

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR HARRIS COUNTY, STATE OF LONE STAR
CRIMINAL DIVISION**

STATE OF LONE STAR)	
)	
v.)	Case No. 2009-1758
)	
LISA RICHARDSON,)	
)	
Defendant.)	
_____)	

Prepared by:

**Tracy E. Leduc, Esq.
Second District Court of Appeal
1700 N. Tampa Street
3rd Floor
Tampa FL 33602**

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This case file was commissioned by the Texas Young Lawyers Association and was prepared by Tracy E. Leduc for the 2011 National Trial Competition.

**State of Lone Star
v.
Lisa Richardson**

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STATEMENT OF THE CASE

The State has charged Lisa Richardson with one count of attempted first-degree murder for the shooting of the Honorable Paul Tu. The State intends to prove that Lisa Richardson shot Judge Tu, intending to kill him. Richardson contends that she never intended to kill Judge Tu, that it was an accident, and that she was acting in self-defense.

STIPULATIONS REGARDING EVIDENTIARY MATTERS

Procedural Matters

1. Federal Rules of Criminal Procedure and Federal Rules of Evidence apply, except as otherwise specifically noted in these stipulations.
2. All witnesses called to testify who have identified the parties, other individuals, or tangible evidence in depositions can, if asked, identify the same at trial.
3. Each witness who gave a deposition agreed under oath at the outset of his or her deposition to give a full and complete description of all material events and occurrences and to correct the deposition for inaccuracies and completeness before signing the deposition.
4. All depositions were signed under oath.
5. For this competition, no team is permitted to attempt to impeach a witness by arguing to the jury that a signature appearing on a deposition does not comport with signatures or initials located on an exhibit or by arguing that a signature provided at trial does not comport with signatures or initials provided in the problem.
6. Other than what is supplied in the problem itself, there is nothing exceptional or unusual about the background information of any of the witnesses that would bolster or detract from their credibility.
7. This competition does not permit a listed witness, while testifying, to "invent" an individual not mentioned in this problem and have testimony or evidence offered to the court or jury from that "invented" individual.

8. "Beyond the record" shall not be entertained as an objection. Rather, teams shall use cross-examination as to inferences from material facts pursuant to National Rules VII(4)(C), (D) and (E).

9. The State and the Defendant must call the two witnesses listed as that party's witnesses on the witness list.

10. All exhibits in the file are authentic. In addition, each exhibit contained in the file is the original of that document unless otherwise noted on the exhibit or as established by the evidence.

11. Contact with the competition officials concerning this problem must be pursuant to the rules of the competition. No one shall attempt to contact the problem drafter about this problem before the conclusion of the 2011 National Trial Competition Final Round.

12. 2011 should be the current year in which this case comes to trial.

13. Presentation and argument on pretrial motions shall be limited to a total time of sixteen minutes divided equally between the parties as follows: (1) the State shall have four minutes to present any pretrial motions; (2) the Defendant shall have four minutes to respond to the State's motion(s); (3) the Defendant shall have four minutes to present any pretrial motions; and (4) the State shall have four minutes to respond to the Defendant's motion(s).

14. This competition permits teams to argue additional case law and other relevant authority to support the team's argument on motions and evidentiary issues. However, no additions or deletions are permitted to the provided jury instructions.

15. The testimony of Lisa Richardson shall conform to the testimony given by her at her earlier trial.

16. Lone Star Rule of Criminal Procedure 3.710, which applies in lieu of any conflicting Federal Rule of Criminal Procedure or Federal Rule of Evidence, does not allow the State to call rebuttal witnesses. Therefore, pursuant to rule 3.710, both the State and the defense may elicit testimony during the State's case-in-chief concerning Richardson's anticipated defenses of accident and self-defense.

Substantive Matters

1. Lisa Richardson has entered a plea of not guilty and has requested a trial by jury.

2. The trial court has denied a motion to dismiss the indictment and a motion for change of venue.

3. The State and the defense have agreed pretrial to have the court instruct the jury on the lesser-included offense of attempted second-degree murder. No other lesser-included offenses may be argued to or considered by the jury.

4. The State and the defense stipulate that the trial testimony of Lisa Richardson, starting on page 26, is an accurate transcription of her testimony taken from the trial record of a jury trial on November 9, 2010, where, at the conclusion of the trial, the jury was unable to reach a verdict.

5. Lone Star Statutes (2009) provide the following:

§ 782.04. Homicide

(1)(a) The unlawful killing of a human being:

1. When perpetrated from a premeditated design to effect the death of the person killed or any human being;

.....
is murder in the first degree.

(2) The unlawful killing of a human being, when perpetrated by any act imminently dangerous to another and evincing a depraved mind regardless of human life, although without any premeditated design to effect the death of any particular individual, is murder in the second degree.

.....
(6) Homicide is excusable when committed by accident and misfortune in doing any lawful act by lawful means with usual ordinary caution and without any unlawful intent, or by accident and misfortune in the heat of passion, or upon any sudden and sufficient provocation, or upon sudden combat without any dangerous weapon being used and not done in a cruel or unusual manner.

§ 777.04. Criminal attempt.

A person who attempts to commit an offense prohibited by law and in such attempt does any act toward the commission of such offense, but fails in the perpetration or is intercepted or prevented in the execution thereof, commits the offense of criminal attempt.

§ 776.012. Use of force in defense of person.

(1) A person is justified in the use of deadly force and does not have a duty to retreat if he or she reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or herself or another or to prevent the imminent commission of a forcible felony.

6. The State and defense stipulate that Dr. Tim Williams, a physician board certified in emergency medicine, if called, would testify that the gunshot wound to Judge Tu's torso would have been fatal but for the medical attention he received.

7. The State and defense also stipulate that Exhibits D and E are photographs depicting the handgun received by Andy Little and identified by him as item G-1. The State and defense further stipulate that Exhibit F is a photograph depicting the handgun received by Andy Little and identified by him as item G-2.

8. The parties agree that the "Stipulated Sworn Testimony of Andy Little," who is unavailable for trial but who was previously deposed by the defense with knowledge of Little's unavailability for trial, is an accurate transcription of a portion of his deposition testimony. A pretrial motion to exclude Little's testimony based on Crawford v. Washington, 541 U.S. 36 (2004), has been denied. In addition, pretrial motions challenging the authenticity and chain of custody of the evidence and fingerprints examined by and used by Little have been heard by the court and denied. No further objections on these grounds will be heard or considered by the trial court at trial. However, all other objections to Little's testimony have been specifically reserved for trial. Subject to any evidentiary rulings by the trial court, Little's stipulated sworn testimony may be read to the jury, either in whole or in part, at the request of either the State or the defense during their respective cases-in-chief.

9. Judge Tu won reelection in the judicial election that was held on November 2, 2010. This fact may be made known to the jury through stipulation or through the testimony of Judge Tu.

10. Pursuant to Villanti v. State, 995 L.S. Rep. 247 (Lone Star 1984), when a defendant raises an issue of self-defense, the defendant has the burden of producing evidence to support the defense; however, the burden of proving guilt beyond a reasonable doubt never shifts from the State.

WITNESS LIST

Witnesses for the State:

1. Judge Paul Tu*
2. Jordan Brown***

Witnesses for the Defense:

1. Lisa Richardson**
2. Chris Jensen***

Each team must call witnesses 1 and 2 listed for their respective party.

* This witness must be a male.

** This witness must be a female.

*** This witness may be either male or female.

DEPOSITION OF PAUL TU

1 Q. Please state your name.

2 A. Paul Tu.

3 Q. How are you employed?

4 A. I am a judge of the Harris County Court here in Armadillo.

5 Q. How long have you been a judge?

6 A. I have been a judge for the past ten years.

7 Q. What did you do before that?

8 A. Prior to becoming a judge, I worked for the Harris County Public Defender's

9 Office for eighteen years. I never worked anywhere else as a lawyer.

10 Q. Where did you go to law school?

11 A. I'm a graduate of the University of Lone Star School of Law.

12 Q. Have you ever had any disciplinary action taken against you as a judge?

13 A. No.

14 Q. What about as a lawyer?

15 A. Well, I was an assistant public defender. We get a lot of disgruntled clients. And
16 there were several individuals who filed formal complaints against me.

17 Q. Did any of those complaints result in discipline?

18 A. You have to understand that my clients were usually criminals and were usually
19 guilty. But they didn't want to go to jail. Once there, they didn't have anything to
20 do but think up ways to complain about their lawyer. So I did have complaints
21 filed.

1 Q. I understand that. My question was whether any of those complaints ever
2 resulted in discipline.

3 A. I don't want to answer that.

4 Q. Unfortunately, as you know, you must answer the question.

5 A. Fine. I did have one case where there was discipline against me. I had a client
6 complain that I had bullied him into accepting a plea offer made by the State
7 Attorney. He claimed that I threatened him. It was a lie, but I didn't have any
8 way to prove that. Particularly after the guy's mother supported him. So I was
9 given a public reprimand and I had to pay a fine. But, like I said, it wasn't true.
10 And it didn't prevent me from being elected judge either.

11 Q. Speaking of being elected, aren't you up for reelection in 2010?

12 A. Yes, I will stand for reelection in November 2010.

13 Q. Do you have an opponent in the race?

14 A. Yeah. Some military lawyer named Jon Jackson is running against me.

15 Q. What does it cost these days to run a judicial election campaign?

16 A. Depending on your opposition, it can be over \$100,000. But what does that have
17 to do with anything?

18 Q. Nothing, I suppose. Moving on. Judge Tu, did there come a time when you met
19 someone named Lisa Richardson?

20 A. Yes.

21 Q. How did that happen?

22 A. I was in Dallas at a judicial conference. I believe this was in early 2003. One
23 evening, several of us at the conference decided to go to a local bar called

1 Sassy's. You may have heard of it. It burned a few years ago. But the owners
2 rebuilt in a new location.

3 Q. And how does Ms. Richardson fit into this?

4 A. Sorry. At Sassy's, I saw Ms. Richardson across the room. She and I made eye
5 contact, and later I went over to say hello. We started a conversation and found
6 we had a lot in common. So we just spent the evening talking and getting to
7 know one another. And we became friends.

8 Q. Did the relationship ever become anything more than friends?

9 A. Well, not like you are insinuating. But we did decide to engage in a business
10 venture together.

11 Q. And what was that venture?

12 A. Lisa worked in a business where she received a lot of cash as payment for her
13 work. She had had credit problems in the past, and she didn't want to open a
14 bank account or investment account in her name. So she asked if I could help
15 her invest some of the cash.

16 Q. And what did that involve?

17 A. Lisa had spent many years living in Hawaii. She still had friends there and she
18 visited there often. When she had been there in early 2004, she noticed a house
19 that was vacant, and she learned that it was in foreclosure. She thought the
20 house would be a good investment.

21 Q. And how did this house become a business venture?

22 A. Well, Lisa had cash but no credit and I had good credit but no cash. We agreed
23 that we would purchase the house together, fix it up, and rent it to short-term

1 tenants. You know, people who wanted to stay in Hawaii for a month or two and
2 didn't want to be in a hotel.

3 Q. And what were the details of your business agreement?

4 A. She would put up the cash for the down payment. I would apply for a mortgage
5 since I had good credit. Once we owned the house, Lisa would be responsible
6 for arranging for the necessary repairs, and when those were done, finding
7 tenants, and maintaining the property. We would split the repair and
8 maintenance expenses and the rental income 50/50. And then, down the road
9 when we decided to sell the house, she would get her down payment back and
10 we would split the remainder of the net proceeds.

11 Q. And did you eventually buy this house?

12 A. Yes. We did. In accordance with our agreement.

13 Q. What did you pay for the house?

14 A. \$950,000. Lisa put \$300,000 down and I obtained a mortgage for \$650,000.

15 Q. What name or names were on the deed?

16 A. Just mine.

17 Q. Why was that?

18 A. As I mentioned before, Lisa had some credit problems. She didn't want her
19 name attached to any asset that might be found in an asset search of any kind.

20 Q. Did that concern you at all, as a lawyer or a judge?

21 A. Not really. Some people are just like that.

22 Q. How did this business venture with the house work out?

23 A. It worked out pretty well for most of the time. We bought the house in mid-2004

1 and were able to get our first short-term rental in December 2004. Lisa had
2 enough friends and contacts that the house stayed rented most of the time. And
3 once the initial repairs were made, we really only had upkeep and advertising
4 expenses.

5 Q. What kind of income did the house generate?

6 A. After expenses, we were making approximately \$8000 per week, which we split
7 evenly.

8 Q. So, \$4000 per week free and clear of expenses to each of you?

9 A. Pretty much. There were occasional times when the house needed additional
10 repairs, but mostly it was about \$4000 per week.

11 Q. Did there come a time when you decided to sell the house?

12 A. Yes.

13 Q. When did that happen?

14 A. I put the house on the market in late 2006.

15 Q. Was the decision to sell the house a mutual decision?

16 A. Well, no. Since I was the only one on the deed, once I decided to sell, no one
17 else's input was needed.

18 Q. What about Lisa's input?

19 A. Her name wasn't on the deed, so her input wasn't necessary.

20 Q. What about the business venture?

21 A. Well, we didn't have a formal written agreement on the business venture. And I
22 was the one with my name on the deed. I no longer wanted to own the house.
23 Lisa didn't want to buy it. Therefore, I decided to sell it. And the time seemed

1 right. I could see that the housing market was starting to turn, and I wanted to
2 get my money out of the house while I could.

3 Q. Was Lisa upset by this decision?

4 A. Yes.

5 Q. How do you know?

6 A. Oh, we had a series of very heated telephone conversations.

7 Q. What was the substance of those conversations?

8 A. She accused me of selling the house out from under her. She wanted to
9 continue to own the house and rent it out. I told her the time to sell was now—
10 before the market got worse. She saw the house as some sort of cash cow
11 because she was looking only at the weekly income. I could see the larger
12 picture and viewed the house as a slowly dropping anchor.

13 Q. Were you able to sell the house?

14 A. Yes. The house sold in May 2007 for \$1.8 million.

15 Q. And what did you do with the money?

16 A. After closing costs and fees, we netted \$1.447 million. I paid off the mortgage
17 balance of \$625,000. I paid Lisa her \$300,000. That left \$522,000. And we split
18 that, each getting \$261,000.

19 Q. Did you pay those funds to Lisa?

20 A. Yes, I did.

21 Q. Did that transaction end your relationship with Lisa?

22 A. Well, I had hoped so. Clearly the business venture was over, and we no longer
23 seemed to have much in common. But it quickly became apparent that she was

1 not going to be out of my life.

2 Q. What happened next?

3 A. About three months after the sale—sometime in August of 2007—I got a call
4 from Lisa saying that she didn't get her full share of the money from the house
5 and she wanted more.

6 Q. What did you do?

7 A. I told her I had paid her everything that she was owed.

8 Q. Then what happened?

9 A. Well, more time passed, and then I heard from her again in December 2007.
10 She called again and said she needed money and that I hadn't paid her her full
11 share of the money from the house. She demanded that I send her \$100,000.

12 Q. What did you do?

13 A. I told her no. I told her I had paid her what she was owed and that I wouldn't
14 send her any more money.

15 Q. Did that end the matter?

16 A. No. I continued to get periodic phone calls throughout 2008 and early 2009.
17 Every time, Lisa would demand money and I would refuse.

18 Q. Did there come a time when that changed?

19 A. Yes. In early summer of 2009, Lisa's calls began to get more threatening.

20 Q. What do you mean?

21 A. Well, Lisa had been living in New York while I was living in Armadillo. In the
22 summer of 2009—I believe it was June—Lisa called again about money. When I
23 refused, she said that I would regret not paying her what she was owed. She

1 said she was coming to Lone Star, that she was going to get the money owed to
2 her, and that she would make me pay.

3 Q. What was your response?

4 A. Well, I sort of laughed it off at the time. Lisa could be very dramatic.

5 Q. What happened next?

6 A. I started getting calls about once a week from Lisa. In each call, she accused me
7 of not paying her what she was owed, and she continued to threaten to come to
8 Armadillo and "make me pay."

9 Q. Why did she think she was owed more money?

10 A. She claimed that she had paid \$100,000 as a "kickback" to the realtor in Hawaii
11 when we bought the house. She wanted me to repay her for that—claimed it
12 was part of the purchase price. But she never mentioned that money at the time.
13 And even if she had, I wouldn't have agreed to pay it back. I think it was
14 probably a debt that she had that she couldn't avoid once the realtor knew she
15 was involved in the purchase of the house. And I had no intention of funding her
16 past debts.

17 Q. Did you ever do anything else about Lisa's calls to you?

18 A. Yes. I had my judicial assistant, Jordan Brown, send a letter to Lisa telling her to
19 stop harassing me.

20 Q. I'm showing you what has been marked as Exhibit A. Do you recognize this?

21 A. Yes, this is the letter I had Jordan type.

22 Q. Did you send this letter to Lisa?

23 A. I did.

1 Q. Did you ever send any other letters or notes to Lisa?

2 A. No.

3 Q. I'm showing you what has been marked as Exhibit B. Do you recognize this?

4 A. No.

5 Q. What does it appear to be?

6 A. It appears to be a handwritten note to Lisa from someone with an initial of "P."

7 But I've never seen this before, I did not write this, and this is not my handwriting.

8 Q. After you sent the letter that is Exhibit A to Lisa, what happened next?

9 A. In early December, I got a call from Lisa. She said she was in Armadillo and she
10 wanted to meet me to get her money.

11 Q. What did you do?

12 A. I told her I was not going to meet her, that I did not owe her any money, and that
13 she needed to leave me alone.

14 Q. Did Lisa respond?

15 A. Yes, she told me that she would meet me, whether I liked it or not, and that she
16 would make me pay.

17 Q. Did you do anything in response to this?

18 A. No. In retrospect, I guess I should have told my bailiff or called the police. But I
19 really didn't take her seriously.

20 Q. What happened on December 17, 2009?

21 A. I had been at work that day. I drove home and parked in my driveway like I
22 always do. There is a small courtyard in front of my house. As I walked toward
23 my front door, Lisa stepped out of the courtyard, and she was pointing a gun at

1 me.

2 Q. Did she say anything?

3 A. Yes. She told me she was there to make me pay.

4 Q. What did you do?

5 A. I asked her to calm down. I told her if she was that upset, we needed to go
6 somewhere to sit and talk. And then I started to go back towards my car.

7 Q. Why did you go back to your car?

8 A. Well, as I was facing the gun, I realized that I had left my cell phone in my car. I
9 intended to call 9-1-1 since I was facing a deranged woman who was pointing a
10 gun at me.

11 Q. Then what happened?

12 A. I opened the passenger door of my car, reached inside, and got my cell phone. I
13 closed the door and as I turned back around Lisa fired the gun. And I was shot in
14 the side.

15 Q. What happened next?

16 A. I'm not entirely sure. I know I fell down. I was in a lot of pain. I remember
17 hearing Lisa on the phone calling for help. But I really don't remember anything
18 else until later in the hospital.

19 Q. Did Lisa fire any shot other than just the one?

20 A. No. Just the one. But that was enough.

21 Q. Lisa is claiming that she fired in self-defense. Were you holding any kind of
22 weapon at the time?

23 A. No. I was armed only with my good looks, charm, and a cell phone at that point.

- 1 Q. Was there a gun in your car?
- 2 A. Yes, I keep a gun under the passenger seat of my car. I have a concealed
3 weapons permit which allows me to carry it there. But I keep it in a case, and I
4 didn't take it out that day.
- 5 Q. Were you trying to get your gun at that point?
- 6 A. No, like I said, I just wanted to get my cell phone to call for help.
- 7 Q. Judge Tu, do you have any idea why the paramedics would have found your cell
8 phone in your pants pocket?
- 9 A. No. I thought it was still in my hand when Lisa fired her gun.
- 10 Q. Do you have any idea why they would have found your gun on the passenger
11 seat of your car rather than under the seat?
- 12 A. No. I did not put it there. Perhaps someone moved it there after I was shot.
- 13 Q. Judge Tu, were you the beneficiary on a life insurance policy on Lisa?
- 14 A. You know, I had forgotten all about that. I guess I am now that you mention it.
- 15 Q. How did that come about?
- 16 A. I took out a policy on her when we bought the house together so that, if
17 something happened to her, I would have the funds to maintain the house until I
18 could sell it.
- 19 Q. What was the face value of that policy?
- 20 A. I believe it was \$250,000. And, you know, she had the same type of policy on
21 me for the same reason.
- 22 Q. Do you believe Lisa was trying to kill you on December 17, 2009?
- 23 A. Well, I don't see how it could be anything else. She had been threatening to

1 "make me pay" for several months. She came to my house when she knew I
2 wasn't home. She hid in the courtyard. And then when I got home she
3 confronted me with a gun and shot me. Apparently all because she believed that
4 she hadn't been paid the full amount of money she was owed even though she
5 had been. I call that attempted murder.

_____/s/_____
Paul Tu

Sworn to and subscribed before me
this 17th day of April, 2010.

_____/s/_____
Notary Public

DEPOSITION OF JORDAN BROWN

1 Q. Please state your name for the record.

2 A. Jordan Brown

3 Q. How are you employed?

4 A. I am the judicial assistant to Judge Paul Tu.

5 Q. How long have you worked for Judge Tu?

6 A. Since he took the bench. About ten years now.

7 Q. As a judicial assistant, what are your duties?

8 A. I keep Judge Tu's court calendar and personal schedule, prepare his
9 correspondence, and make sure his office is running smoothly.

10 Q. Do you type all of Judge Tu's correspondence?

11 A. Yes.

12 Q. Does Judge Tu ever prepare any of his own correspondence?

13 A. No. I realize this is 2010, but Judge Tu does not really use his computer. We
14 joke about him being computer illiterate. So he does not type anything, and he
15 doesn't really even know how to use the word processing function on our
16 computers at the court.

17 Q. I'm showing you what's been marked as Exhibit A. Do you recognize this?

18 A. Yes.

19 Q. What is this?

20 A. It's a letter Judge Tu had me type for him to Lisa Richardson.

21 Q. Did you send this letter out?

1 A. Yes, I did.

2 Q. Do you know Judge Tu's handwriting?

3 A. Oh yes. I've seen Judge Tu's handwriting almost every day for the past ten
4 years.

5 Q. I'm showing you Exhibit B. Without worrying about the content, do you
6 recognize this handwriting?

7 A. Yes, this is Judge Tu's handwriting.

8 Q. Do you recall ever seeing this note?

9 A. No. But sometimes Judge Tu would have me type an envelope to someone
10 without having me also type a letter. I assumed when he did that that he was
11 sending someone something he had handwritten.

12 Q. Do you ever recall him asking you to type an envelope to Lisa Richardson
13 without a letter?

14 A. Sure, lots of times.

15 Q. Do you recall him asking you to do that in early December 2009?

16 A. No. I'm not saying it couldn't have happened. I just don't recall.

17 Q. Jordan, had you ever heard of Ms. Richardson before Judge Tu was shot?

18 A. Sure. She had stopped by his office once or twice and I know she and Judge Tu
19 invested in a house in Hawaii together.

20 Q. Do you remember anything about Ms. Richardson's visits to Judge Tu's office?

21 A. The thing I remember most is Ms. Richardson's clothing and jewelry. She
22 always wore beautiful jewelry. And designer shoes. I know that because my
23 sister is a buyer for Nordstrom's, so I understand the value of designer shoes. I

1 wish I could afford to spend the kind of money that Ms. Richardson spends on
2 shoes. Or spent. I guess she doesn't get to buy shoes now that she's in jail.

3 Q. Did you ever hear Ms. Richardson threaten Judge Tu?

4 A. Yes.

5 Q. When was that?

6 A. Well, Ms. Richardson came to Judge Tu's office about a week before he was
7 shot. They met in his chambers, but I could hear through the door.

8 Q. What did you hear?

9 A. I clearly heard Ms. Richardson say that she would make Judge Tu pay.

10 Q. Did you know what she was talking about?

11 A. Not exactly. I knew they had owned a house in Hawaii together and I knew it
12 had been sold and they split the money. But that was over two years before this.
13 So I didn't know if it was about that or something else.

14 Q. How did you know about the sale of the house and the money split?

15 A. Judge Tu had me notarize all the paperwork relating to the sale of the Hawaii
16 house. And he had me send the check to Ms. Richardson for her share of the
17 money. I bet she bought a lot of shoes with that money.

18 Q. What exactly did you hear Lisa Richardson say to Judge Tu when she was in his
19 chambers a week before the shooting?

20 A. She said, "You will regret this. I will make you pay with something other than
21 money."

22 Q. What did you think when you heard this?

23 A. Well, I was scared for Judge Tu. I wanted him to call the police, or at least tell

1 his bailiff, but he just laughed it off. He said Ms. Richardson was a drama queen
2 and not to worry about it.

3 Q. Were you present when Judge Tu was shot?

4 A. No.

5 Q. Do you know anything about the shooting?

6 A. Just what Judge Tu told me.

7 Q. And what did he tell you?

8 A. He said that when he got home, Ms. Richardson was there waiting for him. She
9 pointed a gun at him and said she was there to make him pay. Judge Tu tried to
10 get the gun he carries from under the seat of his car, but Ms. Richardson shot
11 him before he could get the gun.

12 Q. And that is what Judge Tu himself told you?

13 A. Yes.

14 Q. Jordan, if Judge Tu is not reelected in November, what will happen to your job?

15 A. I'm out of a job unless I can convince the new judge to hire me. But that doesn't
16 happen very often. Usually the judges want to bring their own staff—people who
17 will be loyal to them until the end.

18 Q. Have you been doing anything to help Judge Tu get reelected?

19 A. Sure. I'm doing everything that I can. When I'm not busy in the office, I call
20 people I know and ask them to vote for Judge Tu. And when lawyers come to
21 Judge Tu's chambers, I always remind them that he is up for reelection and that
22 they should vote for him rather than Jon Jackson. I've even sent out some
23 letters to groups that might support Judge Tu.

1 Q. Did you send those letters out from Judge Tu's office?

2 A. Well, I prepared them on my office computer, but I didn't use Judge Tu's

3 letterhead. I'm not stupid.

4 Q. Does Judge Tu know that you are doing these types of things?

5 A. I don't know. I haven't made calls or comments while he's standing there, but I

6 haven't kept it a secret from him either.

_____/s/_____
Jordan Brown

Sworn to and subscribed before me
this 17th day of April, 2010.

_____/s/_____
Notary Public

PRIOR TRIAL TESTIMONY OF LISA RICHARDSON

Direct Examination:

1 Q. State your name.

2 A. Lisa Richardson.

3 Q. Ms. Richardson, do you know Paul Tu?

4 A. Yes.

5 Q. How did you meet Judge Tu?

6 A. I was in Dallas on business. I was at a bar called Sassy's. He was there, and
7 apparently he saw me from across the room. Later, he came over and we
8 started to talk.

9 Q. What happened then?

10 A. Well, we talked.

11 Q. Did anything happen after that evening?

12 A. Well, at the end of the evening, Judge Tu said that he would like to see me
13 again. So I went to Armadillo a couple of times to see him. Over time, we
14 became friends.

15 Q. Did there come a time when the two of you decided to go into business together?

16 A. Sort of. I don't know that we were really in business together. But we did decide
17 to enter into a business transaction.

18 Q. What was the transaction?

19 A. We decided to invest in a rental property in Hawaii together.

20 Q. And how did that transaction come about?

1 A. I used to live in Hawaii, and I knew that there were a lot of really good properties
2 that were selling cheaply in foreclosures. I thought purchasing one, fixing it up,
3 and renting it out could be a real moneymaking investment.

4 Q. Why didn't you just invest in the real estate yourself? Why bring Judge Tu into it?

5 A. Well, I had declared bankruptcy a few years ago. Some of my creditors were
6 upset and thought I was hiding assets. They were always trying to see if I had
7 money or assets somewhere. So I needed someone who had good credit who
8 could invest in the house with me.

9 Q. So what was the business deal between you and Judge Tu?

10 A. We agreed that I would put up the cash for the down payment on a house I found
11 in Hawaii and he would get the mortgage for the balance. We would share the
12 expenses and the income. Then, when we decided to sell the house, I would get
13 my down payment back plus my share of the profit.

14 Q. And did that happen?

15 A. Mostly. We found a house that would work well. I put up \$400,000 in cash and
16 he got a mortgage for the rest. And we split the expenses and the income.

17 Q. And how did the business venture go?

18 A. For a few years, it went fine. We were making a lot of money. There were some
19 expenses for upkeep and repairs and stuff. And some of the repairs were
20 expensive. Like when we rented the house to some members of a rock band
21 and they trashed it. But for the most part, we were making money.

22 Q. Did there come a time when that changed?

23 A. Well, there did not come a time when the money making changed. But there did

1 come a time when Paul decided that he didn't want to own the house anymore.

2 Q. Do you know why that happened?

3 A. Not exactly. I just know that he said he did not want to own the house anymore.

4 Q. Did he ever say why?

5 A. He said something about coming up for reelection and not wanting to have to

6 declare the house on his financial disclosure papers. He thought it would raise

7 too many questions about where the money came from for the down payment.

8 And, frankly, I think he needed the money to fund his reelection campaign. So

9 he decided to sell the house.

10 Q. Did he ever mention the housing market as being a reason for the sale?

11 A. Not to me, no.

12 Q. Did you agree with the decision to sell the house?

13 A. No.

14 Q. Did you argue with Judge Tu about that?

15 A. Yes. I didn't understand why he would want to give up that cash flow.

16 Q. What happened next?

17 A. Even though I didn't agree, Paul put the house up for sale. And he told the agent

18 to list it for only \$1.8 million. That house on that piece of property and with all the

19 work we had done to it was easily worth over \$2 million.

20 Q. Did the house eventually sell?

21 A. Yes, for its listing price.

22 Q. And what happened then?

23 A. Well, I expected Paul to pay me my share. But he didn't.

1 Q. What do you mean?

2 A. Well, he claimed that I had only put up \$300,000 for the purchase of the house
3 rather than \$400,000. So he sent me \$300,000 plus my share of the profits.

4 Q. Where was the other \$100,000?

5 A. Well, I don't know where it was in Paul's books. But I had paid the foreclosure
6 broker \$100,000 to sell the house to us rather than someone else who had
7 offered a little more. He called it a "finder's fee." Paul conveniently forgot about
8 that when he paid me only the \$300,000 down payment.

9 Q. Do you have any document or receipt or anything to show that you paid this
10 additional \$100,000?

11 A. No. I paid it in cash. And people don't normally keep receipts for stuff like that,
12 you know?

13 Q. So what happened when you didn't get all the money from Judge Tu?

14 A. Well, I started calling him and writing to him.

15 Q. Did you ever threaten him?

16 A. Well, not physically. I did tell him that I would make him pay, but I just meant that
17 I would make him pay the money.

18 Q. Did he ever threaten you?

19 A. Yes.

20 Q. Lisa, I'm showing you Exhibit B. Do you recognize this?

21 A. Yes.

22 Q. What is this?

23 A. It's a note I got from Paul.

1 Q. When did you receive this note?

2 A. I don't recall the exact date. Probably late November of 2009.

3 Q. How do you know this is from Paul?

4 A. Well, he and I had been in business together long enough with the house that I
5 recognized his handwriting. I had seen it on bills and letters and stuff. So I
6 recognized his handwriting. At the time, I also had the envelope that it came in
7 with the Armadillo postmark, but I don't know where that went.

8 Q. And what did you think when you got this note?

9 A. I thought Paul had gone off the deep end. I mean, this is about money, but it
10 wasn't extortion. You can't extort money that you are legally owed. I thought that
11 if I could just see him and talk to him in person that he would understand and we
12 could solve the problem.

13 Q. So what did you do?

14 A. I went to Armadillo to see him.

15 Q. Did you see him?

16 A. Yes, I went to his office first.

17 Q. Did you see him there?

18 A. No. Jordan Brown said Paul wasn't there and told me to leave. Jordan was very
19 rude about it and threatened to call the bailiffs to have me removed.

20 Q. So you never met with Judge Tu in his chambers?

21 A. Well, not in December 2009. I had been in his chambers in the past, before we
22 bought the house together.

23 Q. What did you do then?

1 A. I went to Paul's house and waited for him.

2 Q. Did he know you were coming?

3 A. No. After the incident with Jordan, I thought if I called, Paul would refuse to see
4 me, so I just went to his house and waited.

5 Q. Did you park in the driveway of Judge Tu's house?

6 A. No. I thought if he saw my car in his driveway he would just keep going. So I
7 parked a block or so away and walked to his house.

8 Q. Did you take a gun with you?

9 A. Yes.

10 Q. Why?

11 A. Well, after the note I got and the way Jordan reacted when I walked into the
12 office, I was kind of scared of what Paul might do when he saw me. You know,
13 the note sounded kinda threatening, and I knew Paul was a little upset and testy
14 about the judicial election thing, even though it was almost a year away. So I
15 thought I should be prepared in case he went ballistic.

16 Q. And what happened?

17 A. I waited for Paul in the courtyard of his house.

18 Q. Lisa, I'm showing you Exhibit C. Do you recognize this?

19 A. Yes, it's a diagram of the front of Judge Tu's house.

20 Q. Did you prepare this diagram?

21 A. Yes. With some help from a ruler.

22 Q. Is it a fair and accurate representation of the layout of the front of Judge Tu's
23 house on the day of the incident?

- 1 A. Pretty much. It's not to scale.
- 2 Q. Would this diagram help you to explain your testimony?
- 3 A. Yes.
- 4 Q. Okay, tell me what the diagram shows.
- 5 A. Well, the part marked "driveway" is the driveway up to the front of his house.
- 6 And then off to the right is a courtyard area. You can't see into the courtyard
- 7 from the driveway. And I was waiting in there. Paul has a little koi pond there
- 8 with a small table and two chairs, so I just sat there and waited. I marked the
- 9 table on there with a "T."
- 10 Q. Then what happened?
- 11 A. When Paul got home, he parked in the middle of the driveway. He got out and
- 12 started to come up the sidewalk toward the archway that leads to the courtyard.
- 13 As he got to the part of the courtyard by the koi pond, I stood up and said hello.
- 14 Q. Were you holding the gun at that point?
- 15 A. No. I had it in my pocket.
- 16 Q. What happened next?
- 17 A. I told Paul that I wanted to talk about what he owed me and that I thought this
- 18 was the best time to do it.
- 19 Q. What did he do?
- 20 A. He was surprised to see me, and he said that now was not a good time. I said it
- 21 was. And then he said that he had had enough of this and he wasn't going to put
- 22 up with me or my demands anymore.
- 23 Q. Then what happened?

- 1 A. He turned around and headed back toward his car.
- 2 Q. And what did you do?
- 3 A. I started to follow him toward his car.
- 4 Q. Did Paul say anything else?
- 5 A. He said, "I don't want to hear about money anymore. I'm going to shut you up for
6 good." And he opened the passenger door of his car and reached inside.
- 7 Q. And what did you do then?
- 8 A. Well, I was really scared because I knew he had a gun in the car. So I pulled out
9 the gun I had in my pocket.
- 10 Q. Then what happened?
- 11 A. I saw Paul stand back up and I saw something shiny in his hand. He raised his
12 hand, and I thought he had gotten his gun. He turned and closed the door and
13 took a step toward me.
- 14 Q. What happened next?
- 15 A. I was pointing the gun at him because I thought he had his gun. And it just went
16 off.
- 17 Q. Then what happened?
- 18 A. Well, Paul fell down and there was blood everywhere. I was horrified at what had
19 happened.
- 20 Q. Did you call for help?
- 21 A. Yes, I laid the gun on the ground and called the police immediately.
- 22 Q. Did you intend to kill Judge Tu?
- 23 A. No. I was just holding the gun in self-defense because I thought he had his gun,

1 and my gun—it went off somehow.

CROSS-EXAMINATION

2 Q. Ms. Richardson, you just said that you called the police immediately after you
3 shot Judge Tu, is that right?

4 A. Yes, I did.

5 Q. But you didn't call 9-1-1, did you?

6 A. No.

7 Q. Instead, you called the non-emergency number for the police, didn't you?

8 A. Well, I thought I would get through quicker that way. I wasn't thinking straight at
9 that point.

10 Q. And did you know the non-emergency number for the police?

11 A. No. I called 4-1-1 and they connected me.

12 Q. So you had just shot Judge Tu—unintentionally in your words—and rather than
13 calling 9-1-1 you called information and asked for the non-emergency number for
14 the police, is that right?

15 A. Yes. As I said, I wasn't thinking straight.

16 Q. And you didn't actually see a gun in Judge Tu's hand before you fired your gun,
17 did you?

18 A. No. I just saw something shiny. But I knew he kept a gun under the front
19 passenger seat of his car and he had just reached in there so I thought it was the
20 gun.

21 Q. Had you ever touched the gun Judge Tu kept under the seat of his car?

22 A. Not that I remember.

- 1 Q. Any idea how your fingerprint would be on it?
- 2 A. No. The only thing that I can think of is that I must have touched it when I
3 reached for something on the floor of his car in the past. But I don't remember
4 touching anything, and I was totally surprised when they said they found my
5 fingerprint on it. Of course, Paul's a judge and I'm not. Perhaps the crime lab
6 "found" a fingerprint that wasn't really there.
- 7 Q. Going back a little, you say that you invested \$400,000 in this Hawaii house, is
8 that right?
- 9 A. Yes.
- 10 Q. Do you have any evidence to show that you paid the broker or realtor the
11 additional \$100,000?
- 12 A. No. As I said, you don't keep receipts for that type of thing.
- 13 Q. And what "type of thing" was that? A bribe?
- 14 A. I wouldn't call it that. I was just like a tip to put our offer on the house in first.
- 15 Q. Did Judge Tu know about this "tip?"
- 16 A. Yes, I told him about it.
- 17 Q. Going back even further, how did you have \$400,000 to invest in this house?
- 18 A. I work in a business that generally pays in cash. So I had cash available.
- 19 Q. And what business do you work in?
- 20 A. I provide companion services.
- 21 Q. Don't you, in actuality, run an escort service?
- 22 A. I suppose you could call it that.
- 23 Q. So your income is generally off the books, isn't it?

1 A. Yes, for the most part.

2 Q. You also mentioned that you had filed for bankruptcy. If that's true, why would
3 your creditors still be after you? Weren't your debts to them discharged?

4 A. No, my bankruptcy case was dismissed. Something about abuse of the
5 bankruptcy process or filing in bad faith or something like that. You'd have to ask
6 my lawyer for the details.

7 Q. Finally, are you the beneficiary of a life insurance policy on Judge Tu?

8 A. I don't know. I was at one point, but I don't know if the policy is still in force. I
9 guess I could be.

[NO FURTHER QUESTIONS FROM THE PROSECUTOR OR THE DEFENSE.]

DEPOSITION OF CHRIS JENSEN

1 Q. Please state your name for the record.

2 A. Chris Jensen.

3 Q. How are you employed?

4 A. I am an Emergency Medical Technician, or EMT, for the Armadillo Fire
5 Department.

6 Q. And what do you do in that capacity?

7 A. I respond to any type of emergency, such as an auto accident, in which injuries
8 are reported.

9 Q. How long have you been an EMT?

10 A. For the last eight years.

11 Q. As an EMT, do you have any training relating to crime scenes?

12 A. A little. Often we are the first ones on a scene, whether it is an accident scene or
13 a crime scene, so we do have some training in just observing the scene when we
14 arrive.

15 Q. What does that training involve?

16 A. Well, mainly we are taught to look for threats to our own safety. We need to
17 make sure it is safe for us to approach any victims before we actually do so.

18 Q. When did you last have that training?

19 A. I have to have three hours of job safety training each year to maintain my EMT
20 license. That is in addition to the twenty-two hours of continuing medical
21 education training. And part of those job safety training hours deal with safety at

1 the scene itself. So I would say within the past year I've had that training.

2 Q. Did you respond to the scene of a shooting on December 17, 2009?

3 A. Yes.

4 Q. Do you recall how the first call came in?

5 A. I just know that we got a call to respond to shooting at a house at 9881

6 Fortenberry Road in Armadillo. I don't know any details of how the call came in.

7 Q. When you arrived, what did you find?

8 A. I first saw a gentleman laying on the ground right next to the passenger door of a

9 car. I also saw a woman standing near the entryway to the courtyard of the

10 house. There was a gun on the ground by her feet.

11 Q. What did you do at that point?

12 A. I was concerned about approaching the victim while the woman was standing so

13 close to the gun. So I asked her to walk out of the courtyard and leave the gun

14 where it was.

15 Q. Did she do that?

16 A. Yes.

17 Q. I'm showing you what has been marked as Exhibit D. Do you recognize this?

18 A. Well, I recognize the scene. I did not take the picture.

19 Q. What does this photograph show?

20 A. It shows the gun that was laying at the woman's feet when I got to the scene of

21 the shooting.

22 Q. Does that photograph fairly and accurately depict this portion of the shooting

23 scene as it was when you arrived at the scene?

1 A. Yes.

2 Q. I'm showing you Exhibit E. Do you recognize this?

3 A. Not really. It looks like it might be a close-up of the gun from the other picture,
4 but I couldn't tell you for sure that it was.

5 Q. Turning back to the woman who was there, did she say anything when you
6 arrived?

7 A. Yes. She said, "Oh my god. He had his gun. He was going to shoot me. Oh
8 my god. What have I done? Oh my god. Please help him. I never meant to hurt
9 him."

10 Q. What was her demeanor like at the time?

11 A. Well, I wasn't too focused on that. But she seemed hysterical. I did notice that
12 she was trembling and she kept wringing her hands and saying, "Oh my god."
13 But once she was away from the gun, I turned my full attention to the victim, so I
14 couldn't tell you anything else.

15 Q. Do you know how long you arrived after the shooting occurred?

16 A. Well, I know we arrived at the scene four minutes after we received the call. But
17 I don't know how long it was between the time of the shooting and the time we
18 received the call.

19 Q. Had the victim sustained any injuries?

20 A. Yes. He had a gunshot wound to the right side of his torso.

21 Q. Any other injuries?

22 A. No.

23 Q. What happened next?

1 A. My partner Zak Hall and I continued to treat the victim. By then, there were a lot
2 of police at the scene, so I was focused solely on the victim.

3 Q. Did you have any reason to remove the victim's clothing?

4 A. Well, we removed his shirt to access and assess the wound. We did not remove
5 his pants at that point.

6 Q. Did you have any reason to reach into the victim's pants pocket?

7 A. Yes. As we were preparing to put the victim on a stretcher, his cell phone rang.
8 It was in the front left pocket of his pants. We removed it and placed it in a bag
9 that we use to transport any valuables that belong to the victim.

10 Q. Did you happen to notice who the call was from?

11 A. The caller ID said "Marty Jones." He's a bigwig lawyer in town. But I didn't
12 answer the phone. I just dropped it—still ringing—into the valuables bag.

13 Q. So as best you could tell, the victim was not holding his cell phone when he was
14 shot?

15 A. Well, I suppose it's possible. One thing you learn on this job is that anything is
16 possible. But I don't think he was holding that phone when he was shot. It was
17 in his pants pocket when we found him and I doubt he would have been able to
18 put it there after he was shot.

19 Q. Did there come a time when you alerted the police to any other piece of
20 evidence?

21 A. Yes. After we placed the victim on the stretcher and as we were starting to move
22 him toward the ambulance, I happened to glance in the passenger window of the
23 car in the driveway and I saw a gun sitting on the passenger seat.

1 Q. Was the gun actually on the seat itself?

2 A. Yes.

3 Q. So it was not on the floor or under the seat?

4 A. No. It was sitting on the passenger seat of the car.

5 Q. Did you do anything when you noticed that?

6 A. Yes. I called over to one of the officers and alerted him that the gun was there.

7 Q. I'm showing you what has been marked as Exhibit F. Do you recognize this?

8 A. Well, again I recognize the scene. I did not take the picture.

9 Q. What does this photograph show?

10 A. It shows the gun that was laying on the seat of the car that was parked in the

11 driveway when I got to the scene of the shooting.

12 Q. Does that photograph fairly and accurately depict this portion of the shooting

13 scene as it was when you saw it?

14 A. Yes.

15 Q. After you arrived at the scene, did anyone else approach the passenger side of

16 the car?

17 A. You mean, like to plant the gun there? No. No one could get to that door once

18 we got there because of where the victim was laying. So that gun had to have

19 been there since we got to the scene.

20 Q. And were you and your partner the first ones to arrive at the scene?

21 A. Yes. Well, we arrived at almost the exact same time as an Armadillo sheriff's

22 deputy. We got out of our ambulance just as he was getting out of his cruiser.

23 Q. So, to the best of your knowledge, no one was at the scene before you?

1 A. Not that I know of.

2 Q. Now, Chris, you did not come forward with any information about the cell phone
3 or the gun immediately after this crime, did you?

4 A. Well, I didn't know that I had anything important to say. Plus, everyone knew I
5 was the first person on the scene. They could have found me if they had wanted
6 to.

7 Q. Chris, have you ever been convicted of a crime?

8 A. I've been known to smoke a little pot when I'm not on duty. But I've never been
9 caught, so I guess that doesn't count.

10 Q. Weren't you disciplined by Armadillo Fire Rescue for taking controlled
11 substances from your ambulance?

12 A. Not exactly. I was disciplined because some morphine was missing from my
13 ambulance after a run. But I didn't take it. I think it just never got restocked. But
14 my supervisor said it was my job to check for that before each run and that if it
15 was missing, I was on the hook for it. So I took the discipline. But it's not fair to
16 insinuate that I stole it.

17 Q. And who is your supervisor at Armadillo Fire Rescue?

18 A. Stephen Walker.

19 Q. Does your supervisor decide who gets raises and who gets promoted within
20 Armadillo Fire Rescue?

21 A. Yes.

22 Q. To your knowledge, is Stephen Walker in any way related to Lisa Richardson?
23

1 A. Someone told me that he's her brother, but I don't know if that is true.

_____/s/_____
Chris Jensen

Sworn to and subscribed before me
this 9th day of June, 2010.

_____/s/_____
Notary Public

Stipulated Sworn Testimony of Andy Little

It is agreed and stipulated that if Andy Little were available to be called as a witness in this trial, he would testify under oath as follows:

My name is Andy Little. I am employed by the Lone Star Department of Law Enforcement (LSDLE) as a fingerprint analyst and a fracture analyst. I received my undergraduate degree in forensic sciences from the University of Tennessee at Knoxville. I have been employed by the LSDLE as a fingerprint examiner since 1997. I received on-the-job training from the LSDLE when I was first hired, and I have since taken several courses in fingerprint examination at the FBI facility at Quantico. More recently, I completed an on-line course in fracture analysis, which is the study of taking broken or torn pieces of material and determining if and how they fit back together. I am a certified fingerprint examiner, but there is currently no certification available for fracture analysis. I have testified in court concerning fingerprint analysis over 200 times. I have never before testified in court concerning fracture analysis.

On December 20, 2009, I received two handguns that had been collected at the scene of a shooting that occurred at 9881 Fortenberry Road. Each gun was contained in a sealed evidence bag that identified the location from which the gun had been collected. The first handgun, identified as G-1, was a Beretta 9mm model 92FS with a stainless finish. It was identified as having been collected from the front sidewalk in front of the residence. The second handgun, identified as G-2, was a Beretta 9mm model 92FS with a black matte finish. It was identified as having been collected from the front passenger seat of a vehicle parked in the driveway of 9881 Fortenberry Road.

On handgun G-1, I was able to lift a number of fingerprints of comparison value from the handle and the trigger. Through comparison with the known prints of Lisa Richardson I was able to positively identify several of the fingerprints on the handle and

the trigger of handgun G-1 as coming from Ms. Richardson. There were also several prints of comparison value that did not match those of either Ms. Richardson or Paul Tu.

On handgun G-2, I was able to lift a number of fingerprints of comparison value from the handle and the trigger. There was also a single fingerprint of comparison value on the far end of the barrel on the left side. Through comparison with the known prints of Paul Tu, I was able to positively identify the fingerprints on the handle and trigger of the handgun G-2 as coming from Mr. Tu. Through a comparison with the known prints of Lisa Richardson, I was able to positively identify the fingerprint on the end of the barrel as belonging to Ms. Richardson.

As is true with all fingerprint evidence, I am unable to say when any of these fingerprints were left on either handgun. I can say only that they were present when the handguns were collected by the evidence technicians.

- End of Stipulated Testimony -

The Honorable Paul Tu
Sixth Judicial Circuit
175 Houston Avenue
Armadillo, Lone Star 77777

November 15, 2009

Lisa Richardson
105 Great White Way
Big City, New York 11111

Dear Ms. Richardson:

Recently, you have made a number of telephone calls to my office regarding money you believe I owe you. These calls have interrupted both my work and that of my judicial assistant, Jordan Brown. I am writing to ask that you stop placing calls to my office.

As you know, you were fully paid what you were owed based on the sale of the house in Hawaii. These calls you are making to my office, in which you demand additional payments, are simply harassment. If these calls do not stop, I will be forced to pursue legal action against you to enjoin any further contact.

Sincerely,

P-

Paul Tu
Harris County Judge

PT/jb
cc: Marty Jones

EXHIBIT A

Lisa -

I'm not going to tell you again. STOP calling me or you will regret it. Your calls and threats are killing my judicial career and I will not just stand by and let you get away with that. You and I both know that I don't owe you any more money --- it's just extortion. So leave me alone or I will see to it that you never bother anyone again.

P-

EXHIBIT B

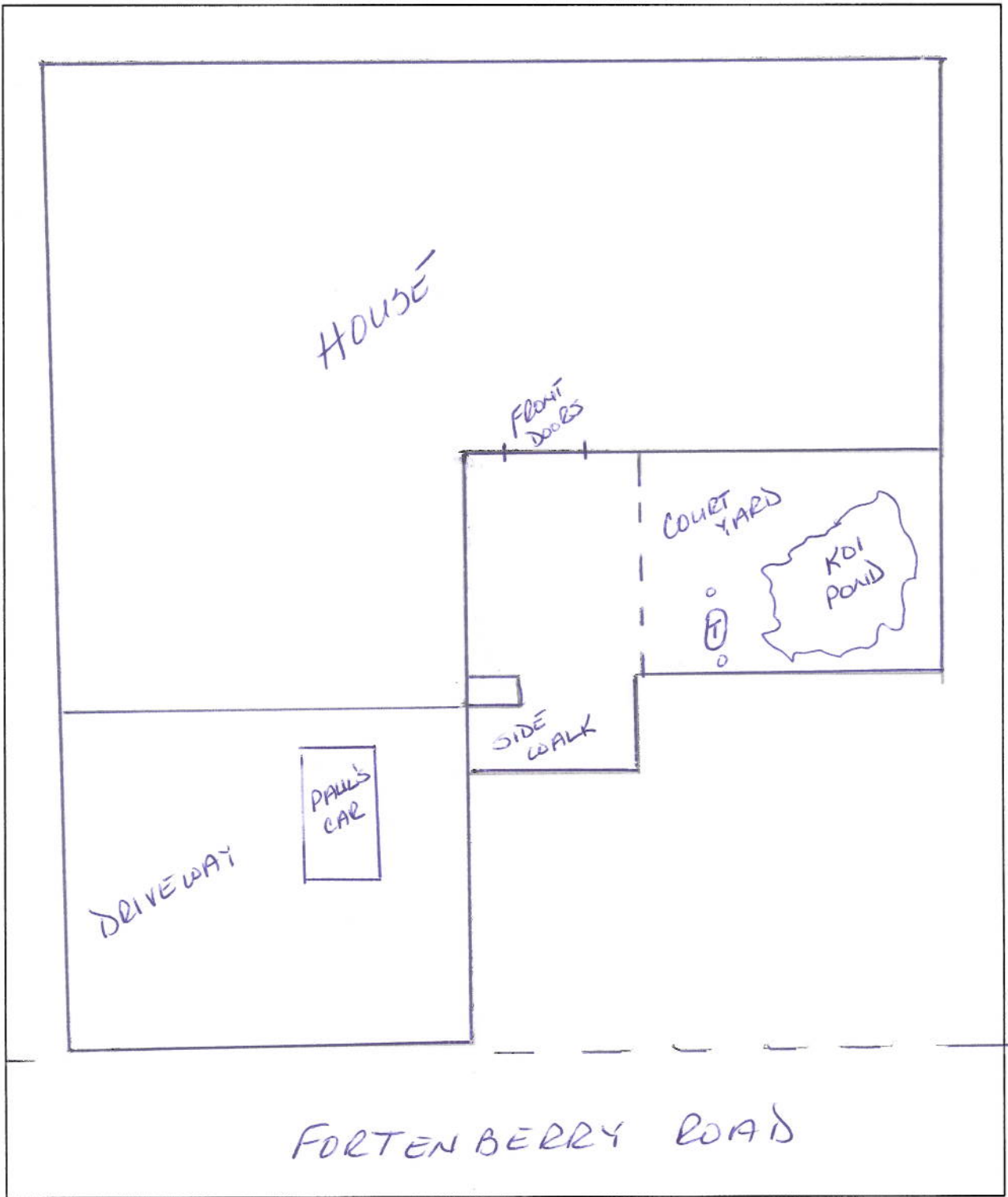


EXHIBIT C



EXHIBIT D



EXHIBIT E



EXHIBIT F

PRELIMINARY JURY INSTRUCTIONS

Ladies and gentlemen of the jury:

You have been selected and sworn as the jury to try the case of the State of Lone Star v. Lisa Richardson.

This is a criminal case. Lisa Richardson is charged with one count of attempted first-degree murder. The definition of and the elements of this crime will be explained to you later.

It is your solemn responsibility to determine if the State has proved its accusation against Lisa Richardson beyond a reasonable doubt. I will decide which laws apply to this case and explain those laws to you. You will decide what the facts of this case are and apply the law to those facts. Thus, the function of the jury and the function of the judge are well defined, and they do not overlap. This is one of the fundamental principles of our system of justice.

Your verdict must be based solely on the evidence, or lack of evidence, and the law. The indictment is not evidence and is not to be considered by you as any proof of guilt. The case must be tried only on the evidence presented during the trial in your presence and in the presence of the Defendant, the attorneys, and the judge. Jurors must not conduct any investigation of their own. Accordingly, you must not visit any of the places described in the evidence, and you must not read or listen to any reports about the case. Further, you must not discuss this case with any person and you must not speak with the attorneys, the witnesses, or the Defendant about any subject until your deliberations are finished.

Before proceeding further, it will be helpful for you to understand how a trial is conducted. At the beginning of the trial, the attorneys will have an opportunity to make an opening statement, in which they may explain to you the issues in the case and summarize the facts that they expect the evidence will show. Following the opening statements, witnesses will be called to testify under oath. They will be examined and cross-examined by the attorneys. Documents and other exhibits also may be received as evidence.

After all the evidence has been received, the attorneys will again have the opportunity to address you and to make their final arguments. The statements that the attorneys now make and the arguments that they later make are not to be considered

by you either as evidence in the case or as your instruction on the law. Nevertheless, these statements and arguments are intended to help you properly understand the issues, the evidence, and the applicable law, so you should give them your close attention. Following the final arguments by the attorneys, I will instruct you on the law.

You should give careful attention to the testimony and other evidence as it is received and presented for your consideration, but you should not form or express any opinion about the case until you have received all the evidence, the arguments of the attorneys, and the instructions on the law from me. In other words, you should not form or express any opinion about the case until you retire to the jury room to consider your verdict.

The attorneys are trained in the rules of evidence and trial procedure, and it is their duty to make all objections they feel are proper. When a lawyer makes an objection, I will either overrule or sustain the objection. If I overrule an objection to a question, the witness will answer the question. If I sustain an objection, the witness will not answer, but you must not speculate on what might have happened or what the witness might have said had I permitted the witness to answer the question. You should not draw any inference from the question itself.

During the trial, it may be necessary for me to confer with the attorneys out of your hearing, talking about matters of law and other matters that require consideration by me alone. It is impossible for me to predict when such a conference may be required or how long it will last. When such conferences occur, they will be conducted so as to consume as little of your time as necessary for a fair and orderly trial of the case.

FINAL JURY INSTRUCTIONS

Members of the jury, I want to thank you for your attention during this trial. Please pay attention to the instructions I am about to give you.

Lisa Richardson, the defendant in this case, has been accused of the crime of attempted first-degree premeditated murder of Paul Tu. To prove the crime of attempted first-degree premeditated murder, the State must prove the following three elements beyond a reasonable doubt:

1. Lisa Richardson did some act intended to cause the death of Paul Tu that went beyond just thinking or talking about it.
2. Lisa Richardson acted with a premeditated design to kill Paul Tu.
3. The act would have resulted in the death of Paul Tu except that someone prevented Lisa Richardson from killing Paul Tu or she failed to do so.

A "premeditated design to kill" means that there was a conscious decision to kill. The decision must be present in the mind at the time the act was committed. The

law does not fix the exact period of time that must pass between the formation of the premeditated intent to kill and the act; however, the period of time must be long enough to allow reflection by the Defendant. The question of premeditation is a question of fact to be determined by you from the evidence. It will be sufficient proof of premeditation if the circumstances of the killing and the conduct of the Defendant convince you beyond a reasonable doubt of the existence of premeditation at the time of the killing.

In considering the evidence, you should consider the possibility that although the evidence may not convince you that the Defendant committed attempted first-degree premeditated murder, there may be evidence that she committed other acts that would constitute a lesser included crime. Therefore, if you decide that the main accusation has not been proven beyond a reasonable doubt, you will next need to decide if the Defendant is guilty of any lesser-included crime. The only lesser-included crime at issue in this case is attempted second-degree murder.

To prove the crime of attempted second-degree murder, the State must prove the following two elements beyond a reasonable doubt.

1. Lisa Richardson intentionally committed an act which would have resulted in the death of Paul Tu except that someone prevented Lisa Richardson from killing Paul Tu or she failed to do so.
2. The act was imminently dangerous to another and demonstrated a depraved mind without regard for human life.

An "act" includes a series of related actions arising from and performed pursuant to a single design or purpose. An act is "imminently dangerous to another and demonstrating a depraved mind" if it is an act or series of acts that:

1. a person of ordinary judgment would know is reasonably certain to kill or do serious bodily injury to another; and
2. is done from ill will, hatred, spite, or an evil intent; and
3. is of such a nature that the act itself indicates an indifference to human life.

In order to convict of attempted second-degree murder, it is not necessary for the State to prove the defendant had an intent to cause death.

An issue in this case is whether the attempted killing of Paul Tu was justifiable or excusable. An attempted killing that is excusable or was committed by the justifiable use of deadly force is lawful.

The attempted killing of a human being is justifiable and lawful if necessarily done while resisting an attempt to murder the Defendant. The use of deadly force is justifiable only if the Defendant reasonably believed that the force was necessary to prevent imminent death or great bodily harm to herself. In deciding whether the Defendant was justified in the use of deadly force, you must judge her by the circumstances surrounding her at the time the force was used. The danger facing the Defendant need not have been actual; however, to justify the use of deadly force, the

appearance of danger must have been so real that a reasonably cautious and prudent person under the same circumstances would have believed that the danger could be avoided only through the use of that force. Based upon appearances, the Defendant must have actually believed that the danger was real.

The attempted killing of a human being is excusable, and therefore lawful, under either of the following two circumstances:

1. When the attempted killing is committed by accident and misfortune in doing any lawful act by lawful means with usual ordinary caution and without any unlawful intent; or

2. When the attempted killing occurs by accident and misfortune in the heat of passion, upon any sudden and sufficient provocation.

If, in your consideration of the issue self-defense, you have a reasonable doubt on the question of whether the attempted killing of Paul Tu was either justified or excusable, you should find the Defendant not guilty. However, if from the evidence you are convinced that the attempted killing was not justifiable or excusable, you should find the Defendant guilty if all of the elements of the charge have been proven.

Lisa Richardson has entered a plea of not guilty. This means you must presume or believe that she is innocent. The presumption stays with the Defendant as to each material allegation in the indictment, through each stage of the trial, unless it has been overcome by the evidence to the exclusion of and beyond a reasonable doubt. To overcome the Defendant's presumption of innocence, the State has the burden of proving the crime with which the Defendant was charged was committed, and that the Defendant is the person who committed the crime. The Defendant is not required to present evidence or prove anything.

Whenever the words reasonable doubt are used, you must consider the following: A reasonable doubt is not a mere possible doubt, a speculative, imaginary, or a forced doubt. Such a doubt must not influence you to return a verdict of not guilty if you have an abiding conviction of guilt. On the other hand, if, after carefully considering, comparing, and weighing all the evidence, there is not an abiding conviction of guilt, or, if having a conviction, it is one which is not stable, but one which wavers and vacillates, then the charge is not proved beyond every reasonable doubt, and you must find the Defendant not guilty because the doubt is reasonable. A reasonable doubt as to the guilt of the Defendant may arise from the evidence, conflict in the evidence, or the lack of evidence. If you have a reasonable doubt, you should find the Defendant not guilty. If you have no reasonable doubt, you should find the Defendant guilty.

It is up to you to decide what evidence is reliable. You should use your common sense in deciding which is the best evidence and which evidence should not be relied upon in considering your verdict. You may find some of the evidence not reliable, or less reliable, than the other evidence. You should consider how the

witnesses acted, as well as what they said. Some things you should consider are:

1. Did the witness seem to have an opportunity to see and know the things about which the witness testified?
2. Did the witness seem to have an accurate memory?
3. Was the witness honest and straightforward in answering the attorneys' questions?
4. Did the witness have some interest in how the case should be decided?
5. Does the witness's testimony agree with the other testimony and other evidence in this case?
6. Has the witness been offered or received any money, preferred treatment, or other benefit in order to get the witness to testify?
7. Had any pressure or threat been used against the witness that affected the truth of the witness's testimony?
8. Did the witness at some other time make a statement that is inconsistent with the testimony he or she gave in court?
9. Was it proved that the witness had been convicted of a crime?

You may rely upon your own conclusion about the witnesses. A juror may believe or disbelieve all or any part of the evidence or the testimony of any witness.

Expert witnesses are like other witnesses, with one exception. The law permits an expert witness to give his or her opinion. However, an expert's opinion is reliable only when given on a subject about which you believe him to be an expert. Like other witnesses, you may believe or disbelieve all or any part of an expert's testimony.

There are some general rules that apply to your discussion. You must follow these rules in order to return a lawful verdict.

1. You must follow the law as it is set out in these instructions. If you fail to follow the law, your verdict will be a miscarriage of justice. There is no reason for failing to follow the law in this case. All of us are depending upon you to make a wise and legal decision in this matter.
2. This case must be decided only upon the evidence that you have heard from the testimony of the witnesses and have seen in the form of the exhibits in evidence and these instructions.
3. This case must not be decided for or against anyone because you feel sorry for anyone or are angry at anyone.
4. Remember, the lawyers are not on trial. Your feelings about them should not influence your decision in this case.
5. Your duty is to determine if the Defendant has been proven guilty or not in accord with the law. It is the judge's job to determine a proper sentence if the defendant is found guilty.
6. Whatever verdict you render must be unanimous; that is, each juror must agree to the same verdict.
7. It is entirely proper for a lawyer to talk to a witness about what testimony the witness would give if called to the courtroom. The witness should not be discredited

by talking to a lawyer about his or her testimony.

8. Your verdict should not be influenced by feelings of prejudice, bias, or sympathy. Your verdict must be based on the evidence and on the law contained in these instructions.

Only one verdict may be returned as to each crime charged. This verdict must be unanimous; that is, all of you must agree to the same verdict. The verdict must be in writing and, for your convenience, the necessary forms of verdict have been prepared for you.

[READ VERDICT FORM]

In just a few minutes you will be taken to the jury room by one of the bailiffs. The first thing you should do is elect a foreperson. The foreperson presides over your deliberations, sort of like a chairman at a meeting. It is the foreperson's job to sign and date the verdict form when all of you have agreed on a verdict in this case. The foreperson will bring the verdict back to the courtroom when you return. Obviously, either a man or a woman may be foreperson of a jury.

Your verdict finding the Defendant either guilty or not guilty must be unanimous. The verdict must be the verdict of each juror, as well as the jury as a whole.

In closing, let me remind you that it is important that you follow the law spelled out in these instructions in deciding your verdict. There are no other laws that apply to this case. Even if you do not like the laws that must be applied, you must use them. For two centuries we have lived by the Constitution and the law. No juror has the right to violate rules we all share.

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR HARRIS COUNTY, STATE OF LONE STAR
CRIMINAL DIVISION**

STATE OF LONE STAR)	
)	
)	
v.)	Case No. 2009-1758
)	
)	
LISA RICHARDSON,)	
)	
Defendant.)	
_____)	

VERDICT

We, the Jury, find as to the Defendant, Lisa Richardson, as follows:

As to Count I – Attempted First-Degree Premeditated Murder:

_____	Guilty of Attempted First-Degree Murder
_____	Guilty of the lesser offense of Attempted Second-Degree Murder
_____	Not Guilty

So say we all.

Foreperson of the Jury

Date