2020

ALASKA HIGH SCHOOL

MOCK TRIAL COMPETITION

Anchorage, March 26-28, 2020

State v. Rogers

Case No. 5AK-19-12345 CR

OFFICIAL CASE MATERIALS & COMPETITION RULES

TEAM MEMBER'S PACKET

Including all evidence, applicable law, competition rules, and team registration forms

Sponsored by the Anchorage Bar Association
Young Lawyers Section

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IN THE SUPERIOR COURT OF THE STATE OF ALASKA

FIFTH DISTRICT AT ALASKAPOLIS

STATE OF ALASKA	)
	)
Plaintiff,	)
	)
vs.	)
	)
BILLY ROGERS	)
DOB: 11/12/1999	)
APSIN ID: 9876543	)
ATN: 105-678-999	)
	)
Defendant.	)
	)

Case No. 5AK-19-12345 CR

INDICTMENT

I certify this document and its attachments do not contain the (1) name of a victim of a sexual offense listed in AS 12.61.140 or (2) residence or business address or telephone number of a victim of or witness to any offense unless it is an address identifying the place of a crime or an address or telephone number in a transcript of a court proceeding and disclosure of the information was ordered by the court.

The following counts charge a crime involving DOMESTIC VIOLENCE as defined in AS 18.66.990: NONE.

Count I – AS 11.41.100(a)(1)(A) & AS 11.31.100(a)
Attempted Murder in the First Degree
Billy Rogers – 001

Count II – AS 11.41.200(a)(1)
Assault in the First Degree
Billy Rogers – 002

Count III – AS 11.41.210(a)(2)
Assault in the Second Degree
Billy Rogers – 003

THE GRAND JURY CHARGES:

Count I

That on or about August 23, 2019, at or near Anchorage in the Third Judicial District, State of Alaska, BILLY ROGERS, took a substantial step toward intentionally causing the death of Taylor Stark.

All of which is an unclassified felony offense being contrary to and in violation of AS 11.41.100(a)(1)(A) and AS 11.31.100(a) and against the peace and dignity of the State of Alaska.

Count II

That on or about August 23, 2019, at or near Anchorage in the Third Judicial District, State of Alaska, BILLY ROGERS, recklessly caused serious physical injury to Taylor Stark by means of a dangerous instrument.

All of which is a class A felony offense being contrary to and in violation of AS 11.41.200(a)(1) and against the peace and dignity of the State of Alaska.

Count III

That on or about August 23, 2019, at or near Anchorage in the Third Judicial District, State of Alaska, BILLY ROGERS, recklessly caused serious physical injury to Taylor Stark.

All of which is a class B felony offense being contrary to and in violation of AS 11.41.210(a)(2) and against the peace and dignity of the State of Alaska.

DATED this 5th Day of September, 2019 at Anchorage, Alaska.

A TRUE BILL

/s/
Grand Jury Foreperson

/s/
Mary Farrell
Assistant District Attorney
Alaska Bar No. 02013098

WITNESSES EXAMINED BEFORE THE GRAND JURY

Taylor Stark
Ari Banner
Hayden Danvers, M.D.

IN THE SUPERIOR COURT OF THE STATE OF ALASKA
FIFTH DISTRICT AT ALASKAPOLIS

STATE OF ALASKA	)
	)
Plaintiff,	)
	)
vs.	)
	)
BILLY ROGERS	)
DOB: 11/12/1999	)
APSIN ID: 9876543	)
ATN: 105-678-999	)
	)
Defendant.	)
_____	)

Court No. 5AK-19-12345 CR

STIPULATIONS

It is stipulated for purposes of this [Mock] Trial that the following facts have been properly introduced into evidence and may be relied upon by the parties in the presentation of their case:

I.

All exhibits included in these case materials are authentic and are accurate in all respects; no objections to the authenticity of the exhibits will be entertained. All statements are considered to be sworn and may be used during trial as would any sworn statement.

II.

The witnesses for the State are:

1. Taylor Stark
2. Ari Banner
3. Avery Dent
4. Parker Watson

III.

The witnesses for the Defendant are:

1. Billy Rogers
2. Shannon Kent
3. Kelly Wayne
4. Hayden Danvers

ATTORNEYS FOR
STATE OF ALASKA

By:_____/s/_____

ATTORNEYS FOR
BILLY ROGERS

By:_____/s/_____

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FIFTH JUDICIAL DISTRICT AT ALASKOPOLIS

STATE OF ALASKA,	)	
	)	
Plaintiff,	)	**JURY INSTRUCTIONS**
vs.	)	
	)	
BILLY ROGERS,	)	
	)	Case No. 5AK-19-12345 CR
	)	
Defendant.	)	
	)	

FOUNDATIONAL INSTRUCTIONS

Introduction

Members of the jury, you have now heard and seen all of the evidence in the case and you have heard argument about the meaning of the evidence. We have reached the stage of the trial where I instruct you about the law to be applied.

It is important that each of you listen carefully to the instructions. Your duty as jurors does not end with your fair and impartial consideration of the evidence. Your duty also includes paying careful attention to the instructions so that the law will properly and justly be applied in this case. You will have a copy of my instructions with you when you go into the jury room to deliberate and to reach your verdict. But it is still absolutely necessary for you to pay careful attention to the instructions now. Sometimes the spoken word is clearer than the written word, and you should not miss the chance to hear the instructions. I will give them to you as clearly as I can in order to assist you as much as possible.

The order in which the instructions are given has no relation to their importance. The length of instructions also has no relation to their importance. Some concepts require more explanation than others, but this does not make longer instructions more important than shorter ones. All of the instructions are important and all should be carefully considered. You should understand each instruction and see how it relates to the others given.

Presumption of Innocence, Burden of Proof, Proof Beyond a Reasonable Doubt

The distinguishing features of a criminal trial are what are known in the language of the law as the presumption of innocence and the burden of proof beyond a reasonable doubt. The law presumes a defendant to be innocent of crime. Thus, a defendant, although accused, begins the trial with a clean slate – with no evidence favoring conviction. The presumption of innocence alone is sufficient to acquit a defendant, unless you are satisfied beyond a reasonable doubt of the defendant's guilt after careful and impartial consideration of all the evidence in the case.

This last-mentioned requirement, that you be satisfied beyond a reasonable doubt of the defendant's guilt, is what is called the burden of proof. It is not required that the prosecution prove guilt beyond all possible doubt, for it is rarely possible to prove anything to an absolute certainty. Rather, the test is one of reasonable doubt. A reasonable doubt is a doubt based upon reason and common sense. Proof beyond a reasonable doubt must be proof of such a convincing character that, after consideration, you would be willing to rely and act upon it without hesitation in your important affairs. A defendant is never to be convicted on mere suspicion or conjecture.

The burden of proving the defendant guilty beyond a reasonable doubt always rests upon the prosecution. This burden never shifts throughout the trial, for the law never imposes upon a defendant in a criminal case the burden or duty of calling any witnesses or producing any evidence. A defendant has the absolute right not to testify, and you must not draw any inference against the defendant for not testifying. Thus, a reasonable doubt may arise not only from the evidence produced, but also from a lack of evidence. Since the burden is upon the prosecution to prove every essential element of the crime charged beyond a reasonable doubt, a defendant has the right to rely upon the failure of the prosecution to establish such proof. A defendant may also rely upon evidence brought out on cross-examination of witnesses for the prosecution.

Evaluation of Evidence

The weight to be given the evidence is for you to determine. You must examine the evidence carefully and decide how to evaluate it in light of the law that I have given you in these instructions. In your deliberations, you must not be governed by mere sentiment, unsupported conjecture, sympathy, passion, prejudice, public opinion, or public feeling. You should consider the evidence in light of your own common sense and observations and experiences in everyday life. But you may not consider other sources of information not presented to you in this court.

Your consideration of this case should be based solely on the evidence presented and the instructions I have given. The parties to this action are entitled to have a calm, careful, conscientious appraisal of the issues presented to you. Sympathy, bias or prejudice should not have the slightest influence upon you in reaching your verdict.

Direct and Circumstantial Evidence

Evidence is either direct or circumstantial. Direct evidence, if you accept it as true, proves a fact. Circumstantial evidence, if you accept it as true, proves a fact from which you may infer that another fact is also true.

Let me give you an example. Let us pretend that as a juror you are asked to decide the following question: Did snow fall during a particular night? Direct evidence would be a witness testifying that the witness awoke during that night, went to the window, and saw the snow falling. From this evidence you could conclude that snow fell during the night.

Circumstantial evidence would be a witness testifying that the ground was bare when the witness went to sleep at 10:00 p.m., but the next morning when the witness awoke and looked out the window, the witness saw that the ground was covered with snow. From this evidence you could also conclude that snow fell during the night.

Facts may be proved by either direct or circumstantial evidence. The law accepts each as a reasonable method of proof.

Witness Credibility

You have heard a number of witnesses testify in this case. You must decide how much weight to give the testimony of each witness.

In deciding whether to believe a witness and how much weight to give a witness's testimony, you may consider anything that reasonably helps you to evaluate the testimony. Among the things that you should consider are the following:

(1) the witness's appearance, attitude, and behavior on the stand and the way the witness testified;
(2) the witness's age, intelligence, and experience;
(3) the witness's opportunity and ability to see or hear the things the witness testified about;
(4) the accuracy of the witness's memory;
(5) any motive of the witness not to tell the truth;
(6) any interest that the witness has in the outcome of the case;
(7) any bias of the witness;
(8) any opinion or reputation evidence about the witness's truthfulness;
(9) any prior criminal convictions of the witness that relate to honesty or veracity; and
(10) the consistency of the witness's testimony and whether it was supported or contradicted by other evidence.

You should bear in mind that inconsistencies and contradictions in a witness's testimony, or between a witness's testimony and that of others, do not necessarily mean that you should disbelieve the witness. It is not uncommon for people to forget or to remember things incorrectly and this may explain some inconsistencies and contradictions. It is also not uncommon for two honest people to witness the same event and see or hear things differently. It may be helpful when you evaluate inconsistencies and contradictions to consider whether they relate to important or unimportant facts.

If you believe that part of a witness's testimony is false, you may also choose to distrust other parts of that witness's testimony, but you are not required to do so. You may believe all, part, or none of the testimony of any witness. You need not believe a witness even if the witness's testimony is uncontradicted. However, you should act reasonably in deciding whether you believe a witness and how much weight to give to the witness's testimony.

You are not required to accept testimony as true simply because a number of witnesses agree with each other. You may decide that even the unanimous testimony of witnesses is erroneous. However, you should act reasonably in deciding whether to reject uncontradicted testimony.

When witnesses are in conflict, you need not accept the testimony of a majority of witnesses. You may find the testimony of one witness or of a few witnesses more persuasive than the testimony of a larger number.

Expert Witnesses

A witness who has scientific, technical or other specialized knowledge or experience may be qualified as an expert and may express an opinion in addition to giving testimony as to facts.

In determining whether to believe an expert witness and the weight to be given to his or her opinion, you may consider the expert's qualifications and knowledge, the reasons given for the opinion, how the expert got the information he or she testified about, and the factors given you for evaluating the testimony of any other witness.

As with other witnesses, you must decide whether or not to believe an expert witness and how much weight to give his or her testimony. You may believe all, part or none of the testimony of an expert witness.

Opinion Testimony of Non-Experts

A non-expert witness may testify to his or her opinion if it is rationally based on the witness' perceptions and helpful to a clear understanding of the testimony or the determination of a fact in issue.

In determining the weight to be given to an opinion expressed by a non-expert witness, you should consider the witness's credibility, the extent of the witness's opportunity to perceive the matters upon which the opinion is based and the reasons, if any, given for it. You are not required to accept such an opinion but should give it the weight, if any, to which you find it entitled.

You are not to decide any issue by the simple process of counting the number of witnesses who have testified on the opposing sides. The final test is not number of witnesses, but whether, considering all the evidence, the state has proved every element of each charge beyond a reasonable doubt.

Objections

There are rules of law that control what evidence you can consider. When a lawyer asks a question or offers an exhibit into evidence, and the lawyer on the other side thinks that it is not permitted by the rules of evidence, that lawyer may object. If I overrule the objection, the question may be answered or the exhibit received. If I sustain the objection, the question cannot be answered, or the exhibit be received. Whenever I sustain an objection to a question addressed to a witness, you must disregard the question entirely, and must not draw any inference from the wording of it, nor speculate as to what the witness would have said if permitted to answer the question. If I sustain an objection to a question after an answer has been given, then you must disregard the question and the answer.

Sometimes I may order that evidence be stricken from the record and that you disregard or ignore the evidence. In that case, you must not consider the evidence which I told you to disregard. You may wonder why some evidence must be excluded or disregarded when it appears to be of some interest to you. The rules that govern what evidence can be received are designed to do two things. First, they try to help you focus on important and reliable evidence by keeping out interesting but not very important or reliable information. Second, the rules help you decide the case objectively without being swayed by information that might cause you to respond emotionally.

You should not be influenced by the fact that objections are made or that requests are made that I take certain actions; nor should you be influenced by the number of objections or requests that are made. Objections or requests are not evidence. Please remember that my rulings that exclude evidence or that bar questions are designed to help you decide the case fairly. When I

allow testimony or other evidence to be introduced over the objection of a lawyer, I do not mean to suggest any opinion as to the weight or effect of such evidence.

State of Mind

State of mind may be shown by circumstantial evidence. It can rarely be established by any other means. While witnesses may see and hear and thus be able to give direct evidence of what another person does or fails to do, no one can see or hear the state of mind with which another person's acts were done or omitted. But what a person does or fails to do may indicate that person's state of mind.

In determining issues of state of mind, the jury is entitled to consider any statements made and acts done or omitted by the person, and all facts and circumstances in evidence that may aid determination of state of mind.

Motive

Motive is not an element of the crime charged. However, presence of motive may tend to establish guilt, and absence of motive may tend to establish innocence. You may therefore give its presence or absence the weight you believe it should have as evidence.

Arriving at a Verdict

If you find that the state has proved each element of this offense beyond a reasonable doubt, then you must find the defendant guilty. If, however, you find that the state has not proven each element of this offense beyond a reasonable doubt, then you must find the defendant not guilty. To return a verdict of guilty or not guilty, each of you must agree with that verdict.

SUBSTANTIVE INSTRUCTIONS

Attempted First-Degree Murder

Billy Rogers, the defendant in this case, is charged in Count I with the crime of attempted murder in the first degree.

To prove that the defendant committed the crime of attempted murder in the first degree, the state must prove beyond a reasonable doubt each of the following elements:

(1) the defendant intended to cause the death of Taylor Stark; and

(2) the defendant took a substantial step toward accomplishing this goal.

You must distinguish between “mere preparation” and a “substantial step.” “Mere preparation” is not sufficient to constitute an attempt. A “substantial step” is conduct of such a character that it shows the defendant’s intent to begin to commit the crime.

If you find that the state has proved beyond a reasonable doubt each of these provisions, then you must find the defendant guilty of attempted murder in the first degree.

On the other hand, if you find that the state has not proved beyond a reasonable doubt each of these provisions, then you must find the defendant not guilty of attempted murder in the first degree.

Premeditation

To commit attempted murder in the first degree, the defendant need not premeditate or deliberate. It is only required that he act intentionally as defined in these instructions.

The defendant need not hold that state of mind for any particular length of time; causing death must be his conscious objective only when he commits the act which attempts to causes death. Causing death need not be his only objective when he commits the act which causes death.

Assault in the First Degree

Billy Rogers, the defendant in this case, is charged in Count II with assault in the first degree.

To prove that the defendant committed this crime, the state must prove beyond a reasonable doubt each of the following elements:

(1) The defendant caused serious physical injury to another person;

(2) The defendant caused the injury recklessly; and

(3) The defendant caused the injury by means of a dangerous instrument.

If you find that the state has proved beyond a reasonable doubt each of these provisions, then you must find the defendant guilty of assault in the first degree.

On the other hand, if you find that the state has not proved beyond a reasonable doubt each of these provisions, then you must find the defendant not guilty of assault in the first degree.

Assault in the Second Degree

Billy Rogers, the defendant in this case, is charged in Count III with assault in the second degree.

To prove that the defendant committed this crime, the state must prove beyond a reasonable doubt each of the following elements.

(1) The defendant caused serious physical injury to another person; and

(2) The defendant caused the injury recklessly.

If you find that the state has proved beyond a reasonable doubt each of these provisions, then you must find the defendant guilty of assault in the second degree.

On the other hand, if you find that the state has not proved beyond a reasonable doubt each of these provisions, then you must find the defendant not guilty of assault in the second degree.

Culpable Mental State

In the crimes described in these instructions there must exist a joint operation of an act or conduct and a culpable mental state. To constitute a culpable mental state it is not necessary that there exist an intent to violate the law. When a person "intentionally", "knowingly", or "recklessly" does that which the law declares to be a crime, the person is acting with a culpable mental state, even though he may not know that his act or conduct is unlawful.

Intentionally

A person acts "**intentionally**" with respect to a result when his or her conscious objective is to cause that result. When intentionally causing a particular result is an element of an offense, that intent need not be the person's only objective.

It is reasonable to infer that a person ordinarily intends the natural and probable consequences of acts he knowingly does or omits. You may consider any reasonable inference in determining whether or not the state has proven beyond a reasonable doubt that the defendant possessed the required intent.

"Conscious objective" means purpose. Thus, a defendant acts with the intent to cause death when it is his conscious objective or purpose to cause death at the time he does the acts which result in death.

Knowingly

A person acts "**knowingly**" with respect to conduct or to a circumstance described by the law defining an offense when the person is aware that the conduct is of that nature or when the circumstance exists. When knowledge of the existence of a particular fact is an element of an offense, that knowledge is established if a person is aware of a substantial probability of its existence, unless the person actually believes that it does not exist. A person who is unaware of conduct or a circumstance of which the person would have been aware had that person not been intoxicated acts knowingly with respect to that conduct or circumstance.

Recklessly

A person acts "**recklessly**" with respect to conduct or a circumstance described by the law defining an offense when the person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such a nature and degree that disregard of it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. A person who is unaware of conduct of which the person would have been aware had that person not been intoxicated acts recklessly with respect to that risk.

If acting "recklessly" suffices to establish an element of an offense, that element is also established if the person acts "intentionally" or "knowingly."

If acting "knowingly" suffices to establish an element of an offense, that element is also established if the person acts "intentionally".

Causation

The defendant's conduct "causes" or "results in" another person's attempted death if the defendant's act is a "substantial factor" in bringing about that result. The defendant's conduct need not be the sole factor causing the attempted death.

The defendant's conduct is a "substantial factor" if

(1) The attempted death would not have occurred without the defendant's conduct; and

(2) the defendant's conduct must be significant enough in causing the attempted death that a reasonable person would hold the defendant responsible; the defendant's conduct must be more than a remote or trivial factor.

Several factors may operate at the same time, either independently or together, to cause harm. In such a case, each may be a substantial factor in causing the result. Even if another condition, event, or other person's acts contributed in a substantial degree to the attempted death, the defendant will still be responsible if his/her conduct was a substantial factor in causing the result.

Definitions

"**Dangerous instrument**" means any deadly weapon or anything that, under the circumstances in which it is used, attempted to be used, or threatened to be used, is capable of causing death or serious physical injury.

"Physical injury" means a physical pain or an impairment of physical condition.

"Serious physical injury" means

(A) physical injury caused by an act performed under circumstances that create a substantial risk of death; or

(B) physical injury that causes serious and protracted disfigurement, protracted impairment of health, or the protracted loss or impairment of the function of a body member or organ.

STATEMENT OF TAYLOR STARK

1. My name is Taylor Stark. I've worked at Fury Imaging & Design (FID) for the past seven years. I used to work in government contracting but I got tired of the constant in-fighting and bureaucracy. The competition was bad, but the back-stabbing was worse. After years of fighting I decided I needed something more rewarding. I moved into the private sector to work in advertising.

2. I was an Account Manager at FID for years before the merger with Low-Key, meaning that I essentially took care of the clients. Put another way, I was a rainmaker. I brought the clients in and made sure they stayed happy. My job was to sell our product – advertising. FID is a cutting-edge advertising company with a marvelous track-record. We have had some major campaigns, several of which were very successful. Remember the "Detroit Concrete" campaign? The new platform to help protect corporate assets? Convincing Hammer-n-Nail Industries to let us run its media campaign was a huge coup for us. We – well, I – helped them make their mark on the city. We had some campaigns that didn't work out too of course, like Everett Ross 'campaign. But hey, it's not my fault he was taking kickbacks as mayor — I'm not sure what we could have done differently in that one.

3. Now I'm the Lead Director at FID. It was a big promotion. The work is similar to what I did before, but I oversee all of FID's advertising. And bringing in clients is even more important. Came with a bit of a raise too, which is always nice.

4. I've known Billy Rogers for years. In fact, I knew Rogers before s/he moved to Low-Key Advertising. S/He too was in government contracting, in fact longer than I was. Rogers told me that s/he was one of the major Account Managers at Low-Key before FID bought them out. There are not that many advertising firms in Alaskapolis, so you sort of get to know most of the other people in the field. I would run into Rogers every once in a while at industry gatherings and chamber of commerce events. But I more knew Rogers through the reputations s/he had. I'd talk to potential clients after they had met with Billy, and Rogers would always promise them the moon. I'd have to talk a little reality into the client. Rogers can be all talk and routinely promises more than s/he can deliver. Frankly, it's no wonder that Low-Key went under and had to be rescued by FID.

5. The market for big-time clients that need our advertising help is fairly small. Rogers and I crossed paths on more than one occasion. It was generally friendly. I mean, I was friendly. It is not my fault that most clients signed with me after I became involved. Rogers may think that s/he is big-time, but the proof is in the pudding. Once I got involved, the major clients came to FID. I know that sounds conceited, but I'm a bit of a 'closer 'for the company. It is not uncommon for me to come in at the end of negotiations and "seal the deal." It's true that I occasionally took a client away from Low-Key, but again, if you looked at FID's skill-set you would see that our reputation and deliverables were just better than Low-Key. We could do the kind of projects that Billy and Low-Key could promise but not actually deliver. I'm not trying to be conceited; I'm just trying to provide you the facts.

6. The thing that really bothered me about Rogers, though, is that by over-promising, s/he would get the rest of the employees at Low-Key in trouble and not really care about it. This may not seem polite but you must understand that advertising is a team sport. Individuality is important, but if your team is not behind you and your vision, your ideas won't be successful. This is where Rogers stumbles. We are all stronger as a cohesive unit. Once I heard that FID was going to rescue Low-Key from oblivion, I knew that the merger was going to be "interesting" to say the least. Soon after the merger, I talked with Rogers about the need to be a team player. S/He didn't take it well. I believe Rogers said something to the effect of, "You think you're better than me, but you're not. I will run laps around you."

7. In April of 2019, we all began hearing rumors that Low-Key was having cash-flow problems and was looking for help. Too many clients were leaving Low-Key, thinking they had been fooled into going with an inferior company. My opinion is that FID came to the rescue. We could have just waited for Low-Key to fail and probably taken over most of the clients that way. But the CEO of FID, Peggy Carter, felt sorry for the employees of Low-Key and figured that most of them would make a good addition to our team. FID acquired the majority-interest in Low-Key and the merger became official on May 1, 2019. That said, there was a bunch of logistics involved, and they (Low-Key) did not physically move into our space until late summer.

8. I'm not sure why the decision was made, but Rogers was assigned to the same team that I had run for the last couple of years before the merger. For that matter, I'm not sure why Rogers was retained at all. Rogers was likely assigned to my team because of his/her need for my talents in dealing with clients. Between the merger and the personnel shuffle, executive management sought applications for the new position of Lead Director. Both myself and Rogers applied. Although Rogers and I have similar experience on paper – *e.g.,* we both have contacts in the government from our past work and we both have a track record of success at bringing in new clients – the similarities stop there. Given my success as a closer, it was obvious that I was the first choice for management.

9. Billy and I weren't the only two applicants for the Lead Director position, but none of the other people were really in the running. I heard that Rogers was a close second and that Peggy and rest of the executive management struggled with the decision. Peggy actually told me after the decision, "This was a close call, Stark. Rogers almost had you.". This shocked me. I really don't think it was that difficult of a decision. Frankly, management probably said that to pacify Rogers. S/He is a little bit of a delicate flower and needs to be constantly reminded that s/he is talented. It's a little pathetic.

10. I was formally announced as Lead Director on August 9, 2019 in an email sent to the whole company. It was a pretty exciting time – I know the rest of my team was excited about the announcement. I am a team player and get along well with everyone. Most of them had worked with me before and trusted me to keep the team going in the right direction. Our team was in position to take on the world. We had talent, we had personality, and now we had leadership. In fact, some of the team members were so happy with the announcement that they decided to throw a potluck to celebrate. The potluck was scheduled for Friday, August 23, 2019. Rogers was on my team, so Rogers was part of the discussion and e-mails about the potluck, and I think one e-mail went company-wide anyway.

11. I remember the team deciding to have the potluck and that we were going to keep the potluck informal – just folks bringing a dish or two from home that we could all share. Although the potluck was initially intended to celebrate my promotion, I also thought it would be a good team-building event. Having a potluck rather than catering the event would encourage people to bring something of themselves to the event and be more open to talking about the food they made. The theme of the potluck was Southern Food. I chose it and sent an e-mail out about the potluck. Ever since my childhood I have just loved Southern-styled food. My mother is from Alabama, so I guess it is sort of in my blood.

12. I was so happy to see all the dishes everyone brought. I have a very severe nut allergy, but I felt comfortable that the food at the potluck would be safe. Everyone at work knows that I have a severe tree nut allergy. I've had it since childhood though it got worse as I got older. We talk about it constantly at work, and I've told stories of the close calls I had in childhood. I once had to go to the hospital and almost died after eating some almonds. I've told that story a few times. In fact, one of my former colleagues, Shannon Kent in particular, used to joke about how careless I am about my allergy. Of course, Shannon is only kidding. I am very careful about trying new foods and taking care not to try foods that may contain nuts. Shannon did once have to stab me with an EpiPen after I accidentally ate some cookies decorated with marzipan. I just assumed it was sugar icing. But that was way back in 2014. I am much more careful now with food to make sure I don't have another allergic attack, and Shannon knows this. Unfortunately, Shannon was one of the casualties of the merger. S/He had to be let go after the merger. Shannon came back for my promotion party. It was nice to see him/her again. Shannon, who is such a good friend, also brought in a couple nice bottles of champagne for the party.

13. Whenever I am eating with my co-workers, I make sure they know about my nut allergy so that they do not offer me anything with nuts in it. My nut allergy has even come up at staff meetings once or twice because I routinely bring peanut butter sandwiches for lunch. And, more often than not, someone asks me, "Wait, aren't you allergic to nuts? How can you be eating a peanut butter sandwich?" The answer is simple: peanuts ARE NOT nuts! Peanuts are legumes! I don't know how many times I have had this conversation with everyone at the office. Legumes are part of the bean family – they grow on vines. Nuts grow on trees. Why is that so hard for people to remember? I even remember having this precise conversation with Rogers. We were talking about how I love peanut butter cookies, which seemed to surprise him/her. It just goes to show how unsophisticated s/he is. Peanuts are not nuts. Pretty simple.

14. But as to the potluck, I reminded everyone of my tree nut allergy when we were planning it. Everyone nodded – I think everyone was annoyed with how much I mention my tree nut allergy – and assured me that they would not serve me anything with tree nuts. In fact, I remember that Ari brought in some almond cookies for the potluck but also brought similar cookies that would not cause me to go into shock. It was easy to tell which cookies had almonds because s/he literally put an almond on the top of each cookie. That's how I knew to stay away from them.

15. I know there is talk that I was drinking at the potluck. It was a Friday afternoon, so people had brought some beer and other drinks. I had some of the champagne Shannon brought. One or

two glasses at most. I was not drunk. That's ridiculous. I wouldn't risk my job by getting drunk at work.

16. Rogers was a bit late to the potluck. I remember Rogers brought in his/her "famous" fried chicken as if s/he were making a grand entrance with the "highlight" of the party. Rogers called it famous; I think infamous is more apt. Billy made a big deal of saying how great the fried chicken was, how much her/his own family loved it, and how everyone at the party needed to try a bit. I decided to try some because I knew that it would be a good gesture. In fact, I remember making a fairly big deal about it. I remember talking loudly and jokingly about how I was going to eat Rogers's bird. Not sure he/she found it as funny as I did, but everyone else was laughing. I remember telling Rogers how good the chicken looked. In hindsight, I probably should have known something was going to happen. Rogers just stood in the corner smirking the whole time I was dishing up my plate. I initially thought s/he was laughing at my joke. Now I know it was a lot more sinister.

17. Anyhow, the fried chicken must have had nuts in it, although I don't know how that is possible. Nuts in fried chicken? Who does that? I knew that the fried chicken had nuts almost immediately. Almost as soon as I started eating it, my gums started to itch and my tongue started to swell. My allergy is severe and always has been. It kicks in almost immediately after I eat something with nuts in it. After my tongue started to swell I tried to tell everyone that I was going into anaphylactic shock, but I don't think people realized it. Pretty quickly my airway closed and I started having a difficult time breathing. I think I passed out about that time.

18. When I woke up, I was in the ambulance. Someone told me that Kelly Wayne gave me a shot with someone's EpiPen, but I'm not sure who's EpiPen they used. I usually carry an EpiPen on my person, but I may have forgotten it that day. I'm generally pretty good about carrying my EpiPen with me; just ask Shannon. Every now and then I'll forget it, but that is fairly rare. Afterward, Shannon told me Kelly grabbed my EpiPen from my backpack in my office. Good thing too or Rogers would have succeeded.

19. The medics transported me to the hospital and I was admitted to the Intensive Care Unit (ICU) after the doctors stabilized me. I spent one night in ICU and then was moved to the general ward for the next three days. Dr. Danvers told me that they kept me in the ICU because of how close I came to dying. But for Kelly Wayne finding an EpiPen and giving me a dose of epinephrine, Dr. Danvers told me that I'd be dead today. I really owe a lot to Kelly for injecting me when s/he did. The rest of the time in the hospital was just precautionary. I made it home by Tuesday and was back at work two days later. I have fully recovered, except now I have a new aversion to fried chicken (which is pretty rough on someone who likes Southern food).

20. I blame Rogers. It is clear to me that Rogers was jealous of my success and my promotion. Rogers wanted me out of the picture so s/he could take over the team. A couple of weeks after the incident – when I had recovered and was able to return to work – I spoke with Peggy about the situation and accessed Rogers's computer. I looked up Rogers's internet search history and discovered that Rogers had spent time the Tuesday (August 20) before the potluck (in other words, after I sent out the e-mail about the potluck reminding people that I had a nut allergy) looking up fried chicken recipes that INCLUDED nuts in the batter. I wish I had printed off the search history,

but I was so enraged by what I found that it slipped my mind. I kick myself every day for this. And unfortunately, once Rogers got wind that I had looked on her/his computer, s/he cleared her browser history to cover his/her tracks.

21. But I distinctly remember some of the Google searches I found: “fried chicken gluten free”; “fried chicken gluten free nuts”; “fried chicken nut batter”; “fried chicken gluten free almond”; “fried chicken almond milk dredge”; “fried chicken almond flour”. I could also trace what websites Rogers clicked to from the searches. It appears that Rogers was looking for fried chicken recipes with almond flour, but only a little bit of almond flour. I guess maybe so that it would not be so easy to detect. In particular, there were two different recipes s/he found that included almond flour – one for fried chicken tenders and one for oven-fried chicken. Rogers had also done a Google search on “food allergies”. One of the websites from this search Rogers looked at is a website I’m familiar with. It clearly details the possible severity of nut allergies and lists almonds as one of the more common nut allergens. The website even mentions death from anaphylactic shock as one of the risks from ingesting even a small portion of nuts or products made using nuts. Why would Rogers be looking up recipes that could kill me right before the potluck?

22. Furthermore, I noticed after the potluck that my office key was missing. I don’t know exactly what happened to it. I usually just left it on my desk because I’ve never had occasion to lock my office door. Before now I could always trust everyone at work. I looked for the key in Billy’s office. I didn’t find it there, but I would still bet that Billy took it. That would explain, from what I heard at least, why my office door was locked with my EpiPen inside it.

23. I know it sounds like a bad movie, but it’s true. Rogers is a sinister, conniving person. The effort Rogers took to eliminate me was pure evil. I want Rogers held accountable for trying to kill me. I can’t believe this has happened to me!

STATEMENT OF ARI BANNER

1. My name is Ari Banner. I am 34 years old. I am originally from Texas, but I moved to Alaska about 8 years ago to join the marketing firm Low-Key Advertising. I was really excited about the opportunity. I had just finished my MBA at University of Texas and wanted to try my hand at advertising on the last frontier, so to speak.

2. I really enjoyed working at Low-Key Advertising. The name may make it sound casual, but it was pretty intense. Marketing can be a rough business. Hours are long. Clients are fickle. If they think they can get better results elsewhere, they will jump ship without a second thought. I guess it's fair. They need results. So there can be a lot of pressure. But that's okay. I like the pressure. I worked as a writer and copy editor. Basically, I was one of the people who would come up with the ideas for the accounts our sales people got for the firm.

3. While I was at Low-Key, I worked under Billy Rogers. Billy Rogers was part of the pressure. Billy was an account manager, meaning Billy got the clients and ran the projects from start to finish. Billy was good, really good. S/He really pushed him/herself and expected others to do the same. I remember my first day, another employee was giving me a tour of the office – Eric Wong I think it was. Eric left with the merger to go back to England – I think he grew up in Manchester. As we passed Billy's office, Eric remarked, "Watch out for Billy. Real taskmaster. S/He will work you to death and not bat an eyelash. Winning is all Billy Rogers cares about."

4. Frankly, I wouldn't put a lot of stock in what Eric had to say. Eric and Billy didn't get along. I think Billy thought Eric didn't work hard enough and Eric thought Billy was too hard on people. I guess I don't know for sure. I never talked about it with either of them. That was just the impression I had. I detected a lot of adversity in their interactions. I did once see Eric storm out of Billy's office, clearly upset. Not sure what happened, but I bet it was good. Another time, Eric claimed that Billy had gotten someone fired by intentionally giving them a bad review that was not entirely honest. Again, I don't know.

5. I know some other people didn't like working under Billy. That's the nature of someone who expects that much out of employees. I heard other people grumbling about Billy, but it seemed like it was usually the same thing " –Billy worked people too hard" or "Billy was mean" or "Billy didn't get to know anyone". Billy cared about putting out a good product. That was his/her priority. And Billy pushed us to produce for the clients. Billy would promise the clients big deliverables because Billy knew we could deliver. And we usually did.

6. You could tell that Billy was ambitious and wanted to move up in the company. I think that is a great quality to have in private employment. You don't want someone who is content putting out mediocre work. You want someone who always strives to do better and has a goal in mind. That is Billy. The upper management at Low-Key was pretty stable, so Billy never had the opportunity to move up, but I'm sure Billy would have been chosen had the opportunity arisen.

7. I really loved working under Billy. I liked that Billy expected a lot of us. I worked really hard when I started at Low-Key and started getting to work with some interesting clients. Marketing/advertising is a lot more than just creating commercials and print ads (though we do

that too). It's also about helping a client craft a product or an image. One of the first clients (accounts some call them) I worked with Billy on was Titan Construction. Titan did large construction projects in Alaska and had gotten into trouble due to some safety issues. They had one project where basically half of their employees suffered injuries due to inhaling stone dust. Under Billy's guidance, I developed a big publicity plan and we got them back on track. That was a real success story for Low-Key. I was really proud of the work we did for Titan. I still have some of the early publicity materials we created. I even framed some of them and hung them in my house. You never forget your first big success.

8. Of course Low-Key wasn't the only show in town. There were a few other advertising firms, but our main rival was Fury Imaging & Design, or FID. FID started about the same time as Low-Key I think. Both were well established when I moved to Alaska. Rogers did not like FID, and I don't think many folks at FID liked Billy. As I said, marketing is a rough business. FID and Low-Key ended up crossing paths a lot over the same customers, really fought it out a few times. On a few occasions, they even stole clients from each other. That's just the nature of the business. You need to learn not to take these things personally.

9. In particular, Billy had a bit of a rivalry with Taylor Stark. Taylor worked at FID in a similar capacity as Billy did at Low-Key. Neither was in charge, but both had a lot of responsibility and supervised other employees. Before my time, Taylor had signed a company called White Wolf as a client. White Wolf was a political organization, advocating for the protection of wolves in Alaska and the environments they lived in. Taylor was working on a campaign for White Wolf when Billy met with White Wolf's head honcho, Dr. Wendy Lawson. Billy convinced Dr. Lawson to give the account to Low-Key instead. It was a big account, so this was a major coup.

10. I didn't know Taylor at the time, but rumor was that s/he was furious about White Wolf. Rumor had it that Taylor left Billy a voicemail really going after Billy for it. I didn't hear it personally, but Eric claimed to have heard it and told me Taylor said something like, "You are going to get what you deserve, Rogers. You don't do that to me. I will get even." It was pretty clear that Taylor was furious from what I heard.

11. A few months later, Taylor did get even. Taylor convinced Titan Construction and another one of our accounts, Shamballa Tech, to switch to FID. I myself was none too pleased with that news. I was actually in Billy's office when the news came in. I have never seen someone as angry as I saw Billy that day. Billy swore, "Taylor better not keep getting in my way!" and about flipped her/his desk over. I swear if Taylor was in the room Billy would have attacked him/her right there. I tried to calm Billy down, but s/he would have none of it! I've never seen Billy so angry. Those were two of our biggest accounts, and without them we were sure to face financial difficulties.

12. It was only a year or so later that news of the merger came down. Mid-April is when we started to hear that something might happen. FID had brought up a couple of smaller ad firms, including Jabari, Inc. and were looking for more. I guess they made the owners of Low-Key an offer they couldn't refuse. To be honest, we all sort of saw it coming. Low-Key kept losing clients to FID. Billy did her/his best to keep the accounts we did have and get new ones, but it wasn't enough. Many of us were afraid Low-Key would just go out of business and we'd all lose our jobs. In that sense, I guess it was sort of a relief when we heard FID was buying Low-Key. I've heard

mention of financial problems, but I never heard that within Low-Key. Whoever is saying that, I think they're wrong. Things could have been going better, but I've never heard that Low-Key was going under. If that was the case, why wouldn't FID have just let Low-Key die out slowly rather than spending money to acquire it?

13. Still, it shook people up a bit. I know I was scared. You never know what's going to happen in a merger. Rumors were flying all over the place. I don't remember who said it (well, it may have been everyone), but the most persistent rumor was that Taylor was going to make sure that Billy got fired. I spoke with Billy about it once – all Billy would say was "I am the one who takes people out, not Taylor Stark."

14. Turns out Billy and I both survived the merger. Some folks didn't. Some people were offered a pretty decent severance package to be let go and took it (Eric was one of them). It was mainly folks from Low-Key. Very few people from FID lost their jobs. I think that left some bad blood with the people who came over from Low-Key. But for the most part, things smoothed out pretty quickly. I think Billy probably assumed all along that s/he would be fired, especially with the rampant rumors that Taylor wanted her/him fired. I though Billy would be relieved to still have a job, but it was almost as if s/he resented not being fired, as if being fired would vindicate his/her hatred of Taylor. When I saw Billy after we both knew we were staying, I asked Billy about it. Billy seemed pretty chagrined by the whole situation and just muttered, "Can't get rid of me that easily, maybe Stark will try to do it once I'm there."

15. Some things took a while to sort out. FID decided to create a new supervising position. They called it Lead Director. The position would essentially be just below the owners, overseeing all of FID's advertising. It was clear from the start that Stark and Rogers were the two candidates most likely to get the job. I know they both applied. I didn't know Taylor that well at that point, but I talked with Billy about it. I know Billy wanted it. Billy felt like s/he deserved it. Billy told me during one conversation, "This is mine. I've worked my whole career for this. Taylor isn't going to take it away from me." I think that's fair. Taylor was qualified of course. They had similar backgrounds, education, experience. I had seen a fair bit of Taylor's work over the years, even before the merger. Frankly, it was good. Really good. But Rogers 'work may have been better.

16. The merger was finalized in May of 2019. The application process for Lead Director began in June. The announcement about the selection happened on August 9th. As everyone knows, FID picked Taylor. I mean, of course they did – Taylor was a long-time FID employee and close with the owners. But to be honest, they bumbled the announcement. They didn't talk to Billy first. Billy found out along with everyone else via a company-wide e-mail. I wasn't there for Billy's reaction, but Billy's assistant told me that Billy was furious. The assistant said Billy was trying to keep it quiet but was saying something about "killing Taylor" or "that's it for Taylor" or something like that. I do know I didn't see Billy for the rest of that day. I think Billy took the rest of that day off. It was a Friday, and I didn't work that weekend, so I didn't see Billy again until Monday. Frankly, Billy seemed distant from then until…the incident. I thought Billy was thinking about leaving. Now…I'm not so sure.

17. A lot of people, mostly all the original FID employees, were really happy for Taylor and organized a potluck to celebrate Taylor's promotion. There were a couple of e-mails about this

too. I got these e-mails because I was on Taylor's team. And I think the e-mails were forwarded onto the whole office anyway. I think this may have been partially Taylor's idea, but whatever. The party was set to take place on Friday, August 23rd. It was also close to Taylor's birthday. Taylor is from the South, so were supposed to bring Southern foods for the potluck. I think it was fairly common knowledge around the office, but Taylor has a pretty severe allergy to tree nuts. Even though I had only been at FID for a couple months after the merger, I had heard a couple of people mention it. Taylor may even have brought it up during a staff meeting, though I don't have any specific memory of that. I think it was also mentioned in one of the e-mails organizing the potluck, but it's been a while since I looked at that.

18. I never had the full scoop on Taylor's allergy myself. I was a little confused since Taylor didn't seem to worry about it too much. It was supposedly EpiPen level stuff, but I had seen Taylor grab snacks from the break room without asking if they had nuts in them. Several of us were at lunch once and when Taylor mentioned his/her allergy, the waiter wasn't sure what was in the meal. Taylor just said, "Ah, it'll probably be fine. What's the worst that can happen?"

19. For the potluck, I brought in some almond cookies that I like to make. I don't know if they're Southern, but people love them. They are basically sugar cookies with chopped up almonds in them. Of course, I knew Taylor couldn't eat the almond cookies, and it was her/his party after all. So, I decided to just make some plain sugar cookies to bring to the party. I fixed a double helping of the dough, and after chopping up the almonds I divided the dough into two separate bowls and only mixed in the almonds in one of the separated dough. I was very careful to make sure none of the chopped almonds got into the bowl that was for the plain sugar cookies. Moreover, I wanted to make sure it was clear which ones had nuts in them, so I candied whole almonds and stuck them on top of the cookies with the chopped almonds. It was kind of hard to get the cookies done. I have two young children and they alternated between "helping" me cook and rampaging throughout the house, so I spent a lot of time chasing one or both of them around that night because my spouse was working late.

20. I remember the potluck vividly. I was at the door when Billy Rogers came in with the fried chicken. I think I was the first person Billy saw. Billy eagerly shoved the fried chicken in my face and told me to try it. It looked good, so I did. I grabbed the first nice, big drumstick I saw. It was delicious…but something was different about it compared to other times I had eaten Billy's chicken. Usually, Billy's chicken was very tender and juicy. The skin would be just perfect. This time, though, the flavor wasn't what I remembered. And the skin tasted a little burnt. I'm not sure what the difference was this time, but maybe Billy cooked it too long this time.

21. Because I had liked it so much in the past, I asked Billy if s/he would be willing to give me the recipe. I have a cousin who has a gluten allergy, so I try to collect good gluten-free recipes when I can in case I need one. Billy said s/he would bring in a copy of the recipe the next week, but said that the secret was almond flour and a touch of honey. S/He explained that her/his spouse cannot eat gluten and that they had been forced to come up with an alternate coating for the fried chicken, which was oven baked, not fried. I told Billy that whatever s/he did, I wanted to try making it myself. I never did get the recipe from Billy.

22. I do not know the exact details of what happened between Billy and Taylor after that. When Taylor had his/her allergic attack, I was talking with the CEO and some other folks in a side office. I heard a commotion out in the conference room where all of the food was. By the time I got out there, it was pretty much all over. I saw Kelly Wayne and a bunch of other people surrounding Taylor. Kelly was saying it was okay. I think s/he had an EpiPen, but I'm not sure where Kelly got one of those. I thought Taylor had left his/her backpack in the room where the potluck was held, but I realized after I didn't see it there. I'm not sure what happened frankly. Billy wasn't near Taylor while this was all going on. I saw Billy standing in a corner, just sort of watching what was going on. Almost looked like Billy was smirking a little.

23. I remembered Billy telling me that the chicken had almond flour in it. I didn't really think that Billy would do something so serious as intentionally poison Taylor. But just in case the police or someone needed evidence to test later, I stuck a couple of pieces of Billy's fried chicken in a plastic bag and surreptitiously shoved it in my backpack. When I got home, I threw the bag in my freezer. I later gave a piece of the chicken to Dr. Hayden Danvers for testing.

24. I left FID soon after the potluck. Things were a little crazy, and I realized I didn't want to be part of this anymore. I took some time off, decided to get into something a little less cutthroat. I manage some restaurants now – the Dora Milaje chain. Casual East African cuisine. It's good stuff. Check one out if you ever have a chance.

STATEMENT OF AVERY DENT

1. My name is Avery Dent and I'm from Alaskapolis, Alaska. I am the owner of Panther, a used car dealership. I know both Taylor Stark and Billy Rogers as friends. I met Taylor about four years ago when I needed some advertising work done for my business. S/He and the team at Fury Imaging & Design came up with a wonderful advertising campaign for Panther that brought in so many new customers. Taylor and I have been friends ever since. We don't hang out that much, but every once in a while Taylor and I will get together for lunch or dinner. Maybe three or four times a year.

2. Taylor sometimes seems a bit arrogant about her/his job, but that's fine – s/he can back it up. I still send occasional business Taylor's way. I sometimes wonder if that is the only reason why Taylor is friends with me. I mean, I know people in advertising always have to put a good face forward and all. But on the other hand, we don't ever talk business when we get together. We talk about normal stuff like what's going on in our lives or politics or whatever.

3. The only time I ever really remember us talking much about Taylor's work at FID was at the time of the merger with Low-Key Advertising. Taylor said that things were kind of tense around the office with so many new employees coming in. Taylor seemed particularly concerned about Billy Rogers joining the firm. Taylor and Billy had run into each other a few times competing for clients, and Taylor made it clear that s/he did not like Billy one bit. Said that Billy was untrustworthy and a backstabber. This was sort of awkward for me because I'm good friends with Billy. Taylor doesn't know this, and I wasn't about to tell him/her. Now that I think about it, I guess the three of us have never hung out together.

4. I guess the advertising world can be sort of cutthroat. The people on sales – like Taylor and Billy – are always trying to steal clients from one another. Taylor didn't want to go into details about other clients, but said that there were a few accounts s/he had stolen from Billy and a few that Billy had stolen from her/him. Taylor described Billy as his/her "biggest rival." I said this was just part of the business and suggested that now that everyone was on the same team things would smooth over. But Taylor didn't think so.

5. Taylor said that there could be only one lead salesperson at any advertising agency and that s/he knew Billy would do anything necessary to become that person at FID. I told Taylor I thought s/he was overreacting. Taylor replied that I didn't know the history between the two of them and that so long as both of them were in the same city they would always be rivals. Taylor was afraid that Billy would even sabotage Taylor's accounts while working at FID just to make Taylor look bad! I don't like hearing things like this about my friend Billy, so I didn't press the matter further. Taylor was usually rather easy-going with me, so the whole tone of this conversation really took me aback.

6. As I said, Taylor and I usually met over food. This was sometimes a bit of a challenge because Taylor has such a serious tree nut allergy. Taylor was always very careful about his/her allergy. I remember the very first time I asked Taylor to lunch, I suggested we go out to this great little Mediterranean restaurant I know about. Taylor said s/he couldn't because Mediterranean food often uses almonds and other kinds of tree nuts. Taylor explained how s/he was extremely allergic to tree nuts and ran the risk of anaphylactic shock if s/he accidentally ate them. I mean, this was

all just with me suggesting that we get lunch. I asked if Taylor couldn't just order something without nuts? Taylor responded that usually that would be safe, but at a place that uses so many almonds and other nuts, s/he was afraid that some small bits of nut would get into her/his food no matter what s/he ordered. Taylor said this was called cross-contamination and that it was just one of the things that people like her/himself with serious food allergies need to be careful about. We ended up going out for sushi instead. There are times where I've seen Taylor seem pretty casual about his/her allergy, but I think people don't understand how thoughtful Taylor is. Taylor didn't ask about nuts at the sushi restaurant because there are no nuts in any of the sushi s/he would order. So even if Taylor seems casual it's probably because Taylor has already thought about the issue and has figured out why s/he doesn't need to ask about nuts.

7. Taylor was similarly careful every time we got together to make sure the food s/he was eating did not have nuts in it. There was only one time when Taylor made a mistake, and it sure left a strong impression on me. I shouldn't really say it was a mistake; I don't think it was Taylor's fault. We were meeting for afternoon coffee at a bakery downtown. Taylor was a bit hungry and wanted to get a muffin. There were three different trays of muffins behind the glass counter. One of the kinds of muffins had almonds on it, but Taylor asked if the poppyseed muffins were free from tree nuts and safe to eat. The woman working behind the counter didn't really seem to be paying attention and said something like "Yeah, sure."

8. Taylor bought the poppyseed muffin and we sat down. About five minutes after Taylor had the first bite of the muffin, I could see this pale look come over Taylor's face. Taylor started clutching his/her throat and gasping for breath. Taylor reached inside the backpack s/he always carried with her/him and pulled out an EpiPen. The first time we went out to eat at that sushi restaurant, Taylor explained to me that if s/he ever started to go into anaphylactic shock that there would be an EpiPen in the font pouch of the backpack and that I needed to get it, pull off the cap, and stab it into Taylor's left bicep, even through a shirt. So, when Taylor handed me that EpiPen, I knew exactly what I needed to do. After injecting Taylor, I called 911. Fortunately, Taylor had recovered a bit when the ambulance arrived. I still rode to the hospital with Taylor and visited her/him the next day. Taylor was able to make a full recovery. But the whole event reinforced in me the vital importance of Taylor avoiding tree nuts.

9. I've known Billy Rogers about as long as I have Taylor Stark, but I'd say we are better friends. We've played on a summer recreational softball team together for the past five years. And of course our team would usually go out for food and drinks after a game. At least, those of us without children would go. I got to know Billy pretty well over the years, and there were times, especially in the summer, when we'd get together outside of softball. Billy is a great person but s/he's super-competitive. Doesn't matter if it's softball, bar trivia, or go-fish, if Billy isn't winning s/he's not happy.

10. Our softball league has an end of season potluck BBQ where all the teams get together. They hand out trophies to the winning team and the league MVP. Not to brag, but our team, the Stormbreakers, is pretty good. Every year we're in either first or second place. Our only real competition in the league is Motion to Strike. Billy used to be the best player in the league until Motion to Strike found Laura three years ago. She's won MVP 2 years in a row, though Billy did win it again last year. You could tell this really goaded Billy. Billy knew that Laura was a good player, but Billy always felt the need to be the best at everything.

11. Laura is super allergic to onions. The whole league knows about it because at her first BBQ she kept asking everyone if there were any onions in the food. I remember her saying "even the tiniest bit and I go into anaphylactic shock!!" Everyone in the league has been super understanding, and we all make sure to mark which dishes have onions with a big red sticker. She's not on our team and all, but it's not like we want anyone to get hurt. When Billy heard about the allergy, s/he leaned over to me and said, "Maybe we should sneak some onions into her food and take out the competition." I laughed it off. It's a very Billy thing to say.

12. The next year, Laura won MVP for a second time. It really surprised us. We thought Laura winning the first time was a fluke. We didn't think she'd beat Billy out again. I mean, the Stormbreakers finished in first place in the league, and everyone knew that Billy was the reason why. Billy was not happy. When the MVP award was announced, s/he turned bright red, threw his/her plate in the trash and stormed off. I heard him/her say "it's about time we get rid of Laura." I didn't think much of it. Like I said, Billy is competitive, but s/he could never hurt anyone.

13. Last year, we played Motion to Strike in the first game of the season and they beat us by one run. When we were high fiving the other players, Laura quickly pulled her hand away from Billy and said "too slow!" She laughed then tried to high five Billy, but Billy just stood and stared at Laura. It was really awkward, but by the time we reached the parking lot it seemed Billy had forgotten all about it. We saw Laura and Billy shouted, "See you at the BBQ, Laura. You've got to try my burgers!" We were having a beginning of the season BBQ because … well, we have lots of BBQs in our league.

14. Billy is an amazing cook and makes these amazing burgers! S/He calls them Billy Burgers. S/He doesn't normally make them for the BBQ, but last year s/he did. S/He even put a big sign on her/his plate that said "Billy Burgers." I've seen Billy make them before and I know onions go in the meat mixture. S/He says it's the secret ingredient; keeps them moist or something. Anyway, I was in charge of grilling so made sure the plate that had the Billy Burger patties had a big red sticker on it. While I was grilling, I saw Billy standing in front of the plate with the Billy Burgers. I didn't think much of it, that Billy must be checking to make sure that the burgers were cooked properly. S/He lingered there for a bit then walked away with her/his hands in her/his pockets.

15. Soon, people began grabbing plates of food. I went to unload some cooked burger patties when I noticed the red sticker was missing and Laura was walking away with a Billy Burger. I ran to her and knocked the plate out of her hand. Laura was so grateful and said she would have died if she took a bite. I told Laura that I had put a red sticker on the plate but that it must have fallen off or something. It was a close call. I asked Billy if s/he knew what happened to the red sticker, but s/he claimed to have no idea.

16. I'm telling you about this because after hearing about Taylor Stark I think it is important that you know. But, I want to make clear that Billy Rogers is a great person and I don't think s/he could ever do anything like this on purpose. Billy's wife/husband, Jordan, is really intolerant to gluten and Billy is extra careful in what s/he cooks. In fact, Billy comes up with some very clever recipes to be able to cook for Jordan. It's really kind of cute.

STATEMENT OF PARKER WATSON

1. My name is Parker Watson, and I am 56 years old. I am a trained chef, a graduate and member of the Culinary Institute of America, a member of the Board of Directors of the Hudson School of Culinary Arts, and an author. While working as a chef in Europe, I became interested in the culture of food, and I completed a Masters degree from the Vrij Universitiet Brussel (that's pronounced VRYE UNI-VERSI-TITE) or "Free University" in Brussels in Social and Cultural Food Studies. After working for several years as the sous or lead chef in some of the finest restaurants in Boston, I decided to open my own restaurant, Mortar and Pestle, on Beacon Hill. The restaurant has won multiple awards in the local press, and I won the highly coveted James Beard award for best chef in the Northeast in 2014.

2. After establishing my restaurant, I have looked to expand my media presence. I've taught adjunct courses at Boston University, and I have an online course at Benedictine University here in the US and at City University London, and I've guest lectured elsewhere. I have appeared on television and radio shows in the US, like The Migrant Kitchen and The Splendid Table, and in the U.K., where I've had interviews in the Guardian and the Independent. And I've also appeared on the BBC – no, not on the Great British Baking Show, but on features related to history and food. Because, that's my real interest, the geography and history of food. I have my own Blog that features recreation of famous feasts – or imagined dinners – and I am currently working on a new cookbook with Fordham University Press, a follow-on from Sonnenshmidt's famous Dining with Sherlock Holmes – that brings many of the later Edwardian menu into a more continental perspective. The working title is Dinner with Irene Adler, because, of course, she was the woman who out-smarted Sherlock Holmes.

3. I have never before testified at a trial. There is not much need for chefs as expert witnesses. But this opportunity was so unique that when my agent informed me about it, I thought it would be a fun experience. And, I have never been to Alaska before, though I do have to say that I am an immense admirer of your fresh seafood and frequently pay top dollar – and have my customers pay even higher dollars – to serve fresh Alaska salmon, halibut, and other seafood in my restaurant. I do not have any medical training, but I certainly know food. I love talking about food – in any situation, really. I am not accepting any remuneration for my appearance other than the costs of traveling here. I suppose I could charge what I do for my various television spots, but that does not seem right. Rather, I am here for the love of food and in the hope that everyone will treat both the pleasures of food and its potential dangers with respect. Fine food should only be used to nourish the body and soul, never as a weapon.

4. I learned about the uniquely American awareness of food allergy, as a cultural phenomenon, while pursuing my studies in Europe, oddly enough. It isn't that there are no food allergies in other countries, but the conceptual approaches of adapting public food culture and manufacturing of food for public consumption is particularly where the North American and British have taken the lead. Food labels in the UK have been required to identify allergens since 1990, and in the US since 2004 when the Food Allergen Labeling Consumer Protection Act was passed. Of course, publication of food allergen information is now required throughout the EU, but only much later than the US and certainly than the UK. It wasn't required as a uniform EU Regulation (No. 1169) until 2011, which is coming rather late to the table, don't you think? Haha. Yes, and this labeling regulation was in fact pushed through by the UK, where some 2% of adults

and 5-8% of children have some form of food allergy, not including those with food intolerances. It is estimated that about 3.9% of persons in the US have some sort of food allergy.

5. Food allergies are a real problem. An allergic reaction can be produced by a tiny amount of a food ingredient that a person is sensitive to (for example a teaspoon of milk powder, a fragment of peanut or just one or two sesame seeds). Symptoms of an allergic reaction can range from mild symptoms such as itching around the mouth and rashes; and can progress to more severe symptoms such as vomiting, diarrhea, wheezing and on occasion anaphylaxis or anaphylactic shock. Around ten people just in the UK die from allergic reactions to food every year, and in the US, it's actually quite a bit lower rate – except for peanut allergy. There's a good deal of controversy about the numbers, because while anaphylaxis is a reportable cause of death, most anaphylaxis is not caused by food allergies, but drug allergies, or other kinds of allergies, like bees. The Center for Disease Control in the US concluded from a review of the scientific studies on cause of death that less than 20 people per year die in the US from a food allergy. So it is a very, very rare event – but of course, tremendously scary if you are a victim.

6. There is a schedule of the 14 major food allergens, that must be labeled in the EU and UK; a similar list of eight major food allergens in the US. This means that any food containing these food sources must be labeled as containing the allergen and in the EU, unlike the US, the appropriate symbol included. The US group of eight listed allergens is milk, eggs, fish, Crustacean shellfish, tree nuts, wheat, peanuts, and soybeans or soy. There may be other allergens that food processors choose to list voluntarily, but these are the only required ones. The regulations can be confusing, with some words bolded, but not others, all according to the regulations. So, for example, you have a requirement that the grain be labeled, but not that the food contains gluten, when it is the gluten in the grain that is the allergen. No wonder it takes so long to read food labels in the grocery store.

7. And unfortunately, restaurants are not required on their menus to list food allergens. This seems inconsistent to me with the stringent – albeit somewhat confusing and incomplete – food labeling requirements for packaged foods. I guess the concern is that restaurants change their menus so much that it would be difficult to require constant identification of food allergens. And I suppose the chef is usually available and *should* know what food allergens are contained in any given dish. But there is so much risk for mistakes – not knowing for sure the ingredients in a dish or the ingredients in a commercially produced product that is used in cooking – or cross-contamination – by which I mean allergens from one type of food accidentally coming into contact, usually through inadequate cleaning of the food preparation area, with a separate food item that otherwise would not have that allergen – that it can really discourage people with serious food allergens from going to restaurants. I just wish that more food preparers were sensitive to food allergens. No one should ever be afraid of eating.

8. Now as to the food allergen at issue in this case: Almonds, of course, are a listed allergen in the US, UK, and EU. In the US, they are listed as "contains: Tree Nuts (almond), or using the EU convention, "contains Nuts (almond)". Almonds are one of the more common food allergies, but not as common as, for example, shrimp, fish, or eggs. However, although almonds, and tree nuts more generally, are not as common as other food allergens, they can cause an extremely serious reaction in those who do have that allergy. Even a small amount of exposure to almonds or other tree nuts can cause anaphylactic shock to someone with a serious allergy. Indeed, as chefs

we are trained to keep food preparation involving tree nuts separate from food preparation for other dishes because of the danger of cross-contamination. Tree nuts in dishes are often finely chopped and can leave "nut dust" behind. This so-called "nut dust" can become unintentionally incorporated into subsequent food dishes if the food preparation area is not thoroughly cleaned before the next dish is prepared.

9. Almonds are historically a very interesting food, emblematic of the wealth of the Middle East and Mediterranean. The type of almonds that are commercially grown are the sweet almonds. There is also a bitter almond variety, but it is rarely grown or sold for consumption because it contains half the oil of sweet almonds and, more importantly, contains dangerously high levels of naturally occurring cyanide. There are a few medicinal uses for bitter almonds, but only after they are highly processed. Almonds botanically are related to peaches, and in fact, modern commercial almond trees are grafted onto peach rootstocks. They probably originated in Asia. We know that they were growing wild in Persia, Turkey and Syria by 8,000 BC and cultivated in Egypt in 3,000 BC. From there, they spread throughout the Mediterranean, especially to Spain and Italy. But actually, the US produces the most almonds of any county in the world. Over 40% of the world's almonds come from the US.

10. Much of modern almond product goes not toward direct consumption of the almonds, or even toward grinding almonds into almond flour. Rather increasingly, almonds are used in the production of almond milk, which comes most often from mixing finely ground almonds with water and then straining out the almond pulp. Almond milk is commonly used today as a substitute for cow's milk, though there are other substitutes available as well, such as soy or coconut milk. This can be done for vegans or people who are lactose intolerant or just because someone does not like the taste of cow's milk. Of course, anyone with a nut allergy would not be able to drink almond milk. I myself prefer almond milk when I get a latte and find it a healthier alternative to cow's milk, at roughly one-third the calories. Interestingly, almond milk, despite being trendy at coffee shops, has actually been around since about the 13th Century in the Middle East and soon thereafter in Europe. In both places, nuts and nut derivatives were an acceptable food source during religious fasting.

11. Indeed, the almond in cookery is strongly rooted in the Middle East and the Mediterranean as a rich, decorative food. Some of the exotic appeal of almonds has crossed over the European cooking as well – in pre-modern days, any food not grown in Europe was considered by Europeans to be exotic. It historically has been used both in European cooking and elsewhere in confectionary – in making sweets – which is it primary use today. It is an expensive product that requires a lot of handling, and shipping is expensive. In my research, I have found very few historical instances where almonds are used in other than a decorative capacity in production of savory foods such as meats.

12. By decorative capacity I mean, for example, slivers of almond are historically associated with Persian rice dishes – scattered atop a pilaf – or in the modern invention, chicken korma, where a little almond flour is added last, at the simmering stage, to thicken the gravy. Sure, they add a little bit of flavor, but that is not their main purpose. We ourselves have adopted the decorative capacity of almond slivers in salads and on fish, as in the classic of the 1950's, trout almandine. Almond flour has not been as widely adapted on the savory side however. Almond flour is used in Mediterranean cooking chiefly for cakes and cookies – in the famous olive-oil cakes scented with

rose water syrup or orange flower syrup from Syria and Palestine, and in the small cakes and cookies of Greece, Macedonia and Croatia. A bit more on the confection side, almond flour is mixed with sugar to create marzipan – a wonderful, edible "play-doh" for cooks to concoct the amazingly lifelike confections of the Georgian and Victorian eras, as well as the macaroon. Marzipan is particularly popular in northern Europe. But even then, the tendency is to use the oil of almonds to add flavor – the oil is taken from sweet almonds and stores longer. Almond flour, on the other hand, was something that did NOT store well or keep as well as regular grains, having more moisture and more fat.

13. So, given this historical experience, it's not surprising that almond flour wouldn't be used where less expensive materials are available. Now, almond flour is not the same as wheat flour; you cannot simply substitute the former for the latter. Almond flour is much higher in protein and fat, it has a mealier texture, it is more crumbly, and it burns at relatively low heat, unlike wheat flour. That's why you don't find it in fried dishes, especially in fried chicken or fish, that require very hot oil to develop the crust and seal in the moisture, while still cooking the meat to an internal temperature that kills salmonella, for example. This is true both in traditional Middle Eastern cooking and in more modern adaptations. Cooking *fried* chicken with almond flour is just not something that we would expect to be successful, given the fact that the almond flour in the coating on the chicken would scorch so easily. If you have ever toasted almond slices or slivers, you know that they can turn brown and burn in a flash. Now imagine doing that while dipping chicken into a fryer. It can only be done for smaller pieces of de-boned chicken that cook more quickly. Larger pieces of chicken, particularly pieces that have bones in them, would need to be in the fryer longer than the almond flour could stand before scorching. It is for this reason, even when I am conceiving of and testing gluten free dishes at my restaurant, that I never use almond flour when I know that food is going to be fried.

14. The idea of someone using almond flour as a straight substitute for wheat flour in fried chicken because someone is allergic to gluten strikes me as highly improbable. At least not as part of a family recipe that one would make on a regular basis. First almond flour is far more expensive than wheat flour – or any of the substitute flours available today. You buy 5 pounds of wheat flour for less than $4.00; you pay something like $7.50 for 1 pound of almond flour. So, the idea this is an "old family recipe" is just nuts. You have to work to find it. Because of its high protein level, almond flour doesn't bond well with eggs – commonly used to dip fried chicken in before the last dredging. So it would fall off in the oil, burn in the oil, and just be a very expensive experiment. No, if you made chicken with almond flour, it wouldn't be "fried" chicken – most likely it would be in a braised or stewed chicken dish – and it wouldn't be a lot – certainly not in the quantity you would need to dredge a whole chicken.

15. In fact, the only recipes – I only found two after an extensive online database search – that use almond flour in the coating for chicken both included almond flour along with other flours for the breading, not as the sole ingredient as Billy Rogers seems to claim. One was for a kind of "chicken nuggets", or small pieces of chicken meat, boned and cut up into even, finger-length sizes – again to aid quick cooking. The almond flour was used to dredge the chicken before being only briefly immersed in the fryer. The crunchy oiliness of the almond flour mimics oil that we find on fried chicken, and the dish succeeds because it is not fried for any length of time, lest the almond flour scorch. This is only possible by using small pieces of deboned chicken. If you used whole pieces of chicken with the bones in, the amount of time these pieces would require in the fryer to

thoroughly cook the chicken itself would unavoidably burn the coating because of the almond flour. The other recipe blended the almond flour with regular wheat flour, used a well cut-up chicken and a buttermilk brine, which helps to tenderize the chicken and "cook" it through acidulation. You could substitute an all-purpose gluten-free flour blend for the wheat flour to make it gluten free without much difference in taste. But again, this recipe used only a few tablespoons of almond meal, and it was cooked in the oven, with the grease from the chicken itself to build the crust. Even then, you are talking about some of that dredge not getting on the chicken, and some falling off, so you really have very little almond flour on the chicken, and a lot more wheat flour or gluten-free substitute. You would have to be very sensitive, but a person with a nut allergy fed this kind of "oven-fried" chicken could still have an allergic reaction. I have tried both recipes myself. Both are very different from "traditional" Southern fried chicken. While both of them are decent as to taste, they are not, to my refined palate, recipes that I think anyone would rave about.

16. I have gotten to examine a couple pieces of chicken that Ari Banner was able to pick up after the infamous potluck. I examined the ingredients, really deconstructing the pieces of chicken to figure out what was in them. Indeed, I could tell the flour coating contained almond flour. There were signs of scorching in the coating that would be consistent with the use of almond flour, even in small amounts. Then again, I suppose adding honey or brown sugar might also lead to scorching. And the texture appeared to be heavier and chunkier, consistent with the use of almond flour. Though I of course do not have the means to do a complete chemical analysis of Billy's infamous -- sorry, famous -- fried chicken, I am positive the chicken contained almond flour.

17. I have also seen Billy Rogers's statement and seen what s/he says about his/her almond flour "fried chicken" recipe. I can appreciate trying to figure out a gluten-free recipe that would taste as good as the original. I pride myself on providing delicious gluten-free options in my restaurants and my cooking. But this recipe does not make sense from a culinary standpoint. I don't see how it would work. Billy claims to both cook the chicken in the oven and fry it briefly, but I'm not sure the almond flour would survive the oven cooking, much less the frying without scorching the whole thing to a crisp. I didn't get to eat any of Billy's chicken (by the time the chicken got to me it was well past the fresh by date, so to speak), but I simply cannot imagine it would be possible to cook chicken solely with almond flour as s/he asserts. If Billy has indeed learned how to fry chicken using only almond flour, s/he has pulled off a culinary miracle. This is not something I have the ability to do with all my years of chef's training. Billy may well be a good cook, but s/he is not better than me!

18. I can certainly understand with her/his spouse's gluten allergy that Billy would want to find recipe for fried chicken not using traditional wheat-based coating. And there are plenty of alternatives available on the Internet and in gluten-free cookbooks. There are even some good gluten-free flour blends available whereby you could simply substitute that for wheat flour and get largely the same result. But those flour blends do not contain almond flour. Most all purpose gluten-free flours contain a mixture of brown rice flour, tapioca flour, potato or corn starch, and maybe a few other ingredients like xanthum gum. But again, no almond flour because of the challenges of cooking with it. These alternative recipes for fried chicken would allow for more traditional cooking techniques where the chicken is fried in a cast iron skillet or fryer for a long time. As I explained earlier, this would not be possible with almond flour, even as part of a blend, because of the risk of scorching. A chef would really have to know what they are doing to try to fry with almond flour and would need to know some of the alternate techniques described in the

recipes I reviewed. The difficulties of frying with almond flour is almost certainly why I could only find two recipes for cooking fried chicken – even ersatz fried chicken – that contained almond flour. It is entirely possible that Billy had a trusted recipe for gluten-free fried chicken, but I very much doubt that it had almond flour in it. If the fried chicken Billy brought to the potluck for Taylor Stark's promotion had almond flour in it, which I believe it did, then the most likely explanation is that Billy added the almond flour with the intent of poisoning Taylor.

STATEMENT OF BILLY ROGERS

1. My name is Billy Rogers. I am from San Jose, California. I majored in journalism in undergrad then got an MBA. I was always pretty ambitious I guess. I played soccer and basketball growing up, and I was good. I hated losing. I was going to play soccer in college, but I hurt my knee my senior year of high school. College reneged on the scholarship I had lined up. I was pretty upset about that. I felt like the college really treated me unfairly, took away something that was rightfully mine. I ended up going elsewhere and maybe it made me work harder than I otherwise would have. I went to Northwestern University and graduated *summa cum laude*. I was pretty proud of that. I never became a college athlete, which was one of my dreams growing up, but I do play recreational softball now. And I am pretty good if I do say so myself. I started playing softball in college and I guess my natural athleticism help me out a lot.

2. After I finished undergrad, I worked for a firm that helped companies bid for government contracts. It was interesting work. I traveled a lot and got to work on a variety of projects. Eventually though, I wanted more. After I got my MBA from the University of Chicago, I got into advertising. On a whim, I had spent a summer working for Low-Key Advertising in Alaska, and they offered me a position coming out of school. This was about eight years ago. It was an exciting place to work. They let me work my own accounts quickly. I still remember my first account – Felt Bicycles. They were a line of really comfortable commuter bikes. They weren't looking for ad help, but I met their CEO at a fundraiser and convinced her they needed us. I was generally able to convince people they needed us. Felt was a small account, but I helped them triple their business within a year. I started getting bigger accounts after that, started bringing in a few of them myself. Things really started to take off for me. I got a reputation for working hard and getting results. And I did get results.

3. Advertising is all about making a good pitch to a potential client and then being able to deliver the goods once you get the account. Sometimes the potential client at a sales pitch would ask for something I hadn't really planned for. I felt pretty good about my team at Low-Key and about our abilities, so almost whatever the client asked for I'd say we could do. And usually we could. On the rare times we couldn't, I could always smooth things over with the client by emphasizing all the great things Low-Key had accomplished and that the unfinished stuff was unrealistic and unnecessary. I mean, I'm in advertising, you have to know how to polish up a turd.

4. One of the key members of my team at Low-Key was Ari Banner. S/He and I worked together for several years on a lot of different projects. Ari is a hard worker and is good at following instructions. Not overly creative, which is a quality you normally would want in advertising, but what Ari lacked in creativity, s/he more than made up in reliable competence. I could push Ari hard, and s/he would always come through on deadline. I wouldn't say we were close friends or anything, though. Ari had a tendency to believe in ridiculous conspiracy theories. I just found this all a bit silly and not a personality trait that made me want to hang out with Ari.

5. Of course I know Fury Imaging & Design, or FID. They were one of the big competitors in town to Low-Key. FID did some good work, but I always thought Low-Key was better. Not all of the clients agreed I guess. FID poached some of our clients. We poached some of theirs. It's the nature of the game. In particular, I seemed to run up against Taylor Stark a lot. If you ask me, Stark

has always been a little more arrogant than his/her results warranted. I saw some of Stark's work and it was good, but no way it was better than mine. Stark did take a few clients from me though, I gotta admit that – Titan Construction and Shamballa Tech. I was certainly not happy when that happened. I worked hard for my clients, and I did not appreciate it when they left Low-Key. I think sometimes I didn't come across as personable with the clients as Stark did. It was never my forte. I got results, but unless the client said something I usually just let the results speak for themselves.

6. And there were some clients we were both trying to sign who Stark snagged. One in particular was Everett Ross. Ross was running for US Senator and wanted an ad firm handling his media. I thought I had Ross in the bag as a client, but Stark ended up with the account. I'm still not sure how s/he did it frankly. Winning a major political campaign can be huge for a firm. It leads to lots of positive press and clients come running. Didn't work out that way for Taylor and FID though. Ross got dragged down by a financial scandal - kickbacks while serving as mayor it turned out. Honestly, I'm not sure anyone could have saved Ross from that, but Stark certainly wasn't able to. I'm not sure I could have saved Ross, but I would have liked the opportunity to try.

7. So things went pretty well with Low-Key until early 2019. I knew of the impending merger before anyone else. I didn't own Low-Key, but I was about to make partner when our CEO, Alexander Pierce, told me he was selling to FID. I had heard rumors around town that Low-Key was in financial trouble, but I was high enough up in the firm that I knew that wasn't the case, whatever *some people* may say. Yeah, we had some mild financial strains, but I knew things were starting to turn around and we were getting a slate of new clients. Turns out Pierce was sick and wanted to get out earlier than he had planned. Pierce explained all of this to me when he told me about the sale. FID's offer was too good a chance to pass up. I wasn't happy about it, but I can't blame Pierce. Pierce built something and had every right to cash out when he did. It makes sense. And Pierce is doing well now. Not inclined to get back in the game though. Pierce ran Low-Key for 25 years – he doesn't need to prove anything to anyone now.

8. I wasn't sure what the merger was going to mean for Low-Key's people, but I knew I would be okay. Pierce told me as much, and I doubted FID would let someone with my experience and skills go. Pierce confided in me that as part of the merger deal, most of Low-Key's employees would get offers from FID, and those who did not would get a decent severance package. Pierce assured me that my job would be safe. And Pierce was right. In fact, FID's CEO made it sound like I was up for a promotion. I met with FID's CEO, Peggy Carter, early in the merger process, and she told me about her plans. She said to me, "We want to keep you around. In fact, we think there are really opportunities for you to advance at Fury Imaging & Design." FID let some Low-Key folks go but grew with the merger and wanted someone to oversee all of their accounts – Lead Director they called it. Silly name if you ask me, but whatever.

9. Of course I put in for the Lead Director position. Like I said, Carter told me I had a shot to advance, and I was excited about that. And frankly I thought I was the most qualified. I knew Taylor had put in for it too. That made sense, but I think I had the edge over Taylor. I had a little better record than Taylor, and I was willing to go the extra mile. I had always worked hard, but with the merger I worked even harder. I was putting in 16 hour days regularly. I even slept at the office a few times, worked most weekends. I was working to bring in new clients too and had a few ready to join FID. Not just the clients I brought over from Low-Key, but new clients too.

10. Maybe it was because I was working so hard that I didn't get to know the people from FID. I just didn't have time to learn about everyone's lives. I think that's how I missed the fact Taylor has such a severe nut allergy. I am well aware of food issues. My spouse, Jordan, has a really bad gluten intolerance. Just a few particles of gluten in a meal and it gets real bad, real quick. Jordan can and has suffered serious stomach issues and diarrhea. S/He even got really sick once after walking into a bakery and breathing in too much gluten. So, I've learned to be very careful about it, asking at restaurants, triple-checking ingredient lists, all that stuff. So yeah, I know how serious allergies are and how important it is to be very careful about them.

11. But I didn't know about Taylor's allergy. Maybe it was mentioned in a few e-mails, and I probably even saw those e-mails. I don't have time to read inter-office social e-mails word-for-word. If the email has an auto-invite to an office potluck, say, I click "yes," it gets put it in my calendar, and that's it. Like I said, I don't have time to read all the niceties. And I certainly didn't talk with Taylor about it. Unsurprisingly, but the time of the merger we weren't very fond of each other. I kept my nose down and worked. I wasn't going to try to be Taylor's friend, and I don't think Taylor was interested in being my friend.

12. When the e-mail about FID picking Taylor over me went out, I wasn't pleased. No one would be. I was disappointed. I was a little angry they couldn't at least do me the courtesy of speaking with me first instead of e-mailing the entire office. Yeah, I probably said a few choice words about it all. I don't really remember. I was frustrated enough that I canceled all my appointments for the rest of the day and snuck out. I didn't work all weekend either. I wanted to cool off, get my mind off work. I spent the weekend with Jordan, did a little hiking, saw a movie, made dinner. I love to cook; it helps me relax. By Monday I was back at it. I had accepted the situation and resolved to make the best of it. I don't know if I would have stayed with FID long-term after that, but I was determined to make the situation work.

13. I knew the potluck was set for August 23rd. It being a Southern theme was perfect for me. Jordan grew up in Alabama and absolutely loves fried chicken – his/her grandma used to make it and all that. Unfortunately, of course, the breading is loaded with gluten. One of the first things I started to do when we began dating was work on perfecting a gluten-free fried chicken recipe. I tried all sorts of things – rice flour, oat flour, even no breading (that didn't work out well). I could not get it to work. There were a few recipes online, but none of them came out with the crispiness I wanted. No one wants soggy fried chicken. Finally, I started experimenting with corn meal and almond flour with extra eggs to help the batter stick. It took some fiddling to get that right. I bake the chicken a little with the breading on then fry it. It helps firm up the breading. I was so happy when I got to make that for Jordan on our one-year anniversary. Jordan loved it and was blown away by all of the work I had done to get it right. I think that was half the reason Jordan married me. I have alternated over the years between sometimes using just corn meal and sometimes combining corn meal with almond flour. I am always trying to perfect the recipe.

14. So when the potluck was coming up I knew I would make the fried chicken. People at Low-Key always loved it, and people would even ask me if I was bringing it to office functions. And I could make extra so Jordan had some. I am pretty sure people asked me if I was going to bring it to the potluck at FID. Honestly, I wasn't super excited about going to a potluck to celebrate

Taylor's promotion, but again, I was going to make my time at FID work. Be a team player and all. I guess I didn't tell people all the ingredients in it, but I labeled it "gluten-free fried chicken" with a sticky note. And people at Low-Key knew I sometimes made it with almond flour. I'd brought it before and shared the recipe with anyone who asked. So, some of the folks there must have known it had almond flour in it. I mean, I used to make it just with cornmeal, but I had also used almond flour in the past. I think people liked it regardless, but my own personal preference was for using almond flour. I liked the touch of nuttiness that it added to the chicken. I know that is a bit unusual, but I liked it better than cornmeal. You have to make some sacrifices and tough culinary choices when you can't use normal wheat flour.

15. I wasn't paying much attention to what was happening at the potluck. I showed up early and helped clean the room a bit, putting away some stuff that people had left out. I dropped a few bags into people's offices. People shouldn't leave their stuff out. I decided to make an appearance, but I just held back and chatted with some folks from Low-Key. FID let a bunch of people from Low-Key go with the merger, and I was trying to keep up morale of the Low-Key people who stuck around. I walked around with my plate of fried chicken offering it to all of my Low-Key folks, hoping it would cheer them up. I noticed a bit of a commotion at some point and saw people yelling and standing around in a circle. Kelly Wayne suddenly bolted past me toward Taylor's office and then came back with an EpiPen in hand. I didn't know that Taylor had an allergy, let alone one serious enough for an EpiPen, but whatever. I'm glad Kelly thought of it. Kelly is a little bubbly for my tastes sometimes but definitely a quick thinker.

16. I know I didn't do much while this was going on, but I also wasn't sure what was happening. I had seen Taylor over there eating stuff, but like I said, I wasn't really paying attention to Taylor. I knew the commotion must be something serious and figured it was best if I stayed out of everyone's way. It was only after Kelly yelled, "Someone call 911, I think Taylor's going into anaphylactic shock!" that I realized what was going on. I didn't like Taylor and still don't like Taylor, but that does not mean I want to see Taylor dead. I did not poison Taylor Stark. I may be competitive, but I am not a murderer.

17. I don't know what Taylor is talking about with my browser history. I am quite offended that Taylor was given permission to look at my computer. What does that say about trust at the workplace when your boss can just look on your computer on a whim. When I found out from Kelly Wayne that Peggy had given Taylor permission and password override access to my computer, I immediately went and deleted my browser history. Not because I have anything to hide! Because this stuff should all be private! I mean, I know the computer belongs to FID, but everyone has a reasonable expectation that what you do on your computer will be off limits to your boss. I mean, I know plenty of people that send little note via email or text on their computer to their spouses or significant others, and no one expects that their boss might browse through them looking for dirt. I've sent text and email messages to Jordan on my work computer that I wouldn't want anyone else to read. So, I deleted those too. After hearing about the computer search, I pondered things for a couple of days and decided that I could no longer work at a place that did not trust me. So, I quit FID. Can't say I regret it. Probably should have done it long ago.

18. And this idea that I would be looking for gluten free chicken recipes with almond flour is just preposterous. Taylor is nothing but a liar. I have a family recipe I have made several times

with almond flour. I developed it because my spouse has a gluten allergy, modifying it from a traditional family recipe for fried chicken. I've made it several times and always been willing to give out the recipe to anyone that asked. I have no desire to keep it a secret. I just don't feel comfortable sharing it in court now that I've been charged with murder. The world doesn't deserve my recipe, so I'll just keep it to myself. And anyway, if what I wanted to do was kill Taylor Stark by modifying a recipe to introduce nuts, I wouldn't have needed to search the Internet. It would have been easy. All I needed to do was dredge the chicken in almond milk instead of cow's milk. It would have tasted essentially the same and been undetectable.

19. I know this isn't the first time I've been accused of poisoning someone at a potluck. I've heard Avery Dent's story. Well, I've heard it now. I hadn't heard about that until the prosecution divulged it to my attorneys. Avery had certainly never said anything about it to me, which is part of why I'm not sure where the story comes from. Avery and I have been friends for years, playing softball together and all that. Avery would have said something if s/he thought I had poisoned Laura (who used to play in our softball league). Anyway, no, I didn't poison Laura. I don't even remember the potluck. I do make great burgers and use onions in them, but I didn't try to poison anyone. I would have told Laura there were onions in the burgers as long as I knew about her allergy. Frankly, I'm not sure I even knew she was allergic to onions. Not exactly an allergy someone thinks about since it's pretty rare.

STATEMENT OF SHANNON KENT

1. My name is Shannon Kent and I am 33 years old. I currently work as a receptionist at an accounting firm. I used to work as an assistant copy editor at Fury Imaging & Design (FID), a local advertising firm, but I got let go in the merger with Low-Key Advertising last year. Most of the employees at FID kept their jobs, but I think the higher ups at FID wanted to let a few of us go so that it wasn't just Low-Key employees that lost their jobs. I'm a little bit bitter about it (who wouldn't be?), but it is what it is. I have some graphic design skills, so I'm hoping to get a better job soon.

2. I met Taylor Stark at FID and worked under him/her on several projects. As copy editor, my job was mostly to proofread all of the advertising copy and fix any typos. I also worked some on layout. Taylor was pretty good, so there were not that many errors. Taylor is quite a character. S/He can get really worked up about the silliest things. I like Taylor and all, but Taylor could get overly dramatic for no good reason. And Taylor could be quite arrogant too. Taylor thought s/he was the best advertising agent in Alaskapolis. S/He probably is! But this did not mean Taylor needed to brag so much around the office. As long as you could just roll your eyes and go along with all of the work stuff, though, Taylor was fun to be around. S/He has a good sense of humor and always asked about everyone's families and lives outside of work.

3. I have to say that I would much rather be on Taylor's team than against Taylor. Taylor was critical but generally supportive of those at FID. But if Taylor turned against you there could be trouble. I remember the time a couple years ago when Taylor decided s/he didn't like Alicia Potts and bullied her out of FID. Alicia was another copy editor at FID. I have to admit that she was not very good at her job. She let through a couple of really bad typos in advertising copy that Taylor felt really embarrassed about. I mean, Taylor should have caught them him/herself, but Alicia was the last line of defense.

4. I kind of figured that the higher ups at FID would fire Alicia, but they didn't. I guess they must have liked her for some reason. But Taylor was convinced that Alicia should no longer be a part of FID. So, Taylor would drop snide comments every now and then about her. Alicia had a kid with a chronic illness – some sort of neuro-motor problem – and had to take him in frequently for doctor's visits and physical therapy, missing a bit of work here and there. Even though Taylor knew the reason why Alicia was gone, s/he'd call her "lazy" when she'd come back or tell her not to "skip work for no good reason." Alicia told me this really bothered her, but she said she needed the work and the health insurance, so she wouldn't quit. She was also afraid to tell Taylor's boss because the higher-ups thought Taylor walked on water.

5. When Alicia didn't quit after a few weeks, Taylor decided to escalate the situation. Taylor made up this lie about Alicia having a cocaine habit that was causing her to miss so much work. I thought everyone would just dismiss it and that Taylor might even get in trouble. But Taylor kept repeating the lie so often that after a while the other employees at FID started believing it. That was the last straw for Alicia, and she finally quit FID, crying as she packed up her things. I confronted Taylor about it, and Taylor responded with an eerie calmness, "I had to do something to get rid of Alicia. She was dragging FID down. She got what she deserved." Taylor never explicitly admitted it was a lie, I guess, but I knew it was. There was no way Alicia would have ever used cocaine. She cared too much about her child and about keeping her job. And Alicia was

kind of a health nut. She spent a lot of time trying to modify her son's diet in the hope that would help with his condition, and she would follow the same diet too.

6. The thing with Alicia, fortunately, was an isolated incident. But Taylor could be even more consistently ruthless in trying to obtain clients. Taylor would lie all the time to clients to try to keep them from going with other advertising agencies. Sometimes these were just little white lies to get her/his foot in the door, like telling a potential client that s/he really needed this account to support his/her family. Taylor is unmarried and does not have any kids. But sometimes they were more serious, like saying that another company – usually Low-Key Advertising – overcharged its clients and couldn't be trusted. Or that the company manipulated customer satisfaction data to make their advertising campaigns look more successful. I mean, Taylor is allowed to have her/his opinion, but some of the things Taylor would tell me s/he said to potential clients really seemed to cross a line.

7. Taylor had a strong rivalry with Low-Key Advertising and particularly with Billy Rogers. I only met Billy once or twice when the merger between Low-Key and FID was in its early stages, so I can't say I know him/her all that well. But Billy didn't seem all that bad. Certainly not in relation to all of the horrible stories Taylor told me about Billy. Those couple times I did see Billy, I kept thinking to myself that there was no way Billy and Taylor would last long together in the same company. Both are way too competitive and way too self-confident. It wouldn't surprise me if Taylor did something to try to force Billy out, just as s/he did to Alicia.

8. Everyone at FID knows about Taylor's nut allergy, and s/he's lucky we do, because Taylor is super careless with what s/he eats. Taylor's allergy is pretty serious, life-threatening even. To Taylor's credit, s/he does make sure to let everyone at work know about the allergy and to put some sort of warning note on any food left out in the break room to share that have nuts in them. Taylor also has told me about always carrying an EpiPen in her/his backpack and instructed me in how to use it if s/he went into anaphylactic shock.

9. So, Taylor knew how to be careful, s/he just wasn't consistent about it. I once overheard Taylor in the lunchroom talking about how sometimes s/he doesn't carry an EpiPen because they're such a hassle to get. I get that they sell out all the time and you have to keep checking with the pharmacy, but I feel like if you have a severe allergy, you'd go through the hassle to make sure you always have one. I think this may have been just after Taylor had had an allergic attack, so maybe s/he just hadn't been able to get a replacement yet. Regardless, I would think this would be a pretty high priority for Taylor.

10. Taylor also could have been more careful with the foods s/he ate. As I said, Taylor was good about letting everyone know about her/his nut allergy, but then simply seemed to trust that we would take care of the rest. Taylor loved to eat and would just pick up food from a plate in the FID lunchroom without a second thought. The most common thing people brought in was baked goods – cookies, brownies, that kind of stuff – and baked goods often have nuts in them, not always in an obvious way. Occasionally Taylor would ask, "Does anyone know if this has nuts in it?" But then Taylor would usually eat it anyway, even if no one answered.

11. There was one incident in March 2015 where Taylor's carelessness almost resulted in her/his death. We were both attending a fundraiser for a local homeless shelter. The food there was

catered, with the deserts supplied by one of the fancier bakeries in town. They had these elaborately decorated cookies, a spring floral theme. I know spring comes later than March in Alaska, but I guess it was the thought that counts. The cookies had a very flat toned frosting on them and there were edible elf sculptures mixed in with the cookies. Particularly because of the sculptures, I figured that the frosting on the cookies was marzipan, which is paste formed from a mixture of sugar or honey and almond meal. Bakeries love marzipan because you can easily shape it into tiny figurines, and it holds its shape well

12. I'm not sure how much Taylor knows about food, but s/he did not hesitate to pick up one of the cookies and eat it. In fact, I think Taylor ate two of them. Taylor loves cookies and never skips an opportunity to scarf them down. I said to Taylor, "What are you doing? I think the frosting on those cookies is marzipan!" Taylor just stared at me with this quizzical look. So, I then responded, "You know, marzipan! Sweetened almond paste!" Just then, Taylor grabbed her/his throat and started choking. It was clear that Taylor was having trouble breathing. I could see a pale expression sweep over Taylor's face, and Taylor's eyes started to roll back. Taylor was still conscious enough to reach into her/his pocket and pull out an EpiPen. Because Taylor had previously told me what to do in case s/he went into anaphylactic shock, I was able quickly to inject Taylor with the EpiPen and call an ambulance. The EpiPen seemed to have the desired effect of controlling the symptoms of shock until the medical professionals could get there. I think Taylor was in the hospital overnight after that. S/He later confided in me that I probably saved his/her life.

13. Taylor had another close call at a holiday party in 2017. At the party, my co-worker Janet Watson handed out homemade banana bread to everyone. Taylor opened hers/his and took a huge bite out of it. S/He didn't inspect it or even ask if there was nuts in it! Taylor was lucky this time. Janet has shared the recipe with me and she usually puts nuts in it. The nuts are my favorite part because they add great texture. Janet told me she left them out for Taylor. She figured better safe than sorry. But I don't think Taylor had any way of knowing that the banana bread didn't have nuts in it. I mean, it's usually called banana *nut* bread, right? I guess maybe Taylor just wanted to make Janet happy because she was going through a divorce. Still, that is not a good reason to risk one's life.

14. Anyway, I'm happy that Taylor got promoted to Lead Designer. Taylor does good work and deserved it. As long as you stay on her/his good side, Taylor can be very supportive and a great boss to work for. I would have liked to continue at FID under Taylor, but it was not meant to be. Oh well. But it was nice of Taylor to invite me to the promotion potluck. I brought a couple of bottles of nice champagne. I did sincerely want to celebrate my friend's new job, but I have to admit that I was also hoping it might persuade Taylor to offer me my old job back. I figured that in the new job Taylor might have more control over the hiring process.

15. I didn't have much going on that day, so I actually showed up a little bit early and helped set up. People had left some personal possessions in there that we had to clear out. One looked like Taylor's backpack – at least, it looked like the backpack I had seen Taylor wear before. I'm not sure where s/he took it, but I saw Billy grab it and walk out with it. I assumed Billy was going to give it to Taylor. I didn't put much thought into it, really.

16. Taylor was very appreciative of the champagne. Maybe a little too appreciative. I got to the party just as it was beginning because I had to leave early to go help a friend set up for a music

gig at a club. Taylor didn't hesitate to start downing my champagne. I don't know how many glasses Taylor had, but s/he did seem a bit tipsy to me. Good for Taylor, though! This was Taylor's party, and if s/he wanted to get a little drunk, then who am I to complain. It was a Friday afternoon after all. Never did get that job offer though.

17. Because I had to leave early to help my friend, I wasn't around when Taylor went into anaphylactic shock. I'm sure it would have brought back bad memories of the time with the marzipan cookies. I was glad to hear that someone had an EpiPen and that Taylor was all right. Taylor got lucky once again. I just hope there doesn't come a time when Taylor is not so lucky.

STATEMENT OF KELLY WAYNE

1. My name is Kelly Wayne. I am from Chicago. I moved up to Alaska to go to college because I thought it would be an adventure. That was about 20 years ago now, and I guess the adventure just never ended. I love it up here! I like to hike and climb and fish and do all of the things that Alaskans like to do.

2. I did end up going to college here. I majored in business at Alaska State University. Then I got a job at Low-Key Advertising. Really great place to work. I started pretty low in the ranks, so to speak. I started at the front desk actually, before I finished college. I answered phones a few days a week because their existing receptionist was working fewer hours because he and his wife had just had a baby. Then after I graduated I took over that role full time. After that, I started sitting in on some brainstorming meetings just to take notes. The folks there knew I wanted to eventually try my hand at advertising. Even though I had my degree, I was still taking some classes in advertising to see if I could learn enough to start working on some advertising campaigns. And eventually I did!

3. Things really took off for me when Billy Rogers joined Low-Key. I had been there for a while before Billy arrived, but Billy really took me under his/her wing. I've heard that some people think Billy can be pretty tough to work for or with, but I never saw that. Billy is not as outgoing as some people might be, not as chatty perhaps, but Billy is actually really nice. Billy saw my interest in advertising and really tried to work with me to foster it. Not everyone would do that for someone like me. I didn't have the education of some of the folks who worked at Low-Key, but I think Billy saw my passion for advertising.

4. I knew about FID, sorry Fury Imaging & Design, when I was working for Low-Key. I guess I never thought much about FID. They were just another advertising company to me. They did some good stuff. I know we sometimes traded clients, so to speak, but I just thought was normal. Low-Key poached clients from a few other firms over the years, so I never thought about it. I know it happened to some of Billy's clients. I don't think Billy liked it, but I don't remember Billy being particularly upset about it.

5. That's the thing about Billy. S/He knew that advertising was all one big game. And with games, you can get really competitive during the game, but everyone knows that in the end it is still just a game. Sort of like when I play poker every couple of weeks or so. Billy has even played with me a few times, though not on a regular basis. During the game we are all cussing at each other, calling each other all sorts of names, that kind of stuff. Especially when one of us makes a great bluff and steals a pot. But we don't really mean anything we say. It is all part of the game. The night is over, and we are all friends again.

6. Billy could get really worked up during the poker games, especially if s/he was losing money – we set a $40 limit on buying into the pot – but would always just start laughing when the poker game was over. It was like whatever happened during the game was completely forgotten. Billy just isn't the kind of person to bear a grudge. This is true not just during poker games but also in advertising. I remember Billy sometimes losing an account to someone like Taylor Stark

and saying, smiling all the way, "Good for Taylor. I'll get him/her next time." Everyone knew Billy was just kidding when s/he'd say things like this.

7. I was worried when FID bought Low-Key. I think everyone was. I am pretty optimistic, but mergers and acquisitions are always scary. Some people left of their own accord, especially when FID offered some fairly friendly buy-outs. We lost some good folks with the merger. Maria Hill was one of the folks we lost. That made me pretty sad. Maria was one of the nicest people I've ever known, but after the merger she just vanished, like she turned into dust and blew away.

8. But I made it through the acquisition. My family and I were so relieved! I didn't come in quite where I had been. I had been what Low-Key called an Advertising Assistant when FID bought Low-Key. With FID I ended up dropping down to being an Administrative Assistant. I hoped to move back up into doing advertising, but I knew that might take some time. This also came with a bit of a pay cut, but better to have a job with a little less money than no job at all! I was pretty even-keeled about the whole thing. Billy at one point saw me after the transition and said, "I can't believe you've been so calm about this. If FID tried to demote me I would have burned this place to the ground." I know Billy wasn't serious about burning anything down, but I guess I was pretty calm about it all.

9. I guess it's kind of a joke, but I am always pretty cheerful. My family and friends back home don't really understand it. My brother, Bryan, can be pretty dark and brooding sometimes. He got into some pretty interesting stuff, especially after 2005. Things have been better for Bryan lately though. He got pretty into Crossfit, made some friends, hangs out with them a lot and plays in some sports leagues with them. He's been doing really well.

10. People say my attitude makes me blind to stuff that's going on around me. I'm not sure I would go that far, but I guess it's true that I do not know a lot about what is happening around me sometimes. For example, I did not realize there was such animosity between Billy and Taylor. People have filled me in since then. Some people even say that Billy intentionally gave Taylor fried chicken with nuts in it because of Taylor's food allergy. But I don't believe it when people say Billy was trying to poison Taylor. There's no way Billy would do that! I get that maybe Billy and Taylor didn't like each other, but that's a lot different than trying to poison someone. I never saw Billy and Taylor interact really. I would see them together. I guess I didn't see them talk during those situations. Maybe that's a reflection of them not liking each other. I don't know.

11. Billy knows about food allergies because his/her wife/husband, Jordan, has a serious gluten intolerance. I know Billy is very sensitive to this. Billy has talked about Jordan's gluten intolerance with me and how important it is to avoid accidentally exposing Jordan to gluten. For example, if there is leftover pizza in the kitchen, Billy won't bring it home because s/he knows better than to bring gluten into the house. Even if Billy would be the one to eat the leftover pizza, there is too much risk of cross-contamination by bringing the pizza crust into the house.

12. I also remember another time when Billy stopped a former co-worker of ours, Levi Kratz, from having a serious allergic reaction. Levi was extremely allergic to peanuts, to the point where even minimal exposure to peanuts would cause Levi to go into anaphylactic shock. So, one time we were having a potluck at work and someone – not Billy – had brought in pad thai from a local

restaurant. Levi put some on his plate and was about to eat it. But Billy darted across the room and grabbed the plate out of Levi's hands. Billy knew that pad thai traditionally has crushed peanuts in it. Billy knows a lot about food and can be a bit of a food snob. S/He asked Levi, "What were you thinking? You need to be more careful with what you eat!"

13. After this happened, I told Billy that s/he'd probably saved Levi's life. Billy looked a little surprised at this. S/He responded, "I mean, I guess I saved Levi from a really bad stomach ache, but you're exaggerating if you think I saved his life." I didn't really know what to say in response to this. It is as if Billy thought that everyone with food allergies only had the same reaction as Jordan did. I don't think Billy understood how serious food allergies could really be or the dangers of anaphylactic shock. Given how smart Billy is, this surprised me, but I guess Billy had never dealt with food allergies instead of just food intolerances.

14. I knew about Taylor Stark's nut allergy almost as soon as the merger with FID happened. Taylor was very upfront about it. It sounds like Taylor's nut allergy is just as serious as Levi's peanut allergy. I thought that peanuts *were* a kind of nut, but I guess maybe I'm wrong. I don't really know that much about food. I just knew that bad things could happen to Taylor if s/he ingested even a small amount of nuts. Taylor even told me about the EpiPen s/he always keeps in the front pouch of her/his backpack and how to use it if necessary. Taylor has said s/he usually carries an EpiPen in his/her pocket too.

15. I remember the potluck we had at FID to celebrate Taylor's promotion and the acquisition process being over. I was not really privy to what went on with Taylor's promotion. I knew FID wanted to pick someone to be Lead Director they called it. But I wasn't tapped into who was really up for it. Honestly, I assumed Billy would get it. I guess I didn't think about Taylor. I wasn't that familiar with Taylor's work, though I know people said Taylor was good. But Billy is just…Billy. Billy works so hard and always delivers. I don't think I've ever seen anything bad come out of Billy's office.

16. But, of course, Billy didn't get the promotion. The announcement came out on a Friday. I didn't see Billy the rest of the day. Someone said Billy was cursing about it in his/her office, but I didn't hear that. I had to come in that weekend to work on some stuff, and I didn't see Billy then either. Billy often works on the weekend, so that surprised me a little bit. But I saw Billy on Monday and s/he seemed fine. I asked Billy how s/he was doing that day, and Billy seemed good. S/He said, "I'm going to work hard and prove that I belong here, Kelly. And I'm going to be good at it." This was typical Billy – being a bit disappointed but never bearing a grudge.

17. When the e-mail about the potluck was sent out, it said we should bring southern food. I guess Taylor is from the South. This sounded great to me. Billy has always made this fried chicken that is just to die for. I'm not sure what is in it, but it is so good. It's crispy and moist and everything you could want fried chicken to be. At least, it usually is, it didn't quite taste the same as normal this time. I'm not sure what the difference was. I actually asked Billy to make it and, of course, Billy agreed to. I didn't even know at the time it had almond flour in it to be honest. Like I said, I know Billy's wife/husband is gluten intolerant, but I guess I never thought about what was in the chicken. I wish I had. I feel kind of guilty to be honest. Maybe if I had realized this, Taylor wouldn't have gotten into trouble. The e-mail about the promotion/potluck mentioned Taylor's nut

allergy, so I guess I just assumed people would be careful about not putting nuts in anything or at least labeling it. I don't know if Billy read that e-mail though.

18. I was actually with Billy when Taylor started going into shock. I realized pretty quickly what was happening and immediately ran into Taylor's office to get the EpiPen from his/her backpack. I was hoping it would be there because I didn't know if another one could be found in time. I figured it would be in Taylor's backpack just like s/he told me. But when I ran to Taylor's office, the door was locked. I know I haven't known Taylor that long, but I've never known anyone to lock their office door at FID. Taylor seemed to have a really open door policy, so that seemed off. And we certainly never had any issues of theft or people sneaking around other people's offices. I was shocked that the door was locked. Fortunately, I know the office next to Taylor's has a door into Taylor's office, so I ran over there, got into Taylor's office, and pulled out the EpiPen.

19. I rushed back to the conference room where the party was being held. I ran over to where Taylor was and pushed my way through. I'm usually not that bossy, but I guess I can be when needed. Taylor was really in the middle of an allergic reaction, face starting to turn a little blue and swelling up a bit. It was not good. So I injected Taylor and s/he came out of it fortunately. It was close. I'm really glad I remembered what Taylor had told me about her/his EpiPen.

20. I guess I don't know for sure what happened. I certainly don't think Billy poisoned Taylor. I know there were other foods there with nuts in them. Ari Banner makes these really good cookies that s/he likes to use finely chopped almonds in them. They end up with this nutty flavor. I know Ari made a batch of those for the potluck because people really like them. I didn't know if they had nuts in them at the time, but I do know I saw Taylor eating a few during the potluck. Really, more than a few. Taylor seemed to really like them. After the whole incident with Taylor having an allergic reaction, I was talking with Ari. Ari said, "Yeah, I made some cookies with almond nuts in them. I hope that wasn't what Taylor ate because I would feel terrible. I put some candied almonds on top of the ones with chopped almonds in them so that Taylor wouldn't eat them." Well, I know I saw Taylor eating some of those cookies, so maybe Taylor picked up one of the wrong ones or maybe some of the candied nuts fell off or maybe some almonds got into the ones that were supposed to be almond free, I don't know.

21. Taylor was out of the office for almost two weeks recovering after the potluck. When s/he got back to the office, Taylor made a point of coming up to me in front of everyone in the break room and thanking me for saving her/his life. But later that day, Taylor came into my office, closed the door, and asked me if I had any reason to believe that Billy Rogers put some sort of nuts in the fried chicken. I said I didn't, and that's the truth. Taylor then mumbled something about asking Peggy to give him/her the administrative passcode to Billy's computer and that s/he was going to "catch Billy if it's the last thing I do." I hate getting in the middle of things. I fretted all night about what to do. About the middle of the next day, I found Billy and told her/him that Taylor might be getting access to his/her computer. Billy immediately rushed off, I assume to talk to Peggy. Unfortunately, Billy quit a couple days later. Said if FID could not trust its employees, s/he could no longer work at FID. I miss Billy.

STATEMENT OF DR. HAYDEN DANVERS

1. My name is Dr. Hayden Danvers. I am forty-three years old and a practicing allergist at Allergy Clinicians of Alaska (ACA) here in Alaskapolis. I grew up here in Alaskapolis, but I went Outside for my education. I received my undergraduate biology degree from Yale University in 1998 and my medical doctorate degree from Stanford Medical School in 2005, with a specialization in general medicine. I then did a three-year residency in allergy medicine at Houston Methodist Hospital. I knew I always wanted to return to Alaska, so after my residency was over, I moved back to Alaskapolis. I worked for three years as a staff allergist at Alaskapolis General Hospital before starting my own practice (ACA). I now have two other allergists working with me. We are the only full time private practice allergy clinic in Alaska, though there are allergists at the local hospitals.

2. I am required to complete 25 hours of continuing medical education every two years. This keeps me up to date on all of the recent developments in allergy medicine. Most of these developments have to do with new drugs that better control the symptoms of allergies. Of course, these symptoms can vary depending on the type of allergy. I do not have a specialty within allergy medicine. Most allergists do not, except at some of the research hospitals or of course at the drug companies. There are simply not enough allergy patients in Alaska for me to specialize in a particular kind of allergy. But I don't mind. It creates variety. I feel comfortable testing for and treating all types of allergies.

3. This is the first time I have ever testified as an expert at trial. I've heard of allergists being sued for medical malpractice, maybe by prescribing too many steroids or something like that. I'm fortunate that I've never been sued for malpractice. A lot of doctors are, even if they do not do anything wrong. People expect medicine to be perfect and for all illnesses to be curable, when sometimes that is just not the case. But I've never even heard of an allergist being drawn into a criminal trial. Because I've never testified previously as an expert, I sort of had to make up an hourly rate to charge the State. I decided on $250/hour, regardless of the type of work. I asked a couple doctor friends of mine what they charge, and this is below the average hourly rate many other doctors charge for trial work. But I figure I am relatively new at this. And since this is probably just a one-off, I can't exactly be in it for the money.

4. Most of my patients come to me as referrals from general practitioners. People tend to think of allergies as not being a serious illness and only seek a specialist when their problems become especially bad. The most common complaints are allergies related to environmental contaminants such as pollen or pet dander. Bee stings are also quite common. Food allergies are a bit less common, at least as far as the number of patients I see. All allergies operate by having the body create antibodies to a particular irritant. This results in an inflammation originating at the point where the irritant is introduced. So, if you are allergic to bee stings, then the site of the bee sting will swell up. Pollen causes a reaction in the respiratory system because it is inhaled, leading to a stuffed up or runny nose and itchy eyes. This is one of the reasons why food allergies are so serious. Essentially, the food allergen, which of course is ingested, acts as poison. This may cause immediate symptoms in the mouth such as a tingling sensation or swelling of the tongue. But it may also result in more serious symptoms such as constriction of the throat causing an inability to breathe or in sustained stomach pain and diarrhea.

5. Different people react differently to allergens. I mean, everyone is going to have some swelling after a bee sting. That is normal. But people who have a more severe allergy to bee stings will have more severe swelling. The sting may also trigger a much more serious condition known as anaphylaxis. This is where the person is so allergic to a particular trigger that his or her body goes into a state of shock. This can be a life-threatening emergency. A person experiencing anaphylaxis may suffer a feeling of severe anxiety, chest tightness, a loss of consciousness, pale skin, a sudden drop in blood pressure leading to lightheadedness or fainting, a severe shortness of breath, a rapid and weak pulse, and nausea and vomiting. Not everyone is going to have the same symptoms or at the same severity. These symptoms are by no means limited to bee stings, but can manifest in response to other allergic reactions, including food allergies. Again, it is hard to know how any one person is going to react to an allergy, though a person experiencing one set of symptoms in an allergic reaction is likely to experience similar symptoms in future allergic reactions to the same source.

6. As I said, allergic reactions in some people can be life-threatening if they are at risk for anaphylaxis. Often times urgent medical treatment is required to save a person's life. If someone goes into shock or even starts showing signs of shock from an allergic reaction, an ambulance needs to be called and the person taken to the emergency room. But there is immediate short-term treatment that can alleviate the severity of the symptoms until professional medical help arrives. This is in the form of an injection of epinephrine, commonly known as an EpiPen. People with severe allergic reactions should always carry an EpiPen with them or have one nearby. The EpiPen needs to be injected into the patient's arm or leg. If the patient is in a state of shock, he or she may be partially or completely incapacitated and thus unable to perform the injection, in which case a relative or co-worker needs to know not only how to perform the injection but where to locate the EpiPen.

7. It is very important that people with severe allergies not only know about their allergies but also take steps to avoid contact with the allergen. For food allergies this means avoiding ingesting or other exposure to that particular kind of food. You might think this is simple, but it isn't. Many foods you buy are highly processed and contain ingredients you wouldn't expect. One common example is wheat. Sure, you can avoid bread products, but wheat can be found in all sorts of other products. For example, did you know that most commercially available soy sauces have wheat in them? This also means that any products made with soy sauce, such as sweet and sour sauce or some barbecue sauces, might also have wheat in them. So check the ingredient list to make sure there is no wheat in the product. Most manufacturers are getting better about identifying potential allergens on the label. And these days, many products advertise themselves as being gluten free (gluten is found in wheat and a couple other grains) or free from other allergens. But even non-food products can contain allergens. For example, some shampoos contain wheat germ. May be good for your hair, but not if you have a gluten allergy. And non-food labels may place less emphasis on identifying potential allergens, which makes it incumbent on the person buying the product to read the label carefully.

8. Even if a person with a food allergy carefully reads labels, though, there are other risks that may be less under their control. One big one is cross-contamination. Even if a food product does not include an allergen as one of its ingredients, it might have been made in a place where those allergens exist, and some of those allergens might have gotten into the otherwise allergen-free product. This can take place in a few different locations. For example, many commercially

produced foods are made in factories that produce multiple different food items, some of which contain a different allergen. So, to take the wheat example again, the ice cream you buy may not directly contain wheat, but if it is produced in a factory that makes ice cream with cookies in it, some of the wheat from the cookies may make it into your ice cream. Most factories are fairly careful about this and clean their machines before making a new food product, so this generally is not a problem. But for people with severe food allergies it can be. That is why some companies say on their food labels if the product is made in a factory that also processes wheat or other allergens.

9. There are fewer controls in restaurants. Restaurants often do not have the time to thoroughly clean their stoves between food preparations or have separate stoves for each menu item. This increases the risk of cross-contamination. For example, many pizza places have gluten free pizza crusts now. But if it is cooked in the same pizza oven as normal pizza crusts, there likely will be some wheat gluten that get onto the gluten free pizza. Or if a restaurant has only one fryer and it fries something with breading, then everything else fried in that fryer will have wheat on it. Again, if you do not have a very severe allergy, this may not be a big deal and you can enjoy the gluten free pizza and fries fine. But if you do have a severe allergy, you need to ask about food preparation to safeguard against cross-contamination. And as you might imagine, this problem becomes even more exacerbated if you are eating at the house of a friend who may not be fully aware of the dangers of food allergies.

10. Taylor Stark has been a patient of mine pretty much ever since I started practice in Alaska. I first saw Taylor while at Alaskapolis General, and s/he came over when I set up my private practice. Taylor has a very severe allergy, one of the worst food allergies I've ever seen, to tree nuts – almonds are the most common, but also hazelnuts, cashews, pecans, pistachios, walnuts, chestnuts, and Brazil nuts. It only takes a small amount of exposure to tree nuts to cause a highly negative reaction in Taylor. Including the one that is the subject of this trial, Taylor has had three episodes of anaphylactic shock during my time treating her/him. All three times Taylor's life has been saved by the use of an EpiPen. I of course was not on hand for any of these incidents, but I am basing this off of what Taylor told me at our follow up appointments. And since Taylor is in a state of shock in these instances, Taylor's account is itself based on secondhand information from others s/he was with at the time. Taylor was more aware of two other times where s/he felt an allergic reaction coming on and was able to self-inject with the EpiPen before going into a state of shock.

11. Taylor has known about his/her nut allergy since s/he was a child. When babies are first introduced to new foods, they may have a negative reaction to them such as a rash. Usually this is not too severe. The parent waits a couple of months and tries to introduce the food again. If there keep being negative reactions, this can be a sign of an allergy. Taylor's parents were never able to give her/him anything with tree nuts and in consultation with a pediatrician determined that s/he was allergic. Taylor was never tested for allergies before coming to my office, but s/he has known to stay away from tree nuts his/her whole life.

12. Taylor first came to me in December 2013 after going into anaphylactic shock. This happened after ingesting chestnuts mixed in with a rice pilaf at a holiday party. Taylor knew about his/her allergies, but Taylor told me s/he did not think to ask about the pilaf. Taylor also did not know about the severity of her/his allergies. Indeed, this was the first time s/he went into shock

from an allergic reaction. Taylor had previously experienced stomach discomfort from unintentionally eating tree nuts, but never shock. It is not uncommon for the severity of one's allergic reactions to change over time, either getting worse or sometimes getting better. Taylor reported to me feeling a sudden swelling and restriction in her/his throat. Taylor's heart was pounding and within one or two minutes Taylor became lightheaded and fainted. Fortunately, one of the other party goers recognized the symptoms of anaphylactic shock and had an EpiPen to use on Taylor.

13. I saw Taylor in the hospital the next day. S/He told me of his/her nut allergy and that s/he was always careful to avoid tree nuts but said that on the occasions where s/he had accidentally ingested tree nuts her reaction had never been this severe. I asked Taylor when the last such reaction was, and it had been about three years. Particularly with food allergies, it is not uncommon for them to get worse as someone ages, especially if there are repeated, even if unintentional, exposures to the allergen. Indeed, there is some evidence to suggest that allergies are severe in childhood and early teens, become less severe in one's twenties, and then increase in severity again in one's thirties. Regardless of the reason, though, it was clear to me from Taylor's description of what had happened that s/he had had a severe allergic reaction. I figured it was likely from the tree nut allergy that Taylor mentioned to me, but I was not able to confirm it until I called up the party host to ask about the dishes served at the party.

14. There is no way to test blood for the presence of allergens themselves, only to the reaction to allergens. When a person has an allergic reaction, the immune system produces the antibody Immunoglobulin E (IgE). The more severe the allergic reaction, the more IgE is produced. I measured Taylor's IgE levels at the time, and they were off the charts. I am not surprised Taylor went into shock. I could tell that had there not been an EpiPen at that party, there was a good chance Taylor would have died before the ambulance arrived. I explained all of this to Taylor and told her/him that it was now a requirement that Taylor carry an EpiPen at all times. At a follow up appointment about a week later, I stressed to Taylor the importance of avoiding tree nuts at all times, to always read food product labels carefully and not to take risks with food if unsure about whether they contained tree nuts, to ask at restaurants about ingredients and food preparation, to tell friends about the allergy so that they did not accidentally serve something with tree nuts. I told Taylor that his/her life could very well depend on this. Taylor seemed a bit taken aback by all of this, but I could that all of it was sinking in. I certainly don't and didn't blame Taylor for the incident at the party, but it was highly important that no other "mistakes" happen in the future.

15. There is not much need for regular check-ups with allergy patients. Sure, you can do testing to confirm someone has allergies, but this involves limited exposure to the allergen to gauge the reaction, and that did not seem necessary with Taylor. I told Taylor that as long as s/he followed my advice, there would not be the need for any further appointments unless Taylor had an allergic episode. I did not see Taylor again until March 2015. Taylor came to me after ingesting almonds at a fundraiser. The almonds were part of a marzipan paste decorating some cookies. Taylor admitted to me that she should have known the cookies were decorated with marzipan or at least asked about them, but was having fun at the party and it slipped her/his mind. Taylor immediately recognized what was happening and gave his/her friend Shannon Kent the EpiPen from his/her pocket and told Shannon to inject her in the bicep. Because of Taylor's quick action, no major harm was done, though Taylor did stop by the hospital – after the party was over – to get checked

out. Taylor was given a prescription for antihistamines and sent home. I saw Taylor two days later, and s/he seemed fine. I warned Taylor to be more careful next time.

16. A similar incident happened again in April 2016, though this time at a bakery. Taylor was there with Avery Dent. Taylor wanted to buy a muffin to have with his/her coffee. Taylor told me s/he could see that some of the other muffins had sliced almonds on them, so s/he asked if the poppyseed muffin was free from tree nuts. Told it was, Taylor bought it. But soon after eating it, Taylor started to feel an elevated heartrate and constriction of breath. Taylor again pulled out her/his EpiPen and gave it to Avery to inject her/his bicep. Once again disaster was averted. From what Taylor told me about what happened, I think this was probably a case of cross-contamination. I imagine the muffins were all baked in the same tins, and some almond particles got into the poppyseed muffins. It was good that Taylor asked if there were tree nuts in the poppyseed muffins, but with the severity of his/her allergy, s/he needs to be even more careful than that, particularly where there is the possibility for cross-contamination.

17. It was a while before Taylor had another allergy attack. I can only assume that this was because Taylor was being more careful about avoiding tree nuts. But in June 2018, Taylor went into anaphylactic shock after eating pecans as part of cheesecake crust at a summer picnic with some friends. I was on vacation, so I didn't personally examine Taylor after the attack, but my understanding from the notes taken by my colleague Dr. Howlett is that Taylor simply assumed that the crust was made out of graham crackers and did not inquire if there were also tree nuts in the crust. This is odd because Dr. Howlett's notes indicate that the picnic was a gluten free picnic, meaning that all the guests were supposed to bring a gluten free dish. Graham crackers, at least typically, are not gluten free. Taylor should have known that the pie crust was not made of graham crackers. Moreover, I know on several occasions I have told Taylor that flour made of tree nuts is often a substitute in a gluten free dish and to be particularly wary of gluten free foods. It is not in the notes, but I'm sure Dr. Howlett admonished Taylor about this as well after the allergy attack. Fortunately, another picnic-goer had an EpiPen and was able to inject Taylor to stabilize him/her until an ambulance arrived. From reviewing Dr. Howlett's notes, this was once again a life-threatening incident of anaphylactic shock.

18. The most recent incident of anaphylactic shock occurred at a party on August 23, 2019 celebrating Taylor's promotion. My understanding from talking to Taylor and his/her friend Ari Banner at the hospital after the event is that there was a potluck, with several people bringing dishes. Potlucks are always dangerous for people with food allergies because there are so many different chefs, making it hard to ask everyone about ingredients and possible cross-contamination. I usually advise my patients with food allergies simply not to eat at potlucks – it is just too risky. I do not remember specifically telling this to Taylor, but I'm sure I must have. But I suppose I can understand Taylor wanting to eat at a celebration of her/his own promotion. What I don't understand is why Taylor did not have an EpiPen on his/her person or in her/his desk at work. This is very disappointing to me. I have repeatedly told Taylor after every allergic reaction to always carry or have close by an EpiPen. Ari was at the event and told me that almost immediately after eating the fried chicken brought by Billy Rogers, Taylor went into anaphylactic shock. Taylor's face became bright red, and it was clear that Taylor was having significant trouble breathing. Taylor needed an EpiPen quickly to avoid death. Fortunately, Kelly Wayne knew about Taylor's EpiPen and rushed to get it.

19. I feel certain that if Kelly Wayne had not acted so quickly then Taylor Stark would have died at his/her promotion party. Taylor was rushed into the emergency room in relatively stable condition, thanks to Kelly and the EpiPen. I got to the emergency room about fifteen minutes after Taylor was admitted. I knew immediately that Taylor had been exposed to tree nuts and was experiencing anaphylactic shock. I still ran a blood test on Taylor to measure the IgE levels in her/his blood and found them to be at dangerously high levels, confirming a serious and potentially fatal allergic reaction. It took several hours for Taylor's body and Immunoglobulin E levels to come down. Taylor ended up staying in the hospital for three days, which is an unusually long time even for someone experiencing anaphylactic shock. This just shows how severe Taylor's tree nut allergy is and how even a small amount of exposure can trigger a life-threatening reaction.

20. Indeed, the amount of almond flour in the fried chicken Taylor ingested was quite small. I don't usually test food for allergens – there is usually no point. But because this is a criminal case and because Ari preserved some of the fried chicken in her/his freezer because s/he knew it had almond flour in it – Ari really liked the chicken and asked Billy for the recipe prior to Taylor's allergic reaction. I packed the chicken Ari provided me in dry ice and sent it off to a lab I know of in the Lower 48 that can determine the ingredients in food. I did not do the testing, but I reviewed the lab's testing procedures and the notes on how they conducted this test. Sure enough, there was almond flour in the breading on the chicken. Not much, but enough to trigger anaphylactic shock in Taylor. People with lesser nut allergies probably would have only gotten an upset stomach from the relatively small amount of breading, but it was more than enough to cause the reaction it did in someone with as serious a tree nut allergy as Taylor.

21. I have no idea if Billy Rogers knew of Taylor's tree nut allergy, but I do know that Billy is very sensitive to food allergies because of the serious gluten intolerance that her/his spouse Jordan has. Jordan Rogers is also a patient of mine. Only, I never have to see Jordan because both s/he and Billy are extremely careful to prevent Jordan from accidental exposure to gluten. Jordan's gluten intolerance is not as severe as Taylor's tree nut allergy, but still serious enough that unintentional ingestion of gluten could cause Jordan to experience significant stomach discomfort and related symptoms like diarrhea. Both Jordan and Billy have met together with me to discuss strategies for avoiding accidental exposure to gluten. I remember being impressed with how intently Billy was following everything I said, asking several excellent follow up questions. It was clear to me Billy wanted to learn everything s/he could about food allergies. I wish all of my patients – including Taylor – were that attentive. Given how much s/he knew about the dangers of accidental exposure to food allergens, if Billy knew about Taylor's tree nut allergy, it would have been reckless of her/him to include almond flour in the fried chicken, or at least not to make sure that Taylor did not eat the chicken.

From: Stark.Taylor@FI&D.com
Sent: Thursday, December 6, 2018 9:34 PM
To: Rogers.Billy@Low-Key.com
Subject: Titan

Not my fault Titan wanted to go with the best, Rogers. You should grow up and learn your place.

From: Rogers.Billy@Low-Key.com
Sent: Thursday, December 6, 2018 9:32 PM
To: Stark.Taylor@FI&D.com
Subject: Titan

Not sure what garbage lies you had to tell Titan to get them to jump ship, but good job on that. Probably the same lies you use to get people fired from what I hear.

From: Stark.Taylor@FI&D.com
Sent: Thursday, December 6, 2018 9:31 PM
To: Rogers.Billy@Low-Key.com
Subject: Titan

Don't you worry your tiny little brain, Rogers. Titan will be just fine with FID.

From: Rogers.Billy@Low-Key.com
Sent: Thursday, December 6, 2018 9:31 PM
To: Stark.Taylor@FI&D.com
Subject: Titan

Don't give me that, Stark. I know how you operate. You probably told Titan you could double their business, and we both know that isn't going to happen.

From: Stark.Taylor@FI&D.com
Sent: Thursday, December 6, 2018 9:28 PM
To: Rogers.Billy@Low-Key.com
Subject: Titan

Rogers. You're adorable. Titan wants the best. That's me, not you.

And you should know about stealing clients. You think I was going to let you rob from us without getting payback? Nobody does that to me.

From: Rogers.Billy@Low-Key.com
Sent: Thursday, December 6, 2018 9:25 PM
To: Stark.Taylor@FI&D.com
Subject: Titan

I heard from Titan earlier today. Don't steal my clients again, Stark. You do not want to cross me. Good luck staying on top of Titan. Let's see how you deal with their next rash of workplace injuries.

From: Stark.Taylor@FI&D.com
Sent: Monday, April 2, 2018 8:34 AM
To: Kent.Shannon@FI&D.com
Subject: Ross

I wish it had been a bad April Fool's Day joke. You're probably right that focusing on Ross ' fiscal responsibility ended up being a poor choice.

Taylor

From: Kent.Shannon@FI&D.com
Sent: Sunday, April 1, 2018 2:44 PM
To: Stark.Taylor@FI&D.com
Subject: Ross

Taylor,

No worries – I was just watching a game anyway. It's easy to check some e-mails.

Ultimately, of course. It's hard to win when it turns out your candidate had been taking kickbacks on park projects and grade school programs. Ross could have at least taken kickbacks on things that didn't make him look so bad.

I wonder if we could have spotted this if we had dug a little deeper on Ross before agreeing to take him on as a client? We put a lot of work into this and now are going to struggle to get our bills paid much less get the ancillary benefits of running a successful senate campaign.

My related thought is that we billed Ross on being a financial wizard and fiscally responsible politician. Kind of hard to bounce back from financial scandals when we portrayed Ross' best selling point as being how he handles money. Could just be hindsight though.

On the other hand, maybe this will all turn out to be a bad April Fool's Joke.

Shannon

From: Stark.Taylor@FI&D.com
Sent: Sunday, April 1, 2018 11:17 AM

To: Kent.Shannon@FI&D.com
Subject: Ross

Shannon,

Did you see the article about Everett Ross? It's getting picked up nationally. Apparently when he was mayor he was taking kickbacks to help people get the projects they wanted approved. This is not good! I am really frustrated about it all. We put so much work into fleshing out his campaign and now he's sunk. Rumor is he is going to be indicted and will end his campaign immediately. I have a call into Ross 'campaign, but I haven't heard anything back yet. I'm not sure I will at this point either. They have bigger fish to fry.

Do you think we could have done something differently? Should we have just let Low-Key have him? Rogers would have just botched this up worse anyway, but at least we wouldn't be on the hook then. If I'd known maybe I would have convinced Ross to go with Rogers just to watch the tire fire.

Sorry to bother you on a Sunday. I'm just really frustrated right now.

Taylor

From: Carter.Peggy@FI&D.com
Sent: Friday, August 9, 2019 10:13 AM
To: <All Recipients>@FI&D.com
CC: Stark.Taylor@FI&D.com
Subject: Lead Director – Taylor Stark

Good morning, everyone!

We know it has been a stressful process incorporating the fine folks from Low-Key into our FID team, and we appreciate all of the work people have put into that process.

One aspect of the transition has been selecting a new Lead Director. We are excited to announce that we have picked Taylor Stark for that position. Congratulations, Taylor! Taylor has worked tirelessly for FID for years, leading a team for the last two-and-a-half years. During Taylor's time with us, FID has thrived, and Taylor's tireless efforts to bring in clients and deliver what they want. We have fewer nuts in the office, but we would trade all the banana nut bread in the world for Taylor's skillset.

All the other applicants should know how much management values your continued contributions to FID. You should not interpret our selection of Taylor as a comment on your abilities.

Please join us in congratulating Taylor for this. We look forward to working with you all and moving forward together to make FID even stronger in the future.

Sincerely,
Peggy Carter

From: Stark.Taylor@FI&D.com
Sent: Wednesday, August 14, 2019 11:13 AM
To: employees@FI&D.com
Subject: potluck Friday, August 23, 2019 at 1:00 pm

Hello, Team!

Thank you all for your kind words regarding my promotion to Lead Director. It has been an exciting time as we incorporate Low-Key into the FID family and find new synergies and collaborations with each other. I am looking forward to working with you all in my new role!

I have talked to a couple of people who want to have a potluck to celebrate my promotion. I think a potluck is a great idea, but let's do it to celebrate all of us (and maybe a little bit my promotion ☺).

A couple people have asked about a food theme for the potluck, and I decided to take advantage of one perk of my new position and throw my weight around a bit. We're going to do Southern food because I love Southern food! Please remember my issues with nuts – if you want to bring something with nuts in it, please label it appropriately.

Thanks, all!

Taylor

FRIED CHICKEN TENDERS WITH ALMOND FLOUR BREADING

This recipe is the basic chicken with almond flour breading that can be found (with slight variations) all over the web, usually as "KETO CHICKEN TENDERS". It relies on two significant features: (1) the chicken is boned and cut in small pieces and, (2), the almond flour is combined with something else, in this case, ground parmesan cheese, that helps the meal bond to the egg wash.

NOTE: The chicken must be cut small enough that 5 minutes in hot oil will cook the chicken through. Even then, care must be taken to avoid over browning. Thighs, with their uneven surface, allow the coating to adhere better by creating structures that secure the coating.

Ingredients

4 boneless skinless chicken thighs (about 18 ounces total) at room temperature
Canola oil (or other flavorless oil) for frying

Egg Wash:

2 large eggs
2 tablespoons water (some use heavy cream, which gives a "custard" wash

"Breading":

2/3 cup blanched almond flour
2/3 cup finely grated parmesan cheese
1 teaspoon salt
1/2 teaspoon black pepper
1/2 teaspoon paprika (one version substitutes "Old Bay Seasoning")
1/2 teaspoon cayenne

Instructions

1. Add 2 inches of oil to a pot over medium-high heat. Heat the oil to 350 F, and frequently monitor to maintain the temperature by adjusting the flame during frying. Do not allow the oil to get hotter.
2. In a bowl, add eggs and water, beating until well-mixed. In another bowl, stir together all breading ingredients until well-mixed. Set aside.
3. Cut each chicken thigh into 3 – 4 evenly sized pieces. If moist, pat them dry with paper towels.
4. Coat each piece first in the breading, then in the egg wash, and then in the breading again, coating all sides. Shake off excess and carefully lower into the hot oil. Fry until deep brown and cooked through, about 5 minutes, and drain on paper towels.

5. Repeat with the other chicken pieces. You may want to work in batches to avoid overcrowding in the pot – I usually have 6 chicken pieces frying simultaneously in a 8-inch wide pot.
6. Serve immediately while hot and crispy.

Oven fried chicken with oat & almond flour crust

This baked chicken mimics fried chicken with the oat flour and almond flour adding an extra layer of nutty flavor to a traditional "oven-fried" chicken recipe. The buttermilk acts to help tenderize the chicken.

Ingredients

- 2 chickens, fully cut up
- 1 quart buttermilk
- 3 TBS butter melted
- 3 TBS olive oil
- 1 cup oat flour
- 1/2 cup whole wheat flour (or, for a lighter color, all-purpose flour)
- 3 TBS to 1/4 cup almond flour
- Salt and pepper
- 1 tsp paprika
- 1 tsp garlic powder

Preparation

1. Season chicken with salt, pepper and garlic powder. Put the chicken in a gallon storage bag with the buttermilk. Refrigerate 8 hours to overnight.

2. Preheat oven to 425 ° F. Mix the oat flour, almond flour, and all-purpose flour well. Add 1 tsp paprika, 1 tsp black pepper, and ½ tsp salt and mix again. Place in a shallow bowl.

3. In a roasting pan, pour the olive oil and butter, spread around.

4. Dip chicken pieces into the almond flour mixture; place skin side down in the pan.

5. Bake, uncovered, for 30 minutes. Turn chicken pieces over and bake for 30 minutes more or until chicken is cooked through and the internal temperature reaches 165 degrees.

6. Remove and drain well, on paper towels or rack.

RULES GOVERNING THE ALASKA HIGH SCHOOL MOCK TRIAL CHAMPIONSHIP COMPETITION

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I. COMPETITION RULES AND RULES OF PROCEDURE

A. GOVERNING RULES

Rule 1. Competition Coordinators

The Alaska High School Mock Trial Championship is sponsored by the Anchorage Bar Association, Young Lawyers Section. A committee comprised of interested members of that organization and other persons, as appropriate, shall organize and oversee all aspects of the competition, and shall be referenced as the competition coordinators. All written correspondence with the competition coordinators should be addressed to:

ANCHORAGE BAR ASSOCIATION
YOUNG LAWYERS SECTION
c/o PROF. RYAN FORTSON
JUSTICE CENTER
UNIVERSITY OF ALASKA ANCHORAGE
3211 PROVIDENCE DRIVE, PSB 234
ANCHORAGE, AK 99508-4614
Attn: MOCK TRIAL

Competition organizers may also communicate via electronic means with teams and offer alternate addresses to which to send or fax registration and other forms. Email communication can be sent through hrfortson@alaska.edu or through another email address provided by competition organizers. Registrations may be submitted electronically, with fees paid at the competition.

Rule 2. Interpretation of the Rules

All trials will be governed by the current Alaska High School Mock Trial Championship's Rules of Competition and Rules of Procedure and by the Federal Rules of Evidence (Mock Trial Version). Interpretation of the rules is within the discretion of the competition coordinators, whose decisions are final. Any clarification of rules will be issued in writing to all participating teams. Teams who believe that clarification is needed should request clarification in writing.

Rule 3. Code of Conduct

The Competition rules, as well as proper rules of courthouse and courtroom decorum and security must be followed. The Competition Coordinators will have discretion to impose sanctions, up to and including forfeiture or disqualification, for any misconduct, flagrant rule violations, or breaches of decorum which affect the conduct of a trial or which impugn the reputation or integrity of any team, school, participant, court officer, judge or the mock trial program.

Rule 4. Emergencies

During a trial, the presiding judge or the competition coordinators shall have discretion to declare an emergency and adjourn the trial for the period of time necessary to address the emergency. If an emergency arises which would cause a team to be unable to continue a trial, or require it to participate with less than six members, the competition coordinators

Rule 4.5. Food and Beverages in the Courthouse

Food and beverages – including water – are NOT ALLOWED in the courtroom at any time. After receiving a warning, teams that fail to follow this rule are subject to forfeiture of rounds and/or disqualification. Water will be available during the trial for the participating lawyers and witnesses.

B. THE PROBLEM

Rule 5. Case Materials

The problem will be an original fact pattern which may contain any or all of the following: statement of facts, indictment, stipulations, witness statements/affidavits, jury charges, exhibits, etc. Stipulations may not be disputed at trial. Witness statements may not be altered.

Teams who believe that errors exist in the case materials should bring such errors to the attention of the competition coordinators in writing. Any clarification of case materials will be issued in writing to all participating teams. In preparing and participating in the Competition, students are limited to the supplied case materials, the Governing Rules and the Modified Rules of Evidence.

Rule 6. Witness Bound by Statements

Each witness is bound by the facts contained in his/her own witness statement, the Statement of Facts, if present, and/or any necessary documentation relevant to his/her testimony. Fair extrapolations may be allowed, provided reasonable inference may be made from the witness 'statement. If, in direct examination, an attorney asks a question which calls for extrapolated information pivotal to the facts at issue, the information is subject to objection under Rule 7, outside the scope of the problem.

If, in cross-examination, an attorney asks for unknown information, the witness may or may not respond, so long as any response is consistent with the witness 'statement or affidavit and does not materially affect the witness 'testimony.

A witness is not bound by the facts contained in other witness statements.

Rule 7. Unfair Extrapolation

Unfair extrapolations are best attacked through impeachment and closing arguments and are to be dealt with in the course of the trial. A fair extrapolation is one that is neutral. Attorneys shall not ask questions calling for information outside the scope of the case materials or requesting an unfair extrapolation.

If a witness is asked information not contained in the witness 'statement, the answer must be consistent with the statement and may not materially affect the witness 'testimony or any substantive issue of the case.

Consistent with the obligation to attack unfair extrapolations through impeachment and closing arguments, attorneys for the opposing team may refer to Rule 7 in a special objection, such as "unfair extrapolation" or "This information is beyond the scope of the statement of facts."

Possible rulings by a judge include:

a. No extrapolation has occurred;
b. An unfair extrapolation has occurred;
c. The extrapolation was fair; or
d. Ruling is taken under advisement.

When an attorney objects to an extrapolation, the judge will rule in open court to clarify the course of further proceedings. The decision of the presiding judge regarding extrapolations or evidentiary matters is final.

Rule 8. Gender of Witnesses

All witnesses are gender neutral. Personal pronoun changes in witness statements indicating gender of the characters may be made. Any team member may portray the role of any witness of either gender. Please try to be mindful of the genders of the witnesses portrayed by the opposing team.

Rule 9. Voir Dire

Voir dire examination of a witness, including experts, is not permitted.

C. THE TRIAL

Rule 10. Team Eligibility

Any Alaska high school may assemble one or more teams and become eligible to compete in the Alaska High School Mock Trial Championship Competition. Two or more Alaska high schools may jointly form a team if each school participating in the formation of a joint team would otherwise be unable to participate in the Alaska High School Mock Trial Championship Competition. Educational and civic organizations which are 1) independent of any Alaska high school, 2) not formed primarily for the purpose of competing in the Alaska High School Mock Trial Championship Competition, and 3) comprised of high school students residing in Alaska, may assemble one or more teams and become eligible to compete in the Competition. Alaska high schools wishing to form a team but not qualifying under this Rule may timely request that an exception to this Rule be granted by the competition coordinators. A decision by the competition coordinators as to eligibility under this Rule or an exception to this Rule shall be final. Any team wishing to participate in the Alaska High School Mock Trial Championship Competition must properly register with the competition coordinators in advance of the competition. The competition coordinators will attempt to accommodate all registrants. Any school or other organization wishing to enter multiple teams must designate a "first" team. In the unlikely event that registration must be limited as a result of too many teams attempting to participate, priority will be given to the "first" team over other teams from the same school or organization. In all other aspects, registration will be permitted on a first come, first served basis. The team that wins the Alaska High School Mock Trial Championship Competition will be deemed the current Alaska State Mock Trial Championship Team and is eligible to participate and compete in the National High School Mock Trial Championship. Any team representing Alaska in the National High School Mock Trial Championship must be comprised of students

who participated on the current Alaska State Mock Trial Championship team. The Alaska State Mock Trial Championship Team is responsible for its own expenses in attending the National High School Mock Trial Championship Competition.

Rule 11. Team Competition

Teams consist of no less than **six** members and no more than **nine** members, including alternates. Team members are assigned to roles representing the Prosecution/Plaintiff and Defense/Defendant sides in each round of the competition. Student timekeepers may be provided by the teams; however, these persons are not considered "official timekeepers" in the tournament.

Rule 12. Team Presentation

Teams must present both the Prosecution/Plaintiff and Defense/Defendant sides of the case, using six team members. Different sides will be assigned to teams for different rounds. Only in the case of an emergency occurring during a round of competition may a team participate with less than six members. In such a case, a team may continue in the competition by making substitutions to achieve a two attorney/three witness composition. If an emergency causes a team to use less than three attorneys, the team may be penalized by a reduction of points for that round or may be caused to forfeit the round, depending on the nature of the emergency. Final determinations of emergency, forfeiture, or scoring record will be made by the competition coordinators.

Rule 13. Team Duties

Team members are to evenly divide their duties. Each of the three attorneys will conduct one direct and one cross; in addition, one will present the opening statement and another will present a closing argument. The principal attorney duties for each team will be as follows:

1. Opening Statement
3. Direct Examination of Witness #1
4. Direct Examination of Witness #2
5. Direct Examination of Witness #3
6. Cross Examination of Opposing Witness #1
7. Cross Examination of Opposing Witness #2
8. Cross Examination of Opposing Witness #3
9. Closing Argument

Opening Statements must be given by both sides at the beginning of the trial.

The attorney who will examine a particular witness on direct examination is the only person who may make objections to the opposing attorney's questions of that witness's cross-examination, and the attorney who will cross-examine a witness will be the only one permitted to make objections during the direct examination of that witness.

Each team must call three witnesses and only three witnesses. Witnesses must be called only by their own team and examined by both sides. Although re-direct and re-cross are permissible, witnesses may not be recalled to the stand after their testimony is complete. Thus,

once a witness is excused and steps down, neither team may recall the witness for further questioning even if no re-direct or re-cross was previously conducted.

Rule 14. Swearing of Witnesses

The following oath, or a similar oath permitted by the presiding judge, may be used before questioning begins:

> "Do you promise that the testimony you are about to give faithfully and truthfully conforms to the facts and rules of the mock trial competition?"

The swearing of witnesses will occur in one of two ways. Either the presiding judge will indicate that all witnesses are assumed to be sworn, or the above oath will be conducted by a) the presiding judge, b) a bailiff or clerk provided by the competition coordinators, or c) the examining attorney. The presiding judge shall indicate which method will be used during any given round of the Mock Trial Competition. Witnesses may stand or sit during the oath.

Rule 15. Trial Sequence and Time Limits

The trial sequence and time limits are as follows:

1. Opening Statement (5 minutes per side)
3. Direct and (optional) Redirect Exam (25 minutes total per side)
4. Cross and (optional) Recross Exam (15 minutes total per side)
5. Closing Argument (5 minutes per side)

The Prosecution/Plaintiff is the first to present the opening statement and give the closing argument. The Prosecution/Plaintiff may reserve a portion of the time allotted for closing argument to present a rebuttal. Rebuttal is limited to the scope of the opposing side's argument.

Rule 16. Timekeeping

Time limits are mandatory and will be enforced. Each team is permitted to have its own timekeeper and timekeeping aids; however, an official timekeeper will be assigned to each trial. Time for objections, extensive questioning from the judge, or administering the oath will not be counted as part of the allotted time during examination of witnesses and opening and closing statements. Time does not stop for the introduction of exhibits.

Rule 17. Time Extensions and Scoring

The presiding judge has sole discretion to grant time extensions. If time has expired and an attorney continues without permission from the Court, the scoring judges may determine individually whether or not to discount points in a category because of over-runs in time.

Rule 18. Prohibited Motions

Except as provided in these Rules, no motions may be made. (A motion for directed verdict, acquittal, or dismissal of the case at the end of the Prosecution's case, for example, may not be used.) A motion for a recess may be used in the event of an emergency (i.e., health emergency). To the greatest extent possible, team members are to remain in place. Should a

recess by called by the court, teams are not to communicate with any observers, timekeepers, coaches, or instructors during the recess.

Rule 19. Sequestration

Teams may not invoke the rule of sequestration.

Rule 20. Bench Conferences

Bench conferences may be granted at the discretion of the presiding judge, but should normally be conducted in such a manner that all participants, scoring judges, instructors, alternates, and other courtroom observers can hear the arguments and discussions in their entirety. This Rule is designed to further the educational interests of the Alaska High School Mock Trial Competition. Bench conference time shall not be counted against the time allotted to either team.

Rule 21. Supplemental Materials/Illustrative Aids

Teams may refer only to the materials included in the trial packet. No illustrative aids of any kind may be used, unless provided in the case packet. No enlargements of the case materials will be permitted. Absolutely no props or costumes are permitted unless authorized specifically in the case materials.

Rule 22. Trial Communication

Instructors, alternates, and observers shall not talk to, signal, communicate with, or coach their teams during trial. This Rule remains in force during any recess time that may occur during the course of the trial. Team members may, among themselves, communicate during the trial; however, no disruptive communication is allowed. Signaling of time by the teams 'own timekeepers shall not be considered a violation of this Rule. Non-team members, alternate team members, teachers, and coaches must remain outside the bar in the spectator section of the courtroom. Only team members participating in a round may sit inside the bar during that round.

Rule 23. Viewing a Trial

Each team is responsible for the conduct of its members and persons associated with the team throughout the duration of the mock trial competition. Team members, alternates, attorney-coaches, teacher-sponsors, and any other persons directly associated with a mock trial team may view their team competition, but otherwise, except when specifically authorized by the competition coordinators, are not allowed to view other teams in competition, so long as their team remains in the competition.

Nothing may be brought into the courtroom which would tend to reveal the identity of the participating teams. Spectators should be cautioned that they may not wear school insignias. School owned equipment should have all identifying marks covered.

Rule 24. Videotaping/Photography/Audiotaping

Any team may videotape or audiotape a competition round in which it participates for its own educational purposes only. With the consent of an opposing team, any team may videotape or audiotape a competition round for any other purpose. Bright camera lights, flash bulbs and equipment tending to distract the competitors may be barred in the discretion of the presiding judge. Disruptive conduct in the course of taping, filming, or taking photographs is prohibited,

and may result in a penalty against the team responsible for the conduct of the offending photographer.

If school owned equipment is employed for video or audiotaping, identifying information must not be visible on such equipment that might be seen by a judge.

Media coverage will be allowed in accordance with the policies of the competition coordinators.

D. JUDGING

Rule 25. Decisions

All decisions of the judges are FINAL.

Rule 26. Composition of the Judging Panel

The judging panel will consist of individuals determined to be eligible by the competition coordinators. Generally, the competition judges are members of the Alaska judiciary or attorneys practicing in Alaska. Qualified educators and other persons may also be invited by the competition coordinators to participate as Mock Trial judges. The composition of the judging panel and the role of the presiding judge will be at the discretion of the competition coordinators. For preliminary rounds, one presiding judge and at least one additional scoring judge will be appointed by the competition coordinators to judge the round. The final (championship) round may have a larger judging panel than preliminary rounds, at the discretion of the competition coordinators.

All presiding and scoring judges receive the mock trial manual, a memorandum outlining the case, orientation materials, and a briefing as to the case, the role of judges, and the standards to be applied.

Rule 27. Score Sheets/Ballots

The presiding judge and each additional scoring judge shall complete a "score sheet" or "ballot" for each trial conducted in each round of the competition. Judges 'ballots will be substantially like the sample provided by the competition coordinators to each team. When evaluating the teams that each judge observes in the competition, the judges will reference the teams only by their assigned identification codes.

Score sheets are to be completed individually by the judges and without consultation with the other judges. Scoring judges are not bound by the rulings of the presiding judge. While the judging panel may confer within guidelines established by the competition coordinators, the judging panel should not deliberate on individual scores.

Rule 28. Completion of Score Sheets

Score sheets are completed by the judges as follows:

1. Trial Points:
   Each judge will award and record a number of points for each aspect of the trial. Points will be awarded from a scale of 1 to 10, with 10 being the highest. Judges are required to complete the ballots in their entirety, though they are not required to compute final scores.

2. Final Point Total:
A team is determined to be the winner of a round when that team wins a majority of the points cast by the judges scoring a given trial. If the opposing teams for a given round each receive the same number of points for that trial, the competition coordinators shall consider the judges 'determinations of tiebreaker points, as provided in the tiebreaker box at the bottom of each scoresheet.

A forfeiting team will receive a loss for purposes of ranking and zero points toward the competition total. If a trial cannot continue due to forfeiture, the non-forfeiting team shall be considered to have won by default. A non-forfeiting team will not be penalized in ranking by any inability to receive points from scoring judges.

Rule 29. Team Advancement

Teams will be ranked based on the total number of points received for all rounds. The two teams emerging with the strongest record from the preliminary rounds will advance to the final round. Ballots from the championship round will determine the current Alaska State Mock Trial Championship Team only.

Rule 30. Selection of Opponents for Each Round

As best as possible, a random lottery will be conducted prior to the competition for the purpose of assigning team identification designations. The assignment of opponents for all rounds will be governed by a fixed schedule which will be made available for review by team coaches prior to the time of conducting the lottery. As a result, all opponent selections for all preliminary rounds will become manifest through the random process of assigning team identification designations. Efforts will be made to prevent multiple schools from the same school from competing against each other in the preliminary rounds.

The schedule governing the assignment of opponents will designate which team is to present the Prosecution/Plaintiff's case and which is to present the Defense/Defendant's in each round. To the greatest extent possible, teams will alternate side presentation in subsequent rounds. Every effort will be made to ensure that each team will present each side twice, but all teams will be scheduled to present each side of the case at least once.

Rule 31. Merit Decisions

Judges will make a ruling on the legal merits of the trial, after deliberating. During the debriefing process, judges may inform students of the verdict on the merits of the case. Judges may not inform the students of score sheet results.

Rule 32. Effect of Bye

A "bye" becomes necessary when an odd number of teams are present for the tournament. If an odd number of teams are competing, an additional round will be scheduled, during which those teams receiving a bye will compete against each other. Any team receiving a bye must not observe other teams competing during the round in which the bye was drawn.

E. DISPUTE SETTLEMENT

Rule 33. Reporting a Rules Violation/Inside the Bar

Disputes which (a) involve students competing in a competition round and (b) occur during the course of a trial must be filed immediately upon conclusion of the trial. Disputes must be brought to the attention of the presiding judge at the conclusion of the trial. If any team believes that a substantial rules violation has occurred, one of its student attorneys must indicate that the team intends to file a dispute. The presiding judge will instruct the student attorney to prepare a notice of dispute, in which the student will record in writing the nature of the dispute. The student may communicate with counsel and/or student witnesses before lodging the notice of dispute or in preparing the form. At no time in this process may team sponsors or coaches communicate or consult with the student attorneys. Only student attorneys may invoke the dispute procedure permitted under this Rule.

Rule 34. Dispute Resolution Procedure

Upon receipt of a Rule 33 notice of dispute, the presiding judge will review the written dispute and determine whether the dispute should be heard or denied. If the dispute is denied, the judge will record the reasons for this, announce his/her decision to the Court, retire to complete his/her score sheet (if applicable), and turn the dispute form in with the score sheets. If the judge feels the grounds for the dispute merit a hearing, the form will be shown to opposing counsel for their written response. After the team has recorded its response and transmitted it to the judge, the judge will ask each team to designate a representative. After the designated representatives have had time (not to exceed three minutes) to prepare their arguments, the judge will conduct a hearing on the dispute, providing each team's designated representative three minutes for a presentation. The judge may question the designated representatives. At no time in this process may team sponsors or coaches communicate or consult with the student attorneys. After the hearing, the presiding judge will adjourn the court and retire to consider his/her ruling on the dispute. That decision will be recorded in writing on the dispute form, with no further announcement.

Rule 35. Effect of Violation on Score

If any judge, whether presiding or scoring, observes independently that a substantial rules violation has occurred, or if the presiding judge makes such a determination in accordance with Rule 34, the judge will inform each of the other judges for that trial. The presiding judge shall inform all other judges who score a trial in which a notice of dispute is submitted of the nature and existence of the dispute, and in the event that some or all of the scoring judges are not present for resolution of the dispute, the presiding judge shall provide a summary of each team's argument and any decision rendered as to the dispute. Each scoring judge will consider the dispute before reaching his or her final decisions. The dispute may or may not affect the final decision, but the matter will be left to the discretion of the scoring judges.

Rule 36. Reporting of Rules Violation/Outside the Bar

Disputes which arise from matters not governed by Rule 33 may be brought exclusively by a team's official faculty advisor or attorney-coach. Such disputes must be made promptly to the competition coordinators, who may ask the complaining party to state the complaint in writing. The competition coordinators will select and appoint a dispute resolution panel which

will (a) notify all pertinent parties; (b) allow time for a response, if deemed by the dispute resolution panel to be appropriate; (c) investigate, if deemed by the dispute resolution panel to be appropriate; (d) conduct an informal hearing, if deemed by the dispute resolution panel to be appropriate; and (e) rule on the charge. The dispute resolution panel may notify the judging panel of the affected courtroom of the ruling on the charge.

RULES OF PROCEDURE

A. BEFORE THE TRIAL

Rule 37. Team Roster

Copies of the team roster must be completed and duplicated by each team prior to arrival for trial. Teams must be identified ONLY by the code assigned at registration. No information identifying a team's city or school of origin should appear on the form or any materials brought into the courtroom or on any clothing worn by the team members or audience. Before beginning a trial, the teams must exchange copies of the Team Roster Form. Copies of the Team Roster Form should also be made available to the judging panel before each round.

Rule 38. Stipulations

When the Court asks the Plaintiff if it is ready to proceed with opening statements, the attorney assigned the opening statement should offer the stipulations into evidence.

Rule 39. The Record

The stipulations, indictment, and charge to the jury, if any, will not be read into the record.

B. BEGINNING THE TRIAL

Rule 40. Jury Trial

The case will be tried to a jury unless the presiding judge determines otherwise; arguments are to be made to the judge and jury. Teams may address the scoring judges and any other persons permitted by the presiding judge to sit in the jury box as the jury.

Rule 41. Standing During Trial

Unless excused by the presiding judge, attorneys will stand while giving opening and closing statements, during direct and cross examinations, and for all objections.

Rule 41. Objection During Opening Statement/Closing Argument

No objections may be raised during opening statements or during closing arguments.

If a team believes an objection would have been necessary during the opposing team's closing argument, a student-attorney, following the closing arguments, may seek to be recognized by the presiding judge and may say "If I had been permitted to object during closing

arguments, I would have objected to the opposing team's statement that _____." The presiding judge need not rule on this "objection." Presiding and scoring judges will weigh the "objection" individually. No rebuttal by the opposing team will be heard.

C. PRESENTING EVIDENCE

Rule 43. Argumentative Questions

An attorney shall not ask argumentative questions, except that the Court, may, in its discretion, allow limited use of argumentative questions on cross-examination.

Rule 44. Lack of Proper Predicate/Foundation

Attorneys shall lay a proper foundation prior to moving for the admission of evidence. After motion has been made, the exhibits may still be objected to on other grounds.

Rule 45. Procedure for Introduction of Exhibits

The following steps are *examples* by which evidence may be effectively introduced:

1. All evidence will be pre-marked as exhibits.
2. Ask for permission to approach the bench. Show the presiding judge the marked exhibit. "Your honor, may I approach the bench to show you what has been marked as Exhibit No. ___?"
3. Show the exhibit to opposing counsel.
4. Ask for permission to approach the witness. Give the exhibit to the witness.
5. "I now hand you what has been marked as Exhibit No. ____ for identification."
6. Ask the witness to identify the exhibit. "Would you identify it please?"
7. Witness answers with identification only.
8. Offer the exhibit into evidence.
9. Court: "Is there an objection?" (If opposing counsel believes a proper foundation has not been laid, the attorney should be prepared to object at this time.)
10. Opposing Counsel: "No, your Honor," or "Yes, your Honor." If the response is "yes", the objection will be stated on the record. Court: "Is there any response to the objection?"
11. Court: "Exhibit No. ____ is/is not admitted."

Rule 46. Use of Notes

Attorneys may use notes in presenting their cases. Witnesses are not permitted to use notes while testifying during the trial. Attorneys may consult with each other at counsel table verbally or through the use of notes.

Rule 47. Redirect/Recross

Redirect and recross examinations are permitted, provided that they conform to the restrictions in Rule 611(d) in the Federal Rules of Evidence (Mock Trial Version).

D. CLOSING ARGUMENTS

Rule 48. Scope of Closing Arguments

Closing arguments must be based on the actual evidence and testimony presented during the trial.

E. CRITIQUE

Rule 49. The Critique

The judging panel is allowed time for debriefing. Judges will not reveal the scores attributed by them to individual performances, nor will they reveal which team was the ballot winner. The judges may announce the winner of the case on the merits and may discuss or comment upon the presentations in furtherance of the educational interests of the Alaska High School Mock Trial Competition.

II. MODIFIED RULES OF EVIDENCE

In American trials, complex rules are used to govern the admission of proof (i.e., oral or physical evidence). These rules are designed to ensure that all parties receive a fair hearing and to exclude evidence deemed irrelevant, incompetent, untrustworthy, unduly prejudicial, or otherwise improper. If it appears that a rule of evidence is being violated, an attorney may raise an objection to the judge. The judge then decides whether the rule has been violated and whether the evidence must be excluded from the record of the trial. In the absence of a properly made objection, however, the judge will probably allow the evidence. The burden is on the mock trial team to know the Federal Rules of Evidence (Mock Trial Version) and to be able to use them to protect their client and fairly limit the actions of opposing counsel and their witnesses. For purposes of mock trial competition, the Rules of Evidence have been modified and simplified. They are based on the Federal Rules of Evidence and its numbering system. When rule numbers or letters are skipped, those rules were deemed not applicable to mock trial procedure. Text in italics represents simplified or modified language.

Not all judges will interpret the Rules of Evidence (or procedure) the same way, and mock trial attorneys should be prepared to point out specific rules (quoting, if necessary) and to argue persuasively for the interpretation and application of the rule they think appropriate.

Article I. General Provisions

Rule 101. Scope

These Rules of Evidence (Mock Trial Version) govern the trial proceedings of the Alaska High School Mock Trial Competition.

Rule 102. Purpose and Construction

The Rules *are intended to secure fairness in administration of the trials, eliminate unjust delay, and promote the laws of evidence so that the truth may be ascertained.*

Rule 106. Remainder of Writings

When a writing or recorded statement or part thereof is introduced by a party, an adverse party may require the introduction at that time of any other part or any other writing or recorded statement which ought in fairness to be considered contemporaneously with it.

ARTICLE II. Judicial Notice

Rule 201. Judicial Notice of Fact

A judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within the subject jurisdiction or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned. A court may take judicial notice whether requested or not.

ARTICLE III. Presumptions in Civil Actions and Proceedings – Not Applicable

ARTICLE IV. Relevancy and its Limits

Rule 401. Definition of "Relevant Evidence"

"Relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

Rule 402. Relevant Evidence Generally Admissible; Irrelevant Evidence Inadmissible

Relevant evidence is admissible, except as otherwise provided *in these Rules. Irrelevant evidence is not admissible.*

Rule 403. Exclusion of Relevant Evidence on Grounds of Prejudice, Confusion, or Waste of Time

Although relevant, evidence may be excluded if its probative value is outweighed by the danger of unfair prejudice, *if it confuses the issues, if it is misleading, or if it causes undue delay, wastes time, or is a needless presentation of cumulative evidence.*

Rule 404. Character Evidence Not Admissible to Prove Conduct; Exceptions; Other Crimes

(a) Character Evidence – Evidence of a person's character or a *character trait*, is not admissible to prove *action regarding* a particular occasion, except:
   (1) Character of Accused – Evidence of a pertinent character trait offered by an accused, or by the prosecution to rebut same;
   (2) Character of Victim – Evidence of a pertinent character trait of the victim of the crime offered by an accused, or by the prosecution to rebut the same, or evidence of a character trait of peacefulness of the victim offered by the prosecution in a homicide case to rebut evidence that the victim was the aggressor;
   (3) Character of witness – Evidence of the character of a witness as provided in Rules 607, 608, and 609.

(b) Other crimes, wrongs, or acts – Evidence of other crimes, wrongs, or acts is not admissible to prove character of a person in order to show an action conforms to character. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

Rule 405. Methods of Proving Character

(a) Reputation or opinion – In all cases in which evidence of character or a character trait is admissible, proof may be made by testimony as to reputation or by testimony in the form of an opinion. On cross-examination, *questions may be asked regarding* relevant specific instances of conduct.

(b) Specific instances of conduct – In cases in which character or a character trait is an essential element of a charge, claim, or defense, proof may also be made of specific instances of that person's conduct.

Rule 406. Habit; Routine Practice

Evidence of the habit of a person or the routine practice of an organization, whether corroborated or not and regardless of the presence of eyewitnesses, is relevant to prove that the

conduct of the person or organization, on a particular occasion, was in conformity with the habit or routine practice.

Rule 407. Subsequent Remedial Measures

When measures are taken after an event which, if taken before, would have made the event less likely to occur, evidence of the subsequent measures is not admissible to prove negligence or culpable conduct in connection with event. This rule does not require the exclusion of evidence of subsequent measures when offered for another purpose; such as proving ownership, control, or feasibility of precautionary measures, if controverted, or impeachment.

Rule 410. Inadmissibility of Pleas, Pleas Discussions, and Related Statements

Except as provided in this Rule, evidence of the following is not, in any civil or criminal proceeding, admissible against a defendant who made the plea or was a participant in the plea discussions:

(1) a plea of guilty which was later withdrawn;
(2) a plea of *nolo contendere*;
(3) any statement made in the course of any proceeding under Rule 11 of the Federal Rules of Criminal Procedure or comparable state procedure regarding either of the foregoing pleas; or
(4) any statement made in the course of plea discussions with an attorney for the prosecuting authority which do not result in a plea of guilty or which result in a plea of guilty later withdrawn. However, such a statement is admissible (i) in any proceeding wherein another statement made in the course of the same plea or plea discussions has been introduced and the statement ought, in fairness, be considered with it, or (ii) in a criminal proceeding for perjury or false statement if the statement was made by the defendant under oath, on the record, and in presence of counsel.

Rule 411. Liability Insurance (civil case only)

Evidence that a person was or was not insured against liability is not admissible upon the issue of whether the person acted negligently or otherwise wrongfully. This rule does not require the exclusion of evidence of insurance against liability when offered for another purpose, such as proof of agency, ownership, or control, or bias, or prejudice of a witness.

Article V. Privileges

Rule 501. General Rule

There are certain admissions and communications excluded from evidence on grounds of public policy. Among these are:

(1) communications between husband and wife;
(2) communications between attorney and client;
(3) communications between grand jurors;
(4) communications between psychiatrist and patient.

Article VI. Witnesses

Rule 601. General Rule of Competency

Every person is competent to be a witness.

Rule 602. Lack of Personal Knowledge

A witness may not testify to a matter unless t*he witness has personal knowledge of the matter*. Evidence to prove personal knowledge may, but need not, consist of the witness 'own testimony. This rule is subject to the provisions of Rule 703, related to opinion testimony by expert witnesses.

Rule 607. Who may Impeach

The credibility of a witness may be attacked by any party, including the party calling the witness.

Rule 608. Evidence of Character and Conduct of Witness

(a) Opinion and reputation evidence of character – The credibility of a witness may be attacked or supported by evidence in the form of opinion or reputation, but subject to these limitations: (1) the evidence may refer only to character for truthfulness or untruthfulness, and (2) evidence of truthful character is admissible only after the character of the witness for truthfulness has been attacked by opinion or reputation evidence, or otherwise.

(b) Specific instances of conduct – Specific instances of the conduct of a witness, for the purpose of attacking or supporting the witness 'credibility, other than conviction of crime as provided in Rule 609, may not be proved by extrinsic evidence. They may, however, in the discretion of the Court, if probative of truthfulness or untruthfulness, be asked on cross-examination of the witness (1) concerning the witness 'character for truthfulness or untruthfulness, or (2) concerning the character for truthfulness or untruthfulness of another witness as to which character the witness being cross-examined has testified.

Testimony, whether by an accused or by any other witness, does not operate as a waiver of the accused's or the witness 'privilege against self-incrimination with respect to matters related only to credibility.

Rule 609. Impeachment by Evidence of Conviction of Crime (this rule applies only to witnesses with prior convictions)

(a) General Rule – For the purpose of attacking the credibility of a witness, evidence that a witness other than the accused had been convicted of a crime shall be admitted if elicited from the witness or established by public record during cross-examination, but only if the crime was punishable by death or imprisonment in excess of one year, and the Court determines that the probative value of admitting this evidence outweighs its prejudicial effect to the accused. Evidence that any witness has been convicted of a crime shall be admitted if it involved dishonesty or false statement, regardless of the punishment.

(b) Time Limit – Evidence of a conviction under this Rule is not admissible if a

period of more than ten years has elapsed since the date of the conviction or of the release of the witness from the confinement imposed for that conviction, whichever is the later date, unless the Court determines that the value of the conviction substantially outweighs its prejudicial effect. However, evidence of a conviction more than 10 years old as calculated herein, is not admissible unless the proponent gives to the adverse party sufficient advance written notice of intent to use such evidence to provide the adverse party with a fair opportunity to contest the use of such evidence.

(c) Effect of pardon, annulment, or certificate of rehabilitation – Evidence of a conviction is not admissible if (1) the conviction has been the subject of a pardon or other equivalent procedure based on a finding of the rehabilitation of the person convicted of a subsequent crime which was punishable by death or imprisonment in excess of one year, or (2) the conviction has been the subject of a pardon, other equivalent procedure based on a finding of innocence.

(d) *Not applicable*.

(e) *Not applicable*.

Rule 610. Religious Beliefs or Opinions

Evidence of the beliefs or opinions of a witness on matters of religion is not admissible for the purpose of showing that by reason of their nature the witness 'credibility is impaired or enhanced.

Rule 611. Mode and Order of Interrogation and Presentation

(a) Control by Court – The Court shall exercise reasonable control over *questioning* of witnesses and presenting evidence so as to (1) make the *questioning* and presentation effective for ascertaining the truth, (2) to avoid needless use of time, and (3) protect witnesses from harassment or undue embarrassment.

(b) Scope of cross-examination – *The scope of cross examination shall not be limited to the scope of the direct examination, but may inquire into any relevant facts or matters contained in the witness 'statement, including all reasonable inferences that can be drawn from those facts and matters, and may inquire into any omissions from the witness statement that are otherwise material and admissible.*

(c) Leading Questions – Leading questions should not be used on direct examination of a witness (except as may be necessary to develop the witness 'testimony). Ordinarily, leading questions are permitted on cross examination. When a party calls a hostile witness, an adverse party, or a witness identified with an adverse party, leading questions may be used.

(d) Redirect/Recross – *After cross examination, additional questions may be asked by the direct examining attorney, but questions must be limited to matters raised by the attorney on cross examination. Likewise, additional questions may be asked by the cross examining attorney on recross, but such questions must be limited to matters raised on redirect examination and should avoid repetition.*

Rule 612. Writing Used to Refresh Memory

If a written statement is used to refresh the memory of a witness either while or before testifying, the Court shall determine that the adverse party is entitled to have the writing

produced for inspection. The adverse party may cross examine the witness on the material and introduce into evidence those portions which relate to the testimony of the witness.

Rule 613. Prior Statement of Witnesses

Examining witness concerning prior statement – In examining a witness concerning a prior statement made by the witness, whether written or not, the statement need not be shown nor its contents disclosed to the witness at that time, but on request the same shall be shown or disclosed to opposing counsel.

Extrinsic evidence of prior inconsistent statement of witness – Extrinsic evidence of prior inconsistent statement by a witness is not admissible unless the witness is afforded opportunity to explain or deny the same and the opposite party is afforded an opportunity to interrogate.

Article VII. Opinions and Expert Testimony

Rule 701. Opinion Testimony by Lay Witness

If the witness is not testifying as an expert, the witness 'testimony in the form of opinions or inferences is limited to those opinions or inferences which are (a) rationally based on the perception of the witness and (b) helpful to a clear understanding of the witness 'testimony or the determination of a fact in issue.

Rule 702. Testimony by Experts

If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify in the form of an opinion or otherwise, if (1) the testimony is based upon sufficient facts or data, (2) the testimony is the product of reliable principles and methods, and (3) the witness has applied the principles and methods reliably to the facts of the case.

Rule 703. Bases of Opinion Testimony by Experts

The facts or data upon which an expert bases an opinion may be those perceived by or made known to the expert at or before the hearing. If of a type reasonably relied upon by experts in the field in forming opinions or inferences, the facts or data need not be admissible in evidence.

Rule 704. Opinion on Ultimate Issue

(a) *Opinion or inference testimony* otherwise admissible is not objectionable because it embraces an issue to be decided by the trier of fact.

(b) In a criminal case, an expert witness shall not express an opinion as to the guilt or innocence of the accused.

Rule 705. Disclosure of Facts or Data Underlying Expert Opinion

The expert may testify in terms of opinion or inference and give reasons therefor without prior disclosure of the underlying facts or date, unless the Court requires otherwise. The expert may in any event be required to disclose the underlying facts or data on cross examination.

Article VIII. Hearsay

Rule 801. Definitions

The following definitions apply under this article:

(a) Statement – A "statement" is an oral or written assertion or nonverbal conduct of a person, if it is intended by the person as an assertion.

(b) Declarant – A "declarant" is a person who makes a statement.

(c) Hearsay " –Hearsay" is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.

(d) Statements which are not hearsay – A statement is not hearsay if:
(1) Prior statement by witness – The declarant testifies at the trial or hearing and is subject to cross examination concerning the statement and the statement is (A) inconsistent with the declarant's testimony, and was given under oath subject to the penalty of perjury at a trial, hearing, or other proceeding, or in a deposition, or (B) consistent with the declarant's testimony and is offered to rebut an express or implied charge against the declarant of recent fabrication or improper influence or motive, or (C) one of identification of a person made after perceiving the person; or
(2) Admission by a party-opponent – The statement is offered against a party and is (A) the party's own statement in either an individual or a representative capacity or (B) a statement of which the party has manifested an adoption or belief in its truth, or (C) a statement by a person authorized by the party to make a statement concerning the subject, or (D) a statement by the party's agent or servant concerning a matter within the scope of the agency or employment, made during the existence of the relationship, or (E) a statement by a co-conspirator of a party during the course in furtherance of the conspiracy.

Rule 802. Hearsay Rule

The following are not excluded by the hearsay rule, even though the declarant is available as a witness:

(1) Present sense impression – A statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter.

(2) Excited utterance – A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.

(3) Then existing mental, emotional, or physical conditions – A statement of the declarant's then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, design, mental feeling, pain, and bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the execution, revocation, identification, or terms of declarant's will.

(4) Statements for purpose of medical diagnosis or treatment – Statements made for the purpose of medical diagnosis or treatment.

(5) Recorded Recollection – A memorandum or record concerning a matter about

which a witness once had knowledge but now has insufficient recollection to enable the witness to testify fully and accurately, shown to have been made or adopted by the witness when the matter was fresh in the witness 'memory and to reflect that knowledge correctly.

(6) Business Records – A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnosis, made at or near the time by, or from information transmitted by, a person with knowledge acquired of a regularly conducted business activity, and if it was the regular practice of that business activity to make and keep the memorandum, report, record, or data compilation, all as shown by the testimony of the custodian or other qualified witness, unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness. The term "business" as used in this paragraph includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit.

(18) Learned treatises – To the extent called to the attention of an expert witness upon cross examination or relied upon by the expert witness in direct examination, statements contained in published treatises, periodicals, or pamphlets on a subject of history, medicine, or other science or art, established as a reliable authority by the testimony or admission of the witness or by other expert testimony or by judicial notice.

(21) Reputation as to character – Reputation of a person's character among associates or in the community.

(22) Judgment of previous conviction – Evidence of a judgment *finding* a person guilty of a crime punishable by death or imprisonment in excess of one year, to prove any fact essential to sustain the judgment, but not including, when offered by the Government in a criminal prosecution for purposes other than impeachment, judgments against persons other than the accused.

Rule 804. Hearsay Exceptions–Declarant Unavailable.

(a) **Definition of Unavailability.** Unavailability as a witness includes situations in which the declarant

(1) is exempted by ruling of the court on the ground of privilege from testifying concerning the subject matter of his statement; or

(2) persists in refusing to testify concerning the subject matter of his statement despite an order of the court to do so; or

(3) establishes a lack of memory of the subject matter of his statement; or

(4) is unable to be present or to testify at the hearing because of death or then existing physical or mental illness or infirmity; or

(5) is absent from the hearing and the proponent of his statement has been unable to procure his attendance (or in the case of a hearsay exception under subdivision (b) (2), (3), (4), or (5), of this rule, his attendance or testimony) by reasonable means including process.

A declarant is not unavailable as a witness if his exemption, refusal, claim of lack of memory, inability, or absence is due to the procurement or wrongdoing of the proponent of his statement for the purpose of preventing the witness from attending or testifying.

(b) **Hearsay Exceptions.** The following are not excluded by the hearsay rule if the declarant is unavailable as a witness:

(1) *Former Testimony.* Testimony given as a witness at another hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of another proceeding, if the party against whom the testimony is now offered, or, in a civil action or proceeding a predecessor in interest, had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination.

(2) *Statement Under Belief of Impending Death.* A statement made by a declarant while believing that the declarant's death was imminent, concerning the cause or circumstances of what the declarant believed to be his impending death.

(3) *Statement Against Interest.* A statement which was at the time of its making so far contrary to the declarant's pecuniary or proprietary interest, or so far tended to subject the declarant to civil or criminal liability, or to render invalid a claim by the declarant against another, that a reasonable person in the declarant's position would not have made the statement unless believing it to be true. A statement tending to expose the declarant to criminal liability and offered to exculpate the accused is not admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement.

(4) *Statement of Personal or Family History.* (A) A statement concerning the declarant's own birth, adoption, marriage, ancestry, or other similar fact of personal or family history, even though declarant had no means of acquiring personal knowledge of the matter stated; or (B) a statement concerning the foregoing matters, and death also, of another person, if the declarant was related to the other by blood, adoption, or marriage or was so intimately associated with the other's family as to be likely to have accurate information concerning the matter declared.

(5) *Other Exceptions.* A statement not specifically covered by any of the foregoing exceptions but having equivalent circumstantial guarantees of trustworthiness, if the court determines that (A) the statement is offered as evidence of a material fact; (B) the statement is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts; and (C) the general purposes of these rules and the interests of justice will best be served by admission of the statement into evidence. However, a statement may not be admitted under this exception unless the proponent of it makes known to the adverse party sufficiently in advance of the trial or hearing to provide the adverse party with a fair opportunity to prepare to meet it, his intention to offer the statement and the particulars of it, including the name and address of the declarant.

Rule 805. Hearsay within Hearsay

Hearsay included within hearsay is not excluded under the hearsay rule if each part of the combined statement conforms with an exception to the hearsay rule provided in these rules.

Article X. Contents of Writing, Recordings and Photographs – Not applicable.

EVALUATION GUIDELINES

The competition judges are given instructions on how to evaluate the performance of participating teams and individuals. The following guidelines, as well as additional instructions that are not included here, are included in the material provided to the competition judges. Participating teams may assume that the winning team will excel in the following ways:

ATTORNEYS: **DEMONSTRATED SPONTANEITY:**

- in response to witnesses and/or the court;
- in the overall presentation of the case; and
- in making and responding to objections, capitalizing on opportunities which arise during trial.

DEMONSTRATED COMMAND OF THE FACTS AND ISSUES in the case and attorney's understanding of the relevant points of law.

When examining witnesses, attorney **PHRASED QUESTIONS PROPERLY** and demonstrated a clear understanding of trial procedure and the simplified rules of evidence used for the mock trial competition.

The attorney's questions:

- were clearly stated, concise, and to the point;
- resulted in straightforward answers from the witness;
- brought out information important to the case; and
- brought out contradictions in testimony.

Opening statements and closing arguments were **ORGANIZED AND WELL-REASONED** presentations, with the closing argument emphasizing the strengths of the attorney's own side and addressing the flaws exposed by the opposing attorneys during trial.

WITNESSES: Testimony was **CONVINCING** and characterizations were **BELIEVABLE** and **CONSISTENT** with the affidavits**. PREPARATION** and **SPONTANEITY** were evident in the manner witnesses handled questions posed to them by the attorneys.

TEAMS: Courtroom **DECORUM AND COURTESY** by all team members and coaches were observed. Affiliated observers were not disruptive. All participants were **ACTIVE** in the presentation of the case.

2020 ALASKA HIGH SCHOOL
MOCK TRIAL CHAMPIONSHIP COMPETITION
(Anchorage, March 26-28, 2020)

TEAM REGISTRATION FORM
(Please CLEARLY print name and contact information)

School (Organization) Name: _____

Team Mailing Address: _____

_____

Teacher or other School Advisor: _____ T-Shirt Size: _____

Advisor Contact Phone: _____ Message Phone: _____

E-Mail: _____

Attorney Coach: _____ T-Shirt Size: _____

Coach Contact Phone: _____ Message Phone: _____

E-Mail: _____

Student Team Members (Please print names in block lettering)

	(T-Shirt Size)		(T-Shirt Size)
_____	( )	_____	( )
_____	( )	_____	( )
_____	( )	_____	( )
_____	( )	_____	( )
_____	( )	THIS IS TEAM NUMBER _____	

Each team must have a minimum of six students members. No team may have more than nine members, including alternates. The assistance of attorney coaches is recommended, but not mandatory. Schools wishing to register more than one team may designate the same teacher or other school sponsor as the official school advisor. Any school wising to register multiple teams MUST indicate which team is the "First Team," "Second Team," etc. **All teams must be registered *no later than March 20, 2020*; registration form may be emailed to hrfortson@alaska.edu, with fees can be paid at the competition. There is a registration fee of $150 per team.**

TO REGISTER A TEAM, PLEASE RETURN THIS FORM AND THE REGISTRATION FEE TO:

ANCHORAGE BAR ASSOCIATION, YOUNG LAWYERS SECTION
c/o PROF. RYAN FORTSON, Attn: MOCK TRIAL
JUSTICE CENTER, UNIVERSITY OF ALASKA ANCHORAGE
3211 PROVIDENCE DRIVE, PSB 234
ANCHORAGE, AK 99508