

Dear Mock Trial Teacher and Attorney Coaches:

The Arizona Foundation for Legal Services & Education and the Young Lawyers of Arizona welcome you and your team to the 2006-2007 Arizona High School Mock Trial Program.

Please review all of the material carefully. If you have any questions about registration or administration of the program, please contact Susan Nusall with the Arizona Foundation for Legal Services & Education at 602-340-7361. If you have any questions about the case, the Rules of the Program or the legal aspects of the program, please post your question(s) on the Mock Trial website, www.azflse.org/mocktrial.

The Regional Tournaments will be held on March 3, 2007 and the State Tournament will be held on March 24, 2007.

Case Materials

As you will see, this year's case is a criminal prosecution for manslaughter, negligent homicide and illegal burning of wildlands. The case is fictional, and any similarity or resemblance of any character to an actual person is strictly unintentional and coincidental. This is an original case prepared by Dewain Fox (Fennemore Craig), Pam Gates (Bryan Cave), Bill Gates (Karsten Manufacturing Corp./PING) and Lance Broberg (Tiffany & Bosco).

Program and Evidence Rules

All team members are expected to know the Mock Trial Rules of Evidence and the Rules of the Program. Please be advised that the Mock Trial Rules of Evidence were substantially revised last year. The new rules are the rules used at the National Championship. The Rules of Evidence and the Rules of the Program can be found on the mock trial website, www.azflse.org/mocktrial, in the Download Center.

New Timing Rules--PLEASE READ

The timing rules in Section III of the Rules of the Program have been revised to implement a system that has been used effectively at the National Tournament. There are two changes to the rules.

First, the official timekeepers will use standardized time warning placards to signal the teams and judges as to how much time is remaining. When there is no time remaining, the timekeepers will hold up the "STOP" placard, at which time the team must stop.

Second, each team must provide its own official timekeeper. Both teams' timekeepers will keep

time for all portions of the round, and any discrepancy between the two timekeepers will be resolved by the judge. In order to avoid a hardship on any teams, the requirement that teams supply their own timekeeper will not be implemented until next year. This year, teams will be permitted to provide their own timekeeper, but the tournament coordinators will provide timekeepers for those teams that are unable to provide their own timekeeper.

Trials

First, this year's case materials include jury instructions to set forth the applicable law. When scoring panels are used, such as at the state tournament, the trial should be presented as a jury trial with the scoring judges serving as the jury. When single presiding/scoring judges are used, such as at most (if not all) regional tournaments, the trial should be presented as a bench trial using the same law and legal principles set forth in the jury instructions.

Second, as you will see, the case materials contain a lot of information--much of which is intended as background information and not necessarily to be admitted into evidence. As such, teams will have to make strategic decisions regarding what evidence they want to present within the allotted time. It will be impossible for any team to present all of the evidence contained in the materials within the time constraints. Please be advised that the new time rules described above will be strictly enforced.

Forms

Please become familiar with how and when the necessary forms are needed and comply with the requirements shown below.

Score Sheet and Ratings

A score sheet and the criteria for scoring to be used by the judges at the Regional Tournaments and the State Tournament are included at the end of the case materials. Your students should be aware of the scoring system that is used to rate their performance. We recommend using the scoring sheet when students engage in trial practice runs.

Mock Trial Participants List – REVISED – PLEASE READ!!!

The Participant List for your team is now on line website at www.azflse.org/mocktrial. When you registered on line, you should have already filled in your students' names. These can be edited at any time up to February 3, 2007. Login, click on personalized teacher page, Mock Trial Regional Tournament, and "edit this team". If you do not submit the names on line by the deadline, your team may be prohibited from competing. Any requests to make changes to your team roster after February 3rd are subject to approval by your Regional Coordinator. NO EXCEPTIONS!!! A list of regional coordinators is available on the website. If you encounter any problem in completing the online input of student names, please contact Amy Koenig at 602-340-7357.

Student Roster

The Student Roster form is the official form you are to use on Tournament Day. Please make certain that you have at least FIVE COPIES on hand the day of the tournament. The team is responsible for completing this form and presenting it to the judge/bailiff at the beginning of each round including the Finals Round. Please note that the form has been revised this year to include a space to write in the timekeeper's name.

Preparing Students to Participate

The Steps in a Mock Trial and Pre- and Post- Activities resources can help students develop a basic understanding of the mechanics of a trial and presents students with ten situations in which they must apply the rules of evidence. An answer key is provided for coaches. You are also provided with a suggestions sheet and helpful hints designed to guide attorney-coaches in working with students. Please take a few moments to review these materials to better prepare you for using these techniques with your students. They are available on the website, www.azflse.org/mocktrial , in the Download Center.

State Tournament

The State Tournament is scheduled for Saturday, March 24, 2007 at the Federal Courthouse located in downtown Phoenix. Teams that did not compete in the Maricopa County Regional Tournament will be eligible for overnight lodging the evening before the State Finals. More details about the State Tournament will be forthcoming.

National Mock Trial Tournament

The National Mock Trial Tournament will be held May 10-12, 2007 in Dallas, Texas. Teachers are encouraged to apply to the Academic Contest Fund Committee for funding to help offset travel-related costs for the state winner. However, the exact amount will not be determined until mid-2007 when the matter is heard before the State Board of Education. It is strongly recommended that schools have a fundraising plan in place in the event that they are the State winners and are eligible to travel to the National Tournament.

We hope you enjoy the problem. Have fun and good luck with your tournaments!

Susan Nusall
Mock Trial State Coordinator

Danelle Liwski and Dewain Fox
Legal Counsel Coordinators

Summary of Case

During the summer of 2006, Tyler Blunt was serving as a counselor at Camp Mountainaire, a camp owned and operated by the Arizona Co-Ed Scouts (“ACES”). On the night of July 4, 2006, somebody ignited fireworks in the forest area around Camp Mountainaire. Later that night, a forest fire was reported in the area, and the camp was evacuated early the next morning.

The fire spread toward Mormon Lake to the southeast of Camp Mountainaire. On July 8, 2006, a mandatory evacuation order was issued for the area around Mormon Lake. Bill and Carol Hudson, who owned and operated the Elk Haven Lodge at Mormon Lake, evacuated their guests, but decided to stay in an effort to protect the Lodge. On July 15, 2006, the fire overtook the Lodge, and Bill and Carol died in the fire.

The State alleges that Tyler is the person who ignited the fireworks, and has charged Tyler with manslaughter, negligent homicide and the illegal burning of wildlands. Tyler denies that s/he is the person who ignited the fireworks, and also alleges that the fire was caused by a lightning storm in the area, not by the fireworks. Tyler has pleaded not guilty to all charges.

The State’s witnesses are: (i) Ashton Blake, the Superintendent of the Mormon Lake Interagency Hotshot Crew that fought the fire; (ii) Shea Landis, a 12-year old who was attending Camp Mountainaire at the time of the fire; and (iii) Payton Hudson, the adult child of Bill and Carol Hudson. The Defendant’s witnesses are: (i) Tyler Blunt, the defendant; (ii) Harley Bolton, a meteorologist; and (iii) Logan Fischer, the director of Camp Mountainaire.

1 REBECCA PEREZ
County Attorney
2
3 MARK ROBERSON
Deputy County Attorney
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Flagstaff, Arizona 86001
5 Attorneys for Plaintiff

6
7 SUPERIOR COURT OF ARIZONA
8 COCONINO COUNTY

9 STATE OF ARIZONA,
10 Plaintiff,
11 v.
12 TYLER BLUNT,
13 Defendant.

No. S-0300-CR2006-09572

INDICTMENT

CHARGING VIOLATIONS OF

Counts 1 and 2: Manslaughter, Class 2
Felony, in violation of A.R.S. § 13-1103;

Counts 3 and 4: Negligent Homicide, Class
4 Felony, in violation of A.R.S. § 13-1102;

**Count 5: Intentional Burning of Wildlands
that Places Another Person in Danger of
Death**, Class 3 Felony, in violation of A.R.S.
§ 13-1706;

**Count 6: Intentional or Knowing Burning
of Wildlands**, Class 6 Felony, in violation of
A.R.S. § 13-1706;

Count 7: Reckless Burning of Wildlands,
Class 1 Misdemeanor, in violation of A.R.S.
§ 13-1706; and

**Count 8: Burning of Wildlands With
Criminal Negligence**, Class 2 Misdemeanor,
in violation of A.R.S. § 13-1706

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24 The Coconino County Grand Jury accuses **TYLER BLUNT**, charging on this 25th
25 day of September, 2006, that in or from Coconino County, Arizona:

26 **COUNT 1**

27 **Manslaughter**

28 On or between the dates of July 4, 2006 and July 15, 2006, defendant **TYLER**

1 **BLUNT** recklessly caused the death of another person, to wit: Bill Hudson, in violation
2 of A.R.S. § 13-1103.

3 **COUNT 2**

4 **Manslaughter**

5 On or between the dates of July 4, 2006 and July 15, 2006, defendant **TYLER**
6 **BLUNT** recklessly caused the death of another person, to wit: Carol Hudson, in violation
7 of A.R.S. § 13-1103.

8 **COUNT 3**

9 **Negligent Homicide**

10 On or between the dates of July 4, 2006 and July 15, 2006, defendant **TYLER**
11 **BLUNT**, with criminal negligence, caused the death of another person, to wit: Bill
12 Hudson, in violation of A.R.S. § 13-1102.

13 **COUNT 4**

14 **Negligent Homicide**

15 On or between the dates of July 4, 2006 and July 15, 2006, defendant **TYLER**
16 **BLUNT**, with criminal negligence, caused the death of another person, to wit: Carol
17 Hudson, in violation of A.R.S. § 13-1102.

18 **COUNT 5**

19 **Intentional Burning of Wildlands That Places Another Person In Danger Of Death**

20 On or between the dates of July 4, 2006 and July 15, 2006, defendant **TYLER**
21 **BLUNT**, without lawful authority, intentionally set or caused to be set on fire wildland
22 other than the defendant's own, which conduct placed other persons, to wit: Bill Hudson
23 and Carol Hudson, in danger of death or serious bodily injury, in violation of A.R.S. § 13-
24 1706.

25 **COUNT 6**

26 **Intentional Or Knowing Burning of Wildlands**

27 On or between the dates of July 4, 2006 and July 15, 2006, defendant **TYLER**
28 **BLUNT**, without lawful authority, intentionally or knowingly set or caused to be set on

1 fire wildland other than the defendant's own, and the defendant knew or reasonably
2 should have known that the defendant's conduct violated an order issued by a
3 governmental entity that prohibited, banned, restricted or otherwise regulated fires during
4 periods of extreme fire hazard, in violation of A.R.S. § 13-1706.

5 **COUNT 7**

6 **Reckless Burning of Wildlands**

7 On or between the dates of July 4, 2006 and July 15, 2006, defendant **TYLER**
8 **BLUNT**, without lawful authority, recklessly set or caused to be set on fire wildland other
9 than the defendant's own, in violation of A.R.S. § 13-1706.

10 **COUNT 8**

11 **Burning of Wildlands With Criminal Negligence**

12 On or between the dates of July 4, 2006 and July 15, 2006, defendant **TYLER**
13 **BLUNT**, without lawful authority, and with criminal negligence, set or caused to be set
14 on fire wildland other than the defendant's own, in violation of A.R.S. § 13-1706.

15 Pursuant to A.R.S. § 21-101 et seq., the County Grand Jurors find that the offenses
16 described above were committed, in whole or part, in Coconino County, Arizona.

17 A "True Bill"

18 Dated: September 25, 2006

19
20 REBECCA PEREZ
21 COUNTY ATTORNEY
22 COCONINO COUNTY, ARIZONA

23 /s/ Mark Roberson
24 Mark Roberson
25 Deputy County Attorney

23 /s/ Amy Lawrence
24 Foreperson of the County Grand Jury

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF COCONINO
THE HONORABLE W.L. DAVIS, PRESIDING JUDGE

IN CHAMBERS ()

IN OPEN COURT (X)
JANICE HALL, CLERK
By: B. Butler, Deputy

STATE OF ARIZONA
v.
TYLER BLUNT

DATE: October 4, 2006
TIME: 9:30 A.M.

NO. S-0300-CR2006-09572

MINUTE ENTRY

This is the date and time set for a Not Guilty Arraignment.
Court Reporter Susan Williams is present.

APPEARANCES

State's Attorney: Mark Roberson
Defendant's Attorney: Carmen Whitaker
Defendant: Present

NOT GUILTY ARRAIGNMENT

The defendant is advised of the charges in the Indictment.

Let the record reflect that the defendant enters a plea of not guilty on all charges.

IT IS ORDERED that an Initial Pretrial Conference at which the defendant shall personally appear will be held in this Division at 9:30 a.m. on November 17, 2006.

NOTICE TO DEFENDANT:

Failure to comply with the above orders may result in revocation of the defendant's release from custody and/or the imposition of other sanctions.

The defendant may be tried in his/her absence if he/she fails to appear for trial.

IT IS FURTHER ORDERED affirming all prior bond and custody orders.

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AFFIDAVIT OF ASHTON (“ASH”) BLAKE

STATE OF ARIZONA)
) ss.
County of Coconino)

Ashton (“Ash”) Blake, first duly sworn, under oath, states as follows:

1. I am 51 years old, and I am the Superintendent of the Mormon Lake Interagency Hotshot Crew (“MLIHC” or “Crew”). It is no surprise to those who know me that I work in the fire service, because as long as I can remember I’ve been fascinated by fires, especially wildfires. I grew up in the Flagstaff area and always lived near the national forest. It seemed like every summer season there were a slew of wildfires across the state. Whenever there was a wildfire nearby, I would sneak as close as I could without getting caught to watch the firefighters in action. In fact, my fascination with fire is what led to my nickname. My Uncle Ernie started calling me Ash when I was 7 years old and accidentally burned down my tree house while conducting an experiment with fire. As they say, kids will be kids. Anyway, the name stuck with me ever since.

2. My first position in the fire service was as a Wildland Fire Investigator, a position I held from 1978 to 1982. It wasn’t a frontline operations position, like the firefighters I used to watch when growing up and the position I now hold, but it was interesting work. The only mandatory training for that position was a course called “Wildfire Origin and Cause Determination” (FI-210). While I was an Investigator, I also took two other recommended courses: “Wildland Fire Observations and Origin Scene Protection for First Responders” (FI-110); and “Introduction to Wildland Fire Behavior” (S-190).

3. As a Wildland Fire Investigator, I investigated or assisted in the investigation of somewhere around 25 wildland fires. I testified as an expert in the prosecution of two individuals accused of starting wildland fires. One was found guilty, and the other was acquitted. I got burned out after the acquittal, which left me feeling empty--like I expended a lot of effort for nothing. I decided that I wanted to pursue an operations position on a Hotshot Crew and see how far up the ranks I could make it.

4. Hotshot Crews, which also are called “Type I Crews”, got their start in the late

1 1940s in Southern California. Crews typically have 20 highly skilled members who
2 understand safe helicopter operations and can safely and efficiently use all fire tools,
3 including Pulaskis (a combination axe on one end and grub hoe on the other, which is
4 used to dig fire lines), chain saws, fusees (a torch used by firefighters to secure firelines
5 and create safety zones), pumps, engines and bulldozers.

6 5. Numerous federal and state agencies sponsor Hotshot Crews. As a result, it is
7 necessary to standardize as much as possible the qualifications for serving on a Hotshot
8 Crew. The National Wildfire Coordinating Group publishes the “Wildland Fire
9 Qualification System Guide” (the “Guide”). One of the primary purposes of the Guide is
10 to establish minimum interagency training and qualification standards for mobilization to
11 wildland fire assignments. The Guide sets forth the minimum qualifications in terms of
12 training, experience and physical fitness level for various positions on Interagency
13 Hotshot Crews. Just as an example, each member of a Hotshot Crew must pass the Work
14 Capacity Test at the Arduous Level--which means being able to complete a three-mile
15 hike with a 45-pound pack in 45 minutes. This rigorous fitness level is necessary, because
16 Crews often have to hike into remote fire sites while carrying all the water and supplies
17 they will need for 8- to 12-hour (and even longer) shifts.

18 6. I started on my first Hotshot Crew in the mid-1980s as a Firefighter Type 2, which
19 is the lowest position on a Hotshot Crew. Although the position required no prior
20 experience, it did require Basic Firefighter Training. In addition to the S-190 course that I
21 already took as an Investigator, I had to take “Introduction to ICS (I-100), “Human
22 Factors on the Fireline” (L-180) and “Firefighting Training” (S-130). I also took, and
23 continue to take, the “Annual Fireline Safety Refresher” (RT-130). By the way, ICS is
24 our shorthand for Incident Command System.

25 7. I progressed up the ranks over the years, until I obtained the designation of
26 Incident Commander Type 1 and became the Superintendent of the MLIHC in 2004.
27 Before that, I worked on various Hotshot Crews and held the positions of (i) Firefighter
28 Type 2, (ii) Firefighter Type 1, (iii) Crew Boss, Single Resource, (iv) Strike Team Leader

1 Crew, (v) Task Force Leader, (vi) Division/Group Supervisor, (vii) Incident Commander
2 Type 4, (viii) Incident Commander Type 3, and (ix) Incident Commander Type 2. Over
3 the years, in order to qualify for these positions, I took the following courses: (i) “Look
4 Up, Look Down, Look Around” (S-133); (ii) “Intermediate Wildland Fire Behavior” (S-
5 290); (iii) “Crew Boss (Single Resource)” (S-230); (iv) “Task Force/Strike Team Leader”
6 (S-330); (v) “Fire Operations in the Wildland/Urban Interface” (S-215);
7 (vi) “Division/Group Supervisor” (S-339); (vii) “Introduction to Wildland Fire Behavior
8 Calculations” (S-390); (viii) “Initial Attack Incident Commander” (S-200); (ix) “Incident
9 Commander Extended Attack” (S-300); (x) “Command and General Staff” (S-420); and
10 (xi) “Advanced Incident Management” (S-520).

11 8. As Incident Commander, the overall management of the incident is my
12 responsibility. Specifically, it is my duty to (i) determine incident objective and strategy,
13 (ii) set immediate priorities, (iii) establish an appropriate organization, (iv) authorize an
14 Incident Action Plan, (v) coordinate activity for all Command and General Staff,
15 (vi) ensure safety, (viii) coordinate with key people and officials, and (ix) authorize
16 release of information to the media and public.

17 9. In order to burn, fire needs oxygen, fuel, and enough heat to ignite and burn the
18 fuel. It is necessary to eliminate one of these three essential ingredients to prevent or fight
19 fire. Needless to say, it is impossible to eliminate oxygen in the environment, so
20 firefighting and prevention focuses on the elimination of fuel and/or heat. Heat and
21 ignition sources created by the weather (i.e., temperature, humidity and lightning) cannot
22 be controlled, but human-caused heat and ignition sources (such as campfires, smoking,
23 combustion engines, open flame, flares and fireworks) can be controlled through
24 education and enforcement of forest use restrictions. Fuel can be living or dead material
25 that will ignite, carry fire and burn, including standing or fallen trees and brush. Many
26 people don't know this, but a tree that is struck by lightning can smolder inside for hours
27 or sometimes even days, if the conditions are right, before igniting into an actual fire. As
28 a preventative measure, property owners are encouraged to create a safety zone free of

1 fuel around their property. When fighting wildfires, crews create fire lines to control and
2 contain the fire by clearing or burning fuel sources.

3 10. Weather and topography affect how fire behaves, and both are important--but
4 uncontrollable--factors in fighting wildfires. Weather affects fires in several ways. High
5 temperatures and relative low humidity dry out fuels, making them more susceptible to
6 igniting. Once a fire is ignited, wind speed and direction affect (i) how large a fire will
7 become, (ii) where it will spread, and (iii) how quickly it will move. The slope of the land
8 also affects how quickly fire will spread. Fire tends to move uphill much more quickly
9 than downhill. In addition, hills facing west or south tend to have drier fuels, because
10 they are exposed to more direct sunlight--causing fire on such hills to spread faster.

11 11. The MLIHC is a Type I Crew based on the Coconino Forest in Flagstaff, Arizona,
12 and is sponsored by the U.S. Department of Agriculture's Forest Service. The MLIHC is
13 one of the Interagency Hotshot Crews in the Southwest Area--which includes Arizona,
14 New Mexico and West Texas. The Southwest Area is divided into nine zones. The
15 MLIHC is in the Northern Arizona Zone. The Southwest Coordination Center ("SWCC")
16 in Albuquerque, New Mexico coordinates the mobilization of wildfire resources between
17 Zones in the Southwest Area. When situations dictate, the National Coordination Center
18 ("NCC") in Boise, Idaho assigns resources throughout the United States.

19 12. At the end of June 2006, the NCC dispatched the Crew to assist with a major
20 wildfire in Montana. We returned to our home base in Flagstaff sometime around July 7.
21 During the prime wildfire season, the Crew works extremely long hours and moves from
22 incident to incident very rapidly, so it sometimes is hard to remember exact dates. On
23 July 9, immediately after our mandatory rest period, the SWCC dispatched the Crew to
24 takeover management of the Mountaineer Fire from the Northern Arizona Type 2
25 Incident Management Team (the "NAIMT"), because the fire had developed into a
26 "complex" incident to which more than 600 personnel were assigned, mandatory and
27 precautionary evacuations were taking place, and there was a high potential for property
28 damage.

1 13. Mountaineire is a small community with a population of just over 1,000. As
2 shown on the map on page 2 of the lightning strike report (**Exhibit 5**), it is about ten miles
3 south of Flagstaff and a little more than 15 miles northwest of Mormon Lake.
4 Mountaineire's elevation ranges from approximately 6,700 to 7,000 feet above sea level.
5 Although the area generally is densely forested, much of the timber is severely dried out
6 due to the extreme drought conditions in the region, making the area susceptible to
7 wildfires.

8 14. As mandated by ICS policy, the Incident Commander of the NAIMT briefed me
9 orally and in writing shortly after my Crew's arrival at the incident. The briefing
10 indicated that the Mountaineire Fire was a human-caused fire that was first reported by a
11 civilian on the night of July 4, 2006. The first team of 20 local firefighters arrived on the
12 scene very early on the morning of July 5. The team leader initially reported that the fire
13 was in a confined basin area, and that his team should be able to manage and contain the
14 fire. As it turned out, the team leader made an error in judgment in not calling in
15 additional firefighters immediately.

16 15. I knew from my familiarity with the area that there is an Arizona Co-Ed Scouts
17 ("ACES") camp in the Mountaineire community. The area where the camp is located is
18 shown by the red arrow on the aerial map (**Exhibit 7**). I learned from the briefing that the
19 campsite was less than a mile away from the Mountaineire fire's origin. Although the
20 initial team leader expected quick containment of the fire, as a precaution, the ACES
21 camp director and the Forest Service evacuated the camp in the early morning hours of
22 July 5.

23 16. According to the NAIMT briefing, the wind changed directions late in the
24 afternoon on July 5, and the gusts chased the fire up a hill adjoining the basin where the
25 fire started. From there, the fire quickly spread out of control to the southeast. As a
26 result, and due to the evacuation of the ACES campsite, the SWCC dispatched the
27 NAIMT on July 7 to assume command of the Mountaineire Fire from the local team.
28 Although no structures were in imminent danger, the fire continued to spread quickly

1 toward Mormon Lake, provoked in large part by strong wind gusts that occurred mid-day
2 on July 8. Accordingly, later that day, the NAIMT's Incident Commander issued a
3 mandatory evacuation order for the area between Mountaineer and Mormon Lake, called
4 for additional firefighting resources, and recommended that the incident be upgraded to
5 Type 1. The MLIHC assumed command of the incident on July 10.

6 17. The Mormon Lake area is home to many cabins, lodges, campsites and hiking
7 areas, and the area attracts thousands of visitors during the summer months. I coordinated
8 with the Coconino County Sheriff's Office to make sure that all property owners and
9 visitors were apprised of the mandatory evacuation order and the threat that they may be
10 in the fire's path. Although the evacuation order was called "mandatory", neither the
11 Forest Service nor the Sheriff's Office can force people to leave their property--which is
12 unfortunate, because it leads to preventable loss of life in cases like this one.

13 18. Before the Mountaineer Fire could be contained, she took a beeline straight for
14 the Elk Haven Lodge. Hotshot Crews do their best to protect life and property, and
15 usually they are successful, but the factors coalesced perfectly in this instance to make
16 protecting the Lodge impossible. The Mountaineer Fire was contained on July 20, but
17 not before she destroyed the Elk Haven Lodge five days earlier. Containment means that
18 the fire no longer is spreading and that there is a fire line around the perimeter.

19 19. The investigation into the Mountaineer Fire's cause began immediately without
20 waiting for the fire to be contained. The first step in this process is to locate the area of
21 origin. This involves analyzing the fire flow and other indicators, including the
22 impingement of flame, char and soot patterns. One important factor, although not
23 absolute, is that the degree of charring and damage generally is more intense on the side
24 of vegetation facing the fire's origin. We caught a lucky break in determining the fire's
25 origin in this case, because one of the first firefighters on the scene located debris from
26 exploded fireworks, which according to my briefing still reeked of freshly exploded
27 gunpowder. The first responders immediately suspected that this was the cause of the fire.
28 Although it is impossible to cordon off an entire wildland fire, as would be done with a

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AFFIDAVIT OF SHEA LANDIS

STATE OF ARIZONA)
) ss.
County of Coconino)

Shea Landis, first duly sworn, under oath, states as follows:

1. My name is Shea Landis. I am 12 years old and in 7th grade at Tontazona Middle School. I was born and raised in Garden City, New York, but now I live in Flagstaff, Arizona with my parents, older brother and two dogs. Before moving to Flagstaff, both of my parents were teachers. My lifelong dream is to be a stand-up comic when I grow up.

2. When I was growing up in Garden City, we used to come out to Arizona during the summers. My parents said it did me good, because they didn't like some of the kids I was hanging out with. I guess they thought my friends were a bad influence or something. Anyway, during 6th grade, I got into some trouble at school. The school administrators were talking about one of my patented stink bomb tricks that I pulled a couple of weeks earlier. They asked me about it, but I knew if they found out it was me, they would call my parents and I would be in big-time trouble--so I blamed this other kid at school, P.J. He was so much of a "goody two shoes" that I thought it would be funny to see him freak out and turn all red when he got called to the Principal's office. I never intended P.J. to actually get in trouble, but the Principal believed he did it and gave him detention. As soon as I heard that, I fessed up.

3. The Principal called my parents and me into the office. I wasn't that concerned and didn't really pay too much attention, but I heard something about "one prank too many." My parents were pretty upset and thought a change of scenery would do me good. Plus, my dad had always talked about getting a cabin out here and starting his "semi-retirement." That's when we moved to Flagstaff--right after school was over.

4. Even though I had visited Arizona before, it was kind of a culture shock when we first moved here. I was in a strange place, about to start 7th grade, didn't know anyone, and it was summer, so I probably wouldn't meet anyone until school started back up. I had nothing to do, and nobody to play my tricks on, so I started pulling pranks on my

1 parents. I think they had about enough of the pranks and me, because one day out of the
2 blue they told me they signed me up for ACES--the Arizona Co-Ed Scouts--and camp was
3 starting the next week. They told me if camp didn't straighten me out, military school
4 would be my next stop.

5 5. At first, I was kind of bummed about camp. Who wants to spend a summer with a
6 bunch of nerds? I mean, I was about to start seventh grade, and I didn't want to be known
7 as a scouting nerd or anything. Then it hit me that camp would be the perfect place to try
8 out some new pranks.

9 6. Camp Mountaineer, the ACES camp, is just a little south of Flagstaff. It's pretty
10 huge and, I have to say, more than a little cheesy. When you first get there, there are these
11 two giant totem poles and a sign hanging between them with the camp name. That's
12 where I was dropped off. I walked under the sign and saw the mess hall a little way down
13 a trail on the right. A little farther down the trail on the left and down a little slope is the
14 camp pool. In front of the pool, in a clearing in the forest, there is a little stadium built
15 into the hill with log benches and a big fire pit. A little ways behind the pool there is a
16 small lake with rowboats and canoes.

17 7. The camp is split into two sections. Down to the left and behind the pool and lake
18 is a path with a bunch of campsites. If you follow the trail the mess hall is on, you wind
19 up at several other campsites. When I first arrived, I lined up with a bunch of other kids
20 to meet some of the counselors and figure out which campsite I was in. I was assigned to
21 camp 7. When I got to camp 7, I saw that tents already were set up. They were just
22 canvas tents set up on wooden platforms--not very modern, and certainly not the cleanest.
23 I know I recognize that smell from somewhere, but I still can't figure out where.
24 Anyway, after I got my stuff set up in the tent, we had a meeting at the camp 7 fire pit. At
25 the meeting we had to pick which classes we would take. We were supposed to sign up
26 for at least four. I didn't see anything that really interested me, so I signed up for
27 canoeing, fishing, hiking and wilderness survival.

28 8. According to the camp brochures, the wilderness survival class was supposed to

1 teach you how to survive if you are stranded in the middle of nowhere with no food and
2 no supplies. I never expected to be stranded anywhere. I just signed up for the class
3 because Tyler Blunt was teaching it.

4 9. Tyler was different than the other counselors. My canoeing, fishing and hiking
5 counselors were really strict and wouldn't let us have any fun, which really cramped my
6 style. If you can believe it, we even had homework assignments, books to read, maps to
7 go over, and projects to complete before class even began. Tyler wasn't like that at all--at
8 least at the beginning. Tyler was cool and pretty much let us do whatever we wanted.
9 Even better, Tyler was in charge of the Snack Shack. That meant Tyler could get
10 anything--Wing Dings, M&Ms, Skittles, Snickers, Reese's Pieces, Twix, Gummy Worms,
11 Atomic Fire Balls, Hot Tamales, anything! You name it, and Tyler could get it--for
12 cheap. If Tyler didn't have it in the Snack Shack, s/he had people on the outside that
13 could bring it in. That made Tyler the most popular counselor at the camp.

14 10. During one of the classes, Tyler taught us how to enjoy the forest while causing as
15 little harmful impact as possible and the importance of obeying forest use restrictions.
16 Tyler started by telling us that we should always check on closures and restrictions before
17 venturing into the forest. Tyler then passed out copies of an Order that s/he said restricted
18 activities in the forest, and two other Orders that s/he said closed all or part of the forest.
19 (**Exhibits 1, 2 and 3**). Tyler also gave us a copy of a press release announcing that the
20 forest was reopening. (**Exhibit 4**). I had never heard of the forest being closed or no
21 campfires being allowed, but Tyler assured me that it happens often in the summer
22 months when the fire danger is high.

23 11. During the next class, Tyler was supposed to teach us how to build fires out of
24 sticks, without matches or anything like that, in case we were ever trapped in the middle
25 of nowhere. We took a short hike to a place where Tyler prepared to build a fire.
26 Although there are no fences or boundary markings around Camp Mountainaire, I'm
27 pretty sure that we left the camp and entered the forest. All of a sudden, one of the other
28 kids in the class, Rip Irwin, pulled the Fire Restrictions Order that Tyler gave us the class

1 before (**Exhibit 1**) out of his backpack. Tyler asked Rip to see the Order, and when Rip
2 gave it to Tyler, Tyler crumpled it up, threw it on the ground and said, “Let’s use that for
3 kindling once we get the fire started.” Everybody started laughing. We all thought it was
4 pretty funny, but Rip seemed pretty upset. Tyler told him, “Just trust me, I know what
5 I’m doing.” With all the laughter, I couldn’t hear everything that Tyler said, but I never
6 heard Tyler say anything about not being in the forest or having a permit. Nobody else
7 did either.

8 12. On the morning of July 4th, we had what turned out to be our last wilderness
9 survival class. I remember that class because we were all pretty excited about the special
10 camp-wide campfire scheduled for that night. We knew that there was going to be a big
11 cookout, and they told us to expect some surprise entertainment. I kept asking Tyler what
12 was planned. I could tell Tyler knew but wouldn’t tell me. I kept bugging Tyler, and I
13 could tell Tyler was getting a little testy. After class, I even followed Tyler down to the
14 Snack Shack. That’s when Tyler snapped at me: “I won’t tell you what’s going to happen
15 tonight, but it’s the 4th of July and I promise you will have a blast.” Tyler used finger
16 quotes when saying “blast.” I thought for a second and figured it out. I said, “I know
17 what it is--there’s going to be fireworks, right?” Tyler said, “Bingo! I’m shooting off
18 fireworks tonight.” Tyler then told me not to say anything to anyone, and that it was a
19 surprise.

20 13. That afternoon I was at the pool with some of the other kids from my camp. We
21 were just swimming and having a good time. I had a Baby Ruth that I got from Tyler and
22 threw it in the pool. I had seen it in a movie and thought it would be funny. Boy, was it
23 ever! Kids were screaming and jumping out of the pool. When the lifeguards figured out
24 what happened and started asking questions, I suggested that it might have been one of the
25 kids from camp 8, the camp next to ours. That’s when Tyler showed up. I think Tyler
26 knew right away that I did it, because I bought the candy bar at the Snack Shack earlier
27 that morning from one of Tyler’s special deliveries. Tyler looked at me, and that’s when I
28 fessed up--just like I always do. What’s the point of a good prank if you don’t get to take

1 credit for it? Anyway, Tyler yelled at me right there in front of everyone else. Tyler said
2 a prank was one thing, but blaming someone else was another. I was so embarrassed.
3 And, on top of that, Tyler threatened to have my parents come to pick me up before camp
4 ended. At that point I got pretty upset, and I was afraid that I would be shipped off to
5 military school. I'd do almost anything to avoid that. In the heat of the moment, I think I
6 even said something like, "You'll be sorry if you tell my parents."

7 14. After I had enough of Tyler's lecture, I spent the rest of the afternoon in my tent. I
8 didn't even want to go to the stupid campfire that night anymore. After awhile, Tyler
9 came by and we patched things up. We even had a good laugh about the other kids'
10 reaction to the Baby Ruth bar in the pool. I felt relieved that I wouldn't be headed off to
11 military school, and I decided to go to the campfire after all.

12 15. On the way to the campfire, I saw Tyler coming out of one of the counselor's
13 cabins. Tyler was looking all around, as if s/he wanted to avoid being seen, but I don't
14 think Tyler ever saw me. I saw Tyler carrying a couple of rectangular-shaped packages
15 covered in plain brown paper wrapping. Tyler and the rest of the counselors had been
16 acting pretty secretive, so I assumed the packages had something to do with the big
17 surprise planned for the campfire.

18 16. The campfire was pretty cool. After the cookout, there were a bunch of awards for
19 individual campers for the first couple of weeks and then the best campsite. Then, this
20 guy in a crazy costume told us the legendary story of the Mogollon Monster. Awesome
21 story, most of the kids were pretty scared. Then we built a campfire. We wanted to make
22 it bigger, but we could tell right away it was too windy. The embers were drifting off a
23 little ways and if the fire was any bigger they might have gone past the clearing into the
24 forested areas. When I was watching the embers, I saw Tyler sneaking off. Tyler ducked
25 behind the camp pool and toward the forest, and then I couldn't see him/her anymore.
26 Tyler had the packages that I saw earlier. I knew that Tyler must be involved with the big
27 surprise, and I started to get excited.

28 17. Some of the counselors led us in singing some patriotic songs for the July 4th

1 holiday. Then the guy who did the revelry every morning, played the Star Spangled
2 Banner and we all sang along. That's when Tyler did it. Right on cue when we sang
3 "bombs bursting in air," I saw the first firework go off. It was from the far side of the
4 pool. Everyone went crazy. It was awesome. There were a lot more fireworks after that.
5 I remember watching them go up, and then get caught in the breeze and get carried away.
6 I was a little worried because we couldn't have a big campfire due to the blowing embers.
7 The fireworks were going further than the campfire embers. The fireworks pretty much
8 concluded the campfire.

9 18. After the campfire, we all went back to our campsites. When we got back to camp
10 7, there was Tyler, sitting by our fire pit, with a small fire going. Tyler had graham
11 crackers, marshmallows and chocolate lined up, so that we could all have some s'mores.

12 19. I was a little worried for a while that night, expecting someone to say that there
13 was a forest fire from the fireworks. I remember some thunder and lightning. It seemed
14 to get pretty close too. I remember that because I was hoping it would rain just in case
15 there was a fire and we didn't know about it yet. We didn't end up getting any rain
16 though.

17 20. The next morning, there was a lot of commotion. I don't remember how I found
18 out, but I remember everyone had to pack quickly and we had to get going because there
19 was a forest fire. I knew right away that it was the fireworks Tyler had shot off. We all
20 lined up at the camp entrance and school buses picked us up. On the ride out, a forest
21 service guy told us that the fire had started just east of the camp. That's the direction the
22 wind was blowing the night before. It's the direction that the fireworks were being blown.

23 21. I know that Tyler and I had a little spat early on July 4th, but all-in-all I liked Tyler.
24 I still do. But as I think back, Tyler didn't seem to take fire safety all that serious,
25 especially for someone teaching wilderness survival.

26
27 /s/ Shea Landis
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AFFIDAVIT OF PAYTON HUDSON

STATE OF ARIZONA)
) ss.
County of Coconino)

Payton Hudson, first duly sworn, under oath, states as follows:

1. My name is Payton Hudson. My parents, Bill and Carol Hudson, owned the Elk Haven Lodge at Mormon Lake (the “Lodge”)--that is, until it burned to the ground with them trapped inside. The Lodge had been in the family since it was built in the late 1920s.

2. Although the name of the Lodge included the phrase “at Mormon Lake”, that was just to take advantage of Mormon Lake’s name recognition. The Lodge actually was several miles northwest of Mormon Lake off of Lake Mary Road to the west.

3. When I was growing up, we didn’t have much money. We lived off the income from the Lodge. Some parents always tell their children about having to walk miles to school, uphill in the snow both ways. Not my parents, because neither of them finished school. Instead of telling me about walking to school, my dad always told me how he had to quit school to help his parents run the Lodge. Back in those days, it took more backbreaking work to run the Lodge than it did when I was growing up, because the Lodge didn’t have the modern conveniences that exist today. All that my parents knew how to do was run the Lodge, so I don’t know what other job they could have gotten if the Lodge ever shut down.

4. Over the years, we faced a number of close calls with fires. My parents always stayed to make sure the Lodge was safe. No fire ever got closer than 1000 yards from the Lodge--well, no fire before the Mountaineer Fire.

5. We always were concerned during the summer months. It is especially dry, and we would get nervous that lightning from a summer monsoon storm would start a fire. We also were worried that a careless camper or a nutcase smoker would start a fire accidentally. My parents worked hard to make sure the Lodge was safe by clearing out brush and keeping the guests from engaging in dangerous acts that might ignite a fire, especially during the summer months.

1 6. The 4th of July weekends always were particularly frightening. Crazy kids would
2 come into the area and light off fireworks obtained from other states. Now you can get
3 them on the Internet. Kids just don't understand how dangerous they are in the dry area
4 where fires can start so easily.

5 7. On July 4, 2006, I was home visiting my parents for the first time in years. We
6 were sitting outside at about 1:00 p.m., catching up on old times and having some
7 lemonade and homemade ice cream. We watched one of those summer afternoon
8 thunderstorms develop. We saw some pretty nasty lightning strikes way off in the
9 distance toward Flagstaff, but there wasn't any rain.

10 8. About seven or eight hours later, I was outside enjoying a very quiet evening. I
11 heard a faint boom that I first thought was thunder from another monsoon storm. Then I
12 realized it actually was fireworks off in the distance. After hearing a few faint booms, I
13 could barely see some fireworks shoot into the air just above the tree line.

14 9. Even though the fireworks were off in the distance, they seemed dangerously close
15 to the Lodge. I asked my parents if they wanted me to jump on the ATV and head
16 through the forest to where the fireworks were to look for the culprits. They said, "No,
17 this happens every year. Don't worry about it." We actually sat for a few minutes and
18 enjoyed what we could see of the brief fireworks display. I feel terrible that I never got up
19 and got the person that was shooting off the fireworks. I can't help but feel that just
20 maybe I could have saved my parents--but even if I caught the imbecile, the damage
21 already was done.

22 10. At about 10:15 p.m., we saw that paralyzing glow. It was the familiar--too
23 familiar--glow of a forest fire. My dad ran inside and called the Forest Service. At the
24 time, the glow looked safely off in the distance.

25 11. We stayed up all night, and we continued to monitor the situation. We kept the
26 radio on to listen to the regular news briefings. We were worried that the fire department
27 would not be able to contain the fire quickly. By the afternoon of July 5th, it looked from
28 the Lodge like the smoke from the fire was spreading out. Still, we had not heard of any

1 evacuation orders.

2 12. Three days later, on July 8th, we heard that there was a mandatory evacuation order
3 for the area around the Lodge. My parents told me to gather the guests and lead them out
4 of the area. We had arrangements with other lodges to assist if we ever had to evacuate. I
5 took our 35 guests to a couple of lodges near Stoneman Lake, which was outside the
6 evacuation area, and I made sure that the guests were comfortable and safe. I went back
7 to the Lodge a few times to get luggage and other necessities for our guests. The roads
8 into the Lodge area were blocked by Sheriff's Deputies, but when I told them that I
9 needed to get some necessities and would be coming right back out, they let me go
10 through.

11 13. Each time I went back, I tried to talk my parents into leaving with me. I probably
12 went back five times. The last time that I went back, on July 10th, the Sheriff's Deputies
13 told me that they would not let me back in anymore once I left. I told my parents that, and
14 I begged them to leave with me. The fire was getting really close and it wasn't getting
15 contained.

16 14. My parents refused and told me they were trying to cut a larger clearing to protect
17 the Lodge. They thought they could get out in time if the fire got too close. I'm not sure
18 what happened, but I never saw them again.

19 15. On July 15th, I was watching the news when I saw the firefighters at the Lodge.
20 Although the flames were ripping through the building, I could tell it was the Lodge. I
21 couldn't believe what I was seeing. They were pouring water on the Lodge, but it was
22 absolutely no use--it was destroyed. Because the Lodge was so old, it just went up so fast.
23 I keep a still photograph of what I saw on the news that day. (**Exhibit 6**).

24 16. As soon as I could compose myself, I kept calling my parents' cell phones and
25 waiting for them to answer. They never did. I was frantic and tried to drive up there, but
26 the Sheriff's Deputies wouldn't let me get anywhere close. Finally, a firefighter called
27 me. He told me that he had bad news. They found my parents--both were dead. He said
28 they were huddled in a corner of the Lodge, holding each other, wrapped in what looked

1 like wet blankets. I can't imagine the excruciating pain they endured as the flames burned
2 them to death.

3 17. I don't know what to do with my life now. I quit my job and I've gone back to
4 graduate school, but I'm not able to focus. I just want to know what really happened that
5 night. If that kid Tyler Blunt set the fire, I want him/her to pay. I want Tyler to go to jail
6 and never get out. I want Tyler to huddle in a corner of a jail cell knowing that the end of
7 his/her life is looming and there's nothing that s/he can do about it--just like Tyler made
8 my parents go through.

9 _____ /s/ Payton Hudson

10 SUBSCRIBED AND SWORN to before me, a Notary Public, on January 5, 2007, by
11 Payton Hudson.

12 _____ /s/ Robert Lewis

13 My Commission Expires:
14 May 23, 2009

15
16 Witness Addendum

17 I have reviewed this affidavit as of 8:00 a.m. on the day of this round of the Arizona
18 High School Mock Trial Tournament, and have nothing of significance to add at this time.
19 The material facts are true and correct.

20 _____ /s/ Payton Hudson

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1 **AFFIDAVIT OF TYLER BLUNT**

2 STATE OF ARIZONA)
3 County of Coconino) ss.

4 Tyler Blunt, first duly sworn, under oath, states as follows:

5 1. My name is Tyler Blunt. I am 20 years old, and I should be a sophomore at
6 Northern Arizona University. I was studying to enter the Forest Service before this all
7 happened. Now I am on temporary suspension from school pending the outcome of this
8 case.

9 2. When I was younger, I was a member of ACES--the Arizona Co-Ed Scouts. I
10 used to love summers because that meant it was time for Camp Mountaineer. That is
11 ACES' camp located outside of Mountaineer, Arizona. It is near the Mogollon Rim, and
12 it's a beautiful area. It is perfect for hiking, canoeing and pretty much any other camping
13 activity you like. I went every summer, and every summer I had a great time. When I
14 was a senior in high school I turned 18 and was too old to be a scout anymore, so I signed
15 up as a counselor. I loved helping kids, loved the forest, and loved the camp. It was
16 perfect for me. Plus, I could earn a little money to help with books for college.

17 3. I was a camp counselor for the first time two summers ago. Because I had been
18 coming to the camp so many years it was a pretty easy transition. Most of the people
19 there already knew me and already had been treating me like a counselor, because most of
20 the kids at the camp are 15 and under. Needless to say, I started off as one of the more
21 experienced counselors from all the years I had been at the camp. As a result, I was asked
22 to teach wilderness survival. That was perfect for me. The class involves a combination
23 of what I like to call "the worst case scenario" as well as forest conservation and safety.

24 4. With respect to the "worst case scenario" part, I teach a bare-bones survival
25 technique. The best way to explain what I mean is to ask the question--if you were
26 stranded in the middle of the forest, with no supplies, what would you do to survive? I
27 teach the importance of building a simple, but effective, lean-to shelter. I teach the
28 importance of food -- i.e., what is edible, what isn't, and how to tell the difference. I teach

1 the kids how to purify water, how to heat and cook food, how to stay warm and how to
2 navigate, all with nothing more than a pocketknife.

3 5. With respect to the conservation side of the class, I work with Forest Service
4 personnel. I teach the kids the basics of forest conservation, including erosion, over-
5 growth and fire dangers that are prevalent in dry regions like Arizona. A part of that
6 includes providing campers with any current warnings, alerts, and/or closures issued by
7 the Forest Service, and teaching the kids to routinely check for these things before using
8 the forest. I also emphasize the importance of obeying orders issued by the authorities,
9 including use restrictions and so-called “mandatory” evacuation orders. I say so-called,
10 because everyone knows that there always are some idiots who would rather put
11 themselves in danger than leave their property unattended.

12 6. This last summer, I arrived at camp the second week of June -- June 10th to be
13 specific. The counselors generally get there early to set up everything, refamiliarize
14 ourselves with the area, and train rookie counselors and counselors with less experience.
15 By arriving June 10th, the counselors had two weeks to set up everything for a summer’s
16 worth of kids. Generally there were around 200-300 kids in the camp any given week.

17 7. I remember that there already was mail for me when I first arrived. The first thing
18 I noticed was a Fire Restriction Order issued by the Forest Supervisor for the Coconino
19 National Forest. (**Exhibit 1**). It became effective June 5, 2006, and was in effect until
20 rescinded or until the end of the calendar year. I hated seeing that. I mean, it is not
21 uncommon for the Forest Service to issue these fire warnings, especially given that the
22 weather has been so dry the last couple years, but usually we get a couple weeks worth of
23 campers before the first order. I had a bad feeling that this order wasn’t getting rescinded
24 anytime soon either.

25 8. Don’t get me wrong, we were still able to have campfires at the main fire pit and
26 at the individual fire-pits in each of the campsites. Camp Mountaineer had a permit for
27 those, and the Order applies only to “National Forest Service lands”. But, I was teaching
28 wilderness survival. One of the best parts of the course, and one of the things the kids like

1 the most, is our trip out into the forest where we learn to build a fire out of only the things
2 available there. No matches and no lighters.

3 9. My fears were confirmed just days before the first set of campers showed up. The
4 Forest Service issued an Emergency Fire Closure Order effective June 23, 2006.
5 (**Exhibit 2**). A fire closure meant the Forest Service was pretty worried, because it
6 literally closed off the restricted areas. These orders are issued in the most severe fire
7 conditions--when the Forest Service is afraid that a car might cause a spark, or a person
8 will ignore or be unaware of the Fire Restriction Order. What it meant for me was that the
9 fire conditions had worsened, and my popular wilderness survival forest trip was
10 definitely off.

11 10. The first group of kids showed up on Saturday, June 24th. They were all assigned
12 campsites with counselors, and they all signed up for courses. I had a good size group of
13 20 sign up for my wilderness survival course. I remember Shea Landis was in that class.
14 Shea is easy to remember because s/he goes 100 miles an hour 24/7. Shea is constantly
15 joking around, not paying attention, or playing pranks on other people. Usually nothing
16 big, just annoying. More often than not, Shea was the only one who thought the pranks
17 were funny.

18 11. I got some really good news at the end of the first week of camp. Effective July 2,
19 the Forest Service issued another Emergency Fire Closure Order that kept part of the
20 forest closed but opened the area around Camp Mountaineer. (**Exhibit 3**). The original
21 Fire Restriction Order, however, was still in effect.

22 12. As soon as the forest reopened, July 2nd, I decided to go ahead and take the class
23 on the wilderness trip. We hiked a short ways to an area known as Horseshoe Bend,
24 which is near where the camp abuts the forest. It's actually almost impossible to tell
25 where the camp ends and the forest begins, because there are no markings. I was
26 originally going to have all the kids make their own lean-tos but once I saw that there was
27 a pretty big bare area, I changed my mind. I mean, there was no foliage, no brush,
28 nothing that could catch fire in this little area.

1 13. I told the kids to gather up some small tinder and kindling from the surrounding
2 area. Small, dry sticks, twigs, leaves and that kind of stuff. I then gathered a little lint
3 from my pocket, placed it on a flat stone, and was going to show them how to build a fire
4 without any matches or anything. That's when one of the kids, a little "know it all"
5 named Rip Irwin, pulled out the Forest Service Fire Restriction Order (**Exhibit 1**) I had
6 given them and discussed the day before. Rip actually brought the paper with him on the
7 hike. I asked to see it. I assured Rip that the restriction should be followed. I told Rip
8 something to the effect of, "This was a survival course and when you are stranded you
9 sometimes have to break the rules." Then I said that if you have paper at your disposal,
10 you might as well use it. So I crumpled up the order and placed it in the kindling pile. I
11 remember Shea giggling about that, but couldn't figure out why. Anyway, I was just
12 trying to make a point with Rip about the mentality it takes to survive, but I also told Rip
13 that the restrictions only applied on forest land, not private property. I then showed
14 everyone how to start the fire. Afterwards, I had the kids put the fire out using water from
15 a nearby pond and then burying the soaked ashes.

16 14. I had a class on July 4th. I remember that throughout the class Shea would not stop
17 asking me questions about the campfire that night. I told Shea I didn't know what the
18 plans were, I was not in charge of the campfire, and I was not involved with the campfire.
19 That's the truth, but Shea wouldn't believe me. After the class, Shea followed me to the
20 Snack Shack. I was in charge of the Snack Shack, mostly because I had a friend who
21 worked for a candy distributor and who could get candy in bulk so that it was cheaper.
22 All the way to the Snack Shack, Shea wouldn't stop with the campfire questions. I finally
23 told Shea that the campfire was going to be fun and that s/he would have a blast. I
24 thought that would put an end to it--but Shea just wouldn't give it a rest. Shea said,
25 "You're shooting off fireworks, aren't you?" I responded sarcastically, "Yeah right! I'm
26 shooting off fireworks tonight!" Before I could even finish, Shea started to run out the
27 Snack Shack. I was afraid that Shea was going to spread a rumor that wasn't true and
28 would get all the campers' hopes up, so I yelled at Shea not to say anything. Obviously, I

1 was being facetious about shooting off fireworks. That's not only prohibited, but it's also
2 extremely dangerous and stupid.

3 15. Later that day, I had just finished up with my duties at the Snack Shack and was
4 on my way back to the counselor's cabin for a nap when I saw some commotion at the
5 pool. Kids were jumping out, running around and screaming. I was afraid that one of the
6 kids was going to slip and get hurt. I rushed into the pool area, and saw what the
7 commotion was about. There was a candy bar floating in the pool. I looked to one side
8 and saw one of the lifeguards talking to Shea. I heard Shea tell the lifeguard some other
9 kid put the candy bar in the pool. I walked closer and Shea saw me. Shea knew that s/he
10 was busted. Shea's look of surprise immediately became a look of guilt, and Shea's head
11 dropped. I asked what happened. Shea admitted to putting the candy bar in the pool and
12 said it was just a joke. I scolded Shea about how dangerous it was, that someone could
13 have gotten hurt, and that there is more to life than just jokes and pranks. I will admit,
14 looking back at it, I really let Shea have it. I think I was just fed up with Shea's behavior.
15 There is always one of those kids every summer, but for some reason, I just snapped and
16 lost my cool. I don't even remember everything I said, but I'm sure I threatened to have
17 Shea sent home early.

18 16. At first, Shea seemed pretty scared. But, as I kept yelling, and as Shea noticed the
19 other kids watching, Shea seemed to get angry. Finally, Shea just turned and ran off. As
20 Shea was running away, I'm certain I heard Shea say something about making me pay. I
21 yelled, "What was that?" Shea stopped, turned and just stared at me. Shea said, "You'll
22 see!"

23 17. I saw Shea briefly that afternoon at the campsite. I could tell that Shea was still
24 hacked off at me, so I didn't say anything. The next time I saw Shea was at the campfire
25 that night. I said hi, but Shea just looked the other way. About halfway through the
26 campfire activities, after the scary story, I snuck off. I had decided to treat the campers.
27 My friend had gotten a bunch of chocolate, marshmallows and graham crackers cheap. I
28 decided to put some in all the campsites so that the kids could all have s'mores when they

1 returned to their campsites after the campfire. I had given the campsite leaders the
2 chocolate and marshmallows earlier, but I didn't get the graham crackers until just before
3 the fire.

4 18. When I was dropping off the graham crackers at each campsite, I noticed
5 fireworks going off. I didn't really know where they were or who was doing it because I
6 couldn't see up through the trees, but I could hear them. I was pretty angry at first. It was
7 a clear violation of the Fire Restriction Order, and if it was a camper or counselor and the
8 Forest Service found out, the camp might lose its permits to operate. The fireworks
9 stopped almost as quickly as they began, so I finished up with the graham crackers. All in
10 all, the fireworks were not that big of a deal.

11 19. To be honest, I was more worried about lightning storms in the area. We didn't
12 get any rain, but there had been a lot of lightning all the way around the area. From my
13 own experience, it seems like most fires are caused by lightning, and with the lightning so
14 close and no rain, I thought that there might be a risk of a fire.

15 20. The next morning, my fears were confirmed. A Forest Service truck pulled up to
16 the camp early that morning. I was on my way to the showers when I saw the truck
17 pulling up. A forest ranger told me we needed to get everyone out of the camp and that
18 school buses would be there within a half hour. There was a forest fire spotted east of the
19 camp. He said the wind was blowing east for the moment, so the fire was moving away
20 from the camp, but to be safe the Forest Service wanted everyone out in case the winds
21 changed. I sounded the alarm with the camp director, Logan Fischer, and the other
22 counselors.

23 21. Later that afternoon, after the camp had been evacuated, someone who said he was
24 an Investigator with the Forest Service pulled me aside. He told me that some of the kids
25 were talking about the fireworks that I set off and that the fireworks were what caused the
26 fire. That was news to me. The first thing that actually went through my mind was Shea
27 Landis. I asked the Investigator if the kid who said I set off the fireworks was Shea
28 Landis. He apparently was not at liberty to say yes or no. I have since learned that it was

1 Shea. I can't believe it. I mean, I would believe that Shea would initially blame me as
2 one of his/her stupid pranks--just like s/he did with the candy bar. But, this is way too far.

3 22. After talking to me for a short while, the Investigator asked to see my belongings.
4 He then asked if I had showered since the night before. I said no, I had gone right to
5 sleep. With that, the Investigator asked me to step inside this trailer with all kinds of
6 equipment. Someone in there tested my hands for something, I didn't know what then,
7 but I do now. I know that the Forest Service is claiming they found some kind of residue
8 on my hands. That is bogus. I was at a camp that had a rifle range. I hadn't been up there
9 in a couple of days, but it had to be from there.

10 23. While they were testing my hands, the Investigator apparently ran a background
11 check on me. He asked about an incident when I was at the University of Arizona. About
12 a month into my freshman year, my roommate was drinking a little bit and apparently shot
13 fireworks from my dorm window. My roommate was not the brightest bulb I've ever met.
14 We were roommates only by random chance. By the time the campus police finally
15 figured out where the fireworks came from, my roommate already had left. When I
16 opened the door, the police saw a case of beer on the table. They wrote me tickets for
17 minor in possession of alcohol and for unlawful possession of fireworks. I got an attorney
18 then, but it was not much use. Eventually, I agreed to a diversion program and was kicked
19 out of the dorm. That's when I decided to transfer up to NAU and get a fresh start.

20 24. I still can't believe that they think I'm the one who shot off the fireworks. I know
21 way better than that. I mean, starting a small controlled fire is one thing. Although I
22 think I was on private property, if I was wrong and I have to pay a fine, so be it. But, I
23 had nothing to do with those fireworks--whether they caused the fire or not. Someone
24 needs to tell Shea that this isn't funny anymore.

25
26 /s/ Tyler Blunt
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AFFIDAVIT OF LOGAN FISCHER

STATE OF ARIZONA)
) ss.
County of Coconino)

Logan Fischer, first duly sworn, under oath, states as follows:

1. My name is Logan Fischer, and I’m 45 years old. I’m the camp director at Camp Mountainaire, which is the camp near Mountainaire, Arizona that is owned and operated by the Arizona Co-Ed Scouts (“ACES”). The red arrow on the map (**Exhibit 7**) shows the approximate location of Camp Mountainaire. I’ve worked as a camp director for 10 years, the last three at Camp Mountainaire. Our camp is recognized as one of the best scouting camps in the southwest. The staff has worked hard to develop a program that teaches young campers everything they need to know about the outdoors. I am really proud of our program and our staff.

2. I learned the hard way over the years that a camp is only as good as its staff. That is why I take a very “hands on” approach in hiring all of the camp staff. I first hired Tyler Blunt two summers ago to work as a camp counselor. Tyler was a senior in high school at the time, which was somewhat unusual for a counselor, but Tyler had attended our camp as a camper for a number of years before that. I met Tyler as a camper during my first year as camp director and was very impressed. So, it was a no-brainer to hire Tyler as a counselor. Tyler has been fantastic--just like all the other staff.

3. One of Tyler’s gifts is great interaction with kids. I think that Tyler relates well to the campers, because Tyler is always having fun and understands first hand the poor decisions that young people often make. I heard that Tyler got arrested at school shortly after serving as a counselor the first summer. Don’t get me wrong--it’s not that I condone whatever Tyler did to get arrested, but I don’t necessarily think it was that big of a deal either. In fact, if anything, I think it helps Tyler deal with the kids who habitually cause problems, because Tyler’s been there.

4. As a camper, Tyler excelled in wilderness survival. That’s why, when I hired Tyler as a counselor, I asked him/her to fill a vacancy teaching the wilderness survival

1 course. Tyler was very excited about the course, and handled the position very
2 responsibly--much more responsibly than I could have imagined from the stories I heard
3 about things that Tyler did as a camper long before I became camp director.

4 5. The stories that I heard about Tyler were ancient history. They took place when
5 Tyler was just a kid who didn't know any better. When Tyler was 9 years old, s/he was
6 sent home from camp after being caught trying to light a trashcan on fire with a book of
7 matches that was left in the kitchen. When Tyler was 11 or 12 years old, Tyler was sent
8 home after pointing an unloaded rifle at another camper in the rifle range. Tyler was
9 allowed to return a couple of days later on the condition that the rifle range was off limits.
10 I'm sure that these stories were embellished over the years. In fact, I don't know of
11 anyone who was on the camp staff that long ago and can confirm the stories. But even if
12 the events happened as I heard them, Tyler has proven that s/he has grown up a lot since
13 then. I never mentioned to Tyler that I heard about these stories.

14 6. The wilderness survival course includes lessons on forest-use restrictions and fire
15 restrictions. For that reason, and because I was impressed with how responsible Tyler was
16 in teaching the wilderness survival course during his/her first summer as a counselor, I put
17 Tyler in charge of monitoring the forest conditions for the 2006 summer camping season.
18 As you can imagine, this is a very important job. We are always committed to keeping
19 our campers safe and ensuring that forest fires and other unsafe conditions do not threaten
20 our campers. Moreover, the camp's operating permit would be in jeopardy of termination,
21 if campers and/or staff were to violate the Forest Supervisor's orders--not to mention the
22 potentially crippling liability that ACES could face, if such a violation caused any
23 damage. I certainly would not have entrusted Tyler with this important task unless I was
24 100% positive that s/he could handle it.

25 7. The staff arrived at camp on June 10, 2006 to prepare for the first group of
26 campers to arrive on June 24. Almost immediately after we arrived at camp, Tyler
27 showed me that the Forest Supervisor for the Coconino National Forest already had issued
28 a Fire Restrictions Order. (**Exhibit 1**). The fire restriction bummed us out, because we

1 wanted to have the kids in the wilderness survival class go into the forest and build a fire.
2 I know that Tyler was really disappointed. The fire restrictions also made us more
3 nervous about the safety of the campers.

4 8. Tyler kept me up-to-date regarding forest-use restrictions, and provided me with
5 copies of all of the orders and press releases issued by the Forest Supervisor. (**Exhibits 1**
6 **through 4**). The restrictions made the entire staff more careful and limited what we could
7 do on the public lands, but we were never in danger of having to cancel the 2006 summer
8 camps--that is, until the Mountaineer Fire started sometime on July 4th.

9 9. Monsoon storms started to roll in shortly after noontime on July 4th. The annual
10 Fourth of July festivities, which included a big camp-wide cookout and campfire, were
11 scheduled for that evening. We were concerned that the storms were going to spoil the
12 fun. In fact, we did have to cancel some events due to the amount of lightning in the area.
13 We also took the precaution of closing the pool for a couple of hours until the lightning
14 passed.

15 10. The campfire was supposed to begin at 8:00 p.m. on July 4th immediately after the
16 cookout. Among other things, we were planning to talk about our country's history and
17 tell stories about what makes our country so great. Tyler told me that s/he had a surprise
18 up his/her sleeve that the campers would remember for a long, long time. I wasn't sure
19 what it was, but knowing Tyler, I figured it was going to be memorable and probably
20 funny. I guess I figured Tyler was going to lead the campers in some outlandish games,
21 or maybe dress up in some goofy costume.

22 11. I saw Tyler at the cookout and during the first part of the campfire. The last time I
23 saw Tyler was about an hour into the campfire, when some of the counselors began
24 leading the campers in singing patriotic songs. After about 20 minutes of singing, while
25 everyone was singing the National Anthem, we heard what sounded like missiles being
26 launched and saw fireworks exploding in the air. We were all stunned, because everyone
27 knew that fireworks were not allowed in the forest. Of course, the fireworks were
28 beautiful, but I was immediately concerned about the potential for a fire. I didn't want to

1 alarm the campers, but I decided to call an emergency staff meeting to go over our
2 emergency evacuation plan.

3 12. The campfire ended right after the fireworks, and everyone retired to their
4 campsites. Everyone was abuzz about the fireworks. I spent the next 45 minutes or so
5 rushing around to all of the campsites to alert the staff that there would be an emergency
6 staff meeting right after lights out. I was surprised to see the campers at every campsite
7 making s'mores. It struck me as odd that every campsite had all of the necessary supplies,
8 but when I got to campsite 7, Tyler told me that s/he delivered the supplies to the
9 campsites during the campfire. That's when I realized that the s'mores were the surprise
10 up Tyler's sleeve.

11 13. After lights out on July 4th, all the counselors met to discuss the fireworks and the
12 plan for evacuation, if that became necessary. I was furious and asked whether any of the
13 counselors knew who set off the fireworks. Most of the counselors threw out names of
14 campers who they thought could've done it, but invariably other counselors reported
15 seeing the campers who were mentioned. Tyler repeatedly mentioned that Shea Landis
16 was quite the prankster, and actually became rather adamant that Shea must've done it. I
17 remember that vividly, because Shea was my initial suspect as well. Although I didn't
18 ask, none of the counselors at the meeting volunteered that they had seen Shea at the
19 campfire when the fireworks were launched. In any event, we quickly turned to our
20 emergency planning and decided that we would evacuate the camp if we saw even the
21 slightest hint of a fire. I also asked Tyler to monitor the forest conditions even more
22 closely, to maintain regular contact with the Forest Service, and to keep me apprised of
23 any developments.

24 14. Early on July 5th, Tyler alerted me that a forest ranger came by the camp to advise
25 us that there was a forest fire nearby and that we needed to evacuate the camp. I looked
26 around the camp, and we could see the smoke but not any flames. We quickly got all the
27 campers together according to our plan. The Forest Service sent buses to take the campers
28 to a nearby hotel, where we regrouped and called all the parents to come get the kids.

1 15. I know Tyler is accused of shooting off fireworks and starting the Mountaineire
2 Fire, but I just don't believe it. Tyler is an avid lover of the outdoors who is mindful of
3 the vulnerable condition of the forest, particularly during the summer. Tyler would never
4 be so stupid or irresponsible as to set off fireworks in the forest. That is exactly what I
5 told the Investigator who questioned me right after the Mountaineire Fire started.

6 16. I heard about Tyler blowing up during an incident with Shea Landis at the camp
7 pool during the day on July 4th. Some of the kids and staff members who were there told
8 me it was over the top, but I understood why Tyler got upset. Shea means well and deep
9 down inside is a good kid, but Shea had been pulling pranks since the first day of camp.
10 Shea hasn't learned yet when enough is enough. I knew that, as a result, there was some
11 friction between Tyler and Shea. To say the least, Tyler didn't really care for Shea. I
12 think Tyler's dislike for Shea just boiled to the surface during the pool incident.

13 17. After the incident with Tyler at the rifle range several years ago, the camp director
14 who preceded me established a strict protocol to be followed to gain access to the rifle
15 range. Under the protocol, which still is in effect: (i) keys to the rifle range are checked
16 out from the camp director personally; (ii) the camp keeps a monthly log of all persons
17 who enter the rifle range; and (iii) nobody is permitted to enter the rifle range alone. The
18 log for July 2006 does not reflect that Tyler ever was at the rifle range before the
19 Mountaineire Fire forced the evacuation. I know that once in a while a camp counselor
20 will forget to sign in, but I've only seen that happen when the counselor is running a quick
21 errand to the rifle range, not when the counselor is taking range practice.

22 18. As the camp director, I sit on ACES' executive council. About 60 days ago, the
23 council had a meeting to address what could be done to protect ACES from potential
24 liability for the death of Bill and Carol Hudson, if one of the camp's staff or campers
25 ultimately was found responsible for starting the Mountaineire Fire. At the meeting, I
26 learned that ACES was on the brink of financial ruin some 8 or 10 years ago after ACES
27 lost a lawsuit arising out of the illegal activities of two camp staff members. Fortunately,
28 one of the parents of an ACES scout stepped up and gave ACES \$60,000 to keep the

1 camp from having to close. I learned for the first time during the council meeting that it
2 was Tyler's father who came to the camp's rescue. I have never met Tyler's father, and
3 his donation to ACES has not affected my testimony on behalf of Tyler.

4 _____ /s/ Logan Fischer

5 SUBSCRIBED AND SWORN to before me, a Notary Public, on February 19, 2007,
6 by Logan Fischer.

7 _____ /s/ B.J. Gerhart

8 My Commission Expires:

9 September 10, 2008

10 Witness Addendum

11 I have reviewed this affidavit as of 8:00 a.m. on the day of this round of the Arizona
12 High School Mock Trial Tournament, and have nothing of significance to add at this time.
13 The material facts are true and correct.

14 _____ /s/ Logan Fischer

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AFFIDAVIT OF HARLEY BOLTON

STATE OF ARIZONA)
County of Coconino) ss.

Harley Bolton, first duly sworn, under oath, states as follows:

1. My name is Harley Bolton. I'm 52 years old, I'm married, and I have a 15-year old daughter. I currently work as a meteorologist.

2. I received my Bachelor's degree in biology from Northern Arizona University in 1978. I attended law school at California Western Law School in San Diego, California, where I received my J.D. in 1981.

3. I was licensed to practice law in the State of Arizona that same year. I was an associate at Kaplan, Yablonovich & Yung, L.L.P. in Phoenix from 1981 to 1986. I practiced tort litigation, primarily representing plaintiffs. Unfortunately, the stress of practicing law caused me to develop a substance abuse problem, which caused me to engage in behaviors that were completely out of character for me. I failed to make a number of court filings. As a result, five of my clients lost the right to bring their lawsuits. In addition, I sometimes took more than 50% of my clients' settlement awards to fund my drug habit, even though my clients signed agreements stating that I would receive 33% of any judgments collected or money settlements obtained. On February 5, 1986, the Arizona Supreme Court, at the recommendation of the State Bar of Arizona, disbarred me. You could say that I hit rock bottom at that point.

4. With my life in shambles, I attended the Nancy Reagan Substance Abuse Clinic in El Centro, California, where I learned to "just say no" and was able to "clean up." Ever since, I have been a member of NA (Narcotics Anonymous). I decided while I was in the clinic that I needed to make a clean break with my past. Growing up in Arizona, the monsoon season always has been my favorite time of the year. I especially love watching the "haboobs"--huge walls of dust or sand that are created when the cool gusty downdraft from a severe thunderstorm reaches the ground. I also have been fascinated by the intense cloud-to-ground lightning that often occurs in monsoon storms. So, I decided that I would

1 study meteorology.

2 5. In 1990, I graduated with a Bachelor of Science degree in Applied Meteorology
3 from Embry-Riddle Aeronautical University in Prescott, Arizona. You might recognize
4 me from TV or one of those billboards. I was hired straight out of school as the weather
5 forecaster on Channel 2 - KNAZ-TV, the NBC affiliate in Flagstaff, handling weekend
6 newscasts. Since 1994, I have been the forecaster on the nightly five o'clock news and
7 occasionally fill in on the ten o'clock news.

8 6. I have been a member of both the American Meteorological Society's Board of
9 Broadcast Meteorology and its Board of Meteorological Education. I hold the American
10 Meteorological Seal of Approval for both radio and television, and in 2005, I was awarded
11 its new Certified Broadcast Meteorologist designation after passing a comprehensive
12 examination. In 2001, the National Weather Association named me its Radio/Television
13 Broadcaster of the Year in Flagstaff.

14 7. I remember July 4, 2006 well. I served as the Grand Marshal for Flagstaff's 10th
15 annual Fourth of July Parade. It rained on us some during the parade. There was even
16 some lightning to the southeast of Flagstaff, but it didn't really impact the parade. I know
17 the kids are disappointed when we don't have a big fireworks display like they do in
18 Phoenix, but with our drought conditions and the bark beetle infestation of the
19 surrounding forest lands, sometimes it is just too dangerous to have a fireworks display in
20 this part of Arizona. Unfortunately, 2006 was one of those years that all the fireworks
21 shows had to be canceled. Despite the disappointment, everyone up here in Northern
22 Arizona appreciates the dire consequences that even a single stray firework can cause.

23 8. Lightning is raw untamed electricity that occurs during storms. It is one of the
24 oldest, but least understood, of all natural phenomena. Technically speaking, lightning is
25 a discharge of atmospheric electricity that is accompanied by a vivid flash of light. A
26 "lightning strike" is the generic term for this flash of light. Think of lightning as a giant
27 spark of static electricity--the same kind of electricity that sometimes shocks you when
28 you touch a doorknob.

1 9. To be even more precise, a cloud-to-ground lightning strike initiates inside the
2 storm. A negatively charged channel transmits from the storm base toward the ground in
3 a series of steps. This is called a “stepped leader”. Each step of the stepped leader is
4 about 160 feet in length and 1 microsecond (.000001 of a second) in duration. The
5 stepped leader is looking for an object to strike, and if there is none, then it takes another
6 step until it finds an object. Naturally, the stepped leader is attracted to taller objects, such
7 as trees and structures. One leader can be comprised of over 10,000 steps.

8 10. As the stepped leader approaches the ground, the negative charge induces electric
9 channels with a positive charge, called “streamers”, up from the ground. When a positive-
10 charged streamer connects with a negative-charged stepped leader between 100 to 300
11 feet above the earth’s surface, the negative charge flows down the established channel,
12 and then a “return stroke” shoots up the channel. This return stroke heats the surrounding
13 air to an incredible 54,000 degrees Fahrenheit, creating the visible flash that we see as
14 lightning. Although it actually is traveling from the ground to the cloud, it happens so fast
15 that it appears to the naked eye that the lightning strike is coming from the cloud to the
16 ground. This whole process takes a fraction of a second.

17 11. Great progress has been made in developing technology to detect lightning. A
18 company called Vaisala (pronounced “VICE-e-la”) operates the world’s largest lightning
19 detection system, which is based in Tucson. Three University of Arizona physicists and
20 an electrical engineer developed the technology in the 1970s. In short, they developed a
21 sensor that was capable of picking out signals emitted by the return strokes in cloud-to-
22 ground lightning. The sensors were strategically placed, so that it became possible to
23 calculate the location of a lightning strike. The original network of sensors was built in
24 the Western United States to help detect forest fires. That network was expanded over the
25 years by merging it with other networks. Meteorologists like myself rely heavily on the
26 data provided by Vaisala’s system.

27 12. I obtained a lightning strike report from Vaisala for the area around Mountaineire
28 on July 4, 2006. (**Exhibit 5**). I have relied upon Vaisala’s lightning strike reports in two

1 other cases in which I testified as an expert. In both of those cases, insurance companies
2 were trying to avoid paying a claim for fire damage. It was my opinion in both of those
3 cases that the fire was started by a lightning strike.

4 13. On page two of the lightning strike report, you will see that 20 strokes struck the
5 ground within the area and duration of study. Each stroke is indicated by a purple dot.
6 Within each visible lightning strike, there may be multiple strokes with multiple ground
7 contacts. In fact, about half of all flashes have more than one ground strike point. On
8 average, at least 30 million points on the ground in the United States are struck each year.
9 All of the strokes indicated in the report occurred between noon and 2 p.m. on July 4,
10 2006.

11 14. Page three of the report includes confidence ellipses for the lightning strokes
12 detected in the area. The confidence ellipses also are purple. In essence, they indicate the
13 area in which Vaisala is 99% confident that the stroke occurred. You will notice that the
14 ellipses are different sizes and shapes. The number of sensors that monitored the stroke
15 determines the size and shape of an ellipse. The more sensors that “pick up” a stroke, the
16 more compact the ellipse will be--thus increasing our ability to pinpoint the location of the
17 stroke.

18 15. As you can see on page three of the report, Mountaineer is within only one of the
19 stroke confidence ellipses (which happens to be the largest confidence ellipse on the
20 report). Several other stroke confidence ellipses cover the area within a couple miles
21 north of Mountaineer, including the area surrounding the ACES camp.

22 16. Pages five and six of the report show the location, time and peak current
23 (amplitude) of each stroke. The higher the peak current number, the more intense the
24 amplitude of the stroke. You will notice that some of the peak current numbers are
25 positive and others are negative. If the peak current number is positive, the stroke has
26 traveled from the upper regions of the cloud. If the peak current number is negative, the
27 stroke has traveled from the lower regions of the cloud. Only 10 to 20% of cloud-to-
28 ground flashes are from the upper regions of the cloud. Strokes from the upper regions of

1 the cloud last longer and are three to four times greater, and can be as much as ten times
2 greater, in intensity than strokes from the lower regions of the cloud. For example, the
3 stroke that occurred at 1:03:29 p.m. with a current number of 22.6 is three to four times
4 more powerful than the stroke that occurred at 1:03:29 with a current number of -30.1.
5 Just to be clear, these strokes were two of a total of six strokes that comprised a single
6 strike, or flash of light.

7 17. I am not a forest fire expert by any stretch of the imagination, but I do know from
8 my meteorological studies that lightning is responsible for causing 60 to 70% of all forest
9 fires in the Southwestern United States. Fortunately, 97% of lightning-caused fires
10 consume less than ten acres. One study from Northern Arizona University indicated that
11 10% of 500,000 lightning strikes result in fires. It's not surprising to anyone who watches
12 the news that the Southwest leads the nation in both the average number of lightning-
13 caused forest fires and the number of acres burned by lightning-caused forest fires each
14 year. Two-thirds of the lightning-caused fires occur in June, July and August, because the
15 conditions that produce lightning occur most often in the summer months. July accounts
16 for 25% of lightning-caused forest fires, the most of any month.

17 18. It is my opinion that one of the lightning strokes occurring on the afternoon of
18 July 4, 2006 likely caused the Mountaineer Fire, even though the fire was not discovered
19 until many hours later.

20 19. I normally charge \$200 per hour for meteorological consulting services, but I am
21 not being paid by the defense to prepare this affidavit or to testify at trial. I feel so bad for
22 the Blunt family. Tyler's father, Butch Blunt, owns Channel 2. Mr. Blunt hired me right
23 out of the Embry-Riddle meteorology program when most people wouldn't dare touch
24 anyone with my background. I always told Mr. Blunt that if there was any way I could
25 pay him back for giving me the chance to put my life back together--I would. This is the
26 least I could do. Of course, my loyalty to Mr. Blunt and his family has not affected my
27 analysis of the weather data in this case in any way. After all, I'm not willing to sacrifice
28 my dignity. I believe that any competent meteorologist would reach a conclusion similar

1 to mine.

_____ /s/ Harley Bolton

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3 SUBSCRIBED AND SWORN to before me, a Notary Public, on February 12, 2007,
4 by Harley Bolton.

5 _____ /s/ Roberto Silva

6 My Commission Expires:

7 December 5, 2007

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9 Witness Addendum

10 I have reviewed this affidavit as of 8:00 a.m. on the day of this round of the Arizona
11 High School Mock Trial Tournament, and have nothing of significance to add at this time.
12 The material facts are true and correct.

13 _____ /s/ Harley Bolton

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Exhibit 1

**ORDER
FIRE RESTRICTIONS
COCONINO NATIONAL FOREST**

Pursuant to 16 U.S.C. 551, and 36 CFR § 261.50(a), the following acts are prohibited on all National Forest System lands within the Coconino National Forest, in the following counties with the state of Arizona: Coconino, Yavapai, and Gila. The restricted area is depicted on the attached map, hereby incorporated into this Order as Exhibit A.

PROHIBITIONS:

1. Building, maintaining, attending or using a fire, campfire, charcoal, coal, or wood stove, 36 CFR § 261.52(a). The use of petroleum-fueled stoves, lanterns or heating devices providing such devices which meet the fire underwriter's specifications for safety is allowed.
2. Smoking, except within an enclosed vehicle or building, or a developed recreation site, 36 CFR § 261.52(d).
3. Using an explosive; 36 C.F.R. § 261.52(b).
4. Operating a chainsaw, or other equipment powered by an internal combustion engine, is prohibited from 9:00 a.m. to 8:00 p.m., 36 C.F.R. § 261.52(h).
5. Operating or using any internal or external combustion engine without a spark arresting device properly installed, maintained, and in effective working order meeting either:
 - Department of Agriculture, Forest Service Standard 5100-1a; or
 - Appropriate Society of Automotive Engineers (SAE recommended practice J335 (b) and J350 (a); 36 C.R.R. § 261.52(j)
6. Welding or operating acetylene or other torch with open flame; 36 C.F.R. § 261.52(i).
7. Possessing or using a motor vehicle off National Forest System roads, except when parking in an area devoid of vegetation within 10 feet of the roadway; except for parking overnight in Forest Service developed campgrounds and trailheads; and except in the Cinder Hills Off Highway Vehicle area; 36 C.F.R. § 261.56.

EXEMPTIONS:

Pursuant to 36 CFR § 261.50(e), the following persons are exempt from this order:

1. Persons with a Forest Service permit specifically authorizing the prohibited act or omission.
2. Any Federal, State or Local Officer or member of an organized firefighting force in the performance of an official duty.

This Order is necessary to protect public health and safety due to the fire danger.

This Order becomes effective at 8:00 AM, June 5, 2006, and will remain in force until rescinded or until December 31, 2006, whichever event ever occurs first. This Order rescinds, replaces and supersedes Order No. 04-06-03-TF.

Done at Flagstaff, Arizona, this 1st day of June 2006.

/s/ Nora B. Rasuta



Forest Supervisor
Coconino National Forest

Violations of these regulations is punishable as a Class B misdemeanor, by a fine of not more than \$5000 for an individual or \$10,000 for an organization, or imprisonment for not more than six (6) months or both; 16 USC § 551, and 18 USC §§ 3559 and 3571.



**PLEASE SEE MAP ON
PAGE 3**

Exhibit A
Order No. 04-06-04-TF
Coconino National Forest
Fire Restrictions

-  Cinder Hills OHV Area
-  Fire and Smoking Restrictions

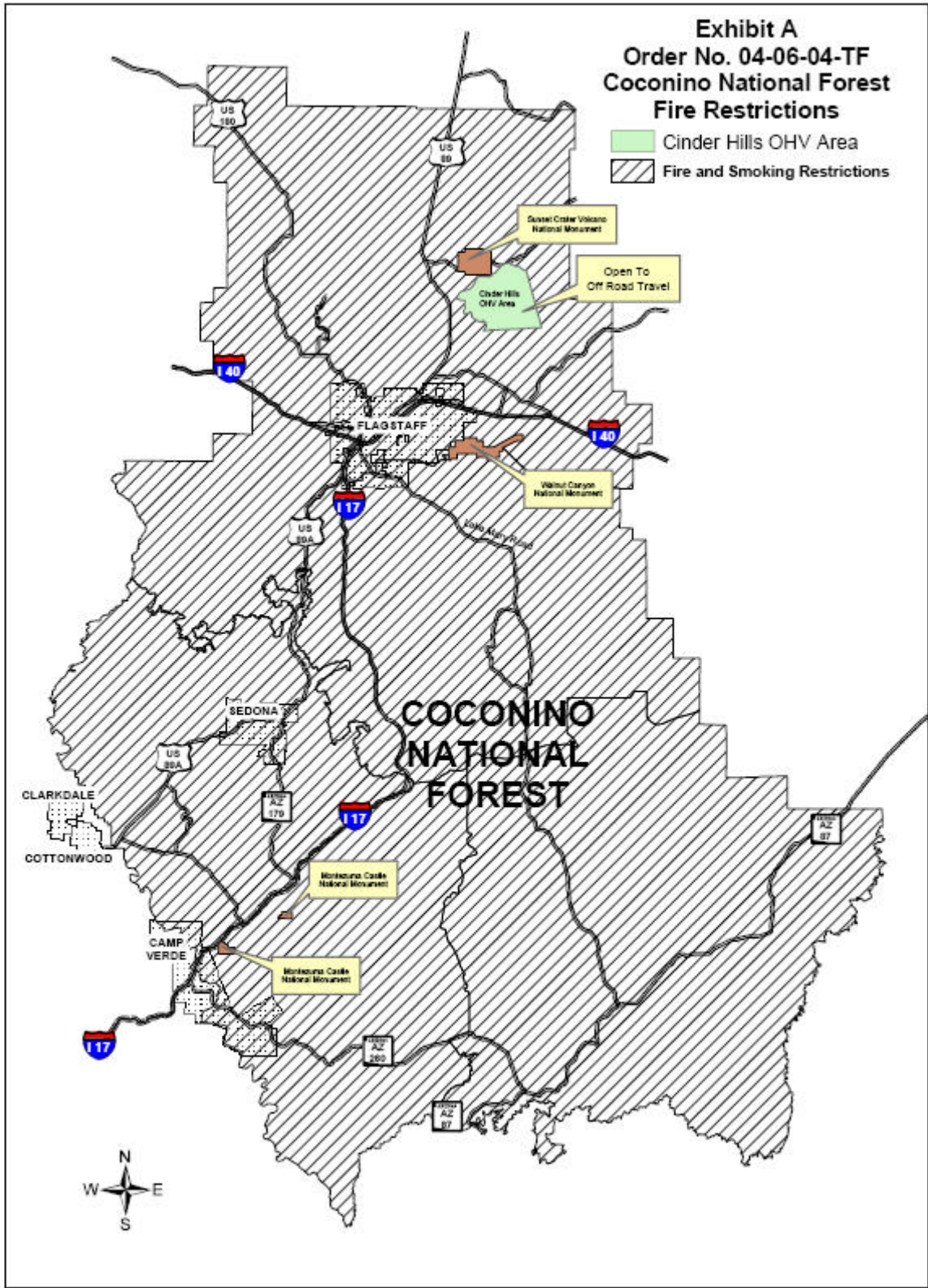


Exhibit 2

Order Number: 04-06-05-TF

**ORDER
EMERGENCY FIRE CLOSURE
COCONINO NATIONAL FOREST**

Pursuant to 16 U.S.C. 551, 36 CFR § 261.50(a), and 36 CFR § 261.50(b), the following acts are prohibited on all National Forest System lands within the Coconino National Forest, in the following counties with the state of Arizona: Yavapai, Coconino and Gila. The restricted area is depicted on the attached map, hereby incorporated into this Order as Exhibit A..

PROHIBITION:

1. Going into or being upon the restricted area; 36 CFR § 261.52(e)
2. Being on a National Forest System road; 36 CFR § 261.54(e)
3. Being on a trail; 36 CFR § 261.55(a)

EXEMPTIONS:

Pursuant to 36 CFR § 261.50(e), the following persons are exempt from this closure order:

1. Persons with a Forest Service permit specifically authorizing the prohibited act or omission.
2. Any Federal, State or Local Officer or member of an organized firefighting force in the performance of an official duty.

This Order is necessary to protect public health and safety due to the fire danger and fire operations being conducted in the area.

This Order becomes effective at 8:00 AM, June 23rd, 2006, and will remain in force until rescinded or until December 31, 2006, which ever occurs first. This order is in addition to order No. 04-06-04-TF.

Done at Flagstaff, Arizona, this 19th day of June, 2006

Nora B. Rasure

Nora B. Rasure
Forest Supervisor
Coconino National Forest

Violations of these regulations is punishable as a Class B misdemeanor, by a fine of not more than \$5000 for an individual or \$10,000 for an organization, or imprisonment for not more than six (6) months or both; 16 USC § 551, and 18 USC §§ 3559 and 3571.

Exhibit A
Order No. 04-06-04-TF
Coconino National Forest
Fire Restrictions

-  Cinder Hills OHV Area
-  Fire and Smoking Restrictions

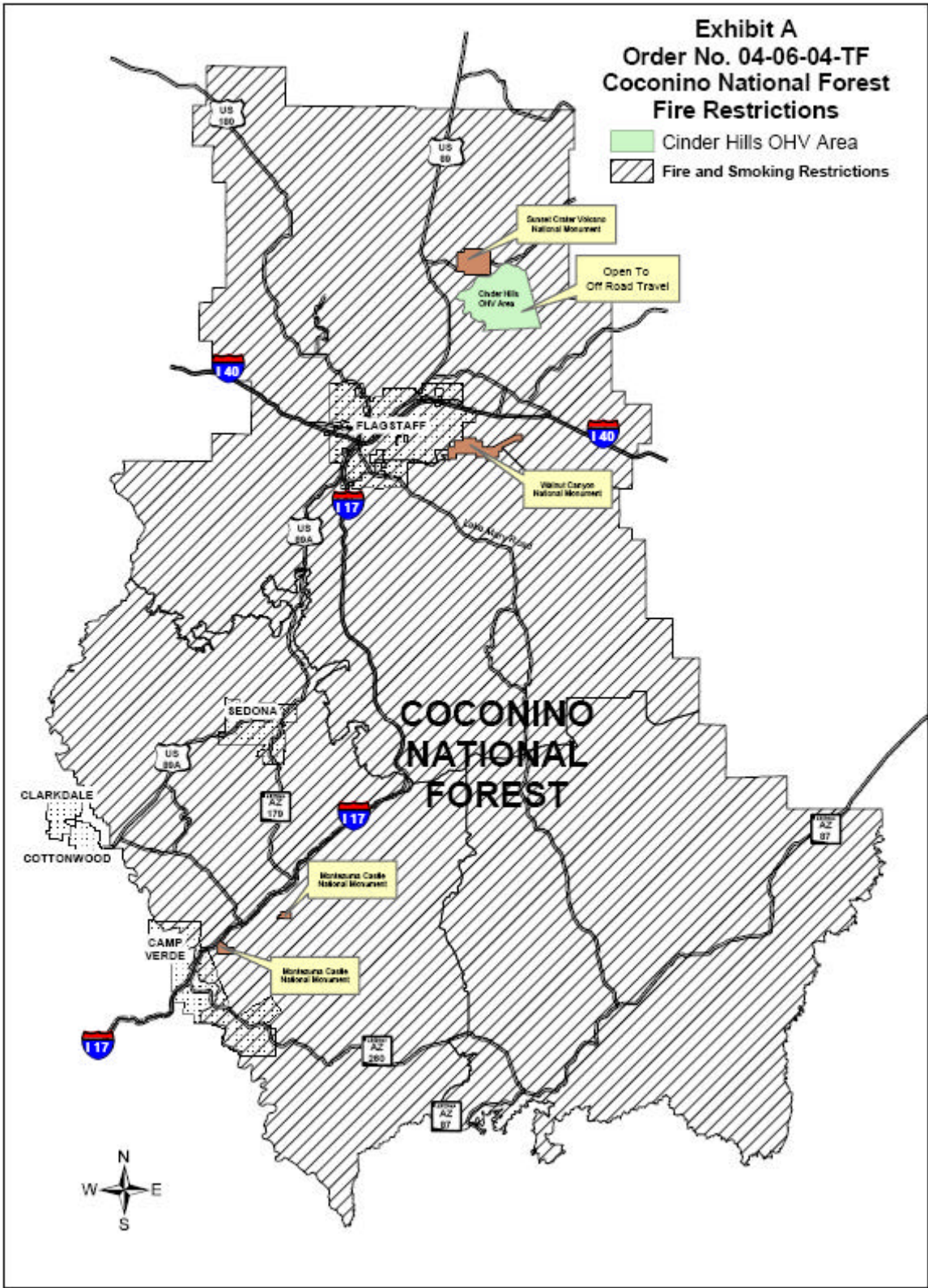


Exhibit 3

Order Number: 04-06-06-TF

ORDER
EMERGENCY FIRE CLOSURE
COCONINO NATIONAL FOREST
Red Rock Ranger District

Pursuant to 16 U.S.C. 551, 36 CFR § 261.50(a), and 36 CFR § 261.50(b), the following acts are prohibited on all National Forest System lands within the Coconino National Forest, in the following counties with the state of Arizona: Yavapai, Coconino and Gila. The restricted area is depicted on the attached map, hereby incorporated into this Order as Exhibit A..

PROHIBITION:

1. Going into or being upon the restricted area; 36 CFR § 261.52(e)
2. Being on a National Forest System road; 36 CFR § 261.54(e)
3. Being on a trail; 36 CFR § 261.55(a)

EXEMPTIONS:

Pursuant to 36 CFR § 261.50(e), the following persons are exempt from this closure order:

1. Persons with a Forest Service permit specifically authorizing the prohibited act or omission.
2. Any Federal, State or Local Officer or member of an organized firefighting force in the performance of an official duty.

This Order is necessary to protect public health and safety due to the fire danger and fire operations being conducted in the area.

This Order becomes effective at 8:00 AM, July 2nd, 2006, and will remain in force until rescinded or until December 31, 2006, which ever occurs first. This Order rescinds, replaces and supersedes Order No. 04-06-05-TF.

Done at Flagstaff, Arizona, this 30th day of June, 2006

Nora B. Rasure

Nora B. Rasure
Forest Supervisor
Coconino National Forest

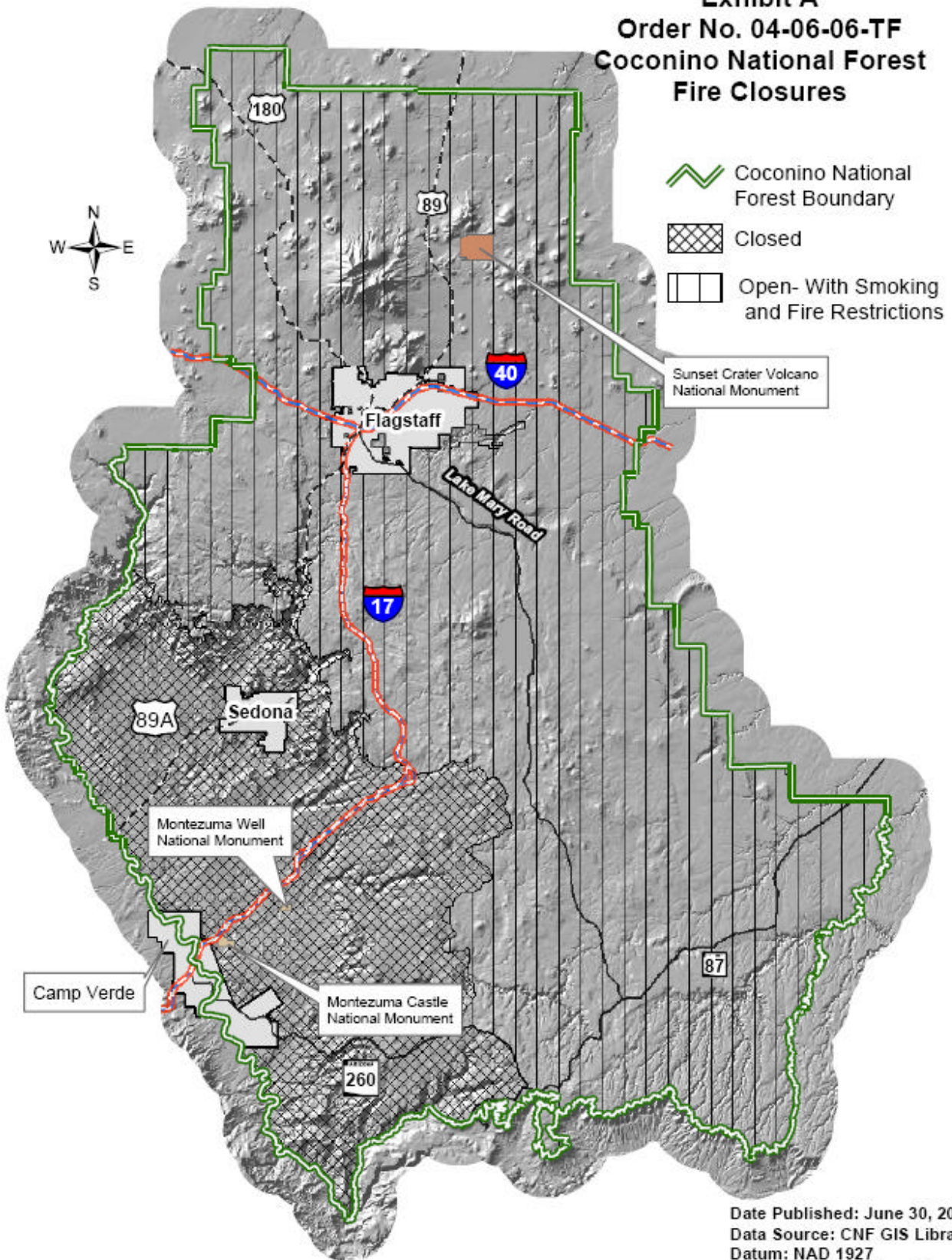
Violations of these regulations is punishable as a Class B misdemeanor, by a fine of not more than \$5000 for an individual or \$10,000 for an organization, or imprisonment for not more than six (6) months or both; 16 USC § 551, and 18 USC §§ 3559 and 3571.

Description of the closure boundary on Coconino National Forest, effective 7/2/06.

Starting from the South end of the forest:

- Highway 87 starting at the forest boundary; the west side of Hwy. 87 is closed up to the junction with Hwy. 260.
- Highway 260, going northwest from the junction of Hwy. 87 for approximately 8 miles to where the power line crosses the highway; the west / southwest side of Hwy. 260 is closed.
- North along the power line to where it hits FR 142B; the west side of the power line is closed.
- FR 142B, North from the power line to the West Clear Creek Wilderness Boundary and along a line north across the wilderness to FR 81A; the west side of FR 142B and this North line is closed.
- FR81A to FR 214, North along FR214 to junction with FR 230, along FR 230 to FR 230E, following FR 230E to intersection with FR 213; the west side of these roads is closed.
- West on FR 213 for about $\frac{3}{4}$ of a mile to FR 765, north on FR 765 to junction with FR 9244E, west on FR 9244E about 2 miles to the district boundary, along the district boundary to I-17; the west and south of this described line is closed.
- The remainder of the closure boundary is the boundary of the Red Rock Ranger District, which follows the edge of the Mogollon Rim to the western forest boundary.

Exhibit A
Order No. 04-06-06-TF
Coconino National Forest
Fire Closures



Date Published: June 30, 2006
Data Source: CNF GIS Library
Datum: NAD 1927
Projection: UTM Zone 12

Exhibit 4

Coconino National Forest to Partially Reopen on Sunday

For Immediate Release

June 30, 2006

Contact: Forest Closure Info Center - 928-226-4601

Flagstaff, AZ – Most of the Coconino National Forest will reopen to public access at 8:00 A.M. Sunday, July 2, thanks to enough rainfall to sufficiently dampen the extreme fire danger. The Red Rock Ranger District, essentially the portion of the Coconino below the Mogollon Rim, will remain closed until that area of the forest receives more rain. The entire Coconino National Forest has been under closure since Friday, June 23.

“Our Forest Information Center received over 1,000 calls over the past 10 days inquiring about the forest closure. We appreciate everyone’s patience and cooperation while the Forest Service employed this ultimate fire prevention strategy,” said Nora Rasure, Coconino National Forest Supervisor. “The forest closure was effective. No human caused wildfires have been reported on the Coconino so far during the closure.”

The boundaries of Red Rock Ranger District are roughly described as northeast of the Verde River, west of a meandering line between the junction of Highways 87 and 260 to Stoneman Lake, south of where Interstate 17 drops off the rim, and east of Sycamore Canyon. Included in the closure area are: Stoneman Lake, Fossil Springs Wilderness, western half of West Clear Creek Wilderness, Beaver Creek, Wet Beaver Creek Wilderness, Munds Mountain Wilderness, Red Rock Secret Mountain Wilderness, all Forest Service campgrounds, picnic areas and trailheads in Oak Creek Canyon. Private land owners who access their property through closed areas of the National Forest must obtain a permit from the district office that manages the adjacent National Forest System lands. To receive an entry permit, individuals and organizations need to provide photo identification and proof of residence.

The following restrictions are still in effect on the open areas of the Coconino National Forest:

- ✍ Campfires—including charcoal fires—are prohibited, including in developed recreation sites. Pressurized liquid or gas stoves, lanterns and heaters are allowed.
- ✍ Operating a chainsaw for personal use with a firewood permit is prohibited between 9:00 A.M. and 8:00 P.M.
- ✍ No smoking, except within an enclosed vehicle or building, or developed recreation site.
 - ✍ Welding is prohibited.
 - ✍ Using an explosive is prohibited.
- ✍ Operating any internal or external combustion engine without a spark arrester is prohibited.
- ✍ Operating a motor vehicle off National Forest System roads is prohibited, except when parking in an area cleared of vegetation, and except in the Cinder Hills Off-Highway Vehicle Area north of Flagstaff.
- ✍ Fireworks are ALWAYS prohibited on national forest lands.

Violations are punishable by a fine of not more than \$5000, or imprisonment for not more than six months, or both. These restrictions will remain in place until enough precipitation falls to further decrease fire danger. For further information about closures and restrictions in the Coconino National Forest, call 928-226-4601 between 7:00 A.M. and 7:00 P.M., or visit www.fs.fed.us/r3/coconino. For information on fire restrictions on all public lands in Arizona, call toll-free 1-877-864-6985, or see www.azfireinfo.com.

Exhibit 5

Jul 25 2006 4:46:14 AM

Thank you for using Vaisala's STRIKE[®]net to validate the referenced claim. Your report was generated using data from Vaisala's National Lightning Detection Network[®], the most comprehensive archive database in North America.

STRIKE[®]net Report 165793

Claim Number:

Insured/Claimant Name:

Approx. Claim/Loss Value:

Items Damaged/Loss Type:

Claim Address:

Search Period:

Jul 4 2006 12:00:00 PM US/Arizona

Jul 5 2006 5:00:00 AM US/Arizona

Search Center Point:

34° 57' 43" N (Latitude), 111° 28' 52" W (Longitude)

Search Radius:

15 mi/25 km around the given location.

Comments: 20 strikes were detected by the National Lightning Detection Network for the given time period and location.

Thank you again for selecting STRIKE[®]net. If you have any questions please contact us at 1 800 283 4557 or thunderstorm.support@vaisala.com.

Best Regards,

The Vaisala STRIKE[®]net Team

STRIKEnet Report 165793

Report Title: Pine Grove

Total Lightning Strokes Detected: 20

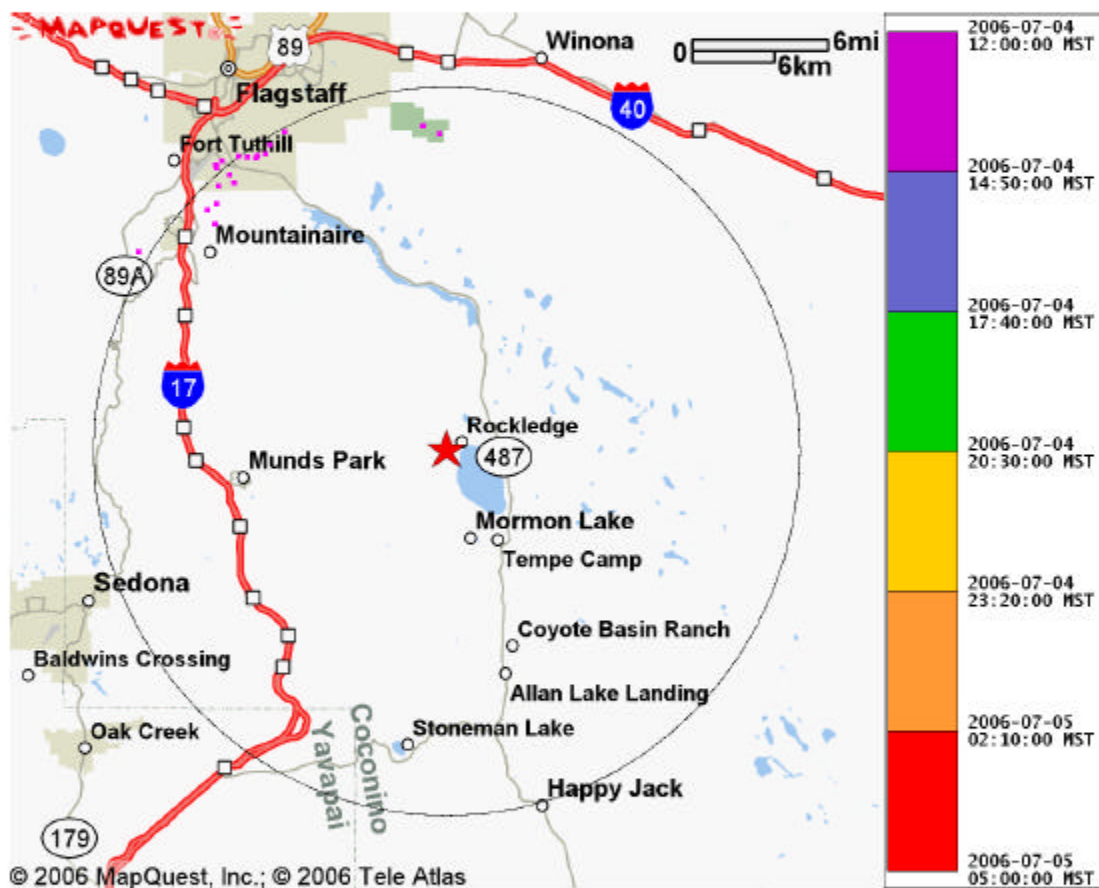
Lightning Strokes Detected within 15 mi/25 km radius: 14

Lightning Strokes Detected beyond 15 mi/25 km whose confidence ellipse overlaps the radius: 6

Search Radius: 15 mi/25 km

Time Span: Jul 4 2006 12:00:00 PM US/Arizona to Jul 5 2006 5:00:00 AM US/Arizona

Location Points For Lightning Strokes



Lightning data provided by Vaisala's NLDN® and/or Environment Canada's CLDN.

STRIKEnet Report 165793

Report Title: Pine Grove

Total Lightning Strokes Detected: 20

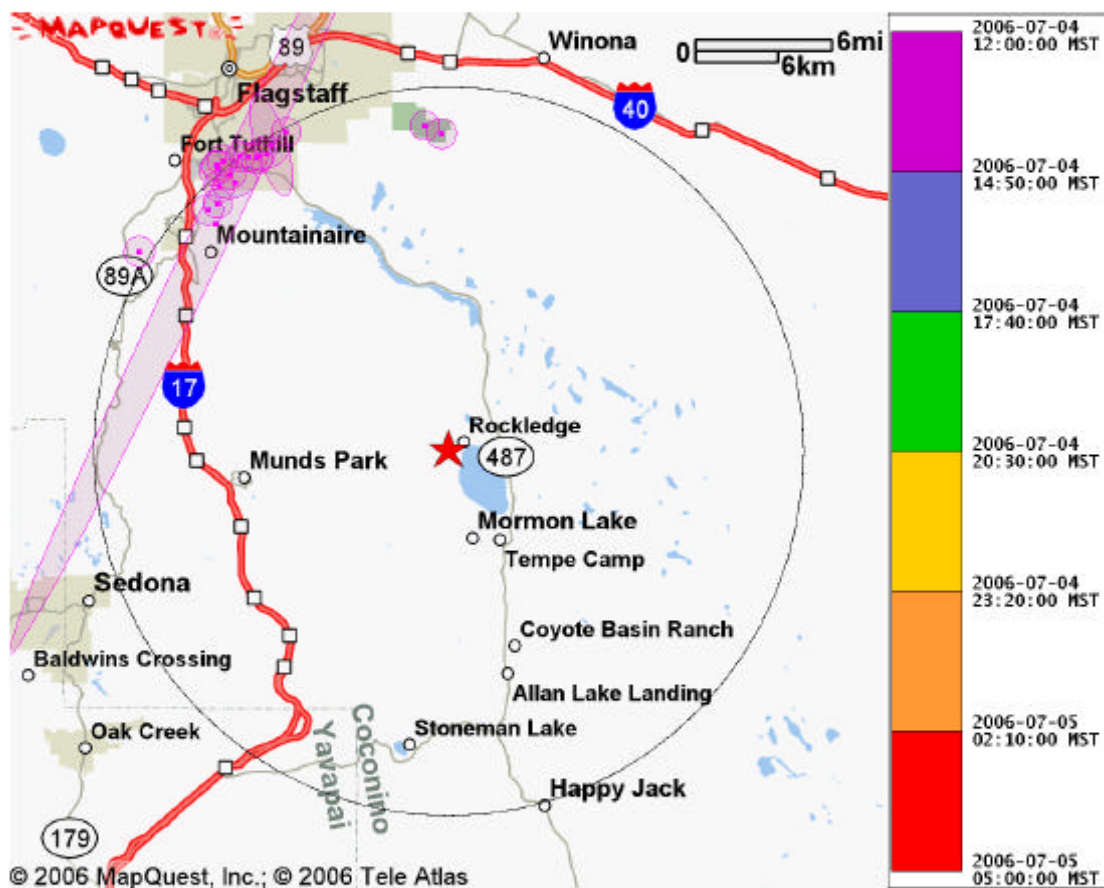
Lightning Strokes Detected within 15 mi/25 km radius: 14

Lightning Strokes Detected beyond 15 mi/25 km whose confidence ellipse overlaps the radius: 6

Search Radius: 15 mi/25 km

Time Span: Jul 4 2006 12:00:00 PM US/Arizona to Jul 5 2006 5:00:00 AM US/Arizona

Confidence Ellipses For Lightning Strokes



Lightning data provided by Vaisala's NLDN® and/or Environment Canada's CLDN. Note: These ellipses indicate a 99% certainty that the recorded lightning event contacted the ground within the bounds of the ellipse.

STRIKEnet Report 165793

Area Of Study With Center Point



STRIKEnet Report 165793

Report Title: Pine Grove

Total Lightning Strokes Detected: 20

Lightning Strokes Detected within 15 mi/25 km radius: 14

Lightning Strokes Detected beyond 15 mi/25 km whose confidence ellipse overlaps the radius: 6

Search Radius: 15 mi/25 km

Time Span: Jul 4 2006 12:00:00 PM US/Arizona to Jul 5 2006 5:00:00 AM US/Arizona

Lightning Stroke Table (Note: All events shown. Events ordered by time.)

Date	Time	Peak Current (kA)	Distance From Center (mi/km)	Latitude	Longitude
Jul 4, 2006	12:42:45 PM	-11.9	13.9/22.4	35.1627	-111.4995
Jul 4, 2006	12:44:39 PM	-19.9	14.7/23.7	35.1111	-111.6674
Jul 4, 2006	12:44:39 PM	-12.1	15.9/25.7	35.0849	-111.7203
Jul 4, 2006	12:45:34 PM	-13.4	13.5/21.8	35.1578	-111.4865
Jul 4, 2006	12:47:46 PM	-9.2	14.7/23.8	35.1277	-111.6461
Jul 4, 2006	12:47:46 PM	-14.1	15.7/25.4	35.1367	-111.6600
Jul 4, 2006	12:47:46 PM	-12.2	15.8/25.5	35.1409	-111.6555
Jul 4, 2006	12:47:46 PM	-13.8	15.8/25.5	35.1382	-111.6605
Jul 4, 2006	12:47:46 PM	-19.0	15.7/25.4	35.1373	-111.6596
Jul 4, 2006	12:48:55 PM	-13.2	14.6/23.5	35.1145	-111.6599
Jul 4, 2006	12:48:55 PM	-8.9	14.0/22.6	35.1022	-111.6613
Jul 4, 2006	12:50:17 PM	-15.4	15.1/24.3	35.1253	-111.6585
Jul 4, 2006	12:53:42 PM	-11.0	15.5/25.0	35.1438	-111.6428
Jul 4, 2006	12:54:31 PM	-10.3	15.1/24.4	35.1322	-111.6495
Jul 4, 2006	1:03:29 PM	-76.7	15.1/24.3	35.1444	-111.6278
Jul 4, 2006	1:03:29 PM	22.6	15.1/24.4	35.1505	-111.6185
Jul 4, 2006	1:03:29 PM	-30.1	15.2/24.6	35.1430	-111.6360
Jul 4, 2006	1:03:29 PM	-14.7	15.3/24.7	35.1589	-111.6066
Jul 4, 2006	1:03:29 PM	-9.3	14.9/24.0	35.1452	-111.6214
Jul 4, 2006	1:03:29 PM	-22.1	15.0/24.2	35.1427	-111.6291

STRIKEnet Report 165793

Report Title: Pine Grove

Total Lightning Strokes Detected: 20

Lightning Strokes Detected within 15 mi/25 km radius: 14

Lightning Strokes Detected beyond 15 mi/25 km whose confidence ellipse overlaps the radius: 6

Search Radius: 15 mi/25 km

Time Span: Jul 4 2006 12:00:00 PM US/Arizona to Jul 5 2006 5:00:00 AM US/Arizona

Lightning Stroke Table (Note: All events shown. Events ordered by distance.)

Date	Time	Peak Current (kA)	Distance From Center (mi/km)	Latitude	Longitude
Jul 4, 2006	12:45:34 PM	-13.4	13.5/21.8	35.1578	-111.4865
Jul 4, 2006	12:42:45 PM	-11.9	13.9/22.4	35.1627	-111.4995
Jul 4, 2006	12:48:55 PM	-8.9	14.0/22.6	35.1022	-111.6613
Jul 4, 2006	12:48:55 PM	-13.2	14.6/23.5	35.1145	-111.6599
Jul 4, 2006	12:44:39 PM	-19.9	14.7/23.7	35.1111	-111.6674
Jul 4, 2006	12:47:46 PM	-9.2	14.7/23.8	35.1277	-111.6461
Jul 4, 2006	1:03:29 PM	-9.3	14.9/24.0	35.1452	-111.6214
Jul 4, 2006	1:03:29 PM	-22.1	15.0/24.2	35.1427	-111.6291
Jul 4, 2006	1:03:29 PM	-76.7	15.1/24.3	35.1444	-111.6278
Jul 4, 2006	12:50:17 PM	-15.4	15.1/24.3	35.1253	-111.6585
Jul 4, 2006	12:54:31 PM	-10.3	15.1/24.4	35.1322	-111.6495
Jul 4, 2006	1:03:29 PM	22.6	15.1/24.4	35.1505	-111.6185
Jul 4, 2006	1:03:29 PM	-30.1	15.2/24.6	35.1430	-111.6360
Jul 4, 2006	1:03:29 PM	-14.7	15.3/24.7	35.1589	-111.6066
Jul 4, 2006	12:53:42 PM	-11.0	15.5/25.0	35.1438	-111.6428
Jul 4, 2006	12:47:46 PM	-14.1	15.7/25.4	35.1367	-111.6600
Jul 4, 2006	12:47:46 PM	-19.0	15.7/25.4	35.1373	-111.6596
Jul 4, 2006	12:47:46 PM	-12.2	15.8/25.5	35.1409	-111.6555
Jul 4, 2006	12:47:46 PM	-13.8	15.8/25.5	35.1382	-111.6605
Jul 4, 2006	12:44:39 PM	-12.1	15.9/25.7	35.0849	-111.7203

Exhibit 6



Exhibit 7



IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF COCONINO
THE HONORABLE W.L. DAVIS, PRESIDING JUDGE

IN CHAMBERS ()

IN OPEN COURT (X)
JANICE HALL, CLERK
By: B. Butler, Deputy

STATE OF ARIZONA
v.
TYLER BLUNT

DATE: February 23, 2007
TIME: 9:30 A.M.

NO. S-0300-CR2006-09572

FINAL PRETRIAL MANAGEMENT CONFERENCE

This is the date and time set for the Final Pretrial Management Conference.
Court Reporter Susan Williams is present.

APPEARANCES

State's Attorney: Mark Roberson
Defendant's Attorney: Carmen Whitaker
Defendant: Present

PRETRIAL ORDER

The Court confers with counsel regarding pretrial issues.

IT IS ORDERED as follows:

1. The State will call the following witnesses:

Ashton Blake
Shea Landis
Payton Hudson

2. The Defendant will call the following witnesses:

Tyler Blunt
Logan Fischer
Harley Bolton

3. The exhibits that may be used at trial are premarked as follows:

Exhibit 1	Fire Restrictions Order 04-06-04-TF
Exhibit 2	Emergency Fire Closure Order 04-06-05-TF
Exhibit 3	Emergency Fire Closure Order 04-06-06-TF
Exhibit 4	Coconino National Forest Press Release
Exhibit 5	Lightning Strike Report
Exhibit 6	Photograph of Burning Lodge
Exhibit 7	Aerial Map

4. Authenticity (but not foundation) is stipulated for all exhibits.

5. All witness affidavits are presumed to have been signed before trial. Each witness has reviewed his/her affidavit for accuracy, and no changes were made. Each exhibit or affidavit that bears a signature block is presumed to have been signed on the date indicated on the exhibit or affidavit.

6. Counts 5 (Intentional Burning of Wildlands that Places Another Person in Danger of Death) and 6 (Intentional or Knowing Burning of Wildlands) are dismissed with prejudice. The remaining charges will be tried to a jury.

7. The attached jury instructions are approved.

8. All objections to the sufficiency of, or any defects in, the Indictment have been waived and/or overruled.

9. The Defendant voluntarily has decided to testify at trial, and as such, has waived all rights against self-incrimination. No such objections will be entertained at trial.

10. The Defendant voluntarily gave his/her statement after being properly advised of his/her Miranda rights, and as such, has waived his/her Miranda rights. No such objections will be entertained at trial.

NOTICE TO DEFENDANT:

Failure to comply with the above orders may result in revocation of the defendant's release from custody and/or the imposition of other sanctions.

The defendant may be tried in his/her absence if he/she fails to appear for trial.

IT IS FURTHER ORDERED affirming all prior bond and custody orders.

Jury Instructions

It is your duty as a juror to decide this case by applying these jury instructions to the facts as you determine them. You must follow these jury instructions. They are the rules you should use to decide this case.

It is your duty to determine what the facts are in the case by determining what actually happened. Determine the facts only from the evidence produced in court. When I say “evidence”, I mean the testimony of witnesses and the exhibits introduced in court. You should not guess about any fact. You must not be influenced by sympathy or prejudice. You must not be concerned with any opinion that you feel I have about the facts. You, as jurors, are the sole judges of what happened.

You must consider all these instructions. Do not pick out one instruction, or part of one, and ignore others. As you determine the facts, however, you may find that some instructions no longer apply. You must then consider the instructions that do apply, together with the facts as you have determined them.

In their opening statements and closing arguments, the lawyers have talked to you about the law and the evidence. What the lawyers said is not evidence, but it may help you to understand the law and the evidence.

The lawyers are permitted to stipulate that certain facts exist. This means that both sides agree those facts do exist and are part of the evidence.

You are to determine what the facts in this case are from the evidence produced in court. If the court sustained an objection to a lawyer’s question, you must disregard it and any answer given.

Any testimony stricken from the court record must not be considered.

The State has the burden of proving the defendant guilty beyond a reasonable doubt. In civil cases, it is only necessary to prove that a fact is more likely true than not true, or that its truth is highly probable. In criminal cases such as this, the State’s proof must be more powerful than that. It must be beyond a reasonable doubt.

Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant’s guilt. There are very few things in this world that we know with absolute certainty, and in criminal cases the law does not require proof that overcomes every doubt. If, based on your consideration of the evidence, you are firmly convinced that the defendant is guilty of the crime charged, you must find the defendant guilty. If, on the other hand, you think there is a real possibility that the defendant is not guilty, you must give the defendant the benefit of the doubt and find the defendant not guilty.

You must decide whether or not the State has proven the defendant guilty beyond a reasonable doubt. The law does not require a defendant to prove innocence. You must start with the presumption that the defendant is innocent. The State must then prove the defendant guilty beyond a reasonable doubt. This means that the State must prove each element of the charges beyond a reasonable doubt. If you conclude that the State has not met its burden of proof beyond a reasonable doubt with respect to a particular charge, then you must find the defendant not guilty of that charge.

You must decide whether the defendant is guilty or not guilty by determining what the facts in the case are and applying these jury instructions. You must not consider the possible punishment when deciding on guilt; punishment is left to the judge.

If you find that the plaintiff, the State of Arizona, has lost, destroyed, or failed to preserve evidence whose contents or quality are important to the issues in this case, then you should weigh the explanation, if any, given for the loss or unavailability of the evidence. If you find that any such explanation is inadequate then you may infer that the evidence is against the State's interest, which may create a reasonable doubt about the defendant's guilt.

The State must prove guilt beyond a reasonable doubt with its own evidence. You must not conclude that the defendant is likely to be guilty because the defendant did not testify. The defendant is not required to testify. The decision on whether or not to testify is left to the defendant acting with the advice of an attorney. You must not let this choice affect your deliberations in any way.

The defendant is not required to produce evidence of any kind. The decision on whether to produce any evidence is left to the defendant acting with the advice of an attorney. The defendant's failure to produce any evidence is not evidence of guilt.

Before you may convict the defendant of the charged crimes, you must find that the State proved beyond a reasonable doubt that the defendant committed a voluntary act. A voluntary act means a bodily movement performed consciously and as a result of effort and determination. You must consider all the evidence in deciding whether the defendant committed the act voluntarily.

In determining the evidence, you must decide whether to believe the witnesses and their testimony. As you do this, you should consider the testimony in light of all the other evidence in the case. This means you may consider such things as the witnesses' ability and opportunity to observe, their manner and memory while testifying, any motive or prejudice they might have, and any inconsistent statements they may have made.

The State has charged the defendant with certain crimes. A charge is not evidence

against the defendant. You must not think that the defendant is guilty just because of a charge. The defendant has pled “not guilty”. This plea of “not guilty” means that the State must prove each element of the charges beyond a reasonable doubt.

Evidence may be direct or circumstantial. Direct evidence is the testimony of a witness who saw, heard, or otherwise observed an event. Circumstantial evidence is the proof of a fact or facts from which you may find another fact. The law makes no distinction between direct and circumstantial evidence. It is for you to determine the importance to be given to the evidence, regardless of whether it is direct or circumstantial.

A witness may give an opinion on a subject upon which the witness has become an expert because of education, study, or experience. You should consider the opinion of an expert and the reasons, if any, given for it. However, you are not bound by any expert opinion. Give the expert opinion the importance that you believe it deserves.

Evidence of other acts of the defendant has been admitted in this case. You must not consider this evidence to prove the defendant’s character or that the defendant acted in conformity with that character. You may, however, consider that evidence only as it relates to the defendant’s motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

Each count charges a separate and distinct offense. You must decide each count separately on the evidence with the law applicable to it, uninfluenced by your decision on any other count. You may find that the State has proved beyond a reasonable doubt, all, some, or none of the charged offenses. Your finding for each count must be stated in a separate verdict.

You must evaluate the defendant’s testimony the same way as any witness’ testimony.

The State need not prove motive, but you may consider motive or lack of motive in reaching your verdict.

“Intentionally” or “with intent to” means that a defendant’s objective is to cause that result or to engage in that conduct.

Intent may be inferred from all the facts and circumstances disclosed by the evidence. It need not be established exclusively by direct sensory proof. The existence of intent is one of the questions of fact for your determination.

“Knowingly” means that a defendant acted with awareness of or belief in the existence of conduct or circumstances constituting an offense. It does not mean that a

defendant must have known that the conduct is forbidden by law.

If the State is required to prove that the defendant acted “knowingly”, that requirement is satisfied if the State proves that the defendant acted “intentionally”.

“Recklessly” or “reckless disregard” means that a defendant is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be such that disregarding it is a gross deviation from what a reasonable person would do in the situation.

If the State is required to prove that the defendant acted “recklessly”, that requirement is satisfied if the State proves that the defendant acted “intentionally” or “knowingly”.

“Criminal negligence” means, with respect to a result or a circumstance described by a statute defining an offense, that a person fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

If the State is required to prove that the defendant acted “with criminal negligence”, that requirement is satisfied if the State proves that the defendant acted “intentionally”, “knowingly”, or “recklessly”.

The crime of manslaughter includes the lesser offense of negligent homicide. You may consider the lesser offense of negligent homicide if either:

1. you find the defendant not guilty of manslaughter; or
2. after full and careful consideration of the facts, you cannot agree on whether to find the defendant guilty or not guilty of manslaughter.

You cannot find the defendant guilty of negligent homicide unless you find that the State has proved each element of negligent homicide beyond a reasonable doubt.

The crime of reckless manslaughter requires proof of the following two things:

1. The defendant caused the death of another person by
2. conduct showing a conscious disregard of a substantial and unjustifiable risk of death.

The risk must be such that disregarding it was a gross deviation from what a

reasonable person in that defendant's situation would have done.

The crime of negligent homicide requires proof that the defendant, by criminally negligent conduct, caused the death of another person.

"Criminal negligence" in this context means that the defendant failed to recognize a substantial risk of causing the death of another person. The risk must be such that the failure to recognize it is a gross deviation from what a reasonable person would do in this situation.

The distinction between manslaughter and negligent homicide is this: for manslaughter the defendant must have been aware of a substantial risk and consciously disregarded the risk that the defendant's conduct would cause death. Negligent homicide only requires that the defendant failed to recognize the risk.

If you determine that the defendant is guilty of either manslaughter or negligent homicide but you have reasonable doubt as to which it was, you must find the defendant guilty of negligent homicide.

The crime of reckless burning of wildlands includes the lesser offense of burning of wildlands with criminal negligence. You may consider the lesser offense of burning of wildlands with criminal negligence, if either:

1. you find the defendant not guilty of reckless burning of wildlands; or
2. after full and careful consideration of the facts, you cannot agree on whether to find the defendant guilty or not guilty of reckless burning of wildlands.

The crime of reckless burning of wildlands requires proof that the defendant, without lawful authority, recklessly set or caused to be set on fire wildland other than the defendant's own.

The crime of burning of wildlands with criminal negligence requires proof that the defendant, without lawful authority, and with criminal negligence, set or caused to be set on fire wildland other than the defendant's own.

GUIDELINES FOR STANDARDIZED SCORING

The judge/scorer is scoring student performance in each category and not scoring legal merits of the case. It is recommended that scorers use the "5-6" range as an indication of an average performance, and adjust higher or lower for stronger or weaker performances. Scoring must be on a whole number basis (partial points not allowed). Points will be awarded based upon the criteria set forth below.

<u>Points</u>	<u>Performance</u>	<u>Criteria for Evaluating Students' Performance</u>
1-2	Not effective (Poor)	Disorganized, unsure of self, illogical, uninformed, demonstrates lack of preparation, and understanding of task, simply ineffective in communications.
3-4	Fair	Minimal performance and preparation; performance is passable but lacks depth in terms of knowledge of task and materials; communication lack clarity and conviction.
5-6	Good (Average)	Good, but less than spectacular performance; fundamental understanding of task and can perform outside the script but with less confidence than when using the script; grasps major aspects of the case but does not convey a mastery of the case; communications are clear and understandable but could be more persuasive; acceptable but uninspired performance.
7-8	Excellent	Presentation is fluent, persuasive, clear and understandable; organizes materials and thoughts well and exhibits a mastery of the case and of the materials provided; presentation was both believable and skillful.
9-10	Outstanding	Thinks well on feet, is logical, keeps poise under duress; performance was resourceful, original, and innovative; can sort out the essential from the non-essential and uses time effectively, to accomplish major objectives; knows how to emphasize vital points of trial and emphasizes them.

Judge _____

Courtroom _____

**Arizona High School
Mock Trial Competition
Region _____**

Round (circle one) 1 2 3 4

Competition: Regional State

Score Sheet

P=Prosecution/Plaintiff _____

D=Defendant/Defense _____

Using a scale of 1 to 10, rate the P and D in the categories below.

DO NOT USE FRACTIONAL POINTS.

	Not Effective	Fair	Good	Excellent
Outstanding				
1	2	3	4	5
	6	7	8	9
				10

Score Sheet		P	D
Opening Statement		()	()
Prosecution/Plaintiff First Witness	Direct Examination	()	Cross-Examination ()
	Witness Presentation	()	
Prosecution/Plaintiff Second Witness	Direct Examination	()	Cross-Examination ()
	Witness Presentation	()	
Prosecution/Plaintiff Third Witness	Direct Examination	()	Cross-Examination ()
	Witness Presentation	()	
Defendant/Defense First Witness	Cross Examination	()	Direct Examination ()
		()	Witness Presentation ()
Defendant/Defense Second Witness	Cross Examination	()	Direct Examination ()
		()	Witness Presentation ()
Defendant/Defense Third Witness	Cross Examination	()	Direct Examination ()
		()	Witness Presentation ()
Closing Argument		()	()
Subtotal		()	()
Penalty Points		()	()
Total Points (Absolutely no ties)		()	()

Please deliver ballot and student roster to timekeeper before debriefing the team

Overall Best Performance: _____

(School Name)

Outstanding Individual Performer: _____

(Student's Name)

STUDENT ROSTER

This form is to be completed prior to the beginning of each Round and handed to the judge when the delegated student introduces the team members.

**SCHOOL AND/OR
TEAM NAME** _____

ROUND I II III IV SEMI FINALS FINALS

(circle one)

PLAINTIFF/PROSECUTION

DEFENDANT

(circle one)

Please print student names and indicate alternates where applicable.

ATTORNEY _____

ATTORNEY _____

ATTORNEY _____

WITNESS _____

WITNESS _____

WITNESS _____

TIMEKEEPER _____