

# *2023-2024 Competition Case*



*PRESENTS THE*

## *North Carolina High School Mock Trial Competition*

# *State of Utopia*

**v.**

## *Fran Lewis*

The North Carolina Mock Trial Program (“NCMTP”) adapted this year’s case from a case that was originally prepared for the National High School Mock trial competition in 2004. The case was originally developed by the Honorable Judge Terry Lewis, a retired Florida circuit court judge who drew inspiration for this case from his fictional book entitled *Privileged Information*. Permission to edit this case was granted by Judge Lewis and the Justice Teaching Center for Civic Learning at Florida Southern College. We thank Judge Lewis for his efforts preparing the original case materials and the Justice Teaching Center for granting us permission to amend the case for the North Carolina Mock Trial Program.

The NCMTP also extends its thanks to Case Committee members Sue Gray, Brianna Fanning, Christina Di Lorenzo, Andy McVey, Aimee A. Nwabuike, Jacob M. Morse, Brad Bannon, Katy Parker, and Emme McManus for generously sharing their time to review and edit this case for our use. All names used in this mock trial case are fictitious. Any similarity to an actual event or person is strictly coincidental.

*State of Utopia*  
v.  
*Fran Lewis*

**AVAILABLE WITNESSES\***

<b>Prosecution</b>	<b>Defense</b>
Pat Winter Lynn Barnes Dakota Williams	Robin Dillard Fran Lewis Jamie Lewis

**CASE DOCUMENTS**

**Legal Documents**

1. Stipulations
2. Indictment
3. Affidavits
4. Jury Instructions
5. Jury Verdict Form
6. Exhibits

**Affidavits**

*Prosecution*

1. Pat Winter, VP of Security at Pinnacle Paper Company
2. Lynn Barnes, Sheriff of Morse County
3. Dakota Williams, Lab analyst at Utopia State Crime Lab

*Defense*

4. Robin Dillard, Vehicle analyst
5. Fran Lewis, Defendant
6. Jamie Lewis, Parent of Fran Lewis

**\*Note on Witness Gender**

The gender of witnesses may be determined by each individual team. Throughout these materials, “they/them/their” will be used as the pronouns for an individual witness. Please notify opposing counsel of the witnesses’ gender vis-à-vis the required roster forms and make all appropriate gender adjustments in witness statements, examinations, and opening and closing arguments.

**Disclaimer:**

All names used in the Mock Trial Competition case are fictitious, and any similarity to the name of any actual person is strictly coincidental.

## **EXHIBITS**

1. Police Department photographs
  - A. Boots retrieved from Fran Lewis's residence
  - B. Picture of the foot print found near the logging road
2. Diagram of the crime scene at Pinnacle Paper Company
3. Photograph of tire iron
4. Illustration of Mini Mart and the road
5. Resume of Dr. Robin Dillard
6. Curriculum Vitae of Dakota Williams
7. Police Department photographs
  - A. Photograph of Fran Lewis's truck tire
  - B. Photograph of the plaster cast of the tire track found near the logging road
  - C. Comparative detail of 7a. and 7b.
8. Email from Pat Winter to Pinnacle Paper Company Security Team
9. Pinnacle Paper Company Employee Shift Schedule on 01/05/2023

## **CASE BACKGROUND**

The Pinnacle Paper Company is not only the largest employer in Morse County; it is the largest single owner of real estate in the State of Utopia. For over fifty years, it has exercised considerable economic and political influence in the region. In addition to the economic boost it brings to the county, the company has won awards for its innovative pollution control techniques and technology, has made substantial contributions to many charitable organizations, has donated land for community parks, and is considered a good corporate citizen. In recent years, it has begun to develop some of its real estate holdings into residential and leisure communities, bringing needed jobs and economic activity to these sparsely populated areas.

Not everyone, however, is enamored with the Pinnacle Paper Company. A small but vocal minority claim that the company's heralded pollution control is a public relations sham. They blame the company for water and air pollution, which they say has caused unusually high incidences of cancer in the residents of Morse County, especially those who live near the plant or along the banks of the Pasquotank River, into which the company discharges its effluent.

Members of a group of local environmental activists, known as "The Wetland Alliance," have engaged in several protest activities against the plant, including marches, rallies, sit-ins at the plant, human blockades at some of the company's real estate development sites, and various lawsuits seeking injunctions and damages. Several weeks ago, members of the group were arrested and convicted of trespass and vandalism. During the incident, the company administration building was spray-painted with graffiti, and a truck load of manure was dumped on the front steps. The group has also claimed credit for vandalizing tractors and other equipment at construction sites of the company. The leader of The Wetland Alliance is Fran Lewis, who blames the plant for the death of their spouse two years ago from cancer.

When the vice president of the plant is found dead on the front steps of the company's administration building one night, law enforcement officials conclude that it is the result of another trespass and vandalism spree gone awry, and the circumstantial evidence leads them to conclude that Fran Lewis is the murderer. But will it be enough to convince a jury?

STATE OF UTOPIA  
MORSE COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
23 CRS 1234

STATE OF UTOPIA  
v.  
FRAN LEWIS,  
Defendant.

**STIPULATION OF FACTS**

The parties have entered into, and the Court hereby adopts, the stipulations set out below, which are binding on all parties.

1. The case of State v. Lewis has been bifurcated. This trial concerns only the guilt phase. Neither party may present evidence that solely pertains to the extent of the penalty faced by Defendant.
2. The Defendant has entered a plea of not guilty to all indicted charges and has not indicated any intent to raise any affirmative defense.
3. The victim, Richard ‘Rick’ Fanning, was a Caucasian male, approximately 5’ 11” tall, and weighed approximately 235 pounds.
4. The estimated time of death is between 10:00 p.m. and 11:30 p.m. on January 5, 2023.
5. The cause of death was blunt force trauma to the back of the head, caused by a smooth, rounded, cylindrical object, consistent with a tire iron.
6. The blow to the head lacerated the skin, causing substantial bleeding, and crushed the skull, causing bone fragments to become embedded in the brain.
7. Defendant was wearing size 9 (US) Nike sneakers at the time of their arrest.
8. Size 9 Timberland boots were seized from the defendant’s residence.
9. The tires on the defendant’s truck, at the time of their arrest, were Cooper Cobras.
10. The tire from the defendant’s truck depicted in Exhibit 7A, and the tire track depicted in Exhibit 7B, correspond in design, physical size and shape, as well as general wear, and they each have two random characteristics as highlighted in Exhibit 7C.
11. Defendant’s criminal record includes convictions for misdemeanors of battery and intoxicated and disruptive in public in 1998 due to a bar room fight, a felony offense of possession with intent to sell or deliver marijuana in 2007, and trespass and damage to property on Thanksgiving Day in 2022 at the Pinnacle Paper Company.
12. The Thanksgiving Day incident relates to a protest by Defendant and several others at the Pinnacle Paper Company where the group spray-painted the windows and doors red and dumped a load of manure at the entrance of the administrative building.
13. Of the registered vehicles in Morse County, there are a total of 1,617 registered trucks similar to the defendant’s: 414 Ford F150 half ton pickup trucks, 227 GMC half ton pickup trucks, 259 Chevrolet half ton pickup trucks, and 717 light utility trucks of various types and models.
14. There is no information as to how many of these trucks are red and have customized ‘NCSU Fan’ paint jobs.

15. A criminal record check of Jamie Lewis shows a conviction for the misdemeanor offense of passing a worthless bank check in March 1994 and for cultivation of marijuana in 2001.
16. All documents, signatures, and exhibits included in the case materials are authentic; no objections to the authenticity of any documents will be entertained. Both parties must lay proper foundation prior to entering evidence, and both parties reserve the right to dispute any legal or factual conclusions based on these items and to make objections other than to authenticity.
17. Jurisdiction, venue, and chain of custody of all evidence are proper and cannot be challenged.
18. All witnesses reviewed their affidavits and reports immediately before trial and were given an opportunity to revise them; however, none did so. All witnesses affirm the truthfulness of everything stated in their affidavits. When preparing and reviewing their sworn statements, all witnesses were instructed to include everything that they know may be relevant to their testimony.
19. A witness must be formally tendered to the Court in accordance with Rule 702 of the Rules of Evidence before testifying in the form of an expert opinion. Any examination, analysis, or experiment conducted by any expert witness is presumed to have been conducted consistent with generally accepted scientific principles in the field of expertise of the witness.
20. Defendant has waived the right against self-incrimination under the Fifth Amendment to the United States Constitution and will testify. Either party may refer to the Defendant's decision to testify throughout trial.
21. Stipulations cannot be contradicted or challenged.
22. All witnesses are presumed to have knowledge of the facts contained in each of the stipulations.

DATED: AUGUST 12, 2023

IT IS SO ORDERED

**Keith Hudson**

Keith Hudson

Judge of the Superior Court

**STATE OF UTOPIA**

File No.

23 CRS 1234

Morse County

In The General Court Of Justice  
Superior Court Division

**STATE VERSUS**

Name And Address Of Defendant

Fran Lewis  
5005 Dogwood Blossom Lane  
Morse, Utopia

**INDICTMENT  
MURDER**

- FIRST DEGREE (0935)**
- SECOND DEGREE (0944)**
- SECOND DEGREE**
  - INHERENTLY DANGEROUS WITHOUT REGARD TO HUMAN LIFE (0942)**
  - UNLAWFUL DISTRIBUTION OF SUBSTANCE (0943)**

This is a superseding indictment.

Race	Sex	Date Of Birth 01/01/1979
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Date Of Offense 01/05/2023	Offense In Violation Of G. S. <b>14-17</b>
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G.S. 15-144

The jurors for the State upon their oath present that on or about the date of offense shown and in the county named above the defendant named above unlawfully, willfully and feloniously and of malice aforethought did kill and murder Richard Fanning, by hitting him with a tire iron or other object.

Signature Of Prosecutor

*Max Jakes*

**WITNESSES**

Lynn Barnes, Sheriff of Morse County

The Witnesses marked "X" were sworn by the undersigned Foreperson of the Grand Jury and, after hearing testimony, this Bill was found to be:

- A TRUE BILL by twelve or more grand jurors, and I the undersigned Foreperson of the Grand Jury, attest the concurrence of twelve or more grand jurors in this Bill of Indictment.
- NOT A TRUE BILL.

Date 03/27/2023
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Signature Of Grand Jury Foreperson

*Melanie Karla Zine*



**AFFIDAVIT OF PAT WINTER**

1           My name is Pat Winter. My address is 334 Cardinal Way, Morse, Utopia. For the past  
2 twelve years, I have worked for the Pinnacle Paper Company in the security division. Recently, I  
3 was promoted to Vice President in charge of security and special projects after Rick Fanning’s  
4 passing. He held the position before me. I am thankful for this promotion, and the resulting pay  
5 increase. However, this new job has significantly expanded my responsibilities at Pinnacle.

6           I know Fran Lewis very well. We grew up together, played sports in high school together,  
7 and I used to date their sister/brother. At one point in my life, I considered Fran to be a good friend.  
8 Unfortunately, we have been on the opposite side of things this past year, since Fran became the  
9 leader of a group known as The Wetland Alliance. This group’s members have been involved in  
10 several protest activities against the Pinnacle Paper Company, which have included sit-ins, road  
11 barricades at plant construction sites, and vandalism of plant equipment and property. Fran and  
12 The Wetland Alliance have filed a lawsuit and an administrative complaint with the Department  
13 of Environmental Protection, alleging violation of certain land-use and environmental regulations.  
14 The group seeks to stop construction of the coastal development project called “Pinnacle Point.”  
15 Fran has also filed a wrongful-death suit against the company in which they allege that the  
16 company’s pollution caused the cancer that killed Fran’s spouse.

17           Of course, all of this is nonsense. The Pinnacle Paper Company, as all reasonable people  
18 in the county know, is a model corporate citizen and is in full compliance with all laws and  
19 regulations concerning the plant’s operation and its real estate development projects. We’ve not  
20 had a single citation from any federal or state agency for any pollution law violation of any kind.  
21 Fran has, unfortunately, become irrational and has gotten some of those environmental nuts  
22 whipped up into a frenzy.

23 Before he was killed, Rick Fanning was the point man at Pinnacle for all of this litigation,  
24 and he was in charge of preventing, controlling, or disrupting the protests of The Wetland Alliance.  
25 Rick was struggling to keep on top of all the chaos, and he wasn't representing the company very  
26 well. Unfortunately, this might be what got him killed. Although Rick was just doing his job, Fran  
27 seemed to take it personally. I remember Fran and Rick were arguing at the Thanksgiving protest  
28 last year. I could hear them, but I couldn't make out what was being said until I got close enough,  
29 towards the end of the argument. That's when I heard Fran say, "You won't know when or where  
30 or how, Fanning, but I promise you, you are a dead man walking." Rick didn't say anything in  
31 response. He just smiled, turned his back, and walked away. Fran has always had a mean streak,  
32 but I didn't think Fran would go this far.

33 On the night of January 5, 2023, I was the security supervisor for the plant facility. We  
34 usually have two guards patrol the plant and two guards patrol the administration building, but  
35 with all the threats from the Wetland Alliance, I put three people on the plant that night because it  
36 has more ground to cover. The one security guard who was assigned to the administration building  
37 called in sick, so I scheduled myself to work his night shift from 11:00 p.m. - 7:00 a.m. At around  
38 11:45 p.m., I was making my rounds, and I drove by the administration building of the plant. As I  
39 approached the building, I could see that one of the front windows had been painted with red spray  
40 paint. I could make out the word, "PIG." As I got closer, I could also see that there was a person  
41 lying on the ground at the front entrance of the building. I didn't see anyone else around the  
42 building, so I approached the body cautiously and called the other security guards to meet me.  
43 When I got closer, I could see that the person was Rick Fanning. I knelt over Rick and felt for a  
44 pulse, but there was none. There was a large pool of blood around his head, which appeared to be

45 coming from a wound at the back of his skull. I realized I had walked upon a crime scene with my  
46 size 9 shoes so I made sure to tell this to the investigators when they arrived.

47 I called EMS and the Sheriff's Office. When the security guards arrived, I stationed one at  
48 the front of the building, sent one around to the back entrance, and took one guard with me through  
49 the unlocked front door and into the office building to search it. I noticed that, except for the light  
50 in the reception area, all of the lights were off in the building. We did not find anyone inside the  
51 building.

52 It was at this time that I remembered having seen Fran earlier that evening, on my way into  
53 work. It was about 10:45 p.m., and I was headed north on County Road 153. As I passed the Mini  
54 Mart, which is about a half mile from the plant, I noticed Fran's pickup truck in the parking lot. It  
55 was parked in front of the ATM there at the corner of the building. I didn't think much of it at the  
56 time, but I am sure it was Fran's truck. Everybody knows it. It has one of those customized "NCSU  
57 Fan" paint jobs—red with silver rims. And then I saw Fran as well. Fran was using the ATM. Like  
58 I said, I didn't think much of it at the time, but when I saw the vandalism there at the plant, it  
59 clicked. It was nighttime, of course, but it was a clear evening and the lights from the store in the  
60 parking lot made it pretty bright in that area. I wish I was mistaken, but I am sure it was the  
61 defendant and the defendant's truck that I saw.

62 Of the available exhibits, I am familiar with the following and only the following: Exhibit  
63 1.B is a picture of the footprint Sheriff Barnes and I found in the mud near the logging road. Exhibit  
64 2 is an illustration of the crime scene and the surrounding areas which depicts approximately where  
65 items were located. Exhibit 4 identifies where I saw Fran Lewis at the Mini Mart on the night of  
66 January 5th. Exhibit 7-B is a picture of the plaster cast I witnessed Sheriff Barnes take from the  
67 tire track on the logging road near the crime scene. Exhibit 8 is an email I sent to the Security

68 Team on January 5th detailing a change of patrol. Exhibit 9 is the employee schedule that I updated  
69 and sent to the Security Team on January 5th.

70 Sworn to and subscribed before me, this, 2023, by Pat Winter, who is personally known to  
71 me.

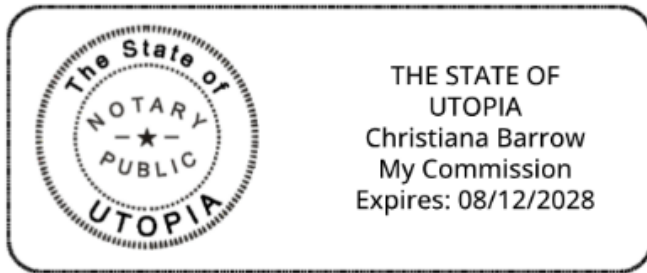
Pat Winter

Signature

Christiana Barrow

Notary Public

Date Signed: 08/12/2023



## AFFIDAVIT OF LYNN BARNES

1           My name is Lynn Barnes. My business address is 1304 Lafayette Street, Morse, Utopia. I  
2           have been Sheriff of Morse County for fourteen years. Prior to that, I worked as a special agent for  
3           the Utopia State Bureau of Investigation for fourteen years, specializing in crime scene analysis,  
4           then as an investigator with the Morse County Sheriff's Office for two years.

5           At 11:53 p.m. on January 5, 2023, I received a call concerning a homicide at the Pinnacle  
6           Paper Company. I arrived on the scene at 12:12 a.m., together with two deputies. Security guards  
7           from Pinnacle Paper Company were positioned around the building when I arrived. I met there  
8           with Pat Winter (P. Winter), security supervisor for the plant. I observed the victim, Richard  
9           Fanning, at the front entrance of the building. He was lying on his side, in a pool of blood. The  
10          back of his skull was crushed in. He was obviously deceased by the time I arrived.

11          P. Winter pointed out some spray-painted graffiti on one of the windows which spelled out  
12          the word "PIG." I observed what appeared to be fresh shoe prints in the dirt there. P. Winter had  
13          informed me that they had walked around the body and the surrounding area so I compared Pat's  
14          shoes to those at the scene. I noticed shoe prints leading to the painted window and then back  
15          towards a wooded area beyond the parking lot, headed in the direction of the southern boundary  
16          of the plant property. Winter advised that there was a logging road that ran along the southern  
17          boundary. The logging road is a popular place to park for high school couples.

18          We followed the shoe prints until they disappeared a short distance into the wooded area.  
19          We continued in that direction, towards the logging road. Along the way, P. Winter pointed out a  
20          spray-paint can, with a red cap on the top, which was on the ground. I carefully retrieved it and  
21          placed it in a plastic evidence bag. When we got to the logging road, we saw what looked like the  
22          same shoe prints we had followed into the woods. The prints stopped right in front of what

23 appeared to be fresh tire tracks. I took a photograph of a clearly identified shoe print and then I  
24 made a plaster cast of the tire tracks. I also took photographs of the shoe prints found around the  
25 painted window of the administration building. These particular shoe prints were less discernible.

26 There were no signs of a struggle at the scene of the crime, nor were there any shoe prints  
27 other than the ones noted above. The only thing that appeared out of place in the office was a filing  
28 cabinet which had a drawer left open. We lifted fingerprints from the filing cabinet and later  
29 determined these matched Richard Fanning's prints. This was not surprising, since Fanning had  
30 keys and full access to the office. Fanning's vehicle was parked in the back of the building, the  
31 employees' parking area. This area is paved, as is a sidewalk that leads to the front entrance, thus  
32 explaining why Fanning's shoe prints were not found. Fanning's wallet and watch, as well as his  
33 wedding ring were still on his person. A set of keys was in his right hand when he was discovered.  
34 This evidence, combined with the fact that the single and fatal blow was to the back of the head,  
35 led me to conclude that I was dealing with a case of premeditated murder.

36 On Thanksgiving Day of last year, Fran Lewis (F. Lewis) and two members of an  
37 environmental activist group called The Wetland Alliance were arrested on charges of trespassing  
38 and vandalism in a similar incident. During the Thanksgiving incident the administration  
39 building's windows were spray-painted red, with the word "PIG," and a large pile of manure was  
40 dumped on the front steps. All three pleaded guilty to the charges and were placed on probation.  
41 The spray-paint cans recovered at the scene of the prior vandalism incident were the same brand  
42 (Krylon) as that found on the night of the Fanning murder. At the previous trespass and vandalism  
43 incident, my team and I had made a thorough search of the grounds surrounding the company's  
44 administration building. This search included the wooded area and the logging road that I have  
45 described. Although I can't be certain, I don't believe there were any spray-paint cans remaining

46 in the woods after the original incident. When P. Winter spotted the can and pointed it out to me,  
47 I was surprised that it was sitting out in clear view.

48           When I was talking to P. Winter about this previous vandalism incident, they looked at me  
49 seriously as if recalling something important. Pat let me know that they saw F. Lewis at the Mini  
50 Mart located approximately one-half mile from the plant on County Road 153 shortly before the  
51 time of the murder. Pat also relayed to me that Lewis had threatened to kill Richard Fanning during  
52 a confrontation which occurred during the Thanksgiving incident last year.

53           After investigating the murder scene, I obtained an arrest warrant for F. Lewis and a search warrant  
54 for F. Lewis's residence, business, and truck. We could not, however, locate F. Lewis at either  
55 their home or work place. F. Lewis's truck was gone as well. I alerted all law enforcement in the  
56 area to be on the lookout for F. Lewis and their truck. I also spoke with F. Lewis's parent, Jamie  
57 Lewis (J. Lewis), who advised that they had not seen F. Lewis in a couple of days and did not  
58 know where F. Lewis was.

59           The following day, I spotted F. Lewis traveling eastward on a dirt road in a wooded area  
60 near Wolf Creek. I had been traveling north on another dirt road and was approximately 25 yards  
61 from where the two roads intersected when I spotted F. Lewis's truck. I turned on my siren and  
62 lights and initiated pursuit. F. Lewis sped up but was forced to stop their vehicle when the road  
63 ended at the Wolf Creek campsite. F. Lewis surrendered without further resistance. F. Lewis was  
64 advised of their Miranda Rights and declined to give a statement or answer any questions. F. Lewis  
65 was taken to the Morse County Jail and booked.

66           Evidence seized pursuant to the search warrant included several pairs of shoes and boots  
67 located at F. Lewis's residence, the sneakers that F. Lewis was wearing at the time of the arrest,

68 and the tires from their truck. After receiving the report from the medical examiner as to the cause  
69 of death and likely weapon, I also seized a tire iron located in a tool box on the defendant's truck.

70 I processed the crime scene and focused on the front entrance and the area surrounding the  
71 spray-painted window. I also processed the spray-paint can found in the woods, as well as the tire  
72 iron taken from the truck of F. Lewis for latent fingerprints. I submitted all evidence collected,  
73 including the latent prints recovered, to the Utopia State Crime Laboratory for analysis.

74 I am aware of the Lewis family's accusations pertaining to my relationship with Pinnacle  
75 Paper Company. It is true that the company was a major donor to my election campaign, and I am  
76 good friends with the company's president. It is also true that I have a private contractual  
77 arrangement as a security consultant with the company. That is, however, a side job that  
78 supplements my income as sheriff and in no way interferes with the performance of my duties as  
79 an impartial enforcer of the laws in Morse County. Anybody that knows me knows that I follow  
80 the evidence wherever it leads and let the chips fall where they may.

81 I have investigated this case thoroughly. I checked on the whereabouts of other suspects,  
82 specifically members of The Wetland Alliance, and discovered that they all had strong alibis. I  
83 personally have nothing against F. Lewis, but the fact is, the evidence led to F. Lewis alone.

84 Of the available exhibits, I am familiar with the following and only the following: Exhibit  
85 1-A is a photo of F. Lewis's boots that were retrieved from their residence. Exhibit 1-B is a photo  
86 of the footprint I found near the logging road on the night of January 5th. Exhibit 2 is a diagram  
87 of the crime scene at and around Pinnacle Paper Company Administration building. Exhibit 3 is a  
88 picture of the tire iron found in the defendant's truck at the time of their arrest. Exhibit 4 is a  
89 diagram detailing where P. Winter claims to have identified the defendant at the Mini Mart on the  
90 night of January 5th. Exhibit 7-A is a picture of the tire found on F. Lewis's truck. Exhibit 7-B is



91 a picture of the plaster cast I lifted from a discernible tire track on the logging road. And 7-C is a  
92 comparison of the plaster cast and the picture. Exhibit 8 and 9 were documents provided by P.  
93 Winter verifying changes to security on January 5th. Also, in my role as investigator, I have  
94 reviewed the following affidavits: P. Winter, F. Lewis, and J. Lewis.

95 Sworn to and subscribed before me, this, 2023, by Lynn Barnes, who is personally known  
96 to me.

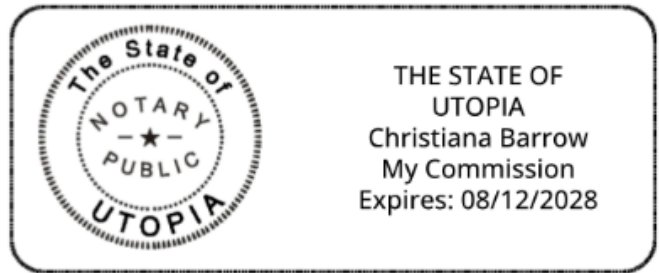
*Lynn Barnes*

Signature

*Christiana Barrow*

Notary Public

Date Signed: August 12, 2023



## **AFFIDAVIT OF DAKOTA WILLIAMS**

1           My name is Dakota Williams. My address is Route 3, Box 245, Turpentine Road, Stamford,  
2 Utopia. For the past ten years I have been employed by the Utopia State Crime Lab as a laboratory  
3 analyst or examiner. I obtained a Bachelor of Science in Forensic Science from the University of  
4 Utopia, and I received my certification in Latent Prints from the International Association for  
5 Identification. My areas of specialty include comparative analysis of fingerprints, shoe prints, and  
6 tire tracks, and I have testified in Utopia state court approximately 75 times as an expert in  
7 comparative analysis. I received my training in these areas at the FBI and worked there as an  
8 examiner for two years before accepting my position here in Utopia.

9           In this particular case, I was asked to compare unknown (or questioned) latent fingerprints  
10 recovered from the crime scene and certain objects seized pursuant to a search warrant, with known  
11 inked prints belonging to Fran Lewis and Richard Fanning. I was also asked to analyze  
12 photographs of questioned footwear and a tire impression found at the scene and to compare them  
13 to shoes seized from the Lewis residence and the tires on Lewis's truck.

14           Inked, or rolled prints, as they are sometimes called, are processed by having the subject  
15 roll each finger on an ink pad and then carefully press or roll each finger on a smooth surface  
16 fingerprint card, creating a clear, distinct impression. Latent prints, on the other hand, are  
17 sometimes referred to as prints of chance. Sometimes, depending on the amount of sweat or oils  
18 on our fingers or hands, and the type of surface we touch, we may leave a print or a partial print,  
19 even though the prints will often not be visible to the naked eye. It is impossible to determine when  
20 and under what circumstances a latent fingerprint might have been left on an object. Under  
21 controlled climate and conditions, a print can remain on an object for several months. If the item  
22 is exposed to extreme temperatures or other elements, it may remain for only a very short time.

23 There are various procedures and chemicals that are used to discover and recover latent prints from  
24 various objects. In order to be of value in comparing a latent print to a known inked print, the latent  
25 print must have a ridge structure that is discernable and legible—or can be made so. There must  
26 also be sufficiently clear detail in order to make a comparison. A common misconception,  
27 however, is that there needs to be some minimum number of ridge characteristics in common in  
28 order to make identification. The so-called twelve point standard or rule is a misconception as  
29 there is no valid scientific basis for requiring a minimum number of ridge characteristics in order  
30 to make an identification. The key or essential part of making any identification is the absence of  
31 unexplained dissimilar characteristics. There has never been any reported case in history in which  
32 two people were found to have the same fingerprint.

33 In examining the latent prints submitted to me, I determined that there were no prints of  
34 value taken from the area of the front door or the window of the plant administration building,  
35 except for one found on the door handle of the front door. I was able to match that print with the  
36 known inked print of Richard Fanning.

37 No prints of value were recovered on the tire iron. In fact, the tire iron had absolutely no  
38 useful prints or smudges on it. The iron appeared to be unused or thoroughly cleaned recently.

39 On the paint can, I found one latent print of value. I determined that it matched the known  
40 inked print of the right forefinger of Fran Lewis. I also noted that the spray-paint can had no rust  
41 on it and appeared to be free of dirt and debris. I was told by the sheriff that the can was found on  
42 top of a mound of grass in a wooded area.

43 The individual uniqueness of fingerprints that allows for such a high degree of certainty in  
44 identification is not present relative to footwear and tire impression photographs. Even though they  
45 are not as exact as fingerprint comparisons, crime scene photographs can be very valuable not only

46 in making an identification or match, but also in eliminating or excluding certain footwear or tires.  
47 Two common methods of comparing evidence are a side-by-side comparison and superimposition.  
48 Side-by-side comparison consists of placing a questioned impression alongside a known  
49 impression, where respective areas of the two can be examined. Superimposition includes  
50 placement of a transparency of a known impression over the questioned impression, and allows  
51 for comparison of several areas of the impression at once. Overall, the side-by-side examination  
52 allows one to quickly determine if the known impression and the questioned impression appear  
53 similar in size, shape, and design. The superimposition method can be used for further, more  
54 detailed examination. There are four areas that are considered during each comparison. They are  
55 (1) the design, including any significant manufacturing characteristics; (2) the physical shape and  
56 size; (3) the wear characteristics; and (4) the individual identifying characteristics.

57         This method of comparison can be utilized to evaluate both shoe and tire impressions which  
58 are both at issue in this case. For example, the design of a shoe *or* a tire is the first and most  
59 obvious feature one sees. Additionally, both shoes and tires are made in many different ways, and  
60 variations can potentially occur even when they have the same design. Here I am talking about the  
61 tread design of a car tire or the sole of a shoe, the part that will leave an impression. Given sufficient  
62 detail in an impression, it is possible to determine a specific manufacturer and model.

63         For shoes, we maintain a database that contains the outer sole design of every major brand  
64 of shoe sold in the United States and a similar database for the tread design for every major brand  
65 of tire. This comparison of the physical shape and size of an impression goes hand in hand with,  
66 and is usually conducted simultaneously with, comparison of the design. Sometimes, of course,  
67 when the impression is very faint, only the physical shape and size characteristics can be compared.  
68 Positive identification (or match) of a shoe with a questioned footwear impression cannot be made

69 based on physical size and shape characteristics alone. On the other hand, a footwear impression  
70 of a particular physical size and shape, and of a specific design, is going to be owned by only a  
71 very small fraction of one percent of the overall population.

72 To make a “match” for either shoes or tires, there must be individual identifying  
73 characteristics. Individual identifying characteristics are those that randomly occur on the tire tread  
74 or the shoe outer sole. By randomly, I mean those characteristics that were not planned or  
75 intentionally manufactured. For example, there may be a small pebble or other object caught  
76 between the tread on the shoe or tire, or a tire may have a plug in it. The outer sole of the shoe may  
77 have been cut or marked in some way that makes the impression left unique.

78 For my footwear impression analysis in this case, I compared the shoe prints found at the  
79 administration building and the logging road with the Timberland boots that were seized from the  
80 Lewis residence. I determined that the questioned impressions correspond in design, physical size  
81 and shape, and general wear with the Timberland boots found at Lewis’s residence. Due to the  
82 limited detail retained in the photos and the lack of clearly observable individual identifying  
83 characteristics, a closer association was not made between the questioned footwear impressions  
84 and Lewis’s boots. The possibility exists that another shoe of the same specific design, physical  
85 size, and general wear made these impressions.

86 I also compared the tires taken from Lewis’s vehicle to the questioned tire impressions  
87 found at the scene, which were preserved by Sheriff Barnes in the form of a plaster cast. One of  
88 the impressions found near or on the logging road were of sufficient detail to make a comparison.  
89 I determined that those questioned tire impressions correspond in design, physical size and shape,  
90 and general wear found on the front and rear right tires of the defendant’s vehicle. In addition, the  
91 correspondence of two random individual characteristics indicates that it is highly probable that

92 the questioned impressions were made by the tires on Lewis’s truck. It is very unlikely that another  
93 tire of the same design, physical size and shape, and general wear would also share those individual  
94 characteristics.

95 As to both the shoe prints and tire tracks found at the scene, I cannot say with any certainty  
96 when they were made. If undisturbed by other foot or vehicular traffic, or adverse weather  
97 conditions, the impressions could have been there for several days, or even a few weeks.

98 Of the available exhibits, I am familiar with the following and only the following: Exhibit  
99 1A is a photo of Fran Lewis’s boots that were retrieved from their residence. Exhibit 1B is a photo  
100 of the footprint Sheriff Barnes found on January 5th. Exhibit 2 is a diagram of the crime scene at  
101 and around Pinnacle Paper Company. Exhibit 3 is a picture of the tire iron found in the defendant’s  
102 truck at the time of their arrest. Exhibit 6 is my personal curriculum vitae. Exhibit 7-A is a picture  
103 of Fran Lewis’s tire shortly after their arrest. Exhibit 7-B is a picture of the plaster cast Sheriff  
104 Barnes retrieved on January 5th. Exhibit 7-C is a side-by-side photo display of Fran’s tire and the  
105 plaster cast, highlighting the two unique characteristics in both. I have also reviewed all available  
106 witness affidavits.

107 Sworn to and subscribed before me, this, 2023, by Dakota Williams, who is personally  
108 known to me.

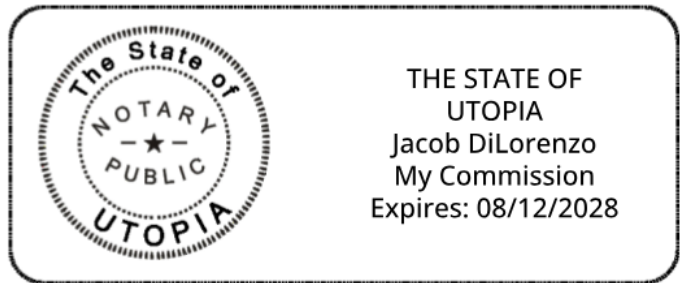
Dakota Williams

Signature

Jacob DiLorenzo

Notary Public

Date Signed: 08/12/2023



**AFFIDAVIT OF ROBIN DILLARD**

1           My name is Dr. Robin Dillard. My address is 1412 Middlebrooks Circle, Stamford,  
2 Utopia. I graduated from the University of Utopia in 1994 with my doctorate in mechanical  
3 engineering. Upon graduation, I was hired by Honda Motors working in their crash analysis  
4 division. After 10 years of climbing up the corporate ladder, I decided to step down from the  
5 chief engineering position and start my own business. I created Dynamics, a consulting firm,  
6 dedicated to automotive and vehicle incident analysis. We are made up of a team of forensic  
7 engineers dedicated to determining the truth behind vehicle incidents, whether it be crashes,  
8 liability failure, or overall incident analysis. We have conducted many studies in which  
9 calculations were made to determine the visibility of road signs and signals by motorists, giving  
10 due consideration for angle, speed, distance, and other factors. Dynamics has given evidence in  
11 hundreds of cases both civil and criminal, and I have testified in around 50 different cases  
12 myself.

13           I was retained by the defense in this case to determine the likelihood that a person driving  
14 along County Road 153, under circumstances substantially identical to those described by Pat  
15 Winter in their affidavit, would be able to observe and make the identification stated by Winter.  
16 Specifically, Pat Winter stated that they were traveling at a “normal” rate of speed along County  
17 Road 153, in a northerly direction, and passed the Mini Mart located thereon at approximately  
18 10:45 p.m. on the night of January 5, 2023. They described the weather conditions as dry and  
19 clear and stated that lighting at the store and in the parking lot illuminated the area they  
20 observed.

21           Attached to this statement is a diagram of the Mini Mart and immediate surrounding area.  
22 As you can see, to the immediate south of the Mini Mart is a tire store. The location of the tire

23 store building and the substantial landscaping and tall wooden fence along its southern boundary  
24 with the Mini Mart, obscures any view of the public ATM that is located at the southeast corner  
25 of the Mini Mart. For any person traveling in a vehicle north on County Road 153, the ATM  
26 would not be visible until such time as the vehicle approached the entrance of the Mini Mart.  
27 This would be at a 20-degree angle, looking to the left towards the Mini Mart. The view of the  
28 ATM continues for 35 feet until blocked by a large live oak tree on the right of way in front of  
29 the Mini Mart. Thus, the time within which a person traveling north on County Road 153 in a  
30 motor vehicle could view the area surrounding the ATM outside the Mini Mart would be 1.5  
31 seconds if the vehicle was traveling at a rate of 25 miles per hour and .75 seconds if the vehicle  
32 was traveling 50 miles per hour. The speed limit on this stretch of road is 45 miles per hour.

33 In addition to these calculations, I also attempted to recreate the conditions described by  
34 Winter and conduct an experiment to see whether ten other people were able to make similar  
35 identifications. In conducting the experiment, the following procedures were followed: My  
36 assistants and I park a truck of the same make and model as described by Pat Winter in front of  
37 the ATM at the Mini Mart. One of my assistants, whose height and weight is substantially  
38 similar to that of Fran Lewis, stood at the ATM. This individual stood in various positions,  
39 presenting their back and their profile toward and away from the building. Ten of my assistants,  
40 all in pickup trucks, and driving at various speeds ranging from 25 miles per hour to 50 miles per  
41 hour in 5 mile increments, drove by the store. All of these drive-by's were conducted within ten  
42 minutes of 10:45 p.m. when the weather conditions were similar to those described by Winter.  
43 The drivers were told to look in the direction of the Mini Mart and the ATM as they passed and  
44 to note and identify any vehicle and/or person they observed. During the ten drive-by  
45 experiments:



- 46 • Eight drivers correctly identified the vehicle as a truck;
- 47 • Three drivers correctly identified the color of the truck;
- 48 • Three drivers saw a person, but could not say if the person was male or female; and
- 49 • No driver could identify the person standing at the ATM, despite the fact that it was
- 50 someone they knew, and despite the fact that they were specifically told to look in that
- 51 direction and try to make such identification.

52 Obviously, it is impossible to replicate exactly all of the circumstances that might have

53 been present at the time Pat Winter says they made the purported identification. It is also

54 impossible to account for any differences in the powers of observation between my ten assistants

55 and Winter. That stated, while I cannot say that it was impossible for Winter to make the

56 identification stated in their affidavit, in my opinion, based upon my calculations and experiment,

57 such an identification would be extremely difficult to make.

58 For the current case, I am familiar with all witness affidavits and exhibits, having reviewed

59 them before testifying in court. Exhibit 4 is a diagram Dynamics developed to illustrate the Mini

60 Mart location where Pat Winter allegedly spotted Fran Lewis on the night of January 5th. Exhibit

61 5 is my curriculum vitae.

62 Sworn to and subscribed before me, this, 2023, by Robin Dillard, who is personally known

63 to me.

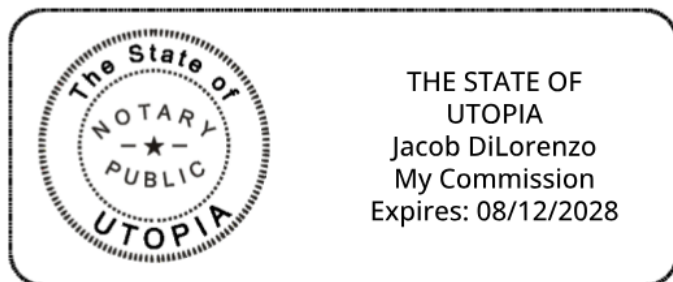
Robin Dillard

Signature

Jacob DiLorenzo

Public Notary

Date Signed: 08/12/2023



## AFFIDAVIT OF FRAN LEWIS

1           My name is Fran Lynn Lewis. My family has been in Morse County for five generations.  
2 I work as a real estate agent at Jamie Lewis Real Estate Agency. Jamie Lewis is my parent, and  
3 they know that my real vocation is photography, specifically nature photography. I have sold many  
4 of my photographs to regional and national magazines. I have always loved the outdoors, camping,  
5 fishing, and hiking.

6           It is not unusual for me to take a camping trip of several days in order to get the photographs  
7 that I want. I had planned such a trip to begin in the early morning of Wednesday, January 4, 2023.  
8 I spent the night before with my parent who had, at first, planned to go with me, but became ill  
9 and decided not to go. I went to bed around 10:30 p.m. on the night of January 3. I woke up at  
10 about 4:30 a.m., dressed, packed, and was gone by 4:45 a.m. on January 4. I went to a campsite on  
11 Wolf Creek, which is located in the Dismal Swamp, a good 15-20 miles from downtown Morse.  
12 Over the next few days, I went canoeing, hiking, and used a ton of film on my nature walks. I  
13 wasn't anywhere near the Paper Company during the time of the incident.

14           On Saturday afternoon, January 7, I went into Morse to get some more film and other  
15 supplies. On my way back, just before I got to the campsite, I noticed the Sheriff's car in my  
16 rearview mirror. The Sheriff did not have a siren or lights flashing. I eventually pulled over because  
17 it appeared the Sheriff was in a hurry to get somewhere. At this point the Sheriff turned on his  
18 lights. The Sheriff got out of the car with a gun drawn and made me lie down on the dirt. I didn't  
19 know what was going on but I complied voluntarily. I did not resist at all. I was not trying to flee  
20 from the Sheriff. When the Sheriff told me I was being arrested for the murder of Rick Fanning, I  
21 was shocked. Rick was my friend. I would never do anything to hurt him. When the Sheriff told  
22 me that Rick had been found with his head bashed in, I was surprised and devastated. I tried to

23 explain to the Sheriff that I had been camping in the woods and I was not anywhere near Pinnacle  
24 Paper Company. When the Sheriff told me that Pat Winter said they saw me at the Mini Mart just  
25 before the murder, I knew I was being set up, so I refused to say anything else.

26 I did not kill Rick Fanning, and I don't know who did. I was not at the Mini Mart on County  
27 Road 153 at any time on the night of January 5, 2023, nor anywhere even close to the Pinnacle  
28 Paper Company. I had no contact, directly or indirectly, with Rick Fanning that night. The tire iron  
29 retrieved from my truck is the same one that came with the truck when I bought it, and I have never  
30 used it.

31 I do belong to a group called The Wetland Alliance, and I have participated in protest  
32 activities against Pinnacle Paper Company on several occasions over the past year or so. We have  
33 also filed an administrative complaint with the Department of Environmental Protection and a  
34 regular lawsuit in court here in Morse County concerning violations of environmental laws by the  
35 company.

36 I also have a wrongful death suit pending against the company because their pollution of  
37 the Pasquotank River and the underground water supply caused my spouse to get cancer and die.  
38 My spouse grew up living along the Pasquotank River. Right now, the lawsuit is on hold because  
39 the company got to my expert witness. He was going to testify to the connection between the  
40 pollution and the cancer, but they bought him off, and he changed his mind all of a sudden. I'm  
41 looking for another expert with some integrity.

42 In November of 2022, I did participate in a protest in which I, and several other members  
43 of The Wetland Alliance, went onto Pinnacle's property at night, spray-painted windows and doors  
44 with the word "PIG" and dumped a truckload of manure on the front steps of the administration

45 building. As a result of that, I was arrested and charged with trespassing and vandalism. I pled  
46 guilty to both of those charges—because, unlike now, I was guilty.

47 I have never threatened Rick Fanning. I am a peace loving, passive person. Anybody that  
48 knows me knows that I could never hurt another person and that I would never resort to violence  
49 unless it was in self-defense.

50 Pat Winter is either mistaken or lying about seeing me on January 5. Pat has never liked  
51 me since they and my youngest sibling split up. Pat blames me because I told my sibling that Pat  
52 was cheating on them. And contrary to what Pat has said, I have no personal animosity against  
53 Rick Fanning. We were longtime friends. Pat is the one who did not get along with Rick at all. In  
54 fact, during one of the Wetland Alliance's protests, where we were blocking access to a  
55 construction site, I overheard Rick tell Pat that Pat was lazy, incompetent, and a liar, and that if he  
56 had his way Pat would be looking for another job soon. That was a couple of months before Rick  
57 was killed. I wouldn't put it past Pat to kill Rick and frame me for it. I don't know that for sure, of  
58 course, but I do know that I was not there, and I did not kill Rick.

59 I have no idea why my fingerprint is on that paint can, unless it's from the November  
60 incident, when I did use a can like that.

61 I do own Timberland boots, but I don't always enjoy wearing them, because they are so  
62 heavy. I prefer sneakers most of the time. I can't remember if I was wearing my boots when I went  
63 to the protest in November, but I do know that I haven't been near the Pinnacle administration  
64 building since I was there in November.

65 Regarding the available exhibits, I am familiar with the following, and only the following:  
66 Exhibit 1-A is a photo of the boots that were found in my home. Exhibit 3 is a photo of the unused

67 tire-iron that I stored in the back of my truck. Exhibit 7-A is a picture of the tires found on my  
68 truck.

69 Sworn to and subscribed before me, this, 2023, by Fran Lynn Lewis, who is personally  
70 known to me.

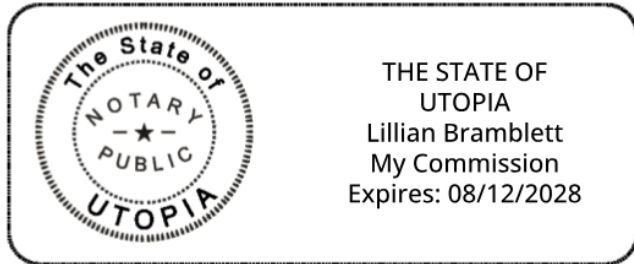
Fran Lewis

Signature

Lillian Bramblett

Public Notary

Date Signed: 08/12/2023



**AFFIDAVIT OF JAMIE LEWIS**

1           My name is Jamie Lewis. I have lived in Morse County all of my life. I am a real estate  
2 agent by profession, and my adult child, Fran, works with me. My spouse is deceased, and I live  
3 alone.

4           On the night of January 3, 2023, Fran slept over at my house as we had planned to go on a  
5 camping trip together the next day. We both enjoy the outdoors. Fran was planning to take some  
6 photographs, and I was planning on doing a little hiking and fishing. I became fairly sick after  
7 dinner that evening, however, and told Fran that I was not going to go. We had supper together,  
8 watched some TV, and then I went to bed around 10:00 p.m. Although I am 70 years old and a bit  
9 hard of hearing, I always hear when Fran leaves the house, and I heard their truck pull off at about  
10 4:30 the next morning.

11           A couple of days later, on January 6, the Sheriff came by the house looking for Fran. The  
12 Sheriff didn't have the courtesy to tell me what it was about, nor did they mention the fact that  
13 they had already obtained a search warrant for the house and the real estate office. When I went to  
14 the office later, the place was a mess. The Sheriff's deputies had ransacked everything with no  
15 consideration for my property rights at all. From my way of thinking, this was just one more  
16 harassment of Fran because of their protest activities. When the Sheriff asked me where Fran was,  
17 I told the Sheriff that Fran was camping somewhere out in the Dismal Swamp. I didn't say I didn't  
18 know where Fran was at, just that I had not seen Fran in a couple days.

19           This is not the first time the Sheriff and their goons have harassed me and my family at the  
20 behest of the Pinnacle Paper Company. Fran has been arrested for trespassing and vandalism on  
21 plant property three other times in the past year – and none of them stuck, except the last one, and  
22 that's because Fran pled guilty. The other two were thrown out by the judge before it went to trial.

23 I myself have been stopped for speeding three times in the past six months, when I wasn't speeding  
24 at all. When I complained to the Sheriff, they said, and I quote, "Maybe if you could exercise some  
25 control over that eco-terrorist kid of yours, I could get control over some of my over eager  
26 deputies." Everybody knows Sheriff Barnes is in the back pocket of the Pinnacle Paper Company.  
27 They got the Sheriff elected, you know, and continue to pay them cash under the table to do the  
28 Company's bidding. Everybody knows this, but they either do not care, or are afraid to say it out  
29 loud.

30 My family goes back five generations in Morse County. We were part of the original  
31 settlers. There has never been a Lewis in all that time that wasn't good on their word, or who  
32 wouldn't stand up for what is right, whatever the cost.

33 This issue with the paper company has certainly divided the community. A lot of people  
34 don't like what Fran and Wetland Alliance have been doing, because the actions of this group have  
35 challenged their jobs and their livelihoods. Many people are clearly dependent on the company  
36 and they don't like challenging the status quo.

37 The Lewis and Fanning families have been close for years. Fran and Rick have been friends  
38 since they were children. They were on the yearbook staff together in high school, and they used  
39 to go camping and fishing together before Fran's spouse passed away. The Sheriff believes that  
40 Fran hated Rick because Rick worked for Pinnacle Paper's security detail, but Fran never took any  
41 of that personally. Rick was always present at the protests because he had a job to do, and secretly  
42 he was on Fran's side. He didn't want to be seen talking directly to Fran to avoid suspicion, so I  
43 was the go-between.

44 About two weeks before he was killed, Rick came by my office. He told me he had proof  
45 that Pinnacle had been polluting the Pasquotank River for years and covering it up. He was going

46 to figure out how to get copies of this proof to us without anyone at the plant knowing about it.  
47 Rick said as soon as he had the documents, he would set up a meeting. When I told Fran about  
48 this, Fran was very excited and happy about the possibility of getting the proof needed to nail  
49 Pinnacle to the wall. Fran was the last person to want to see Rick Fanning dead.

50 I am also very familiar with Fran's character. They are very mild mannered, and not  
51 aggressive at all. I have never known them to be violent towards any person for any reason, unless  
52 it was in self-defense. It is true that Fran took the death of their spouse, Erin Lewis, really hard.  
53 Erin only lived about four months after the diagnosis of pancreatic cancer was made, but those last  
54 four months were very painful. It tortured Fran to see Erin waste away. Fran hasn't gotten over  
55 this. I agree that Fran's protest activities against the plant are emotional and controversial, but who  
56 can blame them? I know my child well, and I know that they would never intentionally hurt another  
57 human being. I don't know who or how, but I know somebody is trying to frame Fran.

58 Of the available exhibits, I am familiar with the following and only the following: Exhibit  
59 1-A is a photo of the same type of boots that I have seen Fran wear.

60 Sworn to and subscribed before me, this, 2023, by Jamie Lewis, who is personally known  
61 to me.

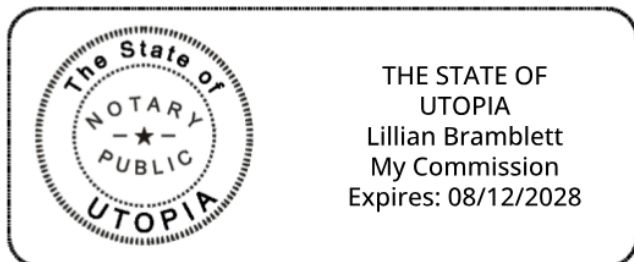
Jamie Lewis

Signature

Lillian Bramblett

Notary Public

Date Signed: 08/12/2023





## RELEVANT CASE LAW

### *State v. Bayog*

In a criminal case, the burden of proof lies solely on the State to prove every element of each charge beyond a reasonable doubt. The State may rely on both direct and circumstantial evidence to do so. The defendant bears no burden of proof except in cases in which the defendant raises an affirmative defense.

### *State v. Keel*

Specific intent to kill means the defendant intended his or her actions to result in the victim's death; the fact that the defendant committed an intentional act that resulted in the victim's death is not enough to satisfy this element.

### *State v. Rudd*

"Premeditation" means thought beforehand for some length of time, however short, and "deliberation" means an intention to kill executed by one in cool state of blood, in furtherance of design to gratify a feeling of revenge or to accomplish some unlawful purpose. Evidence from which premeditation may be inferred includes such matters as the nature of the weapon used, the presence or absence of adequate provocation, the manner in which the homicide was committed, and the nature and manner of the wounds inflicted.

### *State v. Wilson*

While motive may be relevant circumstantial evidence for consideration by the jury, proof of motive is not an essential element in any criminal charge. If the jury is convinced beyond a reasonable doubt that a defendant committed the crime, the defendant may be convicted even without proof of motive.

### *State v. Nwabuike*

In proving first-degree murder, the state must show that the defendant thought about taking a human life and reached a definite decision to kill before acting, and that the defendant had time to make the decision to kill, even if that time was only seconds.

### *State v. Bannon*

In determining whether or not a killing is premeditated, the court may examine (1) whether the defendant made previous threats of hostility, (2) whether the killing was motivated, (3) whether or not the defendant engaged in any planning activity, (4) the amount of time between the thought and act of killing, and (5) the manner and circumstances of the killing.

### *State v. Evers*

An essential element of any murder charge in the state of Utopia is malice. For the purposes of a murder charge, malice does not mean only hatred, ill will, or spite; it can also mean any mental condition that prompts a person to intentionally take the life of another or inflict serious bodily harm without just cause, excuse or justification. If the state proves that the defendant intentionally inflicted a deadly wound with a deadly weapon, a jury may, but is not required to, infer malice from that action.

**Heath v. Harrison**

The fact that a piece of evidence has the mere potential to be used in an improper manner does not render it inadmissible. As long as the proponent relies on a valid path to admissibility in accordance with the Rules of Evidence, the evidence may be admitted for whatever purpose the Rules allow. Judges who believe jurors are likely to use evidence in an improper manner not intended by counsel may issue a limiting instruction. Judges who believe counsel intends an improper purpose should exclude the evidence entirely.

**State v. Barrow**

The mere fact that a defendant desires to enter evidence of the defendant's pertinent character trait does not automatically render that evidence admissible. Pertinent trait evidence must still be presented in accordance with Rule of Evidence 405. During the direct examination of a defense witness, the scope of character evidence testimony was correctly limited to the witness's opinion of the defendant's peacefulness and the defendant's reputation for peacefulness in the community.

**Frankford's Shrimp Shack v. The Oceanic**

Trial judges serve as the gatekeepers of expert testimony, and as such, are tasked with ensuring that scientific testimony is reliable. As the judge makes this determination, they may consider the expert's qualifications, data, and methods, but not the expert's conclusions themselves. When a party attempts to tender an expert, they have the burden of proving, by a preponderance of the evidence, that the expert and the expert's opinion satisfy each section of Rule 702 of the Rules of Evidence.

**Orsini v. Price**

Rule 703 of the Rules of Evidence does not allow experts to act as conduits to hearsay who merely repeat what others tell them. Experts may only present otherwise inadmissible evidence once they relate such evidence to some specialized knowledge on the expert's part, as required under Rule 702 of the Rules of Evidence.

**State v. Schmidly**

In a criminal case, a victim, police officer, or other officer of the state is not a party opponent or agent of the party-opponent of the defense for the purposes of Rule of Evidence 801(d)(2).

**DiLorenzo's Dippin Dots v. Charlie's Chocolate Emporium**

While practices may differ in other jurisdictions, in the state of Utopia, the definition of "hearsay" may include any declarant's out-of-court statement, even if the declarant is on the stand or scheduled to testify in trial.

STATE OF UTOPIA  
MORSE COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
23 CRS 1234

STATE OF UTOPIA  
v.  
FRAN LEWIS,  
Defendant.

**JURY INSTRUCTIONS**

*At the conclusion of a jury trial, the judge will instruct the jury how to apply the law to the evidence. Hypothetically, if the judge in your mock trial case were to provide instructions to the jury, they would look something like the following.*

*[Please note: These instructions may NOT be tendered to the mock trial jury or used as an exhibit during the competition, but students should use these concepts and definitions in preparing and trying their case to the jury.]*

**PRELIMINARY INSTRUCTIONS**

**I. Role of the Jury**

Now that you have been sworn, and before the presentation of evidence, I have the following preliminary instructions for your guidance as jurors in this case. You and only you will be the judges of the facts. You will have to decide what happened. You should not take anything I say or do during the trial as indicating what I think of the evidence or what your verdict should be. My role is to be the judge of the law. I will make legal decisions during the trial, and I will explain to you the legal principles that must guide you in your decisions. Neither sympathy nor prejudice should influence your verdict. You are to apply the law as stated in these instructions to the facts as you find them and, in this way, decide the case.

**II. Evidence**

The evidence from which you are to find the facts consists of the following:

1. The testimony of the witnesses;
2. Documents and other items received as exhibits; and
3. Any facts that are stipulated—that is, formally agreed to by the parties.

The following things are not evidence:

1. Statements, arguments, and questions of the lawyers for the parties in this case;
2. Objections by lawyers;
3. Any testimony I tell you to disregard; and
4. Anything you may see or hear about this case outside the courtroom.

You must make your decision based only on the evidence presented in court. Do not let rumors, suspicions, or anything seen or heard outside of court influence your decision in any way. You should use

your common sense in weighing the evidence. Consider it in light of your everyday experience with people and events, and give it whatever weight you believe it deserves. Certain rules control what can be received into evidence. When a lawyer asks a question or offers an exhibit into evidence, and a lawyer on the other side thinks that it is not permitted by the rules of evidence, that lawyer may object. An objection simply means that the lawyer is requesting that I make a decision on a particular rule of evidence. Objections to questions are not evidence.

You should not be influenced by the objection or by my ruling on it. If the objection is sustained, ignore the question. If it is overruled, treat the answer like any other.

### **A. Direct and Circumstantial Evidence**

Evidence may either be direct or circumstantial. Direct evidence is direct proof of a fact, such as testimony by a witness about what that witness personally saw, heard, or did. Circumstantial evidence is proof of one or more facts from which you could find another fact. You should consider both kinds of evidence. The law makes no distinction between the weight to be given to either direct or circumstantial evidence. You may decide the case solely based on circumstantial evidence.

### **B. Credibility**

In deciding the facts, you must determine what testimony you believe and what testimony you do not believe. You are the sole judges of the credibility, or believability, of the witnesses. You may believe all, some, or none of a witness's testimony. In deciding which testimony to believe, you should use the same tests of truthfulness as in your everyday lives, including the following factors:

1. The ability of the witness to see, hear, or know the things the witness testifies to;
2. The quality of the witness's understanding and memory;
3. The witness's manner and behavior while testifying;
4. The witness's interest in the outcome of the case or any motive, bias, or prejudice;
5. Whether the witness is contradicted by anything the witness said or wrote before trial or by other evidence; and
6. How reasonable the witness's testimony is when considered in the light of other evidence that you believe.

Inconsistencies or discrepancies within a witness's testimony or between the testimonies of different witnesses may or may not cause you to disbelieve a witness's testimony. Two or more persons witnessing an event may simply see or hear it differently. Mistaken recollection, like a person's failure to recall, is a common human experience. In weighing the effect of an inconsistency, you should also consider whether it was about a matter of importance or an insignificant detail. You should also consider whether the inconsistency was innocent or intentional.

The weight of the evidence to prove a fact does not necessarily depend on the number of witnesses who testified or the quantity of evidence that was presented. More important is how believable the witnesses were, and how much weight you think their testimony deserves.

You will now hear opening statements by the parties and the presentation of evidence. At the conclusion of the evidence, I will instruct you on the law that you are to apply to the facts.

## **POST-TRIAL INSTRUCTIONS**

### **I. Duty of Jury; Apply the Law**

Members of the jury, you have seen and heard all the evidence and the arguments of the lawyers. It is your duty to find the facts and to render a verdict reflecting the truth. You should consider all the

evidence, the arguments, contentions and positions urged by the attorneys, and any other contention that arises from the evidence. All twelve of you must agree to your verdict.

My role now is to explain to you the legal principles that must guide you in your decisions. You must not substitute or follow your own notion or opinion about what the law is or ought to be. You must apply the law that I give to you, whether you agree with it or not.

## **II. Presumption of Innocence; Reasonable Doubt; Burden of Proof.**

The defendant, Fran Lewis, pleaded not guilty to the offense charged. The fact that the defendant has been indicted is no evidence of guilt. The defendant is presumed to be innocent. The presumption of innocence means that Fran Lewis has no burden or obligation to present any evidence at all or to prove that they are not guilty.

The entire burden or obligation of proof is on the government to prove that Fran Lewis is guilty. This burden stays with the government throughout the trial. In order for you to find Fran Lewis guilty of the offense charged, the government must prove each and every element of the offense charged beyond a reasonable doubt.

Proof beyond a reasonable doubt does not mean proof beyond all possible doubt or to a mathematical certainty. A reasonable doubt is a fair doubt based on reason, logic, common sense, or experience. It may arise from the evidence, or from the lack of evidence, or from the nature of the evidence. Proof beyond a reasonable doubt is proof that fully satisfies or entirely convinces you of the defendant's guilt.

If, having now heard all the evidence, you are convinced that the government proved each and every element of a charged offense beyond a reasonable doubt, you should return a verdict of guilty for that offense. However, if you have a reasonable doubt about one or more of the elements of the offense charged, then you must return a verdict of not guilty of that offense.

## **III. Murder – First Degree. (Based upon U.G.S. § 14-17)**

The defendant has been charged with the offense of murder in the first degree. Under the law and the evidence in this case, it is your duty to return one of the following verdicts: 1) guilty of first-degree murder, or 2) not guilty.

First-degree murder is the unlawful killing of a human being with malice and with specific intent formed after premeditation and deliberation. For you to find the defendant guilty of first-degree murder, the state must prove six elements beyond a reasonable doubt:

1. First, that the defendant intentionally and with malice killed the victim. Malice means not only hatred, ill will, or spite, as it is ordinarily understood, but it also means the condition of mind which prompts a person to intentionally take the life of another or to intentionally inflict serious bodily harm that proximately results in another person's death without just cause, excuse or justification. If the State proves beyond a reasonable doubt that the defendant intentionally killed the victim with a deadly weapon or intentionally inflicted a wound upon the deceased with a deadly weapon that proximately caused the victim's death, you may infer first, that the killing was unlawful, and second, that it was done with malice, but you are not compelled to do so. You may consider this along with all other facts and circumstances in determining whether the killing was unlawful and whether it was done with malice.
2. Second, that the defendant's act was a proximate cause of the victim's death. A proximate cause is a real cause, a cause without which the victim's death would not have occurred, and one that a reasonably careful and prudent person could foresee would probably produce such death. The defendant's act need not have been the only cause, nor the last or nearest cause. It is sufficient if it occurred with some other cause acting at the same time, which, in combination with, caused the death of the victim.

3. Third, that the defendant intended to kill the victim. Intent is a mental attitude seldom provable by direct evidence. It must ordinarily be proven by circumstances from which it may be inferred. An intent to kill may be inferred from the nature of the assault, the manner in which the assault was made, the conduct of the parties and any other relevant circumstances.
4. Fourth, that the defendant acted with premeditation. According to the law, premeditation means that the defendant thought about taking a human life and reached a definite decision to kill before acting, even if that time was only seconds.
5. Fifth, that the defendant acted with deliberation, which means that the defendant acted in a cool state of mind. The defendant need not exhibit a total absence of passion or emotion. If the intent to kill was formed with a fixed purpose, not under the influence of some suddenly aroused violent passion, it is immaterial whether the defendant was in a state of passion or excited when the intent was carried into effect. Neither premeditation nor deliberation is usually susceptible of direct proof; rather, they may be inferred from circumstances, such as the lack of provocation by the victim, conduct of the defendant before, during and after the killing, threats and declarations of the defendant, use of grossly excessive force, infliction of lethal wounds after the victim is felled, brutal or vicious circumstances of the killing, manner in which or means by which the killing was done, or ill will between the parties.
6. Sixth, that the defendant did not act in self-defense or that the defendant was the aggressor in provoking the fight with the intent to kill or inflict serious bodily harm upon the deceased.

If you find from the evidence that the above elements have been proved beyond a reasonable doubt, it is your duty to return a verdict of guilty of first-degree murder. If you do not so find, or have a reasonable doubt as to one or more of these things, it is your duty to return a verdict of not guilty of first-degree murder.

You may now retire to the jury room to deliberate.

**STATE OF UTOPIA**

File No.

23-CRS-1234

MORSE County

In The General Court Of Justice  
Superior Court Division  
Before The Clerk

**IN THE MATTER OF:**

*Name Of Action*

State of Utopia v. Fran Lewis

**GENERAL VERDICT**

G.S. 15A-1237

We, the jury, return as our unanimous verdict that the defendant is:

- (1) Guilty of murder in the first degree. \_\_\_\_\_
- (2) Not guilty. \_\_\_\_\_

*Date*

*Name Of Foreperson Of The Jury (Type Or Print)*

*Signature Of Foreperson Of The Jury*

EXHIBIT 1-A

Boots retrieved from Fran Lewis's residence



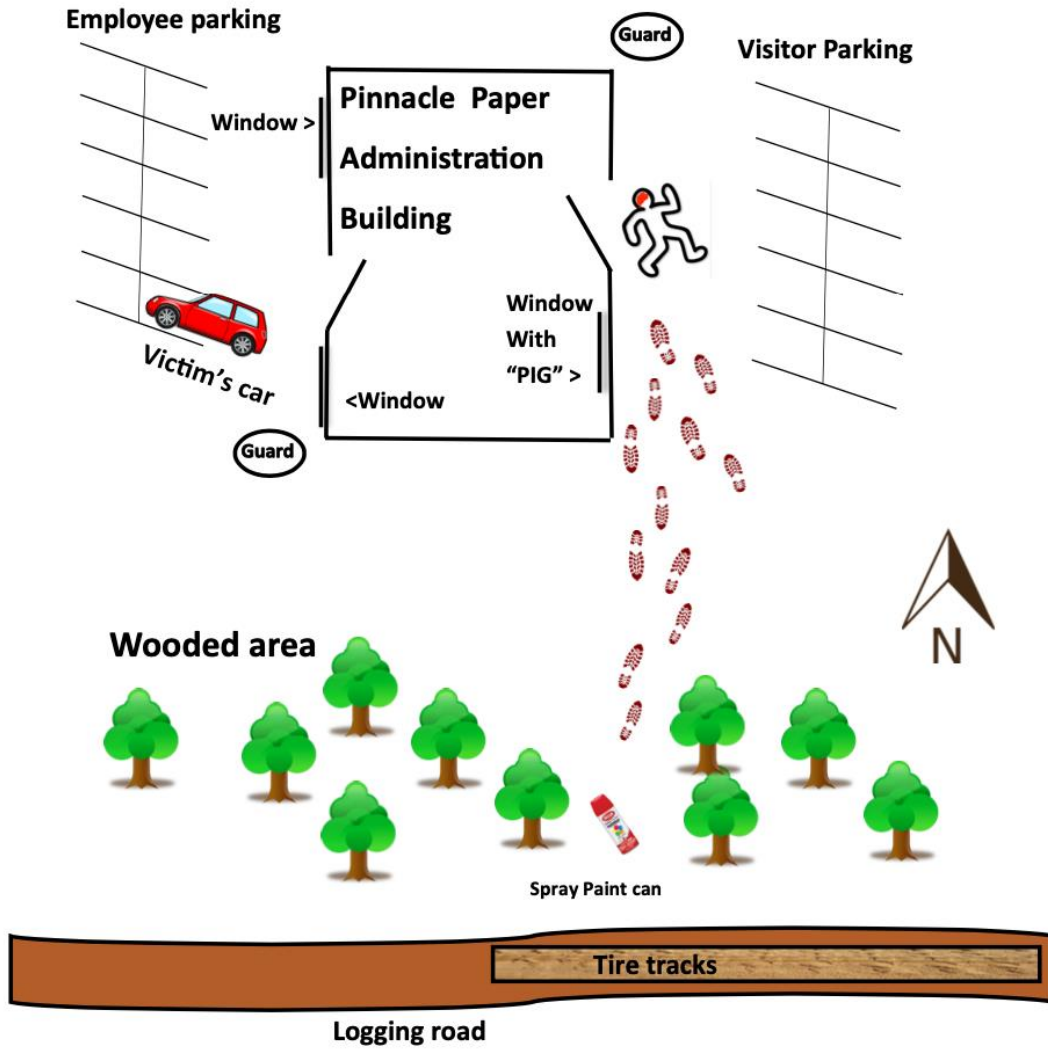


EXHIBIT 1-B

Foot print found near logging road



EXHIBIT 2



**DRAWING NOT TO SCALE**

EXHIBIT 3



EXHIBIT 4

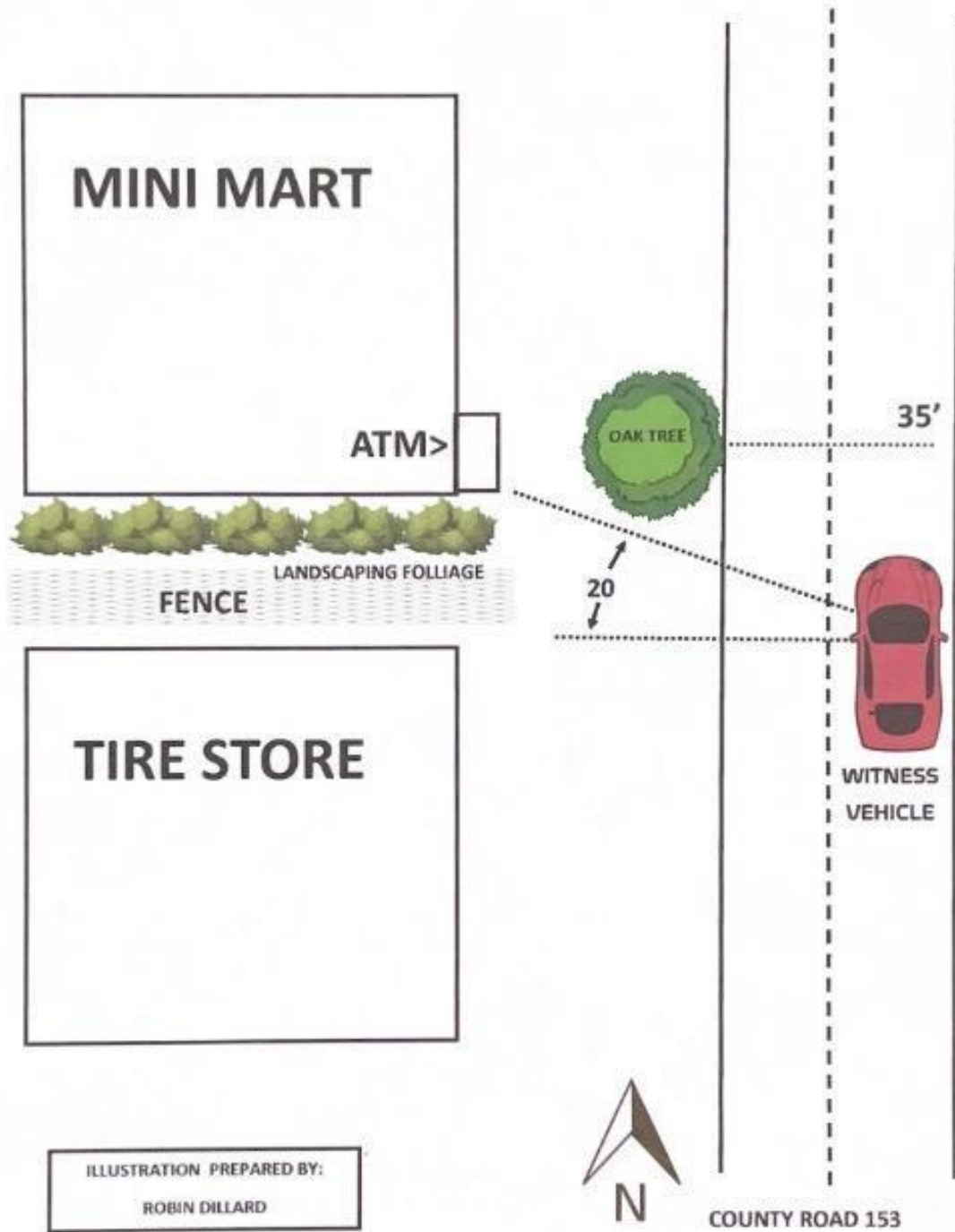


ILLUSTRATION PREPARED BY:  
ROBIN DILLARD

## EXHIBIT 5

### ROBIN S. DILLARD, PhD

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Dynamics, PLLC | 1412 Middlebrooks Circle, Stamford, UI 27615 | (888) 396-2642

#### EMPLOYMENT

##### **FOUNDER AND CEO**

*Dynamics, PLLC*

APRIL 2003 TO PRESENT

*Stamford, Utopia*

Technical forensic investigation, analysis, and deposition/trial testimony regarding accidents and failures involving vehicles and pedestrians. Areas of work and expertise include accident reconstruction, engineering analysis, technical investigation, visibility assessment, road sign failure analysis, standards research, and laboratory testing in the areas of mechanical and biomedical engineering applied to vehicle accidents.

##### **CHIEF ENGINEER**

*Honda Motors, Crash Analysis Division*

JUNE 1993 TO MARCH 2003

*Clearbank, Georgia*

Promoted to Chief Engineer in August 2000. As Chief Engineer, designed and performed experimental investigations to test vehicles for industry safety standards. Conducted failsafe research and predictive models for all vehicle types (commercial vehicle/heavy trucks, automobiles, motorcycles, and marine vessels including recreational and personal watercraft).

Worked as Engineering Technician until promotion in August 2000. As an Engineering Technician, assisted engineers with investigations and analysis of accidents and failures. Performed standards research. Designed and prepared industrial commission exhibits.

#### EDUCATION

**D.Sc., MECHANICAL ENGINEERING** MAY 1994  
*University of Utopia*  
Chapel Grove, Utopia  
Graduated with Honors

**B.S., MECHANICAL ENGINEERING** MAY 1993  
*University of Utopia*  
Chapel Grove, Utopia  
Summa cum Laude  
Dean's List 1985-1989

#### PUBLICATIONS

"Road Design and Systems Failure," *American Automotive Engineering Journal*, July Issue 2020

"Impacts of Speed on Vision," *American Automotive Engineering Journal*, March Issue 2015

"Breakthroughs in Black Box Analysis," *Honda Quarterly Magazine*, Summer Issue 2001

#### MEMBERSHIPS AND AFFILIATIONS

ASME - American Society of Mechanical Engineers

URSC - Utopia Road Safety Commission

UUSEC - University of Utopia School of Engineering Counsel

EXHIBIT 6

CURRICULUM VITAE  
DAKOTA WILLIAMS

**WORK EXPERIENCE:**

**Laboratory Analyst/ Examiner**, Utopia Department of Law Enforcement, December 2013- Present

**Agent**, Federal Bureau of Investigation, Quantico Virginia, August 2011 - December 2013

**TRAINING AND EDUCATION**

Bachelor of Forensic Science, Utopia University [2009]

FBI National Academy 145th Session, Quantico Va, June 2010

Advanced Latent Fingerprint School FBI Academy, July 2011

Crime Scene Technician's School FBI Academy, June 2011

Tire Tread Pattern Analysis Seminar, August 2012

Homicide Investigation Training Seminar, Southern Police Institute University of Louisville, Louisville, Kentucky, November 2012

**CERTIFICATIONS:**

Certification in Latent Print identification, International Association for Identification June 2011

American Academy of Forensic Sciences 2012

**PUBLICATIONS**

**"Thermal Latent Print Development,"** July-August 2020 Issue, Evidence Technology Magazine.

**"Compton + Grady's Natural 1 IR Fluorescent Fingerprint Powder"** An Independent Product Review, Nov.-December 2015 Issue, Evidence Technology Magazine.

EXHIBIT 7-A



Photo of Fran Lewis's truck tire

EXHIBIT 7-B



Plaster cast of tire track found near logging road.



EXHIBIT 7-C

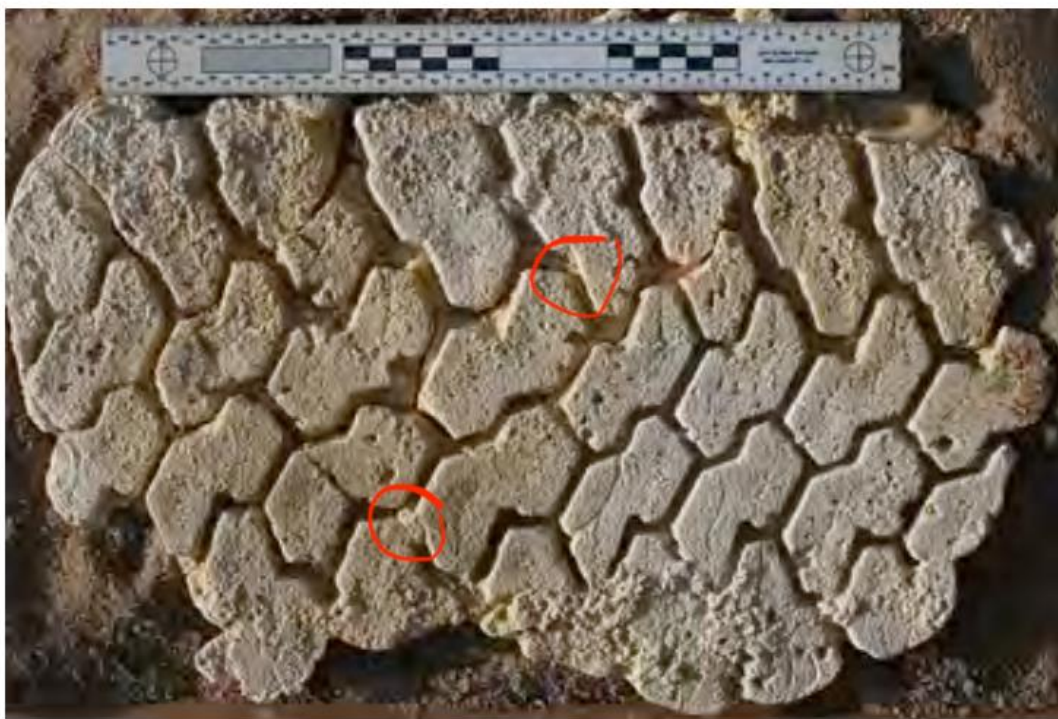


EXHIBIT 8

Email from Pat Winter to Pinnacle Paper Company Security Team

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**ATTENTION - Change to Night Shift Patrols**

1 message

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Pat Winter <patw@theppc.com>  
To: PPC Security Team Mail List

Thurs, Jan 5, 2023 at 8:00 AM

Security Team:

Effective immediately, we will be increasing the 11:00 PM to 7:00 AM night shift security presence around the Pinnacle Paper Plant from two guards to three guards on patrol. This means that of the four guards on duty, three will be stationed at the Plant and one will be stationed at the Administration Building. The updated shift schedule is attached.

Sincerely,

--

Pat Winter  
Security Supervisor  
Pinnacle Paper Company  
888-765-5883  
[patw@theppc.com](mailto:patw@theppc.com)

EXHIBIT 9

Pinnacle Paper Co - Security Detail Roster		
Employee Shift Schedule		
<b>01/05/2023 - THURSDAY</b>	<b>ROTATION</b>	
<b>Morning Shift: 7:00 AM - 3:00 PM</b>		
Olivia Raney	Plant	
James Little	Plant	
Frank Rae	Admin-B	
Tia Mason	Admin-B	
<b>01/05/2023 - THURSDAY</b>		
<b>Afternoon Shift: 3:00 PM - 11:00 PM</b>		
Clarence Badey	Plant	
Ruth Yates	Plant	
Barry Burnes	Admin-B	
Reese Waters	Admin-B	
<b>01/05/2023 - THURSDAY</b>		
<b>Night Shift: 11:00 PM - 7:00 AM</b>		
George Harris	Plant	
Cameron Jones	Plant	
Casey West	Plant	
Sean Thomas	Admin-B	

**A SPECIAL THANK YOU to the many contributors who have made the 2023-2024 North Carolina High School Mock Trial Competition possible:**

**State Finals Presenting Sponsor:** Tacker LeCarpentier, Settlement Planning Services, LLC

**State Finals Host:** Campbell Law School

**Program Sponsor:** North Carolina Advocates for Justice

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Hickory: The Law Offices of Jason E. Taylor; Orndoff Law Firm

High Point: High Point Bar Association

Hillsborough: Patterson Harkavy LLP; and Mills & Mahoney, PA

Raleigh: Settlement Planning Services, LLC; and Maginnis Howard

Salisbury: Rowan County Bar Association

Wilmington: Shipman & Wright, LLP