

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

SC Court of Appeals

Jocelyn Newman, Circuit Court Judge

Appellate Case No.: 2017-002145

Glenda R. Couram Appellant,

VS

Sherwood Tidwell Respondent.

RECORD ON APPEAL
Volume I

Glenda Couram
104 Macaw Lane
Lexington, SC 29073
(803) 358-0127
PRO SE APPELLANT

Jescelyn Spitz, Esquire
Clawson & Staubes, LLC
1612 Marion Street, #200
Columbia, SC 29201
ATTORNEY FOR RESPONDENT

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EXHIBIT CASE LAW:

Todd v Joyner, 685 SE 2d 596 SC Sup Ct., 2009 - Rule 803(4), SCRE (2008) The medical history referenced falls within the ambit of Rule 803(4) and

therefore, does not run afoul of the hearsay rule. 478

Waters v Young 100 F.3d 1437, 1441 (9th Cir.1996): Relatedly, a party who has rested may move to reopen her case in order to cure an evidentiary deficiency identified in a Rule 50(a) motion; the Court recognizes its obligation to freely give leave to amend when justice so requires, Fed. R. Civ. P. 15(a)(2), and to "ensure that pro se litigants do not unwittingly fall victim to procedural requirements," The purpose behind these requirements is to sufficiently apprise the non-moving party and the court of deficiencies in proof offered by the opposing party and to provide that party an opportunity to correct those deficiencies¹. (In *Jamali v Maricopa County* the District Court of Arizona 2013 - "As a general matter, this court has long sought to ensure that pro se litigants do not unwittingly fall victim to procedural requirements that they may, with some assistance from the court, be able to satisfy.") 482

Pike v SCDOT - or an issue to be preserved for appeal, it must have been raised to and ruled upon by the trial court; 326 S.C. 289, 306-307, 486 S.E.2d 750, 759 (1997) 488

VI. EMAILS EXHIBITS

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Emails regarding getting a Date Certain and getting witnesses subpoenaed 502

Email when Judge Newman suddenly became part of the Discussion 504

Judge Newman Offered to Conduct Trial if pro se Appellant agreed to no Witnesses (Appellant was going to subpoena her former employer and co workers, Lori Shortt and Amy Cofield she had emailed the list to Ms. Spitz they were her Former clients and current client of Attorney Matthews, if that had been disclosed Appellant would not have agreed to her Offer)

Email regarding 59(e) Motion 508

CERTIFICATE OF COUNSEL 509

¹ *Sloas v. CSX Transportation, Inc.*, Dist. Court, SD West Virginia, 2009

Exhibit B

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Glenda R. Couram,

Plaintiff,

v.

Sherwood Tidwell,

Defendant.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

Civil Action No. 2016-CP-40-02350

VERDICT FORM

1. Do you, the jury, unanimously find that Plaintiff Glenda R. Couram suffered damages?

☒

Yes

OR

☐

No

If the answer to Question 1 is yes, proceed to Question 2.

If the answer to Question 1 is no, stop and deliberate no further.

2. Do you, the jury, unanimously find that the damages suffered by Plaintiff Glenda R. Couram were proximately caused by the conduct of Defendant Sherwood Tidwell?

☒

Yes

OR

☐

No

If the answer to Question 2 is yes, proceed to Question 3.

If the answer to Question 2 is no, stop and deliberate no further.

3. We, the jury, unanimously award Plaintiff Glenda R. Couram damages in the amount of \$ 1,000.00.

Linda E. Wellbe
Jury Foreperson

June 16, 2017
Columbia, South Carolina.

DUTIES OF JURY AND JUDGE

I REMIND YOU THAT, DURING THIS TRIAL, YOU AND I HAVE CERTAIN DUTIES TO PERFORM. AS THE TRIAL JUDGE, IT IS MY RESPONSIBILITY TO PRESIDE OVER THE TRIAL OF THIS CASE, AND I ALSO HAVE THE DUTY TO RULE ON THE ADMISSIBILITY OF THE EVIDENCE OFFERED DURING THIS TRIAL.

YOU ARE TO CONSIDER ONLY THE EVIDENCE BEFORE YOU. IF THERE WAS ANY TESTIMONY ORDERED STRICKEN FROM THE RECORD DURING THIS TRIAL, YOU MUST DISREGARD THAT TESTIMONY. YOU ARE TO CONSIDER ONLY THE TESTIMONY WHICH HAS BEEN PRESENTED FROM THIS WITNESS STAND, ANY EXHIBITS WHICH HAVE BEEN MADE A PART OF THE RECORD IN THIS CASE, AND ANY STIPULATIONS OF THE PARTIES.

I HAVE THE ADDITIONAL DUTY TO CHARGE YOU THE LAW APPLICABLE TO THIS CASE. IT IS YOUR DUTY AS JURORS TO ACCEPT AND APPLY THE LAW AS I NOW STATE IT TO YOU. IF YOU THINK YOU HAVE ANY IDEA AS TO WHAT THE LAW IS OR WHAT THE LAW OUGHT TO BE AND IT DOES NOT AGREE WITH WHAT I TELL YOU THE LAW IS, YOU MUST FORGET THAT IDEA BECAUSE YOU ARE SWORN TO ACCEPT THE LAW AND APPLY THE LAW EXACTLY AS I STATE IT TO YOU.

IN EVERY CASE TRIED IN THIS COURT BEFORE A JURY, THE JURY BECOMES THE SOLE AND EXCLUSIVE JUDGE OF THE FACTS. A TRIAL JUDGE CANNOT COMMENT ON OR MAKE ANY STATEMENT ABOUT THE FACTS IN A CASE. SINCE YOU ARE THE SOLE JUDGES OF THE FACTS, DO NOT THINK BY ANYTHING I HAVE SAID DURING THE TRIAL THAT I HAVE ANY OPINION ABOUT THE FACTS IN THIS CASE. THE LAW DOES NOT ALLOW ME TO HAVE AN OPINION ABOUT THE FACTS.

PREPONDERANCE OF THE EVIDENCE

THE BURDEN OF PROOF IN THIS CASE IS BY A PREPONDERANCE OF THE EVIDENCE. A PREPONDERANCE OF THE EVIDENCE SIMPLY MEANS THE GREATER WEIGHT OF THE EVIDENCE. IT IS EVIDENCE WHICH, AS

A WHOLE, SHOWS THAT THE FACT SOUGHT TO BE PROVED IS MORE LIKELY TRUE THAN NOT TRUE.

THIS CAN BE ILLUSTRATED BY IMAGINING A SET OF SCALES. WHEN THE CASE BEGINS, THE SCALES ARE EVEN. AFTER ALL OF THE EVIDENCE HAS BEEN PRESENTED, IF THE SCALES REMAIN EVEN OR IF THEY TIP EVEN SLIGHTLY IN FAVOR OF THE DEFENDANT, THEN THE PLAINTIFF HAS FAILED TO MEET THE BURDEN OF PROOF AND WOULD NOT BE ENTITLED TO RECOVER IN THIS CASE. IF, ON THE OTHER HAND, THE SCALES TIP EVEN SLIGHTLY IN FAVOR OF THE PLAINTIFF, THE PLAINTIFF WILL HAVE MET THE BURDEN OF PROOF AND YOU SHOULD RETURN A VERDICT FOR THE PLAINTIFF.

THE PREPONDERANCE OF THE EVIDENCE IS NOT DETERMINED BY THE NUMBER OF WITNESSES. INSTEAD, IT MUST BE DETERMINED BY THE GREATER WEIGHT OF ALL OF THE EVIDENCE.

DIRECT AND CIRCUMSTANTIAL EVIDENCE

THERE ARE TWO TYPES OF EVIDENCE GENERALLY PRESENTED DURING A TRIAL – DIRECT EVIDENCE AND CIRCUMSTANTIAL EVIDENCE.

DIRECT EVIDENCE IS THE TESTIMONY OF A PERSON WHO CLAIMS TO HAVE ACTUAL KNOWLEDGE OF A FACT, SUCH AS AN EYEWITNESS. IT IS EVIDENCE WHICH IMMEDIATELY ESTABLISHES THE MAIN FACT TO BE PROVED.

CIRCUMSTANTIAL EVIDENCE IS PROOF OF A CHAIN OF FACTS AND CIRCUMSTANCES INDICATING THE EXISTENCE OF A FACT. IT IS EVIDENCE WHICH IMMEDIATELY ESTABLISHES COLLATERAL FACTS FROM WHICH THE MAIN FACT MAY BE INFERRED. CIRCUMSTANTIAL EVIDENCE IS BASED ON INFERENCE AND NOT ON PERSONAL KNOWLEDGE OR OBSERVATION. IT IS PROOF THAT DOES NOT ACTUALLY ESTABLISH THE FACT IN QUESTION, BUT THAT ASSERTS OR DESCRIBES SOMETHING ELSE FROM WHICH YOU MAY EITHER REASONABLY INFER THE TRUTH OF THE FACT OR AT LEAST

REASONABLY INFER AN INCREASE IN THE PROBABILITY THAT THE FACT IS TRUE.

FOR CIRCUMSTANTIAL EVIDENCE TO BE SUFFICIENT TO WARRANT THE FINDING OF A FACT, THE CIRCUMSTANCES MUST LEAD TO THAT FACT WITH REASONABLE CERTAINTY. THE FACTS AND CIRCUMSTANCES SHOULD BE CONSIDERED IN LIGHT OF ORDINARY EXPERIENCE AND COMMON SENSE. THE EXISTENCE OF A FACT CANNOT BE BASED ON SPECULATION, SURMISE, OR CONJECTURE.

THE LAW MAKES ABSOLUTELY NO DISTINCTION BETWEEN THE WEIGHT OR VALUE TO BE GIVEN TO EITHER DIRECT OR CIRCUMSTANTIAL EVIDENCE. NOR IS A GREATER DEGREE OF CERTAINTY REQUIRED OF CIRCUMSTANTIAL EVIDENCE THAN OF DIRECT EVIDENCE.

CREDIBILITY OF WITNESSES

NECESSARILY, YOU MUST DETERMINE THE CREDIBILITY OF WITNESSES WHO HAVE TESTIFIED IN THIS CASE. CREDIBILITY SIMPLY MEANS BELIEVABILITY. IT BECOMES YOUR DUTY AS JURORS TO EVALUATE THE EVIDENCE AND DETERMINE WHICH EVIDENCE CONVINCES YOU IT IS TRUE.

IN DETERMINING THE BELIEVABILITY OF WITNESSES WHO HAVE TESTIFIED IN THIS CASE, YOU MAY BELIEVE ONE WITNESS OVER SEVERAL WITNESSES OR SEVERAL WITNESSES OVER ONE WITNESS. YOU MAY BELIEVE A PART OF THE TESTIMONY OF A WITNESS AND REJECT THE REMAINING PART OF THE TESTIMONY OF THAT SAME WITNESS. YOU MAY BELIEVE THE TESTIMONY OF A WITNESS IN ITS ENTIRETY OR REJECT THE TESTIMONY OF A WITNESS IN ITS ENTIRETY. YOU MAY CONSIDER WHETHER THE WITNESS HAS AN INTEREST IN THE RESULT OF THE TRIAL, WHETHER THE WITNESS IS PREJUDICED TOWARD EITHER THE PLAINTIFF OR THE DEFENDANT, THE OPPORTUNITY FOR THE WITNESS TO HAVE SEEN THE MATTERS AND THINGS ABOUT WHICH THE WITNESS MAY TESTIFY, AND THE WAY THE WITNESS ACTS ON THE WITNESS STAND.

ADDITIONALLY, EVEN IF THERE IS UNCONTRADICTED TESTIMONY, YOU ARE NOT REQUIRED TO ACCEPT THAT TESTIMONY. YOU MUST EVALUATE THE CREDIBILITY, OR BELIEVABILITY, OF THAT TESTIMONY WHICH IS UNCONTRADICTED IN THE SAME MANNER AS YOU MUST EVALUATE ANY OTHER TESTIMONY.

NEGLIGENCE

THE PLAINTIFF CLAIMS THAT THE DEFENDANT WAS NEGLIGENT AND SHOULD COMPENSATE THE PLAINTIFF FOR THE INJURIES THE PLAINTIFF SUFFERED AS A RESULT OF THE DEFENDANT'S NEGLIGENCE. IN ORDER TO PROVE THAT THE DEFENDANT WAS NEGLIGENT, THE PLAINTIFF MUST PROVE BY A PREPONDERANCE, OR GREATER WEIGHT, OF THE EVIDENCE THE FOLLOWING THINGS.

THE PLAINTIFF MUST PROVE THAT THE DEFENDANT OWED THE PLAINTIFF A DUTY OF CARE AND THAT THE DEFENDANT BREACHED THE DUTY OF CARE BY A NEGLIGENT ACT OR OMISSION. IN THIS CASE, THOSE ISSUES HAVE ALREADY BEEN DETERMINED BY THE COURT; THEREFORE, YOU NEED NOT DECIDE THESE TWO ISSUES.

WHAT REMAINS FOR YOU TO DETERMINE IN THIS CASE IS (1) WHETHER THE PLAINTIFF HAS PROVED BY A PREPONDERANCE, OR GREATER WEIGHT, OF THE EVIDENCE THAT SHE SUFFERED DAMAGES AS A RESULT OF THE DEFENDANT'S BREACH OF DUTY; AND (2) WHETHER THE PLAINTIFF HAS PROVEN BY A PREPONDERANCE, OR GREATER WEIGHT, OF THE EVIDENCE THAT THE DAMAGES WERE PROXIMATELY CAUSED BY THE DEFENDANT'S BREACH OF DUTY.

PROXIMATE CAUSE IS SOMETHING THAT PRODUCES A NATURAL CHAIN OF EVENTS WHICH, IN THE END, BRINGS ABOUT THE INJURY. IT IS THE DIRECT CAUSE OF THE INJURY.

TO PROVE THAT THE DEFENDANT'S NEGLIGENCE PROXIMATELY CAUSED THE PLAINTIFF'S INJURY, THE PLAINTIFF MUST FIRST PROVE CAUSATION IN FACT. THIS IS PROVEN BY SHOWING THAT THE INJURY WOULD NOT HAVE OCCURRED BUT FOR THE DEFENDANT'S NEGLIGENCE.

THE PLAINTIFF MUST ALSO PROVE LEGAL CAUSE. LEGAL CAUSE IS PROVEN BY SHOWING THAT THE INJURY WAS FORESEEABLE. THIS MEANS THAT THE INJURY OCCURRED AS A NATURAL AND PROBABLE CONSEQUENCE OF THE DEFENDANT'S NEGLIGENCE. THE PLAINTIFF MUST PROVE THAT SOME INJURY FROM THE DEFENDANT'S NEGLIGENCE WAS FORESEEABLE, BUT DOES NOT HAVE TO PROVE THAT THE PARTICULAR INJURY THAT OCCURRED WAS FORESEEABLE. HOWEVER, THE DEFENDANT CANNOT BE HELD RESPONSIBLE FOR THINGS WHICH COULD NOT BE EXPECTED TO HAPPEN. IF THERE IS NO FORESEEABILITY, THERE IS NO LIABILITY.

PROXIMATE CAUSE DOES NOT MEAN THE ONLY CAUSE. THE DEFENDANT'S ACT CAN BE A PROXIMATE CAUSE OF THE PLAINTIFF'S INJURY IF IT WAS AT LEAST ONE OF THE DIRECT, CONCURRING CAUSES OF THE INJURY.

THE MERE FACT THAT AN INJURY OR ACCIDENT HAS HAPPENED, STANDING ALONE, DOES NOT PERMIT YOU, THE JURY, TO DRAW ANY INFERENCE THAT SUCH AN INJURY OR ACCIDENT MUST CAUSED DAMAGES TO THE PLAINTIFF OR TO DRAW ANY INFERENCE THAT THE INJURY OR ACCIDENT WAS THE CAUSE OF THE PLAINTIFF'S DAMAGES. INSTEAD, THE PLAINTIFF MUST PROVE EACH OF THESE THINGS BY THE PREPONDERANCE, OR GREATER WEIGHT, OF THE EVIDENCE.

GENERAL DENIAL

THE DEFENDANT HAS ANSWERED THE PLAINTIFF'S COMPLAINT WITH A GENERAL DENIAL. THIS MEANS THAT ALTHOUGH THE COURT HAS DETERMINED THAT THE DEFENDANT BREACHED THE DUTY OF CARE OWED TO THE PLAINTIFF, THE DEFENDANT HAS DENIED THAT HE IS RESPONSIBLE FOR THE PLAINTIFF'S INJURIES. IN OTHER WORDS, THE DEFENDANT HAS DENIED THAT THE PLAINTIFF SUFFERED DAMAGES AND HAS ALSO DENIED THAT ANY DAMAGES THAT SHE ALLEGES WERE PROXIMATELY CAUSED BY THE DEFENDANT'S ACTIONS. BECAUSE OF THIS DENIAL, THE PLAINTIFF HAS THE BURDEN OF PROVING EACH AND EVERY ELEMENT OF HER CAUSE OF ACTION.

ACTUAL DAMAGES

IF YOU DECIDE THAT THE PLAINTIFF IS ENTITLED TO A VERDICT, YOUR NEXT STEP WOULD BE TO DECIDE HOW MUCH MONEY THE DEFENDANT SHOULD BE REQUIRED TO PAY.

ACTUAL DAMAGES ARE TO COMPENSATE THE PLAINTIFF FOR THE PLAINTIFF'S INJURIES OR LOSS AND TO PUT THE PLAINTIFF, AS NEAR AS POSSIBLE, IN THE SAME POSITION THAT THE PLAINTIFF WAS IN BEFORE THE INCIDENT OCCURRED. IN OTHER WORDS, ACTUAL DAMAGES WOULD BE THE ACTUAL LOSSES AND EXPENSES WHICH THE PLAINTIFF HAS SUFFERED BECAUSE OF THE DEFENDANT'S NEGLIGENCE.

ACTUAL DAMAGES ARE AWARDED WHEN A WRONGFUL ACT HAS CAUSED A LOSS OR INJURY WHICH CAN BE ASSESSED IN MONEY, THE UNIVERSAL AND CARDINAL PRINCIPLE BEING THAT THE PERSON INJURED SHALL RECEIVE COMPENSATION COMMENSURATE WITH HIS LOSS OR INJURY AND NO MORE.

PAIN AND SUFFERING

PAIN AND SUFFERING COMPENSATES THE PLAINTIFF FOR PHYSICAL DISCOMFORT AND EMOTIONAL RESPONSE TO THE SENSATION OF PAIN CAUSED BY THE INJURY ITSELF. THERE IS NO DEFINITE STANDARD BY WHICH TO COMPENSATE THE PLAINTIFF FOR PAIN AND SUFFERING. YOU HAVE THE AUTHORITY TO DETERMINE THE AMOUNT, IF ANY, TO BE ALLOWED FOR PAIN AND SUFFERING, USING CALM AND REASONABLE JUDGMENT TO ENSURE THAT THE DAMAGES ARE JUST AND REASONABLE IN LIGHT OF THE TESTIMONY AND EVIDENCE PRESENTED IN THE CASE.

LOSS OF ENJOYMENT OF LIFE

LOSS OF ENJOYMENT OF LIFE COMPENSATES THE PLAINTIFF FOR LIMITATIONS ON THE PLAINTIFF'S ABILITY TO PARTICIPATE IN, AND DERIVE PLEASURE FROM, THE NORMAL ACTIVITIES OF DAILY LIFE.

PERSONAL INJURIES

THE PLAINTIFF MUST PROVE THAT EXPENSES CAUSED BY THE INJURY WERE NECESSARY AND REASONABLE.

ACTUAL DAMAGES FOR A PLAINTIFF WHO HAS BEEN PHYSICALLY INJURED INCLUDE PAIN AND SUFFERING – BOTH PAST AND FUTURE – AS WELL AS MENTAL ANGUISH AND IMPAIRMENT OF HEALTH OR PHYSICAL CONDITION.

IN DETERMINING THE AMOUNT OF COMPENSATION FOR PERSONAL INJURIES, IT IS PROPER TO CONSIDER PAST AND PRESENT ASPECTS OF THE INJURY. THIS WOULD INCLUDE PHYSICAL AND MENTAL PAIN AND SUFFERING, EXPENSES INCURRED FOR NECESSARY MEDICAL TREATMENT, THE LOSS OF ENJOYMENT OF LIFE SUFFERED AS A RESULT OF THE INJURY, AND ANY OTHER LOSSES WHICH ARE REFLECTED BY THE CHARACTER OF THE INJURY.

THE INJURED PARTY MAY RECOVER FOR THOSE FUTURE DAMAGES THAT ARE REASONABLY SURE TO RESULT FROM THE INJURIES. THE PRINCIPLE UNDERLYING COMPENSATION FOR FUTURE DAMAGES IS THAT ONLY ONE ACTION CAN BE BROUGHT AND, THEREFORE, ONLY ONE RECOVERY HAD. IT IS PROPER TO INCLUDE IN THE ESTIMATE OF FUTURE DAMAGES COMPENSATION FOR LOSS OF ATTENTION TO THE PLAINTIFF'S ORDINARY BUSINESS, FUTURE MEDICAL EXPENSES, AND PAIN AND SUFFERING WHICH WILL, WITH REASONABLE CERTAINTY, RESULT.

PROSPECTIVE DAMAGES

THE EXISTENCE, CAUSATION, OR AMOUNT OF DAMAGES CANNOT BE LEFT TO CONJECTURE, GUESSWORK, OR SPECULATION. HOWEVER, PROOF, WITH MATHEMATICAL CERTAINTY, OF THE AMOUNT OF LOSS OR DAMAGE IS NOT REQUIRED. DAMAGES MUST BE PROVED WITH A REASONABLE DEGREE OF CERTAINTY.

IN OTHER WORDS, A PLAINTIFF IS NEVER ENTITLED TO RECOVER CONJECTURAL OR SPECULATIVE DAMAGES. BUT IF YOU FIND THE PLAINTIFF IS ENTITLED TO A VERDICT FOR ACTUAL DAMAGES, YOUR

VERDICT SHOULD INCLUDE AN AMOUNT TO COVER ANY PAST, PRESENT, AND FUTURE DAMAGES WHICH WERE PROXIMATELY CAUSED BY THE DEFENDANT. ANY FUTURE DAMAGES MUST BE REASONABLY CERTAIN TO OCCUR IN THE FUTURE AS A RESULT OF THE DEFENDANT'S ACTS. ACTUAL DAMAGES NEED NOT BE PROVEN TO A MATHEMATICAL CERTAINTY OR BE BASED ON EVIDENCE OF THE PRECISE AMOUNT OF DAMAGES THE PLAINTIFF HAS SUFFERED. INSTEAD, THE EVIDENCE MUST ALLOW YOU TO DETERMINE WHAT AMOUNT OF DAMAGES IS FAIR, JUST, AND REASONABLE.

FUTURE DAMAGES

ANY FUTURE DAMAGES MUST BE REASONABLY CALCULATED TO HAVE RESULTED FROM THE ALLEGED INJURY OR DAMAGE SUSTAINED IN THIS CASE. FUTURE DAMAGES MUST BE REDUCED TO THEIR PRESENT CASH VALUE.

PRE-EXISTING INJURY

THE DEFENDANT CLAIMS THAT THE PLAINTIFF HAD A PRE-EXISTING INJURY OR CONDITION PRIOR TO THE DATE THAT THE PLAINTIFF CLAIMS THAT THE DEFENDANT INJURED HER. IF YOU FIND THAT THE PLAINTIFF RECEIVED AN INJURY AS A RESULT OF THE NEGLIGENCE OF THE DEFENDANT AND IS ENTITLED TO RECOVER FOR THAT INJURY, THE FACT THAT THE PLAINTIFF HAD A PRE-EXISTING INJURY OR CONDITION WOULD NOT PREVENT THE PLAINTIFF FROM RECOVERING. THE DEFENDANT IS RESPONSIBLE FOR ALL ILL EFFECTS WHICH, CONSIDERING THE PLAINTIFF'S CONDITION OF HEALTH WHEN THE PLAINTIFF WAS INJURED, NATURALLY AND NECESSARILY FOLLOW THE INJURY.

THE DEFENDANT TAKES THE PLAINTIFF AS THE PLAINTIFF IS FOUND, WHETHER THE PLAINTIFF IS IN PERFECT HEALTH, IN POOR HEALTH, OR SOMEWHERE IN BETWEEN. A DEFENDANT'S LIABILITY IS IN NO WAY LESSENED OR AFFECTED BECAUSE OF THE FACT THAT THE INJURY WOULD NOT HAVE RESULTED OR WOULD NOT HAVE BEEN AS SERIOUS OR SEVERE HAD THE PLAINTIFF BEEN IN GOOD HEALTH, OR THAT THE INJURIES WERE AGGRAVATED AND RENDERED MORE

DIFFICULT TO CURE BY REASON OF THE FACT THAT THE PLAINTIFF WAS NOT IN GOOD HEALTH. IN OTHER WORDS, IF THE PRESENCE OF A PRE-EXISTING INJURY OR CONDITION AGGRAVATES AND PROLONGS THE INJURY AND INCREASES THE DAMAGES, THE PLAINTIFF SHOULD BE COMPENSATED FOR THE INCREASED OR ADDED DAMAGES.

A PERSON WITH A PRE-EXISTING INJURY OR CONDITION IS NOT, HOWEVER, ENTITLED TO ANY COMPENSATION FOR THE PRE-EXISTING INJURY OR CONDITION. IN ADDITION, IF THE PROBLEMS ARE THE RESULT OF THE NATURAL PROGRESSION OF THE WORSENING OF A PRE-EXISTING INJURY OR CONDITION, THEN THE PLAINTIFF WOULD NOT BE ENTITLED TO BE COMPENSATED FOR THOSE PROBLEMS.

MENTAL SUFFERING

MENTAL SUFFERING, APPREHENSION, SHOCK, FRIGHT, EMOTIONAL UPSET, HUMILIATION, AND ANXIETY, EITHER PRESENT OR EXPECTED IN THE FUTURE, CAN BE PROPERLY CONSIDERED AS AN ELEMENT OF DAMAGES. THE AMOUNT OF DAMAGES FOR MENTAL SUFFERING CANNOT BE EXACTLY MEASURED.

INSURANCE MENTIONED IN TRIAL

IN REACHING YOUR VERDICT, YOU SHOULD NOT CONSIDER WHETHER ANY PARTY IN THIS CASE WAS OR WAS NOT COVERED BY INSURANCE. AS YOU MAY KNOW, SOME PLAINTIFFS ARE COVERED AND SOME ARE NOT, AND SOME HAVE VARIOUS FORMS OF PARTIAL COVERAGE. THE SAME IS TRUE FOR DEFENDANTS. THE LAW DOES NOT ALLOW THE PARTIES TO PRESENT ANY EVIDENCE ABOUT INSURANCE OR LACK OF INSURANCE OR AMOUNT OF INSURANCE, AND THERE IS NO WAY THAT YOU CAN ACCURATELY DETERMINE WHETHER ANY PARTY IN THIS CASE HAS INSURANCE COVERAGE, OR IF THEY HAVE IT, HOW MUCH INSURANCE THEY HAVE.

MORE IMPORTANTLY, INSURANCE OR LACK OF INSURANCE HAS NO BEARING ON WHETHER THE DEFENDANT WAS OR WAS NOT

NEGLIGENT OR ON HOW MUCH DAMAGE, IF ANY, THE PLAINTIFF HAS SUFFERED.

JURY VERDICT

THERE ARE TWO POSSIBLE VERDICTS WHICH YOU MAY FIND IN THIS CASE: IN FAVOR OF THE PLAINTIFF IN SOME AMOUNT, OR IN FAVOR OF THE DEFENDANT. THERE IS NO SIGNIFICANCE WHATSOEVER IN THE ORDER IN WHICH I STATE THESE POSSIBLE VERDICTS; IT IS SIMPLY THAT ONE MUST BE STATED FIRST.

CONCLUSION

NOW, YOU HAVE BEEN CHOSEN AND SWORN TO GIVE THE PARTIES IN THIS CASE A FAIR AND IMPARTIAL TRIAL. WHEN YOU HAVE DONE SO, YOU WILL HAVE COMPLIED WITH YOUR OATH AND NO ONE WILL HAVE A RIGHT TO CRITICIZE YOUR VERDICT. YOU MUST NOT BE INFLUENCED BY OPINIONS OR EXPRESSIONS OF OPINION YOU MAY HAVE HEARD OUTSIDE OF THE COURTROOM BUT RATHER SHOULD BASE YOUR VERDICT SOLELY ON THE TESTIMONY OF THE SWORN WITNESSES WHO TOOK THE STAND, THE EXHIBITS RECEIVED INTO EVIDENCE, AND THE LAW WHICH I HAVE STATED. YOU SHOULD NOT BE SWAYED BY CAPRICE, PASSION, PREJUDICE, OR IMPROPER SYMPATHY FOR OR AGAINST ANYONE IN THIS CASE. REMEMBER, YOU HAVE NO FRIENDS TO REWARD OR ENEMIES TO PUNISH, AND ALL PARTIES ARE ENTITLED TO A FAIR AND IMPARTIAL TRIAL.

IT IS YOUR DUTY AS JURORS TO CONSULT WITH ONE ANOTHER AND TO DELIBERATE IN AN EFFORT TO REACH AN AGREEMENT. EACH OF YOU MUST DECIDE THIS CASE FOR YOURSELF BUT ONLY AFTER IMPARTIAL CONSIDERATION OF ALL THE EVIDENCE WITH YOUR FELLOW JURORS. IN THE COURSE OF YOUR DELIBERATIONS, DO NOT HESITATE TO RE-EXAMINE YOUR OWN VIEWS AND CHANGE YOUR OPINION IF YOU BECOME CONVINCED IT IS ERRONEOUS. HOWEVER, DO NOT SURRENDER YOUR HONEST CONVICTION AS TO THE WEIGHT OR EFFECT OF THE EVIDENCE SOLELY BECAUSE OF THE OPINION OF YOUR FELLOW JURORS OR FOR THE MERE PURPOSE OF RETURNING A VERDICT. AS I STATED EARLIER, YOU ARE JUDGES – JUDGES OF THE

FACTS. YOUR VERDICT MUST REPRESENT THE CONSIDERED JUDGMENT OF EACH JUROR. ALL TWELVE OF YOU MUST AGREE ON THE VERDICT. IN OTHER WORDS, YOUR VERDICT MUST BE UNANIMOUS.

NOW YOU MAY HAVE NOTICED THAT I HAVE READ THESE INSTRUCTIONS. I DO SO TO GIVE YOU THE LAW AS ACCURATELY AS POSSIBLE. I WILL GIVE YOU A COPY OF THESE INSTRUCTIONS TO HAVE IN THE JURY ROOM. YOU MAY REFER TO THESE INSTRUCTIONS TO ASSIST YOU IN YOUR DELIBERATIONS. YOU MUST CONSIDER THE INSTRUCTIONS AS A WHOLE AND MAY NOT FOLLOW SOME AND IGNORE OTHERS.

MISTER FOREMAN, IT WILL BE YOUR DUTY TO PRESIDE OVER THE DELIBERATIONS OF THE JURY. IF, DURING YOUR DELIBERATIONS, YOU SHOULD DESIRE TO COMMUNICATE WITH THE COURT, PLEASE REDUCE YOUR MESSAGE OR QUESTION TO WRITING, SIGNED BY THE FOREPERSON ONLY, AND PASS THE NOTE TO THE BAILIFF WHO WILL BRING IT TO MY ATTENTION. I WILL THEN RESPOND AS PROMPTLY AS POSSIBLE, EITHER IN WRITING OR BY HAVING YOU RETURN TO THE COURTROOM. I CAUTION YOU, HOWEVER, WITH REGARD TO ANY MESSAGE OR QUESTION YOU MIGHT SEND, THAT YOU SHOULD NEVER STATE OR SPECIFY YOUR NUMERICAL DIVISION AT THE TIME.

NOW, YOU HAVE HEARD THE EVIDENCE AND YOU HAVE HEARD THE LAW. WHATEVER YOUR VERDICT, MISTER FOREMAN, YOU WILL INDICATE IT ON THE VERDICT FORM AND THEN SIGN AND DATE YOUR VERDICT.

REMEMBER THAT ALTHOUGH THE FOREPERSON IS THE ONLY JUROR WHO WRITES THE VERDICT, IT IS NOT HIS ALONE. THE VERDICT HAS TO BE UNANIMOUS. MISTER FOREMAN, YOU ARE NOT AUTHORIZED TO WRITE THE VERDICT UNTIL ALL OF YOU HAVE AGREED ON THE VERDICT.

NOW LADIES AND GENTLEMEN, I'M GOING TO SEND YOU TO YOUR JURY ROOM, BUT DO NOT BEGIN TO DISCUSS THIS CASE UNTIL YOU HAVE RECEIVED A COPY OF THIS JURY CHARGE, THE VERDICT FORM, AND THE EXHIBITS. ONCE YOU RECEIVE THESE THINGS, THAT WILL BE YOUR SIGNAL TO BEGIN YOUR DELIBERATIONS.

ONCE YOU BEGIN YOUR DELIBERATIONS, YOU WILL DELIBERATE UNTIL YOU HAVE REACHED A VERDICT, AT WHICH TIME YOU WILL KNOCK ON THE DOOR, ADVISE THE BAILIFF, AND WE WILL BRING YOU OUT TO RECEIVE YOUR VERDICT.

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Glenda R. Couram,

Plaintiff,

vs.

Sherwood Tidwell and Titan Indemnity
Company, Subsidiary of Nationwide Mutual
Insurance Company,

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

CASE NO.: 2016-CP-40-02350

CONSENT ORDER REMOVING PARTY

RICHLAND COUNTY
FILED
2016 SEP 20 PM 12:19
JEANETTE W. MCBRIDE
C.C.P. & C.S.

In this automobile negligence action, the Plaintiff filed suit on April 12, 2016 alleging that Co-Defendant, "Titan Indemnity Company, Subsidiary of Nationwide Mutual Insurance Company," was negligent related to a motor vehicle accident which occurred on September 18, 2015. The specific claims as to Co-Defendant "Titan Indemnity Company, Subsidiary of Nationwide Mutual Insurance Company" are unclear in the Complaint.

Discovery has taken place and the parties have found that there is no evidence under South Carolina Law which shows "Titan Indemnity Company, Subsidiary of Nationwide Mutual Insurance Company" to be liable to the Plaintiff. SCRCP 21 allows parties to be dropped by order of the Court on any motion on such terms as are just.

The Plaintiff has consented to the Defendant's motion to drop Co-Defendant, "Titan Indemnity Company, Subsidiary of Nationwide Mutual Insurance Company," as a named party. If evidence becomes available to the parties which suggest Co-Defendant, "Titan Indemnity Company, Subsidiary of Nationwide Mutual Insurance Company," should be added as a Co-Defendant at a later date, the parties mutually

agree that this issue may be fully developed and the Court may add Co-Defendant, "Titan Indemnity Company, Subsidiary of Nationwide Mutual Insurance Company," as a party in compliance with SCRCP 21.

IT IS SO ORDERED.



Presiding Judge

Columbia

South Carolina

This 2 day of Sept, 2016.

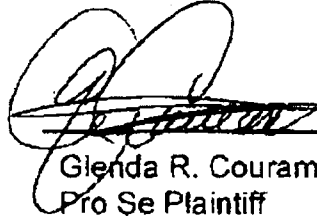
WE SO MOVE:

CLAWSON and STAUBES, LLC



Jescelyn T. Spitz
Bar No. 101880
Attorney for Defendants

CONSENT:



Glenda R. Couram
Pro Se Plaintiff

RICHLAND COUNTY
FILED
2018 SEP 20 PM 12:19
JEANNETTE W. MCBRIDE
CLERK, U.S. DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

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

CASE NUMBER: **2016CP4002350**

Glenda Couram

Sherwood Tidwell

Nationwide Mutual Insurance Company

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____

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

DISPOSITION TYPE (CHECK ONE)

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

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

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

ORDER INFORMATION

This order ☐ ends ☒ does not end the case. *Plaintiff withdrew motion to Quash.*
Additional Information for the Clerk: *Plaintiff's motion for Summary Judgment was granted as to liability with consent of Defendant.*

INFORMATION FOR THE JUDGMENT INDEX

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

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

If applicable, describe the property, including tax map information and address, referenced in the order:

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

Circuit Court Judge

Re Hood

Judge Code

2164

Date

4/27/17

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this 27 day of April, 2017 to attorneys of record or to parties (when appearing pro se) as follows:

Glenda Couram

Jescelyn Tillman Spitz

Lora Stuart Shortt

Glenda Couram

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

Clerk of Court

Jeanette W. Hilde

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Glenda R. Couram,

Plaintiff,

vs.

Sherwood Tidwell,

Defendant.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

CASE NO.: 2016-CP-40-02350

**ORDER GRANTING PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY
JUDGMENT ON THE ISSUE OF
LIABILITY**

2017 JUN -1 AM 11:09

This matter is before the Court on Plaintiff's Motion for Full and/or Partial Summary Judgment. A hearing was conducted before me on April 27, 2017.

INTRODUCTION

This case involves a motor vehicle accident that occurred on September 18, 2015, on I-20 in or near Columbia, South Carolina. The accident involved three vehicles. The Defendant, Sherwood Tidwell, was operating a vehicle that came into contact with the rear of a vehicle being operated by Brandon Brown. Mr. Brown's vehicle then came into contact with the rear of the vehicle being operated by the Plaintiff, Glenda Couram.

SUMMARY JUDGMENT STANDARD

Pursuant to South Carolina Rule of Civil Procedure 56(c), summary judgment is proper when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. E.g., Burris v. Anderson County Bd. of Educ.,

369 S.C. 443, 633 S.E.2d 482 (2006); Dawkins v. Fields, 354 S.C. 58, 580 S.E.2d 433 (2003). When determining if any triable issues of fact exist, the evidence and all inferences which can be reasonably drawn from the evidence must be viewed in the light most favorable to the non-moving party. Wilson v. Style Crest Products, Inc., 367 S.C. 653, 656, 627 S.E.2d 733, 735 (2006). Moreover, even if there is no dispute regarding the evidentiary facts, but only as to the conclusions or inferences to be drawn from them, summary judgment should be denied. *Id.*

APPLICABLE LAW

In order to prevail on a claim for negligence, the Plaintiff must prove that the Defendant owed her a duty of reasonable care, that the duty was breached and that the breach was the proximate cause of the Plaintiff's injuries. "Negligence is not actionable unless it is a proximate cause of the injury." Hanselmann v. McCardle, 275 S.C. 46, 48 (1980). "Proximate cause 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. Legal cause is proved by establishing foreseeability." Madison v. Babcock Ctr., Inc., 371 S.C. 123, 147 (2006). "The question of proximate cause ordinarily is one of fact for the jury" *Id.*

ANALYSIS

The Defendant has admitted liability in regard to the accident in question in this case; however, the Defendant disputes both causation and damages. The Defendant argues that the Plaintiff was not injured in the accident and further argued that the

Plaintiff is claiming injuries that are unrelated to the accident.

While the Plaintiff claims she sustained physical and mental injuries as a result of the accident in question, it is within the province of the jury to determine whether the Plaintiff's alleged damages were caused by the accident in question in this case, meaning a jury must determine whether the Plaintiff's alleged damages would have occurred "but for" the Defendant's alleged negligence, as well as whether such damages were "foreseeable" or the natural and probable consequence of the alleged failure to exercise reasonable care.

CONCLUSION

NOW THEREFORE, the Plaintiff's Motion for Partial Summary Judgment on the Issue of Liability is GRANTED and the Plaintiff's Motion for Full Summary Judgment is DENIED.

AND IT IS SO ORDERED this 1 day of June, 2017.



The Honorable Robert E. Hood
Court of Common Pleas
Fifth Judicial Circuit

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Glenda R. Couram,

Plaintiff,

v.

Sherwood Tidwell,

Defendant.

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH JUDICIAL CIRCUIT

Civil Action No. 2016-CP-40-02350

JUDGMENT AND
ORDER DENYING PLAINTIFF'S RULE 59(E)
MOTION, GRANTING DEFENDANT'S COSTS

2017 OCT -9 PM 3:32
RICHLAND COUNTY
FILED
JEANETTE L. HARRIS, CLERK

This matter comes before the Court on "Plaintiff's Motion Pursuant to Rule 59 Requesting Additur or in the Alternative a New Trial on Damages," which was filed on July 26, 2017; and Defendant's request for costs, made on July 6, 2017. For the reasons set forth below, Plaintiff's motion is DENIED, and Defendant's request is GRANTED.

BACKGROUND

This is a personal injury action in which Defendant's vehicle collided with Plaintiff's vehicle on Interstate 20 in Richland County on September 18, 2015. Plaintiff, appearing *pro se*, filed her Complaint on April 12, 2016, alleging negligence on the part of Defendant. Although Defendant, in his Answer, denied liability, summary judgment was ultimately granted in favor of Plaintiff on that issue.

On February 16, 2017, Defendant filed an Offer of Judgment pursuant to Rule 68 of the South Carolina Rules of Civil Procedure in which he offered the sum of twenty thousand dollars (\$20,000) to Plaintiff in full compromise and settlement of her claims. Plaintiff rejected Defendant's offer, so a jury trial commenced on June 15, 2017.

On June 16, the jury returned a unanimous verdict in favor of Plaintiff in the amount of one thousand dollars (\$1,000). Plaintiff then filed her motion in which she requests the entry of

"judgment notwithstanding the verdict..., [a] new trial or additur." Defendant opposed Plaintiff's motion and also filed a statement of costs in connection with his Offer of Judgment.¹

Plaintiff contends that the jury's verdict "is against the overwhelming weight of the evidence" and that the jury's award is "wholly inadequate for the evidence and testimony put forth." She also argues that she has received medical treatment since the conclusion of the trial and that "she can no longer afford her medication." Plaintiff also contends that the Court made errors in the admission and exclusion of evidence, that certain important language was omitted from the Court's charge on the law, and that the Court erred in granting Defendant's motion for a directed verdict as to the issue of punitive damages.

CONCLUSIONS OF LAW

The Court disagrees with Plaintiff's arguments and finds no basis, in law or in fact, to grant the recovery requested by Plaintiff.

I. New Trial Absolute

"Under the 'thirteenth juror' doctrine, a trial judge may grant a new trial absolute when he finds the evidence does not justify the verdict." *Vinson v. Hartley*, 324 S.C. 389, 402, 477 S.E.2d 715, 722 (Cl. App. 1996). "This ruling has also been termed a granting of a new trial upon the facts." *Id.* (citing *Gastineau v. Murphy*, 323 S.C. 168, 181, 473 S.E.2d 819, 827 (Cl.App.1996)). However, a new trial absolute should be granted "...if the amount of the verdict is grossly inadequate or excessive so as to shock the conscience of the court and clearly indicates the figure reached was the result of passion, caprice, prejudice, partiality, corruption or some other improper motives." *Id.* at 404, 477 S.E.2d at 723 (citations omitted). None of those

¹ Despite the Court's requests, both verbally and in writing, that Plaintiff submit a copy of her motion directly to judge's chambers – and despite the rule requiring the same (*see* Rule 59(g), SCRPC) – Plaintiff failed to comply. The Court was unaware that Plaintiff filed any post-trial motion until receiving Defendant's opposition to that motion by letter dated September 13, 2017.

circumstances are present here. Instead, it appears that the jury found that Plaintiff lacked credibility in her contention that she sustained severe injuries and "substantial damage" in a low-speed, three-car collision in which neither of the other drivers suffered any injury whatsoever. "The jury's determination of damages, however, is entitled to substantial deference." *Proctor v. Dep't. of Health & Envtl. Control*, 386 S.C. 279, 321, 628 S.E.2d 496, 519 (Ct. App. 2006) (citation omitted). Therefore, Plaintiff's motion for a new trial absolute is denied.

II. New Trial *Nisi Additur*

Even if the amount of the verdict is not grossly inadequate. "A new trial *nisi additur* may be ordered when the verdict is merely insufficient based on the evidence." *Waring v. Johnson*, 341 S.C. 248, 257, 533 S.E.2d 906, 911 (Ct. App. 2000) (citation omitted). "The import of a new trial *nisi additur* is a suggestion on the part of the judge of a settlement figure." *Id.* (citation omitted). "The consideration of a motion for a new trial *nisi additur* requires the court to consider the adequacy of the verdict in light of the evidence presented." *Id.* (citation omitted).

In this case, there is no evidence in the record from which this Court could determine that the verdict rendered by the jury is inadequate. Rather, based on the evidence, testimony, and credibility of the witnesses, the Court finds that the jury's award was appropriate. Therefore, Plaintiff's motion for a new trial *nisi additur* is denied.

III. Defendant's Costs

On February 16, 2017, Defendant filed an Offer of Judgment pursuant to Rule 68 of the South Carolina Rules of Civil Procedure, in which Plaintiff was offered twenty thousand dollars (\$20,000) to settle and resolve Plaintiff's claims. Plaintiff rejected this offer. Subsequent to that rejection, Defendant incurred costs totaling four hundred twenty-one dollars and eighty-two cents (\$421.82) related to the defense of this action. The jury trial in this action began on June

15, 2017. On June 16, the jury rendered a verdict in favor of Plaintiff in the amount of one thousand dollars (\$1,000) – an amount far less than was offered by Defendant.

Rule 68 of the South Carolina Rules of Civil Procedure provides: "If an offer of judgment is not accepted and the offeror obtains a verdict or determination at least as favorable as the rejected offer, the offeror *shall* recover from the offeree: (1) any administrative, filing, or other court costs from the date of the offer until the entry of judgment..." Rule 68(b), SCRCP. Additionally, "if the offeror is a defendant, [the offeror is entitled to] reduction from the judgment or award of eight percent interest computed on the amount of the verdict or award from the date of the offer to the entry of the judgment." *Id.*

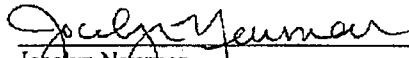
Based on the foregoing, the jury's verdict must be reduced by four hundred twenty-one dollars and eighty-two cents (\$421.82) and further reduced by eight percent interest on the one thousand dollar (\$1,000) award, calculated from February 16, 2017 to today, October 4, 2017, totaling fifty dollars and forty-one cents (\$50.41).

IT IS THEREFORE ORDERED that "Plaintiff's Motion Pursuant to Rule 59 Requesting Additur or in the Alternative a New Trial on Damages" is DENIED.

IT IS FURTHER ORDERED that Defendant's request for costs is GRANTED.

IT IS FURTHER ORDERED that judgment be entered in favor of Plaintiff Glenda R. Couram against Defendant Sherwood Tidwell in the amount of five hundred twenty-seven dollars and seventy-seven cents (\$527.77).

AND IT IS SO ORDERED.


Jocelyn Newman
Circuit Court Judge

October 4, 2017
Columbia, South Carolina.

For Clerk of Court Office Use Only

This judgment was entered on the 9 day of Oct, 2017 and a copy mailed first class or placed in the appropriate attorney's box on this 9 October 2017 to attorneys of record or to parties (when appearing pro se) as follows:

Glenda Couram

Jesselyn Tillman Spitz

Glenda Couram

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court

Jeanette W. McBride

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2016 CP-40-02350

GLENDA R. COURAM

SHERWOOD TIDWELL

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: NEWMAN, J

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

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **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:

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX

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

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
GLENDA R. COURAM	SHERWOOD TIDWELL	\$527.77
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

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

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Judy Newman
Circuit Court Judge

2757
Judge Code

October 4, 2017
Date

The South Carolina Court of Appeals

Glenda Couram, Appellant,

v.

Sherwood Tidwell, Respondent.

Appellate Case No. 2017-002145

The Honorable Jocelyn Newman
Richland County
Trial Court Case No. 2016CP4002350

ORDER

Appellant has filed a motion to file fewer copies of the record on appeal. This motion is Granted. At the appropriate time, all parties are advised to file an original and nine (9) copies of the record on appeal and final briefs. At this time, our records indicate that the appellant's initial brief and designation of matter were due to be served and filed no later than May 24, 2018. Within ten (10) days from the date of this order, the appellant must provide this Court with the appellant's initial brief and designation of matter in accordance with Rules 207 and 208 of the South Carolina Appellate Court Rules. Failure to provide the appellant's initial brief and designation of matter within ten (10) days from the date of this order will result in the dismissal of this appeal.

FOR THE COURT

BY


CLERK

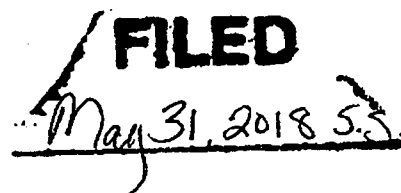
Columbia, South Carolina

cc:

Glenda Couram

Jescelyn Tillman Spitz, Esquire

FILED


May 31, 2018 S.S.

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT
CA NO: 2016-CP-40- 02350

Glenda R. Couram
Plaintiff
Sherwood Tidwell, Insured
Titan Indemnity Company
Subsidiary of Nationwide Mutual Insurance
Company
Defendants

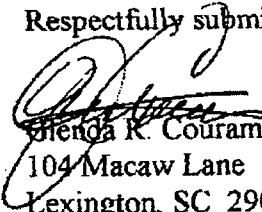
JURY TRIAL DEMANDED

SUMMONS

TO THE DEFENDANTS ABOVE NAMED:

YOUR ARE HEREBY SUMMONED and required to answer the complaint herein, copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgement by default will be rendered against you for the relief demanded in the complaint.

Respectfully submitted by,


Glenda R. Couram
104 Macaw Lane
Lexington, SC 29073
803 358-0127
grcouram@hotmail.com
Pro se Plaintiff

Dated this 28th day of March 2016
Columbia, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT
CA NO: 2016-CP-40-_____

Glenda R. Couram

Plaintiff

COMPLIANT

Sherwood Tidwell, Insured
Titan Indemnity Company
Subsidiary of Nationwide Mutual Insurance
Company

Defendants

JURY TRIAL DEMANDED

2016 APR 12 AM 11:21
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

RICHLAND COUNTY
FILED

The Plaintiff, complaining of the Defendant herein, would respectfully show unto this Honorable Court the following:

1. Plaintiff is a citizen and resident of Lexington County, South Carolina.
2. Upon information and belief, Defendant is a citizen and resident of Richland County, South Carolina.
3. Jurisdiction and venue are proper in this Court because the event that gives rise to this action occurred in Richland County, South Carolina.
4. This action arises from a motor vehicle collision that occurred on September 18, 2015, in Richland, South Carolina.
5. On September 18, 2015, (Friday) at approximately 4:20 pm Plaintiff was lawfully operating a motor vehicle on I-20 heading West Bound towards (Lexington) Atlanta, Georgia.
6. As Plaintiff was preceding the traffic came to a sudden stand-still, the Plaintiff stopped with sufficient distance from the car in front of her. She watched the car behind her driven by Mr. Brown, and moved up until he stopped successfully, after he came to a complete stop behind, Plaintiff relaxed concentrating on the traffic in front of her the next

thing Plaintiff knew her car was violently slammed into by Mr. Brown's car a cream colored Crown Victory.

7. Plaintiff was driving a 2012 Honda Fit.

8. Defendant's vehicle was a commercial vehicle whose entire front end had been crushed it appeared to the Plaintiff.

9. Defendant failed to observe traffic conditions during rush hour on a Friday and driving too fast to stop collided into Mr. Brown who collided into Plaintiff causing property damage and injury to the Plaintiff.

10. Plaintiff did not cause or contribute to the collision in any manner as confirmed by the accident report in fact, it was a total shock she had even been hit and further she had no ability to avoid or prevent the collision.

11. As a result of the collision, Plaintiff suffered painful, traumatic, and injuries throughout her body which resulted in significant medical treatment (physical and occupational therapy).

12. Plaintiff has incurred, and will continue to incur in the future, medical expenses, and has suffered, and will continue to suffer general damages such as physical and mental pain and suffering, emotional anguish, loss wages, and a loss of enjoyment of life, along with considerable medical bills and inconvenience, all of which she is entitled to be compensated for as a direct and proximate result of Defendant's actions as described above.

13. Defendant was negligent, negligent *per se*, careless, reckless, and grossly negligent in one or more of the following particulars:

- a. In causing his vehicle and Mr. Brown's vehicle to collide into Plaintiff's vehicle;
- b. In operating a vehicle in a distracted manner;
- c. In failing to observe traffic;
- d. In failing to keep a proper outlook;

- e. In operating a vehicle in a manner too fast for conditions;
- f. In operating a vehicle in a manner to avoid a collision;
- g. In failing to maintain proper control and distance over the vehicle;
- j. In failing to properly brake the vehicle to avoid the collision;
- k. In failing to take any evasive action by means to keep from causing the collision;
- l. In failing to obey the statutory and common laws of the State of South Carolina;
- m. In failing to use the degree of caution and care that a reasonable driver would have used under the same or similar circumstances;
- n. In operating his motor vehicle in whole or in part in a careless, reckless, willful, and wanton disregard for others; and
- o. In otherwise being negligent or reckless as discovery may reveal. All of which were the direct and proximate cause of the injuries and damages suffered by Plaintiff.

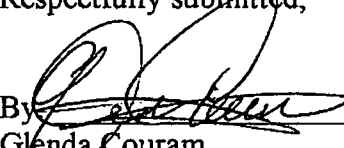
14. Plaintiff is entitled to a judgment against the Defendant to compensate her for the damages and injuries sustained.

15. Plaintiff is entitled to an award of punitive damages to the extent Defendant's conduct was in violation of statutory laws or reckless, willful, or wanton.

16. Plaintiff demands a jury trial.

WHEREFORE, Plaintiff prays this Honorable Court for judgment against Defendant for: (a) actual and consequential damages; (b) punitive damages; (c) pre-judgment interest; (d) costs and attorney's fees in instituting this action, if applicable; and (e) for such other and further legal and equitable relief as this Honorable Court may deem just and proper.

Respectfully submitted,

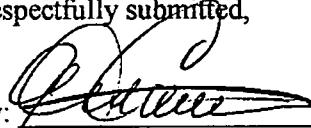
By 
Glenda Couram
104 Macaw Lane
Lexington, SC 29073
Columbia, South Carolina 29201
Email: grcouram@hotmail.com
Phone: (803) 358-0127
Pro se Plaintiff

Dated this 25th, day of March 2016
Columbia, South Carolina

DECLARATION PAGE

"I hereby declare that the above statement and information in this document is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and subject to penalty for perjury."

Respectfully submitted,

By: 

Glenda Couram
104 Macaw Lane
Lexington, SC 29073
Columbia, South Carolina 29201
Email: grcouram@hotmail.com
Phone: (803) 358-0127
Pro se Plaintiff

RICHLAND COUNTY
FILED

2016 APR 12 AM 11:21

JEANNETTE W. HOBBS
C.C.P. & G.S.

Dated this 28th, day of March 2016
Columbia, South Carolina

**MEDICAL BILLS AND COST
SUBMITTED ON MARCH 22, 2016**

ITEMIZED MEDICAL BILLS TO DATE (SPECIAL/GENERAL DAMAGES):

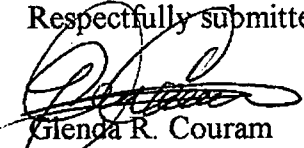
Lexington Urgent Care	\$	1591.00
Lexington Radiology Assoc.		90.00
Palmetto Associates		95.00
Vital Energy PT and OT (ongoing)	\$	≈ 3026.00 as of December 9, 2015
Prescription Costs (3) (not total my share)	\$	22.00 (2 @ \$9 and 1 @ \$4
Vital Energy (release)	\$	2260.00 Dec. 15 to March 22, 2016
Wage/loss/mileage/gas to date	\$	≈ 779.00
Wage/loss/mileage/gas	\$	562.00
TOTAL	\$	8425.00 x 3 = \$26,775

(plus future Medical bills of \$1500 (including future loss wages, gas, mileage)

NOTE: Medicals records, release of information, incident report, wage loss letters (2) etc.,
other bills sent to

Rick Skurko, Claims Specialist II
Commercial Casualty
Nationwide Non-Standard Claims
PO Box 93863
Cleveland, OH 44101

Respectfully submitted by,


Glenda R. Couram
104 Macaw Lane
Lexington, SC 29073
803 358-0127
grcouram@hotmail.com
Pro se Plaintiff

RICHLAND COUNTY
FILED
2016 APR 12 AM 11:21
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

SECTION 38-77-250. Release of coverage information upon written request of claimant's attorney; confidentiality.

- (A) Every insurer providing automobile insurance coverage in this State and which is or may be liable to pay all or a part of any claim shall provide, within thirty days of receiving a written request from the claimant's attorney, a statement, under oath, of a corporate officer or the insurer's claims manager stating with regard to each known policy of nonfleet private passenger insurance issued by it, the name of the insurer, the name of each insured, and the limits of coverage. The insurer may provide a copy of the declaration page of each such policy in lieu of providing such information. The request shall set forth under oath the specific nature of the claim asserted and shall be mailed to the insurer *by certified mail* or statutory overnight delivery. The request also must state that the attorney is authorized to make such a request and must be accompanied by a copy of the incident report from which the claim is derived.
- (B) If the request provided in subsection (A) contains information insufficient to allow compliance, the insurer upon whom the request was made may so state in writing, stating specifically what additional information is needed and such compliance shall constitute compliance with this section.
- (C) The information provided to a claimant or his attorney as required by subsection (A) of this section shall not create a waiver of any defenses to coverage available to the insurer and shall not be admissible in evidence.
- (D) The information provided to a claimant or his attorney as required by subsection (A) shall be amended upon the discovery of facts inconsistent with or in addition to the information provided.
- (E) The provisions of this section do not require disclosure of limits for fleet policy limits, umbrella coverages, or excess coverages.
- (F) The information received pursuant to this section is confidential and must not be disclosed to any outside party. Upon final disposition of the case, the claimant's attorney must destroy all information received pursuant to this section. The court must impose sanctions for a violation of this subsection.

HISTORY: 2011 Act No. 52, Section 4, effective January 1, 2012.

March 28, 2016

Rick Skurko, Claims Specialist II
Commercial Casualty
Nationwide Non-Standard Claims
PO Box 93863
Cleveland, OH 44101

RE: Policyholder:	Sherwood Tidwell
Insurance Company:	Titan Indemnity Company
Date of Accident/Loss:	September 18, 2015
Claimant/Injured:	Glenda Couram
Claims #:	144356-GC

Dear Mr. Skurko:

Please be advised that as you have determined not to negotiate this matter after two attempts by me, your offer has been medicals and two thousand five hundred (\$2,500.00 for pain and suffering) based on my waiting too long to seek medical attention and car damage. My offer is no longer viable.

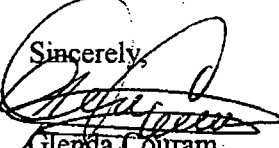
I am submitting to you a copy of the Summons and Complaint, Certificate of Service that has been filed to the Richland County Circuit Court. My client suffered personal injuries from a motor vehicle collision that occurred in Richland County on March 25, 2014.

Your insured, Sherwood Tidwell, was negligent in causing this collision. A copy of the incident report, medicals, two letters from employer of wage lost and medical bills have already been submitted the most recent submission was this month.

Pursuant to S.C. Code Ann. § 38-77-250, we are hereby writing to obtain information concerning automobile insurance coverage of the insured and the insured vehicle, the driver, and the owner of the vehicle. We hereby request within thirty (30) days from the above date, a statement, under oath, of a corporate officer or the insurer's claims manager stating with regard to each known policy issued, the name of the insurer, the name of each insured, and the limits of coverage. In the alternative, you may provide a copy of the declaration page of each such policy in lieu of providing such information. I am hereby authorized to make this request.

I would request this information be provided within the next thirty (30) days. Thank you for your assistance.

Sincerely,



Glenda Couram

104 Macaw Lane
Lexington, SC 29073
Columbia, South Carolina 29201
Email: grcouram@hotmail.com
Phone: (803) 358-0127
Pro se Plaintiff

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

)
)
)
IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT
CA NO: 2016-CP-40-_____

Glenda R. Couram

Plaintiff

Sherwood Tidwell, Insured
Titan Indemnity Company
Subsidiary of Nationwide Mutual Insurance
Company

Defendants

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

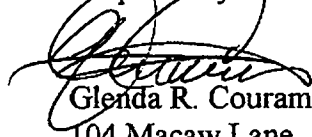
I certify that on this date, March 28, 2016, I the undersigned served a copy of the Summons and Complaint on Richard Skurko, Nationwide, Sherwood Tidwell and Titan Indemnity Company a Subsidiary of Nationwide Mutual Insurance Company by personally delivering a certified copy to the USPS with sufficient postage affixed, as addressed as follow:

Sherwood Tidwell, Insured
1776 Morninglo Lane
Columbia, SC 29223-3609

Titan Indemnity Company
LEGAL DEPARTMENT
One West Nationwide Blvd., 1-04-701
Columbus, OH 43215-220

Rick Skurko, Claims Specialist II
Commercial Casualty
Nationwide Non-Standard Claims
PO Box 93863
Cleveland, OH 44101

Respectfully submitted by,


Glenda R. Couram

104 Macaw Lane
Lexington, SC 29073
803 358-0127
grcouram@hotmail.com
Pro se Plaintiff

Dated this 28th, day of March 2016.
Columbia, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

CASE NO.: 2016-CP-40-02350

Glenda R. Couram,

Plaintiff,

vs.

Sherwood Tidwell and Titan Indemnity
Company, Subsidiary of Nationwide Mutual
Insurance Company,

Defendant.

ANSWER
(Jury Trial Requested)

2016 MAY 13 AM 11:01
RICHLAND COUNTY
FILED
JANETTE W. HOSKINS
C.C.P. & G.S.

TO: GLENDA R. COURAM, PRO SE PLAINTIFF:

The Defendant, Sherwood Tidwell, answering the Complaint of the Plaintiff, above named, and responding to the allegations as follows:

Each and every allegation of the Complaint which is not specifically admitted, qualified or explained is denied and strict proof is demanded thereof.

1. Paragraph 1 is admitted upon information and belief.
2. Paragraph 2 is admitted upon information and belief.
3. Paragraph 3 is admitted upon information and belief.
4. The Defendant admits the allegations contained in Paragraph 4 to the extent that the action arises from a motor vehicle collision that occurred on September 18, 2015. The remaining allegations of Paragraph 4 are denied.

5. The Defendant lacks sufficient information so as to form a belief as to the allegations set forth in Paragraph 5 of the Complaint, and therefore, denies the allegations of Paragraph 5 of the Complaint and demands strict proof thereof.

6. The Defendant lacks sufficient information so as to form a belief as to the allegations set forth in Paragraph 6 of the Complaint, and therefore, denies the allegations of Paragraph 6 of the Complaint and demands strict proof thereof.

7. Paragraph 7 is admitted upon information and belief.

8. The Defendant admits that allegations of Paragraph 8 of the Complaint to the extent that the Defendant's vehicle was a commercial vehicle. The Defendant denies the remaining allegations of Paragraph 8 and demands strict proof thereof.

9. The Defendant denies the allegations of Paragraph 9 and demands strict proof thereof.

10. The Defendant lacks sufficient information to so as to form a belief as to the allegations set forth in Paragraph 10 of the Complaint, and, therefore, denies the allegations of Paragraph 10 and demands strict proof thereof.

11. The Defendant lacks sufficient information so as to form a belief as to the nature and extent of any injuries and damages incurred by Plaintiff, if any, and, therefore, denies the allegations of Paragraph 11 of the Complaint and demands strict proof thereof.

12. The Defendant lacks sufficient information to so as to form a belief as to the allegations set forth in Paragraph 12 of the Complaint, and, therefore, denies the allegations of Paragraph 12 and demands strict proof thereof.

13. Upon information and belief, the Defendant denies the allegations contained in Paragraph 13 of the Complaint, including but not limited to subsections a through o.

14. The Defendant denies the allegations contained in Paragraph 14 of the Complaint.

15. The Defendant denies the allegations contained in Paragraph 15 of the Complaint.

16. Paragraph 16 of the Complaint does not set forth an allegation. Paragraph 16 demands a jury trial. The Defendant also requests a jury trial in this matter.

17. The Defendant denies any and all allegations against the Defendant contained within the Wherefore Paragraph of the Complaint and demands strict proof thereof.

18. That the Defendant denies each and every allegation of the Complaint not hereinabove specifically admitted or denied.

FOR A FIRST DEFENSE
(Reservation and Non-Waiver)

19. The allegations contained in the preceding paragraphs are incorporated herein as if fully repeated verbatim.

20. Defendant has not had an opportunity to conduct a thorough investigation or to engage in sufficient discovery regarding the circumstances of the Plaintiff allegations. Accordingly, Defendant reserves the right to amend this Answer to assert additional defenses as may arise during the discovery process.

FOR A SECOND DEFENSE
(Lack of Proximate Cause)

21. The allegations contained in the preceding paragraphs are incorporated herein as if fully repeated verbatim.

22. All or a portion of Plaintiff damages claimed in this case were not

proximately caused by the subject motor vehicle collision, and this defense of lack of proximate cause is pled as a complete and total defense to all claims.

FOR A THIRD DEFENSE
(Punitive Damages Unconstitutional - Procedural Due Process)

23. The allegations contained in the preceding paragraphs are incorporated herein as if fully repeated verbatim.

24. To the extent that the Complaint seeks punitive or exemplary damages, it violates the right of the Defendant to procedural due process under the Fourteenth Amendment of the United States Constitution and the Constitution of the State of South Carolina, and therefore fails to state a cause of action upon which either exemplary or punitive damages can be awarded.

FOR A FOURTH DEFENSE
(Punitive Damages Unconstitutional - Substantive Due Process)

25. The allegations contained in the preceding paragraphs are incorporated herein as if fully repeated verbatim.

26. To the extent that the Complaint seeks punitive or exemplary damages, it violates the Defendant's right to substantive due process as provided in the Fifth and Fourteenth Amendments of the United States Constitution and the Constitution of the State of South Carolina, and therefore fails to state a cause of action upon which either exemplary or punitive damages can be awarded.

FOR A FIFTH DEFENSE
(Sudden Emergency)

27. The allegations contained in the preceding paragraphs are incorporated herein as if fully repeated verbatim.

28. That even if the Defendant was negligent, reckless, willful and wanton,

which the Defendant denies, such negligence, willfulness, wantonness and recklessness was occasioned and excused by the sudden emergency which presented itself to the Defendant and, as a result, the Defendant acted as a reasonable and prudent person would have acted under the circumstances then and there prevailing.

FOR A SIXTH DEFENSE
(Intervening & Superseding Negligence)

29. The allegations contained in the preceding paragraphs are incorporated herein as if fully repeated verbatim.

30. That if the Defendant was negligent, which is specifically denied, the injuries and damages sustained by the Plaintiff, if any, were due to and caused by and were the direct and proximate result of the intervening and superseding negligence, carelessness, recklessness, willfulness and wantonness of others. This defense is asserted as a complete and total defense to all claims.

FOR A FOURTH DEFENSE
(Failure to State a Claim)

31. The allegations contained in the preceding paragraphs are incorporated herein as if fully repeated verbatim.

32. The Complaint fails to state facts sufficient to constitute a cause of action and the Complaint should be dismissed pursuant to the provisions of SCRCP Rule 12(b)(6).

WHEREFORE, having fully answered the Complaint of the Plaintiff, the Defendant prays for a trial by jury and that the Plaintiff Complaint be dismissed, together with the costs and disbursements of this action and for such other and further relief as this Court may deem just and proper.

CLAWSON and STAUBES, LLC



Anna Wade Sumner

Bar No.: 101888

1612 Marion Street, Suite 200

Columbia, South Carolina 29201-2939

Phone: (800) 774-8242

Fax: (843) 722-2867

Email: asumner@clawsonandstaubes.com

Attorney for Sherwood Tidwell

Columbia, South Carolina

May 10th, 2016

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing Answer was served upon the following parties on the 10 day of May, 2016, via:

X	United States Postal Service, Certified Mail, Return Receipt Requested
	Facsimile
	Electronic Email
	Via Hand Delivery

RICHLAND COUNTY
FILED
2016 MAY 13 AM 11:01
JEANETTE W. MOORE
C.C.P. & G.S.

Ms. Glenda R. Couram
104 Macaw Ln
Lexington, SC 29073-7673


Joyce Linker, Legal Assistant to
Anna Wade Sumner, Esquire

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Glenda R. Couram,

Plaintiff,

vs.

Sherwood Tidwell and Titan Indemnity
Company, Subsidiary of Nationwide Mutual
Insurance Company,

Defendant.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

CASE NO.: 2016-CP-40-02350

**DEFENDANT'S MOTION TO DISMISS
TITAN INDEMNITY AND NATIONWIDE
INSURANCE COMPANY**

TO: GLENDA COURAM, *PRO SE* PLAINTIFF:

YOU WILL PLEASE TAKE NOTICE that the undersigned, as attorney for the Defendants in the above-referenced matter, will move before the Presiding Judge of the Richland County Court of Common Pleas, at the Richland County Courthouse at 10:00 a.m. on the tenth day after service hereof or as soon hereafter as possible for an Order dismissing the Defendants Titan Indemnity Company and Nationwide Mutual Insurance Company from the above-captioned action.

Specifically, the Defendants would move to dismiss Titan Indemnity Company and Nationwide Mutual Insurance Company as named defendants in the above-captioned action. The grounds for this motion are that the Plaintiff does not have an appropriate or proper cause of action directly against Titan Indemnity Company and Nationwide Mutual Insurance Company. The claimant does not have a policy of insurance or contract of insurance with Titan Indemnity Company or Nationwide Mutual Insurance Company that applies to this action. Titan Indemnity Company a subsidiary of Nationwide Mutual Insurance Company was the insurance carrier for the Defendant Sherwood Tidwell at the

time the accident in question in this case occurred and the Plaintiff's claim is properly against Sherwood Tidwell and not Titan Indemnity Company and Nationwide Mutual Insurance Company. As a result, the Plaintiff does not have a direct cause of action against Titan Indemnity Company and Nationwide Mutual Insurance Company and therefore the Defendants would move to dismiss the Plaintiff's claim against the Defendants Titan Indemnity Company and Nationwide Mutual Insurance Company.

Additionally, the Plaintiff has failed to state facts sufficient to constitute a cause of action against Titan Indemnity Company and Nationwide Mutual Insurance Company within her Complaint, and, therefore, Titan Indemnity Company and Nationwide Mutual Insurance Company should be dismissed pursuant to SCRCO Rule 12(b)(6).

Based upon all of the above, the Defendants would ask that the Court dismiss the Plaintiff's claim against the Defendants Titan Indemnity Company and Nationwide Mutual Insurance Company.

Respectfully Submitted,

CLAWSON AND STAUBES, LLC



Anna Wade Sumner
Bar No.: 101888
1612 Marion Street, Suite 200
Columbia, South Carolina 29201-2939
Phone: (800) 774-8242
Fax: (843) 722-2867
Email: asumner@clawsonandstaubes.com
Attorney for Defendant Sherwood Tidwell.

Columbia, South Carolina

MAY 10th, 2016

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing Defendant's Motion to Dismiss Titan Indemnity and Nationwide Insurance Company was served upon the following parties on the _____ day of May, 2016, via:

X	United States Postal Service, Certified Mail, Return Receipt Requested
	Facsimile
	Electronic Email
	Via Hand Delivery

Ms. Glenda R. Couram
104 Macaw Ln
Lexington, SC 29073-7673


Joyce Linker, Legal Assistant to
Anna Wade Sumner, Esquire

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

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2016CP4002350

Glenda Couram

Sherwood Tidwell

PLAINTIFF(S)

Nationwide Mutual Insurance Company
DEFENDANT(S)

Submitted by: _____

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

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. No. suit);
☐ Rule 43(k), SCRCP (Settled); ☐ Other _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRCP; ☐ 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:

ORDER INFORMATION

This order ☐ ends ☒ does not end the case. Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX

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

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		\$
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

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

Circuit Court Judge _____

Judge Code _____

Date _____

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this 2nd day of June, 2017 to attorneys of record or to parties (when appearing pro se) as follows:

Glenda Couram

Jescelyn Tillman Spitz

Lora Stuart Shortt

Glenda Couram

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court

Janette W. McBride
47

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT
CA NO: 2016-CP-40-02350

Glenda R. Couram

Plaintiff

Sherwood Tidwell, Insured

Titan Indemnity Company

Subsidiary of Nationwide Mutual Insurance

Defendants

MOTION TO QUASH

JURY TRIAL DEMANDED

RICHLAND COUNTY
FILED
2017 FEB -3 PM 2:18
JEANETTE W. NOBRIDGE
C.C.P. & G.S.

Pro se Plaintiff, Glenda Couram, requests that this Honorable Court strike the Defendant's Notice of Deposition and Subpoena for Columbia Counseling Center and preclude the Defendant(s) from making any inquiry into any of the Plaintiff's mental health treatment¹ and in support thereof states as follows:

I. INTRODUCTION

The case at bar involves a claim for damages arising out of an automobile collision that occurred on September 18, 2015. (Plaintiff has filed a motion for partial summary judgment as fault has been admitted).

The defendant has a policy limit of \$50,000 only, this Plaintiff has asked for a settlement of \$100,000. As a result, it seems that the defendant's attorney have decided to pry into every aspect of this pro se life including all mental health records, medical records via information they received from the Plaintiff's health care carrier Blue Cross Blue Shield even issues that has no bearing on the action before the court and happened will behind the date of the accident.

¹ Plaintiff has freely allowed and provide all documents related to the auto accident even counseling received from Palmetto Spine Center as it relates to the car accident and my diagnoses of anxiety, stress, depression and ptsd. But the information they seek appears to be a fishing expedition and the information they seek is over three years old.

In violation of HIPPA laws Defendants are now seeking private records from Counseling this pro se sought in 2013 more than three years prior to this accident in order to deny payment of damages of such a small amount when this pro se will suffer for life with the back pain and anxiety issues since this accident in 2015; the Plaintiff deals with driving on the interstate every day and will have to do so until death or retirement, deal with the fear that has been a constant since September 18, 2015.

They have taken Plaintiff deposition, Mr. Brown's Deposition.

They have ordered medical records from over ten years ago from her primary care physician and the Plaintiff has freely provided all medical records since the accident including counseling received at Palmetto Spine Center. They have gotten medical records from Plaintiff's health insurance company and is using it as a "gold" mine to pry into this Plaintiff life to hold on to the policy limit.

This Plaintiff has attempted to settle this manner on many occasions. The last before filing was for \$23-28K the defendants refused. She tried prior to the second physical therapy and the worsening of her condition they refused, tried mediation they refused.

Fault has been admitted by the insurance company Titian/Nationwide, the Defendant, the claims specialist (2) and the attorney in their response to the Plaintiff's Admissions. (They have refused to answer the second set of Admissions).

Now on January 26, 2017 they have filed a Notice of Deposition Duces Tecum for deposition of the Counselor Plaintiff saw and confidentially spoke to and or bring every document pertaining to the Plaintiff's mental health. A copy of both the Notice of Deposition and the Subpoena are attached hereto and incorporated by reference herein as Exhibit 1.

For the reasons stated below the Plaintiff is requesting that this Honorable Court strike the Notice of Deposition Duces Tecum, quash the Subpoena issued and grant the Plaintiff a Protective Order precluding the Defendant from obtaining any of the Plaintiff's mental health records and precluding the Defendants from inquiring into the Plaintiff's mental health treatment.

It appears this pro se that the Attorney is using the subpoena *duces tecum* as "fishing expedition" See *Farish v. Commonwealth*, 2 Va. App. 627, 346 S.E.2d 736 (1986).

The Defendant cannot show that there is a need to access the Plaintiff counseling records with the Counseling Center or establish affirmatively that the Plaintiff has placed her mental health at issue thereby creating a waiver of her privilege nor can the defendant prove the likelihood that the requested records are relevant to the civil case at bar.

In conclusion, for the legal arguments that follow, the Defendant has not met this heavy burden and Notice of Deposition Decus Tecum should be stricken, the Subpoena issued to the Counseling Center should be quashed, and the Defendant should be precluded from engaging in a fishing expedition into the Plaintiff's mental health and treatment which has no bearing on the here and now.

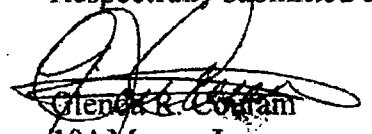
This pro se respectfully ask this court to deny the Defendant request for her mental health records from the Columbia Counseling Center as there is no information in those records that would not limit or deny the Defendant's liability in this matter nor is there any information related to the matter before this court to would excluded damages.

This pro se feels that the defendants continued probing into her background is a harassing tactic to get her to settle if she does not her entire life will be brought before the world to see.

See *Turner vs. Imperial Stores*, 161 F.R.D. 89 (D.S.D. Cal 1995); *Tomlin v. Holeck*, 150 F.R.D. 628 (D. Minn. 1993); *Smith v. J.I. Corporation*, 163 F.R.D. 229 (D.E.D.Pa.1995)

WHEREFORE: For all of the above stated reasons the Plaintiff respectfully requests that this Honorable Court: 1) Strike the Defendant's Notice of Records Deposition pertaining to Columbia Counseling Center.; 2) Quash the subpoena issued to the Columbia Counseling Center.; 3) Grant the Plaintiff's Motion for a Protective Order; and 4) Grant any and all other relief that the Plaintiff's cause may require.² See recent decision of the Virginia Supreme Court in *Kondaurov v. Kerdasha*, 629 S.E. 2d 181; 2006 Va. LEXIS 71, as holding that a negligent defendant "takes the plaintiff as he finds him" both with regard to pre-existing physical as well as emotional or mental conditions (i.e., the "eggshell skull" rule also includes an "eggshell psyche").

Respectfully submitted by,


Glenda R. Couram
104 Macaw Lane
Lexington, SC 29073
803 358-0127
grcouram@hotmail.com
Pro se Plaintiff

Dated this 29th day of January 2017
Lexington County, South Carolina

² The eggshell plaintiff rule is also referred to as the eggshell-skull rule, which is defined as follows: "The principle that a defendant is liable for a plaintiff's unforeseeable and uncommon reactions to the defendant's negligent or intentional act. . . . Also termed eggshell-plaintiff rule; thin-skull rule; special-sensitivity rule; old-soldier's rule." Black's Law Dictionary 555 (8th ed. 2004).

Proximate Cause -- "eggshell skull" rule - Where the defendant negligently causes an injury to the plaintiff, the defendant is liable for all damages which "naturally and proximately" result from the negligence. *Holderfield v. Rummage Bros. Trucking Co.*, 232 N.C. 623, 625 (1950) ("the tortfeasor is liable for all damages which may naturally and proximately result from his wrong without regard to whether he could have foreseen such injurious result."). "Under our general rules of negligence, a tortfeasor is liable if, by the exercise of reasonable care, he might have foreseen that some injury would result from his conduct or that consequences of a generally injurious nature might have been expected;" *Slaughter v. Slaughter*, 264 N.C. 732, 142 S.E. 2d 683 (1965). "A tortfeasor is liable to the injured party for all of the consequences which are the natural and direct result of his conduct although he was not able to have anticipated the peculiar consequence that did ensue;" *Lockwood v. McCaskill*, 262 N.C. 663, 670, 138 S.E. 2d 541, 547 (1964).

January 26, 2017

File No.: 20160881.000

CUSTODIAN OF RECORDS

Columbia Counseling Center
900 Saint Andrews Rd
Columbia, SC 29210-5816

Re: Glenda R. Couram v. Sherwood Tidwell
DOB: November 3, 1958
SSN: Unknown

Dear Sir/Madam:

Enclosed please find our subpoena requesting that you produce to us a complete copy of your records on **Glenda R. Couram; DOB: November 3, 1958; SSN: Unknown**, by Friday, February 17, 2017 at 2:00 p.m.

Please be sure to include copies of any and all medical records within your possession or control, including all medical records, reports, documents, interdepartmental notes, all inpatient, outpatient and emergency medical records, **health care questionnaires, prior medical history questionnaires, new patient questionnaires, correspondence**, medical reports, test results, lab test results, x-rays, x-ray reports, CT scans, MRI's, physician's reports, progress notes, consultation reports, office notes, nurses' notes, evaluations, interviews, charts, diagrams, treatment plans, medical flow sheets, telephone call reports, medical logs, disability determination information, questionnaires, **bills for services rendered**, and any other written, printed, or electronic information contained in your medical file concerning treatment of the above-named patient **FOR ALL DATES OF SERVICE**.

Please return with your records the enclosed **Affidavit of Records Custodian**, certifying that the records provided in response to this subpoena are, a complete and accurate copy of the patient's medical records.

These records are sought with regard to a personal injury liability claim. S.C. General Statute § 38-77-341 sets the maximum charges permissible for medical records requested in personal injury liability claims as follows: "The maximum fee for each request shall be sixty-five cents (\$0.65) per page for the first 30 pages, fifty cents (\$.50) per page for all other pages, provided that the health care provider may impose a minimum fee of up to twenty five and 00/100 dollars (\$25.00), inclusive of copying costs." Prior to preparing these copies, please notify us if the cost is expected to exceed \$75.00.

www.clawsonandstaubes.com

1612 Marion Street, Suite 200, Columbia, South Carolina 29201-2939
Office: (800) 774-8242 / Fax: (843) 722-2867

2013
2014
2015
2016
March

52

STATE OF SOUTH CAROLINA

ISSUED BY THE COURT OF COMMON PLEAS IN THE COUNTY OF RICHLAND

Glenda R. Couram, Plaintiff,

v.

SUBPOENA DUCES TECUM IN A CIVIL CASE

Sherwood Tidwell, Defendant,

Case Number: 2016-CP-40-02350

Pending in Richland County

TO: **CUSTODIAN OF RECORDS**

Columbia Counseling Center
900 Saint Andrews Rd
Columbia, SC 29210-5816

☐ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

DATE AND TIME

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below: SEE ATTACHMENT "A"

PLACE

CLAWSON and STAUBES, LLC
1612 Marion Street, Suite 200
Columbia, South Carolina 29201-2939

DATE AND TIME

Friday, February 17, 2017 at 2:00 p.m.

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

CLAWSON and STAUBES, LLC

Jescelyn T. Spitz
1612 Marion Street, Suite 200
Columbia, South Carolina 29201-2939
Phone: (800) 774-8242
Fax: (843) 722-2867
Attorney for Defendant

January 26, 2017

Date

Jescelyn T. Spitz

Print Name

January 26, 2017

Page 2

HIPAA COMPLIANCE INFORMATION

Please note that under HIPAA, 45 C.F.R. 164.512, it is appropriate to respond to a "subpoena, discovery request or other lawful process that is not accompanied by an order of a court" if the covered entity receives a written statement and accompanying documentation demonstrating that the party requesting such information has made a good faith attempt to provide written notice to the individual and the notice includes specific information about the litigation to permit the individual to raise an objection to the court or administrative tribunal and the time for raising objections has lapsed and no objections were filed.

A copy of the subpoena and cover letter you have received has been served on all counsel of record, as listed below, or the Plaintiff if proceeding without counsel. The time for objections under Rule 45 of the South Carolina General Statute is fourteen (14) days (or by the date of the subpoena if the subpoena requests records to be produced in less than fourteen days). Provided that no objection is raised within that time frame, we would insist that you honor the provisions of 45 CFR 164.512 and provide us with the all requested records without further action.

We would request that you not send us the records any sooner than fourteen days after the date of this subpoena so as to afford the patient time to object under the rules. Should this office receive notice of an objection, we will notify you and we will ask that you await resolution of the matter by the courts. *Again, provided no objection is filed within fourteen days, please provide the records to our office by Friday, February 17, 2017 at 2:00 p.m.*

Thank you for your attention to this request. Should you have any questions, please call my paralegal, Jeana Jenkins, at (800) 774-8242.

Very truly yours,

CLAWSON and STAUBES, LLC


Jescelyn T. Spitz

JTS/clw

Enclosures

cc: Glenda R. Couram (pro se plaintiff)

PROOF OF SERVICE		
SERVED	DATE January 26, 2017 PLACE Columbia Counseling Center ATTN: CUSTODIAN OF RECORDS 900 Saint Andrews Rd Columbia, SC 29210-5816	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL ☐ YES ☐ NO AMOUNT \$
SERVED ON	MANNER OF SERVICE	
SERVED BY	TITLE	

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct
Executed on January _____, 2017

SIGNATURE OF SERVER

CLAWSON and STAUBES, LLC

1612 Marion Street, Suite 200

Columbia, South Carolina 29201-2939

ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

- (i) fails to allow reasonable time for compliance; or
- (ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or
- (iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) If a subpoena:

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1)(A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

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ATTACHMENT "A"

Name: Glenda R. Couram
DOB: November 3, 1958
SSN: Unknown

Copies of all records within your possession or control, including but not limited to any and all correspondence, memoranda, notes, medical records/reports, statements, bills, tests/evaluation results, etc., or other entries and prepared documentation that concern or relate to the claim s files and/or claims history through and including the present date. IN LIEU OF ATTENDANCE AT THIS DEPOSITION IN THE OFFICES OF CLAWSON and STAUBES, LLC, YOU MAY SUBMIT A COMPLETE COPY OF THE ENTIRE RECORDS FILE WITH A LETTER CERTIFYING THAT THOSE ARE, IN FACT, A COMPLETE COPY OF THE RECORDS.

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Glenda R. Couram,

Plaintiff,

vs.

Sherwood Tidwell,

Defendant.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

CASE NO.: 2016-CP-40-02350

**AFFIDAVIT OF RECORDS
CUSTODIAN**

Having first been duly sworn according to law, the undersigned swears or affirms under penalty of perjury:

1. I, _____, am the duly authorized custodian of the records for Columbia Counseling Center and, in such capacity, I have authority to certify the attached records.

2. The attached records are true copies of all original records maintained by Columbia Counseling Center regarding Glenda R. Couram, DOB: November 3, 1958, SSN: Unknown that were requested in connection with the captioned matter.

3. The attached records were kept in the course of the regularly conducted business activity of Columbia Counseling Center and were prepared as a regular practice and custom.

4. The attached records were prepared by the personnel of Columbia Counseling Center in the ordinary course of business at or near the time of the act, condition, diagnosis, or event, reported thereon, and by a person or persons with knowledge of and a business duty to record or transmit those matters.

AND FURTHER AFFIANT SAYETH NOT.

AFFIANT

Sworn to before me this

_____ day of _____, 2017

Notary Public for South Carolina
My Commission Expires: _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT
CA NO: 2016-CP-40-02350

Glenda R. Couram)

Plaintiff)

Sherwood Tidwell, Insured)

Titan Indemnity Company)

Subsidiary of Nationwide Mutual Insurance)
Company;)

Defendants)

AMENDED

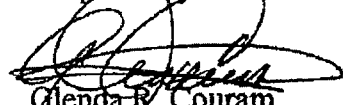
JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I certify that on this, 30th day of January 2017, I the undersigned served a copy of the Motion for Full and or Partial Summary Judgment and Motion to Quash on Mr. Sherwood Tidwell and Titan Insurance by personally delivering a certified copy to the USPS with sufficient postage affixed, addressed as follows:

Jescelyn T. Spitz, Esquire
ATTORNEY FOR SHERWOOD TIDWELL
1612 Marion Street, Suite 200
Columbia, SC 29201

Respectfully submitted by,


Glenda R. Couram

104 Macaw Lane

Lexington, SC 29073

803 358-0127

grcouram@hotmail.com

Pro se Plaintiff

Dated this 30th, day of January 2017
Lexington, South Carolina

RICHLAND COUNTY
FILED
2017 FEB -3 PM 2:19
JEANNETTE W. McBRIDE
C.C.P. & G.S.

**IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT
CA NO: 2016-CP-40-02350**

Plaintiff

**MOTION FOR SUMMARY
JUDGMENT**

Defendants

JURY TRIAL DEMANDED

NOW COMES, pro se, Plaintiff Glenda Couram and requests that this Court grant her a Motion for Full and or Partial full Summary Judgment against the named Defendant above, finding that Plaintiff is fault-free as a matter of law, no unnamed entities are at fault, and Defendant is accordingly liable as a matter of law in this personal injury case involving an auto accident that occurred in Columbia, South Carolina Richland County on September 18, 2015.

As a general rule in South Carolina, the driver who rear-ends another vehicle is presumed to be at fault for the accident and is held responsible for damages. The reasoning for this is that the driver in back is usually in a better position to avoid a rear-end collision. See SC Motor Vehicle Laws Code Title 56 Chapter 5 et.al.

On or about September 18, 2015, the Plaintiff, Glenda Couram ("Plaintiff"), was driving her car, on I 20 South headed towards Lexington, County (home). As the Plaintiff's vehicle was stopped in heavy rush hour traffic, the Defendant, following behind Mr. Brown, witness, the defendant was cited for operating his vehicle too fast for conditions. Defendant's initial attorney and insurance company conceded fault as the Defendant in the Admissions submitted by his

Attorney dated March 25, 2016. Insurance in conversations with the plaintiff and the Defendant admitted fault at the time of the collision on September 18, 2015.

II. STATEMENT OF FACTS

1. This accident occurred on September 18, 2015, a Friday during rush hour traffic a norm at 4:30 pm., in South Carolina.
2. The Plaintiff was at a complete stop in rush hour traffic
3. Mr. Brown was at a complete stop in rush hour traffic.
4. After noting that Mr. Brown had completely stopped and she was completely stopped the Plaintiff turned her attention back to the traffic in front waiting for it to move again and with no warning she heard a loud crash and suddenly realized to her complete astonishment that she had gotten hit, got out of her car to find out and learned that Mr. Tidwell collided into Mr. Brown's car forcing Mr. Brown's Cadillac Sedan into the rear of her car.
5. The Plaintiff was asked several times by Mr. Tidwell if she was hurt and responded she did not know; she was asked by Mr. Brown and made the same statement and then took pictures of her car. Plaintiff then asked Mr. Brown to call the police which he did
6. When the police arrived she was once asked if she was okay by the officer and responded "I do not know." The cars were moved from the far left lane to the far right where a report was taken.
7. The Plaintiff was allowed to leave and went directly home and proceeded to take further pictures of the rear of her car noticing that the Cadillac was hit hard enough to split her rear bumper and brand the emblem into her rear bumper.
8. The Plaintiff remained in the entire weekend and slept.

9. On Monday when she returned to work the full impact of the accident was felt. The plaintiff and the Wednesday of that week the pain was so severe the Plaintiff left work early and went to Lexington County Urgent Care.

10. The Plaintiff did not get any better and made an appoint with her family doctor (interesting she saw three accidents on I-20 this day and then on 26 ran into another accident by the time she got to her doctor's office her blood pressure was out of control and had to remain at the doctor's office for some time before she could leave.

11. Plaintiff was referred to Vital Energy for physical therapy and went to thru therapy from October 2015 to on or about March 23, 2016.

12. The Plaintiff again started having problems with her back and was referred to Palmetto Spine Center for an addition 3 to 4 months of physical therapy and counseling to deal with the anxiety suffered. (See Letter Written by Plaintiff to Nationwide Claims Specialist Mark Surko)

13. The Plaintiff filed this legal action in or about March of 2016.

14. The day on September 15, 2015 was sunny and dry.

15. In response to Plaintiff request for Admissions the attorney stated question 23 "that The Defendant was traveling on I-20 when he maneuvered his vehicle to the far right outside lane. After entering that lane of travel, his front bumper (car C)¹ tapped the rear of the vehicle driven by Mr. Brown (car B).²

16. In response to a question in the Admissions regarding glasses or corrective lenses it was admitted that the Defendant was "not wearing glasses or corrective lenses at the time of the accident but has started wearing corrective lenses in January 2016."

¹ Defendant was driving a 2014 White Nissan Commercial Truck used in his business for Tidwell Plumbing Heating and Air.

²Mr. Brown, witness, was driving a Cadillac Sedan (car B) – cream colored he was shoved and collided with the Plaintiff 2012 Honda Fit (car A)
Plaintiff was driving car A who was struck by car B after car C hit it

17. The attorney for Defendant admitted Defendant was cited for 'driving too fast for conditions" and he did not contest the ticket but paid. Admissions dated May 25th, 2016.

Police Report from SCDMV #15597964 "Units 1, 2 and 3 were traveling W on I-20 Units 1 and 2 stopped for traffic ahead. Unit 3 was driving too fast for conditions and struck unit 2 in the rear Unit 2 was forced into Unit 1" written by Riley, T Highway Patrol Officer who responded (report stat purposes only)

18. Fault has never been denied.

II. Summary Judgment Standard

The legal standard imposed by most jurisdictions requires that in order for a summary judgment to be granted by the court, the party moving for summary judgment must demonstrate that there are "no genuine issues of material fact and that the moving party is entitled to judgment as a matter of law."

"In reviewing the grant of summary judgment, a court applies the same standard that governs the trial court under Rule 56, SCRPC: summary judgment is proper when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law." *Pittman v. Grand Strand Entm't, Inc.*, 363 S.C. 531, 536, 611 S.E.2d 922, 925 (2005); *Young v. South Carolina Dep't of Disabilities & Special Needs*, 374 S.C. 360, 649 S.E.2d 488 (2007); *Henderson v. Allied Signal, Inc.*, 373 S.C. 179, 644 S.E.2d 724 (2007); *Eagle Container Co., LLC v. County of Newberry*, 366 S.C. 611, 622 S.E.2d 733 (Ct.App.2005); *B & B Liquors, Inc. v. O'Neil*, 361 S.C. 267, 603 S.E.2d 629 (Ct.App.2004).

In determining whether any triable issue of fact exists, the evidence and all inferences that can reasonably be drawn there from must be viewed in the light most favorable to the nonmoving party. *Catawba Indian Tribe of South Carolina v. State*, 372 S.C. 519, 642 S.E.2d 751 (2007); *Medical Univ. of South Carolina v. Arnaud*, 360 S.C. 615, 602 S.E.2d 747 (2004); *Moore v. Weinberg*, 373 S.C. 209, 216, 644 S.E.2d 740, 743 (Ct.App.2007); *Rife v. Hitachi*

Constr. Mach. Co., Ltd., 363 S.C. 209, 609 S.E.2d 565 (Ct.App.2005). If triable issues exist, those issues must go to the jury; Mulherin-Howell v. Cobb, 362 S.C. 588, 608 S.E.2d 587 (Ct.App.2005).

Summary judgment is appropriate 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 judgment as a matter of law. See *Hansson v. Scalise Builders of South Carolina*, 374 S.C. 352, 650 S.E.2d 68 (2007); *Helms Realty, Inc. v. Gibson-Wall Co.*, 363 S.C. 334, 611 S.E.2d 485 (2005); *BPS, Inc. v. Worthy*, 362 S.C. 319, 608 S.E.2d 155 (Ct.App.2005). See also *Schmidt v. Courtney*, 357 S.C. 310, 592 S.E.2d 326 (Ct.App.2003) (stating that all ambiguities, conclusions, and inferences arising from the evidence must be construed most strongly against the moving party).

Accordingly, Plaintiff seeks an order granting summary judgment on the issue of liability as to the Defendant, with the questions of compensatory and punitive damages only to be presented to the jury.

III. Defendant Has Not Overcome the Rebuttable Presumption that this Rear-end Accident Was Caused by His Negligence

In this case, it is undisputed that Plaintiff was stopped behind stopped traffic on I 20 and that witness Mr. Brown was stopped behind her when she caused the chain reaction that caused damage and injury to her. No other entity was involved in causing this accident. Defendant should be found liable as a matter of law for all damages proximately flowing from his negligence.

An evidentiary presumption of negligence arises where a motor vehicle is struck from behind by another vehicle. *Andrade v. Housein*, 147 Md. App. 617, 623 (2001).

It is also to be noted that the initial attorney stated in the Admissions describing the accident as follows:

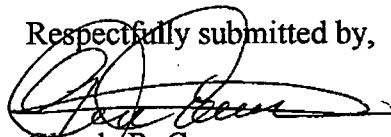
"Question: Please state, in detail, how you contend the collision occurred

"Response: The Defendant was traveling on I 20 when he maneuvered his vehicle to the far right outside lane. After entering that lane of travel, his front bumper tapped the rear bumper of the vehicle driven by Mr. Brandon Brown"

Conclusion

For the reasons set forth above, uncontested facts establish that the Defendant is liable as a matter of law under the controlling South Carolina negligence per se doctrine. Accordingly, Rule 56(c) of the SCRPC entitles Plaintiff to an order granting summary judgment on the issue of liability, with the questions of compensatory, economic to include car repairs, medical expenses, lost wages, etc., non-economic physical pain current and future, loss of enjoyment of life, loss of affection, etc., and punitive damages to be submitted to the jury as to the Defendant.³

Respectfully submitted by,



Glenda R. Couram
104 Macaw Lane
Lexington, SC 29073
803 358-0127
grcouram@hotmail.com
Pro se Plaintiff

Dated this 29th day of January 2016
Lexington County, South Carolina

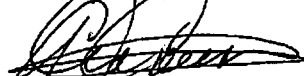
³ [1] Plaintiff sought additional information following up on this answer but Defendant has refused to answer, if this Motion for Summary Judgment is denied Plaintiff will file a Motion to Compel.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion for Full or Partial Summary Judgment, were sent by U.S. mail, postage prepaid, this 29th day of January 2017 to:

Jescelyn T. Spitz, Esquire
Clawson and Staubes, LLC
1612 Marion Street, Suite 200
Columbia, SC 29201
COUNSEL FOR SHERWOOD TIDWELL

Respectfully submitted by,



Glenda R. Couram
104 Macaw Lane
Lexington, SC 29073
803 358-0127
grcouram@hotmail.com
Pro se Plaintiff

Dated this 29th day of January 2016
Lexington County, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Glenda R. Couram,

Plaintiff,

vs.

Sherwood Tidwell,

Defendant.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

CASE NO.: 2016-CP-40-02350

**DEFENDANT'S MEMORANDUM IN
OPPOSITION TO PLAINTIFF'S MOTION
FOR FULL AND/OR PARTIAL
SUMMARY JUDGMENT**

Defendant, Sherwood Tidwell, by and through his undersigned attorney, respectfully submits this Memorandum in Opposition to the Plaintiff's Motion for Full and/or Partial Summary Judgment.

INTRODUCTION

This case involves a motor vehicle accident that occurred on September 18, 2015, on I-20 in or near Columbia, South Carolina. The accident involved three vehicles. The Defendant, Sherwood Tidwell, was operating a vehicle that came into contact with the rear of a vehicle being operated by Brandon Brown. Mr. Brown's vehicle then came into contact with the rear of a vehicle being operated by the Plaintiff, Glenda Couram.

STANDARD

Rule 56 of the South Carolina Rules of Civil Procedure ("SCRCP") provides for judgment as a matter of law where "there is no genuine issue as to any material fact." Rule 56 (c), SCRCP. As it is a drastic remedy, summary judgment "should be cautiously invoked so that no person will be improperly deprived of a trial of the disputed factual issues." Baughman v. Am. Tel. & Tel. Co. 306 S.C. 101, 112, 410 S.E.2d 537, 543 (1991) (citations omitted). This means that summary judgment must

bb

not be granted until the opposing party has had a full and fair opportunity to complete discovery. Id.

"Summary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law." Vermeer Carolina's, Inc. v. Wood/Chuck Chipper Corp., 336 S.C. 53, 59, 518 S.E.2d 301, 305 (Ct. App. 1999) (citations omitted). All ambiguities, conclusions, and inferences arising from the evidence must be construed most strongly against the moving party. Id.

Summary judgment is only appropriate 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 judgment as a matter of law. Rule 56(c), SCRPC; Hansson v. Scalise Builders of South Carolina 374 S.C. 352, 354-55, 650 S.E.2d 68, 70 (2007). "The purpose of summary judgment is to expedite disposition of cases which do not require the services of a fact finder." Dawkins v. Fields 354 S.C. 58, 69, 580 S.E.2d 433, 439 (2003). So long as proof exists of "specific facts showing that there is a genuine issue for trial," the Court must not enter summary judgment. Id. at 70-71, 580 S.E.2d at 439 (citations omitted).

APPLICABLE LAW

In order to prevail on a claim for negligence, the Plaintiff must prove that the Defendant owed her a duty of reasonable care, that the duty was breached and that the breach was the proximate cause of the Plaintiff's injuries. "Negligence is not actionable unless it is a proximate cause of the injury." Hanselmann v. McCardle, 275 S.C. 46, 48 (1980). "Proximate cause 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. Legal cause is proved by establishing foreseeability."

Madison v. Babcock Ctr., Inc., 371 S.C. 123, 147 (2006). "The question of proximate cause ordinarily is one of fact for the jury" Id.

ARGUMENT

The Defendant admits liability in regard to the accident in question in this case; however, the Defendant disputes both causation and damages. The Defendant argues that the Plaintiff was not injured in the accident and further argues that the Plaintiff is claiming injuries that are unrelated to the accident. The Plaintiff testified during her deposition that she was able to exit her vehicle following the collision, and she began taking pictures of her vehicle shortly thereafter. Couram Dep. 95:24 -96:1, Oct. 18, 2016. She did not have any pain immediately following the accident. Couram Dep. 101:1-3, Oct. 18, 2016. She also testified that she was able to drive her vehicle for several weeks following the accident before having any repairs performed. Couram Dep. 101:1-14, Oct. 18, 2016. The Plaintiff also admits she waited five days before seeking any medical treatment following the accident. Couram Dep. 108:3-6, Oct. 18, 2016. Further, the Plaintiff is claiming similar injuries in numerous lawsuits filed in both Richland County and Lexington County. In a lawsuit filed on January 17, 2017, against several defendants, including the Plaintiff's prior employer, the South Carolina Department of Motor Vehicles, the Plaintiff claims:

extreme humiliation, embarrassment, depression, sleeplessness, emotional pain, and severe emotional distress which culminated in physical injury and bodily injury, suffering, mental anguish, inconvenience, loss of enjoyment of life, excess weight gain, past and future medical cost, and other losses from date of said acts all to Plaintiff's damage in a sum as may be shown according to proof.

Glenda Couram v. Shirley Rivers , et al., Compl. ¶ 64(c). The Plaintiff is claiming

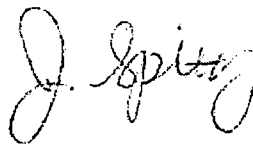
nearly identical injuries as a result of the accident in question in this case and the lawsuit filed January 17, 2017.

While the Plaintiff claims she sustained physical and mental injuries as a result of the accident in question, it is within the province of the jury to determine whether the Plaintiff's alleged damages were caused by the accident in question in this case, meaning a jury must determine whether the Plaintiff's alleged damages would have occurred "but for" the Defendant's alleged negligence, as well as whether such damages were "foreseeable" or the natural and probable consequence of the alleged failure to exercise reasonable care.

CONCLUSION

WHEREFORE, the Defendant moves this Honorable Court to deny the Plaintiff's Motion for Summary Judgment as there is sufficient evidence to create a material issue of fact for the jury to decide the issues of causation and damages.

CLAWSON and STAUBES, LLC



Jescelyn T. Spitz
Bar No.: 101880
1612 Marion Street, Suite 200
Columbia, South Carolina 29201-2939
Phone: (800) 774-8242
Fax: (843) 722-2867
Email: jspitz@clawsonandstaubes.com
Attorney for Defendant Sherwood Tidwell

Columbia, South Carolina
April 24, 2017

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

CASE NO: 2016-CP-40-02350

Glenda R. Couram,)
)
Plaintiff)
)
v)
)
Sherwood Tidwell, Insured)
Titan Indemnity Company)
Subsidiary of Nationwide Mutual Insurance)
_____)

PLAINTIFF RESPONSE TO DEFENDANTS MEMORANDUM UNTIMELY

Glenda Couram, pro se Plaintiff, requests that this Court grant her Motion for Full and or Partial Summary Judgment, finding that Plaintiff was fault-free as a matter of law, no unnamed entities are at fault, and Defendant is accordingly liable as *admitted* as a matter of law in this personal injury case involving three car an auto accident crash that occurred on September 18, 2015 in Richland County Columbia South Carolina and in doing so grant the amount of damages requested, for full summary judgment in favor of Plaintiff.¹

I. INTRODUCTION

The Plaintiff, at the time of this accident, was about to turn 57 years old, she had been permanently employed with SC DMV since on or about June 2007. At the age of 55 she had been dumped by her HMO because as they said she was over 55 years old and not suited for HMO's insurance. I guess that meant death and injury, illness was a foregone conclusion and upkeep would be astronomical after 55 years of living.

¹ Note the plaintiff filed the Motion for Summary Judgment on January 29th, 2017 the Defendants filed memorandum in response on April 24, 2017.

The plaintiff has suffered from panic attacks, stress and anxiety (now chronic)² since October 2009 (this the state the Defendant interfered in or made himself part of that was already present) and has been approved for FMLA with her employer since, but managed to keep her job without any problem with the diagnoses until April 3, 2017 when as a result of this accident she lost her career job and in doing so lost her retirement, pension, public service employment to pay for student loan after ten years of employment (only about 2.5 years left), health insurance and now her entire life including house is on the line due to Nationwide continued interference and failing to settle this matter timely when there was no question of the defendants fault. (Plaintiff will submit the Letter of Termination and emails from the mediator's Attorney that played in role in the loss of employment).

II. HISTORY

On or about September 18, 2015 a Friday, the Plaintiff, as usual left work at 4:00 pm from in Blythewood traveling on I20 headed towards the Spartanburg exit in Richland County. The day was clear, bright and dry. The traffic about a mile or mile in half from the Broad River exit slowed and came to a complete stop as it is prone to do at that time of day – car in front of Plaintiff had stopped, Plaintiff's vehicle was stopped, Brown's Cadillac sedan was stopped, Plaintiff watch his car come to a complete stop. Plaintiff turned back to the traffic ahead to wait for the traffic to move again and suddenly there was a loud noise or crash it was unbelievable that I had gotten hit. The car behind me was stopped. I was safe I had made sure, however I still got hit. I was in total shock and got out of the car and asked Brown what happened. I went back to my car and sat down, Tidwell came up several times asking if we were okay, Mr. Brown was

² When the Defendant hit her she had this medical condition BUT she did not have back problem on top of it as she does not very definition of the "egg shell doctrine" "but for" his carelessness and actions she now has another permanent medical condition and an and increase fear of driving and death leaving her dog to suffer the same faith unless arrangement are made

on his cell phone. Finally, Plaintiff got up to see what damage had been done, and took photos of her rear bumper at about 4:35 pm according to the phone. Plaintiff fails to see why that was wrong as the Defense seems to think. If she had not taken the pictures the damage to her car would not be evident or documented because none of the photos by the defense shows any damage done. In fact, the photos from the Defendant's insurance company, Nationwide, has the wrong car pictured driven by Brown they show a Cadillac SUV and this is also in the police report when in fact Brown was driving a Cadillac Sedan. An SUV could not have done the damage to the Plaintiff's car. Could this be the reason why the car was switched? The colors are also different Brown's sedan (long like a limo) he was driving was the color of a Lexington County Sheriff Department Car. The SUV shown is white.

I had not foreseen the Defendant crashing into Brown. I could have understood his hitting Brown but I was stunned I was involved. The Defendant, who had a need for glasses, did not get them until January 2016 after this accident. (See Interrogatories/admission). Tidwell was driving a commercial vehicle for his plumbing business, operating his vehicle in a negligent and careless manner, given the times of day and conditions that are normal in South Carolina as stated rear ended crashed into Brown's vehicle forcing Brown Cadillac sedan to crash into the Plaintiff's without warning.

The Defendant never denied responsibility as well as the insurance company but they do not believe they caused any damages to the plaintiff.

III. LEGAL AUTHORITY

A. SUMMARY JUDGMENT STANDARD

"In determining whether any triable issue of fact exists, the evidence and all inferences which can reasonably be drawn therefrom must be viewed in the light most favorable to the

nonmoving party." *Pye v. Estate of Fox*, 369 S.C. 555, 563, 633 S.E.2d 505, 509 (2006). An appellate court reviews the granting of summary judgment under the same standard applied by the trial court under Rule 56, SCRPC. *Brockbank v. Best Capital Corp.*, 341 S.C. 372, 379, 534 S.E.2d 688, 692 (2000). "Summary judgment should not be granted even when there is no dispute as to evidentiary facts if there is dispute as to the conclusion to be drawn from those facts." *Id.* at 378, 534 S.E.2d at 692.

Under O.C.G.A. § 9-11-56, the Court may grant summary judgment only "when there is no genuine issue of material fact and the movant is entitled to judgment as a matter of law." *Rutherford v. Revco Disc. Drug Ctrs., Inc.*, 301 Ga. App. 702, 702 (2009). "The granting of summary judgment . . . 'is a very, very grave matter'" because "'the case is taken away from the jury, and the court substitutes its own judgment for the combined judgment of the [jury].'" *Serv. Merchandise, Inc. v. Jackson*, 221 Ga. App. 897, 901(1996) (quoting *Johnson v. Curenton*, 127 Ga. App. 687, 688 (1972)). On a motion for summary judgment, the Court must view the facts in the light most favorable to the non-moving party, drawing all reasonable conclusions and inferences in the non-movant's favor. See *Assoc. Servs., Inc. v. Smith*, 249 Ga. App. 629, 630 (2001) (emphasis added).

In this case the Plaintiff, as the moving party, "have the *burden* of establishing the non-existence of any genuine issue of fact, and *all doubts* must be resolved in favor of the non-moving party." *Northside Bldg. Supply Co. v. Foures*, 201 Ga. App. 259, 259 (1991) (emphasis added). Where the evidence is conflicting, "the trial court . . . is [not] permitted to weigh that evidence or determine its credibility, as those tasks are within the exclusive province of the jury." *Serv. Merchandise, Inc.*, 221 Ga. App. at 899. If the evidence is not "plain, palpable, and

undisputed,” then the Court cannot grant summary judgment. *Plyant v. Samuels, Inc.*, 262 Ga. App. 358, 361 (2003). See *Lovely v Allstate Ins. Co.*, 658 A.2d 1091(1995).

B. THE DEFENDANT HAS NOT OVERCOME THE REBUTTABLE PRESUMPTION THAT THIS REAR-END ACCIDENT WAS CAUSED BY HIS NEGLIGENCE

In this case, it is undisputed that the Plaintiff was stopped in rush hour traffic, that she ensured she stopped behind the car in front of her far enough back to give Brown room to completely stop his car and “but for” the defendant crashing into Brown then Brown would not have crashed into the Plaintiff causing her injuries.

No other entity was involved in causing this accident. Defendant should be found liable as a matter of law for all damages proximately flowing from his negligence. To that the Defendant was ticketed for “driving too fast for conditions” he did not contest the ticket and all three cars as a result of the crash were put in shops for repair.

An evidentiary presumption of negligence arises where a motor vehicle is struck from behind by another vehicle. See *Andrade v Housein* 147 Md. App. 617, 623 (2001). Plaintiff was not moving, Brown was not moving at the time of the crash the cause and negligence is purely on Tidwell and no one else. The time of day which is a norm in South Carolina made the accident “foreseeable.” The day 18th of September was a clear, bright and dry day and it was rush hour in South Carolina and a collision was very much foreseeable.

C. TITLE 56 - MOTOR VEHICLES 56-6-10 et.al.

§56-5-1520 - Driving too fast for conditions pursuant to S.C. Code Ann. §56-5-1520 states that it is unlawful for a person to “*drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. Speed must be controlled to avoid colliding with a person, vehicle, or other conveyance.*”

§56-5-1930 - Following too closely (a) The driver 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.

(b) The driver of any truck or motor vehicle drawing another vehicle when traveling upon a roadway outside of a business or residence district and which is following another truck or motor vehicle drawing another vehicle shall, whenever conditions permit, leave sufficient space so that an overtaking vehicle may enter and occupy such space without danger, except that this shall not prevent a truck or motor vehicle drawing another vehicle from overtaking and passing any vehicle or combination of vehicles.

(c) Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade whether or not towing other vehicles shall be so operated as to allow sufficient space between each such vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy such space without danger. This provision shall not apply to funeral processions.

HISTORY: 1962 Code Section 46-393; 1952 Code Section 46-393; 1949 (46) 466; 1977 Act No. 143 Section 9.

See *The Hartford Insurance Company v. Manor In of Bethesda, Inc. et al.*, 335 Md. 135 (1994); 642 A.2d 219 – “First, the defendant must be under a duty to protect the plaintiff from injury. Second, the defendant must fail to discharge that duty. Third, the plaintiff must suffer actual loss or injury proximately resulting from that failure”

See *Christiansen v. Gustafson* - Superior Court of the State of Delaware in and for Kent County; C.A. No: K12C-02-034 (RBY) (Del. Super. Ct. Dec. 24, 2013); ‘where court found defendant’ liability as fact and granted summary judgment due to issuance of ticket’ and based on discovery responses

See *Durse v. Henn*, 68 So. 3d 271 - Fla: Dist. Court of Appeals (Fla. 4th DCA, July 6, 2011). “admissibility of full amount of medicals collateral source rule; No. 4D09-1659.

See *Ronald Rawls v Progressive Northern Insurance Company et.al*, No. 18855, January 7, 2014; his own eyewitness testimony about what had occurred – can be proven by direct or circumstantial evidence; rear end collision.

IV. CONCLUSION

For the reasons set forth above, this Court should enter an order granting Plaintiff's Motion for Partial and or Full Summary Judgment, because Plaintiff completely fault-free and Defendant has admitted sole liable for causing this car accident and all damages proximately resulting from the accident including damages resulting under the "egg shell doctrine."³

While the plaintiff has employment discrimination/retaliation legal action pending they play *no role* in this auto accident by Tidwell caused by his negligent operation of his commercial work vehicle and all the action prove is that the plaintiff since October 2009 has suffered from anxiety, stress and panic disorder now chronic as of this year but there is nothing in the records medical or otherwise stating that the *back injury* left side of plaintiff shoulder was a pre existing condition but by a direct result and actual cause resulting from the auto accident caused by Mr. Tidwell. The legal action also does not state a physical injury accident to plaintiff's back took place at any time. A back injury that still persist/continues almost two years later, plaintiff had to go for two bouts of physical therapy, dry needling, etc., and cannot go to therapy for today because of the Rule 68 Judgment Order filed by the Defendants.

The plaintiff told Nationwide from the very beginning what was happening (See Letters submitted to claims adjusters) The plaintiff current issues of stress and the panic attacks she endures *when driving* is a proximate and "but for" result of the auto accident as of September 18, 2015, because she did not have back pain/injury prior to the accident. "But for" this accident the plaintiff would still have her job, she did not lose her job because she was not doing the job,

³The "Egg Shell Rule" or otherwise known as the "Thin-Skull Rule" holds that one is liable for all *consequences resulting from their negligent activities leading to an injury sustained by another person. This is true even if the innocent victim suffers an unusually high level of damage due to preexisting vulnerabilities or medical conditions. The rule stands for the proposition that if a person has a skull as delicate as that of the shell of an egg, even if the negligent party was unaware of the condition, the Defendant would still be held liable for all damages resulting from his negligent conduct.*

fulfilling all responsibilities of being at work on time but because she merely looked at her record to ensure the accident information was correct, she was let go because she used the email instead of the phone to answer the attorneys involved as it was the only time to do so and as a result one of the attorneys called in and reported the plaintiff was using email to answer their questions.

As to the defendant's claim that the plaintiff drove for weeks after the accident, and that they can prove by the deposition it is not true or taken out of context. The first reason the 1000 year flood and the accident.

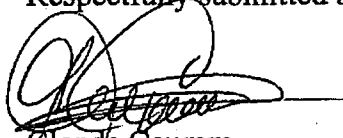
I went back to work on that Monday, September 21, 2015 after the accident (see letter). That's when the injury occurred not the weekend because I never left the house (slept all weekend) and not that Friday because I was still in disbelief I had gotten hit (I took a couple of pictures of my car at the scene time about 4:35 and when I got back to the house took a few more time about 5:25). By that Wednesday, September 23, 2015⁴ I could not stand it anymore the stiffening and pain continued, I became paranoid and petrified while driving to work, everyone seemed to ride my bumper, it seems everywhere I went there was an accident (two when I left early to go to LMC, one when I went to Dr. Birdsong Office and one at the intersection where the physical therapist office was. I drove with emergency lights on, afraid I would die and Cash would be in this house trapped to the point that Monday, September 21, 2015. (I had never had to worry about anyone else before and the accident brought that fact to my attention that I had a living being in my house depended on me) I went to my neighbor and told her if I was not back by a certain time to get Cash (I called the claims adjuster that Monday and each day week of 21st of September) and tried to reach Dr Birdsong to ask how long the pain would last, it continued to

⁴ I was out due to pain and FMLA anxiety on week of September 24 to the 25, 2015, after LMC appointment and went back to work September 28, 2015, saw the nurse on October 2, 2015 and the flood happened and we were out until October 9, 2015 due to the flood

get worse so I went to see the nurse Dr Birdsong was out, on October the 2nd, 2015 who prescribed pain pills and made referral to physical therapy. Then the Flood came and we were out state employees until around October 9, 2015. I put car in shop on October 12, 2015 and had rental for that week was finally able to go into physical therapy on October 19/20, 2015 when everything was going back to normal. (I did not drive for weeks after the accident the first week of September 21st I went back to thinking I was okay except for stiffness but when I got in the car towards work the damage was done manifested itself to the point I left early that Wednesday the 23rd and was out the rest of the week. I went back on 28th and we were out as of that Saturday when the flood started).

The plaintiff is entitled to the entire limit of the Defendant's policy of fifty (50) thousand dollars as well as the addition for current and future pain and suffering, medical costs to date and for future medical costs, current and future lost pay, loss of employment, loss of home, embarrassment of filing for unemployment and food stamps for asking total of one hundred and 20 thousand dollars plus any other damages this current deems appropriate. The plaintiff did not enter the defendant's life causing him harm and entered hers.

Respectfully submitted by,



Glenda Couram
104 Macaw Lane
Lexington, SC 29073
803 358-0127
grcouram@hotmail.com

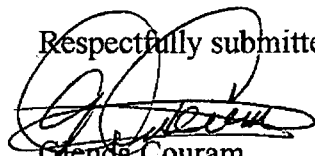
Dated this 26th Day of April 2017
Lexington County South Carolina

Certificate of Service

I hereby certify that a copy of the foregoing Plaintiff's Response to the Defendant's untimely Response to her Motion for Full and Partial Summary Judgment, hard copy delivered to defendant and court on Thursday April 27th, 2017, during hearing a copy was also scanned to the defendants and the court:

Jescelyn T. Spitz, Esquire
Clawson and Staubes
1612 Marion Street, Suite 200
Columbia, SC 29201-2939
Counsel for Defendant Tidwell

Respectfully submitted by,



Glenda Couram
104 Macaw Lane
Lexington, SC 29073
803 358-0127
grcouram@hotmail.com

Dated this 25th day of April 2017
Lexington County South Carolina

PS: excuse any typos or grammar mistakes

STATE OF SOUTH CAROLINA

COUNTY OF Richland

Couam, Glenda

Plaintiff,

vs.

Sherwood Tidwell

Defendant.

IN THE COURT OF COMMON PLEAS
5th JUDICIAL CIRCUIT

CASE NO.: 2016-CP-40-02350

MOTION AND ORDER INFORMATION
FORM AND COVERSHEET

Plaintiff's Attorney: Glenda Couam
Bar No. 104 Macaw Ln
Address: Lex, SC 29073
Phone: 803 358-0127
Fax:
E-mail: Other:

Defendant's Attorney: J. Spitz
Bar No. Clawson + Staubles
Address: Columbia, SC
Phone: Fax:
E-mail: Other:

- ☐ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: Rule 59 New Trial, Addition

Estimated Time Needed: 2 hrs?

Court Reporter Needed: ☒ YES ☐ NO

SECTION II: Motion/Order Type

☒ Written motion attached mailed

☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for ☒ Plaintiff / ☐ Defendant

6/22/17
Date submitted

SECTION III: Motion Fee

☐ PAID - AMOUNT: \$ 25.00

☐ EXEMPT:

(check reason)

- ☐ Rule to Show Cause in Child or Spousal Support
☐ Domestic Abuse or Abuse and Neglect
☐ Indigent Status ☐ State Agency v. Indigent Party
☐ Sexually Violent Predator Act ☐ Post-Conviction Relief
☐ Motion for Stay in Bankruptcy
☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)
☐ Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter:
☐ Other:

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order.

☐ Other:

JUDGE CODE

Date:

CLERK'S VERIFICATION

Collected by: IM Date Filed: 6.26.17

☐ MOTION FEE COLLECTED: \$

☐ CONTESTED - AMOUNT DUE: \$

STATE OF SOUTH CAROLINA)
)
)
COUNTY OF RICHLAND)
)
)
Glenda R. Couram)
Plaintiff,)
)
vs)
)
)
Sherwood Tidwell,)
Defendants.)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

CASE NO.: 2016-CP-40-02350

RICHLAND COUNTY
FILED
2017 JUN 26 AM 11:05
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

PLAINTIFFS MOTION PURSUANT TO RULE 59 REQUESTING ADDITUR OR
IN THE ALTERNATIVE A NEW TRIAL ON DAMAGES

Plaintiffs, Glenda Couram¹, acting pro se, (hereafter Plaintiff) comes now and file this Motion for Judgment Notwithstanding the Verdict Pursuant to Rule 50(b), in the alternative, Motion for New Trial or Additur.

1. Motion for new trial pursuant to SCRCP RULE 59 - South Carolina Rules of Civil Procedure courts to alter or amend final orders or judgments. "A motion to alter or amend the judgment shall be served not later than 10 days after receipt of written notice of the entry of the order." Rule 59, SCRCP. Plaintiff has not received the written order but the Jury verdict was handed down on June 16, 2017 making this motion due on June 26, 2017. The party has 10 days, which period may be extended for an additional period not exceeding 20 days either by the court for good cause shown or by the parties by written stipulation.

2. In jury trials, the trial court may grant a new trial based upon a prejudicial error by the court in the admission or exclusion of evidence, an error in the jury instructions, prejudicial comments by the judge or attorneys, a finding that the verdict is against the great weight of the

¹ Plaintiff's mother passed away in June 2015, three months prior to this accident: she was told she was pre diabetic the same week of the accident.

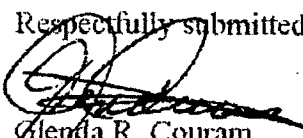
evidence, a finding that the jury's verdict is the result of passion, prejudice or bias, or any grounds upon which new trials were granted in actions at law prior to the adoption of these rules.

3. Allowing the verdict rendered by the jury in this case to stand allows injustice to stand; and a new trial should, therefore, be ordered. *Dupree v. Plantation Pointe, L.P.*, 881 So.2d 832 (Miss. 2003).

4. Trial courts have authority to grant a new trial, where, in the exercise of their sound discretion, they regard verdict as being contrary to the substantial weight of the evidence. *Coho Resources, Inc. v. Chapman*, 913 So.2d 899 (Miss. 2005). Trial court may grant new trial when convinced that jury has departed from its oath and that verdict is result of bias, passion, and prejudice. *Hamilton v. Hammons*, 792 So.2d 956 (Miss. 2001D). A new trial may be granted in a number of circumstances, such as when the verdict is against the substantial or overwhelming weight of the evidence. *White v. Yellow Freight Sys., Inc.*, 905 So.2d 506 (Miss. 2004 1985).

As explained in the accompanying Memorandum, the Court's decision was based on clear error of fact; the jury's verdict is against the overwhelming weight of the evidence. A new trial should be granted.

Respectfully submitted by:


Glenda R. Couram
104 Macaw Lane
Lexington, SC 29073
grcouram@hotmail.com

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

COUNTY OF RICHLAND

CASE NO.: 2016-CP-40-02350

Glenda R. Couram

Plaintiff,

vs

Sherwood Tidwell,

Defendants.

FILED
2017 JUN 26 PM 4:20
JENNIFER W. MCORINE
CLERK, C.F. & G.S.

MEMORANDUM IN SUPPORT OF PLAINTIFF'S
MOTION PURSUANT TO RULE 59 REQUESTING ADDITUR OR IN THE
ALTERNATIVE A NEW TRIAL ON DAMAGES

1. Plaintiff respectfully request that this court reconsider the decision handed down June 16, 2017, granting the plaintiff damages of only \$1000 which is wholly inadequate for the evidence and testimony put forth. The grant of damages awarded by the jury for the plaintiff pain and suffering including the continued suffering she endures on a daily basis is against the weight of the evidence and "out of proportion" to the enormous and prolong suffering the Plaintiff testified she continues to endure.
2. On June 21, 2017 the plaintiff had to go back her doctor for her left arm and was prescribed muscle relaxants, she had to endure four days of fever blisters and due to her job loss, as a result of this accident, she can no longer afford her medication which is now over \$300 dollars, the blood pressure medication is \$140 alone. Plaintiff's anxiety medication is \$85 and 104 dollars. Plaintiff is unable to have physical therapy because she does not have upfront money and she cannot have x rays for the same reason – she applied for assistance with was humiliated and after the embarrassment was told she could not be helped because of the ongoing connection her injuries has to the automobile accident.

3. The jury awarded damages based on the plaintiff's car not based on the jury instructions as to the damages she suffered to her body. The defendant provided no evidence that the plaintiff injuries were not the direct result of the accident and the defendant's negligence but the plaintiff provided the court and jury proof of causation that defendant's reckless actions caused her injuries. The award of the jury should shock the conscience of the court and its sense of justice and due to the inadequate verdict this Plaintiff should be granted a new trial for damages or Additur in the amount requested in this motion.
4. The trial judge did not instruct the jury as the plaintiff requested as to the egg shell or thin skull doctrine as a result the plaintiff should be granted a new trial absolute or a new trial nisi Additur. The defendant is required to take plaintiff as he found her and so should the jury in reaching their verdict as instructed yet the jury failed to honor their oath.
5. The SC Court of Appeals in *Stevens v Allen* (1999) states a trial court may grant a new trial absolute on the grounds that the verdict is excessive or inadequate. The jury's determination of damages, however, is entitled to substantial deference. The trial judge must grant a new trial absolute if the amount of the verdict is grossly inadequate or excessive so as to shock the conscience of the court and the verdict clearly indicates the figure reached was the result of passion, caprice, prejudice, partiality, corruption or some other improper motives. The failure of the trial judge to grant a new trial absolute in this situation amounts to an abuse of discretion and on appeal this Court will grant a new trial absolute.
6. In a recent decision, the SC Court of Appeals in *Graham v. Town of Latta South Carolina Appellate*, Case No. 2013-000752; March 30, 2016, stated circuit court may grant a new trial absolute when a jury awards excessive or inadequate damages. *Vinson v. Hartley*, 324 S.C. 389, 404, 477 S.E.2d 715, 723 (Ct.App.1996).

7. A motion for a new trial can be sustained where evidence and testimony presented strongly supports one party, but the judgment is for the other. One court has explained that the power to grant a motion for a new trial "is a power to examine a whole case on the law and the evidence, with a view to securing a result, not merely legally, but also manifestly against justice, - a power exercised in pursuance of a sound judicial discretion, without which the jury system would be a capricious and intolerable tyranny, which no people could long endure." *Aetna Casualty & Surety Co. v. Yeatts*, 122 F.2d 350 (4th Cir. 1941).
8. Compelling reasons must be given to justify invading the jury's province by granting a new trial to adjust damages. *See Proctor v. Dep't of Health and Envtl. Control*, 368 S.C. 279, 320, 628 S.E.2d 496, 518 (Ct.App.2006) "When considering a motion for a new trial based on the inadequacy or excessiveness of the jury's verdict, the trial court must distinguish between awards that are merely unduly liberal or conservative and awards that are actuated by passion, caprice, or prejudice." *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 26, 602 S.E.2d 772, 781 (2004); *Allstate Ins. Co. v. Durham*, 314 S.C. *36 529, 530, 431 S.E.2d 557, 558 (1993) (footnote omitted). " *See Smalls v. S.C. Dep't of Educ.*, 339 S.C. 208, 215, 528 S.E.2d 682, 686 (Ct.App.2000) (citations omitted); *Vinson v. Hartley*, 324 S.C. 389, 404, 477 S.E.2d 715, 723 (Ct.App.1996) (citing *Cock-N-Bull Steak House, Inc. v. Generali Ins. Co.*, 321 S.C. 1, 9, 466 S.E.2d 727, 731 (1996)).
9. Question of punitive damages should have been submitted to the jury pursuant to SC Supreme Court ruling in *Fairchild and Larry J. Fairchild V SCDOT, et.al.*, (2012)
10. The offense of Driving too fast for conditions pursuant to S.C. Code Ann. §56-5-1520 states that it is unlawful for a person to "*drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential*

hazards then existing. Speed must be controlled to avoid colliding with a person, vehicle, or other conveyance

11. The trial court concluded that because the plaintiff admitted this was an accident and was friendly towards the defendant that the question of punitive damages was not appropriate. Plaintiff objected and stated the violation of the above statute.

12. In *Fairchild*, 385 S.C. at 353, 683 S.E. 2d at 823 "The Court of Appeals found the grant of a directed verdict on the claim for punitive damages was error as the evidence and its reasonable inferences created a factual question as to whether Palmer had acted recklessly. The court agreed with *Fairchild* that, based on Palmer's conduct, which included driving a large commercial truck into heavy traffic just before the accident without any reduction in his rate of speed, and his alleged statutory violations, the jury should have been permitted to consider whether Palmer acted recklessly. *Id.* "

13. In this case, the defendant was driving a commercial vehicle he used in his business as a Plumber, he admitted he was driving 30 miles an hour during rush hour traffic on I-20 on a Friday in South Carolina headed toward the Broad River exit. He admitted he was going too fast and changed lanes to the left in order to avoid running into the back of the truck in the middle where he was and he recklessly switched lanes "seeing no cars in the far left lane, he felt he had no need to adjust his speed" instead he collided into Mr. Brown's car, resulting in severe bodily injury to the plaintiff who to this day continues to suffer pain and an inability to get back to her normal way of life and use of both arms and back.

14. In order to receive an award of punitive damages, the plaintiff has the burden of proving by clear and convincing evidence the defendant's misconduct was willful, wanton, or in reckless disregard of the plaintiff's rights. S.C.Code Ann. § 15-33-135 (Supp.1999); *Taylor v. Medenica*.

324 S.C. 200, 479 S.E.2d 35 (1996). A conscious failure to exercise due care constitutes willfulness. *McCourt by and through McCourt v. Abernathy*, 318 S.C. 301, 457 S.E.2d 603 (1995); *Hawkins v. Pathology Assocs. of Greenville*, 330 S.C. 92, 498 S.E.2d 395 (Cl.App.1998).

15. The issue of punitive damages must be submitted to the jury if more than one reasonable inference can be drawn from the evidence as to whether the defendant's behavior was reckless, willful, or wanton. *Graham v. Whitaker*, 282 S.C. 393, 321 S.E.2d 40 (1984); *Hawkins, supra*. *Welch v. Epstein*, 536 S.E.2d 408 (S.C. Ct. App. 2000).

16. Based on the South Carolina Supreme Court in *Fairchild* instead of determining the questions of punitive damages the trial judge should have submitted the question of punitive damages to the jury.

17. As such this plaintiff ask the court to grant a new trial or grant damages as demanded in this Motion to Reconsider as the jury verdict based on outstanding evidence was wholly inadequate in this matter.

18. Business Records Exception - During severe procedural qualifications prior to the trial which lead to threats of sanctions, mistrial, etc., the judge placed upon the plaintiff severe handicaps to such an extent that plaintiff was not able to submit medical records, medical bills, lost wages and whole list of damages to the jury because the damages were on documents or letters pro se wanted to read into the record which were merely accounts of the accident written to the adjusters, any reference to insurance or the adjuster could have been redacted but liability was not the issue on damages.

19. When the plaintiff was testifying about her health insurance of how she was dropped at the age of 55 years - that led to a call for a mistrial once again leading to terror of the justice

system. All the records plaintiff wanted to enter into the record was discovery documents the defendants received via discovery and each had been subpoenaed by the defense.

20. Plaintiff also believe the reaction of those in the courtroom when she said "insurance" lead to prejudice of the jury and verdict which was against the weight of the evidence.

21. Plaintiff also believe she should be allowed a new trial in regards to ruling that her medical records, diagnoses that were taken directly from her doctor's website in the course of everyday business, information that the defendant gotten under subpoena should have been allowed in to the record as the plaintiff had direct knowledge of the diagnoses and the fact that these documents were not hearsay but business records. In fact the defendant's liability had already been ruled on via the order of Judge Hood so there was no prejudice to the defendant . Pursuant to SC Rules 401,402,403, 410, 411, 801, 802 and 803, the court refused to even review the documents merely ruled they were not admissible.

22. The SC Supreme Court stated in State v. John Doe, No. 25486; June 17, 2002; in relation to the Business Record Doctrine Law/Analysis Medical records are admitted routinely as business records. Ellis v. Oliver, 323 S.C. 121, 473 S.E.2d 793 (1996); Benchoff v. Morgan, 302 S.C. 116, 394 S.E.2d 19 (Cl.App.1990); Love v. Garcia, 634 So.2d 158 (Fla.1994).

23. The trustworthiness of medical records is presumed, based on the fact that the test is relied on for diagnosis and treatment. See Love v. Garcia..... if it is sufficiently trustworthy to be relied upon for medical treatment, it is sufficiently trustworthy to be admitted as a business record. See Baber v. State, 775 So.2d 258 (Fla.2000) (admitting blood test taken for medical purposes as business record in criminal case); State v. Garlick, 313 Md. 209, 545 A.2d 27 (1988) (admitting hospital laboratory test as business record without extensive foundation when the

blood sample was not taken for purposes of litigation, the test was performed in a neutral setting (not a police lab), and no discrepancies were apparent on the face of the record).

24. Also in accord is *Rodgers v. Kemper Construction Co.*, *supra*, 50 Cal.App.3d 608, 626-627, in which the court held that the plaintiffs' testimony identifying the medical bills relating to the plaintiffs' treatment and indicating that the bills were paid, coupled with the admission of bills themselves, showed that the charges were reasonable. Plaintiff should have been allowed to introduce into evidence her medical records on the basis that they are all excluded from the usual hearsay rule."

25. Thirteenth Juror Doctrine - A circuit court may grant a new trial absolute on the ground that the verdict is excessive or inadequate. *Rush v. Blanchard*, 310 S.C. 375, 379, 426 S.E.2d 802, 805 (1993). "The jury's determination of damages, however, is entitled to substantial deference." *Id.* The circuit court should grant a new trial absolute on the excessiveness of the verdict only if the amount is so grossly inadequate or excessive so as to shock the conscience of the court and clearly indicates the figure reached was the result of passion, caprice, prejudice, partiality, corruption, or some other improper motives. *Id.* at 379-80, 426 S.E.2d at 805. See *Folkens v. Hunt*, 300 S.C. 251, 254, 387 S.E.2d 265, 267 (1990). See SC Court of Appeals decision in *Wright, v. Craft d/b/a Craft Auto Mart, Inc.*, Appellant. No. 4181; (2006) Verdict Result of Undue Passion and Prejudice by the Jury ... A trial court may grant a new trial absolute on the ground that the verdict is excessive or inadequate. *Stevens v. Allen*, 336 S.C. 439, 446, 520 S.E.2d 625, 628-629 (Ct.App.1999). The jury's determination of damages, however, is entitled to substantial deference. *Id.*; *Brabham v. S. Asphalt Haulers, Inc.*, 223 S.C. 421, 430, 76 S.E.2d 301, 306 (1953).

26. Compelling reasons must be given to justify invading the jury's province by granting a new trial to adjust damages pursuant to rule. See *Proctor v. Dep't of Health and Envntl. Control*, 368 S.C. 279, 320, 628 S.E.2d 496, 518 (Ct.App.2006) "When considering a motion for a new trial based on the inadequacy or excessiveness of the jury's verdict, the trial court must distinguish between awards that are merely unduly liberal or conservative and awards that are actuated by passion, caprice, or prejudice." *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 26, 602 S.E.2d 772, 781 (2004); *Allstate Ins. Co. v. Durham*, 314 S.C. 529, 530, 431 S.E.2d 557, 558 (1993) (footnote omitted). "A new trial absolute should be granted only if the verdict is so grossly excessive that it shocks the conscience of the court and clearly indicates the amount of the verdict was the 'result of caprice, passion, prejudice, partiality, corruption, or other improper motives.'" *Welch v. Epstein*, 342 S.C. 279, 302, 536 S.E.2d 408, 420 (Ct.App.2000).

27. Jury verdict inconsistent to the evidence provided and damage award. The jury found for the plaintiff as to proximate cause there was a duty of care owed by the Defendant; they found the defendant breached that duty and damages was the proximately cause of that breach. *Newton v. South Carolina Pub. Rys. Comm'n*, 312 S.C. 107, 439 S.E.2d 285 (Ct.App.1993), *rev'd on other grounds*, 319 S.C. 430, 462 S.E.2d 266 (1995).

28. The plaintiff did not fail to prove any one of these elements. Actionable negligence is based upon the breach of duty to do or refrain from doing some particular act. *Hodge v. Crafts-Farrow State Hosp.*, 286 S.C. 437, 334 S.E.2d 818 (1985). The plaintiff proved that it was foreseeable by the defendant that his conduct and actions that day was foreseeable and may likely injure the person to whom the duty is owed. *Home v. Beason*, 285 S.C. 518, 331 S.E.2d 342 (1985). The damages was proximately caused, i.e. causally connected, to the breach of duty in order to warrant a recovery. *Id.* The court should grant additur.

29. The touchstone of proximate cause in South Carolina is foreseeability. *Koester v. Carolina Rental Ctr., Inc.*, 313 S.C. 490, 443 S.E.2d 392 (1994); *Foung v. Tide Craft, Inc.*, 270 S.C. 453, 242 S.E.2d 671 (1978). Foreseeability is determined by looking to the natural and probable consequences of the act complained of. *Koester, supra*. A plaintiff therefore proves legal cause by establishing the injury in question occurred as a natural and probable consequence of the defendant's negligence. *Bramlette, supra*; *Greenville Memorial Auditorium v. Martin*, 301 S.C. 242, 391 S.E.2d 546 (1990); *Childers v. Gas Lines, Inc.*, 248 S.C. 316, 149 S.E.2d 761 (1966). Although foreseeability of some injury from an act or omission is a prerequisite to establishing proximate cause, the plaintiff need not prove that the person charged with negligence should have contemplated the particular event which occurred. *Bramlette, supra*; *Childers, supra*. It is sufficient that he should have foreseen his negligence would probably cause injury to someone. *Greenville Memorial Auditorium, supra*; *Childers, supra*.

30. The failure of the trial judge to grant a new trial absolute in this situation amounts to an abuse of discretion, and on appeal this court will grant a new trial absolute. *Stevens*, 336 S.C. at 447, 520 S.E.2d at 629 (citing *Vinson*, 324 S.C. at 404-05, 477 S.E.2d at 723); *Allstate Ins. Co.*, 314 S.C. at 531, 431 S.E.2d at 558. An abuse of discretion occurs when the trial court's findings are wholly unsupported by the evidence or the conclusions reached are controlled by an error of law. *Id.* "In deciding whether to assess error when a new trial motion is denied, this [c]ourt must consider the testimony and reasonable inferences therefrom in the light most favorable to the nonmoving party." *Welch*, 342 S.C. at 302-03, 536 S.E.2d at 420.

31. A trial judge also has the power to grant a new trial absolute. may be exercised only when the verdict "is shockingly disproportionate to the injuries suffered and thus indicates that passion, caprice, prejudice, or other considerations not reflected by the evidence affected the

amount awarded." *Becker v. Wal-Mart Stores, Inc.*, 339 S.C. 629, 635, 529 S.E.2d 758, 761 (2000).^[3] A jury's determination of damages is entitled to "substantial deference." *Todd v. Joyner*, 385 S.C. 509, 517, 685 S.E.2d 613, 618 (Ct.App.2008), *aff'd*, 385 S.C. 421, 685 S.E.2d 595 (2009). The decision to grant or deny a "new trial motion rests within the discretion of the circuit court, and its decision will not be disturbed on appeal unless its findings are wholly unsupported by the evidence or the conclusions reached are controlled by error of law." *Brinkley v. S.C. Dep't of Corrs.*, 386 S.C. 182, 185, 687 S.E.2d 54, 56 (Ct.App.2009). *Campbell v. Griffith*, 971 So. 2d at 232, 236 (Fla. 2d DCA 2008) The jury's verdict awarding no past or future noneconomic damages was against the manifest weight of the evidence. Accordingly, a new trial on the issue of damages is required. when medical evidence on permanence or causation is undisputed, unimpeached, or not otherwise subject to question based on other evidence presented at trial, the jury is not free to simply ignore or arbitrarily reject that evidence and render a verdict in conflict with it. See also *Easkold v. Rhodes*, 614 So.2d 495, 497-98 (Fla.1993); *Shaw v. Puleo*, 159 So.2d 641, 643-44 (Fla.1964); *State Farm Mut. Auto. Ins. Co. v. Orr*, 660 So.2d 1061, 1062 (Fla. 4th DCA 1995). See, e.g., *Holmes v. State Farm Mut. Auto. Ins. Co.*, 624 So.2d 824, 825 (Fla. 2d DCA 1993); *Jarrell v. Churm*, 611 So.2d 69, 70 (Fla. 4th DCA 1992). See also SC Court of Appeals decision in *Burke v. AnMed Health*, 393 S.C. 48, 54, 710 S.E.2d 84, 87 (2011); and *Brinkley v. SC Dept. of Corrections*, 687 S.E.2d 54 (S.C. Ct. App. 2009)

32. The court of South Carolina has ruled that a motion to reconsider should set forth with particularity the grounds for which it is filed. See *Camp v. Camp* the decision as to the motion must not prejudice either party and the court can deal fairly with the motion.

33. As stated above the plaintiff in this matter met all requirement set forth by the court and she proved all facts and requirements. The jury verdict was inadequate given the evidence that

was allowed before it to include all testimony. There is no question that the plaintiff was entitled to more than \$1000 given all she has suffered and continues suffer in fact she is entitled to all damages asked for. Given that that she was entitled by this state's own laws as to pain and suffering, future, past and current; she is entitled to have all medical bills paid by the defendant, that total approximately \$16,667.00 but that have gone up since the trial. Plaintiff is entitled to lost pay or income past future and current, subrogation cost for my health insurance that totaled approximately \$2332; and pain and suffering current, present and future, just as any other citizen who was not acting pro se.

34. Therefore, I ask this court with all humbleness and due respect to grant a new trial in this matter or Additur for a total recovery of \$65,000 which does not include what I will lose as a result of losing my job for that cost I ask that the court grant a total of three years of lost wages of \$23,346 a year totaling \$116,730 and compensation for continued mental anguish with concerns with losing all I have worked for due to the actions of the defendant. Total recovery of \$181,730; on more than one occasion I tried to settle this matter with the Defendant within his limit of \$50,000 and below the limit in the last 2 1/2 years and if they had acted with responsibility, I would not have lost my job or been in this court asking for damages, I suffered that was not my doing or that I wanted or needed in my life. I do not want to be 58 years old with back pain and a shoulder that will not get any better.

35. Pro se Standard² - In *Waters v. Young*, No. 95-56055; 100 F.3d 1437 (1996) that court states... It is especially important that trial courts fulfill their duties under Rule 50 when

² With the fear the pro se expressed to the trial judge of Judge Manning she stated that the Jury pool had been selected by Judge Manning. Should Judge Newman have recused herself when the Attorney Mathews was present in the court room whom she acknowledge and did not state she had worked as an attorney for the Richardson Plowden & Robinson, P.A. in Columbia; especially when the pro se expressed her fear of Judge Manning and new was sued along with Richardson Plowden & Robinson as well as Mr. Matthews on the second day of trial. Was the plaintiff "played?" also

confronted with pro se litigants, who may be capable of producing the evidence necessary to sustain their claims but may not understand the time and manner in which they must do so.

36. As a general matter, this court has long sought to ensure that pro se litigants do not unwittingly fall victim to *procedural requirements that they may, with some assistance from the court, be able to satisfy*. See, e.g., *Noll v. Carlson*, 809 F.2d 1446, 1448 (9th Cir.1987) (reasserting that pro se litigants must be given leave to amend complaint unless it is absolutely clear that amendment would be futile); *Garaux v. Pulley*, 739 F.2d 437, 439-40 (9th Cir.1984) (recognizing need to provide pro se litigants with proper notice of summary judgment procedures); *Sherman v. Yekahi*, 549 F.2d 1287, 1290 (9th Cir.1977) (recognizing that pleadings in pro se employment discrimination suit must be viewed under less stringent standard); *Armstrong v. Rushing*, 352 F.2d 836, 837 (9th Cir.1965) (setting forth procedural protections for pro se civil rights plaintiffs).

37. The present case illustrates the particular need for trial courts to observe the requirements of Rule 50 where pro se litigants are involved. Having twice elicited and entertained Rule 50 motions that improperly failed to state the law and facts on which judgment was sought, the district court then failed to inform of the deficiencies in proof or to afford ...the opportunity to present needed evidence. Yet record reveals that evidence exists that, if introduced at trial, might have enabled to overcome at least some of the purported deficiencies.

38. *Elmore v. McCammon* (1986) 640 F. Supp. 905 "... the right to file a lawsuit pro se is one of the most important rights under the constitution and laws." Plaintiff, pro se, (hereafter

because the Defendant's attorney repeatedly met with Matthews and ensured the plaintiff saw them talking throughout the trial, in the courtroom, outside the courtroom and outside the courthouse always in deep conversation

Plaintiff) respectfully moves this court under Rule 59 of the South Carolina Rules of Civil Procedure (SCRCP) to grant a new trial or Additur the judgment entered on June 16, 2017.

40. Plaintiff should be granted a new trial and or additur because the trial judge worked for her employers attorney at Richard Plowden and Robinson³ the judge did not leave this firm until 2015, therefore she was aware of the on legal battle between herself and her employer and her law firm had been involved in from the start. The trial judge never disclosed that fact throughout the trial even after he showed up with Plaintiff employer in the court room on the second day of trial, even after the pro se expressed her extreme fear of Judge Manning who she worked with. The SC DMV attorney is involved in ongoing litigation since 2009 and it's a question if the trial was so willing to allow Plaintiff to go to trial without witnesses, denied the request for a continuance and expressed so much animosity towards the Plaintiff. Plaintiff should be granted a new trial there can be no doubt of the appearance of collision between the attorneys and judge, Judge Manning even chose the jury pool and the pro se never had a chance for a fair and impartial trial.

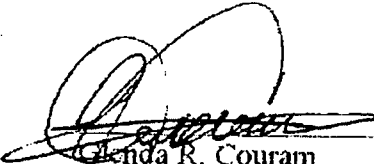
IN CONCLUSION

WHEREFORE, PREMISES CONSIDERED, Plaintiffs move this court to grant Plaintiff Glenda Couram Judgment Notwithstanding the Verdict and find that the jury's award was obviously influenced by bias, prejudice, or passion or that the damages awarded were contrary to the overwhelming weight of the credible evidence and ask this court to award to Glenda Couram \$25,500 plus \$40,000.00 in pain and suffering damages for a total additur of \$65,500 and compensated for job loss in the amount of 5 years at 23346 x 5 years at \$117,000; for a total

³ She also served as an Assistant Solicitor for the Fifth Judicial Circuit before entering private practice with the law firm of Richardson Plowden & Robinson, P.A. in Columbia. Judge Newman left Richardson Plowden in late 2015 and was subsequently elected to the Circuit Court bench on February 3, 2016; she was aware of the ongoing litigation since 2009; acknowledgment of Matthews "Mr. Matthews why are you in my courtroom."

judgment of \$182,000. In the alternative, Plaintiff asks this court to grant her a new trial due to physiological terror, prejudice with courts awareness of the Plaintiff's mental condition and suffering from PTSD, chronic anxiety, stress and panic attacks.

RESPECTFULLY SUBMITTED this 23th day of June 2017 by:



Glenda R. Couram
104 Macaw Lane
Lexington, SC 29073
grecouram@hotmail.com
803 358-0127

Dated this 23rd, Day of June 2017
Lexington County, South Carolina

ADDITIONAL CASE LAW

MOTION FOR ADDITUR

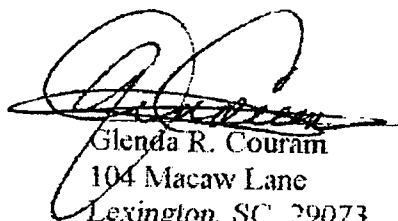
1. South Carolina law states that a court of record in a case in which money damages were awarded may overrule a motion for new trial or affirm on direct or cross appeal, upon condition of an additur, if the court finds that the damages are inadequate for the reason that the jury was influenced by bias, prejudice, or passion, or that the damages awarded were contrary to the overwhelming weight of credible evidence.
2. This evidence of bias, passion or prejudice on the jury's part is inference to be drawn from contrasting the amount of verdict with amount of damage. *Schoppe v. Applied Chemicals Div., Mobley Co., Inc.*, 418 So.2d 833 (Miss. 1982). Whether jury verdict evinces such bias, passion or prejudice on jury's part as to shock conscience is test to be applied in determining the inadequacy of verdict. *Walton v. Scott*, 365 So.2d 630 (Miss. 1978). Evidence of bias, prejudice, or passion by jury, for the purposes of request for additur, may be inferred by contrasting the amount of damages with the amount of the verdict. *Hubbard v. Canterbury*, 805 So.2d 545 (Miss. App. 2000).
3. *Steinke v. S.C. Dep't of Labor, Licensing & Regulation*, 336 S.C. 373, 387, 520 S.E.2d 142, 149 (1999). "The absence of any one of these elements renders the cause of action insufficient." *Washington v. Lexington Cty. Jail*, 337 S.C. 400, 405, 523 S.E.2d 204, 206 (Cl.App.1999).
4. South Carolina Court of Appeals *Carson v CSX Transportation., Inc.*, 400 SC 221 (2012), 734 S.E.2d 148. See *S.C. Highway Dept. v. Townsend*, 265 S.C. 253, 217 S.E.2d 778 (1975).
5. *Pike v SCDOT*, 343 S.C. 224 (2000); 540 S.E.2d 87 - *Evidence is relevant and* admissible if it has any tendency to make the existence of any fact that is of consequence to the

determination of the action more probable or less probable than it would be without the evidence.

6. Rules 401, 402, SCRE. Relevant evidence may be excluded, however, if its probative value is substantially outweighed by the danger of unfair prejudice.

7. Rule 403, SCRE. It is well settled that the admission and rejection of testimony is largely within the trial court's sound discretion, the exercise of which will not be disturbed on appeal absent an abuse of that discretion. E.g., *Baber v. Greenville County*, 327 S.C. 31, 41, 488 S.E.2d 314, 319 (1997).

RESPECTFULLY SUBMITTED this 23th day of June 2017 by:



Glenda R. Couram
104 Macaw Lane
Lexington, SC 29073
grcouram@hotmail.com
803 358-0127

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Glenda R. Couram

vs

Sherwood Tidwell

Plaintiff,

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

CASE NO.: 2016-CP-40-02350

RICHLAND COUNTY
FILED
2017 JUN 26 AM 11:05
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

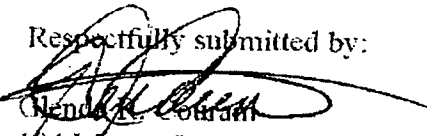
CERTIFICATE OF MAILING

I, Glenda Couram hereby certify that I mailed a copy of the Motion for New Trial, Motion for Additur, Motion to Reconsider on the Richland County Court of Common pleas by depositing the same in the United States mail with adequate postage attached on this 22nd day of June 2017 within the ten (10) day deadline or Statute of Limitations.

I have also served a copy of these documents on the attorney of record

Jescelyn T. Spitz, Esquire
Clawson and Staubes, LLC
1612 Marion Street, Suite 200
Columbia, SC 29201-2939

Respectfully submitted by:

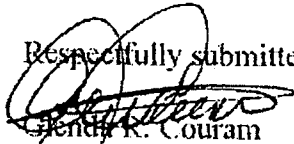

Glenda R. Couram
104 Macaw Lane
Lexington, SC 29073
gcouram@hotmail.com
803 358-0127

Dated this 22nd, day of June 2017
Lexington County, South Carolina

DECLARATION

Under penalties as provided by law pursuant to South Carolina Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct to the best of my knowledge.

Respectfully submitted by:


Glenda K. Couram
104 Macaw Lane
Lexington, SC 29073
gcouram@hotmail.com
803 358-0127

Dated this 22nd, day of June 2017
Lexington County, South Carolina

RICHLAND COUNTY
FILED
2017 JUN 26 AM 11:05
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Glenda R. Couram,

Plaintiff,

vs.

Sherwood Tidwell,

Defendant.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

CASE NO.: 2016-CP-40-02350

**DEFENDANT'S MEMORANDUM IN
OPPOSITION TO PLAINTIFF'S MOTION
FOR A NEW TRIAL OR IN THE
ALTERNATIVE NEW TRIAL NOTICE
ADDITUR**

RICHLAND COUNTY
FILED
JUL -6 PM 4:38
JANETTE W. MOORE
C.P. & G.S.

I. PLAINTIFF'S MOTION FOR A NEW TRIAL ABSOLUTE SHOULD BE DENIED

"[A] new trial absolute should be granted only if the verdict is so grossly excessive that it shocks the conscience of the court and clearly indicates the amount of the verdict was the result of caprice, passion, prejudice, partiality, corruption, or other improper motive." Knoke v. S.C. Dep't of Parks, Rec. & Tourism, 324 S.C. 136, 140 (1996) "The jury's determination of damages is entitled to substantial deference." Id.

Here, the jury deliberated, according to my calculations, for approximately one and a half hours. The jury clearly took their time to deliberate and to consider the testimony and evidence presented throughout the trial. The Plaintiff presented no testimony or evidence as to causation, other than her own opinion. She also presented no testimony or evidence regarding her claimed medical bills to the jury. The Plaintiff was permitted to tell the jury in her closing argument that she sustained "substantial damages," which she did, and a verdict for one thousand dollars is certainly supported by that statement. Further, the jury was presented with numerous photographs throughout the trial which depict extremely minor damage to the Plaintiff's vehicle following the accident in question in this case.

Given the evidence and testimony presented at trial, there is nothing to suggest the jury's verdict was based on caprice, passion, prejudice, partiality, corruption, or other improper motive. In fact, the jury found in favor of the Plaintiff. The Defendant respectfully requests this Court deny the Plaintiff's Motion for a New Trial Absolute.

II. PLAINTIFF'S MOTION FOR A NEW TRIAL NISI ADDITUR SHOULD BE DENIED

"A trial judge may grant a new trial nisi additur when a jury's verdict is inadequate," Green v. Fritz, 356 S.C. 566, 570, (Ct. App. 2003) (citing Bailey v. Peacock, 318 S.C. 13, 14 (1995)); however, "compelling reasons . . . must be given to justify invading the jury's province in this manner." Bailey v. Peacock, 318 S.C. 13, 14 (1995) (citing Easler v. Hejaz Temple, 285 S.C. 348, 356 (1985)).

Here, the Plaintiff failed to submit specific evidence of her damages to the jury, including testimony regarding her claimed medical expenses or entering her claimed medical bills into evidence. When the Plaintiff rested following her case in chief, she was given an opportunity to present her medical bills to the court; however, she did not even have the medical bills available to do so. Further, the Plaintiff's damages are disputed, and the mere listing of the Plaintiff's claimed damages does not constitute compelling reasons for invading the jury's province.

The Defendant respectfully requests this Court deny the Plaintiff's Motion for a New Trial Nisi Additur based on the grounds that there are no compelling reasons to invade the jury's province in this matter.

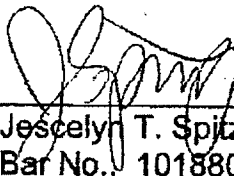
III. PLAINTIFF'S MOTION FOR A NEW TRIAL UNDER THE THIRTEENTH JUROR DOCTRINE SHOULD BE DENIED

"The thirteenth juror doctrine is a vehicle by which the trial court may grant a new

trial absolute when [s]he finds the evidence does not justify the verdict." Folkens v. Hunt, 300 S.C. 251, 254 (1990). "This ruling has also been termed granting a new trial upon the facts." Id.

In the instant case, there is no evidence to support a ruling granting a new trial upon the facts. The jury found in favor of the Plaintiff based on the preponderance of the evidence and awarded her fair damages based on the evidence and testimony presented at trial. The Defendant respectfully requests the Court deny the Plaintiff's Motion for a New Trial under the Thirteenth Juror Doctrine given that the trial testimony and evidence justified the verdict.

Respectfully submitted,
CLAWSON and STAUBES, LLC



Jescelyn T. Spitz
Bar No. 101880
1612 Marion Street, Suite 200
Columbia, South Carolina 29201-2939
Phone: (800) 774-8242
Fax: (843) 722-2867
Email: jspitz@clawsonandstaubes.com
Attorney for Sherwood Tidwell

Columbia, South Carolina
July 3, 2017

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Glenda R. Couram,

Plaintiff,

vs.

Sherwood Tidwell,

Defendant.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

CASE NO.: 2016-CP-40-02350

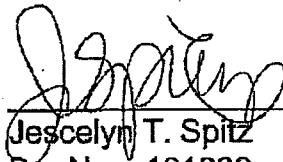
NOTICE OF MOTION AND MOTION
FOR A CONTINUANCE

2016 APR 13 AM 10:04
J. W. HETTFE, W. H. HODGE
C.C.P. & G.S.
RICHLAND COUNTY
FILED

YOU WILL PLEASE TAKE NOTICE that ten (10) days after service hereof or as soon thereafter as counsel may be heard, the below signed will move on behalf of the Defendant for an Order granting a continuance on the basis that good cause exists. This motion is based upon the common and statutory laws of the State of South Carolina. This action was filed on April 12, 2016, and this is the first occasion the matter appears on the trial roster. Defense counsel did not receive Plaintiff's complete medical records Plaintiff claims are related to the motor vehicle accident in question in this case until February of this year. Further, Defense counsel has attempted to schedule the deposition of a key factual witness, Brandon Brown, twice; however, he has failed to appear due to the Plaintiff's threats that she will add him as a party to this lawsuit. Defense counsel is currently working to reschedule his deposition and properly serve him with notice of his deposition. Additionally, Plaintiff has two motions currently pending, including a motion to quash and a motion for summary judgment; both motions are scheduled to be heard by Judge Hood on April 27, 2017. Defendant respectfully requests that the trial of this case be continued for a period of sixty days.

Signature on following page

CLAWSON and STAUBES, LLC



Jescelyn T. Spitz

Bar No.: 101880

1612 Marion Street, Suite 200

Columbia, South Carolina 29201-2939

Phone: (800) 774-8242

Fax: (843) 722-2867

Email: jspitz@clawsonandstaubes.com

Attorney for Sherwood Tidwell

Columbia, South Carolina

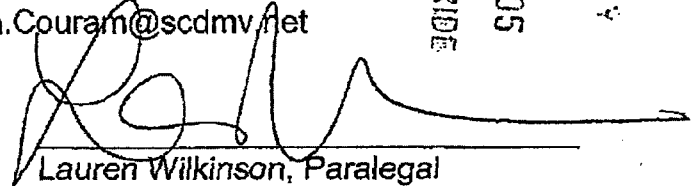
April 5, 2017

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing NOTICE OF MOTION AND MOTION FOR A CONTINUANCE was served upon the following parties on the 5th day of April, 2017, via:

☒	United States Postal Service
☐	Facsimile
☐	Electronic Email
☐	Via Hand Delivery

Ms. Glenda R. Couram
104 Macaw Ln
Lexington, SC 29073-7673
Email Address: Glenda.Couram@scdmv.net


Lauren Wilkinson, Paralegal

RICHLAND COUNTY
FILED
2017 APR 13 AM 10:05
JEANETTE W. MCBRIDE
C.C.P. & G.S.

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

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2016CP4002350

Glenda Couram

Sherwood Tidwell

PLAINTIFF(S)

Nationwide Mutual Insurance Company
DEFENDANT(S)

Submitted by: _____

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

DISPOSITION TYPE (CHECK ONE)

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ ACTION DISMISSED (CHECK REASON): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Non Suit);
☐ 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:

ORDER INFORMATION

This order ☐ ends ☒ does not end the case. Additional information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		\$
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

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

Circuit Court Judge _____

Judge Code _____

Date _____

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this 2nd day of June, 2017 to attorneys of record or to parties (when appearing pro se) as follows:

Glenda Couram

Jescelyn Tillman Spitz

Lora Stuart Shortt

Glenda Couram

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court

Janette W. McBride
107

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Glenda R. Couram

Plaintiff,

vs.

Sherwood Tidwell and Titan Indemnity Ins.,

Defendant.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

CASE NO.: 2016-CP-40-02350

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

Plaintiff's Attorney:

Glenda Couram pro se, Bar No. n/a

Address:

104 Macaw Ln

Phone: 803 358-0127 Fax _____

E-mail: grcouram@hotmail.com Other:

glenda.couram@scdmv.net

Defendant's Attorney:

Jescelyn T. Spitz, Bar No. _____

Address:

1612 Marion St., Suite 200, Columbia, SC
29201

Phone: 800 774-8242 Fax _____

E-mail: jspitz@clawsonandstaubes.com Other: _____

- ☒ **MOTION HEARING REQUESTED** (attach written motion and complete SECTIONS I and III)
☐ **FORM MOTION, NO HEARING REQUESTED** (complete SECTIONS II and III)
☐ **PROPOSED ORDER/CONSENT ORDER** (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: Motion to Quash and Motion for Summary Judgment

Estimated Time Needed: 2

Court Reporter Needed: ☒ YES / ☐ NO

SECTION II: Motion/Order Type

☒ Written motion attached

☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for ☒ Plaintiff / ☐ Defendant

1/29/2017

Date submitted

SECTION III: Motion Fee

☒ **PAID - AMOUNT: \$50**

☐ **EXEMPT:**

(check reason)

- ☐ Rule to Show Cause in Child or Spousal Support
☐ Domestic Abuse or Abuse and Neglect
☐ Indigent Status ☐ State Agency v. Indigent Party
☐ Sexually Violent Predator Act ☐ Post-Conviction Relief
☐ Motion for Stay in Bankruptcy
☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)
☐ Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter: _____
☐ Other: _____

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order.

☐ Other:

JUDGE CODE _____

Date: _____

CLERK'S VERIFICATION

Collected by: JM Date Filed: 2-3-17

☐ **MOTION FEE COLLECTED: \$** _____

☐ **CONTESTED - AMOUNT DUE: \$** _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)
)
Glenda R. Couram)
)
Plaintiff,)
)
v)
)
Sherwood Tidwell)
)
Defendants.)
)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

CIVIL CASE NO.: 2016-CP-40-02350

MOTION TO SET ASIDE JUDGMENT
VERDICT OR ORDER PURSUANT TO
RULE 60(b)

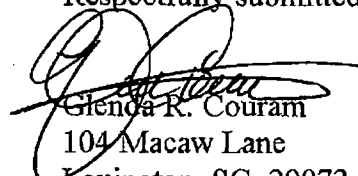
JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, Glenda Couram, pro se, hereby certify that I mailed and or served copy(ies) of the Plaintiff's MOTION FOR RELIEF FROM A JUDGMENT on Order pursuant to SCRCP 60(b); Motion Coversheet timely filed and mailed to the attorney of record for the defendant as named and addressed below by depositing the same in the United States mail with adequate postage attached on this 4th, day of December 2017.

Jescelyn T. Spitz, Esquire
Clawson and Staubes, LLC
1612 Marion Street, Suite 200
Columbia, SC 29201-2939

Respectfully submitted by:


Glenda R. Couram
104 Macaw Lane
Lexington, SC 29073
grcouram@hotmail.com
803 358-0127

Dated this 4th day of December 2017
Lexington County, South Carolina

F

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	CASE NO: 2016-CP-40-002350
	)	
Glenda R. Couram	)	
	)	
Plaintiff,	)	
v	)	
	)	
Sherwood Tidwell	)	
	)	
Defendant	)	JURY TRIAL DEMANDED
	)	

**MEMORANDUM OF SUPPORT
OF THE MOTION FOR RELIEF FROM JUDGMENT
PURSUANT TO SCRPC RULE 60(b)**

NOW COMES Plaintiff, as Pro Se Glenda Couram in the above-captioned matter and states under the penalties of perjury the following facts to support her Motion for Relief from Judgment.

- 1). Plaintiff was in no position to know of the relationship between Judge Newman and the Attorney for SC Department of Motor Vehicles Eugene Matthews and her relationship with the Department of Motor Vehicles and her knowledge of the Plaintiff however it appears the Judge did know the plaintiff which is the bases for this Motion. The relationship could not have been discovered prior to the trial because there was absolutely no reason for the plaintiff to believe that a sitting Judge would know her from "Adam."

2. Judge Newman instigated the contact with the pro se, she never identified herself as a Judge in her emails, pro se thought she was dealing with a clerk who was arranging a trial date I hindsight the pro se should have known better as she had never been contacted in this manner. When plaintiff stated she did not know Judge Newman was a Judge the defense attorney responded she did know. The first order of business for the Judge was to get the Plaintiff words on record with a series of questions, and then the defense attorney moved with a list of

procedural does and don'ts two which Judge Newman co signed. When the Plaintiff learned that she would not be allowed to present her medical records or bills she asked to postpone to allow her to subpoena her doctors to testify which was denied.

3. Later in the day, after learning there would no witnesses on either side Attorney Eugene Matthews and Kathy Martin from plaintiff's employer showed up in the courtroom. At one point during a break there was a conversation between Mr. Matthews and Judge Newman "Mr. Matthews why are you in my Court" there was no disclosure of the relationship between Mr. Matthews and Judge Newman or disclosure that Judge Newman knew who I was when she emailed me and lured me into going before her due to my fear of Judge Manning.¹

4. The first reason this matter should be overturned an a new trial set is under the Ethical Code that is required of Judges in this state of South Carolina; I believe that Judge Newman deliberately contacted me via email attached knowing of her relationship with SCDMV and Matthews with the expressed purpose of causing harm to this pro se litigate especially given her knowledge and her knowing of my fear and the relationship she had with SCDMV – if that had been made know I would have never agreed to her hear my case given that relationship and her relationship with Mr. Matthews violated:

1. Canon 1 - A Judge Shall Uphold the Integrity and Independence of the Judiciary²
2. Canon 2 – A and B
3. Canon 3 – Judge Shall Perform the Duties of Judicial Office Impartially and Diligently

¹ It turned out that Judge Newman was appointed as a Judge in 2015, after being employed in Mr. Matthews firm Richardson Plowden. She had been employed from the day I first filed a claim against SC Department of Motor Vehicles in January 2010.

² Deference to the judgments and rulings of courts depends upon public confidence in the integrity and independence of judges. The integrity and independence of judges depends in turn upon their acting without fear or favor. Although judges should be independent, they must comply with the law, including the provisions of this Code. Public confidence in the impartiality of the judiciary is maintained by the adherence of each judge to this responsibility. Conversely, violation of this Code diminishes public confidence in the judiciary and thereby does injury to the system of government under law

5. Judge Newman's Treatment of Pro se Litigants by the Judiciary was against all rules set supposively by this court and the SC Supreme Court and US Supreme Court and their entire sister courts:

1. This pro se submitted the Motion To Reconsider well within the 10 days required filed on or about June 22, 2017 – it took Judge Newman until October 4, 2017 and a reminder by the pro se for her to respond and in responding she never acknowledged the proffered medical records, redacted letters of attempts to settle or the medical bills proffered for the record. Plaintiff checked with the clerk's office and they said they submitted all to Judge Newman and later in an email where I asked Judge Newman about the documents she stated she never got them and questioned the submission by the pro se of the documents even with the list that was attached to the Motion. (See emails).

2. After the numerous procedural don'ts by the defendant and agreements between them plaintiff did not know what she could submit into evidence or before the jury and when the time came to submit the medicals and medical bills - and after explaining to the Judge she told the Plaintiff she could not submit the documents (the Judge responded pro se should have known what she was saying), she agree to allow the submission and then suddenly changed her mind because the plaintiff had to relocate her evidence regarding medical bills, lost pay, etc., (Matthews was sitting behind the plaintiff when the Judge suddenly changed her mind). Plaintiff did object perhaps not as a learned attorney but she did object and she did proffer the documents in the Motion to Reconsider despite Judge Newman's denial she did so (emails available during hearing and attached). Judge Newman also refused to allow plaintiff help with the court's projector (emails attached).

The extreme reaction before the Jury by Judge Newman and Defense Attorney when the Plaintiff mentioned the word insurance to describe her blue cross letter when she was dropped after turning 55 years old the Jury could be nothing but prejudiced, the plaintiff was threatened with contempt of court and dismissal of her case, etc., if she mentioned the word insurance in relation to the accident and she did not – the reaction by Judge Newman and the defense was made within hearing and sight of the jury during her in chief testimony.

Plaintiff does not know if Judge Newman's refusal to acknowledge the proffered documents in her denial of the Motion to Reconsider would be considered moot by the appeals court because the Judge refused submission in the courtroom and during the response to the Motion to Reconsider to acknowledge the submitted documents.

Judge Newman also prejudiced the Plaintiff when she told the plaintiff the medical records could not be submitted into evidence when they could be according to Rule 803 on Business Records the records were subpoenaed and there were signed custodial documents kept in the normal course of business.

The judge did all this after getting the Plaintiff on record and then proceeded to deny her submission of evidence when the defense counsel was perfectly aware of the authenticity of all medical records and bills as they subpoenaed the records and submitted copies to the plaintiff with the signature of the custodian of records for each medical facility after plaintiff supplied them the exact copies as they requested during discovery.

6. Judge Newman also failed to apply the well established pro se standard in dealing with the pro se litigant instead she showed her dislike and contempt for the pro se first by ensuring to get the pro se to agree to and ensuring that this agreement was on record and then she allowed the defense to proceed to tell pro se what she could not do and if she did she would be held in contempt and her case will be dismissed, etc., putting the fear of "god" in the pro se as they say to the point that the plaintiff was told what she would not do that she could not do such as submit medical records, medical bills, etc., and when the time came the plaintiff was told since she could not locate those items after the defense asked for a "directed verdict" she decided to pack up and her bills etc., had been put away and shortly after telling the plaintiff could submit those documents, after a few minute with Matthews in the room behind Plaintiff suddenly told plaintiff she could not submit the documents. Did she get a shake of head or nod from her from partner or "boss" from the law firm that she acknowledged in the courtroom without disclosing to plaintiff her relationship with Matthews or her relationship with SC Department of Motor Vehicles; did she email the pro se with an offer to hear the case at the request of Mr. Matthews, with the defense attorney's full knowledge given the fact Judge Newman was fully aware of the plaintiff's legal actions against a client of her former law firm a State Agency SC Department of Motor Vehicles, that Matthews referred to the plaintiff freely in derogatory terms at will in all documents sent to her and the courts over the years.

7. Plaintiff stated to the defense attorney that when she agreed to allow the hearing after the getting the email from Judge Newman that she did not know Judge Newman was a Judge, the

Judge did not identify herself as a judge in the email but represented herself as an assistant scheduling a trial before a judge. The Defense counsel stated she had known that Newman was a Judge.

8. It was against normal process scheduling a hearing and for a sitting Judge to have direct contact with the pro se outside the normal procedure of the court and unethical action to cause the plaintiff to be lured into a situation taking complete advantage of her pro se status.

In this case with the help of the court the defendant were allowed to misdirect the jury to rule on matters already established via Order of the court – resulting in the jury determining damages to the plaintiff's car which was the only evidence placed before the jury (damages that had already been paid to repair the car) the court allowed the prejudice and continued injury to the plaintiff and influenced the jury, were they disregarded the clear instructions of the court as to damages but without the evidence of the medical bills and injury the matter was “fixed” against the plaintiff resulting in prejudice and clear injustice because no justice was found in Judge Newman's court by design with what appears to have been the express purpose to harm the pro se plaintiff.³

9. When Judge Newman told the Plaintiff that she would not be allowed to present her evidence she asked for a continuance to obtain witnesses - the case for damages depended on submission of the medical records and bills - as liability had already been ruled on by a previous Order the only issue before Judge Newman was damages - to provide direct testimony and was denied even with her knowing the pro se's evidence could have been presented under the hearsay Rule 803, etc., Business Record Rule yet pro se was denied the right to fairly present that evidence and the defense's pure knowledge that the records were obtained under subpoenas;

³ Matthews came down to the “pit” to ask the plaintiff about SCDMV business which had no purpose with the matter that was going on in the court room showing the inappropriateness of his presence in that courtroom.

even knowing they provided the plaintiff with copies of the subpoenas, under the signature of the signed custodial agent of each medical facility and she submitted to them the exact same business records.

10. Rule 60(b)(2) requires that the new evidence “could not have been discovered by the exercise of due diligence in time to present it in the original proceeding.” *Id.* The Plaintiff could not have made this showing, because the evidence learned would not have been something anyone pro se or learned would have even considered to check the background of a Judge to determine if that Judge had a prejudice or bias of a litigant. The relationship of Judge Newman and Matthews was not and could not have been found prior to the trial. Rule 60(b)(2) grants relief from a judgment or order for “any other reason justifying relief from the operation of the judgment.” ... this motion... is submitted expressly based on newly discovered evidence involving this relationship that was hidden from the pro se litigant. When Judge Newman stated to Matthews – Mr. Matthews “why are you in my Courtroom” was a time to disclose the relationship so that the plaintiff could have made an objection and asked that Judge Newman recuse herself, how do the plaintiff know if Mr. Matthews was in the courtroom just to ensure that Judge Newman ruled in the manner she did by a nod or shake of a head particular as it relates to the change of mind in allowing the pro se to submit her medical records and bills, loss of pay, etc., to the jury and the sudden change of mind which could have been influenced by that relationship and the fact the plaintiff was a former adversary of her law firm in the past and to this day.

11. **Requirements for Rule 60(b)(6) Relief.** Rule 60(b)(6) allows relief “for [a]ny other reason justifying relief from the operation of the judgment.” Our courts have established that such justifications only exist if the movant shows that (1) extraordinary circumstances exist; (2)

justice demands it; and (3) the movant has a meritorious defense to the underlying claims.

Oxford Plastics v. Goodson, 74 N.C. App. 256, 259–60 (1985). Our courts routinely discuss the first two requirements as a unified concept; so this section will therefore refer to them together as “extraordinary circumstances.”

A. Extraordinary Circumstances

12. Situations Constituting Potential “Extraordinary Circumstances

“Irregular Judgments” Related to Court Practice. Unlike “erroneous” judgments—where the court’s decision is based on an error of law—“irregular” judgments can form a basis for relief under Rule 60(b)(6). An irregular judgment is one “rendered contrary to the cause and practice of the court.” *Taylor v. Triangle Porsche-Audi, Inc.*, 27 N.C. App. 711, 717 (1975). It includes, for example, notice and calendaring errors that are not the fault of the movant. Most of the opinions in this category date from before electronic court records and communications, so the exact factual scenarios are less likely to happen today. The general concept of an “irregular” judgment is no less valid, however, so these cases remain useful guidance.

13. See *Taylor v. Triangle Porsche-Audi, Inc.*, 27 N.C. App. 711, 715–17 (1975). The court affirmed a grant of relief from default judgment entered without the required notice after defendant had made an appearance under Rule of Civil Procedure 55(b)(2). The court noted that, “[u]nder the broad power of [Rule 60(b)(6)] an erroneous judgment cannot be attacked, but irregular judgments, those rendered contrary to the cause and practice of the court, come within its purview.” *Id.* at 717.

14. The manner in which the plaintiff’s case came before Judge Newman and her contacting the pro se was irregular and certainly not the regular practice of Richland County Court of Common Pleas – How did Judge Newman know of the pro se, why did she directly reach out to

the pro se instead of allowing the regular due process of the court system in scheduling trials?

Deny the pro se assistance in using court equipment that derailed the pro se case. (See emails that will be presented during evidentiary hearing).

15. When the pro se learned of Judge Newman's intent to deny her use of her medical records and bills after she had pro se agreement to proceed without witnesses (she made sure the court reporter made a record of this) – knowing as a learned attorney that the pro se was relying on her records and letters to put forth her case - and asked for a continuance why not grant the continuance given the suspect nature of the pro se being before her and learning that the pro se only agreed to the unusual circumstances because of her extreme fear of Judge Manning.

16. See *In Curran v. Barefoot*, 183 N.C. App. 331, 334 (2007), the trial court ordered specific performance of a contract including the conveyance of certain watercraft. The defendant moved for relief on grounds that he was not the record owner of some of the boats, and he presented new (apparently uncontroverted) evidence in support of the motion. The trial court denied the relief. The Court of Appeals reversed, holding:

“[E]xtraordinary circumstances exist” and “justice demands” the judgment be modified. The trial court ordered defendant to convey personal property it did not own. “Specific performance may not be granted where the performance of the contract is impossible” and “specific performance will not be decreed against a defendant who is unable to comply with the contract even though the inability to perform is caused by the defendant's own act.” *Id.* at 343 (citations omitted).

When the Defense Attorney ran down a list of procedural does and don'ts one was that the plaintiff intended to inform the jury and court of her lost of employment from SCDMV, Judge Newman ruled the plaintiff could not say anything in regards to SCDMV and loss of employment as a result of the car accident yet Mr. Matthews and an employee from SCDMV was in the court both days of the trial and the Defense attorney used Ms. Martin to read into the

record the deposition of Mr. Brown who was did not show up due to the suddenness of the trial and the fact the attorney had told he witnesses the trial was not going to be held as scheduled – this was prior to Judge Newman contacting the pro se Plaintiff. See *Thacker v. Thacker*, 107 N.C. App. 479 (1992), The Court of Appeals stated, “[t]his Court has held on numerous occasions that a lack of counsel and/or an ignorance of the law does not amount to ‘extraordinary circumstances’ without some *showing that the lack of counsel or ignorance was due to reasons beyond control of the party seeking relief.*” *Id.* at 482.

17. There was no justice done by Judge Newman. The plaintiff an innocent victim of Tidwell was setting in her car and should not have been involved in this accident but for Tidwell’s negligence. He and his insurance company admitted liability. The Jury ruled he was negligent as to all elements. Yet due to the Judge’s actions the Plaintiff who had on or about \$20,000 in medical bills and climbing, loss pay and pain and suffering she continues to suffer to this day was unjustly scorned by the court where the jury ignored the instructions of the Judge and the law that says clearly the plaintiff is entitled to all damages, pain and suffering, including under the theory of the egg shell rule, etc., making the award completely inadequate given the outcome of the trial.

18. Because she was unjustly denied the right to submit her medical records, bills and damages to the jury to review the only thing before the jury was the damages to the her car which had already been paid from by the defendant via his insurance company – both boxes checked in the plaintiff favor (the Judge also refused to instruct the Jury on punitive damages as to Tidwell’s violation of State Law Plaintiff objected). Tidwell was found to have breached his duty to the plaintiff, to have been the proximate cause of her damages but because the plaintiff

was reduced to saying "substantial damages" she was awarded \$1,000 the cost to fix her car and due to the Rule 68, the Judge award half of that back to Tidwell.

19. The plaintiff was sitting in her car she was stopped obeying the rules and laws of this state, Tidwell in disobedience of those laws and at 30 miles an hour in stopped traffic ran into Mr. Brown's car who was pushed into the plaintiff's car and her award was a loss of her job as a result of the accident, \$20K in medical bills and a life time of pain and suffering with a dash of loss of her home and everything she worked for because she was a citizen of this state who obeyed the laws of the state and tried to mitigate damages. In the end she was granted scorn of the judicial system and its judiciary not to mention the officers of its courts when the goal of all courts is to ensure justice.⁴ While she waits to get the money for an appeal or was this also part of the plan since everyone knew plaintiff had lost her job as a direct result of the accident.

20. The way this matter was adjudicated it was as if the court had predetermined that the plaintiff on September 18, 2015 had stopped in the left lane saw Mr. Tidwell going 30 miles an hour in stopped traffic saw him about to hit the truck in his lane middle lane of traffic, directed him into her let lane of traffic, told him to crash into Mr. Brown's car in order to cause it to crash into her car to cause her bodily injury so that she could suffer life lasting pain, lose her job, her home, her mentally and physically health just so she could sue Tidwell who that court

⁴ **Meritorious Defense.** In addition to demonstrating extraordinary circumstances, a Rule 60(b)(6) movant must also show the court that it has a "meritorious defense" to the underlying cause of action. *Royal v. Hartle*, 145 N.C. App. 181, 184 (2001). As the Court of Appeals has explained, "the defendant must have a real or substantial defense on the merits, otherwise the court would engage in the vain work of setting a judgment aside when it would be its duty to enter again the same judgment on motion of the adverse party." *Norton v. Sawyer*, 30 N.C. App. 420, 423 (1976) (quotation omitted). In addition, "it would be a waste of judicial economy to vacate a judgment or order when the movant could not prevail on the merits of the civil action." *Oxford Plastics v. Goodson*, 74 N.C. App. 256, 259 (1985). In determining the existence of a meritorious defense, the court's task is to examine whether the movant "has, in good faith, presented by his allegations, *prima facie*, a valid defense." *Id.* at 260 (quotation omitted). The court does not actually weigh the evidence and thereby deprive the movant of his right to a jury trial. *Id.* While a meritorious defense is a requirement in Rule 60(b)(6) motions, the issue most often arises in the context of Rule 60(b)(1) motions seeking relief based on "excusable neglect."

predetermined was the innocent victim of the pro se Plaintiff. So to save him the court and officers of the court denied the plaintiff complete full and fair access to the court and if this was not the case why work so hard to keep the plaintiff evidence from the jury for a mere insurance payout of \$50,000.

21. In researching this filing the Plaintiff was unable to find any recent cases in the Courts of South Carolina dealing with Rule 60(b). However in 2003, the SC Supreme Court directly relates to this Motion and request -- *Chewning v Ford*, 579 S.E.2d 605 (SC 2003) a party may seek to set aside a final judgment for fraud upon the court under the term "Extrinsic" which the Supreme Court defined as were a party "induces a person not to present a case or deprives a person of the opportunity to be heard." *Id.* at 81, 579 S.E.2d at 610 (citing *Hilton Head Ctr. of South Carolina v. Public Serv. Comm'n*, 294 S.C. 9, 11, 362 S.E.2d 176, 177 (1987)).

22. In *Evans v. Gunter*, 294 S.C. 525, 529, 366 S.E.2d 44, 46 (Ct. App. 1988), the Court of Appeals noted one commentator described "fraud upon the court" as "that species of fraud which does, or attempts to, subvert the integrity of the Court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging cases that are presented for adjudication." (citing H. Lightsey, J. Flanagan, *South Carolina Civil Procedure*, 408 (2nd ed. 1985).

23. See H. Lightsey & J. Flanagan, *South Carolina Civil Procedure* 407 (2d ed. 1985). a litigant who has been defrauded need not establish prejudice. *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, *supra*; *Dixon v. Comm'n of Internal Revenue*, 2003 WL 1216290 (9th Cir. 2003) ("... the perpetrator of the fraud [upon the court] should not be allowed to dispute the effectiveness of the fraud after the fact."). See *In the Matter of Goodwin*, 279 S.C. 274, 305 S.E.2d 578 (1983).

24. In *Pfizer, Inc. v. International Rectifier Corp.*, 538 F.2d 180 (8th Cir.1976), this court explained that although not easily defined, "fraud on the court ... can be characterized as a scheme to interfere with the judicial machinery performing the task of impartial adjudication, as by preventing the opposing party from fairly presenting his case or defense." *Id.* at 195 (citations omitted). "A finding of fraud on the court is justified only by the most egregious misconduct directed to the court itself....." *Id.* (citations omitted).

25. There are questions as to rather or not the Judge contacting the Plaintiff was a setup by the Judge, defense attorney and Matthews who may have entered into a conspiracy to cause lasting harm to the plaintiff due to suit filed by the pro se against SCDMV and the relationship between Matthews and Judge Newman who was an Attorney with Mr. Matthews law firm until 2015 when she was appoint or became a Judge in the Fifth Circuit Court of Richland County. Was the setup or appearance of one a direct result of the suit filed against Matthews and Judge Manning prior to that appointment to the circuit court? Was Judge Newman under ethical authority to make that relationship known and to let the Plaintiff know she knew who she was since the year January 4, 2010 when the plaintiff first filed an EEOC complaint against the Firms Client SC Department Vehicles, an attorney or her boss with the law firm she was employed with prior to the appointment as a Judge? She made sure the plaintiff knew the Jury had been selected by Judge Manning but failed to disclose the relationship between her and Matthews that could do nothing but prejudice the plaintiff if for no other reason than the appearance of her utter contempt of the plaintiff and her direct contact with the plaintiff which was not the appropriate process used by the courts to schedule hearings?

III. Plaintiff Has Stated A Basis For Rule 60(b) Relief.

26. The Federal and State of South Carolina Rule of Civil Procedure 60(b) states that a court “may relieve a party or its legal representative from a final judgment, order, or proceeding” for any of six enumerated reasons; Plaintiffs here cite Rule 60(b)(1), which permits relief on the basis of “mistake, inadvertence, surprise, or excusable neglect” and Rule 60(b)(6), which permits relief for “any other reason that justifies relief.”

27. Under established precedent in this Circuit, “before a party may seek relief under Rule 60(b), a party first must show ‘timeliness, a meritorious defense, a lack of unfair prejudice to the opposing party, and exceptional circumstances.’ After a party has crossed this initial threshold, he then must satisfy one of the six specific sections of Rule 60(b).” *Dowell v. State Farm Fire & Cas. Ins. Co.*, 993 F.2d 46, 48 (4th Cir. 1993) (quoting *Dowell v. State Farm Fire & Cas. Ins. Co.*, 993 F.2d 46, 48 (4th Cir. 1993)). “Reconsideration of a judgment after its entry is an extraordinary remedy which should be used sparingly.” *Am. Ass’n Blood Bankers v. Boston Paternity*, 2009 WL 3379893 (D. Md. Oct. 16, 2009) (citing *Pac. Ins. Co. v. Am. Nat’l Fire Ins. Co.*, 148 F.3d 396, 403 (4th Cir. 1998)); see also, e.g., *Boyd v. Bulala*, 905 F.2d 764, 769 (4th Cir. 1990) (“The remedy provided by [Rule 60(b)] ... is extraordinary and is only to be invoked upon a showing of exceptional circumstances.”).

IV. The Court Must Grant Plaintiff’s Request to Vacate To allow The Judgment to stand would be an miscarriage of Justice with Direct involvement of a setting Judge who instigated an exparte communication with a pro se litigant

28. Defendants’ view, as stated above, is that the Court should grant the Plaintiffs’ Rule 60(b) motion solely on the basis of the record as it exists. If this Court finds that Plaintiffs have raised a material factual dispute about the Judge’s and defense counsel’s abuse of process and abuse of authority designed to harm a litigant depriving that litigant of justice and a fair unbiased hearing that did not happen here.

29. If the allegations in a Rule 60(b) motion "if proven, would justify relief," a district court must hold an evidentiary hearing to determine the truth of those allegations. *United States v. Baus*, 834 F.2d 1114, 1123 (1st Cir. 1987).

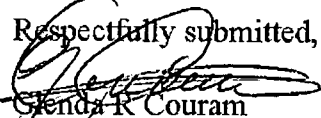
CONCLUSION

For the foregoing reasons, Plaintiff's Rule 60(b) Motion for Relief from Judgment should be granted. In the alternative, the Court should order a retrial on damages based on the fact that the jury find in favor of the Plaintiff for breach of his duty, causation, liability all elements of negligence the award by the jury was inadequate and should shock the court and the plaintiff should be allowed to submit her medical records and bills to the jury which she was denied in the initial trial. (Attachments emails from Judge Newman to Plaintiff offer to hold the trial without identifying her relationship, medical bills, letters to the insurance company and medical records that were subpoenaed with documentations with signature of custodian of record – two from the plaintiff's employer and from the 10 years of plaintiff medical and life history obtained by the Defense.

REQUEST FOR HEARING

Plaintiff hereby request(s) a hearing be scheduled on this motion to set aside 30 days from the date of this Motion Request. Dated this 4th day of November 2017.

Respectfully submitted,



Glenda R. Couram

Pro Se Plaintiff

104 Macaw Lane

Lexington, SC 29073

(803) 358-0127

grcouram@hotmail.com

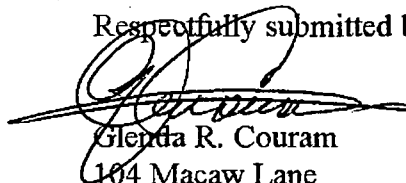
Please excuse any typos or grammatical errors

Dated this 4th day of December 2017
Lexington County, South Carolina

DECLARATION

Under penalties as provided by law pursuant to South Carolina Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct to the best of my knowledge.

Respectfully submitted by:



Glenda R. Couram

104 Macaw Lane

Lexington, SC 29073

grcouram@hotmail.com

803 358-0127

Dated this 4th day of December 2017
Lexington County, South Carolina

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Joyce Newman, Circuit Court Judge

Civil Case No. 2016-CP-40-02350

Glenda Couram ,

Appellant,

v.

Sherwood Tidwell,

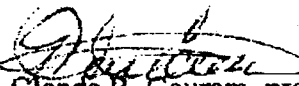
Respondent.

NOTICE OF APPEAL

Glenda Couram appeals the order dated October 9, 2017 of the Honorable Joyce Newman dated October 9, 2017. Appellant received written notice of entry of this order October 12, 2017 via website of Richland County Court (printed attached).

Dated this 12th day of October 2017.

Respectfully submitted by:


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Other Counsel of Record:
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Columbia, SC 29201
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803 968-9169 – cell

RICHLAND COUNTY
FILED
2017 OCT 16 AM 10:05
J. A. ...
C. C. ...

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Jocelyn Newman, Circuit Court Judge

Civil Case No. 2017-CP-40-02350

Glenda Couram

Appellant,

v.

Sherwood Tidwell,

Respondent.

RICHLAND COUNTY
FILED
2017 OCT 16 AM 10:06
JESSEL T. SPITZ
C.C.P. & G.S.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Sherwood Tidwell by depositing a copy of it in the United States Mail, postage prepaid, on October 12, 2017 also sending a scanned copy to the attorney of Record with hard copy addressed to his attorney of record at her office as addressed below on this day 12th day of October 2017. I also deny the attached email request in so doing and the court Motion appearing to force acceptance and right to appeal.

Jescelyn T. Spitz, Esquire
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1612 Marion Street, Suite 200
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Respectfully submitted by:


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Lexington County, South Carolina

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Joyce Newman, Circuit Court Judge

Appeals Court Case No: 2017-002145
Civil Case No. 2016-CP-40-02350

Glenda Couram,

Appellant,

v.

Sherwood Tidwell,

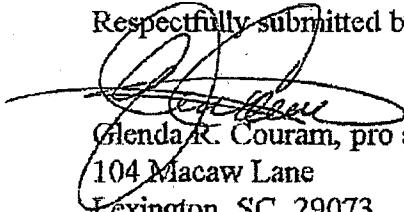
Respondent.

CORRECTED
NOTICE OF APPEAL

Glenda Couram appeals the order dated October 4, 2017 of the Honorable Joyce Newman clocked in October 9, 2017. Appellant received written notice of entry of this order October 20, 2017 via website of Richland County Court (printed attached).

Dated this 20th day of October 2017.

Respectfully submitted by:


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RICHLAND COUNTY
FILED
2017 OCT 23 PM 3:58
CLERK OF COURT
C. R. ELLIS

State of South Carolina) In the Court of Common Pleas
County of Richland) Fifth Judicial Circuit
2016-CP-40-2350

Glenda Couram,)
)
Plaintiff,)
)
vs.) Transcript of Record
)
Sherwood Tidwell,)
)
Defendant.)
)
)
)

June 15-16, 2017
Columbia, South Carolina

B e f o r e:

The Honorable Jocelyn Newman, Judge; and a jury

A p p e a r a n c e s:

Glenda Couram
Plaintiff, Pro Se

Jescelyn Tillman Spitz, Esquire
Attorneys for the Defendant

Maryann S. Nevers, CVR-M-CM
Circuit Court Reporter

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EXHIBITS

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131A

1 TRIAL DAY 1 - 06/15/17

2 (Whereupon, the proceedings were commenced at 9:56 a.m.)

3 THE COURT: Okay. Good morning.

4 MS. SPITZ: Good morning.

5 MS. COURAM: Morning.

6 THE DEFENDANT: Good morning.

7 THE COURT: All right. And you are Ms. Glenda
8 Couram; is that correct?

9 MS. COURAM: Yes, ma'am.

10 THE COURT: Okay. All right. Ms. Couram, we are
11 here and ready to try your case, *Glenda Couram, plaintiff*
12 *v. -- I'm sorry -- Sherwood Tidwell*. As you both know,
13 this case was on the jury-trial roster this week. I
14 began the week with another jury trial and was told that
15 this was my next case for the week. However, Ms. Couram
16 needed it to be continued because she had not had the
17 opportunity to subpoena witnesses for the trial of the
18 case. I sent you both an e-mail on -- was it yesterday?
19 -- yesterday ---

20 MS. SPITZ: I think so.

21 THE COURT: --- perhaps. Yeah. -- yesterday,
22 indicating, my intent to continue the case so that Ms.
23 Couram would have the opportunity to subpoena those
24 witnesses. Mrs. Couram responded to that e-mail, saying
25 that she is prepared to proceed with the trial of the

1 case without witnesses. So I just want to confirm on the
2 record that that is correct, Ms. Couram. Are you ready
3 to proceed today?

4 MS. COURAM: Yes.

5 THE COURT: Okay. Having not subpoenaed your
6 witnesses, correct?

7 MS. COURAM: Yes. I want to get this over with.

8 THE COURT: Okay. I just wanted to ---

9 MS. COURAM: I want to get this over with.

10 THE COURT: --- put on the record that that is your
11 intent. Okay.

12 Are there any pretrial matters that need to be
13 handled, Ms. ---

14 MS. SPITZ: Yes, Your Honor. We do have a few
15 pretrial matters we'd like to take up with the Court. I
16 did hand up to your law clerk, Chris, our pretrial brief,
17 as well as the defendant's proposed voir-dire questions,
18 as well as a notice of intent to use excerpts from the
19 deposition of Brandon Brown. I had e-mailed that to you
20 yesterday and the just turned in the printed copy today.

21 We have identified various excerpts we would like to
22 read into the record. We did subpoena Mr. Brown for
23 trial this week. I had confirmed with him on Friday that
24 he would be available and then talked to him on Monday
25 and kind of gave him a heads-up of what was going on:

1 that I wasn't sure that we were going to go forward, but
2 I would give him a call back. He was nice enough to give
3 me his cell phone to do that.

4 Yesterday I was unable to reach him. And this
5 morning I have not been able to reach him by call or by
6 text. So if -- if he does call me back and is able to
7 testify live, of course, we would prefer that. But if
8 he's not able to, given that we've subpoenaed, we would
9 like to read portions of his deposition ---

10 THE COURT: Okay.

11 MS. SPITZ: --- during the trial.

12 THE COURT: And tell me when that deposition
13 occurred. It looks like it was on May 3rd, 2017. Was
14 Ms. Couram given notice of that deposition and the
15 opportunity to attend that deposition?

16 MS. SPITZ: Yes, Your Honor. And by way of
17 background with Mr. Brown's deposition, we had tried to
18 take his deposition twice before and he did not appear.
19 Ms. Couram initially informed us, when we were scheduling
20 the very first deposition, that she didn't plan on being
21 there.

22 Again, it was the same thing the second time we
23 noticed his deposition. The third time we actually had
24 him served via process server, and he did appear. Ms.
25 Couram was aware that his deposition was going forward.

1 She again indicated that she wasn't going to be there.
2 So she was provided notice.

3 THE COURT: Okay. Thank you, ma'am. Ms. Couram,
4 you indicated via e-mail yesterday that you have some
5 objection to the defense's intent to use excerpts from
6 Brandon Brown's deposition. I'll tell you, just quickly,
7 I know I had some e-mail communication with you. And
8 that was my intent to schedule the trial or tell you my
9 position at least on scheduling, what I could or couldn't
10 do.

11 But as to any objections -- I don't know how long
12 this trial will last. It may go till tomorrow. But just
13 so that you know, Ms. Couram, I don't rule on any matters
14 whatsoever via e-mail. So although I did receive your
15 objection, that's why you did not receive a response to
16 it: because I -- I just don't do Court business in -- in
17 that way, not substantive issues, via e-mail.

18 So I'm happy to hear from you now. And if you want
19 to tell me whatever you also said in the e-mail, that's
20 fine. I just need it to be on the record in this
21 courtroom.

22 MS. COURAM: (Gestured.)

23 THE COURT: Yes, ma'am.

24 MS. COURAM: Okay. I -- I didn't expect for you to
25 rule when I sent the e-mail. I was just voicing my

1 objection to -- to the -- the request.

2 THE COURT: Yes, ma'am.

3 MS. COURAM: And my objection is that Mr. Brown's
4 deposition is not accurate. And if he's not here for me
5 to question, then I can't -- then it would be unfair and
6 prejudicial to me, as -- if those -- if those -- if his
7 deposition or the sections that's submitted into the
8 court record without his -- in here and my being able to
9 cross-examine him.

10 Because he has a -- there's a lot of discrepancy as
11 far as time is concerned. He's said a lot about his not
12 being outside of his car and things like that. And I
13 don't feel that it would be fair to me or just to me to
14 allow his deposition to be placed into the record
15 withouts him -- him being here for me to cross-examine.

16 THE COURT: Okay. Your objection is noted. And the
17 rule, Rule 32 of the South Carolina Rules of Civil
18 Procedure, does provide for the use of depositions at
19 trial. All or a -- I'm sorry -- any part or all of a
20 deposition may be used. And I'm skipping around here
21 because the rule is quite lengthy.

22 But the deposition of a witness, whether or not a
23 party, may be used by any part for any purpose if the
24 Court finds that the party offering the deposition has
25 been unable to procure the attendance of the witness by

1 subpoena. And that's why I asked Ms. Spitz -- is it
2 Spitz?

3 MS. SPITZ: Yes, Your Honor.

4 THE COURT: Thank you. --- Ms. Spitz whether, you
5 know, he was under subpoena. She's indicated that he is
6 under subpoena; that she's made efforts to get him here.
7 Of course, she would rather have him here live as well.
8 But it -- it -- it appears to the Court, based on Ms.
9 Spitz's representations, that she has been unable to
10 procure the attendance of the witness by subpoena, which
11 would then make for a proper use of his deposition at
12 trial in lieu of his personal appearance here.

13 In addition, in order for her to be able to do that,
14 you must have had reasonable notice of the deposition,
15 which is why I asked her whether you had notice of Mr.
16 Brown's deposition at the time that it was being taken.
17 Because that would have been an opportunity for you to
18 cross-examine the witness. You did have notice of it and
19 -- and chose not to attend. And so the rules provide for
20 her to ---

21 MS. COURAM: May I ---

22 THE COURT: --- to use excerpts from the deposition.
23 So your objection is noted ---

24 MS. COURAM: May I ---

25 THE COURT: --- but of ---

1 MS. COURAM: --- respond?

2 THE COURT: Sure.

3 MS. COURAM: Yes. I got -- I was given notice for
4 the deposition. I -- I asked her if I had to be there.
5 She said yes. And then she sent me a e-mail saying no,
6 you do not have to be at the depositions.

7 Now, I had also sent Mr. Brown admissions that he
8 did not respond to, which -- which is that basically the
9 deposition. But he never responded. And I asked -- I
10 checked on that.

11 And according to what I -- the question I asked, he
12 doesn't have to respond to those because he's not a -- he
13 wasn't a part of the accident. But he was, because he
14 was the middle car involved in the accident.

15 Therefore, I feel that if her -- if the depositions
16 are allowed, my admission -- my -- my request for
17 admission should also be allowed into the record as to
18 the fact that he did not respond to those -- those --
19 those admissions that I sent to him. So he has avoided
20 my request. And he's -- he's been avoiding -- he avoided
21 quite often Ms. Spitz' request.

22 So it is for -- really, as I said, it would be
23 prejudicial and unfair. If you allow her depositions in,
24 then my admissions should also be allowed in as part of
25 the record. Because those admissions ask the very --

1 pretty much the very same questions that Ms. Spitz asked
2 Mr. Brown during that deposition.

3 THE COURT: Okay. Ms. Spitz correctly told you that
4 you were not required to attend the deposition. Any
5 party has the option of attending the deposition, unless
6 it were your deposition and you were under subpoena or,
7 you know, you're a party to the action. You might be
8 compelled to be there at the deposition.

9 But because this was a deposition of a witness, she
10 correctly told you that you were not required to be
11 there. You had the option of being there, though, and
12 chose not to. So you forfeited that opportunity to
13 cross-examine or question Mr. Brown. I don't know that
14 it would exactly be cross-examination, but the
15 opportunity to question Mr. Brown.

16 Additionally, as to your requests for admissions,
17 those are properly sent to a party to the action. So
18 there may have been some confusion with the -- the
19 language that was used. It -- it's not that he didn't
20 have to respond because he was not a part of the
21 accident. It's because he's not a party to this lawsuit.
22 He is neither plaintiff nor defendant or any other party
23 to this lawsuit. And requests for admission, under the
24 South Carolina Rules of Civil Procedure and the federal
25 rules -- and probably rules of every state -- are that

1 requests for admissions are properly served upon a party.

2 Now, there is a method for doing a deposition upon
3 written questions for a witness. And I don't know
4 whether that was your intent. But certainly, you didn't
5 get any responses from him. So it would not be
6 appropriate to allow those admissions to be used in this
7 trial because they are not deemed -- they have no
8 evidentiary value.

9 So to the extent that allowing Ms. Spitz to use
10 portions of Mr. Brown's deposition -- to the extent that
11 that is prejudicial to you, it may be. But it -- it may
12 be because you forfeited your opportunity to ask
13 questions to him. So I can't -- I can't find that it's
14 inappropriate pursuant to the rule. So ---

15 MS. COURAM: May I again ---

16 THE COURT: --- again ---

17 MS. COURAM: --- respond?

18 THE COURT: Well, I'm -- I'm still going to deny ---

19 MS. COURAM: I know you are.

20 THE COURT: --- you know, overrule ---

21 MS. COURAM: But I still ---

22 THE COURT: --- your objection.

23 MS. COURAM: But I -- I still object to it. As I
24 stated, I -- I'm pro se. I don't know all the nuances in
25 all this. And as far as I know, if I was -- if I didn't

1 have any questions for Mr. Brown at the time of his
2 deposition -- they wanted to give him a deposition.

3 But in either case, I -- I still stand by my
4 objection. And I think it's -- it's prejudicial to allow
5 that admission. But if that's the ruling, that's the
6 ruling. But I still -- I maintain my objection.

7 THE COURT: Understood. Any other pretrial matters?

8 MS. SPITZ: Yes, Your Honor. We do have a few other
9 issues we'd like to bring up before the Court, the first
10 being that under the South Carolina Rules of Evidence
11 411, any mention of insurance during the trial, including
12 during openings, closings, or testimony would be
13 inappropriate. Additionally, any mention of Nationwide
14 Insurance Company, the adjuster, or the names of the
15 adjusters would be inappropriate and excluded under the
16 rule.

17 Initially, when Ms. Couram filed this action, she
18 had included Nationwide Insurance Company and Titan
19 Indemnity Company. So I would ask, if she does plan on
20 showing the jury her complaint or something, that we have
21 those names redacted.

22 THE COURT: Okay. Yes, ma'am.

23 MS. COURAM: And those would -- and when I agree to
24 that, I agree that -- to that under condition that if I
25 feel the need for it to be brought back in, that I could

1 do that.

2 As far as -- I have letters that I wrote to the -- I
3 -- I don't to mention their names or anything, unless I
4 do it by accident. But I also have letters that I will
5 read into the court record, which explains what happened
6 at the time of the accident, because the insurance
7 adjusters were involved in this from day one. And I gave
8 them all the information.

9 Therefore, I will be reading into the record what
10 happened, what I've said to the insurance adjusters, as
11 to what happened on the day of the accident, subsequently
12 to the accident, how the injury came about. And all that
13 will be read into the record, because I -- as you can
14 see, I'm my only witness. And I'm the only one that can
15 testify to this. And also, I'm the one that was injured
16 at the time of the accident.

17 Also, therefore, I feel -- is my employer going to
18 be here?

19 MS. SPITZ: I'm ---

20 MS. COURAM: Anyway, there was a issue as to whether
21 or not my employer was going to bring -- she was going to
22 subpoena my employers here. I hadn't heard that they
23 were not going to be here or not, because this is also
24 issue related to my loss of my job as a result of this
25 accident.

1 So anyway, those things will be read into the
2 record. I will also be reading into -- Mr. -- the
3 admissions of Mr. Treadwell [sic] at the time of the
4 accident by his -- and attorney, Ms. Sumner.

5 So I will try my best not to say anything about the
6 insurance companies and do the best I can. But my entire
7 case is -- is as -- injuries is tied up into the letters
8 and the things that I submitted to the insurance company,
9 who represented to me as being Mr. Tidwell's
10 representative. So I don't see how I can not enter that
11 information into the record and how can you stop me from
12 enter that information to the record.

13 But I understand not -- that I cannot say Nationwide
14 or Titan. But I also have a stipulation that, if
15 necessary, I can -- those two can be brought into this
16 matter.

17 THE COURT: Okay. It is simply a rule of evidence
18 that you are not permitted to mention insurance in an
19 action such as this. You are not permitted to mention
20 Nationwide Mutual Insurance Company, Title Indemnity
21 Company, Liberty Mutual, Progressive, Rick Skurko or Mark
22 Shurko (phonetic), whichever his name is -- I've seen it
23 both throughout the file, but any adjuster's name --
24 BlueCross BlueShield, or even your -- the FR-10 that was
25 given to you immediately following the accident. I

1 notice that there was a copy of that attached to the
2 complaint. That is not appropriate.

3 And I know, based on what you've just said, that
4 your view is that insurance is tied up in this or your
5 communications with the adjusters are some proof of
6 something in this case. But they are not. You cannot
7 mention any communications with adjusters, any letters
8 that you've written to adjusters. You said that it's
9 your intent to read those into the record. You are not
10 permitted to do that.

11 MS. COURAM: But these -- these -- may I pass -- may
12 you look at them and -- and determine -- all they are is
13 -- I'm sorry. All they are is a record of events of what
14 happened. I mean, I'm going to be doing that anyway.
15 It's just that I keep the -- if I keep it, I can keep it
16 under control as to what I'm saying and how I'm saying it
17 and make sure I get everything in the record.

18 It can be looked at by you, as well as Ms. -- Ms.
19 Spitz, as to what is in there. This doesn't really say
20 anything, except it's written to Mr. Sturko (phonetic),
21 the adjuster. It's -- it says it's regarding Mr.
22 Sherwood Tidwell and insurance company. That can be
23 blacked out.

24 It just talks about the accident, date of the
25 accident. It talks -- I can take out "Dear Mr. Sturko,"

1 which the jury wouldn't know it was an adjuster unless I
2 said so. And it just tells him what happened on the day
3 of the accident, how the injuries came about on the day
4 of the accident, and that is all it is.

5 It is -- that is all it is. It is nothing about how
6 much the insurance company -- how much Mr. Tidwell has or
7 anything of that nature, as far as the -- what -- what
8 his insurance company covers. That's all it is. It's
9 just letters that will be read into the record of my
10 statement to the Court.

11 THE COURT: I understand. But they are letters to
12 insurance adjusters, authored by you, sent to an adjuster
13 at an insurance company. Those are not admissible for a
14 variety of reasons. Even if -- as I've said, Rule 411
15 prevents -- prohibits the mention of insurance.

16 And I know you've offered to redact that portion of
17 it. But those letters would still be inadmissible
18 hearsay and prohibited by Rule 80 -- 801 and 802 of the
19 South Carolina Rules of Evidence. So ---

20 MS. COURAM: I mean, this is just a case of damages.

21 THE COURT: I understand ---

22 MS. COURAM: It's -- it is not ---

23 THE COURT: --- that.

24 MS. COURAM: --- a case ---

25 THE COURT: And the ---

1 MS. COURAM: --- of making ---

2 THE COURT: --- the rules of evidence still apply.

3 MS. COURAM: But all the letters say is please find
4 enclosed necessary medical documents.

5 THE COURT: It doesn't matter what they say.

6 They're ---

7 MS. COURAM: And how ---

8 THE COURT: --- still inadmissible ---

9 MS. COURAM: Okay. So ---

10 THE COURT: --- hearsay.

11 MS. COURAM: --- if I say -- if I look at this and I
12 -- as I -- as I use it as notes, then that's -- that's
13 different? What do I not say to make sure that the
14 insurance company is not involved? Because I don't see
15 anything in these letters, except for a statement.

16 It's just a statement, just like Comey did and just
17 like the -- Mr. Sessions did. They said a statement.
18 And after that statement was read, the -- the -- the
19 Congressmen asked -- asked questions.

20 THE COURT: I ---

21 MS. COURAM: That's all ---

22 THE COURT: --- understand ---

23 MS. COURAM: --- this is.

24 THE COURT: I understand. But that -- that was not
25 a court of law in the State of South Carolina. What I'm

1 telling you is: Whether it -- it doesn't -- that
2 statement or that letter could talk about the man on the
3 moon. It doesn't matter that it -- I mean, it matters in
4 one sense that it talks about insurance. But even if it
5 didn't, it is hearsay. It is an out-of-court statement
6 offered ---

7 MS. COURAM: It's ---

8 THE COURT: --- for the truth of the matter
9 asserted, which is ---

10 MS. COURAM: How can it be hearsay when it's written
11 by me?

12 THE COURT: Because ---

13 MS. COURAM: I'm here.

14 THE COURT: --- you have to testify to it. You
15 can't just introduce your prior consistent statement as
16 -- I'm telling you what the rules are. Whether you
17 disagree with them, I don't -- but that is what the rule
18 is. It -- it is hearsay. You have to testify -- tell
19 ---

20 MS. COURAM: This is ---

21 THE COURT: --- the jury ---

22 MS. COURAM: This is all this is, ma'am. That's
23 what I'm trying to tell you. And if you look at it, you
24 will see that it's all -- that's all it is.

25 THE COURT: And you ---

1 MS. COURAM: It's ---

2 THE COURT: --- may ---

3 MS. COURAM: --- testimony.

4 THE COURT: You may testify to the same thing that
5 that piece of paper says. I don't know what will come
6 out of your mouth at the time. It may be identical to
7 what that piece of paper says.

8 What I'm saying is that is not admissible evidence
9 because it is hearsay.

10 MS. COURAM: That's -- okay.

11 THE COURT: Okay.

12 MS. COURAM: All I'm saying is that I want to read
13 it -- this statement into the record. I'm not saying
14 that it's -- it's going to be evidence. Because if it's
15 evidence, the jury get to see what's on here.

16 Why would it -- but I would -- I'm not asking you to
17 submit it as evidence. I'm asking to -- me to be able to
18 make a -- to read my statement as I wrote it by my hand
19 as a person that was involved in this accident.

20 THE COURT: Okay.

21 MS. COURAM: That's what I'm asking you -- that's
22 why I said if you'll look at it, you'll see what it is.
23 It's not -- it's not evidence. I mean, I could say -- if
24 you can -- if this can be Exhibit 1. But most exhibits
25 are pictures or something like that. This is just a

1 letter about the events that took place at the time of
2 the accident. I'm not asking to be -- for it to be
3 submitted into as -- as evidence. I'm just asking to be
4 able to read it.

5 THE COURT: Ms. Spitz, what's your position on that?

6 MS. SPITZ: Your Honor, I would object to Ms. Couram
7 reading directly from the letters that she sent. As you
8 stated, of course, Ms. Couram can testify about what
9 happened. But I would object to her actually reading
10 from that document, given that it is hearsay.

11 THE COURT: Right. And I know, Ms. Couram, that it
12 may seem like a fine line to you or -- or really, the
13 same thing. But every witness is required to come in
14 here and testify from their memory, their knowledge of
15 the circumstances and events that occurred.

16 MS. COURAM: That is ---

17 THE COURT: Now ---

18 MS. COURAM: --- exactly what this is.

19 THE COURT: Okay. Let me finish. Don't interrupt
20 me, please. You may, for some reason, need to refresh
21 your recollection by looking at a date, a time, or
22 something else on some piece of paper, whether that's --
23 it's that letter or something else, that may help you
24 refresh your recollection. But what we do not permit is
25 for a witness like James Comey, or -- or -- or any other

1 person, to read a prepared statement from the witness
2 stand. You must testify as to your memory and knowledge.

3 Now, if glancing down at that piece of paper helps
4 you to recall some detail, that is fine. You may do
5 that. But you cannot read verbatim that written
6 statement.

7 MS. COURAM: Okay.

8 THE COURT: Okay.

9 MS. SPITZ: Your Honor, I would note, before we
10 change topics, about the statement Ms. Couram is
11 referring to: I don't have a copy of that. I'm not
12 exactly sure what statement she's referring to. So if
13 she does take it on the stand, I would, of course, ask at
14 that time to be able to look at it.

15 THE COURT: Absolutely.

16 MS. COURAM: I -- I -- I -- I presented -- I asked
17 you to look at it. I asked -- I -- I'm handing -- I can
18 give you a copy and I'll give the judge a copy.

19 MS. SPITZ: Okay. That's great, if you have a copy.
20 That's all I'm asking.

21 THE COURT: Thank you.

22 MS. COURAM: I submitted all these to the insurance
23 company. I'm not sure why they didn't get a copy.

24 (Off the record briefly.)

25 MS. COURAM: I'm just trying to find another copy

1 for the judge.

2 THE COURT: If -- if you'd just go ahead and hand it
3 to Ms. Spitz, that'd be sufficient ---

4 MS. COURAM: Uh-huh.

5 THE COURT: --- for now.

6 MS. SPITZ: Thank you.

7 MS. COURAM: And this is one for ---

8 MS. SPITZ: Okay.

9 MS. COURAM: And they ---

10 MS. SPITZ: Thank you.

11 MS. COURAM: --- basically say the same thing.

12 MS. SPITZ: All right. Your Honor, I would like to
13 address one thing that Ms. Couram brought up a moment ago
14 regarding the requests to admit that we responded to on
15 behalf of Mr. Tidwell. The -- we responded timely to all
16 requests to admit.

17 However, the second set of requests to admit that
18 Ms. Couram served were past her number that she's
19 entitled to under the rule. And we did object to each
20 one of those requests.

21 I would object to her using that here today. It's
22 not relevant, and it shouldn't be used to show that Mr.
23 Tidwell was admitting to what was being said.

24 THE COURT: Okay. Let me hear from you, Ms. Couram.

25 MS. COURAM: That's not exactly true, if I

1 understood the question. Ms. Sumner gave me admissions
2 by Mr. Tidwell.

3 MS. SPITZ: And I have no issue with you using the
4 ones that she responded to. I just have an issue with
5 using that ones that were past the number you're entitled
6 to under the rule ---

7 MS. COURAM: You do ---

8 MS. SPITZ: --- the ones ---

9 MS. COURAM: --- not ---

10 MS. SPITZ: --- that we objected to.

11 MS. COURAM: Ms. Spitz didn't answer those, so I
12 couldn't use them anyway.

13 THE COURT: Agreed.

14 MS. SPITZ: Okay. Great. Glad we're on the same
15 page, then.

16 THE COURT: Okay.

17 MS. SPITZ: Okay. The next issue I did just want to
18 bring to the Court's attention and to Ms. Couram's
19 attention: Of course, under South Carolina Rule of
20 Evidence 802, as we've been discussing, hearsay is
21 inadmissible. That would be during openings, closings,
22 or during Ms. Couram's testimony today. Medical records
23 would fall within the rule of hearsay. Medical
24 diagnoses, statements of doctors or others offered for
25 the truth of the matter asserted; additionally, the

1 accident report would fall within that and would be
2 inadmissible.

3 THE COURT: Yes, ma'am.

4 MS. COURAM: If the medical records are
5 inadmissible, why -- why would they have a expert coming
6 on Friday to talk about my medical records? My medical
7 records are the -- states what -- what happened at the
8 accident and takes -- states what type of injuries there
9 were at the accident. It takes -- states what I had to
10 go through after I went to -- like the MRIs or the X-rays
11 and what medication was prescribed and what diagnosis was
12 given to -- at the Spine Center, at -- by Vital Energy,
13 as well as Dr. Birdsong and a couple of other doctors.

14 So if my medical records are hearsay, why -- why --
15 why is a doctor -- an expert coming in to discuss my
16 medical records? I don't understand that concept.
17 Because without the medical records, how do I prove my --
18 my injuries? How do I show my injuries?

19 THE COURT: You can testify about your injuries.
20 But the medical records themselves are hearsay. The
21 medical records -- you said they -- they tell what
22 happened or tell what your injuries were. They do not --
23 what they -- they tell is what you told the doctors your
24 injuries were and the doctor's opinion about what
25 occurred, which, without having the doctor here to

1 testify about them, are, in fact, inadmissible hearsay.
2 They contain diagnoses, which would also be inadmissible
3 hearsay, because you don't have the doctor here to
4 testify about them -- about those diagnoses.

5 So you will not be permitted to introduce into
6 evidence those medical records as -- as part of your
7 case-in-chief. You would need to have the doctors here
8 to talk about them.

9 You can tell the jury what -- from your perspective
10 -- as I said, you sit on the witness stand and you tell
11 what happened. And part of what happened is your belief
12 that you were injured. And you can tell the jury all
13 about your injuries and how you felt and what you believe
14 to be wrong with you, how you suffered, etc., and that
15 you, in fact, went to see doctors on this date or that
16 date. That's fine.

17 But the medical records themselves contain
18 statements from doctors, opinions, and other things that
19 are not admissible.

20 MS. COURAM: And the expert testimony? What is the
21 purpose of that?

22 THE COURT: Oh, I don't know. I have no idea. As I
23 sit here right now, I -- I -- I do not know.

24 MS. COURAM: So if medical -- if an expert comes in
25 and he brings my medical records, I am not allowed to say

1 anything about my medical records? I have to subpoena
2 Dr. Birdsong to come in? Could -- if he's not going to
3 be here till Friday, I can definitely do that -- or the
4 Spine Center.

5 THE COURT: Okay. I mean, I would anticipate -- and
6 -- and I don't know what the experts are. You tell me
7 that they are medical experts. That may be the case.

8 And the rules permit experts to form -- to -- one to
9 offer opinions in court, where laypersons cannot. But
10 those opinions can be formulated based on anything that
11 they feel would inform their opinion, which would include
12 hearsay. So I wouldn't anticipate that the doctor would
13 offer your medical records as evidence ---

14 MS. COURAM: Uh-huh.

15 THE COURT: --- because that would be probably
16 equally impermissible. But the doctor may have an
17 opinion about the kinds of injuries that occur in these
18 situations or some -- I -- I just don't know, because I
19 -- listen, I know very little about this case. I read
20 through the Court's file last night, and that's all I
21 know, in addition to what you've told me here this
22 morning. So I don't know what Ms. Spitz intends to offer
23 that expert to say.

24 MS. COURAM: That's okay. I'll just -- I'll see if
25 I can get Dr. Birdsong or one of the other two doctors to

1 come in to testify ---

2 THE COURT: Okay.

3 MS. COURAM: --- under subpoena.

4 THE COURT: Okay. When do you intend to do that?

5 Because ---

6 MS. COURAM: Huh?

7 THE COURT: --- we're starting -- trial starts
8 today.

9 MS. COURAM: Yes. But the trial ---

10 DEPUTY CLERK OF COURT: Stand.

11 MS. COURAM: --- the expert is not going to -- oh.

12 The expert is supposed to be here on Friday or Monday.

13 THE COURT: Uh-huh.

14 MS. COURAM: Now, if the expert is not going to be
15 here, then ---

16 THE COURT: You have to present your case today. We
17 are starting in just a little while. And it is your
18 responsibility to present your case today.

19 MS. COURAM: Uh-huh. Okay.

20 THE COURT: Now, they're anticipating having an
21 expert here tomorrow and that's if this trial lasts till
22 tomorrow. I -- I don't know. I guess they probably
23 thought that was a safe bet, given the fact that the
24 doctor -- or the expert's not available today, but also
25 given the fact that you have to go first. And they know

1 that they've got some time to get their witnesses here,
2 because you have to go first. So ---

3 MS. COURAM: Okay.

4 THE COURT: And it may be that -- it may be that the
5 trial goes very quickly and we cannot accommodate that
6 expert and maybe that expert can't testify. I don't
7 know. If the trial goes very quickly today -- you know,
8 I don't stop the trial to wait for witnesses.

9 So, I mean, if it's responsible and logical, you
10 know, for us to wait for that person to be here tomorrow,
11 then that's fine. But it may be that we never even get
12 to that witness. I don't know.

13 MS. COURAM: Then, I'd request the a continuance
14 until I can see if I can get a witness -- the doctors
15 here.

16 THE COURT: Well, now, at this point I have to deny
17 that request. And that's why I went through, before even
18 started, your desire to go forward. And you affirmed
19 that. You e-mailed it to me. And I may even need to ---

20 MS. COURAM: That was because of the fear that I had
21 of Judge Manning becoming -- being the judge and
22 involving this matter. And it also did not -- I did not
23 realize that I could not submit my medical records as the
24 evidence. I did not realize that I needed Dr. Birdsong
25 or one of the other doctors to come in to testify in

1 order to get those medical records admitted into the
2 record. Mostly it was out of fear of -- of Judge
3 Manning.

4 THE COURT: I understand. Hold on one second.

5 (To the court reporter) Make that a Court's
6 exhibit.

7 THE COURT REPORTER: Yes, ma'am.

8 (Whereupon, Court's Exhibit 1 was marked for
9 identification.)

10 THE COURT: Okay. Just we had to pause so we could
11 mark that as an exhibit that -- and you're both more than
12 welcome to look at it. But that's simply a printout of
13 our e-mail exchange that began yesterday with my
14 expression of my intent to continue the case, which --
15 which was followed by Ms. Couram ---

16 MS. COURAM: No. If I remember the e-mail
17 correctly, you -- the e-mail said -- and I didn't even
18 know you were the judge. I thought it was Judge
19 Benjamin. I don't -- I don't even know who you are. If
20 -- and it -- the e-mail stated that we will continue this
21 matter until July, which is a term of court for Judge
22 Manning.

23 And that is what's -- that is what prompted my
24 desire to go ahead and get this done so I wouldn't be
25 before Judge Manning. And then I got the e-mail from you

1 that I forget -- I have it -- I don't know where this at.
2 But I know what you're -- I know what you're saying. And
3 I understand what you're saying.

4 But this whole thing is not as it seems. Because
5 the e-mail did not say that -- that you would be -- you
6 would be the judge. Only judge I know about is Judge
7 Benjamin. And the only judge I know that's going -- term
8 of court would be in July through December. And that was
9 a judge I did not want to be before because I sued the
10 judge.

11 Now, I didn't understand your e-mail saying -- to
12 say that you -- you were -- you were continuing the
13 matter. It said that Judge Benjamin -- Judge Benjamin
14 was -- would not be able to take over until -- would not
15 be able to do this until July and I was to contact judge
16 -- the three -- the three people listed in that e-mail.
17 And that's what it said.

18 Now, I -- if I had known you were going to be the
19 judge, then ---

20 THE COURT: I'm not ---

21 MS. COURAM: --- I would have ---

22 THE COURT: --- telling you that I'm going to be. I
23 mean, I -- I am right now. But you don't get to choose
24 your judge.

25 MS. COURAM: I know that. That's what -- that's why

1 -- that's why I was so afraid of what was happening.
2 Because this matter has been in this Court. I was
3 supposed to go before Judge Benjamin in February. I was
4 supposed to go before Judge -- I came all the way out
5 here in February to -- February. And Judge Benjamin was
6 on vacation. Judge Manning was sitting in her place.
7 That's when he called me his son.

8 And then on top of that, I came back again. And
9 Judge Manning says, "Well, I don't think I -- I'll be
10 able to take your case. It won't be till July." And
11 from that point it would be Judge Manning -- Manning and
12 Judge Nettles to -- to be -- to be the judges involved in
13 this matter.

14 So I don't -- I'm not sure -- I thought the fact
15 that you were the judge -- and I still don't know your
16 name. I think it's Newman? Judge Newman. I didn't even
17 know you were a judge when you sent the e-mail. It
18 didn't say judge. It said Joyce Newman [sic].

19 THE COURT: It says Jocelyn Newman ---

20 MS. COURAM: Jocelyn Newman.

21 THE COURT: --- Circuit Court Judge ---

22 MS. COURAM: Not in ---

23 THE COURT: --- is what ---

24 MS. COURAM: --- my e-mail, it did not state that.

25 THE COURT: Okay.

1 MS. COURAM: It may say it but yours -- but it
2 doesn't say it in mine.

3 THE COURT: Okay.

4 MS. COURAM: But my point is that I did not realize
5 -- and my goal was to stay out from before Judge Manning.
6 That was the only goal I had. And if you had sent the e-
7 mail stating that you were continuing this matter until
8 such and such time, then that would've been -- that
9 would've been okay with me. But that's not what that e-
10 mail said. It said Judge Benjamin was continuing -- was
11 not going to be able to take -- do the trial this week
12 and she was not going to be able to do it next week so
13 contact Judge Manning's office. That's what the e-mail
14 said.

15 THE COURT: Okay. I think the e-mail speaks for
16 itself. Your renewed request for a continuance is duly
17 noted, but it is denied.

18 MS. COURAM: Okay.

19 THE COURT: Any other pretrial matters?

20 MS. SPITZ: Yes, Your Honor, just a few. The next
21 issue: Ms. Couram has indicated she would be bring up at
22 trial is she would be introducing e-mails from myself and
23 e-mails to and from her employer. In regards to the
24 e-mails from myself, I would object to those. They're
25 not relevant.

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1 And as far as the e-mails to and from her employer,
2 first of all, I haven't received those from Ms. Couram.
3 She indicated that to me last night by e-mail. I still
4 don't have them, never seen them, and would object to
5 them as hearsay.

6 THE COURT: Yes, ma'am.

7 MS. COURAM: First of all, I never said I was going
8 to say about your e-mails. I don't know what your e-
9 mails has to do say ---

10 THE COURT: Okay.

11 MS. COURAM: --- do with anything.

12 THE COURT: Talk to me.

13 MS. COURAM: I never said anything about her
14 e-mails.

15 THE COURT: So ---

16 MS. COURAM: I don't know what ---

17 THE COURT: --- if you ---

18 MS. COURAM: --- her e-mails has to do with
19 anything.

20 THE COURT: Okay. So you don't even intend to
21 introduce those?

22 MS. COURAM: Not her e-mails. I don't even ---

23 THE COURT: Right.

24 MS. COURAM: --- know what e-mails it would be.

25 THE COURT: Okay. That's ---

1 MS. COURAM: As far ---

2 THE COURT: --- fine.

3 MS. COURAM: --- as my employer e-mails, what I said
4 to her was if I could locate those e-mails to prove how
5 my -- I lost my job as a result of this accident, then I
6 -- if I could find them and if I -- if it were on my
7 computer, then I would -- I would -- I was going to
8 present them. And she sent back that was not the
9 discovery rules.

10 Discovery rules said I -- said I was supposed to
11 send her the information that I had when I got them. I
12 did not have them. I did not know she was going to bring
13 my employer in this until a week ago. That was her
14 decision.

15 So in order to prove that -- to -- and also, what
16 the e-mail stated was -- was the progress of what -- it
17 was my diary on the events of this injury as beginning in
18 September 18, 2015. It just stated the level of pain I
19 was in, how much medication I was taking, and those are
20 all the things that the e-mails said.

21 And I decided, because it -- it also dealt with
22 other issues involving my employer, that it may not be a
23 good idea to put that -- put those e-mails out there yet.
24 Because it's still -- there's another trial pending next
25 -- week after next, I believe, regarding my employer.

1 So all those e-mails -- only e-mail -- the only -- I
2 -- the e-mails would say is: My level of pain today is
3 at 6. I had to take four ibuprofens today. I have pain
4 -- I had -- it felt like something was poking in the
5 middle of my back. I had to sit straight up all day long
6 while I did my job because of the pain that I was
7 feeling.

8 That's all the e-mails would've said. And I can
9 testify to that on my own.

10 THE COURT: You're going to have to, because the
11 e-mails themselves are inadmissible hearsay.

12 MS. COURAM: There's no e-mails.

13 THE COURT: Okay.

14 MS. COURAM: I mean, there are e-mails, but there's
15 none that I gave to her to put into -- put into the ---

16 THE COURT: Okay.

17 MS. COURAM: --- record.

18 THE COURT: Then, it's not an issue.

19 MS. SPITZ: Okay. And the next issue being, of
20 course, pursuant to South Carolina Rule of Evidence 408,
21 offers to settle or settlement negotiations are, of
22 course, inadmissible. That would include our offer of
23 judgment that's been filed in this case. The plaintiff,
24 Ms. Couram, has indicated that she believes our offer of
25 judgment meant she could no longer seek medical

1 treatment.

2 I would object to her testifying to that, because
3 that's simply not true, and additionally would object to
4 her mentioning the mediator at all that mediated the
5 case. I know she's just filed a lawsuit against the
6 mediator. But that's not relevant here and certainly is
7 excluded by the rule.

8 THE COURT: Okay.

9 MS. COURAM: It's relevant in the fact that my job
10 was lost because of the mediator. The mediator sent e-
11 mails to me about issues relating to her -- her payment.
12 And she contacted me on my job about those e-mails. My
13 employer terminated my job because of those e-mails.
14 That's directly related to this accident.

15 THE COURT: Okay.

16 MS. COURAM: Therefore, if I'm -- if -- if my
17 damages include loss of my job, then I have a right to --
18 I should have a right to admit those e-mails that I did
19 give to Ms. -- Ms. Spitz.

20 THE COURT: The e-mails are inadmissible hearsay.
21 You can testify about -- I -- I don't know. What do the
22 e-mails talk about? I'm sorry.

23 MS. COURAM: The e-mails talk about the fact that
24 they wanted more money from me. I said that they -- we
25 had agreed to 250. It was less than a hour mediation. I

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1 ---

2 THE COURT: Okay.

3 MS. COURAM: --- stated they -- they -- Ms. -- the
4 attorney had another attorney contacting me like a bill
5 collector. She contacted me at my job. She tried --
6 they had filed a suit against me, and it was supposed to
7 go before Judge Toal. Instead of allowing that to go
8 forward, they kept contacting me at my job.

9 And I answered the e-mails like I would a phone.
10 And -- and that's all I did. But at one point when she
11 set the -- the attorney stated, "Are you supposed to be
12 using your e-mails at work?" And I stated -- she kept
13 stating that she was -- she used to be a state employee.
14 She was a state employee and that state employees are not
15 allowed to use e-mails at work.

16 And then she said, "I have a relative working for
17 the state. And they said that you're not supposed to be
18 using e-mails at work."

19 THE COURT: Okay.

20 MS. COURAM: I stated ---

21 THE COURT: Hold on.

22 MS. COURAM: --- that ---

23 THE COURT: Okay.

24 MS. COURAM: --- we are allowed to use our e-mails
25 as long as we do not abuse the privilege.

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1 THE COURT: Okay.

2 MS. COURAM: And that was true.

3 THE COURT: All right. You can stop right there. I
4 -- I think I understand. That is not admissible. It is
5 not relevant to this action. You may believe that the
6 mediator sending you e-mails caused you to lose ---

7 MS. COURAM: I haven't ---

8 THE COURT: --- your job.

9 MS. COURAM: --- finished, ma'am.

10 THE COURT: But that is separate and apart from Mr.
11 Tidwell's liability for a car accident that happened in
12 2015 or 2016, whichever it was. I forget the date.

13 MS. SPITZ: It's ---

14 THE COURT: September ---

15 MS. SPITZ: --- 2015, Your Honor.

16 THE COURT: Yeah. September ---

17 MS. COURAM: 2015.

18 THE COURT: --- 2015. That ---

19 MS. COURAM: Had ---

20 THE COURT: --- has no bearing on this case and
21 they're therefore not relevant to this action.

22 MS. COURAM: I hadn't finished, Your Honor.

23 THE COURT: Well, tell me the part that's relevant
24 to this action.

25 MS. COURAM: The part that's relevant to this action

1 is that my employer put in a termination letter. We are
2 terminating you because of an anonymous call from a non-
3 DMV employee who reported the fact that you were using
4 your e-mails to discuss this incident.

5 That is in the letter that they used to terminate me
6 for. That is the reason I don't get unemployment.
7 Because my employer used that job -- that accident in --
8 to put me on suspension for -- for a day.

9 They used that accident -- I didn't have any issues
10 with my employer, as far as my work habits, prior to this
11 accident. And now everything is all messed up and I have
12 nothing as a result of this accident.

13 I didn't ask to be hit. And Mr. Tidwell hit me. I
14 didn't hit him.

15 THE COURT: I understand.

16 MS. COURAM: And I -- I'm -- I've lost everything
17 because of something that he did ---

18 THE COURT: Okay.

19 MS. COURAM: --- not something I did.

20 THE COURT: All right. Let me stop you. Still,
21 based on what I've heard, those are not relevant to this
22 action. Your e-mails back and forth are: (1) hearsay;
23 but (2) not relevant. And so back to Ms. Spitz's point
24 that you are not permitted by the rules of evidence to
25 mention settlement negotiations or any offers to

1 compromise or anything of that nature, you can't talk
2 about your conversations with an insurance adjuster or
3 Ms. Spitz about trying to resolve this case. You cannot
4 mention the mediator or the fact that there was a
5 mediation.

6 MS. COURAM: I hadn't planned on doing that.

7 THE COURT: Okay. I'm just going through the list
8 of things just to make sure that we're covered. You
9 cannot discuss those e-mails back and forth with the
10 mediator or anyone else from that office or anything that
11 had to do with mediation, whether it was with the
12 mediator or Ms. Spitz or anyone else, about mediation.

13 The jury is not even permitted to know that there
14 was a mediation in this case. Is that understood? Are
15 there any questions about that?

16 MS. COURAM: I'll do my best.

17 THE COURT: Okay. Well, you're going to have to.
18 I'm requiring you to, so it's not just a matter of making
19 an effort. I'm telling you do not.

20 MS. COURAM: Then, ma'am, I -- like I said before,
21 I'm pro se. And I will do my best. If I slip up, then
22 you just have to tell me. I can't -- I'm pro se.

23 THE COURT: I understand.

24 MS. COURAM: I'm going to ---

25 THE COURT: But you ---

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1 MS. COURAM: --- do my best at
2 that I'm not supposed to do.

3 THE COURT: You have to ensure that you

4 MS. COURAM: I can't ---

5 THE COURT: Yes.

6 MS. COURAM: I can't promise that. But I will do my
7 best.

8 MS. SPITZ: Your Honor, for the record and for Ms.
9 Couram's information, if she does mention insurance or
10 these offers to settle or any of the things you ruled as
11 inadmissible, we will be moving for a mistrial and will
12 seek costs from Ms. Couram, which, to date, include, of
13 course, my preparation for trial and including our
14 experts costs, which are about \$3,000 to date.

15 THE COURT: Right. So it -- it -- it's not a matter
16 of just trying to tiptoe. I am ordering you not to
17 mention the things that we've just discussed. And any
18 mention of those things is very likely grounds for a
19 mistrial. It would be a violation of my order, the
20 Court's order, to you not to do those things. And -- and
21 it -- it may be appropriate -- I'm not going to make that
22 determine at this time.

23 But it may be appropriate, depending on the
24 circumstances, to require you -- to sanction you and
25 require you to pay the costs -- the defense costs

1 involved in preparation for being here today when, you
2 know, it -- it will be rendered useless by fact that you
3 caused the mistrial. So that is your caution.

4 MS. COURAM: As I said, ma'am, I'm going to do my
5 best. I'm not going to lie and say I'm not going to slip
6 up. But I will do my best, and Court's -- Court will do
7 what it needs to do.

8 THE COURT: Well, you need ---

9 MS. COURAM: Because I'm ---

10 THE COURT: --- to make ---

11 MS. COURAM: --- not lying to you or anybody else.

12 THE COURT: Okay. You need to make yourself notes
13 or Post-Its or stickies or ---

14 MS. COURAM: That's the ---

15 THE COURT: --- whatever ---

16 MS. COURAM: --- whole ---

17 THE COURT: --- you have ---

18 MS. COURAM: --- point ---

19 THE COURT: --- to do.

20 MS. COURAM: --- of my saying that I'm going to
21 stick to my statements, ma'am.

22 THE COURT: Okay.

23 MS. COURAM: And may I ---

24 THE COURT: Yes, ma'am.

25 MS. COURAM: My information? I haven't heard

1 anything back from that. My letters?

2 MS. SPITZ: Oh. I have not yet had an opportunity
3 to read them.

4 THE COURT: Right. Is there anything -- any other
5 pretrial matters?

6 MS. SPITZ: Not at this time, Your Honor. I did --
7 would just let you know for the Court's information: I
8 know there's been mention of our expert witness. He's
9 not available until tomorrow morning. I understand, if
10 the trial goes quickly today, that we would not be able
11 to call him, but did want to make you aware that we would
12 like to call him, but he's not available until tomorrow
13 morning. He said he could be here as early as we would
14 be able to start.

15 THE COURT: Okay. Okay. Yeah. And we'll just have
16 to see how things go. I imagine that we will move
17 relatively quickly, given that Ms. Couram is her only
18 witness.

19 MS. SPITZ: Yes, Your Honor.

20 THE COURT: So we'll see how that goes. And I don't
21 know how many other witnesses you have that could testify
22 in advance of that expert. We'll just cross that bridge
23 when we get to it.

24 MS. SPITZ: Yes, Your Honor. Thank you.

25 THE COURT: Okay. All right. Ms. Couram, anything

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1 that you think I need to discuss with y'all before we
2 pick a jury and start this trial?

3 MS. COURAM: I had provided the Court -- Ms. Spitz
4 the -- I think they're called jury instructions regarding
5 preexisting conditions and the eggshell rule and all
6 that. I don't know if I sent a copy to you. When --
7 when it -- when is that permissible to put forth to -- to
8 the Court?

9 THE COURT: You didn't send a copy to me. I will
10 need a copy. We will have a conference about those as
11 the trial progresses. Probably -- I don't know. It
12 depends -- I don't know. We'll figure it out, is the
13 best I can tell you. Certainly, before the time comes
14 for me to instruct the jury, because you're permitted to
15 have input on what that should be, what I should tell the
16 jury.

17 If -- if the trial takes until tomorrow, then we
18 will either do that sort of at the end of the day today
19 or first thing tomorrow morning. If it moves very
20 quickly and we're able to finish this trial today, then
21 I'll simply have to take a break before we get to that
22 point so that we can discuss that this afternoon. We'll
23 just sort of play it by ear. But you ---

24 MS. COURAM: All right.

25 THE COURT: --- will have an opportunity.

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1 Okay. Anything else, Ms. Couram, that you think we
2 need to talk about?

3 MS. COURAM: No. Not that I know of.

4 THE COURT: Okay. All right, then.

5 MS. COURAM: Oh. Projector -- I have -- they
6 brought a projector for -- to be brought -- brought in so
7 I can use to show the damages to my automobile and so
8 forth. And also, I have my -- my -- pretty much have my
9 opening statements and so forth and pretty much include
10 most of this -- this -- this information anyway on the
11 projector that I would like to have set up, if possible.

12 THE COURT: Well, as I indicated to you, the Court
13 really doesn't do that. You know, litigants are
14 generally required to bring their own equipment.
15 However, my clerk asked and the clerk of court's office
16 has a projector sitting right there in that black bag on
17 that table.

18 But we don't offer technology services or things
19 like that. You'll have to set it up and get prepared on
20 your own. There is a screen on the wall here and the
21 projector right there.

22 But, you know, you have to hook it up however you
23 need it. That's just for your convenience. That's sort
24 of a courtesy.

25 MS. COURAM: See, that's ---

1 THE COURT: Because the ---

2 MS. COURAM: --- why I ---

3 THE COURT: --- clerk of court ---

4 MS. COURAM: --- didn't know ---

5 THE COURT: --- happens ---

6 MS. COURAM: --- you were a judge.

7 THE COURT: --- to own one.

8 MS. COURAM: That's why I didn't know you were a
9 judge when I was talking to you via e-mail.

10 MS. SPITZ: Your Honor, I would note that if Ms.
11 Couram's planning on publishing documents during her
12 opening statement, no evidence has been stipulated to at
13 this point. I'm not saying we wouldn't, but I have not
14 received that request.

15 THE COURT: Right.

16 MS. COURAM: Received what request?

17 THE COURT: A request that you stipulate to the
18 admissibility of certain documents. And -- and I don't
19 know what it is you're going to show the jury. You can't
20 show them evidence that hasn't been admitted.

21 MS. COURAM: Don't I get to do a opening statement?

22 THE COURT: You get to do an opening statement ---

23 MS. COURAM: And don't ---

24 THE COURT: --- but that ---

25 MS. COURAM: --- don't -- don't I get to testify or

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1 -- or -- or be my witness and testify to the events that
2 took place?

3 THE COURT: Absolutely.

4 MS. COURAM: Then, that's what I'm projecting.

5 THE COURT: Right. What I'm telling you is that the
6 jury is not permitted to see documents that are not
7 admitted into evidence. You can have them admitted into
8 evidence and then you can show the jury. But you can't
9 do it in the reverse.

10 MS. COURAM: They're not documents, ma'am. They're
11 what I'm going to say.

12 THE COURT: Okay. I -- I don't know what it is.
13 It's on your computer.

14 MS. COURAM: No.

15 THE COURT: I'm just ---

16 MS. COURAM: That's what ---

17 THE COURT: --- telling you ---

18 MS. COURAM: --- I'm telling you that it's not
19 documents. Documents are these things right here.
20 Documents are the pictures that's on my phone and the
21 pictures right there.

22 That -- oh. That's the other thing. I have
23 photographs on my phone that I was wondering if I could
24 have admitted into evidence at some point. This is a not
25 -- nonactive phone. It just has photos on it.

1 MS. SPITZ: I -- I would like the opportunity to --
 2 to inspect the phone before she moves to admit it. I was
 3 nice enough to tell Ms. Couram she could use the
 4 photographs that I've brought today ---

5 MS. COURAM: And the photos ---

6 MS. SPITZ: --- that are ---

7 MS. COURAM: --- I had ---

8 MS. SPITZ: --- printed.

9 MS. COURAM: --- I gave to Spitz and currently
 10 she doesn't have them with

11 MS. SPITZ: I have photographs of the case.

12 THE COURT: I would like you to do this.

13 MS. COURAM: they? If -- excuse me.

14 If she has

15 THE COURT

16 MS.

17 THE

18 to do, s

19 is go ah

20 then sta

21 sitting,

22 time.

23 So

24 to talk about

25 might want Ms. Spitz to stipulate to. I don't know.

 out. What we're going
 's almost eleven o'clock,
 send them to lunch and
 1. Because they've been
 onsiderable period of

ssues. You will have time

s you may have that you

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1 You will have the opportunity to set up the
2 projector and -- and all of those things. But we need to
3 go ahead and pick this jury so that ---

4 MS. COURAM: Okay.

5 THE COURT: --- so that we don't have people just
6 sitting around, waiting on us.

7 All right. We are ready for a -- I'm sorry. Are
8 you ready, Ms. Couram, for the jury?

9 MS. COURAM: I -- I think so.

10 THE COURT: Have you had the opportunity to review
11 the proposed voir dire submitted to the Court by Ms.
12 Spitz?

13 MS. COURAM: I looked at it. But I would like to
14 see it again, please.

15 THE COURT: Do you have a copy of it?

16 MS. SPITZ: Yes. I provided a copy to you this
17 morning.

18 THE COURT: Okay.

19 MS. SPITZ: I would note, I struck through some of
20 the witnesses on there that Ms. Couram had identified,
21 since she's not calling anyone. Of course, we don't need
22 to know whether the jury knows them.

23 THE COURT: Okay.

24 MS. SPITZ: That's -- that's the only change I've
25 made since I gave it to you.

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1 THE COURT: Okay.

2 MS. COURAM: I don't have that. And I -- I also
3 have a voir dire that I'd like to submit.

4 THE COURT: I need ---

5 MS. COURAM: I don't ---

6 THE COURT: --- it right ---

7 MS. COURAM: --- I don't think ---

8 THE COURT: --- now.

9 MS. COURAM: --- I printed it out, I don't guess.
10 If I can find it.

11 (Off the record briefly.)

12 MS. COURAM: Don't look I brought that with me, but
13 I do have the jury instructions. I do have that.

14 THE COURT: I don't need those right now. I need
15 voir dire.

16 MS. COURAM: I'm looking for it. Didn't I send a
17 copy to you?

18 MS. SPITZ: I don't recall receiving a copy.

19 MS. COURAM: Well, I guess you'll have to use hers.
20 If you'll give me a minute to look at it?

21 THE COURT: I'm sorry?

22 MS. COURAM: I said we'll have to use hers, if
23 you'll give me a minute to look at it?

24 THE COURT: Sure.

25 MS. COURAM: Is that all right?

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1 (Off the record from 10:56 a.m. until 10:58 a.m.)

2 THE COURT: Okay. Do you have any objections, Ms.
3 Couram?

4 MS. COURAM: I'm sorry. I hit my arm.

5 THE COURT: Right now I need you to need be looking
6 at ---

7 MS. COURAM: I -- I know.

8 THE COURT: --- the defendant's ---

9 MS. COURAM: I hit ---

10 THE COURT: --- voir dire.

11 MS. COURAM: --- my arm. I'm trying to -- I'm
12 trying to get over the pain of it. Hold on.

13 I was -- I was just going to ask: She has Vital
14 Energy on here, but she doesn't have Palmetto Spine
15 Center. That -- that was it. That's all.

16 THE COURT: Okay. I will add that. All right.
17 Let's bring the jury panel.

18 DEPUTY CLERK OF COURT: Yes, Your Honor.

19 (Off the record from 10:58 a.m. until 11:05 a.m.)

20 (Whereupon, the jury panel entered the courtroom at
21 11:02 a.m.)

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

23 THE COURT: Thank you, ma'am. Good morning, folks.

24 JURORS: Good morning.

25 THE COURT: We are here for a civil trial to select

1 a jury and begin a civil trial. On Monday Judge Manning
2 asked you a bunch of questions -- I guess I should
3 introduce myself. I'm Jocelyn Newman. I'm a circuit
4 court judge, if you're in Columbia.

5 And on Monday Judge Manning asked you a bunch of
6 questions to see if you were qualified as jurors in
7 Richland County this week. I have a series of questions
8 that ensure that you're qualified to serve as jurors on
9 this particular case. So before I ask you those
10 questions, I'm going to have you placed under oath by the
11 clerk.

12 (Whereupon, the jury panel was duly sworn at 11:06
13 a.m.)

14 THE COURT: All right. The trial that we are about
15 to begin is, as I said, a civil case filed by Glenda
16 Couram versus Sherwood Tidwell. It is a civil case
17 involving a car accident that occurred on September 18th,
18 2015 -- that was a Friday -- at about sometimes between
19 four and five o'clock in the afternoon, sort of rush-hour
20 time, on I-20 eastbound in Richland County.

21 So the first question I have for you is: Does
22 anybody know anything about this case, this car accident
23 -- think they saw anything? think they know anything
24 about it?

25 There were three cars involved in it: a 2012 Honda

1 Fit, a Cadillac sedan that I believe was maybe a cream
2 color, and a 2014 Nissan truck of some sort. Does
3 anybody think they saw this accident or know anything
4 about this accident? If so, please stand.

5 (Whereupon, no potential juror stood.)

6 THE COURT: Okay. The plaintiff in this action, as
7 I told you, is Ms. Glenda R. Couram, who is seated at
8 this table here. Ms. Couram, if you would stand face the
9 jury panel.

10 MS. COURAM: (Complied.) Hi.

11 THE COURT: And she represents herself. Is any
12 member of the jury panel related by blood, connected by
13 marriage, or have any close, personal relationship with
14 Ms. Couram? If so, please stand.

15 (Whereupon, no potential juror stood.)

16 THE COURT: The defendant in this case is Mr.
17 Sherwood Tidwell. If you would stand and face the jury
18 panel.

19 THE DEFENDANT: (Stood.)

20 THE COURT: And seated next to him -- I'm going to
21 have her stand ---

22 MS. SPITZ: (Stood.)

23 THE COURT: --- is Ms. Jescelyn Spitz, his attorney.
24 Ms. Spitz works at the law firm of Clawson and Staubes
25 here in Columbia. They have offices on Marion Street.

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1 Thank you, folks. You may have a seat.

2 MS. SPITZ: (Complied.)

3 THE COURT: Is anybody related by blood, connected
4 by marriage, have a close, personal relationship
5 whatsoever with Mr. Tidwell? If so, please stand.

6 (Whereupon, no potential juror stood.)

7 THE COURT: Is anyone related by blood, connected by
8 marriage, have a close, personal relationship with Ms.
9 Spitz or been represented by her in the past or
10 represented by any attorney of the law firm of Clawson
11 and Staubes? If so, please stand.

12 (Whereupon, no potential juror stood.)

13 THE COURT: There are several potential witnesses in
14 this case. And the question is the same as to each:
15 that is whether you are related by blood, connected by
16 marriage, or have any close, personal -- personal
17 relationship with any of the following people: That is
18 Dr. James F. Bethea; Brandon Sentell Brown; or Heather A.
19 Martin. If you know any of those people or have any
20 relationship with them whatsoever, please stand at this
21 time.

22 (Whereupon, no potential juror stood.)

23 THE COURT: Okay. Has any member of the jury panel
24 ever been a party to a lawsuit, either as a plaintiff or
25 a defendant? If so, please stand.

1 (Whereupon, potential jurors stood.)

2 THE COURT: Yes, ma'am. Give me your name and jury
3 number.

4 POTENTIAL JUROR: My name is Wendy Cartledge, Jury
5 51.

6 THE COURT: Yes, ma'am. Were you a plaintiff or a
7 defendant?

8 POTENTIAL JUROR: I was a plaintiff in a divorce
9 proceeding over 20 years ago.

10 THE COURT: Okay. Would the fact that you've had
11 that experience affect your ability to give both the
12 plaintiff and the defendant a fair and impartial trial in
13 this case?

14 POTENTIAL JUROR: No -- no, Your Honor.

15 THE COURT: Thank you. You may have a seat.

16 POTENTIAL JUROR: (Complied.)

17 THE COURT: Yes, sir.

18 POTENTIAL JUROR: Braden Wallace, No. 300.

19 THE COURT: Yes, sir.

20 POTENTIAL JUROR: And I -- I was a plaintiff in a
21 real estate matter.

22 THE COURT: How long ago?

23 POTENTIAL JUROR: Twenty-plus years.

24 THE COURT: Okay. The fact that you have had that
25 experience, would that affect your ability to give both

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1 the plaintiff and the defendant a fair and impartial
2 trial in this case?

3 POTENTIAL JUROR: No, Your Honor.

4 THE COURT: Thank you. You may have a seat.

5 POTENTIAL JUROR: (Complied.)

6 THE COURT: Yes, sir, in the back.

7 POTENTIAL JUROR: Yes ---

8 THE COURT: Your ---

9 POTENTIAL JUROR: --- ma'am.

10 THE COURT: Your name ---

11 POTENTIAL JUROR: Robert ---

12 THE COURT: --- and jury number?

13 POTENTIAL JUROR: --- 384, Robert Wiggs.

14 THE COURT: Yes, sir.

15 POTENTIAL JUROR: I work for Department of
16 Transportation.

17 THE COURT: Okay.

18 POTENTIAL JUROR: As part of that, I've been
19 involved in investigations of several situations over my
20 28 years with DOT.

21 THE COURT: Okay. Have you personally been a
22 plaintiff or a defendant?

23 POTENTIAL JUROR: No. I've been called as a ---

24 THE COURT: As a witness?

25 POTENTIAL JUROR: Yes, ma'am.

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1 THE COURT: Okay. The fact that you've been a
2 witness in those kind of cases, would affect your ability
3 to give both the plaintiff and the defendant a fair and
4 impartial trial in this case?

5 POTENTIAL JUROR: No, ma'am. I'm good.

6 THE COURT: Thank you. You may have a seat.

7 POTENTIAL JUROR: Yes, ma'am.

8 THE COURT: Yes, ma'am, in the pink.

9 POTENTIAL JUROR: Juror No. 405, Maria Watts. I was
10 the plaintiff in a domestic -- a divorce case.

11 THE COURT: Okay. How ---

12 POTENTIAL JUROR: 2013.

13 THE COURT: Okay. The fact that you've been a
14 plaintiff in a divorce case, would that affect your
15 ability to give both the plaintiff and the defendant a
16 fair and impartial trial in this case?

17 POTENTIAL JUROR: No. I'm good.

18 THE COURT: Thank you. You may have a seat.

19 POTENTIAL JUROR: (Complied.)

20 THE COURT: Yes, ma'am.

21 POTENTIAL JUROR: Vanessa Davis, 166.

22 THE COURT: you know

23 POTENTIAL JUROR: And I was in a -- involved in a
24 case. And I was the plaintiff.

25 THE COURT: Okay. What kind of case was it?

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1 POTENTIAL JUROR: An accident.

2 THE COURT: And how long ago?

3 POTENTIAL JUROR: Over 15 years.

4 THE COURT: Okay. The fact that you were a
5 plaintiff in a car accident case 15 years ago, would that
6 affect your ability to give both the plaintiff and the
7 defendant a fair and impartial trial in this case?

8 POTENTIAL JUROR: No.

9 THE COURT: Thank you, ma'am. You may have a seat.

10 POTENTIAL JUROR: (Complied.)

11 (Whereupon, a potential juror raised her hand.)

12 THE COURT: Yes, ma'am. Stand up, please.

13 POTENTIAL JUROR: (Complied.)

14 THE COURT: Give me your name and jury number.

15 POTENTIAL JUROR: Sharon James, 147. I was a
16 plaintiff in a divorce case in 1991.

17 THE COURT: Okay. Would that affect your ability to
18 give both the plaintiff and the defendant a fair and
19 impartial trial in this case?

20 POTENTIAL JUROR: No.

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

22 POTENTIAL JUROR: (Complied.)

23 THE COURT: Yes, ma'am.

24 POTENTIAL JUROR: Barbara Tandon, 433. I was
25 involved in a divorce 20 years ago.

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1 THE COURT: Okay. Would that affect your ability to
2 give both the plaintiff and the defendant a fair and
3 impartial trial in this case?

4 POTENTIAL JUROR: No, ma'am.

5 THE COURT: Thank you. You may have a seat.

6 POTENTIAL JUROR: (Complied.)

7 THE COURT: Has any member of the jury panel ever
8 been -- let's see -- suffered serious injury or been
9 disabled, either temporarily or permanently, as a result
10 of an automobile accident? If so, please stand.

11 (Whereupon, potential jurors stood.)

12 THE COURT: Yes, ma'am. Give me your name and jury
13 number one more time.

14 POTENTIAL JUROR: Jury -- Sharon James, 147. I was
15 involved in a car accident in 2016 where I did suffer a
16 little back pain. But since then it's -- it's getting
17 better.

18 THE COURT: Okay. The fact that you had that
19 experience, would that affect your ability to give both
20 the plaintiff and the defendant a fair and impartial
21 trial in this case?

22 POTENTIAL JUROR: No.

23 THE COURT: Thank you, ma'am. You -- you may have a
24 seat.

25 POTENTIAL JUROR: (Complied.)

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1 THE COURT: In the black?

2 POTENTIAL JUROR: 254.

3 THE COURT: Yes, ma'am.

4 POTENTIAL JUROR: Auto accident.

5 THE COURT: How long ago?

6 POTENTIAL JUROR: About 15 years ago.

7 THE COURT: Okay. And you suffered some serious
8 injury?

9 POTENTIAL JUROR: Shoulder and back.

10 THE COURT: Okay. Would the fact that you've had
11 that experience affect your ability to give both the
12 plaintiff and the defendant a fair and impartial trial in
13 this case?

14 POTENTIAL JUROR: (No audible response.)

15 THE COURT: I can't hear you.

16 POTENTIAL JUROR: Yes, ma'am.

17 THE COURT: Can you be fair and impartial?

18 POTENTIAL JUROR: Yes. I can be fair.

19 THE COURT: Okay.

20 POTENTIAL JUROR: Uh-huh.

21 THE COURT: Thank you, ma'am. You may ---

22 POTENTIAL JUROR: Uh-huh.

23 THE COURT: --- have a seat.

24 POTENTIAL JUROR: Uh-huh.

25 THE COURT: Yes, ma'am?

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1 POTENTIAL JUROR: Vanessa Davis, 166. I was
2 involved in a car accident.

3 THE COURT: Okay. Would the fact that you've had
4 that experience affect your ability to give both the
5 plaintiff and the defendant a fair and impartial trial in
6 this case?

7 POTENTIAL JUROR: No.

8 THE COURT: Thank you, ma'am. You may have a seat.

9 POTENTIAL JUROR: (Complied.)

10 THE COURT: Yes, ma'am?

11 POTENTIAL JUROR: Stephanie Morton, Jury No. 212.

12 THE COURT: Okay.

13 POTENTIAL JUROR: 2016 I was in a car accident --
14 not major injuries, just real sore, and just a little
15 problems with my back.

16 THE COURT: Okay. Would that affect your ability to
17 give both the plaintiff and the defendant a fair and
18 impartial trial in this case?

19 POTENTIAL JUROR: No, ma'am.

20 THE COURT: Thank you, ma'am.

21 Several of you have told me about accidents and --
22 and lawsuits. But outside of that, has any member of the
23 jury panel ever made any kind of personal-injury claim
24 against anyone, whether that was a car accident or a
25 slip-and-fall in a grocery store, and whether or not you

1 filed a lawsuit? I think the people that have already
2 told me about being party to a lawsuit need not stand
3 again. But I just want to make sure that there is no one
4 else out there with some slightly different circumstance.

5 (Whereupon, a potential juror raised his hand.)

6 THE COURT: Yes, sir. Please stand and give me your
7 jury and your name.

8 POTENTIAL JUROR: Braden Wallace, 300.

9 THE COURT: Yes, sir.

10 POTENTIAL JUROR: Your Honor, about -- it's probably
11 25 years ago -- I was involved in a car accident with my
12 son and slight injuries and stuff. And I -- frankly, I
13 can't remember if we filed -- got to a point -- we went
14 through mediation.

15 THE COURT: Okay.

16 POTENTIAL JUROR: But ---

17 THE COURT: Okay.

18 POTENTIAL JUROR: --- it would not affect in any way
19 that -- my ability to render a fair trial.

20 THE COURT: Okay. Thank you, sir.

21 Has any member of the jury panel ever sought
22 treatment at Vital Energy Wellness and Rehab Center or
23 Palmetto Spine Center? If so, please stand.

24 (Whereupon, a potential juror stood.)

25 THE COURT: Yes, ma'am. Give me your name and jury

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1 number one more time.

2 POTENTIAL JUROR: Vanessa Davis, 166.

3 THE COURT: Yes, ma'am. Which of those places?

4 POTENTIAL JUROR: Vital Energy.

5 THE COURT: Okay. How long ago?

6 POTENTIAL JUROR: A month and a half ago.

7 THE COURT: Okay. Are you still a patient there?

8 POTENTIAL JUROR: Well, I haven't been in a while,

9 so ---

10 THE COURT: Okay. But you could potentially still
11 get treatment there?

12 POTENTIAL JUROR: Yes.

13 THE COURT: Okay. Would that affect your ability to
14 give both the plaintiff and the defendant a fair and
15 impartial trial in this case?

16 POTENTIAL JUROR: No.

17 THE COURT: Okay. Thank you, ma'am.

18 Any additional questions -- and I'm looking for a
19 "yes" or "no" answer at this point. Any additional
20 questions that the plaintiff would like for me to ask the
21 jury panel?

22 MS. COURAM: No. Not that I know of.

23 THE COURT: Okay. From the defense?

24 MS. SPITZ: No, Your Honor.

25 THE COURT: Okay. Thank you. All right, folks. Do

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1 you need a minute to review the jury strike sheet, Ms.
2 Couram and ---

3 MS. SPITZ: Your Honor ---

4 THE COURT: --- Ms. Spitz?

5 MS. SPITZ: Your Honor, we're ready to go.

6 THE COURT: Okay. Do you need a moment, Ms. Couram?

7 MS. COURAM: I don't think I know what I'm looking
8 for, so no.

9 THE COURT: Okay. All right. Let's strike a jury.
10 Give us a jury please.

11 DEPUTY CLERK OF COURT: We're going to exercise the
12 strikes using the numbers on the left. We're going to
13 strike between Nos. 1 and 20.

14 THE COURT: The plaintiff is entitled to four
15 strikes. The defendant also gets four strikes. Ms.
16 Couram, we're going to do them one by one with you
17 beginning, using the numbers to the left.

18 MS. COURAM: I don't really have any problems with
19 anybody. 384?

20 DEPUTY CLERK OF COURT: No, ma'am. The number to
21 the left.

22 MS. COURAM: Oh. 12?

23 DEPUTY CLERK OF COURT: Plaintiff strikes No. 12.

24 MS. SPITZ: Defendant strikes No. 5.

25 DEPUTY CLERK OF COURT: Defendant strikes No. 5.

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1 Plaintiff's turn?

2 MS. COURAM: Okay. 1.

3 DEPUTY CLERK OF COURT: Plaintiff strikes No. 1.

4 MS. SPITZ: Defendant strikes No. 7.

5 DEPUTY CLERK OF COURT: Defendant strikes No. 7.

6 MS. COURAM: 19.

7 DEPUTY CLERK OF COURT: Plaintiff strikes No. 19.

8 MS. SPITZ: Defendant strikes No. 9.

9 DEPUTY CLERK OF COURT: Defendant strikes No. 9.

10 MS. COURAM: 11.

11 DEPUTY CLERK OF COURT: Plaintiff strikes No. 11.

12 MS. SPITZ: Defendant strikes No. 18.

13 DEPUTY CLERK OF COURT: Defendant strikes No. 18.

14 THE COURT: And one alternate.

15 DEPUTY CLERK OF COURT: The judge has instructed
16 that we seat one alternate. So we are going to use Nos.
17 21, 22, and 23 this time to strike. Plaintiff will
18 strike first, using the number to the left.

19 MS. COURAM: Of the ones you just said?

20 DEPUTY CLERK OF COURT: Pick 21, 22, or 23. Uh-huh.

21 MS. COURAM: 23.

22 DEPUTY CLERK OF COURT: Plaintiff strikes 23.

23 MS. SPITZ: Defendant strikes 22.

24 DEPUTY CLERK OF COURT: Defendant strikes 22. If I
25 could review the strikes: Plaintiff struck 12, No. 1,

1 No. 19, and No. 11, with alternate strike No. 23. Is
2 that correct?

3 MS. COURAM: Yes, ma'am.

4 DEPUTY CLERK OF COURT: Thank you. The defendant
5 struck Nos. 5, 7, 9, and 18, with alternate strike No.
6 22. Is that correct?

7 MS. SPITZ: Yes.

8 DEPUTY CLERK OF COURT: Thank you.

9 THE COURT: All right. Any objection to the manner
10 in which the jury was selected from Ms. Couram?

11 MS. COURAM: No, ma'am.

12 THE COURT: From the defendant?

13 MS. SPITZ: No, Your Honor.

14 THE COURT: All right. Please seat the jury.

15 DEPUTY CLERK OF COURT: Ladies and gentlemen, as I
16 call your name, would you please gather your belongings
17 and come and take a seat in the jury box. Corbin White,
18 No. 434.

19 (Whereupon, the juror stood.)

20 DEPUTY CLERK OF COURT: Karen Coleman, No. 61.
21 Could you come and take a seat up here, please?

22 JUROR: Oh. Yes, ma'am.

23 (Whereupon, the jurors came forward into the jury
24 box.)

25 DEPUTY CLERK OF COURT: Harriet Badham, No. 28.

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1 (Whereupon, the juror came forward into the jury
2 box.)

3 DEPUTY CLERK OF COURT: Demetrius Williams, No. 312.

4 (Whereupon, the juror came forward into the jury
5 box.)

6 DEPUTY CLERK OF COURT: Tiffany Barnes, No. 435.

7 (Whereupon, the juror came forward into the jury
8 box.)

9 DEPUTY CLERK OF COURT: Maria Watts, No. 405.

10 (Whereupon, the juror came forward into the jury
11 box.)

12 DEPUTY CLERK OF COURT: Brandon Mitchell, No. 206.

13 (Whereupon, the juror came forward into the jury
14 box.)

15 DEPUTY CLERK OF COURT: Regina Jones, No. 418.

16 (Whereupon, the juror came forward into the jury
17 box.)

18 DEPUTY CLERK OF COURT: Braden Wallace, No. 300.

19 (Whereupon, the juror came forward into the jury
20 box.)

21 DEPUTY CLERK OF COURT: Wendy Cartledge, No. 51.

22 (Whereupon, the juror came forward into the jury
23 box.)

24 DEPUTY CLERK OF COURT: Dominique Perry, No. 366.

25 (Whereupon, the juror came forward into the jury

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1 box.)

2 DEPUTY CLERK OF COURT: Tranchida Simmons, No. 431.

3 (Whereupon, the juror came forward into the jury
4 box.)

5 DEPUTY CLERK OF COURT: And the alternate will be
6 Michelle Smith, No. 275.

7 (Whereupon, the juror came forward into the jury
8 box.)

9 THE COURT: All right. Ladies and gentlemen who
10 were not selected for this jury panel, that concludes
11 your jury service this week. We here in Richland County
12 thank you for the patience that you've shown, you know,
13 even though we may have tested it on many occasions. But
14 you -- go down to the jury-assembly room just to turn in
15 your tags and all that stuff and see about work excuses
16 and all that stuff. But you're free for the week. All
17 right. Thank you.

18 (Whereupon, the unselected jury panel exited the
19 courtroom 11:24 p.m.)

20 (Off the record briefly.)

21 THE COURT: Folks who were selected for the jury in
22 this case, we're not quite ready to begin the trial of
23 this case. And this will happen from time to time; that
24 is, that I have some matters of law that I need to
25 discuss with the parties outside your presence. I need

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1 to do a little bit of that before we get started, just to
2 make sure we can really get rolling on this case.

3 So what I'm going to do is, first, excuse you from
4 the courtroom to the jury room. And the bailiffs will
5 show you where that jury room is. That's where you will
6 spend your time for the most part when you are not in the
7 courtroom, anytime I have to excuse you from the
8 courtroom. And then I'm going to send you to lunch. And
9 we'll start the trial of the case after lunch.

10 I will tell you, anytime you leave the courtroom,
11 not to discuss the case, amongst yourselves or with
12 anyone else. You don't know anything about the case yet.
13 In fact, you've only been given a very brief overview
14 about the case, so you don't have anything to discuss.

15 But also, it's not permissible for you to discuss
16 anything about the case until it's time for you actually
17 to begin to deliberate. But you are also not permitted
18 to try to do any research about the case. Everything
19 that you learn about the case must come from this
20 courtroom; that is, from this witness stand, from the
21 arguments of the parties at the end of the case, and any
22 evidence that is introduced into -- you know, into
23 evidence -- evidence introduced into evidence -- any
24 exhibits introduced into evidence at the -- during the
25 trial.

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1 So you can't do any research about the parties,
2 about the topic of the case, about the court staff, about
3 me, about the court reporter, about anything. Just go to
4 lunch and pretend like you're not on jury duty.

5 So I'm going to excuse you until 1:30 and ask you to
6 be back in your jury room at 1:30. And we will begin the
7 trial of the case at that time. So don't discuss the
8 case. Follow the bailiffs to see where the jury room is,
9 and they'll show you how to get back here when the time
10 comes. But go enjoy your lunch. Thank you.

11 (Whereupon, the jury exited the courtroom at 11:26
12 a.m.)

13 (Off the record briefly.)

14 THE COURT: All right. What we're going to do is
15 break now for lunch as well. But during that lunch
16 period, I want the two of you to discuss exhibits -- any
17 exhibits that might be able to be stipulated to. Ms.
18 Couram, if you need to set up the projector and get your
19 computer ready during that time, that will be your
20 opportunity to do that.

21 It would be helpful, if you have exhibits that you
22 plan to introduce into evidence, if you would make a pile
23 of those exhibits so that the court reporter can mark
24 them with the exhibit stickers before we begin the trial.
25 That'll make things move a lot more smoothly during the

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1 trial.

2 So what we're going to do is come back at one
3 o'clock, just in case there are any other matters that we
4 need to discuss outside the jury's presence. But between
5 now and one o'clock, put together those -- that pile of
6 exhibits. Get the projector set up and anything else
7 that you need to do before we start the trial so that
8 once we start, we can move right along. Okay? Any
9 questions?

10 MS. COURAM: Yes.

11 THE COURT: Yes, ma'am.

12 MS. COURAM: The opening -- I'm to do the opening
13 statement. Now, as far as Mr. Tidwell being a witness,
14 that won't happen until his attorney calls him.

15 THE COURT: I mean, you could call him as a witness
16 if you like. He's sitting right here.

17 MS. COURAM: Okay.

18 THE COURT: But if he doesn't show up after lunch --
19 I assume you don't have him under subpoena. And he's not
20 required to be here. He happens to be here, and that's
21 good for you, if you want to call him as a witness.

22 But I can't promise you he'll be back after lunch,
23 because he doesn't have to be. So if he's here ---

24 MS. COURAM: And I can have his admissions entered
25 into the record?

1 THE COURT: Well -- and we'll talk about that. I
2 guess we can talk about it now. I was going to wait till
3 one o'clock. I don't -- well, let me hear from Ms. Spitz
4 on that.

5 MS. SPITZ: Your Honor, I don't know that admitting
6 them into evidence is proper. But I think publishing
7 them to the jury would be fine. I mean, I don't know. I
8 don't have an issue with it.

9 THE COURT: Okay.

10 MS. SPITZ: It's not disputed liability. I think
11 that's the purpose that she wants to use it to establish.

12 THE COURT: Okay. Yeah. You can't enter them as an
13 exhibit.

14 MS. COURAM: Uh-huh.

15 THE COURT: But you can read them to the jury.
16 That's one thing that you can read to the jury. Yeah.
17 You can read them if you feel it's necessary.

18 Now, I can't tell you that there might not be some
19 objection at the time. I don't know. But as Ms. Spitz
20 tells me now, she doesn't have any problem with that. So
21 ---

22 MS. COURAM: It -- does Mr. Tidwell plan not to show
23 up again for trial?

24 THE COURT: I don't know the answer to that. And
25 I'm not going to ask him. You can ask him. And I'm --

1 but I'm not even going to require
2 and -- you know, once we break a
3 -- y'all can talk about that.

4 you have him under subpoena, he's not
5 here. He may be, though. I just don't know.

6 MS. SPITZ: Your Honor, I would add: I'll have
7 go back through, during the break, the requests to admit
8 to make sure there's nothing that would be inadmissible,
9 like the insurance or hearsay, that kind of thing.

10 THE COURT: Right. So -- but -- but just general
11 speaking, the proper procedure to do that would be for
12 you to read them to the jury, the ones that are
13 admissible, at least.

14 MS. COURAM: So if ---

15 THE COURT: And if ---

16 MS. COURAM: --- I fill out a -- if I fill out a
17 subpoena form now and go upstairs and get it signed and
18 -- he would have to be here under subpoena; is that
19 correct?

20 MS. SPITZ: Your Honor, he'll be here.

21 THE COURT: He'll be here.

22 MS. SPITZ: He'll be here.

23 THE COURT: Very good. But I think, even if you did
24 that and had him served with the subpoena, I mean, he --
25 I don't know. I wouldn't know that that was necessarily

1 valid service anyway, but we don't even care about that
2 because he says he'll be here.

3 MS. COURAM: And therefore, I can call him as -- as
4 -- while I'm putting forth my case. And I don't have to
5 wait until I rest my case.

6 THE COURT: Oh, right.

7 MS. COURAM: Is ---

8 THE COURT: Yeah.

9 MS. COURAM: --- that correct?

10 THE COURT: Absolutely. You can call -- yeah ---

11 MS. COURAM: Because I had ---

12 THE COURT: --- whatever witness ---

13 MS. COURAM: --- that happen ---

14 THE COURT: --- you want.

15 MS. COURAM: --- to me once before. And do you --
16 and I need to know the names of the rest of the witnesses
17 that's going to be here, either today, tomorrow, or when.
18 I know it's on that list, but that list has my witnesses
19 as well.

20 MS. SPITZ: Okay. We've identified the witnesses,
21 but the witnesses we plan on calling is the defendant,
22 Mr. Tidwell; our expert, Dr. Bethea, assuming we go into
23 tomorrow; Heather Martin; and Brandon Brown, either by
24 deposition or in person.

25 MS. COURAM: Now, if Heather Martin -- Martin is

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1 related to my employer, which will open the door to my
2 asking questions about my employment ---

3 THE COURT: No. I mean, if -- I'm sorry. If she
4 comes and testifies, then you may be able to ask her
5 questions ---

6 MS. COURAM: That's what ---

7 THE COURT: --- about that.

8 MS. COURAM: --- I asked.

9 THE COURT: But -- yeah. Until that happens, then
10 no. But -- so I -- I'm sorry. My gut reaction was not
11 per se opening the door. You know, it's not a free-for-
12 all. But if that person testifies and, you know, that's
13 within her scope of knowledge, then sure, that may be
14 appropriate. We'll have to see.

15 MS. COURAM: Okay.

16 THE COURT: Okay? All right. So we are going to be
17 at ease until one o'clock. And the court reporter will
18 be back right at one o'clock or maybe 12:55 to mark that
19 stack of exhibits, if you have any, so that we can get
20 rolling when the jury gets back.

21 Okay. And so I'm going to have -- just for Ms.
22 Tidwell's -- Tidwell -- Mr. Tidwell and Ms. Couram -- for
23 Ms. Couram's purposes, we can leave the courtroom open
24 during lunch with the door unlocked so that she can come
25 and go because she needs to be able to access her -- her

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1 things. And she may or may not want to go grab a bite to
2 eat. I don't know. But we'll just -- normally, we lock
3 it over lunch. But I'm going to have the bailiffs leave
4 it open for you. Okay?

5 MS. SPITZ: Okay.

6 THE COURT: All right. I'll see y'all at one
7 o'clock.

8 MS. SPITZ: Thank you, Judge.

9 (Off the record from 11:33 a.m. until 1:06 a.m.)

10 (Whereupon, Plaintiff's Exhibits 1 through 14 and
11 Defendant's Exhibits 1 through 7 were marked while
12 off the record.)

13 THE COURT: All right, folks. Ms. Couram, have you
14 had the opportunity to put together your stack of
15 exhibits?

16 MS. COURAM: She has them

17 THE COURT: Okay. Anything, Ms. Spitz?

18 MS. SPITZ: Yes, Your Honor. I think there's a --
19 just a couple things, one being Ms. Couram is planning on
20 using the projector to display some things during her
21 opening statement. We have stipulated into evidence the
22 photos of her vehicle, the blue car. I think there are
23 some other pictures in there that we have not stipulated
24 to. And there may be some written text that she plans on
25 showing that I haven't seen or -- so I'd like to see

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1 that.

2 And one other -- I do have another issue, but I
3 don't know if you want to just address ---

4 THE COURT: Yeah. Let's ---

5 MS. SPITZ: --- that first.

6 THE COURT: --- address that first. Ms. Couram,
7 tell me ---

8 MS. COURAM: All these things that's -- if I can get
9 the thing to work -- is my opening arguments, ma'am.

10 THE COURT: I know.

11 MS. COURAM: And so ---

12 THE COURT: But I need to know what you intend to
13 project onto that screen.

14 MS. COURAM: Photographs of the cars, the car that
15 -- that was -- my car that was damaged in the accident
16 and my dog and that's it. Oh. I also have photographs
17 of the Cadillac -- the car that Mr. Brown was driving.

18 THE COURT: Okay.

19 MS. COURAM: Because the photographs that's there is
20 not the car that he was driving that day. And he is not
21 here to be questioned as to what car he was driving.

22 THE COURT: Who took those photos?

23 MS. COURAM: Their -- the -- the insurance company
24 did, Nationwide.

25 THE COURT: Okay.

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1 MS. SPITZ: Your Honor, as to the photos she's
2 planning to use, I -- like I said, I don't have any issue
3 with the photos of her own vehicle. We've all ---

4 THE COURT: Uh-huh.

5 MS. SPITZ: --- we've stipulated to all of that. I
6 don't know that the photo of her dog is relevant here.
7 So I would have an issue with that.

8 And the photos of a Cadillac SUV she intends on
9 portraying, she took those herself at a dealership here
10 in town. Those are not photos of a vehicle that was
11 involved in this accident. So I don't believe that those
12 photos are relevant either.

13 MS. COURAM: Those photos are just of the car -- the
14 type of car that I saw on the day of the accident that
15 Mr. Brown was driving. It shows how the damage to my car
16 took place, which it could not have happened if he was
17 driving an SUV.

18 And my dog has to do with it because he was directly
19 -- she was directly impacted by the -- by this accident
20 and still is, because I can't walk her like I used to be
21 able to do. And it's just a picture of my dog. And if
22 you don't want -- if they don't want to see it, it's
23 fine. All they're going -- that's -- that's all it is.
24 It's not going to hurt anybody or do any damage to
25 anybody or anything.

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1 THE COURT: Okay. Is there any text on any of the
2 photos, any written ---

3 MS. COURAM: Only ones ---

4 THE COURT: --- words?

5 MS. COURAM: --- that -- that I'm going to show on
6 the projector?

7 THE COURT: Yes.

8 MS. COURAM: No, ma'am.

9 THE COURT: Okay.

10 MS. SPITZ: Okay. I wasn't sure if there was any
11 slides. You -- I saw some slides you had popped up with,
12 like, typed text on it. If you're not using those,
13 that's fine. I just wanted to make sure.

14 THE COURT: Okay. Well, I will trust Ms. Couram's
15 representation that there is no text on the photos. So
16 to the extent that you would object to photos of the
17 Cadillac SUV -- and are those taken by you, Ms. Couram?

18 MS. COURAM: I went to a -- went to the dealership
19 to investigate to see if I could find a similar car ---

20 THE COURT: So you did take those?

21 MS. COURAM: --- to the one -- yeah.

22 THE COURT: Okay.

23 MS. COURAM: And I just took those pictures ---

24 THE COURT: Okay. To ---

25 MS. COURAM: --- to show --

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1 THE COURT: --- the extent that the defendant
2 objects to those, I will overrule that objection; the
3 same as to the photographs of the dog. Those can
4 certainly be used for demonstrative purposes. An opening
5 statement is not evidence of anything. And I do not find
6 that -- while there may be little probative value, except
7 to -- that -- there's probably little probative value.

8 However, they may help the jury to understand Ms.
9 Couram's claim, and I don't think that they have any
10 prejudicial to the defendant. So I'll allow both the --
11 the pictures of the Cadillac and of the dog.

12 MS. COURAM: At this point I can't even get the
13 projector to project anymore, so it may not even matter.

14 THE COURT: Okay. Well, you've got a few more
15 minutes. What was your next issue, Ms. Spitz?

16 MS. SPITZ: There's one other issue that came while
17 we were -- during break. Ms. Couram indicated she had a
18 couple printed published cases that she would like to
19 enter into evidence during today's trial. I would submit
20 that that is inappropriate as that's -- that's basically
21 stepping into your shoes to instruct the jury on the law
22 here.

23 THE COURT: Okay. Ms. Couram, do you have printed
24 cases that you wish to introduce ---

25 MS. COURAM: I don't know where she's getting all

1 this stuff from. But there is case law that is -- that
2 establishes the fact that the -- what happened to me can
3 happen. And I'm not going into your -- your lane, as
4 they say. When the issues comes up and I say, "Well,
5 Judge, this case law says -- from the South Carolina says
6 blah, blah, blah," I'd like to submit that to you as ---

7 THE COURT: But you ---

8 MS. COURAM: --- to discuss ---

9 THE COURT: --- can ---

10 MS. COURAM: --- the issue. But ---

11 THE COURT: You cannot do that in front of the jury,
12 though.

13 MS. COURAM: Submit the -- the -- the -- I don't --
14 I can't -- I can't imagine why I would have -- would.

15 THE COURT: Oh, well ---

16 MS. COURAM: I had no -- I -- it ---

17 THE COURT: And that's ---

18 MS. COURAM: --- was not ---

19 THE COURT: --- fine.

20 MS. COURAM: --- my intention to do it. I just had
21 copies for you and I have copies for her and copies for
22 me, which means that they will go to you, her, or me, not
23 to the jury.

24 THE COURT: Understood. Okay. Even if you think
25 the need might arise -- I know you can't imagine, as we

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1 stand here now, why you might do that. But if it pops
2 into your head that you should do that, I'm telling you
3 now, you cannot do that. So you can give them to me
4 outside the presence of the jury. But while this jury is
5 sitting in the jury box, you cannot do that.

6 MS. COURAM: I don't think I was -- okay.

7 THE COURT: Okay. Good enough.

8 MS. COURAM: Never mind.

9 THE COURT: Any other issues?

10 MS. SPITZ: Yes, Your Honor. I know we had
11 discussed the requests to admit earlier.

12 THE COURT: Yes.

13 MS. SPITZ: And I went through those during the
14 break to see if there was any I had an objection to.
15 Unfortunately, I just have the one copy with me. But I
16 can read to you the ones we may have an issue with and
17 then let you have the copy if you want.

18 THE COURT: Are these -- are you referring to
19 defendant's responses to plaintiff's requests for
20 admission, dated May 25th, 2016?

21 MS. SPITZ: Yes, Your Honor.

22 THE COURT: Okay. Then, I do ---

23 MS. SPITZ: I am.

24 THE COURT: --- have a copy.

25 MS. SPITZ: Okay. Great. Number 14 -- we already

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1 objected to that, actually, in our response. So if that
2 is read to the jury, I would request that that one not be
3 read. Of course, the defendant's not in a position to
4 give an opinion on the plaintiff's injuries.

5 As to Nos. 15 through 20, it's regarding a traffic
6 citation. Mr. Tidwell admits that he paid the citation.
7 But listed in these requests, it's got the incorrect, I
8 guess, title of the ticket. It says -- if you look at
9 No. 16 it says: "Defendant has the opportunity to
10 contest the traffic citation for failure to pay full time
11 and attention, but voluntarily elected not to do so."
12 That was not what the traffic ticket was for.

13 THE COURT: Uh-huh.

14 MS. SPITZ: So we would object to those.

15 MS. COURAM: That's -- that's what I just -- I sent
16 you for instruction to the jury.

17 THE COURT: We're not there yet.

18 MS. COURAM: Oh. I -- because I'm trying to figure
19 out what she's talking about.

20 THE COURT: She's talking about requests for
21 admission.

22 MS. COURAM: The requests for admission that I --
23 for Mr. Tidwell?

24 THE COURT: Yes.

25 MS. COURAM: Well, he's here, so he don't -- I don't

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1 need to -- I'm going to just ask him questions.

2 THE COURT: Okay.

3 MS. SPITZ: Okay. If she's not going to read them,
4 then not an issue, then.

5 THE COURT: That's fine, then.

6 MS. SPITZ: And one final issue we may want to
7 address now, Your Honor: I believe Ms. Couram intends to
8 ask my client, Mr. Tidwell, whether he was, at any point
9 after the accident, prescribed glasses. I would object
10 to that because it is more prejudicial than probative.
11 He was not prescribed glasses at the time of the
12 accident, wasn't until some time later that he was
13 prescribed glasses.

14 THE COURT: Okay.

15 MS. COURAM: That was in his admissions that the
16 other attorney answered. And she stated that in January
17 after this accident, he got a prescription for glasses.
18 It's not -- I don't see why it's prejudicial.

19 He just -- he didn't have glasses at the time of the
20 accident. And it goes to the fact that he -- he was
21 ticketed for driving too fast for conditions. If he had
22 had his glasses on, like I have to wear glasses when I
23 drive -- when I drive, then perhaps this accident would
24 not have occurred.

25 And I don't see how that's going -- it's just a

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1 "yes" or "no" question as to damage. It goes to the fact
2 that he caused an accident, he was negligent when he
3 caused that accident, and he has to take responsibility
4 for that negligence under the -- under the code of South
5 Carolina for driving without -- driving too fast for
6 conditions at the time of -- at the time of day this was.

7 THE COURT: Do you have any evidence that Mr.
8 Tidwell should have had glasses or that he needed glasses
9 on the date of the accident?

10 MS. COURAM: That was information that his attorney
11 -- I'm trying to find Ms. Sumner's admissions as to the
12 question.

13 (Off the record briefly.)

14 MS. COURAM: To answer your question as to whether
15 or not I have evidence that he is not wearing glasses was
16 the cause of the accident. The cause of the accident was
17 his driving too fast for conditions.

18 THE COURT: I know.

19 MS. COURAM: I don't ---

20 THE COURT: That wasn't ---

21 MS. COURAM: --- have any --

22 THE COURT: --- my question ---

23 MS. COURAM: --- other ---

24 THE COURT: --- was whether you have evidence that
25 he needed glasses at the time of the accident; that he

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1 was prescribed glasses or that his vision was so impaired
2 that he should have had glasses and he chose not to wear
3 them. That's my ---

4 MS. COURAM: Since he ---

5 THE COURT: --- question.

6 MS. COURAM: --- was prescribed glasses for the
7 first time in January, then I think that answer would be
8 no.

9 THE COURT: Okay.

10 MS. COURAM: Because his attorney said -- she just
11 -- she answered the question. He was prescribed glasses,
12 prescription glasses, in January. Now, whether or not
13 Mr. Tidwell is the only one that knows the answer to the
14 other -- the rest of that.

15 THE COURT: Right. Okay. I'm not going to allow
16 it; one, because you don't have any evidence to suggest
17 that that was, in fact, a cause of the accident. But --
18 but beyond that, even -- frankly, even if you did have
19 that evidence, there is no question as to the cause of
20 the accident. The question presented to this jury is
21 causation as to your alleged injuries.

22 So it's already been established as a matter of fact
23 that Mr. Tidwell was driving too fast for conditions,
24 whatever the reason: whether the reason is because he
25 wasn't paying attention or because he didn't have his

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1 glasses on, because he was changing the radio station.
2 Whatever it is, it doesn't matter at this point. So
3 whether he needed glasses at the time is really
4 immaterial to this jury's determination.

5 MS. COURAM: Right. My understanding -- only thing
6 that we're determining at this time is damages: whether
7 or not his negligence caused the -- the injuries that I
8 now suffer. And that is the question -- only question
9 that's supposed to be going to the jury. The rest of it
10 is -- is -- is reestablishing liability.

11 THE COURT: You don't need to reestablish ---

12 MS. COURAM: That's what ---

13 THE COURT: --- something that's ---

14 MS. COURAM: --- I'm saying.

15 THE COURT: --- already been established.

16 MS. COURAM: The -- the glasses and -- and all this
17 kind of thing -- even Mr. Brown's testimony really
18 doesn't make any difference. Because the only issue is
19 damages: Did he cause the damages? Was there a
20 connection to the -- to the -- to damage that I suffer
21 now? And that is the only thing the jury is -- is
22 supposed to be hearing about, not the rest of it because
23 that's already been established.

24 THE COURT: Well, I've already ruled on the
25 introduction of Mr. Brown's deposition.

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1 MS. COURAM: Okay.

2 THE COURT: The issue before me now was Mr.
3 Tidwell's need for glasses. And I'm telling you that
4 that is not relevant to the issues that the jury must
5 decide and, therefore, is not admissible.

6 MS. COURAM: Okay.

7 THE COURT: Okay? Anything else, Ms. Spitz?

8 MS. SPITZ: Just one kind of technical thing: I
9 know you've ruled that we will be able to read the
10 excerpts from Mr. Brown's deposition. In those experts
11 [sic] during the deposition, we had entered three
12 photographs as exhibits.

13 So in your ruling, would that mean that these are
14 already admitted into evidence? I wasn't sure if I
15 should go ahead and get them marked. They are referenced
16 in my notice and in the, I guess, identified portions of
17 the deposition transcript.

18 THE COURT: As best as I can tell from reviewing the
19 deposition excerpts, the only exhibit that is mentioned,
20 I believe, was marked as Exhibit 3 to that deposition.
21 So that's the only one ---

22 MS. SPITZ: Yes, Your Honor.

23 THE COURT: --- that would be admissible and -- and,
24 of course, over Ms. Couram's objection. But that's the
25 only one that she would be using in that regard. And

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1 that ---

2 MS. SPITZ: Yes, Your Honor.

3 THE COURT: --- if you have another copy of it, I
4 mean, yes. That should go ahead and be marked.

5 MS. SPITZ: Okay. I do. It's -- Exhibit 3 in the
6 deposition referred to three photographs. So that's the
7 only reason I bring it up. And I'll go ahead ---

8 MS. COURAM: Oh.

9 MS. SPITZ: --- and give them to her to mark.

10 MS. COURAM: We -- we disagree that those were not
11 going to be put in -- put into the record.

12 THE COURT: Who did?

13 MS. COURAM: She and I, before you came in.

14 THE COURT: Oh. Well ---

15 MS. COURAM: Because ---

16 THE COURT: --- she changed ---

17 MS. COURAM: --- I didn't agree ---

18 THE COURT: --- her mind.

19 MS. COURAM: I didn't agree to it. And ---

20 MS. SPITZ: Well, I ---

21 MS. COURAM: --- she said ---

22 THE COURT: I suppose ---

23 MS. SPITZ: --- know you didn't agree.

24 THE COURT: Well, I suppose that she ---

25 MS. COURAM: Because it's the -- if that car -- I

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1 ---

2 THE COURT: Okay. I hear you. And you keep
3 interrupting me. I heard you object to it, and I'm
4 allowing introduction over your objection, despite your
5 objection.

6 MS. COURAM: That car was not the car that Mr. Brown
7 was driving ---

8 THE COURT: I know ---

9 MS. COURAM: --- that day.

10 THE COURT: --- that that's your testimony. But Mr.
11 Brown's testimony was something else. So despite ---

12 MS. COURAM: No. I was ---

13 THE COURT: --- your objection ---

14 MS. COURAM: --- I was -- I was there. I was a
15 eyewitness. I was there.

16 THE COURT: Okay. Well ---

17 MS. COURAM: I was the one that he hit after Mr.
18 Tidwell hit him. I was a witness. I saw the cars. So I
19 don't understand what -- what it is that a witness like
20 me -- even though I'm the one that was hurt, I still was
21 a witness. And I saw the car that was hit, that hit me,
22 and I saw Mr. Brown's car -- Mr. Brown's car. And I saw
23 Mr. Tidwell's car. So if I'm a witness to the incident,
24 why -- why is it that something that I said did not --
25 was not there has to be entered into the record?

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1 THE COURT: I've explained this since ten o'clock
2 this morning. And I'm not going to explain myself again.
3 I'm ruling that those photos are, in fact, admissible.
4 And they should be marked as an exhibit, a defense
5 exhibit, in this trial.

6 MS. COURAM: Okay. And you also ruled that the
7 photos that I was going to show -- that I'm going to
8 show, if I can get this thing to working again, can be
9 used. Because those are the Cadillacs that were at that
10 accident, not that one. That's a SUV. Is that -- am I
11 correct?

12 THE COURT: Yes, ma'am.

13 MS. COURAM: Thank you.

14 MS. SPITZ: I don't have anything else at this time,
15 Judge.

16 THE COURT: Okay. Ms. Couram, do you have any
17 matters that you believe need to be addressed before we
18 begin the trial?

19 MS. COURAM: Not that I can think of now, except for
20 getting this thing to work.

21 THE COURT: Okay. Well, you've got about seven
22 minutes to get it to work. So we're going to be at ease
23 until all the jurors have returned from lunch. And we
24 will get started at that time. Thank you.

25 MS. SPITZ: Thank you.

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1 (Off the record from 1:23 p.m. until 1:38 p.m.)

2 (Whereupon, Plaintiff's Exhibits 1 through 14 and
3 Defendant's Exhibits 1 through 7 were entered into
4 evidence while off the record.)

5 (Whereupon, Defendant's Exhibit 8 was marked and
6 entered into evidence while off the record.)

7 (Whereupon, the jury entered the courtroom at 1:38
8 p.m.)

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

10 THE COURT: Thank you. All right. Good afternoon,
11 ladies and gentlemen. I hope you enjoyed your lunch. We
12 are now about to -- prepared to try the case of *Glenda R.*
13 *Couram v. Sherwood Tidwell*. Before we begin, I'm going
14 to have you placed under oath more time. This oath is
15 specific to your duties as jurors in this case. Madam
16 clerk?

17 (Whereupon, the jury was duly sworn at 1:39 p.m.)

18 THE COURT: Okay. Before we begin this trial, I
19 want to tell that this trial will probably be different
20 from what you might expect. Many people do not have the
21 chance to attend actual court sessions, as you are doing
22 now, and may think, from watching television or movies or
23 reading books, that trials are always full of high drama,
24 intense action, and riveting circumstances. While all of
25 these things may be true at times, this trial is not for

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1 entertainment.

2 It is a fundamental part of our democracy, a search
3 for the truth in an effort to make sure that justice is
4 done between the parties before the Court. Searching for
5 the truth and making sure that justice is done is often
6 slow, deliberate, and repetitive, the opposite of what
7 you may have seen on television or in movies or read in
8 books.

9 This courtroom is a place of honor, dedicated to the
10 protection and preservation of citizens' rights through
11 what many have called the greatest justice system ever
12 created. The attorneys and Ms. Couram, as a pro se
13 litigant -- meaning that she's the attorney for herself
14 -- the attorneys appearing before you are advocates for
15 the parties they represent. But first and foremost, they
16 are officers of the Court, sworn to uphold the integrity
17 and fairness of our judicial system and to help you in
18 the search for the truth.

19 You should expect them to be professional,
20 competent, and ethical in representing their interests
21 or, in Ms. Couram's case, her own interests. Remember
22 that you have just taken an oath to try this case and
23 reach a fair and just verdict. And you are also expected
24 to be professional, reasonable, and ethical. Thank you
25 for accepting the important responsibility of jury

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1 service and for your contribution today to our justice
2 system.

3 Now, before the case begins, I would like to tell
4 you how we will proceed. The first thing that will occur
5 is that the plaintiff, the person who has brought the
6 action, will make an opening statement, which will be
7 followed by a similar statement by the attorney for the
8 defendant. These opening statements are not arguments.
9 Those arguments will come at the conclusion of the case.
10 The purpose of the opening statement is for each party to
11 outline his or her claims and the evidence which he or
12 she intends to present in support of those claims.

13 Following the opening statements, each side will
14 present its evidence, with the plaintiff, once again,
15 going first. Evidence may take many forms. It may be
16 testimony, documents, models, photographs, or the like.
17 You should pay close attention to all of the evidence
18 which is presented by each party because you, the jury,
19 are the sole finders of the facts in this case. And no
20 one else will be permitted to weigh the evidence and
21 render a verdict based upon it.

22 After all of the evidence is presented, the parties
23 will make their closing arguments. Now, unlike the
24 opening statements, the final remarks will be true
25 arguments; that is, that each side will emphasize certain

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1 portions of the evidence and try to persuade you to agree
2 with their version of the facts. Keep in mind that the
3 opening statements, as well as the closing arguments, do
4 not represent evidence in this case.

5 Give the parties your undivided attention. But keep
6 in mind that what they say is not evidence. After the
7 arguments are finished, I will explain to you the law
8 which applies to this case. You will then retire to the
9 jury room to consider the facts and law. And once you
10 have done so, you will return a verdict in favor of one
11 side or the other.

12 During the course of the trial, the plaintiff has
13 the -- the burden of proof her claims. The plaintiff
14 must meet this burden by proving her claims by the
15 greater weight, or the preponderance of the evidence.
16 What we mean by the greater weight of the evidence can be
17 imagined by a set of scales, a traditional set of scales.
18 When the case is brought, the scales are even. After all
19 of the evidence has been presented, if the scales should
20 remain evenly balanced or should they tip even slightly
21 in favor of the defendant, then the plaintiff would have
22 failed to meet her burden of proof and your verdict would
23 be for the defendant. If, on the other hand, the scales
24 should tip even slight in favor of the plaintiff, then
25 she will have met her burden of proof and your verdict

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1 would be for the plaintiff.

2 Now, I have a few additional comments before the
3 case begins. As I mentioned earlier, I am the only
4 person who can tell you what the law is. But you are the
5 only person who can determine the facts. I do not have
6 the right to indicate how I may feel about the evidence
7 presented. And throughout this trial, my intention will
8 be to act impartially towards each party.

9 Now, second, from time to time, one of the parties
10 may object to some bit of testimony or evidence which the
11 other side is seeking to present. As in sports,
12 business, or any other structured activity, there are
13 certain rules that both side must obey in presenting
14 evidence. These rules have a definite purpose. They
15 ensure that the information you receive is the most
16 trustworthy and reliable evidence available.

17 An objection is a procedure that is used for a party
18 to call a possible violation of the rules to my
19 attention, as the judge of the Court. And for this
20 reason, you should not hold the parties objection against
21 her or her client, nor should you conclude, from my
22 ruling on the objection, that I favor one side or
23 another.

24 Finally, I would ask that you pay close attention to
25 all of the evidence presented to you. It is you, the

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1 jury, who will determine the facts in this case. And as
2 a result, you will have to evaluate the credibility,
3 which means believability, of each witness who testifies
4 in this manner -- matter, not manner -- matter.

5 You are participating in a time-tested system. And
6 it is extremely important for each of you to listen
7 carefully to all of the evidence presented.

8 Now, I'm not going to allow you to take notes during
9 the trial of the case. I don't want you to be
10 distracted, and I don't think it's a very long trial. I
11 want you to give you full attention to each of the
12 witnesses who testifies. So I am sure that you will be
13 -- will perform -- I don't know why I'm tongue-tied today
14 -- you'll perform your duties accordingly.

15 So now, to preserve everybody's rights before we get
16 started, I will ask the parties whether there are any
17 objections to what I have just said to the jury. Any
18 objection, Ms. Couram?

19 MS. COURAM: No.

20 THE COURT: From the defense?

21 MS. SPITZ: No, Your Honor.

22 THE COURT: Okay. Then, we are prepared to begin
23 the trial. I will call on Ms. Couram to make her opening
24 statement.

25 MS. COURAM: Hi.

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OPENING STATEMENT BY MS. COURAM

MS. COURAM: As the judge stated, I'm pro se. I became pro se because I thought it was a -- the best way to handle things because it's an auto accident and just trying to be a good guy, I guess. So I decided to represent myself in this.

This accident -- and I'm going to be brief. This is going to be a short statement. This accident occurred on September the 15th, 2015. It was during rush hour. It was on I-20 going toward Augusta. We were a few -- few miles away from Broad River, you know, where the -- the Spartanburg exit is and the Broad River exit.

The traffic -- you know the traffic in South Carolina, especially on I-20, is -- is -- and on a Friday -- this accident occurred on a Friday -- can go any kind of way. It can either go smoothly, or it can stop suddenly or anything could happen. All of us drive in South Carolina, so we're -- we're perfectly aware of that fact. And we always have to be really, really careful about how we're driving, especially during that time of day.

Mr. Tidwell was driving a plumber's truck. He is a plumber. And it's referred to a -- as a commercial vehicle. Mr. Brown was driving a Cadillac. The Cadillac I saw Mr. Brown driving was a sedan-type car. To me it

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1 looked like a -- a limo. It was a really long car. It
2 was vanilla-cream colored. And I have a picture, but I
3 can't get the projector to work. So -- so I'm kind of
4 stuck on that.

5 So -- wait a minute. We may not have -- can -- can
6 you give me a minute?

7 (Off the record briefly.)

8 MS. COURAM: I don't know. Can -- can you see that?
9 The kind of car Mr. Tidwell [sic] was driving was more
10 like a -- a sedan-type car. But the -- the evidence
11 that's put into record shows he was driving a -- said
12 that he was driving a SRX SUV. That -- and that's the
13 vehicle that's on the collision report. But that wasn't
14 the vehicle that I saw as a witness and the person that
15 was there at the time of the accident.

16 Now, why it was a change out or why the officer put
17 that information? The only suggestion I can say is that
18 that was the information provided to the officer by Mr.
19 Brown. And he did not have -- he did not have
20 information on the Cadillac he was driving. Maybe he was
21 doing it for his job or whatever the case may be.

22 There is a -- there are photos of the car that -- I
23 don't know if you're familiar with the SUV, SRX. It kind
24 of looks like a -- a -- a minivan. It's different from
25 -- this is the car that Mr. Tidwell was driving. It's a

1 -- it's -- he was driving a -- a commercial vehicle. You
2 can see the damage to his front panel.

3 Anyway, on September 13th of -- 18th, the traffic
4 has come to a stop. I was -- I had stopped. I made --
5 the car in front of me had stopped. And I made sure that
6 Mr. Brown had plenty of room so he could stop, because he
7 was coming pretty fast as well.

8 So as he slowed down, I -- I -- I was in -- behind
9 the other car enough that I couldn't inch forward until
10 he came to a complete stop. Mr. Brown had come to a
11 complete stop. So I turned, concentrating on what was
12 going on in front of me.

13 Next thing I know, I hear this crash, a bang or
14 however cars collide. And I was totally stunned. I
15 could not believe that I had gotten hit. I did
16 everything I could to prevent this from happening.

17 The last thing I wanted was to be hit by anybody,
18 because my car is all I have. I'm not married. If I
19 lose my car, I can't go to work. My job's about 40 miles
20 away from where I live. I drive it 40 -- 40 miles round
21 trip.

22 So -- and the worst thing is my car is also in my
23 mortgage. So if something happens to the car, I'm paying
24 for a car I don't have.

25 Anyway, so I got hit. I sit there for a minute to

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1 try and figure out what happened. The car shook a little
2 bit. I got out. Mr. Brown was out of his car, because
3 Mr. Tidwell's truck had to be towed from the scene,
4 ultimately.

5 Mr. Tidwell -- Mr. Brown got out of his car. And I
6 asked him what happened: "Did -- did -- did the -- did
7 Mr. Tidwell shove your car into mine?"

8 And he said, "Yes."

9 And I still couldn't believe it. So I went back to
10 my car, and I sat down, still not -- cannot believe I got
11 hit -- all the trouble I went to not to get hit.

12 So I got -- my car got hit. I got up. I got out of
13 my car again and went to Mr. Brown. I got my camera. I
14 took some pictures of my car, the damages on that day at
15 the scene.

16 I told -- I asked Mr. -- Mr. -- Mr. Tidwell came up
17 several times and asked if we were okay. Asked Mr.
18 Brown; he asked myself. And I said I didn't know,
19 because I didn't know.

20 So I went to -- so still -- so he went back to where
21 his car was. Mr. Brown stayed where his car was. I
22 stayed in my car. Well, as I said, I got out of my car.
23 I took photos -- a couple of photos at the scene and
24 would wait -- and I asked Mr. Brown to call H.P.

25 He said, "What's the number?"

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1 I said, "Star-H-P."

2 So he called the police. We sat there on the left
3 lane -- the fast-traffic lane. That's where the accident
4 took place. And we sit there. I moved -- well,
5 ultimately, we moved our cars out of the -- the left
6 side, further over, so it wouldn't stop the traffic from
7 moving. So we sit there until H.P. got there.

8 And that blue truck that goes along with H.P. came.
9 They stopped the traffic, and we -- we were able to move
10 all the way to the right-hand side, all three of us.

11 Mr. -- and that's what happened. It was a clear
12 day. There was nothing -- the only thing was -- was the
13 traffic. The traffic was just heavy. And Mr. Tidwell --
14 Mr. Tidwell was found to be at -- in driving too fast for
15 conditions.

16 And -- and that's where we are. And this is the
17 case. The case is whether or not the accident caused the
18 injuries that I'm claiming. And that's what we're going
19 to put -- that's the evidence I'm going to try and put
20 forth to you. And I'm hoping that you will find that
21 there's a definite connection between the accident and
22 the injuries that I'm claiming and that you will
23 compensate me appropriately.

24 And that's my opening statement. And I'll having a
25 closing. Thanks.

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1 THE COURT: Thank you, Ms. Couram. Ms. Spitz?

2 MS. SPITZ: May it please the Court?

3 THE COURT: Yes, ma'am.

4 OPENING STATEMENT BY MS. SPITZ

5 MS. SPITZ: Your Honor, ladies and gentlemen of the
6 jury, what is an accident? Well, an accident is an
7 unfortunate incident that happens unexpectedly and
8 unintentionally. This case is about an accident.

9 Good afternoon. I introduced myself briefly
10 earlier, but my name is Jescelyn Spitz. I represent Mr.
11 Sherwood Tidwell.

12 Before we get into the evidence, I'd like to tell
13 you a little bit about Mr. Tidwell. He was born and
14 raised in Columbia. He's married to Beatrice Tidwell,
15 and they have four children together. Mr. Tidwell owns
16 and operates a small plumbing company here in Columbia.
17 He is the sole employee there.

18 Now, I'd like to tell you -- or I'd like you to
19 direct your attention to September 18th, 2015. Mr.
20 Tidwell was on his way home from work. He was traveling
21 on I-20; was in heavy -- heavy rush-hour traffic; was
22 traveling in the center lane. Was going about 30 miles
23 per hour when traffic ahead of him begins slowing and
24 stopping.

25 He moves over to the left-hand lane because it looks

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1 clear. However, when he gets over, he realizes that
2 there is a small, white Cadillac SUV ahead of him. He
3 quickly begins applying his brakes, but he's unable to
4 come to a complete stop. And he bumps into the rear of
5 the Cadillac vehicle, pushing that vehicle into the
6 plaintiff's -- into -- into the plaintiff's car.

7 The evidence will show that following the accident,
8 Mr. Tidwell went and checked on the plaintiff, as well as
9 the driver of the Cadillac, Mr. Brandon Brown.
10 Fortunately, both parties appeared to be okay and
11 everyone was able to exit their vehicles.

12 Now, ladies and gentlemen, Mr. Tidwell accepts
13 responsibility for this accident. He's accepted
14 responsibility since day one. He didn't mean to bump
15 into Mr. Brown's vehicle. And he certainly didn't mean
16 for Mr. Brown's vehicle to then bump into the rear of the
17 plaintiff's vehicle.

18 So it's not your job today to determine who's at
19 fault. Your job today is to determine whether the
20 accident caused the injuries the plaintiff is claiming.
21 And it's our position that this accident was too minor to
22 have caused the injuries the plaintiff is claiming.

23 The evidence and testimony will show the plaintiff's
24 claims are unfounded. The evidence will show that Mr.
25 Brown barely tapped the rear of the plaintiff's car. And

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1 the evidence will show that no one required an ambulance
2 at the scene of the accident. In fact, Ms. Couram was
3 able to drive home from the scene of the accident.

4 And the evidence will show that even though Mr.
5 Brown was driving the vehicle that was in the middle of
6 this accident, he wasn't injured. And the evidence will
7 also show that the plaintiff did not seek any medical
8 treatment after this accident until five days later.

9 Some of the most compelling evidence in this case is
10 the photographs of the vehicles -- in particular, the
11 photos of the plaintiff's vehicle here. As you know by
12 now, the plaintiff has chosen to represent herself. And
13 that is her right. There's nothing wrong with that.

14 There may be times throughout the trial where I
15 object or have to take up an issue with the judge. I'm
16 not doing this to pick on the plaintiff or to be rude to
17 her. But as the judge stated, there's a set of rules
18 we're required to abide by today, maybe tomorrow, and the
19 plaintiff is obligated to abide by those too.

20 The plaintiff has charged Mr. Tidwell with
21 negligence. Negligence is made up of four elements:
22 duty, breach, causation, and damages. Mr. Tidwell has
23 admitted to the first two: duty and breach.

24 But it's the plaintiff's job to prove the accident
25 caused the injuries she's claiming. And that burden is

1 hers alone. That burden is by preponderance of the
2 evidence, meaning more likely than not, the accident
3 caused the injuries and damages she's claiming.

4 She also must prove that her medical treatment was
5 reasonable and necessary. Again, this dispute is about
6 causation. And it's our position that the accident was
7 too minor to have caused the injuries the plaintiff is
8 claiming.

9 Once you've heard all the testimony and evidence
10 throughout this trial, I'll come back before you and ask
11 that you render a fair, just, and reasonable verdict.
12 Thank you.

13 THE COURT: All right. Thank you, Ms. Spitz. Ms.
14 Couram, who is your first witness?

15 MS. COURAM: (Gestured.)

16 THE COURT: Okay. I figured that.

17 So now is the time where the plaintiff presents
18 their case. And normally, I would look at an attorney
19 and say, "Call your first witness." I've just asked who
20 Ms. Couram's witness -- first witness is, and it is
21 herself.

22 So because she's acting as -- as her own attorney,
23 she will still be sworn like any other witness and will
24 take the witness stand. She just doesn't have an
25 attorney to do the question-answer/question-answer back

1 and forth. So instead, she will be sworn, sit on the
2 witness stand, and make a statement to you, which I'm
3 sure will be comprised of whatever answers she would give
4 of -- to the questions of an attorney if she had one.

5 But at this point, Ms. Couram, if you are your first
6 witness, I'm going to have you come forward to the
7 witness stand and be sworn.

8 (Whereupon, the plaintiff came forward.)

9 (Off the record briefly.)

10 GLENDA COURAM, having been first duly sworn,
11 testified as follows:

12 DIRECT TESTIMONY

13 BY MS. COURAM:

14 A Hi. As I said, I'm -- I'm my own witness. I was
15 the only one in the car, thankfully.

16 (Off the record briefly.)

17 BY MS. COURAM:

18 A So I'm going to tell -- tell you what happened and
19 why I believe that the accident was a direct cause of the
20 -- the -- the injuries or damages that I've -- I suffer
21 to this day.

22 As I stated, this accident occurred on -- my name is
23 Glenda Couram. I don't have any family. I don't have
24 family here in Virginia [sic]. The only thing I have is
25 a little dog. And I will show you her picture,

1 eventually.

2 So -- and she is -- I got her on -- in 2014 -- in
3 February 2014. She's a -- she's called a "snorkie." And
4 she is really, really, really stubborn. And I can tell
5 you one -- this morning I had to put her in a pen. And
6 when she gets angry at me, she poops on the floor. So --
7 so I had to go home after this thing -- go and clean her
8 up.

9 So on the day of this accident, of course, she's --
10 she was a little thing. I had just gotten her. She was
11 -- she was -- and she was home by herself, because I work
12 full-time.

13 The accident occurred -- it was a pretty -- it was a
14 nice day. There was no rain; there was nothing going on.
15 This -- it -- it was heavy traffic. It was a Friday.

16 The problem with me is that I suffer from -- since
17 2009 I suffer from panic disorder, PTSD, anxiety --
18 chronic anxiety, and stress. And that just been my
19 diagnosis for the last -- since two -- October 2009.

20 When Mr. Tidwell hit the car on -- and caused the
21 car to be hit in 2015, there was damage to my car. In
22 fact, the photos will show that he -- Mr. Brown's car was
23 hit so hard that it pushed in my fender and branded the
24 Cadillac emblem in my car -- into my car fender. And I
25 can show you those photos in a few minutes once I finish

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1 the testimony.

2 So as I stated, on the -- the few days before that,
3 I was just told by my doctor that I was prediabetic. And
4 we were going to try and get my weight down so that I can
5 prevent that from happening. At this -- to this day, I'm
6 still prediabetic and my weight has gone up, instead of
7 down, because I don't get to do anything anymore. I
8 can't walk my dog or anything of that sort.

9 I have issues -- anyway, let me get back to what
10 happened. On September -- when this accident took place
11 on the 18th of September, I didn't know if I was injured
12 or not. I just was -- like I said, I was stunned that I
13 had gotten hit. I didn't want to get hit. I don't want
14 my car to get hit. The car was a 2012 Honda Fit.

15 And I just was stunned that I got hit. I just made
16 sure Mr. Brown was okay. But I didn't -- just didn't
17 count on Mr. Tidwell coming up.

18 So when he hit the car, he did come up. He asked if
19 we are okay. He did all those things. He never denied
20 that he -- he didn't cause -- he didn't cause the
21 accident. He paid the ticket. He did everything right.

22 And I know this was an accident. I know Mr. Tidwell
23 didn't deliberate come out there that day to hit myself
24 or Mr. Brown or cause this injury. Nobody does that,
25 unless they're just -- well, you know what I mean.

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1 Nobody does that.

2 Okay. When I asked Mr. Brown to call the H.P., he
3 called them. They came out. This was around -- I work
4 in Blythewood. I work at -- I worked at the SCDMV. I --
5 I had just gotten off. I got off work at four o'clock.
6 It was about 4:20 when this accident occurred -- between
7 4:20 and 4:30.

8 The -- the -- by the time the highway patrol came
9 out there, it was about five o'clock. And when they
10 moved us over to the far-right-hand side to get us off --
11 out of the left-hand lane, it was probably about 5:30. I
12 -- yes.

13 I was asked if I needed an ambulance. I said no, I
14 didn't need an ambulance. I was asked if I could drive
15 myself home. I said yes, I can drive myself home. There
16 was nobody else to drive me home, unless Cashie
17 (phonetic) can figure out how to drive. And I would have
18 to provide her a car.

19 So I drove -- so I was -- I was all I had is what
20 I'm trying to say. So I drove myself home. When I got
21 home, I cleaned up the mess Cashie made. She was a baby.
22 And she did mess up the house pretty well. And it really
23 smelled.

24 I cleaned that up. I went to bed. I stayed in bed
25 all -- the entire weekend, still completely upset that I

1 had gotten hit. I did -- it still floors me to this day
2 that I got hit.

3 Monday came, the 21st. And that's when everything
4 kind of went crazy. I got in the car on my way to work.
5 I was on 20. And I just kind of froze up. Cars -- it
6 felt like cars was -- was on my bumper all the time. The
7 Mack trucks was coming at me. They were coming in my
8 lane. It was just crazy.

9 And the more I thought about it, the tighter I
10 tightened up. And like I said, I drive about -- takes me
11 about 45 minutes to get to work. So I tightened up, and
12 I tightened up some more. And I continued to tighten up.
13 And by the time I got to work, I was just, like,
14 paralyzed with fear or panic or stress or whatever the
15 case may be.

16 I sat in the car. I got out of the car; went into
17 work. And my back started to hurt. I called and I
18 reported it. I tried to call my doctor to find out if it
19 was something that's -- was temporary, was going to go
20 away after a while. Because when I was younger, you can
21 kind of bounce back. I'm 58. I was 56 when this
22 happened.

23 So Mr. Tidwell found a 56-year-old woman who was
24 prediabetic and overweight. And he just entered into my
25 life and just messed it up, but without intention.

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1 So I stayed all day at work. My back continued to
2 hurt while I worked. I sat straight up in my seat. It
3 felt like something was poking in it -- poking directly
4 in the middle of my back the entire day. My pain was
5 mostly underneath my left shoulder blade.

6 So I went to -- I got up. I went home. And I
7 started thinking about Cashie and the fact that she's
8 going to be stuck in that house if something happened to
9 me. If I -- next accident I die or whatever the case may
10 be, because my -- my air bags on my car was on recall and
11 they just got the recall taken care of this year on my
12 air bags. So I had that fear that was always there
13 because it's on my -- it was on my thing at work that I
14 had to get the air bags taken care of.

15 So I started thinking about Cashie. I called -- I
16 started thinking about if I can't make it back, she's
17 going to be in that house by herself. She's going to
18 starve to death. And there was nobody to call. There's
19 nobody to come and check on her, just me.

20 And for the first -- we -- because I was worried for
21 -- for 55 years of my entire life, the only person I had
22 to worry about was me. If something happened to me, it
23 didn't matter one bit. But I had her now.

24 So -- and I started thinking about it. And I -- and
25 the more I thought about it, the -- the more -- the

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1 scareder [sic] I became. I started driving with my
2 hazard lights on all the time, coming and going.

3 It -- the only problem with having your hazard
4 lights on is telling people that you want them to come up
5 closer to you. Because they never -- they didn't -- they
6 didn't matter one little bit.

7 So when I -- so I got home Monday. I -- I went to
8 my next-door neighbor and I told her, if I wasn't home by
9 a certain time, to go in the house and get Cashie so that
10 she would be taken care of if something happened to me.

11 After that, I went to bed. Tuesday, got up; same
12 thing happened. That paralyzing fear was back again. I
13 stiffened up. It was -- it was like I just continued to
14 stiff up. And -- and more I stiffed up, the harder it
15 was to -- to -- to release my muscles.

16 So I got -- I -- I went to -- I finished my job on
17 Tuesday. And the back was getting worse and worse. I
18 left work on Tuesday, blinkers on; drove home, hoping
19 that nothing would happen. One time -- at one point I
20 had a panic attack because traffic -- traffic was really
21 heavy. And I -- and I was in the left lane, and I
22 couldn't get over to get off -- to get on Broad River.
23 So I just started just panicking.

24 Anyway, got home Tuesday. Wednesday, went to work
25 again. Same thing happened. This time it was so bad, I

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1 reported -- on Tuesday I reported it. And on Wednesday I
2 also reported. And I continued to talk to -- try to talk
3 to my doctor.

4 Wednesday, it happened again. This time it got so
5 bad that I just couldn't stay at work. So I left, and I
6 went to Lexington County Urgent Care. They took X-rays.
7 They gave me a prescription for something spelled -- that
8 starts with a "S."

9 My blood pressure had -- was 140 something. Just
10 the -- the weird part of that is that on my way to
11 Lexington Medical, I saw three accidents. One was
12 really, really bad. The other one was off to the side.
13 And then, another one was up further.

14 So by the time I got to Lexington Medical, my blood
15 pressure was just sky high. It was over 145, I think.

16 So the doctor took X-rays and so forth and gave me
17 a prescription; told me to go see my doctor.

18 MS. SPITZ: Objection, Your Honor.

19 THE COURT: You can't ---

20 MS. SPITZ: Hearsay.

21 THE COURT: --- tell the jury anything that anyone
22 else told you.

23 MS. COURAM: Oh. Well, I don't -- I didn't realize
24 I had did that.

25 THE COURT: I understand.

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1 BY MS. COURAM:

2 A Okay. So -- I don't know what I said, so I can't
3 know if I repeat it or not.

4 So anyway, I got the prescription. I got the
5 prescription filled. I went to Walgreens. The only
6 problem with the prescription was that I couldn't take my
7 anxiety medication with it because it could cause
8 suicidal thoughts.

9 So the -- I had to stop taking the -- to -- that
10 medication. And then on 9/23, I think it was, I finally
11 got an appointment with my doctor's nurse practitioner,
12 because doctors -- because I had a problem with the -- I
13 went to my doctor's office. She gave me another
14 prescription and gave me a -- what do you call it? --
15 referral to Vital Energy.

16 And then the thousand-year flood hit. And because I
17 work for the state, we were out of work for almost two
18 weeks. So the referral couldn't go through because we
19 were -- there were more important things to worry about
20 at that time. So I didn't go and see doctor -- I didn't
21 get the appointment with -- the referral to Vital Energy
22 until, I think, it was, like, 10/22.

23 And I went there. And I stayed with them for quite
24 some time. I don't have that information in front of me
25 right now. But I will get it to you. I stayed with them

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1 for quite some time.

2 But it didn't stop the back problems. When I was
3 finished, Dr. Birdsong gave me another prescription to
4 stay there a little bit longer. And that didn't stop --
5 that -- after that, it got better.

6 But then I -- then -- but then it just came back all
7 of a sudden. And I got -- got another referral to
8 Palmetto Spine Center. And I went into counseling,
9 because they see what happened to me was more -- was like
10 more mentally related than -- their -- their treatment --
11 what they do is they -- they treat the whole person, I
12 should say.

13 They did some dry-needling in my back -- back area,
14 did physical therapy, and so forth. We went through
15 that. But the back pain continued.

16 When I go to work, it was at a Level 7. It was at a
17 -- at a Level 6. I take the -- the pain medication
18 that'll make me sleepy. So doctor -- so I got another
19 prescription for another type of pain medication. And
20 then I just started taking ibuprofen. I -- I'll take
21 about six ibuprofen a day so I can get through my job,
22 get through my work.

23 It just felt like something was poking me in the
24 back all the time. After I finished my treatment with
25 Palmetto Spine Center, things just went -- just kept

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1 going downhill from there, since that car accident. That
2 car accident happened on September the 20 -- September
3 the 18th. There was a weekend. The issues -- the
4 problems started coming to me on the 21st, because I
5 didn't -- I didn't go anywhere that weekend.

6 And then the 23rd and then -- then that Wednesday,
7 went to Palmetto Urgent Care. And it just kept on and
8 it's still here now today. The only problem is I lost my
9 job because of all this. And I can't even -- I can't --
10 my left shoulder is giving me issues because it -- it --
11 it gives out on me every now and then, my left arm.

12 Yesterday I had to mow the lawn. And I had to mow
13 it -- I bought a -- a self-propelled mower a couple years
14 ago so I could use -- so it -- so it was easy enough to
15 push, where I could use my right hand most of the time to
16 cut the grass. I'm -- I did get that done.

17 A little bit about me: As I said, my name is Glenda
18 Renee Couram. At the time of this accident, I was 55
19 years old. At the time of this accident, I was
20 prediabetic. At the time of this accident, I was
21 overweight.

22 At the time of this accident, my doctor and I were
23 trying to get me from being prediabetic and get me to
24 lose weight. The accident put a end to that.

25 At the time of this accident, I was also suffering

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1 on ray (phonetic) with other issues that this accident
2 just made worse. And I was -- I was having issues with
3 -- mentally, but my body was okay. I didn't have
4 problems with my body. My back wasn't bothering me --
5 me. And my shoulder wasn't bothering me, and my arm
6 wasn't bothering me.

7 Directly after the accident, the seizing up caused
8 the problems I'm suffering now. And it's a direct --
9 it's directly related to the accident.

10 I don't know if there is anything else I can tell
11 you about what happened, except I -- the most important
12 thing is to find -- is to find a time line and to find
13 out whether or not this accident was a direct -- was
14 directly -- was fault of what's going on with me right
15 now. And the -- the answer to that question is yes, it
16 is.

17 And ---

18 MS. COURAM: May I get down?

19 THE COURT: You may. I -- I was going to ask you:
20 You have some exhibits. I don't know if you wanted to
21 ---

22 MS. COURAM: Yeah.

23 THE COURT: --- show them to the jury or use those
24 in your statement at all. But the bailiff can let you
25 step down.

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1 THE BAILIFF: Watch your steps.

2 (Whereupon, the plaintiff exited the witness stand.)

3 BY MS. COURAM:

4 The attorney is right. There was not a lot of
5 damage to my car. But there was damage to my car. The
6 car that Mr. Brown -- Mr. -- Mr. Brown was driving, as I
7 said, was a sedan-like car, like this.

8 MS. SPITZ: Your Honor ---

9 A And this area right here ---

10 THE COURT: Hold on.

11 A --- I --- I just ---

12 THE COURT: Wait a second, Ms. Couram. Yes, ma'am?

13 MS. SPITZ: May I reposition myself? I can't see

14 ---

15 THE COURT: Oh, absolutely.

16 MS. SPITZ: --- what's on the screen.

17 THE COURT: I'm sorry. I thought you had an
18 objection. Sorry. Go -- continue, Ms. Couram.

19 BY MS. COURAM:

20 A And the pointed area was Cadillac is what caused the
21 car to push it -- push in my fender and brand the
22 Cadillac emblem into my car, which I will show you.

23 MS. SPITZ: Your Honor, I would renew my objection
24 to these photographs of this Cadillac vehicle, based on a
25 relevance objection.

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1 THE COURT: I think -- I'm going to overrule the
2 objection. Ladies and gentlemen, I know she's showing
3 you some photographs that I can't see. But I previously
4 ruled that they're not in evidence, but you can look at
5 them. She can tell you whatever it is about them she
6 wants to tell you. Okay.

7 BY MS. COURAM:

8 A The other picture is of my dog. I don't know if you
9 can see it or not, but that's her. And as I said, she
10 gets into anything.

11 And I wanted to show you my car damages. And you
12 can't see that, and I can't figure out how -- this was
13 working before y'all got in here. And I pushed a button,
14 and I can't get it to work anymore. So you're going to
15 have to -- you can look at this.

16 Mr. -- when Mr. Tidwell hit Mr. Brown's car, it
17 caused this scratch to my car. And you can see where
18 there's a split in my fender right there now. And this
19 is what Mr. Brown supposedly was driving that day.
20 That's the car. That car could not have done the damage
21 that was done to mine because of the fact that the emblem
22 is clear up here. And if -- anyway, did y'all see it or
23 do you want to ---

24 THE COURT: Ms. Couram, since those -- those
25 physical photos are in evidence, if you want to pass them

1 around to the jury for each of the jurors to look at,
2 that's fine.

3 MS. COURAM: Okay.

4 BY MS. COURAM:

5 A This is Mr. Tidwell's car. And you can see he had
6 major damage to the front of his car. Now, as I stated,
7 I took photographs of my car at the scene of the
8 accident. And these are the photographs that shows the
9 damage to my car. My car damage was about \$700 to fix.

10 If you look closely at the photographs, you can see
11 where the Cadillac emblem was embedded into my fender of
12 my car. So it was a hard enough hit that it did cause a
13 bump and a jerk.

14 But the thing is: I am not claiming necessarily
15 that this accident caused my injuries. Because I've -- I
16 didn't feel that it did at the time of the accident. The
17 problem that came in was when -- given everything that
18 was -- else was going on ---

19 MS. COURAM: I go back up there or ---

20 THE COURT: Yes.

21 MS. COURAM: --- sit down?

22 THE COURT: Sit back up there because we need you in
23 front of the microphone.

24 (Whereupon, the plaintiff reentered the witness
25 stand.)

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1 BY MS. COURAM:

2 A The problem came in when I got home, when I started
3 driving again that Monday that my back seized up and
4 caused the injuries that I suffer. And that's the
5 connection, the causal connection to the accident.

6 And as I said, this not -- this was not something
7 that was -- the only thing that was foreseen by Mr.
8 Tidwell is that -- the fact that this was a Friday. It
9 was in South Carolina. It was on I-20. And it was
10 incumbent upon all of us, and he violated the statute --
11 South Carolina statute by driving too fast for
12 conditions. It's incumbent on all of us to be conscious
13 ---

14 MS. SPITZ: Objection ---

15 A --- at that time ---

16 MS. SPITZ: --- Your Honor.

17 THE COURT: Right. You can't -- sustained.

18 Sustained. We talked about not reading those things.

19 MS. COURAM: I'm not -- I -- I didn't read that.

20 THE COURT: Okay. Well -- I mean, that -- that
21 portion's already been established. So move on to the
22 next portion.

23 BY MS. COURAM:

24 A Anyway, I was telling you about me. I was 55 years
25 old when this accident happened. I was prediabetic,

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1 overweight. And my major concern was to lose the weight
2 at that time. Then Mr. Tidwell came along.

3 If I had -- if I could -- I really, really, really,
4 really wish this accident hadn't happened. Because it
5 was something I did not need in my life at the time.

6 I keep forgetting where I was -- anyway, I was 55.
7 I'm 58 now. And one of the reason I'm bringing that up
8 is that my insurance, when I turned 55 ---

9 MS. SPITZ: Objection, Your Honor.

10 THE COURT: Sustained.

11 MS. COURAM: My -- my health insurance.

12 THE COURT: Sustained. You cannot talk about that.

13 MS. COURAM: It's my ---

14 MS. SPITZ: I would move to strike.

15 THE COURT: Ladies and gentlemen of the jury, I ask
16 that you disregard the last comment by Ms. Couram. Move
17 on to the next topic.

18 BY MS. COURAM:

19 A Anyway, I was 55 years old when I got a letter.

20 MS. COURAM: It's -- it's directly -- directly
21 related to the damages.

22 THE COURT: I'm not going to debate it. That's my
23 ruling, ma'am. Move on to the next topic.

24 BY MS. COURAM:

25 A Anyway -- so anyway, after -- so when this accident

1 occurred, I went through all the physical therapy. I did
2 all the things I was supposed to do. I did all the
3 doctor's appointments.

4 And the five days that the attorney is speaking
5 about, it was five days -- it was actually three days, if
6 you -- unless you want to count the weekend. If you
7 count Saturday and Sunday, Monday, Tuesday, and
8 Wednesday, that's the weekend.

9 But what I was trying to do was I was hoping that
10 whatever was going on with me was going to work itself
11 out. I -- I couldn't -- it didn't work itself out.

12 Okay. And so I -- like I said, I ended up in urgent
13 -- Lexington County Urgent Care. They took X-rays. They
14 prescribed me pain medication; told me to go see my
15 doctor ---

16 MS. SPITZ: Objection, Your Honor.

17 A --- for ---

18 THE COURT: You can't tell the jury anything anybody
19 has told you. Sustained.

20 A Okay. So anyway, I went to see my doctor on the --
21 on the 23rd, I believe -- or October the 2nd. I finally
22 got an appointment with her. But she was on vacation, so
23 I -- the -- the nurse practitioner.

24 I guess I'm -- I think what I'm -- what I'm saying
25 is that was hearsay is the prescription.

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1 MS. COURAM: Is that what -- what -- is that the
2 objection?

3 THE COURT: Anything that anybody else told you, you
4 cannot tell the jury.

5 MS. COURAM: But, ma'am, they gave me the
6 prescription. It's my prescription.

7 THE COURT: If you have a prescription for
8 medication, go ahead. I -- you just can't talk about the
9 conversations that you've had with any doctor, nurse, or
10 anyone else.

11 MS. COURAM: I don't think I did that.

12 BY MS. COURAM:

13 Q Anyway, and I got a -- I got a prescription from
14 her, from the nurse practitioner. When I was on my way
15 to that -- that appointment with the nurse practitioner,
16 it was another accident on the way there. And I started
17 to have another panic attack. Throat got dry; neck hurt.
18 By the time I got to that -- that -- by the time I got to
19 her, my blood pressure was 154 over something or other.

20 I was taking Procardia. It was for 25 milligrams
21 for ten years. My blood pressure just wouldn't stop --
22 wouldn't go down after this accident.

23 So I was put on another blood pressure medication.
24 That didn't work. I was put on another one; had an
25 allergic reaction to it, really bad, for a month.

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1 And then Dr. Birdsong was able to give me one that
2 worked that I'm using now. I left -- and that's where
3 I'm at today. And the reason I'm saying that my --
4 that's the -- none of this would've -- would've happened
5 if this accident -- this car accident hadn't occurred.

6 Maybe another -- if it wasn't Mr. Tidwell, it
7 would've happened to another -- somebody else would've
8 hit me and it would've happened. Yeah. I don't know.

9 The point is that it was Mr. Tidwell. The point is
10 that I did not have the back issues that I'm having now.
11 I didn't have issues with my left arm. I didn't have
12 poking into my back all the time.

13 And I don't have to -- didn't have to sit up
14 straight all the time when I got tired to relieve the
15 poking in my back. I didn't have to have dry-needling.
16 I had none of these issues prior to this car accident.

17 And I think that's all I have to say at the moment.

18 THE COURT: Okay. Cross-examination?

19 MS. SPITZ: Yes, Your Honor.

20 CROSS-EXAMINATION

21 BY MS. SPITZ:

22 Q Ms. Couram, you have been involved in one other
23 motor vehicle accident; is that correct?

24 A Which one? What -- there was one what ---

25 Q Have you ---

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