

CASE DOCUMENTS

Legal Documents

1. Complaint
2. Answer
3. Reply
4. Midlands Case Law
5. Stipulations
6. Pretrial Order

Plaintiff Witness Materials

1. Alex Grace (Deposition)
2. Jameson Clark (Affidavit)
3. Dr. Willoughby Hawkins (Report) (*See* Special Instruction 16)

Defense Witness Materials

4. Danny Kosack (Deposition)
5. Ashley Thornhill (Affidavit)
6. Dr. Miller McCoy (Report) (*See* Special Instruction 16)
 - a. July 13, 2018 Report
 - b. July 16, 2018 Report

Non-Constrained Witness Materials

7. Hunter Cooper (Affidavit)
8. Tony Gomes (Affidavit)
9. Remy Hollis (Affidavit)
10. A.J. McClellan (Affidavit)
11. Harper Villafana (Affidavit)

EXHIBIT LIST

1. Blueprint of the MTS set
2. Photograph of Elias the chimpanzee
3. Biography of Elias the chimpanzee
4. Photograph of Chris Villafana (*See* Special Instruction 15)
5. Autopsy of Chris Villafana
6. Email chain among Kosack, Grace, and Clark (January 4, 2016 to May 31, 2017)
7. Email chain between Clark and Kosack (June 1, 2017 to June 27, 2017)
8. Email chain between Kosack and Grace (June 20, 2017)
9. Email chain among Kosack, Clark, Grace, and MTS Staff (June 21, 2017 to June 25, 2017)
10. Email chain between Hollis and Clark (May 22, 2017 to June 25, 2017)
11. Email chain among Rakelin, McClellan, and Clark (May 20, 2017 to June 28, 2017)
12. Text messages between Chris Villafana and McClellan (June 28, 2017)
13. Handwritten note by Clark
14. Dr. Jordan Rosenthal et. al., *Best Practices for Dealing with Live Animals in the Entertainment Industry*
15. Taping schedule for MTS (June 29, 2017)
16. Door notice for MTS
17. Transcript of Chris Villafana voicemail and accompanying declaration
18. Transcript of 911 call and accompanying declaration
19. Receipt for wine (June 28, 2017)
20. Handwritten letter
21. Monthly financial statements for the Midlands Animal Sanctuary (July 28, 2016 to June 28, 2017)
22. Civil Protection Order for Cooper
23. Danny Kosack, *Safety Guidelines for Elias and Danny Kosack's Upcoming Visit*

Litanies

Evidence—Direct

1. May I approach* opposing counsel with what has been pre-marked as exhibit X?
2. May I approach the witness with the same?
3. Would your Honor like a courtesy copy?***
4. What have I just handed to you?
5. Is it a fair and accurate copy?
6. Has it been changed or altered in any way?
7. [Add any other necessary foundational questions here—803(6), etc.]***
8. At this time Plaintiff*/Defense moves to offer exhibit X into evidence.

Evidence—Cross

1. May I approach opposing counsel with what has been pre-marked as exhibit X?
2. May I approach the witness with the same?
3. Would your Honor like a courtesy copy?
4. I have just handed you _____, correct?
5. And it is a fair and accurate copy?
6. It has not been changed or altered in any way?
7. [Add any other necessary foundational questions here—803(6), etc.]
8. At this time Plaintiff/Defense moves to offer exhibit X into evidence.

Impeachment**

1. [Witness contradicts prior statement]
2. Is that your in-court testimony today?
3. You remember preparing an affidavit/giving a deposition in today's case?
4. May I approach opposing counsel with the witness' affidavit?
5. May I approach the witness with the same?
6. I have just handed you your affidavit/a transcript of your deposition, correct?
7. And that's your signature on the back?
8. And you are aware that you had up to twenty-four hours before the start of today's trial to make any changes or updates to this affidavit/deposition?
9. If you'll turn to line X and read silently as I read aloud: [WITNESS' LIES].
10. Did I read any part of that incorrectly?
11. **Leave it. You're done. Please do not ask any clarifying or follow up questions.**

Notes

* during pretrial co-counsel/you will ask the judge's preference on permission. Try to remember what they say, but if you can't in the moment ask the first time and take note of whether they tell you that you don't have to.

SIDE NOTE:

If the judge says you don't need to ask for permission, **do not say "let the record reflect"**. The record will already reflect whatever you say, so just say "I am approaching ____ with exhibit X".

** again, listen to the judge. If they say no the first time **don't keep asking**.

*** these questions will be open ended on direct and yes/no on cross

EXAMPLE:

Was this record kept in the regular course of business? → Direct

And this is a record kept in the regular course of business? → Cross

* Change to Prosecution in a **Criminal** case

** This can also be done with exhibits. **This impeachment will look more like an evidence litany.**

SUMMER LAW INSTITUTE 2019
BELLARMINE MOCK TRIAL CASE SUMMARY
Midlands Television Studios v. Danny Kosack

What is this case about?

On June 29, 2017 Elias the Chimpanzee and his trainer, Danny Kosack, appeared on the hit TV show Midlands After Dark with Alex Grace to showcase their newest trick. Elias would sit next to Alex Grace, the host, while Danny fed him hand signals off stage, to make it look like Elias was responding to Alex’s questions solo. Unfortunately, for whatever reason Elias’ trick turned into a tragedy. During a pre-show rehearsal scheduled by the studio, Elias entered a startle reaction, became agitated, and attacked a writer for the show named Chris Villafana. As a result, Chris died later that day and the show was cancelled. Danny Kosack was forced to close the animal sanctuary, and Elias was put down in the studio by Emergency Responders. After the attack, MTS sued Danny Kosack for negligence, and Danny Kosack in turn countersued MTS for negligence. Your job as the lawyers and witnesses for either side is to convince the jury that it is the other side’s fault that Elias attacked. Below you will find some answers to the question of: how are we supposed to do that?

Who are the witnesses? (witnesses with a star may be called during Summer Law)

PLAINTIFF	DEFENSE	EITHER SIDE
<p>*Alex Grace—the hot-shot host of Midlands After Dark. Alex claims that Danny Kosack doesn’t know how to work with animals. However, the Defense claims that Alex Grace caused the attack by reaching towards Elias as he was in the startle reaction.</p> <p>*Dr. Hawkins—A primatologist who will testify about whether Elias was right for the show. Dr. Hawkins is half of the science behind the attack.</p> <p>Jameson Clark—The show’s talent booker, Jameson Clark handled the brunt of the prep for the show.</p>	<p>*Danny Kosack—Elias’ trainer, Danny believes that MTS caused the attack by not following instructions. MTS believes that Danny Kosack didn’t give them the right instructions.</p> <p>Ashley Thornhill—Alex Grace’s former assistance who believes that the show’s host is an alcoholic. But Ashley happens to have an anger problem, and will do anything for revenge after a failed career.</p> <p>* Dr. McCoy—The other half of the science, Dr. McCoy will talk about the startle reaction in depth and explain why this so-called reach is so important.</p>	<p>*Hunter Cooper—A... researcher (stalker), this Alex Grace superfan saw EVERYTHING the day of the attack, including Alex Grace leaning towards Elias at a crucial moment.</p> <p>*AJ McClellan—A movie star on set to entertain, McClellan saw Alex Grace reach right... towards... Elias IMMEDIATELY before the attack occurred.</p> <p>*Harper Villafana—Chris’ spouse who visited MTS right before the attack and saw some of the pre-show preparations and who interviewed Danny Kosack about Elias’ training. One thing is for certain—this witness has a bone to pick with both sides.</p> <p>Tony Gomes—An HR rep for the studio, Gomes happened to be standing by the studio door that day... an saw some suspicious actions by both sides.</p> <p>Remy Hollis—A band manager who didn’t see much, but did see some chicken wings and a cat, which piqued the interest of the experts.</p>

So what are the themes?

A theme is kind of like a catch phrase. Each side repeats their theme throughout the trial in the hopes that the jury will remember it and be subconsciously drawn to believe that side. Think of Johnny Cochran’s famous “if the glove fits, you must acquit!” The themes for each side in this case are...

Plaintiff	“What you don’t know, will hurt you”
Defense	“Don’t do that!”

Earlier you said both sides sued for negligence. What is negligence?

Negligence is one of the more foundational legal principles. There are 4 elements, explained below (plus descriptions of how each side will argue them!)

Element	Plaintiff	Defense
1. A duty was owed	Already determined! The Defense was supposed to (1) choose an appropriate animal, (2) properly train said animal, and (3) take other reasonable steps to ensure safety.	Already determined! The Plaintiff was supposed to (1) follow Danny Kosack's instructions and (2) take other reasonable steps to ensure safety.
2. That duty was breached	Danny Kosack failed to properly train Elias, and based on the 4 determining factors Elias was not an appropriate choice for the show. Not only that, but Danny Kosack failed to tell MTS this!	MTS did not follow the written guidelines or make sure everyone read them. Worse, Alex Grace ignored Danny Kosack's spoken instruction by reaching towards Elias.
3. Because of that breach...	When Danny Kosack did not give MTS proper instructions, they were unable to adequately prepare for Elias. As a result of Danny Kosack's silence, Elias attacked.	Alex Grace's reach was a DIRECT and PROXIMATE cause of this attack. Because Alex Grace reached, Elias became violent.
4. Harm was suffered	Already determined! The Plaintiff lost their show.	Already determined! The Defense lost their sanctuary and their star performer.

Okay! Is there anything else I need to do?

Yes! The bane of every mock trialer's existence is pronouns in trial. They switch every round and can be a pain to keep track of. Before we go any further, please mark the pronouns of each character listed below and work on memorizing them—unlike competition, we know the pronouns for this trial SIX FULL DAYS in advance, which gives us plenty of time to learn them! Make sure you go through the material and correct/note the proper pronouns ASAP, so that you can get comfortable with them as you learn the material.

CHARACTER	PRONOUNS
Elias	He/Him/His
Alex Grace	
Danny Kosack	
Haper Villafana (also gets to choose the pronouns for Chris Villafana)	
Hunter Cooper OR AJ McClellan (depending on which one we decide to call)	
Dr. Hawkins	
Dr. McCoy	
Chris Villafana	

For everyone else, we will be defaulting to the following pronouns: _____