

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE  
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING  
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA  
In The Supreme Court**

Ernest L. Cobb and Nancy Cobb, Respondents,

v.

Dan M. Lafoy, Appellant.

Appellate Case No. 2012-212693

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Appeal from Oconee County  
Alexander S. Macaulay, Circuit Court Judge

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Memorandum Opinion No. 2014-MO-014  
Heard March 6, 2014 – Filed May 28, 2014

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**AFFIRMED**

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Robert Daniel Moseley, Jr., and Joseph William Rohe,  
both of Smith Moore Leatherwood, LLP of Greenville,  
for Appellant.

Larry C. Brandt, of Larry C. Brandt, PA, of Walhalla,  
for Respondents.

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**PER CURIAM:** We affirm the order granting a new trial under the Thirteenth Juror Doctrine since there is conflicting evidence in the record whether appellant was negligent. *See e.g. Rivera v. Newton*, 401 S.C. 402, 413, 737 S.E.2d 193, 198

(Ct. App. 2012)("As long as there is conflicting evidence, the trial court's grant of a new trial will not be disturbed."). We remind the parties that the evidentiary rulings made in the first trial, including whether there was evidence warranting a jury charge, do not "carryover" to the next proceeding. *See e.g. Branham v. Ford Motor Co.*, 390 S.C. 203, 232, 701 S.E.2d 5, 20 (2010); *Odom v. Steigerwald*, 260 S.C. 422, 428, 196 S.E.2d 635, 638 (1973). Nothing in our decision today should be construed as reaching the issue whether the trial judge was correct in declining to charge the defense of sudden emergency.

**AFFIRMED.**

**TOAL, C.J., PLEICONES, BEATTY, KITTREDGE and HEARN, JJ.,  
concur.**