

NO. 10-004687-CV

DUSTY STOCKARD, Individually
and as Administrator of the Estate of
CHANNING STOCKARD,

Plaintiff,

v.

MITCH MURPHY,

Defendant.

§
§
§
§
§
§
§
§
§
§
§

IN THE 479th DISTRICT COURT

IN AND FOR TRAVIS COUNTY

STATE OF LONE STAR

Prepared by:

Marvin W. Jones
Sprouse Shrader Smith P.C.
701 S. Taylor, Suite 500
Amarillo, TX 79101

Copyright 2011
Texas Young Lawyers Association
and
Marvin W. Jones
All Rights Reserved

This case file was commissioned by the Texas Young Lawyers Association and was prepared by Marvin W. Jones for the 2012 National Trial Competition

STATEMENT OF THE CASE

This is a vehicular accident case. The accident occurred on June 22, 2009, at approximately 7:30 p.m. five (5) miles North of Armadillo, Lone Star in an underpass where US Highway 66 intersects Speedway Road. The accident involved a two seat sports car and a tractor-trailer unit that was stopped in the traveled portion of the roadway. Killed in the accident was Channing Stockard, a 17 year high school senior who was riding as a passenger in the sports car.

Witnesses will include:

1. Dusty Stockard, the plaintiff and the parent of Channing Stockard.
2. Officer Chris Jensen, a state trooper who investigated the accident and will testify on behalf of the plaintiff.
3. Defendant Mitch Murphy, a boyfriend of Channing Stockard who was driving the sports car at the time it hit the back of the tractor-trailer unit.
4. Trace LeDuc, an accident reconstruction expert, who will testify on behalf of the defendant.

In addition, there will be deposition testimony from two witnesses who are unavailable to testify at trial:

1. Kim Stockard, the spouse of Dusty Stockard; and
2. Billy Bob Barnett, the driver of the tractor-trailer unit that was parked in the traveled portion of the road.

DUSTY STOCKARD, Individually
and as Administrator of the Estate of
CHANNING STOCKARD,

Plaintiff,

v.

MITCH MURPHY,

Defendant.

§
§
§
§
§
§
§
§
§
§
§

IN THE 479th DISTRICT COURT

IN AND FOR TRAVIS COUNTY

STATE OF LONE STAR

PLAINTIFF’S ORIGINAL COMPLAINT

TO THE HONORABLE COURT:

COMES NOW, Plaintiff Dusty Stockard, individually and as Administrator of the Estate of Channing Stockard, Deceased, and files this Original Complaint against Mitch Murphy.

I.

GENERAL ALLEGATIONS

1. This is an action for damages within the jurisdictional limits of this Court.
2. Dusty Stockard has been a resident of Travis County since 1989 and Channing Stockard was a resident of Travis County from 1992 to the date of her death on June 22, 2009.
3. Mitch Murphy is an individual who resides in Travis County. Murphy may be served with citation in this matter at his residence at 127415 Powell Lane, Bootleg, Lone Star.
4. The accident that is the subject of Plaintiff’s Original Complaint occurred in Travis County, State of Lone Star.

5. On June 22, 2009, Murphy was operating a motor vehicle belonging to Plaintiff's spouse, in which Channing Stockard was passenger. Murphy drove the vehicle into and under the back of a tractor/trailer unit belonging to White Three Piece Suit Trucking Co., Inc. and being operated by Billy Bob Barnett.
6. Channing Stockard died from the injuries received from the accident.
7. Dusty Stockard is the natural parent of Channing Stockard.
8. Dusty Stockard has been duly appointed administrator of Channing Stockard's estate.

II.
NEGLIGENCE

9. Plaintiff incorporates by reference the allegations of paragraphs 1 through 8 as if fully restated herein.
10. On June 22, 2009, Defendant was operating a motor vehicle on Highway 66, in which vehicle Channing Stockard was a passenger. The sun was shining, visibility was good and the road surface was dry. Notwithstanding near perfect driving conditions, Defendant drove into and under a trailer in the roadway, killing Channing Stockard.
11. Defendant was negligent in his operation of the vehicle at the time and on the occasion in question in one or more of the following ways:
 - a. Failing to keep a proper lookout for other vehicles using the roadway;
 - b. Failing to keep a proper lookout for potential hazards in the roadway; and
 - c. Driving at a speed in excess of the posted speed limit for the road in question.
12. Defendant's negligence was a proximate cause of the accident in question and of the death of Channing Stockard.

13. Plaintiff is a person entitled under the statutes of Lone Star to assert a wrongful death cause of action for the death of Channing Stockard, being a parent of decedent.
14. Channing Stockard, had she survived the accident, would have had a cause of action for her pain and suffering and mental anguish suffered as a result of the accident. Plaintiff is a person entitled to assert such causes of action on her behalf and on behalf of her estate.

III.
JURY DEMAND


15. Plaintiff hereby requests trial by jury.

IV.
PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and as the Administrator of the Estate of Channing Stockard, requests that the Defendant be cited to answer and appear, and that upon final hearing the Plaintiff have judgment for damages, pre-judgment and post-judgment interest as allowed by law, costs of suit and such other and further relief, at law or in equity, to which Plaintiff may be justly entitled.

Respectfully Submitted,

Law Offices of John T.V.H. Ward and Associates
2204 Goskomizdat Way
P.O. Box 2001
Armadillo, Lone Star 72115-2001
(512) WILL SUE (Telephone)
(512) 945-5788 (Facsimile)

By: 

John Ward, State Bar No. 00045896

DUSTY STOCKARD, Individually	§	IN THE 479 th DISTRICT COURT
and as Administrator of the Estate of	§	
CHANNING STOCKARD,	§	
	§	
<i>Plaintiff,</i>	§	IN AND FOR TRAVIS COUNTY
	§	
v.	§	
	§	
MITCH MURPHY,	§	
	§	
<i>Defendant.</i>	§	STATE OF LONE STAR

DEFENDANT’S ORIGINAL ANSWER

TO THE HONORABLE COURT:

COMES NOW Mitch Murphy, by and through his undersigned counsel and files his Defendant’s Original Answer.

I.
ANSWER

1. Defendant admits the allegations in paragraph 1 for jurisdictional purposes only.
2. Defendant admits the allegations in paragraph 2.
3. Defendant admits the allegations in paragraph 3.
4. Defendant admits the allegations in paragraph 4.
5. Defendant admits that on June 22, 2009, a vehicle being driven by Defendant struck a tractor/trailer unit belonging to White Three Piece Suit Trucking Co., Inc. and being operated by Billy Bob Barnett. Defendant denies the remaining allegations contained in paragraph 5.
6. Defendant admits the allegations in paragraph 6.
7. Defendant admits the allegations in paragraph 7.

8. Defendant admits the allegations in paragraph 8.
9. Defendant realleges its answers to paragraphs 1 through 8 as if fully set forth herein.
10. Defendant denies the allegations contained in paragraph 10.
11. Defendant denies the allegations contained in paragraph 11.
12. Defendant denies the allegations contained in paragraph 12.
13. Defendant denies the allegations contained in paragraph 13.
14. Defendant denies the allegations contained in paragraph 14.
15. To the extent necessary, Defendant denies all the remaining allegations in the Complaint.

II.
AFFIRMATIVE DEFENSES

16. Without waiver of the foregoing but in addition thereto, Defendant affirmatively pleads that the collision identified in Plaintiff's Original Complaint was proximately caused, in whole or in part, by the negligence of Billy Bob Barnett, including, without limitation:
 - a. Parking his tractor/trailer in the traveled portion of the road surface;
 - b. Failing to move or park his vehicle fully on the shoulder of the road;
 - c. Failing to place emergency cones, flares, triangles or other warning devices behind his trailer;
 - d. Failing to activate or use his emergency flashers;
 - e. Failing to stand at or near the rear of the trailer to direct traffic around such vehicle.

17. Without waiver of the foregoing but in addition thereto, Defendant affirmatively pleads that the collision identified in Plaintiff's Original Complaint was proximately caused, in whole or in part, by the negligence of Denny Sheppard, including, without limitation:
- a. Failing to properly control her vehicle, including causing the overturn of the trailer she was pulling;
 - b. Failing to stand at or near the end of Barnett's trailer to direct traffic around such vehicle;
 - c. Failing to take any other action to warn oncoming traffic of the obstacle she and/or Billy Bob Barnett created on the road surface.
18. Pursuant to Lone Star Civil Remedies Code Section 69.082, Defendant identifies Billy Bob Barnett and Denny Sheppard as responsible third parties and requests the Court to submit to the jury the issue of their fault and the percentage by which such fault caused or contributed to cause the accident in question.

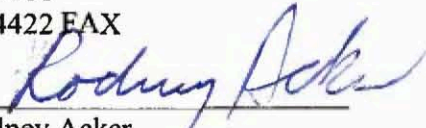
III.
PRAYER

WHEREFORE, Defendant requests that upon final trial that Defendant have judgment that Plaintiff take nothing by his suit, that Defendant be discharged from any and all liability, that Defendant recover court costs and for such other and further relief, at law or in equity, general or special, to which Defendant may show himself justly entitled.

Respectfully submitted,

ACKER & SUPLEE, L.L.C.
711 West Insurance Way, Suite 6700
Armadillo Petroleum Building
P.O. Box 1411
Armadillo, Lone Star 72105-1411
(512) 424-4411
(512) 424-4422 FAX

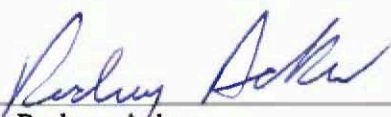
By: _____


Rodney Acker
State Bar No. 15948726

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Defendant's Original Answer has been served by U.S. Mail to John "The Velvet Hammer" Ward, 2204 Goskomizdat Way, Armadillo, Lone Star, 72115-2001 on this 16th day of August, 2010.

By: _____


Rodney Acker

WITNESS AND EXHIBIT LIST

WITNESSES:

PLAINTIFF:

1. Dusty Stockard (may be male or female)
2. Chris Jensen (may be male or female)

DEFENDANT:

1. Mitch Murphy (must be male)
2. Trace LeDuc (may be male or female)

EXHIBITS:

1. Diagram of Road
2. Stopping Distance Chart
3. Accident Report
4. Photo of Crash
5. Arrest Report
6. Facebook Screen Shot
7. Text Message
8. Photo of Accident Site
9. Excerpts from LeDuc Book
10. Trooper Disciplinary Notice
11. Photo of Exemplar Accident
12. Letter

STIPULATIONS AS TO EVIDENTIARY MATTERS

Procedural Matters

1. Federal Rules of Civil Procedure and Federal Rules of Evidence apply.
2. All witnesses called to testify who have identified the parties, other individuals, or tangible evidence in depositions or prior testimony can and will, if asked, identify the same at trial.
3. Each witness who testified previously or gave a deposition agreed under oath at the outset of his or her testimony to give a full and complete description of all material events that occurred and to correct the transcript of such deposition or testimony for inaccuracies and completeness before signing the transcript.
4. All depositions and transcripts of testimony, including the depositions of Billy Bob Barnett and Kim Stockard, were signed under oath.
5. For this competition, no team is permitted to attempt to impeach a witness by arguing to the jury that a signature appearing on a deposition or other transcript does not comport with signatures or initials located on an exhibit.
6. Other than what is supplied in the problem itself, there is nothing exceptional or unusual about the background information of any of the witnesses that would bolster or detract from their credibility.
7. This competition does not permit a listed witness, while testifying, to "invent" an individual not mentioned in this problem and have testimony or evidence offered to the court or jury from that "invented" individual.
8. "Beyond the record" shall not be entertained as an objection. Rather, teams shall use cross-examination as to inferences from material facts pursuant to

National Rules VII(4)(C) and (D) and VIII(5). Any party wishing to file a complaint concerning a violation of this rule shall use the procedure found in rule VIII(4).

9. The Plaintiff and the Defendant must call the two witnesses listed as that party's witnesses on the witness list.

10. All exhibits in the file are authentic. In addition, each exhibit contained in the file is the original of that document unless otherwise noted on the exhibit or as established by the evidence.

11. It is stipulated that no one shall attempt to contact the problem drafter about this problem before the conclusion of the 2012 National Trial Competition Final Round. Contact with the competition officials concerning this problem must be pursuant to the rules of the competition.

12. 2012 is the year in which this case comes to trial.

13. Presentation and argument on pretrial motions shall be limited to a total time of sixteen minutes divided equally between the parties as follows: (1) the Plaintiff shall have four minutes to present any pretrial motions; (2) the Defendant shall have four minutes to respond to the Plaintiff's motion(s); (3) the Defendant shall have four minutes to present any pretrial motions; and (4) the Plaintiff shall have four minutes to respond to the Defendant's motion(s).

14. This competition permits teams to argue additional case law and other relevant authority to support the team's argument on motions and evidentiary issues. However, no additions or deletions are permitted to the provided jury instructions or to the jury verdict form.

15. Motions to dismiss have been filed and denied; no further motions to dismiss will be entertained.

Substantive Matters

1. Billy Bob Barnett and Kim Stockard are unavailable to testify at trial. Their depositions were taken in accordance with Fed. R. Civ. P. 30, and counsel for all parties were in attendance and had an opportunity to examine the witnesses. Their depositions have been signed and duly filed, and may be used at trial as provided in Fed. R. Civ. P. 32.

2. Pursuant to Lone Star Penal Code Section 34.5, driving under the influence of intoxicants is a felony offense.

3. Pursuant to Lone Star Penal Code Section 213.3, driving at a speed above the posted speed limit is a misdemeanor offense. Plaintiff's motion to deem violation of Lone Star Penal Code Section 213.3 to be negligence per se has been denied by the Court and no further motions in that respect will be entertained.

4. Lone Star Civil Remedies Code Section 69.082 provides as follows:

DESIGNATION OF RESPONSIBLE THIRD PARTY. (a) A defendant may seek to designate a person as a responsible third party by filing a motion for leave to designate that person as a responsible third party. The motion must be filed on or before the 60th day before the trial date unless the court finds good cause to allow the motion to be filed at a later date.

(b) By granting a motion for leave to designate a person as a responsible third party, the person named in the motion is designated as a responsible third party for purposes of this chapter without further action by the court or any party.

(c) The trier of fact, as to each cause of action asserted, shall determine the percentage of responsibility, stated in whole numbers, for the following persons with respect to each person's causing or contributing to cause in any way the harm for which recovery of damages is sought, whether by negligent act or omission, by any defective or unreasonably dangerous product, by other conduct or activity that violates an applicable legal standard, or by any combination of these:

- (1) each claimant;
- (2) each defendant;
- (3) each responsible third party who has been designated under this Section.

5. Billy Bob Barnett and Denny Sheppard were properly designated as responsible third parties pursuant to Lone Star Civil Remedies Code Section 69.082.

DEPOSITION OF DUSTY STOCKARD
June 30, 2010

1 Q: State your name for the record please.

2 A: My name is Dusty Stockard.

3 Q: Where do you live?

4 A: Bootleg, Lone Star. Out on Highway 66 west of Armadillo. Little place, you could miss
5 it if you don't slow down through the blinking yellow light.

6 Q: How are you employed?

7 A: I work as an engineer at the local plant.

8 Q: What does the local plant manufacture?

9 A: Basically, it's the place where nuclear weapons go for a tune up after they've been out in
10 the field for a few years. We rework them and send them back on their merry way.

11 Q: Are you the spouse of Kim Stockard?

12 A: Yes, I am.

13 Q: And were you the parent of Channing Stockard?

14 A: Yes, I was. I am also the personal representative of her estate in terms of this lawsuit.

15 Q: How old was Channing at the time of her death?

16 A: She was just seventeen.

17 Q: Where was she in school at that point, a junior or senior?

18 A: She was in the summer before her senior year.

19 Q: Did she have college plans at that point?

20 A: Yes, she had been offered and had accepted a scholarship from MIT to study physics,
21 which was really her passion. She wanted to become a nuclear physicist. Family
22 business, I guess.

23 Q: What happened to Channing that caused her untimely death?

24 A: Mitch Murphy happened to her is what happened. Sorry, I should be more detached and
25 professional than to say that. What I meant was that she sustained fatal injuries at

DEPOSITION OF DUSTY STOCKARD
June 30, 2010

1 approximately 7:30 p.m. on June 22, 2009 in a vehicular accident involving a parked
2 tractor trailer unit and Kim's red automobile, being driven at the time by the bastard
3 Mitch Murphy.

4 Q: Why was she in the car with Mr. Murphy at the time?

5 A: Kim asked Mitch to go pick up Channing at the Armadillo Airport on that day. Channing
6 had been away for three weeks on a European vacation and was returning to the
7 Armadillo Airport. Kim and I could not go get her because we were both working, and
8 could not get off of our jobs. Because of that, Kim asked Mitch to go pick up Channing.

9 Q: Why did Kim ask Mitch Murphy to go get Channing?

10 A: Beats me. If I'd been consulted, I would have said "no." Murphy was a notoriously bad
11 driver. This is not his first rodeo with vehicular accidents, you know.

12 Q: Were you familiar with Mitch's reputation in the community for driving above the speed
13 limit?

14 A: You bet. I heard that he drove like Dale Earnhart. The son, not the dead one.

15 Q: When did you hear this?

16 A: Probably a year or so before the accident. Some of the people at the café were talking
17 about it one day. But to answer your specific question, his reputation in the community
18 for speeding was bad. He drove fast all the time, way beyond the speed limit regardless
19 of what the speed limit was.

20 Q: How many accidents had he been involved in before this one?

21 A: I personally know of two, both of them his fault. Since he killed Channing, I've been
22 told that he had a couple I was not aware of. So that's four and counting before Kim
23 turned him loose with that sports car. And one of the two I know about involved some
24 impairment on his part, ganja as I recall.

25 Q: Ganja?

DEPOSITION OF DUSTY STOCKARD

June 30, 2010

1 A: Weed. Mary Jane. Pot. Grass. Herb. Reefer. Marijuana, for Pete's sake. You born in
2 this state?

3 Q: Can you identify Exhibit 5?

4 A: Yes, that's a certified copy of an arrest report where Mitch was arrested at the scene of
5 one of his many wrecks. You can see that he was charged with speeding and being
6 stoned. You familiar with that word?

7 Q: Somewhat. Did you talk to Channing on that day?

8 A: Yes, a couple of times. She called when her plane landed and again as she and Mitch
9 were hurtling toward home.

10 Q: Do you recall the substance of the conversation after Mitch picked her up?

11 A: Yes, it must have been just moments before the smashup. I called to see where they
12 were. She answered and you could hear Mitch yakking in the background and Channing
13 was alternating between talking to me and talking to him. I heard her say to Mitch
14 "Mitch, we must be doing 105."

15 Q: What else did she say?

16 A: Right after she said "we must be doing 105," the cell signal faded or something and her
17 voice got garbled and I couldn't understand what she said. Then the signal came back
18 and I heard her say "Hey Mitch—things can happen pretty fast."

19 Q: Were you able to hear Mitch say anything in response?

20 A: I heard Mitch say "whoopee" in a really excited voice.

21 Q: Were you aware of any romantic relationship between Mitch and Channing?

22 A: No, I had no idea that there was any kind of relationship going on between those two
23 kids. Channing never said anything to me about it. She wasn't interested in boys, far as
24 we could tell. She had her mind on more important things, usually. A very serious girl.

25 Q: Did you later discover there might have been such a relationship?

DEPOSITION OF DUSTY STOCKARD

June 30, 2010

1 A: Yes, I suppose so. You know, one of the hard things we had to do was gather up her stuff
2 from the inside of that wrecked out car. One of the things we found was her computer, an
3 Apple of all things. We turned it on to see if it was still working and found ourselves on
4 her Facebook page. It appeared she was somehow involved with Mitch from some of the
5 messages we saw there.

6 Q: Can you identify Exhibit 6?

7 A: Yes, that's a screen print from Channing's computer. Pretty out of character for her, I
8 must say, but there it was on her computer, protected by the family password we all used
9 at the time. "NUCLARE."

10 Q: Any doubt that this was her Facebook page and her message to Mitch?

11 A: No, I was puzzled by it because it's so not like her, so I had one of the computer jockeys
12 at work take a look. He said it was in fact her page and her message.

13 Q: Did Kim pay Mitch anything to go pick up Channing?

14 A: Kim offered to pay Mitch, but he adamantly refused any compensation.

15 Q: Did you personally give Mitch permission to take Kim's car to Armadillo to pick up
16 Channing?

17 A: Have you listened to anything I've said? I absolutely did not give that person, Mitch
18 Murphy, permission to drive any car at any time for any reason.

19 Q: How did you hear about the accident?

20 A: After that last call, I didn't hear from her for awhile and they didn't get home, so I called
21 Trooper Tim Williams, who made some calls and then came over to the house. When I
22 saw him on the front porch, I knew he had some bad news.

23 Q: Are you familiar with the site of the accident?

24 A: Yes, we pass by there every time we go to Armadillo. When the officer told me where it
25 happened, I knew exactly where that was.

DEPOSITION OF DUSTY STOCKARD
June 30, 2010

1 Q: What is the road like at the point of the collision?

2 A: Well, of course you have that little hill just before the overpass, and as soon as you top it
3 you start down into a long gradual slope to the underpass where Highway 66 and
4 Speedway Road cross.

5 Q: Have you ever had trouble seeing other vehicles as you came over that little hill?

6 A: Not at all. It's very straight and very easy to see for a long way out in our part of the
7 state.

8 **CROSS EXAMINATION**

9 Q: When you've driven the highway where the accident happened, have you ever seen a
10 truck stopped in the middle of the road?

11 A: No, can't say we've ever seen exactly that.

12 Q: Or anything close?

13 A: We saw a deer there at that exact spot a couple months after the accident, and we didn't
14 have any trouble avoiding that accident.

15 Q: Can you identify 12?

16 A: It's an even dozen. Not a prime number. Square of 3.4641016151.

17 Q: Can you identify Exhibit 12?

18 A: Yeah, that's a letter I received.

19 Q: How far is Clinton, Oklahoma from Bootleg?

20 A: Right at 92 miles by highway.
21
22
23
24
25

DEPOSITION OF CHRIS JENSEN
January 18, 2011

1 Q: State your name for the court reporter, please.

2 A: My name is Trooper Chris Jensen.

3 Q: What is your occupation or profession, Trooper Jensen?

4 A: I am a trooper.

5 Q: A state trooper in Lone Star?

6 A: Yes, a Lone Star state trooper .

7 Q: What is your age?

8 A: I am now 27.

9 Q: Where were you raised?

10 A: Bovina, which is just south of Bootleg. Cow calling capital of Lone Star. Hence the
11 name.

12 Q: What training did you have to be a state trooper?

13 A: I went to the University of Lone Star down in Austin and got a degree in criminology.
14 After graduation, I attended Lone Star Ranger school, where I learned some of the finer
15 points of criminal law, accident investigation, some civil engineering and physics and
16 that sort of thing. Upon graduation from Trooper school, I became a rookie trooper and
17 was assigned to work with a supervisor who was a senior trooper with 25 years of
18 experience. After working under his supervision for 5 years, I became a full-fledged
19 regular trooper and got my own car.

20 Q: Have you investigated many traffic accidents?

21 A: Well, I don't know what you consider many, but I have investigated 187 traffic accidents
22 in the past 5 years.

23 Q: What kinds of accidents have you investigated?

24 A: I have investigated virtually every type of accident, from motorcycle on motorcycle head
25 on collisions to tractor trailer rigs running through buildings.

DEPOSITION OF CHRIS JENSEN
January 18, 2011

1 Q: Did you investigate the accident in which Channing Stockard was killed?

2 A: Yes I did. I got the call on that accident about 7:35 PM on June 22, 2009. I was about 2
3 miles away at the time the call came in, and I responded immediately to the scene with
4 lights and siren.

5 Q: What did you see when you arrived at the scene?

6 A: I observed the automobile that I later learned to be driven by Mitch Murphy buried
7 somewhere under the rear-end of an 18-wheeler trailer.

8 Q: What did you do then?

9 A: I immediately went to the automobile to determine whether there were any injuries, and
10 of course there were. I observed Mitch Murphy, who appeared to be in a semi-conscious
11 state. I also observed the victim, Channing Stockard, who was clearly dead at the scene.

12 Q: What condition was Mr. Murphy in?

13 A: Like I said, he appeared to be dazed and confused.

14 Q: Did you attempt to speak to Mr. Murphy at that time?

15 A: Yes, I asked Mr. Murphy if he was hurt. He responded by saying "Where did that come
16 from?"

17 Q: Did you say anything else to Mr. Murphy?

18 A: Yes, I wanted to know what he meant when he said "Where did that come from?" but he
19 lapsed into unconsciousness and went from not making any sense to not saying anything
20 at all.

21 Q: What did you do then?

22 A: By then the paramedics had arrived along with a couple of other trooper units, so I went
23 about the business of securing the scene and doing an initial investigation.

24 Q: Can you identify Exhibit 1?
25

DEPOSITION OF CHRIS JENSEN
January 18, 2011

1 A: Yes, that is my diagram of the road at the point of the accident. As you can see, it is a
2 four lane divided highway at that point. This is where Highway 66 dips under the
3 overpass of Speedway Road. The accident happened just to the west of the overpass
4 itself.

5 Q: Where was the truck parked after the accident?

6 A: The truck was parked in the right hand traveled portion of the roadway. It was
7 immediately behind an overturned U-Haul trailer.

8 Q: Did you question the driver of the truck at the scene?

9 A: Yes, I asked him why he was parked in the right hand traveled portion of the roadway
10 with his big truck. He said that he saw the U-Haul trailer overturned in the right hand
11 lane of Highway 66 and stopped to render aid. In doing so, he thought his tractor trailer
12 would be more visible to travelers than the U-Haul trailer.

13 Q: Did you ask him whether he had put out any kind of safety devices or taken any safety
14 measures when he got out of his truck?

15 A: Yes, I asked him that. Of course, I could see that he had not put out any flares or cones
16 or any other physical warning devices behind the truck. When I got to the scene, the
17 flashers on the truck were not flashing, although the driver told me he had turned the
18 flashers on before he got out of his cab.

19 Q: Was it possible for you to determine whether the hazard flashing lights had been on at the
20 time of the accident?

21 A: No, I could not make that determination either way.

22 Q: Were the taillights of the truck damaged in any way?

23 A: The right hand taillights were smashed up pretty bad. The left hand lights were
24 undamaged.

25 Q: Did you examine the bulb in the left hand hazard flashing light?

DEPOSITION OF CHRIS JENSEN
January 18, 2011

1 A: I didn't get a good chance to do that, what with all that was going on at the scene.

2 Q: What was the sight distance for Mr. Murphy at the point of the accident?

3 A: Well, Mr. Murphy would have just come over a small rise on Highway 66 and started
4 down into the area of the underpass. From that point, he would have had approximately
5 200 feet of unobstructed vision.

6 Q: Based on your training as a trooper, did you come to a conclusion as to what caused the
7 accident?

8 A: Yes, I determined that the accident was caused by the failure of Mr. Murphy to control
9 his speed and to keep a proper lookout.

10 Q: Why did you conclude that he failed to control his speed?

11 A: Well, because he sped into the back of the truck at something above zero. I really don't
12 know what his speed was when he started this incident, but if he had controlled his speed,
13 the accident would not have happened.

14 Q: Did you issue any citations to Mr. Murphy?

15 A: Yes, two. One for failing to control speed and a second for failing to keep a proper
16 lookout.

17 Q: Why did you give Mr. Murphy a ticket for failure to keep a proper lookout?

18 A: Because he hit the back of a truck in the right hand portion of the highway. That just
19 shouldn't happen. There was a dead girl. It was very upsetting. I knew Channing. These
20 stupid kids get out and do stupid things all the time, and I'm on a mission to stop it. I'm
21 going to make sure Mitch Murphy never kills another one.

22 Q: Can you identify Exhibit 3?

23 A: Yes, Exhibit 3 is my troopers accident report regarding the June 22, 2009 accident that
24 led to this fatality.

25 Q: Does it contain your opinions and conclusions and observations of the accident site?

DEPOSITION OF CHRIS JENSEN
January 18, 2011

1 A: Yes, although I'd have to say that most of the report was written a few weeks later.

2 Q: Is that unusual?

3 A: Not usual and not unusual. We get behind in our work and this was just so upsetting to
4 me that I really didn't want to immediately turn my mind back to it.

5 Q: By the way, did you see or observe any skid marks left by Mr. Murphy's vehicle before it
6 struck the truck?

7 A: Yes, I measured 41 feet of skid marks from Mr. Murphy's car prior to the time it hit the
8 truck.

9 Q: Did the car have an ABS braking system?

10 A: It did, but at least one of the tires locked up anyway.

11 Q: Can you identify Exhibit 2?

12 A: Yes, that is a chart that shows how stopping distance increases as a function of the speed
13 of the vehicle. It is a very common and well known chart used by people in the traffic
14 accident investigation business all the time.

15 Q: Did you use it in reaching your opinions here?

16 A: Yes, I used it to conclude that, given the skid marks and the evident damage to the death
17 vehicle, Murphy was going somewhere close to 100 mph before he began trying to stop
18 or otherwise avoid the accident.

19 Q: Can you identify Exhibit 4?

20 A: Yes, that's a photo of the accident scene as it looked when I arrived, before anything was
21 moved.

22 Q: Does Exhibit 4 fairly and accurately reflect the scene of the accident as you found it?

23 A: Yes.

24

25

DEPOSITION OF CHRIS JENSEN
January 18, 2011

1 Q: Do you have an opinion based on your training and experience as to whether Mitch
2 Murphy was negligent in driving into the back of the parked truck at the time and on the
3 occasion in question?

4 A: Yes, he was negligent.

5 Q: In your opinion, did that negligence result in the death of Channing Stockard?

6 A: Absolutely no doubt about it. Yes.

7 CROSS EXAMINATION:

8 Q: You mentioned a moment ago that you knew Channing. How did you know her?

9 A: Uh, well, it's a pretty small town and all.

10 Q: Did you have any kind of romantic relationship with Channing?

11 A: Okay, so once I asked her if she'd like to go out and get some dinner, watch a movie.
12 She turned me down. Said she had a date with someone else.

13 Q: Do you know who that someone else was?

14 A: Mitch Murphy.

15 Q: How'd you know that?

16 A: I watched him pick her up at her house.

17 Q: What caused you to be in a position to see Mitch pick Channing up at her house?

18 A: As a trooper, we sometimes just park on random streets to set up a little speed trap. I just
19 happened to be parked on the street where Channing lived when I saw Mitch pick her up.

20 Q: Can you identify Exhibit 10?

21 A: That's a trooper discipline notification that my supervisor dropped on me.

22 Q: Did you contest this?

23 A: No, I thought it was best just to keep the whole thing quiet. Bootleg's a pretty small
24 town.

DEPOSITION OF MITCH MURPHY
August 18, 2010

- 1 Q: Tell us your name?
- 2 A: My name is Mitch “The Bear” Murphy.
- 3 Q: Why do they call you “The Bear”?
- 4 A: I don’t know. I’ve always wondered that myself.
- 5 Q: Mr. Murphy where do you reside?
- 6 A: I reside in Bootleg, Lone Star.
- 7 Q: And just exactly where is Bootleg?
- 8 A: You’re not from around here, are you?
- 9 Q: No, but I’m asking the questions here. Where is Bootleg?
- 10 A: It is a few miles west of Armadillo. Maybe 70 miles. Maybe more.
- 11 Q: What do you do for a living?
- 12 A: Right now I am a student at Fargo State University in Fargo, Oklahoma.
- 13 Q: What are you studying there?
- 14 A: I haven’t declared a major yet, and I haven’t really found anything that I am terribly
- 15 interested in.
- 16 Q: Are you the same Mitch Murphy who is the defendant in this lawsuit?
- 17 A: Yes, I’m the person who was wrongfully sued.
- 18 Q: I take it you knew Channing Stockard before the unfortunate accident that you caused?
- 19 A: I knew Channing Stockard from the time she was in first grade until that unfortunate
- 20 accident caused by the truck driver.
- 21 Q: Toward the end of her life, did you have a romantic relationship with Channing
- 22 Stockard?
- 23 A: Yes. We had been dating for several months.
- 24 Q: Had the two of you made any long term plans?
- 25 A: We were very close.

DEPOSITION OF MITCH MURPHY
August 18, 2010

1 Q: But my question was whether you two had discussed any long term plans, like marriage?

2 A: We were very close.

3 Q: How was it that you came to be in the car with her on the day of the accident?

4 A: Well, Kim Stockard asked me to go to Armadillo and pick Channing up at the airport
5 there. She had been on a boondoggle to Europe, and she was returning.

6 Q: What exactly did Kim Stockard say to you in dispatching you on this journey?

7 A: Well, Kim said that it would be a great favor to them if I would go pick Channing up
8 because both of them were working and they would have to take off from work to go get
9 her. They knew that I was making some extra money by running errands for people.
10 They thought I might run this errand for them.

11 Q: Were they aware of your relationship with Channing?

12 A: I don't know. It is not like we kept it a secret or anything. But I never picked her up at
13 her house like some kind of formal "date." We usually just met somewhere in the greater
14 Bootleg metropolitan area. I never talked to them about hanging out with her. I don't
15 know what she may have said to them.

16 Q: So you were asked by Kim Stockard to go the airport in Armadillo and pick her up?

17 A: Yes, and Kim said I'd get paid to do this and that I could drive the sports car. It seemed
18 like a perfect situation. I was getting to go see my girlfriend, I was getting paid, I was
19 driving their car. It was all good.

20 Q: So what do you remember about that day in terms of picking Channing up at the airport?

21 A: Well, her flight was on time, we picked up her luggage, we got back in the car. What
22 else is there to know?

23 Q: What do you remember about the accident?

24 A: Oh. We were driving west on Highway 66 on the way back to Bootleg. I was
25 approaching the intersection of Highway 66 and Speedway Road. At that particular

DEPOSITION OF MITCH MURPHY
August 18, 2010

1 point, Speedway Road is on an overpass and Highway 66 dips into an underpass. There
2 is a slight hill just east of the underpass, and as I crested that hill, I could see the tractor
3 trailer unit in the right hand traveled portion of the road.

4 Q: When you crested the small hill, and started down into the underpass, could you clearly
5 see the tractor trailer?

6 A: Yes, I could clearly see the tractor trailer. It was in the right hand traveled portion of the
7 roadway, just as you would expect a moving tractor trailer to be.

8 Q: What did you do next?

9 A: I didn't really think I needed to do much of anything. I was driving along in the right
10 hand traveled portion of the road, the tractor trailer was driving along in the same lane. I
11 thought ultimately I would have to pass him, but not anytime soon.

12 Q: How fast were you going?

13 A: I was going 70 mph.

14 Q: What was the speed limit in that area?

15 A: It was 65 mph.

16 Q: So you were speeding?

17 A: I was going 5 mph over the speed limit.

18 Q: What happened next?

19 A: Well, Channing was talking on her cell phone to somebody, maybe her mom or dad, but
20 I'm not sure. I heard her say "Wow, we're going a 105 feet per second."

21 Q: Are you sure she said feet per second?

22 A: Yes, she was always using expressions like that. She was really into mathematics and
23 physics and she liked to talk about how many feet per second you were going instead of
24 how many miles per hour. She was just a nerd like that.

25 Q: What happened next?

DEPOSITION OF MITCH MURPHY
August 18, 2010

1 A: I heard her say "Hey Mitch, things can happen pretty fast," so I glanced over at her and
2 she was looking at me kind of suggestively. And she was touching the top button of her
3 blouse. She was a big tease, but that's as far as it ever went.

4 Q: Can you identify Exhibit 6?

5 A: Yes, that's a Facebook message she posted from London and my reply. Says basically
6 the same thing. I was trying to ignore her. Maybe not all that successfully.

7 Q: Then what happened?

8 A: Then I looked back at the road and realized the truck was completely stopped in the right
9 hand traveled portion of the road. I tried to grab the brakes, but it was too late.

10 Q: What do you remember next?

11 A: I remember coming to consciousness and there was an officer talking to me. I remember
12 he was asking me if I was alright. I don't remember my answer.

13 Q: Now backing up just a little, when you first crested this small rise before the underpass,
14 and you observed the tractor trailer in the right hand travel portion of the road, did you
15 see any emergency flares behind the tractor trailer?

16 A: No, I did not.

17 Q: Did you see any of those reflective triangles behind the tractor trailer?

18 A: No, I did not.

19 Q: Did you see any flashing warning lights on the back of the trailer?

20 A: No, I did not.

21 Q: Were you injured in the accident?

22 A: Just bruises and the like. Recovered pretty fast.

23 Q: Were you hospitalized?

24 A: Only overnight for observation.

25 Q: Did anyone come see you while you were in the hospital?

DEPOSITION OF MITCH MURPHY
August 18, 2010

1 A: Yes, I recall Trooper Jensen being there, like in the middle of the night it seems. I woke
2 up and saw this figure standing over my bed.

3 Q: Did Trooper Jensen ask you any questions at that time?

4 A: Yes, Jensen asked me how the accident happened and what I remembered and all.

5 Q: Did Trooper Jensen ask you anything else?

6 A: Yes, Jensen asked me how I could possibly have screwed up so bad and killed the best
7 looking woman in all of Bootleg.

8 Q: What did you say?

9 A: I told Jensen to get out of my room, that I wasn't going to talk in a hospital room.

10 Q: Did Jensen say anything else to you that night?

11 A: Yeah, Jensen said sooner or later I'd have to pay for what I'd done.

12 Q: Can you identify Exhibit 7?

13 A: Yes, it's a copy of a text message from Officer Jensen to me. As you can see, Jensen
14 wanted me to come in and give a sworn statement concerning my actions in killing
15 Channing.

16 Q: Did you respond to this message?

17 A: Yes. I texted back that I would not be coming in to give a sworn statement because my
18 lawyer advised me to take the Fifth. At least, that's what I meant to say. Looks like it
19 came out a little different from that.

20 Q: Were you ever charged with anything beyond the failure to control speed and failure to
21 keep a proper lookout?

22 A: No, the grand jury met and no-billed me on the negligent homicide charges that Jensen
23 tried to get put on me.

24 Q: Did you get any tickets in connection with this accident?

25

DEPOSITION OF MITCH MURPHY
August 18, 2010

1 A: Yeah, Jensen showed up the next morning and slapped two tickets down on my hospital
2 tray. Said I could chew on those while I ate my eggs.

3 Q: What was the disposition of the two tickets Trooper Jensen gave you in connection with
4 this accident?

5 A: I plead nolo contendere and was put on deferred adjudication for a period of 12 months.
6 Served it out without incident.

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

DEPOSITION OF TRACE LeDUC
February 7, 2011

1 Q: Can you state your full name for the record please?

2 A: Yes, my name is Trace LeDuc.

3 Q: What is your profession or occupation?

4 A: I am a professional engineer and I work as a consultant.

5 Q: What is your engineering degree in?

6 A: I have a Bachelor of Science in Civil Engineering and a Master of Science in Physics and
7 Traffic Engineering.

8 Q: Where did you go to school?

9 A: I got my Bachelors degree at Rhome University which is here in Lone Star, not in some
10 foreign country. I got my Masters degree at Northwestern University up in Chicago,
11 which is a foreign country.

12 Q: Have you ever had a job other than your consulting job?

13 A: Yes, for the first fifteen years after I escaped from Chicago I worked for Black and
14 Veetch, a major highway contractor in the state of Lone Star.

15 Q: What was your job with Black and Veetch?

16 A: A lot of highway engineering and quite a bit of human factors analysis.

17 Q: What is human factors analysis?

18 A: Well, in the context of traffic engineering, it is trying to determine what typical mistakes
19 involving drivers might happen on a roadway, and then trying to guard against those
20 mistakes.

21 Q: And who is it that you do consulting work for today?

22 A: I do consulting work for several major insurance companies, including the insurance
23 company that insured the vehicle being driven by Mitch Murphy at the time of the
24 accident.

25

DEPOSITION OF TRACE LeDUC
February 7, 2011

1 Q: Are you saying that Dusty Stockard's insurance company hired you to represent Mitch
2 Murphy's position in this case?

3 A: Yes, turns out Mr. Murphy was an additional insured under their insurance policy so they
4 are defending the lawsuit brought by the Stockards. Ironic, but I've kept my focus on
5 getting the best result for Mitch and not for the plaintiff.

6 Q: Were you employed to give an expert opinion regarding the accident that killed Channing
7 Stockard?

8 A: Yes, I have been hired to look at that accident.

9 Q: What materials have you been provided?

10 A: I have been provided with a copy of all of the depositions that have been taken to date. It
11 is my understanding that mine is the last deposition, so that would include all of the other
12 depositions in the case. I've also looked at the trooper's report of the accident, and
13 various photographs taken at the scene of the accident. Of course, I reviewed my own
14 book on the subject of traffic accident investigation, which I find to be very useful.

15 Q: Based on the materials that you have reviewed and upon your education, background and
16 experience, have you formed an opinion about the cause of the accident?

17 A: Yes, in my opinion the accident was caused by the negligence of the truck driver in
18 parking his tractor trailer in the right hand traveled portion of the highway.

19 Q: In your opinion, was anyone else at fault in this accident?

20 A: Yes, in my opinion some of the blame is to be shared by the person who was driving the
21 U-Haul trailer who overturned it in the middle of the highway. People just shouldn't lose
22 control of a trailer when they're driving it.

23 Q: In your opinion, does Mitch Murphy share any of the blame in this accident?

24 A: No, in my opinion Mr. Murphy's actions have nothing to do with the accident in
25 question, and he should not share the responsibility.

DEPOSITION OF TRACE LeDUC
February 7, 2011

1 Q: You agree that Mr. Murphy hit the trailer in the right hand traveled portion of the
2 roadway?

3 A: Yes, that is exactly correct.

4 Q: How many feet of skid marks did he leave before hitting the trailer?

5 A: He left about 40 feet of skid marks.

6 Q: On a clear day, in daylight conditions, shouldn't Mr. Murphy have been able to bring his
7 vehicle to a stop or take evasive action to avoid the backend of the tractor trailer in this
8 situation?

9 A: You have to understand several things. First, there was not that much sight distance to
10 spot an obstacle as you crested the top of that steep hill and prior to the accident site.
11 Second, from the crest of that hill to the accident site there was just barely sufficient
12 distance to normally evade or come to a stop if one recognized a problem.

13 Q: Can you identify Exhibit 8?

14 A: Yes, that's a photograph of the area of the accident showing how Highway 66 dips down
15 to go under the overpass where Speedway Road crosses. I've been there, and this photo
16 truly and accurately depicts the road surface there.

17 Q: Does this photo support your opinions about sight distance and stopping distance at this
18 particular spot?

19 A: Yes.

20 Q: Which side of the road was the accident on as depicted here?

21 A: On the left part of the photo. Murphy was travelling toward the camera on the left side of
22 the picture, down that steep hill.

23 Q: Given the factors you've listed, do you have an opinion as to why Mr. Murphy was
24 unable to bring his vehicle to a stop to avoid this collision?

DEPOSITION OF TRACE LeDUC
February 7, 2011

1 A: Yes, in my opinion when Mr. Murphy saw the tractor trailer in the right hand traveled
2 portion of the roadway, and when he did not see warning flares or warning triangles or
3 red flashing lights on the trailer itself, there was nothing to cause him to understand that
4 the tractor trailer unit represented an obstacle. By the time he was able to perceive that
5 the truck was in fact stopped, he had used up his stopping distance.

6 Q: What do you mean by that?

7 A: Well, when a normal driver who is driving down the highway in the right hand traveled
8 portion of the roadway sees a vehicle in front of him in the same lane, his experience is
9 that the vehicle is moving and is moving at highway speed, because that's how it
10 generally happens. In this instance, when he saw the tractor trailer in the right hand
11 traveled portion of the roadway, his brain would have registered nothing abnormal about
12 the situation until he got much closer.

13 Q: In your opinion, if the tractor trailer had been pulled off on the shoulder of the road,
14 would that have made a difference in connection with this accident?

15 A: Yes, it would have made a difference because a vehicle parked on the shoulder is
16 obviously stopped, and it's obviously out of place, and it obviously gets your attention. It
17 says "there's something going on here." In this instance, just glancing at the backend of a
18 tractor trailer doesn't tell you anything if it's in the traveled portion of the highway.
19 Your brain thinks it's a normal thing and it reacts like that until something comes along
20 to change that perception.

21 Q: You've stated an opinion that the driver of the tractor trailer unit was at fault in this
22 accident; why is that your opinion?

23 A: For the reasons we've just discussed. If he had parked his tractor trailer on the shoulder,
24 it would obviously have been an unusual situation and would have represented something
25 that required attention. By parking it in the right hand traveled portion of the highway, he

DEPOSITION OF TRACE LeDUC
February 7, 2011

1 created an appearance of normalcy. The ordinary driver would have not seen it as an
2 abnormal situation requiring action.

3 Q: Did you read the deposition of Billy Bob Barnett?

4 A: I said earlier that I'd read all the depositions. That included Barnett's.

5 Q: Did Mr. Barnett report having seen the overturned U-Haul?

6 A: Yes, Mr. Barnett said he immediately recognized that something was amiss on the road,
7 which is what you'd expect when you see an overturned trailer. That gets your attention.

8 Q: Can you identify Exhibit 11?

9 A: That's a photo from another case, but it illustrates a point there and helps the jury
10 understand my testimony. It shows an overturned U-Haul at or near a road surface. This
11 gets your attention because it's out of the ordinary. It's not what you expect to see.

12 Q: And you said that the driver of the U-Haul trailer shares some of the responsibility. Why
13 is that?

14 A: Well again, a person who is driving a U-Haul trailer shouldn't have it turn over behind
15 them. But getting back to the driver of the tractor trailer unit, you can certainly
16 understand when you see an overturned U-Haul trailer that something is amiss. If Mr.
17 Murphy had seen an overturned U-Haul trailer in the roadway, it would have registered
18 on him as something that required attention and probably immediate attention. By
19 parking his tractor trailer unit in the right hand traveled portion of the roadway, the truck
20 driver blocked Mr. Murphy's view of the only thing that would have told him that
21 something was out of the ordinary, which is the overturned trailer.

22 Q: Are you saying that Mr. Murphy bears absolutely no responsibility in connection with
23 this accident?

24 A: Well, under ideal circumstances, a driver should probably recognize that a vehicle in the
25 right hand traveled portion of the roadway is in fact stopped at some point before he hits

DEPOSITION OF TRACE LeDUC
February 7, 2011

1 it. The question is whether, given the totality of the circumstances and the poor sight
2 distance at this spot, his attention was sufficiently directed toward an abnormal situation
3 in sufficient time for him to avoid it.

4 Q: If the driver of the tractor trailer had put emergency flares behind his unit, would that
5 have helped in the situation in your opinion?

6 A: Of course, it would have been very helpful because it again represents a very abnormal
7 situation and would have received immediate attention. Flares are not only out of the
8 ordinary, but they are also a reference point to tell other drivers that the truck is stopped.

9 Q: Why is that?

10 A: Flares sitting on the highway draw attention. They are obviously on the surface itself. If
11 the truck behind the flares maintains the same spatial relationship—if it continues to look
12 the same size as compared to the flares—the other drivers can immediately conclude that
13 it is stopped.

14 Q: If the driver of the tractor trailer had put emergency triangles out in the road behind his
15 trailer, would that have changed the outcome here in your opinion?

16 A: Again, because emergency triangles are clearly abnormal in the right hand traveled
17 portion of the roadway, they would have immediately commanded attention to the fact
18 that the tractor trailer was stopped. Mr. Murphy's brain would not have registered it as a
19 normal situation, and instead would have registered the situation as being abnormal.

20 Q: I'm handing you what has been marked as Exhibit 9. Can you identify what that is?

21 A: Yes, those are excerpts from my book on accident reconstruction and human behavior.

22 Q: Which you find to be helpful?

23 A: The whole book is helpful. Bits and pieces are less helpful, but still handy.

DEPOSITION OF KIM STOCKARD
June 30, 2010

1 Q: State your name for the record please.

2 A: My name is Kim Stockard.

3 Q: Are you the spouse of Dusty Stockard?

4 A: Yes I am.

5 Q: And were you the parent of Channing Stockard?

6 A: Yes I was.

7 Q: Are you familiar with the facts surrounding how it came to be that Mitch Murphy was
8 picking Channing up at the Armadillo Airport on the day of her death?

9 A: Yes, I asked Mitch to go pick up Channing at the Armadillo Airport on that day.
10 Channing had been away for three weeks on a European vacation and was returning to
11 the Armadillo Airport. Dusty and I could not go get her because we were both working,
12 and could not get off of our jobs. Because of that, I asked Mitch to go pick up Channing.

13 Q: Why did you ask Mitch Murphy to go get Channing?

14 A: Because I knew that Mitch had been doing errands for different people to earn money,
15 and it seemed like a good errand for him to do.

16 Q: Were you aware of any romantic relationship between Mitch and Channing?

17 A: No, I had no idea that there was any kind of relationship going on between those two
18 kids. Channing never said anything to me about it.

19 Q: Did you pay Mitch anything to go pick up Channing?

20 A: I offered to pay Mitch, but he adamantly refused any compensation.

21 Q: Did you give Mitch permission to take your car to Armadillo to pick up Channing?

22 A: Yes, I thought it would be better if he took my car instead of his own ratty broke down
23 hot rod.

24 Q: Did Dusty know that Mitch was going to get Channing that day?
25

DEPOSITION OF KIM STOCKARD
June 30, 2010

1 A: Well, of course. Channing had been gone three weeks, and we both knew exactly what
2 day and when she was coming in. Dusty was working, I was working. Someone needed
3 to go to the airport.

4 Q: But did you discuss the fact that it would be Mitch who was picking her up?

5 A: Sure. Dusty said it was a great solution because if Mitch could spend some time with her
6 before she got back to Bootleg, then maybe he wouldn't be hanging around as much
7 taking up her time when she got to the house.

8 Q: What did that mean?

9 A: I asked that same question. Dusty just winked and smiled and said that sometimes young
10 people just needed to some time together to be young people.

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

DEPOSITION OF BILLY BOB BARNETT
April 15, 2010

1 Q: What is your name?

2 A: My name is Billy Bob Barnett.

3 Q: What is your profession or occupation Mr. Barnett?

4 A: I drive a long haul tractor trailer units and I'm a professor at Gator University School of
5 Law on the side.

6 Q: How long have you been driving tractor trailers?

7 A: Seems like all my life. I started when I was 24, and now I'm closing in on 65.

8 Q: Do you work for yourself or someone else?

9 A: Oh I have my own company. It's called White Three Piece Suit Trucking, Inc.

10 Q: Why do you call it White Three Piece Suit Trucking?

11 A: Well, frankly, it's because I look so good in one. And I've tried a black three piece suit,
12 but I look like a penguin.

13 Q: Are you familiar with the accident that occurred on June 22, 2009 at approximately 7:30
14 pm on US Highway 66 where it intersects with Speedway Road?

15 A: Yes, I am.

16 Q: How are you familiar with that accident?

17 A: Well, my tractor trailer rig was struck by that dufus Mitch Murphy while I was trying to
18 help this person who overturned a U-Haul trailer.

19 Q: So what do you remember about this whole scenario?

20 A: Well, I was westbound on US 66. I came over a small crest and a little hill just before
21 you get to that underpass. I saw an overturned U-Haul trailer down under the overpass. I
22 had to get on my brakes pretty quick, but I got the rig stopped right there behind the
23 trailer. I then got out to see what kind of assistance I could render.

24 Q: Why did you stop in the right hand traveled portion of the roadway rather than on the
25 shoulder?

DEPOSITION OF BILLY BOB BARNETT
April 15, 2010

1 A: I parked there because I thought my vehicle would be more visible to people behind us
2 than that overturned U-Haul trailer.

3 Q: Did you put out any warning devices like flares or reflective triangles?

4 A: No, I didn't want to take the time to do that. I needed to go render some assistance to the
5 U-Haul trailer driver. She looked like she was really in distress.

6 Q: Did you turn on your emergency flasher lights?

7 A: I'm pretty sure I did.

8 Q: Did you then go to render assistance to the driver of the U-Haul trailer?

9 A: Yes, I went right away to her assistance. She was pretty distraught. She told me that a
10 sudden gust of wind had caught the trailer and flipped it before she could do anything
11 about it.

12 Q: What happened next?

13 A: While I was standing there talking to her, I heard a skidding sort of noise and then the
14 sound of an impact. I ran back to the back of my trailer and I observed an automobile
15 smashed up under the trailer real bad, and it appeared that some people were pretty bad
16 hurt. I immediately got on my radio and called for assistance, then I went back up to the
17 front of the truck to make sure that the driver of that U-Haul wasn't further traumatized
18 by seeing the terrible sight at the backend of my trailer.

19 Q: Did you happen to get the name of the driver of the U-Haul trailer?

20 A: Sure did, her name is Denny Sheppard. Got her phone number too. We've been dating
21 for a couple of months now.

WESTBOUND

SPEEDWAY RD

U HAUL

TRACTOR/TRAILER

CAR

MEDIAN

EASTBOUND

EXHIBIT 1

SPEED IN		AVERAGE STOPPING DISTANCES			TOTAL STOPPING DISTANCES	
Miles per Hour	Feet per Second	Car	Truck	Reaction Time*	Car	Truck
10	14.67	5	7	11	16	18
15	22.00	12	17	16	28	33
20	29.34	21	30	22	43	52
25	36.62	32	47	27	59	74
30	44.00	47	67	33	80	100
35	51.30	63	92	38	101	130
40	58.70	82	120	44	126	164
45	66.00	104	152	50	154	202
50	73.30	128	187	55	183	242
55	80.70	155	227	61	216	288
60	88.00	185	270	66	251	336
65	95.30	217	316	71	288	387
70	102.60	252	367	77	329	444
75	109.90	289	422	82	371	504
80	117.20	328	480	88	416	568
90	132.00	425	607	99	524	706
100	146.60	514	750	109	623	859

*Reaction Time = .75 Sec in Feet

EXHIBIT 2

LONE STAR PEACE OFFICER'S OFFICIAL ACCIDENT REPORT

PLACE WHERE ACCIDENT OCCURRED

COUNTY Travis CITY OR TOWN Rural Location

ROAD ON WHICH ACCIDENT OCCURRED US Highway 66

BLOCK NUMBER _____ STREET OR ROAD NAME _____ ROUTE NUMBER OR STREET CODE _____

IF ACCIDENT WAS OUTSIDE CITY LIMITS INDICATE DISTANCE FROM NEAREST TOWN 17 MILES N S E W OF Bootleg

OR INDICATE OTHER LANDMARK Intersection of Speedway Road

SPEED LIMIT 65

DATE OF ACCIDENT 06-22-2009 DAY OF WEEK Monday HOUR 7:30 A.M. P.M.

UNIT NO. 1 - MOTOR VEHICLE VEHICLE IDENT. NO. IGN4487BC123

YEAR MODEL 2007 COLOR & MAKE Red CHEV MODEL NAME Corvette LICENSE PLATE CATCHME

DRIVER'S NAME Murphy, Mitch 127415 Powell Lane, Bootleg, Lone Star

LAST FIRST MIDDLE ADDRESS (STREET, CITY, STATE, ZIP)

DRIVER'S LICENSE LS 4398756 DOB 3 15 1987

STATE NUMBER MO DAY YEAR

OWNER OR LESSEE Stockard, Kim 79 Lovers Lane, Bootleg, Lone Star

NAME (AS SHOWN ON TITLE OR LEASE DOCUMENTS) ADDRESS (STREET, CITY, STATE, ZIP)

SPECIMEN TAKEN (ALCOHOL/DRUG ANALYSIS) 5 ALCOHOL/DRUG ANALYSIS RESULT _____

1-BREATH 2-BLOOD 3-OTHER 4-NONE 5-REFUSED

UNIT NO. 2 - MOTOR VEHICLE VEHICLE IDENT. NO. BAT32857XURLFE345

YEAR MODEL 2004 COLOR & MAKE White VOLVO MODEL NAME H5000 HD/Koolaire Tr LICENSE PLATE W-04462

DRIVER'S NAME Barnett, Billy Bob 5020 Oldman Drive, Armadillo, Lone Star

LAST FIRST MIDDLE ADDRESS (STREET, CITY, STATE, ZIP)

DRIVER'S LICENSE LS 5644383 DOB 7 13 1971

STATE NUMBER MO DAY YEAR

OWNER OR LESSEE Three Piece White Suit Reefer Company 2222 Frigid Way, Armadillo, Lone Star

NAME (AS SHOWN ON TITLE OR LEASE DOCUMENTS) ADDRESS (STREET, CITY, STATE, ZIP)

SPECIMEN TAKEN (ALCOHOL/DRUG ANALYSIS) 4 ALCOHOL/DRUG ANALYSIS RESULT _____

1-BREATH 2-BLOOD 3-OTHER 4-NONE 5-REFUSED

NARRATIVE Unit 2 stopped in RH travelled lane behind overturned U-Haul. Unit 1 travelling in RH lane, struck Unit 2 from behind.

CHARGES FILED

NAME Mitch Murphy CHARGE Fail to Control Speed CITATION NO. LS23545

NAME Mitch Murphy CHARGE Fail to Keep Lookout CITATION NO. LS23547

TIME NOTIFIED OF ACCIDENT 7:35 PM HOW RADIO TIME ARRIVED AT SCENE OF ACCIDENT 7:41 PM

TYPED OR PRINTED NAME OF INVESTIGATOR Chris Jensen DATE REPORT MADE 8/10/09

SIGNATURE OF INVESTIGATOR Chris Jensen ID NO. 711 DEPARTMENT LSHP

EXHIBIT 3



INCIDENT / ARREST REPORT

INCIDENT
 JUVENILE
 HATE CRIME
 ARREST
 DOMESTIC
 INVOLVED ALCOHOL

DATE REPORTED:	12/31/2006
TIME REPORTED:	23:32
SECTOR	Other
UNIT	1

CASE NO: 18547		OFFENSE DUI		STATUTE LS Penal Code 34.5		COMMITTED <input type="checkbox"/>		ATTEMPTED <input checked="" type="checkbox"/>			
OFFENSE Speeding		STATUTE LS Penal Code 213.3		COMMITTED <input type="checkbox"/>		ATTEMPTED <input checked="" type="checkbox"/>					
OFFENSE		STATUTE		COMMITTED <input type="checkbox"/>		ATTEMPTED <input type="checkbox"/>					
OFFENSE		STATUTE		COMMITTED <input type="checkbox"/>		ATTEMPTED <input type="checkbox"/>					
DATE OCCURRED FROM MONTH DAY YEAR 12 31 2006		TO MONTH DAY YEAR 12 31 2006		TIME OCCURRED FROM HOUR MIN 23 32		TO HOUR MIN		4. LOCATION TYPE 08 Bar/Night Club			
LOCATION OF OFFENSE (STREET NUMBER - DIRECTION - STREET NAME - APT NUMBER/BUSINESS NAME - CITY) 700 S. Taylor Bootleg						5. FORCED ENTRY YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> N/A <input type="checkbox"/>					
OFFICER 1 Jensen		BADGE # 711		OFFICER 2 none		BADGE # na					
6. TYPE WEAPON			7. CALIBER/GAUGE			8. FINISH					
NUMBER OF PERSONS PRESENT 1		NUMBER OF OFFENSE 2		NUMBER OF OFFENDERS 1		NUMBER ARREST 1					
PERSON 1	13. TYPE A Arrestee		NUM 3 Adult		SOCIAL SECURITY # 489-01-5841		NAME (LAST, FIRST & MIDDLE) Murphy, Mitch				
	14. RACE N N/A		15. SEX U Unk		DOB 3-15-87		<input type="checkbox"/> ESTIMATED		AGE 19		
	15A. HAIR Other	15B. EYES Other	16. OFFENSE INDICATOR 2 2nd Offense		17. INJURY EXTENT		18. INJURY TYPE (2)				
	ADDRESS 127415 Powell Lane			CITY Bootleg		STATE LS	ZIP it	19. RES TYPE 1 City		20. RES STATUS 0 N/A	
	RES PHONE		EMPLOYER/SCHOOL unemployed			EMPLOYER ADDRESS					
	BUS PHONE		OCCUPATION			SCARS/MARKS/TATTOS/CLOTHING Tattoo Left Buttocks: "BEAR"			21. VIC/OFFENDER RELATIONSHIP 00 N/A		
	22. FOUL PLAY SUSPECTED		ALIAS/STREET NAME/NICKNAME The Bear			PLACE OF BIRTH					
	DRUG TYPE M Marijuana P Paraphenalia				DRUG ACTIVITY E Use P Possess						
MO Describe Other _____				POE Describe Other _____							
CRIME SCENE: ROLL # _____		PHOTOS TAKEN YES <input type="checkbox"/> NO <input type="checkbox"/>		BY WHOM? _____		DUSTED FOR LATENT PRINTS YES <input type="checkbox"/> NO <input type="checkbox"/>		PRINTS SUBMITTED YES <input type="checkbox"/> NO <input type="checkbox"/>		BY WHOM? _____	
VEHICLE			PERSON (INDICATE PERSON TO WHOM VEHICLE INFO APPLIES)								
YEAR	MAKE	MODEL	TYPE	COLOR	PLATE	STATE					
VIN				INSURANCE COMPANY							

NARRATIVE:

Arrested due to speeding. Red eyes, other appearance indicates use of illegal substance marijuana.

REPORTING OFFICER Jensen DATE REPORTED 12/31/2006

REPORTING OFFICER *Chris Jensen* SIGNATURE

REVIEWING SUPERVISOR *[Signature]* SIGNATURE

EXHIBIT 5

 Channing Stockard
[Edit My Profile](#)

FAVORITES

- Welcome
- News Feed
- Messages**
- Other
- Events
- Friends 12

GROUPS

[Create Group...](#)

APPS

- Ads
- Mobile
- Photos
- Notes
- Questions

Friends on Chat



- 1 Claim your Facebook email
- 2 Turn on text messaging
- Chat is online

Messages

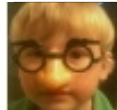
+ New Message

Search Messages



Mitch: About to leave London. You gonna pick me up for ice cream?
Things can happen pretty fast.

June 21, 2009

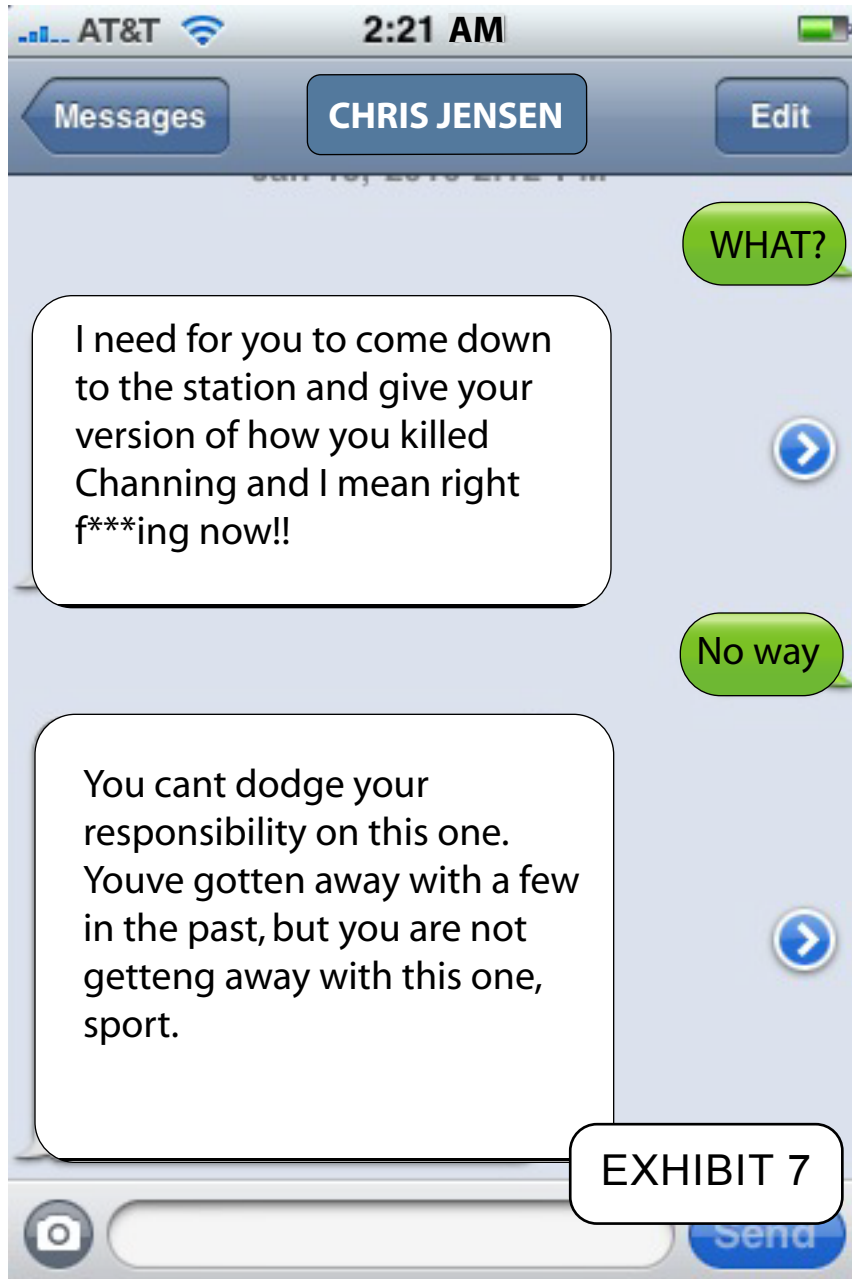


wont think about anything else

June 21, 2009

View: Unread · Archived Setup: Email · Text Messaging

EXHIBIT 6
REVISED





ACCIDENT RECONSTRUCTION AND HUMAN BEHAVIOR

Trace LeDuc
(excerpts)

CHP. 17: PERCEPTION AND REACTION TIMES

Two factors weigh heavily in accident avoidance: perception time and reaction time. A vehicle traveling at 60 mph covers 88 feet per second. But stopping that vehicle takes over 4.5 seconds and covers a distance of 271 feet. Why? Because there's more involved in braking than the actual time your brakes are applied to the wheels (called "effective braking"). In particular, "perception time" and "reaction time" add considerable distance to stopping. Stopping distance charts normally use .75 second as a "reaction time" component, but braking maneuver studies show that approximately 85% of the motoring public perceives and reacts to an observed hazard in a time period of 1.5 seconds. The additional time component above .75 second is perception time.

Perception Time. Perception time is that time required to actually see and understand a situation. Reaction time cannot come into play until the driver is stirred from the generally relaxed driving state to a more heightened awareness of some environmental change that demands attention. Perception time is driven by driver expectation in a given situation. Perception time is generally about .25 second for situations where the driver expects to require some action. For example, when approaching a traffic signal, the driver expects a need to react if the signal changes from green to yellow. Perception time is therefore very short. On the other hand, more subtle situations may take longer to "jog" a driver's attention. As an example, a car stopped on the shoulder of a busy road will generally cause a rise in the ordinary driver's attention level more quickly than a car travelling in the right hand lane, even if it is travelling at only 10 mph. The car is where it is supposed to be in this second situation, and the driver behind may not appreciate the danger posed by its slow speed until some other set of clues becomes obvious. In this scenario, perception time may stretch to as much as 2.0 seconds before reaction time becomes a factor. The normal expectation is that cars do not travel slowly or stop in the middle of the road. Perception time is much slower when people encounter a low probability or unexpected event.

Of course, even the most inattentive driver will be expected to perceive the various spatial cues around a moving vehicle and respond accordingly. Spatial cues include such things as the motion or lack of motion between a vehicle and its surroundings, such as sign posts, other vehicles or other objects near the roadway. These spatial cues tell the attentive driver whether a vehicle directly ahead is moving or not, and the relative speed of movement.

Reaction Time. Most drivers need only about .75 second to bring the body to action after perceiving a need to act. Reaction time varies as a function of the type of reaction required. Is it a simple reaction like braking, or a more complex reaction like steering to avoid an object? Reaction time also varies with age—older drivers may be expected to have a slower reaction time, while younger drivers should be able to respond to stimuli much more quickly. On the other hand, younger drivers may be more distractible than their more mature counterparts, which increases the perception time and may actually dull reaction time. Studies show that young drivers tend to be less attentive to the driving task when driving with a member of the opposite sex.

EXHIBIT 9



BOOTLEG POLICE DEPARTMENT
TROOPER DISCIPLINARY NOTICE

EMPLOYEE: Trooper Chris Jensen
DATE: February 16, 2009

This DISCIPLINARY NOTICE will become part of Trooper Jensen's permanent file. No further action, except that specified below, is or will be taken on the incident described.

On February 14, 2009 at approximately 8:11:14 PM, an anonymous complainant reported that Trooper Jensen was observed to be parked in a residential area near the residence of one Channing Stockard, a 17 year old female. Dispatch contacted Trooper Jensen to determine a 10-20. Trooper Jensen claimed to be 10-8 at the intersection of Highway 66 and Stroud Road. Dispatch then directed Trooper Tim Williams to that location and was advised that Trooper Jensen was not there. Dispatch then directed Trooper Williams to 79 Lovers Lane, where Trooper Williams reported observing Trooper Jensen's vehicle parked approximately half a block to the west of that address. Dispatch then contacted Trooper Jensen to inquire again a 10-20. Trooper Jensen again reported the 10-20 to be Highway 66 and Stroud Road. Trooper Jensen was told to go 10-19, and Trooper Williams observed the patrol vehicle start and begin moving. When Trooper Jensen arrived at the station, Lt. Steve Walker confronted Jensen with the information developed from Trooper Williams, at which point Trooper Jensen admitted being at the Lovers Lane location, claiming to be responding to a 10-14. Dispatch had no record of a 10-14 at that or any other location.

DISCIPLINARY ACTION: Trooper Jensen will be put on probation for a period of 90 days, during which Jensen is to have no contact with Stockard and is prohibited from patrolling or parking at or near the 70 block of Lovers Lane.

EXHIBIT 10



EXHIBIT 11



OKLAHOMA OFFICE OF STATE FINANCE
GAMING COMPLIANCE UNIT

311 East Sheridan Avenue, Oklahoma City 73104

GAMBLING IS "OK"

June 30, 2009

Dusty Stockard
79 Lovers Lane
Bootleg, Lone Star 76706

RE: Outstanding Indebtedness at Mrs. Grundy's Casino at Clinton OK

It has come to the attention of the Compliance Unit that you owe an outstanding indebtedness to Mrs. Grundy's Casino at Clinton, Oklahoma relating to gambling activities this past June 22, 2009.

In accordance with state regulations and local practice, the Casino previously extended to you the courtesy of a credit line with a credit limit of \$10,000.00. For the past 3 years, you have consistently utilized the credit line and have consistently and timely paid all outstanding gaming debts incurred in the Casino.

However, on June 22, 2009, you incurred gaming debts in excess of the credit limit of your account and failed to pay or discharge those debts within 72 hours, as required by state law. Be advised that the Casino security system verifies that you were present at the Casino and did in fact place the wagers that lead to the indebtedness.

Please immediately arrange to pay or discharge this obligation. The total gaming indebtedness owed by you is \$12,040.00. If you fail to pay or discharge this indebtedness within 5 days of the date of your receipt of this letter, your credit line privileges in the casinos of this state will be permanently revoked and you will be barred from gambling in said casinos for life.

Please contact the undersigned immediately to attend to this serious matter.

Oklahoma Office of State Finance
Gaming Compliance Unit

Emerson "Buddy" Banack, Jr.
405-549-2999

EXHIBIT 12

NO. 10-004687-CV

DUSTY STOCKARD, Individually
and as Administrator of the Estate of
CHANNING STOCKARD,

Plaintiff,

v.

MITCH MURPHY,

Defendant.

§
§
§
§
§
§
§
§
§
§

IN THE 479th DISTRICT COURT

IN AND FOR TRAVIS COUNTY

STATE OF LONE STAR

FINAL JURY INSTRUCTIONS

Members of the jury, I shall now instruct you on the law that you must follow in reaching your verdict. It is your duty as jurors to decide the issues, and only those issues, that I submit for determination by your verdict. In reaching your verdict, you should consider and weigh the evidence, decide the disputed issues of fact, and apply the law on which I shall instruct you to the facts as you find them, from the evidence.

The evidence in this case consists of the sworn testimony of the witnesses, all exhibits received into evidence, and all facts that may be admitted or agreed to by the parties. In determining the facts, you may draw reasonable inferences from the evidence. You may make deductions and reach conclusions which reason and common sense lead you to draw from the facts shown by the evidence in this case, but you should not speculate on any matters outside the evidence.

In determining the believability of any witness and the weight to be given the testimony of any witness, you may properly consider the demeanor of the witness while testifying; the frankness or lack of frankness of the witness; the intelligence of the witness; any interest the witness may have in the outcome of the case; the means and

opportunity the witness had to know the facts about which the witness testified; the ability of the witness to remember the matters about which the witness testified; and the reasonableness of the testimony of the witness, considered in the light of all the evidence in the case and in light of your own experience and common sense.

The issue for your determination is whether the death of Channing Stockard was the result of the negligence, if any, of Mitch Murphy, Billy Bob Barnett or Denny Sheppard. In that regard, you are instructed that Dusty Stockard has the burden of proof on the negligence claim against Mitch Murphy, meaning that Dusty Stockard must convince you by a preponderance of the evidence that Channing Stockard's death was the result of Mitch Murphy's negligence, if any. You are further instructed that Mitch Murphy has the burden of proof on the claim that Channing Stockard's death was caused in whole or in part by the negligence, if any, of Billy Bob Barnett or Denny Sheppard.

You are instructed that the term "negligence" means failure to use ordinary care, that is, failing to do that which a person of ordinary prudence would have done under the same or similar circumstances or doing that which a person of ordinary prudence would not have done under the same or similar circumstances.

"Ordinary care" means that degree of care that would be used by a person of ordinary prudence under the same or similar circumstances.

"Proximate cause" means that cause which, in a natural and continuous sequence, produces an event, and without which cause such event would not have occurred. In order to be a proximate cause, the act or omission complained of must be such that a person using *ordinary care* would have foreseen that the event, or some similar event,

might reasonably result therefrom. There may be more than one proximate cause of an event.

Answer “Yes” or “No” to all questions unless otherwise instructed. A “Yes” answer must be based on a preponderance of the evidence unless you are otherwise instructed. If you do not find that a preponderance of the evidence supports a “Yes” answer, then answer “No.” The term “preponderance of the evidence” means the greater weight and degree of credible evidence admitted in this case. Whenever a question requires an answer other than “Yes” or “No,” your answer must be based on a preponderance of the evidence unless you are otherwise instructed.

At this point in the trial, you, as jurors, are deciding if Channing Stockard’s death was proximately caused, in whole or in part, by the negligence, if any, of Mitch Murphy, Billy Bob Barnett or Denny Sheppard. If you find Mitch Murphy was at fault in whole or in part, you will hear additional argument from the attorneys and you will hear additional witnesses testify concerning damages. Until that time, you are not to concern yourselves with any question of damages. Your verdict must be based on the evidence that has been received and the law on which I have instructed you. In reaching your verdict, you are not to be swayed from the performance of your duty by prejudice, sympathy, or any other sentiment for or against any party. When you retire to the jury room, you should select one of your members to act as foreperson, to preside over your deliberations, and to sign your verdict. You will be given a verdict form, which I shall now read and explain to you.

(READ VERDICT FORM)

When you have agreed on your verdict, the foreperson, acting for the jury, should date and sign the verdict form and return it to the courtroom. You may now retire to consider your verdict.

NO. 10-004687-CV

DUSTY STOCKARD, Individually
and as Administrator of the Estate of
CHANNING STOCKARD,

Plaintiff,

v.

MITCH MURPHY,

Defendant.

§
§
§
§
§
§
§
§
§
§
§

IN THE 479th DISTRICT COURT

IN AND FOR TRAVIS COUNTY

STATE OF LONE STAR

JURY QUESTION NO. 1

Did the negligence, if any, of the parties below proximately cause the death of
Channing Stockard?

Answer "Yes" or "No" for each of the following:

1. Mitch Murphy _____
2. Billy Bob Barnett _____
3. Denny Sheppard _____

If you have answered “yes” with respect to more than one party in response to Jury Question No. 1, answer the following Jury Question; otherwise, do not answer the following Jury Question.

JURY QUESTION NO. 2

What percentage of the negligence that caused the death of Channing Stockard do you find to be attributable to each of those listed below and found by you, in your answer to Jury Question No. 1, to have been negligent?

- 1. Mitch Murphy _____
 - 2. Billy Bob Barnett _____
 - 3. Denny Sheppard _____
- Total 100%

CERTIFICATE

We the jury, have answered the above and foregoing questions as herein indicated, and herewith return same into Court as our verdict.

Presiding Juror

To be signed by those rendering the verdict if not unanimous.
