S CAPABILITIES AND ABILITIES TO REALIZE AND ELIMINATE THE RISK INVOLVED;
- (5) THE PARTICULAR CIRCUMSTANCES CONFRONTING EACH PARTY AT THE TIME THE CONDUCT OCCURRED, SUCH AS THE EXISTENCE OF AN EMERGENCY REQUIRING A QUICK DECISION;
- (6) THE RELATIVE CLOSENESS OF THE CAUSAL RELATIONSHIP OF THE NEGLIGENT CONDUCT OF THE DEFENDANT AND THE HARM TO THE PLAINTIFF; AND
- (7) WHETHER THE CONDUCT OF EITHER PARTY INVOLVED A VIOLATION OF A SAFETY STATUTE OR REGULATION.

I WILL GIVE YOU WRITTEN QUESTIONS ON A SPECIAL VERDICT FORM FOR YOU TO REACH YOUR VERDICT. THE FORM WILL HAVE SPACES FOR YOU TO WRITE YOUR DECISIONS ABOUT THE PERCENTAGE OF THE NEGLIGENCE, IF ANY, OF BOTH PARTIES WHICH PROXIMATELY CAUSED THE PLAINTIFF'S INJURIES.

THE FIRST TWO QUESTIONS ON THE VERDICT FORM ASK YOU TO DECIDE WHETHER THE DEFENDANT WAS NEGLIGENT AND, IF SO, WHETHER THE DEFENDANT'S NEGLIGENCE WAS THE PROXIMATE CAUSE OF THE PLAINTIFF'S INJURIES. QUESTIONS 3 AND 4 ASK THE SAME QUESTIONS ABOUT ANY NEGLIGENCE BY THE PLAINTIFF.

QUESTION 5 ASKS YOU TO DECIDE THE PERCENTAGE OF EACH PARTY'S NEGLIGENCE WHICH PROXIMATELY CAUSED THE PLAINTIFF'S INJURIES. THE PERCENTAGES MUST ADD UP TO ONE HUNDRED PERCENT.

JURY VERDICT

ALL TWELVE OF YOU MUST AGREE ON THE VERDICT. YOUR VERDICT CANNOT BE BASED ON SYMPATHY, PASSION, PREJUDICE, EMOTION, OR ANY OTHER CONSIDERATION NOT IN EVIDENCE IN THIS CASE.

COPY OF CHARGE IN THE JURY ROOM

I WILL GIVE YOU A COPY OF THESE INSTRUCTIONS IN WRITTEN FORM. DURING YOUR DELIBERATIONS, YOU MAY REFER TO THE INSTRUCTIONS TO GUIDE YOUR DECISION-MAKING. YOU MUST CONSIDER THE INSTRUCTIONS AS A WHOLE AND NOT FOLLOW SOME AND IGNORE OTHERS. PLEASE RETURN THE INSTRUCTIONS TO THE COURT AT THE TIME YOUR VERDICT IS RENDERED.

MADAM FOREPERSON, WHEN THE JURY AGREES ON THE VERDICT, YOU WILL SIGN YOUR NAME AS FOREPERSON ON THE LINE UNDERNEATH THE JURY VERDICT. THEN KNOCK ON THE JURY ROOM DOOR AND INFORM THE BAILIFF THAT YOU HAVE REACHED A VERDICT. AT THAT TIME, WE WILL RECEIVE YOU BACK INTO THE COURTROOM.

I ASK THAT YOU NOW RETURN TO YOUR JURY ROOM BUT DO NOT BEGIN DELIBERATIONS UNTIL YOU ARE TOLD BY THE BAILIFF TO DO SO. THERE ARE SOME MATTERS WHICH MUST BE DISCUSSED WITH THE ATTORNEYS BEFORE YOU BEGIN YOUR DELIBERATIONS.

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

SUPERIOR COURT DIVISION

COUNTY OF RICHLAND

2016-CP-40-2573

JEANNE KNOLLINGER,

Plaintiff,

vs.

ENTERPRISE LEASING COMPANY SOUTHEAST, LLC

d/b/a ENTERPRISE RENT-A-CAR and

RYAN NOEL OLIVER,

Defendants.

DEPOSITION

OF

TYLER W. THIEDE

* * * * *

Taken by Plaintiff

Charlotte, North Carolina

July 13, 2018

* * * * *

Reported by: Mary L. Labonte, RPR

1 A P P E A R A N C E S

2

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1 C O N T E N T S

2

3

PAGE

4 EXAMINATION BY MR. ANDREWS 5/28/29

5 EXAMINATION BY MR. CHEVES 21/29

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9 REPORTER'S NOTE:

10 If this transcript contains quoted material, such
11 material is reproduced as read or quoted by the
12 speaker.

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1 E X H I B I T S

2

3	EXHIBIT	DESCRIPTION	PAGE
4	1	Vehicle Accident Report	5

5

6

7

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10 REPORTER'S NOTES:

11 * Original exhibits are attached to the original
12 transcript.

13 * Copies of exhibits were scanned and sent
14 electronically to Mr. Andrews and Mr. Cheves.

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1 On July 13, 2018, commencing at 12:01 p.m., the
2 deposition of TYLER W. THIEDE was taken pursuant to
3 notice and pursuant to Rule 30 of the South Carolina
4 Rules of Civil Procedure on behalf of the Plaintiff,
5 at the offices of AmWINS Group Inc., 4725 Piedmont Row
6 Drive, Suite 600, Charlotte, North Carolina.

7 * * * * *

8 P R O C E E D I N G S

9 (Exhibit Number 1 was marked for
10 identification.)

11 Whereupon, TYLER W. THIEDE, having been
12 first duly sworn, was examined and testified as
13 follows:

14 EXAMINATION

15 BY MR. ANDREWS:

16 Q. Mr. Thiede, we met right before the start of
17 the deposition in person. I'm Ryan Andrews and I
18 represent Jeanne Knollinger in an action she's brought
19 against Enterprise Rent-A-Car and a gentleman by the
20 name of Ryan Oliver. Before we get started, have you
21 ever had your deposition taken before?

22 A. No.

23 Q. Just to let you know and give you a few
24 ground rules, as you can see, we have a court reporter
25 here typing so I'm just going to ask that you give

1 verbal responses rather than a nod of your head,
2 rather than uh-uh or uh-huh, just so we can keep the
3 record clear. So if I ask you to restate your answer,
4 it's not me being rude, it's just trying to help keep
5 the record clear.

6 A. Sounds good.

7 Q. This shouldn't take long at all so if you
8 need a break, just let me know. Is there any reason
9 today you wouldn't be able to give truthful and
10 accurate testimony?

11 A. No.

12 Q. Are you under the influence of any drugs or
13 alcohol right now?

14 A. No.

15 Q. Sorry. It's one of those questions I ask
16 everybody.

17 A. Right.

18 Q. Just real quick, what's your full name?

19 A. My full name?

20 Q. Yes, sir.

21 A. Tyler Winston Thiede.

22 Q. And where do you currently live?

23 A. Charlotte, North Carolina.

24 Q. What is your date of birth?

25 A. 9-12-88.

1 Q. I just want to ask you a few questions. Did
2 you used to work -- about your former employment.

3 A. Right.

4 Q. Did you used to work at Enterprise
5 Rent-A-Car?

6 A. Yes.

7 Q. When did you start working there
8 approximately?

9 A. Approximately 2012. I would need to go back
10 and look. I think it was July or August of 2012 I
11 think.

12 Q. About how long did you work for Enterprise
13 Rent-A-Car?

14 A. Approximately two-and-a-half years,
15 two-and-a-half, three. I came here immediately after
16 Enterprise in June of 2015.

17 Q. Okay.

18 A. So I left Enterprise in late April, I had a
19 month in between moving up, started here in June. So
20 I think Enterprise would have been June '12 to
21 June '15.

22 Q. So you worked for Enterprise between two to
23 three years, something like that?

24 A. Yes.

25 Q. What office did you work at?

1 A. I worked in several different branches. I
2 worked in the Lexington branch initially, then I
3 worked in a branch on Two Notch Road. You know, they
4 would shuffle you around. Then I worked in a downtown
5 location on Main Street and then I transferred to the
6 commercial truck division, which is on Bluff Road.

7 Q. And how long were you at your -- do you
8 recall approximately how long you were at the Bluff
9 Road commercial truck location?

10 A. I would estimate a year I think.

11 Q. What was your position at Enterprise
12 Rent-A-Car -- or title I guess is better?

13 A. Management trainee is what it began as and
14 then when I went to truck, the position I think was
15 called account executive.

16 Q. At the Bluff Road --

17 A. Yeah.

18 Q. -- location?

19 A. Uh-huh. Account executive.

20 Q. At the Bluff Road -- scratch that. As an
21 account executive, what were your job
22 responsibilities?

23 A. Everything from, you know, as simple as
24 washing and cleaning a truck, getting it prepped for a
25 renter to, you know, assisting in the daily running of

1 the branch, on up to outside business-to-business
2 sales where you were going to a fleet manager at say a
3 small mom-and-pop moving company or a parts supplier,
4 anybody with a fleet of non-CDL trucks, so small box
5 trucks, pickup trucks.

6 You were going to a fleet manager and you
7 were trying to get them to lease trucks from
8 Enterprise. We did the more U-Haul-type rental and
9 business rental, but our focus was predominantly
10 business rental.

11 Q. Also did some of your responsibilities
12 include interactions with renters whenever they
13 returned vehicles?

14 A. Uh-huh, yes.

15 Q. Caught yourself on that one.

16 A. Yeah.

17 Q. Do you remember who your supervisor was at
18 the Bluff Road location?

19 A. Yes. My immediate supervisor was Brent
20 Small. I believe he is still there. And my area
21 manager, if I recall correctly, his name was Jason
22 Grassinger. Other than that, no other -- you know,
23 Brent was the branch manager. Jason was the area
24 manager. And then I guess Jason reported to
25 corporate. And there was two other my same position,

1 account executives, in the branch.

2 Q. Okay. And to your knowledge, did you leave
3 your employment at Enterprise Rent-A-Car on good terms
4 with the company?

5 A. Yeah, yeah, I would consider it good terms.

6 Q. Moving back to the interactions with renters
7 whenever they returned vehicles, do you recall whether
8 or not Enterprise had certain policies and procedures
9 in place regarding when renters are involved in motor
10 vehicle collisions?

11 A. Yes, yeah.

12 Q. What do those include?

13 A. So typically a renter would, you know --
14 returning a vehicle, it could be as simple as a renter
15 returning a car and you're checking the vehicle in and
16 you're walking around the car with a renter and you
17 say, looks like there's a door ding here or the bumper
18 is scuffed or there's a windshield chip, what
19 happened. Everything as simple as that up to, you
20 know, sometimes you'd get a phone call, hey, I was
21 involved in an accident, what do I do.

22 You would direct them to call the police,
23 contact, you know, your insurance company, is everyone
24 okay, get here when you can get here if the car is
25 drivable. You know, you're not telling someone to

1 drive away from the scene of a crime -- or excuse me,
2 an accident.

3 But mostly the day-to-day was a car comes
4 back, a vehicle comes back, why is it not in the state
5 I gave it to you in, what happened. And you were
6 entering that into the system as you can see on this
7 accident report.

8 Q. Okay.

9 A. These are generated automatically.

10 Q. So whenever a renter is involved in a
11 collision and informs you of a collision, you make
12 some sort of report on a computer at Enterprise?

13 A. Yes.

14 Q. Okay. I'm just trying to clean it up for
15 the record. And since you brought it up, we're
16 looking at deposition Plaintiff's Exhibit 1 right
17 there. Do you recognize that document?

18 A. Yes.

19 Q. How do you recognize it?

20 A. It is an Enterprise vehicle accident report.

21 Q. And are these the accident reports that you
22 were alluding to that you would take whenever renters
23 informed you they were involved in a motor vehicle
24 collision?

25 A. Yes.

1 Q. Okay. And would the report be taken
2 contemporaneously when the renter was telling you what
3 happened?

4 A. Yes.

5 Q. So you wouldn't input the report days later?

6 A. No.

7 Q. Let's look at that specific report. On page
8 one of Exhibit 1, there is -- at the very top, there
9 is wording that says taken by and then -- sorry. I'm
10 looking at it upside down. It says 511MX. Do you
11 recognize that number?

12 A. Yes.

13 Q. What do you recognize that number to be?

14 A. That is my former Enterprise employee
15 number.

16 Q. How do you remember it?

17 A. I entered it into a computer 50 times a day
18 for three years.

19 Q. All right. And just so we're clear on the
20 record, what is the date that this report indicates
21 that the report was taken?

22 A. Looks like it says 12-13-14.

23 Q. So December 13th, 2014.

24 A. Yeah.

25 Q. So there's a few other different things on

1 the accident report including that the date of the
2 accident was 12-13-14 as well. Correct?

3 A. Looks like it, yeah.

4 Q. And where would you have gotten that
5 information from?

6 A. The renter.

7 Q. In Exhibit 1, who does the renter appear to
8 be?

9 A. Who does the -- oh, on this document?

10 Q. Yes, sir.

11 A. Ryan Oliver.

12 Q. How do you know that?

13 A. It is clearly stated on the accident report.

14 Q. So looking at Plaintiff's Exhibit 1, would
15 this be a report because of your -- because of your
16 employee number on there, does this appear to be a
17 report that you made back on December 13, 2014?

18 A. I see no reason to believe it not to be
19 that.

20 Q. Okay. And part of taking these accident
21 reports, would that include getting a description of
22 the collision from the renter? Correct?

23 A. Yes.

24 Q. And you would input -- and would you input
25 that accident description?

1 A. Yes.

2 Q. Okay. And the accident description you
3 would input on these reports, would that be a true and
4 accurate representation of what the renter
5 communicated to you?

6 A. Yes.

7 Q. Is there any reason to believe that they
8 wouldn't be a true and accurate representation of what
9 the renter communicated to you?

10 A. No.

11 Q. All right. And how many of these reports --
12 do you have any rough estimate of how many of these
13 reports that you did during your time at Enterprise?

14 A. Me personally, I don't have a rough
15 estimate. Sometimes it would be taken by the branch
16 manager, sometimes it would be taken -- it was taken
17 by whoever the renter came to to return the vehicle.
18 That probably happened two or three times a week.
19 Whether I was taking them two or three times a week,
20 maybe not. But I probably would estimate I filled out
21 at least 20 or 30 of these in the 3 years I was there.

22 Q. And --

23 A. Pretty frequently.

24 Q. -- so the reports that you took for
25 Enterprise involving accidents, you would follow the

1 Enterprise policies and procedures in --

2 A. Yes.

3 Q. -- inputting those reports? Can you read
4 the accident description for me.

5 A. Renter was involved in an accident and
6 pulled out in front of a car and was struck on the
7 driver's side of the box. Renter has police report.
8 Contact Ryan Oliver at 803.528.4917.

9 Q. And that accident description you just read
10 for the record, that accident description you would
11 have obtained from Ryan Oliver?

12 A. Yes.

13 Q. And that would have been a true and accurate
14 representation of what Ryan Oliver communicated to you
15 on December 13, 2014?

16 A. Yes.

17 Q. Do you have any reason to believe that it
18 would not be a true and accurate representation of
19 what Mr. Oliver communicated to you?

20 A. No.

21 Q. And to the best of your knowledge, did you
22 ever include any information on any Enterprise
23 accident -- Enterprise report that was inaccurate?

24 A. No.

25 Q. And so does this appear that the renter,

1 Mr. Oliver, was returning the damaged vehicle?

2 A. Yes.

3 Q. Okay. What were the policies and procedures
4 for Enterprise after this report was taken? Did you
5 go look at the vehicle, take pictures, stuff like
6 that?

7 A. So we were looking at the vehicle prior to
8 this report being taken.

9 Q. Okay.

10 A. This -- like I said, a renter comes in to
11 the office, I've got to return a vehicle. We pull the
12 rental contract, say how did everything go, blah,
13 blah, blah, walk out. I'm looking for the mileage on
14 the odometer. I'm looking to see if the fuel is as it
15 was given. And then we're walking around the vehicle,
16 inspecting for damage.

17 If a vehicle was damaged, most of the time,
18 a renter was forthcoming, would say I damaged the
19 vehicle. A lot of people don't like to tell you when
20 they damage rental cars so you have to look, you find
21 it. After that was done, you would say, okay, what
22 happened here. You'd usually go back into the branch
23 and you'll fill out an accident report to get what
24 was, to the best of my memory and recollection, the
25 damage recovery unit involved.

1 This was an office within Enterprise I
2 believe corporately that dealt with claims
3 information, insurance info, contacting the renter,
4 basically for lack of better words, dealing with this
5 so that we didn't have to in the branch.

6 MR. CHEVES: Real quick, I'll put an
7 objection on the record to just any mention of
8 liability insurance. I just wanted -- I didn't want
9 to interrupt you, just to put it on the record.

10 MR. ANDREWS: We'll stipulate to it.

11 Q. After looking at the vehicle, you'd come up
12 and do this report --

13 A. Yes.

14 Q. -- just to summarize it?

15 A. Yes.

16 Q. Did you take pictures of damaged vehicles?

17 A. I never did. Not being the branch manager,
18 I'm not sure if that was something that was done later
19 when coordinating with the body shop or the damage
20 recovery unit. That was not within -- to the best of
21 my knowledge and memory, that was not within my duty
22 or role to document, you know -- you know, if it was
23 something crazy -- the one I recall, the only accident
24 that I recall vividly from my time at Enterprise was a
25 person who had forgot to set a parking brake on a box

1 truck and it rolled back in a neighborhood, across the
2 street and through someone's living room.

3 We had all sorts of pictures that was
4 circulated throughout the office. It was crazy. To
5 the best of my knowledge, nobody was -- I was not
6 taking pictures of returned cars with damage. But
7 again, that could have been a role of the branch
8 manager or someone else within damage recovery unit.
9 But that wasn't something I was doing.

10 Q. That's kind of an easy one to remember,
11 rolling through a living room?

12 A. Yeah, right.

13 Q. Speaking of which, do you have any
14 personal -- I mean, do you have any recollection today
15 of making this report?

16 A. No.

17 Q. But did you know Mr. Oliver -- do you know
18 Mr. Oliver personally?

19 A. No. The name rings a bell. You know, you
20 didn't have -- there were hundreds, if not thousands,
21 of different renters. After looking at this, the name
22 rings a bell, but I do not recall him personally.

23 Q. Do you have any reason to believe that this
24 accident description you inputted is not a true and
25 accurate representation of what Mr. Oliver told you?

1 A. No.

2 Q. And after you inputted this description,
3 this is after you viewed the vehicles outside, what
4 would happen next? Would you send this to the damage
5 recovery unit?

6 A. Yes. This was all internally done. I
7 didn't physically send anything. I took the report
8 and clicked enter. Electronically this goes off to
9 DRU, Damage Recovery Unit. Usually, depending on the
10 damage to the vehicle -- if it was a scratch on the
11 door that's not debilitating, I can probably rent that
12 car again. I'm going to note that, but I can rent
13 that car again.

14 If the vehicle is severely damaged, you
15 know, there's obvious damage to the frame or to the
16 integrity of the safety of the vehicle, that vehicle
17 is grounded typically and sent to a body shop. It's
18 pulled out of inventory, it's not available to rent,
19 and it's sent to a body shop for repair.

20 Q. Okay. To the best of your knowledge, after
21 you input that information, you just -- you hit enter
22 and the information was transmitted to the damage
23 recovery unit and meaning that your job was done,
24 making that report. Correct?

25 A. Concerning the report, yes.

1 Q. Okay. When's the first time you spoke with
2 a representative from Enterprise about this report?

3 MR. CHEVES: I'll object on the ground of
4 relevancy.

5 Go ahead and answer.

6 A. Regarding this report? I suppose -- what
7 was that, January perhaps, January of '18 --

8 Q. January of 2018?

9 A. -- 2018 I think.

10 Q. Okay. So after you sent this report away,
11 nobody from Enterprise contacted you about this until
12 January of 2008?

13 MR. CHEVES: Same objection.

14 MR. ANDREWS: 2018. I'm sorry. But same
15 objection?

16 MR. CHEVES: Yes.

17 THE WITNESS: Yes.

18 Q. Okay. And until January of 2018, did
19 anybody from Enterprise ever ask you what you recall
20 about Mr. Oliver communicating to you about the
21 collision?

22 MR. CHEVES: Same objection.

23 A. No.

24 Q. And lastly, you have no reason to input any
25 information on the accident description that wouldn't

1 be directly communicated from a renter. Correct?

2 A. No.

3 MR. ANDREWS: I don't have any further
4 questions.

5 MR. CHEVES: Okay. Real quick before I get
6 started, just to let you know, Ryan, I'm going to move
7 to strike any reference to our representing -- or
8 Enterprise being a defendant in this action pending
9 obviously the motion that's upcoming.

10 MR. ANDREWS: Okay.

11 MR. CHEVES: Understanding obviously
12 currently they're still a defendant. But as of
13 August 6th, our position is they will no longer be a
14 defendant.

15 MR. ANDREWS: Okay.

16 EXAMINATION

17 BY MR. CHEVES:

18 Q. Tyler, how are you?

19 A. Excellent.

20 Q. I'm Langdon Cheves. I represent Ryan Oliver
21 in this case. This accident occurred back in December
22 of 2014. Is that your understanding?

23 A. Yes.

24 Q. All right. That's three-and-a-half years
25 ago roughly?

1 A. Yes.

2 Q. Okay. And you've already testified you have
3 no independent recollection of Ryan Oliver. Like you
4 said, you do 20 or 30 of these accident reports. So
5 as far as Ryan Oliver is concerned, you can't sit here
6 and say, with exact certainty, your dealings with him?

7 A. Yes.

8 Q. Is that fair to say?

9 A. Yes.

10 Q. Part of your duties you've already testified
11 is to take in the trucks when they were returned to
12 Enterprise?

13 A. Uh-huh.

14 Q. That's a yes?

15 A. Yes.

16 Q. Okay. And if there was any damage to the
17 truck, part of your duties would be to complete an
18 accident report?

19 A. Yes.

20 Q. Okay. And put simply, that form is your way
21 of notifying the DRU or Damage Recovery Unit that the
22 truck has sustained some damage?

23 A. Yes.

24 Q. Okay. And this form needed to be completed
25 regardless of who was at fault for that damage?

1 A. Yes.

2 Q. Okay. And in your experience, I assume you
3 had occasions where the renter caused the damage. Is
4 that fair to say?

5 A. Correct.

6 Q. Where another drive could have caused the
7 damage. Is that fair to say?

8 A. Yes.

9 Q. Or it could be just simply an act of God
10 like a tree limb falls on a truck?

11 A. Right, yes.

12 Q. Regardless of whose responsibility the
13 damage was or who caused the damage, that form had to
14 be completed?

15 A. Correct.

16 Q. Okay. Now, the part that -- obviously the
17 plaintiff is focused on the part where it says
18 accident description. You answered questions about
19 that?

20 A. Yes.

21 Q. And you input this information. The renter
22 does not input the information?

23 A. Negative. I'm inputting it.

24 Q. And you can garner this information from the
25 renter?

1 A. Right.

2 Q. Okay. Are there occasions where that
3 information comes from someone else, if someone calls
4 in and says the renter's been in an accident?

5 A. To the best of my recollection, I was never
6 really hearing this information from anyone other than
7 the renter.

8 Q. Okay. So to the best of your recollection,
9 that information would have come from Ryan Oliver?

10 A. Yes.

11 Q. All right. And unless the renter has I
12 guess paid extra for a damage waiver, Enterprise looks
13 first to the renter to make Enterprise whole for the
14 damage?

15 A. Yes.

16 Q. And that's regardless of whether the renter
17 was actually responsible for the damage?

18 A. Correct.

19 Q. Okay. So for the purposes of this form,
20 it's not really important who caused the damage?

21 A. It is not at all.

22 Q. Because regardless of how the accident
23 occurred, as far as Enterprise is concerned, the
24 renter is responsible?

25 A. Yes.

1 Q. All right. So it was not a necessary part
2 of your job to make a determination as to who actually
3 caused the damage to either this truck or any other
4 truck?

5 A. No. Our job function was my vehicle is
6 damaged --

7 Q. Okay.

8 A. -- it needs to get fixed.

9 Q. Is it fair to say you're not really
10 concerned with the description used on this form as
11 long as the result is a notation that the truck
12 suffered damage?

13 A. Correct.

14 Q. Okay. So when it says renter was involved
15 in an accident and pulled out in front of a car, that
16 is a short summary you wrote regardless of what the
17 details of the accident were?

18 A. Yes.

19 Q. Okay. And I know you never really do this
20 in real life, but theoretically, the reality is if a
21 renter would come and explain how an accident was
22 somebody else's fault, your response could be really I
23 don't care, that's not really important to me?

24 A. Yes.

25 MR. ANDREWS: I'm going to object.

1 Q. Because again the party responsible for the
2 damage does not matter to you in your job function?

3 A. Correct.

4 Q. So there's really no need to fill up a page
5 or even write a paragraph about how the accident
6 occurred?

7 A. Correct.

8 Q. All right. So if a renter came to you and
9 said I was pulling out of a parking lot and was hit on
10 the driver side, the report you could fill out could
11 read simply renter pulled out in front of a car and
12 was struck on the driver side?

13 MR. ANDREWS: I'm going to object.

14 A. Theoretically, yeah.

15 Q. Okay. So in summary, you don't know if Ryan
16 Oliver -- and you don't know Ryan Oliver?

17 A. No.

18 Q. And you have no have reason to try and help
19 him out in this matter?

20 A. No.

21 Q. All right. But based on your testimony, I
22 would assume that you would encourage anyone who is
23 charged with determining fault in this matter to
24 ignore your description on this form?

25 A. Say that one more time.

1 Q. Yeah. I mean, judging by your testimony, I
2 assume that you would then encourage anyone who's
3 charged with the responsibility of determining who
4 caused this damage not to pay too much attention to
5 what you wrote on this form?

6 A. Yeah. I guess my tidbit would be this was
7 often paraphrased. Often, you know, you've got three
8 other people in line behind you trying to return a
9 vehicle. I'm not trying to write a narrative. I'm
10 filling out a report that says why is my vehicle
11 damaged, what is the damage, so that the damage
12 recovery folks can get involved and step in.

13 Q. And again you were not attempting to imply
14 who was at fault for the damage to the vehicle?

15 A. No.

16 Q. All right. Tyler, last question, is it fair
17 to say that if you had known, back in 2014, that your
18 testimony three-and-a-half years down the road would
19 be used to determine who caused this damage, you might
20 have been more specific as to what you put down there?

21 A. Probably, yeah, probably. I mean, it's kind
22 of funny. This is probably one of the more detailed
23 accident reports. Usually it was just like scratch on
24 the door, you know. It could be as simple as
25 windshield chip, send it to Safelite, contact

1 so-and-so. So yeah, that's surprising to me.

2 Q. Okay. But as we sit here today in 2018,
3 looking at your accident report, there's no real way
4 to know who was responsible for the damage just based
5 on what you inputted at the time?

6 A. Yeah. No. As an employee of Enterprise,
7 I'm not an adjuster. I'm not a police officer. I
8 wasn't at the scene. I'm just taking, hey, why is the
9 vehicle damaged, DRU handle this.

10 Q. DRU handle this. It's out of my hands from
11 here?

12 A. Yeah. Pretty much.

13 MR. CHEVES: Okay. That's all I have,
14 Tyler. Thank you.

15 MR. ANDREWS: Real quick follow-up.

16 EXAMINATION

17 BY MR. ANDREWS:

18 Q. You communicated that you might have
19 paraphrased this, but this is one of the more detailed
20 reports. All the information that you got from there
21 would have come from Mr. Oliver. Correct?

22 A. Theoretically, yes.

23 Q. Theoretically. There's no reason to believe
24 that you would have put inaccurate information from
25 Mr. Oliver on there?

1 A. No.

2 Q. So he told you that he pulled out in front
3 of a car?

4 A. To the best of my memory, what is indicated
5 on the report is what I was told by the renter.

6 MR. ANDREWS: I have no further questions.

7 EXAMINATION

8 BY MR. CHEVES:

9 Q. But again, it's paraphrasing so the choice
10 of words and the way that it's structured, it came
11 from you?

12 A. Yes.

13 MR. CHEVES: All right. That's fine. Thank
14 you, Tyler.

15 EXAMINATION

16 BY MR. ANDREWS:

17 Q. Paraphrasing the structure came from you,
18 but the substance came from the renter?

19 A. Yes.

20 MR. ANDREWS: Thank you.

21 MR. CHEVES: That's it.

22 (The deposition concluded at 12:27 p.m.)

23 (Signature was waived.)

24

25

1 STATE OF NORTH CAROLINA)
2) CERTIFICATE OF TRANSCRIPT
3 COUNTY OF MECKLENBURG)
4

5 I, Mary L. Labonte, RPR, and Notary Public in and
6 for the aforesaid county and state, do hereby certify
7 that the foregoing pages are an accurate transcript of
8 the deposition of TYLER W. THIEDE, which was reported
9 by me on behalf of Plaintiff in machine shorthand and
10 transcribed by computer-aided transcription.

11 The deponent and parties waived the signing of
12 the deposition by the deponent.

13 I further certify that I am not financially
14 interested in the outcome of this action, a relative,
15 employee, attorney or counsel of any of the parties,
16 nor am I a relative or employee of such attorney or
17 counsel.

18 This 23rd day of July, 2018.
19

20

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25

Mary L. Labonte

Registered Professional Reporter

Notary Public No. 201227500033

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CCIN37

VEHICLE ACCIDENT REPORT
ENTERPRISE RENT-A-CAR
ENTERPRISE RENT A TRUCK
1616 BLUFF RD
COLUMBIA SC 29201-4914

PAGE 1

Accident Report# DX2611758 Date of Report 12/13/14 Taken by: 511MX
Date of Accident 12/13/14 Time of Accident 0800AM Rental Contract# 218276

Vehicle ID: Unit Yr Make Model Series Color License# St VIN#
7DQDLD 11 FRGT M2 26BX MD TR 8F3090 /IA 1FVACWDT2BDBA5298

Street/Intersection of Accident UNK
Purpose of Trip UNK

State of Accident SC

Accident Description:

RENTER WAS INVOLVED IN AN ACCIDENT AND PULLED OUT IN FRONT OF A CAR AND WAS STRUCK ON THE DRIVERS SIDE OF THE BOX. RENTER HAS POLICE REPORT CONTACT RYAN OLIVER

Current Vehicle Location 2611
Damages to Enterprise Vehicle DMG TO BOX CAB AND FRAME

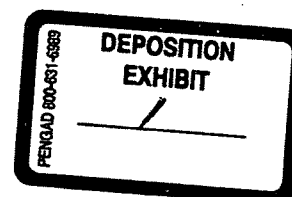
*** PARTIES ***

Lease/Renter/Employee

Driver (if other than Renter)

OLIVER* RYAN*

Driver's Signature: _____ Date: _____



CCIN37

VEHICLE ACCIDENT REPORT

PAGE 2

*** CONTRACT COVERAGE ***

PAI N Deduct Collected N \$Coll 0 Emp Name THIRDE*TYLER W*
Purchase Sup Liab N D-Waiver F

*** POLICE INFORMATION ***

Police Report# Dept
Officer Phone# 000-000-0000
Pol Dpt'address

*** TICKET INFORMATION ***

Issued to for
Tow Slip# Issued to for

*** INSURANCE INFORMATION ***

Renter's Ins
Adj/Agent
Address

Driver's Ins
Adj/Agent
Address

Phone# 000-000-0000
Claim/Policy#
Injury
Passengers

Phone# 000-000-0000
Claim/Policy#
Injury
Witnesses

Driver's Signature: _____ Date: _____

CCIN37

VEHICLE ACCIDENT REPORT

PAGE 3

*** ACCIDENT INFORMATION ***

Direction of Enterprise Car Lane# Speed

Direction of Vehicle C-1 Lane# Speed

Direction of Vehicle C-2 Lane# Speed

Did ERAC Vehicle Signal Warning?

Did C-1 Vehicle Signal Warning?

Did C-2 Vehicle Signal Warning?

Weather at Time of Loss

Condition of Road Surface

Location of Damage to C-1

Location of Damage to C-2

Damage to Stationary Objects

Did ERAC Vehicle Have Its Lights on at Time of Accident?

Did C-1 Vehicle Have Its Lights on at Time of Accident?

Did C-2 Vehicle Have Its Lights on at Time of Accident?

PLEASE COMPLETE DIAGRAM

SEE ATTACHED

Report taken by: _____

Driver's Signature: _____ Date: _____

Approved by Manager: _____ Date: _____

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Knollinger v. Oliver

Hurley, Sarah D. <SHurley@turnerpadget.com>

Wed, Jan 10, 2018 at 5:20 PM

To: "Ryan Andrews <randrews@cdhlawfirm.com> (randrews@cdhlawfirm.com)" <randrews@cdhlawfirm.com>, "jon@duboselaw.com" <jon@duboselaw.com>

Hello Ryan and Jon,

Please let me know whether your client would consent to a Rule 40(j) dismissal of the property damage counterclaim.

Thank you,

Sarah

Sarah Day Hurley

Attorney

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200 East Broad Street, Suite 250 | Greenville, SC 29601

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Bio | vCard | Location

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Cobb Dill & Hammett LLC
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Knollinger v. Oliver

Jon Robinson <jon@duboselaw.com>

Fri, Jan 12, 20

To: "Hurley, Sarah D." <SHurley@turnerpadget.com>, "Ryan Andrews <randrews@cdhlawfirm.com> (randrews@cdhlawfirm.com)" <randrews@cdhlawfirm.com>

My client will agree to a Rule 41(a) Dismissal. They will not agree to a Rule 40(j) Order.

— DuBose —
Robinson, PC
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CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for Appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material that this Record on Appeal complies to the best of my ability with the April 15, 2014 Order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

November 14, 2019



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