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App.1a

**ORDER DENYING OPPOSED MOTION TO  
EXTEND THE TIME TO FILE A REHEARING  
(FEBRUARY 2, 2022)**

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02/02/2022

CLERK ORDER denying opposed motion to extend the time to file a rehearing [9768345-2]; and denying opposed motion to file rehearing out of time, filed by Appellant Ms. Christy Poon-Atkins [9768345-3]. Case Management deadline satisfied. Mandate issue date is 02/10/2022. [21-60467] (DLJ) [Entered: 02/02/2022 01:30 PM]

**JUDGMENT OF THE UNITED STATES COURT  
OF APPEALS FOR THE FIFTH CIRCUIT  
(JANUARY 10, 2022)**

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UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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CHRISTY POON-ATKINS,

*Plaintiff-Appellant,*

v.

SAMMY M. SAPPINGTON;  
WAL-MART STORES EAST, L.P.,

*Defendants-Appellees.*

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No. 21-60467

Appeal from the United States District Court  
for the Southern District of Mississippi  
USDC No. 3:19-CV-269

Before: SMITH, STEWART, and GRAVES,  
Circuit Judges.

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This cause was considered on the record on appeal  
and the briefs on file.

IT IS ORDERED and ADJUDGED that the  
judgment of the District Court is AFFIRMED.

IT IS FURTHER ORDERED that plaintiff-  
appellant pay to defendants-appellees the costs on  
appeal to be taxed by the Clerk of this Court.

**OPINION OF THE UNITED STATES COURT  
OF APPEALS FOR THE FIFTH CIRCUIT  
(JANUARY 10, 2022)**

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UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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CHRISTY POON-ATKINS,

*Plaintiff-Appellant,*

v.

SAMMY M. SAPPINGTON;  
WAL-MART STORES EAST, L.P.,

*Defendants-Appellees.*

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No. 21-60467  
Summary Calendar

Appeal from the United States District Court  
for the Southern District of Mississippi  
USDC No. 3:19-CV-269

Before: SMITH, STEWART,  
and GRAVES,  
Circuit Judges.

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PER CURIAM:\*

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\* Pursuant to 5th Circuit Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5th Circuit

App.4a

Plaintiff Christy Poon-Atkins filed this lawsuit on April 19, 2019, to recover for a motor vehicle accident at the intersection of Grants Ferry Road, Highway 471, and the entrance of Ambiance subdivision in Brandon, Mississippi. Her vehicle was struck by a car driven by defendant Sammy M. Sappington, who at the time was a Wal-Mart employee. Plaintiff asserts claims for negligence, negligence per se, and negligent infliction of emotional distress against Sappington and Wal-Mart.

Defendants later issued interrogatories, requests for admissions, and requests for documents to the plaintiff, but she failed to timely respond. Plaintiff's counsel then withdrew, and plaintiff notified the district court that she would proceed pro se. The defendants re-sent their discovery requests on March 27, 2020. In their requests for admissions, defendants asked plaintiff to admit that: (i) she "failed to yield the right-of-way to . . . Defendant Sappington;" (ii) "Sappington [was] not at fault for the subject accident"; and (ii) she is not entitled to any damages or recovery whatsoever as a result of the allegations in the Complaint." Plaintiff never responded to these discovery requests. A year after plaintiff's response was due, the defendants moved for summary judgment, asserting that plaintiff's failure to respond to the requests for admissions deems all requests admitted.

The district court granted summary judgment. Although the district court expressed "sympath[y]" for plaintiff as a pro se litigant, it held that Federal Rule of Civil Procedure 36 "unambiguously" requires

dismissal for plaintiff's failure to respond the defendants' admissions requests. Plaintiff timely appealed, and we have jurisdiction under 28 U.S.C. § 1291.

"We review a grant of summary judgment de novo, viewing all evidence in the light most favorable to the nonmoving party and drawing all reasonable inferences in that party's favor." *Pierce v. Dep't of the Air Force*, 512 F.3d 184, 186 (5th Cir. 2007) (citation omitted). "Questions of law are reviewed de novo." *Shaikh v. Holder*, 588 F.3d 861, 863 (5th Cir. 2009) (citation omitted). "[S]ummary judgment is proper if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986) (internal quotation marks omitted).

Rule 36 governs requests for admissions; it allows parties to serve written requests for admissions to opposing parties. A matter admitted under rule 36 "is conclusively established unless the court, on motion, permits the admission to be withdrawn or amended." Fed. R. Civ. P. 36(b). Rule 36 gives parties thirty days to respond to a request for admission, and the rule provides that an untimely response is deemed an admission. *See* Fed. R. Civ. Proc. 36(a)(3). Courts have long recognized that summary judgment is proper where a party fails to respond to Rule 36 admissions requests on material facts. *E.g.*, *Hulsey v. State of Texas*, 929 F.2d 168, 171 (5th Cir. 1991). Rule 56(c) specifies that "admissions on file" can be an appropriate basis for granting summary judgment. Fed. R. Civ. Proc. 56(c). A party who makes an admission,

whether express or by default, is bound by that admission for summary judgment purposes—not even contrary evidence can overcome an admission at the summary judgment stage. *In re Carney*, 258 F.3d 415, 420 (5th Cir. 2001). Instead, the proper course for a litigant that wishes to avoid the consequences of failing to timely respond to rule 36 requests for admissions is to move the court to amend or withdraw the default admissions in accordance with the standard outlined in rule 36(b). *Id.*

Plaintiff Poon-Atkins did not respond to the requests for admissions at any time during the litigation below, much less within thirty days after they were served. She likewise did not move to withdraw or otherwise amend the deemed admissions, which went to the heart of her claims against both defendants. And when defendants moved for summary judgment on these grounds, Poon-Atkins did not argue that her failure to respond resulted from oversight; did not dispute having received the requests; did not seek to withdraw her deemed admissions; and did not immediately respond to defendants' requests. Instead, she contends that contrary evidence—namely a police report—rebutts her admission. But rule 36 admissions “are conclusive as to the matters admitted, [and] they cannot be overcome at the summary judgement stage by contradictory affidavit testimony or other evidence in the summary judgment record.” *In re Carney*, 258 F.3d at 420. Poon-Atkins' failure to respond to the defendants' requests for admissions means that the matters are deemed admitted. Those deemed admissions thus conclusively established that she failed to yield the right-of-way to Sappington, and that her

“negligence was the sole, proximate cause of the subject accident.” With those admissions, Poon-Atkins could not prove the essential elements of any of her claims, and thus there was no genuine dispute that the defendants were entitled to summary judgment.

We have applied rule 36(b) equally and consistently to represented and pro se parties alike, and we have refused to overlook a party’s disregard for deadlines regardless of that party’s status. *E.g.*, *Hill v. Breazeale*, 197 F.App’x 331, 337 (5th Cir. 2006) (“The requests for admissions that [the pro se plaintiff] failed to timely respond to concerned essential issues of his claim. These deemed admissions conclusively establish that the defendants engaged in no [wrongdoing].”); *Birl v. Estelle*, 660 F.2d 592, 593 (5th Cir. 1981) (citations omitted). (noting that a pro se party “acquires no greater rights than a litigant represented by lawyer,” and instead “acquiesces in and subjects [her]self to the established rules of practice and procedure”). We AFFIRM the judgment below.

**FINAL JUDGMENT DISMISSING CASE  
(MAY 17, 2021)**

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION

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CHRISTY POON-ATKINS,

*Plaintiff,*

v.

SAMMY M. SAPPINGTON AND  
WAL-MART STORES EAST, LP,

*Defendants.*

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Civil Action No. 3:19-CV-269-KHJ-LGI

Before: Kristi H. JOHNSON,  
United States District Judge.

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For the reasons stated in the Court's Order entered May 17, 2021, and in accordance with Federal Rule of Civil Procedure 56, the Court enters this Final Judgment for Sammy M. Sappington and Wal-Mart Stores East, LP. Christy Poon-Atkins' claims are dismissed with prejudice. This case is closed.

SO ORDERED, this the 17th day of May, 2021.

/s/ Kristi H. Johnson  
United States District Judge



**ORDER GRANTING SUMMARY JUDGMENT  
IN FAVOR OF DEFENDANTS  
(MAY 17, 2021)**

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION

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CHRISTY POON-ATKINS,

*Plaintiff,*

v.

SAMMY M. SAPPINGTON AND  
WAL-MART STORES EAST, LP,

*Defendants.*

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Civil Action No. 3:19-CV-269-KHJ-LGI

Before: Kristi H. JOHNSON,  
United States District Judge.

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**ORDER**

This matter is before the Court on Defendants Wal-Mart Stores East, LP, ("Wal-Mart") and Sammy M. Sappington's Motion for Summary Judgment [85]. For these reasons, this Court grants their motion.

**I. Background**

Plaintiff Christy Poon-Atkins filed this lawsuit on April 19, 2019, to recover for a motor vehicle accident

at the intersection of Grants Ferry Road, Highway 471, and the entrance of Ambiance subdivision in Brandon, Mississippi. [1], ¶¶ 9-10. Poon-Atkins asserts claims of negligence, negligence as a matter of law, and negligent infliction of emotional distress. *See generally id.*

Six months later, Defendants propounded Interrogatories and Requests for Production of Documents to Poon-Atkins, but she failed to timely respond. [23]; [24]. Poon-Atkins' former counsel then moved to withdraw as counsel [38], after which she advised the Court of her intention to proceed pro se. [43]. Defendants re-sent the same Interrogatories [45] and Requests for Production of Documents [46], along with Requests for Admission [48] on March 27, 2020. In their Requests for Admission, Defendants requested that Poon-Atkins admit she "failed to yield the right-of-way to . . . Defendant Sappington"; "Defendant Sappington [was] not at fault for the subject accident"; her "negligence was the sole, proximate cause of the subject accident"; and she is "not entitled to any damages or recovery whatsoever as a result of the allegations in the Complaint." [86] at 4-5.

Although Poon-Atkins has responded to at least some of Defendants' Requests for Production of Documents, *see* [107], the record shows she has not responded to their Requests for Admission. The time to respond expired more than a year ago,<sup>1</sup> and to this day, Poon-Atkins has not moved to withdraw or amend her deemed admissions. Defendants now move for summary judgment because Poon-Atkins' failure

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<sup>1</sup> Pursuant to Fed. R. Civ. P. 36(a)(3), Poon-Atkins' responses were due on or before April 26, 2020.

to respond to Requests for Admission deems all such Requests admitted as a matter of law.

## II. Standard

When considering a motion under Federal Rule of Civil Procedure 56, the Court must “grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a). “A fact is ‘material’ if, under the applicable substantive law, ‘its resolution could affect the outcome of the action.’” *Patel v. Tex. Tech Univ.*, 941 F.3d 743, 747 (5th Cir. 2019) (quoting *Sierra Club, Inc. v. Sandy Creek Energy Assocs., L.P.*, 627 F.3d 134, 138 (5th Cir. 2010)). “An issue is ‘genuine’ if ‘the evidence is such that a reasonable [factfinder] could return a verdict for the nonmoving party.’” *Jones v. United States*, 936 F.3d 318, 321 (5th Cir. 2019) (quoting *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986)). In analyzing a motion for summary judgment, “the judge’s function is not [her]self to weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial.” *Klocke v. Watson*, 936 F.3d 240, 246 (5th Cir. 2019) (quoting *Anderson*, 477 U.S. at 249).

“If the burden at trial rests on the non-movant, the movant must merely demonstrate an absence of evidentiary support in the record.” *Bayle v. Allstate Ins. Co.*, 615 F.3d 350, 355 (5th Cir. 2010) (quoting *Hamilton v. Segue Software, Inc.*, 232 F.3d 473, 477 (5th Cir. 2000)). Once the movant meets this requirement, “the burden shifts to the non-movant to produce evidence of the existence of such an issue for trial.” *Id.* (quoting *Miss. River Basin All. v. Westphal*, 230 F.3d

170, 174 (5th Cir. 2000)). The non-movant must present more than “speculation, improbable inferences, or unsubstantiated assertions.” *Jones*, 936 F.3d at 321 (quoting *Lawrence v. Fed. Home Loan Mortg. Corp.*, 808 F.3d 670, 673 (5th Cir. 2015)). “A failure on the part of the non-moving party to offer proof concerning an essential element of its case necessarily renders all other facts immaterial and mandates a finding that no genuine issue of fact exists.” *Adams v. Travelers Indem. Co. of Conn.*, 465 F.3d 156, 164 (5th Cir. 2006) (citing *Saunders v. Michelin Tire Corp.*, 942 F.2d 299, 301 (5th Cir. 1991)).

## II. Analysis

Defendants contend they are entitled to summary judgment on Poon-Atkins’ claims because—given her deemed admissions by application of Federal Rule of Civil Procedure 36—she cannot prove the essential elements of her negligence-based claims. [86] at 6-7. Rule 36 governs requests for admission and provides, in relevant part:

A party may serve on any other party a written request to admit, for purposes of the pending action only, the truth of any matters within the scope of Rule 26(b)(1) relating to: facts, the application of law to

(A) fact, or opinions about either; and

(B) the genuineness of any described document

....

A matter is admitted unless, within 30 days after being served, the party to whom the request is directed serves on the requesting party a written

answer or objection addressed to the matter and signed by the party or its attorney. . . .

. . .

A matter admitted under this rule is conclusively established unless the court, on motion, permits the admission to be withdrawn or amended. Subject to Rule 16(e), the court may permit withdrawal or amendment if it would promote the presentation of the merits of the action and if the court is not persuaded that it would prejudice the requesting party in maintaining or defending the action on the merits. An admission under this rule is not an admission for any other purpose and cannot be used against the party in any other proceeding.

Fed. R. Civ. P. 36(a)(1), (a)(3), (b).

When, as here, the “requests for admissions concern an essential issue, the failure to respond to requests for admission can lead to a grant of summary judgment against the non-responding party.” *Hill v. Breazeale*, 197 F. App’x 331, 336 (5th Cir. 2006) (citing *Dukes v. S. C. Ins. Co.*, 770 F.2d 545, 548-49 (5th Cir. 1985)). The Fifth Circuit and district courts have consistently held this rule applies equally to pro se parties. *See Breazeale*, 197 F. App’x at 337 (“The requests for admissions that [pro se plaintiff] failed to timely respond to concerned essential issues of his claim. These deemed admissions conclusively establish that the defendants engaged in no [wrongdoing].”); *Cottrell v. Career Inst. Inc.*, 1 F.3d 1237, 1237 (5th Cir. 1993) (holding district court did not err in basing summary judgment on pro se plaintiff’s deemed admissions and stating “a district court is not free to

amend or withdraw Rule 36 admissions sua sponte”); *Love v. Marriot Int’l, Inc.*, No. 3:11-CV-314-CWR-LRA, 2013 WL 588155 (S.D. Miss. Feb. 11, 2013) (granting summary judgment based on pro se plaintiff’s failure to respond to requests for admissions); *Carlisle v. Elite Trucking Servs., LLC*, No. 1:16-CV-257-JCG, 2017 WL 3653800, at \*5 (S.D. Miss. July 6, 2017) (noting pro se parties are not exempt from complying with procedural rules and holding pro se plaintiff’s admissions about essential elements of his claims conclusively established no liability).

Poon-Atkins failed to respond to key conclusions that Defendants did not “cause[] or contribute[] to the subject accident” or that she suffered “no medical, emotional, or economic damages as a result” of it. [86] at 5-6. And when Defendants moved for summary judgment on these grounds, Poon-Atkins did not argue her failure to respond resulted from oversight; did not dispute having received the requests; did not seek to withdraw her deemed admissions; and did not immediately respond to Defendants’ requests. She instead responded that she “provided Notice of Service of Admissions with Admissions and Production to the Defendant on June 23, 2020,” referencing “Exhibits A and C.” [96] at 6. But Exhibits A and C are simply copies of Wal-Mart’s Responses to Requests for Admission and Responses to Requests for Production of Documents. See [96-1]; [96-3]. Nothing in the record shows Poon-Atkins responded to the Requests for Admission that Defendants propounded to *her* on March 27, 2020.

This Court is sympathetic to the difficulties pro se litigants face when up against technical procedural rules and civil filing requirements. But a pro se

plaintiff's "disregard for deadlines and the Federal Rules cannot be overlooked," and Rule 36 "unambiguously states that when a request goes unaddressed for more than 30 days, it is admitted." *Love*, 2013 WL 588155 at \*1 (quoting *Hill*, 197 F. App'x at 336-37). Since Poon-Atkins' admissions go directly to the essential elements of her negligence-based claims and conclusively establish no liability on Defendants' part—taken together with her previous instances of disregarding deadlines and Court Orders<sup>2</sup> in this case—this Court must grant summary judgment.

### III. Conclusion

The Court has considered all the arguments set forth by the parties. Those arguments not addressed would not have changed the outcome of the Court's decision. For these reasons, the Court GRANTS Defendants' Motion for Summary Judgment [85] and DISMISSES WITH PREJUDICE Poon-Atkins' claims. All other dispositive motions (Plaintiff's Cross-Motion for Summary Judgment [97], Defendants' first Motion to Dismiss [104], Defendants' second Motion to Dismiss [150] and Plaintiff's second Motion for Summary Judgment [155]) and all remaining non-dispositive motions (Defendants' Motion to Strike Plaintiff's Response in Opposition to Motion to Compel [99] and

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<sup>2</sup> Though it appears Poon-Atkins responded to certain Requests for Production on September 28, 2020, she refused to provide necessary medical authorizations until after a discovery conference, a Motion to Compel [84], and an Order from this Court with which she finally complied more than a month late. *See* Text Only Order (Aug. 13, 2020).

App.16a

both Plaintiff's Motions in Limine [141]; [142]) are dismissed as moot. A Final Judgment will be entered in accordance with this Order.

SO ORDERED AND ADJUDGED this the 17th day of May, 2021.

/s/ Kristi H. Johnson  
United States District Judge



**ORDER DENYING PLAINTIFF'S MOTION TO  
COMPEL DISCOVERY PRODUCTION OF  
THINGS AND SUCH ADMISSIONS  
(MARCH 26, 2021)**

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IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION

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CHRISTY POON-ATKINS,

*Plaintiff,*

v.

SAMMY M. SAPPINGTON AND  
WAL-MART STORES EAST, LP,

*Defendants.*

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Civil Action No. 3:19-CV-269-KHJ-LGI

Before: LaKeysha GREER ISAAC,  
United States Magistrate Judge.

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THIS CAUSE came before the Court upon the *Plaintiff's Motion to Compel Discovery Production of Things and Such and Admissions* [140]. Having considered the briefing of the parties and all exhibits thereto, as well as the arguments of counsel presented to the Court on February 12, 2021, the Court finds the Motion [140] is granted in part and denied in part.

This discovery dispute concerns the scope of discovery and the procedure by which the parties may obtain discoverable information. This Court has broad discretion over both. *See Hernandez v. Causey*, 2020 WL 5412486, at \*3 (S.D. Miss. Sept. 9, 2020) *quoting Freeman v. United States*, 566 F.3d 326, 341 (5th Cir. 2009) ([i]t is well established that the scope of discovery is within the sound discretion of the trial court.”); *see also Saucier v. Lakeview Corp.*, 2014 WL 12906612, at \*1 (S.D. Miss. Dec. 30, 2014) (“[a] district court has “broad discretion” to control the procedure for obtaining discoverable material.”).

Federal Rule of Civil Procedure 37 governs motions to compel discovery responses. Rule 37 provides that a party seeking discovery may move for an order compelling production against another party when the latter has failed to produce documents requested under Federal Rule of Civil Procedure 34 or to answer an interrogatory under Federal Rule of Civil Procedure 33. *See Fed. R. Civ. P. 37(a)(3)(B)*. “[A]n evasive or incomplete disclosure, answer, or response must be treated as a failure to disclose, answer, or respond.” *Fed. R. Civ. P. 37(a)(4)*.

Local Rule 7(b)(C) states “[a] party must file a discovery motion sufficiently in advance of the discovery deadline to allow response to the motion, ruling by the court and time to effectuate the court’s order before the discovery deadline.” L.U.Civ.R. 7(b)(C). The Local Rules also require the movant to “quote verbatim each interrogatory, request for production, or request for admission.” L.U.Civ.R. 37(c). Additionally, “written in immediate succession to the quoted discovery request” the movant should specify the objections, grounds and

reasons assigned as supporting the motion. *Id.* Plaintiff, proceeding *pro se*, filed this Motion on the date of the discovery deadline and failed to outline the specific written discovery requests that were perceived to be outstanding. The Court held a telephonic Motion Hearing on February 12, 2021 to hear argument from the parties.

Lack of communication appears to be at the heart of the parties' dispute about the discovery provided, as well as the misunderstandings that have ensued regarding the same. Following the February 12, 2021 Motion Hearing, the Court ordered Defendants to provide Plaintiff a document log specifying the bates range of documents provided to Plaintiff, as well as a CD with a complete copy of documents produced by Defendant to provide Plaintiff a clear record of discovery. The Defendant's filed a *Notice of Compliance with Court Order* [163] upon timely providing Plaintiff the required document log entitled *Index of Defendants' Document Production* along with CDs containing complete copies of all documents previously produced by Defendants. Discovery in this matter is now closed and the Court declines to grant further general relief requested in *Plaintiff's Motion to Compel Discovery Production of Things and Such and Admissions* [140].

IT IS HEREBY ORDERED that the *Plaintiff's Motion to Compel Discovery Production of Things and Such and Admissions* [140] is granted to the extent of the Court's Text-Only Order entered on February 12, 2021, to which the Defendants have complied. It is further ordered that the period for Discovery in this matter is closed.

App.20a

SO ORDERED this the 26th day of March, 2021.

/s/ LaKeysha Greer Isaac  
United States Magistrate Judge

**ORDER DENYING PLAINTIFF'S MOTION  
FOR SANCTIONS AND DEFENDANT'S  
MOTION FOR ATTORNEY'S FEES  
(MARCH 26, 2021)**

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IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION

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CHRISTY POON-ATKINS,

*Plaintiff,*

v.

SAMMY M. SAPPINGTON AND  
WAL-MART STORES EAST, LP,

*Defendants.*

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Civil Action No. 3:19-CV-269-KHJ-LGI

Before: LaKeysha GREER ISAAC,  
United States Magistrate Judge.

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THIS CAUSE came before the Court upon the *Plaintiff's Motion for Sanctions* [136] and *Defendant's Response to Plaintiff's Frivolous Motion for Sanctions and Request for Attorney's Fees and Dismissal* [147, 149]. Having considered the briefing of the parties and all exhibits thereto, as well as the arguments of counsel presented to the Court on February 12, 2021, the Court finds the Plaintiff's Motion for Sanctions [136] and *Defendant's Response to Plaintiff's Frivolous*

*Motion for Sanctions and Request for Attorney's Fees and Dismissal* [147, 149] are not well taken and shall be DENIED.

Plaintiff asserts that Defendants have failed to respond her discovery requests and should be sanctioned by the Court for their failure to cooperate. Defendants contend that they have complied with all discovery requests. Defendants further argue that they are entitled to costs, fees and expenses associated with responding to the Plaintiff's Motion for Sanctions under Fed. R. Civ. P. 11, 26, and 37.

Although Plaintiff and Defendants requested sanctions under Rule 11, neither party complied with Rule 11's procedural "safe harbor" requirements. Rule 11 provides, in relevant part:

A motion for sanctions must be made separately from any other motion and must describe the specific conduct that allegedly violates Rule 11(b). The motion must be served under Rule 5, but it must not be filed or be presented to the court if the challenged paper, claim, defense, contention, or denial is withdrawn or appropriately corrected within 21 days after service or within another time the court sets. If warranted, the court may award to the prevailing party the reasonable expenses, including attorney's fees, incurred for the motion.

Fed. R. Civ. P. 11(c)(1)(A). "The plain language of the rule indicates that this notice and opportunity prior to filing is mandatory." *Elliott v. Tilton*, 64 F.3d 213, 216 (5th Cir. 1995). In *Elliott*, the Fifth Circuit held that when the moving party fails to comply with this "safe

harbor” provision, a Rule 11 sanction cannot be upheld. *Id.*

The parties also request sanctions and fees under Rule 26 and Rule 37. Under Rule 37, the Court may impose “just” sanctions, including the payment of reasonable expenses, including attorney’s fees, caused by a party’s failure to comply with discovery orders. Fed. R. Civ. P. 37(b)(2); *see also Tollett v. City of Kemah*, 285 F.3d 357, 368 (5th Cir. 2002). Although sanctions under the Court’s inherent power require a finding of bad faith, sanctions under Rule 37 do not.” *Sample v. Miles*, 239 F. App’x 14, 21 n. 20 (5th Cir. 2007) (punctuation omitted). Even negligent failures to comply with discovery orders fall within Rule 37. *PIC Group, Inc. v. LandCoast Insulation, Inc.*, No. 1:09-CV-662-KS-MTP, 2011 U.S. Dist. LEXIS 73342 (S.D. Miss. July 7, 2011); *see also Coane v. Ferrara Pan Candy Co.*, 898 F.2d 1030, 1032 (5th Cir. 1990).

The record reflects that both parties have failed to follow the discovery rules for seeking sanctions. Lack of communication appears to be at the heart of the parties’ dispute about the discovery provided, as well as the misunderstandings that have ensued regarding the same. Following the February 12, 2021 Motion Hearing, the Court ordered Defendants to provide Plaintiff a document log specifying the bates range of documents provided to Plaintiff, as well as a CD with a complete copy of documents produced by Defendant to provide Plaintiff, proceeding *pro se*, a clear record of discovery. Discovery in this matter is now closed and the Court declines to grant sanctions or fees to either party.

IT IS HEREBY ORDERED AND ADJUDGED that *Plaintiff's Motion for Sanctions* [136] and *Defendant's Response to Plaintiff's Frivolous Motion for Sanctions and Request for Attorney's Fees and Dismissal* [147, 149] are DENIED. It is ordered that the Defendants will not be sanctioned. It is further ordered that Defendants are not entitled to costs, fees and expenses associated with responding to the Plaintiff's Motion for Sanctions.

SO ORDERED this the 26th day of March, 2021.

/s/ LaKeysha Greer Isaac  
United States Magistrate Judge



**ORDER DENYING MOTION FOR  
EXTENDING TIME FOR DISCOVERY  
(MARCH 25, 2021)**

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IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION

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CHRISTY POON-ATKINS,

*Plaintiff,*

v.

SAMMY M. SAPPINGTON AND  
WAL-MART STORES EAST, LP,

*Defendants.*

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Civil Action No. 3:19-CV-269-KHJ-LGI

Before: LaKeysha GREER ISAAC,  
United States Magistrate Judge.

---

THIS CAUSE came before the Court upon the *Plaintiff's Motion for Extending Time for Discovery* [138]. Having considered the briefing of the parties, as well as the arguments of counsel presented to the Court on February 12, 2021, the Court finds that the Motion [138] is not well taken and shall be DENIED.

The initial discovery deadline in this matter was set for March 31, 2020. The Court granted two extension requests allotting an additional ten (10) months

for the parties to resolve discovery by January 25, 2021. The period for discovery in this matter lapsed on January 25, 2021. Following the February 12, 2021 Motion Hearing, the Court ordered Defendants to provide Plaintiff a document log specifying the bates range of documents provided to Plaintiff, as well as a CD with a complete copy of documents produced by Defendant. Beyond the Court's limited Order entered February 12, 2021, the Court declines to extend time for discovery.

IT IS HEREBY ORDERED AND ADJUDGED that the discovery deadline shall not be extended.

SO ORDERED this the 25th day of March, 2021.

/s/ LaKeysha Greer Isaac  
United States Magistrate Judge

**ORDER ON PLAINTIFF'S MOTION FOR  
COURT-APPOINTED EXPERT WITNESS  
WITH COMPENSATION UNDER  
THE FIFTH AMENDMENT  
(FEBRUARY 25, 2021)**

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IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION

---

CHRISTY POON-ATKINS,

*Plaintiff,*

v.

SAMMY M. SAPPINGTON AND  
WAL-MART STORES EAST, LP,

*Defendants.*

---

Civil Action No. 3:19-CV-269-KHJ-LGI

Before: LaKeysha GREER ISAAC,  
United States Magistrate Judge.

---

THIS CAUSE came before the Court upon the *Plaintiff's Motion for Court-Appointed Expert Witness with Compensation Under the Fifth Amendment* [154]. The undersigned has considered the *Defendants' Response in Opposition to Plaintiff's Motion for Court-Appointed Expert Witnesses with Compensation Under the Fifth Amendment* [164], and *Plaintiff's Objection to Defendants' Response in Opposition to Plaintiff's*

*Motion for Court-Appointed Expert Witnesses with Compensation Under the Fifth Amendment* [166]. The Court finds the Motion [154] is denied.

Plaintiff argues that the Court should appoint an expert for her under Federal Rule of Evidence 706. “Rule 706 contemplates the appointment of an expert to aid the court.” *Hannah v. United States*, 523 F.3d 597, 600 (5th Cir. 2008) (citing Christopher B. Mueller & Laird C. Kirkpatrick, 3 Federal Evidence §§ 7:25, 7:26 (3d ed. 2007)). The Plaintiff seeks an expert for her own benefit, rather than for the benefit of the Court. Further, Plaintiff did not move for appointment of an expert until after the deadline for disclosure of experts.

IT IS HEREBY ORDERED that *Plaintiff's Motion for Court-Appointed Expert Witness with Compensation Under the Fifth Amendment* [154] is denied.

SO ORDERED this the 25th day of February, 2021.

/s/ LaKeysha Greer Isaac  
United States Magistrate Judge

**ORDER ON PLAINTIFF'S REQUEST  
FOR VIRTUAL CONFERENCE  
(FEBRUARY 25, 2021)**

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IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION

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CHRISTY POON-ATKINS,

*Plaintiff,*

v.

SAMMY M. SAPPINGTON AND  
WAL-MART STORES EAST, LP,

*Defendants.*

---

Civil Action No. 3:19-CV-269-KHJ-LGI

Before: LaKeysha GREER ISAAC,  
United States Magistrate Judge.

---

THIS CAUSE came before the Court upon the *Plaintiff's Request for Virtual Conference* [127]. The Court held a Motion Hearing by video conference on February 12, 2021 at 2:30 PM.

IT IS HEREBY ORDERED that Plaintiff's Request for Virtual Conference [127] is moot.

App.30a

SO ORDERED this the 25th day of February,  
2021.

/s/ LaKeysha Greer Isaac  
United States Magistrate Judge

**ORDER ON NOTICE OF SERVICE OF  
REQUEST FOR DEPOSITION  
(FEBRUARY 25, 2021)**

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IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION

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CHRISTY POON-ATKINS,

*Plaintiff,*

v.

SAMMY M. SAPPINGTON AND  
WAL-MART STORES EAST, LP,

*Defendants.*

---

Civil Action No. 3:19-CV-269-KHJ-LGI

Before: LaKeysha GREER ISAAC,  
United States Magistrate Judge.

---

THIS CAUSE came before the Court upon the *Plaintiff's Notice of Service of Request for Deposition* [120], wherein Plaintiff requests that deposition dates be provided for the deposition of Defendant Sammy Sappington as well as for the depositions of expert witnesses John D. Davis, M.D. and Benjamin M. Smith, ACTAR, MSA. The *Defendant's Response to Plaintiff's Motion/Notice of Service for Deposition* [123] states the Defendant provided potential dates to Plaintiff for the requested depositions. Plaintiff replied with a

*Response to Defendant's Request for Witness to be Paid for Deposition* [125], in which Plaintiff requests that the Court waive costs associated with the expert depositions.

IT IS HEREBY ORDERED that *Plaintiff's Response to Defendant's Request for Witness to be Paid for Deposition* [125] is denied, as Defendants' experts are entitled to charge a reasonable fee for attendance at deposition. It is further ordered that *Plaintiff's Notice of Service of Request for Deposition* [120] is moot, as Defendants have provided availability for deposition as requested.

SO ORDERED this the 25th day of February, 2021.

/s/ LaKeysha Greer Isaac  
United States Magistrate Judge



**AGREED ORDER OF  
DISMISSAL WITH PREJUDICE AS  
TO PLAINTIFF'S LOST WAGES CLAIM  
(JANUARY 12, 2021)**

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IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION

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CHRISTY POON-ATKINS,

*Plaintiff,*

v.

SAMMY M. SAPPINGTON AND  
WAL-MART STORES EAST, LP,

*Defendants.*

---

Civil Action No. 3:19-CV-269-HTW-LRA

Before: Henry T. WINGATE,  
United States District Court Judge.

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CAME ON FOR CONSIDERATION, the joint motion *ore tenus* of Plaintiff, Christy Poon-Atkins, and Defendants, Sammy M. Sappington and Wal-Mart Stores East, LP, to dismiss Plaintiff's claim for lost wages with prejudice, and the Court, being advised of the premises, finds the same is well-taken and should be granted. It is, therefore,

ORDERED AND ADJUDGED, that Plaintiff's claim for lost wages are hereby dismissed with prejudice. It is further,

ORDERED AND ADJUDGED, that the dismissal with prejudice of Plaintiffs claim for lost wages shall have no effect on the remaining allegations in the Complaint.

SO ORDERED AND ADJUDGED, this the 11th day of January, 2021.

/s/ Henry T. Wingate  
United States District Court Judge

Agreed:

/s/ Christy Poon-Atkins  
Plaintiff, *Pro Se*

/s/ Scott Ellzey, Esq.  
Scott Ellzey, Esq  
Drury S. Holland, Esq.  
Attorney for Defendants

**ORDER TO REASSIGN CASES  
(JANUARY 5, 2021)**

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IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION

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Before: Daniel P. JORDAN III,  
Chief U.S. District Judge.

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IN ORDER TO equitably manage and distribute the caseload of the court in light of the retirement of United States Magistrate Judge Linda R. Anderson, pursuant to the authority of the court as set forth in Section IV of Internal Rule 1 as amended effective December 21, 2020, the court finds that each of the cases listed on the attached Exhibits A and B should be and they are hereby reassigned from United States Magistrate Judge Linda R. Anderson to United States Magistrate Judge LaKeysha Greer Isaac.

Any matters which have been scheduled in these cases before Judge Anderson will be rescheduled and noticed by Judge Isaac as necessary.

SO ORDERED, this the 5th day of January, 2021.

/s/ Daniel P. Jordan III  
Chief U.S. District Judge

**ORDER GRANTING DEFENDANTS'  
MOTION FOR ATTORNEY EXPENSES  
(DECEMBER 22, 2020)**

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IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION

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CHRISTY POON-ATKINS,

*Plaintiff,*

v.

SAMMY M. SAPPINGTON; AND WAL-MART  
STORES EAST, LP; AND GARRISON PROPERTY  
AND CASUALTY INSURANCE COMPANY,

*Defendants.*

---

Cause No. 3:19-CV-269-KHJ-LRA

Before: Linda R. ANDERSON,  
United States Magistrate Judge.

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THIS cause is before the Court on Defendants' motion for attorney's fees [103] and Plaintiff's response to the Court's prior Order to Show Cause entered on December 4, 2020. Defendants have requested that an Order be entered assessing attorney's fees and costs in the amount of \$554.00, due to the costs they incurred in attempting to obtain the proper medical releases from Plaintiff. Since the date of that motion was filed, September 18, 2020, an additional hearing

has been conducted. Plaintiff filed a response [117] attempting to explain why she failed to provide the executed HIPAA and other authorizations after being ordered to do so by the Court on at least two prior occasions.

The undersigned finds that Plaintiff has established no good cause to excuse her continued failure to provide the HIPAA and medical authorizations required by the law and by this Court. Defendants incurred costs in attempting to obtain these documents, and they were entitled to them as of the date the CMO was entered, August 16, 2019, well over a year ago. The amount set forth in Defendants' invoice is certainly reasonable. However, Plaintiff's response indicates she still does not fully understand her violations of the discovery requirements and her duty to fully obey the Court's orders. Because of these reasons, and the fact that she is proceeding pro se, the Court will reduce the amount of costs she is required to pay on this occasion. If further violations occur, full costs will be awarded.

The Court liberally construes Plaintiff's pleading [108] as a response to Defendants' attempts to obtain her medical authorizations. Because the Court finds that she is unjustified in failing to provide these documents, her motion shall be denied.

IT IS THEREFORE ORDERED:

1. Defendants' motion for attorney's fees [103] is *granted*.
2. Plaintiff is directed to pay Defendants the sum of \$250 to partially recompense them for expenses and costs they incurred in obtaining medical releases from Plaintiff.

App.38a

3. Plaintiff shall pay the award of expenses to Defendants on or before *February 1, 2021*.
4. Plaintiff's motion [108] is *denied*.

SO ORDERED AND ADJUDGED, this the 22nd day of December 2020.

/s/ Linda R. Anderson  
United States Magistrate Judge

**ORDER OF DISMISSAL WITH PREJUDICE  
AS TO PLAINTIFF'S LOSS WAGES CLAIM  
(DECEMBER 21, 2020)**

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IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION

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CHRISTY POON-ATKINS,

*Plaintiff,*

v.

SAMMY M. SAPPINGTON AND  
WAL-MART STORES EAST, LP,

*Defendants.*

---

Civil Action No. 3:19-CV-00269-KHJ-LRA

Before: Kristi H. JOHNSON,  
United States District Judge.

---

CAME ON FOR CONSIDERATION, the joint motion *ore tenus* of Plaintiff, Christy Poon-Atkins, and Defendants, Sammy M. Sappington and Wal-Mart Stores East, LP, to dismiss Plaintiff's claim for loss wages with prejudice, and the Court, being advised of the premises, finds the same is well-taken and should be granted. It is, therefore,

ORDERED AND ADJUDGED, that Plaintiff's claim for loss wages are hereby dismissed with prejudice. It is further,

ORDERED AND ADJUDGED, that the dismissal with prejudice of Plaintiff's claim for loss wages shall have no effect on the remaining allegations in the Complaint.

SO ORDERED AND ADJUDGED, this the 21 day of December 2020.

/s/ Kristi H. Johnson  
United States District Judge

AGREED:

/s/ Christy Poon-Atkins  
Plaintiff, *pro se*

/s/ Scott Ellzey, Esq.  
Drury S. Holland, Esq.  
Attorneys for Defendants



**ORDER REASSIGNING CIVIL CASES  
(DECEMBER 14, 2020)**

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IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI

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Before: Daniel P. JORDAN III,  
Chief U.S. District Judge.

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PURSUANT TO Section IV of Internal Rule 1, as amended effective August 3, 2020, and to equitably manage and distribute the caseload of the Court due to the recent confirmation of two new United States District Judges, and with the consent of the affected judges, the civil cases set forth on the attached Exhibit A are reassigned to U.S. District Judge Kristi H. Johnson.

IT IS FURTHER ORDERED that (1) the present Magistrate Judge assignment for these cases will remain unchanged, and (2) a copy hereof be docketed in each case listed above.

SO ORDERED, this the 14th day of December, 2020.

/s/ Daniel P. Jordan III  
Chief U.S. District Judge

**TEXT ORDER GRANTING  
DEFENDANTS' MOTION TO COMPEL  
(DECEMBER 4, 2020)**

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12/04/2020

TEXT ONLY ORDER granting 112 (p.1167)  
Motion to Compel. Plaintiff is directed to show  
cause, in writing, on or before December 14, 2020  
as to why costs should not be awarded for this  
Second Motion to Compel. NO WRITTEN ORDER  
TO FOLLOW. Signed by Magistrate Judge Linda  
R. Anderson on 12/4/20 (Lewis, Nijah) (Entered:  
12/04/2020)

**TEXT ORDER GRANTING DEFENDANTS'  
MOTION TO COMPEL AS CONFESSED  
(AUGUST 13, 2020)**

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08/13/2020

TEXT ONLY ORDER granting Defendants' 84 (p.274) Motion to Compel as confessed; Plaintiff has not filed a response. Plaintiff is ordered to provide the HIPPA authorization and other documents described in the motion on or before 8/25/2020. She should also show cause by that date, in writing, as to why she should not be assessed with expenses. NO WRITTEN ORDER TO FOLLOW. Signed by Magistrate Judge Linda R. Anderson on 8/13/2020. (ACF) (Entered: 08/13/2020)

App.44a

**TEXT ORDER GRANTING IN PART AND  
DENYING IN PART MOTION TO MODIFY  
CASE MANAGEMENT ORDER  
(JUNE 29, 2020)**

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06/29/2020

TEXT ONLY ORDER granting in part and denying in part 80 (p.252) Motion to Modify Case Management Order. NO FURTHER WRITTEN ORDER SHALL ISSUE. Signed by Magistrate Judge Linda R. Anderson on 6/29/20 (Lewis, Nijah) (Entered: 06/29/2020)

App.45a

**TEXT ORDER GRANTING DEFENDANTS'  
MOTION FOR PROTECTIVE ORDER  
(JUNE 29, 2020)**

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06/29/2020

TEXT ONLY ORDER granting, with no objection from the Plaintiff 81 (p.258) Motion for Protective Order. NO FURTHER WRITTEN ORDER SHALL ISSUE. Signed by Magistrate Judge Linda R. Anderson on 6/29/20 (Lewis, Nijah) (Entered: 06/29/2020)

**TEXT ORDER GRANTING MOTION TO  
RESTRICT ACCESS TO DOCUMENTS  
(JUNE 11, 2020)**

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06/11/2020

TEXT ONLY ORDER granting 77 (p.241) Motion to Restrict Access to Documents. The Clerk is directed to restrict access to the case participants as to the documents listed in the motion. NO WRITTEN ORDER TO FOLLOW. Signed by Magistrate Judge Linda R. Anderson on 6/11/2020. (ACF) (Entered: 06/11/2020)

App.47a

**TEXT ORDER GRANTING FOR GOOD CAUSE  
(MARCH 5, 2020)**

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03/05/2020

TEXT ONLY ORDER granting, for good cause, [ ]  
Motion to Amend/Correct Scheduling Order. NO  
FURTHER WRITTEN ORDER SHALL ISSUE.  
Signed by Magistrate Judge Linda R. Anderson  
on 3/5/20 (Lewis, Nijah) (Entered: 03/06/2020)

**TEXT ORDER TO SHOW CAUSE  
(JANUARY 29, 2020)**

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01/29/2020

41 (p.163)

ORDER TO SHOW CAUSE. Show Cause Response due by 2/18/2020. The Clerk is directed to mail a copy of this Order to Plaintiff at the address listed and to alter the docket to reflect Plaintiff's address. Plaintiff is advised that her failure to comply with this Order before 2/18/2020 shall result in the dismissal of her Complaint. Signed by Magistrate Judge Linda R. Anderson on 1/29/2020. (ACF) (Entered: 01/29/2020)



**ORDER ALLOWING WITHDRAWAL  
OF COUNSEL OF RECORD, EXTENSION  
OF DEADLINES AND EXTENSION OF  
TIME TO RESPOND TO DISCOVERY  
(DECEMBER 10, 2019)**

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IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION

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CHRISTY POON-ATKINS,

*Plaintiff,*

v.

SAMMY M. SAPPINGTON; AND WAL-MART  
STORES EAST, LP; AND GARRISON PROPERTY  
AND CASUALTY INSURANCE COMPANY,

*Defendants.*

---

Cause No. 3:19-CV-269-KHJ-LRA

Before: Linda R. ANDERSON,  
United States Magistrate Judge.

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THIS CAUSE, this day, having come on the *Motion* of undersigned counsel for Plaintiff, Christy Poon-Atkins, Derek L. Hall, Esq., and Megan E. Timbs, Esq., Attorneys of Derek L. Hall, PC, seeking an *Order* allowing its withdrawal as counsel of record in this matter, and the Court, having been advised in its premises, first finds that it has jurisdiction over the

parties and the subject matter, and further finds that the *Motion* is well-taken and should be granted.

IT IS, THEREFORE, ORDERED AND ADJUDGED that movants Derek L. Hall, Esq., and Megan E. Timbs, Esq., Attorneys of Derek L. Hall, PC, shall serve a copy of this Order on Plaintiff by delivery to her, certified mail, return receipt requested, and shall thereafter file a certificate of such service in this cause. Mr. Hall and Ms. Timbs shall only be considered withdrawn and relieved of responsibility in this cause to the Court when the certificate is filed with the Court. Thereafter, Derek L. Hall, Esq., and Megan E. Timbs, Esq., Attorneys of Derek L. Hall, PC, are hereby released as counsel of record for Plaintiff, Christy Poon-Atkins, and from any further representation on behalf of Plaintiff or any further responsibilities or liabilities related thereto.

IT IS FURTHER ORDERED AND ADJUDGED that Plaintiff, Christy Poon-Atkins, is hereby granted until *January 28, 2020* to acquire new counsel of record, or to place this Court on notice of her intent to proceed pro se. Should Plaintiff fail to notify the Court of her retention of new counselor of her intent to proceed pro se on or before *January 28, 2020*, Plaintiff's cause of action shall be dismissed without prejudice without further notice.

IT IS FURTHER ORDERED AND ADJUDGED that all currently set deadlines are stayed pending entry of new counsel, and that Plaintiff shall have an additional thirty (30) days to respond to Defendant's first set of discovery after entry of new counsel.

App.51a

SO ORDERED AND ADJUDGED, this the 10th  
day of December 2019.

/s/ Linda R. Anderson  
United States Magistrate Judge

Prepared by:

/s/ Megan E. Timbs  
Derek L. Hall (MSB# 10194)  
Megan E. Timbs (MSB# 105331)  
*Counsel of Record for Plaintiff*

**TEXT ORDER GRANTING MOTION TO  
EXTEND EXPERT DEADLINES  
(NOVEMBER 19, 2019)**

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11/19/2019

TEXT ONLY ORDER granting unopposed 28 (p.130) Motion to Extend Expert Deadlines. Designate Experts Plaintiff Deadline due by 2/3/2020; Designate Experts for Defendant Deadline due by 3/4/2020. NO WRITTEN ORDER TO FOLLOW. Signed by Magistrate Judge Linda R. Anderson on 11/19/2019. (ACF) (Entered: 11/19/2019)

**AGREED TEXT ORDER  
OF DISMISSAL WITHOUT PREJUDICE  
(AUGUST 21, 2019)**

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08/21/2019

14 (p.94)

AGREED ORDER OF DISMISSAL WITHOUT PREJUDICE granting 8 (p.68) Motion to Dismiss. IT IS, THEREFORE, ORDERED AND ADJUDGED that all claims made by the Plaintiff, Christy Poon-Atkins, against the Defendant, Garrison Property and Casualty Insurance Company, are hereby dismissed without prejudice, with each party to bear their respective costs. Signed by District Judge Henry T. Wingate on 8/20/2019 (VM) (Entered: 08/21/2019)

**TEXT ORDER GRANTING EXTENSION  
OF TIME TO ANSWER  
(JUNE 13, 2019)**

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06/13/2019

TEXT ONLY ORDER granting 4 (p.38) Motion for Extension of Time to Answer. Garrison Property and Casualty Insurance Company answer due 7/12/2019. NO FURTHER WRITTEN ORDER SHALL ISSUE. Signed by Magistrate Judge Linda R. Anderson on 6/13/19 (Lewis, Nijah) (Entered: 06/13/2019)

**TEXT ORDER GRANTING  
EXTENSION OF TIME TO ANSWER  
(JUNE 11, 2019)**

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06/11/2019

TEXT ONLY ORDER granting 3 (p.36) Motion for Extension of Time to Answer Sammy M. Sappington answer due 7/11/2019; Wal-Mart Associates, Inc. answer due 7/11/2019. NO FURTHER WRITTEN ORDER SHALL ISSUE. Signed by Magistrate Judge Linda R. Anderson on 6/11/19 (Lewis, Nijah) (Entered: 06/11/2019)

**APPELLANT'S REPLY BRIEF  
(OCTOBER 7, 2021)**

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IN THE UNITED STATES COURT OF APPEALS,  
FIFTH CIRCUIT

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CHRISTY POON-ATKINS,

*Plaintiff-Appellant,*

v.

SAMMY M. SAPPINGTON; and  
WAL-MART STORES EAST, L.P.,

*Defendants-Appellees.*

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No. 21-60467

On Appeal from the United States District Court  
Southern District of Mississippi (Northern (Jackson))  
Civil Docket for Case #: 3:19-cv-00269-KHJ-LGI

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Christy Poon-Atkins, Pro Se  
Professional Engineer No. PE031751  
1866 Alcovy Trails Drive  
Dacula, GA 30019  
Phone: (678) 517-5979

[...]



## **STATEMENT OF ISSUES PRESENTED FOR REVIEW**

Issue 1. Whether the District Court properly granted summary judgment in favor of Defendants based on Plaintiffs deemed admissions under Rules 36 and 56 of the Federal Rules of Civil Procedure?

Issue 2. Whether the Court properly denied as moot Plaintiffs various other motions following summary judgment in favor of Defendants?<sup>1,2</sup>

## **SUMMARY OF ARGUMENT**

The determination of mootness is not merely a matter of stating the term, as Defendants suggest in THEIR Appellees brief. The Mootness Doctrine was inserted only towards Plaintiff motions directly related to standard operating procedures for developing police reports, as a law enforcement function, which can have human rights and civil rights implications, if the noted functions are not consistently carried out without error(s). Furthermore, as Plaintiff covered in

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<sup>1</sup> These “motions” include Plaintiff’s “Response to Defendants’ Motion for Summary Judgment with Admissions and Cross-Motion for Summary Judgment with Admissions” (ROA.718-39), Plaintiff’s “Motion for Summary Judgment” (ROA.1498-1517), and two filings entitled “Motion in Limine to Exclude Testimony of Defendants’ Designated Expert Witness” (ROA.1358-62, 1363-70).

<sup>2</sup> Out of an abundance of caution, Defendants include the District Court’s mootness denials of Plaintiff’s various, pending motions as an issue on appeal based on the fact that Plaintiff’s entire Appellant Brief is dedicated to those Motions. As clear from the District Court’s Order, Plaintiff’s motions were not substantively addressed by the Court as they were rendered irrelevant and moot based on the grant of summary judgment in favor of Defendants.

HER Appellant Brief, the act of developing a police report, as well as any other public service duties, extend to “public interest in having the legality of practices”, and therefore stating the term “mootness” would need to include proper demonstration of a “moot” determination, as such instances could persist, causing harm to the “public interest” in other matters, as also addressed in *United States v. W.T. Grant Co.*, 345 U.S. 629, 632 (1953) and see *A.L. Mechling Barge Lines v. United States*, 368 U.S. 324 (1961).

As expressed in Appellant’s Brief, acceptance of false reports and condoning abuses that cause prejudice, confusion, and continuously wasted time are detriments to the “public interest” and orderly unbiased conduct throughout society that infringe on human rights, as constitutionally protected rights, and inclusive of civil rights.

To the point of broad scale damages with the application of the Mootness Doctrine, in the matter of *Campbell-Ewald Co. v. Gomez*, 577 U.S. 153, (160-61) (2016) (quoting *Genesis Healthcare Corp. v. Symczyk*, 569 U.S. 66, 72 (2013)))z, the Court, informed by contract law principles, held that “an unaccepted offer to settle a lawsuit amounts to a “legal nullity” that fails to bind either party and therefore does not moot the litigation.”

Paramount to judiciary jurisdiction, a determination of mootness must conform to the requirements of Article III of the Constitution. As Plaintiff, throughout the District Court case and currently as Appellant, there continues to be a need to properly acknowledge and address infringement of Appellant’s Constitutional Rights, Human Rights, and Civil Rights. Therefore, with the continuation of adverse legal

interest between parties and without any District Court Order fully addressing the merits of mootness prior to any analysis of the case controversies, the enforceability of a final judicial order is unclear. As in the matter of, *Chafin v. Chafin*, 568 U.S., No. 11-1347, (2013), the district court's decision based on review of Ms. Chafin's petition under the Convention and the International Child Abduction Remedies Act (ICARA), where the district court decided on habitual land and granted the return of the child to her mother in Scotland. The Eleventh Circuit respectful jurisdiction in the appeal to the *Chafin v. Chafin*, 568 U.S., No. 11-1347, (2013) Circuit Court's decision rested on the fact of completing the prompt return of the child to her mother in Scotland thus rendering the U.S. courts powerless, as the Eleventh Circuit dismissed the appeal as moot. The Supreme Court of the United States Chief Justice Roberts delivered the opinion for a unanimous Court with further clarification of judicial limitations outlined in Article III of the Constitution with respect to "Cases" and "Controversies". Additionally, the unanimous Court opinion expounded upon 42 U. S. C. § 11601 et seq., all supported by a concurring opinion by Justice Ginsburg, with whom Justice Scalia and Justice Breyer joined, concurring.

With the significance of a mootness determination, the *Chafin v. Chafin*, 568 U.S., No. 11-1347, (2013) case demonstrates application of the Mootness Doctrine with jurisdiction. The Appellate Court should take notice that on page 1 of Appellees' Brief, Appellees point out that the "District Court's mootness denials of Plaintiff's motions were not substantively addressed by the Court . . . as clear from the District Court's Order". Additionally, the District Court's Order

[ROA.1723] grants Defendant's Motion for Summary Judgment [ROA.311] with a severely deficient District Court record, made deficient by the District Court, included a determination on mootness of Plaintiff's dispositive and non-dispositive motions. The Plaintiffs dispositive and non-dispositive motions are deeply grounded in requests for fairness with all adjudication on the Plaintiff's complaint [ROA.22].

The misfiling of substantial evidence presented with Plaintiff's RESPONSE in opposition to Defendants' opposition to Plaintiff's motion to extend time to complete Discovery [ROA.1613] on February 5, 2021, significantly assists Defendants and significantly damages Plaintiff in this case. The District Court's clerical mistakes, oversights, and omissions, per Fed. R. Civ. P. Rule 60, interferes and denies Plaintiff opportunity for fair and objective carriage of justice. As a matter of law, Fed. R. Civ. P. Rule 61 further states that any error in admitting or excluding evidence—or any other error by the court or party, that the court must disregard all errors that do not affect any party's substantial rights. The evidence presented to the Courts for the issues in this case and the handling of said evidence, clearly demarcates undisputable distinctions of causing harm to the substantial rights for both Defendants and Plaintiff. As clearly demonstrated with the District Court's Order [ROA.1723], the concealment of critical evidence directed an outcome in favor for Defendants, which consequently damages Plaintiff. The discovery of the District Court's errors and omissions of evidence from Plaintiff's RESPONSE [ROA.1613] with corrections to the record in the form of Supplemental Discovery [ROA.1802] and [ROA.1868], after the District Court's

Order [ROA.1723] and Final Judgment [ROA.1730] confirms that the District Court's fact-finding conclusion has no substantial evidence to support the District Court's conclusion. Furthermore, the District Court's Order [ROA.1723] and Final Judgment [ROA.1730] also demonstrates that the District Court's errors and omissions on Plaintiff's RESPONSE [ROA.1613] caused harm to Plaintiff's substantial rights.

The Supreme Court explained the reasonableness standard in *Jackson v. Virginia*, 443 U.S. 307, 319 (1979):

A doctrine establishing so fundamental a substantive constitutional standard must also require that the factfinder will rationally apply that standard to the facts in evidence. A "reasonable doubt," at a minimum, is one based upon "reason." Yet a properly instructed jury may occasionally convict even when it can be said that no rational trier of fact could find guilt beyond a reasonable doubt, and the same may be said of a trial judge sitting as a jury. In a federal trial, such an occurrence has traditionally been deemed to require reversal of the conviction.

The Plaintiff provided proof of the Defendants admission to speeding throughout the active construction work zone along Hwy 471 with HER RESPONSE to Defendants' Opposition [ROA.1613], that substantiates Defendants' negligence as the sole proximate cause of the April 22, 2016 crash along Hwy 471 at the Ambiance Subdivision Driveway. In accordance with Fed. R. Civ. P. Rule 56, the Plaintiffs evidence of the Defendants' speeding through an active construction work zone, further confirms that

the City of Brandon Police Report includes critical errors, for which there is no genuine dispute as to the material facts of Defendants' admission to speeding, as presented [ROA.1802] and [ROA.18681. Additionally, in Plaintiff's Motions for Summary Judgment [ROA. 5071, [ROA.7181, and [ROA.1498], Plaintiff includes or references undisputed details about both vehicles' specifications, both vehicles' damages, Defendants' skid mark that also shows that Defendants' vehicle was moving eastbound, towards the Ambiance Subdivision driveway, when Defendants crashed into Plaintiffs vehicle. In Defendants' January 14, 2021, Deposition, Defendants admitted to participating in providing details for the City of Brandon Police Department Information Exchange Report with indicating THEY were operating THEIR vehicle at speeds over the speed limit. Defendants also admitted to speeding in THEIR CMI Company Car Accident Report. A finding of presenting false information in the City of Brandon Police Department Police Report, as Plaintiff informed the City of Brandon Police Department by email on May 1, 2016, which does not support Defendants' Motion for Summary Judgment. For Appellant's reasons presented and substantiated, under the criteria of Fed. R. Civ. P. Rule 56, Appellant, as the movant, is entitled to summary judgement, as a matter of law.

**ARGUMENT**

**ISSUE 1. Appellees' Brief Issue #1, like the District Court's ORDER, reintroduces a Discovery issue already settled with Plaintiff's RESPONSE [ROA.371] in compliance with Text ORDERS 06/29/2020 AND 08/13/2020.**

Appellees' noted issue reflects as a derivative of Defendants' misrepresentation of Discovery actions, Defendants misrepresenting Plaintiff's responses in the District Court's record, a deficient District Court record, and false information that Defendants' Motion for Summary Judgment relies on. As Appellees' Brief identifies Issue #1 with mention of "Discovery Admissions", as included in Plaintiff's RESPONSE [ROA.371]. In the record in which the District Court's Order [ROA.1723-29] and Final Judgment [ROA.1730] are based, the enforceability of the District Court decisions is questionable for having substantiated support and proper application of the Mootness Doctrine. The deficiencies throughout the District Court's record are extensive reflections of clerical mistakes, oversights, and omissions, for which Fed. R. Civ. P. Rule 60 provides directions to address relief from a judgment or order, as provided under 28 U.S.C. § App. Fed. R. Civ. P. Rule 60.

**Issue 2. Appellees' Brief Issue #1, #2, does not address mootness in terms of the rules of justiciability and the case or controversy requirement nor ripeness.**

Appellees' noted issue corresponds with Appellant's concern with proper application of the Constitution

Article III.S2.C1.2.4 Rules of Justiciability and the Case or Controversy Requirement.

Appellees' overlook the detriment that disregarding the use of false information to direct any portion of what is supposed to be a fair, unobstructed, and unbiased civil judiciary process could cause by seeking to permit the use of unconstitutional practices. The Plaintiff's RESPONSE in Opposition [ROA.371] to Defendants' Motion to Compel Medical and Other Authorizations [ROA.274] was filed in accordance with the District Court 06/29/2020 Text Order. The Plaintiff's RESPONSE [ROA.371] addressed Discovery issues pertaining to (1) Plaintiff's Admissions, (2) Plaintiff's medical records, and (3) Defendants' failure to cooperate in Discovery, per Fed. R. Civ. P. Rule 37, as discussed during the 06/29/2020 District Court conference and further explained herein.

- (1) After the District Court's 08/13/2020 Text Order, the District Court provided no judgments against explanation of Plaintiff's Admissions included in Plaintiff's RESPONSE [ROA.371]. Plaintiff's RESPONSE [ROA.371] explained the confusion induced by Defendants' antics throughout Discovery, as Plaintiff also cited the earlier format of Plaintiff's Admissions produced to Defendants a matter of Fed. R. Civ. P. Rule 61 for harmless errors that do not affect any party's substantial rights.
- (2) The District Court's 12/04/2020 Text Order, shows issue associated only with medical records, for which Plaintiff was directed to show cause to avoid sanctions for Defendants' claims about Plaintiff's medical authorizations.



- (3) The Defendants' baseless issues and failure to cooperate in Discovery continued to aggravate grievances throughout the civil judiciary process in District Court. The 02/12/2021 District Court hearing, documented in the District Court's 02/12/2021 Text Order, directed Defendants to produce a Discovery Document Log. The Discovery Document Log produced by Defendants was documented as Defendants' NOTICE of *Compliance With Court Order* [ROA.1646]. The Discovery Document Log confirmed Defendants' repeat requests to Plaintiff for document that were already produced along with confirming document not produced by Defendants, as explained in Plaintiffs NOTICE of *Compliance in Completing Court Order* [ROA.1671].

Essentially, Appellees' statement of issues in Appellees' Brief are the same topics used as the basis for Defendants' Motion for Summary Judgment, which involves (1) a portion of Discovery discussed during the 06/29/2020 District Court hearing and addressed with Plaintiff's RESPONSE [ROA.371] and explained in this reply brief. The Appellant's Reply Brief reiterates the information provided in Plaintiff's RESPONSE [ROA.371]. The District Court did not disqualify Plaintiff's clarification on Plaintiff's Admissions citing the earlier format of Plaintiff's Admissions produced to Defendants was a matter of Fed. R Civ. P. Rule 61 for harmless errors that do not affect any party's substantial rights; (2) a desire to oppose the United States Court of Appeals for the First Circuit decision in *Cariglia v. Hertz Equip. Rental Corp.*, 363 F.3d 77, 82

(1st Cir. 2004), which involved manipulating information regarding four items mentioned in the Case's subject security report, just as Plaintiff's highlights concerns with false information in the City of Brandon Police Department Crash Report [ROA.507], [ROA.718], [ROA.1358], [ROA.1613], [ROA.1802], and [ROA.1868]. The issues discussed in Appellant's Reply Brief are also documented in Appellant's Brief.

Appellant has previously explained case issues, which reflect record deficiencies; concerns with setting harmful precedence; concerns with infringement of Plaintiff's Constitutional, Human, and Civil Rights; and the Constitution Article III. S2.C1.2.4 Rules of Justiciability and the Case or Controversy Requirement, as associated with the Mootness Doctrine. Appellant expresses, also in reply, that Appellees did not produce evidence to support THEIR Motion for Summary Judgment and suggest exemplifying perpetually damaging the pursuit of justice with THEIR unsubstantiated issues in THEIR Appellees' Brief. Furthermore, Appellant's Brief explains similar errors with the District Court's fact-finding analysis, which excluded critical evidence, as missing from the District Court's record at the time of filing the District Court's Order [ROA.1723] and Final Judgment [ROA.1730]. The Appellant's Reply Brief argument is consistent with Appellant's Brief argument in that genuine and controversial issues continue to exist, issues with the topics included in the Defendants' Motion for Summary Judgment were not addressed for issues raised by Plaintiff, the District Court's factfinding completely overlooks Defendants' failure to respond to Plaintiff's Interrogatories [ROA.100], [ROA.106] and Requests for Production [ROA.104],

[ROA.110] on November 24, 2019, prior to the Motion to Withdraw filed by Plaintiff's attorney [ROA.152]. For all reasons stated in Appellant's Reply Brief and in Appellant's Brief, the District Court's factfinding analysis is questionable to support the District Court's Order [ROA.1723] and Final Judgment [ROA.1730].

### CONCLUSION

The District Court overlooked genuine issues and controversy in Plaintiff's Motions for Summary Judgment [ROA.507], [ROA.718], and [ROA.1498], as addressing the concerns with errors and omissions in the City of Brandon Police Department Police Report, which should have been evaluated with the Public Duty Doctrine for public services covered by the Universal Declaration of Human Rights, as in *PW v. Kansas Dept. of SRS*, 877 P.2d 430 (Kan. 1994), where a special duty to an individual was created when the governmental entity performed an affirmative act that caused injury, just as modifications to the subject police report increased and aggravated injury to then Plaintiff and as Appellant on appeal from the District Court's rulings.

Just as in the *Chafin v. Chafin*, 568 U.S., No. 11-1347, (2013), Plaintiffs petition under the Convention and the International Child Abduction Remedies Act (ICARA) was analyzed by the district court for a determination on Plaintiff's concerns. In this case, the District Court's analysis should have included an analysis of the Universal Declaration of Human Rights along with the Public Duty Doctrine to also respond to Plaintiffs Motions for Summary Judgment [ROA.507], [ROA.718], and [ROA.1498], Motions in Limine [ROA.1358] and [ROA.1363] and assist with

addressing Plaintiff's NOTICE of Constitutional question [ROA.1708].

Furthermore, as in *Cariglia v. Hertz Equip. Rental Corp.*, 363 F.3d 77, 82 (1st Cir. 2004) involved manipulating information regarding four items mentioned in the Case's subject security report addressed by the United States Court of Appeals for the First Circuit decision.

The District Court's decision dismissing Plaintiffs federal claim should be reversed. The District Court's decision dismissing Plaintiff's Motion for Summary Judgment should be reversed and granted and provide Plaintiff relief of the obstructions to justice inflicted upon HER, as denying HER the right to an ethical and fair civil judiciary process. As demonstrated by the Defendants' responses to Plaintiffs Motions for Court-Appointed Expert Witnesses, Production, Interrogatories, and Plaintiff's Motions for Discovery remedies further exhibits THEIR intentions to not cooperate. The Plaintiff requests consideration for redress of all damages associated with physical & emotional injuries, stress, damages, pain and suffering, loss of enjoyment of life and liberty, medical expenses incurred, future medical expenses, and punitive damages for harm caused by the Defendants. In review of the Plaintiffs Motions for Summary Judgment under Federal Rule of Civil Procedure 56, the Court must "grant summary judgment if the movant shows that there is no genuine dispute as to any material facts produced by Plaintiff, as the movant is entitled to judgment as a matter of law, per Fed. R. Civ. P. Rule 56(a).

App.69a

RESPECTFULLY SUBMITTED, this 7th day of  
October 2021.

By: /s/ Christy Poon-Atkin

[...]

**APPELLANT'S BRIEF  
(SEPTEMBER 14, 2021)**

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IN THE UNITED STATES COURT OF APPEALS,  
FIFTH CIRCUIT

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CHRISTY POON-ATKINS,

*Plaintiff-Appellant,*

v.

SAMMY M. SAPPINGTON; and  
WAL-MART STORES EAST, L.P.,

*Defendants-Appellees.*

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No. 21-60467

On Appeal from the United States District Court  
Southern District of Mississippi (Northern (Jackson))  
Civil Docket for Case #: 3:19-cv-00269-KHJ-LGI

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**CERTIFICATE OF INTERESTED PERSONS**

*POON-ATKINS v. Sappington, et al.*, No. 21-60467

Pursuant to Fifth Circuit Rule 28.2.1, the undersigned Pro Se counsel of record certifies that the following listed persons and entities as described in the fourth sentence of Rule 28.2.1 have an interest in the outcome of this case. These representations are made in order that the judges of this Court may evaluate possible disqualification or recusal.

**A. Parties**

a. Plaintiff Appellant:

Christy Poon-Atkins

b. Defendants Appellees:

Sammy M. Sappington and  
Wal-Mart Stores East, L.P.

**B. Counsel**

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By: /s/ Christy Poon-Atkins

Dated: September 14, 2021

[...]



## **JURISDICTIONAL STATEMENT**

The United States Court of Appeals, Fifth Circuit has jurisdiction over this appeal pursuant to 28 U.S.C. § 1291 because the May 17, 2021, District Court decision was entered as a Final Order [ROA.1723] and Final Judgment [ROA.1730] in Case No. 3:19-CV-269-KHJ-LGI.

## **STATEMENT OF ISSUES**

1. Whether Defendant's admission to a public service officer, in the on-site City of Brandon Police Department Information Exchange Report, should be overlooked within the Plaintiff's presentation of evidence of the Defendant's speeding [ROA.718, EXHIBIT #9], as a matter of 28 U.S.C. § 1731 and § 1733? Additionally, whether the Plaintiff's Discovery concerns for the Defendants Discovery abuse with distracting tactics, to suppress the Plaintiff's concerns with the truthfulness of the City of Brandon Police Report, which would further incite prejudice, confusion, and waste time should be dismissed as moot [ROA.1139] and [ROA.1498]? Furthermore, evaluate the properness of dismissing review of the subject evidence enter with [ROA.718, EXHIBIT #9] by the United States Attorney General, as related to the Plaintiff's Constitutional question for remedy of disparities inflicted upon the Plaintiff during Discovery in the District Court. The errors incorporated into the City of Brandon Police Department Report subsequently disadvantaged and further damaged the Plaintiff during civil proceedings in litigation of HER claim.

2. Whether Defendant's admissions to speeding through an active construction work zone in THEIR CMI Company Car Accident Report [ROA.1802], should

be overlooked, while false information entered to a police report be considered acceptable as the basis of the District Court's Order [ROA.1723] granting the Defendant's Motion for Summary Judgment [ROA.311]? Subsequently, whether the record justifies the District Court's decision to dismiss with prejudice, the Plaintiff's personal injury claim [ROA.22] for injuries sustained due to the Defendants reckless operation of THEIR company vehicle? It follows to also question whether setting precedence with the noted discrepancy issue, that the Defendants also admitted to in THEIR CMI Company Car Accident Report, about the City of Brandon Police Department Report being in error, should be allowed to obstruct proceeding by influencing decisions with errors in public records. Whether accepting incorrect information found in public documents, as written in the subject City of Brandon Police Report, has been evaluated for concerns as in 18 U.S.C. § 1504 for attempts to influence the action or decision of any grand or petit juror of any court of the United States, as also pertaining to civil service duties has been overlooked?

3. Whether the District Court's factual findings include facts initially entered with the Plaintiff's response [ROA.1613] but now [ROA.1802], as evidence of the Defendants "speeding through an active construction work zone that required extreme caution and lookout" in the Defendants' CMI Company Car Accident Report entered in the record as [ROA.1802]? The Plaintiff [was not] in any way at fault for the way that the Defendants chose to operate THEIR vehicle through an active construction work zone [in THEIR company vehicle]". The Defendants admitted to operating THEIR company vehicle at speeds greater

than the posted speed limit in THEIR CMI Company Car Accident Report, required by THEIR company policy as the Defendants also admitted during THEIR January 14, 2021, Deposition. Additionally, the Defendants' manual documents and things discussed during the January 14, 2021 deposition were not produced by the Defendants to the Plaintiff, as requested during Discovery [ROA.104, ROA.110], in accordance with 28 U.S.C. App. Fed. R. Civ. R. Rule 26. The Defendants admission to speeding is presented in the Plaintiff's Response to Defendants' Opposition on Plaintiff's Motion for Discovery Time Extension [ROA.1802]. The Defendants' admission to speeding confirms the fact that the Defendants were in violation of the rules of the road through an active construction work zone. However, it is unclear as to any review of evidence in [ROA.1802], initially filed with [ROA.1613] but through an inadvertent district court filing error was omitted from the initial Plaintiff filing for [ROA.1613], was included in the District Court's Order [ROA.1723] analysis. The absence of critical evidence [ROA.1802] and [ROA.1613], to its entirety, in the District Court's Order would require relief for the Plaintiff per Fed. R. Civ. P. Rule 60 for Relief from the District Court's Order [ROA.1723] and relief from the District Court's Final Judgment [ROA.1730] for damages the Plaintiff has suffered. As demonstrated with the District Court's judgment [ROA.1730], the improper omission of EXHIBITS from the Plaintiff's Response to Defendants' Opposition on Plaintiff's Motion for Discovery Time Extension [ROA.1613] disadvantages and damages the Plaintiff as in 18 U.S.C. § 1504 concerning attempts to influence the action or decision of any grand or petit juror of any court of the United States.

4. Whether the full extent of the Plaintiffs' right to due process for resolution of HER claim was afforded to HER? The evidence provided in the Plaintiffs' Response to Defendants' Opposition on Plaintiffs' Motion for Discovery Time Extension [ROA.1613] with EXHIBITS entered as [ROA.1802], substantiates concerns about mistakes in the City of Brandon Police Report, Fed. R. Civ. P. Rule 9 in pleading special matters, which is the basis of the Plaintiff's Constitutional question [ROA.1708]. The improper alteration of the Plaintiff's response [ROA. 1613], makes the record deficient, which disadvantaged the Plaintiff and allowed the Defendants to unduly abuse the civil process, further denying the Plaintiff HER right to an open and fair judiciary process with proper consideration of all issues presented in litigation of HER claim.

5. Whether proper consideration was given to material facts about the Defendants' speeding through an active construction work zone, as noted in evidence presented in the EXHIBITS [ROA.1802] of the Plaintiff's Response to Defendants' Opposition on Plaintiff's Motion for Discovery Time Extension [ROA.1613] in the District Court's analysis for the District Court's decision [ROA.1701] to deny the Plaintiff's Motion for Extension of Time to Complete Discovery [ROA. 1340]? Additionally, whether the subject EXHIBITS [ROA.1802] of the Plaintiff's response [ROA.1613] was included in a related District Court analysis of Case No. 3:19-CV-269-KHJ-LGI for requirements of 18 U.S.C. § 1623 for false declarations before grand jury or court?

6. Whether proper consideration was given to the violation of the Plaintiff's human rights for which the

existence of misinformation included in the City of Brandon Police Report, as a public service duty in which Article 21 § 2 and Articles 1, 8, 22, 25, 27, 28, and 29 of the Universal Declaration of Human Rights apply, complicated the Plaintiff's right to due process, as presented with HER Constitutional question [ROA.1708]. The Plaintiff has produced evidence of standing, where the Plaintiff's "injury in fact" was expressed with HER claim [ROA.22], with HER response to the Defendants' false accusations about the Plaintiff's medical records [ROA.507] to the Defendants' Motion for Summary Judgment [ROA.311], as originally expressed on April 22, 2016, and documented in HER individual accident report [ROA.1868]. Additionally, the Plaintiff produced evidence of HER "injury in fact" in HER Cross-Motion for Summary Judgment [ROA.718]. The Plaintiff consistently expresses that HER interest damaged by the Defendants is within the limits of Constitutionally Protected Interests regulated by statute and the Constitution. In the early formation and structuring of orderly conduct throughout the United States, one's liberty was generally expressed as one's freedom from bodily restraint and was considered a natural right to be forfeited only pursuant to law and strict formal procedures. "The requirements of procedural due process apply to the deprivation of interests encompassed by the Fourteenth Amendment's protection of liberty and property, for which a fair and ethical due process, with provisions under Amendment VII, must be afforded under the Fifth Amendment and further emphasized in the Ninth Amendment. Furthermore, even with the list of rights provided in the Constitution, the Ninth Amendment also affirms that the Plaintiff is well within HER

rights to interact with HER family, as routinely enjoyed until the bodily injury caused by the Defendants' reckless behavior to speed through an active construction work zone. With previous issues, the Plaintiff's presented the Defendants' admitted fault due to THEIR reckless speeding through an active construction work zone, as indicated in THEIR CMI Company Car Accident Report [ROA.1802].

7. Whether proper accommodations were provided for review of the Plaintiff's Constitutional question per 28 U.S.C. § 2403 for Intervention by United States or a State; Constitutional question per Fed. R. Civ. P. Rule 5.1; in the Plaintiff's petition for an opportunity for remedy against the mistake written into the City of Brandon Police Report with HER January 20, 2021 Motion for Extension of Time to Complete Discovery [ROA.1340] but denied by the District Court's decision [ROA.1701] on March 25, 2021, more than two months after the Plaintiff's motion. The Plaintiff's special pleading per Fed. R. Civ. P. Rule 9 for Pleading Special Matters with HER Motion for Court-Appointed Expert Witnesses with Compensation Under the Fifth Amendment [ROA.1487], as also prompting the Plaintiff's Constitutional question [ROA.1708]? The Plaintiff asserts that the judgments against HER wrongfully allows the City of Brandon Police Report as a basis for judgments, without properly yielding for intervention of the United States Attorney General. When protected interests are implicated, the right to a prior hearing, is paramount and must not be denied to any human being and citizen of the United States.

### SCOPE OF REVIEW

Issues 1 and 2 present issues of law that are subject to substantial evidence standard of review, where the Plaintiff presents “reasonable doubt” as to the veracity of the Defendants’ claims, as in *Jackson v. Virginia*, 443 U.S. 307, 319 (1979). The Defendants’ have failed to present any evidence against the Plaintiff. However, the Plaintiff has presented substantial evidence of the Defendants’ reckless speeding through an active work zone in HER Response to the Defendants’ Opposition to the Plaintiff’s Motion for Extension of Time to Complete Discovery [ROA.16131 with EXHIBITS [ROA.1802].

Issues 3, 4, and 5 challenges the district court’s factual findings, which should be reversed upon a finding of clear error, as in *American Cyanamid v. Capuano*, 381 F.3d 6, 21 (Pt Cir. 2004). The Plaintiff also cites, *Cariglia v. Hertz Equip. Rental Colp.*, 363 F.3d 77, 82 (1st Cir.2004), where it was determined in the United States Court of Appeals for the First Circuit that there was no need to address whether, the Appellees animus further infected the decision-making process by manipulating information regarding four items mentioned in the subject security report.

Issues 6, and 7 challenges the appropriateness for the district court’s decisions, on Plaintiff’s motions related to the Plaintiff’s Human Rights concerns and Constitutional questions, to precede intervention of the Attorney General of the United States.

As in *Plessy v. Ferguson*, 163 U.S. 537 (1896), it was argued that the Fourteenth Amendment of the United States Constitution provided for equal

treatment under the law. The Plaintiff also points to *Brown v. Board of Education*, 347 U.S. 483 (1954), where chief counsel Thurgood Marshall's appeal to the Supreme Court unanimous decision clarified violation of the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution, overturning the original decision on Homer Plessy's argument in *Plessy v. Ferguson*, 163 U.S. 537 (1896), as originally supported by Justice John Marshall Harlan's dissent.

Furthermore, Issues 6 and 7 present issues of law that may be a matter of ultra vires standard of review, as the District Court Record, as also the initial United States Court of Appeals for the Fifth Circuit Record on Appeal (ROA) after Notice of Appeal filing [ROA.1739]. The initial ROA after Notice of Appeal filing [ROA.1739] lacked substantial evidence that led to denying the Plaintiff access to civil proceedings, as could also be subject to appeal to the United States (U.S.) Supreme Court, per 28 U.S.C. 1253 for matters involving the Plaintiff's Notice of Constitutional question [ROA.1708] under Fed. R. Civ. P. Rule 5.1. The District Court Record on Appeal docket sheet description for the Plaintiff's Constitutional question [ROA.1708] incorrectly indicates Fed. R. Civ. P Rule 5.1 as Fed. R. Civ. P. Rule 51.

### STATEMENT OF THE CASE

1. This is an appeal of the District Court's dismissal of Plaintiff personal injury, stress, emotional, and punitive damages claim against Defendants [ROA.22]. Additionally, this is an appeal of the District Court's dismissal [ROA.1723] of the Plaintiff's Cross-Motion for Summary Judgment [ROA.718],



Motion for Summary Judgment [ROA.1498], Motion in Limine [ROA.1358], Motion in Limine [ROA.1363], and all other Plaintiff motions related to HER concerns with violation of HER human rights and HER Constitutional question [ROA.1691, ROA.1692, ROA.1693, ROA.1701, ROA.1705] to be reversed. This is also an appeal to the District Court's granting of the Defendants' Motion for Summary Judgment [ROA.311]. For the Plaintiff enduring Discovery abuse, as further explained in the case issues, this is also an appeal to reverse the District Court's Order denying the Plaintiff's Motion for Sanctions [ROA.1139] included in the District Court Order [ROA.1262], where the Plaintiff was ordered to pay Defendants. Additionally, the Plaintiff appeals HER Motion for Sanction [ROA.1328] included in the District Court Order [ROA.1702].

2. The subject collision and resulting damages were proximately caused by Defendant Sappington's negligent acts with no contributory negligence on behalf of Plaintiff.

3. Defendant Sappington breached his duty of care on or about April 22, 2016, when he failed to operate his vehicle in a lawful, prudent and proper manner, failed to maintain a proper lookout, failed to take any reasonable steps to avoid the subject vehicular collision, failed to maintain a proper speed of his motor vehicle, failed to yield the right of way, failed to maintain reasonable control of his vehicle, drove too fast for the conditions of the roadway at the time of the collision, drove in excess of the roadway's speed limit at the time of the collision, failed to slow his vehicle, failed to abide by the Rules of the Road,

and other general acts of negligence, all of which were the proximate cause of the collision.

4. Such failures constitute a careless and reckless operation by Defendant Sappington of his motor vehicle.

5. As a direct and proximate result of the collision and Defendant Sappington's careless, reckless and negligent acts, Plaintiff has suffered severe, permanent and debilitating injuries to HER person. Plaintiff has further experienced serious pain and suffering due to her injuries. Plaintiff would show that she has suffered injuries to her skeletal, muscular, and nervous systems, and will continue to experience pain and limitations resulting from such injuries for the remainder of her life.

6. Plaintiff has also incurred loss of enjoyment of life, home duties under duress and physical complications, and other damages, all of which have been proven in the evidence presented in this matter. Such injuries entitle Plaintiff to recovery of, from, and against Defendant Sappington.

7. The Plaintiff would show that her injuries from the collision have required treatment by doctors and other practitioners. Such treatment has caused her to suffer great pain, severe shock, weakness, and intense mental anguish. Defendant Sappington's negligent acts and/or omissions have directly caused Plaintiff to incur hospital, medical and drug bills, and she can reasonably expect to incur further such expenses in the future.

8. As a direct, immediate, and proximate result of Defendant Sappington's negligence, Plaintiff has sustained the aforesaid injuries and damages, all of

which are of a pecuniary and personal nature, including physical, mental and emotional injury and pain, and mental anguish, along with other damages, as all are proven in the Plaintiff's production of evidence throughout HER Cooperation in Discovery, as matters of fact that supports the Plaintiffs claims with standing.

The Plaintiff now appeals the District Court's decision to grant Defendants' Motion for Summary Judgment [ROA.311] and dismiss with prejudice the Plaintiff's claim [ROA.22]. The Plaintiff also appeals to the District Court's decision to dismiss Plaintiff's Cross-Motion for Summary Judgment [ROA.718], Plaintiff's second Motion for Summary Judgment [ROA.1498], Plaintiff's Motions in Limine [ROA.1358], and [ROA.1363] as moot.

#### **RELEVANT DETAILS**

1. On or about April 22, 2016, Plaintiff was the driver of a motor vehicle travelling eastbound on Grants Ferry Road in Brandon, Mississippi.

2. Plaintiff lawfully stopped at a stop sign at the intersection of Grants Ferry Road, Highway 471, and entered the entrance to Ambiance Subdivision.

3. Plaintiff, after stopping at the stop sign on Grants Ferry Road, proceeded through the intersection of the roadways, and crossed over to the entrance of Ambiance Subdivision. At this time, Plaintiff's vehicle was struck with great force by a motor vehicle driven by Defendant Sappington.

4. Defendant Sappington was a driver of a motor vehicle travelling northbound on Highway 471 and struck Plaintiff's motor vehicle after the Plaintiff

lawfully crossed over Highway 471 to enter the Ambiance Subdivision.

5. The collision occurred in a work zone, and based upon information and belief, Defendant Sappington was speeding too fast for the conditions of the roadway and in excess of the posted speed limit for the work zone at the time of the collision.

6. The motor vehicle driven by Defendant Sappington was owned by Defendant Wal-Mart. Further, based upon information and belief, Defendant Sappington was employed by Defendant Wal-Mart at the time of the collision and was working, or on duty, at the time of the collision.

7. At the time of the collision, Defendants had policies of insurance with National Fire and Casualty Insurance, which provided coverage for claims for bodily injury, property damage and medical payments coverage due to insured/uninsured/underinsured motorists' negligence. The policies were in full force and effect at the time of the collision.

8. as a result of Defendant Sappington and Defendant Wal-Mart's negligence on April 22, 2016. The actions of Defendant Sappington and Defendant Wal-Mart negligence has been admitted to by the Defendants at the site of the accident, where the Defendants admitted to speeding in the initial police report developed with the City of Brandon Police.

9. The Defendants admitted to providing the City Brandon Police information implicating the Defendants as the negligent party that caused the accident injuring the Plaintiff, during the January 14, 2021, Deposition of Defendant Sappington.

10. The Defendants admitted to speeding in THEIR CMI Company Car Accident Report [ROA. 1802], as original EXHIBITS in the Plaintiffs Response to the Defendants' Opposition [ROA. 1613].

### **SUMMARY OF ARGUMENT**

The Plaintiff provided proof of the Defendants admission to speeding throughout the active construction work zone along Hwy 471 with HER Response to Defendants' Opposition [ROA.1613]. In accordance with Fed. R. Civ. P. Rule 56, the Plaintiff's evidence of the Defendants' speeding through an active construction work zone, which further confirms that the City of Brandon Police Report includes critical errors and that there is no genuine dispute as to any material fact presented in the Plaintiffs Motions for Summary Judgment [ROA.718, ROA.1498]. In the Defendants' January 14, 2021, Deposition, the Defendants admitted to participating in providing details for the City of Brandon Police Department Information Exchange Report with indicating THEY were operating THEIR vehicle at speeds over the speed limit. The Defendants also admitted to speeding in THEIR CMI Company Car Accident Report. A finding of presenting false information to the Court would also be a matter to evaluate under 18 U.S.C. Part 1 Chapter 79. Under the criteria of Fed. R. Civ. P. Rule 56, the Plaintiff, as the movant, is entitled to summary judgement, as a matter of law.

## **ARGUMENT**

### **I. THE DISTRICT COURT ERRED BY OVERLOOKING CRITICAL FACTS OF DISCOVERY.**

#### **A. The District Court's Findings of Fact are unclear of the consideration of evidence presented on the Defendants' participation in completing the City of Brandon Police Department Information Exchange Report [ROA.718] and [ROA.1024] with the Defendants' confirmation of participating in THEIR January 14, 2021 deposition and THEIR CMI Company Car Accident Report [ROA.1802].**

The Defendants have failed to provide any evidence to support the Defendants' claim in THEIR basis for THEIR Motion for Summary Judgment, as all points are disputed and have been disputed by the Plaintiff throughout the cruel and abusive proceedings, as Executive Order 12778, is to improve legislative and regulatory drafting to reduce needless litigation, to promote fair and prompt adjudication before administrative tribunals, and to provide a model for similar reforms of litigation practice. The Plaintiff filings [ROA.718], [ROA.1498], and [ROA.1613] with EXHIBITS [ROA.1802] provide clear evidence that the Plaintiff's Motion for Summary Judgment is indeed without genuine dispute as to any material fact and that the Plaintiff is entitled to summary judgement as a matter of law.

Furthermore, the District Court erred in denying multiple motions and dismissing multiple notices by the Plaintiff because such decisions by the Court

conceals critical evidence that the Plaintiff presented for the record with HER Response [ROA.1613] with EXHIBITS in [ROA.1802]. The docket record includes the Defendants' attempt to deter the Plaintiff from participating in Discovery depositions of the Defendants and the Defendants' witnesses with THEIR attempt to transfer all fees for depositions to the Plaintiff. The Plaintiff provided notice of the Defendants' deposition fees with HER response to the Defendants' motion [ROA.1269] for the record. The Plaintiff's cross-examinations of the Defendants and Defendants witnesses include significant admissions and inconsistencies by the Defendants along with confirmation that the Defendants' witnesses do not qualify as expert witnesses in this case. The Plaintiff entered HER Motion for Deposition of Defendant Sappington [ROA.1253] and HER Notices for Cross-examinations of the Defendants' witnesses [ROA.1313] and [ROA.1317] for the record. However, the District Court's Order to find the Plaintiffs Motion to take Deposition of Defendant Sappington [ROA.1253] as moot would damage and disadvantage the Plaintiff by removing the Defendants January 14, 2021 deposition for court proceedings, as in Fed. R. Civ. P. Rule 32. The District Court's finding the Plaintiffs motion for deposing Defendant Sappington as moot [ROA.1691] should be reversed. The Defendants further demonstrate THEIR Failure to Cooperate in Discovery per Fed. R. Civ. P. Rule 37 with THEIR continued efforts to prejudice, confuse, waste time, and undermine the civil process causing the Plaintiff to Supplement Discovery per Fed. R. Civ. P. Rule 26 on September 1, 2021 [ROA.1802] for HER initial response [ROA.1613] entered with EXHIBITS omitted by inadvertent error of the District Court on

February 5, 2021. The District Court's Order [ROA.1691] should be reversed to mitigate further damage to the Plaintiff's throughout Discovery.

**II. THE DISTRICT COURT'S DISMISSAL OF THE PLAINTIFF'S CLAIM SHOULD BE REVERSED**

**A. The District Court's Findings of Fact are Not Supported by the Record and overlooks critical facts of Discovery.**

A district court's findings of fact are clearly erroneous and should be reversed if they are not supported by substantial evidence in the record. See *American Cyanamid v. Capuano*, 381 F.3d 6, 21 (1st Cir. 2004). Here, the District Court supported its dismissal of the Plaintiff's personal injury claims based on an incorrect police report, Fed. R. Civ. P. Rule 9, produced under circumstances constituting the Plaintiff's Constitutional question, Fed. R. Civ. P. Rule 5.1, which requires intervention of the United States Attorney General. The District Court's orders and judgments broach questions on the limits and the order of judicial powers for actions that are directly tied to the Plaintiff's Constitutional question. Acceptance of such District Court orders and judgments related to the Plaintiff's Constitutional question would subsequently warrant a review of ultra vires. Referencing the primary holding in *United States v. Lee*, 106 U.S. 196 (1882), the Plaintiff's personal injury claim is against the Defendants, any principle of sovereign immunity has not been substantiated by the Defendants and should not be invoked to deny Plaintiff the judicial enforcement of HER rights.



As also can be highlighted in *Brown v. Board of Education*, 347 U.S. 483 (1954) overturning the *Plessy v. Ferguson*, 163 U.S. 537 (1896) decision, that the objective of the Fourteenth Amendment of 1868, following the President Lincoln's Proclamation 95 or "*The Emancipation Proclamation*" issued on January 1, 1863, was unquestionably an act of Congress to enforce equality in matters of life, liberty, and property.

Citing *Yick Wo v. Hopkins*, 118 U.S. 356 (1886) in the *Plessy v. Ferguson*, 163 U.S. 537 (1896) case analysis finds that every exercise of the police power must be reasonable and extend only to such laws as are enacted in good faith for the promotion for the public good, and not for the annoyance or oppression of a particular class. In *Yick Wo v. Hopkins*, 118 U.S. 356 (1886), it was held by the U.S. Supreme Court that a municipal ordinance of the city of San Francisco, to regulate the carrying on of public laundries within the limits of the municipality, violated the provisions of the Constitution of the United States, if it conferred upon the municipal authorities arbitrary power . . . to give or withhold consent as to persons or places . . . for the carrying on of the business. It was held to be a covert attempt on the part of the municipality to make an arbitrary and unjust discrimination against the Chinese race. . . .

The Plaintiff requests that the court take notice of the Plaintiff's claim that the errors in the City of Brandon Police Report increases the risk of and aggravates injury to the Plaintiff. The Plaintiff's

Notice of Constitutional question [ROA.1708] further highlights affirmations of the City of Brandon Police Report increased injury to the Plaintiff, as criteria of the Public Duty Doctrine for converting public duty to a personal duty.

### **III. THE DISTRICT COURT'S GRANTING OF THE DEFENDANTS' CLAIM SHOULD BE REVERSED**

#### **A. The District Court's Analysis of Judgments are Not Supported by the Record and overlooks critical facts of Discovery.**

A district court's findings of fact are clearly erroneous and should be reversed if they are not supported by substantial evidence in the record. *See American Cyanamid v. Capuano*, 381 F.3d 6, 21 (1st Cir. 2004). Here, the District Court overlooked the Discovery abuse inflicted on Plaintiff's with the proof of the Defendants' unjustified Discovery request propounded to the Plaintiff, as confirmed with the Plaintiff's Notice entered on February 24, 2021 [ROA.1671]. When the party whose documents are sought shows that the request for production is unduly burdensome or oppressive, courts have denied discovery for lack of "good cause", although they might just as easily have based their decision on the protective provisions of Rule 26(c). *E.g., Lauer v. Tankrederi*, 39 F.R.D. 334 (E.D.Pa. 1966). The Defendants developed THEIR CMI Company Car Accident Report, as required by THEIR policy. The Defendants discussed portions of company manual policy and procedures for vehicle maintenance during a remote videoconference deposition of Defendant Sappington

on January 14, 2021, admitting to the existence of requested manual documents and things. However, the Defendants failed to produce documents and things for vehicle maintenance to the Plaintiff in response to HER Requests for Production<sup>1</sup>, as requested productions are relevant to the subject matter. The Defendants additionally failed to produce company manuals, documents and things related to safety requirements. However, the District Court decision was to deny [ROA.1705] the Plaintiff's Motions to Compel [ROA.1351]. Additionally, the Court's decision [ROA.1701] was to deny the Plaintiffs Motion for Extension of Time to Complete Discovery [ROA.1340]. Throughout the duration of Discovery, the Defendants were evasive with deficient responses to Interrogatories [ROA.195] and [ROA.199], non-compliant with the requirements of Fed. R. Civ. P Rule 26(e), also exhibiting prolonged evasiveness, as prohibited by Fed. R. Civ. P Rule 37(a)(4). The Defendants did not cooperate to produce documents and things to the Plaintiff's Request for Production in THEIR May 8, 2020 service of [ROA.197] and [ROA.201], and continue to be deficient with documents and things produced to the Plaintiff; non-compliant with the requirements of Fed. R. Civ. P Rule 26(e), as prohibited by Fed. R. Civ. P Rule 37(a)(4).

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<sup>1</sup> With respect to documents not obtained or prepared with an eye to litigation, the decisions, while not uniform, reflect a strong and increasing tendency to relate "good cause" to showing that the documents are relevant to the subject matter of the action. *E.g.*, *Connecticut Mutual Life Ins. Co. v. Shields*, 17 F.R.D 273 (S.D.N.Y. 1959), with cases cited; *Houdry Process Corp. v. Commonwealth Oil Refining Co.*, 27 F.R.D. 58 (S.D.N.Y. 1955); see *Bell v. Commercial Ins. Co.*, 280 F.2d 514, 517 (3d Cir. 1960).

#### **IV. TILE DISTRICT COURT'S DISMISSAL OF PLAINTIFF'S DUE PROCESS RELATED MOTIONS SHOULD BE REVERSED**

##### **A. The District Court's Analysis of Judgments are Not Supported by the Record and overlooks critical facts of Discovery.**

As presented in, *Arnett v. Kennedy*, 416 U.S. 134 (1974), the Plaintiff worked for a federal agency and was terminated. After the termination, the Plaintiff was given an opportunity to respond orally and in writing to the reasons for his termination. The Plaintiff's termination was upheld. The Plaintiff brought suit, alleging that the Plaintiff was entitled to a pre-termination hearing. The Lloyd-La Follette Act granted civil service employees certain job-security rights. The Court of appeals ruled in favor of the Plaintiff. The U.S. Supreme Court granted certiorari.

The U.S. Supreme Court has even provided guidance on the Constitutionally Protected Interest of property with defining five basic criteria for constitutional seizure of property in 28 USC App: (1) effective notice to persons having interests in the property seized, (2) judicial review prior to attachment, (3) avoidance of conclusory allegations in the complaint, (4) security posted by the plaintiff to protect the owner of the property under attachment, and (5) a meaningful and timely hearing after attachment.

The U.S. Supreme Court's guidance for property protected interest is grounded in cases on violating the principles of procedural due process enunciated in the U.S. Supreme Court's decision in *Sniadach v. Family Finance Corp.*, 395 U.S. 337 (1969), and later

developed in *Fuentes v. Shevin*, 407 U.S. 67 (1972); *Mitchell v. W. T. Grant Co.*, 416 U.S. 600 (1974); and *North Georgia Finishing, Inc. v. Di-Chem, Inc.*, 419 U.S. 601 (1975).

In *North Georgia Finishing, Inc. v. Di-Chem, Inc.*, 419 U.S. 601 (1975), Georgia statutes permitting a writ of garnishment to be issued by an officer authorized to issue an attachment or a court clerk in pending suits on an affidavit of the plaintiff or his attorney containing only conclusory allegations, prescribing filing of a bond as the only method of dissolving the garnishment, which deprives the defendant of the use of the property in the garnishee's hands pending the litigation, and making no provision for an early hearing, violate the Due Process Clause of the Fourteenth Amendment, *Sniadach v. Family Finance Corp.*, 395 U.S. 337 (1969); *Fuentes v. Shevin*, 407 U.S. 67 (1972), *Mitchell v. W. T. Grant Co.*, 416 U.S. 600 (1975), distinguished. However, a lack of uniformity and continued concern over the constitutionality of the existing practice continues to be at issue.

The Plaintiff exerts that the bodily injury that restrained HER with severe limitations to HER freedom to interact with HER children, as HER family routinely enjoyed prior to the accident that the Defendants recklessly caused on April 22, 2016, has not been afforded the full right to equal protection under the law nor an opportunity for fair due process for resolution that should fairly and consistently be applied in any case. The Plaintiff also exerts that the Defendants continued to inflict pain, suffering, stress, and strain upon the Plaintiff and HER family with THEIR abusive continuous string of fabricated contentions throughout Discovery with prolonged damage in

Appeal. The Plaintiff should have never been harmed by the Defendants, as THEIR recklessness imposed limitations on the Plaintiff's ability to interact with HER family, impinging on HER reserved powers under Amendment X.

**V. THE DISTRICT COURT'S DISMISSAL OF THE PLAINTIFF'S DISPOSITIVE MOTIONS SHOULD BE REVERSED**

**B. The District Court's Analysis of Case Does Not Justify Dismissing the Plaintiff's Cross-Motion for Summary Judgement [ROA.718]**

The Plaintiff propounded Interrogatories [ROA. 100] and [ROA.106], Request for Admissions [ROA.102] and [ROA.108], and Requests for Production [ROA. 104] and [ROA.110] to Sappington and Wal-Mart Associates, Inc. on October 24, 2019; but the Defendants failed to timely produce documents and things and failed to produce responses to Interrogatories to the Plaintiff's attorney by November 24, 2019. The Defendants also openly inserted conflicting statements that could incite prejudice, confusion, and waste time throughout Discovery, as confirmation of the Plaintiffs grievances in HER Discovery log response filing [ROA.1671]. The Defendants' position to ridicule and patronize anything associated with the Plaintiffs injuries, has also contributed to the undue burden on the Plaintiff throughout the case documented in the Plaintiff's pleadings for relief from the Defendants' aggression throughout Discovery in HER Motions [ROA.371], [ROA. 507], [ROA. 718], [ROA.1049], [ROA. 1139], [ROA.1671] and during hearings on

June 29, 2020, and on August 13, 2020. The Defendants entered deficient responses to Interrogatories [ROA.195], [ROA.199] and non-responsive production to the Plaintiff's Request for Production [ROA.197], [ROA. 201] on May 8, 2020, excessively after the Plaintiff's requests by and through HER attorney on October 24, 2019. The Defendants failure to cooperate in Discovery interfered with the Plaintiff maintaining legal representation, as the Defendants did not produce documents and did not respond to the Plaintiff's Interrogatories by November 24, 2019.

The Defendants' clear failure to cooperate in Discovery with the Plaintiffs attorney in 2019 left the Plaintiff to litigate her own case over the next year and a half, while enduring Discovery abuse at the will of the Defendants. As cited with *National Hockey League v. Metropolitan Hockey Club*, 427 U.S. 639, 643 (1976), diligent application of sanctions for Discovery abuse not only seek to address the aggrieved party but also to deter those who might be tempted to conform to such conduct against any other disadvantaged party in legal proceedings. Furthermore, the Emerging Deterrence Orientation in the Imposition of Discovery Sanctions, *91 Harv. L. Rev.* 1033 (1978) also emphasizes the importance of reducing any such subsequent disadvantaging abuses that could severely undermine the judiciary process, as there continue to be missed opportunities to avoid escalating issues that could be resolved at lower levels.

The Plaintiff has presented evidence of the Defendants' Failure to Cooperate in Discovery per Fed. R. Civ. P. Rule 37, as repeatedly expressed and documented in the Plaintiff's filings [ROA.371],

[ROA.507], [ROA.718], [ROA.1024], [ROA.1049], [ROA.1139], [ROA.1323], [ROA.1328], [ROA.1340], [ROA.1351], [ROA.1498], [ROA.1665], [ROA.1671], the Defendants' untruthfulness to the Courts, as documented in the Defendants' admissions in the EXHIBITS [ROA.1802] in the Plaintiffs response [ROA.1613] about the Defendants' reckless speeding as the sole, proximate cause of the subject April 22, 2016 accident. The Defendants have also demonstrated THEIR false claims about not receiving medical records in the Plaintiff's notice [ROA.1671]. The Defendants even received medical records as early as September 3, 2019 with the Plaintiff's Notice of Service of Disclosures [ROA.15] by and through the Plaintiff's attorney in response to the District Court Order [ROA.891]. The errors within the City of Brandon Police Department Police Report, as presented and referenced in the Plaintiff's filings and exhibits [ROA.718], [ROA.1487], [ROA.1520], and as a basis for the District Court' Final Judgment and Order [ROA.1723], [ROA.1730]. The City of Brandon Police Department Police Report is also used as a basis for the Defendants' motion [ROA.311]. Furthermore, the Plaintiff repeatedly expressed HER efforts to produce documents and provide responses to the Defendants circular Discovery tactics that only kept the Plaintiff tied to responding to the Defendants and the Defendants failing to produce documents and sufficient responses to the Plaintiff. [ROA.718]

To disadvantage the Plaintiff, the Defendants repeated pattern of failure to cooperate in Discovery early in the case left the Plaintiff without legal representation and forced the Plaintiff to litigate HER own case for HERSELF. Through the Plaintiff's



exhaustive efforts to retain replacement counsel, the Plaintiff was only faced with the Defendants' reputation for undermining, evasive, and stressful tactics, causing the Plaintiff to not be able to retain replacement counsel. The Plaintiff responded to the District Court's Order to Show Cause by February 18, 2020 [ROA.163] with HER commitment to represent HERSELF, in Pro Se response entered February 14, 2020 [ROA.167]. Furthermore, the Court must not overlook the Defendants' failure to respond to the Plaintiff through the Plaintiffs attorney for the Plaintiffs October 24, 2019, Service of Interrogatories [ROA.100], [ROA.106] and Requests for Production [ROA.104], [ROA.110], as contributing to the Plaintiffs attorney's withdrawal and inciting confusion on Plaintiff's Discovery Admissions propounded to the Defendants with documents produced and Interrogatory responses produced in writing and by deposition on June 5, 2020 [ROA.507]. Furthermore, through severe Discovery abuse, the Plaintiff was unduly compelled by Defendants abusive Discovery behavior. While under duress, the Plaintiff attached multiple medical records to HER response [ROA.371] to Defendants' Motion to Compel [ROA.274], as under the August 13, 2020, District Court Order with concerns for being assessed fees to the opposing party. Also under duress, the Plaintiff attached multiple medical records to HER Cross-Motion for Summary Judgment [ROA.718], as Defendants repeatedly requested confidential medical records without a protective order in place and repeatedly requested medical records that the Plaintiff had previously produced to the Defendants, as evidenced with HER Notice of Compliance in Completing Court Order [ROA.1671]. The Defendants produced no

substantiated proof for THEIR need for unlimited access to the Plaintiffs medical records, as if THEY were the Plaintiff HERSELF, leaving the Plaintiff with no verifiable way of monitoring and protecting the use of HER medical records by the Defendants, as opposing parties. The Plaintiff additionally voiced concerns with the Defendants exceeding pursuit of the Plaintiffs medical information beyond information that would be considered minimally necessary per 45 C.F.R. 164.514(d), minimally necessary standard, with prior concerns for not having a protecting order in place prior to any medical records requests per 45 C.F.R. 160 with HER motions [ROA.371] and [ROA.507]. Throughout Discovery, the Plaintiff provided notice of the Defendants' Discovery abuse with the Defendants' disregard to Mississippi Code of Civil Procedure Rule 16(g). The Plaintiff provided notice of completing Order to pay Defendants for Discovery [ROA.1344] entered on January 20, 2021.

The 1983 Committee Note cautioned that "[t]he court must apply the standards in an even-handed manner that will prevent use of Discovery to wage a war of attrition or as a device to coerce a party, whether financially weak or affluent." Federal Rules of Evidence, referred to in subdiv. (a)(2)(A), (C)(i), (3)(B)

**VI. THE DISTRICT COURT'S DISMISSAL OF  
THE PLAINTIFF'S HUMAN RIGHTS  
MOTIONS SHOULD BE REVERSED**

**C. The District Court's Analysis of the Case  
overlooks critical facts of Damaging  
Misinformation and does not justify  
dismissing the Plaintiff's second Motion  
for Summary Judgment [ROA.1498]**

When considering a motion under Fed. R. Civ. P. Rule 56, the Court must grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law". "A fact is 'material' if, under the applicable substantive law, 'its resolution could affect the outcome of the action.'" *Patel v. Tex. Tech Univ.*, 941 F.3d 743, 747 (5th Cir. 2019) (quoting *Sierra Club, Inc. v. Sandy Creek Energy Assocs., L.P.*, 627 F.3d 134, 138 (5th Cir. 2010)). "An issue is 'genuine' if 'the evidence is such that a reasonable [factfinder] could return a verdict for the Admission, Defendants provided as THEIR admissions to speeding through an active construction work zone in THEIR CMI Company Car Accident Report [ROA.1802] and [ROA.1868], as originally filed with [ROA.1613]. The Plaintiff [was] not at fault for the accident that the Defendants on April 22, 2016, giving rise to HER claim [ROA.22]. The Plaintiff is entitled to recover all damages, as the Plaintiff has demonstrated standing and must be redressed by a favorable decision. The Plaintiff maintains that all Constitutionally Protected Interests must also be extended the same protection of HER exclusive right to possess and enjoy HER life, liberty, and property, as all are HER vested property, where any deprivation

would adversely impact and complicate HER right to due process. In so far as the scope of HER freedoms tested, jurisdictional duty to remedy befalls for equal protection to the full extent of respective law, as must be delivered as in the Fourteenth Amendment. The Plaintiff must not be disparaged in the worthiness of HER protected interests, as also covered and due as in Article 2 and Article 3 of the Universal Declaration of Human Rights. With prolonged infringement of the Plaintiffs rights, the Plaintiff is due relief for all harms endured.

**VII. THE DISTRICT COURT'S DISMISSAL OF  
THE PLAINTIFF'S CONSTITUTIONAL  
QUESTION RELATED MOTIONS SHOULD  
BE REVERSED**

**D. The District Court's Analysis of Case Does  
Not Justify Dismissing the Plaintiff's  
Motion in Limine [ROA.1358] nor  
Plaintiff's Motion in Limine [ROA.1363]**

As provided through the U.S. Supreme Court decision, *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993) provides standards related to expert testimony in federal courts. Daubert set forth a non-exclusive checklist for trial courts to use in assessing the reliability of scientific expert testimony. The specific factors explicated by the Daubert Court are (1) whether the expert's technique or theory can be or has been tested—that is whether the expert's theory can be challenged in some objective sense, or whether it is instead simply a subjective, conclusory approach that cannot reasonably be assessed for reliability; (2) whether the technique or theory has been subject to peer review and publication;

(3) the known or potential rate of error of the technique or theory when applied; (4) the existence and maintenance of standards and controls; and (5) whether the technique or theory has been generally accepted in the scientific community. The Plaintiff has endured extensive attempts for inextricable appreciation throughout Discovery by the Defendants', justice for HER must be non-trivial in pace to redress HER grievances. The absence of the District Court's certification to the United States Attorney General about the Plaintiff's Constitutional question in the record, under 28 U.S.C. § 2403, further complicates the disparities that the Plaintiff has faced throughout the civil process. As in the dissenting opinion held in *Plessy v. Ferguson*, 163 U.S. 537 (1896) "inconsistencies evading equal application of protections under the law may be stricken down by congressional action, or by the courts in the discharge of their solemn duty to maintain the supreme law of the land", Articles I & III. The Plaintiff is of Indigenous descent and in no way should the Plaintiff nor HER family, nor any other be damaged nor aggrieved with infringed rights for direct protections by the laws of the land. The Federalist 41, 42, 43, and 44 further clarifies that the Constitution vests the quantity of power in the government necessary though the structure of the government to ensure no infringement on the protected interests of the people.

## CONCLUSION

The district court's decision dismissing Plaintiff's federal claim should be reversed. The district court's decision dismissing Plaintiff's Motion for Summary Judgment should be reversed and granted and allow

the Plaintiff relief of the obstruction of justice inflicted upon HER, as denying HER the right to an ethical civil process. As demonstrated by the Defendants' responses to the Plaintiff's Motions for Court-Appointed Expert Witnesses, Production, Interrogatories, and Discovery remedies further exhibits THEIR intentions to not cooperate. The Plaintiff requests consideration for redress of all damages associated with physical & emotional injuries, stress, damages, pain and suffering, loss of enjoyment of life and liberty, medical expenses incurred, future medical expenses, and punitive damages for harm caused by the Defendants. In review of the Plaintiffs Motions for Summary Judgment under Federal Rule of Civil Procedure 56, the Court must "grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. Rule 56(a)."

RESPECTFULLY SUBMITTED, this 14th day of September, 2021.

By: /s/ Christy Poon-Atkins

[...]

**NOTICE OF SUPPLEMENTING  
DISCOVERY DISCLOSURE  
(SEPTEMBER 1, 2021)**

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

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**CHRISTY POON-ATKINS,**

*Plaintiff,*

**v.**

**SAMMY M. SAPPINGTON; and  
WAL-MART ASSOCIATES, INC.,**

*Defendants.*

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**Cause No. 3:19-CV-269-HTW-LRA**

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PLEASE TAKE NOTICE that, the Plaintiff, Christy Poon-Atkins, Pro Se, filed, HER response, PLAINTIFF'S RESPONSE TO DEFENDANTS' OPPOSITION ON PLAINTIFF'S MOTION FOR DISCOVERY TIME EXTENSION with EXHIBITS A, B, and C [Doc. 161] and was entered by the District Court clerk on February 5, 2021, under Fed. R. of Civ. P. 26. The Plaintiff's CERTIFICATE OF SERVICE to the Defendants for HER response [Doc. 161] was digitally signed by the Plaintiff on February 4, 2021.

However, the Plaintiff's response [Doc. 161] EXHIBITS were missing from the official Record on

Appeal for a United States Court of Appeals for the Fifth Circuit review. The Record on Appeal was subsequently corrected on September 1, 2021, entered as [Doc. 183]. Additionally, the Defendants provided comment for redaction to EXHIBIT C1 for [Doc. 161] now [Doc. 183] on September 1, 2021, for the Plaintiff's original response [Doc. 161] entered on February 5, 2021.

Additionally, the District Court record numbering is missing the EXHIBIT A title from the docket sheet record [Doc. 183] and the EXHIBIT photos are rotated and enlarged from the Plaintiff's filing.

The Plaintiff files this, HER Supplement to Discovery Disclosure per Fed. R. of Civ. P. 26, (1) to address the Defendants' comment for redaction to EXHIBIT C1 in [Doc. 183], (2) for a correction to the District Court record assignments to show all complete EXHIBITS (A, B, C1, C2, C3, C4, C5) for [Doc. 183], and (3) to orient the Plaintiff's EXHIBIT photos to the original orientation and size.

The undersigned retains the originals of the above receipts as custodian thereof.

This, the 1st day of September 2021.

Respectfully submitted,

/s/ Christy Poon-Atkins



**EXHIBIT A**

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**COMPANY CAR ACCIDENT SUMMARY  
(APRIL 22, 2016)**

Please complete the following information and return it to CMI as soon as possible.

Occurred on: 4/22/16

Date: Time: 4:57pm

Notified CMI: Yes

Date: 4/22/16 Time: 5:15pm

Location of Incident:

Street: Hwy 471

City: Brandon State: MS Zip: 39042

Police Report Made? (Yes/No)

Associate is to obtain copy and submit to CMI

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Associate Driver: Sammy Sappington

User ID: DL#: State: 800491333

Phone: 662-419-6608

Address:

2004 Hwy. 345

City: Pontotoc

State: MS Zip: 38863

Division/Dept: 01-9755

Insured Vehicle#: 0018819

(Located on Fuel Card at bottom right)

Year: 2014

Make: Toyota

Model: Camry

App.106a

Lic#: PNS000756 State: MS  
Vin#: 4T1BF1FK2EU818539  
Mileage: 77,426

Damage Desc: Front Bumper, right front passenger door, air bags deployed, hood and headlights.

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**Brief Summary of how incident occurred:**

Traveling north on Hwy. 471 approximately 38 to 40 mph the other vehicle crossed into my right away and caused collision.

(To be completed by CMI)

Claim Description: "CoCar"

App.107a



App.108a



App.109a



App.110a



App.111a

**EXHIBIT C**

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**STATE OF MISSISSIPPI  
UNIFORM CRASH REPORT**

Agency No: 6101

Agency Case No. 1605757

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Agency Name

63-3-121 [Individual]: Christy Poon-Atkins

G1. County

61

G2. Status Code

• C

G3. Reported Date (DD/MM/YYYY)

04/22/2016

G4. Reported Time (2400)

1654

G5. Officer Time

Arrival Time (2400): 1649

10-24 Time (2400): 1703

G6. Vehicles: 02

G7. Killed: 00

G8. Injured: 01

G11. Hwy/County Road #: 0471

G12. Traffic flow Direction

• N

App.112a

- G13. Int.
- N
- G14. Distance: 024.00
- F
- G15. Direction
- E
- G16. Intersecting Street Name  
GRANTS FERRY ROAD
- G18. City: BRANDON
- G19. Latitude  
N 32 18.550
- G20. Longitude  
W -089 -59.433
- G21. First Harmful Event  
Crash with OMC in Road: • Angle
- G22. Crash Location
- Off-Roadway
- G23. Intersection Type
- Four-way Inter
- G24. Roadway System
- State Highway
- G25. Light Condition
- Daylight
- G26. Road Condition
- Dry



App.113a

- G27. Weather Condition (2)
- Clear
- G28. Workzone Relationship
- Within Construction Zone
- G29. Workzone Type (2)
- Lane Shift/Crossover

**WITNESS(ES)**

- G30. First Name: CHRISTY  
M: L  
Last Name: POON-ATKINS
- G31. Address: 304 TRACY COVE
- G32. Phone Number: (678) 517-5979
- G33. City: BRANDON
- G34. State: MS
- G35. Zip Code: 39042
- G36. Sex: ☐ M ☐ F
- G37. Age: ■
- G47. Investigating Officer Name (Please Print)  
Miss. Code Ann. § 63-3-121 (2010):  
CHRISTY POON-ATKINS
- G48. Officer Signature  
/s/ Christy Poon-Atkins
- G52. Photographer and Badge #: CALVIN ATKINS

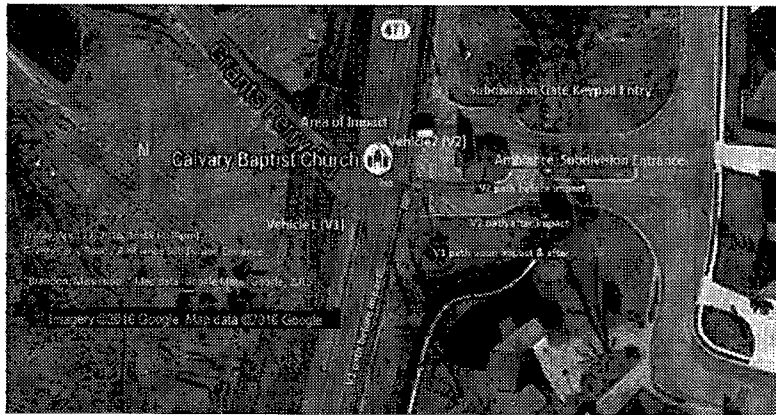
## MUCR DIAGRAM/NARRATIVE

Agency No: 6101

Agency Case No. 1605757

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### N1. Collision Diagram



### N.2 Collision Narrative

Per Miss. Code Ann. § 63-3-121 (2010), Miss. Code Ann. § 43-3-413 (2010), Miss. Code Ann. § 63-3-415 (2010): V2 Driver transported to St. Dominic, no statement made on 4/22/16 report didn't include V2 driver statement.

Police Officer information provided on the Brandon Police Department Information Exchange Report indicate that the driver of Vehicle 1 was speeding in a work zone. The driver of Vehicle 1 indicated to Police Officer B39, on the scene that his speed was 40mph is a 35mph work zone. The line of sight from Vehicle 2 to Vehicle 1 places Vehicle 1 at least 500ft from the site of impact with Vehicle 2.

App.115a

In order for Vehicle 1 to reach the location of Vehicle 2, Vehicle 1 would have had to travel at least 52mph.

Photos 1 & 2 shows Vehicle 1 across the outside EOP of Hwy 471 at the Ambiance Subdivision driveway facing east towards the Ambiance Subdivision driveway.

The collision diagram provided above illustrates attached photos and reflects the accident taking place in the Ambiance Subdivision Entrance driveway.

Photo 3 shows the radiator fluid stain and tire mark left on the pavement by Vehicle 1 and places Vehicle 1 across the outside EOP along Hwy 471.

Photo 6 shows the location of Vehicle 2 after impacted by Vehicle 1 at 16ft off the outside EOP along Hwy 471. Vehicle 2 is 15.5ft in length which places Vehicle 2 at 6" off the outside EOP prior to being impacted by Vehicle 1.

**MUCR PERSON/OCCUPANT**

V0. Veh. #: 01  
P0. Person #: 01  
Agency No: 6101  
Agency Case No. 1605757

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P1. Person Type: • Driver  
P2. Driver License#: 800491333  
P3. State: MS  
P4. CDL? • N  
P5. DOB (MM/DD/YYYY): [REDACTED]  
P6. First Name: SAMMY  
M: M  
Last Name: SAPPINGTON  
P7. Address: 2004 Hwy 345  
P8. Phone Number: (662) 489-6767  
P9. City: PONTOTOC  
P10. State: MS  
P11. Zip Code: 38863  
P12. DL Status: • Valid  
P13. Cited: • N  
P16. Xport: • Not Transported  
P21. Contributing Circumstance (3)

- Speed too Fast For Conditions
- See Crash Description

App.117a

P22. Safety Equip. (2)

- Shoulder & Lap Belt


P23. Injury Type


- None

P24. Ejection

- Not

P25. Extricated: • N

P26. Sex: • 

P27. Race: • 

P28. Position: • Left

P29. Airbag: • Deployed-Side

**Alcohol Test Information**

P30. Type: • None

P31. Status: • None given

**Drug Test Information**

P33. Type: • None

P34. Status: • None given

**MUCR VEHICLE**

Agency Number: 6101  
Agency Case No. 1605757

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V0. Vehicle: 01  
V1. Total Occupants: 01  
V2. State: MS  
V3. Year: 2016  
V4. License Plate Number: PNS756  
V5. Make: TOYOTA  
V6. Model Year: 2014  
V7. Vehicle Model: CAMRY  
V8. Vehicle Color: GRAY  
V9. Damage: • Heavy  
V10. Speed Zone: 35  
V11. Est. Speed: 40  
V36. VIN 4T1BF1FK2EU818539

**Owner Information**

V12. Owner Name: WAL-MART STORES INC  
V13. Address: 2004 HWY 345  
V14. City: PONTOTOC  
V15. State: MS  
V16. Zip Code: 38863  
V17. Insurance Company Name  
NATIONAL UNION FIRE

App.119a

- V18. Policy Number: 4982956 (AOS)
- V20. Sequence of Events  
Collision w/Person, Vehicle/Non-Fixed Object
- Slowing Vehicle
- V20a. Vehicle Damaged/Destroyed State Property?
- N
- V22. Vehicle Type
- Passenger Car
- V23. Initial Contact
- Front Right
- V24. Direction of Travel:
- NE
- V25. Bikeway Type
- None
- V26. Traffic Control Device
- Channel-Painted
- V27. Device Functioning? • Y
- V28. Road Character
- Private Drive
- V29. Road Design
- 2 Lane
- V32. Road Surface Type
- Asphalt
- V33. Towed?
- Yes

App.120a

V33a. Due to Disabling Damage?

- Yes

V34. Authority:

- Police

V35. Towed By:

OVETTE CUMBERLAND BODY SHOP

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**MUCR PERSON/OCCUPANT**

V0. Veh. #: 02

P0. Person #: 01

Agency No: 6101

Agency Case No. 1605757

---

P1. Person Type: • Driver

P2. Driver License#: 800491333

P3. State: MS

P4. CDL? • N

P5. DOB (MM/DD/YYYY): [REDACTED]

P6. First Name: CHRISTY

M: L

Last Name: POON-ATKINS

P7. Address: 304 TRACY COVE



P8. Phone Number: (770) 995-6099

P9. City: BRANDON

P10. State: MS



App.121a

- P11. Zip Code: 39042
- P35. Cellular Phone in Use: • N
- P13. Cited: • N
- P16. Xport: • EMS
- P17. EMS Agency Code: 0206
- P18. Medical Facility Code: 0031
- P19. Condition
- No Defects Apparent
- P21. Contributing Circumstance (3)
- No Apparent Improper Driving
  - See Crash Description
- P22. Safety Equip. (2)
- Shoulder & Lap Belt
- P23. Injury Type
- Complaint of Pain
- P25. Extricated: • Y
- P26. Sex: • 
- P27. Race: • 
- P28. Position: • Left
- P29. Airbag: • Deployed-Side

**Alcohol Test Information**

- P30. Type: • None
- P31. Status: • None given

**Drug Test Information**

- P33. Type: • None

App.122a

P34. Status: • None given

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**MUCR VEHICLE**

Agency Number: 6101

Agency Case No. 1605757

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V0. Vehicle: 02  
V1. Total Occupants: 01  
V2. State: MS  
V3. Year: 2017  
V4. License Plate Number: RDP753  
V5. Make: INFINITI  
V6. Model Year: 2008  
V7. Vehicle Model: G35  
V8. Vehicle Color: GRAY  
V9. Damage: • Heavy  
V10. Speed Zone: 35  
V11. Est. Speed: 05  
V36. JNKBV61E38M204589

**Owner Information**

V12. Owner Name: CALVIN D ATKINS  
V13. Address: 304 TRACY COVE  
V14. City: BRANDON  
V15. State: MS

App.123a

- V16. Zip Code: 39042
- V17. Insurance Company Name  
GARRISON PROPERTY
- V18. Policy Number: 03266 81 71R 7102 5
- V20. Sequence of Events  
Collision w/Person, Vehicle/Non-Fixed Object
- Moving Vehicle
- V22. Vehicle Type
- Passenger Car
- V23. Initial Contact
- Back Right
- V24. Direction of Travel
- East
- V25. Bikeway Type
- None
- V26. Traffic Control Device
- None
- V28. Road Character
- Private Drive
- V29. Road Design
- 2 Lane
- V32. Road Surface Type
- Asphalt
- V33. Towed?
- Yes

App.124a

V33a. Due to Disabling Damage?

- Yes

V34. Authority:

- Police

V35. Towed By: BRANDON WRECKER



Photo 1: Location of vehicle 1 and driver of vehicle1, shown across the outside EOP in NB direction of Hwy 471

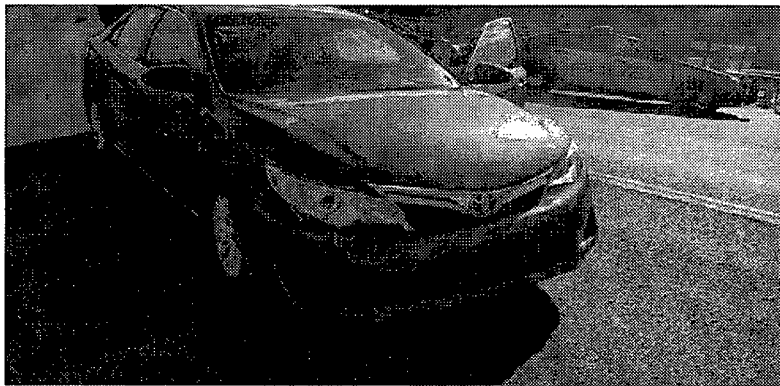


Photo 2: Vehicle 1 in the NB lane of Hwy 471 facing east towards the Ambiance Subdivision Entrance (Radiator fluid stain on pavement)

App.125a

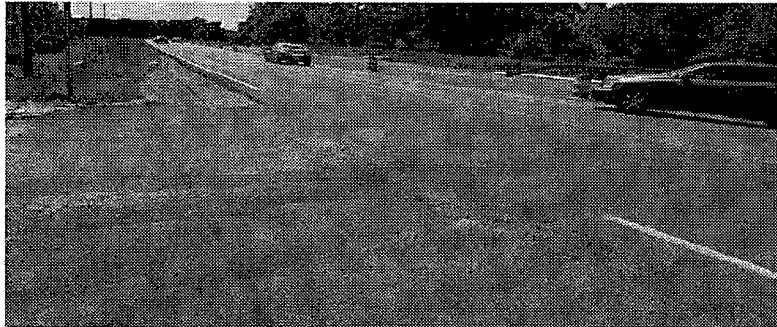


Photo 3: Radiator fluid stain & tire mark from Vehicle 1 on pavement, Vehicle 1 crossed the outside EOP along Hwy 471 NB

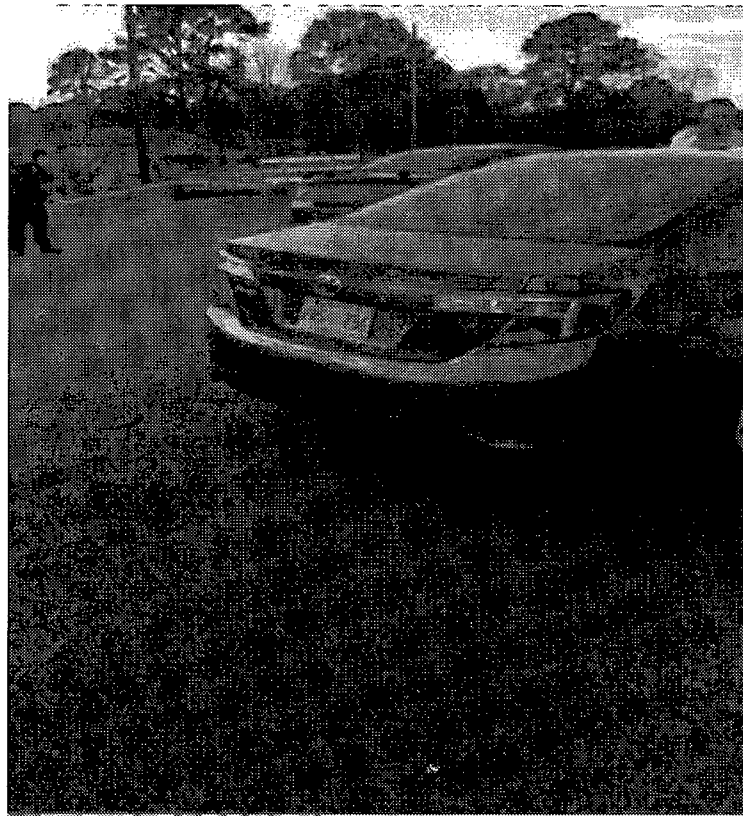


Photo 4: Vehicle 1

App.126a

GENERAL INFORMATION			
NAME	DATE	TIME	LOCATION
1. NAME			
2. DATE			
3. TIME			
4. LOCATION			
5. NAME			
6. DATE			
7. TIME			
8. LOCATION			
9. NAME			
10. DATE			
11. TIME			
12. LOCATION			
13. NAME			
14. DATE			
15. TIME			
16. LOCATION			
17. NAME			
18. DATE			
19. TIME			
20. LOCATION			
21. NAME			
22. DATE			
23. TIME			
24. LOCATION			
25. NAME			
26. DATE			
27. TIME			
28. LOCATION			
29. NAME			
30. DATE			
31. TIME			
32. LOCATION			
33. NAME			
34. DATE			
35. TIME			
36. LOCATION			
37. NAME			
38. DATE			
39. TIME			
40. LOCATION			
41. NAME			
42. DATE			
43. TIME			
44. LOCATION			
45. NAME			
46. DATE			
47. TIME			
48. LOCATION			
49. NAME			
50. DATE			
51. TIME			
52. LOCATION			
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66. DATE			
67. TIME			
68. LOCATION			
69. NAME			
70. DATE			
71. TIME			
72. LOCATION			
73. NAME			
74. DATE			
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83. TIME			
84. LOCATION			
85. NAME			
86. DATE			
87. TIME			
88. LOCATION			
89. NAME			
90. DATE			
91. TIME			
92. LOCATION			
93. NAME			
94. DATE			
95. TIME			
96. LOCATION			
97. NAME			
98. DATE			
99. TIME			
100. LOCATION			

### Photo 5: BPD Information Exchange Report



Photo 6: Resting location of Vehicle 2 after impacted by Vehicle 1, 16ft from Hwy 471 outside EOP



Photo 7:

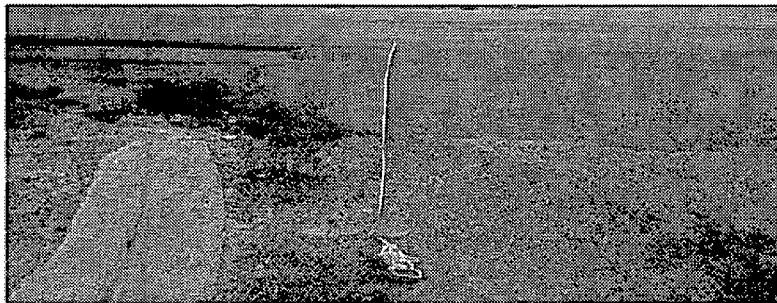
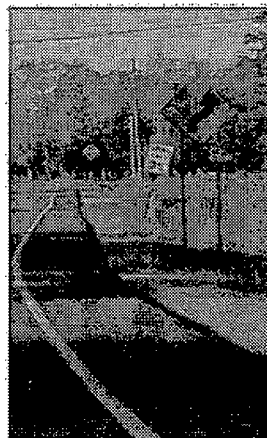
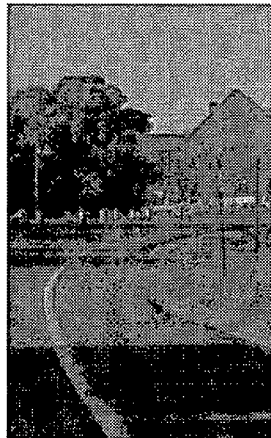
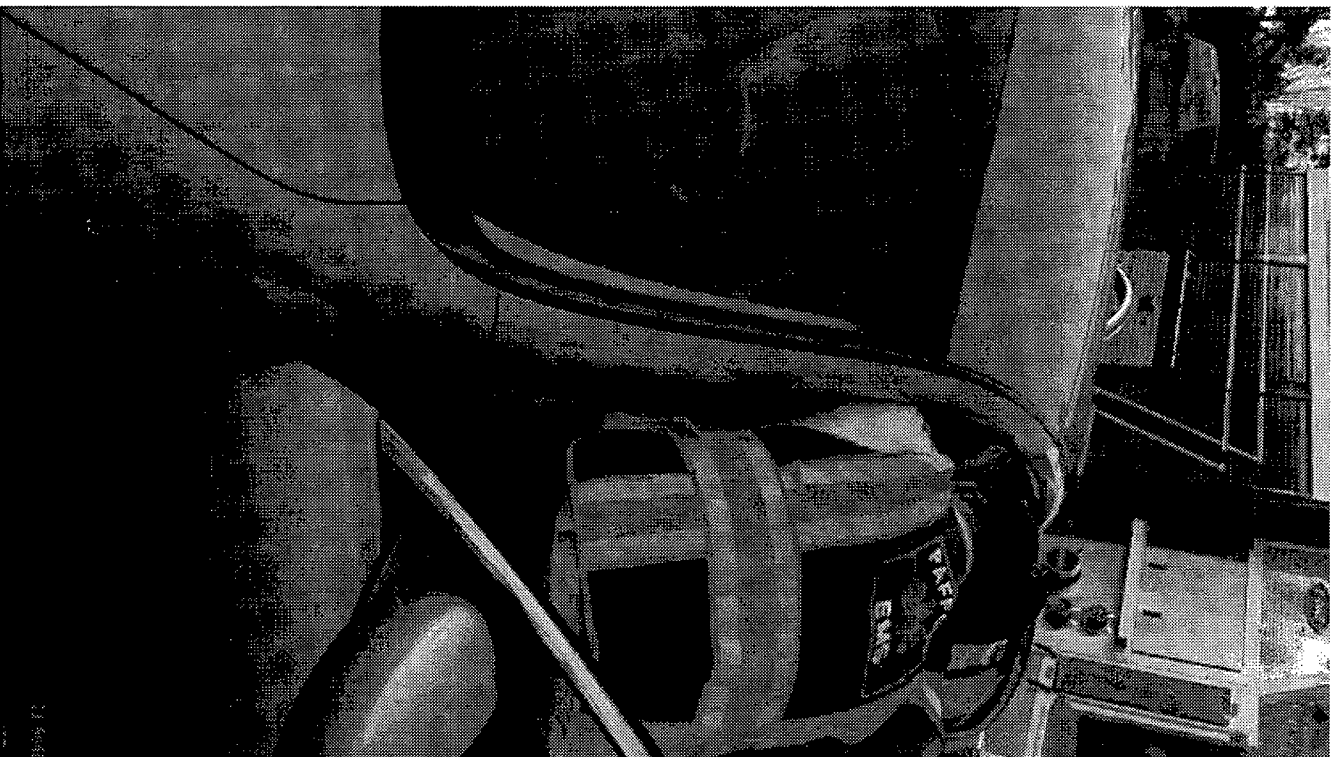


Photo 8: Hwy 471 NB outside EOP offset at the Ambiance Subdivision driveway, 16ft to Vehicle 2 marked location, looking west



Photos 9 & 10 Work Zone lane shift and speed limit signs approaching Ambiance Subdivision [Hwy 471 NB]

App.128a

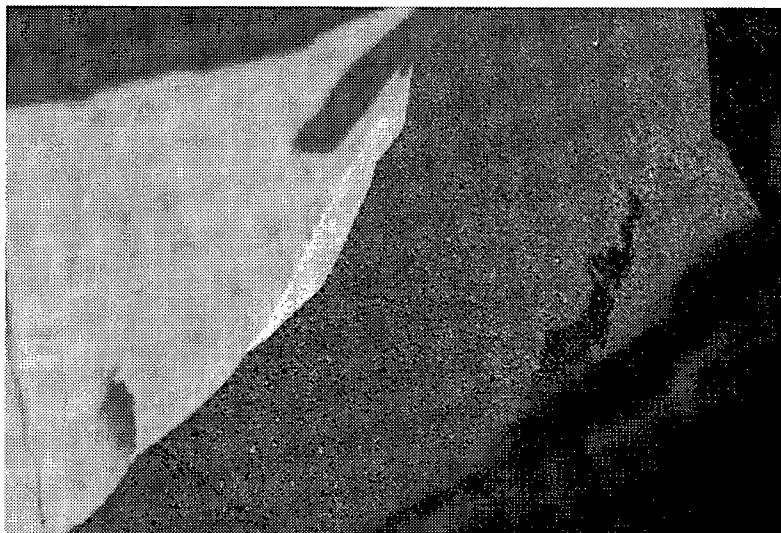




App. 129a



App.130a



Leak from Defendants' vehicle

**PLAINTIFF'S OPPOSITION TO DEFENDANTS'  
MOTION TO COMPEL MEDICAL AND OTHER  
AUTHORIZATIONS WITH CLAIMS OF NOT  
RECEIVING DISCOVERY REQUESTS  
(AUGUST 20, 2020)**

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UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION (JACKSON)

---

CHRISTY POON-ATKINS,

*Plaintiff,*

v.

SAMMY M. SAPPINGTON; and  
WAL-MART ASSOCIATES, INC.,

*Defendants.*

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Cause No. 3:19-CV-269-HTW-LRA

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Plaintiff, Mrs. Christy Poon-Atkins, pro se, submits this Opposition to the Defendants Mr. Sammy Sappington and Wal-Mart's Motion to Compel ("Motion") with any associated sanction to be assessed solely to Defendant and found unjustified to be assessed on the Plaintiff. Defendants acted in acceptance of Admissions without objection through combined Responses to Admissions, Interrogatories, and Production on May 29, 2020 (*see* EXHIBIT "A"), June 10, 2020 (*see* EXHIBIT "B"), and supplemented

on June 23, 2020 (*see* EXHIBIT “C”). Plaintiff also provided Responses to Admissions through Deposition on June 5, 2020 (*see* EXHIBIT “G”) and supplemented with Deposition Errata on July 26, 2020 (*see* EXHIBIT “H”). A summary of all Admissions included in the aforementioned and submitted with this motion.

Plaintiff moves pursuant to Federal Rules of Civil Procedure 26 and 37 for entry of an Order Compelling Defendant to provide responsive answers to Plaintiff’s First Set of Interrogatories and requests for Production and Things and Such to Plaintiff, and to provide Defendant’s privilege log from which Plaintiff can assess the veracity of Defendant’s various privilege objections, as previous objection responses are found to be deficient, and non-responsiveness stating “Determination has not yet been made”, for both of which Defendants continue to hold an evasive position to withhold critical discovery and facts of this case, and shows as grounds, in support for all thereof states as follows:

## **I. BACKGROUND**

First and foremost, Plaintiff submit sincere apology to the United States District Court for the Southern District of Mississippi (MSSD) (City of Jackson) for any miscommunication of notices in this matter. All admissions, responses, and notices of all things and such for interrogatories, admissions, requests for production, and supplemental interrogatories were directly transmitted to the Defendants and to the MSSD help desk official email without copy to the court docket and court. Pursuant to *Rule 61. Harmless Error* on behalf of the Plaintiff, as all communication was submitted to Defendants

electronically and mistakenly to the MSSD help desk official email without hard copy via land mail to the court docket.

This response to the Defendant's Motion to Compel *Medical and Other Authorizations* affirms in fact of matter the transmittal of responses and production to the Defendant's overlapping requests propounded to the pro se Plaintiff, however, in contrary to the Defendant's supposed ongoing discovery dispute toward the Plaintiff, although with any identified potential dispute, Plaintiff responded to address any such potential finding through supplemental interrogatory and production actions. Pursuant to *Rule 402. General Admissibility of Relevant Evidence* for the Plaintiff's filed response and *Rule 403. Excluding Relevant Evidence for Prejudice, Confusion, Waste of Time, or Other Reasons* for the Defendant's claims of discovery deficiencies and as the Defendant has raised issue to discovery and production, this response to the Defendant's Motion to Compel shall also be the Plaintiff's request that the court move to accept this response and attached exhibits as admissible and relevant for correcting false claims that could potentially incite unfair prejudice, confuse issues, mislead decisions, delay processes, waste time, and intently undermine a fair and impartial civil process. The parties are to be acknowledged as follows:

1. Christy Poon-Atkins (sometimes hereinafter referred to as "Plaintiff" or "Mrs. Poon-Atkins" or "HER").
2. Defendant Sammy M. Sappington (sometimes hereinafter referred to and all-inclusive as "Defendant" or "Defendants" or "Mr.

Sappington” or “Wal-Mart” or “THEY” or “THEIR”).

3. Defendant Wal-Mart Associates, Inc., (sometimes hereinafter referred to and all-inclusive as “Defendant” or “Defendants” or “Wal-Mart” or “Mr. Sappington”, as an agent of “Wal-Mart” or “THEY” or “THEIR”)

## II. DEFENDANTS’ CLAIMS TO UNLIMITED

To the matter at hand, the Defendant’s Motion to Compel *Medical and Other Authorizations* was filed on the basis of partial presentation of DISCOVERY FACTS and records dated June 15, 2020 and labeled as Exhibit A along with multiple electronic communication files presented in an alternately structured sequence instead of in actual sequence of occurrence, labeled as Exhibits B thru H. The Defendants’ position on the Plaintiff’s concerns for HER health privacy information are marked with unconcerned pose demonstrated by the Defendant, as confirmed by multiple instances prior to the granting of a Motion for Protective Order on June 29, 2020. The Defendants repeatedly demonstrated noncompliance with a central aspect of the HIPAA Privacy Rule “Limiting Uses and Disclosures to the “Minimum Necessary”(1), aligned with the intent of the HIPPA Privacy Rule, as shown in EXHIBIT D, where the Defendant again by email on July 6, 2020 intimidates the Plaintiff with court action if “a blank authorization for health information” isn’t produced to the Defendant instead of accepting Plaintiff’s production of health authorizations, as Defendant requested with a list of medical care providers through Discovery, as produced on May 29, 2020 (see EXHIBIT “A”), June 10, 2020 (see EXHIBIT

“B”), and supplemented on June 23, 2020 (see EXHIBIT “C”).

The Defendants motions filed to the court on July 20, 2020 are absent acknowledgement of the complete interrogatories and /or Plaintiff's complete responses and productions to Defendants' Request for Admissions, with Responses to Interrogatories and Production among things inclusive of medical authorizations (2) for all such medical care providers providing medical care to the Plaintiff in connection with the April 22, 2016 accident where the Defendants injured the Plaintiff, accident photos, investigative report, Brandon Police Department Information Exchange report, driver's license, proof of activities prior to the subject accident, and supplemental responses to the Defendant's repeated requests, where the Plaintiff was extensively tied to responding to the Defendant with only meager balance of time in which to pursue HER own attempts for adequate responses and production from the Defendants. Defendants Motion to Compel also presents an altered set of interrogatories to the court, disadvantaging the court by leaving the court without full disclosure of the actual communication exchange on interrogatories between the Plaintiff to the Defendant, thus seeking a favorable and unquestioned outcome for the Defendant; while unfairly impeding the process, requesting to dismiss Defendant's Admissions, requesting additional time to the case management order [Doc. 46] and causing additional harm to the Plaintiff through repeated and unnecessary attempts to overwhelm the Plaintiff.

The reordered email correspondence causes a misconstrued perception of the communication facts

between the Defendant and pro se Plaintiff. Additionally, the court should take notice that the Defendant's initial and supplemental Interrogatories and request for production, were responded to by the Plaintiff. The court should additionally take notice that the Defendant's requests for production seeks privileged work product related material and should be denied as objected by the Plaintiff because the Defendant has access to the same information to produce Defendant's own evaluation work products. The exchange between Defendant and Plaintiff on the Defendant's initial and supplemental Interrogatories and request for production are attached and designated as Exhibit A, Exhibit B, and Exhibit C, respectively, In *Hickman v. Taylor*, 329 U.S. 495 (1947), where the Court's decision in the case was unanimous, the Supreme Court held that an interrogatory like the Defendant's repeated requests to any and all expert reports and any documents used in formulating such expert reports, including, but not limited to, correspondence, memoranda, reports, and data sheets, as improperly sought production of work product. Whereas any denial of such protection of work products in any capacity could unfairly hinder a party's case. Moreover, the Defendant's Motion to Compel subject discovery is yet another instance of the Defendant's attempt to abuse the Plaintiff's right to equitably litigate HER claim; subsequently contributing to misleading assessments and undue delay in the process. The Emerging Deterrence Orientation in The Imposition of Discovery Sanctions provides that the adversarial litigation must remain fair throughout the duration. The provision further highlights a move from "contests of legal champions" to an endeavor designed to ascertain the truth in the



interest of justice. *Rule 26(g)* for discovery sanctions, as in *United States v. Procter & Gamble Co. et al.*, 47 F. Supp. 676 (D. Mass. 1942), is one such case of the provision applied to deter, aggressive propounding of work products, submitting overlapping request, discounting the Plaintiff's assertion to privileged work products, and misrepresenting the Plaintiff's concern for privacy. Any action that is of concern about discovery abuse tends to question matters of discovery, as can be seen with the Defendant's actions.

In Rule 26(f)(3), a Discovery Plan shall clearly define the discovery process inclusive of, for example, limitations, any assertion(s) of privileged material in accordance with Rule 502, and guidelines on production format and transmittal. However, a discovery plan clearly outlining the forms of production and transmittal format was never produced, instead the Defendant, repeatedly burdens the Plaintiff, circumvents multiple aspects and rules of civil procedure, and undermines due process. Additionally, the principle for the protection of work product was affirmed and strengthened in *Upjohn v. United States*, 449 U.S. 383 (1981), as a Supreme Court precedent. Under this controlling precedent, factual information obtained in the form of notes, evaluations, memoranda, or recollections is opinion work product entitled to special protection. In so much as the Defendant's specific request is considered and related to work product "in fact", the Defendant is entitled to such information only by showing both a substantial need and an inability to obtain equivalent work product materials without undue hardship. Defendant has not attempted to make such a showing. A movant cannot demonstrate a substantial need for work product materials if, like

Defendant, is free to interview individuals and entities as well as perform evaluations. This Court's Scheduling Order provides the Defendant with opportunity for its' own work product discovery.

### III. FACTS

On April 22, 2016, Plaintiff was the driver of a motor vehicle that entered the Ambiance Subdivision driveway on routine entry every day for more than three years prior to April 22, 2016, and, pursuant to Rule 406 as habit and routine practice to open the Ambiance Subdivision entrance gate, as in primary residency at the Ambiance Subdivision, domiciled at 304 Tracey Cove, Brandon, Mississippi (MS) 39042, at the time of the collision. At the instantaneous moment after Plaintiff's vehicle entered into the Ambiance Subdivision driveway, the Plaintiff's vehicle was struck with great force by a motor vehicle driven by Defendant. Defendant was a driver of the motor vehicle, owned, operated, and maintained by the Defendants and initially travelling northbound on Highway 471 and struck the Plaintiff's vehicle in the Ambiance Subdivision driveway on April 22, 2016. The collision occurred within the limits of a work zone, and, based upon technical information, Defendant, Mr. Sappington, was speeding too fast, operating a motor vehicle owned by Defendant Wal-Mart, for the conditions of the roadway and in excess of the posted speed limit for the work zone at the time of the collision.

#### **IV. ARGUMENT**

##### **A. Defendant's claims on medical authorizations are inappropriate**

Instances of demonstrated evasion of compliance with requirements of 45CFR164.502 for reasonable assurances of protecting privacy health information and a concern for compliance with Rule 79(d), which confirms that a protective order must be granted in order to demonstrate reasonable assurances to any covered entity for disclosure of protected health information, as further recognized by the United States Department of Health and Human Services (HHS) Office of Civil Rights (OCR) HIPAA Privacy Rule are as listed in the following docket filing date: May 7, 2020, May 8, 2020, and June 9, 2020; and additionally by emails, such as a June 24, 2020 email in EXHIBIT D. The Defendants repeatedly demonstrated noncompliance with a central aspect of the HIPAA Privacy Rule "Limiting Uses and Disclosures to the "Minimum Necessary"(1), aligned with the intent of the HIPPA Privacy Rule, as shown in EXHIBIT D, where the Defendant again by email on June 24, 2020 a lack of demonstrated reasonable assurances to Plaintiff for disclosure of protected health information intimidates the Plaintiff with court action if "a blank authorization for health information isn't produced to the Defendant" prior to a Motion for Protective Order being granted on June 29, 2020, after which, Plaintiff transmitted specific medical authorizations dated July 2, 2020 and July 9, 2020 and protected under the HIPPA Privacy Rule to Defendant. The specific medical authorizations were transmitted to Defendant via Defendant's file share link provided to Plaintiff on June 22, 2020 for other

document uploads to Defendant, just as other documents were uploaded to the Defendant earlier, medical authorizations, as noted in EXHIBIT E, were also uploaded to Defendant's file share link at <https://phelpsdunbar.sharefile.com/r-rfed1f737c0048938>. The Defendant claims deficiency on interrogatory responses related to medical files and indicates a need for timing and onset of injuries or symptoms sustained as a result of the April 22, 2016 accident caused by the Defendants. However, evaluation and inspection of records produced from the same medical care providers to which the Defendant was provided medical authorizations corroborates the details of the Plaintiff's injuries and symptoms inclusive of the timing of onset being clearly demonstrated in the medical records produced by the medical care providers listed on EXHIBIT E.

The court should take notice of the potential of evidence that may mislead, prejudice, confuse, waste time, and detract from the essence of fair and just due process. One such instance where such evidence presented by Defendant may be misconstrued and detract from actual occurrence of events and cause harm is with Defendant's EXHIBIT B, where the email communication is presented in a reversed orientation showing the bottom message at the top, with all in descending order of the messages, additionally labeling the pages in ascending page number sequence from Page 1 of 3. The reordered email communication redirects the tone in the initial exchange with Plaintiff in Plaintiff's attempt to ensure secure transfer of medical information protected under the HIPPA Privacy Rule. In an effort to ensure fairness in all aspects of the process, the

correspondence used as evidence must be presented in correct sequence averting any potential to mislead and cause confusion. Presented as EXHIBIT F, which shows the email communication in the conventional standard format, where the first message shows as such on Page 1 of 3, instead of the reverse order.

**B. Defendant's Interrogatories and Requests for Production are inappropriate and outside the scope of this case.**

Defendant continues to pervasively request production of medicals records and medical authorizations for medical specialists not identified in the response to the related interrogatory. Defendant repeatedly bombards Plaintiff with having to repeatedly explain a lack of specialized medical files requested outside of the scope of medical evaluations of the Plaintiff's physical injuries. Defendant has been provided specific medical authorizations, as noted in EXHIBIT E, for medical professionals that actually performed or performs medical care evaluations and procedures for the injuries sustained in the April 22, 2016 accident, as issue cause in this case. Defendants overlook the fact that individuals deal with quality of life infringing physical injuries in different ways, just as Plaintiff has developed HER own way of dealing with mental and emotional injuries, caused by the Defendants, to also control stress levels seeking to best manage, as possible, to repair or mitigate damages in the hopes of improving HER quality of life, even though permanent damages were caused by the Defendants through THEIR actions and cannot be reversed for the Plaintiff. The Plaintiff declares that HER classification as a human being deserves no less respect than the next human being, as ultimately

recognized as a natural born “Person” deserving of all protected interests afforded to all “Persons” through the United States Constitution. Plaintiff has nothing that disqualifies HER of such protections as afforded through the foundation and support of all protected interests. Defendant has not attempted to make such a showing that employment and education records are substantially needed for bodily injuries. Interrogatories in question are noted below and previous responses are provided for all that are not considered to include confidential privacy information. The extent to which Defendant associates a person’s ability disposition to employment opportunities is not clear, as Defendant continues to assert physical abilities as criteria for office-based employment. Through responses to Defendants’ Interrogatories, Plaintiff provides employment as a licensed professional engineer with more than 20years experience in public service, where more than 13years included duties with an executive agency carrying out administrative efforts to ensure that the United States Code (USC) and the Code of Federal Regulations(CFR) are properly carried out through infrastructure projects and programs. Title VII of the Civil Rights Act of 1964 (Pub. L. 88-352) (Title VII)<sup>3</sup>, as amended, as it appears in volume 42 of the United States Code, beginning at section 2000e. Title VII prohibits employment discrimination based on race, color, religion, sex and national origin. The Civil Rights Act of 1991 (Pub. L. 102-166) (CRA) and the Lily Ledbetter Fair Pay Act of 2009 (Pub. L. 111-2) amend several

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<sup>3</sup> *U.S. Equal Employment Opportunity Commission Site*. Title VII of the Civil Rights Act of 1964, <https://www.eeoc.gov/statutes/title-vii-civil-rights-act-1964>. Accessed 16 Aug. 2020.

sections of Title VII. In addition, section 102 of the CRA amends the Revised Statutes by adding a new section following section 1977 (42 U.S.C. 1981), to provide for the recovery of compensatory and punitive damages in cases of intentional violations of Title VII, the Americans with Disabilities Act of 1990, and section 501 of the Rehabilitation Act of 1973. The existence of any correlation of a person's ability averting opportunity for consideration of any type of employment for which one is qualified to fulfill would contradict the very essence and intent of the Civil Rights Act inclusive of the subsequent amendments thereof. Plaintiff has repeatedly expressed damages from the heartache, stress, and loss family moments, inclusive to the pain and suffering damages endured, as a result the injuries sustained in the April 22, 2016 accident caused by the Defendants.

**C. Defendant's Requests for Production are inappropriate and outside the scope of this case.**

Non-lawyer, non-litigation tasks are not attorney-client or work-product protected just because they are performed by a lawyer Federal Rule of Civil Procedure 26(b)(3)(A) protects against disclosure for "documents and tangible things that are prepared in anticipation of litigation or for trial by or for another party or its representative (including the other party's attorney, consultant, surety, indemnitor, insurer, or agent) . . ." Although "litigation need not necessarily be imminent," for the work product privilege to apply, "the primary motivating purpose behind the creation of the document [must have been] to aid in possible future litigation." *United States v. Davis*, 636 F.2d 1028, 1040 (5th Cir. 1981); see also *Garcia v. City of El*

*Centro*, 214 F.R.D. 587, 593-594 (S.D. Cal. 2003) (city claims adjustor's interview of two police officers accused to using excessive force, as well as their sergeant, was in normal course of business and not in anticipation of litigation).

An artificial portrayal of facts should be deemed unacceptable. Plaintiff seeks a fair resolution to this unsubstantiated Motion to Compel that the Defendants filed with the Court, which the Motion itself may also be seen as an instance where protections are need and thee provision seeks to prevent. *Rule 26 Discovery Sanctions* must be aligned with maintaining justice and for that which is deemed proper. Plaintiff should be afforded just resolution, just as any other person may be relieved, through a fair and just process with fair outcomes.

**D. Defendant's Interrogatories and Requests  
for Production, Responded with Authori-  
zations**

***INTERROGATORY NO. 3:***

Give the names and addresses of all physicians, surgeons, chiropractors, psychiatrists, psychologists or other health care providers of any kind who have treated you for the injuries sued upon; and additionally, from whom you have sought treatment for any condition, injury, or illness of any kind either prior to or subsequent to the subject incident, and state for each:

- (a) approximate date(s) of treatment;
- (b) reasons for which treatment was sought and for what injuries or conditions;



- (c) results obtained;
- (d) the amount of any such medical expenses incurred for such treatment related to the injuries sued upon;
- (e) the amount, if any, which has been paid in satisfaction of any such medical expenses; and
- (f) the identity of any individual and/or entity that has or may pay for any such medical expenses on your behalf.

***INTERROGATORY NO. 4:***

Give the names and addresses of all hospitals, doctors' offices, or similar health care institutions in which you were treated, either as an in-patient or out patient, for the injuries sued upon; and additionally, from whom you have sought treatment for any condition, injury, or illness of any kind either prior to or subsequent to the subject incident, and state for each to include:

- (a) the day, month and year you were admitted and discharged for each such hospitalization;
- (b) the nature of your need for each hospitalization;
- (c) the name of the attending physicians during each such hospitalization;
- (d) the amount of any related expenses incurred for such treatment;
- (e) the amount, if any, which has been paid in satisfaction of any such medical expenses; and (f) the identity of any individual and/or entity that has or may pay for any such

medical expenses on your behalf, the amount, if any, which has been paid in satisfaction of any such medical expenses; and

- (f) the identity of any individual and/or entity that has or may pay for any such medical expenses on your behalf.

***INTERROGATORY NO. 9:***

Identify any and all personal physical or emotional injuries or damages of any kind sustained by you as a result of this incident, and please state:

- (a) a detailed description of each injury received;
- (b) each and every symptom experienced, when each symptom first appeared, and the duration of each symptom, and whether you have ever experienced any similar symptoms before;
- (c) the nature and extent of the injury and, if any permanent disability was suffered, the nature and extent of permanent disability;
- (d) whether you were compensated in any manner for any such injury, and if so, identify the persons, insurance companies, or other organizations paying such compensation and the amount thereof;
- (e) describe any future surgery, medical, or treatment of any kind which will or may be required as a result of this incident; and identify any photographs of your injuries, scars, or medical treatment.

***INTERROGATORY NO. 11:***

Have you ever suffered any physical or emotional injuries of any kind in any way, either prior to or subsequent to the incident referred to in the Complaint? If so, state:

- (a) the date and place of each such injury;
- (b) a detailed description of all injuries received;  
PD.27281762.2
- (c) the names and addresses of all hospitals or health care institutions where treatment was rendered;
- (d) the names and addresses of all physicians, surgeons, chiropractors or other medical providers of any kind who rendered treatment;
- (e) the nature and extent of any permanent disability suffered and/or any disability rating assigned; whether you were compensated in any manner for any such injury; and the name and address of each person, insurance company or other organization paying such compensation and the amount thereof.

***INTERROGATORY NO. 28:***

Please state whether you saw, visualized, or otherwise observed the vehicle operated by Defendant, Sammy M. Sappington, traveling eastbound on Grants Ferry Road prior to the subject accident.

**Response No. 28:** Objection is made to this Interrogatory on the grounds that it is overly broad, vague, ambiguous, and seeks to avoid critical facts in this matter. Without waiving any objection, the Defendant, Sammy Sappington,

caused this accident and, in fact, admitted to having failed to adhere to the lowered speed limit posted throughout the Hwy 471 corridor, on April 22, 2016, which was under construction and required adherence to the legally posted speed to ensure safety of all roadway users. The Defendant's admission to speeding, in fact on April 22, 2016, was documented in the Brandon Police Department Information Exchange report.

***INTERROGATORY NO 28 supplement:***

Your objection is improper and must be withdrawn. Additionally, you have not answered the question of whether you saw, visualized, or otherwise observed the vehicle operated by Defendant, Sammy M. Sappington, traveling eastbound on Grants Ferry Road prior to the subject accident. Nothing in your Answer even remotely addresses this question; therefore, please supplement your Answer to identify any and all accidents you have been in either before or after the subject accident and to provide the information requested.

***Response No. 28 supplement:*** The Defendant, Sammy Sappington, caused this accident and, in fact, admitted to having failed to adhere to the lowered speed limit posted throughout the Hwy 471 corridor, on April 22, 2016, which was under construction and required adherence to the legally posted speed to ensure safety of all roadway users. The Defendant's admission to speeding, in fact on April 22, 2016, was documented in the Brandon Police Department Information Exchange report. A copy of the Brandon Police Department Information Exchange report will be provided electronically.

## **REQUESTS FOR PRODUCTION**

**REQUEST FOR PRODUCTION NO.1:** Any and all recorded, written, typed, and/or transcribed statements obtained from any person relating in any way to any issue or potential issue in this suit.

### **Response No. 1:**

Objection is made to this request at this time to the extent it seeks information, work-product doctrine, and/or prepared in anticipation of litigation. Without waiving any objections, due to discovery of improper disclosure of confidential and privileged medical records to the defendant, confirmed during a June 5, 2020 deposition, for which the transcript review and sign was not waived and expected for review and sign.

For now, Plaintiff refers Defendant to any and all documents produced as part of Plaintiff's Initial Disclosures and any documents attached hereto.

***PRODUCTION NO 1 supplement:*** This Request requests recorded, written, typed, and/or transcribed statements obtained from any person relating in any way to any issue or potential issue in this suit. In your Response you state "due to discovery of improper disclosure of confidential and privileged medical records to the defendant, confirmed during a June 5, 2020 deposition, for which the transcript review and sign was not waived and expected for review and sign." This request is not requesting medical records. The request is for statements given regarding the issues in this suit. If you have obtained or are in possession of any written or recorded statements, or otherwise intend to rely on oral statements made by another person or entity, you have an obligation to identify

and provide those statements. Please supplement your Response to provide the information requested regarding statements obtained by you or in your possession, custody, or control. If you have no such information, please state the same.

***Response No. 1 supplement:*** A copy of the Brandon Police Department Information Exchange report is attached.

**E. Defendant's Requests for Admissions are misrepresented inappropriately filed for a Motion to Compel. The following summary were purported to the Defendants on**

1. Please admit that, immediately prior to the subject accident on April 22, 2016, you were traveling eastbound on Grants Ferry Road in Brandon, Mississippi. **DENY.**

2. Please admit that, immediately prior to the subject accident on April 22, 2016, Defendant Sappington was traveling northbound on Highway 471 in Brandon, Mississippi. **DENY.**

3. Please admit that, at the time of the subject automobile accident, a stop sign was in place for eastbound traffic on Grants Ferry Road at the intersection of Grants Ferry Road and Highway 471 in Brandon, Mississippi. **DENY.**

4. Please admit that, immediately prior to the subject automobile accident, you maneuvered your vehicle past the stop sign at the intersection of Grants Ferry Road and Highway 471 in Brandon, Mississippi. **DENY.**

5. Please admit that at the time of the subject automobile accident you ran the stop sign at the intersection of Grants Ferry Road and Highway 471. **DENY.**

6. Please admit that, at the time of the subject automobile accident, the intersection of Grants Ferry Road and Highway 471 did not contain a stop sign or stop light for vehicles traveling northbound on Highway 471. **DENY.**

7. Please admit that, at the time of the subject automobile accident, Defendant Sappington did not have a stop sign or stop light for his direction of travel at the intersection of Grants Ferry Road and Highway 471 in Brandon, Mississippi. **DENY.**

8. Please admit that the Mississippi Uniform Crash Report prepared by the Officer O'Flarity of the Brandon Police Department for the subject accident, including the collision narrative, accurately depicts how the subject incident occurred. **DENY.**

9. Please admit that you failed to yield the right-of-way to northbound traffic, including Defendant Sappington, immediately prior to and at the time of the subject accident. **DENY.**

10. Please admit Defendant Sappington is not at fault for the subject accident. **DENY.**

11. Please admit that you did not come to a complete stop at the stop sign located at the intersection of Grants Ferry Road and Highway 471 in Brandon, Mississippi prior to the subject accident. **DENY.**

12. Please admit that Defendant Sappington was not traveling above the posted speed limit at the time of the accident. **DENY**.

13. Please admit that you disposed of and spoliated the vehicle in which you were traveling at the time of the subject accident. **DENY**.

14. Please admit that you are not entitled to any damages or recovery whatsoever as a result of the allegations in the Complaint. **DENY**.

15. Please admit that you have no admissible evidence to establish Defendant Sappington caused or contributed to the subject accident. **DENY**.

16. Please admit that you have no admissible evidence to establish Defendant Wal-Mart Stores East, LP caused or contributed to the subject accident. **DENY**.

17. Please admit that your negligence was the sole, proximate cause of the subject accident. **DENY**.

18. Please admit that you are not, and never have been, an investigating officer for the Brandon Police Department. **DENY**. Pursuant **MS Code § 63-3-121 (2016)**, Plaintiff was eligible to prepare a crash report under the designation as "Individual"<sup>2</sup>. Plaintiff acknowledges that an "investigating officer" is not

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<sup>2</sup> 2016 Mississippi Code Title 63 – Motor Vehicles and Traffic Regulations; Chapter 3 – Traffic Regulations and Rules of the Road; Article 3 – Definitions; Governmental Agencies, Owners, Police Officers, and Other Persons Defined (63-3-115 – 63-3-121)

(2) For the purpose of distinguishing designated crash report authors, pursuant to **MS Code § 63-3-415 (2016)** (1) The department shall prepare and furnish "statewide uniform traffic accident report" forms to other agencies, municipal



necessarily also an employee of the Brandon Police Department. Plaintiff further acknowledges that the Mississippi State Code defines the Department of Public Safety, local authorities, Police officers, and Individuals all as “investigating officers” with a right to develop and submit a crash report, as they have knowledge of the crash for which a report may be developed. The Plaintiff submitted a crash report to the Brandon Police Department on April 2016.

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police departments, county sheriffs and other suitable law enforcement agencies or individuals. The department may charge an amount not exceeding the actual costs incurred by the department in preparing and furnishing the forms. The Department of Public Safety also may make such forms available in electronic format, which shall be accessible by law enforcement departments and other agencies without charge. Pursuant to MS Code MS Code § 63-3-121 (2016). Individuals (a) “Person” means every natural person, firm, co-partnership, association, corporation, limited liability company or other legal business entity. (b) “Driver” means every person who drives or is in actual physical control of a vehicle. (c) “Owner” means a person who holds the legal title of a vehicle; in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this chapter. (d) “Pedestrian” means any person afoot or a person who uses an electric personal assistive mobility device or a manual or motorized wheelchair. (e) “Instructor” means any person who gives instruction in a course related to this Title 63, whether given in person, recorded, transmitted by electronic means, or any combination thereof.

19. Please admit that you failed to keep a proper lookout for your surroundings both immediately prior to and at the time of the subject accident. **DENY.**

20. Please admit that you saw the vehicle being driven by Defendant Sappington prior to entering the intersection of Grants Ferry Road and Highway 471 in Brandon, Mississippi. **DENY.**

21. Please admit that the impact between your vehicle and the vehicle driven by Defendant Sappington occurred in the northbound lane of Highway 471. **DENY.**

22. Please admit that Defendant Sappington could not have reasonably avoided the subject accident. **DENY.** [Case: *Hughes v. Vestal*, 142 S.E.2d 361 (N.C. 1965) Supreme Court of North Carolina]

23. Please admit that you were using your cell phone at the time of the accident. **DENY.**

24. Please admit you were a distracted driver at the time of the accident. **DENY.**

25. Please admit that you have sustained no medical, emotional, or economic damages as a result of the subject automobile accident. **DENY.**

## F. CONCLUSION

For the foregoing reasons, the Defendant's Motion to Compel was combined with attempts to convincingly confuse the sequences of event and to overwhelm the Plaintiff with demands with undue burden and attempts to stifle the process and deter a fair and honest procedure. Furthermore, the Defendant's actions distract from critical facts that are relevant to achieve an

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amicable solution. The Defendant's request for sanctions against the Plaintiff should be denied.

Confirmed this, the 20th day of August, 2020.

Respectfully submitted,

/s/ Christy Poon-Atkins

Christy Poon-Atkins

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**CIVIL DOCKET FOR  
CASE #: 3:19-CV-00269-KHJ-LGI  
(APRIL 19, 2019)**

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U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI (NORTHERN (JACKSON))  
CIVIL DOCKET FOR CASE #: 3:19-CV-00269-KHJ-LGI  
Internal Use Only

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Poon-Atkins v. Sappington et al  
Assigned to: District Judge Kristi H. Johnson  
Referred to: Magistrate Judge LaKeysha Greer Isaac  
Case in other court: USCA, 21-60467  
Cause: 28:1332 Diversity-Personal Injury  
Date Filed: 04/19/2019  
Date Terminated: 05/17/2021  
Jury Demand: Plaintiff  
Nature of Suit: 350 Motor Vehicle  
Jurisdiction: Diversity

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04/19/2019

1 (p.22)

COMPLAINT with jury demand against Garrison Property and Casualty Insurance Company, Sammy M. Sappington, Wal-Mart Associates, Inc. (Filing fee \$ 400 receipt number 0538-3970990), filed by Christy Poon-Atkins. (Attachments: # 1 Civil Cover Sheet)(cwl) (Entered: 04/19/2019)

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04/19/2019

(Court only) \*\*\* Set LRA, JURY and NO\_  
CMC Flags (cwl) (Entered: 04/19/2019)

05/20/2019

2 (p.33)

Summons Issued as to Garrison Property and  
Casualty Insurance Company, Sammy M.  
Sappington, Wal-Mart Associates, Inc. (VM)  
(Entered: 05/20/2019)

06/10/2019

3 (p.36)

Unopposed MOTION for Extension of Time  
to File Answer by Sammy M. Sappington,  
Wal-Mart Associates, Inc. (Ellzey, Scott)  
(Entered: 06/10/2019)

06/11/2019

TEXT ONLY ORDER granting 3 Motion for  
Extension of Time to Answer Sammy M.  
Sappington answer due 7/11/2019; Wal-Mart  
Associates, Inc. answer due 7/11/2019. NO  
FURTHER WRITTEN ORDER SHALL  
ISSUE. Signed by Magistrate Judge Linda  
R. Anderson on 6/11/19 (Lewis, Nijah)  
(Entered: 06/11/2019)

06/12/2019

4 (p.38)

Unopposed MOTION for Extension of Time  
to File Answer by Garrison Property and  
Casualty Insurance Company (Adams,  
Robert) (Entered: 06/12/2019)

06/13/2019

TEXT ONLY ORDER granting 4 Motion for  
Extension of Time to Answer. Garrison

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Property and Casualty Insurance Company answer due 7/12/2019. NO FURTHER WRITTEN ORDER SHALL ISSUE. Signed by Magistrate Judge Linda R. Anderson on 6/13/19 (Lewis, Nijah) (Entered: 06/13/2019)

07/11/2019

5 (p.40)

ANSWER to 1 Complaint, by Sammy M. Sappington, Wal-Mart Associates, Inc. (Ellzey, Scott) (Entered: 07/11/2019)

07/12/2019

6 (p.52)

Rule 16(a) Initial Order Telephonic Case Management Conference set for 8/16/2019 09:00 AM in Courtroom 6D (Jackson) Anderson before Magistrate Judge Linda R. Anderson. No later than seven (7) days prior to the TCMC, a confidential memorandum AND a proposed Case Management Order shall be submitted via e-mail to anderson\_chambers@mssd.uscourts.gov. Counsel for Plaintiff shall initiate the conference call; and once all parties are on the line, contact the Court at 601-608-4440. (Lewis, Nijah) (Entered: 07/12/2019)

07/12/2019

7 (p.55)

ANSWER to 1 Complaint, by Garrison Property and Casualty Insurance Company. (Adams, Robert) (Entered: 07/12/2019)

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07/12/2019

8 (p.68)

MOTION to Dismiss by Garrison Property and Casualty Insurance Company (Adams, Robert) (Entered: 07/12/2019)

07/16/2019

9 (p.81)

NOTICE of Appearance by Drury Sumner Holland on behalf of Sammy M. Sappington, Wal-Mart Associates, Inc. (Holland, Drury) (Entered: 07/16/2019)

08/02/2019

10 (p.83)

SUMMONS Returned Executed by Christy Poon-Atkins. Sammy M. Sappington served on 7/10/2019, answer due 7/31/2019. (Timbs, Megan) (Entered: 08/02/2019)

08/02/2019

11 (p.85)

SUMMONS Returned Executed by Christy Poon-Atkins. Garrison Property and Casualty Insurance Company served on 5/23/2019, answer due 7/12/2019. (Timbs, Megan) (Entered: 08/02/2019)

08/02/2019

12 (p.87)

SUMMONS Returned Executed by Christy Poon-Atkins. Wal-Mart Associates, Inc. served on 5/22/2019, answer due 7/11/2019. (Timbs, Megan) (Entered: 08/02/2019)

08/16/2019

Minute Entry for proceedings held before Magistrate Judge Linda R. Anderson:

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Telephonic Case Management Conference held on 8/16/2019. Participants: Megan Timbs, Robert Brantley Adams and Drew Holland. A Case Management Order will be entered. (Lewis, Nijah) (Entered: 08/16/2019)

08/16/2019

13 (p.89)

CASE MANAGEMENT ORDER: Disclosure due by 8/30/2019; Jury Trial set for 9/14/2020 09:00 AM in Courtroom 6A (Jackson) Wingate before District Judge Henry T. Wingate; Pretrial Conference set for 8/14/2020 09:00 AM in Courtroom 6A (Jackson) Wingate before District Judge Henry T. Wingate; Discovery due by 3/31/2020; Motions for Amended Pleadings due by 9/16/2019; Motions for Joinder of Parties due by 9/16/2019; Designate Experts Plaintiff Deadline due by 1/2/2020; Designate Experts for Defendant Deadline due by 1/31/2020; Motions due by 4/14/2020; Settlement Conference set for 3/16/2020 09:00 AM in Chambers 6.150 (Jackson) Anderson before Magistrate Judge Linda R. Anderson ; ADR Report due by 8/7/2020. Signed by Magistrate Judge Linda R. Anderson on 8/16/19 (Lewis, Nijah) (Entered: 08/16/2019)

08/21/2019

14 (p.94)

AGREED ORDER OF DISMISSAL WITHOUT PREJUDICE granting 8 Motion to Dismiss. IT IS, THEREFORE, ORDERED AND ADJUDGED that all claims made by the Plaintiff, Christy Poon-Atkins, against the



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Defendant, Garrison Property and Casualty Insurance Company, are hereby dismissed without prejudice, with each party to bear their respective costs. Signed by District Judge Henry T. Wingate on 8/20/2019 (VM) (Entered: 08/21/2019)

08/21/2019

(Court only) \*\*\* Party Garrison Property and Casualty Insurance Company terminated. (VM) (Entered: 08/21/2019)

09/03/2019

15 (p.96)

NOTICE of Service of Disclosure by Christy Poon-Atkins (Timbs, Megan) (Entered: 09/03/2019)

09/03/2019

16 (p.98)

NOTICE of Service of Initial Disclosure by Sammy M. Sappington, Wal-Mart Associates, Inc. (Holland, Drury) (Entered: 09/03/2019)

10/24/2019

17 (p.100)

NOTICE of Service of Interrogatories by Christy Poon-Atkins (Timbs, Megan) (Entered: 10/24/2019)

10/24/2019

18 (p.102)

NOTICE of Service of Request for Admissions by Christy Poon-Atkins (Timbs, Megan) (Entered: 10/24/2019)

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10/24/2019

19 (p.104)

NOTICE of Service of Request for Production  
by Christy Poon-Atkins (Timbs, Megan)  
(Entered: 10/24/2019)

10/24/2019

20 (p.106)

NOTICE of Service of Interrogatories by  
Christy Poon-Atkins (Timbs, Megan) (Entered:  
10/24/2019)

10/24/2019

21 (p.108)

NOTICE of Service of Request for Admissions  
by Christy Poon-Atkins (Timbs, Megan)  
(Entered: 10/24/2019)

10/24/2019

22 (p.110)

NOTICE of Service of Request for Production  
by Christy Poon-Atkins (Timbs, Megan)  
(Entered: 10/24/2019)

10/25/2019

23 (p.112)

NOTICE of Service of Interrogatories by Wal-  
Mart Associates, Inc. (Holland, Drury)  
(Entered: 10/25/2019)

10/25/2019

24 (p.114)

NOTICE of Service of Request for Production  
by Wal-Mart Associates, Inc. (Holland, Drury)  
(Entered: 10/25/2019)

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11/15/2019

25 (p.116)

NOTICE OF INTENT TO SERVE SUBPOENA  
by Christy Poon-Atkins (Attachments: # 1  
Exhibit A-Subpoenas) (Timbs, Megan)  
(Entered: 11/15/2019)

11/15/2019

26 (p.126)

Subpoena Returned Executed as to Brandon  
Police Department and 911 Dispatch. (Timbs,  
Megan) Modified on 11/19/2019 to remove  
blank 3rd page(VM). (Entered: 11/15/2019)

11/15/2019

27 (p.128)

Subpoena Returned Executed as to NewSouth  
NeuroSpine. (Timbs, Megan) (Entered: 11/  
15/2019)

11/15/2019

28 (p.130)

Unopposed MOTION to Extend Plaintiff and  
Defendant Expert Deadline by Christy Poon-  
Atkins (Timbs, Megan) (Entered: 11/15/2019)

11/19/2019

TEXT ONLY ORDER granting unopposed  
28 Motion to Extend Expert Deadlines.  
Designate Experts Plaintiff Deadline due by  
2/3/2020; Designate Experts for Defendant  
Deadline due by 3/4/2020. NO WRITTEN  
ORDER TO FOLLOW. Signed by Magistrate  
Judge Linda R. Anderson on 11/19/2019.  
(ACF) (Entered: 11/19/2019)

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11/19/2019

29 (p.133)

Subpoena Returned Executed as to St. Dominic's Hospital. (Timbs, Megan) (Entered: 11/19/2019)

11/19/2019

30 (p.135)

Subpoena Returned Executed as to UMMC. (Timbs, Megan) (Entered: 11/19/2019)

11/19/2019

31 (p.137)

NOTICE of Service of Response to Request for Admissions by Sammy M. Sappington (Holland, Drury) (Entered: 11/19/2019)

11/19/2019

32 (p.139)

NOTICE of Service of Response to Request for Admissions by Wal-Mart Associates, Inc. (Holland, Drury) (Entered: 11/19/2019)

11/20/2019

33 (p.141)

Subpoena Returned Executed as to Emory Hospital and All Facilities. (Timbs, Megan) (Entered: 11/20/2019)

11/20/2019

34 (p.143)

Subpoena Returned Executed as to American Imaging, Inc. (Timbs, Megan) (Entered: 11/20/2019)

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11/20/2019

35 (p.145)

Subpoena Returned Executed as to Atlanta Rehab & Performance Center. (Timbs, Megan) (Entered: 11/20/2019)

11/20/2019

36 (p.147)

Subpoena Returned Executed as to Highway 2 Health. (Timbs, Megan) (Entered: 11/20/2019)

11/25/2019

37 (p.149)

Unopposed MOTION to Substitute Party by Christy Poon-Atkins (Timbs, Megan) (Entered: 11/25/2019)

11/26/2019

TEXT ONLY ORDER granting unopposed 37 Motion to Substitute Party. "Wal-Mart Stores East, LP" is hereby substituted as Defendant. "Wal-Mart Associates, Inc." shall be terminated. The Clerk is directed to alter the docket accordingly. NO WRITTEN ORDER TO FOLLOW. Signed by Magistrate Judge Linda R. Anderson on 11/26/2019. (ACF) (Entered: 11/26/2019)

11/26/2019

(Court only) \*\*\*Party Wal-Mart Stores East, LP added. Party Wal-Mart Associates, Inc. terminated. (VM) (Entered: 11/26/2019)

12/03/2019

38 (p.152)

MOTION to Withdraw as Attorney by Derek L. Hall and Megan E. Timbs of Derek L. Hall, PC, MOTION for Extension of Time to

App.166a

Complete Discovery Responses, MOTION to Extend Each and Every Deadline to a Date Certain upon Entry of New Counsel for Plaintiff by Christy Poon-Atkins (Attachments: # 1 Exhibit A-Proposed Order) (Timbs, Megan) (Entered: 12/03/2019)

12/03/2019

DOCKET ANNOTATION as to 38: Proposed orders are not to be electronically filed as a separate pleading or as an attachment to a pleading, but instead are to be provided to chambers by e-mail (Court's Administrative Procedures for Electronic Case Filing Sec.5.B.). (VM) (Entered: 12/03/2019)

12/10/2019

39 (p.157)

ORDER granting 38 Motion to Withdraw as Attorney. Plaintiff granted until 1/28/2020 to have new counsel enter an appearance or notify the court in writing of her intent to proceed pro se. Plaintiff's failure to do so by 1/28/2020 shall result in her case being dismissed without prejudice. Counsel relieved of responsibilities after filing a notice that they have served a copy of this Order on Plaintiff. Signed by Magistrate Judge Linda R. Anderson on 12/10/2019. (ACF) (Entered: 12/10/2019)

01/10/2020

40 (p.159)

NOTICE of Service of Order by Certified Mail by Christy Poon-Atkins re 39 Order on Motion to Withdraw as Attorney,, Order on Motion for Extension of Time to Complete

App.167a

Discovery,, Order on Motion to Extend Deadline, (Attachments: # 1 Exhibit A-Return Receipt for Certified Mail)(Timbs, Megan) (Entered: 01/10/2020)

01/29/2020

41 (p.163)

ORDER TO SHOW CAUSE. Show Cause Response due by 2/18/2020. The Clerk is directed to mail a copy of this Order to Plaintiff at the address listed and to alter the docket to reflect Plaintiff's address. Plaintiff is advised that her failure to comply with this Order before 2/18/2020 shall result in the dismissal of her Complaint. Signed by Magistrate Judge Linda R. Anderson on 1/29/2020. (ACF) (Entered: 01/29/2020)

01/29/2020

42 (p.165)

**\*\*ERROR\*\* DISREGARD THIS DOCUMENT-INADVERTENTLY ENTERED IN WRONG CASE: AGREED PROTECTIVE ORDER** regarding documents produced pursuant to the Court's in camera review and prior Order. Signed by Magistrate Judge Linda R. Anderson on 1/29/2020. (ACF) Modified on 1/29/2020 (Lewis, Nijah). (Entered: 01/29/2020)

01/29/2020

(Court only) \*\*\*Staff notes: Copy of 41 Order mailed to plaintiff and plaintiff's address updated on docket to 1866 Alcovy Trails Drive, Dacula, GA 30019. (VM) (Entered: 01/29/2020)

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01/29/2020

DOCKET ANNOTATION as to 42: Document has been filed in the wrong case. It should be disregarded. (VM) (Entered: 01/29/2020)

02/14/2020

43 (p.167)

Response to Order re 41 ORDER TO SHOW CAUSE, filed by Christy Poon-Atkins. (Attachments: # 1 Envelope)(VM) (Entered: 02/14/2020)

02/20/2020

44 (p.170)

MOTION for Telephonic Status Conference by Sammy M. Sappington, Wal-Mart Stores East, LP (Ellzey, Scott) (Entered: 02/20/2020)

02/21/2020

(Court only) Set Deadlines/Hearings:( Telephonic Status Conference set for 3/5/2020 02:00 PM before Magistrate Judge Linda R. Anderson ), \*\*\*Motions terminated: 44 MOTION for Telephonic Status Conference filed by Wal-Mart Stores East, LP, Sammy M. Sappington. Counsel for Defendant shall initiate the conference call; and once all parties are on the line, contact the Court at 601-608-4440. (Lewis, Nijah) (Entered: 02/21/2020)

02/21/2020

NOTICE of Hearing: Status Conference set for 3/5/2020 02:00 PM before Magistrate Judge Linda R. Anderson. Counsel for Defendant shall initiate the conference call; and once all parties are on the line, contact



the Court at 601-608-4440. (Lewis, Nijah)  
(Entered: 02/21/2020)

02/21/2020

(Court only) \*\*\*Staff notes: The hearing date was this date mailed, via e-mail, to Ms. Poon-Atkins. (Lewis, Nijah) (Entered: 02/21/2020)

03/05/2020

45 (p.172)

NOTICE of Service of Interrogatories by Wal-Mart Stores East, LP (Holland, Drury)  
(Entered: 03/05/2020)

03/05/2020

46 (p.174)

NOTICE of Service of Request for Production by Wal-Mart Stores East, LP (Holland, Drury) (Entered: 03/05/2020)

03/05/2020

Minute Entry for proceedings held before Magistrate Judge Linda R. Anderson: Telephonic Status Conference held on 3/5/2020. Participants: Christy Poon-Atkins, Scott Ellzey and Dru Holland. Plaintiff to proceed pro se. Granted Agreed Ore Tenus Motion to Amend Scheduling Order for good cause. Plaintiff agreed to accept correspondence via email. (Lewis, Nijah) (Entered: 03/06/2020)

03/05/2020

AGREED ORE TENUS MOTION to Amend Scheduling Order. (Lewis, Nijah) (Entered: 03/06/2020)

App.170a

03/05/2020

TEXT ONLY ORDER granting, for good cause, [] Motion to Amend/Correct Scheduling Order. NO FURTHER WRITTEN ORDER SHALL ISSUE. Signed by Magistrate Judge Linda R. Anderson on 3/5/20 (Lewis, Nijah) (Entered: 03/06/2020)

03/06/2020

TEXT ONLY CASE MANAGEMENT ORDER: Jury Trial set for the term beginning 3/1/2021 09:00 AM in Courtroom 6A (Jackson) Wingate before District Judge Henry T. Wingate; Pretrial Conference set for 2/12/2021 09:00 AM in Courtroom 6A (Jackson) Wingate before District Judge Henry T. Wingate; Discovery due by 9/17/2020; Motions for Amended Pleadings due by 4/6/2020; Motions for Joinder of Parties due by 4/6/2020; Designate Experts Plaintiff Deadline due by 6/1/2020 ; Designate Experts for Defendant Deadline due by 7/17/2020 ; Motions due by 10/1/2020; Settlement Conference set for 9/14/2020 02:00 PM in Chambers 6.150 (Jackson) Anderson before Magistrate Judge Linda R. Anderson (Seven (7) days before the settlement conference, the parties must submit via e-mail to the magistrate judges chambers an updated CONFIDENTIAL SETTLEMENT MEMORANDUM. All parties are required to be present at the conference unless excused by the Court. If a party believes the scheduled conference would not be productive and should be cancelled, the party is directed to inform the Court via e-

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mail of the grounds for their belief at least seven (7) days prior to the conference.); ADR Report due by 2/5/2020. NO FURTHER ORDER SHALL ISSUE FROM THE COURT. Signed by Magistrate Judge Linda R. Anderson on 3/6/20 (Lewis, Nijah) (Entered: 03/06/2020)

03/06/2020

(Court only) \*\*\* Staff notes: A copy of the NEF containing the Text Only Case Management Order was this date provided via e-mail (cpoon7@gmail.com) to the Plaintiff in this case. (Lewis, Nijah) (Entered: 03/06/2020)

03/12/2020

(Court only) \*\*\* Attorney Megan E. Timbs terminated. (Lewis, Nijah) Modified on 3/12/2020 (Lewis, Nijah). Court granted motion to withdraw pending Notice of Service. Notice of Service filed 1-20-20. (Entered: 03/12/2020)

03/12/2020

(Court only) \*\*\* Attorney Derek L. Hall terminated. (Lewis, Nijah) Modified on 3/12/2020 (Lewis, Nijah). Court granted motion to withdraw pending Notice of Service. Notice of Service filed 1-20-20. (Entered: 03/12/2020)

03/12/2020

47 (p.176)

Letter (via email) from Christy Poon-Atkins entitled "Response to Defendant Discovery 3-11-20". (Lewis, Nijah) (Entered: 03/12/2020)

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03/27/2020

48 (p.177)

NOTICE of Service of Request for Admissions  
by Wal-Mart Stores East, LP (Holland, Drury)  
(Entered: 03/27/2020)

05/07/2020

49 (p.179)

NOTICE OF INTENT TO SERVE SUBPOENA  
on American Imaging, Inc. by Sammy M.  
Sappington, Wal-Mart Stores East, LP  
(Attachments: # 1 Exhibit 1-Subpoena to  
American Imaging, Inc.)(Holland, Drury)  
(Entered: 05/07/2020)

05/07/2020

50 (p.181)

NOTICE OF INTENT TO SERVE  
SUBPOENA on Atlanta Rehabilitation and  
Performance Center, Inc. by Sammy M.  
Sappington, Wal-Mart Stores East, LP  
(Attachments: # 1 Exhibit 1-Subpoena to  
Atlanta Rehabilitation and Performance  
Center, Inc.) (Holland, Drury) (Entered:  
05/07/2020)

05/07/2020

51 (p.183)

NOTICE OF INTENT TO SERVE SUBPOENA  
on Emory Hospital by Sammy M. Sappington,  
Wal-Mart Stores East, LP (Attachments: # 1  
Exhibit 1-Subpoena to Emory Hospital)  
(Holland, Drury) (Entered: 05/07/2020)

05/07/2020

52 (p.185)

NOTICE OF INTENT TO SERVE SUBPOENA  
on Highway2Health Chiropractic Center,  
Inc. by Sammy M. Sappington, Wal-Mart  
Stores East, LP (Attachments: # 1 Exhibit 1-  
Subpoena to Highway2Health Chiropractic  
Center, Inc.) (Holland, Drury) (Entered:  
05/07/2020)

05/07/2020

53 (p.187)

NOTICE OF INTENT TO SERVE SUBPOENA  
on NewSouth NeuroSpine by Sammy M.  
Sappington, Wal-Mart Stores East, LP  
(Attachments: # 1 Exhibit 1-Subpoena to  
NewSouth NeuroSpine) (Holland, Drury)  
(Entered: 05/07/2020)

05/07/2020

54 (p.189)

NOTICE OF INTENT TO SERVE SUBPOENA  
on Pafford EMS by Sammy M. Sappington,  
Wal-Mart Stores East, LP (Attachments: # 1  
Exhibit 1-Subpoena to Pafford EMS)  
(Holland, Drury) (Entered: 05/07/2020)

05/07/2020

55 (p.191)

NOTICE OF INTENT TO SERVE SUBPOENA  
on St. Dominic Hospital by Sammy M.  
Sappington, Wal-Mart Stores East, LP  
(Attachments: # 1 Exhibit 1-Subpoena to St.  
Dominic Hospital)(Holland, Drury) (Entered:  
05/07/2020)

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05/07/2020

56 (p.193)

NOTICE OF INTENT TO SERVE SUBPOENA on University of Mississippi Medical Center by Sammy M. Sappington, Wal-Mart Stores East, LP (Attachments: # 1 Exhibit 1-Subpoena to University of Mississippi Medical Center)(Holland, Drury) (Entered: 05/07/2020)

05/08/2020

57 (p.195)

NOTICE of Service of Response to Interrogatories by Wal-Mart Stores East, LP (Holland, Drury) (Entered: 05/08/2020)

05/08/2020

58 (p.197)

NOTICE of Service of Response to Request for Production by Wal-Mart Stores East, LP (Holland, Drury) (Entered: 05/08/2020)

05/08/2020

59 (p.199)

NOTICE of Service of Response to Interrogatories by Sammy M. Sappington (Holland, Drury) (Entered: 05/08/2020)

05/08/2020

60 (p.201)

NOTICE of Service of Response to Request for Production by Sammy M. Sappington (Holland, Drury) (Entered: 05/08/2020)

06/01/2020

61 (p.203)

NOTICE to Take Deposition of Christy Poon Atkins by Sammy M. Sappington, Wal-Mart

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Stores East, LP (Holland, Drury) (Entered:  
06/01/2020)

06/01/2020

62 (p.205)

NOTICE to Take Deposition of Calvin Atkins  
by Sammy M. Sappington, Wal-Mart Stores  
East, LP (Holland, Drury) (Entered:  
06/01/2020)

06/09/2020

63 (p.207)

NOTICE OF INTENT TO SERVE SUBPOENA  
Duces Tecum by Sammy M. Sappington,  
Wal-Mart Stores East, LP (Attachments: # 1  
Exhibit 1. Subpoena Duces Tecum to Alleg-  
iance Imaging) (Holland, Drury) (Entered:  
06/09/2020)

06/09/2020

64 (p.211)

NOTICE OF INTENT TO SERVE SUBPOENA  
Duces Tecum by Sammy M. Sappington,  
Wal-Mart Stores East, LP (Attachments: # 1  
Exhibit 1. Subpoena Duces Tecum to  
American Imaging) (Holland, Drury) (Entered:  
06/09/2020)

06/09/2020

65 (p.215)

NOTICE OF INTENT TO SERVE SUBPOENA  
Duces Tecum by Sammy M. Sappington,  
Wal-Mart Stores East, LP (Attachments: # 1  
Exhibit 1. Subpoena Duces Tecum to Blue  
Cross Blue Shield) (Holland, Drury)  
(Entered: 06/09/2020)

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06/09/2020

66 (p.219)

NOTICE OF INTENT TO SERVE SUBPOENA  
Duces Tecum by Sammy M. Sappington,  
Wal-Mart Stores East, LP (Attachments: # 1  
Exhibit 1. Subpoena Duces Tecum to Blue  
Cross Blue Shield of MS) (Holland, Drury)  
(Entered: 06/09/2020)

06/09/2020

67 (p.221)

NOTICE OF INTENT TO SERVE SUBPOENA  
Duces Tecum by Sammy M. Sappington,  
Wal-Mart Stores East, LP (Attachments: # 1  
Exhibit 1. Subpoena Duces Tecum to  
Benchmark Physical Therapy) (Holland,  
Drury) (Entered: 06/09/2020)

06/09/2020

68 (p.223)

NOTICE OF INTENT TO SERVE SUBPOENA  
Duces Tecum by Sammy M. Sappington,  
Wal-Mart Stores East, LP (Attachments: # 1  
Exhibit 1. Subpoena Duces Tecum to Emory  
Orthopaedics) (Holland, Drury) (Entered:  
06/09/2020)

06/09/2020

69 (p.225)

NOTICE OF INTENT TO SERVE SUBPOENA  
Duces Tecum by Sammy M. Sappington,  
Wal-Mart Stores East, LP (Attachments: # 1  
Exhibit 1. Subpoena Duces Tecum to  
Garrison Property & Casualty Insurance)  
(Holland, Drury) (Entered: 06/09/2020)



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06/09/2020

70 (p.227)

NOTICE OF INTENT TO SERVE SUBPOENA  
Duces Tecum by Sammy M. Sappington,  
Wal-Mart Stores East, LP (Attachments: # 1  
Exhibit 1. Subpoena Duces Tecum to  
Georgia Urology)(Holland, Drury) (Entered:  
06/09/2020)

06/09/2020

71 (p.229)

NOTICE OF INTENT TO SERVE SUBPOENA  
Duces Tecum by Sammy M. Sappington,  
Wal-Mart Stores East, LP (Attachments: # 1  
Exhibit Subpoena Duces Tecum to  
Peachtree Orthopedics) (Holland, Drury)  
(Entered: 06/09/2020)

06/09/2020

72 (p.231)

NOTICE OF INTENT TO SERVE SUBPOENA  
Duces Tecum by Sammy M. Sappington,  
Wal-Mart Stores East, LP (Attachments: # 1  
Exhibit 1. Subpoena Duces Tecum to  
Piedmont Orthopedics) (Holland, Drury)  
(Entered: 06/09/2020)

06/09/2020

73 (p.233)

NOTICE OF INTENT TO SERVE SUBPOENA  
Duces Tecum by Sammy M. Sappington,  
Wal-Mart Stores East, LP (Attachments: # 1  
Exhibit 1. Subpoena Duces Tecum to  
Resurgens Orthopaedics) (Holland, Drury)  
(Entered: 06/09/2020)

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06/09/2020

74 (p.235)

NOTICE OF INTENT TO SERVE SUBPOENA  
Duces Tecum by Sammy M. Sappington,  
Wal-Mart Stores East, LP (Attachments: # 1  
Exhibit 1. Subpoena Duces Tecum to Spine &  
Orthopedics of Atlanta) (Holland, Drury)  
(Entered: 06/09/2020)

06/09/2020

75 (p.237)

NOTICE OF INTENT TO SERVE SUBPOENA  
Duces Tecum by Sammy M. Sappington,  
Wal-Mart Stores East, LP (Attachments: # 1  
Exhibit 1. Subpoena Duces Tecum to USDOT)  
(Holland, Drury) (Entered: 06/09/2020)

06/09/2020

76 (p.239)

NOTICE OF INTENT TO SERVE SUBPOENA  
Duces Tecum by Sammy M. Sappington,  
Wal-Mart Stores East, LP (Attachments: # 1  
Exhibit 1. Subpoena Duces Tecum to  
Wellstar) (Holland, Drury) (Entered: 06/09/  
2020)

06/10/2020

77 (p.241)

MOTION to RESTRICT from public: Docu-  
ment 75 Notice of Intent to Serve Subpoena,  
66 Notice of Intent to Serve Subpoena, 73  
Notice of Intent to Serve Subpoena, 49 Notice  
of Intent to Serve Subpoena, 50 Notice of  
Intent to Serve Subpoena, 74 Notice of Intent  
to Serve Subpoena, 69 Notice of Intent to  
Serve Subpoena, 56 Notice of Intent to Serve  
Subpoena, 51 Notice of Intent to Serve

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Subpoena, 72 Notice of Intent to Serve  
Subpoena, 53 Notice of Intent to Serve  
Subpoena, 67 Notice of Intent to Serve  
Subpoena, 54 Notice of Intent to Serve  
Subpoena, 52 Notice of Intent to Serve  
Subpoena, 70 Notice of Intent to Serve  
Subpoena, 55 Notice of Intent to Serve  
Subpoena, 76 Notice of Intent to Serve  
Subpoena, 68 Notice of Intent to Serve  
Subpoena, 71 Notice of Intent to Serve  
Subpoena by Sammy M. Sappington, Wal-Mart Stores East, LP (Holland, Drury)  
(Entered: 06/10/2020)

06/11/2020

TEXT ONLY ORDER granting 77 Motion to Restrict Access to Documents. The Clerk is directed to restrict access to the case participants as to the documents listed in the motion. NO WRITTEN ORDER TO FOLLOW. Signed by Magistrate Judge Linda R. Anderson on 6/11/2020. (ACF) (Entered: 06/11/2020)

06/15/2020

78 (p.244)

NOTICE OF INTENT TO SERVE SUBPOENA by Sammy M. Sappington, Wal-Mart Stores East, LP (Attachments: # 1 Exhibit 1-Subpoena Duces Tecum to Kroger Specialty Pharmacy)(Holland, Drury) (Entered: 06/15/2020)

06/18/2020

79 (p.248)

NOTICE OF INTENT TO SERVE SUBPOENA by Sammy M. Sappington, Wal-Mart Stores

East, LP (Attachments: # 1 Exhibit 1-Subpoena to Brandon Police Department and 911 Dispatch) (Holland, Drury) (Entered: 06/18/2020)

06/19/2020

80 (p.252)

MOTION to Modify the Case Management Order by Sammy M. Sappington, Wal-Mart Stores East, LP (Holland, Drury) (Entered: 06/19/2020)

06/23/2020

81 (p.258)

MOTION for Protective Order by Sammy M. Sappington, Wal-Mart Stores East, LP (Holland, Drury) (Entered: 06/23/2020)

06/25/2020

(Court only) \*\*\* Staff notes: 6/23/20, the Plaintiff forwarded, via email to Nijah\_lewis@mssd.uscourts.gov, "Notice of Service of Admissions Propounded" – I responded as follows: Ms. Atkins You need to forward this document to the clerks office for filing. I am not allowed to file your documents for you. Also, you will need to put the case number on any document to be filed. If you have any questions, please do not hesitate to call. If you need the clerks mailing address, here it is: Arthur Johnston, Clerk of Court, 501 E. Court St., Suite 2.500, Jackson, MS 39201. (Lewis, Nijah) (Entered: 06/25/2020)

06/25/2020

NOTICE of Hearing on Motion 80 MOTION to Modify the Case Management Order, 81

MOTION for Protective Order: Motion Hearing set for 6/29/2020 09:30 AM before Magistrate Judge Linda R. Anderson. Counsel for Defendants shall initiate the conference call; and once all parties are on the line, contact the Court at 601-608-4440. (Lewis, Nijah) (Entered: 06/25/2020)

06/29/2020

Minute Entry for proceedings held before Magistrate Judge Linda R. Anderson: Motion Hearing held on 6/29/2020 re 80 MOTION to Modify the Case Management Order filed by Wal-Mart Stores East, LP, Sammy M. Sappington, 81 MOTION for Protective Order filed by Wal-Mart Stores East, LP, Sammy M. Sappington. Participants: Christy Poon-Atkins and Dru Holland. The Court heard argument. The Court granted in part, denied in part-Docket No. 80; granted without objection by Plaintiff-Docket No. 81. (Lewis, Nijah) (Entered: 06/29/2020)

06/29/2020

TEXT ONLY ORDER Set/Reset Scheduling Order Deadlines/Hearings: Jury Trial set for 7/6/2021 09:00 AM in Courtroom 6A (Jackson) Wingate before District Judge Henry T. Wingate; Pretrial Conference set for 6/11/2021 09:00 AM in Courtroom 6A (Jackson) Wingate before District Judge Henry T. Wingate ; Discovery due by 1/25/2021; Designate Experts for Plaintiff due by 10/26/2020; Designate Experts for Defendant Deadline due by 11/25/2020; Motions due by 2/8/2021; Settlement

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Conference set for 1/12/2021 02:00 PM in Chambers 6.150 (Jackson) Anderson before Magistrate Judge Linda R. Anderson ; ADR Report due by 6/4/2021. NO FURTHER WRITTEN ORDER SHALL ISSUE. (Lewis, Nijah) Modified on 6/29/2020 (Lewis, Nijah). Modified on 7/16/2020 (Lewis, Nijah). (Entered: 06/29/2020)

06/29/2020

TEXT ONLY ORDER granting in part and denying in part 80 Motion to Modify Case Management Order. NO FURTHER WRITTEN ORDER SHALL ISSUE. Signed by Magistrate Judge Linda R. Anderson on 6/29/20 (Lewis, Nijah) (Entered: 06/29/2020)

06/29/2020

TEXT ONLY ORDER granting, with no objection from the Plaintiff 81 Motion for Protective Order. NO FURTHER WRITTEN ORDER SHALL ISSUE. Signed by Magistrate Judge Linda R. Anderson on 6/29/20 (Lewis, Nijah) (Entered: 06/29/2020)

06/29/2020

Set/Reset Hearings: Settlement Conference set for 1/12/2021 02:00 PM in Chambers 6.350 (Jackson) Visiting before Magistrate Judge Linda R. Anderson (Lewis, Nijah) (Entered: 06/29/2020)

06/29/2020

82 (p.261)

PROTECTIVE ORDER. Signed by Magistrate Judge Linda R. Anderson on 6/29/20 (Lewis, Nijah) (Entered: 06/29/2020)

06/30/2020

83 (p.270)

NOTICE OF INTENT TO SERVE  
SUBPOENA by Sammy M. Sappington, Wal-  
Mart Stores East, LP (Attachments: # 1  
Exhibit 1-Subpoena Duces Tecum to Brandon  
Police Department and 911 Dispatch)  
(Holland, Drury) (Entered: 06/30/2020)

07/20/2020

84 (p.274)

MOTION to Compel Medical and Other  
Authorizations by Sammy M. Sappington,  
Wal-Mart Stores East, LP (Attachments: # 1  
Exhibit A-Good Faith Letter, # 2 Exhibit B-  
June 22, 2020 Email Exchange, # 3 Exhibit  
C-June 24 and 25, 2020 Email Exchange, # 4  
Exhibit D-June 29, 2020 E-Mail Correspondence,  
# 5 Exhibit E-July 6, 2020 E-Mail Correspondence,  
# 6 Exhibit F-July 8, 2020 E-Mail Correspondence,  
# 7 Exhibit G-July 15, 2020 E-Mail Correspondence,  
# 8 Exhibit H-July 17, 2020 E-Mail Correspondence)  
(Holland, Drury) (Entered: 07/20/2020)

07/20/2020

85 (p.311)

MOTION for Summary Judgment by Sammy  
M. Sappington, Wal-Mart Stores East, LP  
(Attachments: # 1 Exhibit A-Mississippi  
Uniform Crash Report, # 2 Exhibit B-Notice  
of Service of Requests for Admissions  
propounded to Plaintiff, # 3 Exhibit C-  
Requests for Admissions propounded to  
Plaintiff, # 4 Exhibit D-Email Correspondence

to Plaintiff Serving the Requests for Admissions on Plaintiff)(Holland, Drury) (Entered: 07/20/2020)

07/20/2020

86 (p.330)

MEMORANDUM in Support re 85 MOTION for Summary Judgment filed by Sammy M. Sappington, Wal-Mart Stores East, LP (Holland, Drury) (Entered: 07/20/2020)

08/11/2020

87 (p.339)

NOTICE OF INTENT TO SERVE SUBPOENA on Garrison Property and Casualty Insurance Company by Sammy M. Sappington, Wal-Mart Stores East, LP (Attachments: # 1 Exhibit 1-Subpoena Duces Tecum to Garrison Property and Casualty Insurance Company) (Holland, Drury) (Entered: 08/11/2020)

08/11/2020

88 (p.343)

NOTICE OF INTENT TO SERVE SUBPOENA on Dekalb Surgical Associates by Sammy M. Sappington, Wal-Mart Stores East, LP (Attachments: # 1 Exhibit 1-Subpoena Duces Tecum to Dekalb Surgical Associates) (Holland, Drury) (Entered: 08/11/2020)

08/11/2020

89 (p.347)

NOTICE OF INTENT TO SERVE SUBPOENA on Emory Decatur Hospital by Sammy M. Sappington, Wal-Mart Stores East, LP (Attachments: # 1 Exhibit 1-Subpoena Duces



Tecum to Emory Decatur Hospital) (Holland, Drury) (Entered: 08/11/2020)

08/11/2020

90 (p.351)

NOTICE OF INTENT TO SERVE SUBPOENA on Emory Johns Creek Hospital by Sammy M. Sappington, Wal-Mart Stores East, LP (Attachments: # 1 Exhibit 1-Subpoena Duces Tecum to Emory Johns Creek Hospital) (Holland, Drury) (Entered: 08/11/2020)

08/11/2020

91 (p.355)

NOTICE OF INTENT TO SERVE SUBPOENA on Emory Orthopaedics & Spine Center-Johns Creek by Sammy M. Sappington, Wal-Mart Stores East, LP (Attachments: # 1 Exhibit 1-Subpoena Duces Tecum to Emory Orthopaedics & Spine Center-Johns Creek) (Holland, Drury) (Entered: 08/11/2020)

08/11/2020

92 (p.359)

NOTICE OF INTENT TO SERVE SUBPOENA on Gwinnett Hospital System by Sammy M. Sappington, Wal-Mart Stores East, LP (Attachments: # 1 Exhibit 1-Subpoena Duces Tecum to Gwinnett Hospital System)(Holland, Drury) (Entered: 08/11/2020)

08/11/2020

93 (p.363)

NOTICE OF INTENT TO SERVE SUBPOENA on Northlake Surgical Center by Sammy M. Sappington, Wal-Mart Stores East, LP (Attachments: # 1 Exhibit 1-Subpoena Duces

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Tecum to Northlake Surgical Center)  
(Holland, Drury) (Entered: 08/11/2020)

08/11/2020

94 (p.367)

NOTICE OF INTENT TO SERVE SUBPOENA  
on Northside Hospital Atlanta by Sammy M.  
Sappington, Wal-Mart Stores East, LP  
(Attachments: # 1 Exhibit 1-Subpoena Duces  
Tecum to Northside Hospital Atlanta)  
(Holland, Drury) (Entered: 08/11/2020)

08/13/2020

TEXT ONLY ORDER granting Defendants'  
84 Motion to Compel as confessed; Plaintiff  
has not filed a response. Plaintiff is ordered  
to provide the HIPPA authorization and  
other documents described in the motion on  
or before 8/25/2020. She should also show  
cause by that date, in writing, as to why she  
should not be assessed with expenses. NO  
WRITTEN ORDER TO FOLLOW. Signed by  
Magistrate Judge Linda R. Anderson on  
8/13/2020. (ACF) (Entered: 08/13/2020)

08/24/2020

95 (p.371)

RESPONSE in Opposition re 84 MOTION to  
Compel Medical and Other Authorizations  
With Claims of Not Receiving Discovery  
Requests filed by Christy Poon-Atkins.  
(Attachments: # 1 Exhibit A, # 2 Exhibit B, #  
3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6  
Exhibit F, # 7 Exhibit G, # 8 Exhibit H, # 9  
Envelope) (VM) (Entered: 08/24/2020)

08/24/2020

96 (p.507)

RESPONSE to Motion re 85 MOTION for Summary Judgment with Admissions filed by Christy Poon-Atkins. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F, # 7 Exhibit G, # 8 Exhibit H, # 9 Exhibit I, # 10 Exhibit J, # 11 Exhibit K, # 12 Exhibit L, # 13 Exhibit M, # 14 Exhibit N, # 15 Exhibit O, # 16 Exhibit P, # 17 Exhibit Q, # 18 Envelope)(VM) (Entered: 08/24/2020)

08/24/2020

97 (p.718)

Cross-MOTION for Summary Judgment with Admissions by Christy Poon-Atkins. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F, # 7 Exhibit G, # 8 Exhibit H, # 9 Exhibit I, # 10 Exhibit J, # 11 Exhibit K, # 12 Exhibit L, # 13 Exhibit M, # 14 Exhibit N, # 15 Exhibit O, # 16 Exhibit P, # 17 Exhibit Q, # 18 Envelope) (VM) (Entered: 08/24/2020)

08/30/2020

98 (p.929)

Rebuttal re 85 MOTION for Summary Judgment filed by Sammy M. Sappington, Wal-Mart Stores East, LP (Holland, Drury) (Entered: 08/30/2020)

08/31/2020

99 (p.933)

MOTION to Strike 95 Response in Opposition to Motion, by Sammy M. Sappington, Wal-

Mart Stores East, LP (Holland, Drury)  
(Entered: 08/31/2020)

09/08/2020

100 (p.936)

RESPONSE in Opposition re 97 MOTION for Summary Judgment filed by Sammy M. Sappington, Wal-Mart Stores East, LP (Attachments: # 1 Exhibit A-Response of the City of Brandon/Brandon Police Department to Subpoena, # 2 Exhibit B-Correspondence to and from the Attorney for the City of Brandon/Brandon Police Department regarding the Subpoena Response, # 3 Exhibit C-Defendants' Answers to Interrogatories, # 4 Exhibit D-Defendants' Responses to Requests for Admissions, # 5 Exhibit E-Excerpted Deposition Transcript of Plaintiff) (Holland, Drury) (Entered: 09/08/2020)

09/08/2020

101 (p.999)

MEMORANDUM IN SUPPORT re 100 Response in Opposition to Motion, filed by Sammy M. Sappington, Wal-Mart Stores East, LP (Holland, Drury) (Entered: 09/08/2020)

09/18/2020

102 (p.1007)

NOTICE of Service of Response to Request for Admissions by Sammy M. Sappington, Wal-Mart Stores East, LP (Holland, Drury) (Entered: 09/18/2020)

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09/18/2020

103 (p.1009)

MOTION for Attorney Fees by Sammy M. Sappington, Wal-Mart Stores East, LP (Attachments: # 1 Exhibit A-Invoice) (Holland, Drury) (Entered: 09/18/2020)

09/18/2020

104 (p.1013)

MOTION to Dismiss by Sammy M. Sappington, Wal-Mart Stores East, LP (Holland, Drury) (Entered: 09/18/2020)

09/21/2020

105 (p.1024)

Response in Opposition re 98 Rebuttal re 85 MOTION for Summary Judgment filed by Sammy M. Sappington, Wal-Mart Stores East, LP filed by Christy Poon-Atkins. (Attachments: # 1 Envelope)(VM) (Entered: 09/21/2020)

09/28/2020

106 (p.1049)

ATTACHMENT re 105 Response in Opposition by Christy Poon-Atkins: (Attachments: # 1 Exhibit A-Information Exchange Report, # 2 Exhibit B-Deposition, # 3 Exhibit C-MS Dept. of Ed Standard, # 4 Exhibit D-Crash Report)(VM) (Additional attachment(s) added on 9/28/2020: # 5 Envelope) (VM). (Entered: 09/28/2020)

09/28/2020

107 (p.1135)

NOTICE of Service of Response to Request for Production by Christy Poon-Atkins.

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(Attachments: # 1 Envelope)(VM) (Entered: 09/28/2020)

10/09/2020

108 (p.1139)

MOTION for Sanctions, MOTION to Compel, Cross-MOTION for Summary Judgment by Christy Poon-Atkins. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Envelope)(VM) (Entered: 10/09/2020)

10/23/2020

109 (p.1157)

RESPONSE in Opposition re 108 MOTION for Sanctions MOTION to Compel MOTION for Summary Judgment filed by Sammy M. Sappington, Wal-Mart Stores East, LP (Holland, Drury) (Entered: 10/23/2020)

10/23/2020

110 (p.1163)

NOTICE of Service of *First Supplemental* Response to Request for Production by Wal-Mart Stores East, LP (Holland, Drury) (Entered: 10/23/2020)

10/23/2020

111 (p.1165)

NOTICE of Service of *First Supplemental* Response to Request for Production by Sammy M. Sappington (Holland, Drury) (Entered: 10/23/2020)

11/04/2020

112 (p.1167)

Second MOTION to Compel *Medical and Other Authorizations* by Sammy M.

Sappington, Wal-Mart Stores East, LP  
(Holland, Drury) (Entered: 11/04/2020)

11/13/2020

113 (p.1171)

RESPONSE to Motion re 112 Second  
MOTION to *Compel Medical and Other  
Authorizations* filed by Christy Poon-Atkins.  
(Attachments: # 1 Exhibit A, # 2 Exhibit  
B)(VM) (Entered: 11/13/2020)

11/18/2020

NOTICE of Hearing on Motion 112 Second  
MOTION to *Compel Medical and Other  
Authorizations*: Telephonic Motion Hearing  
set for 12/4/2020 10:00 AM before Magistrate  
Judge Linda R. Anderson (Lewis, Nijah)  
(Entered: 11/18/2020)

11/25/2020

114 (p.1213)

NOTICE of Service of Designation of Experts  
by Sammy M. Sappington, Wal-Mart Stores  
East, LP (Holland, Drury) (Entered: 11/25/  
2020)

12/04/2020

Minute Entry for proceedings held before  
Magistrate Judge Linda R. Anderson:  
Telephonic Motion Hearing held on 12/4/2020:  
112 Second MOTION to Compel Medical and  
Other Authorizations filed by Wal-Mart  
Stores East, LP, Sammy M. Sappington.  
Participants: Christy Poon Atkins and Dru  
Holland. The Court heard argument. Motion  
to Compel is granted. Plaintiff directed to  
show cause why costs should not be awarded

App.192a

for this second Motion to Compel not later than December 14, 2020. (Lewis, Nijah) (Entered: 12/04/2020)

12/04/2020

TEXT ONLY ORDER granting 112 Motion to Compel. Plaintiff is directed to show cause, in writing, on or before December 14, 2020 as to why costs should not be awarded for this Second Motion to Compel. NO WRITTEN ORDER TO FOLLOW. Signed by Magistrate Judge Linda R. Anderson on 12/4/20 (Lewis, Nijah) (Entered: 12/04/2020)

12/09/2020

115 (p.1215)

NOTICE of Service of Medical Authorizations by Christy Poon-Atkins. (Attachments: # 1 Envelope) (VM) (Entered: 12/09/2020)

12/11/2020

116 (p.1219)

NOTICE of Service by Christy Poon-Atkins. (Attachments: # 1 Envelope) (VM) (Entered: 12/11/2020)

12/11/2020

117 (p.1222)

RESPONSE in Opposition re 112 Second MOTION to Compel *Medical and Other Authorizations* filed by Christy Poon-Atkins. (Attachments: # 1 Attachment, # 2 Envelope) (VM) (Entered: 12/11/2020)

12/14/2020

118 (p.1244)

ORDER REASSIGNING CASE-Case reassigned to District Judge Kristi H. Johnson



App.193a

for all further proceedings. District Judge Henry T. Wingate no longer assigned to case. Signed by Chief District Judge Daniel P. Jordan, III on 12/14/2020 (ND) (Entered: 12/15/2020)

12/15/2020

Attorneys are advised to include the case number and new judge assignment of 3:19-cv-269-KHJ-LRA on future filed pleadings. (ND) (Entered: 12/15/2020)

12/21/2020

119 (p.1249)

NOTICE of Service of Request for Admissions by Christy Poon-Atkins. (Attachments: # 1 Envelope) (KNS) (Entered: 12/21/2020)

12/21/2020

120 (p.1253)

MOTION to Take Deposition of Sammy Sappington by Christy Poon-Atkins. (Attachments: # 1 Notice of Request for Deposition of John D. Davis, M.D., # 2 Notice of Request for Deposition of Benjamin N. Smith, # 3 Envelope) (KNS) (Entered: 12/21/2020)

12/21/2020

121 (p.1260)

Agreed ORDER of Dismissal with Prejudice as to Plaintiff's Lost Wages Claim Signed by District Judge Kristi H. Johnson on 12/21/2020 (TW) (Entered: 12/21/2020)

12/22/2020

122 (p.1262)

ORDER granting 103 Motion for Attorney's Fees and denying 108 Plaintiff's motion 108.

App.194a

Award of costs entered against Plaintiff in favor of Defendants, payable on or before 2/1/2021. Signed by Magistrate Judge Linda R. Anderson on 12/22/2020. (ACF) (Entered: 12/22/2020)

12/28/2020

123 (p.1264)

RESPONSE to Motion re 120 MOTION to Take Deposition from Sammy Sappington filed by Sammy M. Sappington, Wal-Mart Stores East, LP (Holland, Drury) (Entered: 12/28/2020)

12/31/2020

124 (p.1267)

NOTICE of Service of Response to Request for Admissions by Sammy M. Sappington, Wal-Mart Stores East, LP (Holland, Drury) (Entered: 12/31/2020)

01/04/2021

125 (p.1269)

REPLY to Response to Motion re 123 Response to Motion, 120 MOTION to Take Deposition from Sammy Sappington filed by Christy Poon-Atkins. (Attachments: # 1 Attachment, # 2 Envelope)(VM) (Entered: 01/04/2021)

01/05/2021

NOTICE: The settlement conference set for 1/12/21 at 2:00 pm will be conducted via telephone. Counsel for Defendants shall initiate the conference call; and once all parties are on the line, contact the Court at

App.195a

601-608-4440 (Lewis, Nijah) (Entered: 01/05/2021)

01/05/2021

126 (p.1283)

ORDER REASSIGNING CASE. Case reassigned to Magistrate Judge LaKeysha Greer Isaac for all further proceedings. Magistrate Judge Linda R. Anderson no longer assigned to case. Signed by Chief District Judge Daniel P. Jordan, III on 1/5/2021 (PG) (Entered: 01/05/2021)

01/05/2021

Attorneys are advised to include the case number and new judge assignment of 3:19-cv-269-KHJ-LGI on future filed pleadings. (PG) (Entered: 01/05/2021)

01/05/2021

(Court only)\*\*\*Set LGI/Clear LRA Flags (PG) Modified on 1/6/2021 (PG). (Entered: 01/05/2021)

01/06/2021

127 (p.1296)

MOTION for Virtual Conference by Christy Poon-Atkins. (Attachments: # 1 Attachment, # 2 Envelope)(VM) (Entered: 01/06/2021)

01/06/2021

128 (p.1303)

NOTICE to Take Deposition of Benjamin N. Smith, ACTAR, MSA by Sammy M. Sappington, Wal-Mart Stores East, LP (Holland, Drury) (Entered: 01/06/2021)

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01/06/2021

129 (p.1306)

NOTICE to Take Deposition of John D. Davis, M.D. by Sammy M. Sappington, Wal-Mart Stores East, LP (Holland, Drury) (Entered: 01/06/2021)

01/07/2021

130 (p.1309)

NOTICE of Service of *Second Supplemental* Response to Request for Production by Wal-Mart Stores East, LP (Holland, Drury) (Entered: 01/07/2021)

01/07/2021

131 (p.1311)

NOTICE of Service of *Second Supplemental* Response to Request for Production by Sammy M. Sappington (Holland, Drury) (Entered: 01/07/2021)

01/07/2021

NOTICE OF CANCELLATION: The Settlement Conference set for 1/12/21 is being cancelled and will be rescheduled. Once the settlement conference has been rescheduled it will be conducted via telephone. The court will contact the parties with new dates. (Lewis, Nijah) (Entered: 01/07/2021)

01/08/2021

132 (p.1313)

NOTICE to Take Deposition of John D. Davis, M.D. by Christy Poon-Atkins. (Attachments: # 1 Envelope) (VM) (Entered: 01/08/2021)

01/08/2021

133 (p.1317)

NOTICE to Take Deposition of Benjamin N. Smith by Christy Poon-Atkins. (Attachments: # 1 Envelope) (VM) (Entered: 01/08/2021)

01/08/2021

(Court only) \*\*\* Deadlines/Hearings terminated. (Lewis, Nijah) (Entered: 01/08/2021)

01/08/2021

DOCKET ANNOTATION as to 132 and 134: Plaintiff is advised to include the correct judge assignment KHJ-LGI on future filed pleadings. This case was reassigned to Magistrate Judge LaKeysha Greer Isaac on 01/05/2021. (KNS) (Entered: 01/08/2021)

01/11/2021

TEXT-ONLY ORDER AMENDING CASE MANAGEMENT ORDER. Jury Trial set for two-week term commencing 8/16/2021 at 09:00 AM in Courtroom 4B (Jackson) before District Judge Kristi H. Johnson; Pretrial Conference set for 7/9/2021, time to be determined, in Chambers 4.550 (Jackson) before District Judge Kristi H. Johnson; ADR Report due by 7/2/2021; all other case management deadlines remain unchanged. NO FURTHER WRITTEN ORDER SHALL ISSUE. Signed by Magistrate Judge LaKeysha Greer Isaac on 01/11/2021 (BB) (Entered: 01/11/2021)

App.198a

01/12/2021

134 (p.1321)

**\*\*ERROR DISREGARD THIS ENTRY.**  
AGREED ORDER OF DISMISSAL WITH  
PREJUDICE AS TO PLAINTIFF'S LOST  
WAGES CLAIM. ORDERED AND AD-  
JUDGED, that Plaintiff's claim for lost wages  
are hereby dismissed with prejudice.  
ORDERED AND ADJUDGED, that the  
dismissal with prejudice of Plaintiff's claim  
for lost wages shall have no effect on the  
remaining allegations in the Complaint.  
Signed by District Judge Henry T. Wingate  
on 1/11/21 (VM) Modified on 1/13/2021  
(VM). (Entered: 01/12/2021)

01/13/2021

DOCKET ANNOTATION as to Doc. 134:  
This Order was entered in error. Please dis-  
regard. (VM) (Entered: 01/13/2021)

01/13/2021

135 (p.1323)

Plaintiff's Response to Defendants' 131  
NOTICE of Service of Discovery and 130  
NOTICE of Service of Discovery with  
Defendants' False Claim of Productions of  
Documents and Things, filed by Christy  
Poon-Atkins. (Attachments: # 1 Envelope)  
(VM) (Entered: 01/13/2021)

01/13/2021

136 (p.1328)

MOTION for Sanctions by Christy Poon-  
Atkins. (Attachments: # 1 Envelope) (VM)  
(Main Document 136 replaced on 1/13/2021)  
(VM). (Entered: 01/13/2021)

App.199a

01/13/2021

137 (p.1338)

NOTICE of Appearance by James G. Wyly, III on behalf of Sammy M. Sappington, Wal-Mart Stores East, LP (Wyly, James) (Entered: 01/13/2021)

01/20/2021

138 (p.1340)

MOTION for Extension of Time to Complete Discovery by Christy Poon-Atkins. (Attachments: # 1 Envelope) (VM) (Entered: 01/20/2021)

01/20/2021

139 (p.1344)

NOTICE of Completing Court Order re 122 Order on Motion for Attorney Fees, Order on Motion for Sanctions, Order on Motion to Compel, Order on Motion for Summary Judgment, filed by Christy Poon-Atkins. (Attachments: # 1 Attachment, # 2 Envelope) (VM) (Entered: 01/20/2021)

01/25/2021

140 (p.1351)

MOTION to Compel Discovery by Christy Poon-Atkins. (Attachments: # 1 Envelope) (VM) (Entered: 01/25/2021)

01/25/2021

141 (p.1358)

MOTION in Limine to Exclude Testimony of Designated Expert Witness (Benjamin N. Smith) by Christy Poon-Atkins. (Attachments: # 1 Envelope)(VM) (Entered: 01/25/2021)

App.200a

01/25/2021

142 (p.1363)

MOTION in Limine to Exclude Testimony of Designated Expert Witness (John D. Davis) by Christy Poon-Atkins. (Attachments: # 1 Attachment, # 2 Envelope)(VM) (Entered: 01/25/2021)

01/25/2021

143 (p.1371)

NOTICE of Service of First Supplemental Response to Interrogatories by Sammy M. Sappington (Ellzey, Scott) (Entered: 01/25/2021)

01/25/2021

144 (p.1373)

NOTICE of Service of Third Supplemental Response to Request for Production by Sammy M. Sappington (Ellzey, Scott) (Entered: 01/25/2021)

01/25/2021

145 (p.1375)

NOTICE of Service of First Supplemental Response to Interrogatories by Wal-Mart Stores East, LP (Ellzey, Scott) (Entered: 01/25/2021)

01/25/2021

146 (p.1377)

NOTICE of Service of Third Supplemental Response to Request for Production by Wal-Mart Stores East, LP (Ellzey, Scott) (Entered: 01/25/2021)



App.201a

01/27/2021

147 (p.1379)

Response in Opposition re 136 MOTION for Sanctions by Christy Poon-Atkins. (Attachments: # 1 Envelope) (VM) (Main Document 136 replaced on 1/13/2021) (VM). and Request for Attorneys' Fees and Dismissal filed by Sammy M. Sappington, Wal-Mart Stores East, LP (Attachments: # 1 Exhibit A-October 23, 2020 Email to Plaintiff serving Defendants First Supplemental Responses to Plaintiffs First Set of Requests for Production of Documents and Things, # 2 Exhibit B-October 23, 2020 Letter and UPS Tracking, # 3 Exhibit C-January 7, 2021 Letter and UPS Tracking, # 4 Exhibit D-January 25, 2021 UPS Shipping Label and Tracking, # 5 Exhibit E-Email to Plaintiff regarding Defendants First Supplemental Responses to Interrogatories and Third Supplemental Responses to Requests for Production of Documents)(Holland, Drury) (Entered: 01/27/2021)

01/27/2021

148 (p.1399)

Response in Opposition re 135 Plaintiff's Response to Defendants' 131 NOTICE of Service of Discovery and 130 NOTICE of Service of Discovery with Defendants' False Claim of Productions of Documents and Things, filed by Christy Poon-Atkins. (Attachments: # 1 Envelope) (VM) filed by Sammy M. Sappington, Wal-Mart Stores

App.202a

East, LP (Holland, Drury) (Entered: 01/27/2021)

01/28/2021

DOCKET ANNOTATION as to 147: Multiple documents filed as one pleading. Attorney is directed to file each document separately (the same PDF document should be used) selecting correct event. Request for attorneys fees and dismissal should be filed separately selecting the motion event. (KNS) (Entered: 01/28/2021)

01/28/2021

149 (p.1402)

MOTION for Attorney Fees by Sammy M. Sappington, Wal-Mart Stores East, LP (Attachments: # 1 Exhibit A-October 23, 2020 Email to Plaintiff serving Defendants First Supplemental Responses to Plaintiffs First Set of Requests for Production of Documents and Things, # 2 Exhibit B-October 23, 2020 Letter and UPS Tracking, # 3 Exhibit C-January 7, 2021 Letter and UPS Tracking, # 4 Exhibit D-January 25, 2021 UPS Shipping Label and Tracking, # 5 Exhibit E-Email to Plaintiff regarding Defendants First Supplemental Responses to Interrogatories and Third Supplemental Responses to Requests for Production of Documents) (Holland, Drury) (Entered: 01/28/2021)

01/28/2021

150 (p.1422)

MOTION to Dismiss by Sammy M. Sappington, Wal-Mart Stores East, LP

App.203a

(Attachments: # 1 Exhibit A-October 23, 2020 Email to Plaintiff serving Defendants First Supplemental Responses to Plaintiffs First Set of Requests for Production of Documents and Things, # 2 Exhibit B-October 23, 2020 Letter and UPS Tracking, # 3 Exhibit C-January 7, 2021 Letter and UPS Tracking, # 4 Exhibit D-January 25, 2021 UPS Shipping Label and Tracking, # 5 Exhibit E-Email to Plaintiff regarding Defendants First Supplemental Responses to Interrogatories and Third Supplemental Responses to Requests for Production of Documents)(Holland, Drury) (Entered: 01/28/2021)

02/01/2021

NOTICE of Hearing on Motion 140 MOTION to Compel, 138 MOTION for Extension of Time to Complete Discovery: Telephonic Motion Hearing set for 2/12/2021 02:30 PM before Magistrate Judge LaKeysha Greer Isaac. (Lewis, Nijah) (Entered: 02/01/2021)

02/01/2021

151 (p.1442)

RESPONSE in Opposition re 138 MOTION for Extension of Time to Complete Discovery filed by Sammy M. Sappington, Wal-Mart Stores East, LP (Holland, Drury) (Entered: 02/01/2021)

02/01/2021

152 (p.1447)

RESPONSE in Opposition re 142 MOTION in Limine filed by Sammy M. Sappington, Wal-Mart Stores East, LP (Attachments: # 1

App.204a

Exhibit A-CV of John D. Davis, IV, MD)  
(Holland, Drury) (Entered: 02/01/2021)

02/01/2021

153 (p.1461)

RESPONSE in Opposition re 141 MOTION  
in Limine filed by Sammy M. Sappington,  
Wal-Mart Stores East, LP (Attachments: # 1  
Exhibit A-Report of Ben Smith, ACTAR,  
MSA, # 2 Exhibit B-CV of Ben Smith,  
ACTAR, MSA)(Holland, Drury) (Entered:  
02/01/2021)

02/05/2021

154 (p.1487)

MOTION for Court-Appointed Expert  
Witnesses with Compensation Under the  
Fifth Amendment by Christy Poon-Atkins.  
(Attachments: # 1 Envelope)(VM) (Entered:  
02/05/2021)

02/05/2021

155 (p.1498)

MOTION for Summary Judgment by Christy  
Poon-Atkins. (Attachments: # 1 Envelope)  
(VM) (Entered: 02/05/2021)

02/05/2021

156 (p.1520)

Plaintiff's Objection to Defendants' 152  
RESPONSE in Opposition re 142 MOTION  
in Limine to Exclude Testimony of Designated  
Expert Witness (Davis) filed by Christy  
Poon-Atkins. (Attachments: # 1 Envelope)  
(VM) Modified on 2/5/2021 (VM). (Entered:  
02/05/2021)

02/05/2021

DOCKET ANNOTATION as to 156: Incorrect linkage made. Court staff has made the correction. (VM) (Entered: 02/05/2021)

02/05/2021

157 (p.1526)

Plaintiff's Objection to Defendants' 153 RESPONSE in Opposition re 141 MOTION in Limine to Exclude Testimony of Designated Expert Witness (Smith) filed by Christy Poon-Atkins. (Attachments: # 1 Envelope) (VM) (Entered: 02/05/2021)

02/05/2021

158 (p.1532)

RESPONSE to Motion re 149 MOTION for Attorney Fees filed by Christy Poon-Atkins. (Attachments: # 1 Envelope) (VM) (Entered: 02/05/2021)

02/05/2021

159 (p.1559)

RESPONSE to Motion re 150 MOTION to Dismiss filed by Christy Poon-Atkins. (Attachments: # 1 Envelope) (VM) (Entered: 02/05/2021)

02/05/2021

160 (p.1586)

RESPONSE to Motion re 136 MOTION for Sanctions filed by Christy Poon-Atkins. (Attachments: # 1 Envelope) (VM) (Entered: 02/05/2021)

02/05/2021

161 (p.1613)

Response to Defendants' Opposition re 151  
Response in Opposition to Motion, re 138

App.206a

MOTION for Extension of Time to Complete Discovery filed by Christy Poon-Atkins. (Attachments: # 1 Envelope) (VM) (Additional attachment(s) added on 9/1/2021: # 2 Exhibit A, # 3 Exhibit B, # 4 Exhibit C1, # 5 Exhibit C2, # 6 Exhibit C3, # 7 Exhibit C4, # 8 Exhibit C5) (VM). (Entered: 02/05/2021)

02/08/2021

162 (p.1640)

RESPONSE in Opposition re 140 MOTION to Compel *Discovery Production of Things and Such and Admissions* filed by Sammy M. Sappington, Wal-Mart Stores East, LP (Holland, Drury) (Entered: 02/08/2021)

02/12/2021

TEXT-ONLY ORDER following Motion Hearing held on February 12, 2021 at 2:30 pm. The Defendant shall provide a document log to Plaintiff by close of business on Friday, February 19, 2021, along with a CD with a complete copy of documents produced by Defendant to date. Defendant will provide a courtesy copy of the documents and document log to the Court to the chambers email by close of business on Friday, February 19, 2021. Plaintiff should review the document log and provided documents, identify any alleged deficiencies in production, and notify Defendants no later than close of business on Friday, February 26, 2021. NO FURTHER WRITTEN ORDER SHALL ISSUE. Signed by Magistrate Judge LaKeysha Greer Isaac on 2/12/2021 (BB) Modified on 2/12/2021 (BB). (Entered: 02/12/2021)

App.207a

02/12/2021

Minute Entry for proceedings held before Magistrate Judge LaKeysha Greer Isaac: Motion Hearing held on 2/12/2021: Participants (via Zoom): Christy Poon-Atkins, Scott Ellzey and Dru Holland. The Court spoke with counsel. Order forthcoming. (Lewis, Nijah) (Entered: 02/12/2021)

02/19/2021

163 (p.1646)

NOTICE of Compliance With Court Order by Sammy M. Sappington, Wal-Mart Stores East, LP re Order,,, (Holland, Drury) (Entered: 02/19/2021)

02/19/2021

164 (p.1649)

Response in Opposition re 154 MOTION for Court-Appointed Expert Witnesses with Compensation Under the Fifth Amendment by Christy Poon-Atkins. (Attachments: # 1 Envelope) (VM) filed by Sammy M. Sappington, Wal-Mart Stores East, LP (Holland, Drury) (Entered: 02/19/2021)

02/19/2021

165 (p.1653)

Response in Opposition re 155 MOTION for Summary Judgment by Christy Poon-Atkins. (Attachments: # 1 Envelope) (VM) filed by Sammy M. Sappington, Wal-Mart Stores East, LP (Holland, Drury) (Entered: 02/19/2021)

02/24/2021

App.208a

166 (p.1657)

Plaintiff's Objection re 164 Response in Opposition re 154 MOTION for Court-Appointed Expert Witnesses with Compensation Under the Fifth Amendment, filed by Christy Poon-Atkins. (Attachments: # 1 Envelope) (VM) (Entered: 02/24/2021)

02/24/2021

167 (p.1665)

Plaintiff's Objection re 165 Response in Opposition re 155 MOTION for Summary Judgment, filed by Christy Poon-Atkins. (Attachments: # 1 Envelope) (VM) (Entered: 02/24/2021)

02/24/2021

168 (p.1671)

NOTICE of Compliance in Completing Court Order re Text-Only Order by Christy Poon-Atkins. (Attachments: # 1 Envelope) (VM) (Entered: 02/24/2021)

02/25/2021

169 (p.1691)

ORDER finding as moot 120 Motion to Take Deposition from Sammy Sappington. Plaintiffs Response to Defendants Request for Witness to be Paid for Deposition 125 is denied. Signed by Magistrate Judge LaKeysha Greer Isaac on 2/25/2021 (BB) (Entered: 02/25/2021)

02/25/2021

170 (p.1692)

ORDER finding as moot 127 Plaintiffs Request for Virtual Conference. Signed by



App.209a

Magistrate Judge LaKeysha Greer Isaac on  
2/25/2021 (BB) (Entered: 02/25/2021)

02/25/2021

171 (p.1693)

ORDER denying 154 Motion for Court-Appointed Expert Witness with Compensation Under the Fifth Amendment. Signed by Magistrate Judge LaKeysha Greer Isaac on 2/25/2021 (BB) (Entered: 02/25/2021)

03/01/2021

NOTICE of Hearing: Settlement Conference set for 4/1/2021 09:00 AM before Magistrate Judge LaKeysha Greer Isaac. The conference will be conducted via Zoom. A link will be sent to the email addresses listed on the docket. (Lewis, Nijah) (Entered: 03/01/2021)

03/09/2021

172 (p.1693)

NOTICE of Receipt of Deposition by Sammy M. Sappington, Wal-Mart Stores East, LP (Attachments: # 1 Exhibit A-Cover Sheet of Deposition Transcript) (Holland, Drury) (Entered: 03/09/2021)

03/09/2021

173 (p.1698)

NOTICE of Receipt of Deposition by Sammy M. Sappington, Wal-Mart Stores East, LP (Attachments: # 1 Exhibit A-Cover Sheet of Deposition Transcript) (Holland, Drury) (Entered: 03/09/2021)

03/25/2021

App.210a

174 (p.1701)

ORDER denying 138 Motion for Extension of Time to Complete Discovery. Signed by Magistrate Judge LaKeysha Greer Isaac on 3/25/2021 (BB) (Entered: 03/25/2021)

03/26/2021

175 (p.1702)

ORDER denying 136 Motion for Sanctions; denying 149 Motion for Attorney Fees. Signed by Magistrate Judge LaKeysha Greer Isaac on 3/25/2021 (BB) (Entered: 03/26/2021)

03/26/2021

176 (p.1705)

ORDER granting in part and denying in part 140 Motion to Compel. The Plaintiffs Motion to Compel Discovery Production of Things and Such and Admissions 140 is granted to the extent of the Courts Text-Only Order entered on February 12, 2021, to which the Defendants have complied. It is further ordered that the period for Discovery in this matter is closed. Signed by Magistrate Judge LaKeysha Greer Isaac on 3/26/2021 (BB) (Entered: 03/26/2021)

04/01/2021

Minute Entry for proceedings held before Magistrate Judge LaKeysha Greer Isaac: Settlement Conference held on 4/1/2021. Participants: Christy Poon-Atkins, Scott Ellzey, Dru Holland, Mel Searcy and Sammy Sappington. The court conducted settlement negotiations. The case did not settle at the conference. (Lewis, Nijah) (Entered: 04/01/2021)

App.211a

04/27/2021

177 (p.1708)

Plaintiff's NOTICE of Federal Rules of Civil Procedure: Rule 51 Constitutional Challenge to a Statute by Christy Poon-Atkins. (Attachments: # 1 Attachment, # 2 Envelope) (VM) Modified on 4/27/2021 (VM). (Entered: 04/27/2021)

05/17/2021

178 (p.1723)

ORDER granting 85 Motion for Summary Judgment; finding as moot 97 Motion for Summary Judgment; finding as moot 99 Motion to Strike; finding as moot 104 Motion to Dismiss; finding as moot 141 Motion in Limine; finding as moot 142 Motion in Limine; finding as moot 150 Motion to Dismiss; and finding as moot 155 Motion for Summary Judgment. Signed by District Judge Kristi H. Johnson on 05/17/2021 (KNS) (Entered: 05/17/2021)

05/17/2021

179 (p.1730)

FINAL JUDGMENT. Signed by District Judge Kristi H. Johnson on 05/17/2021 (KNS) (Entered: 05/17/2021)

05/17/2021

(Court only)\*\*\*Clear TRIAL\_SET Flag. (KNS) (Entered: 05/17/2021)

05/28/2021

180 (p.1731)

App.212a

NOTICE OF APPEAL as to 179 Judgment  
by Christy Poon-Atkins. (Attachments: # 1  
Envelope) (VM) (Entered: 05/28/2021)

06/10/2021

181 (p.1735)

USCA Case Number 21-60467 for 180 Notice  
of Appeal filed by Christy Poon-Atkins. (VM)  
(Entered: 06/10/2021)

06/14/2021

182 (p.1739)

NOTICE of Appeal Filing Fee by Christy  
Poon-Atkins. (Attachments: # 1 Envelope)  
(VM) (Entered: 06/14/2021)

06/14/2021

USCA Appeal Fees received \$505 receipt  
number 34643063754 re 180 Notice of Appeal  
filed by Christy Poon-Atkins. (VM) (Entered:  
06/14/2021)

07/06/2021

Certified and Transmitted Record on Appeal  
to US Court of Appeals re 180 Notice of  
Appeal. (VM) (Entered: 07/06/2021)

07/06/2021

ELECTRONIC RECORD ON APPEAL  
ACCEPTED: The Court of Appeals has  
accepted the Electronic Record on Appeal  
and it is available for attorney access and  
download at [http://http://www.ca5.uscourts.  
gov/docs/default-source/forms/instructions-  
for-electronic-record-download-feature-of-cm.  
pdf](http://http://www.ca5.uscourts.gov/docs/default-source/forms/instructions-for-electronic-record-download-feature-of-cm.pdf) using credentials provided to you by the  
Clerk of that Court. COUNSEL MUST  
HAVE AN APPEARANCE FORM ON FILE.

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If you have not filed it and/or have just filed it, please allow 3-5 days for processing. Requirements: Java 1.7, Adobe Acrobat Reader 11, turn off pop up blockers or add CM/ECF filing system to approved pop up settings. Pro Se Parties should request the record from the Clerks Office. (VM) (Entered: 07/06/2021)

08/25/2021

Appeal Remark re 180 Notice of Appeal: Record on Appeal is being provided to the Plaintiff on a CD/DVD via FedEx Tracking No.: 803392462113. (VM) (Entered: 08/25/2021)

09/01/2021

183 (p.1802)

ATTACHMENT: Exhibits A-C5 re 161 Reply to Response to Motion, by Christy Poon-Atkins. (Attachments: # 1 Exhibit B, # 2 Exhibit C1, # 3 Exhibit C2, # 4 Exhibit C3, # 5 Exhibit C4, # 6 Exhibit C5)(VM) (Entered: 09/01/2021)

09/01/2021

Supplemental Record on Appeal transmitted to US Court of Appeals re 180 Notice of Appeal. Waiting on acceptance from USCA. Parties will be notified once the record has been accepted. (VM) (Entered: 09/01/2021)

09/02/2021

184 (p.1868)

NOTICE of Supplemental Discovery Disclosure by Christy Poon-Atkins re 183 Attachment, 161 Reply to Response to Motion.

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(Attachments: # 1 Exhibit C) (VM) (Entered:  
09/02/2021)



