

*Trial on the Merits*  
*October 4, 2011*

1                   *(Jury enters courtroom)*

2                   *THE COURT:* Good morning. Please be  
3 seated. It's nice to see your faces.

4                   State, you may continue.

5                   *MR. BALDASSANO:* Thanks, Judge.

6                                   **ANTHONY JANKE,**  
7 having been first duly sworn, testified as follows:

8                                   **DIRECT EXAMINATION**

9                   *BY MR. BALDASSANO:*

10            Q.     Just for the record, you're the same  
11 firefighter Janke that was testifying yesterday when we  
12 broke for the day?

13            A.     Yes, sir.

14            Q.     And I think you had mentioned earlier yesterday  
15 that you're the one who was in the -- doing search and  
16 rescue and went into the room and found the defendant,  
17 whom you identified yesterday; is that right?

18            A.     Yes, sir.

19            Q.     You spoke about having a temperature gauge or  
20 a -- what was the name of the device you used?

21            A.     The thermal imaging camera.

22            Q.     Okay. Thermal imaging camera. And I think you  
23 said yesterday it's about 150 degrees, something like  
24 that?

25            A.     150, 165, something like that. Nothing

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1 remarkable.

2 Q. Is that the kind of temperature that would  
3 cause a burn on a body?

4 A. Not really, no, sir.

5 Q. Okay. Would that be the kind of burn that  
6 temperature would cause singeing of your hair?

7 A. I don't think it would, no, sir. Not that I --

8 Q. Okay. And I think you described it as a fairly  
9 small office, and I think you were in the process of  
10 maybe giving us an example of how big the office is.  
11 Using the courtroom or the jury box, how big would you  
12 say that office was?

13 A. I'd say possibly as long as the jury box, maybe  
14 a little longer, and twice as wide maybe.

15 MR. BALDASSANO: May I approach the court  
16 reporter, Judge?

17 THE COURT: You may.

18 MR. BALDASSANO: I'm going to go ahead and  
19 put that picture back up.

20 Q. (By Mr. Baldassano) Okay. And I believe you  
21 said the smoke banked down from the ceiling to about  
22 three feet off the ground; is that right?

23 A. Yes, sir, that's correct.

24 Q. Okay. And this is the little room we were  
25 talking about, right?

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1 A. Yes, sir.

2 Q. Okay. And I think you said yesterday you saw  
3 some feet on the ground, and then you told other  
4 firefighters you see somebody?

5 A. Yes, sir. As I was standing there with the  
6 thermal imaging camera, I was looking at the atmosphere,  
7 checking temperature in the atmosphere. And then I was  
8 checking further towards the back of the -- back of the  
9 office towards the left.

10 And as I came down, I looked. And  
11 underneath the smoke -- I didn't need the TIC to find  
12 the body. I could see the feet without having to use  
13 the thermal imaging camera.

14 Q. And from where you were in that room, did you  
15 see any kind of flame, or fire, or anything like it?

16 A. No, sir.

17 Q. And would the -- I think you said the Fire  
18 Company 28?

19 A. Ladder 28.

20 Q. They broke the door. How about that door we're  
21 looking at on State's 14? Was that open, closed? Do  
22 you remember?

23 A. I don't recall. It was dark and a lot of  
24 smoke, and we didn't go that far in. As soon as we  
25 found the victim on the floor, we came out of the room

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1 and brought him outside.

2 Q. Okay. And you're talking about the defendant?

3 A. Yes, sir.

4 Q. And when you brought him outside, did you  
5 physically pick him up?

6 A. I did not. My two firefighters that were on  
7 the pumper with me picked him up and carried him out.

8 Q. All right. And then when he was outside, did  
9 you do any first aid on him or watch anybody do first  
10 aid?

11 A. We assisted the Medic Unit in loading him onto  
12 the stretcher to put him in the back of the ambulance.

13 Q. Okay. And, so, other than that, did you see  
14 anybody do any first aid, CPR, or something like that?

15 A. No, sir. All they did was put oxygen on him  
16 before they put him in the back of the ambulance.

17 Q. Okay. And then they close him up and go, or do  
18 you see anything else?

19 A. I didn't see anything else. They closed the  
20 doors, and the paramedics climbed in and they started  
21 doing their thing.

22 Q. Did you have any other contact with him after  
23 that point?

24 A. No, sir, I did not.

25 Q. And after you -- he left, did you stay at the

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1 scene or go around the back to look at the fire, or do  
2 anything else regarding the fire?

3 A. After they left, after we left him in the care  
4 of the Medic Unit, we continued our search.

5 Q. All right. What did you do to continue your  
6 search?

7 A. We went into the next buildings and continued  
8 searching for victims to make sure that the buildings  
9 were clear.

10 Q. Okay. This is State's Exhibit No. 1 here.  
11 It's similar to the big board. And can you just  
12 point -- press on the screen and just tell us, without  
13 going into all the detail, which units did you check to  
14 make sure there were no people inside?

15 A. We looked through this one here. Then we were  
16 about to enter, I think it was this one, when Ladder 28  
17 said they had already checked it. So we continued  
18 through and wound up in the back, back here.

19 Q. Okay. And did you find anybody else in the  
20 building other than the defendant?

21 A. No, sir. Nobody else was in the building.

22 Q. All right. And did any other firefighters that  
23 were working with you, 28 or anybody else, find anybody  
24 else in the building for this search part that you were  
25 doing?

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1           A.    No, sir.  To my knowledge, we were the only  
2 ones that brought anybody out.

3           Q.    All right.  And then what did you do after the  
4 search of the entire building?

5           A.    We just -- we hooked up with the rest of the  
6 crews back here and just, you know, talked about what we  
7 found, what we saw; and then we were relieved after we  
8 did overhaul.

9           Q.    What is overhaul?

10          A.    Overhaul is when you're checking to make sure  
11 there is no fire extension and all the fire is out.

12          Q.    So you kind of move things around and douse it  
13 with water?

14          A.    Yes, sir.

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

16                   THE COURT:  Okay.  Your cross.

17                   MR. BARROW:  Thank you, Judge.

18                                   **CROSS-EXAMINATION**

19 BY MR. BARROW:

20          Q.    Mr. Janke --

21          A.    Janke.

22          Q.    Janke.  I'm sorry.  What condition was  
23 Mr. Morin in?

24          A.    He was unconscious, unresponsive.

25                   MR. BARROW:  Pass the witness.

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1 **REDIRECT EXAMINATION**

2 BY MR. BALDASSANO:

3 Q. And when you say he was unresponsive, do you  
4 try to talk to him, or how do you gauge that?

5 A. Yes, sir. We hollered at him, kind of shook  
6 him a little bit, trying to get him to open his eyes to  
7 know that we were there. And the firefighters told me  
8 they got -- they did not get any response from him.

9 Q. Okay. So the two things that you do, part of  
10 your procedure, is to yell or holler at him and shake  
11 him?

12 A. Yes, sir.

13 Q. And then if a person doesn't respond to that,  
14 you pretty much think they're unresponsive and --

15 A. Well, when we're not in full bunker gear with  
16 thick gloves, there's other things you can do. You can  
17 mash the nail bed, push down on the eyebrows to find out  
18 if they're just faking or if they really are  
19 unresponsive.

20 Q. Have you ever seen anybody faking?

21 A. I've seen them fake unresponsiveness. But once  
22 you start smashing on the eyebrow or pushing on the nail  
23 bed, they decide it's no longer time to fake.

24 Q. All right. And was that done?

25 A. No, not with us, because the gloves prevented

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1 it. But as he was moved from the building outside off  
2 the ground, he was just -- he was completely limp.  
3 There was no rigidity in the body, no fighting, muscle  
4 contraction, anything like that.

5 Q. Did you hold him?

6 A. From the ground to the stretcher, I grabbed  
7 ahold of his shoulders. And it was just -- there was  
8 nothing.

9 Q. And did you ever find out in the past when  
10 somebody was faking why a person would fake something  
11 like this?

12 MR. BARROW: Your Honor, I'm going to  
13 object to that as relevancy.

14 THE COURT: Sustained.

15 MR. BALDASSANO: Pass the witness.

16 **RECROSS-EXAMINATION**

17 BY MR. BARROW:

18 Q. When you first entered, were you in full  
19 equipment?

20 A. Yes, sir.

21 Q. You have your breathing mask on and everything?

22 A. Yes, sir.

23 Q. Was that required? Because the smoke was  
24 pretty thick, wasn't it?

25 A. Yes, it was.



1 MR. BARROW: Pass the witness.

2 **FURTHER REDIRECT EXAMINATION**

3 BY MR. BALDASSANO:

4 Q. Have you ever taken any other person out of a  
5 fire that turned out to be a person that was blamed for  
6 the fire?

7 A. Yes, sir, I have.

8 Q. Okay. And actually the defendant in a case  
9 that was convicted?

10 A. If I remember correctly, he was convicted of  
11 arson, yes, sir.

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

13 MR. BARROW: I have no further questions.

14 THE COURT: Okay. May this witness be  
15 excused?

16 All right you are excused. Thank you.

17 State, please call your next witness.

18 MR. BALDASSANO: Juan Villalobos.

19 THE COURT: You may proceed, Counsel.

20 **JUAN VILLALOBOS,**

21 having been first duly sworn, testified as follows:

22 **DIRECT EXAMINATION**

23 BY MR. BALDASSANO:

24 Q. Please introduce yourself to the jurors.

25 A. My name is Juan Villalobos. I'm a professional