

Crosses

Hunter Cooper Cross

Plaintiff

1

Kosack Talking to Self

1. You were on the set of Midlands After Dark on June 29th? (43)
2. There was an animal performance scheduled for that day? (39)
3. And the defendant Danny Kosack was the animals trainer? (45-46)
4. Now, on the day of the rehearsal, in your words, you would say that the Defendant was fidgety (60)
5. And she appeared angry? (60)
 - a. *Objection: Pursuant to rule 701(A) Rationally based off witnesses perception*
6. S/he was mumbling? (66)
7. S/He said "maybe it's too soon" (66)
8. They also said: "It can't be like last time, Elias is different now" (66-67)
9. "I can give Elias something to get through this, we need to get through this" (67-68)
10. And finally S/he said "Thank goodness no one will be there to see this rehearsal. If something does happen, Grace deserves whatever Grace gets" (69-70)

Danny Leaves Stage

11. You saw Elias and the defendant go on stage for the performance? (83-84)
12. The defendant remained on stage with Elias and Alex Grace? (85?)
13. And at this point nothing seemed off to you isn't that right? (88)
 - i. Elias wasn't jumping or screaming at that point was he sir/ma'am?
14. Danny Kosack then moved off the stage (89)
15. The Defendant Left Elias alone with Alex Grace on stage (93)
16. Immediately before the attack happened, Alex Grace was the person closest to Elias? (93).

The Funeral

1. A few days after the attack, you attended the funeral of Chris Villafana? (140)
2. The Defendant was there? (145)
3. You heard the defendant say "I never should have been so far away during something that was new to Elias" (147-148)

Sanctuary Losing Money

1. Mr/s. Kosack, you owned and operated Midlands Animal Sanctuary at the time of the attack? (Line 16)
1. And the animal sanctuary was in financial trouble in the year leading up to the Midlands After Dark appearance? (Line 388-389)
2. The sanctuary had run a deficit for an entire year? (Line 381)
3. You were losing money every month? (Line 381)
4. In fact, you were going out of business unless something changed? (Line 388-389)
5. And so you “needed the publicity immediately to save the sanctuary?” (Line 299)

Booking the Show

6. And in time that you knew you needed immediate publicity, you booked a show date on Midlands After Dark? (Ex 7)
7. You made that booking decision in early June?
8. You were given a date in June, and then sometime after the 4th July?
9. You quickly chose the June date, didn't you?
10. But, at that time, you didn't plan to transition to Elias fixed-ratio reinforcement until early July, is that correct?
11. Specifically, you were training him to respond to new commands, weren't you?
12. The ones that you would communicate to Elias while you were off stage during Midlands After Dark? (Line 104-112)
13. And that was your very first time using hand signals during a performance? (Line 113-114)
14. And knowing that Elias would not be trained for those hand signals, you selected the June 29th performance date?
15. Even though you were offered a date later in July?
16. So, as of June 29, 2017, Elias was only accustomed to receiving a reward every time that he performed an interview trick in response to a hand command? (Line 128-130)

Telling MTS about the training/startle reaction

17. In fact, you were “concerned that the training wouldn't be fully completed by June 29th?” (Line 294-295)
18. “Of course, [you] didn't want to tell Grace that?” (Line 295)
19. The guidelines you provided to MTS were silent as to what a startle reaction looked like right?
20. Elias experienced a startle reaction in 2015 on the T.V. show “Safari Trip” ? (Line 136-137)
21. In fact, that was the only other time, in addition to this incident, that you didn't transition to that fixed-ratio training? (Line 137-138)

22. You didn't update your guidelines to advise our client on how to handle a startle reaction by Elias did you?
23. And not one time, in all these interactions with Alex Grace or anyone else, did you ever inform anyone at MTS about what a startle reaction was?

Safety Meeting and Scratches

24. It is a standard practice in your field to have a safety meeting, isn't it? (Line 284)
25. But you never held such a meeting with our client? (Line 285)
26. Elias was upset in the dressing room before the show right? (Line 489)
27. In fact he was screeching in that dressing room? (Line 451)
28. Elias even wounded you on the day of the show? (Line 381-385, Stipulation 18)
29. But you didn't tell Alex Grace about that? (Line 381)
30. Even though he asked you *directly* about the scratches on your arm, you didn't tell him? (Line 381)
31. And knowing this, that Elias had been upset and violent towards his trainer earlier that day, you don't think it would have been reasonable to tell our client what to do if he got upset *during* the show?
32. And even then, you never made sure that Elias got to do a walkthrough, did you?
33. And we can agree that you "never should have let Elias go out there without doing the walkthrough"? (Line 467-468)

Thank you, Mr(s). Kosack. No further questions, your Honor.

Guidelines

1. You had been booked to appear on Midlands After Dark for June 29th (10)
2. Before your appearance, you were in your dressing room (30)
3. While you were there, MTS provided you with a printed copy of the guidelines (30)
4. And you saw that those guidelines were for an animal appearance (30)
5. And that animal was Elias the chimpanzee? (84)

Danny Leaves Stage

6. You were present during the rehearsal? (52)
7. You saw Alex on stage? (116-117)
8. Along with Danny and Elias (116-117)
9. In the first few minutes, the interview was normal (116-130)
10. But then, Danny Kosack walked off the stage. (127)

Elias alone with Grace

11. Elias was alone with Alex Grace (126-127)
12. While the defendant stood by a group of writers off stage? (127-128)
13. Only after the Defendant left, that's when the chimpanzee started to make some noise? (132)

Danny Did Nothing

14. Danny Kosack was the animal trainer, right? (21-22)
15. And when Elias started screaming, The Defendant didn't say anything did S/he? (139)
16. In fact, Danny Kosack didn't tell anyone to stop did S/he? (139)
17. Now, thinking back to those guidelines we talked about...I have a copy of them right here sir- can you show me where in here that it tells you what to do in the event Elias becomes upset? (Ex. 23)

No further questions.

Training and Booking

1. Now Doctor as part of your retention you were asked to examine Dr. Hawkin's conclusions regarding Elias' training? (7)
2. And you agree that a trainer cannot only rely on giving the animal a treat every time they perform a trick in order to train that animal? (HAWKINS 198)
3. And that trainers are advised to eventually transition to giving the animal a treat only some of the time they perform the trick? (HAWKINS 205)
4. And your contention is that given the time constraint Danny Kosack was operating under that his decision to give Elias a treat each time he performed a trick was reasonable? (120)
5. You're familiar with booking emails between Danny Kosack and Jameson Clark, MTS' booking agent? (Ex. 7)

I am approaching opposing counsel with Exhibit 7.

May I approach the witness with the same?

Would your Honor like a courtesy copy?

Dr. McCoy, I've just handed you those booking emails.

They're a fair and accurate copy, aren't they?

They haven't been changed or altered in any way?

At this time Plaintiff moves to enter Exhibit 7 into evidence.

- a. Danny Kosack was offered two options by Jameson Clark?
 - b. One after the fourth of July?
 - c. And one on June 29th?
 - d. And Danny Kosack did not plan on transitioning Elias to a partial reinforcement schedule until early July?
 - e. But yet he still chose the June 29th date?
 - f. Knowing that this training would be incomplete?
 - g. So Danny Kosack set that timeline himself?
6. Now the specific training we are talking about is for commands that were new to Elias? (130, KOSACK)
 7. And Elias was used to receiving a treat each time he performed a trick with these new commands?
 8. And he had only performed with that expectation once before? (134, KOSACK)
 9. On Safari Trip? (134, KOSACK)
 10. Now you would agree with me that Kosack's substantial distance at the time cannot be ruled out as a contributing factor to Elias' behavior? (159)
 11. And that Elias may have become nervous by the distance? (159)
 12. And attacked Villafana as a result? (159)

Plaintiff

13. And again, on Safari Trip there was also some distance between Danny Kosack and Elias?
(191, KOSACK)
14. And it was Danny Kosacks idea to place herself off stage?

Guidelines

1. Now, let's talk about those guidelines Mr(s). Kosack sent to MTS. **Your Honor, may I approach and retrieve Exhibit 23?... May I approach the witness with the same?**
2. In these guidelines there is no mention of startle reaction, correct?
3. No mention of what to do if one happens?
4. But Elias, he exhibited a startle reaction in 2015, didn't he?
5. And these guidelines hadn't been updated since 2013, isn't that right? (All on Ex. 23)

Thank you, Dr. McCoy. No further questions, your Honor.

- 1. Please introduce yourself to the members of the jury.**
 - a. Hi, I'm Jameson Clark.
- 2. What do you do for a living, Mr(s). Clark?**
 - a. Well right now I'm working for Midlands Television Studios on Alex Grace's new show, Keeping Up With the Graces.
- 3. How long have you worked for MTS?**
 - a. Since 2014, when Alex discovered me working at this local coffee shop in LA, booking acts to perform. (S)he had his/her agent call me and offer me a job as a talent booker on their newest show, Midlands After Dark.
- 4. I see. How long did you work on Midlands After Dark specifically?**
 - a. Three years. The show was cancelled in 2017 after... well, after that horrible chimpanzee attack.
- 5. We'll come back to that attack, Mr(s). Clark, but first I want to talk a bit more about your job at Midlands After Dark. What does a talent booker do?**
 - a. Well, exactly what it sounds like. We book the talent. I like to think of myself as the Simon Cowell of Midlands entertainment, you know, that's a no from me? But jokes aside, it was my job to find talent and bring them to the show.
- 6. What kind of talent did you usually have on the show?**
 - a. Oh, all sorts. Singers, dancers, comedians... once we even got this yo-yo guy to come on... it sounds super lame, but man did he have talent. The only thing was the talent had to be good-- "ratings gold", as it were. They had to be entertaining but not offensive, talented but not cheesy. Being a talent booker, it involves a lot of balancing and a lot of compromise.
- 7. What do you mean by compromise?**
 - a. Well, we had to keep the studio brass *and* the talent happy. That was a big part of my job, was to cater to the needs of the talent while making sure they didn't tank our ratings.
- 8. Now, earlier you mentioned a chimpanzee attack. Were you talking about Elias and Danny Kosack?**
 - a. I was.
- 9. When were they scheduled to appear?**
 - a. I first reached out to Danny on June 1st, 2018. (S)he replied on June 8th, and we finalized the date on June 12th. They were scheduled to appear on June 29th, 2018.
- 10. Mr(s). Clark, had you ever booked an animal act before?**
 - a. No, I hadn't. Alex got squeamish around animals, but Elias seemed perfect for our show so Alex insisted that we book him. I have to say, after doing my own

research on Elias and seeing him in action, I agreed. Of course, that was before Elias killed one of our best writers.

11. You said doing your own research and seeing Elias in action, what do you mean by that?

- a. Well, I found some footage of Elias performing on this show, Safari Trip, in late 2015. Not a show from our studio, but a good show nonetheless. Elias had a couple of fits of screaming on that show, which worried me, so I also visited Danny's animal sanctuary to ask Danny about it.

12. When was that visit?

- a. June 18, 2017. 11 days before Elias was scheduled to appear.

13. Could you tell us about that visit?

- a. Sure. I found Danny and Elias in this auditorium, and it looked like they were working on some kind of trick. Danny would make a sign with his hand, Elias would either nod, cover his face, or laugh, and the Danny would walk over and give him a piece of fruit. He did this after each reaction by Elias. So it went signal, reaction, treat, signal, reaction, treat, and so on.

14. Was that the case with each trick you saw?

- a. Well, there was one that was different. Danny made a thumbs down and instead of doing one of those three reactions Elias ran over to him/her.

15. Do you know whether that was planned?

- a. I don't think so. After it happened, Danny said "c'mon, Elias, you're supposed to shake your head".

16. Did you ask Danny about that?

- a. I did, and (s)he said that if Elias wasn't ready, Danny would rather pull Elias from the performance than bring Elias to the show. That comforted me at the time, so I left the sanctuary.

17. Mr(s). Clark, did Danny Kosack have any communication with the studio prior to June 29th?

- a. Oh yes. Like most of our guests, Danny came with his/her own list of demands.

18. Would you recognize that list if you saw it today?

- a. Yes.
- b. **May I approach and retrieve exhibit 23?**
- c. **May I approach the witness with the same?**

19. Now, Mr(s). Clark, what did you do with this list once you got it?

- a. Well, I got to work. I made sure there weren't any other animals on set, I made sure Alex didn't eat that day, which was easy since Alex skips lunch, I gave them our most soundproof dressing room so Elias could have a quiet place to rest. I

even got Danny the canned sparkling water (s)he wanted. I made sure to address each of his/her demands.

20. Was everyone on your team familiar with this list?

- a. Oh yes. Alex sent this list to all of us, and I even held a meeting to go over it. Alex and his make up artist weren't there, but they did have the list, I know that for sure. You'd have to ask them if they read it, but I know they had it.

21. You said you held a meeting to go over this list. Was Danny Kosack at that meeting?

- a. No, (s)he wasn't. (S)he was supposed to have her/his own meeting, it says so right at the top of this list, but that never happened.

22. Did you do any preparations outside of this list?

- a. Yes. Since Elias was our first animal act, we made sure to follow the industry standards. We scheduled a pre-show rehearsal, which we didn't normally do, to help ease Elias into the set. We even consulted an outside expert.

23. Were you at the studio when the attack occurred?

- a. No, I wasn't. I woke up sick that morning. But, I had done all the preparations beforehand, and I had made sure everyone knew exactly what to do. When I heard about what had happened, I was speechless.

Thank you, Mr(s). Clark. No further questions, your Honor.

1. Please state your name for the members of the jury
 - a. Good [time of day], my name is Alex Grace.
2. Why are you here today?
 - a. On June 29 2017 there was a tragic incident involving one of my writers, Chris Villafana. He was attacked by the defendant's chimpanzee- and he actually died later that night.
3. Mr. Grace, before we go into that, how did you get involved in television?
 - a. [CHARACTER]
4. What did you do at MTS?
 - a. I was the exec producer for the show, Midlands After Dark, with yours truly, Alex Grace.
5. Can you tell the members of the jury about your show?
 - a. Basically it's the standard late night talk show format. I have 3 or 4 guests come on. I ask them a couple questions and then we always end with a musical act.
6. Were you in charge of all of that?
 - a. I was in charge of all the creative oversight for the show. Working closely with my writers, my booking assistant Jameson Clark. And maintaining ad revenue for the show.
7. So guests, what kind of guests did you have?
 - a. It was mainly my celebrity friends, every now and then we had a hip new musical act, anything that would keep the audience entertained.
8. So is that how you got Danny Kosack on your show?
 - a. Kind of. At first, he would send me email after email after email wanting to be on the show. I didn't really reply back. But, after some time, one of my interns, he showed me this *amazing* video of this chimpanzee and I knew that was the kind of thing I was looking for for my show. I found out that the chimps, his name was Elias, belonged to Danny Kosack and that's when I replied back telling him that he could be on the show.
9. What day was the defendant scheduled to appear?
 - a. June 29, 2017
10. Was that the first time you'd had an animal on set?
 - a. Yes
11. Did you know how to prepare for that?
 - a. No, since this was going to be the first time any one had dealt with an animal on set before. So, we consulted 1 2 3 5 experts on what we were supposed to do.
12. Did you consult with Danny Kosack?

- a. *Yeah*, all we got from him was a list of safety guidelines
- 13. Would you recognize those guidelines if I showed them to you today?
 - a. Yes
- 14. *I'm approaching opposing counsel with what's been premarked as Plaintiff's 23*
- 15. *May I approach the witness?*
- 16. *Mr. Grace, what did I just hand you?*
 - a. *These are those safety guidelines the Danny Kosack sent to us*
- 17. *Is it a fair and accurate copy?*
 - a. **Look through the document*. Yes, it is.*
- 18. *Has it been changed or altered in any way?*
 - a. **Briefly look through again*. No, not that I can see.*
- 19. *At this time, your Honor, Plaintiff offers exhibit 23 into evidence.*
 - a. *Hearsay*
 - i. *Objection response: opposing party statement*
- 20. Prior to the incident- did you know what a startle reaction is?
- 21. Now, you can take your time to look through these guidelines, but do the words "startle reaction" show up anywhere?
 - a. Look- We have talked about this before. There was nothing about startle reactions in there. Noting.
- 22. Do you know what a startle reaction is?
 - a. No, I have no idea what that is and Danny Kosack never told me anything about it.
- 23. Now, I want to talk about what happened that day, June 29, 2017. How did you start the day?
 - a. Well, normally before the show, I go visit my guests to make sure they're ready for the show. I went to Mr. Kosack's dressing room and then we talked about the trick for the rehearsal.
- 24. Would you be able to tell us about that trick?
 - a. Yes, of course
- 25. Enter enlargement plus exhibit**
- 26. What is this?
 - a. It's the set
- 27. Can you walk the members of the jury of the trick that was supposed to happen?
 - a. Sure after I gave my monologue. Mr. Kosack and Elias would walk into the stage and I would shake their hands and get them seated. Then I would ask Mr. Kosack a couple of questions and then he would move off the stage and it would be just

me and Elias, so I would ask him a couple of questions and Mr. Kosack would feed him hand signals so it would look like Elias was answering my questions.

28. Return to seat

29. After you discussed the trick with the defendant, did you feel like you were ready for the rehearsal?

- a. Yeah I felt ready, but when I was in the dressing room Elias started screaming and holding onto the bars and everything. So I asked Mr. Kosack do we need to cancel or reschedule the show but he assured me that Elias was just nervous.

30. How did the rehearsal start?

- a. I got on and did my monologue then Mr. Kosack and Elias got onto the stage and I got them seated and began the interview and after the interview started, The Defendant left the stage, and behind my group of writers.

31. What happened when The Defendant left the stage?

- a. Well all I could ask was a couple of questions and then that's when Elias stood up in his chair and started screaming and right next to me.

32. So you had this chimpanzee inches away from you, screaming *pause* did you know what to do?

- a. Absolutely not. I was terrified I mean he was right next to me and I didn't know what to do. Nobody told me what to do. I froze. That's it.

33. Did you see or hear the defendant do anything?

- a. No. Not at all.

34. Mr. Grace, *pause* I know this may be difficult, but can you tell the members of the jury what happened next?

- a. Elias jumped out his chair, he charged towards the writers and I immediately went under my desk. And that's when the screaming started. I didn't know who it was, but it was god-awful.

35. Mr. Grace- during the attack- did you hear the defendant say anything?

- a. I yelled, and I shouted. I just wanted someone to do something. I thought Danny would do something. I didn't hear a thing. Not even a word.

Thank you, Mr(s). Grace. No further questions, your Honor.

- 1. Please introduce yourself to the members of the jury.**
 - a. Hello, my name is Dr. Willoughby Hawkins.
- 2. How are you involved in this case?**
 - a. I was hired by Midlands Television Studios to examine the reasonableness *and* adequacy of Danny Kosack's selection and training of Elias for the June 29th show on Midlands After Dark.
- 3. Tell us about your educational background.**
 - a. Well, I received my Bachelors in Psychology and Biological Anthropology and I received my Ph.D. in Animal Sciences with a concentration in Primatology.
- 4. What is Primatology?**
 - a. Primatology is the study of primates. Chimpanzees, Gibbons, Bonobos, Gorillas, and the like.
- 5. Have you ever done any field research?**
 - a. Yes, for the last 2 years of my Ph.D. program I worked at the Cassandra Fotiadis Chimpanzee Sanctuary in New Jersey. I worked one on one with chimpanzees and got to see how they developed and learned about the world around them.
- 6. What do you currently do for a living?**
 - a. For the past 20 years, I've worked in the Dept of Anthropology at Midlands State University. I just recently became the chair.
- 7. Have you ever published any of your research?**
 - a. Yes, I have actually published over 30 peer-reviewed articles.
- 8. Have you been retained as an expert before?**
 - a. Yes, I have been retained 25 times, sometimes for plaintiffs and sometimes for defendants.
- 9. What materials did you review in today's case?**
 - a. I reviewed several affidavits and depositions, particularly Danny Kosack's. I also reviewed several relevant exhibits, such as the safety guidelines, the photograph of the chimpanzee, and emails involving MTS and Kosack.
- 10. Were those material sufficient for your conclusions in this case?**
 - a. Absolutely. These are standard documents I'd normally review in a case like this.
- 11. What reliable principles and methods did you use in conducting your investigation?**
 - a. I used a method known as comparative analysis. So, with the materials provided to me I analyzed:
 - i. The features that Elias possessed
 - ii. And the training methods used by Danny Kosack.To see if there were any shortcomings when I compared Mr(s). Kosack's methods with the industry standard.
- 12. Are these methods considered standard in your field?**
 - a. Yes, this sort of method is widely used by primatologists when investigating the behavior of a chimpanzee, and it is considered a reliable method in my field.
- 13. Now Dr. Hawkins, you mentioned you were hired to analyze the selection of Elias as a performance Chimpanzee. Why is that important?**
 - a. When choosing a performance chimpanzee, it is important to select one that is less likely to act unruly or violently.

14. How do you recommend a trainer should select a chimpanzee?

- a. There are 4 factors that primatologists and trainers should use.
 - i. Gender,
 - ii. Age,
 - iii. Their Previous Environment, and
 - iv. Prior Incidents of aggression

- b. If it helps, I brought a visual aid to explain them

15. May the witness step down?

16. Doctor, what are we looking at here?

- a. This is a chart outlining the four factors I just mentioned. And then I have what it takes to be a low risk and a high-risk chimpanzee.

17. What does low risk and high risk mean?

- a. Low risk animals are less likely to attack when they enter a startle reaction than high risk animals, which is why we recommend choosing a low risk animal.

18. You just mentioned, “startle reaction.” What is that?

- a. A startle reaction is when a chimpanzee becomes overstimulated and upset. It’s important to understand that a startle reaction is not in and of itself an attack.

19. What do you mean by that?

- a. Well, when a chimpanzee is in a startle reaction they enter what we call “fight or flight mode” and analyzes their environment and makes a decision to either run away or to attack. High-risk chimpanzees are more likely to fight.

20. I’d like to go over these factors and how they play into the decision to fight, but before I do would you recognize a photo of Elias?

- a. Yes.

21. ENTER PHOTO

- a. **May I approach opposing counsel with Exhibit 2?**
- b. **May I approach the witness with the same?**
- c. **What have I just handed to you?**
 - i. The photograph of Elias I reviewed during my investigation.
- d. **Is it a fair and accurate copy?**
 - i. Yes.
- e. **Has it been changed or altered in any way?**
 - i. No.
- f. **And does this photo accurately represent a chimpanzee of Elias’ age?**
 - i. Yes.

22. What can you tell us about gender?

- a. Statistically speaking male chimpanzees are more aggressive than female chimpanzees. 90% of the documented chimpanzee attacks within the last 5 years were by males.

23. What was Elias’s gender?

- a. Male

24. Is that low risk or high risk?

- a. High risk (place head)
- 25. Next, why is Age important?**
 - a. Simply put, younger chimpanzees are smaller, weaker, and less aggressive. Quite frankly, they're less likely to kill someone.
- 26. How old was Elias when he appeared on Midlands After Dark?**
 - a. Elias was 10 at the time, and he had already developed sharp teeth, which you can see in this photo, along with long fingernails, or rather claws, and brute strength.
- 27. Would that make him low risk or high risk?**
 - a. High Risk (place head)
- 28. Now the next factor, Previous Environment. What does that mean?**
 - a. Chimpanzees are very intelligent, and given sufficient exposure to humans they can learn and realize they are much stronger than us and can win in a fight, making them more likely to *choose* to attack.
- 29. In your opinion had Elias had sufficient time to learn his own strength?**
 - a. Elias was 6 years old when he was adopted by Danny Kosack, meaning that he had 4 years to learn his own strength compared to humans.
- 30. So was this low risk or high risk?**
 - a. High risk (place head)
- 31. Last, Prior Incidents of Aggression. What does that mean?**
 - a. A chimpanzee with one or more incidents of aggression should be noted as being potentially violent in the future.
- 32. Does a prior incident *have* to be a violent occurrence?**
 - a. No, it doesn't have to be violent. It can be any type of unruly or unexpected behavior, like a startle reaction.
- 33. Did Elias have any prior incidents of aggression?**
 - a. Yes, in 2015 Elias experienced a startle reaction on the set of a TV show although it wasn't violent.
- 34. Is that low risk or high risk?**
 - a. High risk (place head)
- 35. Do you know whether Danny Kosack communicated any of these risks with MTS?**
 - a. I saw no evidence that (s)he did.
- 36. Thank you Dr., you may take your seat.**
- 37. Are you familiar with the safety guidelines Ms. Kosack provided to MTS?**
 - a. Yes.
 - b. May I approach and retrieve Exhibit 23?**
 - c. May I approach the witness with the same?**
- 38. When were these guidelines last updated?**
 - a. Oct. of 2013, when Mr(s). Kosack adopted Elias.
- 39. Do these guidelines mention the words "startle reaction" at all?**
 - a. No, they don't.
- 40. So, Doctor, based on your education, training, and experience what are your conclusions regarding the attack of June 29th, 2017?**

- a. According to what I reviewed, Elias was high risk in all 4 selection factors. This made him more likely to become violent and attack during a startle reaction. And I found no effort on Danny Kosack's part to inform MTS of this potential danger.

Thank you, Dr. Hawkins. No further questions, your Honor.

Redirect:

- 1. Now opposing counsel just asked about this supposed threat perceived by Elias. Is this threat alone enough to lead to an attack?**
 - a. No, it's not. That's why those selection criteria I previously mentioned are so important, they play a huge role in determining whether the chimpanzee will fight or flee upon perceiving an alleged threat.

1. Please introduce yourself to the members of the jury?
 - a. My name is Harper Villafana.
2. We appreciate you being here and we know this is going to be difficult. If at any time you need a break, please, okay?
3. Ma'am, just to clarify, you're Chris Villafana's widow?
 - a. Yes.
4. How long were you and Chris married?
 - a. Less than a year and a half. That's all we had.
5. Could you tell us how the two of you met?
 - a. We originally met while we were at Northwestern together. But we really connected after an awards show here in Midlands. I was an entertainment reporter covering the show and Chris was there too. We went out after the show, started dating and then we got married three months later. He was the love of my life, and my best friend.
6. How long did Chris work for Midlands After Dark?
 - a. He started in early 2014 so a little over three years.
7. Do you know what your husband did at Midlands After Dark?
 - a. He was a writer, and he was a great at his job.
8. Are you familiar with the defendant, Danny Kosack?
 - a. Of course, he's the one who brought that chimp on set that killed my husband.
9. Did you know of Mr. Kosack before that incident?
 - a. While I was working as an entertainment reporter, Danny Kosack was looking for a someone to run a story on his newly renovated sanctuary. So I stopped by in January of 2016 to visit.
10. What do you remember from that visit to the Sanctuary?
 - a. I eventually found Danny and he gave me a tour of the renovated sanctuary. It was actually really nice, but Danny was worried that the sanctuary would be in financial trouble.
11. Did Kosack indicate how severe the financial problem would have been?
 - a. He explained that his chimpanzee Elias was helping to bring in revenue, but with how much money the expansions had cost, he was still worried that the sanctuary probably be forced to close in two years without any major publicity.

12. How did you respond to his worries?
 - a. Well, I kinda felt bad for him. So I had the idea that he should maybe look at some late night TV shows like Midlands after Dark to gain publicity. Looking back, I wish i had never said anything.

13. On that day, do you remember any mention of Elias's training?
 - a. I was wondering how dangerous it was to perform with a wild animal like Elias. Mr. Kosack explained that, as long as he was the closest person to the animal, Elias is perfectly safe. I asked what would happen if that wasn't the case, and Kosack just laughed and said, "I can't imagine ever doing that. Someone could get hurt." Unfortunately, he was right.

14. Were you at the studio on the day your husband was killed?
 - a. No, I was working, I learned of Chris' death later that day. I was rushed to the hospital, but they wouldn't even let me see his body.

15. Let's back up a bit, when was the last time that you were at the studio?
 - a. I did drop by the studio on June 27, 2017 when Chris left his phone at home. He was always forgetting things. When I arrived at the studio, I found Chris and the rest of MTS staff in a meeting with Jameson Clark. They were going over instructions for Kosack's appearance.

16. What other preparations for Mr. Kosack's appearance did you observe?
 - a. They were adding soundproofing in the dressing rooms, vacuuming all the carpets, it was almost like they were sterilizing the set. Now I don't think I could ever stand to go back to that set.

17. Did you see Mr. Kosack again after your husband's death?
 - a. Yes, I did actually.... He actually showed up, unwelcome, to my husband's funeral.

18. And did you have any interaction with Danny Kosack at the funeral?
 - a. I couldn't believe it, and my brothers were trying to drag him out the door. He was there shouting shouting all kinds of awful things. He was determined that I was going to hear what he said. "We both lost someone!" crying over that damn monkey. As if that monkey's life and my husband were equivalent.

19. Did he say anything else to you?
 - a. And shouting "I could have stopped it. I could have done better. Your husband and Elias didn't deserve that." Could have done better? How about not bringing a monkey who could do that to someone. To my husband.

Thank you Harper. No further questions.

Your Honor, Opposing Counsel, Members of the jury. May it please the Court?

On June 29th, 2017, talk show host Mr. Alex Grace straightened his tie and ran his opening monologue one last time before he walked on the set of *Midlands After Dark*- A late night talk show here in Midlands for a rehearsal. But that day would be different than any other episode because there would be a *live animal* performing on the set.

You see, Alex Grace had offered the defendant, Danny Kosack a chance to appear on his show with his/her performance chimpanzee Elias.

Unfortunately Mr. Grace learned something that day- what you don't know will hurt you. Chris Villafana, a writer for the show was attacked by the defendants chimpanzee and was removed from the studio in a ambulance- ...and later taken from of the hospital in a body bag. **(HEAVY PAUSE)**

Today, Alex Grace, the shows host will explain how Midlands Television Studios consulted with 5 experts regarding animal acts in preparation for the rehearsal on June 29th, 2017. Mr. Grace will describe the chimpanzee screaming just inches away from him, how Elias charged across the set and fatally attacked Chris Villafana.

Chris' widow- Harper Villafana, will tell you about her visit to the defendant's sanctuary and her conversation regarding Elias' training as a performance animal. She will tell you how the defendant her/himself said that "[S]he had to be the closest person to Elias at all times or that something **[pause]** bad could happen"

Finally, Dr. Willoughby Hawkins- an expert in primatology will provide her expert opinion on why Elias was not a reasonable selection for performance- everything from his age, his gender, his time in captivity and even the fact that he had a prior incident of aggression made him more likely to attack- all things the defendant knew, but failed to tell our client. -And what you don't know- will hurt you. Dr. Hawkins will describe what it looks like when a chimpanzee becomes upset- or what is technically known in her field as a **startle reaction**.
(SPEAK SLOWLY!)

Members of the jury, this case is one of negligence and has been bifurcated- this is just a fancy legal word meaning it has been divided into 2 separate issues... duty and damages. today, you are here to decide who breached their duty.

Midlands Television Studios duty was to provide an appropriate environment for Elias' performance and listen to the instructions provided by the trainer. It was the Defendant's duty

to reasonably select a performance animal, to properly train that animal and to take reasonable steps to ensure everyone's safety.

We as the plaintiff must prove that the actions of the defendant were a direct and proximate (or, foreseeable) cause of the attack by a preponderance of the evidence- simply meaning more likely than not. Today we will prove that our client fulfilled their duty and that the defendant breached their duty by not providing adequate information to our client. [optional] members of the jury- that's negligence

The Defendant being Elias' handler had a superior knowledge about her performance animal and had a duty to share that expertise with our client, but that expertise was never shared. Today, you will finally hear from both parties of the case that the guidelines provided by the defendant were *silent* regarding startle reactions and how to respond to a startle reaction. meaning our client was unaware of how to address the potential dangers of this live animal act.

How would they know?

Midlands Television Studios are not a zoo-they are not an animal sanctuary-instead they are television studios who had never hosted a live animal before. Our Client *had* to rely on the expertise and preparation of the defendant, that he/she would bring a trained animal, and provide them with instructions to ensure their safety.

However, The defendant did not provide any information to the the employees of Midlands Television Studios regarding what a startle reaction was nor how to respond to a startle reaction.

When the Defendant neglected to inform our client -what Midlands Television Studios didn't know... Hurt Them.

That's why at the end of today's trial, my Co Counsel, _____ will come before you and ask you to return a verdict finding Danny Kosack breached her duty and was negligent.

Thank you.

Your Honor, Opposing Counsel, Members of the Jury... May it Please the Court?

On the afternoon of June 29th, 2017, the staff of Midlands After Dark walked on set for a rehearsal. Little did they know that this rehearsal intended to promote safety would end in a brutal attack that resulted in the death of Chris Villafana and the cancellation of the show. The employees of Midlands Television Studios learned a hard lesson that day: **what you don't know, will hurt you.**

After the attack MTS filed a complaint of negligence against Elias' trainer, Danny Kosack. In return, Mr. Kosack filed a counterclaim of negligence against MTS. What this means is that both MTS and Danny Kosack claim that the other party (1) had a job to do, (2) didn't do their job, and (3) because they didn't do their job (4) the other party suffered harm. Now before we even walked into this courtroom a different judge ruled that both parties did in fact suffer harm as a result of the attack. More importantly, that judge ruled that both parties had a job to do. MTS was supposed to listen to Danny Kosack and take reasonable steps to ensure that no one was put at risk that day. Danny Kosack was supposed to make sure that Elias was a reasonable choice for the show, that he was properly trained, and to take reasonable steps to ensure that Elias would not pose a danger to those on set. Today, each party had to prove by a preponderance of the evidence, meaning more likely than not, that the other party did not do their job, and because they didn't do so Elias attacked. We the plaintiff have met our burden. The defense has not.

Today you heard that MTS took reasonable steps to prepare for Elias' appearance. They had never had an animal on the show, so they consulted with 5 safety experts to ensure they were being safe. Further, they followed the defendant's guidelines to the letter. The guidelines requested that Elias be given a quiet place to rest, so he was given his own dressing room. They asked that Elias be given time to settle in, so MTS scheduled the pre-show rehearsal to give Elias time to get used to the set before the audience arrived.

Today, the defense has tried to claim that MTS did not follow the guidelines, but if they failed to follow the guidelines exactly as Danny Kosack wanted them to be followed it is because Danny Kosack never told them how to. You see, Danny Kosack's guidelines did not lay out EXACTLY what was expected of MTS. Further, the guidelines promised MTS a full safety briefing by Danny Kosack BEFORE Elias' arrival, but that meeting never happened. And on June 29th, **what MTS did not know, did hurt them** when Elias entered a startle reaction and attacked.

Now today we have heard quite a bit about this startle reaction. Dr. Hawkins told you that a high-risk chimpanzee is more likely to attack in this situation, and that Elias qualified as a high risk chimpanzee. He was a ten year old male who had been around humans for four years and who had experienced a startle reaction before—by all accounts, when faced with the decision to attack or run away, Elias was more likely to attack.

What's worse, the defendant was aware of this risk and did not inform MTS, and **what they didn't know did hurt them.**

Further, both experts told you that a startle reaction is a prerequisite for an attack. Essentially, if Elias had never entered this state, he never would have killed Chris. So you must ask yourselves—what would have made Elias enter this aggravated state? Now, the defendant had worked to train Elias to ignore those things that might have upset him on the set of a television show, so if he did react to the buffet it is because the defendant did not properly desensitize him. Further, today you heard from Harper Villafana how, when asked if Elias was dangerous Danny Kosack said “as long as I am the closest person to Elias, Elias is perfectly safe. If not, someone could get hurt”. And on Midlands After Dark, Danny Kosack planned to place himself 20 feet away from Elias during the performance, knowing that the last time he had done so Elias experienced a startle reaction. Danny Kosack knew this but he did not tell MTS what to do if Elias experienced another startle reaction.

Today, you have one question that needs to be answered: who caused this attack? And the answer to this question is clear. Danny Kosack knew how his guidelines needed to be followed, but he did not tell MTS how to follow them or warn them when he believed they weren't being followed. Danny Kosack knew that Elias was more likely to attack, but he did not tell MTS about this risk. Danny Kosack knew that Elias was likely to experience a startle reaction, but he did not tell MTS how to respond should Elias enter one. Members of the jury, there's a reason we do fire drills before there's a fire. There's a reason the airline tells you where the exits are and how to use the oxygen masks before the plane goes down. **What you don't know, will hurt you.** And because Danny Kosack knew, you must find him liable for the negligence that caused this attack.

Thank you.