

CASE MATERIALS

Official 2012 Mock Trial Materials
for the
UTAH LAW RELATED EDUCATION
MOCK TRIAL PROGRAM

MALCOLM

v.

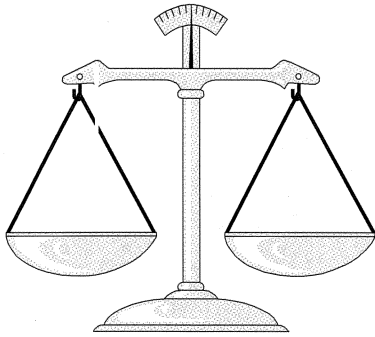
UTOPIA ZOO

Case No. 11cv01234

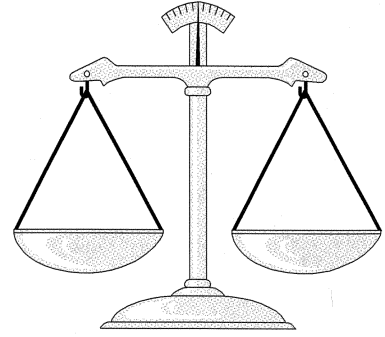
The 2012 mock trial case was written by the Carolina Center for Civic Education. Re-written and adapted by Michelle M. Oldroyd for the Utah Law Related Education Mock Trial Competition.

CASE MATERIALS

Official 2012 Mock Trial Materials
for the
**THIRTY-SECOND ANNUAL
UTAH LAW RELATED EDUCATION
MOCK TRIAL PROGRAM**



**Malcolm
v.
Utopia Zoo**



Case No. 11cv01234

North Carolina Mock Trial Competition
Rewritten and Adapted to Utah Law by
Michelle M. Oldroyd

FACT SUMMARY

In 2005, successful businessperson, Jordan Hammond, purchased the Utopia Zoo. In addition to acquiring exotic animals for new exhibits, Hammond constructed a safari tour on which visitors could closely see animals in a simulated habitat. During construction, Hammond employed engineer Devyn Grant to assess the safety of the new attraction. Grant expressed doubts about the security of the safari tram and was promptly fired.

On August 9, 2010, star basketball player, Taylor Malcolm, visited the safari at Utopia Zoo. During the tour, Malcolm imitated the call of the gorillas as a prank. Upon hearing Malcolm, the gorillas became agitated and approached the tram. Malcolm continued making noise, and the gorillas attacked the tram. Unable to manually drive the tram to safety, tour guide Sammy Dundee shot a tranquilizer dart in the direction of the gorillas.

The tranquilizer dart hit Malcolm causing him/her to slump over the side of the tram, where Malcolm's arm was bitten by one of the gorillas. Dundee quickly recovered and tranquilized the gorilla. Malcolm was taken to the hospital and received months of physical therapy for the arm injury. As a result of those injuries, Malcolm was unable to pursue a promising career in basketball.

Malcolm has now brought a claim of negligence, arguing that the zoo failed to ensure Malcolm's safety during the tour. Malcolm further alleges that the injuries from the gorilla bite could have been prevented if proper regulations had been followed. Utopia Zoo denies the allegations, asserting that its employee, Sammy Dundee, followed proper protocol. They further allege that Malcolm endangered other guests by his/her negligent actions and caused his/her own injuries.

STIPULATIONS

1. All exhibits included in the case materials are authentic and accurate in all respects, and no objections to the authenticity of the exhibits will be honored. The chain of custody of the evidence may not be contested.
2. The signatures on the Witness Statements and other documents are authentic. If asked, a witness must acknowledge signing the document(s) and must attest to the contents of the document(s) and the date(s) indicated thereon. The statements are deemed to be given under oath or affirmation.
3. The stipulations cannot be contradicted or challenged.

APPLICABLE LAW

ELEMENTS OF NEGLIGENCE

DUTY

Negligence refers to a person's failure to follow a duty of conduct imposed by law. Every person is under a duty to use ordinary care to protect himself/herself and others from injury. Ordinary care means that degree of care which a reasonable and prudent person would use under the same or similar circumstances to protect himself/herself and others from injury.

BREACH OF DUTY

A person's failure to use ordinary care is negligence. On this issue, the burden of proof is on the plaintiff to show by a preponderance of the evidence. This means that the plaintiff must show, by the greater weight of the evidence presented, that the defendant was negligent and that such negligence was a proximate cause of the plaintiff's injury.

Ordinarily, a person has no duty to anticipate negligence on the part of others. In the absence of anything which gives or should give notice to the contrary, he/she has the right to assume and to act on the assumption that others will use ordinary care and follow standards of conduct enacted as laws for the safety of the public.

However, the right to rely on this assumption is not absolute, and if the circumstances existing at the time are such as reasonably to put a person on notice that he/she cannot rely on the assumption, he/she is under a duty to use that degree of care which a reasonable and prudent person would use under the same or similar circumstances to protect himself/herself and others from injury.

PROXIMATE CAUSE

The plaintiff not only has the burden of proving negligence, but also that such negligence was a proximate cause of the injury.

Proximate cause is a cause which, in a natural and continuous sequence, produces a person's injury and is a cause which a reasonable and prudent person could have foreseen would probably produce such injury or some similar injurious result.

There may be more than one proximate cause of an injury. Therefore, the plaintiff need not prove that the defendant's negligence was the sole proximate cause of the injury. The plaintiff must prove, by the greater weight of the evidence/a preponderance of the evidence, only that the defendant's negligence was a proximate cause.

DAMAGES

**** For purposes of the mock trial competition, student competitors need only prove the fact of injury. The amount of damages need not be proven or argued by participants and will not be determined by the judges. The element of damages need only be shown as a loss to the plaintiff, attributed to the action of the defendant. ****

Actual damages are the fair compensation to be awarded to a person for any past, present, and/or future injury proximately caused by the negligence of another. In determining the amount, if any, to be awarded to the plaintiff, evidence is considered as to each of the following types of damages: medical expenses, loss of earnings, pain and suffering, scars or disfigurement, partial loss of the use of part of the body, and/or permanent injury.

COMPARATIVE NEGLIGENCE--Liability

Once it has been found that more than one party has established his/her burden of proof as to negligence, a comparison must then be made of the negligence of each of those parties. In other words, a comparison must be made by both the plaintiff and defendant as to the share of negligence that each has provided proof for, quantifying the respective negligence of the other party from their evidentiary perspective.

The total amount of negligence is 100%. The comparison of negligence should reflect the total percentage of negligence attributed to each party with respect to the happening of the event(s) at issue. A comparison of negligence is made only if the negligence of more than one party proximately caused the event at issue. If plaintiff's apportioned percentage of negligence exceeds that of the defendant, there is no recovery for plaintiff.

WITNESS STATEMENTS

Three Witnesses for the Plaintiff

Three Witnesses for the Defense

IN THE MOCK TRIAL COURT CAPITAL CITY, STATE OF UTAH

TAYLOR MALCOLM

Plaintiff,

v.

UTOPIA ZOO,

Defendant.

Case No. 11cv01234

AFFIDAVIT OF TAYLOR MALCOLM

TAYLOR MALCOLM, having been duly sworn, hereby states the following:

1. My name is Taylor Malcolm. I was born in 1990, and I live at Hunt Hall at the State University of Utah. I am a basketball player, and I have been playing since I was big enough to dribble a ball.
2. My dad always told me to work hard, and I guess it paid off. After my senior year in high school, I was given a full scholarship to play basketball at the State University of Utah. It was my dream-come-true! I gave it my all during my freshman year, both on and off the court. During my first season, we were the Division Champions for the first time since 2000.
3. Naturally, with all the success came a lot of attention. Every time I went out for a walk on campus, students would stop me and ask for an autograph. Pictures of me at the dining hall would randomly appear online. Even when I went to visit my small hometown, strangers would tag along just so they could claim they knew me. I guess you could say it went to my head. Whenever I wanted to show off, my teammates and I would do stupid stunts at parties to see who was crazier. I always won.
4. The only time I actually got in trouble with the law was after winning the game against our rivals at the College of Utah. Everyone on the team was having a great time at the party. We were on the balcony of someone's house and could see straight into the neighbor's yard.

5. Being a basketball player, I can jump fairly high, so a friend bet me I couldn't jump into the other yard and land on the trampoline. I admit that I had a little to drink, but that wasn't what motivated me. Once I am challenged, I can never back down. So I climbed over the balcony and jumped from the ledge onto the neighbor's trampoline.
6. The neighbors called the police for trespassing, but I was let off with a warning. Mostly, everyone was just grateful that I wasn't hurt, or else I would have missed our next game.
7. Towards the end of sophomore year, I tried to tone down the crazy lifestyle. I made more of an effort to volunteer in the community, and I devoted more time to my true friends.
8. On August 9, 2010, my friends decided to surprise me with tickets to Utopia Zoo. We had not been there since we were kids, and I heard that there were new exhibits since the new owner bought the place.
9. We arrived just after lunch. My friend, Riley, darted straight for the snake exhibit. I am terrified of snakes, but I did not want to seem like a wimp, so I went anyway. Once inside, we stopped to look at the anaconda. It was asleep, so Riley dared me to knock on the glass. I pointed out the sign above the display and read aloud, "No Flash Photography. No Disturbing the Animals."
10. Riley said I was getting soft. I waited to make sure no one was nearby, and then I tapped the glass. The snake did not move, but a zoo worker rounded the corner, so all of us ran from the exhibit. I had forgotten how much fun getting into trouble can be.
11. Later, we went to the safari part of the zoo, where you can ride a tram and see the animals up close. While waiting in line, the signs said disturbing the animals was prohibited and cause for expulsion from the zoo. But when we boarded the tram, the tour guide never explained the signs or what was allowed.
12. The antelope were fairly boring, and, by the time we got to the gorilla exhibit, my friends and I were ready for something exciting. Most of the gorillas were in the far corner of the exhibit, but there were two that were closer to us. Riley said we should try to get their attention, so they would get closer to the tram, so I started making gorilla sounds.
13. The two larger gorillas came closer to the tram. My friends thought it was hilarious that my gorilla calls were working, so I kept making the noise. When one of the gorillas started howling back at me, I stopped yelling. I only wanted to see the animals up close, not to make them angry.
14. The next thing I remember is waking up at the hospital with my left arm bandaged. Apparently, the incompetent tour guide shot me with a tranquilizer dart instead of

the gorilla. How do you miss a 500 pound gorilla? After I was hit with the dart, I passed out and slumped over the side of the tram. That's when the gorilla attacked me. It bit my arm before they finally were able to tranquilize him.

15. My personal sports doctor, Jesse Cruz, told me it would take weeks before I would be able to fully move my hand and months before my arm would recover. Dr. Cruz went over my medical records with me when he/she explained my injuries and the treatment and physical therapy I would need.
16. The hospital bills were insane. Even though I have a full scholarship to pay for college, my family is not rich, and it has been difficult paying off the bill. To make matters worse, I missed most of the pre-season workouts because of my injuries. Even though it has been some time since the injury, my game is still off, and I don't think that I'll ever reach the level of playing I was at before I was hurt. I have so much going for me, and it's hard to take.
17. Of the available exhibits, I am familiar with my medical records and the zoo map.
18. I hereby attest to having read the above statement and swear or affirm it to be my own. By signing the document, I swear to the truthfulness of the content. I understand that I have an opportunity to update this affidavit and that unless such is done prior to my testimony, and that in such an event a copy of my updated statement is given to all parties involved, I am bound to the content herein.

Taylor Malcolm
Taylor Malcolm

**IN THE MOCK TRIAL COURT
CAPITAL CITY, STATE OF UTAH**

TAYLOR MALCOLM

Plaintiff,

v.

UTOPIA ZOO,

Defendant.

Case No. 11cv01234

**AFFIDAVIT OF
DEVYN GRANT**

DEVYN GRANT, having been duly sworn, hereby states the following:

1. My name is Devyn Grant. I was born in 1972 and live in Capital City, Utah. I attended the Innovation School of Engineering at California University, where I received a degree in Mechanical Engineering. I left for the Institute of Technology, but I only completed the Masters program.
2. My first job was in Michigan overseeing the collision testing of automobiles. Through this line of work, I became familiar with various safety standards and construction processes that determine whether a structure is safe.
3. In 2000, I noticed a flaw in the production of my company's newest vehicle. I notified my superiors of the problem with the vehicle, but I was told to keep quiet. The company had invested a lot into this specific car, and, if I delayed production, the company would lose money.
4. I independently submitted a report expressing my lack of faith in the automobile's design. Less than a year later, a lawsuit was filed against the company. A politician was injured in a car accident due to the very flaw that I noticed in the car. My report was discovered, and I was called upon by the plaintiff's lawyers to testify.
5. For my time in court and evidence that I provided, I earned \$50,000. This money allowed me to finally quit my job and start my own consulting business.
6. The type of jobs I took with my own business varied. Sometimes I would consult with architects about the structural integrity of buildings along the fault lines where there are often earthquakes. Other times, I was hired by amusement parks to run tests on attractions to see if they were safe for the public.
7. Although my training is in mechanical engineering, I consider myself a jack-of-all-trades. I am by no means an expert in every field, but I have experience in physics and civil engineering that allows me to be knowledgeable in almost any situation.

8. In 2005, I received a phone call from Jordan Hammond, a business-person in Utah. He/she discussed hiring me to inspect the safari feature of his/her zoo. I offered to fax Hammond my credentials and asked for background information on the zoo to prepare for my inspection. Hammond ignored my request. I was annoyed by Hammond's unprofessional and rude behavior, but I am not one to refuse a job, especially in this economy.
9. I booked my flight to Utah for the next day. After our phone conversation, I didn't expect a warm welcome, and I wasn't disappointed. Hammond led me to the construction of the new exhibits and safari, and then left me alone to conduct my inspection.
10. My investigation of the zoo exhibits yielded no significant conclusions. The steel fences and concrete moats enclosing the animals were sufficient to ensure the safety of both the guests and the animals. However, I deemed the safari ride unsafe for visitors.
11. The first problem was the tram itself. Instead of the usual gas-propelled vehicle, the tram was a train-like vehicle that ran on an automatic track. This meant that the tour guide had no control over the movement of the vehicle.
12. Secondly, I noted that given the size of the tram and railing, it was likely that the tram could malfunction and become locked on the track. In addition, any animal of significant size could prevent the tram from moving.
13. Thirdly, I noticed that the tram itself was too long for the tour guide to adequately monitor the zoo visitors. Using precise measurements, I found a tour guide sitting at the front of the tram had an approximately 25 degree blind spot.
14. Finally, I inspected the walls of the tram itself. Hammond boasted that the "money-maker" of the safari was the lack of fences. The visitors would be able to view the animals in a simulated habitat without any barriers. The structural integrity of the tram's body was sound, but the height of the car doors was too low. At three feet from ground level, I felt visitors would be in danger of animals reaching into the car.
15. Hammond was too busy to speak with me after my inspection, so I summarized my findings in a report. Additionally, I made recommendations to remedy the problems I found. I suggested changing the tram to a manual vehicle, redesigning the head car of the tram to allow the tour guide more visibility, and adding landscaping to elevate the track on higher ground. I offered to continue consulting during this process to ensure that the changes were appropriate and safe.
16. When I returned home, I received a nasty phone call from Hammond. She/he asked me how I came up with these conclusions after only one afternoon of inspections. I was accused of underestimating the safety standards of the safari, and Hammond finished by shouting, "You're not going to make an extra buck out of me!"

17. Hammond paid the original price we negotiated and told me that my services were no longer needed. That was the last I heard from Hammond or had any contact with the Utopia Zoo.
18. Back in the summer of 2010, I was contacted by a reporter. A college student was attacked at Hammond's safari, and somehow my name was brought up.
19. The reporter asked about my connections to the zoo, and we discussed how I was briefly hired as a consultant. Given Hammond's treatment of me and my lack of surprise at the attack, I didn't hold anything back. I was completely clear about my views regarding Hammond's lack of safety standards and expressed my opinion that the situation could have been avoided if Hammond had followed my advice.
20. I am currently hired by the Plaintiff, Taylor Malcolm. In addition to my \$500 per hour fee for appearing in court, I received \$3,000 for my time in preparation for this case. I have spent 10 hours reviewing my documents and figures from my original inspection of the zoo.
21. Of the available exhibits, I am familiar with my evaluation memo and the safari map.
22. I hereby attest to having read the above statement and swear or affirm it to be my own. By signing the document, I swear to the truthfulness of the content. I understand that I have an opportunity to update this affidavit and that unless such is done prior to my testimony, and that in such an event a copy of my updated statement is given to all parties involved, I am bound to the content herein.

Devyn Grant
Devyn Grant

**IN THE MOCK TRIAL COURT
CAPITAL CITY, STATE OF UTAH**

TAYLOR MALCOLM

Plaintiff,

v.

UTOPIA ZOO,

Defendant.

Case No. 11cv01234

**AFFIDAVIT OF
ROBIN THOMAS**

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

1. My name is Robin Thomas. I graduated in 1997 from the School of Journalism at the Canyons University in southern Utah. After a few small jobs around the area, I landed a job in Capital City as a newspaper reporter for one of the three daily papers in Utah.
2. It was my dream job! I was able to use my sleuthing skills to expose lies and reveal the truth to our community. However, my boss felt that my zealous search for the truth tended to be overly dramatic and could be perceived as too intrusive. As a result, I was cautioned to be professional and discreet in the stories that I wrote.
3. Back in 2005, I was sent to report on the new expansions of Utopia Zoo by its new owner, Jordan Hammond. It was an odd assignment since my work was usually investigative.
4. I have done reports on embezzlement, fraud, and crime, but nothing on mundane ceremonies about town. I supposed it was given to me since many of my other stories had been viewed as controversial. Nevertheless, I took the assignment because I was confident in my ability to craft a story out of anything. As it turned out, the story was interesting and practically created itself.
5. I arrived at Utopia Zoo about 8:00 a.m., just before the gates opened for visitors. I spoke to one of the employees and asked if I could take a look around the zoo for my story. He let me inside the zoo, and I went straight for the safari.
6. Rumor had it that naturalist and TV personality Sammy Dundee was running the safari attraction. Sure enough, Dundee was in one of the facilities outside the safari. I asked him/her for a quick interview, and she/he agreed.

7. I first asked whether Dundee felt qualified for the job. He/she said, "Not necessarily, but when you have a pretty face and a well-known name, things turn out well for you."
8. Upon hearing this comment, I pressed further and asked what type of training she/he had been provided to operate the safari attraction. Dundee stumbled over the answer for a moment and admitted there was not much formal training, but indicated that the years of travelling the world for his/her TV show had provided enough experience for her/him to feel comfortable.
9. I asked Dundee if there were any pressure after the incident with her/his cameraman almost getting killed on a TV shoot, but Dundee refused to answer. Given Dundee's concerns in continuing, I thanked him/her for our talk and ended the interview.
10. After Dundee left, I looked around the building for any information that would help me with the story. I looked through some files relating to employees at the zoo. I didn't find anything on Sammy Dundee; however, I found a document on an engineer named Devyn Grant, and I took it with me. Right after I put the paper away, an office worker caught me as I was looking through a filing cabinet and told me to leave.
11. It was nearly 8:30 a.m., and the guests were arriving at the zoo entrance. Based on the interview, I felt that Dundee was not qualified to operate the safari. I knew that I could write a great story about the potential dangers involved with Utopia Zoo and its hiring of Sammy Dundee.
12. I bought a hat at the gift shop for a disguise, cut into the line at the safari, and managed to get a front seat on the safari tram. Surprisingly, Dundee was very calm at the beginning of the ride. He/she gave a rehearsed speech about the importance of nature and also warned the guests to be aware during the safari ride. I do recall seeing warning signs posted inside the tram cars.
13. However, Dundee's confidence vanished once the safari arrived in the gorilla sector. From my seat, I could see a small family of gorillas near the trees. But the main focus was on two gorillas that were directly on the tram tracks. Based on their size, it appeared that they were male.
14. The larger male was beating his chest, and the smaller gorilla was roaring. Upon seeing this, Dundee became red-faced and began to sweat. I asked what was wrong, and Dundee snapped back, "Not now, the males are about to fight!"
15. Dundee must have realized that the guests were worried because he/she turned back and told them it was not a situation to fear. However, I saw Dundee tremble and reach for a tranquilizer gun.

16. The tram must have been on an automated system because we did not slow down, even as we approached the two male gorillas on the track. As we got closer, the larger gorilla walked away, but the smaller one continued to roar and even swiped at the tram. The rest of the safari went without incident. As I left, however, I noticed a dent in the side of the car, where the gorilla actually did hit the tram.
17. I went straight to my office after leaving Utopia Zoo and wrote my entire story in an hour. I wrote about the near accident with the gorilla, Dundee's interview, and the inherent danger involved with untrained staff leading attractions. It was a great read and consistent with the hard-hitting style of my other pieces.
18. The only problem was that the stories for the next day's press run were already selected. I called in a few favors, since this needed to be a timely piece, and got the story submitted behind my bosses' backs.
19. The next day, I was called directly into my supervisor's office when I arrived to work. My boss found out about my snooping at the zoo. Not only was I told that my story was too sensational, but I was told that I needed to seek other employment immediately.
20. After getting fired, I started work as an internet blogger. It was not my ideal job, but it allowed me to continue putting my voice out there. I usually covered local events. Since I knew the area well, I gained limited advertising and sponsorships to support myself. However, I am still not happy about the way things have turned out, and I blame Utopia Zoo for my situation.
21. In August 2010, I finally got my chance to expose Utopia Zoo. A basketball player from the State University of Utah was in the news for getting attacked by a gorilla at the safari. This was exactly the situation I predicted when the safari first opened.
22. I looked for the document that I kept from the zoo office files and contacted the engineer, Devyn Grant, whose name was mentioned in the report. Grant was working in central Utah, but agreed to speak by telephone. It turns out that Grant was hired to assess the safety of the safari, but was ignored after making recommendations that the zoo did not like.
23. At this point, I knew that I had my story. After posting the article, I received three job offers from local news stations. I never got my original job back as a newspaper reporter, but as an investigative journalist, I can still have a rewarding career.
24. Of the available exhibits, I am familiar with the zoo evaluation memo and safari map.
25. I hereby attest to having read the above statement and swear or affirm it to be my own. By signing the document, I swear to the truthfulness of the content. I understand

that I have an opportunity to update this affidavit and that unless such is done prior to my testimony, and that in such an event a copy of my updated statement is given to all parties involved, I am bound to the content herein.

Robin Thomas

Robin Thomas

**IN THE MOCK TRIAL COURT
CAPITAL CITY, STATE OF UTAH**

TAYLOR MALCOLM

Plaintiff,

v.

UTOPIA ZOO,

Defendant.

Case No. 11cv01234

**AFFIDAVIT OF
JORDAN HAMMOND**

JORDAN HAMMOND, having been duly sworn, hereby states the following:

1. My name is Jordan Hammond. I was born in 1960. I live at 216 South Broad Street in the Avenues Area of Capital City. I graduated from Getty University with a degree in Economics and a minor in Biology. Then I received an M.B.A. from Ivy League College.
2. My family owns a string of California restaurants that I ran for about ten years, learning the trade, but business grew stagnate with the economic downturn. My spouse noticed that many older celebrities were retiring from Hollywood and moving to the ski and recreation areas of Utah. Utah seemed like a nice enough place, so we packed up and moved my business there.
3. The money was good, but I soon grew tired of running restaurants and catering to “fat cats.” I had always loved working with kids and felt rewarded by their energy, so I decided to buy a local amusement park.
4. In 1999, I became the owner of Lacuna. Lacuna used to be a sleepy amusement park that had extensive landscaping and scenery, but few rides and attractions for teenagers and young adults.
5. It had virtually no marketing department and relied on locals and word-of-mouth for business. That’s where I came in. I completely revamped the park’s image into an exciting theme park to attract visitors from all over Utah. I spent thousands of dollars constructing new rides to cash in on the need of today’s youth for extreme fun.
6. But the papers said my ambition to remake the park went too far. In 2001, construction was completed on a ride called, “The Slayer.” “The Slayer” boasted the fastest speeds of any roller coaster in the nation! I hired a panel of engineers to ensure the ride’s safety. All but two claimed it was safe.

7. I later found out that the two engineers who did not approve of the ride's safety had connection and loyalty to a competitor amusement park in a neighboring county, so I disregarded their responses as unreliable. In June 2001, three months after "The Slayer's" debut, seven park guests received broken noses when their restraints became loose, and they slammed into the rear of the seat in front of them.
8. Fortunately, they all recovered very quickly, but the group sued and was awarded a small amount of damages. Less than a year later, another suit was brought against the park when a costumed employee harassed and scared a small child. The charges were dropped, but the incident did bring bad publicity to the park. So I began to seek other opportunities.
9. In late 2004, I learned that the owner of Utopia Zoo was planning to close it. Public interest in the zoo had declined sharply, and it was becoming more difficult to care for the animals and maintain the zoo.
10. I immediately sold Lacuna and bought the zoo. It seemed risky, but I have always loved animals. I decided it would be much easier to care for animals than people. Over a period of five weeks, I used all of my contacts abroad to acquire rare and exotic animals, so that the people of Utah could regain an interest in the zoo. I coordinated with local schools and youth groups to plan discounted field trips, so business would thrive. Even with these elements, I still felt something was missing.
11. In addition to the main zoo exhibits, I decided to feature a safari and began construction on it. The safari is an interesting concept because it allows the guests to encounter the animals without fences and barriers.
12. I recognized the risk involved, but, with careful planning, I knew this would be a good chance to offer something unique at our zoo. My plans for the safari included sections for animals from diverse niches with notable stops along the safari to see antelope, alligators, and gorillas. The antelope and alligators were easy enough to bring to the zoo in Utah, but I wasn't able to acquire the gorillas until I contacted several associates abroad.
13. I wanted to avoid any other "incidents," and I also wanted to be sure that when the public visited the zoo and the safari, they would be safe. At the suggestion of a colleague, I hired engineer Devyn Grant to ensure that my safety precautions and regulations would protect our guests.
14. I had already spent a fortune hiring new employees and finding the gorillas, so I hired Grant in a strictly advisory role and not as a full-time employee. That being said, Grant's only job was to inspect the current zoo structures and to observe the construction of the safari for the gorillas to be displayed.
15. Grant rated most of the zoo's exhibits as "satisfactory," but claimed the structures of the new safari were insufficient to protect visitors. Beyond the scope of his/her job,

she/he proposed a new plan that would cost me an additional \$500,000. Considering the money I had already invested in the project and the precautions that I had taken, Grant's plan was out of the question.

16. As part of that cost, he/she also expected to be kept on retainer until the proposed changes were completed. As a part-time advisor, Grant never really seemed on board like the rest of the employees, and I suspected that he/she didn't have my company's best interests in mind. I promptly dismissed Grant and proceeded with construction.
17. Even though I did not follow through with Grant's plan, I did establish safety guidelines for the zoo. I placed over fifty signs around the park to warn guests about disturbing the animals. In light of recent zoo accidents around the nation, I created an emergency plan for employees to learn and practice before they began working.
18. I also established a company motto – Caution, Care, and Credibility. Each employee was taught caution and respect for our guests, care for our animals and facilities, and credibility as a knowledgeable animal caretaker as the primary values and concerns of Utopia Zoo.
19. For guests on the safari, there were warning signs in each car, stating: "WARNING! STAY INSIDE THE TRAM CAR AND DO NOT EXTEND ARMS OR HANDS OUTSIDE THE TRAM. DO NOT PROVOKE THE ANIMALS. DO NOT ATTEMPT TO FEED THE ANIMALS."
20. With the security take care of, the only thing my park did not have was a recognizable face to attract attention. I decided to hire naturalist and TV personality Sammy Dundee to run a new exhibit at the zoo. Dundee had some trouble getting a job with some of the usual networks due to a stunt that put a cameraman in danger. I saw the footage and personally thought that blaming Dundee was absurd, so I was glad to hire him/her.
21. Despite the recent notoriety, Dundee's charisma and dedication to the animals brought a new life to the zoo. He/she also had significant knowledge of the animals in the park as well as their behaviors. For six years, my management, Dundee's personality, and the safari solidified a renewed success for the zoo.
22. On August 9, 2010, I received a phone call from Dundee. He/She told me that there was an accident at the zoo. I was furious, but I kept it together long enough to drive downtown from my office to the zoo. The paramedics were leaving just as I arrived, and I rushed to the safari. I saw Dundee at the scene, and she/he told me that a kid upset the gorillas and got hurt.
23. Fortunately, no one else was injured, but I knew the gorilla would have to be put down. It was very sad, especially when there had been no other incidents. Because of this one kid deciding to torment the gorillas, the zoo and the safari would suffer.

24. If matters weren't bad enough, the media went berserk over the incident because the victim was Taylor Malcolm, a star on the university basketball team. What really irked me was the interview with none other than Devyn Grant. Some blogger contacted Grant and posted a story online.
25. Grant went on a rant, completely trashing my zoo and claiming my safety standards were so low, it was a wonder that it took so long for someone to get hurt. Grant's claims and this lawsuit are absurd. The precautions at the zoo were more than enough to protect the guests.
26. Malcolm got hurt because she/he did not follow the zoo regulations and Dundee's instructions. The injuries were unfortunate, but sometimes bad things happen if you do not follow the rules.
27. Of the exhibits, I am familiar with the evaluation memo, the safari map, the safety standards, the resume of Goodall, and the warning sign.
28. I hereby attest to having read the above statement and swear or affirm it to be my own. By signing the document, I swear to the truthfulness of the content. I understand that I have an opportunity to update this affidavit and that unless such is done prior to my testimony, and that in such an event a copy of my updated statement is given to all parties involved, I am bound to the content herein.

Jordan Hammond
Jordan Hammond

**IN THE MOCK TRIAL COURT
CAPITAL CITY, STATE OF UTAH**

TAYLOR MALCOLM

Plaintiff,

v.

UTOPIA ZOO,

Defendant.

Case No. 11cv01234

**AFFIDAVIT OF
MORGAN GOODALL**

MORGAN GOODALL, having been duly sworn, hereby states the following:

1. My name is Morgan Goodall, and I am a professor of Zoology at Eastern State University. My specialty is primate behavior, specifically gorillas and chimpanzees. My studies consist of how these primates interact within small social groups found both in the wild and in captivity.
2. I have been a professor since 1975 and have published a textbook and articles on the subject of primates. I was asked by the lawyers defending Utopia Zoo to examine and evaluate the condition of the gorillas at the zoo.
3. Primate behavior is determined by a number of factors, such as group size, daily activity cycle, and the ecological niche in which the primates live. In terms of the gorillas, an average group consists of about a dozen gorillas: one dominant male, a few adult females, and offspring.
4. Gorillas are, in fact, diurnal animals and are active during the day. Their time is spent almost equally between feeding, travelling, and resting. Gorillas' diet consists of fruit and various kinds of vegetation. They are not carnivorous animals. Therefore, aggression is determined by security and not by feeding patterns.
5. On September 16, 2010, I was contacted by Jordan Hammond's attorneys. They asked me to visit the zoo, so I could evaluate the gorillas in the safari exhibit. Usually, when I observe a primate community, I will spend a week noting the primates' diet, watching their interactions, and observing any external factors that may influence the community's behavior.
6. However, I wasn't able to meet these conditions when I visited the zoo. Jordan Hammond was under intense pressure to put down the gorilla responsible for the student's injury, so I only had three days of observation time.

7. My first observation was the composition of the gorilla community. Most groups have a single male with multiple females. This particular group, however, had multiple females with two males. One male was older and was the traditional alpha male of the group. The second male was younger. Traditionally, when a younger male gorilla reaches maturity, he will leave the group and seek out mates from another community. Due to the fact that the safari is a closed environment, the younger male had no such opportunity to leave.
8. I believe this was the source of tension within the safari's community. Upon questioning the safari guide, Sammy Dundee, I learned this conflict occurred occasionally between older and younger males.
9. Contrary to popular belief, gorillas are not violent animals. I blame Hollywood for this misconception. Gorillas rarely commit violence against other animals and, instead, resort mostly to making noise and trampling the ground. When a conflict does arise between male gorillas, chest-beating is common, but the display rarely ends in a fight.
10. Because of this typical behavior, I was surprised to find out that the younger male not only attacked the guest, but also bit the guest. I decided to see the younger gorilla individually to try to better understand.
11. When I visited the gorilla exhibit, the zoo keeper accompanied me to see the younger male, named Joe. Joe appeared to be a healthy male of about 17 years old. His head is defined by a large sagittal crest by which the muscles for a powerful jaw are attached. These jaws are strong enough to snap bamboo, so it did not surprise me that it could damage an arm.
12. Despite his health, Joe exhibited general irritation and an inability to focus. Unlike other gorillas, Joe had difficulty sleeping and was disturbed by loud noises during the day.
13. Since Joe has spent most of his life in captivity, he is unaccustomed to the behavior of gorillas outside his community. It is likely that an encounter with another gorilla, or even the call of another male, would greatly upset him. While not notable in their own right, I believe these factors may have contributed to the attack.
14. Based on my observations, my conclusion was that Joe did not put the patrons of the zoo in any significant danger. While the conditions of his captivity were not optimal for his well-being, he appeared to be a healthy animal and most likely attacked due to severe stress.
15. I believe that a disturbance of an obnoxious or overt nature would have been necessary to prompt Joe to any violence. However, since I was not present for the attack, I cannot be 100% sure if the blame can be attributed to Joe or the guest.

16. Of the available exhibits, I am familiar with the map and my vitae.
17. I hereby attest to having read the above statement and swear or affirm it to be my own. By signing the document, I swear to the truthfulness of the content. I understand that I have an opportunity to update this affidavit and that unless such is done prior to my testimony, and that in such an event a copy of my updated statement is given to all parties involved, I am bound to the content herein.

Morgan Goodall

Morgan Goodall

**IN THE MOCK TRIAL COURT
CAPITAL CITY, STATE OF UTAH**

TAYLOR MALCOLM

Plaintiff,

v.

UTOPIA ZOO,

Defendant.

Case No. 11cv01234

**AFFIDAVIT OF
SAMMY DUNDEE**

SAMMY DUNDEE, having been duly sworn, hereby states the following:

1. My name is Sammy Dundee. I was born in 1980 in London, but I have lived all over the world. Both of my parents are naturalists, so my family has travelled around the world filming videos for *National Geographic* and the BBC.
2. Growing up in front of the cameras made me a ham, and I always enjoyed being in the spotlight. When it came time for me to move out of the house, instead of going to college, I went straight into the television business.
3. Even though I was young, my charisma and knowledge of animals scored me a position on an animal adventure show. Within a year, it was clear that I was too big-time for that tiny show. I knew more than the host! The executives at the adventure show recognized my talent and gave me my own show.
4. I was thrilled at being the host, and my parents were proud that I was following in their footsteps. It wasn't all fun and games. Travelling eight months out of the year took its toll. After spending nearly three years stalking lions, crawling in jungles for snakes, and hiking through caves to see reclusive species of bats, I considered seeking another program to host. Unfortunately, things did not turn out as I had hoped.
5. In 2003, my crew was filming elephants in Africa. Normally, the elephants are docile, and I told my cameraman to move closer to the herd to get some better footage. Something must have spooked the elephants because the next thing I knew, the herd was charging toward us. As scary as it was, I realized it was a great opportunity to catch a first-hand view of a stampede on film.
6. I yelled at my cameraman not to move and to get everything on film. He didn't listen and ran away, nearly getting trampled in the process. Once the stampede cleared, I screamed and cursed at him for not following my orders. I told him that he ruined my

chance at an exclusive, so I might have to find another job. Unfortunately, he caught my rant on camera. Once the footage leaked, I was fired for endangering the lives of my crew.

7. The following year, I struggled to find a job. It was a surprise when I received a phone call from Jordan Hammond, an up-and-coming business person in America. Hammond told me about the purchase of a zoo in Utah and offered me a job as a guide on the safari. I had always been a global person, so going to Utah didn't really appeal to me.
8. However, I needed a job, so I agreed to work for Hammond. Despite my initial reservations, working at Utopia Zoo was a great job. Leading the safari was fun, and it allowed me to show off my knowledge of the animals. My original contract was for three years to help bring publicity to the zoo, but I signed on for an additional three years beyond that.
9. Other than some nervousness on my first day, I never had any trouble leading the safari until August 9, 2010. When the tour started that day, I gave my usual speech about safety and urged visitors not to disturb the animals as they rode along.
10. In the first sector of the safari, we stopped briefly to see the antelope. Usually, the antelope are skittish, but this time they actually began to approach the tram. Just as some of the guests were snapping pictures, someone spoke rather loudly, with excitement, and scared the antelope away.
11. I used the intercom to notify the guests that disturbing the animals, even unintentionally, can be cause for expulsion from the zoo and to ride along safely. I also reminded them to read and review the warning signs posted in their cars.
12. We continued on the safari and stopped at the swamp sector with the alligators. No one yelled anything this time, but I turned around quickly enough to see a person in a State University of Utah shirt throwing food toward the gators. The gators splashed toward the food, and someone yelled, "Stop it, Taylor!" I didn't know if this were the same person who was loud before, but I was determined to confront this person about his/her behavior and failing to follow the rules.
13. The only problem is that the tram runs on an automatic track, so there is really no way for me to remove a disruptive passenger. I decided to wait until the end of the ride to deal with the offender.
14. We reached the gorilla sector last. This time I heard someone imitating the gorilla calls. It was the person in the UU shirt again. I announced again over the intercom that this must stop immediately. The person did not stop, and the gorillas approached the tram.

15. I knew we were in trouble. Unlike the antelope, the gorillas are powerful and, when angry, can damage the tram or harm a guest. I used my radio to notify the staff that we had an incident on our hands. When I turned back, the student was still yelling, and the gorillas were within ten feet of the tram.
16. The gorillas were male and started beating their chests, so I knew that I had to do something to prevent an attack. I reached for my tranquilizer gun which I had never had to use before. It was extremely difficult to aim the gun accurately from my seat in the front of the tram.
17. It happened so quickly, but I had to do something to help that youngster. I aimed and fired the gun, but I wasn't sure if I hit the gorilla. I stopped for a moment and saw that I had missed and hit the student instead. She/he slumped over the side of the car. The closest gorilla reached for and bit the person's arm. I panicked for a moment and fired a second shot. This time, I hit the gorilla. He was knocked unconscious, and the second gorilla ran away.
18. By now, someone at HQ overrode the tram's controls and brought us back to the safari entrance. One of the guests had already called the police via cell phone, and the paramedics were waiting for us at the platform. I told the police officer at the scene everything that happened and waited for the student to be taken to the hospital.
19. I found out later that the student was Taylor Malcolm, the star of the State University of Utah basketball team. It is a shame that Malcolm got hurt, but, star or not, he/she was not following the rules after being warned repeatedly. The student and other innocent visitors and animals were put in serious danger as a result of this reckless taunting of the animals.
20. Of the exhibits, I am familiar with the map, the standards, and the warning sign.
21. I hereby attest to having read the above statement and swear or affirm it to be my own. By signing the document, I swear to the truthfulness of the content. I understand that I have an opportunity to update this affidavit and that unless such is done prior to my testimony, and that in such an event a copy of my updated statement is given to all parties involved, I am bound to the content herein.

Sammy Dundee
Sammy Dundee