

**LISA RICHARDSON, individually
and as Administrator of the Estate of
ANDY LITTLE, and as Next Friend
for ANDY LITTLE, JR.**

Plaintiff,

v.

BIG A UTILITY COMPANY, INC.

Defendant.

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IN THE 479th DISTRICT COURT

IN AND FOR TRAVIS COUNTY

STATE OF LONE STAR

Prepared by:

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701 S. Taylor, Suite 500
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and
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STATEMENT OF THE CASE

Lisa Richardson, individually and as Administrator of the Estate of Andy Little, and as Next Friend for Andy Little, Jr., (“Richardson”) has filed a Complaint against Big A Utility Company, Inc. (“Big A”), a corporation incorporated in and with its principal place of business in the State of Lone Star. The Complaint alleges that Andy Little (“Little”) was driving in Armadillo, Travis County, State of Lone Star on October 31, 2004, when his car was struck by a bucket truck owned by Big A and driven by a Big A employee. Little died in the accident. Richardson alleges that she was Little’s common law wife, and that her son, Andy Little, Jr., born June 15, 2005, is Little’s son. Richardson’s Complaint alleges that Big A employees were negligent in driving the bucket truck in reverse on an access road to a freeway at a high rate of speed and without maintaining a proper lookout. The Complaint also alleges that Big A was negligent in entrusting its vehicle to an employee who was not competent to drive the bucket truck. Richardson alleges that she has been damaged as a result of Big A’s conduct, including medical and funeral expenses, lost support and services, and mental anguish.

Big A filed an Answer denying the allegations of the Complaint and raising the affirmative defenses of Little’s comparative negligence.

STIPULATIONS REGARDING EVIDENTIARY MATTERS

Procedural Matters

1. Federal Rules of Civil Procedure and Federal Rules of Evidence apply.
2. This case shall be tried on liability only. Should the plaintiff prevail on liability, the question of damages shall be heard by the jury with additional evidence and additional jury instructions at a later date.
3. All witnesses called to testify who have in depositions identified the

parties, other individuals, or tangible evidence can, if asked, identify the same at trial.

4. Each witness who gave a deposition did agree under oath at the outset of his/her deposition to give a full and complete description of what occurred and to correct the deposition for inaccuracies and completeness before signing the deposition.

5. All depositions were signed under oath.

6. For this competition, no team is permitted to attempt to impeach a witness by arguing to the jury that a signature appearing on the deposition does not comport with signatures or initials located on an exhibit.

7. 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.

8. 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.

9. “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(3).

10. Each party must call the two witnesses listed as that party’s witnesses on the witness list.

11. 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.

12. It is stipulated that no one shall attempt to contact the problem drafter, Marvin W. Jones, about this problem. Contact with the competition officials concerning this problem must be pursuant to the rules of the competition.

13. 2008 should be the current year in which this case comes to trial.

14. 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).

15. This competition does permit teams to argue additional case law and other relevant authority to support the team's argument on motions and evidentiary issues. However, no changes are permitted to the provided jury instructions, or the substantive law stated below.

Substantive Matters

1. Big A does not contest that the district court has subject matter jurisdiction of the dispute, and stipulates that Plaintiff has standing in all capacities.

2. Motions to dismiss the complaint and motions for summary judgment have been denied by the trial court, and no further motions to dismiss or for summary judgment shall be argued or heard by the trial judge.

3. The State of Lone Star is a comparative negligence state. The jury shall apportion the percentage of negligence, if any, to the plaintiff and the defendant.

4. In the case of *Back East Investments v. Noturibe*, 216 Lone Star 3d 754 (Lone Star 2005), the Lone Star Supreme Court held that in order for a plaintiff to

recover on a negligence claim, he or she must prove the following three elements: 1) the existence of a duty, 2) breach of that duty, and 3) damages proximately caused by the breach.

5. Lone Star case law requires proof of the following elements before a plaintiff may recover for the negligent entrustment of a motor vehicle: 1) the owner entrusted its vehicle to another person; 2) that person was unlicensed, incompetent or reckless; 3) the owner should have known that the person to whom it entrusted the vehicle was unlicensed, incompetent or reckless; 4) the driver was negligent on the occasion in question; and 5) the driver's negligence proximately caused the injury. *Snyder v. Esperanza Transportation LLC*, 174 Lone Star 3d 955 (Lone Star 2003).

6. Lone Star Civil Practice Code § 1033.01 provides that "a claimant may not recover damages if his percentage of responsibility is greater than 50 percent."

7. Lone Star Penal Code § 43.06 provides that a person commits an offense if the person operates a motor vehicle while having a blood alcohol content of 0.08% or greater.

8. Lone Star Civil Practice Code § 17.002 states that "A person is liable for damages arising from an injury that causes an individual's death if the injury was caused by the person's or his agent's or servant's wrongful act, neglect, carelessness, unskillfulness, or default."

9. Lone Star Civil Practice Code § 17.012 states that "A personal injury action survives to and in favor of the heirs, legal representatives, and estate of the injured person."

WITNESS LIST

Witnesses for the Plaintiff:

1. Denny Sheppard
2. Lisa Richardson *

Witnesses for the Defendant:

1. Joe Mitchell
2. Dana Mylanta

Each team must call witnesses number 1 and 2 listed on its respective witness list.

* This person must be a female.

LISA RICHARDSON, individually
and as Administrator of the Estate of
ANDY LITTLE, and as Next Friend
for ANDY LITTLE, JR.

Plaintiff,

v.

BIG A UTILITY COMPANY, INC.

Defendant.

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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 Lisa Richardson, individually and as Administrator of the Estate of Andy Little, and as Next Friend for Andy Little, Jr., and files this Original Complaint against Big A Utility Company, Inc.

I.

GENERAL ALLEGATIONS

1. This is an action for damages within the jurisdictional limits of this Court.
2. Lisa Richardson has been a resident of Travis County since 1993 and Andy Little was a resident of Travis County from 2001 to the date of his death on October 31, 2004. Andy Little, Jr. has been a resident of Travis County since his birth on June 15, 2005.
3. Big A Utility Company, Inc. is a domestic corporation registered to do business and is doing business in the State of Lone Star.
4. The accident that is the subject of Plaintiff's Original Complaint occurred in Travis County, State of Lone Star.

5. On October 31, 2004, Mr. Little's vehicle was struck by a bucket truck used by utility companies to service lines and poles. The bucket truck in question was owned by Defendant and operated by Defendant's employees.
6. Defendant's employees were operating the bucket truck while in the course and scope of employment with the Defendant.
7. Andy Little died from the injuries received from the accident.
8. Lisa Richardson is the natural mother of Andy Little, Jr. and Andy Little was the natural father of Andy Little, Jr.
9. Lisa Richardson has been duly appointed administrator of Andy Little's estate.

II.
COUNT 1 – NEGLIGENCE

10. Plaintiff incorporates by reference the allegations of paragraphs 1 through 8 as if fully restated herein.
11. On October 31, 2004, Mr. Little left his home and was on his way to a local convenience store. Mr. Little was traveling south on the access road of the freeway in front of Laidlow Cemetery. A bucket truck belonging to Defendant was backing on the access road to the freeway at a high rate of speed. At the time of the collision, Defendant's employees were operating the truck in a negligent manner. Specifically, but not by way of limitation, the truck was facing south but Defendant's employee was operating the truck in reverse at a high rate of speed. Defendant's employees also failed to keep a proper lookout. In addition, Defendant's employees failed to yield the right of way to the vehicle being driven by Mr. Little.

12. Mr. Little was operating his vehicle lawfully, properly, and timely applied his brakes.
13. Despite Mr. Little's efforts to avoid the collision, Mr. Little's vehicle became firmly wedged under the rear end of the bucket truck.
14. As a consequence and proximate cause of the negligent acts of Defendant's employees, Plaintiff in her individual and representative capacities has suffered grievous damages. Plaintiff in her individual and representative capacities has suffered damages including but not limited to: medical and funeral expenses, lost support and services, and mental anguish that will be suffered for a long time into the future if not for the balance of Ms. Richardson's and Mr. Little, Jr.'s natural life.
15. Because the driver of Defendant's vehicle was in the course and scope of his employment with Defendant, Defendant is liable to Plaintiff for damages suffered by Plaintiff resulting from the negligence of Defendant's employees.

III.
COUNT 2 – NEGLIGENT ENTRUSTMENT

16. Plaintiff incorporates by reference the allegations of paragraphs 1 through 14 as if fully restated herein.
17. Defendant is also liable for negligent entrustment. Defendant knew or should have known that Defendant's employees were incompetent or reckless and should not have been entrusted with the responsibility of driving a motor vehicle and public roads.
18. Despite Defendant's knowledge or imputed knowledge, Defendant entrusted its motor vehicle to Defendant's employees.

19. The acts and omissions of Defendant's employees proximately caused the injuries and death to and of Andy Little. Accordingly, Defendant is liable to Plaintiff for negligent entrustment.

IV.
JURY DEMAND

20. Plaintiff hereby requests trial by jury.

V.
PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and as the Administrator of the Estate of Andy Little, and as Next Friend of Andy Little, Jr., requests that the Defendant be cited to answer and appear, and that upon final hearing the Plaintiff have judgment for damages, exemplary 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 Jerry R. Parker
2204 Cobblestone Parkway
P.O. Box 2001
Armadillo, Lone Star 72115-2001
(512) WILL SUE (Telephone)
(512) 945-5788 (Facsimile)

By: 

Jerry R. Parker
State Bar No. 00045896

7. Defendant admits the allegations in paragraph 7.
8. Defendant admits that Lisa Richardson is the natural mother of Andy Little, Jr. and denies the remaining allegations contained in paragraph 8.
9. Defendant admits the allegations in paragraph 9.
10. Defendant realleges its answers to paragraphs 1 through 9 as if fully set forth herein.
11. Defendant denies the allegations contained in paragraph 11.
12. Defendant denies the allegations contained in paragraph 12.
13. Defendant admits that Mr. Little's vehicle became firmly wedged under the rear end of the bucket truck but denies the remaining allegations contained in paragraph 13.
14. Defendant denies the allegations contained in paragraph 14.
15. Defendant admits that it is liable for the acts of its employees taken in the course and scope of employment. Defendant denies all other allegations contained in paragraph 15 and specifically denies that it is liable to Plaintiff in any manner.
16. Defendant realleges its answers to paragraphs 1 through 15 as if fully set forth herein.
17. Defendant denies the allegations contained in paragraph 17.
18. Defendant denies the allegations contained in paragraph 18.
19. Defendant denies the allegations contained in paragraph 19.

II.
AFFIRMATIVE DEFENSES

20. Without waiver of the foregoing but in addition thereto, Defendant affirmatively pleads that the collision identified in Plaintiff's Original Complaint was

proximately caused by the negligence of Andy Little. Accordingly, Plaintiff may not recover any damages due to Mr. Little's own negligence. The acts of negligence include but are not limited to the following:

- a. Operating a vehicle at a high rate of speed;
- b. Operating a vehicle without using headlights;
- c. Operating a vehicle while failing to maintain a proper lookout;
- d. Operating a vehicle and failing to reasonably apply brakes; and
- e. Operating a vehicle while under the influence of one or more substances including alcohol and/or marijuana.

III.
PRAYER

WHEREFORE, Defendant requests that upon final trial that Defendant have judgment that Plaintiff take nothing by its 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 itself justly entitled.

Respectfully Submitted,

IVORY & TOWER L.L.C.
701 S. Mopac, Suite 6700
Armadillo Petroleum Building
P.O. Box 1411
Armadillo, Lone Star 72105-1411
(512) 424-4411
(512) 424-4422 FAX

By: Mitch Murphy
Mitch Murphy
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 Jerry R. Parker, P.O. Box 2001, Armadillo, Lone Star, 72115-2001 on this 16th day of August, 2005.

By: Mitch Murphy
Mitch Murphy

DENNY SHEPPARD

having been first duly sworn, testified as follows:

EXAMINATION

Q: Tell us your full name please.

A: Officer Denny Sheppard.

Q: Officer Sheppard where do you live?

A: I live here in Armadillo.

Q: Are you in fact a police officer?

A: Yes I am, and have been for 10 years.

Q: What is the training and background required for you to become a police officer?

A: I had to go to Lone Star State Officer Academy, where I graduated and was certified as a Lone Star State Peace Officer.

Q: What kind of things do they teach you out at the Academy?

A: Well, they teach a variety of things. One of the things they teach is accident investigation techniques.

Q: What kind of techniques are you taught?

A: Well, we are taught how to determine speed from skid marks, how to secure a scene, how to gather evidence, how to look at the crush patterns on vehicles to determine speed and direction. We are taught how to take bodily fluid samples, both from living persons and those who may be deceased. We are taught photographic techniques of investigation, how to preserve a scene through photographs.

Q: Do you have a certification in accident investigation?

DEPOSITION OF DENNY SHEPPARD

9-25-2006

2

1 A: Yes I do. The Academy certified me as an accident investigator after I
2 took some additional courses out there 3 years ago.

3 Q: How many accidents have you investigated in your career?

4 A: 854, of which 75 have involved fatalities.

5 Q: After graduating from the Academy, have you participated in continuing
6 education in the subject of accident investigation?

7 A: Yes, I have attended several seminars, including one put on by Joe
8 Mitchell.

9 Q: Is Exhibit 7 a copy of some materials from Joe Mitchell's seminar?

10 A: Yes, this is his manual on accident investigation. I got this at his seminar
11 last year.

12 Q: Officer Sheppard, did you investigate an accident that occurred on
13 October 31, 2004, at the entrance at the Laidlow Cemetery in the City of Armadillo?

14 A: Yes, I investigated that accident.

15 Q: How did you learn about the accident?

16 A: I was notified by radio that there was an accident with a probable fatality
17 out at the entrance of the Laidlow Cemetery. When I got the radio message, I proceeded
18 immediately to the scene of the accident and began securing the scene.

19 Q: What did you see upon arriving at the scene of this tragic accident?

20 A: Well, the first and most obvious thing I saw was the bucket truck
21 belonging to Big A Electric Company. It was sitting in the right hand traveled portion of
22 the roadway. As I got closer to the scene, I could see that there was a light colored
23 station wagon in under the back of the bucket truck. At that time, I observed that the

JUSTICE COURT REPORTING

(555) 345-6788

1 driver of the car was the only occupant, and he appeared to be dead.

2 Q: What time did you arrive at the scene of the accident?

3 A: I arrived there at 11:47 p.m., which I believe to be 5 minutes after the
4 accident.

5 Q: What did you do after observing the driver?

6 A: I began to look around for the operator of the bucket truck. I found the
7 operator and a 2 person crew standing in front of the bucket truck. As I walked up, I
8 heard the driver, Mylanta, say something about getting a wedgy from that car and the
9 other people standing there were laughing.

10 Q: Did you speak with the crew at that time about what had happened?

11 A: Yes, I asked them to tell me what was going on there. One of the crew
12 members, Ben Bono, said that they had been out looking for the cause of a power outage
13 in that area, and had found a fuse blown on a transformer pole just south of the cemetery,
14 about 100 yards south of the entrance where this accident occurred.

15 Q: As I understand it, the bucket truck and the car were both pointed south at
16 the time of the collision, is that correct?

17 A: Yes that's right.

18 Q: Did Mr. Bono tell you how they came to be exactly where they were on
19 the road.

20 A: Yes, Mr. Bono said that they had been out looking for whatever caused
21 this power outage. They had traversed this access road going south and had gone past the
22 Laidlow Cemetery once. They then turned right on State Highway 13, proceeded for a
23 block to the west, and turned back north on Blackcat Street. After going approximately a

1 block and a half, they were able to observe a transformer pole over near the edge of the
2 cemetery. Because they couldn't see whether the fuses on that pole were blown from
3 where they were, they retraced their steps.

4 Q: How did they retrace their steps? Isn't the access road one-way going
5 south?

6 A: Yes, they went back south on Blackcat Street, turned left on State
7 Highway 13, and then turned north on the access road, going the wrong way on that
8 access road for about a quarter of a mile until they got to the entrance of the cemetery.
9 From there, they could shine their spotlight on the transformer pole and see better
10 whether a fuse was blown. Once they determined that a fuse was in fact blown, they
11 proceeded to back out of the entrance of the cemetery to reposition themselves near the
12 pole.

13 Q: What else did Mr. Bono tell you about these events leading up to the
14 accident?

15 A: Mr. Bono said that the operator of the bucket truck, Dana Mylanta,
16 seemed to be really agitated about going on to State Highway 13, and seemed even more
17 agitated to be going onto Blackcat Road. While they were sitting in the entrance of the
18 cemetery, Mylanta said, "We gotta get out of this place. It gives me the creeps."
19 Mylanta then popped the truck into reverse and began to back out as fast as it would go.

20 Q: What did the crew tell you about the actual accident itself?

21 A: Bono said he thought they were backing up when they felt a thump from
22 the back of the truck and heard a loud noise. Because the bucket truck is so heavy, it
23 really didn't move the truck at all. When they got out to investigate, they found the car

1 planted under the back end of their truck. The driver appeared to be bleeding profusely,
2 so they called 911 and then went around to the front of the truck to wait.

3 Q: Based on your investigation, were you able to determine the direction of
4 movement of the bucket truck at the time of impact?

5 A: Well, it appeared to me that the bucket truck was going backward at that
6 point, although it's pretty hard to tell since there were no skid marks from the truck.

7 Q: Were you able to determine the speed of the car at the point of impact?

8 A: I believe the car was going approximately 25 mph at impact.

9 Q: What do you base that on?

10 A: Mostly on the damage to the car. There weren't any skid marks, because
11 the car was equipped with an ABS braking system. But I don't think the car was going
12 all that fast when it hit the back of the truck.

13 Q: Did you fill out an accident report in connection with this accident?

14 A: Yes, I did and it is identified here as Exhibit 1.

15 Q: Does your accident report contain a statement regarding the cause of the
16 accident?

17 A: Yes, the accident report shows that the driver of the Big A truck, Dana
18 Mylanta, was at fault for failing to keep a proper lookout and failing to yield right-of-way
19 to oncoming traffic on the access road.

20 Q: Does the accident report show any other contributing factors?

21 A: No, I did not feel that Mr. Little was at fault in any way.

22 Q: There's a place on the accident report that asks the question "is alcohol
23 involved in this collision?" Did you fill that out?

1 A: Yes, I showed that alcohol was involved in the accident.

2 Q: What is that based on?

3 A: Well, I found a one quart beer bottle with the neck broken off between Mr.
4 Little's legs in the driver's seat. Based on our standards of investigation, the presence of
5 any alcohol in the vehicle required me to check off the blank on the form that alcohol was
6 involved in the accident.

7 Q: After that blank on the form there is a place for a percentage of blood
8 alcohol content; did you fill that out?

9 A: Yes, I put +/-0.07%.

10 Q: What is that based on?

11 A: I took a sample at the scene. Mr. Little had bled so much that I couldn't
12 get a reliable blood sample from any veins, so I inserted a needle in his chest cavity,
13 hoping to hit the heart, but I really couldn't tell whether I did or not. I then sent the
14 sample to our laboratory, which reported back this 0.07% figure. The lab report had a
15 notation on it that said the sample was contaminated with something that they couldn't
16 identify. That's why you see the asterisk on my accident report by the BAC level, and a
17 notation at the bottom that says sample contaminated.

18 Q: Based on your investigation, did you feel that the report of a blood alcohol
19 level was reliable?

20 A: No, I didn't put any stock in it at all.

21 Q: Did you find any other containers in the vehicle?

22 A: Yes, I found a Budweiser can in the floorboard in the back seat of the car.

23 Q: Did you take that into evidence?

1 A: Yes, I did and I did a finger print analysis on it and determined that Mr.
2 Little's fingerprints were on the can.

3 Q: Was anything else found in the car?

4 A: Yes, I found a sandwich bag that was filled with a green leafy substance.

5 Q: Did you have the green leafy substance tested to determine what it was?

6 A: No, I didn't bother with a test on that because Mr. Little's wife told me
7 that Mr. Little didn't have any marijuana on him when he was last seen by her and that he
8 only very rarely smoked marijuana.

9 Q: Do you have an opinion as to how this bag full of green leafy substance
10 got into the car?

11 A: Yes, I think Mylanta planted it into the car after the accident as a way of
12 trying to place the blame on Mr. Little. I think this was a throw down baggie.

13 Q: Did you take the bag into evidence?

14 A: Yes, I did.

15 Q: Can you identify that bag today?

16 A: Yes, it is the bag that is marked as Exhibit 2.

17 Q: Did you have the bag itself tested for fingerprints?

18 A: Yes, but I found no known matches.

19 Q: Based on your investigation and your interviews with the witnesses, did
20 you reach a conclusion as to whether Mylanta was negligent in causing this accident?

21 A: Yes, I believe that Mylanta was negligent. I base that on the fact that
22 Mylanta drove the truck the wrong way for a quarter mile on the access road before
23 pulling into the entrance of the cemetery, which displays a complete disregard for the

DEPOSITION OF DENNY SHEPPARD

9-25-2006

1 safety of people who might have been using the access road. I believe Mylanta also
2 failed to yield right-of-way and failed to see Mr. Little's car on the access road. The
3 access road there is very flat and you can see for a half mile in any direction. Mylanta
4 should have seen Mr. Little's car coming and should of yielded right-of-way.

5 Q: Have you ever had any other dealings with Big A Electric Company?

6 A: Yes, I investigated another vehicular accident that they caused 6 years
7 before this one. I am also a customer of Big A Electric Company, and they disconnected
8 my power a couple of years ago, claiming that I hadn't paid the bill. The bill was just
9 lost somewhere in my house and it was a big misunderstanding but they disconnected the
10 power anyway.

11
12
13 DENNY SHEPPARD
14 DENNY SHEPPARD

15 10-13-2006
16 Date

LISA RICHARDSON,

having been first duly sworn, testified as follows:

EXAMINATION

Q: What is your name?

A: Lisa Richardson.

Q: Where do you live?

A: 5107 Lostlove Lane in Armadillo.

Q: Did you know Andy "Little Red" Little?

A: Yes, Andy was my common law husband.

Q: How long had Andy been your husband?

A: Oh, I don't know, probably 7 or 8 months at the time of the horrible and tragic accident.

Q: Were you all living together at that time?

A: Yes, we had lived together for 15 or 16 months.

Q: Were you with Andy the night of the accident?

A: Oh yes. We were at home all evening.

Q: What had you all been doing that evening?

A: Nothing special. Watching T.V. Andy had one beer during the course of the evening.

Q: Did Andy leave the house at anytime that evening?

A: Yes around 9:00 p.m. he left the house and said he was going to the Buffalo Chip to get some smokes.

Q: Where is the Buffalo Chip from your house?

1 A: It's over on Interstate 65.

2 Q: Do you have to be on the access road next to Laidlow Cemetery to get to
3 the Buffalo Chip?

4 A: No, the Buffalo Chip is nowhere near that cemetery.

5 Q: When he left at 9:00 p.m. how many total beers had he had during the
6 evening?

7 A: Like I said, just one Budweiser. He was stone cold sober.

8 Q: Was that Budweiser in a can or bottle?

9 A: It was a can. We didn't have any bottles at the house.

10 Q: Had Andy been using any other kind of drugs that evening?

11 A: Oh no. Andy used a little marijuana once in a great while, but really only
12 very rarely. He didn't have any marijuana on him the night of the accident. I knew he
13 didn't have any because he didn't offer me any. He always offered me marijuana if he
14 had some.

15 Q: This accident apparently happened at 11:42 p.m.; do you know where he
16 was between 9:00 p.m. and 11:42 p.m.?

17 A: No. Sometimes he just wandered off to meditate.

18 Q: Was Andy a religious man?

19 A: Yes, he was a minister.

20 Q: And was he an ordained minister?

21 A: Yes he was ordained by the Church of the Holy Harvest.

22 Q: Was there a certification of his ordination as a minister?

23 A: Yes.

1 Q: Is Exhibit 3 the Certificate he got from the Church of the Holy Harvest.

2 A: Yes.

3 Q: As a Minister of the Church of the Holy Harvest, did Andy take seriously
4 the duties and requirements of that position?

5 A: Of course, he was very serious about his position and responsibilities.

6 Q: Did you ever ride with Andy in his car?

7 A: Of course, I rode with him all the time.

8 Q: Did you have an opportunity to observe his driving habits and skills?

9 A: Yes, he was always a very careful driver. He was always talking about
10 defensive driving. He was the best driver I ever rode with.

11 Q: Did Mr. Little have a habit and custom of driving within the speed limit?

12 A: Yes he never exceeded the speed limit when I was with him.

13 Q: Did you and Andy have any children?

14 A: Yes, little Andy Little, Jr. was born a June 15, 2005.

15 Q: That was after Andy was killed?

16 A: Yes, it was a long and difficult pregnancy.

17 Q: So Andy, Jr. didn't ever get to see his daddy?

18 A: Never did.

19 Q: Would Andy have been a good father to Andy, Jr.?

20 A: Absolutely. He was the most loving, caring husband you could ever ask
21 for. He was the only man I have ever loved or been with. He and I were inseparable, we
22 did everything together.

23 Q: Has anyone from Big A ever talked to you about this accident?

DEPOSITION OF JOE MITCHELL
May 15, 2006

1

1 JOE MITCHELL,

2 having been first duly sworn, testified as follows:

3 EXAMINATION

4 Q: Please state your name for the record.

5 A: My name is Joe Mitchell.

6 Q: Where do you live Mr. Mitchell?

7 A: That's Dr. Mitchell and I live at 79 Academic Road, College Town, Lone
8 Star.

9 Q: How are you employed?

10 A: I'm a consultant specializing in accident reconstruction.

11 Q: What is your educational background?

12 A: I got a Bachelor of Arts Degree in art history from the University of
13 Honolulu. I then achieved a Master's Degree from Berkley, specializing in cultural
14 studies. I then obtained a Ph.D. in traffic engineering from Lone Star State College in
15 College Town.

16 Q: How long have you served as a consultant in accident reconstruction?

17 A: I've worked as a consultant for 20 years, ever since I got my Ph.D. and
18 could call myself doctor.

19 Q: Have you been accepted by a court before as an expert witness?

20 A: Yes, I have testified in 94 cases over the past 10 years.

21 Q: In how many of thoses cases did you testify for the defendant?

22 A: Around 85 percent.

1 Q: How many times have you testified for lawyers at the Ivory & Tower
2 firm?

3 A: 72 times.

4 Q: Have you looked into the facts and circumstances surrounding the accident
5 near the Laidlow Cemetery on October 31, 2004?

6 A: Yes, I was called out to investigate that accident on November 2, 2004,
7 and I have come to certain conclusions about it.

8 Q: Tell us generally what opinions you have come to regarding this accident.

9 A: My overarching opinion is that the driver of the automobile, Andy Little,
10 was entirely at fault in causing this accident.

11 Q: What's the basis for that opinion?

12 A: Well, first, Little had a .07 percent blood alcohol content, meaning that he
13 was impaired at the time of the accident. Second, Little was driving at an unsafe rate of
14 speed for the conditions. I believe he was going 57 mph at the time of impact. Third,
15 Mr. Little did not lay down any skid marks and there was no other indication that he
16 perceived the bucket truck in the road or reacted to it appropriately if he did perceive it.
17 Finally, that road out there is straight and flat. Mr. Little should have been able to see
18 this bucket truck at night from a half a mile away. He should have noticed it was backing
19 out and he should have taken evasive action to avoid it. There is absolutely no evidence
20 that he did any of that.

21 Q: Going back to the first of your opinions, why do you think he had a
22 impaired level of functioning because of alcohol?

DEPOSITION OF JOE MITCHELL

May 15, 2006

3

1 A: The accident report lists a .07 percent blood alcohol level from a sample
2 taken at the scene.

3 Q: Is there any indication that the blood alcohol test was inaccurate?

4 A: The Trooper apparently thought so, because the accident report has a little
5 asterisk that says that the sample was contaminated. In my opinion, the fact that Little
6 had a beer bottle between his legs and another can in the car is enough for me.

7 Q: As to the second leg of your opinion, how fast do you believe Mr. Little
8 was going?

9 A: I believe he was going 57 mph at the time of impact, based on the amount
10 of crushing of his vehicle and the fact that he was wedged under the truck

11 Q: Were there any skid marks to measure to make any kind of definitive
12 determination from?

13 A: No, but the car had ABS brakes and wouldn't have laid down skid marks
14 even if Little had gotten on the brakes. I just don't think he ever put the brakes on.

15 Q: If he did put the brakes on would you be able to tell it due to the ABS
16 brakes?

17 A: I doubt it.

18 Q: Did you look to verify that the car had ABS brakes?

19 A: No I never did, but I thought that model had ABS brakes.

20 Q: If the car had ABS brakes, would it lay down skid marks even under
21 heavy breaking?

22 A: I doubt it.

JUSTICE COURT REPORTING

(555) 345-6788

DEPOSITION OF JOE MITCHELL

May 15, 2006

4

1 Q: The final part of your opinion is that Mr. Little should have been able to
2 see the truck from half a mile away; is it also true that the truck should be able to see Mr.
3 Little from the same distance?

4 A: Well, the truck is bigger, and it had its lights on.

5 Q: Are you saying that Mr. Little didn't have his lights on?

6 A: My opinion is that if Mr. Little had his lights on, Mylanta would have seen
7 his car coming along the access road. Therefore, I conclude that Mr. Little did not have
8 his lights on and was driving at night without lights in a reckless manner, under the
9 influence of various substances.

10 Q: Is there any evidence that would substantiate your opinion that Mr. Little
11 didn't have his lights on, other than the fact that Mylanta didn't see him?

12 A: No, I didn't check out the filaments of the light bulbs to see if there was
13 evidence consistent with the lights being on or off.

14 Q: Was there anything that stopped you from checking out the filaments on
15 the light bulbs of Mr. Little's car?

16 A: Have you ever been in Armadillo in November? It's as cold as a polar
17 bear's nose. I found what I needed in the car and then found a warmer place to be.

18 Q: Did you find anything in the car?

19 A: Yes, I found a receipt for a 6 pack of beer.

20 Q: Is Exhibit 6 a true and correct copy of that receipt?

21 A: Yes, it is. That thing was wedged down in the crack of the rear seat.

22 Q: Have you developed your own investigation standards?

JUSTICE COURT REPORTING

(555) 345-6788

DEPOSITION OF JOE MITCHELL

May 15, 2006

5

1 A: No, I take each accident as I find it.

2 Q: What is it that you base your opinion on that the car was wedged firmly
3 under the bucket truck?

4 A: Exhibit 4, which is a photograph at the scene of the accident, shows how
5 far the car was pushed under the truck.

6 Q: What else does that photo show us?

7 A: Well I notice there is yet another beer can at the side of the road near the
8 car. This guy must have been really loaded.

9 Q: Were any other photos taken of the area of the accident that you relied on
10 in your investigation?

11 A: Yes, Exhibit 5 is an aerial photo that shows the scene of the accident from
12 the south, looking north, showing the access road, the cemetery, and the point of the
13 accident right there at the south end of the cemetery.

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Joe Mitchell
JOE MITCHELL

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6-12-06
Date

DEPOSITION OF DANA MYLANTA

December 10, 2006

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DANA MYLANTA,

having been first duly sworn, testified as follows:

EXAMINATION

Q: Please state your name?

A: Dana Mylanta.

Q: Do you go by any kind of nickname?

A: Yes, some people call me Mystic Dana.

Q: Why do some people call you that?

A: I guess it's my fascination with communicating with the dead through a Oija board.

Q: Where do you live?

A: I live at 3131 Safehaven Way here in Armadillo.

Q: How are you employed?

A: I am a journeyman lineman and I work for Big A Electric Company here in Armadillo.

Q: How long have you worked for Big A?

A: I've worked for Big A for 15 years.

Q: What are your job duties?

A: I build and maintain power lines. I repair power lines when people call in saying they're having trouble.

Q: We are here to talk about an accident that happened on October 31, 2004, near Laidlow Cemetery. Do you have knowledge of that accident?

A: Yes, I was there at the scene of that accident.

1 Q: Why were you out in that area at 11:42 at night?

2 A: We had received a call that someone's lights were out in that area and we
3 were dispatched to go look at the situation and try to restore their power.

4 Q: Were there other people with you?

5 A: Yes, I had a 2 person crew with me. Ben Bono is another
6 journeyman/lineman, and John Ward is just a general flunkey who was going along
7 trying to stay out of the way.

8 Q: Tell us generally what it is you did that evening to try and find the trouble
9 area?

10 A: Well, we drove down the access road to Interstate 84, which goes past the
11 Laidlow Cemetery. We were headed south along that access road, looking for the
12 trouble. We didn't see anything on the access road at first, so we turned right on State
13 Highway 13. I have to say, I was really freaked out by having to turn onto a highway
14 numbered 13. It got worse when we made another right turn onto Blackcat Lane. We
15 went about a quarter mile on Blackcat, with me feeling creepy and freaking out. Bono
16 was using the spotlight to look for the trouble. He finally saw a transformer pole near the
17 cemetery but closer to the access road, so we turned around on Blackcat went back south
18 on Blackcat, east on State Road 13. I gotta say, I was glad to get off those freaky roads
19 and back onto something normal, like the access road.

20 Q: Which direction did you go on the access road?

21 A: Well, we went back north on the southbound access road for about a
22 quarter mile. It was late at night, and we couldn't see anybody coming, and we didn't
23 want to take all the time that would be required to go back around to get on the access

1 road headed the right direction. That would have taken us 10 minutes out of our way.

2 Q: After you started north on the southbound access road, what did you do?

3 A: Well, near the cemetery we saw a transformer pole that had a fuse down,
4 which would have been the reason these folks had their lights out. I pulled into the
5 entrance of the cemetery and then shined the spotlight up on the transformer pole to
6 verify that the fuse was down. I then determined that it would be best to back out on the
7 access road, go down the access road to the south a few hundred feet and pull into a
8 grassy area to try to get to the transformer fuse.

9 Q: What happened next?

10 A: Well, I started backing out on the access road, after looking very carefully
11 to see if there was any oncoming traffic. I didn't see a thing on the access road, which
12 didn't surprise me given that time of night out near a cemetery. I then very slowly
13 backed onto the access road, came to a complete stop, put the truck into first and started
14 forward. It was then we felt a thump and heard a noise at the back of the truck.

15 Q: Did you stop to see what had happened?

16 A: Yes, we all got out of the cab of the bucket truck and went around to the
17 back.

18 Q: What did you see there?

19 A: Well we saw a station wagon wedged up under the back of the truck. It
20 was inserted under the truck almost all the way to the windshield. We saw a driver in the
21 car who appeared to be bleeding very badly and unconscious. We then called 911 and
22 tried to help the dude until the paramedics arrived.

23

DEPOSITION OF DANA MYLANTA
December 10, 2006

4

1 Q: Before the paramedics arrived, did you check the car that was under your
2 truck?

3 A: We looked in the car, and we found a bottle of Budweiser between the
4 driver's legs with the neck broken off and blood all over the place.

5 Q: Did you find anything else in the car?

6 A: Yeah, we went around to the passenger side. On the passenger side, just
7 about the middle of the car, where that transmission hump thingy is, we found this plastic
8 bag full of marijuana.

9 Q: How did you know it was marijuana?

10 A: I might have seen some before.

11 Q: Did the driver ever say anything while you were near the car?

12 A: Yes, he muttered what sounded like "Dude, what a hit. I'm really messed
13 up." We took that to mean he was stoned on marijuana and beer.

14 Q: Did he say anything else?

15 A: No, right after that he appeared to be unconscious or dead, probably
16 leaning toward the dead side. I'd never seen a dead body before and it kind of freaked
17 me out, being right there at the cemetery and all.

18 Q: Did the State Trooper Denny Sheppard arrive at the scene sometime after
19 that?

20 A: Yes, Trooper Sheppard showed up, seemed like an hour later or so.

21 Q: Did you talk to Trooper Sheppard about the accident?

22 A: Yes, Trooper Sheppard didn't really seem to want to talk to us much. The
23 Trooper asked a few questions, but seemed really hostile and said something about being

1 tired of Big A throwing its weight around Armadillo.

2 Q: Did your company do an investigation?

3 A: I don't think there was any real formal investigation. It seemed real clear
4 to us that this drunk stoned out doper guy slammed into the back of us because he wasn't
5 paying any attention. But we are always supposed to carry one of those cheap disposable
6 cameras in case we get into an accident, and I did take some photos while I was there.

7 Q: Is Exhibit 4 one of those photos?

8 A: Yeah, it sure is.

9 Q: Does it fairly and accurately depict what you saw at the scene of the
10 accident that evening?

11 A: Yes it does.

12 Q: Does Big A have any kind of policy about accidents where one of its
13 employees is at fault?


14 A: The policy is that if you are involved in an at-fault fatality traffic accident,
15 you are through, fired, cooked, gutted. They even take your pension away.

16 Q: Have you ever been involved in an at-fault fatality traffic accident?

17 A: Hey I'm still working here, aren't I?

18 Q: Have you ever been convicted of any felonies?

19 A: Well, about 10 years ago I got nailed on a felony charge of gambling on
20 dog fighting.

21 
22 _____
23 DANA MYLANTA

24 _____
25 Date 1/2/07

PRELIMINARY JURY INSTRUCTIONS

You have now been sworn as the jury to try this case. This is a civil case involving a disputed claim or claims between the parties. Those claims and other matters will be explained to you later. By your verdict, you will decide the disputed issues of fact. I will decide the questions of law that arise during the trial, and before you retire to deliberate at the close of the trial, I will instruct you on the law that you are to follow and apply in reaching your verdict. It is your responsibility to determine the facts and to apply the law to those facts. Thus, the function of the jury and the function of the judge are well defined, and they do not overlap. This is one of the fundamental principles of our system of justice.

Before proceeding further, it will be helpful for you to understand how a trial is conducted. In a few moments, the attorneys for the parties will have an opportunity to make opening statements, in which they may explain to you the issues in the case and summarize the facts that they expect the evidence will show. Following the opening statements, witnesses will be called to testify under oath. They will be examined and cross-examined by the attorneys. Documents and other exhibits also may be received as evidence.

After all the evidence has been received, the attorneys will again have the opportunity to address you and to make their final arguments. The statements that the attorneys now make and the arguments that they later make are not to be considered by you either as evidence in the case or as your instruction on the law. Nevertheless, these statements and arguments are intended to help you properly understand the issues, the evidence, and the applicable law, so you should give them your close attention. Following the final arguments by the attorneys, I will instruct you on the law.

You should give careful attention to the testimony and other evidence as it is received and presented for your consideration, but you should not form or express any opinion about the case until you have received all the evidence, the arguments of the attorneys, and the instructions on the law from me. In other words, you should not form or express any opinion about the case until you retire to the jury room to consider your verdict.

The attorneys are trained in the rules of evidence and trial procedure, and it is their duty to make all objections they feel are proper. When a lawyer makes an objection, I will either overrule or sustain the objection. If I overrule an objection to a question, the witness will answer the question. If I sustain an objection, the witness will not answer, but you must not speculate on what might have happened or what the witness might have said had I permitted the witness to answer the question. You should not draw any inference from the question itself.

During the trial, it may be necessary for me to confer with the attorneys out of your hearing, talking about matters of law and other matters that require consideration by me alone. It is impossible for me to predict when such a conference may be required or how long it will last. When such conferences occur, they will be conducted so as to consume as little of your time as necessary for a fair and orderly trial of the case.

At this time, the attorneys for the parties will have an opportunity to make their opening statements, in which they may explain to you the issues in this case and give you a summary of the facts they expect the evidence will show.

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 issues for your determination on the claim of Lisa Richardson, individually and as Administrator of the Estate of Andy Little, and as Next Friend for Andy Little, Jr., are whether Big A Utility Company, Inc. was negligent in failing to use ordinary care

in the operation of its bucket truck and/or negligently entrusted an unsafe driver with the operation of its bucket truck on October 31, 2004, and if so, whether such negligence was the proximate cause of any damages to Richardson.

“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.

“Negligence” in this case also includes the concept of negligent entrustment. Negligent entrustment means that a person fails to use ordinary care if it allows someone else to use its automobile, when it knows the driver is unlicensed, incompetent, or reckless, and the driver is negligent on the occasion in question in a manner that is the proximate cause of damages to someone else.

“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.

Negligence is a legal cause of loss, injury, or damage if it directly and in natural and continuous sequence produces or contributes substantially to producing such loss, injury, or damage so that it can reasonably be said that but for the negligence the loss,

injury, or damage would not have occurred.

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 only if Big A Utility Company, Inc., was negligent and if Andy Little was negligent. You will first return a verdict on that issue. If you find that Big A Utility Company, Inc. was at fault, you will hear additional argument from the attorneys and you will hear additional witnesses testify concerning 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. Your verdict must be unanimous, that is, your verdict must be agreed to by each of you. 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.

LISA RICHARDSON, individually
and as Administrator of the Estate of
ANDY LITTLE, and as Next Friend
for ANDY LITTLE, JR.

Plaintiff,

v.

BIG A UTILITY COMPANY, INC.

Defendant.

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IN THE 479th DISTRICT COURT

IN AND FOR TRAVIS COUNTY

STATE OF LONE STAR

JURY QUESTION NO. 1

Did the negligence, if any, of those named below proximately cause the occurrence in question?

Answer "yes" or "no" for each of the following:

- a. Big A Utility Company, Inc. _____
- b. Andy Little _____

If you have answered "Yes" to Question 1 for more than one of those named below, then answer the following question. Otherwise, do not answer the following question.

JURY QUESTION NO. 2

The percentages you find must total 100 percent. The percentages must be expressed in whole numbers. The negligence attributable to any one named below is not necessarily measured by the number of acts or omissions found. The percentage attributable to any one need not be the same percentage attributed to that one in answering another question.

What percentage of the negligence that caused the injury do you find to be attributable to each of those listed below and found by you, in your answer to Question 1, to have been negligent?

- a. Big A Utility Company, Inc. _____ %
- b. Andy Little _____ %

- Total 100%

SO SAY WE ALL this _____ day of _____, 2008.

Foreperson

LONE STAR PEACE OFFICER'S OFFICIAL ACCIDENT REPORT

PLACE WHERE ACCIDENT OCCURRED

COUNTY Travis CITY OR TOWN Armadillo

ROAD ON WHICH ACCIDENT OCCURRED Access Road to I-84
BLOCK NUMBER STREET OR ROAD NAME ROUTE NUMBER OR STREET CODE

IF ACCIDENT WAS OUTSIDE CITY LIMITS
 INDICATE DISTANCE FROM NEAREST TOWN 7 MILES S E W OF Armadillo

OR INDICATE OTHER LANDMARK Laidlow Cemetery

SPEED LIMIT
45

DATE OF ACCIDENT 10-31-2004 DAY OF WEEK Sunday HOUR 11:52 A.M. P.M.

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

YEAR MODEL 1998 COLOR & MAKE Tan CHEV MODEL NAME Malibu LICENSE PLATE MIN 956

DRIVER'S NAME Little, Andrew Redowski 7501 Twotimer Cr, Armadillo, Lone Star
LAST FIRST MIDDLE ADDRESS (STREET, CITY, STATE, ZIP)

DRIVER'S LICENSE LS 4398756 DOB 3 15 1980
STATE NUMBER MO DAY YEAR

OWNER OR LESSEE Little, Andrew R. same
NAME (AS SHOWN ON TITLE OR LEASE DOCUMENTS) ADDRESS (STREET, CITY, STATE, ZIP)

SPECIMEN TAKEN (ALCOHOL/DRUG ANALYSIS) 2 ALCOHOL/DRUG ANALYSIS RESULT BAC 0.07% **
 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 MACK MODEL NAME H5000 HD LICENSE PLATE BIG 436

DRIVER'S NAME Mylanta, Dana same as below
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 Big A Electric Company 2222 Powerco 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

** Sample contaminated

CHARGES FILED

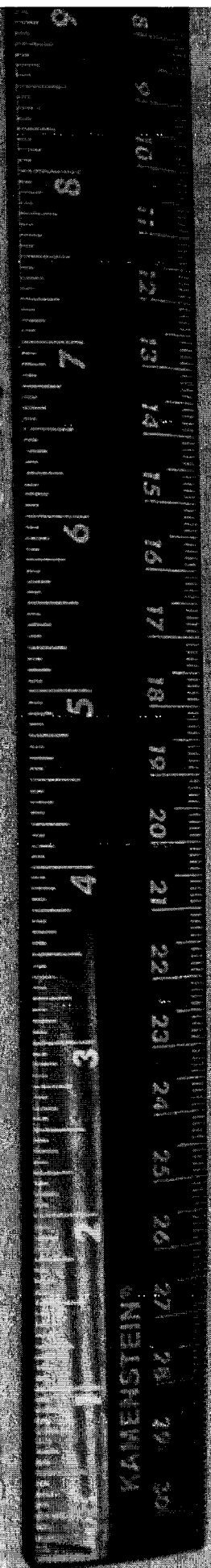
NAME Dana Mylanta CHARGE Fail to Yield ROW CITATION NO. LS23545

NAME _____ CHARGE _____ CITATION NO. _____

TIME NOTIFIED OF ACCIDENT 11:55 PM HOW RADIO TIME ARRIVED AT SCENE OF ACCIDENT 11:58 PM

TYPED OR PRINTED NAME OF INVESTIGATOR Denny Sheppard DATE REPORT MADE 12/2/2004

SIGNATURE OF INVESTIGATOR Denny Sheppard ID NO. 711 DEPARTMENT Armadillo PD



©NIELSENWAY

HOLY HARVEST MINISTRY

BY THIS CERTIFICATE THE HOLY HARVEST MINISTRY HEREBY
CERTIFIES AND ATTESTS THAT


ANDREW REDOWSKI LITTLE

HAS MET THE REQUIREMENTS AND TAKEN THE OATH NECESSARY TO BE
ORDAINED

MINISTER OF THE HOLY HARVEST

WITH ALL THE RIGHTS AND HEREDITAMENTS APPERTAINING THERETO

Date: May 13, 2002

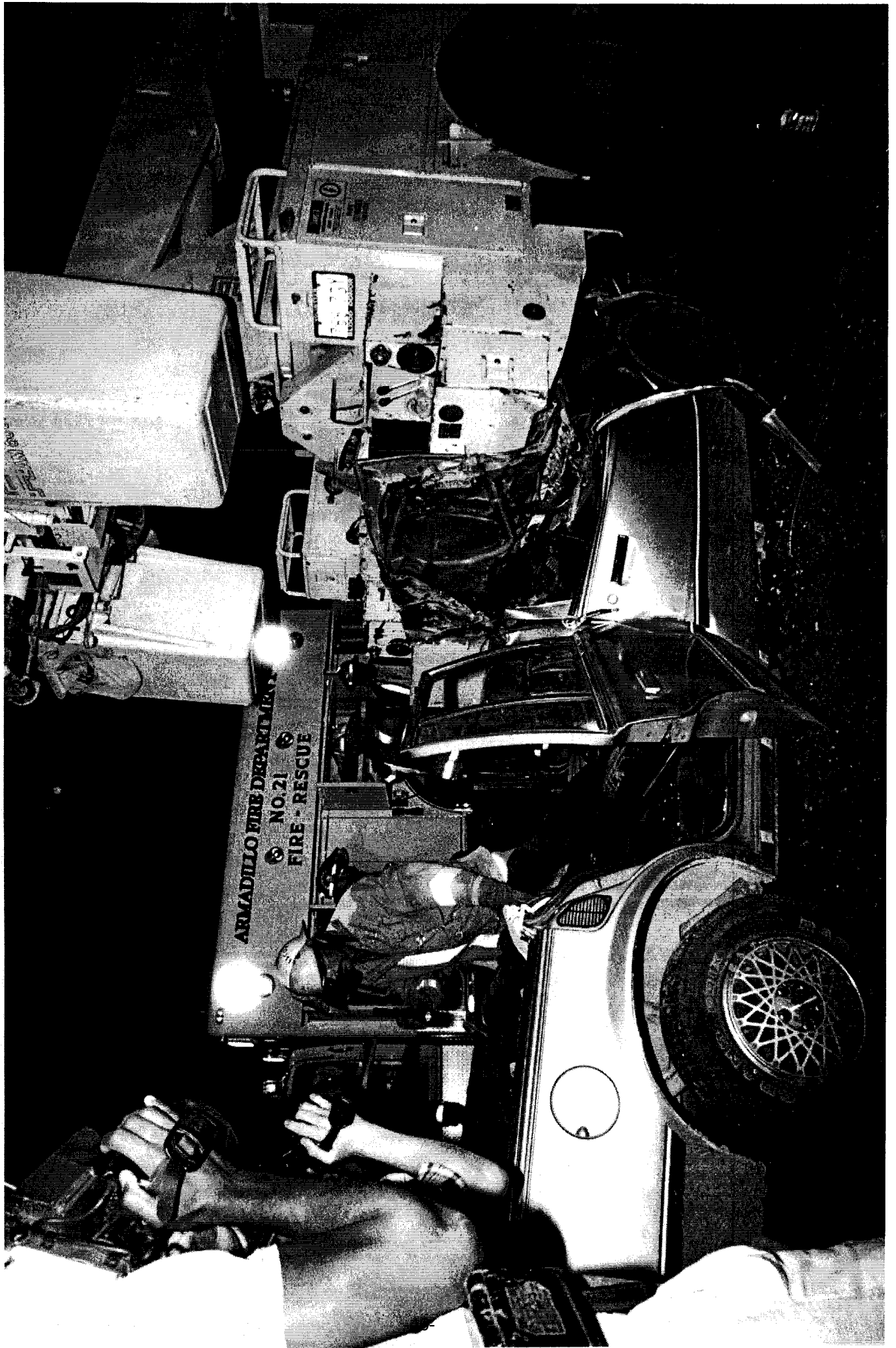


Leary O'Neil, Head Bishop

AS MINISTERS OF THE HOLY HARVEST WE USE CANNIBUS AS PART OF OUR DAILY WORSHIP BECAUSE IT:

- | | |
|------------------------------------------------------|-----------------------------------------------|
| 1. HELPS CULTIVATE PERSONAL EXPERIENCE WITH RELIGION | 4. INCREASES SPIRITUAL ELEVATION |
| 2. CREATES PEACE | 5. IS A GOOD MEMORY STIMULATING NEURO-HORMONE |
| 3. HELPS CONQUER ADDICTION TO TOBACCO AND ALCOHOL | 6. CREATES PEACE |

EXHIBIT "4"



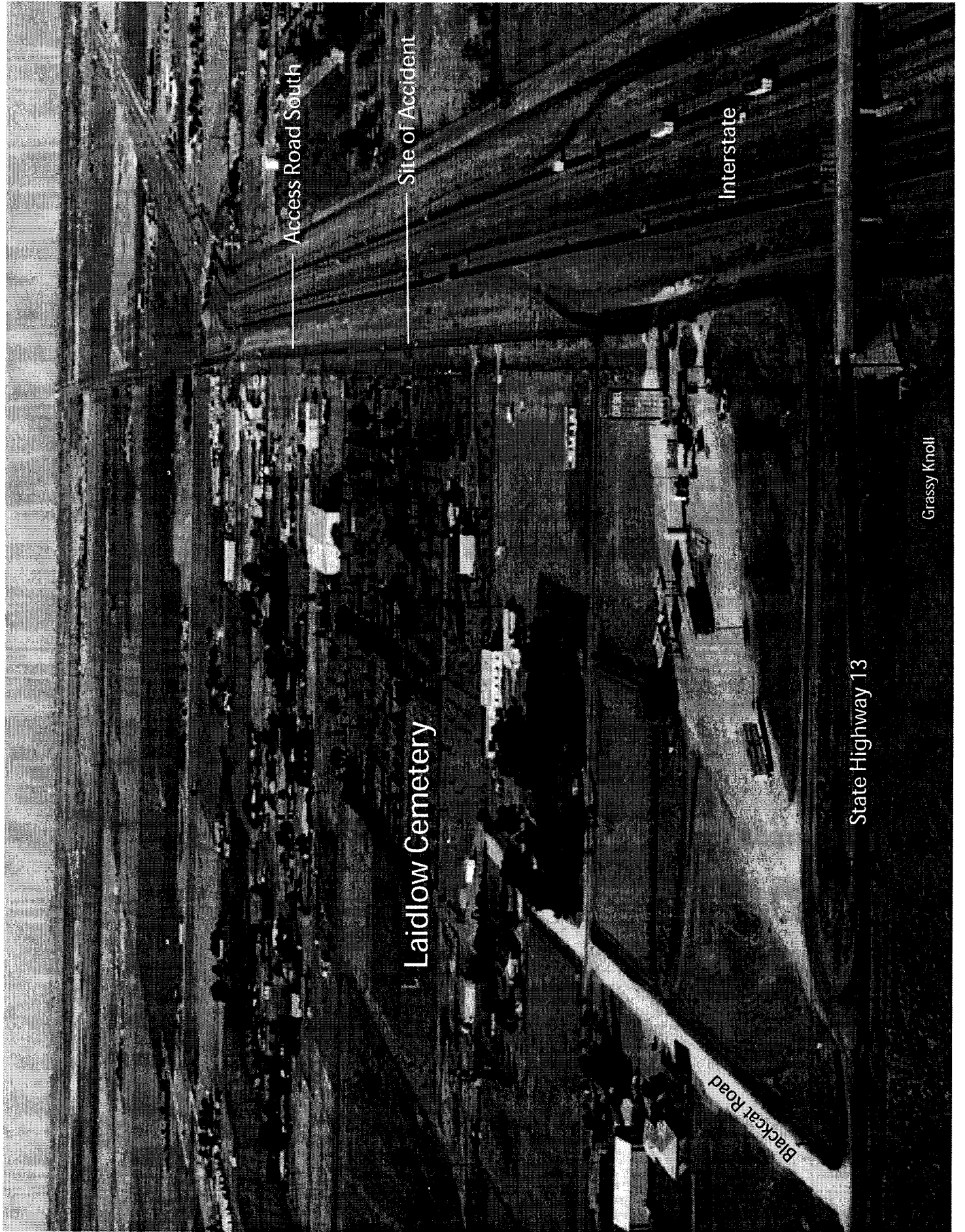


EXHIBIT "5"

THE BUFFALO CHIP #2

5675 ACCESS ROAD SOUTH

SALES RECEIPT

OCT.31 21:32:45

ITEM	QUAN	PRICE
6PK BUDW	1	06.24
TAX		00.63
TOT		6.87
TENDERED		20.00
BAL		13.13

"CHIP THIS"

EXHIBIT "6"

ACCIDENT INVESTIGATION STANDARDS

In all investigations, the following standards must be followed. Failure to follow these standards will result in an investigation which is flawed.

1. On arriving at an accident scene where the vehicles have not been removed:
 - a. Immediately secure the area by putting crime scene tape around all vehicles, if the scene has not already been secured.
 - b. Photograph the scene from the perimeter, starting at a point you mark on the ground with some marker like a traffic cone, then proceeding 10 feet in a clockwise direction and stopping to photograph inward toward the vehicles, moving another 10 feet and repeating the process until you reach the marker you have placed.
 - c. Photograph each vehicle individually, circling as above.
 - d. Identify all objects that appear to be associated with the accident, such as vehicle parts and objects that may have been ejected from the vehicles.
 - e. If law enforcement officials have not collected evidence at the site, secure their permission to secure any objects of interest.
2. On all scenes (whether vehicles have been removed or not):
 - a. Identify and measure all skid marks. If no skid marks are found at the scene of an accident, check the vehicle to verify whether or not it has ABS braking system.
 - b. Identify all witnesses; make a record of names, addresses, phone numbers, places of employment. Obtain a description of the placement of the witness in relation to the accident and a written statement of the observations of the witness.
 - c. In all nighttime accidents, obtain the bulbs from the headlights of all vehicles to verify whether the headlights were on or off.

Exhibit

“7”