

SUPERIOR COURT OF LONESTAR
IN AND FOR THE COUNTY OF MASON

JUDY GREEN, Personal Representative)
of the Estate of Bill Green, deceased,)
Plaintiff,)
)
vs.)
)
JAN ALEXANDER,)
Defendant.)

Cause No. 18-263CV

Prepared by:
Chris Kitchel, ACTL Fellow, Stoel Rives LLP;
Jan Kitchel, ACTL Fellow, Cable Huston LLP;
and Molly Honoré, Markowitz Herbold, PC.

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**NATIONAL TRIAL COMPETITION
JUDY GREEN V. JAN ALEXANDER**

SUMMARY OF FACTS

Bill Green died of a single gunshot to his chest at a party hosted by Jan Alexander. His estate brings this wrongful death action against Jan Alexander for negligence. Defendant asserts Green's death was the result of Green's own negligence and/or the negligence of Chris O'Malley, the shooter.

Jan Alexander hosted a party at a cabin the week-end of September 23, 2016. Guests included: Jan Alexander's brother, Charlie Alexander; Jerry and Amanda Wicks; Bill and Judy Green; Chris O'Malley; and Pat Collins. Jan Alexander had several weapons at the cabin for hunting and target shooting. Bill Green, Jerry Wicks and O'Malley brought weapons as well, including pistols.

On Saturday, September 24, Jan Alexander furnished alcohol to guests. The alcohol included various whiskeys and a bottle of gin that Jan Alexander asserts was purchased and paid for by O'Malley. All guests drank the alcohol.

That afternoon, Charlie Alexander, Judy Green, the Wicks and O'Malley engaged in target shooting and some horseplay with the pistols. Bill Green and Pat Collins were on a hike at the time. Later in the afternoon, Bill Green, Collins, O'Malley and Jan Alexander were together in the back area of the cabin. Bill Green and O'Malley got ready for a "quick-draw" contest. Jan Alexander left just before the contest. O'Malley's gun was loaded and discharged during the contest; Bill Green was hit in the chest and died a short time later of heart failure.

Plaintiff asserts Jan Alexander is liable for Bill Green's death based on negligence, claiming Jan Alexander unreasonably: served or provided alcoholic beverages to O'Malley while O'Malley was visibly intoxicated; failed to make Jan Alexander's premises reasonably safe for guests; allowed the handling of firearms on the premises while persons were drinking alcohol and visibly intoxicated; allowed a quick-draw contest on the Jan Alexander premises; and failed to make sure all the firearms were not loaded.

Defendant asserts that the death was caused by Green's own negligence and O'Malley's negligence.

**WITNESS AND EXHIBIT LISTS
STIPULATIONS**

WITNESSES (all witnesses may be male or female):

PLAINTIFF:

1. Chris O'Malley
2. Pat Collins

DEFENDANT:

1. Jan Alexander
2. Mo Valdez

EXHIBITS

1. Police Report 9/24/16
2. Summary Autopsy Report
3. Police Report 9/30/16
4. Release and Settlement Agreement
5. Photograph of alcohol bottles found on site
6. Photograph of wine bottle found on site
7. Firearm's Report 9/30/16
8. Supplemental Firearm's Report 4/16/17
- 9A. Recall Notice for Ruger Mark IV
- 9B. Photograph of Ruger Mark IV safety positions
10. Police Report 9/24/16

STIPULATIONS

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 gave a deposition agreed under oath at the outset of his or her deposition to give a full and complete description of all material events that occurred and to correct the deposition for inaccuracies and completeness before signing the deposition.
4. All depositions 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 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 §7.4. Any party wishing to file a complaint concerning a violation of this rule shall use the procedure found in National Rule §.4.

9. The Plaintiff and the Defendant must call the two witnesses listed as that party's witnesses on the witness list. The parties may call their respective witnesses in any order.
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. The parties have waived all objections to Exhibit 2 (Bill Green's autopsy report), Exhibit 3, Page 2 (Blood test results for Chris O'Malley), Exhibit 7 (Firearm's Report 9/30/16) and Exhibit 8 (Supplemental Firearm's Report 4/16/17), save for those arising under Federal Rules of Evidence 401-404. Subject to any such objection, those exhibits may be offered by either party at any time during trial.
11. It is stipulated that no one shall attempt to contact the problem drafter about this problem before the conclusion of the 2018 National Trial Competition Final Round. Contact with the competition officials concerning this problem must be pursuant to the rules of the competition.
12. 2018 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 their arguments on motions and evidentiary issues. However, no additions or deletions are permitted to the jury instructions or to the jury verdict form.

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

SUBSTANTIVE MATTERS

Lone Star Civil Practice & Remedies Code Provisions:

§19.536. Service of Alcoholic Beverages. Dramshop Act.

- (1) All common law causes of action for damages arising out the service of alcohol are abolished and replaced by this statute, The Lonestar Dramshop Act.
- (2) It is unlawful for any person or entity to serve or otherwise provide alcohol to a person who is visibly intoxicated. Such service constitutes “fault” under §19.531.
- (3) Any person with bodily injury or property damage foreseeably caused by an intoxicated person has a civil action under this Act against any person or entity who served or otherwise provided alcohol to that intoxicated person while that person was visibly intoxicated.
- (4) Visible intoxication can be proved by direct or circumstantial evidence, including blood alcohol content. A person with .08% blood alcohol content or higher alcohol by volume is presumed to be visibly intoxicated.
- (5) A person serving or otherwise providing alcohol to a visibly intoxicated person is barred from recovering under section (3) of this Act.

§21.202 Premises Liability

It is the duty of the owner or possessor of land or a structure to make the premises reasonably safe for invitees or licensees, including any activities conducted on the premises.

§23.230 Actions for Wrongful Death

All actions for the wrongful death of a person shall be brought exclusively by the Personal Representative of the Estate of the deceased person for the benefit of the spouse of the deceased person and the minor children of the deceased person, or, if the deceased has no spouse or minor children, such other persons who would take as heirs from the intestate estate of the deceased person. Damages include loss of society, companionship, consortium, teaching, or services of the estate, and any pecuniary damages or loss to the estate. Damages do not include sorrow or grief.

§19.531 Comparative Fault in Civil Actions

The jury or other finder of fact may attribute a percentage of fault to any person named in a civil action, including plaintiff, and including any party who has settled prior to trial. The jury shall not be informed of the fact of settlement, or the amount of settlement. A plaintiff shall not recover from defendant or defendants if plaintiff's fault is more than 50%. A defendant shall be liable only for his, her, or its percentage of fault. If, after 180 days from the date of judgment, a plaintiff is unable to recover from a defendant or defendants, or has not recovered sufficient damages, including any settlement, to be made whole, the court on motion may shift the entire awarded damages to any defendant whose fault was 25% or greater.

SUPERIOR COURT OF LONESTAR
IN AND FOR THE COUNTY OF MASON

JUDY GREEN, Personal Representative of the Estate of Bill Green, deceased, Plaintiff,	)	COMPLAINT FOR WRONGFUL
	)	DEATH, MONEY DAMAGES
	)	Cause No. 18-263CV
)	
vs.	)	Jury Demanded
)	
JAN ALEXANDER, Defendant.	)	Prayer: \$3,750,000
)	

Plaintiff alleges:

1.

At all material times, plaintiff Judy Green is the duly appointed personal representative of the Estate of Bill Green, deceased. She brings this action on behalf of the Estate, herself, and her two minor children, Esther Green and Matthew Green. Defendant Jan Alexander is a resident of the County of Mason, State of Lonestar, and is Chief of Police in Masonville.

2.

On or about September 24, 2017, Bill Green, Chris O'Malley, and defendant Jan Alexander were staying, with others, at defendant's hunting lodge, near Masonville, Mason County, Lonestar when Bill Green was killed by a gunshot wound to the chest.

3.

On the evening of September 24, Green, O'Malley, and Alexander were drinking alcoholic beverages at the lodge. Said beverages were served or otherwise provided by defendant Alexander. Alexander served or provided alcoholic beverages to O'Malley while he was visibly intoxicated, in violation of the Lonestar Dramshop Act, Lonestar Civil Code 19.536. While O'Malley was in an increased intoxicated state, due to the beverages served or provided by defendant Alexander, and after he handled firearms in a negligent or reckless manner, he shot

and killed plaintiff's decedent, Bill Green. Said alcoholic beverages were a proximate cause of the shooting and Mr. Green's death.

4.

Defendant Alexander was negligent or at fault in one or more of the following particulars, causing the death of Bill Green:

1. In unreasonably serving or providing alcoholic beverages to O'Malley while O'Malley was visibly intoxicated.
2. In unreasonably failing to make Alexander's premises reasonably safe for guests.
3. In unreasonably allowing the handling of firearms on the premises while the persons were drinking alcohol and visibly intoxicated.
4. In unreasonably allowing a quickdraw contest on the Alexander premises.
5. In unreasonably failing to makes sure all the firearms were not loaded.

5.

The Estate, Judy Green, and their children were damaged by defendant's acts or omissions in that they suffered loss of society, services, teaching, and companionship of their husband and father, to their damage in the amount of \$2,000,000, and the Estate suffered pecuniary loss in the amount of \$1,750,000.

WHEREFORE, plaintiff Judy Green demands judgment against defendant Jan Alexander in the amount of \$3,750,000, and for costs and disbursements incurred in this action.

/s/ Brantley C. Jones

Of Attorneys for Plaintiff Green

Brantley C. Jones

The Offices of Saul Goodman & Associates

701 S. Taylor, Suite 500

Armadillo, Lonestar 79119

SUPERIOR COURT OF LONESTAR
IN AND FOR THE COUNTY OF MASON

JUDY GREEN, Personal Representative	)	ANSWER AND AFFIRMATIVE
of the Estate of Bill Green, deceased,	)	DEFENSES, FURTHER CLAIMS
Plaintiff,	)	Cause No. 18-263CV
)	
vs.	)	Jury Demanded
)	
JAN ALEXANDER,	)	Prayer: \$3,750,000
Defendant.)	

Defendant Alexander answers plaintiff's complaint by admitting, denying, and alleging as follows:

1.

Except as specifically admitted, defendant Alexander denies each and every allegation of plaintiff's complaint.

2.

Defendant admits paragraphs 1 and 2 of plaintiff's complaint.

3.

Defendant admits that on or about September 24, Green, O'Malley, defendant Alexander, and others, were staying at defendant's hunting lodge near Masonville, Mason County, Lonestar, when Bill Green was killed by a gunshot to the chest.

Affirmative Defenses

For affirmative defenses, defendant alleges:

4.

Plaintiff's decedent, Bill Green, was negligent and at fault in one or more of the following specifications, causing damage to himself:

- a) In unreasonably drinking to excess with firearms at hand;
- b) In unreasonably handling firearms while intoxicated;
- c) In unreasonably engaging in a "quickdraw" contest while intoxicated.

Fault of Another

5.

The death of Bill Green was caused by the fault and negligence on the part of Chris O'Malley in one or more of the following specifications:

- a) In unreasonably drinking to excess with firearms at hand;
- b) In unreasonably handling firearms while intoxicated;
- c) In unreasonably engaging in a "quickdraw" contest while intoxicated.
- d) In unreasonably pointing a loaded gun at another;
- e) In unreasonably causing or allowing a firearm to discharge at Bill Green.

WHEREFORE, defendant requests judgment as follows:

- 1) That plaintiff take nothing and that her action be dismissed with prejudice.
- 2) That defendant have judgment for his costs and disbursements.
- 3) That if there is fault, the fault be assessed entirely against Chris O'Malley.

/s/ Joel Towner

Attorneys for Defendant

Joel Towner

Law Offices of Vincent Gambini

New York City, Lonestar 35005

1 Deposition of Jan Alexander

2 Q. Please state your name for the record.

3 A. Jan Alexander.

4 Q. Date of birth?

5 A. June 25, 1975.

6 Q. You are the Chief of Police for Masonville?

7 A. Yes, I am.

8 Q. Are you from Lone Star?

9 A. Nope. Moved here in 1997.

10 Q. Why?

11 A. I had just graduated from Arizona State with a degree in law enforcement, and I
12 got a job as an officer for the Masonville Police force.

13 Q. How long were you an officer?

14 A. About 4 years. I was promoted to detective in 2001 and became Chief in 2007.
15 Been the Chief ever since.

16 Q. And that's what people often call you, "Chief"?

17 A. Yes, sir, they do.

18 Q. How do you know Chris O'Malley?

19 A. Chris was a friend of my brother Charlie.

20 Q. How did they become friends?

21 A. I think they met at the Lone Star Recovery Center. I have 4 brothers -- Charlie
22 was the youngest. He was such a sweet kid, kind of everyone's favorite. But so -- fragile, I
23 guess is the word. Charlie's ten years younger than me and I tried to watch out for him, but he

1 had problems with drugs and alcohol starting in high school. He was in and out of detox and
2 recovery several times. Never seemed to stick. But the last time he went in a few years ago he
3 met Chris O'Malley and they became pretty good friends. I think Chris may have been Charlie's
4 sponsor. Charlie seemed to be in a successful recovery and was putting his life back together. I
5 give Chris a lot of credit for that.

6 Anyway, Chris started coming to some of our family gatherings and we talked some from
7 time to time. Mostly about Charlie.

8 Q. Are Chris and Charlie still friends?

9 A. Excuse me, I assumed you knew about Charlie. After the shooting, Charlie
10 started using again and went into a major depression. He was killed in a single car accident last
11 May. I don't think Charlie ever talked to Chris again after that night, although I did see Chris at
12 the funeral.

13 Q. What is the "Lodge?"

14 A. It's a cabin about 30 minutes outside of town, up in the East Hills. It's pretty
15 basic, but can sleep up to 12 people or so. My brothers call it the "Lodge" as kind of a joke. It's
16 very pretty up there and the hunting is great.

17 Q. Let's go to the week-end of September 23, 2016, when Bill Green was shot and
18 killed. How did that gathering get arranged?

19 A. It was mainly because of Charlie. He was in a good place and bugging me to
20 spend some time at the Lodge, maybe do some shooting or hunting. So I arranged a week-end
21 trip in September -- Friday through that Sunday. Charlie asked me to invite Chris. I said yes, of
22 course. Charlie asked if Chris could bring a friend. He actually asked if Chris could bring a
23 "plus one." And, of course, I said yes to that as well.

1 Q. Who else was there?

2 A. I invited Jerry Wicks and his wife, Amanda. Jerry works for me on the force, and
3 they are a fun couple. Real easy to be around. I also asked Judy Green, which ultimately meant
4 her husband as well.

5 Q. What do you mean by that comment?

6 A. I'm just going to say it. I couldn't stand that guy. Inviting him was not my doing.

7 Q. How did you know Bill Green?

8 A. I knew him for almost 20 years. We met when I first moved to Lone Star. Bill
9 was a District Attorney for Mason County. But I've known Judy a lot longer than that. We went
10 to Arizona State together and are pretty good friends. Judy moved to Lone Star and actually met
11 Bill while she and I were getting coffee next to the Station. They were married in 2008. I tried
12 to convince her not to do that. I told her Bill really is not a good guy. I have to work with him
13 and his office all the time. Hated it.

14 Q. Why didn't you like him?

15 A. He was such an ass, in general. But the real issue for me was how he treated
16 Judy. Just generally disrespectful, always putting her down. And I am pretty positive he
17 knocked her around, although Judy would always say otherwise. I see that stuff all the time, and
18 I know a battered wife when I see one. Then they went through a real hard time in 2014 and I
19 spent a lot of time with Judy just trying to support her and be a friend.

20 You know, I tried to convince Judy to leave Bill, but that wasn't going to happen. Judy
21 decided she needed to stay, and then found out she was pregnant, so things seemed to get better.
22 Bills's always been resentful of the time Judy spends with me, but it got a lot worse after Judy
23 had the baby.

1 Q. So how did Bill end up at the cabin that week-end?

2 A. Earlier that week Judy came to be pretty upset. She admitted Bill had pushed her,
3 but I think he did a lot more than that. Judy said she was thinking about leaving him, but didn't
4 know how she could do that with Abby still a baby and all. I wanted her to press charges, but
5 she made me swear I wouldn't do anything. So I invited her up to the Lodge for the week-end,
6 thinking it would give her a breather. Then she showed up with Bill.

7 Q. Was Abby with them?

8 A. No, she was with Bill's mom.

9 Q. Were you at the Lodge on Friday, September 23, 2016?

10 A. Yes. I went up there early that day to make dinner for everyone -- spaghetti.
11 People started arriving around 5, and everyone was there by 6:30. Judy and Bill were the last to
12 arrive. Chris brought Pat Collins, who was very good-looking and outgoing.

13 Q. Did you provide alcohol?

14 A. Well, that was an issue for me. It is a hunting lodge and we drink up there all the
15 time. I've never been up there when we didn't drink. I talked to Charlie about it, I mean there
16 were at least two people there who shouldn't be drinking and I wasn't sure about the protocol.

17 Q. What did Charlie say?

18 A. He said it really wasn't my problem, that it was fine to have booze there. He and
19 Chris could handle it.

20 Q. So did you provide alcohol?

21 A. I tried to kind of compromise and go light out of respect for Charlie and Chris, so
22 I just brought a case of wine for the week-end, thinking people would not go down the drunk
23 lane.

1 Q. How did the evening go?

2 A. I was pretty uncomfortable right from the start. Bill came in, clearly angry at
3 Judy. Then he just glommed on to Pat. Typical Bill. After dinner, they ended up going off to
4 the couch in the main room and talked for most of the night. They were very loud. A lot of
5 politics and a lot of laughing. Chris didn't like that at all -- tried to join them a couple of times,
6 but they really froze him out. I felt bad about that.

7 Q. How did the evening progress?

8 A. We sat down to eat -- there is this huge table. And that went OK until Bill started
9 to complain about the wine -- kept calling it "slop." Then Jerry joined in and said we really
10 needed some "real" alcohol and the wine was a disgrace to the Lodge. Charlie said it was fine
11 with him if they got more to drink. Chris just shrugged his shoulders. So I said I would go get
12 some whiskey in the morning. Jerry offered to chip in, but I said it was my place and I would
13 handle it.

14 Q. What happened after dinner?

15 A. The Wicks and Charlie started to play poker. Judy asked Bill to come play with
16 her, but he was sitting with Pat. He told her -- in front of all of us -- that he had "far better things
17 to do than put up with crap" and she was on her own. He said "I think you need to go talk to
18 your great friend Jan." I went into the kitchen then. Judy followed me in and just broke down
19 sobbing. She said she just couldn't take it anymore.

20 Q. About what time was this?

21 A. Not sure, maybe around 9, 9:30

22 Q. What happened then?

1 A. Bill came into the kitchen while I was trying to calm Judy down. He swore at me
2 and told me to take my hands off his wife. Judy told him to leave her alone and ran out. Bill
3 yelled a few more things at me and he said we should step outside. I told him to watch his step
4 or he would find himself in jail. Bill said I didn't know anything and told me again to stay out of
5 it and leave Judy alone. I went back inside, but didn't see Judy. I was pretty steamed up, so I
6 just went up to bed. Not sure who was left up at that point.

7 Q. Did you talk to anyone else that night?

8 A. No, just went to bed.

9 Q. Tell me about Saturday.

10 A. I was up early. Charlie and the Wicks were already up getting ready to do some
11 hunting. When they left I cleaned up a bit. Everyone else was sleeping in. I waited until about
12 9:45 to drive into town to get the whiskey. Everybody else was up by then, eating and chatting.
13 Bill and Judy were avoiding each other. I just tried to stay out of the way.

14 Q. Did you talk with Chris before you left Saturday morning?

15 A. Chris came to talk to me when I was getting in the car and asked me if I would get
16 a bottle of gin while I was at the liquor store. I didn't say anything at first, but then asked if
17 Chris really thought that was a good idea. Chris told me it really wasn't any of my business. I
18 wasn't sure what to do, so I just stood there by the car. Chris said "I want Death's Door" and
19 then handed me 35 dollars and said "that will just cover it." I said I thought that was a lot for
20 gin, but Chris said, "No, you'll need it all." Then I left.

21 Q. What did you end up buying?

22 A. Well, I sure didn't skimp. I got some Knob Creek rye, Monkey Shoulder Scotch
23 and Jack Daniels Barrel Proof. And the gin Chris asked me to buy.

1 Q. What happened when you got back?

2 A. It was around lunch time and the hunters were back. I went to talk to Charlie
3 about Chris's gin, because that really bothered me. Charlie kind of said the same thing Chris did,
4 that it wasn't my call or my problem, but the news clearly upset him. I specifically asked Charlie
5 if I should give Chris the gin or not, or just give back the money. Charlie said again that Chris
6 was an adult and responsible for Chris's own choices. Charlie said he was going to talk to
7 Chris about it, though, but I don't know if he did or not. I asked Charlie about it later, a couple
8 of weeks later, but he wouldn't talk to me about anything that happened that week-end.

9 Q. What happened then?

10 A. I took the bottles and a bunch of glasses back to the picnic table. It was a great
11 day -- sunny and pretty warm.

12 Q. Have you seen Exhibit 5 before?

13 A. That's a picture of the alcohol bottles. Not sure why anyone would take a picture
14 like that.

15 Q. What happened next?

16 A. Chris and the Wicks were out there. I looked at Jerry and told him to "go for it."
17 I poured myself a Scotch. Jerry took the gin and Judy went inside to look for tonic. There
18 wasn't any, so I think they were drinking gin and soda water. Chris sat there for a while and
19 then asked me to pour a glass of gin. I asked "are you sure you want this?" Chris said yes, so I
20 poured a glass of the gin.

21 Q. What happened then?

1 A. Bill and Pat came out into the yard. Pat said they were going for a hike and then
2 they grabbed the Jack Daniels bottle and took off. Judy came out a little later with Charlie and
3 we all just sat around and chatted.

4 Q. Was anyone drinking the alcohol you provided?

5 A. The Wicks were, for sure, drinking the gin. I had some more Scotch, but not
6 much. Charlie wasn't drinking and I don't think Judy was either. A little hazy on that.

7 Q. What about Chris?

8 A. I think Chris was into the gin as well, but I was purposefully trying to stay away
9 from that, so I can't tell you for sure.

10 Q. Is it possible that Chris was drinking any of the whiskey?

11 A. I don't know for sure what Chris was drinking, so, yes, it is possible.

12 Q. Did you ever offer Chris a drink?

13 A. Absolutely not. I never offered Chris a drink. Why in the world would I have
14 done that, when I didn't want to get the gin in the first place? And other than that one glass of
15 gin Chris had me pour, I didn't pour another one. For anyone. They were all on their own.

16 Q. Was Chris drunk?

17 A. Well, I can't say Chris acted that drunk.

18 Q. Was there gun play that afternoon?

19 A. Yeah. Charlie set up targets mid-afternoon and everyone got involved in the
20 shooting. Chris had a brand new gun -- a Ruger 22. There were several other pistols there as
21 well. Jerry Wicks had a holster and started to show us how fast he could pull his pistol out,
22 claiming he would have been a "natural" in the Old West. It was amusing at first.

23 Q. At first?

1 A. At first. Charlie, Chris and Judy all joined in, pulling their guns out of their pants.
2 They then started standing up in front of each other for a “gunfight.” That made me real
3 uncomfortable. I told them to empty the guns and make sure their safeties were on if they were
4 going to horse around like that.

5 Q. Did they?

6 A. Yes. I made sure all the guns were empty. The magazines and bullets were on
7 the picnic tables.

8 Q. Did Chris empty the Ruger?

9 A. Yes. I watched him take the magazine out and check the safety. I watched them
10 all do that.

11 Q. Did you participate?

12 A. No, I didn’t. Not a very smart thing to do, ever.

13 Q. What happened then?

14 A. It didn’t last all that long. Chris was clearly the fastest which kind of irritated
15 Jerry. Then Pat and Bill came back. They were clearly drunk. I mean the bottle they had looked
16 half empty. I told Bill he was cut off. He swore at me, put the bottle down and went into the
17 house with Pat. The others all went in as well. It was the Wicks’ turn to make dinner. So Chris
18 and I were out there alone. Chris was really agitated and said he really didn’t like “that guy”,
19 referring to Bill. Chris started playing around with the Ruger, pulling the magazine in and out. I
20 told him to put the gun down.

21 Q. Then what?

22 A. Chris put the gun down. Then Bill and Pat came back out. Bill asked me where
23 his wife was. I told him he was drunk and should go back inside. Then he pretty much ignored

1 me, but kind of started in on Chris. Bill said he heard that Chris was the “quick-draw wizard,”
2 which was surprising to him, because Bill said he knew Chris was a “perpetual loser.” Then he
3 started bugging Chris to show him just how fast Chris was with that gun. At one point Bill said
4 something about Charlie, I think that was when I left.

5 Q. How did Chris react to Bill?

6 A. Very quiet. No reaction at all at first. And Bill just kept at it. Egging Chris to
7 have this gunfight with him. Chris then just said “no,” and Bill just got worse. I think he poured
8 drinks for both of them and started chanting at Chris to drink. That was about the time Bill made
9 a comment about Charlie being a weakling and I decided to get out of there.

10 Q. Did you say anything to Bill?

11 A. Yeah. I don’t remember exactly. Just that he needed to stop. I’m pretty sure I
12 told him to leave Chris alone. I know I told them not to have any gun fight. Then I left.

13 Q. What do you remember next?

14 A. I heard a single shot and then yelling. I ran out into the yard. Bill was on the
15 ground, not moving and Pat was yelling at Chris. Chris was just saying, “I shot him, I shot him.”
16 Jerry came out and then ran back in to get his phone and report the shooting. Mo Valdez and the
17 ambulance got there maybe 30 minutes later, around 7:30.

18 Q. What did you do then?

19 A. It was shocking. I gathered up the guns and took them into my bedroom. And
20 then just sat with Judy until the ambulance showed up.

21 Q. Why in the world did you move the guns from the crime scene?

22 [Objection: It wasn’t a crime scene.]

23 Q. Why did you move the guns?

1 A. You know, I just wasn't thinking all that clearly. I think my primary concern was
2 getting the guns away from everyone.

3 Q. Do you know how the Ruger got loaded?

4 A. My assumption has always been Chris put it back in when playing with the guns
5 after the horseplay in the afternoon. That is the only logical explanation. I know Bill really
6 was the instigator, but Chris has to step up and take responsibility for shooting at someone with a
7 loaded gun. As much as I couldn't stand Bill, he didn't deserve that.

8 Q. Have you seen Exhibit 10?

9 A. Looks like Choo's Report. I didn't have anything to do with it, but I anticipate it
10 is thorough.

11 Q. What do you mean "I didn't have anything to do with it?"

12 A. I didn't influence any of the content.

13

14

15

16

17

18

19

20

1 Deposition of Pat Collins

2 Q. Please state your name for the record.

3 A. My name is Pat Collins.

4 Q. How old are you?

5 A. I will be 33 on April 25.

6 Q. How do you know Chris O'Malley.

7 A. We've been friends since before we were babies. We went to grade school
8 together, high school together and college together.

9 Q. Do you have a romantic relationship with Chris?

10 A. Well, I certainly don't. That's a creepy question.

11 Q. Did Chris ever have romantic feelings for you?

12 A. I've worried sometimes over the years that Chris has those kind of feelings for
13 me. I mean, I've asked Chris that a bunch of times, but Chris always says no. I mean, thinking
14 about it kind of grosses me out. Chris is pretty needy and emotional. And really jealous a lot.
15 Like if I do anything with other friends or if I want to do something new or different on my own.
16 But Chris is a really, really good friend to me.

17 Q. How would you describe your relationship now with Chris? Good, bad,
18 indifferent?

19 A. Well, it's never really been easy. That's all I am going to say.

20 Q. My understanding is you were present at an incident in 2005 when Chris pulled a
21 gun on someone. Is that true?

22 A. I was there.

23 Q. Tell me what happened.

1 A. We were in college. It was a weird night. I was there in the bar when Chris
2 pulled a gun on a total stranger. To this day I don't know how that all happened. It's just very
3 un-Chris, you know? Chris is just not like that.

4 Q. What happened?

5 A. Chris and I went there together to talk about stuff at school and then Chris just
6 kind of abandoned me to go be with all these other people we didn't even know. So I started
7 talking to this guy at the bar and Chris got mad. Real mad. I told Chris to just leave us alone, we
8 were having a great time by ourselves. Chris got all belligerent and then, out of the blue, pulled
9 a gun out a backpack and aimed it at the guy and said "You need to go." It was surreal. And
10 pretty exciting, I have to admit.

11 Q. So what happened?

12 A. Chris was so mad, for no real reason, and shaking like crazy. I was afraid Chris
13 was going to kill the guy. It was pretty scary. But the bartender jumped in and kind of calmed
14 things down. I thought that was going to be the end of it, but then the police came and Chris
15 ended up going to jail. I felt really bad about the whole thing because Chris kept saying it was
16 my fault that it all happened. Really? Maybe . . . Oh, never mind.

17 Q. Maybe what? Go ahead and finish.

18 A. Well, maybe it was kind of my fault. I mean, I know how sensitive Chris is. I
19 probably should have been more sensitive myself.

20 Q. When was this?

21 A. Middle of April. Just after midterms.

22 Q. What was your relationship like after Chris went to jail?

1 A. I went to visit Chris pretty much every week in jail. Or maybe every month or so.
2 Chris asked me to write a support letter to Lone Star State when Chris applied for readmission.
3 Lone Star kicked Chris out after the bar incident. I said that Chris was a “changed person.” And
4 I thought going back to school would be a very good thing for Chris. And it was. I was right.
5 Chris finished up and got a business degree, finance, I think. I mean Chris is really smart.

6 Q. What happened then?

7 A. Chris got this great job and was making tons of money. Then whammo, fired.
8 Chris took some money from this old guy, who had a lot of it. Chris always planned to pay it
9 back. Chris said the pressure from the company and the other advisors to kind of live up to this
10 kind of flashy image was overwhelming. And Chris said the company made Chris an alcoholic -
11 - alcohol everywhere and always expecting Chris to participate.

12 Q. What happened?

13 A. Chris actually went to rehab. Which turned out to be great, because all the
14 charges got dropped. I’m pretty sure that was because Chris made some kind of deal with the
15 company, but Chris doesn’t say much about that. I think Chris was going to sue the company for
16 something or other.

17 Q. What happened to your relationship after the rehab?

18 A. It was a little strange. Chris went to work at the recovery center -- actually took
19 classes to become a counselor. It was like Chris was born again -- spouting all this recovery
20 stuff and telling stories about what it was like “before.”

21 Q. What did Chris like to drink before recovery?

22 A. Gin, always gin. Death’s Door gin, to be exact. Chris really likes the bottle.

23 Q. How did you end up at Jan Alexander’s lodge the week-end of September 23?

1 A. That is a good question. Chris and I had a big to-do and I was really irritated.

2 Then . . .

3 Q. Let me stop you for a minute -- what was the "to-do" about?

4 A. Same old, same old. I told Chris that things were getting weird again that summer
5 and I wanted it real clear I had no interest -- no interest -- in any kind of romantic relationship.

6 Chris was getting all possessive and jealous again. Over nothing. I kind of avoided Chris for

7 quite a while after that, but Chris is a big part of my life and that was not a fun time. So Chris

8 called and asked if I wanted to go to this hunting lodge deal over the week-end. I love to shoot --

9 not big on hunting, though -- and thought it would be a good opportunity for us to bond again.

10 So I said yes. And it was the Alexanders', who are kind of a big deal around here.

11 Q. How did it go?

12 A. As you well know, quite badly. Excuse me, but that is kind of a stupid question.

13 Q. Well, let's go to Friday, September 23. How did the week-end start?

14 A. Okay. It started kind of bad, to tell the truth. On the drive there, Chris got on my
15 back about spending more time together. The same old crap that we went over in the summer.

16 By the time we got to the cabin -- everyone called it a "Lodge," which it really isn't. But

17 anyway, by the time we got to "The Lodge" [witness makes quotation marks with fingers], I was

18 fed up. I was going to make sure that Chris knew -- once and forever -- that that was never

19 going to happen.

20 Q. What happened when you got to the Lodge?

21 A. We were the last ones there. It wasn't very late, though, maybe 6 or 6:30.

22 Q. Who else was there?

1 A. Well Jan Alexander, the “Chief”, and his brother Charlie. I mean poor Charlie.
2 That’s why we were there. Chris met Charlie in the rehab center and that’s how we got invited
3 to the Lodge. Charlie was a sweet guy, but really a mess. He died last year, you know.

4 Q. Yes, I do know that. Who else was there?

5 A. People I didn’t know. Amanda and Jerry something or other. And Bill Green, of
6 course, and his wife Judy. They were obviously not happy with each other.

7 Q. How do you know that?

8 A. You know, they didn’t look at each other, Judy was all upset and looked like she
9 had been crying. It was kind of awkward really.

10 Q. So what happened?

11 A. When I first saw Bill, I thought he was a real jerk. He was rude to the Chief and
12 ignored everyone else. After a while, though, he came over and introduced himself and like
13 changed into this funny guy all of a sudden. He was kind of old, maybe 50ish. But kind of cute,
14 in a baldy, gray kind of way. And, like I said, really really funny. So I made my plan.

15 Q. Plan? What plan?

16 A. I decided to make a point with Chris, so I started chatting Bill up and made sure
17 Chris knew exactly what I was doing. It was easy, because Bill’s wife obviously was mad at him
18 and I could see he maybe wanted to make a point as well. Bill made some comments about his
19 wife and the Chief when the two of them went into the kitchen. He said his wife should pay
20 more attention to the fact that there are a whole lot more fish in the sea.

21 Q. Okay. Did your mutual strategies work?

22 A. Hah! I wouldn’t say it was a strategy. But it was an odd night. I actually had a
23 lot of fun talking with Bill. We talked about the election -- and how weird was that -- and all

1 kinds of stuff. I was having a blast. But then the wine kind of got to me and I went up to bed
2 pretty early. I think it was around nine.

3 Q. Where was Chris?

4 A. Playing cards, I think. I didn't pay any attention.

5 Q. What kind of alcohol was there?

6 A. Not much. Only a bunch of wine. Bill was really complaining about that. And
7 so was the Jerry guy. The Chief came over to us and explained there was just wine because both
8 Charlie and Chris were in recovery and there was no need to make it a drunkfest. Bill kept
9 saying, for heaven's sake -- he didn't really say for heaven's sake -- but anyway, he kept saying
10 it was a hunting lodge and the wine was kind of a disgrace. He said the Chief -- that's what
11 everyone calls Charlie's brother -- really dropped the ball. So then Bill yelled at Charlie and
12 asked if Charlie would be offended if they got some liquor.

13 Q. What did Charlie say?

14 A. He said "absolutely no problem." I did see him and Chris exchange this look,
15 though.

16 Q. Have you seen Exhibit 5 before?

17 A. Yes, that's a photo the Chief took. Said it should liven up the party.

18 Q. So what happened on Saturday?

19 A. You know, I don't really remember much about Saturday morning. I slept in
20 pretty late. I went downstairs and Judy and Amanda were there, but they were all involved so I
21 sat and read for a while. I think I made a sandwich or something. Then I went outside and the
22 Chief drove up with all this alcohol and then put it out in back on the picnic table. Chris was

1 weird to me -- nothing unusual about that -- so I grabbed one of the bottles of whisky from the
2 picnic table and told Bill he should run off with me. So we went on a hike. A very weird hike.

3 Q. Weird how?

4 A. Bill was pretty worked up. We drank. Bill drank a lot. A whole lot. Bill was
5 upset with Judy and how she was always running to the Chief about their personal problems. He
6 kept talking about what a creep the Chief was and how the Chief hated him. So I asked him why
7 in the world was he there? He said that was a good question. Like I said, it was weird.

8 Q. So then we get back to the cabin. And Chris was all possessive and odd, like
9 always. And Chris was drinking, which I will say was unexpected. Like, why in the world did
10 the Chief bring all that liquor? Both Chris and Charlie were pretty open that they were in
11 recovery and not drinking.

12 Q. Was Chris drinking that week-end?

13 A. Well, certainly on Saturday. I mean, Chris has been clean and sober for a long
14 time and is pretty religious with the recovery stuff. To be honest, that is the real reason I took off
15 with Bill for the hike. I was really mad that Chris was drinking again.

16 Q. So, what happened when you and Bill got back from the hike?

17 A. There were a lot of guns and some ammunition on the picnic table -- magazines
18 and bullets. Chris was playing around with them. The Chief said to leave them alone, that Chris
19 was in no shape to be handling a gun.

20 Q. Who else was there?

21 A. I think only me, Bill, the Chief and Chris.

22 Q. Were they drinking?

1 A. Yeah. It's kind of hazy you know, but Chris had a glass full of something. I
2 saw the Chief finish off a big glass of the whiskey and then pour another.

3 Q. What was Chris drinking? Whiskey? Could you tell?

4 [Objection: I object; compound question]

5 Q. Okay. What was in Chris's glass?

6 A. I don't know.

7 Q. Brown or clear?

8 A. Definitely brown.

9 Q. So what happened then?

10 A. Chris asked me to do some target shooting. It didn't look to me like Chris was in
11 any shape to be using a gun, but I wasn't interested in any case. Plus I wanted to show Chris I
12 wasn't going to put up with the crap, so I kind of made a big show about having Bill help me get
13 the salad together for dinner.

14 Q. Was Chris's gun loaded at that point?

15 A. I have no idea.

16 Q. You said you wanted to make Chris mad?

17 [Objection: Mis-states the witness's testimony.]

18 A. That's okay, I'm happy to answer the question. I did it more to make a point, I
19 guess.

20 Q. And what was the point?

21 A. Hmmm. I guess that Chris wasn't the boss of me.

22 Q. What was the Chief doing during this time?

1 A. Just sitting there and drinking. I heard the Chief tell Chris that Bill was a “bad
2 one” and Chris should stay away from him. I don’t know what happened after that. Bill and I
3 left.

4 Q. Did you go back out to the yard at some point?

5 A. We did.

6 Q. Who is “we?”

7 A. Me and Bill.

8 Q. How much later?

9 A. I don’t really remember, maybe an hour? That’s all kind of hazy. I think it was
10 around 5 or so.

11 Q. So what happened when you went back out?

12 A. It was weird out there. The Chief was sitting there, muttering about what an ass
13 Bill was. Bill just kind of looked at me and made a mean face. Then Chris came back.

14 Q. Where had Chris been?

15 A. I think just in the bathroom.

16 Q. Was Chris drunk?

17 A. I couldn’t really tell. But it’s always been hard to tell that with Chris.

18 Q. What happened then?

19 A. Bill said something or other to the Chief and the Chief told him he was drunk and
20 should just go back into the house and tend to his wife. Then Bill started to kind of pick on
21 Chris.

22 Q. What do you mean?

1 A. Saying Chris was just a weakling or something like that. I don't remember much
2 of it, just that it was kind of mean and out of the blue.

3 Q. What did Chris say?

4 A. Nothing really. But then Bill said he had heard there was a gun drawing contest
5 earlier in the day and he heard Chris was the big winner. So he told Chris he wanted to have
6 another one to show who really was the best.

7 Q. How did Chris react?

8 A. Chris just didn't say much at all.

9 Q. What happened then?

10 A. Bill just kept at him. Then Bill poured a drink for him and Chris and said "let's
11 do this the old West way." I mean, it was really dumb.

12 Q. What kind of alcohol did Bill pour?

13 A. I just don't remember.

14 Q. And then?

15 A. Chris finally told Bill to let him alone, but Bill kept saying things like, "come on,
16 this will be fun."

17 Q. Then what?

18 A. It was so uncomfortable. Chris finally said something like "ok, you creep." Bill
19 started laughing, chugged his drink and picked up one of the pistols. Bill told Chris, "this will
20 be fun, let's do it." Chris still didn't do anything at first. Bill pointed to the guns on the table
21 and asked if one of those belonged to Chris. Chris said the Ruger and Bill picked it up, checked
22 the safety and threw it to Chris.

23 Q. He checked the safety?

1 A. Yeah.

2 Q. You never said anything about that before did you?

3 A. I just remembered.

4 Q. Did Chief Alexander say anything?

5 A. Yeah. Something like “this is so stupid.” The Chief told Chris, “you need to not
6 do this.” The Chief started to go, but then turned around and told Bill, “you should just leave the
7 kid alone. Stop.” And then the Chief left.

8 Q. So what happened?

9 A. It was awful.

10 Q. What happened?

11 A. Bill, said, “C’mon, let’s do this.” They weren’t very far apart, maybe 4, maybe 5
12 feet. I’m not good with that kind of stuff. Chris just stood there at first and didn’t do anything.
13 Bill drew out his gun. I mean, he was pretty fast and Chris hadn’t really even moved yet. Bill
14 just pointed the gun at Chris and said something like “Bang, you’re dead.” Chris pulled out the
15 gun, and then stopped for a minute. Bill then said, “really, you aren’t going to do anything?”
16 Then Chris took the gun, pointed it at Bill and the gun went off. And Bill was dead. I asked
17 Chris, “what happened?”

18 Q. Could you actually have asked Chris “Why did you do that?”

19 A. Maybe. Maybe.

20 Q. What was Chris’s response?

21 A. Chris said something like “Oh my God, what happened? What happened?”
22 “How could that happen?” I’m pretty sure at some point Chris said “I shot him.” I do remember
23 Chris saying “I didn’t mean to. It wasn’t my fault.”

1 Q. What . . .

2 A. Stop for a second. I am just going to say this. None of this would have happened
3 if everyone wasn't so drunk. It wasn't Chris's fault.

4 Q. Okay. Thank you for that. What happened then?

5 A. I just don't remember much. The police came, the ambulance came.

6 Q. Were you interviewed that night?

7 A. Yeah.

8 Q. Do you and Chris still have a relationship?

9 A. Of course we do. Chris is -- and always will be -- my best friend.

10 Q. Okay. Done for now.

Deposition of Chris O'Malley

1

2 Q. Please state your name for the record.

3 A. Chris O'Malley.

4 Q. And what is your date of birth?

5 A. March 2, 1985.

6 Q. I want to ask you a few questions about your background. Where were you born?

7 A. I was born in Lone Star.

8 Q. Did you attend college?

9 A. Yes, I went to Lone Star State. Go Pronghorns.

10 Q. Did you graduate from Lone Star State?

11 A. Yes, in 2009. I graduated with a BS in Finance.

12 Q. Can you tell me a bit about your experience in college?

13 A. Well, that's a broad question. What do you want to know?

14 Q. Let me be more specific. Were you ever disciplined or expelled from Lone Star
15 State?

16 A. Yes. Well, it's a long story. I started attending Lone Star State in 2003. I was
17 only 18 at the time, and definitely got pulled into the party aspect of college. I was young,
18 probably wasn't spending time with the right people, and didn't really have my priorities in line.
19 Anyway, in 2005—you have to understand, I was 20, I didn't know anything about anything—I
20 got involved in a fight at a bar. It was really stupid.

21 Q. Can you tell me what happened with the fight?

22 A. We were at a bar. Everyone was drinking. It was shortly after midterms, so
23 everyone was blowing off steam. I had just taken a tough round of tests—I think I was taking six

1 full classes at the time—so I was a wreck. Anyway, one of my close friends, Pat Collins, was
2 talking to a guy at the bar. Pat sometimes gets a bit too friendly with people, you know? And I
3 just started to get concerned. The guy didn't look like the type that you would want to be talking
4 up, if you know what I mean. Anyway, I stepped in to try and help Pat out, and the guy got in
5 my face. It just escalated from there.

6 Q. How did it escalate?

7 A. I got mad, he got mad. I can't remember all the details, but at some point I pulled
8 out my revolver from my backpack. I think it was a 22 revolver, a Ruger Mark III. It was
9 stupid, I shouldn't have pulled out a gun. But this guy was in my face and he was kind of a scary
10 guy, and I was afraid for myself and my friend. Nothing ended up happening and the bartender
11 calmed down the situation, but the guy ended up pressing charges.

12 Q. And you ended up going to jail?

13 A. Yes, I ended up pleading guilty to aggravated assault and spent 18 months in the
14 Mason County Jail. That was a really tough time. 20 years old, I make a small mistake and end
15 up in jail for a year and a half. I thought I was just looking out for my friend, but in reality I was
16 just a dumb kid playing at being tough.

17 Q. It looks like you were released in 2007?

18 A. Yes, that's right.

19 Q. What did you do after you were released? Did you get a job?

20 A. Not right away, no. Actually, I applied for readmission to Lone Star State. I was
21 kicked out when I went to jail. I had tried to keep up with my studies while in jail and I worked
22 really hard to stay out of trouble while inside. I was able to successfully get readmitted to
23 school. School went pretty well—as I said before, I graduated in 2009 with a finance degree.

1 Q. After school, did you get a job?

2 A. My first job was as an investment advisor. I worked for a company called Growth
3 Finance.

4 Q. How long did you work with Growth Finance?

5 A. Until 2012.

6 Q. Why did you leave that job?

7 A. Um, I mean, do I have to go over all this again? Okay, well, the work
8 environment at Growth Finance was bad. It's like that movie Boiler Room—lots of young
9 people, competing with each other to see who can make the most money. We were constantly
10 pressured to find new clients, push products on clients, and live up to this sort of Wall Street
11 image. We're in Lone Star, you know? This isn't New York. It was all so forced.

12 Q. Please continue.

13 A. So everyone was drinking, all the time. Everyone had flashy cars. If you didn't
14 play along you were singled out. Also, there was just this expectation that you had to play a
15 certain role to attract clients. I ended up caving under the pressure. Again, I was in my early
16 20s, this was all I knew. I was making some good money, but it just never was enough.
17 Anyway, I ended up moving some money around in one of my larger accounts and didn't pay
18 close enough attention to where the money was going. I was just constantly exhausted and, quite
19 frankly, under the influence of alcohol. By that time I had definitely developed an alcohol
20 addiction.

21 Q. I saw in your records that you were charged with embezzlement?

22 A. Yes. I ended up transferring about \$50,000—a small amount compared to the
23 total amount in the account—into this holding account that was in my name. I didn't realize it

1 was there and sort of forgot about it. There were other issues that I can't get into. The client
2 ended up reporting me to the DA's office, who charged me with embezzlement. Once I realized
3 what happened, I moved the money back to the right account. The client dropped the charges.
4 At that point, though, I knew that this job wasn't going to work out, and I knew I needed to get
5 my life under control. I agreed to go into a recovery program as part of that whole mess.

6 Q. What did you do next?

7 A. I spent three months in the Lone Star Recovery Center outside Masonville. It's an
8 inpatient drug and alcohol rehabilitation facility. It completely changed my life.

9 Q. Where did you work after leaving the center?

10 A. Actually, I've been working at the Recovery Center ever since. After I completed
11 my inpatient treatment, I started working in the accounting department. Then I took online
12 classes in the evening to get my Master's in Counseling. I got that degree in 2014. Since 2014
13 I've been working as a counselor in the Recovery Center.

14 Q. Alright, shifting to September 2016. Can you tell me about your relationship with
15 Jan Alexander?

16 A. I don't have a relationship with Jan.

17 Q. But you were at Jan's cabin the weekend of September 23, 2016, correct?

18 A. Yes, I was at the cabin that weekend, I think they call it the "Lodge."

19 Q. So can you tell me how you came to be at the Lodge that weekend?

20 A. I was friends with Charlie Alexander, Jan's younger brother. Charlie was one of
21 my closest friends actually, I was his sponsor through the Recovery Center. He was a really
22 good person.

23 Q. And Charlie introduced you to Jan?

1 A. Sort of. I met Jan a few times when I spent time with Charlie's family. Jan is the
2 oldest sibling in the family and the Chief of Police. Jan is . . . well, let's just say that Jan has to
3 go by "the Chief" at all times, even off duty.

4 Q. What do you mean by that?

5 A. Just that. Jan likes to be the boss. Likes to tell people what to do and pull
6 peoples' strings.

7 Q. So the Chief invited you to the cabin?

8 A. Yes, Jan was hosting a weekend party at the Lodge for Charlie, and I was on the
9 list. I also brought my friend Pat Collins.

10 Q. Do you have a romantic relationship with Pat?

11 A. No. Pat is my longest and closest friend. Pat's always been there for me.
12 Sometimes we're up, sometimes we're down—we're just really really close.

13 Q. Why did you bring Pat to the Lodge?

14 A. Pat likes to have fun, get to know people. Pat's one of those people who will
15 always spice up a party, for better or worse. I thought that it would be fun to meet some new
16 people together.

17 Q. And that weekend, were you and Pat getting along?

18 A. More or less. I always worry a bit about Pat. Pat likes to stir the pot. And Pat
19 always likes to be the center of attention. We had a spat on the car ride up to the Lodge because
20 I wanted to talk to Pat about slowing down a bit, not trying to be in everyone's business, not
21 playing the field so much. Since my recovery it's been really important to me to limit the drama
22 in my life, and I've always thought that would help Pat also. But, yeah, Pat didn't take that well.

23 Q. So you and Pat were fighting when you got to the Lodge?

1 A. No, we weren't fighting. I said some things I probably shouldn't have said. We
2 got into a little tiff, but worked it out. We were fine.

3 Q. And the other people at the party were Jerry Wicks, his wife Amanda, and Bill
4 and Judy Green? Do I have that right?

5 A. Yes, that's right.

6 Q. Did you know Jerry and Amanda Wicks?

7 A. Not until that weekend. I think Jerry worked with the Chief.

8 Q. Did you know Bill and Judy Green?

9 A. No, had never met them before.

10 Q. What were your impressions of Bill and Judy Green's relationship?

11 A. What do you mean? That seems kind of vague.

12 Q. Did they get along?

13 [OBJECTION: lack of foundation]

14 A. I mean, it didn't seem like things were very good between them.

15 Q. So you think that Bill was a bully?

16 [OBJECTION: misstates testimony, lack of foundation]

17 A. I don't know. I just met him that weekend. I could certainly sense some tension
18 between him and his wife, and definitely between him and Jan, but yeah, I don't know the
19 history there.

20 Q. What do you mean there was tension between Bill and the Chief?

21 A. Well, Jan seemed to be close with Judy. Jan and Judy were talking a bit in the
22 kitchen after dinner on Friday night. I don't think that Bill liked that.

23 Q. Let me back up a little bit. What time did you get to the house?

1 A. I don't remember the exact time. We ate dinner shortly after Pat and I got there.

2 Q. And there was alcohol at the Lodge, right? And that wasn't a problem for you,
3 being a recovering alcoholic?

4 A. Yes, there was alcohol. I knew going into the weekend that there would be. It's
5 not ideal, obviously, but it's something that I deal with every day. It would have been nice if Jan
6 had respected that Charlie and I were in recovery, but that's not the Chief's way. Later, after that
7 weekend, Charlie told me that he mentioned something to Jan about trying to keep the alcohol
8 and drinking to a minimum, but Jan just laughed and said that that's what you do at a hunting
9 lodge—you drink and shoot guns.

10 Q. So you went to the Lodge knowing that you would be around alcohol?

11 A. Like I said, yes, I knew there would be alcohol. I thought that I would be able to
12 handle myself. I didn't have any idea that the Chief of Police would be pushing me to drink—
13 that took me completely by surprise.

14 Q. Well, we'll get back to that. I'm going to ask you some questions about your
15 drinking in a minute. I want to go over the timeline of the weekend. You arrived at the Lodge
16 on Friday, September 23?

17 A. Yes, like I said before.

18 Q. And that night you all ate dinner as a group?

19 A. Yes.

20 Q. Were people drinking at dinner?

21 A. Yes, Jan, Bill, Judy, Pat, and the Wicks were drinking wine. At some point I
22 think Bill got irritated that there wasn't something else to drink, and he, Jerry, and Jan started
23 talking about getting more alcohol on Saturday. Bill kept saying that he was a "whiskey man,"

1 but that he would drink it all, so Jan offered to go pick up some hard liquor in the morning.
2 Charlie and I were uncomfortable, but no one really stopped to ask us if we were okay. I didn't
3 really know what to say—it wasn't my house, these weren't my friends, and once Jan made the
4 decision it was just kind of done, you know?

5 Q. At what point did Bill start flirting with Pat?

6 A. Flirting? I don't know if I'd call it that. They started talking after dinner. I think
7 they just hit it off. I wanted to step in a couple of times to see how Pat was doing, and also
8 because of the weirdness between Bill and his wife, but Bill and Pat just were in the zone. I was
9 playing cards with Jerry, Charlie, and Amanda.

10 Q. And then you went to bed?

11 A. Yeah, but at some point I saw that fight between Bill and Jan, because of what Jan
12 and Judy were talking about in the kitchen. I don't know what happened, but Jan and Judy went
13 into the kitchen and were in there by themselves for a while. Pat had gone to bed so Bill was by
14 himself, drunk, looking around. At some point he went into the kitchen, I'm assuming to check
15 on Judy. After a few minutes I heard yelling between Jan and Bill. I don't know who said what,
16 though.

17 Q. Okay, and then you went to bed?

18 A. Yeah, around midnight.

19 Q. And did you have anything to drink that night?

20 A. No, I didn't.

21 Q. You're sure you didn't have any wine to drink?

22 A. Absolutely sure. But I think I know what you're getting at, because Charlie
23 mentioned something about that to me a few weeks after this all happened. He told me that he

1 was really sorry about the alcohol at the Lodge. He said something like, “yeah, I saw that you
2 were drinking the wine on Friday night, too, and I should have said something to you then,
3 gotten you out of there.” But I don’t know what he was talking about. He said he saw the wine
4 bottle in my room. But it wasn’t mine. All I can figure is that Pat brought it up to our room.
5 We had to share the room, but it had a couple of beds in there.

6 Q. Do you recognize Exhibit 6?

7 A. That looks like the wine bottle. Like I said, it wasn’t mine.

8 Q. Do you know who took it?

9 A. The wine?

10 Q. No, the picture.

11 A. Nope.

12 Q. What time did you get up on Saturday?

13 A. I got up early with Charlie, and I think the Wicks. I think they went hunting that
14 morning. Everyone else had been drinking pretty heavily the night before, so they slept in. I had
15 my coffee, flipped through the news on my phone, relaxed.

16 Q. At what point did you talk to the Chief that morning?

17 A. I’m not sure. I don’t remember any specific conversation. At some point that
18 morning Jan went to the liquor store. I don’t know when. I just remember that Jan drove up
19 around noon with a carload of alcohol. Jan started unloading it on the picnic table outside the
20 house.

21 Q. You don’t remember giving the Chief money and asking for gin?

22 A. No, that didn’t happen.

1 Q. But you are a gin drinker, correct? Isn't that your drink of choice—"Death's
2 Door"?

3 A. I wouldn't say that. I used to drink Death's Door, but I used to drink all types of
4 liquor. It's all the same to me. Poison. You know, I think maybe I did say something about that
5 on Friday night. Maybe that Death's Door gin was my go-to when I was drinking. Just to be
6 part of the conversation.

7
8 Q. And Jan came back from the liquor store with Death's Door gin, correct?

9 A. I honestly don't remember what brands of liquor we had.

10 Q. So when did you all start drinking?

11 A. I don't know what you mean by "you all." I was sitting outside with Jerry and
12 Amanda. Jan came up and told Jerry to have at it. Jerry and Jan both started drinking whiskey.
13 I think Amanda made herself a gin and soda. I kind of just sat there.

14 Q. So you weren't drinking at that point?

15 A. No. Jan offered me a few drinks, kind of egging me on. Instead I just had some
16 soda water. Jan started hitting the whiskey really hard.

17 Q. Where was Pat?

18 A. I don't remember. I was trying to give Pat a wide berth because of what was
19 going on between Pat, Bill, and Judy. I thought Pat crossed the line a bit the night before with
20 Bill and stirred the pot between Bill and Judy, and I didn't think that was very cool.

21 Q. At some point that afternoon did you play at target practice?

22 A. Yes. Jerry, Judy, Charlie and I were practicing with the targets that Charlie set
23 up. Everyone had a gun—that's just how it is in Lone Star. I had a Ruger 22 I borrowed from a

1 friend for the week-end. Jerry escalated it a little bit and wanted to see who was the fastest draw.
2 We started playing around. I guess I was pretty fast. I think at some point Jan or someone else
3 reminded us to take the magazines out of the guns and check the safety. I pulled out the
4 magazine and put it on the picnic table.

5 Q. What happened then?

6 A. I don't really remember the exact timeline. Eventually Pat and Bill came back
7 from wherever they were at.

8 Q. Where did they go?

9 A. I don't know.

10 Q. Were you concerned about that?

11 A. Yeah, sure I was. Look, Bill was married. He was at the Lodge with his wife.
12 Judy seemed like a really nice person. It was obvious that something weird was going on with
13 Bill and Pat. I don't know if it was innocent or not, but it was weird. It kind of pissed me off,
14 because here I was with people I didn't know that well, and I had brought a friend who was
15 causing trouble between a husband and wife. Yeah, I was starting to get pretty pissed at Pat.

16 Q. When did Pat and Bill come back?

17 A. Again, I don't remember the exact time. But they came back and they both
18 seemed pretty drunk. Bill and Pat were leaning on each other. It was all just really
19 inappropriate. Judy was clearly really upset.

20 Q. So you started drinking?

21 A. It's more complicated than that.

22 Q. Are you saying you didn't have anything to drink that afternoon?

1 A. No, I did end up drinking. But I was sitting outside at the picnic table, with Jan.
2 Jan said something to me about Bill and Pat, like “you can kiss that one good-bye.” I think Jan
3 thought I was jealous or something. Jan then said, “Bill takes what Bill wants” and offered me a
4 shot. I initially declined.

5 Q. What was the drink?

6 A. I just don’t remember.

7 Q. But you did end up having a drink?

8 A. Yes, Jan kept pushing it. Jan said, “come over here and drink with me, we will
9 drown our sorrows.” Eventually I just caved. It was weak, I know. So yeah, I had a couple of
10 shots. It was probably more than a couple. Every time I finished a shot, Jan would pour me
11 another one and push it over to me.

12 Q. Where was your gun at this point?

13 A. I had set my gun on the picnic table with the other guns and ammo.

14 Q. Did you pick up your gun again while you were drinking?

15 A. Not that I remember.

16 Q. Did you say anything to Pat at that time, while you all were outside drinking?

17 A. Sort of. I just told Pat to cool it. Pat didn’t like that. I then asked if Pat wanted to
18 do some target shooting. Pat said no. Then, Jan confronted Bill and told him he needed to stop
19 drinking. Bill blew up at Jan and went into the house. Pat followed Bill. The whole thing was
20 just overwhelming, and was clearly blowing up into a big problem.

21 Q. At some point did Bill and Pat come back outside?

22 A. Yes, and it starts to get a bit hazy here. Bill came out—I think with Pat—and
23 wanted to play with the guns. Judy, Jerry, and Amanda weren’t there. I think they were inside

1 or something. Yeah, they were inside. I remember because I went in to go to the bathroom and
2 Judy, Jerry, and Amanda were talking in the kitchen.

3 Q. What happened next?

4 A. Well, I came back outside. Charlie, Bill, Pat, and Jan were out there. Bill wanted
5 to know where Judy was. He kind of got in Jan's face about it, too, as if Jan knew where Judy
6 was. Jan told Bill to go back inside. Bill then came over to me and started wanting to play the
7 quick-draw game. Jan said, "You should see how fast Chris is. The quick-draw wizard."

8 Q. What did Bill do?

9 A. Bill didn't like what Jan was saying, so he started making fun of me and Charlie.

10 Q. What was he saying?

11 A. It doesn't matter. Basically, just picking at us. He was clearly very drunk.

12 Q. How did you respond?

13 A. So, I have a question first. Will I get in trouble if I tell you truth?

14 Q. You are under oath and legally required to tell the truth. You didn't know that
15 when we started this deposition. Remember me telling you that?

16 A. Yeah, just checking. So, I didn't say anything at first. Then Bill poured me
17 whiskey and put it in my face and said "let's settle this the Old West way." He then just kept
18 saying "drink, drink, drink." Finally, I just took the drink. I think I said something to Bill, like,
19 "fine, creep." Man, I was pretty out of it at this point.

20 Q. When did you pick up your gun?

21 A. Bill picked up his pistol first. Bill then grabbed my Ruger and checked the safety,
22 and tossed it to me. Jan said something like, "this is stupid, you both shouldn't do this." Jan

1 looked at me and whispered “I wouldn’t take his nonsense if I were you. But, I’m glad I’m not
2 you.” And then Jan left, went inside, I think.

3 Q. And then what happened?

4 A. You know how it ends. I actually can’t remember that much of it. It is now just
5 such a blur. I guess we drew on each other. I pulled out my gun and the next thing I heard was
6 this crazy loud bang. And Bill was just lying there, not moving.

7 Q. What did you do next?

8 A. I honestly don’t remember. I just don’t know. It was all so horrible.

9 Q. You were charged with negligent homicide and illegal possession of a firearm?

10 A. Yeah.

11 Q. What happened with those charges?

12 A. The negligent homicide charge was dropped and I plead guilty to the illegal
13 possession. I got 2 years’ probation. I had to do another 6 weeks in recovery and have to get
14 random drug tests.

15 Q. Why were the charges dropped?

16 A. It was something to do with a problem with the Ruger. There was a report of
17 some kind that it could malfunction. Then my lawyer said that maybe we could settle. There
18 was a lot of back and forth that I didn’t really understand. But the end result was the DA agreed
19 to dismiss the homicide charge if I settled with Judy, plead guilty, yadda yadda yadda. So I did
20 all that.

21 Q. And you are on probation now?

22 A. Yup. And clean and sober.

23 Q. Do you recognize Exhibits 7, 8, 9A, 9B, and 9C?

1 A. Yeah. That's the paperwork that I just told you about.

2 Q. What about Exhibit 4?

3 A. Oh. That thing. See, it wasn't really my fault what happened. Anyway, that's
4 some legalese that I signed so Judy Green would leave me alone. You can tell it wasn't my fault
5 because of the payment amount. Why do you have that?

6 Q. I'm done with this guy.

Deposition of Mo Valdez

1

2 Q. Please state your name for the record.

3 A. Mo Valdez.

4 Q. How old are you?

5 A. I'm 37.

6 Q. What do you do for a living?

7 A. I'm an officer with the Masonville Police force.

8 Q. How long have you been a police officer?

9 A. 13 years.

10 Q. What training do you have as a police officer?

11 A. Well, apart from my degree in criminal justice, I also attended and got a
12 certificate from the Lone Star Ranger school, where I learned a great deal about criminal law,
13 accident investigation, forensics, interrogation techniques, that sort of thing. When I started, I
14 was working under John Doolittle, who was a legend in our department. After two years of that,
15 I got my own patrol and have been doing that ever since.

16 Q. How long have you been working under Chief Alexander?

17 A. 10 years.

18 Q. How is your relationship with Alexander? Is Alexander a good chief and
19 supervisor.

20 A. Yes. The chief is great to work for. Officers say the chief is a "cop's chief."

21 Q. I'm going to hand you a copy of the police reports done as a result of your
22 investigation of the shooting on September 24, 2016. Have you read those reports recently?

23 A. Yes, I read them to prepare for this deposition.

1 Q. And those are Exhibits 1, 3 and 10?

2 A. Yes.

3 Q. Have you read any other materials to prepare?

4 A. No.

5 Q. Do you have any independent recollections of the events of that day other than
6 what's written in your report?

7 A. Not many, but some.

8 Q. Have you recounted in your report all the conversations you had with any of the
9 witnesses or the suspect?

10 A. Probably, but there may be things left out. You can't write down everything, just
11 the important stuff.

12 Q. Was Mr. Green dead when you arrived?

13 A. Well, I would say so, but I'm no doctor. Green had no pulse, and was white as a
14 sheet. I understand they'd tried to resuscitate Mr. Green, but they didn't have no luck on that.

15 Q. Did the chief appear to be intoxicated.

16 A. I didn't make note of that. I think everyone had had some drinks, but I didn't
17 notice that the chief was drunk.

18 Q. Was there any attempt to take a blood sample from the chief?

19 A. No, the chief wasn't a suspect.

20 Q. Did you ask the chief where all the guns were?

21 A. I assigned Officer Choo to collect the physical evidence.

22 Q. Did the chief ever say where the guns were?

1 A. I heard the chief say that he had gathered up all the guns and put them in the gun
2 safe, where the deer rifles are stored.

3 Q. Did the chief ever say why the crime scene was not left intact for the police?

4 A. Well the chief is police.

5 Q. Just answer my question.

6 A. The chief said he was afraid for the safety of the folks around, with loaded guns
7 lying around, so he put them away.

8 Q. Did the chief say the guns were loaded?

9 A. Well they must have been because Green just got shot.

10 Q. I'm asking you what the chief said.

11 A. Yeah, the chief had a lot of comments about loaded guns and alcohol. Chief said
12 that wasn't a good mixture.

13 Q. You didn't put those comments in your report?

14 A. No, the chief was just spouting off. Chief was pretty upset. The chief told
15 everyone to make sure their guns were unloaded when they commenced to doing the cowboy
16 quick draw thing. But obviously they didn't listen to him.

17 Q. Did the chief tell you that the guests were pretty drunk?

18 A. Well, chief said O'Malley had a lot, and chief said that was a worry because
19 O'Malley was an alcoholic. O'Malley didn't do good around liquor. The chief said Green was
20 around the bend too.

21 Q. Did the chief say that O'Malley was a recovering alcoholic?

22 A. I don't recollect that.

23 Q. Did the chief tell you where the alcohol came from?

1 A. Chief said the liquor came from the liquor store in Masonville.

2 Q. Well, who bought the liquor?

3 A. Chief bought it in town.

4 Q. So the chief served the alcohol?

5 A. Well, it was just a serve yourself. Everyone poured their own drinks was the way

6 I took it.

7 Q. Did the chief actually say that?

8 A. You ever been to a party in a hunting lodge?

9 Q. I'll just ask the questions and you give me the answers.

10 A. No, I don't remember the chief saying who poured the drinks.

11 Q. What did the chief tell you about friction between Green and O'Malley?

12 A. I don't recall, but chief said Green was a rude person, especially after having that

13 much alcohol.

14 Q. How much alcohol?

15 A. I don't know, too much I guess.

16 Q. Did the chief say what was said, or what caused the beef?

17 A. I don't know.

18 Q. Did you understand that O'Malley shot Green on purpose?

19 A. Well it's not up to me to draw those conclusions. I investigate, and the D.A.

20 decides whether to prosecute. O'Malley said it was an accident, the guns were all unloaded, and

21 there was no good reason for the gun to go off. It did go off, though, didn't it? There were

22 words, and Green was killed. So I took O'Malley into custody. Plus, there was the felon in

23 possession thing. O'Malley was a felon and should not have been handling a gun at all.

1 Q. Did the chief know O'Malley was a convicted felon?

2 A. I have no idea.

3 Q. Why did you arrest O'Malley for homicide?

4 A. There was a shooting, Green died, O'Malley pulled the trigger, apparently.

5 Q. You said you are not the one to draw conclusions about guilt, but I want to ask
6 that again. Did you get the impression or form the opinion that O'Malley intended to shoot
7 Green?

8 A. I don't know. There were words. Green was pushing O'Malley. They didn't like
9 each other. O'Malley had a problem with a gun before, you know, and did some time for that.

10 Q. Do you remember anything O'Malley said other than what's in your report?

11 A. O'Malley just said over and over that it was an accident, and that it was someone
12 else's fault.

13 Q. Do you know what O'Malley meant by that?

14 A. O'Malley was quite drunk.

15 Q. Did O'Malley say the chief was pouring drinks?

16 A. No.

17 Q. Did O'Malley ever admit fault for the shooting?

18 A. Only in the sense that O'Malley said that guns and alcohol don't mix and that it's
19 risky to handle a firearm in an inebriated state.

20 Q. Did O'Malley say that Green's talk made O'Malley angry?

21 A. No, O'Malley never said anything like that. Chief did.

22 Q. Did O'Malley agree to the blood draw?

23 A. Yes.

1 Q. Did you see the results of that?

2 A. Yes, I put it in a supplemental report, and we have the results from the lab in the
3 file.

4 Q. Was O'Malley visibly intoxicated when the chief provided or served alcohol to
5 O'Malley?

6 A. I have no idea. Some people hold their liquor, like the Chief. Some don't. If
7 O'Malley is an alcoholic, maybe alcoholics are more expert at drinking and holding their liquor.
8 Like I said, I assume it was a 'serve yourself' thing. Ain't like there was a bartender there.

9 Q. Have you seen Exhibit 2 before?

10 A. That's the Autopsy summary.

11 Q. Have you reviewed it?

12 A. Yes, as part of my investigation.

13 Q. I have no more questions.

Exhibit 1

Masonville Police Department -- Report

Case No.: 2016-1351	Date: 9/24/16	Type: Fatal Accident
Officer: Valdez #1452	Time: 17:30	Location: Clear Crk Road
Further Reports: 4	Disp.: closed	Warrants: Chris O'Malley 1
Person: Chris O'Malley		
Address: 2314		
Phone: 860 796-2939	Sex: M	Race: W DOB: 5/6/70
Narrative:		
<p>At 17:33 on 9/24/16 Officer Jimmy Choo and I were on patrol in Masonville when we received a radio dispatch to Chief Jan Alexander's hunting lodge on Clear Creek Road, at approximately mile post 14. I was knowledgeable of the location, and we proceeded with lights and siren. The dispatcher reported a shooting and a person down. We arrived on the scene at 17:58, and we immediately secured the crime scene. Several people were gathered around a person lying on the ground, apparently unconscious, and two ambulance technicians were working over the person. We moved the people back away from the ambulance technicians, and secured the area with yellow crime scene tape, leaving a space for the technician's access to the scene and to their ambulance.</p> <p>I assumed command of the scene, and I assigned Officer Choo to collect and tag physical evidence, while I interviewed persons present.</p> <p>Persons present were Pat Collins, Chris O'Malley, Judy Green, Chief Jan Alexander, Jerry Wicks, and Amanda Wicks. I learned from the persons present that the person on the ground was Bill Green, the husband of Judy Green. I began to separate the witnesses and interview them in my patrol car.</p> <p>Interview of Jan Alexander</p> <p>Jan Alexander is chief of police in Masonville, and supervisor to Officer Choo and myself. We discussed having the sheriff's department conduct this interview, but the Chief consented to my conducting the interview, saying "I have nothing to hide."</p> <p>Chief Alexander explained that the people at the lodge were the Chief's guests, and they met there to hunt, socialize, have a few drinks, and barbecue. They arrived at the lodge the day before, on 9/23, in the late afternoon. Chief was at the lodge, or in the surrounding woods the whole time, except for a drive back to town to the liquor store on the morning of 9/24 to buy whiskey and gin.</p> <p>Chief did not hunt on Saturday, but stayed around the lodge, other than going into</p>		

Exhibit 1

town for liquor, getting back to the lodge midday, and most of the people were there, back from hunting. Chief and the Wicks had drinks outside. The weather was good. Chief tried to discourage Chris O'Malley from drinking because Chief believed he was an alcoholic, but O'Malley insisted. O'Malley told Chief that O'Malley was going to drink moderately and could handle it.

Bill Green and Pat came out and left on a hike. Judy Green and Charlie Alexander came out later. Chief had a small amount of whiskey. Chris O'Malley continued to drink.

Some of the guests did some target practice with their pistols. Chief did not remember which ones. Jerry Wicks showed everyone how quickly he could draw his pistol. Chief made sure that all firearms were empty at that point, making sure that everyone had withdrawn their magazines and ejected any live rounds. O'Malley had a new .22 semi-automatic. Then others began to practice "quick-draw" moves.

Bill Green and Pat Collins were not present. Later Chief saw Bill Green, and he appeared quite inebriated. Chief was not sure when Green had been drinking. Green apparently didn't like O'Malley, and was directing rude comments at him. Chief went back inside the lodge. Chief later heard a single shot, not too loud, and went back outside. O'Malley was sitting on the ground crying, and Bill Green was lying on his back on the ground, not conscious. Chief checked Green for a pulse, found none, and noticed a gunshot wound in his left chest. Chief tried resuscitation for several minutes but was unable to bring Green back to consciousness.

Chief then gathered up the firearms for safety purposes and took them into the large bedroom. Chief had no idea how O'Malley's pistol got loaded and was sure it was empty earlier.

Pat Collins

Pat Collins accompanied Chris O'Malley to the lodge as O'Malley's "plus one." Collins has known O'Malley for many years, but denied a romantic relationship with O'Malley. Collins said they were "up and down over the years," sometimes close but other times not. Collins said that they shared a room at the lodge, but that they were "just friends, you know."

Collins said that on the day of the incident, 9/24, Collins and Bill Green went for a walk in the forest. They took along a bottle of whiskey that Chief Alexander had purchased that morning. Collins and Green had been part of the hunting party earlier in the morning, both of them were tired of being around the crowd, and just wanted to get away. By the time they got back to the lodge, they were both somewhat inebriated. Collins said, "not falling down you know, just feeling it." They drank more. Collins said that Green was bragging and verbally abusive of others, especially O'Malley. Collins said that Green knew by this time that Collins and O'Malley were close friends. Green seemed irritated that O'Malley was pretty good at drawing the

Exhibit 1

pistol from a holster.

Collins said that at some point, Green and O'Malley seemed to square off, and O'Malley's pistol went off and Green fell to the ground. Chief Alexander came out, checked for a pulse, and said that Green was dead. Jerry Wicks called 911 at that point. Collins said that all the guns were unloaded, or so Collins thought.

O'Malley sat on the ground and cried, stating over and over, "I don't know how this happened. I didn't mean to shoot anybody."

I asked Collins if anyone knew that O'Malley had done time for a firearms offense in the past, but Collins denied knowing anything about that. Collins denied flirting with Green or having any relationship with Green. They were "just friends." Collins said that both Green and O'Malley were "pretty drunk." Collins said that O'Malley didn't drink, but used to really like "Death's Door" gin. On 9/24 Collins said that O'Malley was drinking mainly gin, but also drank some whiskey.

Chris O'Malley

I interviewed O'Malley last. O'Malley's eyes were red and watery, there was the odor of alcohol about O'Malley's person, and O'Malley's words were often slurred and somewhat incoherent. O'Malley was very excited and overwrought, and often lapsed into tears and moaning in the middle of sentences.

O'Malley admitted to shooting Green, but denied any knowledge of how the gun went off. O'Malley said, "I know it wasn't loaded. I'd never play around with a loaded gun, and I'd never point a loaded gun at another person. I don't know how it happened, I just don't know how it happened."

O'Malley admitted to drinking alcoholic beverages, but didn't know how many shots or glasses were imbibed. O'Malley drank some whiskey straight, and also drank some gin and soda. O'Malley stated: "I think I topped off with gin," but at another point said "I think I had some whiskey." O'Malley said that Chief Alexander had purchased all the alcohol, and actually had poured one drink for O'Malley.

I had previously determined that O'Malley had been convicted of a felony associated with a firearm several years ago. O'Malley said the Ruger .22 belonged to his friend Biff. O'Malley explained that Biff was a friend who had just received the gun as an advanced copy from a Ruger representative. O'Malley did not know Biff's last name, but sees him "around." I asked if O'Malley realized that as a convicted felon it was illegal to own or possess a firearm O'Malley said it was a long time ago and no longer valid, adding "I was a minor at the time."

O'Malley said that the time at the lodge was uneventful until mid-afternoon on Saturday, 9/24. People came back from hunting, and everyone started drinking. O'Malley drank too. They were target-shooting with their pistols. O'Malley said "I

Exhibit 1

shouldn't have been using a gun at that point, because I felt buzzed." O'Malley at another point said "I was never really drunk, just buzzed." At some point O'Malley said "I must have pointed the .22 at Green, and shot because the gun went off." O'Malley denied having any motive to dislike Green, and had no reason to try to hurt Green, and that it was just an accident. Then O'Malley said it was "all Green's fault," I never wanted to do it in the first place."

O'Malley agreed to a blood draw, and Officer Choo arranged for that with an ambulance tech, who also happened to be a certified phlebotomist.

At the end of the interview I took O'Malley into custody on suspicion of homicide and on suspicion of felon in possession of a firearm.

Reporting Officer: Valdez Badge: 1452 Supervisor: Alexander

Exhibit 2

Summary Autopsy Report

Office of Travis County Coroner

DATE and HOUR AUTOPSY PERFORMED: 9/26/16; 8:30 A.M. by Robert Culpepper, M.D. 555 Jackson Avenue Masonville, TX 75161 662-234-XXXX (FAX 662-234-XXXX)	Assistant: Victoria Austin, M.D. Full Autopsy Performed
Name: William Green	Coroner's Case No. 2016-277
Date of Birth: April 1, 1971	Age: 45
Race: White	Sex: Male
Date of Death: 9/24/16	Body Identified: Judy Green (Spouse of Deceased)
Case No. LPD 001294-23E-2016	Investigative Agency: Masonville Police Department.

Evidence of Treatment:

Subject appeared to have expired at the scene of the shooting, and was pronounced dead upon arrival at Masonville Hospital.

External Examination:

The autopsy is begun at 8:30 A.M. on September 26, 2016. The body is presented in a black body bag. The victim is dressed in hospital gown. He is not wearing jewelry, undergarments, or footwear.

The body is that of a normally developed white male measuring 71 inches and weighing 202 pounds, and appearing generally consistent with the stated age of 45 years. The body is cold and unembalmed. Lividity is fixed in the distal portions of the limbs. The eyes are open. The irises are blue and corneas are cloudy. The pupils measure 0.3 cm. The hair is natural blonde, about 2 inches in length at the longest point. He has two tattoos, a skull with a dagger through it on the left biceps, and a two pair card hand, aces and eights, on the right upper chest.

The genitalia are that of an adult male and there is no evidence of injury. Limbs are equal, symmetrically developed and show no evidence of injury.

There is what appears to be a gunshot wound to the left torso, about 1 inch below the left nipple.

Internal Examination

HEAD--CENTRAL NERVOUS SYSTEM: The brain weighs 1,303 grams and within normal limits.

Exhibit 2

SKELETAL SYSTEM: The left third rib, on its superior edge, shows evidence of trauma, which I attribute to the bullet passing between the second and third ribs. A lead bullet is found lodged against the the T-7 vertebra, but not causing apparent damage to that structure.

RESPIRATORY SYSTEM--THROAT STRUCTURES: Normal. The airway shows evidence of intubation. The mucosa of the epiglottis, glottis, piriform sinuses, trachea and major bronchi are anatomic. No injuries are seen and there are no mucosal lesions.

The lungs weigh: right, 367 grams; left 359 grams. The lungs are unremarkable.

CARDIOVASCULAR SYSTEM: The heart weighs 248 grams, and has lacerations to the left ventricle.

GASTROINTESTINAL SYSTEM: The mucosa and wall of the esophagus are intact and gray-pink, without lesions or injuries. The gastric mucosa is intact and pink without injury. The mucosa of the duodenum, jejunum, ileum, colon and rectum are intact.

URINARY SYSTEM: The kidneys weigh: left, 120 grams; right, 117 grams. The kidneys are anatomic in size, shape and location and are without lesions.

MALE GENITAL SYSTEM: The structures are within normal limits.

TOXICOLOGY: Sample of right pleural blood and bile are submitted for toxicologic analysis.

SEROLOGY: A sample of right pleural blood is submitted in the EDTA tube. Routine toxicologic studies were ordered on blood preserved at time of death and on blood and urine removed and preserved upon admission to the hospital.

Laboratory Data

Cerebrospinal fluid culture and sensitivity:

Gram stain: Unremarkable

Culture: No growth after 72 hours

Cerebrospinal fluid bacterial antigens:

Hemophilus influenza B: Negative

Streptococcus pneumoniae: Negative

N. Meningitidis: Negative

Neisseria meningitidis B/E. Coli K1: Negative

Drug Screen Results:

Blood and Urine were taken and preserved on 9/24/16, at 11:30 p.m.

Exhibit 2

Urine screen {Immunoassay} was NEGATIVE.
Ethanol: .23 gm/dl, Blood as of 9/24/16 at 11:30 p.m.

Ethanol: .23 gm/dL at time of death
THC: 37 ng/mL

Rosemary Maroni, PhD.
Chief Toxicologist
September 26, 2016

Evidence Collected

1. Samples of Blood (type A-), bile, tissue (heart, lung, brain, kidney, liver, spleen).
2. 15 swabs from various body locations to test for various chemicals or drugs.
3. 23 Autopsy photographs.

Opinion

Time of death: 19:32, 9/24/16 (from police interviews of witnesses), confirmed by physical examination.

Immediate cause of death: Gunshot wound to the chest, lacerating the heart.

Manner of death: Damage to the heart, causing cardiac arrest.

Robert Culpepper, M.D.
Mason County Coroner
September 26, 2016

Exhibit 3

Masonville Police Department -- Report

Case No.: 2016-1351	Date: 9/30/16	Type: Fatal Accident
Officer: Choo #1469	Time: 09:11	Location: Clear Crk Road
Further Reports:	Disp.: closed	Warrants: Chris O'Malley 1
Person:		
Address:		
Phone:	Sex:	Race: DOB:
Narrative:		
<p>On 9/30/16 I received the results of the blood draw on Chris O'Malley. The blood had been drawn with his permission about 45 minutes after we arrived at the scene of the shooting.</p> <p>The Lonestar crime lab technician reported that Mr. O'Malley's blood alcohol level at the time of the blood draw was .22% abv. The technician stated that the average rate of reduction in blood alcohol level after reaching peak level is between .015% and .020% per hour. Based on my calculations, Mr. O'Malley's blood alcohol level at the time of the shooting was approximately .24% to .25%.</p> <p>A copy of the test results is attached.</p>		
Reporting Officer: Choo	Badge: 1469	Supervisor: Alexander

Exhibit 3

State of Lonestar – State Patrol

Bureau of Forensic Services

State Laboratory
1800 Steven Austin Avenue
Spur City, Lonestar 99432

Blood Alcohol

Lab Report: H016-08542-1

Report Date 9/27/16

Case: Homicide

Incident Number: Masonville City Police 2016-1351

Subject: Chris O'Malley (suspect)

Place: Clear Crk Road near milepost 14, Mason County

Date: 9/24/16

From: Officer James Choo

Submission: Item 1 was submitted by Officer Choo to technician Grant Knowles

- Items: 1. One sealed Blood Alcohol Kit
1.1 Whole blood specimen collected from Chris O'Malley

Conclusions: Headspace gas chromatographic analysis of the blood specimen resulted in the identification of ethyl alcohol in the amount of two hundred twenty-two thousandths of one gram percent (0.222%) by weight in whole blood.

THE BLOOD SPECIMEN WILL BE RETAINED FOR A MINIMUM OF THIRTY DAYS FROM THIS REPORT DATE, THEN DESTROYED OR MAY BE USED FOR INTERNAL LABORATORY PURPOSES WHICH MAY RENDER IT UNSUITABLE FOR REANALYSIS.

THE INDIVIDUAL WHO CONDUCTED THIS ANALYSIS WILL BE AVAILABLE FOR SUBSEQUENT JUDICIAL PROCEEDINGS.

September 27, 2016

Grant Knowles, Certified Technician

Exhibit 4

Release and Settlement Agreement

Releasing Party: Judy Green, Personal Representative of the Estate of Bill Green.

Released Parties: See below.

Date: May 5, 2017

Payment: \$5,000 (USD)

For and in consideration of the payment of five thousand U.S. dollars (\$5,000), and further consideration described below, Judy Green, personally and as Personal Representative of the Estate of Bill Green, releases Chris O'Malley, his spouse if married, his insurers, heirs, assigns, beneficiaries, employees, and agents of and from all claims, causes of action, and liability arising out of or connected with the death of Bill Green. Judy Green preserves all claims or actions Green has or may have against others, including but not limited to Jan Alexander and any marital community of which Alexander is a part.

This is a disputed claim, and fault is denied by all parties to this agreement.

Chris O'Malley agrees to cooperate fully with the prosecution of any claims against others, and not to cooperate with the defense of those claims in any way unless ordered by a court of competent jurisdiction or subject to legal process.

The parties agree to keep this settlement confidential, and this confidentiality provision is assigned the value of \$1. This agreement can be disclosed pursuant to court order, and it may be disclosed to attorneys for Green or O'Malley, and to tax professionals.

If anyone, including any insurance company, or any arm of the government, claims that they are entitled by claim or lien of any kind, to part of this settlement, both Green and Green's attorney, agree to defend O'Malley from any such claims whether they are valid or not, and to pay those claims if they lose.

The releasing party or parties do not rely on anyone's representations about injuries or damages in entering this release. The releasing party or parties hereby release any claim of fraudulent inducement to enter into this settlement, and the releasing party or parties hereby expressly waive any similar claim in the future about this settlement. The parties intend that this release be interpreted as broadly as the law allows. This release contains the entire agreement between the parties hereto, and the terms of this release are contractual, and not mere recitals.

This agreement is negotiated, and neither party is author, both having contributed to the language of the agreement.

5/5/2017 Judy Green

Date

Judy Green, Personally and as Personal Representative of the Estate of Bill Green

5/5/2017 Chris O'Malley

Date

Chris O'Malley

Exhibit 5



Exhibit 6



Exhibit 7

September 30, 2016

Lonestar State Patrol

Official Report of State Firearms Examiner's Office

Matthew Honoré, Certified Firearm Examiner

On September 29, 2016, I received a firearm in a sealed evidence bag from Deputy Grant Pennington, of the Mason County Sheriff's Office. He delivered that in person at 11:43 a.m. on September 29, 2016, and I signed an evidence receipt for the firearm, gave it to Deputy Pennington, and he left.

I opened the clear evidence bag and removed a Ruger Mark IV .22 caliber semiautomatic pistol, serial number WBR 100617. The magazine for the pistol was in the bag, also, and I removed the magazine. I checked and cleared the chamber of any rounds, and I found the chamber to be empty. The firearm had been fired, and apparently had not been cleaned since it was fired. There was fingerprint residue on the outside of the firearm, showing that the firearm had been checked for prints. I handled the firearm with latex gloves in order to disturb prints on the weapon as little as possible.

I examined the Ruger and found it to be in apparent working order. I observed no broken or excessively worn parts on the Ruger. The firearm appeared to have very little use.

I opened a box of 40 American Eagle .22 long rifle 38 grain hollow point rounds, and test fired 3 magazines of 10 rounds each. The firearm worked as designed. No rounds misfired, and Ruger cycled as designed, with no jams.

I then loaded the magazine a fourth time, inserted it in the firearm, chambered a round, and withdrew the magazine. The firearm fired the round with the magazine withdrawn.

I then inserted the magazine, chambered a round, and attempted to fire the round with the safety on. The pistol did not fire. I then tried hitting the butt of the pistol with force, using a rubber hammer. The pistol did not fire accidentally. I then set the safety to half on and half off. At that setting I was unable to fire the Ruger by pulling the trigger, or by hitting the butt of the pistol with the rubber hammer.

I then unloaded the pistol, and put the pistol and the empty magazine back in the evidence bag, resealed the bag, and put the bag in our office safe. Earlier today, Deputy Pennington returned to my office, took possession of the firearm and magazine in the evidence bag, and left.

Matt Honoré, Certified Firearms Examiner

Exhibit 8

April 16, 2017

Lonestar State Patrol

Supplemental Official Report of State Firearms Examiner's Office

Matthew Honoré, Certified Firearm Examiner

On December 16, 2016 I received from the Marshall County Sheriff's office a faxed recall from Ruger, a firearms manufacturer, discussing a recall of certain Ruger Mark IV .22 caliber pistols. Later that day I was brought the Ruger Mark IV .22 caliber semiautomatic pistol, serial number WBR 100617 that I had tested in September.

The recall discussed a possible problem with the firearm safety mechanism.

I determined that the serial number of the firearm was within the range of the recalled firearms.

I then tested the firearm again, using a full box of 40 American Eagle .22 Long Rifle hollow-points. I repeated the procedure warned of in the recall by setting the safety lever midway between on and off, pulling trigger, and then moving the safety to the off or fire position. In 40 rounds, the pistol did discharge 2 times, on the 17th and 28th tries.

I then unloaded the pistol, and put the pistol and the empty magazine back in the evidence bag, resealed the bag, and put the bag in our office safe. Earlier today, Deputy Pennington returned to my office, took possession of the firearm and magazine in the evidence bag, and left.

The following documents accompany this report:

Ruger Recall Notice

Picture of weapon

Picture of weapon safety positions

Matt Honoré, Certified Firearms Examiner

Exhibit 9A

RUGER®

Dear Ruger Customer,

We are reaching out to you because we believe that you may have purchased a Mark IV™ pistol. In case you are not aware already, we have recalled all models of the Mark IV™ (including 22/45™ variants) manufactured prior to June 1, 2017. **Mark I, Mark II™ and Mark III™ pistols are not affected by this recall.**

We are issuing this recall because we have recently learned that certain Mark IV™ pistols, including 22/45™ variants, have the potential to discharge unintentionally if the safety is not utilized correctly. In particular, if the trigger is pulled while the safety lever is midway between the "safe" and "fire" positions, that is, the safety is not fully engaged or fully disengaged, then the pistol may not fire when the trigger is pulled. However, if the trigger is released and the safety lever is then moved from the mid position to the "fire" position, the pistol may fire at that time.

We are asking all Mark IV™ owners to visit the recall website at Ruger.com/MarkIVRecall and sign up for the recall. You will be able to enter your serial number to determine whether your pistol is subject to the recall. If it is, you will be asked to provide contact information so that we can send you a box and shipping label to return your pistol's grip frame assembly to us for retrofitting. Please be advised that we will ship boxes on a first-come, first-served basis. Once we receive your grip frame assembly, we will do our best to return it to you within one week of receiving it. We therefore encourage you to sign up for the recall as soon as possible, if you have not already done so.

If you no longer own your Mark IV™ pistol, we would greatly appreciate your assistance in helping to spread the word to the current owner of the pistol. If you are willing to share this information, please contact our Recall Hotline at 1-800-784-3701 to provide it to a Ruger Customer Service representative.

Until your Mark IV™ pistol has been retrofitted or you verify that it is not subject to the recall, we strongly recommend that you do not use your pistol.

While we sincerely regret the need to issue this recall, our motto is, and has been for many years, "Arms Makers for Responsible Citizens®." We are firmly committed to safety and appreciate your patience and cooperation.

Thank you,
Sturm, Ruger & Co., Inc.

Serial Number WBR 100617



STURM, RUGER & CO., INC. | 200 RUGER ROAD | PRESCOTT, ARIZONA 86301 USA

Exhibit 9B



Exhibit 9C

Safety Off:



Safety On:



Safety Half-Engaged:



Exhibit 10

Masonville Police Department -- Report

Case No.: 2016-1351	Date: 9/24/16	Type: Fatal Accident
Officer: Choo #1469	Time: 17:30	Location: Clear Crk Road
Further Reports:	Disp.: closed	Warrants: Chris O'Malley 1
Person:		
Address:		
Phone:	Sex:	Race: DOB:
Narrative:		
<p>Officer Valdez and I responded to a radio dispatch to Chief Alexander's hunting lodge on Clear Creek Road.</p> <p>Being my senior officer, Mo Valdez assigned me to gathering and custody of physical evidence.</p> <p>Upon learning that Chris O'Malley had fired the round that apparently killed Bill Green, I asked an ambulance technician, Kelly Knowles, to secure blood samples from O'Malley with his permission, which I heard O'Malley give to Knowles. Knowles handed me two vials of blood, which Knowles had labeled properly. I secured them in a plastic evidence bag, and sent them to the crime lab upon my return to Masonville.</p> <p>I gathered 36 shell casings of various calibers near the target shooting area, and I put them each in evidence bags, numbered 1 through 36.</p> <p>I found one shell casing, apparently a .22 long rifle rimfire, near the area where the body of Green was found. I put that in an evidence bag, marked 37.</p> <p>I searched the house for firearms, with permission from the Chief. In the Chief's bed, under the covers, I found three pistols, a Ruger .44 magnum revolver, a Smith and Wesson 9 mm semi-automatic, and a Ruger Mark IV semi-automatic. I checked the firearms, and all were unloaded. The semi-automatics had the magazines removed. I also found two magazines, one apparently for the Smith and Wesson, and the other for the Ruger .22. I placed all those in separate evidence bags, numbered 38, 39, 40, 41, and 42.</p> <p>Because Chris O'Malley had told officer Valdez that O'Malley fired the .22, I checked its magazine, which had 9 live rounds in it. The rounds in the .22 magazine matched the shell casing, apparently, that I marked evidence 37.</p> <p>I found 4 liquor bottles on a table, and I photographed those. I then placed them in evidence bags marked 43, 44, 45, and 46. The bottles each were partly or totally</p>		

Exhibit 10

consumed, and my photos will show the level of liquor in each bottle. There were several empty wine bottles in the trashcan outside the back door of the cabin and one empty wine bottle in a bedroom. The Chief said the bedroom had been assigned to O'Malley and Pat Collins. I took a picture of the wine bottle and then placed it in evidence bag marked 47.

The deceased Mr. Green had his clothing cut off him by the ambulance personnel, and I placed that clothing in a large evidence bag and marked it 48.

Reporting Officer: Choo Badge: 1469 Supervisor: Alexander

SUPERIOR COURT OF LONESTAR
IN AND FOR THE COUNTY OF MASON

JUDY GREEN, Personal Representative)	
of the Estate of Bill Green, deceased,)	
Plaintiff,)	
)	
vs.	)	Cause No. 18-263CV
)	
JAN ALEXANDER,)	
Defendant.)	

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 light of all the evidence in the case and in light of your own experience and common sense.

The issues for your determination are (1) whether the death of Bill Green was caused by the fault or negligence of defendant Jan Alexander, (2) if Bill Green's own fault or negligence contributed to his/her death, (3) whether Chris O'Malley's fault or negligence contributed to Bill Green's death, and (4) the percentages of negligence or fault, if any, of each. In that regard, you are instructed that plaintiff Judy Green has the burden of proof on the negligence or fault claim against Jan Alexander, meaning that Judy Green must convince you by a preponderance of the evidence that Bill Green's death was the result of Jan Alexander's fault, if any. You are further instructed that Jan Alexander has the burden of proof on the claim that Bill Green's death was caused in whole or in part by his own fault or negligence, if any, or by the fault or negligence of Chris O'Malley.

You are instructed that the term "negligence" or fault 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 of a statute which I will read you. Lonestar Civil Code Section 19.536 provides as follows regarding the service of alcoholic beverages:

- (1) All common law causes of action for damages arising out the service of alcohol are abolished and replaced by this statute, The Lonestar Dramshop Act.
- (2) It is unlawful for any person or entity to serve or otherwise provide alcohol to a person who is visibly intoxicated. Such service constitutes "fault" under section 19.531.
- (3) Any person with bodily injury or property damage foreseeably caused by an intoxicated person has a civil action under this Act against any person or entity who served or otherwise provided alcohol to that intoxicated person while that person was visibly

intoxicated. An intoxicated person who is injured does not have an action against the person who served or otherwise provided him or her the alcohol.

- (4) Visible intoxication can be proved by direct or circumstantial evidence, including blood alcohol content. A person with .08% or higher blood alcohol content by volume is presumed to be visibly intoxicated.
- (5) A person serving or otherwise providing alcohol to a visibly intoxicated person is barred from recovering under section (3) of this Act.

“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.

It is the duty of the owner or possessor of land or a structure to make the premises reasonably safe for invitees or licensees, including any activities conducted on the premises.

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 Bill Green’s death was proximately caused, in whole or in part, by the negligence or fault, if any, of Jan Alexander, of Mr. Green

himself, or of Chris O'Malley, or any of them. If you find that any party was negligent or at fault, you may hear additional argument from the attorneys and testimony from additional witnesses concerning damages. Unless and until that proceeding occurs, 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.

SUPERIOR COURT OF LONESTAR
IN AND FOR THE COUNTY OF MASON

JUDY GREEN, Personal Representative)	
of the Estate of Bill Green, deceased,)	
Plaintiff,)	
)	
vs.	)	Cause No. 18-263CV
)	
JAN ALEXANDER,)	
Defendant.)	

VERDICT FORM

JURY QUESTION NO. 1

Did the negligence, if any, of the parties below proximately cause the death of Bill Green?

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

- 1. Jan Alexander _____
- 2. Bill Green _____
- 3. Chris O'Malley _____

If you have answered "yes" with respect to more than one party in response to Jury Question No. 1, answer the following Jury Question No. 2; otherwise, do not answer the following Jury Question.

JURY QUESTION NO. 2

What percentage of the negligence that caused the death of Bill Green 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. Jan Alexander _____

2. Bill Green _____

3. Chris O'Malley _____

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