
Minnesota Mock Trial Program

**The 2003-2004 Case:
Franklyn
v.
Cartwright**

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Minnesota High School Mock Trial Champions

- 2003 South - Minneapolis**
- 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**

**2003-2004
Minnesota
High School
Mock Trial Program**

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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.

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/

Or you can contact program staff listed below:

**Lisa Wilde, Public Service Director
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or

**Karen Howell, Mock Trial Manager
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Minnesota Continuing Legal Education
Minnesota State Bar Foundation
First District Bar Association
Second District Bar Association
Third District Bar Association
Seventh District Bar Association
Eighth District Bar Association
Ninth District Bar Association
Twelfth District Bar Association
Seventeenth District Bar Association
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And the more than 800 judges and attorneys who volunteer as mock trial judges, coaches and supporters.

2003-2004 MINNESOTA HIGH SCHOOL MOCK TRIAL PROGRAM

CASE MATERIALS AND SUPPORT DOCUMENTS

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Case Overview

FRANKLYN V. CARTWRIGHT

During this past summer, plaintiff Jamie Franklyn was severely burned in a fire. A criminal investigation is ongoing, but to date no one has been indicted or arrested. Jamie Franklyn has filed a lawsuit against Pat Cartwright, the owner of the building where the fire occurred, and two other individuals, Al/ice Logan and Eva/n Hoyt. Both entered into a settlement with Jamie Franklyn before trial. The issue to be tried is that of liability: whether Pat Cartwright, Eva/n Hoyt and/or Al/ice Logan are liable for the injuries suffered by Jamie Franklyn and, if so, the extent of their respective liability. In pre-trial rulings, the court determined that Detective Sam Stone is an expert in the field of fire “cause and origin” and is qualified to express an opinion on the cause of the fire. Statements attributed to Logan and Hoyt are admissible. Additionally, the court has ruled that “assumption of risk” does not apply and therefore, there is no issue of plaintiff’s negligence.

WITNESSES

For Plaintiff

Jamie Franklyn
Sam Stone, detective
Al/ice Logan, co-operator of the lawn business

For Defendant

Pat Cartwright
Chris Lewis, co-operator of the lawn business
Eva/n Hoyt, friend of Al/ice Logan

DIRECTIVES FOR THE 2004 MOCK TRIAL:

1. The witnesses may be either male or female.
2. In view of the court’s pre-trial rulings, the parties may not contest the qualifications of Sam Stone to express an opinion on the cause of the fire. However, to the extent the student lawyers deem it tactically advisable to do so, they may bring out on direct or cross-examination Detective Stone’s qualifications contained in his/her witness statement.
3. There are no exhibits. The witness statements may be admitted into evidence only if stipulated by the attorneys for both parties.
4. All witness statements are deemed to have been signed. If asked, a witness must acknowledge that he or she signed and certified the statement on the date indicated.
5. The judge presiding over the trial may dispense with reading the Jury Charge to the jury.

ALL CHARACTERS, PLACES AND ORGANIZATIONS ARE FICTITIOUS.

THE LAW: Jury Charge

I am now going to tell you about the principles of law governing this case. You are required to accept my instructions as law. I sit as the judge of the law, and you, ladies and gentlemen, sit as judges of the facts. You alone have the responsibility to decide the factual issues in this case. It is your recollection and evaluation of the evidence that controls. If the attorneys or I say anything about the facts in the case that disagrees with your recollection of the evidence, it is your recollection that you should rely on. Your decision in this case must be based solely on evidence presented and my instructions on the law. The evidence in this case consists of:

- the testimony that you heard from the witnesses;
- the exhibits that have been marked into evidence; and
- the stipulations and admissions that were placed on the record.

Any testimony that I have stricken from the record is not evidence and should not be considered by you in your deliberations. This means that even though you may remember the testimony, you are not to use it in your discussions or deliberations. In this case, the plaintiff, Jamie Franklyn, contends that the defendant, Pat Cartwright, was the owner of a barn, was negligent with regard to the control or operation of said barn, and that as a result of that negligence Franklyn received various injuries. I have, under the powers granted to me, bifurcated or split this action into two parts. Your job will be to determine whether or not the defendant was negligent and if so, what percentage of negligence the defendant should bear. A later jury may decide the issue of the amount of damages, if any, to which the plaintiff may be entitled.

The burden of proof is on the plaintiff to establish his/her claim by a preponderance of the evidence. In other words, if a person makes an allegation, then that person must prove the allegation. In this action, the plaintiff, Jamie Franklyn, has the burden of establishing by a preponderance of the evidence all of the facts necessary to prove that Pat Cartwright was negligent and that defendant Cartwright's negligence was a proximate cause of plaintiff Franklyn's injuries.

The defendant, Cartwright, has the burden of establishing by a preponderance of the evidence all of the facts necessary to prove that Al/ice Logan or Eva/n Hoyt was negligent and a proximate cause of the plaintiff's injuries.

Negligence may be defined as a failure to exercise, in the given circumstances, that degree of care for the safety of others, which a person of ordinary prudence would exercise under similar circumstances. It may be the doing of an act, which the ordinary prudent person would not have done, or the failure to do that which the ordinary prudent person would have done, under the circumstances then existing. In other words, negligence is the failure to use that degree of care, precaution and vigilance, which a reasonably prudent person would use under the same or similar circumstances. It includes both affirmative acts, which a reasonably prudent person would not have done and the omission of acts or precautions, which a reasonably prudent person would have done or taken in the circumstances. By a reasonably prudent person is not meant the most cautious person nor one who is unusually bold, but rather one of reasonable vigilance, caution and prudence. In order to establish negligence, it is not necessary that it be shown that the defendant had an evil heart or an intent to do harm.

To summarize, every person is required to exercise the foresight, prudence and caution which a reasonably prudent person would exercise under the same or similar circumstances. Negligence then is a departure from that standard of care. In this case, the plaintiff alleges that the defendant violated the duty to maintain the barn in a reasonably safe condition. With regard to a condition of property, our law provides that the duty owed by the owner of property to a person entering upon the property depends on the status of such person.

A person coming onto the land or premises of another may hold one of three statuses. A trespasser is a person who enters or remains upon land owned by another without a right to enter or remain on the property. A right may be created by the owner's consent or otherwise. An owner owes a duty to a trespasser to refrain from acts which willfully injure the trespasser. Moreover, the owner of land who knows, or from facts within his/her knowledge, should know, that trespassers constantly intrude upon a limited area thereof, is liable for any bodily harm ensuing from an artificial condition on the land if the condition is known to an owner, is likely to cause death or serious bodily harm to such trespassers, is of such a nature that he/she has reason to believe that such trespassers will not discover it, and he/she has failed to exercise reasonable care to warn such trespassers of the condition and the risk involved.

A licensee is a person who has the right to enter or remain upon land by the consent of the owner. There may be such acquiescence in the trespass as to amount to a license to use property. In other words, continued toleration of trespass amounts to implied permission to use the land and transforms a trespasser into a licensee. A licensee is a person who has the right to enter or remain upon land by the consent of the owner. He or she is not invited but his or her presence is tolerated. The owner of property owes a duty to a licensee to abstain from willfully injurious acts. If the owner knows of a hazardous condition on the property and the owner could reasonably anticipate the licensee would not observe and avoid such condition, then the owner must either warn of the condition or make the condition reasonably safe.

The third class of person is an invitee. An invitee is one who is permitted to enter or remain on premises for a purpose of the owner/occupier. He/she enters by invitation, expressed or implied. The owner/occupier of the premises who by invitation, expressed or implied, induced persons to come upon his/her premises, is under a duty to exercise ordinary care to render the premises reasonably safe for the purposes embraced in the invitation. Thus, he/she must exercise reasonable care for the invitee's safety, must take such steps as are reasonable and prudent to correct or give warning of hazardous conditions or defects actually known to the owner, and of hazardous conditions or defects which he/she by the exercise of reasonable care, could discover.

In this matter, you will have to decide Jamie Franklyn's status and the nature of the duty, if any, which Pat Cartwright, Alice Logan and/or Evan Hoyt owed to Jamie Franklyn and whether the duty was breached.

You will also have to decide, by a preponderance of the credible evidence, whether Pat Cartwright's negligence was a proximate cause of Jamie Franklyn's injury.

If you find that defendant Cartwright was negligent, you must also find that the negligence was a proximate cause of the incident before you can find that Cartwright was responsible for the injuries claimed by the plaintiff. It is the duty of the plaintiff to establish, by the preponderance of evidence, that the negligence of the defendant was a proximate cause of the incident and of the injury alleged to have resulted from the defendant's negligence. The question for you to resolve is whether Jamie Franklyn's injury is so connected with the negligent actions or inactions of Pat Cartwright that you decide it is reasonable, in accordance with the instructions I will now give you,

that the defendant should be held wholly or partially responsible for the plaintiff's injury.

I also charge you that Al/ice Logan and Eva/n Hoyt were originally named as a defendants in this case. Before the trial started, the plaintiff and Logan and Hoyt resolved their differences. As a result, while Logan and Hoyt have been called as witnesses, neither are now parties to this action.

You are not to speculate as to the reasons why the plaintiff and Logan and Hoyt settled their dispute. You should not be concerned about the amount, if any, that may have been paid to resolve the claim against Logan and Hoyt. You must decide the case based on the evidence you find credible and the law presented at this trial.

Initially you will have to decide whether or not the remaining defendant, Pat Cartwright, was negligent and a proximate cause of the accident. The burden of proof on these issues is on plaintiff. If you find that the remaining defendant was negligent and that such negligence was a proximate cause of the accident, you must next consider the conduct of the settling defendants. You will have to determine whether or not the settling defendants were also negligent and whether such negligence was a proximate cause of the accident. The burden of proving that either or both of the settling defendants was/were at fault is on Pat Cartwright and you are to follow all of the same instructions that I have given you with regard to deciding Cartwright's negligence and the issue of proximate cause. In the event that you find that the one or both of the settling defendants was/were also negligent and a proximate cause of the accident, you must apportion fault in terms of percentages, between or among either or both of the settling defendants and the remaining defendant.

The term "preponderance of the evidence" means that amount of evidence that causes you to conclude that the allegation is probably true. To prove an allegation by the preponderance of the evidence, a party must convince you that the allegation is more likely true than not true.

If the evidence on a particular issue is equally balanced, that issue has not been proven by a preponderance of the evidence. Therefore, the party having the burden of proving that issue has failed with respect to that particular issue.

Evidence may be direct or circumstantial. Direct evidence is direct proof of a fact, such as the testimony of an eyewitness. Circumstantial evidence (sometimes called inferences) consists of a chain of circumstances pointing to the existence of certain facts. Circumstantial evidence is based upon deductions or logical conclusions that you reach from the direct evidence. You may consider both direct and circumstantial evidence in deciding this case. The law permits you to give equal weight to both, but it is for you to decide how much weight to give to any evidence.

When deciding this case, you are permitted to draw inferences from the evidence. Inferences are deductions or logical conclusions drawn from the evidence. Use logic, your collective common knowledge and your common sense when determining what inferences can be made from the evidence.

You will also have to decide which witnesses to believe and which witnesses not to believe. Regardless of whether the witness is a lay person or expert, you may believe everything a witness said or only part of it or none of it. In deciding what testimony to believe, you may take into consideration:

1. the witness' interest, if any in the outcome of this case;
2. the accuracy of the witness' recollection;

3. the witness' ability to know what he/she is talking about;
4. the reasonableness of the testimony;
5. the witness' demeanor on the stand;
6. the witness' candor or evasion;
7. the witness' willingness or reluctance to answer;
8. the inherent believability of the testimony;
9. the presence of any inconsistent or contradictory statements.

Lastly, your oath as jurors requires you to decide this case fairly and impartially, without sympathy, passion, bias or prejudice. You are to decide this case based solely upon the evidence that you find believable and in accordance with the rules of law that I have given you. Your duty is to decide this case impartially and a decision based on sympathy, passion, bias or prejudice would violate that duty.

Remember, you are not advocates for either party. You are judges of the facts. Your sole interest is to determine the truth from the evidence in the case. It is your duty, as jurors, to consult with one another and to deliberate with a view to reaching an agreement, if you can do so without compromising your individual judgment. Each of you must decide the case for yourself, but do so only after an impartial consideration of the evidence with the other jurors. Thank you for your attention. You may now retire to deliberate upon your verdict.

JURY VERDICT FORM

1. Was Pat Cartwright negligent? Yes _____ No _____

If "YES", go to question # 2.

If "NO", cease your deliberations.

2. Was the negligence of Pat Cartwright a proximate cause of plaintiff's injuries? Yes _____
No _____

If "YES", go to question # 3.

If "NO", cease your deliberations.

3. Was Al/ice Logan negligent? Yes _____ No _____

If "YES", go to question # 4.

If "NO", go to question # 5.

4. Was the negligence of Al/ice Logan a proximate cause of plaintiff's injuries? Yes _____ No _____

If "YES", go to question # 5.

If "NO", go to question #5.

5. Was Eva/n Hoyt negligent? Yes _____ No _____

If "YES", go to question # 6.

If "NO" and your answer to question # 4 was "YES", go to question # 9.

If "NO" and your answer to question # 3 or #4 was "NO", cease your deliberations.

6. Was the negligence of Eva/n Hoyt a proximate cause of plaintiff's injuries? Yes _____ No _____

If "YES" and your answer to question #4 was "YES", go to question # 7.

If "YES" and your answer to question # 3 or # 4 was "NO", go to question # 8.

If "NO" and your answer to question # 4 was "YES", go to question # 9.

If "NO" and your answer to question # 3 or # 4 was "NO", cease your deliberations.

(NOTE: You should answer only one of the following questions:)

7. What is the percentage of responsibility for those whose negligence you have determined to be a proximate cause of plaintiff's injuries?

Pat Cartwright _____ %

Eva/n Hoyt _____ %

Al/ice Logan _____ %

Total _____ 100%

(Continued on next page.)

8. What is the percentage of responsibility for those whose negligence you have determined to be a proximate cause of plaintiff's injuries?

Pat Cartwright _____ %

Eva/n Hoyt _____ %

Total _____ 100%

9. What is the percentage of responsibility for those whose negligence you have determined to be a proximate cause of plaintiff's injuries?

Pat Cartwright _____ %

Al/ice Logan _____ %

Total _____ 100%

WITNESS STATEMENT OF JAMIE FRANKLYN

(Plaintiff)

My name is Jamie Franklyn. I am 17 years old and live at 5225 Larkspur Road in Liberty. I would be a junior at Liberty High School, however, I am being home-schooled because of severe burn injuries that I received last August.

Last summer, I worked at the pool at Blue Anchor Condominiums. I am a Red Cross certified lifeguard. Although getting my certification was tough, the job turned out to be, well, kind of boring. The deep part of the pool was only five feet, and most of the condo owners and their guests were in their 50s. There were very few young children. I had been hoping that some kids of my own age would use the pool, but that generally didn't happen.

During late July, my friend Stacy called me and told me that a couple of our classmates had turned an old barn into a casino. I couldn't believe it! I didn't know anyone in our whole high school that would have the guts to do something like that. I actually thought it was pretty cool. Stacy asked me if I wanted to go the next Friday and I said, "Sure."

The following Friday I have to admit that I couldn't believe what I saw. We pulled down this narrow dirt road with only our parking lights on. It was dark — I mean really dark. As we came out of the woods, I could make out some type of clearing, and then I realized that there were 20 or 30 cars already parked there. Off to one side I could just make out a fairly large barn. Stacy and I got out of the car and walked up to a small door on the side of the barn. After giving a "secret knock," the door opened. There was Alice Logan with a black visor and black sunglasses actually wanting to collect an entrance fee. We each paid our \$10 and went in.

What I saw was nothing short of amazing. Kids sitting and standing all over, playing pinball, playing slot machines, and listening to this funky loud music. A bar was set up at the far end, completely stocked with everything you could imagine. There was even one of those big, round wheel-type things like you see on "Wheel of Fortune." The money and alcohol were flowing fast and furious. We only stayed about two hours, but I have to admit that I had a really good time.

On Friday night, August 16, Stacy convinced me to go back again. I had another really boring week at the pool, so I was ready. I even took along all of my week's paycheck.

By 1 a.m. the place was really packed and hopping. It seemed like half the high school was there. I had already lost \$150 on the big wheel, and was sitting at the makeshift bar drinking my sorrows away. Like, the next thing I knew, I thought I smelled smoke. I could see other people looking around in a funny way, so I knew that I wasn't the only person who smelled it. The next thing I knew someone started screaming, "There's a fire!" People started racing to the door. From where I was sitting, I could see people pressed up against the door frantically trying to get out. But the door opened inward and not outward.

I have very little recollection about what happened after that. I vaguely remember crawling around, trying to stay low to avoid the smoke. But at some point I was overcome and lost consciousness. I could swear that I dreamed I was on fire, but in retrospect, I guess I actually was on fire.

The doctors tell me that the severe burns and scarring on my chest, back, shoulders and upper legs will probably never go away. There is a good chance that I will have to use crutches the rest of my life. All I have to look forward to now is my 8th skin graft operation, and a life of chronic pain and infection. I moved all pictures of me from before the fire out of my bedroom and I made my parents put away all of the pictures that were around the house. Every time I see how I used to look, I start to cry.

The night of the fire, I would estimate that there were like 30 to 40 kids in the barn. Cars were parked everywhere outside. The music was playing. For the owner of this property to now claim ignorance about what was going on is absolutely ludicrous. If someone was operating a full-blown casino and bar on your property, don't you think you'd know about it?

I certify that the above statements made by me are true and correct to my best belief and knowledge. If any of the statements made by me are willfully false, I am subject to punishment.

Jamie Franklyn
October 17, 2003

WITNESS STATEMENT OF AL/ICE LOGAN

(Testifying for Plaintiff)

My name is Al/ice Logan. I am 16 years old. My dad is a jeweler, and our family has a fancy jewelry store in downtown Liberty. My parents hate the city though so we live about 20 miles from downtown – more out in the county – you know – so we could have space for a pool and tennis court and all that stuff.

So anyway, it was about the beginning of June and my parents were nagging me to get a job. They told me all the other kids had jobs and I was about the only one left with no plans for the summer. So I said, “Why should I work? It’s not like we need the money.” When my dad heard that, he flipped out and told me I’d be mowing lawns for the summer, working with his partner’s kid, Eva/n Hoyt. What a dork. I certainly had no intention of mowing lawns – I don’t even mow our lawn, so why would I do it for other people?

Anyway, my dad knows this old-timer, Pat Cartwright, who owns a farm up on the ridge about a mile from where we live. Eva/n and I met with Cartwright and s/he agreed to rent us the barn on the property for \$100 a week — cash. What a nut — hates the government and hates the IRS even more. For the \$100 a week we’d have complete use of the barn to store all the lawn-cutting equipment, Eva/n’s pickup truck, and anything else we might need. I sure wasn’t going to keep that greasy, dirty stuff at my house.

The first couple weeks in June were really nasty. Every day was really hot, and I got home all dirty and sweaty. Personally, I don’t like to sweat. Plus when I got home, my parents would nag me to do something else and not just sit around, even though I was so tired from working all day. So Eva/n and I decided we would hang out at the barn after work and have a few beers that s/he took from his/her parents’ house.

Well, one thing led to another pretty fast. When our friends found out that we had a place to drink without being bothered by anyone, things got pretty popular at night. Finally I told Eva/n, “Hey, we ought to be charging a cover at the door.” Eva/n agreed. The very next night we made 150 bucks. So we figured — why work hard all day when you can just sit and collect money?

By mid-July, we had all of the windows carefully boarded up and screwed shut. The money was really rolling in. We put in a surround sound 200 watt stereo system. When one of my friends told me that his older brother worked as a slot tech for a casino in Wisconsin, we cut a deal for some outdated slot machines. The pinball machines were easier to get. By the last week in July, we had a fully operating casino and we were clearing \$1,000 a night. It wasn’t unusual to have 25 or 30 cars parked out behind the barn.

On August 1, I’m at home getting ready to eat lunch when Cartwright calls. S/he tells me that the rent is going up to \$250 a week. I tell Pat you can’t mow enough lawns in a week to make that much. Here are Pat’s exact words: “I rented you the barn to store lawn care equipment, and you’ve put it to some other use. If you want to keep it up, you’ve got to pay.” We did.

I wasn’t there the night of the fire. Like I said, we were making so much money it got to the point where I didn’t even have to show up every night.

My father's lawyer tells me that I might be facing some criminal charges in juvenile court. But it really isn't my fault. I'm just a kid. The big-shot farmer should have known better. Pat knew darn well what was going on and could have put a stop to it. But money was more important. I guess there are just some people in this world who don't want to work for a living.

I certify that the above statements made by me are true and correct to my best belief and knowledge. If any of the statements made by me are willfully false, I am subject to punishment

Alice Logan

October 17, 2003

WITNESS STATEMENT OF DETECTIVE SAM STONE (Testifying for Plaintiff)

My name is Sam Stone. I have been an Independence State Trooper for the past 15 years. I am currently assigned to Troop E. We are responsible for a major portion of the law enforcement in the central part of the state. Although one of our primary responsibilities is to patrol Interstates 35 and 94, we also act as a local police department for some of the more rural municipalities in Liberty County. Contrary to what most people believe, there are major portions of Liberty County that consist of heavily wooded areas and rolling farmland.

For the past seven years, I have been assigned to the Detective Bureau of Troop E. I have received extensive training in electronic surveillance, narcotics, auto theft and chop shop investigations, white-collar crime, computer crime (including theft of identity and child pornography), as well as arson investigation. With regard to the latter, I have been involved in more than 45 formal arson investigations and have testified as an expert on 14 prior occasions in District Court.

This particular investigation commenced on July 22, 2003. At approximately 3 p.m. I received a call from a vice president of Jones Brothers Plumbing Supply. He informed me that the business has three warehouses, one of which is located in a remote section of Liberty County. This past month, the electric bill for this particular facility was almost three times the normal monthly rate. The electric company had confirmed that the readings were accurate. An electrician hired by the company discovered that someone had "tapped in" to the electrical box on the outside of the building and that the cable was buried under ground headed in the direction of the nearby woods.

The following day I met with several Jones Brothers representatives, as well as a representative of the electric company, at the Jones Brothers facility. It was agreed that the illegal tap would be left in place, and that we would try to ascertain the nature of the theft. The electric company provided electromagnetic detectors. These devices look something like the metal detectors you may have seen people using on the beach to look for lost items or treasure. After following the underground wire for almost three-quarters of a mile, we broke into a clearing only to discover an old barn. Every opening in the barn was completely secured with plywood, and the steel door was locked.

I returned to the barracks at approximately 4 p.m. After a series of calls to the County Clerk's office, it was learned that the barn and the farm on which it stood belonged to one Pat Cartwright. A further search revealed that Cartwright now lived in a condominium in downtown Liberty. My attempt to obtain a phone number for Cartwright was unsuccessful. If there was a telephone, it was apparently unlisted.

As I prepared to leave the barracks for the day, I decided that I would try to meet with Cartwright the following day for a face-to-face interview and to attempt to obtain consent to search the barn. If I could not locate Cartwright, or if I could not obtain consent to allow a voluntary search of the premises, I would then seek a search warrant from a Superior Court Judge. Probable cause would be established by the apparent theft of electricity from the plumbing supply company.

However, the following day I was directed to participate in a wiretap operation involving local municipal officials in a nearby county. I cannot disclose the nature and extent of the investigation in that it remains highly confidential because it is an ongoing investigation. Moreover, I found myself doing repeated 12-hour shifts listening to various telephone conversations and creating electronic surveillance logs of conversations that might be deemed evidential at a later point and

time. Accordingly, I was unable to follow up with the investigation concerning the theft of electricity from Jones Bros. Plumbing Supply Company.

On Friday night, August 16, at approximately 11:45 p.m., I was awakened by the sound of my police pager. Upon calling the barracks, I learned that there was a barn fire in progress in Liberty County. The description sounded remarkably similar to the barn I had looked at earlier the preceding month. I jumped into my Patrol vehicle and was at the location in approximately 35 minutes.

When I arrived at the scene, the local fire departments were in the process of attempting to extinguish what could only be described as a very severe barn fire. I observed approximately 10 ambulances on location; many of the EMTs appeared to be treating high school aged students for severe burns. I was advised that two medivac helicopters were also on the way.

A cursory examination of the interior of the barn revealed 15 severely damaged slot machines, 10 pinball machines, a couple of gaming tables, and the remains of a fully stocked bar. My investigation led me to conclude that approximately 25 teenagers had been trapped inside the barn at the time of the fire. Although none of the victims is known to have died as a result of the fire, I was advised by the EMTs that seven teenagers were transported to local hospitals with burns, and that three of the individuals were in serious condition.

I returned the following morning to conduct an arson investigation to discover the cause and origin of the fire in order to ascertain whether the fire was accidental or intentional. I arrived on the scene shortly after daybreak. The remnants of the conflagration were still smoldering, and one or two State Police officers had secured the area and were keeping the possible crime scene intact.

As I conducted my examination of the property in daylight, there was no question that the barn had been converted to some type of illegal alcohol dispensing and gambling establishment. The remains of slot machines, pinball machines and other gambling apparatus and paraphernalia were readily apparent. In addition, it was obvious that a significant quantity of alcohol, which I viewed as a potential accelerant to a fire, had been stored in the northwest corner of the barn. It was apparent from the scorch marks and flame spread pattern that this was the location where the fire had originated.

I determined that the source of the fire was an illegal electrical connection from an unshielded electrical cable running underneath the floor of the barn and connected to a makeshift transformer. The amount of current being drawn through the cable was far in excess of conduit's electrical and resistive capacity. Due to the fact that there were no circuit breakers, fuses or other safety devices, the wiring had overheated and the energy released had caused combustion of the dry wooden flooring directly under the area where the alcohol was being stored. It was equally apparent that as the heat increased, the glass bottles began to crack and shatter allowing the alcoholic beverages to further fuel the blaze.

As I was finishing up my investigation, I looked up and saw a senior citizen standing approximately five feet away observing my actions. He/she was apparently unaware that I was a State Police Officer, as I was dressed in street clothes and not in uniform. However, I did advise the person that I was conducting an official investigation and asked him/her to please move behind the police barricade lines. The older person then admitted ownership of the property, and said that the police officer permitted entry. The person, who is the defendant Pat Cartwright, kept saying, "I knew I never should have rented the barn to those kids." I did not pursue the remark at that time, but I made a mental note of the statement, and continued with completing my investigation. As I

was getting ready to leave the scene, Cartwright looked directly at me and said, "I told them I didn't care if they had a little fun, but I didn't expect this."

It is my opinion that as owner of the property, Pat Cartwright can be held responsible for the severe injuries that resulted to the teenaged victims of the fire. Cartwright leased the property and collected rent in cash on a weekly basis. In my opinion, Cartwright had to have known what was going on.

I certify that the above statements made by me are true and correct to my best belief and knowledge. If any of the statements made by me are willfully false, I am subject to punishment.

Sam Stone

October 17, 2003

WITNESS STATEMENT OF EVA/N HOYT
(Testifying for the Defense)

My name is Eva/n Hoyt. I am 17 years old and live at 363 High Ridge Lane in Liberty. I am a senior at Liberty High School.

For the past six years, I've done lawn work as a summer job. My customers love me for obvious reasons. I started out with two lawn mowers, but last winter I purchased two more large mowers, a used pickup truck, a Troybilt bushwhacker, and made arrangements to lease an old Farm-All tractor and hay mower. During June, my father told me that I would be getting some help. At first I was glad. Then I heard it was Al/ice Logan, whose father is my father's business partner. I thought I was going to get sick, but then I was told that part of the deal was that we could use an old barn in a remote section of Liberty County. That made it worthwhile. I would have a place to store all of my new equipment.

Without going into great detail, Al/ice turned out to be lousy help. Al/ice liked hanging out in the barn late in the evenings and drinking much better than working. Against my advice, Al/ice slowly turned the barn into an after hours tavern for other kids who were underage. How Al/ice wheeled and dealt to get the liquor, the slot machines, and the pinball machines, I'll never figure out. But it worked! I told Al/ice the lack of productivity was costing me \$400 a week. Al/ice's response was "How about if I just pay you 400 bucks a week and don't work at all?" I said that wasn't enough, but that I wouldn't tell either of our fathers if Al/ice gave me \$500 each week. So by the middle of July, I was doing the lawns by myself, keeping all the money, plus Al/ice's \$500. I would get the equipment I needed out of the barn around 7 a.m. and back to the barn about 5 p.m. That was about the time Al/ice would show up at the barn. I have no idea what time Al/ice left.

Pat Cartwright couldn't have known that Al/ice converted the barn into a casino. Every opening had been covered with plywood and screwed shut. That way nobody could see what we had done to the inside of the place. The only door into the barn, an old sliding type, had been replaced with a hinged steel door and had a double deadbolt lock. To the best of my knowledge, Cartwright never left his/her condo in downtown Liberty except to go to the library and grocery store. I certainly never saw Cartwright at the barn. The idea that Cartwright should somehow be responsible for Al/ice's criminal activity is ridiculous.

I certify that the above statements made by me are true and correct to my best belief and knowledge. If any of the statements made by me are willfully false, I am subject to punishment.

Eva/n Hoyt
October 17, 2003

WITNESS STATEMENT OF CHRIS LEWIS

(Testifying for the Defense)

My name is Chris Lewis. I am 18 and a senior at Liberty High School.

I was really, really tight with Al/ice Logan all during our junior year and up to the beginning of the summer. That's when I finally realized that Al/ice only thinks of Al/ice, and everything and everybody else comes second. How I ever got so close to someone so conceited and self-absorbed is beyond me.

It didn't start that way. During our junior year, we had a lot of fun. We did a lot of stuff together and I spent a lot of time at Al/ice's house. What a house! It should be in *Architectural Digest* or something. The living room and dining room have all this imported furniture, and it's impressive. Not the kind of furniture you sit on, but real works of art. You would think that Al/ice's parents might be stuck up or something, but they couldn't have been nicer to me.

When Al/ice told me about mowing lawns for the summer, I started to laugh. I mean I couldn't believe it. Al/ice always seemed more like the future CEO type, not someone who would get dirty hands. I was secretly pleased. After all, I was working as a dishwasher in a large restaurant downtown. I figured if I had to work hard for my money, so could Al/ice.

Toward the end of June, Al/ice told me about working on a "secret project." When I asked what it was, Al/ice told me about converting a barn into a nightclub-casino. I thought this was some crazy story, but Al/ice said "just wait and see."

I think it was the third week in July when Al/ice called me about 10:30 in the morning and said I just had to see something really special. After picking me up at my mom's apartment, we drove almost 35 minutes back into the middle of nowhere. All of a sudden we came out of this little dirt road and I saw a barn. We parked the car, and Al/ice went up to a door on the side of the barn and unlocked it. I followed him inside.

I couldn't believe it! There was a fully stocked bar in the far corner. A row of 15 or so pinball machines lined one wall. Al/ice had actually gotten some old slot machines, which were facing the other wall. After showing me the whole layout, Al/ice talked about cleaning the downstairs of the barn to put in four pool tables. I was in disbelief.

As we were leaving, I asked, "How do you think you can get away with all of this?" Al/ice laughed and told me that "nobody knows." I asked, "Well, what about the owner of the property?" Al/ice said, "The owner doesn't know either. He/she never checks on the place. And as long as the money is paid every Monday, the owner has no reason to come out here."

On the drive back, Al/ice told me that the real reason for showing me the barn was because s/he wanted me to "work" there. I said that I already had a job at the Silver Knight restaurant in downtown Liberty. Al/ice bragged about making tons of money, but said the place needed a "server" to take care of all of the customers at night. All I would have to do is walk around, serve drinks and collect loads of tips.

I think I went ballistic at this point. I said I was a friend, not some loser that s/he could use. Al/ice

got all defensive and said I was given the first opportunity because of our relationship, but there were other plenty of other kids who would be more than willing. "I was just trying to give you an opportunity to get out of that dump you live in," Al/ice said. I think that's when I hit Al/ice in the face.

Trust me, Al/ice only does or says what is in Al/ice's best interest at the moment. And that includes lying.

I certify that the above statements made by me are true and correct to my best belief and knowledge. If any of the statements made by me are willfully false, I am subject to punishment.

Chris Lewis

October 17, 2003

WITNESS STATEMENT OF PAT CARTWRIGHT (Defendant)

My name is Pat Cartwright. I have been on this planet 77 years and I hope to have a few more.

I grew up on a dairy farm in rural Wisconsin. I can still remember farming with horses, although it wasn't too long before they were all replaced by tractors. Either way, farming was hard work, and it soon became apparent that our family would starve to death unless we tried something different. My folks sold the farm in 1939 and we moved to Liberty, Independence .

Liberty was far different from Wisconsin. I took full advantage of my newfound situation. I began sneaking out to bars, began smoking and played the numbers on a regular basis. It was all innocent fun. The situation changed dramatically when I graduated from high school in the spring of 1943. Five months later I was a medic's assistant in Europe following the 101st Airborne, fighting through France hedgerow by hedgerow. I was fortunate to make it back home.

A person does a lot of thinking when they see people getting killed all around them, and while in Europe I decided that I liked the slow farm life better than the city life. So my spouse and I bought a real nice spread in northwest Liberty County, had a family, and settled down. For the last 45 years or so we raised dairy cattle, beef cattle and grew a variety of crops. All of my children graduated from high school and went on to college. By 1992, they convinced me to stop farming because of my health. I sold off 10 acres of the farm, and bought a condominium in Liberty. So now I just sit around like the rest of the old people. It ain't no fun.

Anyway, last spring I got into a conversation with Joseph Hoyt, a member of my church. He asked me what I was doing with the farm. I told him "nothing." He called me about a month later and asked me whether or not I would consider renting the barn to his kid and his business partner's kid for the summer because they needed a place to keep all of their landscaping equipment. I told him that I'd rent them the barn for \$100 a week cash, paid every week. I also told him that I didn't want any gasoline being kept in the barn. They could keep it outside under a tarp. As a young kid I saw a barn fire and it wasn't a pretty sight. Once a barn fire gets going, nobody can put it out. What with hay in the loft and being made out of wood, a barn is nothing but a tinderbox.

During the month of June, the kids paid the rent promptly every Monday. I was happy. They seemed like a couple of nice responsible kids. Not like those kids you're always seeing on the TV shows and reading about in the paper.

Sometime during mid-July I spoke with Mrs. Smith after church. She told me that "the word was kids were hanging out at your barn late in the evening, drinking beer." I politely told her she was out of her mind. She then told me to "go look for yourself." So the next day I drove out to the barn around noon.

The place was completely locked up. Padlocks and all. I didn't see anything unusual, except for a lot of tire marks in the grass. Satisfied that Mrs. Smith didn't know what she was talking about, I left. Actually, I was annoyed that I had gone 12 miles out of my way for nothing.

The next Sunday I had a conversation with our pastor, the Reverend Steven Applegate. He pulled me aside, and also told me that he had heard that underage kids were drinking at my barn during

the evening. I told him I didn't believe it. I also told him that at age 18 I saw a war, was smoking two packs a day and drinking whatever I could get my hands on. So what was the big deal?

On Saturday morning, August 17, I was awakened by one of my neighbors knocking on my door. He watches a lot of TV. I don't even own one. He told me that on the seven o'clock news, there was footage of a barn fire, and it looked like my barn. I had a quick smoke and half a cup of coffee and jumped into my car. I guess you all know the rest of the story.

I had no idea that these two kids turned my barn into a casino. And to think that all the time I was standing up for them, telling everybody how responsible they were. Maybe kids nowadays are all the same — spoiled, lazy and looking for an easy buck.

I certify that the above statements made by me are true and correct to my best belief and knowledge. If any of the statements made by me are willfully false, I am subject to punishment.

Pat Cartwright

October 17, 2003

Exhibit 1: Map

