

**2018 TENNESSEE STATE HIGH SCHOOL  
MOCK TRIAL COMPETITION  
CASE MATERIALS**

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**IN THE CIRCUIT COURT FOR BUTCH COUNTY, TENNESSEE  
AT HOCKEYTOWN**

**CARDEN CAROL,  
PLAINTIFF,**

**v.**

**CITY OF HOCKEYTOWN, TENNESSEE,  
DEFENDANT.**

**Case No. 17-CV-293  
JURY DEMANDED**

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The Tennessee State High School Mock Trial Competition is organized by the  
Young Lawyers Division of the Tennessee Bar Association.

Questions or comments may be directed to your Mock Trial District Coordinator or to the Chair of the Tennessee High School Mock Trial Committee. Teams may not edit materials.

The problem stands as written. If there are discrepancies, please consider them to be complexities for consideration in developing a trial strategy. **All parties and witnesses may be portrayed by persons of any gender.** All similarities between this problem and true events or actual persons should be disregarded.

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**PAST WINNERS**

<b>1980</b>	<b>Austin-East High School</b>
<b>1981</b>	<b>Bearden High School</b>
<b>1982</b>	<b>White Station High School</b>
<b>1983</b>	<b>White Station High School</b>
<b>1984</b>	<b>Knoxville West High School</b>
<b>1985</b>	<b>Father Ryan High School</b>
<b>1986</b>	<b>Knoxville Doyle High School</b>
<b>1987</b>	<b>Greeneville High School</b>
<b>1988</b>	<b>Memphis Central High School</b>
<b>1989</b>	<b>Jackson-Central Merry High School</b>
<b>1990</b>	<b>Father Ryan High School</b>
<b>1991</b>	<b>Father Ryan High School</b>
<b>1992</b>	<b>Franklin High School</b>
<b>1993</b>	<b>Montgomery Bell Academy</b>
<b>1994</b>	<b>McCallie School</b>
<b>1995</b>	<b>Montgomery Bell Academy</b>
<b>1996</b>	<b>Clinton High School</b>
<b>1997</b>	<b>Clinton High School†</b>
<b>1998</b>	<b>Houston High School</b>
<b>1999</b>	<b>Clinton High School</b>
<b>2000</b>	<b>Clinton High School</b>
<b>2001</b>	<b>Clinton High School</b>
<b>2002</b>	<b>Family Christian Academy*</b>
<b>2003</b>	<b>Family Christian Academy*</b>
<b>2004</b>	<b>Hume-Fogg Academic High School</b>
<b>2005</b>	<b>Hume-Fogg Academic High School</b>
<b>2006</b>	<b>Knoxville West High School</b>
<b>2007</b>	<b>St. Mary's Episcopal School of Memphis</b>
<b>2008</b>	<b>St. Mary's Episcopal School of Memphis</b>
<b>2009</b>	<b>White Station High School</b>
<b>2010</b>	<b>White Station High School</b>
<b>2011</b>	<b>White Station High School</b>
<b>2012</b>	<b>McCallie School</b>
<b>2013</b>	<b>Kingsport Area Christian Home Education Association</b>
<b>2014</b>	<b>Springfield High School</b>
<b>2015</b>	<b>Springfield High School</b>
<b>2016</b>	<b>Montgomery Bell Academy</b>
<b>2017</b>	<b>Montgomery Bell Academy</b>

\* National champion.

† National championship runner-up.

**NOTE TO TEAMS ADVANCING TO STATE COMPETITION**

TO ADD COMPLEXITY AT THE STATE COMPETITION, THE COMMITTEE **MAY** RELEASE ADDITIONAL MATERIAL FOR THE STATE COMPETITION ON OR BEFORE MARCH 2, 2018. TEAMS ADVANCING TO THE STATE COMPETITION SHOULD ACQUIRE AND PREPARE ANY ADDITIONAL MATERIAL BETWEEN THE DISTRICT AND STATE COMPETITIONS.

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### Case Summary

Carden Carol is a third-year law student at the University of Eagles in Hockeytown, Tennessee. Carden is a member of the Tennessee chapter of Catfish – a booster club that promotes interest in hockey and specifically the promotion of the local team, the Nashvegas Catfish, that play in the National Skaters League (“NSL”). After locking down a job, Carden decided to take a more active role in promoting hockey as a more mainstream sport in Tennessee.

The University of Eagles is located next to a public park, Centre Park. The park contains a statue honoring his airness, Michael Jordan. A grandiose plaque on the statue touts the benefits and contributions made to society by a professional basketball league, National Ballers League (“NBL”). Carden has always been upset that the NBL finals are held at the same time as the NSL finals. The NBL finals enjoy significantly higher ratings for viewership and much greater attendance. The statue irritated Carden. Accordingly, Carden decided to organize a protest on August 21, 2017, at Centre Park requesting that the Michael Jordan statue be removed and a statue of Wayne Gretzky, the greatest hockey player in NSL history, to be erected in its place.

Before an organized protest can be held at any public park in Hockeytown, organizers must obtain a permit from the city of Hockeytown. Carden submitted an application for a permit to Hockeytown City Manager Excelsior Swaggerwright on August 1, 2017. Carden subsequently received a letter from Swaggerwright approving the application.

While at the local diner in Hockeytown, Taylor Target heard rumblings about a protest regarding the famed “airness” monument and decided to organize a counter-protest. Taylor Target is a 65 year old, retired NBL basketball coach, and the founding member of the Airness Fan Club. Michael Jordan led Target’s teams to win six national championships, which has never been matched. Taylor Target submitted an application for a protest permit to the City Manager on August 7, 2017, that was also approved by the city.

Throughout July and August, the newly elected City Manager was busy planning for the once-in-a-lifetime solar eclipse that would occur on August 21, 2017. Hockeytown fell right in the middle of the eclipse’s totality path, and Hockeytown was expecting a huge influx of tourists. More importantly, Hockeytown anticipated raking in over \$25 million in revenue that day. Swaggerwright had lined up an abundance of vendors, food trucks, and musicians for the event, which was set to occur on the city square in the middle of town. The eclipse festivities were going to be Swaggerwright’s claim to fame and a big resume boost on the road to becoming mayor one day. Swaggerwright directed the majority of the city’s law enforcement to be stationed at the square and had electricity diverted from the Centre Park to the square to support the festivities.

August 21, 2017, arrived and Hockeytown was slammed. Traffic was bumper to bumper and the entire Hockeytown square was standing room only. Swaggerwright was ecstatic with the turnout and knew it would be the talk of the town the following day. Just two blocks south of the

square, Carden Carol and other Catfish members—a group five times what Carden Carol had expected— had shown up in full force at Centre Park, with most toting a variety of signs, flags, and even real catfish. Members of Catfish chapters came from all over the country. While fewer in number, Taylor Target and other Airness Fan Club members also gathered in Centre Park and positioned themselves between the Catfish club members and their prized monument.

What began with snide remarks and unkind hand gestures between the two groups quickly escalated as tempers began to flare. After seeing the statue covered with a sheet by a fellow protestor, Carden decided this was the chance to make a real difference. With the encouragement of the small army of Catfish members, Carden pulled a rope from a backpack and tossed it around the covered statue to pull it down. While Carden Carol, Taylor Target, and the masses were busy shouting, pulling, and pushing, the clock struck 2:30 p.m. and complete darkness fell over the city. While the darkness lasted only a few brief moments, as the sun began to emerge from behind the moon, Carden Carol was lying on the ground, unconscious. The statue was still standing, and Taylor Target was nowhere to be found.

Just prior to the eclipse, Lee Joe walked out of his/her job at the University of Eagles library, and rushed to the park to watch the eclipse. After the eclipse, Lee Joe saw a large group gathered around Carden Carol, who was lying next to the statue unconscious. Lee Joe looked around for a police officer or medical personnel to seek help, but saw none. Lee Joe then called 911, but it took over an hour for an ambulance to arrive due to all the traffic and crowds blocking the roadway. Lee Joe saw the news reporter, Jordan Quinn, interviewing several people following the aftermath of the eclipse. Lee Joe wanted to complain to Jordan Quinn about the slow response, so Quinn could investigate. However, Lee Joe had already been gone from work too long and had to rush back.

An ambulance eventually arrived at the scene and transported Carden Carol to the hospital. A physician diagnosed Carden with a severe concussion and brain bleed that impaired both Carden’s memory and motor skills. Carden could only remember bits and pieces of the day’s events. Carden’s injuries were worsened significantly due to the delay in receiving treatment.

Police Officer Alex Williams was the first officer to arrive on the scene following the eclipse’s conclusion. Williams had only been an officer for just over a year. Prior to the police training academy, Williams had worked as a security guard. Officer Williams had frequently worked hockey games attended by Carden Carol. Williams remembered Carden as a rowdy, obnoxious, loud person.

Officer Williams interviewed Sydney Bosby, who had been eagerly awaiting the eclipse for weeks. Sydney even flew into town to from Alaska since the city was going to have one of the best views of the eclipse. After the eclipse was over and the crowds disbursed, Sydney saw Carden Carol lying on the ground unconscious. Sydney also noticed a member of the group that had been opposing Carden’s group snicker and point at Carden’s body before turning and sprinting away.

Sydney believed that person was responsible for Carol's injury, but as an out-of-towner, did not want to step on anyone's toes. Sydney was surprised by the lack of law enforcement presence at Centre Park, especially with the protests occurring.

Carden Carol filed a lawsuit against the city of Hockeytown alleging negligence. The city of Hockeytown and Carden Carol each retained a safety engineer for the litigation.

**A Word Concerning Procedural Posture:** As most mock trial participants and coaches know, the Mock Trial Committee typically modifies the law to be applied during the competition. The Committee does so to limit the scope of applicable law to a workable amount, and to facilitate the Tennessee High School Mock Trial Program's long-standing tradition of crafting a problem involving a jury trial. The Committee thinks it appropriate to note this year's applicable law includes a significant departure from Tennessee statute. Under Tennessee law as it now stands, governmental tort liability cases are heard by a trial court judge rather than by a jury. But to perpetuate the Tennessee Mock Trial Competition's tradition of creating cases involving a jury trial, the Committee has seen fit to draft the applicable law section such that teams will present and argue their cases as if a jury were to decide whether the city of Hockeytown, Tennessee, should be held liable for the injuries sustained by Carden Carol. Also, a governmental entity would likely be immune from suit under current Tennessee law, but the law has been crafted to allow the city of Hockeytown to be subject to suit in this matter.

Witnesses for the Plaintiff:

- Carden Carol
- Lee Joe
- Skyye Sylvester
- Sydney Bosby

Witnesses for the Defendant:

- Excelsior Swaggerwright
- Alex Williams
- Sammy Sneed
- Jordan Quinn

### **AGREED STIPULATIONS**

As a prefatory note, it is the express intention of the Mock Trial Committee that this tort lawsuit proceed to a hearing on the merits of the case. Accordingly, many of these stipulations are intended to obviate many prehearing procedural challenges to the validity of the underlying petition, e.g., deficiencies in the pleadings, that would exist anywhere except the Mock Trial universe.

1. Whenever a rule of evidence requires reasonable notice, teams must presume that such notice has been given.
2. No props may be used. Teams may use markers, pens, pointers, or sticky notes to assist in the presentation of witness testimony concerning an exhibit. Exhibits may be copied and enlarged for demonstrative purposes if the proper foundation for admission is laid at trial.
3. Participants may only cite evidence contained in these problem materials. Cross-reference to other mock trial problems is prohibited. Any similarity to true events or actual persons is to be disregarded. Participants may not cite legal or factual authority outside that presented in the problem materials, the Rules of the Competition, and the Mock Trial Rules of Evidence.
4. Stipulations may not be contradicted or challenged. It shall be the responsibility of the teams to bring the stipulations to the attention of the Court as the situation may require.
5. All witness statements have been sworn to by the declarant.
6. No objections or arguments may be made upon the grounds of jurisdiction or venue.
7. Teams may not raise objections or defenses based upon procedural defects or constitutional violations. Teams may not assert criminal responsibility or any defense against any non-party person or entity.
8. Pleadings are provided only for reference purposes. No argument shall be raised based on a perceived deficiency.
9. All exhibits included with these materials are authentic. Teams may not object to any exhibit's authenticity.
10. No objections or defenses shall be raised as to the statute of limitations, adequacy of service of process, or adequacy of notice.

11. Each expert has knowledge of his/her *curriculum vitae*.
12. The nature and amount of damages are not a subject of argument in this problem.

**Additional stipulations may accompany exhibits.**

## **APPLICABLE LAW<sup>1</sup>**

### **Burden of Proof**

The Plaintiff must prove every element of this case by a preponderance of the evidence. “Preponderance of the evidence” means the amount of evidence that causes the factfinder to conclude that an allegation is probably true. To prove an allegation by a preponderance of the evidence, a party must convince the factfinder 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, and the party having the burden of proving that issue has failed.

### **Direct and Circumstantial Evidence**

There are two kinds of evidence: direct and circumstantial. Direct evidence is direct proof of a fact, such as testimony of a witness about what the witness personally observed.

Circumstantial evidence is indirect evidence that gives clues about what happened. Circumstantial evidence is proof of a fact, or a group of facts, that cause the factfinder to conclude that another fact exists. It is for the factfinder to decide whether a fact has been proven by circumstantial evidence. If the factfinder bases its decision upon circumstantial evidence, it must be convinced that the conclusion that it reaches is more probably than any other explanation.

For example, if a witness testified that the witness saw it raining outside, that testimony would constitute direct evidence that it was raining. On the other hand, if a witness testified that the witness saw someone enter a room wearing a raincoat covered with drops of water and carrying a wet umbrella, that would be circumstantial evidence from which the factfinder could conclude that it was raining.

The law permits equal weight to be given to both types of evidence, but it is for the factfinder to decide how much weight to give to any evidence. In making its decision, the factfinder must consider all of the evidence in light of reason, experience, and common sense.

### **Tennessee Code Annotated § 29-20-102**

As used in this chapter, unless the context otherwise requires:

- (1) “Claim” means any claim brought against a governmental entity or its employee as permitted by this chapter;
- (2) “Employee” means and includes any official (whether elected or appointed), officer, employee or servant, or any member of any board, agency, or commission (whether

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<sup>1</sup> For purposes of this case, the Mock Trial Committee has chosen to adopt the law as promulgated here, which consists of portions of Tennessee statutes, jury instructions, case law, and some alterations and additions added by the Mock Trial Committee.

compensated or not), or any officer, employee or servant thereof, of a governmental entity, including the sheriff and the sheriff's employees and, further including regular members of voluntary or auxiliary firefighting, police, or emergency assistance organizations;

- (3) "Governmental entity" means any political subdivision of the state of Tennessee including, but not limited to, any municipality, metropolitan government, county, utility district, school district, nonprofit volunteer fire department receiving funds appropriated by a county legislative body or a legislative body of a municipality, human resource agency, community action agency or nonprofit corporation that administers the Head Start or Community Service Block Grants programs, public building authority, and development district created and existing pursuant to the constitution and laws of Tennessee, or any instrumentality of government created by any one (1) or more of the named local governmental entities or by an act of the general assembly. "Governmental entity" also means a nonprofit public benefit corporation or charitable entity, including any entity with tax exempt status under the Internal Revenue Code § 501(c)(3), that is appointed by statute, ordinance, resolution, contract, or other governmental directive to develop, maintain, manage, and provide services and activities at government owned property that is a public park, including facilities located on park property;
- (4) "Injury" means death, injury to a person, damage to or loss of property or any other injury that one may suffer to one's person, or estate, that would be actionable if inflicted by a private person or such person's agent.

#### **Tennessee Code Annotated § 29-20-201**

Except as may be otherwise provided in this chapter, all governmental entities shall be immune from suit for any injury which may result from the activities of such governmental entities where such governmental entities are engaged in the exercise and discharge of any of their functions, governmental or proprietary.

#### **Tennessee Code Annotated § 29-20-208**

Immunity from suit of all government entities is removed for injuries resulting from the negligent actions of an employee in planning, organizing, or approving any public protest or gathering on property maintained and owned by the entity.

#### **Tennessee Code Annotated § 29-20-305**

- (a) A claimant may institute an action in the circuit court against the governmental entity in those circumstances where immunity from suit has been removed as provided for in this chapter.
- (b) The action must be commenced within twelve (12) months after the cause of action arises.

### **Duty of Owners, Occupants or Lessors of Premises**

One who owns, occupies, makes available for public use, or leases property is under a duty to use ordinary care, which is the care that ordinarily careful persons would use to avoid injury to themselves or others under the same or similar circumstances. There is no duty to guarantee the safety of those entering upon the property.

A factfinder should consider all of the surrounding circumstances in deciding if the defendant used such care.

A defendant has a duty to take reasonable steps to protect individuals on its property only if the defendant knows, or has reason to know, that harmful acts of others against individuals on its premises are reasonably foreseeable. This duty is not absolute. A land owner is not an insurer of safety for individuals on its property.

In determining whether the defendant was at fault the factfinder must balance the foreseeability and the gravity of the harm against the burden placed on the defendant to protect against the harm. Where there is a high degree of foreseeability of harm and the probable harm is great, the burden placed on the defendant will be substantial. Where there is a lesser degree of foreseeability or the potential harm is slight, the burden will be less.

An injury caused by a third party's criminal conduct can be imputed to the property owner if the harm was foreseeable and the owner could have taken reasonable measures to avoid the injury.

IN THE CIRCUIT COURT OF BUTCH COUNTY, TENNESSEE  
AT HOCKEYTOWN

CARDEN CAROL,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 17-CV-293
	)	JURY DEMANDED
CITY OF HOCKEYTOWN,	)	
TENNESSEE,	)	
	)	
Defendant.	)	

**COMPLAINT**

COMES now the Plaintiff, CARDEN CAROL, by and through counsel, and would allege and show unto this Honorable Court as follows:

1. The Plaintiff, CARDEN CAROL, is a citizen and resident of Butch County, Tennessee.
2. The Defendant, CITY OF HOCKEYTOWN, TENNESSEE, is a governmental entity incorporated in Butch County, Tennessee.
3. This action arises out of an incident that occurred in Butch County, Tennessee, and therefore, this Honorable Court has jurisdiction and venue to hear this cause pursuant to Tenn. Code Ann. § 29-20-308 and Tenn. Code Ann. § 29-20-307.
4. On August 21, 2017, the Plaintiff, CARDEN CAROL, was involved in a public protest at Centre Park in Hockeypark, Tennessee, with the Tennessee Chapter of Catfish (hereinafter, "Catfish Club"). The Catfish Club was protesting to promote the sport of hockey and the removal of a statue of Michael Jordan in Centre Park.
5. At the same date and time, another group, the Airness Fan Club, was also protesting at Centre Park, in opposition to the protest by the Catfish Club.
6. Centre Park is owned and maintained by the Defendant, CITY OF HOCKEYTOWN, TENNESSEE.
7. During the protest by the Catfish Club and the Airness Fan Club at Centre Park, an eclipse occurred resulting in a momentary blackout.
8. The Plaintiff, CARDEN CAROL, suffered significant injuries during the blackout when the Plaintiff, CARDEN CAROL, was struck in the head by an unknown protester from the Airness Fan Club with a flashlight.
9. A permit must be submitted and approved by the City Manager of Hockeypark, Tennessee, to have a public protest at any public park owned by the Defendant, CITY OF HOCKEYTOWN, TENNESSEE.
10. Excelsior Swaggerwright was appointed City Manager of Hockeypark, Tennessee, on November 3, 2016, and began in the position as City Manager on January 20,

2017. At the time of the incident on August 21, 2017, Excelsior Swaggerwright remained as City Manager of Hockeypark, Tennessee.
11. Applications were submitted to the Hockeypark City Manager, Excelsior Swaggerwright, for public protests on August 21, 2017, at Centre Park, by the Catfish Club on August 1, 2017, and by the Airness Fan Club on August 7, 2017. Both applications were approved by Excelsior Swaggerwright.
  12. Excelsior Swaggerwright was an employee of the Defendant, CITY OF HOCKEYTOWN, TENNESSEE, and was acting within the course and scope of his/her employment when approving the applications.
  13. Excelsior Swaggerwright was aware that there was potential for a conflict between the Catfish Club protest participants and the Airness Fan Club participants.
  14. Excelsior Swaggerwright was aware that both protests by the Catfish Club and the Airness Fan Club were scheduled to occur at Centre Park.
  15. The Defendant, CITY OF HOCKEYTOWN, TENNESSEE, failed to provide adequate security and emergency personnel services at Centre Park for the protests by the Catfish Club and the Airness Fan Club.
  16. Excelsior Swaggerwright failed to properly review and examine the applications submitted by the Catfish Club and the Airness Fan Club.
  17. Upon information and belief, Hockeypark City Manager, Excelsior Swaggerwright, diverted electricity resources from Centre Park to Centre Stage that prevented the street lights at Centre Park from working on August 21, 2017.
  18. As a result of the incident described herein, the Plaintiff, CARDEN CAROL, has incurred and will continue to incur the following damages:
    - (a) medical expenses;
    - (b) pain and suffering;
    - (c) loss of enjoyment of life;
    - (d) permanent disfigurement;
    - (e) permanent impairment; and
    - (f) loss of earning capacity.
  19. As a result of the incident described herein, the damages suffered by the Plaintiff, CARDEN CAROL, were directly and proximately caused by the following acts of negligence on the part of the Defendant, CITY OF HOCKEYTOWN, TENNESSEE, and its agents and employees:
    - (a) failure to properly review permit applications;
    - (b) failure to provide adequate security at Centre Park; and
    - (c) failure to provide proper lighting.
  20. The Defendant, CITY OF HOCKEYTOWN, TENNESSEE, is liable for the negligent acts of its employees, including the acts of the Hockeypark City Manager, Excelsior Swaggerwright.
  21. The Defendant, CITY OF HOCKEYTOWN, TENNESSEE, is not immune to suit pursuant to Tenn. Code Ann. § 29-20-208.

WHEREFORE, PREMISES CONSIDERED, the Plaintiff, CARDEN CAROL, prays:

1. That this Complaint be filed, proper process issued, the Defendant, CITY OF HOCKEYTOWN, TENNESSEE, be served, and that the Defendant be required to answer within the time prescribed by law;
2. That a constitutional jury of twelve (12) be empaneled to hear this cause;
3. That the Plaintiff, CARDEN CAROL, be awarded reasonable compensatory damages in the amount of \$250,000.00;
4. That the court costs be taxed to the Defendant, CITY OF HOCKEYTOWN, TENNESSEE; and
5. For any further general and/or equitable relief as the justice of this cause may require.

RESPECTFULLY SUBMITTED,

BY: /s/ Earl Waters  
EARL WATERS, BPR #89999  
Attorney for the Plaintiff  
333 Gruden Way  
Hockeytown, TN 37777  
(943) 200-0000

IN THE CIRCUIT COURT OF BUTCH COUNTY, TENNESSEE  
AT HOCKEYTOWN

CARDEN CAROL,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 17-CV-293
	)	JURY DEMANDED
CITY OF HOCKEYTOWN,	)	
TENNESSEE,	)	
	)	
Defendant.	)	

**ANSWER**

COMES now the Defendant, CITY OF HOCKEYTOWN, TENNESSEE, by and through counsel, and for Answer to the Complaint served upon it would state as follows:

1. The Defendant lacks sufficient information to formulate a response to the allegations contained within paragraph 1 of the Complaint, and therefore, paragraph 1 is denied and strict proof is demanded thereof.
2. The Defendant admits the allegations contained within paragraph 2 of the Complaint.
3. The Defendant admits the allegations contained within paragraph 3 of the Complaint.
4. The Defendant admits the Catfish Club applied for a protest that was held on August 21, 2017. The Defendant lacks sufficient information to formulate a response to the remaining allegations contained within paragraph 4 of the Complaint, and therefore, paragraph 4 is denied and strict proof is demanded thereof.
5. The Defendant lacks sufficient information to formulate a response to the allegations contained within paragraph 5 of the Complaint, and therefore, paragraph 5 is denied and strict proof is demanded thereof.
6. The Defendant admits the allegations contained with paragraph 6 of the Complaint.
7. The Defendant admits an eclipse occurred on August 21, 2017. The Defendant lacks sufficient information with which to formulate a response to the remaining allegations contained within paragraph 7 of the Complaint, and therefore, paragraph 7 is denied and strict proof is demanded thereof.
8. The Defendant lacks sufficient information with which to formulate a response to the allegations contained within paragraph 8 of the Complaint, and therefore, paragraph 8 is denied and strict proof is demanded thereof.

9. The Defendant admits the allegations contained within paragraph 9 of the Complaint.
10. The Defendant admits the allegations contained within paragraph 10 of the Complaint.
11. The Defendant admits the allegations contained within paragraph 11 of the Complaint.
12. The Defendant admits the allegations contained within paragraph 12 of the Complaint.
13. The Defendant denies the allegations contained within paragraph 13 of the Complaint, and therefore, paragraph 13 is denied and strict proof is demanded thereof.
14. The Defendant denies the allegations contained within paragraph 14 of the Complaint, and therefore, strict proof is demanded thereof.
15. The Defendant denies the allegations contained within paragraph 15 of the Complaint, and therefore, strict proof is demanded thereof.
16. The Defendant denies the allegations contained within paragraph 16 of the Complaint, and therefore, strict proof is demanded thereof.
17. The Defendant admits the allegations contained within paragraph 17 of the Complaint.
18. The Defendant lacks sufficient information with which to formulate a response to the allegations contained within paragraph 18 of the Complaint, and therefore, paragraph 18 is denied and strict proof is demanded thereof.
19. The Defendant denies the allegations contained within paragraph 19 of the Complaint, and therefore, strict proof is demanded thereof.
20. The Defendant admits that the Defendant is liable for certain negligent actions of its employees. The Defendant denies that any of its employees acted negligently as alleged in this matter, and therefore, strict proof is demanded thereof.
21. The allegations contained in paragraph 21 are a legal conclusion, for which the Defendant is not required to answer. The Defendant, however, denies it is liable to the Plaintiff in any way.

WHEREFORE, PREMISES CONSIDERED, the Defendant, CITY OF HOCKEYTOWN, TENNESSEE, respectfully requests that it be dismissed from this matter, or alternatively that a jury of twelve (12) be empaneled to hear this cause.

RESPECTFULLY SUBMITTED,

BY: /s/ Flo Ridley  
FLO RIDLEY, BPR #45454  
Attorney for the Defendant  
2124 Doeren Way  
Hockeypoint, TN 37777  
(943) 869-9999

## Witnesses for the Plaintiff

### Carden Carol

My name is Carden Carol, and I'm a third-year law student at the University of Eagles in Hockeytown, Tennessee. I'm graduating Order of the Coif in May and have already accepted an offer to be an associate with Bigger & Better, P.C., the largest firm in the state of Tennessee. Since I already have a job offer, I decided to dedicate more time to serving the hockey community. I grew up in Hockeytown and have been a member of the Tennessee chapter of Catfish, the booster organization for the Nashvegas Catfish, a National Skaters League expansion team, since I was 18 years old.

Hockey is the ideal sport. It's not only packed with action, but requires incredible skill to execute the game, all while ice skating with aggressive precision. Compare it to basketball: five guys run back and forth on a 94-foot-long wood floor and toss a ball. That's what my dog does every day! It requires no skill. It angers me to think about it. Imagine my frustration that, since I've been in law school, I have to drive right by a city public park, Centre Park, with a Michael Jordan statue staring at me. Michael Jordan didn't even play here! He played in the National Ballers League for the Windy City Heifers. It makes no sense for him to be honored in the Hockeytown park.

My anger toward this statue grew, and I decided to do something about it. I felt that it should be replaced with a statue honoring Wayne Gretzky, the greatest hockey player in NSL history. So, I called up my fellow Catfish boosters and organized a protest. We had it all planned out: signs, banners, catchy chants to yell. It was going to be great! We planned the protest for August 21, 2017, which is Gretzky's birthday. It also happened to be the day of the long-awaited solar eclipse. As a law student, I knew that proper permits were required, and I submitted a permit to the City Manager on August 1. The next week, I received a letter from the City Manager approving my permit. To boost up support for the protest, I created about 100 fliers that I placed around town the week leading up to the event. The fliers were posted on light poles, in all the business windows on the square, and various public buildings around town, including popular locations such as City Hall, the movie theatre, and the local mall. A couple days after the posters were placed around town, I heard from a few friends that the Airness Fan Club was planning a counter protest. The Airness Fan Club is quite a rowdy, obnoxious club that is known for its violent tendencies. Taylor Target, the president of the Airness Fan Club, and I have never gotten along. Because of the threatening presence the Airness Fan Club would bring to the protest, I decided to call the City Manager, Excelsior Swaggerwright, to warn him/her of the potential conflict that the protest and counter-protest might create. The City Manager assured me that there would not be a problem and that everything was under control.

On the day of the protest, I was so excited. We had planned for around 200 protestors, but we ended up with around 1,000. It probably helped that it was a beautiful day: the sun was shining, and it was in the 70s. I arrived around noon to set up, and the protest began at 2 p.m. People brought signs, and some even brought real catfish! However, a few Michael Jordan fans showed up to counter protest. They were mean, hateful people. They kept calling me an ice queen and other rude nicknames. Tensions flared, but I remember that there were no police officers present. One of my friends somehow managed to throw a sheet over the Michael Jordan statue. Then the eclipse began and the next thing I knew, without even fully realizing what I was doing, I found myself with a rope and lassoed the statue and began trying to pull it down. People were cheering; others were screaming. I'm not clear on exactly what happened next, but I saw the leader of the counter-protest group, Taylor Target, heading for me and the statue with a flashlight raised in anger. I remember hearing him yell something then the sky blacked out and I blacked out.

The next thing I knew I was waking up in the hospital, and my memory has been spotty ever since. I don't know how long it took for the ambulance to arrive, but someone told me it was over an hour. At the emergency room, Doctor Hoo told me that I received a severe concussion and brain bleed. I continue to suffer from headaches, blurred vision, and dizzy spells as a result of the horrific incident. August 21, 2017, changed my life forever.

## Lee Joe

My name is Lee Joe, or as my regulars sometimes call me, Lee Cup-a-Joe. I've spent the past seven years experimenting to create the perfect latte, and have been studying to become a master roaster of coffee. I believe everyone has a calling, and coffee is my life's calling. It all started when I was a kid and my family went camping one year. I got lost in the woods, and just when I was about to give up hope, I smelled the sweet aroma of coffee. I followed the smell and it led me back to the campsite. From that day forward, I knew that coffee would be my life's work. I'm proud to say that I'm the apprentice to the master roaster of our local Hockeytown Roasters Guild. Right now, I also work at the University of Eagles library coffee shop, but that's just to pay the bills until I can patent my perfect latte formula and go off on my own.

I remember that I wasn't originally scheduled to work on the day of the eclipse. I was supposed to have the day off and had planned to sun-bake some of my coffee beans through the eclipse and sell them in commemorative coffee bags. I was going to call it the Sun-Goes-Dark Roast. Anyways, a colleague of mine called in sick, so I had to go in to work. There was no one in the library or the coffee shop for most of my shift, so I had plenty of free time to run some more tests to finalize the temperature portion of my perfect latte recipe. I guess everyone had set up outside to wait for the eclipse, so that's why no one was coming in for coffee.

I lost track of time and almost missed the eclipse, but I happened to look at the clock over the door and see that it was 2:29 p.m. I immediately took off my apron and ran outside to the park. People were everywhere, and it was already getting really dark. I don't know if I've ever seen the park that crowded, and everyone was just staring up at the sky. I didn't realize until I was already outside that I'd forgotten my eclipse glasses back in the coffee shop. I thought about running back to get them, but I didn't want to miss this once in a lifetime opportunity. I'd been hearing on the radio and on TV that you weren't supposed to look at the eclipse without the proper eyewear, but I figured eclipses had been happening for centuries, and people seemed to manage just fine.

I was completely unprepared for how powerful the eclipse would be. I couldn't stop staring. It reminded me of when I was a kid and the almost trance-like state I was in when I followed the smell of coffee back to safety. I remember hearing some commotion coming from over by the Michael Jordan statue in the park. That would have been maybe 20 or 30 feet to my right. I didn't turn to look because I was so transfixed by the eclipse. I do remember, though, that right before the total eclipse I heard a voice yell, "You'll pay for this!" I thought maybe someone was trying to be dramatic with the eclipse and everything and didn't think much of it.

The total eclipse lasted only 30 seconds or so, but it felt like an eternity. Once it was over, I was still seeing spots in my eyes, and I realized the spots were shaped like coffee beans. I was immediately inspired to create a design in my next series of lattes that would reflect the images I

was seeing after the eclipse. I kept getting distracted, though, by all the noise that was coming from over by the Michael Jordan statue. It was really interrupting my creative flow, so I tried to go see what it was to ask them to keep it down. Unfortunately, I was still having a hard time seeing anything except blobs of color. Beautiful, coffee bean-shaped blobs of color. But the inspiring spots in my eyesight only lasted a few minutes before they were gone, and then all I could see was a crowd of people gathered around a person lying on the ground next to the Michael Jordan statue that was covered with a sheet or something. The person looked unconscious, but I didn't see any law enforcement or medical professionals there to help. I ran around a bit trying to find a police officer or security guard – anyone who could offer some assistance, but there was no one close by. I couldn't believe that with all these people everywhere there were no police to be found.

Because the person on the ground seemed to be injured, I decided to call 911 to get help. The 911 operator hung up on me twice, and the third time I got through the operator placed me on hold. Can you believe that? I mean, the whole point in calling 911 is because you have an emergency. The woman acted like I was calling to place an order for takeout food. I was furious. And the whole time I was on this fake “hold” that she put me on, I could hear her entire conversation. Apparently, she thought it was more important to figure out whether Kylie Kardashian was pregnant or not than to get an ambulance on the way for someone who was injured. It still makes me mad just thinking about it. I wanted to file a complaint against the 911 operator, and I still haven't ruled it out. No one should have to die or suffer devastating injuries just because some 911 operator can't do her job. I take my job seriously, and I believe other people should do the same. I know being a 911 operator isn't as important or complex as roasting coffee or making the perfect latte, but this woman wasn't even trying.

It took the ambulance over an hour to get to the park, I guess because there were so many people everywhere. It was terrifying knowing that someone was injured and unconscious and just having to sit there and wait for help to arrive. I was just floored that there were no police officers or anyone in the area to go to for help. A police officer did finally wander up just before the ambulance arrived and did a basic vitals check; I guess to make sure the person was still breathing. I don't know. I wasn't all that impressed, as the officer didn't seem to have a clue what to do. I made certain to inform him that I had already contacted 911 and that an ambulance with real professionals was on its way.

After the ambulance arrived and loaded the person up to be taken to the hospital, I made my way back to the coffee shop in the library. I had already been gone for over an hour at this point, and my supervisor was not happy with me for being so late. I tried to explain that I was helping someone that was injured, and my supervisor asked me if the person was injured in all that commotion from the protest over the Michael Jordan statue. I didn't even know there had been a protest, so I wasn't sure, but now I'm wondering if that's why I heard the “you'll pay for this” right before the eclipse. It did sound rather ominous, and it came from the direction of where the injured person was lying on the ground afterwards. Really sad, when you think about

it. Although my supervisor was upset with my tardiness, I thought we had reconciled and agreed to forget about the incident. Apparently, I was wrong, considering the very next week I received a written warning from the owner of the coffee shop scolding me for my actions.

I don't know what ended up happening to the person who was injured, but I hope he/she is alright. I think I heard on the news that he/she had filed a lawsuit of some sort, but I have been so busy opening my new online coffee shop that I haven't really had time to pay attention to anything else. You should totally check out my website, [www.solarroasters.com](http://www.solarroasters.com). The Sun-Goes-Dark Roast beans were a huge hit, and I think this is really going to be the start of something big.

## **Skye Sylvester**

My name is Skye Sylvester. I am a safety engineer and expert witness for the plaintiff, Carden Carol. I have been a safety engineer since 1967 and have testified in thousands of cases. I have a Bachelor of Science in Industrial Engineering from Kimberly University and a master's degree in Safety.

I received a phone call from Carden Carol's attorney several months back. The attorney discussed hiring me to do an assessment on the safety of the Hockeytown eclipse events. We spoke at length about what transpired the day of the eclipse, and I was provided a copy of the permit applications for both groups to review. I was also informed that the city might be resistant to speaking with me. After a lengthy phone call with Carden, I contacted the City Risk Manager via email and phone to set up a time when we could talk. These emails were ignored for several weeks. I finally decided to drive over to Hockeytown, which was about a thirty-minute commute from my home. I spoke with the administrative assistant and was informed the Risk Manager did not wish to speak with me and I should leave. While on my way out the door, I was greeted by another employee who turned out to be a safety coordinator for the city. This person was not aware of who I was or why I was inquiring about the events of that day, but was happy to provide any assistance. Based on my conversation with the safety coordinator, I learned that the City Manager had not met with the Risk Manager or any of the staff to discuss safety concerns. The risk manager and staff were actually all out of town during the eclipse day.

I next went to speak with the police officer in charge of special event staffing to find out what kind of staffing had been appropriated for this event. The officer informed me that he/she had met with the City Manager prior to the event and the City Manager had stated that no police presence would be necessary apart from those officers assigned to the city's eclipse event on the square. The City Manager did not want people to feel paranoid or think the town was unsafe by having a strong uniformed police presence all over the city.

When speaking with fire/EMS, I learned there was not a contingency plan of action in the event of an emergency such as potential threats that may arise from weather or terror situations. The streets were not blocked off for emergency vehicles in case of emergency. EMS did not have a presence at the protest events, which is why it took so long for any medical personnel to arrive.

The streets department informed me that the electricity for the street lights had been redirected to the square in order to power the food trucks and sound system at the direction of the City Manager.

There were five street lights located between the square and Centre Park. There were also several street lights lining Gator Avenue next to Centre Park. Had these lights been turned on, they would have provided adequate lighting to make the event safe, while still being able to see

the eclipse at Centre Park. I once taught a seminar on lighting events during eclipse events, and I have studied how much lighting is appropriate for safety on special events.

After my investigation, it is clear that both protests by the Catfish club and the Airness Fan Club were to be held at Centre Park. In light of the large crowds at the protest events, there needed to be approximately 10 police officers to make the protest events safe. There also needed to be approximately 4 medical personnel stationed around Centre Park.

My professional expert opinion is that the city failed to provide adequate security, lighting, and medical personnel, for the protests at Centre Park on August 21, 2017.

## Sydney Bosby

My name is Sydney Bosby. I am from Skagway, Alaska and came to Hockeytown, Tennessee to view the eclipse. There are only about 1,000 people in Skagway and, because it is so small, you can see the night sky with amazing clarity. Growing up in a town like that, I became very interested in astronomy. I've owned three different telescopes in my life because of this hobby. Well, about halfway through last year, I discovered that a once-in-a-lifetime eclipse was going to be happening across the mainland of the United States. After checking the map and realizing that Skagway was not going to be in the path of the eclipse, I knew I was going to be travelling to see it. I made a list of several of the locations directly in the path of the eclipse and started looking at my options. Hockeytown seemed to be the best fit for many reasons: it was the right size to make traveling easy and fell right smack dab in the middle of the path of totality. I was also somewhat familiar with the area because I had been nearby before for a Widespread Panic concert in '99.

I arrived in Hockeytown the day before the eclipse, and when my plane landed I started looking for a good spot to view the eclipse. I wanted to make sure I had plenty of space to see the event. I found a great little park next to the University of Eagles. It was only a couple of blocks from the downtown square. Since it was next to a university, I hoped there would be plenty of enlightened people also watching the eclipse.

On the day of the eclipse, I went down to the park and staked out my area. I arrived a couple of hours early to make sure I got my spot. My perfect location was near a statue of some athlete. It was away from any trees, so there wasn't much to block the visibility of the eclipse. Everything was perfect. There were a few people picnicking and walking their dogs. I overheard one man yelling for his two dogs who seemed to have gotten loose from their leashes. "Layla! Teddy! Come back! Good boy, Good girl." It was a picture-perfect park setting for an eclipse viewing. I was very excited for this day. I knew it would be a memory that I would tell my grandchildren someday. As it got closer and closer to 2:30 p.m., I noticed more and more people beginning to show up who didn't appear interested in the eclipse. Most of these people were holding up signs and chanting about the statue in the park. This was a little aggravating but at this point there was nothing that could be done about it. By the time the eclipse was about to begin there had to be well over 1,000 people in the park. The people around the statue were yelling and began throwing soda pop bottles at each other. I couldn't believe what a mess this park had become from these protesters. I looked around but didn't see any security guards or police officers anywhere. Another strange thing was that the street lights didn't come on when it began to get dark. That seemed odd to me. Maybe they were on a timer instead of a light sensor.

Right at 2:30 p.m. the moon crossed into the path of the sun and completely blotted out the light. It was a glorious sight. Even though the eclipse only lasted a short time, I only got to see about half of it. Just as the sky went dark, the commotion from the protestors became very loud.

I looked over to see what was going on and noticed that someone was trying to pull down the statue in the park. There was a black sheet over the statue. I had to jump and run because it looked like it could fall right onto me. In the commotion, I lost my camping chair, a pair of eclipse sunglasses, and two of my Widespread Panic CDs. This was infuriating. I had flown all the way from Alaska to get a good view of the eclipse and instead I was running around in the dark, trying not to get toppled by a statue. Suddenly, the sunlight emerged, and I could see clearly again. I looked towards the statue and noticed everyone was dispersing and there was a person lying on the ground who had clearly been hurt pretty bad. Another person was trying to shake them to wake them up. Even more bizarre was the individual behind the statue who was peering around and looking at the injured person on the ground and seemed to be laughing. I couldn't believe what I was seeing. The individual behind the statue must have been the criminal that injured the person lying on the ground. Once the crowd dispersed, I went to search for my lost camping chair, sunglasses, and CDs, but only found a bulky flashlight lying next to where my belongings had been. It looked like a nice flashlight and since no one seemed to be missing it, I decided to take it as a souvenir, so I at least got one good thing out of this trip. It wasn't until I was back home in Alaska that I realized the flashlight had a dent on the end of it and also had the initials T.T. engraved in small lettering.

To say I was disappointed with my eclipse experience would be an understatement. It is upsetting to travel such a huge distance to have a once in a lifetime experience ruined by some ridiculous protestors. And, as if that wasn't bad enough, to see someone get injured and watch the responsible person just run away without providing any medical attention is frightening. This town should have had a strong police presence in the park. That would have stopped all this foolishness from happening. After all, this is a public park during a big public event! Where were the police? When I get back to Skagway, I won't be travelling south anytime soon. Even worse, a fellow eclipse enthusiast at the park told me as I was leaving that the two groups protesting were known to get into regular conflict with each other.

## Witnesses for the Defense

### Excelsior Swaggerwright

My name is Excelsior Arthur Swaggerwright. Long-time friends call me “Swag.” I was appointed City Manager of Hockeytown, Tennessee, on November 3, 2016 and took the helm on January 20, 2017. It is no mere coincidence that I assumed office on the same day as the President of the United States. We really have the same job. Like the President, I am the chief executive of my domain. Yes, it is true that Hockeytown has a mayor as well as a City Manager, but the real work of leading the city—marshaling its resources and keeping its residents safe—falls to me.

Before I became City Manager of Hockeytown, I was Assistant City Manager of Footballville, Tennessee, in neighboring Gieldfoal County, for five years. In that role, I partnered with Footballville’s CFO to create and implement a three-year business planning process that emphasized increased efficiencies and alignment with the city’s strategic plan. I also established and managed relationships with transportation vendors as part of the city’s long-term effort to improve its public transit system. I was Finance Director of Footballville for several years before I became Assistant City Manager, and managed the city’s budget. In 2004, I graduated with a business degree from Peyton Fulmer State, where I was a four-year, starting defensive lineman for the PFS Headknockers. I also have a master’s degree in Public Administration from Volunteer University.

One of the things that I promised to do when I campaigned to be Hockeytown City Manager was raise the city’s profile. Having spent several years in Footballville, which is better known than Hockeytown despite being about the same size, I knew what it would take to do that. When I learned that Hockeytown would be in the totality path of the solar eclipse scheduled for August 21, 2017, I realized immediately that the eclipse was our ticket to greatness. Tourists were expected from all over the country, and I told the mayor that we could make Eclipse Day a marquee event. But he mumbled something about capacity and “spreading ourselves too thin” before telling me that I was welcome to coordinate with other city personnel to plan something “modest.” Like most mayors, he lacked vision, and I knew that, once he saw the grander plans I had in mind come to fruition, he would be on board.

To get us ready for Eclipse Day, I worked with the city’s marketing and budget offices to host a series of vendors, food trucks, and musicians at Center Stage, Hockeytown’s town square. Neely’s BBQ in Memphis, Prince’s Hot Chicken Shack in Nashville, and Calhoun’s on the River in Knoxville all agreed to come. Arnold Swift (Taylor’s cousin), Claire Underwood (Carrie’s niece and also some kind of politician in D.C.), E.E. King (B.B.’s great-granddaughter) and Bart Presley (Elvis’s second cousin once removed) all agreed to perform. Vendors from across the country and every Tennessee college and university—motivated by the Tennessee Reconnect Act and Governor

Haslam's Drive to 55—wanted to hawk their wares in the square. As a result, we expected to make more than \$25 million in revenue on Eclipse Day.

From February to August 2017, I traveled up and down the state, meeting with artists, officials, and merchants in Knoxville, Nashville, Chattanooga, and Memphis to drum up support for Eclipse Day. I also visited all five Hockeytown elementary schools, the three middle schools, and both high schools to make sure that students and parents were aware of Eclipse Day and all of its events. I prepared a memo to Chief Griffith of the Hockeytown Police Department and to Director Fife of Hockeytown Light & Water regarding strategic deployment of officers around Center Stage and the diversion of electricity to Center Stage from 10:00 A.M. to 10:00 P.M. on August 21, 2017, to power the food trucks and the sound system for the performances.

Several applications for permits during the busy weeks leading up to Eclipse Day came into my office. As City Manager, it is my responsibility to review such applications for final approval. Come to think of it, I am not really sure what it is that the mayor did at all. But the vast majority of the applications, at any rate, were for small events like truck-back t-shirt sales and flea-market trinket displays.

There was one application for a family reunion that I thought was odd but approved because it posed no threat, and I figured no one else would be in Centre Park on Eclipse Day. Centre Park is just a grassy area with a measly Michael Jordan statue. There also was an application for some sort of protest by a fish-lover consortium that was really fond of hockey. The fondness made sense, I suppose, in a town named after an inferior sport. People in Footballville, which is my hometown, do not think much of hockey. It is difficult to distinguish from ice dancing and ballet as far as we are concerned. Basketball, to which I understood the fish-lovers to have been objecting, at least requires physical fitness and strategy. For that reason, it made complete sense to me that Hockeytown, despite its name, had erected a statue to honor his airness, Michael Jordan, in Centre Park, two blocks South of the square on Gator Avenue.

In any event, as the fish-lover protest was to take place on the other side of town, on Gator Street, and would only include 200 people, I approved that application too. Hockey is silly, but it never would have occurred to me that a protest for hockey would draw any kind of response. Who cares about hockey, or basketball, when there is football?

I arrived at Center Stage on the square at 7:00 a.m. on August 21, 2017, to help oversee final preparations for Eclipse Day. Director Fife met me there and explained that diverting power to Center Stage for 12 hours as planned would require leaving the street lights in Centre Park off during the eclipse. As I had approved no permits for Centre Park other than for the family reunion, and I wanted Eclipse Day to be as lucrative as possible for Hockeytown, I told him that the street lights would not be a problem. Chief Griffith arrived around 9:00 A.M., and he explained that all 17 Hockeytown Police Officers would be deployed around Center Stage as we discussed for the duration of Eclipse Day.

The day got off to a perfect start. Arnold and Claire sang a duet while Bart and E.E. joined them on bass and guitar. Buckets of Prince's, slabs of Calhoun's, and Neely's sandwich wrappers were everywhere as the crowd sang along. Traffic into the city was bumper-to-bumper beginning at 10:00 a.m. Everyone was having a great time. At 2:15 p.m., as the sky began to grow dark, people gathered in the middle of Center Stage and a hush fell over the crowd. It was almost as if they could see my star rising as the moon obscured the sun.

But at 2:30 p.m., all hell broke loose. As everything went dark, shouts from nearby Centre Park became so loud that we could hear them from Center Stage. I later learned that Carden Carol, who had submitted the fish-lover petition, had been knocked unconscious while protesting in the park. I have never met Carden Carol, but I do remember getting a call from him/her about a week before the big day. But, I was so busy at that time I cannot remember what we discussed.

I will admit I panicked a little initially, thinking I might have approved an event other than the family reunion to be in Centre Park after all. The weeks leading up to Eclipse Day were so hectic, and I was handling so much (the mayor was practically useless) that I thought I might have made a mistake because I just glanced at the applications and sent quick letters approving them.

After Carol was taken to the hospital—apparently, it took some time for the ambulance to reach Carol because of the traffic and crowds—I ran back to my office and pulled the application. I won't lie—I breathed a sigh of relief when I read it. Just as I recalled, Carol and the fish-lovers were supposed to be across town. And from what I understand from Chief Hoskins, the fish-lover group was five times larger than the 200 people that Carol cited in his/her application. There is no way that we could have anticipated either change. I also understand from Chief Hoskins that the family reunion was actually a group of counter-protestors.

Both groups potentially involved in Carol's injury lied on their applications, and Carol's group was on the opposite side of town from where it should have been. There is no way that Carol's injury is my fault or Hockeytown's. This incident has made clear to me, however, that better leadership in Hockeytown might prevent such injuries in future. As a result, I am contemplating a run for mayor in 2020.

## **Officer Alex Williams**

My name is Alex Williams and I am an Officer with the Hockeytown Police Department. I have been an officer with the HPD for one year. I am still considered a rookie with the force but this is not my first job protecting the public. I worked for a private security company for five years prior to entering the Academy. I graduated first in my class at the Academy and feel I am quickly moving up the ranks in the HPD. I am not being promoted as quickly as I think I should due to a little mix up last year where a skeezy low-life accused me of using excessive force during an arrest for a simple possession. Who doesn't tase a man that appears to be pulling a gun out of his pocket? Other than that, everything has been going well in my career.

On August 21, 2017, I was ordered by my Chief to report to downtown Hockeytown to patrol the area around the square where Center Stage is located, and several events were being held. The town had an influx of tourists there to view the total eclipse due to occur that afternoon. All of the on-duty officers in Hockeytown were patrolling the square. I wondered who would respond if something happened in another part of town, but I only make \$26,000.00, and those decisions are above my pay grade. I was surprised at the lack of other police officers in the area but assumed the Chief thought I was able to take care of the situation alone. At the conclusion of the eclipse, I was dispatched to Centre Park by the University of Eagles. The dispatcher reported that someone had called in about a situation by the statue of Michael Jordan located in the middle of the park. Dispatch did not seem urgent so I stopped in the local coffee shop for my mid-afternoon pick-me-up.

Upon arriving on the scene, I found a person unconscious on the ground beside the statue. The statue was hard to recognize as it had been covered up with some type of black fabric. I quickly recognized the injured person to be Carden Carol. Carol was a hockey fan that I remembered from my days working security at the local Nashvegas Catfish hockey games. Carol was known to be fairly obnoxious during the games, and Carol's group, the Tennessee Catfish, had previously been involved in some skirmishes. I remembered seeing posters around town advertising a protest by the Catfish. I could see that Carol appeared to be unconscious. A bystander confirmed that an ambulance was supposed to be on the way to assist. I noted that there was a rope laying on the ground next to Carden.

I interviewed witnesses to determine what happened to Carol. One witness, Sydney Bosby, a tourist from Alaska, informed me that he/she got caught between the two protesting groups as they began to fight but was able to move when the covered statue appeared to be about to fall. Sydney stated that as soon as the eclipse cleared, Carol was on the ground and there was a person pointing and snickering from behind the statue. Bosby was not able to see during the eclipse to witness the actual event that caused the harm and was, therefore, unable to verify

any specific person had caused the harm to Carden Carol. I was also able to determine that Carol was participating in a protest of the statue near where I found him/her.

There were no true eyewitnesses to whatever happened to Carden—the totality either distracted everyone or prevented a direct view of what occurred. Since Carden was taken to the hospital, I did not speak with him/her. After weighing the evidence, I concluded it was likely that Carden was participating in an effort to pull down the statue and fell somehow resulting in Carden’s injuries. Consequently, I made no arrests and did not further investigation because I determined Carden’s injuries were the result of his/her own hooliganism.

## **SAMMY SNEED, P.E., CSP**

My name is Sammy Sneed. I am the founder and president of Municipal Safety Consultants, LLC, or “MSC,” which is based out of DeFuniak Springs, Florida. I have been retained as an expert by the City of Hockeytown, Tennessee to render opinions in this case. I have provided my curriculum vitae which sets forth all of my qualifications and background.

Let me tell you a little bit about myself. I specialize in providing expert safety consulting to small and mid-sized cities and towns. Specifically, my focus is on providing safety consulting and expert opinions relative to planning and management of large public gatherings, like parades and protests, in small town environments.

I am a Certified Safety Specialist and a professional engineer. I also have a background specific to municipal planning and management. For example, before becoming an expert consultant, I served as the Assistant City Manager for a small town in Montana called Cooke City. I also served as the Chief City Manager in Buffalo Back, Alberta, Canada, which is an unincorporated town in the Alberta Territory. I also have experience in security work, which I obtained while working as the Security and Safety officer at a casino in South Dakota. In early 2001, I assumed the position of Assistant City Manager and Safety Planner in Panama City Beach, Florida, or as the kids call it, “PCB.” I admit, however, I wasn’t in PCB very long due to allegations made against me following a string of vicious shark attacks. Some city officials claimed I negligently ignored multiple warnings from the U.S. Fish and Wildlife Service to close the beaches over concerns of abnormally aggressive shark behavior and numerous shark attacks at neighboring beaches. At the time, I didn’t think we needed to close the beaches or put out warnings because we would’ve taken a huge hit to our profit during tourist season. I mean, hey, a city has to make its money no matter what. In any event, I left town and the District Attorney let it go. That’s when I took the job as City Safety Manager in West Memphis, Arkansas (far away from any beaches and sharks!). I oversaw numerous projects and gatherings while in West Memphis, Arkansas. I felt it best to leave that position in 2006 after a newspaper reported that I approved the dumping of toxic waste from the steel plants near the city water supply and that I ignored multiple complaints of dangerously high lead levels in city water tests. I’m not allowed to discuss those allegations due to a confidential agreement that was reached.

After leaving West Memphis, Arkansas, I decided to put my talents to better use. That’s when I moved to Defuniak Springs, obtained my engineering degree, and founded MSC to start my consulting business. Most of my work now focuses on expert testimony and review, although I do still serve as the Assistant Safety Manager for DeFuniak Springs, which is a part-time, volunteer position.

As mentioned previously, I was retained by the city in this case to provide opinions regarding whether the city acted with reasonable care and consistent with industry standards in issuing the permits to Carden Carol and Taylor Target. I was also asked to provide opinions

regarding whether the city acted reasonably in diverting all of its law enforcement and emergency management resources to the downtown district during the eclipse of August 21, 2017.

In preparation of my testimony, I reviewed all the pleadings in this case, read witness statements, and analyzed the permit applications submitted to the city by Carden Carol and Taylor Target. I also consulted various industry standards applicable to this case.

Based on my review, it is my opinion that the city acted with reasonable care in issuing permits to both Carden Carol and Taylor Target. While it is true that industry safety standards require a city to investigate the potential for violence and disorderly conduct before issuing permits for multiple gatherings at the same place and time, that standard is not applicable here. In this case, the permit applications submitted differed in location. Specifically, Carden Carol's permit application listed "123 Gator Street" as the protest location. This location is a small park in a quiet neighborhood and no other events or gatherings were scheduled for this location. Taylor Target's permit application listed the address as "123 Gator Ave." Although we now know that Carol's application was incorrect, there is no evidence to suggest the city knew or should have known that the location listed in Carden Carol's application was in error. As such, the city's obligation to investigate the potential for a fight between the groups did not arise.

Further, it is my opinion that the city acted reasonably in diverting all its law enforcement and emergency management personnel to the downtown district for the eclipse gathering. It is true that the city's allocation of all its personnel and resources to a single district is the type of conduct warned against by applicable industry standards and codes, the standards provide for exceptions when a city is faced with an "unprecedented gathering event" and the city is "unaware of potential for disorderly conduct in other city districts or locations." The "unprecedented gathering" exception applies in this case because the number of people who gathered in the downtown district for the eclipse was unprecedented. Additionally, as explained above, the city was unaware of a potential incident between the two protest groups given the different locations listed in the permit applications. The only industry standard to which the "unprecedented gathering" exception doesn't apply is the standard requiring a city to allocate sufficient law enforcement and emergency services for any public gathering in excess of 200 people. Here, however, that standard did not apply because Carden Carol's permit application indicated that only 200 people would be in attendance. The city's obligation to provide police and EMTs didn't kick in until there were at least 201 people. Now, it is true that over 1,000 people ended up attending; however, there's nothing to prove the city should've known that over 200 people would be in attendance. Likewise, this rule or standard doesn't apply to Taylor Target's application even though he failed to list the number of people expected to attend his gathering, because he listed the purpose of that gathering as "family reunion." Nobody has a family reunion with that many people.

Accordingly, based on the foregoing, the city acted reasonably and without fault in issuing the permits and by not providing emergency services and law enforcement.

## Jordan Quinn

My name is Jordan Quinn. I was born and raised in Hockeytown and am proud to call it my home. Since a young age, I always aspired to be a news reporter for the Hockeytown local news, Good Morning Hockeytown. With this goal in mind, I became editor of my high school's newspaper and was the lead anchor for the school's morning announcements. During my senior year of high school, the University of Eagles hired my idol, Anderson Cooper, as a visiting professor in the journalism department. Upon hearing of Cooper's acceptance of the position, I immediately sent in my application to attend the University.

My four years at the University were absolutely incredible. I not only received a great education in the classroom, but participated in multiple internships at Tennessee area metro news stations and even did a stint as a teleprompter editor at CNN for two weeks during a summer trip to New York City. While I had big city news reporting dreams, my first job out of college in Atlanta changed my dreams very quickly. While the hustle and bustle is exciting for a quick while, it is exhausting and I hated having to constantly compete with my coworkers for the bottom of the barrel stories. It was at that point, I knew I wanted to come home to Hockeytown.

Since returning to Hockeytown, I have spent 10 years covering the local news and writing columns in the local newspaper. I am somewhat of a local celebrity and take great pride in my work and reputation in the community. Whenever a piece of important news breaks, I constantly find myself bombarded with questions about what happened because people do look to me for answers.

On August 21, 2017, I was of course covering the grand eclipse that was to take place over the town. In the days leading up to the eclipse, I had interviewed over 100 people to get their take on the importance of the event and how it impacts the town as a whole. To say that the citizens of Hockeytown were excited is an understatement. While most of the citizens showed their excitement, a few were fretting over the talk of a protest and counter-protest next to the Michael Jordan statue in town. After talking to the people about their concerns and fears that the protests might become violent, I decided to do some investigative journalism prior to the event.

The main focus of my investigation was the Tennessee Chapter of Catfish. I researched the chapter's origination, platform, and past events. The origination of the chapter stems back to when the Nashvegas Catfish first came to town in 1998. The group started off as a fan club for the hockey team, but has grown into almost a cult-like group of not only hockey fanatics, but haters of all other sports in general. While the Catfish group is known for its outspoken views and opinions regarding sports other than hockey, all the past rallies and events hosted by the group have been peaceful in nature. I have covered the past three or four gatherings by the Catfish group. Not one complaint has ever been filed against the group.

However, I did cover a Catfish gathering at the Hockeytown city square back in early 2016 that resulted in several injuries after a clash with counter protestors. With my research in mind, I was completely at ease with the protest scheduled on the date of the eclipse. My job the day of the eclipse was to interview visitors and natives of Hockeytown alike to get the sense of excitement and wonder surrounding the epic day. About 30 minutes prior to the eclipse, I had already interviewed 32 people and felt the sense of excitement myself. This was one of the most important events to happen to Hockeytown, and I could not believe I was one of the few reporters covering the live feed. With minutes leading up to the eclipse, I positioned myself in front of the camera ready for the camera crew to give the thumbs up notifying me we were live. About 20 seconds before my cameraman gave me the thumbs up, I saw in the distance two groups of people suddenly merge together with a lot of yelling and a huge uproar. There appeared to be about 1,000 people in Centre Park where the groups were gathered. I could not hear any specifics, and was almost in shock that anyone would want to take away from the all-important eclipse about to happen. Thinking that a news story could come out of the commotion, I quickly took out my cell phone and snapped a photo of the scene. It almost appeared that one of the groups threw a tarp or sheet over the Michael Jordan statue, which is shown in the photo. Right after I took the photo, my cameraman gave me the thumbs up, so I had to look away from the distant scene and focus on my job to provide the best news coverage for those unable to witness the eclipse in person. My 3-minute segment went on impeccably, and I even won an award for my eclipse reporting skills at the annual Tennessee News and Reporting Banquet.

Immediately after my segment ended, I grabbed my cameraman and ran to Centre Park and interviewed several people about the incident, but not one story seemed to match with the darkness of the eclipse hindering consistent accounts of what took place. The interviews of the witnesses are kept in the news station's archives, and I planned to continue my research into the drama that unfolded on the day of the eclipse, but I received a phone call from Good Morning America the very next day asking me to come join their morning newscast for a month as the Daily Pop News Reporter. I could not say no to such an opportunity, and by the time I returned to Hockeytown the eclipse day drama had already been covered, so I moved onto the next big event, Hockeytown's Annual Pumpkin Day Parade.