

**CASE MATERIALS**

Official 2018 Mock Trial Materials

for the

**THIRTY-EIGHTH ANNUAL**

**UTAH LAW RELATED EDUCATION**

**MOCK TRIAL PROGRAM**

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***Justin Hall***  
**v.**  
***ForensiTech, Inc.***

**Case No. 17cv0987**

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Rewritten and Adapted to Utah Law by Kristina Kindl, past Board  
Chair of Utah Law Related Education

Originally written by Susan H. Johnson, State Coordinator of the  
Carolina Center for Civic Education



## FACT SUMMARY

Justin Hall, a minor child and the only son of Jesse Hall, sustained serious injuries on June 29, 2017, while attending the ForensiTech forensic science camp at Morgan University in Morgan, Utah. On June 28, camp counselor River Forrest led Justin and the other students in River's evening activity group on an off-campus hike to a location River had not previously visited. The group became lost and ended up spending the night on a mountain. Around 3:00 a.m. on June 29, Justin awoke in a confused state, fell down the mountain, and struck his head. As a result, Justin sustained a spinal cord injury resulting in quadriplegia and a serious concussion leading to long-term impairment.

Justin has filed a lawsuit against ForensiTech, Inc., arguing that the company was grossly negligent in sending the students on a hike to an unfamiliar location and is, therefore, liable for the damages which he sustained. The Defendant denies gross negligence, claiming no negligence or, at worst, ordinary negligence. The Defendant also claims that Justin's own actions in hiding his Type I diabetes from the camp staff led to his confusion and ensuing injuries.

## STIPULATIONS

1. All documents, signatures, and exhibits included in the case materials are authentic and accurate in all respects. The parties reserve the right to make other objections to exhibits based on the Mock Trial Rules of Evidence. All exhibits will require proper foundation for admission.
2. In accordance with the pre-trial activities that have taken place in this case, the following rulings and agreements are binding on this trial:
  - a. Both parties waive any and all objections to the ForensiTech Registration and Liability Waiver Form. The ForensiTech Registration and Liability Waiver Form does not release the Defendant from liability for gross negligence; the release is only enforceable against a claim for ordinary negligence. Therefore, the signed waiver does not preclude Plaintiff from raising, and potentially prevailing on, the gross negligence claim as alleged in his complaint.
  - b. Judicial notice has been taken of the reliability of the following documents: National Camp Association Mandatory Standards for Accreditation (Exhibit 1); Backcountry First Aid Emergency Reference Guide (Exhibit 9); and the Rocky Mountain Weather Service forecasts (Exhibits 3 & 4). These documents are admissible without further foundation, and no hearsay objections to these documents will be allowed.
  - c. Due to the extent of his injuries and his lack of memory regarding the events in question, Justin Hall is unable to be deposed or to testify in these trial proceedings pursuant to Rule 804(a)(4). However, any hearsay statements made by Justin Hall must meet one of the 804(b) exceptions to hearsay, or another hearsay exception under 803, in order to be admitted into testimony.
  - d. At all relevant times, Hayden Thomas and River Forrest were employees of, and acting on behalf of, ForensiTech. Accordingly, their acts and omissions will be

- imputed to Defendant ForensiTech, and ForensiTech is vicariously liable for any acts or omissions of Thomas or Forrest.
- e. Jesse Hall is authorized to bring this lawsuit on behalf of his/her minor son, Justin Hall, and will be considered a party-opponent.
  3. The trial will be bifurcated, so the question of liability will be tried separately from the issue of damages. In the first phase, the Plaintiff must prove that the Defendant is liable for the injuries suffered by Justin Hall. If the Plaintiff prevails in the liability phase, the same judge will hear evidence on the question of damages at a separate phase. Accordingly, the amount of damages to be awarded, if any, is not at issue in this trial.
  4. Jurisdiction and venue are proper and may not be challenged.
  5. Both parties waive any and all objections arising under the Constitution of the United States.
  6. No props may be used in lieu of, or in addition to, evidence included in this packet. Teams may not use markers or laser pointers to assist in the presentation of witness testimony concerning an exhibit. Use of electronic equipment is prohibited.
  7. Exhibits may be copied and enlarged for demonstrative purposes only, but may not exceed 24" x 36" in size.
  8. All signatures on Witness Affidavits and other documents are authentic. If asked, a witness must acknowledge signing the document(s) and must attest to the content of the document(s) and the date(s) indicated therein.

## **WITNESSES**

### **For the Plaintiff:**

Jesse Hall (Parent of Justin Hall)  
Dakota Gardner (Best friend of Justin's)  
Nicky Lopez, M.D. (ER physician)

### **For the Defense:**

Addison Wheeler, M.D. (Pediatric Endocrinologist)  
Hayden Thomas, M.D. (CEO of ForensiTech)  
River Forrest (Camp counselor)

## **EXHIBITS**

- Exhibit 1. National Camp Association--Mandatory Standards for Accreditation\*
- Exhibit 2. 2017 ForensiTech Camps--Camp Confirmation and Registration and Liability Waiver Form
- Exhibit 3. Rocky Mountain Weather Service Forecast--Seven Day Forecast
- Exhibit 4. Rocky Mountain Weather Service Forecast for June 28, 2017
- Exhibit 5. Curriculum Vitae of Addison Wheeler, M.D.
- Exhibit 6. Curriculum Vitae of Nicky Lopez, M.D.
- Exhibit 7. Morgan County Medical Center Emergency Room Report
- Exhibit 8. University of Utah Medical Center--Emergency Room Report and Endocrine Clinic Outpatient Encounter Form
- Exhibit 9. Backcountry First Aid and Emergency Reference Guide

## **SOURCES FOR EXHIBIT\***

The standards in Exhibit 1 are modified from the American Camp Association Mandatory Accreditation Standards (<http://www.acacamps.org/accreditation/mandatory-stds>). May 2014.

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## STIPULATED GLOSSARY OF TERMS

*Terms used in the affidavits and exhibits are to be given the following, stipulated meaning at trial.*

**Autoimmune:** an illness that occurs when the body tissues are attacked by its own immune system.

**BMI:** Body Mass Index; a measure of body fat based on height and weight. Normal = 18.5-24.9.

**Bradycardia** (bray-dee-CARD-ee-ah): slow heart rate. In adults, a resting heart rate of < 60 beats per minute (BPM) is considered bradycardia, but symptoms usually appear only for rates < 50 BPM.

**Cervical vertebrae** (SERV-ih-cle VERT-ih-bray): Cervical vertebrae are the top 7 spinal vertebrae; they are located in the neck.

**Fasting:** In medical terms, a *fasting* blood glucose level is obtained when a person has not consumed any food for at least 8 hours.

**Glucose** (GLUE-kohs): Glucose is a simple sugar; it comes from carbohydrate foods and is the main energy source used by the body. A normal fasting blood glucose level is 70-99 mg/deciliter.

**HbA1c:** refers to Hemoglobin A1c (HE-mah-gloh-bin A-one-C), which is a form of hemoglobin that indicates the average plasma glucose level over a period of 2-4 months.

**Hyperglycemia** (hy-per-gly-SEE-mee-ah): higher than normal blood sugar (glucose) level.

**Hypoglycemia** (hy-poh-gly-SEE-mee-ah): abnormally low blood sugar (glucose) level.

**Hypotensive** (HY-poh-TEN-siv): having abnormally low blood pressure.

**Hypothermia** (hy-poh-THERM-ee-ah): dangerously low body temperature, below 95 °F, which can eventually result in death. Normal body temperature is considered to be 98.6 °F.

**Insulin** (IN-suh-lin): a hormone, produced by the pancreas, that helps to regulate blood glucose levels by causing glucose to move out of the blood and into the body cells.

**Ketones** (KEY-tones): alternative fuels for body cells made from the breakdown of fat when cells do not get enough glucose. High levels in uncontrolled diabetics can be life-threatening.

**Plasma:** the liquid portion of blood, which transports nutrients and blood cells.

**Pulse oximeter** (ox-SIM-ih-ter): a device that uses light to measure pulse and blood oxygen level.

**Quadriplegia** (KWOD-ra-PLÉE-jee-ah): paralysis of both legs and both arms (all four limbs).

**Subcutaneous** (sub-cue-TAY-nee-us): beneath the skin.

## APPLICABLE LAW

### Explanation of Relevant Civil Law Negligence

#### Negligence

1. Negligence refers to a cause of action where a plaintiff may assert a civil tort case against a defendant.
2. To prove negligence, the party making the claim must prove four elements: duty, breach of duty, causation, and damages.
  - a. **Duty:** To prove negligence, the plaintiff must first demonstrate that there was a duty on the part of the defendant to conform to a certain standard of conduct. Negligence refers to a person's failure to follow a duty of care owed to the defendant as a result of a relationship that exists between the parties. Every person is under a duty to use ordinary care to protect him/herself and others from injury. Ordinary care means that degree of care which a reasonable and prudent person would use under the same or similar circumstances to protect him/herself and others from injury. It includes both the failure to do what a reasonably prudent person would have done under the same or similar circumstances, and the doing of something which a reasonably prudent person would *not* have done under the same or similar circumstances.
  - b. **Breach of Duty:** A person's failure to use ordinary care is a breach of duty. The burden of proof is on the plaintiff to prove, by the greater weight of the evidence, that the defendant did not uphold his/her duty to exercise reasonable and prudent care in the given circumstances.
  - c. **Causation:** To determine causation, it must be shown that the person's fault caused the harm. Legal causation, otherwise known as proximate cause, requires:
    - (1) that the person's act or failure to act produced the harm directly or set in motion events that produced the harm in a natural and continuous sequence; *and*
    - (2) that a reasonable person could have foreseen that such action/inaction would probably result in the same injury or some similar injury. There may be more than one proximate cause of an injury. Therefore, the plaintiff need not prove that the defendant's negligence was the only

proximate cause of the injury. The plaintiff must only prove, by the greater weight of the evidence, that the defendant's negligence was *one* cause of the injury.

- d. **\*\*Damages:** Actual damages are the fair compensation which may be awarded to a person for any past, present, and/or future injury proximately caused by the negligence of another. In determining the amount, if any, to be awarded to the plaintiff, evidence is considered as to each of the following types of damages: past, present, and future pain and suffering; past, present, and future medical expenses; and past, present, and future diminution of earning capacity. The total of all damages are to be awarded in one lump sum.

*\*\*For purposes of the mock trial exercise, student competitors need only prove the fact of injury and the elements of duty, breach, and causation. The amount of damages need not be proven or argued by participants and will not be determined by our mock trial judges. The element of damages is included here for educational purposes only.*

### **Gross Negligence**

1. To prove gross negligence, the same steps apply as above, but with additional circumstances. Gross negligence is when the responsible party didn't just act irresponsibly, but "grossly" irresponsibly, falling far short of the duty of care. Gross negligence goes beyond carelessness to include reckless, unreasonable, or willful misconduct by a person. It is behavior that shocks the conscience. In these cases, the plaintiff must prove a lack of care that demonstrates reckless disregard for the safety or lives of others. Reckless disregard involves being aware that one's action or failure to act can cause a substantial and unjustifiable risk of harm but choosing to do it anyway. U.S. Supreme Court Justice Oliver Wendell Holmes is widely known for his succinct quip about gross negligence: "Even a dog knows the difference between being tripped over and being kicked."
2. One reason that gross negligence is sometimes claimed is that the injured person may have waived any rights to claim negligence. For example, a person taking a rope-climbing class may have signed a waiver promising not to sue over the school's negligence. However, most states--including the one in which this hypothetical case is set--will not enforce a waiver promising not to sue over gross negligence. For that reason, it is typically alleged in cases where a waiver is used.

### **Comparative Negligence**

1. **General Rule:** If at trial, more than one of the parties is found to be at fault, the judge will then compare the fault of the parties.
  - a. A party seeking damages will be entitled to a damage award if that party is less than 50% of the total fault in the case. However, a party seeking damages, who is more than 50% at fault, is not entitled to recover any damages whatsoever. For example, if a plaintiff is found to be 51% at fault for an accident, s/he is not

entitled to recover any damages at all. In contrast, if the plaintiff is found to only be 49% at fault, s/he is entitled to recover some damages.

- b. If the defendant's conduct were intentional, no fault should be apportioned to the plaintiff.
2. **Minors; Children Age 14 and Older:** All normal children, 14 years of age and above, are conclusively presumed by law to possess that maturity of discretion, which belongs to adults of ordinary prudence; and the general rules of law applicable to adults, including the law of comparative negligence, apply to them.

### **Preponderance of the Evidence**

1. In this action, the plaintiff has the burden of establishing, by a preponderance of the evidence, all of the facts necessary to prove the allegations contained in the plaintiff's complaint.
2. The defendant has the burden of establishing by a preponderance of the evidence, all of the facts necessary to prove the affirmative defenses contained in the defendant's answer.
3. The term preponderance of the evidence means that amount of evidence that causes a reasonable person to conclude that an allegation is probably true. To prove an allegation by a preponderance of the evidence, a party must convince the judge/jury that the allegation is more likely true than not true. This also has been explained as a percentage--the "preponderance of the evidence" must be more than 50%. Therefore, if the evidence on a particular issue is equally balanced, that issue has not been proven by a preponderance of the evidence, and the party having the burden of proving that issue has failed.

### **AVAILABLE CASE LAW**

#### **Lesser v. Wildwood (2003)**

Plaintiff brought suit against Wildwood Camp when plaintiff's minor child was injured by a falling tree during a thunderstorm when the child failed to stay with his group as they walked to safety. Under state law, camps supervising minors under age 18 have a duty to exercise the same degree of care as would a reasonably prudent parent under similar circumstances. However, such entities are "not insurers of safety...for they cannot reasonably be expected to continuously supervise and control all movements of students." Camp organizers "owe a duty to exercise only reasonable care to protect participants from 'injuries arising out of unassumed or unreasonably increased risks.'"

#### **David v. Robotronics Engineering Camp (2008)**

Michael David, a 15-year-old, was injured during a zip-lining accident at the Robotronics camp. David's parents filed suit for gross negligence, arguing that the camp counselors disregarded camp safety protocols and industry standards, thereby showing a conscious and reckless disregard for the safety of others. Defendant sought exclusion of the

industry guidelines, arguing that the camp's adherence to the standards was immaterial since the standards were voluntary rather than mandatory. The trial court permitted the evidence, and Defendant raised the issue on appeal. This Court agreed with the trial court's holding that "a departure from community customs or one's previously promulgated procedures is relevant under Rule 401 for purposes of determining whether conduct was done with reckless disregard for the safety of others, thereby constituting gross negligence."

#### **VanBeekum v. Buhler (2015)**

A trial court found that a local backpacking outfitter was not guilty of gross negligence, at its summer camp, in the providing of tainted chicken to campers at its summer camp for use in foil dinners (resulting in a camper suffering long-term disability due to the fact that he allegedly failed to properly cook his tainted poultry). The outfitter alleged that the campers had been provided cooking instructions for use in the cooking of the meal, which may not have been followed by the camper, a fact relied on by the court. The outfitter also asserted that it routinely informed its campers of the importance of cooking food thoroughly, although it is unclear if such instructions also were made during the cooking of the foil dinner in question.

#### **Kennedy v. Sandberg (2016)**

In a case involving a fifteen-year-old camper leading a non-swimmer younger camper into the midst of a river to a submerged sandbar and leaving her there, from which she fell and later drowned, the majority of the court found that gross negligence was not involved on the part of the fifteen year old, as he returned and attempted to rescue the young camper when she stepped off the sandbar into the water. In support of its decision, the majority defined "gross negligence" as being "a degree of negligence showing indifference to another and an utter disregard of prudence that amounts to a complete neglect of the safety of such other person."

#### **Halverson v. Schmidt (2016)**

In a case where a triathlete was injured upon being hit by a car while attempting to cross an un-monitored road intersection, despite existing triathlon standards requiring that road intersections be monitored for safety purposes, a court concluded that a jury might conclude that a failure to implement and comply with any of the triathlon industry guidelines regarding intersections, which left runners totally unaware of the possible dangers that awaited them, constitutes gross negligence on the part of the race sponsors.

#### **Thomas v. Hammond (2017)**

In a case in which a teen died from head injuries after having fallen from a falls during a supervised hike, an appeals court held that a jury might conclude that the actions of the supervising camp staff constituted gross negligence. The court held that given the evidence, a jury might reasonably conclude that the camp failed to consider, or even to recognize, the risks that would potentially face the campers whose safety and well-being the camp had undertaken to protect; that it failed to formulate any plan about how to meet and address

those risks; and that it failed to implement and follow the sorts of standards that would either *protect the campers from obvious dangers, or to enable them to recognize and guard against those dangers for themselves.*”



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**IN THE MOCK TRIAL COURT  
MORGAN COUNTY, STATE OF UTAH**

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**JUSTIN HALL**, a minor,  
by and through his parent,  
**JESSE HALL**,  
Plaintiff,

v.

**FORENSI TECH, INC.**,  
Defendant.

**AMENDED COMPLAINT**

Case No. 17cv0987

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**AMENDED COMPLAINT FOR GROSS NEGLIGENCE**

COMES NOW the Plaintiff, JUSTIN HALL, by and through his parent, JESSE HALL, and respectfully states to the Court and alleges as follows:

**PARTIES**

1. Jesse Hall is the parent of Plaintiff Justin Hall, a minor, and is qualified to bring this action on behalf of Justin Hall (“Plaintiff” or “Hall”).
2. Defendant ForensiTech, Inc. (“ForensiTech”) is a corporation organized and existing under the laws of Utah and authorized to do business within the state of Utah.

**FACTS**

3. From June 25-29, 2017, Plaintiff attended the ForensiTech camp held at Morgan University in Morgan, Utah.
4. Hayden Thomas, ForensiTech CEO and Camp Director (“Thomas”), and River Forrest, ForensiTech camp counselor (“Forrest”), were acting as agents for ForensiTech during the camp held at Morgan University.
5. Forrest possessed knowledge of proper emergency-care protocols for spinal cord injuries from Forrest’s Backcountry First Aid course that Forrest took at Morgan University.
6. On the evening of Wednesday, June 28, Forrest drove Hall and other students (“the hikers”) in a camp van to a site off-campus for a hike.
7. Forrest had not previously visited the location to which Forrest drove the hikers. No other camp staff or adult familiar with the location accompanied the hikers.
8. Thomas gave Forrest permission to take the hikers on the trip under the above conditions.

9. Forrest and the hikers did not make it back to their van before darkness fell. The hikers spent the night in a make-shift shelter on a wooded mountainside.
10. At approximately 3:00 a.m. on Thursday, June 29, Hall left the shelter, fell down the mountainside, and landed in the stream at the bottom. At some point during the fall, Hall struck his head and was injured.
11. Hall was unable to get out of the stream under his own power. Forrest and student Dakota Gardner (“Gardner”) moved Hall to the bank of the stream.
12. Forrest provided minimal instruction to Gardner about proper care when moving a patient with a possible spinal cord injury.
13. More than four hours passed before Hall was transported to the emergency room at Morgan County Medical Center.
14. Hall sustained a spinal cord injury at cervical vertebrae 6, resulting in quadriplegia.
15. Hall sustained a serious concussion from the blow to his head. He continues to suffer from post-concussion syndrome months after the incident, including severe headaches and memory loss.

#### **COUNT ONE: GROSS NEGLIGENCE**

16. The Plaintiff hereby adopts and incorporates by reference paragraphs 1 through 15.
17. ForensiTech had a duty of care to establish reasonable rules and regulations to minimize the risk of injuries to campers on all camp-sponsored events and outings and to communicate those rules clearly to all camp staff and camp participants.
18. ForensiTech breached its duty to Plaintiff by recklessly and intentionally:
  - i. Failing to verify all medical information supplied by campers upon their arrival at camp;
  - ii. Failing to establish reasonable rules and regulations regarding the scope and limitations of off-campus activities;
  - iii. Failing to communicate reasonable safety rules to all campers and camp staff; and
  - iv. Failing to institute proper oversight of authority and decisions made by its agents Thomas and Forrest.
19. At all relevant times, ForensiTech agents Thomas and Forrest had a duty of care toward Plaintiff to supervise, monitor, and take all reasonable and appropriate steps to ensure the safety of Plaintiff in all camp activities, both inside and outside of the classroom.
20. By permitting Forrest, on June 28, to take the hikers to an unknown off-site location, Thomas showed reckless disregard for Plaintiff’s safety and breached Thomas’ duty to Plaintiff.

21. By permitting Forrest to take the students on the hike without proper supervision or emergency contact information, Thomas put Hall in harm's way, directly and proximately causing the harm which Hall suffered during the time in question.
22. By failing to check the weather forecast just prior to the hike, Thomas and Forrest put Hall in harm's way when the storm made the conditions on the hike much more treacherous.
23. By intentionally moving Hall out of the stream without first providing proper instruction to Gardner, Forrest recklessly put Hall at unreasonably high risk of additional long-term damages from his probable spinal cord injury.
24. The Plaintiff has in the past experienced, continues to experience, and will in the future suffer from an assortment of problems associated with the harms described above, including, but not limited to, an inability to live independently and engage in normal activities of daily living, limitations in physical activities, loss of memory, depression, cognitive dysfunction, diminished educational achievement, employment impairment, and loss of the pleasures of life.
25. As a result of the foregoing, the Plaintiff has suffered damages and will in the future suffer damages caused by the gross negligence of the Defendant.

WHEREFORE, Plaintiff requests judgment for the following:

1. Judgment against the Defendant for compensatory damages in an amount to be determined at a later date;
2. Judgment against the Defendant for punitive damages in an amount to be determined at a later date;
3. Payment of the costs resulting from this action to be taxed against the Defendants;
4. Such other and further relief as this Court may deem just and proper.

Plaintiff requests a bench trial on all issues.

Respectfully submitted, this the 11<sup>st</sup> day of August, 2017.

Matthew W. Banks, Esq.

Matthew W. Banks, Esq.

Attorney at Law

333 Lincoln Blvd.

Alpine City, Utah 84386

Telephone: 435.770.4598



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**IN THE MOCK TRIAL COURT  
MORGAN COUNTY, STATE OF UTAH**

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**JUSTIN HALL**, a minor,  
by and through his parent,  
**JESSE HALL**,  
Plaintiff,

v.

**FORENSI TECH, INC.**,  
Defendant.

**ANSWER**

Case No. 17cv0987

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COMES NOW the Defendant, FORENSITECH, INC., and responds to the Plaintiff's Amended Complaint as follows:

**PARTIES**

1. Admitted.
2. Admitted.

**FACTS**

3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted.
7. Admitted.
8. Denied.
9. Admitted.
10. Admitted.
11. Admitted.
12. Denied.
13. Admitted.
14. Defendant lacks sufficient knowledge to form a belief as to the truth of the allegation in paragraph 14, and thus it is denied.
15. Defendant lacks sufficient knowledge to form a belief as to the truth of the allegation in paragraph 15, and thus it is denied.

### COUNT ONE: GROSS NEGLIGENCE

16. Defendants' responses to Paragraphs 1 – 15 are incorporated hereby by reference.
17. Admitted.
18. Denied.
19. Admitted.
20. Denied.
21. Denied.
22. Denied.
23. Denied.
24. Defendants lack sufficient knowledge to form a belief as to the truth of the allegations in paragraph 24, and thus it is denied.
25. Denied.

### AFFIRMATIVE DEFENSE

Defendant asserts the defense of comparative negligence. Plaintiff failed to exercise reasonable care for his own safety and thereby contributed to his own injury in one or more of the following ways:

1. Failing at any point in time to inform Thomas, Forrest, and other camp staff of his Type I diabetes;
2. Choosing to put himself at risk by going on the hike rather than joining a different evening activity group;
3. Failing to bring medically recommended snacks or other items for dealing with possible hypoglycemia on the hike;
4. Failing to eat the snack offered by Forrest during the hike; and
5. In such further ways as may be shown by evidence in this case.

WHEREFORE, Defendant prays the following from the Court:

1. That Plaintiff Justin Hall recover nothing from ForensiTech, Inc.; and
2. Such other and further relief which the Court may deem just and proper.

Defendants request a bench trial on all issues.

Respectfully submitted, this the 29<sup>th</sup> day of August, 2017.

Jordan J. Roberts, Esq.

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**IN THE MOCK TRIAL COURT  
MORGAN COUNTY, STATE OF UTAH**

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**JUSTIN HALL**, a minor,  
by and through his parent,  
**JESSE HALL**,  
Plaintiff,  
v.  
**FORENSI TECH, INC.**,  
Defendant.

**AFFIDAVIT OF JESSE HALL**

Case No. 17cv0987

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JESSE HALL, having been duly sworn, hereby states the following:

1. My name is Jesse Hall. I am 42 years old, and I live at 456 Promontory Point, Alpine City, Utah. I work as the Vice President of Marketing and Sales for Heaven-on-Earth Resorts, a sophisticated chain of ski resorts and hotels spanning the globe. Before Justin was injured, I probably spent one or two weeks each month on the road. Unfortunately, all of that travel put a strain on my marriage, and my spouse, Taylor, divorced me in 2013. Taylor initially got primary custody of Justin, but when Taylor remarried in January of 2017 and moved to Idaho, Justin asked to come live with me, and, of course, I said yes.
2. Justin and I had drifted apart after the divorce, so having him with me full time was an adjustment for us both. Because Justin was almost 16 years old and was very mature and responsible, we agreed that, instead of hiring a nanny for him, I would call Justin every evening to chat when I was away, and he knew he could call or text me at any time if he needed me. Justin's best friend, Dakota Gardner, lives nearby, and often Justin would have dinner at Dakota's house if I were gone.
3. Justin was a natural leader, with many friends. He was a straight-A student and first in his sophomore class. Justin planned to study chemistry in college because he wanted to be a forensic analyst. So as a freshman, he set his sights on getting into the Utah School of Science and Technology (USST) for his last two years of high school. USST has a very rigorous application process because it's a state-supported boarding school for the best students in Utah. In early March of 2017, Justin got his acceptance letter!
4. In his USST acceptance package, Justin received a list of summer enrichment programs. One of them was the ForensiTech camp at Morgan University in Morgan, Utah. I found out that the camp is accredited by the National Camp Association (NCA), which assures consumers that the camp follows government and industry

safety standards. NCA accreditation was important to me because they have about a dozen mandatory standards that must be met to receive and maintain accreditation and several hundred additional recommended standards. I'm familiar with the NCA because some of our resorts offer summer camps for children of guests, and we work hard to maintain our NCA accreditation.

5. Justin begged to go to the ForensiTech camp, and, because it was accredited by the NCA and recommended by USST, I said yes. The timing was perfect because I would be in Greece that week, so Justin would be at home alone, otherwise. Justin filled out the camp application and encouraged Dakota to apply, too. In March, they both were accepted, and we made plans for Dakota's parents to take them to camp. I immediately filled out the forms and sent in the deposit to confirm Justin's spot.
6. In mid-April, Justin started complaining that he felt tired, thirsty, and hungry all the time, and he was even losing weight. He also needed to use the bathroom frequently and complained that his vision was blurry. Fortunately, I was not traveling, so we made an appointment on Tuesday, April 18, with Justin's family doctor, Bruce Martin. Dr. Martin tested Justin's blood sugar level and found that it was 480! He told us a random blood sugar test result above 200 indicates possible diabetes. Dr. Martin also found something harmful called "ketones" in Justin's urine, which can be a sign of diabetes. We were shocked because no one in our family has diabetes.
7. Dr. Martin called ahead to the University of Utah Medical Center (UUMC) to let them know of Justin's results and then sent us to the UUMC emergency room. Justin was admitted to the hospital for two days. At UUMC, we met with Dr. Addison Wheeler, a pediatric endocrinologist. We learned that Justin's pancreas was no longer making insulin, and, because of that, he was diagnosed with Type I diabetes. When Justin's pancreas quit making insulin, his blood sugar skyrocketed, leading to the symptoms he was experiencing.
8. Justin was given an insulin injection to bring his blood sugar down. We were told that Justin would need to test his blood sugar level several times throughout the day and give himself insulin shots to keep his blood sugar under control. A nurse specialist and registered dietitian worked with Justin on how to do everything.
9. We were given information on a diabetic diet, and we were told that Justin's mealtimes needed to be consistent, so his insulin shots would have the right effect. The dietitian said Justin should always have snacks available in case his blood sugar got too low. Finally, he was told that exercise was helpful, but during exercise he would need to check his blood sugar.
10. After Justin was discharged on Thursday, we were scheduled for weekly follow up visits until Dr. Wheeler was sure Justin had his blood sugar under control. It was all pretty overwhelming, but Justin seemed to take it in stride, better than I did in fact. Justin's calmness was reassuring to me, and I knew he'd get through this okay.

11. When we got home, Justin immediately threw out all the sweets we had in the house, and he told me we needed to eat more lean meat and vegetables. He already did most of our cooking because of my work, and I must admit the food he fixed was tasty. I read the doctor's handouts on Type I diabetes, but I mainly relied on Justin to keep track of what he should eat.
12. Justin tested his blood sugar before and after meals for the next week, as well as before bedtime. He seemed to pick up pretty quickly on what to do to keep his blood sugar at the recommended level. We saw Dr. Wheeler again on April 25, and Dr. Wheeler was very pleased with Justin's blood sugar level. Dr. Wheeler talked with Justin about continuing to keep his blood sugar under tight control through frequent monitoring and adjustments. We came back for two more follow-up visits, and, when Justin's blood sugar levels stayed under control, Dr. Wheeler said we could wait three months before our next appointment.
13. Dr. Wheeler recommended that we get Justin a medical ID necklace and that Justin tell his close friends about the diagnosis, so they could help him recognize symptoms of low blood sugar. I got an ID necklace for Justin, but he rarely wore it. Justin told the school nurse about his diabetes, but he kept it secret from everyone else, even Dakota. He told me he didn't want his friends to treat him differently. I encouraged Justin to tell Dakota, but I didn't want to interfere in Justin's decision. I wish now that I'd been more insistent about the ID necklace and had told Dakota and Dakota's family about Justin's diabetes.
14. Before we knew it, it was Sunday, June 25, 2017, and time for Justin and Dakota to go to camp. My non-stop flight to Greece left at 6 a.m. that same day, so I woke Justin at 4:15 a.m. to tell him goodbye. I hadn't planned to wake him, but as I was about to walk out the door, I realized we had never informed the camp about his diabetes. We had sent in his registration forms prior to his diagnosis, so the diabetes was not on his camp form. Justin assured me sleepily that he would say something to the camp nurse. I barely made it through airport security in time for my flight, so I didn't have time to call the camp myself.
15. At 9 a.m., Justin texted me that he and Dakota were in the Gardner's minivan, beginning the three-hour trip to Morgan. Justin texted that he packed his insulin in the backpack he kept in the van with him because the insulin was supposed to stay at room temperature. When I got his text after landing that evening, I replied that I hoped he had fun and told him I would call him every morning at 7:00 a.m. MDT (3:00 p.m. in Greece).
16. True to my word, I called him at 7:00 a.m. (his time) on Monday morning. Justin told me the camp was great so far. On Sunday afternoon, Hayden Thomas, ForensiTech CEO, told them lots of stories about Hayden's prior work as a medical examiner. Then Justin met his "activity group" camp counselor, River Forrest. The campers worked in

academic focus groups during the day and did evening recreation with their activity group. Justin happily reported that he and Dakota were in the same focus and activity groups.

17. I asked whether he had told the camp nurse about his diabetes. He said, "Not yet, but I'll do it first thing today." Then he told me he needed to shower and head to breakfast. He also said it would be better if he called me, so he could take care of his morning routine. My schedule was flexible in the afternoons, so we agreed that Justin would always call me between 7:00 and 7:30 a.m. MDT to check in.
18. After I hung up from talking with Justin, I tried calling the camp phone number myself to tell them about his diabetes. But it went straight to voicemail, and the mailbox was full, so I couldn't leave a message. Justin is incredibly reliable, though, so I knew he would tell them.
19. Justin called me as promised on both Tuesday and Wednesday, and I could tell he was loving camp. He told me the instructors were outstanding, and he was thrilled they were getting to analyze DNA "evidence" from a "murder scene" on campus. In the excitement of hearing about his camp activities, I forgot to confirm that he told the camp nurse and other staff about his diabetes.
20. On Thursday, I waited for Justin's call, but my phone didn't ring. At 3:40 p.m. my time (7:40 a.m. Justin's time), I tried to call him, but my call went to voicemail. I was a little concerned, but I figured maybe he had overslept and had to rush to class. So I texted him and asked him to call later in the day as soon as he could.
21. At 4:10 p.m., my phone rang, and I breathed a sigh of relief--until I realized it was not Justin's phone number. It was Hayden Thomas. Hayden said Justin had been in a serious accident and was in the hospital. I don't remember much else of what Hayden said; I got off the phone and booked the first flight to Morgan. I caught a flight that got me there by 9:00 a.m. the next morning, and I rushed right to the hospital. I almost passed out when I saw Justin in the ICU, on a ventilator with a neck brace and tubes coming out all over.
22. Hayden Thomas talked with me at the hospital. I learned that Justin and his group had gone on a hike on Wednesday night, gotten lost, and had to spend the night on the trail in a heavy rainstorm. In the middle of the night, Justin had gotten up, apparently to use the bathroom, had slipped, and had fallen down a steep hillside, hitting his head. It was morning before the campers were rescued, and Justin was brought to the hospital. No one knew where they were until one of the hikers made it out to the van after daylight!
23. Justin was in the hospital for three weeks before he could come back home to a nearby rehab center. Now Justin is a quadriplegic, and they say he'll never walk again. He broke his neck in the fall, and he has limited movement of his arms and only partial use of his wrists.

24. He also suffered a serious concussion, and he has terrible headaches and memory issues. He can't really remember anything that happened from his time at camp. It's not certain yet whether the memory loss is permanent. Either way, it's clear that Justin's future is ruined. He'll never be able to go to USST; he will likely never go to college, and the doctors say he probably will never be able to live independently. I have insurance, but the medical bills are enormous, and they're still piling up.
25. I know I signed a camp liability waiver. I don't know for sure whether the camp was told about Justin's diabetes, although Justin promised me he would tell them, and I've never known him to break a promise. But either way, the camp should never have sent those kids on that hike in the first place. NCA standards require that two adults be present on any hike off-site, but River was the only counselor on the hike.
26. I looked up and printed off the Rocky Mountain Weather Service's forecast for Wednesday's weather when I got to Morgan on Friday, and it had clearly indicated a storm would arrive sometime Wednesday evening. Why did they camp allow them to go on the hike when a storm was coming, and why did no one know where they were?
27. River should have never been allowed to take campers to a location the camp had not checked out thoroughly beforehand. Even going to an unfamiliar site, River should have managed to get the students off the mountain before dark. All they had to do was retrace their steps before it got too late! Or they should have found a safer place to settle down for the night, if they really were lost. The whole thing was just crazy; that hike violated several of the NCA standards they are required to follow. Money can never make things right, but the camp needs to pay--both to help us with all these bills, and to make sure they never put any other students at risk in this way!

Pursuant to *Utah Code Ann.* §78B-5-705, I declare, under criminal penalty of the State of Utah, that the foregoing is true and correct.

DATED the 15th day of August, 2017.

Jesse Hall

Jesse Hall

Subscribed and sworn before me on this, the 15th day of August, 2017.

Elizabeth Eskelson

Elizabeth Eskelson, Notary Public



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**IN THE MOCK TRIAL COURT  
MORGAN COUNTY, STATE OF UTAH**

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| <p><b>JUSTIN HALL</b>, a minor,<br/>by and through his parent,<br/><b>JESSE HALL</b>,<br/>Plaintiff,</p> <p>v.</p> <p><b>FORENSI TECH, INC.</b>,<br/>Defendant.</p> | <p style="text-align: center;"><b>AFFIDAVIT OF DAKOTA GARDNER</b></p> <p>Case No. 17cv0987</p> |
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DAKOTA GARDNER, having been duly sworn, hereby states the following:

1. My name is Dakota Gardner. I am 16 years old and a rising junior at Alpine Heights High School in Alpine City, Utah. I live at 321 Snow Canyon, about two blocks away from my best friend, Justin Hall. Justin and I have hung out together since elementary school, when we'd use our "Mad Scientist" chemistry sets to investigate crime scenes in our backyards. I always acted as the "sketch artist", so we could "preserve the evidence" to keep in our investigator notebooks.
2. We had great plans to attend Morgan University, double-major in chemistry and forensic science, and then get a job with the Alpine City police department as forensic analysts. I can't believe Justin is paralyzed. It's still really hard to talk about it. I wish we'd never heard of that camp.
3. Justin is the one who told me about the ForensiTech camp. He learned about it after he got into USST (Utah School of Science and Technology) for his last two years of high school. We both applied, but I wasn't accepted. Justin was first in our class, and he had a way of connecting with everybody. No surprise that he aced the interview and got accepted.
4. When he suggested we attend the ForensiTech camp, I thought it'd be great way for us to have fun together before he headed out of town in the fall. We were really excited when we both got accepted into ForensiTech camp. The camp had different CSI topics you could focus on, like fingerprint analysis, DNA analysis, or ballistics. We both knew right away that we wanted the DNA analysis group.
5. About two years ago, we'd gotten to watch Utah's premier forensic specialist, Kris Lee, testify in the Avery Zabriskie trial. Kris' testimony was a key factor in Zabriskie's conviction, and watching Kris at trial convinced us even more that we wanted to become forensic analysts, too.

6. At noon on June 25, 2017, my family dropped Justin and me off at camp, and I have to admit--it started out great. At registration, we got our dorm keys and reviewed our application forms to make any needed changes. After we unpacked our suitcases, we headed to the lecture hall to be greeted by Hayden Thomas, the ForensiTech CEO. Director Thomas told us that ForensiTech started in 2009 at the University of Arizona, and camps now were held at twenty colleges across the U.S.
7. Director Thomas doesn't go to all of the camps, but always teaches at Morgan University because "the setting is so beautiful and the climate is much cooler than Tucson in June." Director Thomas shared awesome stories about working as a medical examiner (ME) before starting ForensiTech.
8. Next, we learned which evening recreation activities group we had been assigned to; there were only ten students per group, and I was really hoping I would be with Justin. Thankfully, Justin and I were assigned to the same counselor, River Forrest, a student majoring in biochemistry at Morgan University. Justin and I were pumped to be put in the DNA focus group and the same evening activity group, both led by Forrest. It seemed that things just couldn't get any better.
9. The camp sessions were amazing. The camp had set up a "crime scene" on campus, with DNA evidence, fingerprints, bullets, text messages--you name it. We had several "suspects" for the case, and, by the end of camp, we were supposed to report our results to "prove" who the criminal was. It was a really cool way to use the information we were learning, and we were having a blast.
10. After supper, we did activities with our assigned evening group. On Sunday night, all of the groups went on a campus-wide scavenger hunt to learn their way around, and the winning team earned a pizza party. River seemed to have a great sense of direction, showing us shortcuts and helping us plan the fastest way to get everything. We won by a landslide!
11. The next two evenings were just as fun. On Monday, we played ultimate Frisbee. We started at around 7:00 p.m. and played for nearly two hours until it got dark around 9 p.m. I remember Justin took a break midway to get something out of his backpack and then drank a can of orange juice. When River asked Justin if he were okay, he said, "Never better!" and jumped back in the game. I'd never seen Justin take a break before--I often took one, to use my asthma inhaler--but I didn't think much of it.
12. On Tuesday, we went canoeing on the campus lake, ending with a massive water fight with our paddles. It was awesome!! I remember Justin taking a quick trip to his dorm room right beforehand and drinking more OJ on the way to the lake. When I kidded him about all the OJ he was drinking, he just said, "OJ is way better for you than the soda you drink!" That was true enough, so I just let it go.
13. On Wednesday, River told us about a special outing he had arranged for our group that night; we would bring a picnic dinner, hike along a stream not far from campus, and

swim in a little pool with a waterfall. River had never gone there before, but one of River's college buddies was supposed to come along to guide us. River said the waterfall was supposed to be near a scenic overlook and be surrounded by all different kinds of mountain flowers. It sounded great!

14. River told us all to grab our camp sports bag and bring water, a light jacket, and a towel. River said to wear decent shoes for hiking and to meet at the camp van by 5:30 p.m. River also announced if anyone felt like they weren't up for a short hike, they could join a different activity group just for that evening. But we all thought it sounded fantastic, so everyone met River at the van. River said the friend who was going to guide us had just called and couldn't make it, but River had directions.
15. It was a beautiful day--partly cloudy and around 78 degrees--so none of us brought light jackets despite River's suggestion. We all wore tennis shoes, and either bathing suits or shorts and t-shirts. Only two girls had towels, but the rest of us said we would air-dry as we walked back to the van. Because the hike was so short and we would be back before dark, River decided we were okay.
16. After driving for about 20 minutes, we parked at a scenic overlook. An unmarked narrow dirt trail led off to the right; River said that was the way to go, so we started down the trail. As we started hiking, I remember glancing at my watch and seeing it was 6:15 p.m. River said we would leave the food in the van, and two of us would go back for it after we found the waterfall. River's friend had said we'd only have to hike 15 minutes or so to find the spot, so River figured it would be easy to come back for the food after we swam in the pool a little while.
17. At the beginning, the path was maybe 70 feet above the stream. It sloped gently down, and soon we crossed the stream at a shallow place where we could jump from one rock to another. We followed the path going in a downstream direction. Then the path sloped back up until it was 30-40 feet above the stream and maybe 30 feet away from the bank. A bit later we came to a fork in the path. The right-hand trail went up and away from the stream, while the left fork went down and closer to the stream. River didn't really know which way to go, but he decided we should take the lower path since the waterfall and picnic area should be by the stream.
18. After a little ways, the path became even narrower and was not only hard to see, but also super steep. Some of us were slipping trying to get down it, and I was thinking it was going to be hard to go back to get the food and to not drop it while bringing it down this part of the trail. River figured out we were probably on a deer trail, not the actual hiking path. But River had us keep walking along the stream because it would be hard to climb back up, and he thought we were almost at the waterfall.
19. The path ended soon after we reached the stream again, so we started rock-hopping and wading downstream in the water, which was only about a foot deep. The current was

pretty gentle. The water was cold, but the air was warm. We were having so much fun talking that no one noticed how long we'd been walking, but it was definitely way more than 10-15 minutes.

20. Finally, I looked at my watch and realized it was 7:30 p.m.! We'd been walking more than an hour and hadn't seen a waterfall or calm pool area with a clearing beside it. I told River the time, and River seemed surprised that it was so late. River said River's cell phone had died, and River didn't have a watch. Darker clouds had moved in, the air was cooling off, and some of us were starting to shiver. I asked if we should head back. River said yes, so we turned around. Because the riverbanks were so steep, we had to keep walking in the stream.
21. Several students complained that they were hungry, so River pulled granola bars out of a sports bag and told us to share the water some students had brought. A few students didn't eat anything, and I didn't notice whether Justin had anything to eat or not. With the few granola bars River had, at most all Justin could have eaten was a half of a bar anyway. As we struggled back upstream, the current seemed stronger than before. We had to keep stopping to rest and catch our breath; at one point, I even had to use the asthma inhaler I always carry.
22. By this time, it was getting pretty dark and looked like it might rain. River said we needed to climb up the bank to get away from the cold stream and avoid hypothermia. A few students tried to call 911, but they didn't have a cell signal. We all started climbing up the left bank of the stream--the side away from the road--because it was a little easier. It was still a hard climb because there were lots of vines and thorns, and no path at all. Several of the students were upset and really struggling to climb.
23. After we had gone maybe halfway up the steep mountain, River decided we should stay put and dig in rather than climbing any farther. We all used our feet and hands to try to dig out a level place to sit. A few of us tried building a rough lean-to for shelter, using our cell phone flashlights to help us see.
24. Knowing what a bad situation we were in, River and one of the other students hiked farther up the mountain to try to call 911 on the student's cell phone. When they came back, River said the student had reached 911 right before his cell phone died and help was on the way. It was about 10 p.m. at that point, and that is when it started raining lightly.
25. We all tried to huddle together under the lean-to, but the rain was still getting in, and most of us thought the lean-to was basically worthless. When the rain started pouring, we all got drenched and were shivering. River said if anyone needed to leave the "shelter" to use the bathroom, a buddy should go along to make sure they were okay. While most of us stayed put, a few of the girls who ventured out said it was really slippery, and they almost fell down the mountain in the dark. We took turns yelling "Help!" every few minutes, in case the rescuers were near. We didn't hear or see any rescuers, so eventually we stopped yelling and dozed off.

26. Around 3 a.m., I woke up because Justin jostled me. I looked at my watch and said, "What are you doing?" Justin was rubbing his head and seemed confused, asking "Where are we? What's going on? Why does my head hurt?" I reminded him that we were lost in the woods on a hike for camp, and he said, "Camp?" like he didn't know what I meant. I said, "Go back to sleep," but he said, "No, I gotta go," so I figured he needed to use the bathroom. It was raining again, so I said, "Can't you wait?" But Justin was already up and stumbling out of the lean-to.
27. I groaned and started to get up when I heard Justin scream. Then I heard sounds of sliding and bushes breaking, followed by a loud "wham" by the river, and another scream. River leaped up and said, "What was that?" I yelled, "It was Justin!! I think he slipped and fell on the rocks!!" River told all of us to stay put, but I ignored that and followed River down the slope as quickly as I could.
28. We found Justin lying on a rock in the stream, crying and saying, "I can't move!!" We couldn't leave him in the freezing water, so River supported his neck and shoulders, I supported his lower trunk and legs, and we moved him to the bank. River kept telling me to hurry, that we needed to get Justin out of the stream quickly. River tried to instruct me on how to move Justin safely, but I was so scared and shaken that it was hard to concentrate. I slipped once when we were carrying Justin, and River almost dropped his upper body. I felt super bad because Justin screamed when that happened, and I worried we had hurt him more.
29. When we finally got to the bank, we had to feel around with our feet to find a level place because it was so dark. At last, we found a flat spot, and we put River's jacket over Justin to try to keep him warm. I told River I wanted to hike up the stream the way we came from, to see if I could get to the van and go for help. River said it was too dark and dangerous, and we had to wait for daylight. So we both stayed beside Justin, talking to him to try to keep him calm and awake.
30. When it began getting light at 5:45 a.m., River and another student started hiking out along the stream, while I stayed with Justin. About 40 minutes later, River came back with several deputies. They said they had called an ambulance, and the student stayed behind to guide the EMTs to us. The deputies also said they'd been searching and calling for us all night, but we never heard them. A little after 7:00 a.m., the EMTs reached us. They asked River and me what had happened. Then they carried Justin out on a backboard with a rigid neck collar and took him to the hospital.
31. The deputies helped get everyone else off the mountain, and River drove us back to camp, where we talked with Hayden Thomas about what had happened. I was really shaken up. I wanted to go see Justin in the hospital, but they said he was in the ICU, and only family members were allowed to visit. So I called my parents and asked them to pick me up. I couldn't bear to stay at the camp after what had happened.

32. I learned later that Justin has diabetes, and hiking for hours with no food or drink probably lowered his blood sugar and made him confused. I had no idea he had diabetes; he never told me, but I'm positive he would have told the camp staff.
33. I liked River, but the camp should never have let River take us on that hike when River wasn't sure where to go. Or at least we should have turned around much sooner. River should have kept track of the time better and made sure to have a fully charged cell phone. If we'd had another adult with us, one adult could have hiked out to the van without leaving the campers all alone. And someone should have known where to find us when we weren't back by dark. We should never have been stuck on a mountain all night in a rainstorm.
34. If we'd done the regular evening activities, instead of going on this stupid hike, none of this would have ever happened, and Justin and I would be going to Morgan U together in 2019. Now Justin's life is ruined, all because the camp didn't do what they should have. The camp should definitely pay for what happened to Justin.

Pursuant to *Utah Code Ann.* §78B-5-705, I declare, under criminal penalty of the State of Utah, that the foregoing is true and correct.

DATED the 8th day of August, 2017.

Dakota Gardner

Dakota Gardner

Subscribed and sworn before me on this, the 8th day of August, 2017.

Brandy Wilson

Brandy Wilson, Notary Public

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**IN THE MOCK TRIAL COURT  
MORGAN COUNTY, STATE OF UTAH**

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**JUSTIN HALL**, a minor,  
by and through his parent,  
**JESSE HALL**,  
Plaintiff,  
v.  
**FORENSI TECH, INC.**,  
Defendant.

**AFFIDAVIT OF NICKY LOPEZ**

Case No. 17cv0987

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NICKY LOPEZ, having been duly sworn, hereby states the following:

1. My name is Dr. Nicky Lopez. I am 47 years old and reside in Morgan, Utah, with my spouse and three children. I grew up in Morgan and always planned to live and work here as a doctor just as both of my parents did. I obtained my undergraduate degree at Stanford University, graduating *summa cum laude*. After attending Harvard Medical School, I completed my residency in Emergency Medicine at Johns Hopkins in Baltimore, Maryland. Because of my skills, I was selected as “Chief Resident with Distinction” in my fourth year.
2. I have worked in the emergency room (ER) of the Morgan County Medical Center (MCMC) for the past 17 years. I am a Professor at the Morgan University School of Medicine and Chair of the MCMC Department of Emergency Medicine. Due to the nature of my work, I have testified in court on five occasions regarding the injuries sustained by a plaintiff/patient prior to reaching the ER. I am being paid \$18,000 as compensation for my trial preparation and testimony today.
3. We see a wide variety of cases in our ER because, unfortunately, some of the outdoor enthusiasts visiting our beautiful area forget to use wisdom and caution, putting themselves and others at risk. Every summer we see kids who break their arms or sustain concussions at local camps, and we also see our share of middle-aged “weekend warriors” who injure themselves while mountain biking or hiking in the national forest.
4. On the morning of June 29, 2017, I began working at 6:45 a.m., and at 7:58 a.m., the ambulance carrying Justin Hall arrived at the E.R. The Emergency Medical Technicians (EMTs) had called ahead to warn us of a possible spinal cord injury. Justin was brought in on a backboard with his head and neck stabilized in a semi-rigid cervical collar. He appeared to be in shock and was confused and unable to answer questions. Immediately, I went to work on stabilizing him.

5. The lead EMT gave us a quick report on Justin. He said Justin was part of a group of students from a local camp, and they got lost while hiking and were stranded overnight. At approximately 3:00 a.m., according to the camp counselor, Justin apparently got up to use the bathroom, slipped, and plunged down a mountainside to the stream below, hitting his head on a rock.
6. When the camp counselor reached Justin, he was crying and complaining he could not move. The camp counselor and one of the campers moved Justin from the frigid water, placing him on the stream bank. They kept Justin awake, and as warm as they could, until the EMTs could reach and transport him. By 7:30 a.m., the EMTs had Justin on his way to the ER.
7. We immediately began evaluating Justin following the “A, B, C, D, E” protocol (Airway, Breathing, Circulation, Disability/Neurologic status, and Exposure/Environmental control). Justin’s airway was not obstructed. His breathing was decreased, so we put him on oxygen to ensure adequate levels of oxygen in the blood.
8. His pulse and blood pressure also were low because he was suffering from “neurogenic shock” as a result of an apparent spinal cord injury. If not treated quickly, neurogenic shock can lead to organ dysfunction and even death. We also examined Justin thoroughly for any signs of additional injuries. He had scrapes and contusions on his head, face, arms, and legs, but they were not serious. After the physical examination, we covered him with heated blankets to keep him warm.
9. To stabilize Justin’s condition, we started him on warmed intravenous (IV) fluids and a medication to raise his blood pressure back to normal. We drew blood and sent it off to the lab to check for abnormalities. A finger stick blood sugar test revealed he had hypoglycemia, or low blood sugar, so we immediately added dextrose to his IV; dextrose is a type of glucose (sugar) solution, which should have stabilized his blood sugar level. Forty-five minutes later, the initial blood tests came back, and they showed that Justin’s insulin level was very low; that is when we realized he appeared to have Type I diabetes.
10. As a diabetic, Justin’s cells would not be able to use the dextrose we had given him. We did a second finger stick glucose test and confirmed that his blood glucose level was now too high. This was not surprising since Justin had very little insulin to move the glucose from his blood into his cells. We started IV insulin and monitored him to make sure his blood glucose level returned to the appropriate range. Justin’s lactic acid level also was elevated, most likely due to his uncontrolled diabetes and trauma from the accident.
11. Unfortunately, Justin was not wearing any medical ID necklace to inform us of his diabetes, which delayed us in giving him proper treatment. During all of this time,

we kept Justin's head and neck immobilized. He remained very confused and non-responsive to our questions. When we conducted sensory and motor evaluations of his hands, arms, torso, and legs, he did not appear able to move his lower limbs, and he had only limited movement of his arms and wrists.

12. As soon as he was stable, we ordered spinal Computerized Tomography (CT) scans. The scans revealed that Justin indeed had broken his neck as a result of the fall. He had what we term an "incomplete" spinal injury at C6, or cervical vertebra number 6. An "incomplete" spinal injury means that some functions below the injury may be unaffected. In Justin's case, a severe compression and partial lesion of the spine had occurred at the C6 vertebra, rendering him a partial quadriplegic. A quadriplegic is an individual who has lost partial or total control of the trunk, arms, and legs.
13. In addition, Justin appeared to have sustained a serious concussion. A concussion is a type of traumatic brain injury caused by a blow or jolt to the head. Most concussions do not lead to a loss of consciousness, but they often lead to mental "fogginess" or confusion. It was difficult in the ER to determine to what extent Justin's confusion was caused by a possible concussion, or hypoglycemia and/or shock. We noted the likelihood of a concussion in our report as an issue to be addressed during his hospital admission and follow up care.
14. Shortly after the CT scan results were obtained, Justin was admitted to the ICU. He underwent decompression and spinal fusion surgery within 12 hours of admission to stabilize his spine and prevent additional injuries. Justin remained in the ICU for three days and in our hospital for nearly three weeks.
15. I usually do not follow my patients after they leave the ER, but Justin's case was different. He reminded me of my own son and of how life can change in an instant. I can't even imagine the horror of having my son injured so severely at a science camp; it is not like it was even a wilderness camp! So, I visited Justin several times per week while he was at MCMC and followed his condition closely, reading his charts and talking with his attending physician.
16. Justin was unable to tell us the sequence of events during his injury, either on the day of admission or afterward during his recovery, due to his confusion and memory loss. Thus, it is difficult to know whether he sustained his neck injury during the fall down the mountain, perhaps by hitting a tree or other obstacle; at the time his head struck the rock at the bottom; or both. From the information the EMT obtained on the scene from the camp counselor, Justin was already unable to move his legs or arms when the counselor reached him after his fall.
17. If at all possible, anyone with a suspected spinal cord injury should not be moved until medical personnel arrive. However, I do not fault the counselor for moving him to the stream bank; Justin could have died from hypothermia if he had remained in the frigid stream for hours. However, great care should be taken during any such move because

the risks of further injury are great. According to the EMT, the camp counselor tried to support Justin's neck when moving him. Nonetheless, it is possible that further injury resulted from the move.

18. Justin had regained some ability to move his arms and some control over his wrists by the time he left MCMC. He had minimal control over his hands and fingers, and, given the nature of his injury, that is unlikely to change over time, even with intensive rehabilitation. He will likely gain the ability to control a motorized wheelchair, but he will need assistance with feeding, toileting, dressing, bathing, and other daily living activities. He also will need assistance with monitoring his blood glucose level and administering insulin to control his diabetes.
19. Prolonged observation confirmed that Justin sustained a concussion during the fall, which has manifested itself in headaches, difficulty concentrating, and memory problems. These post-concussion syndrome symptoms may disappear in time, although that is not certain.
20. The recommended treatment for recovering from concussion symptoms is rest, both physical and mental. Yet, the stress of his condition and the extensive rehabilitation required to try to regain other skills made it more difficult for Justin to achieve the necessary mental and physical relaxation for recovery. Unfortunately for Justin, as the brain attempts to heal after a concussion, such physical or cognitive activity can cause symptoms to worsen and even lead to long-term problems.
21. I have cared for six previous patients with a C6 injury. The combination of diabetes, post-concussive syndrome, and spinal cord injury puts Justin in a uniquely difficult situation, so it is hard to predict his situation five or ten years from now.
22. But with my seventeen years of experience in the ER and specific concentration in trauma and neurological injuries, I am certain that Justin will require significant assistance throughout his life and will almost certainly never be able to live independently. Based on the extent of his injuries, I also think it is highly unlikely Justin will ever be able to attend college or obtain employment which would enable him to be financially independent.
23. All of the conclusions I reached, tests I performed, and significant observations I made are contained in this affidavit and the MCMC Emergency Room report. All of my conclusions were drawn to the prevailing standard of certainty in my field. All of my tests and actions followed the standard protocol for the Emergency Room at MCMC for an injury of this type, and all MCMC protocols follow the standards in my field.

Pursuant to *Utah Code Ann.* §78B-5-705, I declare, under criminal penalty of the State of Utah, that the foregoing is true and correct.

DATED the 22nd day of August, 2017.

*Nicky Lopez, M.D.* \_\_\_\_\_

Nicky Lopez, M.D.

Subscribed and sworn before me on this, the 22nd day of August, 2017.

Fran Penrod \_\_\_\_\_

Fran Penrod, Notary Public



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**IN THE MOCK TRIAL COURT  
MORGAN COUNTY, STATE OF UTAH**

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**JUSTIN HALL**, a minor,  
by and through his parent,  
**JESSE HALL**,  
Plaintiff,  
v.  
**FORENSI TECH, INC.**,  
Defendant.

**AFFIDAVIT OF ADDISON WHEELER**

Case No. 17cv0987

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ADDISON WHEELER, having been duly sworn, hereby states the following:

1. My name is Addison Wheeler. I am 38 years old and live at 357 Glendale Avenue, Alpine City, Utah. Since 2011, I have worked as a pediatric endocrinologist at the University of Utah Medical Center (UUMC). In my clinical practice, I see children and youth who have diseases of the endocrine system, such as growth disorders and Type I diabetes. In 2014, I was asked to serve as an associate clinical professor in the Department of Pediatrics at the medical school, teaching medical students about these topics.
2. I became interested in endocrinology as a teenager when my best friend was diagnosed with Type I diabetes. My friend was very open in telling me about what he was going through, and I was glad I could be there for him. One time when we were swimming at the neighborhood pool, I noticed he was acting very confused and kind of “shaky.”
3. Remembering what he had told me about low blood sugar, I urged him to check his levels. When he did, he realized he had dangerously low blood sugar, and he immediately drank a small can of orange juice. He thanked me for helping him, saying he didn’t even realize why he felt bad. I’ve often remembered that incident and am glad I recognized what was going on before he got hurt.
4. Our department is one of the best in the country, and we provide excellent care to our patients. We follow patients with both Type I and Type II diabetes, and we see those who are newly diagnosed as well as those who have been dealing with the disease for decades. Type I diabetes is usually diagnosed in children or youth and is suspected to be an autoimmune disorder. It occurs when an infection or other trigger causes the body’s immune system to attack the pancreatic cells that make insulin. As a result of this immune system attack, people with Type I diabetes make little to no insulin.

5. Our bodies need insulin in order to move glucose (a type of sugar) out of the blood and into our cells, where it can be stored and used for energy. Glucose is the main fuel used by body cells and, especially, by the brain. We primarily consume glucose in complex carbohydrates like potatoes, breads, and pasta. When the pancreas no longer makes insulin, the blood glucose levels rise, and our cells do not get the glucose they need. To compensate, the body breaks down fats for fuel, producing acidic waste products called ketones. Ketones are poisonous at high levels.
6. Type II diabetes is the more common form of the disease. People with Type II diabetes produce low amounts of insulin, or their cells are resistant to the insulin. Type II diabetes usually occurs in adults and among those who are overweight and inactive.
7. In a typical year, I see between 75 and 100 patients newly diagnosed with Type I diabetes. Justin Hall was one of those; he was admitted to our clinic from April 18-20, 2017. Justin had gone to see his family doctor with symptoms indicative of diabetes: excessive thirst, excessive urination, unusual hunger, fatigue, unexplained weight loss, and blurry vision. Diagnostic tests revealed high blood sugar and the presence of ketones in his urine, indicating he had diabetes. Because of Justin's age and normal body weight, his doctor suspected he had Type I diabetes rather than Type II.
8. When Justin reached the ER, we ran a number of diagnostic blood tests. As expected, his blood glucose level was elevated, and glucose and ketones were present in his urine. We tested Justin's blood insulin level, and the test revealed he was not making insulin, confirming the diagnosis of Type I diabetes. Justin was admitted to the hospital to get his blood glucose under control and to educate him on dealing with his diabetes.
9. At UUMC, we use a team approach to care for individuals newly diagnosed with Type I diabetes. Our first step was to give Justin insulin to bring his blood glucose level back down to normal, and to devise the appropriate type, dose, and timing of insulin injections to keep him in the normal range after discharge. Our diabetes nurse educators instructed Justin in using a small needle and glucose meter to test his blood glucose before meals and at bedtime. Testing his blood glucose is important in determining the proper insulin dose.
10. The nurse educators also showed him how to record his blood glucose values, insulin doses, and dietary intake. We instructed Justin to keep detailed records when he returned home, so we could review them on his weekly follow up visits to determine whether any adjustments to his regimen were needed.
11. In addition, a registered dietitian met with Justin and Jesse Hall to discuss an appropriate diabetic diet, given Justin's age, weight, and activity level. The dietitian covered, in great detail, the signs and symptoms of hypoglycemia (low blood sugar) and hyperglycemia (high blood sugar), as well as the steps to take should either of those conditions occur.

12. She discussed the need to monitor his blood glucose level more closely when exercising in order to avoid hypoglycemia. Justin grasped the information quickly, and when I commented on his unusually rapid understanding of the concepts and details of his condition, he told me that chemistry was his favorite subject in school, with biology a close second, so the information made perfect sense to him. He definitely impressed me with his attitude and maturity.
13. One aspect I addressed in some detail with both Justin and Jesse is the fact that Type I diabetes is a chronic, lifelong condition for which we have no cure. Since Justin's pancreas no longer makes insulin, Justin will need to monitor and tightly control his glucose level every day for the rest of his life. Close control of his blood glucose level can help forestall the development of many long-term complications, such as kidney disease, heart attack, and stroke. Of more immediate concern is recognizing that severe hypoglycemia can be life-threatening, causing accidents, injuries, coma, or death.
14. I encouraged them to get Justin a medical ID armband or necklace and for him wear it at all times. In the event of an accident or emergency, the ID would alert medical personnel to his condition. I also encouraged them to tell close family and friends about his diagnosis, so they could help him identify any symptoms of hypoglycemia. Most newly diagnosed patients follow my recommendation, but some choose otherwise.
15. Justin expressed concerns that wearing an ID would make his friends view him "differently." I acknowledged Justin's concerns and encouraged him to think about how he might feel if his close friend were diagnosed with diabetes; surely, he would support that friend and be happy to help watch out for him or her. I stressed that if Justin decided to keep the news private, it was even more important he wear a diabetes medical ID when leaving home. Justin listened carefully and seemed to understand the reasoning behind my instructions.
16. By Thursday, April 20<sup>th</sup>, Justin was ready to be discharged from UUMC. I told Justin to return for a follow up visit on Friday, April 28, and to bring his "diaries" (dietary, blood glucose, and insulin) with him. Justin and Jesse both came to the appointment, and I was pleased with the thoroughness of Justin's records. His blood glucose had been kept close to normal for much of the week. I questioned Justin about any problems or issues after his discharge, and he reported that all had gone well. His understanding of how to monitor and maintain an appropriate diet and blood glucose level was excellent. He did not report any instances of hypoglycemia.
17. As per our regular protocol, we scheduled follow up visits for the next two weeks. Justin and Jesse kept both appointments, and Justin's diaries revealed he was keeping his blood glucose under excellent control. Justin indicated he had decided not to reveal his diagnosis to his friends, so I reviewed the pros and cons of that decision.

18. On the third visit, he still did not have a medical ID bracelet or necklace, so I strongly urged them to get one, especially if he chose not to tell his friends about his diabetes. Jesse assured me they would order one that very day, and Justin reluctantly said he understood why it would be wise to wear it.
19. When I asked him to commit to wearing it, at least when he was not with Jesse, he unenthusiastically said “okay.” Because his insulin schedule and dietary regimen were keeping his glucose under good control, I told them he could wait three months for his next appointment, reminding him that he could contact us with any questions in the meantime.
20. Before it was time for Justin’s next visit, he was injured during the accident at the ForensiTech camp. I actually heard about this tragedy through a story on KSL news. I was very distressed to hear about the incident because Justin was clearly a remarkable young man with a bright future ahead of him. I have not seen Justin since early May, and I will admit I was surprised and, to be honest, very reluctant when I was initially contacted and asked to testify by the defense counsel. This is my first time testifying as an expert witness. I am being paid \$10,000 for my preparation and testimony in today’s case.
21. It is my personal opinion that the camp director was unwise to let the camp counselor take the students on a hike to an unfamiliar location. Even so, it is my expert medical opinion that Justin’s tragic accident occurred, in large part, because Justin was suffering from hypoglycemia. Justin’s last meal appeared to be at lunchtime on the day of the hike, although I do not know for certain whether he ate a snack in his dorm room prior to getting in the van at 5:30 p.m.
22. River Forrest’s account indicates Justin neither ate nor drank anything during the hours-long hike or while they were stranded on the mountain after dark, even though he reportedly was offered food and drink at least two times during that period. Hiking non-stop for several hours with no oral intake would lead to hypoglycemia in an individual with Type I diabetes, and Justin’s finger stick blood glucose level obtained by the MCMC emergency room staff (40 mg/dl) confirms that to be the case.
23. All of the students were subjected to the same dark, rainy, conditions on the mountainside. While other students mentioned the slippery footing on the mountain that night, Justin was the only one to fall and be injured. Reportedly, Justin was very athletic and coordinated when taking part in the other camp activities. However, an individual with a blood glucose level of 40 mg/dl would be highly likely to be dizzy, uncoordinated, and confused. Awakening in the middle of the night on a rainy mountainside would make such an individual much more likely to trip, fall, and sustain injuries.
24. Hypoglycemia causes weakness, fatigue, headaches, poor coordination, and difficulty in thinking clearly. According to the affidavits I analyzed in preparing for today’s testimony, Justin was exhibiting all of these symptoms on the hike. From River

Forrest's and Hayden Thomas' accounts, it seems the camp staff were completely unaware of Justin's diagnosis of Type I diabetes, and Justin's evident decision not to wear a medical ID necklace compounded the problem, preventing him from getting appropriate care as quickly as would otherwise have been the case.

25. The impact of prolonged hypoglycemia is unclear, but the delay in restoring Justin to an appropriate blood glucose level may have increased his risk of developing post-concussive syndrome.
26. Justin's severe injuries are heart-breaking, and I am deeply saddened by what happened. The tragedy is compounded by the knowledge that the accident, or the seriousness of Justin's injuries, could potentially have been avoided if Justin or Jesse had informed the camp personnel about Justin's diabetes.

Pursuant to *Utah Code Ann.* §78B-5-705, I declare, under criminal penalty of the State of Utah, that the foregoing is true and correct.

DATED the 11th day of August, 2017.

*Addison Wheeler, M.D.* \_\_\_\_\_

Addison Wheeler, M.D.

Subscribed and sworn before me on this, the 11th day of August, 2017.

Jordan Keely

Jordan Keely, Notary Public



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**IN THE MOCK TRIAL COURT  
MORGAN COUNTY, STATE OF UTAH**

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**JUSTIN HALL**, a minor,  
by and through his parent,  
**JESSE HALL**,  
Plaintiff,  
v.  
**FORENSI TECH, INC.**,  
Defendant.

**AFFIDAVIT OF RIVER FORREST**

Case No. 17cv0987

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RIVER FORREST, having been duly sworn, hereby states the following:

1. My name is River Forrest. I am 21 years old and a senior at Morgan University in Morgan, Utah. I was the Head Counselor at ForensicTech Camp in June 2017 when Justin Hall got hurt on that awful night where everything went wrong. Justin was probably my favorite camper that week; I had hoped we would be friends even after camp ended. I am still in shock about what happened to him, and I wish we could all go back and undo that night's events.
2. I grew up nearby in Mountain Green as the oldest of seven kids. I was super lucky to attend the Utah School of Science and Technology (USST) for my last two years of high school. Now I'm at Morgan U, earning my B.S. in biochemistry with a minor in forensic science. After college, I plan to attend medical school and specialize in pathology.
3. When I was at USST, they sent me a list of recommended summer camps for 2012. One was the ForensiTech camp at Morgan U. When I saw that Hayden Thomas, a former ME, led the camp, I signed up right away. I loved every minute except for the mandatory evening recreation; they were lame activities like trivia games and badminton. If the camp was going to make us do recreation instead of more forensics, at least they should be interesting, like swimming or hiking in the mountains.
4. I graduated first in my class at USST and was given a full academic scholarship to Morgan U. It was a dream come true! The next summer I went on an eight-day Red Cliffs Outward Bound Backpacking and Rock Climbing course, and then I lifeguarded at the Morgan U pool while taking two classes. I had been a lifeguard during high school and had kept up my Red Cross First Aid, CPR, and Lifeguarding certifications. During my four summers as a lifeguard, I saved ten children from drowning and performed CPR once.

5. In the summer of 2016, I got a job as a biochemistry research assistant, but I arranged to take a week off to be a camp counselor for the ForensiTech camp. I wanted to give the students a great experience just as I'd had! Director Thomas welcomed staff input, so I suggested we change the evening recreational activities, substituting Ultimate Frisbee or Capture the Flag for trivia games and badminton. I also proposed taking the students canoeing and hiking. Thomas agreed to my suggestions, and the campers had a blast. At the end of the week, Hayden Thomas asked me to come back as Head Counselor in 2017. Of course, I said yes!
6. That fall I joined the Morgan U "Venture Club," which went camping, rock-climbing, and kayaking on weekends. I also took a "Backcountry First Aid" course on campus. The knowledge came in handy when a Venture Club member flipped his kayak in a river and struck his head on a rock. The rest of us used our training to assess the situation, get him out of the river while immobilizing his neck, and keep him warm and calm until emergency personnel reached us an hour later. Fortunately, he was okay, but it sure scared us.
7. It was almost time for the start of the 2017 ForensiTech camp. We pre-assigned the campers to academic focus groups and activity groups. Reading over the student essays, I was psyched to see that one of my students, Justin Hall, would be attending USST in the fall. I figured I could give him the "scoop" on the school and maybe even convince him to come to Morgan U after graduation, instead of Logan U, our arch-rival.
8. Director Thomas let me organize the evening activities, so I planned three options almost every night to give each group several choices. On Saturday night, I checked the Rocky Mountain Weather Service weekly forecast for the coming week. A bit of rain was predicted for Friday, but every other night was supposed to be clear or partly cloudy with daytime temperatures in the 70s. I didn't bother to check it again because June is usually a pretty dry month in Morgan, although surprise showers crop up now and again due to wind patterns in the mountains.
9. On Wednesday, June 28, the three evening activities were dodge ball, lounging by the pool, or taking a hike in the nearby national forest. But just the day before, I had asked permission of Director Thomas to take my group off campus on a special hike. On Monday, the Venture Club President, Jamie Gray, had called me to talk about our plans for the fall. She told me about a nearby waterfall she said was really beautiful and suggested I take my campers there. I was not familiar with the spot, but Jamie said she would guide us.
10. I didn't quite tell all of that to Director Thomas. In our conversation, I implied I had been to the waterfall before. Director Thomas was hesitant at first, but when I reminded Director Thomas that Jamie had been a ForensiTech counselor in 2016 and that I had Backcountry First Aid Training, I got permission. Director Thomas didn't ask for specifics, but made me promise to get us back before dark. I knew sunset was around 9 p.m., so I assured Thomas we'd be back before then.

11. I didn't mention our trip to the other counselors because I wanted it to be just for my group. The dining hall made boxed dinners for us, and I put the food and water in the van. Right after class, I told my students about the plan and said if anyone wasn't up for a short hike, they could join another group that night. Everyone was enthusiastic, so I told them to get good walking shoes, a towel, water, and a light jacket and meet back at the van by 5:30 p.m.
12. When Jamie hadn't arrived by 5:15 p.m., I texted to ask where she was. She called me right back and said she had to bail on me because she had a bad cold. She assured me I could lead the group there myself, and there was no way we could miss the waterfall because it was only a 10-15 minute hike from the scenic overlook parking.
13. She gave me detailed directions, and, because everyone was so excited about it, I decided to go ahead rather than going with the other group on a hike in the national forest. I knew that without Jamie along, I didn't have the required second adult leader helping with our group, but I decided it was okay because one of the campers had just turned 18.
14. We left camp just after 5:30 p.m. and got to the overlook a little before 6:00 p.m. After enjoying the view for a few minutes, we took off down the trail to the right of the parking lot. I decided we'd leave the food in the van until we found the waterfall, and then I'd send two students back for it. The area really was beautiful; we saw lots of wildflowers. The trail led to a place where we could cross the stream by rock-hopping, and the kids thought that was really cool.
15. The path turned left and sloped back up away from the stream, and then we came to a fork. One trail led back down to the river, but the other led away. Jamie had not said anything about a fork in the path, but I assumed we should stay closer to the stream. Soon the trail got really narrow, like a trail used by deer or other animals, and then it disappeared altogether as we reached the stream. I figured we didn't have much farther, so we rock-hopped and waded downstream.
16. The water was quite cold, but the air was warm, and everyone was having fun so we kept going. When it felt like we'd been walking 20 minutes, I pulled out my phone to check the time and saw my battery was dead. I wasn't worried, though, because some of the students had phones, and we weren't planning to go far.
17. Everyone kept laughing and chatting, and the time got away from us. Eventually, Dakota came to me and said it was 7:30 p.m.; we had been walking for more than an hour and had never seen a waterfall. Surprised, I called everyone together and said, "We'd better turn around." The banks were pretty steep at that point, with rocky overhangs at the water's edge. We had no choice but to keep walking in the water.
18. Now we were going against the current, which seemed stronger, and it had gotten cloudy and much chillier. Some of the students were having trouble, so I stopped and

offered everyone the granola bars I'd brought in my pack, as well as getting the students to share the water some of them had. Most students were grateful for the snack, but a few, including Justin, did not eat or drink anything. We started walking again, but we had to keep stopping for a few students to catch their breath.

19. It was getting pretty dark and felt like rain might be coming, so I told the students we needed to get away from the cold stream to avoid getting chilled. Some of the students tried to call 911, but didn't have a signal. We started climbing up the left bank. It was a steep slope, and several students were really struggling. Justin was one of them, which surprised me because he was usually so athletic.
20. The mountain had lots of vines and brush, so, after we got about halfway up, I decided we needed to stop and dig in to make a sort of camp until we could get help. While most of the group tried to level the ground and make a rough lean-to, I asked a student with a working cell phone to hike farther up with me to try to get cell reception. We finally got a call out around 10:00 p.m. and went to tell everyone that help was on the way. By about 10:30 p.m., everyone's cell phone batteries were dead, but I figured rescuers would arrive any minute.
21. Unfortunately, it started raining lightly, and then it began pouring. We all huddled together in the lean-to to try to stay warm, but everyone was shivering. We listened for sounds of rescuers and tried calling out, but we never heard anyone. I told the students to bring a buddy if they went to use the bathroom because I knew the mountain was slippery. Two of the girls said they had to grab a tree to keep from falling down the mountainside when they went out of the shelter.
22. I kept talking to everyone to ask how they were doing and to try to keep their spirits up. Justin seemed to be much more tired than the others and also seemed confused. I tried to offer him a granola bar again, but he wouldn't take it, nor would he drink any water.
23. It rained for a couple of hours, I think, and then tapered off. There were still no signs of help, so eventually we all dozed off. Next thing I knew, I woke up to hear a scream, the sound of someone crashing through brush, and then an awful thud and another scream. I yelled, "What was that?" Dakota jumped up and said, "It's Justin!! He just fell on the rocks!!" I told the other students to stay put, and Dakota and I made our way quickly down to the stream.
24. There we found Justin, lying in the water with his head on a rock. He was crying and screaming, "I can't move! Help me!!" I knelt down beside him and told him we were there, and we'd get him out of the stream. When I asked if he could move his legs or arms, he said, "No!! I can't!! What's happening? Ohhhh, help me, help me . . . ." My heart was racing, but I took a deep breath and remembered my first aid training.
25. I was pretty sure Justin had a neck injury making it dangerous to move him, but it was more dangerous to leave him in the freezing water. I told Dakota we needed to move

Justin while keeping his neck very still, and I carefully explained what we would do to make sure Dakota understood.

26. Then I placed my hands under Justin's shoulders and stabilized his head and neck, and we started to move Justin to the bank of the stream. Dakota had trouble walking on the rocks and slipped once, and I almost dropped Justin. I'm afraid the sudden motion may have hurt his neck more because he cried out in pain. We managed to get Justin to the bank and lay him on a flat spot. I covered him with my jacket to warm him as best as I could.
27. Dakota begged to hike out to the van to get help, but I said no. It was still pitch dark, and the safest thing was to wait until we could see. So for the longest two hours of my life, we stayed beside Justin, talking to keep him awake. Justin got more confused as time passed, and I was afraid he might be going into shock.
28. As soon as it started to get light, one student and I hiked out while the others came down to the bank to stay with Dakota and Justin. We had only hiked a little ways when we rounded a bend and recognized where we were--at the base of the narrow trail we took down to the stream. We scrambled as fast as we could up the bank and ran out to the van, where we found three sheriff's deputies about to start down the trail.
29. They called an ambulance and followed me back to where Justin and the other campers were waiting, while the student stayed behind to guide the EMTs to us when they arrived. The deputies put their coats over Justin to make him warmer, and, after what felt like an eternity, the EMTs arrived. The EMTs talked with me and Dakota to find out what happened, put a neck brace on Justin, moved him onto a backboard, and carefully carried him out to the ambulance. It was around 7:30 a.m. when they left for the hospital.
30. Very subdued, the rest of us piled in the van and went back to the camp, where I told Director Thomas what had happened. Director Thomas already knew we had not come back that night; the other students in the dorm had reported us missing by 9:00 p.m. after they tried calling me, and I didn't answer. But no one knew where we were until we got the call out to 911.
31. I have no idea why the deputies didn't find us sooner. They claimed they got to the scenic overlook parking lot by 10:45 p.m. and started searching for us, but they never heard our shouts, and we never heard them. I did notice that none of them looked wet when we met them in the parking lot. If only they had brought search dogs or found us, Justin would never have gotten hurt.
32. All of us were shaken up and wanted to go to the hospital, but we weren't allowed to go. Dakota called Dakota's parents and asked to go home, and I was told that Jesse Hall flew in the next day. When I tried to visit Justin after he got out of the ICU, the person at the hospital information desk told me Jesse Hall had specified I was not allowed to see him.

33. I'm devastated by what happened to Justin. I keep thinking about what I could have done differently. I saw Justin was struggling more than the others when we turned around to hike back, which surprised me because he had seemed to be in good shape during our other activities. I just figured he stayed up too late the night before and was tired, and his refusal to eat wasn't helping.
34. When I learned later that he has diabetes, I was shocked. His liability form didn't mention it, and he never said anything to any of us at camp about diabetes. I'm certainly no expert on diabetes, although they talked about it a little in my first-aid classes. But if I'd known about Justin's diabetes, I would have made him stay with another group or taken my group on the regular hike to the national forest.
35. It was a fluke thing we got so lost, and a storm came up. Yet even with all of that, the rest of us were cold and wet, but otherwise fine. I don't know why Justin didn't tell us about his diabetes, so we could watch out for him. He was such a brilliant kid; it all makes no sense to me. I would give anything to be able to live that day over and not go on that hike.

Pursuant to *Utah Code Ann.* §78B-5-705, I declare, under criminal penalty of the State of Utah, that the foregoing is true and correct.

DATED the 20th day of August, 2017.

River Forrest

River Forrest

Subscribed and sworn before me on this, the 20th day of August, 2017.

Patti Davis

Patti Davis, Notary Public

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**IN THE MOCK TRIAL COURT  
MORGAN COUNTY, STATE OF UTAH**

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**JUSTIN HALL**, a minor,  
by and through his parent,  
**JESSE HALL**,  
Plaintiff,  
v.  
**FORENSI TECH, INC.**,  
Defendant.

**AFFIDAVIT OF HAYDEN THOMAS**

Case No. 17cv0987

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HAYDEN THOMAS, having been duly sworn, hereby states the following:

1. My name is Hayden Thomas. I am 45 years old, and I live in Tucson, Arizona. I am the founder and CEO of ForensiTech forensic science camps. I created the camps to introduce young people to the exciting careers available in forensics. Of course, I am deeply distressed by the injuries Justin Hall sustained while at our 2017 Morgan camp. Yet, I do not believe our camp should be found liable for what happened. The accident was a tragedy, but, sadly, Justin's own choices were the main factor leading to his confusion and resulting injury.
2. Prior to starting the camps, I worked as a Medical Examiner (ME) in Arizona. The path to becoming a ME is rigorous, but I really enjoyed my work as an ME. Every day was different, and I was an integral part of cases ranging from missing children, to drug-related shootings, to migrant deaths.
3. However, the office where I worked was underfunded and understaffed, and, in 2008, three of us were reprimanded for substandard autopsy practices. For a little while, it looked as though our medical licenses might be suspended for a year, but the state licensing board chose to fine each of us \$15,000 and place us on three year's probation instead. I completed the probation without incident.
4. Soon after I moved to Tucson, I started volunteering at school "Career Days." In 2007, the Pima County schools honored me as "Volunteer of the Year." However, my work schedule was very intense, and it began to take a toll on my relationship with my family. My kids were in middle school and busy with many activities, and I rarely saw them. But they loved TV shows involving crime scene investigations (CSI), so I thought if they went to a CSI-type camp, we could reconnect talking about what they did each day.

5. Unfortunately, the camps I found were high on “flash” and low on content. They taught incorrect information or very little information at all. All my life, whenever I’ve seen a problem, I want to fix it. So, I decided to develop a curriculum and begin offering high-quality forensics camps for middle school and high school students. In 2009, I wrote a business plan, incorporated ForensiTech, Inc., and ran a summer camp hosted at the University of Arizona in Tucson during my “vacation.”
6. The camp was a huge success, and I had to turn away more students than I accepted. Clearly, I was onto something, so I revised my curriculum for the next year, took more time off from work, and held camps at both Arizona State University and the University of Arizona. I recruited ballistics experts, forensic entomologists (experts in insects that relate to criminal matters), and ME colleagues to help lead the teaching sessions. I also employed college students majoring in chemistry or forensic science to mentor the campers.
7. By keeping the camper/instructor ratio low, I was able to offer a high quality, unique experience to students. The news media gave me a lot of free publicity, and, in 2011, I expanded into Utah and Colorado. By the end of the summer, I decided to quit my job as an ME and devote myself full-time to the camps.
8. Directing the camps was energizing; I loved the idea of inspiring youth to learn about medicine, science, and our justice system. By 2016, we held camps during winter and spring breaks, as well as in the summer, and we were at twenty different universities including Baylor, Cal Tech, Stanford, Florida State, Harvard, and Morgan University.
9. Even before I stopped working as an ME, I researched learning styles, camp operations, and best-business practices. I wanted to make sure my camps were informative, challenging, and age-appropriate. So I designed them to include teaching sessions on the newest research, as well as hands-on sessions where the students applied what they learned.
10. We would set up a “crime scene,” complete with DNA evidence, fingerprint evidence, insect samples, etc., just like a forensic scientist would actually face. The students worked in teams to analyze the evidence and determine which of several “suspects” committed the crime. The campers loved the lab sessions, and they took their investigations seriously. Every year campers wrote me afterwards, telling me how the experience had completely changed their future career plans.
11. I knew top-notch instructors and mentors were crucial to our success. I also made sure our college-aged small group mentors were intelligent, enthusiastic, and dependable. The camp mentors, while less accomplished than the expert instructors, are the unsung heroes who can truly make or break the experience for the students. All of our mentors filled out detailed applications with personal essays, passed a background check, and submitted two personal recommendations.

12. I also insisted each site have a camp nurse and at least one mentor with advanced First Aid training. I took many of these steps when we applied for accreditation from the National Camp Association, which we received in 2012. Accreditation is important to me because it demonstrates we uphold the best practices and standards of the industry and the government.
13. Our camps are not cheap--in 2017, the tuition for a week of camp was \$4,000--but the vast majority of participants agreed it was well worth the cost. We also set aside money for need-based awards because I didn't want to turn anyone away due to the cost. Of the more than 2,000 students who attended our camps in 2016, 10% received a full or partial scholarship. Our hard work paid off, and, in 2016, we won a coveted "New York Life Excellence in Summer Learning Award" from the National Summer Learning Association.
14. Morgan University is in a beautiful setting, and we held our first camp there in 2012. I continue to serve as Morgan U Camp Director and also teach the blood analysis session because I enjoy the camp location. I'm not the only one who loves it at Morgan U, so it's easy to recruit nationally-recognized instructors and top-notch mentors there. Of course, we have a camp nurse on staff, and several college mentors have first-aid training as well.
15. I promoted River Forrest to Head Counselor at Morgan U in 2017 because River did such an outstanding job in 2016. River attended our very first camp at Morgan U as a rising junior in high school, and I remembered River was both engaging and brilliant. I didn't realize River was attending Morgan U until River applied to be a counselor in 2016. River's application was quite impressive: River has a lifeguarding certification, which includes a lot of first-aid training, and River wants to be an ME. Of course, I hired River, given those credentials. I knew he'd be a stellar mentor, and I was right!
16. After joining our staff, River suggested we take advantage of the recreational opportunities in the area, arranging trips for tubing and hiking in the nearby national forest. The campers loved the adventures, and River was voted their "Favorite Counselor" at the end of the 2016 camp. River had demonstrated exactly the kind of creativity and initiative we encourage at ForensiTech, so I offered River the position of Head Counselor in 2017.
17. River and I corresponded via email in the final months leading up to the June 2017 camp at Morgan U. River wanted to expand our evening recreational offerings to improve the overall camp experience. River proposed that all students participate in a campus-wide scavenger hunt on the night of arrival to familiarize them with the campus. On subsequent evenings, River would arrange for three different recreational options from which the students could choose. I thought the ideas sounded excellent, so I asked River to develop a proposed schedule for my review.

18. In early May, River submitted a detailed plan, which included everything from Capture the Flag and Ultimate Frisbee, to canoeing and hiking in the nearby national forest. I was impressed, and I gave River permission to finalize all of the specifics.
19. We had our largest enrollment ever at Morgan U in 2017, 110 students in all. Many of them already had impressive resumes, including several students about to enroll at USST (the Utah School of Science and Technology). I intentionally put those students in River's DNA focus group and/or evening activity group since I knew River had attended USST. Justin Hall was one of the new USST students, and, even among that impressive group, Justin stood out as exceptional.
20. He picked up very quickly on all of the information, no matter how complex, and he asked penetrating questions of the instructors. Not only that, but he was outgoing and encouraging to the other campers, taking time to help them with their labs and making sure the shy students weren't left out. I heard the Morgan U professors and the MEds also talking about how impressed they were by Justin. He clearly had a bright future ahead of him.
21. The first four days of camp went off without a hitch. The students were enthusiastic about the classroom and lab sections, and they all seemed to enjoy the recreational activities. Then, on Wednesday evening, things went horribly wrong. On Tuesday afternoon, River asked me for permission to take River's group on a special trip to a nearby waterfall on Wednesday. River told me that Jamie Gray, one of our 2016 camp counselors, would accompany the group.
22. I was a bit leery of letting one group go off on such a spontaneous outing, but I knew River had extensive first-aid training and was familiar with the area. River had always been completely reliable, so I gave permission for the trip and reminded River to be back before dark.
23. At 9:15 p.m. on Wednesday, one of the other counselors called me to say River wasn't back yet and wasn't answering the phone. At that point, I realized I didn't know exactly where River had gone, and no one else seemed to know either. We tried calling River, but it went straight to voicemail. We also tried calling River's students, with the same result. Just after 10 p.m., we got a call from the local sheriff, saying one of the students had called 911 to report they were lost on a mountain nearby. The sheriff said he had an idea where they were and was sending deputies to search.
24. Right about then, it started raining pretty hard, which was a surprise. I had checked the weekly Rocky Mountain Weather Service forecast on Saturday, and the RMWS had predicted sunny or partly cloudy conditions all day Wednesday. I kept waiting for the sheriff to call back, but an hour passed, and then two. Eventually, I called him, and he told me the deputies had not found the students yet. I kept checking all night and got the same answer, which made no sense to me. How could they not have located them? I was quite concerned, given the rain and the cold temperatures.

25. At 6:30 a.m. on Thursday, the sheriff called to tell me they'd been found, and one of the students was injured. He didn't know how badly, but an ambulance was on the way. A little before 8 a.m., he called back and told me Justin was hurt; he might have a spinal cord injury and was being taken to the emergency room. The sheriff said everyone else was cold and wet but fine, and they were on their way back to campus. I was stunned. After I collected my thoughts, I called Jesse Hall right away and told Jesse what I knew. Jesse was understandably upset, hanging up quickly in order to book a flight to Morgan.
26. The campers arrived back before 8:30 a.m., and River came immediately to tell me all that had happened. That's when I learned they got lost because Jamie Gray, who was supposed to guide them, pulled out at the last moment, and, instead of canceling, River went ahead with the trip. River admitted having never been to the waterfall and having gotten general directions from Jamie. River was really distraught about the whole thing, as we all were, so I reserved judgment on whether to fire River.
27. At lunchtime, I went to the hospital to check on Justin. I was distressed to hear he had a spinal cord injury and possible concussion. I also was shocked to learn that Justin had diabetes, which had affected his health and decision-making abilities after exercising so long without eating. As far as I know, none of us knew about Justin's diabetes. It was not mentioned on the liability release form, and he had said nothing to the staff at registration, to the camp nurse, to River, or to anyone else. Obviously, if we had known about Justin's diabetes, River would never have taken him on that hike.
28. I can't tell you how deeply we regret what happened to Justin. It was very distressing to see Justin in the hospital and to talk with Jesse about what had happened. But I don't think any of our actions were grossly negligent. While it showed bad judgment for River to lead a hike to a place River had never been, River otherwise used River's first-aid training to try to keep everyone safe, and all the other campers came back without injury.
29. As an M.D., I know the importance of being informed about Justin's diagnosis, so we could take it into account in planning activities. I hope and pray Justin will experience significant recovery; I can only imagine what a nightmare this is for Justin and Jesse. I wish I had denied River's request to take the campers on that particular hike. But as horrible as Justin's injury is, our camp did not have all of the information we needed to make sure Justin stayed safe.

Pursuant to *Utah Code Ann.* §78B-5-705, I declare, under criminal penalty of the State of Utah, that the foregoing is true and correct.

DATED the 19th day of August, 2017.

**Hayden Thomas, M.D.**

Hayden Thomas

Subscribed and sworn before me on this, the 19th day of August, 2017.

**Tim Hatch**

Tim Hatch, Notary Public

# **EXHIBITS**



**NATIONAL CAMP ASSOCIATION  
Mandatory Standards for Accreditation**

This document details the standards that the NCA's National Standards Commission has identified as being mandatory. Compliance with the mandatory standards is required for accreditation to be granted and maintained, regardless of scores achieved in other, "recommended," areas of the standards (full standards are available in "NCA Complete Standards" booklet). If a standard has both mandatory and recommended sections, only the mandatory part of the standard is listed below.

Camps must undergo an on-site evaluation when seeking accreditation. Accredited camps are recognized as meeting industry-accepted and government-recognized standards for policies, procedures, and practices. Annual evaluations are required to maintain accreditation.

**Site Standards**

**SF.1 Emergency Exits**

Are all buildings used for sleeping constructed or equipped with: at least one emergency exit in addition to the main door or entrance; and a direct means of emergency exit from each sleeping floor not at ground level?

**Human Resources Standards**

**HR.5 Staff Screening**

Does the camp require screening for all camp staff with responsibility for or access to campers; with screening to include a criminal background check for paid staff eighteen years of age and older?

**Transportation Standards**

**TR.1 Medical Emergency Transportation**

**TR.1.1** Does the camp require that emergency transportation is available at all times by:

- A. The camp or rental groups, or
- B. Community emergency services?

**Health and Wellness Standards**

**HW.2 First-Aid and Emergency-Care Personnel**

Does the camp require adults with the following minimum qualifications to be on duty at all times when campers are present:

**HW.2.1** When access to the emergency medical system (EMS) is 30 minutes or less, certification by a nationally recognized provider of training in first aid and CPR/AED (cardiopulmonary resuscitation and the use of an automated external defibrillator)?

**HW.2.2** When access to emergency rescue systems or EMS is more than 30 minutes, certification from a nationally recognized provider of training in wilderness first aid and CPR/AED?

**HW.5 Health History**

**HW.5.1** Does the camp require each camper to submit a current, signed document that includes all of the following information in relation to the activities in which the camper may participate?

- A. List of any camp activities from which the camper should be exempted for health reasons;
- B. Record of allergies and/or dietary restrictions;



## EXHIBIT 1

- C. Actual date (month/year) of last tetanus shot;
- D. Record of current medications, both prescribed and over-the-counter; and
- E. Description of any current physical, mental, or psychological conditions requiring medication, treatment, or special restrictions or considerations while at camp?

**HW.5.2** Does the camp confirm the accuracy of the above when campers register on-site?

### **HW.26 Emergency Care Personnel**

**HW.26.1** Does the camp provide, or advise rental group leaders to provide, adults with the following qualifications to be on duty for emergency care:

- A. Age appropriate CPR/AED certification from a nationally recognized provider, and
- B. For youth groups, first-aid certification from a nationally recognized provider?

### **Program Trip and Travel Standards**

#### **PT.5 Trip Orientation**

Are all campers and staff required to participate in pre-trip orientation that includes at least:

- PT.5.1** Specific information and training on how and where to obtain medical and emergency assistance on the trip?
- PT.5.2** Emergency contact information for trip participants provided to camp administration?
- PT.5.3** Detailed itinerary provided to camp administration and staff leading the outing?

#### **PT.6 Trip Logistics**

**PT.6.1** Does the camp ensure that all drivers of camp vehicles are at least 21 years of age, and that each driver has received no traffic tickets or moving violations in the preceding 12 months?

**PT.6.2** Does the camp ensure that two adults are present on all trips off-site?

### **Program Aquatics Standards**

#### **PA.3 Swim Lifeguard Certification**

To guard each swimming activity, does the camp:

**PA.3.1** Provide a person who has current certification as a lifeguard by a nationally recognized certifying body?

#### **PA.4 Swim Lifeguard Skills**

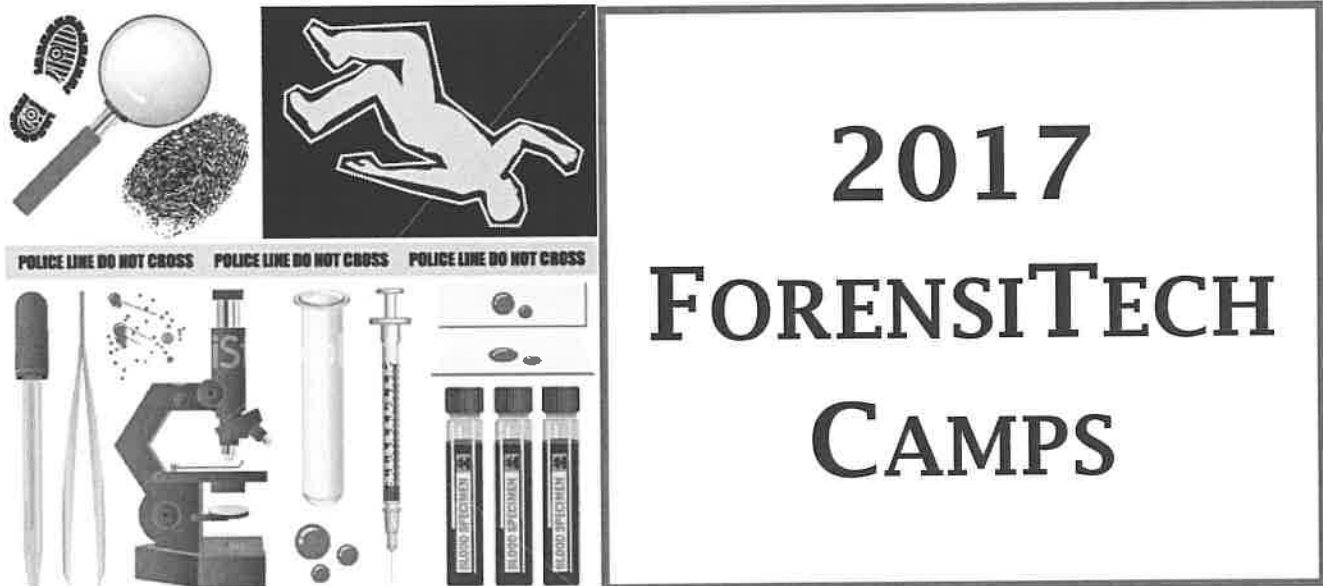
**PA.4.1** In addition to the lifeguard certification, does the camp document that every camp lifeguard has demonstrated skill in rescue and emergency procedures specific to the camp's aquatic area(s) and activities guarded?

#### **PA.5 First Aid/CPR**

Does the camp require a staff member to be on duty and accessible at each separate swimming location (e.g., pool, lake, river) who has:

**PA.5.2** Current certification from a nationally recognized provider in age-appropriate cardiopulmonary resuscitation (CPR)?





## CAMP INFORMATION\*

**MORGAN, UTAH: June 25-July 1**

*Location: Morgan University*

*All fees due: Monday, June 5*

## CAMP CONFIRMATION

**CONGRATULATIONS! Your application to the 2017 ForensiTech Camp at Morgan University has been accepted.**

**To confirm your spot, please do the following:**

- Submit the completed Registration and Liability Waiver form with a \$500 non-refundable deposit by *Friday, April 14* to:

ForensiTech Camp Registration  
PO Box 9528  
Tucson, AZ 85704-9528

- Submit remaining \$3,500 fee to the above address by *Monday, June 2*
- Questions? Contact Adam Hamrick ([AdamHamrick@ForensiTech.com](mailto:AdamHamrick@ForensiTech.com))

\* ForensiTech Camps are accredited by the National Camp Association and uphold industry safety standards.



**FORENSITECH  
SUMMER CAMPS**

**2017**

**REGISTRATION AND LIABILITY WAIVER FORM**

Participant Name: Justin Hall Phone: 435-541-3498  
Street Address: 456 Promontory Point  
City/ Zip Code: Alpine City, Utah 84910 Email: jhall@hmail.com Gender:  M  F  
School: Utah School of Science and Technology Grade (fall 2017) 11  
Parent/Legal Guardian (name/phone): Jesse Hall (C) 435-541-3499  
Emergency Contact (name/phone): same as above  
Medications: none Last Tetanus: 3/6/17  
Restrictions/Important Health Information: none

I, the undersigned, residing in the city of Alpine City, state of Utah, the parent/legal guardian of the above Registrant, a minor, who resides with me, do hereby declare my intent to allow that child to participate in all activities sponsored by the ForensiTech camp, including but not limited to classroom sessions, field trips, and recreational activities. I hereby jointly and severally release, discharge and/or otherwise indemnify ForensiTech, Inc., their affiliated organizations and sponsors, their employees and associated personnel, including the owners of fields and facilities utilized by the Camp Program, against any claim by or on behalf of the Registrant as a result of the Registrant's participation in the Camp Program and/or being transported to or from the same, which transportation I hereby authorize.

IN CONSIDERATION of the voluntary participation of the above-named child in the activities of ForensiTech Camp, I, as parent and legal guardian of the Registrant, jointly and severally, release, discharge, and agree to hold harmless and indemnify the above-named individuals or any of the designated staff or employees of ForensiTech Camp from any and all liability, claims or demands arising from the Registrant participating in the Camp Program specifically to include any and all claims for personal injuries sustained while present or participating in the Camp Program or traveling to or from events in the Camp Program or while on trips sponsored by or in conjunction with the Camp Program without regard to whether such claims, damages, expenses or costs arise from the negligence of the ForensiTech Camp or its employees.

In addition, I do hereby authorize any one of the designated adults of the Camp Program, if after a reasonable attempt has been made to reach a parent or guardian to obtain consent or if sound medical practice decrees that there is not time to make such an attempt, to consent to any x-ray examination, anesthetic, medical or surgical procedure, treatment, and/or hospital care, to be rendered to the Registrant under the general or special supervision of and/or on the advice of any physician, surgeon or dentist duly licensed to practice.

The undersigned has read and fully understands and agrees to the foregoing.

Dated: 3/28/17

Jesse Hall  
Signature of Lawful Guardian





## ROCKY MOUNTAIN WEATHER SERVICE FORECAST

***Forecast as of Saturday, June 24, 2017, 1:00 PM Mountain Daylight Time***

Location: Morgan County, Utah

Dates: Seven Day Forecast, June 24 – July 1, 2017

Summary: Seasonable weather this week, with morning lows ranging from 55 – 60 degrees Fahrenheit and daily highs ranging from 70 – 82 degrees Fahrenheit. Sunny in the early part of the week, with clouds forming late in the day on Thursday, and rain likely on Friday and Saturday. Anticipated total rainfall of 0.3 – 0.6 inches, depending upon location. Gentle westerly breezes 0 – 5 mph through Thursday morning, increasing to 10 – 15 mph gusts on Thursday night and Friday.

Highs: 70 - 82°F

Lows: 55 - 60°F

Rain: 0% chance Monday – Wednesday, rising to 40% by Thursday evening and 90% on Friday and Saturday.

Humidity: 65 - 70% Mon. – Wed., rising to 95-100% Fri.– Sat.

Sunrise: 5:57 AM (6/24); 6:00 AM (7/1)

Sunset: 9:02 PM (6/24); 9:03 PM (7/1)

Moon phase: New moon (6/23 at 8:30 PM)
















Forecaster: Autumn Sirocco, Ph.D.  
Team Leader, RMWS Utah Division

***Note: Forecasts are always subject to change.  
Please check back for updates.***



## WEEKLY FORECAST (MORNING AND EVENING)

June 24 - July 1, 2017

| DAY/TIME          | FORECAST   | TEMP (°F) | PRECIP. (% chance) |
|-------------------|--|-----------|--------------------|
| SAT. 6/24<br>6 PM |  Sunny    | 73        | 0 %                |
| SUN. 6/25<br>6 AM |  Sunny    | 65        | 0 %                |
| 6/25<br>6 PM      |  Sunny    | 75        | 0 %                |
| MON. 6/26<br>6 AM |  Sunny    | 66        | 0 %                |
| 6/26<br>6 PM      |  Sunny    | 75        | 0 %                |
| TUE. 6/27<br>6 AM |  Sunny   | 65        | 0 %                |
| 6/27<br>6 PM      |  Sunny  | 77        | 0 %                |
| WED. 6/28<br>6 AM |  Sunny  | 67        | 0 %                |
| 6/28<br>6 PM      |  Sunny  | 80        | 0 %                |
| THU. 6/29<br>6 AM |  Sunny  | 64        | 0 %                |
| 6/29<br>6 PM      |  Cloudy | 74        | 40 %               |
| FRI. 6/30<br>6 AM |  Rain   | 61        | 70 %               |
| 6/30<br>6 PM      |  Rain   | 71        | 90 %               |
| SAT. 7/1<br>6 AM  |  Rain   | 60        | 90 %               |
| 7/1<br>6 PM       |  Rain   | 70        | 90 %               |





## ROCKY MOUNTAIN WEATHER SERVICE FORECAST

*Forecast as of Weds. June 28, 2017, 8:00 AM Mountain Daylight Time*

Location: Morgan County, Utah  
Date: Daily Forecast, June 28, 2017

Summary: A cold front from the West moved in more quickly than anticipated, bringing much cooler temperatures and a likelihood of rain this evening. The day will start out sunny with highs in the upper 70s. By early evening, clouds will move in and scattered thunderstorms may drop up to 1.5" of rain in parts of Morgan County. Wind gusts of 25 - 30 mph are possible with this rapidly moving front. Stay tuned for updates throughout the day.

High: 78°F  
Low: 50°F  
Rain: 10% chance by noon, rising to 90% chance by 9 PM in most parts of Morgan County.  
Humidity: 70% by noon, rising to 95-100% by 10 PM.  
Wind: 0-5 mph by noon, increasing to 10-15 mph by 8 PM with gusts to 30 mph by midnight  
Sunrise: 5:58 AM  
Sunset: 9:02 PM  
Moon phase: Waxing crescent (New moon 6/23 at 8:30 PM)
















Forecaster: Autumn Sirocco, Ph.D.  
Team Leader, RMWS Utah Division

Note: *Forecasts are always subject to change.  
Please check back for updates.*



## HOURLY FORECAST

Today, Wednesday June 28, 2017

| TIME  | FORECAST   | TEMP (°F) | PRECIP. | WIND (mph) |
|-------|--|-----------|---------|------------|
| 9 AM  |  Sunny    | 68        | 0 %     | 0-5        |
| 10 AM |  Sunny    | 70        | 0 %     | 0-5        |
| 11 AM |  Sunny    | 72        | 0 %     | 0-5        |
| NOON  |  Sunny    | 75        | 0 %     | 0-5        |
| 1 PM  |  Sunny    | 77        | 0 %     | 0-5        |
| 2 PM  |  Sunny   | 78        | 0 %     | 0-5        |
| 3 PM  |  Sunny  | 78        | 0 %     | 0-5        |
| 4 PM  |  Sunny  | 78        | 0 %     | 0-5        |
| 5 PM  |  Sunny  | 78        | 0 %     | 5-10       |
| 6 PM  |  Cloudy | 76        | 10 %    | 10-12      |
| 7 PM  |  Cloudy | 75        | 20 %    | 10-12      |
| 8 PM  |  Cloudy | 75        | 50 %    | 12-15      |
| 9 PM  |  Rain   | 66        | 90 %    | 15-30      |
| 10 PM |  Rain   | 61        | 90 %    | 15-30      |
| 11 PM |  Rain   | 54        | 95 %    | 15-30      |



# ADDISON WHEELER, M.D.

357 Glendale Avenue • Alpine City, Utah • AWheeler@UUMC.org

## EDUCATION

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**Stanford School of Medicine, Stanford, CA**

*M.D. with an emphasis in endocrinology, 2005*

**University of California - Irvine, Irvine, CA**

*B.S. in Biochemistry and Molecular Biology, 2001*

*Phi Beta Kappa (junior year); graduated *summa cum laude**

## PROFESSIONAL EXPERIENCE

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**Physician, University of Utah Medical Center, Alpine City, UT**

*Associate Clinical Professor, Department of Pediatrics, 2014-present*

*Clinician, 2011-present*

**Fellow, Nassau University Medical Center/SUNY, East Meadow, NY**

*Pediatric Endocrinology, 2009-2011*

**Medical Resident, University of Washington School of Medicine, Seattle, WA**

*Internal Medicine Residency Program, 2005-2008; Senior Chief Resident, 2009*

## LICENSES AND HONORS

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- Licensed to practice medicine in Washington, New York, and Utah
- American Diabetes Association, Physician Recognition Program, 2016
- Physician of the Year, Outpatient Clinic, Pediatrics, Nassau University Medical Center, 2011
- Dean's Scholar Award, Stanford School of Medicine, 2005

## PUBLICATIONS

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Over 15 scholarly peer-reviewed journal articles, including:

- *Type I Diabetes: A Primer for General Practitioners (2016)*
- *Hypoglycemia and Type I Diabetes: Recognition, Treatment, and Prevention (2014)*
- *Exercise and Type I Diabetes: Best Practices (2013)*

## PROFESSIONAL AFFILIATIONS AND CERTIFICATIONS

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American Medical Association

American Board of Internal Medicine, Internal Medicine

American Board of Internal Medicine, Endocrinology, Diabetes & Metabolism

American Board of Pediatrics, Pediatric Endocrinology

- Board Certified Fellow



## Nicky Lopez, M.D.

707 White Water Lane ♦ Morgan, Utah ♦ nicky.lopez@mcmc.org

### EDUCATION

---

#### Harvard Medical School, Boston, MA

M.D. with an emphasis in Emergency Medicine, 1996

#### Stanford University, Stanford, CA

B.S. in Chemistry with a Minor in Biology, 1992

Phi Beta Kappa (junior year); graduated *summa cum laude*

### PROFESSIONAL EXPERIENCE

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#### Physician, Emergency Room, Morgan County Medical Center, Morgan, UT

Professor and Chair, Department of Emergency Medicine, 2012 to present

Associate Professor, Eden University Medical School, 2004 to 2012

Clinician, Department of Emergency Medicine, 2000 to present

#### Medical Resident, Johns Hopkins Department of Emergency Medicine, Baltimore, MD

Four year Residency Program, 1996 to 2000; "Chief Resident with Distinction," 2000

### LICENSES AND HONORS

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- Currently licensed to practice medicine in Massachusetts, Maryland, and Utah
- Emergency Medicine Foundation Center of Excellence Award, 2015
- American College of Emergency Physicians' Leadership Award, 2013
- National Academies of Science Institute of Medicine Member, 2004 to present

### PUBLICATIONS

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Over 100 scholarly peer-reviewed journal articles, including:

*Ensuring Positive Outcomes after Spinal Cord Injuries* (2015)

*Incidence and Outcomes of Wilderness-Related Hypothermia* (2013)

*Advances in Treatment of Spinal Cord Injuries* (2012)

*Educating Wasatch Range Hikers about Avoiding Hypothermia* (2010)

Over 10 textbook chapters, including:

"Management of Cervical and Thoracic Spinal Cord Injuries." *ER Basics*, 2014

### PROFESSIONAL AFFILIATIONS

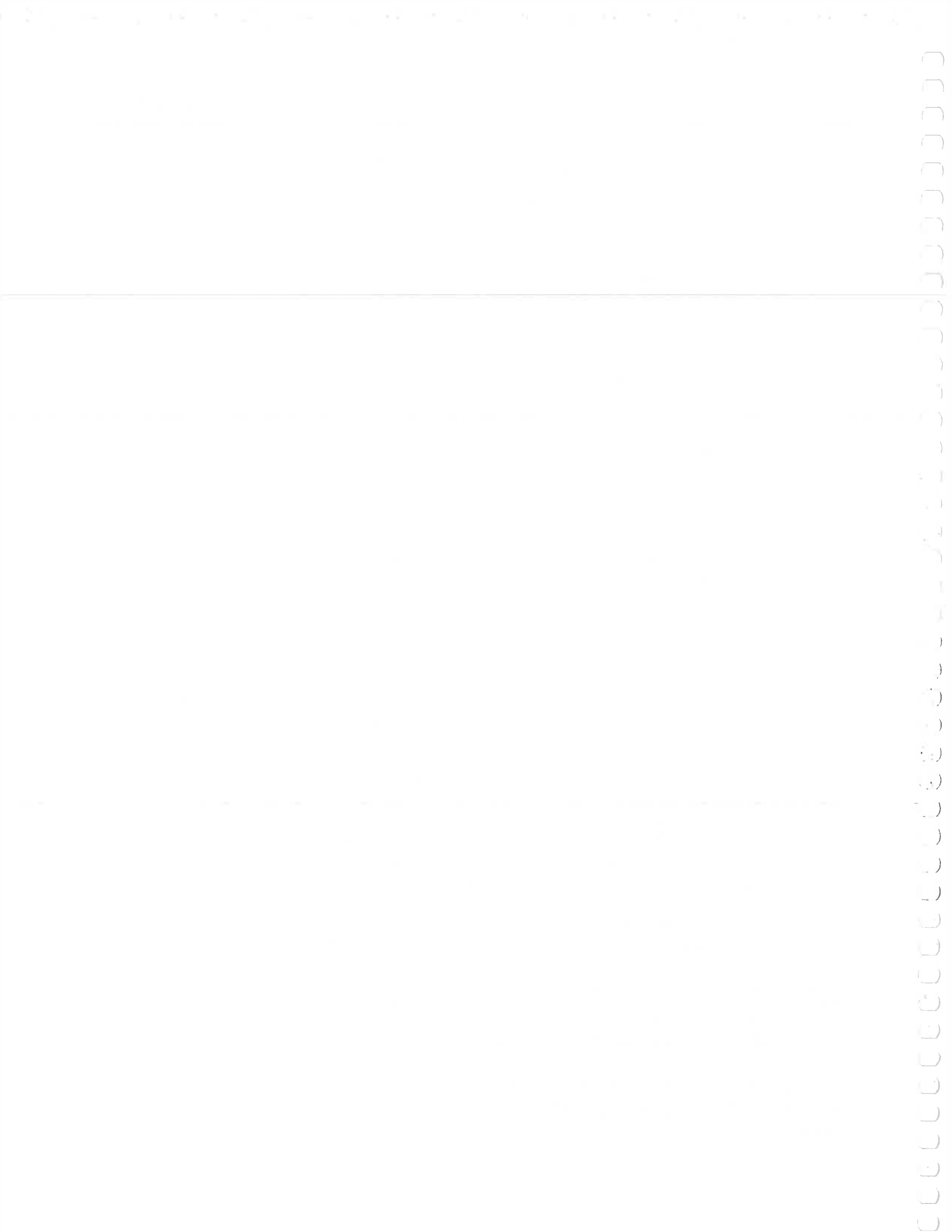
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American Medical Association

Society for Academic Emergency Medicine (President 2013)

- Chair, Trauma Interest Group
- Member, Wilderness Medicine Interest Group
- Member, Neurologic Emergency Medicine Group

Society of Teachers of Emergency Medicine (President 2008)



**EXHIBIT 7****MORGAN COUNTY MEDICAL CENTER**  
EMERGENCY ROOM REPORT

PATIENT: JUSTIN MATTHEW HALL PT. #: 06261432 BIRTHDATE: 11/18/00  
 ARRIVAL: 0758 DATE: 6/29/2017 TREATING PHYSICIAN: DR. NICKY LOPEZ

PULSE: 45 (\*low) RESPIRATIONS/MIN: 30 (\*low) BP: 70/30 (\*low) HT: unkn. WT: unkn.

\* Indicates a value outside of the "Normal Range"

**INITIAL PATIENT PRESENTATION**

Pt arrived by ambulance; on backboard w/neck immobilized after potential neck injury and/or concussion; confused; semi-conscious; bradycardia; hypotensive; warm dry skin; loss of sensation and motor control in extremities

**PATIENT HX**

Pt attending camp at Morgan U; went on hike; stranded overnight; at approx. 0300 Pt fell down mountain, struck head on rock in stream at bottom; camp counselor and camper moved Pt from stream to bank; EMT arrived on scene 0640, began transport in ambulance 0730 (per report by EMT)

**TREATMENT SUMMARY**

|  |            |
|--|------------|
| Pulse oximeter to test oxygen level: Result: 94% (*low)              | (0804 hrs) |
| Pt put on oxygen   | (0805 hrs) |
| Warm IV fluids and vasopressors started                              | (0806 hrs) |
| Finger stick blood glucose: result: 40 mg/dl (*low)                  | (0807 hrs) |
| IV dextrose (25%) started  | (0808 hrs) |
| Blood drawn for complete blood count (CBC) panel and insulin value   | (0808 hrs) |
| Blood lab test results available (below)                             | (0845 hrs) |
| Finger stick blood glucose: result: 220 mg/dl (*high)                | (0850 hrs) |
| Insulin given  | (0855 hrs) |
| Finger stick blood glucose: result 118 mg/dl                         | (0925 hrs) |
| CT scan  | (1015 hrs) |
| CT scan results: severe spinal cord compression/partial lesion at C6 | (1040 hrs) |
| Pt transferred to ICU  | (1100 hrs) |

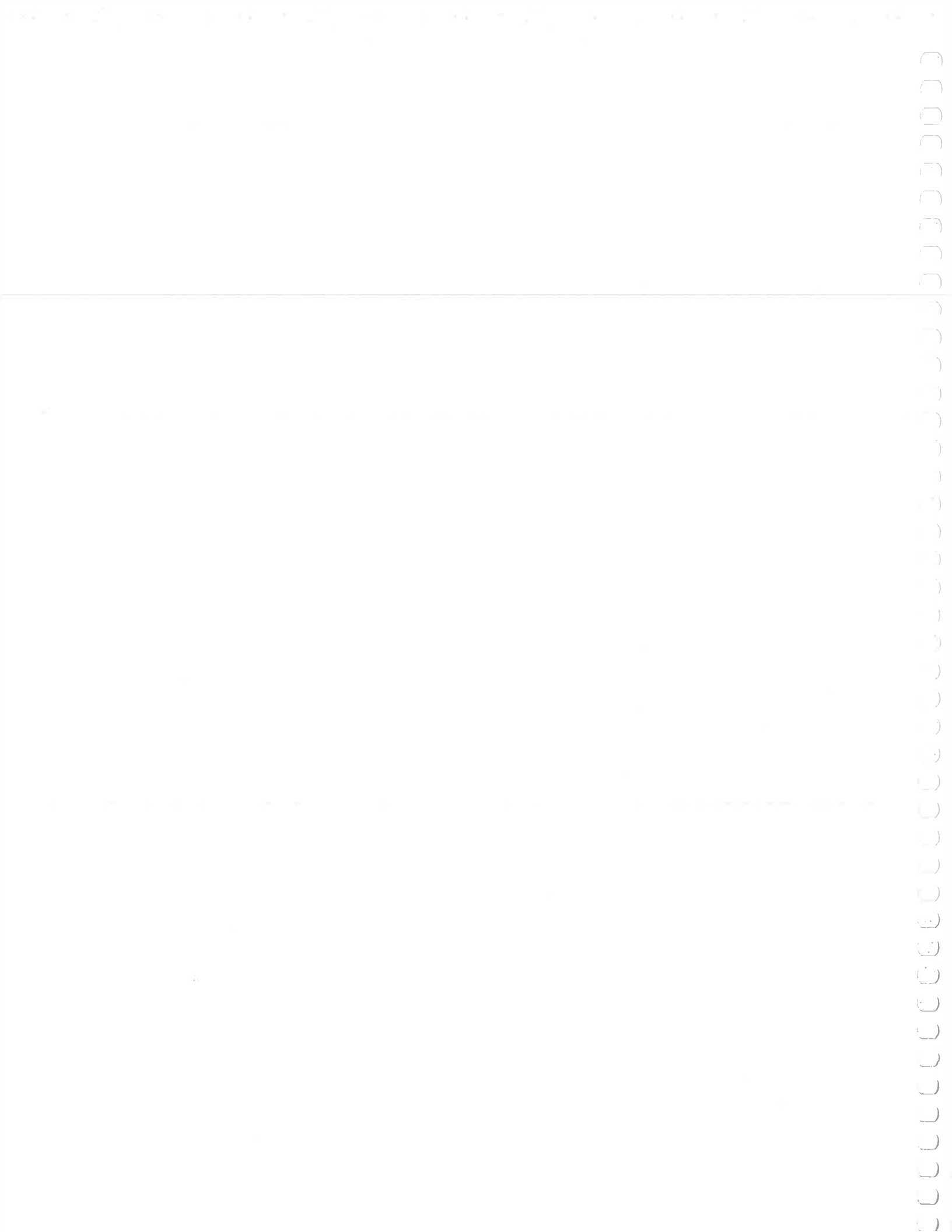
**LAB VALUES**

\* Indicates a value outside of the "Normal Range"

| TEST                   | VALUE | NORMAL RANGE         |
|------------------------|-------|----------------------|
| WHITE BLOOD CELL COUNT | 8.6   | 3.8-10.8 Thousand/uL |
| RED BLOOD CELL COUNT   | 4.82  | 3.80-5.10 Million/uL |
| HEMOGLOBIN             | 13.4  | 11.7-15.5 g/dL       |
| HEMATOCRIT             | 32    | 30% - 40%            |
| BUN SERUM              | 13    | 5-18 mg/dL           |
| CREATININE             | 0.78  | 0.50-1.10 mg/dL      |
| SERUM LACTATE          | 3.4 * | <2.5 mmol/L          |
| GLUCOSE (FASTING)      | 40 *  | 80-120 mg/dL         |
| INSULIN                | <1 *  | 2.6-24.9 mcIU/mL     |

Signed: Nicky Lopez MD, Attending physician

Signed: Mitch Matarrese MD, Lab Director



**UNIVERSITY OF UTAH MEDICAL CENTER**  
**Emergency Room Report**

PATIENT: JUSTIN MATTHEW HALL                      PT. #: 0571433                      BIRTHDATE: 11/18/00  
ARRIVAL: 1500                      4/18/2017                      TREATING PHYSICIAN:      ADDISON WHEELER, M.D.

**Initial Patient Presentation:** Pt. arrived on his own, accompanied by a parent, after referral from Dr. Bruce Martin for confirmation of possible diabetes. Presenting symptoms: excessive thirst, excessive urination, blurred vision, unusual hunger, unexplained weight loss, and fatigue. Tests conducted by Dr. Martin revealed Justin had elevated blood glucose and urine ketones.

**Physical:**            Temperature 37.5 °C; Pulse 75; Respirations 22/unlabored; Blood Pressure 110/70; Height 6'0"; Weight 165 lb.

**Gen:**                    Well nourished; normal BMI (22.4); alert/cooperative in no distress. The following areas were checked and all presented as normal given Pt's age: Head, Ears, Eyes, Nose, and Throat (HEENT); Neck; Chest; Heart; Abdomen; Extremities; Skin; and Neurological.

**Medications:**      None; occasional vitamin D

**Diagnostic Studies:**    \* *Indicates values outside normal range*

1. CBC (Complete Blood Count): within normal limits.
2. Basic Metabolic Panel: Sodium 134; Potassium 5.6; Chloride 107; Bicarbonate 18\* (*Normal range 22 – 29*); BUN 16; Creatinine 0.47; Glucose 484\* (*Normal range 74 – 106*)
3. Insulin level <1 mIU/ml\* (*Normal range 2.6 – 24.9*)
4. Urinalysis: 2+ ketones\* (*Normal result 0*); 4+ glucose\* (*Normal result 0*)
5. Venous blood gas: pH 7.14\* (*Normal range 7.32 – 7.43*); lactate 2.5\* (*Normal range 0.5 – 1.8*)

**Diagnosis:** 1. Type I diabetes, new onset

**Disposition:** 1. Insulin IV to normalize blood glucose. 2. Admit to UUMC for initiation of insulin regimen. 3. Intensive education of patient and his parent re management of Type I diabetes by pediatric endocrinologist, diabetes nurse educators, and registered dietitian. 4. When appropriate, discharge with standard follow up visits to monitor patient compliance and understanding.

*Addison Wheeler, M.D.*

Addison Wheeler, M.D.



**UNIVERSITY OF UTAH MEDICAL CENTER**  
**Endocrine Clinic**  
**Outpatient Encounter Form**

PATIENT: JUSTIN MATTHEW HALL                      PT. #: 0571433                      BIRTHDATE: 11/18/00  
ARRIVAL: 1630                      4/25/2017                      TREATING PHYSICIAN:      ADDISON WHEELER, M.D.

**History:** Justin Hall is a 16 year-old-male who was discharged from the hospital five days ago following a two day hospitalization for new onset Type I diabetes. On the day of hospitalization, he presented to his family physician with symptoms suggestive of diabetes and was found to have an elevated blood glucose and urine ketones. Admission was for laboratory confirmation of the diagnosis, initiation of an insulin regimen, and dietary, monitoring and lifestyle education of the patient and his parent. Justin is a bright adolescent who was eager to learn how to manage his disease. He was discharged on an insulin regimen of Lantus long-acting insulin, 25 units subcutaneously each morning, and Novolog fast-acting insulin injections during the day with unit doses based on carbohydrate intake and sliding scale glucose values. He is on a standard monitoring routine of blood glucose and urine ketone checks. He brings in his records, and it is obvious that he has been very compliant with the routines.

**Physical:**                      Temperature 37.4 C; Pulse 72; Respirations 20/unlabored; Blood Pressure 105/64  
**Gen:**                              Well nourished; normal BMI (22.4); alert/cooperative in no distress. The following areas were checked and all presented as normal given Pt's age: Head, Ears, Eyes, Nose, and Throat (HEENT); Neck; Chest; Heart; Abdomen; Extremities; Skin; and Neurological.

**Diagnostic Studies:** 1. HbA1c was elevated at 10%. 2. Non-fasting blood glucose: 120 (normal).

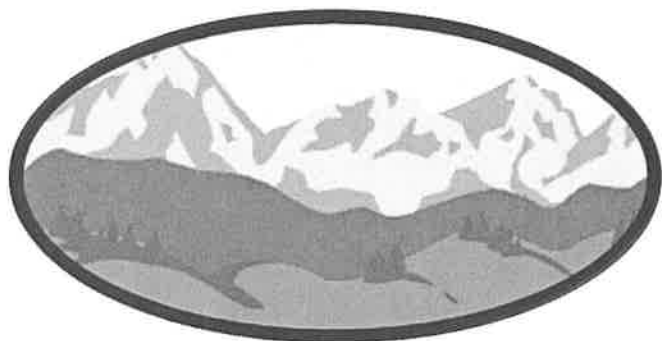
**Impression:** 1. Type I diabetes in good initial control

**Disposition:** 1. Continue present insulin regimen and monitoring routine. 2. Return to this clinic in one week for routine follow up. Plan repeat test of HbA1c then. 3. Call the endocrine diabetes-specialty nurse at any time for questions or concerns. 4. The importance of wearing a Medical Alert Bracelet/Necklace and of always having treatment for low blood glucose in his possession was stressed to Justin and Jesse Hall.

Addison Wheeler, M.D.

Addison Wheeler, M.D.





# **BACKCOUNTRY FIRST AID and EMERGENCY REFERENCE GUIDE**

HEAD, (BRAIN), NECK AND SPINAL INJURIES

## Spinal Injury: First Aid

The spinal cord connects the brain to the rest of the body; it tells individual muscles to move (called motor function); and it also connects to organs like the skin, which communicates feelings like touch, pain, and heat (called sensory functions). Damage to the spinal cord may cause temporary or permanent paralysis, and in some cases death. If you suspect a possible spinal injury, urgent professional medical attention is required.

### Common Causes

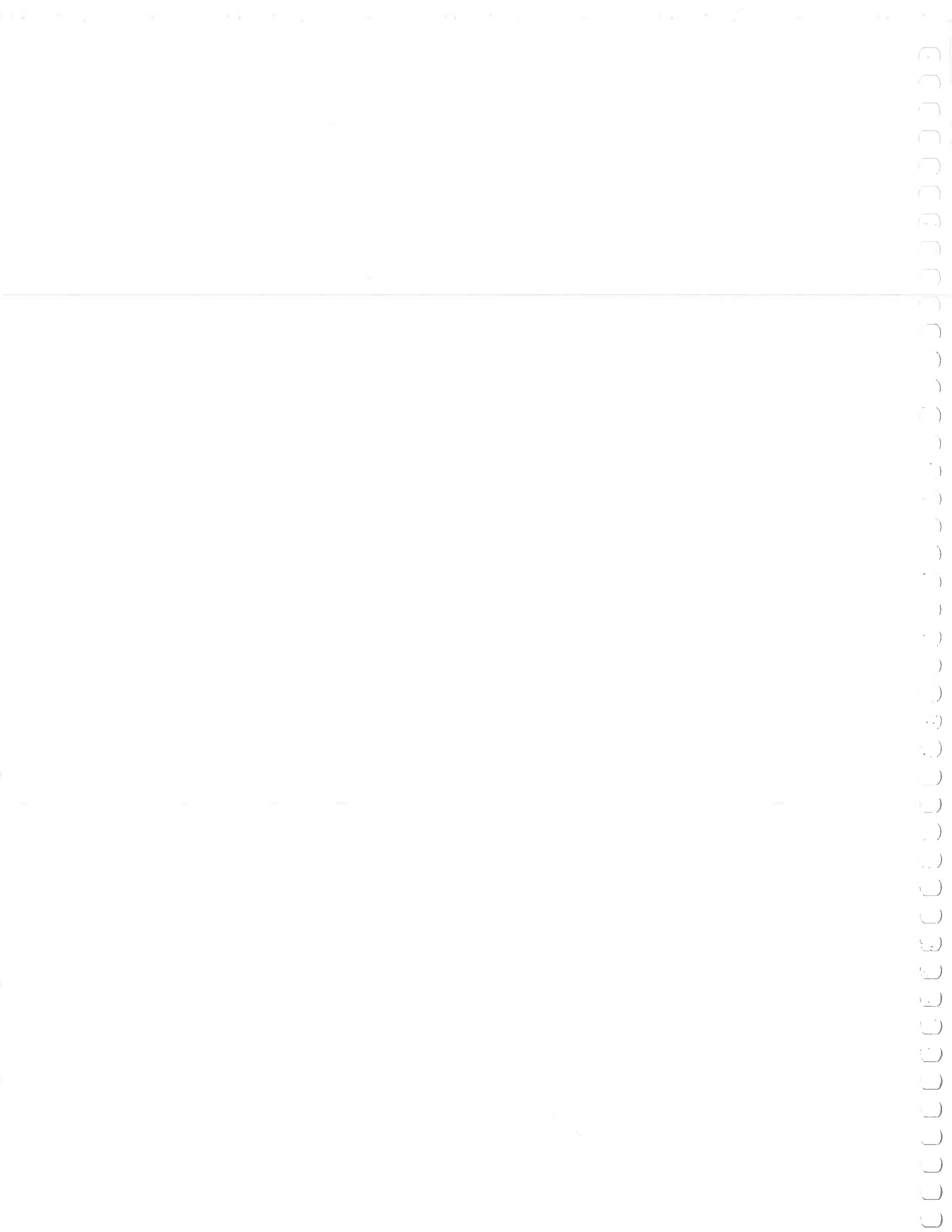
In the wilderness, the most common causes of a spinal injury are:

- Fall injuries, especially sustained by falling from heights
- Heavy objects hitting or falling on the back/body
- Any diving mishap
- Any force causing a violent twisting of one half of the body
- A lightning strike
- Excessive extension or rotation, such as tumbling downhill without skis releasing

### Common Symptoms

The signs and symptoms of a spinal cord injury vary, and depend on the severity of the injury. Look for:

- Moderate to severe pain present in the neck or back
- Bruising, bleeding from the injury spot
- Inability to move, get-up, or walk
- Sensory disturbances (tingling and numbness)



## Administering First Aid for Spinal Cord Injury

When administering first aid to someone who has possibly sustained a spinal cord injury, the best idea is to play it safe. Assume the worst when an injury occurs and treat the person as though they have a very serious and even life threatening injury.

1. Call 911 for immediate evacuation and professional medical assistance – DO NOT WAIT – GO FAST!
2. DO NOT MOVE THE PERSON, ESPECIALLY THE HEAD OR NECK UNLESS THE FAILURE TO DO SO PRESENTS AN IMMEDIATE THREAT OR URGENT DANGER.
3. If you must move the person:
  - a. The least amount of movement is best. More harm can be done during improper transfer than through any other action associated with first aid.
  - b. Before moving the person, plan ahead so the patient is only moved once.
  - c. Prepare any insulating materials or shelter before the person is moved.
  - d. Rehearse and practice the process before moving the person.
  - e. The person's head and neck must be kept immobile during the move, and his/her entire body must be kept in a straight line.
4. Reassure the individual and tell him/her not to move.
5. Stop the person's head or neck from moving to prevent further damage. To do this:
  - a. Kneel or lie behind their head. Rest your elbows on the ground or on your knees to keep your arms steady. Grip each side of his/her head, without covering the ears, to support his/her head in this position, so the head, neck and spine are in a straight line.
  - b. You need to support the head until emergency services can take over, NO MATTER HOW LONG IT TAKES FOR THEM TO COME. If there is someone who can help you, ask him/her to put rolled-up blankets, towels, or clothes on either side of the head to help support it.
6. Modify CPR technique. If the person shows no signs of circulation, begin CPR, but do not tilt the head back to open the airway. Use your fingers to gently grasp the jaw and lift it forward. If the person has no pulse, begin chest compressions.
7. Keep the helmet on. If the person is wearing a helmet, do not remove it.
8. While waiting for help to arrive, keep checking the person's breathing, pulse and level of responsiveness.



# **GUIDANCE: UTAH SIMPLIFIED MOCK TRIAL RULES OF EVIDENCE**

## **A. HOW TO USE THIS SECTION**

1. 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 that is not important to the case, to ensure that only persons with knowledge of facts or specialized training provide testimony, to protect parties from introduction of evidence that may be unfairly prejudicial, to ensure the trial is completed in a timely manner, and to achieve other policy goals.
2. The teams should know the Mock Trial Rules of Evidence (based on the National High School Mock Trial Championship Rules of Evidence and the Federal Rules of Evidence) and be able to use them to make their own case and to fairly limit the testimony and evidence of opposing counsel and their witnesses.
3. **IMPORTANT:** The Guidelines in this section are generally accepted practices about the appropriate ways to enter physical evidence, lay foundation for expert witnesses, and object to testimony and documents, with some examples of how the rules work. Just like in actual trials, not all judges will interpret the Rules of Evidence (or procedure) the same way. Just because one judge rules one way and another judge has ruled another does not mean one judge was “right” and the other was “wrong.” Likewise, simply following these examples does not guarantee that your objection will be sustained, or that a judge will score you highly.

## **B. GENERAL PROCEDURE FOR OBJECTING TO QUESTIONS OR TESTIMONY**

1. If it appears that an attorney’s question, or a witness’ answer will violate, or has violated, a rule of evidence, the attorney responsible for that witness may raise an objection to the judge.
2. In general, the objection must be made before the witness begins her answer, unless the objection could not be anticipated before the witness started answering.
3. The judge then decides whether the question or answer violates a rule 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.
4. When the attorney responsible for the witness believes the opposing attorney has asked a question that is objectionable, the attorney may follow the following procedure:
  - a. Wait for the opposing attorney to finish her question.
  - b. Stand.

- c. Say, "Objection, your Honor", and state the basis for the objection (relevance, leading, hearsay).  
*This initial objection should be brief and state only the basis of the objection, without additional argument. The most persuasive mock trial attorneys are prepared to point out specific rules (quoting from the rule and citing the rule number, if necessary).*
- d. Wait for the opposing party to respond or for the Court to ask for further argument.  
*In general, the opposing party is the first to provide argument to support the admission of the question. There may be circumstances where the reason for the objection is not apparent. In such situations, it is appropriate to ask the Court to be heard immediately.*
- For example:*  
**Q:** *Where did John go after that?*  
**Attorney:** *Objection, your Honor, this question calls for hearsay. May I be heard further?*  
**The Court:** *You may.*  
**Attorney:** *We expect that this witness will say she left the party by herself, and John left 30 minutes later. The only way she would know where John went is when Mary told her about it, the next day. Therefore, the question calls for a hearsay statement.*  
**The Court:** *Opposing counsel, response?*
- e. Respond when requested and await the Court's ruling. If the Court agrees with the objecting attorney, the objection will be "sustained." If the Court disagrees, the objection will be "overruled", and the questioning attorney or witness will be allowed to ask and answer the question.
- f. Sit down.
- g. Remember, if the objection is sustained, then object again if the attorney asks the same question.
5. When the attorney responsible for the witness believes the witness has offered objectionable testimony, even if the question itself was not objectionable, the attorney may follow the following procedure:
- a. Stand.
- b. Say, "Objection, your Honor, move to strike; this witness' answer is. . .", and then briefly state the basis for the objection.  
*While it is generally inappropriate to interrupt an opposing attorney while she is in the middle of a question, the objecting attorney **should** interrupt a witness as soon as practicable if the witness begins testifying to*

*objectionable material. It also may be appropriate to say, "While counsel's question did not ask for any objectionable testimony, the witness' answer did", and state the basis for the objection.*

- c. Wait for the opposing party to respond or for the Court to ask you for further argument.
  - d. Respond when requested and await the Court's ruling.
  - e. If the objection is sustained, say, "Your Honor, I move to strike", and describe the objectionable portion of the witness' testimony.
  - f. Sit down.
6. When an attorney is questioning a witness and the opposing attorney objects to a question (or to testimony), the attorney may follow the following procedure:
- a. Remain standing.
  - b. Wait for the opposing party to finish her objection and argument (if requested by the Court).
  - c. Respond to the objection.
    - 1) *The Court may ask for a response, or indicate that the Court is ready to hear a response by looking at the attorney. If the attorney is unsure, the attorney may ask, "May I respond, your Honor?"*
    - 2) *A response may include a legal response (quoting or citing a rule number, if necessary), or an offer to clarify or modify the question so that it follows the rules.*
  - d. Respond further if requested and await the Court's ruling.
  - e. Continue your questioning.
    - 1) *If the objection was overruled and the witness has not answered, the witness will need to answer the question.*
    - 2) *You may ask the witness the same question again, or you may ask the witness, "Please answer the question."*
    - 3) *If the objection was sustained, you may not ask the question, but, depending on the objection, you may ask a similar question about the same material.*

## C. EXAMPLES OF SPECIFIC OBJECTIONS

1. The following are examples of objections typically offered under the Mock Trial Rules of Evidence and most commonly used in most mock trial situations.
2. These examples do not supersede the Rules and may not be cited to during a mock trial, but are provided as a learning tool and guide. A reference to the number of the Simplified Rules is included in parenthesis following each objection.

### a. **Objections based on the form of the question/answer**

*These are the most common objections when the attorney is primarily concerned not with the content of a witness' answer, but rather the way in which a question is being asked or when it is asked. They include:*

- *Leading the witness*
- *Beyond the scope (of cross-examination, or redirect examination)*
- *Calls for narration*
- *Asked and answered*
- *Argumentative*
- *Nonresponsive*
- *Compound*
- *Arguing/Assuming a fact not in evidence*

### 1) **Leading the witness** (applicable to direct examination only) (Rule 611(c))

- a) In mock trials, witnesses may generally not be asked leading questions by the attorney who calls them, except when the attorney asks questions on preliminary, non-substantive matters.
- b) A leading question is a question that suggests to the witness the answer desired by the examiner, often "yes" or "no".
- c) Questions on direct examination must be open-ended and are generally phrased to bring out a set of facts from the witness: who, what, where, when, why, and how.

*Examples of leading questions:*

**Mr. Wolf**, you've always liked roast pork, haven't you?

**Mr. Wolf**, the money was under the hay bale, correct?

**Ms. White**, the old woman had a weathered face and a long, crooked nose just like the defendant, didn't she?

*Example of a proper, open-ended question:*

**Ms. White**, what did the old woman who knocked on the door look like?

*Example of an objection:*

**Q:** Ms. White, the old woman had a weathered face and a long, crooked nose just like the defendant, didn't she?

**Attorney:** Objection, your Honor, counsel is leading the witness.

*Examples of potential responses:*

**Your Honor**, the question does not suggest an answer to the witness.

**Your Honor**, this is a preliminary matter and asking leading questions is necessary to develop the witness' testimony.

- 2) **Beyond the scope** (applicable to redirect examination and recross examinations only) (Rule 611(b))
  - a) In mock trials, teams may not call a witness for the other side as their own witness. A team *may* question a witness for the other side on cross-examination about *anything* in that witness' statement (so long as it is otherwise admissible). Consequently, in a mock trial, a "beyond the scope" objection is different from actual trial--it is available only during redirect and recross examinations.
  - b) During redirect or recross, attorneys may only ask questions that relate to matters brought out by the other side on cross-examination or redirect. Any attempt to question about anything else is objectionable.

*Example of an objection:*

**Q:** [After a redirect examination which discussed only whether the lights were on by the door when Ms. White answered it;] Ms. White, when you ate the apple, what happened to you?

**Attorney:** Objection, your Honor, this question is beyond the scope of my redirect examination.

*Examples of potential responses:*

**Your Honor**, on cross-examination, attorneys may inquire about any relevant facts contained in the witness' statement.

*Your Honor, this question is within the scope because during (cross, or redirect), counsel inquired about the issue of \_\_\_\_\_ (i.e., damages, the witness' ability to see, motive, etc.).*

3) **Narration** (Rule 611(a), 403)

- a) While the purpose of direct examination is to get the witness to tell a story, the questions must ask for specific information. The questions must not be so broad that the witness is allowed to wander or “narrate” a whole story.
- b) The reason for this is that it would make it very difficult for opposing counsel to make an appropriate objection. While some questions call for a narrative answer, sometimes a witness may continue outside the bounds of the original question. An attorney may object to improper narration in this situation as well.

*Example of an objection:*

*Q: Ms. White, tell the Court about your family history since 1902.*

*Attorney: Objection, your Honor, this question calls for a narrative answer.*

*Example of an objection when a witness begins narrating:*

*Q: Ms. White, what happened when the old lady came to the door?*

*A: Well, she wanted me to eat this apple. So I took it. Then, later, I put the apple to the side and started cooking dinner. After that, my seven roommates came home--Sleepy, Happy, Doc. . . .*

*Attorney: Objection, your Honor, the witness has begun to narrate, and I ask that the examination proceed in a question-and-answer format.*

*Examples of potential responses:*

*Your Honor, the question is limited in time and scope and does not call for narration.*

*Your Honor, the witness has limited her answer to the question asked and has not narrated.*

*Your Honor, I will be happy to ask another question.*

4) **Asked and answered** (Rule 611(a), 403)

- It is properly within a trial judge's discretion to prevent one party from repeating a question already asked by that party.

*Example of an objection:*

**Q:** *Ms. White, who was at the door?*

**A:** *The wicked Queen, my stepmother.*

**Q:** *Who was at the door again?*

**A:** *The wicked Queen, my stepmother.*

**Q:** *Was it your stepmother at the door?*

**Attorney:** *Objection, your Honor, this question has been asked and answered.*

*Examples of potential responses:*

**Your Honor,** *this question is different from the one I asked previously because \_\_\_\_\_.*

**Your Honor,** *I asked this question before, but the witness has not yet answered it.*

5) **Argumentative** (Rule 611(a), 403)

- An attorney cannot badger or argue with the witness, even when using a pleasant tone of voice. An attorney cannot, in the guise of asking a witness a question, present a *legal argument* to the judge or jury.

*Example of an objection (badgering):*

**Q:** *[While leaning over the witness box and pointing,] Ms. White, you knew that the old hag was your stepmother, didn't you! You hate her and want to be queen and so you're lying.*

**Attorney:** *Objection, your Honor, this question is argumentative, and counsel is badgering the witness.*

*Example of an objection (arguing):*

**Q:** *Ms. White, you didn't recognize the woman at the door, did you?*

**A:** *Not her appearance, but I recognized her soul--it was my stepmother.*

**Q:** *There's no way you can recognize someone's soul!*

**Attorney:** *Objection, your Honor, counsel is arguing with the witness. The comment should be struck, and counsel should be instructed to proceed in a question-and-answer format.*

*Example of an objection (legal argument):*

**Q:** *Ms. White, because you knew that the old woman was your stepmother in disguise, you knew she didn't like you, you knew she had access to apple-poisoning facilities, and you saw there was a syringe prick in the apple. Isn't it fair to say that you assumed the risk of eating the apple?*

**Attorney:** *Objection, your Honor, this question is essentially a legal argument.*

*Examples of potential responses:*

**Your Honor,** *merely because I am asking hard questions does not mean I am badgering the witness.*

**Your Honor,** *the witness has not answered my question, and I am attempting to appropriately cross-examine the witness so the witness will answer my question.*

**Your Honor,** *I am not giving a legal argument, but rather asking for this witness' knowledge.*

6) **Nonresponsive** (Rule 611(a), 403)

- a) On cross-examination, a witness might give an answer that makes a point the witness wants to make, but evades answering the question the attorney asked.
- b) After repeated nonresponsive answers, the cross-examining attorney could ask the judge to strike any nonresponsive testimony and to instruct the witness to answer the question actually asked.

*Example of an objection:*

**Q:** *Ms. White, the apple the old woman gave you was red, wasn't it?*

**A:** *I think so, but at the door, I spent most of my time staring into the old hag's evil, sad, piercing blue eyes. As I stared into her eyes, I knew she wanted to harm me. But at the time, I thought I was being too paranoid.*

**Attorney:** *Objection, your Honor, the witness' answer was nonresponsive. I ask that you strike everything after "I think so," and instruct the witness to answer my questions.*

*Examples of potential responses:*

**Your Honor,** *the witness was responding to the question asked.*

**Your Honor,** *the question was worded such that the witness was providing the best testimony she could.*

**Your Honor,** *the question was worded such that the witness could not truthfully simply answer "yes" or "no".*

**Hint:** *The use of the nonresponsive objection is highly effective with some judges, while other judges believe it is an ineffective way of controlling a witness on cross-examination. Only use the objection if the witness has*

*repeatedly been evading questions, and then carefully examine the judge's reaction to the objection.*

7) **Compound** (Rule 611(a), 403)

- Questions should be about one topic, or fact, only. Because the answers to compound questions are unclear and often only partially correct, particularly on cross-examination, compound questions are objectionable.

*Example of an objection:*

*Q: Ms. White, when you went to the door, the old woman was there with an apple in her hand, and no one else was at home to see her, right?*

*Attorney: Objection, your Honor, the question is compound.*

*Example of a potential response:*

*Your Honor, I am asking only about one fact: \_\_\_\_.*

8) **Arguing/Assuming a fact not in evidence** (Rule 611(a), 403)

- a) During testimony, this objection is raised where the introductory part of a question assumes a fact not in evidence, and the fact is in dispute. It is objectionable because it prejudices the fact-finder to believe there is testimony on a particular issue when, in fact, none exists.
- b) It also may be raised after an attorney states a fact in closing argument that was never introduced in trial.

*Example of an objection:*

*Q: Ms. White, isn't it true that you still chose to bite into the apple, even after you tested the apple with your home chemistry kit for any traces of sleeping powder?*

*Attorney: Objection, your Honor, the question assumes a fact--that Ms. White tested the apple with a chemistry set--that is not in evidence.*

*This is sometimes used as the basis for arguing that the witness is creating a material fact not in the record--an unfair extrapolation. Attorneys should be very clear about whether the objection is because the question (or the attorney's statement) improperly assumes facts not in evidence, or whether the witness' testimony is not in her statement.*

b. **Objections based on the witness' knowledge, or the witness' capacity to be able to answer the question**

*These are the most common objections when the attorney is primarily concerned that a witness does not have the background, capacity, expertise, or ability to answer the question, and, therefore, the testimony will be unreliable, unhelpful, or confusing. They include:*

- *Lack of personal knowledge*
- *Speculation*
- *Lack of foundation*
- *Improper opinion*
- *Improper expert opinion*
- *Creating a material fact not in the record (Mock Trial only)*

1) **Lack of personal knowledge (Rule 602)**

- Witnesses may only testify to information of which they have personal knowledge. However, expert witnesses may provide their opinions based on facts of which they have no personal knowledge.

*Example of an objection:*

*Q: Ms. White, you just testified that you were asleep from midnight until 5:00 the next morning. What was your roommate Dopey doing at that time?*

*Attorney: Objection, your Honor, lack of personal knowledge.*

*Examples of potential responses:*

*Your Honor, the witness' answer is based on her reasonable perceptions at the time.*

*Your Honor, she can answer if she knows, or she can tell the Court that she does not, in fact, know.*

*Note: This is not the same as creating a material fact not in the witness' statement. A witness statement may state a fact, but that witness may not have any way of knowing it.*

2) **Speculation (Rule 602, 403, 701, 401)**

- a) Any question that asks the witness to speculate or guess is improper because cases should be decided on facts, and guesswork from a witness on what the facts might be or could possibly be is irrelevant and unhelpful.

- b) Witnesses, however, are permitted to give estimates and approximations if they are rationally based on the perceptions of the witness and are helpful to the trier of fact.

*Example of an objection:*

**Q:** *Ms. White, how long do you think you might have slept if you had taken a bite out of that apple?*

**Attorney:** *Objection, your Honor, speculation.*

*Example of an objection:*

**Q:** *Ms. White, isn't it possible that the poison wouldn't have affected you at all if you had taken a bite of the apple?*

**Attorney:** *Objection, your Honor, counsel is asking the witness to guess in order to answer the question.*

*Examples of potential responses:*

**Your Honor,** *I am asking for an estimate based on the witness' perception. Witness' answer is based on her reasonable perceptions at the time.*

**Your Honor,** *I am asking about the facts understood by this expert witness.*

3) **Lack of foundation** (Rule 602, 702, 901, 1003)

- a) An attorney must establish that the witness has the “who, what, where, when, why, or how” of the subject about which a question is asked. The objection is not that the witness cannot testify about the topic, but that she has not proven she has personal knowledge of the subject.
- b) This objection also is used when introducing documents (See p. 20.), where there has not been foundation to establish that the witness has adequate knowledge of the document, or with an expert that the expert does not have adequate foundation to offer an opinion being requested.

*Example of an objection:*

**Q:** *[To a witness who has never seen the police report;] Ms. White, what does this police report reflect as the criminal history of your stepmother?*

**Attorney:** *Objection, your Honor, lack of foundation.*

*Examples of potential responses:*

**Your Honor,** *this witness is testifying about her personal knowledge.*

*Your Honor, I have provided foundation for this testimony/document by demonstrating \_\_\_\_\_.*

4) **Improper opinion** (Rule 701, 704)

- a) Generally, witnesses must offer “just the facts”. A witness’ opinion on any matter is usually not relevant or helpful at court. However, if the witness’ opinion is related to the witness’ perception, helpful to the jury, and is not based on specialized training, then it can be admitted.
- b) A witness’ opinion about how a case should be decided (i.e., whether the defendant is guilty) is not admissible.

*Examples of an objection:*

**Q:** *Mr. Bear, was Ms. Locks mean to your children?*

**Attorney:** *Objection, your Honor, improper opinion. The opinion is not helpful to the jury.*

**Q:** *Mr. Bear, was Ms. Locks legally drunk when she was in your house?*

**Attorney:** *Objection, your Honor, improper opinion. The opinion requires specialized training.*

*Example of a response:*

**Q:** *Mr. Bear, was the weather stormy that day?*

**Attorney:** *Objection, your Honor, improper opinion.*

**Response:** *Your Honor, Mr. Bear already testified that he had been out in the weather, and my client’s defense to trespass was necessity. Mr. Bear’s perception of the weather is relevant to determine whether it was necessary to get out of the storm, and the opinion is related to his perceptions of the weather at the time.*

5) **Improper expert opinion** (Rule 702)

- See the section on Expert Witnesses, below.

6) **Creating a material fact not in the record** (Rule 616)

- a) One objection available only during a mock trial, allows you to stop an opposing witness from creating new facts. Witnesses are bound by their witness statements and cannot invent new, material facts, or even testify to information contained in another person’s witness statement. An opposing attorney may object when, on direct examination, the witness

makes a statement of fact which is not in the witness' statement and is likely to affect the outcome of the trial.

*Example of an objection:*

**Q:** *Mr. Bear, what was the condition of your house when you arrived home?*

**A:** *Terrible. Ms. Locks had burned the sofa in the fireplace. The bathroom was flooded because she left the water running in the tub. She plucked out the eyes of my daughter's favorite stuffed animal.*

**Attorney:** *Objection, your Honor, the witness is creating a material fact not in the record. On line 35 of Mr. Bear's statement, he says, "When I got home, the place was a mess! There were toys everywhere." Nowhere does he mention burning items, flooding, or destroying toys.*

*Examples of a response:*

**Your Honor,** *the fact is not likely to affect the outcome of the trial. (Such as, for example, the witness inventing her middle name.)*

**Your Honor,** *the fact testified to is stated in line \_\_\_ of the witness' statement.*

- b) On cross-examination, a cross-examining attorney **may not** object to the witness creating a material fact. If the witness testifies contrary to the witness' statement, the attorney should impeach by prior inconsistent statement. (See p. 24.) If the attorney asks a question about a fact that does not exist in the witness' statement, the witness may answer consistent with the statement, so long as the answer does not materially affect the rest of the witness' testimony, or may simply say, "I don't know."

c. **Objections based on the substance of the witness' testimony**

*These are objections to the substance of the witness' testimony. The question may have been worded properly, and the witness may have knowledge of the fact, but the testimony is inadmissible because it does not matter to the case, is unfair, or is excluded for other reasons. They include:*

- *Relevance*
- *Unfairly prejudicial (New this year)*
- *Improper character evidence*
- *Hearsay*

1) **Relevance** (Rule 401, 402)

- a) Generally, only relevant testimony and evidence is allowed. Relevant evidence is evidence that tends to make an important fact more or less likely than the fact would be without the evidence. Testimony, physical evidence, and demonstrations may be disallowed if they have no direct bearing on the issues of the case or have nothing to do with making the issues clearer.
- b) Note that the witness' credibility is always relevant. Thus, questions about facts showing the witness' bias, motive, or interest should generally be allowed, even if the questions themselves might not have to do with the events in the case.

*Example of an objection:*

**Q:** *Mr. Bear, isn't it true that Mama Bear never made cookies for your child?*

**Attorney:** *Objection, your Honor, relevance.*

*Example of a response:*

**Your Honor,** *the question is relevant to the issue of \_\_\_\_\_ (knowledge, or breach of duty, or causation, or damages, whatever the legal elements are in the case).*

**Q:** *Mr. Bear, isn't it true that Ms. Lock's father, a banker, foreclosed on your house a few years ago?*

**Attorney:** *Objection, your Honor, what does that have to do with this case?*

**Response:** *Your Honor, the question goes to Mr. Bear's bias against Ms. Locks. Because Ms. Locks' family caused him financial ruin, it's more likely that his testimony about what Ms. Locks did in his house is untrue.*

2) **Danger of unfair prejudice** (Rule 403)

- a) Sometimes evidence might be relevant, but if it is admitted, the trier of fact might be so prejudiced against the other side that it would be impossible for the other side to get a fair trial. The evidence can be excluded.
- b) The evidence must not just be "prejudicial" to the other side--all adverse evidence is "prejudicial"--it must be "unfairly prejudicial." And the danger of prejudice must "substantially outweigh" any value it has as relevant evidence.

*Example of an objection:*

**Q:** *Your Honor, I move to admit Exhibits A-Z, twenty-four close-up pictures of the corpse of the 8-year-old murder victim.*

**Attorney:** *Objection, your Honor, this evidence is not relevant. And even if it is marginally relevant, its probative value is substantially outweighed by a danger of unfair prejudice.*

*Examples of a response:*

**Your Honor,** *this evidence is highly relevant to determine the issue of \_\_\_\_; therefore, its probative value substantially outweighs the risk of unfair prejudice.*

**Your Honor,** *the evidence is not unfairly prejudicial; the evidence shows \_\_\_\_.*

- 3) **Improper character testimony** (Rule 404, 406, 608)
- a) The proper use of character evidence is extremely complicated. Most mock trial students--and really most attorneys--do not understand these rules, so do not feel bad if you are unable to master them.
  - b) For mock trial purposes, evidence of a person's character, character trait, or a specific bad act (i.e., the witness is generally a bad person, they are untruthful, they are cruel, they previously tortured animals) is generally not admissible to prove that they acted a particular way on an issue relevant at trial, sometimes called "conduct in conformity". This means that the opposing party may not introduce evidence that a criminal defendant is "bad" or "mean", or because the party tortured cats in the past, he is more likely to have murdered someone.
  - c) Additionally, evidence of a witness' religious beliefs is not admissible to enhance or impair the witness' character or credibility.
  - d) There are exceptions to these general rules.
    - i) First, if a criminal defendant offers evidence of her character, the prosecution may introduce evidence rebutting that evidence. So, for example, if a defense witness testifies that the defendant has "never harmed a flea," then the prosecution could ask the defense witness about the defendant torturing cats.

- ii) Second, a witness may be impeached by the introduction of evidence that the witness was convicted of crimes related to dishonesty, or any felony conviction, so long as the felony conviction occurred within the last 10 years, or that another witness can testify that the first witness has a reputation for untruthfulness.
- iii) Third, other crimes, wrongs, or acts may be admissible not to show conduct in conformity, but rather for other purposes, such as motive, intent, plan, lack of mistake, or other purposes listed in Rule 404(b).

*For example:*

*Goldilocks' previous conviction for breaking and entering the Bears' house may be admissible not to show that because she broke into the house in the past, it is more likely that she broke in this time, but to show that she knew she did not have permission to enter the Bears' home this time.*

- iv) Fourth, evidence of a person's habit is admissible to prove that the person acted in the same way. The line between impermissible "conduct in conformity" and permissible "habit" is blurry and difficult. In general, something is someone's habit if it is the person's (or organization's) regular response to a repeated, specific situation. The action should be "semi-automatic," "specific," "regular," and "frequent".

*Examples of an objection:*

***Objection, Your Honor, the question seeks to introduce improper character evidence.***

***Objection, Your Honor, counsel is seeking to prove conduct in conformity with a past bad act.***

***Objection, Your Honor, the defendant has not put her character at issue.***

***Objection, Your Honor, the witness' reputation for truthfulness is at issue here, not the witness' reputation for (neatness, kindness to dogs, etc.).***

*Examples of a response:*

***Your Honor, the Defendant has put her character at issue by \_\_\_\_\_.***

***Your Honor, this evidence is offered to impeach the witness and is permitted by Rule 608.***

*Your Honor, this evidence is not offered to prove the witness' character, but instead is offered to prove her (motive, intent, plan, etc.).*

*Your Honor, this is evidence of the witness' habit or routine practice.*

4) **Hearsay** (Rule 801, 802, 803, 805)

- a) Hearsay is the in-court repetition of an out-of-court statement in which the statement is being offered to prove the truth of the statement. Different from previous years, the new Simplified Rules define as hearsay any out-of-court statement offered for its truth. It does not matter whether the person who gave the statement is in court to testify.
- b) An out-of-court statement is any statement made not during the trial. This includes oral statements (“John said, . . . .”) as well as statements in documents.
- c) What does “offered for the truth of the matter asserted” mean? It means that the party is offering the statement, so the judge will believe the statement is true (not merely that someone said the statement).
  - i) If a witness testifies, “Mama bear yelled, ‘Goldilocks is in our house!’” and the prosecutor is entering the evidence to convince the judge that Goldilocks, in fact, was in the house, then the statement is being “offered for the truth of the matter asserted.”
  - ii) But if the statement is being offered for another purpose, for example, to show that Mama bear knew who Goldilocks was at the time of the break-in, then the statement is not hearsay by definition.
- d) In general, hearsay is not admissible, but there are a number of exemptions and exceptions to this blanket rule.
  - i) The rules exclude from the definition of hearsay statements made by a person, under oath, in the current proceeding.
  - ii) This rule is slightly different from the rule in real life, but the effect is that witness statements are not

hearsay, and statements in them can be offered for their truth.

e) Second, a statement by the opposing party, offered against the party, is not hearsay. This rule is sometimes referred to an “admission by a party opponent.”

f) Third, there are a slew of hearsay exceptions. The Simplified Rules have six exceptions:

i) An **Excited Utterance** is a statement relating to a startling event, made while the speaker was under the stress of the excitement it caused.

*Example testimony:*

*“I saw Ms. Locks run out of the house. She was terrified. She said, ‘Oh my goodness, these bears are trying to eat me!’”*

ii) The **State of Mind** exception allows hearsay statements describing a condition while the speaker was describing the condition.

*Example testimony:*

*“Yes, I saw the defendant five minutes before he got into his car. He said, ‘I probably should not be driving. I’m feeling drunk.’”*

iii) **Statements for purposes of medical diagnosis and treatment** are admissible when they are made for, and related to, a medical diagnosis or treatment.

*Example testimony:*

*“The plaintiff was my patient. When she came in for her examination after the accident, she said that she got a little bump on her head when she rear-ended the driver in front of her, but her neck snapped back hard when the driver behind her rammed into her afterwards, and she was afraid she had whiplash.”*

iv) The **Business Records** exception allows documents to be admitted if they are regularly kept in the ordinary course of business, and the record was made at or near the time by a person with knowledge.

*Example testimony:*

*“These cell phone records are automatically generated every month to show every call in and out of the cell phone. They are kept in our servers, and I printed them out.”*

- v) **Learned Treatises** (basically, well-recognized books or articles) are allowed to be admitted as part of cross-examination to expert witness’ testimony, if the expert admits that the book is reliable.

*Example testimony:*

*“Yes, I admit that Black’s Law Dictionary is the primary source for looking up legal terms. Even though Black’s defines a ‘contract’ as requiring mutual assent, I believe the contract in this case came about because of implied consent.”*

- g) Finally, attorneys should look out for “hearsay within hearsay”, or sometimes called “double hearsay”. This occurs when a hearsay statement exists within another hearsay statement; for example, a police report contains hearsay statements made by eyewitnesses. Each hearsay statement must have an appropriate exception.

#### D. HINTS ON OBJECTIONS

1. Object as soon as you’re sure you feel comfortable about a question asked or the answer a witness begins to give. While you should wait until the question is completely asked before objecting, feel free to stand up in anticipation of the objection.
2. Use objections sparingly and accurately (i.e., when it matters), not wildly. Too many objections during a trial may be annoying to the judge. Do not object to a question if you intend to address the exact same testimony during your examination.
3. Only the attorneys assigned to do the direct or cross-examination of a particular witness shall raise and respond to objections when the opposing side conducts its examination of that witness. (See “Team Composition,” p. 7 of the Handbook.)
4. Do not argue with opposing counsel on objections. Direct all arguments to the judge.

5. If the judge rules against you on a point in the case, take the ruling gracefully. Be cordial to the judge; don't roll your eyes, sigh, protest, or interrupt the judge. Don't thank the judge for ruling against (or for) you. Don't take the ruling personally or be afraid to object again.
6. Don't give up a line of questioning because an objection to one question is sustained. Take a deep breath, then think of a different way to ask the question or approach the subject.
7. If an objection is overruled, ensure that the witness has answered the question asked. Re-ask the question, if necessary.
8. If an objection is sustained, ensure that the opposing party does not simply ask the same question again to "sneak" in the testimony.
9. Sometimes if your witness is getting killed on cross, you have to object to just try to break up the flow. Objections about the form of the question, or the "unfairly prejudicial" objection, which almost always requires the attorneys to respond, are often particularly effective in this situation.

#### E. INTRODUCTION OF DOCUMENTS OR OTHER PHYSICAL EVIDENCE

1. There is a special procedure for introducing physical evidence (called exhibits) during a trial. Physical evidence includes written materials, diagrams, photos, or any other object that might help clarify what happened.
2. Most of the time, physical evidence does not include a witness' statement or any demonstratives (like a notepad or enlargement); these physical objects will not be admitted into evidence. The physical evidence must be relevant to the case, and the attorney must be prepared to defend its use on that basis.
3. Below are the basic steps an attorney must use when introducing a physical object or document for identification and/or use as evidence.
  - a. **Mark before trial.**  
Most exhibits used in mock trials will come premarked with exhibit numbers. **Use those numbers if they are provided.** If not, Prosecution/Plaintiff should mark exhibits with numbers (P-1, P-2, etc.), and Defense should mark exhibits with letters (D-A, D-B, etc.). Make sure the opposing party has seen your premarked exhibits before the trial begins.
  - b. **Identify exhibit.**  
Your Honor, I would like to refer to what has been marked as Exhibit 1, a picture of a golden hair.

- c. **Show opposing counsel.**  
Let the record reflect I am showing opposing counsel what has been marked as Exhibit 1.
- d. **Ask to approach the witness and provide the witness a copy.**  
It's best if the attorney has a second copy for herself to refer to during the questioning. May I approach the witness to hand him a copy of Exhibit 1?
- e. **Show witness.**  
Baby Bear, I am handing you a copy of Exhibit 1. Do you recognize Exhibit 1?
- f. **Lay foundation.**
  - 1) At this point, the attorney must ask the witness a series of questions about Exhibit 1 in preparation for asking the crucial question.
  - 2) This may include how the witness recognizes the exhibit, whether any document is a fair and correct copy, and any other questions necessary to demonstrate that the witness has personal knowledge of the exhibit, and there is sufficient foundation for the exhibit to be admitted.
- g. **Request admission of the exhibit.**  
**Don't wait until you have asked substantive questions about the exhibit.** Your Honor, Defense offers Exhibit 1 into evidence.
- h. **Objections.**
  - 1) Opposing counsel may then object to the exhibit's admission (if there is some basis for objection, such as lack of foundation, relevance, hearsay, or the like), and the judge will decide whether the exhibit is to be admitted.
  - 2) If it is admitted, continue. If not, you may be able to repeat the steps (f.) above, laying more foundation to get the exhibit admitted. If the exhibit is not admitted, you may not refer to it in testimony or in closing argument.
- i. **Ask crucial questions.**  
At this point, the attorney should ask about the substance of the exhibit: This hair does not match the hair on Goldilocks' head, does it?
- j. **Collect and keep the exhibit.**

When finished asking about an exhibit, ask permission to retrieve it from the witness. The judge may request that you place it on the bench, give it to the bailiff, or keep it safe in another way.

**F. OPINIONS OF EXPERT WITNESSES (Rule 702, 703)**

1. As a general rule, a witness may not give opinions on matters that require specialized knowledge, skill, training, education, or experience. Witnesses who do have such special knowledge and have no (direct) interest in the outcome of trial may provide an “expert opinion”.
2. An expert must be qualified to give an expert opinion, and the basis of their qualification must be sufficiently established during trial through questioning.

*Examples:*

To lay foundation for a law enforcement officer to be an expert in fingerprint identification, the following questions could be asked:

*Q: What do you do for a living?*

*Q: How long have you been a police officer?*

*Q: What sort of education or training did you have to have to become a police officer?*

*Q: What specialties do you have?*

*Q: What type of specialized training have you had on fingerprint identification?*

*Q: What experience have you had using your education and training to identify fingerprints?*

3. At this point, in the past, our rules suggested that the side offering the expert had to “tender” the expert--to ask the judge, “Your Honor, I would like this witness to be qualified as an expert in fingerprint identification.” Then, the opposing party might object to the qualification, and the Court would rule.
  - a. “Tendering” does not happen often in real trials (because judges do not want a jury to think that the judge’s approval means the jurors have to believe the expert), and it is not required under the Simplified Rules.
  - b. While the rules do not prohibit tendering, a judge is not required to qualify an expert. All an attorney needs to do is lay sufficient foundation for the expert to testify, and then ask the expert's opinion:

*Q: Based on your education, training, and experience, as well as your examination of the fingerprints at the scene and the record of Ms. Locks’ prints kept in the police database, have you formed an opinion, to a reasonable degree of certainty, about whether the fingerprints at the scene came from Ms. Locks’ fingers?*

- c. At this point, the opposing party could object that there is not sufficient foundation for the witness to provide an expert opinion, or that the question falls outside of the witness' expertise.

## G. USE OF A WITNESS' STATEMENT TO IMPEACH OR REFRESH THE WITNESS' RECOLLECTION

- In mock trials, witnesses generally may not use notes and may not refer to their witness statements. However, their statements may be shown to them in two particular circumstances--when used to refresh the witness' recollection (generally on direct examination), and when used to impeach the witness by a prior inconsistent statement (generally on cross-examination).

### a. Refreshing recollection (Rule 612)

- 1) If a witness is unable to recall a statement made in that witness' statement, or if the witness' testimony contradicts the statement, the attorney on direct may have the witness refer to that portion of the statement that could help the witness to remember. This is generally done on direct examination to help the attorney's own witness to remember.
- 2) Of course, refreshing a witness' recollection may be embarrassing for the witness. An attorney must decide whether to follow the procedure for refreshing recollection, or simply asking additional questions to clarify the witness' testimony.
- 3) **Procedure for refreshing recollection.**
  - a) **Confirm that the witness cannot remember or has made a mistake.**

*Q: Ms. White, I asked you what color the apple was, and you said that you can't remember; OR*  
*Q: Ms. White, I asked you what color the apple was, and you said that it was red. Are you positive about that? [This may draw an objection for leading the witness, but you respond by saying that you're laying foundation to determine whether the witness needs to have her recollection refreshed.]*
  - b) **Ask the witness if there is something that would refresh her recollection on the matter.**

**Q:** *Ms. White, is there something you could refer to that would refresh your recollection about what color the apple was?*

**A:** *Oh yes, my witness statement.*

- c) **After asking to approach the witness, hand the witness the statement, pointing out the part of the statement that is relevant. Do not have the witness read the statement out loud. Take the witness statement back from the witness.**

- d) **Ask if the witness' memory is refreshed.**

**Q:** *Now, after reviewing the statement, has your memory been refreshed about what color the apple was?*

**A:** *Yes.*

- e) **Ask the question.**

**Q:** *What color was the apple?*

**Note:** *You do not enter the witness statement into evidence nor have the witness read the statement out loud.*

b. **Impeaching a witness by a prior inconsistent statement (Rule 608)**

- 1) To “impeach” a witness simply means to put on evidence showing that their testimony is not to be believed.
- 2) The rules allow impeachment by prior criminal convictions, an opinion about the witness' truth-telling ability, and, finally, by demonstrating that they testified one way before (in this case, in their witness statement) and now are saying something different.
- 3) An “impeached” witness is not automatically disqualified, nor does their testimony have to be wholly disregarded. Impeachment is just a method to demonstrate they should not be believed.
- 4) To impeach a witness with a prior inconsistent statement, the attorney should:
  - a) **Allow the witness to make the inconsistent statement.**
  - b) **Ask the witness if she made a statement at an earlier time.**

- c) **Ask the witness if she told the truth when she made the earlier statement.**
- d) **Ask the Court to approach the witness.**
- e) **Show opposing counsel the copy of the statement the attorney plans to use, identifying the paragraph or lines to which she will refer.**
- f) **Show the witness her statement, asking if the signature on the statement is her own.**
- g) **Point the witness to the specific line or paragraph of the prior inconsistent statement. Ask her to read along while you read aloud the lines.**
- h) **Confirm with the witness that you read the lines correctly.**
- i) **Stop. Do not accuse the witness of lying or asking why her testimony is different today. That may be done in closing argument.**

#### H. **JUDICIAL NOTICE (Rule 201)**

1. The purpose of judicial notice is to allow the Court to recognize a fact everyone agrees on without having to put on testimony about that fact. For the purposes of mock trial, the facts capable of being noticed are facts “not subject to dispute” and are a “matter of mathematical or scientific certainty.”
2. **For example:** The court could take judicial notice that  $10 \times 10 = 100$  or that there are 5,280 feet in a mile. The request may be made during a witness’ testimony, or before or after a witness testifies. These should be used sparingly, as most facts which could be judicially noticed also may be introduced through fact or expert witnesses.

