Rel: November 6, 2026

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SUPREME COURT OF ALABAMA

OCTOBER TERM, 2026-2027

SC-2026-0336

Charles Flanagan, Jr.

v.

Grayson Bailey Landscaping & Design, LLC

Appeal from Limestone Circuit Court
(CV-24-900010)

COOK, Justice.[1]

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[1]This case was originally assigned to another Justice. It was reassigned to Justice Cook on August 21, 2026.

This case concerns an automobile accident that allegedly occurred, in part, because a pickup truck was parked in a turning lane in a way that obstructed the view of the drivers. The main dispute on appeal concerns the identification of the owner of that vehicle.

In November 2023, Charles Flanagan, Jr., was traveling northbound on Lindsey Lane in Athens. At that time, Ella Marlowe turned left out of the Canebrake subdivision and into Flanagan's path. Their vehicles collided, and Flanagan asserts that he was injured.

It is undisputed that, at the time of the collision, a pickup truck was parked in the turning lane that services the entrance to the subdivision. According to Marlowe, that vehicle blocked her view of oncoming traffic, including Flanagan's vehicle.

In his amended complaint, Flanagan sued Marlowe, his underinsured-motorist carrier, Progressive Direct Insurance Company, and Grayson Bailey Landscaping & Design, LLC ("Grayson Bailey"), alleging claims of negligence and wantonness. Among other things, Flanagan alleged that Grayson Bailey employed a worker who negligently or wantonly parked the pickup truck at issue in the turning

lane outside the Canebrake subdivision and that this led to Flanagan's collision with Marlowe and caused his injuries.

After discovery, Grayson Bailey moved for a summary judgment, arguing that Flanagan could not produce substantial evidence showing that it owned the pickup truck -- a fact necessary to prove its liability. The trial court agreed and entered a summary judgment in Grayson Bailey's favor. Flanagan eventually settled his claims against Marlowe and Progressive Direct Insurance Company. However, he appealed the summary judgment in favor of Grayson Bailey.

For the reasons stated below, we agree with Flanagan that he presented substantial evidence showing that a genuine issue of material fact existed as to whether Grayson Bailey was, in fact, the owner of the pickup truck at issue. We therefore reverse the summary judgment in favor of Grayson Bailey on Flanagan's negligence claim. However, Flanagan did not present substantial evidence showing that a genuine issue of material fact existed as to whether Grayson Bailey and its employees knew that parking a pickup truck in that turning lane was likely to result in injury to drivers approaching and leaving the subdivision. We therefore affirm the summary judgment in favor of

Grayson Bailey on Flanagan's wantonness claim.

Facts and Procedural History

As stated previously, on November 8, 2023, Flanagan was traveling northbound on Lindsey Lane in Athens. A pickup truck was parked to his right, in a separate turning lane used by drivers entering the Canebrake subdivision. At that time, Marlowe, who was leaving the subdivision, attempted to turn left onto Lindsey Lane to travel southbound. However, because she could not see around the parked pickup truck, she pulled into Flanagan's path, and Flanagan's vehicle collided with her vehicle.

After the accident, Marlowe took several photographs of the scene. One photograph showed a white Ford pickup truck parked in the turn lane with its passenger door open. Some text or a logo appears on the door, but Marlowe's photograph was too poor to make it out. Marlowe later testified that the truck had blocked her view and contributed to the accident.

Another photograph showed a man in a blue shirt standing in the grass between the truck and the accident. A logo appeared on the left side of his shirt, but it, too, was indistinct.

On January 12, 2024, Flanagan sued Marlowe and Progressive

Direct Insurance Company in the Limestone Circuit Court. He later amended his complaint to add Grayson Bailey as a defendant to the lawsuit. He alleged, among other things, that one of Grayson Bailey's employees had negligently and wantonly parked the pickup truck in the turning lane, which led to his collision with Marlowe. He further alleged that Grayson Bailey was vicariously liable.

After discovery, Grayson Bailey moved for a summary judgment on Flanagan's claims. In its motion, Grayson Bailey argued that Flanagan could not produce substantial evidence showing that the pickup truck at issue belonged to it or that one of its employees had parked it in the turning lane. Thus, Grayson Bailey argued that it was entitled to a summary judgment on Flanagan's negligence claim. Similarly, Grayson Bailey argued that it was entitled to a summary judgment on Flanagan's wantonness claim. In particular, Grayson Bailey made the additional argument that Flanagan could not present substantial evidence showing that any of its employees knew that parking a pickup truck in that turning lane was likely to result in injury to drivers approaching and leaving the subdivision.

In support of its motion, Grayson Bailey relied principally on the

deposition testimony of its owner and two of its employees. For instance, the owner and a foreman testified that they did not recognize the truck in Marlowe's photograph as one belonging to Grayson Bailey. The owner and others also testified that they did not recognize the man in the photograph as an employee of Grayson Bailey. Photographs purporting to show Grayson Bailey's "full fleet" of trucks were also submitted in support of the motion. However, none of the trucks in those photographs precisely matched the truck in Marlowe's fuzzy photograph.

In his response in opposition to Grayson Bailey's summary-judgment motion, Flanagan argued that there was substantial evidence in the record to create a genuine issue of material fact as to whether the pickup truck at issue belonged to Grayson Bailey and whether one of its employees had parked the truck in the turning lane outside the Canebrake subdivision at the time of his collision with Marlowe. Because there were clear issues of material fact in this case, Flanagan argued, Grayson Bailey was not entitled to a summary judgment on his negligence and wantonness claims.

In support of his response, Flanagan pointed out that it was undisputed that the photographs taken by Marlowe following the

accident showed the pickup truck and a person near the entrance to the Canebrake subdivision. Flanagan then pointed to Marlowe's response to one of his interrogatories in which she identified the truck at issue in an interrogatory response as a "Grayson Bailey Landscaping truck." Marlowe also testified in her deposition that the person had been walking "around between the bushes and the mulch" in that area. According to Flanagan, Grayson Bailey was the only company with a landscaping-services contract for the Canebrake subdivision.

He further provided evidence indicating that both the Grayson Bailey lawn-maintenance crew and the Grayson Bailey landscaping crew were working at the Canebrake subdivision on the date of the accident. For instance, Flanagan noted that Grayson Bailey's records showed that four members of the Grayson Bailey landscaping crew worked at the entrance to the Canebrake subdivision from 7:00 a.m. to 4:30 p.m. on the date of the accident. The accident occurred at approximately 3:30 p.m. that day.

Flanagan also noted that, during his deposition, one of Grayson Bailey's employees was shown police body-cam footage from the accident scene. That employee acknowledged that that footage showed different

Grayson Bailey vehicles leaving the Canebrake subdivision at that time.

In addition to the above, Flanagan attached to his response a copy of his affidavit in which he stated that he saw that same man get into the truck and drive it into the Canebrake subdivision. He also attached a copy of a deposition given by one of Grayson Bailey's employees in which that employee testified that the blue shirt worn by the man in Marlowe's photograph was at least similar to shirts Grayson Bailey supplied to its employees. Marlowe, upon being shown her photograph and photographs of Grayson Bailey's shirts, agreed that the shirts were similar.

On September 25, 2025, the trial court entered a summary judgment in favor of Grayson Bailey without explaining its reasoning. Flanagan now appeals the judgment in favor of Grayson Bailey.[2]

Standard of Review

> "This Court's review of a summary judgment is de novo. Williams v. State Farm Mut. Auto. Ins. Co., 886 So. 2d 72, 74 (Ala. 2003). We apply the same standard of review as the trial court applied. Specifically, we must determine whether the movant has made a prima facie showing that no genuine issue of material fact exists and that the movant is entitled to a judgment as a matter of law. Rule 56(c), Ala. R. Civ. P.; Blue Cross & Blue Shield of Alabama v. Hodurski, 899 So. 2d 949,

[2]We note that Flanagan ultimately settled his claims against the remaining defendants -- Marlowe and Progressive Direct Insurance Company -- and dismissed them from his lawsuit, with prejudice.

> 952-53 (Ala. 2004). In making such a determination, we must review the evidence in the light most favorable to the nonmovant. Wilson v. Brown, 496 So. 2d 756, 758 (Ala. 1986). Once the movant makes a prima facie showing that there is no genuine issue of material fact, the burden then shifts to the nonmovant to produce 'substantial evidence' as to the existence of a genuine issue of material fact. Bass v. SouthTrust Bank of Baldwin County, 538 So. 2d 794, 797-98 (Ala. 1989); Ala. Code 1975, § 12-21-12. '[S]ubstantial evidence is evidence of such weight and quality that fair-minded persons in the exercise of impartial judgment can reasonably infer the existence of the fact sought to be proved.' West v. Founders Life Assur. Co. of Fla., 547 So. 2d 870, 871 (Ala. 1989)."

Dow v. Alabama Democratic Party, 897 So. 2d 1035, 1038-39 (Ala. 2004).

Discussion

On appeal, Flanagan reasserts the arguments he made in his response to Grayson Bailey's summary-judgment motion. Specifically, he argues that he presented substantial evidence showing that a genuine issue of material fact existed as to whether (1) the parked pickup truck belonged to Grayson Bailey and (2) Grayson Bailey and its employees knew that parking a truck in the turning lane outside the Canebrake subdivision was likely to result in injury to drivers approaching and leaving the subdivision. Because he presented substantial evidence of these factual disputes, Flanagan argues, the trial court's summary judgment in favor of Grayson Bailey should be reversed and his

negligence and wantonness claims should proceed to trial.

Under Alabama law, "'"'[n]egligence and wantonness, plainly and simply, are qualitatively different tort concepts of actionable culpability.'"'" Ex parte Essary, 992 So. 2d 5, 9 (Ala. 2007) (citations omitted). Negligence requires proof that the defendant breached a duty to a foreseeable plaintiff and that the breach proximately caused the plaintiff's injury. See Hilyer v. Fortier, 227 So. 3d 13, 22 (Ala. 2017). It "'"is usually characterized as an inattention, thoughtlessness, or heedlessness, a lack of due care ...."'" Tolbert v. Tolbert, 903 So. 2d 103, 114-15 (Ala. 2004) (quoting Ex parte Anderson, 682 So. 2d 467, 470 (Ala. 1996), quoting in turn Lynn Strickland Sales & Serv., Inc. v. Aero-Lane Fabricators, Inc., 510 So. 2d 142, 145 (Ala. 1987)).

In an action alleging the negligent operation of a vehicle, however, the plaintiff must first connect the defendant to the vehicle at issue. For instance, our Court has explained that

> "[i]t is fundamental that in an action against a principal for injuries caused by an agent's negligent operation of a motor vehicle, the plaintiff has the burden to prove that the vehicle belonged to the principal or to establish agency, and that the agent was acting within the scope of his authority at the time of the accident."

Goggins v. Miller Transporters, Inc., 290 Ala. 326, 327-28, 276 So. 2d 571, 573 (1973). See also Potts v. BE & K Constr. Co., 604 So. 2d 398, 400 (Ala. 1992) ("The employer is vicariously liable for acts of its employee that were done for the employer's benefit, i.e., acts done in the line and scope of employment or … done for the furtherance of the employer's interest."). Thus, when a plaintiff seeks to hold a corporate defendant liable for the negligent operation of a vehicle, the plaintiff bears the burden of proving either that the defendant owned the vehicle or that the vehicle was being operated by the defendant's agent. See Goggins, 290 Ala. at 327-28, 276 So. 2d at 573.

Unlike negligence, wantonness requires something more. Our Court has recently explained that "wantonness" is

> "'[c]onduct which is carried on with a reckless or conscious disregard of the rights or safety of others.' § 6-11-20(b)(3), Ala. Code 1975. It requires '"the conscious doing of some act or the omission of some duty while knowing of the existing conditions and being conscious that, from doing or omitting to do an act, injury will likely or probably result."' Lands v. Ward, 349 So. 3d 219, 229 (Ala. 2021) (quoting Ex parte Essary, 992 So. 2d [5,] 9 [(Ala. 2007)])."

Tutor v. Sines, 380 So. 3d 1035, 1038 (Ala. 2023) (first emphasis added). In order for a plaintiff to prove a wantonness claim, it is not essential that the actor should have entertained a specific design or intent to injure

the plaintiff, only that the actor is "conscious" that injury will likely or probably result from his actions. See Joseph v. Staggs, 519 So. 2d 952, 954 (Ala. 1988). In sum, wantonness turns on the defendant's state of mind and requires more than inadvertence, inattention, or a failure to exercise reasonable care, as is required for negligence. See Lafarge North America, Inc. v. Nord, 86 So. 3d 326, 333-34 (Ala. 2011).

With these legal principles in mind, we will now address whether Flanagan did, in fact, present substantial evidence showing that a genuine issue of material fact existed as to each of his claims such that the summary judgment entered in favor of Grayson Bailey was improper.

I. Grayson Bailey's Prima Facie Case for Summary Judgment

As stated previously in this opinion, in a summary-judgment proceeding, the initial burden is on the movant to make a prima facie showing that that no genuine issue of material fact exists. In its summary-judgment motion, Grayson Bailey argued that Flanagan could not prove that the pickup truck at issue belonged to it or that one of its employees had parked it in the turning lane outside the Canebrake subdivision and that, thus, his negligence claim should fail. It also argued that, because Flanagan could not establish that the pickup truck at issue

belonged to it, he also could not present substantial evidence showing that any of its employees possessed the requisite conscious culpability to sustain his wantonness claim.

As to Flanagan's negligence claim, Grayson Bailey relied principally on an affidavit from its owner. It also relied on deposition testimony from its owner and two of its employees who, during their depositions, were shown Marlowe's photograph of the pickup truck that was in the turning lane outside the Canebrake subdivision on the day of the collision. They testified that they did not recognize the truck as one belonging to Grayson Bailey. Additionally, Grayson Bailey produced photographs of its "full fleet" of trucks and noted that none of the trucks in those photographs precisely matched the truck in Marlowe's photograph. Finally, the owner and an employee were also shown the photograph of a man in a blue shirt that was near the flower beds outside the subdivision on the day of the accident, and both testified that they did not recognize the man in the photograph as being a Grayson Bailey employee.

In addition to the above, Grayson Bailey noted that Marlowe's testimony did not eliminate the possibility that the truck belonged to

someone else. Although, in an interrogatory response, she identified the truck as a "Grayson Bailey Landscaping truck," she later testified during her second deposition that this identification was an assumption based on the fact that a friend had told her that Grayson Bailey was the landscaper for Canebrake. Marlowe also admitted during her second deposition that it was her "assumption" that the man in the blue shirt was performing landscaping work.

As to Flanagan's wantonness claim, Grayson Bailey again leaned on the fact that Flanagan could not produce any evidence indicating that the pickup truck or the man in Marlowe's photographs were related to Grayson Bailey at all. As a result, it noted that Flanagan could not prove that Grayson Bailey and its employees had the requisite level of conscious culpability that Alabama law requires to sustain a wantonness claim.

Taken together, this evidence was enough to make the required prima facie showing that no genuine issue of material fact existed as to whether the pickup truck at issue belonged to Grayson Bailey, so as to sustain Flanagan's negligence claim, much less whether Grayson Bailey and its employees had the requisite conscious culpability to sustain

Flanagan's wantonness claim. The burden therefore shifted to Flanagan to present substantial evidence showing that a genuine issue of material fact did exist as to those claims. See Nationwide Prop. & Cas. Ins. Co., 792 So. 2d at 372.

II. Flanagan's Substantial Evidence in Opposition to Grayson Bailey's Summary-Judgment Motion

In his response to the summary-judgment motion, Flanagan argued that there was substantial evidence in the record to create a genuine issue of material fact as to whether the pickup truck at issue belonged to Grayson Bailey and whether one of its employees had parked the truck in the turning lane outside the Canebrake subdivision at the time of his collision with Marlowe. Because there were clear issues of material fact in this case, Flanagan argued, Grayson Bailey was not entitled to a summary judgment on his negligence and wantonness claims. As noted previously, Flanagan maintains this position on appeal.

A. Flanagan's Negligence Claim

With regard to his negligence claim, Flanagan argued that he had produced substantial, circumstantial evidence indicating that Grayson Bailey "owned and/or directed the operation of the truck parked in the turn lane at the entrance of the Canebrake subdivision." After reviewing

the materials in the record before us, we agree.

First, the evidence presented by Flanagan of Grayson Bailey's business relationship with the Canebrake subdivision is undisputed. For instance, Grayson Bailey's owner testified that his company had the exclusive right to perform landscaping services in the common areas of the subdivision through its agreement with the homeowners' association. Although homeowners could hire other landscapers to work on their own residential properties, that exception does not extend to the common areas where the truck and the man were observed.

Perhaps most importantly, Grayson Bailey's own records show that four employees were scheduled to perform landscaping work at the Canebrake subdivision on the day of the accident, including work described as "fill[ing] beds, water[ing] grass [and] plant[ing] 17 little lime Hyd[rangeas]." Those same records also show that Grayson Bailey's employees were scheduled to be at the entrance to the subdivision around the time of day when the accident occurred.

In addition, according to Flanagan, immediately after the accident occurred, Marlowe took a photograph of the pickup truck itself. Although that photograph was not clear enough to establish that the truck

belonged to Grayson Bailey, that possibility cannot be completely ruled out. The pickup truck in Marlowe's photograph is a white Ford pickup truck, and Flanagan, referencing the photograph, submits that its make, model, and general appearance are consistent with trucks Grayson Bailey used. The photograph also shows a logo on the passenger door. Even though the photograph is too poor to reveal what that logo says, one of Grayson Bailey's employees testified during his deposition that all of Grayson Bailey's trucks bear company logos. That same employee also reviewed police body-cam footage from the scene that day and admitted that that footage showed different Grayson Bailey vehicles leaving the Canebrake subdivision at that time.

Flanagan also presented both his own affidavit testimony and Marlowe's deposition testimony, which tied the man in the blue shirt to the pickup truck at issue. For instance, Flanagan testified that he saw the man in the blue shirt get into the pickup truck and drive it into the Canebrake subdivision following the accident. Marlowe testified that she saw the man in the blue shirt walking between the bushes and in the mulch at the entrance to the Canebrake subdivision. Finally, at least one of Grayson Bailey's employees testified that the blue shirt the man in the

photograph was wearing was substantially similar to the shirts supplied by Grayson Bailey to its employees.

We recognize that Grayson Bailey asserts that it has produced testimony that the pickup truck at issue does not appear among the photographs it submitted to the trial court as showing its "full fleet" of company trucks and testimony that its employees were unable to identify the man in the blue shirt. As noted above, this is sufficient evidence to shift the burden to Flanagan.

Once shifted, it is Flanagan's burden to point to evidence that demonstrates a genuine issue of material fact. Flanagan has done so. Viewing the above evidence, as we must, in favor of Flanagan as the nonmovant, a single coherent story emerges: A pickup truck with a logo was parked in the turning lane at the entrance to the Canebrake subdivision on the day of the accident; a man wearing a blue shirt similar to those supplied by Grayson Bailey to its employees was walking through the bushes and mulched areas immediately nearby; Grayson Bailey had the exclusive right to perform landscaping work in that common area; four Grayson Bailey employees were scheduled to work at the Canebrake subdivision that day; and one witness saw the man in the

blue shirt get into the truck and drive it into the Canebrake subdivision.

Thus, there is sufficient evidence for a jury to believe that the person pictured at the Canebrake subdivision entrance on the day of the accident was a Grayson Bailey employee because (1) Grayson Bailey had the exclusive contract to do landscaping work in the subdivision and was indisputably doing landscaping work there that day and (2) the person pictured was in the mulched area at the subdivision's entrance and had a shirt that was similar to Grayson Bailey's shirts. On the one hand, it is possible that the testimony of Grayson Bailey's owner and employees to the contrary is mistaken. On the other hand, it is also possible for a jury to believe that some person in a blue shirt -- unaffiliated with Grayson Bailey -- had some unknown reason other than landscaping for being in that area and parking the truck in the turning lane.

While no single piece of evidence proves ownership in this case, our summary-judgment caselaw does not require the nonmovant to produce a piece of evidence that, standing alone, resolves the case. Instead, it requires substantial evidence from which a reasonable jury could reach the nonmovant's position. In this case, based on the substantial evidence presented by Flanagan, a jury could reach the conclusion that the pickup

truck at issue belonged to Grayson Bailey.

Based on the foregoing, a genuine issue of material fact exists as to whether Grayson Bailey owned the pickup truck. We therefore conclude that the summary judgment in favor of Grayson Bailey on Flanagan's negligence claim must be reversed.

B. Flanagan's Wantonness Claim

Next, with regard to his wantonness claim, Flanagan argued in his response to Grayson Bailey's motion that, because there was evidence indicating that the pickup truck at issue may have belonged to Grayson Bailey, there was also evidence indicating that Grayson Bailey and its employees "made a conscious and intentional decision to park the truck in the turn lane for convenience, knowing that parking the vehicle in [the] turn lane would create a potential harm to other drivers along Lindsey Lane Road." As a result, Flanagan argued, he had established, by substantial evidence, that Grayson Bailey's actions were in reckless disregard of the safety of others and that, therefore, his wantonness claim presented a question for the jury. As stated previously, Flanagan maintains this position on appeal.

To establish a claim of wantonness, a plaintiff must show that the

defendant's conduct "'is carried on with a reckless or conscious disregard of the rights or safety of others.'" Tutor, 380 So. 3d at 1038 (quoting § 6-11-20(b)(3), Ala. Code 1975). In other words, it requires "'"the conscious doing of some act or the omission of some duty while knowing of the existing conditions and being conscious that, from doing or omitting to do an act, injury will likely or probably result."'" Id. (citations omitted; first emphasis added). "Wantonness is a question of fact for the jury, unless there is a total lack of evidence from which the jury could reasonably infer wantonness." Cash v. Caldwell, 603 So. 2d 1001, 1003 (Ala. 1992) (emphasis added).

Our Court recently addressed the degree of conscious culpability required for a wantonness claim in Tutor v. Sines, supra. In that case, Jessica Rene Tutor was driving from Fort Mitchell, Alabama, to Columbus, Georgia, when she became involved in a collision that resulted in injuries to two of her passengers. At the time of the collision, Tutor had been driving over the speed limit, despite requests from her passengers to slow down, and had taken her eyes off the road to use her mobile phone to change a song. Her vehicle collided head-on with another vehicle after she swerved to avoid rear-ending a car in front of her.

The two injured passengers in Tutor's vehicle sued her, alleging negligence and wantonness. The trial court entered a summary judgment in favor of the passengers on their negligence claims, but allowed the wantonness claims to proceed to trial. The jury found in favor of the passengers. Tutor appealed.

On appeal, our Court focused on whether there was substantial evidence of wantonness. We held that there was substantial evidence that Tutor had acted wantonly by intentionally violating the speed limit, actively engaging with her mobile phone while driving, and being aware of the dangerous conditions based on warnings from her passengers and her familiarity with the road. We therefore concluded that the evidence was sufficient for the jury to find that Tutor had acted with a reckless or conscious disregard for the safety of others, and we affirmed the judgment in favor of the passengers.

Here, both in his response to Grayson Bailey's summary-judgment motion and on appeal, Flanagan relies only on the deposition testimony of Grayson Bailey's owner to support his assertion that a genuine issue of material fact existed as to whether Grayson Bailey and its employees knew that parking a pickup truck in the turning lane outside the

Canebrake subdivision was likely to result in injury to drivers approaching and leaving the subdivision. During his deposition, Grayson Bailey's owner was specifically asked whether he agreed that a person should not park a vehicle in a turning lane. He answered: "Yeah." He was then asked why a person should not park in a turn lane, and he stated: "I guess so not to obstruct a view, I guess." He then agreed that doing so could create a dangerous situation.

Unlike the evidence in Tutor, here, this statement by the owner, alone, cannot lead a jury to infer that Grayson Bailey and its employees had the kind of conscious culpability that Alabama law requires for a wantonness claim to succeed. As stated previously, for a wantonness claim to succeed there must be some evidence indicating that the defendant's conduct constitutes a reckless or conscious disregard of the rights or safety of others. The testimony from Grayson Bailey's owner does not address the conscious culpability, if any, of the person allegedly responsible for driving the pickup truck that day, the condition of Lindsey Lane, the speed limit or sight lines on that road, or the traffic conditions on that road in general. Without more, we cannot conclude that a genuine issue of material fact existed as to whether Grayson Bailey and its

employees knew that parking a pickup truck in that turning lane was likely to result in injury to drivers approaching and leaving the subdivision. Because there is a "total lack of evidence from which the jury could reasonably infer wantonness," Cash, 603 So. 2d at 1003, we affirm the trial court's summary judgment in favor of Grayson Bailey on Flanagan's wantonness claim.

Conclusion

As demonstrated above, Flanagan has produced substantial evidence showing that a genuine issue of material fact exists as to whether the pickup truck parked in the turning lane outside the Canebrake subdivision belonged to Grayson Bailey. However, Flanagan has not produced substantial evidence showing that a genuine issue of material fact exists as to whether Grayson Bailey and its employees knew that parking a pickup truck in that turning lane was likely to result in injury to drivers approaching and leaving the subdivision. We therefore reverse the trial court's summary judgment in favor of Grayson Bailey on Flanagan's negligence claim and remand the case for further proceedings consistent with this opinion. We affirm the trial court's summary judgment in favor of Grayson Bailey on Flanagan's wantonness claim.

AFFIRMED IN PART; REVERSED IN PART; AND REMANDED.

Stewart, C.J., and Shaw, Wise, Bryan, Mendheim, McCool, and Parker, JJ., concur.

Sellers, J., concurs in the result in part and dissents in part, with opinion.

SELLERS, Justice (concurring in the result in part and dissenting in part).

I respectfully dissent insofar as the main opinion reverses the summary judgment on the negligence claim.

> "It is fundamental that in an action against a principal for injuries caused by an agent's negligent operation of a motor vehicle, the plaintiff has the burden to prove that the vehicle belonged to the principal or to establish agency, and that the agent was acting within the scope of his authority at the time of the accident."

Goggins v. Miller Transporters, Inc., 290 Ala. 326, 327-28, 276 So. 2d 571, 573 (1973). See also Potts v. BE & K Constr. Co., 604 So. 2d 398, 400 (Ala. 1992) ("The employer is vicariously liable for acts of its employee that were done for the employer's benefit, i.e., acts done in the line and scope of employment or … done for the furtherance of the employer's interest."). The issue in this appeal is whether plaintiff Charles Flanagan, Jr., presented substantial evidence indicating that an employee of defendant Grayson Bailey Landscaping & Design, LLC ("Grayson Bailey"), acting as an agent of Grayson Bailey, parked a truck in the turning lane leading to the Canebrake subdivision, obscuring the vision of Ella Marlowe and contributing to the collision of Flanagan's vehicle with Marlowe's vehicle.

Immediately after the accident, Marlowe photographed the illegally parked truck. The photograph shows that the truck had a logo affixed to its side, but the logo cannot be identified from the photograph. Marlowe also took a photograph of a man she assumed was performing landscaping work in a flower bed near the entrance of the subdivision and near the truck. But, like the truck, the worker in the photograph has not been identified. In an affidavit Flanagan submitted to the trial court, he attested that, after the accident but before police arrived, the man in Marlowe's photograph moved the truck into the subdivision.

In response to interrogatories Flanagan submitted to Marlowe, Marlowe stated that "the party that caused this accident was the operator of [a] Grayson Bailey Landscaping truck which had stopped in the right-hand turn lane of Lindsey Lane near the entrance to Canebrake." Marlowe later testified during a deposition, however, that her response to the referenced interrogatory was merely an assumption derived from her understanding that Grayson Bailey does landscaping work in the Canebrake subdivision, combined with the fact that the man in the photograph was "walking through the mulch." She admitted that

she did not know for sure that the truck in the photograph was a landscaping truck at all.[3]

It appears undisputed that Grayson Bailey has one or more agreements with the Canebrake subdivision homeowners' association to perform landscaping work in the subdivision. Grayson Bailey's owner agreed when asked during his deposition if Grayson Bailey was the "exclusive landscaping company with respect to … the common areas for Canebrake" and if "nobody else at the time frame of 2023 should have been working in [the flower beds near the entrance of the Canebrake subdivision]." There also is evidence indicating that Grayson Bailey employees wear blue work shirts similar to the shirt worn by the man in Marlowe's photograph, including another photograph of a different Grayson Bailey employee and the testimony of a Grayson Bailey employee regarding the company's work shirts. It also is uncontested that Grayson Bailey employees worked in the subdivision on the day of the accident.

[3]Marlowe testified during her first deposition that a landscaping truck had blocked her view of oncoming traffic. As noted, however, she later testified during her second deposition that her opinion regarding the nature of the truck was based on speculation.

In support of its summary-judgment motion, Grayson Bailey pointed out that neither the truck nor the man in the photographs could be positively identified in those photographs as belonging to or being employed by Grayson Bailey. Although Grayson Bailey's representative conceded that the company has a landscaping service that uses company trucks with the company logo affixed to them, Grayson Bailey's owner, its general manager, and two of its workers all testified that they did not recognize the truck or the man in Marlowe's photographs. Grayson Bailey also submitted photographs of each vehicle that was part of its fleet at the time of the accident, and none of them matches the truck in Marlowe's photograph. Although Grayson Bailey's work records suggest that the company did some work near the entrance of the subdivision on the day of the accident, including "filling beds, watering grass, and plant[ing] 17 Little Lime Hyd[rangeas]," the deposition testimony of both Grayson Bailey's owner and the foreman of the Grayson Bailey landscaping crew indicates that that work was performed in an area different from the flower bed adjacent to the scene of the accident.[4]

[4]Grayson Bailey's owner testified during his deposition that he did not personally know one of the employees of the company identified as "Angel" in the work records showing who worked on the day of the

Viewed favorably to Flanagan, the evidence indicates that Grayson Bailey was the landscaper for the Canebrake subdivision and did some work near the entrance of the subdivision on the day of the accident, that the truck in question had an unidentified logo, and that a man photographed in or around a flowerbed near the scene of the accident moved the truck and was wearing a blue shirt with a logo that is similar to shirts that are sometimes worn by Grayson Bailey's workers. Considering that evidence, as well as the evidence submitted by Grayson Bailey, I agree with the trial court that Flanagan's allegation that one of Grayson Bailey's employees parked the referenced truck amounts to speculation.

Credeur v. J.B. Hunt Transport, Inc., 655 So. 2d 933 (Ala. 1994), upon which Flanagan relies, is distinguishable from the present case. In Credeur, the plaintiff testified that a tractor-trailer that made an unlawful lane change, thereby causing the plaintiff to wreck his own truck, bore the name and paint scheme of the defendant trucking company. This Court reversed a summary judgment that had been

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accident. Flanagan does not provide citations showing that the other Grayson Bailey employees who testified did not know one or more of the people identified in the work records.

entered in favor of the defendant, concluding that substantial evidence supported the plaintiff's claim that the defendant owned and operated the truck in question. In doing so, the Court pointed to Barber Pure Milk Co. v. Holmes, 264 Ala. 45, 84 So. 2d 345 (1955), in which the Court reached a similar conclusion because the defendant's name had been inscribed on the vehicle that caused the plaintiff's injury. In addition, the defendant in Credeur "did not disclose where any of its trucks were on the night of the accident and [could not] show that one of the trucks was not involved." 655 So. 2d at 935. In the present case, the evidence does not establish that Grayson Bailey's name was on the truck that was parked in the turning lane to the subdivision, and Grayson Bailey's evidence suggests that the description of that truck does not match any of the trucks in Grayson Bailey's fleet.

"[R]eliance on inferences based on conjecture and speculation are not sufficient to overcome a properly supported summary-judgment motion." Nettles v. Pettway, 306 So. 3d 873, 878 (Ala. 2020). Accordingly, I would affirm in its entirety the trial court's summary judgment in favor of Grayson Bailey.