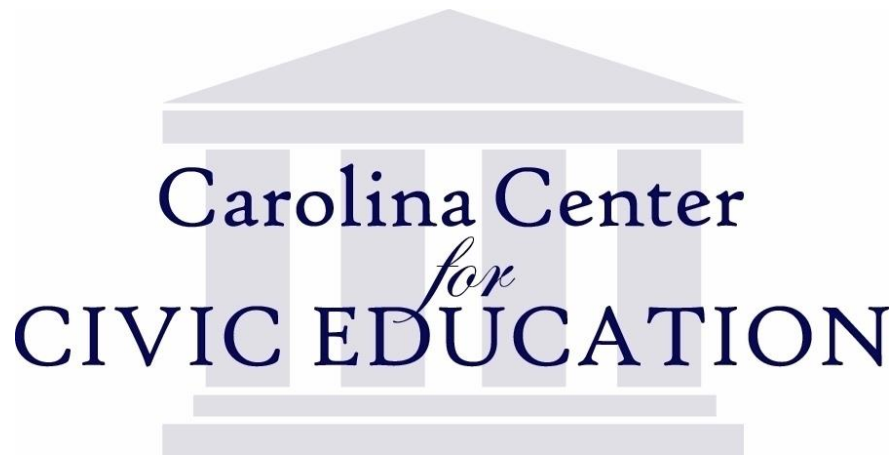


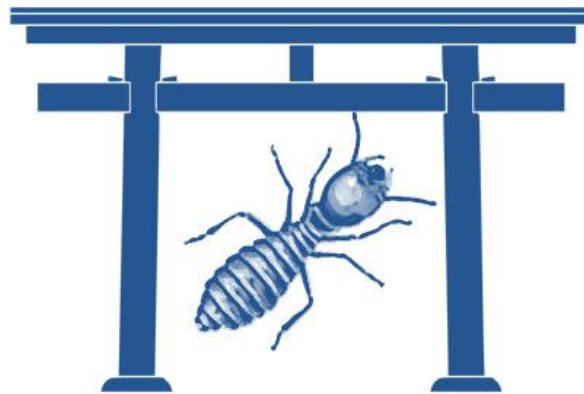
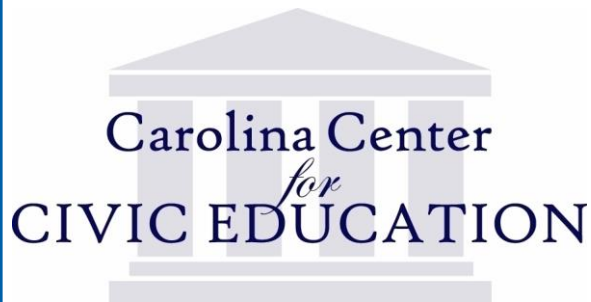
2015-2016 Competition Case



PRESENTS THE

North Carolina Advocates for Justice High School Mock Trial Competition





State of Utopia
v.
Grayson Zayne

**SPONSORED BY THE
CAROLINA CENTER FOR CIVIC EDUCATION**

The Carolina Center for Civic Education wishes to thank those involved in the writing of this year's case. Drawing upon the 2015 Pennsylvania competition case *Pennsylvania v. Marmalard* (authored by Jon Grode, Paul Kaufman, Jonathan Koltach, and Talia Charme-Zane), CCCE Program Coordinator Susan H. Johnson significantly revised their work to create our 2015-16 North Carolina mock trial case. The CCCE also appreciates Case Committee Chair Gordon Widenhouse, Samuel Johnson, and Katy Parker for their comments and assistance in proofreading *Utopia v. Zayne*.

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***A SPECIAL THANK YOU to the many contributors who make the
2015-2016 NCAJ Mock Trial Program possible!***

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Many thanks to our CCCE Program Coordinator: Susan H. Johnson, MPH

Many thanks to our 2015-16 Regional Coordinators and CCCE Board Members:

Asheville Regional Coordinators Mark Melrose and Marion Parsons-Groat, Charlotte Regional Coordinator Jennifer Errington, Durham Regional Coordinators Russell Johnson and Robert Jessup, Fayetteville Regional Coordinator Rebecca Britton, Greenville Regional Coordinator Philip Entzminger, High Point Regional Coordinator Rich Manger, Raleigh Regional Coordinators Christine Scheef and Lindsey Granados, Wilmington Regional Coordinator John H. Anderson, Jr.; and CCCE Board Members Gordon Widenhouse, Rebecca Britton, Rich Manger, Adrienne Blocker, Chris Nichols, Katy Parker, Christine Scheef, and Brooke Schmidly.

Many thanks also to our Site Coordinators for the 2015-16 season!

***Asheville:* Victoria Townley, **Charlotte:** Beverly K. Moore, **Durham:** Patti Clapper and Lakisha Chichester, **Fayetteville:** Elizabeth Owens, **Greenville:** Kristin Byrum; **High Point:** Karen Parrish, **Raleigh:** Michelle Keely and Sandra Strickland, **Wilmington:** Brandy Jo Lea and Christi Wert.**

Special thanks to our many volunteers!

We appreciate the many volunteers who have truly caught the mock trial spirit and who devote their time and energy to make this program so successful; and the students, parents, teachers and legal professionals whose support is crucial to this program that combines a practical, hands-on learning experience with a healthy dose of fun competition.

INTRODUCTION

Welcome to the 2015-16 North Carolina Advocates for Justice High School Mock Trial Competition! Organized and operated by the nonprofit Carolina Center for Civic Education, the program provides high school students with firsthand experience of the American judicial system. In the process, students gain crucial skills in critical thinking, effective communication, leadership, and collaboration.

This year's case, *State of Utopia v. Grayson Zayne*, is a criminal action charging intentional homicide on a college campus. Based upon the 2015 Pennsylvania state case, it has been extensively revised for our 2015-16 competition. The case deals with many timely topics, including hazing, social media fads, an academic cheating scandal, the environmental impacts of foreign species lacking natural predators, and charity fund-raising events.

In creating our North Carolina case, CCCE Program Coordinator Susan H. Johnson tailored it to reference previous events in the fictional state of Utopia as well as current events in North Carolina. One topic in particular warrants your attention: the "Save the Wolf" campaign to assist the fictional judge Carla Wolf in her fight against blood cancer.

This aspect of the case is modeled after the real 2015 "**Save the Fox**" campaign to assist N.C. Superior Court Judge Carl Fox, a long-time supporter of our North Carolina mock trial program. Judge Fox is battling myelodysplastic syndrome, a rare type of blood cancer. The campaign encourages individuals, particularly minorities, to join the bone marrow donor registry to help those fighting various cancers of the blood.

Registration for the national bone marrow registry, open to adults age 18 – 55, is free, simple, and painless, consisting only of a cheek swab and paperwork. By highlighting the battle facing Judge Fox, we hope to assist him and others in finding a bone marrow donor match. We encourage you to join us in this campaign to "Delete Blood Cancer." For more information, check out [Save the Fox](#) and [DeleteBloodCancer.org](#).

Our case also references activities that could be termed "hazing," ranging from serving older ZIP students by doing extra chores to activities that are more dangerous (the fictional "pandaing"). The CCCE's use of these examples should not be construed as condoning or encouraging such activities. Inherent risk is involved and you could be injured if you mimic the behavior of the characters. Indeed, one of the lessons of this problem is that people can get hurt by such behavior. **DO NOT REENACT** the hazing-type acts described in this year's case.

Hazing is never appropriate and even the behavior that the fictional characters in our story accept (serving older students, taking on chores that others do not have) push the line of hazing. Many think of hazing as a rite of passage, nothing more than harmless pranks that are associated with group initiations. But just google "hazing" and see the headlines where lines are crossed. If you are hazed, please get to safety and report it to your school and to those who care for you.

We hope you find these materials interesting, and we wish you all the best of luck!

State of Utopia
v.
Grayson Zayne

WITNESSES

PROSECUTION	DEFENSE
Avery Koltasch, ZIP pledge, friend of deceased Morgan McCabe, ZIP alum, former UU professor Carter Gooding, Expert Witness	Grayson Zayne, Defendant Logan Kaufmann, ZIP pledge Shelby Grody, Expert Witness

CASE DOCUMENTS

Legal Documents

- | | |
|---|----------------------|
| 1. Grand Jury Indictment | 4. Utopia Penal Code |
| 2. Order on Motion for Summary Judgment | 5. Relevant Case Law |
| 3. Stipulations | 6. Jury Instructions |

Affidavits

Prosecution

1. Affidavit of Avery Koltasch
2. Affidavit of Morgan McCabe
3. Affidavit of Carter Gooding

Defense

6. Affidavit of Grayson Zayne
7. Affidavit of Logan Kaufmann
8. Affidavit of Shelby Grody

Exhibits

- | | |
|-------------------------------------|---|
| 1. ZIP Bylaws | 7. Photo of <i>Paifang</i> gate |
| 2. Pledge Promise (2014) | 8. Carter Gooding CV |
| 3. ZIP National Anti-Hazing Webpage | 9. Shelby Grody CV |
| 4. Photo of Milkweed Paper | 10. Grayson Zayne’s Lab Log Notes |
| 5. Police Investigation Report | 11. Photos of “Planking” and “Pandaing” |
| 6. Harper/Grayson Email Exchange | |

PRONUNCIATION GUIDE

1. Koeltzow (KELL-so)
2. Shelby Grode (SHELL-bee GROW-dee)
3. Paifang (pay-fahng)
4. Coptotermes formosanus (kahp-to-TER-meez for-moe-SAHN-uhs)
5. Formosan (for-MOE-sihn)
6. Pediculus humanis captis (pehd-IH-kyoo-luhs HYOO-mah-nuhs KAHF-tihs)
7. Reticulitermes flavipes (reh-TICK-yoo-luh-TER-meez FLAH-vih-peeze)
8. Toxicodendron vernicifluum (TOX-ih-koh-DEHN-dron vurn-IH-si-floom)
9. Xylophagy (zigh-low-FAY-gee) or (zi-LA-fah-gee)

**LEGAL
DOCUMENTS,
AFFIDAVITS,
AND EXHIBITS**

**SUPERIOR COURT FOR THE STATE OF UTOPIA
ST. THOMAS MORE COUNTY**

STATE OF UTOPIA,

Prosecution,

v.

GRAYSON ZAYNE,

Defendant.

**CRIMINAL ACTION
DOCKET NO. 16-CRM-0206**

**INDICTMENT FOR VIOLATION
OF U.P.C. Sec. 6.2 & 6.3.a
MURDER IN THE FIRST DEGREE**

THE GRAND JURY DOES HEREBY CHARGE:

On September 15, 2014, in St. Thomas More County, State of Utopia, Grayson Zayne did purposefully, knowingly, or extremely recklessly cause the death of Harper Finch, a living person, in violation of U.P.C. Sec. 6.2 & 6.3.a.

The acts committed by the accused were as follows:

The accused did cause death to another intentionally (U.P.C. Sec. 6.2 & 6.3.a) in that the accused did place into a wooden structure, a *Paifang* archway, a wood-boring insect, the Formosan Subterranean Termite, in order to weaken said structure. The accused did then cause an individual, Harper Finch, to climb such structure, knowing that it was weakened, knowing that Ms. Finch did not know that, and intending that Ms. Finch should fall and die and/or that the structure should collapse, causing her death, and that in so doing the accused did, in fact, cause Ms. Finch to fall and/or portions of the arch to collapse, proximately causing the death of a living person, Ms. Finch.

A TRUE BILL OF INDICTMENT

Arvind Gaballah

Foreperson of the Grand Jury, St. Thomas More County, Utopia

November 5, 2014

Date

**SUPERIOR COURT FOR THE STATE OF UTOPIA
ST. THOMAS MORE COUNTY**

STATE OF UTOPIA,

Prosecution,

v.

GRAYSON ZAYNE,

Defendant.

**CRIMINAL ACTION
DOCKET NO. 16-CRM-0206**

ORDER ON MOTION TO DISMISS

Defendant Grayson Zayne moves to dismiss the Indictment for Murder in the First Degree in contravention of U.P.C. Sec. 6.2 & 6.3.a. Defendant argues that the evidence against her/him in this matter is insufficient to show that her/his acts caused the death of Harper Finch. The Court DENIES Defendant's motion, and the matter will proceed to trial.

The Defendant's attack on the charges is threefold. First, Defendant argues that the nature of Finch's death is such that no reasonable juror could conclude that Zayne's actions caused it, and therefore that her/his actions fulfill the requirements, at most, of third degree (malice) homicide. Second, Defendant argues that a fall from a height of fifteen to twenty-five feet¹ could not reasonably have been foreseen to cause death, and thus that s/he cannot be guilty of first degree murder. Third, Defendant argues that s/he could not have known where Finch would climb, and thus could not have foreseen this death.

None of these arguments is availing. The State alleges that Zayne intentionally created the circumstances in which Finch died by directing Finch to a physical location – the famous *Paifang* arch on Utopia University's campus – and by directing Finch to take an action –“planking” or “pandaing” – that could only occur on a small portion of the arch. The State further alleges that Zayne took affirmative steps to ensure that Finch would fall, including infesting the arch with aggressive termites that weakened the structure.

For purposes of this motion, the Court must draw all inferences in favor of the State. The Court notes that, notwithstanding the defendant's argument, the dangers of falling from a height as low as eighteen feet are quite substantial. In a Center for Disease Control study of approximately 90 fatal falls, more than a third were from heights of less than 15 feet, and almost half were falls of 25 feet or less. Moreover, the circumstances of this fall – its suddenness, its unexpectedness, and the fact that no safety precautions were being used to ensure that Finch could be caught or would fall feet-first – mitigate the force of Defendant's claims.

By way of analogy, were Zayne accused of digging a twenty-five foot pit with a concrete floor, and then covering it over so that Finch would tumble into it, or of removing all the support screws on a guard rail at the top of a twenty-foot wall so that Finch would fall to her death, there would be no question that such charges could succeed. The exotic nature of this scheme may make it more complex, but the law on point is simple and direct.

¹ The precise height of Finch's fall is unknown. The record indicates that she was climbing to a point approximately twenty-four feet above the ground, and she was well off the ground, according to eyewitness reports. One witness even placed her a foot or two above the “planking/pandaing” point, the better to climb down onto it.

If the State makes the showings it posits it will, a reasonable jury *could* conclude that Defendant Zayne turned the ancient structure into an exotic and deadly trap, thus finding the defendant guilty of murder in the first degree. Accordingly, the case must be permitted to proceed to jury.

BY THE COURT:

Brooke Parker

BROOKE PARKER

December 3, 2014

DATE

**SUPERIOR COURT FOR THE STATE OF UTOPIA
ST. THOMAS MORE COUNTY**

STATE OF UTOPIA,

Prosecution,

v.

GRAYSON ZAYNE,

Defendant.

**CRIMINAL ACTION
DOCKET NO. 16-CRM-0206**

MURDER IN THE FIRST DEGREE

STIPULATIONS

1. All documents, signatures, and exhibits, including pre-markings, included in the case materials are authentic and accurate in all respects; no objections to the authenticity of the documents will be entertained. The parties reserve the right to dispute any legal or factual conclusions based on these items and to make objections other than to authenticity.
2. Jurisdiction, venue, and chain of custody of the evidence are proper and may not be challenged.
3. All statements were notarized on the day on which they were signed.
4. All evidence was constitutionally recovered and all statements were constitutionally obtained. No objection will be entertained to the constitutionality of any evidence, nor will any motions to suppress on constitutional grounds be permitted.
5. Defendant Grayson Zayne has waived her/his rights against self-incrimination under the Fifth Amendment to the United States Constitution, and either party may refer to Zayne's decision to testify in opening.
6. Harper Finch died on September 15, 2014 when she fell from the *Paifang* arch at Utopia University. The cause of her death was the fall from a height greater than 15 feet which broke her neck and collapsed a portion of her skull.
7. Avery Koltasch, Logan Kaufmann, and Morgan McCabe were all interviewed by St. Thomas More County Police in preparing Exhibit 5. All gave statements consistent with their affidavits in all respects.
8. The report of Ertle Structural Engineering was prepared at the request of Utopia University, which was following its standard procedure for investigating whether deaths at the University were preventable, and was obtained by St. Thomas More County Police from the University.
9. Grayson Zayne pleaded guilty to Hazing, a third-degree misdemeanor violation of U.P.C. § 8.3. Hazing is defined by Section 8.3 of the statute as "Any action or situation which recklessly endangers the mental or physical health or safety of a student..." The specific example charged was the "Krispy

Kreme Donut Run” incident. Zayne was sentenced to one year of imprisonment, which was suspended and would be eliminated if s/he completed three months’ probation, 360 hours of community service, and paid a \$2,000 fine.

10. Exhibits 1-2 were subpoenaed by St. Thomas More County Police from Zeta Iota Pi. Each ZIP member is given a copy of these documents when s/he pledges ZIP, and each member’s documents are updated periodically by mail or email when policies are modified or when new policies are passed by the ZIP Board of Directors.
11. Exhibit 3 was obtained from the personal computer of Harper Finch by Utopia Police Forensics on September 17, 2014. It was stored in the memory of that computer, and it had been last visited on September 11, 2014 at 9:35:42 p.m. The original website was also reviewed, and the page from Finch’s computer is accurate to what it would have displayed at that time on that day.
12. Exhibit 4 was taken by Avery Koltasch in the presence of Harper Finch.
13. Exhibit 5 is the Report of Investigation prepared by the Utopia University Police (a substation of the St. Thomas More County Police). If offered, it is admissible by any party without further foundation.
14. Exhibit 10 was retrieved by St. Thomas More County Police personally, in the form attached, from the Utopia University Entomology lab, which is responsible for keeping the records of laboratory experiments in addition to the student researcher or faculty/staff primary investigator. The records were kept by the University electronically and were date-stamped whenever modified. Their procedural compilation and accuracy have been confirmed by the Dean of Utopia University.
15. The State of Utopia is not pursuing the death penalty in this action.
16. Carter Gooding and Shelby Grody are experts in entomology and wood-boring insects. Like any other witness, they may be deemed experts in other fields if proper foundation is laid.
17. The following definitions are stipulated. It is further stipulated that these are the meaning of “planking” and “pandaing” intended by the witnesses in their statements. “Planking” (or the Lying Down Game) is an activity consisting of lying face down, sometimes in an unusual or incongruous location. Both hands must touch the sides of the body. The term planking refers to mimicking a wooden plank. Many participants in planking have photographed the activity in unusual locations and have shared such pictures through social media. ([http://en.wikipedia.org/wiki/Planking_\(fad\)](http://en.wikipedia.org/wiki/Planking_(fad))). “Pandaing” is a new variant in which the individual lies face down on a surface with the body fully supported and the arms and legs dangling down, similar to a position sometimes assumed by Giant Pandas when lying in trees (*see* Exhibit 11).

Chris Manger

Assistant District Attorney

Adrienne Scheef

Defendant’s Attorney

Date: December 17, 2014

UTOPIA PENAL CODE
(Selected provisions)

PART I. GENERAL PROVISIONS

Article 2. General Principles of Liability

SECTION 2.01. General Requirements of Culpability

- (1) *Minimum Requirements of Culpability.* A person is not guilty of an offense unless he acted purposefully, knowingly, recklessly, or negligently, as the law may require, with respect to each material element of the offense.
- (2) *Kinds of Culpability Defined.*
- (a) *Purposefully.* A person acts purposefully with respect to a material element of an offense when, if the element involves the nature of his conduct or a result thereof, it is his conscious objective to engage in conduct of that nature or to cause such a result.
- (b) *Knowingly.* A person acts knowingly with respect to a material element of an offense when, if the element involves the nature of his conduct or is the result thereof, he is aware that his conduct is of that nature or that it is practically certain that his conduct will cause such a result.
- (c) *Recklessly.* A person acts recklessly with respect to a material element of an offense when he consciously disregards a substantial and unjustifiable risk that the material element exists or will result from his conduct.
- (d) *Negligently. Omitted.*

Article 6. Criminal Homicide

SECTION 6.1. Criminal Homicide

- (a) A person is guilty of criminal homicide if he purposefully, knowingly, recklessly, or negligently causes the death of another human being.
- (b) Criminal homicide is murder, manslaughter, or negligent homicide.

SECTION 6.2. Murder

- (a) Criminal homicide constitutes murder when it is committed purposely or knowingly, or committed recklessly under circumstances manifesting extreme indifference to the value of human life.
- (b) Murder is a Class A felony.

SECTION 6.3. Murder, Degrees of.

- (a) **Murder of the first degree.** A criminal homicide constitutes murder of the first degree when it is committed by an intentional killing.

(b) Murder of the second degree. A criminal homicide constitutes murder of the second degree when it is committed while defendant was engaged as a principal or an accomplice in the perpetration of a felony.

(c) Murder of the third degree. All other kinds of murder shall be murder of the third degree.

[Burden of Proof, Criminal – Relevant Cases](#)

Burke | Utopia Criminal Practice (Approx. 1 page)

Hailey Burke

[Burden of Proof, Criminal – Relevant Cases](#)[Return to list](#)

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I. Relevant Precedent

In a criminal case, the burden of proof is beyond a reasonable doubt with respect to each and every element of the offense(s) alleged. This burden is solely on the State and never shifts to the defendant. [Widenhouse v. State](#) 675 P.2d 456 (U.S.C. 1921).

The State's burden of proof beyond a reasonable doubt applies to each and every element of the crime charged, although not to each individual evidentiary or incidental fact. Where, however, the State relies in whole or in part on circumstantial evidence to prove an element of the crime, although each link in the chain of evidence need not be proven beyond a reasonable doubt, the cumulative impact of the evidence must convince the finder of fact beyond a reasonable doubt that the element has been proven. [Blocker v. State](#), 823 P.2d 921 (U.S.C. 1981).

The Utopia Supreme Court rejected the position of other jurisdictions that "beyond a reasonable doubt" should not be further defined and approved the following pattern language for jury instructions: "The term 'reasonable doubt' means a doubt based upon reason and common sense. It is a doubt for which a reason can be given, arising from a fair and rational consideration of the evidence or lack thereof. It means such a doubt as would cause a person of ordinary prudence to pause or hesitate when called upon to act in the most important affairs of life. It is not a doubt based on mere speculation or one which arises out of sympathy or a fear to return a verdict of guilty. Proof beyond a reasonable doubt is proof that fully satisfies or entirely convinces you of the defendant's guilt." [State v. Nichols](#), 800 P.2d 901 (U.S.C. 1997).

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Elise Yasinovsky
Testimony – Relevant Cases

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I. Relevant Precedent

In all trials, finders of fact may rely on both direct and circumstantial evidence. Direct evidence is testimony by a witness about what the witness personally did, saw, or heard. Circumstantial evidence is indirect evidence from which the fact finder may infer that another fact is true. Neither type of evidence should be given categorically more weight than the other. [Britton v. Manger, 782 P.2d 678 \(U.S.C. 1976\)](#).

The fact finder must determine the credibility of each witness's testimony. A fact finder, whether jury or judge, may choose to credit all, some, or none of a witness's testimony. At all times the finder of fact may consider the witness's interest in the outcome of the case. [Parker v. Mahoney, 543 E.2d 901 \(U.S.C. 1984\)](#).

As the State of Utopia does not provide for rebuttal witnesses, in all criminal homicide cases the Court shall presume that the defendant has put both his character and the victim's character at issue. Thus, the State is allowed to provide evidence to attack the defendant's character or bolster the victim's character in the State's case-in-chief or during cross examination. [State v. Koeltzow, 625 P.2d 499 \(U.S.C. 2013\)](#).

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JURY INSTRUCTIONS

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

[Please note: These instructions may NOT be tendered to the mock trial jury or used as an exhibit during the competition; however, students may use these concepts in fashioning their case and making arguments to the jury.]

PRELIMINARY INSTRUCTIONS

I. Role of the Jury

Now that you have been sworn, and before the presentation of evidence, I have the following preliminary instructions for your guidance as jurors in this case.

You will hear the evidence, decide what the facts are, and then apply those facts to the law that I will give to you.

You and only you will be the judges of the facts. You will have to decide what happened. You should not take anything I may say or do during the trial as indicating what I think of the evidence or what your verdict should be. My role is to be the judge of the law. I will make legal decisions during the trial, and I will explain to you the legal principles that must guide you in your decisions.

Neither sympathy nor prejudice should influence your verdict. You are to apply the law as stated in these instructions to the facts as you find them and in this way decide the case.

II. Evidence

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

1. The testimony of the witnesses;
2. Documents and other items received as exhibits;
3. Any facts that are stipulated—that is, formally agreed to by the parties; and
4. Any facts that are judicially noticed—that is, facts I say you must accept as true even without other evidence.

The following things are not evidence:

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

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

You should use your common sense in weighing the evidence. Consider it in light of your everyday experience with people and events, and give it whatever weight you believe it deserves. If your experience tells you that certain evidence reasonably leads to a conclusion, you are free to reach that conclusion.

Certain rules control what can be received into evidence. When a lawyer asks a question or offers an exhibit into evidence, and a lawyer on the other side thinks that it is not permitted by the rules of evidence, that lawyer may object. An objection simply means that the lawyer is requesting that I make a decision on a particular rule of evidence. Objections to questions are not evidence. You should not be influenced by the objection or by my ruling on it. If the objection is sustained, ignore the question. If it is overruled, treat the answer like any other.

A. Direct and Circumstantial Evidence

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

B. Credibility

In deciding the facts, you must determine what testimony you believe and what testimony you do not believe. You are the sole judges of the credibility of the witnesses. “Credibility” means whether a witness is worthy of belief. You may believe everything a witness says or only part of it or none of it. In deciding what to believe, you may consider a number of factors, including the following:

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

In deciding the question of credibility, remember to use your common sense, your good judgment, and your experience. Inconsistencies or discrepancies in a witness’s testimony or between the testimonies of different witnesses may or may not cause you to disbelieve a witness’s testimony. Two or more persons witnessing an event may simply see or hear it differently. Mistaken recollection, like a person’s failure to recall, is a common human experience. In weighing the effect of an inconsistency, you should also consider whether it

was about a matter of importance or an insignificant detail. You should also consider whether the inconsistency was innocent or intentional.

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

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

POST-TRIAL INSTRUCTIONS

I. Duty of Jury; apply the law

Members of the jury, you have seen and heard all the evidence and the arguments of the lawyers. My role now is to explain to you the legal principles that must guide you in your decisions. You must not substitute or follow your own notion or opinion about what the law is or ought to be. You must apply the law that I give to you, whether you agree with it or not.

II. Presumption of innocence; reasonable doubt; burden of proof.

The defendant, Grayson Zayne, pleaded not guilty to the offense charged. The defendant is presumed to be innocent. S/he started the trial with a clean slate, with no evidence against her/him. The presumption of innocence means that Grayson Zayne has no burden or obligation to present any evidence at all or to prove that s/he is not guilty.

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

Proof beyond a reasonable doubt does not mean proof beyond all possible doubt or to a mathematical certainty. Possible doubts or doubts based on conjecture, speculation, or hunch are not reasonable doubts. A reasonable doubt is a fair doubt based on reason, logic, common sense, or experience. It is a doubt that an ordinary reasonable person has after carefully weighing all of the evidence, and is a doubt of the sort that would cause him or her to hesitate to act in matters of importance in his or her own life. It may arise from the evidence, or from the lack of evidence, or from the nature of the evidence. Proof beyond a reasonable doubt is proof that fully satisfies or entirely convinces you of the defendant's guilt.

If, having now heard all the evidence, you are convinced that the government proved each and every element of the offense charged beyond a reasonable doubt, you should return a verdict of guilty for

that offense. However, if you have a reasonable doubt about one or more of the elements of the offense charged, then you must return a verdict of not guilty of that offense.

III. Murder – First Degree. (Based upon U.P.C. § 6.2 & 6.3.a)

The defendant has been charged with the offense of first-degree murder. To find the defendant guilty, you must find that the following three elements have been proved beyond a reasonable doubt:

First, that Harper Finch is dead;

Second, that the defendant specifically intended to kill her by acting; and

Third, that her death was caused by the actions defendant intended to kill her.

A person has the specific intent to kill if he or she has a fully formed intent to kill and is conscious of his or her own intention. The specific intent to kill needed for first-degree murder does not require planning or previous thought or any particular length of time. It can occur quickly. All that is necessary is that there is time enough so that the defendant can and does fully form an intent to kill and is conscious of that intention.

When deciding whether the defendant had the specific intent to kill, you should consider all the evidence regarding her/his words and conduct and the attending circumstances that may show her/his state of mind.

You may now retire to the jury room to deliberate.

Statement of Avery Koltasch

1 My name is Avery Koltasch, and in a few weeks I'll enroll as a freshman transfer at Davidson
2 College. Davidson's an excellent school, but it wasn't my first choice. Last fall I was one of 800 lucky
3 freshmen entering Utopia University – my dream school. But after what happened, I just can't stay there.
4 Grayson Zayne not only killed Harper Finch; Grayson killed my dreams of graduating from UU.

5 UU is one of the top ten universities in the nation, according to *US News*. I was the only person
6 from my high school to be accepted, which was even more astounding because I'm the first in my family
7 to attend college. My parents immigrated to the U.S. soon after they were married, and they sacrificed a
8 lot for us. They always told me and my siblings that school was our ticket to security, and they urged us
9 to work hard to get scholarships.

10 Until I was 14, I did everything my parents asked. But when I entered Mayberry High School in
11 Mayberry, NC, I rebelled. I got involved with the wrong crowd and stole some DVDs as part of a dare. I
12 got caught, which nearly broke my mother's heart. Luckily I got sent to Teen Court, and because I was
13 truly sorry, my punishment was community service at a local hospital. That experience brought me to my
14 senses. I swore I'd never be dishonest again, and I promised my mom I would make her proud.

15 My hard work paid off. I graduated at the top of my class. Along the way I was elected president
16 of the student body, editor of the yearbook, and captain of the track team. I kept volunteering at the
17 hospital and also worked as a docent at the Mayberry Science Museum, where I taught kids about science.
18 I discovered a passion for chemistry, and I decided to go medical school. Utopia University was the
19 perfect place for me since its chemistry department is top five nationwide. The day I got the call about my
20 full-ride scholarship was the happiest day of my life.

21 To be honest, I was a bit nervous about making friends at UU. I knew most of the students had
22 wealthy parents, with graduate or professional degrees. I was pretty sure I could handle my classes, but
23 the social scene was intimidating. So I hoped to join one of the Greek societies, both to continue with
24 community service and to make connections. I was especially interested in Zeta Iota Pi, or "ZIP," a co-ed
25 honor society. ZIP was the best of the best; its alumni included twelve members of Congress, dozens of
26 renowned physicians, and even a Nobel-prize winner. And Zippers' motto was "We Stick Together" –
27 they seemed really "tight." If I could become a Zipper, it would be my ticket to success.

28 Then I learned that ZIP didn't have "rush" like Greek societies – you couldn't even apply. You
29 had to be selected, or "tapped" as they call it. I figured I didn't have a chance. When I was tapped on the
30 first day of class – in Chemistry 101 – I could barely contain myself! I knew I'd never forget that day:
31 August 18, 2014. Grayson Zayne, ZIP president and pledge master, selected me – one of only three
32 freshmen to be so honored! I accepted immediately, without question or hesitation.

33 Our pledge class was me, Logan Kaufmann, and Harper Finch. Before we could become full ZIP
34 members, we'd have to complete a series of challenges – “Feats of Fortitude.” The idea was to build
35 camaraderie and separate out anyone who wasn't fully committed to ZIP ideals. The Feats weren't
36 supposed to be easy, but they also weren't supposed to be hazing. The law, Utopia school policy, and most
37 importantly, the ZIP bylaws prohibited hazing. I knew I could handle it. Most of the challenges were fun
38 activities, and they had a community service aspect, which I loved. For instance, the 2013 Pledge Class
39 organized a carnival in town, and all of the money was donated to a camp for children with autism. And
40 let's face it, joining ZIP was my choice. It was an honor to be a Zipper. No one forced me into it.

41 On August 20, 2014, we three pledges moved into the ZIP house and met with Grayson Zayne
42 and the other ZIP leaders. We were given the ZIP bylaws and had to sign the Pledge Promise. Harper and
43 I hit it off right away; we both liked science, and we'd both been high school valedictorians. Logan was
44 different. Logan's older brother Chip was also a Zipper. Chip had graduated in 2012, so Logan was a
45 “legacy,” which means Logan was tapped at least in part because of Chip. I'm not saying Logan wasn't
46 smart, but Logan didn't seem to have the same focus and drive as me and Harper.

47 I was a bit shocked by the legacy policy, but that's the way of the world, I guess. What bothered
48 me more was the way Grayson clearly cut Logan slack right from the start, giving Logan perks that
49 Harper and I never got. For instance, Logan was given a nicer room, and Logan didn't have to bring
50 breakfast to Grayson every morning at 6 a.m. like we did. I was disillusioned that the ZIP leadership
51 wasn't adhering to their ideals the way I'd expected.

52 During that meeting we learned about our Feats of Fortitude challenges. We'd have to complete
53 four challenges, all combining social media crazes with community service. Two of the Feats would help
54 local groups or individuals, while the other two would help a national cause. We could put our own “spin”
55 on them to make them more fun. Harper, Logan, and I had all been athletes in school: I ran track; Harper
56 swam; and Logan played tennis. So we decided to add an athletic component to all of our Feats.

57 First up – the Ice Bucket Challenge for ALS. It was sweeping the country big-time. We got into
58 the natatorium after-hours thanks to the Athletic Director, a Zipper from the class of '86. The AD filmed
59 us swimming 10 laps in the pool – I struggled, but I made it – then we stood in a whirlpool of ice and
60 dumped those 64-oz mega UU cups of ice on each other! It was brutal, but hilarious, and made for great
61 video. We even had a banner that said “We Stick Together!” When we posted the video to the ZIP
62 facebook page, it went viral, and Zippers – and others – all across the country began donating to ALS
63 research. A week later, more than \$40,000 had been raised! Even better, the ALS Foundation's CEO is a
64 Zipper from '75, and she sent us a personal thank you. Connections and publicity like that are priceless.

65 Logan was chatty when we walked back to the ZIP house after the challenge and seemed eager to
66 share gossip about the other Zippers – especially Grayson. Logan said that Grayson was also a legacy

67 going back several generations, and Grayson’s dad gave a lot of money to ZIP. Evidently Grayson was
68 also a horrible student – Logan said Chip was constantly helping Grayson so s/he didn’t get kicked out of
69 ZIP. Granted, Logan could have been exaggerating to make Chip look better. Logan also let it slip that
70 Grayson told Logan about a class that was a “guaranteed A.” While I wasn’t sure I could believe Logan, it
71 made me dislike Grayson even more. I should’ve quit right then, but I figured Grayson was an exception.
72 Most of the Zippers seemed legit, and I didn’t have any other real friends at UU besides Harper.

73 On August 25, 2014, we were given our second challenge – create a dance video that highlighted
74 what it meant to be a Zipper. We decided to use this Feat to “Save the Wolf!” Not the canine kind – Judge
75 Carla Wolf, a respected Superior Court judge who is fighting blood cancer. Judge Wolf’s only hope for a
76 cure is a bone marrow transplant, so we wanted to inspire Zippers (and our social media followers) to join
77 the bone marrow donor registry. Logan already knew Judge Wolf from high school mock trial. Judge
78 Wolf really supported the program, judging at the state finals and at summer camp. So this cause was
79 personal, and we wanted to do it justice (no pun intended).

80 We couldn’t think of anything clever, so we sought Grayson’s help. Grayson suggested we check
81 out the ZIP academic archives for inspiration. The archives were sort of a personal society library, with
82 quizzes, papers, and other academic work Zippers had done over the years. It worked; Logan came up
83 with a brilliant idea. We decided to make a video using Pharrell Williams’ song “Happy,” with all the
84 Zippers showing off their best dance moves at various places in the ZIP house and grounds. The finale
85 would be a break-dancing competition in the ZIP archives. Grayson said it sounded great, as long as we
86 were careful not to touch the files because they were the “crown jewels” of ZIP. I thought that was an
87 overstatement, but whatever. We set the filming for August 28th.

88 Everyone really got into it, and the finale was pretty awesome. At the end, we tore open our
89 “Lifesaver Kits” and videoed how to do the easy cheek-swab so we could join the registry. I was pumped,
90 sure that the video would get a lot of views and inspire people to help Judge Wolf. When we finished,
91 Grayson told us pledges to clean up the entire ZIP house. Well, not all the pledges – just me and Harper.
92 Logan got special treatment again. Cleaning in the archives room, Harper found a folder labeled “Paper
93 Classes Spring 2013.” When we looked inside, we were shocked. It held Botany 301 midterm papers that
94 looked like fourth graders had written them! A prof named Morgan McCabe taught the class. The papers
95 were pitiful, and the worst was by Grayson, about the supposed virtues of milkweed as an elixir.
96 Unbelievably, Grayson got an A-minus for it! I took a photo with my phone because it was so outrageous.

97 Harper and I decided to bring it to Grayson so no one else saw it and got the wrong idea. We
98 thought it must be a fake; surely no prof gave an A-minus for that paper. Harper brought it when we went
99 to Grayson’s room the next morning with Grayson’s breakfast. Instead of laughing or thanking us,
100 Grayson got very defensive and aggressive, saying that every honor society has its “secrets” and that we’d

101 better stay quiet! Grayson even threatened us, saying that if we talked, they would “zip us up.” Grayson
102 grabbed the file from Harper and yelled at us to get out.

103 We were shocked and confused. We had signed a promise to obey Grayson throughout the pledge
104 period, but Grayson’s reaction was over the top. Clearly it wasn’t just a prank, or just one unearned grade
105 on one paper. We wondered what else was going on under the surface. Harper and I decided to drop it for
106 the moment. After all, Grayson controlled our ZIP destiny. We still didn’t want to quit; we thought we
107 could do a lot of good as Zippers, and Grayson would graduate in a year. How I regret that now.

108 A few days later – Sunday, August 31 – Harper woke up itching with bug bites. Somehow her bed
109 had become infested with bedbugs. None of the other beds in the ZIP house had them, which was really
110 weird since they spread so easily. In fact, no one else on campus reported problems. As I helped Harper get
111 rid of the mattress, we wondered whether Grayson was involved somehow. It was the only logical
112 conclusion, since Grayson is an entomology major who even worked in the “bug lab” on campus. It seemed
113 like Grayson was hazing Harper since Harper had done most of the talking about the milkweed paper.

114 Harper decided to confront Grayson and talk it out. I was okay with that, so we went to Grayson’s
115 room that afternoon. I thought Harper would assure Grayson that we’d keep quiet (at least until we were
116 full members, but Grayson didn’t have to know that). Instead, she accused Grayson of hazing and said it
117 was against Utopia laws, school policy, and the ZIP bylaws. Grayson didn’t seem fazed at all. S/he sort of
118 laughed and said, “bed bugs are nothing. Maggots, on the other hand...” It was creepy. I don’t know much
119 about insects, but I do know maggots eat the flesh of dead bodies. Harper and I sort of laughed and left the
120 room, not sure what to think.

121 The next day we were given the third Feat, which would raise money for the American Diabetes
122 Association. Harper brightened up at that, which surprised me until Harper told me privately that she had
123 Type 1 diabetes! I had wondered why Harper sometimes drank OJ at random times or went to the
124 bathroom to “check on something.” Harper said she didn’t want to be treated differently, so she’d only
125 told Grayson and the other ZIP leadership about it. She said she had given them some detailed materials
126 on diabetes to make sure they knew how to help her if she ever had low blood sugar.

127 Grayson said s/he already had a plan for this Feat – a Krispy Kreme 5K run! Participants would
128 pay an entry fee, run half of the course, eat 6 donuts, and run the rest of the way. That sounded cool, and
129 the run itself would be easy for me. As Logan and I started brainstorming how to publicize the race and
130 register people, I saw Grayson pull Harper aside. Harper looked upset as they talked, and at first seemed to
131 protest what Grayson was saying. Harper even started to walk away, but Grayson grabbed her by the arm
132 and looked her in the eye very intensely while talking. Harper reluctantly nodded at Grayson, then walked
133 away. Later I asked Harper what was up, and Harper said Grayson insisted she eat a dozen donuts, rather
134 than only six “because your room at the ZIP house has been messy and you need to learn discipline.” I

135 asked Harper if that was dangerous because of her diabetes, but Harper said she could adjust her insulin to
136 compensate. It still sounded iffy to me.

137 We held the race on the morning of September 5, Labor Day weekend. More than 200 students
138 had signed up – free donuts were a big draw for college kids, and Krispy Kreme had even donated extra.
139 Harper, Logan, and I took off running, and when we got to the donut station, Harper ate the whole dozen,
140 glancing nervously at Grayson, who was there watching us. Soon we started running back, when all of a
141 sudden Harper threw up! Harper insisted on running more, but as we neared the finish line at the ZIP
142 house, Harper got light-headed and dizzy, and started to faint. She seemed so out of it that I got really
143 concerned and said I'd take Harper to the hospital. Grayson was already back at the house, ready to hand
144 out the winners' prizes. When Grayson saw Harper's condition, Grayson insisted on going, too. I was
145 furious with Grayson – I figured the extra donuts caused Harper's problems – but what could I do?

146 Once Harper was stable at the University of Utopia Medical Center (UUMC), I confronted
147 Grayson. I said I knew Grayson was trying to hurt Harper so we'd stay quiet about the bogus paper.
148 Grayson just looked at me and said "maybe Harper won't be such a cockroach from now on. Who knew
149 donuts could act as a pesticide?" Then Grayson leaned forward and said, "This is her last warning. And if
150 you aren't careful, you'll be on my list, too." Before I could say anything, the doctor called us in to see
151 Harper. It turned out that because Harper threw up the donuts, there wasn't enough sugar in Harper's
152 blood to match the increased insulin dose. Harper's blood sugar had dropped dangerously low. It was a
153 good thing we came to the hospital when we did. Harper just laughed it off, though. We all sat around and
154 acted like everything was fine, then drove back to the ZIP house. But I was pretty unnerved by it all.

155 The next morning I told Harper about Grayson's threats and said maybe we should just quit. But
156 Harper would have none of it. "Why should we let that bully drive us off?" Harper sent an email to
157 Grayson, saying she would tell everyone about what a fraud Grayson was if Grayson didn't back off.
158 Harper cc'd me on it, and I got Grayson's reply, which said something like "you didn't die this time." I
159 saved it and gave it to the police after Harper was killed.

160 Harper was serious about turning Grayson in. After dinner on September 11, Logan and I went to
161 Harper's room and saw Harper reading the ZIP pledge against hazing on the national site. Logan got
162 agitated and said that we Zippers had to stick together and Harper should learn to suck it up and be quiet.
163 I just knew Logan would go tell Grayson what Harper planned, and I was worried. But Harper was
164 determined not to be intimidated.

165 On September 15, Grayson called the three of us together for our final Feat of Fortitude. Grayson
166 talked about a recent fad – "planking" – where people lie down in random places as though they were a
167 plank (or a corpse, as Grayson said). That was supposed to be our last Feat. But frankly, I thought it
168 sounded stupid, and so did Harper. Then Harper had a great idea. "Why don't we start our own fad? Like

169 owling, or batmanning, but even better. We'll do 'pandaing' to raise money for Utopia Zoo to purchase
170 pandas!" I was intrigued and asked what it would involve. Harper said, "Pandas like to climb trees and lay
171 on a branch with all four legs dangling down. It'll be a lot cooler than planking. What do you say?"

172 Logan and I thought starting a new fad could be pretty cool – maybe we'd even become memes.
173 Grayson said okay, if we did our pandaing at the locations Grayson had already chosen. I had to panda at
174 the Student Union. Logan had to panda at the football stadium. And Harper had to panda at the Friendship
175 *Paifang* in the UU Botanical Gardens next to the biology building. I walked by the *Paifang* whenever I
176 went to my Bio 101 class. It was a really old wooden gate given to UU by our sister campus in Beijing.
177 Evidently all the rich alumni liked it. I guess they thought it was exotic. And Harper was excited about it
178 because it would be a great photo for our panda fundraiser. Grayson reminded us all that this was our final
179 Feat to complete our pledge project, so we had to make it good, like we'd promised.

180 We set out after dinner to get it done. I pandaed on the top of the big wooden wall outside the
181 Union, where people posted want-ads, concert invitations, and such. The wall was maybe 8 feet high –
182 and seemed higher! We'd made a big sign that said "Panda for the Pandas. Support Utopia Zoo!" and
183 tacked it on the wall for the photo. Lots of students gathered around and clapped, so I was psyched.
184 Logan, trying to outdo me, shimmied up the football goal post and pandaed there. It looked cool but
185 seemed risky to me. Lastly, we went to the *Paifang*. Clearly this was the biggest challenge. The gate had
186 narrow legs and an ornamental top, and it was probably 30 feet high. The only place to panda was at the
187 very top. I told Harper to forget about it; we'd just go to a tree in the garden that had lower branches. But
188 Harper insisted, saying it was just the kind of thing to make a name among the Zippers, and besides, it
189 would tie the whole video together. So Harper started climbing to the top of the gate.

190 As Harper climbed higher, the gate started creaking, and it kept getting louder. I told Harper again
191 to forget about it, but Logan urged Harper on, saying, "You're not a coward, are you? Show Grayson
192 you've got fortitude." As Harper reached the top and began to panda, she exclaimed, "What are all these
193 bugs?!" Just then there was an awful cracking sound, almost like a rifle shot, and the entire part of the
194 *Paifang* where Harper was pandaing snapped in half. Harper had to be at least 25 feet off the ground. She
195 screamed in terror. I was frozen in place, stunned by what I was seeing. At the last second I tried to dash
196 forward, but it was too late. Harper hit head-first, and her spine crumpled just like a rag-doll flung by an
197 angry child. Logan and I gasped. Harper was gone at the moment of impact. I'm sure of that.

198 The next months were a blur of police interviews, reporters, and questions from students who
199 were shocked by the tragedy. I moved out of the ZIP house immediately – or, I should say my parents
200 came and moved me out. I never set foot in the place again. I couldn't sleep because of nightmares, and I
201 dropped out in November. Hopefully starting over at Davidson will help me to get my life back. I still

202 can't believe Harper's gone. Even if Grayson goes to prison for life, it won't be a severe enough
203 punishment for what Grayson did.

204 Of the available exhibits, I am familiar with the following and only the following: Exhibits 1 & 2
205 (the ZIP Bylaws and Pledge Promise); Exhibit 3 (the national ZIP webpage); Exhibit 4 (the photo of
206 Grayson's milkweed paper); Exhibit 6 (the emails between Grayson and Harper), and Exhibit 11 (photos
207 of "planking" and pandas). My attorney also showed me Exhibit 7, and the photos of the *Paifang* gate
208 look right to me.

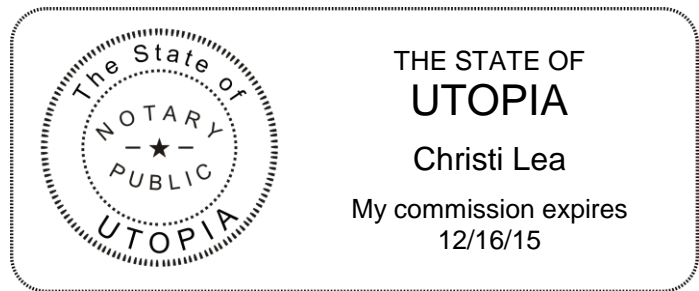
209 I swear or affirm to the truthfulness of everything stated in this affidavit. Before giving this
210 statement, I was told it should contain everything I knew that may be relevant to my testimony, and I
211 followed those instructions. I also understand that I must update this affidavit if anything new occurs to
212 me until the moment before opening statements begin in this case.

Avery Koltasch
SIGNATURE

December 8, 2014
DATE

Subscribed and sworn before me this 8th day of December, 2014

Christi Lea
Christi Lea
Notary Public in and for the State of Utopia



Statement of Morgan McCabe

1 My name is Morgan McCabe. I used to teach botany at Utopia University, which was paradise for
2 me. Now I'm working in the Garden Center at Walmart, trying to put my life back together after the
3 havoc Grayson Zayne caused. At least I'm alive to put it back together. For a while I was afraid I'd be
4 sent to jail for my part in the grade scandal, but I avoided criminal charges by testifying against Grayson.
5 Still, my reputation is ruined, and I don't know if that will ever change. I blame Grayson for all of this. I
6 hope Grayson goes to prison for a long time.

7 I've been fascinated by plants since I was a child. My parents are both geologists who teach at
8 UNC-Chapel Hill, and when I was younger, we spent our summers on the road. It was funny; my dad's
9 videos focused on the rock formations we were passing instead of us kids. We were just there to give a
10 sense of scale! But while my parents dug up fossils and stones, I dug up plants for terrariums. In fact, I
11 made so many that I sold them to neighbors when I got home. The money went into my college fund.

12 I'd always dreamed of attending UU. It has one of the best botany departments in the country, and
13 its herbarium is second in size and scope only to the one at Harvard. So when I was accepted early
14 decision, I was over the moon. Once I got there, I never wanted to leave. In fact, I stayed for my Master's
15 and PhD in botany. I also minored in entomology and did some research about the interaction between
16 native plants and foreign insects. I'm by no means an expert in entomology, but I figured a minor would
17 prove helpful in my job search. After I became Dr. McCabe, I looked for a teaching job, but the
18 competition for the few openings at decent universities was pretty fierce. I was glad to stay as a post-
19 doctoral researcher and instructor at UU when nothing else worked out.

20 I met Grayson in the fall of 2011. I was teaching an introductory biology class as part of my post-
21 doc work, and Grayson was a freshman in the class. Botany is part of the Biology department, and as a
22 post-doc, I got stuck with the low-level courses. I also managed the botany lab, and the Department Chair
23 asked me to take over the entomology lab next door, too. A month after classes began, the senior pledge
24 master at Zeta Iota Pi (ZIP), Chip Kaufmann, approached me in a panic. Chip said that Grayson was a
25 new member, but Grayson was in danger of being asked to leave ZIP because Grayson's GPA might drop
26 below the required 3.5 minimum.

27 I was a Zipper myself, and proud of it. ZIP has a national reputation as being very exclusive and
28 prestigious. That's partly because ZIP "taps" the best and brightest freshman before any other Greek
29 society can start their formal rush process. So ZIP gets the best of the best, and the connections formed
30 are life-long and incredibly helpful. Our motto is "We Stick Together," and we take it very seriously. The
31 academic dean and provost at UU are Zippers, and I'm sure that helped when I applied for my post-doc.
32 No one ever really leaves ZIP, or wants to, and I stayed active in the UU chapter.

33 So I could understand why Chip was concerned for Grayson. Chip kept saying that Grayson was
34 the most dedicated Zipper Chip had ever seen, and Grayson was destined to become ZIP president one
35 day. Also, Grayson’s dad was a ZIP alumni and a big donor to the UU chapter, so losing Grayson would
36 hurt everyone. But I didn’t know what I could do about it, and I said as much to Chip.

37 That’s when Chip looked at me intently and said, “But you *can* help us, Morgan. Grayson needs
38 one more ‘A’ to stay eligible, and you can make that happen.” Chip said Grayson was still learning how
39 to balance schoolwork and Zipper activities and just needed someone to give him/her a break. I was taken
40 aback. Sure, we stick together, but I told Chip I didn’t *give* anyone an A – it had to be earned. Chip was
41 so insistent, though, that I said I’d consider Grayson’s schedule when grading his/her work. Chip thanked
42 me profusely and said I wouldn’t regret it. I wasn’t quite sure what that meant, but I soon found out when
43 some “anonymous” gift cards from local restaurants and stores started appearing on my desk.

44 It turned out Grayson wanted more than a break on a paper or two, since Grayson didn’t show up
45 to a single class for the next six weeks. All of Grayson’s papers were short and lacked any meaningful
46 content. I think I wrote better papers in elementary school. When I sent out my mid-semester evaluation,
47 Grayson’s was an “F.” Consideration is one thing, but fraud is another.

48 Two days later, Chip stormed into my lab, holding Grayson’s evaluation in one hand and the ZIP
49 bylaws in the other. Chip demanded to know why I didn’t give Grayson an A like I’d “promised.” I told
50 Chip I was happy to excuse a late assignment now and then, but I certainly couldn’t give As to no-shows
51 who turned in grade-school work. Chip said Grayson was focusing on his/her other classes and didn’t
52 have time for mine. Then Chip waved the bylaws in front of my face and made me read aloud Article II,
53 Section 5: “Zippers always stick together and help whenever possible, even when it seems impossible.”
54 Chip leaned forward and said, “It’s *possible* to give Grayson an A, isn’t it? If Grayson goes, we lose a lot
55 more than just one person. You know what I’m saying, right? You *have* to give Grayson an A, or our
56 whole chapter is in jeopardy! Are you a true Zipper, or not?” What could I do? I couldn’t let the whole
57 chapter fold, so I reluctantly agreed.

58 Grayson kept skipping class and turning in junk work, but I changed Grayson’s grades to As. I
59 hoped it would end after that semester, but that didn’t happen because Grayson kept signing up for my
60 classes. Grayson’s work got worse and worse. When Grayson turned in a one-page paper on milkweed for
61 my Botany 301 class last spring, I just couldn’t stomach it anymore. So I gave Grayson an A-minus
62 instead of an A. That made me feel a little better. I should have given Grayson the F the paper deserved,
63 but I was in too deep myself now to do anything that drastic.

64 It was frustrating, because I knew Grayson was capable of more. You see, Grayson had found a
65 passion for entomology. I didn’t teach the class, but I saw Grayson’s work in the lab, and it was really
66 top-notch; graduate-level, even. I couldn’t help but be impressed. So when Grayson asked for a spot to do

67 independent research in the entomology lab, I agreed. In fall of 2013, Grayson’s junior year, s/he began a
68 massive project studying the effect of wood-boring insects on wooden structures, focusing on insects
69 native to Utopia as well as foreign invaders. It was interesting stuff, and, as the lab supervisor, I thought it
70 might lead to a paper that I could co-author. “Publish or perish,” as they say. And when Grayson was
71 engrossed in that research, s/he was actually a pleasure to be around. At first, anyway.

72 But soon Grayson started hinting about other Zippers who needed a little extra “academic boost” –
73 Zippers who were in my classes. Grayson started pushing me to help them, using the carrot-and-stick
74 approach: flattering me as a “true Zipper” when I agreed to help, threatening to expose me if I expressed
75 doubts. Every time, Grayson promised it would be the last request. But it never was. Eventually, because
76 of Grayson, I gave twenty or so Zippers As for doing little to no work. My hands were tied. If I came
77 forward now, I would lose it all: my job, my lab, my plants, my reputation. And Grayson wasn’t shy about
78 reminding me that I got my job because of my ZIP connections – “you got more than you deserved, too!”
79 That wasn’t true; I earned my grades. But I kept my head down, vowing that after Grayson graduated, I’d
80 stop the scam. Only one more year to go, 2014-15, and I’d regain my life and my integrity.

81 Grayson was on the way to graduating *magna cum laude* with a biology major and entomology
82 minor. Of course, I knew that all of Grayson’s botany grades, at least, were bogus. It annoyed me for
83 Grayson to be receiving undeserved honors. I also envied Grayson’s ability to play the political game of
84 academia. Grayson even got a peer-reviewed paper published with the help of the former entomology
85 chairperson, Shelby Grody. I never liked Shelby, especially after Shelby refused to nominate me for a
86 tenure track job at UU. Shelby sure seemed to like Grayson, though, which irritated me. If only Shelby
87 knew the truth about Grayson!

88 Grayson stayed at UU during the summer of 2014, working almost non-stop in the lab. At some
89 point, Grayson had gotten really interested in the Formosan Subterranean Termite. Even though it wasn’t
90 native to Utopia, Grayson decided to focus on it for his/her senior thesis. As director of the lab, I had to
91 OK the project. That termite was a bit more dangerous than our native termites, but I saw no harm in
92 allowing Grayson to add it to our lab collection. We had strict procedures in the lab to prevent any of our
93 specimens from escaping. We surely didn’t want to be the cause of any invasive species causing harm to
94 local flora and fauna!

95 Grayson was unusually excited when the specimens arrived in early June and soon seemed
96 obsessed with the research. Grayson would stay up all night staring at the terrarium where they were kept,
97 making copious notes about “super termites” and separating segments of the colony for random
98 experiments. Some of the experiments seemed so odd that I kind of quit paying attention because I was
99 sure nothing would come of it. I was responsible for the lab, but I wasn’t advising Grayson on the thesis. I
100 figured Shelby would be monitoring Grayson closely.

101 That fall Grayson would be serving as the ZIP Pledge Master, with a huge say in the decision
102 about which freshmen to “tap” into the society. On August 15, 2014, Grayson strutted into the lab and
103 announced s/he was about to tap the “greatest pledge class ever” – Avery Koltasch, Logan Kaufmann, and
104 Harper Finch. But just a couple of weeks later, Grayson came into the lab looking panicked. Grayson was
105 talking a mile a minute, something about a problem with Harper. Grayson said Harper had found one of
106 Grayson’s old papers from my Botany 301 class and was on the way to uncovering the whole grade
107 scheme. My heart sank. If Harper brought the scheme to light, I would crash and burn along with
108 Grayson. Without thinking, I said we couldn’t let that happen.

109 Grayson thought s/he could just fail Harper out of the pledge class and it would all go away. But
110 as the victim of Grayson’s blackmail, I knew that’s not how blackmail works. If Harper got kicked out,
111 Harper would be more motivated to contact the university administration, not less. What would Harper
112 have to lose? I said as much to Grayson, who nodded slowly and said that the only other solution was to
113 scare Harper into keeping quiet. Grayson wanted Harper to know that ZIP was nothing to mess around
114 with. Then Grayson got the idea to put bedbugs in Harper’s bed, as a warning. I didn’t like the idea, but it
115 wouldn’t really hurt Harper. Maybe it would fix the problem. I softly said it was a bad idea, but I didn’t
116 stop Grayson from leaving the lab that night with a Mason jar full of bedbugs. Mason jars really aren’t
117 secure enough for most insect transportation purposes, but they were fine for bedbugs.

118 I didn’t see Grayson at the lab for a few days, so I hoped the bedbug warning had been successful.
119 Then on September 6, Grayson stormed into the lab in a rage. Evidently Harper was still threatening to
120 reveal what she’d found, and Grayson had decided more drastic action was needed. So Grayson had rigged
121 the third Feat of Fortitude to be a donut challenge – which put Harper, a diabetic, into the hospital.
122 Afterward, Harper sent Grayson an email threatening to bring down ZIP if the hazing didn’t stop. I had
123 never seen Grayson so angry.

124 I was shocked that Grayson had put Harper in serious danger, and I told Grayson to stop the whole
125 thing. Keeping the grade scandal quiet wasn’t worth putting someone’s life at risk. I said I thought if
126 Grayson backed off and admitted Harper into ZIP, it would all die down. I wasn’t really sure about that,
127 but I had to calm Grayson down. Yet Grayson would have none of it. S/he kept saying s/he needed to scare
128 Harper into silence and protect the ZIP legacy. Finally, after ranting for 30 minutes or more, Grayson
129 calmed down. S/he told me s/he’d decided on the final Feat of Fortitude: requiring the pledges to “plank”
130 at different locations around campus. I didn’t even know what that was until I looked it up on the internet.

131 Around 6 pm that night, I had a meeting with other faculty to talk about writing grants for new
132 lab equipment. Grayson was still in the lab. I was a bit wary about leaving Grayson unattended, but
133 Grayson assured me s/he just wanted to check on the termites one more time. I said ok and reminded

134 Grayson to lock up when s/he left. As I was walking to the door, I'm pretty sure I heard Grayson mutter
135 Harper's name and the two words "breaking point."

136 The next day, September 7, was pretty ordinary. I arrived by 9 a.m. and left by 5:30 p.m. I was
137 supposed to move a few ferns and Venus fly-traps to a new terrarium, but I couldn't find any small plant
138 or insect transports. I searched everywhere, but none were to be found. I figured maybe I left them at
139 home, or someone borrowed them without signing them out. As I was leaving, I passed Grayson's termite
140 terrarium. It looked like it had a lot fewer termites crawling around than usual, but I figured many of them
141 were just hiding in burrows or something. Granted, they'd usually be active at that time of day, but we'd
142 had a mini-heat wave for a few days. I figured that was affecting their behavior. I also thought some
143 might have died from a nasty bacterial contamination we'd been fighting in the lab recently, even though
144 Grayson didn't record any contamination issues in the research log.

145 A week or so later, when I learned about Harper's death, I nearly fainted. That's when I knew
146 where the termites went. Grayson must have taken them when I left the lab that night and deposited them
147 on the *Paifang* gate. It was no coincidence that the police found Formosan termites on the gate. Grayson
148 had planned it all out ahead of time. I'd been to that gate – who hasn't – it's nearly 30 feet tall! Sure, it
149 was old, but I'd seen dozens of kids over the years climb on and hang from that gate. It wouldn't just
150 collapse like that unless something damaged it. I am stunned Grayson would take things that far. If I'd
151 had any idea, I'd have gone to the authorities myself. I just didn't see the signs, and now this will haunt
152 me the rest of my life. We have some dangerous creatures in our entomology lab – tse-tse flies, black
153 widow spiders, giant Japanese hornets – but Grayson was the real killer at Utopia.

154 Of the available exhibits, I am familiar with the following and only the following: Exhibit 1 (the
155 Zip Bylaws); Exhibit 4 (photo of Grayson's milkweed paper); and Exhibit 10 (Grayson's lab log notes).
156 The bottom photo of the *Paifang* gate in Exhibit 7 also looks correct to me.

157 I swear or affirm to the truthfulness of everything stated in this affidavit. Before giving this
158 statement, I was told it should contain everything I knew that may be relevant to my testimony, and I
159 followed those instructions. I also understand that I must update this affidavit if anything new occurs to
160 me until the moment before opening statements begin in this case.

Morgan McCabe

SIGNATURE

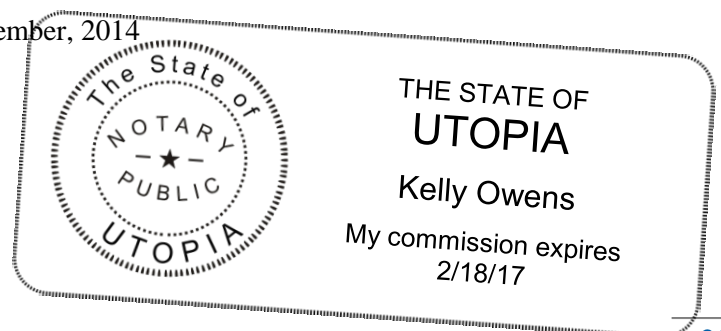
December 10, 2014

DATE

Subscribed and sworn before me this 10th day of December, 2014

Kelly Owens

Kelly Owens
Notary Public in and for the State of Utopia



Statement of Carter Gooding

1 My name is Carter Gooding. I am 50 years old. For the last 12 years, I have worked as a forensic
2 entomologist in private practice, as well as serving as an adjunct professor at both Purdue and the
3 University of Georgia. I am also a partner in the American Forensic Entomological Consultancy LLP
4 (“AFEC”). AFEC is a group of forensic entomologists who have been given an exclusive contract to
5 serve as entomological experts by the National District Attorneys’ Association, assisting prosecutors’
6 offices across the U.S., Canada, and U.S. Virgin Islands. As such, we use our knowledge of insects and
7 arthropods to help determine what happened at crime scenes. We are paid \$1500/day for our services and
8 testimony, including travel time. That is a discount from my usual rate of \$300/hour as a private
9 consultant. Unless subpoenaed by the defense, we testify exclusively for the prosecution. We are not as
10 one-sided as that sounds, though. We give our honest scientific appraisal, and if our findings don’t
11 support their theory of the case, prosecutors often won’t bring charges.

12 I have attached the forensics-focused version of my curriculum vitae for your review. In
13 summary, I received my B.S. in Biological Engineering with minors in Architectural Engineering and
14 Crop Science from Purdue University. I went on to earn my Ph.D. in Entomology in 1992. I took a post-
15 doctoral position with the Federal Bureau of Investigation and worked, first in their national criminal
16 laboratory, and then as a member of the Evidence Response Team Unit. Ten years later, my kids were
17 getting to be college age, so I entered private practice because of the higher pay. A few years ago I joined
18 AFEC, and it now accounts for 15 – 20% of my income. The majority of my time I focus on agricultural
19 or biological engineering, developing crops that are resistant to insects or helping communities fight
20 against invasive insect species through effective pesticide use or plant selection strategies.

21 Despite the portrayal of CSI investigators on TV, we don’t work in labs full of shiny equipment
22 or super-computers. We mainly use our brains, experience, and some basic tools to make fairly
23 straightforward conclusions. That’s all I’m doing in this case. Late in the evening on September 15, 2014,
24 I received a call from the AFEC hotline, asking if I wanted to take this job. I’d never been to Utopia, so I
25 agreed to do it. The next morning, I loaded up my gear into my truck and headed out, arriving late that
26 night. I visited the crime scene at Utopia University (“UU”) for the first time just after dawn on
27 September 17. I met the officer on the scene and the local police chief, who introduced me to UU’s Vice
28 Dean for Facilities, Frankford Milam. We went together to visit the scene. According to Milam, the gate
29 that partially collapsed was a *Paifang* donated to the university in 1868 in celebration of the Burlingame
30 Treaty establishing cordial relations between the U.S. and China after the Opium Wars. Anson
31 Burlingame, a Utopia alumni, negotiated the treaty. Burlingame also established an Asian Studies
32 program at Utopia University and an exchange program between UU and Peony University in Peking
33 (now Beijing) in 1871. I soon came to understand the importance of that historical information.

34 We arrived at the *Paifang* to find it surrounded by police tape, flowers, and candles. I was upset to
35 see the memorial. While understandable, this display risked contaminating the crime scene by impacting
36 the insects present. Changes in fragrance or temperature can certainly affect insect behavior. Nonetheless,
37 after taking precautions to avoid further contamination, I crossed the tape and began my inspection.

38 The base of the *Paifang* was solid stone and was in excellent shape. The rest of the structure was
39 lacquered wood as was the custom in archways of that time period. Considering its age, the wood
40 generally was in decent shape. It appeared mostly solid to the eye, with a fairly recent coat of paint and
41 lacquer covering the original decorative carving. At the top were a series of stacked wooden slats. Dean
42 Milam advised me that there had been little or no work done on the *Paifang* since it was substantially
43 refurbished in the 1960s and had some cosmetic work done in the 1980s. Those restorations explained the
44 modern nails and 2x4 fragments I was seeing.

45 I had been told that the victim died after falling from the top of the archway. It was easy to see
46 where it had happened: a large piece of wood was ripped from the western end on the northern face. As I
47 focused on the damaged area, I could see movement. I grabbed a ladder and climbed up. Reaching the
48 top, I immediately discerned a colony of termites crawling all over the wood near where the piece had
49 broken. I grabbed several and was shocked to see, not the telltale markings of the wood termite
50 commonly found in Utopia – the Eastern subterranean termite (*Reticulitermes flavipes*) – but the lighter-
51 shelled Formosan subterranean termite (*Coptotermes formosanus*).

52 It is hard to overstate how shocking this discovery was. These termites had never before been
53 reported in Utopia! In the pest control field, they call the Formosan Subterranean Termite (“FST” or
54 “Formosan” for short) a “super-termite.” The FST is among the most destructive sub-species. A typical
55 Eastern subterranean termite (EST) colony might destroy 5 grams of wood/day, an amount equivalent to a
56 teaspoon of sugar. It would take a long time for an EST colony to damage a large structure like the
57 *Paifang*. Formosan colonies can have ten times as many members, and a mature FST colony can destroy
58 400 grams (13 ounces) of wood/day – 80 times as much. An FST infestation can structurally undermine a
59 full building in a couple of months and can render one unsalvageable in less than a year.

60 I’ve worked against FST invasions before, mostly in Hawaii and Florida, but there’s very little to be
61 done against them. They have never been successfully eradicated from an area after invading it. The one
62 saving grace for now (absent mutation) is that FST eggs will not hatch in temperatures below ~ 20 °C (68
63 °F). As a result, they’re essentially limited to areas south of 35° North latitude, or no farther north than
64 North Carolina. Utopia’s southernmost point is at 40 degrees, or about 350 miles north of that limit. Thus,
65 it’s virtually impossible for the Formosan termites to have migrated to the UU *Paifang* on their own.

66 I immediately began hypothesizing ways that the FSTs could have gotten there. Most Formosan
67 colonies that do not expand naturally from established colonies are introduced inadvertently. Formosan

68 termites are indigenous to southern China and Taiwan; they are not native to the U.S. As best we can tell,
69 the first colonies came to Hawaii via infested wood on a boat in the late 1800s. They reached the mainland
70 U.S. the same way shortly afterward and have been reported in 11 states: Alabama, California, Florida,
71 Georgia, Hawaii, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Texas. Because of
72 UU's location, it was not possible that they could have been introduced to the *Paifang* in that fashion.

73 I next considered the possibility that a dormant colony had been present in the *Paifang* for years,
74 maybe decades. But that made no sense either. For one thing, the scientific evidence for dormancy lasting
75 more than 10 years or so is very thin, limited to a handful of papers, mostly without scientific basis.
76 Controlled experiments cannot rule it out, but prolonged dormancy has only worked in the most ideal
77 laboratory conditions. The variable climate in St. Thomas More County made it extremely unlikely that
78 dormancy could explain the Formosans' presence in the *Paifang*. Second, if there had been a dormant
79 colony, some sort of radical environmental change would be needed to trigger the termites to become
80 active. I was not aware of any such precipitating environmental changes in 2014, nor did Milam
81 remember any. When I subsequently reviewed National Weather Service data, I confirmed that it had not
82 been unusually hot or humid in the area during the summer of 2014.

83 That left intentional implantation as the most likely cause. I first surmised that someone had an
84 anti-China agenda, perhaps a group of students who sympathized with Tibetans or the demonstrators in
85 Hong Kong. Milam acknowledged that Utopia had some students with those ideals, but he didn't think it
86 likely they had implanted the termites. And he didn't believe it could be the actions of rival sports fans.
87 Apparently Utopia's biggest rival is Dartmouth, a college not known for extreme fan reactions. Besides, if
88 opposing fans wanted to insult the Utopia teams, they would more likely vandalize the Utopia Unicorn
89 statue outside the football stadium.

90 I was puzzled. But then I remembered seeing a group of Utopia students while I was in Florida.
91 They were obtaining samples for the UU entomology lab. Milam told me that was impossible, but I
92 ignored him and went straight to the CSI detective on the scene. We called Rebecca Gordon, the UU
93 President, and obtained her permission to search the entomology lab and collect records and samples as
94 needed. In the lab, we found Utopia's licensed laboratory FST colony. It was seemingly half-empty,
95 without any notation in the daily lab reports to indicate the missing termites' disappearance or destination.
96 Morgan McCabe, the post-doc in charge of the lab, stuttered something about a bacterial infection, but it
97 sounded implausible. It turns out McCabe was more of an administrator over the lab than an entomological
98 expert. McCabe's supervision of the lab appeared half-hearted at best.

99 The Utopia City Police Department and Elizabeth Samuels from the Utopia Department of
100 Agriculture conducted a full audit. They reported to me, and stated in their official report, that the lab was
101 one of the best-maintained, most compliant they had inspected in years. Only a handful of things were

102 missing: an explanation as to where half the Formosan colony went, some records regarding their bedbug
103 laboratory, and several missing chemicals. The lab also had no records of the number of modular insect
104 transport systems they should possess, so it is possible some of them were also missing.

105 When I reviewed the list of missing chemicals, I recognized one of them as a component used to
106 make synthetic scents that trigger specific insect behaviors. For instance, one is used to make synthetic
107 bedbug pheromones. Pheromones are chemical factors that trigger a social response in members of the same
108 species. These chemicals can attract groups of insects to an area or make a particular location seem more
109 attractive. We sometimes use synthetic bedbug pheromones in apartment buildings to keep infestations
110 contained to one area until linens can be thoroughly washed or destroyed. The pheromone prompts the
111 bedbugs to stay near the scent, reacting to the chemical like a moth to a flame or an undergrad to free donuts.

112 I did not recognize the other missing chemicals, so that evening I emailed Christiana Kasko, a
113 colleague at the University of Hawaii who is an expert in the FST. Christiana had peer-reviewed an article
114 written at Utopia a year or so earlier which theorized a path to a similar synthetic pheromone to use on
115 Formosan colonies. As far as Christiana knew, it had never been successfully created, but she told me that
116 UU has a reputation for “accidentally forgetting” to share new discoveries with their research partners
117 until the new creations have been patented.

118 No actual synthetics were found at the UU entomology lab, but the police did find lab notes
119 detailing Utopia’s FST terrarium signed by a Grayson Zayne. Dean Milam told me that Zayne was an
120 undergraduate and student leader. The notes were thorough and well-organized; they looked like graduate
121 level work to me. They were co-signed by the lab director, Morgan McCabe.

122 I urged the police to speak with both Zayne and McCabe since two of the chemicals mentioned in
123 the FST lab notes were missing. Unfortunately, neither chemical was recovered at the scene or anywhere
124 else. One chemical was water-soluble and the other evaporates rapidly, so their recovery would have been
125 unlikely in any case. And rain the night after the tragic incident would have destroyed any trace on the
126 wood of the *Paifang* even if there had been a valid test for them, which there isn’t.

127 I was able to conduct genetic tests on the Formosans found in the lab and those found on the
128 *Paifang*. I also had my results verified by the independent lab run by Professor Max Nichols. The two FST
129 colonies are virtually identical to a degree that is very unlikely to be mere chance. However, genetic drift
130 in insects is very limited, and virtually all labs in the country primarily use FSTs from the same original
131 set. Thus, I cannot say to a degree of scientific certainty that the termites on the *Paifang* were taken from
132 the McCabe/Zayne lab (rather than a different lab). That’s certainly the most likely explanation, but I
133 cannot swear to it as a matter of pure science. The genetic match does make it much less likely that the
134 insects were part of a dormant colony. For that to be the case, the colony would have just happened to be

135 from a genetically near-identical line as our lab source. The odds against that are extremely high, perhaps
136 on the order of 1,000,000 to 1.

137 The colony structure was also unusual. Typically, Formosans are expansionist, traveling along food
138 sources in ever-expanding rings rather than decimating their colony center before moving to a different
139 location. The *Paifang* colony, however, seemed to have stayed in one place, deeply weakening that location
140 without expanding the colony in any meaningful sense. It was one of the densest groups I have ever seen!
141 Either something in that particular wood was incredibly tasty – which occasionally happens for reasons we
142 do not fully understand – or an artificial chemical trigger, or pheromone, was keeping them in place.

143 I must note that the degree of destruction in the *Paifang* is more consistent with an infestation of a
144 month or more, rather than one that lasted a week. The damage was so extensive that large swaths of the
145 area from which Harper fell turned almost to dust when touched. The pieces recovered from the ground
146 were no better. The samples I used in my report were the best ones I found, but even those had more holes
147 than a block of Swiss cheese. The damage to the *Paifang* was so serious that it was no surprise the wood
148 where Harper was located broke off easily.

149 Of course, I am basing my damage assessment timeline on typical FST behavior. But pheromones
150 can significantly change that. Pheromones commonly associated with famine have been documented as
151 causing animals to overeat, sometimes nearly to death. If an FST expert knew which chemicals to use,
152 s/he could promote extensive damage in much less time. I have no way to estimate how much the damage
153 could be accelerated because FSTs do not typically act that way, and no one has published findings that
154 explain how to keep them contained.

155 I am familiar with Shelby Grody's opinions regarding this case, and although Grody has earned
156 his/her reputation for thinking outside the box, I do not agree with Grody's conclusions. To suggest that a
157 colony of FSTs were dormant in the *Paifang* because of an ancient sealant is possible, I suppose, but
158 extremely unlikely – akin to throwing a pile of sand in the air, expecting it to form a sand castle as it landed.
159 Grody is an acknowledged genius, but his/her best days are apparently past.

160 Indeed, science is on my side. I can state within a reasonable degree of scientific certainty that the
161 wood of the *Paifang* was weakened by an infestation of Formosan subterranean termites. Moreover, these
162 FSTs were, within a reasonable degree of scientific certainty, introduced by an outside vector to the area of
163 the *Paifang* that collapsed. In addition, the highly localized and compact nature of the colony, despite the
164 colony's large size, suggests within a reasonable degree of scientific certainty that their behavior was
165 affected by an outside force, such as a synthetic pheromone. Based on my experience with FSTs in other
166 locations and my knowledge of architectural engineering design, I conclude that the infestation weakened
167 the *Paifang* to a dangerous degree. When weight was placed on the weakened structure, specifically the

168 wooden cross-bar at the top, the material failed and collapsed. That fall is the cause of Harper Finch's death.
169 Of course, it is not my role to surmise who placed the insects on the arch. That is a matter for the police.

170 In preparing for this case, I reviewed the statements of Avery Koltasch, Morgan McCabe,
171 Grayson Zayne, and Logan Kaufmann and a final draft of Shelby Grody's statement. I also reviewed the
172 following Exhibits: Exhibit 5 (Police report), 7 (photo of *Paifang* gate), and 10 (excerpt from Zayne's lab
173 notes). I am familiar with the *curriculum vitae* of Shelby Grody as well as my own (Exhibits 8 and 9), and
174 my opinion is based in part on the facts and experiences reflected in my CV.

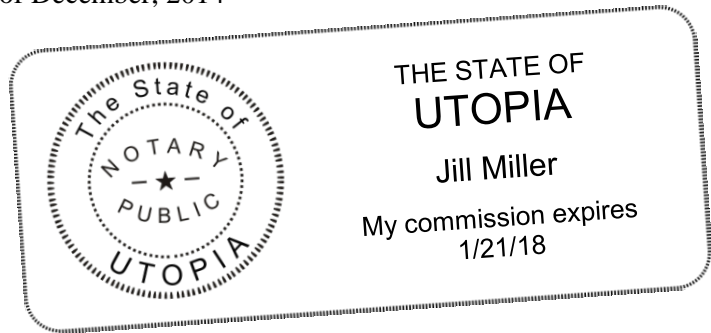
175 I swear or affirm to the truthfulness of everything stated in this affidavit. Before giving this
176 statement, I was told it should contain everything I knew that may be relevant to my testimony, and I
177 followed those instructions. I also understand that I must update this affidavit if anything new occurs to
178 me until the moment before opening statements begin in this case.

Carter Gooding
SIGNATURE

December 12, 2014
DATE

Subscribed and sworn before me this 12th day of December, 2014

Jill Miller
Jill Miller
Notary Public in and for the State of Utopia



Statement of Grayson Zayne

1 My name is Grayson Zayne. I am 22 years old. I live with my parents on their estate near Pinehurst,
2 North Carolina. I'm not in school; since getting expelled from Utopia University in early October 2014,
3 I've been doing odd jobs and working to clear my name. Before that tragic accident involving Harper Finch,
4 I was on a fast-track to success as an entomologist. I still hope to become a professor at an Ivy League
5 university one day, but first I have to restore my reputation. I've made mistakes, and I'm willing to admit
6 them. But I didn't want Harper Finch dead; it was a freak accident. If there was foul play, it wasn't me.
7 Harper killed Harper, or fate did. Or maybe Morgan McCabe. But certainly not me.

8 I've spent a lot of time in self-reflection during this process. The threat of jail time will do that. My
9 actions as pledge master might have been unethical, mean-spirited, and dishonorable, but they weren't
10 murder. I'm just a science geek. I wish I were still in the entomology lab studying my termite colony.

11 For high school, I went to a well-respected boarding school near Asheville and earned top grades.
12 School was always easy for me. I have a decent sense of humor, so I was popular, too, and was elected to
13 homecoming court. I was always told I was the best, the smartest, the "most likely to succeed." It went to
14 my head, and I started picking on those who weren't "cool." I never saw anything wrong with it. But I see
15 it now. I'm a changed person, and everything I'm saying below is true.

16 I started college in the fall of 2011 at Utopia University—one of the best in the nation. Frankly,
17 between my grades and my parents' willingness to donate money, I could've gone to any Ivy League
18 school. But the admissions office at Utopia strongly implied that if I enrolled, I could expect a nomination
19 to their best honor society, Zeta Iota Pi, or ZIP. That sealed the deal for me.

20 On the first day of class my freshman year, I was "tapped" to join ZIP. It was just as incredible as
21 I'd hoped, and I spent a lot of time with the other pledges. Unfortunately, for the first time in my life, my
22 grades started to slip. My pledge master, Chip Kaufmann, was concerned I might get kicked out for
23 falling below the mandatory 3.5 honor society GPA. That would've reflected poorly on ZIP in addition to
24 hurting me. So, Chip talked with my biology professor, a ZIP alum named Morgan McCabe. The three of
25 us had a secret meeting in the ZIP house archives room. I was told I didn't have to attend that class
26 anymore and not to worry about my grade. Well, it worked! I had time to focus on my other classes, and I
27 got an A in biology and a GPA of 3.7 that semester. I wondered if it was wrong to cheat the system that
28 way, but since it was arranged by ZIP, I figured it was okay – a perk for being a member of the honor
29 society. I also figured it was a one-time thing, now that I was used to the class load in college.

30 I'm embarrassed to admit that it actually became a habit. For the next three years, I continued to
31 enroll in every class that Morgan taught. I didn't always game the system as much as I'd done in biology
32 – sometimes I just cut corners on a paper or two but still got a good grade. And it wasn't just me. When
33 other Zippers heard about my sweet deal, they also started taking advantage of Morgan's classes. We

34 celebrated it as if it were a bonus for the academically privileged. By the time I became ZIP President and
35 Pledge Master in the fall of 2014, the scandal involved almost every ZIP member. And the stakes were
36 higher for me now. I wasn't just a participant; I was a promoter. It was kind of like going from a junkie to
37 a dealer. People feel sorry for junkies. They hate dealers.

38 The ironic part is I did my best actual work around Morgan, too. You see, Morgan supervised the
39 entomology lab, and entomology is my passion. I've loved bugs ever since I was a small child – studying
40 their habits, altering their environments, figuring out what makes them tick. It's like being the emperor of
41 an entire society. Morgan's post-doc work was in botany, but the chair of the entomology department,
42 Prof. Shelby Grody, was essentially retired and more of a figurehead. Morgan ran the lab. Don't get me
43 wrong; Dr. Grody would drop by the lab sometimes and we'd have fantastic chats about bugs and life.
44 S/he was both a friend and a mentor. But Morgan gave me a lab station right away as a freshman, without
45 my even having to be on the wait list. I started researching wood-boring insects as a sophomore, and by
46 my junior year, I was experimenting on one of the largest Formosan subterranean termite terrariums in the
47 country. I even had a peer-reviewed paper published with Dr. Grody's support in March 2013. All of my
48 work with the Formosans was top-notch! I would never cut corners or cheat when it came to them.

49 The Formosan termite is not native to the U.S. It had originally been introduced through trade
50 with China, and it flourished in warm parts of the country. I am intrigued by the effect of non-native
51 species on the overall environment. Often they can be very destructive, since they may lack natural
52 predators. Better understanding of our most prolific pests can help us defeat them and save millions, or
53 even billions, of dollars in damage each year. The Formosan was a particularly nasty species: powerful,
54 destructive, and nearly impossible to eradicate. Some have called it a "Super Termite." I hoped I could
55 play a role in bringing them under control.

56 I loved my research. But as more Zippers got involved in the grade scandal, I worried about the
57 effect on my future if the scandal came to light. That's why I accepted the positions of ZIP President and
58 Pledge Master. I thought I could better keep it under wraps and enhance my credentials at the same time.

59 I learned of Harper Finch the week before freshman orientation in August 2014. The head of the
60 admissions department is a Zipper, so he always gives the ZIP Pledge Master the inside info on all of the
61 entering freshmen. He told me that Harper was by far the smartest student entering UU that year. He also
62 gave me the names of Avery Koltasch and one other student whom I won't reveal, because we elected to
63 take Logan Kaufmann instead (we only take three pledges per year). Logan is Chip's younger sibling and
64 a legacy. I owe so much to Chip, as does the entire ZIP house, and tapping Logan gave us a chance to pay
65 Chip back. Zippers stick together, after all.

66 When students pledge ZIP, they move into the campus house. I definitely set out to make Avery
67 and Harper my personal servants during pledge season – all in good fun. But I treated Logan more like an

68 equal, which created some resentment right from the beginning. That's the tradition for legacies. I knew
69 Harper and Avery would get over it.

70 As Pledge Master, I had to devise a series of challenges for the pledges called the "Feats of
71 Fortitude." The Feats weren't really that difficult, and no one could call them hazing. They were more like
72 games to bond the pledges to each other and to the rest of the Zippers. They were also service projects to
73 help charities. For instance, my pledge year, we all did a 100 mile bike ride and donated the money we
74 raised to the Utopia Zoo to upgrade their safari ride. Most of the time, the Feats were linked by a theme.
75 My idea was to use social media fads for our 2014 theme. Harper, Avery, and Logan seemed to like that –
76 and they even decided to add an athletic component. That kind of creativity is what ZIP is all about!

77 The first Feat was the ALS Ice Bucket Challenge. The pledges had to film themselves and post it
78 to the ZIP Facebook page. On their own, the three of them decided to get permission to go to the UU
79 swimming pool after hours, swim some laps, and then do the ALS challenge in a whirlpool filled with ice
80 while pouring 32-ounce jumbo UU cups of ice over each other's heads. They also included a banner with
81 our ZIP motto: "We Stick Together." When the video was posted online, it drew thousands of hits and
82 raised nearly \$40,000 from alumni in just one week! As Pledge Master, I got all of the credit, which was
83 cool with me, and the ZIP alumna leading the ALS Foundation was thrilled by our results. I wanted to
84 raise the bar even more for the rest of the challenges, so I could go down as the best pledge master ever.

85 On August 25, I revealed my second challenge. This time I told the pledges to create a dance
86 video that highlighted what it meant to be a Zipper. They decided that the video would raise funds and
87 awareness about blood cancer and the bone marrow donor registry. Logan had recently learned that one of
88 his/her mentors from high school mock trial, Judge Carla Wolf, was fighting a blood cancer, so Logan
89 wanted to support the "Save the Wolf!" campaign. I thought that sounded great. For creative ideas, I
90 suggested they do some research, and even film, in the ZIP archives. That's where Zippers store their
91 class notes, papers, and quizzes – sort of a library for our own use. We emphasized that plagiarism was
92 not permitted! It was just a helpful way to see what different professors looked for in their classes.

93 I was really pleased with how the pledges ran with the activity. The date for filming was set for
94 August 28. They made a video using Pharrell Williams' "Happy" song, and they got all of us members to
95 take part. We danced all over the ZIP house – so alumni could see all the improvements! – and the finale
96 was a break-dancing competition in the ZIP archives! It was a blast, and I was excited about its impact on
97 the bone marrow donor registry. When we finished, I told Harper and Avery to clean up the mess we'd all
98 made, and I invited Logan to go with me and the other members to a mixer with the Chemistry fraternity.

99 The next morning, Avery and Harper arrived at 6 a.m. sharp for their special duty, like always.
100 But to my horror, they confronted me with my worst nightmare. While cleaning up the mess the day
101 before, Harper came across one of my "slacker" papers for Morgan's Botany 301 class. Harper started

102 cracking jokes about milkweed. Harper obviously knew the paper didn't deserve an A. She then handed
103 me a folder from the class. I don't have any idea how it got in the archives, but it didn't really matter at
104 that point. I should've joked back and pretended it was all a prank, but it caught me off guard. Instead, I
105 defended the paper and vehemently claimed it was worthy of the grade. They clearly didn't believe me. I
106 was so flustered I shredded the paper in front of them and yelled at them to leave. My mind was racing.

107 I was paralyzed by the thought of being exposed as a fraud. I went to the lab the next day to work
108 on my termite project and speak with Morgan. I was pretty stressed, and I blurted out how we were both
109 at risk and needed to do something, or else Morgan could be fired and I would be expelled. Morgan
110 remained calm and asked me questions about my conversation with Harper and Avery. After listening to
111 my recounting of the discussion, Morgan was convinced that Harper was still a few steps away from
112 figuring it all out, and if we distracted Harper somehow, Avery would lose interest, too. We both agreed
113 that it would escalate matters to keep Harper out of ZIP. But I was worried if we let Harper in, Harper
114 would lord it over me for the rest of the year. Then Morgan said, "We need to convince Harper that ZIP is
115 not something to be messed with so Harper will back off." I wasn't sure how to do that, but I figured I
116 could use the next Feat of Fortitude. Morgan said s/he'd work on an idea as well. We knew we'd have to
117 work quickly because we were already halfway through the pledge period.

118 That night I searched YouTube and found some videos for "Krispy Kreme Challenges." There
119 were various types, from eating as many donuts as you could in a certain time period, to combining the
120 donuts with a fun run to raise money for charity. I decided we'd use that model, incorporating a 5K run.
121 We'd donate all contributions to the American Diabetes Association – an ironic cause for a donut run!
122 Harper had told the ZIP leadership that she has Type I diabetes and given us some information, but I only
123 skimmed it. I'm not pre-med, after all. I figured if I upped the donut requirement for Harper, it could
124 make Harper feel a bit sick but not do any real harm. And I figured surely Harper could adjust his/her
125 insulin levels to compensate for the donuts.

126 I planned to announce the third Feat on Monday, September 1. Fortunately we got a bit of a head
127 start on scaring Harper off when s/he woke up on August 31 covered in small insect bites. From the
128 pattern, I could tell the bites were caused by bedbugs. The timing was a bit ironic since Morgan and I had
129 briefly discussed using the lab's bedbugs against Harper, but I had nixed it as being too much, too fast.
130 And there were no reports of bedbugs on campus, so it might make others suspicious of the lab, and us.
131 We needed to keep our "punishments" just between us and Harper. That afternoon Harper approached me
132 and accused me of hazing with the bedbugs. I just laughed it off and said something flippant like "better
133 to be the victim of bedbugs than maggots." Just a little entomological humor!

134 We scheduled the race for Friday, September 5: Labor Day weekend. A lot of students were in
135 town, and they were happy for something fun to do – especially with free donuts! All the Zippers joined

136 in. Instead of making everyone eat a dozen donuts, we just gave everyone six – everyone, that is, except
137 Harper. On Monday, I had called Harper over and told her that as punishment for keeping a messy room
138 at the ZIP house -- a room infested with bed bugs! – Harper had to eat twelve donuts. Harper tried to
139 protest, but I said either she met the challenge, or she was out. Reluctantly, Harper agreed. I didn't
140 announce it publicly because we were just trying to keep it between us and Harper. But I suspected
141 Harper would tell Avery, and that was all right with me. They both needed to know ZIP meant business.

142 As soon as the race started, I hopped on my bike and rode as quickly as I could to the donut
143 station. I wanted to videotape the fun and make sure Harper did as instructed. As the racers arrived, they
144 had a blast snarfing down their donuts and guzzling water before heading back out. Harper, Avery, and
145 Logan were near the front of the pack. They were laughing and joking – and I was glad to see that Harper
146 ate all twelve donuts with no trouble. As soon as they started back, I videotaped a few more runners, then
147 took a shortcut back to the ZIP house. I stationed myself at the finish line, and soon the pledges came into
148 view. Harper didn't look so good, almost like s/he was about to faint. I dashed over, and Avery said,
149 “She's already thrown up and almost fainted! I think something's wrong. We need to get Harper to the
150 ER, fast!” My car was right there, so I insisted on driving. Sure, I'd wanted to scare Harper, but I
151 certainly didn't want Harper to end up in the hospital – or worse!

152 Fortunately the ER docs stabilized Harper pretty quickly. After vomiting up the donuts, Harper
153 almost went into diabetic shock because her blood sugar dropped too low from the extra insulin. I had no
154 idea that could happen! I trusted Harper to speak up if the activity would be too dangerous for her. Avery
155 looked really frustrated, and when the doc left us, Avery accused me of intentionally trying to hurt
156 Harper. I know it looked bad. I said, “It was all in good fun; I'm not a diabetes expert!” When Harper was
157 released, she thanked me for saving her life by getting her to the ER so quickly. I figured Harper had
158 learned a lesson, and we'd have no more problems.

159 But I was wrong. Harper emailed the next day, copying Avery, accusing me of hazing and
160 threatening to tell the UU admin about everything. I was stunned. How could Harper act that way? I
161 should have cooled down before responding, but I was upset and wrote something stupid in reply. Tone
162 and intention never convey well in email. I decided I'd better talk to Morgan again.

163 Even though it was a Saturday, I knew I could find Morgan in the lab. I was in a panic, afraid
164 Harper was going to ruin our lives. Morgan was as calm as ever and told me it was time to drop the whole
165 thing. “If you do nothing, it will take care of itself. I promise.” But I had trouble letting it go. Finally,
166 Morgan asked me about the final Feat of Fortitude. I told Morgan I would have them do “planking” on
167 September 15, and that they would be assigned popular locations around campus to pull off the stunt.
168 Morgan asked where Harper would have to do it, and I said that I thought I'd assign Harper the
169 Friendship *Paifang* in the UU Botanical Gardens right beside the biology building. Morgan looked

170 thoughtful and said that seemed like a perfect place.

171 Then I checked on my termites and saw that half of them had died due to a weird bacterial
172 infection that had swept through the lab! I'd neglected them the past few days, and now this had
173 happened. I couldn't believe it. After Morgan left, I cleaned out the terrarium and left for the night. I was
174 so upset that I forgot to record it in my log book.

175 On the morning of September 15, I called the pledges together to announce their final Feat. I
176 began to explain what planking was, when both Harper and Avery got disdainful looks on their faces.
177 Granted, planking had been more popular back in 2011, but it wasn't completely lame. Then Harper said,
178 "I know! How about we start our own fad – 'pandaing!' Pandas like to crawl up on tree branches, lie on
179 their bellies, and let their legs hang down. We can 'panda' to raise money for a panda at the Utopia Zoo!
180 How about it?" I had to admit it seemed like a cool idea. The pledges all liked it, and we laughed and
181 joked as though everything was okay.

182 I gave permission for "pandaing" and stressed that safety trumped creativity. Under no
183 circumstances did I want anyone back in the hospital! I assigned Avery to the Student Union; Logan to the
184 football field; and Harper to the *Paifang*. They excitedly agreed to meet right after dinner to videotape each
185 other as they completed their feats. Right before they left for class, Logan pulled me aside and said s/he'd
186 caught Harper looking at the ZIP national anti-hazing webpage. Logan was very concerned Harper would
187 accuse me of hazing and told me to watch my back. I thanked Logan for the heads-up and said to make sure
188 Harper made it back safely. I figured I'd try one more time to talk with Harper; maybe if I made Harper a
189 ZIP committee chair, Harper would drop it all. I'd tried the stick; maybe a carrot was a better approach.

190 I almost thought about going along to cheer for them as they completed their feats, but I figured
191 that might stress them out. They should enjoy this accomplishment on their own. Around 10 p.m., as I was
192 studying for a quiz, the campus police came to the ZIP house and told us Harper had died after falling
193 headfirst from the top of the *Paifang*. I couldn't even understand what they were saying at first, I was so
194 shocked. As the investigation continued the next couple of days, I became the center of attention. It was
195 even picked up by the national media after Morgan revealed the paper grading scandal to the UU
196 administration. I was suspended, and then expelled. I was tried and convicted in the court of public
197 opinion, and I think the cops charged me with murder because of all the media attention. Nothing I did
198 even rises to the level of hazing; eating a dozen donuts isn't some awful torture. Murder? That's crazy talk.

199 I'll admit I deserved to be kicked out for cheating, but what happened to Harper was not on me.
200 Everyone knew the *Paifang* was old and rickety. I told them that safety was paramount. Harper could
201 have chosen to "panda" in a tree at the botanical gardens if she had any doubts. No one held a gun to
202 Harper's head; she assumed the risk and tragically paid the price. I know a lot is being made of the
203 Formosan termites on the *Paifang*, but I had nothing to do with that. Maybe some were dormant in the

204 gate; after all, it was from China. And while I studied pheromones, I was certainly no expert on the
205 subject. I couldn't have made them in the lab without someone knowing. I was rarely in the lab by myself
206 – which is not true of Morgan. I don't even like to think it, but Morgan certainly had motive and skills
207 that surpass mine. It was wrong for me to cheat, but I can move on. The scandal is the end of Morgan's
208 life work.

209 Of the available exhibits, I am familiar with the following and only the following: Exhibits 1 – 3
210 (ZIP bylaws, pledge promise, and national website page); Exhibit 4 (a photo of my Botany 301 paper);
211 Exhibit 6 (emails between me and Harper), and Exhibit 10 (my lab notes). My attorney showed me
212 Exhibit 7, too, and the bottom photo of the *Paifang* gate looks accurate to how the gate was before
213 Harper's accident. And the photos in Exhibit 11 accurately show planking and Harper's description of
214 how pandas lie on tree branches.

215 I swear or affirm to the truthfulness of everything stated in this affidavit. Before giving this
216 statement, I was told it should contain everything I knew that may be relevant to my testimony, and I
217 followed those instructions. I also understand that I must update this affidavit if anything new occurs to
218 me until the moment before opening statements begin in this case.

Grayson Zayne
SIGNATURE

December 8, 2014
DATE

Subscribed and sworn before me this 8th day of December, 2014

Michelle LaFrankie
Michelle LaFrankie
Notary Public in and for the State of Utopia



Statement of Logan Kaufmann

1 My name is Logan Kaufman, and I'm a freshman at Utopia University. My first day of class, I
2 was tapped to join Zeta Iota Pi – just like my older brother Chip. It wasn't a surprise, given Chip's
3 connections, but it was an honor nonetheless. Yet things didn't go like I expected. Our pledge class – me,
4 Harper Finch, and Avery Koltasch – uncovered a big academic scandal in ZIP at UU. Even worse, Harper
5 died in a freak accident during our last pledge Feat of Fortitude. Since then, I've been a pariah on campus.
6 The rest of the Zippers were put on academic suspension and given failing grades for cheating, and Avery
7 dropped out. People still stare when I walk across the quad, but I have a tough skin. I'll be okay.

8 ZIP lost its charter at Utopia because of the scandal. But I'm determined to bring it back and make
9 it stronger than ever. I owe Chip, and my fellow Zippers, that much. So I have to clear the record, tell what
10 really happened, and make sure the media doesn't sway public opinion and prevent justice. If I can build
11 ZIP up again at UU, I'll earn my own place of honor in ZIP at UU and across the nation!

12 It's crazy that Grayson has been charged with murder. Sure, Grayson cheated on papers and faked
13 his/her way through some of Dr. McCabe's classes, helping other Zippers do the same. But that's a far cry
14 from murder! Grayson cared too much about ZIP and his/her own career to risk it all that way. Just
15 because Grayson didn't like Harper and was fanatical about termites doesn't make Grayson a killer. This
16 is just a blame game.

17 I still remember Chip coming home during Labor Day weekend of 2011, raving about this
18 amazing new pledge, Grayson Zayne. Chip was a senior and the Pledge Master, and Chip said Grayson
19 was the kind of Zipper that only comes once in a lifetime – loyal, ambitious, and selflessly dedicated.
20 Chip said Grayson would do anything for ZIP. A month or so later, Chip told me how Grayson was
21 struggling a bit academically, but Chip arranged some tutors to help Grayson improve his/her grades.
22 Chip told me that academic performance was important – ZIP is an honor society, after all – but other
23 things matter even more. Like loyalty and dedication to the group; Zippers stick together!

24 When I finally met Grayson last August, I understood why Chip was such a fan. I was setting up
25 my dorm room when Grayson walked in. I recognized Grayson immediately based on Chip's description,
26 and I was star-struck, stammering and awkward. Grayson took it all in stride and made me feel at ease
27 immediately, joking with me and offering advice on where to put my stuff. Before Grayson left, I worked
28 up the courage to ask about pledging ZIP. Grayson said the three pledges would be tapped on the first day
29 of class, August 18, 2014. I must've looked nervous, but Grayson winked and said I didn't need to worry.

30 Even with Grayson's assurances, I was pretty concerned. Zippers are the best and the brightest,
31 and while I did pretty well in high school, I wasn't valedictorian like Chip. In high school, my teachers
32 would comment on how I was "different" than Chip – and it wasn't a compliment. So when I was
33 selected, I could hardly contain my excitement! The other two pledges were Avery Koltasch and Harper

34 Finch. I knew Harper a bit from class that morning. During our writing seminar, the prof gave a pop quiz
35 on grammar. My brain froze on one question, and I snuck a glance at Harper's paper. Harper caught me
36 and ratted me out to the prof. Can you believe it?! Of course I denied it, so the prof didn't do anything,
37 but I don't think the prof ever liked me after that. I wasn't so thrilled that Harper was also a pledge.

38 Nothing could dampen my joy when Grayson told Avery, Harper, and me to move into the ZIP
39 house on August 20! Grayson even laughed about how I'd be setting up my room all over again. As soon
40 as we arrived, Grayson gave an amazing speech about how all of our lives would change forever, and ZIP
41 would help us achieve things we'd never dreamed possible. Grayson also talked about all the qualities
42 Zippers should strive for – excellence, loyalty, selflessness, honor—and gave a shout-out to Chip as the
43 ideal Zipper. Afterward, Grayson came up to me and whispered that s/he was sure I would do Chip proud.
44 I'm pretty sure Avery and Harper were eavesdropping because they looked at me unhappily. They looked
45 even angrier when Grayson gave me first choice of a room, but neither of them said anything. I figured
46 they were just sore because they were both compulsive about winning everything – even room selection!

47 Grayson cut me slack in other ways, too – like not making me get up before 6 a.m. to make
48 Grayson's breakfast and clean his/her room. Harper got really mad about it, barging into my room at 6:30
49 a.m. on the third day and yelling about how it wasn't fair that I got special treatment as a legacy. Harper
50 threatened to tell the national ZIP leadership that Grayson was hazing her and Avery. I calmly replied that
51 I didn't know what Harper was talking about, but I doubted the national leadership would take Harper's
52 word over the ZIP President and Pledge Master. Harper stormed out angrily, but I'm pretty sure Harper
53 didn't do anything else because I kept sleeping in. I guess Grayson did favor me a little, but that was
54 Grayson's right, you know? I think Grayson did it because s/he knew I'd always been in Chip's shadow
55 and Grayson wanted me to feel that I belonged.

56 As pledges, the three of us had to complete four "Feats of Fortitude," which are basically
57 glorified bonding and service activities. Brilliant as always, Grayson decided to base our Feats off of
58 recent social media trends so we could post videos to the ZIP Facebook page and have a wider impact.
59 Avery, Harper, and I had all been athletes in high school – I played tennis, the one sport where I could
60 beat Chip – so I asked to add an athletic aspect as well. Grayson applauded my initiative!

61 Our first Feat was to film an ALS Ice Bucket Challenge video. I had the idea to sneak into the
62 school natatorium (pool) after hours, swim 10 laps, and then sit in a whirlpool of ice while dumping huge
63 cups of it over our heads. Avery and Harper were enthusiastic. Avery got the Athletic Director – a fellow
64 Zipper -- to let us in and help us fill the whirlpool; the AD even filmed us! I was sure Grayson would
65 really like the video, and the three of us pledges were having a good time together.

66 We were, that is, until Avery and Harper started comparing their valedictory speeches on the way
67 back to the ZIP house. I rolled my eyes a couple of times, hoping they'd get the hint, but they were

68 obsessed about bragging about their brilliance. Finally I said, “there’s a lot more to being a Zipper than
69 your GPA, you know.” Harper answered scornfully and said ZIP was an honor society, so of course
70 academics were at the top of the list. I mumbled something about how Grayson wasn’t even that good of a
71 student, yet s/he was a leader in ZIP. Harper asked what I meant, and I told them about the long list of
72 tutors Chip had gotten for Grayson, and how once Chip had mentioned getting Grayson in a class that was
73 a “guaranteed A.” For once, Harper was silent. It felt good to know more than they did about something.

74 On August 25, Grayson called us into the ZIP assembly room and told us our second Feat was to
75 make a dance video showing what it means to be a Zipper. I asked if we could donate the money we
76 raised to the “Save the Wolf!” campaign, in honor of Judge Carla Wolf, who was fighting blood cancer.
77 Judge Wolf had helped with mock trial when I was in high school, so I really wanted to support her
78 campaign to raise awareness and recruit donors for the bone marrow registry. I was highly motivated to
79 make the dance video amazing. Grayson was all for the idea, as were Avery and Harper.

80 The three of us spent hours that night brainstorming, but we couldn’t come up with anything
81 creative. The next morning, we approached Grayson for help. Grayson suggested we do some research in
82 the ZIP academic archives room, and maybe even do some filming there as long as we didn’t bother the
83 files. That was the spark we needed, and we decided to film the Zippers dancing all over the ZIP house,
84 using Pharrell Williams’ “Happy” song for the soundtrack. We’d finish up in the archives room with a
85 break-dancing contest and confetti! We also planned to do the easy cheek-swab to join the registry
86 ourselves. The other Zippers were excited by the idea, and we knew it would be an awesome video.

87 We filmed on August 28, and the shoot went perfectly! Of course, the archives room was a mess
88 when we finished. Luckily for me, Grayson said there was a mixer between ZIP and AXS (Alpha Chi
89 Sigma, the Chemistry co-ed fraternity) right after the shoot, and Grayson wanted to introduce me to
90 people. That meant I didn’t have to stay behind with Avery and Harper to clean up. Sweet!

91 When I got back to the ZIP house after the mixer that night, Harper and Avery were bent over
92 some old papers that looked like the ones in the archives that Grayson had told us not to mess with. I
93 asked what they were doing, and Harper snapped at me and told me to mind my own business. I shrugged
94 and left, figuring Harper was ticked off because I didn’t have to clean up with them.

95 A few days later, on September 1, Grayson gathered us to announce our third Feat. I think the
96 stress of pledging must’ve been getting to Harper, because she looked terrible. Her eyes had deep circles
97 like she hadn’t slept, and her arms were covered in red bumps. When I asked about it, Harper said she’d
98 been bitten by bedbugs all night! That didn’t really surprise me, since Harper had snacks and food all over
99 her room. It looked like she was preparing for the end of the world or something. All those crumbs had to
100 attract a multitude of pests. I guess I should mention that on August 30, someone who reported being a

101 former ZIP member came by and asked me where Harper’s room was. S/he told me to say “hi” to
102 Grayson, which slipped my mind. But I did point him/her in the right direction.

103 The third Feat was a 5K “Krispy Kreme Challenge” fun run to raise money for the American
104 Diabetes Association. We all thought that was a cool idea. Harper seemed especially excited. Every
105 participant would run half the distance, snarf down 6 donuts, and then run back. We scheduled it for
106 Labor Day weekend because it gave the students who were still in town a fun thing to do. Nearly 200
107 signed up! It was great publicity for Krispy Kreme, especially since they donated the donuts.

108 On the day of the race, the three of us were ready to go. We led the pack to the donut station and
109 began gobbling our donuts. Avery and I stopped after six, but for some reason, Harper kept going and ate
110 a whole dozen. When I started kidding Harper about being greedy, Harper glared at me and said, “It’s not
111 my choice. Grayson insisted.” Harper never told me why. We started running back to the ZIP house when
112 all of a sudden, Harper ran to the curb and threw up. Harper looked kind of ill, but she insisted she was
113 fine and started running again after a minute or so. I thought maybe Harper had food poisoning or
114 something. When we neared the finish line, Harper stumbled and almost fell. Avery caught her and
115 insisted on taking her to the hospital. Grayson seemed concerned, too, and offered to drive, which I
116 thought was really nice. Several hours later they came back and said everything was fine. Avery seemed
117 upset, though, and kept glaring at Grayson. So later, I asked Grayson what had happened, and Grayson
118 said Harper got sick after eating all the donuts. “I told her to eat 12 as a consequence for having such a
119 messy room. It’s embarrassing that we had bedbugs in the ZIP house! I guess Harper just couldn’t handle
120 it.” I thought that sounded a little like hazing, but I trust that Grayson was just trying to push Harper to be
121 the best she could be – like any good leader.

122 Harper seemed kind of quiet and unhappy after that. A few days later, Avery and I stopped by
123 Harper’s room to see if she wanted to come to dinner with us. Harper was on her computer, reading the
124 hazing section on the national ZIP website. Harper said she was just doing research, but I was concerned
125 she wanted to get Grayson in trouble. Doing that could hurt our whole chapter, and maybe even end up
126 with us on probation. So I told her she couldn’t seriously think that eating extra donuts was hazing! Most
127 students would’ve been happy to get more. She just said, “yeah, maybe…” and shut her computer.

128 On September 15 Grayson told us about our final Feat – taking a photo of each other “planking”
129 at a famous location on campus. I thought it sounded like fun, but Avery and Harper didn’t seem
130 enthused. Then Harper suggested a change – “pandaing” instead of planking. Evidently pandas like to lie
131 on their stomachs on tree branches with their legs hanging down. Harper said we could start a new fad
132 while raising money to help Utopia Zoo buy a panda! As much as I didn’t care for Harper, I had to admit
133 it sounded cool, and Grayson agreed. Then Grayson told us our assignments: the Student Union for
134 Avery; football stadium for me; and the old *Paifang* gate near the botanical gardens for Harper. I was

135 jealous of Harper, to be honest. Since we were raising money for pandas, I figured that photo would get
136 the most “hits.” Grayson emphasized that we should all be very careful and not take any stupid risks. “No
137 more trips to the hospital! Be creative, but be smart.”

138 After the announcement, Grayson pulled me aside and said how proud s/he was of me and all the
139 pledges. I felt like Grayson should know what Harper was doing on her computer, researching stuff on
140 hazing. Grayson looked really angry for a second, then s/he smiled and thanked me, saying s/he would
141 “take care of it.” I wasn’t sure what that meant, but I trusted Grayson to do the right thing. I have to
142 admit, I took a bit of pleasure in tattling on Harper after the way Harper ratted me out in class.

143 The three of us met up around 7:00 p.m. to film our “pandaing” session. First we went to the
144 Student Union, where Avery “pandaed” on the wooden wall out front where people posted ads and notices.
145 It would’ve been kind of “meh” except Avery had made a nice “Zippers Stick Together” poster to go on the
146 board in the photo. I wanted to be a bit more adventurous. When we got to the stadium, I shimmied up the
147 goal post and “pandaed” on the crossbar. It was a bit scary, but I knew it made a great photo.

148 Finally we went to the *Paifang*. The only place Harper could really “panda” was on a little ledge
149 at the very top, about 30 feet off the ground. Avery looked scared and said it was too dangerous,
150 reminding Harper that Grayson wanted us not to take risks. She suggested Harper “panda” on a nearby
151 tree, and we could just make sure the *Paifang* was in the photo. I thought that sounded lame, though, and
152 I said as much. Harper agreed; she insisted on “pandaing” on the *Paifang* itself to get the best photo.
153 Harper seemed determined to prove that she had as much fortitude as anyone. I had to admit that I was
154 impressed – and a bit aggravated. I’d hoped my photo would be the most awesome, but it looked like
155 Harper would show me up yet again.

156 As soon as Harper started climbing, the gate started creaking. Avery freaked out and told Harper
157 to come down, but Harper kept going. I admit I egged her on a bit, but I swear I didn’t think anything bad
158 would happen. When Harper finally got to the spot near the top, she exclaimed, “Eww...there’s a bunch
159 of bugs up here!” All of a sudden there was a loud “crack,” the shingle where Harper was lying snapped,
160 and Harper plunged to the ground head-first. It all happened incredibly fast; I didn’t have time to react at
161 all. We called 911, but I’m pretty sure Harper died instantly. Avery was hysterical, and I felt sick to my
162 stomach. I did pick up a piece of wood that fell off the *Paifang* when we ran over to check on Harper, and
163 it practically disintegrated in my hand. I didn’t see any bugs, though.

164 Of course what happened to Harper is a tragedy – for all of us, not just Harper. It’s ridiculous to
165 blame Grayson. Harper is the one who insisted on climbing the *Paifang*, after Grayson told us all to be
166 careful. No one made Harper do it. I know it sounds cruel to blame the one who died, but if Harper hadn’t
167 been so determined to show everyone up, none of this would’ve happened. Now our ZIP chapter is shut

168 down and may never be reinstated. Harper paid the highest price, but her choices hurt a lot of other
169 people, too.

170 Of the available exhibits, I am familiar with the following and only the following: Exhibits 1 – 3
171 (the ZIP bylaws, pledge promise, and hazing page on the national website). The attorney also showed me
172 Exhibit 7, and the photos look like what I saw on the night of the accident. Also, the photos on Exhibit 11
173 are correct about “planking” and “pandaing.”

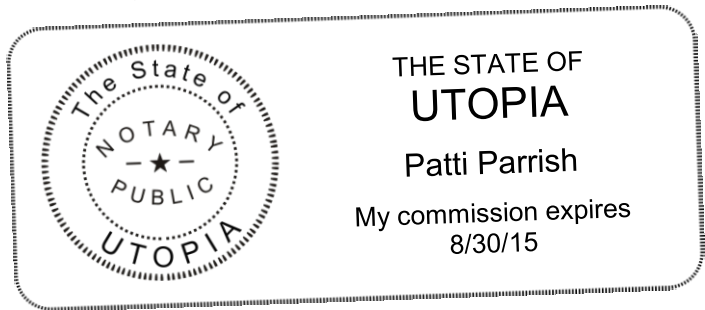
174 I swear or affirm to the truthfulness of everything stated in this affidavit. Before giving this
175 statement, I was told it should contain everything I knew that may be relevant to my testimony, and I
176 followed those instructions. I also understand that I must update this affidavit if anything new occurs to
177 me until the moment before opening statements begin in this case.

Logan Kaufmann
SIGNATURE

December 9, 2014
DATE

Subscribed and sworn before me this 9th day of December, 2014

Patti Parrish
Patti Parrish
Notary Public in and for the State of Utopia



Statement of Shelby Grody

1 My name is Shelby Grody. I am the Watson-Goodall Distinguished Professor of Biology and the
2 Chair Emeritus of the Utopia University Department of Entomology. Indeed, my leadership was so
3 peerless that no other Chair has even been appointed since I stepped down five years ago. I graduated
4 from Harvard in 1952, *magna cum laude*, Phi Beta Kappa, and Zeta Iota Pi. I then received a Master's
5 degree in Entomology from the School of Forestry at Yale in 1954, with highest honors. After taking
6 several years off to travel the Orient, I received my Ph.D. in Entomology from Darwin College,
7 Cambridge University, in England in 1964. I was immediately hired at Utopia as befits a person of my
8 education and experience, and I have remained a vital part of this university ever since.

9 I am occasionally asked if I am a forensic entomologist. I always respond, "Why should I limit
10 myself with such a label?" When I entered the field, such a designation did not even exist. My studies
11 were never so constrained, and my mind and vision were never so limited. But if people insist, I certainly
12 admit that I would put Dr. Mallard of *NCIS* to shame. For decades, I have been the go-to source for
13 society's most critical needs in this regard. J. Edgar Hoover of the FBI once begged me to intervene in an
14 intriguing homicide. Hoover hardly impressed me – too Machiavellian in demeanor, yet not Machiavelli's
15 intellectual equal – but I agreed to assist since the puzzle itself intrigued me. As a result, my fame grew,
16 and I have testified ten or fifteen times in court over the years. I have always refused payment beyond
17 reimbursement for my expenses. The truth is the important thing, and the challenge!

18 It is therefore no surprise that I was contacted when this whole Grayson Zayne affair came to
19 light. If anything, I should have been contacted sooner. Bringing in an adjunct professor – an outsider to
20 the Utopia community, no less! 'Tis an insult. Granted, I have been on leave quite a bit lately. Still, with
21 an expert such as me right at hand, it boggles the mind that they would call in anyone else. Scandalous,
22 really. I suppose they won't make that mistake again, after the mess that this incident has created.

23 It's not that Gooding is wrong per se, at least in the basics that any entomologist would know.
24 Certainly, the Formosan Subterranean Termite – named for Formosa, which is what we called Chinese
25 Taipei in my youth – is a powerful example of xylophagy. A xylophage is an herbivorous insect or animal
26 whose diet consists principally of wood.

27 But to call the Formosan termite a "super termite" is a ludicrous example of the hyperbole used
28 by this supposed expert. There is nothing supernatural or even especially remarkable about this termite. It
29 simply lives in larger colonies and eats more than some others. Its destructive capacity, while impressive,
30 is hardly the stuff of legend. On the other hand, I must admit that the Formosan Subterranean Termite is a
31 remarkably hardy organism. One reason I believe that their colonies grow so large is that they seem not to
32 suffer the same levels of wear and tear as other insects. They are tiny but tough! Their only apparent
33 weakness is an inability to tolerate the cold.

34 Organisms that display such a weakness, from the standpoint of evolution, face two fates. The
35 first is simply to die when exposed to intolerable conditions. Most insects exist in such huge numbers
36 that even losing millions of individuals per year poses no threat to the species. But odds are that a
37 number of individuals – albeit a small number – will possess a random mutation that makes them cold-
38 resistant. Those with the mutation will live, while those without it will die. What seems like a curse – the
39 mass death – actually becomes a blessing, strengthening the species. Only the cold-resistant insects
40 survive to create a queen. In a random system of competition, one without the mass die-off, that gene
41 could take many decades to spread. But in a system under stress, it takes single-digit insect generations
42 for the improved gene to become commonplace. In a rapidly reproducing species like the Formosan
43 Subterranean Termite, the time involved is the blink of an eye, scientifically-speaking.

44 The second adaptation to cold or other environmental hazard is akin to hibernation, although it is
45 actually very different, biologically. Many insect species can become dormant for weeks, months, or even
46 years before emerging. For example, certain North American *magicada* cicadas famously emerge from
47 burrows only every thirteen or seventeen years. As a result, insects that feast exclusively upon cicadas die
48 out. Take the cicada killer wasp, *sphecius speciosus*. That wasp only lives three years on average, and it is
49 adept at killing cicadas. But they must survive during the cicada dormancy by killing other things. If a
50 mutation increased their ability to kill cicadas, the mutation would spread rapidly during the year when
51 cicadas emerge. But such a mutation would provide no advantage during the years of dormancy, and it
52 would likely be lost during that time because the affected individuals would gain no advantage (and might
53 even be harmed, depending upon how it affected their ability to kill other insects). As a result, few
54 predators are adapted specifically to kill cicadas, which is an advantage for the cicadas, one might say.

55 Turning our attention to the Formosan Subterranean Termite, we know that insects adapt to their
56 environment, and the critical pressure on the Formosan Subterranean Termites was sudden cold snaps. It
57 is only logical to conclude that environmental pressures would lead them to develop an evolutionary
58 response to cold. While the observed insect samples seem no more resistant to cold than is typical of the
59 species, a life cycle adaptation, such as the ability to go dormant, is completely plausible. Imagine that
60 some Formosan Subterranean Termites are faced, in the late 1860s, with a cold period of weather. They
61 burrow, as they are adapting. Then suppose the trees are cut down and covered with lacquer as they are
62 constructed into that glorious *Paifang* gate that graces the Utopia University campus.

63 Chinese craftsmen have relied on the *Toxicodendron vernicifluum*, commonly known as the
64 Lacquer Tree, since the Shang dynasty more than 3,000 years ago. Sap is tapped from the tree trunk and
65 converted into a clear, hard, waterproof shell that is beautiful, weather-resistant, and nearly impenetrable.
66 If Formosan Subterranean Termites were sealed into the wood of the *Paifang*, they would not perceive
67 changes in the environment to trigger an end to their dormancy. Perhaps they need a certain humidity

68 level, in addition to optimum temperatures, to trigger an awakening. Sealed in their beautiful lacquered
69 chamber, like Sleeping Beauty before her prince's kiss, the termites could slumber for years and even
70 decades undisturbed. Until, of course, one hundred and forty-odd years of wear and tear, combined with
71 the wet winter of 2013-14, crack open the lacquer at last. The Formosan Subterranean Termites hatch in
72 the warmth of summer. And they immediately do what they do best – eat!

73 I must admit that we have no direct evidence that such a long dormancy occurred. The longest
74 documented “diapause,” as it is more accurately termed, is nineteen years in the case of the Yucca moth.
75 But we know that other invertebrates, such as the Tardigrade (commonly called a “water bear”), have
76 survived for decades in the desert with no water, and even survived exposure to vacuum and cosmic rays
77 on the FOTON-M3 spacecraft in 2007. So it is certainly possible that the Formosan Subterranean
78 Termites could have survived for an unusually long time in their beautiful lacquered chamber.

79 I'll wager a year of the finest Earl Grey tea that no linear-trained, agrarian entomologist would
80 even think of this elegant and perfectly plausible solution. Too busy racing to get a conviction, no doubt.
81 It's a tragedy that they fumigated the *Paifang* immediately after the unfortunate incident to prevent the
82 termites from spreading. Genetic sequencing conducted on the termites afterward shows mutations, but
83 with no more live specimens, we will never know the mutations' effects. Still, only a Kafka-esque system
84 devoid of justice would convict Grayson under these circumstances. It is a real scientific possibility that a
85 cruel twist of fate and accident of evolution were the true reason for the collapse of the *Paifang*.

86 In the rush to judgment, everyone seems to be forgetting that the *Paifang* was old and not in great
87 shape. I remember in the late 1960s when they did a shoddy rehab of the structure because it was about to
88 collapse on its own. I also remember when they put on a fresh coat of paint in the late 80s or early 90s
89 because it was becoming an eyesore. I'll leave the analysis of structural soundness to others, but from my
90 years of observations, no one was safe climbing on the ornate gate regardless of termite presence.

91 I've been asked, of course, whether Grayson might have implanted the termites in the *Paifang*. I
92 seriously doubt it. Grayson was one of the finest young intellects at our august university, and s/he had
93 wonderful manners. We used to speak for hours about my work abroad. Grayson undeniably had a bright
94 future, and I cannot fathom him/her throwing it away in this fashion. In all of our interactions over the last
95 four years, Grayson never betrayed an ounce of malice or ill will. S/he was always very gentle with the
96 insect specimens, and s/he was very popular both with his/her classmates and with members of the faculty
97 and administration. I even appended my name on a paper or two that Grayson had written, to add some
98 clout and distinction to the work. Second author, of course, as befits my status. I suspect Morgan was
99 peeved to be bumped to the third spot, but seniority and distinction have their privileges.

100 Frankly, I cannot imagine anyone taking a disliking to Grayson – anyone, that is, except for
101 Morgan. Morgan was always an average talent, the kind of individual who will remain a mediocrity

102 within the university. We tried to find Morgan a junior faculty position in Kansas or Utah or one of the
103 Dakotas. But s/he preferred to stay here. It bemused me a bit, to be honest. Why would anyone choose to
104 remain in a non-tenure-track position in a field as vast as Botany? Morgan was simply not up to the task
105 of earning tenure – still isn't, in fact – and the Dean and faculty have little faith in him/her. It's not
106 Morgan's fault, really. Some are born to succeed, others are not.

107 Indeed, I'm not surprised to learn that Morgan was abusing even the modest position s/he had by
108 participating in the unearned grades scandal. To give credit for sub-standard work is the greatest of sins.
109 Such cheating tarnishes the reputation of everyone at Utopia University. I am sure that Morgan enticed
110 Grayson into taking part in the façade. After all, Morgan had all the power in that relationship.

111 Why am I not surprised? Well, years ago when Morgan was first hired, we published a paper
112 together. I allowed Morgan to be listed as the first author. As is my custom, I was listed second, because
113 the work was done in the lab I built, using my own work as a foundation, although Morgan was writing
114 primarily about botany with entomology as a minor aspect. But almost as soon as the paper was
115 published, it came under fire. The paper listed a number of significant breakthroughs, but as was soon
116 revealed, it also contained large portions that were suspiciously similar to other authors' works. I don't
117 stand for plagiarism, but I could hardly renounce a paper with my name on it. We fought back, tooth and
118 nail, and after a few phone calls to former students and colleagues, the accusations were dropped. I even
119 received a formal letter of apology from one colleague. Still, I never again trusted Morgan in that fashion.
120 Morgan may well have cheated his/her way into Zeta Iota Pi, too.

121 I know that much has been made of these missing lab records. The lab is technically under my
122 supervision, but it's really Morgan's lab. The absence of a record noting the death of a termite colony is
123 scientifically inexcusable, but it is also understandable. Many have been the times that I have left the lab
124 before completing all of my records, engrossed as I was in pondering the results of my experiments or the
125 next course of action, or mentally composing the opening paragraph of a journal article. I always returned
126 to complete the paperwork eventually, but days could pass before that time. Grayson's explanation for the
127 missing notation is thus quite plausible.

128 Or perhaps Grayson simply acquired poor habits from Morgan. I doubt that Morgan would ever
129 have wandered away, lost in thought while composing a journal article. Yet our auditor found Morgan's
130 documentation to be incomplete on more than one occasion. A lab must be run with precision, and it
131 appears that Morgan was lax in that regard. It is possible some termites might have escaped, if Morgan
132 paid insufficient attention to the details of protocol. I'm not certain why they would have climbed the
133 *Paifang*, but we do know that the type of wood (food source) affects the success of a colony. They could
134 have had a taste for wood from their ancestral home, could they not?

135 In truth, the whole thing reeks of shoddy detective work and an effort to jump to conclusions
136 without considering all possibilities. Gooding simply cannot conclude within a reasonable degree of
137 entomological scientific certainty that those termites were deliberately planted on the *Paifang*. Nor does
138 the pheromone theory hold up. First, there's no evidence that such pheromones were ever synthesized. If
139 anyone had accomplished such a feat, they would have published it or patented it – honor or money, that's
140 the driving force for most scientists! Lastly, pheromones don't break the rules of nature. The termite eats
141 as fast as it eats, and the time allotted to the termites if Grayson had planted them on the *Paifang* would
142 have been insufficient to cause that amount of damage.

143 I have read the statements of Morgan McCabe, Carter Gooding, and Grayson Zayne, and they
144 contain nothing (beyond specious speculation) to suggest that events unfolded as the State claims.
145 Entomology is a factual science; insects are not supernatural, and they cannot accomplish miraculous
146 feats merely because some prosecutor wishes it to be so. There is simply no way, under the science of
147 termites as we know it today, for someone to plant a colony of Formosan Subterranean Termites and, a
148 week later, to have the kind of damage found on the *Paifang*. Any honest entomologist would admit that.
149 Perhaps Morgan planted them earlier, to discredit Grayson. Perhaps Morgan's lax supervision allowed
150 them to escape, and they headed for a favorite natural food source. Perhaps dormant termites simply
151 emerged from their accidental century of slumber. Who knows?

152 The prosecution's case is based upon conjecture. I, for one, will stick with science, with facts, and
153 with Grayson Zayne.

154 Of the available exhibits, I am familiar with the following and only the following: Exhibits 8 and
155 9 (Gooding's CV and my CV); and Exhibit 10 (Grayson's lab notes). The photo of the undamaged
156 *Paifang* in Exhibit 7 also gives an accurate picture of the *Paifang* before that terrible accident.

157 I swear or affirm to the truthfulness of everything stated in this affidavit. Before giving this
158 statement, I was told it should contain everything I knew that may be relevant to my testimony, and I
159 followed those instructions. I also understand that I must update this affidavit if anything new occurs to
160 me until the moment before opening statements begin in this case.

Shelby Grody
SIGNATURE

December 15, 2014
DATE

Subscribed and sworn before me this 15th day of December, 2014

Victoria Moore
Victoria Moore
Notary Public in and for the State of Utopia

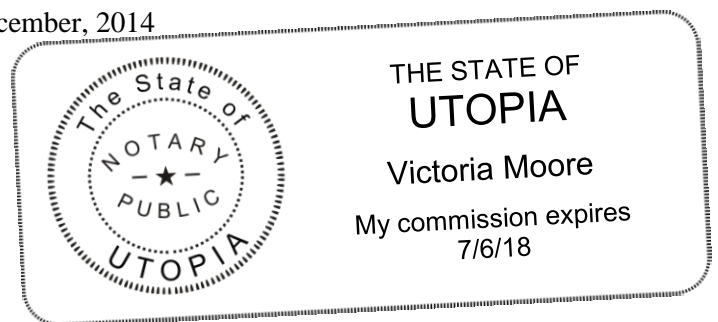


Exhibit List

- Exhibit 1:** ZIP Bylaws
- Exhibit 2:** Pledge Promise (2014)
- Exhibit 3:** ZIP National Anti-Hazing Policy Webpage
- Exhibit 4:** Photo of Milkweed Paper
- Exhibit 5:** Police Report of Investigation, including Structural Engineering Report
- Exhibit 6:** Harper / Grayson Email Exchange
- Exhibit 7:** Photo of *Paifang* (with close-up of termite infestation)
- Exhibit 8:** Carter Gooding CV
- Exhibit 9:** Shelby Grody CV
- Exhibit 10:** Grayson Zayne's Formosan Termite Log
- Exhibit 11:** Photos of a Human "Planking" and of Giant Pandas "Pandaing"

Exhibit 1



Zeta Iota Pi Bylaws

This document shall hereafter be the constitution of the Utopia University Chapter of Zeta Iota Pi (hereinafter known as ZIP or Utopia Zip)

Article I — Name and Purpose

The name of the chapter shall be the Utopia University Chapter of Zeta Iota Pi. It shall honor the top students at Utopia University by fostering a sense of collegiality, fraternity, and unity. ZIP obtains as its members the top students entering as freshman, as well as any other student who is deserving based on their achievements. Neither social nor athletic nor academic achievement should be given more weight than the other.

Article II — Laws

Section 1: This chapter of Zeta Iota Pi shall be governed by these bylaws, the laws of the State of Utopia governing an honor association organized as a non-profit corporation, and the rules and regulations of Utopia University. These laws contain a full adaptation of ZIPs anti-hazing rules (1996).

Section 2: Membership shall only consist of students maintaining a 3.5 Grade Point Average (hereinafter GPA) at the conclusion of each academic semester at Utopia. Students who drop below a 3.5 GPA shall be “suspended” until the conclusion of the next academic semester in which his or her GPA is above a 3.5. Members who remain suspended for two (2) consecutive academic semesters shall be permanently removed from ZIP and shall not be readmitted.

Section 3: To become a member of ZIP, a student must be deemed worthy of membership by the Pledge Master.





Section 4: Anyone invited by the Pledge Master to become a member must complete a series of challenges known as the Feats of Fortitude. Failure to complete said challenges to the satisfaction of a majority vote of the current membership is grounds for not being permitted ZIP membership and barred from being admitted in the future.

Section 5: Zippers always stick together and help whenever possible, even when it seems impossible. Therefore the motto of ZIP shall be “We stick together.” It shall be known to all members and recited upon request of the Pledge Master. This concept is the essence of being a Zipper and should carry more weight than all other rules and regulations associated with ZIP.

Section 6: All members of the chapter shall live in the chapter house unless otherwise excused from doing so by the President.

Section 7: No money from dues shall be used to purchase alcoholic beverages.

Article III — Officer, Duties, and Elections

Section 1: The executive officers of this chapter shall be the President/Pledge Master, the Vice President, the Treasurer, and the Secretary.

Section 2: The Pledge Master shall be in charge of selecting new members and ensuring the orderly operation of the chapter. The remaining officer duties shall be prescribed by the President.

Article IV — Amendments to the ByLaws

Section 1: These bylaws may be amended at any regular meeting of the chapter by a two-thirds vote of the active members of the chapter present and voting; provided notice of the proposed amendment shall been given at the two preceding regular meetings of the chapter.

Section 2: Proposed amendments to these bylaws can be made by any member in good standing.

Exhibit 2



2014 Pledge Promise

W

e, the chosen three of Utopia University, of our own free will and accord, in the presence of these hallowed halls where so many distinguished men and women have walked before and will walk again, do hereby promise that the principles of this honor society as they have been explained to us accord entirely with our own views.

We acknowledge that these principles, outlined in the Zeta Iota Pi By-Laws, require training of the mind and body in order to become part of ZIP. It is for this pursuit, this perception of existence, and a better understanding of the way that we function within it that we promise to become Zippers before we are acknowledged as such.

We promise to carry the right understanding, right intent, right speech, right action, right livelihood, right effort, right mindfulness, and right concentration to all efforts made and all thoughts possessed while we pledge Zeta Iota Pi.

We promise to make full effort when completing the Feats of Fortitude. We understand that the Feats of Fortitude are opportunities to show our commitment to Zeta Iota Pi and that we will never settle for commonplace. We will reach higher, stand taller, and climb to the apex of every mountain. It is on this lofty vantage where Zippers reside and in this place where Zippers thrive.

Throughout this pledge period, we acknowledge that the Pledge Master is our guide and our sage. We promise that his or her words matter most to us and his or her desires must be fulfilled. By giving of ourselves, we promise to give to Zeta Iota Pi. The Pledge Master will ferry us across this river of transition, and we promise to trust and never to question.

We promise above all else, that we, the chosen three of 2014 from Utopia University, will treat each other as we will treat members of Zeta Iota Pi should we be bestowed with membership in this, the most honorable and honored of societies. We promise to stick together and help whenever possible, even when it seems impossible.

All this we promise upon our honor, without equivocation, mental reservation or secret evasion of mind whatsoever.

Exhibit 3

ZETA IOTA PI

Search

User Login

Resources Chapters Message Board National Event Calendar

Zeta Iota Pi Hazing Policy

Zeta Iota Pi is 100% against hazing of any type either through the initiation process or with respect to any honor society sanctioned activity. We fully understand and appreciate that a degree of dedication and devotion must be demonstrated during the Feats of Fortitude at the discretion of our Pledge Masters. However, a true sign of intelligence, which is the hallmark of membership in this most respected and hallowed organizations, is acceptance rather than alienation, safety rather than risk; and brains over brawn.

If you feel that you are the victim of hazing or have witnessed hazing, report it by contacting the following:

- Your University's Office of Student Activity
- Local Authorities / Campus Police
- International ZIP Headquarters | hazing@ZIPhonors.org
- Our anonymous hazing hotline | 1-800-555-4982

Our code of Conduct and Rules of Disciplinary Procedure which cover acts of hazing can be found [here](#).

If you would like to review the applicable laws pertaining to your State, please visit our [State Anti-Hazing Law Database](#).

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Obtained from Harper Finch's Personal Computer by Utopia Police Forensics on September 17, 2014
Webpage page last accessed on September 11, 2014 | 21.36.42

Exhibit 4

Grayson Zayne
Botony 301 – McCab
March 21, 2014

Midterm Assignment

Milkweed is not a Weed and Does a Body Good Like Milk

Milkweed has a bad name, but it doesn't deserve it. It really needs to be rebranded as something more appropriate like Milkstar or Milkmagic so people won't be scared to use it. In fact, its scientific name is *Asclepius*, which is after the Greek god of healing because a lot of people through history have used it for healing. There is a story about how the mahi mahi fish only became commercially popular after its name was changed from dolphin fish. No one wanted to eat a dolphin, but mahi mahi sounds exotic. Same could go for Milkweed.

But, this is not a paper on marketing, though I think that is interesting. This is a paper about what you can do with Milkweed.

Today society takes too many antibiotics. We should try to use natural remedies that do not need to be made in large factories with bad working conditions. No, we need to use Mother Nature to the fullest instead. Milkweed can bring us one step closer to this goal. Native Americans used the roots of the Milkweed plant as a way to cure dysentery. Why take an antibiotic when you can chew on a root? Why get a wart removed by a dermatologist and pay lots of money when you can put Milkweed sap on it? Why see an asthma doctor when you can have Milkweed tea? Sure Milkweed can be dangerous – it is a poison – but so is too much Tylenol.

In conclusion, Milkweed like milk, does a body good! Mmmmmm, good!!!!

A-
Good work 😊

Exhibit 5

Form No. UU 0981-21

Incident No: 09-1856-2014



Utopia University Police Incident Report

Date(s)/Day(s) of Incident: September 15, 2014	Incident Location: Campus - Friendship Paifang	Officer: A. Hodges	Badge Number: 13459
Time(s) of Incident: 2115-2130	Station Number: UU957	Approved By: Lt. K. Vinson	Badge Number: 4976
Case ID: UU-5671		Approval Date: September 18, 2014	

Attachments: <input checked="" type="checkbox"/> Statement Forms <input type="checkbox"/> Rights Warning and Waiver Form <input type="checkbox"/> Property Checklist <input checked="" type="checkbox"/> Other	Initial Determination: <input checked="" type="checkbox"/> Criminal conduct (Hazing) <input type="checkbox"/> Accident <input type="checkbox"/> Unfounded
--	---

NATURE OF INCIDENT/DESCRIPTION: At approx. 2130 hours on the date of incident, I responded to multiple emergency calls reporting a fall from the Friendship Paifang. The victim (determined to be HARPER FINCH, female, freshman, d/o/b 1/14/1996) had attempted to climb the Paifang as part of a student organization (ZETA IOTA PI) initiation. Portions of the structure of the Paifang broke/collapsed, causing the student to fall from height of 20-25 ft. In addition to hitting the ground, the student was struck by debris from the Paifang.

Victim was found on ground, dressed in casual clothing, in pool of blood. Body was surrounded by wood on which small, ant-like insects were moving. Blood volume was most significant near head area, apparently due to profuse bleeding from blunt force wound to skull. Victim's arms were splayed, and her head was bent at highly acute angle indicative of severe neck trauma. No pulse or respiration was noted by responding officer. Campus emergency services arrived shortly after reporting officer and attempted to resuscitate. Victim transported to hospital via ambulance, pronounced dead upon arrival. Observation of Paifang showed moderate structural damage in area above body, roughly consistent with apparent volume and color of wood on ground. Movement of insects on broken region was visible, even from that distance.

PHYSICAL EVIDENCE: Pieces of the Paifang that broke off were secured and marked as evidence. Additionally, numerous small insects not only on the wood, but also contained within it, were secured and marked.

WITNESS 1: AVERY KOLTASCH (Freshman, ZIP House)
WITNESS 2: LOGAN KAUFMANN (Freshman, ZIP House)

See attached witness statements. Both were aware of plan to climb Paifang to ledge approximately 25 ft. from ground. Each saw FINCH at a point approximately 22 ft. from ground, and climbing, shortly before hearing scream and seeing the subsequent fall.

FINCH climbing as part of Zeta Iota Pi initiation. Individual responsible for same identified by both witnesses as GRAYSON ZAYNE (Senior, ZIP House).

Obtained contact information from witnesses, comforted witnesses that fall was not their fault. Provided them cards with contact information in case they wished to share more later.

DISPOSITION: Recommend referral to St. Thomas More County District Attorney for potential violations of Utopia anti-hazing statute.

Submitted: /s/ Hodges, 13459

Date: Sept. 16, 2014

UPDATE 1 (9/16/14, 9:45 a.m.): Witness KOLTASCH called on my cell phone to advise s/he wished to discuss additional information. Met her/him at UUPD station. KOLTASCH advises that ZAYNE involved in potential cheating, recently fought with FINCH. KOLTASCH advises FINCH considered reporting cheating by ZAYNE. KOLTASCH reports threats by ZAYNE against FINCH. Called hospital, who confirmed recent Emergency Room visit by FINCH.

UPDATE 2 (9/16/14, 12:30 p.m.): Attempted to speak with ZAYNE at ZIP House. ZAYNE was not present. Occupants advised that ZAYNE works with insects, may be at insect lab.

UPDATE 3 (9/16/14, 2:00 p.m.): Consent of University obtained, insect lab searched. Insects missing: wood-boring termites. There were also chemicals missing. Lab reports seized, placed into evidence. No explanation of missing insects.

UPDATE 4 (9/16/14, 4:00 p.m.): Lab director MORGAN MCCABE interviewed. After being advised of rights, MCCABE made voluntary statement. MCCABE confirmed details of ZAYNE cheating. Additional ZIP students allegedly involved.

UPDATE 5 (9/18/14 9:30 a.m.): Documents received from Registrar. Placed in case file as Attachment 1.

UPDATE 6 (9/18/14, 1:00 p.m.): Case transferred to St. Thomas More County Police, Homicide Division, for investigation of potential homicide.

UPDATE 7 (9/19/14, 9:00 a.m.): Autopsy Report Received. Cause of death: skull and/or neck fracture secondary to fall from height. Placed in case file as Attachment 2.

UPDATE 8 (10/21/14, 5:00 p.m.): Ertle Engineering report received from Office of Utopia University President Gordon. Placed in case file as Attachment 3. Matter referred to St. Thomas More County District Attorney.

ATTACHMENT 3
ERTLE ENGINEERING
REPORT OF STRUCTURAL COLLAPSE, 09/15/2014

Dear President Gordon:

As requested, our structural engineering staff has conducted its examination into the collapse of a portion of the Friendship Paifang in close collaboration with the efforts of the Utopia University Departments of Anthropology and Oriental Studies. We respect the importance of this matter and its cultural sensitivity to the relationship of Utopia University and its sister institution, Peony University in Beijing. The call from Assistant Secretary of State Dumas was particularly instructive. It's always nice to speak with a fellow alum.

Despite the challenges imposed by working with a structure we were barely permitted to touch, even under the strictest supervision, we have been able to reach several determinations regarding the collapse of the Paifang structure. The Paifang is made of a Chinese hardwood that has aged remarkably well, all considered. It was covered in a lacquer that appears to have largely prevented any water or environmental penetration. Nonetheless, at its present age, the Paifang as a whole is not weight-bearing. The University was wise not to allow students to climb it.

The area of the Paifang that collapsed was badly degraded by termites or similar wood-boring insects. The infestation damage was extensive, and the portion of the Paifang that fell had nearly disintegrated. Given the extent of the damage, it is impossible to determine whether the insects were inside the structure initially or bored into it from the outside. That portion of the Paifang is simply gone.

The damage also makes it impossible to determine whether the Paifang had suffered weather-related or other damage in the affected area that could have contributed to its weakness, but the remaining portion of the Paifang appears to be in solid condition. The partial collapse therefore can be directly and scientifically attributed, within a reasonable degree of certainty, to the termite damage, which appears to have been limited to that section. Without the termites, we would have expected the Paifang to hold Finch's weight for a brief time, and this terrible tragedy to have been averted.

Nonetheless, we strongly advise that you retire the Paifang. At 150 years old, the structure should not be trusted again, even without termites, and we cannot promise that every termite was located and removed. Our efforts to drill fumigation holes were soundly rebuffed by your anthropologists. Your staff had interesting ideas about how the retirement could be accomplished in a culturally-sensitive manner.

We look forward to serving Utopia University again, hopefully under better circumstances. Perhaps we can speak soon about the new library project?

Yours Truly,
/s/ Jon Ertle, Class of 1985
CEO and Chief Structural Engineer
Certified Professional Engineer

Exhibit 6

The screenshot displays an email client interface. At the top, there is a navigation bar with a 'Mail' dropdown and several icons for actions like back, forward, delete, and search. Below this is a sidebar on the left with a 'COMPOSE' button and a list of folders: 'Inbox (1,004)', 'Starred', 'Important', 'Sent Mail', and 'Drafts (6)'. The main area shows two email messages. The first message is from Grayson Zayne to Harper Finch and Avery Koltasch, dated September 6, 2014, at 09:25:47. The second message is from Harper Finch to Grayson Zayne and Avery Koltasch, dated September 6, 2014, at 08:53:13. At the bottom, there is a status bar with storage information, a link to terms and policies, and account activity details.

Mail [Icons: Back, Forward, Delete, Search, More]

COMPOSE

Re: Hazing [Inbox x] [Icons: Print, Share]

Inbox (1,004)

Starred

Important

Sent Mail

Drafts (6)

More [Dropdown]

[Icons: Add Contact, Reply]

Search people...

Grayson Zayne **September 6, 2014** [Icons: Reply, More]

To: Harper Finch
CC: Avery Koltasch

09:25:47

Harper, my dear Harper. You still have so much to learn!

You didn't die . . . so you passed . . . this time! Watch where you step when you follow my lead.

Harper Finch **September 6, 2014** [Icons: Reply, More]

To: Grayson Zayne
CC: Avery Koltasch

08:53:13

Grayson – I want to be a member of ZIP very, very badly, but you are putting my safety at risk. You knew I have diabetes. I filled that out on my medical sheet when I took the pledge promise. If you don't knock off the hazing, ZIP will go down in a blaze. You may fool the faculty, but you aren't what you seem. I know too much, and knowing is half the battle!!!

0% full
Using 0.29 GB of your 30 GB

[Terms of Service](#) - [Privacy Policy](#) - [Program Policies](#)

Last account activity: 3 days ago
[Details](#)

Exhibit 7

Friendship Paifang – Formosan Termite Damage and Location



Fig. 1a – 1c:

Wood removed from Utopia University Paifang after Harper Finch's Death 9/15/2014

COMMENT: All samples pulled from top structure of Paifang showed considerable wear easily attributable to the Formosan Termite. Specified location of wood removal indicated in Fig. 2.



Fig. 2

Utopia University Paifang circa 2013.

Gift from Peony University in Beijing, China circa 1860

Photo courtesy of Utopia University Asian Studies Department (www.Utopiauniversity.edu/ASD)

COMMENT: Area most affected by Formosan Termite damage is bracketed in red.



Exhibit 8

Carter Gooding, Ph.D.

1978 Roberts Rd. • Landis, IN 47401

EDUCATION

Purdue University, Ph. D., Entomology, 1992

Purdue University, M.S., Entomology, 1988
High Departmental honors

Purdue University, B.S., *summa cum laude*, Biological Engineering, 1986
Minors in Architectural Engineering, Crop Science
Captain, Tennis Team

EXPERIENCE

American Forensic Entomologist Consultancy, LLP, Partner, 2010-Present

Investigate legally significant questions involving insects. Give opinion and, when necessary, testimony on questions including entomologic indications of time of death, effect of insects on state of bodies, and insect-structural interactions.

Representative cases:

- *Texas v. Bays* – Genetic analysis of species found on victim matched those near defendant's home, contrary to his account, justifying search warrant.
- *Vermont v. Maucere* – Date of death established through insect larvae, leading investigators to re-evaluate timeline, identify true killer.
- *Montana v. Harlacher* – In death of family in home collapse, established that wood boring insect infestation was not naturally occurring, leading to conviction.
- *U.S. v. Cotbran* – Determined murder was committed with subcutaneous injection of eggs of brown recluse spider, leading to apparent accidental death.

Gooding Entomology Consulting, LLC, Member and Chair, 2002-Present

Consult on organic and entomological solutions to agricultural concerns with major national and international companies including Archer Daniels Midland and ConAgra Foods.

Purdue University, Depts. of Entomology and Agricultural Engineering, Adjunct Professor, 2006-Present. Teach three courses per semester to upper-level undergraduate students.

University of Georgia, Dept. of Entomology, Adjunct Professor, 2004-2006

Federal Bureau of Investigation,

Senior Response Technician, Evidence Response Team, 1999-2002 – Member and occasional leader of forensic unit responsible for crime scene processing, evidence collection, and on site analysis.

Staff Entomologist, National Criminal Laboratory, 1994-1999 – Processed evidence collected at crime scenes, analyzed it to guide and support criminal investigations.

Entomology Fellow, National Criminal Laboratory, 1992-1994 – Trained in forensic entomology.



PROFESSIONAL ASSOCIATIONS

American Entomological Society, 1990-Present

Association of Applied Insect Ecologists, 2002-Present

American Board of Forensic Entomologists, 2011-Present

Exhibit 9



SHELBY GRODY, Ph.D., CH

540 Hoover Center | Utopia University | Utopia City, UA

EDUCATION

Darwin College, Cambridge University, Ph.D. Entomology, 1964

Yale University School of Forestry, M.S. Entomology with High Honors, 1954

Harvard University, B.S. Biology, *magna cum laude*, 1952

Phi Beta Kappa

Zeta Iota Pi

NCAA Champion, Squash Singles

Honorary Doctorates:

University of Leicester, McGill University, University of Melbourne, Faber College

EXPERIENCE

Utopia University, Department of Entomology, 1964-Present

Chair Emeritus, 2009-Present

Chair, 1978-2009

Watson-Goodall Distinguished Professor of Biology, 1970-Present

Assistant Professor, 1964-1970

Chair emeritus and professor in prestigious department within Utopia University, one of North America's top research and undergraduate institutions. First author on over fifty publications, three treatises, twenty-two chapters, and the leading text in entomology. Credited by United States Patent and Trademark Office as originator of over thirty innovations in science and technology.

RECENT PUBLICATIONS

Grody, Shelby. (2013). *Grody's Entomology*. Cambridge, U.K.: Cambridge University Press, 17th Ed.

Grody, DeSaix. (2014). On Mendel's Flies: *Drosophila*. *Nature*, 514 (7524).

Zayne, Grody, McCabe. (March 2013). Synthetic Compounds and Insect Behavior: Pheromones – Powerhouse or Powerless? *Annals of Entomological Association of America*, 622 (1213).

Baldwin, Grody, Crews. (March 2012). *Mandotea* or *Armadillidiidae*? Challenges of Identification and Classification. *Journal of Applied Entomology*, 136 (2).

Maroni, Grody, Kingsolver. (2009). Chapter, *Bacon's Pathology of Common Insect Species*. Princeton, New Jersey: Princeton University Press.

PROFESSIONAL ASSOCIATIONS AND AWARDS

Too copious to fully enumerate. Representative associations and honors include:

- Order of the Companions of Honor
- Royal Entomological Society
- British Entomological and Natural History Society
- American Entomological Society
- Entomological Society of Canada

Exhibit 10

Lead Investigator: **Grayson Zayne**
Lab Director: Morgan McCabe, Ph.D.
Term: Fall 2014
Thesis: Effects of Chemical and Natural Catalysts
on Colony Behavior and Reproduction



Coptotermes formosanus Formosan Subterranean Termite

Activity Log

DATE	ACTIVITY	COMMENTS	INITIAL
8.18.14	Set sub-colony for subdivision experiment on productivity	Queen and King look healthy and ready to expand colony to beta location. Primary idea is to modify the types of specialties through influence	GZ
8.19.14	Moved existing egg bank & Larvae to beta location	It is not expected that the loss of the starter colony will affect the overall annual production. Having a fresh predetermined sub-colony will help with data collection	GZ
8.20.14	Initial collection of Queen pheromone secretion	Failed! Ok – this is going to be way harder than I originally thought. But, initial test requires a larger amount of secretion in order to analyze and influence.	GZ
8.21.14	Second attempt of pheromone secretion collection	Success! Will be used to promote additional development of winged reproductive over non-winged from nymphs	GZ
8.22.14	Initial collection of King pheromone secretion	Success! Will be used to promote additional development of workers over soldiers from larvae	GZ
8.25.14	Further design of habitat	Starting to look really nice in there! I am really proud of the water source to wood ratio at the beta site. Perfect environment for rapid expansion.	GZ
8.26.14	Attempt to separate collected pheromones into active components	Failed! Alpha colony is looking particularly strong though. Workers at Alpha colony are moving through food source at strong rate	GZ
8.27.14	Attempt to separate collected pheromones into active components	Failed! Observation: Alpha colony nymphs are turning into supplemental reproductive for beta colony. I will do my best to keep them separated to keep integrity.	GZ
8.28.14	Additional secretion collection	Forced to go back and collect more secretion samples from Alpha Queen and King for experiment. At least I am getting good at this part!	GZ
8.29.14	Attempt to separate collected pheromones into active components	Failed! Concerned that beta larvae and nymphs are developing too quickly. There won't be time to introduce secretion extracts. I know it's still early!	GZ
8.30.14	Attempt to separate collected pheromones into active components	Failed! I admit it! I'm not good at chemistry. I should find someone to help me with this! Today has not been a good day at all. So FRUSTRATED!	GZ
9.1.14	Additional secretion collection	Back to the well. Concerned that collection of secretions is putting stress on Alpha Queen and King. I should be kinder to the ones I love © SUPER TERMITE TIME!	GZ
9.2.14	Abandon separation plan and will just adjust amount of pheromones	By increasing the amount of secretion provided to the larvae & nymph, different specialties will be produced. Hypotheses: more will make more queens and workers	GZ

Exhibit II



“PLANKING”



GIANT PANDAS “PANDAING”