
2022

**ALASKA HIGH SCHOOL
MOCK TRIAL COMPETITION**

April 1-2, 2022

Stanley v. ATVictory, Inc.

Case No. 5AK-21-99999 CI

OFFICIAL CASE MATERIALS & COMPETITION RULES

TEAM MEMBER'S PACKET

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

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Young Lawyers Section**

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FIFTH JUDICIAL DISTRICT AT ALASKAPOLIS

JORDAN STANLEY)	
)	
Plaintiff,)	COMPLAINT
vs.)	
)	
ATVICTORY, INC.)	
)	Case No. 3AK-21-99999 CI
Defendants.)	
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COMES NOW the Plaintiff, Jordan Stanley, and in complaint against the Defendant, ATVictory, Inc., alleges and requests relief as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this case pursuant to Alaska Statute 09.05.015 and Alaska Statute 22.10.020.
2. Venue is proper under Alaska Statute 22.10.030 and Alaska Civil Rule 3(c).

PARTIES

3. Plaintiff Jordan Stanley is a 24-year-old resident of Alaskapolis, Alaska. Plaintiff was formerly a professional all-terrain vehicle (ATV) racer.
4. Defendant ATVictory, Inc. is a company based in the State of Washington but doing business in the State of Alaska. Defendant produces parts and equipment for use with ATVs. Defendant has provided Plaintiff with parts used on Plaintiff's ATV.

FACTUAL BACKGROUND

5. Jordan Stanley was a professional ATV racer on the North American Off-Road

Racing Association (NAORRA) racing circuit for the 2021 season. Jordan Stanley began racing competitively on the NAORRA circuit in 2018.

6. Jordan Stanley over the course of her/his career had multiple top-five race finishes, including two victories. Jordan Stanley was generally considered to have a promising future in ATV racing.

7. For the 2021 racing season, Jordan Stanley was sponsored, in part, by ATVictory. Continued sponsorship was contingent upon Jordan Stanley either winning the Bushrunner Off-Road Challenge or finishing in the top five in the final NAORRA points standings at the end of the season.

8. On or about June 25, 2021, Jordan Stanley's mechanic, Chris Harris, called ATVictory to order a Ridgegrabber Front Suspension System manufactured by Big West ATV Corporation. ATVictory was the exclusive distributor at the time for the Ridgegrabber, and Jesse Cain, the owner of ATVictory, strongly encouraged Chris Harris to install the Ridgegrabber on Jordan Stanley's racing ATV for use in the Bushrunner Off-Road Challenge.

9. Chris Harris requested that the Ridgegrabber be shipped with Suregrip brand bolts. Suregrip brand bolts are recommended by Big West ATV for use with the Ridgegrabber.

10. Against the expressed desire and request of Chris Harris, ATVictory shipped the Ridgegrabber with ATVictory brand bolts.

11. On or about July 3, 2021, Jordan Stanley received the Ridgegrabber and ATVictory brand bolts shipped by ATVictory.

12. The packaging for the ATVictory bolts shipped to Jordan Stanley did not include any instructions for their installation or warnings regarding their use.

13. On or about July 4, 2021, Chris Harris, a trained ATV mechanic, properly installed the Ridgegrabber on a racing ATV owned and used by Jordan Stanley.

14. Jordan Stanley competed in the Bushrunner Off-Road Challenge on July 4, 2021 using the ATV on which the Ridgegrabber and the ATVictory brand bolts had been installed.

15. During the Bushrunner Off-Road Challenge, Jordan Stanley suffered a crash on the part of the course known as Widowmaker Bend, resulting in severe and permanent injuries to his/her body and equipment. Due to his/her bodily injuries, Jordan Stanley is unable to continue his/her ATV racing career, at a substantial loss of enjoyment and income.

16. The cause of this crash was the failure of at least one ATVictory brand bolt. As a result of the bolt failure, Jordan Stanley was unable to properly steer the ATV and lost control of the vehicle.

FIRST CLAIM FOR RELIEF – PRODUCT DEFECT

17. Plaintiff repeats and incorporates by reference the allegations in each of the preceding paragraphs.

18. Plaintiff is informed and believes and therefore alleges that the heat treatment machine used by Defendant in the manufacture of the ATVictory bolts had been recalled and that one or more of the ATVictory bolts used by plaintiff were not properly heat treated.

19. Plaintiff alleges that the defect in the ATVictory bolt or bolts was present at the time the bolts were sent to the Plaintiff, was knowable by the Defendant, and was the legal cause of Plaintiff's injuries.

20. All of which constitutes a breach of Defendant's duties and a product defect for which Defendant is liable, and Plaintiff is entitled to recover from Defendant for all of Plaintiff's bodily injuries, property damage, and other damages in an amount to be determined at trial.

SECOND CLAIM FOR RELIEF – VIOLATION OF WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE

21. Plaintiff repeats and incorporates by reference the allegations in each of the preceding paragraphs.

22. Defendant implicitly warranted that the bolts it included with the Ridgegrabber suspension system were fit for use with the Ridgegrabber suspension system. Defendant manufactured the bolts.

23. The ATVictory bolts were not adequate for use with the Ridgegrabber suspension and caused the failure of the suspension and the resulting crash of Plaintiff.

24. All of which constitutes a breach of the implied warranty of fitness for a particular purpose under Alaska Statute 45.02.315 to which Defendant is bound, and Plaintiff is entitled to recover from Defendant for all of Plaintiff's bodily injuries, property damage, and other damages in an amount to be determined at trial.

WHEREFORE, the Plaintiff requests that this Court award the following relief:

- i. That Plaintiff has and is entitled to recover from Defendant compensatory damages in an amount to be determined at trial.
- ii. Punitive damages;
- iii. Reasonable attorneys' fees, including litigation expenses and costs; and
- iv. All other proper relief.

Dated this 13th day of October, 2021.

By: _____ /s/ _____
Counsel for Plaintiff

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

JORDAN STANLEY)
)
 Plaintiff,) **ANSWER**
 vs.)
)
 ATVICTORY, INC.)
) Case No. 3AK-21-99999 CI
)
 Defendants.)
_____)

COMES NOW the Defendant, ATVictory, Inc., and in response to the Complaint filed by the Plaintiff, Jordan Stanley, answers as follows:

JURISDICTION AND VENUE

1. Admitted. Defendant agrees that jurisdiction is proper.
2. Admitted. Defendant agrees that venue is proper.

PARTIES

3. Admitted.
4. Defendant admits that it manufactures ATV parts and has shipped ATV parts to Plaintiff in Alaska. Defendant is without sufficient knowledge to admit or deny that the parts were used on Plaintiff's ATV.

FACTUAL BACKGROUND

5. Defendant admits that Jordan Stanley raced on the North American Off-Road Racing Association (NAORRA) racing circuit for the 2021 season. Otherwise, on information and belief, admitted.

6. Defendant admits that plaintiff has had two victories on the NAORRA circuit, and that Plaintiff has finished in the top five in more than one race. Defendant denies the remainder of this paragraph.

7. Admitted.

8. Defendant admits that Chris Harris and Jesse Cain discussed the ordering of a Big West ATV brand Ridgegrabber on or about June 25, 2021. Defendant admits that it had an exclusive arrangement with Big West ATV to distribute Ridgegrabber suspension systems in 2021. Defendant denies the remainder of this paragraph.

9. Defendant admits that Big West ATV recommends using appropriate bolts with the Ridgegrabber Front Suspension System and that Suregrip bolts are recommended for use with the Ridgegrabber Front Suspension System by Big West ATV. Defendant denies the remainder of this paragraph.

10. Defendant admits that it shipped ATVictory brand bolts to Plaintiff. Defendant denies the remainder of this paragraph.

11. Defendant is without sufficient knowledge to admit or deny the allegations in this paragraph.

12. Admitted.

13. On information and belief, denied.

14. Admitted.

15. On information and belief, Defendant admits that Jordan Stanley suffered a crash during the Bushrunner Off-Road Challenge. Defendant denies the remainder of this paragraph.

16. Denied.

//

FIRST CLAIM FOR RELIEF – PRODUCT DEFECT

17. Defendant repeats and reincorporates by reference its responses to the allegations of the preceding paragraphs.

18. Denied.

19. Denied.

20. This paragraph states a legal conclusion to which no response is necessary. To the extent a response is required, it is denied.

SECOND CLAIM FOR RELIEF – VIOLATION OF WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE

21. Defendant repeats and reincorporates by reference its responses to the allegations of the preceding paragraphs.

22. Defendant admits that it manufactured the bolts used by Jordan Stanley. Defendant denies the remainder of this paragraph.

23. Denied.

24. This paragraph states a legal conclusion to which no response is necessary. To the extent a response is required, it is denied.

AFFIRMATIVE DEFENSES

Comes now the Defendant and for its affirmative defenses states:

1. The Ridgegrabber front axle was not properly installed on the ATV driven by Plaintiff.

2. The ATVictory bolts supplied to Plaintiff were properly manufactured.
3. Plaintiff misused the parts and products supplied by Defendant.
4. The ATVictory bolts supplied to Plaintiff were adequate for use with the Ridgegrabber Front Suspension System under normal ATV racing circumstances
5. Plaintiff's injuries or damages, if any, are the result of Plaintiff's own acts.
6. Plaintiff's injuries or damages, if any, are the result of the actions of someone outside of Defendant's control.
7. The design of the Ridgegrabber Front Suspension System contributed to its failure.
8. ATV racing is an inherently dangerous activity. Plaintiff assumed the risk of accident and injury by participating in the activity of ATV racing.

Dated this 3rd day of November, 2021.

By: _____ /s/
Counsel for Defendant

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

JORDAN STANLEY)
)
 Plaintiff,)
 vs.)
)
 ATVICTORY, INC.) Case No. 3AK-21-99999 CI
)
)
 Defendant.)
_____)

STIPULATIONS

It is stipulated for purposes of this 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.

Alaskapolis, Alaska is a city of approximately 300,000 people. It is located in the Fifth Judicial District of Alaska. Jurisdiction for this trial is properly located in the Fifth Judicial District.

II.

The Parties stipulate that the type and amount of damages at stake reach the jurisdictional threshold for Alaska Superior Court. The parties agree to a bifurcation of the trial. A determination of percent liability, if any, for ATVictory, Inc. will be made before evidence of the amount of damages to Jordan Stanley, if any, may be introduced. This shall not preclude either party from introducing evidence of the existence of injury or the cause of that injury with regard to Jordan Stanley.

III.

All pleadings have been properly filed and served to all other parties. Discovery has been conducted pursuant to the applicable Rules of Procedure, and no discovery violations are alleged. All other procedural matters have been properly conducted.

IV.

All affidavits are considered part of the case materials and may be used during trial for impeachment purposes and to refresh the memory of that particular witness. All the affidavits were dictated in January 2021. The affidavits have all been validly signed and notarized.

V.

All exhibits included in these case materials are authentic and, where appropriate, validly signed. No objections to the authenticity of the exhibits will be entertained. Exhibits may otherwise be challenged for admissibility.

VI.

The Plaintiff, Jordan Stanley, has reached a settlement with Big West ATV Corp. for an undisclosed sum. The settlement explicitly states that Big West ATV is not admitting liability and entered the settlement for the purpose of avoiding the costs of litigation. Fault may be apportioned to Big West ATV Corp. as permitted by law.

VII.

The course in the Bushrunner Off-Road Challenge is 5.5 miles in length; the race consists of 20 laps around the course. The constantly winding course contains thirteen downhills that are classified as “steep” by NAORRA. Widowmaker Hill is located at approximately mile three of the course. The track at Widowmaker Hill drops precipitously for about 5 feet at a 50 degree angle before leveling out to a 15 degree angle for the next 15 feet.

VIII.

Thirty-three racers started the Bushrunner Off-Road Challenge on July 4, 2021, but only twenty-four finished it. Six racers suffered mechanical failures, and three collided in a pile up that left them unable to continue racing. Jordan Stanley suffered the only serious injury of the race.

IX.

The letter of Dr. Molly Dennison dated October 22, 2021 shall be admitted into evidence during the liability phase of the proceedings without further testimony by Dr. Dennison for the sole purpose of establishing the existence of injury to Jordan Stanley and the types of injuries sustained. If trial proceeds to a damages phase, the Parties stipulate that testimony will be required by Dr. Dennison or other medical professionals as to the full extent of Jordan Stanley’s injuries.

X.

The witnesses for the plaintiff are (in no particular order):

1. Jordan Stanley
2. Chris Harris
3. Terry Walters
4. Sam Rosen

The witnesses for the defendant are (in no particular order):

1. Jesse Cain
2. Lynn Fernandez
3. Alyx Bloomfield
4. Shay Marinelli

DATED this 15th day of March, 2022 at Alaskapolis, Alaska.

ATTORNEYS FOR
JORDAN STANLEY

By: _____ /s/ _____

ATTORNEYS FOR
ATVICTORY, INC.

By: _____ /s/ _____

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

JORDAN STANLEY)
)
Plaintiff,)
vs.)
)
ATVICTORY, INC.) Case No. 3AK-21-99999 CI
)
)
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 to the parties 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 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.

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 which relate to honesty or veracity;
- (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' 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.

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.

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.

Many of us have said to ourselves from time to time something like “I wish I never heard that about someone, because it makes it impossible for me to be unbiased now.” The law tries to

protect jurors from this natural human reaction. It is because the law protects what jurors hear that we have such confidence in the impartiality and integrity of the jury.

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.

Burden of Proof

In this case, you will be asked to decide questions according to whether something is “more likely true than not true.” An alleged fact is “more likely true than not true” if you believe that the chance that it is true is even the slightest bit greater than the chance that it is false. In more familiar language, an alleged fact is more likely true than not true if you believe that there is a greater than 50% chance that it is true. Fifty-one percent certainty is sufficient; no more is required for you to decide that the alleged fact is more likely true than not true.

Bifurcation

In this trial, you will only be deciding whether liability exists for either Party. If you decide that either Party is legally liable for damages to the other Party, there will be a second trial to determine the amount of those damages. If damages are an element of a claim, then the existence of damages must be proven according to the appropriate burden of proof, but it is not necessary to prove the amount of those damages. In your deliberations today, you must disregard the monetary amount of any damages either Party may have suffered.

SUBSTANTIVE INSTRUCTIONS – JORDAN STANELY v. ATVICTORY, INC.

In this case, the plaintiff claims that a product manufactured and sold by the defendant injured the plaintiff. More specifically, Jordan Stanley claims that the ATVictory bolts used with the Ridgegrabber resulted in the injuries plaintiff suffered during the Bushrunner Off-Road Challenge. The plaintiff’s claim is based upon two separate theories. These theories are:

- (1) defect in a product; and
- (2) the defendant’s breach of warranty of fitness for a particular purpose.

I will instruct you separately on each of these theories and you must decide each theory separately. In order to recover, the plaintiff must establish the elements of at least one of these theories by a preponderance of the evidence.

First Claim For Relief – Product Defect

Liability for Defect in a Product

Plaintiff's first theory of recovery is that plaintiff was injured by a defect in a product which the defendant manufactured and sold to the plaintiff. In order to recover for a product defect, the plaintiff must establish that it is more likely true than not true that:

- (1) the product was defective;
- (2) the product was defective when it left the possession of the defendant; and
- (3) a defect in the product was a legal cause of the injury.

A product is not defective with regard to any particular danger if the defendant proves it is more likely true than not true that that particular danger was not scientifically knowable when the product left the defendant's possession.

I will explain what "defect in the product" means and what "legal cause" means in a moment.

Defectiveness Defined

A product is defective if:

- (1) the product differed from the manufacturer's intended result and this difference negatively impacted the performance of the product; or
- (2) the product differed from other units of the same product line and this difference negatively impacted the performance of the product; or
- (3) the product failed to perform as safely as an ordinary consumer would expect when used in an intended or reasonably foreseeable manner; or
- (4) the use of the product in a manner that is reasonably foreseeable by the defendant involves a substantial danger that would not be readily recognized by the ordinary user of the product and the manufacturer fails to give adequate warning of such danger. An adequate warning is a warning that clearly indicates the scope of the risk or danger posed by the product, reasonably communicates the extent or seriousness of harm that could result from the risk or danger, and is conveyed in a manner that would alert a reasonably prudent person.

Legal Cause

I will now define "legal cause" for you as used in the context of product liability. A defective condition in a product is a legal cause of harm if it is a substantial factor in bringing about the harm or injury claimed by the plaintiff.

A defective condition in a product is a substantial factor in bringing about the harm or injury if it is more likely true than not true that:

- (1) the defective condition in the product was so important in bringing about the harm that a reasonable person would regard it as a cause and attach responsibility to it; and

- (2) the harm or injury would not have occurred but for the defective condition of the product.

There is, however, one exception to the requirement that the harm or injury would not have occurred but for the defective condition. If two separate forces operated to cause the harm or injury, one because of the defective condition of the product and the other not, and each force by itself was sufficient to cause the harm or injury, then the defective condition is a legal cause of the harm or injury if you decide that the defective condition was so important in bringing about the harm or injury that a reasonable person would regard the defective condition as a cause and attach responsibility to it.

Second Claim for Relief – Warranty of Fitness for a Particular Purpose

Liability for Implied Warranty of Fitness for a Particular Purpose

If the seller at the time of contracting has reason to know a particular purpose for which the goods are required and that the buyer is relying on the seller's skill or judgment to select or furnish suitable goods, there is an implied warranty that the goods shall be fit for that purpose. In order to recover for an implied warranty of fitness for a particular purpose relating to the sale of a product, the plaintiff must establish that it is more likely true than not true that:

- (1) the seller knew at the time of purchase of the particular purpose for which the buyer intended to use the product;
- (2) the buyer reasonably relied on the seller's skill or judgment to select the product for that particular purpose;
- (3) the product was not fit for the purpose for which the buyer intended to use it; and
- (4) the unfitness of the product for its intended use was a legal cause of the injury.

Legal Cause

I will now define "legal cause" for you as used in the context of an implied warranty of fitness for a particular purpose. A violation of the implied warranty of fitness for a particular purpose of a product is a legal cause of harm if it is a substantial factor in bringing about the harm or injury claimed by the plaintiff.

A violation of the implied warranty of fitness for a particular purpose of a product is a substantial factor in bringing about the harm or injury if it is more likely true than not true that:

- (1) the unfitness of the product for its intended purpose was so important in bringing about the harm that a reasonable person would regard it as a cause and attach responsibility to it; and
- (2) the harm or injury would not have occurred but for the unfitness of the product for its intended purpose.

There is, however, one exception to the requirement that the harm or injury would not have occurred but for the unfitness of the product for its intended purpose. If two separate forces operated to cause the harm or injury, one because of the unfitness of the product for its intended purpose and the other not, and each force by itself was sufficient to cause the harm or injury, then the unfitness of the product for its intended purpose is a legal cause of the harm or injury if you

decide that the unfitness of the product for its intended purpose was so important in bringing about the harm or injury that a reasonable person would regard the unfitness of the product for its intended purpose as a cause and attach responsibility to it.

Affirmative Defenses

Comparative Negligence

In response to the plaintiff's claim, the defendant alleges that the plaintiff's injury resulted from the negligence of the plaintiff (including plaintiff's agent) or a third party. In order to establish this claim, the defendant must prove that it is more likely true than not true that:

- (1) a party other than the defendant was negligent, and
- (2) negligence of this other party was a legal cause of the plaintiff's injury.

Negligence is the failure to use reasonable care to prevent harm to oneself or to others. A person can be negligent by acting or by failing to act. A person is negligent if he or she does something that a reasonably careful person would not do in the same situation or fails to do something that a reasonably careful person would do in the same situation. The law does not require exceptional caution or skill, only reasonable care. Negligence by the plaintiff in the context of product liability can include, but is not limited to, knowingly using a product for a purpose other than the manufacturer's intended use of the product or in a manner inconsistent with the manufacturer's specified use and limitations for the product.

Assumption of Risk

For the purpose of determining comparative negligence, you are allowed to consider whether the plaintiff assumed the risk of injury by participating in an inherently risky activity. A plaintiff is at fault under the doctrine of assumption of risk if the risks involved in the activity are beyond the control of the defendant. For example, the inherent risks of an activity such as ATV riding are those risks that are obvious and necessary to the sport. Fault can be attributed to the plaintiff to the extent that the injury is caused by virtue of this participation in an inherently risky activity and not by any other cause. It is possible that a plaintiff will be at fault both for assumption of risk and for actions by plaintiff or plaintiff's agent.

Attributing Fault

If you determine that the plaintiff or a third party was negligent or otherwise at fault, you should determine the percentage of fault attributable to the plaintiff (if any), the percentage of fault attributable to a third party (if any), and the percentage of fault attributable to the defendant (if any). A negligent third party need not be a party to the case to have fault attributed to it.

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

JORDAN STANLEY)
)
 Plaintiff,)
vs.)
)
 ATVICTORY, INC.) Case No. 3AK-21-99999 CI
)
 Defendant.)
_____)

SPECIAL VERDICT FORM

We, the jury in the above-entitled case, **answer the questions submitted to us as follows:**

(1) Was defendant ATVictory, Inc., negligent?

Answer “yes” or “no.” Answer: _____

If your answer to Question No. 1 is “no,” do not answer Question No. 2. You are finished with your deliberations, and you must not answer any of the other questions on this form. Your foreperson must sign and date this verdict form. Notify the judge you have a verdict.

However, if your answer to Question No. 1 is “yes”, answer Question No. 2.

(2) Was defendant ATVictory, Inc.’s negligence a substantial factor in causing harm to the plaintiff?

Answer “yes” or “no.” Answer: _____

Before you go any further, you must review your answers to the preceding questions.

If you answered “yes” to question No. 2, you should write “ATVictory, Inc.” in one of the spaces provided in Question No. 8.

If you did not answer “yes” to question No. 2, you are finished with your deliberations, and you must not answer any of the other questions on this form. Your foreperson must sign and date this verdict form. Notify the judge you have a verdict.

If your answer to Question No. 2 is “yes”, answer Question No. 3.

(3) Was Big West ATV Corp. negligent?

Answer “yes” or “no.” Answer: _____

If your answer to Question No. 3 is “no,” do not answer Question No. 4. Instead, please skip to Question No. 5.

However, if your answer to Question No. 3 is “yes”, answer Question No. 4.

(4) Was Big West ATV Corp’s negligence a substantial factor in causing harm to the plaintiff?

Answer “yes” or “no.” Answer: _____

If your answers to Question No. 4 is “yes”, write “Big West ATV Corp” in one of the spaces provided in Question No. 8. Regardless of your answers to Question No. 4, please next follow the instructions in Question No. 5.

(5) Was the plaintiff Jordan Stanley negligent?

Answer “yes” or “no.” Answer: _____

If your answer to Question No. 5 is “no,” do not answer Question No. 6. Answer Question No. 7. However, if your answer to Question No. 5 is “yes,” you must now answer Question No. 6.

(6) Was the plaintiff’s negligence a substantial factor in causing his/her harm?

Answer “yes” or “no.” Answer: _____

If your answer to Question No. 6 is “no”, answer Question No. 7. If your answer to Question No. 6 is “yes”, write “Jordan Stanley” in one of the spaces provided in Question No. 8. Then answer Question No. 7.

(7) The instructions to the previous questions on this form told you to write the names of parties in the spaces in Question No. 8, depending on your answers to certain questions. You are not as part of this phase of the trial being asked to determine the amount of damages suffered by the plaintiff Jordan Stanley. However, you must determine whether plaintiff suffered any damages for which compensation might be due. Therefore, please answer the following question:

Did the plaintiff Jordan Stanley suffer any form of damages (including but not limited to medical expenses, pain and suffering, past economic or non-economic loss, and/or future economic or non-economic loss) for which s/he could be compensated?

Answer “yes” or “no.” Answer: _____

If your answer to Question No. 7 is “no”, do not answer any further questions. The foreperson should date and sign this verdict form. However, if your answer to Question No. 7 is “yes”, please answer Question No. 8.

(8) The instructions to the previous questions on this form told you to enter names of parties in the spaces below, depending on your answers to certain questions. For each party whose name that you entered in one of the spaces below, you must determine that party’s percentage of fault for the damages suffered by plaintiff Jordan Stanley. The total must be equal to 100%. Do not add any additional names to the list, and do not assign percentages of fault to anyone other than the names you entered below in response to the questions on this verdict form.

In determining the percentage of fault for each party listed below, you must consider the nature of that party’s conduct, and the extent of the causal relationship between that party’s conduct and the damages suffered by plaintiff Jordan Stanley.

Name _____	_____ %
Name _____	_____ %
Name _____	_____ %
TOTAL	<u>100%</u>

Affidavit of Jordan Stanley

1. My name is Jordan Stanley. I am 24 years old. I was born and raised in Norvaguk, Alaska, a small village located about 400 miles northwest of Alaskapolis. Norvaguk has a population of approximately 175 people. It's basically a bunch of houses, a church, a health clinic and a small school. Norvaguk doesn't have roads or an airstrip, so the only form of transportation inside and outside the village is by ATV or snow machine.
2. I pretty much grew up riding ATVs. My parents have pictures of me driving around on a toy ATV when I was about three. When I was five or six, my dad would take me just outside of the village and let me steer while he drove his ATV around the tundra. When I was eight, dad started letting me drive his ATV for short distances inside the village; by the time I was 12, I pretty much had free rein to drive it wherever I wanted.
3. I bought my first used ATV when I was 14 with money I had saved up from my allowance and my summer job helping out at the health clinic. When I was in high school, all the teenagers used to get together on summer weekends and race our ATVs outside of town. I don't mean to brag or anything, but I won every single race, even when I was a freshman and I was racing against juniors and seniors. The terrain was pretty rough out there, but I was never scared. In fact, I got a bit of a reputation around school as someone who would never turn down a racing challenge.
4. When I was 18, I moved to Alaskapolis to attend college at Alaska State University. Obviously, I couldn't ride my ATV around Alaskapolis, so I gave it to a friend in Norgavuk. After about a month, though, I found that I really missed riding. I had good professors and all, but university classes just didn't have the same thrill as hitting a corner at 35 miles an hour and making everyone else eat your dust.
5. Luckily, by the end of my freshman year I made friends with a couple other students who had grown up in Porcupine Valley, just outside Alaskapolis. Porcupine Valley is a popular spot for people to go ATVing, and my friends both had ATVs, so sometimes I would go home with them on weekends in order to go riding. The terrain wasn't anywhere near as challenging as I was used to – in fact, it was pretty tame – but still, riding is riding.
6. One fall weekend my sophomore year, when we were riding around at Bear Creek in Porcupine Valley, a guy came up to my friends and me and started talking about competitive ATV racing. I had never heard of competitive ATV racing before, but it sounded like something I could totally get into. The guy said he was the local rep for the Alaska Off-Road Racing Association and that there were races held in Porcupine Valley almost every weekend from breakup to first snowfall. He invited us to come race sometime. My friends said no thanks, probably because they realized they weren't talented enough to race competitively, but I was intrigued.
7. The following weekend I went out and watched a competitive ATV race at Turnagain Track in Porcupine Valley. The race itself was awesome, but to be honest, I wasn't super-impressed with the other racers. I mean, I was going faster than that on rougher courses when I was still in middle school. I knew if I could enter one of those races I would blow away the competition. Plus, there was prize money. A few hundred bucks might not sound like all that much to most people, but to a college student it's a fortune. From that moment on, I was determined to somehow get onto the

competitive racing circuit.

8. After I got back to Alaskapolis that weekend, I went and applied for a job at a House Station hardware store near campus. I got the job and worked evenings and weekends all winter in order to save up enough money to buy an ATV of my own to race. It was especially hard because I wanted a new machine, one that had a really fast motor. See, I'm really terrible at mechanics. When I was in Norvaguk, my dad would help me fix up used machines, but in Alaskapolis I didn't have anyone to help and I knew I'd have a hard time getting a used ATV into racing condition.

9. After 7 months of working, I finally had enough money to buy another ATV. That weekend, I took it out to Porcupine Valley and entered a race at Turnagain Track. I won the race, of course, and got \$200 in prize money. After that, I raced at Turnagain Track pretty much every weekend until snowfall. I lost a couple of races, once because I had the flu and once because my gear shift got stuck in neutral at the starting line, but for the most part I totally outclassed the competition. These races weren't the big leagues. That would be the North American Off-Road Racing association, or NAORRA as it is called for short. But they were better than nothing, and there were only a couple of NAORRA circuit races in Alaska each year.

10. That spring, spring of 2018, I started racing again. This time, I decided I wanted to try some of the tougher off-track races at Bear Creek and Caribou Canyon. Some of the other racers from Turnagain Track tried to warn me off, saying that the courses were a lot more dangerous, but I knew it wasn't going to be anything I couldn't handle. Soon I had racked up an impressive series of wins in local off-track races. I guess you could say I was a bit of a prodigy. The race at Bear Creek was a NAORRA sanctioned race. I didn't win because there were a lot of other racers with a lot more experience than me, but I certainly wasn't the worst racer there, and it convinced me that I had the skill to compete on the highest level.

11. By the end of the semester, I had pretty much decided that I'd rather race than study, so I dropped out of school after my sophomore year in order to race full-time. I knew that if I wanted to be taken seriously, I would need to start traveling to NAORRA races outside of Alaska, so I started working at Home Station again. As soon as I had saved enough money and vacation time, I would travel to whatever races were being held that weekend. This took up most of my summer. I didn't win any races in the 2017 NAORRA season, but I did feel myself improving and figured it was worth continuing to race. During the off-season I worked a bunch of odd jobs at House Station and waiting restaurants to earn enough money to continue my "habit."

12. I didn't have the money to hire a mechanic, so most of the time I had to serve as my own pit crew. Fortunately, I never had any major mechanical problems, so all I had to do was routine maintenance. There was a lot of that, though, because I was constantly pushing my machine to the limit in every race I rode in. After all, I didn't just want to be known as an okay racer. I wanted to win, and the only way to do that was to race all-out every time.

13. It was exhausting, working, traveling, racing and crewing, but I still managed to finish in the top five of some fairly important mid-level races. By the end of the 2019 NAORRA season, I had only won one of the races, and a pretty minor one at that, which ticked me off, but I had a few finishes in the top five and everyone seemed to recognize my talent anyway. Still, I knew I needed to buckle down in the 2020 NAORRA season if I wanted to have much of a chance to make it as

a professional. Most weekend ATV racers can only last for a couple of seasons before the travel gets too exhausting and the money starts to get too tight. I knew I had the talent, but just needed to show it and start moving up the ranks.

14. The 2020 NAORRA season was a breakthrough for me. With renewed effort and dedication, I won two races toward the beginning of the season and one in the last month. I finished ninth in the Bushrunner Challenge. I even finished eighth in points for the NAORRA circuit that year. Other racers started being more respectful of me, and I would occasionally hear rumors around the track that sponsors were interested in working with me as well. That was a huge deal. Most NAORRA racers don't have sponsors and can't afford to race professionally. In fact, only the top 7 or 8 racers on the circuit have enough sponsors to race full time. This was my dream, and I knew that I had what it took to deliver if I ever did get a sponsor and could race full-time.

15. One day in December of 2020, I got a call at home from Jesse Cain. I didn't know at the time who s/he was, but Jesse explained that s/he was the owner of ATVictory, a manufacturer and distributor of parts and gear for ATVs. I had heard of ATVictory on the NAORRA circuit. I was sort of surprised that ATVictory was calling me, because I knew that they had sponsored Cameron Duckworth in 2020. Cameron was one of the legends in ATV racing but had a really bad season in 2020, failing to finish in the top five of any races. Most other racers though Cam's time had passed. I also heard that Cam had become addicted to cocaine, which is a real dumb thing to do if you are a professional racer. Whatever the reason, I guess ATVictory decided it was time to move on.

16. I didn't especially use ATVictory stuff and didn't think much of them. But, hey, I can recognize a potential sponsorship opportunity when I see it. Jesse said that the company was looking for young, talented, up-and-coming racers to sponsor, and I fit the bill. Jesse asked if I would let ATVictory become my sponsor. I was totally stoked! Having a sponsor meant that I could afford to quit my job at House Station and focus completely on racing. It also meant that I could afford to hire a mechanic on race days so I wouldn't have to crew my own races anymore.

17. When I asked about the details, Jesse told me that what s/he was offering was a conditional sponsorship. Specifically, s/he said that in order for ATVictory to sponsor me beyond the 2021 season I would have to either win the Bushrunner Off-Road Challenge or finish in the top five in the final NAORRA points standings at the end of the season. I would definitely have preferred a long-term contract up front, but at least this way I could race full-time for the 2021 season. Besides, I was sure that I could win the Bushrunner Challenge. After all, it was in Alaska in 2021 at Caribou Canyon – my home turf. I had raced there tons before and felt very comfortable with the course. The Bushrunner is sort of like the Super Bowl of competitive ATV racing – by far the biggest race of the year. I had never raced in the Bushrunner Challenge before because it is by invitation only, and being a newer racer without a sponsor, I hadn't really been on the radar of the big brass at NAORRA. The contract did allow me to have other sponsors, but limited those sponsorships to patches on my jumpsuit or stickers on my machine and said that I could not be sponsored by another parts supplier or manufacturer. Thanks to these restrictions, I only had two other minor sponsors – SuperBlast Energy Drinks and the Big Momma restaurant chain in Alaska. I certainly got most of my income from ATVictory. I still had to provide my own ATV for races. I wasn't required to use ATVictory parts on my machine, but I think it was kind of understood that I would. They would also pay for any parts of theirs I used.

18. After Jesse and I signed the sponsorship agreement, I started looking for a mechanic. Through the grapevine, I heard that Lynn Fernandez, the 2019 Bushrunner champion and 2020 NAORRA points champion, had recently parted ways with her/his mechanic, Chris Harris. I called Chris immediately and set up a time to meet with him/her down in Seattle in early January 2021. Chris worked at a garage and ATV repair shop down there but would travel on weekends to wherever the big race was. When s/he arrived for our meeting, I asked Chris why s/he wasn't working for Lynn anymore. Chris just said that s/he and Lynn had different personalities and that it wasn't possible for them to work together anymore. I was fine with that. All I needed to know was that Chris had helped Lynn get to the top of the NAORRA circuit, and that she/he could do the same for me.

19. Any doubts that I might have had about hiring Chris were quickly dispelled. S/He was an excellent mechanic and always seemed to know exactly what to do to make my ATV run better. Plus, it was nice having someone on the track to encourage me as I was racing. Chris could read my races really well, and always told me when s/he thought I needed to push harder to win. In fact, after hiring Chris, I started doing much better in my races. My ATV was faster and more responsive, and I found myself racing just a little bit harder due to Chris's encouragement. I thought we made a pretty good team.

20. In late June of 2021, during one of the off weeks we had between races, Chris called me and said that ATVictory wanted me to replace the front suspension on my ATV with one that had been manufactured for ATVictory. The new suspension was called the Ridgegrabber, and was designed to provide more stability in sharp turns. I was excited to try it out, but a little bit upset because it would have to be installed right before the Bushrunner Off-Road Challenge, which is the biggest race of the year. I wasn't sure that was the right time to be breaking in new parts. Still, I knew it was important to use ATVictory products – they *were* my sponsor after all – and I trusted Chris's judgment when it came to the mechanical side of things, so I told him/her to go ahead and install it. One thing I did insist on was that Chris use Suregrip brand bolts when installing the new suspension. Word around the racetrack was that ATVictory bolts can break without warning, and I sure didn't want that to happen during the Bushrunner Off-Road Challenge.

21. The suspension arrived in early July, and it had been shipped with ATVictory bolts, not Suregrip ones. I was pretty mad at first, especially since there was no time to get replacement bolts before the race. But, I figured that bolts were bolts and told Chris to go ahead and put the Ridgegrabber on my ATV. S/He installed it the morning of the race and I tested it out in the pit area. It worked ok then, but the pit area wasn't anything like race conditions.

22. I was of course really excited on the day of the Bushrunner Off-Road Challenge. This was going to be the most major race of my career. My parents even flew out to watch me race. Not only would winning it bring huge prestige, but the future of my contract with ATVictory depended on it. It didn't look like I would be able to finish in the top five of the final NAORRA standings; I had not done as well as I had hoped in earlier races, with my no victories though a few finishes in the top five. I mean it was not out of the question, as I was ninth in the standings, but it would have been a real challenge without some major victories. I knew that I was talented enough to win the Bushrunner, and that would mean I did not have to worry about the rest of the season. I was hoping that the Ridgegrabber would help me get a technical advantage over the rest of the field as well.

23. Before the race, we had a safety briefing. The track at Caribou Canyon is widely accepted as the hardest track in ATV racing. It has one particularly steep downhill called Widowmaker Hill which connects immediately to a really sharp turn called Widowmaker Bend. We were told to be going no faster than 45 mph at the top of Widowmaker Hill and that we would need to hit our brakes at the bottom of the hill so that we could slow down to 25 mph to make the turn. A lot of the other racers seemed pretty nervous, but I was confident that I could handle the track. I mean, we had steep hills and sharp turns in Norvaguk, and they never gave me any trouble.

24. The beginning of the race was great. I got off to a fast start and was handling the terrain like an expert. But about halfway through the race, I started noticing that my ATV seemed unstable. I mentioned this to Chris on my pit stop on lap 14, and Chris told me that maybe I just wasn't used to how the Ridgegrabber handled. That made sense to me, so I drove off. But the problems kept getting worse, and I really began to have trouble steering the ATV. I just didn't feel comfortable racing like this. I radioed to Chris on lap 16 about it, and s/he said I could come in for a third pit stop and s/he'd check it out. I had just taken my second pit stop on lap 14 and was in first place in the race, so I really didn't want to take the time for another pit stop. Usually racers only take two pit stops in a race the length of the Bushrunner to refuel, but I was very concerned about the wobbling I was experiencing with my front suspension and wheels. I had built up enough of a lead that I felt comfortable pulling in for a third time. At the pit stop, Chris took a quick look at the suspension assembly, tightened one of the bolts, and told me that s/he thought everything looked fine. In fact, s/he encouraged me to go even faster, saying that I had a chance to win and that I should "push it to the limit."

25. I went back out on the course and everything was more or less fine until lap 19. A few wobbles here and there, but nothing serious. I had worked my way back into second place and I was really stoked. I remember going over Widowmaker Hill and slamming on the brakes to make it around Widowmaker Bend. Even though I tried to slow down like they told us in the safety briefing, my ATV wasn't responding like it should. Usually there is a bit of resistance on the brake handles when you squeeze them, but this time nothing. Even worse, I felt like I couldn't steer my ATV at all. It was like the connection between the handlebar and the front wheels had been completely severed. The next thing I knew, I was out of control, flying over some concrete barriers and falling all the way down into a ravine.

26. I don't remember anything else until I woke up in the hospital the next day with 4 broken vertebrae, a broken arm, and, even though I'd been wearing a helmet with a face mask and goggles, a fractured skull and a broken nose. The broken vertebrae were putting pressure on my spinal column, making it impossible for me to walk. I had a series of spinal surgeries to correct the problem. They were painful and expensive. All told, I was in the hospital for 6 weeks and then I was discharged to a rehab facility, where I had to stay for three months. I had to relearn how to walk and do other activities. My motor skills are pretty much back to normal now, but I still have ongoing back pain and am very slow moving around. But the worst part is that when I fractured my skull, part of my optic nerve was permanently damaged so I now have no peripheral vision. Because of all of my injuries, I'll never be able to race ATVs again. Heck, I can't even qualify for a regular driver's license!

27. After the crash, I was told that there was a chance my crash was caused by the bolts on my front suspension malfunctioning. I'm sure that's what happened. I was having trouble with it

through the whole race, and it must have just snapped when I tried to round Widowmaker Bend on lap 19. I mean, I know it was nothing I did that caused the accident. I've been racing for years and never had anything like this happen before. No, it had to have been the bolts. Thanks to ATVictory and those bolts, I'll never race again.

28. I can't believe that I am now being accused of using drugs. Look, I admit that I had a problem my first year of college with cocaine. I had just come to the big city and was excited about the possibility of trying new things. I was pressured by my roommate Alyx Bloomfield to do cocaine. Alyx was even my dealer for a bit. Alyx got real messed up by cocaine, and I didn't want that to happen to me. And the stuff is not exactly cheap. More importantly, I knew that it was banned by NAORRA as an illegal substance. I found out from a fellow driver – C.J. Ziegler – that racing legend Cameron Duckworth had his/her career ruined by cocaine. Racing ATVs professionally was my lifelong dream, and I would never do anything to jeopardize that. I have not used cocaine since 2018. It was stupid to do it back then, but I attribute it to just being young. If anyone tells you I have used cocaine since then it is just a bald-faced lie by someone who is jealous of my success.

29. I know Alyx claims that I bought cocaine from her/him just before the 2021 Bushrunner Challenge. There is absolutely no truth to that. You don't think they would do a drug test on the winner of the Bushrunner? Why would I risk my career like that? I hadn't seen Alyx since I moved out in spring of 2019 to pursue racing full time. I did still consider Alyx somewhat of a friend, even though I now disapproved of his/her drug lifestyle. I went to see Alyx because I was curious to see how s/he was doing. Honestly, I was hoping s/he had cleaned up by now. When we got together, Alyx tried to sell me some cocaine. When I calmly told Alyx that I was clean now and didn't want any cocaine from him/her, Alyx got mad at me and said s/he hoped I lost that weekend. That kind of hurt, though I suppose it is what I should have expected from Alyx. Alyx is just accusing me of using cocaine now because she cannot accept that I no longer need her/him.

Affidavit of Chris Harris

1. My name is Chris Harris. I am 28 years old and I currently reside in Seattle, Washington. I grew up in a nearby suburb, where my dad owned a garage. I started helping him in the shop for pocket money when I was a little kid. At first I'd just sweep up, clean tools, that kind of thing, but when I got a little older, Dad and the other mechanics started showing me how to do repairs. I started with little stuff, like oil changes and tire alignments, but by the time I was a teenager I was doing pretty much the same things that all the other mechanics did.

2. When I was 17, Cameron Duckworth, one of my Dad's best friends, opened an ATV sales and rental shop down the street from Dad's garage. Since the ATV shop didn't have its own garage, Dad and Cameron worked out a system where Dad would do the repairs on Cameron's rental ATVs at a discounted rate. In return, Cameron started referring his/her customers to Dad whenever they had a problem or wanted something done to the ATVs that they'd bought from Cameron. Cameron was also one of the first professional ATV riders and helped establish the North American Off-Road Racing association, better known NAORRA. Corporate interests sort of took over the racing circuit, though, and pushed Cameron out. Cameron ended up getting sponsored by ATVictory when it was trying to expand out into the ATV racing business. Cameron is a real upstanding racer and a good person. I felt bad about the terrible season that Cameron had in 2020 and about being dropped by ATVictory, but that is business.

3. ATVs are different from cars, obviously. Some of the repairs that the ATVs needed were similar to repairs you'd do on a car, but some of them were completely different. Dad's mechanics were mostly old-timers, and most of them balked at learning how to do repairs on a whole new type of vehicle. I didn't mind, though. It was kind of nice to learn a whole new set of skills. It took some time, but eventually I became a pretty good ATV mechanic. In fact, I started getting clients who hadn't even been referred by Cameron; they came in because their friends had told them that I did good work. That was a nice feeling.

4. When I was 23, Dad died of a heart attack. My mother was dealing with breast cancer at the time, and we had to sell the shop in order to have the money to pay for her treatments. I was kind of disappointed, because I'd always imagined taking over the shop someday, but I knew that we had to do what was best for Mom. Luckily, I found a new job almost right away at a garage across town. We worked mostly on cars, but we also got the occasional ATV, and I was pretty much the only one in the shop that the owner trusted to work on it.

5. About a year after we sold the shop, I got a call from an old customer. He said that he'd started racing ATVs competitively on weekends, and that he needed a mechanic/pit crewperson. He couldn't afford to pay me a salary or anything, but he said I could have a percentage of any prize money he earned. Also, since he raced only on weekends, I could keep my job at the garage.

6. I wanted to learn more about the job before I committed myself, so I started asking around. What I learned is that basically, an ATV mechanic/pit crewperson does three things. First, he or she is in charge of making sure that the ATV is always in top racing condition. That means doing regular tune-ups as well as major repairs and upgrades, including installation of new components. Second, she or he is in charge of servicing the ATV during races. See, an ATV can only go about 40 miles on a tank of gas. In some shorter races that's fine, but in longer races an ATV driver

needs to make one or two pit stops for fill-ups. During the pit stops, the ATV mechanic/pit crewperson is also in charge of checking out any problems that the driver has noticed during the preceding laps. Third, depending on the racer, the ATV mechanic/pit crewperson can serve as kind of an informal coach or motivator, letting the driver know his or her position relative to the other racers and encouraging the racer to push harder, ease up, etc.

7. The job sounded like fun, so I started the week after the race. At first, I was just crewing for my ex-customer. Over time, though, he told his friends about me, and I started getting asked by other people if I would crew for them. With all these new clients, I started working evening races in addition to weekends. I still wasn't earning a salary, but when I added together all the prize money I was getting it worked out to a few hundred a week. Between that and the money I had saved from Dad's estate, I finally decided that I could afford to quit my job at the garage and give it a go doing this full-time.

8. For the next few years, I worked for a series of ATV racers. Since Mom was in remission, I could travel to races out of state, so I started going to most of the major races each year. Sometimes I was there working for a client, but even when I wasn't I would sometimes go anyway. I knew enough of the racers by then that I was usually allowed into the pit, and watching an ATV race from the pit is really exciting. The speed, the adrenaline, everything. Sometimes before the race I'd wander around asking the racers if they needed mechanical help. I usually found someone who would take me up on my offer. It was a lot of fun, and the extra income didn't hurt either.

9. I tried getting a job with Cameron Duckworth because of our family connections, but s/he already had a pretty dependable crew and did not need any more help. S/He let me work races here and there for her/him and paid me a small stipend, but it was never meant to be anything permanent. Cameron did, though, say that s/he would put in a good word for me if s/he heard of other drivers needing a mechanic. One day about two years after I started working on the competitive ATV racing circuit, I was approached by a racer named Lynn Fernandez. I had crewed for Lynn at a few previous races, and s/he had liked my work. After winning the 2018 Bushrunner Challenge, which is one of the biggest races on the competitive ATV racing circuit, Lynn had gotten a sponsorship contract from Suregrip Parts, a medium-sized manufacturer of ATV products, so s/he could afford to hire a full-time mechanic/pit crewperson. Lynn asked if I'd be interested in crewing for her/him full-time during the 2020 racing season. Of course I said yes. Having a full-time contract as a mechanic/pit crewperson on the competitive ATV racing circuit had been my dream for a long time. Plus, Lynn was well-known as one of the best racers on the circuit, and I was looking forward to the chance to work with her/him.

10. In addition to having all my travel expenses paid, Lynn offered me a salary for each weekend worked as well as a percentage of any prize money s/he took home during the season. This is a pretty common part of the agreements between ATV racers and their mechanics, for a couple of reasons. First, even with a sponsorship, the racer can only afford to pay a small salary, so the extra share of the prize money helps them get good-quality mechanics to sign on and stick around. Second, having a financial incentive makes the mechanics work harder to be sure that the ATVs are always in tip-top racing condition so that the racer can score high enough to get some of that prize money. I was always paid directly by the racer and never by any sponsors.

11. I started working for Lynn in April of 2020 at the beginning of the racing season. We'd

have races every couple of weekends. It went really well for a long time. Lynn was racing really well, and s/he was really happy with the job I was doing. But in early August, everything changed. Lynn was racing in the Boise Classic, a major race in Idaho. About halfway through the race, Lynn hit a corner too fast and almost crashed out of the course. I think s/he was spooked, because s/he slowed way down after that and ended up coming in eleventh – not a great finish for the reigning Bushrunner Challenge winner. It was extra embarrassing for Lynn because his/her sponsor was there and saw Lynn's poor performance. Plus, Lynn wasn't really popular on the circuit, and I think a lot of the other drivers had some fun at his/her expense after his/her poor performance. There's a lot of jealousy in ATV racing, and a lot of the lesser-known racers enjoyed seeing Lynn taken down a peg.

12. Lynn didn't say anything to me after the race; s/he just stomped back to his/her RV and disappeared for the rest of the day. The next day, though, when I was changing a tire on the ATV before loading it into the truck to be taken to the next race, Lynn came over looking really mad. S/He lit into me, claiming that the engine was sluggish and that was why s/he had to slow down during the race. I had checked that engine before the race and everything was fine. When I told that to Lynn, s/he called me incompetent and stomped away.

13. I was upset by Lynn's behavior, but I figured everything would blow over in time. Boy, was I wrong. From then on out I couldn't do anything right as far as Lynn was concerned. Every time anything went wrong, it was my fault. I wasn't pushing her/him hard enough, or maintaining the machinery well enough, or whatever else Lynn could come up with that week. But when Lynn won, s/he took total credit for it, claiming that she/he had won "in spite of" me. Fundamentally, I think Lynn had been pretty embarrassed by what had happened at the Sioux City classic. The scuttlebutt around the track was that Lynn had gotten some major flak from his/her sponsor after that debacle. I guess Lynn thought it was easier to blame me than to admit she/he had made some racing mistakes. In truth, I think I was doing a great job for Lynn! Lynn was still ahead in points in the NAORRA standings and ended up winning the season. How could s/he have done that if I wasn't maintaining her/his machine well enough?

14. By the end of 2020, I had had enough of Lynn's attitude. I couldn't handle the constant pressure and criticism, so I quit. I mean, I had helped Lynn get to the top of the competitive ATV racing circuit, and all I got for it was Lynn's bad attitude. I heard later that Lynn was telling people that s/he had fired me for incompetence, which wasn't true at all. The truth is that we just couldn't work together. His/Her personality was just too strong, and s/he could never take responsibility for any of his/her own mistakes.

15. A short time after leaving Lynn's crew, I was approached by Jordan Stanley. Jordan was an up-and-coming racer who had recently been signed to a sponsorship agreement by ATVictory, a big ATV manufacturing/sales company. Jordan asked if I was interested in joining his/her team as her/his mechanic and pit crewperson. Of course I said yes. When Jordan asked why I had left Lynn, I told him/her the truth – we had a major personality conflict that wouldn't allow us to work together anymore. I mean, I could have been way more specific, but I didn't want to trash Lynn. I'm just not that kind of person. Anyway, Jordan must have been satisfied with my answer, because s/he hired me without hesitation.

16. Working for Jordan was great. S/He was much easier to get along with than Lynn, and we

had a lot of fun together. Plus, Jordan gave me the space I needed to do my job. Lynn was a bit of a micromanager where it came to the maintenance work, always asking why I was using X tool instead of Y tool or installing a certain brand of parts. Jordan told me straight out that s/he was not a mechanic and would be leaving that side of things to me, which suited me perfectly.

17. I know Jordan has been accused of having a drug problem, but I have never seen anything to confirm this, and I spent a fair bit of time with Jordan during the 2021 NAORRA racing season. I mean, Jordan could be a bit hyperactive at times, but that is just Jordan. S/He was never paranoid or irritable or any of the other things commonly associated with cocaine use. My brother Pete had a cocaine problem for a while, so I've seen what people are like on cocaine, and Jordan was nothing like that. Jordan may be sort of a loose spirit, but was always very professional when it came to racing and took her/his job very seriously.

18. In June of 2021, ATVictory started marketing a new kind of front suspension system manufactured by Big West ATV. It was called the Ridgegrabber, and was designed to increase a machine's stability when a driver made sharp turns. You see, when you are going into sharp curves on an ATV, or really any other kind of vehicle I guess, you tend to slow down. This puts more stress on the front wheels of the ATV, and on the front suspension system in particular. Often times, the suspension will sort of freeze up while it is absorbing the stress before the rider is able to turn the wheels. I had read about the Ridgegrabber in an industry publication, and the design of the shock absorbers on the suspension was supposed to allow the driver to turn the wheels at the same time the suspension was absorbing the shock from the increased stress from slowing down. In short, it increased the driver's reaction time on turns. I was really looking forward to the Ridgegrabber coming out to see if these claims were true.

19. On June 24, Jesse Cain, the head of ATVictory, called me and asked me to install the Ridgegrabber on Jordan's ATV. I said I would have to check with Jordan first, but that I was all for installing a Ridgegrabber and was excited about the advantage it might give us. First, I thought it would give Jordan a big advantage in the upcoming Bushrunner Challenge, and second, I knew it was important for Jordan to keep ATVictory happy, and using their parts was one way to do that. If Jordan lost the ATVictory sponsorship, I would likely be out of a job. Jordan encouraged me to use ATVictory parts whenever I could but left it to my discretion to get the best parts that would give her/him the best chance of winning. Up to this point in the season we had exclusively used ATVictory parts to maintain and upgrade Jordan's ATV and never had any problems. I even asked Jesse if Jordan could be the only racer to get a Ridgegrabber before the Bushrunner. Jesse said s/he couldn't do this, but would consider giving us a bonus if Jordan promoted the the Ridgegrabber and ATVictory in some on-air spots after winning.

20. When I approached Jordan about using the Ridgegrabber, s/he was jazzed to try it out. S/He did complain that the timing was bad, since we would be installing it right before the 2021 Bushrunner Challenge, but s/he knew that s/he didn't have any other choice. The one thing s/he insisted on is that I use Suregrip bolts instead of ATVictory bolts when I was attaching the new suspension. Jordan had heard from other racers that ATVictory bolts tended to break, so he/she wanted to make sure that I used Suregrip bolts instead. Jordan understood it was important to keep the sponsor happy, but a big race like the Bushrunner was too prestigious to risk on potentially unsafe equipment. Plus, if a racer doesn't feel confident in his or her equipment, the racer might not race as hard or as fast as is necessary to win.

21. I called Jesse back on June 25 and told him/her that Jordan would love to try out the new suspension, but wanted it shipped with Suregrip bolts instead of ATVictory bolts. Just a few minutes before calling Jesse, I had faxed ATVictory a purchase order listing the Suregrip bolts. Even though ATVictory waived the costs when we used their parts, I was still supposed to send in a purchase order for their sales department to process. Jesse argued with me, saying that ATVictory bolts were better and more reliable. When I told her/him about the complaints I'd heard about ATVictory bolts, s/he claimed they were baseless. Still, I insisted s/he ship the Suregrip bolts. I told Jesse that I was just following orders from Jordan. I also told Jesse about how I had gone onto the Big West ATV website and how they recommended Suregrip bolts, not ATVictory bolts, for use with the Ridgegrabber. I then tried to get forceful with Jesse by telling her/him that ATVictory needs Jordan Stanley as much as Jordan Stanley needs ATVictory. I'm not sure I really believed that, but I did know that ATVictory was in financial trouble and thought this might work.

22. Well, of course, this just set Jesse off. Jesse kept arguing about all the advantages of the ATVictory bolts and about how they had been contacted by NASA and all that about the bolt design. Jesse also reminded me of the ATV sponsorship several times and offered to give me the number of Big West ATV so that I could call them if I had any concerns about the compatibility of the Ridgegrabber with ATVictory bolts. I told Jesse that I wouldn't need the number for Big West ATV because we were going to be getting the Suregrip bolts. Jesse assured me repeatedly that the ATVictory bolts would work just as well as or even better than the Suregrip bolts with the Ridgegrabber. But, I held firm and even threatened that if we didn't get Suregrip bolts, we wouldn't use the Ridgegrabber. This got Jesse's attention. Jesse finally said s/he would ship the Suregrip bolts. I could tell that s/he wasn't happy about it, though. Anything that Jesse says now about me agreeing to ship the ATVictory bolts instead is a pure lie.

23. We had the Ridgegrabber Front Suspension System shipped to Jordan's place in Alaskapolis, since the race would be nearby. I flew up on July 3 and had a nice barbecue with Jordan. S/He seemed a bit wired, but I figured s/he was just hyped about the race the next day. When I examined the Ridgegrabber Front Suspension System that evening, it had been shipped with ATVictory bolts instead of Suregrip ones. To be honest, I was shocked to see that the invoice had been changed to include ATVictory bolts instead of the Suregrip bolts listed on purchase order I had sent. Jordan was pretty mad when I told her/him about it, but s/he ultimately said to install the Ridgegrabber as it had been sent to us, since there wasn't any time to get new bolts. Jordan joked that "bolts are bolts" and that maybe s/he should have more confidence in her/his own sponsor. I could tell, though, that Jordan was quite displeased and just trying to put a good face on a bad situation. I put the Ridgegrabber on Jordan's ATV the next morning (July 4) at the race site and got it ready for her/him to ride in the Bushrunner Challenge.

24. I am very familiar with the peculiarities of ATVictory bolts and how to install them. The key difference between ATVictory bolts and Suregrip bolts is kind of complicated, but basically it boils down to the fact that ATVictory bolts require an extra washer on the underside of the bolt head. This washer has slightly raised teeth that are intended to provide extra grip to prevent the bolt from slipping. So, you just need to make sure that you put this washer on correctly. I had never used ATVictory brand bolts before, but it seemed pretty easy right out of the packaging. There were no instructions included with the bolts, but I didn't really care. I've dealt with bolt and washer combos all the time on other kinds of vehicles, so this wasn't that big a deal.

25. The Ridgegrabber also required me to drill two new holes in the body of the ATV to accommodate the trapezoidal design of the connection plate. The front two bolts fit the ATV in the normal places, but the rear two bolts were spread further apart than normal and hence needed new holes. I had never drilled holes into an ATV before, but it seemed pretty simple. I had the metal drill as part of my standard mechanic's tool kit. Big West ATV even provided a helpful paper overlay so you could tell exactly where to drill the holes by aligning it with the standard front two holes. I slipped a bit when drilling the right rear hole, but I don't think it made any difference. I had to slightly hollow out the circumference of the hole so that I could ram through the bolt. However, I made sure to tighten the nut extra hard, and everything seemed stable and secure once I got all four bolts on there. It took more effort than normal to install the Ridgegrabber onto Jordan's ATV, but I could tell the additional effort would be worth it – the Ridgegrabber was clearly a quality piece of equipment.

26. Things started out great at the Bushrunner Challenge at Caribou Canyon. Jordan was driving really well, and his/her ATV was in tiptop shape. But a ways into the course, Jordan started radioing in to me and saying that the steering on the ATV seemed unstable. When Jordan came in for her/his second pitstop, we talked about the steering issues while I was refueling. I thought maybe Jordan just wasn't used to how the Ridgegrabber handled. I took a quick look over the ATV and everything seemed fine. Jordan said I must be right and drove off.

27. Less than two laps later, Jordan radioed me again to say that the shaking on the front suspension had gotten much worse. Jordan said s/he felt like s/he had no choice but to come in for a third pit stop, even though racers on the Bushrunner typically only take two pit stops to refuel. Jordan was in the lead at the time by a bit, so I told Jordan that s/he could come in for a quick pit stop and probably still have enough race to go to get back into first place if s/he really pushed hard. When I looked at the Ridgegrabber assembly, I didn't see anything major wrong with it. The front left bolt looked a little loose, so I tightened it. But, it didn't seem like it was in any danger of coming off. I told Jordan that everything looked good to go, and encouraged him/her to keep pushing his/herself because s/he had a chance to win the race. Jordan said okay, and took off.

28. Shortly after Jordan left after the second pit stop, I radioed him/her and told her/him to keep going, that s/he was doing really well and was in second place. At first he was responsive, but after a while I couldn't raise her/him on the radio anymore. Sure, I was a little worried, but I figured s/he was just concentrating on driving and wasn't capable of radioing back right then. Eventually, though, Lynn came across the finish line and said that s/he had seen Jordan take a bad crash on Widowmaker Bend. Lynn had already radioed to race officials for help, and they soon located Jordan at the bottom of a ravine below Widowmaker Bend. Jordan was pretty badly injured. As we found out later, s/he had several broken vertebrae and a bad head injury. I guess the doctors have told him/her that s/he can expect to never be able to race again.

29. I sure feel bad about what happened to Jordan, but I know that there wasn't anything wrong with the way that I maintained that machine. Everything was working fine when I looked it over at the third pitstop. If those bolts broke and caused Jordan's crash, it was because they were faulty. That's the only explanation I can think of.

Affidavit of Terry Walters

1. My name is Terry Walters. I am forty-nine years old and am a trained mechanical engineer. I received my Masters degree in mechanical engineering from Stanford University, where I specialized in metalworking. I used to work for Garrison Manufacturing, Inc., located in Spokane, Washington, before Jesse Cain took it over and ruined the company. I put in twelve great years with Garrison Manufacturing and designed many of their better products. For my last six years with the company, I was the Chief Engineer.

2. For example, in late 2018 and early 2019, I developed this revolutionary new bolt technology involving a unique washer with slightly raised teeth that dramatically increased the friction or grip of the bolt. I also had to specially score and slightly recess the underside of the bolt to allow these teeth to dig into the bolt without decreasing its structural integrity. The increased grip of this washer and bolt design greatly reduces the danger that the bolt will slip or lose its hold on the metal parts that it is keeping together. All without damaging the underlying metal parts to which the bolts are affixed. Other kinds of bolts do not have this additional washer, and hence are inferior to the bolt design that I developed. But, do not just take my word for it – subcontractors for NASA contacted me to ask about licensing the design for manufacturing bolts used for rockets. That is how highly they thought of my innovation. Unfortunately, I left the company before this licensing could be finalized, and the patent on the bolt design resides with Jesse Cain.

3. My bolt design does carry a bit of a downside to it, though. The scoring and slight recessing of the underside of the bolt requires the presence of the washer to ensure a secure fit. If the washer is left off of the assembly, the bolt will be even more prone than normal bolts to slip, come loose, and maybe even fall off entirely. If a mechanic working on an ATV is not used to my bolt design, it could lead to disaster on the trail. That is why I insisted that each package of bolts shipped out contain detailed instructions on how to install the bolt, with big bold letters emphasizing the need to place the washer between the metal part and the underside of the bolt so that the bolt can function properly. I have talked to a few of our customers who have installed my bolts, and they have told me that after getting used to the new design and the additional washer, it is not difficult to install.

4. Of course, all of the mechanical know-how and design work is for nothing if a company does not have the proper machinery to create the final product. Products such as bolts need to be heat treated to properly temper them. This process of rapid heating and cooling strengthens the bolts to enables them to withstand the immense torque placed on them in the course of ATV racing. Bolts are rated according to the pounds of force that they can withstand before they are in danger of snapping. Properly heat treated bolts can withstand several thousand pounds of force. This is necessary due to the high speeds and quick turns found in ATV racing. I have no doubt that my bolt design would work properly and could withstand even the most extreme stress of racing if the bolts were correctly manufactured and heat treated.

5. From the time I started at Garrison Manufacturing, we used a HeatMax 4000 Heat Treatment Unit. It got its name because it was able to create bolts and other metal parts capable of withstanding 4000 pounds of force. However, it was also a rather slow heat treatment machine and could not handle high volumes of parts at the same time. Consequently, it could take a while for us to manufacture any parts that required heat treatment. This just would not do for Jesse and

her/his plan to dramatically increase production volumes. By 2018, Jesse had purchased quite a bit of new machinery for the factory, including a Kessel XB15 Heat Treatment Processing Machine. Much of the new machinery purchased by Jesse was high quality manufacturing equipment. But not the Kessel XB15. I had heard bad things about Kessel products from some of my other engineer friends. Plus, the Kessel XB15 could only heat treat metal products to 3500 pounds of force. I understand that about three years ago Suregrip Parts, one of ATVictory's main competitors in the ATV parts business, started using the new HeatMax 4500 Heat Treatment unit, which as its name suggests is able to heat treat metal to be able to withstand 4500 pounds of force. It is also notably faster than its predecessor, though also more expensive. So soon after buying the Kessel XB15, though, there was no way Jesse was going to upgrade again.

6. My concerns about the Kessel XB15 were borne out when, in February 2019 I received a recall notice for the equipment. The recall notice stated that Kessel had been receiving reports that some XB15 equipment was not properly completing the heat treatment process, leaving the treated products unable to withstand the 3500 pounds of force to which the machine was rated. As a result, some of the products treated by the XB15 would unexpectedly fail during use. Kessel had determined that some of the sensors used to detect internal temperature during the heating process were defective and needed to be replaced. These sensors, for reasons the manufacturer could not determine, sometimes overheated, causing the heating process to prematurely abort. Kessel stated that it did not believe that all sensors used in the manufacturing of the XB15 were defective and that the only way to tell if a particular machine had defective sensors was to send it back to the Kessel factory for repairs. Kessel offered to pay all shipping and repair costs associated with the recall.

7. When I received the recall notice in October 2019, I went to Jesse to show him/her the recall notice. I then stated, as if without question, that I would be shipping the XB15 back to Kessel and that we would be without the unit for about a month. To my dismay, Jesse ordered me not to ship the XB15 immediately but instead to conduct some tests on the unit to determine if our unit had these faulty sensors. Jesse said that ATVictory simply could not afford to be without its heat treatment machine for an entire month or longer. I tried to explain to Jesse that the sensors did not fail every time the XB15 was used and that it would therefore be impossible to determine definitively if our unit had faulty sensors without sending it back to Kessel for proper testing. Against my recommendation, though, Jesse insisted that I test the XB15 myself and suggested that I should have confidence in my own abilities to determine if the unit was defective. I don't see an engineering degree on Jesse's résumé! A good engineer knows that only with the proper equipment can proper testing be conducted.

8. Despite my reservations, I tested the XB15 as Jesse requested. I selected 25 ATVictory bolts at random from the last production run. A production run does not involve just one use of the XB15. Rather, a production run refers to the mass production of bolts or other products that is intended to create a supply of that product to last for several months. For example, with the M8 1.25 hex bolts, the type of bolt used with Big West ATV's Ridgegrabber, we produce 2500 bolts per production run. The XB15 can handle 250 of that type of bolt at a time, so a production run of M8 1.25 hex bolts would require 10 firings of the XB15. After the bolts are produced, they are all mixed together in a bin, so I cannot tell for sure from which firing of the XB15 each bolt was heat treated.

9. I tested the bolts using the Rockwell hardness test, which involves using a diamond-pointed indenter to make a small indentation in the threaded area of each bolt. The “hardness” of the metal is determined by how deep the indentation penetrates the object. The deeper the indentation, the softer the metal. So, when testing the bolts, you are hoping for a relatively shallow indentation, which would indicate a harder metal. Of course, since the bolts are pretty small to begin with, we are talking indentations that measure in the thousandths of millimeters. The depth of the indentation can be compared against a chart to determine the overall hardness rating of the object. Properly heat treated metal will have a certain hardness rating, whereas improperly heat treated metal will have a significantly lower rating.

10. We do not have a machine at the factory capable of conducting proper Rockwell hardness testing. We could get such a machine for about \$10,000, which would allow us to test each batch of bolts and other products after they have been heat treated, but Jesse has determined that this is not a good use of company money. Consequently, I had to go to the physics laboratory at Gonzaga University to do the testing. The Rockwell hardness testing I conducted determined that all 25 of the randomly chosen bolts had been properly heat tested. The Rockwell hardness test does not per se determine the amount of stress that a metal object can handle, though it is a good indicator of it. To test the strength of the bolts, I next took five of the bolts and subjected them to a tensile strength test in a different machine. This testing determined that all five of the bolts tested could withstand the 3500 pounds of force for which they had been rated.

11. When I informed Jesse of my test results, s/he seemed quite relieved. I think Jesse said something along the lines of “See, nothing to worry about. Let’s just forget this silly recall notice and go on with business as usual.” I tried to explain to Jesse that all that my tests proved was that these particular bolts were not flawed, but that we could not guarantee that other bolts and other heat treated products would be able to function as promised. I begged Jesse to let me purchase a Rockwell hardness testing machine so that we could test each batch of heat treated products to make sure the heat treatment process had been completed properly. If we were not going to send the Kessel XB15 back for its recall, I thought this was the least we could do to ensure that our company continued to sell quality products. But, Jesse responded that my fears were overblown and that we had neither the time nor the money to test each product we manufactured. I feared this would cost us eventually, and it looks like it has with Jordan Stanley. After the issue with the Kessel XB15, I figured that if Jesse was not going to listen to me there was no reason for me to be working at the company. So, I quit about a month later in April 2019.

12. The debacle with the XB15 was emblematic of the decline in attention to quality workmanship ever since Jesse bought Garrison Manufacturing and transformed it into ATVictory. I am not against Jesse trying to make money, but I believe s/he sacrificed too much to the almighty dollar. When purchasing new equipment, Jesse refused to buy top of the line equipment but instead bought the next level down. Jennifer Garrison always supplied the company with the best manufacturing equipment money could buy, and this was reflected in the products we created. Jesse also spread the workforce out too thin by having the same number of workers cover additional production lines. Jesse should have hired additional workers when the new machinery arrived, but s/he decided once again to cut corners. While the new manufacturing equipment did not require quite as much personal oversight and attention as the old equipment, the additional workers would have meant better quality control, as there would have been more eyes on each production line. When I was not in my office designing new products, I operated in a supervisory

capacity over many of the factory workers, and with the stretched out workforce, I was always afraid that a flawed product would make it to market before the defect could be detected. While I was at ATVictory – what a stupid name – I kept tabs on the complaints department. I have to admit that we never had any major complaints that would indicate a serious structural or design flaw in any of our products while I was there, but again, I feared it would be a matter of time.

13. Unfortunately, I was not surprised in the least when I heard that Jordan Stanley's accident was likely the result of an improperly heat treated bolt. I heard from friends still within the company that ATVictory was hemorrhaging money and that the workforce was being stretched even thinner in an attempt to get more product to the market. Jesse should have listened to my initial advice when s/he bought the company to concentrate on producing fewer high quality products. This may not have led to us taking over the market, but we could have continued our steady growth and continued to be profitable. Instead, Jesse ran the company into the ground. Cutting corners never pays in the end. I'm sure Jennifer Garrison would be ashamed of what has happened to the company she spent so much of her life building.

14. I have reviewed the affidavit of Jesse Cain and examined the purchase order Chris Harris sent to Jesse Cain along with the invoice Jesse sent back to Chris. If Jesse is telling the truth, then s/he committed a serious breach of company policy, even under the lax regime that s/he encouraged. It was certainly Garrison Manufacturing policy and continued to be ATVictory policy that we always ship to the customer exactly what is on the purchase order. This way, the customer knows exactly what he or she is getting and cannot complain later on. I was not a part of the conversation, so of course I cannot say for sure what happened, but if Jesse did convince Chris to accept the ATVictory bolts, then company policy required Jesse to have Chris send in a new invoice changing the order. Then again, Jesse did not work sales except on sponsorship deals, so who knows what Jesse really knows about company sales policies. But I think it is equally possible, and perhaps more likely, that Jesse knew company policy and ignored it by sending ATVictory bolts regardless of what Chris and Jordan actually wanted. I never worked in sales either, but I had friends at the company who did and was at a few meeting where sales policies were discussed. Jesse was almost never at those meetings and often took a very hands-off approach to the day-to-day operations of the company, looking only to the bottom line. As I said, ATVictory was in significant financial trouble, and I would not put anything past Jesse to try to revive the company through promoting ATVictory bolts in the Bushrunner, even if this meant defying a key customer's order.

Affidavit of Sam Rosen

1. My name is Sam Rosen. I am forty-seven years old. I studied mechanical engineering in undergrad at the University of Chicago and graduated in 1996. After graduation I began working for CyclePro, a motorcycle design firm in Chicago. I started out as a Stress and Dynamics Engineer for motorcycle components. As the firm expanded the vehicles it designed, I also began working on components for other small vehicles, such as all-terrain vehicles and snowmobiles (snow machines I think people in Alaska call them).

2. Starting in 2004, I pursued a PhD in mechanical engineering from Cornell University so that I could take on more responsibilities within my company. I completed that in 2010. In 2011, I became general manager of CyclePro's Safety Division. In that role, I oversaw the design and construction of components of all types of vehicles, including components for ATVs. I was responsible for ensuring that vehicles were manufactured safely, which required understanding the various stresses put on vehicles, as well as testing vehicles to ensure they met safety requirements.

3. In 2016, I also began working as an expert consultant, providing analysis and expert testimony, primarily for plaintiffs. I have worked on dozens of cases, acting as the lead investigator on many cases involving vehicle part failures with suspicious causes. When I investigate an accident, my role is to determine what, if any, part of the vehicle failed and to determine the cause of that failure. I receive \$350 per hour for my services, plus expenses. I receive \$500 per hour for in-court and deposition testimony. I am paid regardless of the trial's outcome.

4. Chris Harris contacted me soon after the 2021 Bushrunner Off-Road race and Jordan Stanley's accident. I knew Chris because I had met him/her while testifying in a different case in Alaska. S/He knew I had significant experience in vehicle design and safety and asked me to investigate the cause of Jordan's accident. I agreed. I flew to Alaskapolis shortly afterward to examine the ATV myself.

5. I believe that because of their own liability concerns the Bushrunner Off-Road organizers kept Jordan's ATV locked in a storage unit in Alaskapolis. On December 10, 2021, I was able to visit it with the approval of the race organizers, who had a race employee accompany me at all times. I was also able to use a nearby garage to perform tests on the ATV. Shay Marinelli examined the ATV at the same time that I did. Upon my initial observations, the ATV was quite damaged. The front suspension system was partially sheared off and folded back on itself. A disconnected front suspension system would render the front wheels on the ATV unusable. This in turn would render the ATV itself unsteerable. The power on an ATV comes from the rear wheels – rear-wheel drive – but the front wheels are used for steering. With propulsion continuing to come from the rear wheels, the loss of use of the front wheels would almost certainly result in a near immediate crash of the vehicle on anything other than a perfectly flat surface without any turns.

6. I then performed a detailed examination of the ATV. I took complete measurements of the vehicle, including measuring the Ridgegrabber Front Suspension System. I also examined the set-up used to attach the suspension to the ATV. An examination of the connection plate revealed that two of the four bolts attaching the Ridgegrabber to the chassis of the ATV had sheared off.

However, it is unclear whether this occurred before the crash or while the ATV was tumbling down the ravine, as the stresses on the ATV caused by rolling down a steep hill as happened with Jordan's ATV could quite easily exceed any tested tolerances for commercially available bolts. The rear right-hand-side bolt was broken and never found. The front-right-hand side bolt was still in the connection plate but was not holding it to the chassis of the ATV because the bolt was broken. In fact, the suspension was bent back from the chassis and almost cracked in half. Both left-hand-side bolts were intact.

7. The first thing I did was run a computer simulation of how the ATV would handle on Widowmaker Hill. I studied the Caribou Canyon track, Widowmaker Hill in particular, to determine the appropriate angles of the computer simulation. Racers typically fly off the top of Widowmaker Hill. The track drops precipitously for about 5 feet at a 50 degree angle before leveling out a bit. At the bottom of the 20 foot hill is a hairpin turn to the left. I simulated the ATV going over the top of the hill, down a 50 degree slope, then having to make the sharp left hand turn at the bottom of the hill. Unfortunately, I did not know the speed of Jordan's ATV at the time of the accident, so I ran tests of ATVs cresting Widowmaker Hill at various speeds. According to race officials, they instruct drivers not to crest the hill at more than 35 mph. It appears that some racers crest the hill at faster speeds, up to at least 45 mph. I ran simulations based on an ATV traveling at 35, 45, and 55 mph.

8. It is important to note that drivers have to slow down immediately after landing at the bottom of Widowmaker Hill. The turn at the bottom, Widowmaker Bend, is very sharp and anyone driving too fast would have trouble controlling their ATV through it. From talking to other drivers, you would need to slow down to about 15-20 mph to be able to make the turn safely. Of course, if an ATV's suspension broke, the driver would not be able to use her or his brakes. This would almost assuredly make the driver enter Widowmaker Bend way too fast, likely skidding into the concrete barrier and possibly flipping over the barrier.

9. Based on my simulations, I determined that a properly running ATV with the Ridgegrabber suspension would not become unstable. Unless something went wrong, Jordan would have been able to control the ATV coming over Widowmaker Hill at all of the tested speeds. I did note that the Ridgerunner suspension did not provide the increased stability that Big West ATV claimed it would. It is possible that a racer relying on the assertions of Big West ATV might push the ATV more than he or she would otherwise feel comfortable doing. However, although the claims of increased stability were not borne out in my testing, the Ridgegrabber was no less stable than other ATV suspension systems. And, my tests did show that up to 30 miles per hour, Jordan's ATV should have been stable coming through Widowmaker Bend, assuming the Ridgegrabber suspension was properly attached and all the bolts were still in place.

10. I next tested a comparable ATV with a Ridgegrabber suspension in a controlled environment. I hired an ATV racer to operate the ATV with the suspension correctly installed, as well as with one bolt missing, then two bolts missing. With one bolt missing, the ATV became noticeably unstable. With two bolts missing, it would be impossible for a driver to control the ATV. I do not think a driver could control the ATV coming over Widowmaker Hill, or make the left-hand turn, with two bolts missing.

11. I also examined the bolts themselves and how they were used to attach the Ridgegrabber suspension to the ATV. The bolts were attached in a trapezoid arrangement. Although this was different from the commonly used square pattern of bolt attachment, I do not think this affected how well the bolts held the Ridgegrabber suspension in place. The theory behind the trapezoid shape of the plate holding the suspension to the ATV is that this will increase the stability of the suspension. On the downside, the trapezoidal arrangement of the bolts does place greater stress on the rear bolts, though ultimately I am not sure this mattered much. I experimented with different bolt arrangements in a computer simulation, and while the trapezoid arrangement did result in greater exertion of force on the rear bolts, it was only about 25% more force than the front bolts and still within the 4000 pounds of force tolerance that the Ridgegrabber claimed to be able to handle. And the trapezoid arrangement did in fact increase the stability of the suspension. Only a weakness in one of the bolts, not their arrangement on the plate connecting the suspension to the chassis, would have caused the first bolt to break.

12. Based on my analysis, I believe that the Ridgegrabber suspension became unstable because the rear right-hand-side bolt broke, leading eventually to a complete failure of the whole suspension system. The rear right-hand-side bolt likely broke sometime during the race, which would have made the ATV's steering unstable but still usable. However, because of the extra strain of only having three bolts put on the connection plate on the Ridgegrabber suspension, the second bolt likely broke after Jordan came over Widowmaker Hill on lap 19. The force of the ATV landing on the steep incline was too much for the second bolt to take. After the rear right-hand-side bolt broke, it was only a matter of time before the front right-hand-side bolt broke.

13. From my earlier computer modeling, only having three bolts on the connection plate would increase the force on the other bolts to over 5000 pounds, well beyond the 4000 pounds that the Ridgegrabber is expected to handle. The front right-hand-side bolt would experience more of this force than the left-hand-side bolts because of how the suspension reacts to a turn. When the ATV turns, this shifts the pressure on the suspension primarily to the opposite side of the suspension. With only one bolt on the right-hand-side, this would mean the front right-hand-side bolt experienced disproportionate pressure. The pressure would be well beyond what the bolt is ever expected to withstand, especially with the rear right-hand-side bolt missing. This increased force does not necessarily mean that the bolt would fail immediately, but it does make it very likely that sustained excessive pressure would lead to a rapid failure of the bolt.

14. Having determined that the Ridgegrabber suspension became unstable because of a failure in two bolts, I set out to determine why the bolts failed. I had already determined that the arrangements of the bolts on the suspension did not affect their stability, so I had to determine what could have weakened the rear right-hand-side bolt.

15. I first examined the bolts to determine if they had been properly heat treated. Heat treating is important because it can dramatically increase the fatigue life of a bolt. Heat treatment can increase the fatigue life of a bolt by more than 1000% over a bolt that is not heat treated. It is not difficult to test a piece of metal following an accident to determine if it has been properly heat-treated. Two methods are available to do so – the Rockwell Hardness Test and micro-structural examination.

16. I started by performing the Rockwell Hardness Test on all three remaining bolts. The test is named for its inventor, Stanley P. Rockwell, a metallurgist who wanted a fast, non-destructive way to determine if the heat treatment applied to various metals was successful. I performed this test using a Tru-Blue Rockwell hardness tester from United Calibration Corporation. It is the standard equipment used to perform a Rockwell Hardness Test. The hardness tester has a diamond-point indenter that makes an indent in the threaded area of each bolt. By measuring how deeply the indenter penetrates the metal, a user can determine if the metal has been adequately heat treated. There will be less penetration of adequately heat-treated metal than of softer, non-heat treated metal. It is this additional hardness and strength that makes a bolt safe enough to use on an ATV. Given the stresses involved in ATV racing, it is particularly important that bolts be properly heat treated.

17. Two of the remaining three bolts, the front left-hand-side bolt and the front right-hand-side bolt, had been properly heat treated. Indeed, the two bolts were sufficiently hardened to withstand the 3500 pounds of force for which they were rated. Such high tolerances are necessary for the stresses involved in ATV racing. The fact that the front right-hand-side bolt nonetheless broke indicates the strain put on the remaining bolts by the failure of the rear right-hand-side bolt. If there is only one bolt remaining, it has to handle all of the force that would otherwise be distributed among two bolts. No suspension system is designed to withstand this.

18. The rear left-hand-side bolt was a different story. The depth to which the diamond-point indenter penetrated indicated that this bolt had not been heat treated to the correct temperature. Indeed, the testing revealed that this bolt could only withstand 2000 pounds of force. It is surprising that an improperly heat-treated bolt survived the race. However, even an improperly heat-treated bolt might survive the stresses of racing for some time. It is just simply more unpredictable and more prone to breaking. Moreover, Widowmaker Bend was a left-hand turn and given the speed and forward momentum racers had coming off of Widowmaker Hill, by far the greatest stress in the Caribou Canyon track on the suspension was on the right-hand side of the suspension at the bottom of Widowmaker Bend. This also likely contributed to why the left rear bolt did not fail but the right rear bolt did.

19. The rear right-hand-side bolt, of course, was missing, so I couldn't test it to determine if it was properly heat treated. If it had been improperly heat treated, it would have been more likely to break, especially given the increased strain hard left turns would have put on it.

20. I also used the second test, the micro structural examination, to verify my Rockwell Hardness Test results. Micro structural examination involves grinding and polishing a bolt to a mirror finish then etching it with an appropriate acid. Acid etching reveals the microstructure, which more clearly indicates if a bolt was properly heat treated or not. This test damages the bolt being examined, but it is considered more reliable than the Rockwell Hardness Test. After grinding and polishing the three remaining bolts, I did the acid etching. The micro structural examination confirmed my earlier results. The front left-hand-side bolt was properly treated, as was the front right-hand-side bolt. However, the rear left-hand-side bolt was not properly heat treated.

21. Based on my analysis of the data, the first bolt on Jordan's ATV broke because it was not properly heat treated. This put additional strain on the remaining bolts, eventually causing the rear right-hand-side bolt to break when Jordan came over Widowmaker Hill on lap 19. Once this bolt broke, the steering on Jordan's ATV became impossible to control. S/He would have lost control of the ATV, skidding into the concrete barrier and being thrown over the barrier. If the missing bolt had been properly heat treated, the steering on Jordan's ATV would not have become unstable and the crash would not have occurred.

22. I also want to speak briefly to the trapezoidal design for the connection plate that Big West ATV put on the Ridgegrabber. Most front suspension system connection plates are square. This does nothing to distribute the stress being experienced by the front suspension system and concentrates all the vibrations from shaking of the axle onto that connection plate. A trapezoidal design for the connection plate avoids this problem that is common to a square connection plate. If the stress is spread out over a larger area at the connection plate, it is not concentrated and returned to the front axle. That results in a far more stable handling of the ATV because again, more stress is absorbed by the front suspension system and less is transferred to the front axle or, worse, to the rider. This trapezoidal arrangement of the bolts on the connection plate does increase the stress on the two rear bolts.

23. Through computer modelling and rigorous testing, I determined that the trapezoidal design of the connection plate allowed the Ridgegrabber to sustain speeds of 35 mph on a 90 degree turn on flat land without any loss of stability or control over the ATV. Most front suspension systems can only sustain speeds in the 25-30 mph range under similar conditions. An extra 5 mph of speed around a turn may not sound like much, but to a professional ATV racer it is everything. It means that the rider does not have to slow down as much or spend the additional time speeding up out of the turn. This can create a big advantage, especially when handling multiple sharp turns in a race course and doing them repeatedly over several laps. The only slight downside to the trapezoidal design of the connection plate – which really was no big deal as long as you use the correct bolts – was that it usually required drilling two holes into the ATV to accommodate the increased space between the rear bolts. Almost all ATVs have more than enough space on the chassis to do this, and any competent mechanic should know how to drill a couple of holes into an ATV frame. But some ATV owners get kind of nervous about doing something like that to their ATV.

Affidavit of Jesse Cain

1. I am Jesse Cain. I am thirty-two years old and the President and CEO of ATVictory, Inc., the premier manufacturer of customized parts for all-terrain vehicles. The company headquarters and factory are located in Spokane, Washington. I received a Master of Business Administration degree in 2014 from the University of Oregon's Lundquist College of Business. My focus in business school was on sports marketing. My father is the famous sports agent Abel Cain, so I have been surrounded by the sports world most of my life. I knew upon graduating that I wanted to run my own sports-products company. My father told me that once I spent a few years learning the ropes in an established business, he would help me purchase my own company.

2. My father set me up with a job in the international marketing division of a major sports apparel company upon graduating. Many of his clients endorsed this company, so my father had sort of an in. It was fun and all, but I soon grew tired of all the travel. The thing I enjoy most is spending my weekends out on the trails on my ATV, and I can't do that if I am always on airplanes. I was looking for a more sedentary job. When I heard from a business school friend in 2017 that Garrison Manufacturing might be up for sale, it was almost too good to be true. I knew from my enthusiasm for ATVs that Garrison produced the highest quality ATV parts to be found anywhere on the market. Garrison operated behind the scenes, so to speak, manufacturing parts for other companies that took the Garrison components, assembled them with their own components, and then sold the finished product under their own name. Really, only the most hardcore ATV enthusiasts or those in the business world knew about Garrison Manufacturing. I had studied Garrison in business school as a model of a profitable niche manufacturing plant in the Pacific Northwest. At the time, though, I never dreamed I would one day own the company.

3. In April 2017, I finally convinced my father that Garrison Manufacturing had real growth potential as a business and would be a good investment. Garrison Manufacturing had good engineers working for it and a great reputation among other ATV parts manufacturers and resellers. With the right strategic plan, it could break out of the shadows and become a real force in the ATV world. My father agreed to invest \$5 million toward a purchase of Garrison, but that I would have to finance the rest. In early May, I drove up to Spokane, Washington to talk to Jennifer Garrison, the owner of Garrison Manufacturing. She was looking to retire and move on to other things. We agreed upon a purchase price of \$27.6 million, including assuming all outstanding debt for the company. Fortunately, I was soon able to obtain financing for the full purchase price. On June 1, 2016, the company was mine!

4. Not only did I love riding ATVs, but I knew the popularity of ATV riding was increasing dramatically. I had done a research paper on ATV ridership in my last year of business school showing that sales of ATVs increased 37% over the previous five years, compared to only an 18% growth for similar types of recreational equipment over the same time period. Garrison Manufacturing's sales had grown an average of 12% each year for 2011 to 2016. That is healthy growth by any measure, but I knew I could do better. In order to go from being a third party supplier to a national ATV brand, Garrison Manufacturing needed two things – increased production volume and widespread recognition.

5. The equipment Garrison had in its factory was high quality, but it required a lot of attention by individual employees. There was no way to increase production volume when individual

workers had to spend so much time hand-crafting each item. It was just too slow. So, I invested in new equipment that could mass produce vehicle components and that was less dependent on individual craftsmanship of workers in the shop. My goal was to produce so many different types of ATV component parts that one could almost build an entirely new ATV out of parts the company sold. Our products ranged from basic items such as sprockets, chains, and bolts to higher visibility items such as handlebars, helmets, seats, winches, and trunks. Garrison Manufacturing had produced some of these parts before, but I saw the opportunity to increase dramatically the company's product line as a means to capture a larger portion of the market share. And the new manufacturing equipment I bought not only enabled production of a wider range of product, it also did so at a much higher rate of production.

6. Unfortunately, my efforts to diversify our product lines and increase production met with some resistance among existing Garrison employees. I learned in business school that changing worker habits is one of the hardest things about transforming a small niche company into a thriving larger business. The biggest problem I had was with Terry Walters, the chief engineer for Garrison Manufacturing. I think Terry saw me as infringing upon her/his territory by trying to change practices on the shop floor and installing new equipment. I may have been asking old dogs to learn new tricks, but look, I didn't fire anyone with the changes I brought about. Yes, the new equipment meant that there could now be fewer employees per manufacturing machine, but by bringing in more machinery and expanding production, this allowed me to spread the workforce around. Everyone kept their job and the factory as a whole became more productive. A win-win. I think Terry was just sore because this meant workers were more isolated from each other, focusing on different product lines. There was not as much of an opportunity to stand around and socialize. Fine with me. I'm not paying workers to socialize; they can do that on their own time.

7. I know Terry thinks that expanding our product lines and increasing production led to a decrease in product quality. But, that is patently false. Producing high quality products is how Garrison Manufacturing built its great reputation, and maintaining those standards was essential to our marketing plan. We were not a well-known brand, and no one would buy our products if they thought we were a low quality brand. ATV products are still somewhat of a niche market, and you can't make a profit just by flooding the market with more products. While it is true that I knew we would have to lower our prices to be competitive in the larger marketplace, the new manufacturing equipment I invested in would allow us to maintain high standards for quality products while at the same time increasing production.

8. I was aware of the recall notice from Kessel Manufacturing Supply Company in 2019 for the XB15 Heat Treatment Processing Machine I purchased from them the previous year. The recall notice stated only that heat treatment errors may exist, not that they definitely did. Kessel offered to pay for shipping the Heat Treatment Processing Machine to their plant in North Carolina for testing and repair, but that would mean the machine would be offline for over a month. I had invested \$125,000 in this machine, and I needed the sales of bolts and other ATV parts so that I could recoup my investment. I couldn't afford to have it offline for a month for something that may or may not be a problem.

9. Instead of sending the Kessel machine back for the recall, I had Terry do a random sample of 25 bolts from the last production run to see if any of them had been improperly heat processed. None of them had been. Terry still insisted that the machine be sent back to the manufacturer, but

I reminded Terry that I made the decisions and that s/he should feel confident enough from her/his own testing that the machine we had purchased did not have the defect mentioned in the recall notice. It was not long after this disagreement that Terry Walters quit the company. I remain confident that the products we produce are safe and reliable.

10. I do not know if we have had any complaints about bolts breaking or other equipment failures for the ATV parts we sell. I am too busy keeping the business afloat to respond to customer complaints. I have my salespeople – well, all three of them – respond to any customer complaints the company receives. I trust that if there were any serious problems with our products, it would have been brought to my attention. Like I said, we are in the business of producing high quality ATV parts. So there shouldn't be too many complaints.

11. As to the second step in brand development, I believed that the best way to gain the kind of national recognition I needed among ATV enthusiasts was to become a player in the emerging sport of competitive ATV racing. The first thing I did was to change the name to something catchier – ATVictory. Now that sounds like a brand I'd want to buy! I also sought to sponsor racers on the North American Off-Road Racing Association (NAORRA) circuit. I knew the importance that ATV enthusiasts place on both speed and performance. I also knew that individual ATV owners upgrade their vehicles one part at a time, and if a racer said that a new ATVictory seat or gearshift gave him or her an edge, an ATV enthusiast might buy it to seek the same edge.

12. Jordan Stanley fit this bill perfectly. Jordan had won one race during the 2019 NAORRA season and finished in the top 5 in four others. Then in the 2020 NAORRA season Jordan won three races and finished eighth in points for the season. I believed in my bones that Jordan was on the cusp of something great. Unfortunately, by the fall of 2020, profits were down due to increased competition and ATVictory was at risk of facing financial difficulties. I knew that we had to have a successful racer under our sponsorship if we were going to have a chance at gaining the market share we needed to survive. But, we can't just take anyone. I could envision Jordan Stanley developing into one of the top performers in our sport. I had personally scouted Jordan Stanley for the last few races of the 2020 season and felt that s/he could provide just the spark the company needed.

13. In early December 2020, I contacted Jordan and offered to sponsor her/him for the 2021 season. I had already spent too much money on failed multi-year sponsorships, so made Jordan's sponsorship beyond the 2021 season conditional upon her/him either winning the Bushrunner Off-Road Challenge or finishing in the top five in the final NAORRA points standings at the end of the season. Not only did this provide financial protection for ATVictory if Jordan Stanley didn't pan out as a racer, I figured it would also provide Jordan with additional incentive to do well. Not that Jordan needed any additional motivation. I admired how Jordan was an aggressive rider who would do anything to win. Jordan was eager to have a sponsor, and though we were not able to offer as much money as the bigger ATV parts suppliers, it was enough for Jordan to make a living racing and take a full-time mechanic with her/him to all the races on the circuit.

14. I personally handled Jordan Stanley's racing schedule. This allowed me to monitor Jordan's race performance and make sure that s/he had all of the newest products from ATVictory and our partners. Not only was it important to me and the company that Jordan use ATVictory parts – after all, Jordan is sponsored by ATVictory – but also that Jordan take advantage of our

exclusive partnerships. One partnership I was especially excited about for 2020 was with Big West ATV Corporation. Like ATVictory, Big West ATV was a small player in the growing ATV market. But also like us, they had great engineers and produced high quality products. Even better, our product lines barely overlapped. ATVictory produces mostly smaller parts like bolts and gears and handlebars and the like. Big West ATV produces larger assemblies such as engines and axles. ATVictory paid Big West ATV a substantial fee to be their exclusive reseller and also agreed to give Big West ATV 25% of any profits from sales of its products. Normally, vendors do not get a cut when we resell their products, so this was a real incentive for Big West ATV. I hated to cut into our profits that much, but I felt it was necessary garner an exclusive agreement with them.

15. In June 2021, Big West ATV came out with its Ridgegrabber Front Suspension System. This suspension system used a specially-designed spring suspension system that was supposed to provide increased stability when making sharp turns. Being able to make sharper turns would allow racers to turn more quickly after jumps rather than slamming the breaks and waiting for the ATV to stabilize before going forward after landing. Even outside the racing world, though, I knew the Ridgegrabber would be a popular product even among casual ATV riders who wanted a more stable ride across rough terrain. It was therefore important to raise public awareness of the Ridgegrabber by getting it out on the racing circuit as quickly as possible. On June 24, 2021 I called Chris Harris, the mechanic for Jordan Stanley, to let her/him know about this exciting new product and that I thought it would be great if Jordan could use it in the Bushrunner up in Alaska. I told Chris that it would be cutting it close, but that we could do get one shipped up in time if Chris let me know within the next day that Jordan wanted to use it.

16. I was really excited when, on June 25, 2021, faxed me a purchase order for a Ridgegrabber and called me to talk about the order. Chris and I had a little bit of a ... let's call it a disagreement about what bolts to ship with the Ridgegrabber. But you see, ATVictory manufactures its own brand of bolts. Indeed, our bolts are one of our main product lines and were one of the products we were known for even back when we were Garrison Manufacturing. However, the purchase order that Chris faxed me with an invoice for the Ridgegrabber requested Suregrip bolts. Suregrip Parts is one of our main competitors in the bolt market. We carry Suregrip brand bolts because as an ATV parts supplier we need to have them available if the customer requests them. But, as a racer sponsored by ATVictory, I definitely wanted Jordan Stanley to be using ATVictory bolts. I knew that if Jordan won the Bushrunner, real ATV enthusiasts would want to know everything about the equipment Jordan used, down to what type of bolts. This information would probably appear on the web or in a magazine article a couple months later, and I couldn't have the Ridgegrabber, which we were promoting heavily, associated with a competitor's bolts.

17. Chris reiterated on the phone that s/he and Jordan wanted Suregrip bolts. Chris said that s/he had gone on the Big West ATV website to look at the Ridgegrabber and that Big West ATV recommended using Suregrip bolts with the Ridgegrabber. I was aware that Suregrip bolts were recommended for the Ridgegrabber, but I never knew why and kept forgetting to ask Big West ATV about it. I told Chris that it was my understanding that this was due to a prior promotional arrangement and assured Chris that ATVictory bolts were just as good as Suregrip bolts. In fact, ATVictory bolts are better. And marginally cheaper when sold directly from ATVictory.

18. Just as I was purchasing the company, Terry Walters was developing this revolutionary new bolt. The primary difference between ATVictory bolts and other more traditional ATV bolts,

such as Suregrip bolts, is that ATVictory bolts require an extra washer on the underside of the bolt head. This washer has slightly raised teeth that are intended to provide extra grip to prevent the bolt from slipping. As long as this special washer is installed correctly, ATVictory bolts provide a tighter, more secure grip than traditional bolts. Our superior bolt design has been a huge success and, before Jordan's accident, one of our best sellers. We have even been asked by manufacturers for NASA about licensing our bolt design for use on rockets.

19. Still, I told Chris that if s/he wanted to use the manufacturer's recommended bolts with the Ridgegripper, I would understand and would ship the Suregrip bolts. I assumed that Big West ATV had tested the Ridgegripper using Suregrip bolts and knew they would work before recommending them. I told Chris that while I could not see any reason why ATVictory bolts would not work with the Ridgegripper, I was not aware of ATVictory bolts being tested on the Ridgegripper and could not guarantee that they would work with the Ridgegrabber. I even gave Chris the phone number of my contact at Big West ATV and encouraged her/him to call the manufacturer to inquire specifically about ATVictory bolts if s/he had any concerns about the compatibility of the two products. That said, I reiterated the advantages of ATVictory bolts from testing on other products. Plus, Chris and Jordan had been using ATVictory parts throughout the season so far and never had any problems, so I did not see what the big deal was.

20. It wasn't easy to convince Chris to use the ATVictory bolts. I did remind Chris of the sponsorship, but did not make a big deal of it, though I did say that per the terms of the sponsorship the ATVictory bolts would be free but that we would charge for the Suregrip bolts. But, even mentioning the sponsorship for some reason angered Chris, and s/he went off about how ATVictory needed Jordan Stanley as much as Jordan needed us. I definitely did not agree with this, and calmly informed Chris of my disagreement. I told Chris successful sponsorship would certainly help ATVictory gain recognition, but it would not make or break the company. I mostly believe this, but there was a shade of truth to what Chris was saying. There were more competitors in the ATV parts market, and we needed to do whatever we could to keep the ATVictory brand on everyone's mind. However, bluffing a little is a part of any good business negotiation. I'm really not sure why Chris got so worked up. After calmly explaining the benefits of ATVictory bolts again to Chris and reassuring him/her that the Ridgegrabber would work with ATVictory bolts, Chris agreed to use them. I filled out an invoice pursuant to Chris's request. There is a common understanding in our company that when no brand is specified for a product that we produce, ATVictory products are to be supplied. Thus, ATVictory bolts were shipped with Jordan Stanley's Ridgegrabber. But, again, this is what Chris agreed to. By the time Chris called me on June 25, it was too late in the day to ship the Ridgegrabber and bolts. And with the weekend, we were not able to ship them until the following Monday – hence the day reflected on the invoice.

21. The bottom line is that if Chris had insisted on Suregrip bolts, we would have supplied Chris and Jordan with Suregrip bolts, despite the sponsorship. I don't think it was wrong of me to try to convince Chris to use ATVictory bolts, but I in no way forced Chris to agree to use them. Regardless, I don't think ATVictory bolts are to blame for Jordan's crash. Jordan is a reckless driver – that is one of the reasons why I took a chance on signing her/him. And, ATV racing is an inherently dangerous sport. Unfortunately, accidents happen. I feel bad about Jordan's injuries and the fact that s/he will never race again. This is just another in a long line of failed sponsorships for ATVictory. But, I do not feel that ATVictory is in any way to blame for what happened to Jordan.

Affidavit of Lynn Fernandez

1. My name is Lynn Fernandez; I began ATV racing as a kid in North Dakota. My family was a bit of an ATV dynasty back home, and I've established myself as a force to be reckoned with in ATV circles on the North American Off-Road Racing Association (NAORRA) circuit. I have earned several sponsorships, which allows me to race full time. I won the 2019 Bushrunner Off-Road Challenge, and was the 2020 NAORRA points champion. I would have won points champion in 2019 had it not been for ATVictory's subpar bolts.

2. It was the last race of the season, and I stood in first place in the points standing going into NAORRA's biggest stadium track race, the Polar-X 5000 in Winnipeg. All I needed to do was finish in the top ten – something I had done in all but two races that season – to finish first in the points standings. I was in second place, rounding the final corner of the eighth lap out of twenty, and had gotten out to a great start, leading the rest of the pack by at least 100 yards. Indoor tracks are fast, obviously, due to the lack of rough terrain ATV's are built to handle. The inside game requires a lot more strategy and a lot more finesse; you can really put yourself in a bad position if you come off one of those banked corners too fast or too high.

3. I knew that, and so I came around the corner low and tight. I was racing hard, but wasn't in a situation where I was riding all out, as it was still so early in the race. My ATV should have been able to easily handle the turn at the speed I was riding. As I came out of the turn though, the machine suddenly over-corrected, it was like the handlebars were useless. Luckily, I recognized there was a serious issue immediately and coasted to a stop off the track, in the middle of the arena. I would soon learn that one of the ATVictory bolts I had used for some basic suspension maintenance had broken from "overuse." I had only been riding on the bolts for less than a week, and not in race conditions.

4. When the bolt broke, the integrity of the whole machine was jeopardized, causing damage to the suspension, the chassis, and the drivetrain. There was no way I could fix my machine and get back on the track to finish the race. I was very frustrated with ATVictory and the next day dashed off an angry letter to them. I had trusted ATVictory products and used them almost exclusively back when they were Garrison Manufacturing, but the company and their quality has really gone downhill since Jesse Cain purchased and remade it. I learned my lesson after the Polar-X and have only used Suregrip parts since. Suregrip Parts is also one of my sponsors now.

5. It's amazing how dependent this sport is on good gear and good maintenance. Whenever you rely on a machine the way we do, everything can change in a second if the gear fails or your mechanic has made a mistake. In 2019 I dealt with gear failure, and I faced more challenges in 2020 because of a sloppy mechanic. I hired Chris Harris as my mechanic at the close of the 2019 season. I had finally reached the point in my career where I could hire my own mechanic, a rare achievement in ATV racing. Chris has been hanging around the NAORRA circuit for as long as I've been around, but has never raced him/herself. Chris worked odd jobs here and there hoping to catch on as a full-time mechanic for a racer. I was told s/he knew the machines well and would make a great pit crew. Cameron Duckworth, a trusted racer and friend, described Chris as part mechanic, part cheering section, part coach. I figured I had nothing to lose since I've been working

on ATV's since I was a kid, if s/he turned out to be incompetent, I would catch it before s/he could do any real harm.

8. It turns out I couldn't both supervise Chris and focus on my racing. S/He was sloppy and lazy and it seemed s/he had only come to work for me to gain exposure in ATV circles. Working for me, s/he figured, would give her/him the legitimacy s/he lacked. In the same way that ATV racers work hard to get the wins necessary to nail down a sponsorship, I think Chris wanted to work for high profile ATV racers for his/her own career ambitions. S/He had some pretty sad stories about how his/her dad had been a mechanic with his own shop before he passed away. Chris had always wanted to run the shop, but then his/her mom got cancer, and the shop was sold. I think Chris saw working for me as the beginning of a new career that would maybe lead to his/her own shop. This was probably why I remained sympathetic to Chris for so long; I really wanted to see him/her succeed.

9. I didn't realize just how bad things were until midway through the 2020 season, even though there were warning signs early on. Chris was responsible for doing basic maintenance and safety checks before each race, and I discovered at some of the early season indoor races that my ATV hadn't been looked at before I took it out on the track. I complained vociferously to Chris, and it seemed s/he was doing her/his job better for a while. I just chalked up the early hiccups to her/his inexperience in the world of racing. Unfortunately, the problems at the beginning of the season were only signs of more trouble to come.

10. As it turned out, Chris wasn't just inexperienced – s/he was incompetent. During several races s/he was at a loss as to what I needed him/her to do during pit stops. The effort of instructing her/him on what I needed done was a complete waste of time given that I'd been doing the work on my own machine for so many years. By the time I realized how useless Chris was as a mechanic it was too late in the season to find someone else to take over for him/her. I let him/her finish out the season (not that s/he was doing much, mind you) and then let him/her go immediately.

11. I tried to tell Jordan Stanley what a mistake it was hiring Chris, but s/he wouldn't listen to me. Jordan could be unusually stubborn and arrogant, often over-estimating her/his talent. I do admit that Jordan was quite the raw talent, but s/he climbed the racing ranks a little too quickly in my mind. It takes years to learn the limits of the machine and one's self as a racer; Jordan often struck me as pushing the boundaries haphazardly, not out of the calculated risks so many of us take to win, but out of an inexperience that can be dangerous. It seemed like Jordan was always pushing the ATV a little too hard or taking a corner a little too fast. I often saw Jordan make dangerous passes of other racers around sharp corners. It was not uncommon for Jordan to nudge other racers with her/his ATV to try to throw them off their game. A lot of racers resented Jordan for this, and I don't blame them. Everyone on the NAORRA circuit wants to win, but safety has to come first. With her/his overly aggressive driving style, I'm not sure Jordan believed this. Somehow, Jordan almost always made it through the race without any major accidents, but I feared this would not always be the case.

12. I remember the morning of the 2021 Bushrunner Challenge so clearly. It was a stunning July 4th Alaska day. The weather and scenery really highlighted why the Caribou Canyon track is known nationally as one of the best natural ATV races. Everyone knows about the most

dangerous part of the course, Widowmaker Hill and Bend. The track drops about 5 feet at a 50 degree angle before evening out a bit. At the bottom of the 20 foot hill is a hairpin turn to the left, Widowmaker Bend. You have to slam on your brakes, or you're going to go sliding off the track, and it's a long way down. The race director told us over and over, in the weeks leading up to the race and at the safety briefing on race day: if we didn't slow down we were going to end up injured or worse. We were told to slow down to 35 mph or less going over Widowmaker Hill and that we needed to break down to 15 to 20 mph on Widowmaker Bend to be able to navigate the turn successfully. Even that slow was a bit nerve wracking. That isn't to say the whole course isn't dangerous. The terrain on a natural course is always varied, and the track at Caribou Canyon features some of the biggest bumps, tightest turns, and steepest hills on the circuit. The weather, although beautiful that day, had been rainy the week leading up to the race, so the organizers were also really concerned about the mud that was almost, but not quite, dry that morning. It added to the danger of the Widowmaker, that's for sure.

13. It may be in poor taste to say this, given what happened to Jordan, but everyone who loves ATV racing loves that portion of the course. Flying off the top of Widowmaker Hill is exhilarating. It is very tempting to go as fast as you can over the crest of Widowmaker Hill. But then you remember the warnings from the race organizers and you slow down so that you can make the turn at Widowmaker Bend. The precipitous drop on the outside edge of Widowmaker Bend only reinforces this. Even going at less than full speed over Widowmaker Hill, I always had to slam on my brakes to make it around Widowmaker Bend. Too much speed on the turn could cause a racer to lose control of his or her ATV. During the first couple of laps, Jordan and I were in the same pack of racers. Jordan seemed to be taking it careful on Widowmaker Hill and Widowmaker bend, slowing down on the uphill and then hitting the breaks to slow down at the bottom.

14. But I think Jordan, as with many of the better riders, may have been just feeling out the course those first couple of laps. Pretty soon, Jordan started putting on the speed and never slowed down after that – not in the mud and bumps, not going up hills, and certainly not coming back down. The mud, dry in some places but still slick in others, gave the whole course a degree of unpredictability no one had planned for; we were all having a hard time keeping our machines under control. Once the race really got under way, Jordan seemed to be under the impression s/he would just ride it out as fast as possible, never mind the consequences. I remember coming around a corner into a straightaway still early in the course and seeing Jordan up ahead, swerving all over the track, overcorrecting, and eventually bouncing off the barrier. I breathed a sigh of relief when s/he straightened out and headed up the next hill. Little did I know I should have been hoping his/her race would end there, before something worse happened.

15. So, on lap 19, I was in third place – Jordan had just passed me early in the lap. We were approaching Widowmaker Hill, and Jordan was clearly trying to put some distance between herself/himself and me. Really, drivers should be slowing down on Widowmaker Hill, or at least not speeding up. But, speeding up is exactly what it seemed Jordan was doing. Jordan was probably about 30 yards in front of me when we got to Widowmaker Hill. I started to slow down, but Jordan was increasing the gap in front of me, meaning s/he must have been speeding up. I think I was going about 45 mph at the start of the hill but only 30 mph at the top of the hill. As I crested the hill, I took a quick glance to try to see where Jordan was. What I saw was Jordan crashing hard into the concrete barrier on Widowmaker bend and then flipping over it. I don't know how fast Jordan was going at the time or whether there was anything wrong with his/her

ATV. It all just happened too fast. Because I had slowed down at the top of Widowmaker Hill, I was able to slam on my brakes and make it around Widowmaker Bend. Once I was on more level terrain, I radioed my pit crew to alert the race organizers that Jordan had crashed over Widowmaker Bend into the gulch below. I couldn't stop, though, as I still had a race to run. I was fortunate enough to win the Bushrunner for a second year in a row, but I didn't want to do it by having Jordan crash.

16. I guess that was the big difference between Jordan and me as drivers. I love to race – the adrenaline, the speed, and the whole competitive atmosphere. But when the race organizer told us all that morning that we shouldn't be coming up over Widowmaker Hill any faster than 35 mph, I listened. That's just the way Jordan was as a racer. Don't get me wrong, I raced all out, and I always do – within reason. Jordan pushed the boundaries of what her/his machine could do continually, and it got her/him the wins. Unfortunately, it also ended his/her career. Honestly, given the cement barricades Jordan went over, and the nearly thirty feet s/he fell, I can't believe s/he lived to tell about it.

Affidavit of Alyx Bloomfield

1. My name is Alyx Bloomfield. I am 26 years old. And let me just say that I am proud to live in a country where people can do whatever they want to their bodies so long as it does not hurt someone else. At least, that is the way it should be. The government has no business making certain drugs illegal. If I have a problem with a drug, that is my problem, not the government's.

2. So, I've used a few drugs in my time. My drug of choice is usually cocaine. Wow, what a rush! I've also done marijuana and occasionally meth. But I like the intense concentration and feeling of invincibility that you get from cocaine. The euphoric high is also pretty good. I read somewhere that cocaine blocks the chemicals in the brain that cause depression. I don't know science or anything, but I believe it. On the downside, . . . dude when the cocaine wears off you can have a real bad crash. I guess all of those sad chemicals come rushing back. But it's like totally worth it. I started using senior year of high school and have been using ever since, though I'm having to stay off it now for probation reasons. I didn't take it every day, maybe only like twice a week. At least when I am out and about.

3. I've been incarcerated twice for possession of cocaine and once for dealing, but only a small amount so no big sentence. I'd say I've probably spent about two years total in jail. I've always just pled down to reduced time. The last time I went through Wellness Court and drug rehab. I didn't want to, but I was looking at a pretty long time in jail if I didn't. So, you know, I felt like I didn't really have much choice. I have to do these random drug screenings every week or so. I guess being drug free is ok, but I really miss cocaine sometimes.

4. I met Jordan Stanley when I was a junior at Alaska State University. Jordan answered an ad of mine on Craigslist looking for a roommate. This was in fall of 2017. Jordan was coming to Alaskapolis from her/his village as a freshman and needed a place to live. Jordan always seemed pretty cool to me. I've never had a problem with Jordan being jerky to me or anything. Real nice guy/girl. But I could tell that Jordan had never partied much. I guess Norvaguk is a dry community and has a real strong tribe that keeps the drugs and alcohol out. I tried to introduce Jordan to a bit of the party life because, you know, everyone should have fun sometimes. To be honest, though, I didn't see all that much of Jordan that first year. Jordan was always, like, studying or hanging out with other friends.

5. Jordan sort of liked alcohol, but after one real bad rager never drank enough to get drunk. At least not fall down drunk. But Jordan did take better to cocaine. At first, Jordan was like real reluctant to use cocaine or any other drugs. I could get Jordan to smoke marijuana with me. I guess Jordan had some in the village once or twice and sort of liked it but didn't get really all that into it. So, the thought of snorting cocaine seemed really scary to Jordan. Jordan held out for a long time, but at a year-end party s/he gave in to peer pressure and tried cocaine. You could tell Jordan really liked the rush and was smiling the whole evening. After that party, Jordan went back to the village for the summer and I didn't see him/her again until the next school year.

6. Jordan didn't spend too much time with me at the beginning of sophomore year. Jordan was really into ATV riding and had made some friends to go riding with on the weekend. I never got into ATV riding myself. Totally too dangerous. But I guess it can be a rush. Jordan once

confided to me later on that using cocaine reminded her/him of the rush from racing down an ATV track. But I digress . . .

7. Jordan liked ATV riding so much that s/he decided s/he wanted to buy his/her own ATV. This meant getting a job. Jordan ended up working late hours at House Station stocking shelves. Jordan was also still trying to be a serious student. This meant a lot of long nights. I could tell that Jordan was constantly tired. One day I couldn't take seeing Jordan like that any more and gave her/him a gram of cocaine on me. I told Jordan it would give her/him the energy to help him/her get through the night. Jordan was like real tired and could remember the high from the spring, so s/he tried it. After that, Jordan would ask me for a little bit of cocaine every now and then. Not an every night thing, but maybe once every couple of weeks at first and then weekly after a while. Of course, after that first time I didn't give Jordan any freebies. I think Jordan could have gotten that ATV faster if s/he wasn't buying cocaine from me. But you do what you have to do to get through the day.

8. I wouldn't say Jordan was addicted to cocaine or anything. Jordan never really got the paranoia or irritability or anxiety that addicts get. That happened to me at times, but whatever. Party hard or don't bother partying at all! So, yeah, I guess I was an addict. I couldn't really hold a steady job, but I'd find enough to get by and fill my fix, along with a little dealing to Jordan and others on the side. And my parents kept giving me money for college. They never paid attention to me and didn't check to see if I was even registering for classes. I'll get serious when I have to and get a real job. Jordan was more of a recreational user. I always felt that Jordan could quit whenever s/he wanted to. I mean, sure Jordan used weekly, but that was more out of a stressful work and school schedule. I didn't have those problems.

9. Jordan moved out in 2019 at the end of the semester to pursue racing full time. I didn't hear much from Jordan for about a year. I think Jordan was just absorbed in racing, which is cool and all. I don't think s/he could have been doing all that well, though, because in May 2020, Jordan came to me and asked if I had any cocaine s/he could buy. Jordan said that she really needed to win the next race and felt like the cocaine would give him/her an edge. Jordan remembered the effects of cocaine when s/he was trying to work and go to school at the same time and was hoping that the cocaine would help her concentrate better during the race and give her the energy and confidence to push the pedal to the metal for the entire race. I told Jordan I thought the cocaine would do this and sold her a gram.

10. And it worked! Jordan came back to me two weeks later excited about winning the race in which s/he used cocaine. Jordan said it had exactly the effect s/he was hoping. Jordan said that s/he was in a zone the entire race and that navigating the turns and creating a strategy during the race was much easier. Jordan said she could almost smell the success she was going to have. Which is kind of funny since snorting cocaine like ruins the nasal passages and all. But Jordan just had to have more to use in the next few races. Jordan bought three grams from me, which is all that she could afford at the time.

11. After that, I didn't hear from Jordan again for over a month. I figured s/he should have worked through his/her supply of cocaine by now, even if s/he was just using it for races, and would need a resupply. I knew Jordan couldn't afford to race full time and still worked a few days early in the week at House Station. So I went over to see Jordan in like late June and asked, "Yo,

what's up? Need any blow? I just know you have races coming up." But Jordan wasn't interested. In fact, Jordan got all defensive like and said that s/he didn't want cocaine to ruin her/his life the way it had mine. Jordan even told me to my face that I should get clean. What gives?! I don't tell Jordan how to live her life and she shouldn't tell me how to live mine! Jordan could be a real jerk sometimes.

12. After that, I figured I wouldn't ever hear from Jordan again. I lost one of my best customers, but that happens all the time in the biz. But I also thought Jordan was a friend. It made me sad that Jordan had turned on me all of a sudden. I did sort of follow Jordan's racing career. Looks like Jordan did have some racing success the rest of the season, but not as much as when s/he used cocaine. Serves him/her right! Getting all up in my business and what not. But still Jordan was able to get a sponsor and race full time. I even saw Jordan's face on a couple of those pop up ads that come up from time to time on the Internet. Totally weird, dude.

13. But the thing is, I did hear from Jordan in early July 2021. This big ATV race – the Bushrunner Challenge – was being held near Alaskapolis for the first time. It was all over the news. I figured Jordan might be racing in it and would be in town, but I didn't do anything to reach out to him/her. However, Jordan reached out to me. I got a call from Jordan on July 3. We met at my apartment that evening. Jordan told me that s/he was really worried about doing well in the Bushrunner the next day. Said her/his career depended upon it. I mean, I was all like whoa. Made me feel sort of bad for Jordan, which was kind of hard with how pissed off I still kind of was at Jordan. I knew Jordan wanted cocaine for the race, but I let Jordan ask rather than offering it myself. I liked the idea of Jordan asking me for help.

14. I had just gotten out of some time in jail and hadn't been dealing for about six months, but I figured I could still make some connection and it actually turned out to be pretty easy. Of course it was way against my probation, but they can only test you for doing cocaine, not for dealing it. I figured I could be pretty discrete. Jordan only wanted a gram. Heck, I probably had that stuck under my couch cushions. I said to Jordan, "You're going to be out of Alaska for all of these races later in the season. Don't you want to stock up for those?" But Jordan responded, "No, I just need to win this one race and I'm home free. I'm not using cocaine because I want to but because I have to." If it worked so well for one race, I don't see why Jordan wouldn't want to use it for others. I mean, who only wants to win one race? But whatever, it was Jordan's call. I made Jordan pay a little extra "finder's fee" to get back at her/him for being mean to me the previous summer. Jordan was reluctant to pay extra and said I was just being petty but still paid it eventually.

15. Look, I don't want Jordan to get in trouble or anything, but I have no doubt that s/he used the cocaine I sold him/her. Jordan seemed pretty desperate for a win to me. In fact, I feel pretty confident that if Jordan had not crashed and won the Bushrunner Challenge s/he would have come back to me looking for more cocaine for other races. Jordan was always pretty driven – oh yeah, that's funny – and would do anything it took to win. That is why Jordan used cocaine before and that is why s/he wanted it then.

Affidavit of Shay Marinelli

1. My name is Shay Marinelli. I am fifty-one years old. I have a Bachelors of Science from Wake Forest University, where I majored in physics. I also have a Masters and PhD in Mechanical Engineering from North Carolina State University. For the last twelve years I have worked at the Transportation Safety Facility (TSF) in Raleigh, North Carolina. For the last eight years, I have worked as the Senior Engineering Expert. My work involves studying automobile and airplane accidents in order to determine what caused the accidents. This often involves components similar to those involved in this case. My research and work has given me a deep understanding of the mechanics of bolt failures during accidents involving high rates of speed.

2. ATVictory contacted me shortly after Jordan Stanley's accident to research what might have caused it. I have testified as an expert in numerous cases, and I believe the attorneys for ATVictory contacted me based on word of mouth reports about my past work. All told, I have been retained by defendants or their counsel to testify in nearly sixty product liability and personal injury cases. I have also occasionally, but less frequently, testified on behalf of a plaintiff. I receive \$350 per hour for my consulting work, as well as expenses. I get paid regardless of which side prevails at trial.

3. I arrived in Alaskapolis for this investigation near the end of July, and I was able to inspect Jordan's ATV at the same time that Sam Rosen inspected it for Jordan's attorneys, on December 10, 2021. The race organizers, I believe for security purposes, kept the ATV stored securely in an Alaskapolis auto garage. A race official accompanied us both at all times. I was able to thoroughly examine the ATV as well as perform some computer simulations in order to determine what caused the Ridgegrabber Front Suspension System to become detached from the ATV. I agree with Sam Rosen that if an ATV loses effective use of the front wheels, such as through detachment of the front suspension, it would be next to impossible to control the vehicle and avoid a crash.

4. In carefully examining the ATV, the first thing I noticed was that the suspension was bolted to the ATV frame using a trapezoidal arrangement. The two rear bolts were fastened 20 inches apart while the two front bolts were 14 inches apart. This is contrary to the common arrangement of bolts on an ATV suspension connection plate, which are that the bolts should be attached in a square arrangement. Attaching the bolts in a trapezoidal arrangement might make the bolts less stable because it shifts a greater percentage of the force – as much as 25% more – from the weight of the ATV to the rear two bolts rather than spreading the force more evenly amongst all four bolts. This supposedly increased the stability of the suspension, but at what cost? I think the fact that one of the rear bolts on Jordan's ATV failed is a clear indication of a design flaw in the Ridgegrabber suspension system and should be considered as one of the causes of the crash.

5. On the ATV, the rear right-hand-side bolt was missing. The front right-hand-side bolt had sheared off but remained attached to the suspension, though the suspension itself was by this point folded away from the chassis. The left-hand-side bolts were intact and attached. The first thing I did for my investigation was examine all three remaining bolts to determine if they had been properly heat treated. Heat treatment dramatically increases a bolt's strength because it makes the bolt harder. This allows bolts to withstand much greater forces. Sam Rosen and I conducted our tests of the bolts independently, and I am not sure which tests s/he used.

6. I used the Rockwell Hardness Test, which uses a diamond-point indenter to determine the hardness of a bolt, to determine if the bolts had been properly heat treated. The test, which is commonly used for this purpose, is named for its inventor, Stanley P. Rockwell, a metallurgist who wanted a fast, non-destructive way to determine if the heat treatment applied to various metals was successful. The indenter is pressed into the metal at calibrated levels of force. A heat treated bolt will be harder than a non-heat treated bolt, meaning the indenter cannot penetrate as far.

7. From my testing, I determined that the rear left-hand-side bolt had not been properly heat treated. It nonetheless remained intact after the accident, demonstrating that even a non-heat treated bolt, if properly installed, can withstand significant stress. The front left-hand-side bolt had been properly heat treated and was intact. The front right-hand-side bolt was also properly heat treated but was broken. I also examined ten randomly selected ATVictory bolts from the same batch of bolts as in the shipment sent to Chris Harris. All ten had been properly heat treated.

8. I am aware that Sam Rosen has concluded that one of the three bolts was not properly heat treated. This in no way invalidates my opinion that it was not heat treatment that caused the suspension to fail. My examination of the ten random bolts from the same manufacturing batch as the missing one tells me that, more likely than not, the missing bolt was properly heat treated. Given that 100% of the random bolts were properly heat treated, I consider it unlikely that the missing bolt would not also have been properly heat treated. The chances of that are simply too low. Moreover, one of the bolts survived despite not being properly heat treated. We obviously don't have the missing bolt, so we cannot determine for sure if it was properly heat treated, but the fact that an improperly heat treated bolt survived the accident tells me that improper heat treatment did not cause the missing bolt to fail. I honestly think that suggesting otherwise is a little silly. Something else must have caused the bolt to fail.

9. My examination of the remaining bolts revealed another possible cause of the bolt failure. When I was conducting my initial examination of the bolts on Jordan's ATV and removing them for hardness testing, I noticed that of the three remaining bolts, the front left-hand-side bolt was missing a necessary washer. ATVictory bolts use raised teeth that increase the friction and grip of the bolts. However, these bolts require an additional washer when they are attached. With this washer, the bolts provide increased strength compared to regular bolts. However, if this washer is not included, the bolt will not provide a secure attachment between the suspension and the chassis. Without the secure attachment, the suspension may become unstable, causing significant steering problems. The bolt will also be prone to breaking more easily.

10. Although I do not like to point fingers, I believe Chris Harris improperly installed the missing bolt in two ways – one by failing to install this necessary washer, and two by incorrectly drilling the hole for the rear right bolt. I of course cannot prove that the washer was not installed on the missing bolt because the washer would have flown off to parts unknown when the bolt fell off. But the fact that the washer was missing from another bolt is a strong indication that Chris Harris lacked full understanding of how to install ATVictory bolts. Moreover, I *can* prove that the hole for the right rear bolt was improperly drilled. Normally, a bolt hole would be 12 mm for a secure fit. The hole on Jordan Stanley's ATV was 14 mm. This may not seem like much, but that extra two millimeters would significantly increase the vibration of the bolt within the hole, which would result in increased force on the bolt, resulting in failure. It is impossible to say exactly how

much increased force there would be on the bolt without perfectly recreating all of the vibrations experienced by the ATV, but it is hard to imagine it would not be significant. Indeed, I consider the need to drill new holes to be a significant design flaw in the Ridgegrabber, a problem exacerbated by Chris Harris's incompetence. It is easy to be slightly off in drilling holes in machinery. Anything other than a precisely drilled hole could result in improper installation of the Ridgegrabber. This would not just be the case for holes that were too large, but also for holes slightly misplaced, though this last issue did not occur with Jordan Stanley's ATV. I am very surprised that Sam Rosen did not mention the improperly drilled hole in her/his analysis.

11. Under either of these theories, because of this improper installation, the missing bolt was not fully secured to the suspension. The improper installation allowed the bolt to work its way free throughout the race. Once it worked its way free, the remaining three bolts were subject to significant additional stress during the race. Eventually, the front right-hand-side bolt succumbed to this stress and broke, rendering the ATV nearly impossible to steer. The increased strain put on the right side of the suspension during the race's left-hand turns would have made the right-hand-side bolts more likely to break.

12. I also ran computer simulations and laboratory tests that strengthen my conclusion about improper bolt installation. I simulated the stresses put on an ATV suspension and how well different bolts could withstand those forces. From these tests, I determined that, when properly installed, ATVictory bolts could withstand 3500 pounds of force. The Ridgegrabber suspension specifications state that it can withstand up to a 4000 pound stress limit, but this does not mean that this amount of stress will always be exerted on the bolts by the Ridgegrabber. I should add that nothing in any of my testing indicated that Big West ATV's claim that the Ridgegrabber could withstand 4000 pounds of force was incorrect. For a hill like Widowmaker Hill, a driver could crest the hill at 45 miles-per-hour and land safely without causing undue stress on the ATVictory bolts or the Ridgegrabber suspension, assuming a straight path and plenty of room to decelerate. Of course, the bottom of Widowmaker Hill was not a straight path, which is why race organizers warned racers to slow down going up the hill so that they would be able to break in time to make the turn at Widowmaker Bend.

13. From speaking with Lynn Fernandez, a NAORRA racer who competed in the 2021 Bushrunner Off-Road Challenge along with Jordan Stanley, I learned that the Bushrunner organizers instructed drivers not to crest Widowmaker Hill at anything above 35 miles-per-hour. This is well within the stress limits of the Ridgegrabber suspension and the ATVictory bolts if the bolts are properly installed. From my computer simulations, however, if a bolt is improperly installed and has become loose or fallen off entirely, the instability in even just one bolt can reduce the maximum speed at which a driver could crest Widowmaker Hill. Drivers have to be careful coming over Widowmaker Hill because at the bottom of the hill, following a steep decline, is a sharp turn, known as Widowmaker Bend. Anybody driving too fast coming over the hill would not be able to slow down quickly enough to make the turn. If an improperly installed bolt rendered the ATV unstable, the driver might lose control as they braked for the turn.

14. From my computer simulations, I determined that even with proper installation, because of the sharp left turn at Widowmaker Bend, at the bottom of Widowmaker Hill, a driver would have difficulty controlling his or her ATV through that turn at speeds over 20 miles-per-hour. This is

true regardless of the weight limit of the bolts. Anybody who crests Widowmaker Hill at too fast a speed would have difficulty slowing down for the turn and would struggle to control their ATV and would likely crash into the installed barriers. The driver might also just fail to control the ATV coming through Widowmaker Bend even with no stability problems or bolt failures.

15. There is also my third alternate conclusion about the accident. Even if all three of the remaining bolts had been properly installed, Jordan's reckless driving put undue strain on his/her ATV, stressing the bolts to the point of failure. Driving with excessive speed, particularly on course features like Widowmaker Hill and Widowmaker Bend, would put dramatic and unsustainable strain on the Ridgegrabber suspension. For example, even assuming that all the bolts are properly installed, going through Widowmaker Bend at 25 mph would put 3,750 pounds of force on the Ridgegrabber suspension and the bolts holding it to the ATV. Going through Widowmaker Bend at 30 mph – on the off chance that the rider could control the ATV – would exert 4,250 pounds of force on the suspension. This is more than the Ridgegrabber was rated to handle. But it is only one example of how increased speed increases stress on the suspension and the bolts.

16. The nature of the Caribou Canyon course did not help. Most of the turns on the course, including the turn at the bottom of Widowmaker Hill, are left-hand turns. Turning left causes more pressure on the right side of the front suspension. Tests on comparable ATVs equipped with properly installed Ridgegrabber suspension systems demonstrate that the sharper the left-hand turn, the more stress the right side of the suspension experiences. The additional stress varied with how sharp the turn was, but when an ATV executed a left turn as sharp as that found at the bottom of Widowmaker Hill, the stress experienced by the right side of the suspension could be as much as three times that experienced by the left side of the suspension. Through complex computer modeling I determined that at average race speeds amongst all drives most of the turns resulted in only about 3,000 pounds of force, well within the tolerances of the Ridegrabbe. But the faster one takes the turns, the more exertion of force there is. Jordan might have thought s/he could turn at increased speeds because of the Ridgegrabber suspension, but doing so only increased the pressures on the bolts, particularly the right-hand-side bolts. This repeated stress could ultimately have lead to bolt failure, independent of any loss of control of the vehicle.

17. I tested the other ATVs using ATVictory bolts as well as Suregrip bolts. I actually found that the Suregrip bolts had a higher tolerance for sharp turns and high stresses than did the ATVictory bolts, which befits their higher rating as being able to handle 4500 pounds of force. Incidentally, this higher rating for Suregrip bolts would provide an additional 7.5 mph speed tolerance coming over Widowmaker Hill and through Widowmaker Bend.

18. It is my expert opinion that there are three possible reasons why the rear right-hand-side bolt failed: 1) improper installation of the bolt; 2) due to Jordan's reckless driving causing her/him to lose control of the ATV; or 3) Jordan's reckless driving leading to increased stress on the suspension and bolts that ultimately resulted in their failure. One must also consider the possibility of a design failure in the Ridgegrabber suspension as a source of the failed bolt. None of my analysis points to improper heat treatment being the cause of Jordan's accident.

Jordan Stanley Racing, Inc.

PURCHASE ORDER

1452 Ryan Lane
 Alaskapolis, AK 99999
 Phone (907) 555-3578 Fax (907) 555-3579

The following number must appear on all related correspondence, shipping papers, and invoices:
PURCHASE ORDER NUMBER: 133

TO:
 Jesse Cain
 ATVictory, Inc.
 9635 Fortson Rd.
 Spokane, WA 99202
 FAX: (509) 555-0168

SHIP TO:
 Chris Harris
 Jordan Stanley Racing, Inc.
 1452 Ryan Lane
 Alaskapolis, AK 99999
 Phone (907) 555-3578

P.O. DATE	REQUISITIONER	SHIPPED VIA	F.O.B. POINT	TERMS
June 25, 2021	Chris Harris	National Express	Air	Net 30

QTY	MANUFACTURER	DESCRIPTION	UNIT PRICE	TOTAL
1	Big West ATV	Ridgegrabber Front Suspension System	\$1,249.00	\$1,249.00
4	Suregrip	M8 1.25 hex bolt	\$14.95	\$59.80
SUBTOTAL				\$1308.80
SALES TAX				\$0.00
SHIPPING & HANDLING				\$63.72
OTHER				\$0.00
TOTAL				\$1372.52

1. Please send two copies of your invoice.
2. Enter this order in accordance with the prices, terms, delivery method, and specifications listed above.
3. Please notify us immediately if you are unable to ship as specified.
4. Send all correspondence to:
 Chris Harris
 Jordan Stanley Racing, Inc.
 1452 Ryan Lane
 Alaskapolis, AK 99999
 Phone (907) 555-3578 Fax (907) 555-3579

Chris Harris

6/25/21

Authorized by

Date



I N V O I C E

Invoice #: 10-394
Invoice Date: 06/28/2021
Customer ID: AK-12345

Bill To:

Jordan Stanley Racing, Inc.
 1452 Ryan Lane
 Alaskapolis, AK 99999

Ship To:

Jordan Stanley Racing, Inc.
 1452 Ryan Lane
 Alaskapolis, AK 99999

Date	Your Order #	Our Order #	Sales Rep.	Ship Via	Terms	Tax ID
6/28/2021	133	10-394	Jesse Cain	National Express	30 days	08-9876543

Quantity	Item	Manufacturer	Description	Unit Price	Total
1	BWA-673	Big West ATV	Ridgegrabber Front Suspension System	\$1,249.00	\$1,249.00
4	ATV-58723	ATVictory	M8 1.25 hex bolt	\$11.99	\$47.96

Subtotal	\$1,296.96
Tax	\$0.00
Shipping	\$63.72
Miscellaneous	\$0.00
Balance Due	\$0.00

REMITTANCE

Customer ID: AK-12345
Date: June 28, 2021
Amount Due: \$0.00 (sponsored racer)
Amount Enclosed:

Primary Business Address 9635 Fortson Road Spokane, Washington 99202
 Phone: (509) 555-0167 Fax: (509) 555-0168 E-mail: orders@atvictory.com Web site: www.atvictory.com

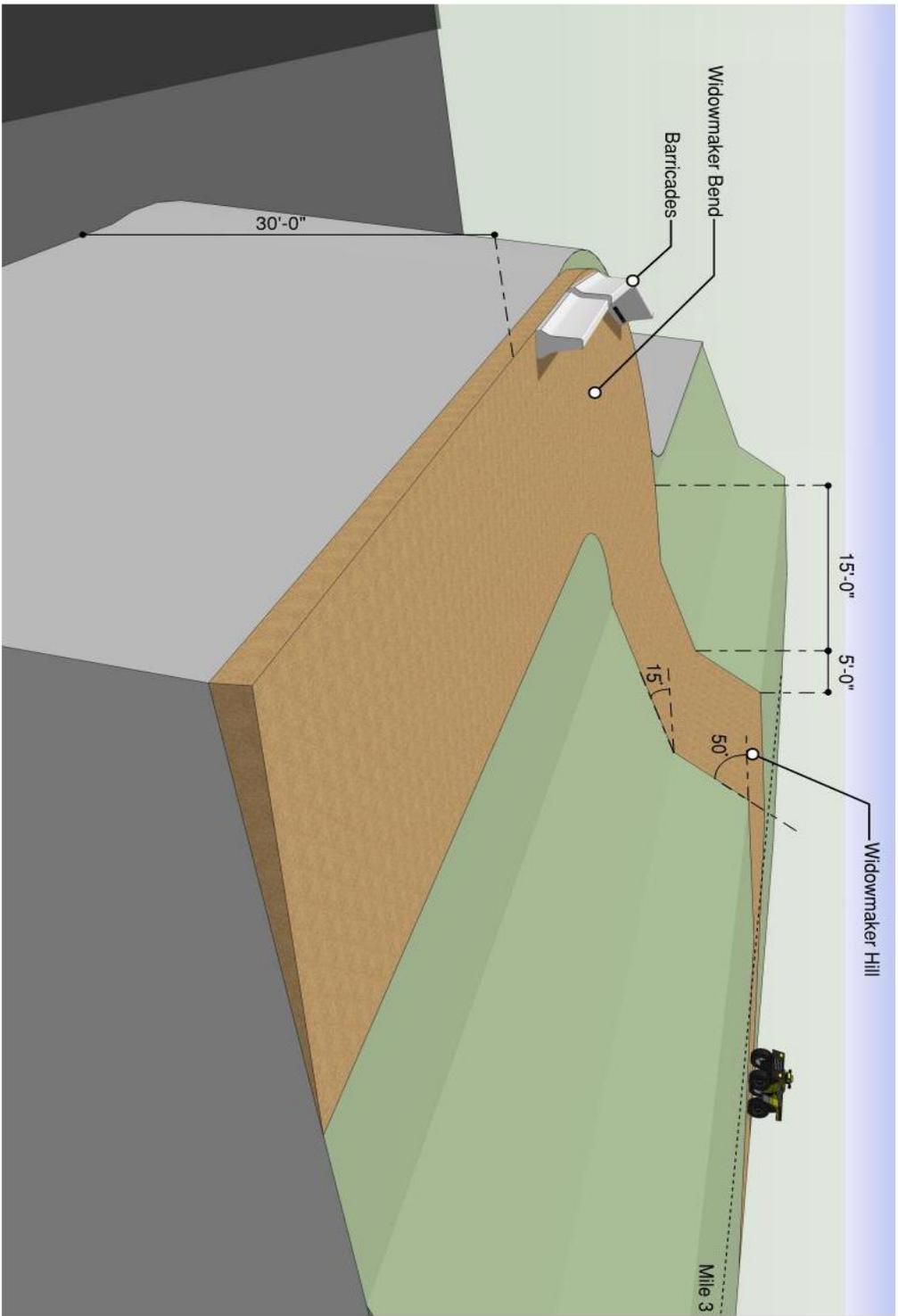
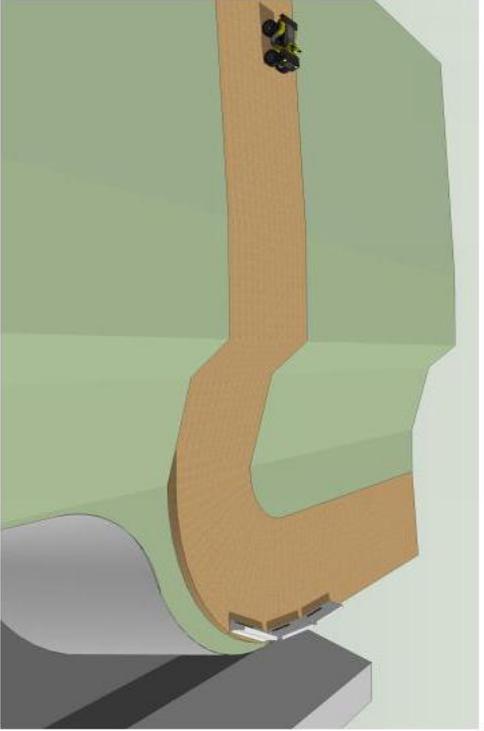
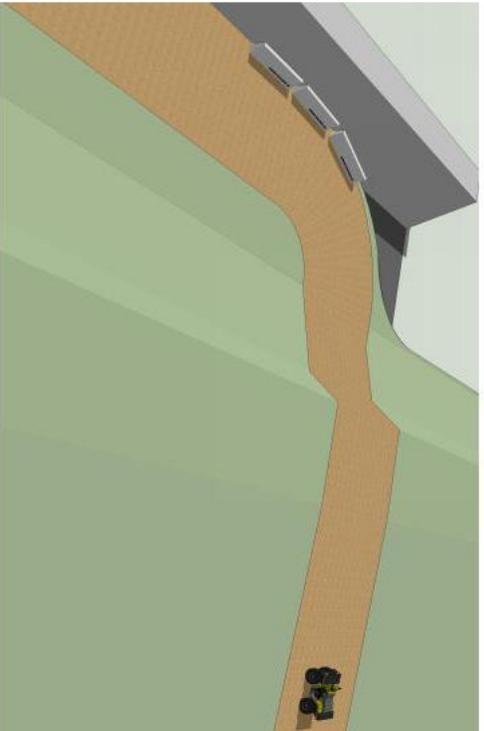


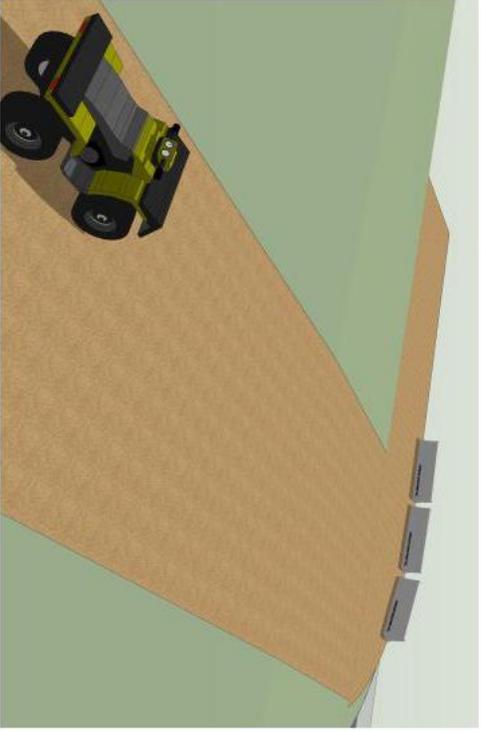
Diagram of Widowmaker Hill and Bend



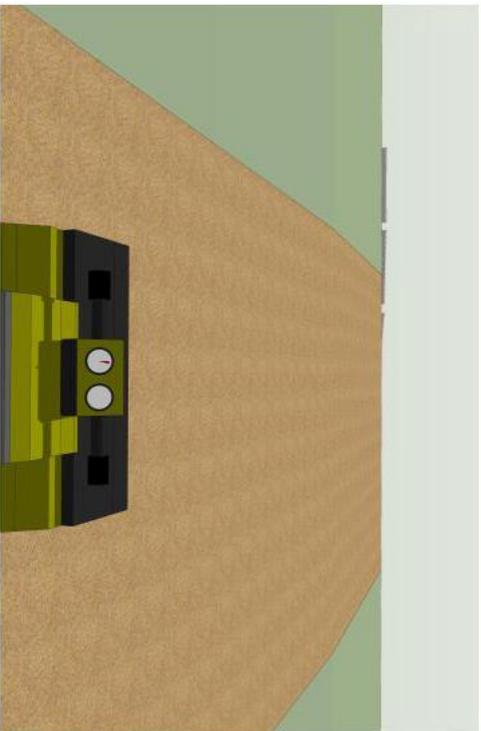
Bird's eye perspective - 1



Bird's eye perspective - 2



Bird's eye perspective - 3

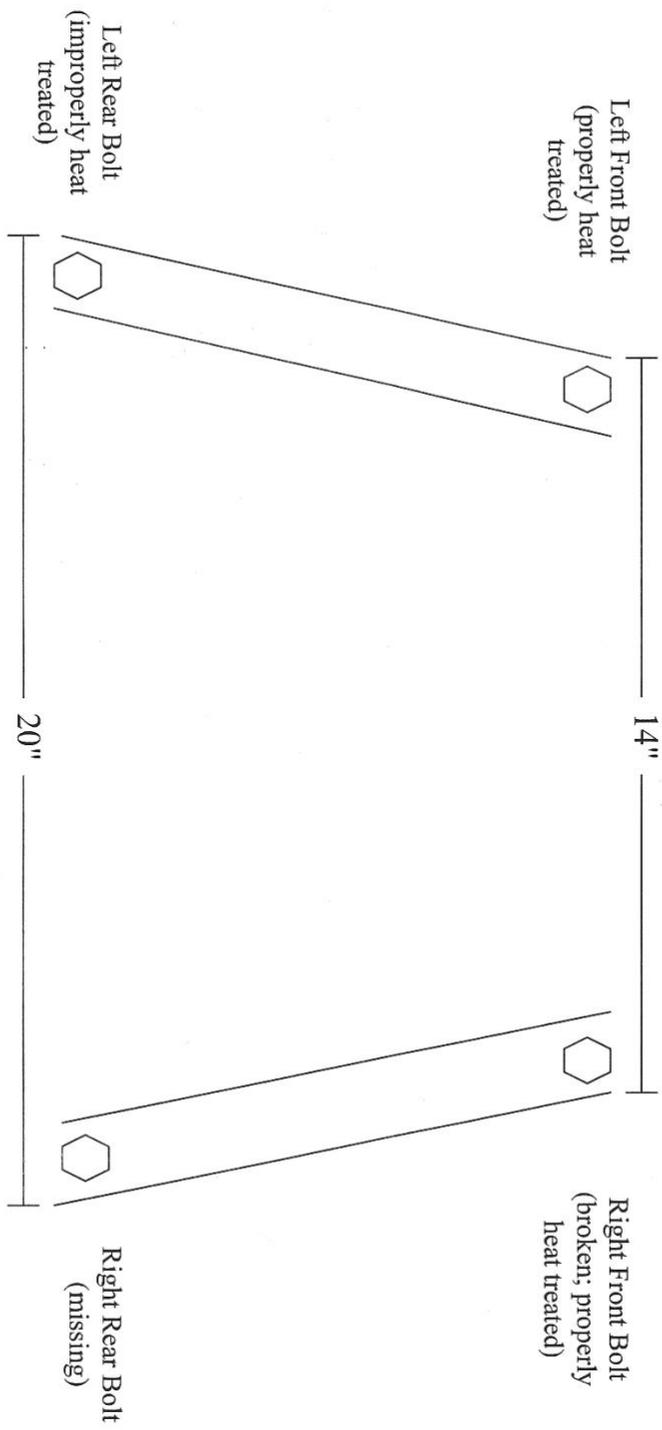


Driver's Perspective

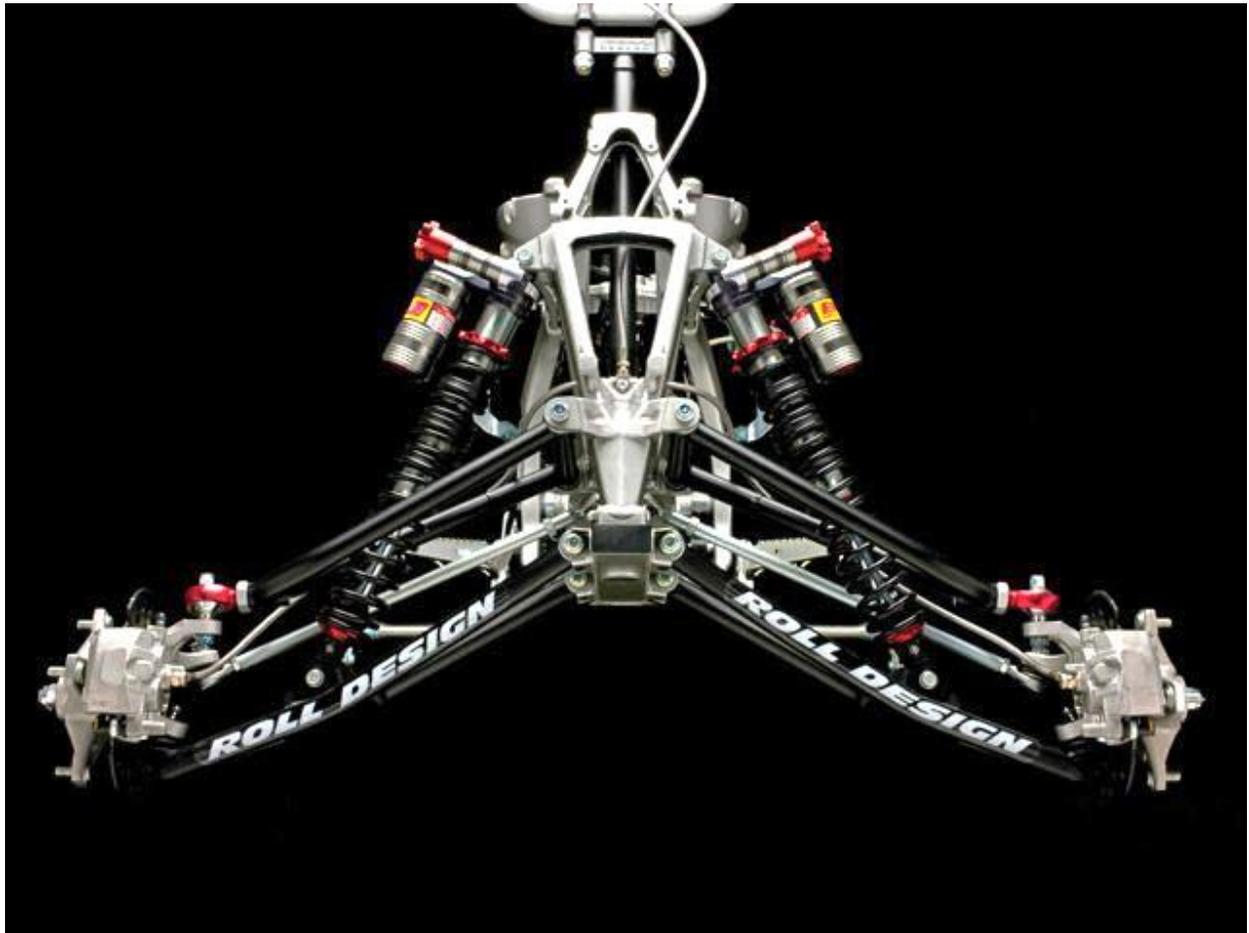
ATVictory Bolt and Washer Combination



Diagram: Placement of bolts on connection plate connecting Ridgegrabber Front Suspension System to ATV frame on Jordan Stanley's ATV (top down view).



Big West ATV Ridgegrabber Front Suspension System



October 22, 2021

Molly Dennison, MD
1234 Hospital Drive, Suite 247
Alaskapolis, Alaska 99999
907-555-1875

To Whom It May Concern:

I have been asked to provide a letter documenting injuries sustained by Jordan Stanley during an ATV accident on July 4, 2021. This letter is drafted based upon my diagnosis of Jordan Stanley's condition as of October 22, 2021.

I am a board-certified neurologist, which means I specialize in problems related to the brain and spinal cord. Because my practice is affiliated with Alaskapolis General Hospital, I am often called in as a consultant when doctors there believe that their patients may have neurological problems. These calls can come from any department, but it is most common for me to be contacted by an emergency room physician who wants an evaluation of a trauma patient.

On July 7, 2021, one of Alaskapolis General's ER doctors called me and asked me to come in to examine a patient named Jordan Stanley who had recently been in an ATV accident and had been brought in via emergency medical services. Jordan was conscious but was complaining of vision deficits and severe back pain as well as numbness and substantial tingling in his/her legs and feet. The ER doctor had performed a series of X-rays, which indicated that Jordan had fractured spinal vertebra in the T2-T6 region as well as a fractured skull, broken nose, and broken arm. They wanted my opinion as to the best course of treatment for Jordan's injuries.

I met with Jordan that afternoon. I started with a basic examination to determine his/her overall neurological functioning level. This included tests of brain function, vision, and gross and fine motor skills. I determined that Jordan did not have any significant level of impairment to her/his intellectual functioning, but that his/her peripheral vision was completely gone. I also determined that Jordan was at the time incapable of walking.

To further assess Jordan's problems, I ordered an MRI of his/her brain and spinal column. The MRI showed that there was damage to the optic nerve, which was affecting Jordan's peripheral vision. It also showed that two of the vertebral fractures had become displaced and that the bone fragments were putting pressure on Jordan's spinal column, which was the cause of her/his inability to walk. In my opinion, the damage to the optic nerve was irreversible, but I thought surgical intervention could fix the damage to the spinal column to an extent that would allow Jordan to regain full function of his legs.

I ordered Jordan prepped for immediate spinal surgery. Repairing damage to the spinal column is tricky, and it is not unusual for a patient to undergo several surgeries before he or she reaches the full therapeutic benefit level. In Jordan's case, a total of 4 surgeries were performed.

Jordan then had to spend a significant period of time in rehabilitation, where s/he worked on relearning basic motor activities. Fortunately, the surgeries were successful enough to allow Jordan to walk again, although s/he is slower than s/he used to be and complains of ongoing back pain.

In my medical opinion, Jordan has now attained the maximum level of functioning that s/he is capable of given the injuries sustained. This means that Jordan is never going to be able to function any better than s/he can today. Jordan's slowness in walking will be permanent, as will his/her loss of peripheral vision. Jordan is currently working with a pain clinic in order to try to get his/her back pain under control, but to a certain extent that pain will always be present. Jordan will certainly never be able to drive an ATV again because of the jarring vibrations of the vehicle. Still, under the circumstances, Jordan's outcome is much better than it could have been. Given his/her injuries, it was possible that s/he could have been permanently paralyzed from the waist down.

Sincerely,
Molly Dennison, MD

Natalia Chan, President
Kessel Manufacturing Corp.
8120 Industrial Blvd.
Baltimore, MD 21202

February 22, 2019

Terry Walters
Chief Engineer
ATVictory, Inc.
9635 Fortson Rd.
Spokane, WA 99202

Dear Mr. Walters:

Our records indicate that your company recently purchased a Kessel XB15 Heat Treatment Processing Machine. I am writing to inform you that Kessel Manufacturing has determined that some XB15 Heat Treatment Processing Machines intermittently fail to properly complete the heat treatment process. This is due to defective sensors used to detect internal temperatures during the heating process. The defect causes the sensors to register incorrectly high temperatures inside the machine, causing the machine to shut off before the heat treatment process has completed. Because the heat treatment process is prematurely terminated, products heat treated in the XB15 Heat Treatment Processing Machine are unable to withstand the 3500 pounds of force for which the XB15 Heat Treatment Processing Machine is rated.

Kessel Manufacturing deeply regrets this problem and wants to make every effort to correct it. Not all sensors used on XB15 Heat Treatment Processing Machines are defective. It is therefore possible that your machine functions properly. Unfortunately, the only way to accurately determine if the sensors on your machine are defective is to send the entire machine back to our factory for our technicians to inspect. If defective sensors are found, they will of course be replaced free of charge. Kessel Manufacturing will also pay any shipping costs associated with returning your XB15 Heat Treatment Processing Machine. We anticipate that the recall process, including shipping, will take four to six weeks, depending on your location. Please contact our Customer Service Department at 1-866-555-2431 to arrange shipping of your machine back to Kessel Manufacturing.

Customer satisfaction is of the utmost importance to Kessel Manufacturing. We realize that this recall will be a great inconvenience for your company. For this we apologize. I personally want to assure you that Kessel Manufacturing is increasing its quality assurance to ensure that similar problems do not arise in the future.

Sincerely,

Natalia Chan

Lynn Fernandez
3210 Bowmer Rd.
Modesto, CA 95358

September 27, 2019

Jesse Cain
ATVictory, Inc.
9635 Fortson Rd.
Spokane, WA 99202

Dear Mr. Cain,

I am writing to inform you that you have lost one of your most prominent and successful ATV customers. I will no longer be using ATVictory products or recommending that any other NAORRA racers use them. Last week, in the final race of the 2018 NAORRA circuit, which should have led to a points championship for me, one of your subpar bolts gave way, leaving me with a badly damaged machine and a DNF to end my season.

As I'm sure you are aware, I was racing indoors at the Polar-X 5000, the biggest stadium race on the NAORRA circuit. I had installed the ATVictory bolts as part of some basic suspension maintenance only a week before the race. I had done the requisite safety rides to ensure my machine was in race form before I took to the track at the Polar-X. Everything appeared to be in good condition.

All I had to do at the Polar-X was garner a top-ten finish. Realistically, I easily could have won the Polar-X, but I wasn't pushing any boundaries. I came around a corner in the eighth lap, I was racing in second place, no need to push my speed, no need to maneuver through any traffic at this point in the race. Suddenly, my steering was useless. I overcorrected and could have ended up badly injured had I been a less experienced rider. Luckily I managed to coast my machine into the center of the arena, where I watched my points championship slip away.

When I managed to return to my pit area and examine my ATV, I noticed that one of the bolts connecting the suspension to the chassis of the ATV had sheared off. This resulted in the suspension system becoming unstable – I could feel this instability the moment I grabbed onto the suspension, which clearly was no longer solidly connected to the chassis.

I am an experienced racer and mechanic. The only explanation for the failure of that bolt is that it was entirely defective. Your company's faulty equipment cost me a lot professionally, and I'm lucky it didn't cost me more in the form of injuries or even worse. You will never again get my business. You can also be assured that I will be extremely vocal from here on out, I want every racer on the circuit to know that they take a serious safety risk by using your parts on their machines.

Sincerely,
Lynn Fernandez

**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 hfortson@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, with the exception of 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.

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
2. Direct Examination of Witness #1
3. Direct Examination of Witness #2
4. Direct Examination of Witness #3
5. Cross Examination of Opposing Witness #1
6. Cross Examination of Opposing Witness #2
7. Cross Examination of Opposing Witness #3
8. 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. Extensions of time will be granted only in two-minute increments and are at the discretion of the presiding judge. A team requesting an extension of time will be assessed a penalty of three (3) points against that team's overall score for each extension of time granted; the penalty will be recorded in the "penalty" section of each judge's score sheet. 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 be 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. Students may highlight portions of exhibits for ease of use by witnesses. 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, attorneys practicing in Alaska, or law clerks having graduated from law school. 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 Champion 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 competition organizers at the conclusion of the trial, either by a student or by a coach associated with the team. Competition organizers retain sole authority to resolve any rules dispute in the best interest of the Alaska High School Mock Trial Competition as a whole. Possible penalties, if any, include adjustments to the score from that round, forfeit of that round, or under extreme circumstances disqualification from the tournament.

RULES OF PROCEDURE

A. BEFORE THE TRIAL

Rule 34. 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 35. Stipulations

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

Rule 36. The Record

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

B. BEGINNING THE TRIAL

Rule 37. 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 38. 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 39. 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 40. 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 41. 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 42. 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 43. 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 44. 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 45. Scope of Closing Arguments

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

E. CRITIQUE

Rule 46. 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 *the 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 credibility of the witness, 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 data, 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.

(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 IX. Documentary Evidence

Rule 901. Requirement of Identification

The requirement of identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims.

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.

2022 ALASKA HIGH SCHOOL
MOCK TRIAL CHAMPIONSHIP COMPETITION
(Anchorage, April 1-2, 20202)

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)
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()	()
()	()
()	()
()	()
()	()

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 25, 2022; registration form may be emailed to hfortson@alaska.edu; fees can be paid at the competition. There is a registration fee of \$150 per team.**

For any mailed registration forms, fees, or other correspondence, please use the following address:

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