

# Turner | Padget

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September 8, 2020

**VIA HAND DELIVERY:**

The Honorable Daniel E. Shearouse, Clerk  
South Carolina Supreme Court  
Supreme Court Building  
1231 Gervais Street  
Columbia, SC 29201

**RECEIVED**

SEP 08 2020

S.C. SUPREME COURT

Re: Crystal L. Wickersham, as Personal Representative of the Estate of John Harley Wickersham, Jr. v. Ford Motor Company  
Appellate Case No.: 2018-001124  
File No.: 5100.354

Dear Mr. Shearouse:

Pursuant to Rule 208(b)(7) of the South Carolina Appellate Court Rules, Defendant Ford Motor Company submits the following supplemental citations in advance of the oral argument in this case scheduled for September 17, 2020.

In its initial answer to the Fourth Circuit's certified questions, this Court held that: "As would be true in any case, it is the plaintiff's burden to prove the defendant proximately caused the damages he alleges. In a crashworthiness case, it is the plaintiff's burden to prove the defendant's tortious conduct ... proximately caused a specific share of the plaintiff's enhanced injuries." 2019 WL 3311057, at \*5.

In previous cases, this Court and the Court of Appeals have applied this very same standard:

*Roundtree Villa Ass'n, Inc. v. 4701 Kings Corp.*, 282 S.C. 415, 423 (1984): The defendants "may only be held liable for any damages proximately caused by the alleged negligent repair, but not for any original damages proximately caused by the negligence of the Builder, Architect or Contractor."

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*Stoneledge at Lake Keowee Owners' Ass'n, Inc. v. IMK Dev. Co., LLC*, 425 S.C. 276, 289 & n.1 (Ct. App. 2019), *cert. granted* (2019): The trial court “adequately instructed the jury” that “a defendant is only liable for damages for which the defendant was the proximate cause.”

Moreover, these principles are consistent with the jury instructions in this case. With respect to the claim for breach of warranty, the federal court instructed the jury that “plaintiff must prove ... (4) the extent of loss proximately caused by the defendant’s breach.” JA 688 (capitalization changed); *see also* Anderson’s South Carolina Requests to Charge—Civil § 32-31 (rev. & updated 2d ed. 2016). And, as part of the *proximate cause* instruction, the court instructed the jury that “a defendant is entitled to assert that other persons or entities, whether or not parties to the case, contributed to the alleged injury or damages and are liable for any or all of the damages.” JA 671 (capitalization changed).

The authorities cited above and excerpts from the jury instructions are attached to this letter. Thank you for your assistance.

With kind regards, I am

Very truly yours,

TURNER, PADGET, GRAHAM & LANEY, P.A.



Carmelo B. Sammataro

CBS/tj

Enclosures

cc: Ronnie L. Crosby, Esquire  
Kathleen C. Barnes, Esquire  
Steve A. Matthews, Esquire  
Victor E. Schwartz, Esquire (*pro hac vice*)  
Cary Silverman, Esquire (*pro hac vice*)  
Phil Goldberg, Esquire (*pro hac vice*)  
Gray T. Culbreath, Esquire  
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