

STATE OF SOUTH CAROLINA)	
)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE)	
)	
JOHN VON DER LIETH,)	Civil Action No. 2023CP2300360
)	
Plaintiff,)	
)	
v.)	DEFENDANT'S PRE-TRIAL BRIEF
)	
DALE CLINTON GILSTRAP,)	
)	
Defendant.)	

I. Facts of the Case

This matter arises out of a motor vehicle accident on May 24, 2022. The Plaintiff was traveling on Stone Avenue and Defendant failed to yield the right of way at the red light. While initial Defendant disputed liability, liability has been conceded by Defendant and as detailed below, only causation and damages are issues to be determined by the jury. Plaintiff is claiming injuries to her chest and her as a result of this incident While Defendant concedes liability, Defendant is still disputing both causation and damages from the accident.

a. Facts in Controversy

Defendant asserts this accident was not the proximate cause of Plaintiffs' alleged injuries. Defendant understands that Plaintiffs are entitled to damages actually and proximately caused by Defendant's negligence but Defendant is disputing the amount of damages owed to the Plaintiffs by the Defendant.

b. Legal Issues

The legal issues for trial are proximate cause and damages. Plaintiffs pled for

punitive damages in their Complaint, but, it is Defendant's position, that there exists no evidence of recklessness, intent, or other degrees of heightened negligence that would allow the issue of punitive damages to go before the jury.

II. Trial Time

Defendant anticipates the trial should last one to one and a half days.

III. Pre-Trial Matters

a. Motion in Limine to Exclude Any References to Insurance

Defendant would request that all insurance information on exhibits be redacted and that all witness be instructed to refrain from mentioning insurance to prevent potential for mistrial pursuant to Rule 408, 409 and 411. Defendant believes Plaintiff consents to this so Defendant would just request a jury instruction to all witnesses to this effect.

b. Motion in Limine to Exclude any References to the Accident Report, Traffic Citation or Defendant's Driving Record

Under SC Code Ann. 56-5-6160 evidence of any violation of Title 56, Chapter 5 of South Carolina Code of Laws is inadmissible in any civil action. Civil or criminal liability must be founded upon evidence of the conduct for which the accused is on trial rather than prior wrongs. *State v. Gore*, 283 S.C. 118, 120 (1984). Thus the evidence must be excluded on the independent ground of South Carolina Rule of Evidence 403. Under 404, evidence of any other crime, wrong, or act is not admissible to prove a person's character in order to show that on a particular occasion the person acted in accordance with the character. The parties have consented to not mention any prior arrests of either the Plaintiff or

the Defendant and that neither party will mention the resolution of the investigation by the officer into the accident and the resolution of any tickets.

IV. Exhibits and Witnesses from Defendant

- a. Redacted Prior Medical Records obtained or produced by subpoena or discovery from either party.
- b. Redacted Subsequent Medical Records and Bills produced by Plaintiff during discovery.
- c. Defendant intends only to take the stand if he is not called as a part of the Plaintiff's case.

V. Date of Accident

May 24, 2022

VI. Voir Dire Questions

Please see attached.

VII. Proposed Jury Instructions

Please see attached.

VIII. Scheduling Issues

None.

IX. Settlement

The parties mediated on November 22, 2023 and reached an impasse.

X. Rule 403 Attendees

None from the defendant.

MCANGUS GOUDELOCK & COURIE, LLC

s/ Riley A. Bearden

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February 17, 2025

Columbia, South Carolina