

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

Jun 02 2021

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

SC Court of Appeals

The Honorable Bentley D. Price, Circuit Court Judge

Appeal No. 2020-001679

Elizabeth McCrabb, Respondent,

v.

Christine Baxter, Appellant.

RECORD ON APPEAL

Helen F. Hiser
MCANGUS, GOUDELOCK & COURIE, LLC
Post Office Box 650007
Mt. Pleasant, South Carolina 29465
(843) 576-2900
Attorneys for Appellant Christine Baxter

W. Mullins McLeod, Jr.
Michael T. Cooper
MCLEOD LAW GROUP, LLC
Post Office Box 21624
Charleston, South Carolina 29413
(843) 277-6655
Attorneys for Respondent Elizabeth McCrabb

INDEX

I. ORDERS

Form 4 Order, filed December 18, 2020.....2
Order Granting Partial Summary Judgment on the Issue of Liability,
filed July 13, 2020.....5
Form 4 Order, filed July 6, 2020.....10

II. PLEADINGS

Summons & Complaint, filed Oct. 24, 2019.13
Defendant Christine Baxter’s Answer to Plaintiff’s Complaint,
filed Nov. 19, 201918
Notice of Appearance and Conditional Answer (underinsured Motorist),
filed March 25, 2020.....23
Defendant Christine Baxter’s Amended Answer to Plaintiff’s Complaint,
filed May 27, 2020.....25
Notice of Motion and Motion for Partial Summary Judgment on the Issue
of Liability, filed May 26, 2020.....30
Memorandum in Support of Plaintiff’s Motion for Partial Summary
Judgment on the Issue of Liability, filed June 10, 202032
Defendant’s Memorandum in Opposition to Plaintiff’s Motion of
Summary Judgment, filed June 19, 2020.....60
Motion to Reconsider the Grant of Plaintiff’s Motion for Partial
Summary Judgment, filed July 15, 202066
Defendant’s Memorandum in Support of Motion for Reconsideration,
filed Nov. 4, 202068
Plaintiff’s Response in Opposition to Defendant’s Motion to Reconsider
Order Granting Partial Summary Judgment, filed Dec. 4, 2020.....73

V. CERTIFICATE OF COUNSEL

Executed Certificate of Counsel117

Elizabeth Mccrabb
PLAINTIFF(S)

Christine Baxter
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:

Defendant's Motion to Reconsider 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 12/17/2020 .

Travelers Insurance

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.



Charleston Common Pleas

Case Caption: Elizabeth Mccrabb VS Christine Baxter

Case Number: 2019CP1005613

Type: Order/Electronic Form 4

IT IS SO ORDERED!

/s Hon. Bentley D. Price, Circuit Judge 2766

Electronically signed on 2020-12-17 11:55:50 page 3 of 3

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
Elizabeth McCrabb)
)
Plaintiff,)
vs.)
Christine Baxter;)
Defendant.)

COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CASE NO: 2019-CP-10-05613

**ORDER GRANTING PARTIAL
SUMMARY JUDGMENT ON THE
ISSUE OF LIABILITY**

INTRODUCTION

In this motor vehicle negligence action arising out of an October 27, 2017 collision, Plaintiff's Motion for Partial Summary Judgment on the Issue of Liability came before the Court. The parties each had an opportunity to fully brief this matter and agreed that the matter should be ruled upon by the Court without a hearing.

FACTUAL BACKGROUND

Plaintiff Elizabeth McCrabb alleges that Defendant Christine Baxter failed to keep a lookout for vehicles ahead of her and failed to yield for a stop light and the traffic stopped at that light. Plaintiff alleges she and Defendant were traveling in the same direction on St. Andrews Blvd. in Charleston, South Carolina. She also alleges Defendant's vehicle was behind Plaintiff's. Plaintiff then alleges that while she was stopped at a red light at Sycamore Drive and St. Andrews Blvd., Defendant crashed her car into the back of Plaintiff's car. The deposition testimony of Defendant coupled with the collision report and photographs of vehicle damage demonstrate Defendant crashed her car into the back of Plaintiff's car.

STANDARD OF REVIEW

The rules of civil procedure “shall be construed to secure the just, speedy, and inexpensive determination of every action.” S.C. R. Civ. P. 1. “The judgment sought should be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” S.C. R. Civ. P. 56(c). The evidence and its reasonable inferences must be viewed in the light most favorable to the nonmoving party. Epstein v. Brown, 363 S.C. 372, 375, 610 S.E.2d 816, 817 (2005) (citing Dawkins v. Fields, 354 S.C. 58, 115, 580 S.E.2d 433, 545 (2003)). “The purpose of summary judgment is to expedite disposition of cases which do not require the services of a fact finder.” George v. Fabri, 345 S.C. 440, 452, 548 S.E.2d 868, 874 (2001). “When plain, palpable, and indisputable facts exist on which reasonable minds cannot differ, summary judgment should be granted.” Hackworth v. Greenville County, 371 S.C. 99, 102, 637 S.E.2d 320, 322 (Ct. App. 2006) (citing Hedgepath v. American Tel. & Tel. Co., 348 S.C. 340, 355, 559 S.E.2d 327, 336 (Ct. App. 2001)). “Summary judgment is completely appropriate when a properly supported motion sets forth facts that remain undisputed or are contested in a deficient manner.” Guinan v. Tenet Healthsystems of Hilton Head, 383 S.C. 48, 53, 677 S.E.2d 32, 35 (Ct. App. 2009) (quoting Davis v. McLeon Reg'l Med. Center, 367 S.C. 242, 250, 626 S.E.2d 1, 5) (2006)).

DISCUSSION

Summary Judgment must be granted in this case, because Defendant has failed to show any issue of material fact on the question of liability in this motor vehicle collision. Under South Carolina law, negligence is “the failure to use due care which is that degree of care a person of ordinary prudence and reason would exercise under the same circumstances.” Hart v. Doe, 198

S.E.2d 526 (S.C. 1973). Negligence “embodies the principle that the Plaintiff should not be called to suffer a harm to his or her person or property which is foreseeable, and which can be avoided by the defendant’s exercise of reasonable care.” Snow v. City of Columbia, 409 S.E.2d 797, 803 (S.C Ct. App. 1991). Plaintiff alleges several negligent actions or failures by Defendant in her Complaint. Under S.C. Code § 56-5-1930, “The operator of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.” S.C. Code Ann. § 56-5-1930. Additionally, a motorist must use ordinary care in keeping a proper lookout for other vehicles when approaching an intersection. Brown v. Howell, 284 S.C. 605, 327 S.E.2d 659 (1985).

There is no genuine dispute regarding the facts about how the collision took place. The police records submitted by Plaintiff show Defendant crashed into the back of Plaintiff’s car. The photographs demonstrate the damage to Plaintiff’s and Defendant’s respective vehicles. It is clear from the photos offered by Plaintiff, Defendant crashed into the back of Plaintiff’s vehicle. Finally, Plaintiff offered multiple portions of Defendant’s deposition wherein she admits fault in the collision. Plaintiff’s counsel asked Defendant, “Do you believe that you are a hundred percent at fault in the collision with Ms. McCrabb?” Under oath, Defendant answered in the affirmative, “Yes.” Additionally, Plaintiff’s counsel asked Defendant, “Do you believe that you are responsible for the injuries that were caused to Mrs. McCrabb by that collision?” Defendant agreed, “Um yes. Admit.” Defendant offered no evidence to contradict the issue of liability. Because Defendant admits sole fault in the collision with Plaintiff, the Court finds there is no genuine issue of material fact as to that question.

CONCLUSION

WHEREFORE, for the reasons stated above, Plaintiff's Motion for Partial Summary Judgment on the Issue of Liability is GRANTED. The Court finds, as a matter of law, Defendant is solely liable for the injuries proximately caused and which Plaintiff may prove at the trial of this case. The Court finds there is no comparative fault by the Plaintiff in this action.

BE IT SO ORDERED!

This _____ day of July, 2020.

The Honorable Bentley Price
Presiding Judge, Common Pleas
Ninth Circuit, Charleston County



Charleston Common Pleas

Case Caption: Elizabeth Mccrabb VS Christine Baxter

Case Number: 2019CP1005613

Type: Order/Summary Judgment

IT IS SO ORDERED!

/s Hon. Bentley D. Price, Circuit Judge 2766

Electronically signed on 2020-07-13 15:11:33 page 5 of 5

Elizabeth Mccrabb
PLAINTIFF(S)

Christine Baxter
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:

The Plaintiff's Motion for Partial Summary Judgment is granted.

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 06/30/2020 .

Travelers Insurance

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.



Charleston Common Pleas

Case Caption: Elizabeth Mccrabb VS Christine Baxter

Case Number: 2019CP1005613

Type: Order/Electronic Form 4

IT IS SO ORDERED!

/s Hon. Bentley D. Price, Circuit Judge 2766

Electronically signed on 2020-06-30 12:09:32 page 3 of 3

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
Elizabeth McCrabb,)
)
)
)
)
)
Plaintiff,)
)
)
vs.)
)
Christine Baxter,)
)
)
)
)
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL DISTRICT
CIVIL CASE NO: 2019-CP-

SUMMONS
(Jury Trial Demanded)

TO THE DEFENDANT ABOVE-NAMED:

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 the said Complaint on the subscriber at their office at 3 Morris Street, Suite A, P.O. Box 21624, Charleston, South Carolina 29413 within thirty (30) days after the service hereof, exclusive of the day of such service; and, if you fail to appear and defend by filing an answer to the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Complaint.

McLeod Law Group, LLC
3 Morris Street (29403)
PO Box 21624
Charleston, South Carolina 29413
P: 843-277-6655 F: 843-277-6660

s/Michael T. Cooper
W. Mullins McLeod, Jr.
Michael Thomas Cooper

Attorneys for the Plaintiff

October 24, 2019
Charleston, South Carolina

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
Elizabeth McCrabb,)
)
)
)
)
Plaintiff,)
)
vs.)
)
Christine Baxter,)
)
)
)
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL DISTRICT
CIVIL CASE NO: 2019-CP-

**COMPLAINT
(Jury Trial Demanded)**

COMES NOW, the Plaintiff, by and through the undersigned counsel, complaining of the Defendant Christine Baxter, Individually, would allege and show unto the Court the following:

JURISDICTION AND VENUE

1. The Plaintiff, Elizabeth McCrabb, is a citizen of the State of South Carolina.
2. That on or about October 27, 2017, Plaintiff Elizabeth McCrabb was injured in an automobile collision that occurred in Charleston County, South Carolina as the result of the negligent, grossly negligent, and reckless acts and/or omissions of Defendant.
3. That, upon information and belief, Defendant Christine Baxter (hereinafter "Defendant Baxter") is an individual and a resident of Charleston, South Carolina.
4. This suit arises out of an automobile collision that occurred in Charleston County, South Carolina on October 27, 2017.
5. This Court has subject matter jurisdiction over the claims asserted herein, personal jurisdiction over the parties hereto and venue is proper in Charleston County pursuant to S.C. Code Ann. § 15-7-30 and S.C. Code Ann. § 15-7-100.

FOR A FIRST CAUSE OF ACTION
(Negligence, Gross Negligence, and Recklessness)

6. Plaintiff realleges and reincorporates the previous paragraphs above as if fully set forth herein verbatim.
7. On or about October 27, 2017, at approximately 7:30PM, Plaintiff Elizabeth McCrabb, while at all times exercising due care and caution, was stopped at the traffic light at the intersection of SC-61 and St. Andrews Blvd.
8. Defendant Baxter was traveling in the same direction and behind Mrs. McCrabb.
9. Defendant Baxter was traveling too fast for the conditions, failed to apply brakes and stop at the traffic light, thus rear-ending Plaintiff Elizabeth McCrabb.
10. The impact from Defendant Baxter's vehicle caused significant property damage to Plaintiff's car forcing her into the car in front of her – also stopped at the red light.
11. After the collision, Elizabeth McCrabb was transported by Charleston County EMS to St. Francis Hospital Emergency Department.
12. As a direct and proximate result of Defendant Christine Baxter's negligence, Plaintiff McCrabb has suffered and continues to suffer severe and permanent injuries requiring extensive medical treatment, pain injections and long-term physical therapy.
13. At all relevant times, Defendant Baxter owed Plaintiff a duty of care in that of which a reasonable person would have used under the circumstances then and there prevailing.
14. Defendant breached such duty, and the collision, and personal injuries and damages to Plaintiff described herein were the direct, foreseeable, and proximate cause of the negligent and careless, and willful, wanton, reckless, and grossly negligent acts/omissions of Defendant in the following particulars:

- a. Driving a motor vehicle in such a manner as to indicate a willful, wanton, reckless, grossly negligent, and negligent disregard for the safety of others and in violation of South Carolina Code Section 56-5-2920;
- b. Failing to pay attention and maintain a proper lookout;
- c. Failing to maintain proper control of the motor vehicle;
- d. Failing to use the degree of care and caution that a reasonable person would have used under the circumstances then and there prevailing;
- e. Failing to properly apply her brakes;
- f. Failing to observe the Plaintiff's vehicle, and to avoid the collision described herein, when the vehicles were at all times in plain and unobstructed view;
- g. Failing to keep the motor vehicle she was operating under control;
- h. Failing to obey a traffic control device;
- i. Following too closely;
- j. Failing to abide by the speed limit of the roadway; and
- k. Such other and further particulars as the evidence at the trial may show.

12. At all times pertinent to this action, Plaintiff was acting in a reasonably prudent and careful manner as she was stopped at a red light.

13. That as a direct and proximate cause of the above-referenced acts and omissions of Defendant Baxter as alleged herein, Plaintiffs sought medical treatment, suffered, and continue to suffer, from one or more of the following elements of damage:

- a. physical pain and suffering;
- b. mental anguish;
- c. emotional distress;
- d. impairment of health and bodily efficiency;

- e. loss of sleep and inability to concentrate;
- f. loss of the Plaintiff's enjoyment of life;
- g. shock and injury to Plaintiff's nerves and nervous system;
- h. increased susceptibility to future injury;
- i. substantial expenses for medical services;
- j. expenses for transportation to and from medical services;
- k. loss of income; and
- l. future medical care.

15. Due to the willful, wanton, reckless, grossly negligent, and negligent acts of Defendant, Plaintiffs are entitled to recover actual and punitive damages as determined by a jury.

WHEREFORE, Plaintiffs pray for a trial by jury and for the following:

- i. Judgment against Defendant for actual and punitive damages in an amount to be determined by the jury;
- ii. For the costs of this action; and
- iii. For such other and further relief as this court deems just and proper.

McLeod Law Group, LLC
3 Morris Street (29403)
PO Box 21624
Charleston, South Carolina 29413
P: 843-277-6655 F: 843-277-6660

s/Michael T. Cooper
W. Mullins McLeod, Jr.
Michael Thomas Cooper

Attorneys for the Plaintiff

October 24, 2019
Charleston, South Carolina

STATE OF SOUTH CAROLINA)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON)	
)	
ELIZABETH MCCRABB,	)	Civil Action No. 2019CP1005613
)	
Plaintiff,)	
)	
vs.	)	DEFENDANT CHRISTINE BAXTER'S
	)	ANSWER TO PLAINTIFF'S
CHRISTINE BAXTER,	)	COMPLAINT
	)	(Jury Trial Demanded)
Defendant.)	

Christine Baxter, (hereinafter "Defendant"), answers the Complaint of Plaintiff and respectfully asserts the following:

FOR A FIRST DEFENSE

1. Each and every allegation of the Complaint not specifically admitted is denied.
2. Upon information and belief, Defendant admits the allegations contained in Paragraph 1 of the Plaintiff's Complaint.
3. Defendant denies the allegations contained in Paragraph 2 of Plaintiff's Complaint and demands strict proof thereof.
4. Defendant admits the allegations contained in Paragraphs 3 and 4 of Plaintiff's Complaint.
5. Answering Paragraph 5 of the Plaintiff's Complaint, said Paragraph forms legal conclusions, characterizations, and allegations that require no response from Defendant, however, to the extent a response is required, Defendant denies the allegations contained therein and demands strict proof thereof.

6. In response to the allegations contained in Paragraph 6 of the Plaintiff's Complaint, Defendant hereby re-allege and incorporate Paragraphs 1 through 5 of her Answer as if set forth herein verbatim.

7. Defendant denies the allegations contained in Paragraphs 7 through 13 of Plaintiff's Complaint and demands strict proof thereof.

8. Defendant denies the allegations contained in Paragraph 14, including subparagraphs (a) through (k), of Plaintiff's Complaint and demand strict proof thereof.

9. Defendant denies the allegations contained in Paragraph 15, incorrectly numbered Paragraph 12, of Plaintiff's Complaint and demands strict proof thereof.

10. Defendant denies the allegations contained in Paragraph 16, incorrectly numbered Paragraph 13, including subparagraphs (a) through (l) of Plaintiff's Complaint and demands strict proof thereof.

11. Defendant denies the allegations contained in Paragraph 17, incorrectly numbered Paragraph 15, of Plaintiff's Complaint and demands strict proof thereof.

12. Defendant denies the allegations contained in the "Wherefore" Paragraph of the Plaintiff's Complaint, including (i) through (iii), which is the remainder of the Complaint, and strict proof thereof is demanded.

FOR A SECOND DEFENSE

13. Defendant would respectfully show that each and every cause of action set forth in the Complaint fails to state a claim upon which relief can be granted. Plaintiff's Complaint should therefore be dismissed pursuant to Rule 12 of the *South Carolina Rules of Civil Procedure*.

FOR A THIRD DEFENSE

14. Defendant pleads the doctrine of comparative negligence and allege that the negligence and/or recklessness of the Plaintiff was greater than any negligence, if any, which may be established against the Defendant, and therefore, the Plaintiff is barred from recovery. Defendants further allege that any injury and damage sustained by the Plaintiff was due to and caused by the negligence and/or willfulness of the Plaintiff, combining, concurring and contributing with the negligence and/or willfulness, if any, on the part of the Defendant, and that any amount of recovery awarded to the Plaintiff for the alleged injuries and damage shall be reduced by the Court based on the percentage of negligence and/or willfulness attributed to the Plaintiff.

FOR A FOURTH DEFENSE

15. Defendant would show the claims of the Plaintiff for punitive damages against the Defendant cannot be sustained, because any award of punitive damages under South Carolina law by a jury that (1) is not provided standards of sufficient clarity for determining the appropriateness, and the appropriate size, of the punitive damages award, (2) is not adequately instructed on the limits of punitive damages imposed by the applicable principles of deterrence and punishment, (3) is not expressly prohibited from awarding punitive damages, or determining the amount of an award of punitive damages, in whole or in part, on the basis of invidiously discriminatory characteristics, including the resident, wealth, and corporate status of Defendant, (4) is permitted to award punitive damages under a standard for determining liability for punitive damages that is vague and arbitrary and does not define with sufficient clarity the conduct or mental state that makes punitive damages permissible, and (5) is not subject to trial court and appellate judicial review for reasonableness and furtherance of legitimate purposes on the basis

of objective standards, would violate Defendant; due process and equal protection rights guaranteed by the Fourteenth Amendment to the United States Constitution and by the South Carolina constitutional provisions providing for due process and equal protection, and would be improper under the common law and public policies of the State of South Carolina.

FOR A FIFTH DEFENSE

16. Defendant would allege and show that any injuries and damages sustained by the Plaintiff as alleged in the Complaint, which are denied, were due to and were caused and occasioned by the intervening and superseding negligence, carelessness, recklessness, heedlessness, willfulness and wantonness of some other party or parties over whom the Defendant had no supervision or control, and the Defendant does plead such intervening and superseding negligence, carelessness, recklessness, heedlessness, willfulness and wantonness as the direct and proximate cause of the injuries and damages sustained by the Plaintiff as alleged in the Complaint.

FOR A SIXTH DEFENSE

17. Defendant alleges any injury and damage sustained by Plaintiff was due to and caused by the sole negligence and/or willfulness of Plaintiff and, therefore, Defendant is not liable to Plaintiff for any sum whatsoever.

FOR A SEVENTH DEFENSE

18. FURTHER ANSWERING SAID COMPLAINT, Defendant alleges, upon information and belief, that any injury and damage sustained by Plaintiff was due to and caused by the sole and negligent acts or omissions of some other person or persons other than Defendant over whom Defendant neither had nor exercised any authority or control, and, therefore, Defendant is not liable to Plaintiffs for any sum whatsoever.

FOR AN EIGHTH DEFENSE

19. Plaintiff has failed to mitigate her damages and have incurred damages that were unnecessary or unreasonable in amount. Plaintiff is, therefore, barred in whole or part from recovery in this case.

FOR A NINTH DEFENSE

20. Defendant hereby give notice that they intend to rely upon such other affirmative defenses as may become available or apparent during the course of discovery, and thus reserve the right to amend its Answer to assert any such defenses.

WHEREFORE, having fully answered, Defendant prayS that the Complaint be dismissed, for the costs of defending this action and for such other relief as the Court and jury deem just and proper.

MCANGUS GOUDELOCK & COURIE, L.L.C.

s/ Danielle F. Payne

DANIELLE F. PAYNE (SC Bar No. 73142)

danielle.payne@mgclaw.com

MARY K. LINTON (SC Bar No. 102815)

mary.linton@mgclaw.com

Post Office Box 650007

735 Johnnie Dodds Blvd., Suite 200 (29464)

Mt. Pleasant, South Carolina 29465

Telephone: (843) 576-2900

Facsimile: (843) 534-0605

ATTORNEY FOR CHRISTINE BAXTER

November 19, 2019

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Elizabeth McCrabb,
Plaintiff

vs.

Christine Baxter,
Defendant.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

CASE NO.: 2019-CP-10-05613

**NOTICE OF APPEARANCE AND
CONDITIONAL ANSWER
(UNDERINSURED MOTORIST)**

Jury Trial Demanded

PLEASE TAKE NOTICE that the undersigned attorneys hereby appear on behalf of Travelers in the above entitled action and, further, give notice that this potential underinsured motorist carrier may provide a defense and, further, request that copies of all pleadings and discovery served in this action by all parties be served upon the undersigned at the address given below. The potential underinsured motorist carrier specifically demands a trial by jury pursuant to Rule 38 of the South Carolina Rules of Civil Procedure. The undersigned further states that she and her law firm at this time do not represent the defendant(s) and are not at this time undertaking such representation but are specifically reserving the option to assume control of the defense in the name of the defendant(s) pursuant to the underinsured motorist statute should the carrier choose to exercise that option.

This appearance is made pursuant to S.C. Code §38-77-160 (1976, as amended). To the extent that a responsive pleading is required, the undersigned denies each and every allegation of the Complaint, asserts those affirmative defenses set forth in Rule 8 of the South Carolina Rules of Civil Procedure, contests service and

personal jurisdiction, and raises those defenses set forth in Rule 12, all to the extent they are applicable.

The undersigned reserves the right to file a full Answer at such time it assumes the defense of this case or thereafter.

In filing this notice, Travelers makes no representations or admissions to the existence, applicability or amount of any insurance coverage. This filing and all activities in this case are undertaken under a reservation of rights.

CLAWSON and STAUBES, LLC

/s/ Jessica L. Salerno

Jessica L. Salerno
Bar No.: 101064
126 Seven Farms Drive, Suite 200
Charleston, South Carolina 29492-8144
Phone: (843) 577-2026
Fax: (843) 722-2867
Email: jsalerno@clawsonandstaubes.com

Attorney for Travelers , appearing pursuant to S.C.
Code §38-77-160

Charleston, South Carolina

March 25, 2020

STATE OF SOUTH CAROLINA)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON)	
	)	Civil Action No. 2019CP1005613
ELIZABETH MCCRABB,)	
)	
Plaintiff,)	
	)	DEFENDANT CHRISTINE BAXTER’S
vs.	)	AMENDED ANSWER TO
	)	PLAINTIFF’S COMPLAINT
CHRISTINE BAXTER,	)	(Jury Trial Demanded)
)	
Defendant.)	

Christine Baxter, (hereinafter “Defendant”), answers the Complaint of Plaintiff and respectfully asserts the following:

FOR A FIRST DEFENSE

1. Each and every allegation of the Complaint not specifically admitted is denied.
2. Upon information and belief, Defendant admits the allegations contained in Paragraph 1 of the Plaintiff’s Complaint.
3. Defendant denies the allegations contained in Paragraph 2 of Plaintiff’s Complaint and demands strict proof thereof.
4. Defendant admits the allegations contained in Paragraphs 3 and 4 of Plaintiff’s Complaint.
5. Answering Paragraph 5 of the Plaintiff’s Complaint, said Paragraph forms legal conclusions, characterizations, and allegations that require no response from Defendant, however, to the extent a response is required, Defendant denies the allegations contained therein and demands strict proof thereof.

6. In response to the allegations contained in Paragraph 6 of the Plaintiff's Complaint, Defendant hereby re-allege and incorporate Paragraphs 1 through 5 of her Answer as if set forth herein verbatim.

7. Defendant denies the allegations contained in Paragraphs 7 through 13 of Plaintiff's Complaint and demands strict proof thereof.

8. Defendant denies the allegations contained in Paragraph 14, including subparagraphs (a) through (k), of Plaintiff's Complaint and demand strict proof thereof.

9. Defendant denies the allegations contained in Paragraph 15, incorrectly numbered Paragraph 12, of Plaintiff's Complaint and demands strict proof thereof.

10. Defendant denies the allegations contained in Paragraph 16, incorrectly numbered Paragraph 13, including subparagraphs (a) through (l) of Plaintiff's Complaint and demands strict proof thereof.

11. Defendant denies the allegations contained in Paragraph 17, incorrectly numbered Paragraph 15, of Plaintiff's Complaint and demands strict proof thereof.

12. Defendant denies the allegations contained in the "Wherefore" Paragraph of the Plaintiff's Complaint, including (i) through (iii), which is the remainder of the Complaint, and strict proof thereof is demanded.

FOR A SECOND DEFENSE

13. Defendant would respectfully show that each and every cause of action set forth in the Complaint fails to state a claim upon which relief can be granted. Plaintiff's Complaint should therefore be dismissed pursuant to Rule 12 of the *South Carolina Rules of Civil Procedure*.

FOR A THIRD DEFENSE

14. Defendant pleads the doctrine of comparative negligence and allege that the negligence and/or recklessness of the Plaintiff was greater than any negligence, if any, which may be established against the Defendant, and therefore, the Plaintiff is barred from recovery. Defendants further allege that any injury and damage sustained by the Plaintiff was due to and caused by the negligence and/or willfulness of the Plaintiff, combining, concurring and contributing with the negligence and/or willfulness, if any, on the part of the Defendant, and that any amount of recovery awarded to the Plaintiff for the alleged injuries and damage shall be reduced by the Court based on the percentage of negligence and/or willfulness attributed to the Plaintiff.

FOR A FOURTH DEFENSE

15. Defendant would show the claims of the Plaintiff for punitive damages against the Defendant cannot be sustained, because any award of punitive damages under South Carolina law by a jury that (1) is not provided standards of sufficient clarity for determining the appropriateness, and the appropriate size, of the punitive damages award, (2) is not adequately instructed on the limits of punitive damages imposed by the applicable principles of deterrence and punishment, (3) is not expressly prohibited from awarding punitive damages, or determining the amount of an award of punitive damages, in whole or in part, on the basis of invidiously discriminatory characteristics, including the resident, wealth, and corporate status of Defendant, (4) is permitted to award punitive damages under a standard for determining liability for punitive damages that is vague and arbitrary and does not define with sufficient clarity the conduct or mental state that makes punitive damages permissible, and (5) is not subject to trial court and appellate judicial review for reasonableness and furtherance of legitimate purposes on the basis

of objective standards, would violate Defendant; due process and equal protection rights guaranteed by the Fourteenth Amendment to the United States Constitution and by the South Carolina constitutional provisions providing for due process and equal protection, and would be improper under the common law and public policies of the State of South Carolina.

FOR A FIFTH DEFENSE

16. Defendant would allege and show that any injuries and damages sustained by the Plaintiff as alleged in the Complaint, which are denied, were due to and were caused and occasioned by the intervening and superseding negligence, carelessness, recklessness, heedlessness, willfulness and wantonness of some other party or parties over whom the Defendant had no supervision or control, and the Defendant does plead such intervening and superseding negligence, carelessness, recklessness, heedlessness, willfulness and wantonness as the direct and proximate cause of the injuries and damages sustained by the Plaintiff as alleged in the Complaint.

FOR A SIXTH DEFENSE

17. Defendant alleges any injury and damage sustained by Plaintiff was due to and caused by the sole negligence and/or willfulness of Plaintiff and, therefore, Defendant is not liable to Plaintiff for any sum whatsoever.

FOR A SEVENTH DEFENSE

18. FURTHER ANSWERING SAID COMPLAINT, Defendant alleges, upon information and belief, that any injury and damage sustained by Plaintiff was due to and caused by the sole and negligent acts or omissions of some other person or persons other than Defendant over whom Defendant neither had nor exercised any authority or control, and, therefore, Defendant is not liable to Plaintiffs for any sum whatsoever.

FOR AN EIGHTH DEFENSE

19. Plaintiff has failed to mitigate her damages and have incurred damages that were unnecessary or unreasonable in amount. Plaintiff is, therefore, barred in whole or part from recovery in this case.

FOR A NINTH DEFENSE

20. Defendant hereby give notice that they intend to rely upon such other affirmative defenses as may become available or apparent during the course of discovery, and thus reserve the right to amend its Answer to assert any such defenses.

FOR A TENTH DEFENSE

18. Defendant would show that any award of punitive damages is subject to the limitations set forth in South Carolina Code §15-32-530.

WHEREFORE, having fully answered, Defendant prays that the Complaint be dismissed, for the costs of defending this action and for such other relief as the Court and jury deem just and proper.

MCANGUS GOUDELOCK & COURIE, L.L.C.

s/ Danielle F. Payne

DANIELLE F. PAYNE (SC Bar No. 73142)

danielle.payne@mgclaw.com

MARY K. LINTON (SC Bar No. 102815)

mary.linton@mgclaw.com

Post Office Box 650007

735 Johnnie Dodds Blvd., Suite 200 (29464)

Mt. Pleasant, South Carolina 29465

Telephone: (843) 576-2900

Facsimile: (843) 534-0605

ATTORNEY FOR CHRISTINE BAXTER

May 27, 2020

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
Elizabeth McCrabb)
)
Plaintiff,)
vs.)
Christine Baxter;)
)
Defendant.)

COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CASE NO: 2019-CP-10-05613

**NOTICE OF MOTION AND
MOTION FOR PARTIAL
SUMMARY JUDGMENT ON THE
ISSUE OF LIABILITY**

TO: DANIELLE F. PAYNE, EQUIRE, and MARY LINTON, ESQUIRE, ATTORNEYS FOR CHRISTINE BAXTER and to JESSICA SALERNO, ESQUIRE, ATTORNEY FOR TRAVELERS INSURANCE COMPANY;

YOU WILL PLEASE TAKE NOTICE that the Plaintiff, Elizabeth McCrabb, by and through her undersigned counsel, will move before the Presiding Judge of the Ninth Judicial Circuit, Charleston County, on the tenth day following service hereof or as soon thereafter as Counsel can be heard, for an Order granting Elizabeth McCrabb Partial Summary Judgment regarding liability as to all causes of action, except damages against the Defendants in this action, pursuant to Rule 56 of the South Carolina Rules of Civil Procedure. The basis of the present motion is there are no genuine issues of material fact as to liability in the present action. Defendant, Ms. Baxter, failed to keep a look out and failed to stop for the cars in front of her which were stopped at a red light on Highway 61 in West Ashley. Ms. Baxter did not stop, and the front of her car slammed into the back of Ms. McCrabb’s car. The force of the impact caused Ms. McCrabb’s car to then collide with the car in front of her. The impact of the crash totaled both Plaintiff’s car and Defendant’s car. Because there is simply no genuine issue of material fact regarding liability in this action, summary judgment is appropriate and should be granted. The only issues to be decided by the jury, trier-of-fact, are the amount of actual damages, economic and non-economic, owed to

Plaintiff and then whether punitive damages should be awarded and if so the amount. This Motion will be further supported by stipulations of fact and/or other materials as may be served upon the parties in accordance with Rule 56 prior to the hearing on this Motion.

Respectfully Submitted,

s/Michael Thomas Cooper
Michael Thomas Cooper, Bar No. 100053
McLeod Law Group, LLC
P.O. Box 21624
Charleston, SC 29413
Attorney for Plaintiff

May 26, 2020
Charleston, SC

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this date a copy of the foregoing document was duly served upon each party to this cause by emailing the same in addition to depositing same in a postpaid wrapper in a post office or official depository under the exclusive care and custody of the U.S. Postal Service, properly addressed as follows:

Danielle Payne, Attorney
Mary Linton, Attorney
McAngus, Goudelock & Courie
735 Johnnie Dodds Blvd. Ste 200
Mt. Pleasant, SC 29464

Jessica L. Salerno, Attorney
Clawson and Staubes, LLC
126 Seven Farms Drive, Suite 200
Charleston, SC 29492-8144

This 26th day of May, 2020.

BY:



Helen G. Bailey

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
Elizabeth McCrabb)
)
Plaintiff,)
vs.)
Christine Baxter;)
Defendant.)

COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CASE NO: 2019-CP-10-05613

**MEMORANDUM IN SUPPORT OF
PLAINTIFF’S MOTION FOR
PARTIAL SUMMARY JUDGMENT
ON THE ISSUE OF LIABILITY**

Plaintiff, Elizabeth McCrabb, by and through her undersigned counsel, respectfully submits Plaintiff’s Memorandum in Support of Plaintiff’s Motion for Partial Summary Judgment on the Issue of Liability submitted pursuant to Rule 56 of the South Carolina Rules of Civil Procedure. The basis of the present motion is there are no genuine issues of material fact as to liability in the present action. Defendant, Ms. Baxter crashed into the back of Ms. McCrabb’s car. The force of the impact caused Ms. McCrabb’s car to then collide with the car in front of her. Ms. McCrabb was stopped at a red light on St. Andrews Boulevard (Highway 61) and Sycamore Avenue in West Ashley. Because there is simply no genuine issue of material fact regarding liability in this action, summary judgment is appropriate and should be granted.

Background

This lawsuit arises out of a motor vehicle collision that took place on October 27, 2017. Elizabeth McCrabb was stopped at a red light on St. Andrews Blvd. (Highway 61) and Sycamore Drive in Charleston, South Carolina. Ms. McCrabb had recently left dinner at the Mex 1 restaurant near Avondale Avenue. Ms. McCrabb drove a dark Jeep Liberty with a license plate that said,

“Libbys.” Christine Baxter was driving in the same direction as Ms. McCrabb. Ms. Baxter had recently left dinner at the Blue Rose Café, which is on the opposite side of St. Andrews Blvd. from Mex 1 near Riverdale Drive. Ms. Baxter drove a red Jeep Grand Cherokee. The speed limit in that area is 45 miles per hour. Ms. Baxter was driving about the speed limit at the time of the collision. Ms. Baxter did not pay attention to the roadway in front of her and did not even see Ms. McCrabb, stopped at the intersection, before she crashed into the back of Ms. McCrabb’s car. The collision smashed the front end of Ms. Baxter’s car and the back end of Ms. McCrabb’s car. The recitation of Ms. McCrabb’s injuries are not included herein as this motion is for summary judgment on the issue of liability.

Standard of Review

As stated by the South Carolina Rules of Civil Procedure, the rules “shall be construed to secure the just, speedy, and inexpensive determination of every action.” S.C. R. Civ. P. 1. Therefore, Rule 56 is designed to, and should be construed to, facilitate the stated purpose of South Carolina’s procedural rules. According to Rule 56, “[t]he judgment sought should be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” S.C. R. Civ. P. 56(c). In determining whether summary judgment is appropriate, the evidence and its reasonable inferences must be viewed in the light most favorable to the nonmoving party. Epstein v. Brown, 363 S.C. 372, 375, 610 S.E.2d 816, 817 (2005) (citing Dawkins v. Fields, 354 S.C. 58, 115, 580 S.E.2d 433, 545 (2003)). According to South Carolina case law, “[t]he purpose of summary judgment is to expedite

disposition of cases which do not require the services of a fact finder.” George v. Fabri, 345 S.C. 440, 452, 548 S.E.2d 868, 874 (2001).

Under Rule 56(c), the party seeking summary judgment has the initial responsibility of demonstrating the absence of a genuine issue of material fact. Standard Fire Ins. Co. v. Marine Contracting & Tooling Co., 301 S.C. 418, 422, 392 S.E.2d 460, 462 (1990). However, the moving party's initial responsibility may be discharged by showing that "there is an absence of evidence to support the nonmoving party's case." Baughman v. Am. Tel. and Tel. Co. , 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991) (quoting Celotex Corp. v. Catrett, 477 U.S. 317, 325 (1986)). Therefore, “when plain, palpable, and indisputable facts exist on which reasonable minds cannot differ, summary judgment should be granted.” Hackworth v. Greenville County, 371 S.C. 99, 102, 637 S.E.2d 320, 322 (Ct. App. 2006) (citing Hedgepath v. American Tel. & Tel. Co., 348 S.C. 340, 355, 559 S.E.2d 327, 336 (Ct. App. 2001)). In fact, "summary judgment is completely appropriate when a properly supported motion sets forth facts that remain undisputed or are contested in a deficient manner." Guinan v. Tenet Healthsystems of Hilton Head, 383 S.C. 48, 53, 677 S.E.2d 32, 35 (Ct. App. 2009) (quoting Davis v. McLeon Reg'l Med. Center, 367 S.C. 242, 250, 626 S.E.2d 1, 5) (2006)).

Argument and Analysis

Because there is no genuine issue of material fact regarding the issue of liability in this case, summary judgment must be granted. Ms. Baxter is completely totally at fault in the collision. That is, Ms. Baxter is 100% at fault and liable in this case. Ms. McCrabb bears zero comparative fault in the collision. Plaintiff fails to see how a person that is legally and properly stopped at a

red light could bear any degree of fault in the collision where another car slammed into the back of her car.

There is no dispute as to how the collision took place. The police report generated shows that Defendant crashed into the back of Plaintiff's car. Exhibit 1. The photos of the damage to Plaintiff's and Defendant's respective vehicles confirms that Defendant crashed into the back of Plaintiff's car. The damage to Plaintiff's car was sustained in the rear end of the car. Exhibit 2. The damage to Defendant's car was sustained in the front of the car. Exhibit 3.

Not only does the physical evidence prove that Defendant is completely and totally at fault in the collision, but Ms. Baxter admitted the same in her deposition. Exhibit 4. Ms. Baxter's testimony under oath on this issue follows:

Q: Was the collision with Ms. McCrabb your fault?

A: Yes.

Q: Do you believe that Ms. McCrabb was at fault in any way for the collision?

A: No.

Q: Do you believe that you are a hundred percent at fault in the collision with Ms. McCrabb?

A: Yes.

Exhibit 4; Baxter Dep. pp. 17-18. Plaintiff's undersigned counsel then reviewed Plaintiff's requests to admit and Defendant's responses to those requests with Defendant. Exhibit 4; Baxter Dep. pp. 22-27. When asked whether Defendant admits or denies each of Plaintiff's requests to admit, Defendant admitted each request during her deposition. *Id.*

Defendant's deposition and the physical evidence in this case demonstrate there is simply no genuine issue of fact regarding the issue of liability.

Conclusion

Wherefore, Plaintiff, Elizabeth McCrabb, respectfully prays that this Honorable Court enter an Order granting partial summary judgment as to the issue of liability in this case. The only triable issues are the amount of damages to be awarded to Plaintiff and whether punitive damages should be awarded and the amount thereof.

Respectfully Submitted,

s/Michael Thomas Cooper
Michael Thomas Cooper, Bar No. 100053
McLeod Law Group, LLC
P.O. Box 21624
Charleston, SC 29413
Attorney for Plaintiff

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this date a copy of the foregoing document was duly served upon each party to this cause by emailing the same in addition to depositing same in a postpaid wrapper in a post office or official depository under the exclusive care and custody of the U.S. Postal Service, properly addressed as follows:

Danielle Payne, Attorney
Mary Linton, Attorney
McAngus, Goudelock & Courie
735 Johnnie Dodds Blvd. Ste 200
Mt. Pleasant, SC 29464

Jessica L. Salerno, Attorney
Clawson and Staubes, LLC
126 Seven Farms Drive, Suite 200
Charleston, SC 29492-8144

This 10th day of June, 2020.


BY: 
Helen G. Bailey

EXHIBIT 1

Mail FR-10 to: SC Department of Motor Vehicles
Office of Financial Responsibility (803) 896-5000
PO Box 1498, Blythewood, SC 29016-0050

South Carolina Department of Motor Vehicles (DMV)
FR-10 (REV. 11/2011)
NOTICE OF REQUIREMENT

Submit Electronically: Agents or Company
Representatives can submit your insurance
information at WWW.SC-ALIR.COM

10-27-2017	1930	10	SC61/SAINT ANDREWS BLVD	NE SW	CHARLESTON
------------	------	----	----------------------------	----------	------------

To Vehicle Owner/Operator: Failure to return this form to the Department of Motor Vehicles within 15 days from the date of the collision could result in the suspension of your driver license and registration privileges pursuant to South Carolina Code of Laws 56-9-351 and 56-10-530.

FR10 Audit No. K-145816	Driver/Operator's Full Name BAXTER-CHRISTINE TIENKEN	FR10 Audit No. K-1458176	Driver/Operator's Full Name MCCRABB-ELIZABETH ANNE
Sex: F Race: W Street: 25 LAMPTON RD	Sex: F Race: W Street: 1512 GATOR TRAK		
Birth Date: 1/19/1947 City, State & Zip: CHARLESTON, SC 29407	Birth Date: 2/19/1963 City, State & Zip: CHARLESTON, SC 29414		
State: SC Driver's License #: ██████████ Insurance Company: TRAVELERS	State: SC Driver's License #: ██████████ Insurance Company: TRAVELERS		
Year: 2016 Body: SUV Vehicle Make: JEEP VIN #: 1C4RJFBG7GC338800	Year: 2016 Body: SUV Vehicle Make: JEEP VIN #: 1J8HH58286C358154		
State: SC Year: 2017 License Plate #: EVX237 Owner's D.L. #: 2410020	State: SC Year: 2017 License Plate #: LIBBYS Owner's D.L. #: 011597965		
Home Telephone: (843) 571-3385 Owner's Full Name: BAXTER-CHRISTINE TIENKEN	Home Telephone: (843) 670-0296 Owner's Full Name: MCCRABB-ELIZABETH ANNE		
Bus Telephone: Street: 25 LAMPTON RD	Bus Telephone: Street: 1512 GATOR TRAK		
Contributed To Collision: Yes City, State & Zip: CHARLESTON, SC 29407	Contributed To Collision: No City, State & Zip: CHARLESTON, SC 29414		

FR10 Audit No. K-145818	Driver/Operator's Full Name FOLEY-RIZEL P	State: SC Year: 2017 License Plate #: N5G885	Owner's D.L. #
Sex: F Race: W Street: ████████████████████	Home Telephone: (914) 426-6201 Owner's Full Name: FOLEY-ROBERT CHARLES		
Birth Date: 3/19/1977 City, State & Zip: CHARLESTON, SC 29407	Bus Telephone: Street: ████████████████████		
State: SC Driver's License #: ██████████ Insurance Company: TRAVELERS	Contributed To Collision: No City, State & Zip: CHARLESTON, SC 29407		
Year: 2015 Body: SUV Vehicle Make: JEEP VIN #: 1C4PJMCS2FW529634	Automobile liability insurance information for Unit # 2		
	Company Name: TRAVELERS Area Code/Phone Number: (800) 252-4633		
	Agency Name: TRAVELERS Policy Number: 6013492562031		
Automobile liability insurance information for Unit # 1	Automobile liability insurance information for Unit # 3		
Company Name: TRAVELERS Area Code/Phone Number: (800) 252-4633	Company Name: TRAVELERS Area Code/Phone Number: (800) 841-3000		
Agency Name: TRAVELERS Policy Number: 9936855382031	Agency Name: GEICO Policy Number: 4496753347		

Notice of Requirement Accepted → Y N Refused to Affix Signature?
Y N Vehicle Subject to Registration in SC?

To Be Completed Below: If entered at WWW.SC-ALIR.COM by insurance company representative. This form should not be mailed to DMV if insurance information has been submitted electronically.

The information as contained herein is based solely upon my knowledge and belief as a representative of the above insurance company and no warranty of liability is inputted into the above mentioned insurance as I have listed herein.

Reference to Unit #: _____ I hereby affirm that to the best of my knowledge the vehicle described above was insured by the below stated insurance company on the date of the collision.

Insurance Company	Policy #	Signature	Title
Beginning Date	Ending Date	Policy Holder	()

Notice: If liability insurance was not in effect for your vehicle involved in the collision, The Department of Motor Vehicles could suspend your driver license and registration privileges pursuant to South Carolina Code of Laws 56-9-351 and 56-10-530.

If any of the below are applicable, disregard the above portion.	Form FR-10 Not Issued Section 56-10-520
<input type="checkbox"/> I am the operator/owner of the vehicle involved in the collision.	No FR-10 Issued to Operator/Owner of Unit # _____
<input type="checkbox"/> I am not the operator/owner of the vehicle involved in the collision.	
<input type="checkbox"/> I am the operator/owner of the vehicle involved in the collision, but I am not the driver at the time of the collision.	
<input type="checkbox"/> I am not the operator/owner of the vehicle involved in the collision, but I am the driver at the time of the collision.	
<input type="checkbox"/> I am not the operator/owner of the vehicle involved in the collision, and I am not the driver at the time of the collision.	
For operating or allowing the operation of an uninsured vehicle	Signature: _____

EXHIBIT 2





EXHIBIT 3









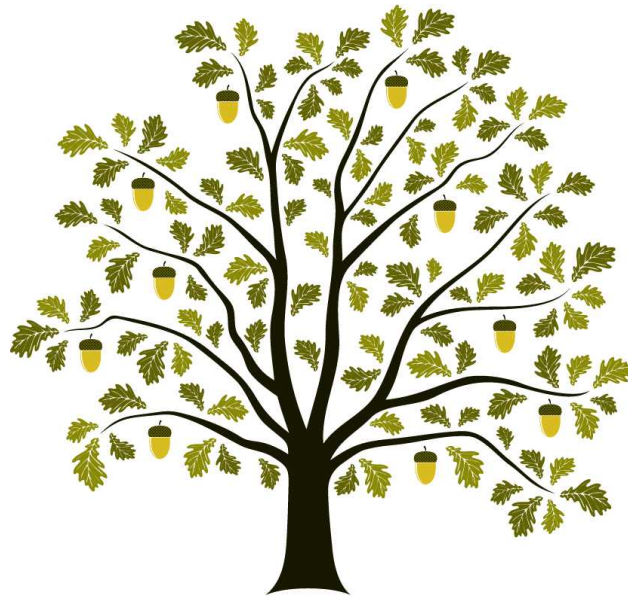
EXHIBIT 4

Transcript of the Testimony of

Christine Baxter

May 14, 2020

Elizabeth McCrabb v. Christine Baxter



LIVE OAK

REPORTING

843.437.9697

www.liveoakreporting.com

1 I'm not trying to be rude, but if you do, I might
2 ask you, Is that a yes, or, Is that a no, to make
3 sure that the record is clear. Okay?

4 A. Okay. Yes.

5 Q. I just forgot to tell you about that.
6 So I just want to make sure we covered it.

7 Okay. Was the collision with Ms.
8 McCrabb your fault?

9 A. Yes.

10 Q. Do you believe that Ms. McCrabb was at
11 fault in any way for the collision?

12 A. No.

13 MS. LINTON: Object to the form.

14 Q. Do you believe that 100 percent of the
15 fault in the collision belongs to you?

16 MS. LINTON: Object to the form.

17 Q. And you can --

18 A. Do I answer that?

19 Q. -- answer. I guess that's another
20 instruction -- yes, ma'am. That's another
21 instruction I forgot to go over. Sorry. So if at
22 some point, and it just happened and it's going to
23 happen again, I ask a question in a way or I ask
24 about something that will draw an objection from
25 your lawyer for whatever reason -- okay -- and Ms.

1 Linton will say "object to the form" or
2 "objection." And the rules provide in a
3 deposition that you, the witness, have to answer
4 the questions unless you're instructed by your
5 lawyer not to answer the question. And then what
6 will happen is she'll file a motion for a
7 protective order after the deposition. Okay?

8 A. Okay.

9 Q. So if she just says "object to the form"
10 or "objection," you still answer the question.

11 A. Okay.

12 Q. Okay. So --

13 A. Sorry.

14 Q. That's okay. Let me go back and I'll
15 ask the question again. Okay?

16 A. Okay.

17 Q. Do you believe that you are a hundred
18 percent at fault in the collision with Ms.
19 McCrabb?

20 MS. LINTON: Object to the form.

21 A. Yes.

22 Q. Thank you. I think I asked you this,
23 but I don't remember your response. What did you
24 do to prepare for your deposition today?

25 A. I just looked over some of the things I

1 A. All right. Now it says Exhibit 1.

2 Q. Yes, ma'am. So you can see that?

3 A. Yes. So I open it?

4 Q. No. I'm just going to walk you through
5 it. I'm in control of the documents now.

6 A. Okay.

7 MR. COOPER: So, Eve, at this time, I'm
8 going to mark for purposes of Ms. Baxter's
9 deposition the exhibits -- I don't remember
10 how many there are. I think there are nine --
11 31 pages of exhibits -- six exhibits. So
12 Exhibits 1 through 6 we'll mark for purposes
13 of Ms. Baxter's deposition today.

14 (Plaintiff's Exhibit No. 1, Collision
15 Report, was marked for identification.)

16 (Plaintiff's Exhibit No. 2, Photographs,
17 was marked for identification.)

18 (Plaintiff's Exhibit No. 3, Verizon
19 phone records, was marked for identification.)

20 (Plaintiff's Exhibit No. 4, Defendant's
21 Responses to Plaintiff's First Requests to Admit,
22 was marked for identification.)

23 (Plaintiff's Exhibit No. 5, Defendant's
24 Amended Responses to Plaintiff's First Requests to
25 Admit, was marked for identification.)

1 (Plaintiff's Exhibit No. 6, Defendant's
2 Answers to Plaintiff's First Supplemental
3 Interrogatories, was marked for identification.)

4 BY MR. COOPER:

5 Q. And, Ms. Baxter, I'm sorry for the
6 scrolling. I'm trying to get you to where we need
7 to go. So I asked you if you reviewed the
8 Requests to Admit that we submitted to you. Do
9 you remember that question?

10 A. Yes.

11 Q. And so I'm going to show you what I've
12 marked for purposes of your deposition as Exhibit
13 4.

14 A. Yes.

15 Q. And this is a letter -- the first page
16 of this document is a letter from MGC, from
17 Danielle Payne, to my office dated November 19,
18 2019. And it enclosed Defendant's Responses to
19 Plaintiff's First Requests to Admit. Do you see
20 that?

21 A. Yes.

22 Q. If we go to the second page of the
23 document, it is titled Defendant's Responses to
24 Plaintiff's First Requests to Admit. Do you see
25 that?

1 A. Yes.

2 Q. Okay. Had you ever -- have you ever
3 seen this document before?

4 A. I think you sent it to me in the
5 Subpoena.

6 Q. Okay. So the first Request to Admit
7 said "Defendant Christine Baxter was solely at
8 fault in the collision with Plaintiff Elizabeth
9 McCrabb." Do you see that request No. 1?

10 A. Yes. Yes.

11 Q. Do you remember reading that and
12 answering that Request to Admit?

13 A. Well, I sent that to my lawyer, and she
14 told me she would take --

15 MS. LINTON: I'm going to stop this real
16 quick. Any conversations we had in
17 preparation of this document is subject to the
18 attorney-client privilege.

19 THE WITNESS: Okay.

20 BY MR. COOPER:

21 Q. Ms. Baxter, did you actually answer this
22 Request to Admit on your own?

23 A. No.

24 Q. Where it says "Response denied," do you
25 stand by that response today?

1 MS. LINTON: Object to the form.

2 A. For request, what, No. 3? Is that what
3 you said?

4 Q. Request No. 1. Request No. 1 says,
5 "Defendant Christine Baxter was solely at fault in
6 the collision with Plaintiff Elizabeth McCrabb."
7 If you were answering that today, as we're sitting
8 here in the deposition, would you admit or would
9 you deny that you are solely at fault in the
10 collision with Ms. McCrabb?

11 MS. LINTON: Object to the form.

12 A. Yes.

13 Q. Yes, what? I'm sorry.

14 A. Oh, I'm sorry. Repeat the question.

15 Q. That's okay. So your options to answer
16 this question are to admit or to deny. Do you
17 know what the word "admit" means?

18 A. Yes, yes.

19 Q. And do you know what the word "deny"
20 means?

21 A. Yes.

22 Q. All right. So my question to you is, do
23 you admit or do you deny that you, Christine
24 Baxter, were solely at fault in the collision with
25 Plaintiff Elizabeth McCrabb?

1 MS. LINTON: Same objection.

2 A. Admit.

3 Q. Thank you, ma'am. Request No. 2 reads
4 "Defendant Christine Baxter rear-ended Plaintiff
5 Elizabeth McCrabb's vehicle." Do you see that?

6 A. Yes.

7 Q. And the response that's on this document
8 says "Denied." Do you see that?

9 A. Yes.

10 Q. Do you remember denying that you
11 rear-ended Elizabeth McCrabb's vehicle?

12 A. No.

13 Q. Okay. As we sit here today, do you
14 admit or do you deny that you rear-ended Plaintiff
15 Elizabeth McCrabb's vehicle?

16 A. I admit it.

17 Q. Okay. Thank you. And then the third
18 one that I sent you says, "Plaintiff Elizabeth
19 McCrabb is not liable in any way for the collision
20 between Defendant's car and Plaintiff's car." Do
21 you see that?

22 A. Is that -- what number is that?

23 Q. Number 3.

24 A. Well, to the best of my ability, she
25 wasn't.

1 MS. LINTON: Object to the form.

2 Q. Okay. So the response on this document
3 says "Denied." Do you see that?

4 A. Yes.

5 Q. Do you remember denying this Request to
6 Admit?

7 A. No.

8 Q. As you sit here today in your
9 deposition, do you admit or do you deny that Ms.
10 McCrabb is not liable in any way for the collision
11 between Defendant's car and Plaintiff's car?

12 MS. LINTON: Object to the form.

13 A. Repeat the question again.

14 Q. Yes, ma'am. So as we sit here today, do
15 you admit or do you deny that Ms. McCrabb was not
16 liable in any way for the collision between your
17 car and between her car?

18 MS. LINTON: Same objection.

19 A. I admit.

20 Q. Okay. Thank you, ma'am. I appreciate
21 you going through that with me.

22 Do you believe that you are responsible
23 for the injuries that were caused to Mrs. McCrabb
24 by that collision?

25 MS. LINTON: Object to the form.

1 A. Um, yes. Admit.

2 Q. What is your understanding, if any, of
3 what Mrs. McCrabb's injuries are?

4 A. Very little.

5 Q. Let me rephrase my question. You said
6 "very little." Do you have very little
7 understanding, or do you believe that her injuries
8 were very little?

9 A. I -- the only thing I knew is she might
10 have had some soft tissue issues; that she hadn't,
11 you know, broken her leg or something like that.
12 That's all I knew.

13 Q. Are you aware that Ms. McCrabb suffered
14 a concussion and has postconcussive syndrome
15 caused by the collision with you?

16 A. No.

17 MS. LINTON: Object to the form.

18 Q. Are you aware that Ms. McCrabb suffers
19 from a chronic headache collision -- excuse me --
20 strike that.

21 Are you aware that Ms. McCrabb suffers a
22 chronic headache condition as a result of the
23 collision with your car?

24 A. No.

25 MS. LINTON: Object to the form.

1 Q. If Ms. McCrabb's headache condition was
2 caused by the collision with your vehicle, do you
3 accept responsibility for those injuries?

4 MS. LINTON: Object to the form.

5 A. Yes.

6 Q. Thank you, ma'am. I appreciate that.
7 Other than conversations with your lawyer, have
8 you reviewed any documents or anything -- medical
9 records or whatever regarding Mrs. McCrabb's
10 injuries?

11 A. No.

12 Q. What is your understanding of what the
13 limits of your insurance coverage are for the
14 vehicle that was involved in the collision?

15 MS. LINTON: Object to the form.

16 A. Just what I read in the policy.

17 Q. Yes, ma'am. And what is your
18 understanding of what that is?

19 A. I think it was 30,000 or 300,000, one.
20 I can't remember exactly.

21 Q. Yes, ma'am. Do you have any other
22 insurance coverage other than the Travelers
23 Insurance policy that would afford coverage to you
24 for the injuries that were sustained by Mrs.
25 McCrabb in that collision?

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS

ELIZABETH MCCRABB,)
)
Plaintiff,)

Civil Action No. 2019CP1005613

v.)

**DEFENDANT'S MEMORANDUM IN
OPPOSITION TO PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY
JUDGMENT**

CHRISTINE BAXTER,)
)
Defendant.)

Defendant Christine Baxter (“Defendant”) hereby submits this Memorandum in Opposition to Plaintiff’s Motion for Partial Summary Judgment. Defendant opposes Plaintiff’s Motion on the grounds that Plaintiff’s Motion is premature and that there are genuine issues of material fact. Plaintiff is not entitled to judgment as a matter of law and Defendant would urge this Court to allow all questions of fact to be decided by jury.

PROCEDURAL HISTORY

This case arises from a car accident which occurred on October 17, 2017 wherein Plaintiff alleges that she was injured as a result. Plaintiff filed her Complaint on October 24, 2017 and the Defendant thereafter filed a timely Answer and asserted all relevant affirmative defenses. Since the inception of this suit, the parties have engaged in written discovery and the depositions of the Plaintiff, Defendant, and Bryan Baxter (Defendant’s son) have been taken. On May 26, 2020, Plaintiff filed a Motion for Partial Summary Judgment requesting that the Court determine that no question of fact exists with respect to liability and grant her Motion. For the foregoing reasons, Defendant would respectfully request that this Court deny Plaintiff’s Motion.

STANDARD OF REVIEW

A motion for summary judgment shall be granted where there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. *Staubes v. City of Folly Beach*, 331 S.C. 192, 500 S.E.2d 160 (1998); *Summer v. Carpenter*, 328 S.C. 336, 492 S.E.2d 55 (1997). A motion for summary judgment shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. *Standard Fire Insurance Co. v. Marine Contracting and Towing Co*, 301 S.C. 418, 392 S.E.2d 460 (1990). In determining whether any triable issues of fact exists, as would preclude summary judgment, the evidence and all inferences which can reasonably be drawn therefrom must be viewed in the light most favorable to the non-moving party. *Koester v. Carolina Rental Center, Inc.*, 313 S.C. 490, 443 S.E.2d 392 (1994). If triable issues exist, those issues must go to the jury. If there is a scintilla of evidence, summary judgment should be denied. *Hancock v. Mid-South Mgmt. Co., Inc.*, 381 S.C. 326, 330 (2009).

Under Rule 56(c), *SCRCP*, the party seeking summary judgment has the initial burden of demonstrating the absence of a genuine issue of material fact. *Carolina Alliance for Fair Employment v. South Carolina Dep't of Labor, Licensing, and Regulation*, 337 S.C. 476, 523 S.E.2d 795 (Ct. App. 1999). In determining whether any triable issues of fact exist, the evidence and all reasonable inferences therefrom must be viewed in the light most favorable to the party opposing summary judgment. *Summer v. Carpenter*, 328 S.C. 36, 492 S.E.2d 55 (1997); *Pye v. Aycock*, 325 S.C. 426, 480 S.E.2d 455 (Ct. App. 1997).

Summary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law. *Brockbank v. Best Capital Corp.*, 341 S.C. 372,

534 S.E.2d 688 (2000); *Moriarty v. Garden Sanctuary Church of God*, 334 S.C. 150, 511 S.E.2d 699 (Ct. App. 1999), *aff'd*, 341 S.C. 320, 534 S.E.2d 672 (2000). "Because it is a drastic remedy, summary judgment should be cautiously invoked so no person will be improperly deprived of a trial of the disputed factual issues." *Carolina Alliance for Fair Employment*, 337 S.C. at 485, 523 S.E.2d at 799.

ARGUMENT

Plaintiff pleads the following causes of action in her Complaint against Defendant: negligence, gross negligence and recklessness. Plaintiff urges this Court to find that no question of fact exists as to the negligence cause of action and to rule unilaterally that the Defendant is liable to the Plaintiff.

Plaintiff's theory of liability is encompassed in the cause of action of negligence. With regards to negligence, there are three essential elements:

(1) a duty of care owed by the defendant to the plaintiff; (2) the defendant's breach of that duty by a negligent act or omission, i.e. the failure to exercise care of a reasonable man in the circumstances; and (3) damage proximately resulting from the breach of duty.

Snow v. Columbia, 305 S.C. 544, 545, 409 S.E.2d 797, 798 (Ct. App. 1991). A plaintiff has the burden of proving each and every element. *Id.* at 556, 409 S.E.2d at 803.

As to the third element and linchpin of Defendant's opposition to said Motion, the Plaintiff must prove damages which proximately resulted from the breach of a duty. Providing a showing of proximate cause, to support a finding of negligence, requires proof of both causation in fact and legal cause. "Causation in fact is proved by establishing the injury would not have occurred 'but for' the defendant's negligence." *Whitlaw v. Kroger Co.*, 306 S.C. 51, 410 S.E.2d 251, 253 (1991) (quoting *Bramlette v. Charter Medical-Columbia*, 302 S.C. 68, 74, 393 S.E.2d 914, 916 (1990)). "Legal cause is proved by establishing foreseeability." 306 S.C. 51, 410 S.E.2d

251. "The standard by which foreseeability is determined is that of looking to the 'natural and probable consequences' of the complained of act." *Young v. Tide Craft, Inc.*, 270 S.C. 453, 462, 242 S.E.2d 671, 675 (1978).

As a general rule, the question of proximate cause is one of fact for the jury. *Ballou v. Sigma Nu Gen. Fraternity*, 291 S.C. 140, 352 S.E.2d 488 (Ct. App. 1986). South Carolina Courts have routinely found that "proximate cause is a question for the finder of fact." *Hadfield v. Gilchrist*, 343 S.C. 88, 99, 538 S.E.2d 268, 274 (Ct. App. 2000); *Vinson v. Hartley*, 324 S.C. 389, 402, 477 S.E.2d 715, 721 (Ct. App. 1996) ("Ordinarily, the question of proximate cause is one of fact for the jury and the trial judge's sole function regarding the issue is to inquire whether particular conclusions are the only reasonable inferences that can be drawn from the evidence.") (citations omitted). Because the granting of summary judgment is an extreme remedy, "the question of proximate cause in motor vehicle accident cases is ordinarily for the jury, even where the evidence is undisputed, if different inferences may fairly be drawn therefrom. Where it is not plain that reasonable men could not reasonably find a causal relation between defendant's act and the injury, or a part of the injury, the court must leave it to the jury to find as a fact whether defendant's conduct was a substantial factor in producing the injury, or part of the injury." 8 Am. Jur. 2d *Automobiles & Highway Traffic* § 1169 (1997); W. Page Keeton *et al.*, *Prosser & Keeton on the Law of Torts* § 41, at 264-65 (5th ed. 1984) ("Although it is not without its complications, the simplest and most obvious problem connected with 'proximate cause' is that of causation in 'fact.' This question of 'fact' ordinarily is one upon which all the learning, literature and lore of the law is largely lost. It is a matter upon which lay opinion is quite as competent as that of the most experienced court. For that reason, in the ordinary case, it is peculiarly a question for the jury.") (footnote omitted). "Only in rare or exceptional cases may the question of proximate

cause be decided as a matter of law. . . .If there may be a fair difference of opinion regarding whose act proximately caused the injury, then the question of proximate cause must be submitted to the jury." *Ballou*, 291 S.C. at 147, 352 S.E.2d at 493.

In order to prove proximate cause, one must prove that damages resulted from the alleged negligent act. In negligence causes of action, proof of actual damage is an essential element of the tort. Damage is the gist of the action. *Gray v. Southern Facilities, Inc.*, 256 S.C. 558, 183 S.E.2d 438, 442 (1971) (it is basic that a negligent act is not itself actionable and only becomes such when it results in damages to another). There is no liability if there is no actual damage. It is elementary law that there is no such thing as "negligence in the air." *South Carolina Insurance Co. v. James C. Greene & Co.*, 290 S.C. 171, 176, 348 S.E.2d 617, 620 (Ct. App. 1986). *Richardson's Rests. v. Nat'l Bank of S.C.*, 304 S.C. 289, 296, 403 S.E.2d 669, 673 (Ct. App. 1991).

In the present case, the Plaintiff has failed to meet the causation requirement as is necessary to prove negligence and thus succeed on her Motion for Partial Summary Judgment. There are competing inferences that "but for" the accident, Plaintiff would not have sustained injuries. This statement is even further exacerbated in the present litigation as the Plaintiff suffers from multiple pre-existing conditions which may form the sole basis for her alleged damages. Additionally, the Plaintiff suffered from a medical accident which occurred only a few years prior to the present accident at issue in this litigation. Further, a detailed review of Plaintiff's medical records purport to show that she was receiving significant medical treatment by multiple medical providers prior to this accident. As a result, multiple inferences, or questions of fact, as to damages, or a lack thereof, are created. Accordingly, because there can be competing inferences as to the existence of proximate cause and damages, Plaintiff's Motion for Partial

Summary Judgment must be denied as proof of actual damages is an essential element of the tort.

Finally, Plaintiff inevitably cites to portions of Defendant's deposition transcript, as well as, Defendant's Responses to Requests to Admit to support her Motion. However, while the Defendant testified that she caused the accident and the responses to the Requests to Admit state as such, the legal and factual analysis for determining liability still exists, especially with respect to the third element of negligence. Further, Defendant's statement that she caused the accident does not necessitate the legal conclusion that she is thereby negligent. Defendant cannot admit negligence as such is a legal conclusion with which she, as a layperson, is not qualified to make. Furthermore, discovery in this matter is still ongoing as additional fact witnesses and treatment providers have not yet been deposed and may yield testimony to support Defendant's theory of a lack of liability. As such, the granting of Plaintiff's Motion for Partial Summary Judgment as to the negligence causes of action would be premature and should be denied.

CONCLUSION

For the foregoing reasons, Defendant respectfully requests that Plaintiff's Motion for Partial Summary Judgment be denied and the question of liability be allowed to be decided by a jury.

MCANGUS GOUDELOCK & COURIE, L.L.C.

s/Danielle F. Payne

DANIELLE F. PAYNE (SC Bar No. 73142)

danielle.payne@mgclaw.com

MARY K. LINTON (SC Bar No. 102815)

mary.linton@mgclaw.com

Post Office Box 650007

735 Johnnie Dodds Blvd., Suite 200 (29464)

Mt. Pleasant, South Carolina 29465

Telephone: (843) 576-2900

Facsimile: (843) 534-0605

ATTORNEYS FOR CHRISTINE BAXTER

June 19, 2020

STATE OF SOUTH CAROLINA)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON)	
)	
ELIZABETH MCCRABB,	)	Civil Action No. 2019CP1005613
)	
Plaintiff,)	
)	
v.	)	MOTION TO RECONSIDER THE
	)	GRANT OF PLAINTIFF’S MOTION
CHRISTINE BAXTER,	)	FOR PARTIAL SUMMARY
	)	JUDGMENT
Defendant.)	
)	
)	

PLEASE TAKE NOTICE that the undersigned, as attorneys for Defendant Christine Baxter (“Defendant”), will on the tenth (10) day after service thereof, or as soon thereafter as counsel may be heard, move this court pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure, for an Order reconsidering the Court’s July 6, 2020 Form 4 Order and subsequent July 13, 2020 Formal Order wherein the Court granted Plaintiff’s Motion for Partial Summary Judgment. Defendant respectfully requests that the Court Alter or Amend its Order to deny Plaintiff’s Motion for Partial Summary Judgment. The basis of this motion shall be set forth in its forthcoming Memorandum of Support.

[Signature block to follow]

MCANGUS GOUDELOCK & COURIE, L.L.C.

s/Danielle F. Payne

DANIELLE F. PAYNE (SC Bar No. 73142)

danielle.payne@mgclaw.com

MARY K. LINTON (SC Bar No. 102815)

mary.linton@mgclaw.com

Post Office Box 650007

735 Johnnie Dodds Blvd., Suite 200 (29464)

Mt. Pleasant, South Carolina 29465

Telephone: (843) 576-2900

Facsimile: (843) 534-0605

ATTORNEYS FOR CHRISTINE BAXTER

July 15, 2020

STANDARD OF REVIEW
ARGUMENT

As stated above, Defendant requests that this Court review its Order and consider that it may have erred as a matter of fact and law in determining that the Defendant is liable to the Plaintiff. In the present suit, Plaintiff's theory of liability is encompassed in the cause of action of negligence. With regards to negligence, there are three essential elements:

(1) a duty of care owed by the defendant to the plaintiff; (2) the defendant's breach of that duty by a negligent act or omission, i.e. the failure to exercise care of a reasonable man in the circumstances; and (3) damage proximately resulting from the breach of duty.

Snow v. Columbia, 305 S.C. 544, 545, 409 S.E.2d 797, 798 (Ct. App. 1991). A plaintiff has the burden of proving each and every element. *Id.* at 556, 409 S.E.2d at 803.

As to the third element and linchpin of Defendant's support for reconsideration, the Plaintiff must prove damages which proximately resulted from the breach of a duty. Providing a showing of proximate cause, to support a finding of negligence, requires proof of both causation in fact and legal cause. "Causation in fact is proved by establishing the injury would not have occurred 'but for' the defendant's negligence." *Whitlaw v. Kroger Co.*, 306 S.C. 51, 410 S.E.2d 251, 253 (1991) (quoting *Bramlette v. Charter Medical-Columbia*, 302 S.C. 68, 74, 393 S.E.2d 914, 916 (1990)). "Legal cause is proved by establishing foreseeability." 306 S.C. 51, 410 S.E.2d 251. "The standard by which foreseeability is determined is that of looking to the 'natural and probable consequences' of the complained of act." *Young v. Tide Craft, Inc.*, 270 S.C. 453, 462, 242 S.E.2d 671, 675 (1978).

In order to prove proximate cause, one must prove that damages resulted from the alleged negligent act. In negligence causes of action, proof of actual damage is an essential element of the tort. Damage is the gist of the action. *Gray v. Southern Facilities, Inc.*, 256 S.C. 558, 183

S.E.2d 438, 442 (1971) (it is basic that a negligent act is not itself actionable and only becomes such when it results in damages to another). There is no liability if there is no actual damage. It is elementary law that there is no such thing as "negligence in the air." *South Carolina Insurance Co. v. James C. Greene & Co.*, 290 S.C. 171, 176, 348 S.E.2d 617, 620 (Ct. App. 1986). *Richardson's Rests. v. Nat'l Bank of S.C.*, 304 S.C. 289, 296, 403 S.E.2d 669, 673 (Ct. App. 1991).

In the present case, the Plaintiff has failed to meet the causation requirement as is necessary to prove negligence and thus succeed on her Motion for Partial Summary Judgment. There are competing inferences that "but for" the accident, Plaintiff would not have sustained injuries. This statement is even further exacerbated in the present litigation as the Plaintiff suffers from multiple pre-existing conditions which may form the sole basis for her alleged damages. Additionally, the Plaintiff suffered from a medical accident which occurred only a few years prior to the present accident at issue in this litigation. Further, a detailed review of Plaintiff's medical records purport to show that she was receiving significant medical treatment by multiple medical providers prior to this accident. As a result, multiple inferences, or questions of fact, as to damages, or a lack thereof, are created. Accordingly, because there can be competing inferences as to the existence of proximate cause and damages, the Court erred as a matter of law and fact in determining liability and thus, an existence of damages.

In further support of Defendant's request that the Court reverse its ruling, the evidence relied on by the Court, in part, when making a determination as to liability is inadmissible as both containing hearsay and legal conclusions. Indeed, the Court's formal Order Granting Partial Summary Judgment, filed on July 13, 2020, relies on police records containing hearsay as well as statements from the Defendant containing legal conclusions, neither of which is admissible as

evidence when determining liability. As stated above, the police records are irrelevant and inadmissible as encompassed in hearsay. Similarly, any statements made by the Defendant in determining liability and culpability are likewise inadmissible as they contain legal conclusions that the Defendant, as a lay parson, is not qualified to make.

Finally, Defendant would respectfully request the Court reverse its ruling as the determining of liability inevitably includes the finding that Plaintiff has indeed sustained damages as a result of this accident, which is wholly refuted. Plaintiff has long suffered from the same alleged injuries she pleads as damages in this suit. As such, it is Defendant's position that the alleged damages at issue in this litigation were not caused by this accident but instead, have always been present as Plaintiff's medical history supports such a finding.

Because the granting of summary judgment is an extreme remedy, "the question of proximate cause in motor vehicle accident cases is ordinarily for the jury, even where the evidence is undisputed, if different inferences may fairly be drawn therefrom." Only in rare or exceptional cases may the question of proximate cause be decided as a matter of law. . . .If there may be a fair difference of opinion regarding whose act proximately caused the injury, then the question of proximate cause must be submitted to the jury." *Ballou*, 291 S.C. at 147, 352 S.E.2d at 493. Because different inferences may be drawn from the facts presented, especially concerning the existence of damages, the granting of summary judgment as to liability is improper as matter of fact and law. Accordingly, Defendant would respectfully request the Court reverse its ruling and allow the determination of liability to be submitted to a jury.

CONCLUSION

For all the reasons stated herein, this Court should grant Defendant Christine Baxter's Motion for Reconsideration and reverse the grant of Partial Summary Judgment and allow a determination of liability to be decided by a jury.

MCANGUS GOUDELOCK & COURIE, L.L.C.

s/Danielle F. Payne

DANIELLE F. PAYNE (SC Bar No. 73142)

danielle.payne@mgclaw.com

MARY K. LINTON (SC Bar No. 102815)

mary.linton@mgclaw.com

Post Office Box 650007

735 Johnnie Dodds Blvd., Suite 200 (29464)

Mt. Pleasant, South Carolina 29465

Telephone: (843) 576-2900

Facsimile: (843) 534-0605

ATTORNEYS FOR CHRISTINE BAXTER

November 24, 2020

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
Elizabeth McCrabb)
)
Plaintiff,)
vs.)
Christine Baxter;)
Defendant.)

COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CASE NO: 2019-CP-10-05613

**PLAINTIFF’S RESPONSE IN
OPPOSITION TO DEFENDANT’S
MOTION TO RECONSIDER
ORDER GRANTING PARTIAL
SUMMARY JUDGMENT**

Plaintiff, Elizabeth McCrabb, by and through her undersigned counsel, respectfully submits Plaintiff’s Response in Opposition to Defendant’s Motion to Reconsider Order Granting Partial Summary Judgment. Defendant seeks to have the Court reconsider a ruling that it did not actually make. Defendant seemingly believes that by granting Plaintiff’s motion for partial summary judgment as to Defendant’s liability, that the Court has somehow addressed causation and damages. This is not the case and Defendant’s argument strains credulity. The Court ruled Defendant was liable for the wreck. In other words, Defendant was at fault in the wreck. The Court made no ruling as to causation or damages which will be a question for the jury. If the Court were to accept Defendant’s proposition, then any defendant that walks into trial and “stipulates to liability” would mean the plaintiff simply has to name the amount of damages sought and the Court would be bound to enter an order for that amount. Admitting liability at trial is a common strategy employed by defendants across our state and this happens all the time.

Plaintiff filed the motion for partial summary judgment on the issue of liability (i.e. fault) to streamline the case in preparation for trial. Plaintiff has no desire to waste either the Court’s time or the valuable time of responsible citizens that show up when called to jury duty. There is

no reasonable dispute as to how the collision took place. Defendant Baxter crashed her car into the back of Plaintiff's car while Plaintiff was stopped at a red light. And Defendant Baxter admits she is liable for the collision in her sworn deposition testimony.

It has been said that a lawsuit is not a child's game. The quest for justice does not make time for gamesmanship, and the rules of civil procedure obligate both litigants and their legal counsel to treat the matter with the respect and honor due to the trial courts of our state. Rule 11 of the South Carolina Rules of Civil Procedure requires parties to litigation and their lawyers to act in good faith. It also requires litigants or their lawyers to take responsibility for their conduct towards the court. "Every pleading, motion or other paper of a party represented by an attorney shall be signed in his individual name by at least one attorney of record . The written or electronic signature of an attorney or party constitutes a certificate by him that he has read the pleading, motion or other paper; that to the best of his knowledge, information and belief there is good ground to support it; and that it is not interposed for delay." Rule 11, SCRPC. "If a pleading, motion, or other paper is signed in violation of this Rule, the court, upon motion or upon its own initiative, may impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of reasonable expenses incurred because of the filing of the pleading, motion or other paper, including a reasonable attorney's fee." *Id.* The notes accompanying the rule clarifies that Rule 11 "places on the lawyer who signs a pleading the duty of good faith in preparing the pleading." Notes Accompanying Rule 11, SCRPC.

Defendant's motion in opposition and the present motion to reconsider are wholly without merit. During Defendant's sworn deposition testimony, she answered "Admit," when asked, "do you admit or do you deny that you, Christine Baxter, were solely at fault in the collision with

Plaintiff Elizabeth McCrabb.” (*Exhibit 3, Baxter Dep. p. 24, l. 22 – p. 25, l. 2*). Next Defendant said, “I admit” when asked, “As we sit here today, do you admit, or do you deny that you rear-ended Plaintiff Elizabeth McCrabb’s vehicle.” (*Exhibit 3, p. 25, ll. 12-16*). Then Defendant said, “I admit” when asked, “So as we sit here today, do you admit, or do you deny that Ms. McCrabb was not liable in any way for the collision between your car and between her car?” (*Exhibit 3, p. 26, ll. 8-19*). Defendant also described the physical evidence of damage to her car establishing that she crashed into the Plaintiff with the front of her car. Defendant said, “Based on the front of the car, the passenger’s side was the side that took the damage . . . but the hood on the passenger’s side was – it was like an accordion where it hit, buckled in.” (*Exhibit 3, p. 33, ll. 2-8*). Ms. Baxter established the authenticity of the photographs already submitted to the Court and entered to the record for this issue. (*Exhibit 3, p. 33, l. 9 – p. 34, l. 19*). Defendant was written a ticket for careless operation due to the collision, and she agreed that she would have admitted her guilt in the careless driving ticket if it had not been dismissed when she went to Court. (*Exhibit 3, p. 49, ll. 2-p. 50, l. 4; and p. 62, ll. 1-5*).

The present motion asking the Court to reconsider a ruling that it did not actually make comports with other conduct taken during this action. Attempting to streamline the issues in this action, Plaintiff served the three requests to admit discussed above with the Summons and Complaint. On November 19, 2019, Defendant, by and through her legal counsel and signed by her lawyers, denied Plaintiff’s first request to admit that “Defendant Christine Baxter was solely at fault in the collision with Plaintiff Elizabeth McCrabb.” (*Exhibit 1, Defendant’s Responses to Requests to Admit*). Except for the deposition testimony set forth above, Defendant’s response has not been supplemented or amended and neither Defendant nor her lawyers have produced any evidence whatsoever that would tend to even suggest there is any other responsible person.

Defendant does not allege someone else was at fault in the collision. There was no mechanical problem with her car. (*Exhibit 3, p. 46, l. 17 – p. 47, l. 12*). Defendant was not taking any medication and did not have any medical condition that adversely affected her ability to drive. (*Exhibit 3, p. 37, ll. 1-17*).

Like the first, Defendant, by and through her lawyers, denied Plaintiff’s second request to admit “Defendant Christine Baxter rear-ended Plaintiff Elizabeth McCrabb’s vehicle.” (*Exhibit 1*). The fact of the matter is there was never any good faith basis to deny the request to admit. This is exactly what happened in the collision. There is no genuine dispute about it. Defendant knew immediately that she crashed into the back of Plaintiff’s vehicle at the time it happened. How could she not? However, unlike the other requests to admit, Defendant has amended her response to the second request to admit after Plaintiff sent a Rule 11 correspondence reminding Defendant of her obligations of good faith. (*Exhibit 2, Defendant’s Amended Responses to Plaintiff’s First Requests to Admit*). When asked in her deposition whether Defendant remembers reading the request to admit and answering it, Ms. Baxter testified, “Well, I sent that to my lawyer, and she told me she would take –“ (*Exhibit 3; Baxter Dep. p. 23*). At which point, her legal counsel interjected, “I’m going to stop this real quick. Any conversations we had in preparation of this document is subject to the attorney-client privilege.” *Id.* Defendant never filed the required motion for protective order on this question.¹

Finally, Defendant, by and through her lawyers, denied Plaintiff’s third request to admit “Plaintiff Elizabeth McCrabb is not liable in any way for the collision between Defendant’s car and Plaintiff’s car.” (*Exhibit 1*). Defendant has not supplemented or amended this response despite

¹ It is reasonably inferable that Ms. Baxter did not participate in the responses provided to Plaintiff’s requests to admit. The part that Ms. Baxter was not allowed to say was most likely, “she told me she would take care of it.” Ms. Baxter did not remember responding to any of the three requests to admit. (*Exhibit 3, Baxter Dep. pp. 22-26*). And Ms. Baxter confirmed that she did not answer the request to admit on her own. (*Exhibit 3, p. 23, ll. 21-22*).

the complete lack of any evidence that Plaintiff would be somehow liable when Defendant crashed into the back of her car while stopped at a red light.

Approximately three months later, Defendant finally answered the interrogatories that were also served with the Summons and Complaint. Plaintiff's interrogatory numbered six asked, "Do you accept any fault in causing or contributing to this collision? If so, please state your estimated degree of fault in causing or contributing to the collision." (*Exhibit 4, Defendant's Answers to Interrogatories*). Three months after responding to the requests to admit and more than two years after the date of the collision, Defendant, by and through her lawyers, answered: "Defendant is still investigating the claims of the Plaintiff and reserves the right to supplement this answer as discovery progresses." (*Exhibit 4*). What would Defendant have to investigate at that point? How could the Defendant not know if she accepted fault in the collision? She crashed into the back end of Plaintiff's car. The basic facts here are not reasonably in dispute. Defendant does not allege that Plaintiff suddenly put her car in reverse and went the wrong way down St. Andrews Blvd. crashing into her. Defendant does not allege that someone else was driving her car. She does not allege that any other vehicle was involved in the collision.

Very early on, Defendant's insurance carrier investigated the question about liability on her behalf immediately after the wreck. The adjuster took a recorded statement from Defendant Baxter on October 29, 2020. Two days after the collision. The information provided by Defendant as documented in the investigator notes states, "IV was traveling down the road and IV was looking left to try and get into the turn lane and did not see the other vehicles and just remembers a loud noise and striking the other vehicles. IV was still in the straight lane with the accident occurred." (*Exhibit 5, Travelers Claim File pp. 538-39*). The investigator simply answered "no" to the question "When did you see the other car?" (*Exhibit 5*). The following day, Defendant's

investigator conducted a recorded interview with Plaintiff. (*Exhibit 6, Travelers Claim File pp. 543-44*). The claim investigator's notes say, "Approaching a stop light or completely stopped. CV had space between other driver and IV slammed into the rear of CV and pushed into CV2." (*Exhibit 6*). Then on October 31, 2017, the investigator put in her notes, "IBC from CVD. Obtained R/S. Advised liability accepted." (*Exhibit 7, Travelers Adjuster File p. 545*).

At the time Defendant answered Plaintiff's interrogatories on February 29, 2020, and certified that the investigation was still ongoing, the investigation had already been completed by Defendant's insurance representative. Liability had already been determined by the insurance claim investigator looking into this claim on behalf of Defendant.

Now, Plaintiff is forced to respond to Defendant's motion for reconsideration on the question of liability. The Court's order is clear that the issues of causation and damages are to be determined by the jury in this case. To ask the Court to spend time on the present motion, nevertheless ask a jury of responsible citizens to spend their time sitting in a trial and deliberating the question of who is at fault when the Defendant was admittedly not looking and slammed into the back of Plaintiff's car is absurd. This is not litigating in good faith. There can be no other reason for the present motion other than for the purpose of delay.

Plaintiff respectfully requests this Honorable Court deny Defendant's motion to reconsider its ruling on the question of who is liable for Plaintiff's injuries and allow Defendant to either appeal this ruling or move on to the actual issues in dispute: what injuries were caused by the collision, if any, and what amount Plaintiff should be awarded in compensation for those injuries, if any. However, if the Court is inclined to grant Defendant's motion to reconsider and withdraw its grant of partial summary judgment, Plaintiff respectfully requests the Court include an award

of costs and reasonable attorneys fees incurred in the litigation of the question of liability should Defendant turn around and admit liability at the trial of this case or some other time beforehand.

Respectfully submitted,

McLeod Law Group, LLC
3 Morris Street (29403)
PO Box 21624
Charleston, South Carolina 29413
P: 843-277-6655 F: 843-277-6660

s/ Michael T. Cooper

W. Mullins McLeod, Jr.
Michael Thomas Cooper
Attorneys for the Plaintiff

December 4, 2020
Charleston, South Carolina

EXHIBIT 1

Reply To

DANIELLE F. PAYNE
Direct Dial: (843) 576-2921
danielle.payne@mgclaw.com

November 19, 2019

VIA U.S. MAIL AND EMAIL

W. Mullins McLeod, Jr., Esquire
Michael T. Cooper, Esquire
McLeod Law Group, LLC
3 Morris Street, Suite A
Charleston, South Carolina 29403

RE: Elizabeth McCrabb v. Christine Baxter
Civil Action No.: 2019CP1005613 (Charleston)
Carrier Claim No.: H2J5957
MGC File No.: 20527.19544

Dear Counselors:

Please find enclosed **Defendant's Responses to Plaintiff's First Requests to Admit**, which we hereby serve upon you in the above-captioned case.

Very truly yours,



Danielle F. Payne

DFP/ydk
Enclosures

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

ELIZABETH MCCRABB,

Plaintiff,

vs.

CHRISTINE BAXTER,

Defendant.

IN THE COURT OF COMMON PLEAS

Civil Action No. 2019CP1005613

**DEFENDANT'S RESPONSES TO
PLAINTIFF'S FIRST REQUESTS TO
ADMIT**

TO: PLAINTIFF AND ATTORNEYS FOR PLAINTIFF W. MULLINS MCLEOD, JR.,
ESQUIRE, AND MICHAEL THOMAS COOPER, ESQUIRE:

REOUEST NO. 1. Defendant Christine Baxter was solely at fault in the collision with Plaintiff Elizabeth McCrabb.

RESPONSE: Denied.

REOUEST NO. 2. Defendant Christine Baxter rear-ended Plaintiff Elizabeth McCrabb's vehicle.

RESPONSE: Denied.

REOUEST NO. 3. Plaintiff Elizabeth McCrabb is not liable in any way for the collision between Defendant's car and Plaintiff's car.

RESPONSE: Denied.

[Signature Block to Follow]

MCANGUS GOUDELOCK & COURIE, L.L.C.



DANIELLE F. PAYNE (SC Bar No. 73142)

danielle.payne@mgclaw.com

MARY K. LINTON (SC Bar No. 102815)

mary.linton@mgclaw.com

Post Office Box 650007

735 Johnnie Dodds Blvd., Suite 200 (29464)

Mt. Pleasant, South Carolina 29465

Telephone: (843) 576-2900

Facsimile: (843) 534-0605

ATTORNEY FOR CHRISTINE BAXTER

Charleston, South Carolina

November 19, 2019

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
ELIZABETH MCCRABB,)
)
Plaintiff,)
)
vs.)
)
CHRISTINE BAXTER,)
)
Defendant.)

IN THE COURT OF COMMON PLEAS

Civil Action No. 2019CP1005613

CERTIFICATE OF SERVICE

I certify that on this date, I have served a copy of **Defendant's Responses to Plaintiff's First Requests to Admit** in this action on counsel of record by

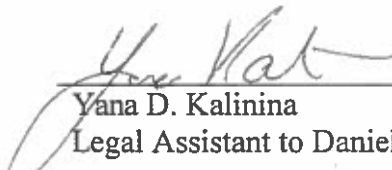
Delivering it to him/her personally;

Mailing it to him/her, at his/her last known address, by depositing it in the U.S. Mail,

in an envelope with sufficient postage affixed, addressed as follows:

W. Mullins McLeod, Jr., Esquire
Michael T. Cooper, Esquire
McLeod Law Group, LLC
3 Morris Street, Suite A
Charleston, South Carolina 29403
Attorney for Elizabeth McCrabb

November 19, 2019
Date



Yana D. Kalinina
Legal Assistant to Danielle F. Payne

EXHIBIT 2

Reply To
DANIELLE F. PAYNE
Direct Dial: (843) 576-2921
danielle.payne@mgclaw.com

December 4, 2019

VIA U.S. MAIL AND EMAIL

Michael T. Cooper, Esquire
McLeod Law Group, LLC
3 Morris Street, Suite A
Charleston, South Carolina 29403

RE: Elizabeth McCrabb v. Christine Baxter
Civil Action No.: 2019CP1005613 (Charleston)
Carrier Claim No.: H2J5957
MGC File No.: 20527.19544

Dear Michael:

I am in receipt of your letter dated November 21, 2019 regarding my responses to Requests to Admit. Please find enclosed my amended responses to requests to admit. The only response that I amended was to admit request to admit number 2.

As it pertains to my responses to requests to admit numbers 1 and 3, Rule 36 of the *South Carolina Rules of Civil Procedure* is not designed to allow litigants to cunningly craft requests in order to force their opponents into admitting contested factual allegations. My responses meet the requirements of Rule 36, SCRPC, and I stand by them. I will amend or supplement them as I deem sufficient in preparing my defense of this case. I hope this resolves any Rule 11 issues.

If you would like to discuss further, please do not hesitate to contact me.

Very truly yours,



Danielle F. Payne

DFP/ydk
Enclosure

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

)
) IN THE COURT OF COMMON PLEAS
)
)

ELIZABETH MCCRABB,
Plaintiff,

)
) Civil Action No. 2019CP1005613
)
)

vs.

CHRISTINE BAXTER,
Defendant.

)
) **DEFENDANT'S AMENDED**
) **RESPONSES TO PLAINTIFF'S FIRST**
) **REQUESTS TO ADMIT**
)
)
)
)
)
)

TO: PLAINTFF AND ATTORNEYS FOR PLAINTIFF W. MULLINS MCLEOD, JR.,
ESQUIRE, AND MICHAEL THOMAS COOPER, ESQUIRE:

REOUEST NO. 1. Defendant Christine Baxter was solely at fault in the collision with Plaintiff Elizabeth McCrabb.

RESPONSE: Denied.

REOUEST NO. 2. Defendant Christine Baxter rear-ended Plaintiff Elizabeth McCrabb's vehicle.

RESPONSE: Admit.

REOUEST NO. 3. Plaintiff Elizabeth McCrabb is not liable in any way for the collision between Defendant's car and Plaintiff's car.

RESPONSE: Denied.

[Signature Block to Follow]

MCANGUS GOUDELOCK & COURIE, L.L.C.



DANIELLE F. PAYNE (SC Bar No. 73142)

danielle.payne@mgclaw.com

MARY K. LINTON (SC Bar No. 102815)

mary.linton@mgclaw.com

Post Office Box 650007

735 Johnnie Dodds Blvd., Suite 200 (29464)

Mt. Pleasant, South Carolina 29465

Telephone: (843) 576-2900

Facsimile: (843) 534-0605

ATTORNEY FOR CHRISTINE BAXTER

Charleston, South Carolina
December 4, 2019

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
ELIZABETH MCCRABB,)
)
Plaintiff,)
)
vs.)
)
CHRISTINE BAXTER,)
)
Defendant.)

IN THE COURT OF COMMON PLEAS

Civil Action No. 2019CP1005613

CERTIFICATE OF SERVICE

I certify that on this date, I have served a copy of **Defendant's Amended Responses to Plaintiff's First Requests to Admit** in this action on counsel of record by

Delivering it to him/her personally;


Mailing it to him/her, at his/her last known address, by depositing it in the U.S. Mail,

in an envelope with sufficient postage affixed, addressed as follows:

W. Mullins McLeod, Jr., Esquire
Michael T. Cooper, Esquire
McLeod Law Group, LLC
3 Morris Street, Suite A
Charleston, South Carolina 29403
Attorney for Elizabeth McCrabb

December 4, 2019

Date



Yana D. Kalinina
Legal Assistant to Danielle F. Payne

EXHIBIT 3

1 A. Yes.

2 Q. Okay. Had you ever -- have you ever
3 seen this document before?

4 A. I think you sent it to me in the
5 Subpoena.

6 Q. Okay. So the first Request to Admit
7 said "Defendant Christine Baxter was solely at
8 fault in the collision with Plaintiff Elizabeth
9 McCrabb." Do you see that request No. 1?

10 A. Yes. Yes.

11 Q. Do you remember reading that and
12 answering that Request to Admit?

13 A. Well, I sent that to my lawyer, and she
14 told me she would take --

15 MS. LINTON: I'm going to stop this real
16 quick. Any conversations we had in
17 preparation of this document is subject to the
18 attorney-client privilege.

19 THE WITNESS: Okay.

20 BY MR. COOPER:

21 Q. Ms. Baxter, did you actually answer this
22 Request to Admit on your own?

23 A. No.

24 Q. Where it says "Response denied," do you
25 stand by that response today?

1 MS. LINTON: Object to the form.

2 A. For request, what, No. 3? Is that what
3 you said?

4 Q. Request No. 1. Request No. 1 says,
5 "Defendant Christine Baxter was solely at fault in
6 the collision with Plaintiff Elizabeth McCrabb."
7 If you were answering that today, as we're sitting
8 here in the deposition, would you admit or would
9 you deny that you are solely at fault in the
10 collision with Ms. McCrabb?

11 MS. LINTON: Object to the form.

12 A. Yes.

13 Q. Yes, what? I'm sorry.

14 A. Oh, I'm sorry. Repeat the question.

15 Q. That's okay. So your options to answer
16 this question are to admit or to deny. Do you
17 know what the word "admit" means?

18 A. Yes, yes.

19 Q. And do you know what the word "deny"
20 means?

21 A. Yes.

22 Q. All right. So my question to you is, do
23 you admit or do you deny that you, Christine
24 Baxter, were solely at fault in the collision with
25 Plaintiff Elizabeth McCrabb?

1 MS. LINTON: Same objection.

2 A. Admit.

3 Q. Thank you, ma'am. Request No. 2 reads
4 "Defendant Christine Baxter rear-ended Plaintiff
5 Elizabeth McCrabb's vehicle." Do you see that?

6 A. Yes.

7 Q. And the response that's on this document
8 says "Denied." Do you see that?

9 A. Yes.

10 Q. Do you remember denying that you
11 rear-ended Elizabeth McCrabb's vehicle?

12 A. No.

13 Q. Okay. As we sit here today, do you
14 admit or do you deny that you rear-ended Plaintiff
15 Elizabeth McCrabb's vehicle?

16 A. I admit it.

17 Q. Okay. Thank you. And then the third
18 one that I sent you says, "Plaintiff Elizabeth
19 McCrabb is not liable in any way for the collision
20 between Defendant's car and Plaintiff's car." Do
21 you see that?

22 A. Is that -- what number is that?

23 Q. Number 3.

24 A. Well, to the best of my ability, she
25 wasn't.

1 MS. LINTON: Object to the form.

2 Q. Okay. So the response on this document
3 says "Denied." Do you see that?

4 A. Yes.

5 Q. Do you remember denying this Request to
6 Admit?

7 A. No.

8 Q. As you sit here today in your
9 deposition, do you admit or do you deny that Ms.
10 McCrabb is not liable in any way for the collision
11 between Defendant's car and Plaintiff's car?

12 MS. LINTON: Object to the form.

13 A. Repeat the question again.

14 Q. Yes, ma'am. So as we sit here today, do
15 you admit or do you deny that Ms. McCrabb was not
16 liable in any way for the collision between your
17 car and between her car?

18 MS. LINTON: Same objection.

19 A. I admit.

20 Q. Okay. Thank you, ma'am. I appreciate
21 you going through that with me.

22 Do you believe that you are responsible
23 for the injuries that were caused to Mrs. McCrabb
24 by that collision?

25 MS. LINTON: Object to the form.

1 Cherokee.

2 Q. And can you describe to me the damage
3 that was caused by the collision?

4 A. Based on the front of the car, the
5 passenger's side was the side that took the
6 damage; the driver's side had no damage. But the
7 hood on the passenger's side was -- it was like an
8 accordion from where it hit, buckled in.

9 Q. I'm going to share my screen again and
10 go back to the exhibits that I've included for
11 your deposition today. And I apologize for the
12 scrolling. So Exhibit 2, which I've marked for
13 purposes of your deposition today is a series of
14 photographs. And the first photograph is a
15 picture of the front end of a Jeep SUV. And my
16 question is, is that your -- or was that your car?

17 A. Yes.

18 Q. And is that a fair and accurate
19 representation of the damage to the front end of
20 your car as a result of the collision with Mrs.
21 McCrabb?

22 A. Yes.

23 Q. And the second image in the series, is
24 that your car again?

25 A. As far as I can tell, it is.

1 Q. And is that a fair and accurate
2 representation of the damage to your car as a
3 result of the collision with Ms. McCrabb?

4 A. Yes.

5 Q. And I'm showing you the third image in
6 that series, and -- so my question to you again
7 is, is that a fair and accurate representation of
8 the damage to your car as a result of the
9 collision with Mrs. McCrabb?

10 A. Yes.

11 Q. And I think you described to me before
12 showing you these images that the driver's side of
13 the vehicle did not have as much damage as the
14 passenger's side; is that correct?

15 A. That's correct.

16 Q. And this image is consistent with that
17 description that you provided to me before showing
18 you these images; is that fair?

19 A. Yes.

20 Q. Do you recall what the cost of repair
21 was to your vehicle?

22 A. It totaled it.

23 Q. What is your understanding of what that
24 means?

25 A. That means they can't fix the car.

1 Q. You provided us a list of medications
2 that you were taking at the time of the collision.
3 Do you remember that?

4 A. Yes.

5 Q. Did any of the medications that you were
6 taking inhibit or make it more difficult for you
7 to drive a car?

8 A. No. I've never been told that I
9 couldn't drive because of medications. Well, I
10 had -- when I got out of the hospital one time,
11 they told me that I had to wait a week before I
12 could drive, and that's the only time.

13 Q. Okay. And I guess that was sort of my
14 next question was, at the time of the wreck, did
15 you have any type of medical condition that would
16 have made it unsafe for you to drive?

17 A. No.

18 Q. Can you walk me through what you did the
19 day of the wreck, on October 27th of 2017?

20 A. Well, the only thing I remember about
21 the day -- and that was right before the wreck --
22 is that I went out to dinner with a friend of
23 mine. And that was when I had the wreck. When I
24 was leaving the restaurant, I was making my way
25 home, and that's when it happened.

1 Q. For instance, the United States Post
2 Office that is off of Sycamore Avenue, do you
3 recognize that?

4 A. Yes.

5 Q. And so the direction of travel at the
6 time of the collision in terms of looking at this
7 map, your car would have been going from the
8 bottom right-hand corner towards the top left-hand
9 corner, in that direction of travel at the time of
10 the collision; is that correct?

11 A. Right.

12 Q. All right. What was the condition of
13 your car immediately before the collision with Ms.
14 McCrabb?

15 A. I was swerving to get into the turn
16 lane.

17 Q. Yes, ma'am. I didn't really ask what I
18 meant, so let me rephrase my question. Was your
19 car operating properly immediately before the
20 collision?

21 A. Yes.

22 Q. Had you had any issues with your brakes
23 or anything like that prior to the collision?

24 A. No.

25 Q. Was the engine functioning properly at

1 the time of the collision?

2 A. Yes.

3 Q. And from what I understand, the car was
4 a 2016 model, and the collision happened in 2017;
5 is that correct?

6 A. Yes.

7 Q. Approximately how long had you had that
8 car when the collision happened?

9 A. Six months. So it was brand new.

10 Q. And had you had any problems with the
11 car prior to the collision?

12 A. No.

13 Q. I want to ask you about whether or not
14 you had conversations with anybody at the scene of
15 the collision. Okay?

16 A. Okay.

17 Q. So do you remember, who, if anyone, you
18 spoke to after the wreck?

19 A. The policeman and the ambulance drivers.
20 That was all.

21 Q. And do you recall approximately how long
22 it took either the ambulance or the police to get
23 to the scene?

24 A. Of course the police were there before
25 the ambulance because then they decided they would

1 Q. You're fine. I was asking you about
2 your conversation with the police officer.

3 A. Oh, it was just -- it was that. And I
4 think that's when he asked me some questions about
5 how fast I was going, and I told him I really
6 didn't know. Probably between 40 and 45.

7 Q. Did he talk to you at all about whether
8 he was going to issue you a citation?

9 A. Well, he gave me a ticket, but it
10 wasn't -- I went to small -- whatever it is, the
11 court, and they didn't charge me and I didn't pay
12 anything.

13 Q. So the ticket got dismissed whenever you
14 went to court?

15 A. Right.

16 Q. Do you remember what he wrote the ticket
17 for?

18 A. I think it was careless driving or
19 something like that. Let me see if I've got it
20 right here.

21 Q. Do you have a copy of the ticket with
22 you?

23 A. Yes. It's right here. It's so tiny,
24 I've got to find it. Careless driving.

25 Q. Do you take any issue with the police

1 officer writing you a citation for careless
2 driving because of the wreck with Ms. McCrabb?

3 MS. LINTON: Object to the form.

4 A. No.

5 MS. LINTON: Ms. Baxter, do you need to
6 take a break or anything?

7 THE WITNESS: No. I'm fine.

8 BY MR. COOPER:

9 Q. Ms. Baxter, let me know if you do,
10 because we can stop and you can take a break for
11 whatever reason. I mean, if you need to use the
12 restroom, you need to get some air, you just need
13 a break for a minute, let me know and we can take
14 a break. My only stipulation is that I would ask
15 that if you need a break, you just answer the last
16 question I asked you before we go on break so that
17 way we're not between a question during break.
18 Okay?

19 A. Okay.

20 Q. I don't imagine we're going to be going
21 too much longer. Okay?

22 A. All righty.

23 Q. But let me know.

24 A. Okay.

25 Q. Did you ever talk to Ms. McCrabb at the

1 Q. If the ticket had not been dismissed
2 when you went to court, would you have admitted
3 your guilt to the careless driving ticket?

4 MS. LINTON: Object to the form.

5 A. Yes.

6 MR. COOPER: I appreciate it. Thank you
7 so much. I hope you have a great rest of your
8 day and take care. Okay?

9 THE WITNESS: Thank you.

10 (The deposition concluded at 2:35 p.m.)

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

EXHIBIT 4

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON)

ELIZABETH MCCRABB,) Civil Action No. 2019CP1005613
)
Plaintiff,)
)
vs.) **DEFENDANT'S ANSWERS TO**
) **PLAINTIFF'S FIRST SET OF**
CHRISTINE BAXTER,) **INTERROGATORIES**
)
Defendant.)
)
)
)
)
)
)

TO: W. MULLINS MCLEOD, JR., ESQUIRE, AND MICHAEL THOMAS COOPER,
ESQUIRE, ATTORNEYS FOR PLAINTIFF:

Defendant, Christine Baxter, (“Defendant”) answers Plaintiff’s Interrogatories pursuant to Rule 33 of the South Carolina Rules of Civil Procedure as follows:

In setting forth these answers, Defendant does not waive the attorney-client, work/product, or other privilege or immunity from disclosure which may attach to information called for herein, or responsive to, the Interrogatory. Defendant does not concede the relevance or materiality of the Interrogatory, or the subject matter for which the Interrogatory refers. These answers are submitted by the Defendant subject to, and without in any way waiving or intending to waive, but on the contrary intending to reserve and reserving:

A. All objections as to competency, relevancy, materiality, privilege, and admissibility as evidence, for any purpose, of any of the documents referred to or answers given, or the subject thereof, in any subsequent proceeding or in the trial of this action or any other action or proceeding;

B. The right to object to other discovery procedures involving or relating to the subject matter of the Interrogatories herein and responded to; and

C. The right at any time to revise, correct, add to, or clarify any of the answers set forth herein, or documents referred to herein.

D. Defendant objects to these Interrogatories to the extent that they ask for information protected by the attorney-client or the work product privileges or to the extent the interrogatories go beyond the scope of discovery allowed in the South Carolina Rules of Civil Procedure.

INTERROGATORIES

1. Give the names and addresses of persons known to the parties or counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

ANSWER:

**A. Elizabeth McCrabb
c/o Michael T. Cooper, Esquire and W. Mullins McLeod, Jr., Esquire
McLeod Law Group, LLC
3 Morris St., Suite A
Charleston, SC 29403**

Ms. McCrabb is the Plaintiff in the case and is expected to testify concerning her knowledge of the facts and circumstances surrounding the incident alleged in the Complaint and damages claimed. Defendant is not in possession of any written or recorded statements by this witness.

**B. Christine Baxter
c/o Danielle F. Payne, Esquire and Mary K. Linton, Esquire
P.O. Box 650007
Mt. Pleasant, SC 29465**

Ms. Baxter is the Defendant in the case and is expected to testify concerning her knowledge of the facts and circumstances surrounding the incident alleged in the Complaint. Defendant is not in possession of any written or recorded statements by this witness.

C. Defendant reserves the right to call all witnesses and experts named by other parties in their discovery responses.

D. Defendant reserves the right to call all medical providers and present and former employees of Plaintiff and all custodians of records for those providers and employers.

E. Defendant reserves the right to supplement this Answer as discovery progresses.

2. Set forth a list of photographs, plats, sketches or other prepared documents in possession of the party that relate to the claim or defense in the case.

ANSWER: Please see the attached documents, which are bates labeled Defendant 0001 to 0357. Defendant anticipates subpoenaing documents throughout discovery. Counsel may inspect and copy these documents at a mutually convenient time upon request at McAngus, Goudelock & Courie, LLC.

3. Set forth the names and addresses of all insurance companies which provide insurance liability coverage relating to the claim and set forth the number or numbers of the policies involved and the amount or amounts of liability coverage provided in each policy.

ANSWER: The following policy may apply.

**Travelers
Post Office Box 59059
Knoxville, TN 37950-9059
Policy Number: 993685538 203 1**

Policy Limits: \$300,000 each accident
Policy Period: 02/23/17 to 02/23/18

4. List the names and addresses of any expert witnesses whom the party proposes to use as a witness at the trial of the case.

ANSWER: Defendant has not retained the use of an expert witness for trial at this time, but reserves the right to amend this answer as discovery progresses. Defendant reserves the right to call any expert witness named by all other parties during the discovery process of this litigation. Defendant reserves the right to supplement this Answer as discovery progresses.

5. For each person known to the parties or counsel to be a witness concerning the facts of the case, set forth either a summary sufficient to inform the other party of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witnesses.

ANSWER: See Answer to Interrogatory No. 1.

6. Do you accept any fault in causing or contributing to this collision? If so, please state your estimated degree of fault in causing or contributing to the collision.

ANSWER: Defendant is still investigating the claims of the Plaintiff and reserves the right to supplement this answer as discovery progresses.

7. Explain in your own words the sequence of events that led to the incident on October 27, 2017 at issue in this Complaint. For this interrogatory, please describe in detail how and why the collision occurred; your role in the collision; what specifically caused the collision; what were your thoughts immediately before or during the collision; and what you did for the twenty-four (24) hours immediately following the collision.

ANSWER: After having dinner with a friend, Ms. Baxter left the Blue Rose restaurant on St. Andrews Blvd and headed towards Sycamore Ave. As she approached the left turn lane to make a left hand turn, her vehicle collided with the Plaintiff's vehicle. Ms. Baxter spent that night, and part of the next day, at MUSC due to an injury to her right leg as the result of the subject incident.

8. What, if any, alcoholic beverages, prescription drugs, over the counter drugs, and/or illegal drugs did you consume in the 48 hours leading up to the incident at issue on October 27, 2017.

ANSWER: Upon info and belief, Flecainide Acetate, Furosemide, Olmesartan Medoxomil, Omeprazole Metoprolol, Enbrel Sureclick Autoinjector, Hydrochlorothiazide, Eliquis and Tylenol.

9. Identify and explain whether you have been involved in any motor vehicle collision in the past 15 years, to include a description of the collision, date, place, names of persons involved, and a detailed description of all injuries to any and all persons and property damage involved in the accident, and whether you caused or contributed to the collision.

ANSWER: This information is a matter of public record and obtainable through the South Carolina Department of Motor Vehicles.

10. Provide all addresses at which you have resided over the past 10 years to the present, indicating the dates of your occupancy at each address.

ANSWER: 25 Lampton Rd.
Charleston, SC 29407

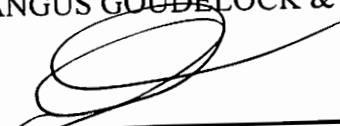
11. Please identify all litigation in which the Defendant has been involved as a party during the past ten (10) years. For each such lawsuit set forth the complete case caption, whether you were the plaintiff or defendant, the nature of the litigation, and resolution of the case.

ANSWER: Defendant object to this Interrogatory in that the information sought is overly broad, unduly burdensome, irrelevant, and not likely to lead to the discovery of admissible evidence. Without waiving this objection, this information is a matter of public record and is as easily accessible to Plaintiff's counsel as it is to the Defendant.

12. Please identify all cell phone numbers, the cell phone carrier, dates of use, whether used by you for work or personal reasons, and specify the person or entity in whose name the contract will be maintained.

ANSWER: Ms. Baxter's cellphone number with Verizon is 843-442-9515. The account is in Robert Baxter's name.

MCANGUS GOUDELOCK & COURIE, L.L.C.


DANIELLE F. PAYNE (SC Bar No. 73142)

danielle.payne@mgclaw.com

MARY K. LINTON (SC Bar No. 102815)

mary.linton@mgclaw.com

Post Office Box 650007

735 Johnnie Dodds Blvd., Suite 200 (29464)

Mt. Pleasant, South Carolina 29465

Telephone: (843) 576-2900

Facsimile: (843) 534-0605

ATTORNEY FOR CHRISTINE BAXTER

February 29, 2020

Date	Author	Topic	Subject	Claimant (Level)
10/28/2017 10:37:38 AM	RYAN HALEY - 252	CCS	Claim Customer Services -	001 INS - CHRISTINE BAXTER
Alternate mobile phone for Christine Baxter: (843)442-9515				
10/30/2017 9:29:47 AM	SYS - 800	Contact	- Email Change -	001 INS - CHRISTINE BAXTER
Email Address for Insured was changed from to NOEMAILADDRESS@TRAVELERS.COM by JCLUTZ				
10/30/2017 9:35:37 AM	CHASE GREENE - 258	Contact	-	004 PD - RIZEL FOLEY
IBC from CVD, advising that she is a realtor and that she needs a rental car. Advised that at this time coverage has not been confirmed and that a rental would not be possible until coverage is verified. Advised that rental reimbursement is an option. CVD advised that she was calling her agent to get her options, advised that I have given her the options available at this time. CVD advised that she would wait for a call from the CH.				
10/30/2017 9:51:17 AM	JENNA C LUTZ - 258	General	- APPRAISAL REQUESTED -	001 INS - CHRISTINE BAXTER
APPRAISAL REQUESTED FOR 001 ON 10/30/17 BY JCLUTZ				
10/30/2017 10:30:41 AM	DOUGLAS GORRELL - 258	Damages/Verification	Appraiser Notes -	004 PD - RIZEL FOLEY
Called Ms. Foley to setup an appointment had to leave a voice mail.				
10/30/2017 10:40:55 AM	DOUGLAS GORRELL - 258	Damages/Verification	Appraiser Notes -	001 INS - CHRISTINE BAXTER
Called Ms. Baxter to setup and appointment to inspect her vehicle and see if she has a shop of choice for repairs. Try to move the vehicle to shop of choice.				
10/30/2017 10:43:45 AM	JENNA C LUTZ - 258	Contact	Initial Contact - Insured -	001 INS - CHRISTINE BAXTER
<p>*****RECORDER ON*****</p> <p>INTRODUCTION This is Jenna Lutz in Charlotte, NC. I am interviewing Christine Baxter concerning an accident that occurred on 10/27/2017. Today is 10/30/17 at 9:29a. Could you please state you full name and spell your last name. (verified) Do I have your permission to record this interview? (yes)</p> <p>OWNER/DRIVER Name: Christine Baxter Owner: Same Address: Confirmed Phone: 843-442-9515 Email: ctbteach@aol.com Owned or Payments: Financed- Capital One If Driver is not Owner, Permissive Use: Passengers: No Purpose of travel: headed home from dinner Familiar with road: Yes</p> <p>VEHICLE</p>				

Date	Author	Topic	Subject	Claimant (Level)
<p>Year, Make, Model and Color 16 Jeep Grand Cherokee Red License Plate State & Number: Approximate Mileage: ~10K OV? Year, Make, Model and Color 06 Jeep Commander and 15 Jeep</p> <p>FOL Description of Accident: IV was traveling down the road and IV was looking left to try and get into the turn lane and did not see the other vehicles and just remembers a loud noise and striking the other vehicles. IV was still in the straight lane when the accident occurred Location of Loss: St. Andrew's Blvd City/Town? Charleston, SC Speed: ~40mph Posted Speed: 45 mph Lanes: turn lane and the 2 that go straight When did you see other car? Distance away? No What time did the accident occur? 7:15pm-7:30pm Weather conditions? Clear Road conditions? Dry</p> <p>Prior Damage to your vehicle: scrape on the back driver's side Point of impact your vehicle: Front left driver's side Point of impact other vehicle or vehicles: no Fluids leaking? Airbags deployed? Yes Insured vehicle drivable? No Claimant vehicle drivable? No Either vehicle towed? Where? Jenkin's Towing on Meeting St</p> <p>JUST TO BE SURE... Drugs/Alcohol/Medication: No Glasses/Contacts Required: No Seatbelt? Yes Using cell phone or similar device? No</p> <p>Police/EMS/Fire? Police Respond? Yes Reported by: Charleston City PD Police Report? Vehicle moved before police response? No Citations? unknown Witnesses? unknown</p> <p>Injuries? Yes</p> <p>*****Continued MP Statement</p>				
10/30/2017 10:50:08 AM	SYS - 258	General	ISO - Initial Report -	006 PD - ELIZABETH MCCRABB
<p>VIN# 1J8HH58286C358154 Confirmed Total Loss Indicator = N</p>				
10/30/2017 10:50:09 AM	GENERATED NOTE -	General	CLAIMANT DESCRIPTION -	006 PD - ELIZABETH MCCRABB
<p>2006 JEEP COMMANDER unk towed</p>				
10/30/2017 10:50:10 AM	SYS - 258	General	ISO CLAIM SEARCH REPORT -	

EXHIBIT 6

Date	Author	Topic	Subject	Claimant (Level)
10/30/2017 1:37:23 PM	JENNA C LUTZ - 258	Contact	Initial Contact - Claimant -	006 PD - ELIZABETH MCCRABB

OBC to 006.

-Obtained R/S
 -Advised liability pending

*****RECORDER ON*****

INTRODUCTION

This is Jenna Lutz in Charlotte, NC. I am interviewing Elizabeth McCrabb concerning an accident that occurred on 10/27/2017. Today is 10/30/2017 at 1:20pm. Could you please state your full name and spell your last name. (verified) Do I have your permission to record this interview? (yes)

OWNER/DRIVER

Driver: Elizabeth McCrabb
 Owner: Elizabeth McCrabb
 Address: Confirmed
 Phone: 843-670-0296
 Email: Confirmed

VEHICLE

Year, Make, Model and Color: 06 Jeep Commander Black
 License Plate and State
 Approximate Mileage: ~180K
 OV?
 Year, Make, Model and Color: 16 Jeep Grand Cherokee and another Jeep

FOL

Description of Accident: Approaching a stop light or completely stopped. CV had space between other driver and IV slammed into the rear of CV and pushed into CV2. CV continued to apply the brakes
 Location of Loss: HWY 61
 What road/street/highway?
 City/Town? Charleston, SC
 Speed: ~5 or stopped
 Posted Speed:
 Lanes: 2 lane and a center turn lane
 When did you see other car? Distance away? No
 What time did the accident occur? 07:30pm
 Weather conditions? Clear
 Road conditions? Dry

Prior Damage to your vehicle: No
 Point of impact your vehicle: Rear bumper, trunk and unknown front end damage
 Point of impact other vehicle or vehicles: No
 Airbags deployed? No
 Insured vehicle drivable? No
 Claimant vehicle drivable? No
 Either vehicle towed?
 Where? Jennings's Towing

JUST TO BE SURE...

Drugs/Alcohol/Medication: No
 Glasses/Contacts Required: No
 Seatbelt? Yes
 Using cell phone or similar device? No

Police/EMS/Fire?
 Police Respond? Yes
 Reported by:

EXHIBIT 7

Date	Author	Topic	Subject	Claimant (Level)
APPRAISAL REASSIGNED FOR 001 ON 10/31/17 AT 14.07.24 BY KBOGDEN FROM 1679 258 TO 9780 258 REASON: REASSIGNED PER APPRAISER UM REQUEST load leve 1				
10/31/2017 2:07:25 PM	SYS -	General	APPRAISAL SENT 001 -	001 INS - CHRISTINE BAXTER
APPRAISAL SENT TO CCC ON 10/31/17 VIA XML INTERFACE				
10/31/2017 2:17:59 PM	JENNA C LUTZ - 258	Contact	Attempted Contact -	004 PD - RIZEL FOLEY
Received VM from 004. OBC (914)426-6201 LVM asked for return phone call.				
10/31/2017 2:52:13 PM	JENNA C LUTZ - 258	Contact	Initial Contact - Claimant -	004 PD - RIZEL FOLEY
IBC from CVD. -Obtained R/S -Advised liability accepted *****RECORDER ON***** INTRODUCTION This is Jenna Lutz in Charlotte, NC. I am interviewing Rizel Foley concerning an accident that occurred on 10/27/2017. Today is 10/31/2017 at 2:40pm. Could you please state you full name and spell your last name. (verified) Do I have your permission to record this interview? (yes) OWNER/DRIVER Driver: Rizel Foley Owner: Rizel Foley Address: Confirmed Phone: 914-426-6201 Email: ISLESFAN75@yahoo.com Claim with own Carrier: GEICO VEHICLE Year, Make, Model and Color: 15 Jeep Cherokee Dark Brown License Plate and State Approximate Mileage: ~197K FOL Description of Accident: 004 was waiting for light to turn green and all a sudden heard a loud bang and was rear-ended by 006 by IV Location of Loss: West Ashley HWY 61 What road/street/highway? City/Town? West Ashley Speed: stopped Impacts: unknown Lanes: 2 lanes and a center turn lane What time did the accident occur? ~8:00pm Weather conditions? Sunny Road conditions? Clear Prior Damage to your vehicle: No Point of impact your vehicle: Rear Bumper Point of impact other vehicle or vehicles: No Fluids leaking? Airbags deployed? No Insured vehicle drivable? No				

RECEIVED

Jun 02 2021

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Bentley D. Price, Circuit Court Judge

Appeal No. 2020-001679

Elizabeth McCrabb, Respondent,

v.

Christine Baxter,Appellant.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal filed in this matter contains all the material proposed to be included by the parties to this matter and does not include any other material. The undersigned further certifies that the Record on Appeal filed in this matter complies with the South Carolina Supreme Court's April 16, 2014 Order re: Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings.

May 13, 2021

s/Helen F. Hiser

Helen F. Hiser, S.C. Bar No.: 76124
MCANGUS GOUELOCK AND COURIE
735 Johnnie Dodds Blvd., Suite 200 (29464)
P.O. Box 650007
Mount Pleasant, South Carolina 29465
(843) 576-2900

Attorneys for Appellant Christine Baxter

RECEIVED

Jun 02 2021

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Bentley D. Price, Circuit Court Judge

Appeal No. 2020-001679

Elizabeth McCrabb, Plaintiff Respondent,

v.

Christine Baxter, Defendant.....Appellant.

PROOF OF SERVICE

I certify that I have served the 1) final **Brief of Appellant** Christine Baxter; 2) the final **Reply Brief of Appellant**; and 3) a bound copy of the **Record on Appeal** on the other parties to this appeal by emailing and mailing a copy of each document addressed to their attorneys of record as follows:

Michael T. Cooper, Esq.
W. Mullins McLeod, Jr., Esq.
MCLEOD LAW GROUP, LLC
3 Morris Street (29403)
P.O. Box 21624
Charleston, South Carolina 29413
Michael@mcleod-lawgroup.com
Attorneys for Respondent Elizabeth McCrabb

Jessica L. Salerno, Esq.
CLAWSON AND STAUBES, LLC
126 Seven farms Drive, Suite 200
Charleston, South Carolina 29492-8144
(843) 577-2026
jsalerno@clawsonandstaubes.com
Attorneys for Travelers, appearing pursuant to S.C. Code § 38-77-160

[SIGNATURE ON FOLLOWING PAGE]

June 2, 2021

s/Helen F. Hiser

Helen F. Hiser

McANGUS GOUDELOCK & COURIE LLC

735 Johnnie Dodds Blvd., Suite 200

PO Box 650007

Mount Pleasant, South Carolina 29465

(843) 576-2900

Attorneys for Appellant Christine Baxter



Reply To

HELEN F. HISER
Direct Dial: (843) 576-2930
helen.hiser@mgclaw.com

June 2, 2021

RECEIVED

Jun 02 2021

SC Court of Appeals

VIA S.C. COURTS E-FILING & U.S. MAIL

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

RE: Elizabeth McCrabb v. Christine Baxter
Civil Action No.: 2019CP1005613 (Charleston)
Date of Incident: October 27, 2017
Carrier Claim No.: H2J5957
MGC File No.: 20527.19544
Appeal No.: 2020-001679

Dear Ms. Kitchings:

Enclosed for filing please find the original and one bound copy of: 1) the final Brief of Appellant Christine Baxter; 2) the final Reply Brief of Appellant; and 3) the Record on Appeal in the above-referenced matter. Also, enclosed please find the original and one copy of the Proof of Service for both final briefs and the Record on Appeal. These are also being filed electronically.

Please do not hesitate to contact me if you have any questions.

Very truly yours,

Helen F. Hiser

Enclosures

cc: Michael T. Cooper, Esq. (via email and U.S. Mail)
Jessica L. Salerno, Esq. (via email and U.S. Mail)