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# **Minnesota Mock Trial Program**

**The 2002-2003 Case:  
State of Independence**

**v.**

**Terry C. Jackson**

Sponsored as part of the public service activities of the  
Minnesota State Bar Association  
Administered by Minnesota Law-Related Education, Inc.

**MSBA**  

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# **Minnesota High School Mock Trial Champions**

- 2002 South - Minneapolis**
- 2001 Meadow Creek Christian - Anoka**
- 2000 Meadow Creek Christian - Anoka**
- 1999 South - Minneapolis**
- 1998 Fergus Falls**
- 1997 St. Thomas Academy - Mendota Heights**
- 1996 Eden Prairie**
- 1995 Dassel-Cokato - Cokato**
- 1994 Christ's Household of Faith - St. Paul**
- 1993 Kennedy - Bloomington**
- 1992 South - Minneapolis**
- 1991 Visitation - Mendota Heights**
- 1990 South - Minneapolis**
- 1989 Chisago Lakes**
- 1988 Waseca**
- 1987 Waseca**

**2002-2003  
Minnesota  
High School  
Mock Trial Program**

**MSBA**



**Sponsored By  
Minnesota State Bar Association**

**Definition**

The Minnesota High School Mock Trial Program is a law-related education program which will introduce your students to the American legal system and provide a challenging opportunity for personal growth and achievement. As part of the mock trial program, your students will exercise in a real-life setting their critical thinking abilities as well as the basic skills learned in the classroom.

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**Objectives**

Through participation in mock trials, students gain a practical understanding of the way in which the American legal system functions. While learning the details of trial process and procedure, students also develop important lifetime skills: critical analysis of problems, reasoning, listening, oral presentation and extemporaneous argument. Mock trials provide an active learning opportunity for students and require a high level of cooperation among participants.

**For More Information**

Information about the Minnesota High School Mock Trial Program is available on our website at:

**[www2.mnbar.org/mocktrial/](http://www2.mnbar.org/mocktrial/)**

Or you can contact program staff listed below:

**Lisa Wilde, Director of Public Education  
lwilde@statebar.gen.mn.us**

**or**

**Karen Howell, Mock Trial Manager  
khowell@statebar.gen.mn.us**

**612-333-1183 or 800-882-6722**

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- Sieben, Grose, Von Holtum & Carey
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**And the over 800 judges and attorneys who serve as mock trial judges and coaches.**

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**2002-2003 MINNESOTA HIGH SCHOOL MOCK TRIAL PROGRAM**

**CASE MATERIALS AND SUPPORT DOCUMENTS**

Sponsors:

Minnesota State Bar Association

Minnesota Law-Related Education

Adapted from the Mock Trial Program  
of the Arizona Bar Foundation

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speed limit on Elm is 30 mph for residential traffic. There is not a marked crosswalk at the corner of Elm and Magnolia but 100 yards from the corner is a sign that says “Caution Pedestrians.”

As the car approaches Magnolia, Terry sees another car in the middle of the street with its left turn signal flashing. Terry moves to the far right to pass and make a right turn onto Magnolia. Terry also reaches to eject the CD which Renee, in the back seat has asked for, so she can take it with her.

Sam/antha yells “Watch out!” Terry looks up and sees that a student walking a bike is emerging from in front of the car with the turn signal, and s/he is heading toward campus. Terry slams on the brakes and swerves right to avoid the student. After the Suzuki hits and runs up the curb, the vehicle rolls over. The car misses the student but slides and crashes into the pole for the traffic signal. Terry and Sam/antha are hurt but survive as both were restrained by their seat belts in the front bucket seats. However, Renee was sitting in the back and was not wearing her lap belt (she hated lap belts and insisted that they did not fit right with her skirt). Renee was ejected from the car and killed.

The State has charged Terry Jackson with negligent homicide in the death of Renee Carter.

## **THE LAW: Applicable Statutes**

### **IRS 13 – 1102 Negligent Homicide; classification**

- A. A person commits negligent homicide if with criminal negligence such person causes the death of another person.
- B. Negligent homicide is a class 4 felony.

### **IRS 13 – 105 Definitions**

In this title, unless the context otherwise requires:

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- 6. “Culpable mental state” means intentionally, knowingly, recklessly or with criminal negligence as those terms are thusly defined:
  - a. “Intentionally” or “with the intent of” means, with respect to a result or to conduct described by statute defining an offense, that a person’s objective is to cause that result or to engage in that conduct.
  - b. “Knowingly” means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or believes that his or her conduct is of that nature or that the circumstance exists. It does not require any knowledge of the unlawfulness of the act or omission.
  - c. “Recklessly” means, with respect to a result or to a circumstance described by statute defining an offense that a person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard of such risk constitutes a gross deviation from the standard of conduct that a reasonable person would observe in that situation. A person who creates such a risk but is unaware of such risk solely by reason of voluntary intoxication also acts recklessly with respect to such risk.
  - d. “Criminal negligence” means, with respect to a result or to a circumstance described by statute defining an offense, that a person fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in that situation.

## THE LAW: Applicable Cases

“The general rule is that negligent homicide is a lesser included offense of manslaughter. In *State v. Parker*, 128 Ind. 107, 624 P.2d 304 (App. 1980), *vacated in part on other grounds*, 128 Ind. 97, 624 M.2d 294 (1981), the Court of Appeals determined that the only difference between manslaughter and negligent homicide is an accused’s mental state at the time of the incident. See also *State v. Montoya*, 125 Ind. 155, 608 M.2d 92 (App. 1980). Manslaughter is established where a person, aware of a substantial and unjustifiable risk that his or her conduct will cause the death of another, consciously disregards that risk. Negligent homicide is established where a person fails to perceive the substantial and unjustifiable risk that his or her conduct will cause the death of another. The element of the greater not found in the lesser is awareness of the risk.”

***State v. Fisher*, 141 Ind. 227, 247, 686 M.2d 750, 770 (1984)**

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“While it is true that in a criminal prosecution for negligent homicide the contributory negligence of the deceased is not a defense, *State v. Nerison*, 28 Minn. App. 659, 661, n.1, 625 M.2d 735, 737, n.1 (1981), the trier of fact may still consider the decedent’s conduct when determining whether the defendant’s act was criminally negligent. See *Wren v. State*, 577 M.2d 235, 238 (Ind. 1978); *Williams v. State*, 554 M.2d 842, 845 (Lib. Cr. App. 1976); *State v. Nerison*, *supra*. In the instant case, the decedent’s conduct may be relevant because her failure to yield the right of way could relieve the defendant of criminal responsibility. For example, the defendant might prove he expected the victim to yield and, therefore, did not slow down as he approached the intersection. The jury might therefore conclude that the defendant’s failure to slow down was not criminal negligence, i.e., ‘a gross deviation from the standard of care that a responsible person would observe in the situation.’ IRS 13 – 105(6)(d).”

***State v. Shumway*, 137 Ind. 585, 588, 672 M.2d 929, 932 (1983)**

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***State v. Ind.*, 125 . 155, 608 M.2d 92 (App. 1980) attached.**

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“The state has the burden of proving the defendant guilty beyond a reasonable doubt. In civil cases, it is only necessary to prove that a fact is more likely true than not or that its truth is highly probable. In criminal cases such as this, the state’s proof must be more powerful than that. It must be proof beyond a reasonable doubt.

Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt. There are very few things in this world that we know with absolute certainty, and in criminal cases the law does not require proof that overcomes every doubt. If, based on your consideration of the evidence, you are firmly convinced that the defendant is guilty of the crime charged, you must find him/her guilty. If, on the other hand, you think there is a real possibility that he/she is not guilty, you must give him/her the benefit of the doubt and find him/her not guilty."

***State v. Portillo*, 182 Ind. 592, 596, 898 M.2d 970, 974 (1995) quoting Federal Judicial Center, *PATTERN CRIMINAL JURY INSTRUCTIONS 17-18 (Instruction 21) (1987)*. This instruction was mandated to be given in all criminal cases in Independence after January 1, 1996.**

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**STATE WITNESSES:**

- 1. Pat Jones**
- 2. Chris Nelson**
- 3. Officer Fran/k Demlong**

**DEFENSE WITNESSES:**

- 1. Terry Jackson**
- 2. Sam/antha Carter**
- 3. Jack/ie Payne**

## **AFFIDAVIT OF PAT JONES**

1. My name is Pat Jones. I am fifty-eight (58) years old. I reside at 7162 Vermont St. N., which is approximately three blocks from West High School. I have lived in my current location for twenty-five years. My two grown children both attended West High School.
2. The neighborhood around West High School is residential. There are longstanding neighborhoods on three sides of the school, across from Elm, Maple and Cutler streets. Magnolia, which runs along the front of the campus, is a normal cross street.
3. The speed limit on Elm, Maple and Cutler streets is 30 miles per hour. The speed limit on Magnolia is 40 miles per hour.
4. Over the years, the traffic around the high school has grown enormously. It seems like every student gets a car these days when they turn sixteen years old. Students always seem to be coming and going from the school between about 7:30 in the morning and about 4:00 in the afternoon. At my house, I often hear the squeal of tires and the roar of “souped up” engines from the students while I work in my yard.
5. Around lunchtime, from approximately 11 am to 1:30 pm, the number of students racing to and from the high school is enormous. Other neighbors and I have complained to the principal and the school board about our belief that the safety of the surrounding neighborhoods is compromised when the students try to hurry off campus to eat lunch and then return. I am so concerned that I generally try to never drive by the school at this time. This means I am limited in not leaving or returning to my house in the middle of the day, which is very frustrating. Obviously, sometimes I cannot avoid driving at this time but I sure try.
6. On October 18, 2002, I had a doctor’s appointment at 1:30 pm. I tried to get a later one but would not have been able to see the doctor for three days unless I took this appointment. The doctor’s office is about 20 minutes away, so I left my house about a half hour before my appointment. I went down to Elm and made a right turn to go down to Magnolia.
7. I drove to the corner of Elm and Magnolia and stopped to turn left onto Magnolia. Elm is a normal residential street with no line down the middle of the road. I stopped in the middle of the street to wait for the traffic on Magnolia to allow me to turn left. It was around 1:00 in the afternoon, probably a few minutes before the hour. The sun was shining and it was a pretty October day; the leaves were beautiful and there were a lot on the ground. I remember I was thinking we were having a real fall, instead of just going right into winter.
8. As I waited to turn left, a student began to cross Elm walking a bicycle. The child had been standing on the corner when I stopped and looked to see what I was going to do. Since I had to wait for the traffic to stop before I could turn left, I signaled that s/he could cross. There is not a marked crosswalk at this corner. In fact, there are no marked crosswalks at any of the corners around the West High campus. But there are signs on all the surrounding streets that say to watch out for pedestrians. There is one on Elm about half a block before the intersection with Magnolia.

9. At about this time, I don't know if I heard or sensed a car coming behind me. I looked up in my rear view mirror and saw a white Suzuki coming very fast behind me. My first thought was they are going too fast – I bet it is kids going to the high school. The entrance to the parking lot is on Magnolia and so students often go fast down Elm so they can turn on Magnolia and go to the parking lot. As I watched the car, and it all happened so fast, maybe a few seconds, I thought I hope they stop and don't rear-end me.
10. I quickly looked forward to see if I could turn, and saw that the student and the bike were just now crossing passing the front of my car and were almost to the corner. At that moment, I heard an awful squeal of brakes and tires. I was sure I was going to be hit! I closed my eyes. The next thing I knew I heard a terrible crash but I did not feel anything.
11. I opened my eyes and saw the student with the bike still in the street just a foot or so from my car. I also saw the Suzuki where it apparently crashed into the traffic signal pole. The Suzuki was lying on its left side and was almost all on the sidewalk. I sat in my car and was literally shaking. I do not know how long I just sat in my car and stared. Several students came to the Suzuki and helped the occupants from the car. They all looked like students.
12. The police and fire department arrived in what seemed like just minutes. I felt in a daze. I believe some of the students in the car were taken to the hospital. I do not know what happened to them.
13. I spoke to a police officer who told me I could move my car from Elm. I told the police everything I could remember about the accident. It all happened so fast. The police took my name and said they would contact me if they needed anything else.
14. In 1999, my daughter Katherine was seriously injured in an automobile accident in St. Paul. She was hit by a nineteen-year-old U student who was intoxicated. Luckily, Katherine is fine now except for some lingering back pain. However, for a while, we thought she was going to be paralyzed. Young people never seem to realize the fact that an automobile can be a dangerous weapon.

FURTHER AFFIANT SAYETH NOT.

/s/  
Pat Jones

November 1, 2002  
Date

## AFFIDAVIT OF CHRIS NELSON

1. My name is Chris Nelson. I was born on April 12, 1985. I am a senior at West High School.
2. I am a classmate of Terry Jackson and Sam/antha Carter. We are all in the same grade and have gone to the same school since third grade. I am a friend of Terry Jackson. We were really close all through elementary school and our freshman year at West High. However, over the course of high school we have not done as much together as we used to. I know Sam/antha also but we have never been close friends. I also knew Sam's sister Renee a little. I mean, she was a couple of years younger than us so we never paid much attention to her.
3. I live about half a mile from school and generally ride my bike. I also generally go home for lunch because I can "chill out" and watch TV. My parents are not home and I have the house to myself. It only takes about 5-10 minutes to go each way depending on how long I have to wait to cross Elm because of the traffic.
4. Classes at West High are fifty minutes long. They begin at five minutes past the hour and end at five minutes before the hour. This allows us ten minutes to go from one class to another. My lunch period is from 12:05 to 12:55. However my next class does not start until 1:05. Thus I usually stay at home until about 12:50 before hopping on my bike and going back. I have never been tardy returning from lunch this year.
5. When we were freshman, both Terry Jackson and I rode our bikes to school. Terry lives about a quarter mile or so further from the school than I do. He used to come over and we would ride together. He would then often come over for lunch. However, as I said, we do not hang out together as much since freshman year. Also, I do not think Terry has ridden his bike at all since he got his Suzuki from his parents for his sixteenth birthday.
6. Many kids leave campus for lunch. Most go out for food and complain about how little time they have. That is because they go to places that are far away for their "favorite" food. Also they sit around, talk until the last minute, and then are late if they hit a red light. I don't think getting back in time is so hard, but everyone thinks I am a "geek" for going home for lunch.
7. On October 18, 2002, I went home for lunch. I watched a soap opera on TV and ate a sandwich. I left as they began the commercials at the end of the show. I cannot believe how many commercials there are at the end of a show. They could add an easy three to five minutes if they did not have so many commercials.
8. I rode to the corner of Elm and Magnolia across from school. I reached the corner and got off my bike to cross the street. You have to be careful at the streets around the school because there are a lot of students driving around, especially at lunchtime.
9. I looked and saw a car stopping to turn left. I was going to wait until they were gone, when the "gray hair" driving signaled me to cross. I thought, "Alright, you don't have to ask me twice." I started to walk my bike across the street. I was looking no place in

particular and just thinking about how I really did not want to go to my next class, which was Physics.

10. I was about two-thirds of the way across Elm, just passing the car, when I looked up the street. I froze because I saw Terry's Suzuki speeding towards me. I did not see Terry. I think s/he was bending down. I thought "Terry, don't hit me!"
11. The next thing I remember is seeing Terry looking up at me and the car swerving up on the curb by the school. The car seemed to bounce and start to swerve again. It was almost to me, and I still thought I was going to be hit. Then it flipped on its side and slid past me. It made a horrible screeching sound. I could not believe I was not hit, not even my bike.
12. I saw the car go by me and it just slammed into the pole on the corner that held the street light. Everything happened so fast and yet it seemed like slow motion. I ran across the rest of the street and threw down my bike. I ran to the car with a group of other students. I was going to give Terry a piece of my mind since s/he almost killed me.
13. When we got to the car, Terry was helping Sam/antha from the car. S/he was crying about her arm. Terry looked like he had a cut on his/her head. Sam was yelling for Renee. I thought s/he was crazy, since I did not see Renee. However, some kids later called to us that Renee was in the grass back where the car flipped. I never saw her leave the car.
14. The police and fire department arrived and took Terry, Sam/antha and Renee away. I told them I saw the whole thing. I was not going to tell them that Terry almost hit me; I didn't want Terry to get in trouble. But the person in the car told them about me and so I had to come clean and tell them how close it really was.
15. I don't know why the car flipped. I honestly thought Terry was going to swerve back into the street and hit me.

FURTHER AFFIANT SAYETH NOT.

/s/  
Chris Nelson

November 4, 2002  
Date

## **AFFIDAVIT OF OFFICER FRAN/K DEMLONG**

1. My name is Fran/k Demlong. I am police officer with the City of Liberty Police Department. My badge number is 4670. I have been a police officer for fourteen (14) years.
2. I was trained in accident investigation techniques at the time of my initial training at the Liberty Police Academy. I have also received advanced training in accident investigation at the Independence Department of Public Safety Accident Investigation Institute in 1990. I became a certified accident reconstructionist by the National Safety Council in 1994 following completion of the appropriate class and field work. I teach a course in accident investigation skills to new recruits at the Liberty Regional Police Academy.
3. I have investigated hundreds of traffic accidents during my career as a Liberty Police officer and now am part of a special group that is called to investigate rollover accidents. I became a part of this special "rollover group" in 1998.
4. I received a call at 1325 on October 18, 2002 to report to the corner of Magnolia and Elm near West High School. Officers on the scene had reported a single car rollover with serious injuries and I was dispatched to conduct the accident investigation. Apparently, the officers at the scene believed that one or more of the injured parties may not survive and criminal charges might be filed.
5. Upon my arrival at the scene, I took measurements of the skid marks and evaluated the other physical evidence such as the vehicle itself. I also interviewed witnesses to the accident including but not limited to Chris Nelson, Pat Jones and several high school students.
6. I also traveled to the hospital and interviewed Sam/antha Carter. S/he told me that Renee Carter was sitting forward in the back seat asking Terry for the CD right before the accident. Renee was not wearing a seat belt because it always wrinkled her skirt. Sam/antha looked up and saw the pedestrian and bike and yelled, "Watch Out!" Sam/antha said Terry yelled "Oh no" and the next thing Sam remembers they were rolling over and hitting the pole. Sam does not remember Renee being thrown from the car.
7. I also interviewed Terry Jackson at the hospital with his/her parents' permission. Terry stated s/he was driving down Elm returning to school from lunch. Renee was worried about being late to her next class and having her parents notified that she had left campus under the school policy. Terry said s/he told her not to worry they would be back in time. Terry stated s/he felt they had plenty of time. S/he does not know exactly how fast he was going on Elm but is sure it was not faster than traffic normally goes on the street. Terry insisted they were not speeding. Based on my field investigation, I cited Terry at the hospital for speeding.
8. With regard to the accident, Terry stated it was simply a freak occurrence. S/he ejected the CD for Renee and was giving it to her when Sam/antha yelled "Watch out." Terry looked and saw Chris Nelson crossing the street. Terry says s/he put on the brakes and the car pulled to the side and hit the curb. Terry was turning back into the road when the car rolled over and slid into the pole.

9. From the length of the skid marks, the damage to the vehicle, the distance the vehicle rolled and based on my training, I calculated the speed of the Suzuki to be between 47 and 50 miles per hour immediately before the accident. This is substantially above the 30-mile-per-hour speed limit for a residential street and a definitely hazardous speed so close to a high school with a known high amount of pedestrian traffic.
10. There are several signs around the West High campus warning motorists to watch and use caution because of pedestrians. The signs are large and a reflective yellow color. They read "Caution Pedestrians."
11. I have investigated several accidents in the last few years around West High School. In the last four years, 86% of the accidents in a five-mile radius around West High School have involved students who were speeding. The police force generally places officers a few blocks from the school every few months to ticket speeders. It is hoped this will slow everyone down. I must admit however that many of the speeding tickets that are written are not to students. Many people use Elm as a regular thoroughfare and often travel at a speed near forty (40) miles an hour.
12. Based on all the information I gathered, the physical evidence and my conversations with all the witnesses, I believe the accident occurred because Terry Jackson was driving at a greatly excessive speed and was inattentive to his/her surroundings, which caused a situation to develop where there was a substantial and unjustified risk of harm to the people in the Suzuki and anyone around it. When Sam/antha screamed "Watch out!" Terry Jackson panicked and jerked the wheel. The vehicle skidded at a high rate of speed and hit the curb causing the right side wheels to lose contact with the ground. Terry then attempted to quickly turn back to the right, which caused the unbalanced vehicle to tip even more. Given the rate of speed and the jerky movements, Terry Jackson lost control of the vehicle. The vehicle rolled over and slid into the pole.
13. I admit that studies indicate that the Suzuki has a high center of gravity; I know that a few years ago Consumer Reports made reference to the Samurai's rollover stats. However, the vehicle does not roll over by itself. It was the rate of speed and inattentiveness that caused Terry Jackson to lose control of the vehicle. In losing control, there were quick changes of direction that may have contributed to the vehicle rolling over.
14. As part of my investigation, I also checked Terry Jackson's driving record. In 2000 at the age of 16 s/he received a speeding ticket for going 48 miles an hour in a 35-mile-an-hour zone. Terry went to traffic safety school and the violation was erased. The ticket was given at a location about 30 miles from West High School.
15. After completing our investigation, the Liberty Police Department arrested Terry Jackson on November 15, 2002 for manslaughter and negligent homicide.

FURTHER AFFIANT SAYETH NOT.

/s/ \_\_\_\_\_ October 21, 2002 \_\_\_\_\_  
Officer Fran/k Demlong, Liberty P.D. Date

## **AFFIDAVIT OF TERRY JACKSON**

1. My name is Terry Jackson. I was born on September 29, 1984. I am a senior at West High School. On October 18, 2002, I was involved in a motor vehicle accident while driving my 1998 Suzuki Samurai. I was eighteen at the time of the accident.
2. I received my driver's license following my sixteenth birthday. My parents said they would buy me a car if I took the full drivers education course at West High School. This class was both classwork and actual driving. I thought the class was only for "geeks." However, I willingly took the class in exchange for my parents buying me a Suzuki Samurai. It was a cool car. White with a removable top. Since I got an A in drivers ed, my parents even put a CD player in the car.
3. I am really a safe driver. Mr. Maxwell taught the driver education course at West High School. He was a very strict teacher, especially in the actual driving segment. We were drilled in defensive driving skills and techniques. We even took a field trip to Liberty International Raceway where a race driver friend of Mr. Maxwell's lectured to us. We were also allowed to drive a Camaro around the track. It was very cool.
4. I have received one ticket. A few months after I got my license I received a speeding ticket in Cherry Hill. I was leaving a friend's house and was going to be late getting home for dinner. I did not want to get in trouble with my parents since they have this thing about the whole family being home for dinner. I did not think I was speeding but the police officer said I was. It was terrible. My parents grounded me and took away the car for two months. I learned that nothing is worth getting a ticket.
5. I have driven to school since I reached sixteen and got the Suzuki. It is an easy drive because I only live about a mile away. I know this is really close but it is much better driving than riding my bike like I used to do. Also now I can leave campus and go with my friends to lunch. Over the last few years I must have driven to and from school about a thousand times. I could drive there with my eyes shut.
6. I really like West High School. It is a great school and a pretty campus. I am the Student Body Vice-President this year. I am planning to go to the University of Independence next year and study astronomy. They have a great astronomy department. I am in the top 10% of my senior class. Until the accident, life was pretty wonderful.
7. I still cannot believe the accident really happened. Sam/antha, Renee and I went to lunch like we had done a hundred times. It was a normal lunch and we had a good time. We left to return to school in plenty of time. We are all careful about that because of the school's parental notification policy for absences or tardies after a lunch period.
8. I was driving back to school on Jefferson Avenue. That is not the way we went to the restaurant but I thought it might be faster going back. Boy, was I wrong. About halfway to school, at the intersection of Jefferson and Main, the city was installing sewer pipe. They had the entire intersection closed. We had to turn around and detour. This made us a little late going back. Renee was concerned because she

already had one tardy and thought we would be late. I told her not to worry. I was sure we could make it.

9. We made good time on the detour and turned onto Elm next to the school. I told everyone to gather their stuff so we could all go to class as soon as I turned onto Magnolia and went into the parking lot. Renee leaned up between the seats and asked me for the CD we were playing. It was Renee's Beastie Boys CD and she loved it. She wanted to take it with her to help her get through World History. I laughed and told her she was supposed to be listening to Ms. Henry in World History, but I leaned down, ejected the CD, and started to give it to her.
10. All of a sudden, Sam/antha yelled "Watch out!" I looked up and saw Chris Nelson crossing Elm in front of us. I had been looking that way just a second ago and I swear there was nothing but a gray car with its turn signal flashing waiting to turn left. I had moved to the far right so I could go around the car and turn right onto Magnolia. I immediately put on the brakes pretty hard.
11. I do not think I turned the wheel. I only remember putting on the brakes. Anyway the car seemed to swerve to the right and bumped up onto the curb. I knew from class that it would be harder to stop on uneven ground so I was going to turn back onto the road and maybe try to do a U-turn and avoid everything. However, before I could do anything the car was airborne and we rolled. I don't know what happened. Once we rolled there was nothing I could do and we went into the traffic pole.
12. When we hit the pole, I hit my head on the side window or support; I am not sure which one. It hurt some and started to bleed but that was the only injury I had. I was real lucky. My head was bleeding badly but it turned out not to be too serious. It looked worse than it was and I only needed eight stitches.
13. After the accident, we had to stand up and climb out the passenger door window. I unhooked my seat belt and helped Sam/antha out. There were several other students who helped. Sam/antha was yelling that his/her shoulder hurt. I looked for Renee but did not see her. I figured she must have climbed out the back of the car.
14. Once I was out of the car, several people made me lie down. The blood was going in my eyes. I asked about Sam/antha and Renee and they said not to worry. The fire department was there very quickly and sent me to the hospital. They were concerned about neck injury and concussion and placed me on a backboard. Luckily, I did not suffer any of those types of injuries.
15. In the hospital, my parents and I spoke to Officer Demlong. I stated everything I could remember about how the accident occurred. I learned that Sam/antha was going to be fine, but that Renee was seriously injured. I was shocked. Apparently, she had not been wearing her seat belt and was thrown out when the car rolled. I thought she was wearing her seat belt. I always tell everyone to put on his or her seatbelt.
16. At the hospital, Officer Demlong cited me for speeding. I do not believe I was speeding. I know the speed limit is 30 miles per hour and I feel that is how fast I was going. I was not in any hurry and I was going just what everyone goes on Elm. I was paying attention to where we going. There was nothing in front or behind us except

for the gray car. I do not know how Chris got in front of us. I never saw Chris until Sam/antha screamed. I did everything I could to avoid an accident.

17. I know that there is a warning on the sunvisor about the Suzuki sometimes rolling over. I saw the warning because it is impossible to miss; it is right in front of you. But I never paid much attention because I never took it offroad or anything. I only drove around town. I admit I never read the entire owner's manual. I only looked in it if I had a question about something, like what the correct tire pressure should be. That is what the salesperson said it was for: as a reference.
18. I have known the Carter family and Sam/antha and Renee since I was a little kid. Sam/antha is probably my best friend. I am so sorry about Renee's death. I cannot believe she is dead. I know the Carters think it is my fault, but I swear I was not speeding and I did everything I could to avoid an accident. When the car rolled over there was nothing more I could do. I do not think I will ever be able to put this accident out of my mind.

FURTHER AFFIANT SAYETH NOT.

/s/  
Terry Jackson

December 2, 2002  
Date

## **AFFIDAVIT OF SAM/ANTHA CARTER**

1. My name is Sam/antha Carter. I was born on November 21, 1985. I am a senior at West High School. Renee Carter was my younger sister. She was born on January 14, 1987. We were both involved in a car accident on October 18, 2002 at the corner of Elm and Magnolia. I was seventeen at the time and Renee was fifteen.
2. On October 18, 2002, Renee and I went to lunch with Terry Jackson. We all have lunch from 12:05 to 12:55. We left campus in Terry's car, a Suzuki Samurai. We went to a Pizza Plus a few miles from campus and had a deep-dish pizza. We like to go there for lunch but sometimes we are almost late getting back to school because they are sometimes busy and it takes 15-20 minutes just to cook the pizza after we order.
3. After lunch, we all got back in the car to return to school. I am not sure what time we left Pizza Plus but I did not think we were really late. We try to keep track of the time because of our school's parental notification policy. To try to keep students from leaving campus for lunch and to ensure they return, our school has a strict policy that if you are tardy or absent to the class following your lunch period twice during a semester, your parents are contacted. Renee had already been tardy once because her class after lunch was on the far south side of the campus and a long way from the parking lot.
4. Our parents have told Renee and me not to leave the school campus except to go home. I am sure they mean well but I don't believe they mean we can't leave for lunch. The food at school is gross and everyone leaves for lunch, especially seniors.
5. We were driving back to school on Jefferson Street. At the intersection of Jefferson and Main Street the entire street was blocked because they were installing sewer pipe. We had to turn around and detour. Renee commented that we needed to hurry because she could not afford to be late because of the detour. She did not want Mom and Dad called by the school. Terry told her not to worry.; saying that we would be back in time no matter what.
6. It was almost 1 o'clock when we turned on Elm. That meant we just had to drive by the school to Magnolia and turn right so we could go in the parking lot. Renee had moved forward in the back seat and asked Terry for the CD we were playing. It was her favorite and she wanted to take it with her. We were all talking how we should grab our stuff and be ready to run for class when we parked.
7. As Terry was ejecting the CD and giving it to Renee, I looked forward and saw Chris Nelson crossing the street in front of us. I have known both Chris and Terry since third grade. I yelled "Watch out!" because I was not sure if Terry had seen Chris and I was afraid. Terry yelled "Oh no."
8. The next thing I remember is the car swerving quickly to the right and going on the curb. Then it seemed to jerk back the other way and roll over. It all happened very fast. We were skidding and there was a lot of noise. I was screaming and I closed my eyes. We hit the pole for the traffic light but missed Chris Nelson.

9. When we hit the pole, I jerked violently forward. I was wearing my seatbelt with a shoulder strap. The strap cut into my arm and really hurt. After the accident, I could hardly stand the pain in my shoulder and chest. I was eventually taken to the hospital. I had a bruised chest, a broken collarbone and some ligament tears in my shoulder. The doctor said this is because I was twisted in my seat when we hit but the seat belt kept me from getting hurt worse.
10. After the accident, I yelled for Renee but she didn't answer. Terry and some other kids helped me out of the car and made me lay down. I started to get up because I wanted to see how Renee and Terry were, but the next thing I remember the fire department was there and they made me stay still and then sent me to the hospital in an ambulance.
11. Since the accident, I have learned that Renee was thrown from the vehicle when we rolled. She suffered massive head and internal injuries and died a week later. I can't believe she is gone. I just don't know why this happened.
12. I know that my parents blame Terry for the accident. However, it was just an accident. We had all driven that street a thousand times. I don't know why the car rolled. I do not think we were going too fast. We might have been going over 30 miles per hour but everyone does. It was a bright sunny day. There was no reason to go that slow.
13. I know there are a lot of kids that cross Elm to get to school. I often cross Elm on my way home. Most kids do not even go to the corner. But we never get hit. This was a freak thing.
14. I know Terry feels terrible about this. Terry would never have risked anyone getting hurt. Also the car was totaled. Terry loved that car. No way Terry would risk an accident. Terry is the only kid I know that actually took a driver education class at school. Terry said it helped with insurance and made him/her a better driver. I think Terry's parents required the class in exchange for the Suzuki. But still, Terry took the class very seriously and got an A.

FURTHER AFFIANT SAYETH NOT.

/s/\_\_\_\_\_

Sam/antha Carter

November 7, 2002\_\_\_\_\_

Date

## AFFIDAVIT OF JACK/IE PAYNE

1. My name is Jack/ie Payne. I have been the owner of Payne Accident Reconstruction for nine yeras. I am a certified accident reconstructionist. I also have extensive training and experience in biomechanics.
2. I graduated from the University of California at Los Angeles in 1978 with a degree in Mechanical Engineering, BSME. I received Biomechanics training in 1989 from the University of Independence. I graduated from the Northwestern University Accident Reconstruction School in 1992 and received my certification in accident reconstruction.
3. I have received additional training in Automobile Vehicle Dynamics and training in Low Speed Rear Collisions from the Society of American Engineers in 1994. I also attended Accidental Injury: Biomechanics and Prevention Training in 1996 from Southern Minnesota State University School of Medicine.
4. I was hired by the parents of Terry Jackson to investigate the rollover of their child's Suzuki Samurai on October 18, 2002. I am charging the Jacksons an hourly rate of \$250 per hour for my time and have charged them a total fee to date of \$7500.
5. As part of my investigation, I visited the scene of the accident and reviewed the physical evidence and skid marks. I talked to Terry Jackson and Sam/antha Carter. I also reviewed the accident report filed by the Liberty Police Department.
6. The primary issues to be investigated were: the speed of the vehicle, the sequence of events before the rollover, whether the rollover was foreseeable or preventable and whether the injuries and death of Renee Carter were the result of Terry Jackson ignoring or failing to perceive a substantial and unjustified risk.
7. I accumulated the data necessary for my conclusions which included not only the items derived from my investigation but also information concerning the weight of the vehicle, statistical information from publications such as Consumer Reports concerning the center of gravity of the vehicle and comparable automobiles, and the opinions of the coroner concerning the injuries suffered by Renee Carter.
8. Calculations were performed by me to determine, among other things:
  - The velocity of the vehicle
  - Sequence of events leading to the accident
  - The forces exerted upon Renee Carter during the incident
  - The propensity of the vehicle to roll over on an uneven surface
9. As a result of my investigation and calculations, I reached the following conclusions:
  - a. The speed of the vehicle prior to the accident was approximately 42-43 mph.
  - b. The normal speed of traffic on Elm during daylight hours is 40 mph.
  - c. A vehicle traveling at 30 mph on Elm would be unsafe as it would impede normal traffic flow.
  - d. The rolling over of the vehicle was not the responsibility or fault of the driver but is the result of an unusually high center of gravity which causes an unreasonably

high likelihood of a rollover when the vehicle is sharply maneuvered on unequal ground.

10. It is my opinion that there was not a substantial or unjustified risk that Terry Jackson's driving might cause injury or death to Renee Carter or anyone immediately prior to the accident. In fact, I believe that Terry would have successfully avoided any mishap if not for the manufacturer of the vehicle constructing it to have a dangerously high center of gravity.
11. Unfortunately, because the vehicle rolled over, the skid marks are not sufficient to determine whether, on the unequal ground of the curb and street, the vehicle could have stopped prior to entering the intersection of Magnolia and Elm.
12. Officer Demlong is simply incorrect in concluding that the cause of the accident is unreasonable speed. Further, without the rollover, it is my opinion that Renee Carter would not have been thrown from the vehicle even considering that she was not wearing her seat belt.
13. There are warnings in the owner's manual and on the driver's sunvisor stating that quick turns or such maneuvers should be avoided because it can cause the vehicle to roll over. However, I believe most people do not read or pay attention to these warnings. The manufacturer should not expect people to be careful about something that the manufacturer can easily remedy by redesigning the car to have a lower center of gravity.
14. I acknowledge that neither the U.S. government or any court to my knowledge has found the Suzuki to be unreasonably dangerous. Nevertheless, just because it has not happened yet does not mean it is not true.

FURTHER AFFIANT SAYETH NOT.

/s/  
\_\_\_\_\_  
Jack/ie Payne

December 19, 2002  
\_\_\_\_\_  
Date

## **EXHIBITS**

1. Map of West High School Campus
2. Driver License Report
3. Vehicles at Risk for Rollover Report
4. Vehicle Warning

Exhibit 1

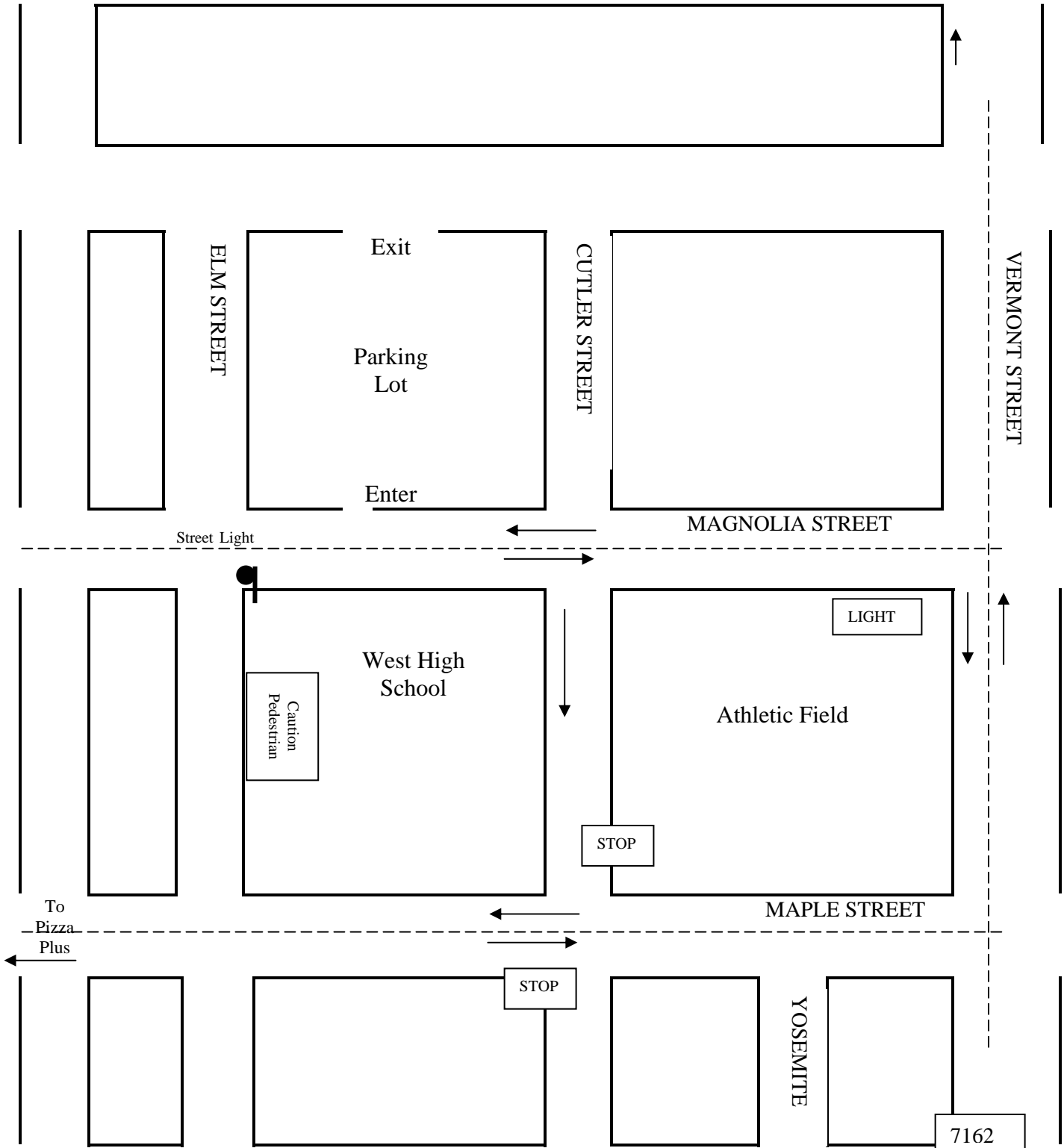


Exhibit 2

# DRIVER LICENSE REPORT

NAME: Terry C. Jackson

LIC. NO. 562348771

Traffic School: Completed on February 17, 2000

MOVING VIOLATIONS:

1. Excessive Speed in violation of LRS 28-701.  
December 27, 2001

Exhibit 3

# TOP THREE VEHICLES AT RISK FOR ROLLOVER

The following vehicles are all placed on warning status by Consumer Reports because of the large numbers of rollover accidents in which they have been involved. It is believed that the high number of rollovers per 100 accidents is caused by each vehicle's high center of gravity.

<u>AUTOMOBILE</u>	<u>ROLLOVER PERCENTAGE</u>
1. Suzuki Samurai	42 out of every 100 accidents
2. Ford Bronco II	39 out of every 100 accidents
3. Isuzu Trooper	38 out of every 100 accidents

January 1998 issue of Consumer Reports

**Exhibit 4**

**WEAR SEAT BELTS AT ALL TIMES – DON'T DRINK AND DRIVE**

This utility vehicle handles and maneuvers differently from many passenger cars both on-road and off-road. You must drive it safely. As with other utility vehicles, if you make sudden sharp turns or abrupt maneuvers, you may cause this vehicle to go out of control and roll over or crash – you or your passengers may be seriously injured. Read the Driving Guidelines in the Owner's Manual.