

NORMAN HICKS - October 4, 2011  
Cross-Examination by Mr. Barrow

1 A. Not that I know of, no, sir.

2 Q. And I believe you testified that you could have  
3 collected that charcoal lighter fluid and taken it to  
4 the lab and tested it, but you didn't?

5 A. No, I didn't.

6 MR. BARROW: Pass the witness.

7 THE COURT: Okay.

8 MR. BALDASSANO: No further questions,  
9 Judge.

10 THE COURT: Let's take a two-minute  
11 recess. Please remember the admonitions from the Court.  
12 Do not discuss this case with anyone, not even among  
13 yourselves.

14 (Brief recess)

15 (Jury enters courtroom)

16 THE COURT: Thank you. Please be seated.  
17 You may proceed, Counsel.

18 **BRIAN HEINTZ,**

19 having been first duly sworn, testified as follows:

20 **DIRECT EXAMINATION**

21 BY MR. BALDASSANO:

22 Q. Please introduce yourself to the jury.

23 A. My name is Brian Heintz. I'm a certified fire  
24 and explosion investigator licensed through the National  
25 Association of Fire Investigators. I did the origin and

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1 cause investigation for the fire loss at 7201 Rampart  
2 Street in Houston, where my company was retained by  
3 Farmer's Insurance Company to do the origin and cause  
4 evaluation as it pertained to the building structure.

5 Q. Tell us a little bit about your background and  
6 your training and experience to allow you to be an  
7 investigator determining the origin and cause of fire.

8 A. Sure. I've been doing origin and cause  
9 investigations for nearly a decade now. Over the last  
10 four years, I've had hundreds of hours of continuing  
11 education as it relates to the fire signs science and  
12 fire aspect of the industry. I'm licensed through the  
13 National Association of Fire Investigators as a  
14 certified fire and explosion investigator. I'm also a  
15 licensed private investigator through the State of  
16 Texas, State of Louisiana and State of Florida.

17 Q. And what -- do you work with a company, or do  
18 you work for an insurance company?

19 A. No. I work for the Pro Net Group, Inc. We're  
20 a private firm that, generally, ninety-five percent of  
21 our business comes from insurance companies.

22 Q. So an insurance company will hire you out --

23 A. Correct.

24 Q. -- to take a look at their fire scene?

25 A. Correct.

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1 Q. And how many people work at Pro Net?

2 A. Total throughout the nation, approximately  
3 fifty.

4 Q. And how many people here in Harris County?

5 A. Well, in Fort Bend County, I have approximately  
6 eighteen.

7 Q. And how often do you do origin and cause  
8 analyses of fires?

9 A. Me, personally --

10 Q. Yeah.

11 A. -- or the company as a whole?

12 Q. You.

13 A. Me, personally, at least two a week.

14 Q. And do you have any responsibility in  
15 identifying who started the fire or catching anybody  
16 that started the fire?

17 A. No. We generally don't go that far. Like,  
18 when I'm working with insurance companies, unless it's  
19 the actual policyholder and the insured, as we call  
20 them, we don't really -- they pretty much shut us down.  
21 We don't really pursue it that far.

22 Q. Why doesn't the insurance company care who  
23 started the fire unless it was the owner?

24 A. Well, they're looking ultimately to subrogate  
25 their loss. Or if it's an intentionally set fire, say

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1 if the insured or the homeowner, whoever it may be,  
2 they're looking to collect their money, if it was an  
3 accidental fire they can subrogate against it; or if it  
4 was a homeowner, they could deny the claim.

5 Q. Okay. So you tell -- do you tell the insurance  
6 company, A, this was an accident, or B, we think this  
7 was intentionally started?

8 A. Correct.

9 Q. And how do you do that? What is your method of  
10 operation to conduct these investigations?

11 A. Sure. We follow through an NFPA 921 --

12 COURT REPORTER: I'm sorry?

13 A. -- which is a guide for fire investigations,  
14 and specifically the science as outlined in NFPA 921.

15 THE COURT: Mr. Heintz, I know you speak  
16 pretty fast.

17 THE WITNESS: I do.

18 THE COURT: Could you try to slow it down  
19 a little?

20 THE WITNESS: Yes, ma'am.

21 A. We follow the scientific method as it's  
22 outlined in FBA921.

23 Q. (By Mr. Baldassano) And do you work alone or  
24 with a partner when you go?

25 A. It varies. I work with partners. I work

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1 alone. You know, it's 50/50. Just depends on who's  
2 available and whatever the case is.

3 Q. And do you sometimes collect samples to bring  
4 to a lab and sometimes not collect samples?

5 A. Yes, that's correct.

6 Q. And why wouldn't you collect a sample in a  
7 case?

8 A. If it's not -- when it pertains to insurance  
9 companies, you know, they insure one particular, let's  
10 just say, building; or they insure a tenant. You know,  
11 if it's our building and it's -- and we have the right  
12 and we've gotten authorization from the homeowner, or  
13 investigator, or whoever it may be, then we can obtain  
14 that sample.

15 If it's not our vehicle, not our  
16 structure, but it's not -- let's say we're doing an  
17 investigation. We insure the exposure damage, if you  
18 will, a building next to the building where it caught  
19 fire. We cannot go into the building where the fire  
20 originated and take a sample, because it's not our  
21 building.

22 Q. And do you have to tell what you know to the  
23 fire -- the fire investigators in Texas if they make a  
24 request to get the information of your investigation?

25 A. Yes. Yes, we do. We typically will interview

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1 the investigating -- whoever it may be, whether it's  
2 Houston Arson -- we'll give them the call, did they  
3 investigate it and ask them questions we may have. And  
4 if we happen to get that additional information, we pass  
5 that along.

6 Q. Do you have to do that by law?

7 A. No, we do not, unless they subpoena us, I  
8 guess.

9 Q. If they subpoena you to, you have to do it?

10 A. Yes.

11 Q. Okay. Mr. Heintz, I'm going to call your  
12 attention to a fire that occurred at 7200 Rampart  
13 Street, here in Harris County, and ask you, did you get  
14 involved in the investigation of that fire for an  
15 insurance company?

16 A. Yes. Was there a picture?

17 Q. No.

18 A. I thought you were going to show me something.

19 Yes, we investigated the fire loss at 7200  
20 Rampart Street for Farmers Insurance.

21 Q. When did you get involved?

22 A. Farmers retained us on October 24th. We went  
23 and performed our investigation on October 26th.

24 Q. And who did Farmers represent, or who were the  
25 policyholders of the Farmers policy?

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1           A.     The building owner is Victor Colehan  
2     (phonetic).  I'm pronouncing that incorrectly.  But  
3     Farmers insured the building, the actual structure at  
4     7200 Rampart Street, not the individual leased spaces.

5           Q.     So the entire building?

6           A.     Correct, yes, sir.

7           Q.     Okay.  And did they insure the contents or the  
8     actual structure of the building?

9           A.     Just the structure of the building.

10          Q.     Now is it relevant to the insurance companies  
11     that a building is used as a residence, or is there  
12     extra insurance to have somebody living in a building  
13     and insure the contents?

14          A.     Yes.  Insurance companies would want to know if  
15     somebody was residing in a particular building if they  
16     weren't aware of it.

17          Q.     Is there something like rental policies that  
18     you can get?

19          A.     Sure.  There were individual leased spaces in  
20     their building.  And generally speaking, tenants will  
21     take out a rental policy, or a contents policy, or  
22     something to that effect.

23          Q.     Okay.  Did your company -- or did Farmers cover  
24     any kind of rental policy that you knew of or contents  
25     policy?

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1 A. Not to my knowledge, no.

2 Q. Okay. So when you -- did you go out to the  
3 scene at Rampart to look at the structure?

4 A. Yes, sir.

5 Q. And, I'm sorry, you said the date October 26th?

6 A. We -- yes, the investigation, October 26th.

7 Q. And is that the day you first went out to the  
8 location?

9 A. Correct.

10 Q. And what did you observe when you went out  
11 there, just generally?

12 A. The front of the building -- the building  
13 faced -- faces west. The northwest and south sides of  
14 the building were undamaged, for the most part, except  
15 for a glass door on the storefront was boarded over.

16 On the back of the building and the alley,  
17 which is the east elevation, there was some fire damage  
18 to the east elevation on that side of the building.

19 Q. I don't know if it's still up there. There is  
20 a little pointer.

21 A. Yes, right here.

22 Q. Looking at State's Exhibit 24, can you tell us  
23 where -- did you go -- I think you said there was no  
24 damage, and I'm trying to figure out where that was.  
25 Can you just show us with that light, if that even



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1 works?

2 A. There we go. No damage -- I'm sorry. No  
3 damage on the west elevation, the north elevation.

4 Q. It's not working so good.

5 A. North elevation, south elevation -- no damage  
6 on the west, north or south elevation.

7 Q. Okay. And were you looking for damage, that  
8 is, to tell the insured about coverage, that is, that  
9 would apply to coverage?

10 A. No, we do not. We don't make any coverage  
11 recommendations.

12 Q. Okay. Do you look for damage throughout the  
13 building?

14 A. Yes, we do, of the buildings that are unlocked  
15 and available to us. I mean, the leased spaces that are  
16 available to us to go in, yes.

17 Q. And is this part of your origin and cause  
18 analysis?

19 A. Yes, it is.

20 Q. All right. And we went through -- on the  
21 pictures that you took, do they say Pro Net on them, or  
22 on the bottom of the picture, taken by Pro Net?

23 A. When we produce them?

24 Q. Yeah.

25 A. No, they don't say Pro Net on them.

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1 Q. When you went through the building, did you  
2 find any indication from any source or any evidence that  
3 the fire that you went to investigate started in the  
4 building?

5 A. No, there was no indication that the fire  
6 originated within the building.

7 Q. About how long do you stay in the building to  
8 do your analysis and examination?

9 A. In this particular instance, it was at least an  
10 hour.

11 Q. Okay. So you walk through the building?

12 A. Absolutely.

13 Q. All right. And do you photograph as you walk  
14 through?

15 A. Yes.

16 Q. And again, are you alone or with somebody?

17 A. In this particular instance, I was with someone  
18 from my company.

19 Q. And do you go from the area of least burned to  
20 the area of most damaged --

21 A. Yes.

22 Q. -- in a fire investigation?

23 A. Yes.

24 Q. Is that pursuant to NFPA 921?

25 A. Yes.

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1 Q. Did you do that in this case?

2 A. Yes, I did.

3 Q. Where did you find the most damage done by the  
4 fire?

5 A. Well, that was on the exterior side of the  
6 building. It was -- it was right in this general area  
7 right here. I'm sorry. Right over here in this general  
8 area. You have a man door here, an overhead door here,  
9 and the most damage was in this particular area. The  
10 fire damage breached the door. And there was somewhat,  
11 I consider, relatively minor fire damage to the interior  
12 wall. But most of your fire damage was on the exterior  
13 side of the building.

14 Q. And did you eliminate all the accidental causes  
15 of the fire?

16 A. Yes, I did.

17 Q. And did you have a chance on that same day to  
18 look at the cars that were involved in a fire?

19 A. All nine -- by the time we did our  
20 investigation, all nine vehicles had been removed from  
21 the alley. Five of the vehicles had been removed to a  
22 vacant lot a couple of blocks away from this location.

23 One of the vehicles, a Toyota Sienna van,  
24 had been moved to the Dart Lot, which is the Houston  
25 Police impound lot. And three other vehicles, to the

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1 best of our knowledge, had been returned to their  
2 owners, as they didn't have any damage.

3 Q. And did you look at that Sienna vehicle?

4 A. Yes. We inspected the Toyota Sienna van on  
5 November 2nd at the Houston impound.

6 Q. Did you come to any determination about its  
7 part in the fire?

8 A. Yes.

9 Q. Okay. And what was that?

10 A. That was a point of origin of the fire. From  
11 what we could tell, the fire originated in the passenger  
12 compartment of the Toyota Sienna van.

13 Q. And do you have an opinion as to whether or not  
14 that was an accidental fire or an intentional fire?

15 A. I believe it was an intentional fire.

16 Q. Why do you think that?

17 A. It's based on the burn patterns in the interior  
18 passenger compartment. The vehicle had been -- was  
19 sitting idle for a number of hours prior to the fire,  
20 and there were no reported issues that day from  
21 Alfredo --

22 Q. Any recalls? Did you look for that?

23 A. Yes. A vehicle expert with our company  
24 performed that search, then no recalls were found. No  
25 fire-related recalls were found.

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1 Q. Do you have an opinion as to whether or not a  
2 person started the fire igniting an ignitable substance  
3 in the van?

4 A. Yes, that's correct.

5 Q. Is that what started the fire, in your opinion?

6 A. Yes.

7 Q. Did you -- after leaving the Houston impound  
8 lot, or maybe before, did you go to look at the other  
9 cars that were available?

10 A. Yes. We looked at the other five vehicles over  
11 at the -- at a lot several blocks away.

12 Q. Going back to the Sienna van, did you have any  
13 opinion, based on the fire patterns and what you saw, as  
14 to what was used to start the fire?

15 A. No. It was total consumption of the vehicle.  
16 Something used to start would have been an open flame.

17 Q. Did you test for any ignitable liquids?

18 A. No. It was not our vehicle. In particular --  
19 this is going back to the same case -- we -- Farmers  
20 insures the structure, so -- and that's our limitations.  
21 When it pertains to other vehicles, we do not -- we  
22 can't take samples.

23 Q. Okay. Let me draw your attention to the other  
24 cars, specifically a Camaro. Did you have an  
25 opportunity to check out and examine the Camaro?

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1 A. Yes.

2 Q. Okay. I'm going to call your attention to  
3 what's been introduced into evidence as a disk that's  
4 State's Exhibit No. 22 and ask you, does this look like  
5 the Camaro you took a look at?

6 A. Yes.

7 Q. And tell us what you saw and observed with the  
8 Camaro.

9 A. The 1996 Chevy Camaro had exterior fire damage  
10 to the right front quadrant of the vehicle there. Also  
11 had fire damage in the backseat, as well on the interior  
12 compartment.

13 Q. And this fire damage here, what could you say  
14 about the fire damage we're looking at on the outside of  
15 the front end of the Camaro?

16 A. That's what we consider exposure damage or  
17 radiant heat damage from the Toyota Sienna van.

18 Q. What are we looking at here in this photograph  
19 of the same car?

20 A. Yes. That's the -- that was a picture of the  
21 right side of the vehicle taken from the front. That's  
22 all exposure damage, as it's radiant heat damage from  
23 the Toyota Sienna van.

24 Q. All right. And what are we seeing, anything  
25 significant there?

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1 A. No. That's just more -- it's the right side  
2 taken from the rear.

3 Q. Okay. So, specifically over here at the door  
4 where the passenger side door opens, do you see anything  
5 other than radiant heat damage?

6 A. No.

7 Q. Do you see any of this radiant heat damage  
8 actually entering the Camaro from this door?

9 A. No, it did not.

10 Q. Was the Camaro opened or locked or unlocked?

11 A. When we inspected the vehicle, it was unlocked.

12 Q. Any fire damage to the back of the Camaro?

13 A. No. There is no damage to the exterior of the  
14 Camaro, the back.

15 Q. There is no damage?

16 A. On the left side, no.

17 Q. All right. Did you find -- did you examine the  
18 inside of the Camaro?

19 A. Yes, we did.

20 Q. Okay. And did you photograph that?

21 A. Yes, I did.

22 Q. I was afraid you were going to say that. When  
23 you looked into the inside of the Camaro, tell us what  
24 you saw.

25 A. Localized fire damage to the backseat with fire

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1 spread up to the ceiling above the backseat and some  
2 melting drip-down of the ceiling on some of the front  
3 seats.

4 Q. I'm going to call your attention to this  
5 photograph. Is this the Camaro?

6 A. Can you zoom out, please? No, that's not the  
7 Camaro.

8 Q. Okay.

9 A. Maybe this is. There you go. Looks like the  
10 first picture of the Camaro is Picture -- is it 183?  
11 Yes. That's a picture of the front passenger  
12 compartment of the Camaro, looking from the right side.

13 Q. And --

14 A. That's the drip-down from the ceiling of the  
15 Camaro.

16 Q. Anything inside the Camaro made you think that  
17 was an accidental cause of any kind of fire?

18 A. No. There was nothing to indicate accidental  
19 fire cause.

20 Q. And where were you looking at there?

21 A. That's sort of looking at the backseat area  
22 where you see fire damage, localized fire damage to the  
23 seat area and that cardboard box. And there is also a  
24 pillow that -- you can kind of see that.

25 Q. Now if you'd push onto the screen that you're



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1 looking at. And can you circle where you saw the most  
2 damage to the backseat of the Camaro?

3 A. It was in here.

4 Q. Okay. And that fire, was that separate from  
5 the fire outside? And if so, how do you know?

6 A. It was separate from the fire. If you're  
7 taking this particular fire and comparing it, there is  
8 no transition. There was no corresponding damage that  
9 takes the fire from outside in, or in outside -- outside  
10 the Camaro and inside the Camaro out. If you look at  
11 some of the -- the right front door again or some of the  
12 paneling in the front, none of it's damaged.

13 Q. What are we looking at there?

14 A. That's, again, another picture of the backseat  
15 of the Camaro.

16 Q. Okay. That's also the backseat of the Camaro?

17 A. Yes, sir.

18 Q. And looking at the backseat of the Camaro, do  
19 you have any opinion as to whether or not somebody  
20 ignited an ignitable substance in the backseat of the  
21 Camaro?

22 A. Yes, someone did.

23 Q. Any doubt about that?

24 A. No.

25 Q. And what's that box we're looking at there?

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1           A.     That's identified -- looks like a transmission  
2 fluid box, a cardboard box.

3           Q.     How many pictures did you take out there?

4           A.     I usually do overkill when I take pictures.

5           Q.     Anything else of significance in the backseat  
6 of the Camaro?

7           A.     Other than that separate fire, no.

8           Q.     All right. Based on your findings -- well, let  
9 me back up. Did you share this information with the  
10 Houston Arson Division that the Camaro was involved?

11          A.     Yes, I did. When I interviewed Investigator  
12 Juan Garcia of Houston Arson, I believe, on or around  
13 October 29th, I indicated that there was -- that I had  
14 observed a second fire, a secondary of origin in the  
15 backseat of the Chevy Camaro.

16          Q.     What does two separate fires tell you, as an  
17 origin and cause investigator?

18          A.     Multiple areas of origin indicate an  
19 incendiary.

20          Q.     And incendiary means what?

21          A.     Intentionally set fire.

22          Q.     Have you seen, in your course of work, where  
23 somebody was injured while they were actually starting  
24 the fire themselves?

25          A.     Yes.

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1 Q. And have you ever seen anybody that had singed  
2 hair from a flash of a fire?

3 A. Sure. I mean, I've seen other worse burns, as  
4 well, too.

5 Q. Okay. Have you seen anybody walk toward a  
6 fire -- well, do you know what temperature it takes to  
7 singe somebody's hair?

8 A. The exact temperature, no, sir, I don't know.  
9 I mean, I know if you just have a candle, a candle burns  
10 at approximately 1100 degrees. I know if you stuck your  
11 arm over it, it would definitely singe your hairs.

12 Q. Every young boy has done that.

13 A. Absolutely.

14 Q. Did you conduct any other investigation after  
15 looking at the building and looking at the cars?

16 A. No, I did not.

17 Q. Was that the sum total of what you were paid to  
18 do by the insurance company?

19 A. That's correct, yes. Essentially, there was no  
20 subrogation to pursue anybody else. We ruled it  
21 incendiary fire that didn't pertain to the policyholder,  
22 so they told us to shut it down and issue a report and  
23 be done with it.

24 Q. Does it matter to Farmers Insurance Company or  
25 yourself who did it?

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1 A. No -- well, it --

2 Q. Other than the homeowner or the policyholder?

3 A. Generally, no.

4 Q. In this case, did it matter if they caught one  
5 guy or another?

6 A. If they knew they caught somebody, maybe they  
7 would have pursued it. But in ninety-nine percent of  
8 the cases, no, it doesn't matter, outside the  
9 policyholder.

10 MR. BALDASSANO: I'll pass the witness.

11 THE COURT: Your cross.

12 MR. BARROW: Thank you, Judge.

13 **CROSS-EXAMINATION**

14 BY MR. BARROW:

15 Q. Mr. Heintz, I believe you indicated that your  
16 investigation was on October the 26th, correct?

17 A. Yes, sir.

18 Q. So about a week after the fire?

19 A. Correct.

20 Q. Do you know how long evidence of an accelerant  
21 would remain on a scene?

22 A. It can remain on a scene well past a week.  
23 I've gone out to scenes in the past well after a week  
24 after the fire loss and obtained hits, as we call it, of  
25 accelerants being present.

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1 Q. And other than your testimony that there was an  
2 ignitable substance that started this fire, correct  
3 (sic)?

4 A. Yes.

5 Q. And you can't -- because you can't take a  
6 sample, because it's not your call, right?

7 A. Correct.

8 Q. So you can't determine whether or not an  
9 accelerant was used?

10 A. That's correct.

11 Q. But after a week, the Houston Arson Department  
12 certainly could have gone out to that car lot and taken  
13 a sample of that Camaro, couldn't they?

14 A. They could.

15 Q. Do you know whether or not they ever did?

16 A. I do not know if they did or not.

17 Q. You shared your information with an arson  
18 investigator on October the 29th, correct?

19 A. Approximately October 29th, yes.

20 Q. So that's about ten days after the fire?

21 A. Okay.

22 Q. And by your prior testimony, I take it that had  
23 a sample been taken, you might have been able to find an  
24 accelerant?

25 A. Sure. If an accelerant was used, you could

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1 possibly have found it present.

2 Q. Did you review the arson reports before you did  
3 your investigation?

4 A. We reviewed the Houston Fire Department, the  
5 incident run report. But the Houston Arson report, by  
6 the time our report went out in, I believe, November of  
7 that year, the arson report was not complete.

8 MR. BARROW: Pass the witness.

9 MR. BALDASSANO: Nothing further, Judge.

10 THE COURT: All right.

11 State, would you call your next witness.

12 MR. BALDASSANO: Juan Garcia.

13 THE COURT: You may proceed, Counsel.

14 **JUAN GARCIA,**

15 having been first duly sworn, testified as follows:

16 **DIRECT EXAMINATION**

17 BY MR. BALDASSANO:

18 Q. Please state your name, sir.

19 A. My name Juan Garcia.

20 Q. And how are you employed?

21 A. City of Houston, City of Houston Fire  
22 Department.

23 Q. All right. And what title do you have there?

24 A. Arson investigator.

25 Q. How long have you been an arson investigator?